



INNER WEST COUNCIL

DEVELOPMENT ASSESSMENT REPORT

Application No.	D/2018/657
Address	42-48 John Street, LEICHHARDT
Proposal	Demolition of existing structures, construction and strata subdivision of mixed use development comprising 15 x light industrial units, 1 x take away food and drink premises, 16 x business/office premises for creative purposes, parking and loading facilities.
Date of Lodgement	17-Dec-2018
Applicant	Aydan Two Pty Ltd
Owner	Aydan Two Pty Ltd
Number of Submissions	First notification period: 49 Objections and 1 letter of support Second notification period: 24 Objections.
Value of works	\$8,640,207
Reason for determination at Planning Panel	Number of submissions
Main Issues	Contamination, impacts to car parking and traffic, impacts to adjoining properties
Recommendation	Refusal
Attachment A	Conditions of consent (if the development is not refused)
Attachment B	Plans of proposed development



LOCALITY MAP

Subject Site		Objectors		
Notified Area		Supporters		

Note: Due to scale of map, not all objectors could be shown.

1. Executive Summary

This report is an assessment of the application submitted to Council for demolition of existing structures, construction and strata subdivision of mixed use development comprising 15 x light industrial units, 1 x take away food and drink premises, 16 x business/office premises for creative purposes, parking and loading facilities at 42-48 John Street, Leichhardt.

The application was notified twice to surrounding properties. 49 objections were received during the first notification period and 24 objections were received during the second notification period.

The main issues that have arisen from the application include:

- Contamination
- Impacts to on-street parking and traffic
- Amenity impacts to adjoining properties (solar access, visual privacy and loss of views)

The development does not adequately address contamination issues and the proposal does not satisfactorily ensure that creative uses will occupy the office premises. The development will result in impacts to traffic, view loss and amenity impacts to surrounding residential properties. Approval of the application would not be in the public interest and in view of the circumstances, refusal of the application is recommended.

2. Proposal

The proposal originally proposed the following:

- Demolition of existing structures;
- Construction and strata subdivision of a new part three (3) and part four (4) mixed use development comprising:
 - Eighteen (18) light industrial units with ancillary office and loading facilities for SRVs;
 - 28 self-storage units;
 - One (1) take away food and drink premises;
 - Six (6) business/office premises proposed to be used for a creative purpose.
 - Two (2) loading bays for MRVs;
 - Parking for 26 vehicles, 10 motorcycles and 34 bicycles;
 - Relocation of the existing John Street driveway, retention of the existing Hill Street driveway, and construction of a second driveway to Hill Street;
 - Provision of a new substation on the Hill Street frontage of the site; and
 - Building identification signage.

The amended proposal involves the redevelopment of 42-48 John Street, Leichhardt, for a mixed use development comprising the following works:

- Demolition of existing improvements;
- Construction and strata subdivision of a new part three (3) and part four (4) mixed use development comprising:
 - 15 x light industrial units with associated offices and loading bays;
 - 16 x business/office premises for creative purposes;
 - 1 x take away food and drink premises;
 - 26 car parking spaces;
 - Parking for 14 motorbikes and 34 bicycles;
 - Loading bays for SRV and MRV;

- Relocation of the existing John Street driveway, retention of the existing Hill Street driveway;
- Provision of a new substation on the Hill Street frontage of the site; and
- Building identification signage.

The proposal incorporates the following hours of operation:

Takeaway food and drink premises and tenancies with access from Hill Street:

- Monday to Friday: 8:00am to 6:00pm
- Saturday: 8:00am to 2:00pm; and
- Sundays and public holidays: no trading.

Tenancies with access from John Street:

- Monday to Sunday: 7:00am to 10:00pm; and
- Public holidays: 7:00am to 10:00pm.

3. Site Description

The site is located at 42-48 John Street, on the north-west corner of John Street and Hill Street, Leichhardt. The area of the site is approximately 2,787m², and is legally described as Lot 2, DP 600249. The site is generally rectangular in shape, with a frontage of 28.94m to John Street and a secondary frontage of 82.96m to Hill Street.



Aerial view of the subject site at 42-48 John Street.

The site contains a part one (1) and part two (2) storey industrial building which is currently occupied by an auction house for furniture and other collectibles, along with ancillary office accommodation. The site has a triple width driveway from John Street, providing access to a double loading dock and into the interior of the building. A second driveway is located on the Hill Street frontage of the site, providing access to open rooftop car parking.

The topography of the site is generally flat, due to previous excavation carried out in association with construction of the existing structures on the site. The rear of the building is 0.7m to 11.25m lower than the remnant rock and associated vegetation located at the western (rear) end of the site. Hill Street slopes quite steeply down from the west (rear) to the east (front), with a change in height of 9.26m over the 82.96m frontage of the site.



View of existing building from John Street



View of existing building from Hill Street.



View of existing building from Hill Street.

4. Background

4(a) Site history

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

Subject Site

Application	Proposal	Decision & Date
DA 353/91	Industrial (Warehousing of furniture for auction)	Approved 10/12/91
PREDA/2018/115	Mixed used development comprising light industrial units, storage premises, a take away premises and commercial premises.	Advice issued.

4(b) Application history

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

Date	Discussion / Letter / Additional Information
12 April 2019	Letter requesting application to be withdrawn citing the following issues: <ul style="list-style-type: none"> - Issues in relation to solar access to adjoining properties - Issues in relation to view loss impacts to adjoining properties - Impacts to windows on the eastern elevation No. 21 Hill Street - Issues in relation to privacy impacts to adjoining properties - Issues in relation to Floor Space Ratio (FSR) and Bulk and Scale - Issues in relation to Traffic and parking - Issues in relation to Contamination - Information in relation to engineering matters - Information in relation to proposed 'creative uses'
16 September 2019	Amended plans and additional information submitted to council.

26 September 2019	The application was renotified for 14 days.
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5. Assessment

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

5(a) Environmental Planning Instruments

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

- *State Environmental Planning Policy No. 55—Remediation of Land*
- *Leichhardt Local Environmental Plan 2013*

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

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) provides planning guidelines for remediation of contaminated land. LDCP 2013 provides controls and guidelines for remediation works. SEPP 55 requires the consent authority to be satisfied that the site is, or can be made suitable for the proposed use.

The site has been used in the past for activities, which could have potentially contaminated the site. The following supporting information that was submitted with the Development Application was reviewed:

- Statement of Environmental Effects dated December 2018
- Environmental Risk and Planning Report dated 23 October 2017
- Due Diligence Contamination Investigation prepared by Douglas Partners dated March 2018
- Interim Contamination Audit Advice dated 9 July 2018

Section 12 of the *Due Diligence Contamination Investigation* prepared by Douglas Partners dated March 2018 stated:

“No visual evidence was found to suggest the presence of a UST within the site (i.e. no fill or dip points, no replaced concrete sections, no vent pipes, no bowsers). However, the GPR identified an anomaly within the loading dock (refer Drawing 1, Appendix A) which could potentially be a decommissioned UST or the backfilling of a UST pit following removal.”

The report also reached the following conclusions:

“Based on the results of the due diligence contamination investigation reported herein, DP considers that the site is generally suitable for continued commercial/industrial land uses in its current built form. As part of any future redevelopment of the site under the same land use setting the following is recommended:

- *Pre-demolition hazardous building materials survey on of the existing structures and hardstands.*
- *Removal of any identify hazardous building materials prior to bulk demolition;*
- *Post demolition inspection and sampling of soils to confirm the waste classifications;*

- *Investigation, remediation (if required) and validation of the location of the suspected UST in the loading dock to the depth of observed anomaly (i.e. to undisturbed sandstone); and*
- *Incorporation of an unexpected finds protocol as part of the planned civil and construction works."*

The following issues were raised by Council's Health Compliance Officers in response to the proposal which was included as one of the issues to be addressed in the request for additional information letter:

- UST – A ground penetration radar (GPR) identified an anomaly in the vicinity of the loading dock which could potentially be a decommissioned UST or the backfilling of a UST following removal. Until such time that the applicant can demonstrate whether or not there is an UST present on the site, Council is not satisfied that the site is suitable for the proposed development, under SEPP55.

Council recommends that further investigations be carried out to determine the presence of whether an UST on the site. These investigations are to be completed and submitted to Council as additional information prior to any determination.

NB: Council is not satisfied with the conclusion of the contamination investigation, *"that the site is generally suitable for continued commercial / industrial land uses in its current built form"*.

In response to the issues raised, a site contamination audit has been conducted in relation to the site by an accredited Site Auditor (i.e. Melissa Porter, Accreditation No.: 0803) in which the Auditor concluded the following:

"the site can be made suitable for the proposed commercial/industrial uses subject to implementation of the following unexpected finds protocol:

- *'Unexpected Finds Protocol. Proposed Commercial Development. 42-48 John Street, Leichhardt, NSW' dated 29 June 2018, DP.*
- *Following implementation of the Unexpected Finds Protocol, a Section A Site Audit Statement (SAS) and Site Audit Report (SAR) should be prepared to confirm the suitability of the site prior to issue of the Occupation Certificate".*

The interim audit advice document was reviewed by Council's Health Compliance Officers, who have advised that the document is not a Detailed Site Investigation and there are no soil samples near the potential underground storage tank, and therefore, it is unclear as to the nature of contamination around this area. Given this, Council is not satisfied that it can be definitely concluded that the site is suitable or can be made suitable for the proposed use.

Therefore, it is considered that the proposal does not adequately satisfy the requirements of SEPP No. 55 or the Contaminated Land Management Act.

5(a)(ii) Leichhardt Local Environment Plan 2013 (LLEP 2013)

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

- Clause 1.2 - Aims of the Plan
- Clause 2.3 - Zone objectives and Land Use Table
- Clause 2.5 - Additional permitted uses for land
- Clause 2.7 - Demolition
- Clause 4.3 - Height of buildings
- Clause 4.4 – Floor Space Ratio

- Clause 4.5 - Calculation of floor space ratio and site area
- Clause 4.6 - Exceptions to development standards
- Clause 5.3 – Development near zone boundaries
- Clause 5.4 - Controls relating to miscellaneous permissible uses
- Clause 5.10 – Heritage Conservation
- Clause 6.1 - Acid Sulfate Soils
- Clause 6.2 - Earthworks
- Clause 6.3 - Flood Planning
- Clause 6.4 - Stormwater management
- Clause 6.9 - Business and office premises in Zone IN2

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

Standard	Proposal	non compliance	Complies
Floor Space Ratio Maximum permissible: 1:1 or 2787 sqm	0.98:1 or 2720.5 sqm	N/A	Yes

Clause 1.2 – Aims of Plan

The application does not adequately address contamination issues or issues in relation to ensuring creative uses will occupy the proposed office premises. The development will result in impacts to traffic, view loss and interface amenity impacts to the surrounding residential developments. Therefore, the proposal in its current form is considered to be inconsistent with Objectives (a), (e), (k) and (l) of this clause.

Clause 2.3 - Land Use Table and Zone Objectives

The site is zoned IN2 Light Industrial under the *LLEP 2013* and the objectives of the zone are as follows:

Objectives of zone

- *To provide a wide range of light industrial, warehouse and related land uses.*
- *To encourage employment opportunities and to support the viability of centres.*
- *To minimise any adverse effect of industry on other land uses.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.*
- *To support and protect industrial land for industrial uses.*
- *To retain existing employment uses and foster a range of new industrial uses to meet the needs of the community.*
- *To ensure the provision of appropriate infrastructure that supports Leichhardt’s employment opportunities.*
- *To retain and encourage waterfront industrial and maritime activities.*
- *To provide for certain business and office premises and light industries in the arts, technology, production and design sectors.*

The proposal includes a mixed use development consisting of the following uses:

- Take-away food and drink premises
- Light industrial uses
- Office/business uses

Take-away food and drink premises and light industrial uses are permissible with the IN2 Light Industrial zoning.

In regards to the proposed office/business uses, these are permissible within limitation, subject to the requirements under Clause 6.9 which is discussed in further detail below.

As discussed in later sections of this report, the proposal in its current form has adverse impacts in relation to traffic movements and view loss amenity impacts to the surrounding residential uses, and therefore, is considered to be inconsistent with the objective "To minimise any adverse effect of industry on other land uses."

Clause 5.10 – Heritage Conservation

The subject site is not listed as a heritage item on the Leichhardt LEP 2013 and is not within a heritage conservation area. It is in close proximity of the following heritage item:

- 'Corner shop and residence, including interiors' at 42 Emma Street (1653)

The subject site is a current industrial building that was development in the second post war period. It does not meet any of the criteria for the identification of NSW heritage as outlined in the Office of Environment & Heritage (OEH) guidelines 'Assessing heritage significance' dated July 2001.

The statement of significance of the near local heritage item as available from OEH website is:

No. 42 Emma Street is of local historic and aesthetic significance as a representative example of a late Victorian period Victoria Free Classical style former corner shop and residence constructed sometime between c. 1860s and 1889 (possibly 1885). Despite some alterations and additions the building retains its overall form, character and details, particularly rendered two storey facades, splayed corner, parapet and associated rendered details, skillion roof forms and chimney, posted awning and pattern of openings including ground floor shop entry, shopfront windows and associated timber finishes, separate residence entry on the ground floor of the Hill Street façade and arched windows and associated rendered mouldings on the first floor. The building occupies a corner site and is a prominent feature and makes a positive contribution to Hill and Emma Streets.

There will be no adverse impact to the fabric of this heritage item arising from the proposed development. The scale, bulk and articulation of the proposed replacement building are not considered detrimental to the setting of the subject heritage item as significant views towards the item will be unaffected.

The proposal is considered to be satisfactory in relation to the heritage considerations of the Leichhardt LEP 2013 and Leichhardt DCP 2013.

Clause 6.9 - Business and office premises in Zone IN2

Clause 6.9(3) states that: "Development consent must not be granted to development for the purpose of business premises or office premises on land to which this clause applies unless the consent authority is satisfied that the development will be used for a creative purpose such as media, advertising, fine arts and craft, design, film and television, music, publishing, performing arts, cultural heritage institutions or other related purposes."

Local (Inner West) trends for creative spaces in new developments or rezoning tend to provide spaces suitable for office-based activities, which are useful either for technology based creative industries (such as advertising or new media), or for other non-creative office uses. This is identified in the University of Wollongong's *Made in Marrickville Enterprise and cluster dynamics at the creative industries-manufacturing interface, Carrington Road precinct* report (2017).

Spaces for cultural production (for visual arts, sculpture, jewellers, woodworkers etc) are in the highest demand in the area and are being increasingly lost to gentrification and rezoning. A strong case can be made for creating spaces in new developments for these cultural producers, including those generating noise and requiring larger or more flexible spaces.

With this context in mind, and having regard to the advice of Council's Community and Economic development team, the following considerations are applicable to the proposal:

- The Owner and Building and Facilities Manager need to ensure the creative units are occupied by legitimate creative industries. Council must be provided with assurances and a plan for how this would be implemented.
- The Owner and Building and Facilities Manager should give consideration to the affordability and suitability of these units for the creative industries, especially considering cultural producers and makers. Council therefore recommends a combination of creative office uses such as desk-based creative industries including media or advertising (maximum 50%) and the remainder for cultural production such as visual artists and makers, including jewellers, craftspeople etc (at least 50%, or up to 100%)

The applicant has provided the following response on a response letter dated 4 September 2019:

"While the applicant acknowledges Council's concerns regarding assurances with respect to the type of creative office uses, it should also be recognised that it is the applicant taking the entrepreneurial risk in building, offering to the market and maintaining the building for these types of uses.

In that respect, it is incumbent upon the applicant to provide quality facilities that will meet the market demand for these types of uses. The breakdown and the combination of the creative uses will be based upon the market demand, such that if there is a strong demand for the cultural production type uses such as visual artists and makers including jewellers and craftspeople, then the units will be made to accommodate those use, or if the market requires more desk-based creative industries such as media or advertising, then the units will be appointed to accommodate those use.

This would seem the best approach to what is an evolving industry and more responsive than a pre- conceived idea about what is required or desirable."

The applicant's response is not considered to be adequate in addressing the issue raised, and it is considered that Clause 6.9(3) has not been satisfied.

If the application was recommended for approval, conditions would need to be imposed that require the approved drawings to be amended to clearly label the business units being used for creative uses business premises only, and a Plan of Management provided to the satisfaction of Council to ensure that the occupants of the creative uses business premises reflect the abovementioned requirements in perpetuity.

