

**182-198 VICTORIA ROAD AND 28-30 FAVERSHAM STREET,
MARRICKVILLE**

Panel Reference	2019ECI017
DA Number	DA201900096
LGA	Inner West
Proposed Development	To demolish existing improvements and construct a mixed-use development ranging from 6 storeys to 12 storeys in height comprising 2,387sqm of ground floor retail floor space, 272 residential apartments and two levels of basement car parking, public domain and landscaping works
Street Address	182-198 Victoria Road and 28-30 Faversham Street, Marrickville
Applicant	Toga Wicks Park Developments Pty Ltd
Owner	Danias Holdings Pty Ltd & Dina Danias
Date of DA lodgement	20 March 2019
Number of Submissions	Ninety-three (93)
Recommendation	Approval subject to conditions
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	General Development over \$30 million Capital investment value of \$129,148,000
List of all relevant s4.15(1)(a) matters	<i>Civil Aviation (Building Controls) 1988</i> <i>State Environmental Planning Policy No. 55 – Remediation of Land</i> <i>State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development</i> <i>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</i> <i>State Environmental Planning Policy (Infrastructure) 2007</i> <i>State Environmental Planning Policy (State and Regional Development) 2011</i> <i>State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017</i> <i>Marrickville Local Environmental Plan 2011</i> Marrickville Development Control Plan 2011 Marrickville Section 94/94A Contributions Plan 2014
List all documents submitted with this report for the Panel's consideration	Architectural Plans Landscape Plans Statement of Environmental Effects

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	Clause 4.6 variation request for Height Transport Impact Assessment Statement of Compliance - Access Geotechnical Investigation Report Civil Report & Drawings (Flooding & Stormwater) Additional Site Investigation – Parts 1, 2 and 3 Remediation Action Plan Acid Sulfate Soil Assessment Statement Acoustic Assessment BCA Assessment Report Construction Management Plan ESD Report Fire Engineering Report Waste Management Plans Design Verification Report Economic Benefit Statement
Report prepared by	Matthew Di Maggio
Report date	18 February 2020

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? **Yes**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report? **Yes**

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Yes**

Special Infrastructure Contributions

No

Does the DA require Special Infrastructure Contributions conditions (S7.24)?

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Synopsis

Development consent is sought to demolish existing improvements and construct a mixed-use development ranging from 6 storeys to 12 storeys in height comprising 2,387sqm of ground floor retail floor space, 272 residential apartments and two levels of associated basement car parking, including the provision of public domain and landscaping works.

The proposal as originally submitted was 2 storeys higher (14 storeys in total) than the revised proposal. The reduction in building height resulted from consultation with the Civil Aviation Safety Authority (CASA) and Sydney Airport Corporation Limited (SACL) to ensure the proposal did not breach airspace planning height restrictions, namely the Obstacle Limitation Surface (OLS). In addition, the overall design has been refined during the assessment of the application following input by Council's Architectural Excellence Panel (AEP), particularly along its northern elevation; whereby greater articulation is achieved and varied materiality incorporated.

The site comprises 182-198 Victoria Road (Site A) and 28-30 Faversham Street (Site B), Marrickville. Site A includes various one to two storey industrial buildings utilised by multiple light industrial uses, at grade parking and multiple vehicular crossings to Victoria Road. Site B includes a two storey, industrial and office building utilised for light industrial purposes and vehicular crossings to Faversham Street/ Hans Place in the west. The subject site is largely devoid of significant vegetation, except for a series of (predominantly) palm trees on Site A.

The subject site is identified as being flood affected in the 1% AEP Event and is also subject to high hazard flooding. A Sydney Water box culvert drain and easement is located in the site's south-eastern corner. A sewerage pipe traverses the site's middle portion from its northern to southern boundary.

The originally submitted development proposal was publicly exhibited in accordance with Council's Policy for 28 days. Notice of the application was published in the Inner West Courier newspaper; signs were placed on the site and letters issued to local residents/property owners. In response, 78 submissions were received. In addition, the proposal as revised was notified in the same manner as the original and in response 15 submissions were received. In total, 93 submissions were received.

Primary concerns raised during the notification periods relate to traffic and parking impacts, airspace impacts, acoustic impacts overdevelopment of the site, overshadowing of Wicks Park, median island construction, bulk and scale impacts, amenity impacts and concerns relating to the proposal's compatibility with the surrounds.

The proposal generally complies with the objectives of applicable planning controls. Departures from key controls include building height, car parking and built form. The non-compliances with these planning controls are considered acceptable and are addressed within this report.

The application is recommended for approval subject to the successful resolution of outstanding issues via recommended consent conditions relating predominantly to traffic and parking matters, which are addressed within this report.

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PART A - PARTICULARS

Location: 182-198 Victoria Road and 28-30 Faversham Street, Marrickville



Figure 1: Aerial view of subject site – Site A (182-198 Victoria Road) & Site B (28-30 Faversham Street) (Source: *Intramaps*)

D/A No: DA201900096

Application Date: 20 March 2019

Proposal: To demolish existing improvements and construct a mixed-use development ranging from 6 storeys to 12 storeys in height comprising 2,387sqm of ground floor retail floor space, 272 residential apartments and two levels of associated basement car parking, including the provision of public domain and landscaping works

Applicant: Toga Wicks Park Developments Pty Ltd

Estimated Cost: \$129,148,000

Zoning: B4 Mixed Use (Site A 182-198 Victoria Road) and
B5 Business Development (Site B 28-30 Faversham, Street)

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PART B - THE SITE AND ITS CONTEXT



Figure 2: North-western portion of Site A (182-198 Victoria Road) viewed from Victoria Road.



Figure 3: Western portion of Site A (182-198 Victoria Road) viewed from Victoria Road.

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Figure 4: South-western portion of Site A (182-198 Victoria Road) adjacent to an electrical substation (200 Victoria Road) and Wicks Park. Image taken from Victoria Road.



Figure 5: North-eastern portion of Site B (28-30 Faversham Street), which is the exit point of the proposed private road. Image taken from corner of Faversham Street and Hans Place

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Current Use: Light industrial/industrial uses occupied by multiple tenancies.

Prior Determinations: None relevant.

PART C - REQUIREMENTS

1. Zoning

Is the proposal permissible under zoning provisions? Yes

Site A (182-198 Victoria Road):

- Site A is zoned 'B4 – Mixed Use' under the *Marrickville Local Environmental Plan 2011* (MLEP 2011).
- The proposed uses being *shop top housing* and *shops* are permissible with consent in the 'B4 – Mixed Use' zone. In addition, a private *road* is proposed to provide one-way vehicular access from Victoria Road into the site. *Roads* are permissible with consent in the 'B4 Mixed Use' zone.
- The fit-out and use of each respective *shop* will be subject to future applications.

Site B (28-30 Faversham, Street):

- Site B is zoned 'B5 – Business Development' under the MLEP 2011.
- The proposal includes the construction of a private *road* on Site B to assist to provide vehicular access. In this regard, one-way vehicular access is proposed to be provided from Victoria Road through Site A and out through Site B into Faversham Street and Hans Place.
- *Roads* are permissible with consent in the 'B5 –Business Development' zone.
- Building works and uses on Site B will be subject to a future Development Application (DA).

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2. Development Standards (Statutory Requirements):

Type	Required	Proposed	% of non-compliance
Height of Building (max)	Front portion of Site A (Victoria Road): 23m Remainder of Site A: 49RL	Front portion of Site A (Victoria Road): 23.85m Remainder of Site A: 45.25m (AHD)	Front portion of Site A (Victoria Road): 3.69% (850mm) Remainder of Site A: N/A
Floor Space Ratio (FSR) (max.)	3.5:1	3.5:1	N/A

3. Community Consultation:

Required: Yes on two (2) occasions (newspaper advertisement, on-site notice and letter notification)

Submissions: 93 submissions (discussed further within this report)

4. Other Requirements:

Marrickville Section 94/94A Contributions Plan 2014

PART D - ASSESSMENT

1. The Site and Surrounds

The site includes 182-198 Victoria Road (Site A) and 28-30 Faversham Street (Site B), Marrickville. Site A includes various one to two storey, industrial buildings utilised by multiple light industrial uses, at grade parking and vehicular crossings to Victoria Road.

Site B includes a two storey, industrial and office building utilised for light industrial purposes and vehicular crossings to Faversham Street/ Hans Place. The subject site is primarily devoid of significant vegetation, except for a series of palm trees on Site A.

The development relates to multiple allotments, which are legally described as follows:

- Lot 6/DP 226899 (Site A);
- Lot 100/DP 1239681 (Site A);
- Lot 1/DP 74200 (Site A);
- Lot 10/DP 701368 (Site A);
- Lot 4/DP 226899 (Site B).

The combined site area is 10,677m² and is divided between Site A and Site B as follows:

- 7,262m² (Site A); and
- 1,488.23m² (Site B).

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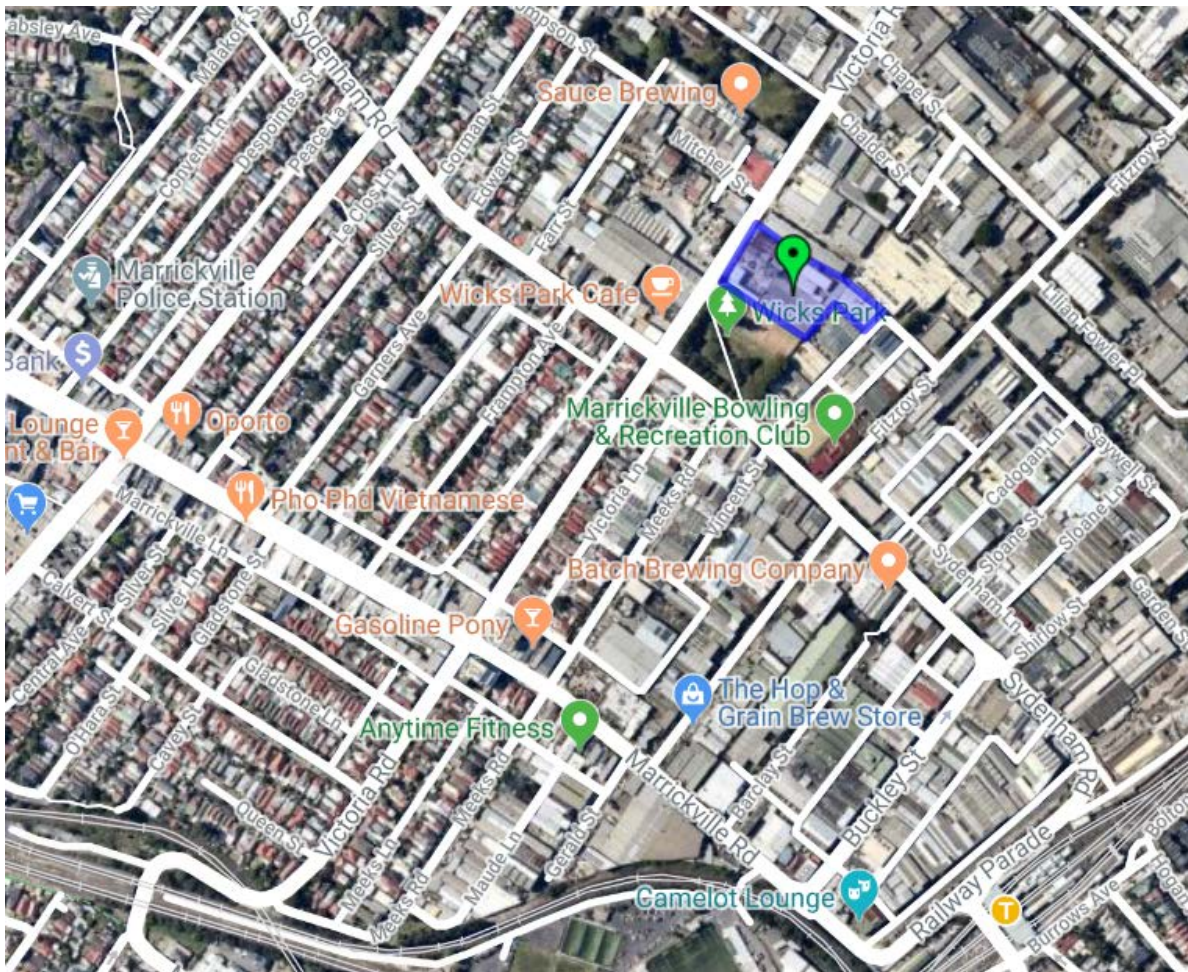


Figure 6: The subject site and the wider surrounds (Source: *Nearmaps*)

Directly north of the site are large, light industrial complexes that include multiple tenancies. Directly south of the site is Wicks Park and predominately light industrial uses located along Faversham Street. The site is located approximately 650m northwest of Sydenham Train Station and 625m northeast from the Marrickville Town Centre.

The wider surrounds include predominantly light industrial uses to the north-east, north-west and west of the site. Marrickville Public School is located approximately 350m north-west of the site on Chapel Street. Further south-west of the site are predominantly residential uses located on the opposite of Sydenham Road.

The subject site is identified as being flood affected in the 1% AEP Event and is also subject to high hazard flooding. A Sydney Water box culvert drain and easement is located in the site's south-eastern corner. A sewerage pipe traverses the site's middle portion from its northern to southern boundary.

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2. Background

The site is located within Victoria Road Precinct (Precinct 47) under the Marrickville Development Control Plan 2011 (MDCP 2011). The desired future character for the Victoria Road Precinct envisions the transitioning of predominately industrial land uses into a mixed used precinct; including commercial, creative, residential and light industrial uses.

On 3 November 2015, the former Marrickville Council Infrastructure, Planning and Environmental Services Committee considered a planning proposal for the Victoria Road precinct. The Victoria Road Precinct encompasses nearly 18 hectares of land that is generally concentrated on Victoria Road (refer to figure 7 below).

