SYDNEY CENTRAL PLANNING PANEL REPORT (2017SCL012)

DEMOLITION OF ALL STRUCTURES, AMALGAMATION OF TWO EXISTING LOTS INTO ONE LOT & CONSTRUCTION OF A MIXED USE BUILDING UP TO 7 STOREYS, CONTAINING 23 DWELLINGS, A GROUND FLOOR COMMERCIAL TENANCY & 27 BASEMENT CAR PARKING SPACES

DA2016/0492 – 227-231 VICTORIA ROAD, DRUMMOYNE

Department **Consultant – Genevieve Slattery Urban Planning Pty Ltd**
Author: **Genevieve Slattery**

EXECUTIVE SUMMARY

Owners
Drummoyne 888 Pty Ltd, Sydney 227 Pty Ltd, and Victoria RM Pty Ltd

Applicant
Dickson Rothschild

Zoning
This property is zoned *B4 Mixed use* which permits *commercial premises* and *residential flat building*.

Proposal
Demolition of all structures, amalgamation of two lots into one lot and construction of a mixed use building up to seven storeys, containing 23 dwellings, a ground floor commercial tenancy and basement parking for 27 vehicles.

Issues, including those matters raised by objectors

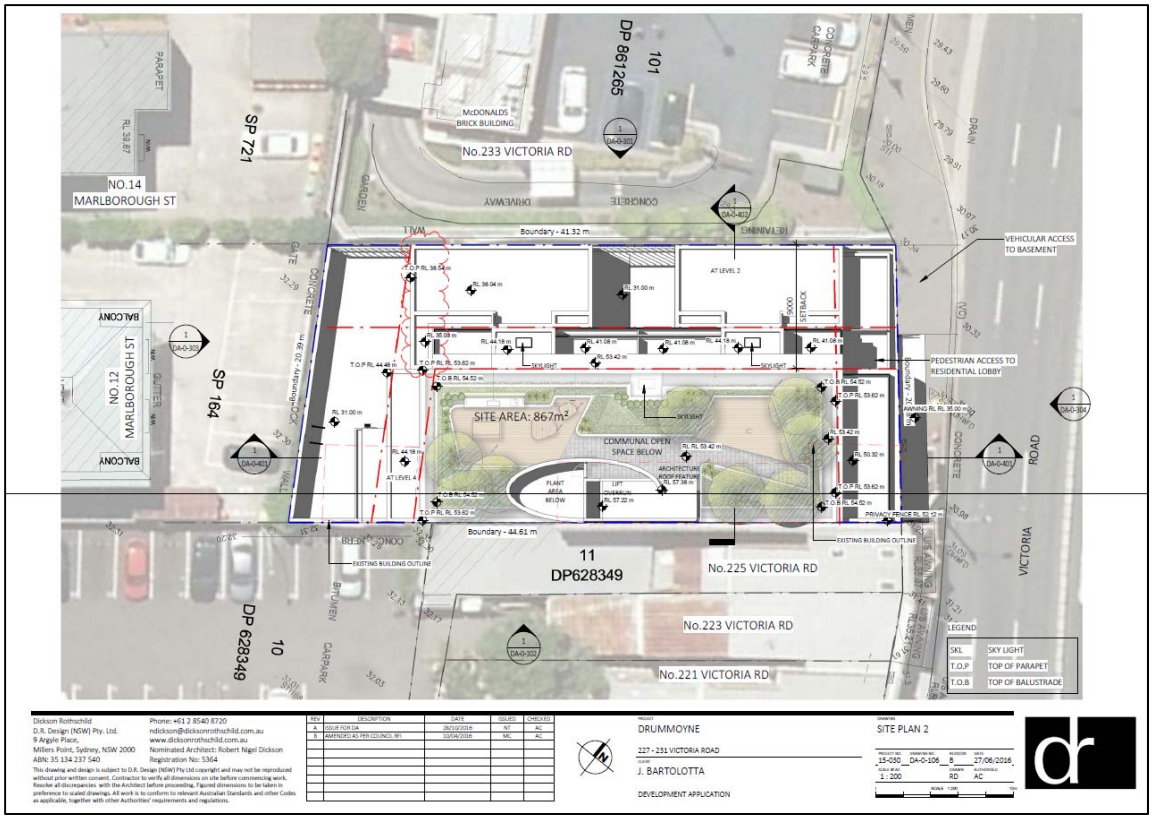
Traffic & Parking, Density, Building Height, Privacy, Heritage, Noise (including effect of 24hr McDonalds on the development), View Loss, Overshadowing, Stormwater Management, ADG compliance, Drummoyne Village DCP compliance, adequacy of infrastructure and effect of proposal on redevelopment opportunity of adjoining sites

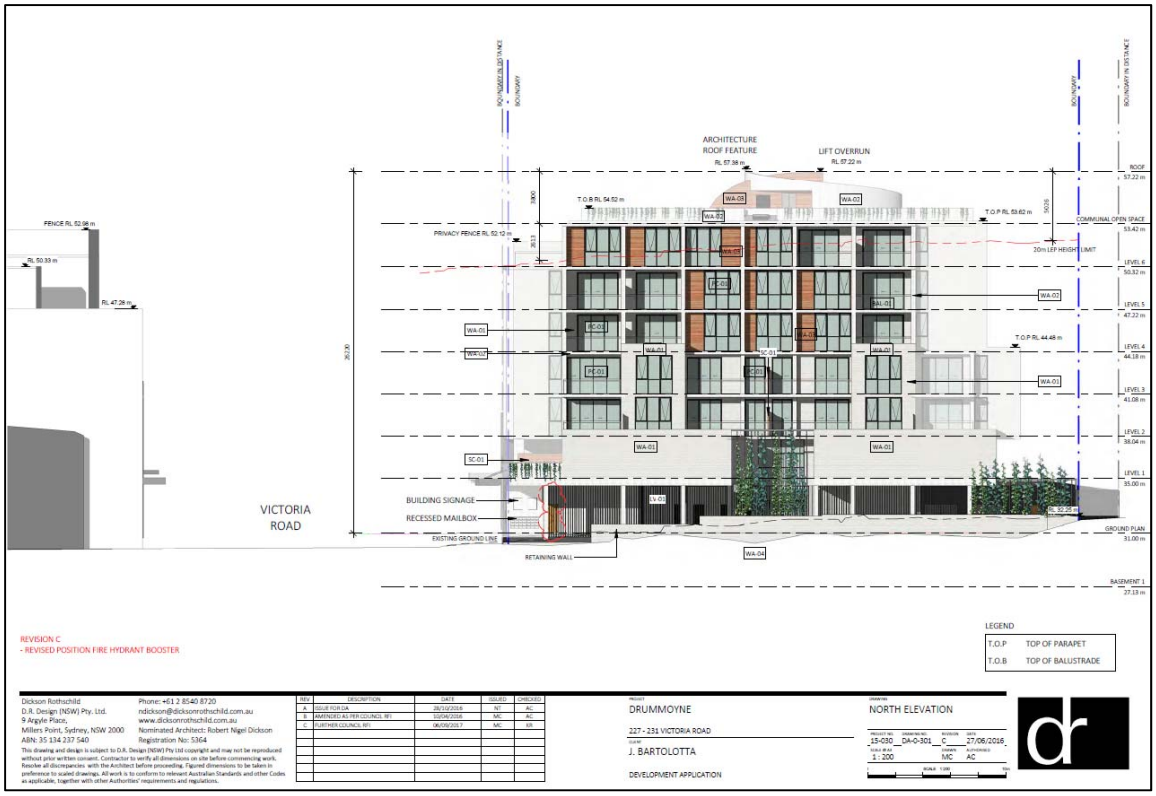
Capital Investment Value

$11,027,500.00

Location

Subject Site		*Properties Notified*		*Submitters*		**North**





REVISION C
- REVISED POSITION FIRE HYDRANT BOOSTER

LEGEND

T.O.P	TOP OF PARAPET
T.O.B	TOP OF BALUSTRADE

Dickson Rothschild
D.R. Design (NSW) Pty. Ltd.
9 Argyle Place,
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www.dicksonrothschild.com.au
Nominated Architect: Robert Nigel Dickson
Registration No: 5364

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REV	DESCRIPTION	DATE	ISSUED	CHECKED
A	ISSUE FOR DA	28/10/2016	NT	AC
B	AMENDED AS PER COUNCIL RFI	10/04/2016	MC	AC
C	FURTHER COUNCIL RFI	06/09/2017	MC	KR

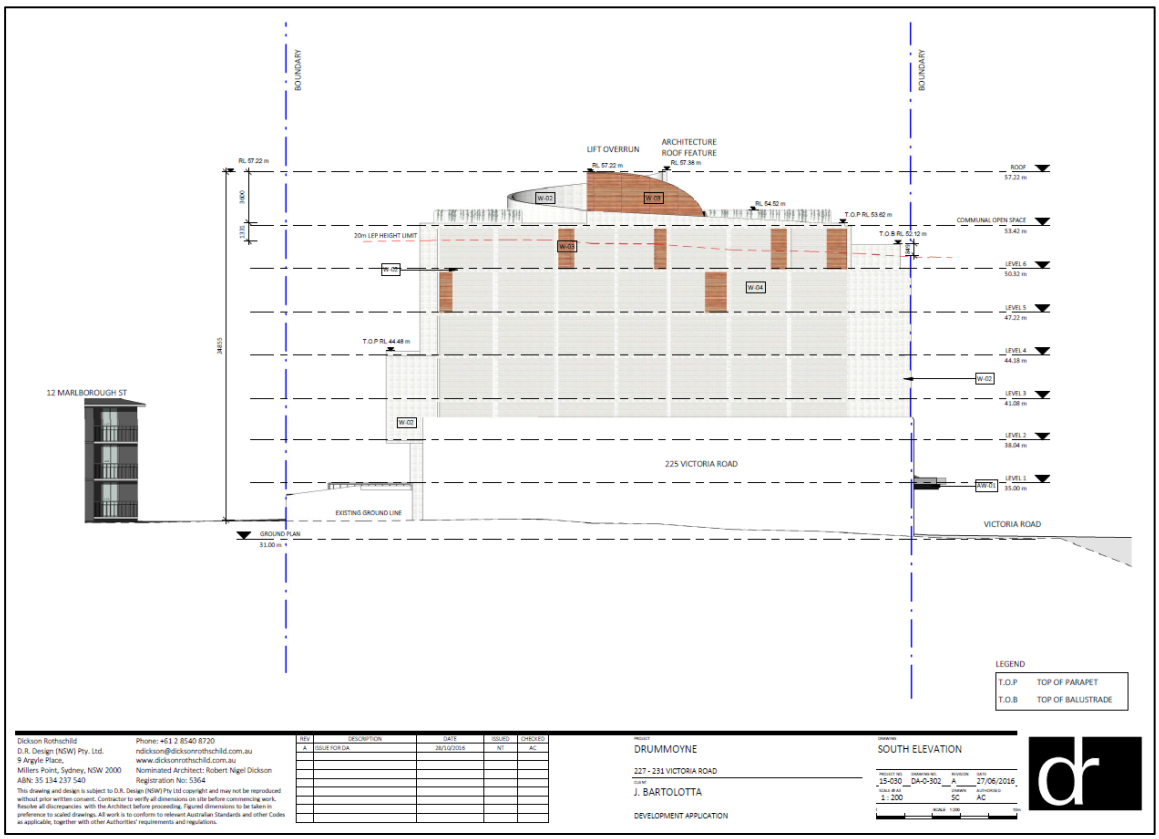
PROJECT
DRUMMOYNE
227 - 231 VICTORIA ROAD

CLIENT
J. BARTOLOTTA

DEVELOPMENT APPLICATION

DRAWING
NORTH ELEVATION

PROJECT NO	DRAWING NO	REVISION	DATE
15-030	DA-0-301	C	27/06/2016
SCALE @ A3	DRAWN	AUTHORISED	
1 : 200	MC	AC	



LEGEND

T.O.P	TOP OF PARAPET
T.O.B	TOP OF BALUSTRADE

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REV	DESCRIPTION	DATE	ISSUED	CHECKED
A	ISSUE FOR DA	28/10/2016	NT	AC

PROJECT
DRUMMOYNE
227 - 231 VICTORIA ROAD

CLIENT
J. BARTOLOTTA

DEVELOPMENT APPLICATION

DRAWING
SOUTH ELEVATION

PROJECT NO	DRAWING NO	REVISION	DATE
15-030	DA-0-302	A	27/06/2016
SCALE @ A3	DRAWN	AUTHORISED	
1 : 200	SC	AC	

REVISION C
- REVISED PEDESTRIAN ACCESS TO SITE
- REVISED RETAIL ENTRY POINT

LEGEND

T.O.P	TOP OF PARAPET
T.O.B	TOP OF BALUSTRADE

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REV	DESCRIPTION	DATE	ISSUED	CHECKED
A	ISSUE FOR DA	28/10/2016	NT	AC
B	AMENDED AS PER COUNCIL RFI	10/04/2016	MC	AC
C	FURTHER COUNCIL RFI	06/06/2017	MC	KR

PROJECT
DRUMMOYNE
227 - 231 VICTORIA ROAD
CLIENT
J. BARTOLOTTA
DEVELOPMENT APPLICATION

DRAWING
EAST ELEVATION

PROJECT NO.	DRAWING NO.	REVISION	DATE
15-030	DA-0-304	C	27/06/2016
SCALE @ A1	DRAWN	AUTHORISED	
1 : 200	MC	AC	

SCALE 1:200 10m

LEGEND

T.O.P	TOP OF PARAPET
T.O.B	TOP OF BALUSTRADE

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REV	DESCRIPTION	DATE	ISSUED	CHECKED
A	ISSUE FOR DA	28/10/2016	NT	AC
B	AMENDED AS PER COUNCIL RFI	10/04/2016	MC	AC

PROJECT
DRUMMOYNE
227 - 231 VICTORIA ROAD
CLIENT
J. BARTOLOTTA
DEVELOPMENT APPLICATION

DRAWING
WEST ELEVATION

PROJECT NO.	DRAWING NO.	REVISION	DATE
15-030	DA-0-303	B	27/06/2016
SCALE @ A1	DRAWN	AUTHORISED	
1 : 200	MC	AC	

SCALE 1:200 10m

LEGEND

T.O.P	TOP OF PARAPET
T.O.B	TOP OF BALUSTRADE

REVISION C
- REVISED FIRE STAIR
- REVISED CAR LIFT DOORS
- REVISED RETAIL GFA

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A	ISSUE FOR DA	28/10/2016	NT	AC
B	AMENDED AS PER COUNCIL RFI	10/04/2017	MC	AC
C	FURTHER COUNCIL RFI	06/09/2017	MC	KR

PROJECT
DRUMMOYNE
227 - 231 VICTORIA ROAD

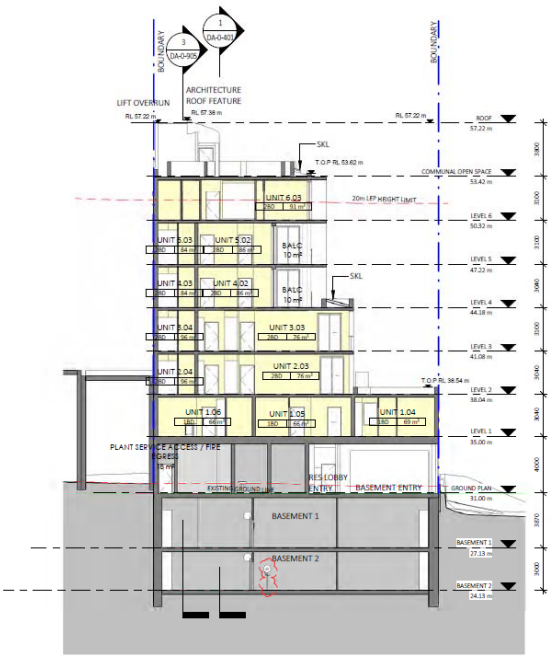
CLIENT
J. BARTOLOTTA

DEVELOPMENT APPLICATION

DRAWING
SECTION AA

PROJECT NO.	DRAWING NO.	REVISION	DATE
15-030	DA-0-401	C	27/06/2016
SCALE @ A1		DRAWN	AUTHORISED
1 : 200		RD	AC

SCALE 1:200



LEGEND

T.O.P	TOP OF PARAPET
T.O.B	TOP OF BALUSTRADE
SKL	SKY LIGHT

REVISION C
- REVISED FHR

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REV	DESCRIPTION	DATE	ISSUED	CHECKED
A	ISSUE FOR DA	28/10/2016	NT	AC
B	AMENDED AS PER COUNCIL RFI	10/04/2017	MC	AC
C	FURTHER COUNCIL RFI	06/09/2017	MC	KR

PROJECT
DRUMMOYNE
227 - 231 VICTORIA ROAD

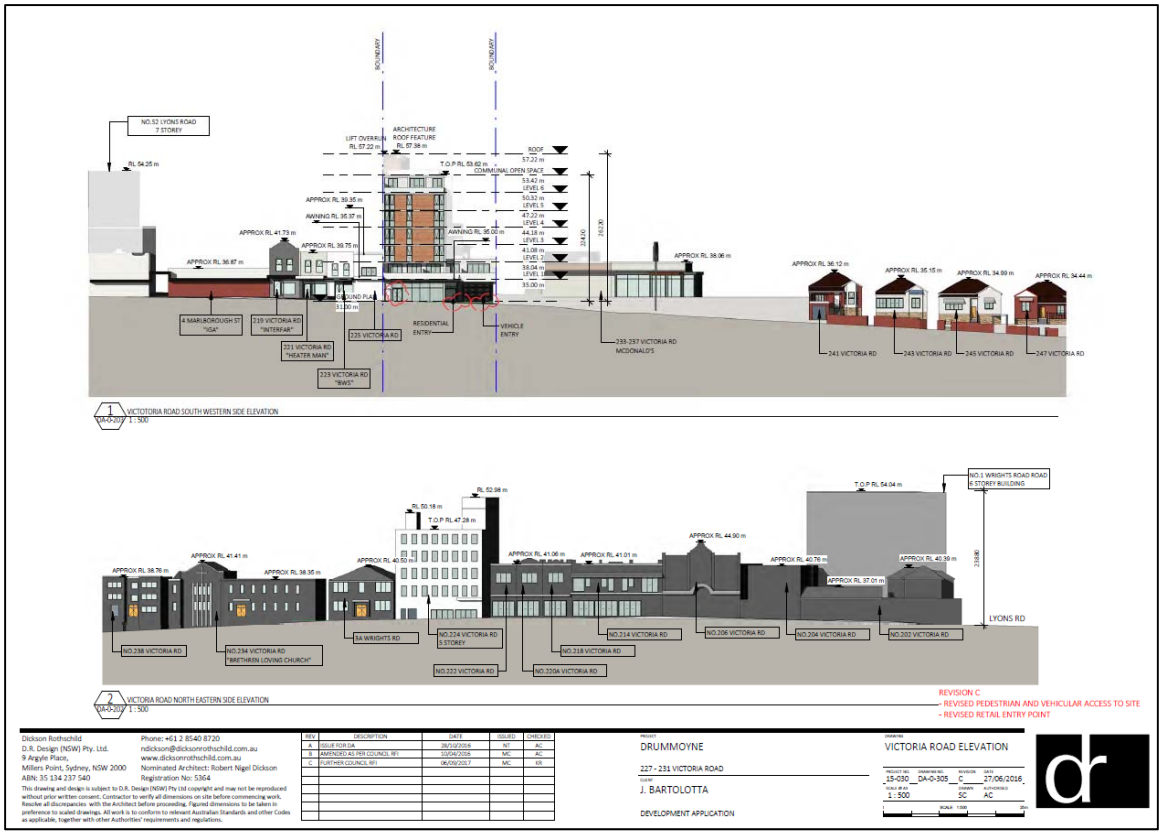
CLIENT
J. BARTOLOTTA

DEVELOPMENT APPLICATION

DRAWING
SECTION BB

PROJECT NO.	DRAWING NO.	REVISION	DATE
15-030	DA-0-402	C	27/06/2016
SCALE @ A1		DRAWN	AUTHORISED
1 : 200		RD	AC

SCALE 1:200



REVISION C
- REVISED PEDESTRIAN AND VEHICULAR ACCESS TO SITE
- REVISED RETAIL ENTRY POINT

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REV	DESCRIPTION	DATE	ISSUED	CHECKED
A	ISSUE FOR DA	26/10/2016	NT	AC
B	AMENDED AS PER COUNCIL RFI	10/04/2017	MC	AC
C	FURTHER COUNCIL RFI	06/09/2017	MC	KR

PROJECT
DRUMMOYNE
227 - 231 VICTORIA ROAD

CLIENT
J. BARTOLOTTA

DEVELOPMENT APPLICATION

DRAWING
VICTORIA ROAD ELEVATION

PROJECT NO.	DRAWING NO.	REVISION	DATE
15-030	DA-0-305	C	27/06/2016
SCALE @ A3		DRAWN	AUTHORISED
1 : 500		SC	AC

SCALE 1:500

RECOMMENDATION

Pursuant to Sections 80 of the Environmental Planning and Assessment Act 1979 (as amended)

A. THAT the Sydney Central Planning Panel (SCPP), assume the concurrence of the Director General of the Department of Planning and invoke the provisions of Clause 4.6 and resolve that in the circumstance of the case a strict application of the statutory standards contained in clause 4.3 (Height of buildings) and clause 4.4 (floor space ratio) in the Canada Bay Local Environmental Plan 2013 is unnecessary and unreasonable.

B. THAT the Sydney Central Planning Panel (SCPP), as determining authority, grant deferred commencement consent to Development Application No. 2016/0492 (JRPP ref. 2017SCL012) for Demolition of all structures, amalgamation of two existing lots into one lot & construction of a mixed use building up to 7 storeys, containing 23 dwellings, a ground floor commercial tenancy & 27 basement car parking spaces on land at 227-231 Victoria Road DRUMMOYNE NSW 2047 subject to the following site specific conditions. In granting consent Sydney Central Planning Panel has regard to the merit considerations carried out in the assessment report and pursuant to s.79C of the Environmental Planning and Assessment Act. On consideration of the merits of the case Sydney Central Planning Panel acknowledges the areas of non-compliance arising from the application but notes that it supports the application based on the particular circumstances of the case and does not consider that the consent gives rise to a precedent.

Prepared by:

Genevieve Slattery **Consultant Town Planner**

CONDITIONS OF APPROVAL

Deferred Commencement Conditions

DADCA01 – Deferred Commencement Approval

This is a "Deferred Commencement Consent" under Section 80(3) of the Environmental Planning and Assessment Act, 1979, (as amended). This consent does not become operative until the applicant has satisfied the requirements listed in Schedule "A" of this consent. All issues shall be satisfactorily resolved within a period of 3 months from the "Determination Date", that is shown on this consent. Upon compliance with the issues under Schedule "A", and written confirmation from Council to that effect, then the consent shall become operative from a "Date of Endorsement" (to be included on the written notification) subject to the conditions listed in Schedule "B" and any additional conditions arising from the requirement of Schedule "A".

(Reason: Statutory requirement)

SCHEDULE A

1. The following amendments shall be made to the architectural plans and driveway & civil plans, and **submitted to Council for approval**:

   (a) The boundary levels shall be reviewed incorporating the standard layback. The longitudinal section shall include standard layback crossing (with a maximum of 100mm level difference from the invert of gutter to top of layback).
   (b) Driveway & civil plans by Barker Ryan Stewart shall show the extent of kerb & gutter and footpath works required to achieve new driveway levels. A smooth transition from existing footpath to new works are to be achieved both side of the driveway. Services with the new works shall be adjusted to suit new levels.

SCHEDULE B

General Conditions

1. DAGCA01 - Approved Plans and Supporting Documents

The development shall be carried out substantially in accordance with the approved stamped and signed plans and/or documentation listed below **except where modified by any following condition**. Where the plans relate to alteration or additions only those works shown in colour or highlighted are approved.

Reference/Dwg No	***Title/Description***	***Prepared By***	***Issue Date/s***
Project No. 15-030, Dwg. No. DA 0-001 Rev. B	Cover Sheet	Dixon Rothschild	10 April 2016
Project No. 15-030, Dwg. No. DA 0-002 Rev. B	Photomontage Sheet 1	Dixon Rothschild	10 April 2016
Project No. 15-030, Dwg. No. DA 0-003 Rev. B	Photomontage Sheet 2	Dixon Rothschild	10 April 2016
Project No. 15-030, Dwg. No. DA 0-004 Rev. C	Photomontage Sheet 3	Dixon Rothschild	6 September 2017
Project No. 15-030, Dwg. No. DA 0-005 Rev. C	Project Summary	Dixon Rothschild	6 September 2016

Reference/Dwg No	***Title/Description***	***Prepared By***	***Issue Date/s***
Project No. 15-030, Dwg. No. DA 0-101 Rev. A	Site Analysis 1	Dixon Rothschild	28 October 2016
Project No. 15-030, Dwg. No. DA 0-102 Rev. A	Site Analysis 2	Dixon Rothschild	28 October 2016
Project No. 15-030, Dwg. No. DA 0-103 Rev. A	Site Analysis 3	Dixon Rothschild	28 October 2016
Project No. 15-030, Dwg. No. DA 0-104 Rev. A	Site Analysis 4	Dixon Rothschild	28 October 2016
Project No. 15-030, Dwg. No. DA 0-104a Rev. A	Site Analysis 5	Dixon Rothschild	10 April 2016
Project No. 15-030, Dwg. No. DA 0-105 Rev. B	Site Plan 1	Dixon Rothschild	10 April 2016
Project No. 15-030, Dwg. No. DA 0-106 Rev. B	Site Plan 2	Dixon Rothschild	10 April 2016
Project No. 15-030, Dwg. No. DA 0-107 Rev. A	Demolition Plan	Dixon Rothschild	28 October 2016
Project No. 15-030, Dwg. No. DA 0-109 Rev. A	Amalgamation Plan	Dixon Rothschild	28 October 2016
Project No. 15-030, Dwg. No. DA 0-200 Rev. C	Basement 2 Plan	Dixon Rothschild	6 September 2017
Project No. 15-030, Dwg. No. DA 0-201 Rev. C	Basement 1 Plan	Dixon Rothschild	6 September 2017
Project No. 15-030, Dwg. No. DA 0-202 Rev. C	Ground Floor Plan	Dixon Rothschild	6 September 2017
Project No. 15-030, Dwg. No. DA 0-203 Rev. B	Level 1 Floor Plan	Dixon Rothschild	10 April 2016
Project No. 15-030, Dwg. No. DA 0-204 Rev. B	Level 2 Floor Plan	Dixon Rothschild	10 April 2016
Project No. 15-030, Dwg. No. DA 0-205 Rev. B	Level 3 Floor Plan	Dixon Rothschild	10 April 2016
Project No. 15-030, Dwg. No. DA 0-206 Rev. B	Level 4 Floor Plan	Dixon Rothschild	10 April 2016
Project No. 15-030, Dwg. No. DA 0-207 Rev. B	Level 5 Floor Plan	Dixon Rothschild	10 April 2016
Project No. 15-030, Dwg. No. DA 0-208 Rev. B	Level 6 Floor Plan	Dixon Rothschild	10 April 2016
Project No. 15-030, Dwg. No. DA 0-210 Rev. B	Communal Open Space	Dixon Rothschild	10 April 2016
Project No. 15-030, Dwg. No. DA 0-211 Rev. B	Roof Plan	Dixon Rothschild	10 April 2016
Project No. 15-030, Dwg. No. DA 0-212 Rev. A	Rooftop Lighting Plan	Dixon Rothschild	10 April 2016
Project No. 15-030, Dwg. No. DA 0-251 Rev. C	GFA Plans	Dixon Rothschild	6 September 2017
Project No. 15-030, Dwg. No. DA 0-301 Rev. C	North Elevation	Dixon Rothschild	6 September 2017
Project No. 15-030, Dwg. No. DA 0-302 Rev. A	South Elevation	Dixon Rothschild	28 October 2016
Project No. 15-030, Dwg. No. DA 0-303 Rev. B	West Elevation	Dixon Rothschild	10 April 2016
Project No. 15-030, Dwg. No. DA 0-304 Rev. C	East Elevation	Dixon Rothschild	6 September 2017

Reference/Dwg No	*Title/Description*	*Prepared By*	*Issue Date/s*
Project No. 15-030, Dwg. No. DA 0-305 Rev. C	Victoria Road Elevation	Dixon Rothschild	6 September 2017
Project No. 15-030, Dwg. No. DA 0-401 Rev. C	Section AA	Dixon Rothschild	6 September 2017
Project No. 15-030, Dwg. No. DA 0-402 Rev. C	Section BB	Dixon Rothschild	6 September 2017
Project No. 15-030, Dwg. No. DA 0-403 Rev. C	Access Ramps	Dixon Rothschild	6 September 2017
Project No. 15-030, Dwg. No. DA 0-404 Rev. B	Façade Sections	Dixon Rothschild	10 April 2016
Project No. 15-030, Dwg. No. DA 0-601 Rev. B	Adaptable Units	Dixon Rothschild	10 April 2016
Project No. 15-030, Dwg. No. DA 0-602 Rev. A	Liveable Housing Design – Silver Level	Dixon Rothschild	10 April 2016
Project No. 15-030, Dwg. No. DA 0-901 Rev. B	Finishes Schedule	Dixon Rothschild	10 April 2016
Project No. 15-030, Dwg. No. DA 0-902 Rev. B	Shadow Analysis Sheet 1	Dixon Rothschild	10 April 2016
Project No. 15-030, Dwg. No. DA 0-903 Rev. B	Shadow Analysis Sheet 2	Dixon Rothschild	10 April 2016
Project No. 15-030, Dwg. No. DA 0-904 Rev. A	Shadow Analysis Sheet 3	Dixon Rothschild	28 October 2016
Project No. 15-030, Dwg. No. DA 0-905 Rev. A	DCP/ADG Envelope Diagram	Dixon Rothschild	10 April 2016
Project No. 15-030, Dwg. No. DA 0-911 Rev. B	Height Plane Diagram – Top of Parapet 1	Dixon Rothschild	10 April 2016
Project No. 15-030, Dwg. No. DA 0-912 Rev. A	Height Plane Diagram – Top of Parapet 2	Dixon Rothschild	10 April 2016
Project No. 15-030, Dwg. No. DA 0-913 Rev. A	Height Plane Diagram – Top of Parapet 3	Dixon Rothschild	10 April 2016
Project No. 15-030, Dwg. No. DA 0-914 Rev. A	View Analysis 1	Dixon Rothschild	10 April 2016
Project No. 15-030, Dwg. No. DA 0-915 Rev. A	View Analysis 2	Dixon Rothschild	10 April 2016
Project No. 15-030, Dwg. No. DA 0-921 Rev. B	Solar & CV Sheet 1	Dixon Rothschild	10 April 2016
Project No. 15-030, Dwg. No. DA 0-922 Rev. B	Solar & CV Sheet 2	Dixon Rothschild	10 April 2016
Project No. 15-030, Dwg. No. DA 0-923 Rev. B	Solar & CV Sheet 2	Dixon Rothschild	10 April 2016
Project No. 15-030, Dwg. No. DA 0-933 Rev. A	Future Built Form Analysis – Victoria Road 1	Dixon Rothschild	10 April 2016
Project No. 15-030, Dwg. No. DA 0-934 Rev. A	Future Built Form Analysis – Victoria Road 2	Dixon Rothschild	10 April 2016
Project No. 15-030, Dwg. No. DA 0-935 Rev. A	Future Built Form Analysis – Victoria Road 3	Dixon Rothschild	10 April 2016
Project No. 15-030, Dwg. No. DA 0-936 Rev. A	Future Built Form Analysis – Victoria Road 4	Dixon Rothschild	10 April 2016
Job No. SS16-3354, Dwg.	Landscape Cover	Site Image	4 November 2016

Reference/Dwg No	***Title/Description***	***Prepared By***	***Issue Date/s***
No. 000 Rev. D	Sheet	Landscape Architects	
Job No. SS16-3354, Dwg. No. 101 Rev. B	Landscape Plan Ground Floor	Site Image Landscape Architects	4 November 2016
Job No. SS16-3354, Dwg. No. 102 Rev. D	Landscape Plan Level 1 & 2	Site Image Landscape Architects	4 November 2016
Job No. SS16-3354, Dwg. No. 103 Rev. D	Landscape Plan Level 8 Rooftop	Site Image Landscape Architects	4 November 2016
Job No. SS16-3354, Dwg. No. 501 Rev. D	Landscape Details	Site Image Landscape Architects	4 November 2016
Ref. 16-0855 Issue B	Thermal Comfort & BASIX Assessment	Efficient Living	30 November 2016
Project No. 162835 Dwg. No. H000 Rev. B	Drawing Schedule & Legend	Webb Australia	12 May 2017
Project No. 162835 Dwg. No. H101 Rev. B	Basement 2 Floor Plan	Webb Australia	12 May 2017
Project No. 162835 Dwg. No. H102 Rev. B	Basement 1 Floor Plan	Webb Australia	12 May 2017
Project No. 162835 Dwg. No. H103 Rev. B	Ground Floor Plan	Webb Australia	12 May 2017
Project No. 162835 Dwg. No. H104 Rev. A	Level 1 Floor Plan	Webb Australia	12 May 2017
Project No. 162835 Dwg. No. H105 Rev. B	Roof Plan	Webb Australia	12 May 2017
Project No. 162835 Dwg. No. SW001 Rev. A	Ground Floor Plan	Webb Australia	12 May 2017
Plan No. SY160154E1 Rev. B	Kerb & Gutter Design Plan	Barker Ryan Stewart	12 May 2017
Plan No. SY160154E1 Rev. B	Driveway Longitudinal Section and Details	Barker Ryan Stewart	12 May 2017
Plan No. SY160154E1 Rev. B	Erosion and Sediment Control Plan	Barker Ryan Stewart	12 May 2017
Ref. SY160154	Response to Council items – Traffic and Parking	Barker Ryan Stewart	May 2017
Ref. SY160154 Rev. 1	Construction Traffic Management Plan	Barker Ryan Stewart	April 2017
Ref. SY160028	Traffic and Parking Letter in Response to Matters Raised by Council	Barker Ryan Stewart	16 August 2017
Project No. 20161117.1, Document Ref. 20161117.1/2308A/R0/RL, Rev. 0	DA Acoustic Assessment	Acoustic Logic	23 August 2016
Project No. 15-030 Rev. C	Amended Clause 4.6 Variation	Dixon Rothschild	6 June 2017

Reference/Dwg No	*Title/Description*	*Prepared By*	*Issue Date/s*
	(Height of Buildings)		
Project No. 15-030 Rev. B	Amended Clause 4.6 Variation (FSR)	Dixon Rothschild	10 June 2017
N/A	Preliminary Site Investigation	Aargus Australia	13 April 2017
N/A	Contamination Remediation Action Plan	Aargus Australia	8 September 2017
N/A	Car Lift Service, including Technical Specification Total Move: Smart Solutions for Vehicle Parking & Car Storage and Lift Service	LevataPark	6 September 2017

Note 1: Modifications to the approved plans will require the lodgement and consideration by Council of a modification pursuant to Section 96 of the Environmental Planning and Assessment Act.

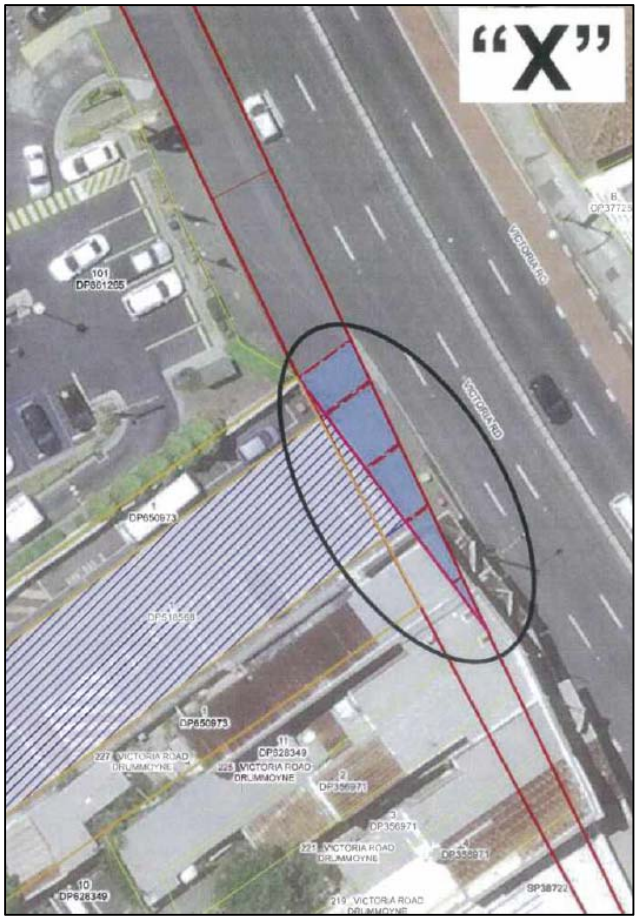
Note 2: A warning to all Accredited Certifiers. You should always insist on sighting the original Council stamped approved plans/documentation and not rely solely upon the plan reference numbers in this condition. Should the applicant not be able to provide you with original copies, Council will provide you with access to its files so you that may review our original copies of approved documentation.

Note 3: The approved plans and supporting documentation may be subject to conditions imposed under section 80A(1)(g) of the Act modifying or amending the development (refer to conditions of consent which must be satisfied prior to the issue of any Construction Certificate).

(Reason: To confirm and clarify the terms of consent)

2. Roads and Maritime Requirements

1. Roads and Maritime has previously acquired a strip of land for road along the Victoria Road frontage of the subject property, as shown by blue colour on the attached Aerial —"X". Therefore all buildings and structures other than pedestrian footpath awnings together with any improvements integral to the future use of the site are to be wholly within the freehold property unlimited in height or depth along the Vitoria Road boundary.