5(b) Draft Environmental Planning Instruments

Draft State Environmental Planning Policy (Environment) 2018

The NSW government has been working towards developing a new State Environmental Planning Policy (SEPP) for the protection and management of our natural environment. The Explanation of Intended Effect (EIE) for the Environment SEPP was on exhibition from 31 October 2017 until 31 January 2018. The EIE outlines changes to occur, implementation details, and the intended outcome. It considers the existing SEPPs proposed to be repealed

and explains why certain provisions will be transferred directly to the new SEPP, amended and transferred, or repealed due to overlaps with other areas of the NSW planning system.

This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland and Willandra Lakes World Heritage Property. Changes proposed include consolidating seven existing SEPPs including Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.

The proposed development would be consistent with the intended requirements within the Draft Environment SEPP.

5(c) Development Control Plans

The application has been assessed and the following provides a summary of the relevant provisions of Leichhardt Development Control Plan 2013.

LDCP2013	Compliance
Part A: Introductions	
Section 3 – Notification of Applications	Yes
Part B: Connections	
B1.1 Connections – Objectives	Yes
B2.1 Planning for Active Living	Yes
B3.1 Social Impact Assessment	Not Applicable
B3.2 Events and Activities in the Public Domain (Special Events)	Not Applicable
Part C	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	Yes
C1.3 Alterations and additions	Not applicable
C1.4 Heritage Conservation Areas and Heritage Items	Not applicable
C1.5 Corner Sites	Yes
C1.6 Subdivision	Not applicable
C1.7 Site Facilities	Yes
C1.8 Contamination	No – Refer to SEPP No. 55 discussion
C1.9 Safety by Design	No, see discussion
C1.10 Equity of Access and Mobility	Yes
C1.11 Parking	No, see discussion
C1.12 Landscaping	Not Applicable
C1.13 Open Space Design Within the Public Domain	Not Applicable
C1.14 Tree Management	Not Applicable
C1.15 Signs and Outdoor Advertising	Yes
C1.16 Structures in or over the Public Domain: Balconies, Verandahs and Awnings	Not Applicable
C1.17 Minor Architectural Details	Yes– see discussion
C1.18 Laneways	Not Applicable
C1.19 Rock Faces, Rocky Outcrops, Cliff Faces, Steep Slopes and Rock Walls	Not Applicable
C1.20 Foreshore Land	Not Applicable
C1.21 Green Roofs and Green Living Walls	Not Applicable

Part C: Place – Section 2 Urban Character	
C2.2.3.3 Piperston Distinctive Neighbourhood <i>C2.2.3.3(b) Industrial Sub Area</i>	No – see discussion
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	Not Applicable
C3.2 Site Layout and Building Design	Not Applicable
C3.3 Elevation and Materials	Not Applicable
C3.4 Dormer Windows	Not applicable
C3.5 Front Gardens and Dwelling Entries	Not Applicable
C3.6 Fences	Not Applicable
C3.7 Environmental Performance	Not Applicable
C3.8 Private Open Space	Not Applicable
C3.9 Solar Access	See discussion on C4.5 Interface Amenity
C3.10 Views	See discussion on C4.5 Interface Amenity
C3.11 Visual Privacy	See discussion on C4.5 Interface Amenity
C3.12 Acoustic Privacy	See discussion on C4.5 Interface Amenity
C3.13 Conversion of Existing Non-Residential Buildings	Not applicable
C3.14 Adaptable Housing	Not applicable
Part C: Place – Section 4 – Non-Residential Provisions	
C4.1 Objectives for Non-Residential Zones	Yes
C4.2 Site Layout and Building Design	Yes
C4.3 Ecologically Sustainable Development	Yes
C4.4 Elevation and Materials	Yes
C4.5 Interface Amenity	No, see discussion
C4.6 Shopfronts	Yes
C4.7 Bulky Goods Premises	Not Applicable
C4.8 Child Care Centres	Not Applicable
C4.9 Home Based Business	Not Applicable
C4.10 Industrial Development	Yes
C4.11 Licensed Premises and Small Bars	Not Applicable
C4.12 B7 Business Park Zone	Not Applicable
C4.13 Markets	Not Applicable
C4.14 Medical Centres	Not Applicable
C4.15 Mixed Use	Not Applicable
C4.16 Recreational Facility	Not Applicable
C4.17 Sex Services Premises	Not Applicable
C4.18 Vehicle Sales or Hire Premises And Service Stations	Not Applicable
C4.19 Vehicle Repair Station	Not Applicable
C4.20 Outdoor Dining Areas	Not Applicable
C4.21 Creative Industries	Yes, subject to conditions
Part D: Energy	
Section 1 – Energy Management	Yes
Section 2 – Resource Recovery and Waste Management	
D2.1 General Requirements	Yes
D2.2 Demolition and Construction of All Development	Yes
D2.3 Residential Development	Not Applicable
D2.4 Non-Residential Development	Yes

D2.5 Mixed Use Development	Not Applicable
Part E: Water	
Section 1 – Sustainable Water and Risk Management	
E1.1 Approvals Process and Reports Required With Development Applications	Yes
E1.1.1 Water Management Statement	Yes
E1.1.2 Integrated Water Cycle Plan	Not Applicable
E1.1.3 Stormwater Drainage Concept Plan	Yes
E1.1.4 Flood Risk Management Report	Not Applicable
E1.1.5 Foreshore Risk Management Report	Not Applicable
E1.2 Water Management	Yes
E1.2.1 Water Conservation	Yes
E1.2.2 Managing Stormwater within the Site	Yes, subject to conditions
E1.2.3 On-Site Detention of Stormwater	Yes, subject to conditions
E1.2.4 Stormwater Treatment	Yes
E1.2.5 Water Disposal	Yes, subject to conditions
E1.2.6 Building in the vicinity of a Public Drainage System	Not Applicable
E1.2.7 Wastewater Management	Yes, subject to conditions
E1.3 Hazard Management	Not Applicable
E1.3.1 Flood Risk Management	Not Applicable
E1.3.2 Foreshore Risk Management	Not Applicable
Part F: Food	Not Applicable
Part G: Site Specific Controls	Not Applicable

The following provides discussion of the relevant issues:

C1.11 Parking

Number of Parking Spaces

The following parking rates are applicable to the proposed development:

Business premises	1 space per 100m2	1 space per 60m2
Office premises	1 space per 100m2	1 space per 80m2
Industry	1 space per 250m2 Note: Retailing associated with industrial developments will be assessed at the same rate as “shops” (i.e. 1 space per 50 m2 (min) and 1 space per 50 m2 (max))	1 space per 150m2
Take away food or drink premises	1 space per 100m2 If the premises are located on a “Recognised Shopping Street” the first 50m2 are exempt from parking provision (Refer to note 3)	1 space per 100m2

Minimum parking requirements:

- Take away Premise: 105 sqm – 1.1 spaces;
- Industrial: 1570 sqm – 6.3 spaces; and
- Creative uses: 1040 sqm – 10.4 spaces

Therefore, the minimum required parking spaces is 17.8 spaces (rounding up to 18 spaces) and the proposal achieves the minimum requirement.

Number of bicycle Spaces

The following bicycle rates are applicable to the proposed development:

Shops	1 space per 10 staff	2 spaces, plus 1 space per 100 sqm over 100 sqm GFA
Industry	1 space per 10 staff	Nil
Commercial	1 space per 10 staff	1 space per 400 sqm GFA

While details in relation the number of staff per tenancy has not been provided, the proposal includes 34 bicycle parking spaces which is considered to be satisfactory.

Number of motorbike Spaces

C23 Motor bike parking is to be provided at a rate of (1) space for developments that require between 1 to 10 vehicle spaces and 5% of the required vehicle parking thereafter. As the application proposes 26 parking spaces, 2 motor bike spaces are required. The application proposes 10 motor bike spaces which complies with the requirements.

While the development satisfies the numerical requirements for on-site parking, there are a number of parking/traffic issues that have not been adequately addressed (see below).

Outstanding matters that have not been adequately addressed

The development is not supported on engineering grounds for the following reasons:

- MRV and SRV access from Hill Street is not supported on safety and amenity grounds due to the adjacent residential area and relative narrow width of the street. MRV and SRV movements must be restricted to John Street via Moore Street;
- Sightlines to pedestrians have not been provided at all vehicular accesses, and the building does not provide a splay corner for sightlines to pedestrians at the adjacent Right of Way on John Street as stipulated in the AS2890.1:2004 Figure 3.3;
- The pedestrian gate adjacent the Emma Street entrance is not supported at the width proposed as this may encourage loading and unloading from Hill Street to this area of the development rather than from loading docks/bays within the site;
- New and wider vehicular crossings in Hill Street are not permitted. Vehicular crossings in Hill Street must be light duty with the maximum width of 2800mm at the property boundary and 4600mm at the kerb line;
- Heavy vehicular access to the development site must be restricted to John Street via Moore Street due to the narrowness of the local residential streets (e.g. Hill Street);
- The traffic generation rate for the light industrial use should use a more conservative value of 1 trip per 100m² to fully capture the traffic potential of light industrial type development;
- Swept path analysis in Hill Street has indicated that there may be additional loss of on-street parking spaces to accommodate the vehicle entering and exiting the access driveway. Ensure that the vehicular path including clearance does not encroach into the on-street parking area. Any net loss in existing on-street parking space is not supported;

- Dimensions of parking spaces and loading bays for SRV must comply with AS2890.1:2004 and are to be shown on the plan;
- The width of light duty crossings in Hill Street and heavy duty vehicular crossings in John Street must comply with the requirements of Council's DCP 2013 and AS2890.1:2004, dimensions at the property boundary and at the kerb line must be shown on the plan; and
- The existing on-street parking spaces appear to be signposted as 45 degree angle parking. The design plan to show as per existing, should any changes to the existing parking restriction, it will be subject to LTC approval.

As the above issues have not been adequately addressed and there are significant unresolved safety and amenity impacts with respect to MRV and SRV movements on Hill Street, the proposal is recommended for refusal.

C2.2.3.3 Piperston Distinctive Neighbourhood and C2.2.3.3(b) Industrial Sub Area

Controls

C1 Promote industrial businesses suitable to residential areas, which have a low noise and vehicle impact.

C2 Retain and enhance the industrial zoned areas to maximise its continuance for employment opportunities.

C3 Ensure that the use of signage in the area is appropriate and consistent with the established industrial character.

C4 Ensure that residential infill development on former industrial sites does not have a significant impact on the viability of adjacent industrial sites.

C5 A maximum building wall height of 6m for new development shall apply in the industrial area.

C6 Residential infill on industrial sites must not have an impact on the viability of adjacent industrial sites.

C7 New development must not interfere with existing public and private view corridors.

C8 Development is to be consistent with any relevant objectives and controls within the Piperston Distinctive Neighbourhood.

The proposal in its current form does not comply with the wall height of 6 metres that is specified under the desired future character controls under C2.2.3.3 Piperston Distinctive Neighbourhood.

In this regard, while the middle building that fronts Hill Street is considered to generally accommodate a building form that a 6 metre wall height would generate (taking into account the slope of the site), the proposed building on the western part of the site and the building located to the east that have frontages to John and Hill Streets are considerably higher than the 6 metre wall height and would be out of character with the surrounding development.

While the application cannot be supported due to contamination and traffic issues, to address bulk and scale issues, solar access and potential view loss, any future applications would need to reduce the heights of the development located on the eastern and western sides of the site. The building located on the western side of the site should be reduced to have a maximum ridge height below the ridge height of 21 Hill Street, and the building located on the eastern side should have a maximum wall height that is similar to the maximum ridge height of the existing building currently on the site.

C3.10 Views

There are a number of objections that have been received in relation to the loss of views.

Council considers the *Tenacity* Planning Principle steps in its assessment of reasonable view sharing:

“a. What views will be affected? In this Plan, a reference to views is a reference to water views and views of significant landmarks (e.g. Sydney Harbour, Sydney Harbour Bridge, ANZAC Bridge and the City skyline including features such as Centre Point Tower). Such views are more highly valued than district views or views without significant landmarks.

b. How are the views obtained and assessed? Views from private dwellings considered in development assessment are those available horizontally to an observer standing 1m from a window or balcony edge (less if the balcony is 1m or less in depth).

c. Where is the view enjoyed from? Views enjoyed from the main living room and entertainment areas are highly valued. Generally it is difficult to protect views from across side boundaries. It is also generally difficult to protect views from other areas within a residential building particularly if views are also available from the main living room and entertainment areas in the building concerned. Public views are highly valued and will be assessed with the observer standing at an appropriate point in a public place.

d. Is the proposal reasonable? A proposal that complies with all development standards (e.g. building height, floor space ratio) and planning controls (e.g. building setbacks, roof pitch etc) is more reasonable than one that breaches them.”

The following controls are applicable:

C1 New development should be designed to promote view sharing (i.e. minimise view loss to adjoining and adjacent properties and/or the public domain while still providing opportunities for views from the development itself).

C2 Design solutions must respond graphically to the site analysis outcomes through the use of plans, elevations, photographs and photomontages to demonstrate how view sharing is to be achieved and illustrate the effect of development on views. In some cases, reasonable development may result in the loss of views, but new development must not significantly obstruct views.

C3 Development shall be designed to promote view sharing via:

- a. appropriately addressing building height, bulk and massing;*
- b. including building setbacks and gaps between buildings;*
- c. minimise lengthy solid forms;*
- d. minimise floor to ceiling heights and use raked ceilings in hipped / gabled roof forms where appropriate, especially in upper floors;*
- e. splay corners; and*
- f. use open materials for balustrades, balconies, desks, fences, car ports and the like.*

The below diagram outlines the location of the subject site, and the location of the properties that have raised potential view loss issues are hatched (note that other affected properties, No.46 Hill Street and No. 19 John Street, are located outside the map).



There are a number of objections that had been received in relation to potential loss of city views from various properties on Emma Street, John Street and Hill Street. In order to more accurately assess the impacts of view loss, height poles were required to be erected to depict the heights of the proposed structures.

In the council letter dated 12 April 2019, the issues in relating to view loss were raised and the letter requested height poles to be erected to allow an accurate assessment of the potential view loss impacts.

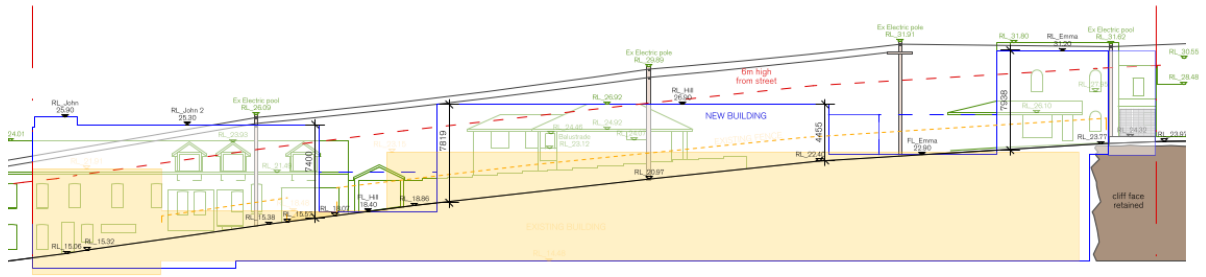
An e-mail dated 30 May 2019 from the applicant advised of the following:

"I am advised that a person erecting poles needs to be a minimum of 4m from the power lines (i.e. 4m from the southern boundary) but only after de-energising of the cables occurs. I am further advised by Evolve Project Consulting that AusGrid has now advised (yesterday) that they will not agree to de-energise the cables until a new substation is built as the system has no spare capacity in this area of town and de-energising cables will mean turning off power to customers.

Installation of a substation will take in the order of 12 months to 2 years.

Just as importantly is the advice from Evolve Project Consulting that height poles cannot be safely erected on an asbestos roof due to danger to life. It would seem a particularly unreasonable and inappropriate request to erect the height poles in these circumstances."

In lieu of the erection of height poles, the applicant had instead offered to provide surveyor certified photomontages and details of the heights of the telegraph poles. The heights of the telegraph poles were provided on 16 September 2019 but the photomontages were not included in the additional information that was provided. Below is an updated street elevation that accurately shows the proposed form relative to the street level and existing building outline is hatched in yellow:



The view loss assessment is based on this information where approximately heights of the proposed buildings are measured against the heights of the existing telegraph to provide an estimation of the views that will be lost as a result of the proposed development.

