

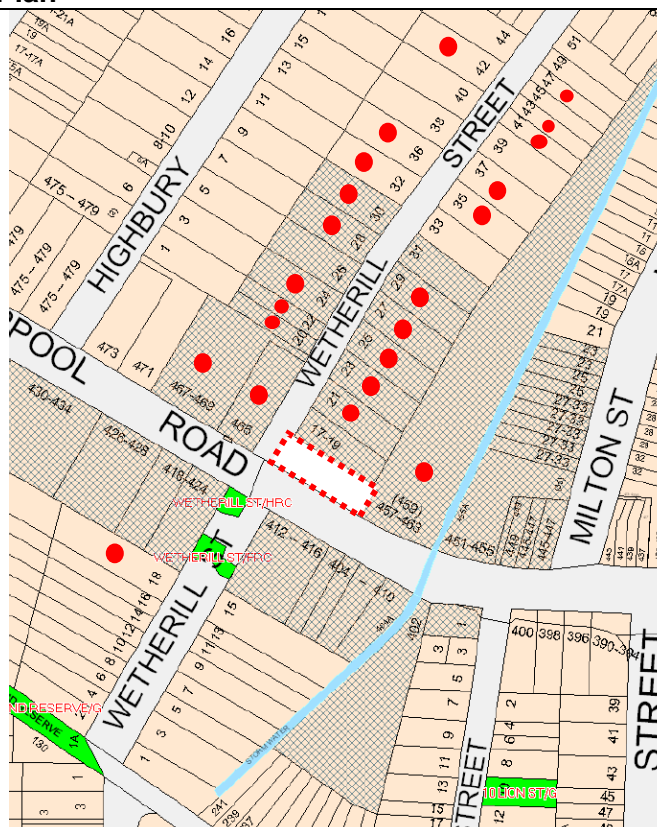


INNER WEST COUNCIL

DEVELOPMENT ASSESSMENT REPORT

Application No.	DA 2018/13
Address	17-19 Wetherill Street, Croydon Lot 1 in DP 944196, Lot 1 in DP944198
Proposal	Demolition of existing structures and construction of a three storey residential flat building containing 1 x 1 bedroom, 17 x 2 bedroom and 2 x 3 bedroom apartments over two levels with two levels of basement parking.
Date of Lodgement	1 February 2018
Applicant	Palace Croydon Pty Ltd
Owner	Palace Croydon Pty Ltd
Number of Submissions	First round: 26 submissions received Second round: one submission received
Value of works	\$6,208,511.00
Reason for determination at Planning Panel	<ul style="list-style-type: none"> Clause 4.6 variation for height exceeds officer delegation; and Number of submissions.
Main Issues	<ul style="list-style-type: none"> Site contamination; Variance to the height development standard; and Interface with the adjoining R2 – Low Density Residential Zone.
Recommendation	Approval
Attachment A	Recommended conditions of consent
Attachment B	Plans of proposed development
Attachment C	Clause 4.6 Exception to Development Standards

Location Plan



Legend

Site

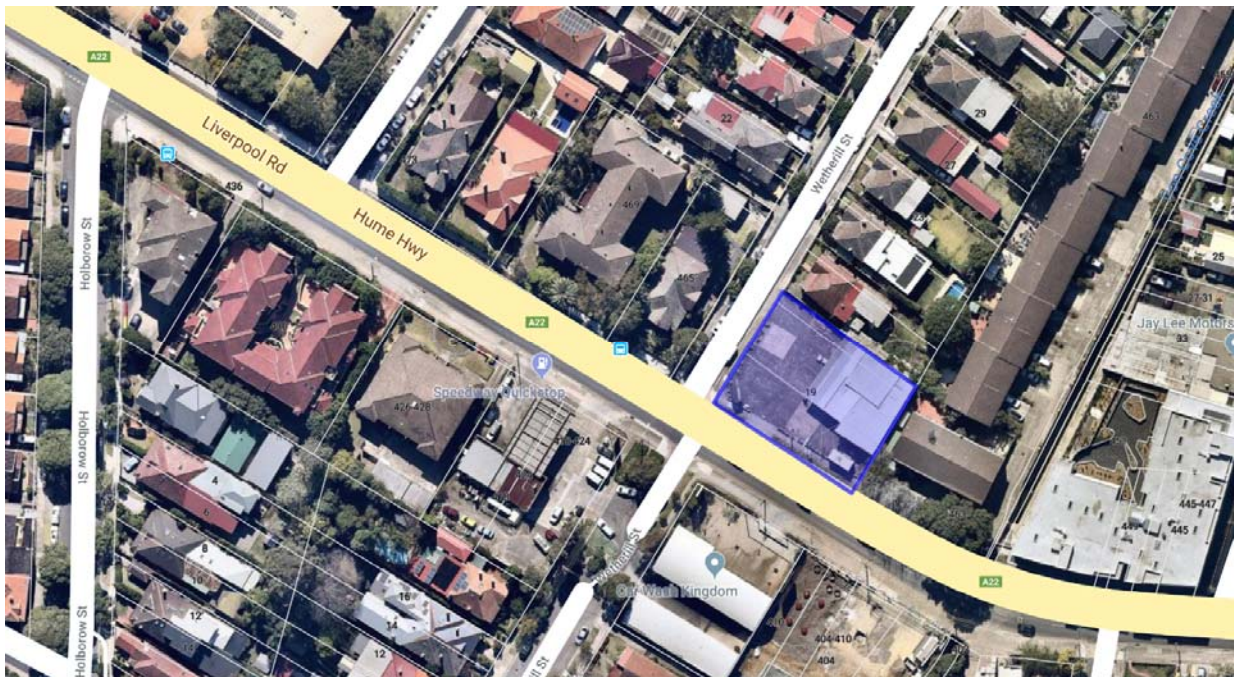


Objections



Neighbouring properties notified





Picture 1 Aerial Photo with site identified



Picture 2 Site Photo – Corner of Liverpool Road and Wetherill Street

1. Executive Summary

This report is an assessment of the application submitted to Council for the demolition of existing structures and construction of a three storey residential flat building over two levels with two levels of basement parking at 17-19 Wetherill Street, Croydon. The application was notified from 3 February 2018 until 13 March 2018 to surrounding properties and a total of 26 submissions were received (of which 12 pro forma's were received and 14 individual submissions). The amended plans were subsequently renotified from 2 July 2017 until 26 July 2018, one submission was received.

The main issues that have arisen from the application include:

- Site contamination;
- Variance to the height development standard; and
- Interface with the adjoining R2 – Low Density Residential Zone.

The non-compliances are acceptable given a well-founded Clause 4.6 variation to the development standard has been submitted and the unique siting and orientation of the building; accordingly the application is recommended for approval

2. Proposal

The subject application seeks consent to demolish existing structures and construction of a three storey residential flat building containing 1 x 1 bedroom, 17 x 2 bedroom (two which are adaptable units) and 2 x 3 bedroom apartments over three levels. Two levels of basement car parking are proposed with the provision for 21 residential spaces (including two disabled spaces), five visitor spaces, four bicycle spaces, 1 motor cycle space and one car wash bay.

The proposal as revised ensures that each unit has adequate and accessible storage within the basement (adjoining each allocated car parking space). Waste and bin storage facilities are located within the basement level with a separate waste collection area discretely located within the Wetherill Street setback which will be utilised on collection days only.

The main pedestrian access to the subject site is available via Liverpool Road with secondary access available at Wetherill Street (adjoining the basement entrance to the car park).

Landscaped areas are proposed along the northern, western (Wetherill Street), and southern (Liverpool Road) boundaries of the subject site, landscaping is also proposed on communal open terrace on the third floor.

3. Site Description

The subject site is located on the north eastern corner at the intersection of Wetherill Street and Liverpool Road, Croydon. The subject site is generally rectangular in shape with two allotments and a total site area of 1,137m² and is legally described as Lot 1 in DP 944196 and Lot 1 in DP944198.

The subject site has 30.1m frontage to Wetherill Street and a secondary frontage of 40.2m to Liverpool Road and a fall of approximately 1.5m from the east boundary (Wetherill Street) to the western boundary. The subject site currently contains a single storey brick building located at the north eastern corner of the subject site with attached awning and ancillary at grade car park.

The subject site is located within B4 – Mixed Use Zone as well as the Wetherill Street Heritage Conservation Area and is identified as a potentially contaminated land.

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 1998/504	Operation for mobile food van to sell kebabs	Refused, 13/08/1998
BA 1995/27	Erection of an illuminated pylon sign	Approved, 16/02/1995
DA 1994/333	Erection of a pylon sign	Approved, 13/01/1995
DA 1994/200	Use of existing premises for car repair	Approved, 2/09/1994
BA 1981/165	Archway	Approved, 2/06/1981
BA 1975/24	Additions to service station	Approved, 20/01/1976
BA 1972/8533	Lube Bay	Approved, 01/08/1972

Surrounding properties

21 Wetherill Street, Croydon

Application	Proposal	Decision & Date
BA 1969/7250	Bedroom, Dining/kitchen and storeroom	Approved, 7/07/1969
BA 1961/3633	Tool shed aviary	Approved, 15/06/1961
BA 1960/3263	New garage	Approved, 30/08/1960

457-463 Liverpool Road, Croydon

Application	Proposal	Decision & Date
BA 1989/432	Swimming pool	Refused, 5/06/1990
BA 1993/306	Construction of 20 x 3 bedroom town houses	Approved, 8/09/1983
BA 1966/5846	Tennis court shelter	Approved, 27/04/1966

4(b) Application history

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

Date	Discussion / Letter/ Additional Information
10/04/2018	<p>A request for additional information was sent to the applicant requesting the following:</p> <ul style="list-style-type: none"> Revised Gross Floor Area (GFA) calculation breakdown, the calculations provided excluded corridors, the disabled toilet on the common open space roof area. Revised architectural details to include missing information, this included the location of essential services, letter boxes, the maximum allowable height limit, and the RLs of the natural ground level (NGL), finished floor levels (FFLs), ground floor terrace levels, ceiling levels; external fence heights (fronting Wetherill Street and Liverpool Road), internal fence heights (all ground floor units), roof planter bed levels and side/rear boundary fence heights are to be illustrated on the ground floor plan, elevation and section plans respectively.

Date	Discussion / Letter/ Additional Information
	<ul style="list-style-type: none"> • The design of the proposal to be amended to ensure that it positively contributes to the Wetherill Street and Liverpool Road frontages. It was recommended that the wall height at the Liverpool (southern) elevation is rearticulated and reduced in height, the platform lift is deleted from the proposal in lieu of a new graded pedestrian access. • The design of the proposal to be amended to accommodate a garbage bin holding area on the subject site, an increased setback for the garage door and revised materials and finishes for the roof top area – specifically to be constructed of lightweight materials. • The design of the proposal is to be amended to ensure compliance with the ADG provisions, namely the a breakdown of the soft and hard landscaped areas for the communal open space roof area as well as clarification of the use of the north eastern corner of the subject site; inclusion of additional privacy screening and landscaping details for the units at the northern elevation; revised ceiling heights; improved storage area for each unit and revised unit mix. • Revised stormwater plans to reflect the concerns raised by Council's Development Engineer, this include clarification of roof drainage, rainwater tanks, where the basement pump out/discharge is to and on site detention (OSD) to comply with the Comprehensive Inner West Development Control Plan 2016 (CIWDCP 2016) provisions. • A remedial action plan (RAP) and hazardous materials survey as to address the concerns raised by Council's Environmental Health Officer.
22/06/2018	Amended plans received by Council from the applicant included revised architectural plans, Ausgrid assessment, Hazardous Waste Report, RAP, Site Audit Report and Statement, revised stormwater plans and water pressure report.
2/07/2018-26/07/2018	The revised proposal was re-notified to the adjoining properties and those who submitted a submission the first time round. The revised proposal was also re-referred internally and externally (to the Roads and Maritime Services).
2/08/2018	<p>A request for additional information was sent to the applicant requesting the following:</p> <ul style="list-style-type: none"> • Reconfigure the layout of unit 202 so that the bedroom is not located on the third floor; • Reconfigure the unit mix of the proposed development to include an additional three bedroom unit.
6/08/2018	<p>A request for additional information was sent to the applicant requesting the following:</p> <ul style="list-style-type: none"> • An updated Cl.4.6 variation for the height exceedance to reference the revised proposal.
6/08/2018	Amended plans received by Council illustrating the reconfiguration of unit 202 to include the bedroom on the second floor; revised unit mix to include 2 x 3 bedroom units overall; and updated Clause 4.6 referencing the revised proposal.

5. Assessment

The following is a summary of the assessment of the application in accordance with Section 79C of the Environmental Planning and Assessment Act 1979.

5(a) Environmental Planning Instruments

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

- State Environmental Planning Policy No 55—Remediation of Land
- 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 (Infrastructure) 2007
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The following provides further discussion of the relevant issues:

5(a)(i) State Environmental Planning Policy No 55—Remediation of Land

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) provides planning guidelines for remediation of contaminated land. CIWDCP 2016 provides controls and guidelines for remediation works. SEPP 55 requires that remediation works must be carried out in accordance with a Remediation Action Plan (RAP) as approved by the consent authority and any guidelines enforced under the Contaminated Land Management Act 1997.

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

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

The RAP provided by the applicant identifies that the schedule of remediation works to be completed will be done in ten stages, once each stage has been completed the provision for additional investigations has been accommodated to ensure the validation of the RAP.

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 Clause 6A of the SEPP certain requirements contained within CIWDPCP 2016 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:

Part 3D: 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 subject site has a total area of 1,137m², as such a minimum of 284.5m² of communal open space is required. The proposed development seeks to provide 290m² of communal open space on the third floor (roof top terrace) of the proposed development with adequate solar amenity during mid-winter. The communal rooftop terrace area is accessible via the central lift services within the building, has barbeque facilities, garbage chute access, a landscaped buffer around the periphery and a lightweight awning so it can be utilised during inclement weather.

Part 3E: Deep Soil Zones

Comment: The subject site has a total area of 1,137m², as such in accordance with the provision of the ADG a minimum of 7% (79.6m²) of the subject site is to be for deep soil planting with a minimum dimension of 3m. The basement car parking area has been setback 3m from the southern, western and northern boundaries accommodate deep soil planting within the respective front and side setbacks. Withstanding the propose works on the ground floor, approximately 176m² of deep soil planting with a minimum depth of 3m has been accommodate at the southern, western and northern setbacks of the subject site

Part 3F: 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

The ADG prescribes the following minimum required separation distances from buildings within the same site:

Up to four storeys/ approx. 12 metres

Room Types	Minimum Separation
Habitable Rooms/Balconies to Habitable Rooms/Balconies	12 metres
Habitable Rooms to Non-Habitable Rooms	9 metres
Non-Habitable Rooms to Non-Habitable Rooms	6 metres

Comment: The proposed development is three storey building with a maximum building height of 14.5m when measured to the Natural Ground Level (NGL) of the subject site. Withstanding this, due to the topography of the subject site, the average overall height of the habitable areas of the proposed (including the communal roof top terrace area) is approximately 13m.

The proposed development is to have nil separation at the eastern boundary (457-463 Liverpool Road) with the exclusion of the north western units, this being G04, 105 and 205, which has a side setback of 1.8m from the boundary. As part of the proposal will have a blank wall with no openings, a nil side setback is acceptable as no building separation is required. In addition, no openings or balconies are proposed at the eastern elevation for Unit G04 as such no building separation is also not required. One bedroom window is proposed at the eastern elevation for Units 105 and 205 respectively. Although adequate building separation to the boundary has not been provided fixed louvre screening has been proposed for the full length of each window to ensure that the residential amenity, namely visual privacy, of the adjoining dwellings are maintained.

All balconies at the northern elevation are located to the front of the living rooms and have a minimum setback distance of 6m to the northern boundary. Whilst all kitchen and bedroom windows have been setback 6m and 3m from the northern boundary to comply with the ADG requirements.

Part 3J: Bicycle and Car Parking

In accordance with the RMS Guide to Traffic Generating Development the following car parking provisions are required for High Density Residential Flat Buildings the following is applicable:

Requirement	Proposed	Complies
Residential 0.6/1 br spaces = 0.6 spaces 0.9/2 br spaces = 15.3 spaces 1.4/3 br spaces = 2.8 spaces Total = 18.7 spaces	21 spaces	Yes
Visitor 1/5 units = 4 spaces	5 spaces	Yes

The proposed car parking complies with the rates within the Comprehensive Inner West Development Control Plan in addition to the RMS guidelines.

Part 4A: 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 proposed development demonstrates that 70% of units living rooms and private open spaces with a minimum of 2 hours direct sunlight between 9.00am and 3.00pm at mid-winter, this being 14 units in total. The ADG further provides that not more than 15% (6 units) of units can receive no solar access to the living rooms of each unit in midwinter, which is proposed. Furthermore the communal roof top terrace area will achieve in excess of

the minimum direct sunlight providing residents with an open space area with good levels of amenity.

Part 4B: 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 proposed development as revised demonstrated demonstrates that 60% (12 units) of the units are cross ventilated, this being G01, G04, G05, 101, 103, 105, 106, 201, 203, 205, 206 and 207.

Part 4C: Ceiling Heights

The ADG prescribes the following minimum ceiling heights:

Minimum Ceiling Height	
Habitable Rooms	2.7m
Non-Habitable	2.4m
For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area
Attic Spaces	1.8m edge of room with a 30 degree minimum ceiling slope
If located in mixed used area	3.3m for ground and first floor to promote future flexibility of use

Comment: Given that the subject site is located within the B4 – Mixed Use Zone the proposal as revised provides a ceiling and floor to floor height of 3.3m and 3.6m respectively for all ground floor units. A 2.7m ceiling height is proposed for all first and second floor units. Given that compliance with the minimum ceiling height control would increase the height limit of the proposal even greater and the first floor will be used for residential and not commercial use, it is not possible to provide increased ceiling heights to first floor. In addition, the existing surrounding built form along Wetherill Street is predominately single storey dwellings whilst along Liverpool Road to the west comprise of two and three storey RFBs.

Single storey commercial premises are immediately adjacent to the subject site whilst few shop top housing development are prevalent towards the intersection of Liverpool Road and Fredrick Street all of which in incorporate residential on the first floor. As such, the provision for increased ceiling heights on the first floor of the proposal to accommodate future commercial development is inconsistent with the existing built form. Therefore, based on the assessment, the noncompliance is acceptable

Part 4D: 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 apartment sizes proposed include 52.5m² for one bedroom units, 75m² – 79 m² for two bedroom units and 95m² for both three bedroom units – as such the proposal is compliant with the ADG provisions.,

Part 4D: 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: All units are compliant with the apartment layout requirements of the ADG.

Part 4E: 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 1 metres.

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

Comment: All balconies proposed comply with the minimum depth requirements. All ground floor units have balconies measuring 10m² – 40m² with additional access to landscaped private open space adjoining these areas. In addition, the primary balcony for the one bedroom unit is 23m², 10m² – 20m² for two bedroom units and 12m² for three bedroom units.

Part 4F: Common Circulation and Spaces

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

- The maximum number of apartments off a circulation core on a single level is 8.

- For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.

Comment: A maximum number of seven units have access to the central lift services for the building.

Part 4G: 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 combined unit and basement storage is compliant with the requirements' of the ADG, storage located within the basement has been allocated to individual units.

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

A BASIX Certificate was submitted with the application, which indicates that the proposal meets the required reduction targets. An appropriate condition of consent will be imposed to ensure future compliance with these targets.

5(a)(v) State Environmental Planning Policy (Infrastructure) 2007

Development with frontage to classified road (Clause 101)

The site has a frontage to Liverpool Road, a classified road. Under Clause 101 (2) of State Environmental Planning Policy (Infrastructure) 2007 (SEPP Infrastructure) the consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that the efficiency and operation of the classified road will not be adversely affected by the development.

The application was referred to Roads and Maritime Services (RMS) for comment. RMS raised no objections with the application with regard to ingress and egress to the site which remains adequate to support the intended vehicle movements by road. The application is considered to be acceptable with regard to Clause 101 of the SEPP Infrastructure.

Impact of road noise or vibration on non-road development (Clause 102)

Clause 102 of the SEPP Infrastructure relates to the impact of road noise or vibration on non-road development on land in or adjacent to a road corridor or any other road with an annual average daily traffic volume of more than 40,000 vehicle. Under that clause, a development for the purpose of a building for residential use requires that appropriate measures are incorporated into such developments to ensure that certain noise levels are not exceeded.

Liverpool Road has an annual average daily traffic volume of between 20,000 - 40,000 vehicles as such a Noise Assessment Report was not required to be submitted with the application that demonstrates that the development will comply with the LAeq levels stipulated in Clause 102 of the SEPP.

5(a)(vii) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

An assessment has been made of the matters set out in Clause 20 of the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. It is considered that the carrying out of the proposed development is generally consistent with the objectives of the Plan and would not have an adverse effect on environmental heritage, the visual environmental, the natural environment and open space and recreation facilities.

5(a)(viii) Ashfield Local Environment Plan 2013 (ALEP 2013)

The application was assessed against the following relevant clauses of the Ashfield Local Environmental Plan 2013:

- Clause 1.2 – Aims of the Plan
- Clause 2.3 – Zone objectives and Land Use Table
- Clause 2.7 – Demolition Requires Development Consent
- Clause 4.3 – Height of buildings
- Clause 4.4 – Floor Space Ratio
- Clause 4.5 – Calculation of floor space ratio and site area
- Clause 4.6 – Exceptions to development standards
- Clause 6.1 – Earthworks
- Clause 6.2 – Flood Planning

Clause 2.3 Zone objectives and land use table

The property is zoned B4 – Mixed Use under the provisions of ALEP 2013. The proposed use is defined as a Residential Flat Building which is permissible with Council's consent within the subject zone.

Clause 4.3 – Height of buildings

The following table provides an assessment of the application against the development standard:

Standard	Proposal	% of non-compliance	Compliance
Maximum: 13m	14.55m (top of lift overrun)	11.9% (1.55m)	No
	13.65m (parapet of rooftop awning)	5% (650mm)	No
	12.75m (top of unit parapet)	N/A	Yes
	8.59m (FFL of second floor units)	N/A	Yes

The revised proposal seeks to exceed the maximum allowable height limit by 1.55m, refer to discussion later in this report.

Clause 4.4 – Floor Space Ratio

The following table provides an assessment of the application against the development standard:

Standard	Proposal	% of non-compliance	Compliance
Maximum: 1.5:1 (1705.5m ²)	1.5:1 (1705m ²)	N/A	Yes

Clause 4.6 – Exemptions to Development Standards (Height)

In accordance with Clause 4.6 of the ALEP 2013, the consent authority may consider a variation where that variation would achieve a better outcome. As previously noted the proposed development fails to comply with maximum allowable height limit applicable to the subject site, this being 13m, as required by Clause 4.3 of the ALEP 2013. The areas of non-compliance relates to the lift overrun, the roof top awning over the communal open space area and a portion of the communal stairwell of the proposal, resulting in an exceedance of 1.55m.

