






# INNER WEST COUNCIL

## DEVELOPMENT ASSESSMENT REPORT

<b>Application No.</b>	201700486
<b>Address</b>	39-41 Roberts Street, St Peters
<b>Proposal</b>	To consolidate the existing allotments into 1 allotment, demolish existing improvements, remove trees, carry out a Torrens Title subdivision of land into 5 allotments and construct a 2 storey dwelling house on allotments 1 and 5 and a 3 storey dwelling house on allotments 2, 3 and 4
<b>Date of Lodgement</b>	6 October 2017
<b>Applicant</b>	Environa Studio
<b>Owners</b>	Prestige Developments Pty Ltd
<b>Number of Submissions</b>	10 submissions originally, 10 submissions re-notification.
<b>Value of works</b>	\$1,751,583
<b>Reason for determination at Planning Panel</b>	Number of submissions exceeds officer delegation
<b>Main Issues</b>	FSR, Car Parking, Streetscape/Materials and Finishes
<b>Recommendation</b>	Deferred commencement consent



<b>Subject Site:</b> 	<b>Objectors:</b> 
<b>Notified Area:</b> 	

## 1. Executive Summary

This report concerns an application to consolidate the existing allotments into 1 allotment, demolish existing improvements, remove trees, carry out a Torrens Title subdivision of land into 5 allotments and construct a 2 storey dwelling house on allotments 1 and 5 and a 3 storey dwelling house on allotments 2, 3 and 4. The application was notified in accordance with Council's Notification Policy and 10 submissions were received.

During the assessment process the proposal was amended to address concerns raised by Council officers relating to the overall bulk and architectural form of the dwellings, car parking, setbacks and other matters. The amended proposal was required to be re-notified in accordance with Council's Notification Policy and 10 submissions were received.

The proposal generally complies with aims, objectives and design parameters of Marrickville Local Environment Plan 2011 (MLEP 2011) with the exception that the proposal exceeds the maximum floor space ratio (FSR) development standard on Lot 2 by 10sqm or 7.2%. A written request under Clause 4.6 of MLEP 2011 has been submitted by the applicant for the variation and is considered well founded and worthy of support.

The development generally complies with the provisions of Marrickville Development Control Plan 2011 (MDCP 2011). It is considered that the proposal will not result in any significant impacts on the streetscape or amenity of adjoining premises.

Notwithstanding, a number of matters concerning materials and finishes remain unresolved. Accordingly, the application is suitable for the issue of a deferred commencement consent subject to the imposition of appropriate terms and conditions.

The potential impacts to the surrounding environment have been considered as part of the assessment process. Any potential impacts from the development are considered to be acceptable given the context of the site.

## 2. Proposal

Approval is sought to consolidate the existing allotments into 1 allotment, demolish existing improvements, remove trees, carry out a Torrens Title subdivision of land into 5 allotments and construct a 2 storey dwelling house on allotments 1 and 5 and a 3 storey dwelling house on allotments 2, 3 and 4. The works include the following:

- Demolition of the 2 existing dwellings on the site;
- Consolidate the existing allotments into 1 allotment and Torrens Title subdivision of the site into 5 allotments;
- Construction of 5 attached dwelling houses, with a 2 storey terrace on Lots 1 and 5 and a 3 storey terrace on lots 2, 3 and 4; and
- Associated landscaping with vehicular crossings to lots 3 and 4.

### 3. Site Description

The site comprises three allotments being:

- Lot 18 in DP 732933 (No.39 Roberts Street); and
- Lots 1 and 2 in DP 743754 (No.41 Roberts Street).

The site has an overall area of 717sqm and is irregular in shape. Lot 18 and Lot 1 provide a combined frontage to Roberts Street of approximately 18.29m. Lot 2 does not have a frontage to Roberts Street as it adjoins part of the northern side boundary of No. 43 Roberts Street.

No. 39 Roberts Street currently accommodates a single storey dwelling. A metal shed is located in the north-west corner of the site. The dwelling on this allotment encroaches over the western boundary. No vehicular access is currently provided to the allotment. No. 41 Roberts Street is occupied by a single storey dwelling. The dwelling straddles the boundary of Lots 1 and 2 in DP 743754. No on-site parking is currently provided to this allotment.

There are numerous trees throughout the subject site. The site has a minor cross fall from the rear to the front of the site. Surrounding development is predominately characterised by single storey dwellings.

A planning proposal and associated development application(s) are being considered concurrently by Inner West Council for the sites adjoining the north of the subject site, incorporating 67 & 73 Mary Street, 50 & 52 Edith Street & 43 Roberts Street, St Peters which are collectively known as Precinct 75.

The planning proposal request seeks to rezone the land from IN2 Light Industrial and R2 Low Density Residential to B4 Mixed Use (for commercial and residential uses) and RE1 Public Recreation to facilitate a creative industry precinct with residential uses, community facilities and car parking. The proposal involves the amalgamation of 6 lots and the selective demolition and adaptive reuse of existing warehouse/industrial buildings on the site. Indicative plans propose 180 new residential apartments in buildings up to 8 storeys, commercial floor space, a neighbourhood centre, public domain enhancements and car parking for 340 vehicles.

### 4. Background

#### 4(a) Site history

Council considered a previous development for the site, being DA201700225, which was submitted to Council on 9 May 2017.

That application sought to demolish existing improvements and carry out a Torrens Title subdivision of land into 6 allotments and construct a 3 storey dwelling house on each allotment.

The application was subsequently refused on 15 August 2017 for a total of 16 reasons, including the following reasons in relation to height and floor space:

- “1. *The proposal exceeds the development standard for building height under Clause 4.3 of Marrickville Local Environmental Plan 2011 and is inconsistent with the stated objectives of the development standard. There are insufficient planning reasons to justify a building height variation. The proposal does not control building density and bulk in relation to the site area and is inconsistent with the desired future character for the area. Further, the proposal is inconsistent with Clause 4.6(1)(b) of Marrickville Local Environmental Plan 2011 in that the development does not provide a better planning outcome than an otherwise height compliant development.*
2. *The extent of gross floor area proposed results in a development that is inconsistent with stated objectives of Clause 4.4 of Marrickville Local Environmental Plan 2011 concerning floor space ratio in that the bulk and scale of the development is inconsistent with the desired future character of the area and does not minimise adverse environmental impacts on adjoining properties.”*

#### 4(b) Application history

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

<b>Date</b>	<b>Discussion / Letter/ Additional Information</b>
9 October 2017	Application submitted to Council.
3 January 2018	Request for additional information sent to applicant regarding building height, materials and finishes, car parking and urban design matters.
28 February 2018	Preliminary amended plans submitted to Council for re-notification.
2 March 2018	Application renotified to neighbouring properties and previous objectors for a period of 14 days,
9 April 2018	Amended plans and supporting documentation submitted to Council for assessment.

## 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 (Building Sustainability Index: BASIX) 2004;
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017
- Marrickville Local Environmental Plan 2011; and
- Marrickville Development Control Plan 2011.

The following sections provide further discussion of the relevant issues:

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

A BASIX Certificate was submitted with the application indicating that the proposal achieves full compliance with the BASIX requirements. Appropriate conditions are included in the recommendation to ensure the BASIX Certificate commitments are implemented into the development.

5(a)(ii) State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 concerns the protection/removal of vegetation identified under Marrickville Development Control Plan 2011 (MDCP 2011). There are a number of trees protected by MDCP 2011 which are discussed later in Section 5(c)(v) of this report under the provisions of Part 2.20 of MDCP 2011.

5(a)(iii) Marrickville Local Environment Plan 2011 (MLEP 2011)

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

- (i) Clause 2.3 - Land Use Table and Zone Objectives
- (ii) Clause 2.6 - Subdivision
- (iii) Clause 2.7 - Demolition
- (iv) Clause 4.3 - Height of Buildings
- (v) Clause 4.4 - Floor Space Ratio
- (vi) Clause 4.6 - Exceptions to Development Standards
- (vii) Clause 6.2 - Earthworks
- (viii) Clause 6.5 - Development in areas subject to Aircraft Noise

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

	<u>Height of Buildings</u>			<u>Floor Space Ratio</u>		
	<b>Permitted</b>	<b>Proposed</b>	<b>Complies</b>	<b>Permitted</b>	<b>Proposed</b>	<b>Complies</b>
<b>Lot 1</b>	9.5 metres	7 metres	Yes	1.1:1	0.87:1	Yes
<b>Lot 2</b>	9.5 metres	9 metres	Yes	1.1:1	1.18:1	<b>No</b>
<b>Lot 3</b>	9.5 metres	9 metres	Yes	1.1:1	0.96:1	Yes
<b>Lot 4</b>	9.5 metres	9 metres	Yes	1.1:1	0.95:1	Yes
<b>Lot 5</b>	9.5 metres	7 metres	Yes	1:1	0.7:1	Yes

The following provides further discussion of the relevant issues:

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

The property is zoned R2 – Low Density Residential under the provisions of MLEP 2011. Dwelling houses are permissible with Council's consent under the zoning provisions applying to the land.

The development is acceptable having regard to the objectives of the R2 - Low Density Residential zone.

(ii) Subdivision (Clause 2.6)

Clause 2.6 of MLEP 2011 states that land to which the Plan applies may be subdivided, but only with development consent. The development includes subdivision of the land. The issue of subdivision is discussed later in this report under the heading “Marrickville Development Control Plan 2011 - Part 3 - Subdivision, Amalgamation and Movement Networks”.

(iii) Demolition (Clause 2.7)

Clause 2.7 of MLEP 2011 states that the demolition of a building or work may be carried out only with development consent. The application seeks consent for demolition works. Council's standard conditions relating to demolition works are included in the recommendation.

(iv) Height (Clause 4.3)

A maximum building height of 9.5 metres applies to the sites as indicated on the Height of Buildings Map that accompanies MLEP 2011. The development has a maximum building height of 9 metres which complies with the height development standard.

(v) Floor Space Ratio (Clause 4.4)

Clause 4.4(2A) of MLEP 2011 specifies a maximum floor space ratio (FSR) for a dwelling house on land identified as “F” on the Floor Space Ratio Map based on site area as follows:

Site area	Maximum floor space ratio
≤150sqm	1.1:1
>150sqm but ≤200sqm	1:1
>200sqm but ≤250sqm	0.9:1
>250sqm but ≤300sqm	0.8:1
>300sqm but ≤350sqm	0.7:1
>350sqm but ≤400sqm	0.6:1
>400sqm	0.5:1

The following table provides a breakdown of the floor space ratio of the dwelling houses, in relation to the prescribed FSR control, on their respective lots:

Proposed Lot	Site Area (sqm)	Max FSR Permitted	FSR Proposed	Complies?
Lot 1	131.13	1.1:1	0.87:1	Yes
Lot 2	126.36	1.1:1	1.18:1	No – See Cl. 4.6
Lot 3	143.47	1.1:1	0.96:1	Yes
Lot 4	143.47	1.1:1	0.95:1	Yes
Lot 5	172.57	1:1	0.7:1	Yes

As indicated in the table above, all of the sites comply with the development standard with the exception of Lot 2, which has a gross floor area (GFA) of 149.16sqm and an FSR of 1.18:1 which results in a variation of 10.17sqm or 7.3%.

A written request, in relation to the development's variation from the FSR development standard in accordance with Clause 4.6 (Exception to Development Standards) of MLEP 2011, was submitted with the application. The submission is discussed later in this report under the heading "Exceptions to Development Standards (Clause 4.6)".

(vi) Exceptions to Development Standards (Clause 4.6)

The development exceeds the maximum floor space ratio development standard prescribed under Clause 4.3 of MLEP 2011 on Lot 2. A written request in relation to the contravention to the floor space ratio development standard in accordance with Clause 4.6 (Exceptions to Development Standards) of MLEP 2011 was submitted with the application.

A maximum floor space ratio of 1.1:1 applies to Lot 2 under Clause 4.4 of MLEP 2011 by virtue of its site area being less than 150sqm. Lot 2 has a GFA of 149.16sqm and an FSR of 1.18:1 which results in a variation of 10.17sqm or 7.3%.

Under Clause 4.6 development consent must not be granted for a development that contravenes a development standard unless the consent authority has considered a written request from the applicant that demonstrates that:

- Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- There are sufficient environmental planning grounds to justify contravening the development standard.

The consent authority must also be satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

The written request submitted as part of this development application provides due regard to Land and Environment Court decision *Wehbe v Pittwater Council* [2007] NSWLEC 827. In the decision of *Wehbe v Pittwater Council* [2007] NSW LEC 827, Chief Justice Preston stated that there are five different ways in which a variation to a development standard might be shown as unreasonable or unnecessary in the circumstances of the case. These five ways are:

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

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

For the purpose of this proposal, the written request provided by the applicant contends that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case because the objectives of the standard are achieved notwithstanding non-compliance with the standard, thus invoking way 1.

The objectives as set out by clause 4.3(1) of the MLEP 2011 are as follows

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

The written request provides the following comments (in summary):

- Strict compliance with the floor space ratio development standard is unreasonable and unnecessary in the circumstances of the case in that:
  - The proposed development is consistent with the MLEP 2011 objectives for floor space ratio (as detailed above).
  - The proposed development complies with the maximum building height control. The scale of the building is therefore appropriate notwithstanding the proposed variation to the floor space ratio development standard.
  - The development can be adequately serviced by utilities and existing and planned infrastructure.
  - The development reflects the desired built form character of the locality.
  - The intensity of development on the site as a whole does not exceed that which is envisaged by the FSR standard. The 10.17sqm variation proposed for Lot 2 is more than offset by the amount that the dwellings on Lots 1, 3, 4 and 5 are below the maximum FSR permitted (a total of 122.8sqm).
  - A development that complies with the FSR standard will not deliver an improved streetscape outcome.

The applicant contends that there are sufficient environmental planning grounds to justify contravening the development standard as:

- The development reflects the desired built form character of the locality.



- The technical variation from the floor space ratio standard will not involve any adverse impacts on the amenity of adjoining properties, the streetscape or the locality.
- Strict compliance with the floor space ratio control could be achieved through adjusting lot and dwelling widths and redistributing the floor space. This would result in a lack of consistency in the streetscape and would undermine objective (b) of the standard which seeks to control building density and bulk in order to achieve the desired future character for the area. The deletion of Level 3 for Terrace 2 or the reduction of the size of this level would result in compliance with the standard however this would result in an awkward design and imbalanced built form with only two of five dwellings with a third level.

The justification provided in the applicant's written request is considered well founded and worthy of support. Considering the above justification, strict compliance with the development standard is considered unreasonable and unnecessary given the circumstances of the site. The justification provides due regard to the following decisions of the NSW Land and Environment Court:

- (a) *Wehbe v Pittwater Council* [2007] NSWLEC 827;
- (b) *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009;
- (c) *Micaul Holdings Pty Limited v Randwick City Council* [2015] NSWLEC 1386;
- (d) *Moskovich v Waverley Council* [2016] NSWLEC 1015; and
- (e) *Zhang and anor v Council of the City of Ryde* [2016] NSWLEC 1179.

The contravention of the development standard does not raise any matter of significance for State and Regional environmental planning, and there is no public benefit in maintaining strict compliance with the standard.

(vii) Earthworks (Clause 6.2)

The development includes minimal earthworks as the proposal includes slab on ground construction and no basement. The earthworks proposed are reasonable having regard to Clause 6.2 of MLEP 2011.

(viii) Development in areas subject to Aircraft Noise (Clause 6.5)

The land is located within the 20-25 Australian Noise Exposure Forecast (2033) Contour and as such the development is likely to be affected by aircraft noise.

The development would need to be noise attenuated in accordance with AS2021:2015. An Acoustic Report was submitted with the application which details that the development could be noise attenuated from aircraft noise to meet the indoor design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS2021:2015. Conditions are included in the recommendation to ensure that the requirements recommended within the acoustic Report are incorporated into the development.

## 5(b) Draft Environmental Planning Instruments

### 5(b)(i) Draft Marrickville Local Environmental Plan 2011 (Amendment 4)

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

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

## 5(c) Development Control Plans

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

<b>Part</b>	<b>Compliance</b>
Part 2.6 Acoustic and Visual Privacy	<b>Yes – see discussion</b>
Part 2.7 Solar Access and Overshadowing	<b>Yes – see discussion</b>
Part 2.9 Community Safety	<b>Yes</b>
Part 2.10 Parking	<b>No – see discussion</b>
Part 2.16 Energy Efficiency	<b>Yes</b>
Part 2.18 Landscaping and Open Spaces	<b>No – see discussion</b>
Part 2.20 Tree Management	<b>Yes – see discussion</b>
Part 2.21 Site Facilities and Waste Management	<b>Yes</b>
Part 2.24 Contaminated Land	<b>Yes</b>
Part 2.25 Stormwater Management	<b>Yes</b>
Part 3 Subdivision, Amalgamation and Movement Networks	<b>Yes – see discussion</b>
Part 4.1 Low Density Residential Development	<b>Yes – see discussion</b>
Part 9 Strategic Context	<b>Yes – see discussion</b>

The following provides discussion of the relevant issues:

**PART 2 – Generic Provisions****(i) Acoustic and Visual Privacy (Part 2.6)**

The development maintains adequate levels of acoustic and visual privacy for the surrounding residential properties and ensures an adequate level of acoustic and visual privacy for future occupants of the development.

The development generally provides windows and areas of private open space which face towards the front and rear of the site which is acceptable.