Impact to No. 45 Emma Street

The property at 45 Emma currently enjoys views of the city skyline, Centre Point Tower, the harbour bridge and the ANZAC Bridge. The best views are obtained from the rear bedroom window, the rear balcony and the front yard. There are also some potential views that are obtained from the study. Refer to figures (A, B, C and D) below and the blue lines are the approximate proposed building form based on the height of the power poles. The proposed buildings in their current form will result in view loss of the city skyline and Centre Point Tower from the front yard, the city skyline and Anzac Bridge from the rear balcony and the city skyline, Sydney Harbour Bridge and Anzac Bridge from the rear bedroom.



Figure A: View from front yard of No. 45 Emma Street



Figure B: View from rear balcony of No. 45 Emma Street



Figure C: View from rear bedroom of No. 45 Emma Street



Figure D: View from study of No. 45 Emma Street

Impact to dwellings at 30-40 John Street

Directly to the south of the proposed site is 38-40 John Street which consists of 5 residential units. The residential units enjoy mostly district views, but some city skyline views can be obtained from the first floor windows (from bedrooms) and elevated balconies. Refer to figures (E, F and G) below and the blue lines are the approximate proposed building form. The proposed buildings in their current form will retain the view to the Centre Point Tower, but will result in losses of some views to the city skyline and the ANZAC Bridge from the first floor bedrooms and associated balconies.





Figures E to G (Views from first floor balconies of units from 38-40 John Street)

Impact to 38 Emma Street

The property at 38 Emma currently enjoys partial views of the city skyline, Centre Point Tower, the Harbour Bridge and the ANZAC Bridge. The best views are obtained from the front porch and the first floor bedroom. In this regard, the views to the city skyline and Centre Point Tower from the first floor bedroom is likely to be retained, however the partial views to the ANZAC Bridge and city skyline are likely to be impacted.

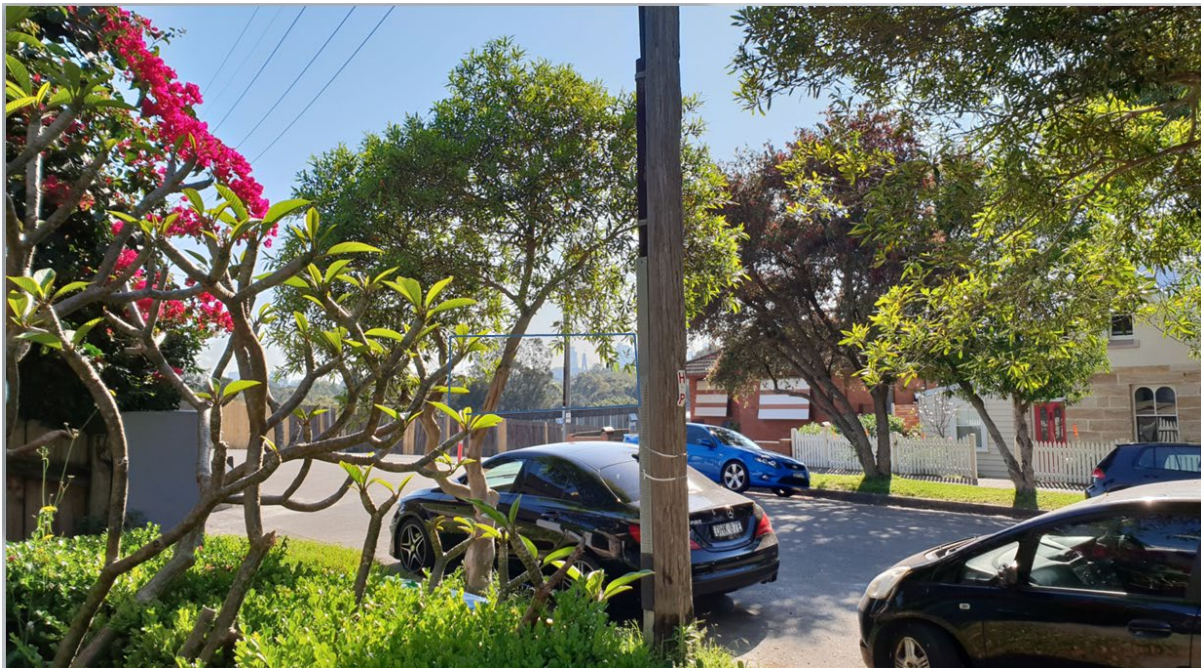


Figure H – View from front porch of No. 38 Emma Street

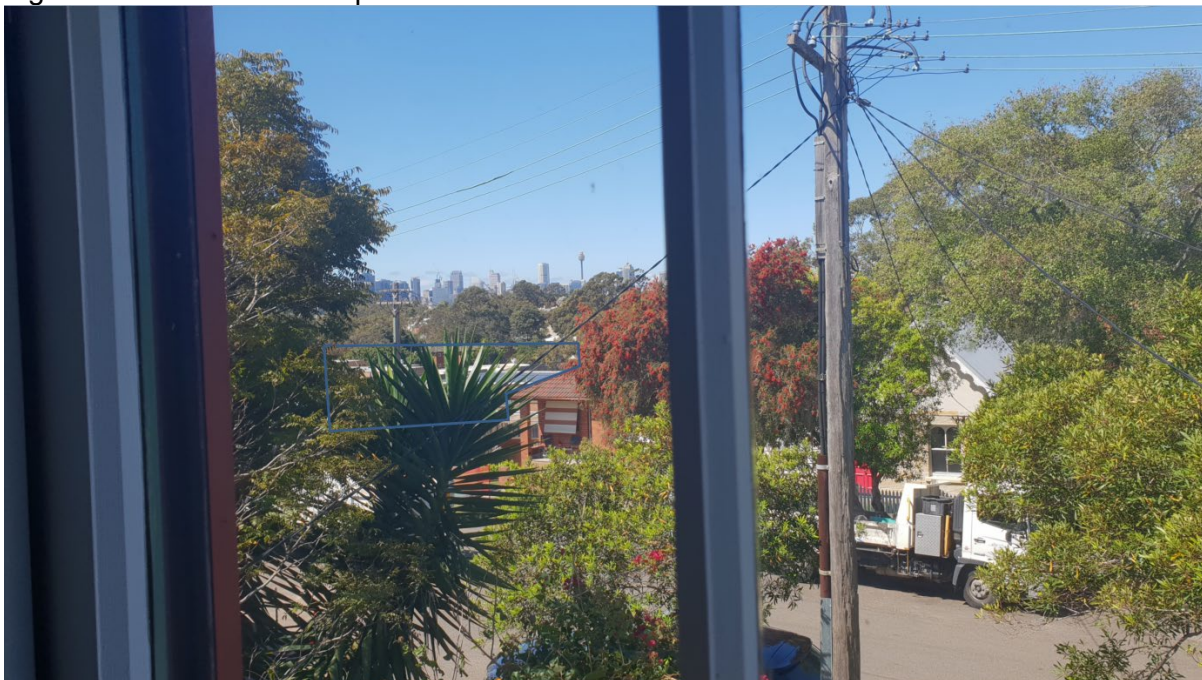


Figure I – View from first floor front window of No. 38 Emma Street

Impact to No. 40 Emma Street

The property at 40 Emma currently enjoys views of the city skyline, Centre Point Tower, the Harbour Bridge and the ANZAC Bridge. The best views are obtained from the first floor front balcony, the first floor bedroom and the rear first floor balcony. As indicated from the images below, the most western proposed building is likely to obstruct the views to the ANZAC Bridge and Sydney Harbour Bridge and the city skyline from the rear balcony.

While the proposed buildings that adjoin Hill Street are unlikely to impact the views from the front balcony, it is possible that the proposed building located on the northern boundary that has a higher maximum height (i.e. E15 and E16) will impact the view of the ANZAC Bridge and Harbour Bridge. There is insufficient information to sufficiently conclude that there are no impacts to these views.



Figure J – View from first floor rear balcony of No. 40 Emma Street



Figure K – View from first floor front balcony of No. 40 Emma Street



Figure L – View from first floor front balcony of No. 40 Emma Street



Figure M – View from first floor front bedroom of No. 40 Emma Street

Impact to No. 36 Hill Street

The property at No. 36 Hill Street is two storey dwelling. A site inspection could only be conducted outside the house in the front yard due to difficulties in arranging access with the occupants of the site. As there are some potential impacts from the first floor bedroom window, the occupants agreed to take a photo from the potentially impacted window on an e-mail dated 8 October 2019 (refer to figure O).

From the photos taken from within the front yard, the views to the city skyline are obstructed by existing vegetation and the existing hedge and there are some partial views of the city skyline from across the side fence.

From the objector's photo from the first floor bedroom window, the property at 36 Hill Street currently enjoys partial views of the city skyline, the centre point tower, the harbour bridge and the ANZAC bridge. The proposed building located on the western side of the proposed site is likely to obstruct these views.



Figure N – View from front yard of No. 36 Hill Street

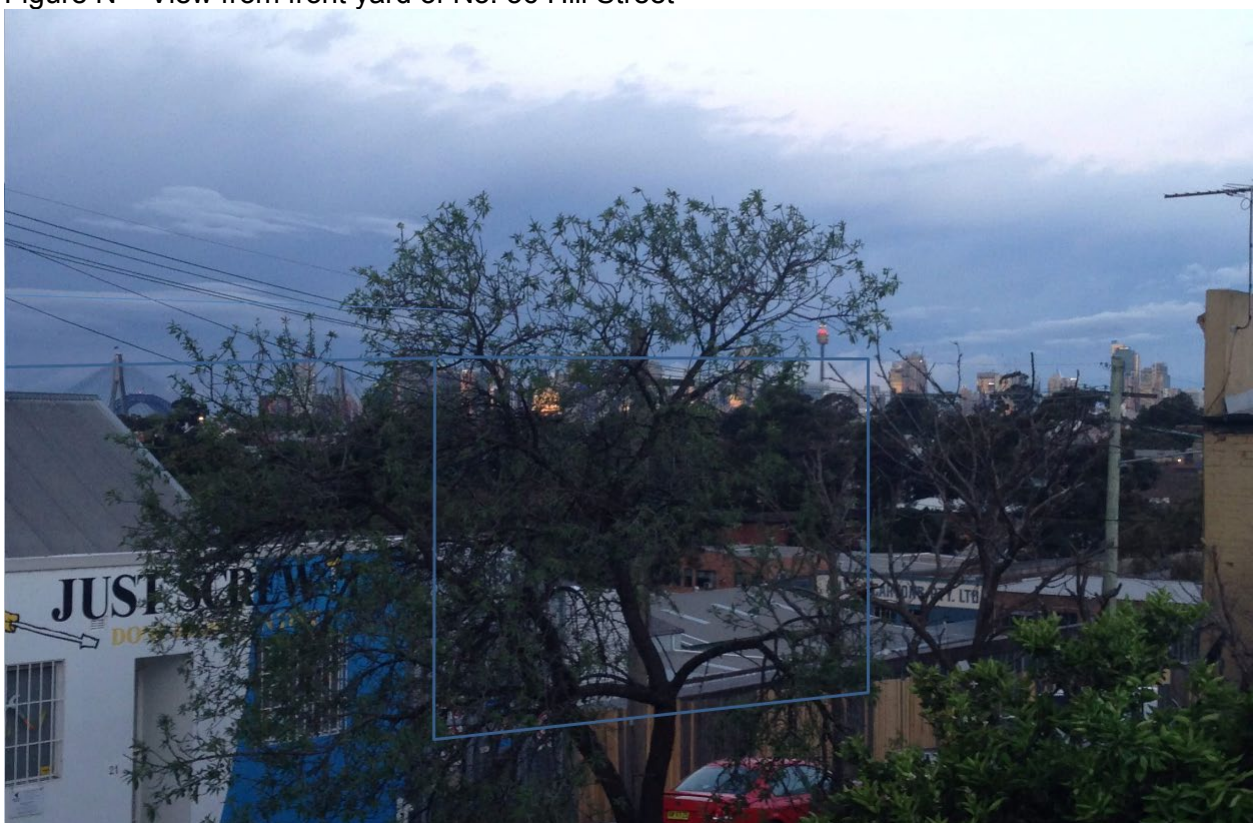


Figure O – View from first floor bedroom window of No. 36 Hill Street

Impact to No. 32 Emma Street

The property at No. 32 Emma Street is a single storey dwelling. The views from the windows on the northern elevation will be partially obstructed by the privacy screen/terraces and the best views will be obtained from the front yard and the windows associated with the front yard. As demonstrated by the photos taken from near the front fence and the photos supplied by the objector, No. 33 Emma Street enjoys partial, distant views only to city skyline from the front portions of the house.



Figure P – View from front yard of No. 32 Emma Street (planner’s photo)



Figure Q – View from front yard of No. 32 Emma Street (planner’s photo)



Figure R – View from front yard of No. 32 Emma Street (photo from objector)

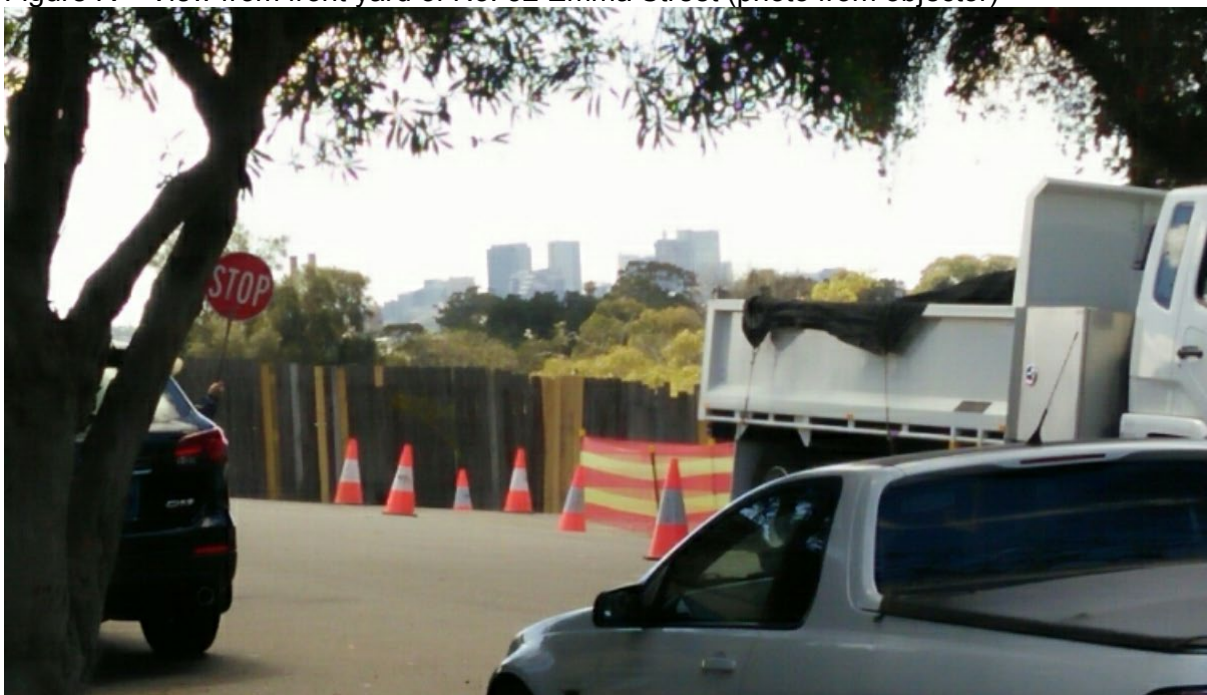


Figure S – View from front yard of No. 32 Emma Street (photo from objector)

No. 43 Emma Street

The property at 43 Emma Street currently enjoys views of the city skyline, Centre Point Tower, the Harbour Bridge and the ANZAC Bridge. The best views are obtained from the first floor bedroom and there are some partial city skyline views from the ground floor windows and the rear yard. The views from the first floor bedroom windows are unlikely to be adversely impacted by the proposal. The proposal in its current form is likely to have impacts to partial city skyline views from the ground floor level windows and yard.



Figure T – View from first floor bedroom window of No. 43 Emma Street



Figure U – View from ground floor window of No. 43 Emma Street



Figure V – View from ground floor window of No. 43 Emma Street



Figure W – View from rear yard of No. 43 Emma Street

No 33 Emma St

No. 33 Emma Street is a 3 storey dwelling with an elevated ground floor level, a first floor level and a lower ground floor level. As the views from the subject balconies could only be obtained across the boundaries of five properties, this is considered to be difficult to protect. Furthermore, as the ground and first floor balconies are subject to conditions that requires privacy screens to be located on the northern and southern sides of the rear balconies, restricting the views towards the east, it is considered that that the proposal will not unsatisfactory impact the views to No. 33 Emma Street (see diagram below).