Clause 4.6(3) of the ALEP 2013 states the following:

“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.”*

The applicant has provided a written request that seeks to justify the proposed contravention of the height development standard, these ground have been summarised as follows:

- The maximum building height control of 13m is considered to be unreasonable and unnecessary as the proposed development will no impacts on the surrounding urban environment;
- The proposed variation that is sought is minor in nature with regard to the context of the overall development, on site flooding constraints, transitional land use and character change along Liverpool Road;
- The proposal is consistent with the relevant controls which encourage higher density along Liverpool Road;
- The proposed development is appropriately scaled to address both frontage as Wetherill Street and Liverpool Road to clearly define the visible corner block;
- The departure from the maximum allowable height limit development standard ensure that the proposal is economically viable whilst ensuring that it satisfied the aims of the Mixed Use Zone and the development standard;
- An alternative compliant design scheme would not have a significant lesser impact that that currently proposed, namely overshadowing impacts;
- In accordance with the Land and Environment Court Planning Principles the proposed height exceedance does not block or interrupt any important view corridors or vistas;
- The proposed development is a permissible land use within the B4 – Mixed Use Zone and is consistent with the zone objectives;
- The structures exceeding the height, this being the lift overrun, the roof top awning over the communal open space area and a portion of the communal stairwell of the proposal do not cast an additional shadow onto the adjoining residential properties along Liverpool Road or Wetherill Street. The additional overshadowing impacts caused by the portions of the proposal that exceed the maximum height limit will be confined to the subject site only;
- Flat roof designs have been incorporated as part of the proposal to minimise the extend of overshadowing impacts cause by the proposed height exceedance;
- The design of the proposed development provided quality articulation, generous floor layouts, a large communal open space area that is partially protected by the natural elements, reasonably well landscape areas.

- Compliance with the development standard is deemed to be unreasonable or unnecessary in the circumstances of this case because the departure sought does not create any additional amenity impacts upon the built and natural environments to that of a fully compliant design scheme.
- The proposed development has been articulated so it does not cast any additional shadow within the common areas of open space within the complex or cast any additional shadow onto neighbouring residential properties or reflect a greater bulk and scale to that of a fully compliant scheme; and
- The departure sought will have no unreasonable impacts upon the amenity of neighbours in this precinct, specifically in terms of visual privacy or solar amenity.

Clause 4.6(4) of the ALEP 2013 states the following:

“Development consent must not be granted for a 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)*
 - (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.”*

The proposal is consistent with the objectives of the development standard in that:

- The proposed development is compliant with the maximum floor space ratio for the subject site;
- The proposed development provided reasonable transition between the B4 – Mixed Use Zone and the adjoining R2 – Low Density Residential Zone to the north;
- The proposed development is consistent with the desired future character of the Ashfield West area and does not detract from the prevailing streetscape along Liverpool Road and Wetherill Street and is three storeys in nature;
- The proposed development does not result in significant adverse amenity to the adjoining residential properties, specifically in terms of visual privacy and solar access;
- The proposed development would protect the use and enjoyment of the adjoining properties and the public domain; and
- The proposed bulk and scale of the development is consistent with the adjoining development within the B4 – Mixed Use Zone to the east of the subject site along Liverpool Road.

The subject site is located within the B4 – Mixed Use Zone under the provisions of the ALEP 2013 which permits Residential Flat Buildings with development consent. The proposal is generally consistent with the objectives of the B4 – Mixed Use Zone in that:

- The proposed development includes increased ceiling heights to accommodate future commercial tenancies on the ground floor;
- The proposed development is considered suitable as it integrates with the surrounding developments and is located in accessible locations so as to maximise public transport patronage and encourage walking and cycling;
- The proposed development would enhance the viability, vitality and amenity of Ashfield West locality;
- The proposed development would encourage the orderly and efficient development of land; and
- The proposed development meets the objectives of the height development standard and the objectives of the zone.

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

Council may assume the concurrence of the Director-General under the Planning Circular PS 18-003 issued in February 2018.

In conclusion, the applicant's written request to justify the contravention of the Height Development Standard is considered to be well founded in that the applicant has satisfactorily demonstrated that compliance with the standard is unnecessary or unreasonable in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard.

It is recommended that the Inner West Local Planning Panel (IWLPP) approve a variation to the height Development Standard prescribed by Clause 4.3 in the Ashfield Local Environmental Plan 2013, as it is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6 of that Plan, and the proposed development would be in the public interest because it is consistent with the objectives of that particular standard and objectives for development within the zone.

5(b) Draft Environmental Planning Instruments

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

Draft Remediation of Land State Environmental Planning Policy (SEPP)

The intention of the draft Remediation of Land SEPP and draft planning guidelines is to replace the current SEPP No. 55 – Remediation of Land. The draft Policy was on public exhibition between 31 January and 13 April 2018. The Department of Planning and Environment is currently collating the submissions that were received during the exhibition period.

The subject site has been identified as a contaminated site, refer to discussion at Part 5(a)(i) of this assessment for remediation of the subject site.

Draft Environment SEPP

The NSW government has been working towards developing a new State Environmental Planning Policy (SEPP) for the protection and management of our natural environment. The Explanation of Intended Effect (EIE) for the Environment SEPP was on exhibition from 31 October 2017 until the 31 January 2018. The EIE outlines changes to occur, implementation details, and the intended outcome. It considers the existing SEPPs proposed to be repealed and explains why certain provisions will be transferred directly to the new SEPP, amended and transferred, or repealed due to overlaps with other areas of the NSW planning system.

This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland and Willandra Lakes World Heritage Property. Changes proposed include consolidating the seven existing SEPPs including Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. The proposed development would be consistent with the intended requirements within the Draft Environment SEPP.

5(c) Development Control Plans

The application has been assessed and the following provides a summary of the relevant provisions of Inner West Development Control Plan 2016 (CIWDGP 2016).

Section 2: Chapter A – Miscellaneous	Compliance
Part 4: Flood Hazard	Yes – refer to comments below

Part 8. Car Parking	Yes – refer to comments below
DS2.1 Bicycle parking	Yes
DS3.1 Residential Flat Building in B4 Mixed Use Zone (Residential spaces, visitor spaces and car wash bay)	Yes
Part 14: Contaminated Land	Yes – refer to discussion at Part 5(a)(i) of this assessment.
Section 2: Chapter D – Precinct Guidelines: Ashfield West	Compliance
DS2.2 Maximum number of storeys (3 storeys)	Yes
DS2.3 Adequate ground floor ceiling heights to accommodate commercial uses	Yes (ADG prevails)
DS2.4 Adequate ground floor clearance for waste collection	Not applicable. Waste collection is from the street.
DS3.1 Suitable building location	Yes. Proposal has been design to define the Wetherill Street and Liverpool Corner.
DS3.3 Step down buildings near R2 – Low Density Residential Zone	Yes. Parapet reduced to ensure transition to adjoining R2 – Low Density Residential Area in addition to increased side setback.
DS4.1 3m wide deep soil planting at main road frontage	Yes. 3m provided at Liverpool Road and Wetherill Street and 3m landscape buffer adjoining 21 Wetherill Street. ADG prevails.
DS4.3 Provision for communal open space	Yes. Adequate communal open space and facilities provided o roof. ADG prevails.
DS4.4 Provision for tree planting within front setback	Yes. Both at Liverpool Road and Wetherill Street frontages.
DS4.7 Provision for planter boxes in communal open space areas	Yes. ADG prevails.
DS5.1 Provision for active street frontage and Liverpool Road and Wetherill Street frontage.	Not applicable. No commercial proposed on ground floor however increased ceiling heights have been accommodated.
DS7.1 Adequate setback to ensure residential amenity is maintained.	Yes. ADG setbacks prevail.
DS7.1 Apartment building design for properties on the northern side of Liverpool Road	No. Units G01, G05 and G06 have private open space and living areas orientated to Liverpool Road. Condition is to be recommended to ensure that appropriate glazing be installed to ensure that the acoustic amenity is maintained for the dwelling.
DS10.1 Suitably located driveways	Yes. Basement access is suitably separated and available via Wetherill Street given that Liverpool Road is a classified road.
DS10.4 Suitable located garbage collection area	Yes. Garbage collection area is within the basement with a holding area adjoining the basement driveway access for

	bin collection days.
Section 2: Chapter F – Development Category Guidelines: 5. Residential Flat Buildings	Compliance
DS2.1 Streetscape character	Yes. ADG prevails.
DS7.1 Front setback is to be 20% of the average immediately adjoining properties.	Yes. 3m setback proposed at Wetherill Street and Liverpool Road. ADG Prevails.
DS8.2 Side and rear setback	No. Nil setback proposed at eastern elevations. ADG Prevails.
DS9.1 Car parking provisions	Yes. Proposal is compliant with the requirements' under the ADG and the CIWDCP 2016.
DS10.2 Communal Open space and landscaped area	Yes. ADG prevails
DS11.1 Building design	Yes. ADG prevails
DS13.1 Maximum dwelling size	Yes. ADG Prevails.
DS16.1 Stormwater engineering	Yes. OSD provided within the Liverpool Road front setback. Council's engineering assessment concludes that the OSD system and the drainage system is satisfactory, subject to recommended conditions
DS18.1 Appropriately scaled front fences	Yes. The front fence at Liverpool Road has been reduced in scale to improve the pedestrian interface with the subject site.

Section 2: Chapter A – Miscellaneous Part 4: Flood Hazard

Council's records indicate that the subject site is affected by overland flooding, as such the development has been raised to ensure that all habitable areas are above the flood level. As a result of this a small portion of the proposal exceeds the maximum allowable height development standard, refer to discussion above.

The application was referred to Council's Development Engineer who raised no objection to the proposal.

Section 2: Chapter A – Miscellaneous Part 8 – Car Parking

In accordance with the provisions of DS2.1 bicycle parking for flats is required at the rate of one per ten flats. In addition, in accordance with the provisions of Table 3 of DS3.1, Residential Flat Buildings within a B4 – Mixed Use Zone require a minimum of one space per dwelling as well as visitor parking at the rate of one space per four dwellings plus one car wash bay. As such the provision for two bicycle spaces, 20 residential car spaces, five visitor spaces and one car wash bay is required. The proposed development seeks to include 21 residential car parking spaces, five visitor spaces, one car wash bay, four bicycle spaces and one motor cycle space – and as such is compliant with the CIWDCP 2016 requirements.

5(d) The Likely Impacts

Section 4.15(1)(b) of the Act requires Council to consider *“the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality”*.

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

Social Impacts

The residential development would improve housing choice and affordability in the locality by providing a range of house hold types. This is consistent with Eastern City district plan which identifies the need to provide a mix of housing options to meet future demographic needs in the Inner West Council LGA.

Furthermore, the application was referred to NSW Police Force and no objections were raised subject to crime prevention through environmental design conditions.

Economic Impacts

The proposal would have a minor positive impact on the local economy in conjunction with other new high density residential development in the locality by generating an increase in demand for local services.

5(e) The suitability of the site for the development

The site is zoned B4 - Mixed Use Zone 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(f) Any submissions

The application was notified in accordance with CIWDCP 2016 from 3 February 2018 until 13 March 2018 to surrounding properties and a total of 26 submissions were received (of which 12 pro forma's were received and 14 individual submissions). The amended plans were subsequently renotified from 2 July 2017 until 26 July 2018, one submission was received.

The following issues were raised during the first round of submissions:

- ***Issue: The scale of the proposal is excessive in nature and gives the perception of greater than three storeys.***

Comment: The proposed development is generally compliant with the provisions of the ADG, ALEP 2013 and CIWDCP 2016 with the exclusion of the lift overrun, communal stairs and rooftop awning. These exceedances are significantly setback from the boundary and as such will not contribute to the overall bulk of the development. The proposed development in its current form is a three storey building.

- ***Issue: There is no designated waste storage area specifically for collection day, given the number of bins required this will subsequently block pedestrian and vehicular traffic along Wetherill Street. All garbage should be relocated to Liverpool Road away from the residences.***

Comment: The proposal as revised includes a designate garbage bin waste holding area within the Wetherill Street setbacks abutting the basement garage driveway to the south. This area is it be utilised on garbage collection days only.

- ***Issue: The location of the driveway is inappropriate and will create congestion along Wetherill Street and block views for adjoining residential properties to safely existing their own driveways along the existing narrow street.***

Comment: The location of the driveway at Wetherill Street is suitably located away from Liverpool Road (which is a classified road) in accordance with the requirements by the

RMS in addition to the provisions of the CIWDPC 2016. The application was referred to Council's Development Engineer for comment who raises no objection to the proposal.

- ***Issue: Adverse noise, vibration and traffic impacts to the surrounding residences as a result of extensive excavation works and construction.***

Comment: Appropriate noise and vibration conditions will be imposed on and consent granted. A traffic and construction management plan condition will be required with any consent granted to comply with Council's requirements to the satisfaction of the Principal Certifying Authority.

- ***Issue: The extent of contamination and remediation works are to be clarified and disclosed prior to construction.***

Comment: A Detailed Site Investigation (DSI) and Remedial Action Plan (RAP) have been provided to address the management of contaminated groundwater onsite and the treatment and/or disposal of any contaminated soils and contamination issues. A condition will be recommended on any consent issued requirement that the conclusions of the DSI and RAP are enforced.

- ***Issue: The FSR calculations do not include all the areas of the proposal, this is to be revised to correctly reflect the development.***

Comment: Revised FSR plans were provided with the application demonstrating compliance with the ALEP 2013.

- ***Issue: Loss of visual privacy to the residential properties to the north of the subject site from the north facing balconies and rooftop communal open space area.***

Comment: The proposed development has been adequately setback from the northern boundary in compliance with the ADG requirements. Refer to Part 5(a)(ii) of this assessment.

- ***Issue: The proposed development is inconsistent with the heritage character of the locality.***

Comment: The subject site is not located within a Heritage Conservation area.

- ***Issue: The amount of car parking proposed is insufficient, given that parking along Wetherill Street is already at a premium the proposed development will subsequently exacerbate the existing situation.***

Comment: The proposed development provided adequate residential and visitor car parking in accordance with the provisions of the RMS and the CIWDPC 2016.

- ***Issue: The proposal will devalue properties within the area.***

Comment: This is not a factor of consideration during the assessment of the application.

- ***Issue: Inadequate setbacks are proposed at the front (Liverpool Road) and eastern elevation. The blank wall at the eastern elevation is visually obtrusive.***

Comment: The proposed setback provisions particularly at the eastern elevation are compliant with the requirements of the ADG, aims of the B4 – Mixed Use Zone and the desired future character of the Ashfield West locality.

- ***Issue: The transition between the subject site and the adjoining R2 - Low Density Residential Zone is inadequate.***

Comment: The 3m setback at the northern elevation as well as the reduced parapet height ensures that there is a suitable transition in built form between the B4 – Mixed Use Zone and the maximum permitted heights within the R2 – Low Density Residential Zone.

- **Issue: Loss of outlook from properties at the rear of the subject site to Liverpool Road.**
Comment: There are no significant views of outlook surround the subject site as such the scale of the proposal acceptable.
- **Issue: Overshadowing impacts to the south facing windows of the adjoining northern property.**
Comment: The subject site is to the south of the northern dwelling, as such the proposal will not create any additional overshadowing impact to the subject windows.
- **Issue: The proposed development will reduce the width of the pedestrian footpath and will create a safety risk particularly for prams and wheelchair access.**
Comment: The proposed development is to be wholly constructed within the boundaries of the subject site and as such will not hinder the functionality of the pedestrian footpath.
- **Issue: The height exceedance to accommodate the lift overrun and awning is not acceptable and should be compliant.**
Comment: The proposed height exceedance will not create any adverse overshadowing impacts to the adjoining residential dwellings nor significantly contribute to the overall bulk and scale of the proposal. Refer to discussion at Part 5(a)(vii) of this assessment.
- **Issue: The proposed development is not in keeping with character of the existing built form along Wetherill Street or the immediate locality.**
Comment: The proposal is a modern infill development that positively contributes to the desired future character of the Ashfield West Locality. It clearly defines the corner of Wetherill Street and Liverpool Road and is generally compliant with the requirements under the ADG, ALEP 2013 and CIWDGP 2016.
- **Issue: The additional 20 cars expected to access the subject site will create unnecessary congestion along Wetherill Street.**
Comment: The entrance to the garage has been setback from the Wetherill Street frontage to ensure that vehicles entering and exiting the site will not block the street. In addition, the application was referred to the RMS and Council's Development engineer for comment who raised no objection to the proposal in terms of being a traffic generating development.
- **Issue: The proposed development will create additional overshadowing impacts to private open space areas of the adjoining residential dwellings to the east of the subject site.**
Comment: Detailed shadow diagrams provided with the application illustrate that the adjoining residential dwellings to the east will maintain two hours of solar amenity to their private open space and living areas.
- **Issue: The total landscaped area provided on site is insufficient and non-compliant.**
Comment: Adequate deep soil zones have been provided on the ground floor including screen planting at the northern elevation.

The following issues were raised during the first round of submissions:

- **Issue: The blank wall at the eastern elevation hinder the visual privacy and solar amenity of the adjoining residential properties to the east of the subject site.**
Comment: The subject site currently contains a single storey building on a predominately vacant site, as such any redevelopment of the subject site into a permitted land use within the B4 – Mixed Use Zone is likely to result in a loss of sunlight to the adjoining residential properties to the east. As previously discussed the proposal has been design

with consideration to ensure that 2hr of solar amenity of the POS area and living areas are maintained. The desired future character requirements of the Ashfield West area illustrate that the eastern elevation of the subject site is not required to be setback or scaled back from the property at 457-463 Liverpool Road given that it is also zoned for B4 – Mixed use. The blank wall proposed at the eastern elevation has no openings and protects the visual amenity of the adjoining residential dwellings.

- **Issue: The front setback of 3m at Liverpool Road is inadequate and should be increased to 7m to remain consistent with the residential dwellings to the east.**

Comment: The proposed 3m front setback is consistent with the requirements of ADG in addition to the prevailing front setback for properties within the B4 – Mixed Use Zone along Liverpool Road to the east.

5(g) The Public Interest

The public interest is an overarching requirement, which includes the consideration of the matters discussed in this report. Implicit to the public interest is the achievement of future built outcomes adequately responding to and respecting the future desired outcomes expressed in environmental planning instruments and development control plans.

The application is considered to have satisfactorily addressed Council's and relevant agencies' criteria and would provide a development outcome that, on balance, would result in a positive impact for the community. Accordingly, it is considered that the approval of the proposed development is not contrary to the public interest.

6 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 Engineer** – The proposal has been assessed by Council's Development Engineer who outlined no objection subject to suitable conditions of consent. These conditions have been included in the recommendations for any consent.
- **Environmental Health Officer** – The proposal has been assessed by Council's Environmental Health Officer who undertook an assessment of the site and proposal against the provisions of SEPP 55 – Remediation of Land. Council's Health Officer has outlined no objection to the proposal subject to inclusion of conditions regarding the management of contaminated soils, petroleum storage decommission and acoustic impact mitigation techniques. These conditions have been included in the recommended conditions for any consent.
- **Urban Designer** – The proposal was referred to Council's urban designer, who outlined no objection to the development.
- **Waste Management Officer** – The application was referred to Council's Waste Management Officer, who outlined concerns over ability of bins to be transported from the residential waste area to the temporary holding area for collection. In particular concerns over the proposed ramp gradients and the distance the bins are to be transported were outlined. These concerns are to be addressed through the incorporation of design change conditions recommended for any consent.
- **Tree Management Officer** – Council's Tree Management Officer has reviewed the site and the proposed landscape plan and outlined that development is unlikely to impact

upon the health of trees located upon neighbouring sites. Council's Tree Management Officer has outlined that the proposed landscape plan details the planting of an *Angophora costata* (Sydney Red Gum) for the north west corner of the site. This is identified as problematic for the neighbouring 21 Wetherill Street, conditions requiring an amended landscape plan to be submitted, which details the *Angophora costata* (Sydney Red Gum) replaced with smaller trees has been recommended for the consent.

6(b) External

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

- **Roads and Maritime Services (RMS)** – RMS have reviewed the proposal and provided concurrence under Section 138 of the Roads Act 1993. Conditions provided from the RMS relate to construction methods, vehicular movements and stormwater design details.

7. Section 7.11 Contributions

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 \$278,255.07 would be required for the development under Ashfield Section 94 Contributions Plan 2014, being for 20 residential accommodation made up of the following:

- Residential accommodation less than 60m² GFA – 1 unit;
- Residential accommodation between 60-84m² GFA – 17 units;
- Residential accommodation greater than 84m² GFA – 2 units;

And credit for 72m² GFA from an existing commercial premises on-site.

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 Flat Development, Apartment Design Guide, Ashfield Local Environmental Plan 2013 and Comprehensive Inner West Development Control Plan 2016.

The development will not result in any significant impacts on the amenity of adjoining premises and the streetscape. The non-compliance with the height development standard has been adequately justified in the applicant's written request in accordance with Clause 4.6 Exceptions to Development Standards.

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

9. Recommendation

- A. That the Inner West Local Planning Panel (IWLPP) approve a variation to the height of buildings control prescribed by clause 4.3 in the Ashfield Local Environmental Plan 2013, as it is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6 of that Plan, and the proposed

development would be in the public interest because it is consistent with the objectives of that particular standard and objectives for development within the zone.

- B. That the Inner West Local Planning Panel exercising the functions of Council as the consent authority pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979 grant consent to Development Application No. 2018.13.1 for the demolition of existing structures and construction of a three storey residential flat building containing 1 x 1 bedroom, 17 x 2 bedroom and 2 x 3 bedroom apartments over two levels with two levels of basement parking. at 17-19 Wetherill Street, Croydon subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

CONDITIONS

DA 2018.13.1

17-19 Wetherill Street CROYDON 2132

Description of Work as it is to appear on the determination:

Demolition of existing structures and construction of a three storey residential flat building containing 1 x 1 bedroom, 17 x 2 bedroom and 2 x 3 bedroom apartments over two levels with two levels of basement parking.

A General Conditions

(1) Approved plans stamped by Council

The development must be carried out only in accordance with the plans and specifications set out on drawing numbers prepared by and date stamped by Council and any supporting documentation received with the application, except as amended by the conditions specified hereunder.

