





 DEVELOPMENT ASSESSMENT REPORT	
Application No.	DA/2022/0751
Address	41-47 Farr Street MARRICKVILLE
Proposal	Demolition of existing structures on site. Construction of a residential flat building with basement parking, landscaping and associated works.
Date of Lodgement	14 September 2022
Applicant	REBEL PROPERTY GROUP (FINANCE) PTY LTD
Owner	Mrs Efthymia Stamoulis; In Angels We Confide Pty Limited; Mr George Christoforidis; Acemon Pty Ltd
Number of Submissions	Two submissions received during re-notification
Value of works	\$26,404,805.00
Reason for determination at Planning Panel	Development to which <i>State Environmental Planning Policy No 65</i> applies and is 4 storeys in height
Main Issues	<ul style="list-style-type: none"> • Height of Building variation • Non-compliant building setbacks • Non-compliant accessible apartments and car parking spaces • Matters raised in submissions
Recommendation	Approved with conditions
Attachment A	Recommended conditions of consent
Attachment B	Plans of proposed development
Attachment C	Section 4.6 Exception to Development Standards
Attachment D	Architectural excellence & design review panel meeting minutes & recommendations



Figure 1: Locality Map

Subject Site		Objectors		↑ N
Notified Area		Supporters		

1. Executive Summary

This report is an assessment of the application submitted to Council for demolition of existing structures, and construction of a residential flat building with basement parking, landscaping and associated works at 41-47 Farr Street, Marrickville.

The application was notified to surrounding properties at lodgement and no submissions were received. The application was amended at the request of Council and upon renotification on 2 submissions were received.

The main issues that have arisen during the assessment of the application include:

- Variation to the Height of Building development standard under *Inner West Local Environmental Plan 2022*
- Non-compliance with the building separation requirements of the Apartment Design Guide, and non-compliance with the building setback requirements of Marrickville Development Control Plan 2011;
- Non-compliance with the number of accessible apartments and car parking spaces requirements of Marrickville Development Control Plan 2011; and,
- Matters raised in submissions.

The proposal, as amended and conditioned, generally complies with the aims, objectives, and design parameters contained in the relevant State Environmental Planning Policies, *Inner West Local Environmental Plan 2022*, and Marrickville Development Control Plan 2011.

The potential impacts to the surrounding environment have been considered as part of the assessment process. Any potential impacts from the development are considered to be acceptable, given the context of the site and the desired future character of the precinct. The application is therefore recommended for approval subject to the recommended conditions of consent.

2. Proposal

The application seeks development consent to demolish the existing structures and construct a six storey residential flat building. 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 (39 residential, and 4 visitor spaces), motorcycle parking spaces, bicycle parking spaces, building services, plant and storage.
- Construction and use of a six storey residential flat building comprising of 37 apartments including:
 - 4 x 1-bedroom apartments
 - 12 x 2-bedroom apartments
 - 21 x 3-bedroom apartments
 - Communal Open Spaces and landscaping at ground level and part of level 6.

- Construction of a publicly accessible 4.5 metre (m) wide pedestrian through site link along the southern boundary which provides a connection from Farr Street to Mitchell Street.
- Public domain works including the construction of stormwater services and utilities, provision of street trees and upgraded footpaths along Farr Street.

3. Site Description

The subject site consists of four allotments, which are legally described as follows:

- 41 Farr Street, Marrickville - Lot 1 DP 551480
- 43 Farr Street, Marrickville - Lot 141 DP 996914
- 45 Farr Street, Marrickville - Lot 1 DP 1002575
- 47 Farr Street, Marrickville - Lot 16 DP 89715

The subject site is located on the eastern side of Farr Street, with Sydenham Road to the south and a 'no through road' to the north. The site has a frontage to Farr Street of approximately 57.6m and a secondary frontage of approximately 4.3m to Mitchell Street. The site is generally rectangular shaped with a total area of 1,988sqm and a slight fall in the land towards Mitchell Street.

Currently occupying the site are three brick warehouse buildings ranging in height to a maximum of 2 storeys. The wider surrounds include predominantly light industrial uses to the south-east of the site, Marrickville Public School is located directly to the north of the site, and predominantly residential uses to the west.

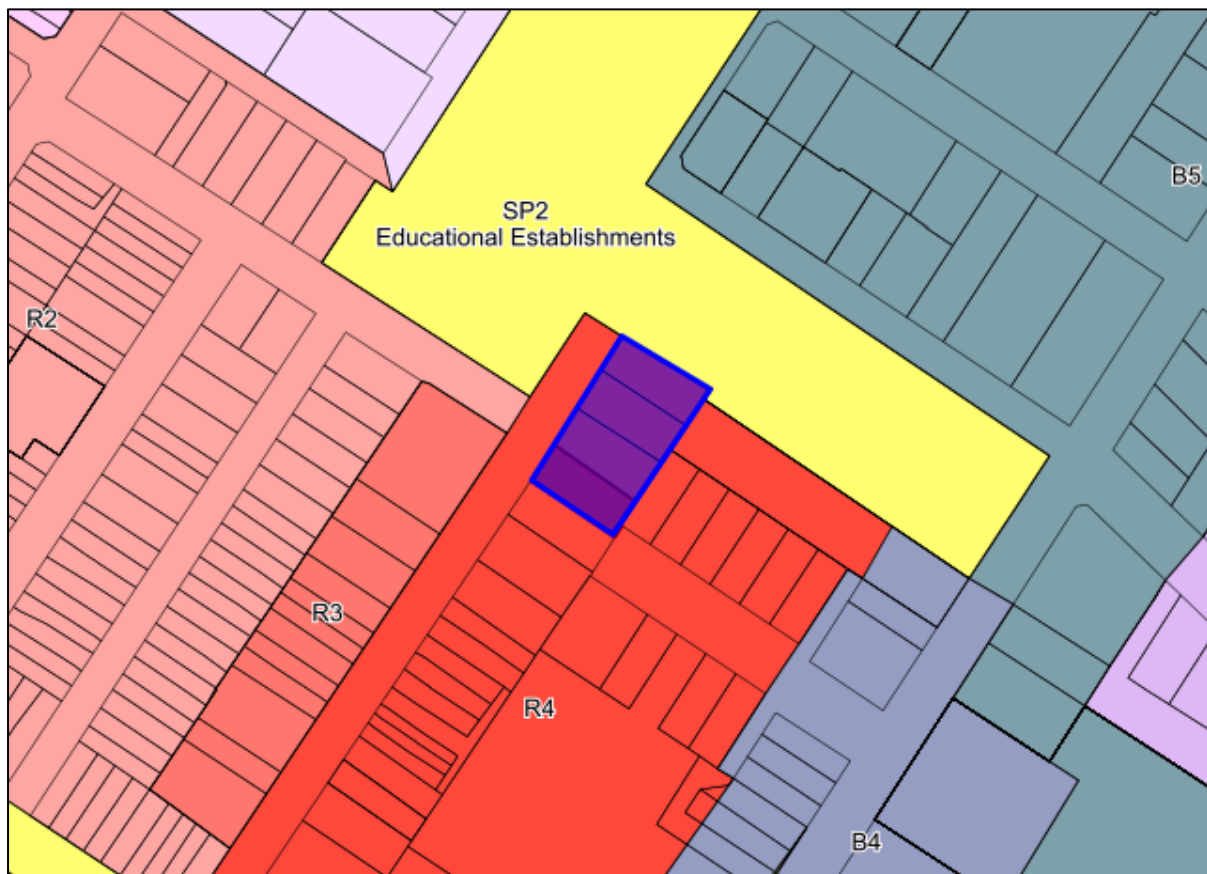


Figure 2: Zoning Map of the subject site (highlighted blue).



Figure 3: Subject site as viewed from Farr Street

The site is located within Victoria Road Precinct (Precinct 47) under 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. A masterplan and site specific DCP has been prepared for this precinct which has identified the site for high density residential use with the land to the south (37 Farr Street) of the site identified as a publicly accessible open space.



Figure 4: Indicative master plan contained in Part 9.47 of MDCP 2011.

4. Background

4(a) Site history

The following application outlines the relevant development history of the subject site and any relevant applications on surrounding properties.

Subject Site

Application	Proposal	Decision & Date
DA/2022/1164 37-47 Farr Street	Demolition of existing structures on site, and construction of a residential flat building consisting of 51 apartments, a two storey basement carpark, and a publicly accessible open space. Integrated development.	Under assessment
PDA/2022/0212 37-47 and 41-47 Farr Street	Demolition of existing improvements and construction of a storey residential flat building with basement.	Issued 28/09/2022
D505/95 43 Farr Street	Storage yard for a demolition company.	Approved 11/12/1995
DA200000120 45 Farr Street	To use the premises for printing including screen printing and to erect an associated sign.	Approved 26/05/2000

Surrounding major developments in the Victoria Road Precinct

Application	Proposal	Decision & Date
DA/2022/0057 18-26 Faversham Street	Demolition of the existing building and construction of a development containing a light industrial uses, food and drinks premises and specialist retail premise with parking, landscaping and associated works.	Approved 11/10/2022
DA201900096 182-198 Victoria Road and 28-30 Faversham Street	Demolition and construction of a 6 to 12 storeys mixed-use development including basement parking, ground floor retail, 272 residential apartments and associated public domain and landscaping works.	Approved 5/03/2020
DA201700558 1 Rich Street	To construct a staged commercial development on the site; with stage 1 of the development comprising site preparation works including demolition of existing structures and removal of vegetation; construction of 2 new buildings incorporating ground level food and drink tenancies, studio spaces, upper level offices and car parking being the 3 storey North Hub building and 4 storey South Hub building, site landscaping including creation of a new publicly accessible open space, pedestrian connections and landscaping and subdivision of the site into 3 allotments, with Stage 2 of the proposal comprising the construction of a 5 storey Marker Building with ground floor food and drink premises and upper level offices with a roof terrace at level 6.	Approved 1/08/2019

4(b) Application history

The following table outlines the relevant history of the subject application.

Date	Details
14/09/2022	Application lodged.
28/09/2022	<p>PDA (PDA/2022/0212) advice issued to the applicant.</p> <p>During the PDA application, the applicant presented two schemes;</p> <ul style="list-style-type: none"> • Option A: Seven-storey building (including rooftop terrace) at 41-47 Farr Street, (approximately 42 apartments). • Option B: Eight-storey building (including rooftop terrace) at 41-47 Farr Street and provision of publicly accessible open space at the site 37 Farr Street, (approximately 48/52 apartments).
5/10/2022 – 26/10/2022	Application notified.
15/11/2022	Architectural Excellence & Design Review Panel held.
2/12/2022	<p>Council requested that additional information be submitted addressing the following key matters:</p> <ul style="list-style-type: none"> • Variation to height of building development standard • Variation to floor space ratio development standard • Amendments in accordance with the Architectural Excellence and Design Review Panel (AEDRP) and to comply with the apartment design guide and Victoria Road precinct guidelines. • Flooding and stormwater management • Parking and servicing • Tree management • Waste Management • Streetscape
24/01/2023	Meeting held with applicant at Council’s Leichhardt Service Centre to discuss requested information.
15/02/2023	<p>The following was submitted by the applicant in response to the request for information:</p> <ul style="list-style-type: none"> • Revised architectural plans • Revised stormwater plans • Revised landscape plan • Revised traffic management plan • Revised building height Section 4.6 <p>Renotification was required in accordance with Community Engagement Framework.</p>
08/03/2023- 29/03/2023	Application was renotified.

20/03/2023, 06/04/2023	Council requested that additional information be submitted addressing the following key matters: <ul style="list-style-type: none"> • Amended plans to ensure design excellence is achieved • Acid Sulfate Soil Management Plan (ASSMP) • Concurrence from the Secretary of the Department of Planning and Environment
28/03/2023	Revised plans and an ASSMP were submitted by the applicant. Renotification was not required in accordance with Community Engagement Framework. These plans are the subject of this report.
10/05/2023	Secretary's Concurrence has been granted

5. Assessment

The following is a summary of the assessment of the application in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979 (EPA Act 1979)*.

5(a) Environmental Planning Instruments

The application has been assessed against the relevant Environmental Planning Instruments listed below:

- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy No. 65—Design Quality of Residential Apartment Development*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*

The following provides further discussion of the relevant issues:

5(a)(i) *State Environmental Planning Policy (Resilience and Hazards) 2021*

Chapter 4 Remediation of land

Section 4.16 (1) of the SEPP requires the consent authority not consent to the carrying out of any development on land unless:

- “(a) it has considered whether the land is contaminated, and*
(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.”

In considering the above, there is evidence of contamination on the site.

The applicant has provided a Remediation Action Plan (RAP) that concludes that the site can be made suitable for the proposed residential development subject to the implementation of the (RAP) which has been recommended as a condition of consent.

On the basis of this report, the consent authority can be satisfied that the land will be suitable for the proposed use and that the land can be remediated.

5(a)(ii) 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 designed, or 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.

Apartment Design Guide

The Apartment Design Guide (ADG) contains objectives, design criteria and design guidelines for residential apartment development. In accordance with Section 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

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

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

Comment: The development complies with the above requirements, as 31% (626.8sqm) of communal open space is provided and the minimum direct sunlight provision is met.

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%
650m ² - 1,500m ²	3m	
Greater than 1,500m ²	6m	
Greater than 1,500m ² with significant existing tree cover	6m	

Comment: The development complies with the above requirements, as 7.9% (159.6sqm) of deep soil is provided.

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

Comment: The development proposes the following separation distances between the proposed buildings and the site boundaries:

Building Height	Habitable rooms and balconies	Non-habitable rooms
Up to 12 metres (4 storeys)	<p>Northern boundary: 3.5m-5.5m</p> <p>Southern boundary: 7.1-7.3m</p> <p>Eastern (rear) boundary: 4.5-9m</p>	<p>Internal separation: 1.7m from bathroom windows to a blank wall</p>
Up to 25 metres (5-8 storeys)	<p>Northern boundary: 4m-7.4m</p> <p>Southern boundary: 7.1-7.3m</p> <p>Eastern (rear) boundary: 4.5-9m</p>	<p>Internal separation: 1.7m from bathroom windows to a blank wall</p>

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 site (Marrickville Public School) directly north of the subject site is currently zoned SP2 Infrastructure zone for an educational establishment. On this basis, the provision of reduced separation distances of between 3.5m to 5.3m is considered acceptable as impacts on adjoining residential amenity are unlikely having regard to the zoning provisions
- The proposal complies with the site specific masterplan under Part 9.47 of the MDCP 2011 which identifies a 3m ground level setback and a 4m upper level required above the fifth storey.
- Notwithstanding, the development has been appropriately designed and orientated to minimise overlooking impacts between the proposed building and Marrickville Public School. In this regard, the north corner apartments are orientated to overlook Farr Street (west), and whilst the north-eastern corner apartment on each level are orientated north towards the school; the number of apartments has been limited to four, and a greater setback of 5m is provided from the balconies to the school boundary. In addition, the roof top area of communal open space is setback 6.3m and includes planter boxes along the perimeter and within the space to reduce overlooking impacts.

Eastern boundary (Rear):

- Currently the uses on adjoining properties to the east of the site are industrial in nature. However, these properties are zoned R4 High Density Development with a 20m height limit and 2:1 FSR under *IWLEP 2022*. Under these controls, a residential flat building between 5 to 6 storeys could be developed on the adjoining site.
- Where non-compliant distances under the ADG are proposed, the development generally provides appropriate privacy treatments to mitigate any adverse visual privacy and overlooking impacts.
- Further, the proposed eastern elevation includes a limited number of balconies and windows, which predominately service bedrooms, which will also assist to protect privacy outcomes for future occupiers, whilst allowing for sufficient access to light and ventilation. It is noted the only principal living areas which are orientated east are apartments G02 and 502; both which provide compliant separation distances of 8m and 9m respectively.
- The development has been appropriately located on the site and provided with adequate building setbacks to ensure the neighbouring properties receive adequate solar access in accordance with the requirements of MDCP 2011.

Southern boundary:

- The future use of the adjoining southern property (37 Farr Street) is identified in the site specific masterplan to be publicly accessible open space under Part 9.47 of the MDCP. As such, the non-compliant distance from the fifth storey (level 4), is considered acceptable as the publicly accessible open space will provide additional separation from future residential uses.
- The proposal complies with the site specific masterplan under Part 9.47 of the MDCP 2011 which identifies a 3m ground level setback and a 4m upper level required above the fifth storey along the southern elevation.

- Notwithstanding, the development has been appropriately designed to minimise amenity impacts such as overshadowing and visual bulk to the future publicly accessible open space.

Internal separation:

- The proposed internal separation distance of 1.7m from the bathroom windows to blank walls is considered satisfactory as better amenity is achieved through the provision of natural light and ventilation to these rooms. The windows incorporate privacy treatments being high level and opaque to mitigate any significant adverse visual privacy and overlooking impacts.

Bicycle and Car Parking

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: In this case, the parking rates under the MDCP 2011 are applicable to the development. This matter is addressed further below under Part 2.9, and Part 4.2.6 of 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 development complies with the above requirement with 73% (27 of 37) of the apartments achieving compliant solar access, and 2.7% (1 apartment being G02) receiving no direct sunlight between 9am and 3pm at mid-winter.

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 development complies with the above requirements with 76% of the apartments being naturally cross ventilated. Additionally, the overall depth of each unit does not exceed 18 metres.

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

Comment: The development provides minimum floor to floor heights of 3.2m which is considered sufficient to comply with the above minimum ceiling height requirements.

Apartment Size

The ADG prescribes the following minimum apartment sizes:

Apartment Type	Minimum Internal Area
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.

Comment: The proposed development complies with the ADG requirement and in most cases exceeds the minimum apartment size.

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).

- 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 development complies with the above relevant requirements.

Private Open Space and Balconies

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

Dwelling Type	Minimum Area	Minimum Depth
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 1m.

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 development exceeds the above minimum 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.

Comment: The development satisfies this requirement as it proposes a maximum of four apartments off a single circulation core.

Storage

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

Apartment Type	Minimum Internal Area
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 development complies with the above minimum requirements.

5(a)iii State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A BASIX Certificate was submitted with the application and will be referenced in any consent granted.

5(a)iv State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 2 Infrastructure

Development likely to affect an electricity transmission or distribution network

The proposed development meets the criteria for referral to the electricity supply authority within Section 2.48 of *SEPP (Transport and Infrastructure) 2021* and has been referred for comment for 21 days.

Ausgrid raised no objections to the application and provided comments with regard to underground cables and overhead powerlines in the vicinity of the development which have been included as advisory notes in the recommendation.

Overall, subject to compliance with relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice the proposal satisfies the relevant controls and objectives contained within Chapter 2 Infrastructure of *SEPP (Transport and Infrastructure) 2021*.

5(a)v State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 Vegetation in non-rural areas

The protection/removal of vegetation identified under the SEPP and gives effect to the local tree preservation provisions of Part 2.20 of MDCP 2011.

The application seeks the removal of 1x *Sapium sebiferum* (Chinese Tallow) located within the frontage at no. 43 Farr Street. The proposed tree removal is considered acceptable as the proposed development will result in an improved canopy coverage across the site and immediate area.

It is also noted that several trees adjacent to the northern boundary may be impacted by the proposed works. As such, to ensure these trees are not adversely impacted during the works, several tree protection conditions are recommended for inclusion into any DA consent.

Overall, the proposal is considered acceptable with regard to the SEPP and Part 2.20 of MDCP 2011 subject to the imposition of conditions protecting the surrounding trees, and the provision of compensatory planting which have been included in the recommendation of this report.

5(a)vi Inner West Local Environmental Plan 2022 (IWLEP 2022)

The application was assessed against the following relevant sections of the *Inner West Local Environmental Plan 2022 (IWLEP 2022)*.

Part 1 – Preliminary

Control	Proposed	Compliance
Section 1.2 Aims of Plan	<p>The proposal is consistent with the relevant aims of the plan as follows:</p> <ul style="list-style-type: none"> • The proposal conserves and maintains the natural, built and cultural heritage of Inner West, • The proposal reduces community risk from and improve resilience to urban and natural hazards, • The proposal encourages walking, cycling and use of public transport through appropriate intensification of development densities surrounding transport nodes, • The proposal encourages diversity in housing to meet the needs of, and enhance amenity for, Inner West residents, • The proposal creates a high quality urban place through the application of design excellence in all elements of the built environment and public domain, • The proposal prevents adverse social, economic and environmental impacts on the local character of Inner West, • The proposal prevents adverse social, economic and environmental impacts, including cumulative impacts. 	Yes

Part 2 – Permitted of prohibited development

Zone Objectives	Proposed	Permissible with consent?
Section 2.3 Zone objectives and Land Use Table <i>R4 - High Density Residential</i>	<p>The proposal satisfies the section as follows:</p> <ul style="list-style-type: none"> • The property is zoned R4 High Density Residential under the provisions of <i>IWLEP 2022</i>. Residential flat buildings are permissible with consent under the zoning provisions applying to the land; and • The proposal is consistent with the relevant objectives of the R4 – High Density Residential zone as follows: <ul style="list-style-type: none"> ○ The proposal provides for the housing needs of the community 	Yes

	<p>within a high density residential environment.</p> <ul style="list-style-type: none"> ○ The proposal provides a variety of housing types within a high density residential environment. ○ The proposal encourages residential development that results in appropriate amenity for a high density residential area. 	
Control	Proposed	Compliance
Section 2.7 Demolition requires development consent	<p>The proposal satisfies the section as follows:</p> <ul style="list-style-type: none"> • Demolition works are proposed, which are permissible with consent; and • Standard conditions are recommended to manage impacts which may arise during demolition. 	Yes, subject to conditions

Part 4 – Principal development standards

Control	Proposed		Compliance
Section 4.3 Height of building	Maximum	20m	No
	Proposed	21.1m	
	Variation	1.087m or 5.5%	
Section 4.4 Floor space ratio	Maximum	2:1 or 3,979sqm	Yes
	Proposed	2:1 or 3,978sqm	
Section 4.5 Calculation of floor space ratio and site area	The site area and floor space ratio for the proposal has been calculated in accordance with the section.		Yes
Section 4.6 Exceptions to development standards	The applicant has submitted a variation request in accordance with Section 4.6 to vary the height of building development standard.		See below

Section 4.6 – Exceptions to Development Standards

The applicant seeks a variation to the height of building development standard under Section 4.3 of *IWLEP 2022* by 1087mm or 5.5%.

