




 DEVELOPMENT ASSESSMENT REPORT	
Application No.	DA/2020/0134
Address	42-46 Hutchinson Street, St Peters
Proposal	Demolition of existing warehouse building and construction of new mixed use development (dwellings and commercial tenancies) plus basement parking, landscaping and associated works.
Date of Lodgement	27 February 2020
Applicant	Group Architects (formerly Brenchley Architects)
Owner	Mama Ka'z Pty Limited
Number of Submissions	19
Value of works	\$4,393,400.00
Reason for determination at Planning Panel	Development to which <i>State Environmental Planning Policy No 65</i> applies and is 4 storeys in height 10% breach to LEP Development Standard (Height of buildings) Number of submissions
Main Issues	Building height, site servicing and pedestrian through site link
Recommendation	Deferred Commencement Approval
Attachment A	Recommended conditions of consent
Attachment B	Plans of proposed development
Attachment C	Clause 4.6 Exception to Development Standards (HOB)
Attachment D	Clause 4.6 Exception to Development Standards (FSR)
	
LOCALITY MAP	
Subject Site 	Objectors 
Notified Area 	Supporters 
Note: Due to scale of map, not all objectors could be shown.	

1. Executive Summary

This report is an assessment of the application submitted to Council to carry out demolition of an existing warehouse building and construction of a new mixed use development (dwellings and commercial/ business tenancies) plus basement parking, landscaping and associated works at 42-46 Hutchinson Street, St Peters.

The application as originally submitted was notified in accordance with Council's Community Engagement Framework. In response, 19 submissions were received.

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

- The development exceeds the building height standard under Clause 4.3 of *Marrickville Local Environmental Plan 2011 (MLEP 2011)* by a maximum of 15.1% (2.21m). The exceedance comprises a stair well that provides access to services and plant on the roof of the building. Further, the lift overrun and the front roof form of the building breach the standard by 1% (140mm) and 6.1% (860mm), respectively;
- The development does not make provision for dedicated on-site loading and unloading; and
- Legal considerations and general impacts have been raised in submissions relating to the development's provision of a pedestrian through site link, which provides access from Hutchinson Street to Lackey Street Reserve.

Despite the above issues, the proposal generally complies with the aims, objectives and design parameters contained in the relevant State Environmental Planning Policies (SEPPs), *MLEP 2011* and *Marrickville Development Control Plan 2011 (MDCP 2011)*.

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

2. Proposal

The proposal seeks development consent for demolition of an existing warehouse building and construction of a new mixed use development (dwellings and commercial tenancies) plus basement parking, landscaping and associated works.

The proposal in detail is as follows:

- Demolition of all existing structures.
- Construction of a 4 storey, mixed used development, comprising 9 commercial tenancies and 5 dwellings above a basement as follows:
 - **Basement:** 13 parking spaces (including 2 accessible spaces), 4 bicycle spaces, passenger lift, waste management room, residential storage room, building services and egress stairs;
 - **Ground level:** 4 commercial tenancies, 2 accessible toilets, lift access, stair well, vehicle ramp providing access to the basement and pedestrian through site-link on the western boundary;
 - **Level 1:** 5 commercial tenancies, lift access, stair well and open access walkway;
 - **Level 2:** 4 residential dwellings, including 2 x 1-bedroom apartments, 1 x 2-

- bedroom apartment and 1 x 3-bedroom apartment; lift access, stair well and open access walkway;
- **Level 3:** 1 residential dwelling, including 1 x 3-bedroom apartment, communal open space, lift access, stair well and open access walkway; and
- **Roof:** Lift overrun, stair well, services and plant.
- General site, landscaping and public domain works, including new street tree plantings.

Note: The use and fit out of the commercial tenancies including any associated signage, will be subject to future applications. A condition to this effect is included in the recommendation.

3. Site Description

The site is located on the southern side of Hutchinson Street, between Council Street and Lackey Street. The site consists of 1 allotment and is generally rectangular in shape, except for a tapering rear boundary. The site includes a total area of 795.1sqm and is legally described as Lot 1 DP 1209182 and is known as 42-46 Hutchinson Street, St Peters.

The site has a frontage to Hutchinson Street of approximately of 20.54m. The site is bounded at its rear by the Lackey Street Reserve. Properties directly to the south and south east of the site, including Lackey Street Reserve and a series of 2 storey terraces houses, are identified with the Lackey Street & Simpson Park Heritage Conservation Area (HCA) (C37).

The site supports a two storey industrial building, built predominantly to its boundaries. The adjoining properties directly to the east of the site support industrial buildings. The adjoining properties directly to the west of the site support residential dwelling houses.

The surrounding locality to the north and east of the site is currently transitioning from predominately an industrial and warehouse precinct to a dense, mixed-use precinct, including commercial, business and residential uses.



Figure 1: Zoning Map of the subject site (highlighted red).



Figure 2: Site photo taken from Hutchinson Street.

4. Background

4(a) Site history

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

Subject site:

Application	Proposal	Decision & Date
DA200600347	To carry out alterations and additions to 42 Hutchinson Street and to use the premises for the manufacture of food products and to erect associated signage.	Approved by Council on 4 October 2006.
PDA201800192	Demolition of the existing building and construction of a new part 3/part 4 storey mixed-use development comprising 2 commercial spaces, 4 live/work tenancies, 7 dwellings and associated basement parking.	Advice issued 8 February 2019.

Surrounding properties:

Application & Address	Proposal	Decision & Date
DA201500373 9 Hutchinson Street, St Peters	To demolish the existing improvements and construct a 3 part, 4 storey mixed use development comprising 1 commercial suite on the ground floor and 7 live/work dwellings on the levels above with basement car parking.	Approved by Council on 12 February 2016.
DA201700152 2-22 Hutchinson Street and 27-33 Applebee Street - St Peters	To carry out alterations to an existing industrial building on the south-eastern portion of the site and to demolish part of the existing industrial premises on the remainder of the site, carry out alterations and additions to the existing building and construct a 4/5 storey mixed use development comprising commercial/retail premises and car parking on the ground floor with 38 residential units above.	Refused by Council on 7 August 2017. Appealed upheld by NSW Land & Environment Court (NSW LEC) on 6 March 2018 (case no. 2017/00257933).
DA201500373 7-9 Hutchinson Street, St Peters	To demolish the existing improvements and construct a 3, part 4 storey mixed use development comprising 1 commercial suite on the ground floor and 7 live/work dwellings on the levels above with basement car parking.	Approved by Council on 10 February 2016.
DA201300249 19 Hutchinson Street, St Peters	Land subdivision, part demolition of the site improvements, staged construction of two mixed use buildings, construction and dedication of a new public road and site landscaping.	Deferred Commencement Approval granted on 9 October 2013. Appealed to by NSW LEC with respect to imposition of specific

		<p>conditions. and Section 34 agreement reached, and order issued on 11 November 2013 (order no. 10604).</p> <p>The consent was made operative on 13 May 2014.</p>
DA201300145 60-68 Hutchinson Street, St Peters	To carry out demolition of existing structures, environmental site works, construction of a new four (4) storey residential flat building containing 20 dwellings atop two (2) levels of basement car parking and strata subdivision.	Approved by Council on 8 August 2013.

4(b) Application history

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

Date	Discussion / Letter / Additional Information
27 February 2020	Application lodged.
9 March to 13 May 2020	Application notified.
11 June 2020	<p>Request for information (RFI) letter issued to the applicant requiring the following amendments/ information:</p> <ul style="list-style-type: none"> a) Revisions to gross floor area (GFA) allocation to ensure a minimum of 60% is not for residential purposes in accordance with Clause 6.13 of the <i>MLEP 2011</i>; b) Design revisions in response to the Architectural Excellence Panel (AEP) recommendations; c) Design revisions to improve acoustic and visual privacy outcomes; d) Design revisions to vehicle access, parking and loading arrangements; In this regard, loading facilities were requested to be provided on-site; e) Provision of a Detailed Site Investigation (DSI) in accordance with <i>State Environmental Planning Policy No. 55—Remediation of Land (SEPP 55)</i>; f) Design revisions and provision of additional information relating to vegetation and tree provision/management; g) Design revisions to ensure satisfactory waste management; and h) Provision of general items including separate demolition and GFA plans, respectively.
3 July 2020	The applicant submitted amended plans and additional information to address the above concerns raised by Council on 11 June 2020. However, information relating to <i>SEPP 55</i> was outstanding.
3 August 2020	<p>RFI request issued to the applicant requiring the following amendments/information:</p> <ul style="list-style-type: none"> a) Design revisions and provision of additional information relating to vegetation and tree provision/management.
20 August 2020	The applicant submitted additional information to address the concerns raised by Council on 3 August 2020.

22 September 2020	The applicant submitted additional information to address the above concerns raised with respect to <i>SEPP 55</i> .
21 October 2020	RFI request issued to the applicant requiring the following additional information: <ul style="list-style-type: none"> • Provision of a Clause 4.6 request for the breach to the LEP FSR development standard.
26 October 2020	The applicant submitted additional information in response to the request issued by Council on 21 October 2020. The above and previously submitted packages forms the basis for the current development application and assessment below. It generally addresses the concerns previously raised by Council, except for certain issues; which are discussed in further detail within this report.

5. Assessment

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

5(a) Environmental Planning Instruments

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

- *State Environmental Planning Policy No. 55—Remediation of Land*;
- *State Environmental Planning Policy No. 65—Design Quality of Residential Apartment Development*;
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*;
- *State Environmental Planning Policy (Vegetation in Non-Rural Areas)*; and
- *Marrickville Local Environmental Plan 2011*.

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. The MDCP 2011 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.

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

A Detailed Site Investigation (DSI) and Remedial Action Plan (RAP) have been provided to address the management of contaminated groundwater onsite and the treatment and disposal of any contaminated soils and contamination issues prior to determination.

The contamination documents have been reviewed and found that the site can be made suitable for the proposed use after the completion of the RAP. To ensure that these works are

undertaken, it is recommended that conditions are included in the recommendation in accordance with Clause 7 of SEPP 55.

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 (ADG)

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 MDCP 2011 do not apply. In this regard the objectives, design criteria and design guidelines set out in Parts 3 and 4 of the ADG prevail.

The following provides further discussion of the relevant issues:

Communal and Open Space

The ADG prescribes the following requirements for communal open space (COS):

- COS has a minimum area equal to 25% (198.7sqm) of the site.
- Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter).

Comment: The development as originally submitted complied with the above requirement, with COS being provided on both the rooftop and level 3, respectively. However, during the assessment of the application, concern was raised by the AEP with respect to the additional and unnecessary building and lift overrun height exceedances required to facilitate access to the rooftop COS area. Therefore, the revised proposal has deleted the roof top COS area in response to these concerns.

As a result, the development does not comply with the ADG requirement with respect to this matter, as only 7.1% (57sqm) of COS on level 3 is provided for the development. Notwithstanding, the development is still considered acceptable with respect to the objectives of this Part of the ADG as follows:

- The proposed development provides a public, through site link on the ground floor, which provides additional areas for passive and communal recreation and assists to offset the variation;
- The subject site is well located to nearby areas of public open space, including Simpson Park, Camdenville Park and Oval and Sydney Park, which assists to offset the variation;
- The proposed 3-bedroom units are provided with private open spaces (POS) in excess of the minimum requirements under the ADG, which will assist to offset the variation; and
- Given the development is primarily comprised of commercial floor space within a B7 Business Park zone under the *MLEP 2011*, the amount of COS provided for its residential component is considered commensurate with the amount of units proposed; which equates to approximately 11.4sqm of COS per unit.

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% (55.6sqm) with min. dimensions of 3m.
650m ² - 1,500m ²	3m	
Greater than 1,500m ²	6m	
Greater than 1,500m ² with significant existing tree coverage	6m	

Achieving the design criteria may not be possible on some sites including where:

- The location and building typology have limited or no space for deep soil at ground level (e.g. central business district, constrained sites, high density areas, or in centres).
- There is 100% site coverage or non-residential uses at ground floor level.

Where a proposal does not achieve deep soil requirements, acceptable stormwater management should be achieved, and alternative forms of planting provided such as on structure.

Comment: The development complies with the above requirements, as 8.1% (64.7sqm) of deep soil is provided. However, the minimum dimensions of 3m are not achieved (between approximately 1.5m-2m proposed). Notwithstanding the above, the development is considered acceptable with respect to the ADG, as subject to conditions, the proposal will effectively manage stormwater and alternative forms of planting on the building are provided.

Visual Privacy/Building Separation

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

Building Height	Habitable rooms and balconies	Non-habitable rooms
Up to 12 metres (4 storeys)	6 metres	3 metres

In addition, sites which adjoining a different zone with a lower density are to add 3 metres to the minimum separation requirements.

Site and building design elements are to increase privacy without compromising access to light and air and to balance outlook and views from habitable rooms and private open space.

Comment: The development generally complies with the above requirements, except for the following:

- 4.5m to 5.6m separation distances provided from habitable rooms to the western boundary (Level 2 only).

Despite the above variation, the development is still considered acceptable with respect to the ADG as follows:

- The building elements varying the minimum separation distances do not include openings and consist of solid walls; thereby ensuring satisfactory levels of privacy are maintained for surrounding occupiers.

Vehicle access

The ADG prescribes design guidance on the provision of vehicle access points:

- Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.

Comment: The development complies with the above requirements as follows:

- Subject to condition, the proposed vehicle access point will achieve satisfactory levels of safety and minimise conflicts with pedestrians and vehicles; and
- The proposed vehicle access is compatible with the overall façade of the building in terms of its materiality, size and positioning.

Bicycle and Car Parking

The ADG prescribes the following car parking rates dependent on the following:

- On sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area, the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant Council, whichever is less; and
- The car parking needs for a development must be provided off street.

Comment: The subject site is located within approximately 400 metres of St Peters Railway Station. In this case, the parking rates under the MDCP 2011 are applicable to the development. This matter is addressed further below within this report.

Solar and Daylight Access

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

- Living rooms and private open spaces (POS) of at least 70% (4) 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% (1) of apartments in a building receive no direct sunlight between 9.00am and 3.00pm at mid-winter.

Comment: The development complies with the above requirement as follows:

- The living rooms and POS areas of 70% (4) apartments receive a minimum of 2 hours direct sunlight between 9.00am and 3.00pm at mid-winter.
- A maximum of 15% (1) of apartments receive no direct sunlight between 9.00am and 3.00pm at mid-winter.

Natural Ventilation

The ADG prescribes the following requirements for natural ventilation:

- At least 60% (3) of apartments are naturally cross ventilated in the first 9 storeys of the building. Apartments at 10 storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.
- Overall depth of a cross-over or cross-through apartment does not exceed 18 metres, measured glass line to glass line.

Comment: The development complies with the above requirements as follows:

- All apartments are naturally cross-ventilated; and
- The overall depths of apartments do not exceed 18 metres, measured glass line to glass line.

Ceiling Heights

The ADG prescribes the following minimum ceiling heights:

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

Comment: The development complies with the above relevant requirements as follows:

- All habitable rooms have minimum floor to ceiling heights of 2.7 metres;
- All non-habitable rooms have floor to ceiling heights of at least 2.4 metres or greater; and
- The ground floor commercial tenancies have minimum floor to ceiling heights of at least 3.3m.

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.

Comment: The development complies with and in some instances exceeds the above minimum requirements.

Apartment Layout

The ADG prescribes the following requirements for apartment layout requirements:

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

Comment: The development complies with the above relevant requirements.

Private Open Space and Balconies

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

Dwelling Type	Minimum Area	Minimum Depth
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

Note: The minimum balcony depth to be counted as contributing to the balcony area is 1 metres.

Comment: The development complies with, and in some instances, exceeds the above minimum requirements.

Common Circulation and Spaces

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

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

Comment: The development complies with the above relevant requirement.

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: The development complies with the above minimum requirements.

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

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

5(a)(iv) *State Environmental Planning Policy (Vegetation in Non-Rural Areas)*

State Environmental Planning Policy (Vegetation in Non-Rural Areas) (Vegetation SEPP) concerns the protection/removal of vegetation identified under the SEPP and gives effect to the local tree preservation provisions of Council's Tree Management Development Control Plan (TMDCP) contained within Part 2.20 of MDCP 2011.

The proposal is considered acceptable with respect to the Vegetation SEPP and Part 2.20 of MDCP 2011, subject to the imposition of conditions requiring the protection of existing and significant vegetation nearby on adjoining properties, including Lackey Street Reserve, and the public domain, and the provision of new tree plantings; which have been included in the recommendation.

5(a)(v) *Marrickville Local Environment Plan 2011*

The application was assessed against the following relevant clauses of the *MLEP 2011*.

Control	Proposed	Compliance
Clause 1.2 Aims of Plan	The proposal is consistent with the relevant aims of the plan as follows:	Yes

	<ul style="list-style-type: none"> • The proposal supports the efficient use of land and provides for an appropriate mix of uses; • The proposal assists to increase residential and employment densities in an appropriate location near public transport, whilst protecting the residential amenity of the surrounds; • The proposal will assist to facilitate new business and employment opportunities; • The proposal will assist in promoting sustainable transport including walking and cycling through the provision of a pedestrian through site link; • The proposal assists to promote accessible and diverse housing types; and • The design of the proposal is considered to be of a high standard and has a satisfactory impact on the private and public domain. 	
<p>Clause 2.3 Zone objectives and Land Use Table</p> <p><i>B7 Business Park</i></p>	<p>The proposal satisfies this clause as follows:</p> <ul style="list-style-type: none"> • The application proposes a mixed-use development, which is permissible with consent in the B7 Business Park zone, subject to the satisfaction of the provisions under Cl. 6.12 and Cl. 6.13 of the <i>MLEP 2011</i> (refer to discussion further below); and • The proposal is consistent with the relevant objectives of the zone as follows: <ul style="list-style-type: none"> ○ The proposal encourages employment opportunities through the provision of commercial floor space; ○ The proposal enables future land uses that provide facilities or services that will meet the day to day needs of workers in the area, ○ The proposal provides limited residential development in conjunction with future, permissible and active ground floor uses; and ○ Subject to a condition limiting the range of occupants/ uses, the proposal will provide for business and office premises for the purposes of certain art, technology, production and design sectors. 	Yes, subject to condition
<p>Clause 2.7 Demolition requires development consent</p>	<p>The proposal satisfies the clause as follows:</p> <ul style="list-style-type: none"> • Demolition works are proposed, which are permissible with consent; and • Standard conditions are recommended to manage impacts which may arise during demolition. 	Yes, subject to conditions
<p>Clause 4.3 Height of building (max. 14m)</p>	<p>The application proposes a maximum building height of 16.1m, which represents a 15.2% variation to the</p>	No – refer to discussion below this table.

	development standard. See Section 5(a)(iv)(i) below this table for further discussion.	
Clause 4.4 Floor space ratio (max. 1.3:1 (1,033.63m ²))	<p>The revised architectural plans submitted include full height, aluminium angled louvred screens, servicing the terraces of the respective, rear facing commercial tenancies on the ground level and level 1.</p> <p>The provision of the abovementioned screening was to assist with ameliorating visual privacy impacts on nearby residential properties. However, as a result of the provision of the screening, it is considered the terraces now constitute gross floor area (GFA), as per the definition under the <i>MLEP 2011</i> (a total of additional GFA of 52sqm). As such, the proposal results in an FSR of 1.36 (1,088m²), which represents a variation to the standard of 5%.</p> <p>See Section 5(a)(iv)(i) below this table for further discussion.</p>	No – refer to discussion below this table.
Clause 4.5 Calculation of floor space ratio and site area	The site area and floor space ratio for the proposal has been calculated in accordance with the clause.	Yes
Clause 4.6 Exceptions to development standards	The applicant has submitted variation requests in accordance with Clause 4.6 to vary Clause 4.3 Height of building development standard and Clause 4.4 Floor space ratio standard under the <i>MLEP 2011</i> .	Refer to discussion below under Section 5(a)(iv)(i)
Clause 5.10 Heritage conservation	<p>The subject site abuts the Lackey Street & Simpson Park Heritage Conservation Area (HCA) (C37).</p> <p>The proposal has been adequately designed to converse the significance of the HCA nearby as follows:</p> <ul style="list-style-type: none"> • The proposed built form appropriately transitions down in terms of its height and scale from Hutchinson Street to the Lackey Street Reserve at its rear, thereby respecting the predominately 2 storey, character of the HCA; • The proposed pedestrian through site link and rear building setbacks allow for satisfactory separation between the development and the dwellings fronting Lackey Street, which form a critical part of the HCA. As such, the proposed built form will not be visible at pedestrian level on Lackey Street; and • Deep soil planting within the proposed through site link and along the rear boundary line have been provided, which assist to soften the built form and complement and protect nearby vegetation within the Lackey Street Reserve. 	Yes

Clause 6.1 Acid sulfate soils	<p>The subject site is identified as containing Class 5 acid sulfate soils, and is considered to adequately satisfy this clause as:</p> <ul style="list-style-type: none"> The application does not propose any works that would result in any significant adverse impacts to the watertable. As such, an Acid Sulfate Soils Management Plan is not required to be prepared for the development. 	Yes
Clause 6.2 Earthworks	<p>The proposal includes excavation, foundation works and basement construction.</p> <p>Subject to conditions, the application is considered to adequately satisfy this clause in that the proposed earthworks are unlikely to have a detrimental impact on environmental functions and processes, existing drainage patterns, or soil stability.</p>	Yes, subject to conditions
Clause 6.5 Development in areas subject to aircraft noise	<p>The site is located within the ANEF 25-30 contour, and as such an Acoustic Report was submitted with the application. The proposal is capable of satisfying this clause as follows:</p> <ul style="list-style-type: none"> A condition has been included in the recommendation to ensure that the proposal will meet the relevant requirements of Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021:2015, thereby ensuring the proposal's compliance with the relevant provisions Cl. 6.5 <i>MLEP 2011</i> and Part 2.6 of the MDCP 2011, respectively. 	Yes, subject to condition
Clause 6.12 Business and office premises in certain zones	<p>The proposal is capable of satisfying this clause as follows:</p> <ul style="list-style-type: none"> As discussed earlier within this report, the use and fit out of the commercial tenancies including any associated signage, will be subject to future applications. As such, confirmation will be required prior to consent being granted for these applications that the proposed uses will be business or office premises, used for a creative purpose such as media, advertising, fine arts and craft, design, film and television, music, publishing, performing arts, cultural heritage institutions or other related purposes. A condition of consent to this effect has been included in the recommendation. 	Yes, subject to condition.

Clause 6.13 Dwelling and residential flat buildings in Zone B7 Business Park	<p>The proposal satisfies the relevant provisions under this clause as follows:</p> <ul style="list-style-type: none"> • The development is part of a mixed use development that includes non-residential uses permitted within the B7 Business Park zone; • No part of the ground floor that fronts a street will be used for residential purposes (excluding access); and • Not less than 60% of the GFA of the building will be used for non-residential purposes; 	Yes
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(i) Clause 4.6 – Exceptions to Development Standards

As outlined in table above, the proposal results in a breach of the following *MLEP 2011* development standards:

- Clause 4.3 - Height of buildings; and
- Clause 4.4 - Floor space ratio.

Clause 4.3 – Height of buildings

The maximum height of the building has been reduced during the assessment of the application (originally 17.38m). Notwithstanding, the revised proposal still seeks a variation to the Height of building development standard under Clause 4.3 of the *MLEP 2011* by a maximum of 15.2% (2.21 metres), which consists of the stair well that provides access to the services and plant on the roof of the building. In addition, the lift overrun and front roof form of the building breach the standard by 1% (140mm) and 6.1% (860mm), respectively.

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 or 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 *MLEP 2011* below.

A written request was submitted to Council for the application in accordance with Clause 4.6(43) of the *MLEP 2011*, justifying the proposed contravention of the development standard, which was found to adequately demonstrate compliance with the development standard was unnecessary in the circumstances of the case, and that there were sufficient environmental planning grounds to justify contravening the development standard.

The objectives of the site's B7 Business Park zone contained within the *MLEP 2011* are as follows:

- *To provide a range of office and light industrial uses.*
- *To encourage employment opportunities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.*
- *To provide for limited residential development in conjunction with permissible active ground floor uses.*
- *To provide business and office premises for the purposes of certain art, technology, production and design sectors.*

- *To enable a purpose-built dwelling house to be used in certain circumstances as a dwelling house.*

It is considered the development is in the public interest, as it is consistent with the objectives of the B7 Business Park zoning, in accordance with Clause 4.6(4)(a)(ii) of the *MLEP 2011* for the following reasons:

- The proposal encourages employment opportunities, given the significant amount of commercial floor space provided;
- The proposal facilitates future land uses or services that will meet the day to day needs of workers in the area;
- The proposal provides limited residential development in conjunction with future, permissible active ground floor uses; and
- Subject to a condition, the proposal will provide for business and office premises for the purposes of certain art, technology, production and design sectors.

The objectives of the Height of building standard contained within the *MLEP 2011* are as follows:

- (a) *to establish the maximum height of buildings,*
- (b) *to ensure building height is consistent with the desired future character of an area,*
- (c) *to ensure buildings and public areas continue to receive satisfactory exposure to the sky and sunlight,*
- (d) *to nominate heights that will provide an appropriate transition in built form and land use intensity.*

It is considered the development is in the public interest, as it is consistent with the objectives of the development standard, in accordance with Clause 4.6(4)(a)(ii) of the *MLEP 2011* for the following reasons:

- The building height proposed is consistent with existing and approved similar development types along Hutchinson Street and within the wider St Peters Triangle Precinct; thereby ensuring consistency with the desired future character of the area;
- Given the site's orientation, the proposed building form and the provision of a pedestrian through site link, surrounding buildings and public areas will still receive satisfactory exposure to the sky and sunlight; and
- The proposed development appropriately transitions down in terms of both of its height and scale from Hutchinson Street (part 4 storeys) to Lackey Street Reserve at its rear (part 3 storeys), thereby respecting the predominately 2 storey, character of the HCA, which is zoned R2 Low Density Residential and RE1 Public Recreation under the *MLEP 2011*, respectively.

