





 DEVELOPMENT ASSESSMENT REPORT			
Application No.	10.2019.107		
Address	354 Canterbury Road, Hurlstone Park		
Proposal	Demolition of existing structures, construction of a three storey mixed use building with ground floor childcare centre, business premises and two levels of residential accommodation with 10 residential units, basement car parking, associated works and strata subdivision.		
Date of Lodgement	17 July 2019		
Applicant	Technik Haus PL		
Owner	A A Ali & M Shaikh & Z Hussain		
Number of Submissions	6		
Value of works	\$4,800,000		
Reason for determination at Planning Panel	SEPP 65		
Main Issues	Waste management/collection Car parking Bicycle parking Privacy Separation of uses		
Recommendation	Approval with Conditions		
Attachment A	Recommended conditions of consent		
Attachment B	Plans of proposed development		
Attachment C	Clause 4.6 Exception to Development Standards		
			
LOCALITY MAP			
Subject Site		Objectors 	 N
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 of a three storey mixed use building with ground floor childcare centre, business premises and two levels of residential accommodation with 10 residential units, basement car parking and strata subdivision at 354-356 Canterbury Road, Hurlstone Park.

The application was notified to surrounding properties and 6 unique submissions were received.

The main issues that have arisen from the assessment include:

- Waste management/collection
- Car parking
- Bicycle parking
- Privacy
- Separation of uses

The non-compliances are acceptable subject to conditions and for the reasons in this report and therefore the application is recommended for approval.

2. Proposal

The proposal involves the demolition of all existing structures and construction of a 3-storey mixed-use building including a childcare centre, business premises, and shop-top housing.

Basement

- Two (2) level basement with 14 residential car spaces, 10 childcare centre car spaces, 1 commercial tenancy car space, bicycle parking and waste storage areas;

Ground level

- Childcare centre with outdoor play area including:
 - A maximum capacity of 40 children and 7 staff including;
 - Operating hours – 7.00am – 6.00pm, Monday to Friday. Closed weekends;
- Business premises tenancy,
- Residential lobby and access;
- Footpath awning;
- Landscaping;

Upper levels

- 10 residential units including;
 - 4 x 1 bed units;
 - 6 x 2 beds;
- Rooftop communal open space for the residential units.

3. Site Description

The development encompasses 354 and 356 Canterbury Road which have a combined total area of approximately 757.7sqm. For the purposes of this report, the two combined sites will be referred to as the 'the site'.

Currently the site is occupied by a single storey dwelling house and a two (2) storey mixed-use building. The site is adjoined by a two (2) storey mixed-use building to the north, bounded by Canterbury Road to the east, bounded by Watkin Street to the south and adjoined by a single storey dwelling house to the west (No. 1 Watkin Street).

This part of Canterbury Road is largely characterised by two (2) storey commercial and shop-top housing development, single storey dwelling houses and two (2) storey flat buildings. Watkin Street is largely characterised by single storey dwelling houses and two (2) storey flat buildings.

The site is not identified as containing a heritage item and is not located within a heritage conservation area. The Canterbury Bankstown Local Government Area lies to the east across Canterbury Road.



Figure 1: Site viewed from Canterbury Road.



Figure 2: Neighbouring sites to the north (Nos. 352 and 350 Canterbury Road).



Figure 3: Site viewed from Watkin Street looking north-east.

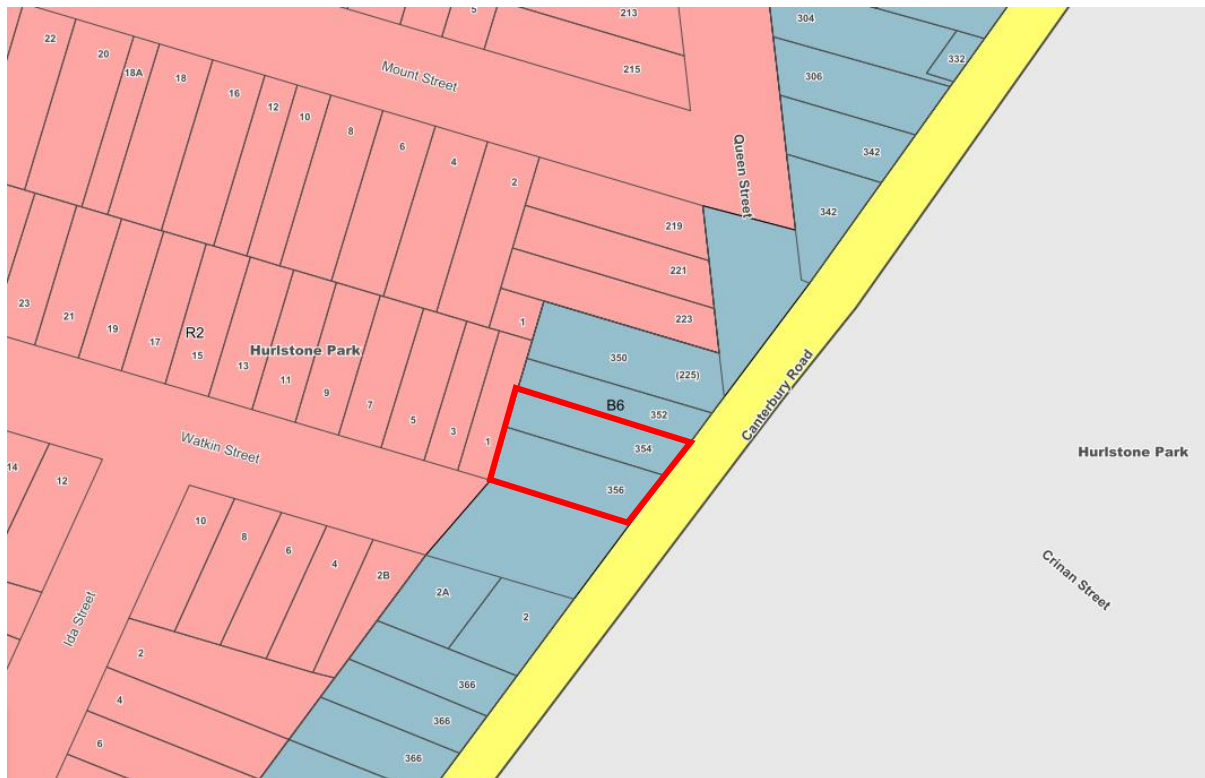


Figure 4: Zoning map.

4. Background

4(a) Site history

On 23 November 2017, a development application (10.2017.144) for demolition of existing structures and construction of a three storey mixed use development including two levels of dwellings above a ground floor retail use and child care centre and two levels of basement parking was refused for the following reasons:

1. *The proposed development does not comply with Ashfield Local Environmental Plan 2013, as follows:*
 - a. *cl. 1.2(2)(a), Aims of the Plan: The proposal would result in the isolation of the adjacent site at 352 Old Canterbury Road.*
 - b. *cl. 2.3, Land use table: The proposed use cannot be defined as shop top housing as the residential component is located primarily above a child care centre rather than “business” or “retail” uses and is consequently prohibited in the zone.*
 - c. *cl. 4.3, Height of buildings: The exceeds the maximum permitted building height of 13m.*
 - d. *The cl. 4.6 variation request in respect of height of buildings is not considered well founded.*
2. *The proposed development does not comply with Inner West Development Control Plan 2016, as follows:*
 - a. *Part F-8, Child Care Centres:*

- i. *cl. DS4.4., Traffic: No temporary drop off bay has been provided.*
- ii. *cl. DS4.7, Traffic: No delineation has been provided between long stay staff parking and short stay visitor parking.*

As discussed within this report, subject to the imposition of the recommended conditions of consent, the reasons of refusal have been adequately addressed in the new application.

4(b) Application history

- On 23 September 2019, Council planners sent the applicant a letter detailing a number of concerns with the proposal including (but not limited to); conflict of uses, non-compliances with the ADG, internal amenity of the units, and acoustic testing/report.
- On 15 October 2019, the applicant provided amended plans and additional information which largely satisfied the concerns raised in Councils letter.
- On 15 January 2020, Council planners sent a further letter in relation to a number of outstanding matters relating to the design and internal configuration of the building.
- On 21 January 2020, the applicant provided amended plans which satisfied the matters raised by Councils planners.

5. Assessment

Roads Act 1993

The application was referred to the RMS having regard to Section 138 'Works and structures' of the Roads Act 1993 as the proposal includes the removal of an existing vehicular crossing and associated works on Canterbury Road (a Classified Road).

In a letter dated 23 August 2019, the RMS provided concurrence to the application subject to the imposition of recommended conditions of consent.

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 legislation and Environmental Planning Instruments listed below:

- *State Environmental Planning Policy No. 55—Remediation of Land*
- *State Environmental Planning Policy No. 65—Design Quality of Residential Apartment Development*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017*
- *State Environmental Planning Policy (Infrastructure) 2007*
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*

- State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017

The following provides further discussion of the relevant issues:

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

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) provides planning guidelines for remediation of contaminated land. AIDAP 2016 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” prior to the granting of consent.

Council’s Health Officers are satisfied that the site has not been used in the past for activities which could have potentially contaminated the site. It is considered that the site will not require remediation in accordance with *SEPP 55*.

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

The development is subject to the requirements of *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development* (SEPP 65). *SEPP 65* prescribes nine design quality principles to guide the design of residential apartment development and to assist in assessing such developments. The principles relate to key design issues including context and neighbourhood character, built form and scale, density, sustainability, landscape, amenity, safety, housing diversity and social interaction and aesthetics.

A statement from a qualified Architect was submitted with the application verifying that they designed, or directed the design of, the development. The statement also provides an explanation that verifies how the design quality principles are achieved within the development and demonstrates, in terms of the Apartment Design Guide (ADG), how the objectives in Parts 3 and 4 of the guide have been achieved.

The development is acceptable having regard to the nine design quality principles.

Apartment Design Guide

The Apartment Design Guide (ADG) contains objectives, design criteria and design guidelines for residential apartment development. In accordance with Clause 6A of the SEPP certain requirements contained within AIDAP 2013 do not apply. In this regard the objectives, design criteria and design guidelines set out in Parts 3 and 4 of the ADG prevail.

The following provides further discussion of the relevant issues:

Communal and Open Space

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

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

Comment: The proposal includes 192sqm of communal open space on the roof which equates to 25.3% of the site area. The communal open space will receive the required

amount of sunlight and has been suitably designed to provide two ‘breakout areas’ and substantial landscaping.

Deep Soil Zones

The ADG prescribes the following minimum requirements for deep soil zones:

Site Area	Minimum Dimensions	Deep Soil Zone (% of site area)
Less than 650m ²	-	7%
650m ² - 1,500m ²	3m	
Greater than 1,500m ²	6m	
Greater than 1,500m ² with significant existing tree cover	6m	

Comment: The proposal provides 62.7sqm (8.4% of the site) with a minimum dimension of 3m as deep soil zones. The deep soil zone is within the rear setback.

Visual Privacy/Building Separation

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

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

Comment:

Setbacks

The proposal has a 9m building separation from the edge of the balconies to the rear boundary.

It is noted that the ADG suggests an increased separation distance of 3m where adjacent to a different zone which permits lower density residential development to provide a transition in scale. The building (as measured from the edge of the rear balconies) has a setback of 9m to the rear boundary in accordance with this part of the ADG, which complies with the required 6m + 3m setback.

It is also noted that the neighbouring dwelling house to the west (No. 1 Watkin Street) has no openings facing the subject site (see Figure 5 below).



Figure 5: Eastern elevation (facing subject site) of neighbouring dwelling at No. 1 Watkin Street.

Part 2H of the ADG permits nil side setbacks where the desired future character is for a continuous street wall. As discussed elsewhere in this report, the intent of the relevant precinct built form controls in Chapter D of the DCP is to establish a continuous street wall along this portion of Canterbury Road, which is already reflected in the existing streetscape.

Visual Privacy

Concerns are raised about the internal amenity of Bed 1 in Unit 2.05 and Bed 2 in Unit 2.04 most notably outlook, light and ventilation because the windows contain large fixed external privacy screens. It is a recommended condition of consent that the privacy screens be deleted and the windows changed to have a sill height of 1400mm above the finished floor level to ensure a level of internal privacy and reduce opportunities for overlooking the private open spaces below.

Concerns are also raised about the proximity of the south-facing window of Bed 1 in Unit 2.04 to the adjacent units. It is a recommended condition of consent that this window be an operable high-level window with a sill height of 1600mm above the finished floor level.

Solar and Daylight Access

The ADG prescribes the following requirements for solar and daylight access:

- Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9.00am and 3.00pm at mid-winter.
- A maximum of 15% of apartments in a building receive no direct sunlight between 9.00am and 3.00pm at mid-winter.

Comment: 6 units (60%) of the units receive the required 2 hours of sunlight to their primary living areas and private open spaces.

The development is located on a corner site with the majority of glazing addressing Canterbury Road to the east and Watkin Street to the south. Orientating the developments glazing and private open spaces to the north is not feasible in this instance given the reliance on ‘borrowed’ amenity from the existing neighbouring low-scale building at No. 252 Canterbury Road. Reliance on this borrowed amenity cannot be ensured given the future development potential of the neighbouring properties to the north.

It is noted that all units will receive at least some direct sunlight during mid-winter. It is also noted that while Unit 2.05 will receive no direct sunlight to its private open space, its north-east facing floor to ceiling living room windows will receive substantial direct sunlight between 9.00am and 2.00pm during the winter solstice.

Given the site constraints and neighbouring context discussed, it is considered difficult for the development to achieve the required solar access provisions.

Natural Ventilation

The ADG prescribes the following requirements for natural ventilation:

- At least 60% of apartments are naturally cross ventilated in the first 9 storeys of the building.

Comment: 6 units (60%) achieve natural cross ventilation.

It is noted that Unit 1.04 relies on an opening to a balcony / courtyard area which is partially enclosed. Although this may reduce effective natural cross ventilation, it is noted that this unit fronts Canterbury Road and as such unobstructed balconies / courtyard areas would result in poorer acoustic and visual internal privacy.

It is a recommended condition of consent that all bedrooms that solely rely on balcony doors for natural ventilation also have either operable fan-lights or operable louvers or the such to ensure that natural ventilation can be accessed without having to open the balcony doors.

Ceiling Heights

The ADG prescribes the following minimum ceiling heights:

Minimum Ceiling Height	
Habitable Rooms	2.7 metres
Non-Habitable	2.4 metres
If located in mixed used area	3.3 for ground and first floor to promote future flexibility of use

Comment: All habitable rooms achieve ceiling heights of at least 2.7m.

Apartment Size

The ADG prescribes the following minimum apartment sizes:

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

Note: The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.

Apartment Layout

The ADG prescribes the following requirements for apartment layout requirements:

- Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.
- Habitable room depths are limited to a maximum of 2.5 x the ceiling height.
- In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8 metres from a window.
- Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space).
- Bedrooms have a minimum dimension of 3 metres (excluding wardrobe space).
- Living rooms or combined living/dining rooms have a minimum width of:
 - 3.6 metres for studio and 1 bedroom apartments.
 - 4 metres for 2 and 3 bedroom apartments.
- The width of cross-over or cross-through apartments are at least 4 metres internally to avoid deep narrow apartment layouts.

Comment: All units comply with the minimum required internal areas and apartment layouts in accordance with the ADG.

Private Open Space and Balconies

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

Dwelling Type	Minimum Area	Minimum Depth
Studio apartments	4m ²	-
1 Bedroom apartments	8m ²	2 metres
2 Bedroom apartments	10m ²	2 metres
3+ Bedroom apartments	12m ²	2.4 metres

Comment: All balconies comply with the minimum area required by this part of the ADG.

Insufficient information has been provided regarding the separation between the balconies of Units 1.04 and 1.05. As such, it is a recommended condition of consent that a 1800mm high solid privacy screen be installed between these two balconies to ensure adequate separation and privacy.

Common Circulation and Spaces

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

- The maximum number of apartments off a circulation core on a single level is 8.
- For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.

Comment: The development proposes a maximum of five (5) apartments off a single circulation core.

Storage

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

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

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

Comment: Sufficient space has been provided in each unit and in the basement car park for storage.

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

A BASIX Certificate was submitted with the application, however the certificate was not updated to reflect the revised scheme. Nevertheless, it is a requirement that the BASIX Certificate be revised to reflect any changes to the development at the certification stage.

5(a)(iv) State Environmental Planning Policy (Infrastructure) 2007 (SEPP Infrastructure 2007)

Development likely to affect an electricity transmission or distribution network (Clause 45)

Given the proposals proximity to overhead electricity power lines, the application was referred to Ausgrid for comment. On 8 November 2019, Ausgrid confirmed they have no objections to the proposal.

Development with frontage to classified road (Clause 101)

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

The proposed vehicular access is from Watkin Street and as such will not significantly affect the intended vehicle movements of Canterbury Road which it adjoins. The application is considered acceptable with regard to Clause 101 of the *SEPP Infrastructure 2007*.

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

Clause 102 of the *SEPP Infrastructure 2007* relates to the impact of road noise or vibration on non-road development on land in or adjacent to a road corridor or any other road with an annual average daily traffic volume of more than 20,000 vehicles. Under that clause, a development for the purpose of a building for residential use requires that appropriate measures are incorporated into such developments to ensure that certain noise levels are not exceeded.

Canterbury Road is not identified as having an average daily traffic volume of more than 20,000 vehicles. Nevertheless, the applicant submitted a Noise Assessment Report with the application that demonstrates that the development will comply with the LAeq levels stipulated in Clause 102 of the SEPP. Conditions are included in the recommendation.

5(a)(v) *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*

An assessment has been made of the matters set out in Division 2 Matters for Consideration of the *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*. It is considered that the carrying out of the proposed development is generally consistent with the relevant matters for consideration of the Plan and would not have an adverse effect on environmental heritage, the visual environment, the natural environment and open space or recreation facilities.

5(a)(vi) *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017*

The proposed centre – based child care facility is subject to the provisions of the above SEPP.

Clause 23 of the SEPP requires all applications for development to take into consideration any applicable provisions of the Child Care Planning Guideline.

The relevant matters to be considered under Section 3 of the Guideline for the proposed development are outlined below.

Child Care Planning Guideline - Section 3 Matters for Consideration	
Consideration	Comment
3.1 Site selection and location	<p>The proposal is accompanied by an Acoustic Impact Report and Traffic Impact Assessment which provide recommendations and measures to reduce the potential acoustic impacts and analysis on the traffic impacts of the development.</p> <p>The centre is located in a mixed commercial and residential surrounding and is unlikely to impact the viability of the existing commercial uses fronting Canterbury Road.</p> <p>The site is not flood affected or contaminated. It is of an adequate size and has appropriate frontages to Canterbury Road and Watkin Street, with vehicle access</p>

	<p>on the latter (quieter) frontage.</p> <p>The site is not located within the close vicinity of any incompatible social activities.</p> <p>The site has access to public transport and has good pedestrian connectivity. It is in proximity to compatible social uses such as parks and schools as well as business/local centres (most notably New Canterbury Road and Hurlstone Park Train Station).</p> <p>The site is considered suitable for the use.</p>
<p>3.2 Local Character, Streetscape and public domain interface</p>	<p>The design of the building is compatible with the evolving local character of Canterbury Road and the surrounding streetscape. It has been designed generally in accordance with the relevant built form controls. Car parking and landscaping have been integrated into the design. A clear delineation between the centre and public domain has been created by change in levels and built elements (most notably fences).</p>
<p>3.3 Building Orientation, envelope and design</p>	<p>The building has been appropriately designed in accordance with the relevant built form and setback controls. The proposal responds to the changing and desired streetscape of Canterbury Road while providing an adequate transition to the low-scale development to the west. Access to the site is accessible and readily available. Access into the centre for child drop off and collection is from Watkin Street (a local road). Entries to and from the site are readily visible from casual surveillance.</p>
<p>3.4 Landscaping</p>	<p>Appropriate planting is proposed along the rear boundary to soften the visual impact of the development. Planting has also been incorporated into the simulated outdoor play spaces to provide a high quality play area.</p>
<p>3.5 Visual and Acoustic Privacy</p>	<p>Subject to the recommendations in the supplied acoustic report the centre will have adequate acoustic privacy and maintain adequate neighbouring acoustic privacy.</p> <p>Insufficient information has been provided regarding the permitter fencing of the childcare centre. See discussion below.</p> <p>As discussed elsewhere in this report, the upper level dwelling balconies have been designed to significantly prevent overlooking of the outdoor play area below.</p>
<p>3.6 Noise and Air Pollution</p>	<p>The proposal has been designed to minimise the impacts of noise, an acoustic report has been submitted with the application and outlines measures to minimise acoustic impacts. Sufficient information regarding contamination and pollution has been submitted with the application, which has been reviewed by Council's Environmental Health Unit, who outlined no objection to the proposal.</p>
<p>3.7 Hours of Operation</p>	<p>The proposed hours of operation of 7:00am to 6:00pm Monday to Friday are appropriate given the mixed-use nature of the area.</p>
<p>3.8 Traffic, Parking and Pedestrian circulation</p>	<p>The DCP outlines the rate of parking applicable for child care centres. The proposal is accompanied by a traffic and parking study which has been reviewed by Council Engineers and is considered to be sufficient, detailing minimal impacts to surrounding locality and measures to mitigate and manage any impacts should they occur. Access to the carpark is from Watkin Street which is a local road. The development incorporates separate pedestrian access from the vehicular access.</p>

In addition to the matters for consideration under Section 3 of the Guidelines, Section 4 of requires development to be considered against the provision of the Educational and Care Services National Regulation. These considerations are outlined below.