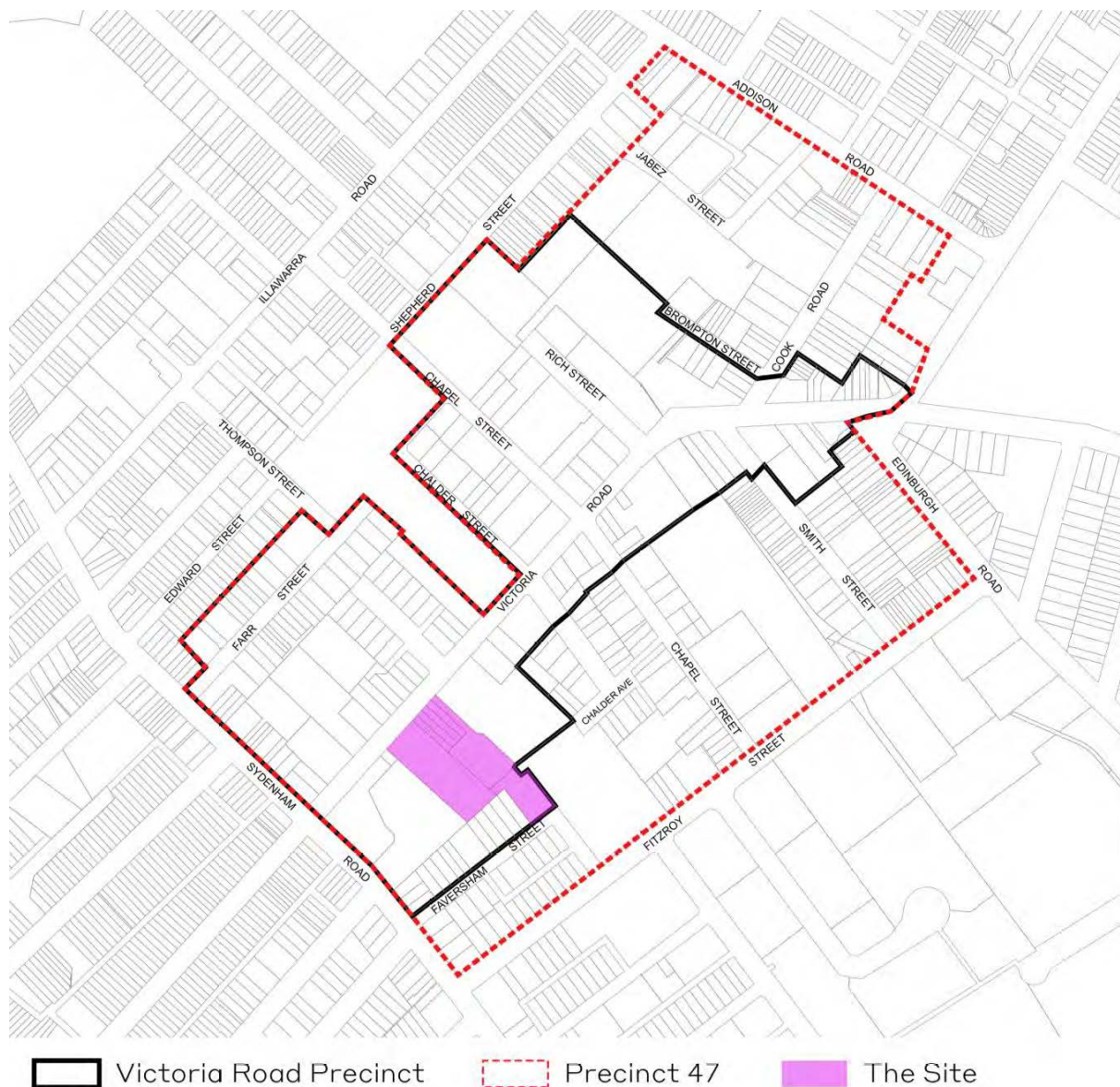


Figure 7: The subject site and with the boundaries the Precinct (Source: *Ethos Urban*)

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The key features of the planning proposal were:

- To rezone land from 'IN1 General Industrial' to medium and high density residential zones, mixed use zones and business zones;
- To create approximately 1,100 apartment dwellings and a variety of business uses including creative industries;
- To increase the maximum height of buildings (building heights range from 3 to 14 storeys);
- To increase the maximum floor space ratios for the precinct ranging from 1:1 to 3.5:1;
- To provide acoustic design specifications to mitigate aircraft noise (all dwellings proposed are within the 25-30 Australian Noise Exposure Forecast (ANEF) aircraft noise contour); and
- To provide 3 per cent of residential floor space for use as affordable housing by amending the Marrickville Local Environmental Plan.

The former Marrickville Council resolved to submit the Planning Proposal in the form lodged by the proponent to the Department of Planning and Environment (DPE) for Gateway determination. On 14 March 2016, the DPE issued a Gateway Determination for the precinct. The Planning Proposal was exhibited between September and November 2016 and was referred to the relevant public authorities listed in the Gateway Determination.

Following a detailed assessment, the Planning Proposal was reported to Council in June 2017 with a recommendation that the Administrator request the Minister for Planning to determine that the planning proposal not proceed in its current form. Notwithstanding, the LEP amendment has been made and came into force on 12 December 2017. The amendment resulted in changes to the zoning and height / FSR standards applying to the land in the precinct, as well as the insertion of two additional local provisions into Part 6 of MLEP 2011, being Clauses 6.17 and 6.18. Clause 6.17 of MLEP 2011 requires that a DCP be prepared for the precinct.

On 28 August 2018, Council adopted MDCP 2011 (Amendment No.10) which contained changes to Part 9 Strategic Context (Part 9.47) of the MDCP 2011 replacing the previous Part 9.47 Victoria Road Precinct Planning Controls with new controls for the precinct as required by Clause 6.17 of MLEP 2011. The amendment to the MDCP 2011 came into effect on 26 September 2018.

On 22 October 2019, Council adopted amendments to Part 9.47 *Victoria Road* of the MDCP 2011, replacing the previous version. The key amendments included additional and amended objectives and controls relating to transport/road infrastructure, the resolving of discrepancies between FSRs and achievable building heights, built-form controls and the management of drainage and flood risks. Amendments to the Marrickville Section 94/94A Contributions Plan 2014 (Victoria Road Precinct Sub-plan) were adopted concurrently to support the modifications made to Part 9.47 Victoria Road of the MDCP 2011.

The subject proposal is the second, major development application submitted in the Victoria Road Precinct after 1-9 Rich Street, Marrickville (DA201700558), which was approved by the SECPP on 25 July 2019.

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3. The Proposal

This development application (as revised) seeks consent to demolish existing improvements and construct a mixed-use development ranging from 6 storeys to 12 storeys in height comprising 2,387sqm of ground floor retail floor space, 272 residential apartments and two levels of associated basement car parking, including the provision of public domain and landscaping works.

The proposal as originally submitted was 2 storeys higher (14 storeys in total) than the revised proposal. The reduction in building height resulted from consultation with the Civil Aviation Safety Authority (CASA) and Sydney Airport Corporation Limited (SACL) to ensure the proposal did not breach airspace planning height restrictions, namely the Obstacle Limitation Surface (OLS). In addition, the overall design has been refined during the assessment of the application following input by Council's Architectural Excellence Panel (AEP), particularly along its northern elevation; whereby greater articulation is achieved and varied materiality proposed.

The development in detail (as revised) is as follows:

- Demolition of all on-site structures and tree removal.
- Construction of a two level basement incorporating car parking spaces (224 residential, 65 retail and 22 visitor spaces), motorcycle parking spaces, bicycle parking spaces, building services, plant and storage.
- Construction of a 6 – 12 storey mixed use building, accommodating 272 residential apartments and 2,387m² retail floor space including a variety of tenancy types. A breakdown of the residential apartment types is as follows:
 - 101 x 1 bedroom apartments.
 - 160 x 2 bedroom apartments.
 - 11 x 3-bedroom apartments.
- Construction of a one-way, private road running along the northern edge of the site, which provides access into the site from Victoria Road and out to Faversham Street and Hans Place from Site B.
- Construction of a pedestrian through-site link on the eastern boundary, predominately over Site A, with a small portion over Site B; which provides a connection into Wicks Park from the private road.
- Construction of a central arcade at ground level, which provides pedestrian access from the road on the northern site boundary to the retail tenancies and Wicks Park at the southern boundary of the site.
- Construction of communal open space and landscaping for the residential component of the development on a podium on level 1.
- Construction of communal facilities for the residential component of the development, including a private gymnasium and meeting spaces on the ground floor.
- Public domain works including the provision of street trees along Victoria Road, upgraded footpaths, bicycle parking, seating areas and landscaping works.

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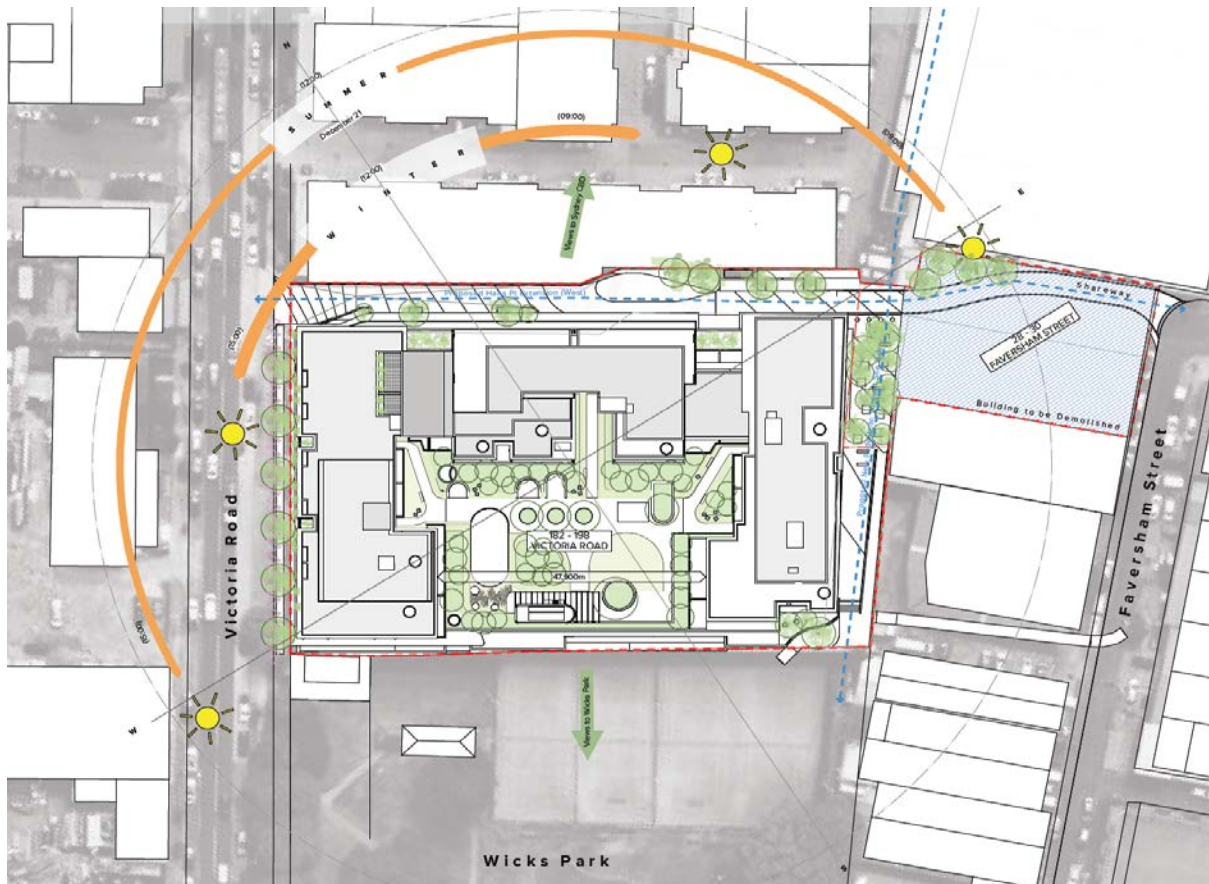


Figure 8: Site Analysis Plan (Source: Turner)



Figure 9: Ground Floor Plan (Source: Turner)

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Figure 10: Northern Elevation (Source: Turner)



PERSPECTIVE
VIEW FROM VICTORIA ROAD LOOKING SOUTH

Figure 11: Perspective from Victoria Road (Source: Turner)

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Figure 12: Perspective from Wicks Park facing north (Source: *Turner*)



Figure 13: Perspective from Victoria Road facing north-east (Source: *Turner*)

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4. Application History

Date	Details
13 March 2019	<p>Pre-Development Application (PDA201800185) advice issued to the applicant.</p> <p>During the PDA application, the applicant presented their rationale regarding their preferred building massing and envelope approach, which was assessed against a scheme that was compliant with Part 9.47 Victoria Road of the MDCP 2011.</p> <p>The AEP provided their in principle support for the applicant's preferred scheme, subject to refinement of the design to ensure the creation of distinct address points, strong building articulation and provision of architectural character that avoided monotony across the site.</p>
20 March 2019	Application lodged.
1 April 2019	<p>Council requested that additional information be submitted as follows:</p> <ul style="list-style-type: none"> • Provision of a boundary survey identifying all allotments that make up the subject site.
4 April to 20 May 2019	Application notified.
16 May 2019	<p>Additional information was submitted by the applicant, which included the following:</p> <ul style="list-style-type: none"> • Provision of a boundary survey.
29 May 2019	The application as originally submitted was reviewed by the AEP and advice was issued on 29 May 2019. The advice outlined that the applicant did not appropriately respond to the recommendations provided at PDA stage. As a result, the PDA recommendations were reiterated to the applicant.
9 August 2019	<p>Council requested that amended plans and additional information be submitted addressing the following key concerns/issues:</p> <ul style="list-style-type: none"> • Building Height: <ul style="list-style-type: none"> ○ As per direction from CASA and SACL, a reduction in the building height was requested to ensure the proposal did not breach the airspace planning restrictions. • Traffic and Parking: <ul style="list-style-type: none"> ○ As per direction from Transport for NSW (TfNSW) (formerly NSW Roads and Maritime Services or RMS), amendments to site access arrangements were requested to include the provision of a median island to restrict right-hand turns into the site from Victoria Road. ○ Design amendments to the proposed loading dock were requested. ○ Amendments to the further restrict parking on the western side of Victoria Road was not supported. ○ Design amendments were requested to the proposed road on the northern boundary to improve its safety ○ A review of the proposal's impact on Hans Place and

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	<p>Faversham Street was requested to be undertaken. This was due to concerns relating to potential impacts caused by increased traffic volumes generated by the proposal.</p> <ul style="list-style-type: none"> ○ Provision of 18 additional car parking spaces was requested to achieve compliance with the MDCP 2011 parking requirements. ○ The applicant was requested to demonstrate that a 1.5m boundary setback from Victoria Road was provided and does not include building or basement encroachments above or below ground, respectively. <ul style="list-style-type: none"> • Flooding and Stormwater: <ul style="list-style-type: none"> ○ A revision of the flood impact map submitted was requested. ○ Pre and post development flood hazard maps were requested. ○ A flood emergency response plan for the site was requested. ○ Provision of a stormwater pipe from Victoria Road through the share way and connecting to the Sydney Water drainage system in Hans Place was requested. • Victoria Road Precinct DCP (Part 9.47): <ul style="list-style-type: none"> ○ The applicant was requested to consider the draft amendments to Part 9.47 of the DCP, including amalgamation requirements and movement network provisions. • Nominated Development allotments: <ul style="list-style-type: none"> ○ Clarification was sought with respect to the nominated allotments that comprised the development site. • Groundwater Impacts: <ul style="list-style-type: none"> ○ Confirmation from the applicant was requested outlining their intent for the application to be treated as <i>Integrated Development</i> under Part 4 of the <i>Environmental Planning & Assessment Act 1979</i> (EP&A Act 1979) to allow an assessment of groundwater impacts to occur by the NSW Department of Primary Industries (DPI). • Landscape & Tree Management: <ul style="list-style-type: none"> ○ Clarification was sought relating to the storage of the existing palm trees proposed to be transplanted during the construction phase of the development. ○ Provision of additional soil volume for the proposed podium trees was requested. ○ Provision of additional large canopy trees located on the podium planting was requested. ○ Confirmation of awning setbacks were requested. • Social and Cultural Planning: <ul style="list-style-type: none"> ○ A review of the proposed noise attenuation measures and processes to ensure that acoustic impacts from nearby live music venues were mitigated was requested. • Accessibility & Liveability: <ul style="list-style-type: none"> ○ Provision of additional of universal (Liveable) units were requested. ○ A request was issued to ensure the urban/public domain is accessible beyond a minimum compliance approach.
13 August 2019	Council requested that amended plans and additional information be submitted addressing the following concerns/issues:

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	<ul style="list-style-type: none"> Further consideration of recommendations provided by the AEP. This matter is discussed in detail further in this report.
13 September 2019	The applicant submitted additional information and amended plans to address the majority of concerns raised previously by Council. However, concerns remained with respect to traffic and parking matters and the applicant's response to design recommendations provided by the AEP.
25 September 2019	<p>Council requested that amended plans and additional information be submitted addressing the following concerns/issues with the revised design submitted on 13 September 2019:</p> <ul style="list-style-type: none"> Further consideration of recommendations provided by the AEP.
11 November 2019	The applicant submitted additional information and amended plans to address the concerns raised previously by Council. However, concerns remained with respect to traffic and parking matters and the applicant's response to design recommendations provided by the AEP.
14 November to 17 December 2019	The revised application was notified.
13 December 2019	<p>Council requested that amended plans and additional information be submitted addressing the following previously raised concerns/issues:</p> <ul style="list-style-type: none"> Outstanding traffic and parking matters. Further consideration of key recommendations provided by the AEP Provision of an economic benefit analysis relating to the impact of the proposed retail tenancies and the development generally.
17 January 2020	The applicant submitted amended plans and additional information to address the above concerns raised by Council on 13 December 2019. This package forms the basis for the current development application and assessment below. This package generally addresses the concerns previously raised by Council.
3 February 2020	The application was reviewed by Council's Local Traffic Committee (LTC).
13 February 2020	The SECPP were briefed on the subject application.