Figure X – Aerial photo depicting sightline from the first floor balcony of 33 Emma Street.

No 19 John Street

The property at No. 19 John Street is located a significant distance (approximately 98 metres) to the south of the proposed site. As per the photo below, there are no significant views that would be impacted from the front of the property.



Figure Y – View from 19 John Street

No 46 Hill Street

The property at No. 46 Hill Street is located a significant distance (approximately 145 metres) to the west of the site, and as the subject property is single storey, the only views that could be impacted are views from the front of the property. As per the photo below, there are no significant views that would be impacted.



Figure Z – View from 46 Hill Street

Impacts to the public domain

At the junction of Emma and Hill Streets, there are views to the City Skyline, the Centre Point Tower and the ANZAC and Harbour Bridges. The proposal in its current form is likely to result in a loss of these views.



Figure AA – View from the junction of Hill and Emma Street.



Figure AB – View from the junction of Hill and Emma Street.

Assessment

The proposal in its current form will result in the loss of views to the city skyline and landmarks such as the ANZAC Bridge and the Harbour Bridge.

As outlined in C3.10, generally it is more difficult to protect views across side and rear boundaries, therefore the properties that are considered to be most impacted would be the properties directly to the south of the proposed site and sites that have views that is not across the boundaries of other sites (i.e. 38 Emma Street, 40 Emma Street, 45 Emma Street, 36 Hill Street and the residential units at 38-40 Johnson Street).

The views from 33 Emma Street and 43 Emma Street relies on views across boundaries, the views from 32 Emma Street are distant and partial views and therefore these impacts are not considered significantly enough that would warrant the proposal to be refused. Similarly, while city skyline and landmark views are available from the street and footpath at the junction of Hill and Emma Streets, unlike a park or a recreational facility, this is an area for transit (pedestrian and vehicular) purposes only, and therefore, it would not be reasonable to refuse the proposal based on these impacts. However, the proposal in its current form will be recommended for refusal due to impacts on the other properties.

As discussed in earlier sections of the report, while the proposal complies with the Floor Space Ratio Development Standard, the proposal in its current form does not comply with the DCP wall height of 6 metres that is specified under the desired future character controls under C2.2.3.3 Piperston Distinctive Neighbourhood.

In this regard, while the middle building that fronts Hill Street is considered to generally comply with the building form that the 6 metre height would ordinarily generate (factoring in the topography of the site), the proposed building on the western part of the site and the building located to the east that has frontages to John Street and Hill Street is considerably higher than the 6 metre wall height and is out of character with the existing surrounding development.

To address potential view loss issues, any future Development Application should reduce the heights of the proposed buildings located on the eastern and western side of the site. The building located on the western side of the site should be reduced to have a maximum

ridge height below the ridge height of 21 Hill Street and the building located on the eastern side should have a maximum wall height that is similar to the maximum ridge height of the existing building currently on site.

Therefore, it is considered that the proposal in its current form is not satisfactory as the design does not minimise the view loss impacts and there are alternative, more skilful and sympathetic designs that could improve view sharing between neighbours. As such, the proposal fails to satisfy the *Tenacity* Planning Principle and Council's DCP and is accordingly recommended for refusal.

There is also insufficient information provided that would sufficiently conclude that the proposed building located on the northern boundary that has a higher maximum height (i.e. E15 and E16) will not impact the view of the ANZAC and Harbour Bridge from 40 Emma Street. Therefore the proposal in its current form is not considered to achieve compliance with this part and this is included as a reason for refusal.

C4.5 Interface Amenity and C4.10 Industrial Development

The subject site adjoins industrial uses to the west and the north. The properties across the street to the west are zoned industrial but are small lots which have long been occupied by dwellings. The properties across the street to the south are zoned R1 General Residential. The following controls under C4.5 are applicable and require further discussion:

Solar Access

The subject site and the surrounding lots that may be impacted has an east-west orientation. Therefore, the most impacted property in terms of solar access are the following solar access controls under C3.9 apply to the proposal in relation to impacts to glazing on the surrounding sites:

- *C12 Where the surrounding allotments are orientated east/west, main living room glazing must maintain a minimum of two hours solar access between 9am and 3pm during the winter solstice.*

In addition, C3.9 also requires protection of solar access to private open spaces of adjoining properties. The subject site has an east-west orientation, and therefore, the following solar access controls apply to the proposal in relation to solar access to private open spaces of affected properties:

- *C18 Where surrounding dwellings have east/west facing private open space, ensure solar access is retained for two and a half hours between 9am and 3pm to 50% of the total area (adjacent to living room) during the winter solstice.*
- *C19 – Where surrounding dwellings currently receive less than the required amount of solar access to their private open space between 9am and 3pm to during the winter solstice, no further reduction of solar access is permitted.*

Additional shadow diagrams at hourly increments in plan and elevation were requested and provided as additional information.

The residential properties to the south that can potentially impacted in this regard will be the residential units at 38-40 John Street, 45 Emma Street and 42 Emma Street. The shadow diagrams in elevation indicate that 2 hours of access will be retained to the living rooms of the residential units at 38-40 John Street, solar access will be retained to two of the rear windows on the northern elevation of 45 Emma Street. The northern windows on 42 Emma Street are overshadowed by its existing awning and the proposed will not have significant additional impacts to these windows.

The shadow diagrams in plan indicates that given the orientation and location of the surrounding properties, the proposal will not result in any additional overshadowing to private open spaces as the proposed shadows will either be casted on existing building structures or within existing shadows.

In regards to impacts to the solar panels, the following controls apply:

C7 The use, location and placement of solar collectors is to take into account the potential permissible building form on adjacent properties.

C8 Proposals for new development are to maintain solar access to existing solar collectors having regard to performance, efficiency, economic viability and reasonableness of their location. A development proposal may be required to be modified to protect solar access to existing solar collectors, where the development doesn't comply with the suite of controls in this Development Control Plan.

The shadows in elevation provided indicates that the shadows will be cast onto the northern walls of the southern-adjoining properties rather than their roofs, and therefore, the proposed shadows will not impact the solar panels that are installed on the roof of the properties located to the south of the proposed buildings.

Air pollution and Light spill

In the event that the development were approved, standard conditions could be imposed to ensure the development does not cause hazard or nuisance from air pollution and light spill for adjoining residential uses. It is also noted that if the application were to be supported, there will be requirements for obscured glazing or external louvres to address potential visual privacy issues, which may also assist in reducing light spill impacts.

Views

Refer to an earlier section of the report for a more detailed assessment on view loss impacts.

Privacy

A number of proposed windows will result in sightlines into the windows or private open spaces of the adjoining residential properties. If the application was to be supported, conditions should be recommended that requires the sightlines of the windows associated with H1, H2, H3, H4, H5, E1, E11, E12, E13 and E14 to be restricted by the installation of either obscured glazing or external louvres up 1.6 metres from the internal floor level.

Noise Generation and Hours of Operation

The amended design had removed the self-storage facility that was originally proposed.

The proposal incorporates the following hours of operation:

- Takeaway food and drink premises and tenancies with access from Hill Street:
 - Monday to Friday: 8:00am to 6:00pm
 - Saturday: 8:00am to 2:00pm; and
 - Sundays and public holidays: no trading.
- Tenancies with access from John Street:
 - Monday to Sunday: 7:00am to 10:00pm; and
 - Public holidays: 7:00am to 10:00pm.

The proposed hours exceed the hours of operation under C20 of C4.10 Industrial Development. Notwithstanding, the applicant had provided an Acoustic Report in support of

the proposal. The hours of operation could be acceptable subject to the recommendations in the acoustic report and a 12 month trial period of the proposed hours of operation.

5(d) The Likely Impacts

The development is likely to result in unacceptable impacts in terms of:

- Contamination
- Traffic management
- A lack of certainty that permissible uses will occupy the proposed office premises
- View loss and
- Interface/ amenity impacts to the surrounding residential development

Therefore the application is recommended for refusal.

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

The application has not satisfactorily demonstrated that contamination issues have been addressed or that permissible uses will occupy the proposed buildings. The proposed use of the site will generate unacceptable impacts to the local traffic network, view loss and amenity impacts to neighbours.

Therefore the site is not suitable for the proposal in its current form.

5(f) Any submissions

The application was notified in accordance with Leichhardt Development Control Plan 2013 over two periods of 14 days to surrounding properties. 49 Objections and one letter of support were received during the first notification period and 24 objections were received during the second notification period.

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

- Issues in relation to Creative use premises – see Section 5(a) – Clause 6.9 - Business and office premises in Zone IN2
- Issues in relation to Floor Space Ratio – see Section 5(a) – Clause 4.4 – Floor Space Ratio
- Issues in relation to car parking and safety – see Section 5(c) - C1.9 Safety by Design and C1.11 Parking
- Issues in relation to Changing the character of the area/Height, Bulk and Scale – see Section 5(c) - C2.2.3.3 Piperston Distinctive Neighbourhood and C2.2.3.3(b) Industrial Sub Area
- Issues in relation to view loss – see Section 5(c) – C3.10 – View Loss
- Issues in relation solar access – see Section 5(c) - C4.5 Interface Amenity and C4.10 Industrial Development
- Issues in relation visual privacy – see Section 5(c) - C4.5 Interface Amenity and C4.10 Industrial Development
- Issues in relation Noise/Hours of Operation – see Section 5(c) - C4.5 Interface Amenity and C4.10 Industrial Development

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

Health and Safety – Asbestos

Comment: The proposal is not supported for reasons outlined elsewhere in the report. If the application were to be approved, Council's standard condition/ advisory note can be included in the Notice of Determination in relation to demolition and asbestos removal.

Plans to install solar panels have now been put under threat

Comment: While impacts to hypothetical developments cannot be considered, the proposal in its current form is unlikely to impact on the instalment of solar panels on the roof of 38-40 John Street. In any event, the proposal is recommended for refusal for other reasons outlined in the report.

Access to green space

Comment: Issues in relation to safety and traffic is discussed in an earlier section of the report.

Toilet ventilation should not be on the side of residences and should be moved as far away as possible

Comment: The proposed site does not directly adjoin residential premises where the roadway (John Street and Emma Street) creates a separation and the location of the toilet ventilation is considered to be satisfactory.

Impacts to No. 21 Hill Street

Comment: The property at No. 21 Hill Street is an industrial building where the openings on its eastern elevation are located on the shared boundaries. Additional information was provided on the amended drawings which demonstrates that the proposed building on the western side will be setback at least 1.6 metres to the shared boundary. This creates a light well/corridor which is considered to provide acceptable amenity to this industrial premise. However, the proposal is not supported for reasons outlined elsewhere in this report.

Impacts to No. 46 Hill Street in relation to solar access and view loss

Comment: No.46 Hill Street is located approximately 145 metres away from the western boundary of the development site. Due to its location, it would not be impacted in regards to solar access and there are only limited partial views of the sightlines across boundaries. In any event, the proposal is not supported due to amenity impacts to other properties.

Impacts to No. 19 John Street in relation to solar access and view loss

Comment: No.19 Hill Street is located approximately 98 metres away from the eastern boundary of the proposed site. Due to its location, it would not be impacted in regards to solar access, and there are only limited partial views of the sightlines across boundaries. However, the proposal is not supported due to amenity impacts to other properties.

Impact to value of property

Comment: There are a large number of variables that could impact the actual value of property and is not considered a valid planning consideration to refuse a proposal. Notwithstanding, the proposal is recommended for refusal for other reasons which are generally understood to contribute to property value (traffic, amenity, design etc).

Loss of Prevailing Winds

Comment: While the proposed heights of the eastern and western buildings are not supported for reasons outlined elsewhere in the report, the proposed heights are not to the extent that would significantly impact the prevailing winds.

Materials and finishes

Comment: While it is in vicinity of heritage item, the subject site is not located within in a heritage conservation area and is located within an Industrial. The proposed materials, which consist of in-situ concrete, metal balustrades, infill solid panels and aluminium window fenestrations are acceptable materials to be used in a modern, industrial complex and is

considered to be satisfactory. However, the application is recommended for refusal for other reasons outlined in the report.

Waste and Dumped Rubbish

Comment: If the application were to be approved, conditions could be recommended to address the waste facilities. However, the application is recommended for refusal for matters outlined elsewhere in the report.

Local strategic planning policies

Comment: The subject site is located within the IN2 Light Industrial zoning, and therefore, the application should achieve the aims and objectives for this zoning. As discussed in earlier sections of the report, the proposal in its current form has adverse impacts in relation to traffic movements and view loss amenity impacts to the surrounding residential uses and therefore is considered to be inconsistent with the objective "To minimise any adverse effect of industry on other land uses".

View Loss impact to 36 Emma Street

Comment: In the process of attempting to arrange a site inspection, it was confirmed in an e-mail from the objector dated 25 September 2019 that the objector no longer resides at the premise.

I wholly support the transformation of the currently dilapidated and mis-used auction house into a modern, mixed use light industrial facility. Anything, really, would be better than the existing activity at the site, which consists of hundreds of extra cars (parked illegally, speeding, generally creating pedestrian hazards) parking in surrounding streets six days a week. I would welcome a facility that by all accounts, looks like it will reduce the number of vehicles in the area, particularly visiting vehicles, and provide adequate off-street parking for its business operations.

Comment: While a modern redevelopment may well be appropriate, the proposal in its current form is not supported for reasons outlined elsewhere of the report.

Council should not approve the proposal because of accumulating Impacts from Westconnex construction works

Comment: This is not a valid reason that would warrant the refusal of a proposal, however, the proposal is not supported for reasons outlined elsewhere in the report.

5(g) 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 development does not adequately address contamination issues and issues in relation to ensuring permissible uses will occupy the proposed office premises. The development will result in impacts to traffic, view loss and interface/ amenity impacts to the surrounding residential developments. Approval of the proposal would therefore be contrary to the public interest.

6 Referrals

6(a) Internal

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

- Engineers – Issues raised are not adequately resolved.
- Landscape Assessment – No objections subject to conditions.
- Health Compliance – Issues raised are not adequately resolved.
- Community – Issues raised are not adequately resolved.

6(b) External

The application was referred to Ausgrid, who provided conditions to be included in any consent.

7. Section 7.11 Contributions/7.12 Levy

Section 7.11 contributions are payable for the proposal.

The carrying out of the development would result in an increased demand for public amenities and public services within the area. A contribution of **\$12,696.09** would be required for the development under Leichhardt 94 Contributions Plan.

Contribution Plan	Contribution
Community Facilities	\$4,095.00
Open Space	\$7,981.57
Local Area Traffic Management	\$619.53
Total	\$12,696.09

However, the proposal is not supported and is recommended to be refused.

8. Conclusion

On balance, the proposal is not considered to be consistent with the aims, objectives and design parameters contained in Leichhardt Local Environmental Plan 2013 and Leichhardt Development Control Plan 2013.

The development does not adequately address site contamination and does not make adequate provision to ensure that permissible uses will occupy the proposed office premises. The development will result in unacceptable impacts to the local traffic network, does not adequately satisfy the *Tenacity* view loss principle, and will result in interface amenity impacts to the surrounding residential developments.

The approval of the application would not be in the public interest and in view of the circumstances, refusal of the application is recommended.

9. Recommendation

That the Inner West Planning Panel, as the consent authority pursuant to s4.16 of the Environmental Planning and Assessment Act 1979, refuse the Development Application No. D/2018/657 for demolition of existing structures, construction and strata subdivision of mixed use development comprising 15 x light industrial units, 1 x take away food and drink premises, 16 x business/office premises for creative purposes, parking and loading facilities at 42-48 John Street Leichhardt for the following reasons.

1. The proposed development is inconsistent with, and has not demonstrated compliance with the following provisions of Leichhardt Local Environmental Plan 2013, pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979:
 - a) Clause 1.2 – Aims of the Plan;
 - b) Clause 2.3 – Zone objectives and Land Use Table
 - c) Clause 6.9 – Business and office premises in Zone IN2
2. The application has not demonstrated that the site is suitable for the development having regard to the requirements of Clause 7 of State Environmental Planning Policy No. 55 – Remediation of Land.
3. The proposed development is inconsistent with, and has not demonstrated compliance with the following provisions of Leichhardt Development Control Plan 2013, pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979:
 - a) Clause C1.11 Car Parking
 - b) Clause C2.2.3.3 Piperston Distinctive Neighbourhood and C2.2.3.3(b) Industrial Sub Area
 - c) Clause C3.10 View Loss
 - d) Clause C4.5 Interface Amenity
4. The design of the proposal results in view loss impacts to neighbouring properties which are significant, result from non-compliances in the proposed building envelope, and could have been resolved by a more skilful design. As such the application fails to adequately satisfy the tests for view sharing set out in the *Tenacity* Planning Principle.
5. The adverse environmental impacts of the proposal mean that the site is not considered to be suitable for the development in the form proposed, pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979.
6. Approval of the application is considered contrary to the public interest, pursuant to Section 4.15(1)(d) and (e) of the Environmental Planning and Assessment Act 1979.

