# **INNER WEST COUNCIL**

DEVELOPMENT ASSESSMENT REPORT		
Application No.		
Address	40 Cobar Street, DULWICH HILL NSW	
Proposal	Application under Section 4.55 of the Environmental Planning	
Fioposai	and Assessment Act to modify Modified Determination No.	
	201200232.01 dated 30 January 2015 to increase the extent of	
	the basement and amend the layout and extent of Building B	
	increasing the number of units from 13 to 16 units.	
Date of Lodgement	21 May 2019	
Applicant	Terry Sozomenou	
Owner	D & L Brancourt Nominees Pty Ltd	
Number of Submissions	One	
Reason for determination at	SEPP 65 affected development	
Planning Panel		
Main Issues	The key planning issues relate to FSR, design and amenity.	
Recommendation	Approval	
Attachment A	Recommended modified conditions of consent	
Attachment B	Plans of the proposed development	
Attachment C	Development Consent Determination No. 201200232.01	
Attachment D		
45         99         221           47         99         221           48         99         221           54         225         54         225           56         227         51         229           66         221         53         229           7         5         3         1         Ashifield 62         223           9         16         42         229         64         225           16         16         12         10         6         4         2         229           16         16         12         10         6         4         2         208           11         9         7         5         3         1         300         6           11         9         7         5         3         1         308         6           11         9         7         5         3         1         308         6           11         9         7         5         3         1         308         6           11         9         7         5         3         1         308         6	223 224 225 226 227 229 229 229 229 229 229 229	
	LOCALITY MAP	
Subject Site	Objectors N	
Notified Area	Supporters	

# 1. Executive Summary

This report concerns an application under Section 4.55(2) of the Environmental Planning and Assessment Act, 1979 to modify Modified Determination No. 201200232.01 dated 30 January 2015 to increase the extent of the basement and amend the layout and extent of Building B increasing the number of units from 13 to 16 units.

The application was notified in accordance with Council's notification policy and one submission in objection was received.

The application is referred to the Inner West Local Planning Panel for determination because the development is subject to State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development (SEPP 65).

It is considered the proposal is satisfactory having regard to the nine design quality principles of SEPP 65 and the objectives, design criteria and design guidelines of the Apartment Design Guide (ADG).

The proposed amendments to the design are largely contained within the approved building envelope and despite not complying with the Floor Space Ratio (FSR) development standard under Marrickville Local Environmental Plan 2011 (MLEP 2011), the proposal will result in a minor reduction in gross floor area (GFA) and is acceptable in that regard.

The potential impacts to the surrounding environment have been considered as part of the assessment process and the proposed modified development is considered acceptable.

The application is recommended for approval.

# 2. Proposal

The modification application seeks to amend the layout of the existing basement and Block B of the residential flat building development approved under DA201200232.

The proposed modification to Block B will result in an increased number of units from 13 to 16, with 4 x 1 bedroom units and 12 x 2 bedroom units. The gross floor area (GFA) of proposed Block B is  $1,256m^2$ . No changes have been proposed to Block A. The proposed modification will result in an overall total of 22 units on the site.

A detailed description of the modifications at each level is provided in **Table 1**.

**Table 1** – Detailed description of the proposed modification by level

Floor	Description
Basement	<ul> <li>increased size of floor plate (towards eastern boundary) to accommodate 7 new parking spaces, resulting in overall parking capacity of 27, with 6 accessible parking spaces</li> <li>additional lift located at the rear of the basement serving floors above</li> <li>rearrangement of garbage room, service room and fire stair</li> <li>additional storage provided for 8 units through the removal of rear internal stairs.</li> </ul>

Ground	<ul> <li>floor redesign resulting in four (4) proposed single storey units <ul> <li>1 x 1br &amp; 3 x 2br; and</li> <li>Adaptable unit proposed for Unit B 03.</li> </ul> </li> <li>proposed common lobby space with lift and additional services</li> <li>increased setback distance to proposed western balconies (6m)</li> <li>RL increased by 800mm over approved.</li> </ul>
First	<ul> <li>floor redesign resulting in four (4) proposed single storey units <ul> <li>1 x 1br &amp; 3 x 2br</li> <li>adaptable unit proposed for Unit B 07.</li> </ul> </li> <li>increase of floor plate size on south façade from approved DA</li> <li>increased setback distance to proposed western balconies (6m)</li> <li>RL increased by 800mm over approved</li> </ul>
Second	<ul> <li>floor redesign resulting in four (4) proposed single storey units;</li> <li>1 x 1br &amp; 3 x 2br.</li> <li>removal of access gallery connection Block A and Block B;</li> <li>increased setback distance to proposed western balconies (6m); and</li> <li>RL increased by 800mm over approved</li> </ul>
Third	<ul> <li>four (4) proposed single storey units replacing five (5) double storey units originally approved</li> <li>1 x 1br &amp; 3 x 2br</li> <li>increased setback distance to proposed western balconies (6m)</li> <li>RL increased by 800mm over approved</li> </ul>
Roof	Roof RL increased by 800mm over approved

# 3. Site Description

The subject site is known as No. 40-42 Cobar Street, Dulwich Hill and is legally described as Lot 1 DP1193504. The site is located on the southern side of Cobar Street and has a total area of 1,805m2.

The site is irregular in shape with a frontage to Cobar Street of 20.26m and overall length of 71.125m. The site slopes from the rear (southern) boundary to the front (northern) boundary by approximately 4.29m. The site has a general north to south orientation.

The development is currently under construction.

The surrounding area is characterised by a mix of single storey and two storey dwelling houses and residential flat buildings.

# 4. Background

# 4(a) Site history

The relevant development history of the subject site is summarised in Table 2.

 Table 2 – Summary of development history

Application		Proposal	Decision & Date
Determination 201200232	No.	To demolish the existing improvements on the properties 40 and 42 Cobar Street, consolidate the existing allotments, subdivide the land into 2 allotments, one fronting New Canterbury Road and one fronting Cobar Street and erect a 3 storey and 4 storey residential flat building over basement car parking level on the allotment fronting Cobar Street, containing 19 dwellings with off street car parking for 20 cars on the above property.	Approved - 10 October 2012
Determination 201200232.01	No.	Application under former Section 96 of the EP&A Act to modify the conditions of consent to allow the issue of a Final Occupation Certificate for the residential flat building on the lot fronting Cobar Street (Lot 1) without the remediation of the lot fronting New Canterbury Road (Lot 2).	Approved – 30 January 2013

# 5. Assessment

The following is a summary of the assessment of the application in accordance with Section 4.55(2) of the Environmental Planning and Assessment Act 1979 (EP&A Act). The assessment of the original DA under Section 4.15 of the EP&A Act remains relevant to this application.

# 5(a) Environmental Planning Instruments

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

- State Environmental Planning Policy No 65 Design Quality of Residential Apartment Development
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The following provides further discussion of the relevant issues:

# 5(a)(i) State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development

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.

The proposed modifications do not alter the adequacy of the development having regard to the nine design quality principles. The modification application includes a Design Verification Statement prepared by a registered architect in relation to the design quality principles.

#### Apartment Design Guide

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

The following provides further discussion of the relevant issues:

#### (i) <u>Deep Soil</u>

Deep soil zones are to meet the following minimum requirements:

Site area	Minimum dimensions	Deep soil zone (% of site area)
less than 650m <sup>2</sup>	-	7%
650m <sup>2</sup> - 1,500m <sup>2</sup>	3m	
greater than 1,500m <sup>2</sup> with significant existing tree cover	6m	

# Comment:

Based on a site area of 1,805 m<sup>2</sup>, a minimum of 126 m<sup>2</sup> of deep soil is required. The proposed modification to the basement configuration reduces the deep soil landscaping to 504 m<sup>2</sup> with a minimum dimension of 3 m. Despite the variation to the minimum dimension requirement of 6m, the modified proposal is acceptable given the deep soil landscaping equates to 28% of the site area, which is in excess of the minimum 7% requirement under the ADG.

# (ii) <u>Visual Privacy/Building Separation</u>

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

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

#### Comment:

The proposed modification would increase the side setback to the western boundary from 4.5 m to 6 m and reduce the rear setback at Level 1 by 1m. The separation between the buildings on the subject site will not change. The modified proposal satisfies the 6 m minimum setback requirement for an RFB up to four storeys under the ADG.

# (iii) 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 midwinter.
- A maximum of 15% of apartments in a building receive no direct sunlight between 9.00am and 3.00pm at mid-winter.

# Comment:

The solar access analysis submitted with the modification application indicates 18 apartments, equating to 82% of the total number of apartments will receive a minimum 3 hours of direct sunlight to living rooms and private open spaces between 9:00 am and 3:00 pm on June 21. The proposed modification satisfies the solar access requirements in the ADG.

# (iv) <u>Natural Ventilation</u>

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 modification eliminates the narrow style apartment typology in favour of an open plan with each apartment occupying a corner position, resulting in 100% of the apartments achieving natural cross ventilation.

# (v) <u>Ceiling Heights</u>

The ADG establishes a minimum ceiling height of 2.7 m for habitable rooms.

# Comment:

The modified proposal satisfies the minimum ceiling height requirement for all apartments.

# (vi) <u>Apartment Size</u>

The ADG prescribes the following minimum apartment sizes:

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

Comment:

The apartment configuration in Block B will contain  $4 \times 1$  bedroom apartments of  $50m^2$  and  $12 \times 2$  bedroom apartments ranging between  $77m^2$  to  $81m^2$ . The proposed modification satisfies the minimum internal area requirements.

# (vii) Apartment Layout

The ADG prescribes the following requirements for the internal apartment layout:

- 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 10m<sup>2</sup> and other bedrooms 9m<sup>2</sup> (excluding wardrobe space).
- Bedrooms have a minimum dimension of 3 metres (excluding wardrobe space).
- Living rooms or combined living/dining rooms have a minimum width of:
  - 3.6 metres for studio and 1 bedroom apartments.
  - 4 metres for 2 and 3 bedroom apartments.
- The width of cross-over or cross-through apartments are at least 4 metres internally to avoid deep narrow apartment layouts.

#### Comment:

The proposed modification eliminates the approved long and narrow unit type in favour of open plan style, which achieves the above internal layout requirements under the ADG.

#### (viii) Private Open Space and Balconies

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

Dwelling Type	Minimum Area	Minimum Depth
Studio apartments	4m <sup>2</sup>	-
1 Bedroom apartments	8m <sup>2</sup>	2 m
2 Bedroom apartments	10m <sup>2</sup>	2 m
3+ Bedroom apartments	12m <sup>2</sup>	2.4 m

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  $15m^2$  and a minimum depth of 3m

# Comment:

The size of the balcony for the one bedroom apartment equates to a minimum of 10  $\text{m}^2$  and minimum depth of 3m. The two bedroom apartments range between  $10\text{m}^2$  to  $12 \text{ m}^2$  with a minimum dimension of 3 m. In addition, the ground floor apartments contain private open space ranging between  $62\text{m}^2$  to  $195 \text{ m}^2$ .

The proposed modification achieves the minimum size requirements for private open space and balconies of apartments under the ADG.

# (ix)

# (x) <u>Storage</u>

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

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

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

#### Comment:

The one bedroom apartments provide  $6m^2$  of storage inside the apartment in accordance with the ADG requirements. The internal storage allocated to the two bedroom apartments is generally between 6.5 m<sup>2</sup> to 11 m<sup>2</sup>, except for one apartment of 4 m<sup>2</sup>. In addition, the basement includes eight separate storage units. The proposed modification generally satisfies the internal storage requirements in the ADG.

# (xi) <u>Apartment Mix</u>

The ADG establishes a range of apartment types and sizes to cater for different household types.

Comment:

The approved apartment mix contains 3 x one bedroom, 8 x two bedroom and 2 x three bedroom apartments. The proposed modification will increase the number of apartments in Block B from 13 to 16 by deleting the larger three bedroom apartments and increasing the quantum of smaller one and two bedroom apartments. The proposed modification maintains a flexible apartment configuration to support diverse household types.

#### (xii) Ground Floor Apartments

The ADG prescribes at-grade landscaped private open spaces and direct access from the street. The ground floor apartments will have at-grade access to private open space.

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

The development is subject to the BASIX requirements. The modification application includes a revised BASIX Certificate prepared by Building and Energy Consultants Australia (Certificate No. 407376M\_05) which is reflected in the amended conditions.

# 5(a)(iii) Marrickville Local Environment Plan 2011 (MLEP 2011)

The site is predominantly within the zoned R1 – General Residential and the southern part of the site is also zoned B2 – Local Centre. The proposed modified development is permissible with consent under Marrickville Local Environmental Plan 2011 (MLEP 2011).

