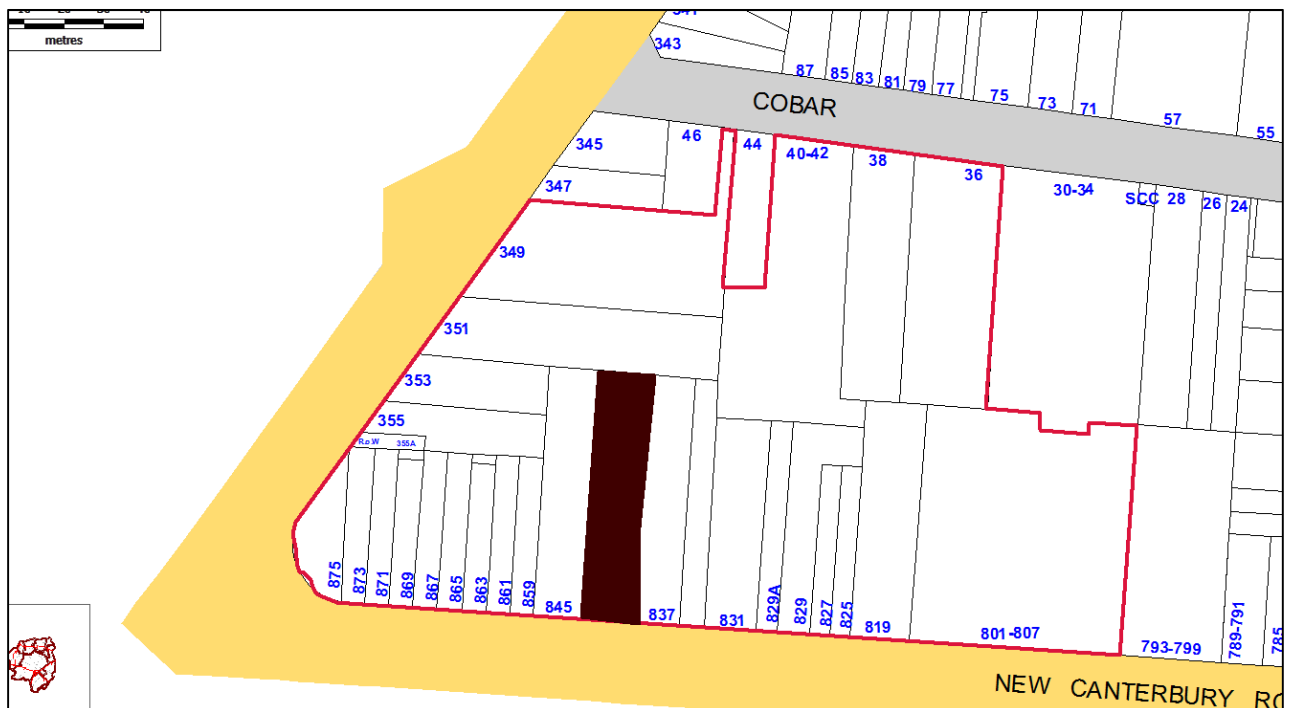






INNER WEST COUNCIL

DEVELOPMENT ASSESSMENT REPORT

Application No.	DA201600564
Address	843 New Canterbury Road, Dulwich hill
Proposal	To demolish the existing improvements and construct a mixed use development containing 1 x 5 storey building fronting New Canterbury Road and 1 x 4 storey building towards the rear of the site comprising a total of 1 commercial tenancy and 20 dwellings with basement car parking.
Date of Lodgement	4 November 2016
Applicant	BKA Architecture
Owner	Mr S Strbac Mrs J Strbac
Number of Submissions	Nil
Value of works	\$7,711,288
Reason for determination at Planning Panel	The extent of the departure from the Height of Building and Floor Space Ratio development standards exceeds staff delegation
Main Issues	Clause 4.6 variations for Height of Building and Floor Space Ratio
Recommendation	Deferred commencement approval subject to conditions



Subject Site: 	Objectors: 
Notified Area: 	

1. Executive Summary

This report relates to an application to demolish the existing improvements and construct a mixed use development containing 1 x 5 storey building fronting New Canterbury Road and 1 x 4 storey building towards the rear of the site comprising a total of 1 commercial tenancy and 20 dwellings with basement car parking. The application was notified to surrounding properties and no submissions were received.

The main issues that have arisen from the application include:

- The development exceeds the maximum building height by approximately 2.4 metres under Clause 4.3 of MLEP 2011;
- The development proposes a FSR departure of approximately 192m² under Clause 4.4 of MLEP 2011;
- Written submissions under Clause 4.6 of MLEP 2011 in relation to the Height of Buildings and FSR departures accompanied the application are considered to be well founded and are supported;
- During the assessment of the application, amended documentation was submitted to address comments raised by Council officers and Council's Architectural Excellence Panel (AEP). The amended plans did not require re-notification in accordance with Council's notification policy.

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

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

2. Proposal

Approval is sought to demolish the existing improvements and construct a mixed use development containing 1 x 5 storey building fronting New Canterbury Road and 1 x 4 storey building towards the rear of the site comprising a total of 1 commercial tenancy and 20 dwellings with basement car parking.

Building A is at the southern end of the site addressing New Canterbury Road. This building contains a commercial tenancy on the ground floor with 12 dwellings on the floors above. The building comprises 5 storeys.

Building B is at the rear of the site, separated by a communal open space area from building A. This building contains 8 dwellings across 4 storeys.

3. Site Description

The site is located on the northern side of New Canterbury Road and has a frontage of 13.545 metres and an overall site area of 835.6m². The site has a slight fall towards the rear boundary. There is an existing single storey building on the site and there are trees growing at the rear.

The wider local area context comprises of varying built forms predominantly ranging from 1 and 2 storey contemporary and period commercial buildings to multi-storey shop top housing development ranging from 4 to 7 storeys and a number of single storey dwelling houses on the southern side of New Canterbury Road. The surrounding locality is currently transitioning from a lower density commercial centre to a medium density, mixed-use precinct. On the southern side of New Canterbury Road directly opposite the site is land located within Canterbury-Bankstown Council LGA containing commercial, mixed-use and special use buildings ranging from 1 to 7 storeys.

4. Background

4(a) Site history

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

Subject Site

Application	Proposal	Decision & Date
DA201400229	To demolish existing improvements and construct a mixed use development with one retail shop, 18 dwellings and 20 car spaces	Refused on 25 August 2014. A subsequent s82A application was submitted but eventually withdrawn.

Surrounding properties

Application	Proposal	Decision & Date
DA201600388 825 – 829 New Canterbury Road	To demolish the existing improvements and remove 1 tree and construct a 5 storey building (South Building) and a 4 storey building (North Building) being mixed use buildings containing commercial premises on the ground floor with shop top housing containing 22 units on the upper floors with a 3 level basement parking area and associated landscaping works.	Approved by Inner West Panel Meeting, consent dated 11 May 2017.
DA201500081 801 - 807 New Canterbury Road	To demolish the existing improvements and construct a 4 storey development consisting of a residential flat building (Building A) containing 37 dwellings and a mixed use building (Building B) containing 3 retail tenancies and 30 dwellings with 2 levels of basement car parking accommodating 108 car parking spaces.	Approved (as a Deferred Commencement Consent) by the former Sydney East Joint Regional Planning Panel on 28 October 2015. The consent became active on 29 October 2015. The consent was subsequently modified on 23 May 2016 and 21 December 2016. The modifications include the provision of an additional storey (a total of 5 storeys) to Building A (fronting New Canterbury Road) and Building B (at the rear of the site).

DA201500632 819 New Canterbury Road	To demolish existing improvements and construct a 4 storey mixed use building (Building A) containing 1 commercial tenancy and 8 dwellings and a residential flat building (Building B) containing 12 dwellings with 2 levels of basement car parking.	Approved (as a Deferred Commencement Consent) by Council on 21 October 2016.
DA201200232 40 - 42 Cobar Street & 829 New Canterbury Road	To demolish the existing improvements on the properties 40 and 42 Cobar Street, consolidate the existing allotments, subdivide the land into two allotments, one fronting New Canterbury Road and one fronting Cobar Street and erect a 3 storey and 4 storey residential flat building over basement car parking level on the allotment fronting Cobar Street, containing 19 dwellings with off street car parking for 20 vehicles	Approved by Council on 10 October 2012. The consent was modified on 30 January 2015.
DA200700066 793 - 799 New Canterbury Road	To demolish the existing improvements and erect a part two, part three and part four storey mixed commercial residential development over two levels of basement car park containing 3 ground floor commercial suites/shops and 2 x one bedroom, 18 x two bedroom and 4 x three bedroom dwellings with 40 off street car parking spaces and strata subdivide the premises into 27 lots	Approved (as a Deferred Commencement Consent) by Council on 6 December 2007. The consent became active on 11 February 2008. The consent was modified on 23 March 2011 and 11 July 2013. The modifications included the increase in the number of dwellings in the mixed use development from 24 dwellings to 32 dwellings within the approved building envelope.

