





 DEVELOPMENT ASSESSMENT REPORT	
<b>Application No.</b>	DA/2020/1104
<b>Address</b>	267 Darling Street BALMAIN NSW 2041
<b>Proposal</b>	Shop Top Housing Development, containing two commercial units, 7 dwellings and 2 boarding rooms and the remediation of the site
<b>Date of Lodgement</b>	21 December 2020
<b>Applicant</b>	Mr Renato Ius
<b>Owner</b>	Mrs Constantina Vagerakas Mr Nicholas Vagerakas
<b>Number of Submissions</b>	Initial: 15 After Renotification: 13
<b>Value of works</b>	\$3,875,000.00
<b>Reason for determination at Planning Panel</b>	Number of submissions
<b>Main Issues</b>	Heritage/streetscape impacts Car parking shortfall Acoustic treatment Submissions
<b>Recommendation</b>	Deferred Commencement Approval
<b>Attachment A</b>	Recommended conditions of consent
<b>Attachment B</b>	Plans of proposed development
	
LOCALITY MAP	
Subject Site	   N
Notified Area	 

## 1. Executive Summary

This report is an assessment of the application submitted to Council for demolition of all structures and redevelopment of the site for a shop top development, containing two commercial units, seven dwellings and two boarding rooms and the remediation of the site at 267 Darling Street Balmain. The proposal as amended has deleted the communal rooftop terrace as originally proposed to address the streetscape presentation and potential visual and acoustic privacy impacts to the surrounding residential uses and minimise the visual bulk impacts to the Darling Street streetscape.

The application was notified to surrounding properties and 15 submissions were received in response to the initial notification. The application was renotified to include the remediation of the subject site as part of the description of the development. 13 submissions were received in response to renotification of the application. A total of eighteen properties have lodged submissions.

The main issues that have arisen from the application include:

- Heritage/streetscape impacts
- Car parking shortfall
- Acoustic treatment
- Submissions

The abovementioned issues are mostly acceptable and therefore the application is recommended for deferred commencement approval to address the outstanding heritage and acoustic treatment matters.

## 2. Proposal

The proposal as amended seeks consent for the demolition of all structures, remediation of the site and the construction of a three storey mixed use development comprising two commercial tenancies, two boarding rooms, four studio units and three x one bedroom units.

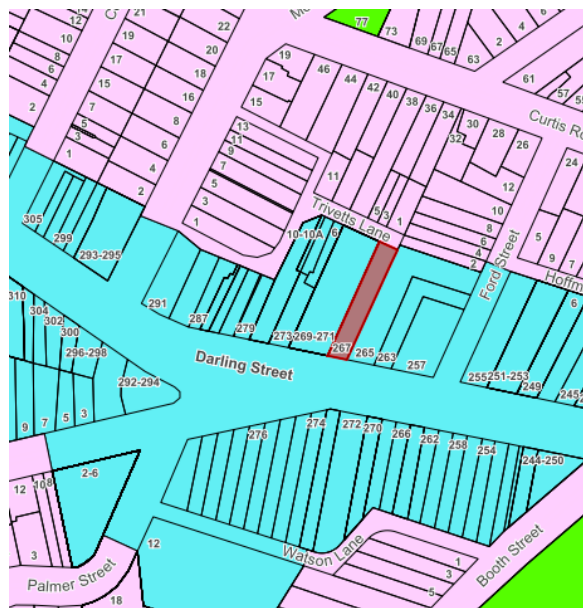
A single carparking space and loading bay for the commercial tenancies is proposed within the basement carpark accessible via Trivetts Lane. Eight bicycle and motorcycle spaces have been provided within the basement in lieu of on site car parking.

## 3. Site Description

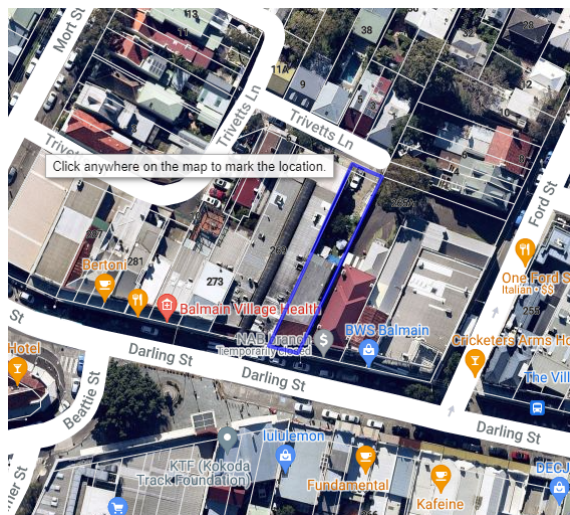
The subject site is located on the northern side of Darling Street, between Ford Street to the east and Beattie Street to the west. The site consists of a single allotment and is rectilinear with a total area of 356.7 sqm and is legally described as Lot B in DP 323679.

The subject site has a 7.6m frontage to Darling Street and 7.9m secondary frontage to Trivetts Lane. The site supports a two storey commercial building. Adjoining properties to the west of the subject site support one and two storey commercial buildings with frontages to Darling Street and Trivetts Lane, whilst the buildings to the east do not have a secondary frontage to Trivetts Lane. The subject site falls approximately 3.6m from the front to the rear of the site.

The subject site is located within the Town of Waterview Heritage Conservation Area. There are two heritage items near the subject site including the Westpac bank including interiors at 247 Darling Street (I195) and the War Memorial, Darling Square (Loyalty Square) (I206).



Zoning map extract, subject site highlighted in red



Aerial map, subject site outlined in blue

## 4. Background

### 4(a) Site history

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

#### Subject Site – 267 Darling Street, Balmain

Application	Proposal	Decision & Date
PREDA/2018/284	Demolition of all existing structures and redevelopment of the site to contain a four storey mixed use development with rooftop communal open space.	Advice issued, 21/12/2018
PREDA/2019/56	Demolition of all existing structures and redevelopment of the site to contain a four storey mixed use development. Follow-up PreDA meeting to PREDA/2018/284	Advice issued, 24/05/2019

#### Surrounding properties – 265 Darling Street, Balmain

Application	Proposal	Decision & Date
D/2004/552	Alterations to existing building, including new shopfront, reception area and signage associated with a real estate agency use.	Approved, 10/11/2004
D/2008/555	New boundary fence and block retaining wall	Approved, 23/02/2009
D/2011/222	Alterations and internal refurbishment associated with National Australia Bank use, including new shopfront and signage.	Approved, 26/05/2011
M/2011/99	Section 96 application to modify D/2011/222 which approved alterations	Approved, 7/09/2011

	and internal refurbishment associated with National Australia Bank use. Modification consists of new roofing and internal layout alterations	
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#### Surrounding properties – 269-271 Darling Street, Balmain

Application	Proposal	Decision & Date
D/2002/66	Fitout for `Bakers Delight` retail bakery and associated signage with trading hours being 6.00am to 7.00pm 7 days a week, with baking commencing at 2.00am.	Approved, 5/06/2002
D/2005/78	Change of use of Shop 7 of a commercial premises for use as a pathology collection centre and internal works.	Approved, 23/05/2005
D/2016/565	Remove existing shop front and install roller shutter to shop front plus bench seating inside arcade.	Approved, 29/12/2016

#### 4(b) Application history

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

Date	Discussion / Letter / Additional Information
24/05/2021	Request for additional information sent to the applicant detailing concerns with respect to the: <ul style="list-style-type: none"> <li>- Layout and configuration of the commercial tenancies;</li> <li>- Sightlines between units 5/6;</li> <li>- Reduction in the overall yield to reduce the car parking shortfall</li> <li>- Visual privacy and acoustic impacts from the communal roof terrace.</li> <li>- Scale and suitability of the proposal within the HCA;</li> <li>- Photomontage analysis of the proposal;</li> <li>- Car parking configuration</li> <li>- Acoustic report;</li> <li>- Contamination assessment; and</li> <li>- Clarified documentation including shadow diagrams and separate GFA calculation plan.</li> </ul>
1/06/2021	Phone teleconference with applicant to discuss matters raised in RFI
7/06/2021	Clarified with the applicant that the application was to be renotified as remediation was not included within the original proposal description. The renotification was to conclude on 31 July 2021
16/06/2021	Amended basement plan provided to Council deleting car stackers and turntable in favour of bicycle and motor cycle parking.
16/06/2021	Stage 1, Stage 2 and Remedial action plan provided by the applicant.
16/06/2021	Simplified Darling Street elevation plan provided including a reduced height by 1m, simplified details, introduction of textures and amended window details.
18/06/2021	Applicant advised that insufficient information has been provided for Council to understand the full extent of the impacts, in addition a photomontage was required as had been previously advised.
18/06/2021	Two ground floor options provided by the applicant.
23/06/2021	Amended concept plans provided to Council including façade profile and section plan.

5/07/2021	Applicant advised of preferable ground floor option and clarifying the extent of details that need to be encapsulated within the acoustic report.
7/07/2021	Council confirmed that an acoustic report is required for the proposal, and if it is not provided it will form part of a recommended deferred commencement condition.
19/07/2021	Applicant accepts recommended deferred commencement condition for the acoustic report.
19/07/2021	Applicant advised that inadequate information has been provided to demonstrate that the proposal satisfies the outstanding heritage matters, this being a detailed streetscape perspective/elevation analysis.
27/07/2021	Applicant advised Council that the engineering plans are yet to be finalised, the streetscape analysis is unable to be undertaken, the deletion of the rooftop deck has required the reconfiguration of the basement exhaust and the materials and finishes details. An extension of time for 30days from when covid restrictions are lifted was requested.
30/07/2021	Council recommended that the application be withdrawn or any additional information to be provided to Council by 4/08/2021.
9/08/2021	Amended plans provided by applicant.
10/08/2021	Traffic report provided by applicant.
12/08/2021	Amended stormwater/engineering plans provided by applicant.

## 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 No. 65—Design Quality of Residential Apartment Development*
- *State Environmental Planning Policy (Affordable Rental Housing) 2009*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*

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 LDCP 2013 provides controls and guidelines for remediation works. *SEPP 55* requires the consent authority to be satisfied that “the site is, or can be made, suitable for the proposed use” prior to the granting of consent.