Education and Care Services National Regulations - Part 4				
Clause	Clause	Standard	Proposed	Compliance
104	Fencing	The approved provider of an education and care service must ensure that any outdoor space used by children at the education and care service premises is enclosed by a fence or barrier that is of a height and design that children preschool age or under cannot go through, over or under it.	Insufficient information has been provided regarding the perimeter fencing.	No – see discussion below.
106	Laundry and Hygiene Facilities	(1) The approved provider of an education and care service must ensure that the service has— (a) laundry facilities or access to laundry facilities; or (b) other arrangements for dealing with soiled clothing, nappies and linen, including hygienic facilities for storage prior to their disposal or laundering— that are adequate and appropriate for the needs of the service.	The proposal incorporates a laundry with sufficient space for storage, washer, dryer and sink.	Yes
107	Spaces requirements – indoor space	The approved provider of an education and care service must ensure that, for each child being educated and cared for by the service, the education and care service premises has at least 3.25 square metres of unencumbered indoor space. 40 Children proposed to utilized the centre = 130m² required	130m ² of unencumbered indoor floor space is proposed within the development	Yes
108	Space Requirements – outdoor space	The approved provider of an education and care service must ensure that, for each child being educated and cared for by the service, the education and care service premises has at least 7 square metres of unencumbered outdoor space. 40 children proposed to utilized the centre = 280m² required	280m ² of natural and simulated outdoor floor space is proposed at the ground level.	No – In accordance with the requirements of the SEPP. See discussion below.
109	Toilet and Hygiene Facilities	The approved provider of an education and care service must ensure that— (a) adequate, developmentally and age-appropriate toilet, washing and drying facilities are provided for use by children being educated and cared for by the service;	The proposed bathrooms have been designed to be used by children. The location of the bathrooms	Yes

		and (b) the location and design of the toilet, washing and drying facilities enable safe use and convenient access by the children.	promotes safe use and convenience.	
110	Ventilation and Natural Light	The approved provider of an education and care service must ensure that the indoor spaces used by children at the education and care service premises— (a) are well ventilated; and (b) have adequate natural light; and (c) are maintained at a temperature that ensures the safety and wellbeing of children.	Concerns are raised about the natural light and ventilation to the 0-2 room and adjacent outdoor area.	No – see discussion below.
111	Administrative Space	The approved provider of a centre-based service must ensure that an adequate area or areas are available at the education and care service premises for the purposes of— (a) conducting the administrative functions of the service; and (b) consulting with parents of children; and (c) conducting private conversations.	The proposal incorporates a staff room and reception area which provide adequate space for administrative functions, parent consulting and private conversations.	Yes
112	Nappy Change Facilities	(1) This regulation applies if a centre-based service educates and cares for children who wear nappies. (2) The approved provider of the service must ensure that adequate and appropriate hygienic facilities are provided for nappy changing. (3) Without limiting subregulation (2), the approved provider of the service must ensure that the following are provided— (a) if any of the children are under 3 years of age, at least 1 properly constructed nappy changing bench; and (b) hand cleansing facilities for adults in the immediate vicinity of the nappy change area. (4) The approved provider of the service must ensure that nappy change facilities are designed, located and maintained in a way that prevents unsupervised access by children.	The development has a nappy change room with changing matts and baby baths. This room also accommodates sinks for hand cleansing facilities.	Yes
113	Outdoor Space – Natural	The approved provider of a centre-based service must ensure that the outdoor spaces provided at the education and care service	Proposed outdoor spaces provide sufficient spaces	Yes

	Environment	premises allow children to explore and experience the natural environment.	for exploration and natural environment.	
114	Outdoor Space – Shade	The approved provider of a centre-based service must ensure that outdoor spaces provided at the education and care service premises include adequate shaded areas to protect children from overexposure to ultraviolet radiation from the sun.	The majority of outdoor spaces proposed are to be covered by a veranda or shade sail.	Yes
115	Premises Designed to Facilitate Supervision	The approved provider of a centre-based service must ensure that the education and care service premises (including toilets and nappy change facilities) are designed and maintained in a way that facilitates supervision of children at all times that they are being educated and cared for by the service, having regard to the need to maintain the rights and dignity of the children.	Toilets and nappy change facilities have been appropriately designed to facilitate surveillance.	Yes

Fencing, Ventilation, Light and Privacy

The northern, southern and western edges of the outdoor play areas have 3m high 'louvre screens' with no slat width or gap measurements provided.

It is assumed that the fencing is the timber look 'aluminium screen' referred to on the materials schedule which has 40mm slats and 20mm gaps between which will ensure adequate privacy. A condition of consent specifying the fencing material is recommended.

In addition to the 3m fence, the development also has a 1.8m high 'lapped and capped timber fence with no gaps' between the outdoor play area and the western deep soil zone in accordance with the recommendation in the acoustic report.

Concerns are raised about the lack of separation and privacy from the Watkin Street footpath and the simulated southern outdoor area and adjacent 0-2 years indoor play area. As such it is a recommended condition of consent that the ground level timber cladding at the corner of Canterbury Road and Watkin Street be continued around the southern elevation to the start of the western edge of the 'garden' along the southern boundary. The cladding must be to a height of 1.8m above the adjacent portion of the Watkin Street footpath. The cladding is to follow the fall of the land to the west.

Concerns are also raised regarding the lack of sufficient natural light of the simulated southern outdoor area and the adjacent 0-2 years indoor play area as these spaces primarily rely on the southern boundary for light which contains floor to ceiling fencing with no specified dimensions (widths or gaps). As such, it is a recommended condition of consent that the screening above the aforementioned required cladding along the southern boundary have suitable gaps to provide the required natural light and ventilation while restricting access and providing safety to the children.

Outdoor Space

On 5 August 2019, the application was referred to the Department of Education (DoE) because the outdoor space requirements did not comply with clause 108 (outdoor

unencumbered space requirements). Consequently, the DoE provided its concurrence and the variation to the outdoor area was approved for the following reasons:

The applicant has indicated they intend to care for up to 40 children and has provided 280m² of natural or simulated outdoor space, which is sufficient for the intended number of children.

The Department of Planning and Environment's Child Care Planning Guideline states the environment should have a range of natural features such as sand pits, water areas, climbing frames, tracks, vegetable gardens. The majority of the space at this service is considered regular outdoor play space, with plenty of natural features such as a raised vegetable garden, natural rock boulders, bike track, and sand pit. It also has shade sails to meet shade requirements.

A portion of this space is covered by the first floor, however, this space is completely open on the western side allowing for natural light and ventilation. This space is 64m² and is enclosed by the first floor, lapped and capped fencing on the southern boundary and indoor rooms. Given the small size of the area, I am satisfied adequate light and ventilation can enter the area.

5(a)(vii) **Ashfield Local Environment Plan 2013 (ALEP 2013)**

The application was assessed against the relevant clauses of the *Ashfield Local Environmental Plan 2011*.

(x) Clause 2.3 - Land Use Table and Zone Objectives

The property is zoned B6 – Enterprise Corridor under the provisions of the LEP. The proposal is defined as ‘shop top housing’ which is defined as follows in the LEP:

shop top housing means one or more dwellings located above ground floor retail premises or business premises.

Shop top housing is an ‘additional permitted use’ in accordance with Clause 6 of Schedule 1 of the LEP.

The proposal includes a ‘business premises’ tenancy on the ground level and residential apartments on the upper levels. ‘Business premises’ are permitted in the zone and are defined as follows in the LEP:

business premises means a building or place at or on which—

- (a) an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or
- (b) a service is provided directly to members of the public on a regular basis, and includes a funeral home and, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, betting agencies and the like, but does not include an entertainment facility, home business, home occupation, home occupation (sex services), medical centre, restricted premises, sex services premises or veterinary hospital.

The proposal also includes a ‘centre-based child care facility’ which is permitted in the zone and is defined as follows in the LEP:

centre-based child care facility means—

- (a) a building or place used for the education and care of children that provides any one or more of the following—
 - (i) long day care,
 - (ii) occasional child care,
 - (iii) out-of-school-hours care (including vacation care),
 - (iv) preschool care, or
- (b) an approved family day care venue (within the meaning of the Children (Education and Care Services) National Law (NSW)),

Note. An approved family day care venue is a place, other than a residence, where an approved family day care service (within the meaning of the Children (Education and Care Services) National Law (NSW)) is provided. but does not include—

- (c) a building or place used for home-based child care or school-based child care, or
- (d) an office of a family day care service (within the meanings of the Children (Education and Care Services) National Law (NSW)), or
- (e) a babysitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or
- (f) a child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium) to care for children while the children’s parents are using the facility, or
- (g) a service that is concerned primarily with providing lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or providing private tutoring, or
- (h) a child-minding service that is provided by or in a health services facility, but only if the service is established, registered or licensed as part of the institution operating in the facility.

Although the majority of the ‘shop top housing’ is not located directly above the proposed ‘business premises’ use, the judgement of the NSW Land and Environment Court in *Hrsto v Canterbury City Council (No 2) [2014] NSWLEC 121* established that the residential component of shop top housing must simply be above, i.e. “in or to a higher place; overhead”.

Furthermore, it established that the... “dwellings do not need to be directly or immediately above ground floor retail premises or business premises in order to be characterised as “shop top housing”. If it was intended that “shop top housing” be limited to dwellings that are directly or immediately above ground floor retail premises or business premises it is expected that those words would have been included in the definition of the term ‘shop top housing’.

The development is permitted with consent within the land use table. The development is consistent with the objectives of the zone.

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

Standard	Proposal	non compliance	Complies
Height of Building	14.9m (to the top of	1.9m or	No

Maximum permissible: 13 m	the rooftop shading structure)	13.6%	
Floor Space Ratio			
Maximum permissible: 1.50:1 or 1136.55m ²	1.48:1 or 1123m ²	N/A	Yes

(i) Clause 4.6 Exceptions to Development Standards

As outlined in table above, the proposal results in a breach of the following development standard/s:

- Clause 4.3 - Height of buildings

The applicant seeks a variation to the Height of buildings development standard under Clause 4.3 of the applicable local environmental plan by 13.6% (1.9m).

Clause 4.6 allows Council to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes.

In order to demonstrate whether strict numeric compliance is unreasonable and unnecessary in this instance, the proposed exception to the development standard has been assessed against the objectives and provisions of Clause 4.6 of the applicable local environmental plan below.

A written request has been submitted to Council in accordance with Clause 4.6(3) of the applicable local environmental plan justifying the proposed contravention of the development standard which is summarised as follows:

- The proposal complies with the objectives of the Clause 4.3 Height of buildings development standard and the objectives of the B6 – Enterprise Corridor zone.

The applicant’s written rationale adequately demonstrates compliance with the development standard is unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard.

It is considered the development is in the public interest because it is consistent with the objectives of the B6 – Enterprise Corridor zone, in accordance with Clause 4.6(4)(a)(ii) of the applicable local environmental plan for the following reasons:

- *To promote businesses along main roads and to encourage a mix of compatible uses.*
 - The proposal includes a business use along Canterbury Road as well as other compatible uses.
- *To provide a range of employment uses (including business, office, retail and light industrial uses).*
 - The proposal provides a range of employment uses through the proposed ground level business premises and childcare centre.
- *To maintain the economic strength of centres by limiting retailing activity.*
 - No retail uses are proposed and as such the proposal maintains the economic strength of centres.

It is considered the development is in the public interest because it is consistent with the objectives of the Height of buildings development standard, in accordance with Clause 4.6(4)(a)(ii) of the applicable local environmental plan for the following reasons:

(a) to achieve high quality built form for all buildings,

- The building is considered to achieve a high quality built form.

(b) to maintain satisfactory sky exposure and daylight to existing buildings, to the sides and rear of taller buildings and to public areas, including parks, streets and lanes,

- The proposal will maintain adequate daylight to existing buildings and public areas as demonstrated by the solar access diagrams. The non-compliance in building height is centrally located on the roof, will not be readily visible from the public domain/surrounding properties, and will have little additional impact on sky exposure compared to a compliant scheme.

(c) to provide a transition in built form and land use intensity between different areas having particular regard to the transition between heritage items and other buildings,

- The proposal includes a substantial 9m setback to the adjoining R2 – Low density zone to the west. The proposed 3-storey built form is consistent with existing neighbouring two (2) storey buildings to the north at Nos. 352 and 350 Canterbury Road, and is consistent with the desired future character of the neighbouring sites to the north and south which permit 3-storey buildings.

(d) to maintain satisfactory solar access to existing buildings and public areas.

- As discussed elsewhere in this report, the proposal maintains adequate solar access to existing buildings and public areas. The majority of shadows cast by the proposal will fall on Canterbury Road and Watkin Street to the east and south.

The contravention of the development standard does not raise any matter of significance for State and Regional Environmental Planning. The concurrence of the Planning Secretary may be assumed for matters dealt with by the Local Planning Panel.

The proposal thereby accords with the objective in Clause 4.6(1)(b) and requirements of Clause 4.6(3)(b) of the applicable local environmental plan. For the reasons outlined above, there are sufficient planning grounds to justify the departure from Height of buildings development standard and it is recommended the Clause 4.6 exception be granted.

(ii) Clause 6.1 – Earthworks

Clause 6.2 of ALEP 2013 requires the consent authority to have regard to certain matters where earthworks that require development consent are proposed. The applicant has submitted a Preliminary Geotechnical Investigation Report which addresses excavation.

The development includes excavation for a basement level, which subject to conditions included in the recommendation, is unlikely to have a detrimental impact on environmental functions or processes, neighbouring sites, cultural or heritage items or features of the surrounding land.

5(b) Draft Environmental Planning Instruments

There are no relevant Draft Environmental Planning Instruments.

5(c) Development Control Plans

The application has been assessed and the following provides a summary of the relevant provisions of Inner West Comprehensive Development Control Plan (DCP) 2016 for Ashbury, Ashfield, Croydon, Croydon Park, Haberfield, Hurlstone Park and Summer Hill.

IWCDCP2016	Compliance
Section 1 – Preliminary	
B – Notification and Advertising	Yes
Section 2 – General Guidelines	
A – Miscellaneous	
1 - Site and Context Analysis	Yes
2 - Good Design	Yes – see discussion
4 - Solar Access and Overshadowing	Yes – see discussion
5 - Landscaping	Yes
6 - Safety by Design	Yes – see discussion
7 - Access and Mobility	Yes - see discussion
8 - Parking	Yes - see discussion
9 - Subdivision	Yes – see discussion
11 - Fencing	Yes
15 - Stormwater Management	Yes
B – Public Domain	
C – Sustainability	
1 – Building Sustainability	Yes – see discussion
2 – Water Sensitive Urban Design	Yes
3 – Waste and Recycling Design & Management Standards	Yes – see discussion
4 – Tree Preservation and Management	Yes – see discussion elsewhere in this report
6 – Tree Replacement and New Tree Planting	Yes – see discussion elsewhere in this report
D – Precinct Guidelines	
Part 7 Enterprise Zone (B6) – Hurlstone Park	Yes – see discussion
F – Development Category Guidelines	
8 – Child Care Centres	Yes – see discussion

The following provides discussion of the relevant issues:

Part 7 Chapter D - Precinct Guidelines

The site is located within the Enterprise Zone (B6) – Hurlstone Park precinct and as such the controls in Part 7 Chapter D of the DCP are applicable.

The proposal has been designed generally in accordance with Map 2 in Part 7 Chapter D of the DCP (see Figure 6 below) in that it is 3-storeys in height, has its massing located towards Canterbury Road, maintains substantial separation to the low-scale residential uses at the rear, has nil side setbacks, and the balconies fronting Canterbury Road are capable of conversion to winter gardens.

It is noted that all but two units have aspects to the 'quiet' sides being the west (rear) and south. The two units (Units 1.04 and 2.04) with a single aspect to Canterbury Road incorporate screening to their balconies, solid balustrades and/or adequate setbacks from the boundary to ensure appropriate internal amenity.

As discussed elsewhere in this report, the proposed building height in excess of 13m is considered acceptable in this instance.

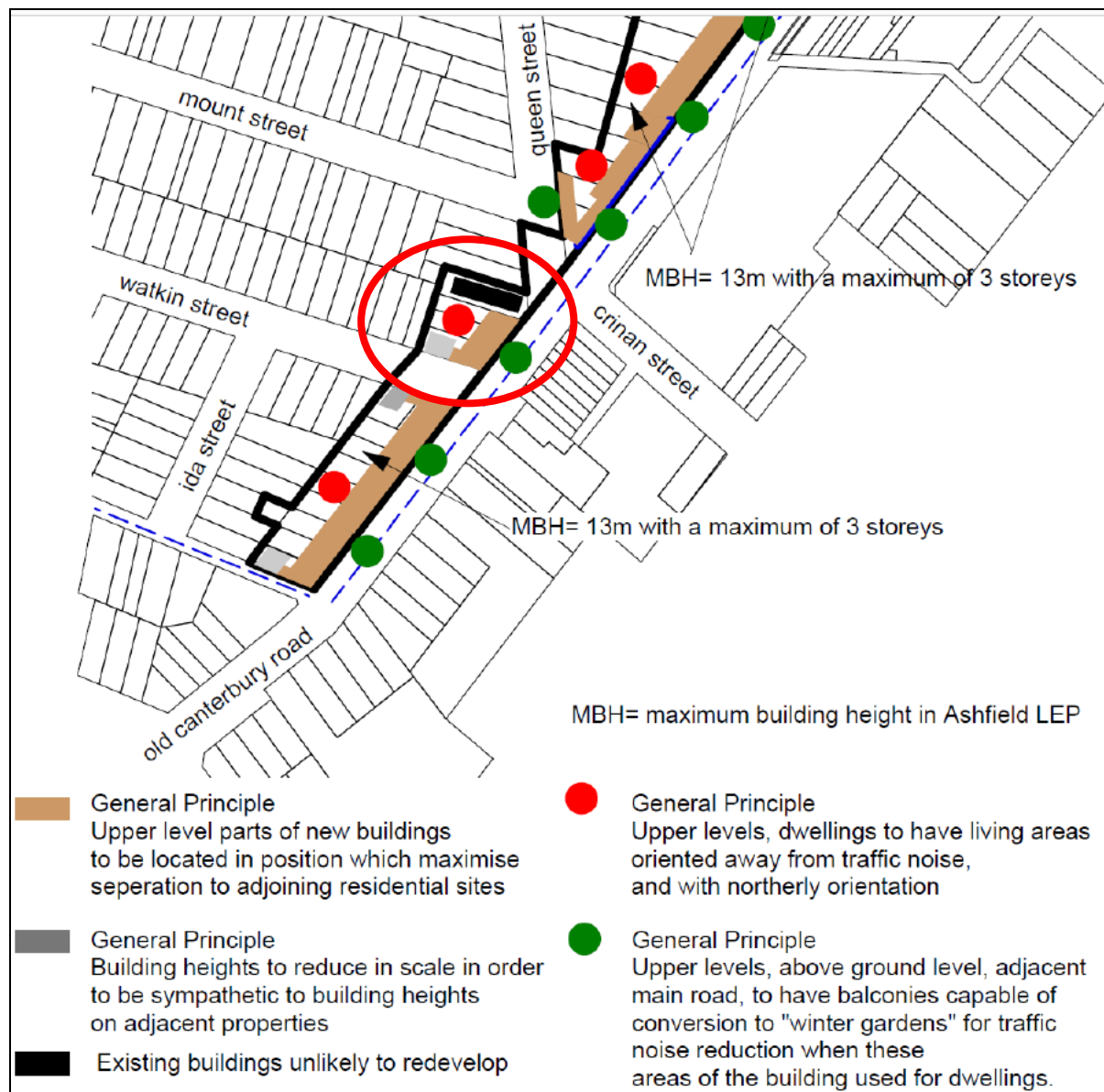


Figure 6: Map 2 from Chapter D of DCP.

In accordance with DS3.1 of this part of the DCP, all 'shop top housing' is located above the ground level.

In accordance with DS4.5 of this part of the DCP, a 3m wide deep landscaped buffer zone is included along the rear boundary adjacent to the low-density residential dwellings to the west.

In accordance with DS5.1 of this part of the DCP, the proposal has an active frontage oriented towards Canterbury Road at ground level. It is noted that the corner of Canterbury Road and Watkin Street contains curved timber cladding which provides screening to the 'outdoor play area' of the childcare centre. It is considered that there is opportunity to introduce some public art on this prominent corner to promote active visual engagement between to the street. The art must not be for the purposes of business identification, or

advertising and will be subject to Council’s approval. A condition of consent to this effect has been recommended.

The land slopes from Canterbury Road to the west (rear). Given the slope of the land the ground level outdoor play area at the rear of the building which is associated with the childcare centre is raised up to 2.7m above ground level and includes 3m high fence screening around the perimeter (see Figure 7 below). This rear raised ground level portion of the building provides a transition in height from the proposed 3-storey element to the neighbouring single storey dwelling to the west generally in accordance with the intent of Figure 3 in Part 7 Chapter D of the DCP (see Figure 8 below).



Figure 7: Southern (Watkin Street) elevation of proposal showing slope of land.

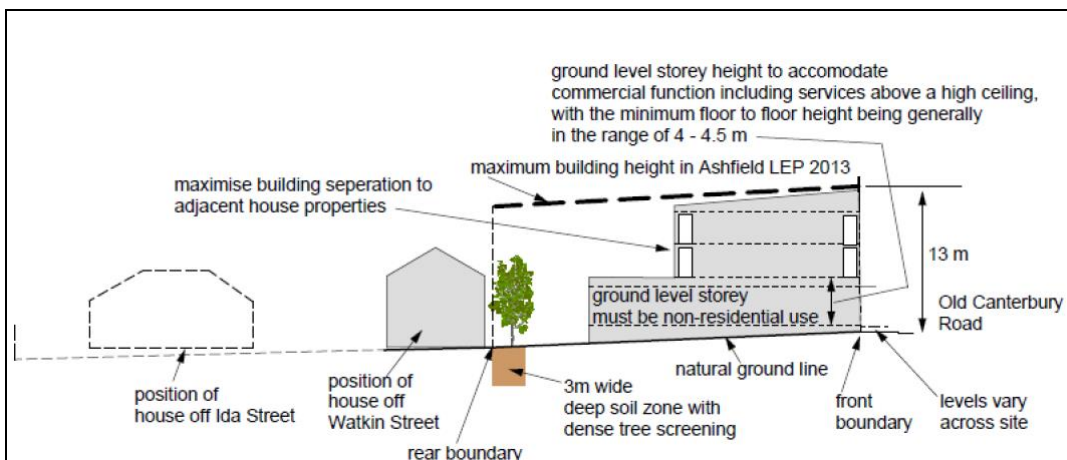


Figure 8: Extract of Figure 3 in Chapter D of the DCP.

In accordance with DS8.1 of this part of the DCP, 50% of the ground level must be used for business uses. Although the childcare centre is not defined as a ‘business premises’ in accordance with the definition in the LEP, it is clearly non-residential and meets the intention of this part of the plan in that it ‘maximize[s] employment and commercial space’, addressing the objectives of the B6 Enterprise Corridor Zone.

The proposal achieves the minimum required 3.3m ground level ceiling heights.

The proposal has been designed generally in accordance with the relevant requirements of Part 7 Chapter D of the DCP and achieves the purposes of the precinct.