Attachment A –Conditions of consent (in the event that the Application is approved against Council’s recommendation)

Conditions of Consent

Fees

1. Section 7.11 (Former Section 94) Contribution

Prior to the issue of a Construction Certificate works written evidence must be provided to the Certifying Authority that a monetary contribution of \$12,696.09 in accordance with Developer Contributions Plan No.1 – Open Space and Recreation; 'Developer Contributions Plan No.2 – Community Facilities and Services (2005); and Leichhardt Developer Contributions Plan – Transport and Access has been paid to the Council.

The above contribution is the contribution applicable as at 13 November 2019.

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:

Contribution Plan	Contribution
Community Facilities	\$4,095.00
Open Space	\$7,981.57
Local Area Traffic Management	\$619.53
Total	\$12,696.09

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

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

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 0.75% credit card transaction fee applies to all credit card transactions.

2. Long Service Levy

Prior to the issue of a Construction Certificate, written evidence must be provided to the Certifying Authority that the long service levy in accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986* has been paid at the prescribed rate of 0.35% of the total cost of the work to either the Long Service Payments Corporation or Council for any work costing \$25,000 or more.

3. Security Deposit - Standard

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

Security Deposit:	\$82,000
Inspection Fee:	\$230.65

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

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

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

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

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

General Conditions

4. Documents related to the consent

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

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by
000DA, Revision B	Location Plan and Drawing Register	16/9/19	McGregor Westlake Architecture
010DA, Revision B	Site Plan - Demolition / Analysis	16/9/19	McGregor Westlake Architecture
100DA, Revision B	Floor Plans - Uses	16/9/19	McGregor Westlake Architecture
101DA, Revision B	GROUND FLOOR - John St Level	16/9/19	McGregor Westlake Architecture
102DA, Revision B	LEVEL 1- Hill St Level	16/9/19	McGregor Westlake Architecture
103DA, Revision B	LEVEL 2- Emma St Level	16/9/19	McGregor Westlake Architecture
104DA, Revision B	LEVEL 3- Emma St Mezz	16/9/19	McGregor Westlake Architecture
105DA, Revision B	Roof	16/9/19	McGregor Westlake Architecture
200DA, Revision B	Sections	16/9/19	McGregor Westlake Architecture
201DA, Revision B	Section	16/9/19	McGregor Westlake Architecture
300DA, Revision B	Elevations	16/9/19	McGregor Westlake Architecture
301DA, Revision B	Elevations	16/9/19	McGregor Westlake Architecture
400DA, Revision B	Materials and Finishes	16/9/19	McGregor Westlake Architecture
702DA, Revision B	Draft Strata sub	16/9/19	McGregor Westlake Architecture

	Division Plan		Architecture
710DA, Revision B	Hill Street Heights Diagram	16/9/19	McGregor Westlake Architecture
Document No.	Document Name	Date Issued	Prepared by
Rev. D	STORMWATER SERVICES GROUND FLOOR PLAN	07.06.19	ADCAR CONSULTING
R.003.Rev2	Rock Face Stability Inspection	6 December 2018	Douglas Partners Pty Ltd
86169.05.R.003.Rev0	Rock Face Support Certification	26 June 2019	Douglas Partners Pty Ltd
WMP-R00	Amended site waste minimisation and waste plan	04 September 2019	Unknown
REPORT 2018/357 R1.3	FIRE SAFETY STRATEGY REPORT	03/12/2018	Stephen Grubits & Associates Pty Ltd
Audit No: MP118	Interim Audit Advice - Review of Investigation and Unexpected Find Protocol	9 July 2018	Senversa
Project 86169.00	Report on Due Diligence Contamination Investigation	March 2018	Douglas Partners Pty Ltd
	Mixed Use Development - Operational Plan of Management	December 2018	SJB Planning
Revision 3 20181553.1/1511A/R3/WY	DA Acoustic Assessment	15/11/2018	Acoustic Logic

As amended by the conditions of consent.

5. Design Change

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

- a) The plans to be amended to clearly annotate the business premises as Creative Use business premises.
- b) The pedestrian gate adjacent the Emma Street entrance shall be narrowed to a maximum 1.5m so as not to encourage loading and unloading from Hill Street in this area.

6. Dry-weather Flows

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

7. Dry-weather Flows

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

8. Privacy

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans indicating windows associated with H1, H2, H3, H4, H5, E1, E11, E12, E13 and E14 being amended in the following manner:

- a) Fixed and obscure glazing to a minimum level of 1.6 metres above the floor level; or
- b) Suitable externally fixed screening with a minimum block out density of 75% to a level of 1.6 metres above the floor level;

Note: The louvers are to individual opening more than 30mm wide and a total area of opening that is less than 30% of the surface area of the screen and made of durable materials. Louvered screens must be securely fitted and may be able to be tilted open from a closed position to an angle of 45 degrees in a downward or upward position.

9. Car Parking

The development must provide and maintain within the site:

- a) 26 car parking spaces must be paved and line marked.
- b) 2 car parking spaces, for persons with a disability must be provided and marked as disabled car parking spaces.
- c) 2 visitor car parking spaces must be provided and marked as visitor car parking spaces. A sign legible from the street must be permanently displayed to indicate that visitor parking is available on site.
- d) 10 off-street motorcycle parking spaces must be provided, paved, line marked and maintained at all times.
- e) 32 Bicycle storage capacity within the site.

10. Waste Management Plan

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

11. Erosion and Sediment Control

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

12. Standard Street Tree Protection

Prior to the commencement of any work, the Certifying Authority must be provided with details of the methods of protection of all street trees adjacent to the site during demolition and construction.

13. Verification of Levels and Location

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

14. Works Outside the Property Boundary

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

15. Boundary Alignment Levels

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

16. Ausgrid conditions - Proximity to Existing Network Assets**Overhead Powerlines**

There are existing overhead electricity network assets in Hill St.

Safework NSW Document - Work Near Overhead Powerlines: Code of Practice, outlines the minimum safety separation requirements between these mains/poles to structures within the development throughout the construction process. It is a statutory requirement that these distances be maintained throughout construction. Special consideration should be given to the positioning and operating of cranes and the location of any scaffolding.

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

Should the existing overhead mains require relocating due to the minimum safety clearances being compromised in either of the above scenarios, this relocation work is generally at the developers cost.

It is also the responsibility of the developer to ensure that the existing overhead mains have sufficient clearance from all types of vehicles that are expected be entering and leaving the site.

Underground Cables

There are existing underground electricity network assets in Hill St and John St. Special care should also be taken to ensure that driveways and any other construction activities within the

footpath area do not interfere with the existing cables in the footpath. Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed. Hence it is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area.

Safework Australia - Excavation Code of Practice, and Ausgrid's Network Standard NS156 outlines the minimum requirements for working around Ausgrid's underground cables.

Substation

There are existing electricity substation assets Next to Proposed Development.

The substation ventilation openings, including substation duct openings and louvered panels, must be separated from building air intake and exhaust openings, natural ventilation openings and boundaries of adjacent allotments, by separation distances which meet the requirements of all relevant authorities, building regulations, BCA and Australian Standards

including AS 1668.2: The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings.

In addition to above, Ausgrid requires the substation ventilation openings, including duct openings and louvered panels, to be separated from building ventilation system air intake and exhaust openings, including those on buildings on adjacent allotments, by not less than 6 metres.

Exterior parts of buildings within 3 metres in any direction from substation ventilation openings, including duct openings and louvered panels, must have a fire rating level (FRL) of not less than 180/180/180 where the substation contains oil-filled equipment, or 120/120/120 where there is no oil filled equipment and be constructed of non-combustible material.

The development must comply with both the Reference Levels and the precautionary requirements of the ICNIRP Guidelines for Limiting Exposure to Time-varying Electric and Magnetic Fields (1 HZ - 100 KHZ) (ICNIRP 2010).

For further details on fire segregation requirements refer to Ausgrid's Network Standard 113. Existing Ausgrid easements, leases and/or right of ways must be maintained at all times to ensure 24 hour access. No temporary or permanent alterations to this property tenure can occur without written approval from Ausgrid. For further details refer to Ausgrid's Network Standard 143.

Prior to any Demolition

17. Dilapidation Report

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

18. Advising Neighbors Prior to Excavation

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

19. Construction Fencing

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

20. Hoardings

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

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

sufficient to prevent any substance from, or in connection with, the work falling onto public property.

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

21. Construction Traffic Management Plan – Detailed

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

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

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

- s) How it is proposed to ensure that soil/excavated material is not transported onto surrounding footpaths and roadways.
- t) Swept Paths for the proposed construction vehicles to demonstrate that the needed manoeuvres can be achieved without causing any nuisance.

Prior to Construction Certificate

22. Enclosure of Fire Hydrant

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

23. Stormwater Drainage System – Major Developments

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with stormwater drainage design plans incorporating on site stormwater detention and Stormwater Quality Improvement Devices (SQIDS), certified by a suitably qualified Civil Engineer with Chartered Engineer of Institution of Engineers Australia (CPEng) or Registered Professional Engineer of Professionals Australia (RPEng) qualifications that the design of the site drainage system complies with the following specific requirements:

- a) All stormwater drainage being designed in accordance with the provisions of the Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2018 'Stormwater Drainage' and Council's DCP.
- b) No pumps or charged systems (including roof drainage) must be included in the design.
- c) Stormwater runoff from all roof and paved areas within the property must be collected in a system of gutters, pits and pipelines and be discharged together with overflow pipelines from any rainwater tank(s) by gravity to the kerb and gutter of a public road or directly into Council's piped drainage system.
- d) The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. The design must include the collection of such waters and discharge to the Council drainage system.
- e) Plans must specify that any components of the existing system to be retained must be certified during construction to be in good condition and of adequate capacity to convey the additional runoff generated by the development and be replaced or upgraded if required.
- f) An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets.
- g) All redundant pipelines within the footpath area must be removed and footpath/kerb reinstated.
- h) Details of the 1 in 100-year ARI overflow route in case of failure/blockage of the drainage system must be provided; this must include any existing overland flow routes from upstream;
- i) Construction details for the proposed new kerb inlet pit and Council stormwater pipe to be installed. Details must include a long section of the pipe detailing all utility services, bedding and road restoration detail;
- j) A detailed WSUD maintenance plan outlining how all elements of the water quality treatment facility will be maintained and to record annual inspections/maintenance works to be undertaken; and
- k) Dry-weather flows of any seepage water including seepage from landscaped areas will not be permitted through kerb outlets and must be connected directly to a Council stormwater system.
- l) The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system.

- m) Water quality filtration basket(s) with screening bag or similar primary treatment device(s) must be installed on the site stormwater drainage system such that all water entering the site stormwater drainage system is filtered by the device(s).
- n) Stormwater quality improvement devices must be installed such that stormwater flows leaving the site meet the following environmental targets:

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

24. Structural Certificate for retained elements of the building

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with an integrated structural and geotechnical report including structural plans that address the stability of the cliff face/rock outcrop adjacent to the proposed development. The report and plans must be prepared/amended to make provision for the following:

- a) Provide an assessment on the stability of the existing cliff face and detail the methods (including detailed drawings, sections and specifications) and provide recommendations for the necessary works required to stabilise the cliff face and monitoring of the cliff face during construction.
- b) Include detailed drawings, sections and specifications for all proposed site excavations and other site earthworks adjacent to the cliff face. Also to be included is an appropriate 'method statement' and an overall site management plan regarding the method of excavation and construction, vibration emissions and identifying risks to existing structures or those on adjoining or nearby property including the road reserve.
- c) If the geotechnical report recommends that any anchors (including rock bolts, passive dowels or the like) be installed within the ground underneath any adjoining properties the written permission of the owners of such properties must be obtained. This requirement applies to any form of temporary or permanent anchor, as well as any anchors contemplated under the road reserve.
- d) Any existing or proposed retaining walls that provide support to the road reserve must be adequate to withstand the loadings that could be reasonably expected from within the constructed road and footpath area, including normal traffic and heavy construction and earth moving equipment, based on a design life of not less than 50 years.
- e) All components of the building, including footings, must be located entirely within the property boundary.
- f) No adverse impact on surrounding properties including Council's footpath and road.
- g) The existing subsurface flow regime in the vicinity of the development must not be significantly altered as a result of the development.

- h) Provide relevant geotechnical/ subsurface conditions of the site, as determined by a full geotechnical investigation.

25. Facilities – Major (including basement)

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans certified by a suitably experienced Traffic Engineer demonstrating that the design of the vehicular access, off-street parking facilities and associated vehicle standing areas comply with Australian Standard AS/NZS 2890.1-2004 Parking Facilities: Off-street car parking, Australian Standard AS 2890.2-2018 Parking Facilities: Commercial vehicle facilities, AS/NZS 2890.6-2009 Parking facilities: Off-street parking for people with disabilities and the following specific requirements:

- a) The longitudinal profile across the width of the vehicle crossing, vehicular access and any ramps within the parking facilities must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004 and AS 2890.2-2018 for a B99 design vehicle and the largest heavy vehicle to access the site.
- b) Minimum headroom of 2200mm must be provided throughout the access and parking facilities. Minimum headroom of 2500mm must be provided above any disabled parking space(s). Minimum headroom of 3500mm and 4500mm must be provided throughout the path of travel for SRV and MRV respectively.
- c) The headroom must be measured at the lowest projection from the ceiling, such as lighting fixtures, and to open garage doors. Headroom at a 'sag' type grade change must be measured in accordance with Figure 5.3 of AS/NZS 2890.1-2004.
- d) Longitudinal sections along each outer edge of the vehicular access and parking facilities and throughout the path of travel of heavy vehicles.
- e) The layout and minimum dimensions of any standing area comply with clause 2.4 of AS/NZS 2890.1-2004 such that:
 - i. Car spaces and aisles adjacent to walls or fences are increased in width by an additional 300mm;
 - ii. End spaces are provided with an additional 1m aisle extension; and
 - iii. The location of columns within the carpark complies with figure 5.1 of AS/NZS 2890.1-2004;
- f) The vehicular accesses to the site must be amended to provide clear sight lines to both pedestrians and vehicles in accordance with the requirements of AS/NZS 2890.1-2004.
- g) Any changes to the existing parking restriction in John Street must obtain the approval of the Local Traffic Committee.
- h) All loading docks and parking bays are designed in accordance with the requirements of AS2890.2 – 2002 and so that all vehicular movements to and from the proposed development are in a forward direction.

26. Public Domain Works – Prior to Construction Certificate

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a public domain works design, prepared by a qualified practising Civil Engineer and evidence that the works on the Road Reserve have been approved by Council under Section 138 of the *Roads Act 1993* incorporating the following requirements:

- a) The public domain along all frontages of the site inclusive of footpath paving, kerb, must be reconstructed and upgraded in accordance with the Street Tree Master plan and the Public Domain Design Guide or scheme;
- b) The construction of heavy duty vehicular crossings to all vehicular access locations and removal of all redundant vehicular crossings to the site;

- c) New footpath and kerb and gutter along the all frontages of the site. The kerb type (concrete or stone) must be consistent with the majority of kerb type at this location as determine by the Council Engineer.
- d) The existing unsatisfactory road pavement in Hill Street shall be repaired using a 40mm Mill and Fill treatment for half the road width for the full frontage of the site. Any failed section shall be boxed out and replaced with deeplift asphalt before the Mill and fill Treatment.
- e) Cross sections are to be provided at the boundary at a minimum distance of every 5m and at all pedestrian and vehicular access locations. Note, the cross fall of the footpath must be set at 2.5%. These sections will set the alignment levels at the boundary.
- f) Direct connection to Council's stormwater drainage system via a kerb inlet pit (minimum 3m lintel) installed adjacent to the site.

27. Sydney Water – Tap In

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

Note: Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm> for details on the process or telephone 132092.

