

SUMMARY

This report concerns the additional information prepared for an application to partially demolish the rear of the existing building, construction of a new building form and adaptively reuse the site for use as a 2 level hardware and building supplies store with undercroft car parking, erection of signage, boundary adjustments to provide a slip lane from the Princes Highway into Smith Street and the widening of Smith Street on the north-eastern side.

The Sydney Eastern City Planning Panel held a public determination meeting on Thursday 4 April 2019 with the matter deferred on traffic and parking grounds. It was determined that additional traffic related assessment was necessary. A Supplementary Traffic Assessment was prepared by GTA Consultants and submitted to Council on 3 May 2019. An updated assessment was provided to Council on 24 May 2019 incorporating comments provided by the applicant. That assessment is attached to the end of this supplementary report as Attachment A.

Expert legal advice was prepared by Allens and submitted by the applicant to Council on 18 April 2019 regarding physical commencement of Determination No. 201200528, dated 21 August 2013. The Applicant's advice is attached to the end of this supplementary report as Attachment B. Legal advice prepared by Council's Senior Lawyer is attached to the end of this supplementary report as Attachment C.

Advice prepared by Roads and Maritime Services has been received and is attached to the end of this supplementary report as Attachment D.

Council is of the opinion that the additional information provided generally satisfies the resolution of the Panel. The application is referred to the SECPP for determination. Revised conditions of consent are provided should the SECPP be of the mind to approve the application.

1. Background

A report on an application to partially demolish the rear of the existing building, construction of a new building form and adaptively reuse the site for use as a 2 level hardware and building supplies store with undercroft car parking, erection of signage, boundary adjustments to provide a slip lane from the Princes Highway into Smith Street and the widening of Smith Street on the north-eastern side was considered by the SECPP at its public determination meeting on 18 October 2018.

The Panel resolved unanimously to defer the determination of the application for the following reason, in part:

“The Panel notes that the assessment report specifies insufficient information on traffic impact as the main reason for refusal, without specifying precisely what additional information is required. In order to determine the application, the Panel requires an assurance that the proposal has minimized its impact on the nearby residential streets to the maximum possible extent.

The Panel requests the council and the applicant to agree on a mutually acceptable traffic expert who can prepare, at the applicant’s expense, a peer review and an independent assessment of the application that assesses the application. Specifically, assessment of traffic generation, traffic movement on and off the site, discussions with RMS as to greater access opportunities from the highway, including signalization, LATMS to reduce the impact on local streets where increased movements would occur and be deleterious and the consequences and impact of any loss of on street parking and whether any alternate solutions are required.”

On 22 November 2018 the chair of the SECPP agreed to an extension to 29 January 2019 for the additional information to be provided given the Christmas and New Year period.

The Sydney Eastern City Planning Panel held a public determination meeting on Thursday 4 April 2019 with the matter deferred on traffic and parking grounds. It was determined that additional traffic related assessment was necessary, with the record of deferral noting the following:

“The Panel requires the following information:

- 1. Mr Hazell to advise the Panel of the likely impact on the traffic on the Highway of the opening of the tunnel section under the site of Westconnex, and whether he agrees that this is likely to occur in 2020.*
- 2. Mr Hazell to advise of the traffic impact of the approval for bulky goods development, which is still current and the difference between that traffic impact and the traffic impact of the proposed development.*
- 3. Mr Hazell to undertake a consideration and to inform the Panel what would need to be included in a LATM scheme to limit rat-runs through local roads surrounding the site and the estimated cost of any work.*
- 4. Council staff to obtain evidence from the applicant that physical commencement has in fact occurred to render the previous approval ‘current’.*
- 5. The Council to liaise with the applicant to establish a mechanism for the delivery of the LATM scheme at no cost to Council.*
- 6. The cost of Mr Hazell’s advice is to be borne by the applicant.*

7. *The applicant is to approach the RMS with a request to re-consider the removal of the parking spaces on the western side of the Highway opposite the site and to advise the Panel of the response.*
8. *Prior to preparing a supplementary report back to the Panel the report of Mr Hazell is to be provided to the applicant and Council and a meeting convened by Council's Planning Manager to identify any queries or differing positions such that the report back to the Panel can clearly identify the different positions (if they exist) and the basis of those positions."*

2. Additional Information

A Supplementary Traffic Assessment was prepared by GTA Consultants and submitted to Council on 3 May 2019. An updated assessment was provided to Council on 24 May 2019 incorporating comments provided by the applicant. That advice attached to the end of this supplementary report as Attachment A. The expert advice addresses resolutions 1, 2 and 3 of the Panel.

Expert legal advice was prepared by Allens and submitted by the applicant to Council on 18 April 2019. The legal advice addresses resolution 4 of the Panel which requires evidence to be provided of physical commencement of Determination No. 201200528, dated 21 August 2013, being the previous consent on the site. The advice letters from Allens and Council's opinion on it are attached to the end of this supplementary report as Attachments B and C respectively. The legal advice addresses resolution 4 of the Panel.

Advice prepared by Roads and Maritime Services has been received and is attached to the end of this supplementary report as Attachment D.

3. Planning Assessment

Below is an assessment addressing the individual components of the Panel's resolution:

1. *Mr Hazell to advise the Panel of the likely impact on the traffic on the Highway of the opening of the tunnel section under the site of Westconnex, and whether he agrees that this is likely to occur in 2020.*
2. *Mr Hazell to advise of the traffic impact of the approval for bulky goods development, which is still current and the difference between that traffic impact and the traffic impact of the proposed development.*
3. *Mr Hazell to undertake a consideration and to inform the Panel what would need to be included in a LATM scheme to limit rat-runs through local roads surrounding the site and the estimated cost of any work.*

Comment:

Expert advice was prepared by GTA Consultants (Mr Hazell) and submitted to Council on 3 May 2019 in response to resolutions 1, 2 and 3. An updated advice letter was provided to Council on 24 May 2019 incorporating comments provided by the applicant. That advice attached to the end of this supplementary report as Attachment A.

In response to resolution 1, the GTA report concludes that *"with the agreed parking measures in place and intersection upgrades complete, the Princes Highway/ Smith Street/ Union Street signalised intersection will continue to operate well in all peak periods following the opening of WestConnex Stage 1 (2021) and Stage 2 (2031). Indeed, in 2031, with significant reductions*

in Princes Highway traffic, the parking bans on the western side of the Princes Highway would be no longer required."

Mr Hazell has indicated in his email to Council that he is of the opinion that the opening of the tunnel section under the site of Westconnex is likely to occur in 2020, based on the most recent publicly available information.

In response to resolution 2, the GTA report concludes that overall, the proposed development represents a greater proportional increase in traffic that will use Smith Street on approach and departure than that associated with the previous approval. The agreed upgrades to the Princes Highway/Smith Street/Union Street signalised intersection, coupled with SIDRA modelling indicates that this additional traffic can be accommodated while maintaining acceptable intersection operation, including queue lengths and delay associated with the Smith Street approach.

It is noted that the GTA report incorrectly assumes that the previous consent, being Determination No. 201200528, dated 21 August 2013, remains current. Council has not received proof of physical commencement of that Determination and this is discussed later in this report under resolution 4 of the Panel.

In response to resolution 3, the GTA report provides a typical scope for the LATM study. The GTA report estimates the LATM study to cost approximately \$65,000 with a 25% contingency. The total cost of the LATM study through consultation, costings, agreement, traffic committee approvals and installation has been estimated in the order of \$250,000 to \$300,000. It is noted that this assessment is not conclusive and final costs (including study costs) will need to be determined by others

Council is of the opinion that the information provided satisfies the resolutions 1, 2 and 3 of the Panel.

4. *Council staff to obtain evidence from the applicant that physical commencement has in fact occurred to render the previous approval 'current'.*

Comment:

Expert legal advice was prepared by Allens and submitted by the applicant to Council on 18 April 2019. The legal advice addresses resolution 4 of the Panel which requires evidence to be provided of physical commencement of Determination No. 201200528, dated 21 August 2013, being the previous consent on the site.

The report concludes the following, in summary:

- 2.1 *In our view, the Development Consent has not lapsed because engineering work, in the form of intrusive geotechnical investigations, relating to the building work was physically commenced on the Site pursuant to s4.53(4) of the Environmental Planning and Assessment Act 1979 (NSW) (EP&A Act).*
- 2.2 *The intrusive geotechnical investigations were undertaken between 14 and 17 August 2018, prior to the date on which the Development Consent would have otherwise lapsed being 20 August 2018."*

A copy of the advice prepared by Allens is attached to the end of this supplementary report as Attachment B

The advice provided by the applicant was reviewed by Council's Lawyer, who is of the opinion that physical commencement of Determination No. 201200528 has not been proven. That advice is attached to the end of this supplementary report as Attachment C.

Council is of the opinion that the information provided by the applicant does not unequivocally demonstrate physical commencement of Determination No. 201200528, dated 21 August 2013. To claim physical commencement, the applicant is reliant on condition 55 of that Determination which states:

55. *Before the issue of any Construction Certificate, amended plans are required to be submitted to the satisfaction of the Certifying Authority detailing all recommendations contained within the Geotechnical Deck Study report, prepared by Coffey Geotechnics Pty Ltd, dated 13 August 2012 and submitted to Council on 27 November 2012.*

The Coffey Geotechnical Report recommends further investigations be carried out specific to the proposed development, including the following excerpt:

Further investigation such as boreholes will be required to assess excavation conditions where excavations and new footings are located. Cored boreholes are also recommended to assess the depth and quality of bedrock. This would also allow higher design bearing capacities and a better understanding of any likely groundwater seepage during construction.

The Geotechnical report prepared by JK Geotechnics of 20 August 2018 and submitted to Council with the Allens advice letter states the following:

"The main purpose of the geotechnical work was to confirm and supplement the information and recommendations presented in our Geotechnical Report Ref. 27926Vrpt-Tempe, dated 2 December 2014. The latter report was preliminary and prepared simply for the purposes of Due Diligence to assist with the purchase of the property; hence, the need to complete the additional, supplementary work to assist with the Development Application for the proposed development.