Drawing No.	Title/Description	Prepared by	Issue/ Revision	Date
202	Basement B2 Plan	Ross Howieson Architects	DA-C	6/08/2018
203	Basement B1 Plan	Ross Howieson Architects	DA-C	6/08/2018
204	Ground Floor Plan	Ross Howieson Architects	DA-C	6/08/2018
205	First Floor Plan	Ross Howieson Architects	DA-C	6/08/2018
206	Second Floor Plan	Ross Howieson Architects	DA-C	6/08/2018
207	Third Floor Plan	Ross Howieson Architects	DA-C	6/08/2018
208	Roof Plan	Ross Howieson Architects	DA-C	6/08/2018
301	South Elevation	Ross Howieson Architects	DA-C	6/08/2018
302	West Elevation	Ross Howieson Architects	DA-C	6/08/2018
303	North Elevation	Ross Howieson Architects	DA-C	6/08/2018
304	East Elevation	Ross Howieson Architects	DA-C	6/08/2018
401	Section AA	Ross Howieson Architects	DA-C	6/08/2018
402	Section BB	Ross Howieson Architects	DA-C	6/08/2018
403	Section CC	Ross Howieson Architects	DA-C	6/08/2018

Supporting Documents:

Title/Document	Prepared by	Issue/ Revision	Date
Pre-demolition Hazardous Materials Survey Report	ADE Consulting Group	V1 Final	11/05/2018
Remediation Action Plan	ADE Consulting Group	V1 Final	14/06/2018
Site Audit Report	Epic Environmental		21/06/2018
Site Audit Statement	Epic Environmental		21/06/2018
Stormwater Notes & Legends, Drawing No. W01	Horizon Engineers	3	22/05/2018

Title/Document	Prepared by	Issue/ Revision	Date
Stormwater Basement 2, Drawing No. W02	Horizon Engineers	3	22/05/2018
Stormwater Basement 1, Drawing No. W03	Horizon Engineers	3	22/05/2018
Stormwater Ground Level, Drawing No. W04	Horizon Engineers	3	22/05/2018
Pump Out Pit Details, Drawing No. W05	Horizon Engineers	3	22/05/2018
Above Ground OSD Storage B Details, Drawing No. W06	Horizon Engineers	3	22/05/2018
Above Ground OSD Storage A Details, Drawing No. W07	Horizon Engineers	3	22/05/2018
Stormwater Roof, Drawing No. W08	Horizon Engineers	3	22/05/2018
Stormwater Sediment Control Plan, Drawing No. W09	Horizon Engineers	3	22/05/2018
Statement of Available Pressure and Flow	Sydney Water		8/05/2018
Access Report	Accessibility Solutions		19/01/2018
BASIX Certificate No. 881821M	Eco Certificates		8/12/2017
Phase 2 Environmental Site Assessment	Arcadis	2	18/05/2017
Flood Certificate	WMA Water		20/09/2017
Ground Floor and Landscape Plan, Drawing No. 1071	Site Design & Studios	L-01 B	12/12/2017
Level 3 Landscape Plan, Drawing no. 1071	Site Design & Studios	L-02 B	12/12/2017
Statement of Environmental Effects	Caladines		January 2018
Plan of Levels and Details	W. Buxtom Pty Ltd		11/08/2017
Traffic and parking impacts assessment	McLaren Traffic Engineer & Road Safety Consultants	17742.01 FA	23/01/2018
Urban Design Comment	PCN Urban		28/01/2018
Waste Management Plan	No author		16/01/2018

In the event of any inconsistency, the conditions of this consent shall prevail.

(2) Compliance with BCA

All architectural drawings, specifications and related documentation shall comply with the Building Code of Australia (BCA). All work must be carried out in accordance with the requirements of the Building Code of Australia (BCA).

(3) Waste – trackable

Removal of trackable waste (as defined by the NSW Environment Protection Authority) from the site must comply with the Protection of the Environment Operations (Waste) Regulation 2005 for the transportation, treatment and disposal of waste materials. Waste materials must not be disposed on land without permission of the land owner and must with the provisions of the *Protection of the Environment and Operations Act 1997*.

(4) Engineering staff to inspect roadworks/drainage/street tree planning

An inspection by Council's staff will be required for kerb & gutter, footpath, road pavement, and vehicle crossing works, at the following stages:

- (a) after excavation
- (b) after the erection of formwork and placement of reinforcement and prior to pouring of concrete
- (c) after placement of road base course
- (d) during construction of asphaltic concrete pavement layers
- (e) on completion of the works

A minimum of 48 hours notice shall be given to Council to obtain an inspection. Work shall not proceed until the works or activity covered by the inspection is approved.

(5) Materials and colour schemes

Materials of construction are to be as specified in the schedule of finishes submitted with the development application and on the approved plans, except where amended by the conditions hereunder.

(6) Road and Maritime Services conditions

- (a) All buildings and structures, together with any improvements integral to the future use of the site are wholly within the freehold property (unlimited in height or depth), along the Liverpool Road boundary.
- (b) Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to Roads and Maritime for approval, prior to the commencement of any works.

Details should be forwarded to:
The Sydney Asset Management
Roads and Maritime Services
PO Box 973 Parramatta CBD 2124.

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

- (c) The design and construction of the gutter crossing on Liverpool Road shall be in accordance with Roads and Maritime requirements. The redundant driveway on the Liverpool Road boundary shall be removed and replaced with kerb and gutter to match existing. Details of these requirements should be obtained from Roads and Maritime Services, Manager Developer Works, Statewide Delivery, Parramatta (telephone 9598 7798).

Detailed design plans of the proposed gutter crossing are to be submitted to Roads and Maritime for approval prior to the issue of a Construction Certificate and commencement of any road works.

A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approved road design plans by Roads and Maritime.

- (d) The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements in relation to landscaping and/or fencing, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1- 2004 and AS2890.6-2009.
- (e) All vehicles are to enter and leave the site in a forward direction.
- (f) All vehicles are to be wholly contained on site before being required to stop.
- (g) Sight distances from the proposed vehicular crossing to vehicles on Wetherill Street are to be in accordance with the Austroads 'Guide to Traffic Engineering Practice, Part 5: Intersections at Grade, Section 6.2 – Sight Distance' and AS 2890. Vegetation and proposed landscaping/fencing must not hinder sight lines to and from the vehicular crossings to motorists, pedestrians and cyclists.
- (h) All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on the Liverpool Road.
- (i) A Road Occupancy Licence must be obtained from Transport Management Centre for any works that may impact on traffic flows on the Liverpool Road during construction activities.

B Conditions that must be satisfied prior to issuing/releasing a Construction Certificate

(7) Consolidation of allotments

The following properties being 17-19 Wetherill Street, Croydon at Lot 1 in DP 944196, Lot 1 in DP944198 are to be consolidated into one. A plan of consolidation prepared by a registered surveyor and six (6) paper copies are to be submitted to Council for signature prior to registration at the Land Titles Office (Department of Information and Land Management). Evidence of consolidation from the Land Titles Office shall be submitted to Council or the Principal Certifying Authority prior to the release of a Construction Certificate.

(8) Waste Management Plan

Prior to the issue of a Construction Certificate, the applicant shall prepare and submit a Waste Management Plan in accordance with the provisions of Inner West Council Comprehensive Development Control Plan 2016 - Planning For Less Waste and the Waste Planning Guide for Development Applications (Planning for Less Waste, prepared by the Regional Waste Boards), including:

- (a) Estimations of quantities and type of materials to be reused, recycled or left over for removal from site;
- (b) Identification on a plan of on site material storage areas during construction, waste storage, recycling and composting areas;
- (c) Details of construction materials and methods to be used to minimise the production of waste in the completion of the new building work.
- (d) How waste is to be treated on the site.

- (e) How any residual non-reusable and non-recyclable waste is to be disposed of and including details of the approved waste disposal outlets where disposal will take place.

(9) Construction and Site Management Plan

Prior to the issue of a Construction Certificate the applicant shall submit to Council or the accredited certifier a construction and site management plan that clearly sets out the following:

- (a) what actions and works are proposed to ensure safe access to and from the site and what protection will be provided to the road and footpath area from building activities, crossings by heavy equipment, plant and materials delivery, or static loads from cranes, concrete pumps and the like,
- (b) the proposed method of loading and unloading excavation machines, building materials, formwork and the erection of any part of the structure within the site,
- (c) the 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,
- (d) how it is proposed to ensure that soil/excavated material is not transported on wheels or tracks of vehicles or plant and deposited on surrounding roadways,
- (e) the proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed by a chartered Civil Engineer or an accredited certifier.

Where it is proposed to:

- pump concrete from within a public road reserve or laneway, or
- stand a mobile crane within the public road reserve or laneway, or
- use part of Council's road/footpath area,
- pump stormwater from the site to Council's stormwater drains, or
- store waste and recycling containers, skip, bins, and/or building materials on part of Council's footpath or roadway,

An Activity Application for a construction zone, a pumping permit, an approval to stand a mobile crane or an application to pump water into a public road, together with the necessary fee shall be submitted to Council and approval obtained before a Construction Certificate is issued.

Note: A separate application to Council must be made for the enclosure of a public place (hoarding).

(10) Soil and Water Management Plan

Prior to the issue of a Construction Certificate, the applicant shall submit to and obtain approval from Council or the accredited certifier of a Soil and Water Management Plan and Statement which clearly identifies site features, constraints and soil types together with the nature of proposed land disturbing activities and also specifies the type and location of erosion and sediment control measures and also rehabilitation techniques necessary to deal with such activities.

The Plan shall be compatible with any Construction and Site Management Plan and shall ensure the following objectives are achieved, namely:

- (a) to minimise the area of soils exposed at any one time
- (b) to conserve top soil
- (c) to identify and protect proposed stockpile locations
- (d) to preserve existing vegetation and identify revegetation techniques and materials

- (e) to prevent soil, sand, gravel, and any other sediment or spoil from leaving the site in an uncontrolled manner
- (f) to control surface water flows through the development construction site in a manner that:-
- (g) diverts clean run-off around disturbed areas
- (h) minimises slope gradient and flow distance within disturbed areas.
- (i) ensures surface run-off occurs at non-erodable velocities.
- (j) ensures disturbed areas are promptly rehabilitated
- (k) to ensure regular monitoring and maintenance of erosion and sediment control measures and rehabilitation works.

The plan is to be prepared in accordance with "*Managing Urban Stormwater: Soils and Construction Manual*" prepared by NSW Department of Housing (1998).

(11) Erosion & sedimentation control-management plan

Prior to issue of a construction certificate the applicant shall prepare an erosion and sedimentation control plan in accordance with Part 4 of the guidelines titled "*Pollution Control Manual for Urban Stormwater*", as recommended by the Environmental Protection Authority.

Any stormwater runoff collected from the site must be treated in accordance with the Guidelines, before discharge off the site to comply with the *Protection of the Environment Operations Act 1997* or other subsequent Acts.

Where sedimentation control basins are provided discharge shall be to the requirements of the Environmental Protection Authority.

Applicants are further advised to refer to the following publications for additional information:

- (a) "*Sedimentation and Erosion Control*" - Department of Conservation and Land Management.
- (b) "*Soil and Water Management for Urban Development*" - Department of Housing.

The plan must be submitted with the application for a construction certificate.

Further information may be obtained from:

Environment Protection Officer
Environment Protection Authority
Inner Sydney Region
Locked Bag 1502
BANKSTOWN NSW 2200

(12) Landscaping plan

The Landscape Plan prepared by Site Design + Studios, 12/12/2017, is to be amended and shall include the following:

- (a) The *Angophora costata* (Sydney Red Gum) planting proposed for the north west corner of the site is to be replaced with a smaller growing, upright tree.
- (b) Three (3) new trees shall be located within the footpath outside the subject property on Liverpool Road. The species of tree selected shall be *Lophostemon confertus* (Brush Box).
- (c) Two (2) new trees shall be located within the footpath outside the subject property on Wetherill Street. The species of tree selected shall be *Waterhousia floribunda* 'Green Avenue' (Green Avenue Weeping Lilly Pilly).

- (d) The *Lophostemon confertus* (Brush Box) are to be planted at ten (10) metre spacings.
- (e) The *Waterhousia floribunda* 'Green Avenue' (Green Avenue Weeping Lilly Pilly) are to be planted at 6 metre spacings.
- (f) All planting stock size shall be minimum 200 litres.
- (g) The planting stock shall comply with AS 2303—Tree Stock for Landscape Use.
- (h) The new trees shall be planted by a qualified horticulturist or arborist, with a minimum qualification of AQF 3.
- (i) The tree pit dimensions and staking detail shall be in accordance with Detail 10 on page C44 of the Ashfield Street Tree Strategy 2015, Part C (available online).
- (j) The new street trees shall be maintained in a healthy and vigorous condition during an establishment period of 12 months.
- (k) If any tree dies or is removed during the establishment period it shall be replaced with the same species tree in accordance with these conditions at the expense of the applicant.
- (l) Upon completion of planting, the applicant shall arrange an inspection by Council's Public Tree Coordinator (call 93925148) to approve the installation. If trees are unsatisfactory and not in accordance with conditions they will be rejected and replaced at the expense of the applicant

It needs to be demonstrated that adequate soil volume can be provided for all trees. Tree planting details must include dimensions for tree pits and details of a vault style structural soil with a minimum of 20-30m³ available soil volume for each tree.

Refer to Detail 5 on page C39 of the Ashfield Street Tree Strategy 2015, Part C.

(13) Dilapidation Reports

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

(14) Security Deposit

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

Security Deposit (FOOT)	\$20,450.00
Inspection fee (FOOTI)	\$225.00

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 Council to determine the condition of the adjacent road reserve and footpath prior to and on completion of the works being carried out.

Should any of Council's property and/or the physical environment sustain damage during the course of the demolition or construction works, or if the works put Council's assets or the environment at risk, or if any road, footpath or drainage works required by this consent are not

completed satisfactorily, Council may carry out any works necessary to repair the damage, remove the risk or complete the works. Council may utilise part or all of the security deposit to restore any damages, and Council may recover, in any court of competent jurisdiction, any costs to Council for such restorations.

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

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

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

(15) Long service levy

Compliance with Section 109F of the Environmental Planning and Assessment Act 1979 – payment of the long service levy under Section 34 of the Building and Construction Industry Long Service Payments Acts 1986 – is required. All building of \$25,000.00 and over are subject to the payment of a Long Service Levy fee. A copy of the receipt for the payment of the Long Service Levy shall be provided to the Principal Certifying Authority (PCA) prior to the issue of a Construction Certificate. Payments can be made at Long Service Payments Corporation offices or most Councils.

(16) Services and infrastructure adjustment/relocation

The applicant shall meet the full cost for Telstra, Sydney Water, Energy Australia, AGL Electricity/AGL Retail Energy or alternative service/energy providers to adjust/relocate their services/infrastructure as required. The applicant shall make the necessary arrangements with the relevant service authority or relevant retail energy company.

(For information on the location of services contact the "Dial before you Dig" service on 1100.)

Documentary evidence from the utility authorities/retail energy company confirming that all of their requirements have been satisfied shall be submitted to Council with the Construction Certificate.

(17) Driveway crossing fee

Council can construct the driveway crossing for a fee. Contact Council on 9716 1983 in order that a fee estimate can be sent to you for acceptance.

(18) Redundant crossing removal fee

Council will need to remove any redundant crossings and replace with kerbing and other ancillary works where necessary. Contact Council on 9392 5000 and you will be advised as to the estimate of cost of this work.

Note: Cost of this work to be borne by the applicant.

(19) Lighting to basement/pedestrian routes-safety

Lighting which meets the relevant Australian Standard of 40 lux., spaced at appropriate intervals to provide the required surveillance shall be provided to the vehicular basement parking area and along pedestrian access routes for safety and security purposes during the evenings.

Details to be shown on the construction certificate.

(20) Car parking provision/layout

The following 26 off-street parking spaces are to be provided:

- (a) 21 car spaces for residential units (including 2 spaces for the accessible/adaptable units); and
- (b) 5 visitor car spaces (including 1 accessible space).

Additionally 1 car wash bay, 4 bicycle spaces and 1 motorbike spaces are to be provided.

A total of 46 car spaces including 5 spaces for the accessible parking shall be provided and allocated in accordance with the provisions of AS2890.1, AS2890.2 and AS2890.6 and the requirements of Inner West Comprehensive Council's Development Control Plan 2016 for Access, Adaptability and Mobility (Phone 9392 5000 for a free copy).

Details to be shown on the application with the Construction Certificate.

Note: Minimum basement ceiling height above any parking spaces provided for people with disabilities is to be 2.6 metres.

(21) Access and services for people with a disability – flats/mixed development

Detailed plans drawn to the scale of 1:50 shall be submitted detailing compliance with the requirements of AS4299 and AS 1428 and the provisions of Part C1 – Access, Adaptability and Mobility, Inner West Comprehensive Development Control Plan 2016 prior to the issue of a Construction Certificate, and details of complying levels, ramp slopes, door widths, circulation spaces.

(22) Preparation of geotechnical report

To ensure that the structural integrity of the proposal and neighbouring buildings will be maintained, a full geotechnical report must be submitted to the Council or the PCA prior to the issue of a construction certificate and prior to the commencement of excavation works. The report must include an investigation of site and soil conditions as well as the proposed means of construction and must contain, where required, recommendations to ensure that excavation, backfilling and construction, including temporary works during construction, will not affect the structural integrity of neighbouring buildings or the structural stability of neighbouring public land, property or services. The report is to be prepared and certified by an appropriately qualified practicing geotechnical engineer.

All demolition, excavation, backfilling and construction must be undertaken in accordance with the recommendations of the geotechnical report.

(23) Pedestrian and Vehicular Alignment Levels

Alignment levels for the site at all pedestrian and vehicular access locations shall match the existing back of footpath levels at the boundary

Note: This may require the internal site levels to be adjusted locally at the boundary to ensure that they match the above alignment levels. Failure to comply with this condition will result in vehicular access being denied.

(24) Ventilation

To ensure that adequate provision is made for ventilation of the building all mechanical and/or natural ventilation systems shall be designed, constructed and installed in accordance with the provisions of:

- (a) Building Code of Australia.

- (b) AS 1668.1 - 1998.
- (c) AS 1668.2 - 1991.
- (d) Public Health Amendment Regulation 2003
- (e) Public Health Act 1991
- (f) Work Cover Authority.
- (g) AS/NZS 3666.1 - 2002.

Evidence from an appropriately qualified person certifying that these design requirements have been met shall accompany the application for the Construction Certificate.

(25) Plant and Equipment location

All plant and associated equipment must be located within the approved building envelope and is not be located on the roof. Details on the location of all plant and equipment must be consistent with the approved plans and provided prior to the issue of a Construction Certificate.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

(26) Noise from road and rail

To minimise the impact of noise from the adjoining major road or rail corridor on the occupants of the building it shall be acoustically designed and constructed to meet the requirements of AS 2107 - 1989.

Evidence from a qualified acoustic consultant that these design requirements have been met shall accompany the application for the Construction Certificate.

(27) Water efficient irrigation system

The communal open space areas shall be provided with a water efficient irrigation system to enable effective landscape maintenance. Details shall be included with the landscape plan to be submitted with the Construction Certificate.

(28) Street numbering

An application for street numbering shall be lodged with Council for approval, prior to the release of a Construction Certificate, or Subdivision Certificate, whichever occurs first.

(29) Planter Boxes/ On slab planting

On slab planter boxes must include waterproofing, subsoil drainage (proprietary drainage cell, 50mm sand and filter fabric) automatic irrigation, minimum 500mm planting soil for shrubs and minimum 1000mm planting soil for trees and palms and 75mm mulch.

(30) Services adjustment or relocation

The applicant shall meet the full cost for Telstra, Sydney Electricity, Sydney Water or Natural Gas Company to adjust/relocate their services as required. The applicant shall make the necessary arrangements with the service authority. (For information on the location of these services contact the "Dial before you Dig" service on 1100.)

Documentary evidence from the public utility authorities confirming that all of their requirements have been satisfied shall be submitted to council with the Construction Certificate under Section 68 of the *Local Government Act, 1993*, for construction of the development.

(31) Footpath/laneway – photographs to be submitted

Prior to the release of the Construction Certificate, the applicant shall lodge with Council photographs of the roadway, footpath and/or laneway at the property indicating the state of the relevant pavements. At the completion of construction, again at the expense of the applicant, a new set of photographs is to be taken to determine the extent, if any, of any damage which has occurred to the relevant pavements. If any damage has occurred, the applicant shall meet the full cost to repair or reconstruct these damaged areas to Council's relevant standard. Failure to do this shall result in the applicant being held accountable for the cost of all repairs in the area near/at the site.

(32) Driveway details approval – PCA

Proposed internal driveway grate and longitudinal section details shall be submitted to the Principal Certifying Authority in conjunction with the application for approval of the Construction Certificate. In particular, the driveway ramp from internal and across the footpath to Wetherill Street, shall be checked for clearances at changes of grade and vertical height, in accordance with AS 2890.1-2004, and any amendments implemented.

(33) Public Liability Insurance

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

(34) Rock Anchors

Council will not approve permanent anchors in the road reserve. Temporary anchors may be considered in shallow environments where they are to be removed during construction.

If you are seeking to use temporary anchors, you shall make a request for approval for a Permit under Section 138 of the Roads Act 1993. The submission shall 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 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.

Applications for such Permits shall be submitted and approved by Council prior to the commencement of the works associated with such activity or issue of the Construction Certificate (whichever occurs first). Details demonstrating compliance with the requirements of this condition shall be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

(35) Acoustic – General Acoustic

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

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

An acoustic report prepared by a suitably qualified and experienced acoustic consultant shall be provided to the satisfaction of the Principal Certifying Authority demonstrating that noise and vibration from the operation of the premises including the use, plant and equipment will satisfy the stipulated criteria above and relevant provisions of the Protection of the Environment Operations Act 1997 and Regulations and relevant state and local policies and guidelines. Recommendations must be consistent with the approved plans.

Details demonstrating compliance with the requirements of this condition are to be submitted to the Principal Certifying Authority for approval prior to the issue of any Construction Certificate.

(36) Air Conditioning Acoustic – Air conditioning

Any air conditioning unit on the site must be installed and operated at all times so as not to cause "Offensive Noise" as defined by the Protection of the Environment (Operations) Act 1997.

The system/s shall be operated as follows:

- (a) Domestic air conditioners must not be audible in nearby dwellings between:
 - i) 10:00pm to 7:00am on Monday to Saturday; and
 - ii) 10:00pm to 8:00am on Sundays and Public Holidays.
- (b) At any other time the systems and associated equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background $L_{A90, 15min}$ noise level, measured in the absence of the noise source/s under consideration by 5dB(A).

The source noise level shall be assessed as an $L_{Aeq, 15min}$ and adjusted in accordance with the NSW Environment Protection Authority's Industrial Noise Policy and Environmental Noise Control Manual (sleep disturbance).

Air conditioning units must be installed in accordance with plans referenced in condition 1 or to satisfy provisions of the State Environmental Planning Policy (Exempt & Complying Codes) 2008.

Details demonstrating compliance with the requirements of this condition and the acoustic measures to be employed to achieve compliance with this condition are to be submitted for approval to the Principal Certifying Authority prior to the issue of any Construction Certificate.

(37) Mechanical Ventilation

To ensure that adequate provision is made for ventilation of the building, mechanical and/or natural ventilation shall be provided.

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

- The Building Code of Australia,

- Australian Standard AS 1668 Part 1 – 1998,
- Australian Standard AS 1668 Part 2 – 2012,
- Australian Standard 3666.1 – 2011,
- Australian Standard 3666.2 – 2011; and
- Australian Standard 3666.3 - 2011.

Details demonstrating compliance with the requirements of this condition are to be submitted to the Principal Certifying Authority prior to the release of a Construction Certificate. 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 (the consent authority).