This modification application was assessed against the following clauses of the MLEP 2011 relevant to this application:

# (i) <u>Building Height (Clause 4.3)</u>

A maximum building height of 14 m applies to the site under Clause 4.3 (2) of MLEP 2011. All floor RLs and the roof structure of Block B is proposed to be increased by 800mm in height. The proposed modified development will therefore increase in height by 800mm. The top of the skillion roof structure will be RL 55.72, which equates to a maximum building height of 13.53m. The modified proposal therefore remains compliant with 14 m maximum building height development standard under MLEP 2011.

# (ii) Floor Space Ratio (Clause 4.4)

A maximum FSR of 0.85:1 applies to the majority of the site, which is zoned R1 General Residential. The southern portion of the site is zoned B2 Local Centre and has a maximum FSR of 1.75:1.

As approved, the portion of the development within the R1 zone has a maximum allowable GFA of  $1,289m^2$  and that in the B2 zone of  $511m^2$  equating to a maximum permissible GFA of  $1,800m^2$ . The proposed modified development has a total GFA of  $1,792m^2$ , which represents a decrease of  $8m^2$ .

DA201200232 granted approval for a non-compliance of 458.6m<sup>2</sup> or 35.6% within the R1 zone. The reason for the departure was based on a technicality whereby the FSR was required to be separately calculated for each zone, however the development achieved compliance when the FSR was combined over the two zones.

As a result of the redesign, the proposed modification has a built area within the B2 zone of  $132m^2$  and  $1,660m^2$  in the R1 zone. This results in a non-compliance of  $371m^2$  or 28.8% in the R1 zone.

Despite the minor decrease to the total approved GFA, the proposal remains non-compliant with the R1 zone FSR development standard as originally approved.

The modification of a development consent which results in a new or modified variation to a development standard, does not require the submission of a written request for an exception to a development standard pursuant to Clause 4.6 of MLEP 2011. However, Council is still required to conduct a merit assessment of any new breaches of a development standard.

The Statement of Environment of Effects (SEE) submitted with the modification application justifies the proposed FSR on the basis that:

- the development continues to meet the objectives of the FSR development standard as it will not adversely affect the built form or alter the intensity of the use of the site
- the size and scale of the development will not change in terms of its relationship with the desired future character of the locality
- reduces the overall FSR within the R1 zone
- it will maintain the design quality within the streetscape
- it will have minimal impact on the environment

The proposed modification is largely contained within the approved building envelope and will not result in any visual change to the overall bulk and scale when viewed from the adjoining properties. Furthermore, the proposed modified development would not result in any unreasonable amenity impacts to the adjoining properties in terms of overshadowing or visual privacy (refer to Section 5(c) of this report). The additional floor area associated with the proposed modification would therefore achieve the objectives of the FSR development standard.

Having regard to the above, it is considered that the modified development does not cause any additional amenity or visual impacts for adjoining properties or alter its streetscape presentation. Therefore, compliance with the maximum FSR development standard is considered to be unreasonable in the circumstances. The proposed modification involving a departure from

# 5(b) Draft Environmental Planning Instruments

the FSR development standard is therefore supported.

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

The amended provisions contained in the Draft LEP Amendment are not relevant to the assessment of the application. Accordingly, the development is considered acceptable having regard to the provisions of the Draft LEP Amendment.

# 5(c) Development Control Plans

The proposed modification does not give rise to issues relating to the provisions of MDCP 2011 that are not dealt with in other sections of this report, especially the assessment of the proposed modification under the ADG. The following matters are relevant to the proposed modification:

# (i) Equity of Access and Mobility (Part 2.5.10)

Part 2.5 of MDCP 2011 requires consideration to be given to accessibility before granting development consent. Part 2.5.10 of MDCP 2011 specifies the minimum access requirements, including the accessible facilities and adaptable dwelling requirements in accordance with the relevant Australian Standards.

The modification application includes an Access and Compliance Assessment Report, prepared by PSE Access Consulting, dated 14 May 2019. It concludes that the proposed modified development complies with the equity and access requirements in MDCP 2011.

The proposed modified layout of Block B ensures that accessibility is significantly improved, through a separate lobby, lift and fire stair which does not rely on access to Block A.

# (ii) <u>Visual Privacy (Part 2.6.3)</u>

Part 2.6.3 of MDCP 2011 establishes the privacy controls for new residential development.

The approved narrow apartment typology orientated the living areas to the north within the site and the bedrooms to the south. The proposed modified development would not result in significant additional privacy impacts to the north and south beyond what has already been assessed and approved by Council. The modified apartment configuration adopts an open plan layout with each apartment occupying a corner position, resulting in additional window openings and balconies on the eastern and western elevation of the building.

In response to the potential privacy impacts to the adjoining properties to the east and west of the site, the following measures have been incorporated into the design:

- The balconies and windows on the northern elevation are setback 6 m to the side boundary, which complies with the separation requirements under the ADG.
- The bedroom window in the northeast apartments (Levels 1 to 3) has a minimum sill height of 1.5 m to mitigate overlooking.
- The balconies in the north-east and south-east apartments (Levels 1 to 3) incorporate a privacy screen on the eastern façade.

- At ground level, the potential privacy impacts between the communal open space and apartment 2 will be mitigated by a vegetation screen.
- The potential privacy impacts at ground floor to the east will be mitigated by dense screen planting and a 1.8 m high boundary fence.

The proposed modified development is acceptable in terms of visual and acoustic privacy to the adjoining properties to the east and west.

# (iii) <u>Overshadowing (Part 2.7.3)</u>

Part 2.7.3 of MDCP 2011 requires direct solar access to windows of principal living areas and principal areas of open space of nearby residential accommodation not to be reduced to less than two hours between 9.00 am and 3.00 pm on 21 June.

The modified proposal will increase the building height by 800mm. The shadow diagrams submitted with the modification application shows the shadow impacts on the June 21. Given the north-south orientation of the site, the adjoining residential properties would continue to receive solar access in accordance with MDCP 2011.

The proposed modified development will not result in any appreciable difference to the adjoining properties in terms of overshadowing.

# (iv) Parking (Part 2.10.5)

Part 2.10.5 of MDCP 2011 establishes the parking requirements for development. The site is located in Parking Area 3 under MDCP 2011. The parking demand generated by the proposed modified apartment count and mix is outlined in **Table 3**.

Parking demand	Proposed number of parking spaces	
<ul> <li>0.8 spaces per 1 bedroom</li> <li>1.2 spaces per 2 &amp; 3 bedroom</li> <li>0.1 space per unit for visitors</li> </ul>	<ul> <li>residents (17 non-adaptable apartments) = 18.8 spaces</li> <li>visitors (regular spaces) = 1.7 spaces</li> </ul>	
<ul> <li>1 space per adaptable unit</li> <li>0.25 spaces per adaptable unit for visitors</li> </ul>	<ul> <li>residents (5 adaptable apartments) = 5 spaces</li> <li>visitors (accessible spaces) = 1.3 spaces</li> </ul>	
27	27	
	(including 6 accessible spaces)	

Table 3: Parking demand under MDCP 2011

The proposed modified development complies with the parking rates in MDCP 2011.

MDCP 2011 also requires the provision of bicycle parking at a rate of 1 space per two apartments for residents and 1 space per 10 apartments for visitors. Motorcycle parking is also required at a rate of 5% of the total car parking demand.

The application of the above bicycle and motorcycle parking rates to the proposed modified apartment count and mix generates a bicycle parking demand of 13 spaces and a motorcycle requirement of 1 space.

The proposed modified development incorporates 1 motorcycle space, 6 bicycle racks and 8 private storage cages in the basement large enough to accommodate a bicycle.

The proposed modified development is therefore acceptable in terms of parking.

# (v) <u>Contaminated Land (Part 2.24)</u>

The proposed modification seeks to delete the validation and monitoring report requirements for Lot 2 fronting New Canterbury Road in Condition 87 of the modified development consent because Lot 2 has been subdivided and is now under separate control and ownership.

Modified Determination DA201200232.01 approved on 30 January 2015, modified the staging of the remediation to permit the occupation of Lot 1 by allowing the issue of a Final Occupation Certificate for the residential flat building on the lot fronting Cobar Street (Lot 1) without the remediation of the lot fronting New Canterbury Road (Lot 2).

Condition 38a of the modified consent creates a restriction on the land title that Lot 2 be remediated in accordance with the approved Remediation Action Plan, prior to the issue of a Subdivision Certificate.

The Applicant's request is therefore considered reasonable in the circumstance as the development no longer forms part of the subject site.

#### (vi) FSR and Site Coverage (Part 4.2.4.1)

Part 4.2.4.1 establishes the FSR and site coverage requirements for residential flat buildings. The proposed changes to the FSR are discussed in **Section 5(a)(ii)** of this report.

A maximum site coverage of 30% applies to the development. The proposed modified development will increase the site coverage by 1% from 34% to 35%.

The increase in site coverage is a result of the rearrangement of spaces within the envelope to improve the overall efficiency of the floorplate.

The increased departure in site coverage is acceptable given the proposed modified development is largely retained within the approved building footprint and there will be no reduction in building setbacks to the boundaries.

Furthermore, the proposal will continue to provide adequate area for deep soil landscaping, stormwater infiltration and landscaped communal and private open spaces for the future occupants.

#### (vii) <u>Materials, Finishes, Textures and Colours (Part 4.2.5.3)</u>

The proposed modification adopts a similar design language to Block A and incorporates a concrete block base, face brickwork at the upper levels, cement render, fibre cement cladding, off-form concrete and metal roof sheeting. The proposed materials and finishes are suitable for the contemporary design.

# 5(d) Section 4.55 of the Environmental Planning and Assessment Act

Under Section 4.55 (2) of the Environmental Planning and Assessment Act, 1979, Council, when considering a request to modify a Determination must:

- a) Be satisfied that the development as modified is substantially the same development as the development for which consent was originally granted
- b) Consult with any relevant authority or approval body
- c) Notify the application in accordance with the regulations
- d) Consider any submissions made

e) Take into consideration the matters referred to in Section 4.15 that are relevant to the development the subject of the modification application.

The development being modified is substantially the same development as the development for which consent was originally granted. No authorities or bodies were required to be consulted. The application was notified in accordance with the regulations and Council's notification policy and one submission was received. Refer to **Section 5(g)** of this report.

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

# 5(e) Any submissions

The modification application was notified in accordance with Council's notification policy for a period of 14 days to surrounding properties. One submission was received in objection. The issues raised in the submission are addressed in **Table 4**.

Issue raised	Council's Response
The Washington sp. (common name Skyscraper) located on the western boundary towards the front of the site is causing structural damage to the dwelling house and impeding stormwater drainage on the adjoining property at 44 Cobar Street.	The modification application includes a Landscape Plan, which indicates the subject tree is to be retained. Council has no legal ability to control tree planting on private property, except where this is associated with a condition of development approval. Condition 28 of the development consent requires the subject tree to be protected during construction. In the event that the subject tree is causing damage to the adjoining property then landowner's consent must be obtained and a separate application made to Council seeking approval to remove the tree.
The earthworks and excavation will have a detrimental impact on soil stability.	The existing development consent includes a condition to ensure that adjoining buildings are protected and supported during excavation and the condition of the buildings on the adjoining properties is catalogued for future reference in the event that any damage is caused during work on site.
Visual privacy impacts from habitable rooms and balconies at the side elevation. The proposed modification would exacerbate this situation and some consideration must be given to the impacts on the dwellings to each side and to the rear.	The proposed modified development incorporates sufficient measures to mitigate privacy impacts to the adjoining properties, including a 6 m setback to the western boundary. Refer to the discussion in <b>Section 5(c)(ii)</b> of this report.
Adverse impacts associated with increased number of apartments and people entering and exiting the site, particularly along the common walkway adjacent to the western boundary.	The proposed increase in the total number of apartments by three is a result of deleting the larger three bedroom apartments in lieu of smaller one and two bedroom apartments. The quatum of residential floorspace will reduce slightly. There is unlikely to be any significant additional privacy impacts associated with the use of the common walkway adjacent to the western boundary, noting the Landscape Plan submitted with the

#### Table 4: Summary of Submission

	modification application includes dense screen planting along the boundary.
adjoining garage at the rear when the	As stated above there are appropriate safeguards in the existing development consent to ensure that adjoining buildings are protected and supported during excavation.

# 5(h) The Public Interest

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

The proposal is not contrary to the public interest.

# 6 Referrals

# 6(a) Internal

The DA was referred to Council's Development Engineer, who raised no objection to the proposed modified development.

# 6(b) External

Not Applicable.

# 7. Section 7.11 Contributions

Additional 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 due to the increase in the number of bedrooms. As such, the section 94 contributions have been recalculated with Condition 42 updated accordingly.