2. The design and construction of the kerb and gutter crossing on Victoria Road shall be in accordance Roads and Maritime requirements. Details of these requirements should be obtained from Roads and Maritime Services, Manager Developer Works, Statewide Delivery, Parramatta (telephone 9598 7798). Detailed design plans of the proposed kerb and gutter are to be submitted to Roads and Maritime for approval prior to the issue of a Construction Certificate and commencement of any road works. A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approved road design plans by Roads and Maritime.

3. All vehicles are to enter and exit the site in a forward direction.

4. All vehicles are to be wholly contained on site before being required to stop.

5. Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to Roads and Maritime for approval, prior to the commencement of any works. Details should be forwarded to:

   The Sydney Asset Management
   Roads and Maritime Services
   PO Box 973 Parramatta CBD 2124.

   A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued. With regard to the Civil Works requirement please contact the Roads and Maritime Project Engineer, External Works Ph: 8849 2114 or Fax: 8849 2766.

6. The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001.

   The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by Roads and Maritime. The report and any enquiries should be forwarded to:

   Project Engineer, External Works
   Sydney Asset Management
   Roads and Maritime Services
   PO Box 973 Parramatta CBD 2124.
   Telephone 8849 2114
   Fax 8849 2766

   If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) days notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

7. All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted Victoria Road.

8. A Road Occupancy Licence should be obtained from Transport Management Centre for any works that may impact on traffic flows on Victoria Road during construction activities.

(Reason: Compliance and Street Management)

3. Certification of Remedial Action Plan

A Section B Site Audit Statement or letter of Interim advice must be obtained from a NSW EPA Accredited Site Auditor or experienced environmental consultant certified under the 'Certified Environmental Practitioner' (CEnvP) Scheme or equivalent and forwarded to the Council officer certifying that the RAP is practical and the site will be suitable after being remediated in accordance with the requirements of the submitted RAP.

(Reason: To ensure the site is suitable for the proposed development)

4. DAGCA03 - Construction within Boundary

All approved construction including but not limited to footings, walls, roof barges and guttering are to be constructed wholly within the boundaries of the premises.

(Reason: To ensure compliance with approved plans)

5. DAGCA06 - Separate Approvals

Separate Development Approval shall be obtained for the use of the commercial tenancy included in the approved development.

(*Reason: To control the future development of the site)*

6. DAGCB01 - Australia Post Guidelines

Mail deliveries are to be in accordance with Australia Post Guidelines, as set out in the Australia Post publication "General Post Guide - September 2007". A copy of this Guide can be obtained from

Australia Post's web page at www.auspost.com.au. A copy of the brochure may be obtained from Australia Post. In general, a clearly marked mailbox (or group of mailboxes) shall be provided within 500mm of the footpath alignment.

(Reason: To ensure compliance with mail delivery regulations)

7. DAGCB02 - Compliance with Disability Discrimination Act

This approval does not necessarily protect or guarantee against a possible claim of discrimination (intentional or unintentional) under the Disability Discrimination Act 1992, and the applicant/owner is therefore advised to investigate their liability under this Act. **Note: Disability (Access to Premises - Buildings) Standards 2010 - As of 1 May 2011**, if access is provided to the extent covered by this Standard, then such access cannot be viewed as unlawful under the Disability Discrimination Act 1992.

(Reason: To inform of relevant access requirements for persons with a disability)

8. DAGCB06 - Height

The maximum height of the proposed development shall be A.H.D. 25.08m (RL57.38) as measured to the top of the architectural roof feature.

(Reason: Compliance)

9. DAGCB07 - Lighting

Any lighting on the site shall be designed so as not to cause a nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with relevant standards in this regard.

(Reason: Protect amenity of surrounding area)

10. DAGCB10 - Site Management

The following procedures apply:

(a) Implement the site management plan and measures, and provide for erosion and sediment control according to the SSROC "Do It Right On Site" publication;
(b) Prevent sediment and/or building materials being carried or washed onto the footway, gutter, road, or into Council's stormwater drainage system;
(c) Ensure soil/excavated material is not transported on wheels or tracks of vehicles or plant and deposited on surrounding roadways;
(d) Ensure safe access to and from the site including the road reserve and footpath area, crossings by heavy equipment, plant and materials delivery, or static loads from cranes, concrete pumps and the like;
(e) Ensure safe loading and unloading of excavation machines, building materials, formwork and the erection of the structures within the site;
(f) Ensure storage on site of all excavated material, construction materials and waste containers during the construction period (except where otherwise approved); and
(g) Ensure support of any excavation beside any adjoining property or the road reserve is designed by a Chartered Civil Engineer.

(Reason: Environmental protection)

11. DACGB12 - AVENUE Numbering of Lots and Units

The proposed units and/or new allotments shall be numbered as follows:

UNIT NUMBER	AVENUE NUMBER	AVENUE NAME	ROAD TYPE	LOCALITY
Ground Floor Retail				
01	227	VICTORIA	ROAD	DRUMMOYNE
Level 1				
101	227	VICTORIA	ROAD	DRUMMOYNE
102	227	VICTORIA	ROAD	DRUMMOYNE
103	227	VICTORIA	ROAD	DRUMMOYNE
104	227	VICTORIA	ROAD	DRUMMOYNE
105	227	VICTORIA	ROAD	DRUMMOYNE
106	227	VICTORIA	ROAD	DRUMMOYNE
Level 2				
201	227	VICTORIA	ROAD	DRUMMOYNE
202	227	VICTORIA	ROAD	DRUMMOYNE
203	227	VICTORIA	ROAD	DRUMMOYNE
204	227	VICTORIA	ROAD	DRUMMOYNE
Level 3				
301	227	VICTORIA	ROAD	DRUMMOYNE
302	227	VICTORIA	ROAD	DRUMMOYNE
303	227	VICTORIA	ROAD	DRUMMOYNE
304	227	VICTORIA	ROAD	DRUMMOYNE
Level 4				
401	227	VICTORIA	ROAD	DRUMMOYNE
402	227	VICTORIA	ROAD	DRUMMOYNE
403	227	VICTORIA	ROAD	DRUMMOYNE
Level 5				
501	227	VICTORIA	ROAD	DRUMMOYNE
502	227	VICTORIA	ROAD	DRUMMOYNE
503	227	VICTORIA	ROAD	DRUMMOYNE
Level 6				
603	227	VICTORIA	ROAD	DRUMMOYNE
602	227	VICTORIA	ROAD	DRUMMOYNE
603	118	TENNYSON	ROAD	MORTLAKE

Numbering of units/properties shall be conspicuously displayed at the front of the property and shall be maintained in accordance with Council's AVENUE Numbering Policy.

Should the property be strata subdivided, the approved numbering system shall be included in the final plans of strata subdivision.

(Reason: Identification of Property for Emergency Services and Mail Deliveries)

12. DAGCB15 - Telecommunications /TV Antennae

No more than one telecommunications/TV antenna will be provided to the building.

(Reason: Environmental amenity)

13. DAGCC01 - Hoarding Requirements

The approved development includes/requires either "A" Class or "B" Class or both type hoarding. The applicable hoarding requirements are as follows:

- "A" Class Requirements An engineer certified "A" Class hoarding shall be constructed on the footpath adjacent to the building site to protect pedestrians during demolition of the existing building and construction of the new building.
- "B" Class Hoardings An engineer certified overhead "B" Class hoarding, complying with the requirements of the Department of Industrial Relations & Technology, shall be constructed over Council's footpath to protect pedestrians during demolition of the existing building and the erection of the new building.

A formal hoarding application shall be made to Council and demolition or construction work must not commence until the hoarding has been erected and then approved by Council and all applicable fees and charges paid.

(Reason: Public safety)

14. DAGCC05 - Waste Management

Requirements of the approved Waste Management Plan shall be complied with during site preparation and throughout demolition and construction. Waste management and its storage must not pose a threat to public health or the environment.
(Reason: Compliance with approval)

15. DAGCC06 Fill Material

Imported Fills

All fill imported onto the site shall be validated to ensure the imported fill is suitable for the proposed land use from a contamination perspective. Fill imported on to the site shall also be compatible with the existing soil characteristic for site drainage purposes.

Council may require details of appropriate validation of imported fill material to be submitted with any application for future development of the site. Hence all fill imported onto the site should be validated by either one or both of the following methods during remediation works:

1. Imported fill should be accompanied by documentation from the supplier which certifies that the material is not contaminated based upon analyses of the material for the known past history of the site where the material is obtained; and/or
2. Sampling and analysis of the fill material shall be conducted in accordance with NSW EPA (1995) Sampling Design Guidelines.
3. Any fill material that is imported onto the site must be analysed and classified by an appropriately qualified and experienced environmental consultant in accordance with relevant NSW EPA guidelines, including the “Waste Classification Guidelines” 2014.

To ensure that fill material is suitable for the proposed [use], only material classified as Virgin Excavated Natural Material (VENM) or Excavated Natural Material (ENM) is permitted to be imported onsite.

Any waste-derived material the subject of a resource recovery exemption received at the development site must be accompanied by documentation as to the material's compliance with the exemption conditions and must be provided to the Principal Certifying Authority on request.

Classification of waste
Prior to the exportation of waste (including fill or soil) from the site, the waste materials must be classified in accordance with the provisions of the Protection of the Environment Operations Act 1997 and the NSW EPA Waste Classification Guidelines, Part 1: Classification of Waste (November 2014). Testing is required prior to off-site disposal. In accordance with DECC Waste Classification Guidelines (2014) materials identified for off-site disposal must be removed by a suitably qualified contractor to an appropriately licensed waste facility.

Note: Attention is drawn to Part 4 of the NSW DECC Waste Classification Guidelines (2014) which makes particular reference to the management and disposal of Acid & Potential Acid Sulfate Soils. The classification of the material is essential to determine where the waste may be legally taken. The Protection of the Environment Operations Act 1997 provides for the commission of an offence for both the waste owner and the transporters if the waste is taken to a place that cannot lawfully be used as a waste facility for the particular class of waste. For the transport and disposal of industrial, hazardous or Group A liquid waste advice should be sought from the EPA.

Evidence that the requirements specified above have been satisfied must be provided to the Principle Certifying Authority prior to the issue of an Occupation Certificate. Where an Occupation Certificate is not required this evidence must be provided to the satisfaction of Council's Manager Health, Building & Environment.

(Reason: To ensure that imported fill is of an acceptable standard for environmental protection purposes)

Conditions which must be satisfied prior to the commencement of demolition of any building or structure

16. Residential Storage
The architectural plans shall be amended and submitted to the Accredited Certifier **prior to the issue of a Construction Certificate** to demonstrate and confirm that the total volume of residential storage space required under *State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development* has been provided.

This includes a minimum of:
- $6m^3$ for one-bedroom units
- $8m^3$ for two-bedroom units
- $10m^3$ for three-bedroom units

(Reason: Amenity)

17. DAPDB01 - Construction Certificate - Prior to the Commencement of any Demolition Works

Where demolition is associated with the erection of a new structure, or an altered portion of or an extension to an existing building, the demolition of any part of a building is "commencement of erection of building" pursuant of section 81A(2) of the Act. In such circumstance all conditions of this consent must be satisfied prior to any demolition work. This includes, but is not limited to, the **issue of a Construction Certificate, appointment of a PCA and Notice of Commencement under the Act**.

(Reason: Statutory Requirement)

18. DAPDB02 - Demolition

Demolition - General

a. That two (2) working days (i.e. Monday to Friday exclusive of public holidays) prior to the commencement of any demolition work, notice in writing is to be given to the Council. Such written notice is to include:
   - The date when demolition will commence,
   - Details of the name, address and business hours contact telephone number of the demolisher, contractor or developer.
   - The licence number of the demolisher, and relevant WorkCover licenses, (see minimum licensing requirements in (d) below, and
   - Copies of the demolisher's current public liability/risk insurance policy indicating a minimum cover of $10,000,000.00.

b. Demolition of buildings and structures must comply with all current and relevant Australian Standards.

c. Demolition works are restricted as follows:
   - Monday to Saturday inclusive - 7:00am - 5:00pm
   - Sundays and Public Holidays - No work

d. At least two (2) working days (i.e. Monday to Friday exclusive of public holidays), the developer or demolition contractor must notify adjoining residents prior to demolition commencing advising the following:
   - The date when demolition will commence;
   - Details of the name, address and business hours contact telephone number of the demolisher, contractor or developer;
   - The telephone number of WorkCover's Hotline 13 10 50.

Demolition Involving the Removal of Asbestos

General Information

Homes built or renovated prior to 1987 are likely to contain asbestos. Asbestos is most commonly found within eaves, internal and external wall cladding, ceilings and walls (particularly within wet areas such as bathrooms and laundries), and fences. Unless properly handled, asbestos disturbed or removed during renovations can cause the development of asbestos related diseases, such as asbestosis, lung cancer and mesothelioma.

To ensure work does not cause undue risk please see the following site for further information: www.asbestosawareness.com.au

Asbestos to be removed by licensed asbestos removalist

All works removing asbestos containing materials must be carried out by a suitably licensed asbestos removalist duly licensed with WorkCover NSW, holding either a Friable (Class A) or a Non- Friable (Class B) Asbestos Removal License which ever applies AND a current WorkCover Demolition License where works involve demolition.

NOTE:

- Removal of asbestos by a person who does not hold a Class A or Class B asbestos removal license is permitted if the asbestos being removed is 10m2 or less of non-friable asbestos (approximately the size of a small bathroom). Friable asbestos materials must only be removed by a person who holds a current Class A asbestos license.
- To find a licensed asbestos removalist please see www.workcover.nsw.gov.au

Compliance with applicable Legislation, Policies and Codes of Practice

Asbestos removal works are to be undertaken in accordance with the following:

- NSW Work Health and Safety Act and Regulation 2011;
- Safe Work Australia Code of Practice for the Management and Control of Asbestos in the Workplace [NOHSC:2018(2005)]
- NSW Government WorkCover Code of Practice - How to Safely Remove Asbestos;
- NSW Government WorkCover Code of Practice - How to Manage and Control Asbestos in the Workplace; and

Clearance certificate

Following completion of asbestos removal works undertaken by a licensed asbestos removalist re-occupation of a workplace must not occur until an independent and suitably licensed asbestos removalist undertakes a clearance inspection and issues a clearance certificate.

Notification of asbestos removal works

At least two (2) working days (i.e. Monday to Friday exclusive of public holidays), the developer or demolition contractor must notify adjoining residents prior to the commencement of asbestos removal works. Notification is to include, at a minimum:

- The date and time when asbestos removal works will commence;
- The name, address and business hours contact telephone number of the demolisher, contractor and/or developer;
- The full name and license number of the asbestos removalist/s; and
- The telephone number of WorkCover's Hotline 13 10 50

Warning signs must be placed so they inform all people nearby that asbestos removal work is taking place in the area. Signs should be placed at all of the main entry points to the asbestos removal work area where asbestos is present. These signs should be weatherproof, constructed of light-weight material and adequately secured so they remain in prominent locations. The signs should be in

accordance with AS 1319-1994 Safety signs for the occupational environment for size, illumination, location and maintenance.

Barricades

Appropriate barricades must be installed as appropriate to prevent public access and prevent the escape of asbestos fibres. Barricades must be installed prior to the commencement of asbestos removal works and remain in place until works are completed.

(Reason: To ensure compliance with the relevant legislation and to ensure public and work safety)

19. DAPDB03 - Site Safety Fencing - Demolition only

Erect site fencing to a minimum height of 1.8m complying with WorkCover Guidelines, to exclude public access to the site throughout the demolition. The fencing must be erected **before the commencement of any demolition work** and maintained.

The site shall be maintained in a clean and orderly condition during demolition works.

Hoardings

If applicable, a separate Hoarding Application for the erection of an A class (fence type) or B class (overhead type) hoarding along the street frontage(s) complying with WorkCover requirements must be obtained including:

- payment to Council of a footpath occupancy fee based on the area of footpath to be occupied and Council's Schedule of Fees and Charges before the commencement of work; and
- provision of a Public Risk Insurance Policy with a minimum cover of $10 million in relation to the occupation of and works within Council's road reserve, for the full duration of the proposed works, must be obtained with a copy provided to Council.

(Reasons: Statutory Requirement and health and safety)

20. DAPDB05 - Erosion and Sediment Control During Demolition

Erosion and sedimentation controls shall be in place prior to the commencement of demolition works and shall be maintained throughout the demolition of the building and any regrading of the ground levels, approved removal of vegetation etc. The controls shall be installed in accordance with the details approved by Council and/or as directed by Council officers. These requirements shall be in accordance with Managing Urban Stormwater - soils and Construction produced by Landcom (Blue Book). A copy of the Erosion and Sediment Control Plan must be kept on site during the demolition works and made available to Council officers on request.

(Reason: Environmental protection)

Conditions which must be satisfied prior to the issue of a Construction Certificate

21. DACCA01 - Access for People with Disabilities

Access for people with disabilities must be provided in accordance with the requirements of the Building Code of Australia, relevant Australian Standards and with regard to the Disability

Discrimination Act 1992. Prior to the issue of a Construction Certificate, the plans shall demonstrate compliance. Note: Disability (Access to Premises - Buildings) Standards 2010 - As of 1 May 2011, if access is provided to the extent covered by this Standard, then such access cannot be viewed as unlawful under the Disability Discrimination Act 1992.

(Reason: To inform of relevant access requirements for persons with a disability)

22. DACCB02 - Damage Deposit for Council Infrastructure

A Damage Deposit (calculated in accordance with Council's adopted Fees and Charges) of **$30,000.00** shall be paid to Council **prior to the issue of the Construction Certificate**.

This Damage Deposit shall be refunded upon completion of all works, at the Occupation or Final Certificate stage.

Any costs associated with works necessary to be carried out to rectify any damages caused by the development, shall be deducted from the Damage Deposit.

Note: Full panel concrete footpath replacement in areas where connection to all services are required. This includes driveways and road concrete panels. This will stop differential settlement and maintain the integrity of council infrastructure and asset.

(Reason: Protection of Council infrastructure)

23. DACCB03 - Long Service Levy Payments

The payment of a long service levy as required under part 5 of the Building and Construction Industry Long Service Payments Act 1986, in respect to this building work, and in this regard, proof that the levy has been paid, is to be submitted to Council **prior to the issue of a Construction Certificate**. Council acts as an agent for the Long Services Payment Corporation and the levy may be paid at Council's Office.

(Reason: Statutory requirement)

24. DACCB04 - Section 94 Contributions

The following Section 94 Development Contributions are required towards the provision of public amenities and services in accordance with the City of Canada Bay s94 Development Contributions Plan.

Based on the following rates, as at September 2017 (CPI 112.5)

Infrastructure Type	Studio/One bedroom dwelling	Two bedroom dwelling	Three + bedroom dwelling	Additional Lot
Community Facilities	$1,132.10	$1,611.65	$2,179.39	$2,179.39
Civil Infrastructure	$1,099.14	$1,564.73	$2115.94	$2115.94
Plan Preparation and Administration	$124.33	$175.74	$239.35	$239.35
Open Space and Recreation	$8,033.68	$11,436.65	$15465.32	$15465.32
TOTAL	$10,389.26	$14,790.03	$20,000	$20,000

Based on the following number of Dwellings and Bedrooms:

No. of Dwellings	No. of Studio & One beds	No. of Two beds	No. of Three or more beds	No. of Additional lots
	7	16	-	-
	$72,724.82	$182,986.40		
TOTAL	$255,711.22			

Any change in the Consumer Price Index between September 2017 (CPI 112.5) and the date that the Section 94 Development Contribution is paid, will be added/subtracted from the amount cited above.

Contributions must be receipted by Council and submitted to the Accredited Certifier prior to the issue of any Construction Certificate.

Please present a copy of this condition when paying the contribution at the Customer Service Centre so that it can be recalculated.

A copy of the City of Canada Bay Section 94 Development Contributions Plan may be obtained from Council's website.

(Reason: To retain a level of service for the existing population and to provide the same level of service to the population resulting from new developments)

25. DACCB08 – Fees to be paid to Council prior to issue of the Construction Certificate

Damage Deposit	**$30,000.00**
Sect. 94 Contributions	**$255,711.22**
TOTAL	**$285,711.22 + CPI where applicable**

PLEASE NOTE that other fees and charges may be applicable to the proposal.

The applicant is advised to obtain a copy of Council's latest Fees and Charges schedule available at Council's Customer Services Section. Further information as to other fees and charges applicable to your development may be obtained by contacting Council's Customer Services Centre on 9911 6555 during office hours.

(Reason: Statutory requirement and information)

26. DACCE01 - Amendments to Approved Plans

The following amendments shall be made to the approved plans prior to the issue of a Construction Certificate:

(a) The width of the pedestrian entry corridor from Victoria Road to the residential lobby shall be increased to a minimum of 1.814m by reducing the northern extent of the commercial tenancy.

(b) An operable screen is to be provided to the bedroom window in Unit 1.04 (facing the atrium) to minimise noise impacts arising from the adjoining McDonald's drive through.

(c) Fixed external privacy screens or opaque glazing shall be provided to a minimum height of 1.6m to the west-facing bedroom windows to Units 2.01 and 3.01.
(d) Ceiling fans are to be provided to the bedrooms and living rooms of Units 1.01 – 1.06 inclusive.
(e) The holding tank provided in the basement shall be adequately sized to collect the seepage inflow into the basement. A geotechnical investigation shall be undertaken to determine the seepage rate and the volume of the seepage tank shall be based on recommended seepage rate.
(f) The solid cover on the discharge control chamber and overflow pit shall be replaced with grate openings to effectively maintain the system.

Note: This involves a change to the Development Application plans as submitted to and approved by Council. Any changes in this regard shall be reflected as amended plans to be submitted to the Accredited Certifier **prior to the issue of a Construction Certificate** for the proposed development.

(Reason: To confirm and clarify the terms of Council's approval)

27. DACCE02A - Construction Traffic Management Plan (CTMP)

Prior to the issue of a Construction Certificate, the applicant shall submit and have approved by Council's Engineers, a detailed Construction Traffic Management Plan (CTMP). The plan shall demonstrate how construction and delivery vehicles will access the development site during the demolition, excavation and construction phase of the development. The plan shall be certified by a suitably qualified and experienced traffic consultant and all traffic associated with the subject development shall comply with the terms of the approved Construction Traffic Management Plan.

The following matters (at a minimum) must be addressed in the CTMP:

(a) A detailed description and route map of the proposed truck/construction vehicle access routes.
(b) The locations of any proposed Construction Works Zones along the site frontage.
(c) Provide a construction schedule.
(d) Tradesperson parking (parking shall be provided on-site where possible).
(e) Provide relevant Traffic Control Plans (must be certified by a suitably qualified RMS ticket holder).
(f) Provide relevant Pedestrian Management Plans.
(g) A site plan which indicates site entrances and exits, turning areas within the site for construction and spoil removal vehicles allowing a forward ingress and egress for all construction vehicles on the site (superimposed truck swept path diagrams). Site entrances and exits shall be controlled by a certified traffic controller.

(Reason: Traffic safety and amenity during construction phase)

28. DACCE03 - Continuous Awnings

The awning over the footpath, as indicated on the approved drawings, shall not encroach within 600mm from the face of the kerb. The height of the completed awning shall not vary from within the range of 3 metres to 4.5 metres above the completed footpath. The awning shall be detachable from the building without causing any concealed structural failure. Provision for awning cut-outs shall be made for existing and/or new trees. Details in this regard must be indicated on the architectural plans to be submitted with the Construction Certificate.

(Reason: Pedestrian amenity)

29. DACCE04 - Obtaining a Construction Certificate for Building Work

This Development Consent does not constitute approval to carry out construction work. Construction work may only commence **upon the issue of a Construction Certificate, appointment of a Principal Certifying Authority (PCA), and lodgement of Notice of Commencement**.

Please note that if demolition works forms part of the extent of works approved in the same application, then demolition must not commence **prior to the issue of a Construction Certificate**.

(Reason: Information)

30. DACCE05 - Waste Water Control

The applicant shall contact Sydney Water, to determine the requirements for the disposal of wastewater and liquid trade waste (including grease traps or grease arrestors). The applicant must provide a copy of the Authority to connect to the sewer system prior to the issue of a Construction Certificate. There is to be no discharge of wastewater to the stormwater system.

(Reason: Information)

31. DACCF04 - On Slab Landscaping

To ensure the site landscaping thrives the on slab landscaping shown on the approved landscaping plan is to be designed to include a minimum soil depth of 650mm for shrubs and trees and 300mm for grass and ground covers, adequate drainage and a permanent, automatic irrigation system conforming to Sydney Water's current Waterwise Policy. Details shall be submitted **with the Construction Certificate application**.

(Reason: Ensure landscape survival)

32. DACCG01 - Available Visitor Car Parking Signage

A sign shall be erected in a suitable location on the property near the driveway entrance indicating where visitor parking is available on the site. Details shall be submitted **prior to the issue of the Construction Certificate**.

(Reason: Adequate access and egress)

33. DACCG02 - Bicycle Storage Provision

Provision for bicycles shall be in accordance with the City of Canada Bay Development Control Plan for Bicycle Parking and Storage Facilities. Details shall be submitted **prior to the issue of the Construction Certificate**.

(Reason: Convenience)

34. DACCG03 - Car Parking Areas for Multiple Use Buildings

The following car parking and service vehicle requirements apply:

(a) 27 car spaces shall be provided on the development site. This shall comprise of:

- 19 residential spaces (incl. 3 car parking spaces for people with mobility impairment, in accordance with AS 2890.1.);

- 5 visitor spaces (incl. 1 car parking space for people with mobility impairment, in accordance with AS 2890.1.);
- 3 business/commercial/retail premises spaces.

(b) All car spaces shall be allocated and marked according to this requirement.

(c) If the development is to be strata subdivided, the car park layout must reflect the above allocation and thereafter be regarded as part of the entitlement of that strata lot. **Under no circumstances shall parking spaces be sold, let or otherwise disposed of for use other than in accordance with this condition**.

(d) Each car parking space shall have minimum dimensions in accordance with the relevant Australian Standard and be provided on-site in accordance with the approved plans.

(e) The parking bays shall be delineated by line marking.

(f) Visitor spaces shall be clearly line marked and/or signposted and shall only be used by persons visiting residents of the property or commercial/business/retail premises located within the development. Visitor spaces shall not be allocated as permanent residential parking spaces. Access to visitor parking spaces shall not be restricted without development approval and a sign shall be erected at the vehicular entrance indicating the availability of visitor parking.

The following traffic control measures shall be implemented on site:

(a) Signage indicating "Entry Only" shall be prominently displayed at the entrance to the development.

(b) Signage indicating "Exit Only" shall be prominently displayed at the exit to the development.

(c) One-Way directional arrows shall be painted on the driveway pavement to indicate the required vehicular directional movement through the car parking area. The above details shall be submitted to and approved by the Accredited Certifier **prior to the issue of the Construction Certificate**.

(Reason: Parking and access)

35. DACCG04 - Disabled Car Parking

Four (4) of the spaces of the car parking spaces provided as part of the total requirement shall be reserved for disabled persons. These spaces shall be a minimum of 3.2m wide x 5.5m long and located near pedestrian access routes designed for disabled persons. Each space shall be clearly marked as such.

Car parking for people with disabilities shall be provided in accordance with the Building Code of Australia, relevant Australian Standards and with regard to the Disability Discrimination Act 1992. **Prior to the issue of a Construction Certificate**, the plans shall demonstrate compliance. **Note: Disability (Access to Premises - Buildings) Standards 2010** - As of 1 May 2011, if access is provided to the extent covered by this Standard, then such access cannot be viewed as unlawful under the Disability Discrimination Act 1992.

The above details shall be submitted to and approved by the Accredited Certifier **prior to the issue of the Construction Certificate**.

(Reason: To inform of relevant access requirements for persons with a disability)

36. DACCG06 - Maintaining Sight Lines (multi- unit development)

All new walls adjacent to vehicular crossings must be lowered to a height of 600mm above the internal driveway level for a distance of 1.50m within the site or splayed 1.5 metre by 1.5 metre to provide satisfactory sight lines. Details are to be submitted to the Accredited Certifier **prior to the issue of a Construction Certificate** showing compliance with this condition.

(Reason: Safety)

37. DACCG10 - Speed Hump and Stop Sign on Exit

The applicant shall install a stop sign and a speed hump at the exit from the site. The stop sign must be accompanied by the associated line marking and the speed hump shall be set back by 1.5 metres from the boundary alignment. The devices shall be designed and constructed in accordance with the provision of all relevant Australian Standards. The building plans shall indicate compliance with this requirement prior to the issue of a construction certificate.

(Reason: Traffic safety and management)

38. DACCH00 - Obscure Glazing for Privacy in Wet Areas

All bathroom, ensuite and toilet windows shall be installed with obscure glazing.

(Reason: Amenity)

39. DACCI01 - Damage Report

Prior to the issue of the Construction Certificate, a Damage Report Form shall be completed and submitted to Council. This Damage Report Form is for the evaluation of the existing condition of the road reserve, and shall be filled out and signed by the Applicant and submitted to Council. This form is generally for "minor works" (as defined in the Driveways and Ancillary Works Application Form). For "major works", a Dilapidation Report will be required.

This Form is used to assist Council in determining the refund of any damage deposits and any likely repairs necessary upon the completion of the development.

When lodging the Damage Report Form, fees are payable in accordance with Council's fees and charges schedule, which will go towards administration and inspection costs.

The cost of repairing any damage to Council property (including the footpath, verge, street trees, kerb, gutter, road pavement or the like) during and/or immediately after construction must be paid to Council or shall be deducted from the damage deposit bond. Repair of damaged Council property by the Applicant or his agent is not permitted unless approved by Council.

For roadways requiring asphaltic concrete works or adjustment works, these shall be done to a minimum width as specified by Council. Minimum dimensions are given in Council's Specification for Driveway Construction or Specification for Restoration Works.

(Reason: Maintain public assets)

40. DACCI03 - Protection of Public Places

The adjoining or adjacent public area is not to be obstructed by any materials, vehicles, refuse skips and the like, under any circumstances unless approved in writing by Council.

If the work involved in the demolition or construction of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or building involves the closure of a public place, a barrier, fence or hoarding shall be erected **prior to the commencement of any work** subject to approval of a Traffic Management Plan.

An application to occupy public space is to be submitted to Council for approval prior to commencement of works.

Where a hoarding is required, an application for hoarding is also to be submitted to and approved by Council prior to commencement of any work. Hoardings shall be erected to comply with the requirements of WorkCover, the Principal Certifying Authority and with relevant Australian Standards.

(Reason: Safety)

41. DACCI05 - Vehicular Crossings

Full-width, heavy-duty concrete vehicular crossing(s) shall be installed across the footpath at the entrance(s) and/or exit(s) to the site, subject to separate Council approval. In this regard the Applicant must obtain a copy of Council's "Engineering Requirements for Developments, Technical Specification" and lodge an application for vehicular crossing(s) (available from Council's Customer Services Centre or can be downloaded from Council's website), and pay the appropriate fees and charges prior to the lodgement of the Construction Certificate.

(Reason: To ensure appropriate access to the site can be achieved)

42. DACCJ01 - Hoardings

A Hoarding Application for the erection of a Class A (fence type) or Class B (overhead type) hoarding along the street frontage(s) complying with WorkCover requirements must be obtained.

The relevant application form shall be submitted to Council with a footpath occupancy fee based on the area of footpath to be occupied according to Council's Schedule of Fees and Charges, and the application shall be approved before the commencement of work.

A Public Risk Insurance Policy with a minimum cover of $10 million in relation to the occupation of and works within Council's road reserve, for the full duration of the proposed works, must be obtained with a copy also provided to Council. The Policy is to note Council as an interested party. The copy is to be provided to Council **prior to the issue of a Construction Certificate**.

(Reason: Safety & information)

43. DACCJ02 - Redundant Vehicular Crossings and Ancillary Works

Where new pavement, repair or reinstatement of footpath or other ancillary works such as kerb and gutter and stormwater pit construction is proposed, the Applicant shall complete a Section 138 Civil Works in the Public Domain Area Application for major works, or for minor works (as defined in the Driveways & Ancillary Works Application) adjacent to the site, an application for "Driveway & Ancillary Works" and submit the application to Council for approval prior to the issue of a Construction Certificate. Both forms are available from Council's Customer Services Centre or can be downloaded from Council's website.

All disused or redundant vehicle crossings and laybacks shall be removed and reinstated with concrete kerb and gutter or to the existing edging profile as specified by Council and the footpath area is to be restored to the satisfaction of Council's Utilities & Development Engineer, prior to the issue of the Occupation Certificate.

(Reason: Public infrastructure maintenance)

44. DACCK01 - Application for a Construction Certificate

The applicant must apply to Council or an Accredited Certifier for a Construction Certificate to carry out the relevant building works that are approved by this consent. The details to be included in the application for a Construction Certificate are:

(a) Architectural plans and specifications complying with the Building Code of Australia (BCA), relevant Australian Standards, and the development consent and conditions.
(b) If Council issues the Construction Certificate, engineering details must be submitted for approval for all structural elements, including but not limited to, piers, footings, reinforced concrete slab, first floor joist layout, roof trusses, steel beams and the like. The details must be prepared by a practising consulting structural engineer. Also a certificate from the engineer must be included certifying that the design fully complies with appropriate SAA Codes and Standards and the Building Code of Australia requirements. Note: The engineer/s undertaking certification must be listed on the National Professional Engineers Register under the appropriate category.
(c) Geotechnical report for the site, prepared by a qualified geotechnical engineer detailing the foundation conditions of the site and solutions for consideration by a structural Engineer.
(d) Essential services plan outlining the existing and proposed fire safety measures.
(e) Disabled access provisions to common and public areas in accordance with AS1428.
(f) If an alternative solution to the "deemed to satisfy" provisions of BCA is proposed, the following details must be lodged:
    - Performance requirements that the alternative solution intends to meet.
    - Assessment methods used to determine compliance with the performance requirements, including if and how each performance objective impacts on other requirements of the BCA; and
    - A statement about the person who prepared the alternate solution, indicating qualifications, experience, insurance details, and membership of an approved accreditation body

      Note: The performance-based application may be required to be reviewed by a suitably qualified independent body at the applicant's expense. Any fees relating to any review are required to be paid **prior to the issue of the Construction Certificate**.

(Reason: Statutory requirement)

45. DACCK02 - BASIX Commitments

The approved BASIX Certificate shall be submitted to the Accredited Certifier with the application for a Construction Certificate.

Where a change or changes are proposed in the BASIX commitments, the applicant must submit a new BASIX Certificate to the Accredited Certifier and Council. If any proposed change in the BASIX

commitments is inconsistent with the development consent the applicant will be required to submit a modification to the development consent to Council under Section 96 of the Environmental Planning and Assessment Act 1979.

All commitments in the BASIX Certificate must be shown on the plans accompanying the Construction Certificate prior to the issue of any Construction Certificate.

(Reason: Statutory Compliance)

46. DACCK03 - Energy Australia Requirements

The approved development must comply with the requirements of Energy Australia. Prior to the issue of a Construction Certificate, the applicant shall demonstrate to the Accredited Certifier that any such requirements have been complied with.

(Reason: Statutory requirement)

47. DACCL02 - Certification of the Stormwater Drainage System Design

The proposed stormwater design shall be certified by a suitably qualified person, in accordance with Council's "Engineering Requirements for Developments, Technical Specification", and shall be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate.**

Certification of the proposed stormwater design shall be obtained from a Chartered Professional Civil Engineer with Institution of Engineers, Australia Corporate Membership and registered on the National Engineers Register (NER) and shall be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate**.

(Reason: Adequate stormwater management)

48. DACCL04 - Erosion and sedimentation controls

Erosion and sedimentation controls must be provided to ensure:

(a) Compliance with the approved Soil and Water Management Plan
(b) Removal or disturbance of vegetation and top soil is confined to within 3m of the approved building area (no trees to be removed without approval)
(c) All uncontaminated run-off is diverted around cleared or disturbed areas
(d) Silt fences or other devices are installed to prevent sediment and other debris escaping from the cleared or disturbed areas into drainage systems or waterways
(e) All erosion and sediment controls are fully maintained for the duration of demolition/ development works
(f) Controls are put into place to prevent tracking of sediment by vehicles onto adjoining roadways
(g) All disturbed areas are rendered erosion-resistant by turfing, mulching, paving or similar
(h) All water pumped or otherwise removed from excavations or basement areas is filtered to achieve suspended solids/non filterable residue levels complying with the Australian Water Quality guidelines for Fresh and Marine Waters
(i) Pumped or overland flows of water are discharged so as not to cause, permit or allow erosion before the commencement of work (and until issue of the occupation certificate).

Details of the proposed soil erosion and sedimentation controls to be implemented on site must be submitted **with the Construction Certificate Application**. Under no circumstances may any works

commence prior to these details being approved by the Accredited Certifier and the controls being in place on the site.

(*Reason: Environmental protection)*

49. DACCL05 - Grated Drain to Garage

A grated trench drain shall be provided across the (garage entrance/driveway/street boundary). Unless otherwise designed by a Qualified Civil Engineer, the dimensions of the trench grate shall not be less than 200mm wide by 150mm deep at the shallow end, and have a "bottom" slope of 2 %. This trench drain shall be connected to an approved drainage system. The grated drain calculation shall be in accordance with AS/NZS3500.

The above information must be indicated on all relevant drawings to be submitted **with the Construction Certificate**.

(Reason: Environmental protection)

50. DACCL06 - Rainwater Re-use

A rainwater harvesting system shall be provided in accordance with either the BASIX minimum requirements, any relevant Council Rainwater Re-use Policy and/or "Engineering Requirement for Developments, Technical Specification", whichever is applicable. A detailed stormwater plan showing the proposed re-use system shall be submitted and approved by Council or an Accredited Certifier **prior to the issue of the Construction Certificate**.

(Reason: Compliance and Amenity)

51. DACCL07 - Silt Arrestors and Gross Pollutant Traps

Silt and gross pollutant traps shall be fitted in all stormwater pits, designed in accordance with Council's "Engineering Requirements for Developments, Technical Specification" and to the satisfaction of Council or an Accredited Certifier. Details are to be submitted with the design **prior to the issue of the Construction Certificate**.