The JK Geotechnics report does not reference the Coffey Report referenced in condition 55 of Determination No. 201200528. Rather, the author states that the report was prepared as a Due Diligence document to assist with the purchase of the property by Bunnings which occurred in January 2015. It is nothing to do with reports necessary to satisfy condition 55 of Determination No. 201200528. Council's lawyer indites that the work done is not "related to" this proposal: see *Hunter Development Brokerage Pty Ltd v Cessnock City Council* [2005] NSWCA 169 at paragraph 104 and therefore does not satisfy the test for physical commencement.

Council is of the opinion that the legal advice provided does not satisfy resolution 4 of the Panel in that physical commencement of Determination No. 201200528 has not been proven.

5. *The Council to liaise with the applicant to establish a mechanism for the delivery of the LATM scheme at no cost to Council.*

Comment:

In order for no financial burden to fall on Council, the delivery of the LATM scheme will need to be undertaken by an external company. The external company will undertake all stages of the project including the LATM study as well as design and delivery.

Council will need to engage an external project manager to manage the project for Council including the preparation of a brief. This brief will include but not be limited to the scope of works (i.e. study area), aims and objectives, methodology/requirements, community engagement and attendance at required meetings. Council will need to approve the final traffic study as well as final detailed design drawings.

It should be noted that the study area itself will need to extend beyond Union Street on the north side of the Highway to account for any possibly measures on union Street which may impact adjacent streets. The study area will therefore be determined during the development of the brief

The cost for the engagement of the project manager by Council for a period of 6 months is estimated at \$85,000. The study and subsequent works have been estimated by GTA in the traffic assessment at \$65,000 for the LATM study and \$300,000 for subsequent works; this cost is indicative and is subject to the outcome of the study, design and construction costs. Therefore the total cost is estimated at \$450,000.

In terms of costs, Council will engage a preferred project manager and this cost will be invoiced directly from the consultant to Bunnings. The external company commissioned by Bunnings to undertake the LATM study and design and delivery will be invoiced directly to Bunnings.

The above advice was forwarded to the applicant for comment. The applicant has confirmed this as the agreed mechanism.

6. *The cost of Mr Hazell's advice is to be borne by the applicant.*

Comment:

Council and the applicant have noted the above resolution and Council has forwarded invoices for the cost of Mr Hazell's advice to the applicant.

7. *The applicant is to approach the RMS with a request to re-consider the removal of the parking spaces on the western side of the Highway opposite the site and to advise the Panel of the response.*

Comment:

Consultation with Roads and Maritime Services (RMS) in relation to the removal of parking on the Princes Highway has been completed by the applicant. Council is in receipt of written in-principle support from Roads and Maritime for the removal of on-street parking on western side of the Princes Highway north of Union Street, provided select measures are implemented as part of the development, specifically:

- *The applicant is conditioned to provide an additional 13 public spaces in the proposed carpark to ameliorate the impacts to the loss of available parking.*
- *The applicant is conditioned to provide a door on the south western elevation of the car park, which shall be accessible internally and externally and signposted as such to permit public access to facilitate pedestrian access and egress to Smith Street from the carpark during Bunnings trading hours.*
- *The signage installation and community consultation shall be at no cost to Roads and Maritime and undertaken by the applicant.*

Email correspondence dated 15 April 2019 confirms RMS in-principle support and that email is attached to the end of this supplementary report as Attachment D. The necessary measures, mostly to ensure on-site parking be provided to offset the loss of on-street parking are generally consistent with previous requirements and it is understood that the applicant is agreeable to these requirements.

It is further noted that the site at No. 669 Princes Highway on the north western side of Princes Highway near where the car parking spaces are to be lost has previously been used as an unauthorised taxi changeover base. Council is currently assessing an application for the site which seeks to carry out alterations and additions to the existing premises to be used for the purpose of a vehicle body repair workshop and vehicle repair station. Consideration of that application will require that any parking associated with the use be contained wholly within the site. This is likely to result in some reduced demand for those car parking spaces on Princes Highway.

In relation to the RMS conditions provided above, it is noted that Council's original Assessment Report concluded that a substantial quantum of car parking is already provided on site (in excess of what is prescribed). Whilst there is insufficient space in the proposed basement to accommodate an additional 13 car parking spaces, Council considers that 13 of the proposed spaces can be marked as publicly available car parking spaces for non-Bunnings patrons.

The following additional conditions have been included in response to the RMS comments:

6. 13 out of the total number of car parking spaces provided by Condition 5 above must be signposted and dedicated as public car parking spaces and being available to non-Bunnings patrons.
56. Amended plans complying with the above standards and including the following amendments/additional information shall be provided for approval:
 - d) The door on the south western elevation of the car park shall be accessible internally and externally and signposted as public access to allow pedestrian access to Smith Street from the car park during the Bunnings trading hours.
113. All works required to be carried out in relation to the loss of on-street parking on the western side of Princes Highway, including the signage installation and community consultation shall be at no cost to Roads and Maritime and undertaken by the applicant before the issue of an Occupation Certificate.

Council is of the opinion that the information provided satisfies the resolution 7 of the Panel.

8. *Prior to preparing a supplementary report back to the Panel the report of Mr Hazell is to be provided to the applicant and Council and a meeting convened by Councils Planning Manager to identify any queries or differing positions such that the report back to the Panel can clearly identify the different positions (if they exist) and the basis of those positions."*

Comment:

Expert advice was prepared by GTA Consultants (Mr Hazell) and submitted to Council on 3 May 2019 in response to resolutions 1, 2 and 3. That report was forwarded to the applicant for comment. The applicant provided the following response in reply:

"I have reviewed the report prepared by GTA and I have no concerns in relation to its findings. The relevant comments I would make are as follows:

- *The proposed parking restriction covering 5 spaces on the western side of the highway north of Union Street would not need to apply between say 7.00pm and 6.00am.*
- *It is understood from Council officer advice that the current taxi depot use of the site on the western side of the highway is proposed to cease in the near future and this will significantly reduce the taxi driver parking demand on streets in the area.*
- *The traffic volume comparison made by TTPA between the RMS (AECOM 2015) EIS projected volumes “South of Railway Road” and the current volumes 6.12.18 reveal a projected reduction of up to 10% in the peak periods to those projections.”*

In response to the above comments the GTA report was updated and resubmitted to Council on 24 May 2019 incorporating comments provided by the applicant. Rather than being differing opinions or positions, these are additional comments included in the report at the request of the applicant and have been included in the supplementary traffic assessment without objection from Council or Mr Hazell.

As mentioned earlier in this report under resolution 5, there is a differing opinion between Council and the applicant relating to the timing for the commencement of the Local Area Traffic Management study with regard to the conditions of consent.

Council has drafted a deferred commencement condition to the following effect:

1. *The applicant is fund a full comprehensive Local Area Traffic Management study to be undertaken by Council to determine the potential impact on specific local residential streets including Smith Street, Union Street, Foreman Street and South Street. Appropriate mitigating LATM measures/works must be detailed and measures proposed to combat any adverse effects identified.*

The condition was discussed with the applicant in a meeting with Council and Mr Hazell on 18 April 2019. The applicant has provided the following response to this condition:

“...if consent is to be granted by the panel, Bunnings would request that the draft conditions include that the likely requirement for the LATM approval be secured “Prior to CC”. This will then enable that we can progress RMS negotiations, detailed road design and the WAD; the Heritage Office approvals’ processes; infrastructure services liaison, design and approvals; and the development tender process, whilst the LATM process occurs.”

Council is of the opinion that all requirements including those specified by the applicant above, can still take place without an active consent and the deferred commencement does not limit the applicant’s ability to prepare all that documentation for lodgment with the relevant authorities. Furthermore, the deferred commencement condition only requires commencement of the LATM study, not full completion. Once the LATM study has been commissioned and commenced to the satisfaction of Council, an active consent can be issued.

Council and the applicant are satisfied as to resolution 8 of the Panel.

4. Conclusion

Council is of the opinion that the information provided to Council in response to the resolutions of the Panel satisfies the resolutions of the Panel.

Amended conditions of consent have been provided should the Panel be of a mind to approve the application.

5. Conditions of Consent

The following conditions have been prepared should be SECPP be of the mind to approve the application.

PART A - DEFERRED COMMENCEMENT CONSENT

The consent will not operate and it may not be acted upon until the Council or its delegate is satisfied as to the following matter:

- The applicant is fund a full comprehensive Local Area Traffic Management study to be undertaken by Council to determine the potential impact on specific local residential streets including Smith Street, Union Street, Foreman Street and South Street. Appropriate mitigating LATM measures/works must be detailed and measures proposed to combat any adverse effects identified. The LATM study must be commissioned and commenced to the satisfaction of Council before the issue of an active consent.

Evidence of the above matter must be produced to the Council or its delegate within 2 years of the date of this Determination otherwise the Consent will lapse.