# 8. Conclusion

The proposed modification generally complies with the internal layout and design parameters contained in the ADG and MLEP 2011. The proposed modified development would not result in any significant impacts on the amenity of adjoining premises and the streetscape. The application is considered suitable for approval.

# 9. Recommendation

A. That the Inner West Local Planning Panel, as the consent authority pursuant to s4.16 of the Environmental Planning and Assessment Act 1979, APPROVE the modification application under Section 4.55 of the Environmental Planning and Assessment Act 1979 to modify Determination No. 201200232.01, dated 30 January 2015 to increase the extent of the basement and amend the layout and extent of Building B increasing the number of units from 13 to 16 units, subject to the conditions listed in Attachment A below.

# Attachment A – Recommended modified conditions of consent

#### Recommended Modified conditions of consent

A. THAT the application under Section 4.55 of the Environmental Planning and Assessment Act 1979 to modify Modified Determination No. 201200232.01 dated 30 January 2015 to increase the extent of the basement and amend the layout and extent of Building B, increasing the number of units from 13 to 16 units be APPROVED and a modified Determination be issued with conditions 1, 4, 7, 42 and 87 in Part B being modified in the following manner:

#### GENERAL

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

Drawing, Revision and Issue No.	Plan Name	Date Issued	Prepared by	Date Submitted
Drawing No. A0.00, Revision B	Cover Page	6 March 2012	Redshift Architecture & Art Pty Ltd	26 June 2012
Drawing No. A0.03, Revision A	Site Analysis/Demolitio n Plan	6 March 2012	Redshift Architecture & Art Pty Ltd	26 June 2012
Drawing No. A0.04, Revision C	Draft Subdivision Plan	6 March 2012	Redshift Architecture & Art Pty Ltd	26 June 2012
Drawing No. A2.11, Revision J	Basement Plan	6 March 2012	Redshift Architecture & Art Pty Ltd	26 June 2012
Drawing No. A2.12, Revision K	Ground Floor Plan	6 March 2012	Redshift Architecture & Art Pty Ltd	26 June 2012
Drawing No. A2.13, Revision J	First Floor Plan	6 March 2012	Redshift Architecture & Art Pty Ltd	26 June 2012
Drawing No. A2.14, Revision J	Second Floor Plan	6 March 2012	Redshift Architecture & Art Pty Ltd	26 June 2012
Drawing No. A2.15, Revision J	Third Floor Plan	6 March 2012	Redshift Architecture & Art Pty Ltd	26 June 2012
Drawing No. A2.16, Revision I	Roof Plan	6 March 2012	Redshift Architecture & Art Pty Ltd	26 June 2012
Drawing No. A2.21, Revision I	Elevations - North/South	6 March 2012	Redshift Architecture & Art Pty Ltd	26 June 2012
Drawing No. A2.22, Revision J	Elevations - East/West	6 March 2012	Redshift Architecture & Art Pty Ltd	26 June 2012
Drawing No. A2.31, Revision I	Section	6 March 2012	Redshift Architecture & Art Pty Ltd	26 June 2012

Drawing No. A4.01, Revision D	Material and Finishes	6 March 2012	Redshift Architecture & Art Pty Ltd	26 June 2012
407376M_02	Basix Certificate	8 June 2011	NSW Department of Planning & Infrastructure	26 June 2012
-	Security Plan	-	Redshift Architecture & Art Pty Ltd	15 August 2012

and details submitted to Council on 26 June 2012 and additional information received on 15 August 2012 and 12 September 2012 with the application for development consent and plans and details listed below

Drawing, Revision and Issue No.	Plan Name	Date Issued	Prepared by	Date Submitted
Drawing No. A 04	Site Plan	19 March 2018	Arquero	21 May 2019
Drawing No. A10	Basement Plan (incorrectly labelled as the Ground Floor Plan)	19 March 2018	Arquero	21 May 2019
Drawing No. A11	Ground Floor Plan	19 March 2018	Arquero	21 May 2019
Drawing No. A12	Level 1 Floor Plan	19 March 2018	Arquero	21 May 2019
Drawing No. A13	Level 2 Floor Plan	19 March 2018	Arquero	21 May 2019
Drawing No. A14	Level 3 Floor Plan	19 March 2018	Arquero	21 May 2019
Drawing No. A15	Roof Plan	19 March 2018	Arquero	21 May 2019
Drawing No. A20	Elevations – North & South	19 March 2018	Arquero	21 May 2019
Drawing No. A21	Elevations – East & West	19 March 2018	Arquero	21 May 2019
Drawing No. A22	Section A-A	19 March 2018	Arquero	21 May 2019
Drawing No. A30	Material and Finishes	19 March 2018	Arquero	21 May 2019
407376M_05	Basix Certificate	17 May 2019	Building and Energy Consultants	21 May 2019

and details submitted to Council with the modification application under Section 4.55 of the Environmental Planning and Assessment Act and the following conditions

4. Twenty seven (27) off-street car parking spaces, ten (10) bicycle parking spaces and one (1) motorcycle parking space being provided, paved, line marked and maintained at all times in accordance with the standards contained within Part 2.10 of Marrickville Development Control Plan 2011 - Parking prior to the commencement of the use.

- <u>Reason</u>: To ensure that practical off street car parking is available for the proposed development.
- A minimum of five (5) adaptable dwellings being provided in accordance with Part 2.5 of Marrickville Development Control Plan 2011 - Equity of Access and Mobility. One disabled parking space being allocated to each adaptable dwelling. <u>Reason</u>: To make reasonable provision in the development to provide residential
  - accommodation suitable for people with a disability.
- 42. a) This condition is imposed in accordance with Section 7.11 of the Environmental Planning and Assessment Act 1979.
  - b) Before the [\*issue of a Construction Certificate/issue of a Subdivision Certificate/commencement of works/commencement of use], the Council must be paid a monetary contribution of \$54,632.53 indexed in accordance with Marrickville Section 94/94A Contributions Plan 2014 ("CP").

The above contribution is the contribution applicable as at 06 August 2019.

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

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

#### (CONTRIBUTION PAYMENT REFERENCE NO. DC002680)

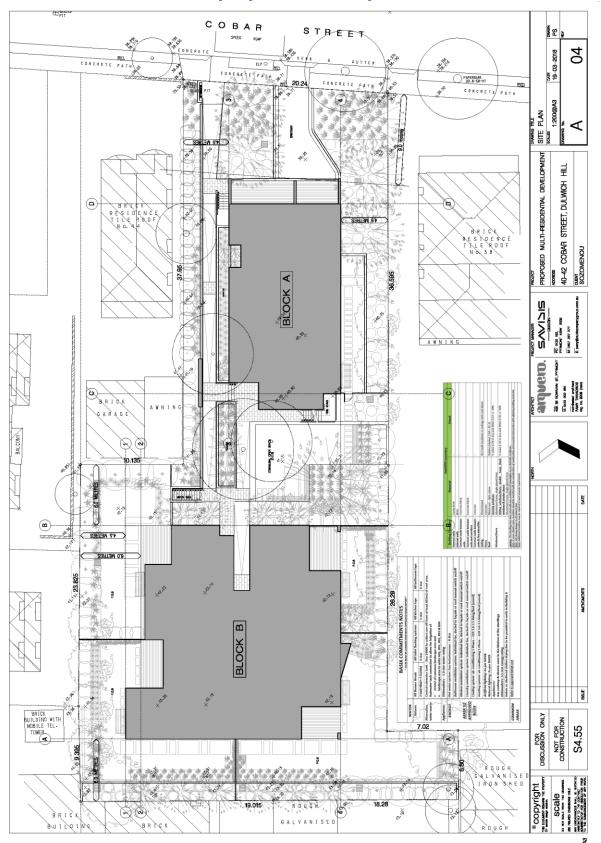
c) The contribution payable has been calculated in accordance with the CP and relates to the following public amenities and/or services and in the following amounts:

Community Facilities	\$6,022.39
Plan Administration	\$1,071.21
Recreation Facilities	\$46,830.69
Traffic Facilities	\$708.24

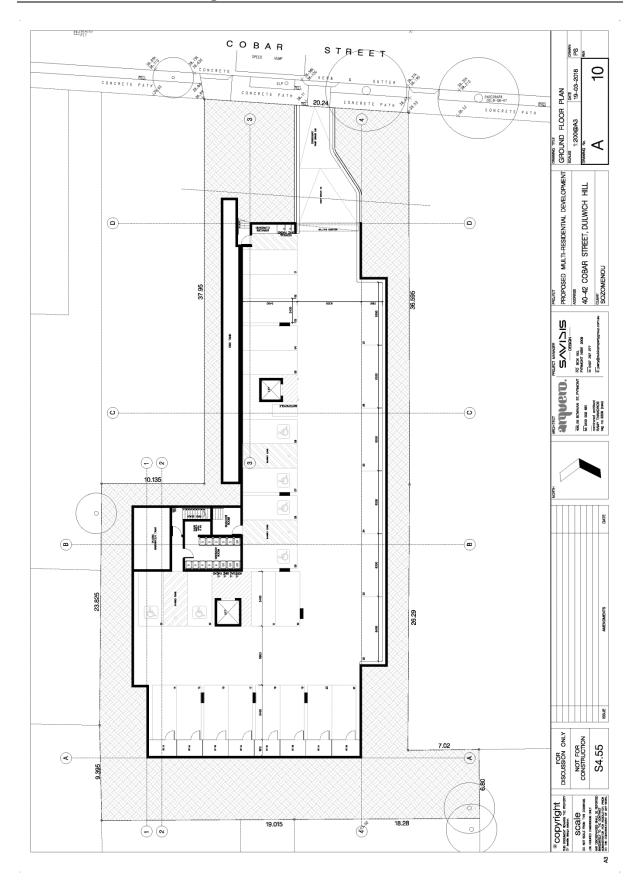
- d) A copy of the CP can be inspected at Council's offices at 2-14 Fisher Street, Petersham or online at <u>http://www.marrickville.nsw.gov.au</u>.
- e) The contribution must be paid either in cash, by unendorsed bank cheque (from an Australian Bank only), via EFTPOS (Debit only) or credit card\*.
  - \*NB A 1% credit card transaction fee applies to all credit card transactions.
- <u>Reason</u>: To ensure provision is made for the increase in demand for public amenities and services required as a consequence of the development being carried out.
- 87. Upon the completion of each stage of the remedied works stated in the RAP the person acting on this consent shall submit to Council a Validation and Monitoring Report for each stage of the remediation. The Validation and Monitoring Report for Lot 1 is to be submitted prior to the occupation of the residential flat building approved under this consent. The reports are to be conducted in accordance with the NSW

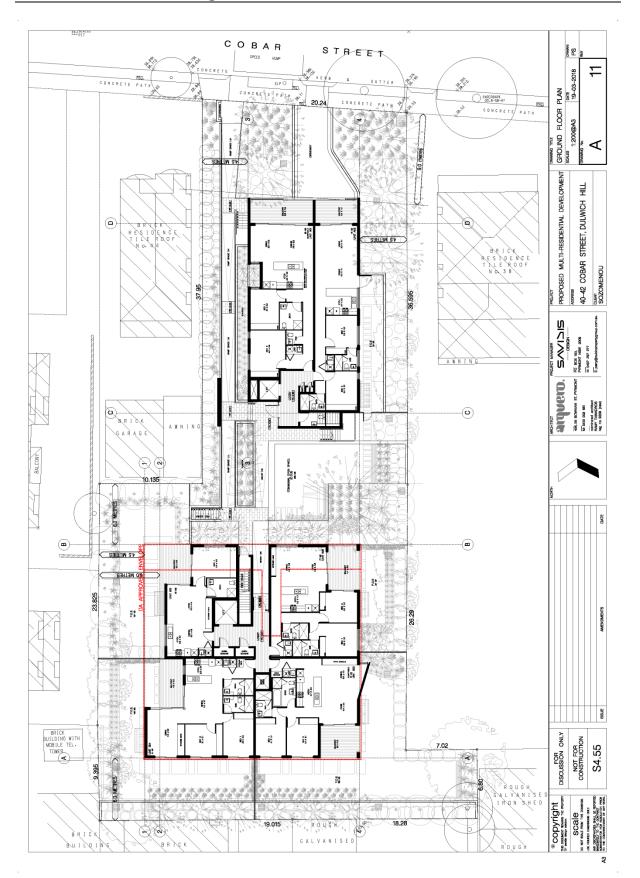
Environment Protection Authority's Guidelines for Consultants reporting on Contaminated Sites 1998.

