



**Land and Environment
Court**
of New South Wales

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DX 264, Sydney

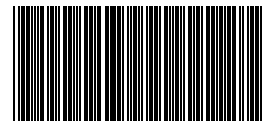
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D00017V4ZT

12 December 2019

NOTICE OF ORDERS MADE

Case number	2019/00093386
Case title	Anglican Community Services trading as trading as Anglicare v Fairfield City Council

On 11 December 2019 the following orders (and/or directions) were made:

The Court orders that:

- (1) The Applicant is granted leave to rely on the amended plans attached as "Attachment 1".
- (2) The clause 4.6 request to vary the height standard is upheld.
- (3) The appeal is upheld.
- (4) Development Application No. 15.1/2019 for lot consolidation, demolition of existing structures, removal of trees and vegetation, construction of a 6 storey residential flat building and boarding house containing 36 units (18x boarding rooms, 8x in-fill affordable housing units and 10 strata apartments) and at-grade communal open space and car, motorcycle and bicycle parking, and ancillary site works on the land at 36-40 Kenyon Street, Fairfield is approved subject to the conditions of consent annexed hereto and marked "Annexure A".

For the Registrar

Name	Date
DA0000 <i>Drawing Schedule/Site Location Plan</i> Revision I	27 November 2019
DA0001 <i>Perspective</i> Revision I	27 November 2019
DA1001 <i>Demolition Plan</i> Revision H	27 November 2019
DA1100 <i>Site Plan</i> Revision H	27 November 2019
DA1999 <i>Underground Floor Plan</i> Revision D	27 November 2019
DA2000 <i>Ground Floor GA Plan</i> Revision J	27 November 2019
DA2001 <i>Level 1-2 GA Plan</i> Revision L	27 November 2019
DA2001.1 <i>Level 3 GA Plan</i> Revision B	27 November 2019
DA2002 <i>Level 4-5 GA Plan</i> Revision K	27 November 2019
DA2003 <i>Roof Plan</i> Revision H	27 November 2019
DA2455 <i>Strata 2 Bed – Type 1</i> Revision C	27 November 2019
DA3000 <i>Elevation Sheet 1</i> Revision H	27 November 2019
DA3001 <i>Elevation Sheet 2</i> Revision I	27 November 2019
DA3100 <i>Section Sheet 1</i> Revision H	27 November 2019
DA3101 <i>Section Sheet 2</i> Revision H	27 November 2019
DA4100 <i>GFA Calculations</i> Revision H	27 November 2019
DA4101 <i>SEPP 65 – BAL/POS & Common Areas</i> Revision H	27 November 2019
DA4102 <i>Landscape and Deep Soil</i> Revision H	27 November 2019
DA4108 <i>Waste Collection Diagram</i> Revision D	27 November 2019
DA4159 <i>Storage Plans</i> Revision C	27 November 2019
DA4163 <i>Fire Hydrant/Booster Details</i> Revision B	27 November 2019
Landscape Design Report Revision I, prepared by Group GSA	26 November 2019

Annexure A

Anglican Community Services trading as Anglicare v Fairfield City Council

Conditions of Consent

DEVELOPMENT APPLICATION NO. 15.1/2019

**AMALGAMATION OF THREE (3) LOTS, DEMOLITION OF EXISTING
STRUCTURES, CONSTRUCTION OF A 6-STOREY RESIDENTIAL FLAT
BUILDING COMPRISING THIRTY-SIX (36) DWELLINGS COMPRISING EIGHT (8)
IN-FILL AFFORDABLE UNITS, EIGHTEEN (18) BOARDING ROOMS AND TEN
(10) STRATA UNITS AND ASSOCIATED TREE REMOVAL, LANDSCAPING AND
AT-GRADE CAR PARKING CONTAINING EIGHTEEN (18) CAR PARKING
SPACES**

**LOT 94B DP 396904, LOT 95B DP 404970, LOT A DP 318446
NO. 36 - 40 KENYON STREET, FAIRFIELD**

APPROVED PLANS**1. Compliance with Plans & Documentation**

The development shall take place in accordance with the approved;

- Architectural plans as prepared by Group GSA, project number 180350;

Name	Date
DA0000 <i>Drawing Schedule/Site Location Plan</i> Revision I	27 November 2019
DA0001 <i>Perspective</i> Revision I	27 November 2019
DA1001 <i>Demolition Plan</i> Revision H	27 November 2019
DA1100 <i>Site Plan</i> Revision H	27 November 2019
DA1101 <i>Site Analysis Plan</i> Revision F	27 August 2019
DA1999 <i>Underground Floor Plan</i> Revision D	27 November 2019
DA2000 <i>Ground Floor GA Plan</i> Revision J	27 November 2019
DA2001 <i>Level 1-2 GA Plan</i> Revision L	27 November 2019
DA2001.1 <i>Level 3 GA Plan</i> Revision B	27 November 2019
DA2002 <i>Level 4-5 GA Plan</i> Revision K	27 November 2019
DA2003 <i>Roof Plan</i> Revision H	27 November 2019
DA2450 <i>Accessible Unit Type 1</i> Revision G	27 August 2019
DA2451 <i>Accessible Studio</i> Revision B	27 August 2019
DA2452 <i>SAH 1 Bed – Type 1</i> Revision B	27 August 2019
DA2453 <i>SAH 1 Bed – Type 2</i> Revision B	27 August 2019
DA2454 <i>SAH Studio – Type 1</i> Revision B	27 August 2019
DA2455 <i>Strata 2 Bed – Type 1</i> Revision C	27 November 2019
DA2456 <i>Strata 2 Bed – Type 2</i> Revision B	27 August 2019