Part 2 Chapter A - Good Design

The revised proposal was reviewed by Council's Urban Designer and no significant issues were raised with the proposed design. It is considered that the proposal demonstrates good design in accordance with Part 2 Chapter A of the DCP.

Part 4 Chapter A – Solar Access and Overshadowing

Given the site is bounded by Watkin Street to the south and Canterbury Road to the east, the majority of shadows cast by the proposal will fall on these roads. The shadow diagrams demonstrate that the proposal will maintain adequate solar access to neighbouring properties.

Part 6 Chapter A – Access and Mobility

The supplied Accessibility Report and BCA Report concludes that the building is capable of compliance with The Disability Discrimination Act 1992), The Disability (Access to Premises — Buildings), Standards 2010, Part D3 of the BCA, and Australian Standard AS 1428.1-2009.

Part 7 Chapter A – Safety by Design

In accordance with DS1.4 and 1.5, the development establishes a clear delineation between public and private and includes legible entries from Canterbury Road.

Extensive ground and first floor glazing is provided on the Canterbury Road elevation providing good passive casual surveillance.

It is a recommended condition of consent that the residential letterboxes be located within the residential lobby to deter identity theft.

The proposal complies with the CPTED principles subject to the imposition of conditions of consent.

Part 8 Chapter A - Parking

General

The application is supported by a Traffic Impact Assessment Report which concludes that the proposal will not result in any unreasonable impacts on the local road network.

The report notes that the intersection of Canterbury Road / Watkins Street will continue to operate at similar levels of current service.

According to the RMS Guide and RMS Guide Update, the proposed development generates approximately 37 vehicles in the AM peak hour and 32 vehicles in the PM peak hour.

The report was reviewed by Councils engineers and no objections were raised subject to the imposition of recommended conditions of consent.

Car Parking

The DCP requires 1 space per dwelling and 1 visitor space for every 4 dwellings in a flat building.

The proposal includes 10 residential car spaces and 3 associated visitor car spaces in accordance with the requirements of the DCP.

It is considered that the visitor car space on basement level 1 (V1) would be better utilised if associated with the childcare centre based on the anticipated number of vehicle movements, the relatively small number (10) of units and that this space is isolated from the rest of the residential parking. It is therefore a recommended condition of consent that V1 be changed to a dedicated childcare centre space. One of the other visitor spaces (V2 or V3) on basement level 2 must be an accessible space (if required).

The DCP requires 1 space per 4 children for childcare centres.

The proposal provides 10 car spaces associated with the childcare centre for the proposed 40 children in accordance with the requirements of the DCP. As mentioned above, subject to conditions, the childcare centre will have one additional car space, totalling 11 spaces.

The DCP requires 1 space per 40sqm of commercial floor area.

The proposal provides 1 commercial car space for the proposed 40sqm commercial tenancy in accordance with the requirements of the DCP.

The supplied Traffic Impact Assessment Report anticipates 32 morning and 28 afternoon car movements in association with the childcare centre. It is considered that there is sufficient on-site and nearby street parking to facilitate the anticipated car movements.

Bicycle Parking

The DCP requires 1 bicycle space per 10 flats.

No nominated bicycle parking has been provided for the residential flats. Given there is ample scope to provide bicycle parking far in excess of this, it is a recommended condition of consent that at least 5 bicycle spaces are provided in basement level 2.

The DCP requires 1 bicycle space per 4 employees of childcare centres.

The proposal provides 2 bicycle spaces on basement level 1. It is assumed that these spaces are for the proposed 7 staff which complies with the requirements of the DCP. A condition of consent is recommended that these spaces are for the use of childcare staff only.

There are no specific bicycle parking requirements for commercial tenancies.

Part 9 Chapter A – Subdivision

The proposal includes Strata subdivision of the building.

It is a recommended condition of consent that the draft subdivision plan be updated to reflect the revised scheme and conditions of consent.

In accordance with DS6.4, it is a recommended condition of consent that the visitor car spaces in the basement levels are designated as common property.

It is a recommended condition of consent that the use of the communal rooftop open space be restricted to residents and guests of the residences.

Part 1 Chapter C – Building Sustainability

The proposal incorporates a number of sustainable measures including photovoltaic panels, insulation, sun shading devices and tree plantings.

The residential component of the proposal is supported by a BASIX report and NATHERs Certificate.

Part 3 Chapter C – Waste

Residential

The residential component will generate the need for 5 x 240L waste bins, 5 x 240L recycling bins and 1 x 240L green waste bin. Given the relatively small scale of the proposal (10 units), and that it has access to a local road (Watkin Street), kerb side collection is considered acceptable in this instance.

A residential waste storage area is located in basement level 1. The WMP indicates that the residential bins will be stored and collected from Watkin Street which is not desirable. It is a recommended condition of consent that an enclosed temporary waste storage area with the capacity to hold the 10 residential bins be introduced to the pedestrian area directly adjacent to the driveway (to the east) (see Figure 9 below).

This may require the relocation of the pedestrian door and/or the adjacent eastern basement wall. If additional space is required, the driveway may also be slightly relocated to the west into the landscaped area. Any reduction of landscaped area must be kept to a minimum. The temporary waste storage area must be enclosed with a roller door or similar and be designed to be integrated into the design of the building.

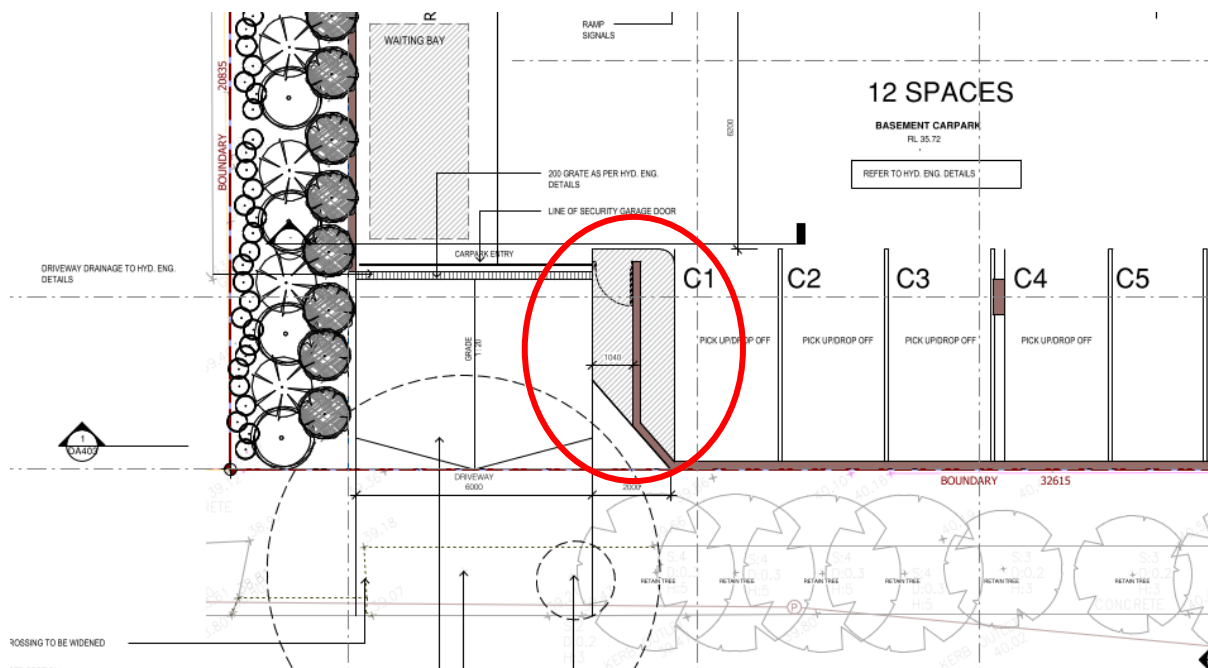


Figure 9: Area of required temporary waste storage area for residential bin collection.

It will be the responsibility of strata management to transfer and return the bins to/from the collection point (the aforementioned temporary waste storage area). Conditions to this effect are recommended. The waste management plan will need to be updated accordingly.

Two (2) x composting bins must be provided in a suitable location on the rooftop communal open space area.

Childcare Centre/Commercial Tenancy

The commercial tenancy generates the need for 1 x 240L waste bin and 1 x 240L recycling bin.

The childcare centre generates the need for 2 x 240L waste bins and 2 x 240L recycling bins.

Individual waste storage areas are provided on basement level 1 for the childcare centre and commercial tenancy.

The childcare centre and commercial bins will be collected by a private waste contractor.

To ensure the amenity of neighbouring properties is not unreasonably affected and to avoid conflict of traffic movements, it is a recommended condition of consent that waste collection be restricted to the following hours:

- 8.00am – 4.00pm, Monday – Sunday.

Part 8 Chapter F – Childcare Centres

The proposed childcare centre has a capacity of 40 children, a maximum of 7 staff, and has operating hours of 7.00am – 6.00pm, Monday to Friday.

The following shows the maximum number of children in each age bracket:

- 0-2 years - 12 children
- 2-3 years - 14 children
- 3-5 years - 14 children

10 car spaces are provided in basement level 1 which is accessed from Watkin Street. 4 of the car spaces are pick up/drop off spaces.

The childcare centre is accessed from basement level 1 via a dedicated childcare centre lift. The childcare centre is accessed at ground level via the dedicated entrance fronting Canterbury Road. No pedestrian access is provided from Watkin Street. It is a recommended condition of consent that the childcare centre lift require a code or the such restricting its use to those using the childcare centre (parents/children and staff).

The childcare centre includes 3 main rooms, one for each age bracket of children. The centre also includes ancillary rooms including a nappy change room, cot room, laundry, toilet, storage rooms, staff room, staff bathroom, kitchen, and reception area.

The childcare centre includes outdoor play area above the basement level to the rear of the site which also wraps around the southern (side) setback.

Privacy concerns were initially raised by the potential for overlooking of the outdoor play area from the upper level west-facing residential balconies. As a response, 1300mm high solid balustrades were introduced which will adequately restrict sightlines from the balconies to the outdoor play area below (see Figure 10 below). It is also noted that the outdoor play

area includes large parasails for weather protection which will also provide substantial screening of the outdoor area.

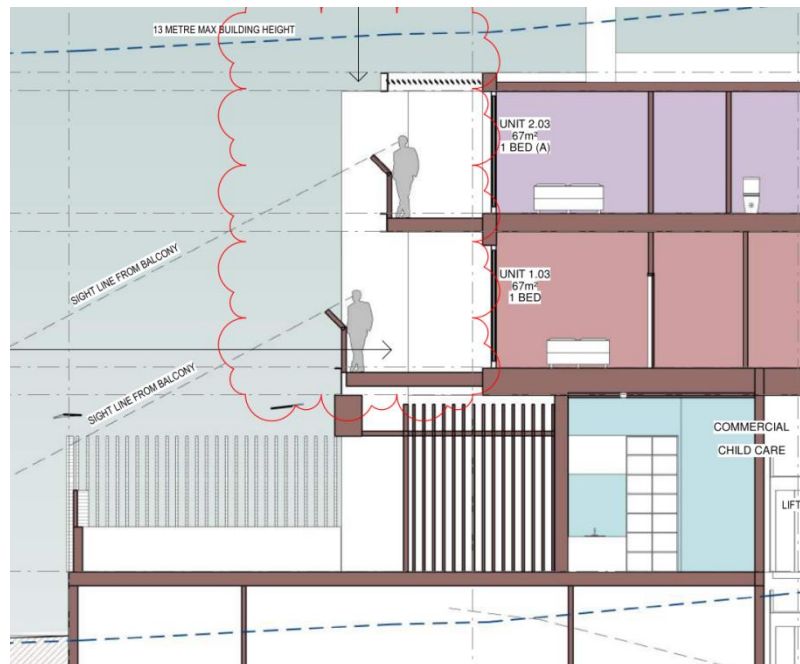


Figure 10: Sections showing sightlines from upper level balconies.

DS1.4 requires child Care Centres not to be located on heavily trafficked roads unless they are sited and designed to be protected from air pollution, noise and other impacts from the road.

Although the site is located on a heavily trafficked road, it has been sited and designed to be orientated away from Canterbury Road and towards the 'quiet' western and southern sides of the site. Nevertheless, Council requested an Air Quality Report be prepared to investigate the pollutant levels at the proposed location of the childcare centre due to vehicle emissions from road traffic along Canterbury Road. The report concluded that concentrations of pollutants at the most affected part of the site, associated with road traffic emissions, are predicted to comply with the relevant criteria within the NSW EPA guidelines. As such, the modelling and assessment of potential air quality impacts in this report indicate that the proposed site is a satisfactory location for a childcare centre.

An Acoustic Impact Assessment was also provided by the applicant which adequately demonstrated that the childcare centre will be adequately protected from noise generated by Canterbury Road.

In accordance with DS1.5, the site is not flood prone, is not contaminated, and is not in close proximity to any conflicting uses.

PC4 requires separate pedestrian paths with a minimum width of 1.2 metres separated from vehicle aisle movement areas or car parking spaces are provided, identified and located to allow safe movement of children with parent/carers to and from vehicles within the short stay visitor parking areas. It is a recommended condition of consent that the proposed pick up/drop off spaces be relocated to the northern four car spaces (C9, C10, S1 and V1) so they are immediately adjacent the childcare lift thus reducing possibilities for pedestrian/vehicle conflicts (see Figure 11 below).

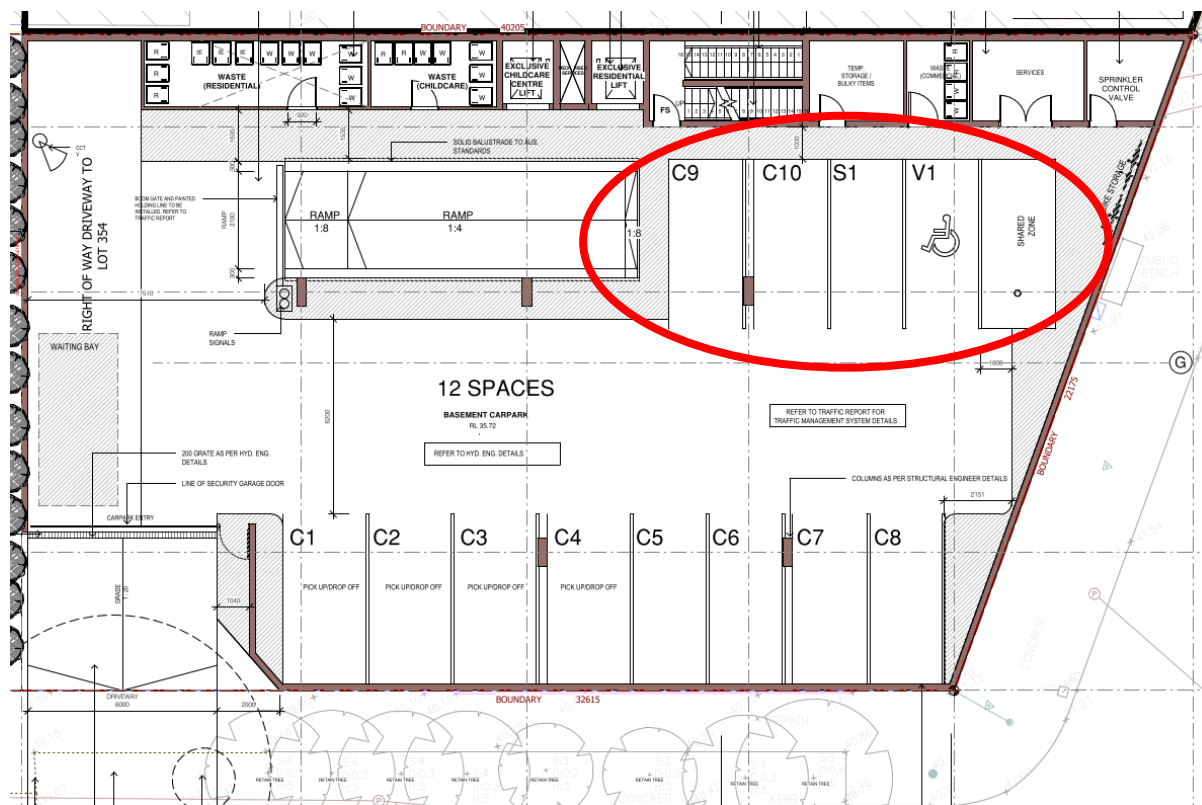


Figure 11: Red circle indicates new location of pick up/drop off spots.

To ensure a clear delineation between the pickup/drop off spots and the longer-term car spaces, it is a recommended condition of consent that the pickup/drop off spots are painted and clearly demarcated with signage indicating that they are for childcare pickup/drop off only.

Subject to conditions, the car parking has been designed in accordance with PC4 in that 10 spaces are provided, 4 of which are pick up/drop off spaces, a waiting bay has been provided, and it is located conveniently to the childcare centre.

As discussed elsewhere in this report, it is a recommended condition of consent that the 'visitors' car space on basement level 1 (V1) be also utilised for the purposes of the childcare centre.

In accordance with DS5.1, the childcare centres outdoor play area is not located near any neighbouring bedroom or living room windows. The neighbouring property to the west (No. 1 Watkin Street) has no windows facing the subject site. Furthermore, screen fencing and landscaping has been incorporated as a privacy control measure.

In accordance with DS8.1, a Plan of Management (POM) has been provided.

The proposed childcare centre has been designed generally in accordance with the requirements of Part 8 Chapter F of the DCP.

Business Premises

The 40sqm business premises has a frontage to Canterbury Road and includes an accessible toilet. The premises has access to a car space and designated waste storage area in basement level 1.

The fitout, use, hours of operation and signage will be subject to a future application or complying development certificate.

Given the small size of the tenancy, it is considered that deliveries can occur on Watkin Street. To ensure the amenity of the nearby sensitive uses are not unreasonably impacted, a condition of consent is recommended that deliveries only occur between 7.00am – 7.00pm, Mondays to Fridays, and 8.00am – 5.00pm on Saturdays and Sundays.

5(d) The Likely Impacts

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

Site Isolation

The neighbouring site at No. 352 will be 'isolated' by the proposed development and the recently built two-storey shop-top housing development further to the north at No. 350 Canterbury Road. It is considered unlikely that either the subject site or No. 350 will be redeveloped in the near future to facilitate future site amalgamation.

In accordance with the Planning Principle established in *Karavellas v Sutherland Shire Council* [2004], the following two questions should be answered when dealing with site amalgamation and site isolation:

- Firstly, is amalgamation of the sites feasible?
- Secondly, can orderly and economic use and development of the separate sites be achieved if amalgamation is not feasible?

To answer the first question, the principles set out by Brown C in *Melissa Grech v Auburn Council* [2004] are referred to.

The applicant has provided an independent Valuation Report which valued the neighbouring property at No. 252 Canterbury Road at \$1,100,000. Documentation has been provided by the applicant that two offers of purchase were made to the owners of No. 252 by registered post, the first offering \$1,100,000 and the second \$1,155,000. The documentation states that no response was received, suggesting that the offers were rejected and there is no interest to sell the property.

Evidence of attempts were made to acquire neighbouring sites to pursue site amalgamation. As mentioned, documentation has been provided by the applicant showing that purchase offers were made to the owners of No. 352. Based on the information provided, none of the respective landowners accepted the offers and, as such, it does not appear that amalgamation was possible at this time based on the information supplied by the applicant.

To answer the second question, the principles set out by Brown C in *Cornerstone Property Group Pty Ltd v Warringah Council* [2004] are referred to.

It is also noted that a schematic analysis of No. 352 Old Canterbury Road has been prepared, indicating that the site could be developed in isolation. This includes proposed vehicular access via an easement through the subject site and proposed basement to facilitate future vehicular access to No. 352. It is a recommended condition of consent that this easement be shown on the draft strata plan.

Council is satisfied that neighbouring site can still achieve a development that is consistent with the planning controls (most notably height, setbacks and site coverage) and thus orderly and economic use and development of the separate sites be achieved if amalgamation is not feasible.

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

Provided that any adverse effects on adjoining properties are minimised, this site is considered suitable to accommodate the proposed development, and this has been demonstrated in the assessment of the application.

5(f) Any submissions

The application was notified in accordance with Inner West Comprehensive Development Control Plan (DCP) 2016 for Ashbury, Ashfield, Croydon, Croydon Park, Haberfield, Hurlstone Park and Summer Hill for a period of 27 days to surrounding properties between 31 July – 27 August 2019. A total of six (6) unique submissions were received.

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

- Waste collection – see Section 5(b)
- Acoustic impacts – see Section 5(b)
- Non-compliances with the ADG – see Section 5(a)(iii)
- Impact on street network and street parking – see Section 5(b)
- Tree removal – see Section 6
- Insufficient landscaping buffer to low-density houses – see Section 5(b)
- No transition in height to low-density houses – see Section 5(b)
- Excessive height and bulk – see Section 5(a)(viii) and 5(b)
- Inadequate setbacks – see Section 5(a)(iii) and 5(b)

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

Issue: Impact on heritage significance of surrounding area.

Comment: The site is not within the vicinity of any heritage conservation areas of heritage items.

Issue: Pedestrian/vehicle conflict

Comment: Given the scale of the development, it is considered that the proposal will not create significant safety concerns in relation to pedestrian/vehicle movements.

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 proposal is not contrary to the public interest.

6 Referrals

6(a) Internal

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

Trees

No objections are raised to removal of site tree subject to replacement planting and the recommended conditions of consent. The adjacent 9 street trees are to be retained and protected.

Engineers

No objections were raised subject to the imposition of conditions of consent largely in relation to stormwater, traffic/parking and construction.

Resource Management

No objections were raised subject to the imposition of conditions of consent.

Environmental Health

The supplied revised Acoustic Impact Assessment Report and Odour Impact Assessment Report were reviewed. No objections were raised subject to the imposition of conditions of consent.

Urban Designer

Concerns raised largely in relation to unit configurations and the awning. Council planners consider these issues adequately addressed in the revised scheme.

6(b) External

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

RMS

No objections subject to the imposition of recommended conditions of consent (see discussion elsewhere in this report).

Department of Education

Concurrence was provided.

Ausgrid

No objections.

7. Section 7.11 Contributions

Section 7.11 contributions are payable for the proposal.

The contribution is based on 9 x units between 60-84sqm, 1 x unit over 84sqm, 40sqm of 'commercial gross floor area' (business premises) and 240sqm of 'commercial gross floor area' (childcare centre).

The existing dwelling house on No. 356, and the 212sqm of commercial gross floor area of the existing building at No. 354 will also be applied as a credit.