The development includes bedroom windows along the western elevation on the first and second floor levels which have views to the west over the private open space of the dwellings to the west of the site fronting Edith Street, as well as the rear yard of No. 37 Roberts Street to the south east of the site. Control C3 of Part 2.6.3 specifies that where visual privacy of adjoining residential properties is likely to be significantly affected by overlooking, privacy treatment to those windows is prudent. The windows service bedrooms which are low activity rooms and achieve a separation of over 12 metres from the rear boundary of the first floor and over 13 metres for the second floor bedroom. As the new openings adjoin a bedroom where occupants generally spend less waking time compared to a living area the windows are not likely to cause significant privacy impacts and no concern is raised with regard to visual privacy to adjoining dwellings from the proposed development.

The separation distance combined with landscaping/vegetation (existing and proposed) also ensures adequate privacy is maintained.

The windows along the south eastern elevation of terrace 5 are highlight windows with a sill height of 1.7 metres and thus no concern is raised over these windows in regards to privacy. It is noted that the ground floor plan does not indicate a window in this location which is inconsistent with the elevations provided. A deferred commencement condition is included in the recommendation requiring this inconsistency to be rectified.

Given the above the development is reasonable having regard to the objectives and controls relating to visual and acoustic privacy as contained in MDCP 2011.

**(ii) Solar Access and Overshadowing (Part 2.7)****Overshadowing**

The shadow diagrams submitted with the application illustrate the extent of overshadowing as a result of the development. The development will result in increased overshadowing over the dwelling to the south east of the site at No. 37 Roberts Street.

The shadow diagrams indicate that solar access to the private open space of the dwelling at No. 37 Roberts Street will be reduced between 9:00am and 3:00pm on 21 June, notwithstanding, the private open space will continue to receive solar access over a minimum of 50% of the total area between 9:00am and 1:00pm, thus complying with Council's controls.

Having regard to the above, the development is considered acceptable having respect to Part 2.7 of MDCP 2011.

## Solar Access

The attached dwelling houses have been designed in an energy efficient manner for the following reasons:

- At least one habitable room has a window having an area not less than 15% of the floor area of the room, positioned within 30 degrees east and 20 degrees west of true north and will allow for direct sunlight for at least two hours over a minimum of 50% of the glazed surface between 9:00am and 3:00pm on 21 June; and
- The private open space provided for each dwelling house receives a minimum two hours of direct sunlight over 50% of its finished surface between 9.00am and 3.00pm on 21 June.

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

### (iii) Parking (Part 2.10)

In accordance with Part 2.10 of MDCP 2011, each dwelling house requires the provision of 1 off-street car parking space. The development provides a driveway and garage to terraces 3 and 4 only, being 2 of the 5 dwellings.

The application was referred to Council's Development Engineer who advised that, whilst not technically signposted as no stopping, the final 10 metres of the street should be kept clear of parked cars to assist in manoeuvrability allowing cars to enter and exit Roberts Street in a forward motion. Therefore the vehicular crossings do not reduce the availability of kerbside car parking.

Due to the orientation of the sites and cul-de-sac nature of Roberts Street, terraces 3, 4 and 5 are the only practicable options to accommodate off-street car parking. It is not considered appropriate for terrace 5 to provide car parking as this would result in a loss of kerbside car parking, necessitate the removal of a street tree and would result in the majority of terraces having garages within the front setback which is not a positive contribution to the streetscape.

The matter of car parking is discussed further in Section 5(c)(ix) of this report under the provisions of Part 4.1.7 of MDCP 2011. For reasons outlined above and discussed in Section 5(c)(ix), the shortfall of car parking is considered acceptable.

The development is acceptable having regard to Part 2.10 of MDCP 2011.

### (iv) Landscaping and Open Spaces (Part 2.18)

Part 2.18 of MDCP 2011 prescribes the following for dwellings houses:

- The entire front setback is to consist of pervious landscaping with the exception of the pathway and driveway;
- A minimum of 45sqm or 20% of the total site area whichever is greater, with no dimension being less than 3 metres is to be retained as private open space; and

- In excess of 50% of the private open space is to be maintained as pervious landscaping.

The development provides the following areas of private open space and pervious landscaping:

Proposed Lot	Site Area (sqm)	Private Open Space	Pervious Landscaping	Complies?
Lot 1	131.13	45sqm	69%	Yes
Lot 2	126.36	32.9sqm	65%	<b>No – See discussion</b>
Lot 3	143.47	45sqm	73%	Yes
Lot 4	143.47	45sqm	73%	Yes
Lot 5	172.57	54.2sqm	86%	Yes

As indicated above, the development complies with Council's controls with the exception of terrace 2.

Terrace 2 provides 32.9sqm of private open space at the rear of the dwelling, equating to 26% of the site area. Whilst not complying with the 45sqm numerical control, the private open space provided is considered acceptable for the following reasons:

- The open space is located directly off the living area and acts as an extension of that space; and
- The open space is provided with adequate solar access, clothes drying facilities and pervious landscaping for stormwater filtration.

The private open space for terrace 2 is considered to meet the objectives of Part 2.18 of MDCP 2011 and is considered acceptable.

(v) Tree Management (Part 2.20)

There are a number of trees on the site and adjacent sites covered by and protected under Part 2.2 of MDCP 2011.

A Landscape Plan was submitted with the application which includes planting for 6 small to moderate size trees. The application was referred to Council's Tree Management Officer who provided the following comments:

*"...It is not considered that the trees on the subject properties present a constraint to the proposed development. The Tree Protection Zones (TPZ) of the trees in neighbouring properties do present a constraint and this has been adequately addressed with respect to the *Waterhousea floribunda* (weeping lilly pilly) in 37 Roberts Street and the *Araucaria heterophylla* (Norfolk Island pine) in 44 Edith Street.*

*The proposed six trees on the landscape plan should provide adequate compensatory tree planting. The species should be specified on the landscape plan and the trees should be located at least 1.5 metres from boundaries because planting this close to the boundary will be a constraint to potential development on neighbouring sites."*

Council's Tree Management Officer was generally supportive of the development subject to the imposition of appropriate conditions which have been included in the recommendation.

### **PART 3 – Subdivision, Amalgamation and Movement Networks**

#### (vi) Torrens Title Subdivision and Amalgamation (Part 3.2)

The development involves the amalgamation of the 2 existing sites and to subdivide the property into five (5) lots with the following measurements

<b>Proposed Lot</b>	<b>Site Area (sqm)</b>	<b>Lot width</b>	<b>Lot Depth</b>
<b>Lot 1</b>	131.13	6.51 metres	20.14 metres
<b>Lot 2</b>	126.36	4.95 metres	20.14 metres
<b>Lot 3</b>	143.47	4.95 metres	28.95 metres
<b>Lot 4</b>	143.47	4.95 metres	28.95 metres
<b>Lot 5</b>	172.57	5.96 metres	28.95 metres

Part 3.2 of MDCP 2011 does not contain minimum lot width or area requirements for subdivisions, but rely on performance based controls that aim to ensure that new lots facilitate development that is compatible with the immediate area.

In response to the diversity of household sizes and open space needs, Council's subdivision controls permit a variety of lot sizes provided the allotment size and shape relate to the existing subdivision pattern of the locality, the context of the site, and can adequately provide room for open space, parking and landscaping.

The streetscape and immediate locality is generally characterised by a mix of single and 2 storey dwellings on a mix of narrow and wide lots. The tables below illustrate the proposed lot dimensions and the approximate dimensions of lots within Roberts Street.

On the north east side of Roberts Street the lots vary in width from 6 to 10 metres and the lot sizes vary from 174.9sqm to 283.1sqm as indicated in the table below:

<b>Address</b>	<b>Lot Area (m<sup>2</sup>)</b>	<b>Lot Width (m)</b>	<b>Lot Depth (m)</b>
41 Roberts Street (Lot 2 DP 743754)	187.5	9.045	20.14-24.56
41 Roberts Street (Lot 1 DP 743754)	264.7	9.145	28.955
39 Roberts Street	264.8	9.145	28.955
37 Roberts Street	183.84	6	29

35 Roberts Street	178.607	6	29
33 Roberts Street	174.932	6	29
31 Roberts Street	278.762	9	29
29 Roberts Street	242.677	7	29
27 Roberts Street	283.171	10	29
25 Roberts Street	247.797	8	29
23 Roberts Street	238.507	10	29
19 Roberts Street	265.854	9	29
17 Roberts Street	262.135	9	29
9 Roberts Street	269.899	9	29

On the south west side of Roberts Street the lots vary in width from 4 to 21 metres and the lot sizes vary from 170.9sqm to 454.7sqm as indicated in the table below:

Address	Lot Area (m <sup>2</sup> )	Lot Width (m)	Lot Depth (m)
10 Roberts Street	170.980	12	15
8 Roberts Street	174.689	12	15
6 Roberts Street	176.459	12	15
4 Roberts Street	174.963	12	15
23 Mary Street	260.969	4	48
21 Mary Street	291.706	8	48
2A Roberts Street	454.758	21	23
15 Mary Street	494.074	10	48
2B Roberts	367.969	21	18-19
11 Mary Street	438.491	9	49
9 Mary Street	172.837	3	49
7 Mary Street	263.724	5	49
5 Mary Street	352.362	7	49

As the above tables demonstrate, there is considerable variation in the lot size and dimensions in the street. The subdivision would result in lots which are considered to be consistent with the lower scale of lot sizes and dimensions found within Roberts Street.

The application provides the following justification, in summary, for the proposed subdivision:

*“Whilst the proposed lot areas and dimensions are not the same as other lots in the street, the proposed subdivision will not result in any adverse impact on the streetscape given:*

- *There is considerable variation in the lot size and dimensions in the street and the local area generally and therefore the proposed allotments will not result in a development pattern which disrupts a consistent streetscape;*
- *The width of the proposed lots is consistent with other lots in the street and therefore the frontage width of the proposed dwellings is similar to the frontage width of other dwellings in the street; and*
- *The proposed built form is reasonable in that it generally complies with the applicable built form controls including the height of building and floor space ratio development standards and achieves compliance with the DCP controls for private open space and deep soil area requirements.”*

The subdivision would allow for continuation of a built form which is consistent with the pattern of development found in Roberts Street and within the locality generally, making reference to a number of new developments in the vicinity of the site. Solar access, open space, parking and other amenity impacts of the proposal have been discussed elsewhere in the report and the proposed allotments are considered to allow for built forms which comply with Council's requirements with respect to those issues.

#### **Part 4.1 - Low Density Residential Development**

Part 4.1 of MDCP 2011 provides controls relating to Low Density Residential provisions including building form, building detail and desired future character guidelines and controls for specific centres. An assessment of the development having regard to the relevant provisions of Part 4.1 of MDCP 2011 is provided below.

##### **(vii) Streetscape and Design (Part 4.1.5)**

The development satisfies the streetscape and design controls outlined in MDCP 2011 in that:

- The development complements the uniformity and visual cohesiveness of the bulk, scale and height of the existing streetscape;
- The proposal is a contemporary design that complements the character of the area;
- The dwelling houses address the principal street frontage and are orientated to complement the existing pattern of development found in the street;
- The architectural treatment of the façade interprets and translates positive characteristics in the locality, including the use of face brick on the façade; and
- The front façade of the dwelling houses have been divided into bays of an appropriate size that complements the scale of the building and surrounding dwelling houses.



(viii) Built Form and Character

4.1.6.1 *Floor Space Ratio and Height*

The development satisfies the floor space ratio and height controls outlined in MDCP 2011 in that:

- The FSR complies with the FSR development standard under MLEP 2011, with the exception of terrace 2. The variation has been discussed earlier in Section 5(a)(iii)(iv and v) of this report under the provisions of Clause 4.6 of MLEP 2011;
- The height complies with the height standard under MLEP 2011;
- The bulk and relative mass of development is acceptable for the street and adjoining dwellings in terms of overshadowing and privacy, streetscape (bulk and scale), building setbacks, landscape requirements, significant trees on site and lot size, shape and topography;
- The development does not unreasonably impact on the existing views of adjacent properties and maintains a reasonable level of view sharing;
- The development is of a scale and form that enhances the character and quality of the streetscape; and
- The development allows adequate provision to be made on site for infiltration of stormwater and deep soil tree planting, landscaping and areas of private open space for outdoor recreation.

4.1.6.2 *Building Setbacks*

**Front setback**

The development satisfies the front setback controls outlined in MDCP 2011 in that:

- The front setback is appropriate considering the 2 storey nature of the development and thus a larger setback is preferable in this instance;
- The proposal provides a consistent front setback for the 5 terraces which form the development, thus presenting a uniform setback in this portion of the street; and
- The proposal adequately integrates new development with the established setback character of the street and maintains established gardens, trees and vegetation networks.

**Side setbacks**

The development satisfies the side setback control outlined in MDCP 2011 in that:

- The proposal maintains a 900mm setback along the south-eastern side of terrace 5 which is consistent with the setback of the adjoining dwelling at 37 Roberts Street;
- Lots 2, 3 and 4 are constructed to the side boundaries which is acceptable considering the nature of the development, being attached dwellings;
- Lot 5 provides a 450mm north western side boundary setback on the ground floor level and a nil side boundary setback on the first floor level. The nil side setback for this dwelling is supported given that it is the final dwelling on the

street, adjoins a site currently zoned industrial and is not visible from the public domain and separation is not required for building separation or solar access. Notwithstanding, a small setback is required for overland stormwater flows and thus 450mm is provided on the ground floor level;

- The proposal ensures adequate separation between buildings for visual and acoustic privacy, solar access and air circulation;
- The proposal integrates new development with the established setback character of the street and maintains established gardens, trees and vegetation networks;
- The proposal does not create an unreasonable impact upon adjoining properties in relation to overshadowing and visual bulk; and
- The proposal is satisfactory in relation to the street context.

### Rear setback

The rear boundary setback is acceptable for the following reasons:

- The proposal will not create adverse impacts on the amenity of adjoining properties in relation to overshadowing and visual bulk;
- The proposal maintains adequate open space;
- The proposal ensures adequate separation between buildings for visual and acoustic privacy, solar access and air circulation; and
- The proposal integrates new development with the established setback character of the street and maintains established gardens, trees and vegetation networks.

### (ix) Car Parking (Part 4.1.7)

Section 4.1.7 of the MDCP 2011 outlines design parameters for the location and design of car parking structures for single dwelling houses. Control C14 specifies the following in relation to car parking structures:

***“C14*** *Car parking structures must be located and designed to:*

- Conveniently and safely serve all users;*
- Enable efficient use of car spaces, including adequate manoeuvrability for vehicles between the site and the street;*
- Not dominate or detract from the appearance of the existing dwelling or new development and the streetscape;*
- Be compatible in scale, form, materials and finishes with the associated dwelling or development on the site;*
- Not reduce availability of kerbside parking;*
- Retain any significant trees; and*
- Have minimal impact on existing fences and garden areas that contribute to the setting of the associated dwelling and the character of the streetscape.*

The development provides two vehicular crossings from Roberts Street, servicing terraces 3 and 4 which have garages. The driveways and garages are acceptable for the following reasons:

- The vehicular crossings are located to enable the retention of the existing street tree in front of terrace 5;

- The vehicular crossings do not reduce the availability of kerbside parking as the location of the vehicular crossings is a no stopping area to allow for turning at the end of Roberts Street and;
- The appearance of the 2 garages in the row of 5 terraces presents a minority in the Roberts Street elevation and has been designed so as to not detract from the streetscape presentation of the dwellings.

#### 4.1.7.2 Design of garage doors

Whilst Council is generally supportive of the proposed garages to terraces 3 and 4, insufficient detail has been provided regarding the materials and finishes of the doors to those garages.

Accordingly, a deferred commencement consent is recommended requiring complete specification and images of the garage doors to be provided in the schedule of finishes and submitted to Council's satisfaction (a high-quality finish to the door is required so as to not dominate the front elevation).

Considering the above and subject to appropriate conditions, the development is acceptable having regard to the objectives and controls contained in Part 4.1.7 of MDCP 2011.

#### 4.1.7.4 Garages

In order to provide a high quality driveway that does not disrupt the pedestrian footpath, a deferred commencement condition is included in the recommendation requiring that the driveway and driveway crossing within public land be constructed in concrete to match the existing footpath. Furthermore, in order to preserve the existing sandstone kerb, a deferred commencement condition is included in the recommendation requiring that the sandstone kerb be carefully removed and reused on the flush kerb with this detail to be shown on the amended / updated plans.

#### (x) Additional Controls for Contemporary Dwellings (Part 4.1.9)

The development as originally proposed was referred to Council's Urban Design Advisor who provided the following comments and recommendations:

*"Architecturally, the proposal should be reconsidered with regard to building mass, materials, roof form, articulation, proportions and visual appearance. In its current form, the proposal does not respond appropriately to its context and does not meet one of the aims of the MLEP 2011 in clause 1.2 (2) (h) to promote a high standard of design in the private and public domain. It contrary to the MDCP 2011 Infill Design Guidelines in Part 2.1 for the followings reasons:*

- a) The roof form is bulky and does not maintain the fine grain character of the streetscape.*
- b) The overall building mass does not reflect nor reinforce the predominant subdivision pattern of the streetscape.*
- c) The composition between the side hip and rear skillion of House 5 and the gable of House 1 is a little awkward.*
- d) The front dormers are poorly proportioned and detailed and contrary to MDCP 2011 controls for dormers.*

- e) *The provision of front dormers of different sizes and the lack of dormer on House 2 is also awkward aesthetically.*
- f) *The rear dormers are over scaled and lack aesthetic appeal.*
- g) *Overall, the visual appearance and finishes have not been carefully considered and would not contribute to the visual interest of the building and the character of the area.*

Amended plans were submitted to Council on 9 April 2018 constituting a substantial redesign of the dwellings to reflect the comments above. The development now achieves a high quality contemporary design, provides appropriate massing and articulation to represent the fine grain nature of the streetscape and incorporates high quality self-finished materials.