DA2457 <i>Strata 2 Bed – Type 3</i> Revision B	27 August 2019
DA2458 <i>Strata 2 Bed – Type 4</i> Revision B	27 August 2019
DA2459 <i>SAH Studio – Type 2</i> Revision A	27 August 2019
DA2459.1 <i>SAH Studio Type 3</i> Revision A	27 August 2019
DA2459.2 <i>Strata 1 Bed</i> Revision A	27 August 2019
DA2460 <i>Boarding Room Area</i> Revision A	27 August 2019
DA3000 <i>Elevation Sheet 1</i> Revision H	27 November 2019
DA3001 <i>Elevation Sheet 2</i> Revision I	27 November 2019
DA3100 <i>Section Sheet 1</i> Revision H	27 November 2019
DA3101 <i>Section Sheet 2</i> Revision H	27 November 2019
DA4100 <i>GFA Calculations</i> Revision H	27 November 2019
DA4101 <i>SEPP 65 – BAL/POS & Common Areas</i> Revision H	27 November 2019
DA4102 <i>Landscape and Deep Soil</i> Revision H	27 November 2019
DA4108 <i>Waste Collection Diagram</i> Revision D	27 November 2019
DA4156 <i>Figure Ground – Future Development</i> Revision B	27 August 2019
DA4157 <i>Aluminium Privacy Screen Details</i> Revision B	27 August 2019
DA4158 <i>ADG Lift Compliance</i> Revision B	27 August 2019
DA4159 <i>Storage Plans</i> Revision C	27 November 2019
DA4163 <i>Fire Hydrant/Booster Details</i> Revision B	27 November 2019

- Landscape Design Report prepared by Group GSA pages 2-19 dated 26 November 2019;
- Acoustic Assessment Report prepared by Acoustic Logic, project number 20181444.1 revision 5, dated 2 September 2019;
- Operational Plan of Management prepared by Anglicare, Revision 4, dated November 2019;
- Operational Waste Management Plan, prepared by Elephant Foot, report number 100233, revision F, dated 2 September 2019;
- Traffic Impact Assessment Report prepared by ptc, issue 8, dated 2 September 2019,
- Stormwater plans as prepared by Northrop, Job No. 181349-FF

Name	Date
DAC01.01, Revision 5, Cover Sheet, Drawing Schedule and Locality Plan	30 August 2019
DAC02.01, Revision 6, Concept Sediment and Erosion Control Plan	2 September 2019
DAC02.02, Revision 5, Sediment and Erosion Control Details	30 August 2019
DAC03.01, Revision 7, Concept Stormwater Management Plan	2 September 2019
DAC04.01, Revision 5, Details – Sheet 1	30 August 2019
DAC04.02, Revision 5, Details – Sheet 2	30 August 2019
DAC04.03, Revision 3, Pit Schedule	30 August 2019
DAC06.01, Revision 5, Catchment Plan	30 August 2019

except as modified by any conditions of this consent.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

The following conditions of consent must be complied with prior to the issue of a Construction Certificate by a Certifier. The Certifier can be either Fairfield City Council or an Accredited Certifier. All necessary information to comply with the following conditions of consent must be submitted with the application for a Construction Certificate.

2. Section 7.11 Contributions

Prior to the issue of a Construction Certificate, a receipt for the payment to Fairfield City Council of Section 7.11 contributions (pursuant to the Environmental Planning and Assessment Act 1979) for works detailed in the administration sheet attached to this consent shall be submitted to the Certifier.

The total contribution to be paid to Council (as applicable at the date of this consent) is **\$130,305.00**.

The contribution amount payable will be adjusted at the date of payment to account for changes in infrastructure costs in line with the Australian Bureau of Statistics, Producer Price Index – Building Construction (New South Wales) and will be adjusted on a quarterly basis.

Council may allow for deferred payment of the monetary contribution in accordance with the provisions set out in the Direct (Section 7.11) Development Contributions Plan 2011. If approval to allow deferred payment is sought, such approval must be sought and obtained from Council prior to the issue of a Construction Certificate for the development. Council may refuse to allow deferred payment of the monetary contribution in its absolute discretion.

Refer to the Direct (Section 7.11) Development Contributions Plan 2011 for more information.

3. Fees and Charges

Prior to the issue of a Construction Certificate, a receipt for the payment to Fairfield City Council of the following fees shall be submitted to the Certifier:

a. Demolition Inspection Fee	\$245.10
b. Kerb and Gutter Inspection Fee	\$125.00
c. Kerb and Gutter Damage Deposit	\$2,500
d. Long Service Levy Commission	\$19.80

4. Long Service Levy Fee

Prior to the issue of a Construction Certificate, a receipt for payment of the Long Service Levy (in accordance with the Building and Construction Industry Long Service Levy Payments Act 1986) shall be submitted to the Certifier.

The Long Service Levy is calculated at 0.35% of the value of building works, as is in force at the date of this consent. The rate of calculation is subject to change and should be verified (and adjusted) at the date of payment. Payment can be made to Fairfield City Council or direct to the Long Service Levy Corporation.

5. Stormwater Drainage Certificate

Prior to the issue of a Construction Certificate, a certificate from a suitably qualified person shall be submitted to the Certifier certifying that:

- a. Satisfactory arrangements have been made for the disposal of stormwater;
- b. The proposed development and alterations to the natural surface contours will not impede or divert natural surface water runoff so as to cause a nuisance to adjoining properties;
- c. The piped drainage system has been designed to an Average Recurrence Interval of not less than that in accordance with Council's Stormwater Management Policy 2017.