The carrying out of the development would result in an increased demand for public amenities and public services within the area. A contribution of \$132,516.23 would be required for the development under Ashfield Section 94 Contributions Plan 2014. A condition requiring that contribution to be paid is included in the recommendation.

8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in *Ashfield Local Environmental Plan 2013* and Inner West Comprehensive Development Control Plan (DCP) 2016 for Ashbury, Ashfield, Croydon, Croydon Park, Haberfield, Hurlstone Park and Summer Hill.

The development will not result in any significant impacts on the amenity of the adjoining premises/properties and the streetscape and is considered to be in the public interest.

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

9. Recommendation

- A. The applicant has made a written request pursuant to Clause 4.6 of the *Ashfield Local Environmental Plan 2013*. After considering the request, and assuming the concurrence of the Secretary, the Panel is satisfied that compliance with the standard is unnecessary in the circumstance of the case and that there are sufficient environmental grounds to support the variation. The proposed development will be in the public interest because the exceedance is not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.
- B. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, grant consent to Development Application No. 10.2019.2017 for demolition of existing structures, construction of a three storey mixed use building with ground floor childcare, retail unit and two levels of residential accommodation with 10 residential units, basement car parking, associated works and strata subdivision at 354-356 Canterbury Road, Hurlstone Park subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

Conditions of Consent

Fees

1. Section 7.11 (Former Section 94) Contribution

Prior to the issue of a Construction Certificate written evidence must be provided to the Certifying Authority that a monetary contribution of \$202,349.91 indexed in accordance with Ashfield Development Contributions Plan has been paid to the Council.

The above contribution is the contribution applicable as at 29 January 2020.

***NB** Contribution rates under Ashfield Development Contributions Plan are indexed quarterly (for the method of indexation refer to Section 2.6 of the Plan).

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

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

Community Infrastructure Type:	Contribution \$
Local Roads	3,174.71
Local Public Transport Facilities	6,695.12
Local Public Car Parking	0.00
Local Open Space and Recreation	111,598.75
Local Community Facilities	5,507.95
Plan Preparation and Administration	5,539.69
TOTAL	132,516.23

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 - Custom

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

Security Deposit:	\$8,056.50
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
DA202 'B'	Site Plan and Construction Management	10/10/2019	Technik Haus
DA300 'B'	Basement Lower Floor Plan	10/10/2019	Technik Haus
DA301 'B'	Basement Floor Plan	10/10/2019	Technik Haus
DA302 'C'	Ground Floor Plan	14/1/2020	Technik Haus
DA303 'D'	First Floor Plan	22/1/2020	Technik Haus
DA304 'C'	Second Floor Plan	14/1/2020	Technik Haus
DA305 'C'	Roof Plan	14/1/2020	Technik Haus
DA306 'B'	Adaptable Unit Plan	10/10/2019	Technik Haus
DA401 'B'	Section AA	10/10/2019	Technik Haus

DA402 'C'	Section BB	14/1/2020	Technik Haus	
DA403 'C'	Section CC	14/1/2020	Technik Haus	
DA404 'C'	Section DD	14/1/2020	Technik Haus	
DA501 'B'	North Elevation	10/10/2019	Technik Haus	
DA502 'C'	South Elevation	14/1/2020	Technik Haus	
DA503 'C'	East Elevation	14/1/2020	Technik Haus	
DA504 'C'	West Elevation	14/1/2020	Technik Haus	
DA705 'B'	Draft Subdivision Plan	10/10/2019	Technik Haus	
DA801 'C'	Materials / Windows Schedule	14/1/2020	Technik Haus	
LPDA 17 - 221/1 'C'	Landscape Spec	28 April 2017	Conzept Architects	Landscape
LPDA 17 - 221/2 'C'	Landscape Plan	28 April 2017	Conzept Architects	Landscape
LPDA 17 - 221/3 'C'	Landscape Details	28 April 2017	Conzept Architects	Landscape
LPDA 17 - 221/4 'C'	Landscape Details	28 April 2017	Conzept Architects	Landscape
LPDA 17 - 221/5 'C'	Landscape Details	28 April 2017	Conzept Architects	Landscape
16MB7303/D01 1 of 4 'B'	Site and Roof Drainage Plan	27 April 2017	United Engineers	Consulting
16MB7303/D01 2 of 4 'B'	Ground Floor Drainage Plan	27 April 2017	United Engineers	Consulting
16MB7303/D01 3 of 4 'B'	Basement Drainage Plan	27 April 2017	United Engineers	Consulting
16MB7303/D01 4 of 4 'B'	Details Drainage Plan	27 April 2017	United Engineers	Consulting

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 privacy screens over the windows of Bed 1 in Unit 2.05 and Bed 2 in Unit 2.04 must be deleted and the windows changed to have sill heights of 1400mm above the finished floor level to ensure a level of internal privacy and reduce opportunities for overlooking the private open spaces below.
- b) The south-facing window of Bed 1 in Unit 2.04 must be an operable high-level window with a sill height of 1600mm above the finished floor level to maintain adequate privacy.
- c) All bedrooms that solely rely on balcony doors for natural ventilation must either include operable fan-lights or operable louvers or the such to ensure that natural

ventilation can be accessed without having to open the balcony doors. These rooms must still comply with the relevant acoustic requirements.

- d) A 1800mm high solid privacy screen be installed between these the balconies of Units 1.04 and 1.05 to ensure adequate separation and privacy.
- e) The fencing around the perimeter of the childcare outdoor play area must be 3m high from the ground floor FFL and be designed in accordance with material '9' 'aluminium screen' on the approved Dwg. No. DA801 'C' in Condition 4 of this consent.
- f) The ground level timber cladding at the corner of Canterbury Road and Watkin Street must be continued around the southern elevation to the start of the western edge of the 'garden' along the southern boundary. The cladding must be to a height of 1.8m above the adjacent portion of the Watkin Street footpath. The cladding to follow the fall of the land to the west.
- g) Fencing/screening above the required cladding referred to in Condition 5(f) along the southern boundary is to match material '9' 'aluminium screen' on the approved Dwg. No. DA801 'C' in Condition 4 of this consent. The fencing/screening must have suitable gaps to provide the required natural light and ventilation to the adjacent 'outdoor play area' and '0-2 years indoor play area' while restricting access and providing safety to the children.
- h) Public art on this prominent corner to promote active visual engagement between to the street. The art must not be for the purposes of business identification, or advertising and will be subject to Councils approval. A condition of consent to this effect has been recommended.
- i) The residential letter boxes must be located within the ground level residential lobby, close to the Canterbury Road front entrance.
- j) An enclosed temporary waste storage area with the capacity to hold the 10 residential bins must be introduced in the pedestrian area directly adjacent to the driveway – to the east of the driveway. This may require the relocation of the pedestrian door and/or the adjacent eastern basement wall. If additional space is required to facilitate the area, the driveway may also be slightly relocated to the west into the landscaped area. Any reduction of landscaped area must be kept to a minimum. The temporary waste storage area must be enclosed with a roller door or the such and be designed to be integrated into the design of the building.
- k) Two (2) x composting bins must be provided in a suitable location on the rooftop communal open space area.

6. Public Art

Public art must be included on the ground level timber cladding on the corner of Canterbury Road and Watkin Street to promote active visual engagement between to the street. The art must not be for the purposes of business identification or advertising.

The content of the 'artwork façade' panels on the Parramatta Road and Bland Street elevations must be specified and provided to Councils satisfaction prior to the issue of any Occupation Certificate.

7. Break Through Panels and Right of Way – 352 Canterbury Road

- a) Provision shall be made for connection into the adjoining property at No. 352 Canterbury Road, Hurlstone Park being Lot 23 DP1061215 at the locations identified on drawing number DA301 'B' dated 10 October 2019 prepared by Technik Haus Pty Ltd, to allow for possible future access between the sites and sharing of driveways.
- b) The break through panels must be shown on the construction drawings, and related by accurate dimensions to the building grids. The building grids must be accurately dimensioned in two directions to at least two boundary corners of the site. The upper and lower limits of the break through panels must be clearly annotated on the construction drawings with levels related to Australian Height Datum (AHD), and a benchmark with an AHD value shown on the plans.
- c) The dimensions and location of the break through panels must be:
 - a. Minimum 10400mm length x minimum 3500mm height across the full length of the break through panel at Ground Floor level.
 - b. Minimum 4800mm length x minimum 2200mm height across the full length of the break through panel at Basement Floor level.
- d) The bottom of the breakthrough panels must be flush with the adjacent floor slab across the full length of the breakthrough panels.
- e) Details demonstrating compliance with the above requirements shall be submitted to the PCA prior to the issue of a Construction Certificate.
- f) Pursuant to the provisions of Section 88B of the *Conveyancing Act 1919*, a Right-Of-Carriageway for possible future access between the sites via driveway and the break through panels shall be created and registered with LPI over 354-356 Canterbury Road, Hurlstone Park in favour of 352 Canterbury Road, Hurlstone Park. Proof of the required Right-Of-Carriageway being registered at Land & Property Information shall be provided prior to the issue of a construction certificate.

8. Residential Car Parking

The development must provide and maintain within the site:

- a) 10 residential car parking spaces must be paved and line marked.
- b) 1 car parking spaces, for persons with a disability must be provided and marked as disabled car parking spaces.
- c) 2 residential 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) 5 Bicycle storage capacity within the residential lobby and/or basement level 2.

9. Childcare / Business Car Parking

The development must provide and maintain within the site:

- a) 11 childcare centre car parking spaces must be paved and line marked.
- b) 1 'business premises' car parking space must be paved and line marked.
- c) 2 Bicycle storage capacity within the site. The 2 bicycle spaces on basement level 1 must be designated to staff of the childcare centre.

10. Childcare Parking

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

- a) The proposed pick up/drop off spaces on basement level 1 (C1, C2, C3, C4) must be relocated to the northern four car spaces (C9, C10, S1 and V1) so they are immediately adjacent the childcare lift thus reducing possibilities for pedestrian/vehicle conflicts.
- b) The pickup/drop off spots are painted and clearly demarcated with signage indicating that they are for childcare pickup/drop off only.
- c) The accessible visitors car space (V1) on basement level 1 is to be changed to a dedicated childcare car space. One of the other visitor spaces (V2 or V3) on basement level 2 must be changed to an accessible space if required.

11. Residential Flat Buildings – Hot Water Systems

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

12. Residential Flat Buildings – Air Conditioning Systems

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

13. Residential Flat Buildings – Adaptable Dwellings

Prior to the issue of a Construction Certificate, the Certifying Authority, must be provided with plans that demonstrate 1 unit is an Adaptable unit.

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

14. Waste Management Plan

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

15. Waste Storage Areas

The designated waste storage areas shall have a concrete floor and concrete or cement rendered walls covered to the floor. The floor shall be graded to an approved sewer connection incorporating a sump and galvanised grate cover or basket. A hose cock shall be provided within the areas. The waste storage areas shall be vented to the external air by natural or artificial means. The waste storage areas will provide for a designated space for dry recycling facilities.

The residential temporary waste storage area must have a code lock installed on the outside. The code must be provided to Council's Resource Management Unit for waste collection.

16. 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.

17. 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.

18. 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.

19. 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.

20. 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 or Sydney Water Trunk Drainage system. Alternatively, the basement or any below ground structure must be designed to be "tanked" preventing the ingress of seepage or groundwater.

21. Works outside the Property Boundary

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

22. Rock Anchors

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

23. Noise – Consultant’s Recommendations

The recommendations contained in the acoustic report prepared by Acoustic, Vibration & Noise Pty Ltd, Reference No.: 2017-024 Rev 1, amended dated 28 June 2019 must be implemented.

24. Asbestos Survey

Prior to any demolition or the issue of a Construction Certificate (whichever occurs first), the Certifying Authority must provide an asbestos survey to Council. The survey shall be prepared by a suitably qualified Occupational Hygienist and is to incorporate appropriate asbestos removal and disposal methods in accordance with the requirements of SafeWork NSW. A copy of any SafeWork NSW approval documents is to be included as part of the documentation.

25. 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 kitchen of the childcare centre in accordance with Australian Standard AS 4674 – 2004 (Design, construction and fit-out of food premises) and Australia and New Zealand Food Standards Code.

26. Trees

Removal of the following tree/s from Council's nature strip to permit vehicular access shall be undertaken at no cost to Council by an experienced tree removal contractor/arborist holding public liability insurance amounting to a minimum cover of \$10,000,000.

Tree/location
1 x <i>Callistemon viminalis</i> (Weeping Bottlebrush) Watkin Street
1 x <i>Cupressus sp.</i> (Cypress Pine) Watkin Street

27. Trees

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

Tree/location	Approved works
<i>Eucalyptus</i> sp (Sapling Gum) rear No 354	Remove

Removal or pruning of any other tree (that would require consent of Council) on the site is not approved.

28. Trees

The trees identified below are to be retained:

Tree/location
6 x <i>Cupressus</i> sp. (Cypress Pine) Watkin Street, street trees
2 x <i>Syzygium paniculatum</i> (Lilly Pilly) Watkin Street, street trees
1 x <i>Lagetroemia indica</i> (Crepe Myrtle) street tree, No 1 Watkin St.

Details of the trees to be retained must be included on the Construction Certificate plans.

29. Separation of Commercial and Residential Waste and Recycling

The waste and recycling handling and storage systems for residential waste and commercial waste (including waste originating from retail premises) are to be separate and self-contained. Commercial and retail tenants must not be able to access residential waste storage area/s, or any storage containers or chutes used for residential waste and recycling.

30. Roads and Maritime Services Conditions

- a) All buildings and structures (other than pedestrian footpath awnings), together with any improvements integral to the future use of the site are wholly within the freehold property (unlimited in height or depth), along the Canterbury Road boundary.
- b) The redundant driveway on the Canterbury Road boundary shall be removed and replaced with kerb and gutter to match existing. The design and construction of the kerb and gutter on Canterbury Road shall be in accordance with Roads and Maritime requirements. Details of these requirements should be obtained by email to DeveloperWorks.Sydney@rms.nsw.gov.au.

Detailed design plans of the proposed kerb and gutter are to be submitted to Roads and Maritime for approval prior to the issue of a Construction Certificate and commencement of any road works. Please send all documentation to development.sydney@rms.nsw.gov.au

A plan checking fee and lodgement of a performance bond is required from the applicant.

- c) The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001.

The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by Roads and Maritime. Please send all documentation to development.sydney@rms.nsw.gov.au.

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) day notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

- d) Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to Roads and Maritime for approval, prior to the commencement of any works. Please send all documentation to development.sydney@rms.nsw.gov.au.

A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued.

- e) The proposed development should be designed such that road traffic noise from Canterbury Road is mitigated by durable materials in order to satisfy the requirements for habitable rooms under Clause 102 (3) of State Environmental Planning Policy (Infrastructure) 2007.
- f) Roads and Maritime is currently undertaking a program to implement "Clearways" on State roads within Sydney. If not already in place, "Clearway" restrictions will be implemented along the full Canterbury Road frontage of the development site.
- g) All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction works zone will not be permitted on Canterbury Road.
- h) A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on Canterbury Road during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>
- i) A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council for approval prior to the issue of a Construction Certificate.

Prior to any Demolition

31. 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.

32. 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.

33. 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.

34. 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 CTMP must be approved by the Certifying Authority 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.

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

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

Prior to Construction Certificate

36. 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.

37. 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.

38. Fibre-ready Facilities

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

- a) The installation of fibre-ready facilities to all individual lots and/or premises the development so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose.
- b) The provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises the development demonstrated through an agreement with a carrier.

39. Consolidation of Lots

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

40. Concealment of Plumbing and Ductwork

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

41. Splays

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with evidence that the building in the ground floor has an unobstructed 3 m x 3 m splay view to provide for sight-distance for vehicles and pedestrians at the intersection of Canterbury Road and Watkin Street.

42. Dilapidation Report – Pre-Development – Major

Prior to the issue of a Construction Certificate or any demolition, the Certifying Authority must be provided with a dilapidation report on the visible and structural condition of the following public infrastructure:

- a) Full width of Frederick Street and Watkin Street, including road pavement, stormwater drainage infrastructure, kerb and gutter and footpath, in front of the property.

- b) Half-width of Frederick Street and Watkin Street in front of adjacent properties, including road pavement, stormwater drainage infrastructure, kerb and gutter and footpath.

The dilapidation report is to be prepared by a suitably experienced Civil and/or Structural Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng).

43. Parking Facilities – Major (including basement)

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans certified by a suitably experienced Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) demonstrating that the design of the vehicular access, off-street parking facilities and associated vehicle standing areas comply with Australian Standard AS/NZS 2890.1-2004 Parking Facilities: Off-street car parking, Australian Standard AS 2890.2-2018 Parking Facilities: Commercial vehicle facilities, AS/NZS 2890.3-2015 Parking facilities: Bicycle Parking, AS/NZS 2890.6-2009 Parking facilities: Off-street parking for people with disabilities and the following specific requirements:

- a) 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.
- b) The driveway must rise within the property to be 170mm above the adjacent road gutter level and higher than the street kerb and footpath across the full width of the vehicle crossing.
- c) 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).
- d) 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.
- 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 relative surface levels of the internal access from the road being controlled so that:
 - i. The surface levels at the property boundary match "alignment levels";
 - ii. The change in grade for any 2m length of access way does not exceed 1 in 8 (12.5%) unless suitable transitions are provided in accordance with AS2890.1;
 - iii. The maximum grade at any point does not exceed 1 in 5 (20%) or in the case of ramps greater than 20m in length 1 in 6 (16.7%); and
 - iv. The maximum grade at the property boundary does not exceed 1 in 20 (5%) within 6m of the property boundary;
- g) The vehicle egress is designed such that there are no obstructions to lines of sight, along with the footpath and the roadway for drivers of egressing vehicles.
- h) The curved section of the ramp is designed in accordance with AS/NZS 2890.1-2004 with grades measured along the inside radius.

- i) The vehicular access must be designed to provide clear sight lines (triangles) to pedestrians in street frontage in accordance with the requirements of Clause 3.2.4(b) of AS/NZS 2890.1-2004.
- j) All loading docks and parking bays are designed such that all vehicular movements to and from the proposed development are in a forward direction.
- k) Loading / unloading facilities must be provided on-site in accordance with the requirements of AS2890.2 – 2002.
- l) All loading docks and parking bays are designed such that all vehicular movements to and from the proposed development are in a forward direction.
- m) A bicycle storage area must be provided to accommodate the numerical requirements of DCP and be designed in accordance with relevant provisions of AS 2890.3-2015.
- n) Provision of a Watts' profile speed hump or similar device and associated stop sign and holding line on the vehicular access, near the boundary to the lane to ensure exiting vehicles stop and give way to pedestrian traffic on the footpath.

44. Stormwater Drainage System – Major Developments (OSD is required)

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

- a) The design must be generally in accordance with the stormwater drainage plan on Drawing No. 16MB7303/D01 to D04, Issue B prepared by United Consulting Engineers Pty Ltd.
- b) 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 overflow pipelines from any rainwater tank(s) by gravity to the Council's pipe drainage system via the OSD/OSR tanks.
- c) Comply with Council's Stormwater Drainage Code, Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2018 'Stormwater Drainage' and Council's DCP.
- d) Charged or pump-out stormwater drainage systems are not permitted including for roof drainage other than for the pump-out of subsurface flows and surface flows from the driveway from the basement.
- e) The on-site detention system must be designed for all storm events from the 1 in 5 years to the 1 in 100 year storm event, with discharge to a Council controlled storm water system limited to pre-development conditions with the maximum allowable discharge to Council's street gutter limited to 25 litres/second (100years ARI).
- f) Storage for the 1-year ARI storm event must be provided fully below ground;
- g) Details of the Height vs Storage and Height vs Discharge relationships must be submitted.
- h) Details of the 1 in 100-year ARI overflow route in case of failure/blockage of the drainage system must be provided.
- i) No nuisance or concentration of flows to other properties.
- j) The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system.
- k) An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets.
- l) Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site.
- m) All redundant pipelines within footpath area must be removed and footpath/kerb reinstated.

- n) A pump-out system for drainage of surface flows from the basement ramp is permitted for the basement area only and must be designed in accordance with the following criteria:
- i. Comply with all relevant Australian Standards.
 - ii. An overflow, flashing light and audible alarm is to be provided to warn of pump failure.
 - iii. A maintenance regime for the pump system must be provided, including provision for regular maintenance and servicing at least every 6 months.
 - iv. The proposed pump system must consist of two (2) pumps, connected in parallel, with each pump being capable of emptying the holding tank at a rate equal to the rate of inflow for the one-hour duration, 100-year Average Recurrence Interval (ARI) storm event. The holding tank must be capable of holding one hour's runoff from one-hour duration 20-year ARI storm event.
 - v. Where OSD facilities are required by this consent, the pump system must be discharged to the OSD storage tank.
 - vi. Subsurface flows must be collected at the point of ingress to the basement i.e. at the basement walls.
 - vii. The subsurface drainage system must have sufficient capacity to collect and convey all surface flows to the pump out system.
 - viii. Inlet pits and drains for subsurface drainage must be designed to minimise potential for pollutants from cars or other sources to enter the subsurface drainage system. e.g.. isolate any subsurface drains at boundary walls, inspection pits with solid covers, etc.
- o) Dry-weather flows of any seepage water including seepage from landscaped areas will not be permitted through kerb outlets and must be connected directly to a Council stormwater system. Alternatively, the basement must be fully "tanked" so as not to allow the ingress of seepage or groundwater.

The stormwater plans shall be amended satisfying the following requirements.

- p) Modelling for the determination of the pollution load reductions must be undertaken in MUSIC (the Model for Urban Stormwater Improvement Conceptualisation) and in accordance with Marrickville Council's WSUD Reference Guideline.
- Stormwater quality load reduction controls are:
- 90% reduction in the post development mean annual load of Gross Pollutants (greater than 5mm).
 - 85% reduction in the post development mean annual load of Total Suspended Solids (TSS).
 - 60% reduction in the post development mean annual load of Total Phosphorus (TP).
 - 45% reduction in the post development mean annual load of Total Nitrogen (TN).
- q) A WSUD Strategy Report must be provided to ensure the treatment measures proposed to meet Council's water quality targets. MUSIC model file (*.sqz file) must be included with the report;
- r) 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.

