




	
DEVELOPMENT ASSESSMENT REPORT	
Application No.	DA/2020/0911
Address	15-21 Barwon Park Road ST PETERS NSW 2044
Proposal	Demolition of existing buildings and construction of 8 townhouses over a common basement.
Date of Lodgement	27 October 2020
Applicant	Mr Tone Wheeler
Owner	Belle & Lily Pty Ltd
Number of Submissions	(3)
Value of works	\$4,375,169.00
Reason for determination at Planning Panel	Clause 4.6 variation exceeds 10%
Main Issues	Floor space ratio, solar access, private open space and waste management
Recommendation	Approval with Conditions
Attachment A	Recommended conditions of consent
Attachment B	Plans of proposed development
Attachment C	Clause 4.6 Exception to Development Standards
	
LOCALITY MAP	
Subject Site	
Notified Area	
Objectors	
Supporters	

1. Executive Summary

This report is an assessment of the application submitted to Council for demolition of existing buildings and construction of eight (8) townhouses over a common basement. at 15-21 Barwon Park Road, St Peters. The application was notified to surrounding properties and three (3) submissions were received in response to the initial notification.

The main issues that have arisen from the application include:

- The proposed development exceeds the maximum floor space ratio permitted on the site;
- The proposed townhouses do not satisfy the minimum solar access requirements;
- The building separation provided between the townhouses is minimal resulting in a poor interface between the dwellings; and
- The waste transfer route to the street for a number of the townhouses requires bins to be transported up and down stairs.

The non-compliances are discussed throughout this report, however are acceptable subject to the imposition of appropriate conditions and therefore the application is recommended for approval. A written request has been submitted in accordance with Clause 4.6 of the *Marrickville Local Environmental Plan (MLEP 2011)* justifying the proposed contravention of the floor space ratio development standard.

2. Proposal

The application seeks consent to demolish the existing structures on the site and undertake the following works:

- Construction of four (4) three-storey attached townhouses fronting Barwon Park Road with the primary private open space located within the front setback;
- Construction of four (4) three-storey attached townhouses fronting Crown Street with the primary private open space located at the rear of the houses;
- Construction of a single level of basement parking accessed from Barwon Park Road containing 12 parking spaces, storage and bathroom/laundry facilities; and
- Associated landscaping works.

3. Site Description

The subject site is located on the western side of Barwon Park Road, between Princes Highway and Campbell Street, St Peters. The site has a total area of 758.2sqm.

The site has a frontage to Barwon Park Road of 26.06 metres and a secondary frontage of approximately 23.975 metres to Crown Street.

The site supports a single storey brick commercial building. The surrounding development includes a mixture of attached dwellings, residential buildings, industrial buildings, a Council Depot and Sydney Park.

The subject site is zoned R1 – General Residential under *MLEP 2011*. The subject site is not listed as a heritage item or within a conservation area.

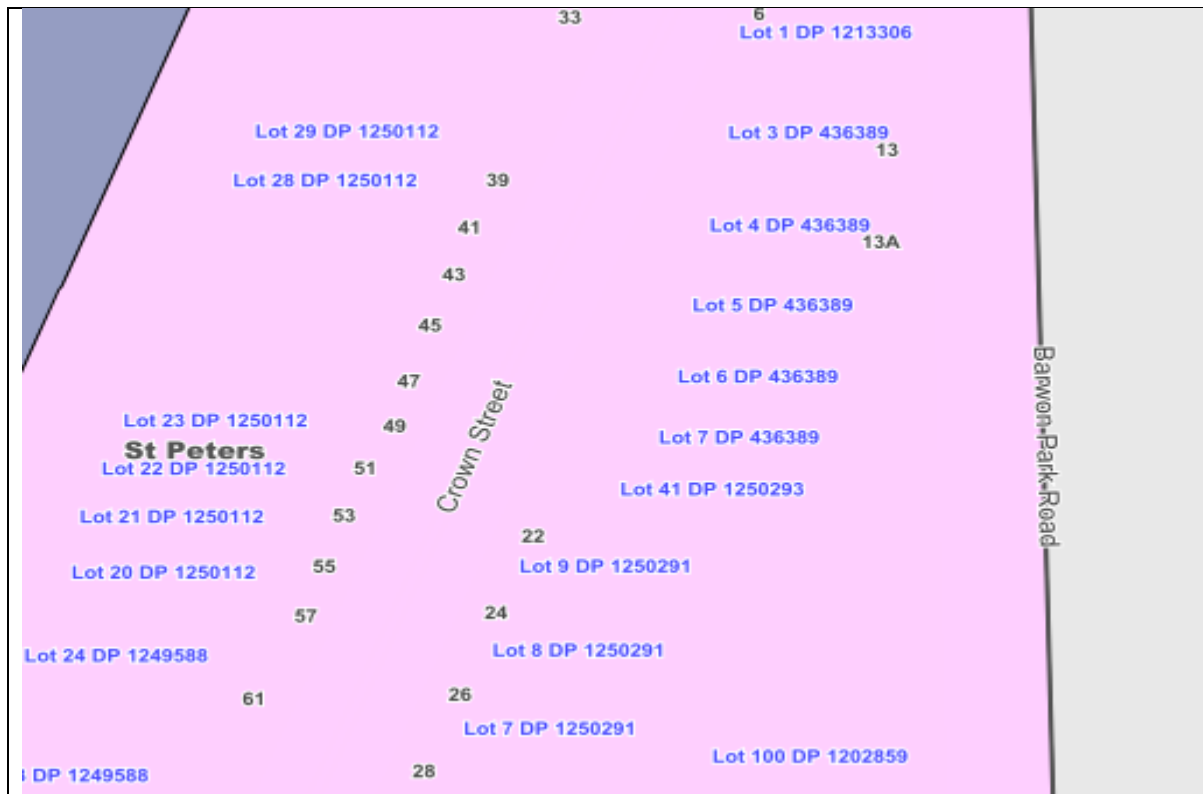


Image 1: Zoning Map

4. Background

4(a) Site history

The following application outlines the relevant development history of the subject site:

Application	Proposal	Decision & Date
DA201800564	To demolish existing improvements and construct 5 x 3 storey dwellings comprising multi-dwelling housing with a frontage to Crown Street and a 4 storey residential flat building fronting Barwon Park Road with basement parking	Approved – 10 March 2020 (Land and Environment Court).

Having regard to the previously approved development on the site, it is noted that the form, scale and character of the four (4) townhouses fronting Crown Street are generally retained in the subject application whilst the approved residential flat building has been replaced with four (4) townhouses.

4(b) Application history

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

Date	Discussion / Letter / Additional Information
18/02/2021 01/04/2021	Request for additional information issued to applicant (detailed below)
19/03/2021 06/04/2021	Additional information submitted to Council (detailed below)

A request for additional information was issued to the applicant on the 18 February 2021 which included the following:

- Concern was raised regarding the overshadowing impact to 22 Crown Street and requested that additional solar access be provided to the rear of the site;
- Concern was raised regarding the overshadowing impact to the rear open space of the ground floor unit at 23-29 Barwon Park Road;
- Required the basement laundry and bathroom areas be included in the gross floor area (GFA) calculations and the Clause 4.6 Variation Request be appropriately amended;
- Concern was raised that a number of the dwellings do not receive the minimum two (2) hours of solar access required to glazed surfaces serving living areas and requested 2-D scale drawings be submitted demonstrating compliance. In addition, concern was raised that the solar access to townhouses TH05-07 will be provided through heavily louvred windows;
- Concern was raised regarding the interface of the private open space of the Crown Street dwellings and the rear walls of the Barwon Park Road dwellings;
- Concern was raised regarding the amenity of Bed 3 within TH08 due to the constrained head-height and requested that the room be amended to be a study area/storage;
- Concern was raised that the bins will be required to be transported up and down stairs for collection;
- Concern was raised that the first-floor laundry of TH05 is not of an appropriate width for an adaptable unit;
- Requested an amended Acoustic Report be submitted with clear recommendations and measures for minimising acoustic impacts; and
- Requested that details of the proposed street numbers, letter boxes and clothes drying facilities be provided.

Amended plans were submitted to Council on 19 March 2021 which included the following:

- Amended shadow diagrams which detailed that solar access would be provided to the private open space of 22 Crown Street between 10.00am and 12.00pm in mid-winter and that no additional overshadowing would be cast on the rear open space of the ground floor unit at 23-29 Barwon Park Road;
- Included the basement laundry and bathroom areas in the GFA calculations and reduced the area of the Barwon Park Road townhouses so as not to result in any additional breach of the floor space ratio development standard;
- Replaced the louvred windows of TH05-07 with skylights and a small service courtyard and reduced the size of the front first floor balconies to provide additional solar access;
- Amended Bed 3 of TH08 to be a study;
- Amended the bin storage area of the Barwon Park Road to be at ground level;
- Amended TH06 & TH07 to be adaptable units rather than TH05;
- Provided an acceptable Acoustic Report; and
- Included appropriate details of the street numbers, letter boxes & clothes drying facilities.

It is generally considered that the amended plans satisfied the concerns raised with the exception of the solar access, interface of the private open space and waste transfer route. Further discussion is undertaken in Part 5(d) of this report regarding these matters.

Concern was raised on 1 April 2021 regarding potential contamination of the site and the conclusions of the Detailed Site Investigation. An amended Detailed Site Investigation was submitted to Council on 6 April 2021 which demonstrated that the site could be made suitable for development, subject to the imposition of appropriate conditions.

5. Assessment

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

5(a) Environmental Planning Instruments

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

- *State Environmental Planning Policy No. 55—Remediation of Land*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy (Infrastructure) 2007 (SEPP Infrastructure 2007)*
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*
- *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*
- *Marrickville Local Environmental Plan (MLEP) 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. 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 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) has been provided to address the management of contaminated groundwater onsite and the treatment and/or disposal of any contaminated soils and contamination issues prior to determination. The contamination documents have been reviewed and found that the site can be made suitable for the proposed use. 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 (Building Sustainability Index: BASIX) 2004*

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

5(a)(iii) *State Environmental Planning Policy (Infrastructure) 2007 (SEPP Infrastructure 2007)*

Excavation in or immediately adjacent to corridors (Clause 103)

In accordance with Clause 103 of (*SEPP Infrastructure 2007*), the application was referred to Transport for New South Wales (TfNSW) as the development involves the penetration of ground on land that is in the road corridor of the M4-M5 Link. TfNSW raised no objection to the proposed development subject to the imposition appropriate conditions which have been included in the recommendation.

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

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

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

Vegetation SEPP concerns the protection/removal of vegetation identified under the SEPP and gives effect to the local tree preservation provisions of Council's DCP.

The application seeks the removal of one (1) tree from the site. Standard conditions regarding the removal of the tree and protection of the surrounding street trees have been included in the recommendation.

5(a)(vi) *Marrickville Local Environmental Plan (MLEP) 2011*

The application was assessed against the following relevant clauses of the *Marrickville Local Environmental Plan 2011*:

- Clause 2.3 - Zone objectives and Land Use Table
- Clause 2.7 - Demolition
- Clause 4.3 - Height of buildings
- Clause 4.4 - Floor space ratio
- Clause 4.6 - Exceptions to development standards
- Clause 5.10 - Heritage Conservation
- Clause 6.1 - Acid sulfate soils
- Clause 6.5 - Development in areas subject to aircraft noise

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

Standard	Proposal	non compliance	Complies
Height of Building Maximum permissible: 9.5m	9.5m	N/A	Yes
Floor Space Ratio Maximum permissible: 0.85:1 or 644.5sqm	1.34:1 or 1,017.4sqm	372.9sqm or 57.8%	No – See Cl4.6 discussion below

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

The site is zoned R1 – General Residential under the *MLEP 2011*. The *MLEP 2011* defines the development as “*multi dwelling housing*”.

The development is permitted with consent within the zone. The development is consistent with the objectives of the R1 zone.

(ii) Clause – 4.6 Exceptions to Development Standards

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

- Clause 4.4 - Floor space ratio

The applicant seeks a variation to the floor space ratio development standard under Clause 4.4 of *MLEP 2011* by 57.8% (372.9sqm).

Clause 4.6 allows the consent authority 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 *MLEP 2011* below.

A written request has been submitted to Council in accordance with Clause 4.6(3) of *MLEP 2011* justifying the proposed contravention of the development standard which is summarised as follows:

- The proposed development is consistent with the *MLEP 2011* objectives for floor space ratio;
- The proposed development is consistent with the objectives of the R1 zone;
- The development has been specifically tailored to respond to the unique characteristics of the site and surrounds. The proposed variation allows for a building that achieves compatibility with the streetscape of both Crown Street and Barwon Park Road;
- The proposed variation to the floor space ratio control will not result in any unreasonable amenity impacts to the surrounding properties in terms of overshadowing or loss of privacy, loss of views, acoustic impacts or visual impacts;
- The proposed development complies with the height of buildings development standard. The scale of the building is therefore appropriate notwithstanding the proposed variation to the floor space ratio standard;
- The development can be adequately serviced by utilities and existing and planned infrastructure;
- The development is consistent with the emerging character of the locality having regard to the size and scale of the adjoining buildings on both Crown Street and Barwon Park Road;
- Council has applied considerable flexibility when applying the FSR standards previously; and
- The proposed variation to the floor space ratio standard does not result in any adverse heritage impacts.

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

It is considered the development is in the public interest because it is consistent with the objectives of the R1 zone, in accordance with Clause 4.6(4)(a)(ii) of *MLEP 2011* for the following reasons:

- The proposed development will provide for the housing needs of the community;

- The proposed development allows for a variety of housing types and densities within the area; and
- The proposed development will not impede other land uses that provide facilities or services to meet the day to day needs of residents.

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 *MLEP 2011* for the following reasons:

- The proposed development is of a density and scale that is consistent with the existing development in the area and the desired future character of the area;
- The proposed development will not result in any adverse environmental impacts on the adjoining properties or public domain, including solar access, visual and acoustic privacy, view loss or visual bulk and scale.

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 Marrickville LEP. For the reasons outlined above, there are sufficient planning grounds to justify the departure from floor space ratio and it is recommended the Clause 4.6 exception be granted.

(iii) Clause 5.10 – Heritage Conservation

The subject site is not identified as a heritage item, located within a heritage conservation area or within close proximity of a heritage item.

(iv) Clause 6.1 – Acid sulfate soils

The subject site is identified as containing Class 2 and Class 5 acid sulfate soils. A Preliminary Acid Sulfate Soils Assessment was submitted with the application. This assessment was referred to Council's Health Officer who raised no objection to the proposed development, subject to the imposition of appropriate conditions regarding the removal of soils from the site.

(v) Clause 6.5 – Development in areas subject to aircraft noise

The site is located within the ANEF 20-25 contour. An Acoustic Report was submitted with the application. This report was referred to Council's Health Officer who raised no objection to the proposed development, subject to the imposition of appropriate conditions regarding the noise attenuation of the development in accordance with the relevant Australian Standards.

5(b) Draft Environmental Planning Instruments

Draft Inner West Local Environmental Plan 2020 (Draft 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 Environmental Planning and Assessment Act 1979*.

The amended provisions contained in the Draft IWLEP 2020 are not especially relevant to the assessment of the application. Accordingly, the development is considered acceptable having regard to the provisions of the Draft IWLEP 2020.

5(c) Development Control Plans

The application has been assessed and the following provides a summary of the relevant provisions of Marrickville Development Control Plan 2011.

MDCP 2011 Part of MDCP 2011	Compliance
Part 2.1 – Urban Design	Yes – see discussion
Part 2.3 – Site and Context Analysis	Yes
Part 2.5 – Equity of Access and Mobility	Yes – see discussion
Part 2.6 – Acoustic and Visual Privacy	Yes – see discussion
Part 2.7 – Solar Access and Overshadowing	No, but acceptable – see discussion
Part 2.9 – Community Safety	Yes – see discussion
Part 2.10 – Parking	Yes – see discussion
Part 2.11 – Fencing	Acceptable – see discussion
Part 2.16 – Energy Efficiency	Yes
Part 2.17 – Water Sensitive Urban Design	Yes
Part 2.18 – Landscaping and Open Space	Acceptable – see discussion
Part 2.21 – Site Facilities and Waste Management	Acceptable – see discussion
Part 2.24 – Contaminated Land	Yes
Part 2.25 – Stormwater Management	Yes
Part 4.2 – Multi Dwelling Housing and Residential Flat Buildings	Acceptable – see discussion
Part 9 – Strategic Context	Acceptable – see discussion

The following provides discussion of the relevant issues:

(i) Part 2.1 - Urban Design

It is generally considered that the proposed achieves good urban design and satisfies the 12 urban design principles outlined in Part 2.1 of MDCP 2011 having appropriately considered and responded to the character, scale, massing, siting, materials, colours and detailing of the surrounding area. The application was referred to Council's Urban Design Advisor who raised no objection to the development, subject to minor internal amendments to ensure a higher level of amenity for future residents. These amendments were undertaken during the assessment process.

(ii) Part 2.5 – Equity of Access and Mobility

Consistent with the objectives of Part 2.5 of MDCP 2011, the proposal provides equitable access, increasing the supply of adaptable housing and provides adequate supply of car parking facilities for use by people with a disability.

In accordance with Part 2.5.10 of MDCP 2011, one (1) adaptable unit is required to be provided per five (5) dwellings (or part thereof). Two (2) adaptable units have been provided.

In accordance with Part 2.5.10 of MDCP 2011, one (1) accessible car parking space is required to be provided per adaptable unit. The basement carpark is capable of providing two (2) accessible parking spaces where required.

(iii) Part 2.6 – Acoustic and Visual Privacy*Acoustic Privacy*

The supplied Acoustic Report demonstrates that subject to the adoption of the recommendations, the development will ensure adequate internal acoustic privacy of future residents, specifically in relation to aircraft noise. Council's Environmental Health Officer has raised no objections to the proposal in relation to acoustic privacy subject to the imposition of appropriate conditions.

Visual Privacy

No side facing windows or openings are proposed as part of the development. All openings and areas of private open space have been orientated towards the front and rear of the site. It is considered that all openings fronting Crown Street and Barwon Park Road will not result in any unreasonable privacy impacts to the surrounding dwellings.

All internal facing windows have been offset from each other and provided with metal louvres so as to retain the privacy for future occupants of the dwellings. As such, it is considered that proposed development satisfies the controls and objectives relating to privacy contained in Part 2.6 of MDCP 2011.

(iv) Part 2.7 – Solar Access and Overshadowing*Neighbouring Sites*

As a result of the proposed development, some additional overshadowing will be experienced by 22 Crown Street in mid-winter. Shadow diagrams were submitted which demonstrate the rear private open space of the property will continue to receive at least two (2) hours of direct solar access at mid-winter. It is noted that the solar access to the property will be substantially improved in September/December.

Subject Site

Part 2.7.5.2 of MDCP 2011 requires at least 65% of dwellings within multi dwelling housing developments to receive at least two (2) hours of direct solar access over a minimum of 50% of the glazed surface of living area windows between 9.00am and 3.00pm on 21 June. Only townhouses TH05-07 will receive the required solar access, being 37.5% of the townhouses.

Although not numerically compliant, it is considered that townhouses TH02-04 will also receive sufficient solar access. The ground floor living area windows will receive approximately one (1) hour of direct solar access in mid-winter, whilst the rear private open space and first floor balconies will receive approximately two (2) hours of direct solar access. It is noted that the orientation of the site and angle of the property boundaries do make achieving numerical compliance for all dwellings difficult and the solar access will be substantially improved in September/December.

It is considered that greater than 65% of the dwellings satisfy the objectives of Part 2.7 of MDCP 2011 and are afforded with sufficient sunlight to principal living areas and private open space to provide thermal comfort, space for clothes drying and the ability to use a solar hot water systems.

(v) Part 2.9 – Community Safety

The development demonstrates the principles of Crime Prevention Through Environmental Design (CPTED) and that the development has been designed generally in accordance with the safety provisions of Part 2.9 of MDCP 2011.

(vi) Part 2.10 – Parking

In accordance with Part 2.10 of MDCP 2011, one (1) parking space is required per dwelling house. 12 parking spaces are proposed with at least one (1) space allocated to each dwelling.