The development is considered to satisfy the objectives and controls for contemporary dwellings as contained in Part 4.1.5 of MDCP 2011 and is supported.

It is further noted that a Planning Proposal is currently being considered by Inner West Council for the sites adjoining the north of No. 39 Roberts Street, known as Precinct 75, for a mixed use development comprising a maximum height of up to 26 metres. If approved in its current form with a 2 part 4 storey development located to the north of the subject site, the 2 storey streetscape presentation of the subject development represents an appropriate transitional scale between the single and two storey nature of Roberts Street and that future redevelopment.

Notwithstanding, the amended plans were referred to Council's Urban Design Advisor who advised that a number of matters relating to materials and finishes remain outstanding. As such, a deferred commencement consent is recommended with a conditions being imposed requiring the following information to be submitted to and approved by Council:

1. *The schedule of finishes and elevations should be amended in accordance with the following:*
  - a) *Complete specification and image of the face-brick to be provided in the schedule of finishes. Dry-pressed brick is recommended.*
  - b) *Complete specification and image of the garage door to be provided in the schedule of finishes – a high-quality finish is required. The garage door should be disguised and should not dominate the front elevation.*
  - c) *Complete specification and image of the external cladding to the top level (Level 3) to be provided in the schedule of finishes. Render and paint is not acceptable. Self-finished material, such as low-reflective metal cladding or timber cladding is recommended (provide that it is non-combustible).*
  - d) *Complete specification and image of the 'decorative element' to the North-West Elevation to be provided in the schedule of finishes.*
  - e) *Complete specification and image of the balustrades to the front balconies to be provide in the schedule of finishes.*
  - f) *A coding system to be included in the schedule of finishes and the code referenced on all elevations to clearly illustrate all proposed external finishes.*
  - g) *The driveway and driveway crossing within public land should be constructed in concrete to match the existing footpath. The stone kerb should be carefully removed and reused on the flush kerb.*

## **PART 9 – Strategic Context**

The property is located in the Unwins Bridge Road (Precinct 31) planning precinct under Marrickville Development Control Plan 2011.

### (xi) Desired future character (Part 9.31.2)

The development is considered to be consistent with the desired future character of the Unwins Bridge Road planning precinct as it achieves the following objectives:

- “5. To protect significant streetscapes and/or public domain elements within the precinct including landscaping, fencing, open space, sandstone kerbing and guttering, views and vistas and prevailing subdivision patterns.
6. To preserve the predominantly low density residential character of the precinct.
8. To ensure that the provision and location of off-street car parking does not adversely impact the amenity of the precinct.”

The site is not located within the Collins Street Heritage Conservation Area (C32) and no precinct-specific or site-specific planning controls apply to the site.

### 5(d) The Likely Impacts

The assessment of the Development Application demonstrates that, subject to the recommended conditions, the proposal will not result in significant or unreasonable impacts in the locality.

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

The site is zoned R2 Low Density Residential under MLEP 2011. Provided that any adverse effects on adjoining properties are minimised, this site is considered suitable to accommodate the proposed development, and this has been demonstrated in the assessment of the application.

### 5(f) Any submissions

The application was advertised, an on-site notice displayed on the property and residents/property owners in the vicinity of the property were notified of the development in accordance with Council's Notification Policy. A total of 10 submissions were received.

During the assessment process the proposal was amended to address a concerns raised by Council officers relating to the overall architectural form of the dwellings, car parking, setbacks and other matters. The amended proposal was re-notified in accordance with Council's Notification Policy and 10 submissions from 5 unique were received.

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

- Excessive departure from FSR development standard - See discussions throughout 5(a)(iii);
- Loss of visual privacy for adjoining dwellings – See Section 5(c)(i);
- Overshadowing impacts – See Section 5(c)(ii);
- Inadequate setbacks – See Section 5(c)(viii)

- Lack of car parking - See Section 5(c)(iii);
- Lack of private open space and landscaping – See Section 5(c)(iv);
- Subdivision not compatible with street – See Section 5(c)(vi);
- Height of building and bulk and scale not in accordance with streetscape – See Section 5(c)(vii).

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

Issue: Contamination

Comment: State Environmental Planning Policy No. 55 - Remediation of Land requires Council to consider whether land is contaminated prior to granting consent to carrying out of any development on that land.

The site has historically been used for residential purposes and no change of use is proposed. Accordingly Council is satisfied that the site is suitable for the proposed use.

All relevant matters raised in the submissions able to be considered under the provisions of Section 4.15 of the Environmental Planning and Assessment Act have been discussed in the report.

### 5(g) The Public Interest

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

The development is consistent with the aims, and design parameters contained in Marrickville Local Environmental Plan 2011 and Marrickville Development Control Plan 2011 and other relevant Environmental Planning Instruments. As discussed throughout this report, the development will not result in any significant impacts on the amenity of adjoining premises and the streetscape and thus the development is considered to be in 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.

- Development Engineer
- Tree Management Officer
- Heritage & Urban Design Advisor

## 7. Section 7.11 Contributions

Section 7.11 contributions are payable for the proposal. The carrying out of the development would result in an increased demand for public amenities and public services

within the area. A contribution of \$60,000 would be required for the development under Marrickville 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 Marrickville Local Environmental Plan 2011 (MLEP 2011) with the exception that the proposal exceeds the maximum floor space ratio development standard. The proposal is generally consistent Marrickville Development Control Plan 2011. The development will not result in any significant impacts on the amenity of adjoining premises and the streetscape. The application is suitable for the issue of a deferred commencement consent subject to appropriate terms and conditions.

## 9. Recommendation

- A. That the variation to Clause 4.4 Floor Space Ratio of Marrickville Local Environmental Plan 2011 be supported under the provisions of Clause 4.6 exceptions to development standards.
- B. That the Panel, as the consent authority pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979, grant deferred commencement consent to Development Application No. 201700486 to consolidate the existing allotments into 1 allotment, demolish the existing improvements, remove trees, carry out a Torrens Title subdivision of land into 5 allotments and construct a 2 storey dwelling house on allotments 1 and 5 and a 3 storey dwelling house on allotments 2, 3 and 4 at 39-41 Roberts Street, St Peters subject to the conditions listed in Attachment A below.

## Attachment A – Recommended conditions of consent

### PART A - DEFERRED COMMENCEMENT CONSENT

The consent will not operate and it may not be acted upon until the Council or its delegate is satisfied as to the following matters:

1. An updated schedule of finishes and elevations being submitted to Council's satisfaction including the following:
  - a) Complete specification and image of the face-brick;
  - b) Complete specification and image of the garage door – a high-quality finish is required.
  - c) Complete specification and image of the external cladding to the top level;
  - d) Complete specification and image of the 'decorative element' to the North-West Elevation;
  - e) Complete specification and image of the balustrades to the front balconies;
  - f) A coding system to be included in the schedule of finishes and the code referenced on all elevations to clearly illustrate all proposed external finishes; and
  - g) The driveway and driveway crossing within public land being constructed in concrete to match the existing footpath. The stone kerb should be carefully removed and reused on the flush kerb in accordance with details submitted to and approved by Council.
2. Amended Plans being submitted indicating the ground floor window on the south eastern elevation of terrace 5 being illustrated on the floor plan.

Evidence of the above matters must be produced to the Council or its delegate within 2 years of the date of this Determination otherwise the Consent will lapse.

### PART B - CONDITIONS OF CONSENT

Once operative the consent is subject to the following conditions:

#### GENERAL

1. The development must be carried out in accordance with plans and details listed below:

Plan, Revision and Issue No.	Plan Name/ Certificate Type	Date Issued	Prepared by	Date Submitted
050 D	Draft Plan of Subdivision	6 April 2018	Environa Studios	9 April 2018
101 D	Level 1 Floor Plan	6 April 2018	Environa Studios	9 April 2018
102 D	Level 2 Floor Plan	6 April 2018	Environa Studios	9 April 2018
103 D	Level 3 Floor Plan	6 April 2018	Environa Studios	9 April 2018
110 D	Roof Plan	6 April 2018	Environa Studios	9 April 2018
120 D	Section A	6 April 2018	Environa Studios	9 April 2018
121 D	Section B	6 April 2018	Environa Studios	9 April 2018
130 D	South West Elevation	6 April 2018	Environa Studios	9 April 2018
131 D	North East Elevation	6 April 2018	Environa Studios	9 April 2018
132 D	North West Elevation	6 April 2018	Environa Studios	9 April 2018
133 D	South East Elevation	6 April 2018	Environa Studios	9 April 2018
210 D	Materials and Finishes Schedule	6 April 2018	Environa Studios	9 April 2018
1703_d L_101 D	Landscape Site Plan	6 April 2018	Elke Consulting	10 April 2018



1703_d L_501 C	Landscape Details & Planting Schedule	6 April 2018	Elke Consulting	10 April 2018
17139 A	Acoustic Report	5 May 2017	West & Associates Pty Ltd	6 October 2017
GO170232 C1 G	Cover Sheet & Notes	6 April 2018	Environa Studios	10 April 2018
GO170232 C2 G	Stormwater Management Plan	6 April 2018	Environa Studios	10 April 2018
GO170232 C3 G	Stormwater Management Details No 1	6 April 2018	Environa Studios	10 April 2018
GO170232 C4 G	Soil & Water Management Plan	6 April 2018	Environa Studios	10 April 2018
GO170232 C5 G	Soil & Water Management Details	6 April 2018	Environa Studios	10 April 2018
Rev. E	Arborists Report	8 April 2018	Elke Consulting	10 April 2018
812515M_03	BASIX Certificate	5 April 2018	Planning and Infrastructure	10 April 2018

and details submitted to Council on 6 October 2017, 9 April 2018 and 10 April 2018 with the application for development consent as amended by the matters referred to in Part A of this Determination and the following conditions.

Reason: To confirm the details of the application submitted by the applicant.

2. Where any plans and/or information forming part of a construction certificate issued in relation to this consent are inconsistent with:
  - (a) the plans and/or information approved under this consent; or
  - (b) any relevant requirements of this consent,

the plans, information and/or requirements of this consent (as the case may be) shall prevail to the extent of the inconsistency.

All development approved under this consent shall be carried out in accordance with the plans, information and/or requirements of this consent taken to prevail by virtue of this condition.

Reason: To ensure the development is carried out in accordance with this Determination.

3. 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.
 

Reason: To ensure that the development is adequately serviced.
4. All building work must be carried out in accordance with the provisions of the National Construction Code (Building Code of Australia).
 

Reason: To ensure the work is carried out to an acceptable standard and in accordance with the State's building code.
5. 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 and undertaken before occupation of the site.
 

Reason: To ensure all costs for the adjustment/augmentation of services arising as a result of the redevelopment are at no cost to Council.

6. All prescribed trees shall be retained and protected in accordance with these conditions and with the Australian Standard *Protection of Trees on Development Sites* AS 4970—2009 unless their removal, pruning or other works is explicitly approved under the terms of this consent. Trees 3, 4, 5, 6, 7, 9 and 10 may be removed. Trees numbered 1, 2, 11 and 12 shall be retained. Tree 8 shall be transplanted.  
Reason: To clarify that prescribed trees must be retained unless explicit approval is given for their removal.

**BEFORE COMMENCING DEMOLITION, EXCAVATION AND/OR BUILDING WORK**

7. No work must commence until:
- A PCA has been appointed. Where an Accredited Certifier is the appointed, Council must be notified within 2 days of the appointment; and
  - A minimum of 2 days written notice must be given to Council of the intention to commence work.
- Reason: To comply with the provisions of the Environmental Planning and Assessment Act.
8. A Recycling and Waste Management Plan (RWMP) being prepared in accordance with Part 2.21 of Marrickville Development Control Plan 2011 – Site Facilities and Waste Management and submitted to and accepted by the PCA before work commences.  
Reason: To ensure the appropriate disposal and reuse of waste generated on the site.
9. A Construction Certificate must be obtained before commencing building work. Building work means any physical activity involved in the construction of a building. This definition includes the installation of fire safety measures.  
Reason: To comply with the provisions of the Environmental Planning and Assessment Act.
10. Sanitary facilities must be provided at or in the vicinity of the work site in accordance with the WorkCover Authority of NSW, Code of Practice 'Amenities for Construction'. Each toilet must be connected to the sewer, septic or portable chemical toilet before work commences.  
Facilities must be located so that they will not cause a nuisance.  
Reason: To ensure that sufficient and appropriate sanitary facilities are provided on the site.
11. All demolition work must:
- Be carried out in accordance with the requirements of Australian Standard AS 2601 'The demolition of structures' and the Work Health and Safety Act and Regulations; and
  - Where asbestos is to be removed it must be done in accordance with the requirements of the WorkCover Authority of NSW and disposed of in accordance with requirements of the Department of Environment, Climate Change and Water.
- Reason: To ensure that the demolition work is carried out safely.
12. Where any loading, unloading or construction is to occur from a public place, Council must be contacted to determine if any permits or traffic management plans are required to be obtained from Council before work commences.  
Reason: To protect the amenity of the area.
13. All services in the building being demolished must be disconnected in accordance with the requirements of the responsible authorities before work commences.  
Reason: To ensure that the demolition work is carried out safely.

14. 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, before work commences.  
Reason: To secure the area of the site works maintaining public safety.
15. A rigid and durable sign must be erected in a prominent position on the site, before work commences. The sign must be maintained at all times until all work has been completed. The sign must include:
- The name, address and telephone number of the PCA;
  - A telephone number on which Principal Contractor (if any) can be contacted outside working hours; and
  - A statement advising: 'Unauthorised Entry To The Work Site Is Prohibited'.
- Reason: To maintain the safety of the public and to ensure compliance with the Environmental Planning and Assessment Regulations.
16. A Soil and Water Management Plan must be prepared in accordance with Landcom Soils and Construction, Volume 1, Managing Urban Stormwater (Particular reference is made to Chapter 9, "Urban Construction Sites") and submitted to and accepted by the PCA. A copy of this document must be submitted to and accepted by PCA before work commences. The plan must indicate:
- Where the builder's materials and waste are to be stored;
  - Where the sediment fences are to be installed on the site;
  - What facilities are to be provided to clean the wheels and bodies of all vehicles leaving the site to prevent the tracking of debris and soil onto the public way; and
  - How access to the site will be provided.
- All devices must be constructed and maintained on site while work is carried out.
- Reason: To prevent soil erosion and sedimentation of the stormwater network.
17. The person acting on this consent is responsible for arranging and meeting the cost of a dilapidation report prepared by a suitably qualified person. The report is to include colour photographs and must be submitted to the Certifying Authority's satisfaction, with a colour copy being provided to Council and the property owner of the identified property, before work commences, on the building on the adjoining properties at 37 and 43 Roberts Street, if the consent of the adjoining property owners can be obtained. In the event that the consent of the adjoining property owners cannot be obtained copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the PCA before work commences.  
Reason: To catalogue the condition of the adjoining properties for future reference in the event that any damage is caused during work on site.
18. Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent shall 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:
- 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.
  - A concrete pump across the roadway/footpath
  - Mobile crane or any standing plant
  - Skip bins
  - Scaffolding/Hoardings (fencing on public land)
  - Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.

- g) Awning or street verandah over footpath
- h) Partial or full road closure
- i) Installation or replacement of private stormwater drain, utility service or water supply

Contact Council's Road Access team to ensure the correct Permit applications are made for the various activities.

Applications for such Permits shall be submitted and approved by Council prior to the commencement of the works associated with such activity or issue of the Construction Certificate (whichever occurs first). Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

19. The person acting on this consent shall submit to the Principal Certifying Authority a dilapidation report including colour photos showing the existing condition of the footpath and roadway adjacent to the site before the issue of a Construction Certificate.
20. Any person acting on this consent or any contractors carrying out works on public roads or Council controlled lands shall 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.
21. The landscape plan shall be amended to identify each new tree by species and to relocate trees so that they are a minimum of 1.5 metres from boundaries and a minimum of 2.0 metres from any building. The amended landscape plan shall be submitted to and approved by Council before work commences.  
Reason: To ensure that local amenity and urban forest canopy is sustained.
22. A project arborist with a minimum AQF level 5 qualification in arboriculture and who does not remove or prune trees in the Inner West local government area shall be engaged before work commences for the duration of site preparation, demolition, construction and landscaping.  
Reason: The project arborist shall provide guidance and oversight of tree protection and management to ensure that the stability and ongoing viability of trees being retained are not compromised.
23. The contact details of the project arborist shall be advised to council before work commences and maintained up to date for the duration of works. If a new project arborist is appointed details of the new project arborist shall be notified to council within 7 days.  
Reason: Council requires details of the project arborist to facilitate communication if required.
24. All reasonable directions in writing by the project arborist in relation to tree management and tree protection shall be complied with.  
Reason: To ensure that tree protection is able to be reactive to unforeseen risks and impacts.
25. During construction the project arborist shall undertake periodic inspections of trees and tree protection measures, as detailed in the tree protection plan.  
Reason: To ensure that conditions relating to tree removal, tree protection and tree planting are complied with.
26. The tree protection measures detailed in the Arboricultural Assessment and Report (Elke Haeger, 5/10/17) and any other tree protection measures deemed necessary by the project arborist shall be established before work commences.

Reason: To ensure that the stability and ongoing viability of trees being retained are not compromised.

27. The project arborist shall inspect tree protection measures and certify in writing to the Principal Certifying Authority that the measures comply with the Arboricultural Assessment and Report (Elke Haege, 5/10/17) and any other tree protection measures they consider are necessary, before work commences.