PART B - CONDITIONS OF CONSENT

Once operative the consent is subject to the following conditions:

GENERAL

- The development must be carried out in accordance with plans and details listed below:

Plan and Issue No.	Plan Name	Date Issued	Prepared by	Date Submitted
030 H	Site Plan	29 May 2018	John R Brogan & Associates	26 September 2018
031 F	Site Plan - Undercroft Parking Level	29 May 2018	John R Brogan & Associates	26 September 2018
032 F	Site Plan – Warehouse Level 1	29 May 2018	John R Brogan & Associates	26 September 2018
033 F	Site Plan – Warehouse Level 3	29 May 2018	John R Brogan & Associates	26 September 2018
100 G	Floor Plan - Undercroft Parking Level	29 May 2018	John R Brogan & Associates	26 September 2018
101 H	Floor Plan – Warehouse Level 1	29 May 2018	John R Brogan & Associates	26 September 2018
102 H	Floor Plan – Warehouse Level 2	31 August 2018	John R Brogan & Associates	26 September 2018
110 G	Roof Plan	29 May 2018	John R Brogan & Associates	26 September 2018
120 D	Sections	21 March 2017	John R Brogan & Associates	26 September 2018
130 E	Elevations	11 December 2017	John R Brogan & Associates	26 September 2018
115 D	Existing Building Detail	11 December 2017	John R Brogan & Associates	26 September 2018

116 D	Existing Building Detail	11 December 2017	John R Brogan & Associates	26 September 2018
117 C	Existing Building Detail	11 December 2017	John R Brogan & Associates	26 September 2018
118 C	Existing Building Detail	11 December 2017	John R Brogan & Associates	26 September 2018
140 B	Concept Sections	11 December 2017	John R Brogan & Associates	26 September 2018
141 B	Detail Sections	11 December 2017	John R Brogan & Associates	26 September 2018
143 A	Footpath Detail Section 1	11 December 2017	John R Brogan & Associates	26 September 2018
144 A	Footpath Detail Section 2	11 December 2017	John R Brogan & Associates	26 September 2018
145 A	Footpath Detail	11 December 2017	John R Brogan & Associates	26 September 2018
2212LP - 01 K	Landscape Plan	29 May 2018	John Lock & Associates	26 September 2018
2212LP - 02 I	Landscape Elevations	7 December 2017	John Lock & Associates	26 September 2018
2212LP - 03 H	Landscape Details	27 March 2017	John Lock & Associates	26 September 2018
27926KGrpt	Preliminary Environmental Site Assessment	26 November 2014	Environmental Investigation Services	21 April 2017
27926Vrpt	Preliminary Geotechnical Investigation	2 December 2014	JK Geotechnics	21 April 2017
C108568 : J129853	Hazardous Materials Risk Assessment	November 2014	Greencap	21 April 2017
312288 Rev. 01	Energy Efficiency Report	7 April 2017	KPMG	21 April 2017
14377 Rev. B	Development Application Noise Assessment	April 2017	Wilkinson Murray	21 April 2017

and details submitted to Council on 21 April 2017, 13 October 2017, 11 December 2017, 14 May 2018, 31 August 2018, 26 September 2018 and 24 May 2019 with the application for development consent and as amended by the details submitted to Council as part of Part A of this determination and the following conditions.

Reason: To confirm the details of the application submitted by the applicant.

2. Where any plans and/or information forming part of a Construction Certificate issued in relation to this consent are inconsistent with:

- a) the plans and/or information approved under this consent; or
- b) any relevant requirements of this consent,

the plans, information and/or requirements of this consent (as the case may be) shall prevail to the extent of the inconsistency.

All development approved under this consent shall be carried out in accordance with the plans, information and/or requirements of this consent taken to prevail by virtue of this condition.

Reason: To ensure the development is carried out in accordance with this Determination.

3. The development is approved to a maximum height of 40.4 metres above Australian Height Datum (AHD). Should the height be exceeded a new application must be submitted in accordance with the Civil Aviation (Building Control) Regulations 1988.

Reason: To confirm the terms of Sydney Airport's approval.

4. Should the height of any temporary structure and/or equipment be greater than 15.24 metres AEGH, a new approval must be sought in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161.

Reason: To confirm the terms of Sydney Airport's approval.

5. A total of 424 car parking spaces being provided, paved and maintained at all times in accordance with the standards contained within Part 2.10 of Marrickville Development Control Plan 2011 – Parking. The parking spaces must include the following allocations:

- a) 4 double-length car and trailer spaces;
- b) 10 accessible car parking space; and
- c) 4 car share spaces.

Reason: To ensure practical off-street car parking is available for the use of the premises.

6. **RMS requirements**

13 out of the total number of car parking spaces provided by Condition 5 above must be signposted and dedicated as public car parking spaces and being available to non-Bunnings patrons.

Reason: To enable residents to utilise the on-site car parking and mitigate the loss of on-street car parking during trading hours.

7. A minimum of 20 bicycle parking spaces being provided and maintained at all times in accordance with the standards contained within Part 2.10 of Marrickville Development Control Plan 2011 - Parking.

Reason: To ensure practical bicycle parking is available for the use of the premises.

8. All parking spaces and turning area thereto must be provided in accordance with the design requirements set out within Part 2.10 of Marrickville Development Control Plan 2011 - Parking, and must be used exclusively for parking and not for storage or any other purpose.

Reason: To ensure adequate manoeuvrability to all car parking spaces and that the spaces are used exclusively for parking.

9. No injury must be caused to the amenity of the neighbourhood by the emission of noise, smoke, smell, vibration, gases, vapours, odours, dust, particular matter, or other impurities which are a nuisance or injurious or dangerous or prejudicial to health, the exposure to view of any unsightly matter or otherwise.
Reason: To ensure the operation of the premises does not affect the amenity of the neighbourhood.
Reason: To prevent loss of amenity to the area.
10. A separate application must be submitted to, and approved by, Council prior to the erection of any advertisements or advertising structures other than the signage approved in this consent. The windows must not be painted with advertisements and no flashing lights must be installed on the premises.
Reason: To confirm the terms of approval.
11. The advertising structure(s) and associated advertisement(s) must be properly and safely maintained at all times.
Reason: To ensure that the signage does not have any detrimental effect upon the amenity of the area or endanger the safety of the public.
12. Certification by a Structural Engineer as to the adequacy of the method of affixing the signage must be submitted to Council prior to the erection of the signage.
Reason: To ensure public safety.
13. No storage of goods or equipment external to any building on the site being permitted.
Reason: To ensure the premises are kept in a neat and tidy manner.
14. No signs or goods must be displayed for sale or stored on the footpath in front of the premises at any time without the prior approval of Council.
Reason: To prevent the public footpath from being obstructed.
15. All loading and unloading in connection with the use must be carried out wholly within the property, during the approved hours of operation and in such a manner so as to not cause an inconvenience to the public.
Reason: To prevent use and obstruction of the adjacent public thoroughfare.
16. All machinery must be installed in accordance with the manufacturer's specifications and being maintained at all times if in use.
Reason: To ensure that such machines are properly installed and maintained so as to prevent noise generation, vibration and any other disturbances to adjoining premises.
17. The hours of operation must be restricted to between the hours of 6:00am to 9:00pm Mondays to Fridays, and 6.00am to 7.00pm Saturdays, Sundays and Public Holidays.
Reason: To ensure that the operation of the premises does not interfere with the amenity of the locality.
18. The developer must liaise with the Sydney Water Corporation, Ausgrid, AGL and Telstra concerning the provision of water and sewerage, electricity, natural gas and telephones respectively to the property.
Reason: To ensure that the development is adequately serviced.
19. All trade waste must be stored within the site boundaries and must be contained in such a manner so as not to cause a nuisance.
Reason: To provide for correct storage of wastes.

20. All building work must be carried out in accordance with the provisions of the National Construction Code (Building Code of Australia).

Reason: To ensure the work is carried out to an acceptable standard and in accordance with the National Construction Code (Building Code of Australia).

21. The proposed use of the premises and the operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 and Regulations.

In this regard, the operation of the premises and plant and equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background $L_{A90, 15min}$ noise level, measured in the absence of the noise source/s under consideration by 5dB(A). The source noise level shall be assessed as an $L_{Aeq, 15min}$ and adjusted in accordance with the NSW Environment Protection Authority's Industrial Noise Policy and Environmental Noise Control Manual (sleep disturbance).

Reason: To confirm the terms of approval.

22. During the first sixty (60) days of trading being provided at the premises, the following acoustic measures must be undertaken:

- a) A suitably qualified acoustic consultant must be appointed to:
 - i) measure and verify the noise emanating from the premises; and
 - ii) if necessary, make recommendations to ensure that the noise emanating from the premises complies with the noise criteria.
- b) If the acoustic consultant recommends that additional treatment or works be undertaken those recommendations must be:
 - i) submitted to Council with the noise measurements; and
 - ii) implemented to the acoustic consultant's satisfaction before the end of the first sixty (60) days of trading.

Reason: To confirm the terms of approval.

23. The following is a condition imposed by Ausgrid:

a) **Method of Electricity Connection**

The method of connection will be in line with Ausgrid's Electrical Standard (ES)1 – 'Premise Connection Requirements.

b) **Supply of Electricity**

It is recommended for the nominated electrical consultant/contractor to provide a preliminary enquiry to Ausgrid to obtain advice for the connection of the proposed development to the adjacent electricity network infrastructure. An assessment will be carried out based on the enquiry which may include whether or not:

- The existing network can support the expected electrical load of the development
- A substation may be required on-site, either a pad mount kiosk or chamber style and;
- site conditions or other issues that may impact on the method of supply.

Please direct the developer to Ausgrid's website, www.ausgrid.com.au about how to connect to Ausgrid's network.

c) **Conduit Installation**

The need for additional electricity conduits in the footway adjacent to the development will be assessed and documented in Ausgrid's Design Information, used to prepare the connection project design.

d) **Vegetation**

All proposed vegetation underneath overhead power lines and above underground cables must comply with the requirements of ISSC 3 Guideline For Managing Vegetation Near Power Lines

e) **Proximity to Existing Network Assets**

Overhead Powerlines

There are existing overhead electricity network assets in Princes Highway and Smith Street.

Safework NSW Document – Work Near Overhead Powerlines: Code of Practice, outlines the minimum safety separation requirements between these mains/poles to structures within the development throughout the construction process. It is a statutory requirement that these distances be maintained throughout construction. Special consideration should be given to the positioning and operating of cranes and the location of any scaffolding.

The “as constructed” minimum clearances to the mains should also be considered. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid's website, www.ausgrid.com.au Should the existing overhead mains require relocating due to the minimum safety clearances being compromised in either of the above scenarios, this relocation work is generally at the developers cost.

It is also the responsibility of the developer to ensure that the existing overhead mains have sufficient clearance from all types of vehicles that are expected be entering and leaving the site.

Underground Cables

There are existing underground electricity network assets in Princes Highway and Smith Street

Special care should also be taken to ensure that driveways and any other construction activities within the footpath area do not interfere with the existing cables in the footpath. Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed.

Hence it is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area.

Should ground anchors be required in the vicinity of the underground cables, the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable.