Part 2.10.15 of MDCP 2011 requires motorcycle parking be provided at a rate of 5% of the car parking requirement. It is considered that the parking/garage area afforded to each dwelling is capable of accommodating a motorcycle space is required.

(vii) Part 2.11 – Fencing

The front fences of the Crown Street townhouses range in height from 1.3m – 1.6m to allow for the slope of the land and are of an appropriate design for the locality.

The front fences of the Barwon Park Road townhouses range in height from 1.8m – 2.1m to allow for the slope of the land which exceeds the maximum front fence permitted in Part 2.11 of MDCP 2011. Given the front setback of these townhouses is the primary area of private open space, the additional fence height is considered appropriate to allow sufficient privacy for the future occupants, whilst the top half of the fence has been designed to be an open style so as to allow for passive surveillance of the street. As such, the proposal fence height is considered acceptable.

(viii) Part 2.18 – Landscaping and Open Spaces*Landscaped area*

Part 2.18.11.7 of MDCP 2011 provides the following controls for multi-dwelling housing development:

- a. *The entire front setback must be of a pervious landscape with the exception of driveways and pathways.*
- b. *In addition to the front setback, a minimum 45% of the total site area must be a landscaped area at ground level.*

With the exception of the front decks, the entire front setbacks of the townhouses are to be pervious landscaping which is generally consistent with the front setbacks contained within the surrounding area.

141.8sqm, or 18.7% of the site is landscaped at the ground level. Despite the non-compliance, it is considered that the landscaped area is generally consistent with the landscaping found on surrounding sites and complements the character of the development. The landscaping has been designed to provide the dwellings with sufficient outdoor recreation space and has been integrated within the building design and as such, is considered to satisfy the objectives of Part 2.18 of MDCP 2011.

Private Open Space

Part 2.18.11.7 of MDCP 2011 provides the following controls for multi-dwelling housing development:

- a. *Each unit must have private open at ground level with minimum dimensions of 4 metres by 4 metres.*
- b. *Private open space must be directly accessible from a principal living area at ground level.*
- c. *Maximum gradient of private open space must be 1 in 10.*

All townhouses with the exception of TH08 are provided with an area of private open space which satisfies the above. Given the location of TH08, which is above the basement entry, it is not considered practical for private open space to be provided at ground level. A first floor balcony measuring 17sqm has been provided for the dwelling which is directly accessible from the principle living area.

Concern was raised regarding the interface of the rear private open space of the Crown Street townhouses with the blank rear two-storey walls of the Barwon Park Road townhouses. No change was made to increase the setback between the dwellings or provide visual relief for the private open space. As such, a condition of consent has been recommended which requires amended plans be submitted which provide further articulation to the rear walls of the Barwon Park road townhouses in order to provide some visual relief for the private open space.

Given the above, it is considered that the proposed development is capable of satisfying the objectives of Part 2.18 of MDCP 2011 subject to the imposition of appropriate conditions.

(ix) Part 2.21 – Site Facilities and Waste Management

It is generally considered that the proposed development provides sufficient waste management and clothes drying facilities and mailboxes in accordance with Part 2.21 of MDCP 2011.

Concern was however raised that the bins would be required to be carried up and down stairs to the waste collection point. The location of the bins for the Barwon Park Road properties was appropriately amended to be at ground level. A condition of consent has been recommended which requires the location of the bins on Crown Street be amended to be at ground level.

(x) Part 4.2 – Multi Dwelling and Residential Flat Buildings

Site Coverage

Part 4.2.4.1 of MDCP 2011 permits a maximum site coverage of 40% for the proposed development. The site coverage of the proposed development is approximately 70% of the site, however is considered to satisfy the objectives of the control in that it is consistent with the site coverage of the surrounding area and allows for the adequate provision of stormwater, deep soil planting, landscaping, footpaths, driveways and outdoor recreation areas.

Setbacks

Part 4.2.4.3 of MDCP 2011 contains controls for building setbacks for multi dwelling housing. For buildings above two-storeys, front setbacks are to be considered on merit. It is considered that the proposed front setbacks are generally consistent with the surrounding area, results in a high-quality design and is considered acceptable.

For side setbacks, a minimum 4 metres is required to be provided. Nonetheless, C14 allows variations to building setbacks to be permitted where:

- a. *There is no adverse impact of any proposed boundary wall on neighbours;*
- b. *Privacy between neighbouring dwellings and their open space improves; and*
- c. *The proposed setback matches an existing setback of a neighbouring building, leading to an improved streetscape and visual relationship.*

The proposed nil side boundary setbacks will not result in any adverse impacts to the neighbouring properties, will retain their acoustic and visual privacy, is consistent with the neighbouring development at 23-29 Barwon Park Road which has a terrace/ "street wall" typology and is therefore considered acceptable.

It is generally considered that the proposal responds to the predominant cues and lines of existing buildings within the immediate area, achieves a high-quality urban design outcome which contributes positively to the streetscape and maintains adequate neighbouring amenity. As such, the proposed development satisfies the controls and objectives of Part 4.2 of MDCP 2011.

(xi) Part 9.26 – Strategic Context

The proposed development is considered to compliment the desired future character of the Barwon Park Precinct in that it demonstrates good urban design and environmental sustainability, provides suitable amenity for future occupants and protects the residential amenity of adjoining and surrounding properties.

5(e) **The Likely Impacts**

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

5(f) **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(g) **Any submissions**

The application was notified in accordance with Council's Notification Policy for a period of 21 days to surrounding properties. Three (3) submissions were received in response to the initial notification.

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

- The FSR exceeds the maximum FSR permitted on the site – see Section 5(a)(v)
- Insufficient parking is provided on the site – see Section 5(d)
- The bulk, scale and massing of the development is inconsistent with the surrounding area – see Section 5(d)

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

Issue: The excavation of the proposed basement in close proximity to the M4-M5 Link may cause issues to the surrounding properties.

Comment: The proposed excavation was supported by a Geotechnical report which has been referred to Council's Engineers and TfNSW who raised no objection, subject to the imposition of appropriate conditions.

Issue: The development does not provide an appropriate mix of dwelling types.

Comment: The proposed development is considered to provide suitable dwelling types that are of an appropriate size for the subject site and will meet the future needs of the community.

Issue: The construction will result in excessive dust and noise.

Comment: Council's standard conditions have been included in the recommendation regarding the management of construction dust and noise in order to minimise impacts on the surrounding properties.

Issue: The information contained within the Statement of Environmental Effects (SEE) is incorrect and misleading.

Comment: It is considered that the information contained within the SEE is generally accurate and allows for an appropriate assessment of the application to be undertaken.

5(h) The Public Interest

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

The proposal is not contrary to the public interest.

6 Referrals

6(a) Internal

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

- Environmental Health
- Urban Design
- Waste Management
- Development Engineer

6(b) External

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

- Transport for New South Wales

7. Section 7.11 Contributions/7.12 Levy

Section 7.11 contributions are payable for the proposal.

The carrying out of the development would result in an increased demand for public amenities and public services within the area. A contribution of \$159,371.37 would 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 *Marrickville Local Environmental Plan 2011* and 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 approval subject to the imposition of appropriate conditions.

9. Recommendation

- A. The applicant has made a written request pursuant to Clause 4.6 to vary Clause 4.4 of the *Marrickville Local Environmental Plan 2011*. After considering the request, and assuming the concurrence of the Secretary, the Panel is satisfied that compliance with the standard is unnecessary in the circumstance of the case and that there are sufficient environmental planning grounds to support the variation. The proposed development will be in the public interest because the exceedance is not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out. **CG**
- B. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, grant consent to Development Application No. DA/2020/0911 for demolition of existing buildings and construction of 8 townhouses over a common basement. at 15-21 Barwon Park Road ST PETERS NSW 2044 subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

CONDITIONS OF CONSENT

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, Revision and Issue No.	Plan Name	Date Issued	Prepared by
001 Rev G	Basement Plan	10/03/2021	Environa Studio
102 Rev G	Level 1 Plan	10/03/2021	Environa Studio
103 Rev G	Level 2 Plan	10/03/2021	Environa Studio
104 Rev G	Level 3 Plan	10/03/2021	Environa Studio
110 Rev G	Roof Plan	10/03/2021	Environa Studio
120 Rev G	Section AA BB	10/03/2021	Environa Studio
121 Rev G	Section CC	10/03/2021	Environa Studio
130 Rev G	Elevation North South	10/03/2021	Environa Studio
131 Rev G	Elevation East West	10/03/2021	Environa Studio
132 Rev G	Elevation Internal	10/03/2021	Environa Studio
132 Rev G	Elevation East West - Mailbox + Intercom	10/03/2021	Environa Studio
210 Rev G	Materials + Finishes Schedule	10/03/2021	Environa Studio
902 Rev G	Demolition Plan	10/03/2021	Environa Studio
974354M_03	BASIX Certificate	08/10/2020	Partners Energy Management

As amended by the conditions of consent.

DESIGN CHANGE

2. Design Change

Prior to the issue of a Construction Certificate, amended plans must be submitted to and approved by Council which provide further articulation to the rear walls of the Barwon Park Road townhouses to provide visual relief to the adjacent areas of private open space.

FEES

3. Security Deposit - Custom

Prior to the commencement of demolition works or prior to the issue of a Construction Certificate, the Certifying Authority must be provided with written evidence that a security deposit and inspection fee has been paid to Council to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of

carrying out the works and as surety for the proper completion of any road, footpath and drainage works required by this consent.

Security Deposit:	\$34,058
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.

4. Section 7.11 (Former Section 94) Contribution

Prior to the issue of a Construction Certificate works written evidence must be provided to the Certifying Authority that a monetary contribution of \$159,371.37 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 7 April 2021.

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

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

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	136,034.54
Community Facilities	17,413.02
Traffic Facilities	2,798.89
Plan Administration	3,124.93
TOTAL	159,371.37

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>

Payment methods:

The required contribution must be paid either *by BPAY (to a maximum of \$500,000); unendorsed bank cheque (from an Australian Bank only); EFTPOS (Debit only); credit card (Note: A 1% credit card transaction fee applies to all credit card transactions; cash (to a maximum of \$10,000)).* It should be noted that personal cheques or bank guarantees cannot be accepted for the payment of these contributions. **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.

GENERAL CONDITIONS

6. Dry-weather Flows

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

7. Rock Anchors

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

8. Noise – Consultant's Recommendations

The recommendations contained in the acoustic report prepared by West and Associates. Pty Ltd, reference 2227/9, dated 18 March 2021 must be implemented, including the following:

a. Section 6.3

The report recommends that the required Rw attenuation are recalculated during the **CC stage** to determine the most accurate attenuation requirements for the finalised plans.

b. Section 8:

To confirm final Rw requirements additional calculations must be carried out during the CC stage once window dimensions have been finalised.

9. 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.

10. Waste Management Plan

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

11. Erosion and Sediment Control

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

12. Standard Street Tree Protection

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

13. Verification of Levels and Location

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

14. Works Outside the Property Boundary

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

15. TfNSW Advisory Comments

The subject property is within the WestConnex M4-M5 Link project boundary and is subject to construction impacts. A property condition survey is offered to all properties within 50 metres of the tunnel alignment and construction sites both before and after construction. In addition, TfNSW advises that the M4-M5 Link Tunnels and Rozelle Interchange tunnel detailed designs are available to view at www.westconnex.com.au/tunnelling. Further information in regard to the WestConnex project can be obtained by contacting the Project Team via email at info@westconnex.com.au; or by phoning 1800 660 248 or by visiting the project website at www.westconnex.com.au.

PRIOR TO ANY DEMOLITION

16. 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.

17. 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.

18. 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.

19. 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.

20. 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.

PRIOR TO CONSTRUCTION CERTIFICATE**21. Driveway Long Section - Dwelling**

The vehicular crossing and driveway ramp to the site shall be designed to satisfy the ground clearance template (Figure C1) from AS/NZS 2890.1-2004 Parking Facilities: Off-street car parking. A long section, along both sides of the proposed vehicular crossing and ramp, drawn at a 1:20 or 1:25 natural scale, shall be submitted to and approved by Council before the issue of a Construction Certificate. The long section shall begin from the centreline of the adjacent road to a minimum of 3 metres into the property. The long section approved by Council shall define the Alignment Levels at the property boundary. The long section shall show both existing surface levels and proposed surface levels with changes.

22. 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 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) demonstrating that the design of the vehicular access, off-street parking facilities and associated vehicle standing areas comply with Australian Standard AS/NZS 2890.1-2004 Parking Facilities: Off-street car parking, Australian Standard AS 2890.2-2018 Parking Facilities: Commercial vehicle facilities, AS/NZS 2890.3-2015 Parking facilities: Bicycle Parking, AS/NZS 2890.6-2009 Parking facilities: Off-street parking for people with disabilities and the following specific requirements:

- a. A minimum of 2200mm headroom must be provided throughout the access and parking facilities. Note that the headroom must be measured at the lowest projection from the ceiling, such as lighting fixtures, and to open garage doors;
- b. The crest of the ramp must be set at 12.03m AHD to protect the basement from flooding;
- c. Headroom at a 'sag' type grade change must be measured in accordance with Figure 5.3 of AS/NZS 2890.1-2004;
- d. Minimum headroom of 2500mm must be provided above any disabled parking space(s);
- e. The layout and minimum dimensions of any standing area comply with clause 2.4 of AS/NZS 2890.1-2004 such that:
 - i. Car spaces adjacent to walls or fences are increased in width by an additional 300mm; End spaces are provided with an additional 1m aisle extension;
 - 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; and
- f. 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;

23. Flood Risk Management Plan

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a Flood Risk Management Plan prepared and certified 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). The Plan must be prepared/amended to make provision for the following:

- a. The plan must be generally in accordance with the recommendations of the Flood Risk Management Plan prepared by ACOR Consultants and dated 1 October 2020;
- b. The entry crest to the basement carpark must be set to 12.03m AHD;
- c. An Engineers Certificate must be submitted stating that the proposed building has been designed to withstand the forces of flood water, debris buoyancy up to the 1 in 100 year level;
- d. Recommendations on all precautions to minimise risk to personal safety of occupants and the risk of property damage for the total development. Such recommendations must be consistent with the approved development. The flood impacts on the site must be assessed for the 100-year ARI and Probable Maximum Flood (PMF) storm events. The precautions must include but not be limited to the following:
 - i. Types of materials to be used to ensure the structural integrity of the building to immersion and impact of velocity and debris;
 - ii. Waterproofing methods, including electrical equipment, wiring, fuel lines or any other service pipes or connections;
 - iii. Flood warning signs/depth indicators for areas that may be inundated;
 - iv. A flood evacuation strategy; and
 - v. On-site response plan to minimise flood damage, demonstrating that adequate storage areas are available for hazardous materials and valuable goods above the flood level.
- e. All works must be designed to comply with the Standard for Construction of Buildings in Flood Hazard Areas in accordance with Section 3.10.3 of the Building Code of Australia. Note that some terms defined in this standard have equivalent meaning to terms used in Council's Development Control Plan as listed below:
 - i. Building Code of Australia;
 - ii. Defined flood level (DFL) 100-year Average Recurrence Interval flood level;
 - iii. Defined flood event (DFE) 100-year Average Recurrence Interval flood; and
 - iv. Flood hazard level (FHL) Flood Planning Level (FPL).

24. Dilapidation Report – Pre-Development – Minor

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.

25. 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. The design must be generally in accordance with the stormwater drainage concept plan on Drawing No. GO170725 C1 to C7 (Rev C) prepared by ACOR Consultants and dated 30/09/20, as amended to comply with the following;
- b. Stormwater runoff from all surface areas within the property must be collected in a system of gutters, pits and pipelines and be discharged together with overflow pipelines from any rainwater tank(s) by gravity directly to Council's piped drainage system via the OSD/OSR tanks;
- c. Comply with Council's Stormwater Drainage Code, Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2018 'Stormwater Drainage' and Council's DCP.
- d. Charged or pump-out stormwater drainage systems are not permitted including for roof drainage other than for the pump-out of subsurface flows and surface flows from the driveway from the basement;
- e. As there is no overland flow/flood path available from the rear and central courtyards to the Barwon Park Road frontage, the design of the sag pit and piped drainage system is to meet the following criteria:
 1. 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.;
 2. The maximum water level over the sag pit shall not be less than 150mm below the floor level or damp course of the building; and
- f. A minimum 150mm step up shall be provided between all external finished surfaces and adjacent internal floor areas except where a reduced step is permitted under Section 3.1.2.3 (b) of the Building Code of Australia for Class 1 buildings;
- g. 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:
 1. Comply with all relevant Australian Standards;
 2. An overflow, flashing light and audible alarm is to be provided to warn of pump failure;
 3. A maintenance regime for the pump system must be provided, including provision for regular maintenance and servicing at least every 6 months;
 4. 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;
 5. Where OSD facilities are required by this consent, the pump system must be discharged to the OSD storage tank;
 6. Subsurface flows must be collected at the point of ingress to the basement i.e. at the basement walls;
 7. The subsurface drainage system must have sufficient capacity to collect and convey all surface flows to the pump out system; and
 8. Inlet pits and drains for subsurface drainage must be designed to minimise potential for pollutants from cars or other sources to enter the subsurface drainage system. e.g.. isolate any subsurface drains at boundary walls, inspection pits with solid covers, etc.
- h. 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;
- i. The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system;

- j. 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);
- k. Stormwater quality improvement devices must be installed such that stormwater flows leaving the site meet the following environmental targets:

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

- l. 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.
- m. 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.

26. 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. 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;
- b. 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;
- c. All components of the basement, including footings, must be located entirely within the property boundary;
- d. No adverse impact on surrounding properties including Council's footpath and road;

- e. The existing subsurface flow regime in the vicinity of the development must not be significantly altered as a result of the development;
- f. Recommendations regarding the method of excavation and construction, vibration emissions and identifying risks to existing structures or those on adjoining or nearby property; and
- g. Provide relevant geotechnical/ subsurface conditions of the site, as determined by a full geotechnical investigation.

27. Public Domain Works – Prior to Construction Certificate

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a public domain works design, prepared by a qualified practising Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) and evidence that the works on the Road Reserve have been approved by Council under Section 138 of the *Roads Act 1993* incorporating the following requirements:

- a. The public domain along all frontages of the site inclusive of footpath paving, kerb and street trees, etc. must be reconstructed and upgraded in accordance with the Street Tree Master plan and the Public Domain Design Guide or scheme;
- b. The construction of heavy duty vehicular crossings to all vehicular access locations and removal of all redundant vehicular crossings to the site;
- c. New half width concrete footpath, grass verge and kerb & 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 determine by the Council Engineer;
- d. 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.
- e. The existing Council kerb inlet pit in Barwon Park Road shall be reconstructed to be 1m clear of the proposed vehicular crossing.

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

28. Dilapidation Report – Pre-Development – Major

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

- a. Full width of Crown Street, including road pavement, stormwater drainage infrastructure, kerb and gutter and footpath for the full frontage of Crown Street;
- b. Half-width of Barwon Park Road adjacent the site, including road pavement, stormwater drainage infrastructure, kerb and gutter and footpath for the full frontage of Barwon Park Road;
- c. Council drainage pipe along the southern boundary between Crown Street and Barwon Park Road including CCTV inspection in accordance with WSA 05-2013 Conduit Inspection Reporting Code of Australia; and
- d. The drainage reserve along the southern Boundary of the site
The dilapidation report is to be prepared by a practising Civil/Structural Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng).

29. Works Adjacent to Council's Stormwater Pipeline

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans prepared 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 demonstrate any footings or excavation to be located or undertaken adjacent to Councils stormwater pipeline address the following requirements:

- a. All footings and excavation must be located outside of the drainage reserve boundaries;
- b. All footings and excavation must be located a minimum of 1000mm from the centreline of the pipeline or 500mm from the outside of the pipeline, whichever is the greater distance from the centreline;
- c. All footings adjacent to Council's stormwater pipe must be taken to a depth 500mm below a line of influence measured at 45 degrees from a point 1m from the invert of the stormwater pipe in the direction of the footing unless the footings are to be placed on competent bedrock; and
- d. If permanent excavation is proposed beneath the overtop of the pipeline, suitable means to protect the excavation and proposed retaining structures from seepage or other water flow from the pipeline and surrounding subsoil must be provided.