6. Civil Aviation (Building Controls) 1988

The site is located within an area defined in Schedule 3 of the *Civil Aviation (Building Control) Regulations 1988*, which requires approval from the Civil Aviation Safety Authority (CASA) for the construction of any structure greater than 50 feet (15.24 metres) above existing ground level. The application was referred to the Sydney Airport Corporation Limited (SACL) on behalf of CASA for approval, pursuant to Clause 5 of the Civil Aviation (Building Control) Regulations 1988.

The application as originally submitted proposed a maximum building height of 49 metres AHD and had a maximum storey height of 14. Whilst the original proposal complied with the building height provisions under the *Marrickville Local Environmental Plan 2011* and the storey height provisions under Part 9.47 Victoria Road of the MDCP 2011, CASA and SACL

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raised objected to the proposal. Their objections related to the development's infringement of the Runway 34L Take Off Surface at Sydney Airport by 2.4 metres. In response, the applicant revised the proposal by reducing the building height to 45.25 metres AHD and the number of storeys to 12.

The proposal as revised was referred back to SACL for assessment and no objection was raised subject to the overall height of the building including any ancillary structure or equipment not exceeding 45.25 metres AHD. Conditions of consent are included in the recommendation to this effect. In addition, conditions are recommended which require the applicant to obtain the relevant construction approvals from airspace authorities prior to the commencement of works.

7. State Environmental Planning Policy No.55 – Remediation of Land

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) provides planning guidelines for remediation of contaminated land and the MDCP 2011 provides controls and guidelines for remediation works. SEPP 55 requires the consent authority to be satisfied that “the site is, or can be made, suitable for the proposed use” prior to the granting of consent.

The site has been used in the past for activities which could have potentially contaminated the site. It is considered that the site will require remediation and validation in accordance with SEPP 55.

Detailed Site Investigations (DSI) and Remedial Action Plan (RAP) have been provided to address the management of contaminated groundwater onsite and the treatment and disposal of any contaminated soils and contamination issues prior to determination. The contamination documents have been reviewed and Council's Environmental Health officer has found that the site can be made suitable for the proposed uses after the completion of the RAP. To ensure that these works are undertaken and the site is properly validated, it is recommended that conditions are included in the recommendation in accordance with Clause 7 of SEPP 55.

8. State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development

The development is subject to the requirements of *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development* (SEPP 65). SEPP 65 prescribes nine design quality principles to guide the design of residential apartment development and to assist in assessing such developments. The principles relate to key design issues including context and neighbourhood character, built form and scale, density, sustainability, landscape, amenity, safety, housing diversity and social interaction and aesthetics.

A statement from a qualified Architect was submitted with the application verifying that they directed the design of the development. The statement also provides an explanation that verifies how the design quality principles are achieved within the development and demonstrates, in terms of the Apartment Design Guide (ADG), how the objectives in Parts 3 and 4 of the guide have been achieved.

The development is acceptable having regard to the nine design quality principles.

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Apartment Design Guide

The Apartment Design Guide (ADG) contains objectives, design criteria and design guidelines for residential apartment development. In accordance with Clause 6A of the SEPP, certain requirements contained within MDCP 2011 do not apply. In this regard the objectives, design criteria and design guidelines set out in Parts 3 and 4 of the ADG prevail.

The following provides further discussion of the relevant issues:

Communal and Open Space (COS)

The ADG prescribes the following requirements for communal and open space (COS):

- COS has a minimum area equal to 25% (1,815.5m²) of the site.
- Developments achieve a minimum of 50% direct sunlight to the principal usable part of the COS for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter).

Comment: The development does not strictly comply with the above requirements, however; is satisfactory on merit as follows:

Minimum COS area:

- The COS provided has a minimum area equal to 21% (1,545m²) of the site.
- Although the proposal does not strictly comply with the numerical outdoor COS requirements, provision has been made on the ground floor for indoor residential facilities (241.7m²), which include a gymnasium and spaces for meetings and social interaction. With the inclusion of the indoor facilities, the total open and indoor communal space is 24.6% (1,786.7m²).
- Further, given the site's exposure to noise sources (aircraft, live music and industrial), the proposed indoor space provides flexibility and variety for residents in terms of spaces used for active and passive recreation; including spaces that can be utilised in all types of weather.
- On the other hand, the site is located immediately adjacent to a significant area of public open space at Wicks Park which, whilst not a substitute for on-site open space, compliments and relates to the design of the communal open spaces.
- The majority of apartments are provided with multiple balconies or balconies with areas in excess of the minimums prescribed by the ADG, thereby assisting in supplementing the numerical outdoor variation.
- In addition to the above spaces, the proposal includes seating areas within the proposed through site link on the eastern side of the site, which will assist to supplement the numerical variation.

Direct sunlight:

With respect to the proposal's compliance with the direct sunlight access to COS provisions, it is considered that minimal sunlight is received in this regard (between 1 to 1.5 hours during mid-winter to the principal usable part). Notwithstanding, the aforementioned variation is considered satisfactory on merit as follows:

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- The current massing and layout of the proposal has been designed to maximise solar access to Wicks Park, which provides for an overall public benefit outcome when compared to a compliant scheme under Part 9.47 of the MDCP 2011.
- To achieve full compliance, the COS would be required to be located on the roof level of the development. This would result in a poorer amenity outcome, given that it would increase the exposure of residents to aircraft noise.
- The current location of COS allows the proposal to provide for improved passive surveillance of and a better connection with Wicks Park, when compared to a compliant scheme under Part 9.47 of the MDCP 2011.

Deep Soil Zones

The ADG prescribes the following minimum requirements for deep soil zones:

Site Area	Minimum Dimensions	Deep Soil Zone (% of site area)
Less than 650m ²	-	7% (508.34m ²)
650m ² - 1,500m ²	3m	
Greater than 1,500m ²	6m	
Greater than 1,500m ² with significant existing tree cover	6m	

Achieving the design criteria may not be possible on some sites including where:

- The location and building typology have limited or no space for deep soil at ground level (e.g. central business district, constrained sites, high density areas, or in centres).
- There is 100% site coverage or non-residential uses at ground floor level.

Where a proposal does not achieve deep soil requirements, acceptable stormwater management should be achieved and alternative forms of planting provided such as on structure.

Comment: The proposal provides for a minor amount of deep soil (100m² approx. with dimensions of 3m) within the proposed road area on the northern boundary of the site. Notwithstanding, the level of deep soil proposed in this instance is considered acceptable based on the following:

- Part 9.47 Victoria Road of the MDCP 2011 envisions the subject site to adopt a desired future character of a mixed use nature, with commercial uses on the ground floor and residential dwellings above, which the proposal achieves. Further, the subject site's B4 Mixed Use zone under the MLEP 2011 also encourages this built outcome. As a result, limited opportunities are afforded on the ground floor to provide deep soil.
- Notwithstanding the above, whilst it is acknowledged that limited deep soil is provided, it is considered the proposal effectively satisfies competing planning controls for the site, which includes car parking, accessibility, stormwater and flooding requirements; which restrict opportunities for deep soil provision. Further, the deep soil provision proposed is a significant improvement on existing site conditions.

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Visual Privacy/Building Separation

The ADG prescribes the following minimum required separation distances from buildings to the side and rear boundaries:

Building Height	Habitable rooms and balconies	Non-habitable rooms
Up to 12 metres (4 storeys)	6 metres	3 metres
Up to 25 metres (5-8 storeys)	9 metres	4.5 metres
Over 25 metres (9+ storeys)	12 metres	6 metres

Site and building design elements are to increase privacy without compromising access to light and air and to balance outlook and views from habitable rooms and private open space.

Comment: The proposal includes the following separation distances from adjoining properties/boundaries:

Building Height	Habitable rooms and balconies	Non-habitable rooms
Up to 12 metres (4 storeys)	<p>Northern boundary: 8.5m-15.1m to B4 Mixed Use zone/23m height limit under MLEP 2011.</p> <p>Eastern boundary: 1.5m-8.2m to B5 Business Development Zone/20m height limit under MLEP 2011.</p> <p>Internal separation: 45.3m (min.)</p>	<p>Northern boundary: 8.5m-15.1m to B4 Mixed Use zone/23m height limit under MLEP 2011.</p> <p>Eastern boundary: 1.5m-8.2m to B5 Business Development Zone/20m height limit under MLEP 2011.</p> <p>Internal separation: 45.3m (min.)</p>
Up to 25 metres (5-8 storeys)	<p>Northern boundary: 8.5m-15.1m to B4 Mixed Use zone/23m height limit under MLEP 2011.</p> <p>Eastern boundary: 1.5m-8.2m to B5 Business Development Zone/20m height limit under MLEP 2011.</p> <p>Internal separation: 45.3m (min.)</p>	<p>Northern boundary: 8.5m-15.1m to B4 Mixed Use zone/23m height limit under MLEP 2011.</p> <p>Eastern boundary: 1.5m-8.2m to B5 Business Development Zone/20m height limit under MLEP 2011.</p> <p>Internal separation: 45.3m (min.)</p>
Over 25 metres (9+ storeys)	<p>Northern boundary: 8.5m-17.1m to B4 Mixed Use zone/23m height limit under MLEP 2011.</p>	<p>Northern boundary: 8.5m-17.1m to B4 Mixed Use zone/23m height limit under MLEP 2011.</p> <p>Eastern boundary: 1.5m-8.2m to</p>

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	Eastern boundary: 1.5m-8.2m to B5 Business Development Zone/20m height limit under MLEP 2011.	B5 Business Development Zone/20m height limit under MLEP 2011.
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As per the table above, the proposal does not comply in certain instances with the required minimum separation distances. Notwithstanding, the proposal is considered satisfactory in this regard as follows:

Northern boundary:

- It is acknowledged that the adjoining development directly north of the subject site (168 Victoria Road) is currently used for industrial purposes and is a maximum of 2 storeys in height.
- The proposal up to 4 storeys provides separation distances in excess of the requirement to the adjoining property directly north of the subject site (168 Victoria Road).
- With respect to the proposed separation distances up to 5 to 8 storeys, the adjoining property directly north of the subject site (168 Victoria Road) is zoned B4 Mixed Use under the MLEP 2011 for approximately half of its area, with a maximum height limit of 23m. The remaining half is zoned B5 Business Development under the MLEP 2011, with a maximum height limit of 20m. Under these controls, a building of between 5 to 6 storeys could be developed on the adjoining site.
- In light of the above, the provision of separation distances of between 8.5m to 15.1m are considered satisfactory, as the proposal provides for "its share" - more than half - the required amount, with the remaining separation distance to be provided by a future proposal on the adjoining site upon redevelopment.

Eastern boundary:

- Currently uses on adjoining properties to the east the site are industrial in nature. Further, the aforementioned properties under the MLEP 2011 are zoned B5 Business Development, with a maximum height limit of 20m. Within the B5 zone controls, residential land uses are prohibited and a 5 to 6 storey building likely to be of a business/ employment generating nature could be permitted. On this basis, the provision of reduced separation distances of between 1.5m to 8.3m is considered acceptable as residential amenity impacts are less likely to be of concern.
- Further, the proposed eastern elevation includes a limited number of balconies and windows, which service predominately bedrooms, which will also assist to protect privacy outcomes for future occupiers, whilst allowing for sufficient access to light and ventilation.

Internal separation:

- The proposed internal separation distance between the eastern and western portions of the building are considered satisfactory to mitigate potential privacy impacts within the development.
- The proposed balconies adjacent to the COS have been designed to include solid materials or obscured glazing to allow for satisfactory levels of privacy.

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Pedestrian access and entries

The ADG prescribes design guidance on the treatment and location of pedestrian entries:

- Building entries and pedestrian access connects to and addresses the public domain.
- Access, entries and pathways are accessible and easy to identify.

Comment: The development does not strictly comply with the above requirements, as some lobbies accessed from Victoria Road, the proposed private road and pedestrian through- site link are setback from the ground floor, building edges; thereby reducing their prominence. Notwithstanding, the proposal is considered satisfactory on merit as follows:

- A prominent and sufficiently sized primary lobby is provided from Victoria Road, which aligns with the glass lines of the proposed commercial units, which improves its visibility when viewed from pedestrian level on Victoria Road.
- The proposed lobby with the south-eastern corner of Site A and closest to Wicks Park has been expanded in size during the assessment process to improve its visibility when viewed at pedestrian level within the proposed through site link.
- The proposal provides the opportunity for all residents to access their respective lift cores from any lobby via the level 1 podium, which allows for improved connectivity within the development.
- A way finding strategy has been developed to assist with the identification of the remaining lobbies, building entry points and key features of the development. A condition of consent is recommended to ensure its implementation.
- Although the ground floor of the development is raised above the ground levels of Victoria Road and Wicks Park to mitigate flooding impacts, accessibility is provided throughout the development from the public domain via ramps and level pathways.

Vehicle access

The ADG prescribes design guidance on the provision of vehicle access points:

- Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.

Comment: The development complies with the above requirement as follows:

- The vehicle entry points are confined to the private road on the northern site boundary and will not be visible from Victoria Road.
- The width of the vehicle access points have been minimised to ensure they have an acceptable impact on the streetscape of the proposed road.
- Satisfactory separation distances have been provided between the vehicle entries and pedestrian entries to allow for satisfactory levels of safety for pedestrians.
- A loading dock management plan will be required to be developed to ensure delivery vehicles can safely access the site. This will outcome will secured by a recommended consent condition.

Bicycle and Car Parking

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The ADG prescribes the following car parking rates dependent on the following:

- On sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area, the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant Council, whichever is less; and
- The car parking needs for a development must be provided off street.

Comment: The subject site is located within 650m of Sydenham Station. As per the above, the MDCP 2011 parking rates apply to the development. This matter is discussed in further detail within this report.

Solar and Daylight Access

The ADG prescribes the following requirements for solar and daylight access:

- Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9.00am and 3.00pm at mid-winter.
- A maximum of 15% of apartments in a building receive no direct sunlight between 9.00am and 3.00pm at mid-winter.

Comment: The proposal complies with the above requirements.

Natural Ventilation

The ADG prescribes the following requirements for natural ventilation:

- At least 60% of apartments are naturally cross ventilated in the first 9 storeys of the building. Apartments at 10 storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.
- Overall depth of a cross-over or cross-through apartment does not exceed 18 metres, measured glass line to glass line.

Comment: The proposal complies with the above requirements.

Ceiling Heights

The ADG prescribes the following minimum ceiling heights:

Minimum Ceiling Height	
Habitable Rooms	2.7 metres
Non-Habitable	2.4 metres
For 2 storey apartments	2.7 metres for main living area floor 2.4 metres for second floor, where its area does not exceed 50% of the apartment area
Attic Spaces	1.8 metres edge of room with a 30 degree minimum ceiling slope

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If located in mixed used area	3.3 metres for ground and first floor to promote future flexibility of use
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Comment: The proposal does not strictly comply with the above requirements. Notwithstanding, the proposal is considered acceptable on merit as follows:

- The proposal provides for minimum 3.3m floor to floor heights for the commercial units on the ground floor to allow of a flexibility of future uses.
- The proposal provides a minimum 3.1m floor to floor heights for the residential floors, which will allow for the accommodation of the required building services and floor to ceiling heights servicing habitable rooms of 2.7m.
- Notwithstanding the above, in some instances, floor to ceiling heights of 2.4m are provided over habitable areas in parts of certain apartments. This outcome allows for provision of bulkheads that include internalised air-conditioning. Having regard to the subject site's exposure to aircraft noise, the aforementioned outcome allows for thermal comfort and air-circulation, whilst allowing for the mitigation of acoustic impacts. Notwithstanding, all apartments allow for satisfactory levels of access to light and natural ventilation via balconies and windows and reasonable plan depths/configuration.