4(b) [Application history](#)

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

Date	Discussion / Letter/ Additional Information
27 February 2017	Council requested the following additional information and amended plans: <ul style="list-style-type: none"> • Changes to the driveway design to satisfy Road and Maritime Services (RMS) requirements • Reduction in the size of the 5th storey at the front of the site • Creation of a 4 storey street-front form to ensure consistency with other surrounding approved development • Increased landscaping within the communal open space • Confirmation that the proposal is compliant with Building Code of Australia (BCA) fire requirements • Submission of a detailed site investigation in respect of land contamination
17 March 2017	The applicant submitted amended plans and additional information to address Council Officer and AEP comments.
9 June 2017	Following various discussions with Council, the applicant submitted

	further amended plans reducing the building footprint of the 5 th storey at the front of the site. These are the plans relied upon for assessment in this report.
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5. Assessment

The following is a summary of the assessment of the application in accordance with Section 79C of the Environmental Planning and Assessment Act 1979.

5(a) Environmental Planning Instruments

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

- State Environmental Planning Policy No 55 - Remediation of Land
- State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Infrastructure) 2007

The following provides further discussion of the relevant issues:

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

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) provides planning guidelines for remediation of contaminated land. MDCP 2011 provides controls and guidelines for remediation works. SEPP 55 requires that remediation works must be carried out in accordance with a Remediation Action Plan (RAP) as approved by the consent authority and any guidelines enforced under the Contaminated Land Management Act 1997.

The applicant submitted a Detailed Site Investigation (DSI) which states that some land contamination is evident and the site can be made suitable for the development, subject to the preparation and implementation of a Remedial Action Plan. A deferred commencement condition is recommended to address this matter.

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

The development is subject to the requirements of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65). SEPP 65 prescribes 9 design quality principles to guide the design of residential apartment development and to assist in assessing such developments. The principles relate to key design issues including context and neighbourhood character, built form and scale, density, sustainability, landscape, amenity, safety, housing diversity and social interaction and aesthetics.

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

The development is acceptable having regard to the 9 design quality principles.

Apartment Design Guide

The ADG contains objectives, design criteria and design guidelines for residential apartment development. In accordance with Clause 6A of the SEPP certain requirements contained within MDCP 2011 do not apply. In this regard the objectives, design criteria and design guidelines set out in Parts 3 and 4 of the ADG prevail.

The following provides further discussion of the relevant issues:

Communal and Open Space

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

- Communal open space has a minimum area equal to 25% of the site.
- Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9.00am and 3.00pm on 21 June (mid-winter).

The development is required to provide 208.9m² of communal open space. Approximately 193.62m² of communal open space is proposed, which is approximately 23% of the site area. The communal open space does not receive sunlight on 21 June, contrary to the ADG requirements.

The non-compliance with the communal open space standards under the ADG is reasonable for the following reasons:

- The majority of the communal open space is located at the centre of the development between the north and south buildings, therefore making compliance difficult;
- The development achieves the minimum solar access standards for private open space under the ADG;
- The geographical constraints of the site, being located within a relatively dense and built up mixed-use/commercial area and within a relatively narrow lot limits the locational options for the communal open space; and
- The north and south buildings require building separation of at least 12 metres under the ADG (habitable rooms/balconies to habitable rooms/balconies) to enable adequate solar access, natural ventilation and privacy for the residents of the site. The provision of communal open space at the centre of the site (between the north and south building) is therefore a rational location for visual aesthetic outcomes (enabling a landscaped courtyard within view for the apartments located adjacent to the central core of the development), convenience of access for residents to utilise the common open space, stormwater drainage and rainwater infiltration.

In view of the above, the communal open space is considered acceptable having regard to the ADG.

Deep Soil Zones

The proposal provides in excess of 7% of the site area as deep soil landscaping, compliant with ADG requirements.

Visual Privacy/Building Separation

The proposal provides a 12 metre separation in the centre of the site between the buildings. This complies with the ADG requirements and is considered to be acceptable.

The development contains rear balconies that are setback 6.1 – 6.3 metres from the rear boundary, however they would not achieve the required 12 metres building separation from the windows on the adjacent residential building at the rear at No. 351 Old Canterbury Road, Dulwich Hill. This non-compliance is supported on the basis that:

- The proposal is, for the most part, compliant with Council's rear building envelope controls;
- There are no adverse amenity impacts in terms of overshadowing, given the northerly orientation towards the rear boundary;
- Operable louvres for sun control and privacy are proposed on the rear balconies facing 351 Old Canterbury Road.

Solar and Daylight Access

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

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

The living rooms and private open spaces of 14 out of 20 apartments (70%) in the development will receive a minimum of 2 hours of direct solar access between 9:00am and 3:00pm on 21 June which complies with the ADG standard.

The other 6 units are south facing dwellings that front New Canterbury Road, 4 of which (20%) will not receive direct sunlight between 9.00am and 3.00pm at mid-winter. This non-compliance is considered reasonable given the aspect of the site; the highly urbanised environment; the form of development (shop top housing); and the need to provide an active street front with dwellings facing New Canterbury Road.

Natural Ventilation

The ADG prescribes the following requirements for natural ventilation:

- At least 60% of apartments are naturally cross ventilated in the first 9 storeys of the building.
- Overall depth of a cross-over or cross-through apartment does not exceed 18 metres, measured glass line to glass line.

At least 12 out of 20 apartments (60%) are naturally cross ventilated in accordance with ADG requirements.

Ceiling Heights

The development provides suitable floor to floor heights for the dwellings as well as the commercial tenancy to ensure that compliant ceiling heights can be achieved in accordance with the ADG requirements.

Apartment Size

The ADG prescribes the following minimum apartment sizes:

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

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

The development complies with the minimum internal area requirements set out above.

Apartment Layout

The development meets the minimum requirements regarding the provision of windows, minimum habitable room depths and minimum habitable room widths. The development is acceptable with regard to the apartment layout requirements of the ADG.

Private Open Space and Balconies

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

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

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

The plans provided with the application indicate that all apartments comply with the private open space standards contained in the ADG.

Common Circulation and Spaces

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

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

A maximum of 4 apartments share a circulation core being the central lift/stairs within the development. As such, the development is compliant with the ADG standards regarding common circulation and spaces.

Storage

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

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

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

Storage in accordance with the above requirements is provided for all apartments.

5(a)(iii) 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 compliance with the BASIX requirements.

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

Development with frontage to classified road (Clause 101)

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

The application was referred to the Roads and Maritime Services (RMS) for concurrence under Section 138 of the *Roads Act 1993*. This was provided by RMS on 18 April 2017 and is subject to conditions of consent. Those conditions have been incorporated into the recommendation.

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

Clause 102 of SEPP Infrastructure relates to the impact of road noise or vibration on non-road development on land in or adjacent to a road corridor or any other road with an annual average daily traffic volume of more than 40,000 vehicle. Under that clause, a development for the purpose of a building for residential use requires that appropriate measures are incorporated into such developments to ensure that certain noise levels are not exceeded.

New Canterbury Road has an annual average daily traffic volume of less than 40,000 vehicles. Notwithstanding the above, the applicant submitted a Noise Assessment Report with the application that demonstrates that the development will comply with the LAeq levels stipulated in Clause 102 of the SEPP.

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

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

- Clause 2.3 – Zone objectives and Land Use Table
- Clause 4.3 – Height of buildings
- Clause 4.4 – Floor Space Ratio
- Clause 4.6 - Exceptions to development standards
- Clause 5.3 – Development near zone boundaries
- Clause 5.9 - Preservation of trees or vegetation

- Clause 6.2 - Earthworks

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

Standard (maximum)	Proposal	% of non compliance	Compliance
Floor Space Ratio 1.75:1 1,462m ² GFA	1.98:1 1,654m ² GFA	13.1%	No
Height 14m	16.4m	17.1%	No

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

The property is zoned B2 Local Centre under the provisions of MLEP 2011. Shop top housing is permissible with Council's consent under the zoning provisions applying to the land.