Nothing in this condition prevents a Construction Certificate from being issued for demolition and site investigation purposes contemplated by this condition below.

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 the 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. 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. The route from the bin storage areas for each dwelling, on both Barwon Park Road AND Crown Street, is to be free of any steps.

33. 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.

34. 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.

35. 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.

36. Enclosure of Fire Hydrant

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

37. Sydney Water – Tap In

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

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

38. TfNSW Infrastructure

A specialist engineering assessment, including 3-dimensional finite element (FE) modelling analysis undertaken by an appropriately qualified and experienced geotechnical / tunnelling engineer that identifies the implications of the development on the TfNSW infrastructure shall be submitted to TfNSW for review and approval prior to issue of the construction certificate. The assessment shall demonstrate that site's excavation shall not result in any adverse effects on the strength capacity, durability, design life and water control system performance of TfNSW infrastructure. Any penetration of ground to a depth of at least 3m below ground level (existing) and/or greater than 50Kpa loading at founding level shall have additional analysis to ensure structural integrity of the transport asset. Please send the assessment to info@westconnex.com.au.

39. Construction Traffic Management Plan

A Construction Traffic Management Plan (CTMP) detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control shall be submitted to Council for approval prior to the issue of a construction certificate.

40. Road Occupancy Licence

A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on the surrounding state road network during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>

DURING DEMOLITION AND CONSTRUCTION**41. 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.

42. 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.

43. 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).

44. Construction Hours – Class 1 and 10

Unless otherwise approved by Council, excavation, demolition, construction or subdivision work are only permitted between the hours of 7:00am to 5:00pm, Mondays to Saturdays (inclusive) with no works permitted on, Sundays or Public Holidays.

45. 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**46. 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.

47. Heavy Duty Vehicle Crossing

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

48. Flood Risk Management Plan - Certification

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with Certification by 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 all aspects of

the flood risk management plan have been implemented in accordance with the approved design, conditions of this consent and relevant Australian Standards.

49. Public Domain Works

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with written evidence from Council that the following works on the Road Reserve have been completed in accordance with the requirements of the approval under Section 138 of the *Roads Act 1993* including:

- a. Heavy duty concrete vehicle crossing(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. Where the kerb in the vicinity of the redundant crossing is predominately stone (as determined by Council's Engineer) the replacement kerb must also be in stone;
- c. The existing concrete footpath across the frontage of the site must be reconstructed
- d. Direct connection of the site stormwater to Council's drainage system; and
- e. 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”.

50. Protect Sandstone Kerb

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

51. Dilapidation Report – Post-Development

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

52. Stormwater Drainage and Road Works – Certification

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

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

53. Works as Executed – Site Stormwater Drainage System

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with Certification by a 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.

54. 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 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.

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

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

- a. Restrictions on the Use of Land related to on Site Stormwater Detention System or stormwater quality improvement devices;
- b. Positive Covenant related to stormwater quality improvement devices; and

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

56. 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.

57. 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.

58. 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.

59. 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.

60. 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*.

ON-GOING

61. Flood Risk Management Plan

The Flood Risk Management Plan approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times.

62. Operation and Management Plan

The Operation and Management Plan for the 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.

63. 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 serviced by Council.

64. 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.

ADVISORY NOTES

Public Domain and Vehicular Crossings

The vehicular crossing and/or footpath works are required to be constructed by your contractor. You or your contractor must complete an application for *Design of Vehicle Crossing and Public Domain Works – Step 1* form and *Construction of Vehicle Crossing and Public Domain Works – Step 2* form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, before commencement of works.

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

Any damage caused during construction to Council assets on the road reserve or on Council or Crown land must be repaired at no cost to Council.

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

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

Electrical Substations

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

Permits

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

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

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.

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.

Notice to Council to deliver Residential Bins

Council should be notified of bin requirements three weeks 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.

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.

Microbial Control – Certification

All cooling towers and warm water systems are to be operated and maintained in accordance with the following:

- a. *Public Health Act 2010*;
- b. *Public Health Regulation 2012*; and
- c. Australian Standard AS/NZS 3666 – Air Handling and Water Systems of Buildings – Microbial Control, Parts 1, 2 & 3.

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.

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.

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.

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.

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.

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.

Useful Contacts

BASIX Information	1300 650 908 weekdays 2:00pm - 5:00pm www.basix.nsw.gov.au
Department of Fair Trading	13 32 20 www.fairtrading.nsw.gov.au Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Prior to You Dig	1100 www.dialprior toyoudig.com.au
Landcom	9841 8660 To purchase copies of Volume One of "Soils and Construction"
Long Service Payments Corporation	131441 www.lspc.nsw.gov.au
NSW Food Authority	1300 552 406 www.foodnotify.nsw.gov.au
NSW Government	www.nsw.gov.au/fibro www.diysafe.nsw.gov.au Information on asbestos and safe work practices.
NSW Office of Environment and Heritage	131 555 www.environment.nsw.gov.au
Sydney Water	13 20 92 www.sydneywater.com.au
Waste Service - SITA Environmental Solutions	1300 651 116 www.wasteservice.nsw.gov.au
Water Efficiency Labelling and Standards (WELS)	www.waterrating.gov.au
WorkCover Authority of NSW	13 10 50 www.workcover.nsw.gov.au Enquiries relating to work safety and asbestos removal and disposal.

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.

Attachment B – Plans of proposed development

BARWON PARK + CROWN ST TOWNHOUSES

Title: MULTI-DWELLING HOUSING
Address: 15-21 BARWON PARK RD, ST PETERS
Client: BELLE & LILY PTY LTD
Project: 938.2
Stage: DEVELOPMENT APPLICATION
Date: 10-Mar-21



224 illey street - surry hills - nsw australia 2010
t +61 2 9211 0000 enviroinstudio.com.au

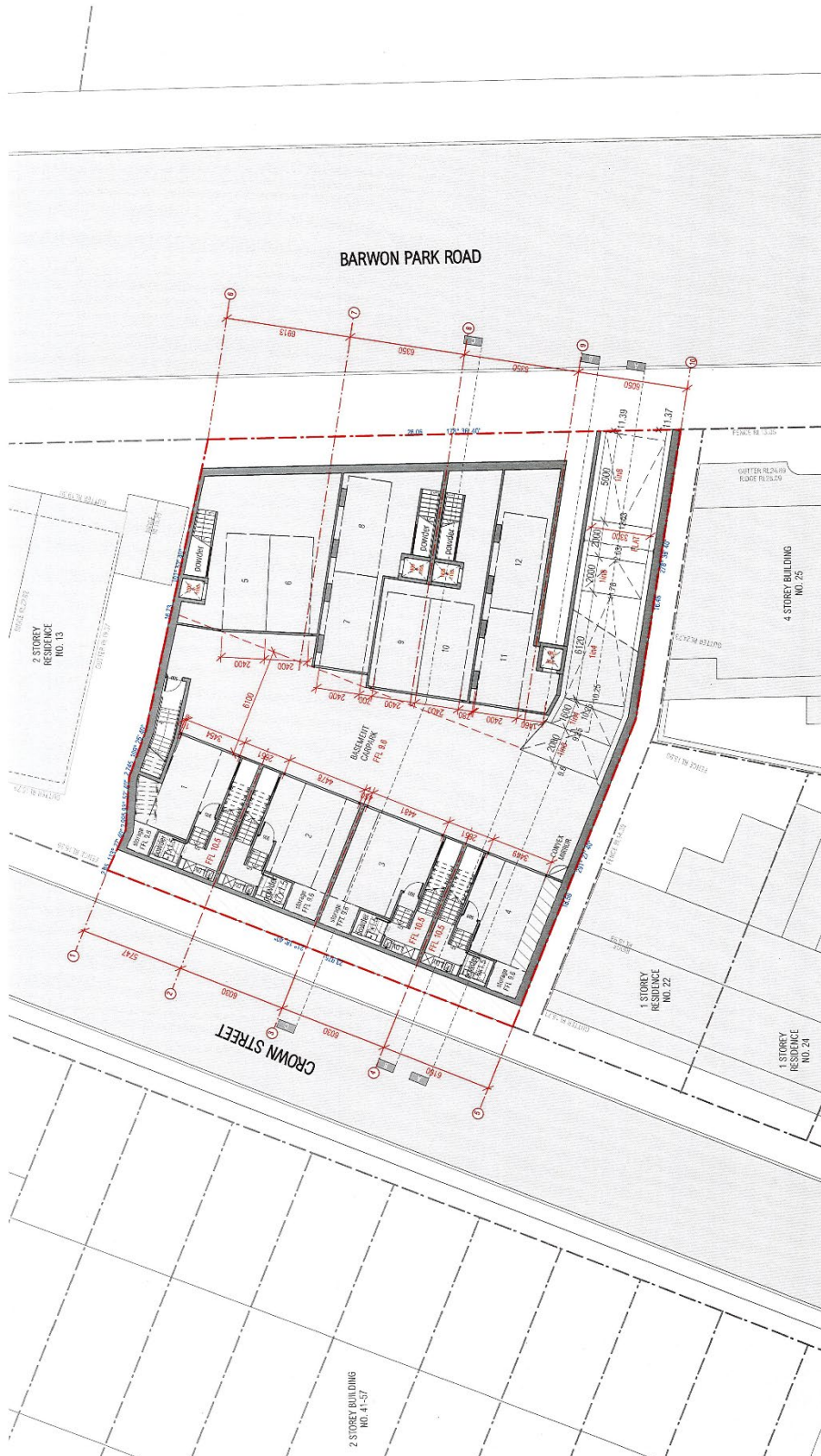
environa studio
environmental architecture

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notes	enviro studio 224 ring st surry hills 2010 t 02 9211 0000 w: www.envirostudio.com.au architects registration number 6293	project MULTI-RESIDENTIAL HOUSING (TOWNHOUSE)	location 15-21 BARNOW PARK RD ST PETERS	drawing PHOTOMONTAGE	stage DA	project no. 088.2	step no. 001
notes	enviro studio 224 ring st surry hills 2010 t 02 9211 0000 w: www.envirostudio.com.au architects registration number 6293	project MULTI-RESIDENTIAL HOUSING (TOWNHOUSE)	location 15-21 BARNOW PARK RD ST PETERS	drawing PHOTOMONTAGE	stage DA	project no. 088.2	step no. 001

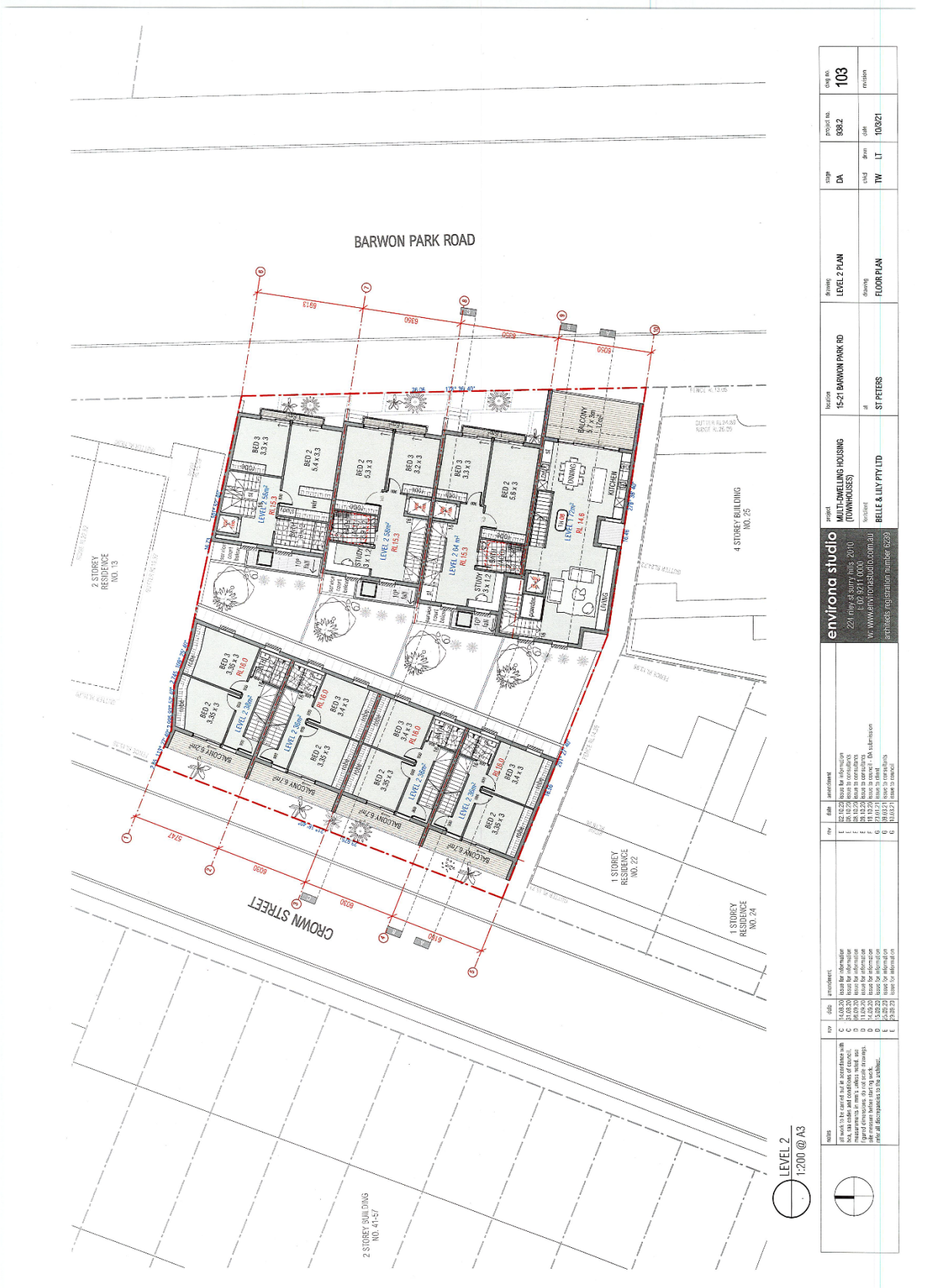
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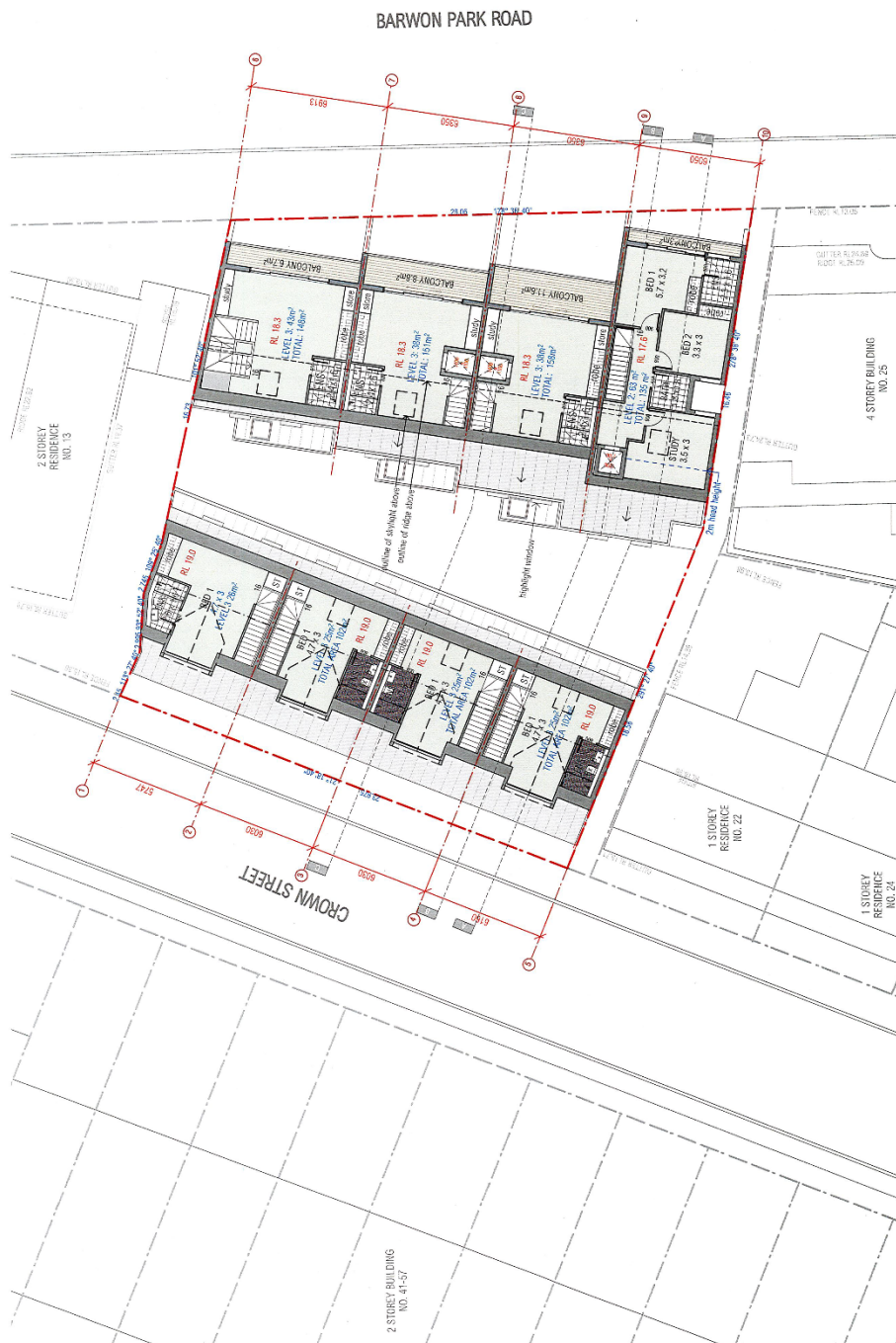