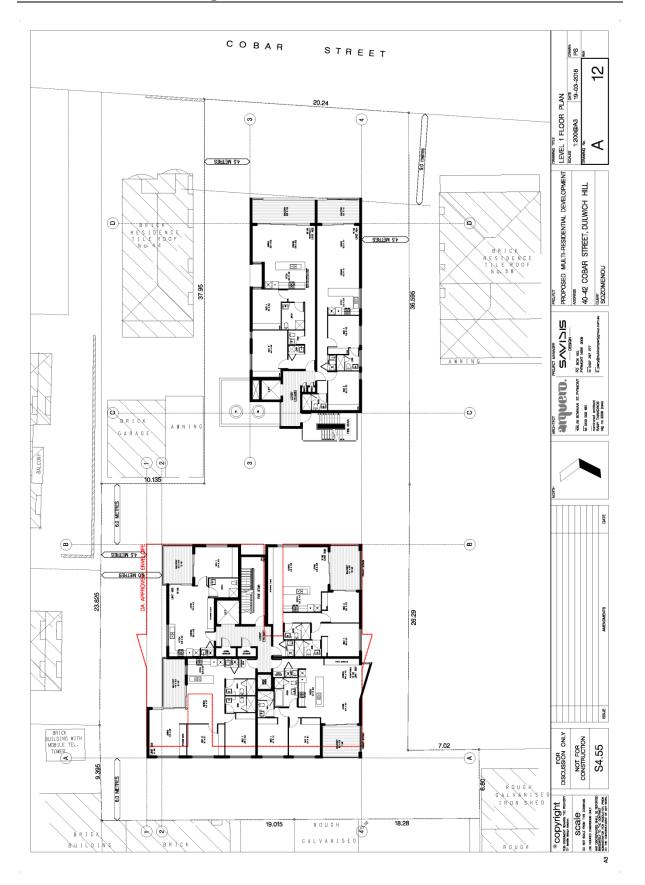
<u>Reason</u>: To ensure that the remediated site complies with the objectives of the RAP.
 **B.** THAT the person who lodged a submission in respect to the proposal be advised of the Council's determination of the application.

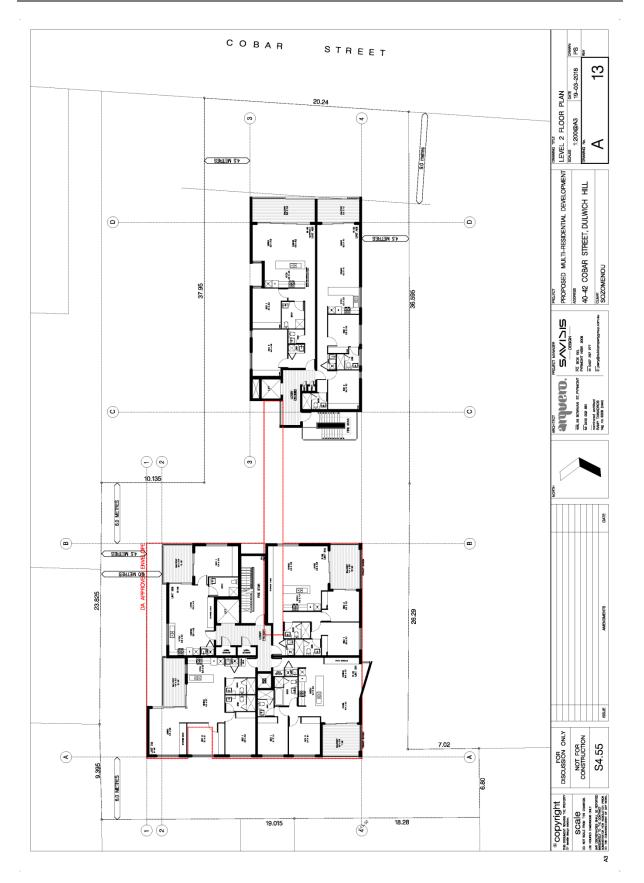


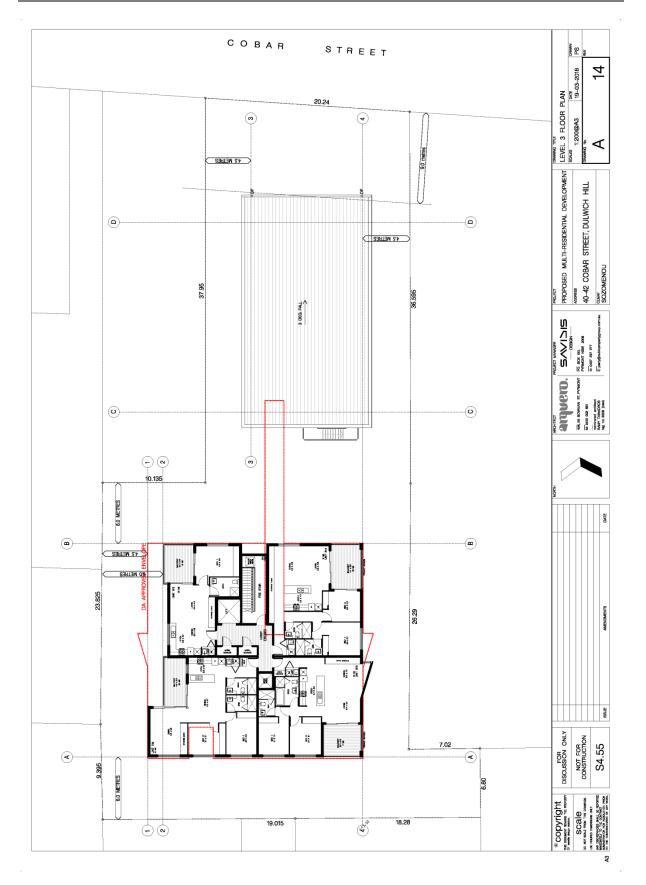
# Attachment B – Plans of proposed development