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 *MLEP 2011*. For the reasons outlined above, there are sufficient planning grounds to justify the departure from the height of building development standard.

Clause 4.4 – Floor space ratio

The applicant seeks a variation to the Clause 4.4 – Floor Space Ratio development standard of the *MLEP 2011* by 5% or 52sqm. The variation is attributed to design revisions to assist

with ameliorating visual privacy impacts, which include full height, aluminium angled louvred screens, servicing the terraces of the respective, rear facing commercial tenancies on the ground level and level 1.

In order to demonstrate whether strict numeric compliance is unreasonable or 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 *MLEP 2011* below.

A written request was submitted to Council for the application in accordance with Clause 4.6(3) of the *MLEP 2011*, justifying the proposed contravention of the development standard, which was found to adequately demonstrate compliance with the development standard was unnecessary in the circumstances of the case, and that there were sufficient environmental planning grounds to justify contravening the development standard.

The objectives of the site's B7 Business Park zone are set out above.

It is considered the development is in the public interest, as it is consistent with the objectives of the B7 Business Park zoning, in accordance with Clause 4.6(4)(a)(ii) of the *MLEP 2011* for the following reasons:

- The proposal encourages employment opportunities, given the significant amount of commercial floor space provided;
- The proposal facilitates future land uses or services that will meet the day to day needs of workers in the area;
- The proposal provides limited residential development in conjunction with future, permissible active ground floor uses; and
- Subject to a condition, the proposal will provide for business and office premises for the purposes of certain art, technology, production and design sectors.

The objectives of the LEP Floor Space Ratio standard contained within the *MLEP 2011* are as follows:

- (a) *to establish the maximum floor space ratio,*
- (b) *to control building density and bulk in relation to the site area in order to achieve the desired future character for different areas,*
- (c) *to minimise adverse environmental impacts on adjoining properties and the public domain.*

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

- As demonstrated within this report, the bulk and scale is consistent with the desired future character of the area and similar development types located nearby; and
- Given the site's context and orientation and the locations and setbacks of the proposed built-form and massing, the proposed development will have a satisfactory environmental impact on adjoining properties and the public domain.

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 *MLEP 2011*. For the reasons outlined above, there are sufficient

planning grounds to justify the further departure from the height of building development standard.

5(b) Draft Environmental Planning Instruments

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

(i) Draft Marrickville Local Environmental Plan 2011 (Amendment 4)

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

Upon assessment of the proposal against the relevant draft provisions, it has been found to be satisfactory, as it either complies or is capable of complying with the relevant requirements, subject to conditions.

(ii) Draft Inner West Local Environmental Plan 2020 (IWLEP 2020)

The Draft IWLEP 2020 was placed on public exhibition commencing on 16 March 2020 and accordingly is a matter for consideration in the assessment of the application under Section 4.15(1)(a)(ii) of the *EP&A Act 1979*.

Upon assessment of the proposal against the relevant draft provisions, it has been found to be satisfactory, as it either complies or is capable of complying with the relevant requirements, subject to conditions.

5(c) Development Control Plans

The application was assessed against the following relevant provisions of the MDCP 2011.

Control	Proposed	Compliance
<i>Part 2 – Generic Provisions</i>		
Part 2.1 – Urban Design	<p>The proposal has been designed having regard to the 12 relevant urban design principles outlined in Part 2.1 as follows:</p> <ul style="list-style-type: none"> • The proposal assists to improve the urban structure and is considered well connected, through the provision of a pedestrian through site link; • The proposal provides for satisfactory access arrangements; • The proposal provides for a complimentary mix of uses and spaces; • The proposal provides for an appropriate level of density relative to the development standards prescribed for the site and the desired future character of the zone; • The proposal provides for an urban form that clearly defines public and private spaces and that are appropriate for the 	Yes

	<p>function and character of the St Peters Triangle Precinct;</p> <ul style="list-style-type: none"> • The proposal provides for satisfactory legibility to assist with wayfinding within the site and building; • The proposal provides for sufficient spaces at street and ground level to activate the public domain and through site link; • The proposal provides for a pedestrian through site link, which is adaptable and supports nearby public spaces; • The proposed built form, materiality and design of the building recognises and enhances the industrial and mixed use character of the precinct; and • The proposal has been designed to respect the nearby HCA in terms of its built form transition, setbacks and deep soil planting. 	
Part 2.3 – Site and Context Analysis	The applicant submitted a site and context analysis as part of the application that satisfies the controls contained in this Part.	Yes
Part 2.5 – Equity of Access and Mobility	<p>The proposal satisfies the access and mobility controls contained in MDCP 2011 in that:</p> <p><i>Commercial</i></p> <ul style="list-style-type: none"> • Appropriate access is provided for all persons through the principal entrance/s; • A Continuous Accessible Path of Travel (CAPT) to and within the subject site and the commercial premises is provided, which allows a person with a disability to gain access to all areas; • An accessible parking space has been provided for the commercial component of the development; • Accessible toilets have been provided; and • Despite the above, the requirements of the MDCP 2011 are effectively superseded by the introduction of the Premises Standards. An assessment of whether these aspects of the proposal fully comply with the requirements of the relevant Australian Standards and the Premises Standards has not been undertaken as part of this assessment. That assessment would form part of the assessment under the Premises Standards at the Construction Certificate (CC) stage of the proposal, with recommended conditions included to ensure this occurs. <p><i>Residential</i></p>	Yes, subject to conditions

	<ul style="list-style-type: none"> • 1 adaptable dwelling has been provided in accordance with the requirement; • 1 accessible parking space has been provided in accordance with the requirement; • Appropriate access is provided for all persons through the principal entrance via the provision ramping, pathways and lift access; • All common areas/facilities are accessible; and • Conditions of consent are recommended to ensure the above items are provided at CC stage. 	
Part 2.6 – Acoustic and Visual Privacy	<p>The proposal will have a satisfactory impact on the visual and acoustic levels of the surrounds in accordance with Part 2.6 as follows:</p> <p><i>Residential</i></p> <ul style="list-style-type: none"> • The development is orientated towards its front and rear boundaries, which address the public domain (Hutchison Street or the Lackey Street Reserve); • The proposal is built predominantly to the front, rear and side (eastern) boundaries; • The proposal provides for a pedestrian through site link on its western boundary, which allows for satisfactory separation between the proposed balconies and openings on the western elevation and the nearby dwelling houses on surrounding sites; • A blade wall on the western side of the rear facing residential balcony is proposed, which will restrict overlooking opportunities over nearby sites; • Full height angled louvred screens are provided on the edges of the balconies servicing the commercial tenancies on the ground level and level 1 that face into Lackey Street Reserve. These measures will assist to improve privacy levels for surrounding properties and future occupiers of the development, as the glazed openings and balconies servicing the tenancies will be screened, whilst still allowing for light access and a satisfactory outlook; • With respect to the proposed built form on the eastern boundary, it is to be primarily treated by blank walls, except for an open courtyard in its middle portion to facilitate improved light and cross ventilation access. Therefore, views or overlooking across side boundaries in an eastern direction will 	Yes, subject to condition

	<p>not be facilitated, thereby not prejudicing the redevelopment of adjoining sites; and</p> <ul style="list-style-type: none"> Deep soil planting is proposed within the proposed through site link and along the rear boundary of the building, which will provide additional screening of openings by natural means. <p><i>Commercial</i></p> <ul style="list-style-type: none"> The use of the commercial tenancies will be subject to separate applications. Notwithstanding, the commercial tenancies on the ground floor and level 1 are sufficiently separated from adjoining sites to the west by the proposed through site link, which includes deep soil planting; The rear facing balconies servicing the commercial tenancies are serviced by solid walls on their sides or full height screening, to allow for satisfactory levels of privacy for nearby residential properties; and An Acoustic Report was submitted with the application and concluded the proposal will comply with the relevant noise emission criteria. This will be ensured by recommended consent condition. 	
Part 2.7 – Solar Access and Overshadowing	Refer to Section 5(c)(i) below this table.	Yes
Part 2.9 – Community Safety	<p>The development is reasonable having regard to community safety in accordance with Part 2.9 as follows:</p> <ul style="list-style-type: none"> The development has been designed to overlook the public domain and communal open spaces; A secured access gate and fence to the open-air foyer, which includes the lift that provides access to the residential component of the development, are proposed. A condition is recommended requiring the secured gate and lift access to be via a security access or equivalent; Expansive areas of glazing are provided for the commercial tenancies on the ground floor, thereby allowing for passive surveillance within them of the public domain and the pedestrian through site link; and A condition is included in the recommendation requiring the entrances to the commercial tenancies to be well lit and to comply with the relevant Australian Standard to avoid excessive light spillage. 	Yes, subject to condition

Part 2.10 – Parking	Refer to Section 5(c)(ii) below this table.	Yes, subject to condition
Part 2.16 – Energy Efficiency	<p>The proposal complies with the commercial energy efficiency requirements of Part 2.16 as follows:</p> <ul style="list-style-type: none"> The application was accompanied by a report outlining that the proposed development is capable of complying with Part J of the National Construction Code (NCC). This matter will be addressed at CC stage. 	Yes
Part 2.17 Water Sensitive Urban Design	<p>The proposal is capable of complying with the water sensitive urban design provisions of Part 2.17 as follows:</p> <ul style="list-style-type: none"> The residential component of the development has demonstrated compliance with the requirements under the BASIX SEPP (refer to discussion above); and Standard conditions are recommended to ensure the adequate treatment and disposal of stormwater in accordance with Part 2.17. 	Yes, subject to conditions
Part 2.20 – Tree Management	Refer to discussion above under Section 5(a)(iv).	Yes
Part 2.21 – Site Facilities and Waste Management	<p>The proposal satisfies the relevant provisions of Part 2.21 as follows:</p> <ul style="list-style-type: none"> The application was accompanied by a waste management plan in accordance with the Part; Standard conditions are recommended to ensure the appropriate management of waste during the construction of the proposal; Sufficiently sized and well located areas for waste storage have been provided for the residential component of the development; Subject to a deferred commencement condition, the proposed waste storage area for the commercial component of the development will be appropriately located within the basement, to ensure pedestrian safety; and Conditions have been included to ensure access ways and gradients are satisfactory to facilitate the removal of waste. In addition, a condition has been included requiring a waste bulky storage area to be provided for the residential component of the development. 	Yes, subject to deferred commencement condition

Part 2.23 – Acid Sulfate Soils	Refer to discussion above under Section 5(a)(v).	Yes
Part 2.24 – Contaminated Land	Refer to discussion above under Section 5(a)(i).	Yes
Part 2.25 – Stormwater Management	<p>The development is capable of satisfying the relevant provisions of Part 2.25 as follows:</p> <ul style="list-style-type: none"> Standard conditions are recommended to ensure the appropriate management of stormwater. 	Yes, subject to conditions
Part 8 - Heritage		
Part 8 Heritage	Refer to discussion above under Section 5(a)(v).	Yes
Part 9 – Strategic Context		
Part 9.25– St Peters Triangle (Precinct 25)	The subject site is identified within the St Peters Triangle Precinct.	Noted
Part 9.25.2– Desired future character	<p>The proposal is compatible with the relevant desired future character provisions of the precinct as follows:</p> <ul style="list-style-type: none"> Subject to conditions, the proposal will enhance existing streets and open space; The proposal assists to improve pedestrian amenity within the precinct and link its series of open spaces, through the provision of a pedestrian through site link; The proposal assists to link St Peters Railway Station more effectively with the precinct, through the provision of a pedestrian through site link; Subject to conditions, the proposal will assist to encourage new hubs of activity along Hutchinson Street for creative uses; The proposal satisfactorily integrates design excellence and sustainability within the building; and As demonstrated within this report, the proposed development demonstrates good urban design and environmental sustainability and provides suitable amenity for future and surrounding occupants. 	Yes, subject to conditions
Part 9.25.3.2– HCA 37: Lackey Street & Simpson Park, St Peters Heritage Conservation Area (C37)	<p>The proposal satisfies the relevant provisions of this Part as follows:</p> <ul style="list-style-type: none"> The proposal does not affect the retention of Simpson Park as open space; and The proposal does not affect the retention of the Lackey Street Reserve as public open space, given the development is to be contained wholly 	Yes, subject to condition

	within its allotment boundaries (to be ensured by recommended condition).	
Part 9.25.4– General objectives	<p>The proposal satisfies the relevant provisions of this Part as follows:</p> <ul style="list-style-type: none"> • The proposal is for a 'mixed use' development that includes a substantial amount of commercial floor space, which can be readily adapted for creative uses, subject to condition; • The proposal provides a new 'green' pedestrian link on its western side, as required by this Part; • The proposal has been revised to adopt the recommendations provided by the AEP, and as such, is considered to display design excellence. In addition, the proposal includes sustainable initiatives including the introduction of deep soil planting, rainwater storage and the encouragement of pedestrian activity through the provision of the through site link; and • The proposal assists to ensure the efficient and orderly development of the precinct through the provision of a permissible development that is generally in keeping with the planning controls prescribed for the site. 	Yes, subject to condition
Part 9.25.5– Masterplan Area (MA 25.1)	<p>The proposal satisfies the relevant provisions of this Part as follows:</p> <ul style="list-style-type: none"> • As detailed throughout this report, the proposal accords with the St Peters Triangle Master Plan. This is evidenced by the provision of a green, pedestrian link connecting to the Lackey Street Reserve, which is designated as a 'Special Site' for community use and the proposal's adoption of a satisfactory built-form, which subject to condition, will support uses of a creative focus. 	Yes, subject to condition
Part 9.25.7 – Traffic and access	<p>The proposal satisfies the relevant provisions of this Part as follows:</p> <ul style="list-style-type: none"> • The proposal generally conforms with the St Peters Triangle access strategy, as it provides the required, pedestrian only through site link on its western boundary, connecting Hutchinson Street with Lackey Street Reserve. 	Yes
Part 9.25.7.1 – Traffic and access guidelines	<p>The proposal satisfies the relevant provisions of this Part as follows:</p> <ul style="list-style-type: none"> • The proposal does not affect the maintenance of Hutchinson Street as a 	Yes

	<p>one-way street or preclude its conversion into a formal shared zone;</p> <ul style="list-style-type: none"> • The proposed pedestrian entries to the building are located away from the vehicular entry points to minimise potential pedestrian and vehicle conflicts; • The proposal provides for an active street frontage and good streetscape design. In this regard, the vehicle entry point will not exceed 6m in width; • Sufficient separation distance is provided between the vehicle entry point and street intersections; and • Car parking and servicing for the development is located underground within a basement. 	
Part 9.25.8 – Public domain strategy	<p>The proposal satisfies the relevant provisions of this Part as follows:</p> <ul style="list-style-type: none"> • The proposal assists to provide an additional pedestrian linkage within the Precinct, which will improve connections between the existing and established surrounding residential neighbourhood through to existing public open space and St Peters Railway Station; and • Subject to conditions, the proposal will provide for public domain enhancements. 	Yes, subject to conditions
Part 9.25.9 – Site amalgamation	<p>The proposal satisfies the relevant provisions of this Part as follows:</p> <ul style="list-style-type: none"> • As per the relevant provisions and figures within this Part, site amalgamation is not required. Notwithstanding, the subject site is considered of a satisfactory size to cater for the proposed development, as it provides for an appropriate amount of car parking, pedestrian access and services relative to its density. 	Yes
Part 9.25.10 – Built form	<p>The proposal satisfies the relevant provisions of this Part as follows:</p> <ul style="list-style-type: none"> • The proposal generally conforms with the building height provisions under this Part, except for a minor top (4th storey). However, given its siting toward Hutchinson Street and its setback from the front property boundary (approximately 6m), in addition to its lightweight materiality, it will have an acceptable impact on the precinct and the streetscape; 	Yes, subject to condition

	<ul style="list-style-type: none"> • Further, as demonstrated within this report, the proposed building height/scale does not adversely impact the amenity of the surrounds and appropriately transitions down to the lower density, residential development toward the south and south-west of the site; • Deep soil zones are provided adjacent to public open space and within the through site link. This outcome allows for a softening the proposed built form, whilst assisting with stormwater drainage and improving the amenity of the precinct; • The proposal provides active frontages of Hutchinson Street and the pedestrian through site link; • The proposal provides for the required pedestrian through site link on its western side, which is an average of 6m in length; and • Awnings are proposed at the building entry points to provide for weather protection and to encourage pedestrian activity. 	
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(i) Part 2.7 Solar Access and Overshadowing

Part 2.7 of MDCP 2011 contains objectives and controls relating to solar access and overshadowing. An assessment against these provisions has been carried out hereafter:

The subject site is adjoined directly to the west by a series of dwelling houses at nos. 48, 50, 52, 54 and 58 Hutchinson Street, St Peters. Directly south of the subject site is the Lackey Street Reserve; which is zoned RE1 Public Recreation under the *MLEP 2011*. Further to the south-west and south of the subject site are a series of dwelling houses, located on Lackey Street, including nos. 37, 39, 41, 43, 45, 47, 49, 51, 53 and 55.

Given the respective orientations of the subject site and the surrounding properties, the proposal will have a degree of impact on the solar access currently enjoyed by them.

Shadow diagrams for both mid-winter (21 June) and the equinoxes (March/ September) were submitted to demonstrate the proposal's impact on the surrounds. In addition, elevational shadow diagrams were also submitted to assist in this regard.

An assessment of the impacts evident is as follows:

- The proposal results in additional overshadowing of the rear facing windows and private open spaces servicing the respective dwelling houses at nos. 37, 39, 41, 43, 45, 47, 49, 51, 53 and 55 Lackey Street. This occurs between the hours of 9:00am and 12:00pm mid-winter (21 June).
- The proposal results in additional solar access being obtained through the demolition of the existing building and the provision of a through site link on the western boundary for the respective dwelling houses at nos. 48 and 50 Hutchinson Street, respectively. This is obtained between 11:00am and 1:00pm mid-winter (21 June); and
- The proposal results in some minor additional overshadowing of the central portion of the Lackey Street Reserve, primarily between 10:00am and 3:00pm mid-winter (21

June). However, due to the demolition of the existing building and the provision of the proposed through site link, a greater portion of solar access is provided to the reserve during these times.

Despite the above overshadowing impacts caused by the proposal, it is still considered acceptable having regard to the provisions under Part 2.7 as follows:

- The proposal still allows for solar access to be maintained or achieved to the impacted areas of POS and rear facing windows servicing nearby residential dwellings in excess of the minimum 2-hour requirement during mid-winter (21 June);
- The proposal in some instances allow for greater levels of solar access to be achieved by surrounding properties throughout the day in mid-winter (21 June), through the demolition of the existing building on the subject site and provision of the through site link on the western boundary;
- The proposal is considered to adopt a satisfactory built-form, siting and design; which is compatible with the desired future character of the zone and allows for adequate levels of solar access, notwithstanding site constraints and minor building height variation; and
- The equinox (March/September) diagrams submitted indicate the proposal will have an acceptable impact on surrounding properties during these times, including nearby residential dwellings; which will receive solar access in excess of the minimum requirements under this Part of MDCP 2011.

Considering the above, the development is reasonable having regard to the objectives and controls relating to solar access and overshadowing as contained in the MDCP 2011.

(ii) Part 2.10 Parking

The site identified in Parking Area 2 under Part 2.10 of the MDCP 2011. The following table summarises the car, bicycle and motorcycle parking and service area requirements for the development:

Component	Control	Required	Proposed	Compliance
Car Parking				
Resident Car Parking	0.25 per studio or 1br unit + 0.5 per 2 or 3 + br unit	2 spaces	2 spaces	Yes
Accessible Resident Car Parking	1 car parking space per 1 adaptable dwelling	1 accessible space	2 accessible spaces	Yes
Commercial Car Parking	1 space per 80sqm GFA for customers and staff (608sqm commercial GFA proposed)	8 spaces	9 spaces	Yes
	Total required:	11 spaces (including 1 accessible)	13 spaces (including 2 accessible)	Yes
Bicycle Parking				
Resident Bicycle Parking	1 bicycle parking space per 2 units	2 spaces	4 spaces	Yes
Commercial Bicycle Parking	1 per 300sqm GFA for staff	2 spaces		

Component	Control	Required	Proposed	Compliance
Commercial Bicycle Facilities	Clothes lockers: 1 per 3 staff spaces & showers: 1 + 1 extra on merit	1 clothes locker & 1 extra on merit	Separate shower & storage facilities provided for most commercial tenancies.	Yes
	Total required:	4 spaces + 1 clothes locker and shower facilities	4 spaces + adequate facilities provided for most commercial tenancies	Yes
Motorcycle Parking				
Motorcycle Parking	5% of the total car parking requirement	1 space	1 space	Yes
Service Areas				
Residential components of mixed use developments	1 service vehicle space (loading bay/dock) per 50 units	1 space	0 proposed. A new on-street loading zone proposed.	No
Commercial premises	One truck space per 4,000sqm GFA	1 space	0 proposed. A new on-street loading zone proposed.	No
	Total required:	1	0	No

Service Areas

The proposed development is required by Part 2.10 of the MDCP 2011 to provide a loading dock/ service bay to service the development.

During the assessment of the application, the applicant was requested to address this matter by providing a loading dock/ service bay for the largest vehicle capable of accessing the site (SRV with minimum headroom of 3.5m). The revised plans and information did not comply with this request and instead, it was proposed that an on-street loading bay be provided on the opposite side Hutchinson Street, currently where a no parking zone is enforced.

It is considered that the above solution proposed by the applicant is not acceptable, given that the proposal is not for the adaptive re-use of the existing building, as its complete demolition is proposed, and a basement to service the development is to be provided. Further, to facilitate this outcome, approval would be required by Council's Local Traffic Committee, which is separate to the development application process.

Notwithstanding the above, as detailed within this report, the development is required to provide a pedestrian through-site link and deep soil planting, as per the provisions under Part 9.25 of the MDCP 2011. These items are considered a public benefit and provide additional connectivity and amenity for the development and the precinct. As such, this restricts the further enlargement of the proposed basement to provide a loading dock/service bay for an SRV vehicle. Also, given the potential uses permissible within the commercial tenancies, which must be of a creative nature under the *MLEP 2011*, there is unlikely to be a critical need for a loading dock to service an SRV vehicle.

In light of the above, it is considered a balanced approach to this issue can be achieved through the adoption of a deferred commencement condition, which requires at least 1 loading dock/ service bay to be provided in the basement, that is capable of accommodating a large van as opposed to an SRV vehicle. This ensures the servicing requirements of the development can be met on site, whilst retaining the width and areas of the proposed through-site link and deep soil planting, respectively.

5(d) The Likely Impacts

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

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 as originally submitted was advertised, an on-site notice was displayed on the property, and residents/property owners in the vicinity of the property were notified of the development in accordance with Council's Community Engagement Framework. In response, 19 submissions were received.

The submissions received raised the following concerns, which have already been discussed throughout the main body of this report:

- (i) Acoustic & visual privacy;
- (ii) Bulk & scale;
- (iii) Community safety;
- (iv) Communal open space provision;
- (v) Contamination;
- (vi) Deep soil planting;
- (vii) Heritage conservation;
- (viii) MLEP 2011 height and FSR compliance;
- (ix) Solar access and overshadowing;
- (x) Stormwater management;
- (xi) Streetscape character;
- (xii) Sustainability;
- (xiii) Traffic and parking;
- (xiv) Vegetation impacts; and
- (xv) Waste management.

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

Concern	Comment
Construction impacts Concern was raised that the proposal would negatively impact the surrounds during its construction.	Conditions are recommended requiring dilapidation reports to be undertaken for the adjoining properties in accordance with the <i>EP&A Act 1979</i> and Regulation, to monitor construction impacts on nearby structures and dwellings. Standard construction hours are recommended to protect the amenity of the surrounds by restricting early morning and late-night construction works.

	With respect to impacts caused by vehicles associated with the construction of the proposal, any incidents with respect to this issue that may arise should be reported to Council for investigation.
Commercial floor space demand Concern was raised that there was minimal demand for the commercial floor space proposed by the development.	As detailed within this report, the planning controls applicable to the development require the provision of a specific amount of commercial floor space to assist in achieving the objectives of the B7 Business Park Zone under the <i>MLEP 2011</i> and the aims of the St Peters Triangle Precinct. The development provides the specific amount of commercial floor space required.
Lighting impacts Concern was raised the proposal would result in adverse impacts in terms of light spillage or nuisance.	Standard conditions are recommended requiring any proposed lighting within the development to comply with relevant Australian Standards to not cause spillage or nuisance on the surrounds.
National Construction Code (NCC) Compliance Concern was raised that the proposal failed to comply with the NCC.	Standard conditions are recommended to ensure compliance with the NCC is achieved during the post DA stages of the development.
Notification of application Concern was raised that the DA was not notified in accordance with Council policy.	As outlined above, the proposal was notified in accordance with Council's Community Engagement Framework. Further, as per this policy, the revised proposal did not require notification given the similar and reduced impacts evident.
Overdevelopment Concern was raised that the proposal constituted an overdevelopment of the site.	As detailed within this report, the proposal generally complies or is considered acceptable with respect to the relevant planning controls applicable to it. Further, it adopts a built form and envelope that allows for satisfactory amenity impacts and subject to conditions, will provide for adequate areas for its servicing. In light of the above, it is considered the proposal does not constitute an overdevelopment of the site.
Legal impacts of the pedestrian through site link Concern was raised that the proposed pedestrian through site link would affect the legal rights over Lackey Street Reserve enjoyed by the properties which abut it.	The proposed pedestrian through site link is not considered to interfere with existing easements or legal rights over the Lackey Street Reserve.
Property value Concern was raised that the proposal would result in the loss of property values.	There is no evidence to suggest that this proposal will affect property values. Notwithstanding this, matters that could affect property value, such as amenity impacts, have been assessed and considered above.
St Peters Triangle Precinct controls (Part 9.25 of MDCP 2011) Concern was raised that Part 9.25 the MDCP 2011, which guides development within the St Peters Triangle Precinct, is outdated, given the length of time since when it was	Notwithstanding the length of time since the commencement of Part 9.25 of the MDCP 2011, under Part 4.15 of the <i>EP&A Act 1979</i> , it must be considered under the assessment of the subject application. As detailed within this report, this has been undertaken and the proposal has found to be acceptable against its provisions.

devised; and therefore does not reflect the current views of the community.	
Vehicular impacts on Lackey Street Reserve Concern was raised that the proposed development would result in increased vehicular use of Lackey Street Reserve, including by delivery vehicles servicing the development.	As discussed earlier within this report, deferred commencement conditions are recommended requiring a loading bay to be provided within the basement to ensure deliveries can be made from within the site. Further, conditions of consent are recommended requiring revised plans to be submitted prior to the issue of a Construction Certificate (CC), that include bollards at the entry points of the pedestrian through site link to ensure vehicles cannot traverse through it. Also, an on-going condition is recommended restricting deliveries being made to the development through Lackey Street Reserve.