Reason: The project arborist shall provide guidance and oversight of tree protection and management to ensure that the stability and ongoing viability of trees being retained are not compromised.

28. If new street numbers or a change to street numbers are required, a separate application must be made to and approved by Council prior to those street numbers being displayed.

Reason: To ensure that the building is easily identifiable.

#### **BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE**

**For the purpose of interpreting this consent the Certifying Authority (Council or an Accredited Certifier) is that person appointed to issue a Construction Certificate.**

29. The approved plans must be checked online with Sydney Water Tap In 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. A copy of this approval must be supplied with the Construction Certificate application. Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm> for details on the process or telephone 132092.

Reason: To ensure compliance with Sydney Water requirements.

30. Prior to the issue of the Subdivision or Construction Certificate in connection with a development, the developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Certifying Authority that arrangements have been made for:

- (i) the installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project 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.
- (ii) the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.

Reason: To ensure adequate provision is made for telecommunications infrastructure.

31. a) This condition is imposed in accordance with Section 7.11 of the Environmental Planning and Assessment Act 1979.
- b) Before the issue of a Construction Certificate or Subdivision Certificate (whichever occurs first) the Council must be paid a monetary contribution of \$60,000.00 indexed in accordance with Marrickville Section 94/94A Contributions Plan 2014 ("CP").

The above contribution is the contribution applicable as at 10 April 2018.

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

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

## (CONTRIBUTION PAYMENT REFERENCE NO. DC002240)

- c) The contribution payable has been calculated in accordance with the CP and relates to the following public amenities and/or services and in the following amounts:
- |                       |             |
|-----------------------|-------------|
| Community Facilities  | \$6,354.93  |
| Plan Administration   | \$1,176.43  |
| Recreation Facilities | \$51,372.84 |
| Traffic Facilities    | \$1,095.78  |
- d) A copy of the CP can be inspected at Council's offices at 2-14 Fisher Street, Petersham or online at <http://www.marrickville.nsw.gov.au>.
- e) The contribution must be paid either in **cash, by unendorsed bank cheque (from an Australian Bank only), via EFTPOS (Debit only) or credit card\***.

\*NB A 1% credit card transaction fee applies to all credit card transactions.

**Reason:** To ensure provision is made for the increase in demand for public amenities and services required as a consequence of the development being carried out.

32. Noise attenuation measures must be incorporated into the development complying with Australian Standard 2021-2015 in relation to interior design sound levels, in accordance with details to be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate together with certification by a suitably qualified acoustical engineer that the noise attenuation measures satisfy the requirements of Australian Standard 2021-2015.

**Reason:** To reduce noise levels within the development from aircraft.

33. Plans fully reflecting the selected commitments listed in BASIX Certificate submitted with the application for development consent must be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

**NOTE:** The application for the Construction Certificate must be accompanied by either the BASIX Certificate upon which development consent was granted or a revised BASIX Certificate (Refer to Clause 6A of Schedule 1 to the Regulation).

**Reason:** To ensure that the BASIX commitments are incorporated into the development.

34. Evidence of payment of the building and construction industry Long Service Leave Scheme must be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate. (The required payment can be made at the Council Offices).

**NOTE:** The required payment is based on the estimated cost of building and construction works and the long service levy rate, set by the Long Service Payments Corporation. The rate set by the Long Service Payments Corporation is currently of 0.35% of the cost of the building and construction work.

**For more information on how to calculate the amount payable and where payments can be made contact the Long Services Payments Corporation.**  
[http://www.lspc.nsw.gov.au/levy\\_information/?levy\\_information/levy\\_calculator.stm](http://www.lspc.nsw.gov.au/levy_information/?levy_information/levy_calculator.stm)

**Reason:** To ensure that the required levy is paid in accordance with the Building and Construction Industry Long Service Payments Act.

35. Prior to the commencement of demolition works or a Construction Certificate being issued for works approved by this development consent (whichever occurs first), a security deposit and

inspection fee must be paid to Council to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of carrying out the works and as surety for the proper completion of any road, footpath and drainage works required by this consent.

Security Deposit	\$10,560.00
Inspection fee	\$225.00

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

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

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

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

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

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

36. Plans, details and calculations of an on site detention system in accordance with Marrickville Council Stormwater and On Site Detention Code must be submitted to and approved by Council before the issue of a Construction Certificate. The design of the OSD system must comply with the following:-
- a) The on site detention system must be designed for all storm events from the 1 in 5 year to the 1 in 100 year storm event with discharge to a Council controlled storm water system limited to pre-development conditions;
  - b) The system must not include any charged lines
  - c) Separate drainage systems must be provided to drain each proposed lot. Plans detailing the proposed system must be submitted to and accepted by Council
  - d) Storage for the 1 year storm event must be provided fully below ground;
  - e) Details of the Height v Storage and Height v Discharge relationships must be submitted;
  - f) Details of external catchments currently draining to the site must be included on the plans. Existing natural overland flows from external catchments may not be blocked or diverted, but must be captured and catered for within the proposed site drainage system. Where necessary an inter-allotment drainage system must be incorporated into the design; and
  - g) Details of the 1 in 100 year overflow route in case of failure/blockage of the drainage system must be provided.

**SITE WORKS**

37. Unless otherwise approved by Council, excavation, demolition, construction or subdivision work shall only be permitted during the following hours:
- a) 7:00 am to 6.00 pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm);
  - b) 8:00 am to 1:00 pm 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 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 shall be limited to:

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

The Proponent shall not undertake such activities for more than three continuous hours and shall 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.

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.

Reason: To minimise the effect of the development during the construction period on the amenity of the surrounding neighbourhood.

38. The area surrounding the building work must be reinstated to Council's satisfaction upon completion of the work.

Reason: To ensure that the area surrounding the building work is satisfactorily reinstated.

39. The placing of any materials on Council's footpath or roadway is prohibited, without the consent of Council. The placement of waste storage containers in a public place requires Council approval and must comply with Council's Policy – 'Placement of Waste Storage Containers in a Public Place'.

Reason: To ensure the public ways are not obstructed and the placement of waste storage containers in a public place are not dangerous to the public.

40. All demolition work must be carried out in accordance with the following:

- a) compliance with the requirements of Australian Standard AS 2601 'The demolition of structures' with specific reference to health and safety of the public, health and safety of the site personnel, protection of adjoining buildings and protection of the immediate environment;



- b) all works involving the demolition, removal, transport and disposal of asbestos cement must be carried out in accordance with the 'Worksafe Code of Practice for Removal of Asbestos' and the requirements of the WorkCover Authority of NSW and the Department of Environment, Climate Change and Water;
- c) all building materials arising from the demolition must be disposed of in an approved manner in accordance with Part 2.21 of Marrickville Development Control Plan 2011 – Site Facilities and Waste Management and any applicable requirements of the Department of Environment, Climate Change and Water;
- d) sanitary drainage, stormwater drainage, water, electricity and telecommunications must be disconnected in accordance with the requirements of the responsible authorities;
- e) the generation of dust and noise on the site must be controlled;
- f) the site must be secured to prohibit unauthorised entry;
- g) suitable provision must be made to clean the wheels and bodies of all vehicles leaving the site to prevent the tracking of debris and soil onto the public way;
- h) all trucks and vehicles associated with the demolition, including those delivering to or removing material from the site, must only have access to the site during work hours nominated by Council and all loads must be covered;
- i) all vehicles taking materials from the site must be loaded wholly within the property unless otherwise permitted by Council;
- j) no waste collection skips, spoil, excavation or demolition material from the site must be deposited on the public road, footpath, public place or Council owned property without the approval of Council; and
- k) the person acting on this consent must ensure that all contractors and sub-contractors associated with the demolition are fully aware of these requirements.

Reason: To ensure that the demolition work is carried out safely and impacts on the surrounding area are minimised.

41. The works are required to be inspected at critical stages of construction, by the PCA or if the PCA agrees, by another Certifying Authority. The last inspection can only be carried out by the PCA. The critical stages of construction are:
- a) At the commencement of the building work;
  - b) After excavation for, and prior to the placement of, any footings;
  - c) Prior to pouring any in-situ reinforced concrete building element;
  - d) Prior to covering of the framework for any floor, wall, roof or other building element;
  - e) Prior to covering waterproofing in any wet areas;
  - f) Prior to covering any stormwater drainage connections; and
  - g) After the building work has been completed and prior to any occupation certificate being issued in relation to the building.

You are advised to liaise with your PCA to establish if any additional inspections are required.

Reason: To ensure the building work is carried out in accordance with the Environmental Planning and Assessment Regulations and the National Construction Code (Building Code of Australia).

42. If the development involves an excavation that extends below the level of the base of the footings of a building on the adjoining allotments, including a public place such as a footway and roadway, the person acting on the consent, at their own expense must:
- a) protect and support the adjoining premises from possible damage from the excavation, and
  - b) where necessary, underpin the adjoining premises to prevent any such damage. Where the underpinning works are not "exempt development", all required consents must be obtained prior to the required works commencing; and

- c) at least 7 days notice is given to the owners of the adjoining land of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

Where a dilapidation report has not been prepared on any building adjacent to the excavation, the person acting on this consent is responsible for arranging and meeting the cost of a dilapidation report prepared by a suitably qualified person. The report must be submitted to and accepted by the PCA before works continue on site, if the consent of the adjoining property owner can be obtained.

Copies of all letter/s that have been sent via registered mail to the adjoining property owner and copies of any responses received must be forwarded to the PCA before work commences.

Reason: To ensure that adjoining buildings are preserved, supported and the condition of the buildings on the adjoining property catalogued for future reference in the event that any damage is caused during work on site.

43. All vehicles carrying materials, to or from the site, must have their loads covered with tarpaulins or similar covers.

Reason: To ensure dust and other particles are not blown from vehicles associated with the use.

44. A certificate of survey from a registered land surveyor must be submitted to the PCA upon excavation of the footings and before the pouring of the concrete to verify that the structure will not encroach on the allotment boundaries.

Reason: To ensure all works are contained within the boundaries of the allotment.

45. The works are required to be inspected at critical stages of construction, by the PCA or if the PCA agrees, by another Certifying Authority. The last inspection can only be carried out by the PCA. The critical stage inspections are:

- a) after excavation for, and prior to the placement of, any footings;
- b) prior to pouring any in-situ reinforced concrete building element;
- c) prior to filling the pool with water a satisfactory inspection of the swimming pool barrier must be carried out;
- d) after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

Reason: To ensure the building work is carried out in accordance with the Environmental Planning and Assessment Regulations, the Swimming Pools Act and the National Construction Code (Building Code of Australia).

46. Tree protection measures detailed in the Arboricultural Assessment and Report (Elke Haege, 5/10/17) and as directed by the project arborist, and those in Section 4 of Australian Standard *Protection of Trees on Development Sites AS 4970—2009* shall be implemented and complied with for the duration of works including site preparation, demolition, construction and landscaping (except where these conditions permit otherwise). Any reasonable directions in writing by the Project Arborist relating to tree protection shall be complied with.

Reason: To ensure trees being retained are effectively protected and managed and their stability and ongoing viability are not compromised.

47. Trees to be removed shall be removed by a practicing arborist who has a minimum qualification of Certificate 3 in Arboriculture, in compliance with the Safe Work Australia Guide to Managing Risks of Tree Trimming and Removal Work, July 2016.

Reason: To ensure trees are removed in a safe and environmentally responsible manner.

48. Trees to be pruned shall be pruned by a practicing arborist who has a minimum qualification of Certificate 3 in arboriculture, in accordance with
- a pruning specification prepared by the project arborist and approved by council, and
  - the Australian Standard *Pruning of Amenity Trees* AS 4373—2007.
- Reason: To ensure that pruning complies with the Australian Standard and current best practice.
49. Tree 8 shall be transplanted by an arborist with a minimum qualification of arboriculture certificate 3 and with appropriate experience.
- Reason: To maximise the likelihood of its survival and ongoing vitality.
50. Landscaping of the site must be carried out prior to occupation or use of the premises in accordance with the approved plan, and must be maintained at all times to Council's satisfaction. Specified tree protection measures shall continue to be complied with for all landscaping works, except where these conditions permit otherwise.
- Reason: To ensure adequate landscaping is maintained.
51. The new trees shall be planted in accordance with the amended landscape plan approved by council before the start of works, and shall be located a minimum of 1.5 metre from the boundaries and 2.0 metres from any building.
- The species of the new tree shall be as detailed in the amended landscape plan approved by council before the start of works.
  - The planting stock size shall be at least 75 litres.
  - The planting stock shall comply with the Australian Standard *Tree Stock for Landscape Use* AS 2303-2015.
  - The new trees shall be planted in accordance with the tree planting detail included in the Marrickville Street Tree Master Plan 2014. Please note that planting holes for trees shall not be excavated deeper than the root ball and that new trees shall not be staked.
  - The new trees shall be planted by a qualified horticulturist or arborist, with a minimum qualification of Certificate 3.
  - Each replacement tree shall be maintained in a healthy and vigorous condition until it attains a height of 5 metres, from which time it is protected by MDCP 2011.
  - If any tree dies or needs to be removed before that time it shall be replaced with a similar tree in accordance with these conditions at the expense of the applicant.
- Reason: To ensure that the new trees provide adequate and appropriate compensation, are planted in a suitable location and maintained properly.
52. Alignment levels for the site at all pedestrian and vehicular access locations shall match the existing back of footpath levels at the boundary. Note: This may require the internal site levels to be adjusted locally at the boundary to ensure that they match the above alignment levels. Failure to comply with this condition will result in vehicular access being denied.
53. To provide for adequate site drainage all roof and surface stormwater from the site and any catchment external to the site that presently drains to it, shall be collected in a system of pits and pipelines/channels and major storm event surface flow paths and being discharged to a kerb and gutter drainage system in accordance with the requirements of Marrickville Council Stormwater and On Site Detention Code. Please note any stormwater outlets through sandstone kerbs must be carefully core drilled.
54. All stormwater drainage must be designed in accordance with the provisions of the 1987 Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2015 'Stormwater Drainage' and Marrickville Council Stormwater and On Site Detention Code. Pipe and channel drainage systems must be designed to cater for the twenty (20) year Average Recurrence Interval (A.R.I.) storm in the case of low and medium residential developments, the twenty (20) year A.R.I. storm in the case of high density residential development and commercial and/or industrial developments and the fifty (50) year A.R.I. storm in the case of

heavy industry. In all cases the major event surface flow paths must be designed to cater for the one hundred (100) year A.R.I. storm.

#### **BEFORE THE ISSUE OF A SUBDIVISION CERTIFICATE**

55. The Section 94 Contribution must be paid before the issue of a Subdivision Certificate.  
Reason: To ensure provision is made for the increase in demand for public amenities and services required as a consequence of the development being carried out.
56. The Section 73 Certificate must be submitted to the Principal Certifying Authority before the issue of a Subdivision Certificate.
- a) A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Make early application for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.
- b) Application must be made through an authorised Water Servicing Coordinator. For help either visit [www.sydneywater.com.au](http://www.sydneywater.com.au) > Plumbing, building and developing > Providers > Lists or telephone 13 20 92.
- Reason: To ensure compliance with Sydney Water requirements.
57. All instruments used to create easements, rights and/or restrictions as to user must include in them provisions that such may not be revoked or modified without the prior approval of Council.  
Reason: To ensure that such instruments are not revoked or modified without the prior approval of Council.
58. Separate drainage systems must be provided to drain each proposed lot. Plans detailing the proposed system must be submitted to and accepted by Council before the issue of a Subdivision Certificate.  
Reason: To provide for adequate site drainage.

#### **BEFORE OCCUPATION OF THE BUILDING**

59. You must obtain an Occupation Certificate from your PCA before you occupy or use the building. The PCA must notify the Council of the determination of the Occupation Certificate and forward the following documents to Council within 2 days of the date of the Certificate being determined:
- a) A copy of the determination;
- b) Copies of any documents that were lodged with the Occupation Certificate application;
- c) A copy of Occupation Certificate, if it was issued;
- d) A copy of the record of all critical stage inspections and any other inspection required by the PCA;
- e) A copy of any missed inspections; and
- f) A copy of any compliance certificate and any other documentary evidence relied upon in issuing the Occupation Certificate.
- Reason: To comply with the provisions of the Environmental Planning and Assessment Regulations.
60. The subdivision of the land into 5 lots being registered at the NSW Department of Lands before the issue of an Occupation Certificate.  
Reason: To confirm the terms of Council's approval.