45. Structural and Geotechnical Report

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with an integrated structural and geotechnical report and structural plans that address the design of the proposed basement, prepared certified as compliant with the terms of this condition by a qualified practising Structural and Geotechnical Engineer(s) who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current

Registered Professional Engineer qualifications with Professionals Australia (RPEng). The report and plans must be prepared/ amended to make provision for the following:

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

46. 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 suitably experienced Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) 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 construction of heavy duty vehicular crossings to all vehicular access locations and removal of all redundant vehicular crossings to the site;
- b) New concrete footpath and any damaged kerb and gutter along the frontage of the site. The kerb type (concrete or stone) must be consistent with the majority of kerb type at this location as determined by the Council Engineer.
- c) 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.
- d) The existing Council drainage system must be extended by an appropriately sized pipeline (minimum 375mm diameter) to the frontage of the site, where a kerb inlet pit (minimum 2.4 m lintel) must be installed.
The pipeline must be designed to have the capacity to convey flows that would be collected at that section of street as generated by a 20 year Average Recurrence Interval storm event. Pipes must be Class 4 Steel Reinforced Concrete Pipe or approved equivalent and Pits must be cast in-situ. Plans, long sections and details must be provided including location of utility services.

47. 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.

48. Food Premises Grease Trap – Trade Waste Agreement

Prior to the issue of an Occupation Certificate, the Certifying Authority must be provided with certification confirming that the grease trap has been installed to the premises in accordance with Australian Standard AS 3500 and the National Plumbing and Drainage Code. A copy of the Sydney Water Trade Waste Agreement must also accompany the certification.

49. Trees

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

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

50. Trees

The following trees must be planted:

5 x 75 litre size trees as per the Landscape Plan, Conzept Landscape Architects, 28/04/2017, shall be planted within the property at a minimum of 1.5m from any boundary or structure. The trees are to conform to AS2303—*Tree stock for landscape use*.

Details of the species and planting locations of the replacement plants must be included on the landscape plan and site plan prior to the issue of a Construction Certificate. Note: any replacement tree species must not be a palm tree species or tree species listed as an exempt species under Council's Tree Management Controls.

If the replacement trees are found to be faulty, damaged, dying or dead within twelve (12) months of planting then they must be replaced with the same species. If the trees are found dead before they reach a height where they are protected by Council's Tree Management Controls, they must be replaced with the same species.

51. Trees

To preserve the following tree/s, no work shall commence until the natruestrip is fenced off, enclosing the retained trees, to prevent any activities, storage or the disposal of materials within the fenced area. The fence/s shall be maintained intact until the completion of all demolition/building work on site:

Tree/location	Fenced off as one group
6 x <i>Cupressus</i> sp. (Cypress Pine) Watkin Street, street trees	
2 x <i>Syzygium paniculatum</i> (Lilly Pilly) Watkin Street, street trees	

A minimum 1.8m high barrier (Chain wire mesh panels, plywood or wooden paling fence panels: refer to AS4687-*Temporary fencing and hoardings* for fencing requirements) shall be erected around the perimeter of the stated Protection Zone as measured from the base of the tree (or where practical). Shade cloth or similar should be attached to reduce the transport of dust, other particulate matter and liquids into the protected area. Fence posts and supports should have a diameter greater than 20mm and be located clear of roots. The barrier shall be constructed so as to prevent pedestrian and vehicular entry into the protection zone. The barrier shall not project beyond the kerb onto the roadway or any adjacent footpath.

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

52. Trees

To preserve the following tree/s, no work shall commence until their Protection Zone (in accordance with AS4970-*Protection of trees on development sites*) is fenced off at the specified radius from the trunk/s to prevent any activities, storage or the disposal of materials within the fenced area. The fence/s shall be maintained intact until the completion of all demolition/building work on site.

Tree/location	Radius in metres
1 x <i>Lagstroemia indica</i> (Crepe Myrtle) street tree, No 1 Watkin St.	2 m.

The tree protection fencing being constructed of star pickets (located clear of roots) and connected by 4 strands of 2mm wire at 300mm wide spacing to a minimum height of 1.5 metres in height prior to work commencing.

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

53. Trees

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

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

54. Trees

Prior to works commencing or release of a Construction Certificate (whichever occurs first), tree protection signage is to be attached to the tree protection zone, displayed in a prominent position and the sign repeated at 10 metre intervals. Each sign shall contain in a clearly legible form (lettering should comply with AS 1319-*Safety signs for the occupational environment*), the following information:

- a) Tree protection zone;
- b) This fence has been installed to prevent damage to the trees and their growing environment both above and below ground and access is restricted;
- c) Any encroachment not previously approved within the tree protection zone shall be the subject to advice from the Project Arborist in report form and must include the following:
 - Proof shall be provided that no other alternative is available;
 - On completion, the Project Arborist's report shall be submitted to the Principal Certifying Authority for further consultation with Council;
- d) The name, address and telephone number of the builder.

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

55. Bin Storage Area - Residential

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

The area must also include 50% allowance for manoeuvring of bins. The bin storage area is to be located away from habitable rooms, windows, doors and private useable open space, and to minimise potential impacts on neighbours in terms of aesthetics, noise and odour. The bin storage area is to meet the design requirements detailed in the Inner West Comprehensive Development Control Plan (DCP) 2016 and must include doorways/entrance points of 1200mm.

56. Bulky Waste Storage Area – Residential

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans demonstrating that the bulky waste storage area must meet the floor area requirements as per the Inner West Comprehensive Development Control Plan (DCP) 2016 and have minimum doorways of 1200mm wide to accommodate large items.

57. Commercial - Additional Storage Space

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans demonstrating additional space has been allocated on site for the storage of reusable items such as crates and pallets and/or compaction equipment.

58. Waste Transfer Route

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a plan demonstrating that the path of travel between the bin storage area/bulky waste storage area and the designated waste/recycling collection point is has a minimum 1200mm wall-to-wall clearance, be slip-proof, of a hard surface, be free of obstructions and at no point have a gradient exceeding 1:12.

Each residential level is to have access to a disposal point for all waste streams.

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

During Demolition and Construction

59. 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.

60. 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.

61. Trees

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

62. Trees

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

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

63. Documentation of Demolition and Construction Waste

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

Prior to Occupation Certificate

64. Public Domain Works

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must be provided with written evidence from Council that the following works on the Road Reserve

have been completed in accordance with the requirements of the approval under Section 138 of the *Roads Act 1993* including:

- a) Heavy duty concrete vehicle crossing at the vehicular access location.
- b) The redundant vehicular crossing to the site must be removed and replaced by kerb and gutter and footpath. Where the kerb in the vicinity of the redundant crossing is predominately stone (as determined by Council's Engineer) the replacement kerb must also be in stone.
- c) The existing concrete footpath across the frontage of the site must be reconstructed.
- d) Other works subject to the Roads Act 1993 approval.

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

65. No Encroachments

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority 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.

66. Protect Sandstone Kerb

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must ensure that any damaged stone kerb has been replaced including all kerb outlets in stone kerb must be carefully core drilled.

67. Heavy Duty Vehicle Crossing

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority 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.

68. Redundant Vehicle Crossing

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority 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.

69. Parking Signoff – Major Development

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must be provided with certification from a suitably experienced Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) that the 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).

70. Public Domain - Major Developments

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority 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.

71. Dilapidation Report – Post-Development

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must be provided with a second Dilapidation Report addressing the public infrastructure identified in approved predevelopment dilapidation report, including a photographic survey and structural condition 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.

72. Stormwater Drainage and Road Works – Certification

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

- a) All works required to be undertaken on public roads must be designed and constructed in accordance with Council's approved plans.
- b) Video inspection (CCTV) 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.

73. Works as Executed – Site Stormwater Drainage System

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

- 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, 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 Certifying Authority stamped Construction Certificate plans.

74. Basement Signoff – Major Development

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

75. Operation and Management Plan

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

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

76. Restrictions on the Use of Land and Positive Covenants

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must be provided with evidence that 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 to prevent the erection of any structures;
- b) Restrictions on the Use of Land related to on Site Stormwater Detention System or stormwater quality improvement devices;
- c) Positive Covenant related to on-site stormwater detention and/or retention system; and
- d) Positive Covenant related to stormwater quality improvement devices.

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

77. No Weep Holes

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must be provided with evidence that any weep holes to Council road or footpath resulting from the building works have been removed.

78. 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.

79. Trees

Prior to the issue of any Occupation Certificate, the Principal Certifying Authority is to be satisfied that all landscape works, including the planting of canopy trees, have been undertaken in accordance with the approved landscape plan and/or conditions of Development Consent.

80. Trees

Following removal of the *Callistemon viminalis* (Weeping Bottlebrush) and *Cupressus* sp. (Cypress Pine) from Council's nature strip, the nature strip shall be rehabilitated to the satisfaction of Council's Tree Management Officer at no cost to Council.

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

81. Communal compost/worm farming area

Within multi occupancy residential developments, an area is required to be nominated onsite for communal composting. This area is to be incorporated in any submitted landscaping plans. The operation of this facility is to be the responsibility of the owner's corporation.

82. Childcare Centre lift

The childcare centre lift must have a code, key card system or the such restricting its use to those using the childcare centre (parents/children and staff).

Prior to Subdivision Certificate**83. 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.

84. 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) Each strata lot comprising a dwelling and one car space.
- b) Disabled spaces must be allocated adaptable dwellings.
- c) Car spaces must not be given separate strata lot numbers.
- d) All visitor parking spaces and car wash bays are to be included in common property.

85. 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.

86. 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.

87. Subdivision Plan Amendment

Prior to the issue of a Subdivision Certificate, the Principal Certifier must verify that:

- a) The draft subdivision plan be updated to reflect the approved architectural plans in Condition 4 and conditions of consent.
- b) The 'right of way driveway to Lot 354' shown on the approved ground floor plan must be shown on the draft subdivision plan.

On-going

88. Hours of Operation

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

Day	Hours
Monday – Friday	7.00am – 6.00pm

89. Capacity

The childcare centre has a maximum capacity of 40 children and 7 staff members.

90. Plan of Management - Operation

The operation of the childcare centre complying at all times with the approved Plan of Management. The Plan of Management is not to be further amended without the prior written approval of the Council. If there is any inconsistency between the Plan of Management and the conditions of this consent, the conditions of consent shall prevail to the extent of that inconsistency.

91. Operation and Management Plan

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

92. Vehicles Leaving the Site

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

93. Pick up/drop off spaces

The 'pick up/drop off spaces' are exclusively for the use of children and their carers attending the childcare centre.

94. Commercial Delivers

Deliveries to the business premises and childcare centre must only occur between 7.00am – 7.00pm, Mondays to Fridays, and 8.00am – 5.00pm on Saturdays and Sundays.

95. Noise General

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

96. Residential Waste/Recycling Collection

Residential waste/recycling bins must be stored in the temporary waste storage area adjacent to the driveway for collection.

Waste and recycling bins are to be returned to the waste storage area within the basement within one (1) hour after collection.

97. Commercial Waste/Recycling Collection

The collection of waste and recycling must only occur between 8:00am and 4:00pm Monday to Sunday and public holidays, to avoid noise disruption on the surrounding area.

Garbage and recycling bins associated with the childcare centre and business premises 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.

98. Bin Storage

All bins are to be stored within the site. Bins are to be brought back on site within 12 hours of being emptied.

99. Documentation of Businesses waste services

All businesses must have written evidence of all valid and current contracts and/ or tip dockets for the disposal and/ or processing of all waste streams generated from the site.

100. Trees

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

101. Trees

The landscaped green roof shall be maintained on an on-going basis and the approved maintenance report shall be implemented. Maintenance shall include watering in dry periods (if an irrigation system has not been connected to a water supply); removal of weeds, light fertilisation with slow release complete fertilizers; and the replacement of dead plants.

102. Communal Open Space

- a) The communal rooftop open space be restricted to residents and guests of the residences only.
- b) There is to be no entertainment in the form of amplified music on any part of the common rooftop terrace at any time.
- c) The operating hours of the common rooftop terrace is 8:00am to 10:00pm Monday to Friday, with the exception of New Years Eve.

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.

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.

Subsurface drainage pump-out systems

Where it is demonstrated by detailed geotechnical investigation that the groundwater flows are minimal or intermittent, a pump out system for groundwater may be considered. An application for modification of development consent with supporting documentation must be submitted. Where this option is to be pursued dry-weather flows of any seepage water will not be permitted through kerb outlets and must be connected directly to a Council stormwater system in accordance with Council requirements.

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.

Public Domain and Vehicular Crossings

The vehicular crossing and/or public domain 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/or '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.

Insurances

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

Notice to Council to deliver Residential Bins

Council should be notified of bin requirements three months prior to the occupation of the building to ensure timely delivery.

Council will place an order for the required bins. Delivery will occur once the applicant has completed a Request for New Service.

Recycling / Garbage / Organics Service Information and Education

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

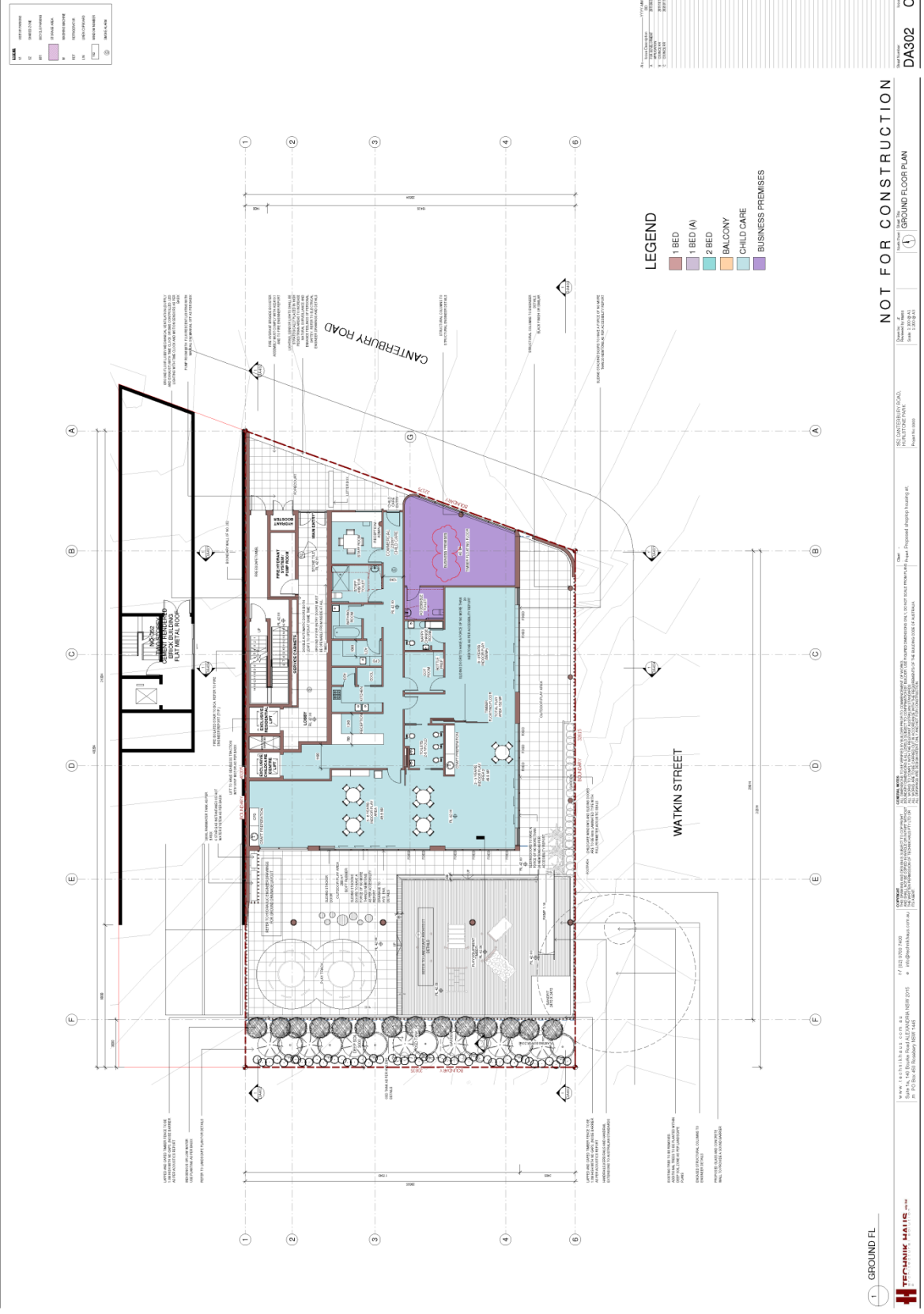
Useful Contacts

BASIX Information	1300 650 908 weekdays 2:00pm - 5:00pm www.basix.nsw.gov.au
Department of Fair Trading	13 32 20 www.fairtrading.nsw.gov.au Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Prior to You Dig	1100 www.dialprior toyoudig.com.au
Landcom	9841 8660 To purchase copies of Volume One of "Soils and Construction"
Long Service Corporation	Payments 131441 www.lspc.nsw.gov.au

NSW Food Authority	1300 552 406 www.foodnotify.nsw.gov.au
NSW Government	www.nsw.gov.au/fibro www.diysafe.nsw.gov.au Information on asbestos and safe work practices.
NSW Office of Environment and Heritage	131 555 www.environment.nsw.gov.au
Sydney Water	13 20 92 www.sydneywater.com.au
Waste Service - SITA Environmental Solutions	1300 651 116 www.wasteservice.nsw.gov.au
Water Efficiency Labelling and Standards (WELS)	www.waterrating.gov.au
WorkCover Authority of NSW	13 10 50 www.workcover.nsw.gov.au Enquiries relating to work safety and asbestos removal and disposal.

Attachment B – Plans of proposed development

Item No.	Item Description	Year	Value
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2	Site 2	2019/20	1000000
3	Site 3	2019/20	1000000
4	Site 4	2019/20	1000000
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NOTE: ADAPTABLE UNIT
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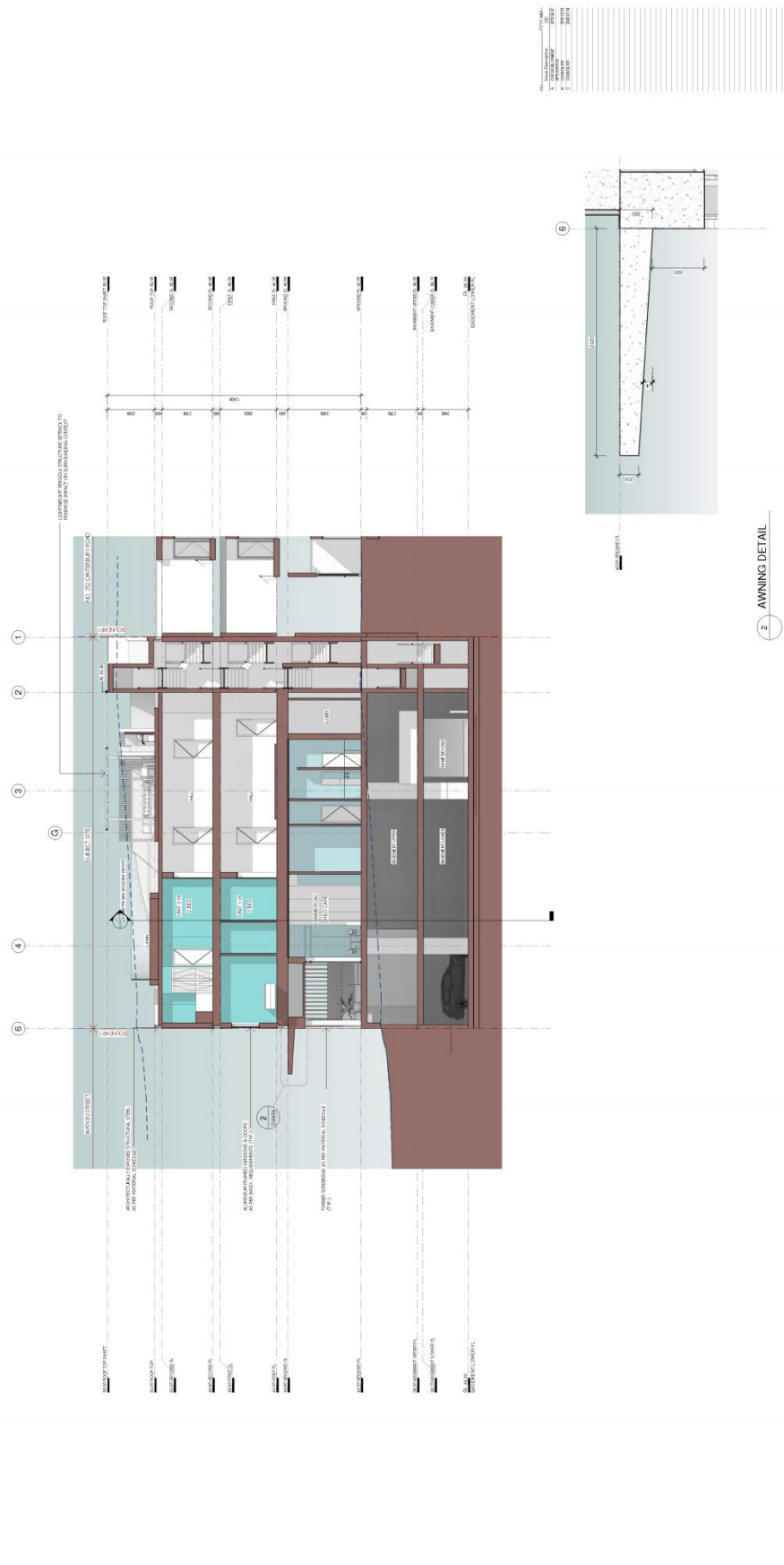


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499. DATE	
500. PROJECT NO.	