Section 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 and unnecessary in this instance, the proposed exception to the development standard has been assessed against the objectives and provisions of Section 4.6 of *IWEP 2022* below.

The objectives of the height of buildings development standard are as follows:

- *To ensure the height of buildings is compatible with the character of the locality,*
- *To minimise adverse impacts on local amenity,*
- *To provide an appropriate transition between buildings of different heights.*

The objectives of the R4 High Density Residential zone are as follows:

- *To provide for the housing needs of the community within a high density residential environment.*
- *To provide a variety of housing types within a high density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To encourage residential development that results in appropriate amenity for a high density residential area.*

A written request has been submitted to Council in accordance with section 4.6(4)(a)(i) of *IWLEP 2022* justifying the proposed contravention of the development standard which is reproduced as follows:

- The future built form character to the east and south is anticipated to include a mix of buildings ranging between 6 and 14 storeys under the Victoria Road precinct masterplan contained in Part 9.47 of MDCP 2011, and the proposed building height of the proposed RFB will sit comfortably within this future context.
- The proposed built form has been designed to be subtle and sophisticated in its appearance, and include appropriate façade modulation and setbacks, particularly on the sixth storey.
- The majority of the proposed building envelope falls under the 20m height plane, with only a small component of the building, being the lift overruns, service plant and roof parapet, exceeding the LEP maximum height limit.
- The proposed built form has been designed so that the lift overruns and service plant are centrally located so that they are completely disguised from view when seen from Farr Street and will not result in additional overshadowing of the surrounding area when compared to a fully compliant scheme.
- The portion of the roof parapet (29.175RL) which exceeds the building height is directly adjacent to an area that permits a significantly higher maximum building height of 50RL.
- The shadowing impact on any future park at 37 Farr Street as a result of the departure from the 20m height limit has been modelled and is considered negligible when compared to a building envelope which strictly complies with the building height.
- The technical non-compliance with the development standard does not contribute to its visual bulk or mass, which will enable an appropriate transition in scale and height once the rest of the Timber Yards Sub-Precinct is redeveloped in accordance with the master plan contained in Part 9.47 of MDCP 2011.

- The proposed development remains consistent with the desired future character of the Victoria Road precinct in terms of number of storeys identified in Marrickville DCP Part 9.47 and as such a better planning outcome will be achieved as a result of the non-compliance.
- The lift overruns and services/plant provide positive residential amenity to the future occupants.

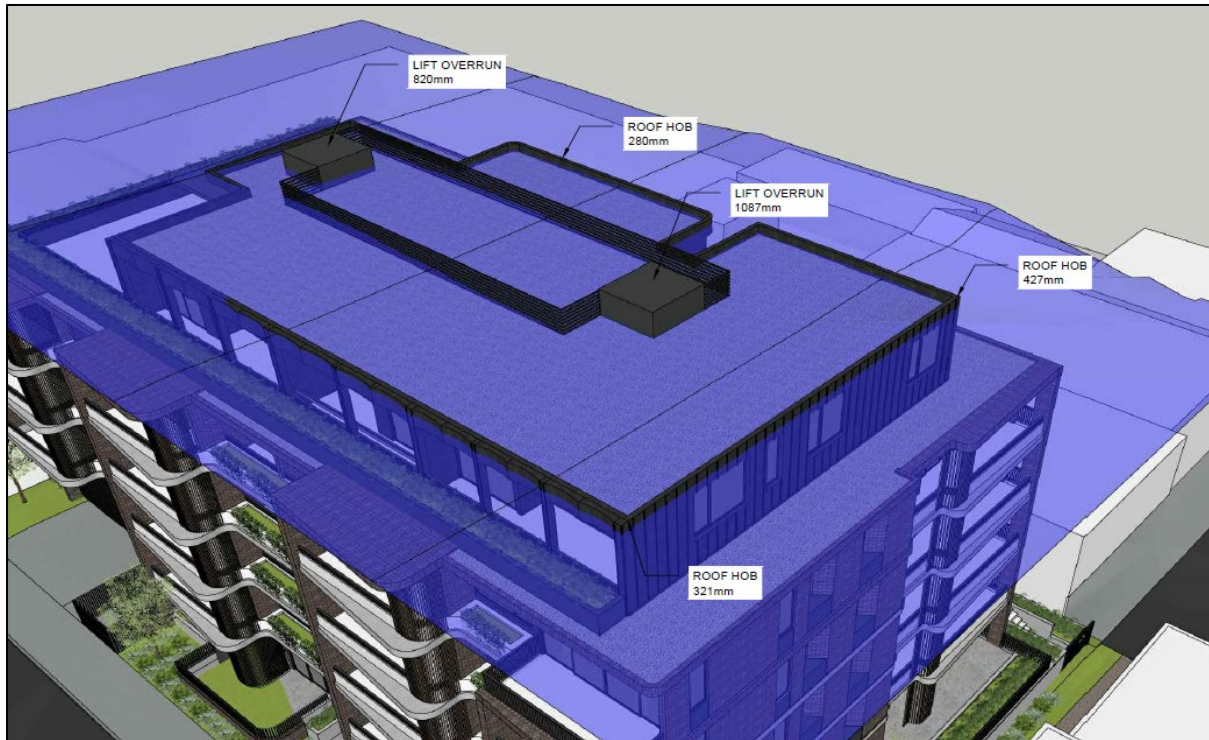


Figure 5: Building elements which exceed the height plane shown in blue

The applicant's written rationale 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.

It is considered the development is in the public interest because it is consistent with the relevant objectives of the zone and the objectives of the development standard, in accordance with Section 4.6(4)(a)(ii) of *IWLEP 2022* for the following reasons:

Development Standard Objectives

- The application proposes an overall building height that achieves the desired future character of the local area and displays good design.
- The proposal minimises adverse impacts on the local amenity by managing the overall bulk, scale and height of the building so that it is compatible with the desired future character of the precinct. No significant additional adverse impacts to neighboring properties will be incurred in relation to privacy, overshadowing, solar access or visual fit.
- The proposal disguises the additional height thereby maintaining an appropriate transition between buildings of different heights within the Victoria Road Precinct.

Zone Objectives

- The development includes 37 residential apartments within a six storey residential flat building which will provide for the housing needs within a high density residential environment.
- The development provides 1, 2 and 3 bedroom apartments at a mix of 11%, 35% and 54% respectively within a high density residential environment.
- The development displays design excellence and results in appropriate amenity for a high density residential area.

The contravention of the development standard does not raise any matter of significance for State and Regional Environmental Planning. Council may assume the concurrence of the Director-General under the Planning Circular PS 18-003 issued in February 2018 in accordance with section 4.6(4)(b) of the Local Environmental Plan.

The proposal thereby accords with the objective of section 4.6(1)(b) and requirements of section 4.6(3)(b) of *IWLEP 2022*. For the reasons outlined above, there are sufficient planning grounds to justify the departure from the height of buildings development standard and it is recommended the section 4.6 exception be granted.

Part 5 – Miscellaneous provisions

Control	Compliance	Compliance
Section 5.10 Heritage conservation	<p>The subject site is located adjacent to a locally listed heritage item, namely the ‘Marrickville Public School, including interiors’ (item no. 11218) under schedule 5 of <i>IWLEP 2022</i>.</p> <p>The development will have an acceptable impact on the nearby item as follows:</p> <ul style="list-style-type: none"> • The proposal provides sufficient separation from the school to ensure the visual and spatial qualities of the school remain relatively unaffected by the proposal. The early buildings associated with the school are located towards the northern end of the school site and to a large extent are orientated away from the proposed development. • The school buildings remain legible in the context of the school grounds along with the grass playing areas further south. The view corridors along Farr Street looking into the school grounds will remain as existing. 	Yes
Section 5.21 Flood planning	The site is not identified as a flood control lot. However, Council’s flood maps show that considerable amount of flow in the gutter adjacent to the proposed driveway. As such, the development has been designed to be compatible with the flood function and behaviour on the	Yes

	land. The design of the proposal (subject to conditions) will not affect the flood affectation of the subject site or adjoining properties and is considered to appropriately manage flood risk to life and the environment.	
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Part 6 – Additional local provisions

Control	Proposed	Compliance
Section 6.1 Acid sulfate soils	<p>The site is identified as containing Class 5 acid sulfate soils and a small portion of the site being 4 acid sulfate soils. As the works include excavation of a basement level at approximately RL -0.5 m AHD, an acid sulfate soil management plan (ASSMP) has been prepared to manage potential risks during the bulk excavation and piling.</p> <p>A condition has been included in the recommendation to ensure that the proposal will comply with the requirements of the ASSMP.</p>	Yes, subject to conditions
Section 6.2 Earthworks	<p>The proposed development involves excavation of approximately 7m for the basement levels and up to 9m for the lift core.</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 Section 6.2 of <i>IWLEP 2022</i>.</p>	Yes, subject to conditions
Section 6.3 Stormwater Management	The development maximises the use of permeable surfaces, includes on site retention as an alternative supply and subject to standard conditions would not result in any significant runoff to adjoining properties or the environment.	Yes
Section 6.8 Development in areas subject to aircraft noise	<p>The site is located within the ANEF 25-30 contour, and as such an Acoustic Report was submitted with the application. The proposal is capable of satisfying this section as follows:</p> <ul style="list-style-type: none"> A condition has been recommended to ensure that the proposal will meet the relevant requirements of Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021:2015, thereby ensuring the proposal's compliance with the relevant provisions of section 6.8 of <i>IWLEP 2022</i>. 	Yes, subject to conditions
Section 6.9 Design excellence	The proposed development is for a new building that exceeds 14 metres in height. The development is therefore required to demonstrate design excellence. In considering the if the proposal exhibits design excellence, Attachment A contains the Architectural Excellence & Design Review Panel Meeting Minutes	Yes, subject to conditions

	<p>and Recommendations which have been largely resolved or recommended as conditions of consent as detailed further in this report. The proposal satisfies this section as follows:</p> <ul style="list-style-type: none"> • A high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved. • The form and external appearance of the development will improve the quality and amenity of the public domain. • The development does not detrimentally impact on view corridors and landmarks, or solar access. • The development generally complies with the requirements of MDCP 2011 as discussed further in this report. • The land is suitable for the proposed uses and use mix. • The development will be consistent with the desired future character of the Victoria Road precinct in terms of separation, setbacks, bulk, massing and street frontage heights. • The development will result in acceptable amenity and environmental impacts in terms of sustainable design, overshadowing, wind and reflectivity and visual and acoustic privacy, and achieve the principles of ecologically sustainable development. • The development provides a through site link which provides improved permeability of the pedestrian network. • The development includes improvements to the public domain including landscape design. 	
<p>Section 6.29 Development on land at Victoria Road, Marrickville— concurrence of Planning Secretary</p>	<p>Council received the Department of Planning, Industry and Environment Secretary’s Certificate for satisfactory arrangements for designated public infrastructure for the subject application. As a result, the proposal is considered acceptable with regard to Section 6.29 of <i>IWLEP 2022</i>.</p>	<p>Yes</p>
<p>Section 6.31 Development on certain land at Victoria Road, Marrickville</p>	<p>The proposal satisfies the Section as follows:</p> <ul style="list-style-type: none"> • The obligation under this Section 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. 	<p>Yes</p>

5(d) Development Control Plans

The application has been assessed and the following provides a summary of the relevant provisions of Marrickville Development Control Plan 2011 (MDCP 2011).

Part 2 – Generic Provisions

Control	Proposed	Compliance
<p>Part 2.1 – Urban Design</p>	<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 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 housing diversity; • The density is considered appropriate for its context, having regard to the site’s R4 High Density Residential zoning and its proximity to nearby public transport options; • The proposal clearly defines public and private space 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 within the Victoria Road Precinct, given the proposal’s massing, materiality and activation. 	<p>Yes</p>
<p>Part 2.5 – Equity of Access and Mobility</p>	<p>The proposal satisfies the relevant provisions of Part 2.5 as follows:</p> <ul style="list-style-type: none"> • Appropriate access is provided for all persons through the principal entrance to the premises; • The application proposes 7 adaptable dwellings which is a shortfall of 1 adaptable dwelling from the minimum requirement under this part. The submitted documentation provides no justification for the shortfall and it is considered that the shortfall is likely a result of a miscalculation. As such, a condition requiring compliance is recommended as a condition of consent; • A minimum of 8 accessible parking spaces have been provided in accordance with the requirement; • The application proposes 1 accessible visitor parking which is a shortfall of 1 accessible visitor parking from the minimum requirement under this part. Similar to the above, the submitted documentation provides no justification for the shortfall and it is considered that the shortfall is likely a result of a miscalculation. As such, a condition requiring compliance is recommended as a condition of consent; • All common areas/facilities are accessible; and • Conditions of consent are recommended to ensure the above items are provided at CC stage. 	<p>Yes, subject to conditions</p>

<p>Part 2.6 – Acoustic and Visual Privacy</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. As such, the proposal will not adversely impact on any neighbouring residential amenity; • The development has been appropriately designed and orientated to minimise overlooking impacts between the proposed building and Marrickville Public School; • 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 under Section 6.8 Development in areas subject to aircraft noise in the LEP table above. 	<p>Yes, subject to conditions</p>
<p>Part 2.7 – Solar Access and Overshadowing</p>	<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 and given that Marrickville Public School is north of the subject site, solar access will not be significantly impacted by the proposed development; • The proposal will not affect solar access for future residential land uses located to the west 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). 	<p>Yes</p>
<p>Part 2.9 – Community Safety</p>	<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 having regard to CPTED principles; • The proposed development has been designed to allow passive surveillance of the street and communal areas on the site; and, • The main pedestrian entrance to the building is recognisable and has been appropriately designed. • The proposal has been designed to ensure habitable spaces and POS overlook the public domain; including proposed pedestrian through site link; 	<p>Yes</p>

	<ul style="list-style-type: none"> • Appropriate territorial reinforcement is proposed through the use of varied materials to delineate private and public space and landscaping measures; and • A condition is recommended for the provision of a lighting strategy to be prepared to assist in providing for a safe environment, particularly at night within the publicly accessible areas is provided 	
Part 2.10 – Parking	Refer to discussion below.	Yes, subject to condition
Part 2.16 – Energy Efficiency	A BASIX Certificate submitted. Section J compliance to be achieved at the CC stage.	Yes
Part 2.17 Water Sensitive Urban Design	Conditions are recommended to ensure Water Sensitive Urban Design (WSUD) measures to improve water quality are incorporated into the development.	Yes, subject to conditions.
Part 2.20 – Tree Management	Refer to SEPP discussion earlier in this report.	Yes, subject to condition
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; and, • Standard conditions are recommended to ensure the appropriate management of waste during the construction of the proposal. 	Yes, subject to condition
Part 2.23 – Acid Sulfate Soils	Refer to LEP discussion earlier in this report.	Yes, subject to condition
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"> • The proposal includes the installation of an underground stormwater line along Farr Street which will connect to Councils nearest stormwater pit at the Sydenham Road intersection to provide safe and direct stormwater drainage from the site. • Conditions are recommended to ensure the appropriate management of stormwater. 	Yes, subject to condition

(i) Part 2.10 – Parking

The site is identified within ‘Parking Area 2’ (moderately constrained) under Part 2.10 in MDCP 2011. The following table summarises the car, bicycle, and motorcycle parking requirements for the development:

Component	Control	Required	Proposed	Complies
Car Parking				

Component	Control	Required	Proposed	Complies
Resident Car Parking – non adaptable units	<i>0.5 car parking spaces per 1 bedroom unit</i>	4 x 1 bed units = 2 spaces	31 spaces	Yes
	<i>1.0 car parking spaces per 2 bedroom unit</i>	12 x 2 bed unit = 12 spaces		
	<i>1.2 car parking spaces per 3 bedroom unit</i>	14 x 3 bed unit = 16.8 spaces		
	<i>Total</i>	<i>31 spaces</i>		
Resident Car Parking – adaptable units	<i>1 mobility car parking space per 1 adaptable unit</i>	8 x adaptable units = 8 mobility spaces	8 spaces	Yes
Visitor Car Parking – non adaptable units	<i>0.1 car parking space per unit</i>	29 non-adaptable units = 2.9 spaces	3 spaces	Yes
Visitor Car Parking – adaptable units	<i>0.25 visitor mobility spaces per unit 1 adaptable unit</i>	8 x adaptable units = 2 accessible visitor spaces	1 space	No
<i>Bicycle Parking</i>				
Resident Bicycle Parking	<i>1 bicycle parking space per 2 units</i>	37 units = 18.5 spaces	19 spaces	Yes
Visitor Bicycle Parking	<i>1 bicycle parking space per 10 units</i>	37 units = 3.7 spaces	4 spaces	Yes
<i>Motorcycle Parking</i>				
Motorcycle Parking	5% of the total car parking requirement	42 car parking spaces required = 2.1 space	2 spaces	Yes

As noted above, while the application provides a compliant scheme in terms of the total number of residential parking spaces, the proposal results in a shortfall of one accessible visitor parking space. It is considered that there is sufficient space in the parking area to comply with the minimum requirement for accessible visitor parking and no justification has been provided for the shortfall. As such, a condition is included in the recommendation requiring 2 accessible visitor parking spaces are provided in accordance with the minimum requirements.

In addition, the mobility car space labelled 5 on basement 1 plan is not clearly identified a mobility space. As such, it is recommended that a condition be included in the development consent ensuring 8 accessible parking spaces are also provided for the conditioned 8 accessible units.

Servicing

The proposal provides a dedicated loading dock at ground level. The proposed loading dock is considered acceptable as follows:

- The loading dock is of sufficient size to provide for on-site waste collection by Councils vehicles;
- The loading dock configuration allows for all vehicles to enter and leave the property in a forward direction;
- The loading dock provides sufficient separation of service vehicles and car movements;
- To ensure the layout of the loading dock can facilitate a range of operations relevant to the development, a condition has been included requiring the loading dock provide internal access to the ground floor to allow it to be better utilised for general building maintenance trade vehicles, large goods deliveries, and removalists; and
- To ensure the above is satisfactorily managed, a condition of consent is recommended for a loading dock management plan to be implemented for the proposed development.

It should be noted that a revised Traffic & Parking Impact Assessment was submitted with the additional information during the assessment of the application, which found the local road and parking network can readily cater for the proposed development. Considering the above, subject to conditions, the proposal will comply within the minimum requirements under Part 2.10 of MDCP 2011.

Part 3 – Subdivision, Amalgamation and Movement Networks

Control	Assessment	Compliance
Part 3.2.1 – General Torrens title subdivision and amalgamation controls	Subdivision, including strata or stratum, is not proposed as part of the subject application. As the proposal extends across multiple allotments, a condition of consent has been included in the recommendation requiring the consolidation of the lots into one allotment prior to the issue of a construction certificate.	Yes, subject to condition

Part 4.2 – Multi Dwelling Housing and Residential Flat Buildings

Control	Assessment	Compliance																				
Part 4.2.3 – General	The proposal provides the following mix of dwelling types:	Yes																				
	<table border="1"> <thead> <tr> <th></th> <th>Required</th> <th>Proposed</th> <th>Complies</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>5-20%</td> <td>0%</td> <td>No</td> </tr> <tr> <td>1 bedroom</td> <td>10-40%</td> <td>11%</td> <td>Yes</td> </tr> <tr> <td>2 bedroom</td> <td>40-75%</td> <td>35%</td> <td>No</td> </tr> <tr> <td>3 bedroom</td> <td>10-45%</td> <td>54%</td> <td>No</td> </tr> </tbody> </table>			Required	Proposed	Complies	Studio	5-20%	0%	No	1 bedroom	10-40%	11%	Yes	2 bedroom	40-75%	35%	No	3 bedroom	10-45%	54%	No
	Required		Proposed	Complies																		
Studio	5-20%		0%	No																		
1 bedroom	10-40%		11%	Yes																		
2 bedroom	40-75%		35%	No																		
3 bedroom	10-45%	54%	No																			

	<p>Despite the numerical non-compliance with the dwelling mix required by this Part, the proposed development provides a variety of dwelling designs (i.e., street entry apartments; a two storey apartment; single storey apartments) that provide for a mix of potential residents. Further, it is considered a higher mix of 3 bedroom apartments is appropriate for this site given its proximity to an educational establishment thereby being an attractive location for people with children and families.</p> <p>Notwithstanding the above, the proposal remains consistent with the relevant provisions as follows:</p> <ul style="list-style-type: none"> • The proposed communal open space allows for a range of uses by different age groups; • The development has been designed to provide street entry dwellings addressing the site frontage to reinforce the subdivision and built form character of the street; and • The adaptable dwellings have been integrated into the overall design of the development. 	
Part 4.2.4 – Built Form and Character	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).	N/A
Part 4.2.5 – Streetscape, General Appearance and Materials	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).	N/A
Part 4.2.6 – Parking and Access	<p>The proposal is consistent with the relevant provisions as follows:</p> <ul style="list-style-type: none"> • The proposed development does not include any parking structures in front of the building line; • The proposed vehicular entrance has been designed to minimise the impact on the streetscape and amenity of adjoining neighbours, in this regard, the proposed development will not reduce on-street parking capacity; • The proposed development is located directly adjacent to a no through road. As such the vehicular entrance is located away from any intersections and will have minimal impact on pedestrian safety; and • The proposed development was supported by a Traffic & Parking Impact Assessment, which found the local road and parking network can readily cater for the proposed development. 	Yes

Part 9 – Strategic Context

Control	Assessment	Compliance
Part 9.47 Victoria Road (Precinct 47)	The subject site is located within the Victoria Road Precinct, Marrickville.	Noted
Part 9.47.3 – Desired	The proposal is compatible with the relevant desired future character of the precinct as follows:	Yes, subject to conditions.