The site has not been used in the past for activities which could have potentially contaminated the site. However, a Detailed Site Investigation (DSI) and Remedial Action Plan (RAP) have been provided to address the management of contaminated groundwater onsite and the treatment and/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 after the completion of the RAP. To ensure

that these works are undertaken, conditions are included in the recommendation of this report in accordance with the requirements of Clause 7 of *SEPP 55*.

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

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

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

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

*Apartment Design Guide*

The development is subject to the requirements of *SEPP 65* prescribes nine design quality principles to guide the design of residential apartment development and to assist in assessing such developments. The principles relate to key design issues including context and neighbourhood character, built form and scale, density, sustainability, landscape, amenity, safety, housing diversity and social interaction and aesthetics.

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

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

*Apartment Design Guide*

The Apartment Design Guide (ADG) contains objectives, design criteria and design guidelines for residential apartment development. In accordance with Clause 6A of the *SEPP* certain requirements contained within *LDCP2013* do not apply. In this regard the objectives, design criteria and design guidelines set out in Parts 3 and 4 of the ADG prevail. The following provides further discussion of the relevant issues:

*Communal and Open Space*

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

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

Comment: The proposal as amended does not comply with the ADG requirement with respect to this matter. The proposal as amended has deleted the rooftop communal open space area at the request of Council to not only minimise visual and acoustic privacy

impacts to the dwellings adjacent to the site at the rear but also to reduce the visual bulk impacts to Darling Street. Notwithstanding this the development is considered acceptable with respect to the objectives of this Part in that most residential units have access to a balcony greater than the minimum area requirements.

#### Deep Soil Zones

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

Site Area	Minimum Dimensions	Deep Soil Zone (% of site area)
Less than 650m <sup>2</sup>	-	7%

Comment: The proposal as amended does not comply with the ADG requirement with respect to this matter. Given the location of the site within the Balmain Village Sub area, the fall on the site and the need to provide rear lane vehicular and waste access the site is unable to provide deep soil planting in compliance with this part. A small landscaped area is proposed at the Trivetts Lane elevation to soften the appearance of the proposal at the rear. Furthermore, traditionally sites that have a dual frontage within the distinctive neighbourhood area are constructed boundary to boundary with limited to nil deep soil planting accommodated on site. Suitable stormwater measures are proposed in lieu of deep soil planting.

#### Visual Privacy/Building Separation

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

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

The ADG prescribes the following minimum required separation distances from buildings within the same site:

Up to four storeys/12 metres

Room Types	Minimum Separation
Habitable Rooms/Balconies to Habitable Rooms/Balconies	12 metres
Habitable Rooms to Non-Habitable Rooms	9 metres
Non-Habitable Rooms to Non-Habitable Rooms	6 metres

Comment: The proposal as amended complies with the ADG requirement with respect to this matter. Although demonstrating compliance with the numerical requirements under this part, to ensure direct sightlines between the balcony of unit 6 and the kitchen window at unit 5 on the second floor are hindered an opaque glass privacy screen has been incorporated into the proposal. The opaque glass privacy screen extends beyond the north-western wall of unit 6 into the rear central void area.

#### Solar and Daylight Access

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

- Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9.00am and 3.00pm at mid-winter.

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

Comment: The development complies with the above requirement with six out of the seven units proposed, this being 85%, receiving solar access for a minimum of 2 hours.

Natural Ventilation

The ADG prescribes the following requirements for natural ventilation:

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

Comment: The development complies with the above requirement.

Ceiling Heights

The ADG prescribes the following minimum ceiling heights:

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

Comment: The development complies with the above requirement.

Apartment Size

The ADG prescribes the following minimum apartment sizes:

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

Note: The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m<sup>2</sup> each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m<sup>2</sup> each.

Comment: The development complies with the above requirement.

Apartment Layout

The ADG prescribes the following requirements for apartment layout requirements:

- Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.
- Habitable room depths are limited to a maximum of 2.5 x the ceiling height.
- In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8 metres from a window.



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

Comment: The development complies with the above requirement.

Private Open Space and Balconies

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

Dwelling Type	Minimum Area	Minimum Depth
Studio apartments	4m <sup>2</sup>	-
1 Bedroom apartments	8m <sup>2</sup>	2 metres

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

The ADG also prescribes for apartments at ground level or on a podium or similar structure, a private open space(POS) is provided instead of a balcony. It must have a minimum area of 15m<sup>2</sup> and a minimum depth of 3 metres.

Comment: The development complies with the above requirement. The POS areas have been oriented to Trivetts Lane where possible, with the remainder being orientated to one of the two internal voids or behind the Darling Street parapet.

Common Circulation and Spaces

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

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

Comment: The development complies with the above requirement.

Storage

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

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

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

Comment: The development complies with the above requirement, additional storage is provided within the basement.

### 5(a)(iii) *State Environmental Planning Policy (Affordable Rental Housing) 2009*

The proposed development includes two boarding rooms, both located at the Darling Street elevation at the first and second floor. The application was assessed against the following relevant clauses of *the Affordable Rental Housing SEPP*:

#### Division 3 – Boarding Houses

Clause	Standard	Proposed	Compliance
26 - Zone	The site is zoned R1, R2, R3, R4, B1, B2, B4	The site is zoned B2	Yes
29 (1) - FSR	2:1 (713.4sqm)	1.68:1 (600.8sqm)	Yes, refer to discussion under Section 5(a)(v)(ii) of this report
29 (2)(a) Height	N/A	11.85m	N/A
29 (2)(b) Landscaped Area	Consistent with streetscape	The proposal is for mixed use development with an active street frontage, consistent with the Darling Street streetscape. A small landscaped area is proposed at the Trivetts Lane elevation to soften the proposal.	No, but acceptable having regard to commercial nature of the site
29(2)(c) Solar Access	Min 3 hours direct sunlight between 9am-3pm for at least one communal living room	No communal living rooms proposed for the two boarding rooms.	No
29 (2)(d) Private Open Space	At least one of the following is provided (not in the front setback): <ul style="list-style-type: none"> <li>20sqm minimum dimension of 3 metres for use of lodgers</li> <li>8sqm minimum dimension of 2.5metres adjacent to managers room for manager</li> </ul>	No communal open space areas are proposed for the two boarding rooms. A 4sqm POS area is proposed for the boarding room on second floor.	No
29 (2)(e) Parking	<ul style="list-style-type: none"> <li>0.5 spaces per boarding room</li> <li>1 space for each on site boarding manager</li> </ul>	1 space is required for the two boarding rooms proposed. Given the site constraints nil car parking is proposed, suitable bicycle and motorcycle parking is provided within the basement to offset the car parking requirements.	No, the parking arrangements including commercial and residential component is non-compliant and discussed under Section

Clause	Standard	Proposed	Compliance
			5 (d) of this report
29 (2)(f) Accommodation Size	Excluding private kitchen and bathroom facilities each single lodger room is a minimum of 12sqm and 16sqm in any other case	The accessible and double boarding room comply with the minimum requirements	Yes
30 (1)(a) Communal Room	If more than 5 rooms are proposed there is at least 1 common room	Less than five rooms are proposed.	N/A
30 (1)(b) Maximum room sizes	No boarding room will have a gross floor area of more than 25sqm excluding private kitchen or bathrooms	No rooms are greater than 25sqm excluding private kitchens and bathrooms.	Yes
30 (1)(c) Maximum occupation	No more than 2 adult lodgers with occupy each room	A condition is recommended requiring that a maximum of 2 adult lodger occupy each room	Yes (subject to condition)
30 (1)(d) Adequate facilities	Adequate bathroom and kitchen facilities are available for use of each lodger	Each lodger has been provided with their own private kitchen and bathroom	Yes
30 (1)(e) Manager	If there are more than 20 lodgers an on site dwelling must be provided for a boarding house manager	Less than 20 lodgers are proposed.	N/A
30 (1)(f) Commercial Land	If the site is zones primarily for commercial purposes the ground floor cannot be used for residential uses	No boarding room is located on the ground floor of the development.	Yes
30 (1)(h) Bicycle and Motorcycle parking	A minimum of 1 bicycle space and 1 motorcycle space is provided per 5 boarding rooms	8 bicycle and 8 motorcycle spaces are provided within the basement for the entire development.	Yes

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

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

**5(a)(vi) Leichhardt Local Environment Plan 2013 (LLEP 2013)**

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

Clause 1.2 - Aims of the Plan  
Clause 2.3 - Zone objectives and Land Use Table  
Clause 2.7 - Demolition  
Clause 4.4 – Floor Space Ratio  
Clause 4.4A - Exception to maximum floor space ratio for active street frontages  
Clause 4.5 - Calculation of floor space ratio and site area  
Clause 4.6 - Exceptions to development standards  
Clause 5.10 - Heritage Conservation  
Clause 6.2 - Earthworks  
Clause 6.4 - Stormwater management  
Clause 6.13 - Diverse housing

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

The site is zoned B2 – Local Centre under the *LLEP 2013*. The *LLEP 2013* defines the development as a mixed used development containing commercial premises, residential flat building and boarding rooms all of which are permitted within the zone. The development is best defined as a shop top housing:

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

The development is permitted with consent within the land use table. The development is consistent with the objectives of the B2 – Local Centre zone.

(ii) Clause 4.4 – Floor Space Ratio and Clause 4.4A - Exception to maximum floor space ratio for active street frontages

In accordance with Clause 4.4 the subject site has a maximum FSR 1:1 (356.7sqm). However, the subject site benefits from additional FSR provisions under 4.4A Exception to maximum floor space ratio for active street frontages of the *LLEP 2013* and Clause 29(1)(c) of the Affordable Rental Housing SEPP resulting in an overall maximum FSR of 2:1 (713.4sqm). Council has included the walkways on first and second floor as part of the gross floor area (GFA) calculations given that these areas are enclosed by full height privacy screens effectively enclosing and satisfying the GFA definition under the *LLEP 2013*. Council has calculated that the development results in a total FSR of 1.68:1 (600.8sqm) which is compliant with the numerical requirements.