Safework Australia – Excavation Code of Practice, and Ausgrid's Network Standard NS156 outlines the minimum requirements for working around Ausgrid's underground cables.

Substation

There are existing electricity substation assets within the site boundary.

The substation ventilation openings, including substation duct openings and louvered panels, must be separated from building air intake and exhaust openings, natural

ventilation openings and boundaries of adjacent allotments, by separation distances which meet the requirements of all relevant authorities, building regulations, BCA and Australian Standards including AS 1668.2: The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings.

In addition to above, Ausgrid requires the substation ventilation openings, including duct openings and louvered panels, to be separated from building ventilation system air intake and exhaust openings, including those on buildings on adjacent allotments, by not less than 6 metres.

Exterior parts of buildings within 3 metres in any direction from substation ventilation openings, including duct openings and louvered panels, must have a fire rating level (FRL) of not less than 180/180/180 where the substation contains oil-filled equipment.

The development must comply with both the Reference Levels and the precautionary requirements of the Draft Radiation Protection Standard for Exposure Limits to Electric and Magnetic Fields 0 Hz – 3 kHz (ARPANSA, 2006).

For further details on fire segregation requirements refer to Ausgrid's Network Standard 141.

Existing Ausgrid easements, leases and/or right of ways must be maintained at all times to ensure 24 hour access. No temporary or permanent alterations to this property tenure can occur without written approval from Ausgrid.

For further details refer to Ausgrid's Network Standard 143.

Reason: To confirm the terms of Ausgrid's approval.

24. The staff or occupants of the proposed building shall not be eligible to obtain parking permits under any existing or future parking scheme for the area. The person acting on this consent shall advise any purchaser or prospective tenant of this condition.

Reason: To confirm the terms of approval.

25. All stormwater drainage being designed in accordance with the provisions of the Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2015 'Stormwater Drainage' and Marrickville Council Stormwater and On Site Detention Code. Pipe and channel drainage systems shall be designed to cater for the twenty (20) year Average Recurrence Interval (A.R.I.) storm in the case of low and medium residential developments, the twenty (20) year A.R.I. storm in the case of high density residential development and commercial and/or industrial developments and the fifty (50) year A.R.I. storm in the case of heavy industry. In all cases the major event surface flow paths shall be designed to cater for the one hundred (100) year A.R.I. storm.

Reason: To confirm the terms of approval.

26. Should the proposed development require the provision of an electrical substation, such associated infrastructure shall be incorporated wholly within the development site. Before proceeding with your development further, you are directed to contact Ausgrid directly with regard to the possible provision of such an installation on the property.

Reason: To confirm the terms of approval.

BEFORE COMMENCING DEMOLITION, EXCAVATION AND/OR BUILDING WORK

27. The applicant must meet the cost of implementing any future resident parking scheme in Smith Street, Tempe subject to Traffic Committee approval.

Reason: To confirm the terms of approval.

28. All construction related parking must be contained within the site and the applicant to provide a Construction Management Plan demonstrating the provision of parking on-site for the duration of the works before commencing works.

Reason: To confirm the terms of approval.

29. Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent shall obtain all applicable Permits from Council in accordance with Section 68 (Approvals) of the Local Government Act 1993 and/or Section 138 of the Roads Act 1993. Permits are required for the following activities:
- a) Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application.
 - b) A concrete pump across the roadway/footpath
 - c) Mobile crane or any standing plant
 - d) Skip bins
 - e) Scaffolding/Hoardings (fencing on public land)
 - f) Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.
 - g) Awning or street verandah over footpath
 - h) Partial or full road closure
 - i) Installation or replacement of private stormwater drain, utility service or water supply

Contact Council's Road Access team to ensure the correct Permit applications are made for the various activities.

Applications for such Permits shall be submitted and approved by Council prior to the commencement of the works associated with such activity

Reason: To confirm the terms of approval.

30. The person acting on this consent shall submit to the Principal Certifying Authority a dilapidation report including colour photos showing the existing condition of the footpath and roadway adjacent to the site before the issue of a Construction Certificate.

Reason: To confirm the terms of approval.

31. The person acting on this consent shall ensure the site is secured with temporary fencing prior to any works commencing.

If the work involves the erection or demolition of a building and is likely to cause pedestrian or vehicular traffic on public roads or Council controlled lands to be obstructed or rendered inconvenient, or building involves the enclosure of public property, a hoarding or fence must be erected between the work site and the public property. Additionally an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property, where necessary.

Separate approval is required from Council under the Roads Act 1993 to erect a hoarding or temporary fence or awning on public property. Approvals for hoardings, scaffolding on public land must be obtained and clearly displayed on site for the duration of the works.

Any hoarding, fence or awning is to be removed when the work is completed and must be maintained clear of any advertising.

Reason: To confirm the terms of approval.

32. A detailed Traffic Management Plan to cater for construction traffic shall be submitted to and approved by Council before commencement of works. Details shall include haulage routes, estimated number of vehicle movements, truck parking areas, work zones, crane usage, etc., related to demolition/construction activities.

Reason: To confirm the terms of approval.

33. Any person acting on this consent or any contractors carrying out works on public roads or Council controlled lands shall take out Public Liability Insurance with a minimum cover of twenty (20) million dollars in relation to the occupation of, and approved works within those lands. The Policy is to note, and provide protection for Inner West Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property.

Reason: To confirm the terms of approval.

34. No work must commence until:

- a) A PCA has been appointed. Where an Accredited Certifier is the appointed, Council must be notified within 2 days of the appointment; and
- b) A minimum of 2 days written notice given to Council of the intention to commence work.

Reason: To comply with the provisions of the Environmental Planning and Assessment Act.

35. A Construction Certificate must be obtained before commencing building work. Building work means any physical activity involved in the construction of a building. This definition includes the installation of fire safety measures.

Reason: To comply with the provisions of the Environmental Planning and Assessment Act.

36. Sanitary facilities must be provided at or in the vicinity of the work site in accordance with the WorkCover Authority of NSW, Code of Practice 'Amenities for Construction'. Each toilet must be connected to the sewer, septic or portable chemical toilet before work commences.

Facilities must be located so that they will not cause a nuisance.

Reason: To ensure that sufficient and appropriate sanitary facilities are provided on the site.

37. All demolition work must:

- a) Be carried out in accordance with the requirements of Australian Standard AS 2601 'The demolition of structures' and the Occupational Health and Safety Act and Regulations; and
- b) Where asbestos is to be removed it must be done in accordance with the requirements of the WorkCover Authority of NSW and disposed of in accordance with requirements of the Department of Environment, Climate Change and Water.

Reason: To ensure that the demolition work is carried out safely.

38. Where any loading, unloading or construction is to occur from a public place, Council's Infrastructure Services Division must be contacted to determine if any permits or traffic management plans are required to be obtained from Council before work commences.

Reason: To protect the amenity of the area.

39. All services in the building being demolished must be disconnected in accordance with the requirements of the responsible authorities before work commences.

Reason: To ensure that the demolition work is carried out safely.

40. A waste management plan must be prepared in accordance with Part 2.21 of Marrickville Development Control Plan 2011 – Site Facilities and Waste Management and must be submitted to and accepted by the PCA before work commences.
Reason: To ensure the appropriate disposal and reuse of waste generated on the site.
41. The site must be enclosed with suitable fencing to prohibit unauthorised access. The fencing must be erected as a barrier between the public place and any neighbouring property, before work commences.
Reason: To secure the area of the site works maintaining public safety.
42. A rigid and durable sign must be erected in a prominent position on the site, before work commences. The sign must be maintained at all times until all work has been completed. The sign must include:
- a) The name, address and telephone number of the PCA;
 - b) A telephone number on which Principal Contractor (if any) can be contacted outside working hours; and
 - c) A statement advising: 'Unauthorised Entry To The Work Site Is Prohibited'.
- Reason: To maintain the safety of the public and to ensure compliance with the Environmental Planning and Assessment Regulations.
43. A Soil and Water Management Plan must be prepared in accordance with Landcom Soils and Construction, Volume 1, Managing Urban Stormwater (Particular reference is made to Chapter 9, "Urban Construction Sites") and submitted to and accepted by the PCA. A copy of this document must be submitted to and accepted by PCA before work commences. The plan must indicate:
- a) Where the builder's materials and waste are to be stored;
 - b) Where the sediment fences are to be installed on the site;
 - c) What facilities are to be provided to clean the wheels and bodies of all vehicles leaving the site to prevent the tracking of debris and soil onto the public way; and
 - d) How access to the site will be provided.
- All devices must be constructed and maintained on site while work is carried out.
- Reason: To prevent soil erosion and sedimentation of the stormwater network.
44. Site Induction
Before any works commence on site, all contractors and subcontractors shall undergo an induction session, prepared and delivered by the Heritage Consultant, highlighting the historical significance of the site and in particular those building elements and site archaeology elements requiring monitoring and conservation.
Reason: To confirm the terms of approval.
45. Section 140 Approval
Before any works commence on site, the Applicant must apply to the Heritage Council of NSW for a Section 140 Heritage Act Approval and comply with any and all conditions of such approval. This application will need to be accompanied by an appropriate Archaeological Assessment and Archaeological Research Design and Methodology.
Reason: To confirm the terms of approval.

46. Archival Recording

Before any works commence on site, an Archival Photographic Recording in accordance with the NSW Heritage Council's 'Guide to Archival Photographic Recording' shall be submitted to the satisfaction of Council's Heritage Advisor.

Reason: To confirm the terms of approval.