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

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

- Architectural Excellence Panel;
- Building Certification;
- Development Engineering.
- Environmental Health;
- Heritage & Urban Design;
- Legal Services;
- Parks & Recreation;
- Urban Forests; and
- Waste Management.

7. Section 7.11 Contributions/7.12 Levy

The carrying out of the development would result in an increased demand for public amenities and public services within the area. A contribution of \$150,774.00 will be required for the development under *Marrickville Section 94/94A Contributions Plan 2014*. A condition requiring that contribution to be paid is included in the recommendation.

8. Conclusion

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

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

The application is considered suitable for the issue of a deferred commencement consent, subject to the imposition of appropriate terms and conditions.

9. Recommendation

- A. The applicant has made written requests pursuant to Clause 4.6 to vary Clauses 4.3 *Building height* and 4.4 *Floor Space Ratio* of the *Marrickville Local Environmental Plan 2011*. After considering the requests, and assuming the concurrence of the Secretary has been given, the Panel is satisfied that compliance with the standards are unnecessary in the circumstance of the case and that there are sufficient environmental grounds to support the variations. The proposed development will be in the public interest because the exceedances are not inconsistent with the objectives of the standards or 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 deferred commencement consent to Development Application No. 2020/0134 for the demolition of existing warehouse building and construction of new mixed use development (dwellings and commercial/business tenancies) plus basement parking, landscaping and associated works at 42-46 Hutchinson Street, St Peters, subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

Attachment A – Recommended conditions of consent

DEFERRED COMMENCEMENT

The following is a Deferred Commencement condition imposed pursuant to Section 4.16(3) of the *Environmental Planning and Assessment Act 1979*. This Consent will not operate and may not be acted upon until the Council is satisfied as to the following matter(s):

A. Loading Dock/Service Bay

To provide suitable loading areas within the development site, amended plans must be provided addressing the following:

1. demonstrating one (1) loading dock/service bay is provided within the Basement carpark.
2. The design of the access driveways, circulation roadways and service areas are to meet the requirements of a 99th percentile (B99) vehicle as specified in AS 2890.1 Parking facilities Off-street car parking.
3. A minimum headroom clearance of 2500mm is to be provided within the service area and along the vehicular path of travel to or from the service area including the basement ramp.
4. The loading dock/service bay is to be a minimum of 0.5m wider than a standard parking space and a minimum of 2.0m longer. The added width may be shared with a footway, parking aisle or other adjacent unobstructed area.
5. The loading dock/service bay must also be adjacent to a lift for servicing/loading to upper levels.

B. Vehicular Access

The vehicular access must be amended to provide clear sight lines (triangles) to pedestrians in Hutchinson Street in accordance with the requirements of Clause 3.2.4(b) of AS/NZS 2890.1-2004. The Fire Boosters must be demonstrated not to block sightlines.

Also, security bollards are to be provided at the entry points of the pedestrian through site link, as to restrict vehicle access within or through it.

C. Commercial Garbage area

The Commercial Garbage area must be amended to provide suitable access to and from the garbage area to the loading dock within the basement for collection by a private

waste operator and to address potential conflict between pedestrians and vehicles including lack of sightlines.

D. Stormwater

An amended stormwater concept plan must be provided demonstrating feasibility and compliance with Council's MDCP2011 and Stormwater Drainage Code including connection to the kerb is within the frontage of the site and the maximum discharge to Council's street gutter is limited to 25 litres/second (100years ARI).

The operational Development Consent will be issued by Council (in writing) after the applicant provides sufficient information to satisfy Council in relation to the conditions of the deferred commencement consent.

If the applicant fails to satisfy Council as to the above matters within 2 years from the date of determination this consent will lapse.

Evidence of the above matter(s) must be submitted to Council within 2 years otherwise the Consent will not operate.

DOCUMENTS RELATED TO THE CONSENT

1. Documents related to the consent

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

Plan, Drawing No. and Issue	Plan Name	Date Issued	Prepared by
Site Plan/Analysis, 2018-019-A00, DA-1	Architectural Plans	June 2020	Brenchley Architects
Basement + Ground Floor Plans, 2018-019-A01, DA-1	Architectural Plans	June 2020	Brenchley Architects
First + Second Floor Plans, 2018-019-A02, DA-1	Architectural Plans	June 2020	Brenchley Architects
Third Floor + Roof Plans, 2018-019-A03, DA-1	Architectural Plans	June 2020	Brenchley Architects

Elevations, 2018-019-A04, DA-1	Architectural Plans	June 2020	Brenchley Architects
Elevations, 2018-019-A05, DA-1	Architectural Plans	June 2020	Brenchley Architects
Sections, 2018-019-A06, DA-1	Architectural Plans	June 2020	Brenchley Architects
Detail Section, 2018-019-A06a, DA-1	Architectural Plans	June 2020	Brenchley Architects
Demolition Plan, 2018-019-D01, DA-1	Architectural Plans	June 2020	Brenchley Architects
External Finishes	Architectural Plans	-	Brenchley Architects
Ground Floor Plan, 1132, L-01 C	Landscape Plans	24 June 2020	Site Design + Studios
Third Floor Plan, 1132, L-02 C	Landscape Plans	24 June 2020	Site Design + Studios
Planting Details, 1132, L-03 C	Landscape Plans	24 June 2020	Site Design + Studios
Specification, 1132, L-04 C	Landscape Plans	24 June 2020	Site Design + Studios
Certificate No. 1029316M_02	BASIX Certificate	1 July 2020	Expressrate Pty Ltd
4659R002.MW.200625	Noise Emission Assessment	3 July 2020	Acoustic Dynamics
Version 2	Arboricultural Impact Assessment	13 June 2020	Tree Survey
E33485PArpt-RAP	Remedial Action Plan	21 September 2020	JK Environments

As amended by the conditions of consent.

DESIGN CHANGE

2. Design Change - Landscape and Awning Design

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

- a. The raised planter that is shown along the rear western side boundary on the Landscape Plan prepared by Site Design + Studios (Dwg L-01 C) and dated 24/6/20, must be deleted. The trees proposed must be planted in deep soil (no planter) and all retaining must be along the boundary alignment.
- b. The *Pyrus calleryana* 'Capital' trees must be planted a minimum distance of 1.5 metres from the side boundary. The garden bed must be widened where the trees are located to allow for adequate clearance to paving.
- c. The Architectural Plans prepared by Brenchley Architects and dated June 2020 must be amended to show the awning/s clear of street trees. There must be no awning within 3.5 metres of any street tree in front of the subject site or any tree in front of the adjacent sites.
- d. The plans must show a light weight fence (post and rail) with isolated piers/posts and no strip footings along the rear boundary.

FEES

3. Security Deposit - Parks or Street Trees

Prior to any demolition works or the issue of a Construction Certificate (whichever occurs first), the Certifying Authority must be provided with written evidence that a security deposit and inspection fee has been paid to Council to ensure Council street and/or parks are protected and maintained for the duration of development.

Tree Security Deposit:	Street tree directly in front of site in Hutchinson Street - \$6,800.00
Inspection Fee x2:	(2 x \$165.00) \$330.00

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

The inspection fee is required for Council to determine the condition of the street/park tree and prior to commencement and then on completion of the works being carried out. The applicant must arrange an inspection by Council's Public Tree Coordinator to inspect the tree/s.

Should any Council tree sustain damage during the course of the demolition or construction works, or if the works put Council's tree or the environment at risk, Council may carry out any works necessary to repair the damage, remove the risk or complete the works. Council may

utilise part or all 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 bond may be made to 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.

4. 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 **\$150,774.00** indexed in accordance with Marrickville Section 94/94A Contributions Plan 2014] ("CP") has been paid to the Council.

The above contribution is the contribution applicable as at 20 October 2020.

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

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

Public Amenities Type:	Contribution \$
Recreation Facilities	\$117,090.47
Community Facilities	\$11,002.68
Traffic Facilities	\$4,414.73
Road access dedication	\$15,309.77
Plan Administration	\$2,956.35
TOTAL	\$150,774.00

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*. Prior to payment contact Council's Planning Team to review charges to current indexed quarter, please allow a minimum of 2 business days for the invoice to be issued before payment can be accepted.

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

5. Long Service Levy

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

6. Security Deposit

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

Security Deposit:	\$25,000
Inspection Fee:	\$236.70

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

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

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

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

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

GENERAL CONDITIONS

7. 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.

8. Tree Protection

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

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

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

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

The trees identified below are to be retained and protected in accordance with the conditions of consent or approved Tree Protection Plan throughout the development (note: tree numbers must correspond with approved Tree Protection Plan if conditioned) :

Tree No.	Botanical/Common Name	Location
1	<i>Phoenix canariensis</i> (Canary Island Date Palm)	Adjacent - rear
2	<i>Callistemon viminalis</i> (Weeping Bottlebrush)	Adjacent - rear
3	<i>Araucaria columnaris</i> (Cook Pine)	Adjacent - rear

4	<i>Araucaria columnaris</i> (Cook Pine)	Adjacent - rear
5	<i>Melaleuca bracteata</i> (Black Tea Tree)	Adjacent - rear
6	<i>Jacaranda mimosifolia</i> (Jacaranda)	Adjacent - rear
7	<i>Phoenix canariensis</i> (Canary Island Date Palm)	Adjacent - rear
8,9,10	3 x <i>Cupaniopsis anacardioides</i> (Tuckeroo)	Street trees - Hutchinson Street

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

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

NOTE: Reference should be made to the *Arboricultural Impact Assessment Reports* prepared by Tree Survey dated 13 June and 26 July 2020 for tree numbering and locations.

9. Project Arborist

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

10. Noise – Consultant's Recommendations

The recommendations contained in the acoustic report prepared by Acoustic Dynamics (ref: 4659R002.MW.200625) 03 July 2020 must be implemented, including the following:

6.1.1 VIBRATION ISOLATION – GENERAL ADVICE

Acoustic Dynamics advises that the various items of mechanical plant and equipment throughout the development must be isolated from the building structure by incorporating impact isolation mounts (spring mounts, seismic mounts or rubber mounts).

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

The site is to be remediated and validated in accordance with the recommendations and conclusions set out in the Remedial Action Plan, prepared by JK Environments (JKE), reference E33485PARpt-RAP, dated 21 September 2020, the *Contaminated Land Management Act 1997* and the *State Environmental Planning Policy No 55*.

12. Hazardous Materials Survey

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

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

13. 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.

14. 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.

15. Residential Flat Buildings – Adaptable Dwellings

Prior to the issue of a Construction Certificate, the Certifying Authority, must be provided with plans that demonstrate one (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.

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. 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.

18. Works Outside the Property Boundary

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

19. Separate Consents

Approval under this consent is not granted for the use and/or fit-out, including any associated signage, of the commercial floor space. In this regard, separate consents are to be obtained for the use and/or fit-out of the commercial floor space, which must be for creative purposes as per Clause 6.12 of the *Marrickville Local Environmental Plan 2011*.

20. Awnings with Lighting

The proposed awning must be of cantilever type and be set back at least 600mm from the kerb line. The awning must include pedestrian lighting (Category P3-AS1158) and must be maintained and owned by the property owner(s). The proposed awning must be designed to be easily removed if required in future. The owner must maintain, modify or remove the structure at any time if given notification by Council to do so. The lighting must be not be obtrusive and should be designed so that it does not shine into any adjoining residences.

21. Dry-weather Flows

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

22. Rock Anchors

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

23. Pedestrian Link Lighting

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

PRIOR TO ANY DEMOLITION**24. 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.

25. Dilapidation Report

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

26. 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.

27. 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.

28. 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.

29. Construction Traffic Management Plan – Detailed

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

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

- a. Description of the demolition, excavation and construction works;
- b. Site plan/s showing the site, roads, footpaths, site access points and vehicular movements;
- c. Size, type and estimated number of vehicular movements (including removal of excavated materials, delivery of materials and concrete to the site);
- d. Proposed route(s) from the arterial (state) road network to the site and the proposed route from the site back to the arterial road network;
- e. Impacts of the work and vehicular movements on the road network, traffic and pedestrians and proposed methods to safely manage pedestrians and construction related vehicles in the frontage roadways;
- f. Any Traffic Control Plans (TCP's) proposed to regulate traffic and pedestrian movements for construction activities (such as concrete pours, crane installation/removal etc.);
- g. Proposed hours of construction related activities and vehicular movements to and from the site;
- h. Current/proposed approvals from other Agencies and Authorities (including Roads and Maritime Services, Police and State Transit Authority);
- i. Any activities proposed to be located or impact upon Council's road, footways or any public place;
- j. Measures to maintain public safety and convenience;
- k. Any proposed road and/or footpath closures;
- l. Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site;

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

PRIOR TO CONSTRUCTION CERTIFICATE

30. 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 Marrickville DCP 2011 and must include doorways/entrance points of 1200mm.

31. 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 Marrickville DCP 2011 and have minimum doorways of 1200mm wide to accommodate large items.

32. Commercial - Additional Storage Space

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

33. 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.

34. 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.

35. Access Report

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with an Access Management Plan prepared by an Accredited Access Consultant. The Access Management Plan must address:

- a. Confirmation whether the Disability (Access to Premises – Buildings) Standards 2010 is applicable to the development, in particular whether the Standards apply to the affected part;
- b. Proposed requirements for access to the building or part of building for people with a disability in accordance with Part D3 of Building Code of Australia;
- c. Assessment and identification of non-compliances with the Disability Standards 2010 and/or the BCA where applicable and provide recommendations to achieve compliance with the relevant performance requirements;
- d. Accessible car parking spaces should be provided, where applicable, in accordance with Part D3.5 of BCA Vol; and
- e. Any exemptions, alternative solutions or deemed-to-satisfy provisions affecting access.

36. Fire Safety Upgrade

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a report and plans detailing how the buildings, which are subject to the consent, will be brought into full or partial conformity with the Building Code of Australia. The report must include:

- a. A fire safety audit which shall cover Sections C, D and E of Building Code of Australia and to identify general areas of non-compliance against the deemed to satisfy fire safety provisions, and address the performance requirements of the BCA where relevant. The recommendations for the fire safety upgrade shall be indicated on amended plans;
- b. Review the current on site fire safety measures including their relevant standard of performance; and
- c. The report shall include an updated Fire safety schedule stipulating the existing and proposed essential fire safety measures, including their relevant standards of performance.

37. Structural Details and Design

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with structural details and a Structural Certificate for Design by a qualified practising structural engineer and in accordance with Clause A2.2(a)(iii) of the Building Code of Australia (applicable to Class 2-9 buildings) and Clause 1.2.2(iii) of Volume 2 of the BCA (applicable to Class 1 and 10 buildings).

38. Tree Protection Plan

Prior to the issue of a Construction Certificate, the Certifying Authority must ensure that the tree protection measures contained in the Tree Protection Plan (Appendix 3) included in the Arboricultural Impact Assessment prepared by Tree Survey and dated 13 June, 26 July 2020 must be shown clearly on the Construction Certificate drawings, including the Construction Management Plan.

A Project Arborist is to be appointed prior to any works commencing to monitor tree protection for the duration of works in accordance with the requirements identified in the TPP.

All tree protection measures as detailed in the approved Tree Protection Plan must be installed and certified in writing as fit for purpose by the Project Arborist.

39. 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.

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

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

41. Light Spill

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

42. Enclosure of Fire Hydrant

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

43. Sydney Water – Tap In

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

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

44. Fibre-ready Facilities

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

- a. The installation of fibre-ready facilities to all individual lots and/or premises the development so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose.

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

45. Secure Access

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

- a. Demonstration that access to the open air lobby and lift are only by secure means and do not facilitate general public access, either with a security access card or equivalent.

46. Stormwater Drainage System – Major Developments

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with stormwater drainage design plans incorporating on site stormwater detention and/or on site retention/ re-use facilities (OSR/OSD) and Stormwater Quality Improvement Devices (SQIDS), certified by a suitably experienced Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (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. Stormwater runoff from all surface 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) via the OSD/OSR tanks by gravity to the kerb and gutter of a public road.
- b. Comply with Council's Stormwater Drainage Code, Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2018 'Stormwater Drainage' and Council's Marrickville DCP2011.
- c. Charged or pump-out stormwater drainage systems are not permitted including for roof drainage other than pump out of surface flows from the driveway ramp to the basement.
- d. The Drainage Plan must detail the existing and proposed site drainage layout, size, class and grade of pipelines, pit types, roof gutter and downpipe sizes.
- 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. Pipe and channel drainage systems including gutters must be designed to convey the one hundred (100) year Average Recurrence Interval (ARI) flows from the contributing catchment to the OSD/OSR tanks.
- i. Pipe and channel drainage systems including gutters must be designed to convey the one hundred (100) year Average Recurrence Interval (ARI) flows from the contributing catchment to the OSD/OSR tanks.
- j. Details of the 1 in 100-year ARI overflow route to the adjacent public road in case of failure/blockage of the drainage system must be provided.
- k. An overland flowpath must be provided within the setback to the western side boundary between the rear of the dwelling and the Hutchinson Street frontage. The rear courtyard must be graded so that bypass flows from the site drainage system are directed to the overland flowpath.
- l. Where there is no overland flow/flood path available from the rear and central courtyards to the Hutchinson Street frontage, the design of the sag pit and piped drainage system is to meet the following criteria:
 - a. Capture and convey the 100 year Average Recurrence Interval flow from the contributing catchment assuming 80% blockage of the inlet and 50% blockage of the pipe.
 - b. The maximum water level over the sag pit shall not be less than 150mm below the floor level or damp course of the building
 - c. The design shall make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands/roof areas.
- m. 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. All inlet pits and drains within the basement must be designed to minimise potential for pollutants from cars or other sources to enter the subsurface drainage system.
- n. The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands.
- o. Details of external catchments currently draining to the site must be included on the plans. Existing natural overland flows from external catchments may not be blocked or diverted, but must be captured and catered for within the proposed site drainage system. Where necessary an inter-allotment drainage system must be incorporated into the design.
- p. No nuisance or concentration of flows to other properties.
- q. The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system.
- r. Plans must specify that any components of the existing system to be retained must be certified during construction to be in good condition and of adequate capacity to convey the additional runoff generated by the development and be replaced or upgraded if required.
- s. An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets.
- t. Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site.
- u. New pipelines within the footpath area that are to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0mm and a maximum section height and width of 100mm or sewer grade uPVC pipe with a maximum diameter of 100mm.
- e. All redundant pipelines within footpath area must be removed and footpath/kerb reinstated.

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

Pollutant	Baseline Annual Pollution Load (kg/ha/yr)	Retention Criteria
Gross Pollutants, including trash, litter and vegetation matter greater than 5mm	500	90% reduction of average annual load
Total Suspended solids, including sediment and other fine material less than 5mm	900	85% reduction of average annual load
Total Phosphorous	2	60% reduction of average annual load
Total Nitrogen	15	45% reduction of average annual load

- y. water re-use proposal;
- z. A WSUD Strategy Report must be provided to ensure the treatment measures proposed to meet Council's water quality targets. For sites with a GFA greater than 2000sqm a MUSIC model (including .sqz file) must be included with the report.
- a. 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.
- b. 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.

47. Structural and Geotechnical Report

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

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

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

48. 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 and evidence that the works on the Road Reserve have been approved by Council under Section 138 of the *Roads Act 1993* incorporating the following requirements:

- a. The public domain along all frontages of the site inclusive of footpath paving, kerb, street trees, landscaping, must be reconstructed and upgraded in accordance with the Street Tree Master plan and the Public Domain Design Guide or scheme;
- b. The construction of industrial heavy duty vehicular crossings to all vehicular access locations and removal of all redundant vehicular crossings to the site;
- c. New concrete footpath and kerb and gutter along the frontage of the site. The kerb type (concrete or stone) must be consistent with the majority of kerb type at this location as determined by the Council Engineer.
- d. A long section, along both sides of the proposed vehicular crossing and ramp, drawn at a 1:20 or 1:25 natural scale. The long section shall begin from the centreline of the adjacent road to a minimum of 3 metres into the property. The long section shall show

both existing surface levels and proposed surface levels. The long section approved by Council shall define the Alignment Levels at the property boundary.

- e. Cross sections are to be provided at the boundary at a minimum distance of every 5m and at all pedestrian and vehicular access locations. Note, the cross fall of the footpath must be set at 2.5%. These sections will set the alignment levels at the boundary.
- f. Installation of a stormwater outlet to the kerb and gutter in accordance with Council requirements.

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

49. Dilapidation Report

Prior to the issue of a Construction Certificate or any demolition, the Certifying Authority must be provided with a dilapidation report including colour photos showing the existing condition of the footpath and roadway adjacent to the site.

50. 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, 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 floor/finished levels within the property must be adjusted to ensure that the levels at the boundary comply with the Alignment Levels issued with this consent.
- b. The garage slab or 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. 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 for a B99 design vehicle.
- d. Minimum headroom of 2200mm must be provided throughout the access and parking facilities. Minimum headroom of 2500mm must be provided above any disabled parking space(s). Minimum headroom of 2500mm must be provided throughout the path of travel for a B99 vehicle utilising the loading dock/service bay.

- e. 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.
- f. Longitudinal sections along each outer edge of the vehicular access and parking facilities, extending to the centreline of the road carriageway must be provided, demonstrating compliance with the above requirements.
- g. 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;
- h. The relative surface levels of the internal access from the road being controlled so that:
 - i. The surface levels at the property boundary match "alignment levels"
 - 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. Where accessed by the public, the maximum grade at any point does not exceed 1 in 5 (20%) or in the case of ramps greater than 20m in length 1 in 6 (16.7%); and
 - iv. The maximum grade at the property boundary does not exceed 1 in 20 (5%) within 6m of the property boundary;
- i. The vehicle egress is designed such that there are no obstructions to lines of sight, along with the footpath and the roadway for drivers of egressing vehicles.
- x. The vehicular access must be amended to provide clear sight lines (triangles) to pedestrians in Hutchinson Street in accordance with the requirements of Clause 3.2.4(b) of AS/NZS 2890.1-2004.
- xi. All loading docks and parking bays are designed such that all vehicular movements to and from the proposed development are in a forward direction.
- l. The entry security door must be set back a minimum of 5500mm from the property boundary.

- m. A bicycle storage area must be provided to accommodate the numerical requirements of Marrickville DCP2011 and be designed in accordance with relevant provisions of AS 2890.3-2015. Bicycle parking spaces for residents and staff must be Security Class A or Security Class B bicycle parking facilities. Bicycle parking space(s) for visitors must be provided at Ground Floor level with Security Class C facilities.
- xiv. Bollards must be provided to protect parts of the building including to prevent vehicle encroachment into pedestrian ways, stairs, doorways, lifts and the like as per Section 2.4.5.5 of AS2890.1:2004.
- xv. Parking spaces for persons with a disability must be relocated to be the parking spaces that are closest to the lift.

DURING DEMOLITION AND CONSTRUCTION

51. Documentation of Demolition and Construction Waste

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

52. Tree Protection

Trunk and branch protection required to protect the following trees from damage during installation of scaffolding or hoarding and during construction must be installed prior to any works commencing in accordance with the approved *Tree Protection Plan* and/or with Council's *Development Fact Sheet—Trees on Development Sites*:

Tree No.	Botanical/Common Name/Location
8,9,10	<i>Cupaniopsis anacardioides</i> (Tuckeroo) - 3 x street trees; Hutchinson Street

Branches that are not approved for pruning that are within 500mm of any structure must be protected as specified by the Project Arborist.

53. Tree Protection Zone

To protect the following trees, no work may commence until the Protection Zones are fenced off at the specified radius from the trunks to prevent any activities, storage or the disposal of materials within the fenced area in accordance with Tree Protection Plan (Appendix 3) in the Arboricultural Impact Assessment report prepared by Tree Survey and dated 13 June 2020. The fence/s (including existing boundary fencing) must be maintained intact until the completion of all demolition/building work on site:

Tree 1 - *Phoenix canariensis* (Canary Island Date Palm)

Tree 2 – *Callistemon viminalis* (Weeping Bottlebrush)

Tree 3 – *Araucaria columnaris* (Cook Pine)

Tree 4 - *Araucaria columnaris* (Cook Pine)

Tree 5 – *Melaleuca bracteata* (Black Tea Tree)

Tree 6 – *Jacaranda mimosifolia* (Jacaranda)

Tree 7 – *Phoenix canariensis* (Canary Island Date Palm)

Tree 8 – *Cupaniopsis anacardioides* (Tuckeroo)

Tree 9 – *Cupaniopsis anacardioides* (Tuckeroo)

Tree 10 – *Cupaniopsis anacardioides* (Tuckeroo)

54. Inspections by Project Arborist

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

Tree No./ Botanical/ Common Name/ Location	Time of Inspection	Key stage/ Hold point
Tree 1 - <i>Phoenix canariensis</i> (Canary Island Date Palm)	Prior to commencement of works	<ul style="list-style-type: none"> Inspection and sign off installation of tree protection measures.