28. Acoustic Report – Aircraft Noise

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans detailing the recommendations of an acoustic report prepared by a suitably qualified Acoustic Engineer demonstrating compliance of the development with the relevant provisions of Australian Standard AS 2021:2015 Acoustics – Aircraft noise intrusion – Building siting and construction.

29. Future Food Use - Mechanical Ventilation Provision

Prior to the issue of a Construction Certificate, the mechanical exhaust systems and/or shafts must be designed to allow for the discharge of effluent air above roof level and must be designed with capacity to accommodate exhaust ducts and mechanical ventilation systems for all commercial tenancies proposed with the potential to become a food premises in future. Systems must be designed in accordance with AS1668.2 – The Use of Ventilation and Air-conditioning in Buildings – Mechanical Ventilation in Buildings, and AS1668.1 – The Use of Mechanical Ventilation and Air-Conditioning in Buildings – Fire and Smoke Control in Multi-compartment Buildings.

30. Food Premises – Additional Sinks and Hand Wash Basins

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended scale plans confirming the position of all sinks and hand wash basins within the food premises in accordance with Australian Standard AS 4674 – 2004 (Design, construction and fit-out of food premises) and Australia and New Zealand Food Standards Code.

31. Food Premises – Odour Emission Control

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with details demonstrating that emission control equipment has been provided in the mechanical exhaust system that effectively minimises the emission of odours, vapours and oils.

32. Noise General – Acoustic Report

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with an acoustic report demonstrating that noise and vibration from the operation of the premises

will satisfy the relevant provisions of the *Protection of the Environment Operations Act 1997* and Regulations and relevant state and local policies and guidelines. The acoustic report is to be prepared by a suitably qualified and experienced acoustic consultant and any recommendations must be consistent with the approved plans.

33. Aircraft Noise – Acoustic Report (ANEF20-25 or Greater)

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with an acoustic report that meets the relevant provisions of Australian Standard AS 2021:2000 Acoustics – Aircraft noise intrusion – Building siting and construction. The recommendations of the report are to be indicated on the architectural plans and / or specifications.

34. Light Spill

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with details demonstrating that any lighting of the premises complies with Australian Standard AS4282:1992: Control of Obtrusive Effects of Outdoor Lighting

During Demolition and Construction

35. Construction Hours – Class 2-9

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

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

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

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

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

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

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

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

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

36. Stormwater Drainage System

Stormwater runoff from all roof and paved areas within the property must be collected in a system of gutters, down pipe, pits and pipelines discharged by gravity to the kerb and gutter of a public road.

Any existing component of the stormwater system that is to be retained, including any absorption trench or rubble pit drainage system, must be checked and certified by a Licensed Plumber or qualified practising Civil Engineer to be in good condition and operating satisfactorily.

If any component of the existing system is not in good condition and /or not operating satisfactorily and/or impacted by the works and/or legal rights for drainage do not exist, the drainage system must be upgraded to discharge legally by gravity to the kerb and gutter of a public road. Minor roof or paved areas that cannot reasonably be drained by gravity to a public road may be disposed on site subject to ensuring no concentration of flows or nuisance to other properties.

37. Survey Prior to Footings

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

Prior to Occupation Certificate**38. Aircraft Noise**

Prior to the issue of any Occupation Certificate, the Principal Certifier must be provided with a report prepared and submitted by an accredited Acoustics Consultant certifying that the final construction meets AS2021-2015 with regard to the noise attenuation measures referred to in the "Prior to the Issue of a Construction Certificate" Section of this Determination. Such report must include external and internal noise levels to ensure that the external noise levels during the test are representative of the typical maximum levels that may occur at this development.

Where it is found that internal noise levels are greater than the required dB(A) rating due to faulty workmanship or the like, necessary corrective measures must be carried out and a further certificate being prepared and submitted to the Principal Certifier in accordance with this condition.

39. Smoke Alarms - Certification of upgrade to NCC requirements

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

40. Section 73 Certificate

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

41. No Encroachments

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

42. Protect Sandstone Kerb

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any damaged stone kerb has been replaced.

43. Heavy Duty Vehicle Crossing

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

44. Redundant Vehicle Crossing

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

45. Parking Signoff – Major Development

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with certification from a qualified practising Civil Engineer that the vehicle access and off street parking facilities have been constructed in accordance with the development consent and relevant Australian Standards and the following has been implemented within the property.

- a) The car park has been completed, line marked and all signage relating to car parking erected.
- b) Sign(s) have been erected that clearly indicate(s) to the drivers of vehicles both on and off the property which driveway they are to use to enter or leave the subject land.
- c) Sign(s) have been erected that clearly indicate to the drivers of vehicles both on and off the property the location and means of access to the car parking area(s).

46. Noise – Acoustic Report

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

47. Contamination – Disposal of Soil

Prior to the issue of an Occupation Certificate, the Certifying Authority must be provided with a validation report confirming that all off site disposal of soil has been classified, removed and disposed of in accordance with the NSW DECC Waste Classification Guidelines, Part 1: Classifying Waste (July 2009) and the Protection of the Environmental Operations Act 1997.

48. Non-combustible Cladding – Class 2-9 Buildings

Prior to the issue of an Occupation Certificate the Principal Certifier must be provided with suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the relevant requirements of the National Construction Code (NCC).

49. Products Banned Under the Building Products (Safety) Act 2017

Prior to the issue of any Occupation Certificate, the Principal Certifier is to confirm that none of the building products used on the building are subject to a building product use ban under the *Building Products (Safety) Act 2017* or, if a product is only subject to a ban if used in a particular way that it is not used in any way contrary to the *Building Products (Safety) Act 2017*.

50. Public Domain Works – Major Developments

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

51. Dilapidation Report – Post-Development

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

52. Stormwater Drainage and Road Works – Certification

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

- a) All works required to be undertaken on public roads must be designed and constructed in accordance with Council's approved plans.
- b) Video inspection (CCTV) in accordance with WSA 05-2013 Conduit Inspection Reporting Code of Australia has been carried out of completed stormwater drainage works that are to revert to Council by an accredited operator.
- c) Full works-as-executed plans in PDF and CAD format (dwg or dxf files), prepared and signed by a Registered Surveyor have been submitted to Council.

53. Works as Executed – Site Stormwater Drainage System

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

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

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

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

- a) Restrictions on the Use of Land related to on Site Stormwater Detention System or stormwater quality improvement devices;
- b) Positive Covenant related to on-site stormwater detention and/or retention system;
- c) Positive Covenant related to stormwater quality improvement devices; and

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

Prior to Subdivision Certificate**55. Section 73 Certificate**

Prior to the issue of a Subdivision Certificate, the Certifying Authority must be provided with the Section 73 Certificate. A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water Corporation.

56. Strata Subdivision Plan

Prior to the release of a Strata Subdivision Plan, the Certifying Authority must be provided with plans indicating that the strata subdivision of the development has been carried out in accordance with approved plans and demonstrating that:

- a) Car spaces must not be given separate strata lot numbers.
- b) All visitor parking spaces and car wash bays are to be included in common property.

57. Strata Subdivision Plan to Show Easements and Right of Ways

Prior to the release of a Strata Subdivision Plan, the Certifying Authority must be provided with evidence that all instruments under Section 88B of the *Conveyancing Act 1919* used to create easements or right-of-ways are shown.

58. Release of Strata Plan

Prior to the release of a Subdivision Certificate, the Certifying Authority must be provided with a copy of the Final Occupation Certificate.

On-going

59. Trial Hours

- a) The hours of operation of the premises must not exceed the following:

Takeaway food and drink premises and tenancies with access from Hill Street:

Day	Hours
Monday to Friday	8:00am to 6:00pm
Saturday	8:00am to 2:00pm; and
Sundays and public holidays	No trading

Tenancies with access from John Street:

Day	Hours
Monday to Sunday	7:00am to 10:00pm
Public holidays	7:00am to 10:00pm.

- b) For a period of not more than 6 months from the issue of the Final Occupation Certificate for the development approved in this consent, the hours of operation of the premises must not exceed the following:

Takeaway food and drink premises and tenancies with access from Hill Street:

Day	Hours
Monday to Friday	9:00am to 6:00pm
Saturday	9:00am to 1:00pm; and
Sundays and public holidays	No trading

Tenancies with access from John Street:

Day	Hours
Monday to Friday	9:00am to 6:00pm
Saturday	9:00am to 1:00pm; and
Sundays and public holidays	No trading
Day	Hours
Monday to Friday	9:00am to 6:00pm
Saturday	9:00am to 1:00pm; and
Sundays and public holidays	No trading

- c) A continuation of the extended hours will require a further application under the *Environmental Planning and Assessment Act 1979*.

60. Use of Development

The premises shall not be used for any purpose other than that stated in the Development Application, i.e. -15 x light industrial, 16 x business/office premises for creative use purposes and 1 x take away food and drink premises without the prior consent of the Council unless the change to another use is permitted as exempt or complying development under *Leichhardt Local Environment Plan 2013* or *State Environmental Planning policy (Exempt and Complying Codes) 2008*.

61. Offensive noise

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

62. Recycling

The collection of waste and recycling must only occur between 7:00am and 8:00pm weekdays and 9:00am and 5:00pm weekends and public holidays, to avoid noise disruption on the surrounding area,
Garbage and recycling must not be placed on the street for collection more than one (1) hour before the scheduled collection time. Garbage bins and containers are to be removed from the street within one (1) hour after collection.

63. Operation and Management Plan

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

64. Vehicles Leaving the Site

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

65. Private waste collectors

All commercial waste, recyclable and other material collected by a private waste collector must have minimal impact on the surrounding properties.

The collection point must allow collection vehicles to stand safely, at a level gradient and not to obstruct or endanger the passage of pedestrians and other vehicles. All collection vehicles must be able to enter and exit the collection point in a forward motion.

66. Cleaning program

There must be a regular cleaning program in place to address any litter or other waste problems that may arise from the businesses on site.

50 Graffiti management

Any graffiti or tagging is to be removed within 72 hours of its application.

Advisory notes

Prescribed Conditions

This consent is subject to the prescribed conditions of consent within clause 98-98E of the *Environmental Planning and Assessment Regulations 2000*.

Notification of commencement of works

At least 7 days before any demolition work commences:

- a) the Council must be notified of the following particulars:
 - i. the name, address, telephone contact details and licence number of the person responsible for carrying out the work; and
 - ii. the date the work is due to commence and the expected completion date; and

- b) a written notice must be placed in the letter box of each directly adjoining property identified advising of the date the work is due to commence.

Storage of Materials on public property

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

Electrical Substations

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

Permits

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

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

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

Rock Anchors

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

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

Vehicular Crossings

The vehicular crossing and/or footpath works are required to be constructed by your contractor. You or your contractor must complete an application for 'Design of Vehicle

Crossing and Public Domain Works – Step 1' form and 'Construction of Vehicle Crossing and Public Domain Works – Step 2' form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, before commencement of works.

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

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

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

Easement and Covenant Process

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

- a) **Work-As-Executed Plans**

A "Work-as-Executed" plan prepared and signed by a Registered Surveyor must be submitted to the Council's Development Assessment Engineer at the completion of the works showing the location of the detention basin and SQIDS with finished surface levels, contours at 0.2-metre intervals and volume of storage available. Also, the outlet pipe from the detention basin to its connection to the Council's drainage system must be shown together with the following information: location; pipe diameter; gradient; pipe material, i.e. PVC or RCP etc.; pits sizes; orifice size; trash screen at orifice; emergency overflow dimensions and RL; all buildings (including floor levels) and finished ground and pavement surface levels and full details of SQIDS.
- b) **Engineer's Certificate**
 - i. A qualified practising Civil Engineer must certify on the completion of drainage works in respect of:
 - ii. the soundness of the storage structure;
 - iii. the capacity of the detention storage;
 - iv. the emergency overflow system being in place;
 - v. the works being constructed in accordance with the Development Application Consent and Council's Stormwater Management DCP/Code;
 - vi. the freeboard from maximum water surface level to the finished floor and garage levels are at or above the minimum required in Council's Stormwater Management DCP/Code;
 - vii. basement car park pumps are class one zone two;
 - viii. OSR pumps and SQIDS have been installed and commissioned.
- c) **Restriction-As-To-User**

A "Restriction-as-to-User" must be placed on the title of the subject property to indicate the location and dimensions of the detention area and stormwater quality improvement device(s) (SQIDS). This is to ensure that works, which could affect the function of the

stormwater detention system and SQIDS, must not be carried out without the prior consent in writing of the Council.

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

A typical document is available from Council's Development Assessment Engineer

- d) A Maintenance Schedule.

Toilet Facilities

The following facilities must be provided on the site:

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

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

Infrastructure

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

Other Approvals may be needed

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

Failure to comply with conditions

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

Other works

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

Obtaining Relevant Certification

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

- a) Application for any activity under that Act, including any erection of a hoarding.
- b) Application for a Construction Certificate under the *Environmental Planning and Assessment Act 1979*.
- c) Application for an Occupation Certificate under the *Environmental Planning and Assessment Act 1979*.
- d) Application for a Subdivision Certificate under the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed.

- e) Application for Strata Title Subdivision if strata title subdivision of the development is proposed.
- f) Development Application for demolition if demolition is not approved by this consent.
- g) Development Application for subdivision if consent for subdivision is not granted by this consent.

Disability Discrimination Access to Premises Code

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

National Construction Code (Building Code of Australia)

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

Notification of commencement of works

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

- a) in the case of work for which a principal contractor is required to be appointed:
 - i. the name and licence number of the principal contractor, and
 - ii. the name of the insurer by which the work is insured under Part 6 of that Act,
- b) in the case of work to be done by an owner-builder:
 - i. the name of the owner-builder, and
 - ii. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

Dividing Fences Act

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

Permits from Council under Other Acts

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

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

- i) Installation or replacement of private stormwater drain, utility service or water supply

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

Noise

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

Amenity Impacts General

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

Fire Safety Certificate

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

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

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

Construction of Vehicular Crossing

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

Lead-based Paint

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

Asbestos Removal

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

Removal of friable asbestos material must only be undertaken by a contractor that holds a current AS1 Friable Asbestos Removal Licence.

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

All asbestos waste must be stored, transported and disposed of in compliance with the Protection of the Environment Operations (Waste) Regulation 2005. All receipts detailing method and location of disposal must be submitted to Council as evidence of correct disposal.