Apartment Size

The ADG prescribes the following minimum apartment sizes:

Apartment Type	Minimum Internal Area
Studio apartments	35m ²
1 Bedroom apartments	50m ²
2 Bedroom apartments	70m ²
3 Bedroom apartments	90m ²

Note: The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.

Comment: The proposal complies with the above requirements.

Apartment Layout

The ADG prescribes the following requirements for apartment layout requirements:

- Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.
- Habitable room depths are limited to a maximum of 2.5 x the ceiling height.
- In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8 metres from a window.
- Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space).

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- Bedrooms have a minimum dimension of 3 metres (excluding wardrobe space).
- Living rooms or combined living/dining rooms have a minimum width of:
 - 3.6 metres for studio and 1 bedroom apartments.
 - 4 metres for 2 and 3 bedroom apartments.
- The width of cross-over or cross-through apartments are at least 4 metres internally to avoid deep narrow apartment layouts.

Comment: The proposal generally complies with the above requirements.

Private Open Space and Balconies

The ADG prescribes the following sizes for primary balconies of apartments:

Dwelling Type	Minimum Area	Minimum Depth
Studio apartments	4m ²	-
1 Bedroom apartments	8m ²	2 metres
2 Bedroom apartments	10m ²	2 metres
3+ Bedroom apartments	12m ²	2.4 metres

Note: The minimum balcony depth to be counted as contributing to the balcony area is 1 metres.

The ADG also prescribes for apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m² and a minimum depth of 3 metres.

Comment: The proposal complies with the above requirements.

Common Circulation and Spaces

The ADG prescribes the following requirements for common circulation and spaces:

- The maximum number of apartments off a circulation core on a single level is 8.
- For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.

Comment: The proposal does not strictly comply with the above requirements. Notwithstanding, the variation is considered acceptable as most lift cores are serviced by two lifts and the variation is confined to two cores only (5 cores in total).

Storage

The ADG prescribes the following storage requirements in addition to storage in kitchen, bathrooms and bedrooms:

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Apartment Type	Minimum Internal Area
Studio apartments	4m ³
1 Bedroom apartments	6m ³
2 Bedroom apartments	8m ³
3+ Bedroom apartments	10m ³

Note: At least 50% of the required storage is to be located within the apartment.

Comment: The proposal complies with the above requirements.

9. State Environmental Planning Policy (State and Regional Development) 2011

The application meets the criteria for regional development under Clause 2 of Schedule 7 of the *State Environmental Planning Policy (State and Regional Development) 2011* being 'general development' with a Capital Investment Value over \$30 million. As a result, the application is referred to the Sydney Eastern City Planning Panel (SECPP) for determination.

10. State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A BASIX Certificate was submitted with the application indicating that the proposal achieves full compliance with the BASIX requirements. Appropriate conditions are included in the recommendation to ensure the BASIX Certificate commitments are implemented into the development.

11. State Environmental Planning Policy (Infrastructure) 2007

A private road running along the subject site's northern boundary, which is directly accessed from Victoria Road, will facilitate vehicular access into the development site. Victoria Road is deemed a TfNSW (formerly RMS) 'Classified' Regional Road, carrying approximately 17,000 vehicles per day. Based on a Traffic Impact Assessment (TIA) submitted with the application, the development is anticipated to generate up to the following vehicle trips:

- 162 vehicular trips (Weekday AM);
- 259 vehicular trips (Weekday PM); and
- 321 vehicular trips (Saturday midday).

As outlined above, the subject site has a direct frontage to Victoria Road. Under Clause 101(2) of *State Environmental Planning Policy (Infrastructure) 2007* (Infrastructure SEPP), the consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that the efficiency and operation of the classified road will not be adversely affected by the development. Similarly, the development is of a size and proximity to the Classified road that it is considered a traffic generating development under Clause 104 as listed under Schedule 3 of the Infrastructure SEPP.

The application as originally submitted was referred to TfNSW, who raised no objection to the proposal, subject to conditions relating predominately to general vehicular access and parking requirements. However, condition no. 2 provided by TfNSW included the

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requirement for the construction of a median island on Victoria Road to restrict right-turn movements into the site.

The applicant provided additional information arguing against the need for a median island, with the principal reason being that it would undermine a key aim of the desired future character outlined within Part 9.47 Victoria Road of the MDCP 2011. This aim seeks to *enhance existing streets and incorporate new shared zones to encourage pedestrian activity*. In addition, the applicant outlined that the requirement for the restriction of right-hand turns by way of a median island or other physical means has not been included within the current iteration of Part 9.47 Victoria Road of the MDCP 2011.

Further to the above, the applicant outlined that the proposed site access arrangement rationalises an existing undesirable situation, whereby multiple entrances to Victoria Road that currently support right-hand turns into the site will be consolidated into a single access point. In addition, the applicant indicated that Victoria Road is unlikely to possess the required width to support the construction of a median island.

This information was referred back to TfNSW and subsequently a response was issued to Council outlining their support for the deletion of condition no. 2. Their reasoning included that the portion of Victoria Road, which services the subject site, is a 'Regional Road' and is therefore the responsibility of Council. In addition, it was acknowledged that Part 9.47 Victoria Road of the MDCP 2011, which is the guiding plan for development within the precinct, does not require its provision.

Notwithstanding the above, safety concerns over right-hand turns into the site across Victoria Road remain. The potential for queuing impacts to occur at the signalised intersection of Victoria and Sydenham Road, thereby reducing Victoria Road's efficiency during peak times is also an issue raised by Council's traffic engineers – see discussion below.

In light of the above, it is considered appropriate to adopt a cautious and reasonable approach to this matter by restricting right-hand turns into the site during weekday morning peaks (7:00AM to 9:30AM – Monday to Friday). Notwithstanding, this restriction can be reviewed by the local traffic committee once the development is operational and removed if deemed appropriate.

Further, it is considered the above restriction will allow for the efficient operation of Victoria Road during peak weekday times, in accordance with the Infrastructure SEPP and when it is most critical. Moreover, it allows for right-hand turns into the site at all other times, which assists with the key aim of calming traffic and creating an improved environment for pedestrians, as desired by Part 9.47 Victoria Road of the MDCP 2011 and as argued by the applicant. In this regard, a condition of consent is recommended to achieve this outcome.

In light of the above, subject to conditions, it is considered the requirements relating to Clauses 101 and 104 of the Infrastructure SEPP have been satisfied.

12. State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

The *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017* (Vegetation SEPP) concerns the protection/removal of vegetation identified under the SEPP and gives effect to the local tree preservation provisions of Part 2.20 Tree Management of the MDCP

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2011.

The proposal includes the following with respect to the removal or transplanting of existing trees within the site or in the adjacent public domain:

- Removal of a *Tristaniaopsis laurina* (Water Gum) – street tree;
- Removal of a *Archontophoenix cunninghamiana* (Bangalow Palm);
- Removal of a *Michelia figo* (Port Wine Magnolia);
- Removal of 2 x *Syagrus romanzoffiana* (Cocos Palm), which is an exempt species;
- Removal of a *Beaucarnea recurvata* (Ponytail Palm), which is an exempt species;
- Removal of a *Phoenix species* (Date Palm), which is an exempt species;
- Removal of a *Cinnamomum camphora* (Camphor Laurel), which is an exempt species;
- Removal of a unknown exotic species;
- Transplanting of a *Washingtonia filifera* (Desert Fan Palm) within the site; and
- Transplanting of 3 x *Washingtonia robusta* (Mexican Fan Palm) within the site.

To offset the above loss of biodiversity, the landscape plan submitted with the application demonstrates that the proposal includes the planting of a number of trees that is in excess of the amount proposed to be removed, including the provision of 5 x new street trees along the site's Victoria Road frontage. This outcome also results in an increase in tree canopy cover compared to existing site conditions and will include a better selection of locally-suitable tree species. In addition, the proposal incorporates a variety of plants and shrubs on the building itself, including within the podium, at upper levels and on the rooftop of level 6. These plantings will soften the built-form and improve the proposal's relationship with the adjoining Wicks Park.

Notwithstanding the above, whilst it is acknowledged that limited deep soil is provided, it is considered the proposal effectively satisfies competing planning controls for the site, which includes car parking, accessibility, stormwater and flooding requirements; which restrict opportunities for deep soil provision. Further, the deep soil provision proposed is an improvement on existing site conditions.

On balance, the proposal is considered acceptable with regard to the Vegetation SEPP and Part 2.20 Tree Management of the MDCP 2011, subject to the imposition of conditions including the requirement for replacement planting; including the provision of street trees on Council's road reserve.

13. Marrickville Local Environmental Plan 2011 (MLEP 2011)

An assessment of the development having regard to the relevant provision of the *Marrickville Local Environmental Plan 2011* (MLEP 2011) is provided below:

Control	Proposed	Compliance
Clause 1.2 Aims of Plan	<p>The proposal is considered consistent with the aims of the MLEP 2011 as follows:</p> <ul style="list-style-type: none">• Supports the efficient use of land, adds to the vitalisation of the centre, and provides an appropriate mix of permissible uses;• Provides for an increase in employment	<p>Yes. Notwithstanding, refer to further discussion relating to design matters</p>

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	<p>densities in an appropriate location near public transport;</p> <ul style="list-style-type: none"> • Facilitates new business and employment through the provision of commercial floor area, • Promotes sustainable transport through providing car share parking and increases the use of public transport, walking and cycling through the creation improved pedestrian connections within the site; • Subject to a condition, the interpretation of the industrial brick façade of the building at 28-30 Faversham will assist to conserve the cultural heritage of Marrickville; and • Is of a high standard in terms of design and has a satisfactory impact on the private and public domain. 	under Section 13(i) below.
<p>Clause 2.3</p> <p>Zone objectives and Land Use Table</p> <p><i>B4 Mixed Use (182-198 Victoria Road) & B5 Business Development (28-30 Faversham Street)</i></p>	<p>The proposal satisfies the clause as follows:</p> <p><u>Site A (182-198 Victoria Road):</u></p> <ul style="list-style-type: none"> • Site A is zoned 'B4 – Mixed Use'; • The proposed uses being <i>shop top housing</i> and <i>shops</i> are permissible with consent in the 'B4 – Mixed Use' zone. • In addition, a private <i>road</i> is proposed to provide one-way vehicular access from Victoria Road into the site. <i>Roads</i> are permissible with consent in the 'B4 Mixed Use' zone. • The fit-out and use of each respective <i>shop</i> will be subject to future applications. • The proposal is consistent with the relevant objectives of the zone, as it provides a mixture of compatible land uses, assists to support renewal of the area and constrains parking and restricts car use. <p><u>Site B (28-30 Faversham, Street):</u></p> <ul style="list-style-type: none"> • Site B is zoned 'B5 – Business Development' under the MLEP 2011. • The proposal includes the construction of a private <i>road</i> on Site B to assist to provide vehicular access. In this regard, one-way vehicular access is proposed to be provided from Victoria Road through Site A and out through Site B into Faversham Street and Hans Place. • <i>Roads</i> are permissible with consent in the 'B5 –Business Development' zone. • Buildings works and uses on Site B will be subject to a future Development Application (DA). 	Yes

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<p>Clause 2.7</p> <p>Demolition requires development consent</p>	<p>The proposal satisfies the clause as follows:</p> <ul style="list-style-type: none"> • Demolition of all existing structures on both Site A and Site B is proposed. • Demolition works are permissible with consent. • Standard conditions are recommended to manage impacts, which may arise during demolition. 	<p>Yes, subject to conditions</p>
<p>Clause 4.3</p> <p>Height of building</p> <p>Front portion of Site A (Victoria Road): (max. 23m)</p> <p>Remainder of Site A: (max. 49RL)</p>	<p>The application proposes the following building heights:</p> <ul style="list-style-type: none"> • 23.85m (Front portion of Site A -Victoria Road): • 45.25m AHD (Remainder of Site A): <p><i>Variation:</i></p> <p>The application proposes a maximum building height of 23.85m (front portion – level 6 only), which represents a 3.6% or 850mm variation to the development standard. An exception under Clause 4.6 MLEP 2011 has been submitted for the variation.</p>	<p>No, refer to discussion under Section 13(ii) below.</p>
<p>Clause 4.4</p> <p>Floor space ratio</p> <p>(max. 3.5: 1 (25,417m²) (Site A only)</p>	<p>The application proposes a compliant floor space ratio of 3.5:1 (25,417m²).</p>	<p>Yes</p>
<p>Clause 4.5</p> <p>Calculation of floor space ratio and site area</p>	<p>The site area and floor space ratio for the proposal has been calculated in accordance with the clause.</p>	<p>Yes</p>
<p>Clause 4.6</p> <p>Exceptions to development standards</p>	<p>The applicant has submitted a variation request in accordance with Clause 4.6 to vary the height of building development standard.</p>	<p>Yes, refer to discussion under Section 13(ii) below.</p>
<p>Clause 6.1</p> <p>Acid sulfate soils</p>	<p>The subject site is identified as containing Class 2 acid sulfate soils.</p> <p>An Acid Sulfate Soil Assessment Statement was submitted with the application and concluded that based on analysis undertaken, potential acid sulfate soils and actual sulfate soils were not present on the site.</p>	<p>Yes</p>

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	In this regard, an Acid Sulfate Soil Management Plan (AASSMP) is not required for the management of soils at the site.	
Clause 6.2 Earthworks	<p>The proposed development involves earthworks to improve the grade of the site with regard to flood planning and contamination. In addition, basement construction is proposed to provide the necessary car parking and service areas to cater for the development.</p> <p>Appropriate conditions are included with regard to the fill, excavation, drainage, and the amenity of adjoining properties with regard to the required earthworks.</p> <p>The proposal is considered acceptable subject to Clause 6.2 of MLEP 2011.</p>	Yes, subject to conditions.
Clause 6.3 Flood planning	The subject site is identified as being flood affected in the 1% AEP Event and is also subject to high hazard flooding.	Yes, refer to discussion under Section 13(iii) below.
Clause 6.5 Development in areas subject to aircraft noise	<p>The site is located predominately within ANEF 25-30 contour. In addition, the north-eastern portion is located within ANEF contour 30-35. In this regard, the development is likely to be affected by aircraft noise. Further, the carrying out of the development would result in an increase in the number of people affected by aircraft noise. As a result, the development would need to be noise attenuated in accordance with AS2021:2015.</p> <p>An acoustic report was submitted with the application, which details that the development can be noise attenuated from aircraft noise to meet the indoor design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS2021:2015.</p> <p>The report also contains recommendations to be incorporated into the development in order to mitigate acoustic impacts. Appropriate conditions are included in the recommendation to ensure the requirements recommended within the Acoustic Report are incorporated into the development</p>	Yes, subject to conditions.
Clause 6.6 Airspace operations	<p>The proposal satisfies the clause as follows:</p> <ul style="list-style-type: none"> • Consultation with respect to the proposed development has been carried out with both CASA and SACL. • The proposal has been revised during the application process in response to advice provided by CASA and SACL to ensure airspace operations are not impacted. 	Yes, subject to conditions.