6. On-site Detention Design Certificate

Prior to the issue of an Engineering Construction Certificate, a certificate from a suitably qualified person shall be submitted to the Certifying Authority certifying that the drainage system has been designed to comply with Council's Stormwater Management Policy 2017. In particular, the certification shall ensure the on-site detention system has been designed:

- i. To restrict the total discharge from the site to current site discharge for all storms up to and including the 100 year storm events (Urban Zone only);
- ii. To restrict the peak discharge from the site for 100 year 9-hour storm event to 140 L/s/ha (Urban Zone only).
- iii. To restrict the peak discharge from the site for all storm durations to 78 L/s/ha (Rural Zone only).

Note: If Council is requested to issue the Construction Certificate, three copies of the plans and specifications giving full details of the design and calculations in the form of ILSAX/DRAINS input and output files and details as specified in Council's OSD handbook shall be submitted to the Council.

Note: Where Fairfield City Council is nominated to issue a Construction Certificate for on site detention, the following details will be required:

- a. Full details, as per Council's Stormwater Management Policy, of the proposed stormwater drainage system should be submitted. Details should include a full calculation schedule producing hydrologic and hydraulic grade line analysis (similar to that shown in "Australian Rainfall and runoff", published by the Institution of Engineers, Australia), catchment plan, pipe sizes, discharge points, natural and finished surface levels, invert levels, etc.
- b. A plan showing the natural surface and finished surface and finished surface contours to AHD should be submitted. The natural surface contours should be extended into the adjoining properties. The

finished surface contours should be of such an interval as to give a true representation of the proposed regrading of the site. If so desired, the finished surface contours may be presented in red ink on a single print of a site plan that shows proposed finished surface spot

7. Vehicular Crossing Application

Prior to the issue of a Construction Certificate, a vehicular crossing application shall be submitted to and approved by Council. Access to the development shall be via a residential type vehicular crossing in accordance with Council's requirements. All vehicular crossings shall be located a minimum of one (1) metre from any utility pillar/pole.

8. Erosion and Sediment Control Plan

Prior to the issue of a Construction Certificate, an Erosion and Sediment Control Plan shall be submitted to and approved by the Certifier. The Erosion and Sediment Control Plan shall be prepared in accordance with the requirements of the Fairfield City Council's Erosion and Sediment Control Policy. The Erosion and Sediment Control Plan shall clearly show and demonstrate how erosion is to be minimised and how sediments are to be trapped on the site and prevented from escaping, transported, carried or discharged across and outside the boundaries of the site of the development or building activity.

9. Sydney Water Consent

The plans must be assessed by Sydney Water Tap in to determine whether the development will affect any Sydney Water asset and if any requirements need to be met. The plans will be appropriately stamped. All amended plans will require restamping.

Please refer to the web site <https://tap-in.sydneywater.com.au> for:

- See the Building plan approvals section on the Tap in site, and
- Guidelines for Building Over/Adjacent to Sydney Water Assets – see Building and developing then Building and renovating

Or telephone 13 20 92

10. Existing Street Trees

Should the developer wish to remove a street tree, Council shall be compensated for the loss of any tree. A mature tree may have a value in excess of **\$2,000**. Prior to issue of the Construction Certificate, the applicant is to contact Council to organise a valuation and payment of the compensation. This money will be used for further street planting in the area.

11. Final Stormwater Drainage Plan

A Final Stormwater Drainage Plan with details suitable for construction prepared by a suitably qualified and experienced stormwater drainage consultant shall be submitted with the application for the construction

certificate. Final Stormwater plan shall comply with AS3500 and Council's Stormwater Drainage Policy.

12. Landscape Plan

Prior to the issue of a construction certificate, a detailed Landscape Plan identifying species, pot sizes and planting locations is to be submitted to, and approved in writing to the satisfaction of Fairfield City Council. The Plan shall be consistent with the approved Landscape Design Report dated 26 November 2019 prepared by Group GSA. The Landscape Plan shall include specifications for the care of the plants during the first 5 years of the development from the issue of the occupation certificate.

13. Parking Design

The design, layout, signage, linemarking, lighting and physical controls of all off-street parking facilities must comply with the minimum requirements of Australian Standard AS/NZS 2890.1 Off-street car parking, AS 2890.2 Off-commercial vehicle facilities, AS 2890.3 Bicycle parking and AS/NZS 2890.6 Off-street parking for people with disabilities.

14. Construction Traffic Management Plan

A Construction Traffic Management Plan (CTMP) shall be prepared by an RMS accredited person and submitted to and approved by Council prior to issue of any Construction Certificate.

The CTMP must:

- a) Make provision for all construction materials to be stored on site, at all times.
- b) Specify construction truck routes and truck rates. Nominated truck routes are to be distributed over the surrounding road network where possible.
- c) Make provision for parking on-site once the car park is constructed.
- d) Provide for the movement of trucks to and from the site, and deliveries to the site. Temporary truck standing / queuing locations in a public roadway / domain in the vicinity of the site are not permitted.
- e) Include a Traffic Control Plan prepared by an RMS accredited traffic controller for any activities involving the management of vehicle and pedestrian traffic.
- f) Include a site plan showing the location of any site sheds, location of requested work zones and/or on-site loading areas, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees.
- g) The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 - 'Manual of Uniform Traffic Control Devices' and RMS's 'Traffic Control at Work Sites' Manual.

Note: This condition is to ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems. The CTMP is intended to minimise impact of construction activities on the surrounding community, in terms of vehicle traffic (including traffic flow and parking) and pedestrian amenity adjacent to the site.

15. Affordable Housing

Unit Nos: 103, 104 and 105 on Levels 1-2 and 304 & 305 on Level 3, as identified on the approved architectural plans, shall be nominated for the purpose of affordable housing on the Construction Certificate plans, pursuant to the requirements of State Environmental Planning Policy (Affordable Rental Housing) 2009.

15A. Schedule of Finishes

Prior to the issue of a Construction Certificate, a Schedule of Finishes is to be submitted to, and approved by, the Council. The finishes are to be consistent with the approved plans.