Dial before you dig

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

Useful Contacts

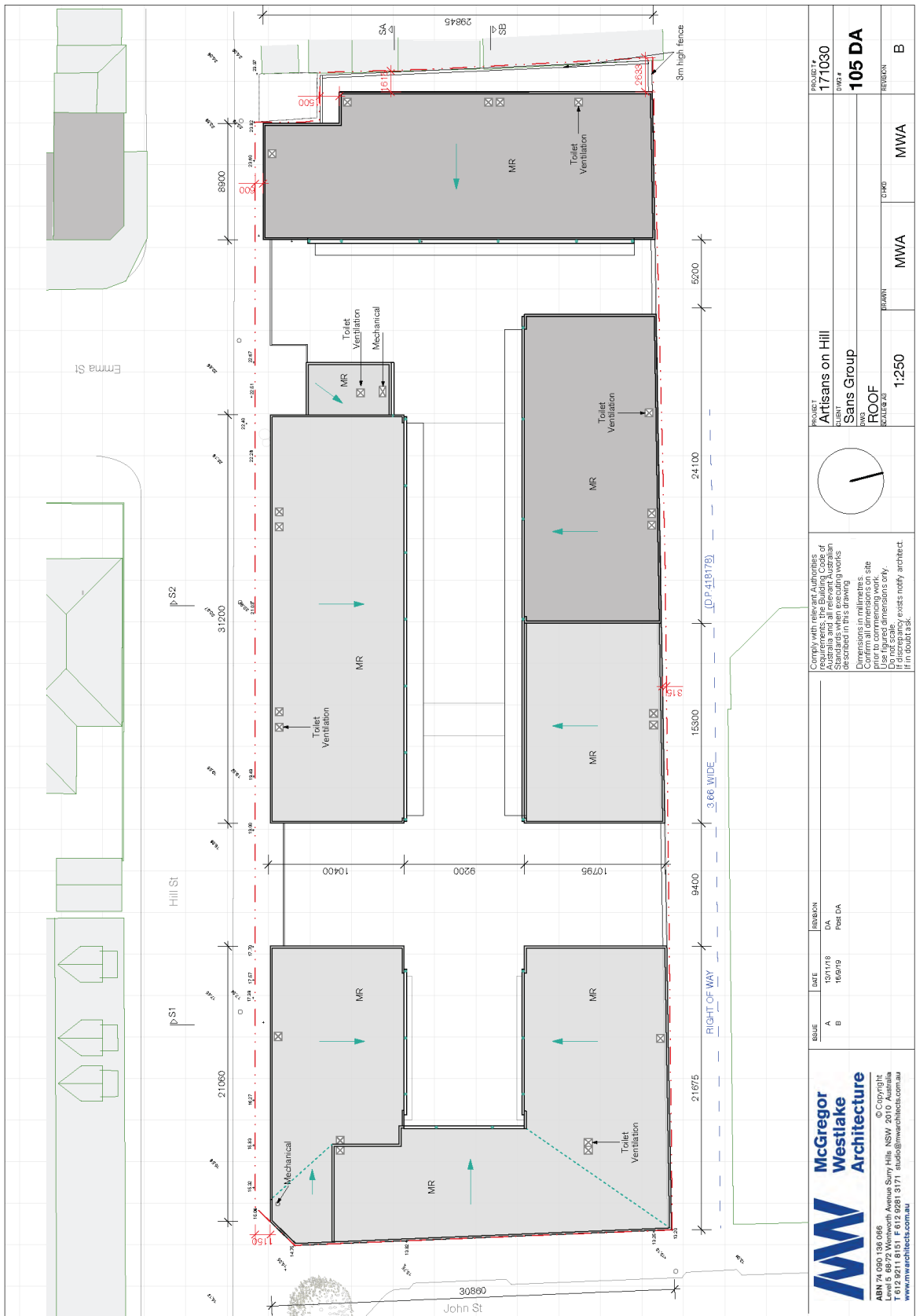
BASIX Information	1300 650 908 weekdays 2:00pm - 5:00pm www.basix.nsw.gov.au
Department of Fair Trading	13 32 20 www.fairtrading.nsw.gov.au Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Prior to You Dig	1100 www.dialprior toyoudig.com.au
Landcom	9841 8660 To purchase copies of Volume One of "Soils and Construction"
Long Service Payments Corporation	131441 www.lspc.nsw.gov.au
NSW Food Authority	1300 552 406 www.foodnotify.nsw.gov.au
NSW Government	www.nsw.gov.au/fibro www.diySAFE.nsw.gov.au Information on asbestos and safe work practices.
NSW Office of Environment and Heritage	131 555 www.environment.nsw.gov.au
Sydney Water	13 20 92 www.sydneywater.com.au

Waste Service - SITA 1300 651 116
Environmental Solutions www.wasteservice.nsw.gov.au

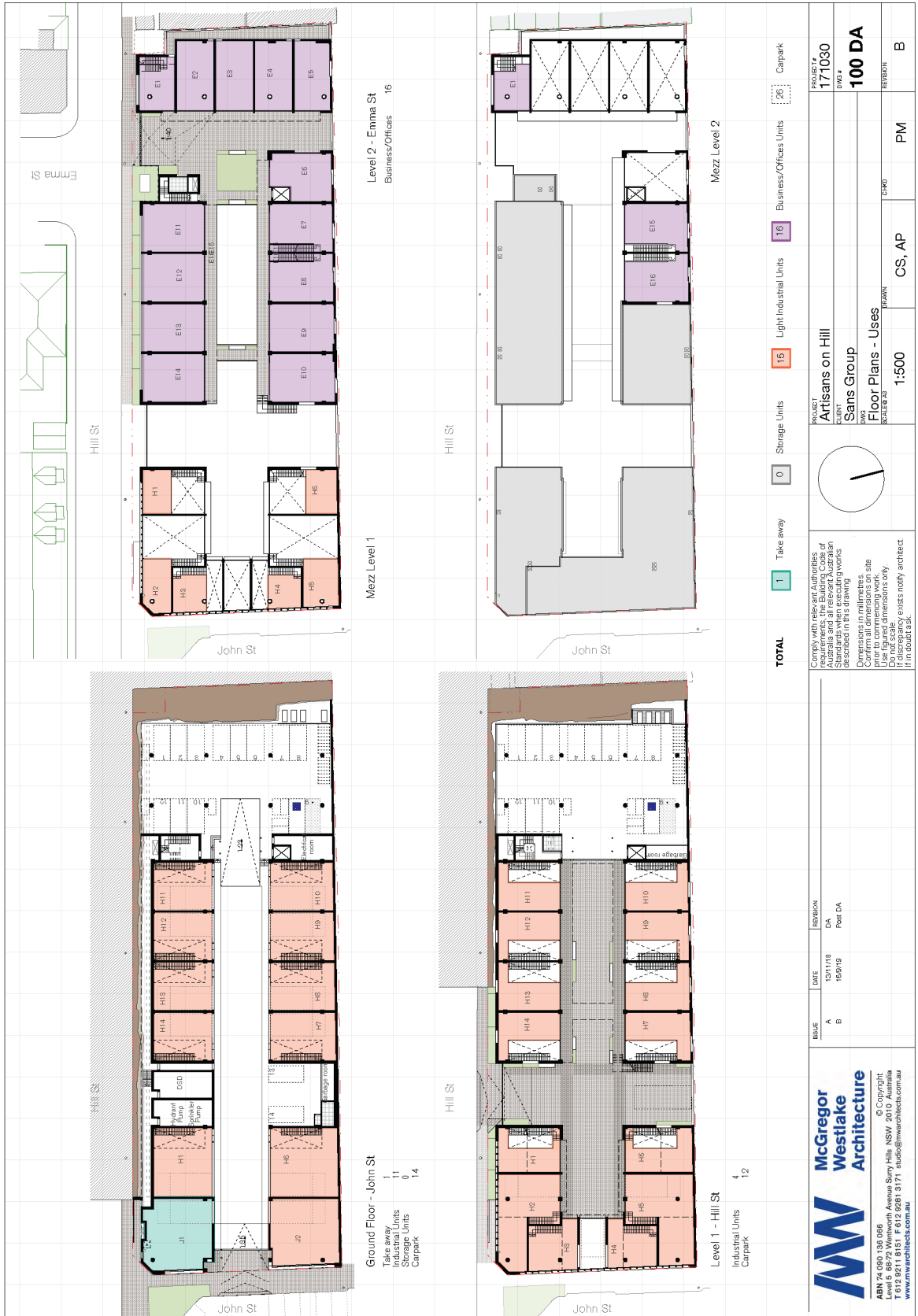
Water Efficiency Labelling and Standards (WELS) www.waterrating.gov.au

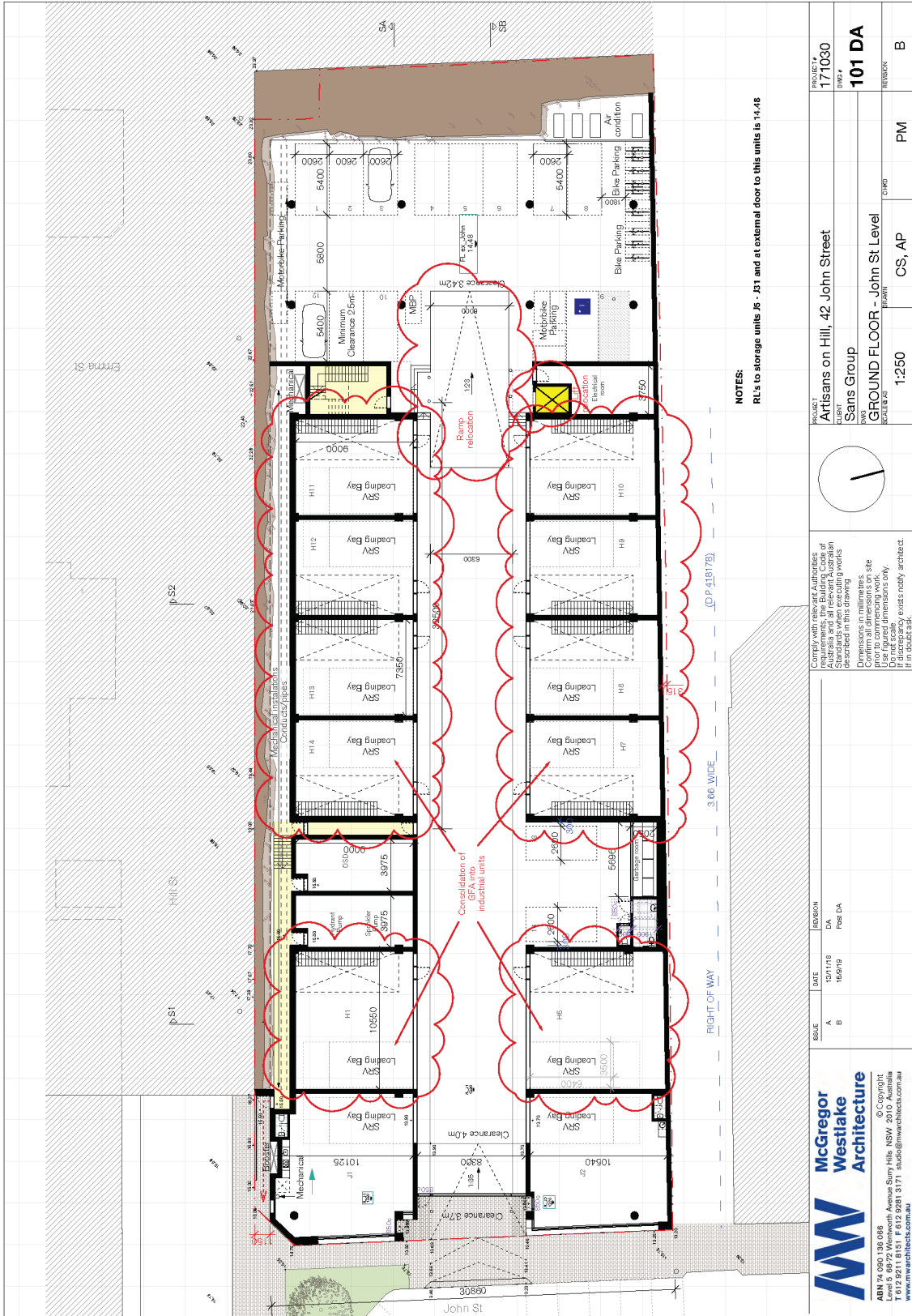
WorkCover Authority of NSW 13 10 50
www.workcover.nsw.gov.au
Enquiries relating to work safety and asbestos removal and disposal.

Attachment B – Plans of proposed development



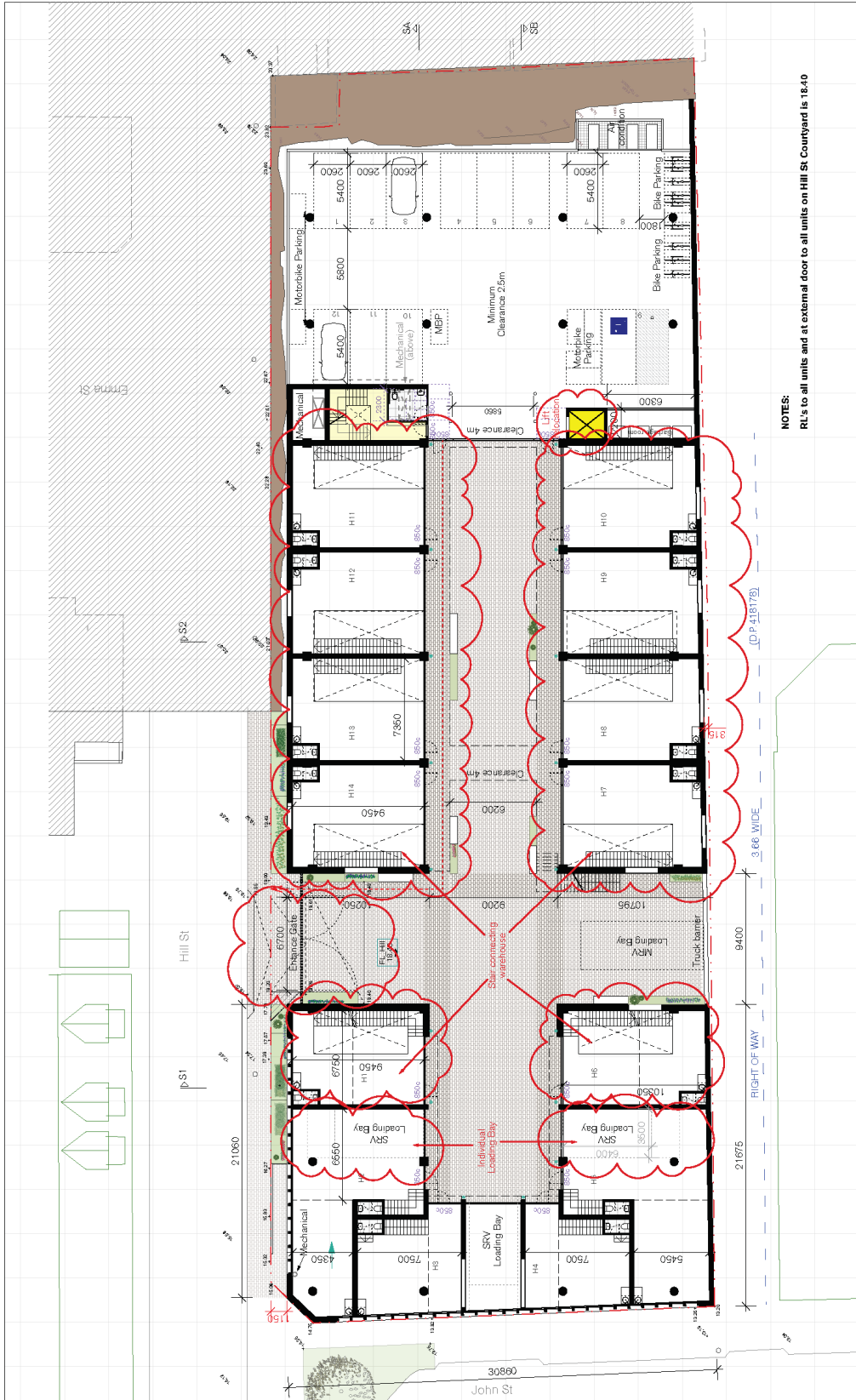
<p>PROJECT: Artisans on Hill</p> <p>CLIENT: Sans Group</p> <p>DWG: ROOF</p> <p>SCALE: 1:250</p>		<p>PROJECT NO: 171030</p> <p>DWG NO: 105 DA</p> <p>REGION: B</p>	
<p>Comply with relevant Authorities of Australia and all relevant Australian Standards when executing works</p> <p>Checklist is to be completed prior to commencing work. Do not scale dimensions only. Discrepancy exists notify architect if in doubt.</p>		<p>McGregor Westlake Architecture</p> <p>© Copyright Level 5, 66-72 Wentworth Avenue Surry Hills NSW 2010 Australia Phone: 02 9317 1100 Email: info@mcgregorwestlake.com.au www.mcgregorwestlake.com.au</p>	
ISSUE	DATE	REGION	REVISION
A	13/11/18	DA	Perf DA
B	16/9/19		