61. The landscaping of the site must be carried out prior to occupation or use of the premises in accordance with the approved plan, and must be maintained at all times to Council's satisfaction.  
Reason: To ensure adequate landscaping is maintained.
62. a) Upon completion of the required noise attenuation measures referred to in the "Before the Issue of a Construction Certificate" Section of this Determination, and prior to the occupation of the dwelling-houses a report must be prepared and submitted to the Certifying Authority's satisfaction by an accredited Acoustics Consultant certifying that the final construction meets AS2021-2015 as set down in the subject condition of this consent. Such report must include external and internal noise levels to ensure that the external noise levels during the test are representative of the typical maximum levels that may occur at this development; and
- b) Where it is found that internal noise levels are greater than the required dB(A) rating due to faulty workmanship or the like, necessary corrective measures must be carried out and a further certificate being prepared and submitted to Council in accordance with the requirements as set down in Part a) of this condition.
- Reason: To reduce noise levels within the dwelling-houses from aircraft and to ensure that the noise attenuation measures incorporated into the dwelling-houses satisfactorily comply with the relevant sections of Australian Standard 2021-2015.
63. The Certifying Authority must be satisfied that each of the commitments listed in BASIX Certificate referred to in this Determination have been fulfilled before the issue of an Occupation Certificate (whether an interim or final Occupation Certificate).  
Reason: To ensure that all of the BASIX commitments have been fulfilled and to comply with the requirements under Section 154B of the Environmental Planning and Assessment Regulations 2000.
64. The Certifying Authority must apply to the Director-General for a BASIX Completion Receipt within 2 days of the issue of a final Occupation Certificate. Completion Receipts can be applied for at [www.basix.nsw.gov.au](http://www.basix.nsw.gov.au).  
Reason: To ensure compliance with the requirements under Section 154C of the Environmental Planning and Assessment Regulations 2000.
65. All works required to be carried out in connection with drainage, crossings, alterations to kerb and guttering, footpaths and roads resulting from the development shall be completed before the issue of an Occupation Certificate. Works shall be in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications".
66. Light duty concrete vehicle crossings, in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" must be constructed at the vehicular access locations before the issue of the Occupation Certificate and at no cost to Council.
67. All redundant vehicular crossings to the site shall be 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" before the issue of the Occupation Certificate and at no cost to Council. Where the kerb in the vicinity of the redundant crossing is predominately stone (as determined by Council's Engineer) the replacement kerb shall also be in stone.
68. Encroachments onto Council's road or footpath of any service pipes, sewer vents, boundary traps, downpipes, gutters, stairs, doors, gates, garage tilt up panel doors or any structure whatsoever shall not be permitted. Any encroachments on to Council road or footpath resulting from the building works will be required to be removed before the issue of the Occupation Certificate.

69. 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 shall be at no cost to Council and undertaken before the issue of an Occupation Certificate.
70. The existing stone kerb adjacent to the site is of local heritage value and is to be preserved at no cost to Council. Any damage to the stone kerb will require the replacement of the damaged individual stone units before the issue of the Occupation Certificate. Please note any stormwater outlets through sandstone kerbs must be carefully core drilled. Non-compliance with this condition will result in loss of your security deposit.
71. The existing concrete footpath across the frontage of the site shall be reconstructed in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications", at no cost to Council and before the issue of an Occupation Certificate.
72. The existing damaged or otherwise defective kerb and gutter, footpath and/or road pavement adjacent to the site shall be restored in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications", at no cost to Council and before the issue of the Occupation Certificate.
73. Before the issue of the Occupation Certificate written verification from a suitably qualified professional civil engineer, stating that all stormwater drainage and related work has been and constructed in accordance with the approved plans must be submitted to and accepted by Council. In addition, full works-as-executed plans, prepared and signed by a registered surveyor, must be submitted to Council. These plans must include levels for all drainage structures, buildings (including floor levels), finished ground levels and pavement surface levels.
74. To protect the rights of adjacent upstream landholders to drain through the site of the proposed development, a common drainage easement in favour of the parcels of land to be drained, must be created before the issue of the Occupation Certificate over the full length of all existing and proposed inter-allotment drainage systems within the site of the proposed development, at no cost to Council.
75. With the regard to the On Site Detention System (OSD) a positive covenant in accordance with supplement 7 of Marrickville Council Stormwater and On Site Detention Code must be placed on the Title in favour of Council before the issue of the Occupation Certificate.
76. Prior to issue of the Occupation Certificate the person acting on this consent shall obtain from Council a compliance Certificate(s) stating that all Road, Footpath and Public Domain Works on Council property required to be undertaken as a result of this development have been completed satisfactorily and in accordance with Council approved plans and specifications.
77. Before the issue of an Occupation Certificate, a street number and identifier of separate occupancies (if applicable) must be clearly displayed in a readily visible location (numbers having a height of not less than 75mm). If any new street numbers or change to street numbers (this includes unit and shop numbers) are required they must have the prior approval of council before being displayed.  
Reason: To ensure that the building is easily identifiable.
78. The project arborist shall certify in writing to the Principal Certifying Authority (PCA) before the issue of the Occupation Certificate that the conditions of consent relating to tree removal, tree pruning, tree transplanting, tree protection and tree planting have been complied with and that the protected trees have not been damaged or, if the recommendations have not been complied with, detail the extent and nature of the departure from the conditions. The Principal Certifying Authority shall report breaches of the conditions to Inner West Council.

Reason: To ensure that conditions that aim to ensure the sustainability of Inner West urban forest are complied with.

**ADVISORY NOTES**

- A complete assessment of the application under the provisions of the National Construction Code (Building Code of Australia) has not been carried out.
- The approved plans must be submitted to the Customer Centre of any office of Sydney Water before the commencement of any work to ensure that the work meets the requirements of Sydney Water. Failure to submit these plans before commencing work may result in the demolition of the structure if found not to comply with the requirements of Sydney Water.
- The vehicular crossing and/or footpath works are required to be constructed by your own contractor. You or your contractor must complete an application for 'Construction of a Vehicular Crossing & Civil Works' form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, before commencement of works.
- Contact "Dial Before You Dig" before 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 Before You Dig	☎ 1100 <a href="http://www.dialbeforeyoudig.com.au">www.dialbeforeyoudig.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 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

[www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au)

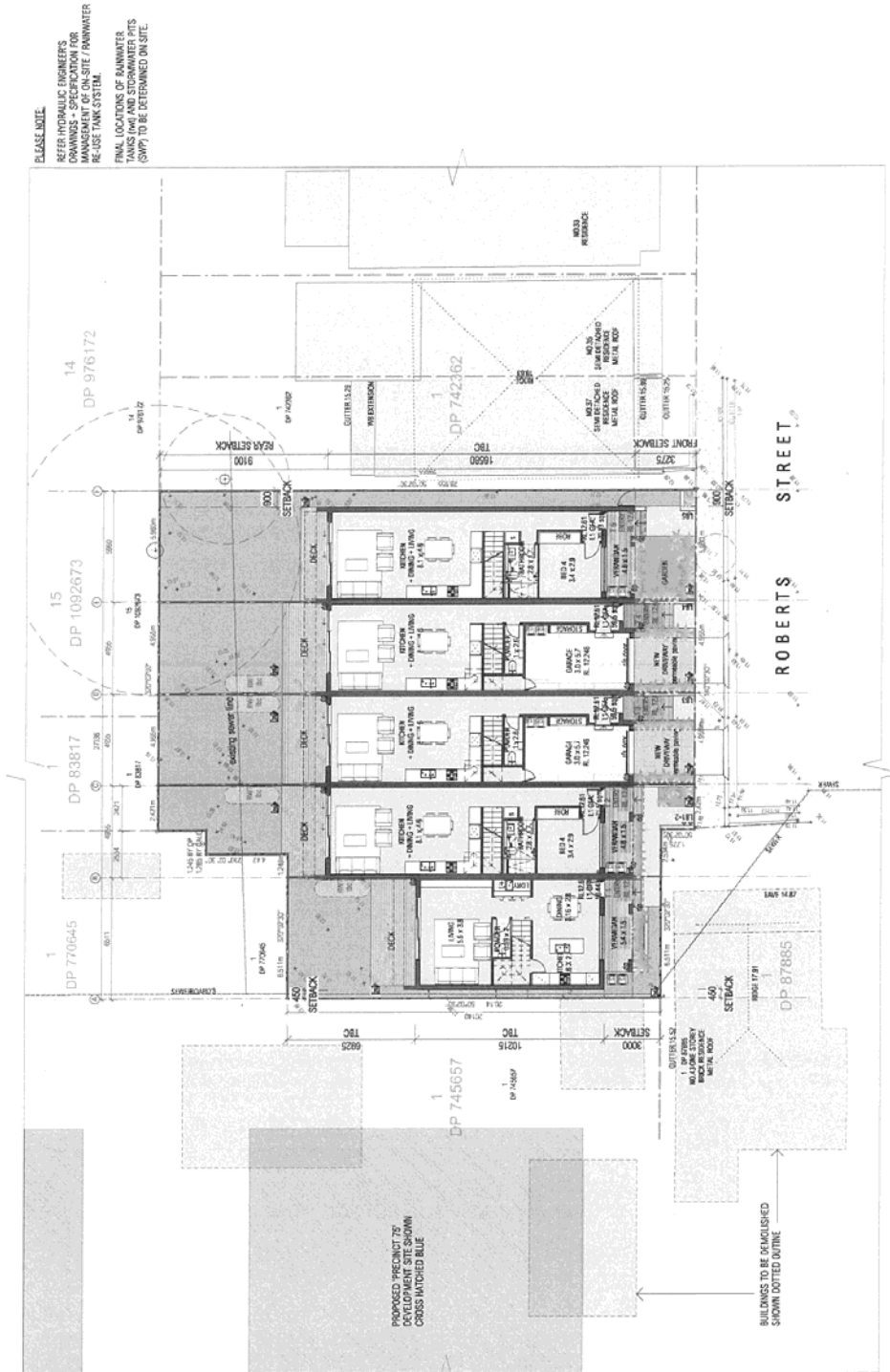
Enquiries relating to work safety and asbestos removal and disposal.

- B. THAT those persons who lodged a submission in respect to the proposal be advised of the Council's determination of the application.
- C. THAT the Department of Planning and Environment be advised, as part of the quarterly review of the monitoring of Clause 4.6 of Marrickville Local Environmental Plan 2011 – Exceptions to Development Standards, that Council has agreed to the variation of the following development standard:

<u>Premises:</u>	39-41 Roberts Street, St Peters
<u>Applicant:</u>	Environa Studio
<u>Proposal:</u>	To consolidate the existing allotments into 1 allotment, demolish existing improvements, remove trees, carry out a Torrens Title subdivision of land into 5 allotments and construct a 2 storey dwelling house on allotments 1 and 5 and a 3 storey dwelling house on allotments 2, 3 and 4
<u>Determination:</u>	Deferred commencement consent
<u>DA No:</u>	201700486
<u>Lot and DP:</u>	Lot 18 in DP 732933, Lots 1 and 2 in DP 743754
<u>Category of Development:</u>	6: Res other
<u>Environmental Planning Instrument:</u>	Marrickville Local Environmental Plan 2011
<u>Zoning of Land:</u>	Low Density Residential
<u>Development Standard(s) varied:</u>	Clause 4.4 - Maximum floor space ratio
<u>Justification of variation:</u>	No / minimal impact to residential amenity of adjoining properties, site circumstances result in technical variation, improved streetscape outcome as a result of variation
<u>Extent of variation:</u>	7.2%
<u>Concurring Authority:</u>	Council under assumed concurrence of the Secretary Department of Planning and Environment
<u>Date of Determination:</u>	

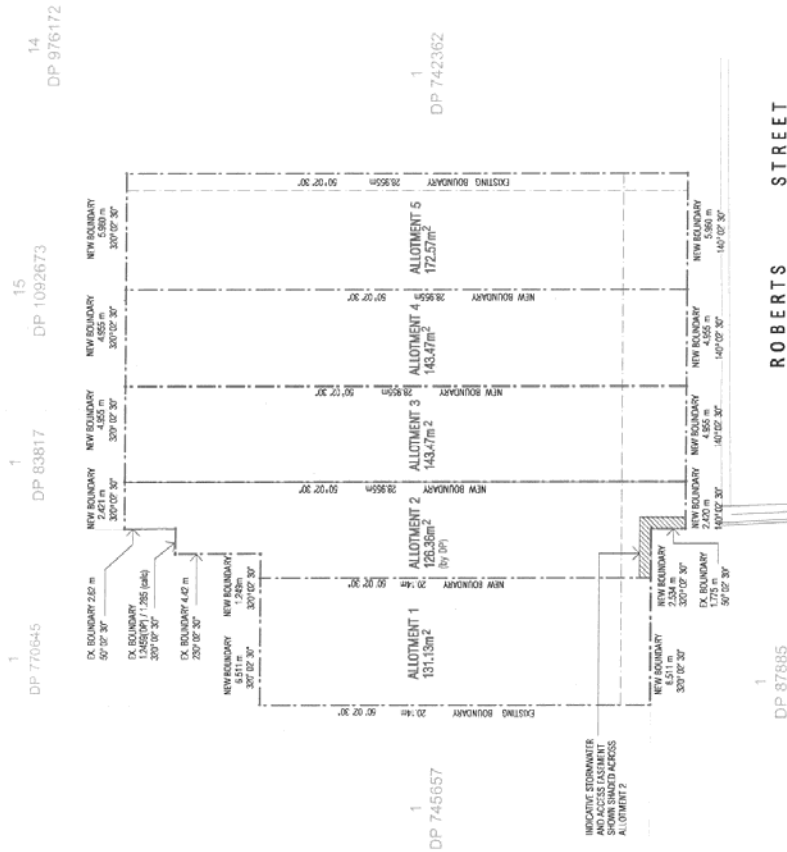


Attachment B1 – Architectural Plans



SITE PLAN  
 SCALE: 1:200 @A3

<p>NOTES:</p> <p>1. ALL RIGHTS TO BE EXERCISED IN ACCORDANCE WITH THE LOCAL GOVERNMENT ACT 2009 AND THE LOCAL GOVERNMENT (GENERAL) REGULATIONS 2009.</p> <p>2. ALL RIGHTS TO BE EXERCISED IN ACCORDANCE WITH THE LOCAL GOVERNMENT ACT 2009 AND THE LOCAL GOVERNMENT (GENERAL) REGULATIONS 2009.</p> <p>3. ALL RIGHTS TO BE EXERCISED IN ACCORDANCE WITH THE LOCAL GOVERNMENT ACT 2009 AND THE LOCAL GOVERNMENT (GENERAL) REGULATIONS 2009.</p> <p>4. ALL RIGHTS TO BE EXERCISED IN ACCORDANCE WITH THE LOCAL GOVERNMENT ACT 2009 AND THE LOCAL GOVERNMENT (GENERAL) REGULATIONS 2009.</p>	<p>NO. 1500/17</p> <p>NO. 1500/17</p> <p>NO. 1500/17</p> <p>NO. 1500/17</p>	<p>NO. 1500/17</p> <p>NO. 1500/17</p> <p>NO. 1500/17</p> <p>NO. 1500/17</p>	<p>NO. 1500/17</p> <p>NO. 1500/17</p> <p>NO. 1500/17</p> <p>NO. 1500/17</p>	<p>NO. 1500/17</p> <p>NO. 1500/17</p> <p>NO. 1500/17</p> <p>NO. 1500/17</p>	<p>NO. 1500/17</p> <p>NO. 1500/17</p> <p>NO. 1500/17</p> <p>NO. 1500/17</p>	<p>NO. 1500/17</p> <p>NO. 1500/17</p> <p>NO. 1500/17</p> <p>NO. 1500/17</p>	<p>NO. 1500/17</p> <p>NO. 1500/17</p> <p>NO. 1500/17</p> <p>NO. 1500/17</p>	<p>NO. 1500/17</p> <p>NO. 1500/17</p> <p>NO. 1500/17</p> <p>NO. 1500/17</p>	<p>NO. 1500/17</p> <p>NO. 1500/17</p> <p>NO. 1500/17</p> <p>NO. 1500/17</p>	<p>NO. 1500/17</p> <p>NO. 1500/17</p> <p>NO. 1500/17</p> <p>NO. 1500/17</p>	<p>NO. 1500/17</p> <p>NO. 1500/17</p> <p>NO. 1500/17</p> <p>NO. 1500/17</p>	<p>NO. 1500/17</p> <p>NO. 1500/17</p> <p>NO. 1500/17</p> <p>NO. 1500/17</p>
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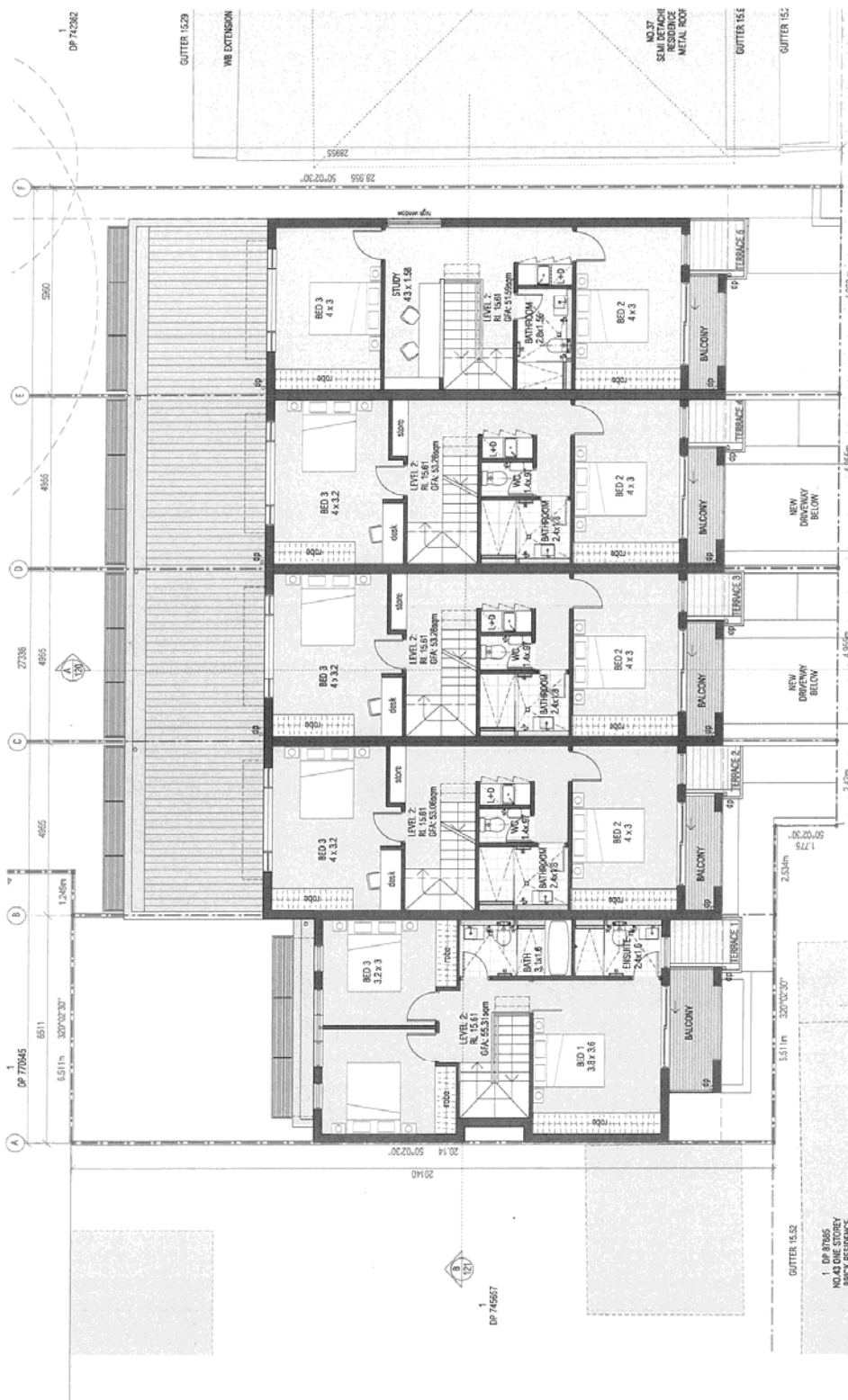