Building A within the development constitutes shop top housing development and is permissible with Council's consent under the zoning provisions applying to the land.

Building B is classified as a residential flat building which is prohibited in the zone. However, the site adjoins the R1 General Residential Zone to the north of the site, within which residential flat buildings are permissible. As noted below, Clause 5.3 allows flexibility in the zoning provisions applying to the land and the proposed use of Building A is supported.

The proposed mixed use development is consistent with the identified objectives of the B2 Local Centre zone providing for a range of unit sizes and layouts to meet the needs of future community while providing a well located and planned commercial space that will meet needs of residents and commuters.

(ii) 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.

(iii) Height (Clause 4.3)

A maximum building height of 14 metres applies to the property under MLEP 2011. The development has a maximum building height of approximately 16.4 metres which does not comply with the height development standard.

A written request, in relation to the development's non-compliance with the building height development standard in accordance with Clause 4.6 (Exception to Development Standards) of MLEP 2011, was submitted with the application.

The Clause 4.6 variation request is supported for reasons summarised below:

- The height and number of storeys in the building would be consistent with the development approved by the Inner West Planning Panel at No.825 - 829 New Canterbury Road, Dulwich Hill;

- The additional floor space provided above the height of building control is positioned and designed on the site in a manner which will not result in unreasonable adverse impacts upon adjacent properties or the public realm by way of overshadowing, visual massing, view loss or visual and acoustic privacy impacts;
- There is minimal material difference in the impacts between a building that strictly complies with height of building control in that the 5th storey will not be highly visible from a standing street level opposite the site given the 6 metre front setback and 3 metre side setbacks;
- The amended development satisfies the objectives of the height development standard for reasons discussed throughout this analysis. These objectives are re-produced below:
 - (a) to establish the maximum height of buildings,
 - (b) to ensure building height is consistent with the desired future character of an area,
 - (c) to ensure buildings and public areas continue to receive satisfactory exposure to the sky and sunlight,
 - (d) to nominate heights that will provide an appropriate transition in built form and land use intensity.
- There is a disconnect between the planning controls of the Inner West Council (height limit: 14 metres under MLEP 2011) and Bankstown-Canterbury Council side of New Canterbury Road (height limit: 18 metres under Canterbury Local Environmental Plan 2011 (CLEP 2011)). There are 4 projects underway within the vicinity of the site on the Bankstown-Canterbury Council side including development at the following locations:
 - 578 – 580 New Canterbury Road (5 / 6 storeys)
 - 630 – 634 New Canterbury Road (5 / 6 storeys)
 - 610 – 618 New Canterbury Road (5/ 6 storeys)
 - 570 – 574 New Canterbury Road (7 storeys)
- Council's Strategic Planning Section, within a report to Council (dated 5 June 2012) regarding the then Draft LEP, acknowledged at that time that there is merit in increasing the density and height for the locality. The June 2012 Council Report stated that an increase in FSR and height *"has merit and is supported in general terms, particularly as lots along this section of New Canterbury Road are deep and are located on the northern side of the road, so increased heights can be managed so as not to adversely affect neighbouring or nearby properties through overlooking or overshadowing."*

The justification provided in the applicant's written submission is considered to be well founded and worthy of support. It is considered that there are sufficient environmental planning grounds as to why the FSR development standard should be varied in this particular circumstance based on the outcomes of planning law precedents such as those contained in *Wehbe v Pittwater Council [2007] NSWLEC827*, *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC90* and *Moskovich v Waverley Council [2016]*, *Micaul Holdings Pty Limited v Randwick City Council [2015] NSWLEC 1386*.

The proposal will be architecturally consistent with the future streetscape character of the area. As previously discussed, a 5 storey shop top housing development was approved at 825 – 829 New Canterbury Road by the Inner West Planning Panel. The proposed 5th floor design is similar to that approved on this site. In addition to this, a development was approved at 801-807 New Canterbury Road on 23 May 2016, as a modification to Determination No. 201500081. The development was approved with a total building height of approximately 19.1 metres (5 storeys) and the fifth storey was set back approximately 5.4

metres to 6.1 metres from its respective side boundaries and 4.8 metres from the street front portion of the building, reading as a recessive feature of the development when viewed from the surrounding streetscape. The height of the development is therefore consistent with neighbouring developments on the same side of New Canterbury Road.

The building height breach (being Level 4 in Building A) is a recessive element of the building, being set back 3 metres from the side boundaries of the site and 6 metres from the front boundary alignment. In view of the above characteristics, Level 4 will not be wholly visible from the street level directly opposite the site. The side and front setbacks of Level 4 will present this level as a subordinate addition to the development as consistent with other approved developments.

It is considered that the contravention of the development standard does not raise any matter of significance for State and regional environmental planning, and that there is no public benefit in maintaining the development standard for the proposed development.

(iv) Floor Space Ratio (Clause 4.4)

A maximum floor space ratio (FSR) of 1.75:1 applies to the land under MLEP 2011.

The development has a gross floor area (GFA) of 1,654m² which equates to a FSR of 1.98:1 which does not comply with the FSR development standard.

It is noted that there are 3 car parking spaces within the basement that are provided above the requirement of the consent authority resulting in 39sqm of additional GFA. If these spaces are excluded from GFA calculations the FSR is reduced to 1.92:1.

A written request, in relation to the development’s non-compliance with the FSR development standard in accordance with Clause 4.6 (Exception to Development Standards) of MLEP 2011, was submitted with the application.

The Clause 4.6 variation request is supported for reasons summarised below:

- The additional floor space provided above the FSR control is contributed to by the 5th storey on Building A. The fifth storey of Building A is positioned and designed on the site in a manner which will not result in unreasonable adverse impacts upon adjacent properties or the public realm by way of overshadowing, visual massing, view loss or privacy impacts;
- The level of non-compliance with the FSR control is consistent with the degree of variations contemplated and accepted by the consent authority with respect to approved development in the immediate surrounds and wider locality of the site which vary the applicable standard:

Address	Development	Zone (MLEP 2011)	Determination No.	Date	Approved FSR Departure
825-829 New Canterbury Road	Mixed Use	B2 Local Centre	DA201600388	11 May 2017	5.9%
801-807 New Canterbury Road	Mixed Use	B2 Local Centre	DA201500081.01	23 May 2016	31.4%
727 New Canterbury	Mixed Use	B2 Local	DA201400588	19 August	12.4%

Road		Centre		2016	
429-449 New Canterbury Road Dulwich Hill	Mixed Use	B2 Local Centre	DA201400477	12 June 2013	30%

- Strict compliance with the built form controls on the northern side of New Canterbury Road will result in an inconsistent urban design outcome for the B2 Local Centre zone in the medium to long term, especially considering the planning controls of the southern side of New Canterbury Road under Canterbury Council with a Building Height Limit of 18 metres and no maximum FSR pursuant to CLEP 2012. The recent approvals of the 5-7 storey developments on 578-580 New Canterbury Road, 630-634 New Canterbury Road, 610-618 New Canterbury Road and 570-574 New Canterbury Road demonstrates the emerging urban form and disconnect of the planning controls on the opposite sides of the same road;
- It is considered that the deletion of the fifth storey from Building A would result in an inferior planning and urban design outcome. The fifth storey provides a considered and superior built form and urban design response to the transition in scale between the emerging and allowable 6 storey development on the southern side of the New Canterbury Road and the 4 storey scale development to the north of the site in Cobar Street. It is noted that Building B maintains a 4 storey scale which provides the transition in scale through to the properties to the north;
- The development meets the objectives of the B2 Local Centre zone and the R1 General Residential zone;
- The amended development satisfies the objectives of the FSR development standard for reasons discussed throughout this analysis. These objectives are re-produced below:
 - (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 additional car parking spaces provided, which technically increase the proposed FSR, are located within the basement and therefore have no impact upon the apparent bulk and scale of the building.

The justification provided in the applicant’s written submission is considered to be well founded and worthy of support. It is considered that there are sufficient environmental planning grounds as to why the FSR development standard should be varied in this particular circumstance based on the outcomes of planning law precedents such as those contained in *Wehbe v Pittwater Council [2007] NSWLEC827*, *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC90* and *Moskovich v Waverley Council [2016]*, *Micaul Holdings Pty Limited v Randwick City Council [2015] NSWLEC 1386*.