The provisions contained within Clause 4.4 requires the development to satisfy the following:

(3) *Despite clause 4.4, the maximum floor space ratio for a building on land to which this clause applies is 1.5:1 if the consent authority is satisfied that—*

- (a) the building will have an active street frontage, and*
- (b) the building comprises mixed use development, including residential accommodation, and*
- (c) the building is compatible with the desired future character of the area in relation to its bulk, form, uses and scale.*

Furthermore, the provisions contained within 4.4A(5) define an active street frontage as the following:

*(5) In this clause, a building has an **active street frontage** if all floor space on the ground floor of the building facing the street is used for a purpose other than residential accommodation.*

The ground floor of the development consists of two commercial premises with ancillary bathroom and change room facilities and 1 x one bedroom unit at the rear. Due to the fall of the site from the front to the rear, the ground floor of the development as viewed from Darling Street is presented as a first floor when viewed from the Trivetts Lane elevation. As such it is unreasonable to require the full length of the ground floor to have an active frontage as it is not accessible from the Trivetts Lane elevation at the ground level. Approximately two thirds of the ground floor of the development is used for commercial purposes and is deemed acceptable to satisfy the active street frontage provisions.

The proposal is a mixed use development that provides an active street frontage to Darling Street and is generally suitable in scale within the context of the area, as such the proposal satisfies the additional FSR provisions under this part.

Furthermore, Clause 29(1)(c) of the Affordable Rental Housing SEPP states the following:

*“(c) if the development is on land within a zone in which residential flat buildings are permitted and the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register—the existing maximum floor space ratio for any form of residential accommodation permitted on the land, plus—*

- (i) 0.5:1, if the existing maximum floor space ratio is 2.5:1 or less, or*
- (ii) 20% of the existing maximum floor space ratio, if the existing maximum floor space ratio is greater than 2.5:1”*

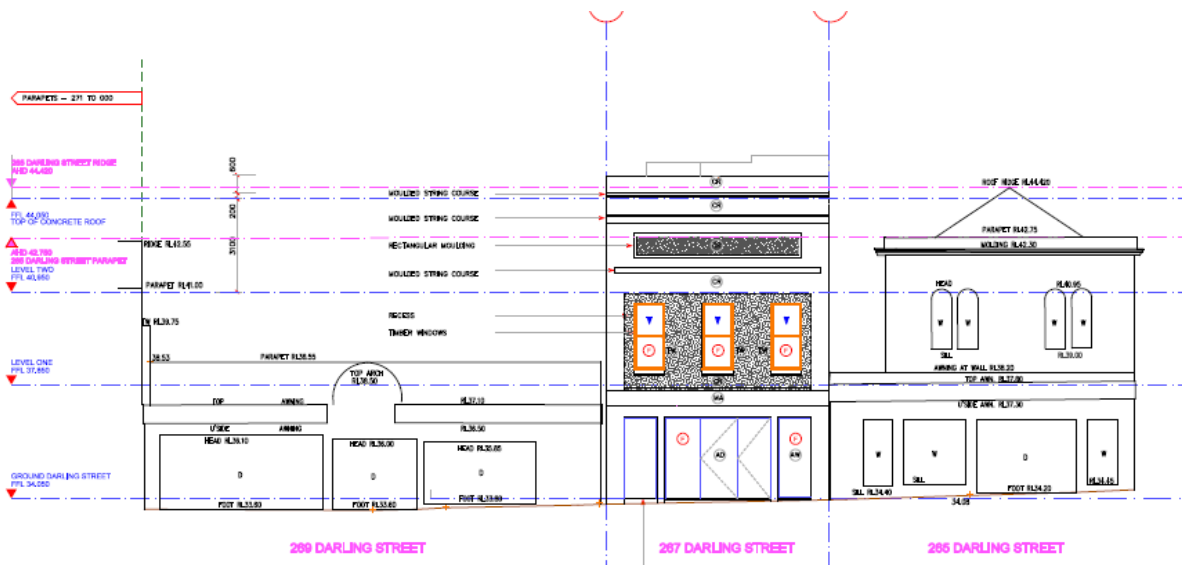
The subject site is entitled to an additional 0.5:1 FSR as residential flat buildings are permitted within the B2 Local Centre Zone, the subject site is not listed as a heritage item and maximum permissible FSR on the site is less than 2.5:1.

(iii) Clause 5.10 Heritage Conservation

The subject site is located within the Town of Waterview Heritage Conservation Area. There are two heritage items adjacent to the subject site including the Westpac bank including interiors at 247 Darling Street (I195) and the War Memorial, Darling Square (Loyalty Square) (I206). The proposal as amended has deleted the roof terrace area and rearticulated the front façade to ensure that the proposed three storey built form is suitably scaled within the predominately two story built form streetscape along the northern side of Darling Street.

A photomontage and streetscape analysis was requested by Council to ensure that the proposal will suitably fit in within the streetscape however this has not been provided by the applicant. In lieu of this required information, the applicant has provided a string course

assessment of the moulding and parapet with the building immediately adjoining the site at 265 Darling Street.



*Elevation provided illustrating detail of front facade*

The assessment illustrates that both the moulding and parapet exceeds that of 265 Darling Street. Inadequate information has been provided to determine if the proposal is suitably scaled within the Darling Street streetscape, this being on the northern side between Loyalty Square (279 Darling Street) to the corner (259 Darling Street).

Concern is still raised with respect to the appropriateness of the infill development within the HCA and Darling Street Distinctive Neighbourhood, namely that the proposal does not employ proportions that are traditionally utilised on commercial facades and that the parapet is oversized. It is recommended on any consent issued that a deferred commencement condition is imposed requiring the following information:

- A photomontage that demonstrates how the proposed new façade sits in the Darling Street streetscape. The photomontage(s) are to include the facades of the three buildings on each side of the proposal and are to show the elevation face on and the other is to be taken from the memorial in the centre of Loyalty Square;
- Revised elevations to the main façade that clearly demonstrate the profiles of the mouldings proposed to be used,
- The colours of the render and joinery and any other materials proposed;
- Detail of the thicknesses of the joinery to the shopfront and windows;
- Detail of the entrance door to the complex;

The revised elevations are to be subject to final approval by the Team Leader of Heritage and Urban Design.

(iv) Clause 6.13 Diverse Housing

The provisions contained within Clause 6.13 requires the development to satisfy the following:

- (1) *The objective of this clause is to ensure the provision of a mix of dwelling types in residential flat buildings and mixed use development that includes shop top housing.*
- (2) *This clause applies to development for the purpose of a residential flat building or a mixed use development that includes shop top housing but only if the development includes at least 4 dwellings.*
- (3) *Development consent must not be granted to development to which this clause applies unless—*

- (a) at least 25% of the total number of dwellings (to the nearest whole number of dwellings) forming part of the development will include self-contained studio dwellings or one-bedroom dwellings, or both, and
- (b) no more than 30% of the total number of dwellings (to the nearest whole number of dwellings) forming part of the development will include dwellings with at least 3 bedrooms.

The proposal comprises of a mix of two boarding rooms, four studio units and three one bedroom units thus satisfying the requirements of this clause.

#### 5(c) Draft State Environmental Planning Policy (Housing) 2021

The explanation of intended effect (EIE) for the Draft Housing Diversity SEPP contains two draft provisions that relate to the proposal. Firstly, proposes to amend the definition of boarding house to be an “affordable rental building that .... is managed by a registered not-for-profit community housing provider”. Secondly it proposes to reduce the applicable bonus FSR that would be applicable under SEPP ARH to 20% for sites with an FSR of 2.5:1 or less where residential flat buildings are permissible.

In relation to the first amendment, this would empower the consent authority to impose conditions of consent requiring rental income to be within the definition of affordable housing under the EPA Act 1979 and requiring the premises to be operated by a community housing provider. The first amendment would not alter the form or scale of the development if the amendment was in operation.

In relation to the second amendment, the proposal has an FSR of 1.68:1 which complies with the 1.7:1:1 that would be applicable if the Draft Housing Diversity SEPP had been made.

In considering the weight of this instrument it should be noted that this is a draft change to a SEPP that has been exhibited but not made. In this case the drafting of the final instrument is not available as would be with a draft LEP amendment awaiting ministerial consideration. The certainty of the amendment is lessened as the final form is not available and in consideration of the submission the Minister may make the instrument in a form that differs to the text of the EIE.

In considering the case law in *Terrace Tower Holdings Pty Limited v Sutherland Shire Council [2003] NSWCA 289* it should be noted that the application does not undermine the intent of the instrument in a substantial way as the form of the development would not be radically different to the proposed development (as in *Lizard Apple Pty Ltd v Inner West Council [2019] NSWLEC 1146*). As a result, it is not considered that the Draft Housing diversity SEPP presents an impediment to the granting of a consent.

#### 5(d) 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 relevant to the assessment of the application. Accordingly, the development is considered acceptable having regard to the provisions of the Draft IWLEP 2020.

#### 5(e) Development Control Plans

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

<b>LDCP2013</b>	<b>Compliance</b>
<b>Part A: Introductions</b>	
Section 3 – Notification of Applications	Yes
<b>Part B: Connections</b>	
B3.1 Social Impact Assessment	Yes
<b>Part C</b>	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	Yes
C1.4 Heritage Conservation Areas and Heritage Items	No – see discussion 5(a)(v)(iii)
C1.7 Site Facilities	Yes
C1.8 Contamination	Yes
C1.9 Safety by Design	Yes
C1.10 Equity of Access and Mobility	Yes
C1.11 Parking	No – see discussion
C1.12 Landscaping	No – see discussion 5(a)(ii)
C1.16 Structures in or over the Public Domain: Balconies, Verandahs and Awnings	Yes
C1.18 Laneways	Yes
<b>Part C: Place – Section 2 Urban Character</b>	
C2.2.2.1 Darling Street Distinctive Neighbourhood	No – see discussion 5(a)(v)(iii)
<b>Part C: Place – Section 3 – Residential Provisions</b>	
C3.1 Residential General Provisions	Yes
C3.2 Site Layout and Building Design	Yes
C3.3 Elevation and Materials	No – see discussion 5(a)(v)(iii)
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	Yes
C3.9 Solar Access	Yes
C3.10 Views	Yes
C3.11 Visual Privacy	Yes
C3.12 Acoustic Privacy	No – see discussion
<b>Part C: Place – Section 4 – Non-Residential Provisions</b>	
C4.1 Objectives for Non-Residential Zones	Yes
C4.2 Site Layout and Building Design	Yes
C4.4 Elevation and Materials	Yes
C4.5 Interface Amenity	Yes
C4.6 Shopfronts	Yes
<b>Part D: Energy</b>	
Section 1 – Energy Management	Yes
Section 2 – Resource Recovery and Waste Management	
D2.1 General Requirements	Yes
D2.2 Demolition and Construction of All Development	Yes
D2.5 Mixed Use Development	Yes