<p>Future Character</p>	<ul style="list-style-type: none"> • The proposal appropriately integrates urban architectural design excellence, whilst encouraging sustainability through the provision of energy efficiency measures including ceiling fans in living areas and solar panels on the roof top; • The proposal will support the creation of a new pedestrian through site link which will enhance the permeability and increase connectivity within the precinct; • The proposal will enhance the streetscape through providing publicly accessible spaces and links within the site, 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; • 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 active transport and public transport use by the provision of bicycle parking and a through site link; • The proposal is considered to achieve design excellence and adopts appropriate cues from nearby industrial buildings through its predominant use of brickwork on its facades; • The proposal provides a high density of housing whilst having an acceptable amenity impact on the surrounding properties and future context; • 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 • The proposal is below the Obstacle Limitation Surface and therefore compatible with the operations of Sydney Airport. 	
<p>Part 9.47.4 – Sub Precincts</p>	<p>The proposal is located within the Timber Yards Sub-precinct (Sub-precinct 2).</p>	<p>Noted</p>
<p>Part 9.47.5– Indicative Masterplan</p>	<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 4.5m wide publicly accessible through site link has been provided along the southern boundary of 	<p>Yes</p>

	<p>the subject site which will contribute to the identified publicly accessible open space at 37 Farr Street; and</p> <ul style="list-style-type: none"> • A residential development is proposed on the site. 	
<p>Part 9.47.6 – Form of Redevelopment Sites</p>	<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 given it amalgamates 4 lots for one residential development; • It is considered the proposed site area is of sufficient size and shape to allow for good levels of amenity and architectural quality for high density residential development; • The development site is located at the end of Farr Street and has not left any allotments isolated or unable to develop; and • Vehicle access has been designed with consideration of flooding and stormwater management. 	<p>Yes</p>
<p>9.47.7.1 General</p>	<p>The proposal is consistent with the relevant provisions as follows:</p> <ul style="list-style-type: none"> • The proposal provides a through site link that will contribute to the publicly accessible open space which is generally consistent with Figure 5: Movement network plan and Table 1: Vehicular and pedestrian network characteristics of the Victoria Road Precinct masterplan; • The location of the pedestrian site through link serves as a connection of Farr Street and Mitchell Street as well as a secondary area of communal open space with seating and landscaping. In this regard, the proposed through site link is permitted to, and has been utilised towards the communal open space requirements of the development; • The through site link does not hinder the publicly accessible open space being provided at no. 37 Farr Street and offers a fair and reasonable proportion of private land in its delivery envisaged under this plan. • The proposal has provided one vehicle entry point which is well located to maximise visual and pedestrian amenity within the public domain; • The proposal encourages the use of public transport, walking and cycling through the provision of new pedestrian through site link, footpaths and the provision of on site bicycle parking; 	<p>Yes</p>

	<ul style="list-style-type: none"> • The proposed through site link appropriately connects with the surrounding pedestrian networks and are legible within its hierarchy; • The proposed through site link is designed to allow for a comfortable and attractive environment for pedestrians and cyclists through the provision of delineated footpaths, seating, plantings and deep soil; • The proposal provides for satisfactory levels of accessibility for all persons; and • The proposal allows for improved levels of circulation and connectivity within the locality through the provision of pedestrian links. • 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 a lighting strategy to be prepared to ensure satisfactory levels of lighting within the publicly accessible areas is provided. 	
<p>9.47.7.8 Publicly Accessible Open Space Network</p>	<p>The proposal is generally consistent with the relevant provisions as follows:</p> <ul style="list-style-type: none"> • The proposal includes a publicly accessible through site link for pedestrians which provides a high level of physical and visual access to existing and proposed publicly accessible open space areas within the precinct. To ensure the through site link remains publicly accessible, a condition is recommended to create a public right of way on the title of the property. 	<p>Yes, subject to conditions</p>
<p>9.47.9 Stormwater Management</p>	<p>The proposal is generally consistent with the relevant provisions as follows:</p> <ul style="list-style-type: none"> • The proposed 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 stormwater management results in the effective treatment and disposal of stormwater; • As discussed 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. 	<p>Yes, subject to conditions</p>
<p>Part 9.47.11.1</p>	<p>The proposal is generally consistent with the relevant provisions as follows:</p>	<p>No, however satisfactory on merit.</p>

<p>Building height</p>	<ul style="list-style-type: none"> • The proposed building height seeks to vary the relevant height of building development standard under <i>IWLEP 2022</i>, and it is considered that there are sufficient planning grounds to justify the departure from the height of buildings development standard in this instance. Refer to LEP discussion above; • The proposed development is a maximum six storeys in height which is generally in accordance with Figure 15: Building heights maps; • The proposal complies with the maximum Floor Space Ratio development standard under <i>IWLEP 2022</i>; • The proposed building height ensures an appropriate transition of height to existing lower density residential areas and the future context of the precinct; • The proposed building heights assist to contribute to the creation of a high-density urban neighbourhood character compatible with the surround context; • The proposal assists to provide for varied building heights within the precinct to allow for a visually interesting urban form and skyline; and • The proposed building heights are consistent with the operational requirements of Sydney Airport. 	
<p>Part 9.47.11.2 Building form and design</p>	<p>The proposal is generally consistent with the relevant provisions as follows:</p> <ul style="list-style-type: none"> • The proposed development is orientated to address Farr Street and includes direct individual entries to all ground floor apartments to maximise engagement with the public domain including the pedestrian through site link. It is noted that an access gate to unit G01 has fallen off the revised set of plans, as such a condition is recommended to reinstate this entry point; • The development has been appropriately designed and orientated to minimise overlooking impacts between the proposed building and Marrickville Public School as detailed above in the AGD assessment; • The proposed residential flat building is designed to respond cohesively to the existing and desired future character of the neighbourhood streetscape with appropriate build form and material palette that respond thoughtfully to the immediate context; • The proposed building facades have been satisfactorily articulated, with the use of curved and splayed balconies, vertical building proportions including openings, and a strong presence of brickwork within a varying material palette to provide clear articulation. In addition, the design has maximised amenity of the apartments by allowing natural cross ventilation and bringing natural sun light; 	<p>Yes, subject to conditions.</p>

	<ul style="list-style-type: none"> The proposal is capable of complying 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; and Lobby entries to the public domain have been maximised. 	
9.47.11.3 Setbacks	<p>The proposal is generally consistent with the relevant provisions as follows:</p> <ul style="list-style-type: none"> The proposed setbacks comply with the ground and upper level setbacks outlined in Figure 16: Ground and upper level setbacks map which indicate a 3m ground level setback and a 4m upper setback required above the fifth storey. The proposed setbacks at the ground floor facilitate the delivery of private outdoor recreation spaces to provide an appropriate transitional spaces between the private and public domains. The recessed sixth storey reduces its visibility when viewed from the public domain and is in keeping the desired street presentation. The proposed setbacks provides for appropriate visual massing, which allows for satisfactory levels of amenity for residential users and the public domain; The proposal allows for satisfactory levels of solar access for both residential uses and the public domain; and Appropriate landscaping features along the streetscape are proposed and will be secured by consent conditions. 	Yes, subject to conditions
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>	Yes
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"> The proposal has been orientated to allow for sufficient levels of acoustic and visual privacy; and As discussed earlier in this report, an Acoustic report was submitted with the application outlining that the 	Yes, subject to conditions

	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 is recommended via conditions of consent.	
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

5(e) The Likely Impacts

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

5(f) 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.

5(g) Any submissions

The originally submitted development proposal was notified in accordance with the Community Engagement Framework for a period of 21 days. No submissions were received in response to the initial notification.

In addition, the proposal as revised was re-notified in the same manner as the original and in response two submissions in opposition were received.

The following issues raised in submissions have been discussed in this report:

- Bulk and scale and streetscape impacts
- Non-compliance with height limit
- Amenity and privacy impacts
- Overlooking the primary school playground
- Increased traffic along Thompson Street
- Increased demand for on street parking
- Impacts to the nearby heritage items

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

Issue: Misleading traffic study

Comment: These comments are noted. It is considered that the information submitted is sufficient and has been independently assessed by Council's Engineering Section, who have advised the proposal is unlikely to result in adverse traffic impacts.

Issue: Plans do not include a park/playground

Comment: These comments are noted, however as detailed in this report, an assessment against the applicable planning controls/policies was carried out. In summary, the revised plans are considered to satisfy the relevant provisions, as the site at No.37 Farr Street (site marked for the publicly accessible open space) has not been included in the subject application. Notwithstanding, it is noted that a separate, yet similar proposal is currently under assessment at 37-47 Farr Street (DA/2022/1164) which includes a publicly accessible area.

5(h) 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.

6 Integrated Development

The application was referred to WaterNSW seeking a water supply work approval under Section 90(2) of the *Water Management Act 2000*.

WaterNSW has provided General Terms of Approval (GTA) which are included in their entirety as conditions of consent.

Section 4.47(3) of the *EPA Act 1979* requires the consent authority to be consistent with the GTA and the consent authority is taken to have power under this Act to impose any condition that the approval body could impose as a condition of its approval.

7. Referrals

6(a) Internal

The application was referred to the following internal sections/officers and issues raised in those referrals have been discussed in section 5 above.

- Development Engineering
- Urban Forest
- Heritage
- Architect Excellence Panel
- Waste Management
- Building Certification

- Environmental Health

6(b) External

The application was referred to the following external bodies and issues raised in those referrals have been discussed in section 5 and 6 above.

- Ausgrid
- Sydney Water Corporation
- WaterNSW
- Department of Planning

7. Section 7.11 Contributions/7.12 Levy

Section 7.11 contributions are payable for the proposal.

The carrying out of the development would result in an increased demand for public amenities and public services within the area. A contribution of \$700,142.85 would be required for the development under Marrickville Section 94/94A Contributions Plan 2014. A condition requiring that contribution to be paid is included in the recommendation.

8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in *State Environmental Planning Policy No 65 - Design Quality of Residential Apartment, Inner West Local Environmental Plan 2022* and Marrickville Development Control Plan 2011.

The development as revised, is considered to meet the desired future character of the Victoria Road Precinct in which it is located. The residential flat building would allow for increased residential dwellings, within a building that is considered to have a high level of design in the public domain. The development will contribute to the connectivity of the precinct for the community through the provision of a publicly accessible pedestrian link to Mitchell Street. Overall, the development will not result in any significant impacts on the amenity of the adjoining properties and the streetscape and is considered to be in the public interest.

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

9. Recommendation

- A. The applicant has made a written request pursuant to Clause 4.6 of the *Inner West Local Environmental Plan 2022*. After considering the request, and assuming the concurrence of the Secretary has been given, the Panel is satisfied that compliance with the height development standard is unnecessary in the circumstance of the case and that there are sufficient environmental 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 Inner West Local 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. DA/2022/0751 for the demolition of existing structures on site and construction of a residential flat building with basement parking, landscaping and associated works. at 41-47 Farr Street, Marrickville subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

CONDITIONS OF CONSENT

DOCUMENTS RELATED TO THE CONSENT

1. Documents related to the consent

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

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by
DA002 issue A	Demolition Plan	19.08.2022	PDB Architects
DA100 issue D	Basement 2 Plan	24.03.2023	PDB Architects
DA101 issue D	Basement 1 Plan	24.03.2023	PDB Architects
DA102 issue D	Ground floor Plan	24.03.2023	PDB Architects
DA103 issue D	Level 1 Plan	24.03.2023	PDB Architects
DA104 issue D	Typical Level 2-3	24.03.2023	PDB Architects
DA105 issue D	Level 4 Plan	24.03.2023	PDB Architects
DA106 issue D	Level 5 Plan	24.03.2023	PDB Architects
DA107 issue D	Roof Plan	24.03.2023	PDB Architects
DA200 issue C	West elevation	24.03.2023	PDB Architects
DA201 issue C	South elevation	24.03.2023	PDB Architects
DA202 issue C	East elevation	24.03.2023	PDB Architects
DA203 issue C	North elevation	24.03.2023	PDB Architects
DA300 issue D	Section A	24.03.2023	PDB Architects
DA301 issue D	Section B	24.03.2023	PDB Architects

DA302 issue D	Section C	24.03.2023	PDB Architects
DA301 issue A	Facade Section	23.03.2023	PDB Architects
DA400 issue A	Materials Schedule	19.08.2022	PDB Architects
Issue C	Landscape Plan	10.02.2023	Arcadia Landscape Architecture
TM756-01F01 Acoustic Assessment for DA (r2)	Acoustic report	15.08.2022	Renzo Tonn & Associates
215252.00. R002.Rev2	Remedial Action Plan	24.08.2022	Douglas Partners
Revision P1	Revised civil Stormwater Management Concept Plan	09.02.2023	TWW
1329504M	BASIX Certificate	26.08.2022	Stantec Australia Pty Ltd
215252.00 R.005.Rev0	Acid Sulfate Soil Management Plan	14.04.2023	Douglas Partners

As amended by the conditions of consent.

DESIGN CHANGE

2. Design Change

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans demonstrating the following:

- a. A doorway is to be provided internally between the loading dock/bin holding area and the lobby on the ground floor. The doorway should be a minimum width of 1200mm wide to accommodate large items.
- b. Apartment G01 is to be provided with an entrance gate off Farr Street which matches the proportions and design of the gate at apartment G05.

FEES

3. Security Deposit

Prior to the commencement of demolition works or prior to the issue of a Construction Certificate, the Certifying Authority must be provided with written evidence that a security deposit and inspection fee has been paid to Council to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of carrying out the works and as surety for the proper completion of any road, footpath and drainage works required by this consent.

Security Deposit:	\$320,000.00
Inspection Fee:	\$350.00

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

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

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

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

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

4. Section 7.11 (Former Section 94) Contribution

Prior to the issue of a Subdivision Certificate works written evidence must be provided to the Certifying Authority that a monetary contribution of \$700,142.85 indexed in accordance with Marrickville Section 94/94A Contributions Plan 2014] ("CP") has been paid to the Council.

The above contribution is the contribution applicable as at 5 April 2023.

***NB** Contribution rates under Marrickville Section 94/94A Contributions Plan 2014 are indexed quarterly (for the method of indexation refer to Section 2.15 of the Plan).

The indexation of the contribution rates occurs in the first week of the months of February, May, August and November each year, following the release of data from the Australian Bureau of Statistics.

The contribution payable has been calculated in accordance with the CP and relates to the following public amenities and/or services and in the following amounts:

Public Amenities Type:	Contribution \$
Recreation Facilities	620,966.39
Community Facilities	64,478.33
Traffic Facilities	260.40
Road access dedication	709.44
Plan Administration	13,728.29
TOTAL	700,142.85

A copy of the CP can be inspected at any of the Inner West Council Services Centres or viewed online at:

<https://www.innerwest.nsw.gov.au/develop/planning-controls/section-94-contributions>

Payment methods:

The required contribution must be paid either **by BPAY (to a maximum of \$500,000); unendorsed bank cheque (from an Australian Bank only); EFTPOS (Debit only); credit card (Note: A 1% credit card transaction fee applies to all credit card transactions; cash (to a maximum of \$10,000))**. It should be noted that personal cheques or bank guarantees cannot be accepted for the payment of these contributions. Prior to payment contact Council's Planning Team to review charges to current indexed quarter, please allow a minimum of 2 business days for the invoice to be issued before payment can be accepted.

***NB** A 0.75% credit card transaction fee applies to all credit card transactions.

5. Long Service Levy

Prior to the issue of a Construction Certificate, written evidence must be provided to the Certifying Authority that the long service levy in accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986* has been paid at the prescribed rate of 0.25% of the total cost of the work to either the Long Service Payments Corporation or Council for any work costing \$250,000 or more.

GENERAL CONDITIONS**6. Noise – Consultant’s Recommendations**

The recommendations contained in the acoustic reports prepared by Renzo Tonin & Associates, reference TM756-01F02 Aircraft Noise Information Report (r1) and TM756-01F01 Acoustic Assessment for DA (r2) dated 15 August 2022 must be implemented.

7. Contamination – Remedial Action Plan (No Site Auditor Engaged)

The site is to be remediated and validated in accordance with the recommendations set out in the Remedial Action Plan, prepared by Douglas Partners, reference 215252.00.R002.Rev2 dated August 2022, the *Contaminated Land Management Act 1997* and Chapter 4 - Remediation of Land of the *State Environmental Planning Policy (Resilience and Hazards) 2021*.

8. Hazardous Materials Survey

Prior to any demolition or the issue of a Construction Certificate (whichever occurs first), the Certifying Authority must provide a hazardous materials survey to Council. The survey shall be prepared by a suitably qualified Occupational Hygienist and is to incorporate appropriate hazardous material removal and disposal methods in accordance with the requirements of SafeWork NSW.

A copy of any SafeWork NSW approval documents is to be included as part of the documentation.

9. Tree Protection

No trees on public property (footpaths, roads, reserves etc.) are to be removed or damaged during works unless specifically approved in this consent or marked on the approved plans for removal.

Prescribed trees protected by Council’s Management Controls on the subject property and/or any vegetation on surrounding properties must not be damaged or removed during works unless specific approval has been provided under this consent.

Any public tree within five (5) metres of the development must be protected in accordance with Council’s *Development Fact Sheet—Trees on Development Sites*.

No activities, storage or disposal of materials taking place beneath the canopy of any tree (including trees on neighbouring sites) protected under Council's Tree Management Controls at any time.

Trees numbered 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 and 20 in the Arborist Report prepared by Dr Treegood dated June 2022 must be retained and protected in accordance with the conditions of consent or approved Tree Protection Plan throughout the development (note: tree numbers must correspond with approved Tree Protection Plan if conditioned) :

Details of the trees must be included on all Construction Certificate plans and shall be annotated in the following way:

- a. Green for trees to be retained;
- b. Red for trees to be removed;
- c. Blue for trees to be pruned; and
- d. Yellow for trees to be transplanted.

10. Project Arborist

Prior to the commencement of any demolition or construction works within close proximity to protected trees a Project Arborist must be engaged for the duration of the site preparation, demolition, construction and landscaping to supervise works. Details of the Project Arborist must be submitted to the Certifying Authority before work commences.

11. Works to Trees

Approval is given for the following works to be undertaken to trees on the site after the issuing of a Construction Certificate:

Tree/location	Approved works
Sapium sebiferum - within property on Farr Street frontage	Remove
Fraxinus griffithii within property southern corner	Remove

The removal of any street tree approved by Council must include complete stump removal (to a minimum depth of 400mm) and the temporary reinstatement of levels so that no trip or fall hazards exist until suitable replanting occurs. These works must be completed immediately following the tree/s removal.

Removal or pruning of any other tree (that would require consent of Council) on the site is not approved and shall be retained and protected in accordance with Council's *Development Fact Sheet—Trees on Development Sites*.

12. Dry-weather Flows

Dry-weather flows of any seepage water including seepage from landscaped areas will not be permitted through kerb outlets and must be connected directly to a Council stormwater system. Alternatively, the basement or any below ground structure must be designed to be "tanked" preventing the ingress of seepage or groundwater.

13. Rock Anchors

This consent does not grant consent for any rock anchors on the road reserve or Council land.

14. Water NSW General Terms of Approval

The development must be carried out in accordance with the following General Terms of Approval from Water NSW:

Dewatering

- a. GT0115-00001 Groundwater must only be pumped or extracted for the purpose of temporary construction dewatering at the site identified in the development application. For clarity, the purpose for which this approval is granted is only for dewatering that is required for the construction phase of the development and not for any dewatering that is required once construction is completed.
- b. GT0116-00001 Before any construction certificate is issued for any excavation under the development consent, the applicant must: 1. apply to WaterNSW for, and obtain, an approval under the Water Management Act 2000 or Water Act 1912, for any water supply works required by the development; and 2. notify WaterNSW of the programme for the dewatering activity to include the commencement and proposed completion date of the dewatering activity Advisory Note: 3. An approval under the Water Management Act 2000 is required to construct and/or install the water supply works. For the avoidance of doubt, these General Terms of Approval do not represent any authorisation for the take of groundwater, nor do they constitute the grant or the indication of an intention to grant, any required Water Access Licence (WAL). A WAL is required to lawfully take more than 3ML of water per water year as part of the dewatering activity. 4. A water use approval may also be required, unless the use of the water is for a purpose for which a development consent is in force.
- c. GT0117-00001 A water access licence, for the relevant water source, must be obtained prior to extracting more than 3ML per water year of water as part of the construction dewatering activity. Advisory Notes: 1. This approval is not a water access licence. 2. A water year commences on 1 July each year. 3. This approval may contain an extraction limit which may also restrict the ability to take more than 3ML per water year without further information being provided to WaterNSW. 4. Note that certain water sources may be exempted from this requirement - see paragraph 17A, Schedule 4 of the Water Management (General) Regulation 2018.

- d. GT0118-00001 If no water access licence is obtained for the first 3ML / year (or less) of water extracted, then, in accordance with clause 21(6), Water Management (General) Regulation 2018, the applicant must: (a) record water taken for which the exemption is claimed, and (b) record the take of water not later than 24 hours after water is taken, and (c) make the record on WAL exemption form located on WaterNSW website "Record of groundwater take under exemption", and (d) keep the record for a period of 5 years, and (e) give the record to WaterNSW either via email to Customer.Helpdesk@waterNSW.com.au or post completed forms to - PO Box 398 Parramatta NSW 2124 (i) not later than 28 days after the end of the water year (being 30 June) in which the water was taken, or (ii) if WaterNSW directs the person in writing to give the record to WaterNSW on an earlier date, by that date.
- e. GT0119-00001 All extracted groundwater must be discharged from the site in accordance with Council requirements for stormwater drainage or in accordance with any applicable trade waste agreement.
- f. GT0120-00001 The design and construction of the building must prevent: (a) any take of groundwater, following the grant of an occupation certificate (and completion of construction of development), by making any below-ground levels that may be impacted by any water table fully watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation; (b) obstruction to groundwater flow, by using sufficient permanent drainage beneath and around the outside of the watertight structure to ensure that any groundwater mounding shall not be greater than 10 % above the pre-development level; and (c) any elevated water table from rising to within 1.0 m below the natural ground surface.
- g. GT0121-00001 Construction phase monitoring bore requirements GTA: a) A minimum of three monitoring bore locations are required at or around the subject property, unless otherwise agreed by WaterNSW. b) The location and number of proposed monitoring bores must be submitted for approval, to WaterNSW with the water supply work application. c) The monitoring bores must be installed and maintained as required by the water supply work approval. d) The monitoring bores must be protected from construction damage.
- h. GT0122-00001 Construction Phase Monitoring programme and content: a) A monitoring programme must be submitted, for approval, to WaterNSW with the water supply work application. The monitoring programme must, unless agreed otherwise in writing by WaterNSW, include matters set out in any Guide published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no Guide is current or published, the monitoring programme must include the following (unless otherwise agreed in writing by WaterNSW): i. Pre-application measurement requirements: The results of groundwater measurements on or around the site, with a minimum of 3 bore locations, over a minimum period of 3 months in the six months prior to the submission of the approval to WaterNSW. ii. Field measurements: Include provision

- for testing electrical conductivity; temperature; pH; redox potential and standing water level of the groundwater; iii. Water quality: Include a programme for water quality testing which includes testing for those analytes as required by WaterNSW; iv. QA: Include details of quality assurance and control v. Lab assurance: Include a requirement for the testing by National Association of Testing Authorities accredited laboratories. b) The applicant must comply with the monitoring programme as approved by WaterNSW for the duration of the water supply work approval (Approved Monitoring Programme).
- i. GT0123-00001 (a) Prior to the issuing of the occupation certificate, and following the completion of the dewatering activity, and any monitoring required under the Approved Monitoring Programme, the applicant must submit a completion report to WaterNSW. (b) The completion report must, unless agreed otherwise in writing by WaterNSW, include matters set out in any guideline published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no guideline is current or published, the completion report must include the following (unless otherwise agreed in writing by WaterNSW): 1) All results from the Approved Monitoring Programme; and 2) Any other information required on the WaterNSW completion report form as updated from time to time on the WaterNSW website. c) The completion report must be submitted using "Completion Report for Dewatering work form" located on WaterNSW website [www.waternsw.com.au/customer-service/water\[1\]licensing/dewatering](http://www.waternsw.com.au/customer-service/water[1]licensing/dewatering).
 - j. GT0150-00001 The extraction limit shall be set at a total of 3ML per water year (being from 1 July to 30 June). The applicant may apply to WaterNSW to increase the extraction limit under this condition. Any application to increase the extraction limit must be in writing and provide all information required for a hydrogeological assessment. Advisory note: Any application to increase the extraction limit should include the following: - Groundwater investigation report describing the groundwater conditions beneath and around the site and subsurface conceptualisation - Survey plan showing ground surface elevation across the site - Architectural drawings showing basement dimensions - Environmental site assessment report for any sites containing contaminated soil or groundwater (apart from acid sulphate soils (ASS)) - Laboratory test results for soil sampling testing for ASS - If ASS, details of proposed management and treatment of soil and groundwater. Testing and management should align with the NSW Acid Sulphate Soil Manual.
 - k. GT0151-00001 Any dewatering activity approved under this approval shall cease after a period of two (2) years from the date of this approval, unless otherwise agreed in writing by WaterNSW (Term of the dewatering approval). Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.
 - l. GT0152-00001 This approval must be surrendered after compliance with all conditions of this approval, and prior to the expiry of the Term of the dewatering approval, in condition GT0151-00001. Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.