(Reason: Environmental Protection)

52. DACCL08 - Installation of Temporary Rock Anchor

Where rock anchors are proposed for the protection of Council's land or assets such as utility services, footpaths, kerb and gutter and other ancillary infrastructure, "An Application to Install Temporary Rock Anchors" shall be submitted with the relevant fees & charges paid **prior to the issue of a Construction Certificate**. An Application for the use of temporary rock anchors will only be considered if there is no other alternative method of stabilization. In this regard, a statement from a qualified Structural or Geotechnical Engineer is required to be submitted with the application.

The Applicant/Developer must provide full details of the proposed installation design details and certification from a Qualified Civil, Structural or Geotechnical Engineer, for Council's approval, **prior to the issue of a Construction Certificate**.

The Civil, Structural or Geotechnical Engineer must be a fully Qualified Chartered Professional Engineer with current Institution of Engineers, Australia Corporate Membership and registered on the National Engineers Register (NER).

(Reason: Protection of Council Assets)

53. DACCL09 - Control of Seepage Water

A holding tank shall be provided to store seepage water for a period of 24 hours. The discharge of seepage water to the kerb is to be restricted between 11:00pm and 3:00am at a maximum discharge rate of 5.0 L/s. A minimum of seepage rate of 0.001 L/s per sqm shall be adopted to calculate the capacity of the holding tank unless a geotechnical report prepared by a qualified Geotechnical Consultant is submitted which provides a different seepage rate, **prior to the issue of a Construction Certificate**.

(Reason: Prevention of public nuisance)

54. DACCM01 - Dilapidation Report

A Dilapidation Report is to be undertaken on all properties, which in the opinion of a suitably qualified engineer, could be potentially affected by the construction of the project. The Dilapidation Report shall be carried out **prior to the issue of the Construction Certificate**.

The Dilapidation Report is to be prepared by a suitably Qualified Chartered Professional Civil or Structural Engineer with current Institution of Engineers, Australia Corporate Membership and registered on the National Engineers Register (NER) or Geotechnical Practitioner.

The Report shall cover structural and geotechnical factors likely to arise from the development.

A copy of this Report shall be submitted to the owners of all properties inspected and Council as a record.

The person having the benefit of the development consent must, at their own cost, rectify any damage caused to other properties during the construction of the project.

(Reason: Safety)

Conditions which must be satisfied prior to the commencement of any development work

55. DAPCC01 - Erosion & Sediment Control: Minor works - Prior to construction

Erosion and sedimentation controls shall be in place **prior to the commencement of site works**; and maintained throughout construction activities until the site is landscaped and/or suitably revegetated. The controls shall be in accordance with the details approved by Council and/or as directed by Council Officers. These requirements shall be in accordance with Managing Urban Stormwater - Soils and Construction produced by Landcom (Blue Book).

A copy of the Erosion and Sediment Control Plan must be kept on site at all times during construction and made available to Council officers on request. Erosion and sediment control measures as detailed in the submitted Erosion and Sediment Control Plan must be installed and operating **prior to and during all construction works**.

(Reason: Environmental protection)

56. DAPCC02 - Soil & Water Management during Construction

Landcom's "Managing Urban Stormwater - Soil and Conservation" August 1998 outlines the general requirements for the preparation of a soil and water management plan. All works shall be conducted in accordance with a soil and water management plan that has been submitted and approved by the Accredited Certifier **prior to the commencement of works**. A copy of the plan shall be kept on-site and made available to Council's Officers on request. All erosion and sediment control measures must be maintained in a functional condition throughout the duration of the works.

(Reason: Environmental protection)

Conditions which must be satisfied during any development work

57. DADWA01 - Burning and Burying of Waste

No materials or rubbish resulting from the land clearing, demolition and building works must be burnt or buried on the site.

(Reason: Health and amenity)

58. DADWA02 - Construction Hours

No construction or any other work related activities shall be carried out on the site outside the hours of 7.00 am to 5.00 pm Mondays to Saturdays. No work to occur on Sundays and public holidays.

Where the development involves the use of jackhammers/ rock breakers and the like or other heavy machinery, such equipment may only be used between the hours of 7.00 am - 5.00 pm Monday to Friday only.

(Reason: Safety and amenity)

59. DADWA03 - Disruption of Traffic

During any construction works on the public road that is associated with this approval, the Applicant must provide appropriate signage and traffic control facilities as per the requirements of AS 1742.3 and the RTA "Traffic Control at Works Sites" manual.

(Reason: Safety and information)

60. DADWA04 - Dust Control

Small Works

Where a dust nuisance is likely to occur, suitable screens and/or barricades shall be erected during the demolition, excavation and building works. If necessary, water sprays shall be used on the site to reduce the emission of dust. Screening shall consist of minimum 2 metres height of shade cloth or similar material secured to a chain wire fence of the like and shall be modified as directed by the City of Canada Bay Council should it fail to adequately control any dust nuisance.

Major Works

The following measures must be implemented (in part or in total) as directed by the City of Canada Bay Council to control the emission of dust:

(a) Dust screens must be erected around the perimeter of the site and be kept in good repair for the duration of the work.

(b) All dusty surfaces must be wet down and any dust created must be suppressed by means of a fine water spray. Water used for dust suppression must not be contaminated or allowed to enter the stormwater system.
(c) All stockpiles of materials that are likely to generate dust must be kept damp or covered.
(d) All stockpiles of soil or other materials shall be placed away from drainage lines, gutters or stormwater pits or inlets.
(e) All stockpiles of soil or other materials likely to generate dust or odours shall be covered.
(f) All stockpiles of contaminated soil shall be stored in a secure area and be covered if remaining more than 24 hours or as directed by the City of Canada Bay Council.

(Reason: Environmental amenity)

61. DADWA05 - Excavation - Water

All excavations must be kept free from the accumulation of water.

(Reason: Health and safety)

62. DADWA06 - Prevention of Nuisance

All possible and practical steps shall be taken to prevent nuisance to the inhabitants of the surrounding neighbourhood from windblown dust, debris, noise and the like during the demolition, excavation and building works.

(Reason: Health and amenity)

63. DADWB02 - Acid Sulphate Soils

Any excavation works carried out on site should be closely monitored to ensure no signs of Potential Acid Sulphate Soil (PASS) or Actual Acid Sulphate Soil (AASS) are observed. Indicators may include grey to greenish blue clays, unusual gold-yellow mottling or 'rotten egg' odours. If any of these indicators are observed, excavation of the site is to be stopped immediately, Council is to be notified and a suitably qualified environmental scientist should be contracted to further assess the site.

(Reason: Environmental protection)

64. DADWB03 - Construction Management Plan

All development activities and traffic movements must be carried out in accordance with the approved Construction Management Plan.

All controls in the Plan must be maintained at all times. A copy of the Plan must be kept on site at all times and made available to the Accredited Certifier and Council on request.

(Reason: Compliance with condition of consent)

65. DADWB04 - Damage to Adjoining Properties

All precautions must be taken to prevent any damage likely to be sustained to adjoining properties. Adjoining owner property rights must be observed at all times. Where damage occurs to adjoining property all necessary repair or suitable agreement for necessary repairs are to be undertaken by the applicant in consultation with, and with the consent of, the affected property owner.

(Reason: Structural safety)

66. DADWB05 - Stamped Plans

Stamped plans, specifications, documentation and the consent shall be available on site at all times during construction.
(Reason: To ensure compliance with approved plans)

67. DADWB06 - Site requirements during demolition and construction

All of the following are to be satisfied/complied with during demolition, construction and any other site works:

(a) All demolition is to be carried out in accordance with Australian Standards AS 2601-2001.
(b) Demolition must be carried out by a registered demolition contractor.
(c) A single entrance is permitted to service the site for demolition and construction. The footway and nature strip at the service entrance must be planked out with close boarded, hardwood timber footpath protection pads. The pad shall cover the entire width of the footpath opening for the full width of the fence.
(d) No blasting is to be carried out at any time during construction of the building.
(e) Care must be taken during demolition/ excavation/ building/ construction to prevent any damage to adjoining buildings.
(f) Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.
(g) Any demolition and excess construction materials are to be recycled wherever practicable
(h) The disposal of construction and demolition waste must be in accordance with the requirements of the Protection of the Environment Operations Act 1997.
(i) All waste on the site is to be stored, handled and disposed of in such a manner as to not create air pollution (including odour), offensive noise or pollution of land and/or water as defined by the Protection of the Environment Operations Act 1997. All excavated material should be removed from the site in the approved manner and be disposed of lawfully to a tip or other authorised disposal area.
(j) Section 143 of the Protection of the Environment Operations Act 1997 requires waste to be transported to a place which can lawfully accept it. All non-recyclable demolition materials are to be disposed of at an approved waste disposal depot in accordance with legislation.
(k) All materials on site or being delivered to the site are to generally be contained within the site. The requirements of the Protection of the Environment Operations Act 1997 must be complied with when placing/stockpiling loose material, disposing of concrete waste, or other activities likely to pollute drains or water courses.
(l) Details as to the method and location of disposal of demolition materials (weight dockets, receipts etc.) should be kept on site as evidence of approved methods of disposal and recycling.
(m) Any materials stored on site must be stored out of view or in such a manner so as not to cause unsightliness when viewed from nearby lands or roadways.
(n) Public footways and roadways adjacent to the site must be fully maintained and cleared of obstructions during construction unless prior separate approval from Council is obtained including payment of relevant fees.
(o) Building operations such as brick cutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.

(p) All site waters during excavation and construction must be contained on site in an approved manner to avoid pollutants entering into waterways or Council's stormwater drainage system.

(Reason: To ensure that demolition, building and any other site works are undertaken in accordance with relevant legislation and policy and in a manner which will be non-disruptive to the local area.)

68. DADWC01 Contaminated Land Unexpected Finds

In the instance works cause the generation of odours or uncovering of unexpected contaminants works are to immediately cease, Council is to be notified and a suitably qualified environmental scientist appointed to further assess the site.

The contaminated land situation is to be evaluated by the supervising environmental consultant and an appropriate response determined in consultation with the applicant, which is agreed to by City of Canada Bay, Manager Health, Building and Environment.

Note: Council may also request that a NSW EPA accredited site auditor is involved to assist with the assessment of the contaminated land situation and review any new contamination information. The applicant must also adhere to any additional conditions which may be imposed by the accredited site auditor.

(Reason: To ensure compliance with Statutory Requirements)

69. DADWC03 Construction Environmental Management Plan for Remediation

A Construction Environmental Management Plan (CEMP) must be prepared for the proposed remedial works in accordance with the requirements of the approved Remedial Action Plan. The CEMP must be prepared by an appropriately qualified and experienced environmental consultant.

The CEMP for Remediation must include, but not be limited to, the following:

4.1 Site Information
4.2 Soil and Water Management
4.2.1 Stockpiles
4.2.2 Site Access
4.2.3 Excavation Pump-out
4.2.4 Landscaping/Rehabilitation
4.2.5 Bunding
4.3 Noise
4.4 Vibration
4.5 Air Quality
4.5.1 Dust Control
4.5.2 Odour Control
4.6 Groundwater
4.7 Transport

4.8 Asbestos Management, Waste Management and Hazardous Materials
4.10 Containment/Capping of Contaminated Soil
4.11 Importation of Fill
4.12 Site Signage and Contact Numbers
4.13 Site Security
4.14 Occupational Health & Safety
4.15 Removal of Underground Storage Tanks

The CEMP must be prepared and implemented to the satisfaction of the supervising environmental consultant. The environmental site management measures must remain in place and be maintained throughout the period of the remediation works, until completion of site remediation and the site has been validated.

Note: An appropriately qualified and experienced environmental consultant may be certified under the 'Certified Environmental Practitioner' (CEnvP) Scheme or equivalent.

(Reason: To ensure compliance with Statutory Requirements)

70. DADWC04 Site Validation Report

Prior to the issue of a Construction Certificate, on completion of the remedial works, a Site Validation Report is to be forwarded to Council for approval. The validation report is to be prepared by a suitably qualified environmental consultant with experience in land contamination in New South Wales, EPA contaminated land legislation and guidelines including the Contaminated Land Management Act. The report is to be satisfactorily documenting the following:

1. The extent of validation sampling, and the results of the validation testing,
2. That the remediation and validation of the site has been undertaken in accordance with Remedial Action Plan, prepared by Argus dated 8th of September reference ES6829/3
3. That the site is suitable for the proposed use.
4. The Validation Report must be submitted for review by a NSW EPA accredited site auditor prior to the commencement of construction and the issue of a construction certificate

(Reason: To ensure compliance with Statutory Requirements)

71. DADWC05 Site Audit Statement

Prior to the issue of a Construction Certificate, a Site Audit Statement (SAS) is to be obtained from a NSW EPA Accredited Site Auditor and submitted to Council. The SAS must confirm that the site has been remediated in accordance with the approved Remediation Action Plan and clearly state that site is suitable for the proposed use. Conditions on the Site Audit Statement shall form of the consent.

a. Where the SAS is subject to conditions that require ongoing review by the Auditor or Council these should be reviewed and approved by Council before the SAS is issued. In circumstances where the SAS conditions (if applicable) are not consistent with the consent, a S96 application pursuant to the Environmental Planning & Assessment Act 1979 shall be submitted to ensure that they form part of the consent conditions.
b. A Construction Certificate must not be issued by the PCA unless a Site Audit Statement has been submitted to the Council in accordance with this condition.

(Reason: To ensure compliance with Statutory Requirements)

72. DADWC06 Remediation

Prior to the issue of a Construction Certificate, the site is to be remediated in accordance with:

(a) Remedial Action Plan, prepared by [insert name] dated [insert date] reference [insert reference] and
(b) Council's Contaminated Land Policy, and
(c) State Environmental Planning Policy No. 55 - Remediation of Land and
(d) The guidelines in force under the Contaminated Land Management Act.
(e) The applicant must engage an appropriately qualified and experienced supervising environmental consultant to supervise all aspects of site remediation and validation.

The environmental consultant must supervise all aspects of the remediation works in accordance with the approved Remedial Action Plan.

Note: An appropriately qualified and experienced environmental consultant should be certified by one of the following certification schemes; or equivalent: the EIANZ Contaminated Land Assessment Specialist Certified Environmental Practitioner (CLA Specialist CEnvP) scheme and Site Contamination Practitioners Australia – Certified Practitioner (SCPA).

Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination must be immediately notified to the City of Canada Bay Council in writing and the Principal Certifying Authority.

Any variations to the approved Remediation Action Plan shall be approved in writing by the Accredited Site Auditor and Council prior to the commencement of such work.

(Reason: Compliance with Statutory Requirements)

73. DADWC08 Excavation Pump-out

All excavation pump-out water must be analysed for suspended solid concentrations, pH and any contaminants of concern identified during a preliminary or detailed site investigation, prior to discharge to the stormwater system. The analytical results of any discharge must comply with relevant EPA and ANZECC standards for water quality and be made available to Council upon request. Any water to be discharged to Council's stormwater system shall not contain a concentration of suspended sediment exceeding 50mg/L, shall have a pH of between 6.5-8.0 and shall comply with the ANZECC Guidelines for Marine and Freshwater Quality for Protection of Aquatic Ecosystems (95% protection level for freshwater ecosystems); NSW Department of Housing, Managing Urban Stormwater – Soils and Construction).

Water testing shall be carried out to ensure water is appropriate for discharge to the stormwater system. This testing shall be undertaken by a suitably qualified environmental scientist. Water that does not comply with the above standards shall not be discharged to the stormwater system, and shall be disposed of using alternative appropriate means.

Results of water testing (if required) shall be provided to Council or in the Validation Report for remediation projects as required by the conditions of this consent. Documentation for the off-site disposal of water shall be included in the Validation Report.

Other options for the disposal of excavation pump-out water include disposal to sewer with prior approval from Sydney Water, or off-site disposal by a liquid waste transporter for treatment/disposal to an appropriate waste treatment/processing facility.

(Reason: Environmental Amenity)

74. DADWF01 - Noise - Construction

All works carried out on site during construction/ demolition/ excavation/ earthworks shall comply with the NSW Protection of the Environment Operations Act 1997 and the Department of Environment and Climate Change Noise Control Guideline - Construction Site Noise and AS 2436-1981 - "Guide to Noise Control on Construction, Maintenance and Demolition Sites" for the control of construction noise which specifies that:

- Construction period of 4 weeks and under - The L10 level measured over a period of not less than 15 minutes when the construction site is operating must not exceed the background level by more than 20 dB(A) at the boundary.
- Construction period greater than 4 weeks and not exceeding 26 weeks - The L10 level measured over a period of not less than 15 minutes when the construction site is operating must not exceed the background level by more than 10 dB(A) at the boundary.
- Silencing - All possible steps should be taken to silence construction site equipment

Should complaints of a noise nuisance be substantiated, Council may require the acoustic treatment of the identified noise source/s to ensure compliance with Councils requirements on noise. An acoustic assessment & report will be required to ensure that the intrusive noise from the plant does not exceed 5 dB (A) above the background noise.

Council may also require the acoustic treatment of the premises to ensure compliance with the NSW Department of Environment and Climate Change Industrial Noise Policy. A further acoustic assessment & report will be required to be provided to Council assessing the premises in working order.

(Reason: Noise Attenuation)

75. DADWF02 - Noise - Plant

All works carried out on site during construction/demolition/excavation or earthworks shall comply with the NSW Protection of the Environment Operations Act 1997. Approved and effective silencing measures shall be provided and maintained on all power-operated plant used on site if required.

(Reason: Safety and Amenity)

76. DADWF03 - Noise & Vibration

The construction of the development and preparation of the site, including operation of vehicles, must be conducted so as to avoid unreasonable noise or vibration and cause no interference to adjoining or

nearby occupations. Special precautions must be taken to avoid nuisance in neighbouring residential areas, particularly from machinery, vehicles, warning sirens, public address systems and the like.

In the event of a noise or vibration problem arising, the person in charge of the premises must, when instructed by City of Canada Bay Council or the Accredited Certifier, cease work and carry out an acoustical survey and/or investigation by an appropriate acoustical engineer or consultant and submit the results to Council. The person in charge of the site must implement any or all of the recommendations of the consultant and any additional requirements of Council. Any requirements of Council in this regard must be complied with immediately.

(Reason: Noise attenuation)

77. DADWG01 - Obstruction of Road or Footpath

The use of the road or footpath for the storage of any building materials, waste materials, temporary toilets, waste bins or any other matter is not permitted unless approved in accordance with Council's Waste Skip Bin Policy. A Penalty Infringement Notice may be issued for any offence.

(Reason: Protection of infrastructure, safety & information)

78. DADWG02 - Protection of Public Places

If the work involved in the demolition or construction of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or building involves the closure of a public place, a hoarding or fence shall be erected. Hoardings shall be erected to comply with the requirements of WorkCover and the Principal Certifying Authority.

(Reason: Safety)

79. DADWH01 - Compliance with Building Code of Australia

All building work must be carried out in accordance with the provisions of the Building Code of Australia. Note: Applicants who have lodged an objection and who have been granted exemption under clause 187(6) & 188(4) of the Environmental Planning and Assessment Regulation 2000, must comply with the Building Code of Australia in all other respects.

(Reason: Prescribed statutory control)

80. DADWH02 - Critical Stage Inspections - General

Critical stage inspections must be called for by the Principal Contractor or Owner Builder as required by the Principal Certifying Authority (PCA), any PCA Service Agreement, the Act and the Regulation.

Work must not proceed beyond each critical stage until the PCA is satisfied that work is proceeding in accordance with this consent, the Construction Certificate(s) and the Act. 'Critical Stage Inspections' means the inspections prescribed by the Regulations for the purposes of section 109E(3)(d) of the Act or as required by the PCA and any PCA Service Agreement.

Note 1: The PCA may require additional inspections beyond mandatory critical stage inspections in order that the PCA be satisfied that work is proceeding in accordance with this consent.

Note 2: The PCA may, in addition to inspections, require the submission of Compliance Certificates, survey reports or evidence of suitability in accordance with Part A2.2 of the BCA in relation to any matter relevant to the development.

(Reason: Statutory requirement)

81. DADWH04 - Inspections for Building Work - Critical Stages (Classes 2,3 or 4)

Where applicable inspections of the development site may be required to be undertaken at the following stages:

(a) Prior to covering of waterproofing in any wet areas, for a minimum of 10 % of rooms with wet areas within a building;
(b) Prior to covering any stormwater drainage connections;
(c) After the building work has been completed and prior to any occupation certificate being issued in relation to the building; and
(d) Other.

If the person having the benefit of the development consent appoints Council as the PCA, Council will give written advice as to what critical stage inspections apply.

Prior to issuing an occupation certificate or subdivision certificate the PCA must be satisfied that the work has been inspected on the above occasions.

Except as provided by subclause (d), the inspections may be carried out by the PCA or, if the PCA agrees, by another certifying authority.

The final inspection detailed at subclause (d) may only be carried out by the PCA.

For each inspection the principal contractor (or owner-builder) must notify the PCA at least forty eight (48) hours in advance that the site is ready to be inspected prior to the commencement of work on the next stage.

(Reason: Statutory Requirements)

82. DADWH05 - Critical Stage Inspections for Building Work (Classes 5 ,6, 7, 8 or 9)

Where applicable inspections of the development site may be required to be undertaken at the following stages:

(a) Prior to covering any stormwater drainage connections; and
(b) After the building work has been completed and prior to any occupation certificate being issued in relation to the building;
(c) Other.

If the person having the benefit of the development consent appoints Council as the PCA, Council will give written advice as to what critical stage inspections apply.

Prior to issuing an occupation certificate or subdivision certificate the PCA must be satisfied that the work has been inspected on the above occasions.

Except as provided by subclause (c), the inspections may be carried out by the PCA or, if the PCA agrees, by another certifying authority.

The final inspection detailed at subclause (c) may only be carried out by the PCA.

For each inspection the principal contractor (or owner-builder) must notify the PCA at least forty eight (48) hours in advance that the site is ready to be inspected prior to the commencement of work on the next stage.

(Reason: Statutory Requirements)

83. DADWH06 - Inspection Records & Compliance Certificates

The PCA or accredited certifier undertaking each of the inspections must make a record of each inspection in accordance with Clause 162B of the Environmental Planning and Assessment Regulations 2000 and, if the person is not the PCA, forward a copy to the PCA.

A copy of any compliance certificates issued in respect of the building work and any documents referred to in the certificate must be provided to Council within two (2) days of the certificate being issued. A compliance certificate must be issued where:

(a) Either:
    (i) Council is appointed the PCA; or
    (ii) (ii) Council is the PCA but agrees to an accredited certifier undertaking certain inspection/s, and
(b) The PCA or accredited certifier is of the opinion that the stage of work he or she has inspected is satisfactory.

(Reason: Statutory Requirement)

84. DADWI01 - Progress Survey - Major Development (greater than two stories)

In order to ensure compliance with approved plans, a Survey Certificate, prepared to Australian Height Datum, shall be prepared by a Registered Surveyor showing the following:

(a) At the completion of excavation, prior to the placement of any footings, showing the completed level of the excavation and its relationship to the boundaries;
(b) Prior to placement of concrete, the ground floor level, showing the level of the form work and its relationship to boundaries including relevant footpath and roadway levels;
(c) Prior to placement of concrete at each second floor level showing the principal level of the formwork and the intended relationship of the completed works to the boundary;
(d) Prior to roofing, or completion of the highest point of the building, showing the anticipated level of the completed work and the relationship to the boundary; and
(e) At completion, works showing the relationship of the building to the boundary.

Progress certificates in response to points (a) through to (e) shall be produced to the Council or the Principal Certifying Authority at the time of carrying out relevant progress inspections. Under no circumstances will work be allowed to proceed should such survey information be unavailable or reveals discrepancies between the approved plans and the proposed works.

(Reason: To ensure compliance with approved plans)

Conditions which must be satisfied prior to the issue of any Occupation Certificate relating to the use of the building or part

85. DAOCB01 - Certification of Engineering Works

Prior to occupation, the following documents must be submitted to the Principal Certifying Authority.

a) A Certificate from a Chartered Professional Engineer with Institution of Engineers, Australia Corporate Membership and registered on the National Engineers Register (NER) under the appropriate professional category, and
b) "Work - As - Executed" drawings of the engineering works prepared by a Registered Surveyor or equivalent. The abovementioned Certificate is to certify that:
   (i) the stormwater drainage system, and/or
   (ii) the car parking arrangement and area including circulating ramps, and/or
   (iii) any related footpath works, and/or
   (iv) the basement mechanical pump and well system, and/or
   (v) the proposed driveway and layback, and/or
   (vi) other civil works have been constructed in accordance with the Council approved plans and details and satisfies the design intent and complies with the appropriate SAA Codes relevant Standards and Council's Policies and Specifications.

Where Council is not the Principal Certifying Authority, two (2) copies of the above documents are to be provided to Council **prior to the issue of any Occupation Certificate**. These documents are to be retained on Council's Construction Certificate file.

(Reason: Asset management)

86. DAOCB02 - Strata Subdivision Approval

This approval does not include approval to strata subdivide the subject property. Should strata subdivision of the property be sought, a separate development application must be submitted to Council for approval **prior to occupation and/or use of the building/s**.

(Reason: Information)

87. DAOCB03 - Street Numbering Strategy

The Principal Certifying Authority must be satisfied that the Council approved Street Numbering Strategy has been carried out on site **prior to the issue of any Occupation Certificate**. The approved Street Numbering Strategy must not be altered in any way without prior consent of Council. (Reason: Compliance)

88. DAOCC01 - Civil Works on the Footway

The Applicant is required to carry out the following works:

- Reconstruct sections of cracked or defective footpath along the full frontage of the site, and/or
- Reconstruct existing public drainage pit/pipe system, and/or
- Construct a new vehicular crossing, and/or
- Remove any redundant vehicular crossings and replace with kerb and gutter to match the adjoining.

The above works must be completed to the written satisfaction of Council **prior to issue of any Occupation Certificate**.

Note: The above works will require the submission of the relevant application for the works to be undertaken.

Where the Applicant nominates Council to undertake the civil and stormwater works, they must contact Council's Manager Construction, City Services in order to obtain an estimated cost for construction and contract to undertake the works.

(Reason: To preserve Council's assets and amenity)

89. DAOCC03 - Construction of Concrete Kerb and Gutter

Standard 150mm high concrete kerb with gutter shall be constructed (to replace/across the) (damaged sections/full length) adjacent to the (front/front and side) of the property. The above works must be programmed and constructed **prior to the issuing of any Occupation Certificate**.

Note: The above works will require the submission of the relevant application for the works to be undertaken.

Where the Applicant would prefer Council to undertake the civil and stormwater works, they should contact Council's Manager Construction, City Services to obtain an estimated cost of construction and contract to undertake the works.

(Reason: To preserve Council's assets and amenity)

90. DAOCD01 - Occupation Certificate (section 109M of the Act)

A person must not commence occupation or use (or change of use where an existing building) of the whole or any part of a new building (within the meaning of section 109H (4) of the Act) unless an Interim Occupation Certificate or Final Occupation Certificate has been issued in relation to the building or part.

The Principal Certifying Authority is required to be satisfied, amongst other things, that:

- All required inspections (including each applicable mandatory critical stage inspection) have been carried out; and
- Any preconditions to the issue of the certificate required by a development consent have been met.

Note: New building includes an altered portion of, or an extension to, an existing building.

(Reason: Statutory requirement)

91. DAOCD02 - Evidence of Lawful Asbestos Disposal

An Occupation Certificate for a development involving the removal of asbestos must not be issued until such time the applicant provides the principal certifying authority with a copy of receipt/s confirming lawful disposal of asbestos waste.

NOTE: Asbestos waste must be disposed at a waste management facility licensed by the NSW Environment Protection Authority (EPA) to accept such waste. Please see Appendix F of City of

Canada Bay's Asbestos Policy, Contact NSW EPA on 131 555 or visit www.epa.nsw.gov.au for a list of waste management facilities licensed to accept asbestos waste.

(Reason: Health and Safety)

Conditions which must be satisfied prior to the issue of a final Occupation Certificate

92. DAFOA01 - Fire Safety Certificate

A final Fire Safety Certificate shall be obtained in accordance with Part 9, Division 4 of the Environmental Planning and Assessment (Amendment) Regulation 2000, **prior to the issue of the Final Occupation Certificate** for the building.

A copy of the Fire Safety Certificate and fire safety schedule shall be:

1. Forwarded to City of Canada Bay Council;
2. Forwarded to the Commissioner of the New South Wales Fire Brigade; and 3. Prominently displayed in the building.

(Reason: Fire safety)

93. DAFOA02 - Certificate of Test of Mechanical Ventilation

On the satisfactory completion of work and **prior to the issue of an Occupation Certificate**, a Certificate of Test of Mechanical Ventilation shall be supplied to the Principal Certifying Authority from an approved mechanical ventilation engineer.

(Reason: To ensure compliance with approved plans)

94. DAFOE01 - Certification of the Constructed Stormwater Drainage System

The constructed stormwater drainage system shall be certified by a Chartered Professional Civil Engineer with Institution of Engineers, Australia Corporate Membership and registered on the National Engineers Register (NER), in accordance with Council's "Engineering requirements for Developments, Technical Specification", **prior to issue of the Final Occupation Certificate**.

(Reason: Adequate stormwater management)

95. DAFOE02 - Covenant & Restriction as to User for Stormwater Controlled Systems

Prior to occupation and the issuing of an Occupation Certificate, the Applicant shall register a Positive Covenant and a Restriction as to User, under section 88E and or section 88B of the Conveyancing Act as appropriate in favour of Council ensuring the ongoing retention, maintenance and operation of the stormwater facility (in regards to the on-site stormwater detention system (OSD), mechanical pump-out system, charged lines (which are related to the OSD system), etc.).

Easement Registration

Where any drainage line or service conduit is to traverse any property other than that which it serves, an appropriate easement will be required. In this case, the applicant shall register an easement of width as specified in Council's "Engineering requirements for Developments, Technical

Specification", over the proposed stormwater drainage line or service concurrently with any subdivision registration.

The wording on the 88B Instrument is to make reference to the Council file where the Construction plans and the "Work-as Executed", (as built), plans are held. Typical wording can be obtained from Council's "Engineering requirements for Developments, Technical Specification" document.

(Reason: Compliance and adequate maintenance of drainage system)

96. DAFOE03 - OSD Identification Plate

Prior to issue of Final Occupation Certificate, the applicant shall install an identification plate near or onto the control structure of the On-site Stormwater Detention system (OSD). This is to advise the registered proprietor of their responsibility to maintain the OSD facility and not to tamper with it in any manner without the written consent of Council.

The applicant can obtain the OSD identification plate from the Council at a cost.

(Reason: To ensure that the OSD system is installed and identified in accordance with this approval)

97. DAFOF03 - De-stressing the Installed Rock Anchors

Upon completion of works, the rock anchors are to be completely de-stressed or removed without damage to Council's assets or to existing utility services. Proof shall be provided in the form of certification from the Qualified Structural or Geotechnical Engineer **prior to the issue of an Occupation Certificate**.

Important Note: The Applicant/Developer will be liable for any current or future damage caused by the rock anchors during installation, whilst being installed, during de-stressing or during their removal including any damage to public land, and/or any impact on the public land that would prevent its future use or re-development or damage to existing services.

(Reason: Protection of Public Asset)

98. DAFOG01 - Prospective Owners/Tenants - Ineligible for Parking Permits

All owners, residents, tenants/occupiers of the development are not eligible to participate in any existing or proposed Council on-street Permit Parking Schemes. The owner of the property and/or any managing agent appointed by the owner to sell or lease the residential and commercial units on their behalf shall ensure that all prospective purchasers and/or tenants are advised in writing via any advertising material, lease documents, etc. that no on-street parking permits will be issued by Council for the use of owners, tenants or their visitors. Any strata manager/management company appointed following the strata subdivision of the development shall also be responsible for ensuring that all owners and their tenants are informed of this restriction on an ongoing basis.

(Reason: To ensure that prospective residents and/or tenants are aware that on-site parking is available in the building and that no on-street parking permits will be issued by Council.)

Conditions which must be satisfied during the ongoing use of the development

99. DAOUA14 - Loading

All loading and unloading operations shall be carried out wholly within the confines of the site, at all times. All delivery vehicles shall enter and leave the site in a forward direction.
(Reason: Adequate servicing)

100. DAOUB01 - Annual Fire Safety Statement

Pursuant to Part 9, Division 5 of the Environmental Planning and Assessment Regulation (as amended) the owner of the building shall furnish Council with an Annual Fire Safety Statement from a competent person so as to certify the essential fire safety measures in the building.
The Annual Fire Safety Statement shall be within 12 months of the issue of the fire safety certificate, and then on an annual basis. A copy of the Fire Safety Statement obtained and Fire Safety Schedule shall also be:

3. Forwarded to the Commissioner of the New South Wales Fire Brigade; and
4. Prominently displayed in the building

(Reason: Fire safety)

101. DAOUC12 - Acoustic Assessment

All recommendations contained in the approved acoustic assessment report prepared by Acoustic Logic report number 2016117.1 dated 23rd August 2016 shall be adopted, implemented, and adhered to. The Principal Certifying Authority (PCA) shall obtain a certificate from an appropriately qualified acoustic consultant, stating that the recommendations outlined in the above stated report have been completed and that relevant noise criteria have been satisfied prior to the issue of any Occupational Certificate. Any changes made to the proposal that would alter the outcome will require a further assessment and a copy of this further report shall be provided to the PCA for approval and all recommendations of the report shall be adopted, implemented and available upon request of the Council.
(Reason: Noise Control and Amenity)

102. DAOUC13 - Further Acoustic Assessment

Following occupation of the building/premises, should it be found that the measures recommended in the acoustic assessment are not sufficient, or have been incorrectly installed or a noise issue (relating to the development) not previously identified arises (through complaint or otherwise), the owner/ occupier shall, upon request by Council, employ the services of a qualified acoustic consultant to undertake a post occupation assessment of the development and complete an assessment report with recommendations to rectify the situation . A copy of this report shall be submitted to Council for approval and from there noise attenuation works shall be implemented.
(Reason: Noise Control and Amenity)

103. DAOUC15 - Noise (General)

(a) The use of the premises shall comply with the requirements of the Environmental Pollution Authority's Industrial Noise Policy 2000 and shall not give rise to the transmission of offensive noise as defined in the Protection of the Environment Operation Act 1997 (NSW).

(b) The emission of noise associated with the use of the premises including the operation of any mechanical plant and equipment shall comply with the following criteria:

(i) The LAeq, 15minute noise level emitted from the use must not exceed the background noise level LA90, 15minute by more than 5dB when assessed at the boundary of any affected residence.

(ii) The LAeq,15minute noise level shall be adjusted for modifying factors in accordance with Part 4 of the Environmental Protection Authority (EPA) NSW Industrial Noise Policy.

(iii) The background noise level shall be measured in the absence of noise emitted from the use in accordance with Australian Standard AS 1055.1-1997-Description and measurement of environmental noise.

(c) An LAeq,15minute noise level emitted from the use must not exceed the LA90, 15minute noise level by more than 3dB in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) when assessed inside any habitable room of any affected residence provided that;

(i) Where the LA90, 15minute noise level is below the threshold of hearing Tf at any Octave Band Centre Frequency as defined in Table 1 of International Standard ISO 226 - Normal Equal-Loudness-Level Contours then the value of Tf corresponding to that Octave Band Centre Frequency shall be used instead.

(ii) The LAeq,15minute noise level and the LA90,15minute noise level shall both be measured with all external doors and windows of the affected residence closed;

(iii) The LA90,15minute noise level shall be measured in the absence of noise emitted from the use but with the ventilation equipment (excluding air-conditioning equipment) normally servicing the affected residence operating.

(d) An LAeq,15minute noise level emitted from the use must not exceed the LA90, 15minute noise level by more than 3dB in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) when assessed inside any commercial premises provided that;

(i) The LAeq,15minute noise level and the LA90,15minute noise level shall both be measured with all external doors and windows of the commercial premises closed;

(ii) The LA90,15minute noise level shall be measured in the absence of noise emitted from the use but with the ventilation equipment (including air-conditioning equipment) normally servicing the commercial premises operating.

(iii) In this clause, the term “noise level emitted from the use” means the contributing noise level from the use in isolation to any other ambient noise and account must therefore be taken of the LAeq,15minute when the use is not in operation.

(v) In circumstances where this development application refers to a modification or addition to an existing use, the background noise level referred to in this clause pertains to the LA90, 15minute noise level measured in the absence of all noise from the site.

<u>Compliance With Acoustic Report</u>

(e) All recommendations contained in the acoustic assessment report prepared by Acoustic Logic report number 2016117.1 dated 23rd August 2016 shall be adopted, implemented, and adhered to. The following recommendations contained in the report must be complied with at all times:

4.3.1 Recommended Treatments

Internal noise levels were calculated based on the expected level and spectral characteristics of the external noise, the area of building elements exposed to the noise source, the absorption characteristics of the rooms and the noise reduction performance of the building elements.

4.3.1.1 Recommended Glazing

The table below summarises the minimum glazing constructions required to ensure compliance with the internal noise goals. Thicker glazing may be required for structural, safety or other purposes. Where it is required to use thicker glazing than scheduled, this will also be acoustically acceptable.

In addition to meeting the minimum glazing thickness requirements given, the design of the window mullions, perimeter seals and the installation of the windows/doors in the building openings shall not reduce the STC rating of the glazing assembly below the values nominated in the table above. All external windows and doors listed are required to be fitted with Q-lon type acoustic seals. **Note that mohair of fin type seals will not be acceptable for the windows requiring acoustic seals.**

The window/door suppliers should provide evidence that the systems proposed have been tested in a registered laboratory with the recommended glass thicknesses and comply with the minimum listed STC requirements. Also, the glazing installer should certify that the window/doors have been constructed and installed in a manner equivalent to the tested samples.