<b>Part E: Water</b>	
Section 1 – Sustainable Water and Risk Management	
E1.1 Approvals Process and Reports Required With Development Applications	Yes
E1.1.3 Stormwater Drainage Concept Plan	Yes
E1.2 Water Management	Yes
E1.2.1 Water Conservation	Yes
E1.2.2 Managing Stormwater within the Site	Yes
E1.2.3 On-Site Detention of Stormwater	Yes
<b>Part F: Food</b>	N/A
<b>Part G: Site Specific Controls</b>	N/A

The following provides discussion of the relevant issues:

C1.11 Parking

The following table indicates the minimum required parking for the development under the requirements of this part:

Use	Rate	Required
Studio	Nil per dwelling 1 visitor space per 11 dwellings	1 space 1 visitor space
1 bedroom unit	1 space per 3 dwellings 1 visitor space per 11 dwellings	
Boarding	0.5 per boarding room	1 space
Shops	1 space per 50sqm, if located on a recognised shopping street the first 50sqm is excluded	2 spaces (120sqm of commercial area is proposed with Darling street is a recognised shopping street. The proposal will result in the same car parking demand for both 'shops' and 'businesses')
Business	1 per 100sqm	

The application as originally lodged proposed car stackers and a turntable to accommodate car parking on site. The use of car stackers and turntables are not supported by Council. The proposal will result in the demand for five car parking spaces, the proposal as amended includes one car space and loading bay for the commercial tenancies only. The proposal as amended includes eight bicycle and motor cycle spaces for the development to offset the five car parking spaces that is generated by the proposal. The proposed shortfall is considered acceptable given the proximity of the subject site to public transport along Darling Street and the provision for additional bicycle and motorcycle parking on site.

The traffic parking assessment provided by the applicant indicates that the traffic generation of the proposal is minimal and is considered acceptable.

C3.12 Acoustic Privacy

Inadequate information has been provided by the applicant to demonstrate that the proposal will have appropriate acoustic treatment from the commercial uses along Darling Street and within the building itself, especially considering that Darling Street is a late night trade area. It is recommended on any consent issued that an acoustic report is provided to satisfy the requirements under this part.

### 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 Leichhardt Development Control Plan 2013 for a period of 14 days to surrounding properties. 15 submissions were received in response to the initial notification. The application was renotified to include the remediation of the subject site as part of the description of the development for 30 days. 13 submissions were received in response to renotification of the application

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

- The increase in visual bulk from the development – see Section 5(a)(v)(iii)
- Asbestos removal – see Section 5(a)(i)
- Traffic and parking impacts – see Section 5(e)

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

Issue: Noise from the rooftop communal rooftop terrace  
Comment: The proposal as amended has deleted the communal rooftop terrace area from the proposal.

Issue: Overdevelopment of the site, including excessive height  
Comment: The proposal is compliant with the applicable numerical requirements and satisfies the objectives under the Affordable Rental Housing SEPP, LLEP 2013 and the LDCP 2013. The proposal as amended has deleted the rooftop terrace to reduce the overall bulk of the development. Deferred commencement conditions are recommended on any consent issued to refine the Darling Street streetscape presentation.

Issue: Privacy implications from the rear of the development to Trivetts Lane  
Comment: The residential units that front the Trivetts Lane elevation have been setback from the rear boundary to mitigate visual privacy impacts to the dwelling to the rear of the site.

Issue: Impact of garbage within Trivetts Lane  
Comment: The proposal as amended has nominated a waste storage area in compliance with the LDCP 2013 requirements. Suitable conditions are recommended to ensure that the ongoing management of waste collection from the subject site does not impede on Trivetts Lane.

Issue: Impacts during the construction process  
Comment: Suitable standard conditions are included in the recommendation to ensure a construction traffic management plan is adhered to.

Issue: Pedestrian safety and access to Trivetts Lane during the construction process

Comment: Vehicular access to the basement bar parking area has been designed to comply with the LDCP 2013 requirements and the applicable Australian Standards.

Issue: Further damage to road surface during construction

Comment: Any damage to Council assets during the demolition and construction of the proposal falls outside the scope of the development application assessment. Notwithstanding, conditions are included in the recommendation seeking the provision of a bond to ensure any damage incurred during construction can be rectified to ensure any area of the public domain is reinstated satisfactorily.

## 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 as amended 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.

- Heritage
- Engineering
- Waste
- Health

## 7. Section 7.11 Contributions/7.12 Levy

Section 7.11 contributions 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 \$140,000 would be required for the development under Leichhardt Section 94 Contributions Plan 2014. A condition requiring that contribution to be paid is included in the recommendation.

## 8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in *Leichhardt Local Environmental Plan 2013* and the *Leichhardt Development Control Plan 2013*.

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

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

## 9. Recommendation

- A. 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/2020/1104 for the Shop top development, containing two commercial units, 7 dwellings and 2 boarding rooms and the remediation of the site at 267 Darling Street BALMAIN NSW 2041 subject to the conditions listed in Attachment A.

## Attachment A – Recommended conditions of consent

### CONDITIONS OF CONSENT

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

#### A. Deferred Commencement Condition - Heritage matter

The following additional architectural documentation and photomontages are to be submitted to the satisfaction of Council's Team Leader of Heritage and Urban Design:

- a. Revised elevations to the main façade that clearly demonstrate the profiles of the mouldings proposed to be used,
- b. The colours of the render and joinery and any other materials proposed.
- c. Detail of the thicknesses of the joinery to the shopfront and windows
- d. Detail of the entrance door to the complex
- e. Photomontages are to be provided that demonstrates how the proposed new façade sits in the streetscape. These photomontages are to include the Darling Street elevation and the facades of three buildings on each side of the proposal and the other is to be taken from the memorial in the centre of Loyalty Square.

#### B. Deferred Commencement - Acoustic Report

An acoustic report must be provided to the satisfaction of Council 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.

Evidence of the above matters must be submitted to Council within 2 years of the date of this Determination otherwise the Consent will not operate.

### DOCUMENTS RELATED TO THE CONSENT

#### 1. Documents related to the consent

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

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by
DA06-02	Existing building & demolition plan	20/11/2020	50one Pty Ltd
DA02-04	Basement floor plan	10/08/2021	50one Pty Ltd
DA03-06	Ground & level 01 floor plan	10/08/2021	50one Pty Ltd
DA04-03	Level 02 floor, roof & site plans	10/08/2021	50one Pty Ltd
DA100-03	Darling Street & Trivetts Lane elevations	9/08/2021	50one Pty Ltd
DA101-04	Western elevation	10/08/2021	50one Pty Ltd
DA102-03	Eastern elevation	9/08/2021	50one Pty Ltd
DA150-04	Section 01	10/08/2021	50one Pty Ltd

DA152-00	Section 3 - section profile profile of facade	9/08/2021	50one Pty Ltd
80820042-CI-1101, Rev 8	Basement floor stormwater drainage plan	11/08/2021	Cardno
80820042-CI-1102, Rev 7	Ground floor stormwater drainage plan	11/08/2021	Cardno
80820042-CI-1201, Rev 7	Sedimentation and erosion control plan	11/08/2021	Cardno
N/A	Plan of management	8/12/2020	GAT & Associates
P000548	Disability access report	30/11/2020	Inclusive Places
232719, Rev 2	Fire safety engineering design review	10/12/2020	Scientific Fire Services
80820042LO01, Rev 2	Structural implications of proposed excavation	3/12/2020	Cardno
Rev 2	Regulatory Compliance Report (BCA report)	1/12/2020	Modan Consulting
32601BCrpt	Geotechnical Investigation	23/12/2019	JK Geotechnics
E32601BTcpt2, Rev 1	Stage 2 Investigation	24/11/2020	JK Environments
E32601BTcpt3, Rev 1	Remedial Action Plan (RAP)	24/11/2020	JK Environments
N/A	Site waste minimisation and management plan	30/04/2020	C & N Vagerakas

As amended by the conditions of consent.

**FEES**

**2. 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.

<b>Security Deposit:</b>	Min \$20,000.00
<b>Inspection Fee:</b>	\$241.50

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.

### 3. Section 7.11 (Former Section 94) Contribution

Prior to the before commencing works written evidence must be provided to the Certifying Authority that a monetary contribution of \$ in accordance with the Leichhardt Developer Contributions Plan No.1 – Open Space and Recreation; 'Developer Contributions Plan No.2 – Community Facilities and Services (2005); and Leichhardt Developer Contributions Plan – Transport and Access/ Marrickville Section 94/94A Contributions Plan 2014] ("CP") has been paid to the Council.

The above contribution is the contribution applicable as at 12 August 2021.

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:

Local Infrastructure Type:	Contribution \$
Open Space and Recreation	\$82,807.19
Community Facilities and Services	\$10,952.50
Local Area Traffic Management	\$366.99
Access to Balmain Peninsula	\$1,886.27
Payment in Lieu of Adequate Parking	\$43,874.43
Bicycle Works	\$112.63
<b>TOTAL</b>	<b>\$140,000.00</b>

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.

### 4. 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**

#### **5. Contamination – Remedial Action Plan (No Site Auditor Engaged)**

The site is to be remediated and validated in accordance with the recommendations set out in the Remedial Action Plan, prepared by JK Environments Pty Ltd, reference E32601BTptrev1 dated 24 November 2020, the *Contaminated Land Management Act 1997* and the *State Environmental Planning Policy No 55*.

#### **6. 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.

#### **7. Boundary Alignment Levels**

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

#### **8. Car Parking**

The development must provide and maintain within the site:

- a. 1 car parking space for the commercial tenancies must be paved and line marked;
- b. 8 off-street motorcycle parking spaces must be provided, paved, line marked and maintained at all times;
- c. 8 Bicycle storage capacity within the site; and
- d. 1 Loading docks/bays.