It is considered that the contravention of the development standard does not raise any matter of significance for State and regional environmental planning, and that there is no public benefit in maintaining the development standard for the proposed development.

In view of the above, it is considered that the variation to the FSR development standard under MLEP 2011 is supportable.

(v) Development Near Zone Boundaries (Clause 5.3)

The property is zoned B2 Local Centre under the provisions of the MLEP 2011 and Building B within the development is classified as a residential flat building. Residential flat buildings are not permissible with Council's consent under the zoning provisions applying to the land. However, the site adjoins the R1 General Residential Zone to the north of the site, within which residential flat buildings are permissible.

Clause 5.3 provides a zone of flexibility within 25 metres of the zone. The building located at the rear of the site and the ground floor residential components within it are proposed to be located within 25 metres of the R1 Residential zone in accordance with Clause 5.3(2).

Clause 5.3 (4) lists matters to be considered by the consent authority. The consent authority must be satisfied that:

- The development is not inconsistent with the objectives for development in both zones; and
- The carrying out of the development is desirable due to compatible land use planning, infrastructure capacity and other planning principles relating to the efficient and timely development of land.

The following comments are made:

- The allotments facing New Canterbury Road are relatively deep blocks. It is economically prohibitive to provide retail or commercial uses at the ground floor for the full extent of the site given the lot depth;
- Smaller retail uses are better suited to activate and revitalise New Canterbury Roads rather than large deep tenancies occupying the entire allotment depth;
- The site was previously zoned 3(a) General Business under the previous Marrickville Local Environmental Plan 2001. The General Business zone allowed residential uses such as dwellings, multi-unit housing, residential flat buildings, serviced apartments where they were attached to a permissible use such a commercial or business premise.

It is considered that the proposal is consistent with the objectives of the B2 Local Centre zone given that:

- The development proposes commercial and residential opportunities which will provide local services as well as housing stock to the community;
- The provision of commercial space on the ground floor encourages employment opportunities in accessible locations;
- The development will maximise public transport patronage and encourage walking and cycling by being located within close proximity to Hurlstone Park Railway Station and Dulwich Grove light railway station;
- The type and scale of the permissible non-residential uses is considered to be appropriate given the site's layout and location;
- The proposed parking is generally in accordance with Council's controls. The site is located near rail and bus transport links facilitating public transport use.

It is considered that the proposal is consistent with the objectives of the R1 General Residential zone given that:

- The development responds to housing demand by proposing 20 residential apartments onsite;
- The development provides a variety of housing types ranging from 1 to 3 bedroom apartments; and

- The provision of commercial space on the ground floor of the building facing New Canterbury Road will still encourage other development for day to day needs of residents.

It is considered that the development has demonstrated that it is able to meet the objectives of both the B2 Local Centre zone and the R1 General Residential zone. The use of the rear building as a residential flat building provides a natural transition between the business and residential zones at the rear of the site. The development has demonstrated compatible land use planning and it is considered to be appropriate to utilise the provisions contained within Clause 5.3 of MLEP 2011.

(vi) Preservation of Trees or Vegetation (Clause 5.9)

Clause 5.9 of MLEP 2011 concerns the protection of trees identified under MDCP 2011.

The application was referred to Council's Tree Management Officer who stated:

"Only trees along the rear boundary could realistically be retained. Two of the three trees on the rear boundary are exempt but the central tree is a jacaranda in good health and vigour. Tree retention values are not included in the arborist report despite this being a requirement in the DCP.

The arborist report states that the jacaranda will only be subject to minor encroachment and is not considered a constraint to the proposal. It recommends removal of the jacaranda on the basis of advice that the tree is growing over the top of a sewage pipe in which it has caused blockage previously.

This would not justify the removal of a tree under most circumstances. Tree roots will infiltrate pipes that have failed, and will proliferate eventually causing a blockage. However, it is the serviceability of the pipe that is the cause of the problem and the pipe will need to be replaced. Removing the existing tree and planting new trees without addressing the root cause will not solve the problem.

Removal of the jacaranda is not supported.

*Three *Tristanopsis laurina* (water gum) do not provide adequate compensation for the prescribed trees proposed to be removed. With the jacaranda being retained, two new advanced trees can be planted in the rear setback, one each on either side of the jacaranda. One larger species tree can be planted on the eastern side of the rear setback and a medium size tree on the western side."*

The conditions reflecting Council's Tree Management Officer's comments have been incorporated into the recommendation.

(vii) Earthworks (Clause 6.2)

The development involves excavation works for the proposed basement car parking. A Geotechnical report was submitted with the application which satisfactorily addresses the requirements under Clause 6.2 of MLEP 2011.

5(b) Draft Environmental Planning Instruments

There are no relevant Draft Environmental Planning Instruments.

5(c) Development Control Plans

The application has been assessed and the following provides a summary of the relevant provisions of MDCP 2011.

Part of MDCP 2011	Compliance
Part 2.1 – Urban Design	Yes
Part 2.3 - Site and Context Analysis	Yes
Part 2.5 – Equity of Access and Mobility	Yes
Part 2.6 - Acoustic and Visual Privacy	Yes
Part 2.7 - Solar Access and Overshadowing	Yes
Part 2.9 – Community Safety	Yes
Part 2.10 – Parking	No but acceptable – see below
Part 2.16 – Energy Efficiency	Yes
Part 2.17 – Water Sensitive Urban Design	Yes
Part 2.18 – Landscaping and Open Spaces	Yes
Part 2.20 – Tree Management	Yes
Part 2.21 – Site Facilities and Waste Management	Yes
Part 2.24 – Contaminated Land	Yes
Part 2.25 – Stormwater Management	Yes
Part 5 – Commercial and Mixed Use Development	No but acceptable – see below
Part 9 – Strategic Context	Yes

The following section provides discussion of the relevant issues:

(i) Parking (Part 2.10)

The subject site is located within Car Parking Area 2. The development provides an additional 3 car parking spaces above the requirements set out in Part 2.10 of MDCP 2011. No concerns are raised with this additional car parking provided on the basis that:

- The car parking rates set out in MDCP 2011 are not set out as maximums;
- The development provides some 3 bedroom apartments which can reasonably be allocated 2 car parking spaces for each dwelling; and
- The additional car parking spaces are located within a basement location and therefore do not add any additional bulk and scale to the building, despite technically adding to the FSR breach in accordance with the definition of gross floor area within MLEP 2011.

PART 5 - COMMERCIAL AND MIXED USE DEVELOPMENT**General Commercial and Mixed Use Development Controls*****Front Massing for infill development***

Control C7 requires the street front portion of the building mass to have a nil setback to the street up to a height of 12 metres and contain a maximum of 3 storeys. The proposal has a street wall height of 13 - 13.7 metres and contains 4 storeys fronting New Canterbury Road which is a non-compliance with the front massing control.

The variation to the maximum number of storeys at the street frontage is considered reasonable. As discussed throughout the main body of the report, recently approved development on the same side of New Canterbury Road on No. 801 - 807 (Determination No. 201500081), No. 819 New Canterbury Road (Determination No. 201500632) and No. 825 New Canterbury Road (Determination No. 201600388) contains a 4 storey height for the street front portion of the buildings. The southern side of New Canterbury Road has a maximum building height limit of 18 metres (4-6 storeys) and the development will therefore be consistent with the envisaged future urban design character of the precinct.

It is considered that the building's façade design and materials will contribute positively to the existing streetscape character of the locality. The building reinforces the building frontage edge of the streetscape within the immediate visual catchment of the site along New Canterbury Road.

Control C8 requires a zero front setback to the street front boundary and Control C9 requires zero side setbacks in the front portion of the building to reinforce the street edge. The northern building provides a nil front setback and nil side setbacks which reinforces a continuous street frontage along New Canterbury Road.