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	<ul style="list-style-type: none"> No objection has been raised against the revised proposal by the above-mentioned authorities, subject to conditions of consent; which have been included in the recommendation. 	
<p>Clause 6.17</p> <p>Development on certain land at Victoria Road, Marrickville</p>	<p>The proposal satisfies the clause as follows:</p> <ul style="list-style-type: none"> The obligation under this clause to prepare a site-specific Development Control Plan for the land to which this DA applies has been satisfied by Amendment No. 10 of the Marrickville DCP 2011. This relates to an amendment to Part 9.47 Victoria Road Precinct of MDCP 2011 (refer to discussion under Section 2 above). 	Yes
<p>Clause 6.18</p> <p>Arrangements for designated State public infrastructure in relation to development on certain land at Victoria Road, Marrickville</p>	<p>Council received the Department of Planning, Industry and Environment Secretary's Certificate for satisfactory arrangements for designated public infrastructure for the subject DA dated 9 October 2019. As a result, the proposal is considered acceptable with regard to Clause 6.18.</p>	Yes

(i) Aims of the Plan (Clause 1.2)

A key aim of the MLEP 2011 is as follows:

(h) to promote a high standard of design in the private and public domain.

To ensure the subject proposal achieved the above aim and in accordance with the design quality provisions outlined in Part 9.47 Victoria Road of the MDCP 2011, the application was referred to Council's Architectural Excellence Panel (AEP) for design guidance.

Prior to the lodgement of the subject DA, a Pre-Development Application (PDA) (PDA201800185) was submitted to Council primarily to seek advice on the proposal from the AEP. During this process, the applicant presented a variety of built-form and massing options, which were assessed against a scheme that was compliant with Part 9.47 Victoria Road of the MDCP 2011. Ultimately, the applicant preferred Option F, as it included the following summarised benefits compared against a compliant DCP scheme:

- Inadequate building separation created by a 4 separate building approach under a compliant DCP scheme would be eliminated by a consolidating the southern building into the northern element.
- The desired massing still remains consistent with the key aims of the DCP, namely to achieve an appropriate transition in terms of building mass from the eastern side (14 storeys) to the western side of the site (6 storeys – Victoria Road).
- A reduction in the extent of overshadowing on Wicks Park (refer to figures 14 and 15 below).

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- An increase in the size, useability and outlook of the COS.
- A reduction in visual bulk impacts on Wicks Park.
- Improved outcomes in terms of aircraft noise reduction.
- Increased opportunities for activation of Wicks Park.
- Improved privacy and amenity outcomes for residents in terms of increased separation distances and dual outlooks for some units to the Sydney Central Business District (CBD) and Wicks Park.



Figure 14: Overshadowing of Wicks Parks comparison between 9am to 11am on 21 June (Source: Turner)

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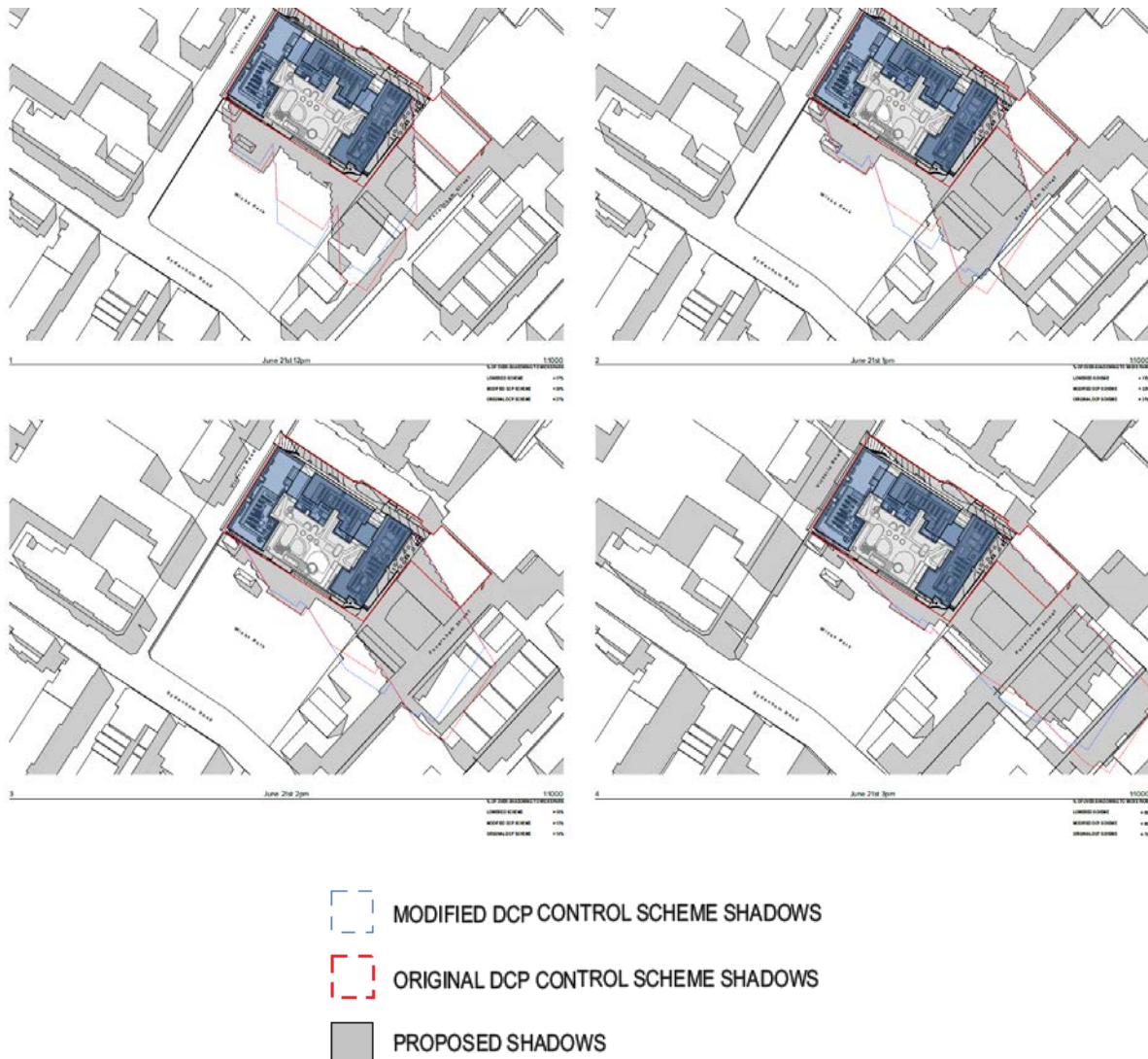


Figure 15: Overshadowing of Wicks Parks comparison between 12pm to 3pm on 21 June (Source: Turner)

In response, the AEP provided in principle support for the applicant's preferred scheme, subject to refinement to key aspects of the design. These refinements related to the creation of distinct address points, stronger building articulation, particularly along the northern elevation and the provision of architectural character that avoided monotony across the site.

The application as originally submitted was reviewed by the AEP and advice was issued on 29 May 2019. The advice outlined that the applicant did not appropriately respond to the recommendations provided at PDA stage. As a result, the PDA recommendations were reiterated to the applicant.

Subsequently, Council received response from SACL and CASA on 30 July 2019 outlining that the proposed building height was unacceptable from an airspace operations impact perspective and a reduction was required.

To address the above, the applicant submitted concepts that reduced the building height and the number of storeys from 14 to 12. In addition, re-massing of the built form was

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undertaken, whereby mass was removed from the eastern portion and relocated to the northern portion.

The concepts were referred to the AEP for review. In response, on 13 August 2019 the following summarised recommendations /or comments were provided:

- Confirmation that improved public benefits are still achieved by the massing of the proposal when compared with a compliant DCP scheme.
- Amendments to address concerns relating to a uniformity of building height.
- Amendments to break up the length of the northern elevation.
- Amendments to improve the proposal's articulation, separate built elements and improve the diversity of building height.
- Amendments to address the uniformity of detail and material selection.
- Amendments to improve the proposed lobbies to reduce concealment opportunities and improve their prominence.
- Improvements to sightlines from Wicks Park through to the share way.
- Improvements to the share way to achieve an improved, pedestrian friendly, street edge.
- Incorporation of the brick facades of the industrial building at 28-30 Faversham Street into the development.
- Confirmation that the southern elevation of the proposed retail spaces addressing Wicks Park will be clear glass to allow for a sufficient level of activation.
- Confirmation that potential noise impacts from loading activities will be satisfactorily mitigated.

Subsequently, the applicant requested a meeting with the AEP, which occurred on 11 September 2019, to discuss further the recommendations provided on 13 August 2019. At the meeting, indicative massing concepts and design treatments were presented to the AEP for comment. In response, the following summarised comments and advice was provided by the AEP on 25 September 2019:

- It was acknowledged that the proposed massing options offer reduced overshadowing of Wicks Park when compared against a compliant DCP scheme.
- It was acknowledged that the proposed massing option provides improved benefits to the public domain including better visual connections and the consolidation of open space adjoining Wicks Park.
- The AEP recommended a physical break within the proposed massing, to break up the uniformity of height along the northern elevation, particularly within the eastern corner.
- If the recommendation directly above could not be achieved, the AEP recommended that further modification should be undertaken to achieve the perception of three separate built elements. It was suggested that this could be achieved by a greater depth of indents between each of the built forms and a reduction in the height of the recessed sections would also assist.
- The AEP provided support for the proposed varying building materials (contrasting brick and balustrade types) to achieve a separate visual identity for each building mass and to avoid monotony across the site.

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In response to the above and earlier recommendations provided by the AEP, the applicant undertook amendments to the proposal, which were submitted to Council on 11 November 2019. In summary, the amendments were as follows:

- Increases to the proposed recesses on the northern elevation. The recesses measure approximately between 4m to 7m from the building edges and 12.5m to 15.4m from the northern site boundary.
- Provision of lighter and darker material elements, particularly on the northern elevation; to create a distinct visual separation between the forms.
- Refinement to the proposed lobbies through the consolidation of multiple lobbies. In addition, the prominence of the lobbies were improved with varied materials, increases to their respective sizes and the introduction of additional landscaping and security measures.
- Reduction in the extent of the loading dock to reduce acoustic impacts. Further, it was contended that attenuation measures to mitigate aircraft noise impacts would assist to alleviate this concern.
- Reduction in the length of mechanical services and extensions to the glazed shopfronts to improve the activation of Wicks Park from the ground floor's southern elevation.
- Improved activation of the proposed road through the realignment of lobbies, improved sight-lines through the central arcade and a reduction in the loading dock width.
- Provision of obscure glazed balustrades to service the POS of apartments facing the podium COS, to reduce cross-viewing from lobbies and open space areas.
- Provision of varied balustrade types to introduce more variety into the materiality of the development and to soften the recessed elements of the building servicing the northern elevation.
- Provision of vegetated screening of the condenser units on the roof-top of level 6 to conceal them from apartments above.
- Refinement to the ground floor's southern edge to improve its interface with Wicks Park. This included the provision of a series of steps and platforms to mediate level changes and to make use of the space above the Sydney Water easement. In addition, this outcome provided more informal seating opportunities adjacent to the existing tennis courts.

The above proposal as revised was referred to the AEP for review. In response, on 9 December 2019, the following summarised recommendations and comments were provided:

- Provision of additional COS on the rooftops of the building to improve solar access outcomes.
- Amendments to achieve a more significant height differential in the north-eastern corner of the building.
- Amendments to proposed lobbies including the provision of two-access points.
- Amendments to the proposed share way to allow it to be pedestrian orientated.
- Incorporation of the brick facades of the existing industrial building at 28-30 Faversham Street into the development.

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In response, amended plans were submitted on 17 January 2020, which included the following key revisions:

- Enhancement of the visual break within the north-eastern corner of the building through the use of materiality amendments (refer to figure 16 below).
- Increasing the visibility of certain lobbies from publicly accessible areas through their repositioning.
- Provision of a lobby way-finding strategy to allow for better access to the residential lobbies and within the development generally.
- Provision of an assessment from a suitably qualified structural engineer outlining that the industrial brick facades on 28-30 Faversham Street are supported by steel roof framing system and are in poor condition. It was outlined that upon demolition of the steel roof frame, the brick façade will be unsupported and unstable.
- Correspondence outlining that the abovementioned façade is not listed as a heritage item under the MLEP 2011 and the subject site is not located in a Heritage Conservation Area (HCA). In addition, it was outlined that Part 9.47 Victoria Road Precinct of the MDCP 2011 does not support the façade's retention.

COS

With respect to the relocation of COS onto rooftops, as discussed earlier in this report, it is considered this would result in a poorer amenity outcome for residents; given the site's exposure to aircraft noise. Further, the proposed COS layout and arrangement is considered appropriate as additional buffers from the aircraft noise are provided through greater separation distances and by the building itself.

Façade Retention

With respect to the façade retention, whilst it cannot be retained in-situ due to construction impacts as the relevant environmental planning instruments or the DCP do not specifically require its retention, it is still considered worthy of some form of retention. Therefore, a condition is recommended for an interpretation plan to be undertaken to allow for it to be repurposed within the development in some form. This will also require its archiving prior to it being dismantled.

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NORTH RECESSES MATERIALITY CHANGE

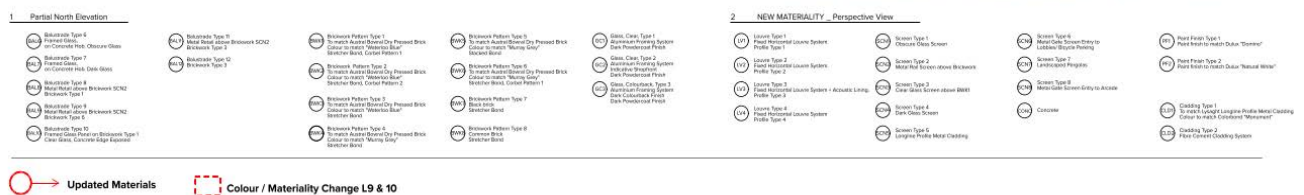
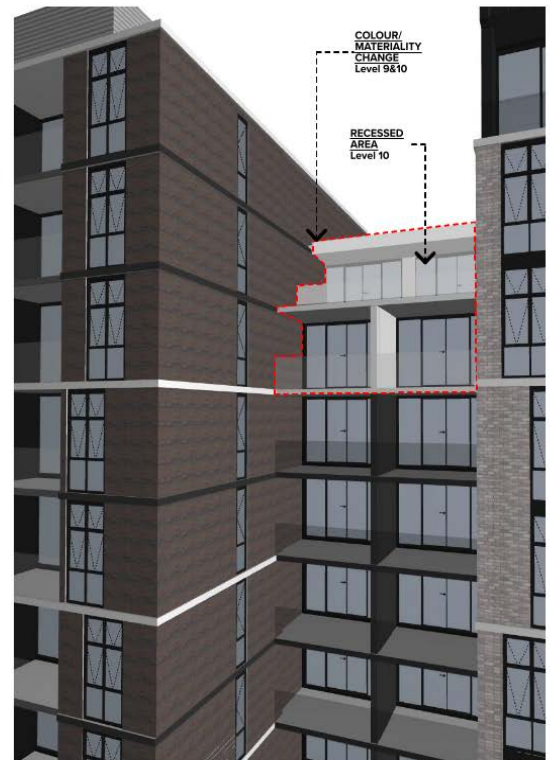


Figure 16: North Recesses Materiality Change (Source: Turner)

On balance, it is considered that the proposal in its current form satisfactorily addresses the majority of design recommendations provided by the AEP during both the PDA and DA stages of the development. In this regard, significant amendments and refinements have been undertaken to respond not only to airspace operation requirements, but also to their resultant impacts on the massing and form of the development, particularly along the northern elevation.