#### **9. Boarding House**

The development must provide and maintain:

- a. A minimum of 1 Accessible boarding room; and
- b. All rooms within the boarding house must be connected to a centralised electricity, water and gas (if installed) service.

#### **10. Residential Flat Buildings – Hot Water Systems**

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

#### **11. Residential Flat Buildings – Air Conditioning Systems**

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

#### **12. Waste Management Plan**

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



**13. 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.

**14. 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.

**15. Works Outside the Property Boundary**

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

**16. Awnings without Lighting**

The proposed awning must be of cantilever type and be set back at least 600mm from the kerb line. The total width of the awning that extends beyond the road alignment must not exceed 3600mm. The proposed awning must be designed to be easily removed if required in future. The owner must maintain, modify or remove the structure at any time if given notification by Council or the RTA to do so.

**17. Separation of Commercial and Residential Waste and Recycling**

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

**PRIOR TO ANY DEMOLITION****18. 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.

**19. 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.

#### **20. Dilapidation Report**

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

#### **21. 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.

#### **22. 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.

#### **23. Resource Recovery and Waste Management Plan - Demolition and Construction**

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

### **PRIOR TO CONSTRUCTION CERTIFICATE**

#### **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 – Minor Developments (OSD is required)**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with stormwater drainage design plans incorporating on site stormwater detention and/or on site retention/ re-use facilities (OSR/OSD), certified by a suitably qualified Civil Engineer that the design of the site drainage system complies with the following specific requirements:

- a. The stormwater drainage concept plan on Drawing No. 8082004-C1-1101 revision (8) prepared by Cardno and dated 1 August 2021, must be amended to comply with the following;
- b. Stormwater runoff from all roof areas within the property being collected in a system of gutters, pits and pipeline and be discharged, together with overflow pipelines from any rainwater tank(s), by gravity to the kerb and gutter of a public road/directly to Council's piped drainage system via the OSD/OSR tanks as necessary;
- 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;
- e. The design plans must detail the existing and proposed site drainage layout, size, class and grade of pipelines, pit types, roof gutter and downpipe sizes;
- f. The plans, including supporting calculations, must demonstrate that the post development flows for the 100 year ARI storm are restricted to the pre development flows for the 5 year ARI storm event in accordance with Section E1.2.3 (C2 and C3) of Council's DCP2013 and the maximum allowable discharge to Council's street gutter limited to 15 litres/second (100year ARI);
- g. OSD may be reduced or replaced by on site retention (OSR) for rainwater reuse in accordance with the relevant DCP that applies to the land. Where this is pursued, the proposed on-site retention (OSR) tanks must be connected to a pump system for internal reuse for laundry purposes, the flushing of all toilets and for outdoor usage such as irrigation. Surface water must not be drained to rainwater tanks where the collected water is to be used to supply water inside the dwelling, such as for toilet flushing or laundry use;
- h. Pipe and channel drainage systems including gutters must be designed to convey the one hundred (100) year Average Recurrence Interval (ARI) flows from the contributing catchment to the OSD/OSR tanks;

- i. Where a combined OSD/OSR is proposed, only the roof eater is permitted to be connected to the storage tank. The overflow from the storage tank may be connected under gravity to the kerb and gutter of a public road, a discharge control device will not be required;
- j. Details of the 100-year ARI overflow route in case of failure/blockage of the drainage system must be provided;
- k. A minimum 150mm step up shall be provided between all external finished surfaces and adjacent internal floor areas;
- l. No nuisance or concentration of flows to other properties;
- m. The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system;
- n. Plans must specify that any components of the existing system to be retained must be certified during construction to be in good condition and of adequate capacity to convey the additional runoff generated by the development and be replaced or upgraded if required;
- o. An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets;
- p. Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site;
- q. New pipelines within the footpath area that are to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0 mm and a maximum section height and width of 100 mm or sewer grade uPVC pipe with a maximum diameter of 100 mm;
- r. All stormwater outlets through sandstone kerbs must be carefully core drilled in accordance with Council standard drawings;
- s. All redundant pipelines within footpath area must be removed and footpath/kerb reinstated;
- t. No impact to street tree(s).

#### **26. 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. the internal vehicle hardstand area must be redesigned such that the level at the boundary must match the invert level of the adjacent gutter plus 110mm [choose one] at both sides of the vehicle entry. This will require the internal garage slab or hard stand area to be adjusted locally at the boundary to ensure that it matches the above-issued alignment levels;
- b. A minimum of 2500mm 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;
- 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 longitudinal profile of the access and any ramps within the parking facilities must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004 for a B99

- design vehicle. Longitudinal sections must be provided along each outer edge of all ramps;
- f. Longitudinal sections must be provided along both sides of the vehicular access ramp(s) and throughout the path of travel for a [SRV/MRV] utilising the loading bay. The sections must demonstrate that minimum headroom of [3500mm/4500mm] is provided;
  - g. The layout and minimum dimensions of any standing area comply with clause 2.4 of AS/NZS 2890.1-2004 such that:
    - i. Car spaces 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.
  - h. At the property boundary the access from the road to a standing area is (as near as practicable) perpendicular to the line of the adjacent road;
  - i. The relative surface levels of the internal access from the road being controlled so that:
    - i. The surface levels at the property boundary match "alignment levels"
    - ii. The change in grade for any 2m length of access way does not exceed 1 in 8 (12.5%) unless suitable transitions are provided in accordance with AS2890.1;
    - iii. The maximum grade at any point does not exceed 1 in 5 (20%) or in the case of ramps greater than 20m in length 1 in 6 (16.7%); and
    - iv. The maximum grade at the property boundary does not exceed 1 in 20 (5%) within 6m of the property boundary.
  - j. 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;
  - k. The curved section of the ramp is designed in accordance with AS/NZS 2890.1-2004 with grades measured along the inside radius;
  - l. All loading docks and parking bays are designed such that all vehicular movements to and from the proposed development are in a forward direction;
  - m. The entry security door must be set back a minimum of 5500mm from the property boundary;
  - n. Loading / unloading facilities must be provided on-site in accordance with the requirements of AS2890.2 – 2002;
  - o. The parking spaces allocated to the [Development] for pick-up / drop-off must be sized in accordance with the requirements of AS/NZS 2890.1-2004 for [User Class 3A]. The spaces must be located in close proximity to the entry with a minimum width of 2700mm and a corresponding aisle width of 6200mm.

#### 27. Structural and Geotechnical Report

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

- a. The basement must be fully tanked to prevent the ingress of subsurface flows;
- b. Retaining walls must be entirely self-supporting in the event that excavation is undertaken within the road reserve adjacent to the property boundary to the depth of the proposed structure;
- c. Any existing or proposed retaining walls that provide support to the road reserve must be adequate to withstand the loadings that could be reasonably expected from within the constructed road and footpath area, including normal traffic and heavy construction and earth moving equipment, based on a design life of not less than 50 years;

- d. All components of the basement, including footings, must be located entirely within the property boundary;
- e. No adverse impact on surrounding properties including Council's footpath and road;
- f. The existing subsurface flow regime in the vicinity of the development must not be significantly altered as a result of the development;
- g. Recommendations regarding the method of excavation and construction, vibration emissions and identifying risks to existing structures or those on adjoining or nearby property; and
- h. Provide relevant geotechnical/ subsurface conditions of the site, as determined by a full geotechnical investigation.

#### **28. Alignment Levels – Rear Lane**

The internal vehicle hardstand area shall be redesigned such that the level at the boundary shall match the invert level of the adjacent gutter plus 110mm both sides of the vehicle entry. This will require the internal garage slab or hard stand area to be adjusted locally at the boundary to ensure that it matches the above Alignment Levels. Amended plans shall be submitted to and approved by Council before the issue of the Construction Certificate.

The garage slab or driveway must then rise within the property to be 170mm above the adjacent road gutter level. The longitudinal profile across the width of the vehicle crossing must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004. [Required generally only for garages on the low side of the road]

Longitudinal sections along each outer edge of the access and parking facilities, extending to the centreline of the road carriageway must be provided, demonstrating compliance with the above requirements.

#### **29. 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.

#### **30. 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*

#### **31. Fibre-ready Facilities**

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

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

**32. Future Food Use - Mechanical Ventilation Provision**

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

**33. 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 Leichhardt DCP 2013 and must include doorways/entrance points of 1200mm.

**34. 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 (within the basement) must meet the floor area requirements as per the Leichhardt DCP 2013 and have minimum doorways of 1200mm wide to accommodate large items.

**35. 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.

**36. Each Residential Level is to have Access to a Disposal Point for All Waste Streams**

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

**DURING DEMOLITION AND CONSTRUCTION****37. 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.

**38. 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).

#### **39. Construction Hours – Class 2-9**

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

- a. 7:00am to 6:00pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm);
- b. 8:00am to 1:00pm on Saturdays with no demolition works occurring during this time; and
- c. at no time on Sundays or public holidays.

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

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

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

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

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

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

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

#### **40. 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.

#### **41. Documentation of Demolition and Construction Waste**

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



**PRIOR TO OCCUPATION CERTIFICATE****42. 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 Environmental Operations Act 1997*.

**43. Contamination – Validation (No Site Audit Statement Required)**

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

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

**44. 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; and
- d. Other works subject to the *Roads Act 1993* approval.

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

**45. 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.

**46. Protect Sandstone Kerb**

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any stone kerb, damaged as a consequence of the work that is the subject of this development consent, has been replaced.

**47. 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.

#### **48. Operation and Management Plan**

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

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

#### **49. 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.

#### **50. 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.

#### **51. Parking Signoff – Major Development**

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

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

#### **52. Public Domain - Major Developments**

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with the works-as-executed plan(s), certified by a Registered Surveyor, that show the as built details in comparison to those shown on the plans approved with the public domain and

Roadworks Permit with all relevant levels and details indicated must be marked in red on a copy of the Council stamped plans.

**53. 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.

**54. 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 (CEng) 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.