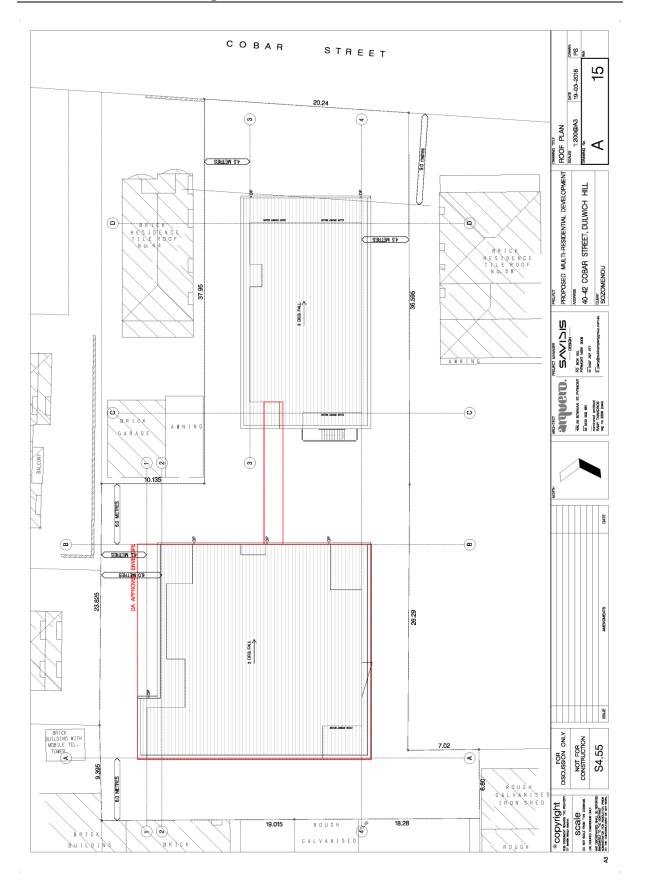




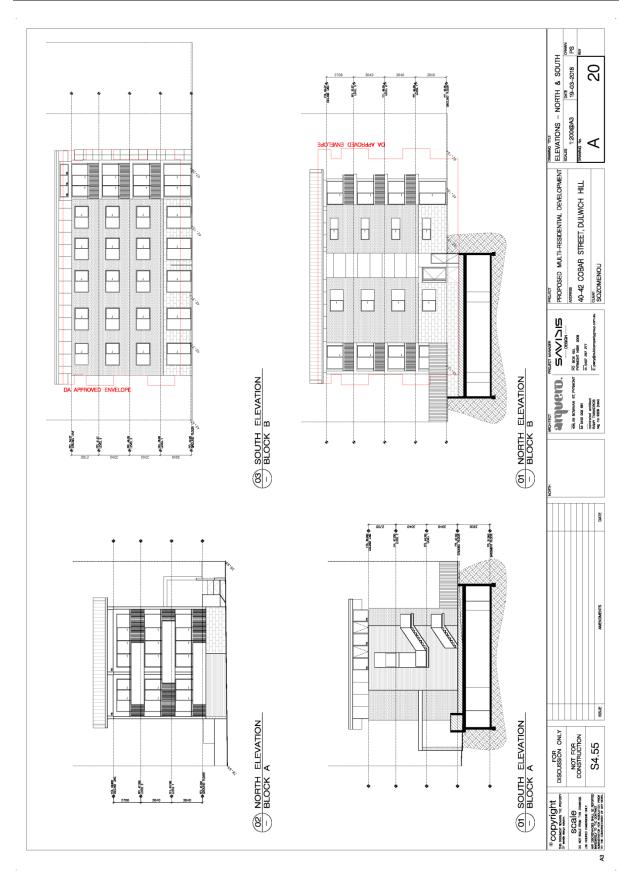


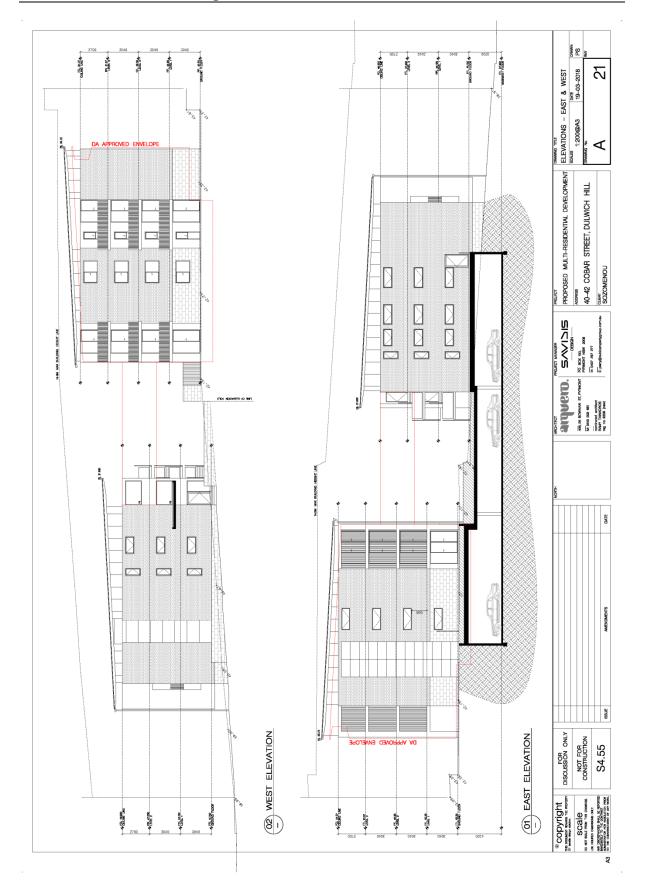


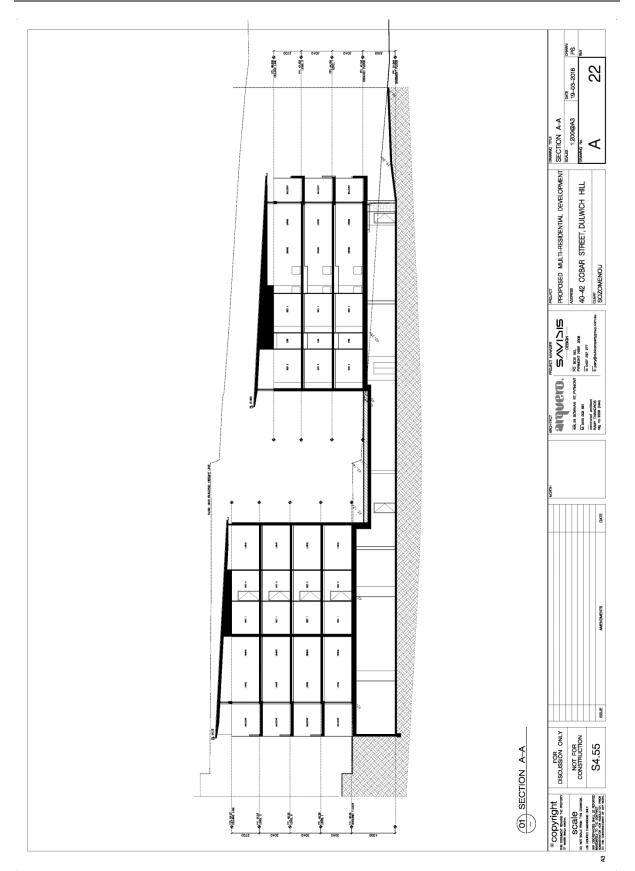








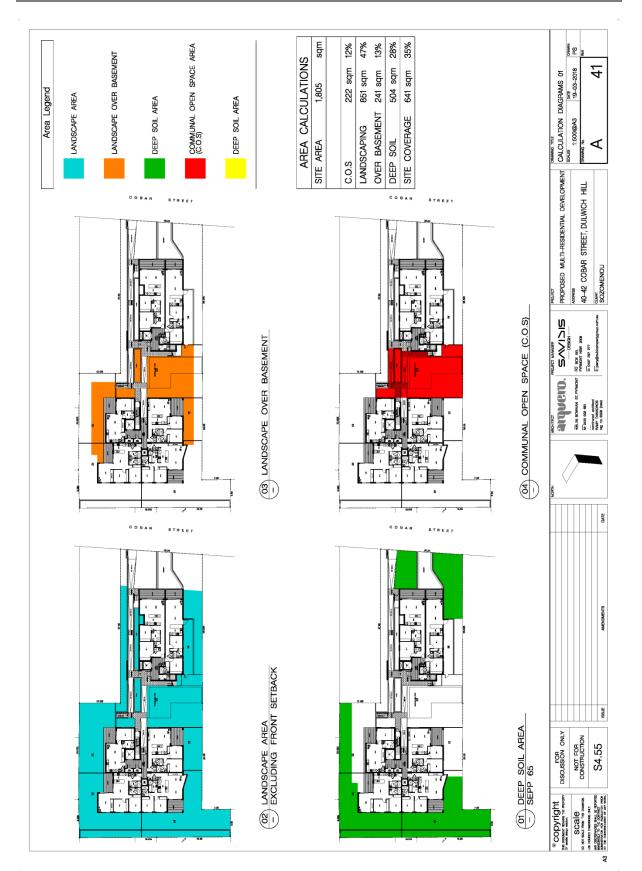


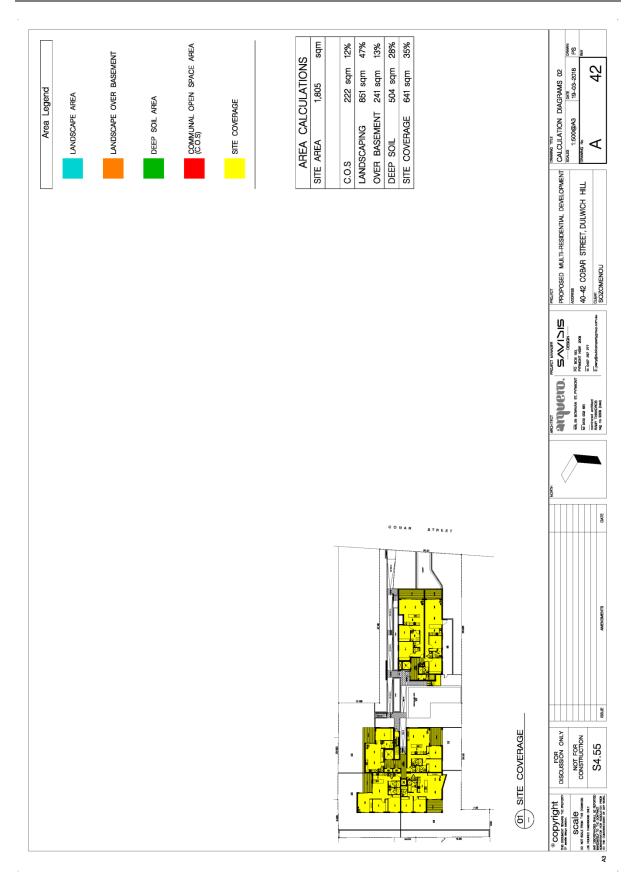


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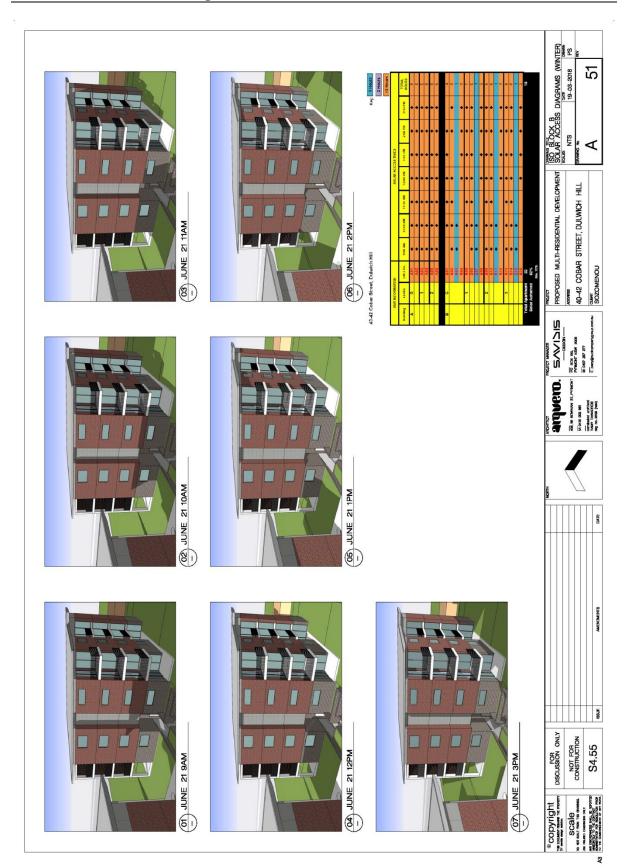






# Inner West Local Planning Panel





# Attachment C- Development Consent Determination No. 201200232.01

DA201200232 CLEN1

DETERMINATION NO. 201200232

10 October 2012

D & L BRANCOURT NOMINEES PTY LTD C/O REDSHIFT ARCHITECTURE & ART Level 1 / 142 Smith St SUMMER HILL NSW 2130

Dear Sir/Madam

#### ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 ("THE ACT") NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

Pursuant to Section 81 of the Act, notice is hereby given of the determination by the Council of **Development Application No. 201200232** to demolish the existing improvements on the properties 40 and 42 Cobar Street, consolidate the existing allotments, subdivide the land into two allotments, one fronting New Canterbury Road and one fronting Cobar Street and erect a 3 storey and 4 storey residential flat building over basement car parking level on the allotment fronting Cobar Street, containing 19 dwellings with off street car parking for 20 cars relating to property situated at:

#### 40-42 COBAR STREET & 829 NEW CANTERBURY ROAD, DULWICH HILL

In determining this application, the Council considered all matters listed under Section 79C of the Act that were relevant to the Development Application.

The Development Application was determined on 10 October 2012 by the granting of **CONSENT** subject to the following conditions:

#### <u>GENERAL</u>

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

Drawing, Revision and Issue No.	Plan Name	Date Issued	Prepared by	Date Submitted
Drawing No. A0.00,	Cover Page	6 March 2012	Redshift Architecture &	26 June 2012
Revision B			Art Pty Ltd	
Drawing No. A0.03, Revision A	Site Analysis/Demolitio n Plan	6 March 2012	Redshift Architecture & Art Pty Ltd	26 June 2012

Drawing No. A0.04, Revision C	Draft Subdivision Plan	6 March 2012	Redshift Architecture & Art Pty Ltd	26 June 2012
Drawing No. A2.11, Revision J	Basement Plan	6 March 2012	Redshift Architecture & Art Pty Ltd	26 June 2012
Drawing No. A2.12, Revision K	Ground Floor Plan	6 March 2012	Redshift Architecture & Art Pty Ltd	26 June 2012
Drawing No. A2.13, Revision J	First Floor Plan	6 March 2012	Redshift Architecture & Art Pty Ltd	26 June 2012
Drawing No. A2.14, Revision J	Second Floor Plan	6 March 2012	Redshift Architecture & Art Pty Ltd	26 June 2012
Drawing No. A2.15, Revision J	Third Floor Plan	6 March 2012	Redshift Architecture & Art Pty Ltd	26 June 2012
Drawing No. A2.16, Revision I	Roof Plan	6 March 2012	Redshift Architecture & Art Pty Ltd	26 June 2012
Drawing No. A2.21, Revision I	Elevations - North/South	6 March 2012	Redshift Architecture & Art Pty Ltd	26 June 2012
Drawing No. A2.22, Revision J	Elevations - East/West	6 March 2012	Redshift Architecture & Art Pty Ltd	26 June 2012
Drawing No. A2.31, Revision I	Section	6 March 2012	Redshift Architecture & Art Pty Ltd	26 June 2012
Drawing No. A4.01, Revision D	Material and Finishes	6 March 2012	Redshift Architecture & Art Pty Ltd	26 June 2012
407376M_02	Basix Certificate	8 June 2011	NSW Department of Planning & Infrastructure	26 June 2012
-	Security Plan	-	Redshift Architecture & Art Pty Ltd	15 August 2012

and details submitted to Council on 26 June 2012 and additional information received on 15 August 2012 and 12 September 2012 with the application for development consent and as amended by the following conditions. <u>Reason</u>: To confirm the details of the application submitted by the applicant.

- 2. Site remediation works being carried out for the site in accordance with "Contamination Assessment and Remedial Action Plan, Report No. 12591/1-AAR, prepared Geotechnique Pty Ltd, dated 20 February 2012". Once these works have been carried out a validation report is to be submitted to Council prepared in accordance with the requirements of the NSW EPA's Guidelines for Consultants Reporting on Contaminated Sites to Council's satisfaction. Reason: To ensure that the site is suitable for the intended use.
- The premises being used exclusively as a residential flat building and not being adapted for use as a backpackers' accommodation, serviced apartments or a boarding house and not being used for any industrial or commercial purpose.
   <u>Reason</u>: To ensure that the premises are used exclusively as a residential flat building.
- 4. Twenty (20) off-street car parking spaces, ten (10) bicycle parking spaces and one (1) motorcycle parking space being provided, paved, line marked and maintained at all times in accordance with the standards contained within Part 2.10 of Marrickville Development Control Plan 2011 Parking prior to the commencement of the use. <u>Reason</u>: To ensure that practical off street car parking is available for the proposed development.
- 5. Two (2) visitor car parking spaces and two (2) visitor bicycle parking spaces required as part of the total parking required under this Determination being provided and marked as visitor car parking spaces. A sign legible from the street shall be permanently displayed to indicate that visitor parking is available on site. <u>Reason</u>: To ensure that visitor car parking spaces are provided and marked

son: To ensure that visitor car parking spaces are provided and marked accordingly and that visitors are advised and directed to such parking.

6. Five (5) car parking spaces, for persons with a disability, required as part of the total parking required under this Determination being provided and marked as disabled car parking spaces.

<u>Reason</u>: To ensure that disabled car parking spaces are provided and marked accordingly and that disabled persons are advised and directed to such parking.

- A minimum of four (4) adaptable dwellings being provided in accordance with Part 2.5 of Marrickville Development Control Plan 2011 - Equity of Access and Mobility. One disabled parking space being allocated to each adaptable dwelling. Reason: To make reasonable provision in the development to provide residential
  - <u>ason</u>: To make reasonable provision in the development to provide residential accommodation suitable for people with a disability.

- 8. The use of any plant and equipment not giving rise to:
  - a) transmission of unacceptable vibration to any place of different occupancy;
  - b) a sound pressure level at any affected premises that exceeds the background (LA90) noise level in the absence of the noise under consideration by more than 3dB(A). The source noise level shall be assessed as an LAeq,15min and adjusted in accordance with Environment Protection Authority guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content as described in the NSW Environment Protection Authority's Environmental Noise Control Manual and Industrial Noise Policy 2000 and The Protection of the Environment Operations Act 1997 (NSW).
  - NOTE: Marrickville Council has adopted a 3dB(A) goal in order to prevent background noise creep and the 5dB(A) criteria as outlined in the above mentioned references are not to be used.
  - <u>Reason</u>: To prevent loss of amenity to the area.
- 9. Noise and vibration from the use and operation of any plant and equipment and/or building services associated with the premises not giving rise to "offensive noise' as defined by The Protection of the Environment Operations Act 1997 (NSW). In this regard the roller door to the car parking entry is to be selected, installed and maintained to ensure their operation does not adversely impact on the amenity of the surrounding neighbourhood. <u>Reason</u>: To protect the amenity of the surrounding neighbourhood.
- 10. All trees, covered by Part 2.20 of Marrickville Development Control Plan 2011 Tree Management, not requiring removal to permit the erection of the development being retained.

Reason: To preserve existing mature trees on the property.