- m. GT0155-00001 The following construction phase monitoring requirements apply (Works Approval): a. The monitoring bores must be installed in accordance with the number and location shown, as modified by this approval, unless otherwise agreed in writing with WaterNSW. b. The applicant must comply with the monitoring programme as amended by this approval (Approved Monitoring Programme). c. The applicant must submit all results from the Approved Monitoring Programme, to WaterNSW, as part of the Completion Report.

15. Car Parking

The development must provide and maintain within the site:

- a. 31 car parking spaces must be paved and line marked;
- b. 8 car parking spaces, for persons with a disability must be provided and marked as disabled car parking spaces;
- c. 3 visitor car parking spaces must be provided and marked as visitor car parking spaces. A sign legible from the street must be permanently displayed to indicate that visitor parking is available on site;
- d. 2 visitor car parking spaces, for persons with a disability must be provided and marked as visitor car parking spaces. A sign legible from the street must be permanently displayed to indicate that visitor parking is available on site;
- e. 2 off-street motorcycle parking spaces must be provided, paved, line marked and maintained at all times;
- f. 23 Bicycle storage capacity within the site;
- g. 1 Loading dock/bay.

16. Residential Flat Buildings – Hot Water Systems

Where units or dwellings are provided with separate individual hot water systems, these must be located so they are not visible from the street.

17. Residential Flat Buildings – Air Conditioning Systems

Where units or dwellings are provided with separate individual air conditioning systems, these must be located so they are not visible from the street.

18. Residential Flat Buildings – Adaptable Dwellings

Prior to the issue of a Construction Certificate, the Certifying Authority, must be provided with plans that demonstrate eight (8) units are Adaptable units.

No works are to occur to the premises that would prevent the Adaptable units from being adapted for persons with a disability.

19. Waste Management Plan

Prior to the commencement of any works (including any demolition works), the Certifying Authority is required to be provided with a Recycling and Waste Management Plan (RWMP) in accordance with the relevant Development Control Plan.

20. Erosion and Sediment Control

Prior to the issue of a commencement of any works (including any demolition works), the Certifying Authority must be provided with an erosion and sediment control plan and specification. Sediment control devices must be installed and maintained in proper working order to prevent sediment discharge from the construction site.

21. Verification of Levels and Location

Prior to the pouring of the ground floor slab or at dampcourse level, whichever is applicable or occurs first, the Principal Certifier must be provided with a survey levels certificate prepared by a Registered Surveyor indicating the level of the slab and the location of the building with respect to the boundaries of the site to AHD.

22. Works Outside the Property Boundary

This development consent does not authorise works outside the property boundaries on adjoining lands.

23. Acid Sulfate Soils

The recommendations contained in the Acid Sulfate Soils Management Plan prepared by Douglas Partners, reference project 215252.0 R005.Rev0 dated 14 April 2023 must be implemented.

PRIOR TO ANY DEMOLITION**24. Hoardings**

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

If the work involves the erection or demolition of a building and is likely to cause pedestrian or vehicular traffic on public roads or Council controlled lands to be obstructed or rendered inconvenient, or building involves the enclosure of public property, a hoarding or fence must

be erected between the work site and the public property. An awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property.

Separate approval is required from the Council under the *Roads Act 1993* to erect a hoarding or temporary fence or awning on public property.

25. Construction Traffic Management Plan – Detailed

Prior to Any Demolition, the Certifying Authority, must be provided with a detailed Construction Traffic Management Plan (CTMP), prepared by an appropriately qualified Traffic Management Consultant with Transport for NSW accreditation. The Certifying Authority must approved by the CTMP prior to the commencement of any works, including demolition. The Certifying Authority must ensure that the CTMP instructs vehicles to use State and Regional and Collector Roads to the maximum extent with the use of Local Roads as final approach to the development site via the most suitable direct route.

The following matters should be addressed in the CTMP (where applicable):

- a. Description of the demolition, excavation and construction works;
- b. Site plan/s showing the site, roads, footpaths, site access points and vehicular movements;
- c. Size, type and estimated number of vehicular movements (including removal of excavated materials, delivery of materials and concrete to the site);
- d. Proposed route(s) from the arterial (state) road network to the site and the proposed route from the site back to the arterial road network;
- e. Impacts of the work and vehicular movements on the road network, traffic and pedestrians and proposed methods to safely manage pedestrians and construction related vehicles in the frontage roadways;
- f. Any Traffic Control Plans (TCP's) proposed to regulate traffic and pedestrian movements for construction activities (such as concrete pours, crane installation/removal etc.);
- g. Proposed hours of construction related activities and vehicular movements to and from the site;
- h. Current/proposed approvals from other Agencies and Authorities (including Roads and Maritime Services, Police and State Transit Authority);
- i. Any activities proposed to be located or impact upon Council's road, footways or any public place;
- j. Measures to maintain public safety and convenience;
- k. Any proposed road and/or footpath closures;
- l. Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site;
- m. Locations of work zones (where it is not possible for loading/unloading to occur on the site) in the frontage roadways accompanied by supporting documentation that such work zones have been approved by the Local Traffic Committee and Council;

- n. Location of any proposed crane and concrete pump and truck standing areas on and off the site (and relevant approvals from Council for plant on road);
- o. A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries;
- p. Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected;
- q. On-site parking area for employees, tradespersons and construction vehicles as far as possible;
- r. Proposed areas within the site to be used for the storage of excavated material, construction materials and waste and recycling containers during the construction period; and
- s. How it is proposed to ensure that soil/excavated material is not transported onto surrounding footpaths and roadways.
- t. Swept Paths for the proposed construction vehicles to demonstrate that the needed manoeuvres can be achieved without causing any nuisance.

26. Resource Recovery and Waste Management Plan - Demolition and Construction

Prior to any demolition works, the Certifying Authority must be provided with a Resource Recovery and Waste Management Plan - Demolition and Construction that includes details of materials that will be excavated and their proposed destination or reuse.

27. Dilapidation Report - Adjoining Properties

Prior to any works commencing (including demolition), the Certifying Authority and owners of identified properties, must be provided with a colour copy of a dilapidation report prepared by a suitably qualified person. The report is required to include colour photographs of all the adjoining properties to the Certifying Authority's satisfaction. In the event that the consent of the adjoining property owner cannot be obtained to undertake the report, copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the Certifying Authority before work commences.

28. Advising Neighbours Prior to Excavation

At least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

29. Construction Fencing

Prior to the commencement of any works (including demolition), the site must be enclosed with suitable fencing to prohibit unauthorised access. The fencing must be erected as a barrier between the public place and any neighbouring property.

PRIOR TO CONSTRUCTION CERTIFICATE

30. Noise General – Acoustic Report

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with an acoustic report demonstrating that noise and vibration from the operation of the premises will satisfy the relevant provisions of the *Protection of the Environment Operations Act 1997* and Regulations and relevant state and local policies and guidelines. The acoustic report is to be prepared by a suitably qualified and experienced acoustic consultant and any recommendations must be consistent with the approved plans.

31. Stormwater Drainage System – Major Developments

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with stormwater drainage design plans incorporating on site stormwater detention and/or on site retention/ re-use facilities (OSR/OSD) and Stormwater Quality Improvement Devices (SQIDS), certified by a suitably experienced Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) that the design of the site drainage system complies with the following specific requirements:

- a. The design must be generally in accordance with the stormwater drainage concept plan on Drawing No. C300, C301, C302, C303, C311, C312, C313, C314, C320, C321 and C322 prepared by TTW and dated 9/2/2023, as amended to comply with the following;
- b. Stormwater runoff from all surface areas within the property must be collected in a system of gutters, pits and pipelines and be discharged together with overflow pipelines from any rainwater tank(s) by gravity to directly to Council's piped drainage system via the OSD/OSR tanks;
- c. Comply with Council's Stormwater Drainage Code, Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2018 'Stormwater Drainage' and Council's DCP.
- d. Charged or pump-out stormwater drainage systems are not permitted including for roof drainage other than surface flows from the driveway from the basement;
- e. The Drainage Plan must detail the existing and proposed site drainage layout, size, class and grade of pipelines, pit types, roof gutter and downpipe sizes;

- f. Details of the Height vs Storage and Height vs Discharge relationships must be submitted;
- g. Pipe and channel drainage systems including gutters must be designed to convey the one hundred (100) year Average Recurrence Interval (ARI) flows from the contributing catchment to the OSD/OSR tanks;
- h. OSD may be reduced or replaced by on site retention (OSR) for rainwater reuse in accordance with the relevant DCP that applies to the land. Where this is pursued, the proposed on-site retention (OSR) tanks must be connected to a pump system for internal reuse for laundry purposes, the flushing of all toilets and for outdoor usage such as irrigation. Surface water must not be drained to rainwater tanks where the collected water is to be used to supply water inside the dwelling, such as for toilet flushing or laundry use;
- i. Pipe and channel drainage systems including gutters must be designed to convey the one hundred (100) year Average Recurrence Interval (ARI) flows from the contributing catchment to the OSD/OSR tanks;
- j. Details of the 1 in 100-year ARI overflow route in case of failure/blockage of the drainage system must be provided;
- k. A pump-out system for drainage of surface flows from the basement ramp is permitted for the basement area only and must be designed in accordance with the following criteria:
 - 1. Comply with all relevant Australian Standards;
 - 2. An overflow, flashing light and audible alarm is to be provided to warn of pump failure;
 - 3. A maintenance regime for the pump system must be provided, including provision for regular maintenance and servicing at least every 6 months;
 - 4. The proposed pump system must consist of two (2) pumps, connected in parallel, with each pump being capable of emptying the holding tank at a rate equal to the rate of inflow for the one-hour duration, 100-year Average Recurrence Interval (ARI) storm event. The holding tank must be capable of holding one hour's runoff from one-hour duration 20-year ARI storm event;
 - 5. Where OSD facilities are required by this consent, the pump system must be discharged to the OSD storage tank;
- l. Details of external catchments currently draining to the site must be included on the plans. Existing natural overland flows from external catchments may not be blocked or diverted, but must be captured and catered for within the proposed site drainage system. Where necessary an inter-allotment drainage system must be incorporated into the design;
- m. No nuisance or concentration of flows to other properties;
- n. An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets;
- o. Public Domain Civil Plans of the proposed 375mm RRCJ class 4 and associated works are to be provided to Council at STEP1 s138 approval stage.

- p. All redundant pipelines within footpath area must be removed and footpath/kerb reinstated;
- q. Stormwater quality improvement devices must be installed such that stormwater flows leaving the site meet the following environmental targets:

Pollutant	Baseline Pollution (kg/ha/yr)	Annual Load	Retention Criteria
Gross Pollutants, including trash, litter and vegetation matter greater than 5mm	500		90% reduction of average annual load
Total Suspended solids, including sediment and other fine material less than 5mm	900		85% reduction of average annual load
Total Phosphorous	2		65% reduction of average annual load
Total Nitrogen	15		45% reduction of average annual load
Hydrocarbons (Oil and Grease)			90% reduction of average annual load – no visible discharge
Toxicants			100% containment of toxicants

- r. A WSUD Strategy Report must be provided to ensure the treatment measures proposed to meet Council’s water quality targets. For sites with a GFA greater than 2000sqm a MUSIC model (including .sqz file) must be included with the report;
- s. A detailed WSUD maintenance plan outlining how all elements of the water quality treatment facility will be maintained and to record annual inspections/maintenance works to be undertaken.
- t. Dry-weather flows of any seepage water including seepage from landscaped areas will not be permitted through kerb outlets and must be connected directly to a Council stormwater system. Alternatively, the basement must be fully “tanked” so as not to allow the ingress of seepage or groundwater.
- u. No impact to street tree(s).

32. Structural and Geotechnical Report

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with an integrated structural and geotechnical report and structural plans that address the design of the proposed basement, prepared certified as compliant with the terms of this condition by a qualified practicing Structural and Geotechnical Engineer(s) who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng). The report and plans must be prepared/ amended to make provision for the following:

- a. The basement must be fully tanked to prevent the ingress of subsurface flows;
- b. Retaining walls must be entirely self-supporting in the event that excavation is undertaken within the road reserve adjacent to the property boundary to the depth of the proposed structure;
- c. Any existing or proposed retaining walls that provide support to the road reserve must be adequate to withstand the loadings that could be reasonably expected from within the constructed road and footpath area, including normal traffic and heavy construction and earth moving equipment, based on a design life of not less than 50 years;
- d. All components of the basement, including footings, must be located entirely within the property boundary;
- e. No adverse impact on surrounding properties including Council's footpath and road;
- f. The existing subsurface flow regime in the vicinity of the development must not be significantly altered as a result of the development;
- g. Recommendations regarding the method of excavation and construction, vibration emissions and identifying risks to existing structures or those on adjoining or nearby property; and
- h. Provide relevant geotechnical/ subsurface conditions of the site, as determined by a full geotechnical investigation.

33. Waste Collection

Prior to the issue of a Construction Certificate the Certifying Authority must be provided with plans including swept paths prepared by a suitably qualified Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) that demonstrate that waste collection can be collected on-site by a Council Standard Resource Recovery Vehicle entering and exiting in a forward direction. Council Resource Recovery Vehicle Specifications are as follows:

Dimension	Measurement
Length:	9.4 metres
Width:	2.5 metres
Height (travel):	4.5 metres

Weight (loaded):	26 tonnes
Turning Circle:	26 metres

34. Public Domain Works – Prior to Construction Certificate

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a public domain works design, prepared by a qualified practising Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) and evidence that the works on the Road Reserve have been approved by Council under Section 138 of the *Roads Act 1993* incorporating the following requirements:

- a. The public domain along all frontages of the site inclusive of footpath paving, kerb, street trees, must be reconstructed and upgraded in accordance with the Street Tree Master plan and the Public Domain Design Guide or scheme;
- b. The construction of heavy/industrial duty vehicular crossings to all vehicular access locations and removal of all redundant vehicular crossings to the site;
- c. New concrete/asphalt footpath and kerb and gutter along the frontage of the site. The kerb type (concrete or stone) must be consistent with the majority of kerb type at this location as determine by the Council Engineer;
- d. Cross sections are to be provided at the boundary at a minimum distance of every 5m and at all pedestrian and vehicular access locations. Note, the cross fall of the footpath must be set at 2.5%. These sections will set the alignment levels at the boundary.
- e. The existing Council drainage system from Sydenham Road must be extended by 375mm diameter Class 4 CRRJ to the frontage of the site, where a kerb inlet pit (minimum 3m lintel) must be installed;
- f. The pipeline must be designed to have the capacity to convey flows that would be collected at that section of street as generated by a 20 year Average Recurrence Interval storm event. Pipes must be Class 4 Steel Reinforced Concrete Pipe or approved equivalent and Pits must be cast in-situ. Plans, long sections and details must be provided including location of utility services;

All works must be completed prior to the issue of an Occupation Certificate.

35. Parking Facilities – Major (including basement)

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans certified by a suitably qualified Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) demonstrating that the design of the vehicular access, off-street parking facilities and associated vehicle standing areas comply with Australian Standard AS/NZS 2890.1-2004 Parking Facilities: Off-street car parking, Australian Standard AS 2890.2-2018 Parking Facilities: Commercial vehicle facilities,

AS/NZS 2890.3-2015 Parking facilities: Bicycle Parking, AS/NZS 2890.6-2009 Parking facilities: Off-street parking for people with disabilities and the following specific requirements:

- a. A minimum of 2200mm headroom must be provided throughout the access and parking facilities for light vehicles. Note that the headroom must be measured at the lowest projection from the ceiling, such as lighting fixtures, and to open garage doors;
- b. Headroom at a 'sag' type grade change must be measured in accordance with Figure 5.3 of AS/NZS 2890.1-2004;
- c. Minimum headroom of 2500mm must be provided above any disabled parking space(s);
- d. The longitudinal profile of the access and any ramps within the parking facilities must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004 for a B99 design vehicle. Longitudinal sections must be provided along each outer edge of all ramps;
- e. Longitudinal sections must be provided along both sides of the vehicular access ramp(s) and throughout the path of travel for a MRV/Council waste vehicle utilising the loading bay. The sections must demonstrate that minimum headroom of 4500mm is provided;
- f. The layout and minimum dimensions of any standing area comply with clause 2.4 of AS/NZS 2890.1-2004 such that:
 - i. Car spaces adjacent to walls or fences are increased in width by an additional 300mm;
 - ii. End spaces are provided with an additional 1m aisle extension; and
 - iii. The location of columns within the carpark complies with figure 5.1 of AS/NZS 2890.1-2004.
- g. At the property boundary the access from the road to a standing area is (as near as practicable) perpendicular to the line of the adjacent road;
- h. The relative surface levels of the internal access from the road being controlled so that:
 - i. The surface levels at the property boundary match "alignment levels" (to be provided with the public domain plans);
 - ii. The change in grade for any 2m length of access way does not exceed 1 in 8 (12.5%) unless suitable transitions are provided in accordance with AS2890.1;
 - iii. The maximum grade at any point does not exceed 1 in 5 (20%) or in the case of ramps greater than 20m in length 1 in 6 (16.7%); and
 - iv. The maximum grade at the property boundary does not exceed 1 in 20 (5%) within 6m of the property boundary.
- i. The vehicle egress is designed such that there are no obstructions to lines of sight, along with the footpath and the roadway for drivers of egressing vehicles;
- j. The curved section of the ramp is designed in accordance with AS/NZS 2890.1-2004 with grades measured along the inside radius; and
- k. All loading docks and parking bays are designed such that all vehicular movements to and from the proposed development are in a forward direction.

36. Driveway Long Section

The vehicular crossing and driveway ramp to the site shall be designed to satisfy the ground clearance template (Figure C1) from AS/NZS 2890.1-2004 Parking Facilities: Off-street car parking. A long section, along both sides of the proposed vehicular crossing and ramp, drawn at a 1:20 or 1:25 natural scale, shall be submitted to and approved by Council before the issue of a Construction Certificate. The long section shall begin from the centreline of the adjacent road to a minimum of 3 metres into the property. The long section approved by Council shall define the Alignment Levels at the property boundary. The long section shall show both existing surface levels and proposed surface levels with changes.

37. Dilapidation Report – Pre-Development – Minor

Prior to the issue of a Construction Certificate or any demolition, the Certifying Authority must be provided with a dilapidation report including colour photos showing the existing condition of the footpath kerb & gutter and roadway adjacent to the site both sides of Farr Street and Mitchell Street (last 20m).

38. Bin Storage Area - Residential

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a report detailing the ongoing waste generation requirements of the development and demonstrate that the bin storage area is to be provided within the site that will fully accommodate the number of bins required for all waste generated by a development of this type and scale. The number of bins required must be calculated based on a weekly collection of garbage, and a fortnightly collection of recycling.

The area must also include 50% allowance for manoeuvring of bins. The bin storage area is to be located away from habitable rooms, windows, doors and private useable open space, and to minimise potential impacts on neighbours in terms of aesthetics, noise and odour.

The bin storage area is to meet the design requirements detailed in the Marrickville DCP 2011 and must include doorways/entrance points of 1200mm.

39. Bulky Waste Storage Area – Residential

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans demonstrating that the bulky waste storage area meets the floor area requirements as per the Marrickville DCP 2011 and have minimum doorways of 1200mm wide to accommodate large items.

40. Waste Transfer Route

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a plan demonstrating that the path of travel between the bin storage area/bulky waste storage area and the designated waste/recycling collection point is has a minimum 1200mm wall-to-wall clearance, be slip-proof, of a hard surface, be free of obstructions and at no point have a gradient exceeding 1:40 for 660L bins or 1:14 for 240L bins.

If the path of transfer exceeds this gradient, a bin tug, suited to the inclination, and which meets Australian Standards in Health, Safety, Environment and Quality is to be used to move waste and recycling bins, or bulky household waste, from the basement to ground level.

41. Each Residential Dwelling is to have Access to a Disposal Point for All Waste Streams

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a plan demonstrating that the disposal point is to be within 30m of the dwelling access (distance covered by lifts excluded). Any bins stored on residential floors are to have the capacity to store, at minimum, all waste generated by that floor over a 24 hour period.

42. Enclosure of Fire Hydrant

Prior to the issue of a Construction Certificate, the Certifying Authority is to be provided with plans indicating that all fire hydrant and sprinkler booster valves and the like are enclosed in accordance with the requirements of AS 2419.1 2005.