47. The following is to be submitted to the satisfaction of the Heritage Council of NSW prior to works commencing on site:

- a. An Archaeological Assessment prepared by a suitably qualified and experienced should identify whether relics of local or State significance may be harmed by this activity and whether appropriate mitigation measures or alteration of the design should occur based on the significance of the relics which may be present. This assessment shall be submitted prior to works commencing on site.
- b. In the event the Archaeological Assessment identifies the proposal would impact archaeological relics of local or State heritage significance which may be found in association with this item, the Applicant would need to obtain an approval under s140 of the *Heritage Act 1977* prior to causing harm. Any such application would need to clearly outline what mitigation measures to avoid harm have been considered for this work. If this approval is required it must be obtained prior to commencement of excavation works on site.
- c. An Archaeological Research Design (ARD) outlining the details of the proposed design impacts and excavation methodology, prepared by a suitably qualified Excavation Director, should accompany submission of a s140 excavation permit.
- d. Following the receipt of the Archaeological Assessment, the Heritage Council of NSW or its delegate reserves the right to issue additional archaeological conditions to manage the archaeology. Matters such as (but not limited to) preparation of an archaeological excavation methodology and research design, fieldwork methodology, artefact analysis and final reporting may be included as part of these archaeological conditions

Reason: To confirm the terms of the Heritage Council of NSW's approval.

BEFORE THE LODGEMENT OF A CONSTRUCTION CERTIFICATE**48. Before the lodgement of any Construction Certificate, amended plans and details must be submitted to and approved by Council's Heritage Advisor indicating the following:**

- a) The painting of the RC panel wall on the western elevation (fronting the Princes Highway above the retained brick portion of the building) and the RC panel wall on the southern elevation that sits vertically above the retained brick portion of the building being amended to an off-white colour, and the colour scheme of the flush wall signage being amended accordingly. A specific colour swatch must be provided to Council's satisfaction;
- b) All cabling and conduit supplying power to the sign installed on the heritage listed warehouse façade being completely concealed and must not involve intervention in or damage to the façade; and
- c) Methodology for the installation of the signage on the heritage listed warehouse façade can be carried out in a reversible manner without damage to the façade.

Reason: To ensure the integrity of the heritage item.

BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE

49. A contribution of \$682,553.18 has been assessed as the contribution for the development under Section 7.11 of the Environmental Planning and Assessment Act 1979 and Marrickville Section 94/94A Contributions Plan 2014 (a copy of which may be inspected at the offices of the Council).

The Section 7.11 contribution referred to above is indexed quarterly in accordance with Marrickville Section 94/94A Contributions Plan 2014.

The Section 7.11 contribution (as adjusted) must be paid to the Council **in cash or by unendorsed bank cheque (from an Australian Bank only) or EFTPOS (Debit only) or credit card*** before the issue of a Construction Certificate. Under Marrickville Section 94/94A Contributions Plan 2014 payment of Section 7.11 contributions **CANNOT** be made by Personal Cheque or Company Cheque.

*NB A 1% credit card transaction fee applies to all credit card transactions.

NOTE: Under Marrickville Section 94/94A Contributions Plan 2014, the proposed cost of carrying out development is adjusted quarterly at time of payment of the levy in line with the *Consumer Price Index: All Groups Index Number for Sydney* provided by the Australian Bureau of Statistics.

Reason: To ensure that the approved development makes a contribution towards the provision, extension or augmentation of public amenities and public services in the area.

50. Prior to the commencement of demolition works or a Construction Certificate being issued for works approved by this development consent (whichever occurs first), a security deposit and inspection fee must be paid to Council to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of carrying out the works and as surety for the proper completion of any road, footpath and drainage works required by this consent.

Security Deposit (FOOT)	\$750,000
Inspection fee (FOOT)	\$2,306.50

Payment will be accepted in the form of cash, bank cheque, EFTPOS/credit card (to a maximum of \$10,000) or bank guarantee. Bank Guarantees must not have an expiry date.

The inspection fee is required for Council to determine the condition of the adjacent road reserve and footpath prior to and on completion of the works being carried out.

Should any of Council's property and/or the physical environment sustain damage during the course of the demolition or construction works, or if the works put Council's assets or the environment at risk, or if any road, footpath or drainage works required by this consent are not completed satisfactorily, Council may carry out any works necessary to repair the damage, remove the risk or complete the works. Council may utilise part or all of the security deposit to restore any damages, and Council may recover, in any court of competent jurisdiction, any costs to Council for such restorations.

A request for release of the security may be made to the Council after all construction work has been completed and a final Occupation Certificate issued.

The amount nominated is only current for the financial year in which the consent was issued and is revised each financial year. The amount payable must be consistent with Council's Fees and Charges in force at the date of payment.

Requirements of this condition are to be met prior to works commencing or prior to release of a Construction Certificate (whichever occurs first). Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

Reason: To confirm the terms of approval.

51. The stormwater drainage plans 01425-100 (Rev 02), 01425-201 (Rev 03), 01425-202 (Rev 03), 01425-203 (Rev 03), 01425-204 (Rev 03), 01425-205 (Rev 03), 01425-301 (Rev 03), 01425-302 (Rev 03), 01425-351 (Rev 02), 01425-601 (Rev 03), 01425-621 (Rev 03) and 01425-701 (Rev 03) and the proposed water quality treatments measures outlined in the Stormwater Management Plan submitted by C&M Consulting Engineers P/L (Rev C) are generally acceptable subject to the following amendments/additional details being submitted to and approved by Council before the issue of a Construction Certificate;
- i. Detailed calculations for sizing of the OSD system including the orifice must be provided for assessment (this shall include the DRAINS files);
 - ii. Details of the Height v Storage and Height v Discharge relationships for the OSD system must be submitted for review;
 - iii. Details of the 1 in 100 year overflow routes in case of failure/blockage of the drainage system shall be provided. Please note that catchments that do not have an overland flow path available the pipe capacity draining that catchment must have a 1 in 100 year capacity;
 - iv. Details of the proposed stormwater re-use system and the proposed connection to toilets and external taps for irrigation;
 - v. The MUSIC file (ie .sqz file) used in the Stormwater Management Plan submitted by C&M Consulting Engineers P/L shall be submitted to Council's Development Engineer for review; and
 - vi. A detailed WSUD maintenance plan outlining how all elements of the water quality treatment facility will be maintained and to record annual inspections/maintenance works to be undertaken.

The above additional information shall be submitted to and approved by Council's Development Engineer before the issue of a Construction Certificate.

Reason: To confirm the terms of approval.

52. In order to provide satisfactory vehicular and pedestrian access adjacent to the site, the following road and footpath works shall be undertaken in accordance with Council's standard plans and specifications (AUS-SPEC) and RMS's requirements. All works shall be at no cost to Council or the RMS and shall be constructed before the issue of the Occupation Certificate. The works shall include the following:
- i. Road, footpath and kerb & gutter works generally in accordance with the civil works plans DAC000-P1, DAC001-P4, DAC002-P3, DAC003-P4, DAC004-P5, DAC005-P1 and DAC006-P1 by AT&L Civil Engineers subject amendments to provide a consistent property alignment in Smith Street adjacent to the electrical kiosk;

- ii. The provision of a new road pavement in Smith Street (kerb to kerb) for the full frontage of the site in Smith Street. The design of the pavement shall be undertaken using geotechnical information and testing and up to date traffic data;
- iii. All works in relation to the installation of the new Traffic Signals and right turn bay in the Princes Highway;
- iv. Relocation and/or augmentation of existing Council and RMS stormwater drainage to suit the road works and new road alignments. This shall include the upgrade all of the stormwater pipes within the Princes Highway and Smith Street adjacent to the site to a minimum 375 diameter;
- v. All footpaths must be reconstructed in accordance with Councils Standard Plan "F3" with a 2.5% positive cross fall from the existing kerb (assuming a 150mm high kerb) to the site boundary;
- vi. The construction of Industrial duty concrete vehicular crossings at the proposed vehicular access locations;
- vii. The removal of all redundant vehicular crossings to the site of the proposed development and replacement with kerb, gutter and footpath paving;
- viii. Details of all existing and proposed signage and line marking and existing and proposed "on street" parking on the southern side of Smith Street;
- ix. Landscaping to Council and RMS requirements; and
- x. All adjustments to public utilities including street lighting required by these works;

Full detailed construction plans and specifications shall be submitted to Council for approval under Section 138 of the Roads Act 1993 before the issue of a Construction Certificate with all works completed before to the issue of an Occupation Certificate. No road and drainage works shall commence until approved plans and specifications are issued for construction by the Council.

Reason: To confirm the terms of approval.

53. A detailed Traffic Signal design for the reconfigured intersection of Smith Street and the Princes Highway shall be submitted for the approval of RMS and Council before the issue of a Construction Certificate. The new signals shall be designed to accommodate bicycles.

Reason: To confirm the terms of approval.

54. The person acting on this consent shall seek approval from the State Transit Authority (STA) for the proposed relocation of the bus stop and shelter. The applicant must liaise with Council's bus shelter service provider to organise the relocation at no cost to Council. The shelter shall be located adjacent to the site and within the property boundaries (with provision of a suitable easement) so as to maintain a 2.5m clear footpath along the Princes Highway. A plan of the proposed bus shelter relocation with signposting alterations shall be submitted to the RMS and Council for approval before the issue of a Construction Certificate.

Reason: To confirm the terms of approval.

55. The alignment levels for the site at the boundaries shall match the adjacent "top of kerb" height plus 2.5%. This will require the internal site levels to be adjusted locally at the boundary to ensure that they match the above issued alignment levels. Amended plans detailing the alignment levels (at 10m intervals) shall be submitted to and approved by Council's Development Engineer before the issue of the Construction Certificate.

Reason: To confirm the terms of approval.

56. Vehicular access and associated vehicle standing areas shall be designed in accordance with Australian Standard AS 2890.1-2004, Australian Standard AS 2890.2-2002, and Australian Standard AS 2890.6-2009. Amended plans complying with the above standards and including the following amendments/additional information shall be provided for approval:
- a) Details of all signage and line marking for the driveway access and carpark areas;
 - b) The provision of traffic control devices such as speed humps where parking aisle lengths are more than 100m in accordance with Clause 2.3.3 of AS 2890.1-2004;
 - c) The provision of adequate pedestrian circulation in accordance with Clause 4.1 of AS 2890.1-2004;
 - d) The door on the south western elevation of the car park shall be accessible internally and externally and signposted as public access to allow pedestrian access to Smith Street from the car park during the Bunnings trading hours.
 - e) The provision of 4 carshare spaces on site; and
 - f) The applicant shall implement treatments at the Smith Street exit (to the satisfaction of Council) which will assist in limiting left turns into Smith Street from out of the proposed developments' driveway.