Tree 2 – <i>Callistemon viminalis</i> (Weeping Bottlebrush)	During Works	<ul style="list-style-type: none"> Supervise all site preparation and demolition works within the TPZ; Supervise all works inside or above the TPZ; Supervise all excavation, trenching works, landscaping works and tree/planting replenishment within the TPZ; Supervise all tree work.
Tree 3 – <i>Araucaria columnaris</i> (Cook Pine)		
Tree 4 – <i>Araucaria columnaris</i> (Cook Pine)		
Tree 5 – <i>Melaleuca bracteata</i> (Black Tea Tree)		
Tree 6 – <i>Jacaranda mimosifolia</i> (Jacaranda)		
Tree 7 – <i>Phoenix canariensis</i> (Canary Island Date Palm)		
Tree 8 – <i>Cupaniopsis anacardioides</i> (Tuckeroo)		
Tree 9 – <i>Cupaniopsis anacardioides</i> (Tuckeroo)		
Tree 10 – <i>Cupaniopsis anacardioides</i> (Tuckeroo)		

Recommendations to ensure the tree/s long term survival must be carried out immediately upon receipt of the report.

55. Canopy and Root Pruning

Canopy pruning of the following trees which is necessary to accommodate the approved building works must be undertaken by, or directly supervised by, the Project Arborist.

Tree No.	Botanical/Common Name	Pruning
5 8, 9	<i>Melaleuca bracteata</i> (Black Tea Tree) - rear of site <i>Cupaniopsis anacardioides</i> (Tuckeroo) - street trees	Maximum - as detailed in the Pruning Specification report prepared by Tree Survey

		and dated 17/8/20.
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The person acting on this consent has approval under Council's Tree Management Controls to achieve a clearance of the structures. Pruning for scaffolding and hoarding must be limited to branches that cannot be tied back or incorporated into those structures (with protection) and shall not exceed the specified pruning.

56. Limited Root Pruning

All excavation for the basement that is within the nominated Tree Protection Zone of any tree (refer to Table 2 in the Arboricultural Impact Assessment prepared by Tree Survey and dated 13 June 2020 for radial TPZ dimensions) must be hand dug using either pneumatic or hydraulic tools only (e.g. *Airspade®* or hydro excavation) or as directed by the Project Arborist to a depth of one (1) metre under direct supervision of the Project Arborist and then by mechanical means as agreed by the Project Arborist. The pruning of any roots encountered must be supervised by, or undertaken by, the Project Arborist.

57. Contamination – New Evidence

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

58. Imported Fill Materials

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

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

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

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:

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

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

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

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.

PRIOR TO OCCUPATION CERTIFICATE**61. Non-combustible Cladding – Class 2-9 Buildings**

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

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

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

63. Certification of Tree Planting

Prior to the issue of any Occupation Certificate, the Principal Certifier is to be provided with evidence certified by a person holding a minimum qualification of AQF3 Certificate of Horticulture or Arboriculture that all trees have been planted in accordance with the approved Landscape Plans and relevant conditions.

64. Project Arborist Certification

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

65. Noise – Acoustic Report

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with an acoustic report prepared by suitably qualified acoustic consultant which demonstrates and certifies that noise and vibration emissions from the development comply with the relevant provisions of the *Protection of the Environment Operations Act 1997*, NSW Environment Protection Authority's Noise Policy for Industry 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.

66. Noise From Road, Rail & Aircraft – Compliance

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

- a. *State Environmental Planning Policy (Infrastructure) 2007*;
- b. NSW Planning, Development near Rail Corridors and Busy Roads – Interim Guideline;
- c. Australian Standard 2021-2000: Acoustics - Aircraft noise intrusion - Building siting and construction;
- d. conditions of development consent; and
- e. Recommendations

67. Contamination – Disposal of Soil

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

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

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

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

69. Section 73 Certificate

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

70. 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. Industrial heavy duty concrete vehicle crossing(s) at the vehicular access location(s).
- b. The redundant vehicular crossing to the site must be removed and replaced by kerb and gutter and footpath.
- 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".

71. No Encroachments

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

72. Parking Signoff – Major Development

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

- a. The car park has been completed, line marked and all signage relating to car parking erected.
- b. Bicycle parking facilities installed in accordance with the consent and AS2890.3.
- c. Bollards have been installed to protect parts of the building including to prevent vehicle encroachment into pedestrian ways, stairs, doorways, lifts and the like as per Section 2.4.5.5 of AS2890.1:2004

73. Works as Executed – Site Stormwater Drainage System

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with Certification by a suitably qualified Civil Engineer who holds current Chartered Engineer

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

74. Operation and Management Plan

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

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

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

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

- a. A public Right of Way along the proposed pedestrian link (variable width 3.7m-6m);
- b. A positive covenant relating to the maintenance and lighting of the public right of way.
- c. A positive covenant relating to the deep soil zone and vegetation including maintenance along and adjacent to the public right of way.
- d. Restrictions on the Use of Land to prevent the erection of any structures or fencing along the pedestrian link;
- e. Restrictions on the Use of Land related to on Site Stormwater Detention and/or Retention System and stormwater quality improvement devices; and

- f. Positive Covenant related to on Site Stormwater Detention and/or Retention System and stormwater quality improvement devices.

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

76. Basement/Retaining Wall Signoff – Major Development

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

77. Industrial Heavy Duty Vehicle Crossing

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that Industrial 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 before the issue of the Occupation Certificate.

78. Redundant Vehicle Crossing

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

ON-GOING

79. Bin Storage

All bins are to be stored within the site. Bins are to be returned to the property within 12 hours of having been emptied.

80. 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.

81. Tree Establishment

The tree/s planted as part of this consent is/are to be maintained in a healthy and vigorous condition for 12 months from the issue of an Occupation Certificate. If any of the tree/s is/are found faulty, damaged, dying or dead within 12 months of the issue of an Occupation Certificate it/they must be replaced with the same species within one (1) month (up to 3 occurrences).

82. 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.

83. Commercial Waste/Recycling Collection

The collection of waste and recycling must only occur between 7:00am and 8:00pm weekdays and 9:00am and 5:00pm weekends and public holidays, to avoid noise disruption on the surrounding area,

Garbage and recycling must not be placed on the street for collection more than one (1) hour before the scheduled collection time. Garbage bins and containers are to be removed from the street within one (1) hour after collection.

84. Delivery location

All deliveries made to the development must be from Hutchinson Street. In this regard, no deliveries are permitted to be made to the development from its rear through Lackey Street Reserve.

85. Operation and Management Plan

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

86. Vehicles Leaving the Site

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

87. Loading/unloading on site

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

ADVISORY NOTES**Notice to Council to deliver Residential Bins**

If 660L bins are required, 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.

Accessibility

The Access to Premises Code is applicable to this development as new work is proposed. The applicant(s) should investigate whether there are any exemptions for the requirement to upgrade the 'affected' part and principal pedestrian entrance.

The applicant should be made aware of their legislative requirements and shall provide an Accessibility Report from an accredited Access Consultant prior to issue of the DA determination / with the CC documentation to investigate the implications relating to their proposed development.

Building Access requirements:

- a. Table D3.1 requires an accessway to the building and within all areas normally used by the occupants of the building at the main point(s) of entry, car parking area, and sanitary compartments in accordance with Part D3, BCA Vol 1 and AS 1428.1;
- b. **Class 2:** Table D3.1 requires an accessway from a common use pedestrian entrance required to be accessible to at least 1 floor containing sole-occupancy units and to the entrance doorway of each sole-occupancy unit located on that level. Further, where a passenger lift is installed, access to the entrance doorway of each sole-occupancy unit and common areas/rooms served by the lift; and

- c. This may include compliant accessways, walkways, ramps, stairs, doorways and circulation space, braille & tactile design, signage, and all associated finishes and fittings throughout the building.

Change of use

Pursuant to Clause 93 of the *Environmental Planning and Assessment Regulation 2000*, the building subject to the change of use must comply with the Category 1 fire safety provisions and structural adequacy provisions as required by Clause 143 of the Regulations.

Annual Fire Safety Statement

An annual Fire Safety Statement must be given to Council and the NSW Fire Brigade commencing within 12 months after the date on which the initial Interim/Final Fire Safety Certificate is issued or the use commencing, whichever is earlier.

An annual fire safety statement is a statement issued by or on behalf of the owner of a building to the effect that:

- a. Each essential fire safety measure specified in the statement has been assessed by a competent fire safety practitioner and was found, when it was assessed, to be capable of performing:
 - i. in the case of an essential fire safety measure applicable by virtue of a fire safety schedule, to a standard no less than that specified in the schedule, or
 - ii. in the case of an essential fire safety measure applicable otherwise than by virtue of a fire safety schedule, to a standard no less than that to which the measure was originally designed and implemented, and
- b. The building has been inspected by a competent fire safety practitioner and was found, when it was inspected, to be in a condition that did not disclose any grounds for a prosecution under Division 7.

Consent of Adjoining property owners

This consent does not authorise the applicant, or the contractor engaged to do the tree works to enter a neighbouring property. Where access to adjacent land is required to carry out approved tree works, Council advises that the owner's consent must be sought. Notification is the responsibility of the person acting on the consent. Should the tree owner/s refuse access to their land, the person acting on the consent must meet the requirements of the *Access To Neighbouring Lands Act 2000* to seek access.

Arborists standards

All tree work must be undertaken by a practicing Arborist. The work must be undertaken in accordance with AS4373—*Pruning of amenity trees* and the Safe Work Australia Code of

Practice—*Guide to Managing Risks of Tree Trimming and Removal Work*. Any works in the vicinity of the Low Voltage Overhead Network (including service lines—pole to house connections) must be undertaken by an approved Network Service Provider contractor for the management of vegetation conflicting with such services. Contact the relevant Network Service Provider for further advice in this regard.

Tree Protection Works

All tree protection for the site must be undertaken in accordance with Council's *Development Fact Sheet—Trees on Development Sites* and AS4970—*Protection of trees on development sites*.

Tree Pruning or Removal (including root pruning/mapping)

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

Mechanical Ventilation System Certification

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

- a. Australian Standard AS 1668 Part 1 – 1998;
- b. Australian Standard AS 1668 Part 2 – 2012;
- c. Australian Standard 3666.1 – 2011;
- d. Australian Standard 3666.2 – 2011; and
- e. Australian Standard 3666.3 – 2011.

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

Storage of Hazardous and Dangerous Goods

Dangerous and hazardous goods must be stored in accordance with NSW WorkCover requirements and AS1940-2004, *The Storage and Handling of Flammable and Combustible Liquids*.

Transport and Disposal of Hazardous and Dangerous Goods

Hazardous and industrial waste arising from the use must be removed and / or transported in accordance with the requirements of the NSW Environment Protection Authority (EPA) and the New South Wales WorkCover Authority.

Asbestos Removal

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

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

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

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

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; or
- 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; and
- i. Installation or replacement of private stormwater drain, utility service or water supply.

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

Noise

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

Lead-based Paint

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

are to be removed or sanded as part of the proposed building alterations, particularly where children or pregnant women may be exposed, and work areas should be thoroughly cleaned prior to occupation of the room or building.

Dial before you dig

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

Street Numbering

If any new street numbers or change to street numbers (this includes unit and shop numbers) are required, a separate application must be lodged with and approved by Council's GIS Team before being displayed.

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.

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.

Permits

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

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

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

Easement and Covenant Process

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

- a. Work-As-Executed Plans

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

- b. Engineer's Certificate

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

- c. The soundness of the storage structure;
- d. The capacity of the detention storage;
- e. The emergency overflow system being in place;

- f. The works being constructed in accordance with the Development Application Consent and Council's Stormwater Management DCP/Code;
- g. 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;
- h. Basement car park pumps are class one zone two; and
- i. 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.

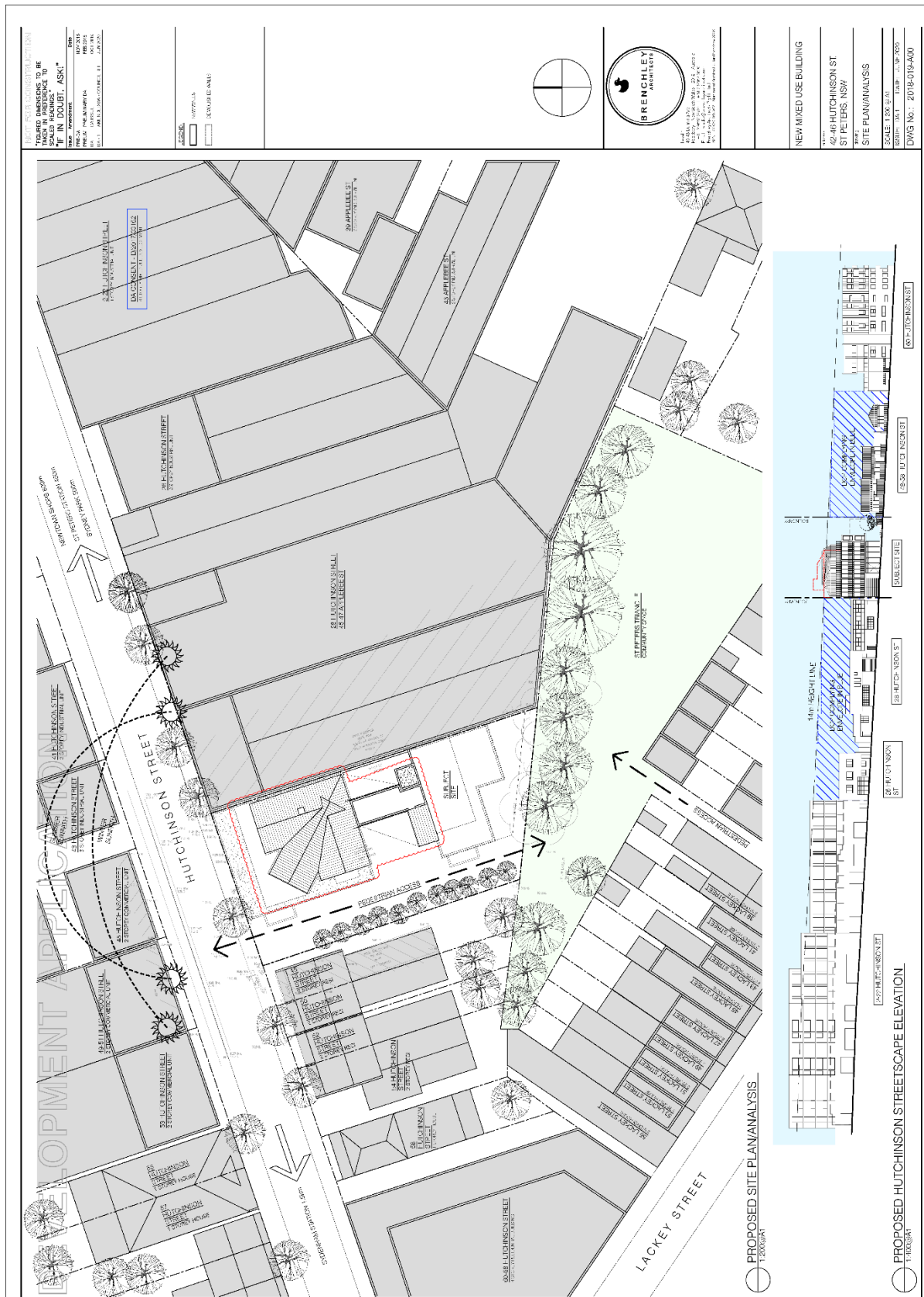
Useful Contacts

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		1300 651 116	
Environmental Solutions			www.wasteservice.nsw.gov.au
Water Efficiency Labelling and Standards (WELS)			www.waterrating.gov.au



Attachment B – Plans of proposed development







DEVELOPMENT APPLICATION

HUTCHINSON STREET

PROPOSED FIRST FLOOR PLAN
1:100@A1

PROPOSED SECOND FLOOR PLAN
1:100@A1

DEVELOPMENT APPLICATION

HUTCHINSON STREET

PROPOSED FIRST FLOOR PLAN
1:100@A1

PROPOSED SECOND FLOOR PLAN
1:100@A1

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1:100@A1

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DEVELOPMENT APPLICATION

HUTCHINSON STREET

PROPOSED FIRST FLOOR PLAN
1:100@A1

PROPOSED SECOND FLOOR PLAN
1:100@A1

DEVELOPMENT APPLICATION

HUTCHINSON STREET

1. THESE DIMENSIONS TO BE USED FOR THE PRELIMINARY SCALED DRAWINGS. IF IN DOUBT, ASK!

PROJECT NO: 2018-019-A03
 DATE: 10/10/2018
 DRAWN BY: J. SMITH
 CHECKED BY: J. SMITH
 APPROVED BY: J. SMITH

PROPOSED THIRD FLOOR PLAN
1:100@A1

PROPOSED ROOF PLAN
1:100@A1

ROOM	AREA (SQM)	PERIMETER (M)	HEIGHT (M)	THICKNESS (M)
ROOM 1	10.0	10.0	3.0	0.2
ROOM 2	10.0	10.0	3.0	0.2
ROOM 3	10.0	10.0	3.0	0.2
ROOM 4	10.0	10.0	3.0	0.2
ROOM 5	10.0	10.0	3.0	0.2
ROOM 6	10.0	10.0	3.0	0.2
ROOM 7	10.0	10.0	3.0	0.2
ROOM 8	10.0	10.0	3.0	0.2
ROOM 9	10.0	10.0	3.0	0.2
ROOM 10	10.0	10.0	3.0	0.2
ROOM 11	10.0	10.0	3.0	0.2
ROOM 12	10.0	10.0	3.0	0.2
ROOM 13	10.0	10.0	3.0	0.2
ROOM 14	10.0	10.0	3.0	0.2
ROOM 15	10.0	10.0	3.0	0.2
ROOM 16	10.0	10.0	3.0	0.2
ROOM 17	10.0	10.0	3.0	0.2
ROOM 18	10.0	10.0	3.0	0.2
ROOM 19	10.0	10.0	3.0	0.2
ROOM 20	10.0	10.0	3.0	0.2
ROOM 21	10.0	10.0	3.0	0.2
ROOM 22	10.0	10.0	3.0	0.2
ROOM 23	10.0	10.0	3.0	0.2
ROOM 24	10.0	10.0	3.0	0.2
ROOM 25	10.0	10.0	3.0	0.2
ROOM 26	10.0	10.0	3.0	0.2
ROOM 27	10.0	10.0	3.0	0.2
ROOM 28	10.0	10.0	3.0	0.2
ROOM 29	10.0	10.0	3.0	0.2
ROOM 30	10.0	10.0	3.0	0.2
ROOM 31	10.0	10.0	3.0	0.2
ROOM 32	10.0	10.0	3.0	0.2
ROOM 33	10.0	10.0	3.0	0.2
ROOM 34	10.0	10.0	3.0	0.2
ROOM 35	10.0	10.0	3.0	0.2
ROOM 36	10.0	10.0	3.0	0.2
ROOM 37	10.0	10.0	3.0	0.2
ROOM 38	10.0	10.0	3.0	0.2
ROOM 39	10.0	10.0	3.0	0.2
ROOM 40	10.0	10.0	3.0	0.2
ROOM 41	10.0	10.0	3.0	0.2
ROOM 42	10.0	10.0	3.0	0.2
ROOM 43	10.0	10.0	3.0	0.2
ROOM 44	10.0	10.0	3.0	0.2
ROOM 45	10.0	10.0	3.0	0.2
ROOM 46	10.0	10.0	3.0	0.2
ROOM 47	10.0	10.0	3.0	0.2
ROOM 48	10.0	10.0	3.0	0.2
ROOM 49	10.0	10.0	3.0	0.2
ROOM 50	10.0	10.0	3.0	0.2
ROOM 51	10.0	10.0	3.0	0.2
ROOM 52	10.0	10.0	3.0	0.2
ROOM 53	10.0	10.0	3.0	0.2
ROOM 54	10.0	10.0	3.0	0.2
ROOM 55	10.0	10.0	3.0	0.2
ROOM 56	10.0	10.0	3.0	0.2
ROOM 57	10.0	10.0	3.0	0.2
ROOM 58	10.0	10.0	3.0	0.2
ROOM 59	10.0	10.0	3.0	0.2
ROOM 60	10.0	10.0	3.0	0.2
ROOM 61	10.0	10.0	3.0	0.2
ROOM 62	10.0	10.0	3.0	0.2
ROOM 63	10.0	10.0	3.0	0.2
ROOM 64	10.0	10.0	3.0	0.2
ROOM 65	10.0	10.0	3.0	0.2
ROOM 66	10.0	10.0	3.0	0.2
ROOM 67	10.0	10.0	3.0	0.2
ROOM 68				

DEVELOPMENT APPLICATION

PROPOSED WEST ELEVATION
11008/01

PROPOSED NORTH ELEVATION
11008/01

NEW MIXED USE BUILDING
11008/01
ST PETERS NSW
ELEVATIONS
SCALE 1:100 (A1)
DWG NO.: 2018-019-A04

ARCHITECTURAL DETAILS:

- 1. EXTERIOR WALLS: BRICKWORK, CLAY PAVING, CONCRETE, STONE, METAL, WOOD, PLASTER, GYPSUM BOARD, INSULATION, ROOFING, FLOORING, CEILING, LIGHTING, FURNITURE, APPLIANCES, FIXTURES, FINISHES, MATERIALS, COLORS, TEXTURES, PATTERNS, SHAPES, SIZES, QUANTITIES, PRICES, COSTS, BUDGET, SCHEDULE, TIMELINE, PHASES, STAGES, TASKS, RESPONSIBILITIES, ROLES, POSITIONS, TITLES, NAMES, CONTACTS, REFERENCES, SOURCES, CREDITS, ACKNOWLEDGMENTS, DISCLOSURES, WAIVERS, RELEASES, LIABILITIES, INDEMNITIES, WARRANTIES, GUARANTEES, AGREEMENTS, CONTRACTS, DEEDS, COVENANTS, EASEMENTS, ENCUMBRANCES, INTERESTS, RIGHTS, POWERS, PRIVILEGES, IMMUNITIES, EXEMPTIONS, EXCLUSIONS, LIMITATIONS, RESTRICTIONS, CONDITIONS, PRECEDENTS, EXCEPTIONS, VARIATIONS, AMENDMENTS, SUPPLEMENTS, ADDENDUMS, SCHEDULES, EXHIBITS, ATTACHMENTS, REFERENCES, CITATIONS, BIBLIOGRAPHY, FOOTNOTES, ENDNOTES, APPENDICES, INDEX, GLOSSARY, ACRONYMS, ABBREVIATIONS, SYMBOLS, LEGEND, KEY, MAP, PLAN, SECTION, ELEVATION, DETAIL, DRAWING, DOCUMENT, PAPER, PEN, PENCIL, MARKER, ERASER, RULER, COMPASS, PROTRACTOR, SET SQUARE, TRIANGLE, CIRCLE, SQUARE, RECTANGLE, PARALLELOGRAM, TRAPEZOID, PENTAGON, HEXAGON, HEPTAGON, OCTAGON, NONAGON, DECAGON, ELONGON, HENDECAGON, DODECAGON, TRIANGLE, SQUARE, RECTANGLE, PARALLELOGRAM, TRAPEZOID, PENTAGON, HEXAGON, HEPTAGON, OCTAGON, NONAGON, DECAGON, ELONGON, HENDECAGON, DODECAGON.