**55. Section 73 Certificate**

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

**ON-GOING**

**56. 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.

**57. Operation and Management Plan**

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

**58. Vehicles Leaving the Site**

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

**59. Boarding House**

The use of the premises as a boarding house must comply at all times with the following:

- a. The use must comply at all times with the Plan of Management referred to in condition 1 above and as amended by the conditions in this Determination;
- b. A copy of the Plan of Management and House Rules must be annexed to each and every tenancy/occupation agreement for a room;
- c. A copy of the approved Plan of Management and House Rules must be clearly displayed within every common room in the building at all times;
- d. The Plan of Management must not be amended without the prior consent of Council and must be made available to Council officers and the Police upon request;
- e. All tenancy/occupation agreements for rooms within the premises must be for a minimum period of three (3) months;
- f. Boarding rooms 1 and 2 as identified on the floor plans within the building must be used exclusively as boarding rooms containing a maximum total of 4 lodgers with not more than 2 adult lodgers residing in each room at any one time;
- g. Not more than 2 lodgers must occupy each boarding room;

- h. The boarding rooms must not be adapted for use as backpacker's accommodation, serviced apartments or a residential flat building;
- i. Each self-contained room and shared kitchen must be fitted out with washing up facilities, a cooktop, oven, fridge and storage space with such utilities being maintained in working order at all times.

**60. Loading/unloading on site**

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

**61. Bin Storage**

All bins are to be stored within the site.

**62. Documentation of Businesses Waste Services**

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

**63. Plan of Management - Operation**

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

**ADVISORY NOTES****Health Premises Registration – Generic**

The premises are required to be registered with Council's Environmental Health Team in accordance with the following relevant legislation:

- a. Boarding House / Shared Accommodation - *Boarding Houses Act 2012* and the *Local Government (General) Regulation 2005*.

**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.

**Asbestos Removal**

A demolition or asbestos removal contractor licensed under the Work Health and Safety Regulations 2011 must undertake removal of more than 10m<sup>2</sup> 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.

#### 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.

#### 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.

#### 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.

**Prescribed Conditions**

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

**Notification of commencement of works**

At least 7 days before any demolition work commences:

- a. the Council must be notified of the following particulars:
  - i. the name, address, telephone contact details and licence number of the person responsible for carrying out the work; and
  - ii. the date the work is due to commence and the expected completion date; and
- b. a written notice must be placed in the letter box of each directly adjoining property identified advising of the date the work is due to commence.

**Storage of Materials on public property**

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

**Toilet Facilities**

The following facilities must be provided on the site:

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

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

**Infrastructure**

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

**Other Approvals may be needed**

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

**Failure to comply with conditions**

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

**Other works**

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

**Obtaining Relevant Certification**

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

- a. Application for any activity under that Act, including any erection of a hoarding;
- b. Application for a Construction Certificate under the *Environmental Planning and Assessment Act 1979*;
- c. Application for an Occupation Certificate under the *Environmental Planning and Assessment Act 1979*;
- d. Application for a Subdivision Certificate under the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed;
- e. Application for Strata Title Subdivision if strata title subdivision of the development is proposed;
- f. Development Application for demolition if demolition is not approved by this consent;  
or
- g. Development Application for subdivision if consent for subdivision is not granted by this consent.

**Disability Discrimination Access to Premises Code**

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

**National Construction Code (Building Code of Australia)**

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

**Notification of commencement of works**

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

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

**Dividing Fences Act**

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

**Permits from Council under Other Acts**

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

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

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

#### Noise

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

#### Amenity Impacts General

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

#### Fire Safety Certificate

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

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

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

#### Boarding House – Registration with Fair Trading

Boarding houses with two or more residents who have additional needs or five or more residents who do not have additional needs are required to register with the Department of Fair Trading.

#### 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 <a href="http://www.basix.nsw.gov.au">www.basix.nsw.gov.au</a>
Department of Fair Trading	13 32 20 <a href="http://www.fairtrading.nsw.gov.au">www.fairtrading.nsw.gov.au</a>



	Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Prior to You Dig	1100 <a href="http://www.dialprior toyoudig.com.au">www.dialprior toyoudig.com.au</a>
Landcom	9841 8660 To purchase copies of Volume One of "Soils and Construction"
Long Service Payments Corporation	131441 <a href="http://www.lspc.nsw.gov.au">www.lspc.nsw.gov.au</a>
NSW Food Authority	1300 552 406 <a href="http://www.foodnotify.nsw.gov.au">www.foodnotify.nsw.gov.au</a>
NSW Government	<a href="http://www.nsw.gov.au/fibro">www.nsw.gov.au/fibro</a> <a href="http://www.diySAFE.nsw.gov.au">www.diySAFE.nsw.gov.au</a> Information on asbestos and safe work practices.
NSW Office of Environment and Heritage	131 555 <a href="http://www.environment.nsw.gov.au">www.environment.nsw.gov.au</a>
Sydney Water	13 20 92 <a href="http://www.sydneywater.com.au">www.sydneywater.com.au</a>
Waste Service - SITA Environmental Solutions	1300 651 116 <a href="http://www.wasteservice.nsw.gov.au">www.wasteservice.nsw.gov.au</a>
Water Efficiency Labelling and Standards (WELS)	<a href="http://www.waterrating.gov.au">www.waterrating.gov.au</a>
WorkCover Authority of NSW	13 10 50 <a href="http://www.workcover.nsw.gov.au">www.workcover.nsw.gov.au</a> 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.

#### Notice to Council to deliver Residential Bins

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

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

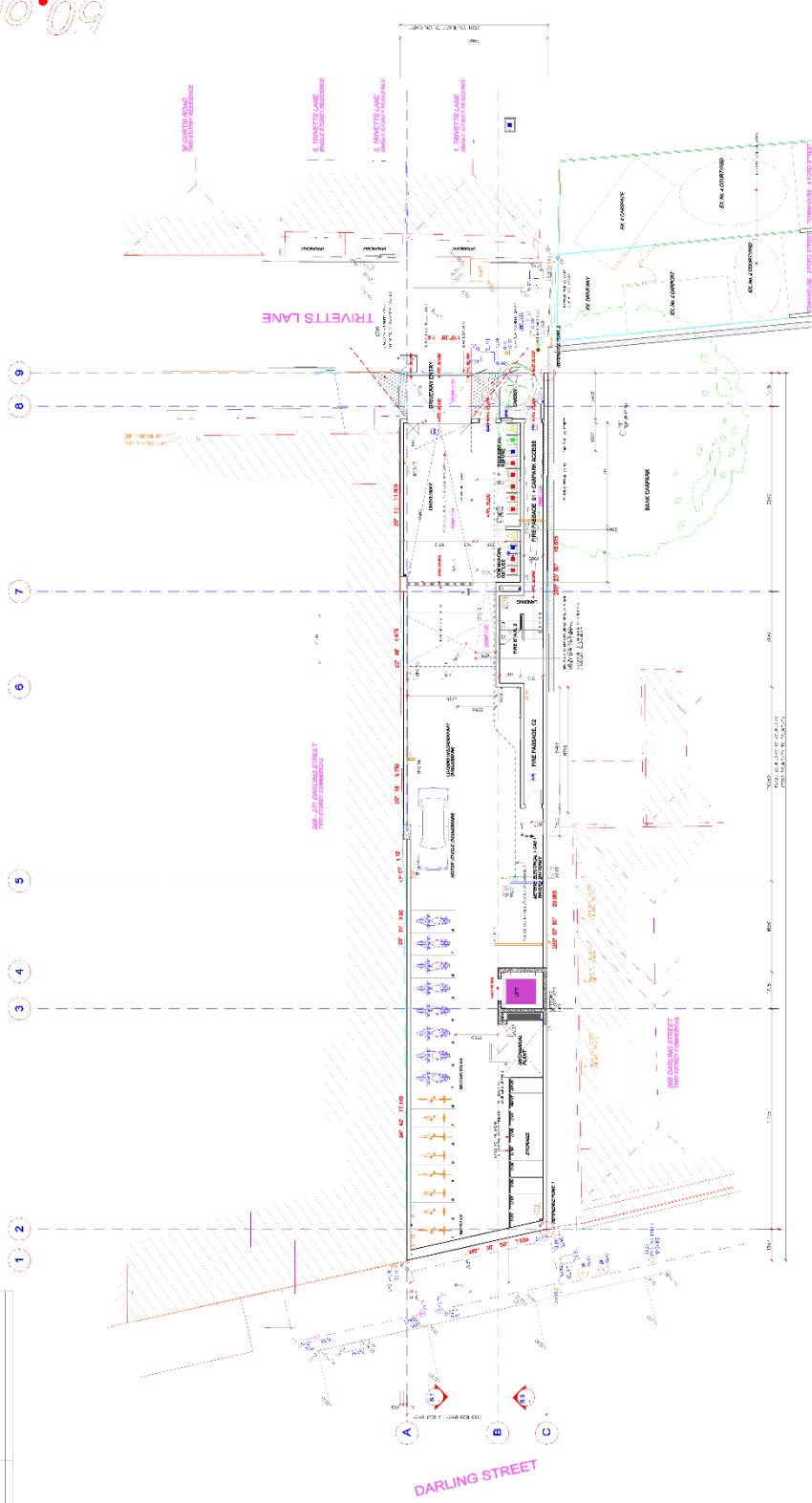
#### Recycling / Garbage / Organics Service Information and Education

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



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AMENDMENT	
NO.	
DATE	
BY	
FOR	
BY	
FOR	



**P02 BASEMENT FLOOR PLAN**

<b>FILED LEGEND</b>	<b>GENERAL LEGEND</b>	<b>STRUCTURAL LEGEND</b>	<b>MECHANICAL LEGEND</b>	<b>SEWER LEGEND</b>	<b>WATER TREATMENT LEGEND</b>
FILED LEGEND	GENERAL LEGEND	STRUCTURAL LEGEND	MECHANICAL LEGEND	SEWER LEGEND	WATER TREATMENT LEGEND

**50.one**  
Commercial + Residential  
Social and Environmental design solutions

Project: P02 BASEMENT FLOOR PLAN  
Client: 50.one  
Date: 2022  
Scale: 1:100  
Author: [Name]  
Check: [Name]  
Date: 2022

50.one  
215 KENNEDY ROAD, SYDNEY NSW 1587  
T: 02 9550 8000 | W: 50.ONE.COM.AU

50.one



P03 GROUND FLOOR PLAN - DARLING STREET

P04 LEVEL 01 FLOOR PLAN

FINISHES LEGEND	
1	CONCRETE SLAB
2	CONCRETE WALL
3	CONCRETE CEILING
4	CONCRETE FLOOR
5	CONCRETE CURB
6	CONCRETE KERB
7	CONCRETE CURB
8	CONCRETE CURB
9	CONCRETE CURB
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 03-06  
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 2023  
 10/10/2023