Further, as acknowledged by the AEP, the proposed massing and form of the proposal has improved private and public amenity benefits when compared with a DCP-compliant scheme. Also, as discussed in greater detail under Section 15 below, the proposal ultimately achieves the key aims of the objectives of the Part 9.47 Victoria Road of the MDCP 2011 and therefore it is considered to demonstrate a high standard of design in the private and public domain.

In light of the above, it is considered Clause 1.2(h) of the MLEP 2011 has been satisfied.

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(ii) Clause 4.6 – Exceptions to Development Standards

As outlined in the table above, the proposal results in a breach of the following development standard:

- *Clause 4.3 – Height of buildings*

The applicant seeks a variation to the Height of building development standard under Clause 4.3 of the MLEP 2011 by a maximum of 3.6% (850mm), which consists of vegetated screening to conceal condenser units located on the rooftop of level 6.

Clause 4.6 allows Council to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes.

In order to demonstrate whether strict numeric compliance is unreasonable or unnecessary in this instance, the proposed exception to the development standard has been assessed against the objectives and provisions of Clause 4.6 of the applicable local environmental plan below.

A written request has been submitted to Council in accordance with Clause 4.6(3) of the MLEP 2011, justifying the proposed contravention of the development standard which is reproduced as follows:

- *The extent of non-compliance is minor in terms of additional height as well as the horizontal extent of the non-compliance and is limited to a vegetated screening structure to conceal the Level 6 rooftop plant areas;*
- *The variation results from specific compliance to recommendations made by the AEP in relation to screening the plant services area at the rooftop location of Level 6, as it aims to protect the residential amenity of above apartments;*
- *The proposed development remains consistent with the desired future character of the Victoria Road precinct in terms of height, bulk and scale identified in Marrickville DCP Part 9.47; and*
- *Because of the location and minor extent of the non-compliance, the variation will not result in any additional environmental impacts in terms of overshadowing, privacy, bulk and scale, or exposure to the sky and sunlight from surrounding land and the public domain.*

The applicant's written rational adequately demonstrates compliance with the development standard is unreasonable and unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard.

The objectives of Site A's B4 Mixed Use zoning contained within the MLEP 2011 are as follows:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*

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- *To support the renewal of specific areas by providing for a broad range of services and employment uses in development which display good design.*
- *To promote commercial uses by limiting housing.*
- *To enable a purpose built dwelling house to be used in certain circumstances as a dwelling house.*
- *To constrain parking and restrict car use.*

It is considered the development is in the public interest because it is consistent with the relevant objectives of the B4 Mixed Use zoning, in accordance with Clause 4.6(4)(a)(ii) of the MLEP 2011 for the following reasons:

- The proposal provides for a mixture of permissible and compatible land uses.
- The proposal integrates suitable commercial and residential uses and given the subject site's location relative to nearby public transport options (Sydenham Train and future Metro Station and bus stops along Victoria and Sydenham Roads), whilst encouraging walking and cycling through the provision of pedestrian footways throughout the development and a significant amount of bicycle parking.
- The proposal will assist with the renewal of the Victoria Road Precinct through the provision of future services and employment uses, whilst displaying good design.
- The proposal provides for significant commercial floor space on the ground floor.
- The proposal provides for car-share spaces and significant amounts of bicycle parking, which aims to reduce private car use.

The objectives of the LEP Height of building standard contained within the MLEP 2011 are as follows:

- (a) to establish the maximum height of buildings,*
- (b) to ensure building height is consistent with the desired future character of an area,*
- (c) to ensure buildings and public areas continue to receive satisfactory exposure to the sky and sunlight,*
- (d) to nominate heights that will provide an appropriate transition in built form and land use intensity.*

It is considered the development is in the public interest because it is consistent with the objectives of the development standard, in accordance with Clause 4.6(4)(a)(ii) of the MLEP 2011 for the following reasons:

- As demonstrated under Section 15 below, the proposed building height is consistent with the desired future character of the Victoria Road, as the proposal does not exceed the allowable storey limits on the site.
- Given the site's orientation and the locations and setbacks of the proposed built-form and massing, surrounding buildings and public areas will still receive satisfactory exposure to the sky and sunlight; and
- The proposed building height provides an appropriate transition in built form and intensity of land use from 12 storeys at the eastern boundary (through-site link) to 6 storeys at the western boundary (Victoria Road).

The contravention of the development standard does not raise any matter of significance for State and Regional Environmental Planning. The concurrence of the Planning Secretary may be assumed for matters dealt with by the SECPP.

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The proposal thereby accords with the objective in Clause 4.6(1)(b) and requirements of Clause 4.6(3)(b) of the MLEP 2011. For the reasons outlined above, there are sufficient planning grounds to justify the departure from the height of building development standard and it is recommended the Clause 4.6 exception be granted.

(iii) Clause 6.3 – Flood planning

The subject site is identified as being flood affected in the 1% AEP Event (100-year ARI) and is also subject to high hazard flooding and overland flow impacts. As a result, the provisions under Clause 6.3 of the MLEP 2011 and Parts 2.22 Flood Management and 9.47.9 Stormwater Management (Victoria Road) of the MDCP 2011, respectively.

A Flood Management report was submitted the application and outlines that the proposal is likely to result in the following impacts with respect to flooding:

- *Flood levels on Victoria Road are reduced by a small amount (less than 40mm).*
- *Limited increase in flood levels of less than 40mm on Faversham street immediately downstream of the proposed through site link and in the laneway adjacent the bowling club.*
- *There is no negative impact on surrounding properties.*
- *Flood levels in the eastern corner of the site are reduced by up to 850mm. This is a local impact that does not extend far into the property to the north.*

To mitigate flood impacts on the development itself, the following design measures in accordance with the relevant provisions are proposed:

- *The flood depth on Victoria Road is greater than 300mm and as such the residential areas fronting Victoria Road have been provided with a 500mm freeboard to the 1% AEP flood level.*
- *The driveway adjoining Victoria Road has been designed with a crest of 3.80mAHD, giving 300mm freeboard to the 1% AEP flood level. In this location the flood depth is limited to 300mm. The driveway crest protects the loading dock and driveway from flooding.*
- *Entry to the basement has a crest of 3.20m AHD to give 500mm freeboard to the flood level in the north eastern corner of the site (near the through site link) of 2.70mAHD.*

The above design measures will be secured by consent conditions, which have been included in the recommendation. In addition, a Flood Emergency Management Plan in accordance with the MDCP 2011 has been developed for the proposal. Its implementation will be enforced by a consent condition, which has been included in the recommendation.

Subject to the imposition of appropriate consent conditions, which have been included in the recommendation, the proposal is acceptable with regard to Clause 6.3 of MLEP 2011 and Part 2.23 & Part 9.47.9 of MDCP 2011, respectively.

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14. Draft Marrickville Local Environmental Plan 2011

Draft Marrickville Local Environmental Plan 2011 (Amendment 4) (the Draft LEP Amendment) was placed on public exhibition commencing on 3 April 2018 and accordingly is a matter for consideration in the assessment of the application under Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979.

The amended provisions contained in the Draft LEP Amendment contains an additional Clause in the LEP to be known as Clause 6.19 – Design Excellence which aims to deliver the highest standard of architectural, urban and landscape design in the LGA. The clause would be applicable to the development site as it has a maximum permitted building height of more than 14 metres and requires an assessment of whether the proposal exhibits design excellence. The quality of the proposed design has been assessed under Section 13(i) Clause 1.2 of MLEP 2011 as part of this assessment and Section 8, which concerns SEPP 65 and the ADG.

15. Marrickville Development Control Plan 2011

The proposal has been assessed against the relevant provisions of the Marrickville Development Control Plan 2011 (MDCP 2011). The table below is an assessment of the key matters.

Control	Proposed	Compliance
<i>Part 2 – Generic Provisions</i>		
Part 2.1 – Urban Design	<p>The proposal has been designed having regard to the 12 relevant urban design principles outlined in Part 2.1 as follows:</p> <ul style="list-style-type: none">• The proposal is considered to improve the surrounding urban structure through the provision of pedestrian and vehicular connections;• The proposal allows for an ease of safe access for all persons, through the provision of ramping, level paths and lift access;• The proposal will create a complementary mix of uses and spaces;• The density is considered appropriate for its context, having regard to the site's B4 Mixed Use zoning and its proximity to nearby public transport options;• The proposal does not impact the definition between the public and private domain and is appropriate for the existing and desired future character of the locality given its form, massing, siting and detailing; and• The proposal will enhance, whilst respecting the evolving character of the streetscape along Victoria Road, given	Yes

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	the proposal's massing, materiality and activation.	
Part 2.3 – Site and Context Analysis	The applicant submitted a site and context analysis as part of the application that satisfies the controls contained in Part 2.3 of MDCP 2011.	Yes
Part 2.5 – Equity of Access and Mobility	<p>The proposal satisfies the access and mobility controls contained in MDCP 2011 in that:</p> <p><i>Commercial</i></p> <ul style="list-style-type: none"> • Appropriate access is provided for all persons through the principal entrances; • A Continuous Accessible Path of Travel (CAPT) to and within the tenancies from the public domain and basement is provided, which allows a person with a disability to gain access to all areas; and • 7 accessible parking spaces have been provided in accordance with the requirements. This outcome will be ensured by recommended consent conditions. <p>Despite the above, the requirements of MDCP 2011 are effectively superseded by the introduction of the Premises Standards. An assessment of whether or not these aspects of the proposal fully comply with the requirements of relevant Australian Standards and the Premises Standards has not been undertaken as part of this assessment.</p> <p>That assessment would form part of the assessment under the Premises Standards at the Construction Certificate stage of any proposal, with recommended conditions included to ensure this occurs.</p> <p><i>Residential</i></p> <ul style="list-style-type: none"> • A minimum of 55 adaptable dwellings have been provided in accordance with the requirement; • A minimum of 55 accessible parking spaces have been provided in accordance with the requirement; • Appropriate access is provided for all persons through the principal entrances via the provision ramping, pathways and lift access; • All common areas/facilities are accessible; and • Conditions of consent are recommended to ensure the above items are secured. 	Yes, subject to conditions.

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Part 2.6 – Acoustic and Visual Privacy	<p><i>Residential</i></p> <p>The proposal will have a satisfactory impact on visual and acoustic levels of the surrounds in accordance with Part 2.6 as follows:</p> <ul style="list-style-type: none"> • Surrounding land uses are predominately of a light industrial or business nature. The site is bounded by Wicks Park along the length of its southern boundary; • As outlined in the ADG assessment above, the proposal provides for satisfactory separation distances to adjoining allotments and will not prejudice their redevelopment; • Measures are proposed to allow for a satisfactory level of privacy for occupants within the development. These include, the use of solid materials, screens, planting or significant separation distances between balconies; and • In terms of acoustic privacy, this matter is discussed within the LEP table above and within this table further below. <p><i>Commercial</i></p> <p>The use and operation of the proposed commercial tenancies will subject to future applications. Assessment of their respective acoustic impacts will occur at that stage.</p>	Yes, subject to conditions
Part 2.7 – Solar Access and Overshadowing	<p>The proposal will have a satisfactory impact in terms of solar access and overshadowing on the surrounds in accordance with Part 2.7 as follows:</p> <ul style="list-style-type: none"> • Surrounding land-uses within the site's immediate context are of a light industrial or business nature; • Overshadowing impacts on Wicks Park are discussed within this table further below; • The proposal will not affect solar access for future residential land uses located on the western side of Victoria Road and directly north of the site; • Apartment layouts and orientations have been designed to maximise solar access (refer to ADG discussion above); and • COS will receive satisfactory solar access relative to the site constraints (refer to ADG discussion above). 	Yes
Part 2.8 – Social Impact	A social impact assessment was submitted in accordance with the provisions of Part 2.8.	Yes

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Assessment		
Part 2.9 – Community Safety	<p>The development is reasonable having regard to community safety for the following reasons:</p> <ul style="list-style-type: none"> • The proposal has been designed to ensure habitable spaces, POS and COS overlook the public domain; including Victoria Road, Wicks Park, the pedestrian through site link and proposed private road; • Satisfactory access control is achieved through the provision of secure access to and within the private domain (including card swipes and intercom features) and the provision of security gates for the proposed commercial arcade to allow it to be secured after-hours; • Appropriate territorial reinforcement is proposed through the use of varied materials to delineate private and public space and landscaping measures; and • Appropriate lighting is to be used throughout the development to assist to provide for a safe environment, particularly at night. 	Yes
Part 2.10 – Parking	The proposal does not strictly comply with the required parking and loading requirements.	No (refer to discussion under Section 15(i) below).
Part 2.16 – Energy Efficiency	<p><i>Residential</i></p> <p>The provisions under the BASIX SEPP apply for the residential component of the development (refer to discussion above).</p> <p><i>Commercial</i></p> <ul style="list-style-type: none"> • The application was accompanied by a report outlining that the proposed development will comply or is capable of complying with Part J of the Building Code of Australia (BCA). • Conditions are recommended to ensure the proposal achieves compliance in this regard. 	Yes, subject to conditions.
Part 2.17 Water Sensitive Urban Design	Part 2.17 of MDCP 2011 contains objectives and controls relating to Water Sensitive Urban Design (WSUD) including requirements for commercial, retail, and industrial development with a total site area greater than 2,000sqm, which results in new or increased gross floor area of greater than 50% and for developments with parking areas with 10	Yes, subject to conditions.

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	<p>or more spaces.</p> <p>The applicant prepared a Stormwater and WSUD Management Report including MUSIC modelling incorporating WSUD measures into the development.</p> <p>Council's Development Engineering Team reviewed the proposal and raised no objection subject to the imposition of conditions which are included in the recommendation.</p>	
Part 2.20 – Tree Management	Refer to SEPP discussion above.	Yes, see discussion above under Section 12 above.
Part 2.21 – Site Facilities and Waste Management	<p>The proposal satisfies the relevant provisions of Part 2.21 as follows:</p> <ul style="list-style-type: none"> • The application was accompanied by a waste management plan in accordance with the Part; • The proposed waste management and storage areas meet the relevant requirements under the Part; • Council's Resource Recovery Team reviewed the proposal and raised no objection subject to the imposition of conditions; and • Standard conditions are recommended to ensure the appropriate management of waste during the construction of the proposal. 	Yes, subject to conditions.
Part 2.22 – Flood Management	Refer to LEP discussion.	Yes, refer to discussion under Section 13(iii) above.
Part 2.23 – Acid Sulfate Soils	Refer to LEP discussion above.	Yes, refer to discussion under Section 13 above.
Part 2.24 – Contaminated Land	Refer to SEPP discussion above.	Yes, refer to discussion under Section 7 above.
Part 2.25 – Stormwater Management	<p>The development is capable of satisfying the relevant provisions of Part 2.25 as follows:</p> <ul style="list-style-type: none"> • Although OSD is not required, given the site is proposed to discharge into a 	Yes (subject to conditions)