Details of compliance with the above requirements shall be submitted to Council for approval before the issue of a Construction Certificate.

Reason: To confirm the terms of approval.

57. Before the issue of a Construction Certificate the person acting on this consent shall submit to Council's Traffic & Parking Services section a Loading Dock Delivery Management Plan for the site. Delivery times shall be managed so as to reduce conflict between heavy vehicles and other traffic accessing the site. Six months and 18 months after commencement of operations the applicant shall investigate and report on the effectiveness of the plan and undertake any reasonable improvements required by Council.

Reason: To confirm the terms of approval.

58. Details of an anti-graffiti treatment to all side elevations of the development must be submitted to and approved by the Principal Certifying Authority before the issue of a Construction Certificate.

Reason: To ensure the development remains free of graffiti.

59. Evidence of payment of the building and construction industry Long Service Leave Scheme, must be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate. (The required payment can be made at the Council Offices).

NOTE: The required payment is based on the estimated cost of building and construction works and the long service levy rate, set by the Long Service Payments Corporation. The rate set by the Long Service Payments Corporation is currently of 0.35% of the cost of the building and construction work.

For more information on how to calculate the amount payable and where payments can be made contact the Long Services Payments Corporation.

http://www.lspc.nsw.gov.au/levy_information/?levy_information/levy_calculator.stm

Reason: To ensure that the required levy is paid in accordance with the Building and Construction Industry Long Service Payments Act.

60. Before the issue of any Construction Certificate, amended plans are required to be submitted to the satisfaction of the Certifying Authority detailing all recommendations contained within the Energy Performance report referenced in Condition 1 of this Determination have been incorporated into the development.
Reason: To ensure the proposed development incorporates the measures recommended within the report.
61. Before the issue of any Construction Certificate, the Certifying Authority must be satisfied that all recommendations contained within the Preliminary Site Investigation report and Hazardous Materials Assessment Report referenced in Condition 1 of this Determination have been satisfied.
Reason: To ensure the proposed development incorporates the measures recommended within the report.
62. Before the issue of any Construction Certificate, amended plans are required to be submitted to the satisfaction of the Certifying Authority detailing all recommendations contained within the Geotechnical Study report referenced in Condition 1 of this Determination have been satisfied.
Reason: To ensure the proposed development incorporates the measures recommended within the report.
63. Before the issue of any Construction Certificate, the Certifying Authority must be satisfied that all recommendations contained within the Acoustic Report referenced in Condition 1 of this Determination have been satisfied.
Reason: To ensure the proposed development incorporates the measures recommended within the report.
64. Before the issue of any Construction Certificate, amended plans and details must be submitted to and approved by Council indicating a total of 21 motorcycle parking spaces being provided in the basement car park.
Reason: To ensure compliance with the requirements of Part 2.10 of MDCP 2011.
65. **Conservation Architect**
A suitably qualified conservation architect is to be engaged to advise the person acting on this consent on any heritage issues arising during construction. Evidence that this person has been appointed is to be submitted to the Principal Certifying Authority before the issue of any Construction Certificate.
Reason: To confirm the terms of approval.
66. **Schedule of Conservation Works**
Before the issue of any Construction Certificate, a Schedule of Conservation Works is to be prepared by the appointed conservation architect. The schedule is to include details of how significant exterior and interior finishes within the retained elements of the building shall be conserved, including but not limited to: the building façade and fenestration, significant flooring finishes, lighting and electrical fixtures, walls and surface finishes, tiles, bathroom fixtures and fittings, signage, handrails and balustrades, ceilings, window and door hardware and windows and doors. A landscape plan for the Princes Highway frontage is to be included, which responds to the original landscape setting within the reduced curtilage.
Reason: To confirm the terms of approval.

67. Interpretation Plan

Before the issue of any Construction Certificate, an Interpretation Plan must be prepared by an experienced heritage interpretation practitioner and submitted to the satisfaction of Council's Heritage Advisor. The Interpretation Plan shall be in accordance with the NSW Heritage Council's 'Interpreting Heritage Places and Items Guidelines' 2005. The plan must make allowance for the display of potential archaeology uncovered during the works and interpret the multiple uses and history of the building and site in a way that is engaging, informative and readily accessible to visitors.

Reason: To confirm the terms of approval.

68. Archaeological Assessment and Research Design Report

Before the issue of any Construction Certificate, an Aboriginal Due Diligence Assessment and Historical Archaeological Assessment and Research Design report is required to be prepared and submitted to the satisfaction of the Certifying Authority, and all relevant permits are to be obtained prior to works commencing on the site. This will require the updating of the Archaeological Assessment and Research Design report prepared by Godden Mackay Logan dated November 2012.

Reason: To confirm the terms of approval.

BEFORE THE ISSUE OF A SUBDIVISION CERTIFICATE

69. The submission of a final survey plan and five (5) copies for the proposed subdivision.

Reason: To comply with Council's requirements.

70. The payment of the required fee, under Council's adopted fees and charges, for the approval of the final plan under the terms of Section 109J of the Environmental Planning and Assessment Act.

Reason: To comply with the requirements of that Act.

71. All instruments used to create easements, rights and/or restrictions as to user including in them provisions that such may not be revoked or modified without the prior approval of Council.

Reason: To ensure that such instruments are not revoked or modified without the prior approval of Council.

SITE WORKS

72. Alignment levels for the site at all pedestrian and vehicular access locations shall to be set by the public domain design to be approved by Council;

Reason: To confirm the terms of approval.

73. The applicant shall, within fourteen (14) days of notification by Council, execute any and all maintenance works required by Council. In the event that the applicant fails to undertake such work, Council may undertake the required maintenance works, utilising part or all of the maintenance security bond and Council may recover any costs in excess of the security from the applicant.

Reason: To confirm the terms of approval.

74. All buildings and structures, together with any improvements integral to the future use of the site are wholly within the freehold property (unlimited in height or depth), along the Princes Highway boundary and does not affect or impact the integrity of any WestConnex New M5 tunnel.

Additionally all required road works and relocated public footpaths required by this development should be located within public road or land to be dedicated as public road.

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.

Reason: To confirm the terms of RMS concurrence.

75. The proposed works along the Princes Highway shall be designed to meet Roads and Maritime requirements, and endorsed by a suitably qualified practitioner. The design requirements shall be in accordance with AUSTRROADS and other Australian Codes of Practice. The certified copies of the civil design plans shall be submitted to Roads and Maritime for consideration and approval prior to the release of the Construction Certificate by the Principal Certifying Authority and commencement of road works.

Reason: To confirm the terms of RMS concurrence.

76. The proposed modifications to the traffic control light at the intersection of Prince Highway and Smith Street shall be designed to meet Roads and Maritime requirements. The Traffic Control Signal (TCS) plans shall be drawn by a suitably qualified person and endorsed by a suitably qualified practitioner.

The submitted design shall be in accordance with Austroads Guide to Road Design in association with relevant Roads and Maritime supplements (available on www.rms.nsw.gov.au). The certified copies of the civil design plans shall be submitted to Roads and Maritime for consideration and approval prior to the release of a Construction Certificate and commencement of road works.

Roads and Maritime fees for administration, plan checking, civil works inspections and project management shall be paid by the developer prior to the commencement of works.

The developer will be required to enter into a Works Authorisation Deed (WAD) for the abovementioned works. Please note that the WAD will need to be executed prior to Roads and Maritime assessment of the detailed civil design plans.

Reason: To confirm the terms of RMS concurrence.

77. The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents.

Reason: To confirm the terms of RMS concurrence.

78. The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements in relation to landscaping and/or fencing, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1- 2004, AS2890.6-2009 and AS 2890.2 – 2002 for heavy vehicle usage.

Reason: To confirm the terms of RMS concurrence.

79. Consideration should also be given to providing bicycle parking facilities either within the development or close to it, as well as end trip facilities such as showers, changing rooms, etc. to encourage employees travelling to and from the development by cycling.

Reason: To confirm the terms of RMS concurrence.

80. 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 on the Princes Highway.

Reason: To confirm the terms of RMS concurrence.

81. A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council for approval prior to the issue of a Construction Certificate

Reason: To confirm the terms of RMS concurrence.

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

Reason: To confirm the terms of RMS concurrence.

83. Unless otherwise approved by Council, excavation, demolition, construction or subdivision work shall only be permitted during the following hours:

- a) 7:00 am to 6.00 pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm);
- b) 8:00 am to 1:00 pm on Saturdays with no demolition works occurring during this time; and
- c) at no time on Sundays or public holidays.

Works may be undertaken outside these hours where they do not create any nuisance to neighbouring properties in terms of dust, noise, vibration etc and do not entail the use of power tools, hammers etc. This may include but is not limited to painting.

In the case that a standing plant or special permit is obtained from Council for works in association with this development, the works which are the subject of the permit may be carried out outside these hours.

This condition does not apply in the event of a direction from police or other relevant authority for safety reasons, to prevent risk to life or environmental harm.

Activities generating noise levels greater than 75dB(A) such as rock breaking, rock hammering, sheet piling and pile driving shall be limited to:

8:00 am to 12:00 pm, Monday to Saturday; and
2:00 pm to 5:00 pm Monday to Friday.

The Proponent shall not undertake such activities for more than three continuous hours and shall provide a minimum of one 2 hour respite period between any two periods of such works.

“Continuous” means any period during which there is less than an uninterrupted 60 minute respite period between temporarily halting and recommencing any of that intrusively noisy work.

Noise arising from the works must be controlled in accordance with the requirements of the *Protection of the Environment Operations Act 1997* and guidelines contained in the New South Wales Environment Protection Authority Environmental Noise Control Manual.

Reason: To minimise the effect of the development during the construction period on the amenity of the surrounding neighbourhood.

84. The area surrounding the building work must be reinstated to Council's satisfaction upon completion of the work.

Reason: To ensure that the area surrounding the building work is satisfactorily reinstated.