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 03-06  
 2023  
 10/10/2023



ITEM	DESCRIPTION	QUANTITY	UNIT	REMARKS
1	MECHANICAL EXHAUST SYSTEM	1	UNIT	FOR UNIT 5
2	MECHANICAL EXHAUST SYSTEM	1	UNIT	FOR UNIT 6
3	MECHANICAL EXHAUST SYSTEM	1	UNIT	FOR UNIT 7
4	MECHANICAL EXHAUST SYSTEM	1	UNIT	FOR BOARDING ROOM
5	MECHANICAL EXHAUST SYSTEM	1	UNIT	FOR ROOF

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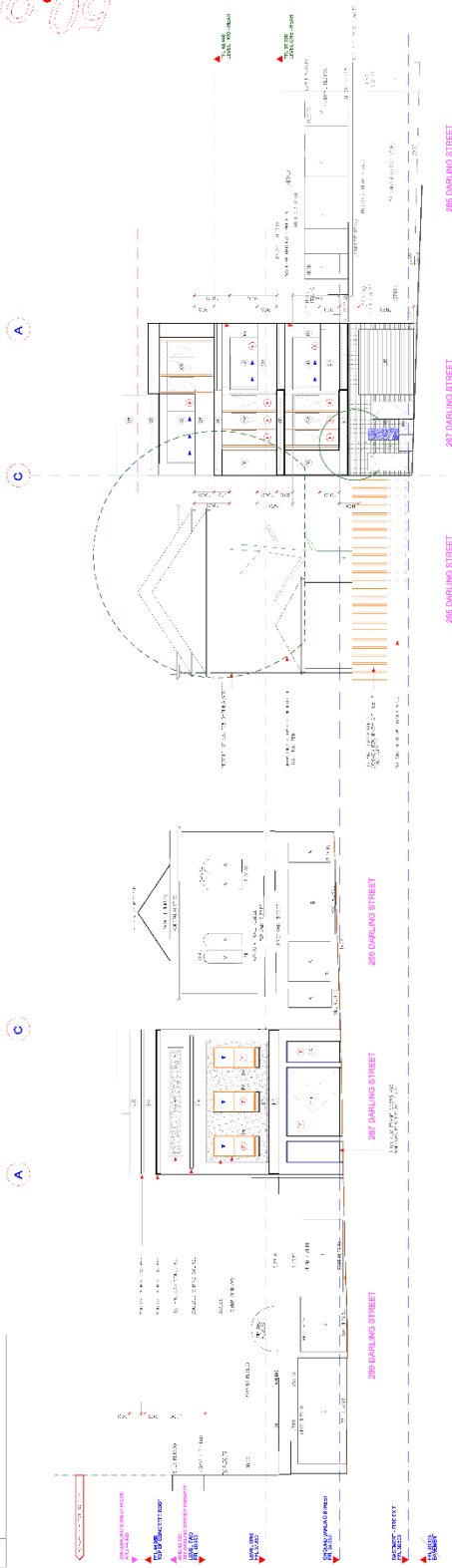
Commercial Residential

2024 04-03

Project Name: 2024-03-20  
Client: 2024-03-20  
Drawing No: 2024-03-20  
Scale: 1:100  
Author: 2024-03-20  
Date: 2024-03-20

50. one

DATE: 10/10/2023
BY: J. WOOD
FOR: J. WOOD
PROJECT: 100-03



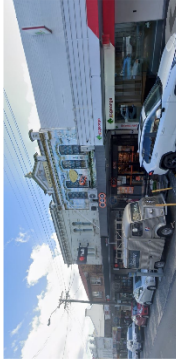
E02 TRIVETTS LANE ELEVATION



PHOTOGRAPH 09



PHOTOGRAPH 10



PHOTOGRAPH 11

NO.	REVISION	DATE
1	ISSUED FOR PERMIT	10/10/2023
2	REVISED PER PERMIT	10/10/2023
3	REVISED PER PERMIT	10/10/2023
4	REVISED PER PERMIT	10/10/2023
5	REVISED PER PERMIT	10/10/2023
6	REVISED PER PERMIT	10/10/2023
7	REVISED PER PERMIT	10/10/2023
8	REVISED PER PERMIT	10/10/2023
9	REVISED PER PERMIT	10/10/2023
10	REVISED PER PERMIT	10/10/2023

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100-03

DATE: 10/10/2023

BY: J. WOOD

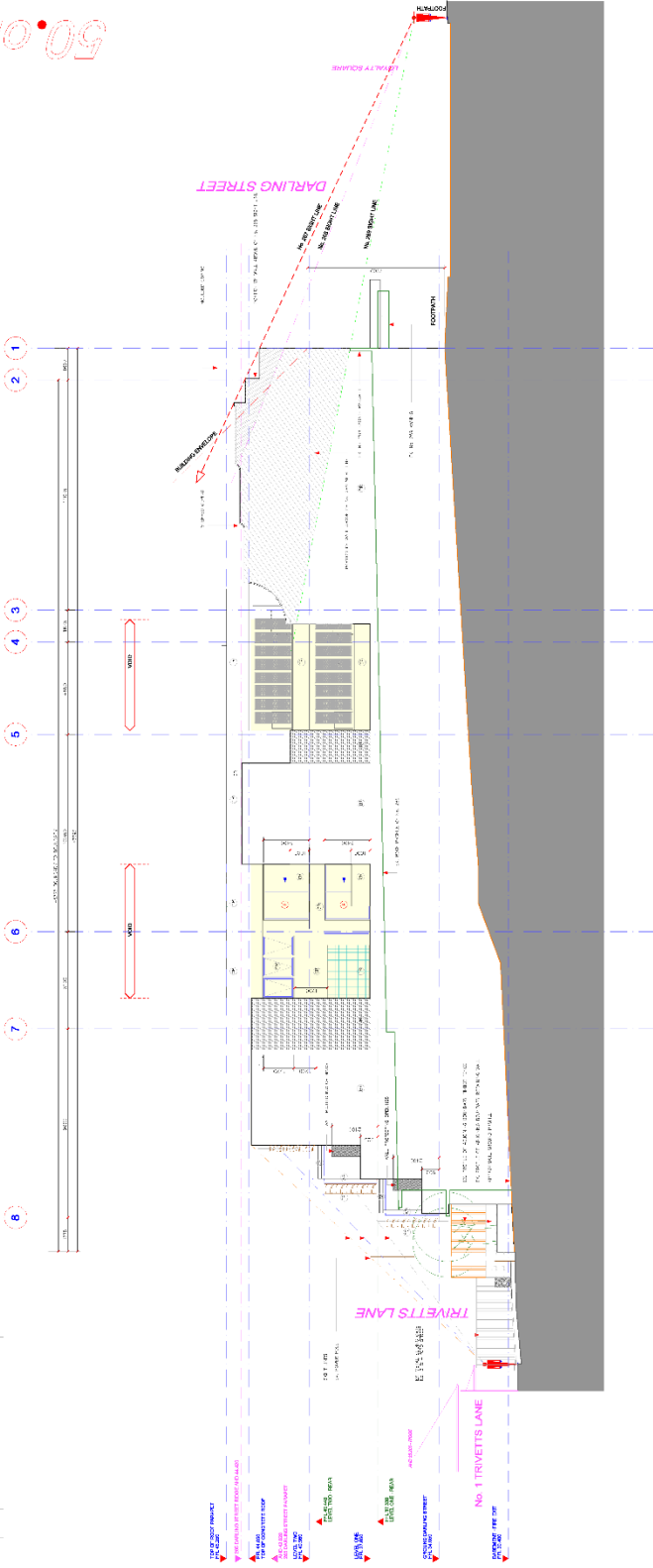
FOR: J. WOOD

PROJECT: 100-03

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**AMENDMENTS**

NO.	DATE	DESCRIPTION
1	15/01/2024	ISSUE FOR COMMENT
2	15/01/2024	ISSUE FOR COMMENT
3	15/01/2024	ISSUE FOR COMMENT
4	15/01/2024	ISSUE FOR COMMENT
5	15/01/2024	ISSUE FOR COMMENT
6	15/01/2024	ISSUE FOR COMMENT
7	15/01/2024	ISSUE FOR COMMENT
8	15/01/2024	ISSUE FOR COMMENT



E03 WESTERN ELEVATION  
1:100

**EXHIBIT 103 - SUMMARY**

NO.	DESCRIPTION
1	CONCRETE FINISH
2	RENDER FINISH
3	GLASS CURTAIN WALL
4	ALUMINIUM CURTAIN WALL
5	ALUMINIUM WINDOW
6	ALUMINIUM DOOR
7	ALUMINIUM RAILING
8	ALUMINIUM BALCONY
9	ALUMINIUM SIGNAGE
10	ALUMINIUM LIGHTING
11	ALUMINIUM FENCE
12	ALUMINIUM GATE
13	ALUMINIUM POST
14	ALUMINIUM RAILING
15	ALUMINIUM BALCONY
16	ALUMINIUM SIGNAGE
17	ALUMINIUM LIGHTING
18	ALUMINIUM FENCE
19	ALUMINIUM GATE
20	ALUMINIUM POST
21	ALUMINIUM RAILING
22	ALUMINIUM BALCONY
23	ALUMINIUM SIGNAGE
24	ALUMINIUM LIGHTING
25	ALUMINIUM FENCE
26	ALUMINIUM GATE
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45	ALUMINIUM LIGHTING
46	ALUMINIUM FENCE
47	ALUMINIUM GATE
48	ALUMINIUM POST
49	ALUMINIUM RAILING
50	ALUMINIUM BALCONY