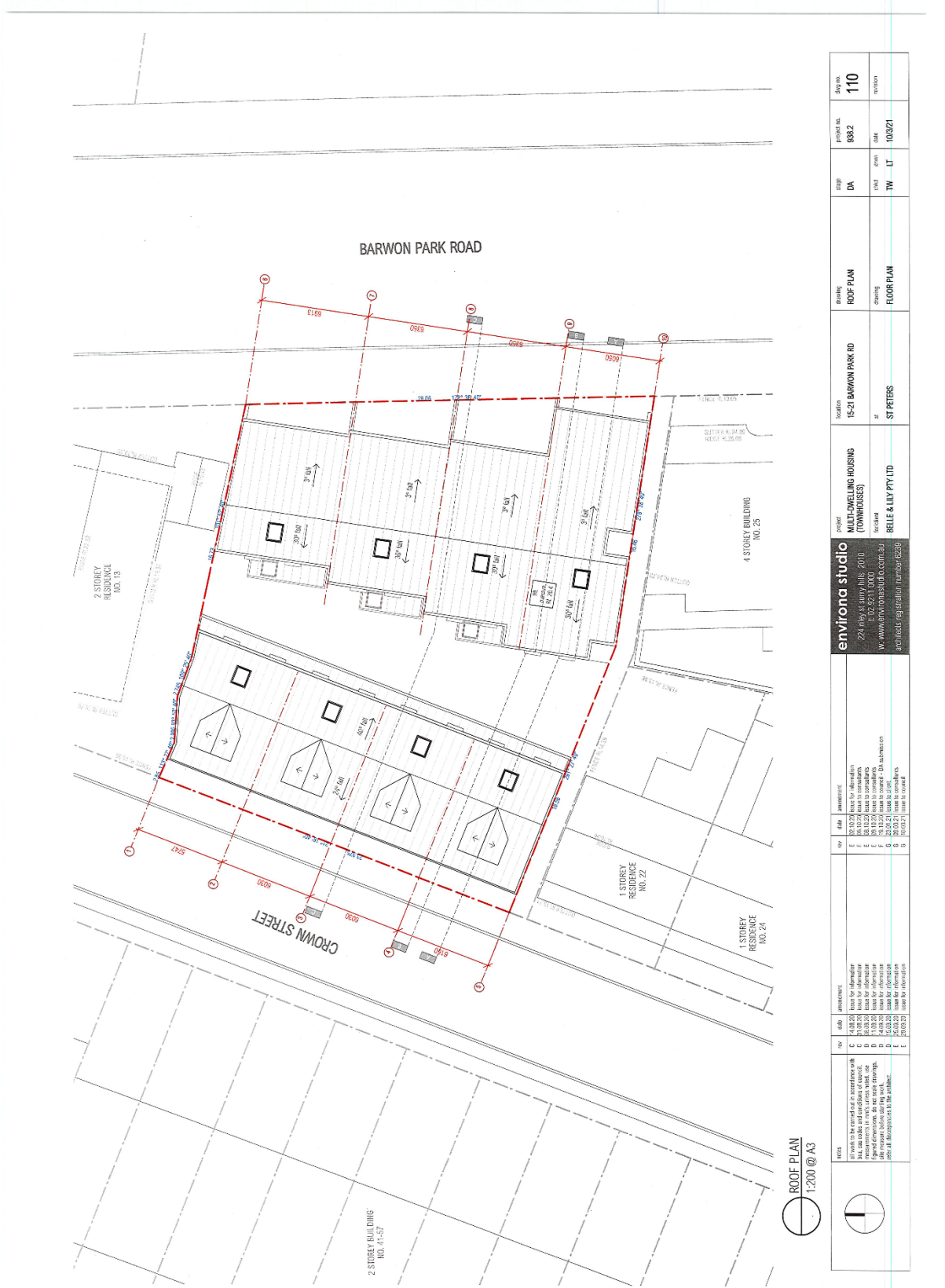
Scale	001
Project No.	9882
Stage	DA
Drawing	BASEMENT PLAN
Project Name	15-21 BARWON PARK RD
Client	ST PETERS
Architect	enviro studio
Project Name	MULTI-UNIT HOUSING (TOWNHOUSES)
Project Address	224-226 ST PETERS RD, ST PETERS
Project Contact	W. WWW.ENVIROSTUDIO.COM.AU
Project Description	Architect's registration number: 6393
Project Status	1:200 @ A3



	<table><tr><th>costs</th><th>no.</th><th>date</th><th>approved</th><th>rev.</th><th>date</th><th>approved</th><th>project</th><th>location</th><th>drawing</th><th>stage</th><th>project no.</th><th>draw no.</th></tr><tr><td>1. and 2. to be used for a residential use the use is not in accordance with the requirements, a new study must be prepared.</td><td>C</td><td>11.03.24</td><td>use is not in accordance</td><td>E</td><td>20.02.25</td><td>use is not in accordance</td><td rowspan="5">enviro studio 224 High Street, 11th, 210 Tel: 02 921 1005 W: WWW.ENVIROSTUDIO.COM.AU</td><td rowspan="5">15-21 BARNON PARK RD</td><td rowspan="5">LEVEL PLAN</td><td rowspan="5">DA</td><td rowspan="5">3882</td><td rowspan="5">102</td></tr><tr><td>3. and 4. to be used for a residential use the use is not in accordance with the requirements, a new study must be prepared.</td><td>D</td><td>04.03.24</td><td>use is not in accordance</td><td>F</td><td>20.02.25</td><td>use is not in accordance</td></tr><tr><td>5. and 6. to be used for a residential use the use is not in accordance with the requirements, a new study must be prepared.</td><td>D</td><td>11.03.24</td><td>use is not in accordance</td><td>F</td><td>20.02.25</td><td>use is not in accordance</td></tr><tr><td>7. and 8. to be used for a residential use the use is not in accordance with the requirements, a new study must be prepared.</td><td>D</td><td>11.03.24</td><td>use is not in accordance</td><td>F</td><td>20.02.25</td><td>use is not in accordance</td></tr><tr><td>9. and 10. to be used for a residential use the use is not in accordance with the requirements, a new study must be prepared.</td><td>D</td><td>11.03.24</td><td>use is not in accordance</td><td>F</td><td>20.02.25</td><td>use is not in accordance</td></tr></table>	costs	no.	date	approved	rev.	date	approved	project	location	drawing	stage	project no.	draw no.	1. and 2. to be used for a residential use the use is not in accordance with the requirements, a new study must be prepared.	C	11.03.24	use is not in accordance	E	20.02.25	use is not in accordance	enviro studio 224 High Street, 11th, 210 Tel: 02 921 1005 W: WWW.ENVIROSTUDIO.COM.AU	15-21 BARNON PARK RD	LEVEL PLAN	DA	3882	102	3. and 4. to be used for a residential use the use is not in accordance with the requirements, a new study must be prepared.	D	04.03.24	use is not in accordance	F	20.02.25	use is not in accordance	5. and 6. to be used for a residential use the use is not in accordance with the requirements, a new study must be prepared.	D	11.03.24	use is not in accordance	F	20.02.25	use is not in accordance	7. and 8. to be used for a residential use the use is not in accordance with the requirements, a new study must be prepared.	D	11.03.24	use is not in accordance	F	20.02.25	use is not in accordance	9. and 10. to be used for a residential use the use is not in accordance with the requirements, a new study must be prepared.	D	11.03.24	use is not in accordance	F	20.02.25	use is not in accordance
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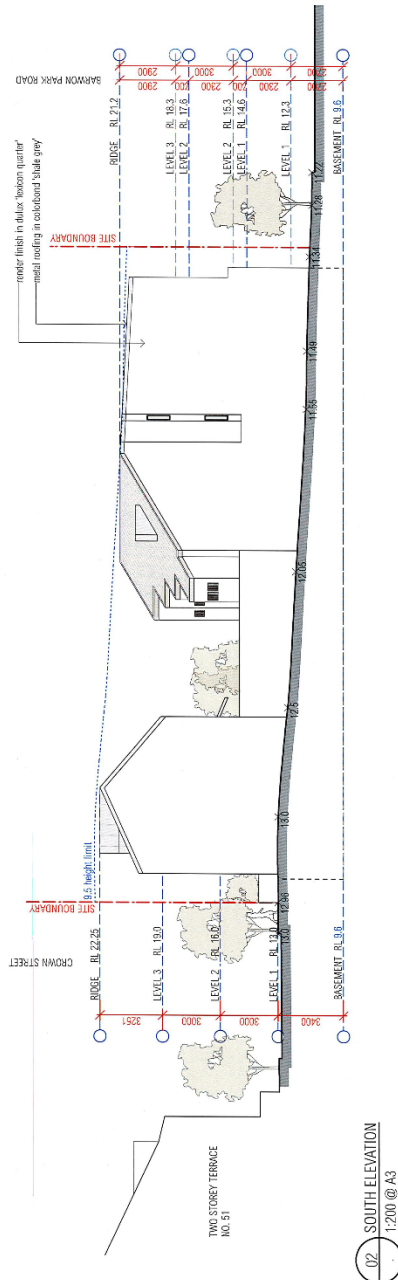
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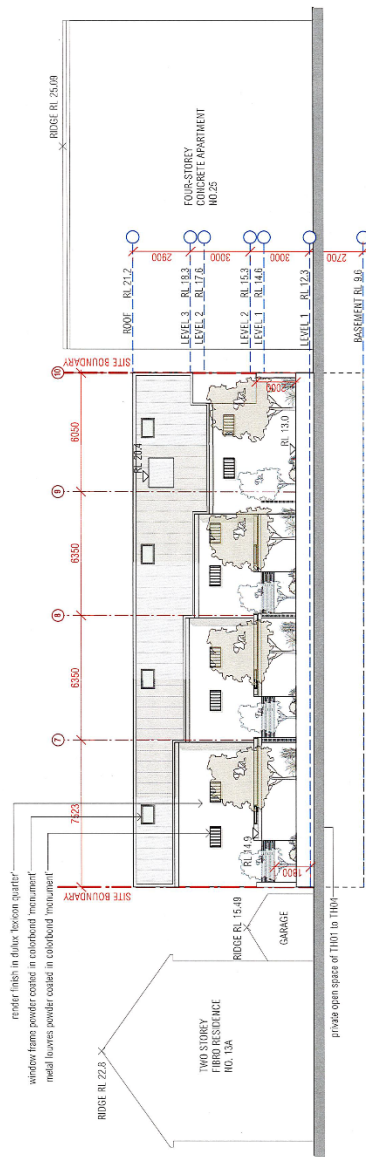
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2. The proposed development is subject to the provisions of the relevant building codes of Australia and the relevant provisions of the relevant local government's planning and building regulations.		D	08.03.20	Notes for information	F	08.03.20	Notes for information	224 High Street, NSW 2010	ST	FLOOR PLAN	TW	10021	10021
3. The proposed development is subject to the provisions of the relevant building codes of Australia and the relevant provisions of the relevant local government's planning and building regulations.		B	15.03.20	Notes for information	F	15.03.20	Notes for information	www.envirostudio.com.au	ST PETERS				
4. The proposed development is subject to the provisions of the relevant building codes of Australia and the relevant provisions of the relevant local government's planning and building regulations.		D	15.03.20	Notes for information	F	15.03.20	Notes for information	BELLE & LILY PTY LTD					
5. The proposed development is subject to the provisions of the relevant building codes of Australia and the relevant provisions of the relevant local government's planning and building regulations.		D	15.03.20	Notes for information	F	15.03.20	Notes for information	architect's registration number 62369					
6. The proposed development is subject to the provisions of the relevant building codes of Australia and the relevant provisions of the relevant local government's planning and building regulations.		E	20.03.20	Notes for information	F	20.03.20	Notes for information						

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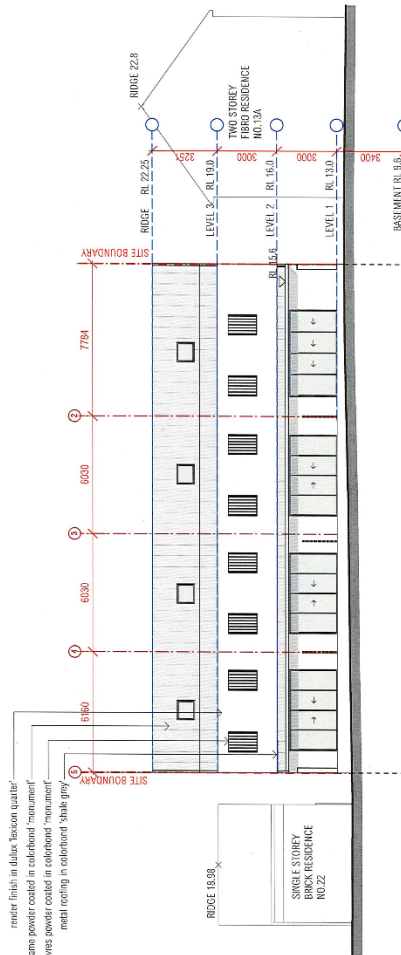
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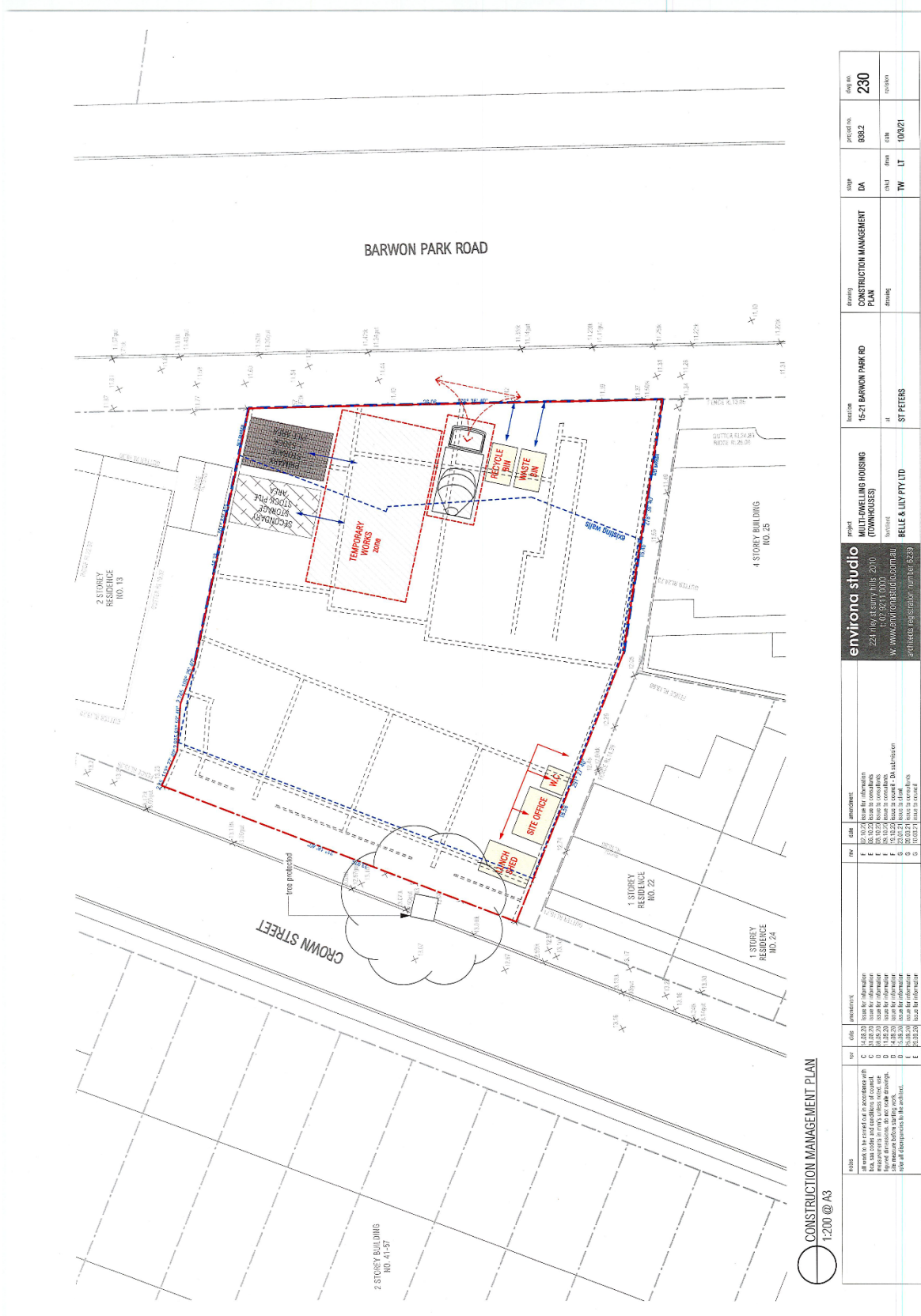


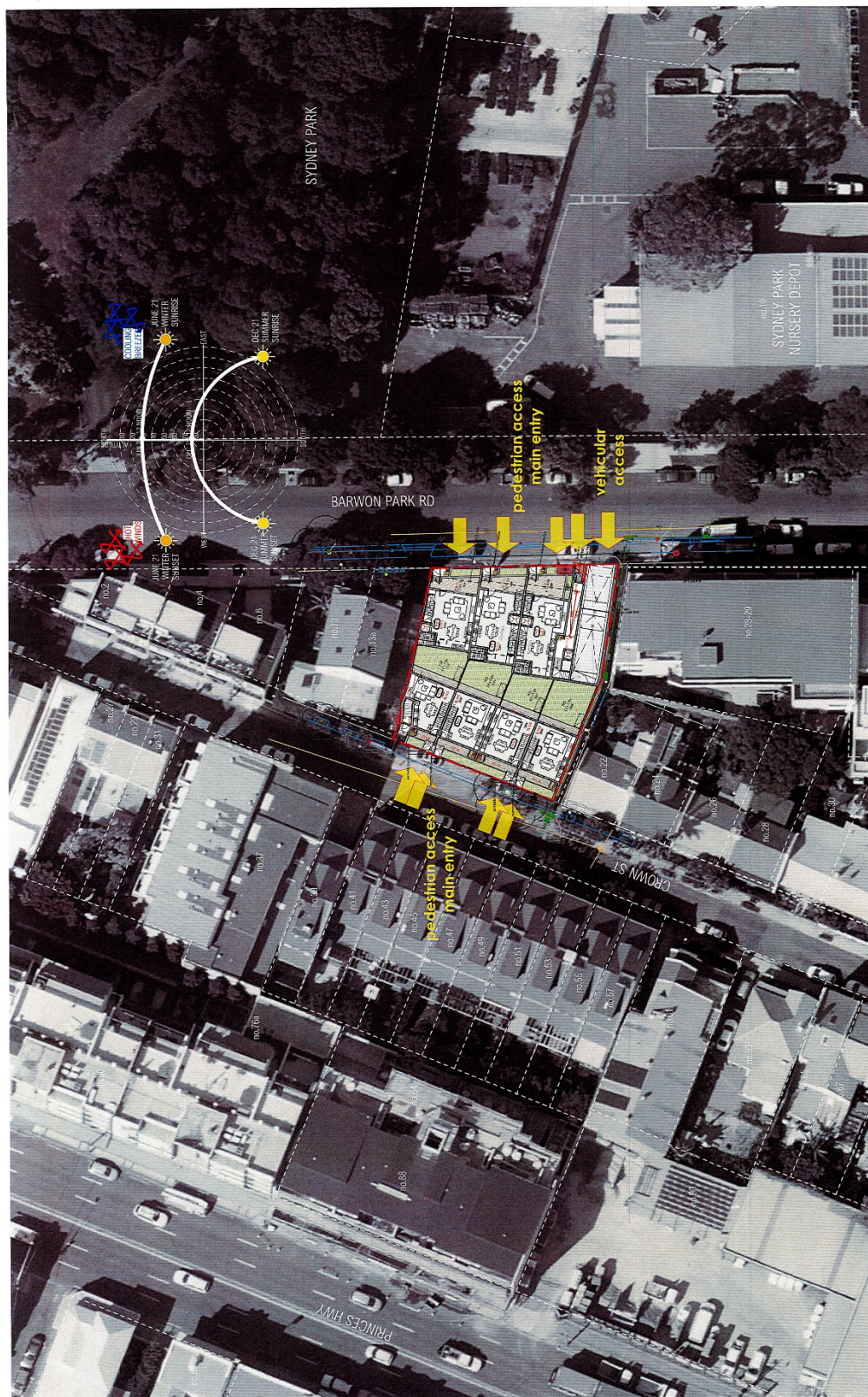
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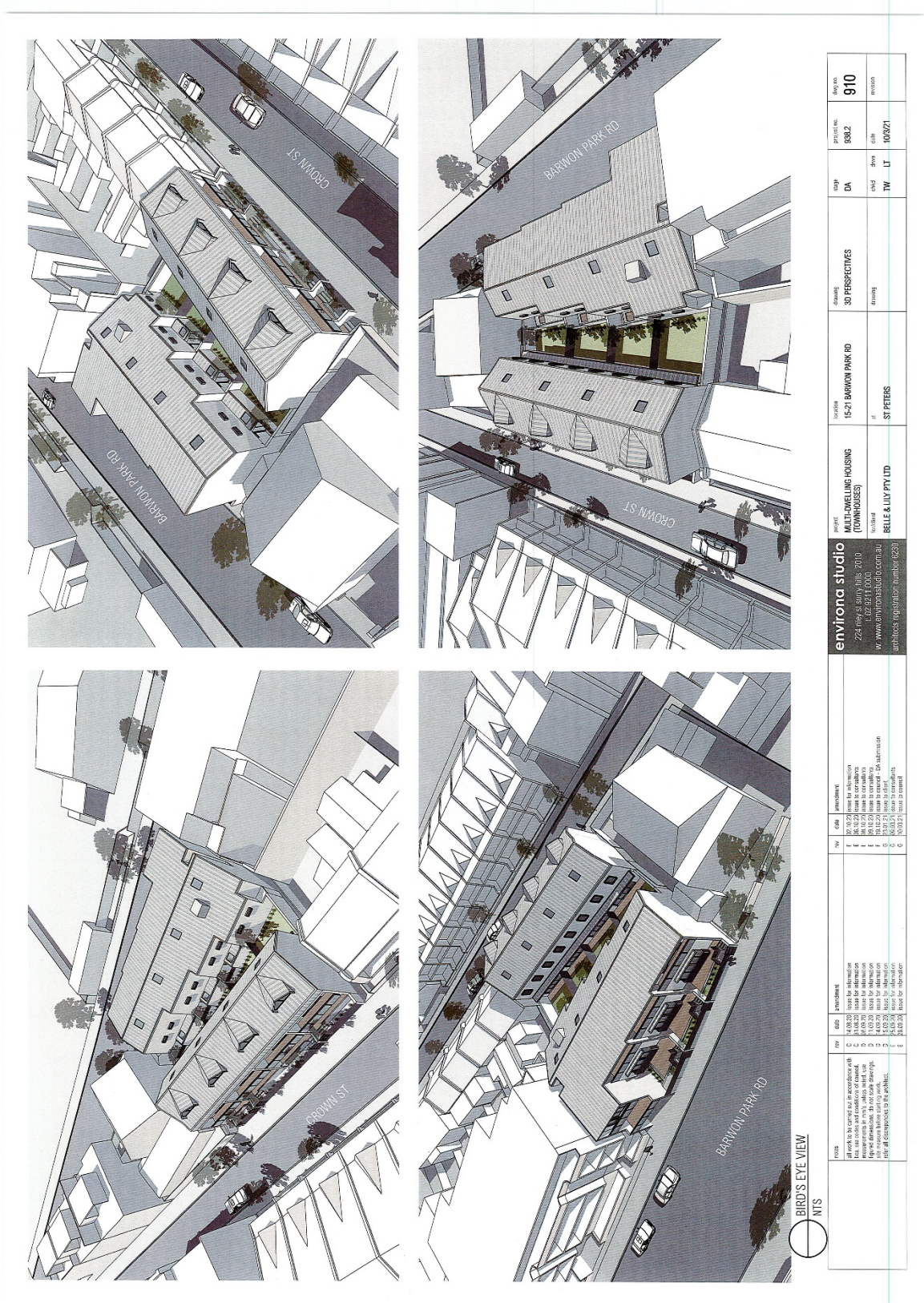
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PAGE 372