[illegible]

[illegible]

DEVELOPMENT APPLICATION

NOT FOR CONSTRUCTION
 THESE DRAWINGS ARE
 TAKEN IN PREFERENCE TO
 SCALED DRAWINGS
 SCALE: 1:1000
 DATE: 10/10/2018
 DRAWN BY: [Name]
 CHECKED BY: [Name]
 PROJECT NO: [Number]
 SITE NO: [Number]
 SHEET NO: [Number]

AREAS

SITE AREA:	795.1m ²
PROPOSED GFA	
GROUND:	272m ²
FIRST:	345m ²
SECOND:	301m ²
THIRD:	118m ²
TOTAL GFA	1036m ²
FSR	1.30:1

COMMERCIAL GFA	
GROUND:	272m ²
FIRST:	345m ²
TOTAL:	617m ² (60%)
RESIDENTIAL GFA	
SECOND:	301m ²
THIRD:	118m ²
TOTAL:	419m ² (40%)

LEGEND

RESIDENTIAL GFA

COMMERCIAL GFA

	1st FLOOR	2nd FLOOR	3rd FLOOR	4th FLOOR
1st FLOOR	✓	✓	✓	✓
2nd FLOOR	✓	✓	✓	✓
3rd FLOOR	✓	✓	✓	✓
4th FLOOR	✓	✓	✓	✓
5th FLOOR	✓	✓	✓	✓
6th FLOOR	✓	✓	✓	✓
7th FLOOR	✓	✓	✓	✓
8th FLOOR	✓	✓	✓	✓
9th FLOOR	✓	✓	✓	✓
10th FLOOR	✓	✓	✓	✓

LEGEND:

- NO SOLAR ACCESS
- SUNLIGHT TO BEDROOMS OR BALCONIES ONLY
- SUNLIGHT TO TERRACE AREAS

GROUND FLOOR AREAS

1:2000/GA

FIRST FLOOR AREAS

1:2000/GA

SECOND FLOOR AREAS

1:2000/GA

THIRD FLOOR AREAS

1:2000/GA

CONSTRUCTION MANAGEMENT PLAN

SEDIMENT AND EROSION CONTROL PLAN

1:2000/GA

THIRD FLOOR SOLAR ACCESS

1:2000/GA

SECOND FLOOR SOLAR ACCESS

1:2000/GA

THIRD FLOOR ACCESS

1:2000/GA

SECOND FLOOR ACCESS

1:2000/GA

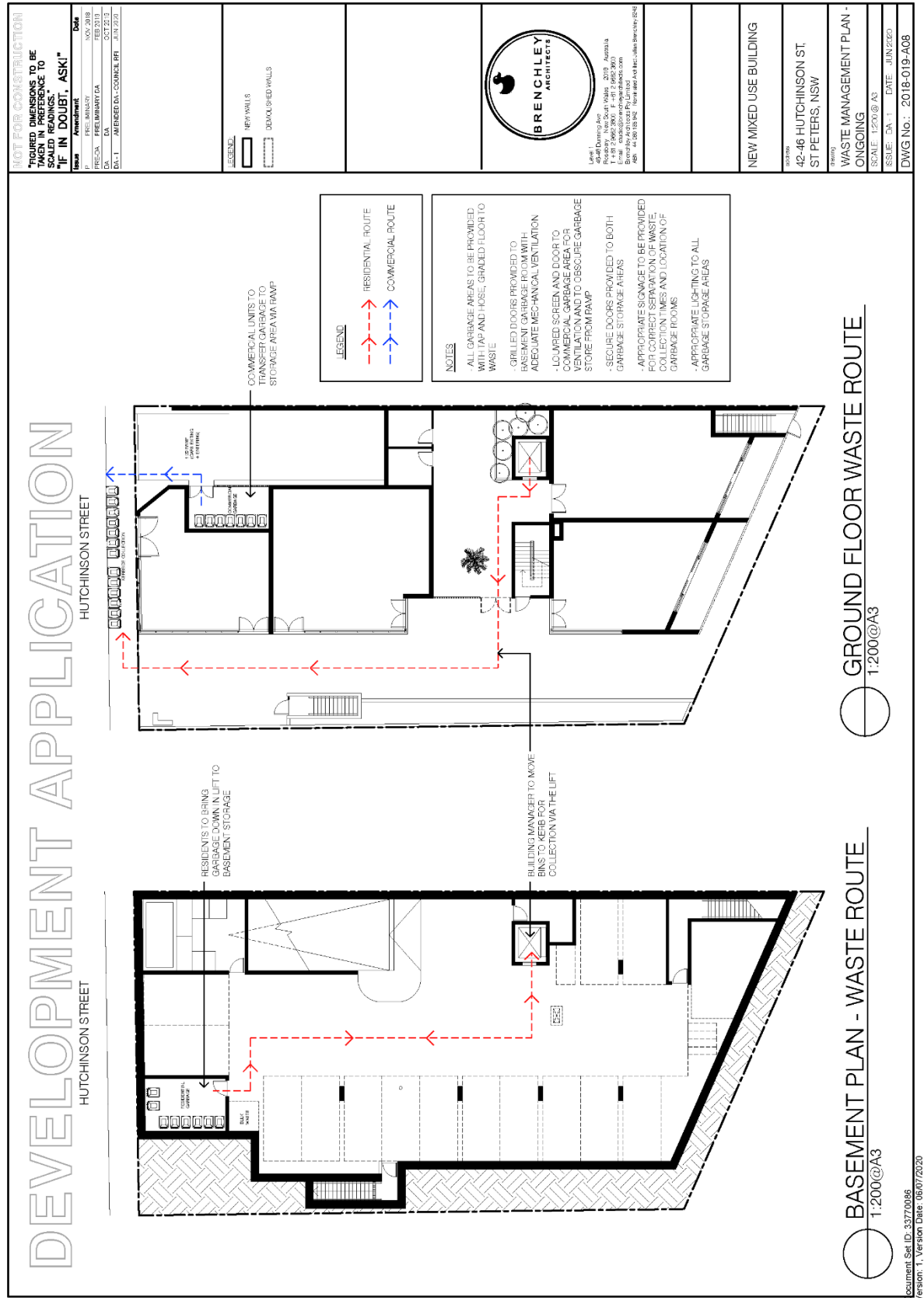
FIRST FLOOR ACCESS

1:2000/GA

GROUND FLOOR ACCESS

1:2000/GA

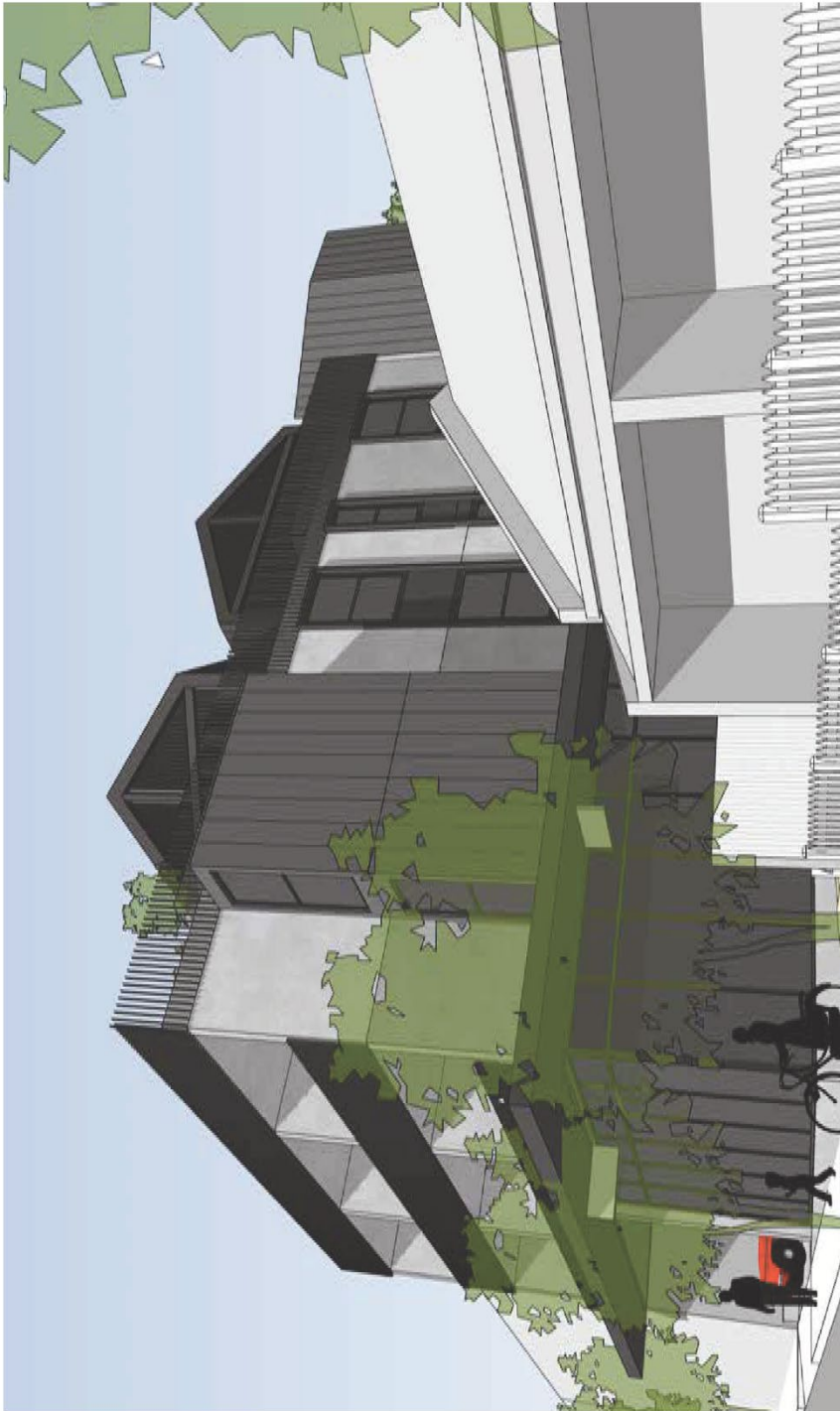
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42-46 Hutchinson St.
ST PETERS
JULY 2020

Document Set ID: 33770061
Version: 1, Version Date: 05/07/2020



42-46 Hutchinson St.
ST PETERS
JULY 2020

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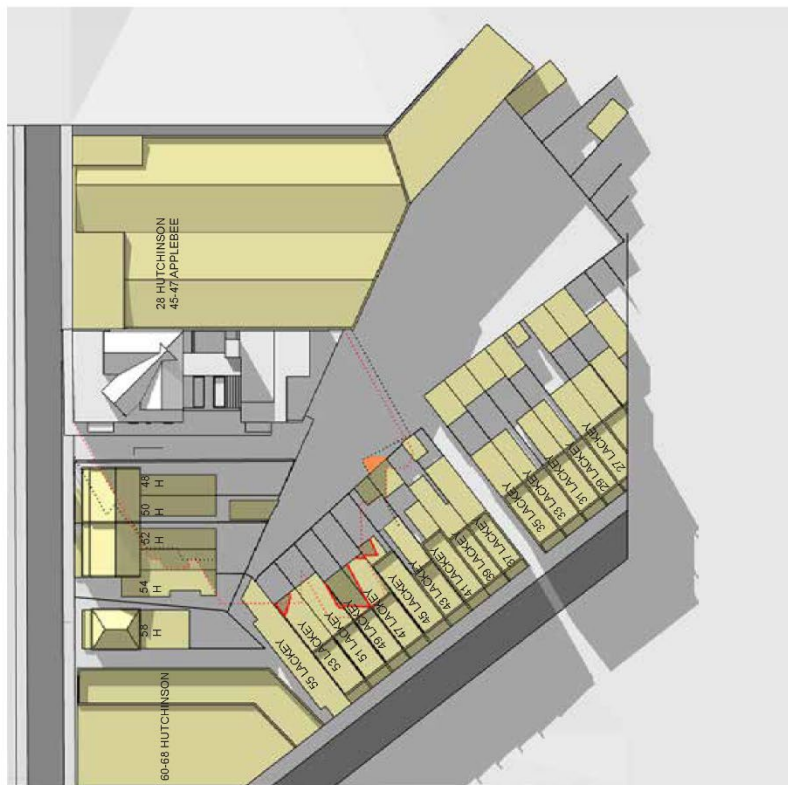
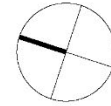
9am - Lackey St Elevation
MINOR ADDITIONAL OVERSHADOWING



9am - Hutchinson St Elevation
NO IMPACT TO ELEVATIONAL SHADOWS



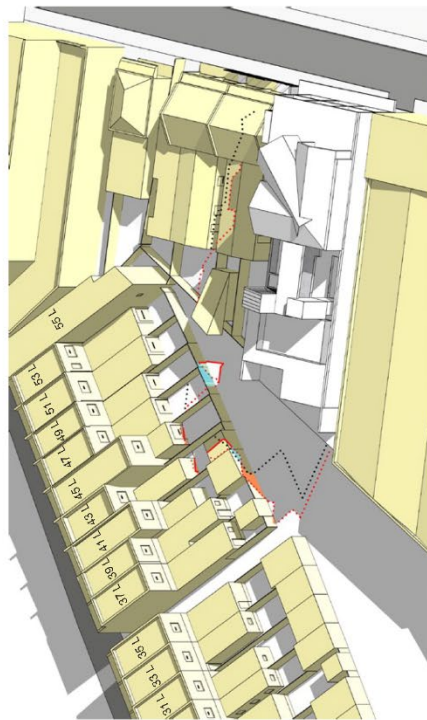
42-46 Hutchinson St.
ST PETERS
JUNE 2020



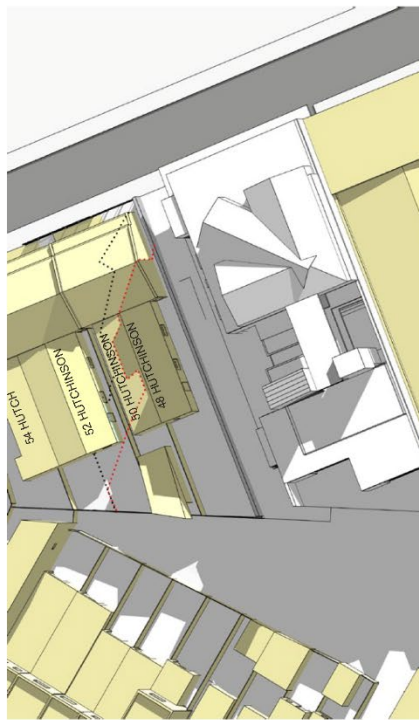
9am - Plan

JUNE 22ND SHADOWS

EXISTING SHADOWS	.....	EXISTING BUILDING TO BE DEMOLISHED
REMOVED SHADOWS From Existing Condition	.....	SHADOW OUTLINE WITHIN EXISTING SHADOWS OR OVER ADJACENT BUILDINGS
REDUCED SHADOWS From Original DA	.....	ORIGINAL DA SHADOW OUTLINE WITHIN EXISTING SHADOWS OR OVER ADJACENT BUILDINGS
NEW SHADOWS - Amended	.....	AMENDED DA SHADOW OUTLINE WITHIN EXISTING SHADOWS OR OVER ADJACENT BUILDINGS



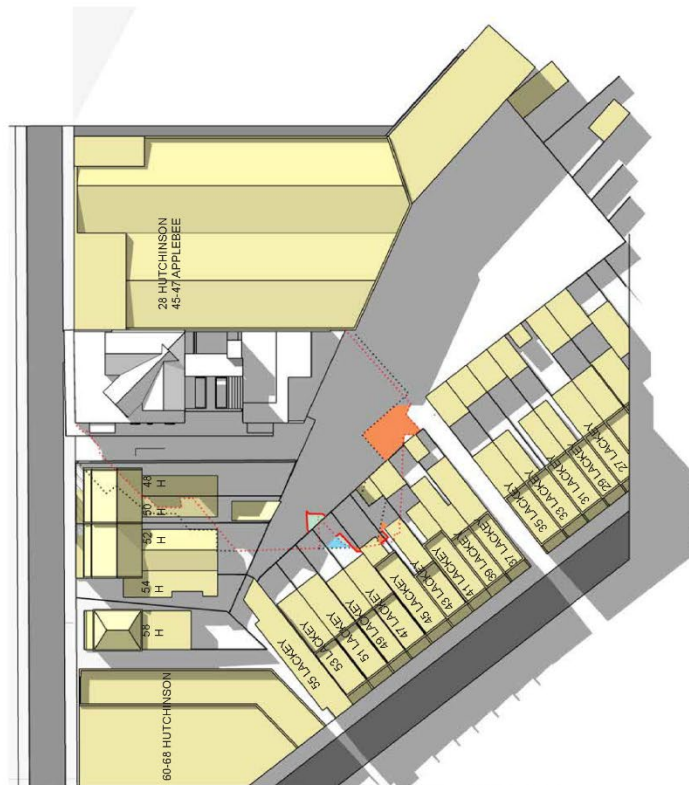
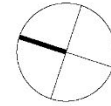
10am - Lakkey St Elevation
MINOR ADDITIONAL OVERSHADOWING - NO HABITABLE ROOMS AFFECTED



10am - Hutchinson St Elevation
REDUCTION IN OVERSHADOWING



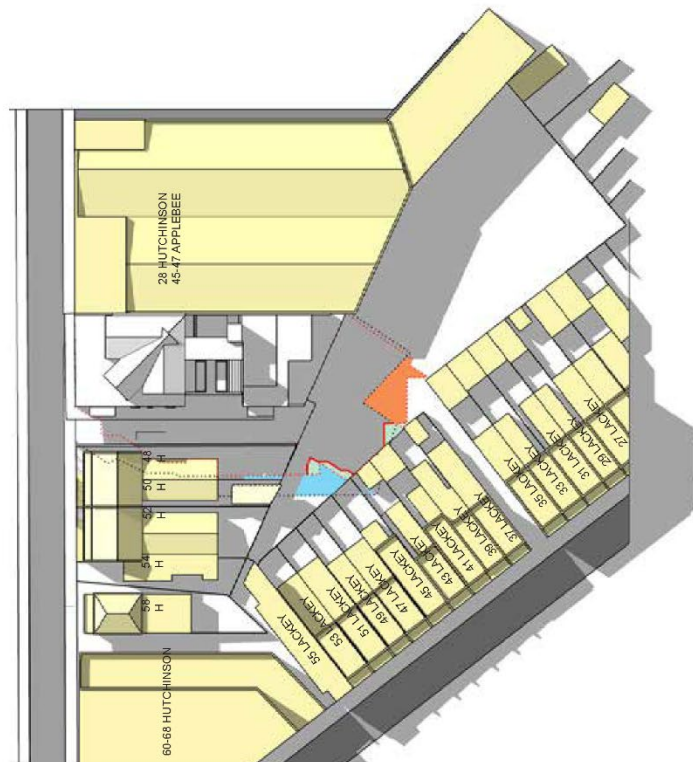
42-46 Hutchinson St.
ST PETERS
JUNE 2020



10am - Plan

JUNE 22ND SHADOWS

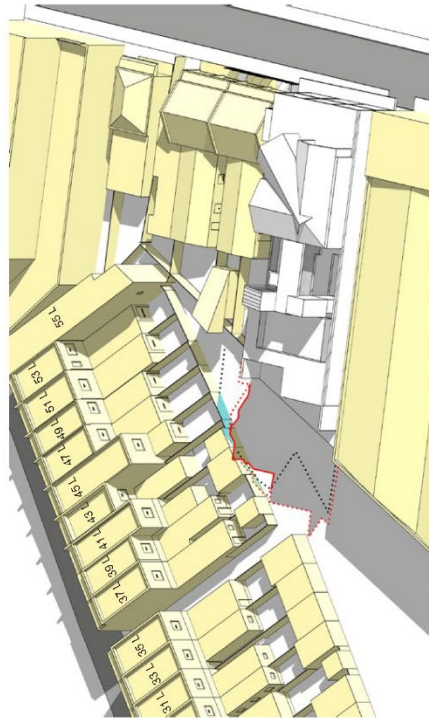
- | | | |
|--------------------------------------------|-------|----------------------------------------------------------------------------------|
| EXISTING SHADOWS | ..... | EXISTING BUILDING TO BE DEMOLISHED |
| REMOVED SHADOWS
From Existing Condition | | SHADOW OUTLINE
WITHIN EXISTING SHADOWS OR OVER ADJACENT BUILDINGS |
| REDUCED SHADOWS
From Original DA | | ORIGINAL DA SHADOW OUTLINE
WITHIN EXISTING SHADOWS OR OVER ADJACENT BUILDINGS |
| NEW SHADOWS -
Amended | | AMENDED DA SHADOW OUTLINE
WITHIN EXISTING SHADOWS OR OVER ADJACENT BUILDINGS |



11am - Plan

JUNE 22ND SHADOWS

- EXISTING SHADOWS
- REMOVED SHADOWS
From Existing Condition
- REDUCED SHADOWS
From Original DA
- NEW SHADOWS -
Amended
- EXISTING BUILDING TO BE DEMOLISHED
SHADOW OUTLINE
WITHIN EXISTING SHADOWS OR OVER ADJACENT BUILDINGS
- ORIGINAL DA SHADOW OUTLINE
WITHIN EXISTING SHADOWS OR OVER ADJACENT BUILDINGS
- AMENDED DA SHADOW OUTLINE
WITHIN EXISTING SHADOWS OR OVER ADJACENT BUILDINGS



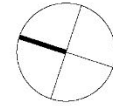
11am - Lackey St Elevation
NO IMPACT TO ELEVATIONAL SHADOWS ON HABITABLE ROOMS

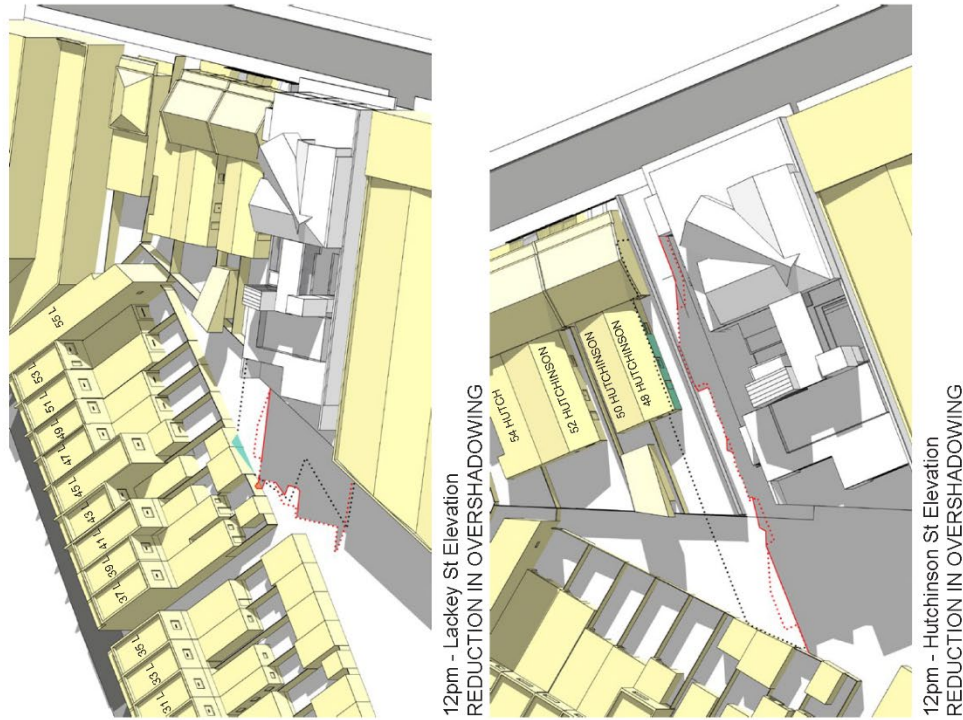


11am - Hutchinson St Elevation
NO IMPACT TO ELEVATIONAL SHADOWS

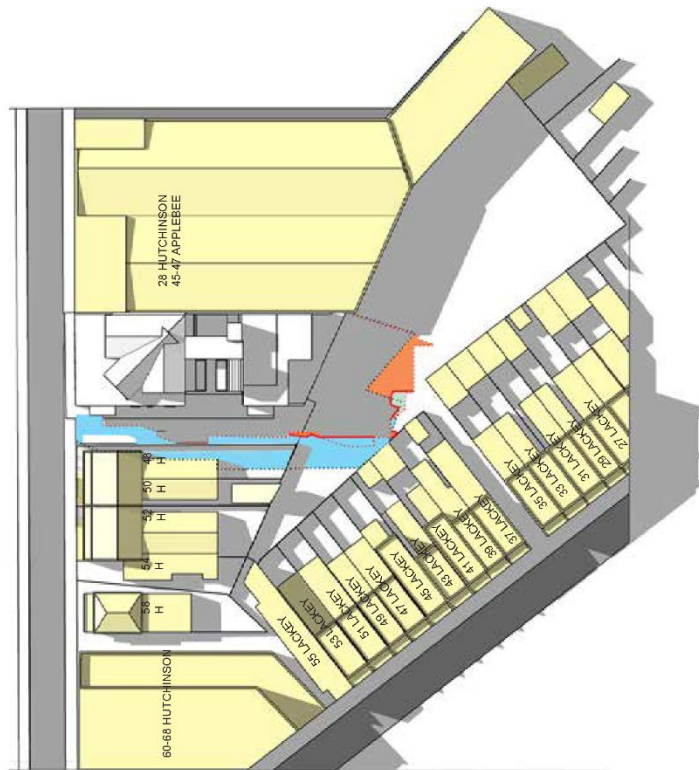
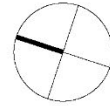