101-04

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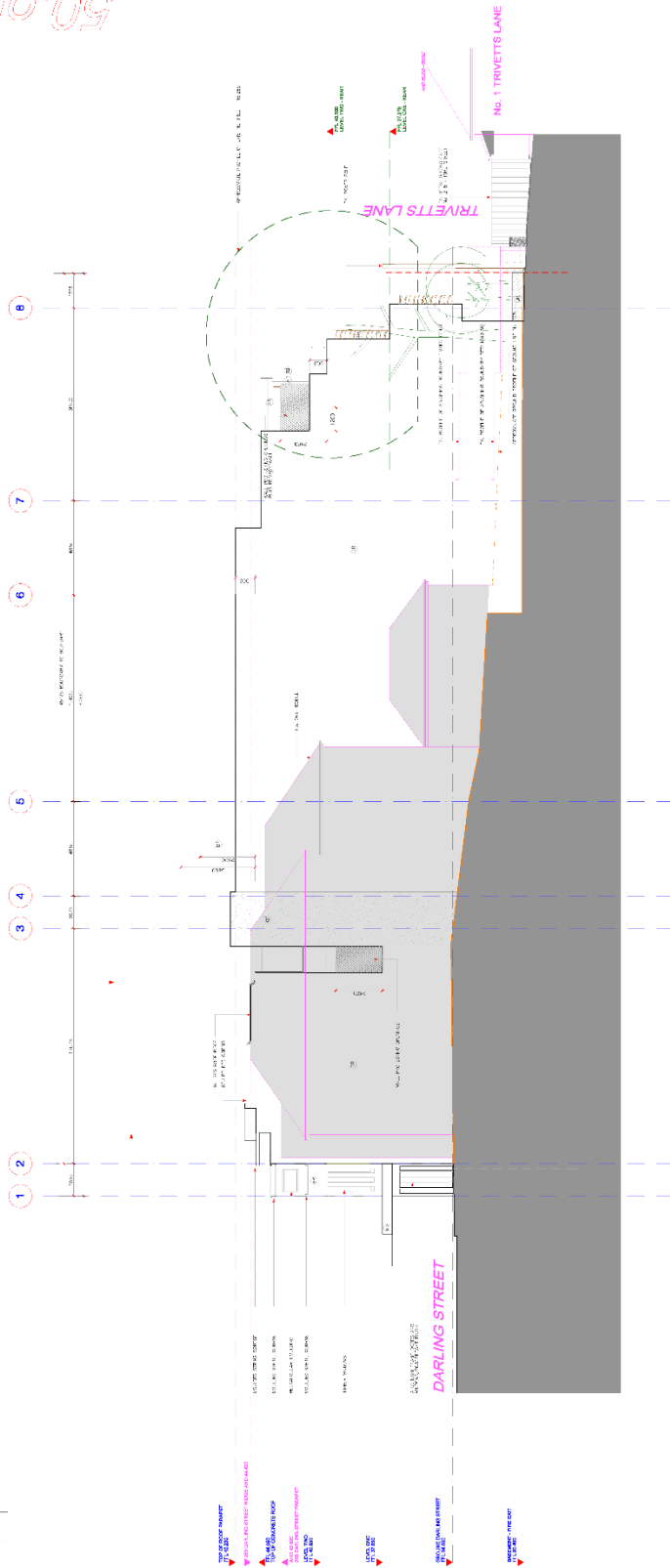
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**LEGEND**

1	EXISTING ROOF
2	NEW ROOF
3	EXISTING WALLS
4	NEW WALLS
5	EXISTING WINDOWS
6	NEW WINDOWS
7	EXISTING DOORS
8	NEW DOORS
9	EXISTING PATIO
10	NEW PATIO
11	EXISTING BALCONY
12	NEW BALCONY
13	EXISTING TERRACE
14	NEW TERRACE
15	EXISTING DRIVEWAY
16	NEW DRIVEWAY
17	EXISTING GARAGE
18	NEW GARAGE
19	EXISTING PORCH
20	NEW PORCH
21	EXISTING STAIRS
22	NEW STAIRS
23	EXISTING LIFT
24	NEW LIFT
25	EXISTING CORE
26	NEW CORE
27	EXISTING CORE
28	NEW CORE
29	EXISTING CORE
30	NEW CORE

E04 EASTERN ELEVATION

**REVISIONS**

NO.	DATE	DESCRIPTION
1	10/10/2017	ISSUE FOR PERMIT
2	10/10/2017	ISSUE FOR PERMIT
3	10/10/2017	ISSUE FOR PERMIT

102-03

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Commercial & Residential design solutions

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Commercial & Residential design solutions

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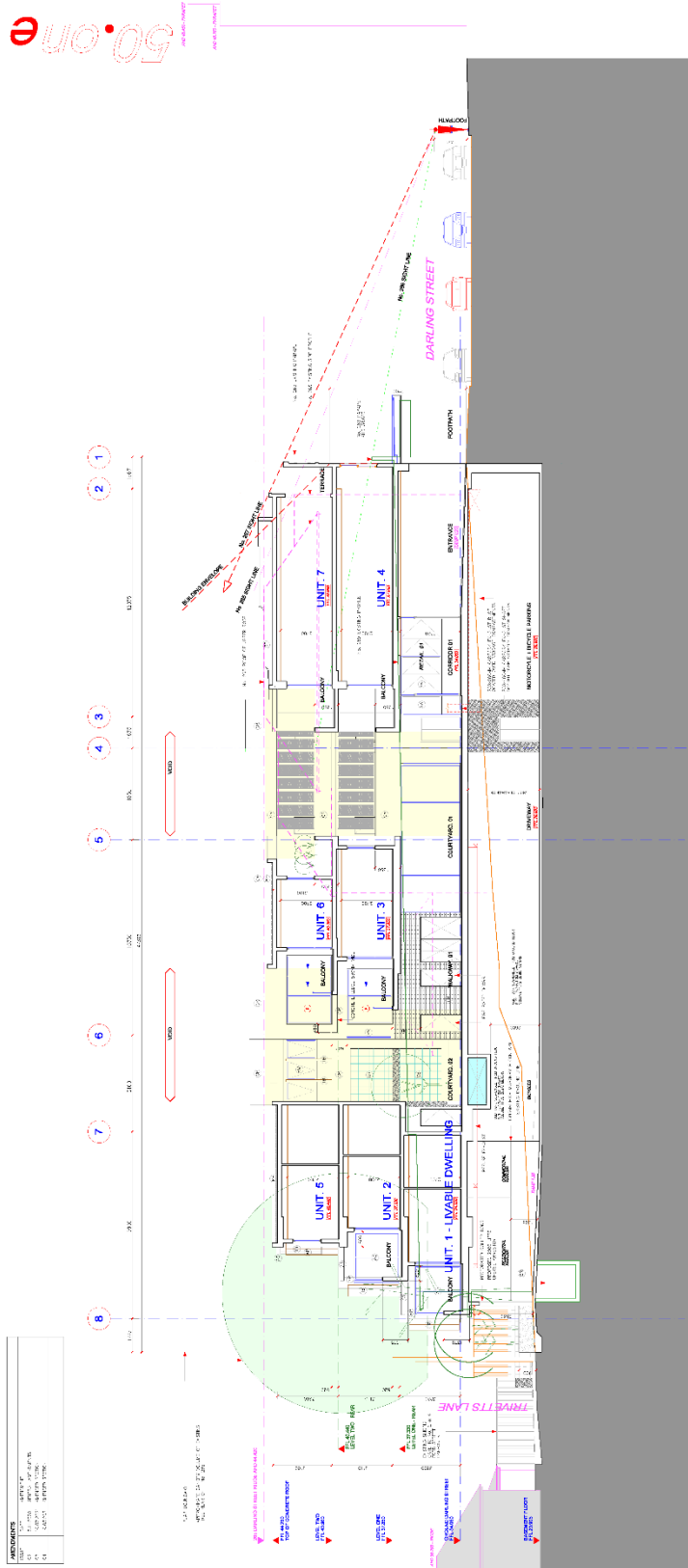
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Commercial & Residential design solutions





**LOADS FROM SCHEDULE**

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S.01 SECTION 01  
1:100

**Commercial + Residential**  
Social and Environmental design solutions

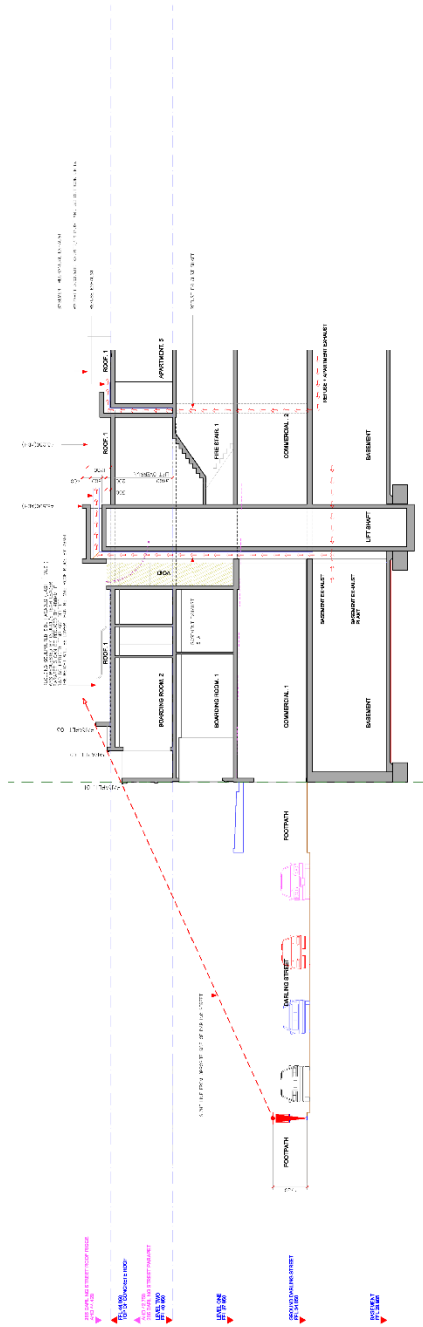
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REVISIONS	DATE	BY	DESCRIPTION



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T: 02 9551 2000 F: 02 9551 2001 E: info@50one.com.au

Project Name: COMMERCIAL - RESIDENTIAL - DEVELOPMENT  
Client: 50 ONE PTY LTD  
Site: 1/155 2002 2000 ST. GEORGES ROAD, SYDNEY NSW 2000  
Scale: 1:100  
Date: 14/01/2024  
Author: [Name]  
Checked: [Name]  
Approved: [Name]