PRIOR TO THE COMMENCEMENT OF ANY WORKS

The following conditions of consent have been imposed to ensure that the administration and amenities relating to the proposed development comply with all relevant requirements. A Certifier can either be Fairfield City Council or an accredited certifier. All of these conditions are to be complied with prior to the commencement of any works on site.

16. Construction Certificate Required

Prior to the commencement of any building and construction works, a Construction Certificate is required to be issued by a Certifier.

Enquiries regarding the issue of a Construction Certificate can be made to Council's Customer Service Centre on 9725 0222.

17. Appointment of a Principal Certifier

Prior to the commencement of any construction works, the person having benefit of a Development Consent, must:

- a. appoint a Principal Certifier; and
- b. notify Council of the appointment.

18. Notify Council of Intention to Commence Works

The applicant must notify Council, **in writing** of the intention to commence works at least two (2) days prior to the commencement of any construction works on site.

19. Kerb and Gutter Status Form

Prior to the commencement of any construction works on site, the applicant shall submit a footpath/kerb and gutter form to Council detailing the existence of, and the condition of, any foot paving, and/or kerb and gutter provided adjoining the site for checking against Council's records. Damage to footpaths, kerbs, stormwater systems and general streetscape will require restoration at the developer's expense.

20. **Erosion and Sedimentation Control**

Prior to the commencement of any construction works on site, controls in accordance with **Chapter 3.12 of the Fairfield City Wide DCP 2013** shall be implemented prior to clearing of any site vegetation, to ensure the maintenance of the environment and to contain soil erosion and sediment on the property. Erosion and sediment controls shall be maintained until all construction works are completed and all disturbed areas are restored by turfing, paving and revegetation.

The documented erosion and sediment control plan shall be available on-site for inspection by Council Officers and all contractors undertaking works on the site.

Note: On the spot penalties up to \$1,500 will be issued for any non-compliance with this requirement without any further notification or warning.

21. **Toilet Facility**

Prior to the commencement of any construction works on site, a flushing toilet facility is to be provided on site. The toilet must be connected to either a public sewer, or an accredited sewage management facility or to an alternative sewage management facility (chemical closet) approved by Fairfield City Council.

22. **Required Signage**

For building, subdivision or demolition work that will affect the external walls of the building, signage shall be installed in a prominent position detailing:

- The name, address and telephone number of the principal Certifier for the work; and
- The name of the principal contractor (if any) of the building work and a telephone number on which that person may be contacted outside working hours; and
- Stating that unauthorised entry to the work site is prohibited.

This sign shall be maintained while the building, subdivision or demolition work is being carried out and must be removed when the work has been completed.

23. **Landscape Protection Works**

Prior to the commencement of any construction works on site, the procedures detailed in the Tree Management Plan within the approved Arborist Report prepared by RedGum Horticultural, Reference No. 4528, dated 8 October 2018 shall be undertaken to protect existing trees and other landscaping to be retained as part of the development.

PRIOR TO OCCUPATION OF THE DEVELOPMENT

The following conditions of consent must be complied with prior to the issue of an Interim or Final Occupation Certificate by the Principal Certifier.

24. Occupation Certificate Required

Prior to the commencement of any use and/or occupation of the subject development (whole or part), an Occupation Certificate must be issued.

Prior to the issue of any Occupation Certificate, the Principal Certifier must be satisfied that the development (part or whole) is in accordance with the respective Development Consent and Construction Certificate.

25. Registration of Plan of Consolidation

Prior to the issue of an Occupation Certificate, a copy of the plan of consolidation, registered by Land and Property Information shall be submitted to the Principal Certifier, which consolidates the allotments which are the subject of the development into one allotment.

26. Works on Adjacent Roads

Prior to the issue of an Occupation Certificate, the following works are to be completed:

- a. The footway adjacent to the development shall be regraded topsoiled and turfed in accordance with the approved levels.
- b. All redundant kerb laybacks shall be removed and replaced with Council's standard kerb and gutter. Any redundant crossings shall be removed and the footpath topsoiled and turfed.

All works to be carried out on adjacent lands under the control of Council, shall be in accordance with the standard requirements and specifications of Council.

27. Works-As-Executed Plans for Stormwater Drainage

Prior to the issue of an Occupation Certificate, Works-As-Executed drawings signed by a registered surveyor demonstrating that the stormwater drainage and finished ground levels have been constructed as approved shall be submitted to the Principal Certifier.

28. On Site Detention – Works-As-Executed

On completion of the drainage works and prior to the issue of an Occupation Certificate, Works-As-Executed plans certified by a Registered Surveyor are to be submitted to the Certifying Authority to verify that the drainage works have been completed in accordance with the approved plans. The following details are to be on the Works-As-Executed plans and shall be marked in red on a copy of the original plan approved at the Construction Certificate stage.

- a. Sufficient levels and dimensions to verify the On-Site Detention storage volumes.
- b. Location and surface levels of all drainage pits, weir levels and dimensions.

- c. Invert levels of - the internal drainage lines.
 - orifice plates.
 - outlet control pit.
- d. Finished floor levels of structures such as units and garages.
- e. Verification that the orifice plates have been fitted and the diameter of the fitted plates.
- f. Verification that a trash screen is installed.
- g. Location and levels of any overland flow paths through the site.
- h. Details of any variations made from approved plans.

29. Registration of Restriction and Covenant over OSD System

Prior to the issue of an Occupation Certificate, proof of the creation of a 'Restriction on Use of Land' and 'Positive Covenant' over the on-site detention system in accordance with Council's Stormwater Management Policy must be submitted to the Principal Certifier.