NOT FOR CONSTRUCTION
ADAPTABLE UNIT PLAN

DA306 B





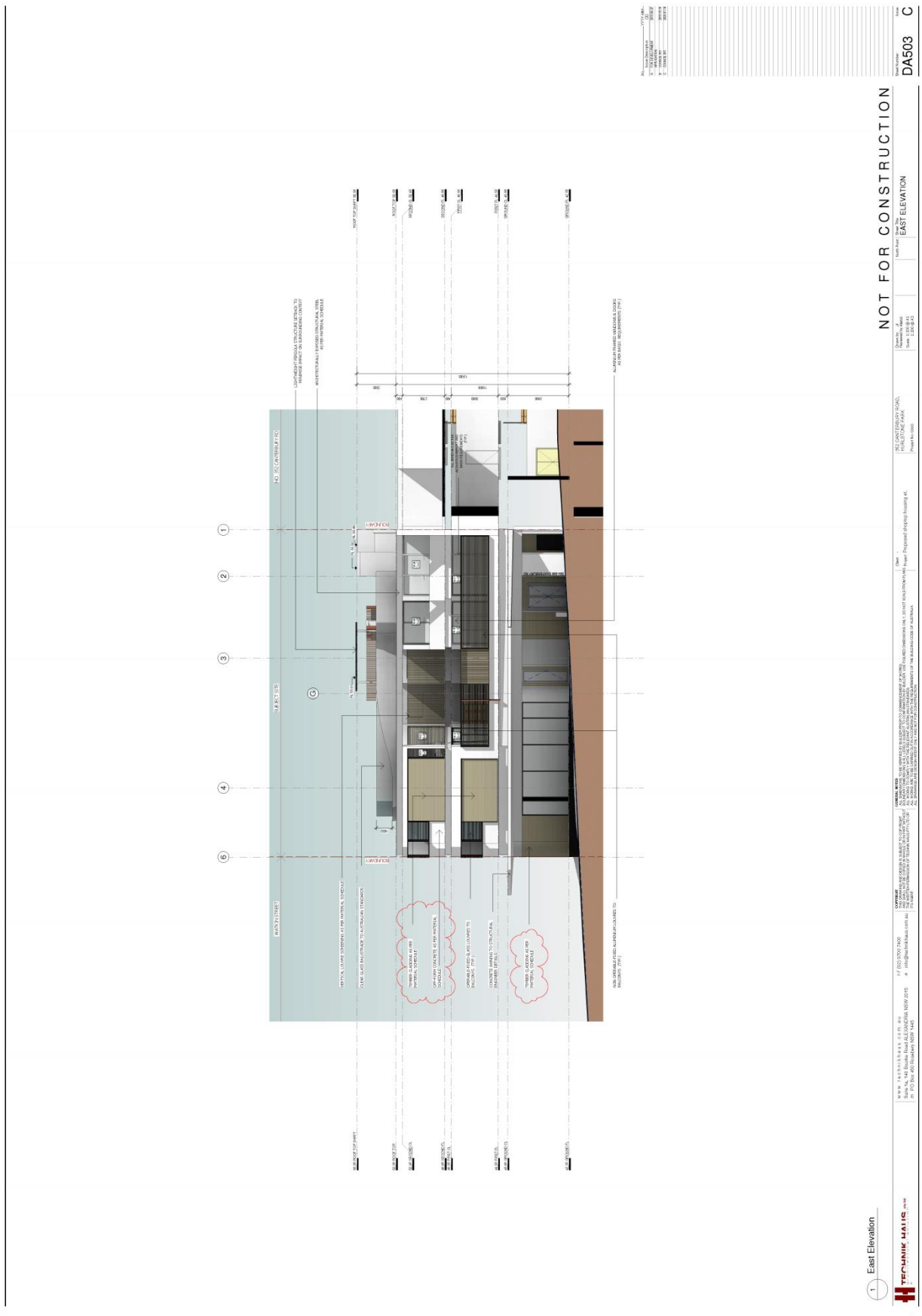
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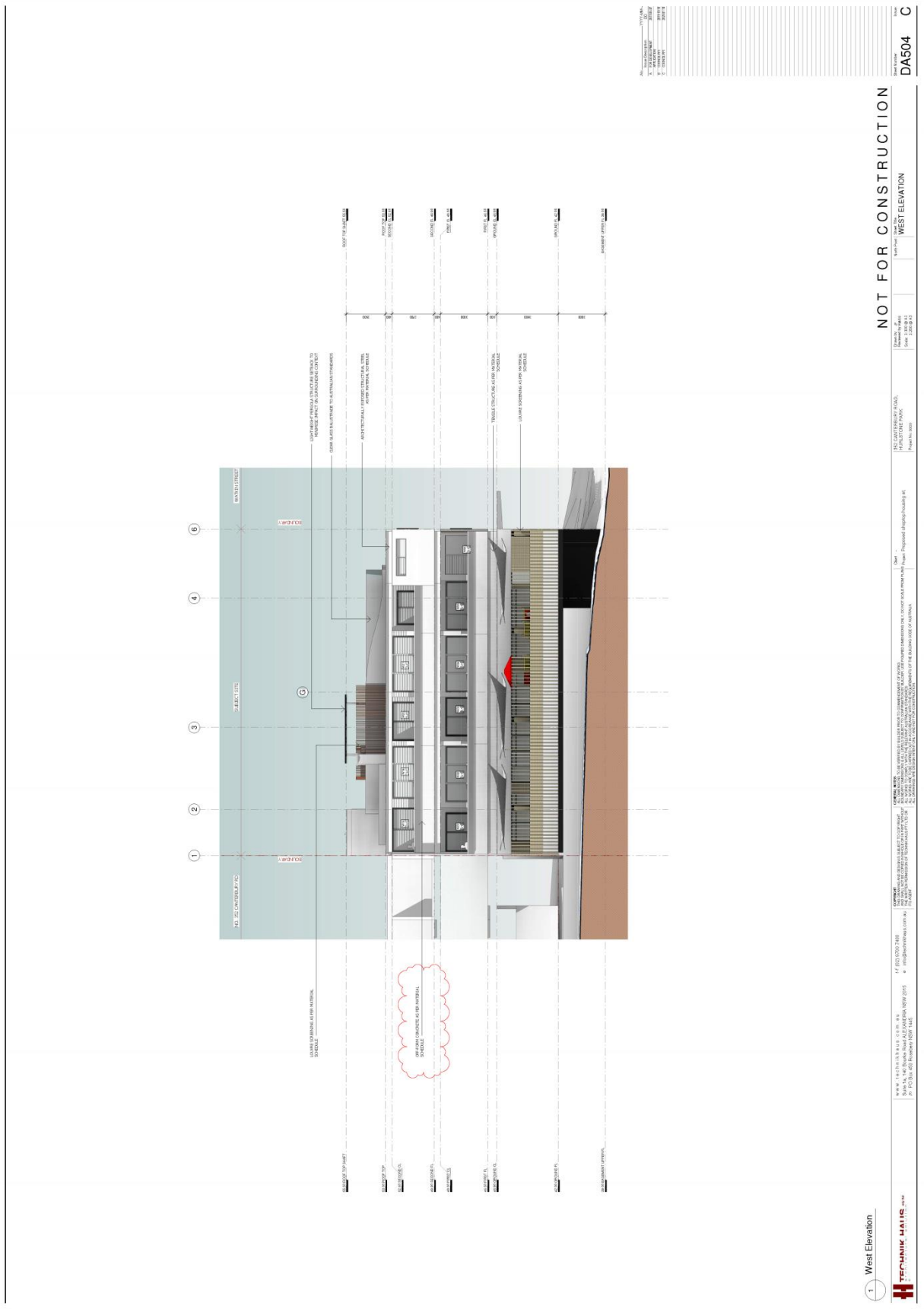
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NOT FOR CONSTRUCTION

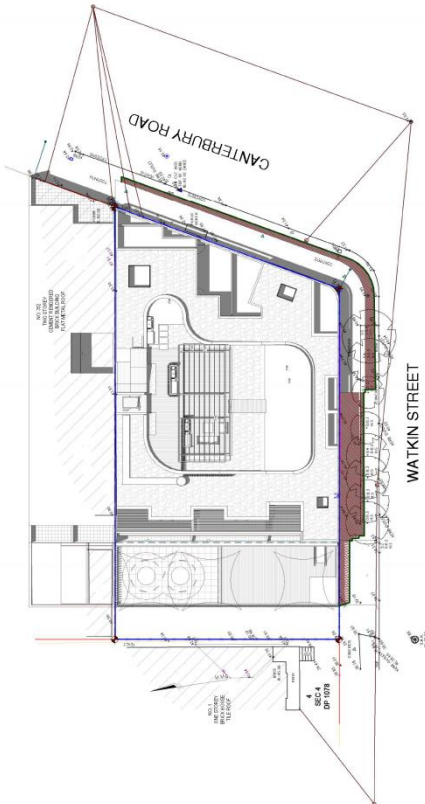
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<p>DATE: 15/08/2018 DRAWN BY: J. HARRIS CHECKED BY: J. HARRIS PROJECT NO: DA404</p>	<p>PROJECT: 15/08/2018 DRAWING NO: DA404 SHEET NO: 01/01</p>	<p>SCALE: 1:50 DATE: 15/08/2018 DRAWN BY: J. HARRIS CHECKED BY: J. HARRIS</p>	<p>PROJECT NO: DA404 SHEET NO: 01/01 DATE: 15/08/2018</p>
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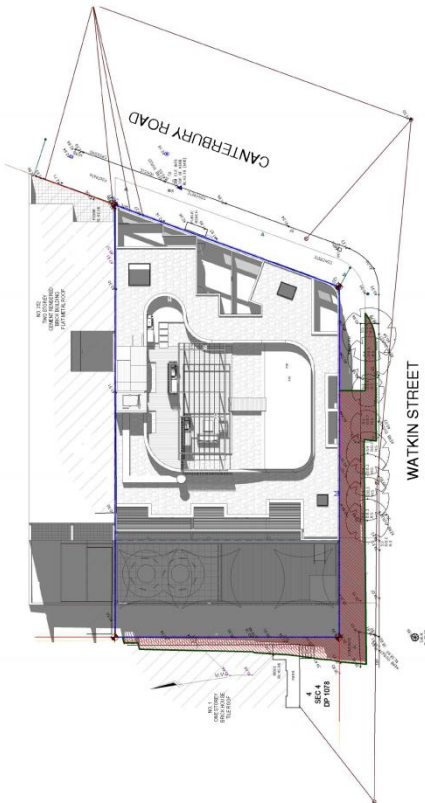




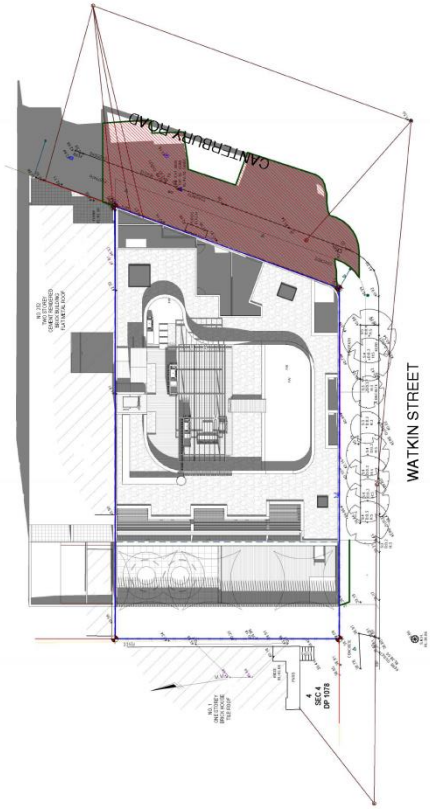
- EXISTING BUILDING
- PROPOSED BUILDING
- SHADOW CASE 15°
- PROPOSED SHADOWS



1 SHADOW DIAGRAMS DEC 9AM



2 SHADOW DIAGRAMS DEC 12PM



3 SHADOW DIAGRAMS DEC 3PM

Project Name	DA704
Project No.	1
Project Title	SHADOW DIAGRAMS DEC
Scale	1:1000
Author	
Check	
Drawn	
Reviewed	
Approved	
Date	

NOT FOR CONSTRUCTION

SEC 4 DP 1078

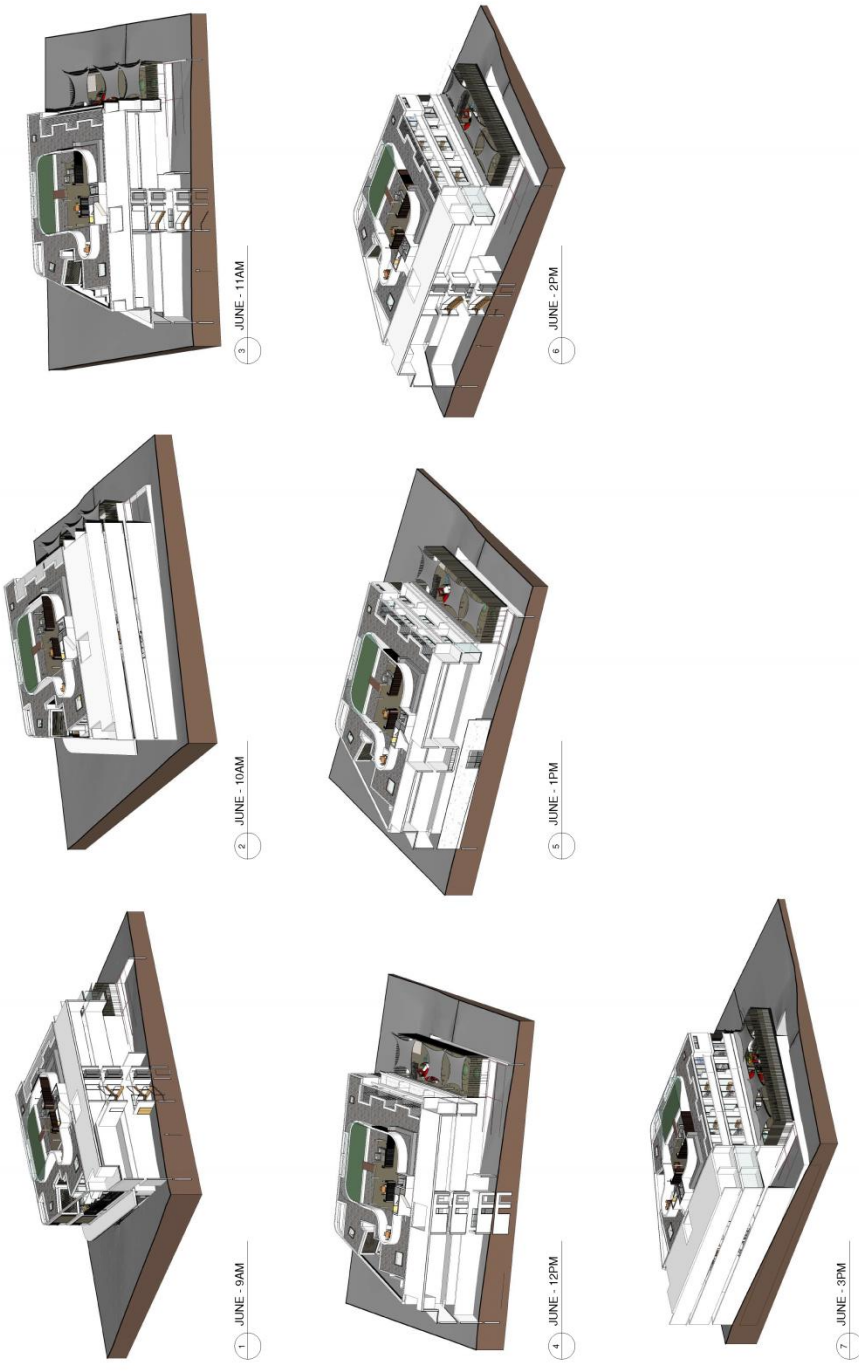
SHADOW DIAGRAMS DEC

DA704

B



14/03/2015
 14/03/2015
 14/03/2015
 14/03/2015



SUNLIGHT ACCESS TO LIVING SPACES

2-HOURS	TOTAL
FIRST FL	3
SECOND FL	6
TOTAL UNITS	9

SUNLIGHT ACCESS TO PRIVATE OPEN SPACES

3-HOURS	TOTAL
FIRST FL	3
SECOND FL	4
TOTAL UNITS	7

REQUIREMENTS

APPLICANT TO PROVIDE EVIDENCE TO SUPPORT THE ABOVE INFORMATION IN THIS REPORT. THE INFORMATION IN THIS REPORT IS FOR INFORMATION ONLY AND DOES NOT CONSTITUTE A GUARANTEE OF ANY KIND. THE INFORMATION IN THIS REPORT IS SUBJECT TO THE ACCURACY OF THE DATA PROVIDED BY THE APPLICANT AND THE DESIGNER.

NOT FOR CONSTRUCTION

Project No: DA901 C



Tephawk Hayes Pty Ltd
 1/100 St Johns Road, North Sydney, NSW 1585
 Australia
 Tel: +61 (0)2 9439 1000
 Fax: +61 (0)2 9439 1001
 Email: info@tephawkhayes.com.au

Project No: DA901 C
 Project Name: Proposed Multi-Storey Residential Development at 1/100 St Johns Road, North Sydney, NSW 1585
 Project Location: 1/100 St Johns Road, North Sydney, NSW 1585
 Project Status: Proposed

Project No: DA901 C
 Project Name: Proposed Multi-Storey Residential Development at 1/100 St Johns Road, North Sydney, NSW 1585
 Project Location: 1/100 St Johns Road, North Sydney, NSW 1585
 Project Status: Proposed

Project No: DA901 C
 Project Name: Proposed Multi-Storey Residential Development at 1/100 St Johns Road, North Sydney, NSW 1585
 Project Location: 1/100 St Johns Road, North Sydney, NSW 1585
 Project Status: Proposed



No. of Pages: 10
 No. of Sheets: 10
 Date: 20/08/2018
 Project Name: DA902

NOT FOR CONSTRUCTION
 MONTAGE

100 LANTERN ROAD,
 HURSTVILLE PARK,
 NEW SOUTH WALES

Other:
 Proposed development

Other:
 Proposed development

Other:
 Proposed development

Other:
 Proposed development

Other:
 Proposed development

Other:
 Proposed development

Other:
 Proposed development

Other:
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Other:
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 Proposed development

Other:
 Proposed development



Project Name	DA904
Site No.	B
Project No.	
Project Date	
Project Status	
Project Description	
Project Location	
Project Contact	
Project Manager	
Project Engineer	
Project Designer	
Project Architect	
Project Consultant	
Project Specialist	
Project Contractor	
Project Subcontractor	
Project Supplier	
Project Manufacturer	
Project Distributor	
Project Retailer	
Project Wholesaler	
Project Importer	
Project Exporter	
Project Shipper	
Project Carrier	
Project Receiver	
Project Installer	
Project Maintainer	
Project Operator	
Project User	
Project Owner	
Project Sponsor	
Project Patron	
Project Benefactor	
Project Donor	
Project Volunteer	
Project Staff	
Project Client	
Project Customer	
Project Guest	
Project Visitor	
Project Stranger	
Project Neighbor	
Project Community	
Project Society	
Project Culture	
Project Religion	
Project Philosophy	
Project Ideology	
Project Worldview	
Project Beliefs	
Project Values	
Project Principles	
Project Standards	
Project Guidelines	
Project Policies	
Project Procedures	
Project Protocols	
Project Rules	
Project Regulations	
Project Laws	
Project Ordinances	
Project Decrees	
Project Edicts	
Project Mandates	
Project Commands	
Project Directives	
Project Instructions	
Project Orders	
Project Requests	
Project Appeals	
Project Petitions	
Project Pleadings	
Project Motions	
Project Hearings	
Project Trials	
Project Verdicts	
Project Judgments	
Project Sentences	
Project Penalties	
Project Fines	
Project Imprisonment	
Project Execution	
Project Death	
Project Burial	
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Project Favor	
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Project Isolation	
Project Separation	
Project Division	
Project Conflict	
Project Disagreement	
Project Dispute	
Project Controversy	
Project Debate	
Project Discussion	
Project Dialogue	
Project Conversation	
Project Communication	
Project Interaction	
Project Relationship	
Project Connection	
Project Link	
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Project Bond	
Project Attachment	
Project Commitment	
Project Dedication	
Project Devotion	
Project Loyalty	
Project Faithfulness	
Project Integrity	
Project Honesty	
Project Truthfulness	
Project Sincerity	
Project Openness	
Project Transparency	
Project Accountability	
Project Responsibility	
Project Obligation	
Project Duty	
Project Task	
Project Job	
Project Career	
Project Profession	
Project Vocation	
Project Calling	
Project Purpose	
Project Mission	
Project Vision	
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Project Equity	



Project Name	DA905
Client	Child Care Centres
Address	
Site No.	
Scale	
Drawn by	
Checked by	
Approved by	
Date	

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CHILD CARE CENTRES

THE LAND (URBAN) ACT 2009

Proposed site plan

DA905

27/02/2010

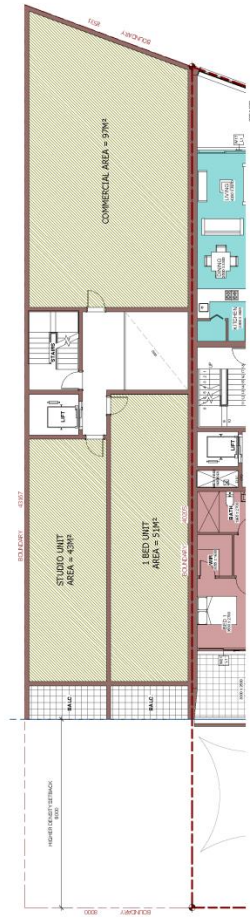
www.tecnikhaus.com.au

TECNIK HAUS PTY LTD





1 352 CANTERBURY ROAD SCHEMATIC ANALYSIS- SECOND FL



2 352 CANTERBURY ROAD SCHEMATIC ANALYSIS- FIRST FL



1 352 CANTERBURY ROAD SCHEMATIC ANALYSIS- GROUND FL

Project Name	352 CANTERBURY ROAD
Client	DA907
Scale	1:100
Drawn By	
Checked By	
Approved By	
Date	

CONCEPT

DA907

352 CANTERBURY ROAD

CONCEPT

DA907

352 CANTERBURY ROAD

CONCEPT

DA907

352 CANTERBURY ROAD

CONCEPT

DA907

352 CANTERBURY ROAD

CONCEPT

DA907

352 CANTERBURY ROAD

CONCEPT

DA907

352 CANTERBURY ROAD

CONCEPT

DA907

352 CANTERBURY ROAD

CONCEPT

DA907

352 CANTERBURY ROAD

LEGEND & SCHEDULE

NOTES:
 1. ALL FINAL PLANT QUANTITIES INDICATED ON PLANS SHALL BE CHECKED AND CONFIRMED BY THE LANDSCAPE CONTRACTOR TO BE SURE MATCH SUBMITTED QUANTITIES.
 2. ANY PLANT SUBSTITUTES REQUIRED DUE TO AVAILABILITY SHALL BE RECOMMENDED BY THE LANDSCAPE CONTRACTOR TO BE SURE MATCH SUBMITTED QUANTITIES.
 3. WORKS CERTIFIED FOR FINAL OCCUPANCY CERTIFICATE ARE TO MATCH QUANTITIES.
 4. LANDSCAPE CONTRACTOR SHALL LOCATE AND AVOID BITE FROM WATER & DRINKING SERVICES LOCATED WITHIN A MINIMUM 1.5M FROM ANY PLANTING.
 5. ALL PLANTING SHALL BE ADJUSTED TO AVOID DAMAGE AND CLEARING WITH SURFACE HOUSTE.