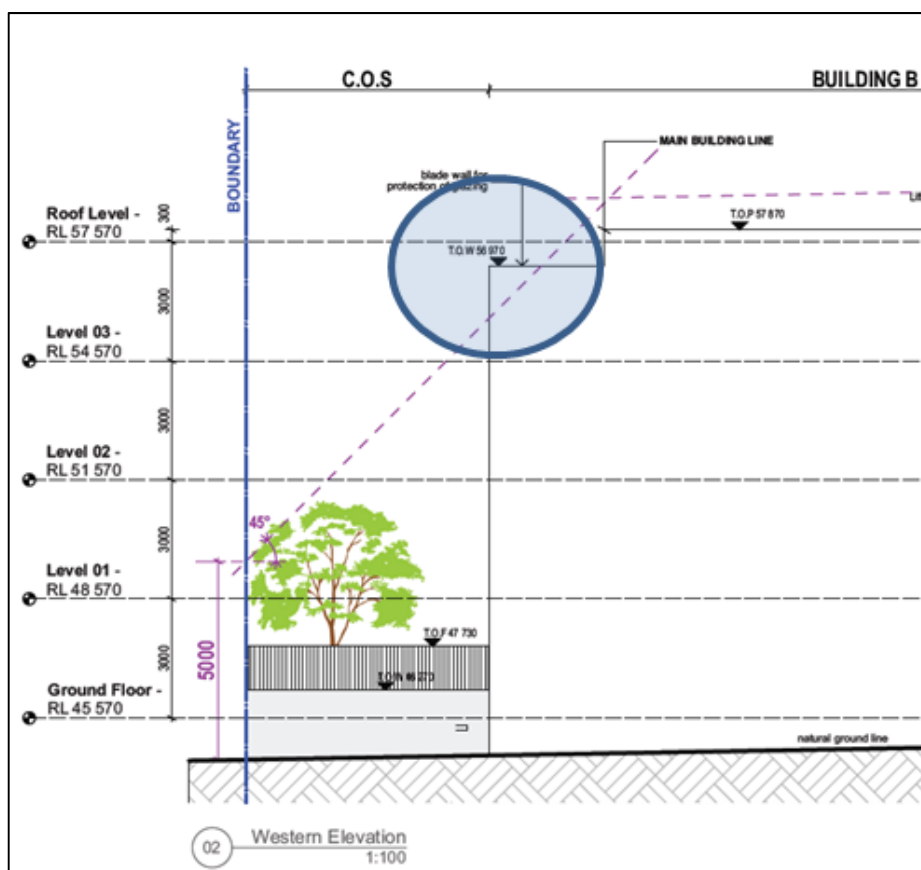
Upper level massing

The front elevation of the fifth storey (Level 4) of the development contains a 6 metre building setback from the street front of the building which satisfies the intent of the Control C11, Part 5.1.3.3 of MDCP 2011, which is to allow an upper level addition which is visually subservient to the street front portion of the building when viewed from the streetscape. The fifth storey will be a visually subordinate element of the building when viewed from the surrounding streetscape.

Rear Massing

The development does not comply with the rear building envelope controls contained in Control C14 in that the rear building envelope is not contained within the combination of the rear boundary plane and a 45 degree sloping plane from a point 5 metres vertically above the ground level of the property being developed, measured at the rear boundary.

Notwithstanding the above, Control C14(ii) prescribes that building envelopes may exceed the above building envelope control where it can be demonstrated that any rear massing that penetrates above the envelope control will not cause significant visual bulk or amenity impacts on neighbouring properties to the rear. As discussed in the main body of the report, the rear (north building) will not cause significant visual bulk or amenity impacts on neighbouring properties to the north, east and west of the site having regard to overshadowing, visual/acoustic privacy and visual bulk. The extent of the non-compliance is generally considered to be minor as it is limited to a small portion of the side walls of the rear balcony on the upper most level, see below:



(i) Building Use (Part 5.1.5)

Dwelling mix (Part 5.1.5.2)

Part 5.1.5.2 of MDCP 2011 prescribes the following dwelling mix requirements for mixed use developments containing 6 or more dwellings:

Unit Type	Required	Proposed	Complies
Studio	5 - 20%	Nil	No
1 bedroom	10 - 40%	12 apartments (60%)	No
2 bedroom	40 - 75%	6 apartments (30%)	No
3 bedroom	10 - 45%	2 apartments (10%)	Yes

The table above demonstrates that the development does not comply with the dwelling mix controls in that there are no studios provided, a surplus of 1 bedroom apartments and an insufficient amount of 2 bedroom apartments. Notwithstanding this, the development provides for a range of unit layouts and types that contribute to housing range and mix consistent with the intent of the control. This non-compliance does not justify further plan amendment or outright refusal of the application.

PART 9 – STRATEGIC CONTEXT

The property is located in the New Canterbury Road West Planning Precinct (Precinct 17) under Marrickville Development Control Plan 2011.

The site is not located within a Heritage Conservation Area or within a Master Plan Site. The development generally meets the desired future character of the planning precinct in that the development:

- Protects and enhances the character of the streetscape and public domain elements of New Canterbury Road;
- Provides strong definition to the street through retention of the existing nil building setbacks;
- Complements the siting, scale, form, proportion, rhythm, pattern, detail, material, colour, texture, style and general character of the commercial streetscape;
- Provides an active street front to New Canterbury Road;
- Considers the amenity of residents from noise;
- Demonstrates good urban design and environmental sustainability;
- Ensures that the design of higher density development protects the residential amenity of adjoining and surrounding properties; and
- Ensures that the provision and design of parking and access for vehicles is appropriate for the location, efficient, minimises impact to streetscape appearance and maintains pedestrian safety and amenity.

5(d) The Likely Impacts

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

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

The site is zoned B2 - Local Centre 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 resident/property owners in the vicinity of the property were notified in accordance with Council's Notification Policy. No submissions were received.

5(g) The Public Interest

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

The proposal is not contrary to the public interest.

6 Referrals

6(a) Internal

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

- Architectural Excellence Panel (AEP)
- Development Engineer
- Tree Management Officer
- Waste Management Officer

6(b) External

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

- Roads and Maritime Services

7. Section 94 Contributions

Section 94 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 \$314,955.63 would be required for the development under Marrickville Section 94/94A Contributions Plan 2014. A condition requiring that contribution to be paid is included in the recommendation.

8. Conclusion

Despite the non-compliances to the development standards relating to height of building and FSR, the proposal generally complies with the aims, objectives and design parameters contained in the relevant State Environmental Planning Policies (SEPPs), Marrickville Local Environmental Plan 2011 (MLEP 2011) and Marrickville Development Control Plan 2011 (MDCP 2011). The development will not result in any significant impacts on the amenity of adjoining premises and the streetscape. The application is considered suitable for the issue of a deferred commencement consent subject to the imposition of appropriate terms conditions.

9. Recommendation

That Council, as the consent authority pursuant to Section 80 of the Environmental Planning and Assessment Act 1979, grant deferred commencement consent to Development Application No: 201600564 to demolish the existing improvements and construct a mixed use development containing 1 x 5 storey building fronting New Canterbury Road and 1 x 4 storey building towards the rear of the site comprising a total of 1 commercial tenancy and 20 dwellings with basement car parking 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. A Hazardous Materials Assessment and Remediation Action Plan is required to be undertaken and submitted to Council in accordance with the recommendations in the Detailed Site Investigation, Report No. E23124_AB_GB_Rev0 prepared by EI Australia, dated 17 March 2017.

Any contaminated soil excavated from the site is to be classified in accordance with the NSW Department of Environment, Climate Change and Water (2009) *Waste Classification Guidelines* and being carried out in accordance with the requirements of the NSW Office of Environment and Heritage.

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	Date Issued	Prepared by	Date Submitted
DWG No.DA020, Revision C	Site Plan	08/06/2017	BKA Architecture	9/06/2017
DWG No.DA100, Revision E	Lower Basement Floor Plan	03/11/2017	BKA Architecture	17/03/2017
DWG No.DA101, Revision F	Upper Basement Floor Plan	17/03/2017	BKA Architecture	17/03/2017
DWG No.DA102, Revision G	Ground Floor Plan	08/06/2017	BKA Architecture	09/06/2017
DWG No.DA103, Revision F	Level 01 Floor Plan	08/06/2017	BKA Architecture	09/06/2017
DWG No.DA104, Revision F	Level 02 Floor Plan	08/06/2017	BKA Architecture	09/06/2017
DWG No.DA105, Revision F	Level 03 Floor Plan	08/06/2017	BKA Architecture	09/06/2017
DWG No.DA106, Revision F	Level 04 Floor Plan	08/06/2017	BKA Architecture	09/06/2017
DWG No.DA107, Revision F	Roof Plan	08/06/2017	BKA Architecture	09/06/2017
DWG No.DA200, Revision E	Elevations Sheet 01	08/06/2017	BKA Architecture	09/06/2017
DWG No.DA201,	Elevations Sheet	08/06/2017	BKA Architecture	09/06/2017

Revision E	02			
DWG No. DA300, Revision D	Sections Sheet 01	17/03/2017	BKA Architecture	09/06/2017
DWG No. DA301, Revision E	Sections Sheet 01	08/06/2017	BKA Architecture	09/06/2017
DWG No. DA050, Revision A	Demolition Plan	03/11/2016	BKA Architecture	04/11/2016
DWG No. DA600, Revision C	Adaptable Unit Layouts	17/03/2017	BKA Architecture	17/03/2017
DWG No. DA700, Revision C	External Finishes Schedule	13/06/2017	BKA Architecture	13/06/2017
DWG No. 16-3311 LO1, Revision A	Landscape Plan	07/03/2017	Zenith	13/06/2017
Report No. E23124 GA	Geotechnical Desktop Study Report	16/09/2016	Ei Australia	04/11/2016
Certificate number 772043M_02	BASIX	21/6/2017	Building & Energy Consultants Australia	22/06/2017
Doc Ref: 20161508.1/1410A /RO/RL	DA Acoustic Assessment	14/10/2017	Acoustic Logic	04/11/2016
Report No. E23124_AB_GB_ Rev 0	Detailed Site Investigation	17/03/2017	Ei Australia	17/03/2017

and details submitted to Council on 4 November 2016, 17 March 2017, 9 June 2017, 13 June 2017 and 22 June 2017 with the application for development consent and as amended by the matters referred to in Part A of this Determination and the following conditions.