30. On-Site Detention – Certification of Works

A Certificate shall be issued to the Principal Certifier upon completion of the drainage works and prior to issue of the Occupation Certificate certifying the following:

- a. That the on-site detention system will function in accordance with the approved drainage design.
- b. Any variations from the approved drainage design.
- c. That these variations will not impair the performance of the On-Site Detention system, or alternatively provide details of the remedial works required to make the system function according to design control standards.

31. Interim Fire Safety Certificate

Prior to the issue of an Occupation Certificate a fire safety certificate shall be submitted to and approved by the Principal Certifier.

Note: An Annual Fire Safety Statement for the building premises dealing with essential fire safety measures shall be submitted to Council in accordance with the requirements of Clauses 177 and 181 of the Environmental Planning and Assessment Regulation 2000.

32. BASIX Certification

Prior to the issue of an Occupation Certificate, a compliance certificate shall be submitted to the Principal Certifier, certifying that the building has been constructed in accordance with the commitments identified on BASIX Certificate No. 940189M dated 2 September 2019.

Should the design of the dwelling alter or the commitments to BASIX change, a new BASIX Certificate is required to be completed and submitted to the Principal Certifier.

33. Adjustments to Public Utilities

Prior to the issue of an Occupation Certificate, adjustments to any public utilities necessitated by the development are to be completed in accordance with the requirements of the relevant Authority. Any utility costs are to be at no cost to Council.

34. Mailbox Required

Prior to the issue of an Occupation Certificate, a mailbox shall be provided on site in accordance with the requirements of Australia Post.

35. House Number Required

Prior to the issue of an Occupation Certificate, the applicant shall contact Council's Information Management branch on phone 9725 0384 to request allocation of house numbers, and where appropriate, unit numbers. The numbers shall be placed on the mailbox and on the building in a readily visible location.

36. Intercom on Front Fence Required

Prior to the issue of an Occupation Certificate, a hard-wired intercom system shall be provided adjacent to the front door (or other position acceptable to the Council, accessible from the public domain), to alert occupants of any visitors.

37. Environmental Reports Certification

Prior to the issue of an Occupation Certificate, written certification from a suitably qualified person(s) shall be submitted to the Principal Certifier and Fairfield City Council, stating that all works/methods/procedures/control measures/recommendations in the following reports have been completed:

- a. Hazardous Building Materials Demolition Survey prepared by HIBBS & Associates Pty Ltd dated March 2019.
- b. Waste Management Plan prepared by Anglicare.
- c. Acoustic Report prepared by Acoustic Logic Ref No. 20181444.1/0209A/R5/JM, dated 2 September 2019.

38. [Deleted]

39. Building in Saline Environments

The whole of the Fairfield Local Government Area is potentially saline affected, and as such appropriate design features and building materials need to be incorporated into the construction of buildings, to minimise the risk of salt damage.

Prior to the issue of an Occupation Certificate (Interim or Final), documentary evidence shall be submitted to the Principal Certifier, certifying that the building has been constructed in accordance with Fairfield City Council's 'Building in Saline Environments Policy'.

40. OSD – Marker Plate

Each on-site detention basin shall be indicated by fixing a standard marker plate, details of which are as follows:

Minimum size: 150mm x 100mm

Material: Non Corrosive metal or 4mm thick laminated plastic

Location: Fixed in a prominent position to the nearest concrete or permanent surface and be above the expected water level in the basin. If in doubt, contact Council on 9725-0222.

Wording: A minimum letter height of 5mm is required.
The wording is to consist of:-

**THIS IS AN ON-SITE DETENTION STRUCTURE
DO NOT TAMPER WITH,
CONTACT FAIRFIELD CITY COUNCIL PRIOR
TO ANY PROPOSED WORKS IN THIS AREA**

The marker plate is to be attached prior to occupation of the proposed development.

41. Landscape Certificate

Prior to the issue of an Occupation Certificate, a Landscape Certificate from a qualified landscape architect, certifying that the completed landscape works on site are in accordance with the approved landscape plans shall be submitted to Principal Certifier and Fairfield City Council.

42. Design Verification

Prior to the issue of an Occupation Certificate, design verification from a qualified designer shall be submitted to the Principal Certifier, this being a statement in which the qualified designer verifies that the development as shown in the plans and specifications in respect of which the Construction Certificate was issued has had regard to the design quality principles set out in Part 2 of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development.

43. SEPP (Affordable Rental Housing) 2009

To ensure compliance with State Environmental Planning Policy (Affordable Rental Housing) 2009, the Council is to be notified on the day that an occupation certificate is issued. This in turn will be considered as the day that the affordable housing 10 year dedication period commences. The register is to be updated accordingly.

44. To ensure compliance with the State Environmental Planning Policy (Affordable Rental Housing) 2009, details of the registered community housing provider responsible for the management of the affordable rental housing dwellings are to be submitted to the Principal Certifying Authority and Council before the issue of any Occupation Certificate.

45. Restriction on Use – Affordable Housing (SEPP Affordable Rental Housing) 2009

Prior to the issue of an Occupation Certificate, a Restriction On Use shall be created over the affordable rental units within Lot 94B DP 396904, Lot 95B DP 404970, Lot A DP 318446, No. 36 – 40 Kenyon Street, Fairfield pursuant to the provisions of Section 88E of the Conveyancing Act 1919 in the following terms:

Terms of the Restriction on Use

The restrictions apply for ten (10) years from the date of issue of the Occupation Certificate pursuant to Notice of Determination of Development Application No. 15.1/2019.

- i. The following units of the development will be used for the purposes of affordable housing: Units No. 105, No.104, No. 103 on Levels 1-2, Units No. 305 and No. 304 on Level 3 for a period of 10 years from the date of issue of the Occupation Certificate.
- ii. All accommodation that is used for affordable housing will be managed by a registered community housing provider.
- iii. Name of authority empowered to release, vary or modify the above restriction is Fairfield Council.
- iv. Evidence is to be submitted to Fairfield City Council that restrictions (i) and (ii) have been complied with prior to the issue of an Occupation Certificate.