85. The placing of any materials on Council's footpath or roadway is prohibited, without the consent of Council. The placement of waste storage containers in a public place requires Council approval and must comply with Council's Policy - 'Placement of Waste Storage Containers in a Public Place'.

Reason: To ensure the public ways are not obstructed and the placement of waste storage containers in a public place are not dangerous to the public.

86. All demolition work must be carried out in accordance with the following:

- a) compliance with the requirements of Australian Standard AS 2601 'The demolition of structures' with specific reference to health and safety of the public, health and safety of the site personnel, protection of adjoining buildings and protection of the immediate environment;
- b) all works involving the demolition, removal, transport and disposal of asbestos cement must be carried out in accordance with the 'Worksafe Code of Practice for Removal of Asbestos' and the requirements of the WorkCover Authority of NSW and the Department of Environment, Climate Change and Water;
- c) all building materials arising from the demolition must be disposed of in an approved manner in accordance with Part 2.21 of Marrickville Development Control Plan 2011 – Site Facilities and Waste Management and any applicable requirements of the Department of Environment, Climate Change and Water;
- d) sanitary drainage, stormwater drainage, water, electricity and telecommunications must be disconnected in accordance with the requirements of the responsible authorities;
- e) the generation of dust and noise on the site must be controlled;
- f) the site must be secured to prohibit unauthorised entry;
- g) suitable provision must be made to clean the wheels and bodies of all vehicles leaving the site to prevent the tracking of debris and soil onto the public way;
- h) all trucks and vehicles associated with the demolition, including those delivering to or removing material from the site, must only have access to the site during work hours nominated by Council and all loads must be covered;
- i) all vehicles taking materials from the site must be loaded wholly within the property unless otherwise permitted by Council;
- j) no waste collection skips, spoil, excavation or demolition material from the site must be deposited on the public road, footpath, public place or Council owned property without the approval of Council; and
- k) the person acting on this consent must ensure that all contractors and sub-contractors associated with the demolition are fully aware of these requirements.

Reason: To ensure that the demolition work is carried out safely and impacts on the surrounding area are minimised.

87. The works must be inspected at critical stages of construction, by the PCA or if the PCA agrees, by another certifying authority. The last inspection can only be carried out by the PCA. The critical stages of construction are:

- a) At the commencement of the building work;
- b) For Class 2, 3 and 4 buildings, prior to covering waterproofing in any wet areas (a minimum of 10% of wet areas within a building);
- c) Prior to covering any stormwater drainage connections, and after the building work has been completed and prior to any occupation certificate being issued in relation to the building; and
- d) After the building work has been completed and prior to any Occupation Certificate being issued in relation to the building.

You are advised to liaise with your PCA to establish if any additional inspections are required.

Reason: To ensure the building work is carried out in accordance with the Environmental Planning and Assessment Regulations and the National Construction Code (Building Code of Australia).

88. If it is necessary to excavate below the level of the base of the footings of a building on the adjoining allotments, including a public place such as footways and roadways, the person acting on this consent must ensure that:

- a) At least 7 days' notice is given to the owners of the adjoining land of the intention to excavate below the base of the footings. The notice must include complete details of the work; and
- b) Any building is preserved and protected from damage.

Where a dilapidation report has not been prepared on any building adjacent to the excavation, the person acting on this consent is responsible for arranging and meeting the cost of a dilapidation report prepared by a suitably qualified person. The report must be submitted to and accepted by the PCA before works continue on site, if the consent of the adjoining property owner can be obtained. Copies of all letter/s that have been sent via registered mail to the adjoining property owner and copies of any responses received must be forwarded to the PCA before work commences.

Reason: To ensure that adjoining buildings are preserved, supported and the condition of the buildings on the adjoining property catalogued for future reference in the event that any damage is caused during work on site.

89. All vehicles carrying materials to, or from the site must have their loads covered with tarpaulins or similar covers.

Reason: To ensure dust and other particles are not blown from vehicles associated with the use.

90. A certificate of survey from a registered land surveyor must be submitted to the PCA upon excavation of the footings and before the pouring of the concrete to verify that the structure will not encroach on the allotment boundaries.

Reason: To ensure all works are contained within the boundaries of the allotment.

91. A clear unobstructed path of travel of not less than 1,000mm must be provided to all exits and paths of travel to exits.

Reason: To provide safe egress in case of fire or other emergency.

92. Fixtures for bathroom and kitchen taps, showerheads, dishwashers, toilet cisterns and urinals must have a minimum 3 Star WELS rating.
NOTE: Information on the star rating scheme, and all 'star' rated products are available to view at the Water Efficiency Labelling and Standards (WELS) website: www.waterrating.gov.au.
Reason: To conserve water.
93. New or replacement toilets must have a minimum 3 Star WELS rating and being 6/3 litre dual flush or more efficient.
NOTE: Information on the star rating scheme, and all 'star' rated products are available to view at the Water Efficiency Labelling and Standards (WELS) website: www.waterrating.gov.au.
Reason: To conserve water.
94. Trees to be removed shall be removed by a practicing arborist who has a minimum qualification of Certificate 3 in Arboriculture, in compliance with the Safe Work Australia *Guide to Managing Risks of Tree Trimming and Removal Work*, July 2016.
Reason: To ensure trees are removed in a safe and environmentally responsible manner.
95. Landscaping of the site must be carried out prior to occupation or use of the premises in accordance with the approved plan, and must be maintained at all times to Council's satisfaction in accordance with a maintenance schedule prepared for all landscaping within the site boundaries and submitted to Council's satisfaction.
Reason: To ensure adequate landscaping is maintained.

BEFORE OCCUPATION OF THE BUILDING

96. All works required to be carried out in connection with drainage, crossings, alterations to kerb and guttering, footpaths and roads resulting from the development shall be completed before the issue of an Occupation Certificate. Works shall be in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications".
Reason: To confirm the terms of approval.
97. Heavy duty concrete vehicle crossings, in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" must be constructed at the vehicular access locations before the issue of the Occupation Certificate and at no cost to Council.
Reason: To confirm the terms of approval.
98. All redundant vehicular crossings to the site shall be removed and replaced by kerb and gutter and footpath paving in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" before the issue of the Occupation Certificate and at no cost to Council. Where the kerb in the vicinity of the redundant crossing is predominately stone (as determined by Council's Engineer) the replacement kerb shall also be in stone.
Reason: To confirm the terms of approval.
99. Encroachments onto Council's road or footpath of any service pipes, sewer vents, boundary traps, downpipes, gutters, stairs, doors, gates, garage tilt up panel doors or any structure whatsoever shall not be permitted. Any encroachments on to Council road or footpath resulting from the building works will be required to be removed before the issue of the Occupation Certificate.
Reason: To confirm the terms of approval.

100. You are advised that Council has not undertaken a search of existing or proposed utility services adjacent to the site in determining this application. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development shall be at no cost to Council and undertaken before the issue of an Occupation Certificate.

Reason: To confirm the terms of approval.

101. Before the issue of the Occupation Certificate written verification from a suitably qualified competent person, stating that all stormwater drainage, re-use and quality measures have been constructed in accordance with the approved plans shall be submitted to and accepted by Council. In addition, full works-as-executed plans, prepared and signed by a registered surveyor, shall be submitted to Council. These plans must include levels for all drainage structures, buildings (including floor levels), finished ground levels and pavement surface levels.

Reason: To confirm the terms of approval.

102. With the regard to the Stormwater Treatment Facilities a Positive Covenant shall be placed on the Title in favour of Council before issue of the Occupation Certificate. The Positive Covenant shall include the following:

- a) The proprietor of the property shall be responsible for maintaining the stormwater treatment facility in accordance with the approved plans;
- b) The Proprietor shall have the stormwater quality treatment facilities inspected annually (minimum) by a competent person and must provide the WSUD maintenance plan approved under this Consent to competent person to record the annual inspections.
- c) The Council shall have the right to enter upon the land referred to above, at all reasonable times to inspect, construct, install, clean, repair and maintain in good working order all elements of the stormwater quality treatment facilities to ensure that the water quality targets provided in the design of the system are achieved; and recover the costs of any such works from the proprietor.

Reason: To confirm the terms of approval.

103. With the regard to the On Site Detention System (OSD), a Positive Covenant in accordance with supplement 7 of Marrickville Council Stormwater and On Site Detention Code shall be placed on the Title in favour of Council before the issue of the Occupation Certificate.

Reason: To confirm the terms of approval.

104. All instruments under Section 88B of the Conveyancing Act used to create positive covenants, easements or right-of-ways shall include the condition that such easements or right-of-ways may not be varied, modified or released without the prior approval of Marrickville Council.

Reason: To confirm the terms of approval.

105. Before the issue of the Occupation Certificate, The Council must be provided with evidence which establishes that a plan of subdivision has been registered by the Land and Property Information Authority which results in the road widening of the Princes Highway and Smith Street conforming to new road alignment in the approved Civil Works Plans.

Reason: To confirm the terms of approval.

106. All works required to be undertaken on public roads shall be designed and constructed in accordance with Council's standard plans and specifications. The works shall be supervised and certified by a qualified civil engineer who is listed under the Institution of Engineers, Australia "National Professional Engineers Register" (NPER) and shall state that the works have been constructed in accordance with the approved plans and specifications before the issue of the Occupation Certificate.

Video inspection (CCTV) shall be carried out of completed stormwater drainage works that are to revert to Council and a copy provided to Council to support the certification of those works.

In addition, full works-as-executed plans in PDF or CAD format (dwg or dxf files), prepared and signed by a registered surveyor, shall be submitted to Council upon completion of the works.

Reason: To confirm the terms of approval.

107. The existing overhead power cables along the Princes Highway and Smith Street frontages of the site must be relocated underground with appropriate street lighting and new steel standard poles being installed at no cost to Council and before the issue of an Occupation Certificate. The street lighting shall be designed in accordance with Australian Standard AS1158-Road Lighting and the Network Standards of Ausgrid and must meet lighting category required by RMS. Plans shall be submitted to and approved by Council before submission to Ausgrid for implementation.