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.

3. In order to ensure the architectural and urban design excellence of the development is retained:
 - i) The design architect is to have direct involvement in the design documentation, contract documentation and construction strategies of the project;
 - ii) The design architect is to have full access to the site and is to be authorised by the applicant to respond directly to the consent authority where information or clarification is required in the resolution of design issues throughout the life of the project;
 - iii) Evidence of the design architect's commission is to be provided to the Council prior to the release of the construction certificate.
 - iv) The design architect of the project is not to be changed without prior notice and approval of the Council's Director Planning and Environmental Services.

4. Site remediation works being carried out for the site in accordance with Detailed Site Investigation Report and Remediation Action Plan submitted in accordance with Part A of this determination.
5. Where units or dwellings are provided with separate individual hot water systems, these must be located within the internal area of the unit/dwelling and not on any balcony or terrace.
6. Separate Development Consent or Complying Development Certificate must be obtained for the use of the ground floor shop/commercial suite prior to the occupation of that part of the premises.
7. The ongoing use of the ground floor commercial tenancy complying with the following requirements at all times:
 - a) The areas to be used as a shop must be restricted to the ground floor commercial tenancy;
 - b) The shop window display areas must be maintained at all times with no roller shutters being installed across the shopfront;
 - c) The hours of operation are restricted to between the hours of 7.00am to 7.00pm Monday to Saturday and not at any time on Sundays or public holidays;
 - d) All loading and unloading in connection with the use must be carried out wholly within the property from the dedicated loading space within the basement, during the approved hours of operation and in such a manner so as to not cause an inconvenience to the public;
 - e) No storage of goods or equipment external to any building on the site is permitted; and
 - f) No signs or goods must be displayed for sale or stored on the footpath in front of the premises at any time without the prior approval of Council.
8. A minimum of 4 adaptable dwellings must be provided in accordance with Part 2.5 of Marrickville Development Control Plan 2011 - Equity of Access and Mobility.
9. A minimum of 19 off-street car parking spaces must be provided and maintained at all times in accordance with the standards contained within Part 2.10 of Marrickville Development Control Plan 2011 - Parking. The parking must be allocated as follows:
 - a) A minimum of 16 spaces being allocated to the residential dwellings (including 4 accessible car parking spaces being 1 accessible car space per adaptable dwelling);
 - b) A minimum of 2 visitor spaces (including 1 accessible visitor space); and
 - c) 1 car parking space allocated to the ground floor commercial tenancy.All accessible car spaces must be provided and marked as disabled car parking spaces.
10. 1 off-street motorcycle parking space must be provided, paved, linemarked and maintained at all times in accordance with the standards contained within Part 2.10 of Marrickville Development Control Plan 2011 - Parking.
11. All parking spaces and turning area thereto being provided in accordance with the design requirements set out within Part 2.10 of Marrickville Development Control Plan 2011 - Parking, and must be used exclusively for parking and not for storage or any other purpose.
12. No injury must be caused to the amenity of the neighbourhood by the emission of noise, smoke, smell, vibration, gases, vapours, odours, dust, particular matter, or other impurities which are a nuisance or injurious or dangerous or prejudicial to health, the exposure to view of any unsightly matter or otherwise.
13. The use of the premises, including any plant and equipment, must not give rise to:

- a) transmission of unacceptable vibration to any place of different occupancy;
 - b) a sound pressure level at any affected premises that exceeds the background (LA90) noise level in the absence of the noise under consideration by more than 5dB(A). The source noise level shall be assessed as an LAeq,15min and adjusted in accordance with Environment Protection Authority guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content as described in the NSW Environment Protection Authority's Environmental Noise Control Manual and Industrial Noise Policy 2000 and The Protection of the Environment Operations Act 1997 (NSW).
14. Noise and vibration from the use and operation of any plant and equipment and/or building services associated with the premises must not give rise to 'offensive noise' as defined by The Protection of the Environment Operations Act 1997 (NSW). In this regard the roller door to the car parking entry is to be selected, installed and maintained to ensure their operation does not adversely impact on the amenity of the surrounding neighbourhood.
 15. Separate Development Consent or Complying Development Certificate must be obtained prior to the erection of any advertisements or advertising structures. The shop window must not be painted with advertisements and no flashing lights are to be installed on the premises.
 16. 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.
 17. All building work must be carried out in accordance with the provisions of the National Construction Code (Building Code of Australia).
 18. Any water (including water from excavations) that is to be discharged to our stormwater shall comply with the ANZECC Guidelines for Marine and Freshwater Quality for protection of aquatic ecosystems (95% protection level for marine ecosystems). Any water that does not comply shall be discharged to sewer, with the appropriate licences to be obtained; or disposed off-site to a suitably licensed facility.
 19. The *Jacaranda mimosifolia* (jacaranda) in the rear setback of the subject property shall be retained and protected in accordance with these conditions and with the Australian Standard *Protection of Trees on Development Sites* AS 4970—2009.
 20. All reasonable directions in writing by the project arborist (who must be engaged before work commences for the duration of site preparation, demolition, construction and landscaping) in relation to tree management and tree protection shall be complied with.
 21. During construction the project arborist shall undertake periodic inspections of trees and tree protection measures, as detailed in the tree protection plan
 22. The proposed awning shall be of cantilever type and be set back at least 600mm from the kerb line. The proposed awning shall be designed so as to be easily removed if required in future. The awning shall include pedestrian lighting (Category P3-AS1158) and shall be maintained and owned by the property owner(s). The owner shall maintain, modify or remove the structure at any time if given notification by Council or RMS to do so. All works shall be at no cost to Council or the RMS.
 23. Owners and occupants of the proposed building shall not be eligible to obtain parking permits under any existing or future resident parking scheme for the area. The person acting on this consent shall advise any purchaser or prospective tenant of this condition. In addition the by-laws of any future residential strata plans created for the property shall reflect this restriction.
 24. All stormwater drainage being designed in accordance with the provisions of the 1987 Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2003 'Stormwater

Drainage' and Marrickville Council Stormwater and On Site Detention Code. Pipe and channel drainage systems shall 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 shall be designed to cater for the one hundred (100) year A.R.I. storm.

25. Should the proposed development require the provision of an electrical substation, such associated infrastructure shall be incorporated wholly within the development site. Before proceeding with your development further, you are directed to contact Ausgrid directly with regard to the possible provision of such an installation on the property.
26. Dry-weather flows of any seepage water including seepage from landscaped areas will not be permitted through kerb outlets and must be connected directly to a Council stormwater system. Alternatively the water may be stored separately on site and reused for the watering of landscaped areas.
27. Compliance with the following requirements of Roads and Maritime Services (RMS):
 - i. The construction of the new left in and left out kerb and gutter crossing on New Canterbury Road shall be in accordance Roads and Maritime requirements. Details of these requirements should be obtained from Roads and Maritime Services, Manager Developer Works, Statewide Delivery, Parramatta (telephone 9598 7798).

Detailed design plans of the proposed kerb and gutter are to be submitted to Roads and Maritime for approval prior to the issue of a Construction Certificate and commencement of any road works.

A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approved road design plans by Roads and Maritime.

- ii. All vehicles are to enter and exit the site in a forward direction.
- iii. All vehicles are to be wholly contained on site before being required to stop.
- iv. The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001.