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate

(38) Section 7.12 Development Contributions

In accordance with Section 4.17(1) of the *Environmental Planning and Assessment Act 1979* and the Ashfield Council Development Contributions Plan, the following monetary contributions shall be paid to Council Prior to issue of a Construction Certificate to cater for the increased demand for community infrastructure resulting from the development:

<u>Community Infrastructure Type</u>	<u>Contribution</u>
Local Roads	\$6,616.52
Local Public Transport Facilities	\$14,492.95
Local Car Parking Facilities	\$0.00
Local Open Space and Recreation Facilities	\$233,282.19
Local Community Facilities	\$12,283.43
Plan Preparation and Administration	\$11,579.98
TOTAL	\$278,255.07

Being for 20 residential accommodation made up of the following:

- Residential accommodation less than 60m² GFA – 1 unit;
 - Residential accommodation between 60-84m² GFA – 17 units;
 - Residential accommodation greater than 84m² GFA – 2 units;
- And credit for 72m² GFA from an existing commercial premises.*

If the contributions are not paid within the financial quarter that this consent is granted, the contributions payable will be adjusted in accordance with the provisions of the Ashfield Development Contributions Plan and the amount payable will be calculated on the basis of the contribution rates applicable at the time of payment in the following manner:

$$\text{\$C}_c = \frac{\text{\$C}_p \times \text{CPI}_c}{\text{CPI}_p}$$

Where:

$\text{\$C}_c$ is the amount of the contribution for the current financial quarter

$\text{\$C}_p$ is the amount of the original contribution as set out in this development consent

CPI_c is the Consumer Price Index (Sydney – All Groups) for the current financial quarter as published by the ABS.

CPI_p is the Consumer Price Index for the financial quarter at the time of the original consent.

Prior to payment of the above contributions, the applicant is advised to contact Council's Planning Division on 9392 5000. Payment may be made by cash, money order or bank cheque.

Council's Development Contributions Plan may be viewed at www.innerwest.nsw.gov.au or a copy may be inspected at Council's Administration Centre.

(39) Permits - General

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

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

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

Applications for such Permits shall be submitted and approved by Council prior to the commencement of the works associated with such activity or issue of the Construction Certificate (whichever occurs first). Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

(40) Traffic Management Plan

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

(41) Construction Traffic Management Plan

A Construction Traffic Management Plan (CTMP) is to be prepared by an appropriately qualified Traffic Management Consultant and submitted to and approved by Council's Engineering Section, prior to the commencement of any works including demolition.

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.

(42) SEPP 65 – Design Verification

Prior to release of the Construction Certificate design verification is required to be submitted from the original designer to confirm the development is in accordance with the approved plans and details and continues to satisfy the design quality principles in State Environmental Planning Policy No – 65 Design Quality of Residential Flat Building Development.

(43) Allocation of Resident Storage Areas

Storage areas are to be allocated internally to each unit to comply with the SEPP 65, 6m³ (Min) for 1 bedroom unit, 8m³ (Min) for two bedroom units and 10 m³ (Min) for 3 bedroom units. 50% is to be accessible from the apartments.

(44) Site Stormwater Drainage

In both OSD pits, a RH3030 trash rack shall be installed over the orifice plates.

(45) Flood Control

The crest of the proposed driveway, the crest of all access points into the Basement Levels & the Ground Floor, and all floor levels of the development shall be at or above the Flood Planning level ie RL 17.8.

(46) Splay Corner

A splay corner shall be created at the property corner of Liverpool Road/Wetherill Street, and dedicated to the public for road widening before the issue of an Occupancy Certificate.

The size of the splay(s) shall be 2m x 2m at the street corner.

Amended plans incorporating the splay corners shall be submitted to Council's satisfaction before the issue of a Construction Certificate.

(47) Locations of Services and Protected Trees

Before the issue of a Construction Certificate, the Principal Certifying Authority shall be satisfied that no proposed underground services (i.e. water, sewerage, drainage, gas or other service) unless previously approved by conditions of consent, are located beneath the canopy of any tree protected under State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, located on the subject allotment and adjoining allotments.

A plan detailing the routes of these services and trees protected under the State Environmental Planning Policy shall be prepared. Details demonstrating compliance are to be shown on the plans submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

(48) Works Beneath Canopy's of Protected Trees

No activities, storage or disposal of materials taking place beneath the canopy of any tree protected under Council's Tree Management Controls at any time.

(49) Petroleum storage – decommission

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

Details demonstrating compliance with the requirements of this condition are to be submitted for approval to the Principal Certifying Authority prior to the issue of any Construction Certificate.

C Conditions that must be complied with before work commences**(50) Notice of Commencement – Notification of Works**

Work must not commence until the Principal Certifying Authority or the person having the benefit of the development consent has given Notification in Writing to Council no later than two days before the building work commences.

(51) Requirement for a Construction Certificate

In accordance with the provisions of Section 81A of the *Environmental Planning and Assessment Act 1979* the erection of a building and/or construction works must not commence until:

- (a) detailed plans and specifications of the building have been endorsed with a Construction Certificate by:
 - (i) Council; or
 - (ii) an accredited certifier; and
- (b) a principal certifying authority (PCA) has been appointed and the Council has been notified in writing of the appointment, and
- (c) at least two days notice, in writing, has been given to Council of the intention to commence work.

The documentation required under this condition shall show that the proposal complies with all development consent conditions and the *Building Code of Australia*.

Note: If the principal certifying authority is the Council, the appointment will be subject to the payment of a fee for the service to cover the cost of undertaking building work and / or civil engineering inspections.

WARNING: Failure to obtain a Construction Certificate prior to the commencement of any building work is a serious breach of Section 81A(2) of the *Environmental Planning & Assessment Act 1979*. It is a criminal offence that attracts substantial penalties and may also result in action in the Land and Environment Court and orders for demolition.

(52) Inspections required by Principal Certifying Authority

Inspections shall be carried out at different stages of construction by Council or an accredited certifier. If Council is selected as the Principal Certifying Authority (PCA) the inspection fees must be paid for in advance which will be calculated at the rate applicable at the time of payment.

(53) Sanitary facilities - demolition/construction sites

Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

The provision of toilet facilities in accordance with this clause must be completed before any other work is commenced.

(54) Layout of buildings

The layout of all external walls, including retaining walls and contiguous piling must be checked and verified by survey prior to the commencement of construction to ensure that building construction complies with the development consent and does not encroach beyond the boundaries of the site.

(55) Building location - check survey certificate

To ensure that the location of the building satisfies the provision of the approval, a check survey certificate shall be submitted to the Principal Certifying Authority either prior to the pouring of the ground floor slab or at dampcourse level, whichever is applicable or occurs first, indicating the: -

- (a) location of the building with respect to the boundaries of the site;
- (b) level of the floor in relation to the levels on the site (all levels are to be shown relative to Australian Height Datum);
- (c) site coverage of the buildings on the site.

(56) Crane permit

Should the applicant need to use a crane during the course of building, it will be necessary to first obtain a "Crane Permit" from Council. The approval of other authorities (eg Police Department, RTA) may be required for the use of a crane.

(57) Protection of public places - erection or demolition of building

- (a) If the work involved in the erection or demolition of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient or involves the enclosure of a public place; a hoarding or fence must be erected between the work site and the public place.
- (b) If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- (c) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- (d) Any such hoarding, fence or awning is to be erected prior to works commencing and only with Council approval in accordance with SafeWork requirements. The temporary structures are to be removed when the work has been completed.

(58) Site fencing/security

The site must be appropriately secured and fenced to the satisfaction of Council during demolition, excavation and construction work to ensure there are no unacceptable impacts on the amenity of adjoining properties. Permits for hoardings and or scaffolding on Council land must be obtained and clearly displayed on site.

(59) Dilapidation Reports

A Dilapidation Report on the current structural condition of the existing buildings at No. 21 Wetherill Street, Croydon and No. 463 Liverpool Road, Croydon must be prepared by a practicing structural engineer. The Dilapidation Report must be completed and submitted to the owner of the subject property and to Council prior to the commencement of any demolition, excavation or construction works. At the completion of the works, a second Dilapidation Report recording the structural condition must be prepared. That Report must be submitted to the owner of the subject property and to Council.

(60) Support for neighbouring buildings and notice to adjoining owners

- (a) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
 - i. Must preserve and protect the building from damage, and
 - ii. If necessary, must underpin and support the building in an approved manner, and
 - iii. Must 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.
- (b) The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

Notes:

- (a) Details of underpinning works, prepared and certified by a practicing structural engineer shall be submitted to and approved by the Principal Certifying Authority prior to the commencement of any works.
- (b) allotment of land includes a public road and any other public place.

(61) Demolition work plan

Prior to demolition, the applicant shall submit a Work Plan prepared in accordance with AS 2601 by a person with suitable expertise and experience to the Principal Certifying Authority. The Work Plan shall identify any hazardous materials, the method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.

(62) Asbestos Removal

An Asbestos Survey prepared by a suitably qualified Occupational Hygienist shall be prepared for the premises. The Survey is to incorporate appropriate Asbestos removal and disposal methods in accordance with the requirements of WorkCover NSW, NSW Environmental Planning and Assessment Amendment (Asbestos) Regulation 2009 and NSW Environment Protection Authority, Safe Removal of Asbestos 2nd Edition [NOHSC: 2002 (2005)] and conditions of this consent.

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

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

(63) Sydney Water approval

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre 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. Plans will be appropriately stamped. For Quick Check agent details please refer to the web site: www.sydneywater.com.au, see Your Business then Building & Developing then Building & Renovating or telephone Sydney Water 13 20 92.

(64) Works zone application to Council - construction vehicles

The applicant is to apply to Council for a "works zone" along the site frontages for construction vehicles prior to work commencing. Contact Council's One Stop Shop for details and the fee you need to pay, telephone 9392 5000.

Note: A minimum of 2 months' notice to Council is required.

(65) Structural Engineering Details

Structural engineer's details prepared and certified by a practising structural engineer for all reinforced concrete and structural members is to be submitted to the Principal Certifying Authority for approval with the Construction Certificate.

D Conditions that must be complied with during construction or demolition

(66) Footpath, kerb and gutter protection

The applicant shall take all precautions to ensure footpaths and roads are kept in a safe condition and to prevent damage to Council's property.

Pedestrian access across this footpath shall be maintained in good order at all times during work. Any damage caused will be made good by Council at Council's restoration rates, at the applicant's expense.

(67) Road opening permit – Council controlled lands

A road opening permit shall be obtained for all works carried out in public or Council controlled lands. Contact Council's Engineering Services for details.

This road opening permit covers the direct costs involved in the repair/replacement of works where the public or Council controlled lands are specifically damaged/saw cut etc for the construction of services, stormwater pipes, kerb works, bitumen works, footpath works etc. It is separate from a Damage Deposit as listed elsewhere in these Conditions of Consent.

(68) Building materials and equipment - storage/placement on footpath/roadway - Council approval

All building materials and equipment shall be stored wholly within the property boundaries and shall not be placed on the footpath, grass verge or roadway without prior written approval of Council.

Bulk refuse bins shall not be placed on the grass verge, footpath or roadway without Council permission. Application forms and details of applicable fees are available from Council.

(69) Site vehicles – mud/debris

You are to ensure that all vehicles leaving the site are free of mud and debris. Loads are to be fully covered and vehicles/wheels washed down to ensure that no nuisance occurs.

(70) Road and footpath – safety and access requirements

The contractor is to take all precautions to ensure footpaths and roads are kept in a safe condition and to prevent damage to Council's property.

Heavy vehicles entering and leaving the site must only cross the footpath where it is adequately timbered and strapped. Pedestrian access across this footpath must be maintained in good order at all times during the work. Any damage caused must be made good by Council at Council's restoration rates, at the applicant's or builder's expense.

(71) Underground services and electrical sub-station

All electrical and telephone services to the subject property must be placed underground. If an electrical sub-station is required, it must be situated within the boundaries of the subject property and suitably screened. Details of the sub-station is to be submitted into Council for approval.

(72) Plans to be available on site

The Council stamped approved plans, Development Consent and Construction Certificate shall be held on site to be produced unobliterated to Council's officer at any time when required.

(73) Building construction - check survey

A check survey is to be submitted to the Principal Certifying Authority for perusal at an early stage of construction indicating excavated levels, boundary distances, site coverage and building alignment to ensure compliance with the approved plans.

(74) Locate structures within boundaries

The proposed structure(s) to be erected must stand wholly within the boundaries of the allotment.

(75) Storage of building materials

Building materials and spoil are to be located wholly on site and not placed in a position that may result in materials being washed onto the roadway or into the stormwater system.

(76) Roof water, surface and subsoil drainage

Roofwater, surface and subsoil drainage shall be piped to the street gutter or to an easement – absorption pits are not acceptable and are not approved.

(77) Signs to be erected on building and demolition sites

- (a) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - (i) stating that unauthorised entry to the work site is prohibited; and
 - (ii) showing the name and address of the contractor for the building work and the person in charge of the work site and a telephone number at which the person may be contacted outside working hours; and
 - (iii) showing the name, address and telephone number of the Principal Certifying Authority appointed for the building works.
- (b) Any-sign shall be maintained and not removed until work has been finished.

(78) Waste Management Plan – compliance

- (a) All requirements of the approved Waste Management Plan must be implemented during the demolition and/or excavation and construction period of the development. Adequate measures need to be in place to ensure the ongoing waste management of the site.
- (b) Keep receipts of where waste will be taken to be treated or disposed. The receipts must be presented to the Principal Certifying Authority prior to issue of the occupation certificate.

(79) Demolition/excavation/construction - hours of work

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

- (a) 7:00 am to 6:00 pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm);
- (b) 8:00 am to 1:00 pm on Saturdays with no demolition works occurring during this time; and
- (c) at no time on Sundays or public holidays.

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

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

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

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

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

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

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

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

(80) Demolition/excavation/construction - noise - Protection of the Environment Operations Act 1997

Noise arising from demolition/excavation/construction works shall be controlled in accordance with the requirements of *Protection of the Environment Operations Act 1997* and guidelines currently contained in the *NSW EPA Environmental Noise Control Manual*.

(81) Demolition requirements/standards

Demolition of existing building and structures is to be carried out in accordance with the following:

- (a) Australian Standard 2601 and any requirements of the SafeWork NSW.
- (b) The Waste Management Plan submitted with the Development Application.
- (c) The property is to be secured to prohibit unauthorised entry.
- (d) All precautions are to be exercised in the handling, removal and disposal of all asbestos materials. Licensed contractors and the disposal of asbestos is to be carried out in accordance with the requirements of the Work Cover Authority.
- (e) All other materials and debris is to be removed from the site and disposed of to approved outlets.
- (f) Any demolition on the site is to be conducted in strict accordance with, but not limited to, sections 1.5, 1.6, 1.7, 3.1 and 3.9 of the AS 2601 - 1991, demolition of structures. The following measures must be undertaken for hazardous dust control:
- (g) Prior to demolition, the applicant shall submit a Work Plan prepared in accordance with AS 2601 by a person with suitable expertise and experience to the Principal Certifying Authority. The Work Plan shall identify any hazardous materials, the method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.
- (h) Hazardous dust must not be allowed to escape from the site or contaminate the immediate environment. The use of fine mesh dust proof screens, wet-lead safe work practices, or other measures is required.
- (i) All contractors and employees directly involved in the removal of hazardous dusts and substances shall wear protective equipment conforming to AS 1716 Respiratory

Protective Devices and shall adopt work practices in accordance with SafeWork NSW Requirements (in particular the SafeWork NSW standard for the *Control of Inorganic Lead At Work* (NOHSC: 1012, 1994) and AS 2641, 1998).

- (j) Any existing accumulations of dust (eg; ceiling voids and wall cavities must be removed by the use of an industrial vacuum fitted with a high efficiency particulate air (HEPA) filter and disposed of appropriately.
- (k) All dusty surfaces and dust created from work is to be suppressed by a fine water spray. Unclean water from the suppressant spray is not be allowed to enter the street gutter and stormwater systems.
- (l) Demolition is not to be performed during high winds that may cause dust to spread beyond the site boundaries without adequate containment.
- (m) All lead contaminated material is to be disposed of in accordance with the NSW Environment Protection Authorities requirements.
- (n) Construction and demolition waste, particularly timber, bricks and tiles, concrete and other materials need not be disposed of- they can be recycled and resold if segregated properly from any hazardous waste contamination.
- (o) Following demolition activities, soil must be tested by a person with suitable expertise to ensure the soil lead levels are below acceptable health criteria for residential areas. Full certification is to be provided for approval by the Principal Certifying Authority.

(82) Road and footpath – safety and access requirements

The contractor is to take all precautions to ensure footpaths and roads are kept in a safe condition and to prevent damage to Council's property.

Heavy vehicles entering and leaving the site must only cross the footpath where it is adequately timbered and strapped. Pedestrian access across this footpath must be maintained in good order at all times during the work. Any damage caused must be made good by Council at Council's restoration rates, at the applicant's or builder's expense.

(83) Heavy duty vehicle crossing

A heavy duty concrete vehicle crossings, in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" shall be constructed at the vehicular access in Wetherill Street before the issue of the Occupation Certificate and at no cost to Council.

(84) Redundant vehicle crossings

All redundant vehicular crossings to the site (on both road frontages) shall be removed and replaced by kerb and gutter and footpath paving in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" before the issue of the Occupation Certificate and at no cost to Council. Where the kerb in the vicinity of the redundant crossing is predominately stone (as determined by Council's Engineer) the replacement kerb shall also be in stone.

(85) Road opening permit – Council controlled lands

A road opening permit shall be obtained for all works carried out in public or Council controlled lands. Contact Council's Engineering Services for details.

This road opening permit covers the direct costs involved in the repair/replacement of works where the public or Council controlled lands are specifically damaged/saw cut etc for the

construction of services, stormwater pipes, kerb works, bitumen works, footpath works etc. It is separate from a Damage Deposit as listed elsewhere in these Conditions of Consent.

(86) Surface run-off

Allowance shall be made for surface run-off from adjacent properties, and to retain existing surface flow path systems through the site. Any redirection or treatment of these flows shall not adversely affect any other properties.

(87) Advertisements on hoardings prohibited

No advertisements of any kind shall be affixed to the hoarding except a board which may show the builder's or architect's name or any particulars regarding the subject building.

(88) New contamination evidence

Any new information revealed during development works that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the Principal Certifying Authority.

(89) Vibration Criteria – Excavation or construction

Vibration caused by excavation and construction at any residence or structure outside the site must be limited to:

- a) for structural damage vibration, German Standard DIN 4150 Part 3 Structural Vibration in Buildings. Effects on Structures; and
- b) for human exposure to vibration, the evaluation criteria set out in the Environmental Noise Management Assessing Vibration: a Technical Guideline (Department of Environment and Conservation, 2006).

Vibratory compactors must not be used in the vicinity of residential buildings unless vibration monitoring confirms compliance with the vibration criteria specified above.

E Conditions that must be complied with before the building is occupied

(90) Approval to use/occupy building

The building or any part thereof must not be used or occupied until an Occupation Certificate has been obtained from the Principal Certifying Authority.

Note: If Council is chosen as the Principal Certifying Authority a fee is applicable prior to the release of the Construction Certificate.

(91) Final Site Inspection

Prior the issue of the Occupation Certificate, a final site inspection relating to the public area shall be arranged by the applicant, and shall be undertaken by the applicant's supervising engineer and Council's authorised officer. The purpose of the inspection is to ensure that notwithstanding the submission of any certifications required by an approval that all impacts within the public area from the development have been satisfactorily addressed. A fee is payable for this inspection.

(92) Sydney Water - Section 73 Compliance Certificate

A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the "Your Business" section of the web site www.sydneywater.com.au then follow the "e-Developer" icon or telephone Sydney Water 13 20 92 for assistance.

Following application, a "Notice of Requirements" will advise of water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to the release of an occupation certificate.

(93) Requirement for a Compliance certificate

A Compliance Certificate must be issued prior to the issue of an Occupation Certificate certifying that the development has been built and completed in accordance with the development consent and that all the conditions of development consent have been satisfied.

(94) Footpath reconstruction

The existing concrete footpath in Wetherill Street, adjacent to the site shall be reconstructed in accordance with Council's Standard footpath specifications (Standard Plan F1) and AUS-SPEC#2-"Roadworks Specifications", at no cost to Council and before the issue of an Occupation Certificate.

(95) Positive Covenant – stormwater detention/surface flow paths - occupation certificate

A Positive Covenant under Section 88E of the Conveyancing Act shall be created on the title of the property detailing the

- (a) surface flow path
- (b) finished pavement and ground levels
- (c) prevent the erection of any structures or fencing
- (d) on-site stormwater detention system

The wording in the Instrument shall be submitted to and approved by Council prior to lodgement at the Land Titles Office and prior to the release of the Occupation Certificate. The Instrument shall be registered prior to the completion of development.

(96) Stormwater Systems (On Site Detention)

When the on-site building works are completed there are three (3) conditions that must be satisfied before Council's Engineering Department will recommend that an Occupation Certificate be issued:

They are:

- (a) Work-As-Executed Plan
 - A "Work-as-Executed" plan prepared and signed by a registered surveyor is to be submitted to Council's Engineering Department at the completion of the works showing the location of the detention basin 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 Council's drainage system, is to be shown together with the following information:
 - Location
 - Pipe diameter
 - Gradient
 - Pipe material i.e. PVC or EW etc
 - Orifice size
 - Trash screen at orifice

- All buildings (including floor levels) and finished ground and pavement surface levels
- (b) **Engineer's Certificate**
A qualified practising Civil Engineer shall certify on the completion of drainage works in respect of:
 - The soundness of the storage structure;
 - The capacity of the detention storage;
 - The emergency overflow system being in place;
 - The works being constructed in accordance with the Council approved plans; and
 - The freeboard from maximum water surface level to the finished floor and garage levels are at or above the minimum required in Council's Stormwater Code.
 - Basement car park pumps are class one zone two.
- (c) **Restriction-As-To-User**
A "Restriction-as-to-User" is to be placed on the title of the subject property to indicate the location and dimensions of the detention area. This is to ensure that works, which could affect the function of the stormwater detention system, shall not be carried out without the prior consent in writing of the Council.

Such restrictions shall not be released, varied or modified without the consent of the Council.

(97) Driveways, parking and service areas - PCA

A qualified practicing Civil or Structural engineer shall certify to the Principal Certifying Authority that driveways, parking and services areas have been constructed in accordance with approved specifications. Such certification shall be submitted prior to occupation of the building.

(98) Sign posting/line-marking - access/car parking

The direction of traffic flow and off-street car parking spaces are to be signposted/line-marked on site prior to occupation of the building.

(99) Parking area surfacing - PCA approval

The parking areas are to be constructed in a suitable all-weather surface and drained to the requirements of the Principal Certifying Authority. Such work to be carried out prior to occupation.

Full details in this regard are to be incorporated in the submitted plans.

(100) Landscaping completion

All site works and landscaping are to be carried out in accordance with the approved landscaping plans prior to the issue of the occupation certificate.

(101) Road Alignment Levels

The existing levels of the footpath at the fence/lot boundary shall be maintained.

(102) Kerb and gutter reconstruction

The existing kerb and gutter in Wetherill Street (excluding the kerb return), adjacent to the site shall be reconstructed in accordance with Council's Standard Plan R1 (150mm high kerb and in concrete) and AUS-SPEC#2-"Roadworks Specifications", at no cost to Council and before he issue of the Occupation Certificate. Any stormwater pit in Wetherill Street shall be reconstructed and provided with a 2.4m precast lintel opening, in accordance with Council's Standard Plan D1. The new lip level shall match the existing road pavement level and have a

smooth longitudinal profile. Any level transition to the existing shall be carried out clear of the subject property frontage.