Table 4 - Minimum STC/R_w of Glazing (with Acoustic Seals)

Façade	Space	Total Glazing Area	Glazing Assembly	Minimum STC/R_w of Installed Window (with acoustic seals)
Victoria Road	Retail	All	6.38mm laminated	31
	Bedrooms	Up to 3 sqm	10.38 mm laminated	35
		Up to 5 sqm	12.38 mm laminated	37
	Living Rooms	Up to 8 sqm	12.38 mm laminated	37
		Up to 10 sqm	12.5 mm VLam Hush	38
North-western façade	Bedrooms	Up to 5 sqm	10.38 mm laminated	35
		Up to 7 sqm	12.38 mm laminated	37
	Living Rooms	Up to 4 sqm	6.38 mm laminated	31
		Up to 10 sqm	10.38 mm laminated	35
Rear façade	Bedrooms	Up to 5 sqm	10.38 mm laminated	35
		Up to 7 sqm	12.38 mm laminated	37
	Living Rooms	Up to 7 sqm	6.38 mm laminated	31
		Up to 18 sqm	10.38 mm laminated	35
All	Bathrooms	All	6mm float	29

4.3.2 Ventilation and Air Conditioning

AS 2021 - 2015 requires the installation of ventilation or air conditioning system where aircraft noise exposure exceeds ANEF 20. As internal noise levels cannot be achieved with windows open it is required that an alternative outside air supply system or air conditioning be installed in accordance with AS 1668.2 requirements. Any mechanical ventilation system that is installed should be acoustically designed such that the acoustic performance of the recommended constructions are not reduced by any duct or pipe penetrating the wall/ceiling/roof. Noise emitted to the property boundaries by any ventilation system shall comply with Council requirements.

(Reason: Noise Control and Amenity)

104. DAOUC18 - Noise - Air Conditioners

The air conditioner/s must comply with the requirements of Protection of the Environment Operations (Noise Control) Regulation 2008 and shall not:

(a) emit noise that is audible within a habitable room in any other residential property (regardless of whether any door or window to that room is open):
  (i) before 8.00am and after 10.00pm on any Saturday, Sunday or public holiday; or
  (ii) before 7.00am and after 10.00pm on any other day; and

(b) emit a sound pressure level when measured at the boundary of any other residential property, at a time other than those specified in (i) and (ii) above, which exceeds the background (LA90, 15minutes) by more than 5dB(A). The source noise level must be measured as a LAeq 15 minute.

105. DAOUC19 - Compliance with Noise Control Legislation

The applicant shall ensure that all activities within the premises comply with the relevant sections of the Protection of the Environment Operations Act 1997 and Regulations; the NSW Environment Protection Authority Industrial Noise Policy (2000) and relevant Australian Standards on Noise Control on Construction, Maintenance and Demolition Sites.
(Reason: Noise Control and Amenity)

106. DAOUD02B Survey of contaminated material containment area

Prior to the placement of a visual marker layer as required by the RAP, the contaminated fill containment area must be delineated and surveyed by a Registered Surveyor and identified on a survey drawing.

This survey drawing must be submitted to the satisfaction of the supervising environmental consultant and be included in the Validation Report, prior to construction works and **prior to the issue of a construction certificate**.

107. DAOUD03 - Visitor Parking Restriction

All visitor parking spaces must not at any time be allocated sold or leased to an individual owner/occupier and must be strictly retained as common property by the Owners Corporation.

(Reason: Compliance)

108. DAOUD04 - Australia Post Guidelines

Mail deliveries are to be in accordance with Australia Post Guidelines, as set out in the Australia Post publication "General Post Guide - September 2007". A copy of this Guide can be obtained from Australia Post's web page at www.auspost.com.au. A copy of the brochure may be obtained from Australia Post. In general, a clearly marked mailbox (or group of mailboxes) shall be provided within 500mm of the footpath alignment.

(Reason: To ensure compliance with mail delivery regulations)

Advisory Notes

DAANN01 - Dial Before You Dig

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at www.1100.com.au or telephone 1100 before excavating or erecting structures. (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.

Telecommunications Act 1997 (Commonwealth)

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's mobile network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision or essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800 810 443.

DAANN04 - Lapsing of Consent

In accordance with Section 95 of the Environmental Planning and Assessment Act 1979 (as amended), this Development Consent lapses five (5) years after the date from which it operates unless building, engineering or construction work has physically commenced. A Construction Certificate must be obtained and the works commenced in accordance with the approved plans and specifications within five (5) years from the date of this Development Consent.

DAANN05 - Owner Builders

Under the Home Building Act 1989 any property owner who intends undertaking construction work to a dwelling or dual occupancy over the value of $5,000 must complete an approved education

course and obtain an owner-builder permit from the Office of Fair Trading. See www.fairtrading.nsw.gov.au.

DAANN06 - Process for Modification

The plans and/or conditions of this Consent are binding and may only be modified upon written request to Council under Section 96 of the Environmental Planning and Assessment Act, 1979 (as amended). The request shall be accompanied by the appropriate fee and application form. You are not to commence any action, works, contractual negotiations, or the like, on the requested modification unless and until the written authorisation of Council is received by way of an amended consent.

DAANN07 - Review of Determination

In accordance with the provisions of Section 82A of the Environmental Planning and Assessment Act 1979(as amended) the applicant can request Council to review this determination. The request must be made within a period of 6 months from the date shown on this determination. A fee, as prescribed under Council's current Management Plan - Fees and Charges, is payable for such a review.

DAANN08 - Right of Appeal

Section 97 of the Environmental Planning and Assessment Act 1979 (as amended), gives the applicant the right to appeal to the Land and Environment Court within six (6) months after the date on which you receive this notice. Section 97 does not apply to the determination of a development application for State significant development or local designated development that has been the subject of a Commission of Inquiry.

DAANN09 - Signage Approval

A separate development application for any proposed signs which are either externally fitted or applied must be submitted for the approval of Council, prior to the erection or display of any such signs. This does not apply to signs which are classified as being “Exempt Development”.

DAANN10 - Skips on Council Footpath

The applicant must apply to Council's Customer Services Centre and pay the respective minimum ten (10) day application fees and deposit, should a mini-skip type or larger builder’s waste container be required to be left on Council’s footpath, nature strip or roadway for the removal of any builder’s waste etc. These fees must be paid prior to the container’s placement. In the event of the container being removed within the ten day period, and the Council being notified, a pro-rata refund will be made. If the container is to remain at the site for longer than ten days, a further fee must be paid before the ten day period expires. No consultation is necessary if placing the container within the property to which this application is related. However, caution should be exercised in placing the bin to ensure no damage occurs to Council property.

DAANN11 - WorkCover Requirements

The Work Health and Safety Act 2011 and subordinate regulations, codes of practice and guidelines control and regulate the development industry. Further information can be obtained from WorkCover NSW's website at http://www.workcover.nsw.gov.au/newlegislation2012/your-industry/construction/Pages/default.aspx or through their head office: WorkCover NSW, 92-100

Donnison Street, GOSFORD 2250 Postal address: WorkCover NSW, Locked Bag 2906, LISAROW 2252, Phone (02) 4321 5000, Fax (02) 4325 4145.

REPORT

1. BACKGROUND

The application, as submitted and notified to surrounding properties, sought consent for demolition of all structures, amalgamation of two lots into one lot and construction of a mixed use building of seven storeys with a two storey podium containing 23 dwellings, 111m² of commercial space and basement parking for 49 vehicles.

Following assessment of the development application as lodged, the applicant was advised of issues relating to:

- Bulk and scale – non-compliances with height and FSR controls
- Overshadowing
- Stormwater management
- Contamination
- Traffic and parking
- Non-compliances with Drummoyne Village DCP
- Non-compliances with the ADG
- Issues raised by the public through submissions
- Issues associated with the redevelopment of adjoining sites

The applicant subsequently responded with revisions and additional information as summarised in section 3 below.

Development schedule summary

Site Area	867m²
Gross Floor Area	2,145m²
Floor Space Ratio	2.47:1
Building Height	25.08 metres
One bedroom/Studio apartments	7
Two bedroom apartments	16
Three bedroom apartments	0
Total number of apartments	23
Total Retail/Commercial Floor Area	110
Car Parking Spaces	27
Private Open Space	Private balconies for each dwelling ranging from 10m² to 39m² with a communal rooftop garden with a trafficable area of 100m²

To satisfy the requirements of Section 79C(1)(a) of the Act, this report includes references to provisions of the Environmental Planning Instruments that substantially govern the carrying out of the project and have been taken into consideration in the assessment of the Development Application.

Relevant Environmental Planning Instruments

Legislative Provisions

- Environmental Planning & Assessment Act 1979

Environmental Planning Instruments

- State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEP)
- State Environmental Planning Policy No. 55 – Remediation of Land
- State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Infrastructure) 2007
- Sydney Regional Environmental Planning Policy (Sydney Harbour Catchment) 2005
- Canada Bay Local Environmental Plan 2013

Development Control Plans

- City of Canada Bay Development Control Plan 2013
- Drummoyne Village DCP 2007

2. THE SITE AND ITS CONTEXT

The development proposed is within a B4 Mixed Use zone. The designated land use zone permits "commercial premises" and "residential flat building" development.

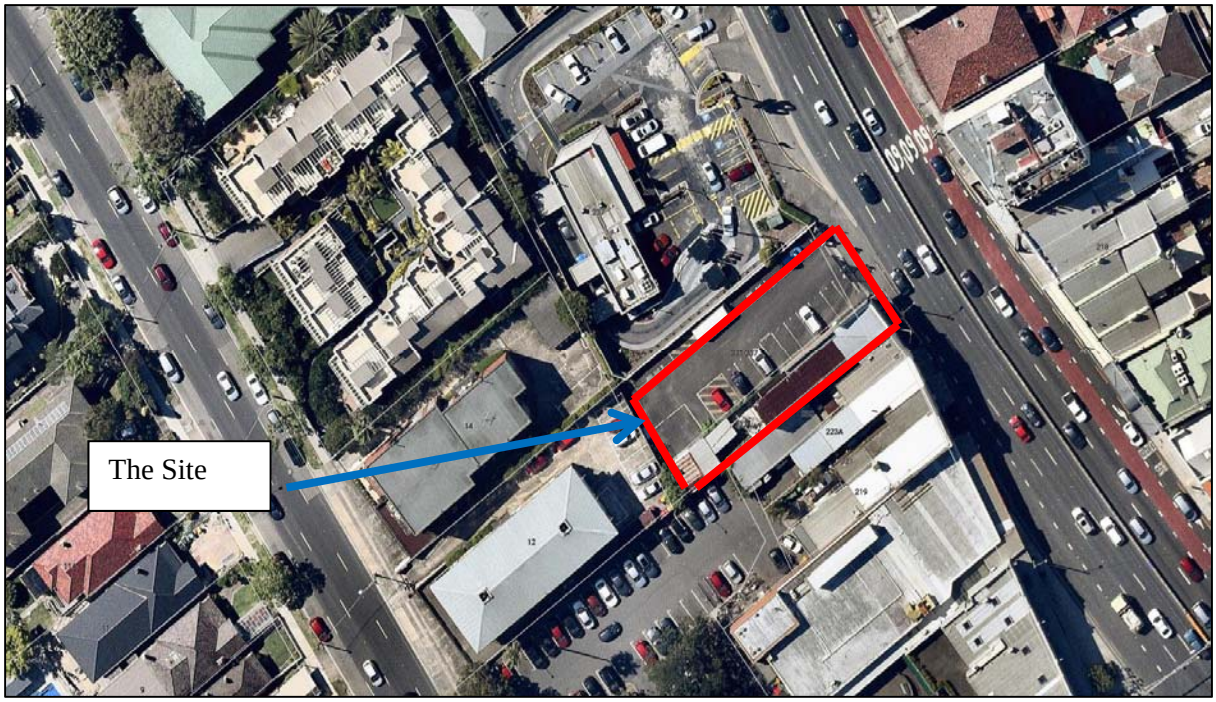
The site is on the western side of Victoria Road (an RMS classified main arterial road), approximately 80 metres to the north of the major intersection of Victoria Road and Lyons Road. The site is approximately 6km west of the Sydney CBD.

The site is known as 227-231 Victoria Street, Drummoyne and is legally identified as:

- Lot 1 DP 518568; and
- Lot 1 DP 650973.

The amalgamated site will have an area of 867m² and a frontage of 20.18 metres to Victoria Road.

The site adjoins a commercial property to the south east with a shared boundary of 44.61m in length. A McDonald's restaurant adjoins the site to the north west with a shared boundary of 41.32m in length.



Aerial view of the site (Source: Nearmap November 2016)

Site Location (Source: Dickson Rothschild)

The site currently contains:

- A vacant shop top housing building at No. 227 Victoria Road, which previously accommodated a dive shop at ground floor level; and

- A bitumen at-grade car park at Nos. 229-231 Victoria Road, accommodating car parking for approximately 15 vehicles. This land is operational land under Canada Bay LEP 2013.

There is an existing detached fibro shed/garage at the rear of No. 227 Victoria Road, which can be accessed via the car park at Nos. 229-231 Victoria Road.

A site inspection was undertaken on 8 February 2017.

Photo looking west at the site from the opposite side of Victoria Road

There is limited vegetation at the rear of the site, which is to be removed as part of the DA.

The submitted survey plan of the site, prepared by LTS Lockley Surveyors, indicates that the site slopes from the south-west (RL 32.35 metres AHD) to the north-east (RL 30.60 metres AHD).

Surrounding Development

- To the north (side)

The site is adjoined to the immediate north by a McDonald's restaurant with associated car parking. Access to the property is provided via a slip lane from Victoria Road. Further north, the streetscape comprises residential dwelling houses, also accessed from Victoria Road.

- To the south (side)

The site is adjoined to the immediate south by traditional shoptop housing buildings, including the Sutton Place complex, which is identified as a Heritage Item in Canada Bay Local Environmental Plan 2013. The adjoining buildings comprise one (1) and two (2) storey development, accommodating a range of retail and commercial uses. Car parking servicing the complex is provided at the rear, accessible from Marlborough Street.

A bus stop is located approximately 40m south of the site on Victoria Road.

- To the east (front)

The site is adjoined to the immediate east by Victoria Road. The opposite side of Victoria Road contains two (2) storey shoptop housing buildings along with a five (5) storey commercial building.

- To the west (rear)

The site is adjoined to the west by No. 12 Marlborough Street, which contains a three (3) storey residential flat building. The rear corner of the site also adjoins another Council car park, accessed from Marlborough Street and servicing the Sutton Place complex, as discussed above.

3. PROPOSED DEVELOPMENT IN DETAIL

The proposed development seeks consent for the following:

- Demolition of all existing structures on site;
- Amalgamation of the two existing lots into one lot;
- Remediation, earthworks and associated site preparation works;
- Construction of a building to a maximum seven (7) storeys, containing a commercial tenancy fronting Victoria Road and 23 residential units, with a rooftop communal open space area, above;
- Ground level car park plus loading dock for use by the commercial tenants and an integrated basement over two (2) levels, accessed via two car lifts on the ground floor, providing a total of 27 car parking spaces including 19 Residential, 5 Residential Visitor and 3 Commercial tenancy car spaces; and
- Provision of a vehicle access point from Victoria Road and associated infrastructure works.

The commercial tenancy, on the ground floor, is built to Victoria Road and the ground floor parking area is built to the other three boundaries. Due to the slope of the land, the ground floor is partially below the existing ground level, with the depth of the ground floor below the ground increasing towards the rear of the site. There is a void over the ground floor car parking area, along the northern boundary, which provides natural ventilation and light to the ground floor.

The first floor level contains residential units oriented to the front and rear of the site. The residential units have balconies oriented to the north east and south west. The north eastern balconies of the residential units on the first floor are setback from Victoria Road and include a planter between the edge of the balcony and the boundary. The levels above (levels 2-5) are setback from Victoria Road and Level 6 has an increased setback from Victoria Road with a large (39m^2) balcony for Unit 6.03 overlooking Victoria Road.

The ground and first floors are built to the northern and southern boundaries, with a vertical garden separating the void area and the northern boundary on the ground floor. The balconies on the first

floor are setback between 6 metres and 9 metres from the south western boundary (the rear of the site).

Levels 2 and 3 are setback 6 metres from the northern boundary, whilst levels 4, 5 and 6 are setback 9 metres from the northern boundary (with the exception of the blade walls).

The design creates a distinct separation between the retail tenancy on the ground floor and the residential units above.

4. PUBLIC SUBMISSIONS

In accordance with Council's Notification Development Control Plan, adjoining and nearby property owners and occupiers were advised of the proposal and invited to comment. The notification generated five (5) submissions objecting to the proposal.

Submissions Received from Property Owners/Occupiers:

Submission author and address	Issue/s (refer to submission for full detail)	Applicant's Response
David Catalano 4/24 Marlborough Street, Drummoyne	Excessive Height – overdevelopment of the site	*The LEP Height Limit on the site is 20 m for the buildings on Lyons Road. This is far taller than existing lower scale buildings such as the Sutton's Building but these buildings have not yet been development in accordance with Council's controls.* *Several notable buildings in the area exceed the applicable height limits. When the site is considered in its full context, the height proposed is compatible with the local area.*
	Infrastructure is not adequate to deal with the proposed development	*This is a matter which will need to be considered by council. It is noted that in terms of traffic generation and impact on the local road infrastructure, the proposed development will have a lower traffic generation than the existing uses on the site.* *The existing VTPH is calculated at 10-14 and that the VTPH arising from the proposed development is lower at 8 VTPH.*
	Privacy for residents in residential flat building to the rear	*The proposed design has taken considerable steps to protect privacy. No. 24 Marlborough St site boundary is 70 m from the subject site and privacy impacts are minimal.* *The closest proposed balcony or window to the property boundary of No. 20 Marlborough Street is 22 m. This occurs at the north western corner of the balcony of Unit. 1.03. The view is oblique. Above Level 1 the next closest balcony or window in the balcony of unit 2.01. It is a minimum of 27 m from No. 16. Views are again from an oblique angle rather than direct. The separations distances are fully consistent with state policy and the privacy impacts are acceptable our opinion. Additional privacy devices are unnecessary at this interface.* *There is the potential for privacy impacts on neighbours closer to the site such as No. 14 and No. 12 Marlborough*

Submission author and address	Issue/s (refer to submission for full detail)	Applicant's Response
		Street. These potential impacts were addressed in the statement of environmental effects. Generous setbacks are proposed and building separations to existing buildings meet SEPP 65 and Apartment Design Guide criteria. These criteria are 12 m plus 3 m recommended due to transition between zones up to four storeys and 18 m plus 3 m between five and eight storeys. *The minimum separation to 14 Marlborough Street is 21 m.* *This is measured from the north west corner of the balcony to proposed unit 1.03 to the south east corner of the building at No. 14 Marlborough Street. At upper levels, the minimum separation distance is 25 m, measured from the north west corner of the balcony of proposed unit 2.01 and 3.01 to the corner of the building at No. 14 Marlborough Street. At levels above the fourth storey, the separation is even greater. Thus, the overall separation achieved is much greater than required by state policy.* *Regarding 12 Marlborough Street, the proposed development also achieves adequate building separation to protect privacy. The internal layout of the building is also such that privacy impacts are mitigated.*
Adam Holden Address Unknown	Drummoyne Village DCP outlines 6 storeys for this site – this should not be exceeded	*The DCP does have a generic statement that six storeys is the preferred height. However, in the sections provided for the subject site, the basement is indicated above ground and these diagrams show a 7-storey height. Refer to Figure 21 and 22.* *The 6-storey height sought in the DCP has been abandoned by the other redevelopment in the precinct being the building on the corner of Lyons Road and Marlborough Street. This building is 7 storeys in height. The additional height sought partly arises by the particular design response of the development which has nominated only a 2 storey podium, providing an effective transition to the McDonald's site. The seventh storey allows for a better outcome by removing building bulk from the streetscape and creating a slender built form to Victoria Road. A development which complied with the height limit would be lower and squatter, with arguably a greater impact due to increased building bulk near the ground. The additional height allows for better building articulation and better internal amenity. It also creates a narrower shadow, reducing shadow impacts on the adjoining residential site at 12 Marlborough Street in comparison to a building which complies with the LEP and DCP controls.*
	Insufficient parking – effect on on-street parking in	*The proposed development complies with Council's retail and residential car parking requirements. Car parking is provided to meet the DCP requirements. Visitor parking is*

Submission author and address	Issue/s (refer to submission for full detail)	Applicant's Response
	Marlborough Street, Tavistock Street and Bayswater Street.	*also provided on site.*
	What allowances have been made for the loss of the existing car spaces from the car park.	*The site is currently in private ownership. Commercial parking for the proposed commercial tenancy is provided on site. The proposed development provides commercial car parking on site in accordance with the standard 1/40m2 rate set out in the DCP.*
David Molloy 10/12 Marlborough Street, Drummoyne	Balconies on the western side of Level 1 are a privacy concern – privacy louvres may assist	*Privacy screens have been provided at key location at edge of Level 1 balconies.*
	Communal rooftop open space overlooks the east-facing bedroom windows of No. 12 Marlborough Street	*The design of the rooftop garden is such that overlooking is not possible. The roof garden includes solid balustrades setback from the edge of the roof and planters which do not allow people to approach the edge of the roof and thus views down to adjoining sites are not possible. The trafficable area of the roof garden is setback 2.3 m from the roof edge. The possible viewing angle is such that only the roof of 12 Marlborough Street will be visible. The proposed planting in the planters between the balustrades will also screen views although planting is not necessary to ensure overlooking is avoided.*
	Fixed louvres should be considered for levels 2 and 3 where they directly overlook the east-facing bedroom windows of No. 12 Marlborough Street	*Although Levels 2 and 3 are setback a minimum of 6 m which provides for 18 m building separation overall. It is also noted that on Level 2 and 3, full sized windows facing west towards No. 12 are to bedrooms. The proposed small horizontal windows are within the backsplash of proposed kitchens and give rise to very little potential privacy impact.* *The design could be amended to provide screening to bedroom and kitchen windows but these uses give rise substantially less impact than living room windows. If it was deemed necessary to affix louvres to the bedroom and/or kitchen windows, it is recommended that these louvres be limited in height approximately 1.5 m for the bedroom windows to maintain solar access and sky views for the occupants.*
	The traffic impact report does not consider the impact of the development on the right hand turn from Lyons Road onto Victoria Road (southbound).	*The applicant will defer to Council regarding the performance of this intersection. It is noted that the peak hour VTH for the proposed development is 8 which is relatively minor and less than the existing use which is 10-14 peak hour vehicle trips. This indicates a reduced impact on congestion and improvement on the intersection performance when compared to the existing condition.*

Submission author and address	Issue/s (refer to submission for full detail)	Applicant's Response
Peter Coulter 4/14 Marlborough Street, Drummoyne	Excessive Height – overdevelopment of the site	*The streetscape analysis does acknowledge the proposed built form is different in scale to the existing buildings immediately adjacent and that while the overall scale is greater, the streetscape is designed to ensure compatibility. The analysis then discusses the proposed development's consistency with the other existing tall buildings in the area, including the 7 storey building at Lyons Road/Marlborough Street and the 6 storey building at Wrights Road with a parapet height higher than the proposed development. It also argues that compatibility with future character is achieved.* *In the response, the analysis does not state that the proposed development should be approved because future built form is likely to be 'Excessive'. Nowhere does it say any existing or future built form is or will be excessive.* *The streetscape analysis starts its argument regarding future character by rightly pointing out that many existing buildings in the locality already abandoned LEP standards.* *The analysis then looks at the unique attributes of the site being at the northern end of the precinct and states that the taller form can have a more positive outcome in comparison to a building which is lower with lesser setbacks and a higher streetwall.* *The argument does not state anything about future built form being excessive, whether on another site or the subject site.*
	Shadow diagrams are not readily understood and the effect of the proposed development is excessive. Properties and street numbers should be shown on the shadow diagrams.	*The shadow diagrams provide a comparison of existing shadows, a building envelop generated by the DCP and LEP controls and the proposed development.* *There is no reason the proposed development should be expected to have no increased shadow from the existing condition where 75% of the existing site is a surface car park.* *The more relevant comparison is with the building envelop allowed under the LEP/DCP requirements.* *The shadow diagrams are shown in a simplified axonometric view to provide additional clarity and the extent of the imagery increased to show the block more fully. .* *The shadow diagrams reveal that by shifting built form away from the northern boundary at lower levels, solar access to 12 Marlborough Street is protected. That shadow which would otherwise fall at No. 12 habitable spaces (if the LEP and DCP envelop was followed).* *The DCP envisaged a lower building with more bulk close to the street level. The proposal shift built form to reduce the*

Submission author and address	Issue/s (refer to submission for full detail)	Applicant's Response
		extent of built at the northern part of the site. *Amended shadow diagrams have labelled each site to provide better bearings for understanding the shadow locations.*
	The proposal adjoins a conservation area	*Again, the documentation does not state that the proposed development is out of character and in our opinion it is compatible with the desired character of the precinct.* *The documentation argues that the proposed development is compatible with the existing and future desired character of the area. It is noted that the Land and Environment Court carefully defines compatibility and states that compatibility does not mean sameness per se.* *In our opinion, the proposed development achieves compatibility and provides a high-quality design outcome. Regarding the conservation area, it is noted that the Victoria Road façade design is well articulated using high quality, durable materials. This Victoria Road streetscape, where the site interfaces with the conservation area, is highly impacted by Victoria Road which is characterised by a wide range of building types, forms and characters, making it in no way uniform or pristine.* *The proposed development respects the conservation area by maintaining the fine grain character of the historic streetscape and subdivision pattern. The proposed development employs a streetwall compatible with adjoining development, breaking built form at the second storey. An active retail frontage is achieved. Durable, quality materials are proposed and the proposed Victoria Road elevation is well articulated.*
	The proposal will affect the amenity of surrounding properties	No response provided.
	Proposal is out of character with the existing streetscape	Addressed in Heritage conservation area response (above).
KDC Planning Development Property – on behalf of McDonalds Australia 233-237 Victoria Road,	FSR variation of 24% and the height variation of 17% are excessive and it is questionable whether there is an acceptable level of environmental impact associated with the non-compliances	No response provided.

Submission author and address	Issue/s (refer to submission for full detail)	Applicant's Response
Drummoyne	Excessive height will have increased overshadowing, solar access and privacy impacts on the McDonalds site	*The proposed development has no adverse shadow impact on the McDonalds site. The subject site is south east of the McDonalds site. The proposed setbacks to the northern boundary (shared with McDonalds) meet ADG criteria, being nil for blank walls at the Ground Level and Level 1, 6 m up to 4 storeys and 9 m above 4 storeys. The as lodged DA provides shadow diagrams at Mid-winter which show there is no overshadowing of the McDonalds site.* *Privacy* *The proposed development employs setbacks to the shared boundary which are consistent with Apartment Design Guide criteria. The ground level and level 1 have blank walls to the McDonalds site. This fits within Council's plan for the local centre and matches the height of built form which is indicated in Council's documents for the McDonalds site.* *Above Level 1, a 6 m setback to the boundary is proposed up to the fourth storey and a 9m setback up to the 7th storey is proposed. These establish separations consistent with state policy for protecting privacy.* *The separations provided do not impinge on other sites in the area developing.*
	Proposal will limit the redevelopment potential of the McDonalds site	*In Council's LEP, the McDonalds site has a development potential of 2:1 FSR and a Height of 8.5 m (2 storeys).* *Council's DCP envisages a building envelop on the McDonalds site which has blank party walls up to 8.5 m to the side boundaries (one of which is the shared boundary to the subject site). The proposed development in no way impacts on this arrangement. Furthermore, even if the McDonald's site was to be rezoned for greater height, the proposed development employs ADG-compliant setbacks to the northern boundary (shared with McDonalds) and thus in no way impinges on the redevelopment potential of the McDonalds site. The northern and western setbacks and party wall configuration to the southern boundary has been specifically devised so as to not impact on adjoining sites development potential.*
	The location of the vehicular entry to the site, adjacent to the deceleration lane to McDonalds could create operational and safety issues Proposal could affect traffic	*The proposed development has been calculated to give rise to 8 peak hour vehicle trips per hour by traffic consultants Barker Ryan Stewart (BRS). This is less than the existing peak hour vehicle trips per hour for the site which is 10-14. The 8 vehicle trips per hour is just over 1 in or out manoeuvre every 10 minutes which is very minor. Early consultation with the RMS confirmed that a slip lane was not required to achieve appropriate left in left out manoeuvring. BRS also included traffic counts of the deceleration lane at McDonalds to determine any impacts on the operation of McDonalds and Victoria Road. The Traffic Report states:*

Submission author and address	Issue/s (refer to submission for full detail)	Applicant's Response
	congestion	*The positioning of the McDonalds deceleration lane is not considered to compound any operational or safety issues for the proposed access as it is downstream from the site access. As such, at the location of the entry/exit manoeuvres to the site, drivers will not have to alter their behaviour as the conditions towards their right (oncoming traffic) would be the same as if the deceleration lane had not been there, giving way to 3 lanes of north bound traffic (BRS November 2016, pg 11).* *The amended scheme also proposes a speed hump and larger splay to improve site lines and control vehicle manoeuvres. B 85 and B99 vehicles are shown to be able to enter and exit the site in a forward direction.* *It is unclear how the proposed development would create "significant" impacts given the number of parking spaces proposed, the reduced number of vtph and the demonstrated ability of vehicles and service vehicles to enter and exit in a forward direction.*
	Proposal could affect the bus stop located outside IGA	No response provided.
	Acoustic report submitted with the DA fails to consider the 24hr drive thru at McDonalds. The proposal needs to be adequately designed to ensure that any noise impacts are mitigated (e.g. reduce the private open space and glazing on the northern elevation).	*It is understood that McDonalds may create noise, primarily through use of the drive through. The proposed development has been designed to minimise impacts.* *Firstly, the level of the driveway and McDonalds parking lots is at a lower elevation than the subject site. Currently a large retaining wall is situated at the shared boundary.* *...* *No windows directly face McDonalds at Ground Level and Level 1. A single bedroom window is proposed facing the interior courtyard in the proposed development. It is raise substantially above the driveway area and does not face it directly. A proposed vertical garden also filters the interface with the McDonalds site.* *The windows which directly face McDonalds are setback from the property boundary by at least 6 m for Level 2 and 3.* *Above Level 3, windows are setback at least 9 m. It is noted that at Level 2 and 3, windows which are 6 m from the boundary are living room windows which have windows that also face east and west. In this case, the window facing McDonalds could be closed and the room can still be naturally ventilated via the alternate window which faces the balcony.* *Other windows which face the McDonalds site are buffered by balcony balustrades and thus noise from the McDonalds*

Submission author and address	Issue/s (refer to submission for full detail)	Applicant's Response
		site that reaches proposed openings will be diminished by diffraction. From Level 4, windows are setback to 9 m. The façade includes a projecting frame (by 1.1 m) in both the horizontal and vertical direction as well. These elements assist in diffracting noise from the McDonalds site as well. *…* *It is also noted that glazing specifications are set out in the Acoustic Report for not only the Victoria Street façade but also the façade facing McDonalds (as well as the rear façade).* *The windows likely to be the most impacted are the Level 1 bedroom windows within the proposed atrium space which are close to the drive through.* *Attenuation materials could be applied to the atrium with additional screening provided to the single impacted window to help mitigate potential impacts.* *This could be an operable screen that could help deflect noise at night but maintain light during the day.* *Regarding suggestions to reduce private open space, it is considered that this would unnecessarily reduce the amenity of proposed apartments. It is noted that Acoustic rated glazing is already specified within the Acoustic Impact Statement by Renzo Tonin for northern façade windows/doors, etc.*
Maria Chie 5/12 Marlborough Street, Drummoyne	Most of the light shining through my apartment is coming from the North/Northeast section which will then be blocked off by this new building; it will definitely have a huge impact on electricity bills (as will be switching on lights more often) and overall feeling of my home will be dark and gloomy	*The proposal limits the height of the building along the northern boundary of the site (the boundary facing McDonalds) which helps to maintain solar access to No. 12 Marlborough Street. The narrow profile of the proposed tower form helps to limit shadow impacts on No. 12. DCP and State Code primarily considers mid—winter shadows from 9 a.m. to 3 p.m. to determine the worst-case scenario. 3D shadow diagrams (DA-0-902) show that in Mid-winter, which is considered the worst-case scenario, shadow impacts on the south eastern half of 12 Marlborough Street at ground level do arise at 9 a.m. Units on the north eastern corner of 12 Marlborough Street are not impacted and maintain sun throughout the day.* *For the south eastern corner unit on Ground Floor the east facing windows achieve sunlight to at least ½ of the east facing window starting at 9:25 a.m. By 9:35 a.m. the east facing window is in full sunlight. It is noted that from 9 a.m., the south east facing windows of No. 12 Marlborough Street are self shaded and the proposed development thus does not impact on direct sunlight to these windows.* *The Ground Level overshadowing does not arise from the*

Submission author and address	Issue/s (refer to submission for full detail)	Applicant's Response
		upper storeys of the proposed building. A 5 or 6 storey building would have the same shadow impact on the ground level. The side setbacks (setbacks to the north for the tower elements are what create shadow. These setbacks are larger than what is required in Council's DCP. In other words, a DCP compliant building would have a greater shadow impact on No. 12 Marlborough Street. *To provide a more complete picture of shadow impacts, equinox and summer have also been analysed.* *<u>Summer Solstice</u>* *The proposed development has no shadow impact on 12 Marlborough Street at the summer solstice.* *<u>Equinox</u>* *At the equinox, there is a minor amount of overshadowing to the east facing parts of the ground floor at 12 Marlborough Street. However, significant sunlight hours are maintained and shadow impacts only arise in the morning hours for approximately 35 minutes.* *<u>Ground Floor Unit Facing South East</u>* *Shadows between 9 a.m. and 9:30 22 Sept. Remaining hours from 9:30 are in sunlight. (Sun reaches the unit until approximately 1:00 and after 1:00 p.m. self-shading impacts arise due to position of sun in the sky.* *It is also noted that the apartment is in sunlight before 9 a.m. as well. The shadow of the proposed development swings across the apartment's façade between 8:45 and 9:30 a.m. It is in sunlight outside of these hours.* *<u>Ground Floor Unit Facing North East</u>* *The north east facing unit is in sunlight from 9:15 to 1:00 to the eastern façade. The apartment continues to be sunlight from its north facing windows to 3 p.m. and later.*
	My husband and I are planning to have a baby this year and can see it will be a problem noise wise if the construction is to be done over year and half; our building is old, bricks are 'thin' and we tend to hear everything even planes passing by	*Standard conditions of consent limit noise and set construction hours of operation. A construction management plan forms part of this response to the RFI from Council.*

Submission author and address	Issue/s (refer to submission for full detail)	Applicant's Response
	Don't think a 7 storey high building will be aesthetically good compared to other neighbouring buildings around, it would be a giant and wouldn't fit suburban looks I would consider a 3-4 storey high building rather than 7	*Council's planning controls have identified Drummoyne Town Centre as a distinct business and mixed use precinct which is permitted a different height to the sites to the north and west.* *There are many examples of height differences between residential and business zones throughout the metropolitan area. While the height of the proposed building is greater than the existing buildings such as No. 12 Marlborough Street, it provides upper level setbacks which provide visual separation to the residential areas beyond. Impacts on the neighbouring sites are managed by providing setbacks to the boundary, setting back the tower form from the north and west and limiting the width of the tower form that faces 12 Marlborough Street to 11 m.*

Comment: It is considered that the applicant has provided clear and reasonable responses to the majority of the issues raised in submissions. These responses have been summarised in the above table. Conditions of consent have been imposed to address concerns relating to visual privacy to No. 12 Marlborough Street and noise impacts arising from the McDonald's drive through intercom.

5. ASSESSMENT UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

5.1. Environmental Planning Instruments [Section 79C (1) (a) (i & ii)]

5.1.1. State Environmental Planning Policies

The proposed development is subject to the following State Environmental Planning Policies.

State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEP)

The additional information provided to Council includes a revised DA cost estimate (prepared by Mitchell Brandtman Quantity Surveyors) which indicates that the estimated cost of works is $11,027,500.00 (including GST).

Where the CIV of the proposal exceeds $5 million and Council was up until recently the owner of any land on which the development is to be carried out, it is development identified under Schedule 4A of the EP&A Act 1979 and it is deemed to be Regional Development in accordance with Part 4 of SRD SEPP. As such, specified consent authority functions for the application, including the determination of the application, are exercised by the Sydney Central Planning Panel and not City of Canada Bay Council.

State Environmental Planning Policy No. 55 (SEPP No. 55) Remediation of Land

According to clause 7 of SEPP No. 55 Council may not consent to the carrying out of any development on land unless it has considered whether the land is contaminated, and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable after remediation) for the purpose for which the development is proposed to be carried out.

The SEE prepared by Dickson Rothschild, submitted with the DA, states:-

> *"The site is not known to be contaminated. Existing uses on the site are a two storey brick commercial building and surface car park. A Fibro outbuilding is identified on the site such that as a condition of consent demolition work must be done in accordance with the applicable Australian Standard for handling asbestos. Aerial photography circa 1943 (sixmaps) indicates previous uses on the site were residential in nature and as such the likelihood of contamination is low."*

A number of contamination reports have been prepared for the adjacent site at No. 225 Victoria Road. An environmental management plan, prepared by WSP and dated 26 February 2015 states:-

> *"The risk associated with the chemicals of concern has been established to be predominantly a health risk via vapour intrusion into the indoor air environment and then inhalation by local workers occupying surrounding properties.*
>
> *Despite elevated groundwater results, the indoor air monitoring at 227 Victoria Road (immediacy down-gradient) to date has demonstrated that the risk of vapour accumulating to unacceptable levels is low under the current slab on grade building design of surrounding properties.*
>
> *The site itself is expected to be at the centre of the plume, and has known residual soil contamination at the practical limit of remediation works, but to date has not had any direct measurement of vapour ingress undertaken because the building is in a degraded state and largely open to the atmosphere. We presume that prior to occupation maintenance and fit out would occur on the site that would likely reduce its openness to the atmosphere. Therefore we recommend that prior to occupation under the current layout, an indoor air quality assessment be undertaken to ensure that no unacceptable risk to health is present.*
>
> *Should the site or surrounds be substantially redeveloped or modified there may be a potential for the system dynamics to change resulting in vapour ingress. Therefore should any future redevelopment occur on the site or adjoining properties along Victoria Road (223, 227 or 225 Victoria Road), we recommend that Council require the proponent to provide justification as to how the proposed development will mitigate the risk of vapour intrusion. This may require review of the exiting data, up to date soil, groundwater or soil vapour assessment and/or incorporation of vapour mitigation infrastructure into the proposed building design.*
>
> *...*
> *Therefore, in order to protect construction workers and utility workers, this EMP for 225 Victoria Road also contains recommendations for protection of construction and maintenance workers undertaking subsurface/excavation works on 223 Victoria Road, 227 Victoria Road, 231 Victoria Road, and the utility easement along Victoria Road for a distance of 100m from the site).*
>
> *...*
> *Protection of future occupants of the site (225 Victoria Road), and surrounding properties (223, 227 and 231) by ensuring that as part of any material change in building designs or during any future redevelopment, vapour risk is evaluated via review of the*

exiting data, up to date soil, groundwater or soil vapour assessment and/or incorporation of vapour mitigation infrastructure into the proposed building design;
 These requirements can be enforced via the planning process, in particular SEPP55;
 Results of risk evaluation or mitigation measures should be reviewed by a NSW EPA accredited Auditor."