ROBERTS STREET

DRAFT SUBDIVISION PLAN  
SCALE: 1:200 @A3

	NOTES: 1. All lots to be created will be created with: A. 20% of the area of the lot to be reserved for public use; B. 20% of the area of the lot to be reserved for public use; C. 20% of the area of the lot to be reserved for public use; D. 20% of the area of the lot to be reserved for public use.	NO. 87685 DATE 10/01/2010 PREPARED BY: M. J. JONES CHECKED BY: M. J. JONES DRAWN BY: M. J. JONES	NO. 87685 DATE 10/01/2010 PREPARED BY: M. J. JONES CHECKED BY: M. J. JONES DRAWN BY: M. J. JONES	PROJECT: NEW TERRACE DWELLINGS ADDRESS: 30-41 ROBERTS ST PRESTIGE DEVELOPMENTS PT A PRESTIGE DEVELOPMENTS PT A	DRAFT SUBDIVISION PLAN DATE: 10/01/2010	DATE: 05/01/18 DRAWN BY: J. JONES CHECKED BY: M. J. JONES APPROVED BY: M. J. JONES	PROJECT NO. 050 DATE: 05/01/18
	enviro studio 224 Riley St, North Sydney NSW 1585 T: 02 9511 0000 W: WWW.ENVIROSTUDIO.COM.AU ARCHITECTURE REGISTRATION NUMBER: 6283	PROJECT: NEW TERRACE DWELLINGS ADDRESS: 30-41 ROBERTS ST PRESTIGE DEVELOPMENTS PT A PRESTIGE DEVELOPMENTS PT A	DRAFT SUBDIVISION PLAN DATE: 10/01/2010	DATE: 05/01/18 DRAWN BY: J. JONES CHECKED BY: M. J. JONES APPROVED BY: M. J. JONES	PROJECT NO. 050 DATE: 05/01/18		





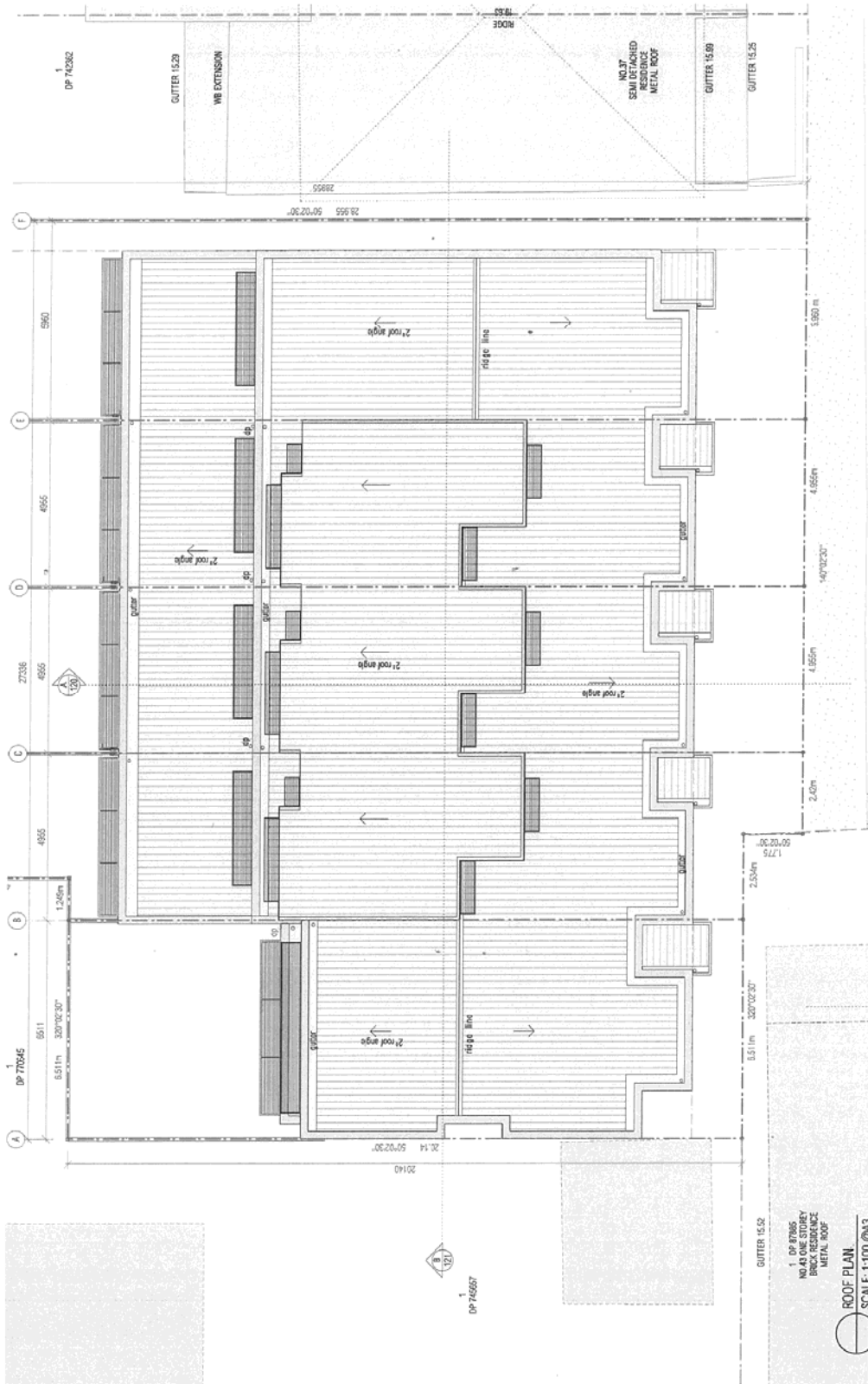
LEVEL 2 FLOOR PLAN  
SCALE: 1:100 @A3

NO.	1	DP 87885	NO.43 ONE STOREY RESIDENCE
DATE	15/01/2010	DATE	15/01/2010
BY	DP 77045	BY	DP 77045
CHKD	DP 77045	CHKD	DP 77045
DATE	15/01/2010	DATE	15/01/2010
PROJECT NO.	SEA	PROJECT NO.	SEA
CLIENT	DA	CLIENT	TW
PROJECT NAME	LEVEL 2 FLOOR PLAN	PROJECT NAME	LEVEL 2 FLOOR PLAN
ADDRESS	30-41 ROBERTS ST	ADDRESS	30-41 ROBERTS ST
ARCHITECT	ST PETERS	ARCHITECT	ST PETERS
PROJECT NO.	102	PROJECT NO.	102
DATE	15/01/2010	DATE	15/01/2010
SCALE	1:100 @A3	SCALE	1:100 @A3

**enviro studio**  
224 (blyth st. blyth) nsw 2010  
t: 02 9211 0000  
f: www.envirostudio.com.au  
architect registration number 6235

NOTES:  
1. WORKS TO BE PERFORMED AS SHOWN WITH REFERENCE TO THE PLAN AND ALL DIMENSIONS TO FACE UNLESS OTHERWISE SPECIFIED.  
2. ALL DIMENSIONS TO FACE UNLESS OTHERWISE SPECIFIED.  
3. ALL DIMENSIONS TO FACE UNLESS OTHERWISE SPECIFIED.  
4. ALL DIMENSIONS TO FACE UNLESS OTHERWISE SPECIFIED.





enviro studio  
 224 (ivy st. sully) h/ls 2010  
 E: 02 9211 0000  
 W: www.envirostudio.com.au  
 architect registration number 8239

PROJECT  
 NEW TERRACE DWELLINGS  
 PRESTIGE DEVELOPMENTS PT. 3

LOT  
 39-41 ROBERTS ST  
 ST PETERS

DRAWING  
 ROOF PLAN

DATE  
 DA

PROJECT NO.  
 824

SCALE  
 1:110

DATE  
 11/06/15

BY  
 TW

CHECKED BY  
 ACJ

PROJECT NO.  
 824

SCALE  
 1:110

DATE  
 11/06/15

BY  
 TW

CHECKED BY  
 ACJ

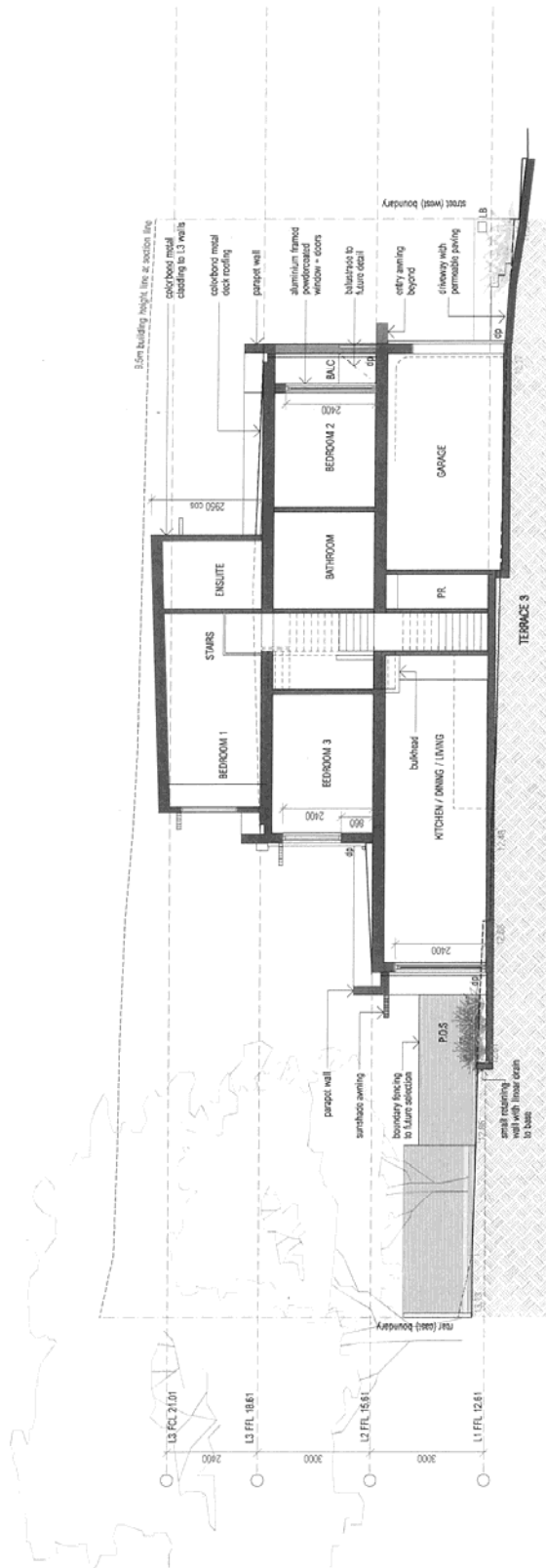
PROJECT NO.  
 824

SCALE  
 1:110

DATE  
 11/06/15

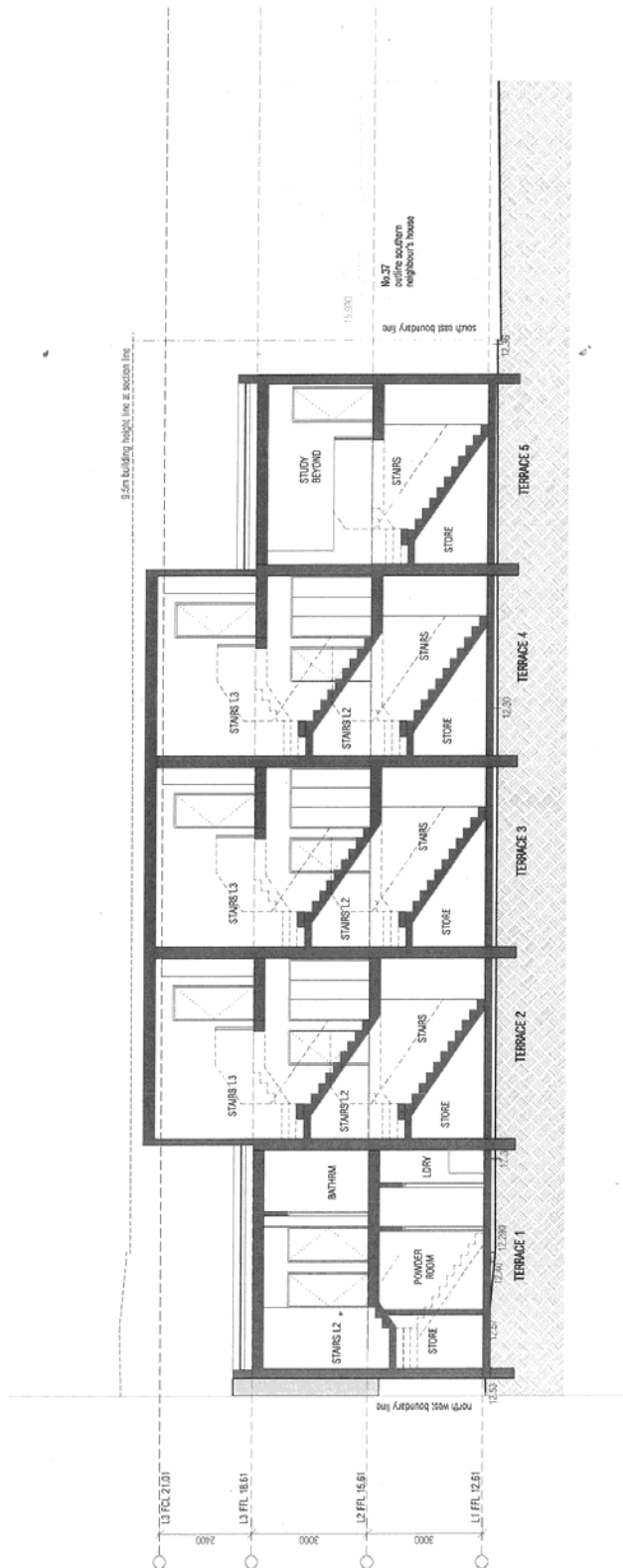
BY  
 TW

CHECKED BY  
 ACJ



SECTION A  
SCALE: 1:100 @A3

<p>NOTE</p> <p>1) work to be carried out in accordance with the applicable codes and standards of NSW, VIC, QLD, WA, SA, NT, ACT, TAS, and the ACT Planning and Building Act 2016.</p> <p>2) any dimensions of the building shall refer to the finished floor level unless otherwise stated.</p>	<p>DATE</p> <p>13/08/2017</p> <p>BY</p> <p>enviro studio</p>	<p>DESCRIPTION</p> <p>preliminary plans for consent</p> <p>preliminary plans for consent</p> <p>preliminary plans for consent</p> <p>preliminary plans for consent</p> <p>preliminary plans for consent</p>	<p>NO</p> <p>001</p>	<p>REMARKS</p>	<p>PROJECT</p> <p>NEW TERRACE DWELLINGS</p>	<p>LOCATION</p> <p>38-41 ROBERTS ST</p>	<p>CREATING</p> <p>SECTION A</p>	<p>DATE</p> <p>10/04/18</p>	<p>PROJECT NO</p> <p>624</p>	<p>DRAWING NO</p> <p>122</p>