11. Approval is given for the following works to be undertaken to trees on the site:

Schedule	
Tree/location	Approved works
Tree 5 - Jacaranda mimosifolia (Jacaranda)	Removal
Tree 6 - Melia azedarach (White Cedar)	Removal
Tree 7 - Corymbia citriodora (Lemon Scented Gum)	Removal

Removal or pruning of any other tree on the site is not approved.

<u>Reason</u>: To ensure that the development is in accordance with the determination of Council.

12. Landscape works being carried out in accordance with the following landscape plan(s), listed below and endorsed with Council's stamp, except where amended by other conditions of this consent:

Plan No.	Drawn By	Dated
LS01/02	Redshift	29/02/12

<u>Reason</u>: To ensure that the development is in accordance with the determination of Council.

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

<u>Reason</u>: To provide for the existing and potential electrical power distribution for this development and for the area.

- 14. Owners and occupants of the proposed building shall not be eligible for any existing or future resident parking scheme for the area. The person acting on this consent shall advise any purchaser or prospective tenant of this condition.
  - <u>Reason</u>: To ensure the development does not reduce the amount of "on street" parking currently available.
- 15. The developer liaising with the Sydney Water Corporation, Ausgrid, AGL and Telstra concerning the provision of water and sewerage, electricity, natural gas and telephones respectively to the property. <u>Reason</u>: To ensure that the development is adequately serviced.
- 16. All building work must be carried out in accordance with the provisions of the Building Code of Australia.

<u>Reason</u>: To ensure the work is carried out to an acceptable standard and in accordance with the Building Code of Australia.

#### BEFORE COMMENCING DEMOLITION, EXCAVATION AND/OR BUILDING WORK

For the purpose of interpreting this consent, a Principal Certifying Authority (PCA) means a principal certifying authority appointed under Section 109E(1) of the Environmental Planning and Assessment Act 1979. Pursuant to Section 109E(3) of the Act, the PCA is principally responsible for ensuring that the works are carried out in accordance with the approved plans, conditions of consent and the provisions of the Building Code of Australia.

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17. <u>No work shall commence</u> until:

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

<u>Reason</u>: To comply with the provisions of the Environmental Planning and Assessment Act.

- A Construction Certificate being obtained <u>before commencing building work</u>. Building work means any physical activity involved in the construction of a building. This definition includes the installation of fire safety measures. <u>Reason</u>: To comply with the provisions of the Environmental Planning and Assessment Act.
- Sanitary facilities are to be provided at or in the vicinity of the work site in accordance with the WorkCover Authority of NSW, Code of Practice 'Amenities for Construction'. Each toilet shall be connected to the sewer, septic or portable chemical toilet <u>before</u> work commences.

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

- <u>Reason</u>: To ensure that sufficient and appropriate sanitary facilities are provided on the site.
- 20. All demolition work shall:
  - Be carried out in accordance with the requirements of Australian Standard AS 2601 'The demolition of structures' and the Occupational Health and Safety Act and Regulations; and
  - b) Where asbestos is to be removed it shall be done in accordance with the requirements of the WorkCover Authority of NSW and disposed of in accordance with requirements of the Department of Environment, Climate Change and Water.

<u>Reason</u>: To ensure that the demolition work is carried out safely.

- 21. Where any loading, unloading or construction is to occur from a public place, Council's Infrastructure Services Division shall be contacted to determine if any permits or traffic management plans are required to be obtained from Council <u>before work commences</u>. <u>Reason</u>: To protect the amenity of the area.
- All services in the building being demolished are to be disconnected in accordance with the requirements of the responsible authorities <u>before work commences</u>. <u>Reason</u>: To ensure that the demolition work is carried out safely.
- A waste management plan being prepared in accordance with Part 2.21 of Marrickville Development Control Plan 2011 - Recycling and Waste Management and submitted to and accepted by the PCA <u>before work commences</u>. <u>Reason</u>: To ensure the appropriate disposal and reuse of waste generated on the

<u>Reason</u>: To ensure the appropriate disposal and reuse of waste generated on the site.

24. The site being enclosed with suitable fencing to prohibit unauthorised access. The fencing being erected as a barrier between the public place and any neighbouring property, <u>before work commences</u>.

Enquiries for site fencing and hoardings in a public place, including the need for Council approval, can be made by contacting Council's Infrastructure Services Division. <u>Reason</u>: To secure the area of the site works maintaining public safety.

- 25. A rigid and durable sign being erected in a prominent position on the site, <u>before work</u> <u>commences</u>. The sign being maintained at all times until all work has been completed. The sign is to include:
  - a) The name, address and telephone number of the PCA;
  - b) A telephone number on which Principal Contractor (if any) can be contacted outside working hours; and
  - c) A statement advising: 'Unauthorised Entry To The Work Site Is Prohibited'.

<u>Reason</u>: To maintain the safety of the public and to ensure compliance with the Environmental Planning and Assessment Regulations.

- 26. A Soil and Water Management Plan being prepared in accordance with Landcom Soils and Construction, Volume 1, Managing Urban Stormwater (Particular reference is made to Chapter 9, "Urban Construction Sites") and submitted to and accepted by the PCA. A copy of this document shall be submitted to and accepted by PCA <u>before work commences</u>. The plan shall indicate:
  - a) Where the builder's materials and waste are to be stored;
  - b) Where the sediment fences are to be installed on the site;
  - c) What facilities are to be provided to clean the wheels and bodies of all vehicles leaving the site to prevent the tracking of debris and soil onto the public way; and
  - d) How access to the site will be provided.

All devices shall be constructed and maintained on site while work is carried out.

Reason: To prevent soil erosion and sedimentation of the stormwater network.

27. Before commencing works the person acting on this consent providing a contact number for a designated person to be available during the demolition and construction for residents to contact regarding breaches of consent or problems relating to the construction.

Reason: To provide a person that residents can contact.

28. To preserve the following trees no work shall commence until the area beneath their canopy is fenced off at the specified radius from the trunks to prevent any activities, storage or the disposal of materials within the fenced area. The fences shall be maintained intact until the completion of all demolition/building work on site.

Schedule					
Tree No and Name	Locatio	on			Radius in metres
Trees 1 and 2	Street	trees	in	Cobar	Enclosure to run parallel to
Melaleuca quinquenervia	Street				the kerb - tree located
(Broad Leafed Paperbark)					centrally (4 metres long and 1.2 metres wide)
Tree 3	Street t	ree in C	oba	r Street	Enclosure to run parallel to
Leptospermum petersonii					the kerb - tree located
(Lemon Scented Tea Tree)					centrally (2 metres long and 1 metre wide)
Tree 4					1.5 metres
Washingtonia robusta					
(Skyduster)					
Tree 8					2 metres within site
Cupressus macrocarpa					
Monteray Cypress)					

The tree protection fencing being constructed of galvanised pipe and connected by securely attached chain mesh fencing to a minimum height of 1.8 metres in height prior to work commencing.

Reason: To protect existing trees during construction phase.

- 29. Prior to works commencing, tree protection signage is to be attached to each tree protection zone, displayed in a prominent position and the sign repeated at 10 metre intervals or closer where the fence changes direction. Each sign shall contain in a clearly legible form, the following information:
  - a) Tree protection zone;
  - b) This fence has been installed to prevent damage to the trees and their growing environment both above and below ground and access is restricted;
  - c) Any encroachment not previously approved within the tree protection zone shall be the subject of an arborist's report;
  - d) The arborist's report shall provide proof that no other alternative is available;
  - e) The arborist's report shall be submitted to the Principal Certifying Authority for further consultation with Council; and
  - f) The name, address and telephone number of the builder.

Reason: To protect existing trees during the construction phase.

30. Upon installation of the required tree protection measures, an inspection of the site by the Principal Certifying Authority is required to verify that tree protection measures comply with all relevant conditions.

Reason: To protect existing trees during the construction phase.

- 31. The person acting on this consent shall apply as required for all necessary permits including crane permits, road opening permits, hoarding permits, footpath occupation permits and/or any other approvals under Section 68 (Approvals) of the Local Government Act, 1993 or Section 138 of the Roads Act, 1993. <u>Reason</u>: To ensure all necessary approvals have been applied for.
- 32. Where it is proposed to carry out works in public roads or Council controlled lands, a road opening permit shall be obtained from Council <u>before the carrying out of any works</u> in <u>public roads or Council controlled lands</u>. Restorations shall be in accordance with Marrickville Council's Restorations Code. Failure to obtain a road opening permit for any such works will incur an additional charge for unauthorised works as noted in Council's adopted fees and charges.

<u>Reason</u>: To ensure that all restoration works are in accordance with Council's Code.

- 33. The person acting on this consent shall provide details of the means to secure the site and to protect the public from the construction works. Where the means of securing the site involves the erection of fencing or a hoarding on Council's footpath or road reserve the person acting on this consent shall submit a hoarding application and pay all relevant fees <u>before commencement of works</u>. Reason: To secure the site and to maintain public safety.
- 34. A detailed Traffic Management Plan to cater for construction traffic shall be submitted to and approved by Council <u>before commencement of works</u>. Details shall include proposed truck parking areas, construction zones, crane usage, truck routes etc. <u>Reason</u>: To ensure construction traffic does not unduly interfere with vehicular or pedestrian traffic, or the amenity of the area.
- 35. The person acting on this consent shall submit a dilapidation report including colour photos showing the existing condition of the footpath and roadway adjacent to the site before commencement of works. <u>Reason</u>: To ensure the existing condition of Council's infrastructure is clearly
  - <u>leason</u>: To ensure the existing condition of Council's infrastructure is clearly documented.

## BEFORE THE ISSUE OF A SUBDIVISION CERTIFICATE

36. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained <u>before the issue of a Subdivision Certificate</u>. Application must be made through an authorised Water Servicing Coordinator, for details see the Customer Service, Urban Development web site <u>www.sydneywater.com.au</u> or telephone 13 20 92.

<u>Reason</u>: To comply with the requirements of that Act.

- 37. The submission of a final survey plan and five (5) copies for the proposed subdivision. <u>Reason</u>: To comply with Council's requirements.
- 38. The payment of the required fee, under Council's adopted fees and charges, for the approval of the final plan under the terms of Section 109J of the Environmental Planning and Assessment Act. <u>Reason</u>: To comply with the requirements of that Act.

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

Reason: To ensure Council's interests are protected.

- 40. A common drainage easement 1 metre wide in favour of the parcels of land to be drained, being created over the full length of all existing and proposed inter-allotment drainage systems within the site of the proposed development, at no cost to Council. In addition all redundant easements shall be expunged <u>before the issue of a Subdivision Certificate</u>.
  - <u>Reason</u>: To provide for and protect the rights of adjacent upstream landholders to drain through the site of the proposed development.

#### BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE

For the purpose of interpreting this consent the Certifying Authority (Council or an Accredited Certifier) is that person appointed to issue a Construction Certificate.

- The subdivision of the land into two (2) lots being registered at the NSW Department of Lands <u>before the issue of a Construction Certificate</u>. <u>Reason</u>: To confirm the terms of Council's approval.
- 42. A total monetary contribution of \$263,846.66 has been assessed as the contribution for the development under Section 94 of the Environmental Planning and Assessment Act 1979 and Marrickville Section 94/94A Contributions Plan 2004 (a copy of which may be inspected at the offices of the Council). The contribution is towards:
  - a) \$129,394.98 Section 94 Contributions Plan 2004 for Dulwich Hill Area Open Space, Park Infrastructure and Sports Facilities.
  - b) Council wide projects:
    - (i) \$18,485.00 Cooks River;
    - (ii) \$18,485.00 Tempe Reserve/Tempe Lands;
    - (iii) \$9,242.50 Civic Centre; and
    - (iv) \$9,242.50 Street Tree Master Plan.
  - c) \$44,686.20 Public Libraries and Community Recreation Facilities;
  - d) \$28,126.58 Section 94 Contributions Plan 2004 for Dulwich Hill Area Traffic Management.
  - e) \$6,183.90 Plan Administration.

The monetary contributions above are the Council's adopted contributions under the current Fees and Charges Schedule. Under Marrickville Section 94/94A Contributions Plan 2004, contributions will be adjusted at the time of payment in line with any change in the Consumer Price Index: All Groups Index Number for Sydney provided by the Australian Bureau of Statistics. The adjusted contribution payable will be the rate in the Council's adopted Fees and Charges Schedule for the financial year in which the contribution is paid.

The contribution (as adjusted) must be paid to the Council in cash or by unendorsed bank cheque (from an Australian Bank only) or EFTPOS (Debit only) <u>before the issue of a Construction Certificate</u>. Under Marrickville Section 94/94A Contributions Plan 2004 payment of Section 94 contributions **CANNOT** be made by Personal Cheque, Company Cheque or Credit Card.