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VIEW FROM BARWON PARK ROAD
NTS



VIEW FROM BARWON PARK ROAD
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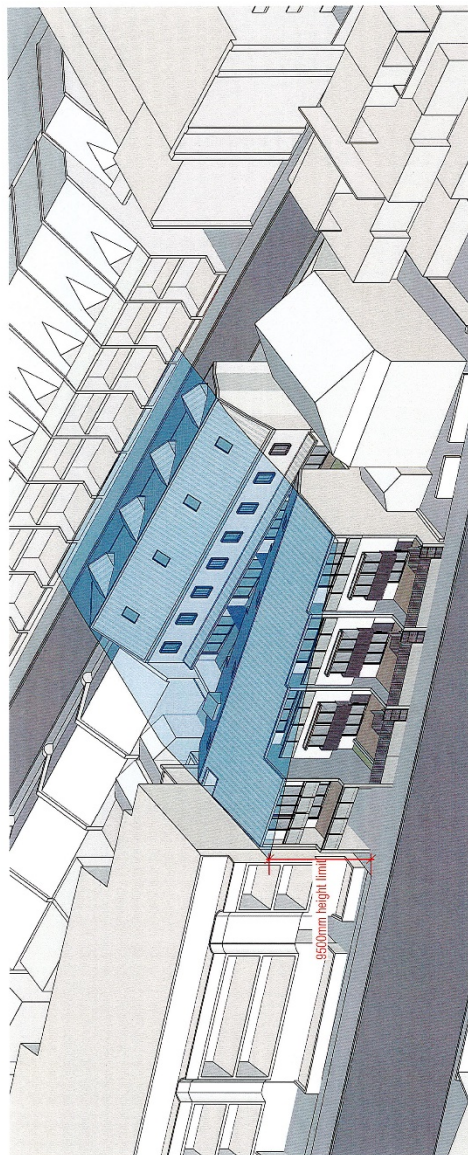


VIEW FROM CROWN ST
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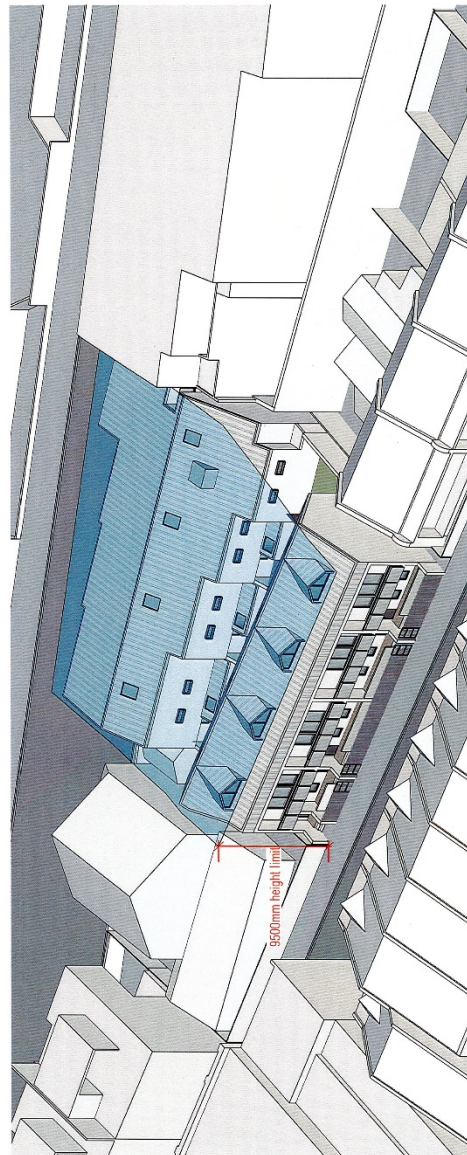


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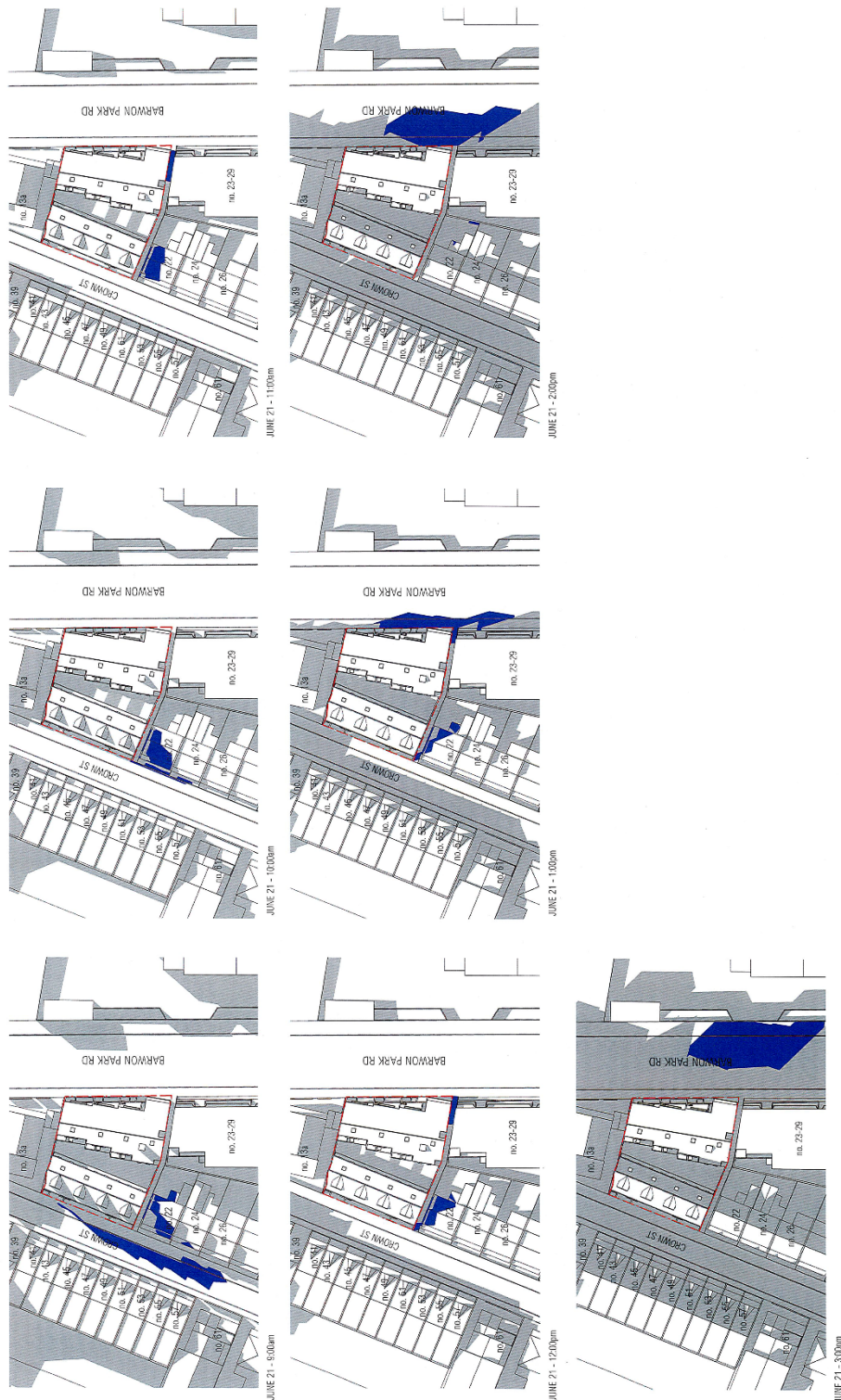


VIEW FROM BARWON PARK RD
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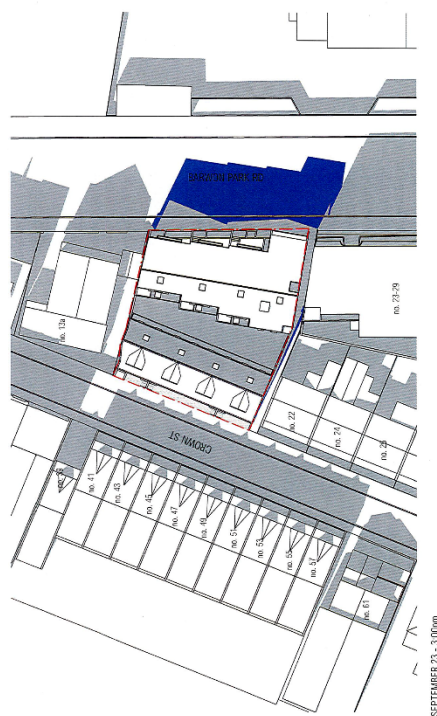
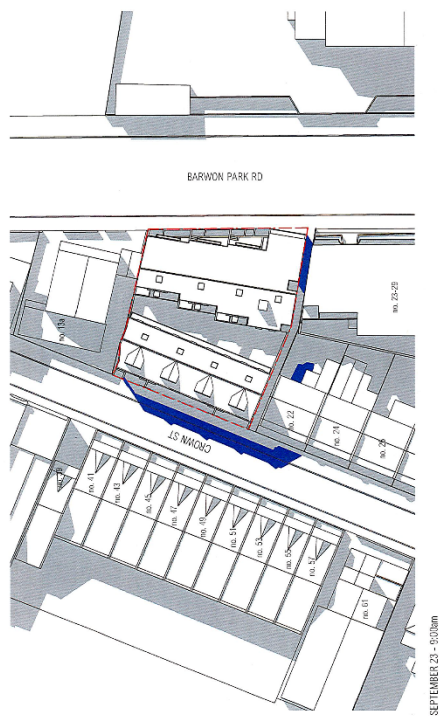
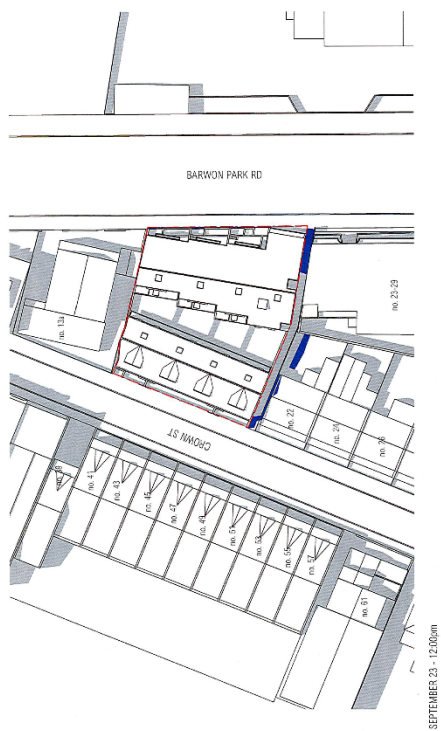


VIEW FROM CROWN STREET
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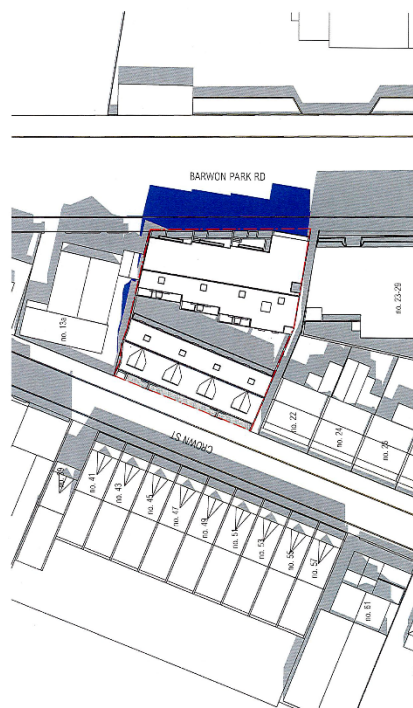
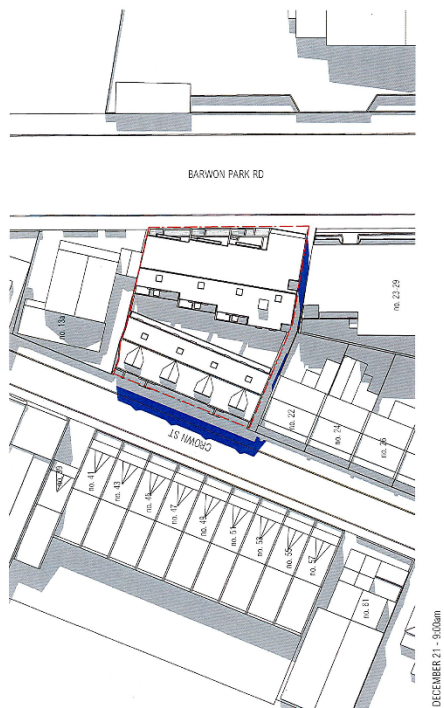
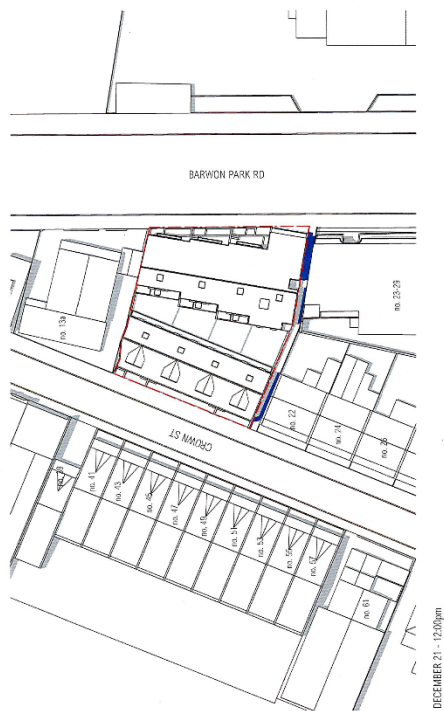
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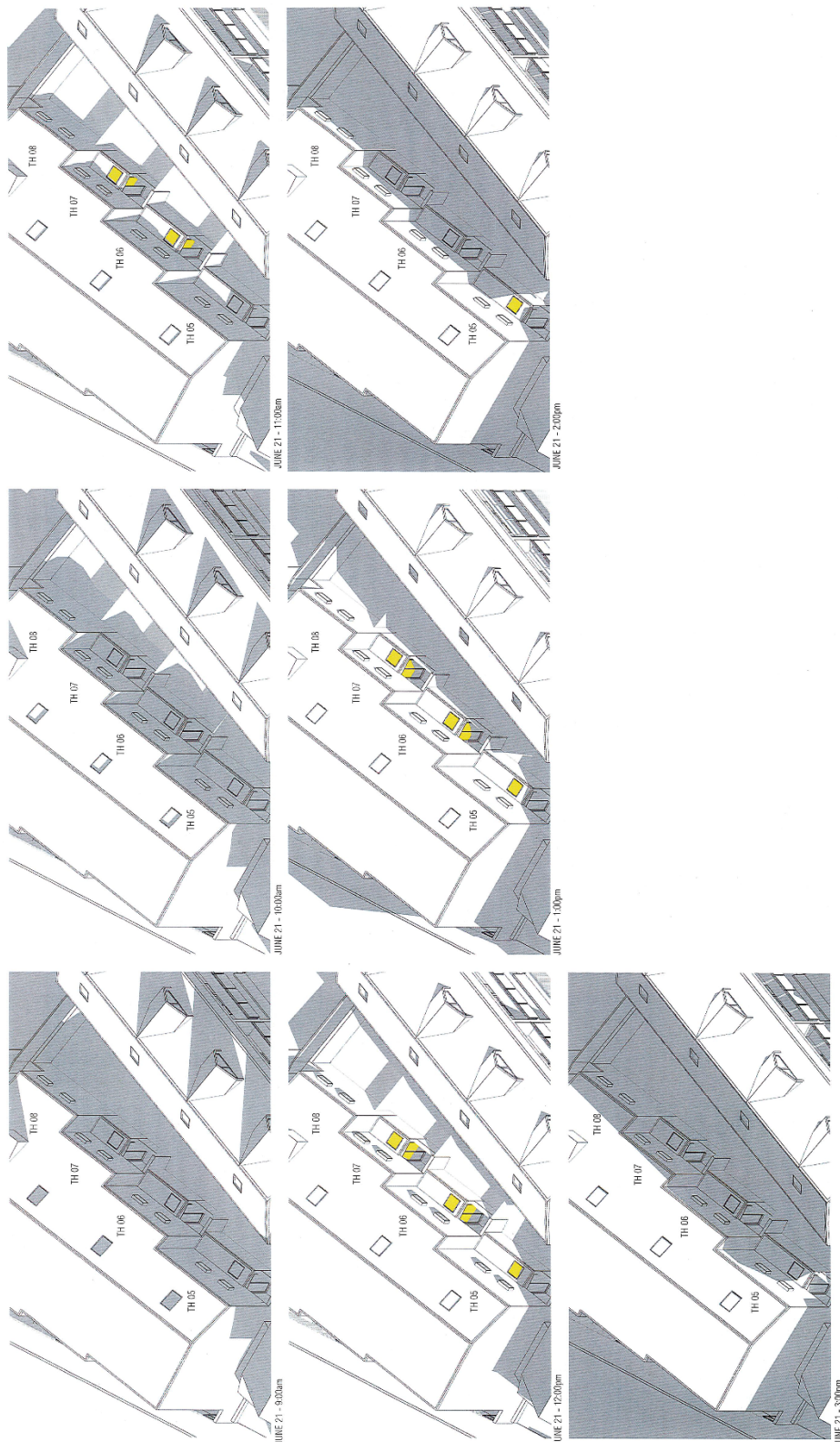
<p>enviro studio 224 Pitt St, Suite 2010 VIC 3006 www.envirostudio.com.au architect registration number 6238</p>		<p>Project MULTI-DWELLING HOUSING (TOWNHOUSE)</p>	<p>Location 15-21 BARWON PARK RD ST PETERS</p>	<p>Planning SHADOW DIAGRAMS - JUNE 21st Barring</p>	<p>Stage DA</p>	<p>Project No. 9842</p>	<p>DA No. 10/21</p>	<p>DA No. 10/21</p>
<p>Notes All work to be carried out in accordance with the provisions of the Planning and Environment Act 1987 and the provisions of the Planning and Environment Regulations 2015. The applicant is responsible for ensuring that the proposed development complies with the provisions of the Planning and Environment Act 1987 and the provisions of the Planning and Environment Regulations 2015. The applicant is responsible for ensuring that the proposed development complies with the provisions of the Planning and Environment Act 1987 and the provisions of the Planning and Environment Regulations 2015.</p>		<p>Scale 1:1000m</p>	<p>Scale 1:1000m</p>	<p>Scale 1:1000m</p>	<p>Scale 1:1000m</p>	<p>Scale 1:1000m</p>	<p>Scale 1:1000m</p>	<p>Scale 1:1000m</p>