Following the submission of the DA, Council requested a preliminary site investigation report be submitted, to address the requirements of SEPP No. 55.

The additional information supplied by the Applicant included a preliminary site investigation report, prepared by Aargus Pty Ltd. The report concluded:-

"The findings of the assessment indicated the following areas of potential environmental concern, those being: imported fill materials, car parking and driveway areas where leaks and spills from cars may have occurred, current and previous site usage, potential use of pesticide, asbestos based building materials, and migration of chlorinated solvent from the adjacent southern property.

The contaminants that may be present in some of these areas were considered to be moderate in terms of risk to the human and environmental receptors identified. Therefore, a Detailed Site Investigation (DSI) is required to confirm the presence and extent of contamination in order to determine the suitability of the site for the proposed development application and to address the data gaps identified.

Based on the information collected during this investigation and in reference to Clause 7 (DA development) of SEPP 55, the site will be suitable subject to the completion of a Detailed Site Investigation (and after remediation and validation, if required) for the proposed mixed commercial / residential development with a two level basement car park."

The report was forwarded to Council's Senior Sustainability Projects Officer. The officer required the submission of a Detailed Environmental Site Investigation (DESI) and a Remediation Action Plan (RAP).

The requested information was provided by the Applicant and found to be acceptable by Council's Environmental Health Officer, subject to conditions, including the following:

A section B Site Audit Statement or letter of Interim advice must be obtained from a NSW EPA Accredited Site Auditor or experienced environmental consultant certified under the 'Certified Environmental Practitioner' (CEnvP) Scheme or equivalent (delete one) and forwarded to the Council Officer certifying that the RAP is practical and the site will be suitable after being remediated in accordance with the requirements of the submitted RAP.

Appropriate conditions of consent have been recommended in order to satisfy the requirements of SEPP 55 and Council's Environmental Health Officer.

State Environmental Planning Policy No 65 (SEPP No.65) - Design Quality of Residential Flat Buildings

The relevant provisions and design quality principles of SEPP 65 have been considered in the assessment of the development application. In general, the proposed development is considered to

perform satisfactorily having regard to the SEPP 65 design principles as well as the provisions under the Apartment Design Guide (ADG).

Principle	**Commentary**
Principle 1: Context and Neighbourhood Character	The site is located at the northern end of the Drummoyne Village Centre which includes a cluster of lots previously zoned 3a business, immediately to the west of the intersection between Victoria Road and Lyons Road, which is now zoned B4 Mixed use with a maximum height of 20 metres. The Applicant has provided significant contextual analysis demonstrating that the locality contains a number of buildings of a scale similar to that proposed. The proposed siting and form of the development generally meet the separation distance requirements of the ADG and achieve good levels of amenity within and in the vicinity of the site. The proposal is generally compatible with the character of the area due to the siting, form and architectural character of the proposed development, when considered in the context of several other nearby buildings, and having regard to the likely future development of the properties to the south east of the site.
Principle 2: Built Form and Scale	While the Drummoyne Village DCP anticipates heights of up to 6 storeys: *"where it is considered that there will not be an adverse effect on the:* *1. Amenity of the adjoining properties.* *2. Setting for the heritage building adjacent to the study area."* The Drummoyne Village DCP also shows a 7 storey form (see Figures 21 and 22), with setbacks at the upper levels. The proposed development has a seven (7) storey scale plus a roof terrace and architectural roof feature. While the proposal exceeds the height and FSR standards in LEP 2013, it is generally consistent with the intent of the objectives of the standards and envelope included in the Drummoyne Village DCP and Apartment Design Guideline, and results in a built form which achieves a high level of amenity and which will make a positive contribution to the locality, having regard to the form of other buildings in the vicinity.
Principle 3: Density	The proposal complies with the ADG requirements in relation to unit sizes, floor to ceiling heights, balcony sizes, cross ventilation and solar access and therefore is considered to provide an appropriate level of internal amenity for the future residents of the building. The Applicant's Clause 4.6 variation in relation to FSR notes the following: *"The FSR sought is also related to the constraints which have arisen in assembling the development site. If the site were 1,500 m2, the*

Principle	Commentary
	applicable FSR would be 2.5:1. If the site were 2,000 m2, the applicable FSR would be 2.75:1. The proposed development utilizes additional height to meet the density of 2.5:1 which would apply if the site was amalgamated. It is also noted that if the site was at least 3,500 m2, the applicable FSR would be 3.5:1. Connecting the FSR to the site area had the underlying goal of incentivizing site amalgamation to achieve orderly development, not limiting FSRs. The desired perimeter block typology (set out in the DCP) allows orderly development without amalgamating to achieve very large sites. Thus, the density proposed is fully consistent with the envisaged density for the site regardless of where property boundaries are drawn. *Through an artful design the constraints which may otherwise arise from a constrained site are overcome and a high level of amenity is achieved without unreasonable impacts. The additional height fits within the context of the site which is not uniform and has building heights which vary widely from one to seven storeys. Given the strategic importance of the site it is orderly and economic development to achieve the highest and best use of the site. The proposed development has been designed as a true infill design with a blank wall to the south east so that it will form a bookend to the village centre's envisaged perimeter block development typology.* *It is also noted that built form in the area has a diverse range of heights which includes several buildings which are 6-7 storeys. The 2007 master plan also contemplates heights of 6-7 storeys (up to 22 m) and FSRs in the order of 3.5:1. The proposed bulk and scale of development is reasonable within the wider built form context (there are other buildings within a block radius with greater roof heights (measured as an RL) as well as underlying strategic planning objectives for the metropolitan area. The additional FSR sought is fully consistent with Council's envisaged density. The proposed additional floor space does not give rise to unreasonable visual or streetscape impacts because the proposal achieves a high quality built form with façade articulation, high quality materials and a human scale within the streetscape. The additional floor space in the development could be distributed by creating an additional podium level, but it is considered that this would have a greater streetscape impact in the circumstance by placing more bulk close to the street level. It would also be less effective in terms of fitting within the existing and future streetscape, given the site interfaces with the McDonald's site which is envisaged for an 8.5 m high podium to the street.* *Thus, although the proposed development departs from the FSR limit, the bulk and scale of the proposed built form is compatible with the local area. The modest increase in residential density is commensurate with the density contemplated in the area with the non-compliance only arising due to the inability to amalgamate. The site is in an area well serviced by public transport and the proposed development achieves a high level of amenity with a high degree of built form articulation, reduced building depth and generous building setbacks to the north and west."*

Principle	Commentary
	It is considered that the Applicant's comments are logical and that the density of the proposal is acceptable in the context.
Principle 4: Sustainability	A BASIX Certificate and relevant reports have been submitted with the development application. The DA also proposes the use of gas A/C – which is not captured by BASIX but which the Applicant states is much more energy efficient than electric A/C – so there are additional benefits beyond those captured by BASIX. The proposal will incorporate features relating to ESD in the design and construction of the development. The development achieves a good level of ventilation throughout the development with 65.2% of units being cross ventilated with a dual aspect and 82.6% of apartments achieving the minimum solar access requirement.
Principle 5: Landscape	Landscape plans have been submitted with the DA. A roof top communal open space area is proposed. Council's Landscape Architect has reviewed the landscape plans and raised no objection to the proposed scheme. The proposed roof-top communal open space area provides residents with approximately 219m² of space, including 100m² of this is trafficable. Significant perimeter planting is proposed to provide for visual privacy to nearby properties and to maximise amenity for future users of the space.
Principle 6: Amenity	The proposal includes increased northern and western setbacks, recognising the residential flat buildings to the west. 82.6% of all of the proposed apartments receive 3 hours of direct solar access in mid-winter. 65.2% of all apartments achieve natural cross-ventilation.
Principal 7: Safety	The position and orientation of the various building elements allow balconies and habitable rooms of apartments to overlook Victoria Road. Suitable security measures are to be undertaken with the installation of adequate lighting. Street level activity will be encouraged through the proposed commercial tenancy facing Victoria Road. Pedestrian access to the residential lobby is controlled by a glazed gate on Victoria Road which is open when the retail tenancy is open. Lift foyer and basement car parking can be appropriately secured with security cards and intercom access for visitors.
Principal 8: Housing	A mix of 1 bedroom and 2 bedroom apartments is proposed. The floor

Principle	Commentary
Diversity and Social Interaction	plans are generally open plan to provide flexibility in furniture placement and internal use. The mainly smaller apartments will serve to provide a degree of affordability at the site.
Principle 9: Aesthetics	The building has an attractive contemporary appearance and utilises building elements that provide individuality to the development without compromising the streetscape or detracting from the appearance of existing surrounding development. The building uses quality materials, attention to detail in its internal spaces and it addresses Victoria Road. The use of planting on structures helps to soften the appearance of the building.

APARTMENT DESIGN GUIDE COMPLIANCE

Design Criteria/Guidance	Proposal	Compliance
3A Site Analysis	Site Analysis Plans are provided in accordance with the ADG	Yes
3B1 Orientation Buildings along the street frontage define the street, by facing it and incorporating direct access from the street (see figure 3B.1) Where the street frontage is to the east or west, rear buildings should be orientated to the north Where the street frontage is to the north or south, overshadowing to the south should be minimised and buildings behind the street frontage should be orientated to the east and west (see figure 3B.2)	The building faces the street and provides access from the street. The building faces north-east and does not provide any setback to the southern boundary. Notwithstanding, the Applicant has provided documentation showing the development potential of the sites to the south, demonstrating that they can be appropriately developed (if amalgamated).	Yes Yes
3B2 Orientation Living areas, private open space and communal open space should receive solar access in accordance with sections 3D Communal and public open space and 4A Solar and daylight access Solar access to living rooms,	Most units (except the units on level 1) have a northerly aspect. The proposal includes a rooftop communal area which will achieve the solar access requirements under the ADG. The building faces north-east	Yes Yes

Design Criteria/Guidance	Proposal	Compliance
balconies and private open spaces of neighbours should be considered	and does not provide any setback to the southern boundary. Notwithstanding, the Applicant has provided documentation showing the development potential of the sites to the south, demonstrating that they can be appropriately developed (if amalgamated) and achieve compliant levels of solar access.	
Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures solar access to neighbouring properties is not reduced by more than 20%	The proposal has no significant overshadowing impacts on No. 12 Marlborough Street which will continue to receive more than 3 hours of sunlight in mid-winter. No other significant overshadowing arises from the proposal.	Yes
If the proposal will significantly reduce the solar access of neighbours, building separation should be increased beyond minimums contained in section 3F Visual privacy	Appropriate setbacks are provided to minimise overshadowing impacts.	Yes
Overshadowing should be minimised to the south or down hill by increased upper level setbacks	No setbacks provided to the south however the Applicant has provided shadow diagrams showing that the sites to the south can be redeveloped and achieve compliant levels of solar access.	Yes
It is optimal to orientate buildings at 90 degrees to the boundary with neighbouring properties to minimise overshadowing and privacy impacts, particularly where minimum setbacks are used and where buildings are higher than the adjoining development	The building is appropriately oriented having regard to streetscape and amenity considerations.	Yes
A minimum of 4 hours of solar access should be retained to solar collectors on neighbouring buildings	No solar collectors were observed on neighbouring buildings	Yes
3C-1 Public Domain Interface		
Terraces, balconies and	N/A – Ground floor commercial	N/A

Design Criteria/Guidance	Proposal	Compliance
courtyard apartments should have direct street entry, where appropriate	with no residential	
Changes in level between private terraces, front gardens and dwelling entries above the street level provide surveillance and improve visual privacy for ground level dwellings (see figure 3C.1)	N/A	N/A
Upper level balconies and windows should overlook the public domain	Provided	Yes
Front fences and walls along street frontages should use visually permeable materials and treatments. The height of solid fences or walls should be limited to 1m	N/A	N/A
Length of solid walls should be limited along street frontages	N/A	N/A
Opportunities should be provided for casual interaction between residents and the public domain. Design solutions may include seating at building entries, near letter boxes and in private courtyards adjacent to streets	Windows and balconies to upper level apartments provide opportunities for passive surveillance of the public domain.	Yes
In developments with multiple buildings and/or entries, pedestrian entries and spaces associated with individual buildings/entries should be differentiated to improve legibility for residents, using a number of the following design solutions: • architectural detailing • changes in materials • plant species • colours	A single residential entry is proposed from Victoria Road. A condition of consent is recommended, requiring that the corridor be widened to improve amenity and its prominence to the public domain.	Yes
Opportunities for people to be concealed should be minimised	Opportunities for concealment are minimised.	Yes
3C-2 Public Domain Interface		

Design Criteria/Guidance	Proposal	Compliance
Planting softens the edges of any raised terraces to the street, for example above sub-basement car parking	Suitable planting is proposed throughout the development.	Yes
Mail boxes should be located in lobbies, perpendicular to the street alignment or integrated into front fences where individual street entries are provided	Mail boxes are located in the pedestrian accessway perpendicular to the street. Standard conditions have been recommended to ensure compliance with Australia Post requirements.	Yes
The visual prominence of underground car park vents should be minimised and located at a low level where possible	Car park vents are not prominent.	Yes
Substations, pump rooms, garbage storage areas and other service requirements should be located in basement car parks or out of view	All service areas are concealed from the public domain	Yes
Ramping for accessibility should be minimised by building entry location and setting ground floor levels in relation to footpath levels	Ramping is proposed from Victoria Street.	Yes
Durable, graffiti resistant and easily cleanable materials should be used	Provided	Yes
Where development adjoins public parks, open space or bushland, the design positively addresses this interface and uses a number of the following design solutions: • street access, pedestrian paths and building entries which are clearly defined • paths, low fences and planting that clearly delineate between communal/private open space and the adjoining public open space • minimal use of blank	N/A	N/A

Design Criteria/Guidance	Proposal	Compliance
walls, fences and ground level parking On sloping sites protrusion of car parking above ground level should be minimised by using split levels to step underground car parking	The proposal incorporates two (2) ground level parking spaces and a loading bay with all other parking provided below ground level. The visual prominence of the parking area has been minimised through sensitive design.	Yes
3D-1 Communal and Public Open Space 1. Communal open space has a minimum area equal to 25% of the site (see figure 3D.3) **Required – 216.75m²** 2. Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid winter)	Communal open space area of 219m² is provided on the rooftop, of which 100m² is trafficable. Provided	Yes Yes
3D-2 Communal and Public Open Space Facilities are provided within communal open spaces and common spaces for a range of age groups (see also 4F Common circulation and spaces), incorporating some of the following elements: • seating for individuals or groups • barbecue areas • play equipment or play areas • swimming pools, gyms, tennis courts or common rooms The location of facilities responds to microclimate and site conditions with access to sun in winter, shade in summer and shelter from strong winds and down drafts Visual impacts of services should be minimised, including location of ventilation duct	A BBQ is provided on the rooftop as well as seating – which is shown on the landscaping plan Provided – landscaping should assist with the microclimate management An architectural roof feature is proposed to screen rooftop plant.	Yes Yes Yes

<table>
<tr><th>Design Criteria/Guidance</th><th>Proposal</th><th>Compliance</th></tr>
<tr><td>outlets from basement car parks, electrical substations and detention tanks</td><td></td><td></td></tr>
<tr><td>3D-3 Communal and Public Open Space

Communal open space and the public domain should be readily visible from habitable rooms and private open space areas while maintaining visual privacy. Design solutions may include:

• bay windows
• corner windows
• balconies

Communal open space should be well lit

Where communal open space/facilities are provided for children and young people they are safe and contained</td><td>Access to the communal roof terrace will be limited by security card/swipe access. Elevated windows and balconies provide passive surveillance of the public domain.

A lighting plan of the communal open space area has been provided, with bollard and recessed wall lighting being provided.

Landscaping and balustrading proposed on the rooftop.</td><td>Yes

Yes

Yes. Compliance with the BCA is conditioned.</td></tr>
<tr><td>3E – Deep Soil Zones

Deep soil zones are to meet the following minimum requirements:

<table><tr><th>Site area</th><th>Min. Dimensions</th><th>Deep Soil Zone (% of site area)</th></tr><tr><td>650-1500</td><td>3m</td><td>7%</td></tr></table>
Where a proposal does not achieve deep soil requirements, acceptable stormwater management should be achieved and alternative forms of planting provided such as on</td><td>No deep soil landscaping provided but planting provided on structure. Council’s landscape officers and engineers have reviewed the landscape plans/stormwater plans, provided by the Applicant, and found the details to be acceptable.</td><td>No but considered satisfactory given the urban character of the locality and the quality of the proposed communal landscaped terrace.</td></tr>
</table>

Design Criteria/Guidance	Proposal	Compliance
structure		
3F-1 – Visual Privacy Separation between windows and balconies is provided to ensure visual privacy is achieved. For residential buildings next to commercial buildings, separation distances should be measured as follows: • for retail, office spaces and commercial balconies use the habitable room distances • for service and plant areas use the non-habitable room distances Direct lines of sight should be avoided for windows and balconies across corners No separation is required between blank walls	Addressed in Note 1. No setbacks proposed to retail spaces at No. 225 Victoria Road. However there are no openings on the northern elevation of No. 225 Victoria Road. The design avoids direct lines of sight through the separation distances, use of blade walls and privacy screens. A condition of consent is recommended in relation to the treatment of the west-facing bedroom windows at Levels 2 and 3 to further minimise potential privacy impacts. The separation to No. 225 Victoria Road is acceptable on this basis.	Considered satisfactory with the imposition of conditions. Yes . Yes Yes
3F-2 – Visual Privacy Communal open space, common areas and access paths should be separated from private open space and windows to apartments, particularly habitable room windows. Design solutions may include: • setbacks • solid or partially solid balustrades to balconies at lower levels • fencing and/or trees and vegetation to separate spaces • screening devices	The communal open space area is located on the roof top with adequate landscaping and structures to screen the trafficable area on the rooftop.	Yes

Design Criteria/Guidance	Proposal	Compliance
• bay windows or pop out windows to provide privacy in one direction and outlook in another • raising apartments/private open space above the public domain or communal open space • planter boxes incorporated into walls and balustrades to increase visual separation • pergolas or shading devices to limit overlooking of lower apartments or private open space • on constrained sites where it can be demonstrated that building layout opportunities are limited, fixed louvres or screen panels to windows and/or balconies		
Bedrooms, living spaces and other habitable rooms should be separated from gallery access and other open circulation space by the apartment's service areas	Achieved.	Yes
Balconies and private terraces should be located in front of living rooms to increase internal privacy	Achieved.	Yes
Windows should be offset from the windows of adjacent buildings	Achieved and conditions of consent are recommended in relation to west-facing bedroom windows at Levels 2 and 3.	Yes
Recessed balconies and/or vertical fins should be used between adjacent balconies	Provided.	Yes
3G-1 Pedestrian access and entries		
Multiple entries (including communal building entries and individual ground floor entries) should be provided to activate the street edge	Entries to the commercial and residential components (above) are provided at the ground level.	Yes
Entry locations relate to the street and subdivision pattern	The entries are off Victoria Road.	Yes

Design Criteria/Guidance	Proposal	Compliance
and the existing pedestrian network		
Building entries should be clearly identifiable and communal entries should be clearly distinguishable from private entries	The building entries are clearly identifiable. A condition of consent is recommended, requiring the residential entry to be increased in width to further accentuate it when viewed from the public domain.	Yes
Where street frontage is limited and multiple buildings are located on the site, a primary street address should be provided with clear sight lines and pathways to secondary building entries	N/A	N/A
3G-2 Pedestrian access and entries		
Building access areas including lift lobbies, stairwells and hallways should be clearly visible from the public domain and communal spaces	A condition of consent is recommended, requiring the residential entry to be increased in width to further accentuate it when viewed from the public domain. The residential lift lobby, which will also be used by the commercial tenant to access the basement car space, is not visible from the public domain. However adequate building identification signage and a glazed entry door are provided and considered satisfactory.	No but considered satisfactory.
The design of ground floors and underground car parks minimise level changes along pathways and entries	Achieved	Yes
Steps and ramps should be integrated into the overall building and landscape design		
For large developments 'way finding' maps should be provided to assist visitors and residents (see figure 4T.3)	The proposal is not a 'large' development with various wings so a way finding map is not considered necessary.	N/A

Design Criteria/Guidance	Proposal	Compliance
For large developments electronic access and audio/video intercom should be provided to manage access	The information submitted with the DA states that "state of the art electronic access" will be utilised in the development.	Yes
3H Vehicle Access		
Car park access should be integrated with the building's overall facade. Design solutions may include: • the materials and colour palette to minimise visibility from the street • security doors or gates at entries that minimise voids in the facade • where doors are not provided, the visible interior reflects the facade design and the building services, pipes and ducts are concealed	The car park access is integrated into the design of the building. There is a void in the façade but this assists in identifying the pedestrian/vehicular movement locations – so that pedestrians can understand where vehicles will be coming from. The visible interior reflects the façade design.	Yes
Car park entries should be located behind the building line	The security roller door of the car park is recessed.	Yes
Vehicle entries should be located at the lowest point of the site minimising ramp lengths, excavation and impacts on the building form and layout	The access is located off the street frontage and located on the lower side of the site.	Yes
Car park entry and access should be located on secondary streets or lanes where available	N/A	N/A
Vehicle standing areas that increase driveway width and encroach into setbacks should be avoided	N/A	N/A
Access point locations should avoid headlight glare to habitable rooms	The access is off Victoria Road, a six lane road. The access ramp goes up to the car lifts and not down. Therefore, vehicles exiting the ramp will be coming down the ramp onto Victoria Road and headlight glare on the opposite side of Victoria Road will be avoided.	Yes
Adequate separation distances	The site is some 80m from the intersection of Victoria and	Yes

Design Criteria/Guidance	Proposal	Compliance
should be provided between vehicle entries and street intersections	Lyons Roads.	
The width and number of vehicle access points should be limited to the minimum	1 access point is proposed.	Yes
Visual impact of long driveways should be minimised through changing alignments and screen planting	N/A	N/A
The need for large vehicles to enter or turn around within the site should be avoided	Council's garbage truck will need to access the site (refer to comments of Council's traffic engineer below regarding access)	Considered satisfactory
Garbage collection, loading and servicing areas are screened	Provided	Yes
Clear sight lines should be provided at pedestrian and vehicle crossings	Conditions of consent are recommended to ensure adequate sightlines and safety at the interface of pedestrians and motorists (refer to comments of Council's traffic engineer below)	Yes
Traffic calming devices such as changes in paving material or textures should be used where appropriate	Refer to comments of Council's traffic engineer below	Yes
Pedestrian and vehicle access should be separated and distinguishable. Design solutions may include: • changes in surface materials • level changes • the use of landscaping for separation	A speed hump and appropriate signage are required (by condition) and the pedestrian entry is clearly separate from the vehicular driveway.	Yes
3J Bicycle and car parking		
1. For development in the following locations: • on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or	The site is located within the B4 Mixed Use zone. The parking requirements of CBDCP are less than the Guide to Traffic Generating Developments and the DCP therefore applies. The proposal complies with the numeric requirements of	Yes

Design Criteria/Guidance	Proposal	Compliance
• on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less. The car parking needs for a development must be provided off street	CBDCP. Offstreet car parking is provided.	 Yes
4A-1 Solar and daylight access 1. Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas 2. In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid winter 3. A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter The design maximises north aspect and the number of single aspect south facing apartments is minimised	82.6% of apartments (19/23) receive 3 hours direct sunlight to living rooms and private open spaces during mid winter N/A 3 out of 23 (13%) apartments receive no direct sunlight The design includes north facing apartments. The proposal meets the design criteria. The proposal has looked to minimise single aspect units.	Yes N/A Yes Yes Yes

Design Criteria/Guidance	Proposal	Compliance
Single aspect, single storey apartments should have a northerly or easterly aspect Living areas are best located to the north and service areas to the south and west of apartments To optimise the direct sunlight to habitable rooms and balconies a number of the following design features are used: • dual aspect apartments • shallow apartment layouts • two storey and mezzanine level apartments • bay windows To maximise the benefit to residents of direct sunlight within living rooms and private open spaces, a minimum of 1m² of direct sunlight, measured at 1m above floor level, is achieved for at least 15 minutes Achieving the design criteria may not be possible on some sites. This includes: • where greater residential amenity can be achieved along a busy road or rail line by orientating the living rooms away from the noise source • on south facing sloping sites • where significant views are oriented away from the desired aspect for direct sunlight Design drawings need to demonstrate how site constraints and orientation preclude meeting the design criteria and how the development meets the objective	Living areas are located to the north where possible. The proposal incorporates primarily dual aspect and shallow apartments. The design criteria has been met. N/A – Design criteria has been achieved.	Yes Yes Yes N/A
4A-2 Solar and daylight access Courtyards, skylights and high level windows (with sills of	Skylights and atriums are not relied on as a primary light source in habitable rooms,	No but considered satisfactory.

Design Criteria/Guidance	Proposal	Compliance
1,500mm or greater) are used only as a secondary light source in habitable rooms	except for the bedroom (which is a habitable room) of Unit 1.04. Given the design of the atrium, which is 6m wide) this is considered satisfactory.	
Where courtyards are used : • use is restricted to kitchens, bathrooms and service areas • building services are concealed with appropriate detailing and materials to visible walls • courtyards are fully open to the sky • access is provided to the light well from a communal area for cleaning and maintenance • acoustic privacy, fire safety and minimum privacy separation distances (see section 3F Visual privacy) are achieved	N/A	N/A
Opportunities for reflected light into apartments are optimised through: • reflective exterior surfaces on buildings opposite south facing windows • positioning windows to face other buildings or surfaces (on neighbouring sites or within the site) that will reflect light • integrating light shelves into the design • light coloured internal finishes	Adequately lighting is achieved.	N/A
4A-3 Solar and daylight access A number of the following design features are used: • balconies or sun shading that extend far enough to shade summer sun, but	Balconies provided on northern side of units to shield units from summer sun. Glazing specifications are provided within the BASIX Certificate. Compliance with the	Yes

Design Criteria/Guidance	Proposal	Compliance
allow winter sun to penetrate living areas • shading devices such as eaves, awnings, balconies, pergolas, external louvres and planting • horizontal shading to north facing windows • vertical shading to east and particularly west facing windows • operable shading to allow adjustment and choice • • high performance glass that minimises external glare off windows, with consideration given to reduced tint glass or glass with a reflectance level below 20% (reflective films are avoided)	commitments identified in the BASIX Certificate as well as Section J of the BCA is conditioned.	
4B-1 Natural ventilation		
The building's orientation maximises capture and use of prevailing breezes for natural ventilation in habitable rooms	A number of the units are north facing with dual aspects. Living spaces are located off balconies to maximise natural ventilation in habitable rooms. The architect has advised that 65.21% of all units achieve cross ventilation via a dual aspect.	Yes
Depths of habitable rooms support natural ventilation	Provided	Yes
The area of unobstructed window openings should be equal to at least 5% of the floor area served	The architect has advised that each room has a window opening which is 5% of the room size.	Yes
Light wells are not the primary air source for habitable rooms	An atrium is proposed to provide air to the bedroom of unit 1.04. This is open to the air and has a width of 6m so is not a light well.	Yes
Doors and openable windows maximise natural ventilation opportunities by using the following design solutions: • adjustable windows with large effective openable	Doors and windows are of sufficient size and are operable.	Yes

Design Criteria/Guidance	Proposal	Compliance
areas • a variety of window types that provide safety and flexibility such as awnings and louvres • windows which the occupants can reconfigure to funnel breezes into the apartment such as vertical louvres, casement windows and externally opening doors		
4B-2 Natural ventilation Apartment depths are limited to maximise ventilation and airflow (see also figure 4D.3) Natural ventilation to single aspect apartments is achieved with the following design solutions: • primary windows are augmented with plenums and light wells (generally not suitable for cross ventilation) • stack effect ventilation / solar chimneys or similar to naturally ventilate internal building areas or rooms such as bathrooms and laundries • courtyards or building indentations have a width to depth ratio of 2:1 or 3:1 to ensure effective air circulation and avoid trapped smells	Apartments are of appropriate depths. Single aspect units are generally limited in depth	Yes Yes
4B-3 Natural ventilation 1. At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed	15 of 23 units (65.2%) of the apartments achieve cross ventilation.	Yes

<table>
<tr><th>Design Criteria/Guidance</th><th>Proposal</th><th>Compliance</th></tr>
<tr><td>2. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line</td><td>N/A</td><td>N/A</td></tr>
<tr><td>The building should include dual aspect apartments, cross through apartments and corner apartments and limit apartment depths</td><td>Corner apartments and limited apartment depths are utilised</td><td>Yes</td></tr>
<tr><td>In cross-through apartments external window and door opening sizes/areas on one side of an apartment (inlet side) are approximately equal to the external window and door opening sizes/areas on the other side of the apartment (outlet side) (see figure 4B.4)</td><td>Operable windows are adjustable.</td><td>Yes</td></tr>
<tr><td>Apartments are designed to minimise the number of corners, doors and rooms that might obstruct airflow</td><td>Provided</td><td>Yes</td></tr>
<tr><td>Apartment depths, combined with appropriate ceiling heights, maximise cross ventilation and airflow</td><td>Provided</td><td>Yes</td></tr>
<tr><td>4C-1 Ceiling heights

Measured from finished floor level to finished ceiling level, minimum ceiling heights are:

<table><tr><td colspan="2">Minimum ceiling height for apartment and mixed use buildings</td></tr><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr><tr><td>If located in mixed uses area</td><td>3.3m for ground floor and first floor</td></tr></table>
These minimums do not preclude higher ceilings if desired</td><td>Ground Floor: 3.3 metres

Upper Floors: min. 2.7 metres</td><td>Yes</td></tr>
<tr><td>Ceiling height can accommodate use of ceiling fans for cooling and heat</td><td>Gas heating/cooling system proposed. A condition of consent is imposed, requiring</td><td>Yes</td></tr>
</table>

<table>
<tr><th>Design Criteria/Guidance</th><th>Proposal</th><th>Compliance</th></tr>
<tr><td>distribution</td><td>ceiling fans to living rooms and bedrooms in apartments at Level 1.</td><td></td></tr>
<tr><td>4C-2 Ceiling heights

A number of the following design solutions can be used:
• the hierarchy of rooms in an apartment is defined using changes in ceiling heights and alternatives such as raked or curved ceilings, or double height spaces
• well-proportioned rooms are provided, for example, smaller rooms feel larger and more spacious with higher ceilings
• ceiling heights are maximised in habitable rooms by ensuring that bulkheads do not intrude. The stacking of service rooms from floor to floor and coordination of bulkhead location above non-habitable areas, such as robes or storage, can assist</td><td>Wet areas are usually at the back of each apartment and the units are well proportioned with adequate ceiling heights throughout.</td><td>Yes</td></tr>
<tr><td>4D-1 Apartment size and layout

Apartments are required to have the following minimum internal areas:

<table><tr><td>Apartment type</td><td>Minimum internal area</td></tr><tr><td>Studio</td><td>35m²</td></tr><tr><td>1 bedroom</td><td>50m²</td></tr><tr><td>2 bedroom</td><td>70m²</td></tr><tr><td>3 bedroom</td><td>90m²</td></tr></table>
The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each

A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each</td><td>

<table><tr><td>Apartment type</td><td>Minimum internal area</td></tr><tr><td>Studio</td><td>N/A</td></tr><tr><td>1 bedroom</td><td>54m²</td></tr><tr><td>2 bedroom</td><td>76m²</td></tr><tr><td>3 bedroom</td><td>N/A</td></tr></table>
The 76m² apartment has two bathrooms and exceeds the minimum internal area

N/A</td><td>

Yes

Yes

N/A</td></tr>
</table>

Design Criteria/Guidance	Proposal	Compliance
Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms	SEPP 65 statement states that each habitable room will have a large operable glass window being minimum 10% of the floor area of the room	Yes
Kitchens should not be located as part of the main circulation space in larger apartments (such as hallway or entry space)	Kitchens are located adjacent to living/dining rooms.	Yes
A window should be visible from any point in a habitable room	Provided	Yes
Where minimum areas or room dimensions are not met apartments need to demonstrate that they are well designed and demonstrate the usability and functionality of the space with realistically scaled furniture layouts and circulation areas. These circumstances would be assessed on their merits	N/A	N/A
4D-2 Apartment size and layout		
1. Habitable room depths are limited to a maximum of 2.5 x the ceiling height	Does not comply in all apartments but the design incorporates open plan living and good levels of internal amenity are achieved.	No but considered satisfactory
2. In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window	Complies.	Yes
Greater than minimum ceiling heights can allow for proportional increases in room depth up to the permitted maximum depths	Min. 2.7m floor to ceiling heights are provided to residential dwellings.	N/A
All living areas and bedrooms should be located on the external face of the building	Provided.	Yes

Design Criteria/Guidance	Proposal	Compliance
4D-3 Apartment size and layout		
1. Master bedrooms have a minimum area of $10m^2$ and other bedrooms $9m^2$ (excluding wardrobe space)	Provided	Yes
2. Bedrooms have a minimum dimension of 3m (excluding wardrobe space)	Provided	Yes
3. Living rooms or combined living/dining rooms have a minimum width of: • 3.6m for studio and 1 bedroom apartments • 4m for 2 and 3 bedroom apartments	Provided	Yes
4. The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts	N/A	N/A
Access to bedrooms, bathrooms and laundries is separated from living areas minimising direct openings between living and service areas	Not all apartments comply but the layouts are satisfactory	No but considered satisfactory
All bedrooms allow a minimum length of 1.5m for robes	Provided	Yes
The main bedroom of an apartment or a studio apartment should be provided with a wardrobe of a minimum 1.8m long, 0.6m deep and 2.1m high	Provided	Yes
Apartment layouts allow flexibility over time, design solutions may include: • dimensions that facilitate a variety of furniture arrangements and removal • spaces for a range of activities and privacy levels between different spaces within the apartment • dual master apartments	Apartments are open living which will allow a variety of furniture arrangement	Yes

<table>
<tr><th>Design Criteria/Guidance</th><th>Proposal</th><th>Compliance</th></tr>
<tr><td>

- dual key apartments

Note: dual key apartments which are separate but on the same title are regarded as two sole occupancy units for the purposes of the Building Code of Australia and for calculating the mix of apartments

- room sizes and proportions or open plans (rectangular spaces (2:3) are more easily furnished than square spaces (1:1))
- • efficient planning of circulation by stairs, corridors and through rooms to maximise the amount of usable floor space in rooms

</td><td></td><td></td></tr>
<tr><td>

4E-1 Private open space and balconies

All apartments are required to have primary balconies as follows:

Dwelling type	Minimum area	Minimum depth
1 bed	8m²	2m
2 bed	10m²	2m

The minimum balcony depth to be counted as contributing to the balcony area is 1m

For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m² and a minimum depth of 3m

</td><td>

Dwelling type	Minimum area	Minimum depth
1 bed	10m²	2.2m
2 bed	10m²	2.5m

N/A

</td><td>

Yes

N/A

</td></tr>
<tr><td>

4E-2 Private open space and balconies

Primary open space and balconies should be located adjacent to the living room, dining room or kitchen to extend the living space

Private open spaces and

</td><td>Provided</td><td>Yes</td></tr>
</table>

Design Criteria/Guidance	Proposal	Compliance
balconies predominantly face north, east or west	Provided	Yes
Primary open space and balconies should be orientated with the longer side facing outwards or be open to the sky to optimise daylight access into adjacent rooms	Provided	Yes
4E-3 Private open space and balconies		
Solid, partially solid or transparent fences and balustrades are selected to respond to the location. They are designed to allow views and passive surveillance of the street while maintaining visual privacy and allowing for a range of uses on the balcony. Solid and partially solid balustrades are preferred	Glass balustrades are proposed, except for Level 1 facing Victoria Road (where a concrete planter is proposed for acoustic purposes) and to the west-facing Level 1 balconies where opaque glass privacy screens are proposed.	Yes
Full width full height glass balustrades alone are generally not desirable	Glass balustrades are semi-transparent	Yes
Projecting balconies should be integrated into the building design and the design of soffits considered	Provided	Yes
Operable screens, shutters, hoods and pergolas are used to control sunlight and wind	Provided as necessary	Yes
Balustrades are set back from the building or balcony edge where overlooking or safety is an issue	N/A	N/A
Downpipes and balcony drainage are integrated with the overall facade and building design	Provided	Yes
Air-conditioning units should be located on roofs, in basements, or fully integrated into the building design	The proposed roof plant is screened by an architectural roof element.	Yes
Where clothes drying, storage	No external clothes drying areas are proposed.	N/A

<table>
<tr><th>Design Criteria/Guidance</th><th>Proposal</th><th>Compliance</th></tr>
<tr><td>or air conditioning units are located on balconies, they should be screened and integrated in the building design

Ceilings of apartments below terraces should be insulated to avoid heat loss

Water and gas outlets should be provided for primary balconies and private open space</td><td>

BASIX certificate provided

Provided</td><td>

Yes

Yes</td></tr>
<tr><td>4E-4 Private open space and balconies

Changes in ground levels or landscaping are minimised

Design and detailing of balconies avoids opportunities for climbing and falls</td><td>

Provided

BCA compliance will be required as a condition of consent</td><td>

Yes

Yes</td></tr>
<tr><td>4F Common circulation and spaces

1. The maximum number of apartments off a circulation core on a single level is eight

2. For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40</td><td>

The maximum number of apartments off a circulation core is six (6) at Level 1.