TREES

- Botanical Name:** *Elaeagnus reticulata*
Common Name: Blueberry Ash (Native)
Nature: Shrub
Size: 8-10m x 6-7m
Qty Required: 3
- Botanical Name:** *Castanopsis ferrea*
Common Name: Leopard Tree (Native)
Nature: Tree
Size: 7.5L x 5m
Qty Required: 2

SHRUBS AND HEDGES

- Botanical Name:** *Kuratsa ambigua*
Common Name: Tick Bush (Native)
Nature: Shrub
Size: 2-3m x 2m
Qty Required: 3
- Botanical Name:** *Dodonaea viscosa 'Purpurea'*
Common Name: Purple Sticky Hog Bush (Native)
Nature: Shrub
Size: 2m x 1.5m
Qty Required: 7
- Botanical Name:** *Caribaea rugulosa 'True Love'*
Common Name: True Love (Exotic)
Nature: Shrub
Size: 1m x 1m
Qty Required: 11

ACCENT PLANTS

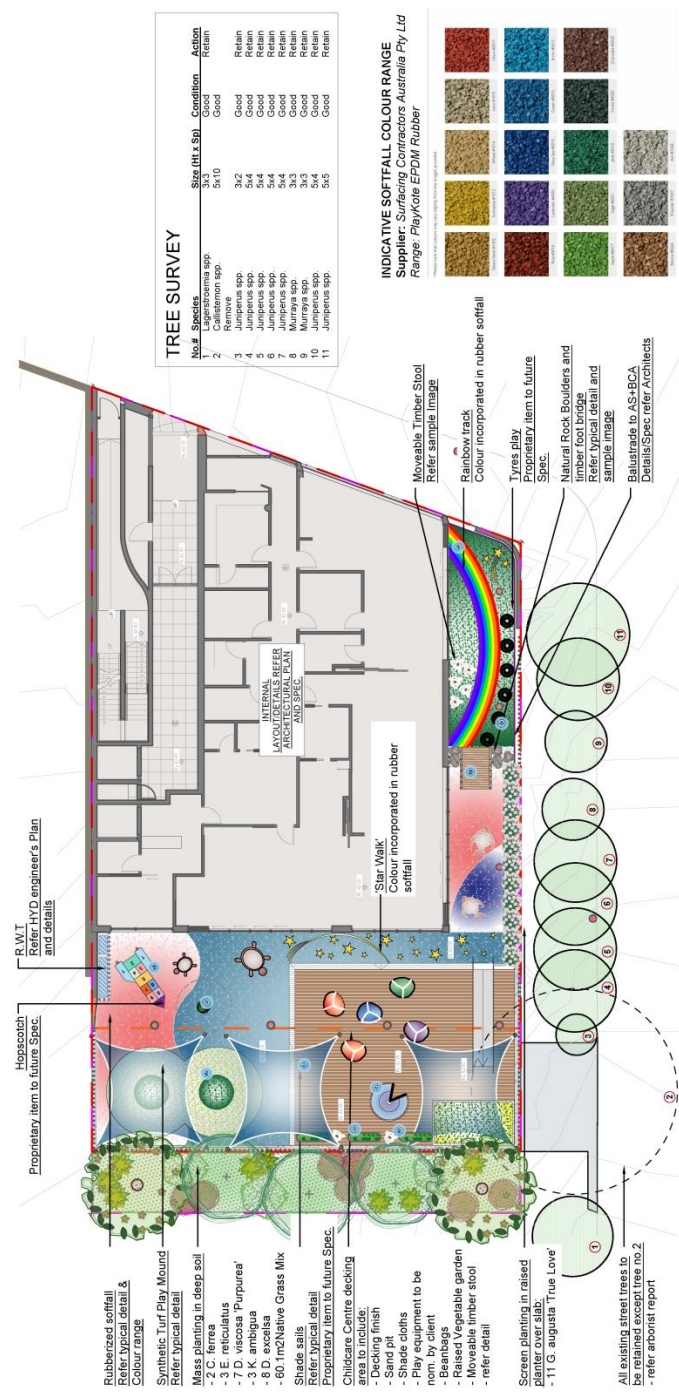
- Botanical Name:** *Chamaecrista nictitans*
Common Name: Coyote Tail (Native)
Nature: Shrub
Size: 45L
Qty Required: 8

GRASSES / GROUNDCOVERS

- Native Grass:** *Crowdsower Mix*
Common Name: Crowdsower Mix
Nature: Grass
Size: 140mm
Qty Required: 4000 (801 m2 total)

OTHER LANDSCAPE ITEMS

- Type Play:** Item sourced & painted by contractor
- Rainbow Track:** Item sourced & painted by contractor
- Star Walk:** Item sourced & painted by contractor
- Proprietary item in rubber softfall:** Item sourced by contractor
- Refer typical detail:** Refer typical detail
- Beanbags:** Item sourced by contractor
- Colour incorporated in rubber softfall:** Item sourced by contractor
- Beanbags:** Item sourced by contractor
- Moveable stool:** Item to be nom. by Operator



TREE SURVEY

No. #	Species	Size (Ht x Sp)	Condition	Action
1	Leguminosia spp.	3-4	Good	Retain
2	Remove	3-4	Good	Remove
3	Juniperus spp.	3-2	Good	Retain
4	Juniperus spp.	5-4	Good	Retain
5	Juniperus spp.	5-4	Good	Retain
6	Juniperus spp.	5-4	Good	Retain
7	Juniperus spp.	5-4	Good	Retain
8	Murrays spp.	3-3	Good	Retain
9	Murrays spp.	3-3	Good	Retain
10	Juniperus spp.	5-4	Good	Retain
11	Juniperus spp.	5-4	Good	Retain

INDICATIVE SOFTFALL COLOUR RANGE
 Supplier: Surfacing Contractors Australia Pty Ltd
 Range: PlayKote EPDM Rubber

LANDSCAPE PLAN NOTES

This plan should be read in conjunction with the architectural and hydraulics plans. Work specific to these plans should be prepared in accordance to the design and construction details. All works to be installed to the installation of landscaping and should not be altered or compromised during construction. All works may be incorporated in garden bed areas (using non-flammable mulch) without compromising the capacity or form.

This plan has been prepared for Development Application approval only, not for construction.

Application approval only, not for construction.

This plan has been prepared with reference to Inner West (Ashfield) Council's Landscaping Guidelines. The plan is intended to be used as a guide for the selection of native and indigenous species selected from local planning lists and the BASIX local plant list and from Sydney Waters



General Notes:
 1. ALL FINAL PLANT QUANTITIES INDICATED ON PLANS SHALL BE CHECKED AND CONFIRMED BY THE LANDSCAPE CONTRACTOR TO BE SURE MATCH SUBMITTED QUANTITIES.
 2. ANY PLANT SUBSTITUTES REQUIRED DUE TO AVAILABILITY SHALL BE RECOMMENDED BY THE LANDSCAPE CONTRACTOR TO BE SURE MATCH SUBMITTED QUANTITIES.
 3. WORKS CERTIFIED FOR FINAL OCCUPANCY CERTIFICATE ARE TO MATCH QUANTITIES.
 4. LANDSCAPE CONTRACTOR SHALL LOCATE AND AVOID BITE FROM WATER & DRINKING SERVICES LOCATED WITHIN A MINIMUM 1.5M FROM ANY PLANTING.
 5. ALL PLANTING SHALL BE ADJUSTED TO AVOID DAMAGE AND CLEARING WITH SURFACE HOUSTE.

CONCEPT LANDSCAPE ARCHITECTS
 Suite 101, 588 Miles St
 Cammerajong NSW 2502
 Phone: 8220 9322
 www.concept.net.au
 enquiries@concept.net.au Mob: 8433 98131

INNER WEST (ASHFIELD)
 MUSTAK SHAIKH
 ARCHITECT
 TECHNICAL HAUS
 DA - ISSUE C

NOTIFICATION/AMENDMENT
 A 06.02.17 Preliminary plan prepared for review
 B 27.04.17 REV. to Architectural Plan
 C 29.04.17 REV. to Architects suggestions

SCALE
 1:200 @ A3

DATE
 APRIL 2017

PROJECT
 LPDA 17 - 221 / 2
 PROPOSED SHOP-TOP HOUSING DEVELOPMENT
 354-356 CANTERBURY RD,
 HURLSTONE PARK

CONCEPT LANDSCAPE ARCHITECTS
 Suite 101, 588 Miles St
 Cammerajong NSW 2502
 Phone: 8220 9322
 www.concept.net.au
 enquiries@concept.net.au Mob: 8433 98131

LEGEND & SCHEDULE

- NOTES:**
1. ALL FINAL PLANT QUANTITIES INDICATED ON THIS PLAN SHALL BE CHECKED AND VERIFIED BY SUCCESSFUL LANDSCAPE CONTRACTOR
 2. ALL PLANTING AND APPROVED PROCESSES TO BE INSTALLED BY SUCCESSFUL LANDSCAPE CONTRACTOR TO BEST PRACTICE
 3. WHERE SPECIFIC CULTURAL ORIGIN CERTIFICATE ARE TO BE PROVIDED TO LANDSCAPE CONTRACTOR BY THE LANDSCAPE ARCHITECT
 4. ALL PLANTING AND APPROVED PROCESSES TO BE INSTALLED BY SUCCESSFUL LANDSCAPE CONTRACTOR TO BEST PRACTICE
 5. ALL PLANTING AND APPROVED PROCESSES TO BE INSTALLED BY SUCCESSFUL LANDSCAPE CONTRACTOR TO BEST PRACTICE

TREES

- Botanical Name:** *Acer palmatum 'Atagawa'*
Common Name: Japanese maple (Exotic)
Pot size: 150mm
Mature H x S: 3m x 4m
Qty Required: 11
- Botanical Name:** *Banksia serrata*
Common Name: Old Man Banksia (Native)
Pot size: 45L
Mature H x S: 1m x 3m
Qty Required: 1

SHRUBS AND HEDGES

- Botanical Name:** *Wedding Blue Gem*
Common Name: B Gem Coastal Rosemary (Native)
Pot size: 200mm
Mature H x S: 4.5m x 1.5m
Qty Required: 4
- Botanical Name:** *Banksia spinulosa* *Banksia spinulosa*
Common Name: Banksia spinulosa (Native)
Pot size: 200mm
Mature H x S: 0.8m x 0.8m
Qty Required: 8
- Botanical Name:** *Callistemon Bellerophon*
Common Name: Bellerophon Bells (Native)
Pot size: 200mm
Mature H x S: 1m x 0.8m
Qty Required: 12

ACCENT PLANTS

- Botanical Name:** *Doryanthes aecoides*
Common Name: Doryanthes (Native)
Pot size: 45L
Mature H x S: 1.1m x 1m
Qty Required: 6
- Botanical Name:** *Strelitzia juncea*
Common Name: Rush-leaved Strelitzia (Exotic)
Pot size: 150mm
Mature H x S: 1.5m x 1m
Qty Required: 15

GRASSES / GROUNDCOVERS

- Botanical Name:** *Pennisetum alopecuroides*
Common Name: Swamp Foxtail (Native)
Pot size: 150mm
Mature H x S: 1m x 1m
Qty Required: 8
- Botanical Name:** *Purple Swamp Foxtail* (Exotic)
Common Name: Purple Swamp Foxtail (Exotic)
Pot size: 150mm
Mature H x S: 8.2m x 1.2m
Qty Required: 8
- Botanical Name:** *Senecio jacobina*
Common Name: Senecio (Native)
Pot size: 140mm
Mature H x S: 0.8m x 0.5m
Qty Required: 5m² (plant total)
- Botanical Name:** *Trechloperum jasmimoides*
Common Name: Trechloperum (Exotic)
Pot size: 140mm
Mature H x S: 0.3m x climbing
Qty Required: 10.7m

Native Grass Groundcover Mix:

- Botanical Name:** *Lomandra longifolia* *Tenax*
Common Name: Lomandra (Native)
Pot size: 140mm
Mature H x S: 4m² (23m² total)



LEVEL 1 WINTER GARDEN



ROOFTOP COMMON OPEN SPACE



LANDSCAPE PLAN NOTES

The plan should be read in conjunction with the Design & Construction Details. All plantings in these plans should be prepared in accordance with the installation of landscaping, and should not be installed until the building is fully completed. Elements such as drainage swales may be incorporated in garden bed areas (using 10m fencing to rear of building line, rate to 1m from building line) without compromising the capacity or form.

This plan has been prepared for Development Application approval only, not for construction.

This plan has been prepared with reference to the Guidelines & requirements. Planting proposed using mainly indigenous, commercially available plant species sourced from local nurseries and the BASSA Nurseries plant list from Sydney Water.

"Plant Selection" with site-specific, related native plants (acceptable for basic planting)

The Design & location of new letter boxes shall be in accordance with the Council's Letter Box Delivery of Mail to Residential Premises' Published Feb 97. All new letter boxes listed in Council's published list shall be installed in accordance with the removed & suppressed. Reinstall all boundary fencing in poor condition with Council approved materials. Fencing to rear of building line, rate to 1m from building line. Fencing to be installed and maintained for the duration of the construction established here to be supervised by arborist.

D.A approved landscape plan is required to be submitted as approval for the construction certificate. **Permeable areas may be indicated to achieve site coverage restrictions & should be constructed as drains on this plan.**

CONCEPT LANDSCAPE ARCHITECTS
 Suite 101, 108 Miller Rd
 Cheltenham NSW 2022
 Tel: 02 959 4852
 Fax: 02 959 4852
 enquiries@concept.net.au Mob: 0413 581 351

LANDSCAPE PLAN (LEVEL 1 & ROOFTOP) PROPOSED SHOP-TOP HOUSING DEVELOPMENT
 354-356 CANTERBURY RD,
HURLSTONE PARK

CONCEPT
 LANDSCAPE ARCHITECTS

INNER WEST (ASHFIELD) COUNCIL

NOTATION/AMENDMENT

REV DATE	NOTATION/AMENDMENT
A	05.02.17 Primary plan prepared for review
B	16.04.17 REV TO ARCHITECT'S SUGGESTIONS
C	28.04.17 REV TO ARCHITECT'S SUGGESTIONS

CLIENT: MUSTAK SHAIKH
ARCHITECT: TECHNIC HAUS
EPV/US/ISSUE: DA - ISSUE C

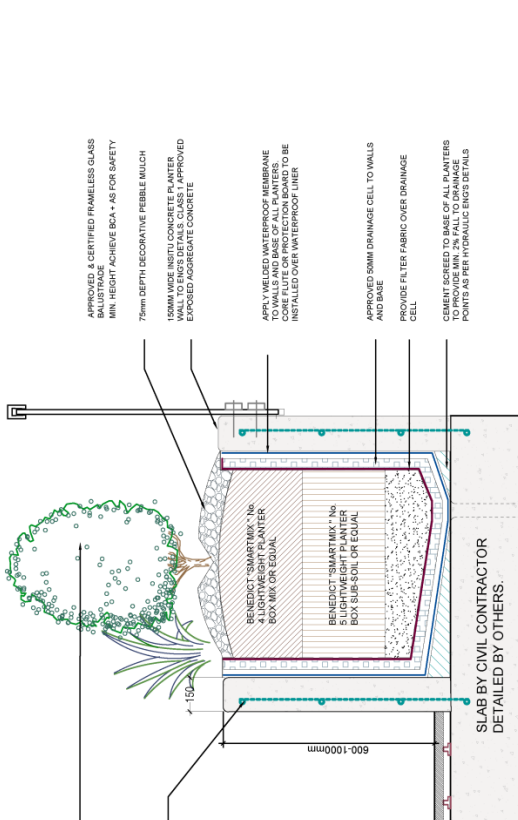
SCALE: 1:200 @ A3
DATE: FEBRUARY 2017
DRAWN: D.K
CHECKED: R.F

ALIA Associate
 www.dial1100.com.au
DIAL 1100 BEFORE YOU DIG

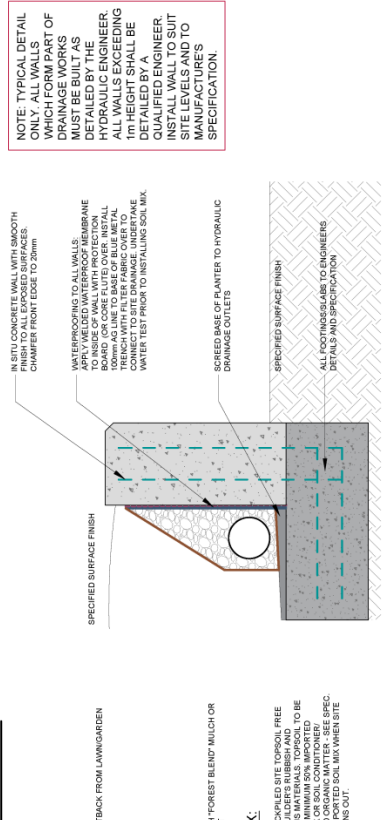
General Notes:

1. All plants and materials to be used shall be checked and verified by successful landscape contractor.
2. All plants and materials to be used shall be checked and verified by successful landscape contractor.
3. All plants and materials to be used shall be checked and verified by successful landscape contractor.
4. All plants and materials to be used shall be checked and verified by successful landscape contractor.
5. All plants and materials to be used shall be checked and verified by successful landscape contractor.

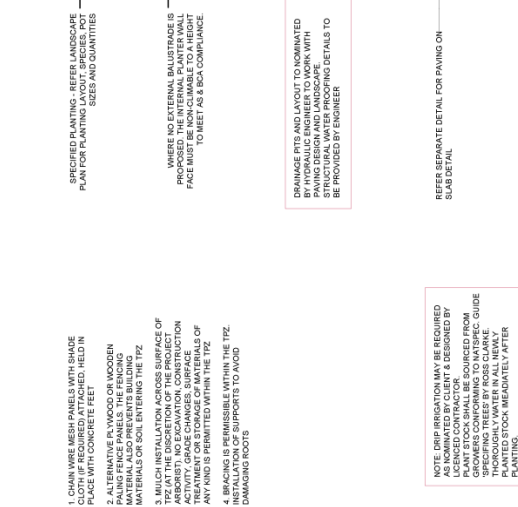
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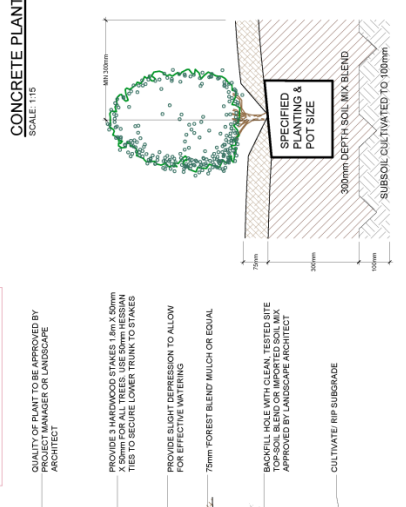
CONCRETE PLANTER ON SLAB DETAIL
SCALE 1:10



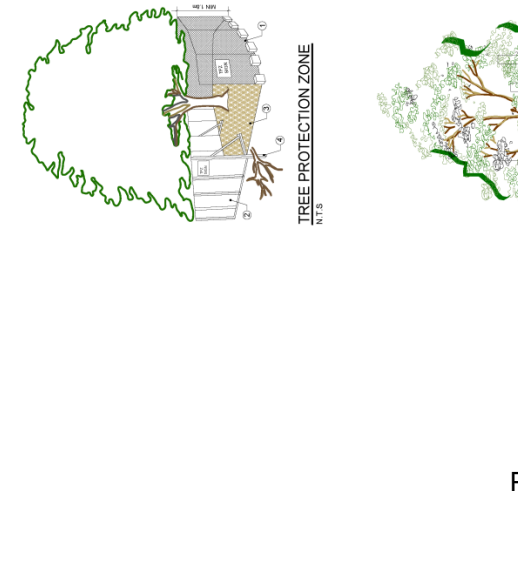
TYPICAL IN SITU CONCRETE RETAINING WALL
SCALE 1:10



TREE PROTECTION ZONE
SCALE 1:30



INDIVIDUAL TREE PLANTING DETAIL
SCALE 1:30



GARDEN AREA PREPARATION DETAIL
SCALE 1:10

NOTE: TYPICAL DETAIL ONLY. ALL WALLS WHICH FORM PART OF DRAINAGE WORKS MUST BE BUILT AS DETAILED BY THE ARCHITECT. ALL WALLS EXCEEDING 1m HEIGHT SHALL BE DETAILED BY A QUALIFIED ENGINEER. INSTALL WALL TO SUIT SITE LEVELS AND TO COMPLY WITH SPECIFICATION.

IN SITU CONCRETE WALL WITH SMOOTH FINISH. CHAMFER FRONT EDGE TO 20mm.
APPLY WELDED WATERPROOF MEMBRANE TO INSIDE OF WALL WITH PROTECTION TRENCH WITH FILTER FABRIC OVER TO WATER TEST PRIOR TO INSTALLING SOIL MIX.
SPECIFIED SURFACE FINISH.
CASSES BASES OF PLANTER TO HYDRAULIC DRAINAGE OUTLETS.
SPECIFIED SURFACE FINISH.
ALL FOOTINGS/GABLES TO ENGINEERS DETAILS AND SPECIFICATION.

APPROVED & CERTIFIED FRAMELESS GLASS BALUSTRADE WITH HEIGHT ACHIEVE BCA - AS FOR SAFETY.
75mm DEPTH DECORATIVE FIBRE BULCH.
150MM WIDE IN SITU CONCRETE PLANTER WALL TO FINS DETAILS, CLASS 1 APPROVED SPOTTED AGGREGATE CONCRETE.
APPLY WELDED WATERPROOF MEMBRANE TO WALLS AND BASE OF ALL PLANTERS TO BE INSTALLED OVER WATERPROOF LINER.
APPROVED 50MM DRAINAGE CELL TO WALLS AND BASE.
PROVIDE FILTER FABRIC OVER DRAINAGE CELL.CEMENT SCREED TO BASE OF ALL PLANTERS TO PROVIDE MIN. 2% FALL TO DRAINAGE POINTS AS PER HYDRAULIC ENGS DETAILS.