Reason: To confirm the terms of approval.

108. The use and operation of the 4 car share space must be managed by the owner or contracted by the owner to a car share operator to the satisfaction of Council. The use and operation of the car share space must be accommodated in the titling and management of the development before the issue of an Occupation Certificate, and must provide for:

- a) Free use of the car share space;
- b) The car share parking space must be marked as a "shared hire car only";
- c) Public access at all times to the car share vehicle; and
- d) Insurances, including public liability.

Reason: To confirm the terms of approval.

109. A second Dilapidation Report addressing the public infrastructure identified in the pre work Dilapidation Report including a photographic survey and structural condition, must be submitted after the completion of works. A copy of this Dilapidation Report must be lodged with Council and the Principal Certifying Authority before to the issue of an Occupation Certificate.

Any damage identified in the Dilapidation Report must be fully rectified by the applicant or owner at no cost to Council before to the issue of an Occupation Certificate.

Reason: To confirm the terms of approval.

110. The applicant shall provide security, in a manner satisfactory to Council, for the proper maintenance of the road/drainage works in an amount of \$75,000.00 for a period of twelve (12) months from the date of completion of the Road/Drainage works as surety for the proper maintenance of the Road/Drainage works.

Reason: To confirm the terms of approval.

111. Prior to issue of the Occupation Certificate the person acting on this consent shall obtain from Council a compliance Certificate(s) stating that all Road, Footpath and Public Domain Works on Council property required to be undertaken as a result of this development have been completed satisfactorily and in accordance with Council approved plans and specifications.

Reason: To confirm the terms of approval.

112. **LATM scheme delivery**

- a) The LATM works approved as part of Part A of this Determination being implemented to the satisfaction of Inner West Local Traffic Committee prior to the issue of an Occupation Certificate and are to be carried out by the applicant at the applicant's expense.
- b) After a period of 12 months from the issue of an Occupation Certificate, the applicant is to fund a review of the LATM measures implemented as part of Part a) of this condition. Any implemented LATM devices that are deemed not to be required are to be removed by the applicant at the applicant's expense and to the satisfaction of Inner West Local Traffic Committee. In addition any new LATM measures deemed necessary shall also be constructed by the applicant and at the applicant's expense.
- c) All works required to be carried out on public land as part of Parts a) and b) of this condition are to be carried out by the applicant at the applicant's expense with an appropriate Deed and bond being entered into with Council prior to the issue of an Occupation Certificate.

Reason: To confirm the terms of approval.

113. All works required to be carried out in relation to the loss of on-street parking on the western side of Princes Highway, including the signage installation and community consultation shall be at no cost to Roads and Maritime and undertaken by the applicant before the issue of an Occupation Certificate.

114. Before the issue of an Occupation Certificate, the person acting on this consent shall submit to the satisfaction of Council a Plan of Management for the operation of site. The Plan of Management shall be prepared in accordance with guidelines contained within Marrickville Development Control Plan 2011, and shall include but not limited to operational details, hours of operation, staffing detail, delivery details, customer handling policy, security measures, complaint recording and handling procedures and a review process.

Reason: To ensure an adequate framework and policy is in place to protect the amenity of the adjoining development and manage the ongoing operation of the site.

115. You must obtain an Occupation Certificate from your PCA before you occupy or use the building. The PCA must notify the Council of the determination of the Occupation Certificate and forward the following documents to Council within 2 days of the date of the Certificate being determined:

- a) A copy of the determination;
- b) Copies of any documents that were lodged with the Occupation Certificate application;
- c) A copy of Occupation Certificate, if it was issued;
- d) A copy of the record of all critical stage inspections and any other inspection required by the PCA;
- e) A copy of any missed inspections; and
- f) A copy of any compliance certificate and any other documentary evidence relied upon in issuing the Occupation Certificate.

Reason: To comply with the provisions of the Environmental Planning and Assessment Regulations.

116. Occupation of the building must not be permitted until such time as:

- a) All preconditions to the issue of an Occupation Certificate specified in this development consent have been met;
- b) The building owner obtains a Final Fire Safety Certificate certifying that the fire safety measures have been installed in the building and perform to the performance standards listed in the Fire Safety Schedule; and
- c) An Occupation Certificate has been issued.

Reason: To comply with the provisions of the Environmental Planning and Assessment Act.

117. The owner of the premises, as soon as practicable after the Final Fire Safety Certificate is issued, must:

- a) Forward a copy of the Final Safety Certificate and the current Fire Safety Schedule to the Commissioner of Fire and Rescue New South Wales and the Council; and
- b) Display a copy of the Final Safety Certificate and Fire Safety Schedule in a prominent position in the building (i.e. adjacent the entry or any fire indicator panel).

Every 12 months after the Final Fire Safety Certificate is issued the owner must obtain an Annual Fire Safety Certificate for each of the Fire Safety Measures listed in the Schedule. The Annual Fire Safety Certificate must be forwarded to the Commissioner and the Council and displayed in a prominent position in the building.

Reason: To ensure compliance with the relevant provisions of the Environmental Planning and Assessment Regulations and Building Legislation Amendment (Quality of Construction) Act.

118. Following completion of construction and before the issue of an Occupation Certificate, thirteen (13) new trees shall be planted. The new trees shall be planted in accordance with the following criteria:

- a) The new trees shall be located in accordance with the landscape plan (John Lock & Associates Landscape Architecture, Issue I, 7/12/18).
- b) The species of the new tree shall be *Corymbia citriodora* (lemon-scented gum).
- c) The planting stock size shall be at least 100 litres.
- d) The planting stock shall comply with the Australian Standard *Tree Stock for Landscape Use* AS 2303-2015.
- e) The new trees shall be planted in accordance with the tree planting detail included in the Marrickville Street Tree Master Plan 2014. Note that planting holes for trees shall not be excavated deeper than the root ball and that new trees shall not be staked.
- f) The new trees shall be planted by a qualified horticulturist or arborist, with a minimum qualification of Certificate 3.
- g) Each new tree shall be maintained in a healthy and vigorous condition until it attains a height of 5 metres, from which time it is protected by MDCP 2011.
- h) If any tree dies or needs to be removed before that time it shall be replaced with a similar tree in accordance with these conditions at the expense of the applicant.

Reason: To ensure that the new trees are planted in a suitable location and maintained properly.

119. The Principal Certifying Authority shall certify in writing before the issue of the Occupation Certificate that the conditions relating to tree removal and tree planting have been complied with, or if not, detail the nature of any departure from the conditions and shall report breaches of the conditions to Inner West Council.

Reason: To ensure that conditions relating to tree removal, tree protection and tree planting are complied with.

120. Heritage Council Approval of Archaeological Works

Before the issue of an Occupation Certificate, the person acting on this consent shall provide written evidence to the satisfaction of the Certifying Authority that the Heritage Council of NSW is satisfied with the completion of all on-site archaeological works.

Reason: To confirm the terms of approval.

121. The conservation works recommended in the Schedule of Conservation works as required by Condition 64 are to be implemented to the satisfaction of Council's Heritage Advisor prior to the issue of the Occupation Certificate.

Reason: To confirm the terms of approval.

122. The Interpretation Plan must be implemented to the satisfaction of Council's Heritage Advisor prior to the issue of the Occupation Certificate.

Reason: To confirm the terms of approval

ADVISORY NOTES

- The Disability Discrimination Act 1992 (Commonwealth) and the Anti-Discrimination Act 1977 (NSW) impose obligations on persons relating to disability discrimination. Determination of the application does not relieve persons who have obligations under those Acts of the necessity to comply with those Acts.

- A complete assessment of the application under the provisions of the National Construction Code (Building Code of Australia) has not been carried out.
- The approved plans must be submitted to the Customer Centre of any office of Sydney Water before the commencement of any work to ensure that the proposed work meets the requirements of Sydney Water. Failure to submit those plans before commencing work may result in the demolition of the structure if found not to comply with the requirements of Sydney Water.
- The vehicular crossing and/or footpath works are required to be constructed by your own contractor. You or your contractor must complete an application for 'Construction of a Vehicular Crossing & Civil Works' form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, before commencement of works.
- Buildings built or painted before the 1970's may have surfaces coated with lead-based paints. Recent evidence indicates that lead is harmful to people at levels previously thought safe. Children particularly have been found to be susceptible to lead poisoning and cases of acute child lead poisonings in Sydney have been attributed to home renovation activities involving the removal of lead based paints. Precautions should therefore be taken if painted surfaces are to be removed or sanded as part of the proposed building alterations, particularly where children or pregnant women may be exposed, and work areas should be thoroughly cleaned before occupation of the room or building.
- Contact "Dial Before You Dig" before commencing any building activity on the site.
- Useful Contacts

BASIX Information	☎ 1300 650 908 weekdays 2:00pm - 5:00pm www.basix.nsw.gov.au
Department of Fair Trading	☎ 13 32 20 www.fairtrading.nsw.gov.au Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Before You Dig	☎ 1100 www.dialbeforeyoudig.com.au
Landcom	☎ 9841 8660 To purchase copies of Volume One of "Soils and Construction"
Long Service Payments Corporation	☎ 131441 www.lspc.nsw.gov.au
NSW Food Authority	☎ 1300 552 406 www.foodnotify.nsw.gov.au
NSW Government	www.nsw.gov.au/fibro www.diysafe.nsw.gov.au Information on asbestos and safe work practices.

NSW Office of Environment and Heritage	 131 555 www.environment.nsw.gov.au
Sydney Water	 13 20 92 www.sydneywater.com.au
Waste Service - SITA Environmental Solutions	 1300 651 116 www.wasteservice.nsw.gov.au
Water Efficiency Labelling and Standards (WELS)	www.waterrating.gov.au
WorkCover Authority of NSW	 13 10 50 www.workcover.nsw.gov.au Enquiries relating to work safety and asbestos removal and disposal.

- B. THAT** those persons and the head petitioner who lodged submissions in respect to the proposal be advised of the Council's determination of the application.