SECTION B  
SCALE: 1:100 @A3

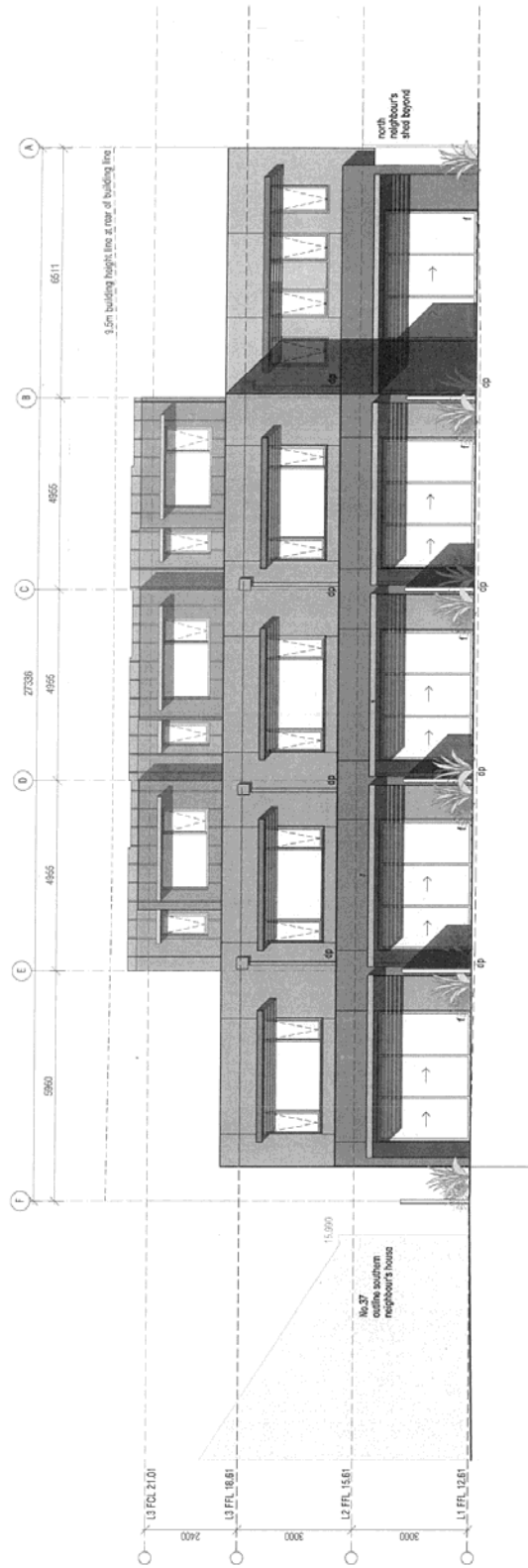
<p>NOTES</p> <p>1) Work to be carried out in accordance with the codes and conditions of contract.</p> <p>2) Refer to the contract documents for further details.</p> <p>3) Refer to the contract documents for further details.</p> <p>4) Refer to the contract documents for further details.</p> <p>5) Refer to the contract documents for further details.</p> <p>6) Refer to the contract documents for further details.</p> <p>7) Refer to the contract documents for further details.</p> <p>8) Refer to the contract documents for further details.</p> <p>9) Refer to the contract documents for further details.</p> <p>10) Refer to the contract documents for further details.</p>	<p>REV</p> <p>DATE</p> <p>DESCRIPTION</p>	<p>ENVIRONMENT</p> <p>ENV</p> <p>CON</p> <p>PREPARED BY</p> <p>DATE</p>	<p>PROJECT</p> <p>NEW TERRACE DWELLINGS</p> <p>39-41 ROBERTS ST</p> <p>ST PETERS</p>	<p>SECTION</p> <p>SECTION B</p>	<p>PROJECT NO.</p> <p>624</p>	<p>DATE</p> <p>DA</p>	<p>SCALE</p> <p>1:100</p>	<p>PROJECT NO.</p> <p>124</p>	<p>DATE</p> <p>12/04/18</p>





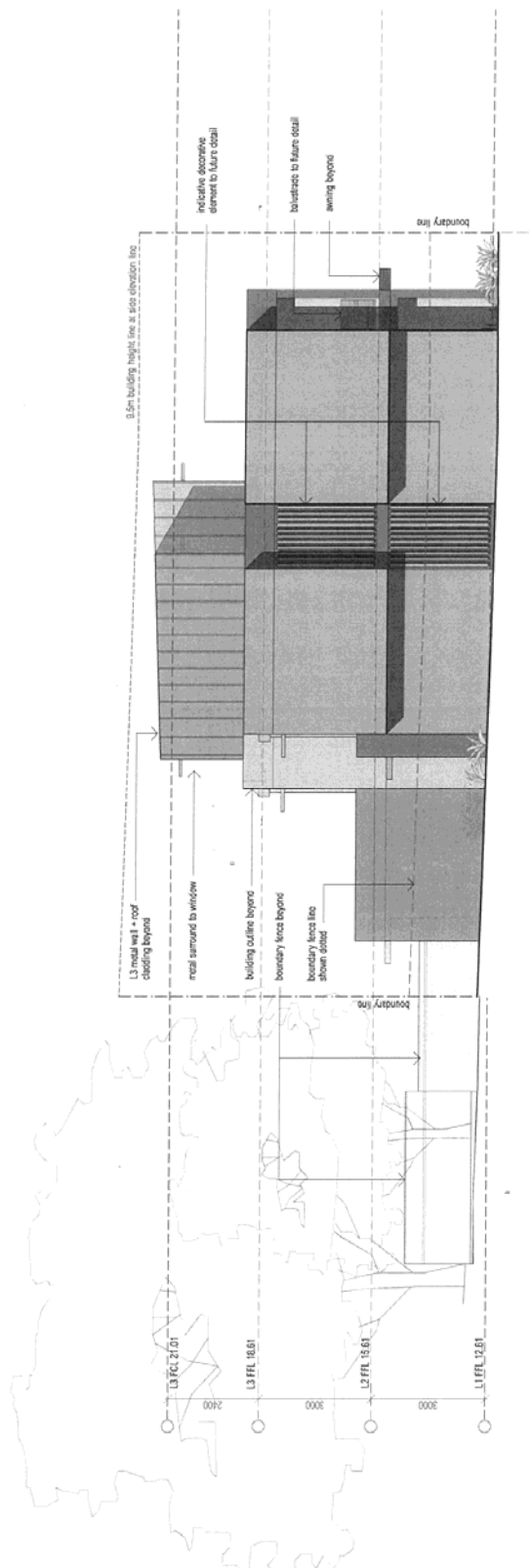
○ SOUTH-WEST ELEVATION  
SCALE: 1:100 @A3

<p><b>NOTES:</b></p> <p>1. In work to comply with accordance with the Australian Standards AS/NZS 1171:2017 and AS/NZS 1171:2017. All dimensions are in millimetres unless otherwise stated. All dimensions are to face unless otherwise stated. All dimensions are to be taken from the finished ground level unless otherwise stated.</p> <p>2. All dimensions are to be taken from the finished ground level unless otherwise stated.</p> <p>3. All dimensions are to be taken from the finished ground level unless otherwise stated.</p> <p>4. All dimensions are to be taken from the finished ground level unless otherwise stated.</p>	<p><b>DATE:</b></p> <p>12/04/2020</p>	<p><b>PROJECT:</b></p> <p>NEW TERRACE DWELLINGS</p>	<p><b>LOCATION:</b></p> <p>39-41 ROBERTS ST ST PETERS</p>	<p><b>CLIENT:</b></p> <p>PRESTIGE DEVELOPMENTS PTY LTD</p>	<p><b>DATE:</b></p> <p>08/04/18</p>	<p><b>PROJECT NO.:</b></p> <p>130</p>



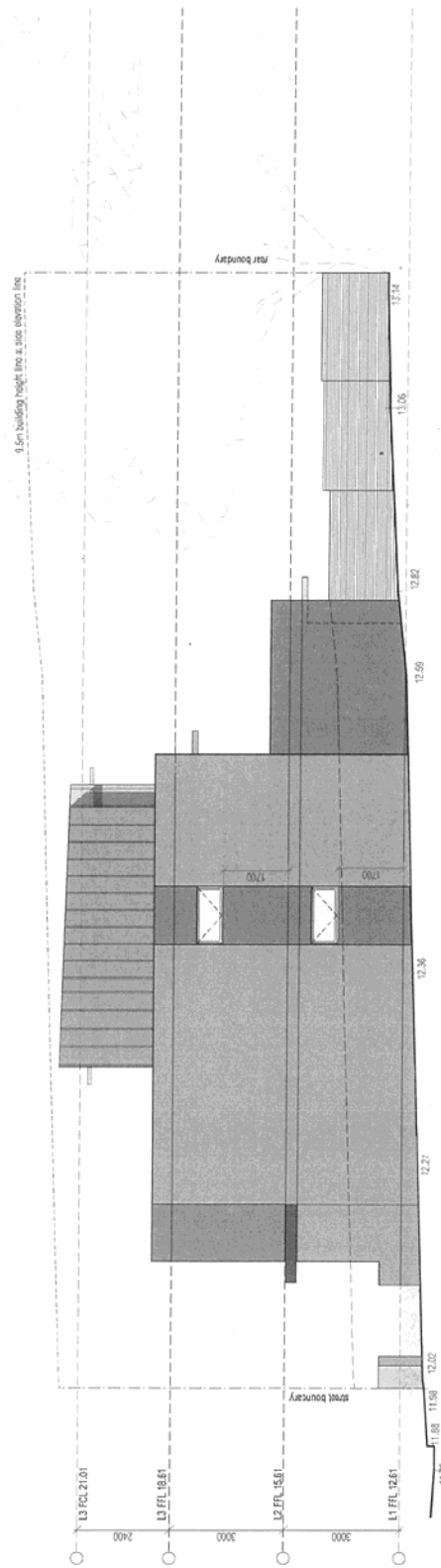
**NORTH-EAST ELEVATION**  
SCALE: 1:100 @A3

<b>Notes:</b>	<b>Rev</b>	<b>Desc</b>	<b>Approved</b>	<b>Project</b>	<b>Location</b>	<b>Client</b>	<b>Drawn</b>	<b>Checked</b>	<b>Scale</b>	<b>Page No.</b>
1. Refer to all drawings in accordance with the conditions of contract. 2. All notes are conditions of contract. 3. All dimensions are in millimetres unless stated otherwise. 4. All dimensions are to the face of the work unless stated otherwise. 5. All dimensions are to the face of the work unless stated otherwise. 6. All dimensions are to the face of the work unless stated otherwise. 7. All dimensions are to the face of the work unless stated otherwise. 8. All dimensions are to the face of the work unless stated otherwise. 9. All dimensions are to the face of the work unless stated otherwise. 10. All dimensions are to the face of the work unless stated otherwise.				enviro studio 224 Hwy 41, Surry Hills, 2010 T: 02 9311 0000 N: www.envirostudio.com.au professional registration number 6239	NEW TERRACE DWELLINGS at ST PETERS PRESTO DEVELOPMENTS PT	30-41 ROBERTS ST ST PETERS	ELEVATIONS NORTH-EAST ELEVATION	DA TM JAZ	EBN JH JAZ	131 Revision D



 NORTH-WEST ELEVATION  
SCALE: 1:100 @A3

Notes:	<p>A. Subject to approval by the Council, the primary use for the site is residential.</p> <p>B. Subject to approval by the Council, the primary use for the site is residential.</p> <p>C. Subject to approval by the Council, the primary use for the site is residential.</p> <p>D. Subject to approval by the Council, the primary use for the site is residential.</p>	<p>Site:</p> <p>39-41 ROBERTS ST ST PETERS</p>	<p>Project:</p> <p>NEW TERRACE DWELLINGS</p>	<p>Location:</p> <p>39-41 ROBERTS ST ST PETERS</p>	<p>Planning Code:</p> <p>DA</p>	<p>Site Code:</p> <p>DA</p>	<p>Page No.:</p> <p>132</p>	
			<p>enviro studio</p> <p>224 Hay St, Surry Hills, 2010</p> <p>T: 02 9211 1000</p> <p>N: www.envirostudio.com.au</p> <p>architect registration number 0229</p>	<p>Project:</p> <p>NEW TERRACE DWELLINGS</p>	<p>Location:</p> <p>39-41 ROBERTS ST ST PETERS</p>	<p>Planning Code:</p> <p>DA</p>	<p>Site Code:</p> <p>DA</p>	<p>Page No.:</p> <p>132</p>
				<p>Project:</p> <p>NEW TERRACE DWELLINGS</p>	<p>Location:</p> <p>39-41 ROBERTS ST ST PETERS</p>	<p>Planning Code:</p> <p>DA</p>	<p>Site Code:</p> <p>DA</p>	<p>Page No.:</p> <p>132</p>



 SOUTH-EAST ELEVATION  
SCALE: 1:100 @A3

<p><b>NOTES:</b></p> <p>1) Each to be carried out in accordance with the conditions of approval.</p> <p>2) All elevations are to be carried out in accordance with the conditions of approval.</p> <p>3) All elevations are to be carried out in accordance with the conditions of approval.</p> <p>4) All elevations are to be carried out in accordance with the conditions of approval.</p>	<p>REV</p> <p>DATE</p> <p>DESCRIPTION</p>	<p>DATE</p> <p>DESCRIPTION</p>	<p>DATE</p> <p>DESCRIPTION</p>	<p>DATE</p> <p>DESCRIPTION</p>	<p>DATE</p> <p>DESCRIPTION</p>
	<p>1</p> <p>2</p> <p>3</p> <p>4</p>	<p>1</p> <p>2</p> <p>3</p> <p>4</p>	<p>1</p> <p>2</p> <p>3</p> <p>4</p>	<p>1</p> <p>2</p> <p>3</p> <p>4</p>	<p>1</p> <p>2</p> <p>3</p> <p>4</p>
<p>PROJECT</p> <p>NEW TERRACE DWELLINGS</p> <p>LOCATION</p> <p>39-41 ROBERTS ST</p> <p>CLIENT</p> <p>ST PETERS</p>	<p>PROJECT</p> <p>NEW TERRACE DWELLINGS</p> <p>LOCATION</p> <p>39-41 ROBERTS ST</p> <p>CLIENT</p> <p>ST PETERS</p>	<p>PROJECT</p> <p>NEW TERRACE DWELLINGS</p> <p>LOCATION</p> <p>39-41 ROBERTS ST</p> <p>CLIENT</p> <p>ST PETERS</p>	<p>PROJECT</p> <p>NEW TERRACE DWELLINGS</p> <p>LOCATION</p> <p>39-41 ROBERTS ST</p> <p>CLIENT</p> <p>ST PETERS</p>	<p>PROJECT</p> <p>NEW TERRACE DWELLINGS</p> <p>LOCATION</p> <p>39-41 ROBERTS ST</p> <p>CLIENT</p> <p>ST PETERS</p>	<p>PROJECT</p> <p>NEW TERRACE DWELLINGS</p> <p>LOCATION</p> <p>39-41 ROBERTS ST</p> <p>CLIENT</p> <p>ST PETERS</p>

**TERMS AND ABBREVIATIONS**

Abbreviations used on the drawings and in this specifications and schedules are as follows:

AFS	As further specified
BWB	Black / bitumen / ragged
BWR	Black / bitumen / rendered
BPA	Building Code of Australia
BC	Bright Chrome
CCA	Copper/Chrome/Aluminate treated timber
CD	Colourbond
CDW	Colourbond Downpipes
CFC	Compressed Fibre Concrete sheet
CS	Concrete in situ
CT	Ceramic Tiles
cs	Concrete
DPI / dp	Downpipe
F/S	Firestop Polyurethane (insulation)
F	Flashed
FC	Fibre Cement (galvneal sheet)
FOR	Fibre Cement Reinforced (Flat/roof)
FFL	Finished floor level
GB	Glass blockwork
GPO	Galvanneal
HDB	Hot Dip Galvanneal
HDP	High Density Polyethylene (piping)
HDPF	Hobbit Power Panel
HFP	Hot water service
HWS	Hot water service
LFC	Light Oil Solvent Preservative - 'Cold' Treated timber
LSOP	Light Oil Solvent Preservative - 'Cold' Treated timber
LVL	Laminated Veneer Lumber
MDF	Medium density fibreboard - customwood
MGP	Machine Graded Ply Framing (Wall/Roof)
M	Metal
MC	Metal Cladding
OC	On Contract
P8	Plasterboard
POC	Pre cast concrete
PFC	Profiled Flange Channel
PFF	Profiled rubber floor covering
PS	Provisional Sum
PTB	Particle board
RS	Reinforced concrete
RWS	Reinforced timber stud wall
RP	Radial Pines
S-H	Supply and Install
SC	Self Chrome
SHS	Square Hollow section
SJ	Stainless Steel
TG	Timber Grading
TR	Town rail
TRH	Timber roll hoist
TT	Timberosa Tile
UB	Universal Beam
UC	Universal Column
UNO	Universal non-rod overhead
VDS	Vertical Drift Stud
VR	Veneer
WRC	Wetroom Rod Cover (timber)

**NOTES**  
 All work as shown in the drawings and schedules, including all necessary work even if not drawn or scheduled.  
 Refer all queries and discrepancies to the architect. All measurements in mm unless noted otherwise.  
**Standard of Work and Regulations**  
 All work to be carried out in accordance with:  
 • Building Code of Australia 2006  
 • AS Codes  
 • Conditions of Council  
 • All relevant Australian Standards including, but not limited to the standards listed below.  
**Site Survey**  
 All work to be carried out in accordance with:  
 • Australian Standards AS1968.2  
**Demolition and Replaced Material**  
 Demolition in accordance with Metro, Neira Board Order.  
**Site management**  
 No building activities on Council land.  
 Establish sediment controls as required by all authorities.  
**Carpeting and decoration**  
 All work to be carried out in accordance with the following:  
 Australian Standards AS2870  
**Stormwater Disposal**  
 All work to be carried out in accordance with the following:  
 Australian Standards AS1968.2  
**Footings, Site Design and Retaining Walls**  
 All work to be carried out in accordance with the following:  
 Australian Standards AS2870  
**Masonry Construction**  
 All work to be carried out in accordance with the following:  
 Australian Standards AS3700  
**Structural Steel Framing**  
 All work to be carried out in accordance with the engineer's drawings and specifications and the following:  
 Australian Standards AS1250 and AS3623  
**Timber Framing**  
 All work to be carried out in accordance with the following:  
 Australian Standards AS1684  
 All timber to be from sustainable sources as follows: plantation and/or recycled timbers the framing shall be in plantation Bolina Pine or NZ Douglas Fir, all structural timber shall be plantation grown plus laminated timber and all flooring shall be from recycled timber or bamboo F-G flooring.  
**Roof Cladding**  
 All work to be carried out in accordance with the following:  
 Australian Standards AS1982.1  
**Gutters and downpipes**  
 All work to be carried out in accordance with the following:  
 Australian Standards AS3500.2  
**Wall Cladding**  
 All work to be carried out in accordance with the following:  
 Australian Standards AS1926.1