43. Sydney Water – Tap In

Prior to the issue of a Construction Certificate, the Certifying Authority is required to ensure approval has been granted through Sydney Water's online 'Tap In' program to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met.

Note: Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm> for details on the process or telephone 13 20 92

44. Fibre-ready Facilities

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with evidence that arrangements have been made for:

- a. The installation of fibre-ready facilities to all individual lots and/or premises the development so as to enable fibre to be readily connected to any premises that is being

or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose.

- b. The provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises the development demonstrated through an agreement with a carrier.

45. Consolidation of Lots

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with evidence that the separate lots comprising the development have been consolidated into one lot and under one title and registered at NSW Land Registry Services.

If there are any changes to the number of occupancies including any additional occupancies created, a street numbering application must be lodged and approved by Council's GIS team before any street number is displayed. Link to [Street Numbering Application](#)

46. Concealment of Plumbing and Ductwork

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans detailing the method of concealment of all plumbing and ductwork (excluding stormwater downpipes) within the outer walls of the building so they are not visible.

47. Loading Dock Management Plan

Prior to the issue of a Construction Certificate, the Certifying Authority is to be provided with a loading dock management plan which include hours of operation, delivery scheduling, management of booking requests, and restrictions of use for storage of bins in the holding area.

48. Lighting Strategy

Prior to the issue of a Construction Certificate, the Certifying Authority is to be provided with a safe lighting strategy along the publicly accessible through site link.

The lighting strategy must include details on pedestrian lighting (Category P3-AS1158) and is to be maintained and owned by the property owner(s). The lighting must be not be obtrusive and should be designed so that it does not shine into any adjoining residences.

DURING DEMOLITION AND CONSTRUCTION

49. Contamination – New Evidence

Any new information revealed during demolition, remediation or construction works that have the potential to alter previous conclusions about site contamination must be immediately notified to the Council and the Certifying Authority.

50. Imported Fill Materials

All imported fill on the site shall be validated as Virgin Excavated Natural Material (VENM) or Excavated Natural Material (ENM), in accordance with NSW Environment Protection Authority guidelines, 'Consultants Reporting on Contaminated Sites' (August 2011) to ensure the imported fill is suitable for the proposed land use.

All fill imported onto the site shall be validated by either one or both of the following methods:

- a. Imported fill be accompanied by documentation from the supplier which certifies that the material is not contaminated based upon analyses of the material for the known past history of the site where the material is obtained; and/or
- b. Sampling and analysis of the fill material be conducted in accordance with NSW Environment Protection Authority's Sampling Design Guidelines (September 1995).

51. Inspections by Project Arborist

The trees to be retained must be inspected, monitored and treated by the Project Arborist during and after completion of development works to ensure their long-term survival. Regular inspections and documentation from the Project Arborist to the Certifying Authority are required at the following times or phases of work:

Tree No.	Time of Inspection	Key stage/ Hold point
Trees numbered 3 - 20 in the Arborist Report prepared by Dr Treegood dated June 2022	Prior to commencement of works	<ul style="list-style-type: none"> • Inspection and sign off installation of tree protection measures.

	During Works	<ul style="list-style-type: none"> • Supervise all site preparation and demolition works within the TPZ; • Supervise all works inside or above the TPZ; • Supervise all excavation, trenching works, landscaping works and tree/planting replenishment within the TPZ; • Supervise all tree work.
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Recommendations to ensure the tree/s long term survival must be carried out immediately upon receipt of the report.

52. Limited Root Pruning

No tree roots of 30mm or greater in diameter located within the specified radius of the trunk/s of the following tree/s must be severed or injured in the process of any works during the construction period:

Tree No.	Species Name	Radius in metres
3	Populus nigra 'italica'	3.6m
4	Populus nigra 'italica'	5.4m
5	Olea europea	4.8m
6	Populus nigra 'italica'	3.6m
7	Populus nigra 'italica'	4.2m
8	Celtis sinensis	2m
9	Eucalyptus spp.	2m

10	Celtis sinensis	2m
11	Populus nigra 'italica'	4.2m
12	Populus nigra 'italica'	6m
13	Celtis sinensis	2m
14	Eucalyptus spp.	2m
15	Eucalyptus spp.	5.4m
16	Celtis sinensis	3.6m
17	Cinnamomum camphora	4.8m
18	Populus nigra 'italica'	2.4m
19	Eucalyptus spp.	4.8m
20	Eucalyptus spp.	6.2m

NOTE: Reference shall be made to the Arborist Report prepared by Dr Treegood dated June 2022 for tree numbering and locations.

All excavation within the specified radius of the trunk(s) of the above tree(s) being hand dug using either pneumatic or hydraulic tools only (e.g. *Airspade*® or hydro excavation to a depth of one (1) metre under direct supervision of the Project Arborist and then by mechanical means as agreed by the Project Arborist. If tree roots less than 30mm diameter are required to be severed for the purposes of constructing the approved works, they must be cut cleanly using a sharp and *fit for purpose tool*. The pruning must be undertaken by a practicing Arborist.

53. Documentation of Demolition and Construction Waste

All waste dockets from the recycling and/or disposal of any demolition and construction waste generated from the works must be retained on site.

54. Construction Hours – Class 2-9

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

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

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

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

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

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

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

The person acting on this consent must not undertake such activities for more than three continuous hours and must provide a minimum of one 2 hour respite period between any two periods of such works.

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

55. Survey Prior to Footings

Upon excavation of the footings and before the pouring of the concrete, the Certifying Authority must be provided with a certificate of survey from a registered land surveyor to verify that the structure will not encroach over the allotment boundaries.

PRIOR TO OCCUPATION CERTIFICATE

56. Underground Petroleum Storage System (UPSS) – Decommissioning – Validation

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with a validation report prepared by a suitably qualified and experienced person. The report is to confirm that the underground petroleum storage system has been removed, replaced or decommissioned in accordance with the *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008*, the *Protection Environment Operations Act 1997* and Australian Standard AS4976-2008: The removal and disposal of underground petroleum storage tanks.

57. Noise From Road, Rail & Aircraft – Compliance

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with an acoustic report prepared by suitably qualified acoustic consultant, confirming that the development complies with the requirements of the:

- a. *State Environmental Planning Policy (Infrastructure) 2007*;
- b. NSW Planning, Development near Rail Corridors and Busy Roads – Interim Guideline;
- c. Australian Standard 2021-2000: Acoustics - Aircraft noise intrusion - Building siting and construction;
- d. conditions of development consent; and
- e. Recommendations of acoustic report prepared by Renzo Tonin & Associates, reference TM756-01F02 Aircraft Noise Information Report (r1) dated 15 August 2022

58. Contamination – Disposal of Soil

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with a validation report confirming that all off site disposal of soil has been classified, removed and disposed of in accordance with the NSW DECC Waste Classification Guidelines, Part 1: Classifying Waste (EPA 2014), Protection of the Environment Operations (Waste) Regulation 2014 and the *Protection of the Environment Operations Act 1997*.

59. Contamination – Validation (No Site Audit Statement Required)

Prior to the issue of an Occupation Certificate, the Principal Certifier and Council must be provided with a Site Validation Report prepared by a suitably qualified environmental consultant with experience in land contamination.

The Validation report must be prepared in accordance with relevant NSW Environment Protection Authority guidelines, including the guidelines *Consultants Reporting on Contaminated Sites* and must confirm that the site has been remediated in accordance with the Remedial Action Plan and clearly state that the site is suitable for the proposed use.

60. Noise – Acoustic Report

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with an acoustic report prepared by suitably qualified acoustic consultant which demonstrates and certifies that noise and vibration emissions from the development comply with the relevant provisions of the *Protection of the Environment Operations Act 1997* and conditions of Council's approval, including any recommendations of the acoustic report referenced in the conditions of the approval. The acoustic report is to be prepared by a suitably qualified and experienced acoustic consultant and any recommendations must be consistent with the approved plans.

61. Project Arborist Certification

Prior to the issue of any Occupation Certificate, the Principal Certifier is to be provided with certification from the project arborist the requirements of the conditions of consent related to the landscape plan and the role of the project arborist have been complied with.

62. Public Domain Works

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with written evidence from Council that the following works on the Road Reserve have been completed in accordance with the requirements of the approval under Section 138 of the *Roads Act 1993* including:

- a. Heavy duty concrete vehicle crossing(s) at the vehicular access location(s);
- b. The redundant vehicular crossing to the site must be removed and replaced by kerb and gutter and footpath. Where the kerb in the vicinity of the redundant crossing is predominately stone (as determined by Council's Engineer) the replacement kerb must also be in stone;
- c. Footpath reconstruction for the full frontage of the site;
- d. The existing Council drainage system from Sydenham Road must be extended by 375mm diameter Class 4 CRRJ to the frontage of the site, where a kerb inlet pit (minimum 3m lintel) must be installed; and
- e. Other works subject to the *Roads Act 1993* approval.

All works must be constructed in accordance with Council's standards and specifications and AUS-SPEC#2-"Roadworks Specifications".

63. No Encroachments

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any encroachments on to Council road or footpath resulting from the building works have been removed, including opening doors, gates and garage doors with the exception of any awnings or balconies approved by Council.

64. Undergrounding Power – Major development

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that the existing overhead power cables along the Farr Street frontage of the site have been relocated underground with appropriate street lighting and new steel standard poles. The street lighting must be designed in accordance with Australian Standard AS1158-Road Lighting and the Network Standards of Ausgrid and must meet the lighting category required by Council and RMS. In addition the design must also comply with AS4282 to ensure that no injury is caused to the amenity of the surrounding area by light overspill or obtrusive light.

65. Parking Signoff – Major Development

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with certification from a qualified practising Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) that the vehicle access and off street parking facilities have been constructed in accordance with the development consent and relevant Australian Standards and the following has been implemented within the property.

- a. The car park has been completed, line marked and all signage relating to car parking erected;
- b. A notice has been clearly displayed at the Farr Street frontage to indicate that visitor parking is available within the property;

66. Public Domain - Major Developments

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with the works-as-executed plan(s), certified by a Registered Surveyor, that show the as built details in comparison to those shown on the plans approved with the public domain and Roadworks Permit with all relevant levels and details indicated must be marked in red on a copy of the Council stamped plans.

67. Dilapidation Report – Post-Development

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with a second Dilapidation Report addressing the public infrastructure identified in approved predevelopment dilapidation report, including a photographic survey, structural condition and CCTV inspections which was compiled after the completion of works. As the report details public infrastructure, a copy is to be furnished to Council at the same time.

68. Stormwater Drainage and Road Works – Certification

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with Certification by a qualified Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) that:

- a. All works required to be undertaken on public roads must be designed and constructed in accordance with Council's approved plans;
- b. Video inspection (CCTV) of the newly constructed 375mm diameter RRJ pipe from Victoria Road to frontage in Farr Street is to be provided in accordance with WSA 05-2013 Conduit Inspection Reporting Code of Australia has been carried out of

completed stormwater drainage works that are to revert to Council by an accredited operator;

- c. Full works-as-executed plans in PDF and CAD format (dwg or dxf files), prepared and signed by a Registered Surveyor have been submitted to Council; and
- d. Certification by a Registered Surveyor that the as-built Council Stormwater pipeline is located totally within the drainage easement.

69. Works as Executed – Site Stormwater Drainage System

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with Certification by a suitably qualified Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) that:

- a. The stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards; and
- b. Works-as-executed plans of the stormwater drainage system certified by a Registered Surveyor, to verify that the drainage system has been constructed, OSD/OSR system commissioned and stormwater quality improvement device(s) and any pump(s) installed in accordance with the approved design and relevant Australian Standards have been submitted to Council. The works-as-executed plan(s) must show the as built details in comparison to those shown on the drainage plans approved with the Construction Certificate. All relevant levels and details indicated must be marked in red on a copy of the Principal Certifier stamped Construction Certificate plans.

70. Operation and Management Plan

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with an Operation and Management Plan has been prepared and implemented for the on-site detention and/or on-site retention/re-use facilities and stormwater quality improvement device(s) and pump(s). The Plan must set out the following at a minimum:

- a. The proposed maintenance regime, specifying that the system is to be regularly inspected and checked by qualified practitioners; and
- b. The proposed method of management of the facility, including procedures, safety protection systems, emergency response plan in the event of mechanical failure, etc.

71. Easements, Restrictions on the Use of Land and Positive Covenants

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with evidence that Easements, Restrictions on the Use of Land and Positive Covenants under Section 88B or 88E, whichever is relevant to the subject development, of the *Conveyancing Act 1919*, has been created on the title of the property detailing the following :

- a. A public right of way along the through site link from Farr Street to Mitchell Street;
- b. Restrictions on the Use of Land related to on Site Stormwater Detention System or stormwater quality improvement devices;
- c. Positive Covenant related to on-site stormwater detention and/or retention system;
- d. Positive Covenant related to stormwater quality improvement devices; and
- e. Positive Covenant related Maintenance of the Public Right of Way through site link including lighting thereof.

The wording in the Instrument must be in accordance with Councils Standard wording.

72. Basement/Retaining Wall Signoff – Major Development

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must be provided with certification from a suitably experienced structural and geotechnical engineer, who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng), that the basement and driveway has been constructed in accordance with the development consent and relevant Australian Standards and that the basement is fully tanked construction such that pump-out of subsurface flows is not required.

73. Heavy Duty Vehicle Crossing

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that heavy duty concrete vehicle crossing/s, in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" has been constructed at the vehicular access locations.

74. Redundant Vehicle Crossing

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that all redundant vehicular crossings to the site have been removed and replaced by kerb and gutter and footpath paving in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications". Where the kerb in the vicinity of the redundant crossing is predominantly stone the replacement kerb must also be in stone.

75. Smoke Alarms - Certification of upgrade to NCC requirements

Prior to the issue of any Occupation Certificate, the Principal Certifier is required to be satisfied the existing building has been upgraded to comply with the provisions of the National Construction Code (Building Code of Australia) in relation to smoke alarm systems.

76. Section 73 Certificate

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with a Section 73 Certificate under the *Sydney Water Act 1994*.

ON-GOING**77. Noise General**

The proposed use of the premises and the operation of all plant and equipment must not give rise to an 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997* and Regulations, NSW EPA Noise Policy for Industry and NSW EPA Noise Guide for Local Government.

78. Operation and Management Plan

The Operation and Management Plan for the on-site detention and/or on-site retention/re-use and/or stormwater quality improvement devices, approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times.

79. Vehicles Leaving the Site

All vehicles must enter and exit the site in a forward direction.

80. Loading/unloading on site

All loading and unloading are to be conducted within the site at all times. Any designated loading bay/dock area is to remain available for loading/unloading purposes at all times. No storage of goods or parking of cars is to be carried out in these areas.

81. Bin Storage

All bins are to be stored within the site.

ADVISORY NOTES**Mechanical Ventilation System Certification**

The mechanical ventilation systems are to be designed, constructed and operated in accordance with the following:

- a. Australian Standard AS 1668 Part 1 – 1998;
- b. Australian Standard AS 1668 Part 2 – 2012.

The system must be located in accordance with the approved plans and/or within the building envelope, design and form of the approved building. Any modifications to the approved plans required to house the system must be the subject of further approval from Council.

Underground Petroleum Storage System (UPSS) – Decommissioning

The removal, replacing or decommissioning of an underground petroleum storage system must comply with the requirements of the *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019*, the *Protection of the Environment Operations Act 1997* and Australian Standard AS4976-2008: The removal and disposal of underground petroleum storage tanks.

Asbestos Removal

A demolition or asbestos removal contractor licensed under the Work Health and Safety Regulations 2011 must undertake removal of more than 10m² of bonded asbestos (or otherwise specified by WorkCover or relevant legislation).

Removal of friable asbestos material must only be undertaken by a contractor that holds a current Class A Friable Asbestos Removal Licence.

Demolition sites that involve the removal of asbestos must display a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm is to be erected in a prominent visible position on the site to the satisfaction of Council's officers. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos has been removed from the site to an approved waste facility.

All asbestos waste must be stored, transported and disposed of in compliance with the Protection of the Environment Operations (Waste) Regulation 2014. All receipts detailing method and location of disposal must be submitted to Council as evidence of correct disposal.

Electrical Substations

Should the proposed development require the provision of an electrical substation, such associated infrastructure must be incorporated wholly within the development site and may be the subject of an application for modification of consent.

Permits

Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent must obtain all applicable Permits from Council in

accordance with Section 68 (Approvals) of the *Local Government Act 1993* and/or Section 138 of the *Roads Act 1993*. Permits are required for the following activities:

- a. Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application;
- b. A concrete pump across the roadway/footpath;
- c. Mobile crane or any standing plant;
- d. Skip Bins;
- e. Scaffolding/Hoardings (fencing on public land);
- f. Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.;
- g. Awning or street veranda over the footpath;
- h. Partial or full road closure; and
- i. Installation or replacement of private stormwater drain, utility service or water supply.

If required contact Council's Road Access team to ensure the correct Permit applications are made for the various activities. Applications for such Permits must be submitted and approved by Council prior to the commencement of the works associated with such activity.

Easement and Covenant Process

The following documents must be submitted to Council as part of the Easement and Covenant process and requirements, for the site on-site detention/on-site retention/reuse facilities (OSD/OSR) and stormwater quality improvement devices (SQIDS):

- a. **Work-As-Executed Plans**

A "Work-as-Executed" plan prepared and signed by a Registered Surveyor must be submitted to the Council's Development Assessment Engineer at the completion of the works showing the location of the detention basin and SQIDS with finished surface levels, contours at 0.2-metre intervals and volume of storage available. Also, the outlet pipe from the detention basin to its connection to the Council's drainage system must be shown together with the following information: location; pipe diameter; gradient; pipe material, i.e. PVC or RCP etc.; pits sizes; orifice size; trash screen at orifice; emergency overflow dimensions and RL; all buildings (including floor levels) and finished ground and pavement surface levels and full details of SQIDS.

- b. **Engineer's Certificate**

A qualified practising Civil Engineer must certify on the completion of drainage works in respect of:

- c. The soundness of the storage structure;

- d. The capacity of the detention storage;
 - e. The emergency overflow system being in place;
 - f. The works being constructed in accordance with the Development Application Consent and Council's Stormwater Management DCP/Code;
 - g. OSR pumps and SQIDS have been installed and commissioned.
- c. Restriction-As-To-User
- A "Restriction-as-to-User" must be placed on the title of the subject property to indicate the location and dimensions of the detention area and stormwater quality improvement device(s) (SQIDS). This is to ensure that works, which could affect the function of the stormwater detention system and SQIDS, must not be carried out without the prior consent in writing of the Council.
- Such restrictions must not be released, varied or modified without the consent of the Council.
- d. A Maintenance Schedule.

Insurances

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

Public Domain and Vehicular Crossings

The vehicular crossing and/or footpath works are required to be constructed by your contractor. You or your contractor must complete an application for *Design of Vehicle Crossing and Public Domain Works – Step 1* form and *Construction of Vehicle Crossing and Public Domain Works – Step 2* form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, before commencement of works.

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

Any damage caused during construction to Council assets on the road reserve or on Council or Crown land must be repaired at no cost to Council.

Any driveway crossovers or other works within the road reserve must be provided at no cost to Council.

No consent is given or implied for any Encroachments onto Council's road or footpath of any service pipes, sewer vents, boundary traps, downpipes, gutters, eaves, awnings, stairs, doors, gates, garage tilt up panel doors or any structure whatsoever, including when open.

Rock Anchors

If you are seeking to use temporary anchors, you must make a request for approval for a Permit under Section 138 of the Roads Act 1993. The submission would need to be supported by an engineering report prepared by a suitably qualified Structural Engineer, with supporting details addressing the following issues:

- a. Demonstrate that any structures within the road reserve are of adequate depth to ensure no adverse impact on existing or potential future service utilities in the road reserve. All existing services must be shown on a plan and included on cross-sectional details where appropriate.
- b. Demonstrate how the temporary anchors will be removed or immobilised and replaced by full support from structures within the subject site by completion of the works.
- c. The report must be supported by suitable geotechnical investigations to the efficacy of all design assumptions.

Notice to Council to deliver Residential Bins

Council should be notified of bin requirements three months prior to the occupation of the building to ensure timely delivery of 660L bins. For the ordering of 240L bins, a 5-10 day delivery should be factored in.

Council will place an order for the required bins. Delivery will occur once the applicant has completed a Request for New Service, and a site visit has been concluded.

Recycling / Garbage / Organics Service Information and Education

The building manager / strata title manager or body corporate is responsible for ensuring all tenants are kept informed regarding Council's services, and best practice waste and recycling source separation.

Ausgrid Underground Cables are in the vicinity of the development

Special care should be taken to ensure that driveways and any other construction activities do not interfere with existing underground cables located in the footpath or adjacent roadways. It is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area. Information regarding the position of cables along footpaths and roadways can be obtained by contacting Dial Before You Dig (DBYD). In addition to DBYD the proponent should refer to the following documents to support safety in design and construction:

- SafeWork Australia – Excavation Code of Practice.
- Ausgrid's Network Standard NS156 which outlines the minimum requirements for working around Ausgrid's underground cables.

The following points should also be taken into consideration.

- Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed.
- Should ground anchors be required in the vicinity of Ausgrid underground cables, the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable.

Ausgrid Overhead Powerlines are in the vicinity of the development

The developer should refer to SafeWork NSW Document – Work Near Overhead Powerlines: Code of Practice. This document outlines the minimum separation requirements between electrical mains (overhead wires) and structures within the development site throughout the construction process. It is a statutory requirement that these distances be maintained throughout the construction phase.

Consideration should be given to the positioning and operating of cranes, scaffolding, and sufficient clearances from all types of vehicles that are expected be entering and leaving the site.

The "as constructed" minimum clearances to the mains must also be maintained. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid's website at www.ausgrid.com.au.

It is the responsibility of the developer to verify and maintain minimum clearances onsite. In the event where minimum safe clearances are not able to be met due to the design of the development, the Ausgrid mains may need to be relocated in this instance. Any Ausgrid asset relocation works will be at the developer's cost.

Additional information can be found in the Ausgrid Quick Reference Guide for Safety Clearances "Working Near Ausgrid Assets - Clearances". This document can be found by visiting the following Ausgrid website: www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries

For new connections or to alter the existing electrical connection to the property from the Ausgrid network, the proponent should engage an Accredited Service Provider and submit a

connection application to Ausgrid as soon as practicable. Visit the Ausgrid website for further details: <https://www.ausgrid.com.au/Connections/Get-connected>

Prescribed Conditions

This consent is subject to the prescribed conditions of consent within Sections 69-86 of the *Environmental Planning and Assessment Regulations 2021*.