- NOTE: The above Contributions apply to end of Financial Year 2012/2013 after which the Contributions will be indexed.
- <u>Reason:</u> To ensure provision is made for the increased demand for public amenities and services required as a consequence of the development being carried out.
- 43. A design verification from a qualified designer, being a statement in which the qualified designer verifies that the plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design principles set out in Part 2 of State Environmental Planning Policy No. 65 Design Quality of Residential Flat Development being submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

- 44. <u>Before the issue of a Construction Certificate</u>, the Principal Certifying Authority shall be satisfied that no proposed underground services (i.e. stormwater, sewerage, drainage, gas or other service) are located where they will encroach more than 10% of the Tree Protection Zone (As defined in AS4970) of any tree protected under Council's Tree Management Controls, located on the subject allotment and adjoining allotments including street trees.
  - NOTE: A plan, endorsed in writing by an AQF Level 5 Arborist, detailing the routes of these services and trees protected under Council's Tree Management Controls shall be submitted to the Principal Certifying Authority.

<u>Reason</u>: To ensure the protection of trees.

45. <u>Before the issue of a Construction Certificate</u>, the Principal Certifying Authority shall be satisfied that the approved landscape plans, listed below and endorsed with Council's stamp, have been amended in accordance with the requirements of this condition as well as other conditions of this consent:

Plan no.	Drawn by	Dated
LS01/02	Redshift	29/02/12

The above landscape plan shall be amended in the following way:

a) One *Melia azedarach* (White Cedar) located on either side of the basement ramp (Cobar Street frontage) in the deep soil area shall be replaced with a preferred canopy tree from the native species as listed in the Marrickville Development Control Plan 2011, Section 2.18.13. The 2 replacement trees shall be species that will attain a minimum height of 12 metres on the site.

<u>Reason</u>: To ensure adequate landscaping of the site.

<sup>&</sup>lt;u>Reason</u>: To comply with the requirements under State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development.

- 46. A detailed plan showing the height, colour and material of all front side and rear boundary fencing within the development, in accordance with Part 2.11 of Marrickville Development Control Plan 2011, being submitted to the Certifying Authority's satisfaction <u>before the issue of a Construction Certificate</u>. <u>Reason:</u> To ensure all fencing is in keeping with the character of the area and maintains adequate privacy.
- 47. Letterboxes and mail collection facilities being provided and adequately protected in accordance with details to be submitted to the Certifying Authority's satisfaction <u>before</u> the issue of a Construction Certificate. <u>Reason</u>: To ensure adequate mail collection facilities are provided.
- 48. Adequate outdoor clothes drying areas being provided for the development in accordance with Part 4.2.7.1 Marrickville Development Control Plan 2011 and details to be submitted to the Certifying Authority's satisfaction <u>before the issue of a Construction</u> <u>Certificate</u>.

Reason: To ensure adequate outdoor clothes drying facilities are provided.

- 49. Lighting details of the pedestrian areas, parking areas and all entrances being submitted to the Certifying Authority's satisfaction <u>before the issue of a Construction Certificate</u>. <u>Reason</u>: To ensure appropriate lighting is provided to create a safe living environment.
- 50. The waste storage area being provided with 10 x 240 litre green waste bins. Details are required to be submitted to the Certifying Authority's satisfaction <u>before the issue of a Construction Certificate</u>, detailing the waste storage area. <u>Reason</u>: To ensure adequate provision of waste storage facilities.
- 51. Plans and specifications fully reflecting the selected commitments listed in BASIX Certificate submitted with the application for development consent being submitted to the Certifying Authority's satisfaction <u>before the issue of a Construction Certificate</u>.
  - NOTE: The application for the Construction Certificate must be accompanied by either the BASIX Certificate upon which development consent was granted or a revised BASIX Certificate (Refer to Clause 6A of Schedule 1 to the Regulation).
  - <u>Reason</u>: To ensure that the BASIX commitments are incorporated into the development.
- 52. Insulation, having a minimum R3.0 rating, being provided to the ceiling or roofs in accordance with details to be submitted to the Certifying Authority's satisfaction <u>before</u> <u>the issue of a Construction Certificate</u>.

<u>Reason</u>: To achieve an overall increase in thermal comfort and reduce the impact of greenhouse gases on the environment.

53. Reticulated gas infrastructure, with a separate meter for each dwelling being provided to each dwelling in accordance with details to be submitted to the Certifying Authority's satisfaction <u>before the issue of a Construction Certificate</u>. <u>Reason</u>: To provide the potential to reduce greenhouse emissions.

- 54. Fixtures for bathroom and kitchen taps, showerheads, dishwashers and toilet cisterns having a minimum 3 Star WELS rating.
  - NOTE: Information on the star rating scheme, and all 'star' rated products are available to view at the Water Efficiency Labelling and Standards (WELS) website: <u>www.waterrating.gov.au</u>.
  - Reason: To conserve water.
- 55. New or replacement toilets having a minimum 3 Star WELS rating and being 6/3 litre dual flush or more efficient.
  - NOTE: Information on the star rating scheme, and all 'star' rated products are available to view at the Water Efficiency Labelling and Standards (WELS) website: www.waterrating.gov.au.

Reason: To conserve water.

- 56. Each dwelling is to contain a hot water system with a minimum 3.5 energy star Greenhouse rating in accordance with details to be submitted to the Certifying Authority's satisfaction <u>before the issue of a Construction Certificate</u>.
  - <u>Reason</u>: To ensure that the dwellings incorporate energy and water efficient measures.
- 57. Evidence of payment of the building and construction industry Long Service Leave Scheme, shall be submitted to the Certifying Authority's satisfaction <u>before the issue of a</u> <u>Construction Certificate</u>. (The required payment can be made at the Council Offices).
  - NOTE: The required payment is based on the estimated cost of building and construction works and the long service levy rate, set by the Long Service Payments Corporation. The rate set by the Long Service Payments Corporation is currently of 0.35% of the cost of the building and construction work.

For more information on how to calculate the amount payable and where payments can be made contact the Long Services Payments Corporation. <u>http://www.lspc.nsw.gov.au</u>

- <u>Reason</u>: To ensure that the required levy is paid in accordance with the Building and Construction Industry Long Service Payments Act.
- 58. Vehicular access and associated vehicle standing areas being designed in accordance with Australian Standards AS 2890.1-2004 and AS 2890.6-2009. In particular the maximum grade of the ramp must not exceed 1 in 20 (5%) within 6m of the property boundary as required by Clause 3.3(a) of AS2890.1-2004. Details of compliance with the above requirements shall be submitted for the approval of Council before the issue of a Construction Certificate.
  - <u>Reason</u>: To ensure the vehicular access is not dangerously steep and that sufficient space is set aside within the property for parking.

- 59. A separate inter-allotment drainage system being designed and constructed to drain upstream properties. This shall include the extension of the existing inter-allotment system to allow for the future drainage of 829A and 831 New Canterbury Road. Provision shall also be made to allow for the 1 in 100 year overland flow from these upstream properties. Detailed drainage plans and specifications shall be submitted to and accepted by Council <u>before the issue of a Construction Certificate</u>. Reason: To provide for adequate inter-allotment drainage.
- 60. The person acting on this consent shall provide security in a manner satisfactory to the Director Infrastructure Services in the amount of \$5,585.90 <u>before the issue of a Construction Certificate</u> as surety for the proper completion of the footpath and/or vehicular crossing works required as a result of this development. <u>Reason</u>: To provide security for the proper completion of the footpath and/or vehicular crossing works.
- 61. <u>Before the issue of a Construction Certificate</u> the owner or builder shall sign a written undertaking that they shall be responsible for the full cost of repairs to footpath, kerb and gutter, or other Council property damaged as a result of construction of the proposed development. Council may utilise part or all of any Building Security Deposit (B.S.D.) or recover in any court of competent jurisdiction, any costs to Council for such repairs. <u>Reason</u>: To ensure that all damages arising from the building works are repaired at
  - <u>eason</u>: To ensure that all damages arising from the building works are repaired at no cost to Council.

### SITE WORKS

- 62. All excavation, demolition, construction and deliveries to the site necessary for the carrying out of development being restricted to between 7.00am to 5.30 pm Mondays to Saturdays excluding Public Holidays. Notwithstanding the above, no work is to be carried out on any Saturday that falls adjacent to a Public Holiday.
  - <u>Reason:</u> To minimise the effect of the development during the construction period on the amenity of the surrounding neighbourhood.
- 63. All demolition, construction and associated work necessary for the carrying out of the development being restricted to between the hours of 7.00am to 5.30pm Mondays to Saturdays, excluding Public Holidays. Notwithstanding the above, no work is to be carried out on any Saturday that falls adjacent to a Public Holiday.

All trucks and vehicles associated with the construction, including those delivering to or removing material from the site, only having access to the site during the hours referred to in this condition. No waste collection skips, spoil, excavation or demolition material from the site or building materials associated with the construction of the development being deposited on the public road, footpath, public place or Council owned property without Council's approval, having first been obtained. The developer being responsible to ensure that all contractors associated with the development are fully aware of these requirements.

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

- 64. Notwithstanding the above condition, all remediation works being restricted to between the hours of 7.00am and 6.00pm Mondays to Fridays and 8.00am to 1.00pm Saturdays with no works being carried out on Sundays and Public Holidays or any Saturday that falls adjacent to a Public Holiday.
  - <u>Reason:</u> To ensure that the remediation works are only carried out during the hours of operation permitted under Part 2.24 of Marrickville Development Control Plan 2011 Contaminated Land.
- 65. The area surrounding the building work being reinstated to Council's satisfaction upon completion of the work.

66. The placing of any materials on Council's footpath or roadway is prohibited, without the consent of Council. The placement of waste storage containers in a public place requires Council approval and shall comply with Council's Policy - 'Placement of Waste Storage Containers in a Public Place'. Enquiries are to be made with Council's Infrastructure Services Division.

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

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

<sup>&</sup>lt;u>Reason</u>: To ensure that the area surrounding the building work is satisfactorily reinstated.

- k) the person acting on this consent is responsible for ensuring that all contractors and sub-contractors associated with the demolition are fully aware of these requirements.
- <u>Reason</u>: To ensure that the demolition work is carried out safely and impacts on the surrounding area are minimised.
- 68. The works are required to be inspected at critical stages of construction, by the PCA or if the PCA agrees, by another Certifying Authority. The last inspection can only be carried out by the PCA. The critical stages of construction are:
  - a) At the commencement of the building work;
  - For Class 2, 3 and 4 buildings, prior to covering waterproofing in any wet areas (a minimum of 10% of wet areas within a building);
  - c) Prior to covering any stormwater drainage connections, and after the building work has been completed and prior to any occupation certificate being issued in relation to the building; and
  - d) After the building work has been completed and prior to any occupation certificate being issued in relation to the building.

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

- <u>Reason</u>: To ensure the building work is carried out in accordance with the Environmental Planning and Assessment Regulations and the Building Code of Australia.
- 69. If the development involves an excavation that extends below the level of the base of the footings of a building on the adjoining allotments, including a public place such as a footway and roadway, the person acting on the consent, at their own expense must:
  - a) protect and support the adjoining premises from possible damage from the excavation, and
  - where necessary, underpin the adjoining premises to prevent any such damage.
     Where the proposed underpinning works are not "exempt development", all required consents shall be obtained prior to the required works commencing; and
  - c) at least seven (7) days notice is given to the owners of the adjoining land of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

Where a dilapidation report has not been prepared on any building adjacent to the excavation, the person acting on this consent shall be responsible for arranging and meeting the cost of a dilapidation report prepared by a suitably qualified person. The report is to be submitted to and accepted by the PCA before works continue on site, if the consent of the adjoining property owner can be obtained.

Copies of all letter/s that have been sent via registered mail to the adjoining property owner and copies of any responses received shall be forwarded to the PCA before work commences.

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

- 70. All vehicles carrying materials to, or from the site must have their loads covered with tarpaulins or similar covers.
  - <u>Reason</u>: To ensure dust and other particles are not blown from vehicles associated with the use.
- 71. Satisfactory methods and/or devices being employed on the site to prevent the tracking of mud/dirt onto the surrounding streets from vehicles leaving the site.
   <u>Reason</u>: To prevent soil particles from being tracked and deposited onto the streets surrounding the site.
- 72. The disposal of contaminated soil being carried out in accordance with the requirements of the New South Wales Department of Environment, Climate Change and Water. <u>Reason</u>: To provide for correct disposal of wastes.
- 73. A certificate of survey from a registered land surveyor shall be submitted to the PCA upon excavation of the footings and before the pouring of the concrete to verify that the structure will not encroach on the allotment boundaries. Reason: To ensure all works are contained within the boundaries of the allotment.
- 74. Alignment levels for the site at all pedestrian and vehicular access locations shall match the existing back of footpath levels at the boundary. Failure to comply with this condition will result in vehicular access being denied.
  - <u>Reason</u>: In accordance with Council's powers under the Roads Act, 1993, alignment levels at the property boundary will be required to accord with Council's design or existing road and footpath levels.
- 75. The stormwater drainage and re-use system shall be constructed generally in accordance with Stormwater Drainage Plans Dwg No 1258-S1/6 to 1258-S6/6 (Revision D) submitted by John Romanous and Associates.
   <u>Reason</u>: To ensure the stormwater drainage and re-use system is constructed satisfactorily.
- 76. No part of the fencing is to encroach upon Council's footpath. The footings of the fence are not to encroach upon Council's property unless they are located at a depth of not less than 1350mm below the pathway level, in which case they must not project further than 450mm.