(103) Vehicle crossings

- (a) At the proposed vehicle entry off Wetherill Street, a full width reinforced concrete vehicular footpath crossing (6.1m wide plus wings and 150mm thick) shall be constructed, at the applicant's full cost, in accordance with Council Standard Plan R2, with the layback and vehicle crossing being integral. This work shall be carried out prior to the release of the Occupation Certificate.
- (b) The existing vehicle crossing and layback/gutter to the adjoining Lane shall be reconstructed with a full width reinforced concrete vehicular footpath crossing (150mm thick) at the applicant's full cost, in accordance with Council Standard Plan R2, with the layback and vehicle crossing being integral. This work shall be carried out prior to the release of the Occupation Certificate.

(104) Reconstruction of adjoining lane

The road pavement of the Lane over the full length of development shall be reconstructed, at the applicants full cost, to the following standard:-

- (a) 220mm full depth asphaltic concrete, consisting of 30mm- AC10 (surface course), 50mm AC20, and 150mm AC40 (base layer, laid by grader, NOT by a paver). No road base under the asphaltic concrete is required. Existing level shall be matched.
- (b) This work shall be carried out in accordance with Council's Specification and shall be completed after the major building construction works are completed (ie when the building is undergoing fit out and any site crane has been removed).
- (c) This work shall be carried out prior to the release of the Occupation Certificate.

(105) Street Numbering

All units are to be numbered consecutively commencing at No.1. The strata plan lot number is to coincide with the unit number, e.g Unit 1 = Lot 1. The allocated of unit numbering must be authorised by Council prior to the numbering of each units in the development. The authorised numbers are required to be displayed in a clear manner at or near the main entrance to each premise.

(106) Carparking

- (a) All car spaces shall be allocated and marked according to this requirement.
- (b) If the development is to be strata subdivided, the car park layout must reflect the approved plans and thereafter be regarded as part of the entitlement of that strata lot.
- (c) Under no circumstances shall parking spaces be sold, let or otherwise disposed of for use other than in accordance with this condition.
- (d) Each car parking space shall have minimum dimensions in accordance with the relevant Australian Standard and be provided on-site in accordance with the approved plans.
- (e) The parking bays shall be delineated by line marking.
- (f) Visitor spaces shall be clearly line marked and/or signposted and shall only be used by persons visiting residents of the property or commercial/business/retail premises located within the development. Visitor spaces shall not be allocated as permanent residential parking spaces. Access to visitor parking spaces shall not be restricted without development approval and a sign shall be erected at the vehicular entrance indicating the availability of visitor parking.
- (g) The following traffic control measures shall be implemented on site:-
 - (i) Signage indicating 'Entry Only' shall be prominently displayed at the entrance to the development.
 - (ii) Signage indicating 'Exit Only' shall be prominently displayed at the exit to the development.

- (iii) One-Way directional arrows shall be painted on the driveway pavement to indicate the required vehicular directional movement through the car parking area.

Details demonstrating compliance with this condition shall be submitted to and approved by the Principal Certifying Authority, prior to the issue of an Occupation Certificate.

(107) Ordering of garbage/recycling bins

All required garbage bins and recycling bins for the residents of the development must be ordered from Council at least 3 months prior to the issue of an occupation certificate.

(108) Planting of Street Trees

The planting of street trees (within the nature strip) required by this consent shall be carried out prior to the release of an Occupation Certificate. The planting must be in accordance with the approved plan and

- (a) The tree pits must be inspected by Council's Tree Management Officer before and after planting.
- (b) The street trees must be maintained for a minimum period of 12 months commencing on the planting date. Maintenance includes, but is not limited to, watering, weeding, removal of rubbish from tree base, pruning and fertilising and pest and disease control.
- (c) At the completion of the 12 month maintenance period written approval must be obtained from Council's Tree Management Officer that the trees are healthy.
- (d) If the street tree requires replacement due to maintenance deficiencies during the 12 month maintenance period, the 12 month maintenance period will commence again from the date of the planting of the replacement tree.

(109) Landscape Works

Prior to the issue of any Occupation Certificate, the Principal Certifying Authority is to be satisfied that all landscape works, including tree planting, have been undertaken in accordance with the approved plan(s) and conditions of consent. A copy of an active Landscape management plan/contract for the maintenance of the landscaping for a period of not less than two years after the installation is to be provided prior to the issue of the Occupation Certificate.

(110) Public Domain Works

All works required to be carried out in connection with drainage, crossings, alterations to kerb and guttering, footpaths and roads resulting from the development shall be completed before the issue of an Occupation Certificate. Works shall be in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications".

(112) Acoustic report – demonstrating compliance

A report prepared by a suitably qualified and experienced acoustic consultant shall be submitted to Council prior to an Occupation Certificate being issued for the development 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*, NSW Environment Protection Authority's Industrial Noise Policy and Noise Control Manual and conditions of Council's approval, including any recommendations of the acoustic report referenced in the conditions of the approval.

Details demonstrating compliance with the requirements of this condition is to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Occupation Certificate.

(113) Car Wash Bay and Garbage Room

To ensure that waste water is treated in an acceptable manner the car wash bay and Waste Recycling Bin Room shall be designed and constructed to ensure that waste water is discharged to the sewer in accordance with the requirements of Sydney Water.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

(114) Disposal of soil

Any soil proposed to be disposed off site must be classified, removed and disposed of in accordance with the *EPA Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes 1999* and the *Protection of the Environmental Operations Act 1997*.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Occupation Certificate.

F Conditions that are ongoing requirements of development consents**(115) Garbage bin storage/placement for collection - strata title plan**

All garbage/recycling bins are to be kept in the garbage bin storage area. Bins are to be individually wheeled in and wheeled out on the day of garbage collection and are to be returned to the storage area immediately after collection. Bins are not to be located on the street at any time unattended. This requirement is to be incorporated into the Strata Title of the property.

(116) Landscape Maintenance

The landscaping approved as part of this application is to be maintained to the satisfaction of Council.

(117) Replacement Canopy Trees

The canopy replenishment trees required by this consent are to be maintained in a healthy and vigorous condition until they attain a height of 6 metres whereby they will be protected by Council's Tree Management Controls. Any of the trees found faulty, damaged, dying or dead shall be replaced with the same species within 2 months.

(118) Air conditioners

To preserve the streetscape, air conditioners or any plant equipment shall not be placed along the street façade or any place/part of the building that is visible from the public domain.

(119) Private Power Poles

Private power poles are not to be erected on the subject site without Council's Consent.

(120) Waste management

The waste management on site must be in accordance with the following requirements:

- (a) A site caretaker must be employed and be responsible for moving bins where and when necessary, washing bins and maintaining waste storage areas, ensuring the chute system and related devices are maintained in effective and efficient working order, managing the communal composting area, managing the bulky item storage area, arranging the prompt removal of dumped rubbish, ensuring the loading bay is

kept clear of parked cars, and ensuring all residents are informed of the use of the waste management system. The site caretaker must be employed for a sufficient number of hours each week to allow all waste management responsibilities to be carried out to a satisfactory standard.

- (b) The approved on-going waste management practise for the site must not be amended without consent from Council.
- (c) Bins are to be wholly contained within the subject site and are not to be stored on the street.

(121) Car parking and road safety

- (a) All car parking must be constructed and operated in accordance with Australian Standard AS/NZS 2890.1:2004 – Off-street car parking and Australian Standard AS 2890.2:2002 – Off-street commercial vehicle facilities.
 - (i) All parking areas and driveways are to be sealed to an all weather standard, line marked and signposted;
 - (ii) Car parking, loading and manoeuvring areas to be used solely for nominated purposes;
 - (iii) Vehicles awaiting loading, unloading or servicing shall be parked on site and not on adjacent or nearby public roads;
 - (iv) All vehicular entry on to the site and egress from the site shall be made in a forward direction.
- (b) Any proposed landscaping and/or fencing must not restrict sight distance to pedestrians and cyclists travelling along the footpath.
- (c) Residential parking spaces are to be secure spaces with access controlled by card or numeric pad.
- (d) Visitors must be able to access the visitor parking spaces in the basement car park at all times.
- (e) All parking for people with disabilities is to comply with AS/NZS 2890.6:2009 Off-street parking for people with disabilities.
- (f) Bicycle parking spaces are to be designed in accordance with AS 2890.3-1993 Bicycle parking facilities
- (g) Motorcycle parking spaces are to be designed in accordance with AS/NZS 2890.1:2004 Figure 2.7.

(122) Vibration from plant and equipment

The use of the premises and the operation of plant and equipment shall not give rise to the transmission of a vibration nuisance or damage to other premises as defined in the Environment Protection Authority's Technical Guidelines for Assessing Vibration.

G Advisory Notes

(1) Application for a Construction Certificate

The required application for a Construction Certificate may be lodged with Council. Alternatively, you may apply to an accredited private certifier for a Construction Certificate.

WARNING: Failure to obtain a Construction Certificate prior to the commencement of any building work is a serious breach of Section 81A(2) of the *Environmental Planning & Assessment Act 1979*. It is also a criminal offence which attracts substantial penalties and may also result action in the Land and Environment Court and orders for demolition.

(2) Compliance with the Disability Discrimination Act - liability

This decision does not ensure compliance with the Disability Discrimination Act. The owner, lessee, operator and/or manager of the premises is advised that under the *Disability Discrimination Act 1992*, it is illegal to discriminate against a person with a disability by means of restricting access to or within the building. If access is restricted the owner, lessee, operator and/or manager of the premises may be liable for prosecution and/or a successful

appeal to the Human Rights and Equal Opportunities Commission. You should therefore investigate your liability under that Act. Australian Standard 1428 - Design for Access and Mobility, Parts 2, 3 and 4 may assist in determining compliance with the *Disability Discrimination Act 1992*.

(3) Relocation of stormwater drainage

Council is not responsible for the cost of relocating Council's stormwater drainage pipes through the subject property.

(4) New Vehicular Crossing and Public Domain Works

The vehicular crossing, kerb & gutter, and/or footpath works shall be constructed by your own contractor. You or your contractor must complete an application for 'Construction of Vehicle Crossing and Public Domain Works' form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, before commencement of works.

NOTES

- (i) This approval does not relieve an applicant of the obligation to obtain any other approval required under Section 68 of the Local Government Act, 1993 and Ordinances or Section 4.12 of the Environmental Planning & Assessment Act, 1979 or any other Act or Regulation.
- (ii) Further approval(s) – see above, may be required in addition to this development consent. Plans and specifications submitted for building works must comply with the Building Code of Australia, any relevant condition of development consent and/or other code or requirement of Council at the time of approval.

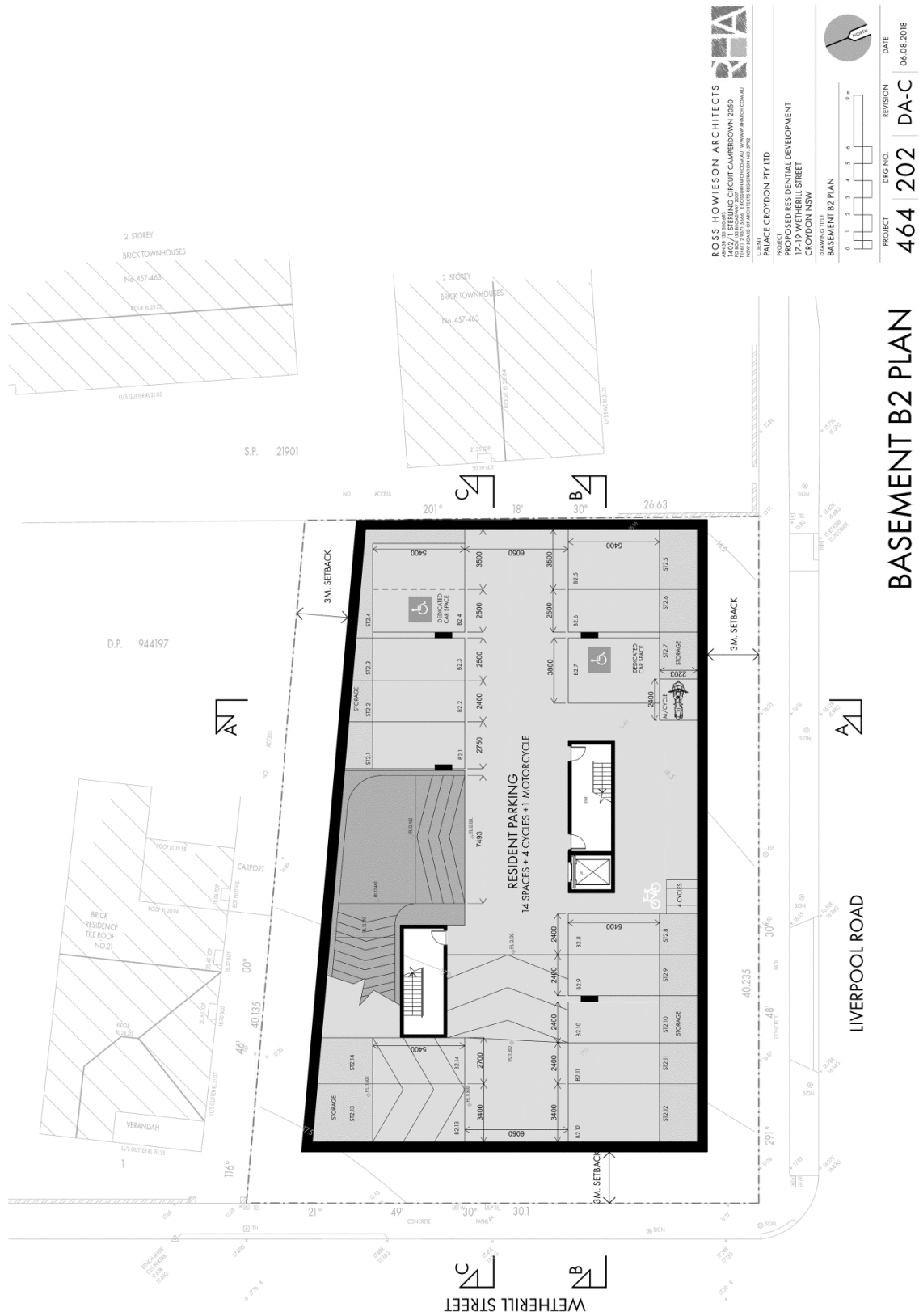
Ask Council if you are unsure of what procedures you need to follow.

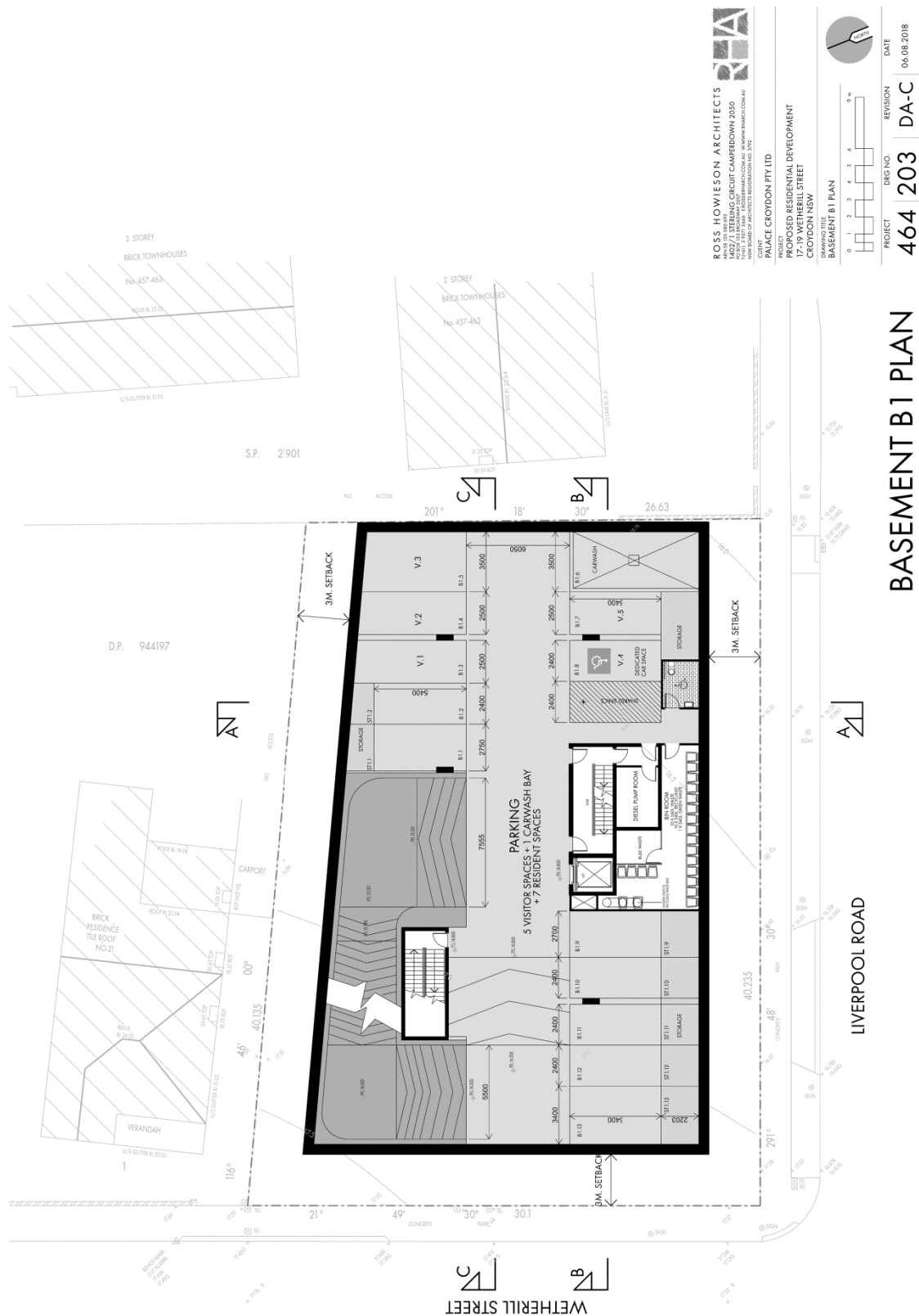
SECTIONS 8.2, 8.7 AND 4.53 OF THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

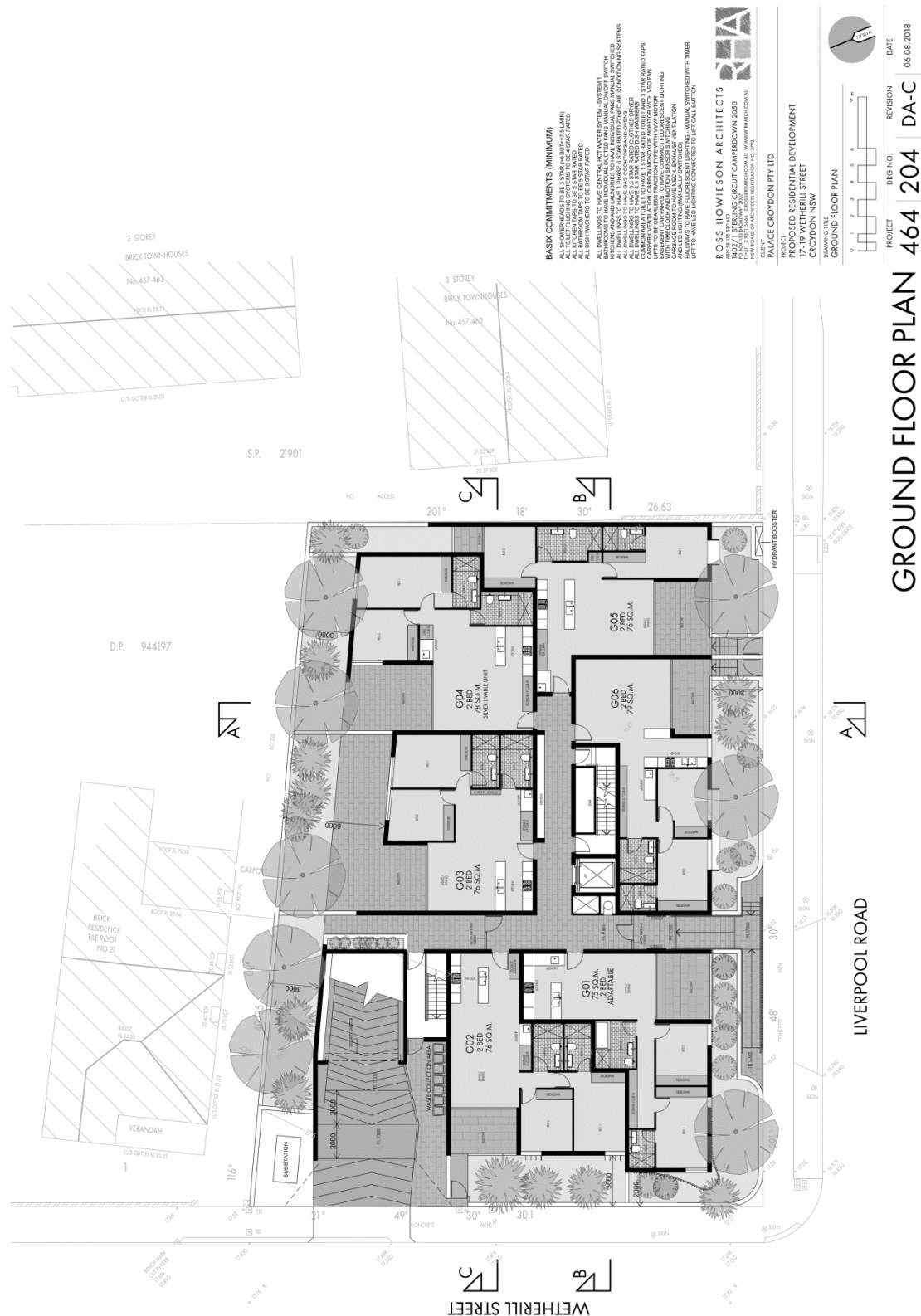
You are advised that:

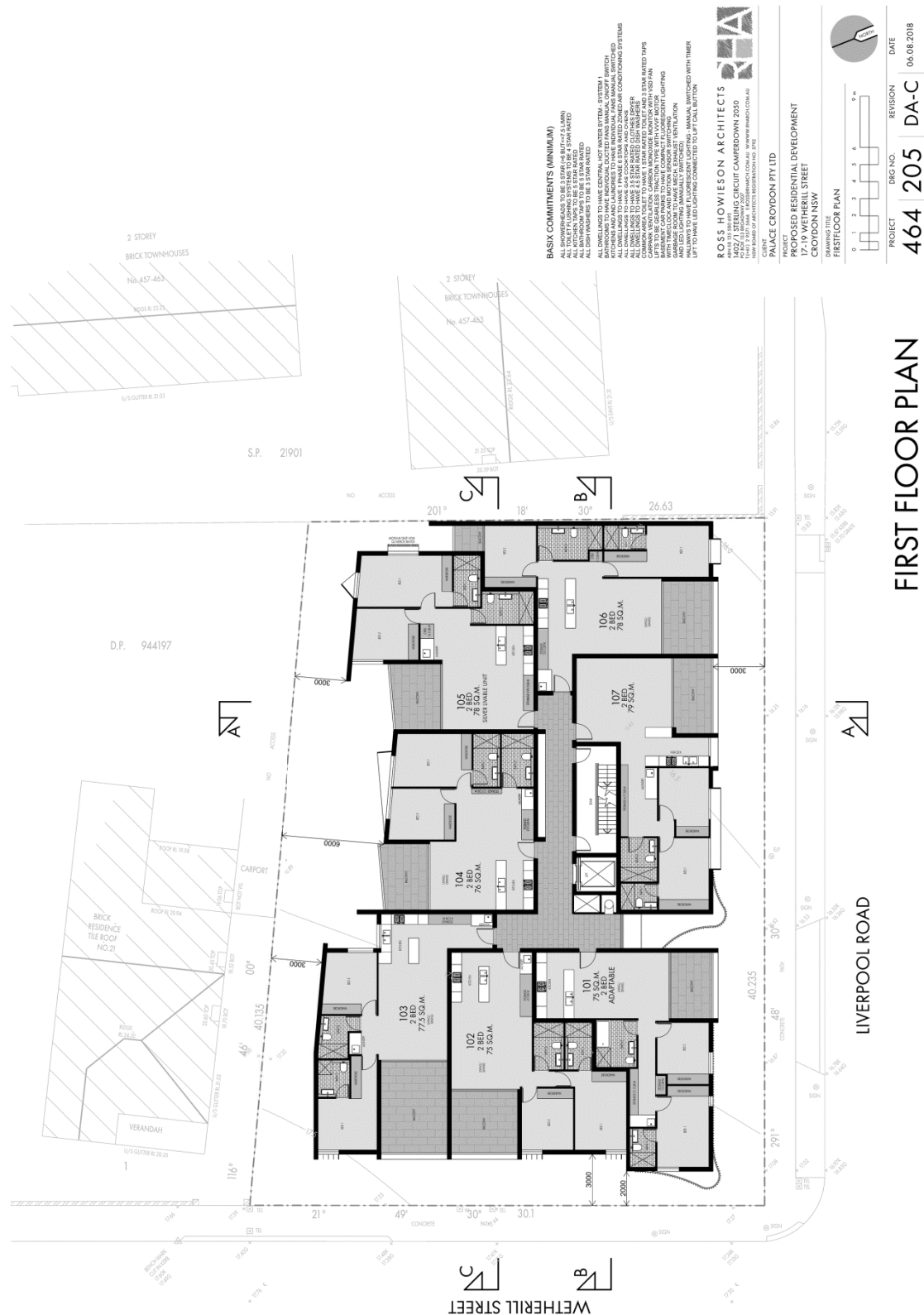
- Under the provisions of Section 8.2 of the Environmental Planning and Assessment Act, 1979, an applicant may request Council to review a determination of the applicant's development application, other than an application for designated development. Any request for a review must be made within six (6) months of the date on which the applicant received notice, given in accordance with the regulations, of the determination of the application and be accompanied by the fee prescribed in Section 257 of the Regulations.
- If you are dissatisfied with this decision, Section 8.7 of the Environmental Planning and Assessment Act, 1979, gives you the right to appeal to the Land and Environment Court within six (6) months after the date on which you receive this notice.
- Under the provisions of Section 4.53 of the Environmental Planning and Assessment Act, 1979, unless the development, which is the subject of this consent, is commenced within five (5) years from the date of determination, the consent will lapse.

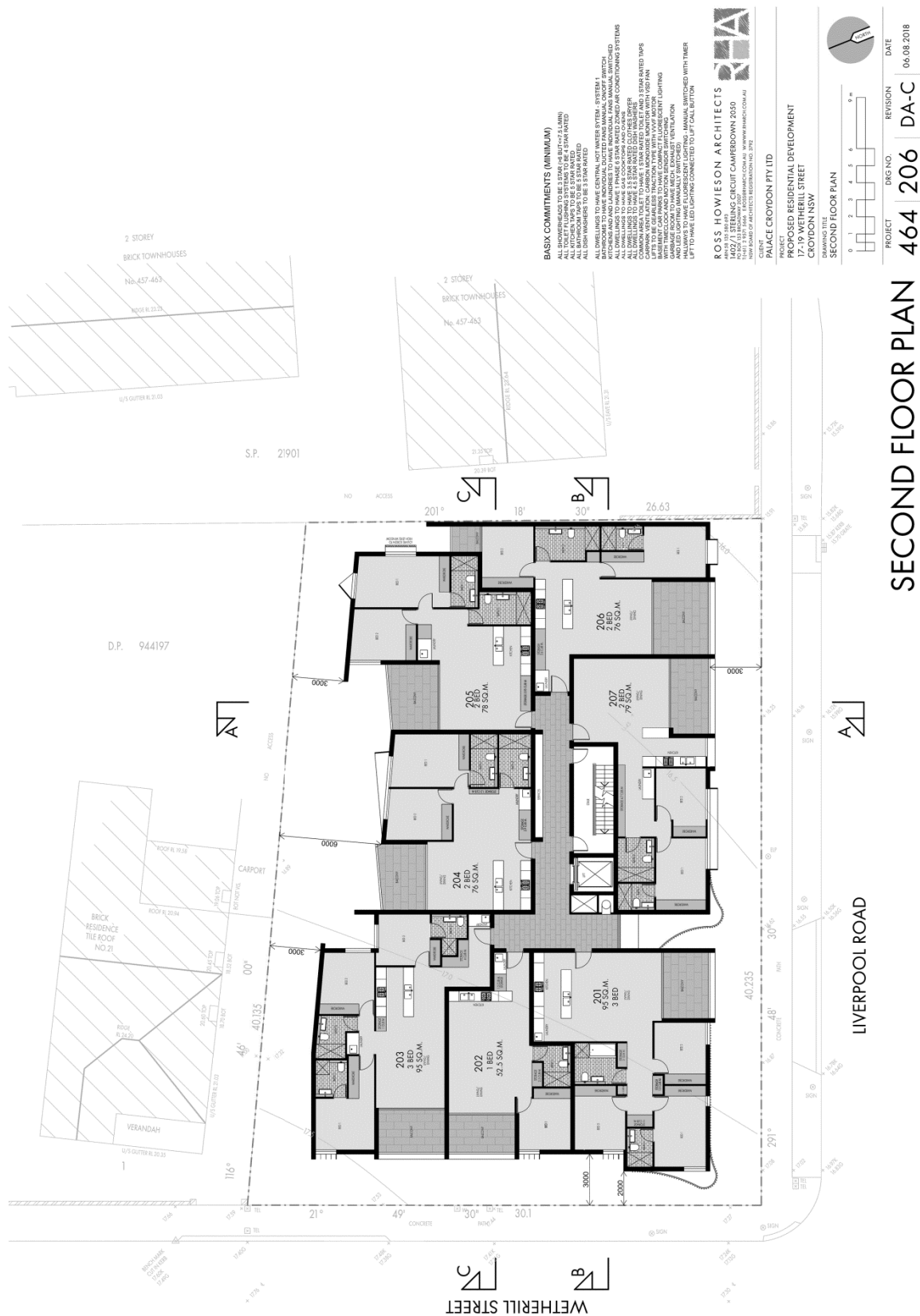
Attachment B – Plans of proposed development

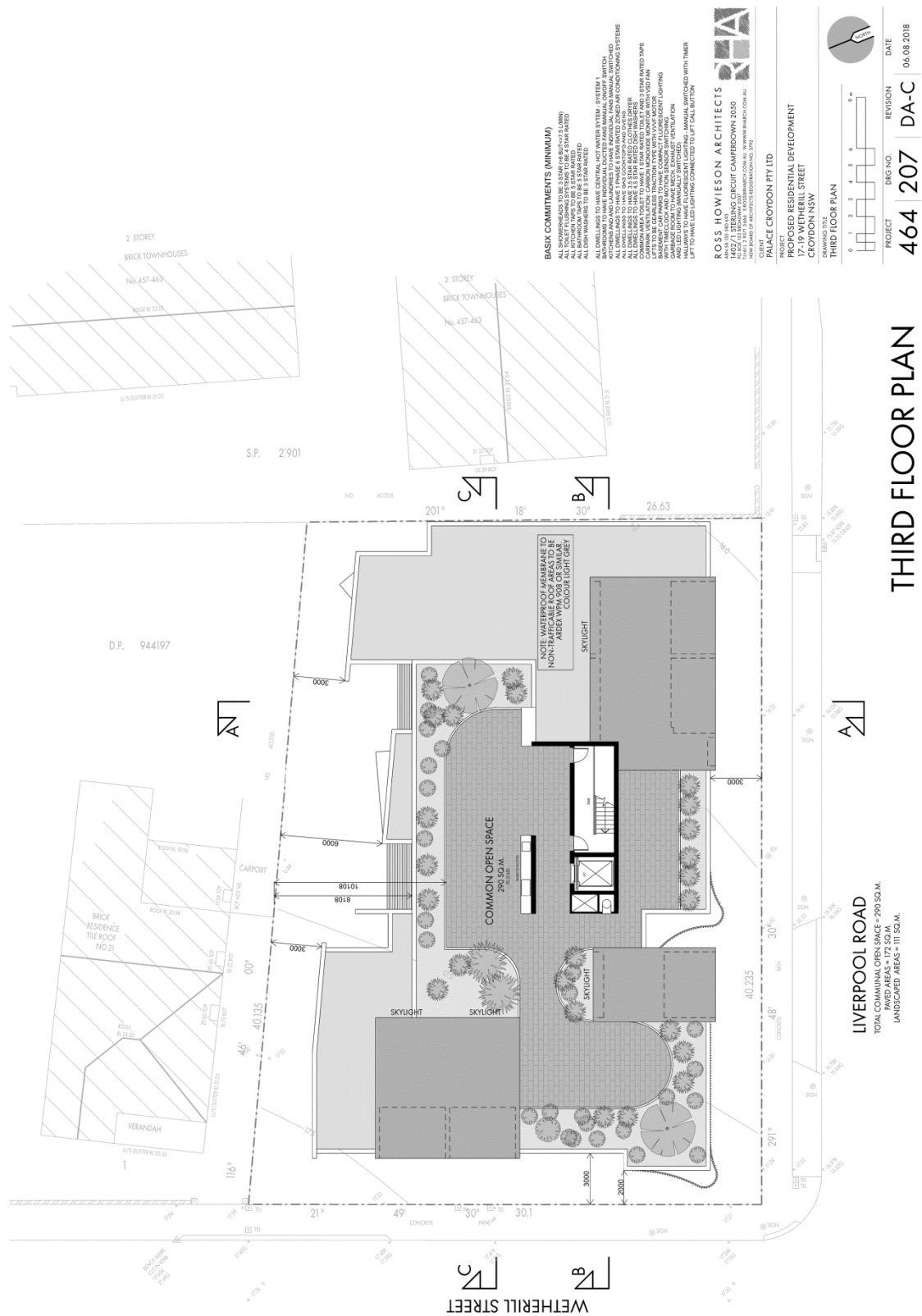


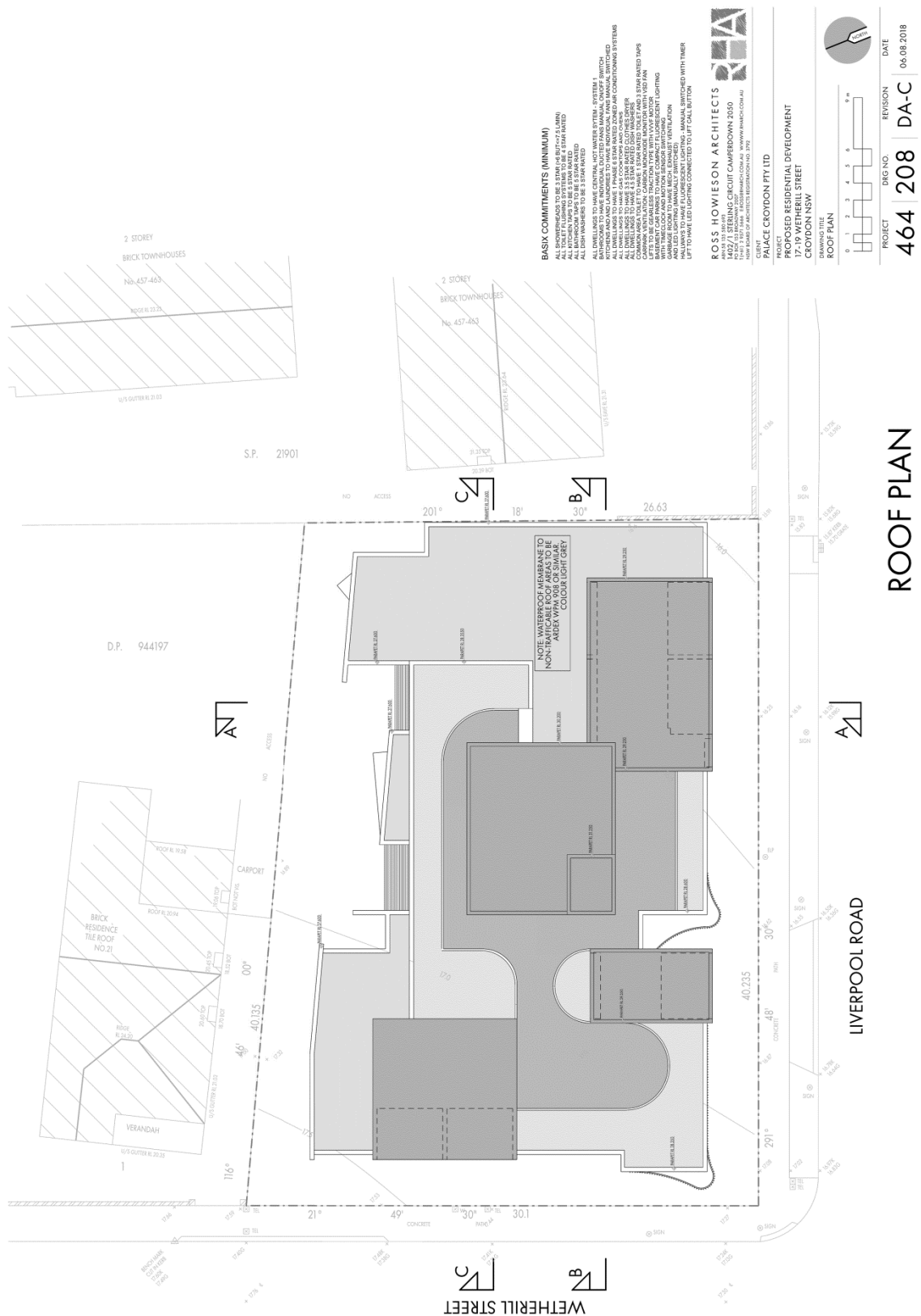






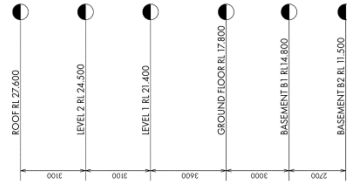








SOUTH ELEVATION



ROSS HOWIESON ARCHITECTS
 1/277 STIRLING STREET
 M22/77 STIRLING CIRCUIT CAMPEDOWN 2050
 PHONE 02 9511 1000
 EMAIL INFO@ROSSHOWIESON.COM.AU
 WWW.ROSSHOWIESON.COM.AU
 NSW BOARD OF ARCHITECTS REGISTRATION NO. 3192

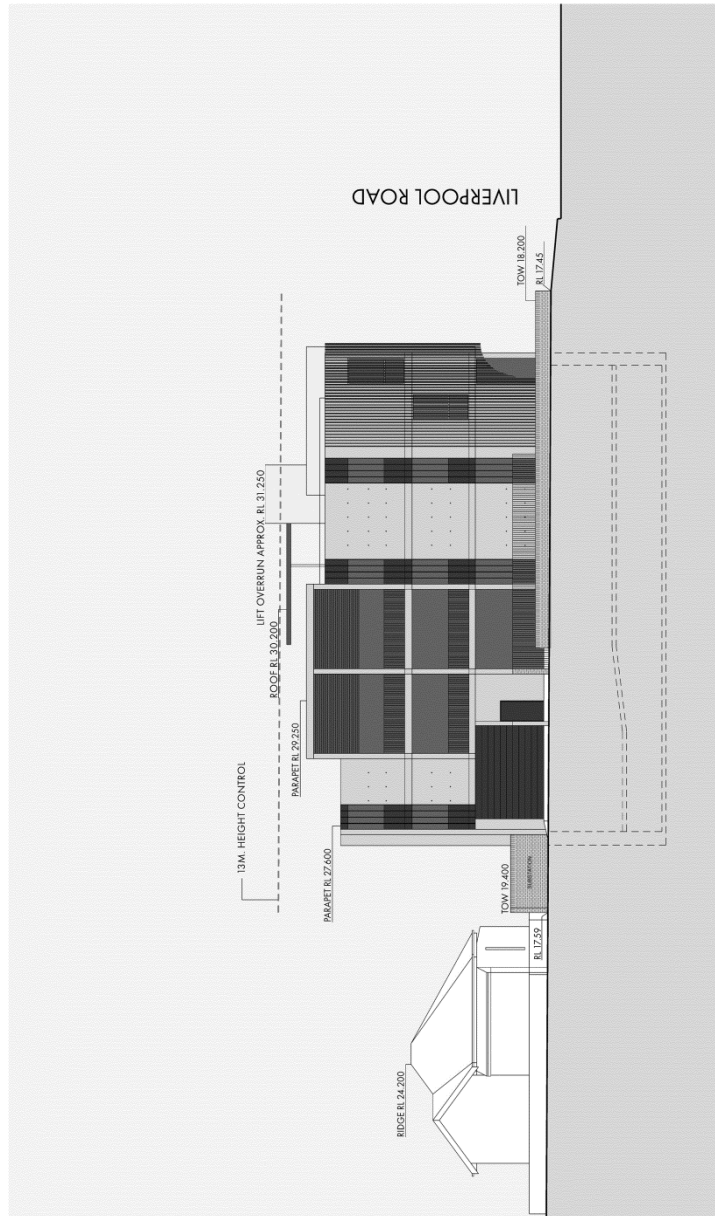
PALACE CROYDON PTY LTD

PROJECT
 PROPOSED RESIDENTIAL DEVELOPMENT
 1/277 STIRLING STREET
 CAMPEDOWN NSW

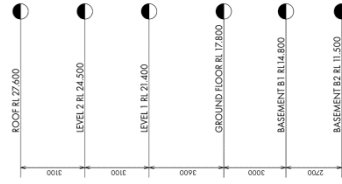
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PROJECT	DWG NO.	REVISION	DATE
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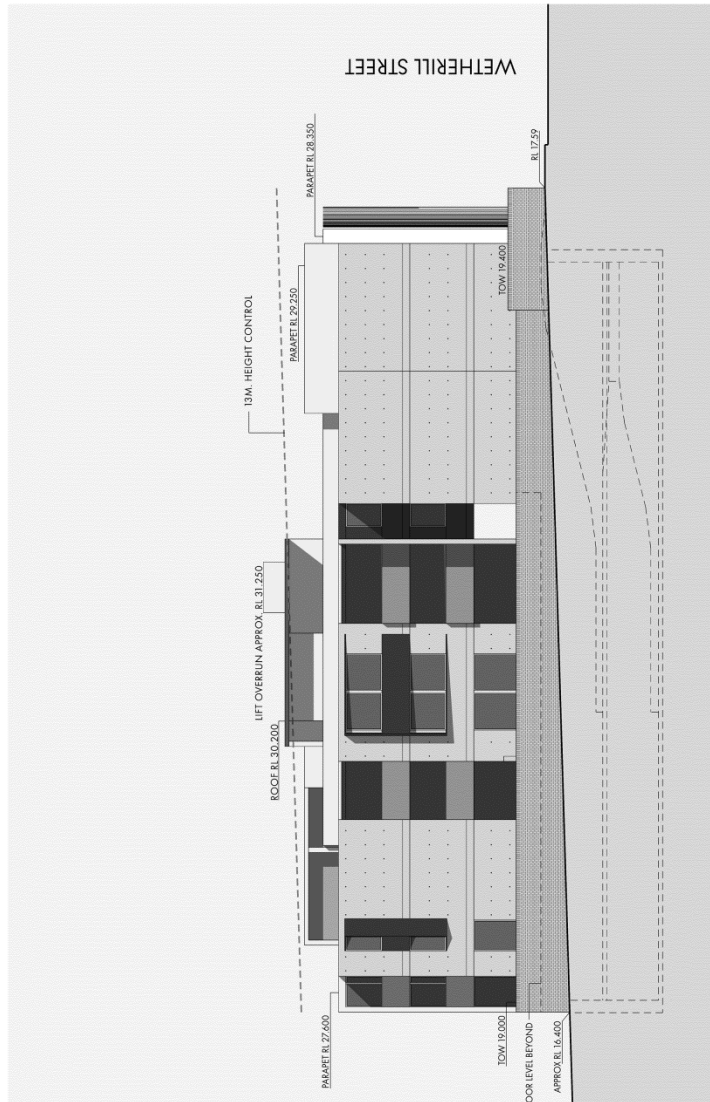
WEST ELEVATION



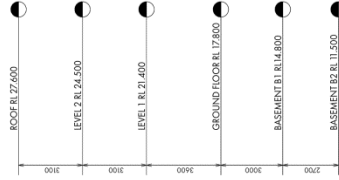
ROSS HOWESON ARCHITECTS
 40/408 101 STREET
 15/17/18/19 WETHERILL STREET CAMPSPOON NSW 2550
 PHONE 02 9330 2000
 FAX 02 9330 2007
 WWW.ROSSHOWESONARCHITECTS.COM.AU
 NEW SOUTH WALES ARCHITECTS REGISTRATION NO. 292

PROJECT
 PALACE CROYDON PTY LTD
 PROPOSED RESIDENTIAL DEVELOPMENT
 17-19 WETHERILL STREET
 CROYDON NSW
 DRAWN BY: J. HAYES
 CHECKED BY: J. HAYES
 DATE: 06/08/2018