Notification of commencement of works

At least 7 days before any demolition work commences:

- a. The Council must be notified of the following particulars:
 - i. the name, address, telephone contact details and licence number of the person responsible for carrying out the work; and
 - ii. the date the work is due to commence and the expected completion date; and
- b. A written notice must be placed in the letter box of each directly adjoining property identified advising of the date the work is due to commence.

Storage of Materials on public property

The placing of any materials on Council's footpath or roadway is prohibited, without the prior consent of Council.

Toilet Facilities

The following facilities must be provided on the site:

- a. Toilet facilities in accordance with WorkCover NSW requirements, at a ratio of one toilet per every 20 employees; and
- b. A garbage receptacle for food scraps and papers, with a tight fitting lid.

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

Infrastructure

The developer must liaise with the Sydney Water Corporation, Ausgrid, AGL and Telstra concerning the provision of water and sewerage, electricity, natural gas and telephones respectively to the property. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development must be undertaken before occupation of the site.

Other Approvals may be needed

Approvals under other acts and regulations may be required to carry out the development. It is the responsibility of property owners to ensure that they comply with all relevant legislation. Council takes no responsibility for informing applicants of any separate approvals required.

Failure to comply with conditions

Failure to comply with the relevant provisions of *the Environmental Planning and Assessment Act 1979* and/or the conditions of this consent may result in the serving of penalty notices or legal action.

Other works

Works or activities other than those approved by this Development Consent will require the submission of a new Development Application or an application to modify the consent under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

Obtaining Relevant Certification

This development consent does not remove the need to obtain any other statutory consent or approval necessary under any other Act, such as (if necessary):

- a. Application for any activity under that Act, including any erection of a hoarding;
- b. Application for a Construction Certificate under the *Environmental Planning and Assessment Act 1979*;
- c. Application for an Occupation Certificate under the *Environmental Planning and Assessment Act 1979*;
- d. Application for a Subdivision Certificate under the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed;
- e. Application for Strata Title Subdivision if strata title subdivision of the development is proposed;
- f. Development Application for demolition if demolition is not approved by this consent;
or
- g. Development Application for subdivision if consent for subdivision is not granted by this consent.

National Construction Code (Building Code of Australia)

A complete assessment of the application under the provisions of the National Construction Code (Building Code of Australia) has not been carried out. All building works approved by this consent must be carried out in accordance with the requirements of the National Construction Code.

Notification of commencement of works

Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the PCA (not being the council) has given the Council written notice of the following information:

- a. In the case of work for which a principal contractor is required to be appointed:
 - i. The name and licence number of the principal contractor; and
 - ii. The name of the insurer by which the work is insured under Part 6 of that Act.

- b. In the case of work to be done by an owner-builder:
 - i. The name of the owner-builder; and
 - ii. If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

Dividing Fences Act

The person acting on this consent must comply with the requirements of the *Dividing Fences Act 1991* in respect to the alterations and additions to the boundary fences.

Permits from Council under Other Acts

Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent must obtain all applicable Permits from Council in accordance with Section 68 (Approvals) of the *Local Government Act 1993* and/or Section 138 of the *Roads Act 1993*. Permits are required for the following activities:

- a. Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application;
- b. A concrete pump across the roadway/footpath;
- c. Mobile crane or any standing plant;
- d. Skip bins;
- e. Scaffolding/Hoardings (fencing on public land);
- f. Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.;
- g. Awning or street verandah over footpath;
- h. Partial or full road closure; and
- i. Installation or replacement of private stormwater drain, utility service or water supply.

Contact Council's Road Access team to ensure the correct Permit applications are made for the various activities. A lease fee is payable for all occupations.

Noise

Noise arising from the works must be controlled in accordance with the requirements of the *Protection of the Environment Operations Act 1997*.

Amenity Impacts General

The use of the premises must not give rise to an environmental health nuisance to the adjoining or nearby premises and environment. There are to be no emissions or discharges from the premises, which will give rise to a public nuisance or result in an offence under the *Protection of the Environment Operations Act 1997* and Regulations. The use of the premises and the operation of plant and equipment must not give rise to the transmission of a vibration nuisance or damage other premises.

Fire Safety Certificate

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

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

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

Construction of Vehicular Crossing

The vehicular crossing and/or footpath works are required to be constructed by your own contractor. You or your contractor must complete an application for *Construction of a Vehicular Crossing & Civil Works* form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, prior to commencement of works.

Lead-based Paint

Buildings built or painted prior to the 1970's may have surfaces coated with lead-based paints. Recent evidence indicates that lead is harmful to people at levels previously thought safe. Children particularly have been found to be susceptible to lead poisoning and cases of acute child lead poisonings in Sydney have been attributed to home renovation activities involving the removal of lead based paints. Precautions should therefore be taken if painted surfaces are to be removed or sanded as part of the proposed building alterations, particularly where

children or pregnant women may be exposed, and work areas should be thoroughly cleaned prior to occupation of the room or building.

Dial before you dig

Contact "Dial Prior to You Dig" prior to commencing any building activity on the site.

Useful Contacts

BASIX Information	1300 650 908 weekdays 2:00pm - 5:00pm	
		www.basix.nsw.gov.au
Department of Fair Trading	13 32 20	
		www.fairtrading.nsw.gov.au
		Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Prior to You Dig	1100	
		www.dialprior toyoudig.com.au
Landcom	9841 8660	
		To purchase copies of Volume One of "Soils and Construction"
Long Service Corporation	Payments 131441	
		www.lspc.nsw.gov.au
NSW Food Authority	1300 552 406	
		www.foodnotify.nsw.gov.au
NSW Government		www.nsw.gov.au/fibro
		www.diySAFE.nsw.gov.au
		Information on asbestos and safe work practices.
NSW Office of Environment and Heritage	131 555	

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

Street Numbering

If there are any changes to the number of occupancies including any additional occupancies created, a street numbering application must be lodged and approved by Council's GIS team before any street number is displayed. Link to [Street Numbering Application](#)

Disability Discrimination Access to Premises Code

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

Attachment B – Plans of proposed development

- LIST OF AMENDMENTS**
1. Amend the site plan to show the proposed development.
 2. Amend the site plan to show the proposed development.
 3. Amend the site plan to show the proposed development.
 4. Amend the site plan to show the proposed development.
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 8. Amend the site plan to show the proposed development.
 9. Amend the site plan to show the proposed development.
 10. Amend the site plan to show the proposed development.

PROJECT INFORMATION

Site Name	44-47 Fair Street, Manlyville
Site Area	1,988.6 m ²
Height Control	20 m
Allowable FSR	2.0:1 (3,977 sqm GFA)
Proposed FSR	2.0:1 (GFA 3,976 sqm)
zoning	R4 - High Density Residential
Site Address	44-47 Fair Street, Manlyville
Site Plan No.	SP/20/1000
Site Plan Date	10/10/2020
Site Plan Ref	SP/20/1000

UNIT MIX

Level	Studio	1 Bed	2 Bed	3 Bed	Total
G/F	0	1	1	3	5
LEVEL 1	0	0	2	3	5
LEVEL 2	0	1	3	4	8
LEVEL 3	0	1	3	4	8
LEVEL 4	0	0	1	2	3
LEVEL 5	0	4	13	20	37
TOTAL	0	11%	55%	54%	100%

CAR PARKING REQUIREMENTS

Residential	Parking Area 2 Rates	No. of Units / Area	Required Min.	Proposed
Studio	0.4	0	0	0
1 Bed	0.5	4	2	2
2 Bed	1.0	13	13	13
3 Bed	1.2	20	24	24
Visitor	0.1 per dwelling	37	39	39
			3.7	4
TOTAL			42.7	43

OTHER PARKING REQUIREMENTS

Residential	1 per 2 dwellings	37	19
Visitor	1 per 10 dwellings	37	3.7
Motorcycle	5% of car parking required	42.7	2.1

OTHER REQUIREMENTS

Requirement	DPF ADD Req	Required	Proposed
Solar Access	70% of total number of apartments	29.9	27
Cross Ventilation	60% of total number of apartments	22	23
Communal Open Space	25% of the site area	497.3	439
Internal Communal Space	1 sqm per unit	37	37
Site Coverage	30% of site area	596.79	1126
Landscape Area	45% of site area	895.2	563
Deep Soil	7% of the site area	139.3	169.6
Liveable Housing	20% Silver level	7.4	7
Adaptable Housing	1 per 5 dwellings	7.4	7

- GENERAL NOTES**
1. The site plan is based on the information provided by the applicant.
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PROJECT SUMMARY

DATE: 10/10/2020 PROJECT NO: 2216

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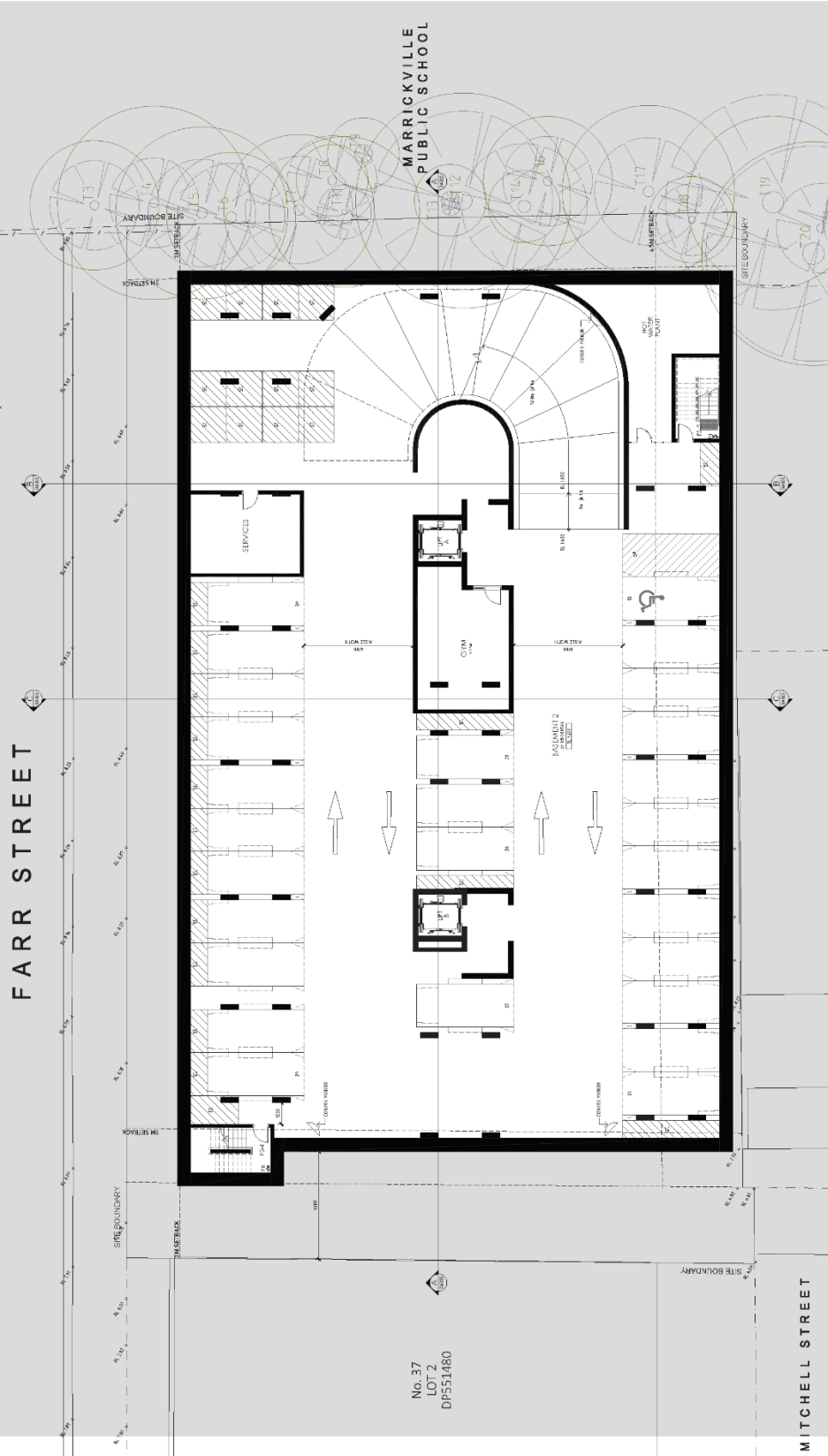
DATE: 10/10/2020 PROJECT NO: 2216

DATE: 10/10/2020 PROJECT NO: 2216

- LIST OF AMENDMENTS**
1. Minor amendments to site plan
 2. Minor amendments to floor plan
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 4. Minor amendments to floor plan
 5. Minor amendments to site plan
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 7. Minor amendments to site plan
 8. Minor amendments to floor plan

NO CHANGES TO THIS DRAWING

- LEGEND**
- 1. EXISTING
 - 2. PROPOSED
 - 3. TO BE DEMOLISHED
 - 4. TO BE RELOCATED
 - 5. TO BE RECONSTRUCTED
 - 6. TO BE REFINISHED
 - 7. TO BE REPAIRED
 - 8. TO BE REPLACED
 - 9. TO BE REMOVED
 - 10. TO BE RESTORED
 - 11. TO BE REWORKED
 - 12. TO BE REUSED
 - 13. TO BE RECYCLED
 - 14. TO BE REFINISHED
 - 15. TO BE REPAIRED
 - 16. TO BE REPLACED
 - 17. TO BE REMOVED
 - 18. TO BE RESTORED
 - 19. TO BE REWORKED
 - 20. TO BE REUSED



PROJECT INFORMATION

PROJECT: RESIDENTIAL FLAT BUILDING
 41 - 47 FARR STREET
 MARRICKVILLE NSW 1510
 Document ID: 3765167
 Version: 2- Version 0168 - 16/05/2023

DATE LOG

DATE	DESCRIPTION	BY
16/05/2023	ISSUE FOR PERMIT APPLICATION	PD
16/05/2023	ISSUE FOR PERMIT APPLICATION	PD
24/05/2023	ISSUE FOR PERMIT APPLICATION	PD

BASEMENT 2 PLAN

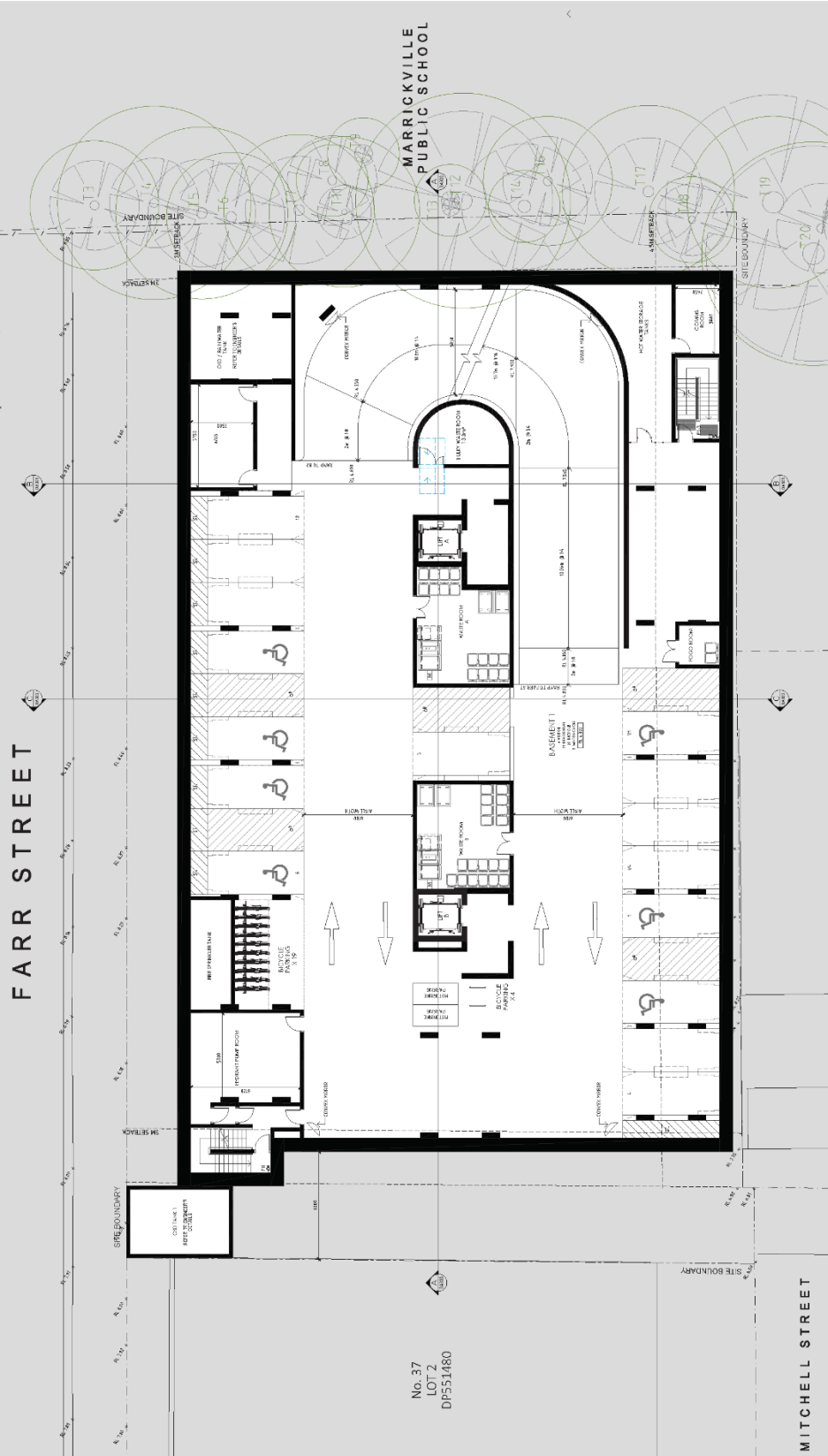
SCALE: AS SHOWN
 DATE: 16/05/2023
 DRAWN BY: PD
 CHECKED BY: PD
 PROJECT NO: 3765167

PBD ARCHITECTS
 P. GIBSON, P. HUGHES
 1/111 FARR STREET, MARRICKVILLE NSW 1510
 PH: (02) 9550 1111
 WWW.PBDARCHITECTS.COM.AU

- LIST OF AMENDMENTS**
1. Minor amendments to site plan
 2. Amend site plan to show proposed changes to the site plan
 3. Amend site plan to show proposed changes to the site plan
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NO CHANGES TO THIS DRAWING

- LEGEND**
- 1. PROPOSED CHANGES TO EXISTING CONDITIONS
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No. 37
LOT 2
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RESIDENTIAL FLAT BUILDING
41 - 47 FARR STREET
MARRICKVILLE NSW (LD 37619167)
Version 2: Version Date: 16/05/2023

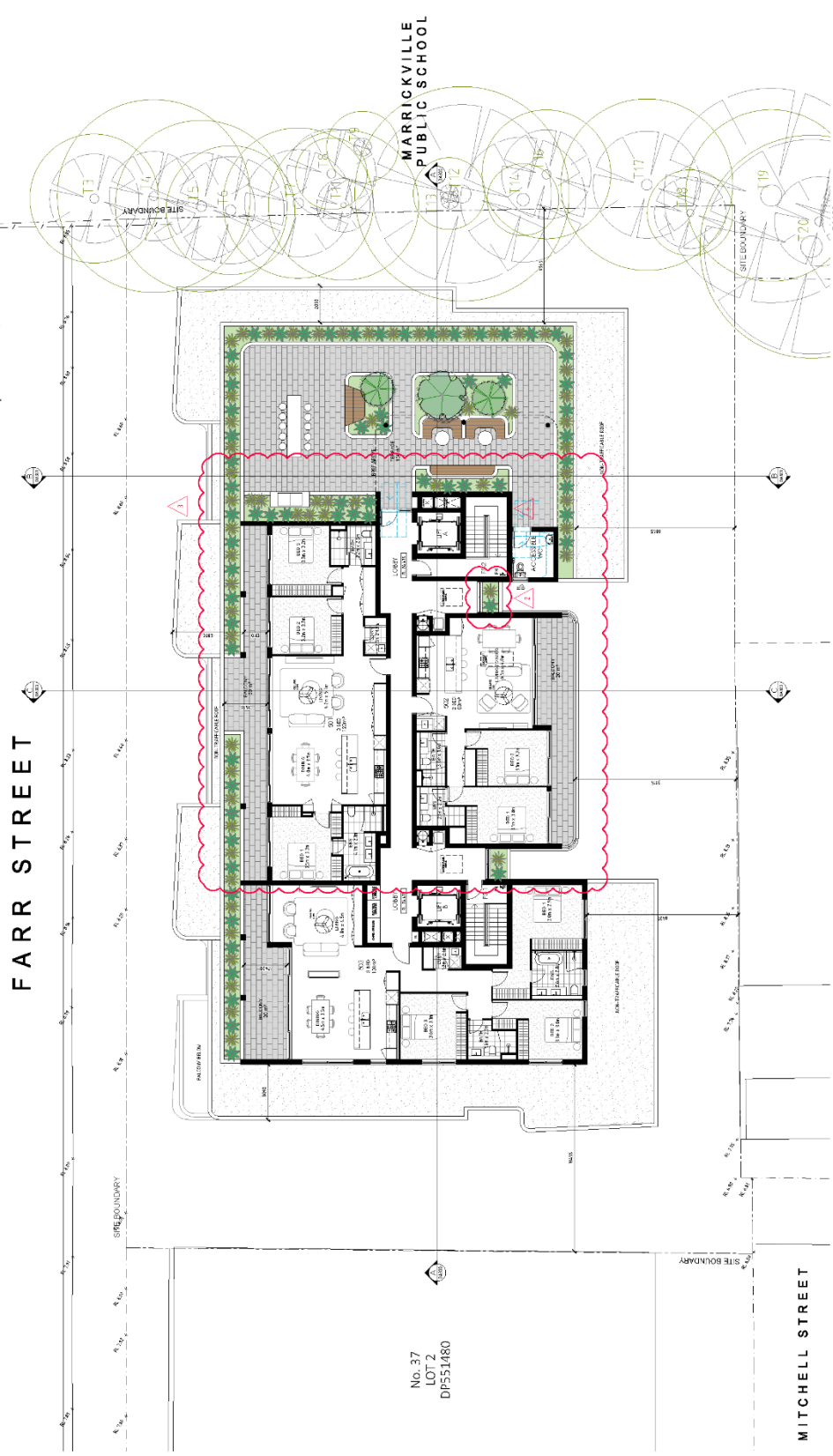
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DATE: 16/05/2023
DRAWN BY: [Name]
CHECKED BY: [Name]
DATE APPROVED: 16/05/2023
APPROVED BY: [Name]