GENERAL CONDITIONS

The following conditions have been applied to ensure that the use of the land and/or building is carried out in such a manner that is consistent with the aims and objectives of the planning instrument affecting the land. A Principal Certifier can either be Fairfield City Council or an accredited certifier.

46. Loading/Unloading Plan of Management

Prior to the issue of an Occupation Certificate, a detailed Loading/Unloading Plan of Management (POM) shall be submitted and approved to the satisfaction of the Manager of Development Planning at Fairfield City Council. The POM shall detail how the loading/ unloading activities associated with the boarding house and affordable housing component of the development will be managed and conducted without adverse impacts to the immediate and surrounding road network. The POM should also provide that boarding rooms and affordable units are serviced by B99 vehicles and managed in the car park. The approved POM shall be complied with at all times.

47. Plenum Engineering Certification

Prior to the issue of an Occupation Certificate, written certification from the structural engineer shall be submitted to the Principal Certifier, certifying that the plenums have been installed in accordance with the submitted Natural Ventilation Certification Letter from Windtech, dated 27 August 2019, Reference Number WE997-01F03(rev0) - NV Letter.

48. Compliance with the Building Code of Australia

All building work must be carried out in accordance with the provisions of the Building Code of Australia. Compliance with the performance requirements can only be achieved by:

- a. complying with the deemed-to-satisfy provisions; or
- b. formulating an alternative solution which:
 - i. complies with the performance requirements; or
 - ii. is shown to be at least equivalent to the deemed-to-satisfy provisions; or
- c. a combination of (a) and (b).

49. Demolition Requirements

Demolition of the existing building(s) shall be carried out in accordance with the requirements of AS 2601 – 2001 and the following:

- a. The property being secured to prevent unauthorised entry.
- b. Five (5) days notification to commence demolition work shall be given to SafeWork NSW in accordance with Clause 466(1) of the Work Health and Safety Regulation 2011.
- c. Asbestos shall only be removed by a qualified and licenced Asbestos Removalist and in accordance with the requirements of the SafeWork Authority. Proper procedure shall be employed in the handling and removal of asbestos to minimise the risk to personnel and the escape of particles to the atmosphere.
- d. All other materials and debris is to be removed from the site and disposed of to an approved licenced waste facility, in accordance with the *Protection of the Environment (Waste) Regulation 2014*.
- e. Submit to Council, disposal receipts giving evidence of the disposal of contaminated material removed from the premises to an appropriately licensed waste facility.
- f. Submit to Council the Clearance Certification issued by the Occupational Hygienist or Licenced Asbestos Assessor.
- g. Should you require information in relation to the safe disposal of asbestos waste, please contact the Environment Protection Authority NSW (www.environment.nsw.gov.au)

50. Administration Fee for the Lodgement of Certificates

Where a Principal Certifier has been appointed other than Council, an administration fee is charged by Council for the lodgement of Construction Certificates and Occupation Certificates.

51. Demolition, Building and other Works

When demolition, building and other works are being undertaken on site:

- a. A trade waste service must be provided so as to ensure that all debris and waste material is removed from the site; and
- b. Plant equipment, fencing or other materials of any kind must not be placed or stored upon any public footpath or roadway; and
- c. Such works must only be carried out within the following hours:

Monday - Friday between the hours of 7:00am to 6:00pm and Saturday between 8:00am and 1:00pm in all zones.

No work shall be carried out on Sundays or public holidays.

Note: *Council may issue a penalty infringement notice for the amount imposed under the Environmental Planning and Assessment Act 1979, for any non-compliance with this Development Consent.*

52. Hoarding / Fencing

During construction, a hoarding or site safety fence must be erected between the work site and a public place if the work involved in the development is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or if the building involves the enclosure of a public place.

If necessary, overhead protection is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.

The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

53. Fence Requirements

No part of the fencing including the footings shall encroach upon Council's footpath. Entrance gates shall open within/onto the property.

54. Method of Stormwater Drainage

The stormwater drainage generated from the development shall be directed to Council's street kerb and gutter.

Note: Drainage lines across the footpath shall be of 75mm x 200mm galvanised R.H.S laid at a fall not exceeding 1:40 (A 100mm sewer grade pipe is an acceptable alternative for single lot residential applications).

Note: If a street outlet is required it shall be constructed using a 100mm x 50mm galvanised rectangular connector laid into the kerb with the invert of the connector to be 10mm above the invert of the gutter.

The complete roof guttering system must be operational as soon as the roof is clad. Surface stormwater shall not be directed or cause nuisance to adjoining properties.

55. Car Parking and Vehicular Access

The following conditions shall be complied with at all times:

- All vehicular entry and exit movements to the site shall be made in a forward direction.
- All parking spaces located adjacent to obstructions such as walls or columns shall be 300mm wider on the side of the obstruction.

56. Critical Stage Inspections

In accordance with Section 6.5 of the Environmental Planning and Assessment Act 1979 the Certifying Authority for this development is to inform the applicant of the Critical Stage Inspections prescribed for the purposes of Clause 162A of the Environmental Planning and Assessment Regulation 2000.

Note: Fines may be imposed if you fail to request the Certifying Authority to undertake the required mandatory inspections.

57. Tree Preservation Order

You are not permitted to ringbark, cut down, top, lop, remove, wilfully injure or destroy a tree outside the building envelope unless you have obtained prior written consent from Council. Fines may be imposed if you contravene Council's Tree Preservation Order.