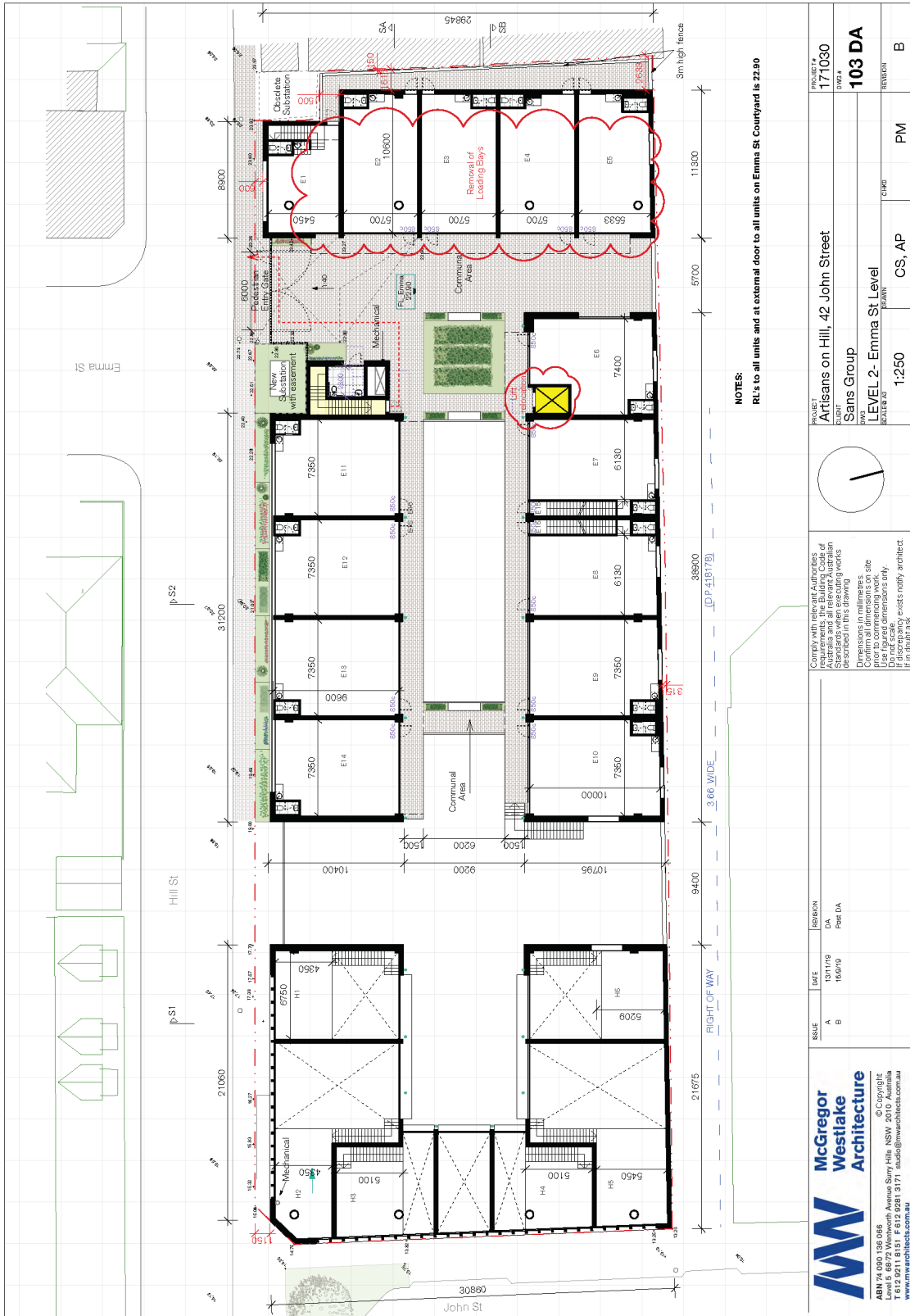
NOTES:
 RLs to storage units J5 - J21 and at external door to this units is 14.48

		PROJECT Artisans on Hill, 42 John Street		PROJECT # 171030	
CLIENT Sans Group		DRAWN BY 101 DA		REVISION B	
DATE 16/09/19		SCALE 1:250		PROJECT MANAGER CS, AP PM	
ISSUE A B		REVISION DA Post DA		PROJECT TITLE GROUND FLOOR - John St Level	
Comply with relevant Authorities of Australia and all relevant Australian Standards when executing works. Dimensions in millimetres. Confirm all dimensions on site prior to commencing work. Do not scale. Dimensions only. If in doubt ask.					
		ABN 74 090 138 068 © Copyright Level 5 8972 Wentworth Avenue Surry Hills NSW 2010 Australia Phone +61 2 9339 3171 info@mcgregorwestlake.com.au www.mcgregorwestlake.com.au			

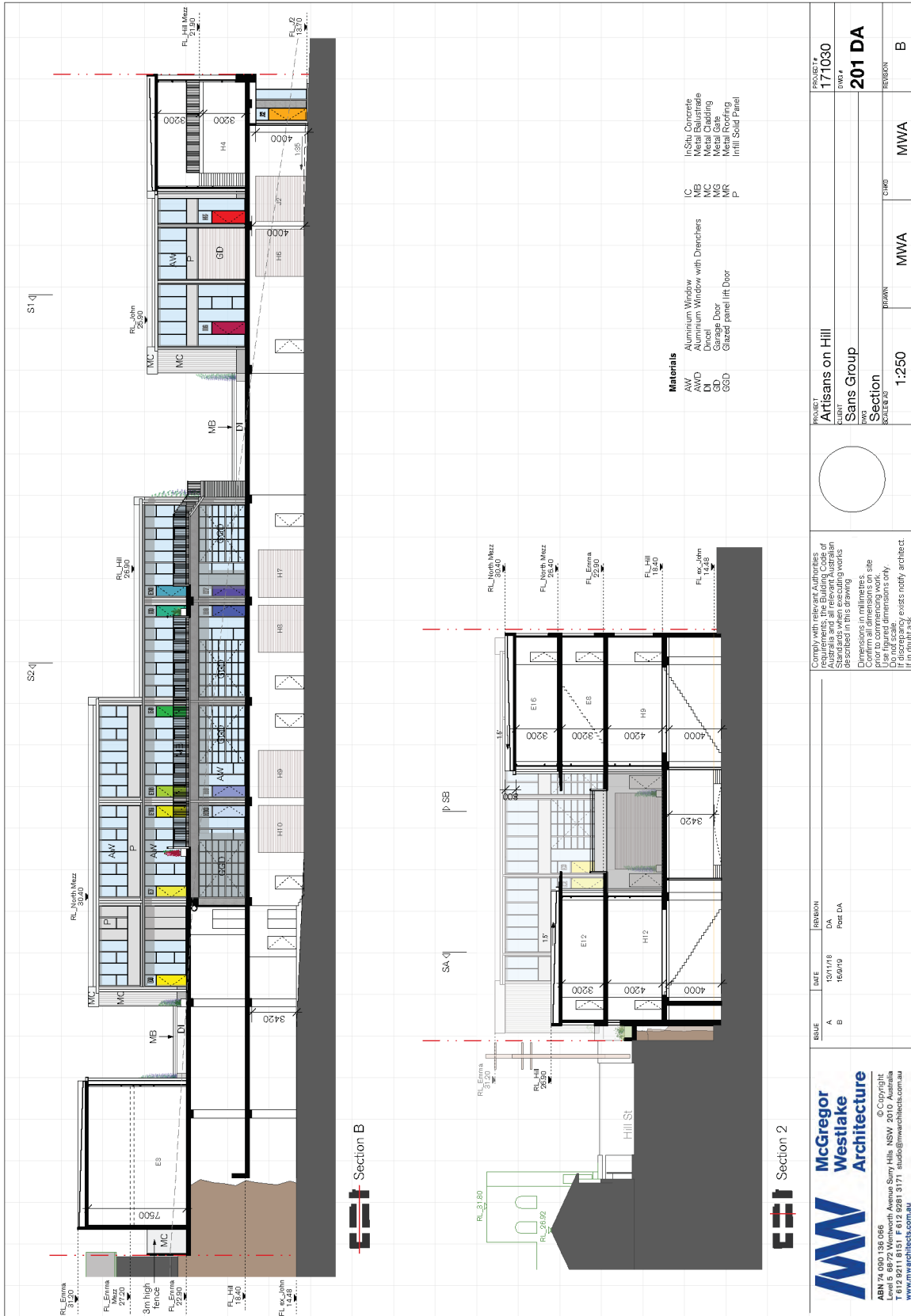


NOTES:
 RL's to all units and at external door to all units on Hill St Courtyard is 18.40

 <p>McGregor Westlake Architecture © Copyright ABN 74 092 136 086 10th Avenue Sme Hills, NSW, 2127 T 612 921 8151 F 612 9281 3171 info@mwarchitects.com.au www.mwarchitects.com.au</p>		ISSUE A B	DATE 10/11/19 16/6/19	DESIGN DA Post DA	REVISION
Check with relevant Authorities requirements, the Building Code of Australia and all relevant Australian standards in this drawing. Dimensions in millimetres. Confirm all dimensions on site. Do not scale. Use figured dimensions only. If in doubt ask.		PROJECT Artisans on Hill, 42 John Street Sans Group LEVEL 1 - Hill St Level SCALE: 1:250		DRAWN BY CS, AP	CHECKED BY PM
PROJECT NO. 171030		DRAWING NO. 102 DA		REVISION B	



<p>PROJECT: Artisans on Hill, 42 John Street PROJECT # 171030 DWG # 103 DA</p>		<p>CLIENT: Sans Group ARCHITECT: LEVEL 2 - Emma St Level SCALE: 1:250 DATE: CS, AP REGION: PM REVISION: B</p>	
<p>McGregor Westlake Architecture ABN 74 090 136 066 Level 5, 6672 Wentworth Avenue Surry Hills NSW 2010, Australia Phone: 61 2 9339 1311 studio@mcwestlake.com.au www.mwestlake.com.au</p>		<p>Comply with relevant Authorities requirements in the Planning Code of NSW Standards when executing works described in this drawing. Confirm all dimensions on site prior to commencing work. Do not scale. Dimensions only. If discrepancy exists notify architect. If in doubt P.P.</p>	
<p>ISSUE: A DATE: 13/11/19 REVISION: DA</p>	<p>ISSUE: B DATE: 16/01/19 REVISION: Post DA</p>	<p>RIGHT OF WAY: 3.66 WIDE 21675 9400 38800 5700 113400 3m high fence</p>	



PROJECT #	171030
CLIENT	Artisans on Hill
DATE	15/01/18
SCALE	1:250
REVISION	201 DA
DESIGNER	MWA
CHECKER	MWA
DATE	

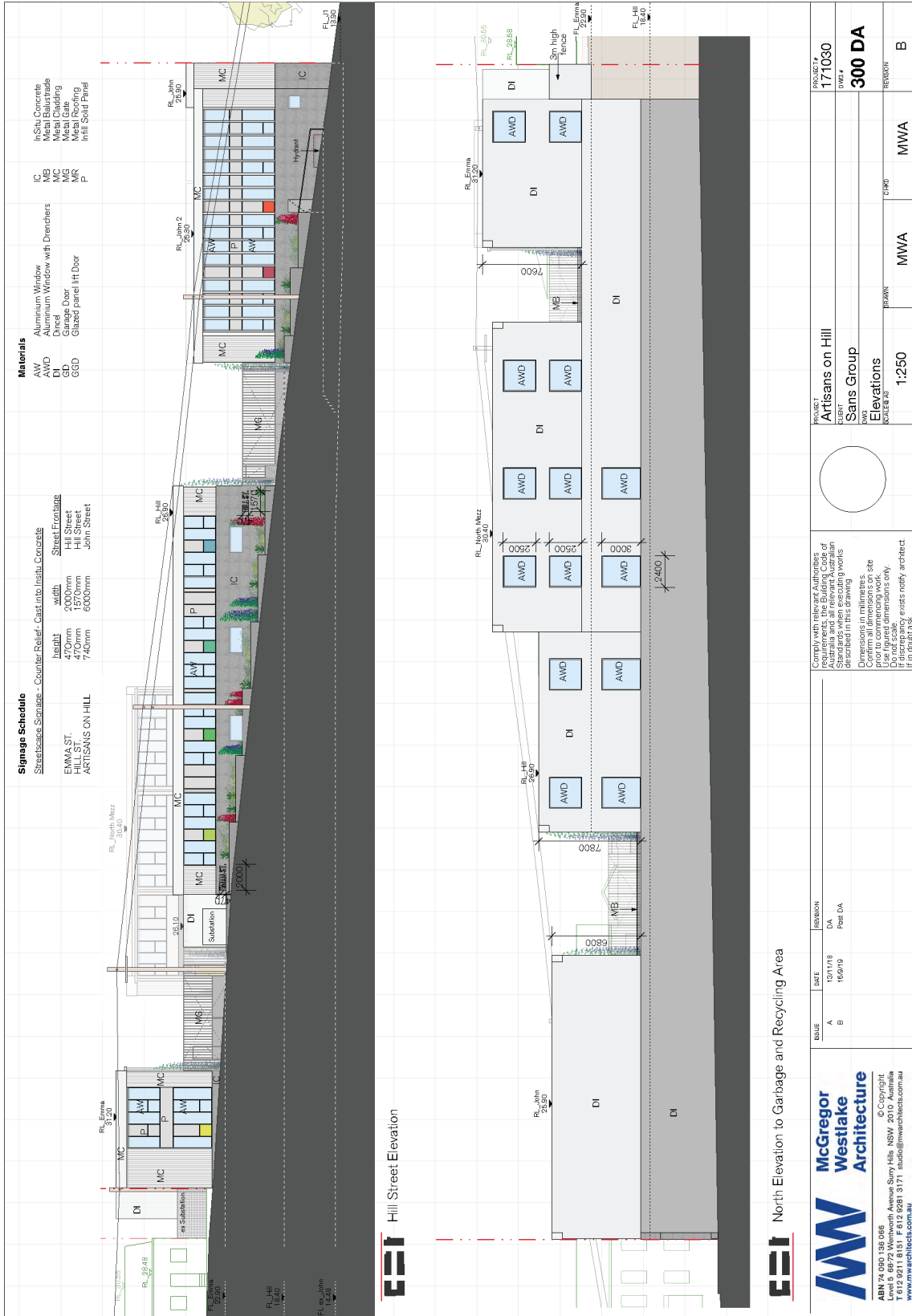
Comply with relevant Authorities requirements, the Building Code of Australia and the relevant Australian Standards when relevant to the details described in this drawing.

Dimensions in millimetres. Confirm all dimensions on site. Use figured dimensions only. If discrepancy exists notify architect. If in doubt ask.

ISSUE	DATE	REVISION
A	15/01/18	CA
B	16/01/18	Post DA

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ESB Hill Street Courtyard Elevation

ESB John Street Elevation

ESB Hill Street West Elevation

ESB Emma Street Courtyard Elevation

ISSUE	DATE	REVISION
A	13/11/18	DA
B	16/01/19	Post DA

PROJECT: Artleans on Hill
 CLIENT: Sans Group
 DRAWING NO: 301 DA
 SCALE: 1:250
 ARCHITECT: MWA
 CHECKED: MWA
 PROJECT NO: 171030
 DWG # 301 DA
 REVISION: B

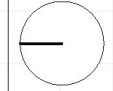
Comply with relevant Authorities of Australia and all relevant Australian Standards when executing works. Confirm all dimensions on site prior to commencing work. Do not scale. Measurements only in doubt task.

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- - - Site Boundary
 Dismantled
 Retain bedrock

Industrial
 Residential



Comply with relevant Authorities of Australia and all relevant Australian Standards when executing works.
 Progress to be notified.
 Confirm all dimensions on site prior to commencing work.
 Do not scale.
 If discrepancy exists notify architect in writing.

ISSUE	DATE	REVISION
A	13/11/18	DA
B	16/6/19	Post DA

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PROJECT	Artisans on Hill
CLIENT	Sans Group
NO.	Site Plan - Demolition / Analysis
SCALE	1:1000
DATE	MWA
REGION	MWA
PROJECT #	171030
ENV #	010 DA
REGION	B



<p>Site Boundary</p> <p>Proposed Building</p> <p>Courtyard</p> <p>Landscape</p>		<p>Entrance Emma Street Courtyard FL22.90</p> <p>Entrance Hill Street Courtyard FL18.40</p> <p>Entrance John Street FL13.80</p> <p>Right of way to benefit of Inner West Council 12 feet wide (from DC Plan) / 3.66m wide (from survey)</p>		<p>PROJECT #</p> <p>171030</p>
<p>Artisans on Hill</p> <p>Sans Group</p> <p>Site Plan - Project</p> <p>SCALE: 1:1000</p>		<p>PROJECT #</p> <p>171030</p> <p>DA #</p> <p>011 DA</p> <p>REVISION</p> <p>B</p>		<p>PROJECT #</p> <p>171030</p>
<p>Comply with relevant Authorities requirements, the Building Code of Australia, and the relevant Standards when executing works described in this drawing.</p> <p>Dimensions in millimetres - site prior to commencing work. Use figured dimensions only. If discrepancy exists notify architect. If in doubt ask.</p>		<p>DATE</p> <p>15/11/19</p> <p>16/01/19</p>		<p>ISSUE</p> <p>A</p> <p>B</p>
<p>McGregor Westlake Architecture</p> <p>ABN 74 093 138 056</p> <p>Level 5, 89-72 Wentworth Avenue Surry Hills NSW 2010 Australia</p> <p>T 612 9211 8181 F 612 9281 3171 studio@mwestlake.com.au www.mwestlake.com.au</p>		<p>DATE</p> <p>15/11/19</p> <p>16/01/19</p>		<p>ISSUE</p> <p>A</p> <p>B</p>