42-46 Hutchinson St.
ST PETERS
JUNE 2020

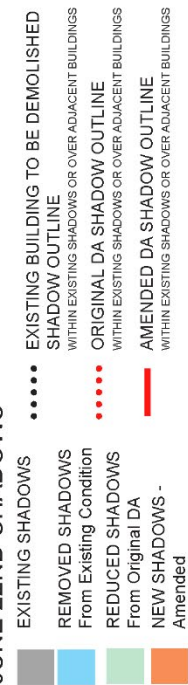


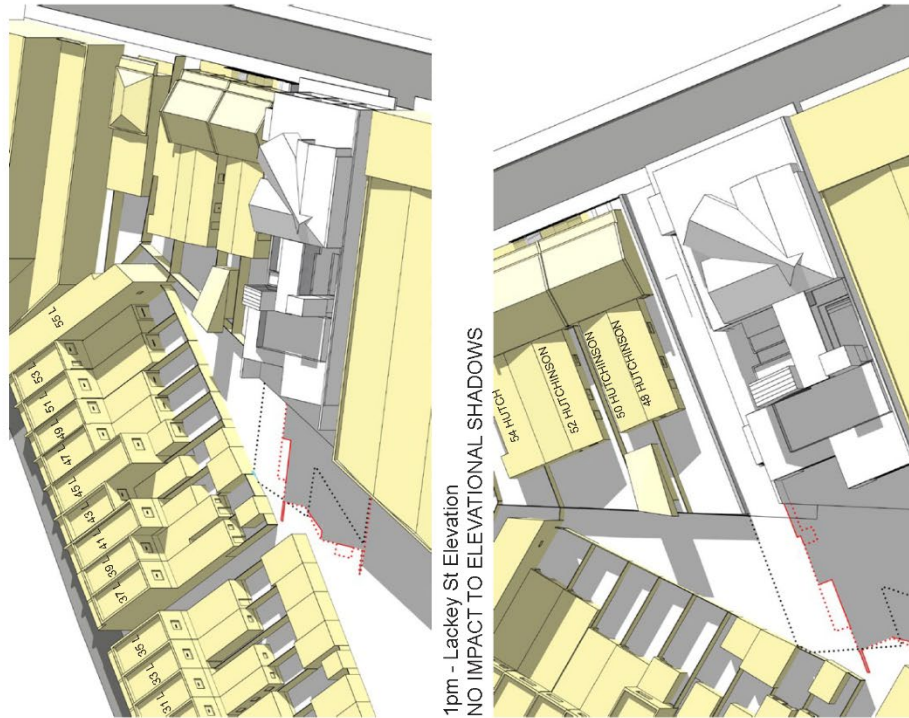


42-46 Hutchinson St.
ST PETERS
JUNE 2020

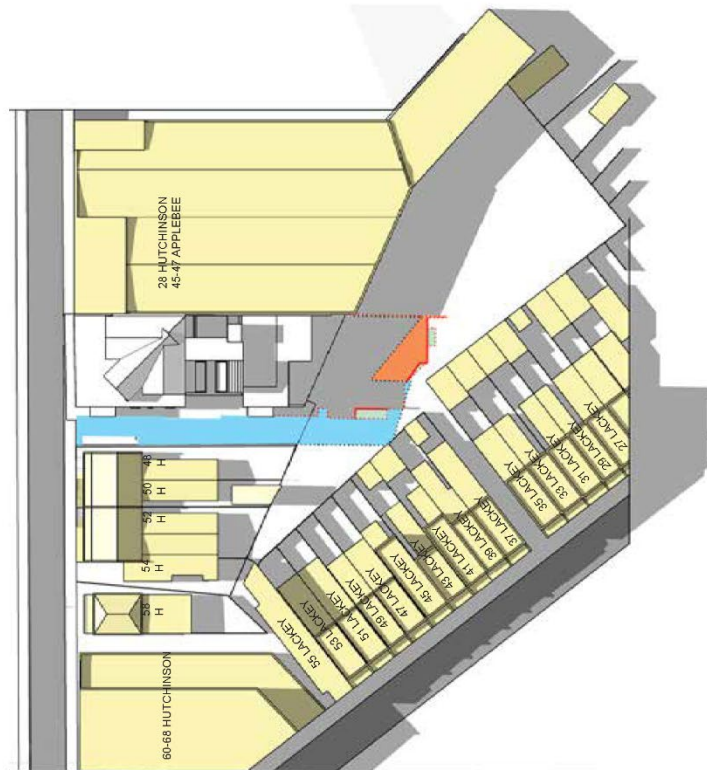
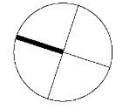


JUNE 22ND SHADOWS





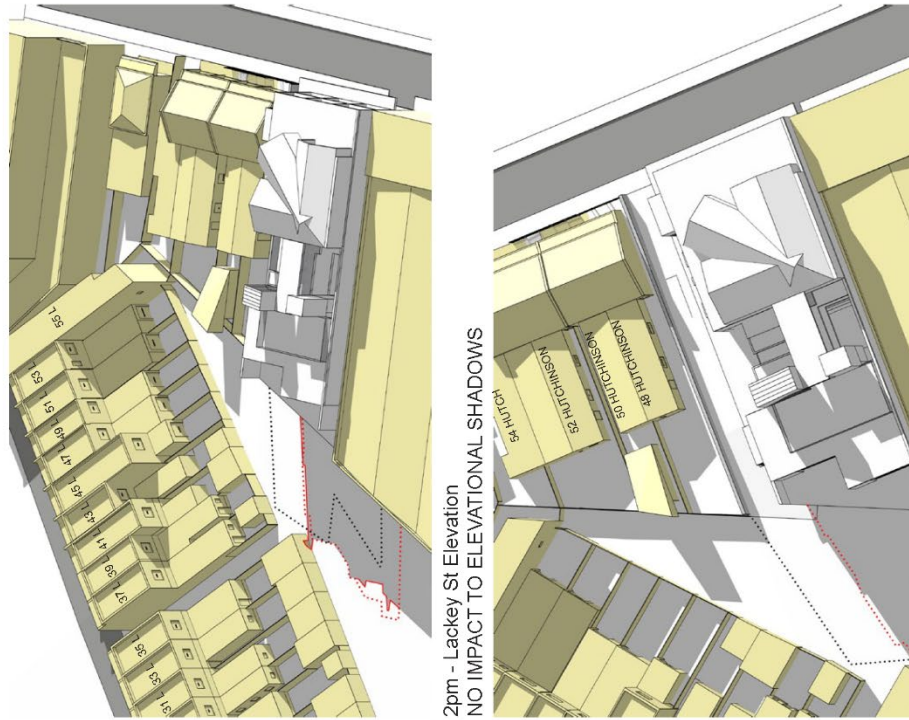
42-46 Hutchinson St.
ST PETERS
 JUNE 2020



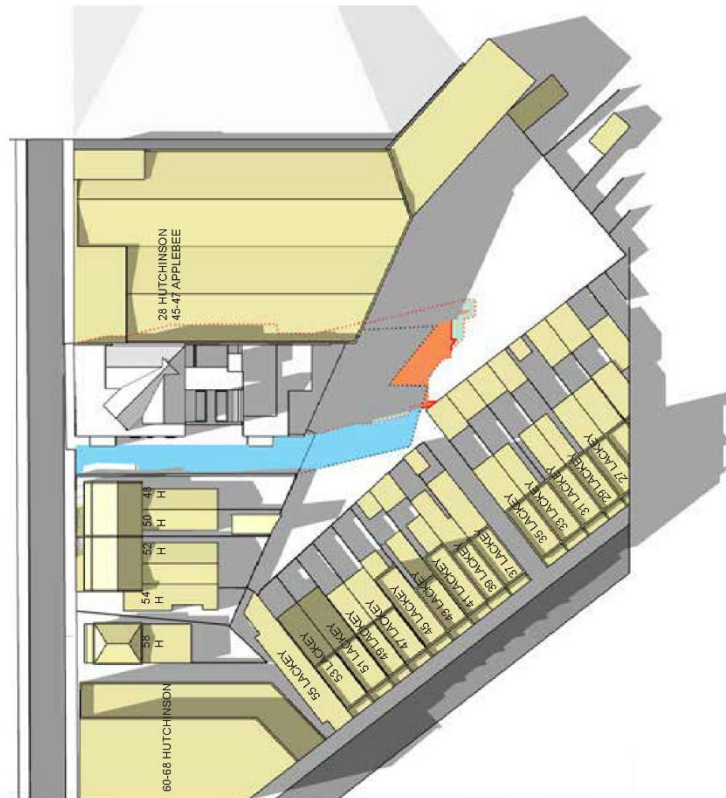
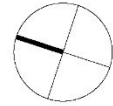
1pm - Plan

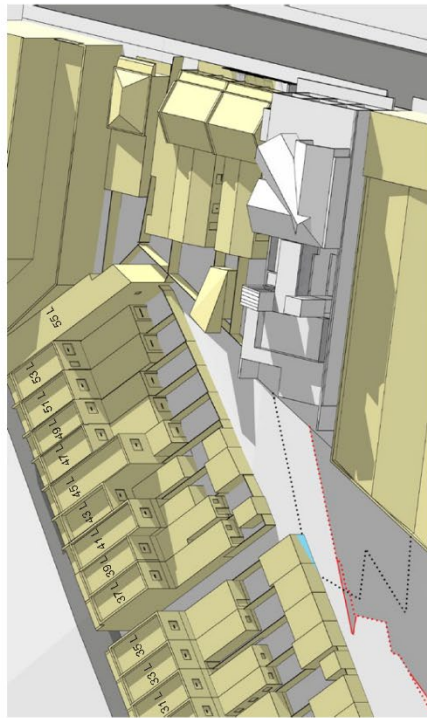
JUNE 22ND SHADOWS

- EXISTING SHADOWS
- REMOVED SHADOWS From Existing Condition
- REDUCED SHADOWS From Original DA
- NEW SHADOWS - Amended
- EXISTING BUILDING TO BE DEMOLISHED SHADOW OUTLINE
- WITHIN EXISTING SHADOWS OR OVER ADJACENT BUILDINGS
- ORIGINAL DA SHADOW OUTLINE
- WITHIN EXISTING SHADOWS OR OVER ADJACENT BUILDINGS
- AMENDED DA SHADOW OUTLINE
- WITHIN EXISTING SHADOWS OR OVER ADJACENT BUILDINGS



42-46 Hutchinson St.
ST PETERS
JUNE 2020





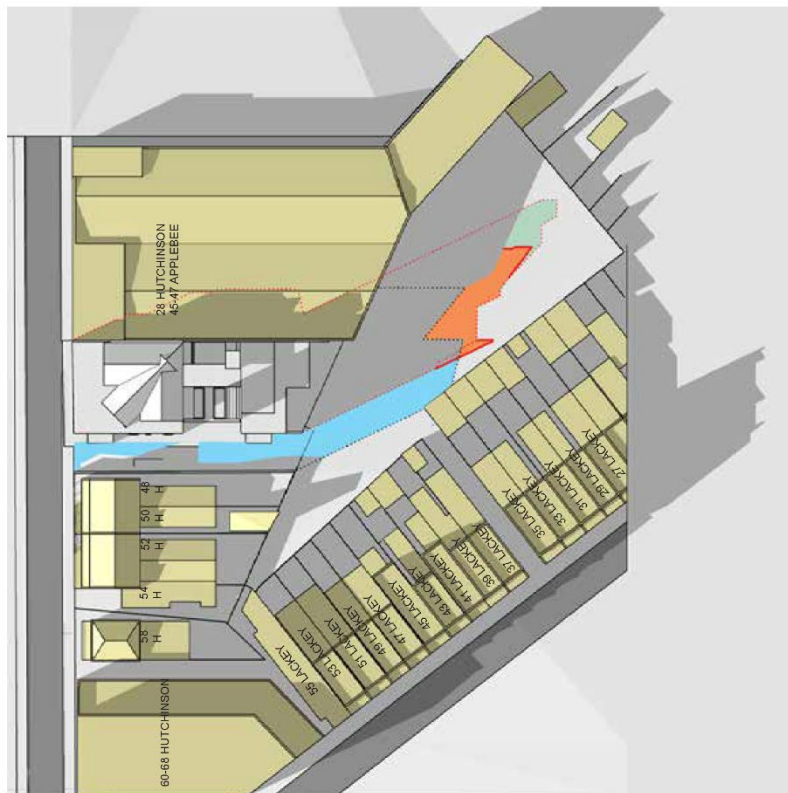
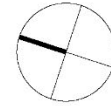
3pm - Lackey St Elevation
NO IMPACT TO ELEVATIONAL SHADOWS



3pm - Hutchinson St Elevation
NO IMPACT TO ELEVATIONAL SHADOWS



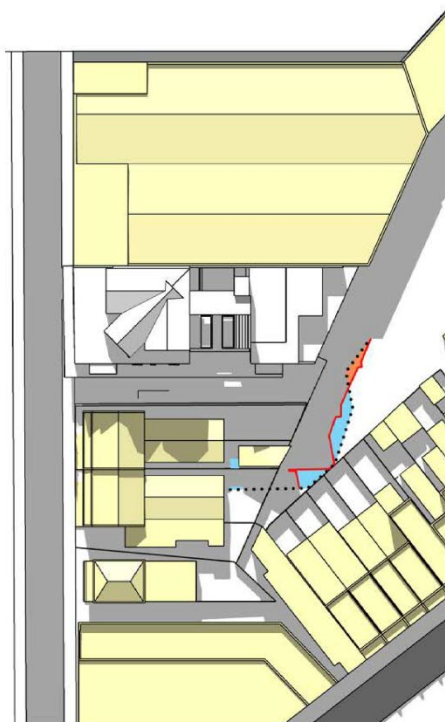
42-46 Hutchinson St.
ST PETERS
JUNE 2020



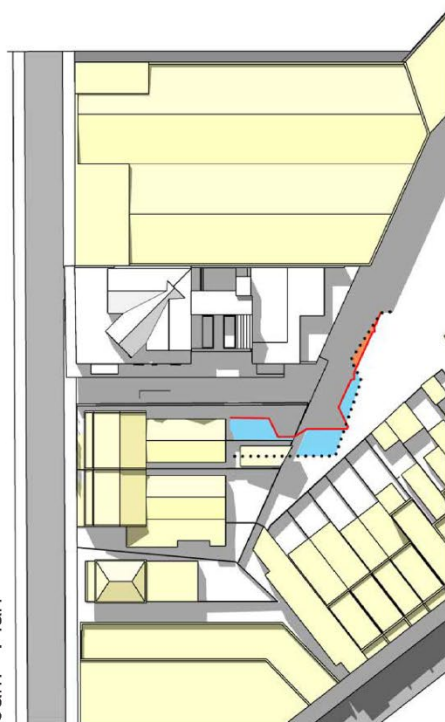
3pm - Plan

JUNE 22ND SHADOWS

EXISTING SHADOWS	.....	EXISTING BUILDING TO BE DEMOLISHED
REMOVED SHADOWS From Existing Condition	.....	SHADOW OUTLINE
REDUCED SHADOWS From Original DA	.....	WITHIN EXISTING SHADOWS OR OVER ADJACENT BUILDINGS
NEW SHADOWS - Amended	.....	ORIGINAL DA SHADOW OUTLINE
	.....	WITHIN EXISTING SHADOWS OR OVER ADJACENT BUILDINGS
	.....	AMENDED DA SHADOW OUTLINE
	.....	WITHIN EXISTING SHADOWS OR OVER ADJACENT BUILDINGS



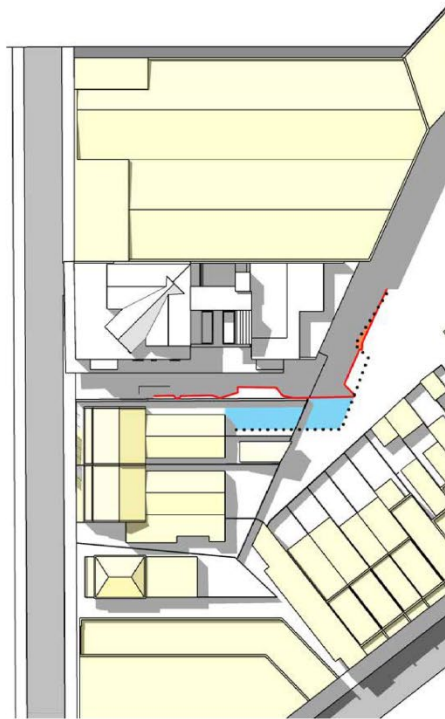
9am - Plan



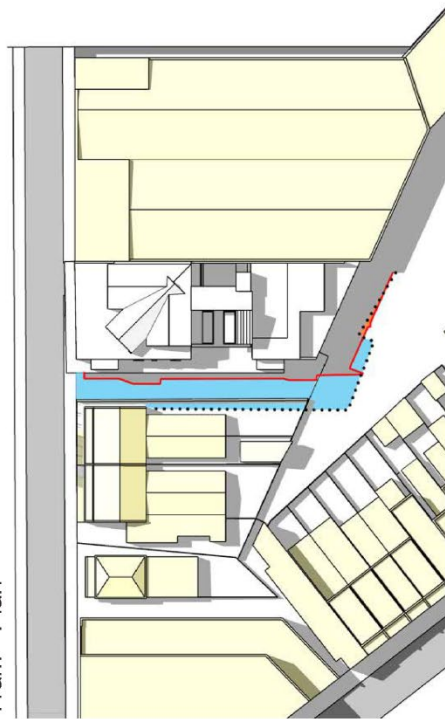
10am - Plan

EQUINOX SHADOWS - MARCH/SEP

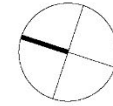
- EXISTING SHADOWS
- REMOVED SHADOWS From Existing Condition
- NEW SHADOWS -
- EXISTING BUILDING TO BE DEMOLISHED SHADOW OUTLINE WITHIN EXISTING SHADOWS OR OVER ADJACENT BUILDINGS
- AMENDED DA SHADOW OUTLINE WITHIN EXISTING SHADOWS OR OVER ADJACENT BUILDINGS



11am - Plan

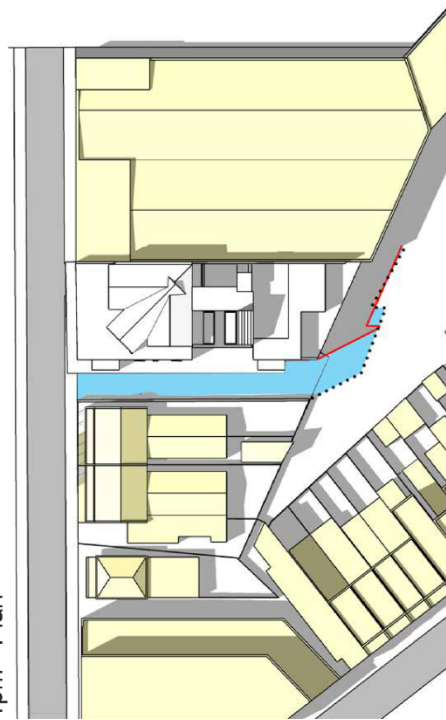
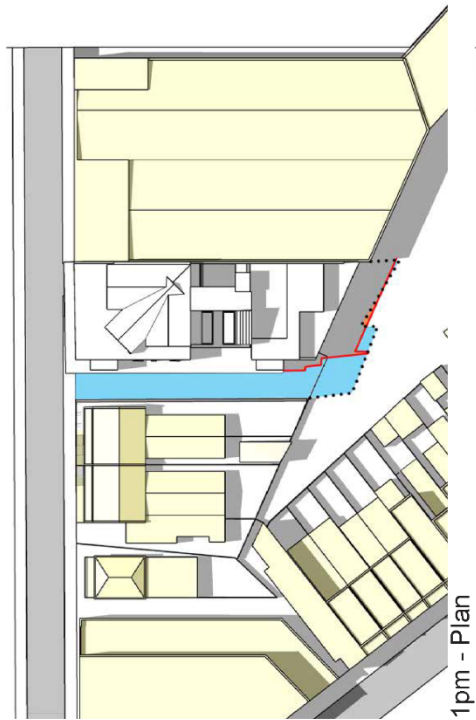
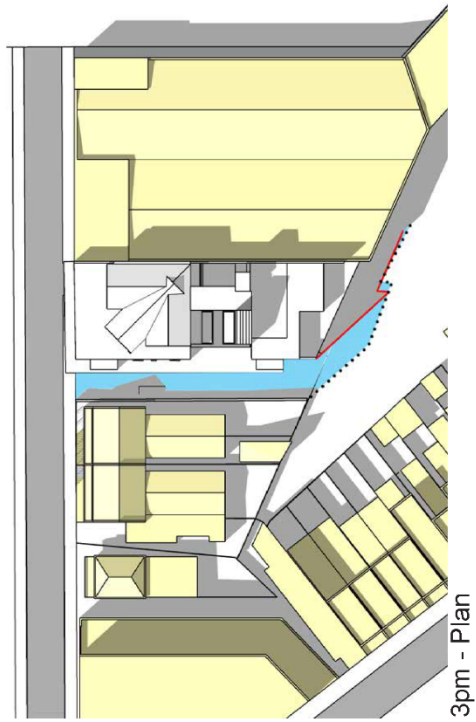


12pm - Plan



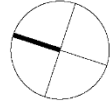
42-46 Hutchinson St.
ST PETERS
JUNE 2020



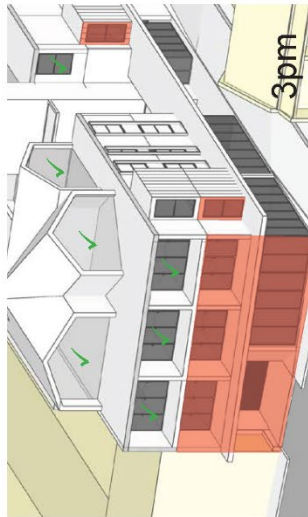


EQUINOX SHADOWS - MARCH/SEP

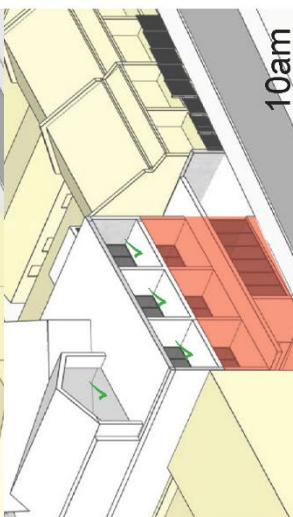
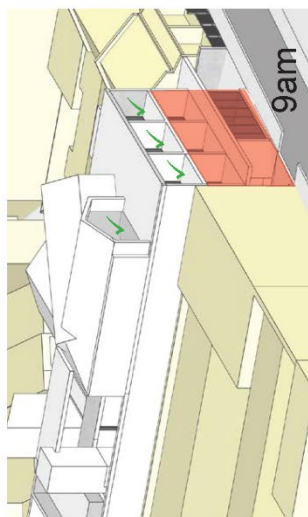
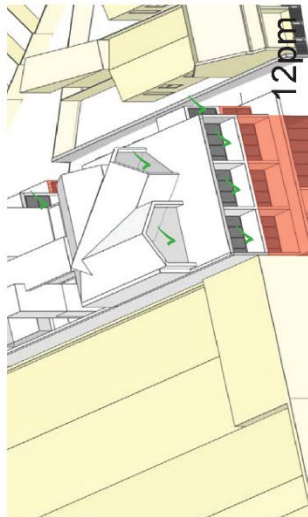
- EXISTING SHADOWS
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- AMENDED DA SHADOW OUTLINE WITHIN EXISTING SHADOWS OR OVER ADJACENT BUILDINGS



42-46 Hutchinson St.
ST PETERS
JUNE 2020



	Unit 1	Unit 2	Unit 3	Unit 4	Unit 5
9am	✓	✓	✓	✓	✓
10am	✓	✓	✓	✓	✓
11am	✓	✓	✓	✓	✓
12pm	✓	✓	✓	✓	✓
1pm	✓	✓	✓	✓	✓
2pm	✓	✓	✓	✓	✓
3pm	✓	✓	✓	✓	✓