PROJECT **DEG. NO.** **REVISION** **DATE**
464 302 DA-C **06/08/2018**



NORTH ELEVATION



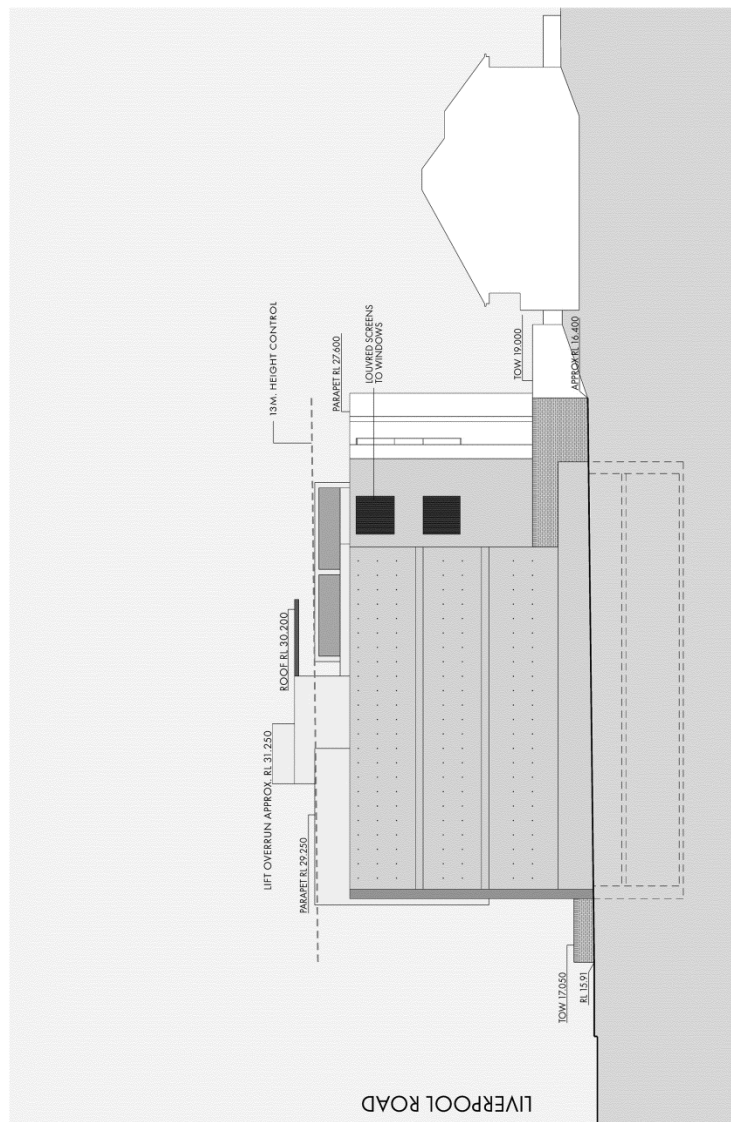
ROSS HOWIESON ARCHITECTS
 1402/71 STERLING CIRCUIT CAMPELDOWN 2050
 TEL: 02 9511 1234 FAX: 02 9511 1235
 WWW.RHARCH.COM.AU
 ARCHITECTS REGISTRATION NO. 279

PALACE CROYDON PTY LTD
 PROJECT
 PROPOSED RESIDENTIAL DEVELOPMENT
 120 WETHERILL STREET
 CROYDON NSW

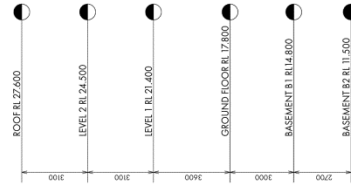
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PROJECT	DRG NO.	REVISION	DATE
464	303	DA-C	06.08.2018



EAST ELEVATION



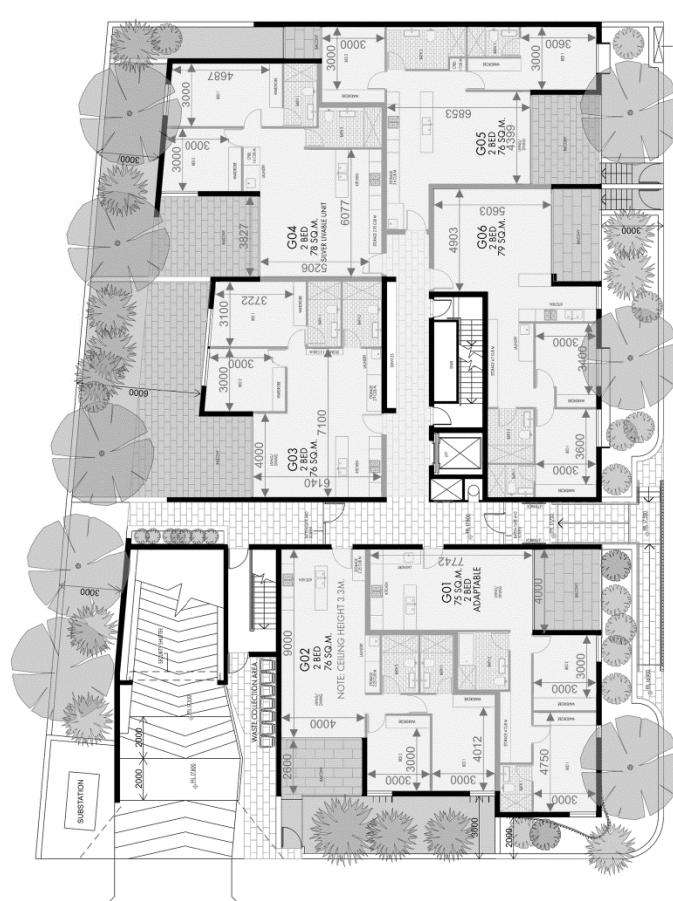
ROSS HOWIESON ARCHITECTS
 1402/11 STERLING CIRCUIT CAMPELDOWN 2050
 TEL: 02 9817 3046 FAX: 02 9817 3047 WWW.RHAA.COM.AU
 11/01/2018 11:00 AM 11/01/2018 11:00 AM

CUSTOMER
 PALACE CROYDON PTY LTD

PROJECT
 PROPOSED RESIDENTIAL DEVELOPMENT
 17/19 WETHERILL STREET
 CROYDON NSW

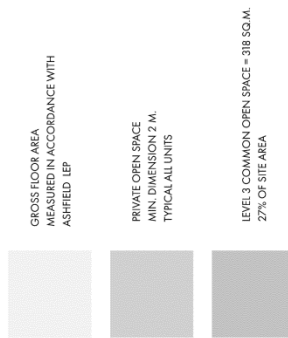
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PROJECT **DWG NO.** **REVISION** **DATE**
 464 304 DA-C 06.08.2018

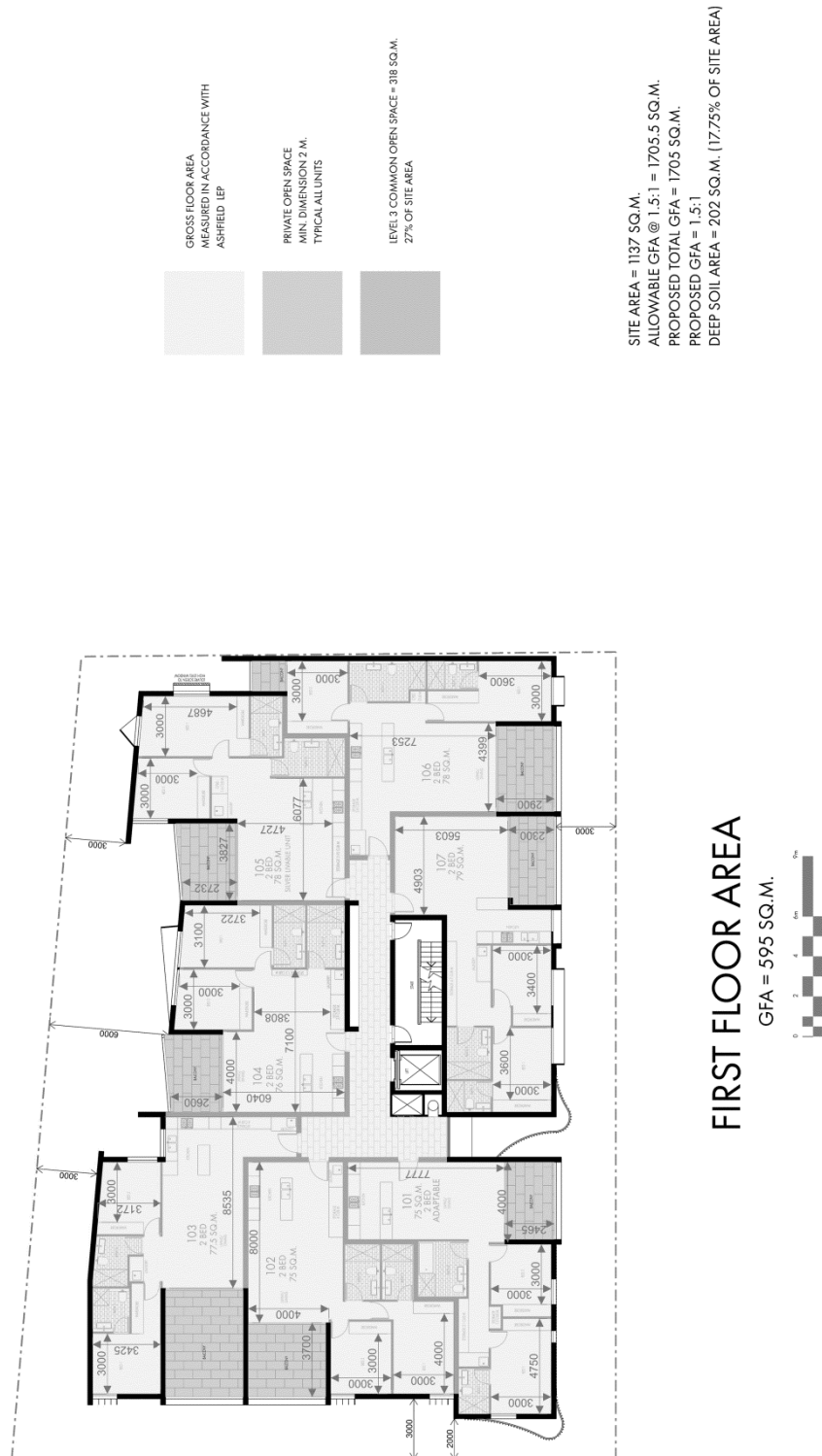


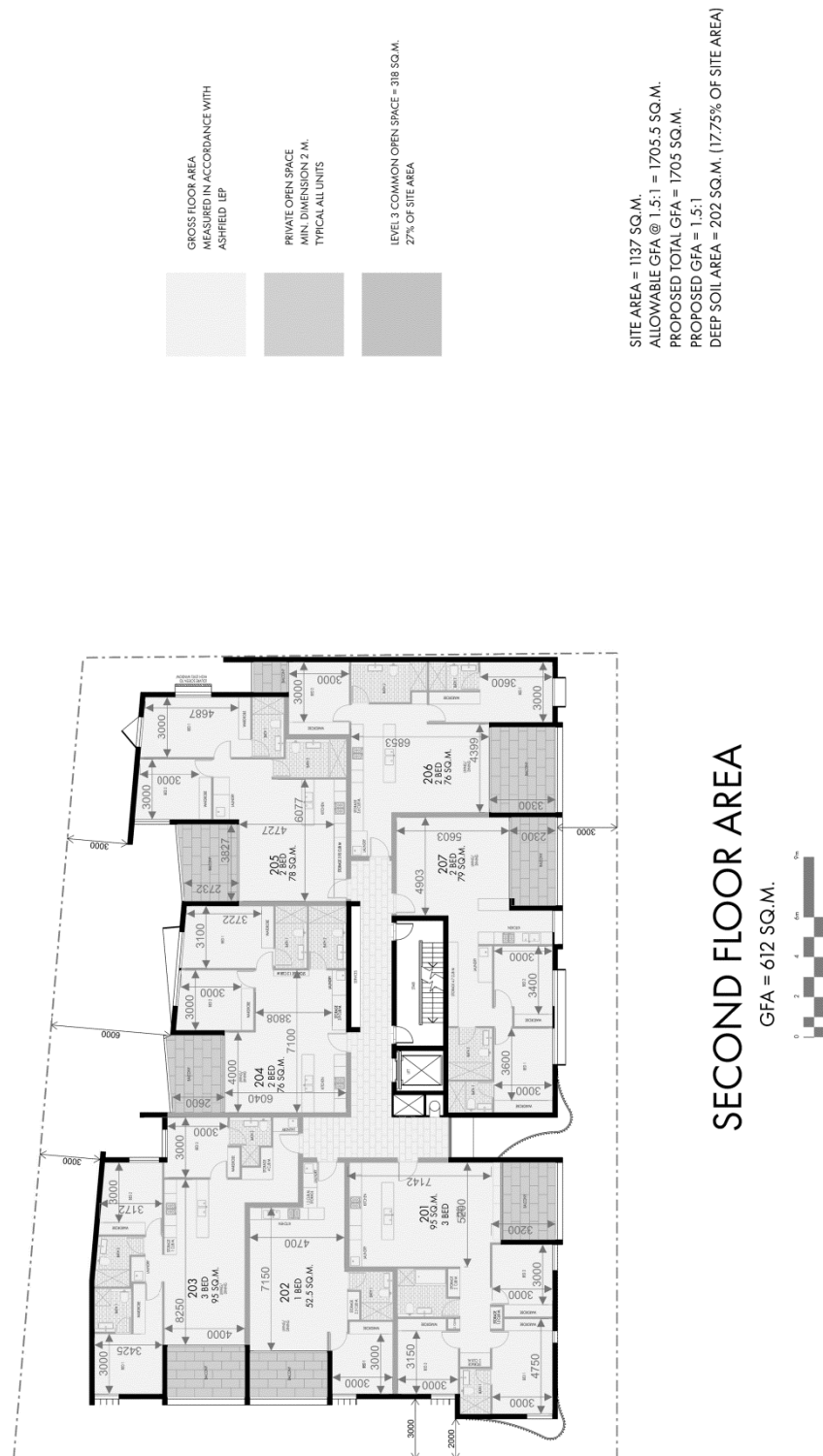
GROUND FLOOR AREA

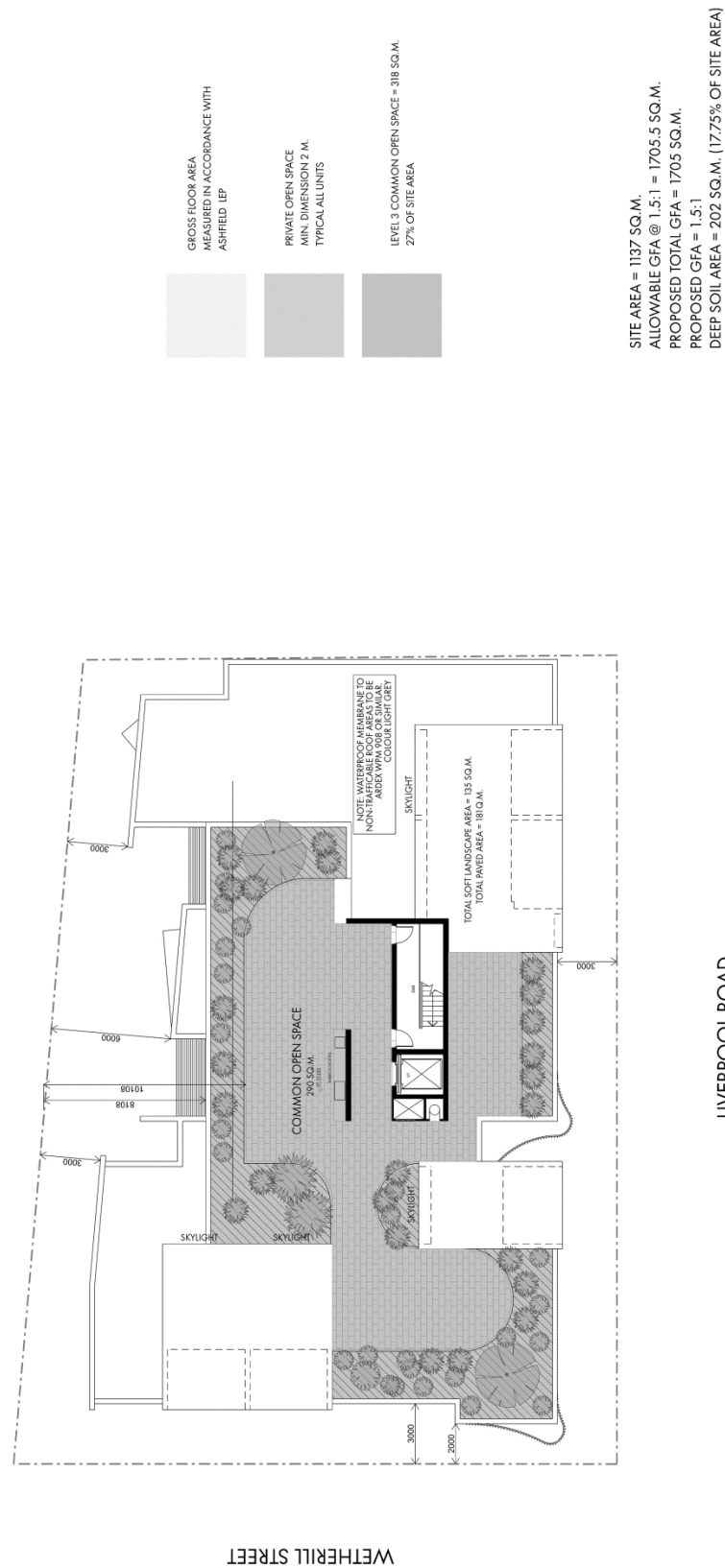
GFA = 498 SQ.M.

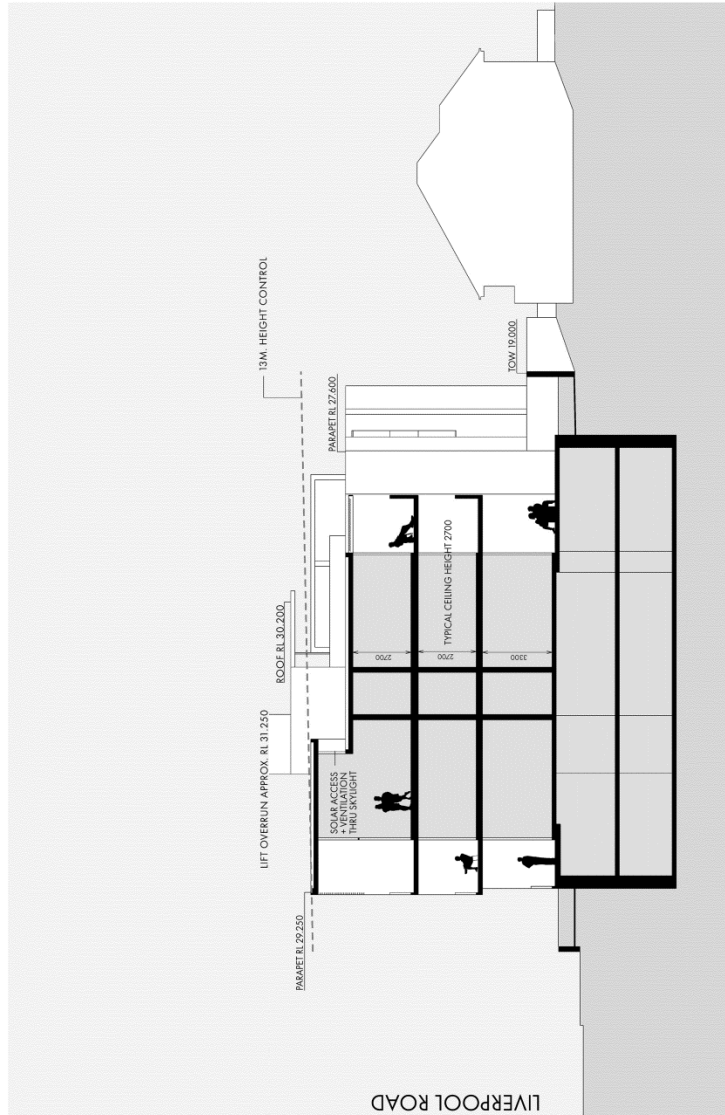


SITE AREA = 1137 SQ.M.
 ALLOWABLE GFA @ 1.5:1 = 1705.5 SQ.M.
 PROPOSED TOTAL GFA = 1705 SQ.M.
 PROPOSED GFA = 1.5:1
 DEEP SOIL AREA = 202 SQ.M. (17.75% OF SITE AREA)









SECTION AA

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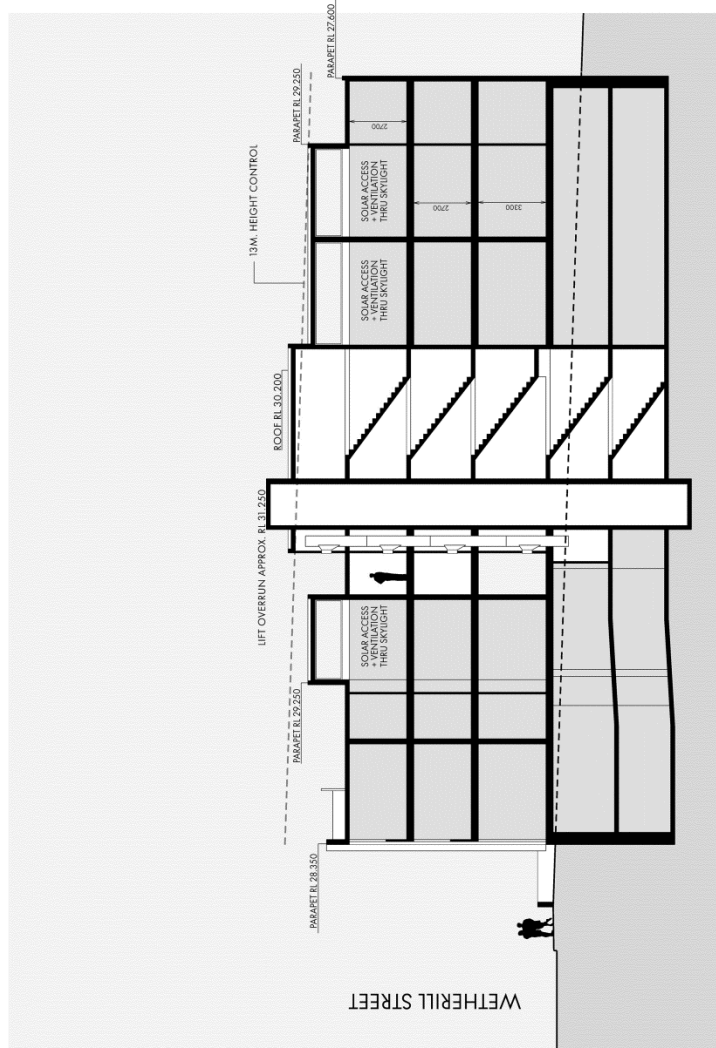
PALACE CROYDON PTY LTD
PROJECT