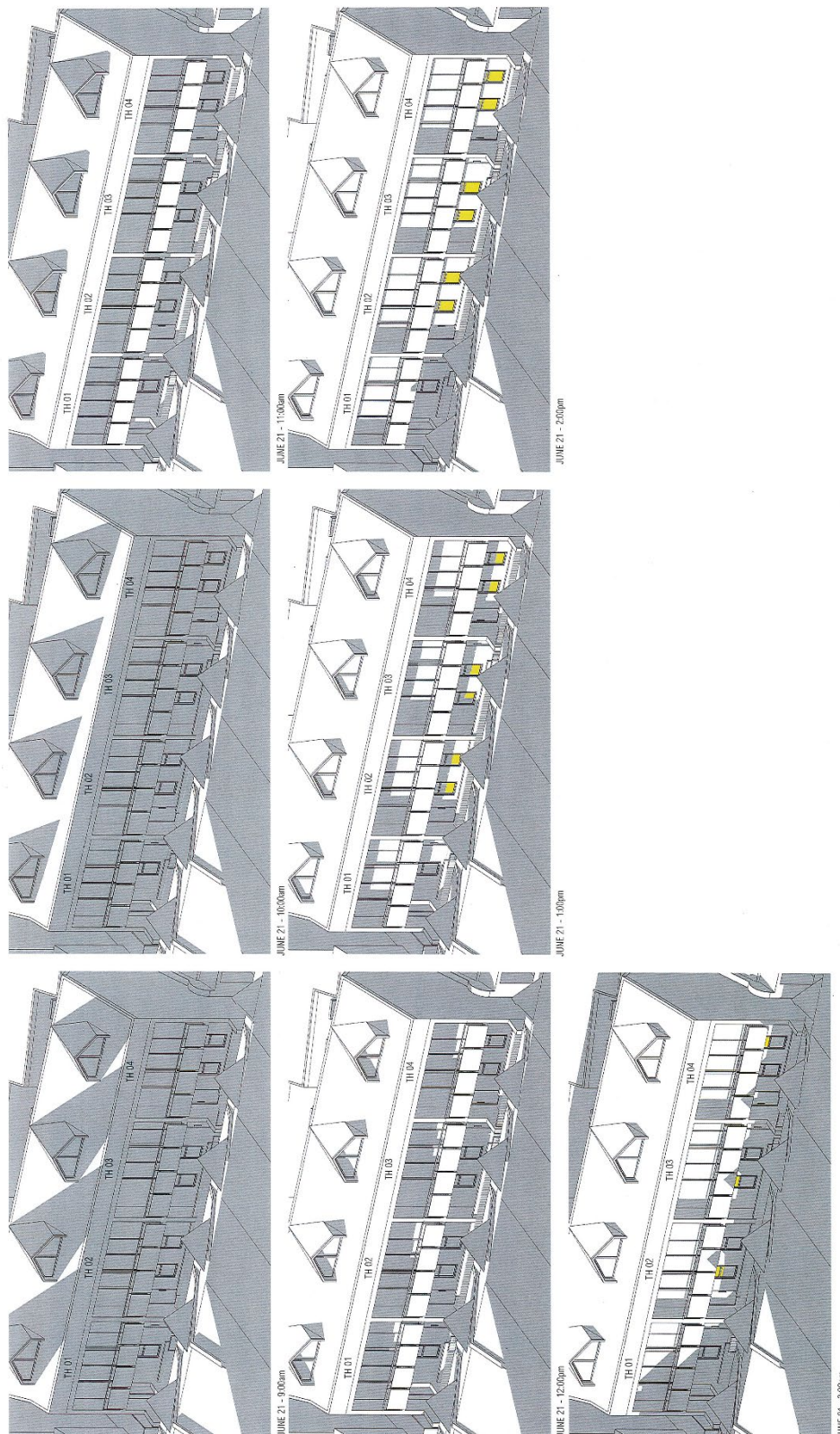
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	2	10/10/21	notes for information	2	10/10/21	notes for information						
	3	10/10/21	notes for information	3	10/10/21	notes for information						
	4	10/10/21	notes for information	4	10/10/21	notes for information						
	5	10/10/21	notes for information	5	10/10/21	notes for information						
	6	10/10/21	notes for information	6	10/10/21	notes for information						
	7	10/10/21	notes for information	7	10/10/21	notes for information						
	8	10/10/21	notes for information	8	10/10/21	notes for information						
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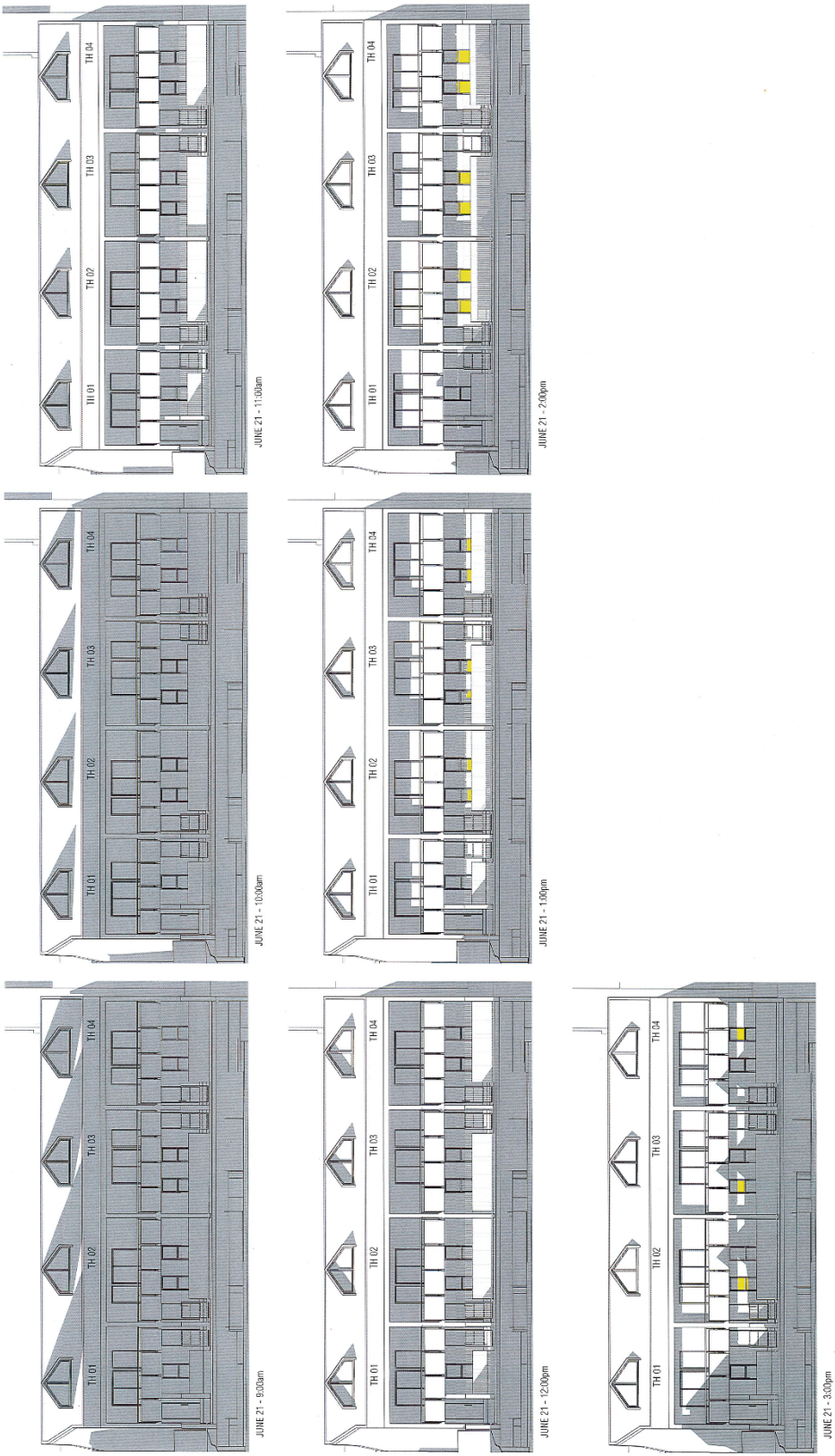
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notes	type	amount	ref	date	interest	project	location	details	stage	previous	key on
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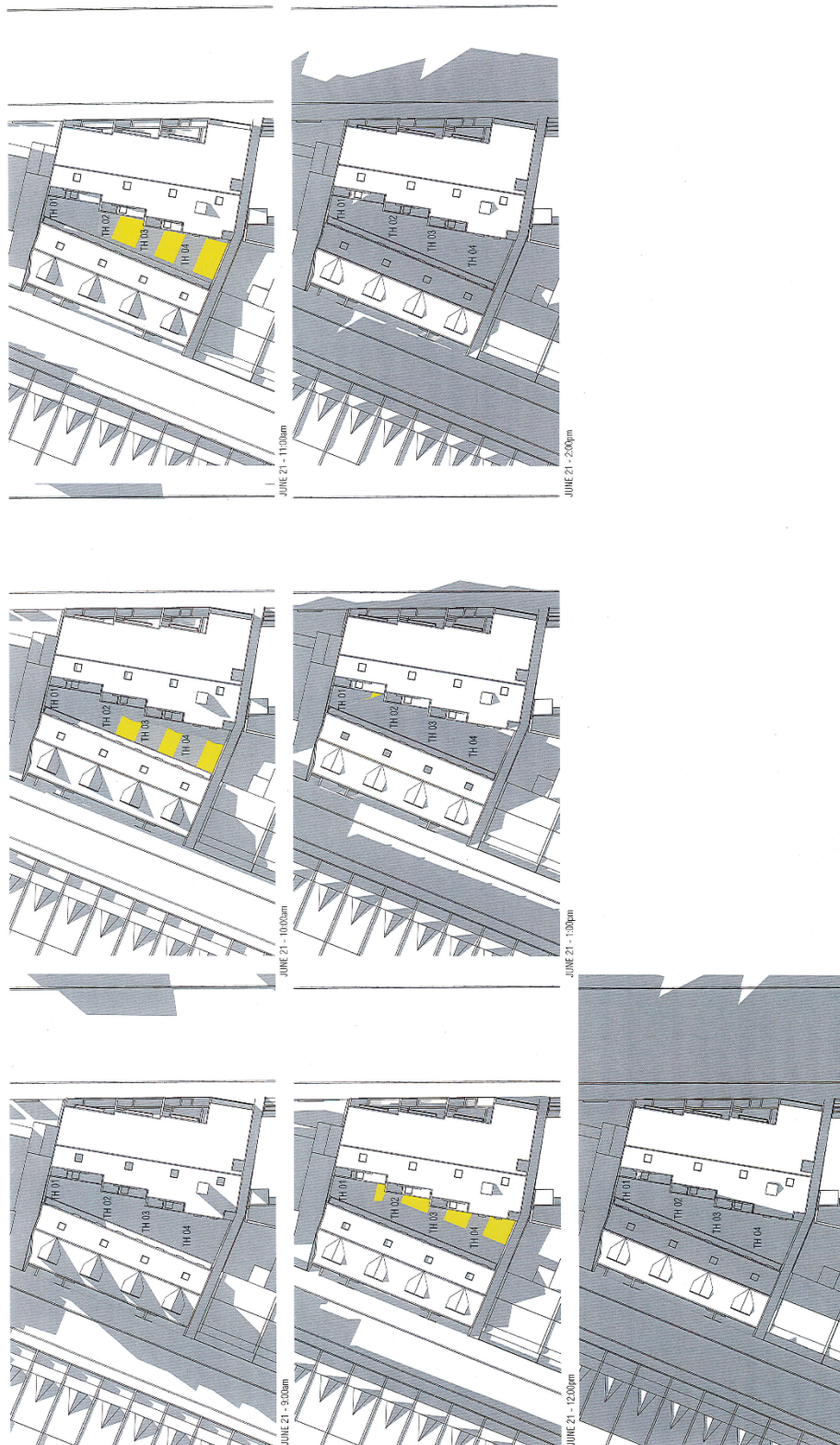
01 LIVING ROOM - CROWN ST
1:200@A3

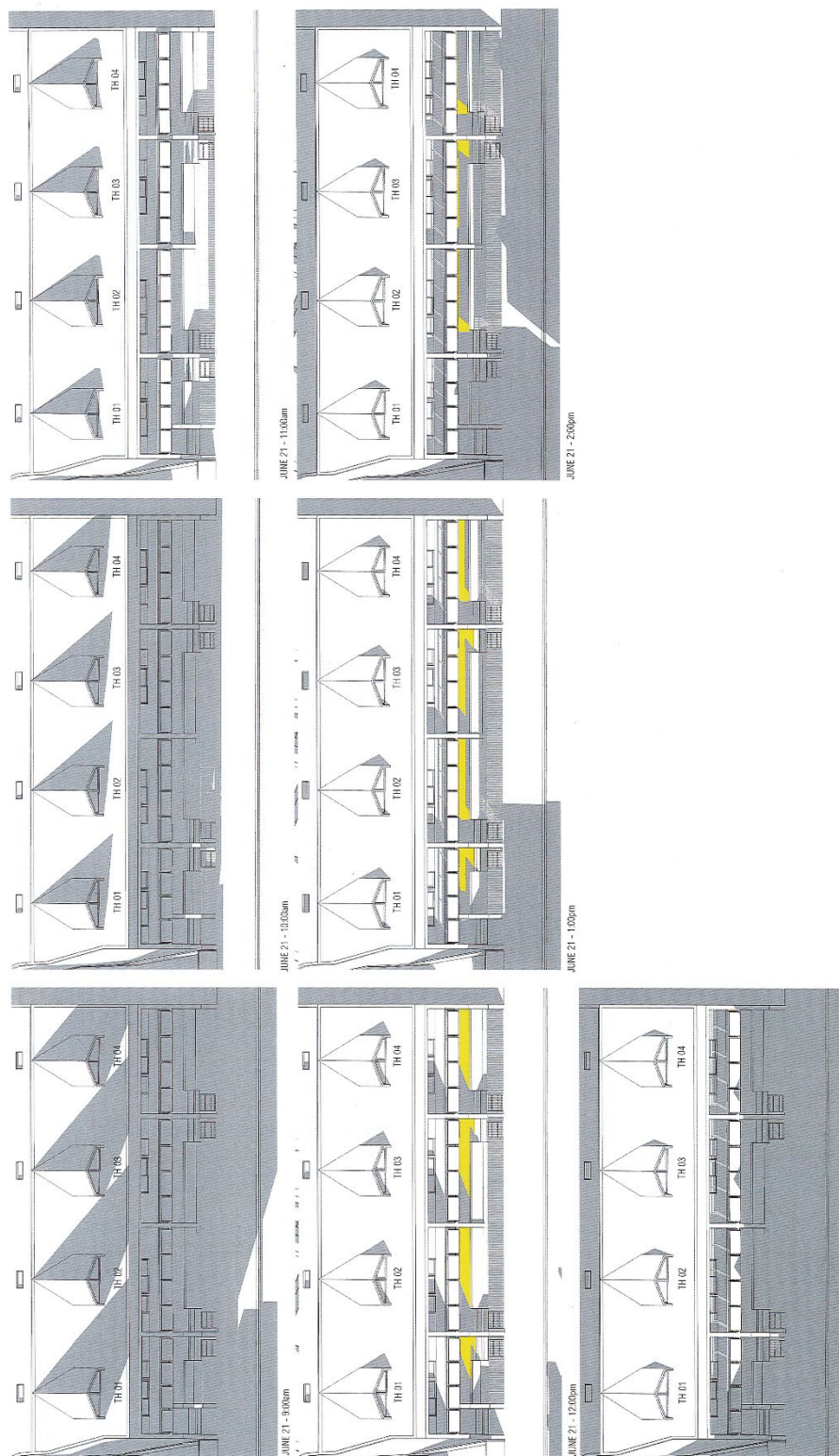
item	type	code	description	date	amendment	project	location	drawing	stage	project no.	stage no.
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2. All work to be carried out in accordance with the provisions of the relevant legislation, standards, codes and conditions of council.	C	1.1.1.1.2	Issue for information	1.1.1.1.2	Issue for information	224 Riley St Surry Hills 2010	ST PETERS	CROWN ST	DA	888.2	927
3. All work to be carried out in accordance with the provisions of the relevant legislation, standards, codes and conditions of council.	C	1.1.1.1.3	Issue for information	1.1.1.1.3	Issue for information	1.02 2511 0000	ST PETERS	CROWN ST	DA	888.2	927
4. All work to be carried out in accordance with the provisions of the relevant legislation, standards, codes and conditions of council.	C	1.1.1.1.4	Issue for information	1.1.1.1.4	Issue for information	W: www.envirostudio.com.au	ST PETERS	CROWN ST	DA	888.2	927
5. All work to be carried out in accordance with the provisions of the relevant legislation, standards, codes and conditions of council.	C	1.1.1.1.5	Issue for information	1.1.1.1.5	Issue for information	architect registration number 6239	ST PETERS	CROWN ST	DA	888.2	927
6. All work to be carried out in accordance with the provisions of the relevant legislation, standards, codes and conditions of council.	C	1.1.1.1.6	Issue for information	1.1.1.1.6	Issue for information		ST PETERS	CROWN ST	DA	888.2	927
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8. All work to be carried out in accordance with the provisions of the relevant legislation, standards, codes and conditions of council.	C	1.1.1.1.8	Issue for information	1.1.1.1.8	Issue for information		ST PETERS	CROWN ST	DA	888.2	927
9. All work to be carried out in accordance with the provisions of the relevant legislation, standards, codes and conditions of council.	C	1.1.1.1.9	Issue for information	1.1.1.1.9	Issue for information		ST PETERS	CROWN ST	DA	888.2	927
10. All work to be carried out in accordance with the provisions of the relevant legislation, standards, codes and conditions of council.	C	1.1.1.1.10	Issue for information	1.1.1.1.10	Issue for information		ST PETERS	CROWN ST	DA	888.2	927



01 POS - BARWON PARK RD
NTS

[illegible]

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summary table 1: 6/8 (75%) townhouses in this development will receive more than 2 hours of sunlight onto 1m² of their living room windows between 9am and 3pm on june 21 (mid winter)

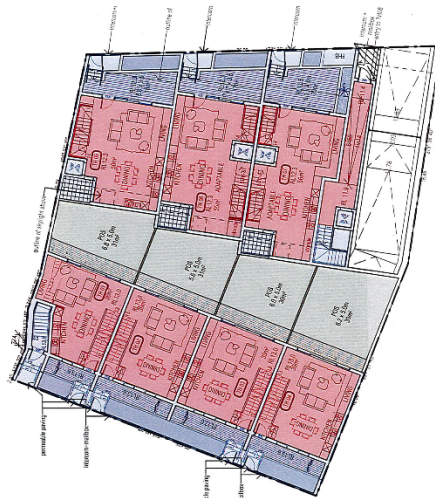
summary table 2: private open space: 7/8 (88%) townhouses in this development will receive more than 2 hours of direct sunlight onto their private open space between 9am and 3pm on june 21 (mid winter)

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LEVEL 2 FLOOR AREA
1:300 @ A3



LEVEL 1 FLOOR AREA
1:300 @ A3



BASEMENT FLOOR AREA
1:300 @ A3



LEVEL 3 FLOOR AREA
1:300 @ A3

SITE:	15-21 BARKWON DP 434389
SITE AREA	756.2
FSR	0.851
FSR area	644.47
FSR CALCS (TOWN HOUSES)	
BASEMENT	30
LEVEL 1	305
LEVEL 2	357
LEVEL 3	294
TOTAL	1006
TOTALS PROPOSED	1006
PROPOSED FSR	1.33
AREAS	required
total landscape	
deep soil	31
life coverage	539
	71%