N/A</td><td>

Yes

N/A</td></tr>
<tr><td>4G-1 Storage

In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:

<table><tr><td>Dwelling type</td><td>Storage size volume</td></tr><tr><td>1 bed</td><td>6m³</td></tr><tr><td>2 bed</td><td>8m³</td></tr></table>
At least 50% of the required storage is to be located within the apartment

Storage is accessible from either circulation or living areas</td><td>

Storage is provided in the units and also in the basement. A condition of consent is recommended to ensure compliance is achieved.

Provided</td><td>

Yes

Yes</td></tr>
</table>

Design Criteria/Guidance	Proposal	Compliance
Storage provided on balconies (in addition to the minimum balcony size) is integrated into the balcony design, weather proof and screened from view from the street	N/A	N/A
Left over space such as under stairs is used for storage	N/A	N/A
4G-2 Storage		
Storage not located in apartments is secure and clearly allocated to specific apartments	Storage is provided in the basement and can be allocated to each unit.	Yes
Storage is provided for larger and less frequently accessed items	Basement storerooms will accommodate larger items such as surfboards.	Yes
Storage space in internal or basement car parks is provided at the rear or side of car spaces or in cages so that allocated car parking remains accessible	Additional storage is provided at the rear of all residential parking spaces.	Yes
If communal storage rooms are provided they should be accessible from common circulation areas of the building	N/A	N/A
Storage not located in an apartment is integrated into the overall building design and is not visible from the public domain	Storage is provided within the basement and not visible from the public domain.	Yes
4H-1 Acoustic privacy		
Adequate building separation is	An acoustic report has been provided, prepared by Acoustic Logic. The report includes minimum glazing requirements and requires all windows and doors to be closed with mechanical ventilation operating in order to achieve satisfactory noise levels inside the apartments. Conditions of consent are recommended in relation to acoustic matters. Addressed in Note 1 below.	Yes Considered satisfactory

Design Criteria/Guidance	Proposal	Compliance
provided within the development and from neighbouring buildings/adjacent uses (see also section 2F Building separation and section 3F Visual privacy)		
Window and door openings are generally orientated away from noise sources	Units are orientated towards Victoria Road or to the north. Acoustic report provided.	Considered satisfactory
Noisy areas within buildings including building entries and corridors should be located next to or above each other and quieter areas next to or above quieter areas	Most internal living spaces are located away from corridors.	Yes
Storage, circulation areas and non-habitable rooms should be located to buffer noise from external sources	Provided	Yes
The number of party walls (walls shared with other apartments) are limited and are appropriately insulated	A condition requiring compliance with the BCA is recommended, which will include requirements for insulation.	Yes
Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms	Provided	Yes
4H-2 Acoustic privacy Internal apartment layout separates noisy spaces from quiet spaces, using a number of the following design solutions: • rooms with similar noise requirements are grouped together • doors separate different use zones • wardrobes in bedrooms are co-located to act as sound buffers	Addressed above	Yes
	Acoustic report includes glazing	Yes

Design Criteria/Guidance	Proposal	Compliance
Where physical separation cannot be achieved noise conflicts are resolved using the following design solutions: • double or acoustic glazing • acoustic seals • use of materials with low noise penetration properties • • continuous walls to ground level courtyards where they do not conflict with streetscape or other amenity requirements	requirements. Compliance with the acoustic report is recommended by appropriate conditions of consent.	
4J Noise and pollution	Matters raised in Section 4J of the ADG are addressed above	Yes
4K-1 Apartment mix A variety of apartment types is provided The apartment mix is appropriate, taking into consideration: • the distance to public transport, employment and education centres • the current market demands and projected future demographic trends • the demand for social and affordable housing • different cultural and socioeconomic groups Flexible apartment configurations are provided to support diverse household types and stages of life including single person households, families, multi-generational families and group households	1 and 2 bedroom apartments are proposed with no studios or 3 bedroom apartments. No three bedroom apartments are proposed. Hill PDA Consulting has provided a report which supports the lack of three (3) bedroom apartments. CBDCP requires 10% of apartments to comprise three (3) bedrooms and the ADG requires 3 bed units to be a minimum of 90m^2 in area. The Hill PDA report notes that 21% of the proposed apartments have areas of more than 90m2 and that therefore while they contain only 2 bedrooms, they are of an area as to permit flexible and spacious living. Open plan apartments are provided which allow flexibility	No Adequate justification for the proposed apartment mix has been provided Yes
4K-2 Apartment mix		

Design Criteria/Guidance	Proposal	Compliance
Different apartment types are located to achieve successful facade composition and to optimise solar access (see figure 4K.3)	One (1) and two (2) bedroom units are located throughout the proposed development. The external appearance of the proposed development is satisfactory.	Yes
Larger apartment types are located on the ground or roof level where there is potential for more open space and on corners where more building frontage is available	The site is located within a mixed use zone where ground floor level residential is not permitted. A communal roof terrace is proposed at the uppermost level of the building.	Yes
4L Ground floor apartments	N/A	N/A
4M Facades Design solutions for front building facades may include: • a composition of varied building elements • a defined base, middle and top of buildings • revealing and concealing certain elements • changes in texture, material, detail and colour to modify the prominence of elements	The proposal includes a defined base, middle and top to the building with variations in treatments. Variations in colour and materiality are provided.	Yes
Building services should be integrated within the overall facade	Provided	Yes
Building facades should be well resolved with an appropriate scale and proportion to the streetscape and human scale. Design solutions may include: • well composed horizontal and vertical elements • variation in floor heights to enhance the human scale • elements that are proportional and arranged in patterns • public artwork or treatments to exterior blank walls • grouping of floors or elements such as balconies and windows on taller	Provided	Yes

Design Criteria/Guidance	Proposal	Compliance
buildings Building facades relate to key datum lines of adjacent buildings through upper level setbacks, parapets, cornices, awnings or colonnade heights Shadow is created on the facade throughout the day with building articulation, balconies and deeper window reveals	 The height of the proposed awning matches the awning height at No. 225 Victoria Road. Provided	 Yes Yes
4N Roof design Roof design relates to the street. Design solutions may include: • special roof features and strong corners • use of skillion or very low pitch hipped roofs • breaking down the massing of the roof by using smaller elements to avoid bulk • using materials or a pitched form complementary to adjacent buildings Roof treatments should be integrated with the building design. Design solutions may include: • roof design proportionate to the overall building size, scale and form • roof materials compliment the building • service elements are integrated	 A roof feature is proposed to minimise the visual impact of plant and the like.	 Yes
4O Landscape design Landscape design should be environmentally sustainable and can enhance environmental performance by incorporating: • diverse and appropriate planting • bio-filtration gardens • appropriately planted shading trees • areas for residents to plant vegetables and herbs	 Council's landscape officer has reviewed the landscaping proposal and considered it satisfactory	 Yes

Design Criteria/Guidance	Proposal	Compliance
• composting • • green roofs or walls		
4P Planting on structures Structures are reinforced for additional saturated soil weight Soil volume is appropriate for plant growth, considerations include: • modifying depths and widths according to the planting • mix and irrigation frequency • free draining and long soil life span • tree anchorage Minimum soil standards for plant sizes should be provided in accordance with Table 5	A condition of consent is recommended in relation to planting on structure.	Yes
4Q Universal design Developments achieve a benchmark of 20% of the total apartments incorporating the Livable Housing Guideline's silver level universal design features Adaptable housing should be provided in accordance with the relevant council policy Design solutions for adaptable apartments include: • convenient access to communal and public areas • high level of solar access • minimal structural change and residential amenity loss when adapted • larger car parking spaces for accessibility • parking titled separately from apartments or shared	Units 2.02, 2.03, 3.02, 3.03 and 6.03 are liveable units (5/23). Therefore 21.74% of the units are liveable units. City of Canada Bay Development Control Plan requires 3 adaptable dwellings for developments that have lift access and propose between 21 and 29 dwellings. The proposal includes accessible units on Level 1, Level 4 and Level 5 Provided	Yes Yes Yes

Design Criteria/Guidance	Proposal	Compliance
car parking arrangements		
4R Adaptive Reuse	N/A	N/A
4S Mixed use Mixed use development should be concentrated around public transport and centres	The site is located on Victoria Road and is well-serviced by public transport (buses and ferries) and local infrastructure.	Yes
Mixed use developments positively contribute to the public domain. Design solutions may include: • development addresses the street • active frontages are provided • diverse activities and uses • avoiding blank walls at the ground level • live/work apartments on the ground floor level, rather than commercial	The proposed development provides an active frontage and appropriately addressed Victoria Road.	Yes
Residential circulation areas should be clearly defined. Design solutions may include: • residential entries are separated from commercial entries and directly accessible from the street • commercial service areas are separated from residential components • residential car parking and communal facilities are separated or secured • security at entries and safe pedestrian routes are provided • concealment opportunities are avoided	The residential lobby is separate from the commercial area and the majority of the residential car parking is separated from the commercial car parking. The commercial car parking in the basement will be for tenants only and is considered satisfactory.	Yes
Landscaped communal open space should be provided at podium or roof levels	A communal roof terrace is proposed.	Yes
4T-1 Awnings and signage Awnings should be located along streets with high pedestrian activity and active	Addressed above. Proposal incorporates an awning at a height to match existing awning	Yes

Design Criteria/Guidance	Proposal	Compliance
frontages A number of the following design solutions are used: • continuous awnings are maintained and provided in areas with an existing pattern • height, depth, material and form complements the existing street character • protection from the sun and rain is provided • awnings are wrapped around the secondary frontages of corner sites • awnings are retractable in areas without an established pattern Awnings should be located over building entries for building address and public domain amenity Awnings relate to residential windows, balconies, street tree planting, power poles and street infrastructure Gutters and down pipes should be integrated and concealed Lighting under awnings should be provided for pedestrian safety	to the south. Awning lighting details are to be dealt with at the CC stage and are conditioned.	
4T-2 Awnings and signage Signage should be integrated into the building design and respond to the scale, proportion and detailing of the Development Legible and discrete way finding should be provided for larger developments Signage is limited to being on and below awnings and a single facade sign on the primary street frontage	No signage is proposed N/A No signage is proposed	N/A N/A N/A

Design Criteria/Guidance	Proposal	Compliance
4U Energy efficiency		
Adequate natural light is provided to habitable rooms (see 4A Solar and daylight access)	BASIX Certificate provided and the proposal exceeds the minimum required solar access to living rooms.	Yes
Well located, screened outdoor areas should be provided for clothes drying	No external clothes drying areas are proposed. Clothes dryers are to be provided in laundries.	Considered acceptable
4V Water management and conservation	BASIX Certificate provided	Yes
4W Waste management		
Adequately sized storage areas for rubbish bins should be located discreetly away from the front of the development or in the basement car park	A waste management plan, prepared by Elephants Foot, accompanies the DA. The plans correspond to the recommendations of that report.	Yes
Waste and recycling storage areas should be well ventilated	Yes	Yes
Circulation design allows bins to be easily manoeuvred between storage and collection points	Provided	Yes
Temporary storage should be provided for large bulk items such as mattresses	A bulk waste storage area is provided	Yes
A waste management plan should be prepared	Provided	Yes

Note 1 - Comments on 3F Visual Privacy

Level 1 (second storey)

- North

Units 1.03 and 1.04 are on the northern boundary with no windows on their northern elevation. A solid wall is located on the northern boundary associated with the balcony of Unit 1.03 and a planter separating the balcony of Unit 1.04 and the northern boundary.

There is a bedroom window to Unit 1.04 which is within 6 metres of the boundary. However, this window is oriented into the central void and would be unlikely to create privacy issues given that it is

associated with a low traffic room (bedroom) and the angle to the boundary would limit the potential for overlooking. Notwithstanding, to address issues raised by public submissions, in relation to the potential for the bedroom to be affected from noise associated with the adjacent fast food drive through lane, a condition is recommended, requiring a screen to this window. **Considered satisfactory.**

- South

A privacy screen is included on the balcony of Unit 1.01 to limit the potential for overlooking from the car park site on Marlborough Street. The balcony of Unit 1.06 includes a solid wall on the southern boundary. No other windows are located on the southern elevation. **Complies.**

- West

Setback of 6 metres provided from the balcony of Unit 1.03 to the boundary. Privacy screens are proposed to the balconies to Units 1.01, 10.2 and 1.03 to provide additional privacy between the dwellings and No. 12 Marlborough Street. **Complies**.

- Internal separation

The separation of the non-habitable window to Unit 1.03 (hallway window) and the landing at the top of the common stair is less than 6m. Given the offset of the windows and the transient nature of the areas adjacent to the windows (i.e. fire stair and hallway), the potential for overlooking is limited and considered satisfactory. **Complies.**

The proposal incorporates 1.8m high screens between unit balconies for privacy. **Complies.**

<u>Level 2 (third storey)</u>

- North

Setback of 6 metres provided from the balconies and habitable rooms to the boundary. **Complies**.

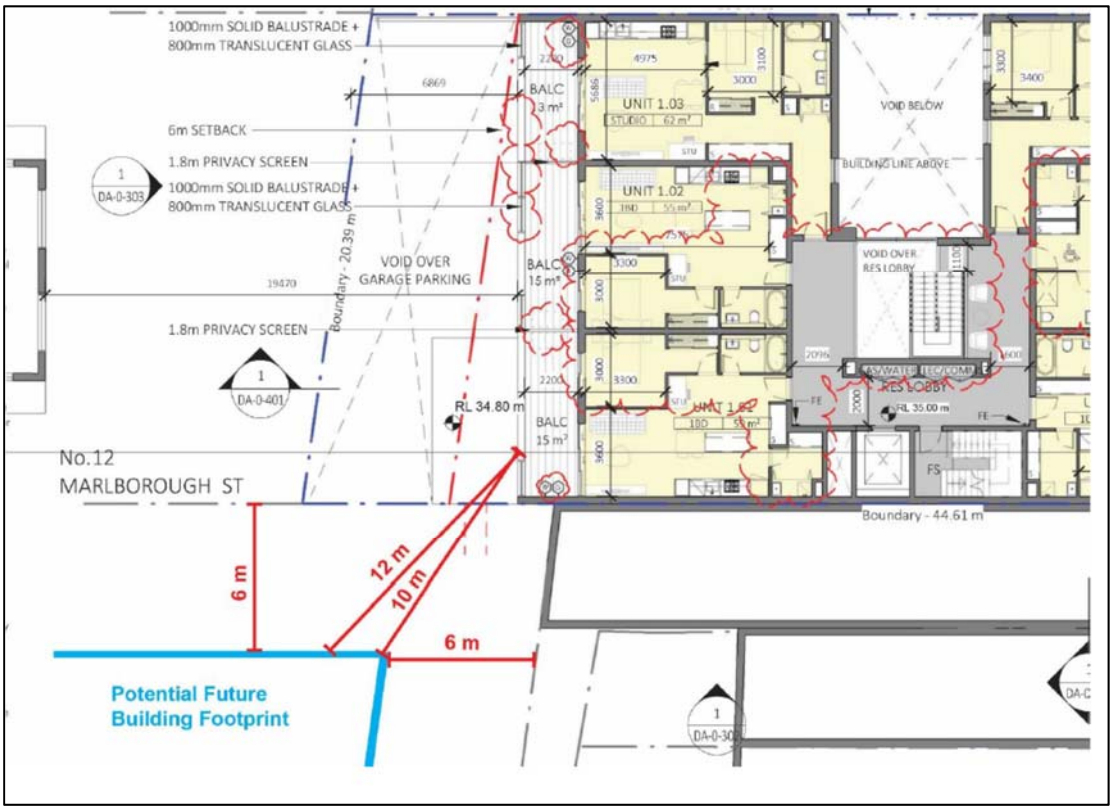
- South

The window associated with the southern bedroom on unit 2.01 is less than 6 metres from the southern boundary. A blade wall extends beyond the location of the window to provide a screen from the car park on Marlborough Street. The Applicant provides the following comment with regard to privacy from the car park site on Marlborough Street:

> *"The redevelopment of the car parking site would require at least a 6 m side setback due to the site's long interface with the residential flat building at 12 Marlborough Street. It is possible that any development at the car parking site would have an increased side setback of more than 6 m because 12 Marlborough Street is setback only 4 m from its southern side boundary shared with the car parking site. A 6 m rear setback would also be necessary for the car parking site.*
>
> *The car parking site also narrows considerably towards its rear boundary, constraining the extent of built form which could be located near to the subject site. The portion of the car parking site adjacent to the subject site is constrained to a width of 16-20 m. This limits the*

extent of built form which can be established in the rear portion of the, whereas the part of the site closer to Marlborough Street is more suitable for development with its width of 40 m and depth of 42 m. At the same number of storeys as 52 Lyons Road, 7 storeys, the car parking site can achieve 2.5: 1 without utilising the narrow rear corner of the site.

Thus, constraints on the car parking site largely arise from the interface with No. 12 Marlborough Street and the width of the car parking site at the rear, rather than the subject site. Any potential interface between the car park site redevelopment and the proposed development would be at an oblique angle and the separation between the proposed Level 1 balcony any habitable room window or balcony at the car parking site would be at a suitable distance to achieve a suitable privacy outcome. This is also the case with upper levels because the proposed west-facing windows are recessed into the façade.



Given the constraints on the car park site in Marlborough Street and the fact that the level 2 windows are recessed into the façade, the separation to the car park site is considered satisfactory. Notwithstanding, a condition of consent is recommended, requiring privacy screens or obscured glazing to the bedroom windows of Unit 2.01. **Considered satisfactory**.

- West

Setback of 6 metres provided between windows and western boundary. Notwithstanding, a condition of consent is recommended, requiring privacy screens or obscured glazing to the bedroom windows of Unit 2.01. **Complies.**

<u>Level 3 (fourth storey)</u>

- North

6 metres - **complies**.

- South

The window associated with the southern bedroom on unit 3.01 is less than 6 metres from the southern boundary. Given the constraints on the car park site in Marlborough Street and the fact that the level 3 windows are recessed into the façade, the separation to the car park site is considered satisfactory. Notwithstanding, a condition of consent is recommended, requiring privacy screens or obscured glazing to the bedroom windows of Unit 3.01. **Considered satisfactory**.

- West

6 metres. Notwithstanding, a condition of consent is recommended, requiring privacy screens or obscured glazing to the bedroom windows of Unit 3.01. **Complies**.

Level 4 (fifth storey)

- North

9 metres - **complies**.

- South

The window associated with the southern bedroom on unit 4.01 is less than 9 metres from the southern boundary. Given the constraints on the car park site in Marlborough Street and the fact that the level 4 windows are recessed (1.1 metres) into the façade (behind the blade wall), the separation to the car park site is **considered satisfactory**.

- West

9 metres - **complies**.

Level 5 (sixth storey)

- North

9 metres - **complies**.

- South

The window associated with the southern bedroom on unit 5.01 is less than 9 metres from the southern boundary. Given the constraints on the car park site in Marlborough Street and the fact that the level 5 windows are recessed (1.1 metres) into the façade (behind the blade wall), the separation to the car park site is **considered satisfactory**.

- West

9 metres - **complies**.

Level 6 (seventh storey)

- North

9 metres - **complies**.

- South

The window associated with the southern bedroom on unit 6.01 is less than 9 metres from the southern boundary. Given the constraints on the car park site in Marlborough Street and the fact that the level 6 windows are recessed (1.1 metres) into the façade (behind the blade wall), the separation to the car park site is **considered satisfactory**.

- West

9 metres - **complies**.

Communal Roof Top Area

- North

Over 9 metres - **complies**.

- South

The proposed common roof terrace is located 2.4m from the trafficable part of the rooftop to No. 225 Victoria Road – however there is a 1 metre high wall and landscaping (raised) provided between the trafficable area on the rooftop and No. 225 Victoria Road. The landscaping includes trees, along the site's southern boundary. Council's landscape officer raised no objections to the landscape design.

Landscaping, plant, lift and stair proposed on southern side of the rooftop, as well as balustrade (1 metre high) around the landscaping, limit privacy issues.

Furthermore, the Applicant has submitted documentation showing that the adjoining sites to the south can be redeveloped (if amalgamated) and achieve a built form which meets the requirements of the ADG and achieves a good level of amenity. **Considered satisfactory.**

- West

Over 9 metres - **complies**.

State Environmental Planning Policy - Building Sustainability Index (2004)

To encourage sustainable residential development, all new dwellings must comply with the provisions of State Environmental Planning Policy – Building Sustainability Index (BASIX).

The proposed development has achieved full compliance with the BASIX commitments achieving targets of 40/40 for water and 20/20 for energy. A pass mark has been received for thermal comfort. The schedule of BASIX Commitments is specified within the BASIX Certificate No. 768677M_03 and is included in the recommended conditions of consent.

State Environmental Planning Policy (Infrastructure) 2007

Division 17 Roads and Traffic of the ISEPP sets out requirements for development fronting classified roads. As the site has frontage to Victoria Road, which is a classified road, several of the provisions contained within Division 17 of the ISEPP apply to the proposed development as detailed below.

Development with frontage to classified road (Cl. 101)

Clause 101 requires that consideration be given to the impact of any proposed access to a classified road. It requires that a consent authority not grant consent to a development on land that has frontage to a classified road unless it satisfied that vehicular access, where practicable, is provided by a road other than a classified road. Access from another road is not possible in this instance.

Clause 101 further requires that the consent authority to be satisfied as to the following:

- The safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:
    - the design of the vehicular access to the land, or
    - the emission of smoke or dust from the development, or
    - the nature, volume or frequency of vehicles using the classified road to gain access to the land, and
- The development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

The DA is supported by a Traffic and Parking Impact Assessment Report prepared by Barker Ryan Stewart. Council's Traffic Engineer has reviewed this report and has raised no objection to the proposal, subject to appropriate conditions.

Clause 102 requires Council, before granting consent to a building for residential use adjacent to a road with an annual average daily traffic volume of more than 40,000 vehicles, to be satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:

> *"(a) in any bedroom in the building—35 dB(A) at any time between 10 pm and 7 am,*
>
> *(b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time."*

An acoustic report prepared by Acoustic Logic accompanies the DA and makes recommendations on minimum glazing requirements and for all windows and doors to be closed with mechanical ventilation operating in order to achieve satisfactory noise levels inside the apartments. Appropriate conditions of consent are recommended in order to achieve compliance with the acoustic report.

Clause 104 via Schedule 3 identifies development which is to be referred to the RMS. The proposal does not meet those requirements but was referred to the RMS for concurrence as works are proposed to a classified road and require approval from the RMS under the Roads Act, as Integrated Development. This is discussed in detail below.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The site falls within the map area shown edged heavy black and hence is affected by SREP (Sydney Harbour Catchment) 2005.

The site is not located within the foreshores and waterways area and is considered to meet the aims of the plan, as set out in Clause 2 of the SREP, given its distance from the foreshore and waterway area.

5.1.2. Local Environmental Planning Instruments

The proposed development, defined as part residential flat building part commercial premises is permissible with the consent of Council, within a B4 Mixed use zone under Canada Bay Local Environmental Plan 2013. Following is a summary table indicating the performance of the proposal against relevant statutory standards.

Control	Standard	Proposed	Compliance
Clause 2.2 Zoning of Land to which Plan applies	B4 Mixed use	Residential flat building and commercial premises	Yes
Clause 4.3 Height of buildings	Clause 4.3(2) maximum height shown for the land on the Height of Buildings Map is 20m	25.08 metres to architectural roof feature 22.24m - 23.26m to the top of the roof terrace balustrade 21.17m to the top of the roof (NW corner)	**No** (See applicant's clause 4.6 written request to vary standard)
Clause 4.4 Floor Space Ratio	2:1 (area 2 but site area less than 1,000m²)	2.48:1	**No** (See applicant's clause 4.6 written request to vary standard)

As indicated in the compliance table, the proposed development does not comply with the building height or floor space ratio standards. The applicant has submitted to Council written requests for departure from the development standards under the provisions of clause 4.6 – Exemptions to development standards – Building height and Floor Space Ratio (see summary of applicant's written requests in italics below under this section). Refer to the applicant's full document for further detail.

Clause 4.6 - Exemptions to Development Standards

"(1) The objectives of this clause are as follows:

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Secretary has been obtained.

(5) In deciding whether to grant concurrence, the Secretary must consider:

(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and

(b) the public benefit of maintaining the development standard, and

(c) any other matters required to be taken into consideration by the Secretary before granting concurrence.

(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:

(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or

(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

Note.

When this Plan was made it did not include all of these zones.

(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).

(8) This clause does not allow development consent to be granted for development that would contravene any of the following:

(a) a development standard for complying development,

(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,

(c) clause 5.4,

(ca) clauses 6.4 and 6.5."

Clause 4.6 of CBLEP allows Council to vary a control where a written request is made by an applicant demonstrating that two criteria are met. The criteria to be satisfied are that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the standard.

The objectives of the provision would also need to be satisfied and are:

"(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances."

The Planning Panel should not permit the breach of the standard unless it is satisfied that the written request by the applicant adequately addresses the two criteria, the development will be in the public interest because it is consistent with the objectives of the particular standard and those for the zone and the concurrence of the Director-General has been obtained. It is noted that Council has been advised by the Department of Planning that it can assume the concurrence of the Director-General when making a determination of the application.

Applicant's written requests

Building Height

"The maximum building height is 23.36 m, measured at the top of the balustrade of the roof garden. This is a 3.36 m non-compliance and represents a 16.8% variation to the 20 m development standard. This occurs at the north east corner of the building where the site topography slopes down. The height reduces at other parts of the site. For example, at the north west corner, the balustrade is 22.24 m above existing ground level, an 11.2% variation. The balustrade of the roof garden has been designed to be setback from the building parapet to ensure it is not readily visible from surrounding sites and the public domain. The balustrade is transparent glass.

The maximum height of the building taken from the roof (at the north east corner of the site) is 22.35 m, which is a 2.35 m non-compliance representing a 11.8% variation to the height limit standard. At the north west corner of the roof, the height is 21.17m, a 1.17 m non-compliance representing a 5.85% variation.

If the Architectural Roof Feature is disregarded and overrun height considered, the proposed development's maximum non-compliance to the height of buildings (HOB) development standard of 20 m is 5.08 m. It is noted that if the lift overrun was considered as part of the

building height the overrun constitutes only approximately 20m² and has no material visual or overshadowing impact.

The 20 m height line intersects the building between Level 6 and the roof. The building height is greater in the northern portion of the site facing Victoria Road due to the topography of the site which falls from the rear boundary and southern corner to the northern corner of the plot adjoining Victoria Road.

The exceedance in HOB is related to achieving a high level of amenity. The additional height sought allows for a high degree of articulation, common open space at roof level, appropriate setbacks, reduced unit depth, better solar access and natural ventilation, less acoustic impact arising from road noise, and a higher proportion of dwellings which benefit from high quality views.

The top residential level (Level 6) has been deliberately designed through setback and external articulation to reduce the appearance of additional height that results in minimal environmental impacts. This top floor also achieves 100% cross ventilation and excellent solar access with all units of Level 6 achieving greater than 3 hours solar access in mid-winter.

The site is located at the western gateway of the Drummoyne Village Centre. Due to its position at the gateway additional height is an appropriate built form response, contributing to the legibility of built form by visually signaling arrival to the mixed use centre. The proposed mixed-use building adopts setbacks from the northern side boundary and rear boundary to achieve a transition to the lower density sites outside of the Village Centre. The proposed setbacks at the upper level makes Level 6 a recessive element mitigating its visual impact when viewed from Victoria Road proximate to the site. The scale overall contributes to the skyline of the centre when viewed from further away. The scale of the proposed development is similar to other prominent buildings in the Village Centre including 1 Lyons Road (parapet height 54.04) and 2 Marlborough Street (52 Lyons Road, parapet RL 54.27). The parapet height of the proposed development is RL 53.62 and is below both of 1 Lyons Road and 2 Marlborough Street.

The proposed additional height allows for a modest increase in residential density on the subject site and is directly related to achieving a high level of residential amenity. The proposed density responds to the strategic location of the site which is defined by its high level of access to public transport along Victoria Road, a corridor that has been earmarked for rapid transit and its proximity to major employment centres in the Global Economic Corridor. The additional height which allows for a modest increase in density also responds to the increasing pressure to provide dwellings in Sydney. Council's LEP and the strategic plans which underpin the LEP are based on outdated demographic data. Sydney's growth rate continues to increase and providing suitable housing on infill sites is critically important to meeting future housing demand. The recent report from the Planning Institute "Through the Lens: Megatrends shaping our future (2016)", points to not only housing increase but population composition as key drivers in the demand for housing and a particular kind of housing. The proposed apartments seek to meet this trend.

It is noted, the site is subject to a deed of agreement such that betterment monies are paid for any floor area above the LEP standard. Thus, the proposed development shall contribute to

this betterment while ensuring that additional adverse impacts do not arise in comparison to a development which complied with the height limit.

Furthermore, a development feasibility study has been undertaken by Hill PDA assessing whether a building which complies with the height limit is feasible. The study found that a six storey development would be unviable with an internal rate of return (IRR) of 8.55%. It was found that the proposed development at 7 storeys is only marginally viable at an IRR of 16.43%. Factors considered in the feasibility include constraints around the site's single frontage to Victoria Road and benefits such as upper level district views and a good northern aspect across the side boundary.

The proposal meets the key Apartment Design Guide design solar access and cross ventilation design criteria. Further, it also provides privacy to neighbouring properties with ADG compliant setbacks, a high amenity communal open space, ADG complaint balconies and generous apartment sizes. The proposed built form responds to the constraints particular to the site.

It is considered acceptable and logical that a building of this type in this area achieves a better residential amenity than a complying building without increased environmental impacts, while achieving significant metropolitan strategic planning goals because:

- *The strategic location and of the site within the Drummoyne Village and Canada Bay Council's vision for Drummoyne Village;*
- *The site is highly accessible to the Sydney CBD, Western Sydney and Northern Points of Sydney given its prominent location on Victoria Road and proximity to Lyons Road and the A4/Anzac Bridge; and*
- *The proposal seeks to enhance the pedestrian amenity by creating an inviting ground floor retail space facing the street, a variety of materials/finishes and articulation is to be used to improve the visual amenity of the locality and delivering a contributory item to the streetscape; and*
- *The development provides a transition to lower scale areas nearby.*

In the circumstances of the case a development proposal that is compliant with the HOB development standard would represent an under utilisation of a site and a poorer design outcome not maximizing the strategic potential of the site.

This written request is made pursuant to Clause 4.6 of Canada Bay LEP 2013, relevant judgements in the NSW Land and Environment Court, and justifies:

- *Why compliance with the HOB development standard in LEP 2013 is unreasonable in the circumstances of the case; and*
- *Demonstrates that there are sufficient environmental planning grounds to justify contravening the development standard.*

This request also explains how the proposed development will be in the public interest and the objectives for development within the B4 Mixed Use zone in which the development is proposed to be carried out.

For the reasons set out in this report, contravention of the development standard is considered appropriate for the site and raises no matter of significance for State or regional

environmental planning. As such, there is no public benefit in maintaining the development standard in this particular case. Therefore, we request that Council approve the proposed development.

First Objective

"(a) to ensure that buildings are compatible with the desired future character in terms of building height and roof forms,"

"The proposal is surrounded by a variety of eclectic buildings of varying heights, setbacks and relationships to the street. The only reoccurring element in relation to the streetscape is that at least one storey (although usually more than one) is built to the street alignment with a nil setback. For many buildings in the area upper level setbacks are not employed, although in a few instances, such as 2 Marlborough Street (52 Lyons Road), varying upper level setbacks are employed.

The height of the proposed development is similar to other prominent buildings in the Village Centre including 1 Lyons Road (parapet height 54.04) and 2 Marlborough Street (52 Lyons Road, parapet RL 54.25). The parapet height of the proposed development is RL 53.62 and is below both of 1 Lyons Road and 2 Marlborough Street. The height plan analysis at DA-911-913 demonstrates that the proposed development fits within the larger context of other substantial buildings in the precinct.

Council's DCP for the area, which is from 2007 contemplates heights in the order of six to seven storeys (depending on the position of basement car parking in relation to site topography changes) with the subject site functioning at the northern gateway to the village centre. The streetscape controls arise from the heritage in the centre which is concentrated on the corner of Lyons Road and Victoria Road and the desire to have commercial uses up to three storeys. It is noted that the subject site is at the edge of the centre, away from the heritage buildings in the precinct. It is also noted that the office market in the area is very poor. In almost a decade only one development has been realised in the centre, that is No. 52 Lyons Road which is seven storeys in height. No. 52 Lyons Road is also in a gateway position but the gateway is of a lower order than the subject site given the subject site is on Victoria Road while No. 52 Lyons Road is on Lyons Road. To respond to the objectives of the DCP, the proposed development creates a bookend to the centre with the additional storey appropriate to the gateway location. To achieve the additional scale signalling arrival into the centre while reducing impacts on the immediate streetscape, the seventh storey is setback from the lower levels of the building. An architectural roof feature masks the lift overrun and contributes to a high-quality skyline. Along with the architectural roof feature, patterned panels are proposed to the southern façade and the grid established on the northern façade is echoed to provide visual interest when the building is viewed from the south until the adjoining site to the south redevelops at which time it will no longer be visible.

In summary, the proposed development uses scale to contribute to the quality of built form in the area and achieves compatibility with the existing and desired future character of the area. If and when other sites in the centre redevelop, the proposed development will fit seamlessly into the urban fabric of the centre. This is demonstrated in the future built form analysis which forms part of the architectural set at DA-933-936.

The DCP does not address the relationship between the centre and the surrounding lower scale areas in detail. The subject site's relationship to its surrounding built form is unique. It is at the northern gateway to the centre and adjoins sites which are envisioned for redevelopment in the DCP (to the south), but the site is also adjacent to the existing McDonalds and low and medium scale residential areas to the north west. Although the McDonalds site is provided with an FSR control of 2:1, it is only afforded a height of 8.5 m. To address this unique transitional setting, the proposed development announces arrival into the centre through increased building height. The proposed establishes a party wall to the side boundary with upper levels setback to not impact on future redevelopment potential of the McDonald's site.

The proposal transitions to the lower scale areas to the north west by pushing built form to the south, employing a side setback of 6 m from Level 2 and a 9 m setback from Level 4 along with a very high level of articulation to the north western façade using a modular grid pattern. The proposed development also creates a podium side wall up to the second storey (8-8.5m) at the northern boundary to fit within the commercial typology anticipated by the LEP on the McDonald's site. To address the current condition while anticipating a future redevelopment of the McDonald's site, the podium wall is provided with an open screen element to the driveway and a central recess with planted atrium. This approach provides relief to the exposed wall in the short term but allows for a party wall configuration in the future of a scale compatible with the 8.5 m height limit on the McDonald's site.

Pushing built form to the southern boundary also anticipates the building envelopes of the DCP and allows the sites adjoining the subject site to the south to redevelop as per the DCP. Refer to the figure below which outlines the potential future built form of 219-225 alongside 227-231 Victoria Road.

The additional storey does not detract from the desired character of the centre with the proposed seventh storey setback from the level below at Victoria Road to reduce bulk and scale within the streetscape.

....

Finally, the proposed development fits within the streetscape established across Victoria Road as well. The existing character at the eastern side of Victoria Road is eclectic and ranges from single storey buildings with nil setbacks to five storey street walls with very little relief. In this respect, there are several cases where the DCP controls do not reflect the reality of built form in the area. These are clarified in numerous figures within this report.

The proposed development fits within this eclectic setting by creating a human scale base to the building, a tower element set off from the base of the building with a high level of articulation and the upper storeys setback from the street.

Overall, the proposed development fits within the desired character of the area by:

- *Providing a podium base to the northern boundary of 2 storeys;*
- *Providing a 1-2 storey base at the Victoria Road frontage;*
- *Providing a 6-9 m setback to the rear;*
- *Providing a 6-9 m upper level setback to the north;*

- *Providing a nil setback to the southern boundary to allow an adjoining built form to establish a party wall and continue built form in accordance with the DCP; and*
- *Providing an increased front setback for Level 6 to reduce bulk and scale.*

The main departure from the DCP is that the design consciously seeks to create a 'bookend' to the centre when the site is viewed from the north west on approach to the village. While this is not a design element expressed in the 2007 DCP it does fit well within the underlying objectives of the DCP which seeks to create a distinct mixed-use centre.

Given the proposal's design response to the site and to surrounding context, the proposed variation to the HOB development standard is considered to be reasonable in the circumstances of the case.

The proposed development, while seeking to vary the building height development standard still ensures that the environmental amenity to neighbouring properties is preserved. The proposal does not obstruct or impact on existing views of key iconic views in the Canada Bay locality but provides an opportunity to introduce a landmark building in Drummoyne.

As such, the proposal meets this objective on environmental planning grounds."

<u>Second Objective</u>

"(b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development."

"Visual Impact

The proposed development has been designed to be slender incorporating setbacks therefore delivering a building that is not bulky. The taller, slenderer tower is preferable to a lower bulkier building which would have a greater impact to adjoining properties views, access to daylight, etc. The building achieves ADG building separation criteria. The proposed development achieves a high level of façade articulation which breaks down bulk and scale. The use of high quality materials contributes positively to the character of the local area. Upper levels of the proposed development are setback from the levels below to further reduce visual impacts and the proposed architectural roof feature integrates overruns and plant areas into the overall design of the building. The proposed additional height contributes to the overall character of the development, creating a bookend to the village centre. While the scale of the proposed development is different from its immediate neighbours, it achieves compatibility within the streetscape. To achieve compatibility with the streetscape a 1-2 storey scale is established at street level with the base of the building set-off from the tower above through a recessive Level 1, giving rise to an acceptable visual impact on the existing streetscape. As stated previously, the character of the built form in the area is eclectic with varying heights and different relationships to the street. There are buildings which are only 1 storey, there are buildings which are 5 and 6 storeys with no setback to the street and there is a building of 7 storeys with upper level setbacks. The scale of the proposed development is not inconsistent with the notably higher forms in the area such at 52 Lyons Road and No. 1 Wrights Road. At the same time, the proposal maintains a 1-2 storey scale to the clearly defined base of the building. Thus, the proposed development achieves an acceptable visual impact and responds appropriately to the existing character of the area.