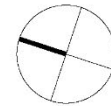


SUN VIEW - RESIDENTIAL SOLAR ACCESS

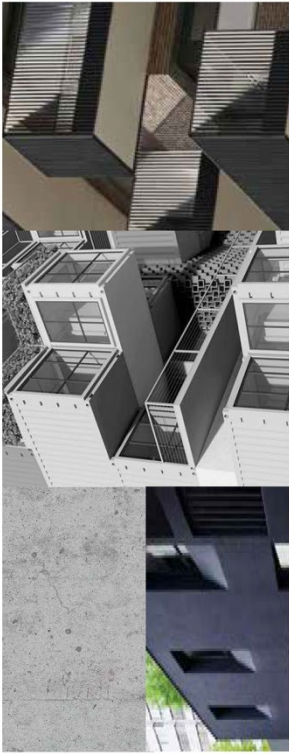
- COMMERCIAL WINDOWS
- SOLAR ACCESS



42-46 Hutchinson St.
ST PETERS
JUNE 2020



external finishes



NATURAL CONCRETE RENDER
SMOOTH BLACK RENDER

CANTILEVERED METAL BOXES

BLACK ALUMINIUM ANGLE
BALUSTRADES



COLORBOND MONUMENT MATT
METAL CLADDING TO TOP FLOOR

FULL HEIGHT ALUMINIUM ANGLE SCREENS + ENTRY
GATES

BLACK ALUMINIUM
WINDOWS + DOORS



EXTRUDED ALUMINIUM FRAME
AROUND WINDOWS

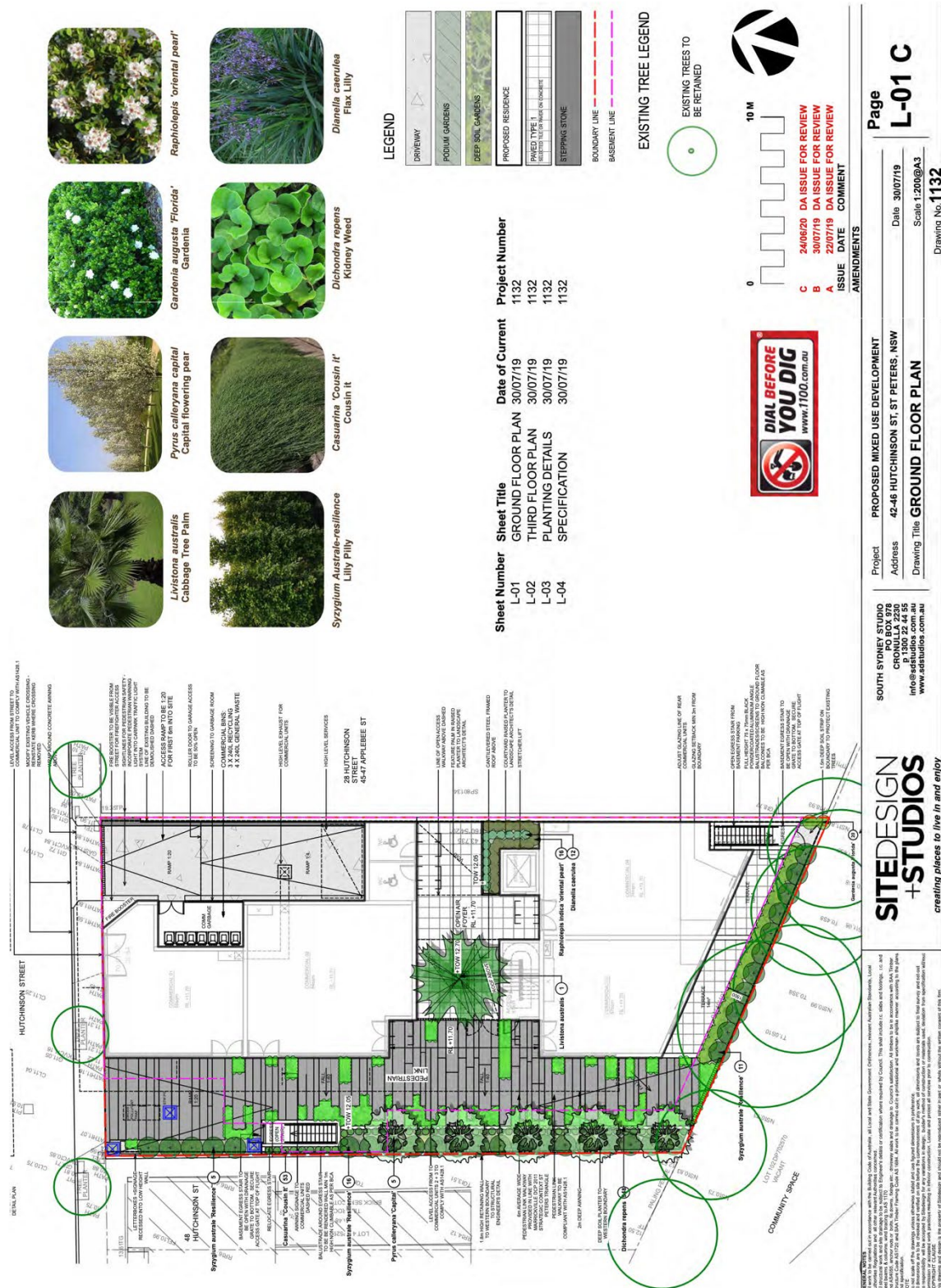
PEDESTRIAN LINK LANDSCAPING



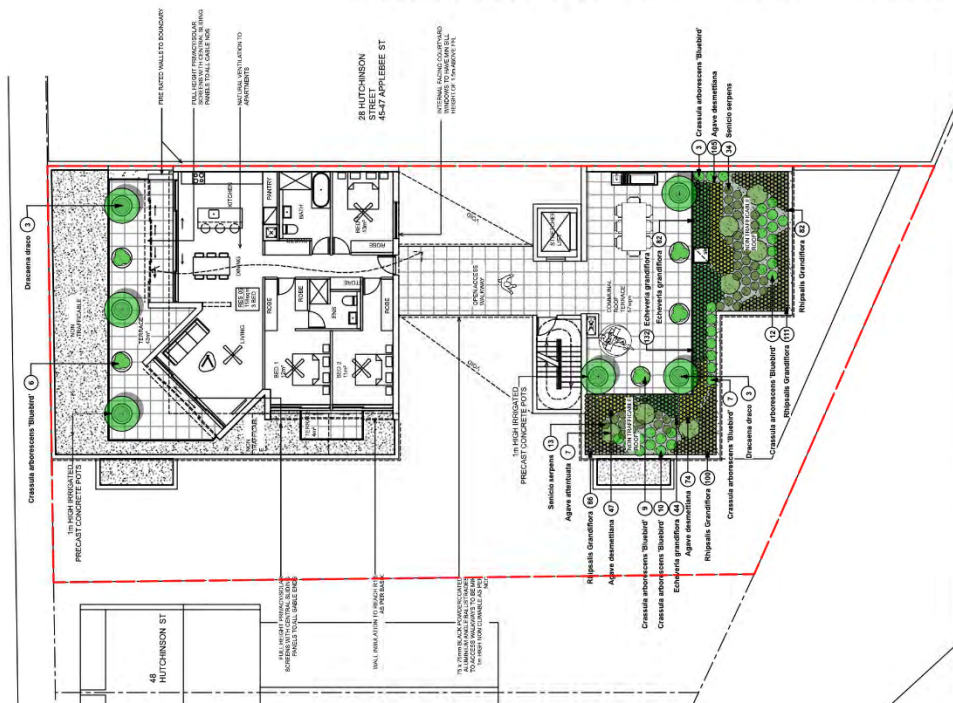
42-46 HUTCHINSON ST, ST PETERS



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e +61 2 9662 3300
www.brendleyarchitects.com
alan.brendley@brendleyarchitects.com
alan.brendley@brendleyarchitects.com



HUTCHINSON STREET



PLAN NOTES

This plan should be read in conjunction with the architectural and hydraulic plans. Work specific to these plans should be prepared in accordance to these plans, including specification and details prior to the installation of landscaping, and should not be altered or compromised during landscape construction.

Retaining wall details to engineers design.

Elements such as drainage swales may be incorporated in garden bed areas (using non-leakable mulch) without compromising the capacity of form.

The Design & location of new letter boxes shall be in accordance with Australia Post's Requirements for Delivery of Mail to Residential Premises published Feb '97. All routes listed in Councils weed lists & located on the site shall be continually removed & suppressed. Reinstate all boundary fencing in poor condition with Council approved 1.8m fencing to rear of building line, max 2.1m forward of B.L. Polution, sediment & erosion control devices as specified shall be in place, and maintained for the duration of the construction period. Propose excavation near existing established trees to be supervised by arborist.

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

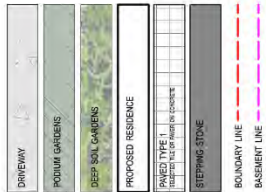
Planting proposed using commercially available plant species selected from local planting lists and the BASIX local plant list
D A approved landscape plants are required to be constructed as approved to obtain occupancy certificate.

LANDSCAPE MAINTENANCE NOTES

MONTH	MOWING	WEEDING	CHECK	PRUNING	WATERING	PLANT REPLACEMENT IF REQUIRED
DEC	W	M	M	F	M	D
JAN	W	M	M	F	M	D
FEB	W	M	M	F	M	D
MAR	F	M	M	F	M	D
APR	F	N/A	M	F	M	D
MAY	F	N/A	M	M	M	D
JUNE	M	N/A	M	M	N/A	2ND D
JULY	M	N/A	M	M	N/A	2ND D
AUG	M	N/A	M	M	N/A	2ND D
SEP	M	M	M	N/A	N/A	2ND D
OCT	F	F	M	F	M	D
NOV	F	F	M	F	M	D

PLANTING ESTABLISHMENT PERIOD: 12 MONTHS
WEED CONTROL: PREVENT & CONTROL HANDWEED 2ND DEC

LEGEND



C 24/06/20 DA ISSUE FOR REVIEW
B 30/07/19 DA ISSUE FOR REVIEW
A 22/07/19 DA ISSUE FOR REVIEW

ISSUE DATE COMMENT

AMENDMENTS

Page
L-02 C

Project
42-48 HUTCHINSON ST, ST PETERS, NSW

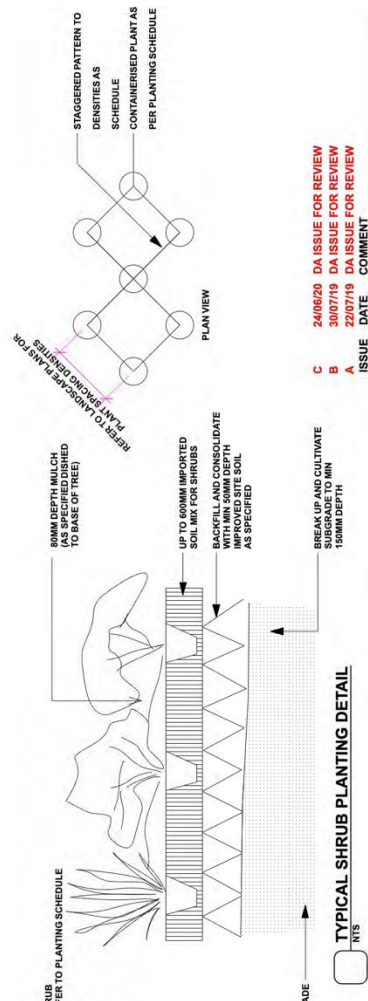
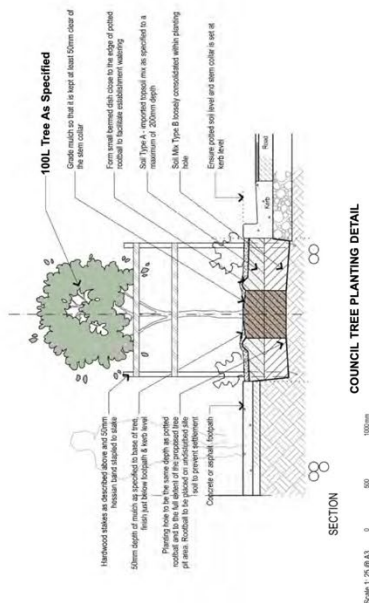
Date 30/07/19
Scale 1:200@A3
Drawing No. 1132

SOUTH SYDNEY STUDIO
CRONULLA 2200
info@sitedesign.com.au
www.sitedesign.com.au

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Plant List

ID	Botanical Name	Common Name	Scheduled Size	Mature Height	Mature Spread	Qty
Trees	<i>Dracaena draco</i>	Red edged dragon tree	75L	3m	1.2 - 2.0m	6
	<i>Livistona australis</i>	Cabbage-tree Palm	3mcd	10m	3m	1
	<i>Pyrus calleryana</i>	Capital Flowering Pear	100L	10 - 15m	2.0 - 3.5m	5
	PCal-c					
Shrubs	<i>Gardenia augusta</i>	'Florida'	200mm	1m	1m	20
	<i>Rhapheidos indica</i>	'oriental pearl'	300mm	0.45 - 0.8m	1.2 - 2.0m	17
	<i>Senecio serpens</i>	Indian Hawkthorn	150mm	0.4m	0.6m	46
	<i>Syzygium australe</i>	'Resilience'	200mm	1 - 2.5m	1.5m	32
Ground Covers	<i>Agave attenuata</i>	Agave	150mm	0.75 - 0.9m	0.5 - 1.2m	7
	<i>Agave desmetiana</i>	Agave desmetiana	140 mm	0.105 - 0.155 m	0.2 m	226
	<i>Casuarina 'Cousin It'</i>	Casuarina 'Cousin It'	150mm	0.0 - 0.3m	1.2 - 2.0m	55
	<i>Crassula alba</i>	'Blue Bird'	150mm	0.0 - 0.3m	0.3 - 0.6m	47
Grasses	<i>Chlorophytum</i>	'Blue Bird'	150mm	0.0 - 0.3m	0.3 - 1.2m	948
	<i>Dichondra repens</i>	Kidney Weed	150mm	0.0 - 0.3m	0.3 - 1.2m	948
	<i>Echeveria grandiflora</i>	Echeveria grandiflora	140 mm	0.105 - 0.155 m	0.2 m	258
	<i>Rhipsalis grandiflora</i>	Rhipsalis grandiflora	140 mm	0.105 - 0.155 m	0.2 m	379
Grasses	<i>Dianella caerulea</i>	Blue Flax-lily	150mm	0.4m	0.6m	12
	Dia-cae					

[illegible]

Note that as a landscape shall consist of a relatively free draining substrate material, consisting of this topsoil placed previously by the Civil Contractor. No permanent drainage shall be provided.

3.01 MATERIALS

The following general conditions should be considered prior to the commencement of landscape works:

- All landscape plants should be supplied in accordance with the Australian Standard AS 4150-2003.
- All plants should be supplied in accordance with the Australian Standard AS 4150-2003.
- All plants should be supplied in accordance with the Australian Standard AS 4150-2003.

3.02 PROTECTION OF EXISTING TREES

Existing trees identified to be retained shall be done so in accordance with NALSPREC Guide 2 'A Guide to Assessing Tree Quality', where general works are occurring around such trees, or pruning is required, a qualified arborist shall be engaged to oversee such works and manage tree health.

Existing trees designated as the planting tree shall be protected at all times during the construction period. Any saw within the drip line of existing trees shall be protected by a trench and trench board system. Any trench board shall be supported by a trench board system. Any trench board shall be supported by a trench board system.

Any new tree to be planted shall be planted in a suitable location, and shall be planted in a suitable location, and shall be planted in a suitable location.

3.03 PROTECTION OF ADJACENT FINISHES

The Contractor shall take all precautions to prevent damage to all or any adjacent finishes by providing adequate protection to these areas / surfaces prior to the commencement of the Works.

3.04 EROSION & POLLUTION CONTROL

The Contractor shall take all precautions to prevent the erosion of soil from the subject site. The contractor shall install erosion & sediment control barriers and as required by council, and maintain these barriers throughout the construction period. Note that the sediment control measures should be installed in the work type and erosion management of the site.

- Construction of a sediment barrier at the work area boundary prior to the start of work.
- Sediment fencing using a geotextile filter fabric in the location indicated on the erosion control plan or as instructed on site.
- Earth banks to prevent scour of soakpits.
- Sloping back sediment traps.
- Slope bank & geotextile sediment filter.
- Exposed banks shall be revegetated with an approved revegetation plan in preparation for final planting.
- Refer to "Sediment Management Plan" as prepared by CIVIC & WOODHEAD (1997) for construction techniques.

2.01 MATERIALS

Specified Soil Condition (Generally to improve site soil)

The specified soil condition for this topsoil improvement shall be as organic rich, equal to "Bulky Hays", as supplied by ANL. New soil for sites where soil testing indicates heavy or extremely light, or soils that are extremely poor, allow to excavate and supply 300mm of improved soil mix.

New gardens & proposed Planting

New garden and planting areas shall consist of a 300mm mix of (clean site soil (refer to) below and imported "Organic Garden Mix" as supplied by ANL, or approved equal. All mixes are to comply with AS 4459 Soil for Landscaping & Garden use, AS 4545 Composts, Soil conditioners & mulches.

Site Topsoil

Site topsoil is to be clean and free of unwanted matter such as gravel, clods, rocks, weeds, tree stumps, cables and plastics, and any other material that is likely to cause damage to plants. The topsoil must have a pH of between 5.5 and 7. Use 100% imported soil mix when the on-site topsoil is not suitable.

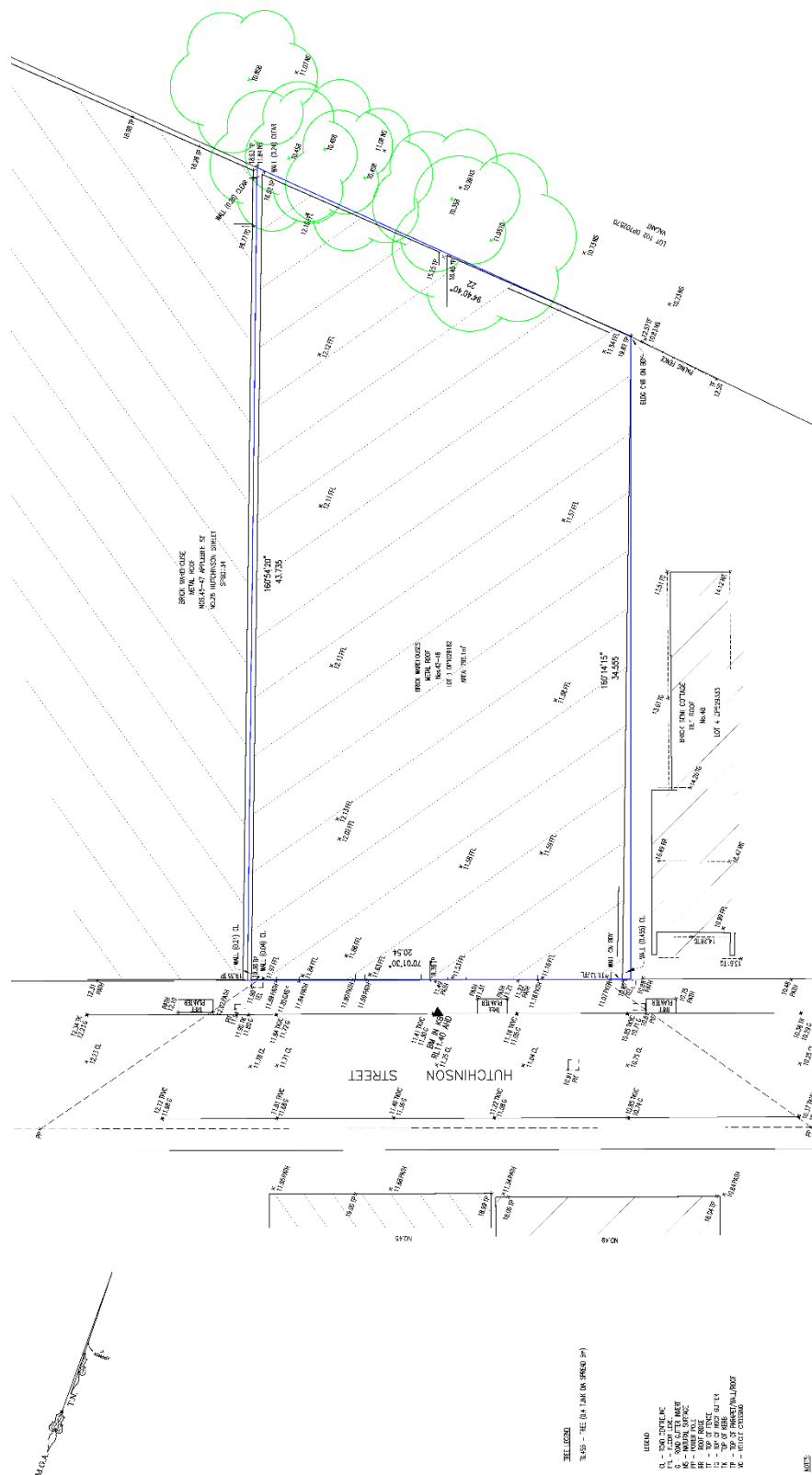
2.02 INSTALLATION

a) Establishing Subgrade Levels

Subgrade levels are defined as the finished base levels prior to the placement of the specified material (i.e. topsoil condition). The following subgrade levels shall apply:

- Areas: Planting beds - 300mm below existing levels with specified imported soil mix.

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Attachment C- Clause 4.6 Exception to Development Standards (HOB)



REQUEST PURSUANT TO CLAUSE 4.6, FOR EXCEPTION TO COMPLIANCE WITH CLAUSE 4.3(2) OF MARRICKVILLE LOCAL ENVIRONMENTAL PLAN 2011

This Clause 4.6 Exception Submission has been prepared by Genevieve Slattery Urban Planning Pty Ltd on behalf of Brenchley Architects (the Applicant), in relation to a Development Application for the property at Nos. 42-46 Hutchinson Street, St Peters (the site).

This Submission is made to Inner West Council in support of Development Application (DA) which seeks consent for the demolition of existing structures and construction of a mixed-use development at the site.

This request has been prepared having regard to:

- Land and Environment Court of NSW judgment in Winten Property v North Sydney Council [2001];
- Land and Environment Court of NSW judgment in Wehbe v Pittwater Council [2007];
- NSW Department of Planning and Infrastructure's Varying Development Standards: A Guide 2015; and
- Land and Environment Court of NSW judgment in Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118.

1.0 WHAT IS THE CLAUSE SOUGHT TO BE VARIED?

1.1 Clause 4.3(2) of Marrickville Local Environmental Plan (MLEP) 2011

Clause 4.3(2) of MLEP 2011 states the following:

"The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map."

The Height of Buildings Map indicates a maximum building height of 14m at the site.

1.2 What is the extent of the non-compliance?

The proposed development has the following heights:

- 16.68m to lift overrun (2.68m or 19.1% non-compliance);
- 15.68m to fire stair/pergola (1.68m or 12% non-compliance);
- 13.77m to roof terrace balustrade (compliant); and

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- 12.77m to slab at roof level (compliant).

To this end, apart from rooftop elements, which are located to minimise their level of visibility from the public domain, the proposal complies with the maximum 14m height of buildings standard.

2.0 CLAUSE 4.6 OBJECTIVES

Clause 4.6 of MLEP 2011 has the following objectives:

- (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."*

As discussed below, it is considered appropriate to invoke the provisions of Clause 4.6 of MLEP 2011, in order to achieve a positive planning outcome at the site.

3.0 CLAUSE 4.6(3) PROVISIONS

Clause 4.6(3) states that 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 the following:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.

The following discussion constitutes a written request seeking to justify the contravention of Clause 4.3(2) of MLEP 2011.

4.0 CLAUSE 4.6(3)(a) - IS COMPLIANCE WITH THE STANDARD UNREASONABLE AND UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE?

4.1 Clause 4.3 Objectives

The objectives of Clause 4.3 of MLEP 2011 are as follows:

- (a) "to establish the maximum height of buildings,*
 - (b) to ensure building height is consistent with the desired future character of an area,*
 - (c) to ensure buildings and public areas continue to receive satisfactory exposure to the sky and sunlight,*
 - (d) to nominate heights that will provide an appropriate transition in built form and land use intensity."*
- (a) to establish the maximum height of buildings*

Clause 4.3 effectively establishes a maximum building height of 14m at the site.

Having regard to the above, the proposal is considered to meet objective (a) despite the non-compliance with Clause 4.3(2) of MLEP 2011.

(b) to ensure building height is consistent with the desired future character of an area

Part 9.25 of Marrickville Development Control Plan 2011 (MDCP 2011) contains the desired future character objectives for the St Peters Triangle precinct, within which the site is located.

Table 1 below provides a discussion in relation to the proposal's consistency with the desired future character objectives for the St Peters Precinct.

Table 1: *Assessment of consistency with the desired future character objectives for the St Peters Triangle precinct at Part 9.25.2 of MDCP 2011*

Objective	Response
1. To protect and preserve contributory and period buildings within the precinct and require their sympathetic alteration or restoration.	N/A
2. To protect the identified Heritage Items within the precinct.	N/A
3. To enhance existing streets, lanes and open space.	The proposal will have a positive streetscape outcome as can be seen in the photomontage and streetscape elevations.
4. To improve pedestrian amenity and link the series of open spaces within the precinct via new pedestrian links.	The proposal provides a through-site link, as required.
5. To create new active and mixed-use streetscapes with May Street to be the central activity street within the precinct.	The proposal provides a new mixed-use development with an active frontage to Hutchinson Street and the proposed through site link.
6. To link St Peters Rail Station more effectively to the precinct.	N/A
7. To support and extend creative laneways.	The proposal provides a through-site link as required. The retail tenancies adjoining this link can contribute to the creative functions sought to be provided within the locality.
8. To encourage new hubs of activity along Hutchinson Street, Applebee Street and May Lane for live/work and creative uses.	The proposal incorporates a mix of retail, commercial and residential uses which will contribute to the live/work and creative use hub envisaged by the DCP.
9. To create a special site (for example, a village square, community garden or open-air market that supports local artists) in the centre of the triangle to integrate the surrounding creative	N/A

Clause 4.6 Submission – Building height

42-46 Hutchinson Street, St Peters

4 November 2019

Objective	Response
industry and uses with local residents.	
10. To provide building heights to fit the context with restricted heights on narrower streets and laneways and taller buildings along the Princes Highway, May Street and Campbell Street.	The proposal, apart from the rooftop elements, complies with the maximum height requirement under MLEP 2011.
11. To develop building envelopes to strongly define existing streets and laneways.	The proposal is generally consistent with the building envelope controls applicable to the site, and non-compliant elements will not be readily visible from the public domain.
12. To identify signature development opportunities along the Princes Highway (at the Campbell Street and King Street intersections) to help define the precinct along this major road.	N/A
13. To integrate design excellence and sustainability across the precinct and within individual buildings and open spaces/public domain.	The proposal incorporates design excellence and sustainability as discussed throughout this report.
14. To protect the identified values of the Goodsell Estate Heritage Conservation Area.	N/A
15. To ensure that higher density development demonstrates good urban design and environmental sustainability and provides suitable amenity for occupants of those developments.	The proposed development achieves an excellent level of amenity with all apartments exceeding the minimum requirements for solar access and cross ventilation.
16. To ensure that the design of higher density development protects the residential amenity of adjoining and surrounding properties.	The proposal has a minimal and acceptable impact on the amenity of neighbouring residential properties, as discussed throughout this report.

Control C6 states that development within the Precinct must be implemented in accordance with the masterplan as shown in Figure 25.1 and the development controls detailed in this section of the DCP (see **Figure 1** below).

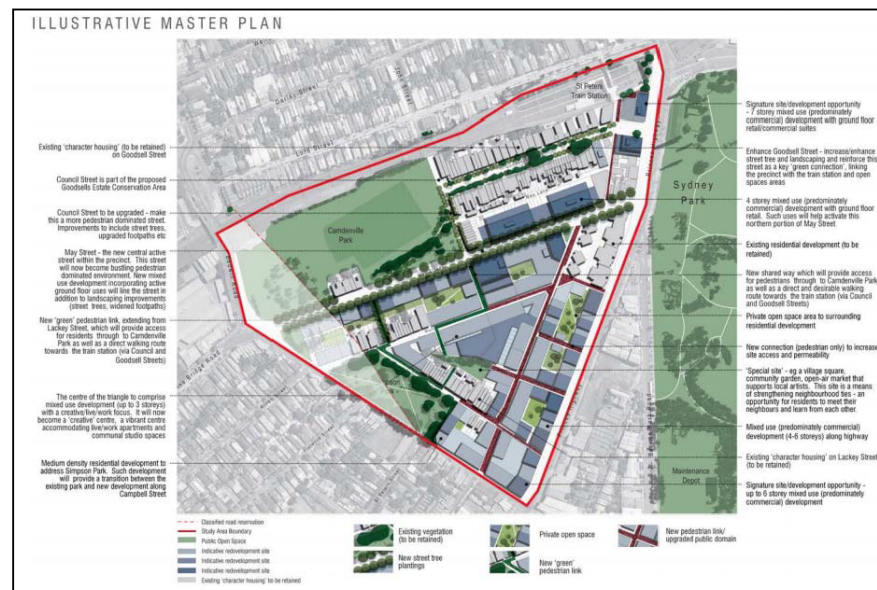


Figure 1: St Peters Triangle Masterplan (source MDCP 2011)

The proposal is consistent with the above Masterplan, as it incorporates a three (3) storey form with rooftop elements, accommodating a range of retail, commercial and residential uses with opportunities for live/work and creative uses. The proposal also incorporates a through-site link, as required.