AREA CALCULATION SUMMARY
NTS

SR deep soil site coverage

enviro studio 224 Riley St, Sydney NSW 2010 T: 02 9211 0000 W: www.envirostudio.com.au practitioner registration number 2293	project MULTI-DWELLING HOUSING (TOWN HOUSES)	location 15-21 BARKWON PARK RD A ST PETERS	drawing AREA CALCULATION SUMMARY	stage DA	project no. 980	drawn JTB	checked JTB	date 10/02/21	revision
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Attachment C- Clause 4.6 Exception to Development Standards

APPENDIX A

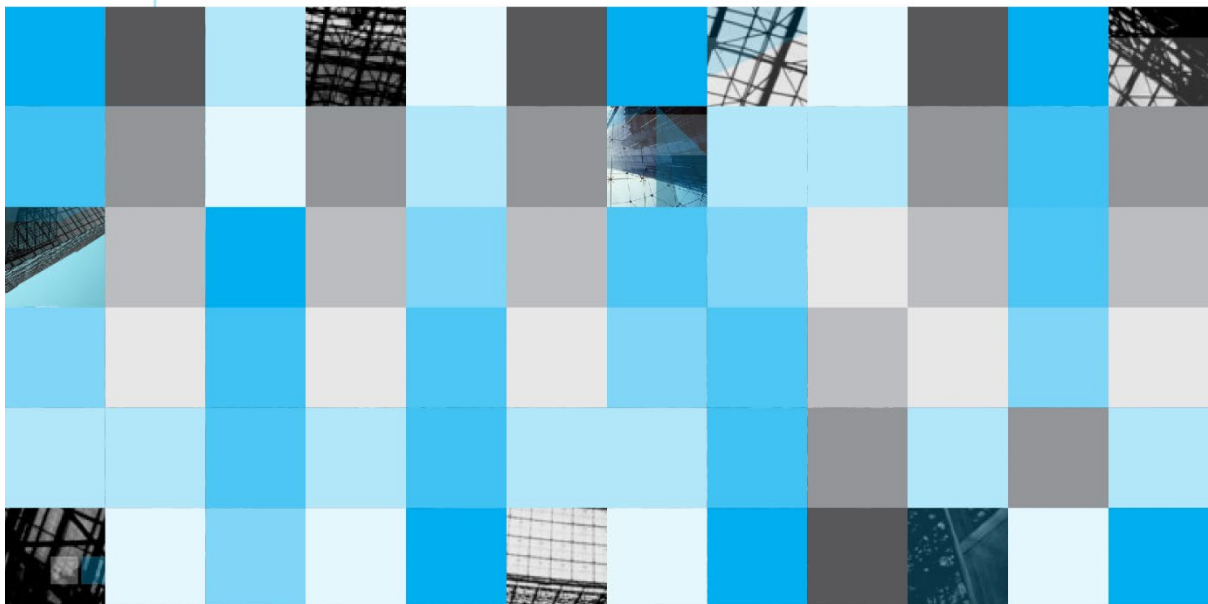
Sutherland & Associates Planning Pty Ltd

REQUEST TO VARY THE FLOOR SPACE RATIO
DEVELOPMENT STANDARD

A

Statement of Environmental Effects - 15-21 Barwon Park Road, St Peters

**SUTHERLAND
& ASSOCIATES
PLANNING**



15-21 Barwon Park Road, St Peters

Clause 4.6 Request - FSR

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REQUEST FOR AN EXCEPTION TO THE FLOOR SPACE RATIO DEVELOPMENT STANDARD**1.1 Introduction**

This request for an exception to a development standard is submitted in respect of the floor space ratio development standard contained within Clause 4.4 of the Marrickville Local Environmental Plan 2011 (MLEP).

The request relates to an application for demolition works and the construction of a development comprising eight terrace style dwellings (four with frontage to Crown Street and four with frontage to Barwon Park Road) at 15-21 Barwon Park Road, St Peters. Basement parking for 12 cars is also proposed.

The massing and form of the development has been specifically tailored to respond to the unique features of the site and relate to the scale and form of the surrounding development. In this regard a three-storey residential building is proposed on the eastern side of the site which is compatible with the four-storey residential flat building at 23-29 Barwon Park Road and the two storey development at 13 and 13A Barwon Park Road.

Four terrace style dwellings are proposed on the western side of the site that are compatible with the setbacks, scale and depth of terrace style housing along Crown Street.

1.2 Site and Locality Description**1.2.1 Site Description**

The site is legally described as Lots 5, 6, 7 and 8 in DP 436389 and is known as 15-21 Barwon Park Road, St Peters.

The site is an irregular shaped allotment which has an area of 758.2 square metres. The site has frontage to both Crown Street and Barwon Park Road. The site's frontage to Barwon Park Road is 26.06 metres in length whilst the site's frontage to Crown Street is 23.975 metres in length.

The site is currently improved by a single storey, brick commercial building which has its primary street address to Barwon Park Road. The existing building is built to both the northern and southern side boundaries of the site. A small setback is provided to the building from both the eastern boundary (Barwon Park Road) and western boundary (Crown Street). The majority of the building's setback to Barwon Park Road is used for car parking. The building's setback to Crown Street or the western boundary (rear) is predominately a concrete area which is used for car parking. Small pockets of landscaping are provided on the northern and southern sides of the building's setback to the western boundary.

A double width driveway provides vehicular access to the site from Barwon Park Road. A vehicular crossing provides access to the rear of the site from Crown Street.

There are no significant trees on the site. A street tree is located in the Crown Street road reserve adjoining the site. There are no street trees in the Barwon Park Road road reserve adjacent to the site. The topography of the site falls gradually from Crown Street to Barwon Park Road.

The site is not identified as a heritage item nor is it located within a heritage conservation area pursuant to the Marrickville Local Environmental Plan 2011.

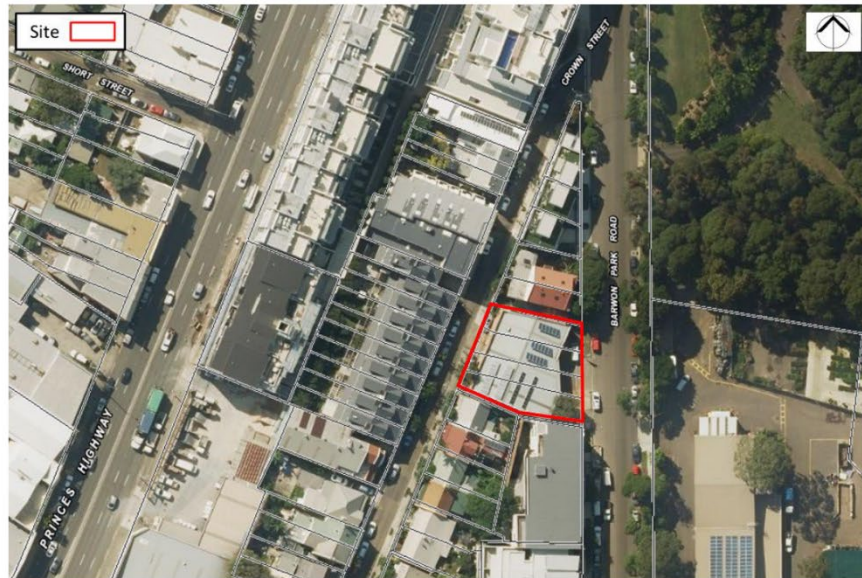


Figure 1:

Aerial View of Site (Source: Six Maps 2020)

Photograph 1:

The site viewed from Barwon Park Road



Clause 4.6 Request - FSR - 15-21 Barwon Park Road, St Peters



Photograph 2:

Rear of the subject site viewed from
Crown Street



Photograph 3:

Rear of the site looking north

1.2.2 Surrounding Development

The site and the allotments on the street block to the north all have frontage to both Crown Street and Barwon Park Road. The land to the south has been subdivided along the centre of the block to create lots with frontage to either Crown Street or Barwon Park Road. As such the site adjoins only one lot to the north and two lots to the south.

The northern boundary of the site adjoins 13A Barwon Park Road. This property is improved by a two-storey semi-detached dwelling with a garage adjacent to the northern boundary of the subject site. The garage is accessed from Barwon Park Road and sits forward of the eastern elevation of the dwelling. Vehicular access to the rear of the site is not available from Crown Street. Further north, at the intersection of Crown Street and Barwon Park Road is a contemporary style terrace development which has the appearance from Barwon Park Road of a three-storey development with a roof top level.

A through site link adjoins the southern boundary of the site and provides pedestrian access between Crown Street and Barwon Park Road. South of the eastern side of the through site link is land known as 23-29 Barwon Park Road. This lot is improved by a four-storey residential flat building approved by the Land and

Environment Court (DA201400509) and subsequently modified with approval from Council. The development has a height of 13.2 metres and a floor space ratio of 1.43:1.

South of the western side of the through site link is a single storey terrace style dwelling.

To the west of the site is a row of two storey terraces with attic levels. Further north on the western side of Crown Street is a three-storey development built to the Crown Street frontage of the site.

To the east of the site is the City of Sydney Parks Services Depot.



Photograph 4:

13 and 13A Barwon Park Road viewed
from Barwon Park Road

Photograph 5:

Rear of 13 and 13A Barwon Park
Road viewed from Crown Street





Photograph 6:

2-6 Crown Street viewed from
Barwon Park Road



Photograph 7:

Rear of 2-6 Crown Street viewed
from Crown Street



Photograph 8:

23-29 Barwon Park Road

Clause 4.6 Request - FSR - 15-21 Barwon Park Road, St Peters

Photograph 9:

Development to the south of 23-29
Barwon Park Road



Photograph 10:

22 Crown Street to the south of the
site



Photograph 11:

Development to the west of the
site

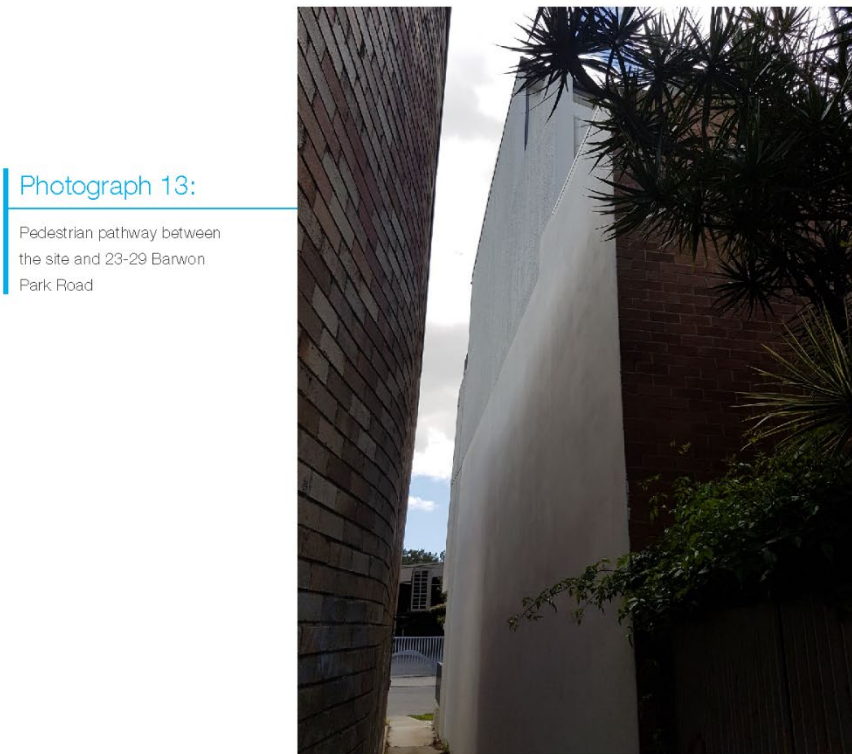


Clause 4.6 Request - FSR - 15-21 Barwon Park Road, St Peters



Photograph 12:

View to the east along the pedestrian link between the site and 22 Crown Street



Photograph 13:

Pedestrian pathway between the site and 23-29 Barwon Park Road

Clause 4.6 Request - FSR - 15-21 Barwon Park Road, St Peters



Photograph 14:

Development opposite the
site

1.2.3 Locality Description

The site is located in the suburb of St Peters which is within the Inner West Local Government Area. The site is located in a precinct bounded by Barwon Park Road to the east and the Princes Highway to the west. Barwon Park Road forms the eastern boundary of the suburb of St Peters and is also part of the eastern boundary of the Inner West local government area.

Sydney Park and the City of Sydney Parks Depot is located on the eastern side of Barwon Park Road. Sydney Park consists of 40 hectares of open space. The site is also in close proximity to Camdensville Oval.

The site is approximately 450 metres walking distance of St Peters Railway Station and is walking distance of bus stops on Princes Highway

The site is located in the Barwon Park Precinct (Precinct 26) under the Marrickville Development Control Plan 2011 (MDCP). The precinct is bounded by Princes Highway to the west, Barwon Park Road to the east and Campbell Street to the south (refer to Figure 2). The DCP indicates the land subdivision pattern along Barwon Park Road varies from medium size allotments at the southern end that are industrial or commercial in use, to smaller blocks south of the intersection with Crown Street, some of which are residential and others commercial. The DCP indicates the Crown Street streetscape is the most intact of the precinct, consisting of older housing stock on relatively small allotments (albeit with some mixed commercial intrusion) and significant heritage potential.

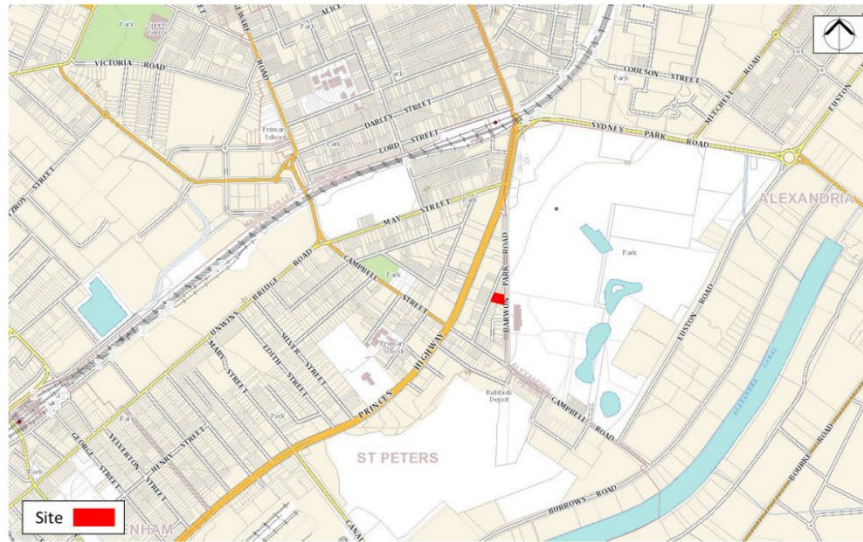


Figure 2:

Location of the site (Source: Six Maps 2018)

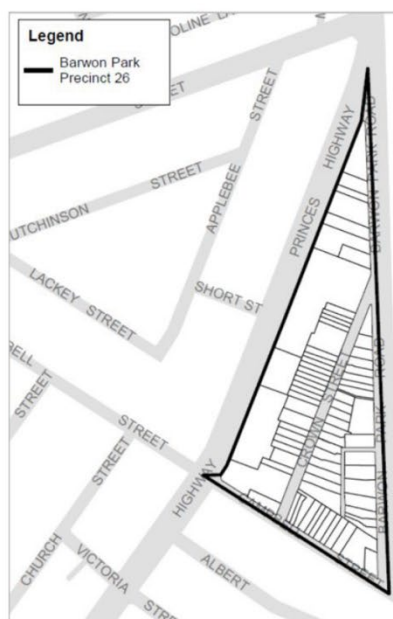


Figure 3:

MDCP Map showing the extent of the Barwon Park Precinct (Precinct 26)

Clause 4.6 Request - FSR - 15-21 Barwon Park Road, St Peters

The site has frontage to both Barwon Park Road and Crown Street and is located towards the northern end of a triangular shaped street block. Each Street has a distinct character.

The majority of Crown Street is characterised by one and two storey terrace houses however the northern end of Crown Street is a noticeably denser environment with higher buildings (ranging from 2 to 4 storeys) and reduced setbacks. The three-storey residential flat building development at 33 Crown Street (located opposite 13 and 13A Barwon Park Road) marks the change in the scale and density of development along Crown Street. On the eastern side of Crown Street, the part 2 and 3-storey terrace style development at 2-6 Crown Street continues this character through to the 4-storey residential flat building on the western side of the northern end of Crown Street. The height of buildings development standard reflects this character with a height of 9.5 metres applying to the majority of Crown Street with the heights increasing to 17 metres and then 20 metres on the western side of Crown Street and 11 metres for the site at 2-6 Crown Street.

Barwon Park Road is undergoing a transition in its character with dwelling houses and industrial buildings being replaced by three and four storey residential flat buildings. A 14 metre building height applies to the land along Barwon Park Road to the south of the site (all land with a single street frontage). A 9.5 metre height applies to the site and 13 and 13A Barwon Park Road. These sites have dual street frontage to both Crown Street and Barwon Park Road. An 11-metre height limit applies to 2-6 Crown Street which also has frontage to both roads. Further north the height increases to 17 metres and then 20 metres.

1.3 Clause 4.6 Exceptions to development standards

Clause 4.6(2) of the MLEP provides that development consent may be granted for development even though the development would contravene a development standard imposed by the MLEP, or any other environmental planning instrument.

However, 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:

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

In accordance with clause 4.6(3) the applicant requests that the floor space ratio standard be varied.

1.4 Development Standard to be varied

Clause 4.4(2) of the MLEP provides that the maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map. The site is within area 'K' on the Floor Space Ratio Map and accordingly an FSR of 0.85:1 applies to the site as shown in Figure 1. The site has an area of 758.2 square metres and therefore the maximum gross floor area permitted on the site is 644.47 square metres.

1.5 Extent of Variation to the Development Standard

The proposed development has a gross floor area of 1,007 square metres which equates to a floor space ratio of 1.33:1. A variation of 362.53 square metres or 56.25% is therefore proposed.

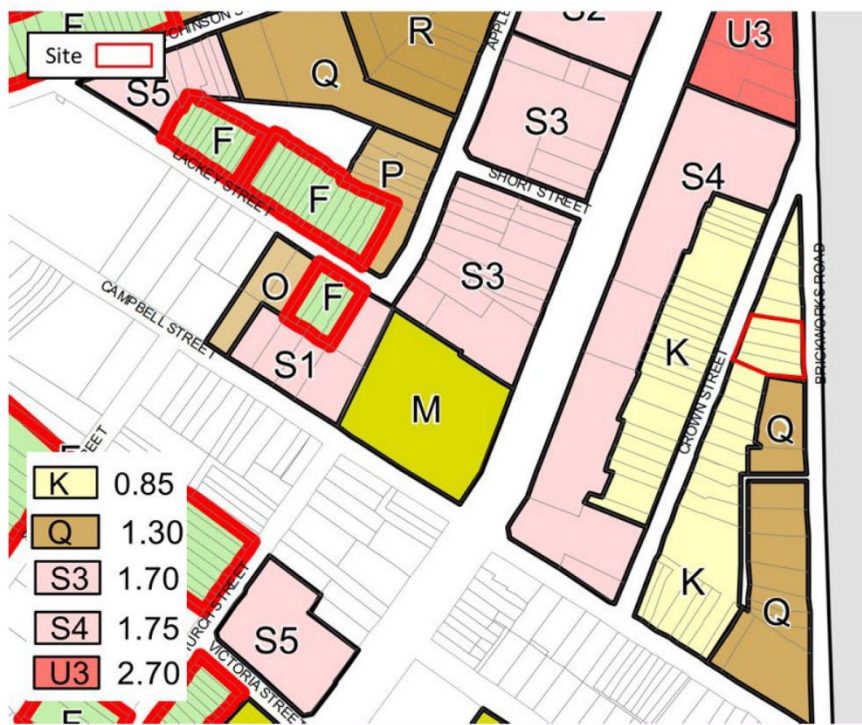


Figure 4:

Extract from the MLEP Floor Space Ratio Map

1.6 Clause 4.6(3)(a) Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

Historically the most commonly invoked way to establish that a development standard was unreasonable or unnecessary was satisfaction of the first test of the five set out in *Wehbe v Pittwater Council* [2007] NSWLEC 827 which requires that the objectives of the standard are achieved notwithstanding the non-compliance with the standard.