As discussed under the first objective, the proposed development when viewed from medium to long distant views from the south fits within the existing streetscape, with the height of the building being similar to the horizon established by the existing built form along the Victoria Road corridor.

Views

Properties surrounding the application site are not afforded views as beyond the B4 Mixed Use Zone properties are 2 to 3 storeys and located in the R3 Zone. Properties to the south of the site such as 4 Marlborough Street – 225 Victoria Road have a close relationship with views to Victoria Road and are to be retained. Future built form view analysis drawings show the future assimilation of the subject site with 219-255 Victoria Road. This is also the case from medium distance views from the north, where the building appears in line with the roofs of buildings on the eastern site of Victoria Road.

Privacy

The proposed additional height directly contributes to improved privacy by allowing setbacks to the west (rear) and north (side) boundary. The proposed development employs just over a 6 m setback at Level 1 balconies. This allows for a minimum separation distance to the existing residential flat building at 12 Marlborough Street of just over 18 m. This separation distance is ample to protect privacy to the existing RFB. It is noted that the RFB at No. 12 Marlborough Street is unlikely to redevelop due to its strata titling and because the LEP does not provide an impetus for redevelopment. The 18 m minimum separation achieved is greater than the distance suggested in the Apartment Design Guide, which seeks a separation of 12 m plus 3 m given there is a transition to a lower density. The 18 m separation is 3 m greater than the ADG guidance. Furthermore, the Level 1 (Unit 1.03 & 1.02) rear facing balconies closest to the 6 metre have privacy screening towards 12 Marlborough Street encompassing 1 metre high solid balustrades and 800mm translucent glass. At Level 2-3, a minimum setback of 6 m to a kitchen window of Unit 2.01 is proposed to the rear boundary, a 6.45-7.6 m setback to bedroom windows and an 8.6 m setback to the north west facing balcony. In addition, only one unit per floor faces the rear boundary and the main living room is oriented away from the rear boundary. This minimises potential privacy impacts. Setbacks to the rear increase at Level 4 (the fifth storey) by another 3 m and only bedrooms and bathrooms face the rear boundary, mitigating privacy impacts by ensuring the habitable rooms least utilised face 12 Marlborough Street.

It is noted that the minimum separation distance achieved to No. 14 Marlborough Street is 19.47 m at Level 1 and thus separation serves to protect privacy.

To the north western boundary (adjoining McDonalds), a blank wall is proposed for Ground except for open forms to the driveway area and a green wall to create visual relief to the blank wall for the existing condition. Lower level windows are not directly oriented to the side boundary. At Level 1 the blank wall is used for the majority of the site with the exception of a setback void area and green wall atrium. At Level 2, the minimum setback to trafficable areas is 6 m. This meets ADG criteria. Balconies sit above the podium and eliminate potential overlooking while planters enhance privacy further. At Level 3, a minimum 6 m setback is maintained consistent with the ADG. It is noted that the McDonald's site is zoned for a similar FSR and thus density as the subject site. The centre units facing north west are

recessed into the façade which reduces potential privacy impacts. At Level 4, the setback of windows and balconies increases to 9 m. The geometric grid projects forward of the 9 m setback slightly such that the windows and balconies are recessive in character, thus improving the sense of privacy. At each level, the proposed development meets ADG setback criteria and thus privacy is achieved.

Overall, the proposed additional height allows for increased setbacks to the rear and side boundary meeting Apartment Design Guide criteria and better protecting privacy while allowing a density on the site which is commensurate with its strategic location in proximity to public transport and jobs.

Solar Access

The proposed development is accompanied by shadow analysis diagrams indicating no one property is affected from overshadowing or loss of solar access for a detrimental length of time. The property to the rear (12 Marlborough Street) is affected at mid-winter in the early morning hours and the majority of shadowing would occur over the rooftops of existing adjoining properties south of the application site in the afternoon. The overshadowing of No. 12 Marlborough Street arises not from the height of the building. It is noted that the proposed northern setback is 6-9 m above the podium and complies with ADG objectives. By virtue of the side setback controls, a building which complied with the LEP height and Council's DCP setback would actually have a slightly greater shadow impact than the proposed development in the early morning. This is because the proposed development employs a greater side setback than what is required by the DCP which reduces the extent of shadow impact on the east façade of No. 12. It is noted the DCP building envelop shown for the site and which arrived at a possible Height of 6 storeys achieved this by side setbacks which are contrary to what might be contemplated in the ADG. Thus, at 9 a.m. the proposed shadow does not impact on the north eastern corner unit of No. 12 at ground level, while a DCP (and ADG) compliant envelope does. Although the DCP does not seek analysis prior to 9 a.m., it is noted that the proposal provides more solar access to No. 12 before 9 a.m. than a compliant development. Refer to the figure below showing the shadow impact at 9 a.m. at mid-winter comparing the proposal to a DCP/ADG complying development. It is noted that the additional shadow cast by the taller part of the building impacts on only a portion of the roof of the exiting RFB at No. 12.

...

It is noted that due to the narrow profile of the building, the shadow cast in the morning hours is narrow and quick moving. For instance, the additional shadow which does occur at 9 a.m. in mid-winter due to increased building height is narrow and falls on the street. The additional shadow at 10 a.m. falls on a surface parking lot but quickly moved away from the parking lot site. By noon, the shadow is largely absorbed into the existing buildings fronting Victoria Road and does not impact on amenity. At 2:00 p.m., the shadow arising from the proposed development falls almost entirely within the shadow cast by existing buildings.

Thus, the proposed additional building height in allowing for a greater setback at upper levels, improves solar access to neighbouring buildings in the morning. The additional shadow which arises from the additional height is absorbed by the existing built form fronting

Victoria Road later in the day and thus, the additional shadow arising from building height does not give rise to adverse impacts.

All in all, the proposed development meets the objective and thus strict compliance with the standard is unnecessary in the circumstances of the case."

Floor space ratio

Floor Space Ratio

"The site is permitted a Floor Space Ratio (FSR) of 2.0:1 according to the Floor Space Ratio Map (FSR_006) as qualified by Clause 4.4 which employs a sliding scale for FSR based on site area. The site area is 867 m2 therefore the maximum Gross Floor Area (GFA) allowable under Clause 4.4 is 1,734 m2. It is noted that if the site has an area of 1,500 m2, an FSR of 2.5:1 would apply and if the site had an area of at least 2,000 m2, an FSR of 2.75:1 would apply and the site is part of a site specific DCP which utilises perimeter block buildings to create a mixed use centre, a typology which does not require the assemblage of large sites to achieve built form outcomes.

The total GFA for the proposed development is 2,151 m2. The combined residential GFA is 2,035 m2 and the commercial is 111 m2.

The proposed development's FSR is 2.48:1.

The development FSR is 0.48:1 greater than the FSR standard of 2.0:1 which equates to a 23.8% variation to maximum gross floor area of 1,734 m2 permitted on site.

The exceedance in FSR is related to providing housing on a site with a high level of public transport accessibility even though the site is not large. The issues which may arise from a smaller site area are overcome by a skilful architectural design so that the additional FSR does not give rise to adverse impacts on the area. Sufficient setbacks are employed and the form of the building is such that it allows adjoining sites to be developed in accordance with the DCP. In this regard, the proposed development functions as a 'bookend' to a perimeter block form.

The top residential level (Level 6) (which generally represents most of the additional floor space sought), has deliberately been designed to have a high level of articulation, reduced building depth and a generous northern and western setback to reduce the appearance of additional height that results in minimal environmental impacts. This top floor also achieves greater than 100% cross ventilation (3 out of 3 units) and excellent solar access with 100% of units achieving greater than 3 hours solar access in mid-winter.

The proposed development would add value to the Drummoyne urban fabric creating a gateway to the village centre. The setbacks introduced provide recessive elements mitigating visual impacts when viewed from Victoria Road proximate to the subject site.

It is considered acceptable and logical that a building of this type in this area achieves a better residential amenity than a complying building without increased environmental impacts because:

• The site has a strategic location within the Drummoyne Village and contributes to Canada Bay Council's vision for Drummoyne Village;

• The site is highly accessible to the Sydney CBD, Western Sydney and Northern Points of Sydney given its prominent location on Victoria Road and proximity to Lyons Road and the A4/Anzac Bridge; and

• The proposal seeks to enhance pedestrian amenity by creating an inviting ground floor retail space facing the street, a variety of materials/finishes and articulation is to be used to improve the visual amenity of the locality, and improves casual surveillance."

First Objective

"(a) to ensure that buildings are compatible with the bulk and scale of the desired future character of the locality,"

"The proposal is surrounded by a variety of eclectic buildings of varying heights and characters. The proposal does not detract from the character of those buildings rather paying close attention to continuing the shopfront ground floor but with the upper levels of the development setback. The development is a contribution to the Drummoyne Village Centre which has yet to be fulfilled despite a ten-year old site-specific development control plan intending to form a Drummoyne Village of greater services and amenities with increased density and height of buildings. It is notable that only the site (No. 52) on the corner of Marlborough Street and Lyons Road has been redeveloped and this development is seven storeys, exceeding the LEP standards. Below is a figure showing the height plane for the greater vicinity beyond the subject site showing the proximity of buildings with similar heights/size.

It is also noted that built form controls in the area also fail in some respects to acknowledge the reality of the variability of built form in the area. For instance, there are existing buildings in the area which have significant bulk within the streetscape. This includes buildings at Victoria Road and Lyons Road. No. 1 Lyons Road as well as No. 224 Victoria Road also exceed the applicable planning controls. No. 1 Lyons Road has a height very similar to the subject proposal and has only marginal setbacks.

It is also noted that FSRs of 2.5:1 – 3.5:1 are contemplated in the area with this being a permissible FSR if sites are amalgamated to reach a site area of 1,500m2 - 3,500 m2, respectively. However, the general character of built form for the Drummoyne Village Centre set out in the site-specific DCP is a compact perimeter block form. A perimeter block form is such that dwellings are oriented to the street and rear of sites within the interior of the block, and forms can open out at edges and corners only. It also means that the form can be achieved without amalgamation because the perimeter block form functions with party walls. If the envisaged built form character of the centre was a podium/tower typology then amalgamation would be more important. As such, the fact that the site is not part of a significant amalgamation to the 2,000 m2 threshold does not inhibit a high-quality design and amenity outcome, nor does it burden its neighbour's future development potential. As such the desired future character of the area can be attained with the proposed FSR of 2.48:1 even on a smaller site. The 2.48:1 FSR proposed provides more retail floor space and housing on a transport corridor where it is appropriate strategically and a bulk and scale compatible with the desired character of the area is achieved.

The LEP contemplates an FSR of 2.5:1 if sites were to be amalgamated. However, it is clear from the accompanying DCP that a perimeter block form is envisaged which is a building typology which facilitates redevelopment without amalgamation. In other words, the desired built form can be achieved without assembling large sites.

Council's DCP for the area, which is from 2007 contemplates heights in the order of six to seven storeys with the subject site functioning at the northern gateway to the village centre. At the same time the only development which has progressed in the area, No. 52 Lyons Road exceeded LEP controls and varied from the DCP. Where variations were contemplated built form was setback.

The streetscape controls in the DCP arise from the heritage in the centre which is concentrated on the corner of Lyons Road and Victoria Road and the desire to have commercial uses up to three storeys. Built form is permitted to be bulky and substantial at lower levels in the DCP with a continuous street wall and upper levels setback. The subject site is not adjacent to heritage buildings and it is at the northern edge of the precinct.

Built form to northern boundary

The subject site is indicated in the DCP to provide an edge condition to the McDonalds site of 7 storeys (car park shown above ground) with a four storey high party wall and a 4.5 m setback for the upper levels.

The proposed development achieves a better outcome in the context of a perimeter block form and reduced bulk and scale at lower levels to what is contemplated by the DCP. The improved outcome is achieved by reducing the height of the party wall to the McDonald's site, a site which has a maximum permissible height limit of 8.5 m. The proposed development provides a party wall height of approximately 8.5 m at this northern (side) boundary. The upper level setback as per the DCP is only 4.5 m. The proposed development provides a setback of 6 m up to four storeys and 9 m above four storeys. This provides more relief to the neighbouring lower scale site and reduces bulk and scale near the street level.

The site is also shown in the DCP with a three storey streetwall to Victoria Road although buildings in the middle of the block are permitted a continuous streetwall of 6 storeys.

The proposed development employs a one storey base to the building with a recessive Level 1 to set the base of the building off from the upper levels. Above six storeys the proposed development is setback to reduce bulk and scale. In this respect, the proposed development achieves an effective transition to the McDonald's site which is outside of the village centre. At the same time, it responds to the six storey streetwall contemplated at the middle of the village centre block, just a few sites down from the subject site. The increased side setback to the north also reduces visual bulk on Victoria Road by reducing the width of the building to approximately 11 m from Level 2. This, together with a high degree of façade articulation, results in a bulk and scale which is no greater than the wider, lower building contemplated in the DCP. The proposed development while different in its built form to the DCP achieves compatibility by addressing its edge condition with a site-specific response which allows for redevelopment of adjoining sites seamlessly.

It is reiterated that the subject site is at the edge of the centre, away from the heritage buildings in the precinct. It is also noted that the office market in the area is very poor. In

almost a decade only one development has been realised in the centre that is No. 52 Lyons Road which is seven storeys in height. No. 52 is also in a gateway position but the gateway is of a lower order than the subject site given the subject site is on Victoria Road while No. 52 is on Lyons Road. It is noted that No. 52 is also the only redevelopment in line with the village centre DCP and it breached the applicable controls. The proposed development takes a similar approach, considering the specifics of the site and creating a built form which responds to its immediate context.

To respond to the objectives of the DCP, the proposed development creates a bookend to the centre with the additional storey appropriate to the gateway location. To achieve the additional scale signalling arrival into the centre while reducing impacts on the immediate streetscape, the seventh storey and rooftop are setback from the levels below. An architectural roof feature masks the lift overrun and contributes to a high-quality skyline. Along with the architectural roof feature, patterned panels are proposed to the southern façade and the grid established on the northern façade is echoed to provide visual interest and break down the expanse of the wall when the building is viewed from the south until the adjoining site to the south redevelops at which time it will no longer be visible. In summary, the proposed development distributes building bulk across the site to minimise any adverse bulk and scale impact and achieves compatibility with the desired future character of the area. If and when other sites in the centre redevelop, the proposed development will fit seamlessly into the urban fabric of the centre.

The DCP does not address the relationship between the centre and the surrounding lower scale areas in detail. The subject site's relationship to its surrounding built form is unique. It is at the northern gateway to the centre and adjoins sites which are envisioned at six to seven storeys, but the site is also adjacent to the existing McDonalds and low and medium scale residential areas to the north west. The proposal transitions to the lower scale areas to the north west by pushing built form to the south, employing a side setback from Level 2 as described above and creating a very high level of articulation to the north western façade using a modular grid pattern. The proposed development also creates a podium wall up to the second storey (8-8.5) at the northern boundary to fit within the commercial typology anticipated by the LEP on the McDonald's site. To address the current condition while anticipating a future redevelopment of the McDonald's site, the podium wall is provided with an open screen element to the driveway and a central recess with planted atrium. This approach provides relief to the exposed wall in the short term but allows for a party wall configuration in the future of a bulk and scale compatible with the 8.5 m height limit on the McDonald's site.

Pushing built form to the southern boundary also anticipates the building envelopes of the DCP and allows the sites adjoining the subject site to the south to redevelop as per the DCP with continuous perimeter block forms. A study of potential future built within the block incorporating the proposed development has been prepared. It indicates that the perimeter block form can be realised given the proposed party wall configuration to the site's southern boundary. In other words, the reduced site area does not inhibit adjoining sites from future redevelopment to achieve the desired perimeter block form set out in the DCP.

The proposed development also responds to the bulk and scale of the neighbouring residential flat buildings to the west. It is noted that the RFBs at No. 12 and No. 14 Marlborough Street are unlikely to redevelop due to its strata titling and because the LEP does not provide an

uplift for redevelopment. Compatibility with the character of these residential sites is achieved by employing a rear setback from ground level to provide space between buildings and by minimising the width of the proposed development which faces the rear boundary. The proposed development employs just over a 6 m setback at Level 1, Unit 1.03 balcony. Due to the irregular shape of the site Level 1, Unit 1.02 balcony is setback an even greater distance. Achieving an ADG compliant rear setback delivers a minimum separation distance to the existing residential flat building at 12 Marlborough Street of just over 19 m. This separation distance along with a high level of façade articulation and restricted width of the western facade to approximately 11 m minimises the impact of bulk and scale on these sites. The 19 m minimum separation achieved is greater than the distance suggested in the Apartment Design Guide, which seeks a separation of 12 m plus 3 m where there is a transition to a lower density zone. The 19 m separation is 4 m greater than the ADG guidance for building separation. Furthermore, privacy screens for Unit 1.02 and Unit 1.03 rear facing balconies comprised of 1 metre solid balustrade and 800mm translucent glass are employed to mitigate any perceived loss of privacy to 12 Marlborough Street. At Level 2-3, a setback of 6 m to 7.6 m is proposed. Setbacks to the rear increase at Level 4 (the fifth storey) by another 3 m and further reduce the visual impact of bulk and scale.

It is noted that the minimum separation distance achieved to No. 14 Marlborough Street is 21 m and views of the proposed building are oblique. Increased setbacks to the northern boundary in the proposed development also remove built form from No. 14. As such there is little visual impact of bulk and scale arising for No. 14 and an appropriate transition is achieved even with the additional FSR proposed.

Finally, the proposed development fits within the streetscape established across Victoria Road as well. The existing character at the eastern side of Victoria Road is eclectic and ranges from single storey buildings with nil setbacks to five storey street walls with very little relief. In this respect there are several cases where the DCP controls do not reflect the reality of built form in the area.

The proposed development fits within this eclectic setting by creating a human scale base to the building, a tower element set off from the base of the building with a high level of articulation and the upper storeys setback from the street. The proposed built form uses height to reduce bulk and scale by reducing the width of built form facing the street.

Overall, the proposed development fits within the desired character of the area by:

• Providing a podium base to the northern boundary of 2 storeys;

• Providing a 1-2 storey base at the Victoria Road frontage;

• Providing a 9 m setback to the rear;

• Providing a 9 m upper level setback to the north;

• Providing a nil setback to the southern boundary to allow an adjoining built form to establish a party wall and continue built form in accordance with the DCP; and

• Providing an increased front setback for Level 6 to reduce bulk and scale at upper level.

• Achieving a high level of built form articulation.

The main departure from the DCP is that the design consciously seeks to create a 'bookend' to the centre when the site is viewed from the north west on approach to the village. While this is not a design element expressed in the 2007 DCP it does fit well within the underlying objectives of the DCP which seeks to create a distinct mixed-use centre. The bookend design also factors in the potential future development of 219-225 Victoria Road as shown in figure 11.

The proposed development, while seeking to vary the floor space ratio development standard still ensures that the environmental amenity to neighbouring properties is preserved. The proposal does not obstruct or impact on existing views of key iconic views in the Canada Bay locality but provides an opportunity to introduce a landmark building in Drummoyne.

As such, the proposal meets this objective on environmental planning grounds.

Second Objective

"(b) to provide a suitable balance between landscaping and built form,"

"There is no existing soft landscaping on the site or deep soil zones as the site is entirely developed and within a business zone. The site is situated in a location adjoining built development with a McDonalds to the North and shop top housing to the south of the site. It is also clear from the DCP that a zero setback is assumed at ground floor for the site.

The proposal does contribute to landscape within its business zoning context by providing green landscape elements at the podium level at both Victoria Road and along the northern boundary via planter boxes located on Level 1 and a vertical garden on the northern boundary. The proposed development also improves the current conditions of the site by providing landscaped communal open space on the roof top.

The proposed development provides a balance between landscaping and built form for the site compatible with the business zoning, therefore meeting the objective. The proposed additional FSR does not impact on the landscape character of the area or the provision of landscape on the site."

Third Objective

"(c) to minimise the effects of bulk and scale of buildings."

"Several design measures have been incorporated in the proposed scheme to mitigate the effects of bulk and scale. The building is set alongside the southern boundary forming a tall slim building which would be prominent but not overwhelming or bulky.

By concentrating the built form of the building in a part of the site this frees up the remainder of the site and mitigates bulk and scale through separation to more sensitive land uses to the north, north west and west.

It is noted that the RFBs at No. 12 and No. 14 Marlborough Street are unlikely to redevelop due to its strata titling and because the LEP does not provide an uplift for redevelopment. Compatibility with the character of these residential sites is achieved by employing a rear setback from ground level to provide space between buildings and by minimising the width of the proposed development which faces the rear boundary. The proposed development

employs just an increasing setback beyond 6 metres at Level 1 balconies. This allows for a minimum separation distance to the existing residential flat building at 12 Marlborough Street of just over 19 m. This separation distance along with a high level of façade articulation and restricted width of the western facade to approximately 11 m minimises the impact of bulk and scale on these sites. The 19 m minimum separation achieved is greater than the distance suggested in the Apartment Design Guide, which seeks a separation of 12 m plus 3 m where there is a transition to a lower density zone. The 19 m separation is 4 m greater than the ADG guidance for building separation. At Level 2-3, a setback of 6 m to 8.6 m is proposed. Setbacks to the rear increase at Level 4 (the fifth storey) by another 3 m to 9 m and this further reduce the visual impact of bulk and scale. The western façade is highly articulated and modular with high quality materials. It is also noted that due to the proposed increased side setback to the northern boundary, No. 12 maintains solar access in mid-winter and apartments maintain a view corridor towards the north and northwest, which they would not benefit from if the site massing was in accordance with the DCP. Thus, although additional height is proposed to reach an FSR of 2.48:1, building bulk is distributed across the site to minimise the impact of bulk and scale when the site is viewed from the west.

It is noted that the minimum separation distance achieved to No. 14 Marlborough Street is 21 m and views of the proposed building are oblique. Increased setbacks to the northern boundary in the proposed development also remove built form from No. 14. The high level of articulation of the proposed northern façade also reduces bulk and scale when the building is viewed from No. 14. As such there is little visual impact of bulk and scale arising for No. 14.

The proposed development fits within the streetscape established across Victoria Road as well. The existing character at the eastern side of Victoria Road is eclectic and ranges from single storey buildings with nil setbacks to five storey street walls with very little relief. In this respect, there are several cases where the DCP controls do not reflect the reality of built form in the area. Below is the potential future streetscape of the Western side of Victoria Street. The development is shown to assimilate well with the future development of 219-225 Victoria Street whilst respecting the transition in zoning, height and FSR to the north.

The proposed development fits with the existing eclectic setting by creating a human scale base to the building, a tower element set off from the base of the building with a high level of articulation and the upper storeys setback from the street. The proposed built form uses height to reduce bulk and scale by reducing the width of built form near the street to approximately 11 m above the building base.

Pushing built form to the southern boundary also anticipates the building envelopes of the DCP and allows the sites adjoining the subject site to the south to redevelop as per the DCP with continuous perimeter block forms (refer to Figure 12). The Victoria Road elevation is highly articulated with a modular form. Level 6 is setback 4.3 m from the levels below minimising the immediate visual impact on Victoria Road.

Thus, although the proposed development fails to comply with the FSR control for the site, the proposed development mitigates the impact of bulk and scale though an artful design, allowing the infill site to achieve a density commensurate with its strategic location."

Assessment Comment

The CBLEP 2013 provides for a maximum height of 20m. The application proposes the following:

- The lift overrun at a maximum height of RL57.22, 5.08m above the LEP height limit (masked by Architectural Roof Feature)
- The roof top balustrade at a height of RL54.52, 3.36m (maximum) above the height limit;
- Top of roof top parapet at a height of RL53.62, 2.55m (maximum) above the height limit; and
- The top of roof on north east corner of Level 6 at a height of RL 53.42, 2.35m (maximum) above height limit.

The total height exceedance is 5.08 metres which pertains only to the plant, lift overrun and architectural roof feature, which has been proposed to screen the plant and lift overrun. Clause 5.6 of LEP 2013 permits architectural roof features to exceed the maximum permitted building height standard where:

(a) the architectural roof feature:
  (i) comprises a decorative element on the uppermost portion of a building, and
  (ii) is not an advertising structure, and
  (iii) does not include floor space area and is not reasonably capable of modification to include floor space area, and
  (iv) will cause minimal overshadowing, and
(b) any building identification signage or equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like) contained in or supported by the roof feature is fully integrated into the design of the roof feature.

The proposal incorporates a sculptural element on the uppermost level of the building which:

- is a decorative element;
- is not an advertising structure;
- does not include floorspace;
- is not reasonably capable of modification to include floorspace;
- will cause minimal overshadowing; and
- is integrated into the overall design of the proposed development and assists in screening the proposed lift, stairs and plant.

It is considered that the proposal meets the requirements of Clause 5.6 of LEP 2013 and provides a positive design outcome. If the architectural roof form is accepted, the component of the development associated with the residential use exceeds the development standard by a maximum of 2.35 metres or 11% (to the roof level) and 3.36 metres or 16% (to the top of the balustrade on the communal roof top garden).

Building height is measured to the top of the lift overrun/architectural roof element and as such the technical non-compliance is 5.08 metres. Notwithstanding the technical exceedance, the proposal involves an exceedance of between 2.35m and 3.36m to the roof and balustrade.

Figure 1: Height Plane Diagram (DA-0-911 Rev B)

Extract from the Applicant's Clause 4.6 variation showing the elements which exceed the maximum 20m height standard

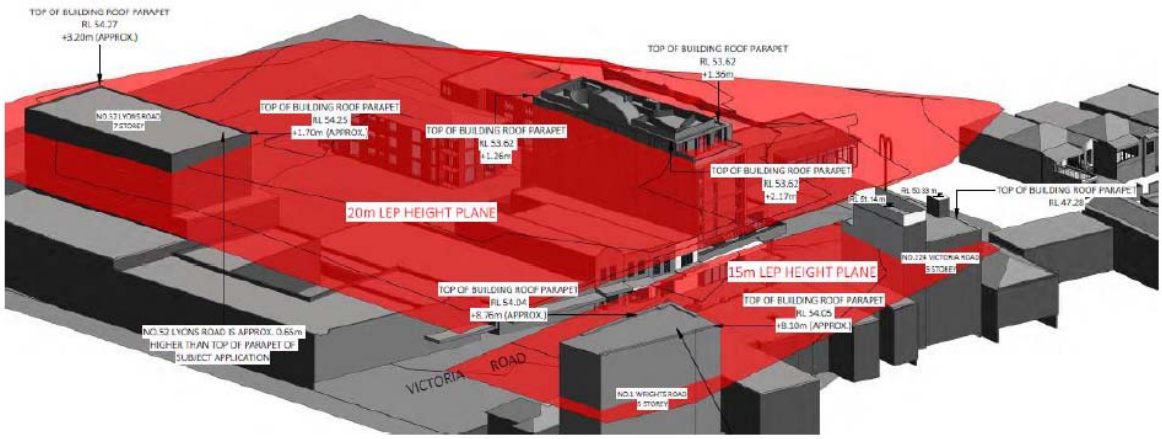


Figure 2: 3D view of height non-compliance (DA-0-912 Rev A)

Extract from the Applicant's Clause 4.6 variation showing the height of other buildings in the locality

The proposal has an FSR of 2.48:1 which exceeds the maximum 2:1 permitted under Clause 4.4 of LEP 2013.

In Wehbe v Pittwater Council [2007] NSW LEC 827 (Wehbe), the Land and Environment Court set out the following 5 different ways in which an objection to a development standard may be well founded:

1. the objectives of the standard are achieved notwithstanding non-compliance with the standard;

2. the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;

3. the underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;

4. the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;

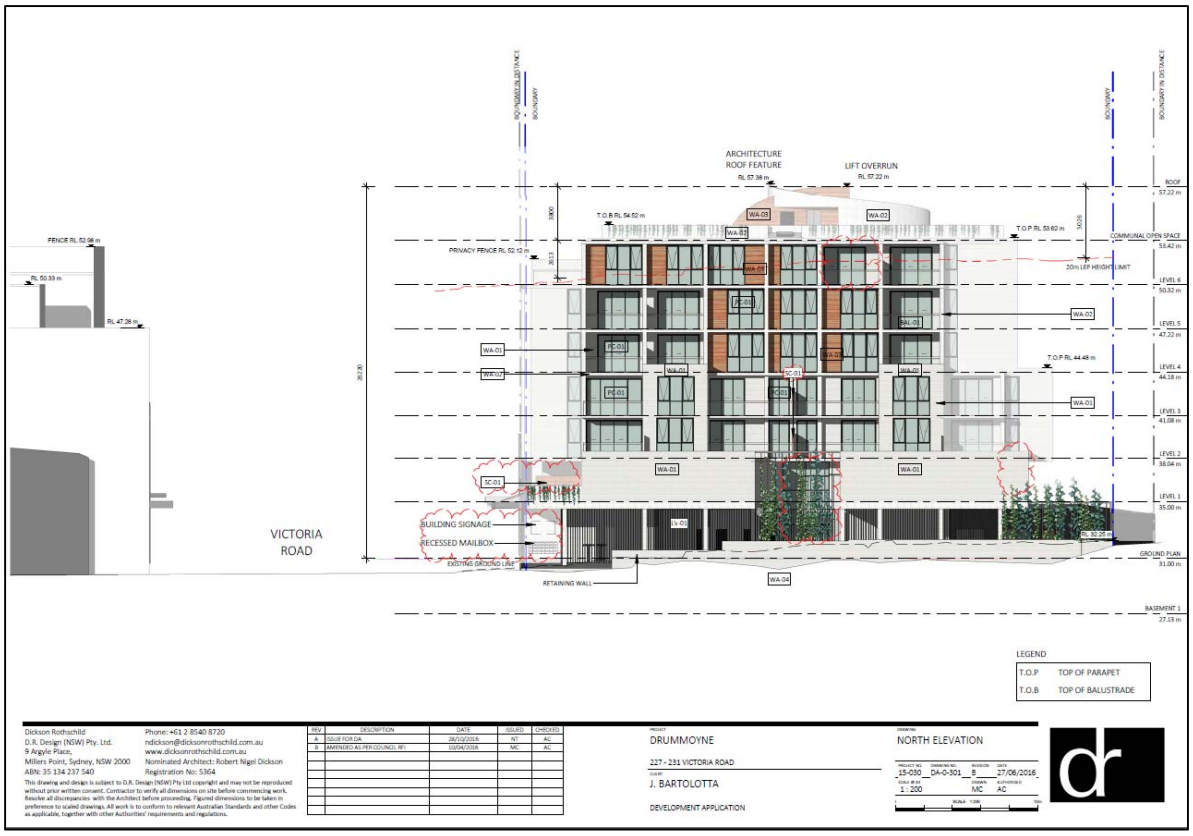
5. the zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

In Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009 & NSW LEC 90 (Four2Five), the Court established that the construction of Clause 4.6 is such that it is not sufficient for the applicant to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standards, as required by Clause 4.6(3)(b), or for the consent authority to be satisfied that the proposed development is consistent with the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, as required by Clause 4.6(4)(a)(ii).

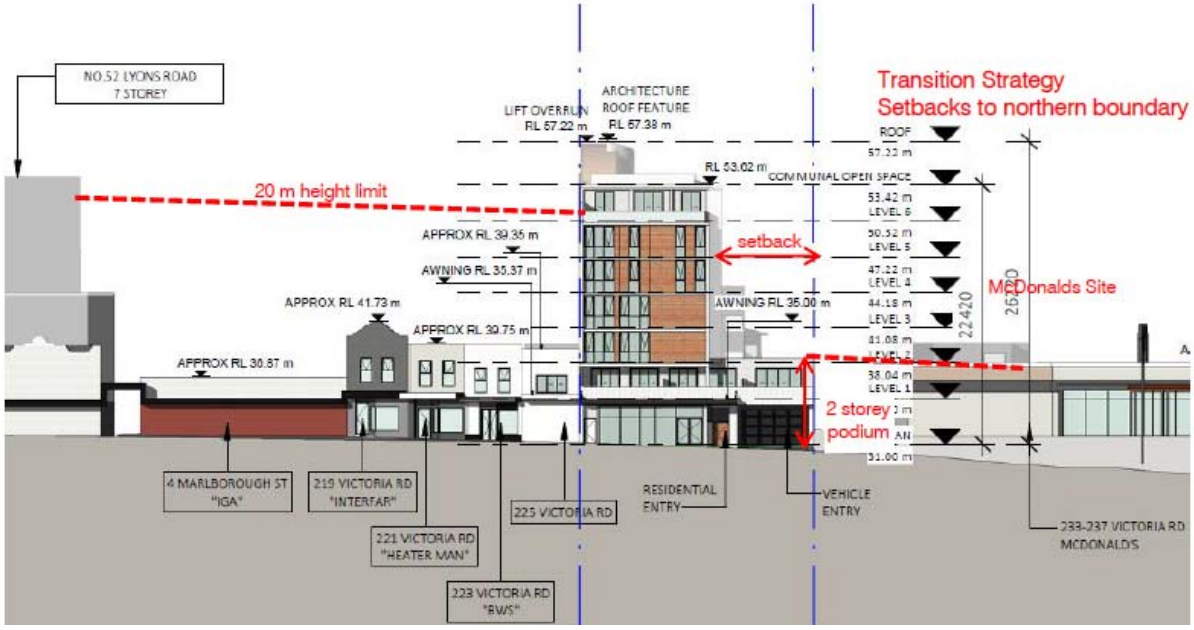
The Court outlined that Clause 4.6 requires that in addition to the requirements listed above, the applicant must also establish that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, as is required by Clause 4.6(3)(a). This may involve reference to reasons 2-5 outlined within Wehbe.

Photomontage showing the proposal in the context, looking east along Victoria Road

Photomontage showing the proposal in the context, looking west along Victoria Road



Proposed north elevation showing the site's topography and location of non-compliant elements



Streetscape elevation showing the relationship of the proposal with adjoining sites, including setting back of the upper non-compliant elements from Victoria Road and the adjoining lower density sites to the west and south to minimise their visual and amenity impact

The applicant's justification is generally agreed with in context of clause 4.6 for the following reasons:

- The redevelopment of the site is consistent with the objectives of the zone in that the proposal provides a mixture of compatible land uses that are located nearby to good public transport in the vicinity of cycling routes. The proposal will therefore inherently maximise public transport patronage and encourage walking and cycling;
- The proposal complies with the objectives of the B4 Mixed Use zone;
- The proposal is consistent with the objectives of Clause 4.3 – Building height in that the development:
    - is compatible with the seven (7) storey scale and form depicted in Drummoyne Village DCP for the site;
    - incorporates a flat roof form which is consistent with the desired future character for the locality;
    - creates no unreasonable adverse visual impact (refer to montages below);
    - has no significant impact on views
    - does not result in the loss of privacy to existing development;
    - has no unreasonable overshadowing impacts;
- the proposal is consistent with the objectives of Clause 4.4 – FSR in that the development:
    - has an apparent bulk and scale which is compatible with the bulk and scale of the desired future character of the locality (see streetscape elevation below),
    - the proposal provides significant areas of rooftop planting to soften the visual impact of the proposed development and improve amenity for future occupants;
    - the proposal has been designed to minimise the effects of bulk and scale of the building;

- The proposed development employs a one storey base to the building with a recessive Level 1 to set the base of the building off from the upper levels. The upper parts of the proposed development is setback to reduce bulk and scale (see elevations and montages above);
- The proposed development achieves an effective transition to the adjoining properties to the south and west which are outside of the village centre (see montage above);
- The proposed development responds to the six storey streetwall contemplated at the middle of the village centre block, to the east of the site;
- The increased side setback to the north west reduces visual bulk on Victoria Road by reducing the width of the building to approximately 11 m from Level 2. This, together with a high degree of façade articulation, results in a modulated and visually attractive form;
- The proposed development provides an appropriate built form, intensity and public domain response on the subject site and contributes to the streetscape character of emerging development along Victoria Road;
- The proposal has been amended to address the issues raised by the Council and results in a development with a high level of amenity, maximising solar access, cross ventilation, outlook, and natural ventilation to ensure a good level of amenity for future occupants;
- The proposal provides a development that facilitates the orderly economic development of the site in an appropriate manner that will also not prevent redevelopment of adjoining properties in accordance with LEP 2013 and associated policies;
- The Applicant has provided shadow diagrams showing that the sites to the south can be redeveloped and achieve compliant levels of solar access and cross ventilation;
- The proposal is consistent with the objectives of Part 4 Designing the Building, of the Apartment Design Guide, providing appropriate internal and external amenity, satisfactory environmental performance and positive streetscape contribution;
- The proposal generally complies with the ADG and CBDCP and with the relevant objectives of LEP 2013;
- The variation will result in a built form which will contribute positively to the future character of the locality;
- The urban design response of the proposed development achieves a high quality form which allows for increased housing opportunities without adversely impacting on the amenity of adjoining properties;
- There would be no discernible improvements to the proposal's overshadowing impacts derived from requiring compliance with Clauses 4.3 or 4.4 of LEP 2013, when compared to the proposed development;
- The non-compliant elements are well setback from the boundaries of the site so as to minimise their visual impact;
- The proposed incorporation of a roof terrace, which exceeds the maximum height control, results in significant amenity benefits for the future occupants of the proposed development, in a form which has no unreasonable adverse impacts in relation to the streetscape or nearby properties;
- The proposed uppermost habitable level would be closer to achieving compliance with the maximum height control, if the site were flat rather than sloping; and
- The rear of the proposed development is closest to achieving compliance, ensuring an acceptable relationship with the residential development to the rear of the site.

It is considered that in this instance, there are sufficient environmental planning grounds and public benefit in which to justify the contravention of the building height standard for the site. In addition, the public benefit of orderly development of this site outweighs strict adherence to the numeric standards presented by the height & FSR controls of the Canada Bay LEP, 2013and the Clause 4.6 variation is well founded. Compliance with the building height and FSR development standards aforementioned are deemed unreasonable and unnecessary in this instance for the reasons noted above.