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	<p>Sydney Water Corporation drainage system, OSD tanks are proposed to assist with the management of stormwater;</p> <ul style="list-style-type: none"> • The abovementioned OSD systems will also assist to lessen the impacts of flooding on the site; and • The proposal was reviewed by Council's Development Engineering Team and no objection was raised subject to conditions relating to the appropriate management of stormwater. 	
Part 3 – Subdivision, Amalgamation and Movement Networks		
<p>Part 3.2.1 – General Torrens title subdivision and amalgamation controls</p> <p><u>Multiple allotments</u></p> <p><i>Where a new development relates to land that extends over two or more existing lots, a condition of any approval will require the person acting on the consent to consolidate the allotments to create one lot under one title and be registered at the NSW Department of Lands before the issue of a Construction Certificate.</i></p>	<p>Subdivision, including strata or stratum, is not proposed as part of the subject application.</p> <p>As the proposal extends of multiple allotments, a condition of consent has been included in the recommendation requiring the consolidation of Site A into one allotment prior to the issue of a construction certificate.</p>	Yes (subject to condition)
Part 5 – Commercial Development		
<p>It is considered the building form and detail provisions outlined in Part 9.47 of the MDCP 2011 take precedence, as per the provisions under 9.47.1.3 (refer to assessment below).</p> <p>Future applications for the proposed commercial tenancies will be required to address the relevant provisions in Part 5.</p> <p>Vehicle access and loading requirements are addressed under Section 15(i) below.</p>		
Part 9 – Strategic Context		
Part 9.47 Victoria Road (Precinct 47)	The subject site is located within the Victoria Road Precinct, Marrickville.	Noted
Part 9.47.3 – Desired Future Character	The proposal is compatible with the relevant desired future character of the precinct as below.	Yes, subject to conditions.
<ul style="list-style-type: none"> • The proposal assists to create an active commercial corridor and displays a high quality of urban design along Victoria Road. The commercial spaces proposed have the ability to be used for the purposes of permissible and active land uses, subject to future consent; • The proposal appropriately integrates urban architectural design excellence, whilst encouraging sustainability through the provision of energy efficiency measures. These 		

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<p>measures will be secured by consent conditions;</p> <ul style="list-style-type: none"> • The proposal will enhance Victoria Road through public domain upgrades and encourage pedestrian activity along the proposed road, through the provision of separated footpaths and tree planting. These measures will be secured by consent conditions; • The proposal provides for publicly accessible spaces and links within the site and to the surrounds, which include sufficient levels of planting and areas for seating, to assist with enhancing the streetscape and wider locality; • The proposal will assist to provide for a liveable environment, through acoustic and design measures to mitigate impacts from surrounding noise sources. In addition , the proposal provides inclusive access within the site for all residents and visitors through accessible design measures. These measures will be secured by consent conditions; • The proposal demonstrates a good level of urban design, given its materiality, form and the spaces it provides, whilst also adopting sustainable features including solar panels, the provision of a significant number of trees and plants and the encouragement of walking and public transport use; • As discussed earlier within this report, it is considered the proposal achieves design excellence and adopts appropriate cues from nearby industrial buildings through its use of masonry on its facades; • Given the scale of the proposal, the proposal provides for significant employment and housing spaces, whilst having acceptable impacts on the surrounds; • The proposal has been sited to maximise the amenity of occupants, whilst mitigating potential impacts from nearby industrial and commercial land uses; • The proposal provides for new publicly accessible open spaces, which are satisfactorily landscaped and include places for seating and recreation; and • As discussed earlier within this report, the proposal is compatible with the operations of Sydney Airport. 		
Part 9.47.4 – Sub Precincts	The proposal is located within the Victoria Road Corridor (Sub-precinct 1) and the Wicks Park (Sub-precinct 3) sub-precincts.	Noted
Part 9.47.5– Indicative Masterplan	<p>The proposal is generally consistent with the relevant key elements of the Indicative Masterplan as follows:</p> <ul style="list-style-type: none"> • A minimum of a 1.5m space on private land adjacent to the public domain along Victoria Road is provided to allow for activation; • Although a share way is not proposed, a private road that allows for both pedestrian and vehicle access is provided along the northern boundary of the site. <i>Note: the applicant was requested to amend the share way to a road for safety reasons;</i> • A publicly accessible pedestrian through site link is provided along the eastern boundary of the site; • A minimum 3m wide pedestrian footpath is provided on the site's southern boundary to allow for activation of Wicks Park, including its tennis courts; and • A mixed use development including residential and non-residential uses is proposed on the site. 	Yes

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Part 9.47.6 – Form of Redevelopment Sites	<p>The proposal is consistent with the relevant provisions as follows:</p> <ul style="list-style-type: none"> • The proposal assists with achieving the vision for this portion of the Victoria Road precinct, in accordance with the Indicative Masterplan; • It is considered the proposed site area is sufficient to allow for a mix of high-density residential and commercial development, whilst allowing for good levels of amenity and architectural quality; • It is considered the proposal development does not isolate adjoining allotments, due to their existing orientations, access arrangements and sizes; and • Vehicle access is provided to the site in accordance with the Indicative Masterplan. 	Yes
Part 9.47.7 – Movement Network		
9.47.7.1 General (Objectives)	<p>The proposal is consistent with the relevant provisions as follows:</p> <ul style="list-style-type: none"> • The proposal encourages the use of public transport, walking and cycling through the provision of new pedestrian links and footpaths and the provision of bicycle parking; • The proposed road and through site link appropriately connect with the surrounding road and pedestrian networks and are legible within its hierarchy; • Whilst a share way is not proposed, the proposed road is designed to allow for a comfortable and attractive environment for pedestrians and cyclists through the provision of delineated footpaths, awnings, pedestrian crossings, plantings and deep soil; • Subject to a condition for the payment of a monetary contribution, the proposal will assist to provide for the delivery of identified road and intersection upgrades; • The proposal provides for satisfactory levels of accessibility for all persons; • The proposal allows for improved levels of circulation and connectivity within the locality through the provision of pedestrian links; and • The proposal allows for pedestrian activity on Victoria Road by providing a 1.5m pedestrian activation area (setback for pedestrian use). 	Yes, subject to conditions.

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9.47.7.1 General (Controls)	<p>The proposal is generally consistent with the relevant provisions as follows:</p> <ul style="list-style-type: none"> • The proposal is generally consistent with the Movement Network plan, as the minimum reservation widths are provided. In this regard, the proposal does not restrict the future provision of a two-way road way upon the redevelopment of the adjoining property to the north. This outcome will be subject to a future application and will also require consultation with TfNSW. • Subject to a condition for the payment of a monetary contribution, the proposal will assist to provide for the delivery of necessary traffic and transport infrastructure works within this precinct; • The proposal provides for the necessary traffic and open space provisions in accordance with the Indicative Masterplan; • The proposal minimises the vehicle entry points to the site; • Adequate separation is provided between proposed vehicular entry points to allow for a satisfactory impact on the streetscape and to allow for pedestrian amenity; • The proposed 1.5m dedicated footpath along Victoria Road does not include any basement encroachment; and • Standard conditions are recommended to ensure the satisfactory provision of street furniture and footpaths, which are comprised of durable materials. A condition will also be included for the provision of satisfactory levels of lighting within the publicly accessible areas. 	No , however satisfactory on merit..
9.47.7.2 Shared zones and traffic infrastructure.	<p>As outlined above, whilst a road is provided in lieu of a formal share-way, the proposal is still generally consistent with the relevant provisions as follows:</p> <ul style="list-style-type: none"> • The proposed road creates a pedestrian friendly environment, whilst ensuring safety through the provision of a raised footpath and the varied use of materials differentiating the footpath and road; and • Commercial and residential facilities are provided adjacent to the road to allow for activation at pedestrian level. 	No , however satisfactory on merit.

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9.47.7.3 Green links	<p>The proposal is generally consistent with the relevant provisions as follows:</p> <ul style="list-style-type: none"> • The proposal provides for new pathways and green links, which connect with the surrounds and allow for satisfactory levels of permeability and amenity; and • Subject to conditions, the proposed street tree plantings and plantings within the through site link will be spaced in a coordinated manner, be of an appropriate species, provide shade and allow for satisfactory stormwater infiltration. 	Yes, subject to conditions
9.47.9 Stormwater Management	<p>The proposal is generally consistent with the relevant provisions as follows:</p> <ul style="list-style-type: none"> • Stormwater management measures are satisfactorily integrated into the design of the development to ensure the visual attractiveness of the public domain is not compromised; • The proposed street and pedestrian through-site link assist with stormwater management through the provision of deep soil planting or OSD tanks; • As discussed in detail under 13(iii) above, the proposal provides for satisfactory drainage design measures to mitigate potential impacts to the development caused by stormwater and flooding impacts. Conditions are recommended to ensure these measures are appropriately provided; and • Council's Development Engineering Team reviewed the proposal and raised no objection subject to the imposition of conditions which are included in the recommendation. 	Yes, subject to conditions
Part 9.47.11 – Built Form		
Part 9.47.11 Built-form (Objectives)	<p>The proposal is generally consistent with the relevant provisions as follows:</p> <ul style="list-style-type: none"> • The proposed building heights along Victoria Road assist to reinforce its role as a commercial corridor; • The proposed building heights ensure high levels of residential amenity in terms of outlook and sunlight access, whilst enabling appropriate levels of solar access to Wicks Park; • The proposed building heights assist to contribute to the creation of a high-density urban neighbourhood character compatible with the surround context; 	Yes

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	<ul style="list-style-type: none"> The proposal assists to provide for varied building heights within the precinct to allow for a visually interesting urban form and skyline; and As detailed within this report, the proposed building heights are consistent with the operational requirements of Sydney Airport. 	
Part 9.47.11 Built-form (Controls)	<p>As discussed in detail under 13(i) above, whilst the proposed building heights differ from the indicative heights under this part of the DCP, superior amenity and design benefits are achieved as a result (refer to full discussion above).</p> <p>Notwithstanding the above, the proposal remains consistent with the relevant provisions as follows:</p> <ul style="list-style-type: none"> The building heights comply with the relevant building height maps under the MLEP 2011; A consistent street wall height along Victoria Road will be established; The proposal exceeds the minimum requirement relating to the overshadowing of Wicks Park on 21 June (50% of total area receives a minimum of 3 hours direct sunlight from 9:00am to 3:00pm) and provides reduced overshadowing of Wicks Park when compared to a compliant DCP scheme; Taller buildings are proposed adjacent to Wicks Park, to allow for greater residential amenity, outlook and views; and The proposal provides for satisfactory separation distances to adjoining sites in accordance with the ADG (refer to discussion under Section 8 above). 	No , however satisfactory on merit.
9.47.11.2 Building form and design (Objectives)	<p>The proposal is generally consistent with the relevant provisions as follows:</p> <ul style="list-style-type: none"> The proposed building form and design creates a physical street edge that will define Victoria Road; The design of the proposal maximises visual interest through the creation of indents and varied materiality, whilst reducing visual bulk on the public domain, particularly within Wicks Park; The orientation of the building allows for the ground floor to address and engage the public domain, including Wicks Park; The proposal clearly defines the street pattern envisioned by the Indicative 	Yes

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	<p>Masterplan;</p> <ul style="list-style-type: none"> • A central plaza is provided within the development at the ground floor, which is publicly accessible; and • The ground level non-residential components are to design to contribute to the streetscape and public domain with the use of quality materials and finishes. 	
9.47.11.2 Building form and design (Controls)	<p>The proposal is generally consistent with the relevant provisions as follows:</p> <ul style="list-style-type: none"> • The proposal satisfactorily addresses the proposed road and pedestrian links through the provision of commercial floor space, lobbies or residential facilities; • The proposal has been orientated to maximise outlook and views, as the majority of the apartments on the northern side of the building either receive views to both/or the Sydney CBD and Wicks Park; • As discussed in detail under 13(i) above, the proposal has been revised to satisfactorily break up the northern elevation through façade modulation (indentations) and varied materiality; • The proposed building facades have been satisfactorily articulated, within a cohesive design composition, with the use of recessed and projecting balconies, openings and the use of varying materials; • The proposal has been designed in accordance with the provisions of the Schedule 1: Victoria Road Precinct Noise Policy. The measures proposed to achieve compliance will be enforced by a recommended condition of consent; • The proposal provides for high-quality COS and is designed to be useable and maximise activity and views toward Wicks Park; • Lobby entries to the public domain have been maximised; • The proposal satisfactorily aligns with the indicative street blocks and will reinforce the commercial corridor along Victoria Road; and • The design of the proposal allows for a reduction in overshadowing to Wicks Park when compared to a compliant DCP scheme and provides for active ground floors addressing Wicks Park to provide for activation. 	Yes, subject to conditions.

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9.47.11.2 Building form and design (Objectives)	<p>The proposal is generally consistent with the relevant provisions as follows:</p> <ul style="list-style-type: none"> • As the proposal generally complies with the relevant height restrictions, the proposal along Victoria Road will ensure a coherent, human scale street-wall; • As discussed within this report, the proposal provides for appropriate visual massing, which allows for satisfactory levels of amenity for residential uses and the public domain; • The proposal allows for satisfactory levels of solar access for both residential uses and the public domain; • Appropriate landscaping features along the streetscape are proposed and will be secured by consent conditions; and • The proposed massing minimise visual bulk impacts on the public domain, including Wicks Park and is considered a superior outcome compared to a compliant DCP scheme. 	Yes, subject to conditions
9.47.11.2 Building form and design (Controls)	<p>The proposal is generally consistent with the relevant provisions as follows:</p> <ul style="list-style-type: none"> • A minimum 3m ground level setback is provided to Wicks Park; • A 0m setback is provided to Victoria Road (with exception of required 1.5m dedicated pathway); • A 0m setback is provided to the pedestrian through site link along Site A's eastern boundary; • The podium on Level 1 encroaches into the required 2m upper setback to Wicks Park. Notwithstanding, it is considered the proposal provides for reduced massing overall along the southern boundary when compared to a compliant DCP scheme; which allows for a 9 storey building directly adjacent to the Park; • The proposal exceeds the 4m upper level setback requirements above 6 storeys; and • Roof lines and balconies do not project into setback zones. 	No , however satisfactory on merit.
9.47.11.14 Building form and design (Objectives)	<p>The proposal is generally consistent with the relevant provisions as follows:</p> <ul style="list-style-type: none"> • The proposal encourages ground floor uses comprising non-residential uses, to 	Yes, subject to conditions

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	<p>enhance activity along the vehicular thoroughfares and within the pedestrian through site link;</p> <ul style="list-style-type: none"> Commercial uses and lobbies on the western boundary of the site are appropriately orientated toward Victoria Road to promote activation; and It is considered the proposed frontages will make a positive contribution to the public domain and streetscape. 	
9.47.11.14 Building form and design (Controls)	<p>The proposal is generally consistent with the relevant provisions as follows:</p> <ul style="list-style-type: none"> The proposal provides for satisfactorily levels of activation in accordance with the this part through the location of commercial spaces with large expanses of glazing. This occurs along Site A's Victoria Road, Wicks Park and pedestrian through site link interfaces, respectively; Whilst some activation is proposed along the road adjacent to Site A's northern boundary, activation is limited by the location of vehicle entries, loading docks and building services, which restrict activation along this interface; and Notwithstanding the above, in this instance this outcome is acceptable on balance, as the vehicular entries and building services are provided in the most suitable location and the proposal generally accords with the Indicative Masterplan. 	No , however satisfactory on merit.
9.47.12 Other Infrastructure	<p>The proposal is capable of complying the relevant provisions as follows:</p> <ul style="list-style-type: none"> Subject to recommended consent conditions, all power lines and utilities (including telecommunication infrastructure) will be located underground. 	Yes, subject to conditions
9.47.13 Operation of Sydney Airport	<p>The proposal has been designed to not impact the operations of Sydney Airport.</p> <p>This matter is addressed under Sections 6 and 13, respectively.</p>	Yes, refer to discussion under Section 6 & 13.
9.47.14 Noise and Vibration	<p>The proposal is capable of complying the relevant provisions as follows:</p> <ul style="list-style-type: none"> Acoustic impacts emanating from the 	Yes, subject to conditions

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	<p>proposed commercial tenancies will be subject to an assessment under future applications for their respective uses;</p> <ul style="list-style-type: none"> The proposal has been orientated to allow for sufficient levels of acoustic and visual privacy; and As discussed under Section 13, an Acoustic report was submitted with the application outlining that the proposal is capable of complying with the relevant standards and provisions, including Schedule 1 – Victoria Road Precinct Noise Policy. Compliance will be achieved through the use of specific glazing types and building materials. In addition, the report also concluded the measures required to mitigate aircraft noise impacts will also effectively mitigate impacts from nearby live music venues. Compliance will be enforced via recommended consent condition. 	
9.47.15 Schedule 1 – Victoria Road Precinct Noise Policy	The proposal is capable of meeting the provisions under this part. Refer to discussion above under Part 9.47.14.	Yes, subject to conditions

(i) Part 2.10 – Parking

The subject site is identified in Parking Area 2 under Part 2.10 of the MDCP 2011. The following table summarises the car, bicycle and motorcycle parking requirements for the development:

Component	Control	Required	Proposed	Complies
Car parking – Residential (non-adaptable units)				
1 bedroom (93 units)	0.5 spaces per unit	47	172 spaces	No , refer to discussion below.
2 bedroom (114 units)	1 space per unit	114		
3 bedroom (10 units)	1.2 spaces per unit	12		
Visitor (217 units)	0.1 space per unit	222		
Total		194		
Car parking – Residential (adaptable units)				
Adaptable (55 units)	1 mobility space per unit	55 spaces	55 adaptable spaces	Yes
Visitor (55 units)	0.25 visitor mobility space per unit	14 spaces	5 adaptable visitor spaces	No , refer to discussion below.