This was re-affirmed in the matter of *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7 [34] the Chief Judge held that “establishing that the development would not cause environmental harm and is consistent with the objectives of the development standards is an established means of demonstrating that compliance with the development standard is unreasonable or unnecessary”.

Whilst it is only necessary to address the first method of the five-part test described in *Wehbe v Pittwater Council*, [2007] NSWLEC 827, which alone is sufficient to satisfy the ‘unreasonable and unnecessary’ requirement, all five tests are addressed below followed by a concluding position which demonstrates that

compliance with the development standard is unreasonable and unnecessary in the circumstances of the case:

1. the objectives of the standard are achieved notwithstanding non-compliance with the standard;

The specific objectives of the floor space ratio development standard, as specified in clause 4.4 of the MLEP are identified below. A comment on the proposal's consistency with each objective is also provided.

(a) to establish the maximum floor space ratio,

The development standard establishes the maximum floor space ratio for the site. Clause 4.6 of the MLEP provides flexibility in applying the maximum floor space ratio standard where compliance with the standard is unreasonable or unnecessary in the circumstances, there are sufficient environmental planning grounds and whether the development is in the public interest.

(b) to control building density and bulk in relation to the site area in order to achieve the desired future character for different areas,

The density and bulk of the proposed development is appropriate notwithstanding a variation is proposed to the floor space ratio development standard as the proposal achieves consistency with the existing and desired character of development in the vicinity of the site.

The existing and emerging density, bulk and general character of development in Barwon Park Road and Crown Street is detailed in Section 1.2 of this clause 4.6 request.

The development appears as a row of contemporary, 2 storey terrace houses with an attic level to Crown Street. The density and bulk of the proposed terraces is consistent with the density and bulk of development in Crown Street. The building footprint of the terraces matches the footprint of the terraces to the south with the front and side setbacks continuing the pattern of setbacks established by the terrace houses to the south.

The development will appear as a three-storey residential building from Barwon Park Road. The three-storey residential building will provide a transition from the four-storey residential flat building at 23-29 Barwon Park Road and the two-storey, semi-detached dwellings at 13 and 13A Barwon Park Road. The street wall height of the residential flat building is consistent with the height of the street wall of the building at 23-29 Barwon Park Road and sits below the ridge of the building at 13 and 13A Barwon Park Road.

The proposed floor space ratio of development on the site is less than the floor space ratio permitted for the development at 23-29 Barwon Park Road. Modification No. 201400509.01 approved an FSR of 1.43:1 for the development at 23-29 Barwon Park Road. The proposed FSR of 1.33:1 therefore provides a transition from the higher density development to the south on Barwon Park Road to the lower density development further north.

The distribution of the floor space on the site into two buildings, separated by ground level open space reduces the visual impact of the northern and southern elevations of the building on the adjoining properties and reduces the overshadowing of the development on the private open spaces of the buildings to the south. The distribution of the floor space on the site in this way, instead of providing single building centrally located on the site also provides greater consistency in the pattern of development along Barwon Park Road and Crown Street.

- (c) to minimise adverse environmental impacts on adjoining properties and the public domain.

The proposed development does not result in any unreasonable impacts on the solar access available to the adjoining properties nor does it result in any unreasonable visual privacy, view loss and acoustic impacts on the adjoining properties and the public domain despite the variation to the floor space ratio standard proposed.

Solar Access

The development will not result in any unreasonable solar access impacts on the adjoining properties notwithstanding a variation is proposed to the floor space ratio development standard.

In accordance with section 2.7 of the Marrickville Development Control Plan (MDCP) direct solar access to windows of principal living areas and the principal areas of open space of nearby residential accommodation must:

- a) Not be reduced to less than 2 hours between 9.00am and 3.00pm on 21 June;
- b) Not be further reduced where less than 2 hours of sunlight is currently available on 21 June; however, if the development proposal results in a further decrease in sunlight available on 21 June, Council will consider;
 - a. Development potential of a site;
 - b. The particular circumstances of the neighbouring site, for example, the proximity of residential accommodation on a neighbouring property to the boundary, the resultant proximity of windows to the boundary, and whether this makes compliance difficult;
 - c. Any exceptional circumstances of the subject site such as heritage, built form or topography; and
 - d. Whether the sunlight available in March and September is significantly reduced to impact the functioning of principal living areas and the principal areas of open space.

Shadow diagrams have been prepared by Environa Studio which show the shadow cast by the proposed development on June 21, September 22 and December 21 (Drawings 920, 921 and 922). The following observations are made in relation to the proposed development's impact on the solar access available to the properties to the south:

- The existing building on the site is around 3 metres lower than the maximum height permitted on the site. Any new building to the maximum height will therefore result in additional shadowing.
- The distribution of the floor space on the site into two buildings, separated by ground level open space minimises the overshadowing over the private open space of the properties to the south.
- The majority of the additional shadow cast by the development will fall over Crown Street and Barwon Park Road.

- 26 Crown Street will receive a small amount of additional shadow at 9am. The majority of the private open space of this property will receive sunlight from 10am to 1pm which complies with the MDCP requirement.
- 22 and 24 Crown Street do not currently receive 2 hours of sunlight to the primary area of open space on 21 June.
- The development will cast additional shadow over 24 Crown Street between 9am to 10am with the majority of the shadow at 9am falling over the roof. By 11am the development will have no impact on the solar access to 24 Crown Street.
- 22 Crown Street will receive varying amounts of additional shadow throughout the day. The majority of the shadow appears to fall over the roof of this dwelling.
- 24 and 26 Crown Street are not impacted by any shadow cast by the proposed development in March, September and December.
- The private open space of 22 Crown Street will receive 2 hours of solar access in March, September and December.
- Given the existing building sits approximately 3 metres below the maximum height permitted on the site, the proposed development complies with the 9.5 metre height limit and that nil side setbacks are a feature of development in the locality, additional overshadowing to 22 and 24 Crown Street is not unreasonable. In addition 22 and 24 Crown Street will receive over 2 hours of solar access at the September and March equinox and the summer solstice and therefore the private open space will receive a complying amount of solar access for a large part of the year and at times when residents are most likely to be sitting or using the private open space for extended periods.
- The additional shadow cast over 23-29 Barwon Park Road does not impact on the primary area of private open space or living room windows of any dwelling.

In summary, the existing building and structures result in some minor additional shadow of the surrounding properties. The extent of the shadow cast over the private open space of 22 and 24 Crown Street is limited on 21 June and over 2 hours of solar access will be received to the private open space of these properties at the September and March equinox and the summer solstice when residents are most likely to be sitting outside or using the private open space for extended periods. Having regard to the complying height of the development, the massing of the development to create two buildings separated by ground level landscaping that maximises solar access to the private open space of the adjoining terraces and the consistency of the proposed setbacks with the pattern of development in the street, the extent of shadow cast by the development is reasonable in this instance.

Privacy

The development has been designed so that no windows or balconies have a primary outlook over the adjoining properties to the north and south. In this regard the visual privacy of the adjoining properties is maintained despite the variation to the floor space ratio development standard.

View Loss

The proposed development does not result in the loss of any scenic views.

Visual Impact

Careful consideration has been given to the location, size and design of the proposed development to ensure that a high-quality outcome will be achieved which will sit comfortably within the streetscape.

The Draft Inner West Local Environmental Plan 2020 (draft IWLEP 2020) was placed on public exhibition from 16 March 2020 to 24 April 2020. At its meeting on 23 June 2020 Council considered a post exhibition report and endorsed the planning proposal to facilitate the draft IWLEP 2020. The draft IWLEP has been forwarded to the Department. Accordingly, the draft plan is a matter for consideration in the assessment of the application under Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979.

The draft IWLEP 2020 does not change the FSR development standard that applies to the site however the objectives of the FSR standard have been amended as follows:

- (a) to appropriately regulate the density of development, built form and land use intensity based on the capacity and location of existing and planned infrastructure,
- (b) to ensure that development is compatible with the desired future character,
- (c) to provide an appropriate transition between development of different densities,
- (d) to minimise adverse environmental and amenity impacts on adjoining properties, the public domain, heritage conservation areas and heritage items,
- (e) to provide a suitable balance between landscaping, open space, and built form to increase the tree canopy and to protect the use and enjoyment of private properties and public domain.

The proposed density can be accommodated by the existing infrastructure and as such objective (a) is met.

Objective (b) is similar to the current objectives (b) and (c) and has been addressed above.

Objective (d) is similar to the current objective (c) and has been addressed above. The development will not result in any adverse impacts on the public domain or on any heritage items.

The development satisfies objective (e) despite the variation proposed in that the development provides landscaping along the front boundaries to contribute to the visual quality of the streetscape and a open space corridor is provided at the centre of the site to minimise impacts of the development on the adjoining properties.

The relevant objectives for the floor space ratio (and site coverage) control for multi-dwelling housing and residential flat buildings specified in Section 4.2.4.1 of the Marrickville Development Control Plan (MDCP) are:

- 015. To ensure new development results in a FSR and site coverage compatible with the existing zoning and desired future character of the locality.
- 016. To ensure new development results in a site coverage which allows adequate provision to be made on site for infiltration of

stormwater, deep soil planting, landscaping, footpaths, driveways and outdoor recreation areas.

The variation to the floor space permitted does not prevent the development from achieving consistency with the emerging character of the Barwon Park Precinct (Precinct 26) as detailed in this clause 4.6 request.

The development as a whole provides a deep soil zone on the site (4% of the site area) despite the variation to the floor space ratio development standard. The landscaping and deep soil areas on the site are equal to or greater than the deep soil and landscaped areas provided on the surrounding sites as is evident from view the aerial photograph of the site (Figure 1) despite the variation proposed to the floor space ratio development standard.

2. **the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;**

The objectives of the floor space ratio control remain relevant. The proposed development is consistent with those objectives as detailed above.

3. **the underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;**

The underlying objective of the control is to control density and bulk in order to achieve the desired future character of the area and to minimise adverse environmental impacts on the adjoining properties and the public domain. If compliance was required the bulk and scale of the development would be unnecessarily reduced. The proposed bulk and scale of the proposed development achieves consistency with the existing and desired character of the locality without any unreasonable impacts on the amenity of the adjoining properties.

4. **the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;**

Council has historically adopted a highly flexible approach to the implementation of the floor space ratio control in circumstances where the objectives of the control are achieved. A variation to the floor space ratio standard was approved by the Land and Environment Court for a residential development on the site under DA2018/00564.

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

The proposed zoning of the land is reasonable and appropriate.

In summary strict compliance with the floor space ratio development standard is unnecessary in the circumstances of the case in that:

- The proposed development consistent with the MLEP objectives for floor space ratio as detailed above.
- The proposed development is consistent with the Draft IWLEP 2020 objectives for floor space ratio as detailed above.

- The proposed development is consistent with the objectives of the R1 General Residential zone.
- The development has been specifically tailored to respond to the unique characteristics of the site and surrounds. The proposed variation allows for a building that achieves compatibility with the streetscape of both Crown Street and Barwon Park Road.
- The proposed variation to the floor space ratio control will not result in any unreasonable amenity impacts to the surrounding properties in terms of overshadowing or loss of privacy, loss of views, acoustic impacts or visual impacts.
- The proposed development complies with the height of buildings development standard. The scale of the building is therefore appropriate notwithstanding the proposed variation to the floor space ratio development standard.
- The development can be adequately serviced by utilities and existing and planned infrastructure.
- The development is consistent with the emerging character of the locality having regard to the size and scale of the adjoining buildings on both Crown Street and Barwon Park Road.
- Council has applied considerable flexibility when applying the FSR standards.
- The proposed variation to the floor space ratio standard does not result in any adverse heritage impacts.

1.7 Clause 4.6(3)(b) Are there are sufficient environmental planning grounds to justify contravening the development standard?

The Land & Environment Court matter of *Initial Action Pty Ltd v Woollahra Council* [2018] NSWLEC 2018, provides assistance in relation to the consideration of sufficient environmental planning grounds whereby Preston J observed that:

- in order for there to be 'sufficient' environmental planning grounds to justify a written request under clause 4.6, the focus must be on the aspect or element of the development that contravenes the development standard and the environmental planning grounds advanced in the written request must justify contravening the development standard, not simply promote the benefits of carrying out the development as a whole; and
- there is no basis in Clause 4.6 to establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development.
- the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the Environmental Planning & Assessment Act 1979 (EP&A Act).

The proposed development has been designed to respond to the unique features of the site and the type, scale and density of the surrounding development.

The site is one of only three sites on the street block with frontage to both Crown Street and Barwon Park Road. The allotments to the south have frontage to either Barwon Park Road or Crown Street, not both. The depth of 13 and 13A Barwon Park Road, to the north of the site is considerably less than the subject site as the street block tapers to meet at the intersection of Barwon Park Road and Crown Street. The site therefore has unique characteristics and as such it is not possible or appropriate to continue or replicate the development to either the north or the site.

The existing building on the site is inconsistent with the character of both streets in terms of the form of the building, setbacks and interface with the public domain. Putting aside the inconsistency of the existing

building's use with the surrounding development, many of the character inconsistencies stem from providing a single, centrally located building on the site that does not address Crown Street and dedicates the front setback to Barwon Park Road to access and car parking..

The non-compliance with the floor space ratio control arises from providing a built form that responds to the unique position of the site in the street block, being the southernmost site on the street block with dual street frontage, and the specific dimensions of the site. The variation to the development standard is a result of providing a built form that is compatible with the setbacks, scale and typology of development on both Crown Street and Barwon Park Road and that provides an appropriate level of internal amenity for occupants.

Compliance with the FSR standard could be achieved through the provision of a single residential flat building on the site however this would not result in a development that both maximises the amenity for occupants, achieves compliance with the applicable LEP and DCP controls and delivers an appropriate streetscape outcome.

The depth of the site is not adequate to provide a residential flat building on the site that has limited setbacks to both streets (consistent with the adjoining development) and sufficient internal separation between apartments. Also, a single residential flat building on the site, that is either centrally located or located on the eastern side of the site, will not result in a built form that is compatible with the streetscape of Crown Street and would result in greater overshadowing, privacy and visual impacts on the adjoining properties.

The height of the development fully complies with the 9.5 metre height of buildings standard despite the variation to the FSR standard. The terrace style houses with frontage to Crown Street comply with the 9.5 metre height limit that applies to the site and are consistent with the height of the adjoining development at 13 and 13A Barwon Pk Road and the terrace houses opposite the site. The height of the eastern building provides a transition from the four-storey residential flat building at 23-29 Barwon Park Road and the two-storey development at 13 and 13A Barwon Park Road.

The proposed built form is tailored to the specific and unique features of the site and whilst the development exceeds the maximum floor space ratio standard the development is appropriate within its context and delivers a reasonable level of amenity to the occupants of the surrounding development.

The proposed built form and the resultant departure from the floor space ratio standard will not involve any unreasonable impacts on the amenity of adjoining properties, the streetscape or the locality in terms of loss of solar access, privacy impacts or view loss as detailed in this clause 4.6 request.

Requiring compliance with the FSR standard would not deliver a built form that has greater compatibility with the existing and desired streetscape. Compliance with the FSR standard is also not required to achieve a reasonable level of amenity to the occupants of the adjoining properties.

Other environmental planning grounds that justify the variation include the following:

- The development provides additional housing in an area that is serviced by existing infrastructure and as such the development is consistent with object (c) of the EP&A Act which seeks to promote the orderly and economic use and development of land.
- The site has not been identified as having built or cultural heritage significance and as such the development is compatible with object (f) of the EP&A Act.
- The pattern and form of the development is compatible with the character of the local area as detailed above. The development is therefore consistent with object (g) of the EP&A Act despite the variation proposed.

- The development will not impact on any threatened species, ecological communities and their habitats. In this regard the development is consistent with object (e) of the EP&A Act which seeks to protect the environment including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,

For these reasons there are sufficient environmental planning grounds to justify contravening the development standard.

1.8 Clause 4.6(4)(a)(i) consent authority satisfied that this written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3).

Clause 4.6(4)(a)(i) states that development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3).

These matters are comprehensively addressed above in this written request with reference to the five-part test described in *Wehbe v Pittwater Council* [2007] NSWLEC 827 for consideration of whether compliance with a development standard is unreasonable or unnecessary in the circumstances of the case. In addition, the establishment of environmental planning grounds is provided, with reference to the matters specific to the proposal and site, sufficient to justify contravening the development standard.

1.9 Clause 4.6(4)(a)(ii) consent authority satisfied that the proposal is in the public interest because it is consistent with the zone and development standard objectives

Clause 4.6(4)(a)(ii) states that development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Objective of the Development Standard

The proposal's consistency with the objectives of the development standard have been addressed in detail in this clause 4.6 request.

Objectives of the Zone

Clause 4.6(4) also requires consideration of the relevant zone objectives. The site is located within the R1 General Residential Zone and the objectives of the zone are:

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To provide for retail premises in existing buildings designed and constructed for commercial purposes.
- To provide for office premises in existing buildings designed and constructed for commercial purposes or as part of the conversion of existing industrial or warehouse buildings.

The proposed multi-dwelling housing development is consistent with the character of development with frontage to Crown Street and Barwon Park Road. The development contributes to the diversity of housing in the locality.

The development provides appropriately for car parking on the site however given the availability and frequency of public transport services in close proximity to the site, public transport use is likely to be the most efficient form of transport available to future residents.

For the reasons given the proposal is considered to be consistent with the objectives of the R1 zone.

The proposal is also consistent with the objectives of the Draft IWLEP 2020 as detailed in the Statement of Environmental Effects prepared by Sutherland & Associates Planning.

1.10 Clause 4.6(5) Secretary Considerations

The matters for consideration under Clause 4.6(5) are addressed below:

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

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

The contravention of the standard does not raise any matters of significance for state or regional environmental planning. The development does not impact upon or have implications for any state policies in the locality or impacts which would be considered to be of state or regional significance.

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

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

This Clause 4.6 request has demonstrated there are significant environmental planning benefits associated with the contravention of the standard. There is no material impact or benefit associated with strict adherence to the development standard and in my view, there is no compelling reason or public benefit derived from maintenance of the standard.

1.11 Objectives of Clause 4.6

The specific objectives of Clause 4.6 are:

(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 demonstrated above the proposal is consistent with the objectives of the zone and the objectives of the floor space ratio standard notwithstanding a variation is proposed to the maximum floor space ratio permitted on the site. Further, the variation does not result in any unreasonable impacts on the amenity of the surrounding residential properties or the streetscape of either Crown Street or Barwon Park Road. Accordingly, there is no reason why there should not be flexibility in applying the development standard.

The proposed built form is tailored to the specific and unique features of the site and whilst the development exceeds the maximum floor space ratio standard the development is appropriate within its context.

The proposal allows for the most economic use of the site in an area which is well served by public transport, is close to employment opportunities and is in close proximity to education and recreational facilities. Modifications to the development to achieve compliance with the standard would reduce the supply of housing in an accessible location without delivering consistency or compatibility with the emerging character of the street.

Accordingly, it is considered that the consent authority can be satisfied that the proposal meets objective 1(a) of Clause 4.6 in that allowing flexibility in relation to the floor space ratio development standard will achieve a better planning outcome in this instance.

1.12 Conclusion

The proposed variation to the floor space ratio development standard contained within clause 4.4 of Marrickville Local Environmental Plan 2011 has been found to be reasonable and necessary in the circumstances of the case. In addition there are sufficient environmental planning grounds to justify the variation. In this regard it is reasonable and appropriate to vary the floor space ratio development standard to the extent proposed.