The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by Roads and Maritime.

The report and any enquiries should be forwarded to:
Project Engineer, External Works
Sydney Asset Management
Roads and Maritime Services
PO Box 973 Parramatta CBD 2124.
Telephone 8849 2114
Fax 8849 2766

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

- v. Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to Roads and Maritime for approval, prior to the commencement of any works.

Details should be forwarded to: Suppiah.Thillai@rms.nsw.gov.au

A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued. With regard to the Civil Works requirement please contact the Roads and Maritime Project Engineer, External Works Ph: 8849 2114 or Fax: 8849 2766.

- vi. All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on New Canterbury Road.
- vii. A Road Occupancy Licence must be obtained from the Transport Management Centre for any works which may impact on traffic flows on New Canterbury Road during construction activities.

BEFORE COMMENCING DEMOLITION, EXCAVATION AND/OR BUILDING WORK

For the purpose of interpreting this consent, a Principal Certifying Authority (PCA) means a principal certifying authority appointed under Section 109E(1) of the Environmental Planning and Assessment Act 1979. Pursuant to Section 109E(3) of the Act, the PCA is principally responsible for ensuring that the works are carried out in accordance with the approved plans, conditions of consent and the provisions of the National Construction Code (Building Code of Australia).

28. No work must commence until:

- a) A PCA has been appointed. Where Council is appointed ensure all payments and paper work are completed (contact Council for further information). Where an Accredited Certifier is the appointed, Council must be notified within 2 days of the appointment; and
- b) A minimum of 2 days written notice given to Council of the intention to commence work.

29. 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.

30. 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.

31. A Recycling and Waste Management Plan (RWMP) being prepared for the construction phase of the development 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.

32. 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 is to 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 buildings on the adjoining property at 845 and 837 New Canterbury Road, Dulwich Hill if the consent of the adjoining property owner can be obtained. In the event that the consent of the adjoining property owner 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.

33. 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.

34. A rigid and durable sign must be erected in a prominent position on the site, before work commences. The sign is to 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'.
35. Sediment control devices must be installed before the commencement of any work and must be maintained in proper working order to prevent sediment discharge from the construction site.
36. The landscape plan shall be amended to delete the three *Tristaniopsis laurina* (*water gum*) and the two *Myrtis communis* (common myrtle), show retention of the *Jacaranda mimosifolia* (jacaranda) and provide four new advanced trees, the species of which are selected from Marrickville Development Control Plan 2011, Part 2.18.13.
- One species with a minimum mature height of 11 metres to the east of the jacaranda;
 - One species with a minimum mature height of 9 metres to the west of the jacaranda;
 - One species with a minimum mature height of 7 metres centrally planted on the eastern side of the walkway in the central open space area; and
 - One species with a minimum mature height of 9 metres centrally planted on the western side of the walkway in the central open space area.
- The trees shall be located at least 1.5 metres from property boundaries. Adequate soil volume shall be provided for the trees in the central open space area. The revised landscape plan shall be submitted to and approved by council before work commences.
37. 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 to prepare a Tree Protection Plan for the *jacaranda mimosifolia* (jacaranda) in the rear setback of the subject property, which shall be submitted to and approved by Council before work commences.
38. 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.
39. 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.
40. The tree protection measures detailed in the council-approved tree protection plan shall be established before work commences.
41. The project arborist shall inspect the tree protection measures and certify in writing to the Principal Certifying Authority that they comply with the council-approved tree protection plan and the Australian Standard *Protection of Trees on Development Sites* AS 4970—2009 before work commences.
42. The person acting on this consent shall apply as required for all necessary permits including crane permits, road opening permits, hoarding permits, footpath occupation permits and/or any other approvals under Section 68 (Approvals) of the Local Government Act, 1993 or Section 138 of the Roads Act, 1993.

43. Where it is proposed to carry out works in public roads or Council controlled lands, a road opening permit shall be obtained from Council before the carrying out of any works in public roads or Council controlled lands. Restorations shall be in accordance with Marrickville Council's Restorations Code. Failure to obtain a road opening permit for any such works will incur an additional charge for unauthorised works as noted in Council's adopted fees and charges.
44. The person acting on this consent shall provide details of the means to secure the site and to protect the public from the construction works. Where the means of securing the site involves the erection of fencing or a hoarding on Council's footpath or road reserve the person acting on this consent shall submit a hoarding application and pay all relevant fees before commencement of works.
45. A detailed Traffic Management Plan to cater for construction traffic shall be submitted to and approved by Council before commencement of works. Details shall include proposed truck parking areas, construction zones, crane usage, truck routes etc. Please note that RMS has advised that all demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. Also a construction zone will not be permitted on New Canterbury Road.
46. The person acting on this consent shall submit a dilapidation report including colour photos showing the existing condition of the footpath and roadway adjacent to the site before commencement of works.
47. If new street numbers or a change to street numbers (this includes unit and shop numbers) are required, a separate application must be made to and approved by council prior to those street numbers being displayed.

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.

48. 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

49. Section 94 Contribution
 - a) This condition is imposed in accordance with Section 94 of the Environmental Planning and Assessment Act 1979.
 - b) Before the issue of a Construction Certificate, the Council must be paid a monetary contribution of \$314,955.63 indexed in accordance with Marrickville Section 94/94A Contributions Plan 2014 ("CP").

The above contribution is the contribution applicable as at 13 June 2017.

*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. DC001925)

- 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 | \$34,558.61 |
| Plan Administration | \$6,175.63 |
| Recreation Facilities | \$268,774.36 |
| Traffic Facilities | \$5,447.03 |
- 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.

50. 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 issued no earlier than 3 months before the date of lodgement of the application for the Construction Certificate. (Refer to Clause 6A of Schedule 1 to the Regulation).

51. The approved plans must be submitted to a Sydney Water Quick Check agent to determine whether the development will affect any Sydney Water wastewater and water mains, stormwater drains and/or easement, and if any requirements need to be met. Plans will be appropriately stamped.

Please refer to the web site www.sydneywater.com.au for:

- Quick Check agents details - see Plumbing, building and developing then Quick Check agents and
- Guidelines for Building Over/Adjacent to Sydney Water Assets – see Plumbing, building and developing then Plan submissions

or telephone 13 20 92.

The stamped plans must be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

52. A statement from a qualified Architect, verifying that the plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design principles set out in Schedule 1 of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development must be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

53. Letterboxes and mail collection facilities must be provided and adequately protected in accordance with details to be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

54. Lighting details of the pedestrian areas, parking areas and all entrances must be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.
55. Before the issue of a Construction Certificate an amended plan must be submitted to the Certifying Authority's satisfaction addressing the requirements of The Disability (Access to Premises – buildings) Standards 2010 (the Premises Standards).
56. A common drainage easement in favour of the parcels of land to be drained, being created over the proposed inter-allotment drainage systems at no cost to Council. A dealing number for registration of the easement shall be obtained from the Land and Property Information Office before the issue of a Construction Certificate of the site.
57. The person acting on this consent shall provide to Council a bond in the amount of \$9,892.40 and pay the related Section 138 (Roads Act) inspection fee of \$206.00 (GST inclusive) before the issue of a Construction Certificate to ensure the proper completion of the footpath and/or vehicular crossing works required as a result of this development.
58. Before the issue of a Construction Certificate the owner or builder shall sign a written undertaking that they shall be responsible for the full cost of repairs to footpath, kerb and gutter, or other Council property damaged as a result of construction of the proposed development. Council may utilise part or all of any Building Security Deposit (B.S.D.) or recover in any court of competent jurisdiction, any costs to Council for such repairs.
59. In order to provide satisfactory vehicular and pedestrian access, drainage, landscaping and aesthetic improvements to the public domain adjacent to the site, the following works shall be undertaken at no cost to Council:
 - i. The public domain along all frontages of the site inclusive of footpath paving, kerb, street trees, landscaping, street furniture, etc shall be reconstructed and upgraded in accordance with the Street Tree Masterplan and the Marrickville Public Domain Design Guide or Council's standard plans and specification in place for New Canterbury Road at the time the works are undertaken;
 - ii. The construction of heavy duty vehicular crossings to all vehicular access locations and removal of all redundant vehicular crossings to the site;
 - iii. New kerb and gutter along the frontage of the site. The kerb type (concrete or stone) shall be consistent with the majority of kerb type at this location. Council may be able to assist with the supply of stone if required. Please contact Council's Infrastructure Services Division on 9335 2000; and
 - iv. Alignment levels must be provided at the boundary at a minimum distance of every 5m and at all pedestrian and vehicular access locations.Full detailed construction plans and specifications shall be submitted to Council for approval under Section 138 of the Roads Act 1993 before the issue of a Construction Certificate with all works completed prior to the issue of an Occupation Certificate.
60. The site stormwater drainage and water re-use measures shall be constructed generally in accordance with the Stormwater Drainage Plans D00, D01, D02, D05 and D06 (Rev C) submitted by ACE Pty Ltd subject to the following amendments;
 - i. Details of the proposed water re-use (including a detailed schematic connection of a rainwater tank (minimum 13m³) to all toilets, laundry and external taps for irrigation) shall be provided in accordance with the deemed to comply requirements of Part 2.17 of Marrickville Development Control 2011;
 - ii. The BASIX Certificate must be amended to include the above re-use measures as noted on the stormwater drainage plans;
 - iii. A detailed surface drainage design and construction plans including details of the 1 in 100 year overflow routes in case of failure/blockage of the drainage system; and
 - iv. Details of the existing/proposed inter-allotment stormwater drainage easement. Tabulated hydrologic and hydraulic calculations must be submitted that demonstrate the adequacy of the existing stormwater system. Such calculations shall clearly demonstrate the adequacy of the existing drainage network to accept the additional stormwater flows