Clause 5.6 – Architectural Roof Feature

Clause 5.6 of CBLEP 2013 relevantly states:-

> *"(2) Development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by clause 4.3 may be carried out, but only with development consent.*
>
> *(3) Development consent must not be granted to any such development unless the consent authority is satisfied that:*
>
> *(a) the architectural roof feature:*
>
> *(i) comprises a decorative element on the uppermost portion of a building, and*
>
> *(ii) is not an advertising structure, and*
>
> *(iii) does not include floor space area and is not reasonably capable of modification to include floor space area, and*
>
> *(iv) will cause minimal overshadowing, and*
>
> *(b) any building identification signage or equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like) contained in or supported by the roof feature is fully integrated into the design of the roof feature."*

See discussion above.

Clause 5.9 - Preservation of trees and vegetation

The existing site has limited vegetation, which is located at the rear (southern corner) of the site. Council's landscape architect has raised no objections to the proposal.

Clause 5.10 – Heritage Conservation

The site is located opposite the Victoria Road Retail Heritage Conservation Area and is in close proximity to the "Sutton Place shops" at 38–50 Lyons Road. No objections have been raised by Council's heritage advisor.

Clause 6.1 - Acid sulfate soils

The site is affected by Class 5 acid sulfate soils pursuant to CBLEP 2013 and is located within 500m of Class 2 land.

An "initial geotechnical assessment" has been prepared by Coffey and accompanies the DA. The report states:

> *"Based on the local geology / topography and the proposed basement excavation level (approximately RL 25 m AHD), we do not anticipate that acid sulfate soils will present at the site. We do not consider an acid sulfate soils management plan to be required for the site."*

The DA was referred to Council's Environmental Health Officer and the matters raised are outlined in Section 6 of this assessment report.

Clause 6.2 – Earthworks

Clause 6.2(3) of CBLEP 2013 states:

> *"(3) Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters:*
>
> *(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,*
>
> *(b) the effect of the development on the likely future use or redevelopment of the land,*
>
> *(c) the quality of the fill or the soil to be excavated, or both,*
>
> *(d) the effect of the development on the existing and likely amenity of adjoining properties,*
>
> *(e) the source of any fill material and the destination of any excavated material,*
>
> *(f) the likelihood of disturbing relics,*
>
> *(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,*
>
> *(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development."*

The above matters have been considered by Council or in the technical reports submitted with the DA. Appropriate conditions have been included in the development consent to ensure the above matters are taken into account during the construction of the proposed development.

6.5 Active street frontages

Clause 6.5 applies to the site, which is identified as "Active street frontage" on the Active Street Frontages Map under CBLEP 2013.

Clause 6.5 of CBLEP 2013 relevantly states:

> *"(3) Development consent must not be granted to the erection of a building, or a change of use of a building, on land to which this clause applies unless the consent authority is satisfied that the building will have an active street frontage after its erection or change of use.*
>
> *(4) Despite subclause (3), an active street frontage is not required for any part of a building that is used for any of the following:*
>
> *(a) entrances and lobbies (including as part of mixed use development),*
>
> *(b) access for fire services,*
>
> *(c) vehicular access.*
>
> *(5) In this clause, a building has an active street frontage if all premises on the ground floor of the building facing the street are used for the purposes of amusement centres, child care centres, commercial premises, community facilities, educational establishments, entertainment facilities, function centres, industrial retail outlets, information and education*

facilities, light industries, medical centres, mortuaries, public administration buildings, recreation facilities (indoor), registered clubs or veterinary hospitals."

The frontage of the proposed development includes fire egress, a commercial premises, pedestrian access to the residential lobby and vehicular access. As such the proposal complies with Clause 6.5 of CBLEP 2013.

5.2. Draft Environmental Planning Instruments [Section 79C (1) (a) (i & ii)]

There are currently no relevant Draft Environmental Planning Instruments applicable to the proposed development.

5.3 Development Control Plans, Council Policies or Codes [Section 79C(1)(a)(iii)]

The proposed development is affected by the provisions of The City of Canada Bay Development Control Plan (DCP) as well as Drummoyne Village Development Control Plan. Following is a summary table indicating the performance of the proposal against relevant statutory standards.

Non Statutory Standards (DCP, Codes, Policies)

Drummoyne Village DCP (DVDCP)

Drummoyne Village DCP (DVDCP) adopts the following provisions of the City of Canada Bay Development Control Plan:

"a. Part 2 Notification and Advertising

b. Part 3 General Information

c. Part 4 Heritage

d. Part 6.1 Design Quality Principles & 6.5.3 Waste Management

e. Part 7.7 Parking and 7.8 Waste Management

f. Part 9 Signs and Advertising Structures

g. Part 10 Child Care Centres"

The relevant sections are addressed below.

As outlined in the DVDCP:-

"There are topographical constraints on development, as the site is located on a ridge line and the proposed built form will be visually prominent. Refer to Figure 10 and images on following page.

View towards the site from the vicinity of the Iron Cove Bridge

Urban Structure

DVDCP states that the urban structure the DCP seeks to develop is

> *"a compact, functional, and permeable village, which is easily accessed from surrounding streets by vehicle and by foot.*
>
> *This will be achieved by the creation of:*
>
> *i/ improved vehicular access as outlined in section 3.2.1, and increased on-site parking capacity.*
>
> *ii/ improved pedestrian access to the site as outlined in section 3.2.1.*
>
> *• The intention is to create a village setting which will retain and build on the special qualities of the place, while also allowing development of facilities that will enable the village to become a hub for the Drummoyne Shopping area. These aims will be achieved by increasing retail floor area while maintaining the visual dominance of existing heritage items in the area.*

The proposed development provides sufficient onsite parking to meet the likely future demands of the proposal. The development will introduce a new residential population and commercial tenancy to the area, contributing to the vitality of the Drummoyne Shopping area.

As can be seen from the montages above, the proposal will not have any adverse impacts on the visibility of the Sutton Place building.

Built Form

DVDCP, with regard to built form, states:-

> *"An appropriate built form for the role of the Drummoyne Village which also respects the surrounding heritage items and conservation areas will be achieved by the following measures:*
>
> *• The proposed built form will be oriented to the street and enclose an open space within the interior of the block;*
>
> *• Buildings will exhibit a strong relationship to the street, addressing it in terms of height and setback in order to maximise solar access to public accessed space and to facilitate the development of outdoor spaces, the buildings generally have a zero lot line to the street boundary;*
>
> *• The development will maintain the parapet height of the Sutton Buildings as the height of the podium for buildings along Lyons Road and Victoria Road;*
>
> *• The height of the podium is at 10.2m being two storeys in the Sutton Buildings and three storeys in all other buildings;*
>
> *• Buildings fronting Marlborough Street will have a podium of 4 storeys setback 4.5 metres above a plinth at ground level which will form a street edge;*
>
> *• Six storey heights will be provided at least 13.5m away from Lyons Road and other street boundaries to retain the scale and character of the street and the heritage buildings;*
>
> *• Levels above the podium will be provided in accordance with Figures 13 to 24; and*
>
> *• All building facades are to be well articulated and modulated, particularly building facades on the property boundary fronting the adjoining McDonalds site.*
>
> *The DCP specifies a maximum building height of 6 storeys, designed as a significant corner element. This building height, bulk and massing however, is only deemed appropriate for the site set back from the frontage due to heritage and view issues, in particular a height of six stories on the corner would compete with the church spire for visual prominence.*
>
> *The DCP permits six storeys in parts of the site where it is considered that there will not be an adverse effect on the:*
>
> *1. Amenity of the adjoining properties.*
>
> *2. Setting for the heritage building adjacent to the study area.*

• The topography slopes away from Lyons Road, therefore, a six storey height would compete less with the ridge top Church spire, if the six storey element was built on a lower level away from the Lyons Road corner.

The Heritage generated envelope illustrates the building setbacks to the Drummoyne Village Site determined by Heritage related considerations, these are:

1. The Parapet line height for built form on the street property alignment, adjoining the heritage item, being the Sutton Buildings. It is determined that the Heritage Item has an average parapet level of 10.2m above the ground floor level of the shops on the ground level.

2. The initial set back to a fourth level with 3m floor to floor ceiling heights is to be no less than 4.5. This distance is determined by the sight lines from the opposite side of Lyons Road.

3. Along Marlborough Street a parapet height of 13.0m is determined using the height of the adjoining residential development to the NW of the site.

4. The initial set back to a fifth and sixth level with 3m floor to floor ceiling heights from Marlborough Street frontage is to be no less than 9.0m. This distance is determined by the sight lines from the opposite side of Marlborough Street.

5. A set back on the Lyons Road frontage of at least 13.5m is required for a fifth and sixth level. This set back is to assure that the heritage items on the eastern side of Lyons Road are not dominated by proposed development.

6. A height limit of 22m is required on the whole site to retain the scale of the Drummoyne skyline."

Comment:

The proposed development:

- is oriented to the street and has the open space on the rooftop (which generally meets the DCP requirements);
- exhibits a strong relationship to the street;
- has been designed to complement 219-225 Victoria Road which is lower than the parapet height of the Sutton buildings;
- has a podium of two storeys which, given the height limit of 8.5 metres on the adjoining sites to the north and west, is more appropriate than three storeys;
- does not front Marlborough Street;
- proposes seven storeys, which does not comply with the written requirement of six storeys, however Figures 21 and 22 of the DVDCP show a seven (7) storey scale for development at the site, with which the proposal complies;
- does not rely upon Figures 13 to 24 for setbacks but rather the ADG requirements are used as a basis for the design;
- includes a northern elevation which is appropriately articulated;
- has an acceptable overshadowing impact;
- will not prevent the redevelopment of the properties to the south in a manner which meets the amenity provisions of the ADG.

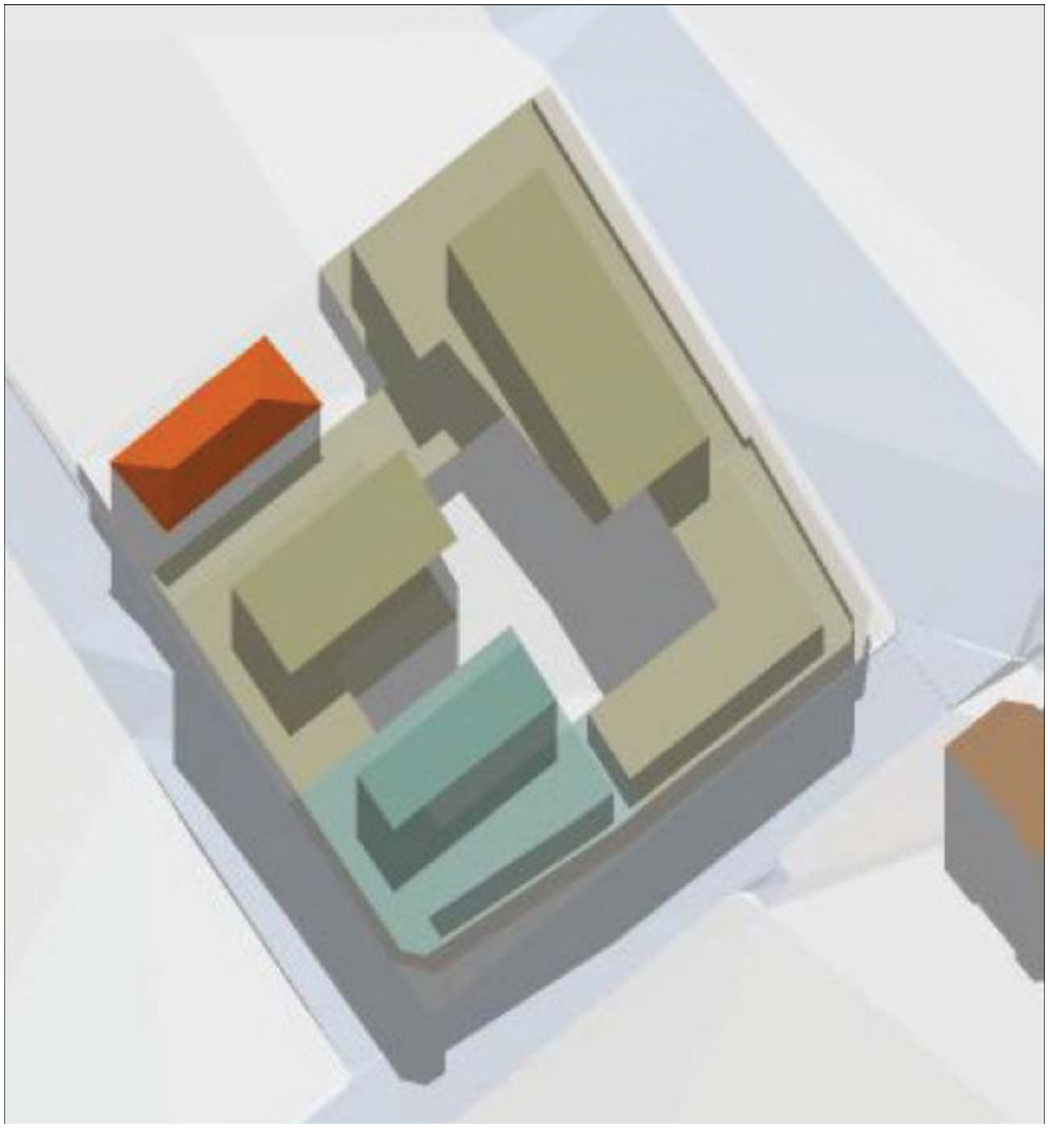
Open Space

DVDCP, with regard to open space, states:-

> *"The majority of open space on the site will be publicly accessible privately owned open space. Private open space will be limited. Typically, private open space will consist of balcony space on the upper floors. This is because of the need for residential development on the site to be relatively dense, but it will be compensated for by close proximity to large areas of open space. In addition:*
>
> *• Sutton Buildings will maintain its existing courtyard. The courtyard will be increased in size by juxtaposing a similar shaped courtyard;*
>
> *• The existing fig tree and palms will be retained;*
>
> *• The courtyards will have pedestrian connections to Victoria Street, Lyons Road and Marlborough Street;*
>
> *• The walkway linking Marlborough Street to the courtyards will invite people into the proposed courtyards. The width of this walkway is 6 metres;*
>
> *• A gap will be formed in the development to the north of the space to allow the penetration of winter sun; and*
>
> *• Above ground communal open space will be provided for residential uses."*

Comment:

The open space which was envisaged for the area was a courtyard in the middle of perimeter block form buildings built to Victoria Road and Lyons Road, as outlined in the figure below:



Given the way the proposal has been designed it is unlikely that the built form envisaged in the DCP, will be realised as each site will likely be developed separately and each will need to demonstrate compliance with the ADG. Documentation has been submitted to Council to demonstrate that the properties to the south can be developed in a manner which meets the amenity provisions of the ADG, despite the proposed development at the site. The private open space within the proposed development will not be publically accessible as it is located at roof level.

Parking

DVDCP, with regard to parking, states:-

> *"Redevelopment of any Council owned car parking would require the provision of public parking on site of at least the same number of spaces to serve the existing provision of 62 parking spaces. The DCP scheme illustrated in this document allows for approximately 600 underground car spaces for Drummoyne Village."*

The car park on the site is a private car park only and is not open to the public. Council's traffic engineer has not raised any concerns with the loss of parking at the site as a result of the proposed development.

Outdoor Eating

DVDCP, with regard to outdoor eating, states:-

> *"• Outdoor eating will be encouraged in areas fronting the courtyards and along the Marlborough Street walkway, generating activity in these courtyards.*
>
> *• Restaurants and a possible outdoor eating terrace are encouraged at the northern end of the site to take advantage of the views to the west and the north western aspect."*

Comment:

A commercial tenancy is proposed at ground floor level, which may be suitable for a restaurant (subject to a future DA).

City of Canada Bay Development Control Plan (DCP)

Canada Bay DCP was adopted by Council on 21 February 2017 and came into effect on 7 March 2017. There are no savings provisions within the DCP and as such the DCP applies to this DA, despite the fact the DA was lodged before the DCP came into effect.

Part B – Notification and Advertising

Integrated DAs are notified in the same manner as local development, which requires the DA to be notified for a period of 21 days. Council notified the DA from 22 December 2016 to 19 January 2017. A total of six (6) submissions were received. The matters raised in the submissions are addressed in Section 4 of this report.

Part C – General Controls

Equity of Access

The DCP states:-

> *"Adaptable housing units should be constructed to meet the performance requirements and are to include the essential features as required by AS4299 at the rates specified in Table C-A for developments that include a lift."*

Table C-A in the DCP requires 3 adaptable units to be provided for developments which incorporate between 21 and 29 dwellings. The proposal includes 3 adaptable units and complies with the DCP.

An accessibility report, prepared by Building Control Group, accompanies the DA. The report addresses Part 3 of the former DCP (the DCP that applied with the DA was lodged) and contains a section titled "Matters for further consideration". A condition of development consent is included, requiring these matters for further consideration to be addressed at the CC stage.

Vehicle parking rates

Car parking is to be provided in accordance with the specified table in the DCP, which includes minimum / maximum rates, as follows:-

Maximum parking rates in B4 Mixed Use Zones	
Number of bedrooms	Number of car parking spaces
1 bedroom apartments	0.6 spaces
2 bedroom apartments	0.9 spaces
3 bedroom apartments	1.4 spaces
Visitors	1 space per 5 apartments

Minimum parking rates within 800 metres of a railway station and 400 metres of B3 Commercial Core and B4 Mixed Use zones	
Number of bedrooms	Number of car parking spaces
1 bedroom apartments	0.6 spaces
2 bedroom apartments	0.9 spaces
3 bedroom apartments	1.4 spaces
Visitors	1 space per 5 apartments

The proposed development, which includes 7 x 1 bedroom apartments and 16 x 2 bedroom apartments, requires a minimum/maximum of 4.2 car parking spaces for 1 bedroom apartments and 14.4 car parking spaces for 2 bedroom apartments. The DCP specifies that parking rates are to be "rounded up if the fraction of the total calculation is equal or more than half (0.5 of a space)". Therefore, a maximum of 18 spaces are permitted for the residential apartments.

A maximum of 5 visitor spaces are permitted.

A total of 27 car spaces are provided in the basement car parks. This is made up of:

- 19 car spaces for the residents (which includes 3 spaces for the adaptable units);
- 5 visitor car spaces (which includes 1 adaptable visitor space); and
- 3 commercial car parking spaces.

The visitor and retail tenancy car space are separated from the residential car parking spaces. The 4 disabled car parking spaces are clearly defined on the plans (2 on each basement car park level adjacent to the lift).

The Applicant has utilised the car parking rate in the DCP which is specified for shops (i.e. 1/40m²). A total floor area of 111m² is provided for the retail tenancy. Therefore, a maximum of 2.7 spaces are to be provided (which is rounded up to 3 spaces). A total of 3 spaces are provided which complies with this control.

Bicycle parking rates and bicycle storage facilities

The DCP requires (as a minimum) 1 bicycle storage facility per dwelling and 1 bicycle parking facility for every 12 dwellings. Therefore a total of 23 bicycle storage facilities are required and 2 bicycle parking facilities are required. The proposal complies with these requirements.

Waste Management

Council's sustainability projects officer has reviewed the proposal and has not raised any concerns in relation to waste management.

Preservation of trees and vegetation

The existing site has limited vegetation, which is located at the rear (southern corner) of the site. It is unclear whether this vegetation requires consent to be removed but Council's landscape architect has raised no objections to the proposal.

Engineering Requirements for Development

Council's engineers have assessed the plans and provided conditions to be included in a development consent.

Contaminated Land

This is addressed in Section 5 of this report.

Crime prevention through environmental design

The proposal locates active spaces and windows, of habitable rooms within buildings, to maximise casual surveillance of streets.

Part D – Heritage

Part D of the DCP includes controls relating to development in the vicinity of heritage items and in the vicinity of heritage conservation areas. The controls require consideration of the scale of new development adjacent to a conservation area to relate to the scale of the nearest contributory elements of the conservation area.

A streetscape character analysis and photomontages have been submitted with the DA to assist in the determination of the impact of the development on the heritage significance of the adjacent heritage conservation area and the heritage item in the vicinity of the development. No objections are raised in relation to the impact of the proposal on nearby Heritage Items (noting that Council's Heritage Advisor did not deem is necessary to comment on the proposal).

Part E – Residential Development

The design quality principles of SEPP 65 are addressed above. As are the other matters raised in Part E of the DCP.

Part F – Mixed use areas and neighbourhood centres

This part of the DCP does not apply as the DVDCP does not identify it as being applicable. The site to the north (the McDonalds site) is identified in Part F of the DCP as "Area A" on the "Victoria Road Drummoyne - Location Plan". "Area A" is to have a maximum of 2 storeys.

The land opposite the site and down to Lyons Road is identified as "Area G" on the "Victoria Road Drummoyne - Location Plan". A maximum building height of two (2) storeys is specified on Victoria Road, Lyons Road and Wrights Road. Four (4) storeys is permitted within the centre of the site.

5.4. Likely Impacts of the Development [Section 79C (b)]

Overshadowing

The applicant has submitted shadow diagrams indicating that no (existing) surrounding residential property will be significantly affected from overshadowing caused by the development during Winter Solstice (June 21st).

The property to the rear (12 Marlborough Street) is affected at mid-winter between 9 a.m. and 10 a.m. The proposed development overshadows the east facing windows and side of the south facing balconies of 3 dwellings at No. 12 at 9 a.m.

The area between the building on No. 12 Marlborough Street and the site is used for car parking and not for private open space.

By 11am and for most of the afternoon the shadow falls on the existing buildings to the south east of the site on Victoria Road.

The Applicant has provided documentation showing that the sites to the south east can be redeveloped in a manner similar to the proposed development, and achieve compliance with the ADG's solar access requirements, following construction of the proposed development at the site.

Privacy

Visual and acoustic privacy has been adequately considered in the design of the proposal.

For further discussion with regard to amenity impacts refer to SEPP 65 assessment under section 5 of this report.

The proposal is considered satisfactory with regard to privacy.

View Corridors/View Sharing

There are no apparent views or view corridors to be affected from the perspective of the low density housing adjacent to the site in Marlborough Street.

Traffic generation, parking and loading

The proposed development provides adequate parking consistent with the parking controls applicable to the site under Council's DCP parking requirements.

Refer to comments provided by Council's Traffic Engineer under section 6 below for further detail.

Noise Impact

The proposal includes residential units along a main arterial road, being Victoria Road. All residential units fronting Victoria Road should comply with Australian Standard 3671: Acoustics—Road Traffic Noise Intrusion and details should be provided prior to the issue of a Construction Certificate. This requirement should be included in development consent conditions.

Streetscape and urban character/Bulk and Scale/Building height/envelope

Considering SEPP 65 requirements and merits of the proposal discussed throughout the body of this report, the proposal is considered to be acceptable in the context of the site.

Social/Economic

The proposal is not expected to result in adverse social and economic implications.

Landscaping/Tree Removal

No objections have been raised by Council's landscape architect to the removal of the vegetation on the site.

Given the limited capacity of the site, the proposal is considered satisfactory with regard to the provision of quality private open space and landscape features and has been supported by Council's Landscape Architect.

5.5. Suitability of the Site for the Development Proposed [Section 79(c)]

The proposed development has been assessed in relation to its environmental consequences, and in terms of the State Environmental Planning Policy No.55 and appropriate conditions of consent are recommended.

5.6. The Public Interest [Section 79C (e)]

On the basis of the discussion contained herein, the proposed development is not considered to be contrary the public interest.

6. INTERNAL REFERRALS

6.1. Landscaping/Tree Removal

Council's Landscape Architect raised no objection to the proposal subject to appropriate conditions.

6.2. Stormwater Drainage

The application was referred to Council's Engineer for comment on the proposed stormwater management concept. Council's Engineer has provided conditions of consent.

6.3. Traffic Engineering/Local Traffic Committee

Council's Traffic Engineer has reviewed the amended proposal and provided conditions of consent.

Comments from the RMS are included below.

6.4. Heritage/Urban Design

Council's heritage advisor indicated that their consideration of the DA was not required. The issues relating to heritage are addressed above in this report.

6.5. GIS

Council's GIS Officer has reviewed the amended proposal and provided conditions of consent.

6.6. Environmental - Contamination

The proposed development has been assessed in relation to its environmental consequences, and in terms of the State Environmental Planning Policy No.55 and conditions of consent have been provided.

6.7. Environmental - Waste

Conditions of consent are imposed in relation to waste management.

6.8 Environmental – Acid Sulfate Soils

Council's environmental health officer has reviewed the geotech report submitted with the DA and has advised as follows:

> *"BACKGROUND / ISSUES & COMMENTS*
>
> *The geotech report advises the following:*
>
> > *'The Canada Bay Local Environmental Plan (LEP) 2013 Acid Sulfate Soils Map (Sheet ASS_006) indicates that the site is Class 5 and is located within 500 m of Class 2 land.*
> >
> > *Based on the local geology / topography and the proposed basement excavation level (approximately RL 25 m AHD), we do not anticipate that acid sulfate soils will present at the site. We do not consider an acid sulfate soils management plan to be required for the site.'*
>
> *Based on this information, the application is found to be satisfactory regarding acid sulphate soils provided the following conditions be added to the approval:*
>
> *Standard Conditions*
>
> *DADWB02 - Acid Sulphate Soils*
>
> *Any excavation works carried out on site should be closely monitored to ensure no signs of Potential Acid Sulphate Soil (PASS) or Actual Acid Sulphate Soil (AASS) are observed. Indicators may include grey to greenish blue clays, unusual gold-yellow mottling or 'rotten egg' odours. If any of these indicators are observed, excavation of the site is to be stopped immediately, Council is to be notified and a suitably qualified environmental scientist should be contracted to further assess the site.*
>
> *(Reason: Environmental protection)"*

6.9 Environmental – Noise

Council's environmental health officer has reviewed the acoustic report prepared by Acoustic Logic, report number 2016117.1 dated 23rd August 2016 and deemed it to be satisfactory subject to the following conditions being added to the approval:

> ***"Standard Conditions***
>
> *DAOUC12 - Acoustic Assessment*
>
> *DAOUC13 - Further Acoustic Assessment*
>
> *DAOUC18 - Noise - air conditioners*
>
> *DAOUC19 - Compliance with Noise Control Legislation*
>
> ***Non Standard Conditions***
>
> ***NOISE - GENERAL***

(a) The emission of noise associated with the use of the premises including the operation of any mechanical plant and equipment shall comply with the following criteria:

(i) The LAeq, 15minute noise level emitted from the use must not exceed the background noise level LA90, 15minute by more than 5dB when assessed at the boundary of any affected residence.

(ii) The LAeq,15minute noise level shall be adjusted for modifying factors in accordance with Part 4 of the Environmental Protection Authority (EPA) NSW Industrial Noise Policy.

(iii) The background noise level shall be measured in the absence of noise emitted from the use in accordance with Australian Standard AS 1055.1-1997-Description and measurement of environmental noise.

(b) An LAeq,15minute noise level emitted from the use must not exceed the LA90, 15minute noise level by more than 3dB in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) when assessed inside any habitable room of any affected residence provided that;

(i) Where the LA90, 15minute noise level is below the threshold of hearing Tf at any Octave Band Centre Frequency as defined in Table 1 of International Standard ISO 226 - Normal Equal-Loudness-Level Contours then the value of Tf corresponding to that Octave Band Centre Frequency shall be used instead.

(ii) The LAeq,15minute noise level and the LA90,15minute noise level shall both be measured with all external doors and windows of the affected residence closed;

(iii) The LA90,15minute noise level shall be measured in the absence of noise emitted from the use but with the ventilation equipment (excluding air-conditioning equipment) normally servicing the affected residence operating.

(b) An LAeq,15minute noise level emitted from the use must not exceed the LA90, 15minute noise level by more than 3dB in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) when assessed inside any commercial premises provided that;

(i) The LAeq,15minute noise level and the LA90,15minute noise level shall both be measured with all external doors and windows of the commercial premises closed;

(ii) The LA90,15minute noise level shall be measured in the absence of noise emitted from the use but with the ventilation equipment (including air-conditioning equipment) normally servicing the commercial premises operating.

(iii) In this clause, the term "noise level emitted from the use" means the contributing noise level from the use in isolation to any other ambient noise and account must therefore be taken of the LAeq,15minute when the use is not in operation.

(v) In circumstances where this development application refers to a modification or addition to an existing use, the background noise level referred to in this clause pertains to the LA90, 15minute noise level measured in the absence of all noise from the site.

COMPLIANCE WITH ACOUSTIC REPORT

All recommendations contained in the acoustic assessment report prepared by Acoustic Logic report number 2016117.1 dated 23rd August 2016 shall be adopted, implemented, and adhered to. The following recommendations contained in the report must be complied with at all times:

4.3.1 Recommended Treatments

Internal noise levels were calculated based on the expected level and spectral characteristics of the external noise, the area of building elements exposed to the noise source, the absorption characteristics of the rooms and the noise reduction performance of the building elements.

4.3.1.1 Recommended Glazing

The table below summarises the minimum glazing constructions required to ensure compliance with the internal noise goals. Thicker glazing may be required for structural, safety or other purposes. Where it is required to use thicker glazing than scheduled, this will also be acoustically acceptable.

In addition to meeting the minimum glazing thickness requirements given, the design of the window mullions, perimeter seals and the installation of the windows/doors in the building openings shall not reduce the STC rating of the glazing assembly below the values nominated in the table above. All external windows and doors listed are required to be fitted with Q-lon type acoustic seals. ***Note that mohair of fin type seals will not be acceptable for the windows requiring acoustic seals.***

The window/door suppliers should provide evidence that the systems proposed have been tested in a registered laboratory with the recommended glass thicknesses and comply with the minimum listed STC requirements. Also, the glazing installer should certify that the window/doors have been constructed and installed in a manner equivalent to the tested samples.

Table 4 - Minimum STC/R_w of Glazing (with Acoustic Seals)

Façade	Space	Total Glazing Area	Glazing Assembly	Minimum STC/R_w of Installed Window (with acoustic seals)
Victoria Road	Retail	All	6.38mm laminated	31
	Bedrooms	Up to 3 sqm	10.38 mm laminated	35
		Up to 5 sqm	12.38 mm laminated	37
	Living Rooms	Up to 8 sqm	12.38 mm laminated	37
		Up to 10 sqm	12.5 mm VLam Hush	38
North-western façade	Bedrooms	Up to 5 sqm	10.38 mm laminated	35
		Up to 7 sqm	12.38 mm laminated	37
	Living Rooms	Up to 4 sqm	6.38 mm laminated	31
		Up to 10 sqm	10.38 mm laminated	35
Rear façade	Bedrooms	Up to 5 sqm	10.38 mm laminated	35
		Up to 7 sqm	12.38 mm laminated	37
	Living Rooms	Up to 7 sqm	6.38 mm laminated	31
		Up to 18 sqm	10.38 mm laminated	35
All	Bathrooms	All	6mm float	29

4.3.2 Ventilation and Air Conditioning

AS 2021 - 2015 requires the installation of ventilation or air conditioning system where aircraft noise exposure exceeds ANEF 20. As internal noise levels cannot be achieved with windows open it is required that an alternative outside air supply system or air conditioning be installed in accordance with AS 1668.2 requirements. Any mechanical ventilation system that is installed should be acoustically designed such that the acoustic performance of the recommended constructions are not reduced by any duct or pipe penetrating the wall/ceiling/roof. Noise emitted to the property boundaries by any ventilation system shall comply with Council requirements."

7. EXTERNAL REFERRALS INCLUDING THE RESULT OF ANY REFERRALS TO AN APPROVED AUTHORITY

The application was referred to Roads and Maritime for review and to seek concurrence in accordance with Section 138 of the Roads Act. 1993.

Roads and Maritime advised that they reviewed the submitted application and will provide concurrence under Section 138 of the Roads Act 1993, considering the site does not have alternative vehicular access from the local road network.

"Therefore Roads and Maritime provides the following conditions to be included in any consent issued by Council:

1. Roads and Maritime has previously acquired a strip of land for road along the Victoria Road frontage of the subject property, as shown by blue colour on the attached Aerial —"X"

Therefore all buildings and structures other than pedestrian footpath awnings together with any improvements integral to the future use of the site are to be wholly within the freehold property unlimited in height or depth along the Victoria Road boundary.

2. The design and construction of the kerb and gutter crossing on Victoria Road shall be in accordance Roads and Maritime requirements. Details of these requirements should be obtained from Roads and Maritime Services, Manager Developer Works, Statewide Delivery, Parramatta (telephone 9598 7798).

Detailed design plans of the proposed kerb and gutter are to be submitted to Roads and Maritime for approval prior to the issue of a Construction Certificate and commencement of any road works.

A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approved road design plans by Roads and Maritime.

3. All vehicles are to enter and exit the site in a forward direction.

4. All vehicles are to be wholly contained on site before being required to stop.

5. Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to Roads and Maritime for approval, prior to the commencement of any works.

Details should be forwarded to:

The Sydney Asset Management

Roads and Maritime Services

PO Box 973 Parramatta CBD 2124.

A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued. With regard to the Civil Works requirement please contact the Roads and Maritime Project Engineer, External Works Ph: 8849 2114 or Fax: 8849 2766.

6. The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001.

The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by Roads and Maritime.

The report and any enquiries should be forwarded to:

Project Engineer, External Works

Sydney Asset Management

Roads and Maritime Services

PO Box 973 Parramatta CBD 2124.

Telephone 8849 2114

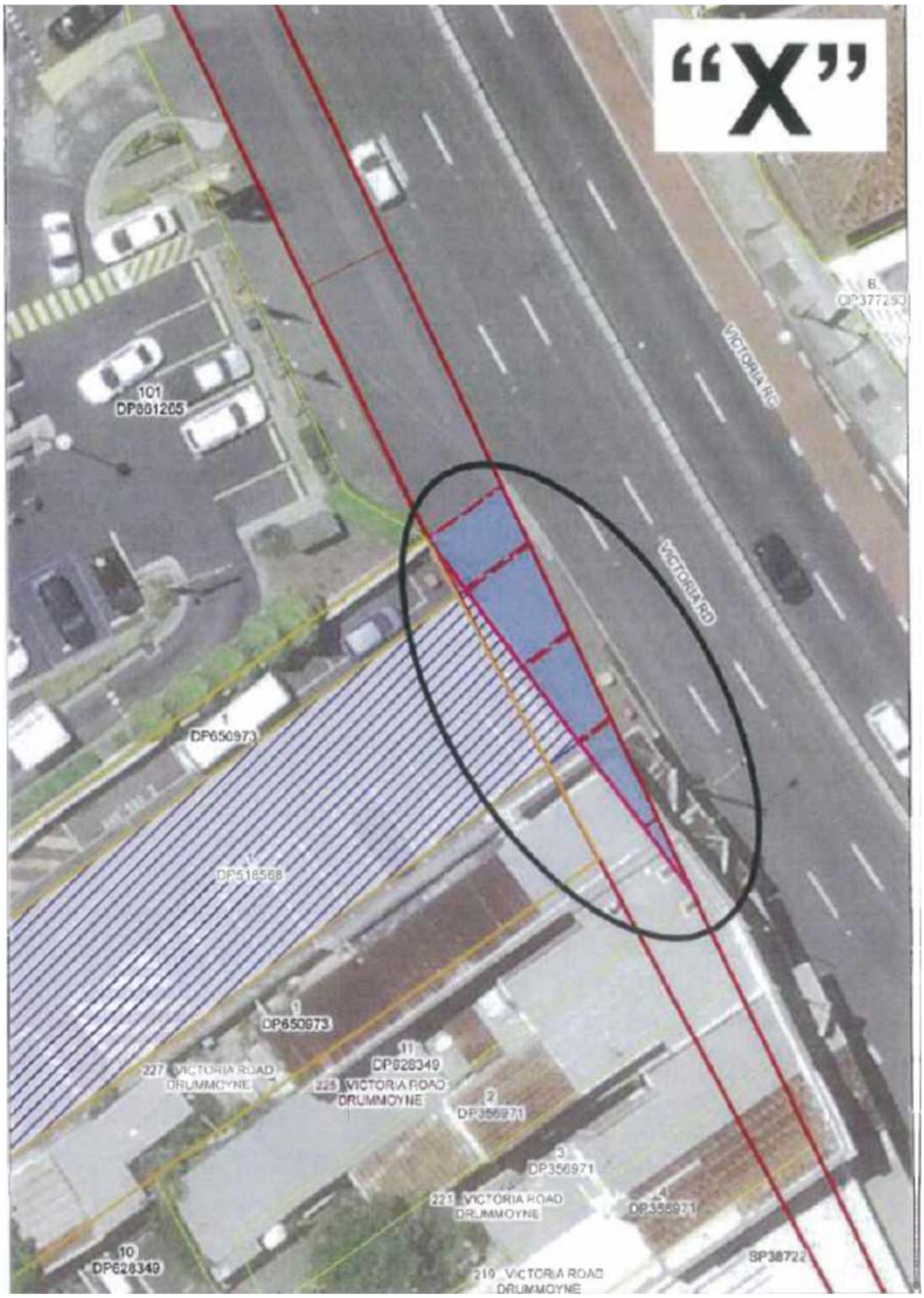
Fax 8849 2766

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) days notice of the intention to excavate below the base of the footings.

The notice is to include complete details of the work.

7. All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted Victoria Road.

8. A Road Occupancy Licence should be obtained from Transport Management Centre for any works that may impact on traffic flows on Victoria Road during construction activities."



Appropriate conditions of consent have been imposed.

8. CONCLUSION

The proposed development is appropriately located within a *B4 Mixed use* under the provisions of *Canada Bay Local Environmental Plan 2013* however a building height and FSR variation is sought from Council's normal controls as discussed in the report above.

The applicant has included a written request to vary the development standards which have been considered and supported in this instance given the particulars associated with the proposed development.

Having regard to the merit assessment of the proposal, Council may be satisfied that, despite the departures to the controls, the development is designed in an acceptable manner, which responds to the constraints presented by the site. Particularly adverse impacts to the amenity of neighbouring properties have been minimised whilst the amenity needs of future residents have been supported.

For these reasons it is considered that the proposal in balance is satisfactory from an environmental planning perspective and is thus favourably recommended.