PROPOSED RESIDENTIAL DEVELOPMENT
17-19 WETHERILL STREET
CROYDON NSW
PROJECT NO. 1719W

SECTION A



PROJECT	DWG NO.	REVISION	DATE
464	401	DA-C	06.08.2018



SECTION B B

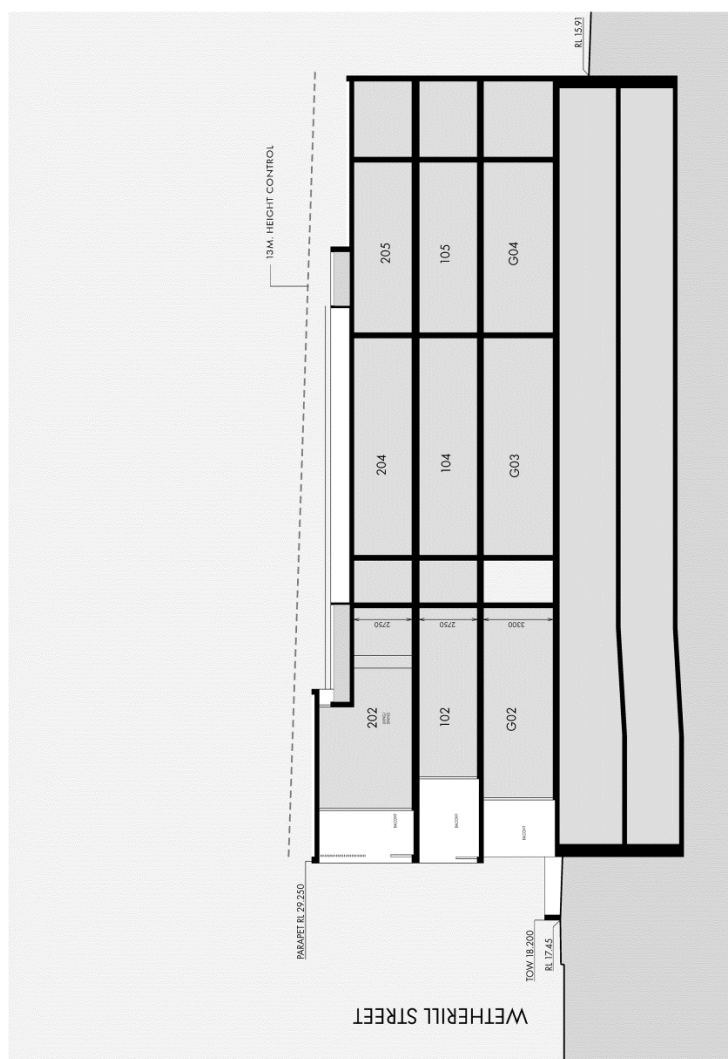
ROSS HOWIESON ARCHITECTS
 ARCHITECTS
 16/227 STERLING CIRCUIT CAMERDOWN 2050
 NSW 1510 AUSTRALIA
 PHONE: 02 9390 1111 FAX: 02 9390 1112
 WWW.ROSSHOWIESONARCHITECTS.COM.AU
 NEW SOUTH WALES ARCHITECTS REGISTRATION NO. 2079

CLIENT
 PALACE CROYDON PTY LTD

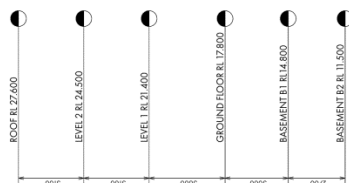
PROJECT
 PROPOSED RESIDENTIAL DEVELOPMENT
 17-19 WETHERILL STREET
 CROYDON NSW

DRAWING TITLE
 SECTION B B

PROJECT 464 | **DIG NO.** 402 | **REVISION** DA-C | **DATE** 06.08.2018



SECTION C C



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 NSW BOARD OF ARCHITECTS REGISTRATION NO. 3792

CLIENT
PALACE CROYDON PTY LTD

PROJECT
PROPOSED RESIDENTIAL DEVELOPMENT
17-19 WETHERILL STREET
CROYDON NSW

DRAFTING TITLE

SECTION C C

[illegible]

PROJECT	DRG NO.	REVISION	DATE
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PROJECT	DRG NO	REVISION
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PROJECT	DWG NO.	REVISION	DATE
464	403	DA-C	06.08.2018

AREA SUMMARY									
	2 BEDROOM UNITS	1 BEDROOM UNITS	3 BEDROOM UNITS	GROSS FLOOR AREA					
GROUND FLOOR	6			498					
LEVEL 1	7			595					
LEVEL 2	4	1	2	612					
LEVEL 3									
TOTAL OF UNIT TYPES	17	1	2	1705					
TOTAL RESIDENTIAL UNITS					20				
SITE AREA (SQ.M.)	1137								
ALLOWABLE GFA (SQ.M.)	1705.5	{1.5:1}							
PROPOSED GFA (SQ.M.)	1705	{1.5:1}							
CAR PARKING REQUIRED					CAR PARKING PROVIDED				
RESIDENTS @ 1 PER DWELLING	20				RESIDENTS	21			
VISITORS @ 1 PER 4 DWELLINGS	5				VISITORS	5			
CARWASH BAY @ 1 PER DEVELOPMENT	1				CARWASH BAY	1			
TOTAL REQUIRED	26 CARS				TOTAL CARS PROVIDED	27 CARS			
COMMON OPEN SPACE PROVIDED (SQ.M.)									
	318	27% OF SITE AREA							
DEEP SOIL AREA PROVIDED (SQ.M.)	202	17.75% OF SITE AREA							

Attachment C – Clause 4.6 Exception to Development Standards



**Amended
Clause 4.6 Exceptions to Development Standards
Ashfield Local Environmental Plan 2013
Clause 4.3 Height of Buildings
17 – 19 Wetherill Street Croydon**

1.0 Introduction

This application is made pursuant to Clause 4.6 "Exceptions to Development Standards" prescribed by Ashfield Local Environmental Plan (ALEP) 2013.

The proposed exception to the standard involves a variation to Clause 4.3 "Height of Buildings" standard as prescribed by ALEP 2013, relating to a proposed three (3) storey Residential Flat Building (RFB) on land known as 17-19 Wetherill Street Croydon.

There are two (2) small structures on the building that encroach above the 13m building height control. These include:

- Part of the lift overrun extends 1.550m above the 13m height control;
- A free standing flat roof structure that sits above part of the roof top communal open space area, extends approximately 650mm above the 13m height control.

The planning reasons why both structures extend above the control relate to the site being subject to flooding and the need for the building to be lifted 1.550m above the flood level.

Clause 4.6 of ALEP 2013 states that a development standard may be varied through a written request that seeks to justify the contravention of the standard by demonstrating:

- i. that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- ii. that there are sufficient environmental planning grounds to justify contravening that development standard.*
- iii. 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.*

This submission contends that strict compliance with the maximum building height control of 13.0m is unreasonable or unnecessary in the circumstances of the case and that the variation sought can be justified on environmental planning grounds as the proposal will have no impacts on the surrounding urban environment.

The above statement is made because the variations are minor in the context of the overall development, the environmental flooding constraints of the land and the transitional change to the urban character along Liverpool Road, which is consistent with the adopted controls for transforming land along Liverpool Road into a much higher density residential neighbourhood.

Accordingly, we believe for the reasons provided that this written exception to the development standard should be upheld.

2.0 Definition of Development Standards

The definition of development standard is set out under Section 1.4 of the Environmental Planning and Assessment Act 1979. See below:

“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:

- (a) the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or work from any specified point,*
- (b) the proportion or percentage of the area of a site which a building or work may occupy,*
- (c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,*
- (d) the cubic content or floor space of a building,*
- (e) the intensity or density of the use of any land, building or work,*
- (f) the provision of public access, open space, landscaped space, tree planting or other treatment for the conservation, protection or enhancement of the environment,*
- (g) the provision of facilities for the standing, movement, parking, servicing, manoeuvring, loading or unloading of vehicles,*
- (h) the volume, nature and type of traffic generated by the development,*
- (i) road patterns,*
- (j) drainage,*
- (k) the carrying out of earthworks,*
- (l) the effects of development on patterns of wind, sunlight, daylight or shadows,*
- (m) the provision of services, facilities and amenities demanded by development,*
- (n) the emission of pollution and means for its prevention or control or mitigation, and*
- (o) such other matters as may be prescribed”.*

Comment

Clause 4.3 “Height of Buildings” and Clause 4.6 “Exceptions to Development Standards are contained within ALEP 2013, which is a statutory planning instrument and as such the building height control is a development standard.

3.0 Varying Development Standards: A Guide August 2011

In accordance with the notification given under Clause 12 of Circular B1 states that:

“As numerical standards are often a crude reflection of intent, a development which departs from the standard may in some circumstances achieve the underlying purpose of the standard as much as one which complies. In many cases the variation will be numerically small and in other cases it may be numerically large, but nevertheless be consistent with the purpose of the standard...”

In deciding whether to consent to a development application the Council should test whether the proposed development is consistent with the State regional or local planning objectives for the locality; and in particular the underlying objective of the standard. If the development is not only consistent with the underlying purposes of the standard, but also with the broader planning objectives of the locality, strict compliance with the standard would be unreasonable and unnecessary”

Comment

On demonstrating that the development standard is unreasonable or unnecessary in the circumstances of the case, the consent authority may assume the Director-General's

concurrence to the objection pursuant to Clause 4.6 Exceptions to Development Standards under ALEP 2013.

4.0 Development Standards

Clause 4.6 of Ashfield LEP 2013 is set out below:

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

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

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

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

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

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

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

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

(a) *the consent authority is satisfied that:*

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

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

(b) *the concurrence of the Director-General has been obtained.*

(5) *In deciding whether to grant concurrence, the Director-General 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 Director-General before granting concurrence.*

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

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

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

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

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

(a) a development standard for complying development,

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

(c) clause 5.4.

Comment

Clause 4.6 permits flexibility in the consideration of a development standard, in this particular case, is relevant to building height for the proposed RFB.

It is considered that the proposed minor height variation will permit a better planning and urban design outcome on a highly visible corner site that has its main street frontage to Liverpool Road.

Because of flooding constraints associated with the development site, the building design proposed has required substantial sculpturing, with the site being considered quite unique, requiring flexible application of the standard, where the merits of the application are substantially relevant because of the site being subject to flooding.

We have formed the view that there is no public benefit in maintaining strict compliance with the development standard in this instance given the departure from the height control is minor and will have no negative consequences in terms of the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment.

The departure from the height control allows for the orderly and economic use of the site in a manner which would otherwise achieve the outcomes and objectives of the relevant planning controls.

No public disadvantages have been identified as it has been demonstrated that any environmental or other impacts associated with the development are extremely minor and will not be noticed when compared to that of a fully compliant design scheme.

This Clause 4.6 variation demonstrates that the increased building height satisfies:

- Council's standards associated with land that is subject to flooding;
- the relevant objectives of the height standard in that it will not impact upon the amenity of adjoining neighbours as it does not cast any additional shadow onto adjoining properties to that of a fully compliant scheme. The additional shadow casts shadow upon itself;
- the L&E Court planning principles as the proposed increase in building height does not block or interrupt any important view corridors or vistas;
- the proposed RFB development is permissible under the B4 Mixed Use zone and is consistent with the zones objectives;
- the variation is consistent with all relevant State and Regional Planning Policies to increase housing densities around public transport corridors and employment hubs;
- the Plan for Growing Sydney and recently released District Plans, in terms of housing, public transport, economics and employment;

- the test in achieving the orderly and economic use of land is to achieve a better planning outcome, which the proposal clearly does;
- the public interest test as it allows for the orderly and economic use of the land; and
- urban consolidation initiatives in that the type of housing proposed will be adaptable, and will assist to meet strategic housing targets for this region.

The combined effect of these assessments confirms that the flexible application of the height standard is appropriate in this instance because the written variation submission is well founded and that the height standard is unreasonable or unnecessary in the circumstances of this application.

Height of Buildings

The provisions of clause 4.3 are set out below and a part copy of the height of building map is provided at **Figure 1**.

4.3 Height of buildings

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

- to achieve high quality built form for all buildings,
- to maintain satisfactory sky exposure and daylight to existing buildings, to the sides and rear of taller buildings and to public areas, including parks, streets and lanes,
- to provide a transition in built form and land use intensity between different areas having particular regard to the transition between heritage items and other buildings,
- to maintain satisfactory solar access to existing buildings and public areas.

(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.

(2A) If a building is located on land in Zone B4 Mixed Use, any part of the building that is within 3 metres of the height limit set by subclause (2) must not include any area that forms part of the gross floor area of the building and must not be reasonably capable of modification to include such an area.



Comment

The proposed building is slightly above the 13m height control in the following areas:

- the flat roof structure is approximately 650mm over the proposed communal open space area on the buildings roof top. The need for this roof structure is to provide an amenity facility to protect users of the roof from adverse weather conditions;
- the proposed lift overrun is 1.550m above the height control;

Those structures exceeding the height do not cast any additional shadow outside the floor plate of the roof to that of a fully compliant height proposal and does not create any additional environmental impacts on the internal amenity of site, neighbouring sites nor any public reserves or the general amenity within the private and public domains. The proposed flat, free standing roof structure is designed to provide shade for users of the roofs communal open space.

Additional shadow cast by the lift over run and roof structure is confined to the roof area.

The proposed building with quality articulation, generous floor layouts and sustainability design features, ensures the proposed RFB will be a quality residential development to live in. The communal open space on the roof is generous in size and provided with quality amenities in terms of barbecue, table and seating facilities and green space within planter boxes around the perimeter of the communal open space.

As can be seen from the above height departures, the majority of the proposed building is below the 13m prescribed by Council's LEP for this site, allowing future units on adjoining land to receive more than 3hours of sunlight during mid-winter.

Both structures that exceed the increased building height still comply with the objectives of the building height standards prescribed by Clause 4.3.

4.1 Zoning of Land

The development site is zoned B4 Mixed Use zone and the proposed RFB is permissible with consent of Council. See extract of zone map at **Figure 2** and zone objectives below.

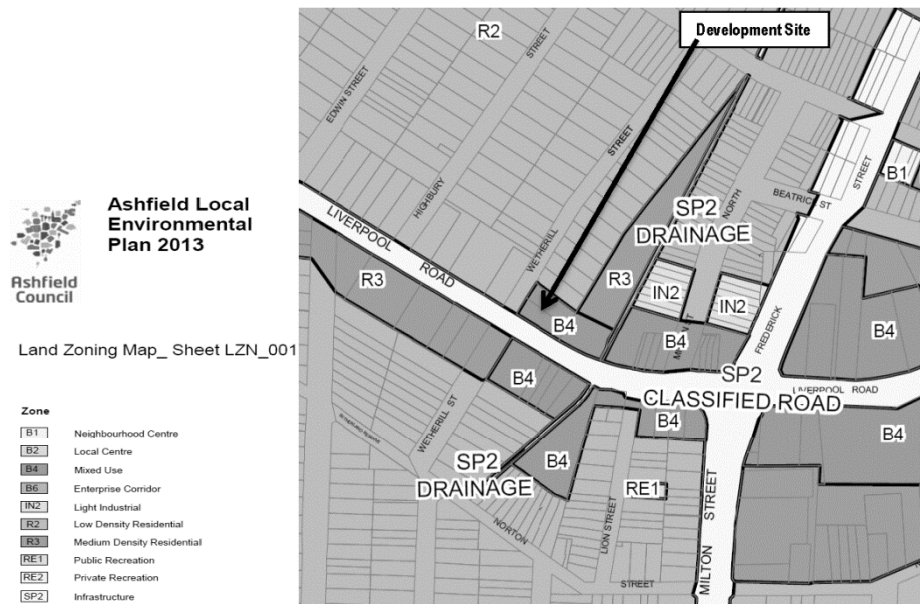


Figure 2
Source – Ashfield LEP 2013 - Building Height Map

Zone B4 Mixed Use

1 Objectives of zone

- To provide a mixture of compatible land uses.
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
- To enhance the viability, vitality and amenity of Ashfield town centre as the primary business activity, employment and civic centre of Ashfield.
- To encourage the orderly and efficient development of land through the consolidation of lots.

Comment

The proposal provides a well-considered solution for the site given the unique characteristics of the context as an area in transition from a traditionally low-medium density residential neighbourhood with non-residential development sprinkled along Liverpool Road, transforming into a high density residential precinct.

The surrounding context also justifies a variation to the height controls that apply to the site as the proposal offers a more balanced urban design and planning outcome for the streetscape to deliver an appropriate response in scale with other new development in this locality. The sites constraints are of importance, in particular, the site is subject to flooding.

The location is highly accessible being on Liverpool Road, a deemed classified road. Liverpool Road is a transport corridor along which public transport services operate. The increased residential population on this site brought about by the approval of this development application will maximise use of public transport (both rail and bus services) and bicycle use will be encouraged. Walking will also be encouraged as residents utilise nearby retail facilities and public rail and bus services on foot, reducing the need for the use of motor vehicles to come to or leave Croydon.

The development has a capital investment value of over \$8million and will facilitate and support further investment in the B4 Mixed Use zone. It will involve in itself facilitate further economic growth by encouraging others to invest in the revitalization of the land adjacent to the Liverpool Road corridor.

The development is entirely consistent with the objective of facilitating development for an active diverse and well-designed local centre.

Accordingly, Inner West Council as the consent authority can be satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6 (3) and that 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 proposed development is to be carried out.

The proposed development will facilitate the redevelopment of two (2) sites at the one time, will increase densities in accordance with the Council's objective and will accentuate the corner of Liverpool Road and Wetherill Street.

5.0 Land and Environment Courts Assessment

Winten Property Group Ltd v North Sydney Council (2001) NSWLEC 24

Justice Lloyd's Questions - *Winten Property Group v North Sydney Council* 2001

Justice Lloyd raised in this case, five questions that must be considered in the assessment of a SEPP 1 Objection, in the subject application, it relates to Clause 4.6 of HLEP 2013 because SEPP 1 does not apply to this new planning instrument.

The provisions of SEPP 1 differ from the provisions of clause 4.6. The decision in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 now confirms that the decision of Preston CJ in *Wehbe v. Pittwater Council* [2007] NSWLEC 827 is only of indirect assistance in determining ways of establishing that compliance with a development standard in an environmental planning instrument might be seen as unreasonable or unnecessary. In *Wehbe* [42] [46] Preston CJ did say however that a way of proving a well-founded objection under SEPP 1 is to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting development consents departing from the standard and hence compliance with the standard is unnecessary or unreasonable. The principle should apply to Cl. 4.6 of the HLEP 2013 as well.

The Chief Judge referred to the decision in *North Shore Gas Company v North Sydney Municipal Council* (Land and Environment Court, New South Wales, 15 September 1986, unreported) in which Stein J similarly held that compliance with a development standard was not required where the standard had been virtually abandoned or destroyed by council's own action.

Question 1

Is the Planning Control in Question a Development Standard?

Environmental Planning Instrument

The standard is contained within an Environmental Planning Instrument (ALEP 2013) that was prepared in accordance with the provisions contained within the Environmental Planning & Assessment Act 1979 and therefore the control is a development standard that controls the height of buildings in the Inner West Council LGA.

Question 2**What is the Underlying Object or Purpose of The Standard?**

As mentioned previously in this request to vary the standard, the Department of Planning Circular B1, numerical requirements may be departed from if the purpose behind the control is achieved and the locality objectives of the relevant planning instruments are satisfied.

The underlying object of the standard is to:

- Ensure buildings are of a height and scale to fit within their context;
- Ensure buildings do not unreasonably increase amenity impacts, such as overlooking and overshadowing;
- Protect views;
- Ensure heritage items and conservation areas are not impacted upon;
- Respect the existing and transitional character that a neighbourhood may be undergoing;
- To allow for building transitions.

The proposal achieves the underlying objectives and purposes of the standard.

Question 3

Is compliance with the development standard consistent with the aims of the policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in Section 5(a) (now Section 1.3) of the Environmental Planning & Assessment Act 1979.

Comment

The objects of the Act are set out as follows:

1.3 Objects of Act

(cf previous s 5)

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

This issue in itself would hinder the attainment of the Environmental Planning & Assessment Act 1979 objective, which seeks to promote the orderly and economic use and development of land. The reasons why the new buildings will achieve the objects of the Act are:

- The proposed RFB is permissible under the sites B4 Mixed Use zone and is consistent with the relevant zones objectives;
- The proposed height increase is a direct result of the land being subject to flooding;
- The structures on the roof of the proposed RFB do not increase overshadowing beyond the roof to that of a fully compliant 13m building height scheme;
- No views will be lost to that of a fully compliant scheme;
- The design responds to its eclectic context in that the proposed design is responsive to its urban infill location and will not impact upon the amenity of existing or future residents in this precinct, in terms of overlooking and overshadowing of private and communal open space areas;
- The proposed additional height comfortably fits within its context in that the sites location ideally suits a State road environment, such as Liverpool Road.

Question 4: Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

Comment

Compliance with the development standard is deemed to be unreasonable or unnecessary in the circumstances of this case because the departure sought does not create any additional amenity impacts upon the built and natural environments to that of a fully compliant design scheme.

Notwithstanding the non-compliance with the building height control, the proposed development will perform favourably in relation to the objectives of the zone and of the development height standard.

In particular, the generic intent behind the height standard is to control the scale of new development and not to unreasonably increase amenity impacts.

The proposed RFB clearly demonstrates, that although marginally in excess of the height control in two (2) small areas, the proposal can still readily fit within this transitional neighbourhood context.

Question 5: Is the objection well founded?

In the decision (*Wehbe v Pittwater Council* [2007] NSW LEC 827) Chief Justice Preston expressed the view that there are 5 different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy. These are:

- 1) *The objectives of the standard are achieved notwithstanding non-compliance with the standard;*
- 2) *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
- 3) *The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
- 4) *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; or*

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

We are of the view that the objection is well founded because:

- The proposed RFB has been designed so it does not cast any additional shadow within the common areas of open space within the complex or cast any additional shadow onto neighbouring residential properties or reflect a greater bulk and scale to that of a fully compliant scheme, which is reflected in the accompanying drawings and photomontage;
- The proposed built form responds to Council's LEP controls in that provision is made for a medium density residential development that is complimentary to the height control objectives afforded to future development on the subject site;
- The departure sought will have no unreasonable impacts upon the amenity of neighbours in this precinct and
- The proposed building design is in the public interest as it promotes a quality built form in that the development will engage in responding to a need for greater economic and social benefits to this neighbourhood.

6.0 Conclusion

It is considered that the objection to the strict application of the building height development standard is unreasonable or unnecessary in this particular circumstance and the use of Clause 4.6 of ALEP 2013 to vary the height is appropriate because:

- The flexible application of this clause will enable a better planning outcome to be achieved for this site, promoting increased residential densities without any tangible impacts;
- The proposed increase in building height has had due regard to the siting of the building without identifying any amenity impacts;
- The additional building height will have no impact on solar access to key areas of private and public domains;
- The proposed development satisfies the objectives of the B4 Mixed Use zone;
- The development will make a contribution to the eclectic character of this neighbourhood given the proposed quality architectural design;
- The increase in density will support the economic and social values for the Croydon and Ashfield business centres which promote a live/work environment;
- The proposal provides for an architecturally sound building that is well articulated and modulated, and is therefore in the public interest;
- The design is consistent with the underlying objectives of the building height development standard;
- The design satisfies the Land and Environment Court's test judgments for a well-founded objection to vary a development standard;
- The change to the height control does not undermine the objects contained in Section 1.3 of the Environmental Planning & Assessment Act 1979;

The development standard is a local planning matter because it is contained within the ALEP 2013 and the variation of such standard will have no adverse impacts upon State or regional significance as a consequence of varying the development standard as proposed by this application.

Accordingly, in view of the above reasons it is this firm's opinion that the standard is unreasonable or unnecessary in the circumstances of the case and as such the minor height variations sought on the roof of the proposed RFB are a direct result of the land being subject to flooding and accordingly warrants approval.

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