REFER SEPARATE DETAIL FOR PAVING ON SLAB DETAIL.
SLAB BY CIVIL CONTRACTOR DETAILED BY OTHERS.

WHERE NO EXTERNAL BALUSTRADE IS PROPOSED THE INTERNAL PLANTER WALL FACINGS SHALL BE FINISHED TO MEET AS & BCA COMPLIANCE.
DRAINAGE RIS AND LAYOUT TO NOMINATED PLANNING ENGINEER TO WORK WITH STRUCTURAL WATER PROOFING DETAILS TO BE PROVIDED BY ENGINEER.

REFER SEPARATE DETAIL FOR PAVING ON SLAB DETAIL.
SLAB BY CIVIL CONTRACTOR DETAILED BY OTHERS.

NOTE: DRIP IRRIGATION MAY BE REQUIRED AS PER DETAIL AND DESIGNED BY LICENSED CONTRACTOR.
PLANT STOCK SHALL BE SOURCED FROM A REPUTABLE SUPPLIER AND TO BE SPECIFIED TREES BY ROSS CLARKE LANDSCAPE ARCHITECTS. WATER PLANTED STOCK IMMEDIATELY AFTER PLANTING.
QUALITY AS PER PLAN TO BE PROVIDED BY PROJECT MANAGER OR LANDSCAPE ARCHITECT.
PROVIDE 3 HARDWOOD STAKES 1.8m X 50mm X 50mm FOR ALL TREES. USE 50mm HESSIAN TIES TO SECURE LOWER TRUNK TO STAKES.
PROVIDE SLIGHT DEPRESSION TO ALLOW FOR EFFECTIVE WATERING.
75mm FOREST BLEND MULCH OR EQUAL.
BACKFILL HOLE WITH CLEAN, TESTED SITE TOP-SOIL BLEND OR IMPORTED SOIL MIX APPROVED BY LANDSCAPE ARCHITECT.
CULTIVATE RIP SUBGRADE.

APPROVED & CERTIFIED FRAMELESS GLASS BALUSTRADE WITH HEIGHT ACHIEVE BCA - AS FOR SAFETY.
75mm DEPTH DECORATIVE FIBRE BULCH.
150MM WIDE IN SITU CONCRETE PLANTER WALL TO FINS DETAILS, CLASS 1 APPROVED SPOTTED AGGREGATE CONCRETE.
APPLY WELDED WATERPROOF MEMBRANE TO WALLS AND BASE OF ALL PLANTERS TO BE INSTALLED OVER WATERPROOF LINER.
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CEMENT SCREED TO BASE OF ALL PLANTERS TO PROVIDE MIN. 2% FALL TO DRAINAGE POINTS AS PER HYDRAULIC ENGS DETAILS.

REFER SEPARATE DETAIL FOR PAVING ON SLAB DETAIL.
SLAB BY CIVIL CONTRACTOR DETAILED BY OTHERS.

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DRAINAGE RIS AND LAYOUT TO NOMINATED PLANNING ENGINEER TO WORK WITH STRUCTURAL WATER PROOFING DETAILS TO BE PROVIDED BY ENGINEER.

DRAWING	LPDA 17 - 221 / 4
SCALE	AS NOTED @ A3
DATE	FEBRUARY 2017
DRAWN	D.K
CHECKED	R.F

THE DETAILS 1
PROPOSED SHOP TOP HOUSING DEVELOPMENT
354-356 CANTERBURY RD,
HURLSTONE PARK

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CAMBERLEY NSW 2002
Phone: 02 9520 9822
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engine@concept.com.au Mob: 0413 881 931

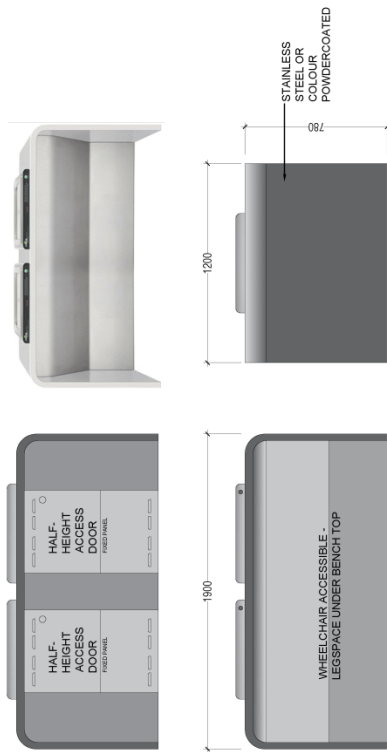
COUNCIL	INNER WEST (ASHFIELD)
CLIENT	MUSTAK SHAIKH
ARCHITECT	TECHNIC HAUS
REVISED / ISSUE	DA - ISSUE C

REV DATE	NOTATION/REVISIONMENT
A 06 02 17	Primary plan prepared for review
B 27 04 17	REV 15 Architectural Plan
C 28 04 17	REV 16 Architect's suggestions

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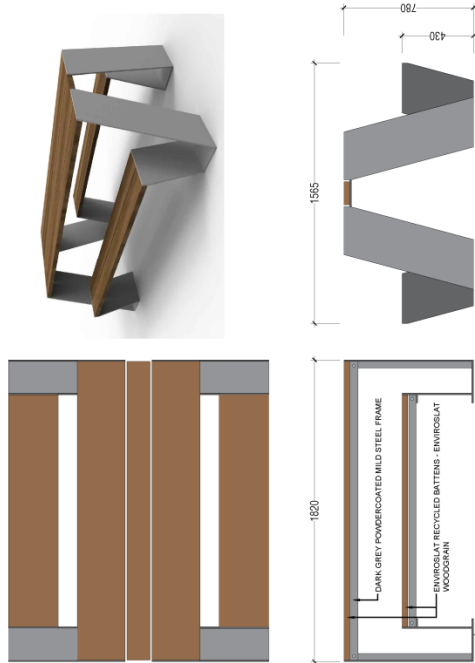
ALIA Association
www.alia.org.au

General Notes:
1. ALL WORK SHALL BE IN ACCORDANCE WITH THE CURRENT EDITIONS OF THE NATIONAL BUILDING REGULATIONS 2011 AND THE NATIONAL CONSTRUCTION CODE OF PRACTICE 2012.
2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE RELEVANT AUTHORITIES.
3. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE RELEVANT AUTHORITIES.
4. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE RELEVANT AUTHORITIES.
5. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE RELEVANT AUTHORITIES.



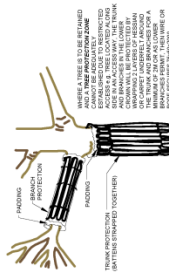
NOTE: DRAWING IS INDICATIVE ONLY. PRODUCT BY CHRISTIE PARKSAFE BARBECUES. REFER MANUFACTURER'S SPECIFICATIONS & INSTRUCTIONS FOR INSTALLATION.

A-SERIES DOUBLE PUSH-START ELECTRIC BARBECUE - BY CHRISTIE SCALE 1:20



NOTE: DRAWING IS INDICATIVE ONLY. PRODUCT BY COMMERCIAL SYSTEMS AUSTRALIA. REFER MANUFACTURER'S SPECIFICATIONS & INSTRUCTIONS FOR INSTALLATION.

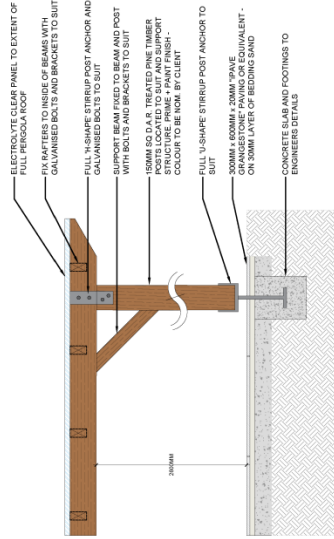
ODYSSEY PICNIC SETTING BY CSA - PRODUCT CODE: TM4170 SCALE 1:20



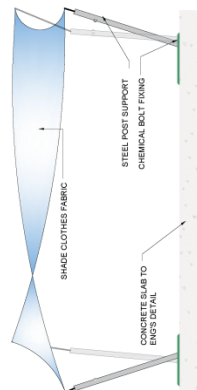
TYPICAL TRUNK PROTECTION WHERE TPZ FENCING NOT PRACTICAL SCALE: NTS



MASS PLANTING DETAIL SCALE 1:20



TYPICAL TIMBER PERGOLA DETAIL SCALE 1:20



TYPICAL SHADE CLOTH DETAIL N.T.S

<p>Conzept Landscape Architects Conzept Landscape Architects Carberry Way 740 Carberry NSW 2142 Phone: 9922 0312 Fax: 9922 0313 www.conzept.com.au M: 0433 881 951</p>		<p>PROJECT: LPDA 17 - 221/6</p> <p>SCALE: AS NOTED @ A3</p> <p>TITLE: FEBRUARY 2017</p> <p>DRAWN: D K</p> <p>CHECKED: R F</p>												
<p>CLIENT: INNER WEST (ASHFIELD)</p> <p>ARCHITECT: MUSTAK SHAIKH</p> <p>DATE: DA - ISSUE C</p>	<p>FILE: DETAILS 3</p> <p>PROJECT: PROPOSED SHOP-TOP HOUSING DEVELOPMENT</p> <p>ADDRESS: 354-356 CANTERBURY RD, HURLSTONE PARK</p>	<p>REVISIONS:</p> <table border="1"> <thead> <tr> <th>REV</th> <th>DATE</th> <th>NOTATION/REMARK</th> </tr> </thead> <tbody> <tr> <td>A</td> <td>05/02/17</td> <td>Preliminary plan prepared for review</td> </tr> <tr> <td>B</td> <td>27/04/17</td> <td>REV. to Architectural Plan</td> </tr> <tr> <td>C</td> <td>28/04/17</td> <td>REV. to Architects suggestions</td> </tr> </tbody> </table>	REV	DATE	NOTATION/REMARK	A	05/02/17	Preliminary plan prepared for review	B	27/04/17	REV. to Architectural Plan	C	28/04/17	REV. to Architects suggestions
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<p>www.dial100.com.au</p> <p>DIAL 100 BEFORE YOU DIG</p> <p>ALL Approvals Approved by the City of Sydney</p>		<p>General Notes:</p> <p>1. All dimensions are in millimeters unless otherwise stated.</p> <p>2. All materials are to be of standard quality unless otherwise stated.</p> <p>3. All work is to be in accordance with the relevant Australian Standards.</p> <p>4. All work is to be in accordance with the relevant Australian Standards.</p> <p>5. All work is to be in accordance with the relevant Australian Standards.</p> <p>6. All work is to be in accordance with the relevant Australian Standards.</p> <p>7. All work is to be in accordance with the relevant Australian Standards.</p> <p>8. All work is to be in accordance with the relevant Australian Standards.</p> <p>9. All work is to be in accordance with the relevant Australian Standards.</p> <p>10. All work is to be in accordance with the relevant Australian Standards.</p>												

Attachment C – Clause 4.6 Exception to Development Standards



ANNEXURE C

**Clause 4.6 Variation Request –
Building Height**



Clause 4.6 variation statement – maximum height (Clause 4.3)

Clause 4.3 (2) of ALEP 2013 relates to the maximum height requirements and refers to the Height of Buildings Map. The relevant map identifies the subject site as having a maximum height of 13m. Building height is defined as:

(a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or

(b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,

including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like..

As indicated in Figures 12 and 13 below, the building largely complies with the 13m maximum building height, other than the lift overrun and the shading pergola which breaches the height limit by 379mm. The height breach occurs at the centre of the building where the lift core runs through the building. The remainder of the building complies with the height limit.

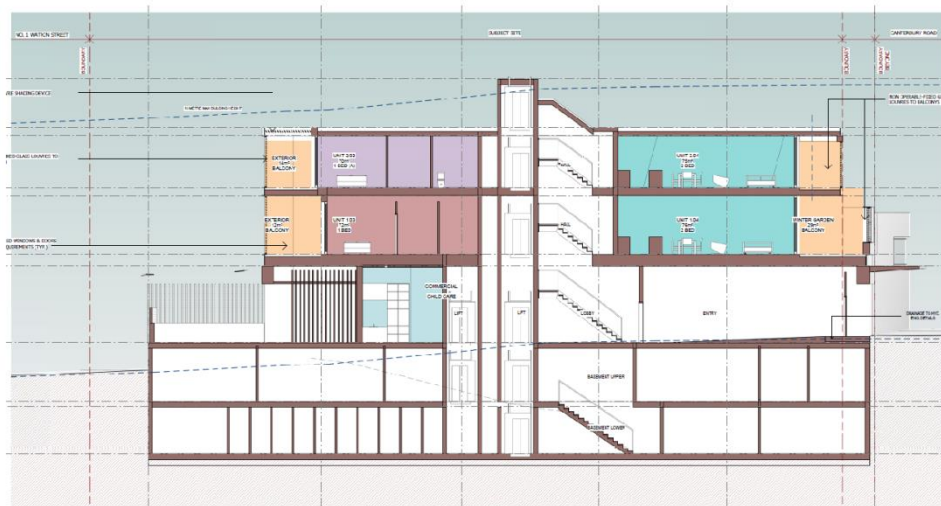


Figure 12 Section indicating extent of lift overrun above 13m height limit (looking north)

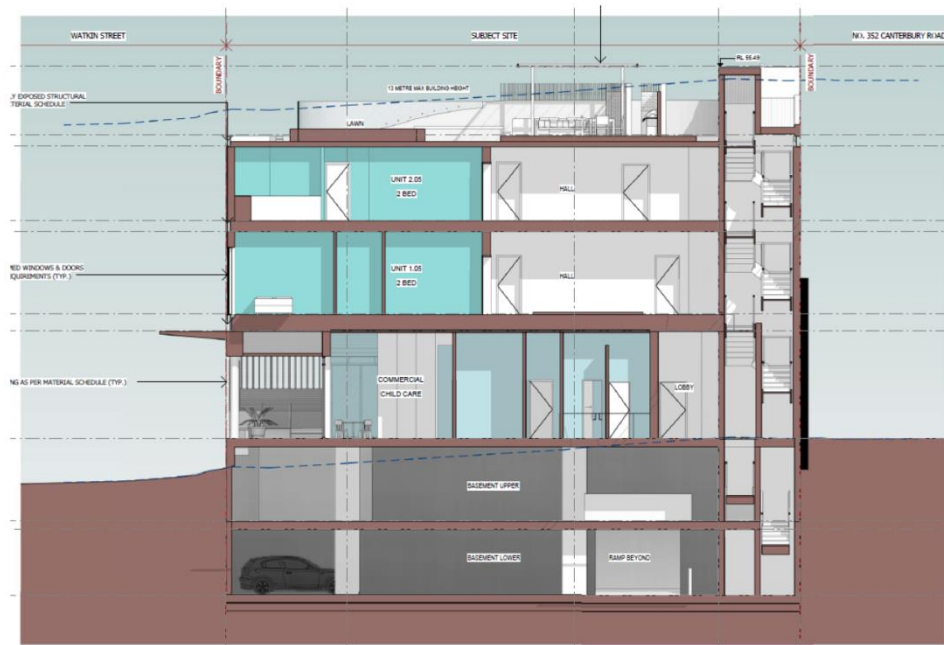


Figure 13 Section indicating extent of lift overrun above 13m height limit (looking west)

The maximum height control is a “development standard” to which exceptions can be granted pursuant to Clause 4.6 of the LEP.

The objectives and provisions of clause 4.6 are as follows:

- “
- (1) *The objectives of this clause are as follows:*
 - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
 - (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
 - (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

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

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

(a) the consent authority is satisfied that:

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

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

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

(5) In deciding whether to grant concurrence, the Secretary must consider:

(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and

(b) the public benefit of maintaining the development standard, and

(c) any other matters required to be taken into consideration by the Secretary before granting concurrence.

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

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

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

Note.

When this Plan was made it did not include all of these zones.

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

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

(a) a development standard for complying development,

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

(c) clause 5.4."



The development standards in Clause 4.3 are not “expressly excluded” from the operation of Clause 4.6.

Objective 1(a) of Clause 4.6 is satisfied by the discretion granted to a consent authority by virtue of subclause 4.6(2) and the limitations to that discretion contained in subclauses (3) to (8). This submission will address the requirements of subclauses 4.6(3) & (4) in order to demonstrate to Council that the exception sought is consistent with the exercise of “an appropriate degree of flexibility” in applying the development standard, and is therefore consistent with objective 1(a). In this regard, the extent of the discretion afforded by subclause 4.6(2) is not numerically limited, in contrast with the development standards referred to in, subclause 4.6(6).

Objective 1(b) of Clause 4.6 is addressed later in this request.

The objectives and relevant provisions of Clause 4.3 are as follows, *inter alia*:

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

The Height of Buildings Map nominates a maximum height of 13m for the site. It is requested that an exception to this development standard be granted pursuant to Clause 4.6 so as to permit a maximum height of 13.379m to the lift overrun.

In order to address the requirements of subclause 4.6(4)(a)(ii), each of the relevant objectives of Clause 4.3 are addressed in turn below.

Objective (a) - Given the location of the proposed non-compliance centrally within the building, architectural treatment of the building in terms of setbacks and materials and viewing points from which the non-compliance would be seen, visual impacts will be minimal. The proposed development provides for building setbacks that comply with the controls of the DCP. The non-compliance cannot be seen from the street or adjoining residential properties.

Objective (b) relates to maintaining sky exposure and minimising shadows on adjoining buildings and public areas. The proposal is three stories and provides a compliant setback to the rear to ensure separation from the adjoining residential land use to the west. The proposal does not overshadow any public parks and complies with the solar access controls for the adjoining residential development.

Objective (c) seeks to ensure development provides a suitable transition in built form between areas, in particular between heritage items and other buildings. The site is not located within close proximity of a heritage item. In any case the proposal provides a suitable transition in built form between the enterprise zone along Canterbury Road and the adjoining R2 Low Density Residential zone to the west. A generous setback is proposed to the rear boundary that adjoins residentially zoned land, and the height non-compliance is located centrally to the building. It will not be seen from adjoining properties and will not contribute to an unsuitable built form in relation to adjoining residential properties.

Objective (d) - In terms of daylight access to buildings and the public domain, the proposed height non-compliance does not contribute towards any significant additional overshadowing of the adjoining dwellings and complies with the DCP controls for solar access. The non-compliance is located in the centre of the building and will have no impact on the public domain. Due to the orientation of the site, the non-compliance will not result in a significantly greater shadow cast than a compliant building.

The proposed development is therefore consistent with the objectives for maximum height, despite the numeric non-compliance.





Clause 4.6 (4) also requires consideration of the relevant zone objectives. The objectives of the Zone B6 Enterprise Corridor are as follows:

- To promote businesses along main roads and to encourage a mix of compatible uses.
- To provide a range of employment uses (including business, office, retail and light industrial uses).
- To maintain the economic strength of centres by limiting retailing activity.

The proposed height non-compliance does not impact upon the achievement of the zone objectives. The proposed use will introduce a viable business in the form of a child care centre on the ground floor. These uses will be compatible with the first and second floor apartments creating a mix of uses which will contribute to the economic strength of the centre.

The height variation is largely necessary to achieve lift access to all levels of the development and does not contravene any objectives for the zone and for that reason the proposed variation is acceptable.

Having regard to Clause 4.6(3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard, it is considered that there is an absence of significant impacts of the proposed non-compliance on the amenity of future building occupants, on area character and on neighbouring properties.

On "planning grounds" and in order to satisfy that the proposal meets objective 1(b) of clause 4.6 in that allowing flexibility in the particular circumstances of this development will achieve "a better outcome for and from development", it is considered that the proposal provides for unrestricted accessibility to all occupants and visitors to the development by providing lift access which would not be achieved if the lift and shading pergola were removed to meet the maximum building height. In addition, the variation to building height to accommodate the lift overrun and shading pergola does not impact on solar access, views or outlook and the streetscape appearance is not impacted by the provision of the lift access. As indicated, the proposal provides for a floor space ratio which complies with the maximum permitted and accordingly, the height breach is not associated with additional density beyond what is expected by the controls.

It is noted that in *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, Preston CJ clarified what items a Clause 4.6 does and does not need to satisfy. Importantly, there does not need to be a "better" planning outcome:

86. The second way is in an error because it finds no basis in cl 4.6. Clause 4.6 does not directly or indirectly establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development. This test is also inconsistent with objective (d) of the height development standard in cl 4.3(1) of minimising the impacts of new development on adjoining or nearby properties from disruption of views or visual intrusion. Compliance with the height development standard might be unreasonable or unnecessary if the non-compliant development achieves this objective of minimising view loss or visual intrusion. It is not necessary, contrary to what the Commissioner held, that the non-compliant development have no view loss or less view loss than a compliant development.

87. The second matter was in cl 4.6(3)(b). I find that the Commissioner applied the wrong test in considering this matter by requiring that the development, which contravened the height development standard, result in a "better environmental planning outcome for the site" relative to a development that complies with the height development standard (in [141] and [142] of the judgment). Clause 4.6 does not directly or indirectly establish this test. The requirement in cl 4.6(3)(b) is that there are sufficient environmental planning grounds to justify contravening the development standard, not that the development that contravenes the development standard have a better environmental planning outcome than a development that complies with the development standard.





Returning to Clause 4.6(3)(a), in *Wehbe v Pittwater Council* (2007) NSW LEC 827 Preston CJ sets out ways of establishing that compliance with a development standard is unreasonable or unnecessary. It states, inter alia:

An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.

The judgement goes on to state that:

The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served).

Preston CJ in the judgement then expressed the view that there are 5 different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy, as follows (with emphasis placed on number 1 for the purposes of this Clause 4.6 variation [our underline]):

- *The objectives of the standard are achieved notwithstanding non-compliance with the standard;*
- *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
- *The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
- *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
- *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard that would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

Having regard to all of the above, it is our opinion that compliance with the maximum height development standard is unnecessary in the circumstances of this case as the development meets the objectives of that standard and the zone objectives.

Therefore, insistence upon strict compliance with that standard would be unreasonable. On this basis, the requirements of Clause 4.6(3) are satisfied.





ANNEXURE D

Inner West Council Comprehensive Development Control Plan 2016 – Compliance Table