EXTERNAL ITEM	MATERIAL	CLOUR CODE (R191E)
MASONRY WALL	BRICKWORK LWS	See schedule / bid
MASONRY WALL	PAINTED RENDER	Monika 'sand sand'
ROOF GUTTERS DOWNPIPES	COLORBOND STEEL	Ironstone (sandstone)
FENCE	TIMBER	'charcoal light'
LIGHT WEIGHT WALL	RENDERED FINISH	Monika 'sand sand'
DECKING	MIDWOOD	natural grain collection - black beam / jama / silver gum
DOOR FRAMES WINDOW FRAMES	ALUMINIUM	powdercoat 'ironstone'
SUNSHADE LOURES	ALUMINIUM	powdercoat 'ironstone' / us
EXTERNAL PAVING DRIVEWAY	PERMEABLE PAVEMENT BLOCKS ECO PAVERS or equal	concrete grey

envionta studio 224 Riley St, Suite 2010 Sydney NSW 1510 www.envionta.com.au	PROJECT NEW TERRACE DWELLINGS	LOCATION 38-41 ROBERTS ST K ST PETERS	CLIENT PRISTINE DEVELOPMENTS PT	DATE 10/06/2018	SCALE 1:100	NO. OF SHEETS 210	SHEET NO. D
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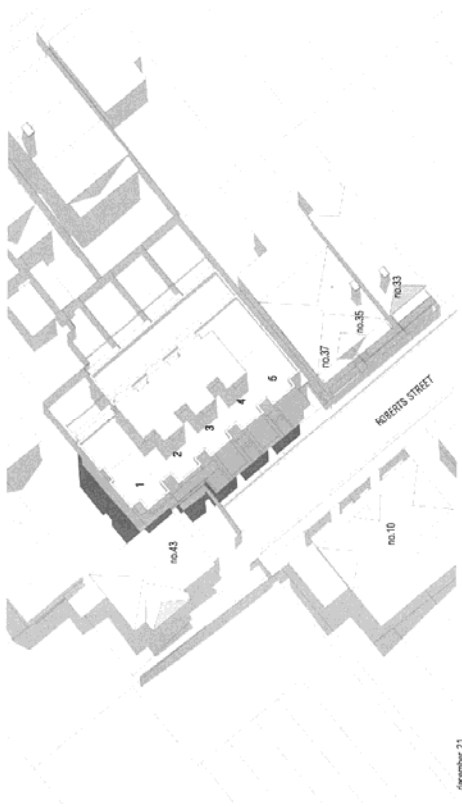


<p><b>enviro studio</b>                  224 Riley St, Surry Hills, 2010                  02 9211 0200                  www.envirostudio.com.au                  architects registration number 62335</p>		<p>project                  NEW TERRACE DWELLINGS                  PRESTIGE DEVELOPMENTS PT 4</p>	<p>location                  39-41 ROBERTS ST                  ST PETERS</p>	<p>drawing                  SHADOW DIAGRAMS                  PLAN VIEW - JUNE 21st</p>	<p>stage                  DA</p>	<p>project no                  824</p>	<p>app no                  910</p>
<p>notes                  all work to be carried out in accordance with the provisions of the Development Control Act 1995 and the provisions of the Development Control Regulations 2006. The proposed development is subject to the provisions of the Development Control Act 1995 and the provisions of the Development Control Regulations 2006. The proposed development is subject to the provisions of the Development Control Act 1995 and the provisions of the Development Control Regulations 2006.</p>	<p>no. 1                  no. 2                  no. 3                  no. 4                  no. 5                  no. 6</p>	<p>no. 10                  no. 35                  no. 37</p>	<p>no. 10                  no. 35                  no. 37</p>	<p>no. 10                  no. 35                  no. 37</p>	<p>no. 10                  no. 35                  no. 37</p>	<p>no. 10                  no. 35                  no. 37</p>	<p>no. 10                  no. 35                  no. 37</p>
<p>time                  8:00am                  10:00am                  11:00am                  12:00pm                  2:00pm                  3:00pm</p>	<p>date                  June 20</p>	<p>time                  8:00am                  10:00am                  11:00am                  12:00pm                  2:00pm                  3:00pm</p>	<p>date                  June 20</p>	<p>time                  8:00am                  10:00am                  11:00am                  12:00pm                  2:00pm                  3:00pm</p>	<p>date                  June 20</p>	<p>time                  8:00am                  10:00am                  11:00am                  12:00pm                  2:00pm                  3:00pm</p>	<p>date                  June 20</p>





december 21  
12:00pm



december 21  
9:00am



december 21  
3:00pm



shadows generated by existing development



additional shadows generated by the proposed development

	<p><b>notes</b></p> <p>All work to be carried out in accordance with the task orders and conditions of contract. Any proposed amendments to the task orders must be submitted to the architect.</p>	<p><b>no.</b></p> <p>A 12/01/17 B 12/02/17 C 12/03/17 D 12/04/17</p>	<p><b>date</b></p> <p>A 12/01/17 B 12/02/17 C 12/03/17 D 12/04/17</p>	<p><b>description</b></p> <p>A preliminary task to determine the scope of work to be carried out in accordance with the task orders and conditions of contract.</p>	<p><b>no.</b></p> <p>A 12/01/17 B 12/02/17 C 12/03/17 D 12/04/17</p>	<p><b>date</b></p> <p>A 12/01/17 B 12/02/17 C 12/03/17 D 12/04/17</p>	<p><b>description</b></p> <p>A preliminary task to determine the scope of work to be carried out in accordance with the task orders and conditions of contract.</p>	<p><b>no.</b></p> <p>A 12/01/17 B 12/02/17 C 12/03/17 D 12/04/17</p>	<p><b>date</b></p> <p>A 12/01/17 B 12/02/17 C 12/03/17 D 12/04/17</p>	<p><b>description</b></p> <p>A preliminary task to determine the scope of work to be carried out in accordance with the task orders and conditions of contract.</p>	<p><b>no.</b></p> <p>A 12/01/17 B 12/02/17 C 12/03/17 D 12/04/17</p>	<p><b>date</b></p> <p>A 12/01/17 B 12/02/17 C 12/03/17 D 12/04/17</p>	<p><b>description</b></p> <p>A preliminary task to determine the scope of work to be carried out in accordance with the task orders and conditions of contract.</p>
	<p><b>enviro studio</b></p> <p>224 Riley St. Sydney NSW 2010 E: info@envirostudio.com.au W: www.envirostudio.com.au architect registration number: 12529</p>	<p><b>project</b></p> <p>NEW TERRACE DWELLINGS PRESTIGE DEVELOPMENTS PAL</p>	<p><b>location</b></p> <p>39-41 ROBERTS ST ST PETERS</p>	<p><b>drawing</b></p> <p>SHADOW DIAGRAMS PLAN VIEW - DECEMBER 21st</p>	<p><b>stage</b></p> <p>DA TW</p>	<p><b>project no.</b></p> <p>912</p>	<p><b>stage no.</b></p> <p>06/04/18</p>	<p><b>date</b></p> <p>17/11</p>					





Attachment C – Clause 4.6 written request

**SUTHERLAND & ASSOCIATES PLANNING**

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

Introduction

This request for an exception to a development standard is submitted in respect of the floor space ratio development standard contained within Clause 4.4 of the Marrickville Local Environmental Plan 2011 (MLEP). The request relates to an application for the demolition of the existing structures at 39-41 Roberts Street, St Peters, consolidation of the allotments, Torrens title subdivision into five allotments and the construction of an attached dwelling on each allotment.

Clause 4.6 Exceptions to development standards

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

However, clause 4.6(3) states that development consent must not be grant for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

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

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

Development Standard to be varied

Clause 4.4(2) of the MLEP provides that the maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map. An extract of the FSR map is included as Figure 1.

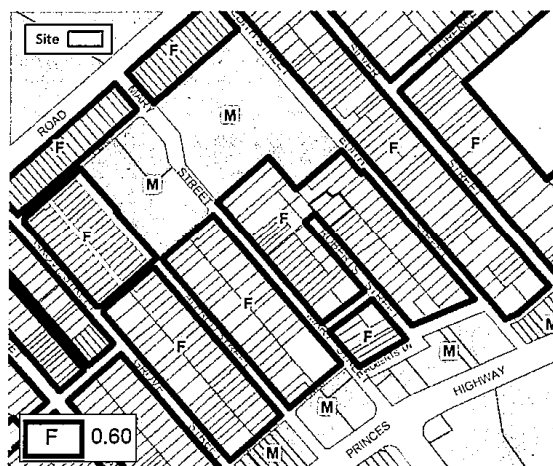


Figure 1:  
Extract from the MLEP FSR  
map

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Subclause (2A) states that despite subclause (2), development for the purpose of attached dwellings, bed and breakfast accommodation, dwelling houses and semi-detached dwellings on land labelled "F" on the Floor Space Ratio Map is not to exceed to relevant floor space ratio determined in accordance with the Table to the subclause. The table is reproduced below.

Site Area	Maximum floor space ratio
≤ 150 square metres	1.1:1
> 150 ≤ 200 square metres	1:1
> 200 ≤ 250 square metres	0.9:1
> 250 ≤ 300 square metres	0.8:1
> 300 ≤ 350 square metres	0.7:1
> 350 ≤ 400 square metres	0.6:1
> 400 square metres	0.5:1

Extent of Variation to the Development Standard

The following table summarises the proposed floor space ratio for each attached dwelling. The site area used for each calculation is the area of the lot on which each attached dwelling is proposed.

The table shows that the dwellings on proposed Lots 1, 3 and 4 comply with the maximum floor space ratio which is permitted for a site that is less than 150 square metres in area. The dwelling on proposed Lot 5 complies with the maximum floor space ratio which is permitted for a site that is greater than 150 square metres in area. Dwellings 1, 3, 4 and 5 are comfortably below the maximum FSR permitted as show in the table below.

The dwelling on Lot 2 exceeds the maximum FSR permitted by 0.08:1 or 10.17square metres (7.3%).

Lot	Site Area (m <sup>2</sup> )	Maximum FSR/GFA Permitted	Proposed FSR	Variance from maximum permitted (m <sup>2</sup> )
1	131.13	1.1:1 (144.24sqm)	0.85:1 (111.75 sqm)	-32.49
2	126.36	1.1:1 (138.99sqm)	1.18:1 (149.16sqm)	+10.17
3	143.47	1.1:1 (157.81sqm)	0.96:1 (138.08sqm)	-19.73
4	143.47	1.1:1(157.81sqm)	0.957:1 (137.38sqm)	-19.73
5	172.57	1:1 (172.57sqm)	0.7:1 (121.72sqm)	-50.85

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

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

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the standard. This request addresses the five part test described in *Wehbe v Pittwater Council* [2007] NSWLEC 827, followed by a concluding position which demonstrates that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case:

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

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

(a) to establish the maximum floor space ratio,

The intensity of development on the site as a whole does not exceed that which is envisaged by the FSR standard. The 10.17 square metre variation proposed for Lot 2 is more than offset by the amount that the dwellings on Lots 1, 3, 4 and 5 are below the maximum FSR permitted (a total of 122.8 square metres).

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

The density and bulk of each attached dwelling on Lots 1, 3, 4 and 5 is less than the maximum permitted. Whilst Lot 2 marginally exceeds the maximum permitted for that lot, overall the density for the development as a whole is less than permitted. As such the intensity of development on the site is consistent with the desired character for the locality.

The variation for Lot 2 is the result of developing a consistent and regular pattern of development on the site rather than simply designing lot sizes and widths to achieve compliance with a numeric standard. The proposed development achieves a consistent dwelling width for dwellings 2-5 and consistent Lot width of Lots 2, 3 and 4. The regular nature of the proposed lot and dwelling widths delivers a superior streetscape outcome than would be achieved if the lot and dwelling widths were adjusted to achieve compliance with the FSR standard.

Similarly, the deletion of Level 3 for Terrace 2 or the reduction of the size of this level would result in compliance with the standard however this would result in an uncoordinated and unbalanced built form with only two of five dwellings with a third level. The proposed distribution of the massing of the development allows for a 900mm setback to be provided to the south-east boundary and for the height of the development to step down to the adjoining properties.

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

The proposed development does not result in any non-complying impacts on adjoining properties in terms of loss of solar access or loss of privacy and the development will not result in any adverse environmental impacts on the public domain.

The objectives related to floor space for low density residential development can be found in section 4.1.6.1 of the MDCP. The objectives are relate to both the floor space ratio and height standards and aim to facilitate an acceptable bulk and scale of development that maintains a satisfactory relationship with adjoining development and the wider street context. The three objectives are addressed below.

- To ensure development is of a scale and form that enhances the character and quality of streetscapes.

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The variation proposed to the floor space ratio standard is a result of a deliberate attempt to improve the appearance of the development and the contribution of the development to the streetscape. Compliance with the standard could be achieved through adjusting lot and dwelling widths and redistributing the floor space however this would not deliver an improved outcome for the streetscape.

- To ensure alterations and additions to residential period dwellings to not detract from the individual character and appearance of the dwelling being added to and the wider streetscape character.

This objective is not relevant to the proposed development.

- To ensure development allows adequate provision to be made on site for infiltration of stormwater and deep soil tree planting, landscaping and areas of private open space for outdoor recreation.

The development provides an adequate area of private open space for each dwelling and a complying area of deep soil is provided for each lot. The stormwater on the site can be appropriately managed.

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

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

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

The underlying objective of the control is to achieve an appropriate density on the site which is compatible with the context of the site. Due to the design and configuration of the proposed works the proposal achieves these objectives.

Strict compliance with the floor space ratio control could be achieved through adjusting lot and dwelling widths and redistributing the floor space. This would result in a lack of consistency in the streetscape and would undermine objective (b) of the standard which seeks to control building density and bulk in order to achieve the desired future character for the area. Similarly, the deletion of Level 3 for Terrace 2 or the reduction of the size of this level would result in compliance with the standard however this would result in an uncoordinated and unbalanced built form with only two of five dwellings with a third level.

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

Council has historically adopted a relatively flexible approach to the implementation of the floor space ratio control in circumstances where the objectives of the control are achieved.

- 5. the zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary. That is, the particular parcel of land should not have been included in the particular zone.**

The proposed zoning of the land is considered to be reasonable and appropriate.

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Strict compliance with the floor space ratio development standard is unreasonable and unnecessary in the circumstances of the case in that:

- The proposed development consistent with the MLEP objectives for floor space ratio as detailed above.
- The proposed development complies with the maximum building height control. The scale of the building is therefore appropriate notwithstanding the proposed variation to the floor space ratio development standard.
- The development can be adequately serviced by utilities and existing and planned infrastructure.
- The development reflects the desired built form character of the locality.
- The intensity of development on the site as a whole does not exceed that which is envisaged by the FSR standard. The 10.17 square metre variation proposed for Lot 2 is more than offset by the amount that the dwellings on Lots 1, 3, 4 and 5 are below the maximum FSR permitted (a total of 122.8 square metres).
- A development that complies with the FSR standard will not deliver an improved streetscape outcome.

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

The development reflects the desired built form character of the locality. The technical departure from the floor space ratio standard will not involve any adverse impacts on the amenity of adjoining properties, the streetscape or the locality. Strict compliance with the floor space ratio control could be achieved through adjusting lot and dwelling widths and redistributing the floor space. This would result in a lack of consistency in the streetscape and would undermine objective (b) of the standard which seeks to control building density and bulk in order to achieve the desired future character for the area. Similarly, the deletion of Level 3 for Terrace 2 or the reduction of the size of this level would result in compliance with the standard however this would result in an uncoordinated and unbalanced built form with only two of five dwellings with a third level.

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

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

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

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

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

**Objective of the Development Standard**

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

### Objectives of the Zone

Clause 4.6(4) also requires consideration of the relevant zone objectives. The site is located within the R2 Low Density Residential zone.

The objectives of the R2 Low Density Residential zone are:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To provide for multi dwelling housing and residential flat buildings but only as part of the conversion of existing industrial and warehouse buildings.
- To provide for office premises but only as part of the conversion of existing industrial and warehouse buildings or in existing buildings designed and constructed for commercial purposes.
- To provide for retail premises in existing buildings designed and constructed for commercial purposes.

The proposed development provides additional low density housing within a low density zone. The scale and intensity proposed is appropriate within the existing context of the site and is compatible with the scale and intensity of development that is proposed adjoining site to the north-west and south-east. For the reasons given the proposal is considered to be consistent with the objectives of the R2 zone.

The proposed variation to the floor space ratio development standard does not hinder consistency with the objectives of the zone.

Objectives of Clause 4.6

The specific objectives of Clause 4.6 are:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

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

Strict compliance with the floor space ratio control could be achieved through adjusting lot and dwelling widths and redistributing the floor space. This would result in a lack of consistency in the streetscape and would undermine objective (b) of the standard which seeks to control building density and bulk in order to achieve the desired future character for the area. Alternatively, the deletion of Level 3 for Terrace 2 or the reduction of the

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size of this level would result in compliance with the standard however this would result in an uncoordinated and unbalanced built form with only two of five dwellings with a third level.

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

### Conclusion

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