58. Post-Demolition Inspection Required

On completion of demolition works, a post-demolition inspection is to be carried out by Fairfield City Council. It is necessary to telephone Council on 9725-0222 to request an inspection of the site.

It should be noted that once demolition has been completed the site should be kept tidy and safe at all times. It is recommended to fence the site to prevent public access onto the property. It is also recommended that all sediment and erosion control measures have been installed on the site.

59. Landscaping to be Completed

Landscaping must be provided and maintained in accordance with the approved landscape plan prepared by Group GSA, dated 26 November 2019. The provision and maintenance of landscaping shall include the engagement of a suitably qualified landscape consultant/contractor for landscaping works.

60. Side and Rear Fencing

A 1.8 metre high masonry, brushwood or lapped and capped timber or colourbond fence shall be erected on the site's side and rear boundaries behind the front building alignment and between each required courtyard at the sole cost of the developer. **COLORBOND FENCES ARE NOT PERMITTED WITHIN THE FRONT SETBACK OF THE SITE AND WITHIN ANY BOUNDARY THAT IS VISIBLE FROM THE PUBLIC DOMAIN, STREET OR RESERVES.** In this case, no colourbond fencing shall be erected in front of the approved building line.

61. Schedule of Finishes

The development is to be constructed and finished in the materials and colours approved by the Schedule of Finishes.

62. Switchboards

Switchboards for utilities must not be attached to the front elevations of the building(s).

63. Clothes Drying Areas

The clothes drying areas for the individual dwelling units shall be positioned and screened from public view.

64. Parking Design

The design, layout, signage, linemarking, lighting and physical controls of all off-street parking facilities must comply with the minimum requirements of Australian Standard AS/NZS 2890.1 Off-street car parking, AS 2890.2 Off-commercial vehicle facilities, AS 2890.3 Bicycle parking and AS/NZS 2890.6 Off-street parking for people with disabilities.

65. Car Parking

The development shall provide and maintain the following number of car parking spaces:

Eighteen (18) off-street car parking spaces for residents and visitors to be allocated as follows:

Affordable housing units and boarding rooms:	7
Strata apartments:	9 including 2 accessible car spaces
Visitors	2

Each space shall be permanently linemarked and maintained free from obstruction at all times. Residents and visitors vehicles shall be parked in the spaces provided on the subject premises and not on adjacent footway or landscaping areas.

66. Accessible Units

Four (4) of the 36 units shall be designated and constructed as accessible units.

67. Flood Affected Development

The development the subject of this consent is located within flood prone land. The following shall be complied with during the construction process:

- a. Only flood resistant materials shall be used below the designated floor level.
- b. All services and utilities connected to the property are required to be flood proofed.

- c. Levels shall be provided in accordance with the approved architectural and landscape plans.
- d. An Evacuation Plan shall be prepared by a suitably qualified consultant and shall be kept on the premises and utilised when necessary.

68. OSD Construction

The on-site detention drainage system shall be constructed in accordance with the approved design and Council's On-Site Detention Handbook – February 1997 / Council's On-Site Detention Guidelines for Rural Areas.

69. NSW Protection of the Environment Operations Act 1997

The use of the premises shall operate in accordance with the *Protection of the Environment Operations Act (POEO) 1997*. All activities and operations carried out shall not give rise to air pollution (including odour), offensive noise or pollution of land and/or water as defined under the *Protection of the Environment Operations Act 1997*.

70. Air-conditioning Unit

The approved air-conditioning unit shall be operated so as:

- a. not to cause "offensive noise" as defined by the Dictionary of the *Protection of the Environment Operations Act 1997*;
- b. to be inaudible in neighbouring dwellings during the hours of 10:00pm to 7:00am on weekdays and 10:00pm to 8:00am on weekends and public holidays;
- c. not to discharge any condensate or moisture onto the ground surface of the premises or into a stormwater drainage system in contravention of the requirements of the *Protection of the Environment Operations Act 1997*.

71. Waste Storage Area

Waste must be adequately secured and contained within designated waste areas. Bins must not be stored in or allowed to overflow into parking or landscaping areas, must not obstruct the exit of any building and must not be stored on any neighbouring public or private properties.

CONDITIONS IN RELATION TO THE BOARDING ROOMS AND COMMUNAL ROOM

72. Bicycle and Motorcycle Parking Spaces

- i. The development shall provide a minimum of four (4) on-site motorcycle parking spaces, designed in accordance with AS/NZS 2890.1 Off-street car parking.
- ii. The development shall provide a minimum of four (4) on-site bicycle spaces, designed in accordance with AS 2890.3 Bicycle parking.

73. Use of the Premises

The use of the premises shall comply with the following requirements:

- a. The use of the premises shall not give rise to “offensive noise” as defined under the Protection of the Environment Operations Act, 1997.
- b. Emission of sound from the premises shall be controlled at all times so as not to unreasonably impact upon nearby owners/occupants.
- c. Appropriate signage shall be located outside the building to encourage patrons to minimise noise when leaving the premises.
- d. The use of the premises is not to interfere with the amenity of the residential area.
- e. If an intruder alarm is installed on the premises it shall be fitted with a timing device in accordance with the requirements of the Protection of the Environment Operations Act, 1997.
- f. The premises shall be maintained in a clean and tidy state at all times. In this regard, cleaning shall be carried out as required to ensure that the premises is maintained in an environmentally satisfactory manner.
- g. Appropriate signage shall be located outside the building to encourage people to minimise noise when entering or exiting the premises.
- h. There is to be no amplified sound equipment utilised within the common recreation rooms and/or the external recreation area/s.
- i. The premises shall be maintained in a clean and tidy state at all times. In this regard, cleaning shall be carried out as required to ensure that the premises is maintained in an environmentally satisfactory manner.