The proposal is consistent with Controls C10 and C11 as it incorporates a pedestrian-only through link in the site's western boundary.

The proposed vehicular access is in a suitable location and recognises the one-way traffic flow for Hutchinson Street. The proposal incorporates basement parking, as required.

The site is not subject to site amalgamation requirements in MDCP 2011 and it is noted that the adjoining residential properties to the west are also zoned B7 and could be developed independently or as a consolidated site, in accordance with the DCP, regardless of the DA proposed at the site.

Control C21 states that the heights of proposed buildings must conform to the controls in Figure 25.5. The height is expressed in number of storeys (see Figure 2 below).

Control C22 states that building heights must be read in conjunction with the indicative street sections 1, 2 and 3 in Section 9.25.11.



Figure 2: Extract from Figure 25.5 in St Peters Triangle Masterplan relating to building heights – site outlined in red (source MDCP 2011)

As can be seen in **Figure 2**, Figure 25.5 in MDCP 2011 seeks a three (3) storey scale at the front of the site with two (2) storeys at the rear. The proposal incorporates three (3) storeys across the site. The non-compliance with the two (2) storey height control at the rear of the site is considered acceptable in this instance as:

- the proposed third floor level is setback between 3.65m and 6.225m from the rear boundary (to the face of the building) and incorporates a stepped/modulated form so as to minimise the perception of bulk and scale and provide a two (2) storey form to the boundary;
- the proposed roof level of the third-floor level is only 2m higher than the roof of the adjoining building to the east;
- the proposal complies with the FSR control applicable to the site;
- the proposal complies with the building height plane at the rear of the site apart from a minor-non-compliance arising from the splayed rear boundary alignment;
- the proposal has no unreasonable overshadowing impacts in relation to neighbouring properties;
- the rear elevation will be largely screened from view by the mature trees which adjoin the site's southern boundary;
- landscaping is provided across the site's rear boundary to provide a further landscaped buffer; and
- the non-compliant element does not result in any adverse privacy impacts.

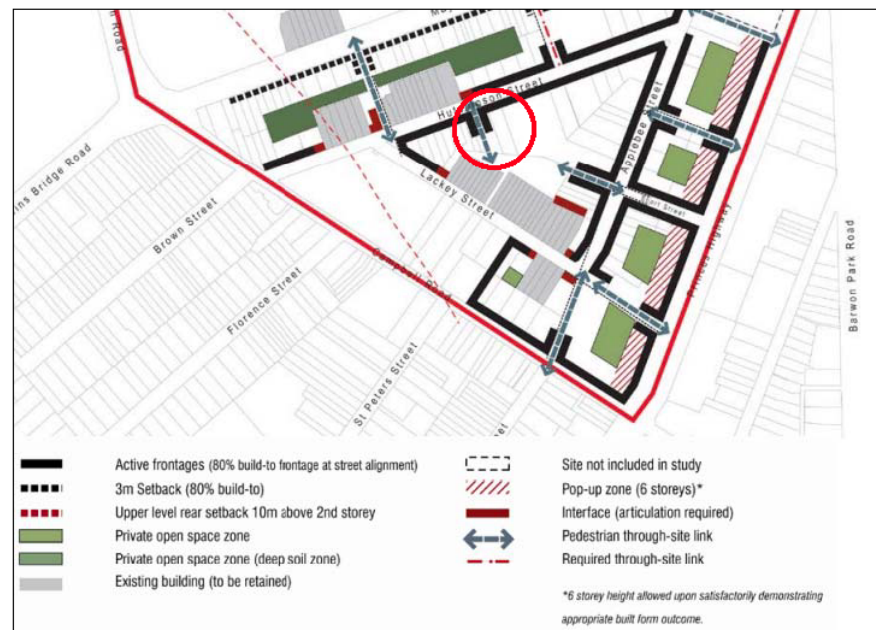


Figure 3: Extract from Figure 25.6 in St Peters Triangle Masterplan relating to building heights - site outlined in red (source MDCP 2011)

The proposal is generally consistent with Control C23 and Figure 25.6 of MDCP 2011 (see **Figure 3** above) as a through-site link is proposed on the site's western boundary, linking Hutchinson Street with the open space to the rear of the site. The proposal is built to the Hutchinson Street boundary and also incorporates an active presentation to the proposed through-site link, as required. If the through-site link is included as active frontage (given its busy communal nature), the proposal have a 70.6% active frontage, and would be closer to achieving compliance.

The amount of active frontage to Hutchinson Street has been maximised to meet the intent of the control by:

- incorporating a single width driveway which has been made as narrow as is practicable while maintaining safe access and egress;
- minimising the width of the fire booster as far as is possible (noting that this element is required to be provided on the front elevation);
- providing opportunities for outdoor dining associated with the ground floor level tenancies which will further attract patronage and enliven the area; and
- wrapping the active use around the western elevation and incorporating active uses throughout the ground level to maximise activation of the ground floor level.

On this basis, the proposed provision of active uses at ground floor level is considered to be consistent with the intent of the control. Furthermore, it is noted that the DCP envisages that the 6m through-site link would be shared between the site and the adjoining property to the west (i.e. 3m on each site) however the proposal seeks to provide the link wholly within the boundary of the site, as a significant public benefit.

Having regard to the above, the proposal is considered to meet objective (b) despite the non-compliance with Clause 4.3(2) of MLEP 2011.

(c) to ensure buildings and public areas continue to receive satisfactory exposure to the sky and sunlight.

The proposal complies with Control C1 at Part 2.7.2 of MDCP 2011 as this DA is accompanied by 3D shadow diagrams at hourly intervals between 9am and 3pm on 21 June, showing the impact of the proposal on nearby properties.

Control C2 at Part 2.7.3 of MDCP 2011 states that development should not reduce direct solar access to windows of principal living areas and principal areas of open space of nearby residential accommodation to less than two (2) hours between 9am and 3pm on 21 June.

A discussion of the impacts of the proposal is provided below.

9am on 21 June

At 9am on 21 June, the proposal will create minor additional overshadowing but the additional impacts do not affect areas of private open space or windows apart from approximately half of a rear door at ground level at No. 53 Lackey Street. Brenchley Architects have reviewed this minor additional impact and have advised that it is not associated with the part of the proposed development which exceeds the maximum 14m height standard. To this end, even if the proposal were amended to achieve full compliance with the maximum height standard, this door would remain affected.

Furthermore, as can be seen in the floorplan below in **Figure 4**, the affected door relates to a study/sunroom and not a living room. To this end, the proposal does not affect the living room of the property and is acceptable with respect to Control C2.

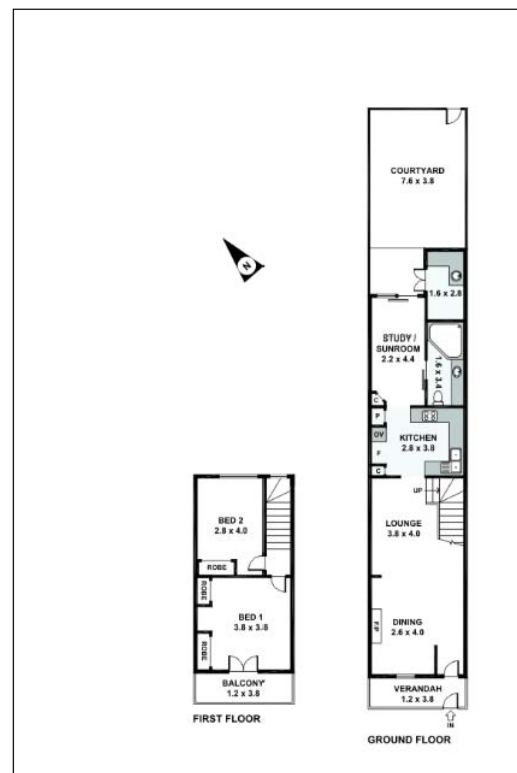


Figure 4: Layout of No. 53 Lackey Street (source: Domain)

To this end, the proposal will generally maintain the status quo in terms of overshadowing impacts at this time.

10am on 21 June

At 10am on 21 June, the proposal will reduce the existing overshadowing to the rear yard of No. 47 Lackey Street. Minor additional shadows will occur at this time, however the additional impacts do not affect areas of private open space or windows. To this end, the proposal will generally maintain the status quo in terms of overshadowing impacts at this time.

11am on 21 June

At 11am on 21 June, the proposal will result in some reductions and some increases in overshadowing to the public open space to the rear of the site. The proposal will not have any impact on residential properties at this time. To this end, the proposal will generally maintain the status quo in terms of overshadowing impacts at this time.

12pm on 21 June

At 12pm on 21 June, the proposal will result in reductions in the existing overshadowing onto the eastern elevation of No. 48 Hutchinson Street, which includes windows. To this end, the proposal will have a material benefit at this time. The proposal will result in some reductions and some increases in overshadowing to the public open space to the rear of the site.

1pm on 21 June

At 1pm on 21 June, the proposal will result in some reductions and some increases in overshadowing to the public open space to the rear of the site. To this end, the proposal will generally maintain the status quo in terms of overshadowing impacts at this time.

2pm on 21 June

At 2pm on 21 June, the proposal will result in some reductions and some increases in overshadowing to the public open space to the rear of the site. To this end, the proposal will generally maintain the status quo in terms of overshadowing impacts at this time.

3pm on 21 June

At 3pm on 21 June, the proposal will result in some reductions and some increases in overshadowing to the public open space to the rear of the site. To this end, the proposal will generally maintain the status quo in terms of overshadowing impacts at this time.

Part 2.7.5.2 of MDCP 2011 contains the following controls with respect to solar access within the proposed development:

- "C9 *At least 65% of dwellings within multi dwelling housing, group homes, residential flat buildings, the residential components of mixed use buildings or seniors' housing must provide living area windows positioned within 30 degrees east and 20 degrees west of true north and allow for direct sunlight for at least two hours over a minimum of 50% of the glazed surface between 9.00am and 3.00pm on 21 June.*
- C10 *Communal landscaped areas within a multi dwelling housing, group homes, residential flat buildings, the residential components of a mixed-use building or seniors' housing must receive a minimum of two hours of direct sunlight over 50% of its finished surface between 9.00am and 3.00pm on 21 June."*

Brenchley Architects have prepared detailed solar access diagrams which confirm that all of the proposed dwellings achieve two (2) hours of sunlight access to their living room windows between 9am and 3pm on 21 June.

The proposed communal open space at roof level will receive direct solar access throughout the day, exceeding the minimum two (2) hours required.

The proposed through-site link will also receive sunlight access between 12pm and 3pm on 21 June.

Having regard to the above, the proposal is considered to meet objective (c) despite the non-compliance with Clause 4.3(2) of MLEP 2011.

(d) to nominate heights that will provide an appropriate transition in built form and land use intensity

The proposed development has been designed to provide a transition between the higher density zones to the north and north east of the site, and the RE2 public recreation zoned land to the south of the site. The design of the proposal also seeks to provide a transition in scale to the dwelling houses (which are also within the B7 zone), which are located to the west of the site.

Figure 5 below shows the manner in which the building has been stepped, as per the building height plane control in MDCP 2011, so that the upper level/s are recessive in form and have minimal visibility from nearby public domain. **Figure 6** shows the setback adopted from the west, to provide a transition to the adjoining dwellings.

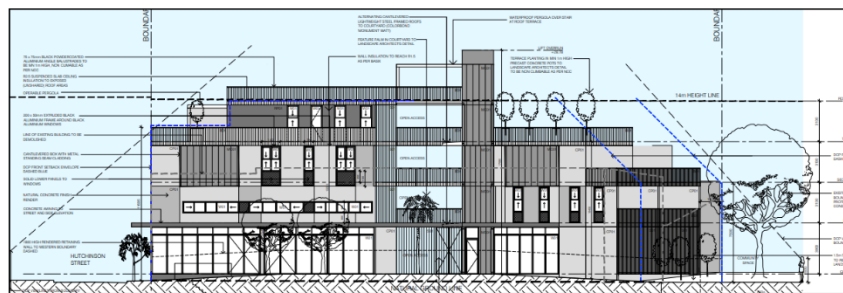


Figure 5: Proposed western elevation, showing the adoption of a stepped built form which assists in minimising the visibility of the upper levels and ensures a transition in scale to the property to the rear (source: Brenchley Architects)

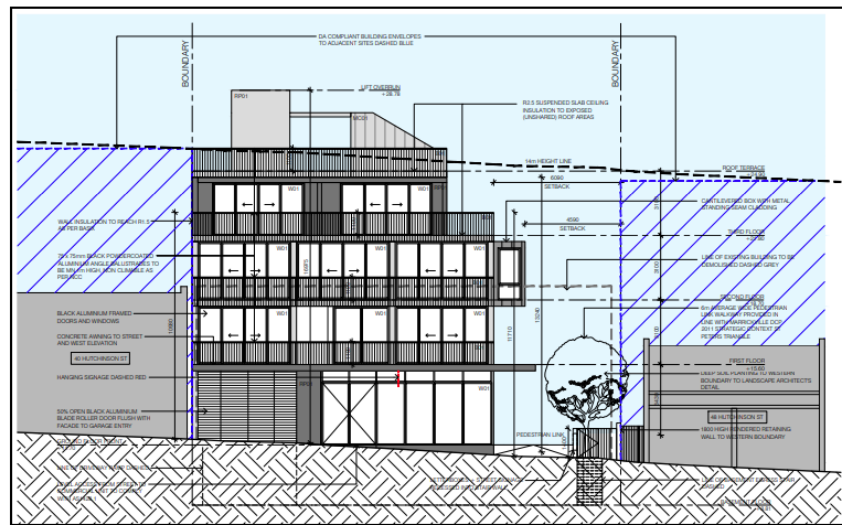


Figure 6: Proposed northern (front) elevation, showing setback from the western side boundary to ensure a transition in scale to the adjoining dwelling houses (source: Brenchley Architects)

Furthermore, and in terms of intensity of use, the proposed development has an FSR of 1.28:1, which is less than the maximum 1.3:1 permitted under MLEP 2011. The proposed uses within the development (i.e. a mix of residential and non-residential uses) have been determined in accordance with the provisions of MLEP 2011 in relation to the B7 zone which seek to maximise non-residential uses and opportunities for employment.

Having regard to the above, the proposal is considered to meet objective (c) despite the non-compliance with Clause 4.3(2) of MLEP 2011.

4.2 B7 Business Park zone objectives

The site is located in the B7 Business Park zone. The objectives of the B7 zone are as follows:

- "To provide a range of office and light industrial uses.
- To encourage employment opportunities.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.
- To provide for limited residential development in conjunction with permissible active ground floor uses.
- To provide business and office premises for the purposes of certain art, technology, production and design sectors.
- To enable a purpose-built dwelling house to be used in certain circumstances as a dwelling house."

The proposed development is consistent with the abovestated zone objectives discussed below.

To provide a range of office and light industrial uses

The proposal provides a range of tenancies (up to 12 tenancies at ground and first floor levels) available for office uses. Given the characteristics of the site and proximity to nearby residential development, it is considered inappropriate to provide industrial uses on the site however this does not preclude the provision of light industrial uses on other sites more appropriate for this type of use, within the B7 zone.

To this end, the proposal is consistent with the first zone objective despite the non-compliance with the height of buildings development standard.

To encourage employment opportunities

The proposal provides twelve (12) new non-residential tenancies within 571m² of GFA which will encourage businesses to operate at the site, thereby providing new opportunities for employment.

To this end, the proposal is consistent with the second zone objective despite the non-compliance with the height of buildings development standard.

To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.

The proposal incorporates opportunities for a range of non-residential uses to establish businesses at the site. The specific uses will be driven by the market however the proposal provides significant opportunities for a range of businesses which will provide services or facilities to meet the day to day needs of workers in the area (i.e. café).

To this end, the proposal is consistent with the third zone objective despite the non-compliance with the height of buildings development standard.

To provide for limited residential development in conjunction with permissible active ground floor uses.

As discussed previously, all of the proposed ground floor level comprises active uses (apart from vehicular access and the residential entry and lift). The active nature of the proposed ground floor level is further enhanced through the provision of a through-link on the site's western boundary.

Furthermore, the proposal provides only five (5) apartments while providing twelve (12) non-residential tenancies, showing the dominance of the non-residential component of the proposed development within the building.

To this end, the proposal is consistent with the fourth zone objective despite the non-compliance with the height of buildings development standard.

To provide business and office premises for the purposes of certain art, technology, production and design sectors.

The proposed development incorporates opportunities for a range of business and office premises, as discussed previously, which, in accordance with Clause 6.12 of MLEP 2011, are required to be used for a creative purpose such as media, advertising, fine arts and craft, design, film and television, music, publishing, performing arts, cultural heritage institutions or other related purposes.

To this end, the proposal is consistent with the fifth zone objective despite the non-compliance with the height of buildings development standard.

To enable a purpose-built dwelling house to be used in certain circumstances as a dwelling house

The proposal does not incorporate a dwelling house so the sixth objective is not applicable to this DA.

To this end, the proposal is consistent with the relevant zone objectives, despite the non-compliance with the building height development standard.

4.3 Would the underlying object or purpose of the standard be defeated or thwarted if compliance was required, such that compliance is unreasonable or unnecessary?

It is not considered that the underlying objective of the Standard is irrelevant to the proposal, however, as demonstrated herein, it is submitted that the proposal is able to achieve consistency with the intent of the Standard, despite the non-compliance.

4.4 Has the development standard 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?

It is not considered that the Standard has been virtually abandoned or destroyed by Council's actions, however, having regard to the particulars of this Application, it is considered that flexibility in the application of the Standard is warranted.

4.5 Is compliance with development standard unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land? That is, the particular parcel of land should not have been included in the zone?

It is not considered that compliance with the standard is unreasonable or inappropriate due to the existing use of the site and current environmental character of the parcel of land.

5.0 CLAUSE 4.6(3)(b) - ARE THERE SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS TO JUSTIFY CONTRAVENING THE DEVELOPMENT STANDARD?**5.1 What is the aspect or feature of the development that contravenes the development standard?**

As discussed previously, the proposed roof top elements (i.e. lift overrun and fire stair/pergola) contravene the development standard.

5.2 Why is contravention of the development standard acceptable?

Contravention of the development standard is considered acceptable for the following reasons:

- the proposed non-compliance does not result in significant adverse visual amenity impacts as the non-compliant elements are well setback from the front and rear of the site;
- the proposed development achieves compliance with the solar access controls in MDCP 2011 as discussed above, despite the non-compliance. Furthermore, the proposal does not create any significant/material additional overshadowing impacts when compared to a compliant scheme; and
- the proposed non-compliance allows the provision of communal open space at roof level, which provides a significant amenity benefit to the future occupants of the proposed development;

As discussed above it is considered that strict compliance, in this particular case, would result in an inflexible application of policy which would reduce the amenity of the building, in terms of the provision of communal open space at roof level, to the detriment of the future occupants of the building.

Deletion of the non-compliant elements would achieve numeric compliance however would not result in any discernible amenity benefits to the local streetscape or nearby properties. Strict compliance, in this particular case, does not serve any purpose that should outweigh the positive outcomes of the development with respect to the provision of accessible communal open space. The proposed development is consistent with the provisions of orderly and economic development.

It is considered that on the basis that the proposal meets the intent of the development standard and zone despite the non-compliance, and having regard to the lack of adverse amenity impacts, it is considered that the non-compliance is acceptable

5.3 On what basis there are sufficient environmental planning grounds to justify contravening the development standard?**5.3.1 Clause 4.6(5)(A) - Matters of State or Regional Environmental Planning**

The proposed contravention of the Standard does not raise any matter of significance for State or regional environmental planning.

5.3.2 Clause 4.6(5)(B) - The Public Interest

Having regard to the acceptable environmental impacts, and the merits of the proposed development, it is considered that the public interest is being met by the proposed development, despite the non-compliance.

The proposed departure from the standard does not create any unreasonable adverse amenity, as discussed herein. Furthermore, the proposal is considered to meet the public interest, as it will allow additional accessible communal open space to the benefit of the future occupants of the proposed development.

5.3.3 Clause 4.6(5)(C) – Any Other Matters Required to Be Considered

There are no other known matters required to be taken into consideration by the Director-General before granting concurrence.

As can be seen from the discussion herein, the proposed development is consistent with the underlying intent of the development standard and B7 Business Park zone pursuant to MLEP 2011 despite the non-compliance with the motorcycle parking development standard.

It is considered that the proposal has adequately addressed the matters outlined in Section 4.6(3) – (5) of MLEP 2011.

6.0 CONCLUSION

Having regard to the discussion contained herein, it is considered that the matters required to be addressed, pursuant to Clause 4.6 of MLEP 2011, the five-part test established in the Land and Environment Court and the Varying Development Standards: A Guide, have been fully canvassed herein.

Having regard to the particulars of the proposal, as outlined above, it is considered that there would be no material benefit to requiring the proposal to comply with Clause 4.3(2) of MLEP 2011 and on this basis, an exception to the clause is considered well-founded, and worthy of support.

Attachment D- Clause 4.6 Exception to Development Standards (FSR)



26th October 2020

General Manager
Inner West Council
PO Box 14
PETERSHAM NSW 2049

CLAUSE 4.6 (Exceptions to Development Standards) – Floor Space Ratio

Application No: DA/2020/0134

Proposal: Demolition of existing warehouse building and construction of a new mixed use development (dwellings and commercial/business tenancies) plus basement parking, landscaping and associated works

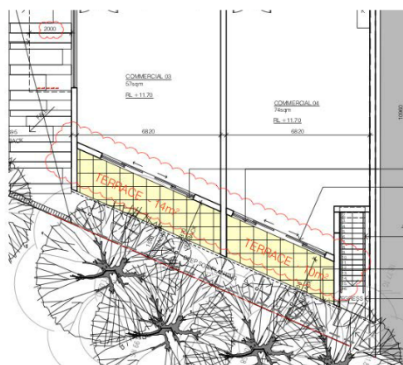
Property: 42 Hutchinson St, ST PETERS NSW 2044

Dear Sir/Madam,

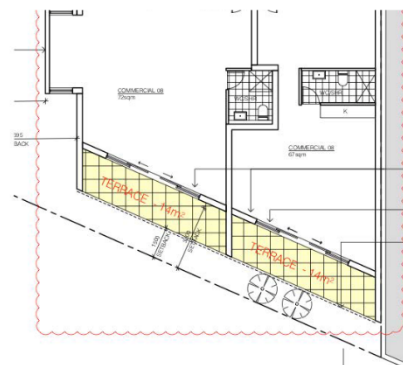
Pursuant to Clause 4.6 (Exceptions to Development Standards) of the Marrickville Local Environmental Plan 2011, please see the below request to vary the maximum Floor Space Ratio provisions as detailed in Clause 4.4 of Marrickville Local Environmental Plan 2011.

The inclusion of the rear commercial terraces into the GFA calculation adds an additional 52sqm resulting in an FSR of 1.36:1, 4% over the 1.3:1 maximum under the MLEP 2011

This proposed non-compliance is minimal in nature, and does not result in any increase in the building bulk. The increase of GFA is based on the interpretation of the proposed privacy screens being considered solid enclosing walls. The proposal would be compliant were these screens removed. In this instance the amenity benefit to the surrounding residential properties provided by these privacy screens outweighs the numerical non-compliance.



Ground Floor Plan Excerpt – additional 24sqm GFA highlighted



First Floor Plan Excerpt – additional 28sqm GFA highlighted

Clause 4.6 – Exceptions to Development Standards

- (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.*

Assessment against this clause is requested, as the proposed variation to the development standard will result in better outcomes for the development whilst having minimal impacts to the surrounds.

- (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.*

Pursuant to this clause, this written request has been prepared to address the relevant objectives. The development standard in question is not 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.*

Compliance with the FSR standard in is unnecessary in this case as outlined below.

- (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 Planning Secretary has been obtained.*

The proposed development will be in the public interest because it is consistent with the objectives as demonstrated below.

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

The proposed development will not create any excessive environmental impacts.

Clause 4.4 – Floor Space Ratio

The objectives of the maximum floor space ratio development standard set by Clause 4.4 are as follows:

- (a) *to establish the maximum floor space ratio,*
- (b) *to control building density and bulk in relation to the site area in order to achieve the desired future character for different areas,*
- (c) *to minimise adverse environmental impacts on adjoining properties and the public domain.*

We believe the variation of this control is justified in this instance on the following grounds:

- (a) This Clause 4.6 seeks a minor numerical non-compliance to the maximum floor space ratio.
- (b) The proposed non-compliance does not result in any increase in building density or bulk as is results from the provision of privacy screens to otherwise compliant terraces.
- (c) The proposed non-compliance does not result in adverse environmental impacts, but rather since it relates to the provision of privacy screens the non-compliance improves the amenity of the neighbouring residential properties.

Conclusion

In conclusion, the proposed numerical non-compliance resulting from the provision of privacy screens to the rear commercial terraces does not impact on the overall bulk or scale of the development, especially from the street. The provision of these privacy screens does provide improved amenity towards the surrounding residential properties. As such the proposed development which satisfies the objectives of the Floor Space Ratio control of the Marrickville LEP 2011. Therefore we would ask that the Inner West council consider this Clause 4.6 Variation request and determine the application favourably.

We trust this request to vary the planning controls meets with your approval, and if you have any queries regarding the application please do not hesitate to contact the undersigned.

Yours Sincerely,



Deborah Allen
GROUPArchitects