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Car parking – Commercial				
Commercial (Shops/Supermarket (over 1,000m ²))	20 + 1 spaces per 30m ² (GFA over 1,000m ²)	66 spaces	65 retail spaces	No , refer to discussion below.
Bicycle Parking – Residential & Commercial				
Residential	1 per 2 units (residents) & 1 per 10 units (visitors)	163 spaces	200 (168 in basement & ground level + 32 spaces for visitors in public domain)	Yes
Commercial	1 per 300m ² (GFA) (staff) + 1 per 500m ² (GFA) (customers)	13 spaces		
Total		176 spaces		
Motorcycle Parking – Residential & Commercial				
Residential & Commercial Motorcycle	5% of car parking requirement	16 spaces	16 spaces	Yes

Car parking

As demonstrated above, the proposal is deficient in terms of the provision of car parking by a total of 18 spaces (329 spaces required opposed to 311 spaces provided).

As outlined within this report, during the assessment of the application the applicant was requested to comply with the DCP parking requirements. Notwithstanding, the revised proposal submitted is still deficient in this regard.

Therefore, to remedy the above, a condition of consent has been included in the recommendation requiring the provision of car-share spaces within the development. An analysis of Development Control Plans of Councils within surrounding urban and inner city areas that include car-share controls were undertaken, including the former Leichhardt Council. Some of the examples include the following:

- *Leichardt DCP 2013 (section C25) - 1 carshare space be provided in place of 5 regular car parking spaces*
- *Woollahra Council DCP 2015 (section E1.9.2) - 1 carshare space be provided in place of up to 4 regular car parking spaces*
- *North Sydney Council DCP 2013 (section 10.2.2) - 1 carshare space be provided in place of no less than 3 and up to 4 regular car parking spaces*
- *Waverley Council DCP 2012 (section 8.2.2) - 1 carshare space be provided in place of up to 4 regular car parking spaces*

In light of the above, it is considered that 6 retail/ visitor spaces within the publicly accessible area of the basement should be converted into car-share spaces to remedy the variation. By selecting the lower ratio of 1 to 4, it is considered 6 spaces will be sufficient in this regard. A condition of consent has been included in the recommendation to ensure the spaces are provided.

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Servicing

Under Part 2.10 of the MDCP 2011, the following table outlines the minimum requirements for parking and loading of services and delivery vehicles:

Service & delivery vehicle areas – Type of Development	Minimum requirements
Supermarket, shops and restaurants	<ul style="list-style-type: none">One truck space 400m² up to 2,000m² (GFA) plus one truck space per 1,000m² thereafter (all spaces for adequate trucks)
Residential flat buildings and residential components of mixed use development	<ul style="list-style-type: none">One service vehicle space per 50 apartments (above first 50) up to 200 apartments plus one space per 100 apartments thereafter

In addition, the following design principles should be considered in the design of service vehicle areas, as detailed in RMS Guide to Traffic Generating Developments (2002):

- The layout of the service area must be designed to facilitate operations relevant to the development;
- Service areas must be a physically defined area which is not used for other purposes, such as storage of goods and equipment or parking areas;
- Separation of service vehicle and car movements must be a design objective;
- All vehicles must enter and leave the property in a forward direction; and
- Internal circulation roadways must be adequate for the largest vehicle anticipated to use the site.

Based on the above requirements, the following is to be provided by the development:

- 2 truck spaces to service the retail component;
- 5 service spaces to service the residential component; and
- A holding area for waiting trucks.

The proposed development does not strictly comply with the above requirements, as the following is provided:

- 2 loading bays/ truck spaces;
- Trucks will enter into a forward direction into the proposed road on the northern boundary and reverse into the loading dock. However, provision has been made for additional space within the central portion of the road to allow this to occur; and
- 5 loading/ visitor spaces are provided within the roadway to allow servicing of the retail tenancies.

Based on the above, the proposal does not strictly comply with the relevant servicing provisions. Notwithstanding, the applicant outlines that the proposed existing arrangement is acceptable given the following reasons, which are summarised below:

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- The proposed private road is to be retained on private land and not dedicated or delegated to Council and this arrangement is in accordance with Part 9.47 Victoria Road of the MDCP 2011. Therefore, the operation and management of the site will be the sole responsibility of the owner and not Council.
- Loading dock management measures, include physical measures, will be put in place to safely manage loading within the site. Further, a loading dock manager will be present on-site to receive deliveries.
- The loading dock has been designed to ensure its extent is minimised to ensure the building maintains a satisfactory streetscape presentation to the private road.

To ensure the above is satisfactory, a condition of consent is recommended for a comprehensive loading dock management plan to be implemented for the proposal, including details relating to the management of delivery times, restriction of deliveries and provision of certified traffic control measures.

Impacts on Faversham Street and Hans Place

As discussed earlier within this report, the proposal in its current form generally adheres to the master plan outlined in Part 9.47 Victoria Road of the MDCP 2011. In this regard, vehicular access is proposed via a new private road providing access along the site's northern boundary and exiting into Faversham Street.

The applicant contends the proposal will have a satisfactory impact on the surrounding road network, including Hans Place and Faversham Street; and the movement of service vehicles will not effect on-street parking with Hans Place or Faversham Street.

Notwithstanding, there remain concerns with respect to this matter, due to potential traffic impacts on Hans Place and Faversham Street, which currently allow for two-way traffic movement and the wider local road network. Further, concern is raised with respect to the potential for loss of on-street parking on Hans Place and Faversham Street, which will impact nearby businesses.

To remedy the above, a condition of a consent is recommended requiring the applicant to develop a signage and car parking plan that maximises the retention of existing on-street parking whilst providing for efficient and safe movement of vehicles through the provision of passing bays and intersection controls/treatments for both Hans Place and Faversham Street in the area where the new private road discharges all of its residential, commercial and service vehicle traffic.

13. Marrickville Section 94/94A Contributions Plan

The carrying out of the development would result in an increased demand for public amenities and public services within the area. A contribution of \$5,371,353.29 will be required for the development under Marrickville Section 94/94A Contributions Plan 2014 and in accordance with 7.11 of the EP&A Act 1979

A condition requiring that contribution to be paid is included in the recommendation.

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14. The Likely Impacts

The assessment of the Development Application demonstrates that, subject to the recommended conditions, the proposal will have an acceptable impact in the locality.

15. The suitability of the site for the development

Provided that any adverse effects on adjoining properties are minimised, this site is considered suitable to accommodate the proposed development, and this has been demonstrated in the assessment of the application.

16. Community Consultation

The originally submitted development proposal was notified in accordance with Council's Notification Policy for 28 days. Notice of the application was published in the Inner West Courier newspaper; signs were placed on the site and letters issued to local residents/property owners. In response, 78 submissions were received. In addition, the proposal as revised was notified in the same manner as the original and in response 15 submissions were received. In total, 93 submissions were received overall.

A significant number of submissions received provided support for the proposal.

The majority of objections received raised the following concerns that have been addressed throughout the main body of the report:

- (i) Traffic and parking impacts.
- (ii) Overshadowing of Wicks Park.
- (iii) Flight path/airspace impacts.
- (iv) Acoustic impacts.
- (v) Non-compliant with height limit and FSR as expressed by LEP.
- (vi) Bulk and scale impacts.
- (vii) Amenity impacts.
- (viii) Poor design.
- (ix) Contamination.
- (x) Incompatible with existing character.
- (xi) Impact on nearby live music venues.
- (xii) Median island construction in Victoria Road.

In addition to the above, the submissions raised the following concerns, which are discussed under the respective headings below:

Concern	Comment
Heritage impacts Concern was raised with respect to the proposal's impact on the heritage value of the area.	The subject site is not listed as a heritage item under the MLEP 2011, nor is it located within a HCA. Further, the subject site is not in the vicinity of a heritage item. Also, Part 9.47 Victoria Road of the MDCP 2011 does not include specific provisions relating to the site for the preservation of existing structures. Notwithstanding, as discussed under Section 13(i) above, a condition of consent is recommended for the provision of interpretation plan to be undertaken for the existing industrial façade

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	on Site B.
Building Code of Australia (BCA) compliance Concern was raised with respect to the proposal's compliance with the BCA.	As outlined previously, a BCA report was submitted with the application outlining that the proposal is capable of complying with its relevant provisions. In any case, a condition of consent has been recommended to ensure this occurs at the Construction Certificate stage.
Overdevelopment Concern was raised that the proposal constitutes an overdevelopment.	<p>Notwithstanding the minor variation to the MELP 2011 height standard, the proposal generally complies with the aims, objectives and design parameters contained in the ADG and MLEP 2011, respectively, including the FSR development standard.</p> <p>Further, as discussed previously, a condition is recommended requiring the applicant to provide car-share spaces on the site to remedy the proposed variation to the DCP car parking requirements.</p> <p>In addition, the proposal generally accords with the MDCP 2011 and is considered to result in a form of development, which is consistent with the desired future character of the Victoria Road Precinct, and the objectives of the B4 Mixed Use zone.</p> <p>In light of the above, it is considered the proposal does not constitute an overdevelopment.</p>
Economic impacts Concern was raised with respect to proposal's impact on existing retail and shopping centres within the area.	<p>The subject application provides for 'cold-shell' commercial spaces on the ground floor of the development. The fit-out and use of each respective shop will be subject to future applications.</p> <p>Notwithstanding, an economic impact analysis was submitted with the application, which included an assessment of the above mentioned commercial space's impacts on existing businesses and the potential for the loss of employment.</p> <p>The analysis concluded that given the expected growth of the precinct and the wider area, the development is likely to result in a net community benefit, providing for a number of economic and social benefits.</p>
Lack of Ecologically Sustainable Development (ESD) initiatives Concern was raised with respect to the proposal's lack of ESD initiatives	<p>As discussed within this report, the proposal satisfies the relevant ESD provisions under the BASIX SEPP, Section J of the Building Code of Australia (BCA) and the MDCP 2011, respectively.</p> <p>In addition, landscaping and the provision of large tree plantings are proposed within the public domain and throughout the development to assist to support biodiversity.</p>
Demolition and construction impacts Concern was raised with respect to the proposal's impact on the surrounds during its demolition and	Standard conditions are recommended, including a restriction in terms of hours, to ensure the proposal will have an acceptable impact on the surrounds during its demolition and construction phases.

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construction.	
Lack of infrastructure capacity Concern was raised with respect the lack of infrastructure capacity to accommodate the development	Infrastructure provision was considered at the planning proposal stage for the Victoria Road Precinct. As outlined within this report, the proposal generally complies with the aims, objectives and design parameters contained the relevant environmental planning instruments, plans and policies.
Terrorist and Safety Threats	There is no evidence to suggest the proposal will increase the likelihood of terrorists' incidents or safety impacts to occur. As outlined within this report, the proposal generally accords with the MDCP 2011 and is considered to result in a form of development, which is consistent with the desired future character of the Victoria Road Precinct, and the objectives of the B4 Mixed Use zone and is permissible with consent under the MLEP 2011.

17. The public Interest

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment are appropriately managed.

The proposal is not contrary to the public interest.

18. Referrals

(i) Internal Referrals

The application was referred to the following internal referral bodies. Issues raised by referral bodies have been addressed as required within this report.

Referral body	Comments
Architectural Excellence Panel	In principle support (refer to discussion under Section 13(i) above).
Development Engineering	No objections raised, subject to conditions relating to stormwater and flooding.
Environmental Health (Acoustic & Contamination)	No objections raised, subject to suitable conditions of consent.
Urban Ecology	No objections raised, subject to suitable conditions of consent. As the proposal is not located on the MLEP 2011 biodiversity maps, certain conditions recommended will not imposed.
Urban Forests	No objections raised, subject to suitable conditions of

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	consent.
Social and Cultural planning	<p>The following items were requested:</p> <ul style="list-style-type: none"> • A review of the proposed noise attenuation measures and processes to ensure that acoustic impacts from nearby live music venues were mitigated was requested. • Provision of additional of universal (Liveable) units were requested. • A request was issued to ensure the urban/public domain. <p>As discussed throughout this report, the minimum requirements with respect to the issues above are either satisfied or capable of being so. Conditions have been recommended to ensure the minimums are achieved.</p>
Traffic Engineering Services	In principle support, subject to conditions relating to the resolution of remaining traffic and parking matters that are discussed within this report.
Waste Management	No objections raised, subject to suitable conditions of consent.

(ii) External Referrals

The application was referred to the following external referral bodies: Issues raised by referral bodies have been addressed as required within this report.

Referral body	Comments
Ausgrid	No formal submission received. Standard conditions are recommended requiring the applicant to gain the necessary approvals prior to construction.
Department of Planning, Industry & Environment (Water Regulation)	Advice provided that for the purposes of the <i>Water Management Act 2000</i> , general terms of approval and / or a controlled activity approval is not required, and no further assessment by this agency is necessary.
SACL/CASA	No objection raised, subject to conditions.
Sydney Water	No formal submission received. Standard conditions are recommended requiring the applicant to gain the necessary approvals prior to construction.
TfNSW (formerly RMS)	No objection raised, subject to conditions.

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MARRICKVILLE**

PART E – CONCLUSION

The application seeks approval to demolish existing improvements and construct a mixed-use development ranging from 6 storeys to 12 storeys in height comprising 2,387sqm of ground floor retail floor space, 272 residential apartments and two levels of associated basement car parking, including the provision of public domain and landscaping works.

The heads of consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, as are of relevance to the application, have been taken into consideration in the assessment of this application.

The proposal generally complies with the aims, objectives and design parameters contained in *State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development and Marrickville Local Environmental Plan 2011*. The proposal is generally consistent with the Marrickville Development Control Plan 2011, including Part 9.47 Victoria Road. The development will have an acceptable impact on the amenity of adjoining premises and the streetscape, subject to conditions.

The application is suitable for approval subject to the imposition of appropriate terms and conditions.

PART E – RECOMMENDATION

- A. The applicant has made a written request pursuant to Clause 4.6 *Exceptions to Development Standards* of the *Marrickville Local Environmental Plan 2011* to vary Clause 4.3 *Height of buildings* in the LEP. After considering the request, and assuming the concurrence of the Secretary, the Panel can be satisfied that compliance with the standard is unnecessary in the circumstance of the case and that there are sufficient environmental planning grounds to support the variation. The proposed development will be in the public interest because the exceedance is not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.
- B. That the Sydney Eastern City Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, grant consent to Development Application No. DA201900096 to demolish existing improvements and construct a mixed-use development ranging from 6 storeys to 12 storeys in height comprising 2,387sqm of ground floor retail floor space, 272 residential apartments and two levels of associated basement car parking, including the provision of public domain and landscaping work subject to the conditions listed in the attached conditions.