74. **Closed Circuit Television (CCTV)**

The CCTV shall be provided on site in accordance with the following conditions:

- a. A camera must be located at the entrance to the lobby and the car park and positioned to record any person entering through this entrance. The CCTV recordings of this camera must be sufficient to enable the identity of an individual to be established beyond a reasonable doubt when:
 - i. the person represents not less than 100% of screen height, and
 - ii. there is an unobstructed view of the person’s face.
- b. In addition, CCTV cameras must be maintained in the locations specified in (a).
- c. The CCTV recordings of these cameras must be sufficient to enable the recognition of a person. A viewer must be able to say with a high degree of certainty whether or not an individual shown is the same as someone they may have seen before when:
 - i. the person represents not less than 50% of the screen height, and
 - ii. there is an unobstructed view of the persons face.
- d. Camera views are not to be obstructed by temporary or permanent structures, signage or other impediments.
- e. Recordings must;
 - i. be in digital format
 - ii. record at a minimum of six frames per second, and
 - iii. commence one (1) hour prior to opening, and operate continuously until at least one (1) hour after closure of the venue.
- f. The correct time, date and camera identification must be automatically embedded on all recordings and be able to be read when the image is

played back on a different system without interfering with the view of the target area.

- g. Recordings should be retained for a period of 30 days before being reused or destroyed. The consent holder or licensee shall ensure that no person is able to delete or alter any recordings within the 30 day period.
- h. The building manager must be capable of accessing the CCTV system and is able to immediately review recordings and produce copies.
- i. Immediate access to the CCTV system and the ability to review recordings on the system is to be granted to NSW Police, and other regulatory officers upon request. Upon installation of the CCTV system the NSW Police Local Area Command that cover the site must be notified that the system is operating.
- j. The CCTV system shall be able to reproduce a copy of the recordings on compact disk, DVD or USB memory stick and must be provided within one working day to NSW Police, and other regulatory officers upon request.
- k. Prior to the occupation of the premises, the CCTV system shall be checked to ensure the equipment is in full operating order. If during the daily check or at any other time, it is discovered that the equipment is not in full operating order, the consent holder shall take all reasonable steps to repair the system as soon as practical.
- l. Camera recordings must meet the standards set in (a) and (k) at all times, either by way of camera technology and settings, and/or by maintenance of lighting, camera positioning, camera shades and other environmental factors.

75. Unreasonable Noise and Vibration

The boarding house, including operation of vehicles, shall be conducted to avoid unreasonable noise or vibration and cause no adverse interference to adjoining or nearby occupations. Special precautions must be taken to avoid nuisance in neighbouring residential areas, particularly from electronic devices and the like. In the event of a noise or vibration problem arising at the time, the person in charge of the premises shall when instructed by Council, cause to be carried out, an acoustic investigation by an appropriate acoustical consultant and submit the results to Council. If required by Council, the person in charge of the premises shall implement any or all of the recommendations of the consultant and any additional requirements of Council to Council's satisfaction.

76. Storage of Goods

All works and storage shall be contained wholly within the building.

77. State Environmental Planning Policy – (Affordable Rental Housing) 2009

The subject development shall comply with all requirements set out in SEPP (Affordable Rental Housing) 2009.

78. Maximum Number of Boarding Rooms and Lodgers

There shall be a maximum of eighteen (18) boarding rooms at the subject premises at any one time. Only one (1) person can reside in a boarding room at any time. In this regard, there shall be a maximum of eighteen (18) lodgers residing in the boarding house at any time.

79. Compliance with Documentation

- i. The use of the Boarding House shall operate in accordance with the operational details within the Operational Plan of Management prepared by Anglicare, Revision 4, dated November 2019.
- ii. The use of the outdoor common areas shall comply with the recommendations within the Acoustic Assessment Report prepared by Acoustic Logic, Project Number 20181444.1, Revision 5, dated 2 September 2019.

80. Boarding House

The use of the premises shall comply at all times with the following definition of a Boarding House (Fairfield LEP, 2013):-

boarding house means a building that—

- (a) is wholly or partly let in lodgings, and
 - (b) provides lodgers with a principal place of residence for 3 months or more, and
 - (c) may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and
 - (d) has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers,
- but does not include backpackers' accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment.

81. Compliance with the Local Government Act 1993 and Local Government (General) Regulation 2005

The construction and operation of the premises shall comply with the requirements of the Local Government Act 1993 and Schedule 2 Part 1 (Standards for Places of Shared Accommodation) of the Local Government (General) Regulation 2005.

82. Notices

- a. A sign indicating the permissible maximum length of time during which a person may board or lodge in the premises must be displayed outside the premises.
- b. A schedule showing the numeral designating each bedroom and the number or persons permitted to be accommodated in each must be displayed in the manager's room.
- c. Each bedroom must be numbered in accordance with the schedule and there must be displayed clearly on the door of or in each bedroom the maximum number of persons allowed to be accommodated in the bedroom.

83. Compliance with the Boarding Houses Act 2012

The boarding house shall be operated in accordance with the Boarding Houses Act 2012.

84. Boarding House Manager

The name and 24 hour contact phone number of the accommodation manager or resident caretaker must be prominently displayed on the manager's room door and provided to local police.

85. Internal Signage

In addition to the requirements for notices, internal signage identifying the following information must be installed within the communal lounge area of the Boarding House:

- i. Manager and a contact number shall be provided within the communal lounge area.
- ii. Emergency contact numbers for essential services such as fire, ambulance, police, and utilities such as gas, electricity, plumbing, installation of perimeter lighting.

86. Compliance with Relevant Legislation

The use and operation of the premises must comply with the requirements of Schedule 2 (standards of places of shared accommodation) of the Local Government (General) Regulations 2005, the Public Health Regulation 2012, the Boarding Houses Act 2012 and regulations thereunder.