<u>Reason</u>: To ensure the proposed fence does not encroach on the footpath.

77. All roof and surface stormwater from the site any catchment external to the site that presently drains to it, shall be collected in a system of pits and pipelines/channels and major storm event surface flow paths and being discharged to a Council controlled stormwater drainage system in accordance with the requirements of Marrickville Council Stormwater and On Site Detention Code.

Reason: To provide for adequate site drainage.

78. All stormwater drainage being designed in accordance with the provisions of the 1987 Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3.2-1998 'Stormwater Drainage-Acceptable Solutions' and Marrickville Council Stormwater and On Site Detention Code. Pipe and channel drainage systems shall be designed to cater for the twenty (20) year Average Recurrence Interval (A.R.I.) storm in the case of low and medium residential developments, the twenty (20) year A.R.I. storm in the case of high density residential development and commercial and/or industrial developments and the fifty (50) year A.R.I. storm in the case of heavy industry. In all cases the major event surface flow paths shall be designed to cater for the one hundred (100) year A.R.I. storm.

Reason: To provide for adequate site drainage.

- 79. No activities, storage or disposal of materials taking place beneath the canopy of any tree protected under Council's Tree Preservation Order at any time unless approved by other conditions of this consent. <u>Reason</u>: To protect existing trees.
- All builders' refuse, spoil and/or material unsuitable for use in landscape areas being removed from the site on completion of the building works. <u>Reason</u>: To protect the environment.
- If tree roots are required to be severed for the purposes of constructing the approved works, they shall be cut cleanly by hand, by an experienced Arborist/Horticulturist with a minimum qualification of AQF Level 3 (Certificate). <u>Reason</u>: To protect existing trees.
- 82. All excavation within the specified radius of the trunks of the following trees being hand dug avoiding damage to, or severance of, woody tree roots with a diameter greater than 30mm. Should roots over 30mm in diameter require pruning such works shall be endorsed in writing by an AQF Level 5 Arborist prior to being undertaken:

Schedule		
Tree/location	Location	Radius from trunk
Trees 1 and 2	Street trees in Cobar Street	8 metres
Melaleuca quinquenervia		
(Broad Leafed Paperbark)		
Reason To protect existing t	1005	

<u>Reason</u>: To protect existing trees.

83. The canopy trees to be planted being maintained in a healthy and vigorous condition until they attain a height of 5 metres whereby they will be protected by Council's Tree Management Controls. Any of the trees found faulty, damaged, dying or dead being replaced with the same species.
Bessen: To maintain the tree tree character of the area

Reason: To maintain the treed character of the area.

### BEFORE OCCUPATION OF THE BUILDING

- 84. You shall obtain an Occupation Certificate from your PCA before you occupy or use the building. The PCA shall notify the Council of the determination of the Occupation Certificate and forward the following documents to Council within two (2) days of the date of the Certificate being determined:
  - a) A copy of the determination;
  - b) Copies of any documents that were lodged with the Occupation Certificate application;
  - c) A copy of Occupation Certificate, if it was issued;
  - d) A copy of the record of all critical stage inspections and any other inspection required by the PCA;
  - e) A copy of any missed inspections; and
  - f) A copy of any compliance certificate and any other documentary evidence relied upon in issuing the Occupation Certificate.
  - <u>Reason</u>: To comply with the provisions of the Environmental Planning and Assessment Regulations.
- 85. Occupation of the building shall not be permitted until such time as:
  - a) All preconditions to the issue of an Occupation Certificate specified in this development consent have been met;
  - b) The building owner obtains a Final Fire Safety Certificate certifying that the fire safety measures have been installed in the building and perform to the performance standards listed in the Fire Safety Schedule; and
  - c) An Occupation Certificate has been issued.

<u>Reason</u>: To comply with the provisions of the Environmental Planning and Assessment Act.

- 86. The owner of the premises, as soon as practicable after the Final Fire Safety Certificate is issued, shall:
  - a) Forward a copy of the Final Safety Certificate and the current Fire Safety Schedule to the Commissioner of Fire and Rescue New South Wales and the Council; and
  - b) Display a copy of the Final Safety Certificate and Fire Safety Schedule in a prominent position in the building (i.e. adjacent the entry or any fire indicator panel).

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

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

- 87. Upon the completion of any remediation works stated in the RAP the person acting on this consent shall submit to Council a Validation and Monitoring Report. The report is to be conducted in accordance with the NSW Environment Protection Authority's "Guidelines for Consultants Reporting on Contaminated Sites 1998". To ensure that the remediated site complies with the objectives of the RAP. Reason:
- 88. A Section 73 Compliance Certificate from Sydney Water being submitted to Council before occupation of the premises. To comply with the requirements of that Act.

Reason:

89. A design verification from a qualified designer, being a statement in which the qualified designer verifies that the plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design principles set out in Part 2 of State Environmental Planning Policy No. 65 -Design Quality of Residential Flat Development being submitted to Council's satisfaction before the issue of an Occupation Certificate.

Reason: To comply with the requirements under State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development.

- 90. Before the issue of an Occupation Certificate, the Principal Certifying Authority is to be satisfied that all landscape works have been undertaken in accordance with the approved plan(s) and conditions of consent.
  - To ensure that the landscape works are consistent with the development <u>Reason</u>: consent.
- 91. The Certifying Authority must be satisfied that each of the commitments listed in BASIX Certificate referred to in this Determination have been fulfilled before the issue of an Occupation Certificate (whether an interim or final Occupation Certificate).
  - To ensure that all of the BASIX commitments have been fulfilled and to <u>Reason</u>: comply with the requirements under Section 154B of the Environmental Planning and Assessment Regulations 2000.
- 92. The Certifying Authority must apply to the Director-General for a BASIX Completion Receipt within 2 days of the issue of a final Occupation Certificate. Completion Receipts can be applied for at www.basix.nsw.gov.au.
  - Reason: To ensure compliance with the requirements under Section 154C of the Environmental Planning and Assessment Regulations 2000.
- 93. All works required to be carried out in connection with drainage, crossings, alterations to kerb and guttering, footpaths and roads resulting from the development shall be completed before the issue of an Occupation Certificate. Works shall be in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications".

Reason: To ensure person acting on this consent completes all required work.

Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development shall be at no cost to Council and undertaken before the issue of an Occupation Certificate.

To ensure all costs for the adjustment/augmentation of services arising as a Reason: result of the redevelopment are at no cost to Council.

95. No encroachments onto Council's road or footpath of any service pipes, sewer vents, boundary traps, downpipes, gutters, stairs, doors, gates, garage tilt up panel doors or any structure whatsoever shall not be permitted. Any encroachments on to Council road or footpath resulting from the building works will be required to be removed <u>before the issue of an Occupation Certificate</u>. Reason: To ensure there is no encroachment onto Council's Road.

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96. The existing stone kerb adjacent to the site is an item of heritage significance and is to be preserved at no cost to Council. Any damage to the stone kerb will require the replacement of the damaged individual stone units <u>before the issue of an Occupation</u> <u>Certificate</u> and at no cost to Council. <u>Reason</u>: To ensure that items of heritage significance are preserved.

97. 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 locations <u>before the issue of an Occupation</u> <u>Certificate</u> and at no cost to Council.

98. All redundant vehicular crossings to the site shall be removed and replaced by kerb and gutter and footpath paving in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" <u>before the issue of an Occupation Certificate</u> 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.

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

<u>Reason:</u> To ensure that the integrity of the OSD system is maintained and to comply with Marrickville Council Stormwater and On Site Detention Code.

- 100. The existing damaged or otherwise defective kerb and gutter, footpath and/or road pavement adjacent to the site shall be restored in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications", at no cost to Council and <u>before the issue of an Occupation Certificate</u>.
  - <u>Reason</u>: To provide suitable means of public road vehicle and pedestrian access to the development and to ensure that the amenity of the area is in keeping with the standard of the development.
- 101. The footpath along the frontage of the site shall be reconstructed in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications", at no cost to Council and <u>before the issue of an Occupation Certificate</u>.
  - <u>Reason</u>: To provide suitable means of public road vehicle and pedestrian access to the development and to ensure that the amenity of the area is in keeping with the standard of the development.

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<sup>&</sup>lt;u>Reason</u>: To allow vehicular access across the footpath and/or improve the existing vehicular access.

<sup>&</sup>lt;u>Reason</u>: To eliminate redundant crossings and to reinstate the footpath to its normal condition.

102. <u>Before the issue of an Occupation Certificate</u> written verification from a suitably qualified professional civil engineer, stating that all stormwater drainage and related work has been and constructed in accordance with the approved plans shall be submitted to and accepted by Council. In addition, full works-as-executed plans, prepared and signed by a registered surveyor, shall be submitted to Council. These plans must include levels for all drainage structures, buildings (including floor levels), finished ground levels and pavement surface levels.

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

<u>Reason</u>: To ensure that all Road, Footpath and Civil Works required to be undertaken as a result of this development have been completed satisfactorily.

#### ADVISORY NOTES

- The Disability Discrimination Act 1992 (Commonwealth) and the Anti-Discrimination Act 1977 (NSW) impose obligations on persons relating to disability discrimination. Council's determination of the application does not relieve persons who have obligations under those Acts of the necessity to comply with those Acts.
- A complete assessment of the application under the provisions of the Building Code of Australia has not been carried out.
- The approved plans must be submitted to the Customer Centre of any office of Sydney Water before the commencement of any work to ensure that the proposed work meets the requirements of Sydney Water. Failure to submit these plans before commencing work may result in the demolition of the structure if found not to comply with the requirements of Sydney Water.
- The vehicular crossing and/or footpath works are required to be constructed by your own contractor. You or your contractor must complete an application for 'Construction of a Vehicular Crossing & Civil Works' form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, before commencement of works.
- Please be advised any natural light or ventilation gained by the window(s) within 900mm of the boundary will not be taken into consideration in the event that the adjoining property owner makes application to Council to carry out building works on their property. The window has been consented to on the basis that alternative sources of light and ventilation are available to the room.

<sup>&</sup>lt;u>Reason</u>: To ensure drainage works are constructed in accordance with approved plans.

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

Further information and brochures on how to reduce exposure to lead based paints is available from Council's Planning and Environmental Services Division, **2** 9335-2222.

- Contact "Dial Before You Dig" before commencing any building activity on the site.
- Useful Contacts

BASIX Information	1300 650 908 weekdays 2:00pm - 5:00pm www.basix.nsw.gov.au
Department of Fair Trading	☎ 13 32 20 www.fairtrading.nsw.gov.au Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Before You Dig	☎ 1100 www.dialbeforeyoudig.com.au
Landcom	☎ 9841 8660 To purchase copies of Volume One of "Soils and Construction"
Long Service Payments Corporation	☎ 131441 <u>http://lspc.nsw.gov.au</u>
Marrickville Council	☎ 9335 2222 www.marrickville.nsw.gov.au Copies of all Council documents and application forms can be found on the web site.
NSW Food Authority	☎ 1300 552 406 www.foodnotify.nsw.gov.au
NSW Government	<u>www.nsw.gov.au/fibro</u> <u>www.diysafe.nsw.gov.au</u> Information on asbestos and safe work practices.
NSW Office of Environment and Heritage	☎ 131 555 www.environment.nsw.gov.au

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

This consent is effective and operates from 10 October 2012. The consent will lapse unless the proposed development is commenced in accordance with Section 95 of the Act.

Under Section 82A of the Act you may, within six (6) months of receipt of this notice, request Council to review this determination. A review request of this determination may be made under Section 82A of the Act. That review request must be made and determined by Council within six (6) months of the date hereon.

Under Section 97 of the Act you may, within six (6) months of receipt of this notice, appeal to the Land and Environment Court if you are dissatisfied with the Council's determination.

All conditions imposed by the Council must be observed. Breach of a condition is a breach of the Act and may also constitute an offence.

Yours faithfully

JClark

Judy Clark Manager Development Assessment

Enquiries: Harjeet Atwal on 93352247.

Ref: D1 TRIM No: 64128.12

# Attachment D – Approved Plans Determination No. 201200232