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1/111 FARR STREET, MARRICKVILLE NSW 2116
PH: 02 9550 1111
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- LIST OF AMENDMENTS**
1. Amend the site plan to show the proposed building footprint.
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No. 37
LOT 2
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RESIDENTIAL FLAT BUILDING
41 - 47 FARR STREET
MARRICKVILLE NSW 1510
Document ID: 32639167
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PRO ARCHITECTS
P. COOPER, E. WOODWARD
15/05/2023
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1. Incorporation of street CDS
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 PBD ARCHITECTS
 P. CHAFFIN, C. PROGRESSIVE ARCHITECTURE
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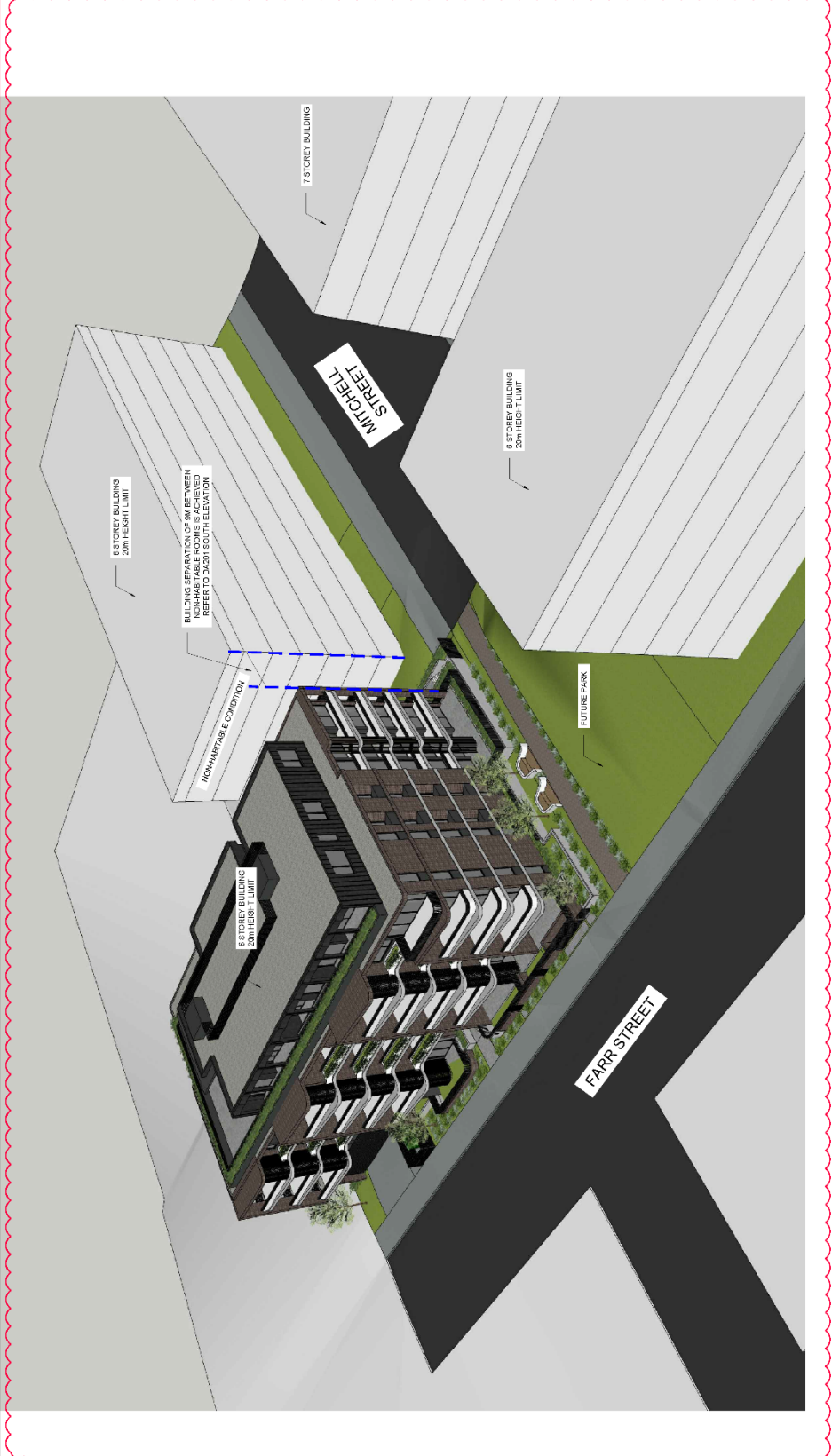
PROJECT	RESIDENTIAL FLAT BUILDING
ADDRESS	41 - 47 FAIR STREET MAROONVALE
DOCUMENT SET ID	37619187
VERSION	2 - version date: 16/05/2023

ISSUE DATE	ISSUE NO.	ISSUE DATE	ISSUE NO.
16/05/2023	01	16/05/2023	01
16/05/2023	02	16/05/2023	02
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PROJECT: RESIDENTIAL FLAT BUILDING
 ADDRESS: 41 - 47 FAIR STREET
 MAROONVALE
 DOCUMENT SET ID: 37619187
 VERSION: 2 - version date: 16/05/2023

- LIST OF ABANDONMENTS**
1. Abandonment of the building lines for the 7 storey building to be replaced by the 8 storey building.
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PROJECT INFORMATION

PROJECT: RESIDENTIAL FLAT BUILDING
 41 - 47 FARR STREET
 WARROCKVILLE
 Document No: DP-376-191-87
 Version: 2 - 26/05/2023

CLIENT INFORMATION

CLIENT: [REDACTED]

DESIGNER INFORMATION

DESIGNER: PBD ARCHITECTS
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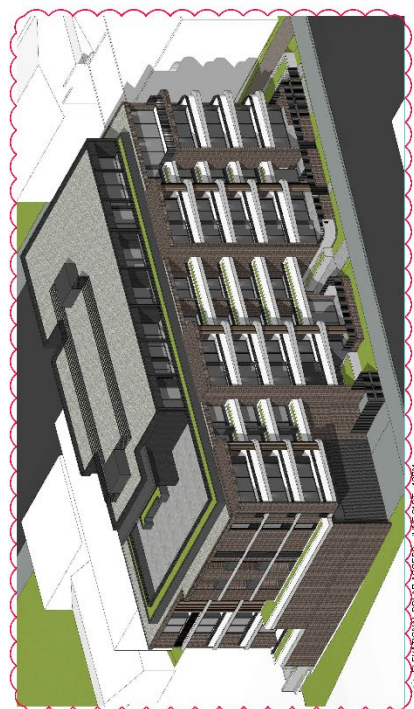
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DATE: 14/05/2023 PROJECT NO: 278

- LIST OF AMENDMENTS**
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- GENERAL NOTES**
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PROJECT: RESIDENTIAL FLAT BUILDING
 41 - 47 FARR STREET
 MARRONVILLE
 Document Set ID: 376 9167
 Version: 2 - Validity Date: 16/05/2023

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 DATE: 15/05/2023

ISSUE DATE: 16/05/2023

DATE: 15/05/2023
 PROJECT NO: 2216

DRAWING NO: 1.1
 SHEET NO: 1/4

SOLAR ACCESS DIAGRAM - ELEVATIONAL SOLAR ACCESS - JUNE 21ST

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Attachment C- Section 4.6 Exception to Development Standards

Clause 4.6 Variation

Height of buildings

41-47 Farr Street, Marrickville.
Rebel Property Group and Braxton Capital



Prepared by Ethos Urban
Submitted for Rebel Property
Group and Braxton Capital
14 February 2023 | 2220250



'Gura Bulga'
Liz Belanjee Cameron

'Gura Bulga' – translates to Warm Green Country. Representing New South Wales.

By using the green and blue colours to represent NSW, this painting unites the contrasting landscapes. The use of green symbolises tranquility and health. The colour cyan, a greenish-blue, sparks feelings of calmness and reminds us of the importance of nature, while various shades of blue hues denote emotions of new beginnings and growth. The use of emerald green in this image speaks of place as a fluid moving topography of rhythmical connection, echoed by densely layered patterning and symbolic shapes which project the hypnotic vibrations of the earth, waterways and skies.

Ethos Urban acknowledges the Traditional Custodians of Country throughout Australia and recognises their continuing connection to land, waters and culture.

We acknowledge the Gadigal people, of the Eora Nation, the Traditional Custodians of the land where this document was prepared, and all peoples and nations from lands affected.

We pay our respects to their Elders past, present and emerging.

Contact	Ben Craig Director	bcraig@ethosurban.com +61 416 917 365	
This document has been prepared by:	This document has been reviewed by:		
			
Kerryanne Lewis Senior Urbanist - Planning	14/02/2023	Ben Craig Director 14/02/2023	
Version No.	Date of issue	Prepared By	Approved by
1.0 DRAFT	14/02/2023	KL	BC
2.0 FINAL	14/02/2023	KL	BC
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 Ethos Urban Pty Ltd ABN 13 615 087 931 173 Sussex Street Sydney NSW 2000 (Gadigal Land) +61 2 9356 6962 ethosurban.com			

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1.0 Introduction

This clause 4.6 variation request has been prepared by Ethos Urban on behalf of Rebel Property Group and Braxton Capital. It is submitted to the Council (the Council) in support of a development application (DA) for a residential flat building at 41-47 Farr Street, Marrickville.

This clause 4.6 variation request relates to the development standard for height of buildings under clause 4.3 of the Inner West LEP 2022 and should be read in conjunction with the Statement of Environmental Effects (SEE) prepared by Ethos Urban dated 26 August 2022.

This clause 4.6 variation request demonstrates that compliance with the height of buildings development standard is unreasonable and unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravention of the standard.

This clause 4.6 variation request demonstrates, notwithstanding the proposed variation to the development standard, that:

- Compliance with the Height of Buildings development standard is unreasonable and unnecessary in the circumstances of the case as the objectives of the standard are achieved notwithstanding non-compliance with the standard;
- There are sufficient environmental planning grounds to justify contravention of the standard, as:
 - It is consistent with the first objective of Clause 4.6 of the IWLEP 2022, which allows a degree of flexibility in applying the building height development standard where it is considered appropriate to the circumstances of the development;
 - the proposal is consistent with the anticipated built form in the evolving context of the surrounding area as it is consistent with the character envisaged for the site under Section 9.47 of the Marrickville DCP 2011, accordingly the development will positively contribute to the renewal of the Victoria Road Precinct which will occur over the next decade;
- The variation is in the public interest because it is consistent with the objectives of the zone and the development standard; and
- The Secretary's concurrence can be obtained as contravention of the development standard does not raise any matter of significance for State and regional planning.

Taking into consideration the above, the DA may be approved with the variation as proposed in accordance with the flexibility allowed under clause 4.6 of the Inner West LEP 2022.

2.0 Request to Vary a Development Standard

Clause 4.6 of the Inner West LEP 2022 enables the Council to grant consent for development even though the development contravenes a development standard. The clause aims to provide an appropriate degree of flexibility in applying certain development standards to achieve better outcomes for and from development.

2.1 Development Standard to be Varied

This clause 4.6 variation request seeks to justify contravention of the development standard set out in clause 4.3 of the Inner West LEP 2022. Clause 4.3 sets the maximum height of buildings applicable to the site, and is reproduced below in its entirety. An extract of the Height of Buildings Map (sheet 005) is also reproduced in **Figure 1**, and shows that the maximum height of buildings applicable to the site is 20m.

4.3 Height of buildings

- 1) *The objectives of this clause 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.
- 2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

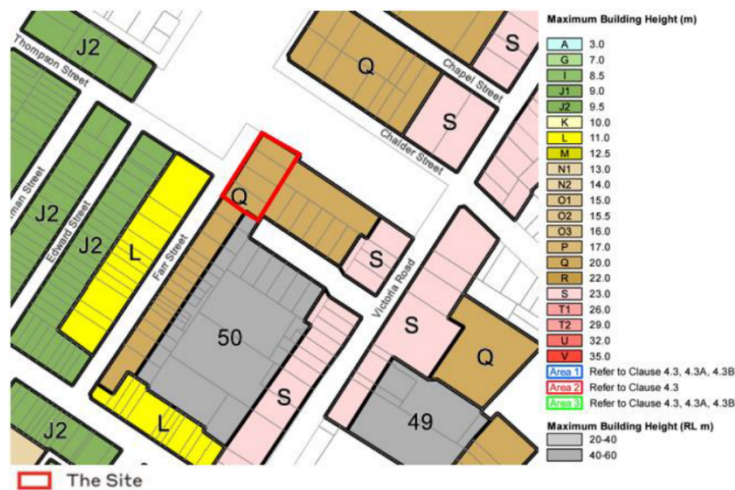


Figure 1: Extract of Height of Buildings Map

Source: Inner West Local Environmental Plan 2022 & Ethos Urban

2.2 Nature of the Variation

The variation relates to the height of the proposed residential flat building that development consent is being sought for at 41-47 Farr Street, Marrickville.

The proposed building is largely compliant with the 20m maximum Height of Buildings development standard, however, exceedances of the standard do occur at localised areas within the building rooftop in the form of the lift overruns and roof parapet of the sixth storey of the RFB.

Specifically, the variations to the Height of Buildings development standard relate to:

- The roof of the sixth storey of the RFB (exceed the height of building standard by a maximum of 427mm);
- The lift overruns of the RFB envelope (exceed the height of building standard by 820mm and 1087mm respectively),

The RFB envisaged for the site needs to accommodate lift overruns to provide equitable access to all six residential floors and the two basement levels of the building. This results in a building envelope with a height up to RL 29.175 for the lift overruns. This equates to a maximum height limit exceedance of 1.087m, or a 5.4% variation to the maximum building height development standard. The lift overruns are isolated to the central, rooftop portion of the building only, with the first six (6) storeys of the building being largely contained within the 20m height standard with just minor exceedances of the roof parapet (up to a maximum of 427mm) due to the topography of the site. As discussed in further detail below, these exceedances will not adversely impact surrounding amenity in terms of overshadowing and

visual intrusion and will ensure that equitable access is able to be achieved to all six residential floors and the two basement levels of the building.

The elevational diagrams and oblique view below (Figures 2 - 6) show the extent of the proposed variation to 20m height development standard (blue line).



Figure 2: Elevational view of 20m height plane (east elevation)

Source: PBD



Figure 3: Elevational view of 20m height plane (west elevation)

Source: PBD



Figure 4: Elevational view of 20m height plane (south elevation)

Source: PBD



Figure 5: Elevational view of 20m height plane (north elevation)

Source: PBD

14 February 2023 | Clause 4.6 Variation | 41-47 Farr Street, Marrickville | 7

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Version: 1, Version Date: 13/04/2023

The proposed RFB envelope is shown in **Figure 6** below.



Figure 6: Oblique view of the 20m height plane diagram

Source: PBD

2.3 Is the Planning Control in Question a Development Standard?

'Development Standards' are defined under Section 4(1) of the *Environmental Planning and Assessment Act 1979* as follows:

"development standards means provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of...

(c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work."

The Height of Buildings control prescribed under Clause 4.3 of the IWLEP 2022 is clearly and unambiguously a development standard and has continually been applied in this manner by the consent authority.

3.0 Justification for Contravention of the Development Standard

Clause 4.6(3) of the Inner West LEP provides that:

4.6 Exceptions to development standards

- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

Further, clause 4.6(4)(a) of the Inner West LEP 2022 provides that:

- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
- (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) *the concurrence of the Secretary has been obtained.*

Assistance on the approach to justifying a contravention to a development standard is also to be taken from the applicable decisions of the NSW Land and Environment Court in:

1. *Wehbe v Pittwater Council* [2007] NSW LEC 827; and
2. *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009.

The relevant matters contained in clause 4.6 of the Inner West LEP 2022, with respect to the height of buildings development standard, are each addressed below, including with regard to these decisions.

3.1 Clause 4.6(3)(a): Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case

In *Wehbe*, Preston CJ of the Land and Environment Court provided relevant assistance by identifying five traditional ways in which a variation to a development standard had been shown as unreasonable or unnecessary. However, it was not suggested that the types of ways were a closed class.

While *Wehbe* related to objections made pursuant to *State Environmental Planning Policy No. 1 – Development Standards* (SEPP 1), the analysis can be of assistance to variations made under clause 4.6 where subclause 4.6(3)(a) uses the same language as clause 6 of SEPP 1 (see *Four2Five* at [61] and [62]).

As the language used in subclause 4.6(3)(a) of the Inner West LEP 2022 is the same as the language used in clause 6 of SEPP 1, the principles contained in *Wehbe* are of assistance to this clause 4.6 variation request. The five methods outlined in *Wehbe* include:

- The objectives of the standard are achieved notwithstanding non-compliance with the standard (**First Method**).
- The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary (**Second Method**).
- The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable (**Third Method**).

- The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable (**Fourth Method**).
- The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone (**Fifth Method**).

Of particular assistance in this matter, in establishing that compliance with a development standard is unreasonable or unnecessary is the **First Method**.

3.1.1 The underlying objectives or purposes of the development standard

The objectives of the Height of Buildings development standard contained in clause 4.3 of the Inner West LEP 2022 are:

- a) To ensure the maximum height of buildings is compatible with the character of the locality,
- b) To minimise adverse impacts on local amenity,
- c) To provide an appropriate transition between buildings of different heights.

3.1.2 The objectives of the standard are achieved notwithstanding non-compliance with the standard

Objective (a): To ensure the height of buildings is compatible with the character of the locality

The site is located at the northern end of Farr Street and is currently surrounded by a mix of buildings including Marrickville Public School to the north, 1-2 storey industrial type buildings to the east and south, and a mix of 1-2 storey industrial and residential buildings to the west. While the existing context is lower scale in nature, the site and surrounding area is located within the Victoria Road Precinct, which is intended to transition to a higher-density built form character in the future. Specifically, the future built form character to the east and south is anticipated to include a mix of buildings ranging between 6 and 14 storeys as depicted in Section 9.47 of the Marrickville DCP 2011 and shown in **Figure 7** below.

Building height and character in the surrounding area will therefore evolve over time within the Precinct, and the building height of the proposed RFB will sit comfortably within this future context.

Notwithstanding the above, the proposal has also been designed to provide an architectural solution that is subtle and sophisticated in its appearance, and include appropriate façade modulation and setbacks, particularly on the sixth storey. The proposed building will therefore sit comfortably within its context and ensure it is compatible with the character of the locality.

Therefore, the proposal will achieve Objective (a).

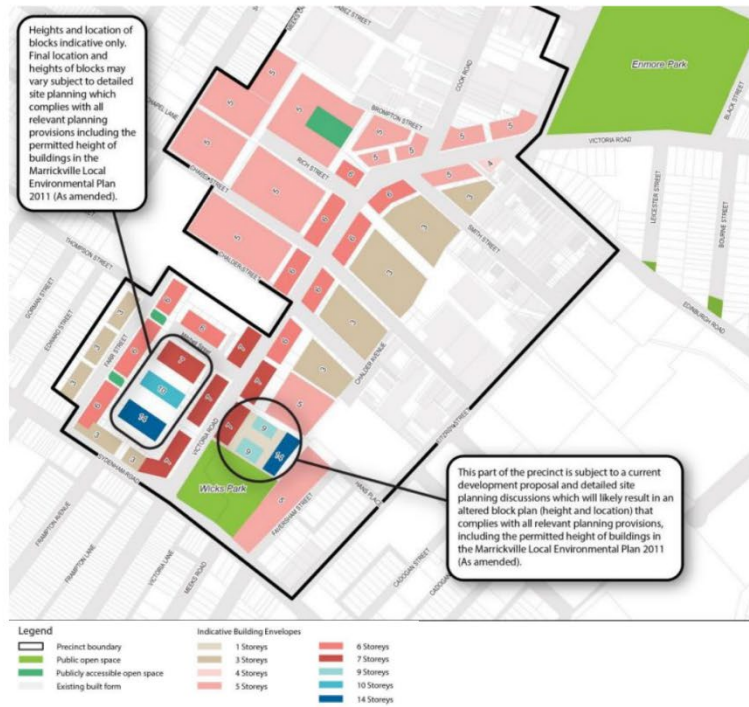


Figure 7: Building Height Map for the Victoria Road Precinct
Source: Marrickville DCP 2011

Objective (b): To minimise adverse impacts on local amenity

The proposed development has been designed to minimise adverse impacts on local amenity. Notably, the majority of the proposed building envelope falls under the 20m height plane, with only a small component of the building, being the lift overruns and roof parapet, exceeding the LEP maximum height limit. Importantly, the design of the building, which has the lifts centrally located and recessed from any building façades, ensures that the lift overruns are completely disguised from view when seen from Farr Street, as shown in Figure 8. Furthermore, the roof parapet height exceedance is directly adjacent to an area that permits a significantly higher maximum building height of 50RL n, as shown in Figure 1.



Figure 8: Photomontage of the proposed development (as viewed from Farr Street)

Source: PBD

In addition, the lift overruns will not result in additional overshadowing of the surrounding area when compared to a fully compliant scheme, due to their central location on the rooftop.

Shadow analysis diagrams (provided in **Appendix A** and **Figure 9**) clearly show that the component of the RFB that will exceed the maximum building height will have a negligible impact on both the Mitchell Street and Farr Street public domain as well as all adjacent private property. This is because any additional shadowing caused by the lift overruns and services/plant (over and above that which could be generated by a compliant development) will fall on the roof of the proposed RFB at 37-47 Farr Street. There will be no shadows cast over Marrickville Public School to the north, given the site's location in relation to the school. In respect of 37 Farr Street to the south of the site, where overshadowing predominantly occurs given the site location immediately to the north, it has been demonstrated that the proposed departure from the 20m height plane of the RFB will not generate additional significant shadowing on the existing warehouse building. Furthermore, noting that it is intended that this site will be developed into a publicly accessible open space in the future under the masterplan that is espoused in the DCP controls for the Victoria Road Precinct, the shadowing impact on any future park at 37 Farr Street as a result of the departure from the 20m height limit is also considered negligible when compared to a building envelope which strictly complies with the building height.

On this basis, the proposal is considered to be consistent with Objective (b) as the RFB has been designed to minimise adverse impacts on the local amenity.

Commented [KL1]: This is the old photomontage - Probably not too dissimilar to the new design, but PBD said they haven't prepared a new one so not sure whether to use this?

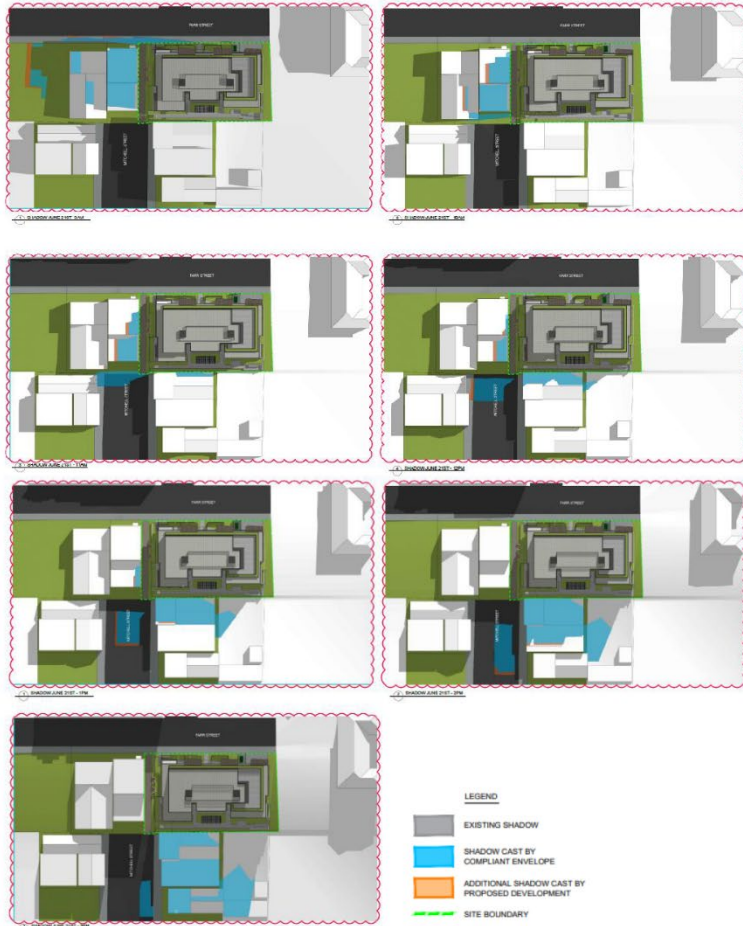


Figure 9: Shadow Analysis Diagrams
Source: PBD

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Objective (c): To provide an appropriate transition between buildings of different heights.

As noted earlier, the site's surrounding built form character will evolve significantly over the next decade as renewal of the Victoria Road Precinct takes place. Specifically, the site is located within the Timber Yards Sub-precinct, which will be a new residential area where built form will transition in height from 6-7 storeys around the periphery of the sub-precinct, up to 14 storeys centrally within the sub-precinct where the current timber yards site is located. On this basis, while the proposed building height is taller than the existing surrounding buildings, it will be appropriate in this location once the Victoria Road Precinct renewal starts to take shape as envisaged in the Marrickville DCP 2011.

Taking this into account the proposed building will provide an appropriate transition between buildings of different heights that sit to the south of the site, and the existing buildings that are located to the north and west. This is added through the proposed building design, which incorporates appropriate setbacks from the road frontage and on the sixth storey in accordance with the DCP. The resultant outcome is a building of high architectural quality which has been designed to ensure that the technical non-compliance with the development standard does not contribute to its visual bulk or mass, and which will continue to enable an appropriate transition in scale and height once the rest of the Timber Yards Sub-Precinct is redeveloped in accordance with the controls under Section 9.47 of the Marrickville DCP 2011.

3.1.3 A better planning outcome will be achieved as a result of the non-compliance

As a result of non-compliance with the Height of Buildings development standard, a six-storey residential building can be achieved, which delivers a built form outcome for the site that is envisaged in Section 9.47 of the Marrickville DCP 2011. If a compliant building envelope were to be achieved, either equitable access to all residential floors would need to be removed (by removal of the lifts), or residential floor space would need to be removed despite the proposed number of storeys being consistent with the built form outcome envisaged for the site. As such, it is considered that a better planning outcome will be achieved as a result of the non-compliance.

3.1.4 Conclusion on clause 4.6(3)(a)

For the reasons outlined in Sections 3.1.2 and 3.1.3, it is considered that compliance with the Height of Buildings development standard in the Inner West LEP 2022 is unreasonable or unnecessary in the case of this proposal.

3.2 Clause 4.6(3)(b): Environmental planning grounds to justify contravening the development standard

There are sufficient environmental planning grounds to justify a flexible approach to the application of the Height of Buildings development standard as it applies to the site.

In *Four2Five*, the Court found that the environmental planning grounds advanced by the applicant in a Clause 4.6 variation request must be particular to the circumstances of the proposed development on that site. With regards to this application, there are particular elements of the proposal which justify the proposed development's variation to the Building Height standard and these are detailed below.

3.2.1 The parts of the building that exceed the height limit will not result in unacceptable overshadowing impacts on the surrounding area compared to a scheme that complies with the LEP height controls

Except for the lift overruns and sixth storey roof parapet, the building has been designed to be compliant with the building height control as well as fully compliant with the DCP setback and massing controls. The centralised nature of the rooftop exceedances is such that the additional building height will not result in significant unacceptable overshadowing impacts on the surrounding area when compared to that of a compliant scheme. This is illustrated in the overshadowing diagrams that have been prepared by PBD Architects and are provided at **Appendix A** and shown in **Figure 9**. The amenity impacts of the proposed scheme are therefore comparable to those of a compliant scheme.

3.2.2 The lift overruns and services/plant provide positive residential amenity and public benefit

The indicative development scheme for the site includes the provision of two lifts, centrally located within the RFB, which result in the height exceedance. The lifts will significantly enhance residential amenity in the RFB.

Importantly, to provide equitable access to all residential and basement floors of the RFB, the lift overruns will protrude the 20m height plane within the central portion of the building envelope. This will not impact significant views to or from the site and will not generate any additional overshadowing on the surrounding locality. The lift overruns have been integrated into the architectural form and design of the development.

Full adherence to the development standard would require the lift overruns to be either reduced and or removed. This would result in:

- Inequitable access to the residential floors of the building for residents. A reduction to the lift overruns can only be achieved by removing elevator access, and introducing stair access to the floors. This does not support equitable access to the space particularly for those in wheelchairs and or with prams, and would generate a building design unable to meet BCA requirements.
- A reduced amount, type and diversity of apartments / residential floor space, despite the proposed building being fully consistent with the built form controls in the Marrickville DCP 2011.

Maintaining this development standard would therefore result in a sub-optimal design and amenity outcome for residents. It would reduce equitable access for residents of the building, or generate an undue reduction to residential floor space and housing supply.

3.2.3 Conclusion on clause 4.6(3)(b)

In light of the above, it is considered that there are no environmental planning grounds that warrant maintaining and/or enforcing the Height of Buildings development standard in this instance. Rather, there are clear and justifiable environmental planning merits that validate the flexible application of the height control by Clause 4.6 of the IWLEP 2022.

3.3 Clause 4.6(4)(a)(ii): In the public interest because it is consistent with the objectives of the zone and development standard

3.3.1 Consistency with objectives of the development standard

The proposed development is consistent with the objectives of the Height of Buildings development standard, for the reasons discussed in section 3.1.2 of this report.

3.3.2 Consistency with objectives of the zone

The proposed development is consistent with the objectives of the R4 High Density Residential Zone, as demonstrated below.

Objective (a): To provide for the housing needs of the community within a high density residential environment.

The proposal will deliver an outcome that provides an appropriate response to market demand and will provide for the housing needs of the community within a high density residential environment. The proposed RFB will contain 37 apartments, with a mix of one, two and three bedroom apartments of varying sizes and configurations. This will help to meet future predicted housing demand as a result of the expected population increase in the Inner West, in an area that has been rezoned for high-density residential development.

Objective (b): To provide a variety of housing types within a high density residential environment.

The proposed RFB will contain 37 apartments, with a mix of one, two and three bedroom apartments of varying sizes and configurations in an area that has been rezoned for high-density residential development. This is the first residential building along Farr Street within the Victoria Road Precinct to be proposed for redevelopment, and will make a positive contribution to increasing the variety of housing types available in the local area.

Objective (c): To enable other land uses that provide facilities or services to meet the day to day needs of residents.

The site has been rezoned for targeted high-density residential development, which is what the proposal will provide. The indicative masterplan espoused in Section 9.47 of the Marrickville DCP 2011, sets out controls for the Victoria Road Precinct that identifies other areas for mixed-use development or publicly accessible open space [such as is the case for

37 Farr Street, south of the site) to meet the day to day needs of residents. It is noted that the proposal is providing a through site link from Farr Street to Mitchell Street, with the intention that this will form part of a future publicly accessible open space as envisaged by the DCP. The proposal will therefore provide facilities that will meet the day to day needs of future residents.

Objective (d): To encourage residential development that results in appropriate amenity for a high density residential area.

The proposed development has been designed to ensure that it provides an appropriate and high-quality amenity for future residents of the building, as well as the broader community in general. The building has been designed to incorporate generously sized apartments that are well serviced by high quality communal facilities, including a rooftop communal area on the fifth storey and a landscaped communal area at ground level. As shown in **Figure 8**, the building has also been designed to have a high quality of architectural finish and detailing, characterised by a material palette that gives the building a subtle and sophisticated appearance that will sit comfortably within its context and make a positive contribution to the quality of building stock in the local area. The proposed development is therefore considered to meet this objective.

3.3.3 Conclusion on clause 4.5(4)(a)(ii)

In light of the above, the proposed variation to the Height of Buildings development standard is considered to be in the public interest because it is consistent with the objectives of the R4 High Density Residential zone under the IWLEP 2022.

3.4 Other Matters for Consideration

Under clause 4.6(5), in deciding whether to grant concurrence, the Director-General must consider the following matters:

- (5) In deciding whether to grant concurrence, the Secretary must consider:
- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
 - (b) the public benefit of maintaining the development standard, and
 - (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.

These matters are addressed in detail below.

3.4.1 Clause 4.6(5)(a): Whether contravention of the development standard raises any matter of significance for State or regional environmental planning

The variation of the height of buildings development standard does not raise any matter of significance for State or regional planning. We do note, however, that the proposal is consistent with the most recent metropolitan plan for Sydney, A Plan for Growing Sydney in that it:

- Provides accommodation to meet the needs of the local population, both at the present time and in the future as Sydney's population grows and ages;
- Does not affect any strategic employment areas or industrial zoned land since the site was determined suitable for alternative uses through its recent rezoning;
- Is consistent with the scale of development envisioned for the site by the site-specific planning proposal;
- Is well located to public transport connections; and
- Does not affect any heritage assets.

3.4.2 Clause 4.6(5)(b): The public benefit of maintaining the development standard

As demonstrated above, there is no public benefit in maintaining the development standard in terms of State and regional planning objectives. As noted in the preceding sections, the additional height proposed will sit comfortably within the evolving context of the surrounding area as renewal of the Victoria Road Precinct takes shape over the next decade. The proposed variation will not give rise to any unacceptable adverse environmental impacts, particularly as key planning issues deriving from height, such as privacy and overshadowing, have been resolved through architectural

design. Furthermore, the additional height proposed is internal to the site and will facilitate equitable access to all residential and basement levels of the building, while being consistent with the built form envisioned for the site.

Full compliance in this instance would either force the building to be five storeys in height, which would then have a significant impact on the GFA that could be achieved, or would force the removal or reduction of the lifts which would not facilitate equitable access to all levels of the building.

The artificial deletion of future residential floors to ensure strict compliance with the Height of Building development standard would therefore be contrary to the public interest.

3.4.3 Clause 4.6(5)(c): Any other matters required to be taken into consideration by the Director-General before granting concurrence.

In addition to preceding matters, it is noted that the height variation sought applies only to certain upper portions of the building envelopes proposed. These elements are not visible from Farr Street, and will not be detrimental to the amenity of the surrounding locality.

4.0 Conclusion

The assessment above demonstrates that compliance with the height of buildings development standard contained in clause 4.3 of the Inner West LEP 2022 is unreasonable and unnecessary in the circumstances of the case and that the justification is well founded. It is considered that the variation allows for the orderly and economic use of the land in an appropriate manner, whilst also allows for a better planning and development outcome that will make a positive contribution to the local area.

The consent authority can be satisfied that this clause 4.6 variation request demonstrates, notwithstanding the proposed variation to the development standard is acceptable as:

- Compliance with the Height of Buildings development standard is unreasonable and unnecessary in the circumstances of the case as the objectives of the standard are achieved notwithstanding non-compliance with the standard;
- That there are sufficient environmental planning grounds to justify contravention of the standard, as:
 - It is consistent with the first objective of Clause 4.6 of the IWLEP 2022, which allows a degree of flexibility in applying the building height development standard in instances where it is considered appropriate to the circumstances of the development;
 - the proposal is consistent with the anticipated built form in the evolving context of the surrounding area as it is consistent with the character envisaged for the site under Section 9.47 of the Marrickville DCP 2011, and as such will positively contribute to the renewal of the Victoria Road Precinct which will occur over the next decade;
- The variation is in the public interest because it is consistent with the objectives of the zone and the development standard; and
- The Secretary's concurrence can be obtained as contravention of the development standard does not raise any matter of significance for State and regional planning.
- Therefore, the DA may be approved with the variation as proposed in accordance with the flexibility allowed under clause 4.6 of the Inner West LEP 2022.

It is therefore requested that development consent be granted for the proposed development despite its contravention of the Height of Buildings development standard within the *Inner West Local Environmental Plan 2022*.

Attachment D – Architectural Excellence & Design Review Panel Meeting Minutes & Recommendations



Architectural Excellence & Design Review Panel Meeting Minutes & Recommendations

Site Address:	41-47 Farr Street, Marrickville
Proposal:	Demolition of existing structures on site. Construction of a residential flat building with basement parking, landscaping and associated works
Application No.:	DA/2022/0751
Meeting Date:	15 November 2022
Previous Meeting Date:	9 August 2022
Panel Members:	Tony Caro – chair; Jon Johannsen; and Jean Rice
Apologies:	-
Council staff:	Vishal Lakhia, Niall Macken, Kaitlin Zieme, and Annalise Ifield
Declarations of Interest:	None
Applicant or applicant's representatives to address the panel:	Paul Buljevic – Architect for the proposal, and Ben Craig – Town Planner for the proposal

Background:

1. The Architectural Excellence & Design Review Panel reviewed the architectural drawings and discussed the proposal with the applicant through an online conference.
2. As a proposal subject to the State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development (SEPP 65), the Panel's comments have been structured against the 9 Design Quality Principles set out in the SEPP 65 NSW Apartment Design Guide (ADG).
3. The Panel understands that the proposal is within the Victoria Road Precinct, and the vision and controls are set out in Section 9.47 of the Marrickville Development Control Plan 2011. To support this vision being achieved, a Masterplan has been prepared for the precinct which identifies the desired future land uses for each site and provides guidance on future site layout and built form configuration.
4. The site is identified on the masterplan to include a residential flat building. Land to the south (37 Farr Street) of the site is identified on the masterplan to provide a publicly accessible open space in the form of a pocket park. 37 Farr Street is currently privately owned, as such its conversion to a park is only possible through its inclusion as part of this development application or as part of any future redevelopment of the adjoining land (e.g. a development application that includes lots – 33, 35 and 37 Farr Street).

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Discussion & Recommendations:

Principle 1 – Context and Neighbourhood Character

“Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.

Responding to context involves identifying the desirable elements of an area’s existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.”

1. The Panel notes that at the previous Pre DA review, the applicant presented 2 design options – Option A including a six-storey building at 41-47 Farr Street and Option B including a seven storey building at 37-47 Farr Street, where 37 Farr Street was considered to be a public park amalgamated as part of the subject site to deliver the 7 storey option.
2. The proposal reviewed at this subsequent DA review excludes 37 Farr Street, which was expected to include a public park. Notwithstanding the exclusion of the park site, the applicant has continued with a proposed 7 storey built form (which previously was 6 storeys) as part of this development application. This grossly exceeds the maximum permissible LEP controls for both building height as well as the floor space ratio. A footpath with some side landscaping is now proposed as a through-site pedestrian link between Farr Street and the cul-de-sac on Mitchell Street. This is acceptable as a through site link but would be of much greater amenity if it was integrated with a new public park at 37 Farr St in the future.
3. However, given the exclusion of 37 Farr Street from this revised development application there is no assurance to the Council that a public park and associated high quality public benefits as discussed at the Pre DA meeting and as envisaged by the master plan will be delivered as part of this or a future development application.
4. The Panel restates that the applicant should demonstrate with urban design and contextual analysis how the proposal can manage adverse impacts on the adjoining properties and the public domain. This analysis should consider the potential development of adjoining properties within the urban block based on the Inner West LEP and DCP controls.

Principle 2 – Built Form and Scale

“Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.

Good design also achieves an appropriate built form for a site and the building’s purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.”

1. An FSR 2.2:1 floor space ratio is now proposed, which exceeds the maximum FSR 2.0:1 that applies to the site by 10%. A proposed building height of 23.9m exceeds the maximum permissible height of 20m by 20%. The Panel recommends that the proposal should comply with the LEP controls for FSR and height, particularly because this is the first development to be assessed under the new controls for the precinct and if approved would establish an undesirable precedent for non-compliance.
2. With regards to the building height, the Panel considers that the proposal should be restricted to a height of six 3.2m residential storeys. Any built form exceeding the LEP height plane should be limited to access and amenity infrastructure supporting rooftop communal open space, with a landscaped setback to avoid visual impacts on the public domain or overlooking of adjacent development. The Panel also recommends that no private internal space or enclosed areas should be provided on the rooftop with the exception of one unisex accessible toilet.
3. The Panel discussed the challenges related to waste collection and consequent impacts on the quality of street presentation at ground floor level. The applicant should resolve the ground floor configuration with Council’s engineers with regards to the loading dock size and location if a basement collection option can be demonstrated to not be viable. It is the Panel’s general

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recommendation that width of vehicular crossings should be minimised and ideally separated to improve street presentation and avoid overly wide aggregated crossings. However given the site is located at the eastern dead-end of Farr Street (and not used by school children), the proposed collection from ground floor may be acceptable.

Principle 3 – Density

“Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context. Appropriate densities are consistent with the area’s existing or projected population.”

Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.”

1. The Panel considers that the proposal is capable of delivering acceptable design quality if revised to comply with the maximum FSR 2:1.

Principle 4 – Sustainability

“Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials, and deep soil zones for groundwater recharge and vegetation.”

1. The Panel restates that provision of ceiling fans to all habitable areas is encouraged as a low energy alternative to any A/C system, with floor-to-floor and floor-to-ceiling heights to be both ADG compliant and suitable for the use of ceiling fans.
2. The applicant is encouraged to include a rooftop photovoltaic system for environmental benefits and for use in power/lighting to common areas. This could be integrated into a pergola structure to provide shade at the roof terrace level.
3. Provision of a rainwater tank should be considered to allow water collection, storage and reuse for irrigation within the site.

Principle 5 – Landscape

“Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood

Good landscape design enhances the development’s environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values, and preserving green networks. Good landscape design optimises usability, privacy and opportunities for social interaction, equitable access, respect for neighbours’ amenity, provides for practical establishment and long term management.”

1. The rooftop communal open space must deliver ADG compliant residential amenity for the proposal since the ground floor communal open space will not achieve required solar access in winter, and creates adverse amenity issues for the adjacent units. The Panel is unconvinced by the proposed rooftop pool area, and recommends the roof top should be entirely dedicated to larger usable landscaped ‘open space’ suitable to a wider diversity of resident needs.
2. The rooftop communal open space should be provided with barbecue/outdoor kitchen, a sink, outdoor seating areas and appropriate shading. The applicant should refer to ADG Parts 4O and 4P to develop the detailed landscape design.
3. In terms of deep soil area requirements, the proposal should comply with the minimum 15% of the site area as per the NSW ADG Objective 3E-1. The Panel recommends addition of a deep soil zone along the rear boundary (as previously proposed) to allow planting of a variety of shrubs and larger canopy trees, to enhance the interface with the adjoining property.
4. The Panel supports provision of a deep soil area within the front boundary, which should be provided with large canopy trees addressing the Farr Street public domain.
5. The applicant should review the proposed location for the substation to comply with any clearance requirements from permanent structures and trees and if possible to allow views to and appreciation of the landscaped area along the north of the site from Farr St.

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6. A CPTED strategy and a night-time lighting strategy should be considered as part of the development application for success of the pedestrian 'publicly accessible open space' pathway, and ensure that units have internal oversight of this area.

Principle 6 – Amenity

"Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being."

Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, and ease of access for all age groups and degrees of mobility."

1. The Panel considers that the internal apartment layouts are well resolved and the proposal will achieve an acceptable, ADG compliant level of residential amenity.
2. The ground floor entry foyer should be reconfigured to improve the sense of arrival with relocation of the services cupboard and revision of Unit G03 layout to provide a more discrete front door entry.

Principle 7 – Safety

"Good design optimises safety and security, within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety."

A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose."

1. The ground floor pedestrian entry door should be moved forward to align with the building line, to avoid potential CPTED issues at the entry.
2. Fire egress strategy for ground floor level should be reviewed by/with a suitably qualified specialist to ensure NCC compliance.

Principle 8 – Housing Diversity and Social Interaction

"Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets."

Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people, providing opportunities for social interaction amongst residents."

No discussion

Principle 9 – Aesthetics

"Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures."

The visual appearance of well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape."

1. Revised architectural drawings should identify location of A/C condenser units and other mechanical equipment. The Panel recommends that these should not be located within balconies unless thoughtfully integrated into the building fabric with screens to address any visual or acoustic impacts on nearby units or the surrounding public domain.
2. Developed architectural documentation should include details of the proposed design intent with 1:20 sections indicating materials, balustrade types and fixing, balcony edges, junctions, rainwater drainage including any downpipes and similar details within the proposal.

Conclusion:

Provided the Applicant addresses the recommendations of this Report, the proposal can satisfy the IWC standards for design excellence and does not require further review by the Panel.