and must include any remedial measures (including upgrading the capacity) necessary to rectify defects in the system.

Evidence of compliance with the above conditions shall be submitted to and approved by Council before the issue of a Construction Certificate.

61. All plumbing and ductwork including stormwater downpipes must be concealed within the outer walls of the building so they are not visible. Plans and elevations detailing the method of concealment must be submitted to and approved by Council before the issue of a Construction Certificate. Any variation to this requirement requires Council approval.

SITE WORKS

62. All demolition, construction and associated work necessary for the carrying out of the development must be restricted to between the hours of 7.00am to 5.30pm Mondays to Saturdays, excluding Public Holidays. Notwithstanding the above, no work is to be carried out on any Saturday that falls adjacent to a Public Holiday.

All trucks and vehicles associated with the construction, including those delivering to or removing material from the site, only having access to the site during the hours referred to in this condition. No waste collection skips, spoil, excavation or demolition material from the site or building materials associated with the construction of the development being deposited on the public road, footpath, public place or Council owned property without Council's approval, having first been obtained. The developer must ensure that all contractors associated with the development are fully aware of these requirements.

63. Notwithstanding the above condition, all remediation works must be restricted to between the hours of 7.00am and 6.00pm Mondays to Fridays and 8.00am to 1.00pm Saturdays with no works being carried out on Sundays and Public Holidays or any Saturday that falls adjacent to a Public Holiday.
64. The area surrounding the building work must be reinstated to Council's satisfaction upon completion of the work.
65. During any construction works and activities, no injury must be caused to the amenity of the neighbourhood by the emission of noise, smoke, smell, vibration, gases, vapours, odours, dust, particular matter, or other impurities which are a nuisance or injurious or dangerous or prejudicial to health, the exposure to view of any unsightly matter or otherwise.
66. 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'.
67. If it is necessary to excavate below the level of the base of the footings of a building on the adjoining allotments, including a public place such as footways and roadways, the person acting on this consent must ensure:
- a) 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; and
 - b) That any building is preserved and protected from damage.

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 is to 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.

68. 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) For Class 2, 3 and 4 buildings, prior to covering waterproofing in any wet areas (a minimum of 10% of wet areas within a building);
 - c) Prior to covering any stormwater drainage connections, and after the building work has been completed and prior to any occupation certificate being issued in relation to the building; and
 - d) 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.

69. If the proposed work is likely to cause obstruction of the public place and/or is likely to endanger users of the public place, a suitable hoarding or fence approved by Council must be erected between the work site and the public place.
Reason: To provide protection to the public place.
70. 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.
71. The person acting on this consent must comply with the requirements of the Dividing Fences Act in respect to the alterations and additions to the boundary fences.
72. All vehicles carrying materials to, or from the site must have their loads covered with tarpaulins or similar covers.
73. Tree protection measures detailed in the council-approved tree protection plan and 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.
74. 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.
75. The new trees shall be planted in accordance with the following criteria:
- a) The new trees shall be located in accordance with the approved revised landscape plan.
 - b) The species of trees shall be as detailed in the approved revised landscape plan.
 - c) The planting stock size shall be at least 100 litres.
 - d) The planting stock shall comply with the Australian Standard *Tree Stock for Landscape Use* AS 2303-2015.
 - e) The new trees shall be planted in accordance with the most appropriate 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.
 - f) The new trees shall be planted by a qualified horticulturist or arborist, with a minimum qualification of Certificate 3.

- g) 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 Council's Development Control Plan (DCP).
 - h) 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.
76. After demolition and at the completion of site remediation activities, a validation report shall be submitted to council to confirm that remedial activities are complete and the site is suitable for the proposed development. The validation report shall address any data gaps and recommendations made in the approved Detailed Site Investigation and Remedial Action Plan. All reports shall comply with all relevant legislation and guidelines
77. The exportation of waste (including fill or soil) from the site must be in accordance with the provisions of the *Protection of the Environment Operations Act 1997* and the NSW EPA *Waste Classification Guidelines 2014*.
78. Any new information comes to light during site works which has the potential to alter previous conclusions about site contamination must be immediately notified to the Council and the Principal Certifying Authority. If significant unexpected occurrences occur, site works shall immediately cease and a suitably qualified environmental consultant shall be engaged to assess the site and determine if remediation is required in accordance with the *Contaminated Land Management Act 1997*. Note that Council may request that a NSW EPA Accredited Site Auditor review any proposed remedial activities.
79. All roof and surface stormwater from the site 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 Council controlled stormwater drainage system in accordance with the requirements of Marrickville Council Stormwater and On Site Detention Code.
80. Satisfactory methods and/or devices must be employed on the site to prevent the tracking of mud/dirt onto the surrounding streets from vehicles leaving the site.

BEFORE OCCUPATION OF THE BUILDING

81. 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;
 - f) A copy of any compliance certificate and any other documentary evidence relied upon in issuing the Occupation Certificate.
82. Occupation of the building is not permitted until such time as:
- a) All preconditions to the issue of an Occupation Certificate specified in this development consent have been met;
 - b) The building owner obtains a Final Fire Safety Certificate certifying that the fire safety measures have been installed in the building and perform to the performance standards listed in the Fire Safety Schedule; and
 - c) An Occupation Certificate has been issued.

83. The owner of the premises, as soon as practicable after the Final Fire Safety Certificate is issued, must:
- Forward a copy of the Final Safety Certificate and the current Fire Safety Schedule to the Commissioner of Fire and Rescue New South Wales and the Council; and
 - Display a copy of the Final Safety Certificate and Fire Safety Schedule in a prominent position in the building (i.e. adjacent the entry or any fire indicator panel).

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

84. The Section 73 Certificate must be submitted to the Principal Certifying Authority before the issue of an Occupation Certificate.
- 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.
 - Application must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing > Providers > Lists or telephone 13 20 92.
85. 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 be complied with for all landscaping works, except where these conditions permit otherwise.
86. The Certifying Authority must be satisfied that each of the commitments listed in the Acoustic Assessment Report required by this Determination have been fulfilled before the issue of an Occupation Certificate (whether an interim or final Occupation Certificate).
87. 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).
88. 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.
89. Upon completion of the development, a statement from a qualified Architect, verifying that the development achieves the design quality of the development as shown in the plans and specifications in respect of which the construction certificate was issued, having regard to the design principles set out in Schedule 1 of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development must be submitted to the Certifying Authority's satisfaction before the issue of an Occupation Certificate.
90. The project arborist shall certify in writing to the Principal Certifying Authority (PCA) before the issue of an Occupation Certificate that the conditions of consent relating to tree removal, 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.
91. 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".

92. 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.
93. No 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 an Occupation Certificate.
94. Heavy duty concrete vehicle crossings, in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" shall be constructed at the vehicular access locations before the issue of an Occupation Certificate and at no cost to Council.
95. 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 an 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.
96. Before the issue of an Occupation Certificate written verification from a suitably qualified competent person, stating that all stormwater drainage, re-use and quality measures have been constructed in accordance with the approved plans and the WSUD Strategy Report shall be submitted to and accepted by Council. In addition, full works-as-executed plans, prepared and signed by a registered surveyor, shall be submitted to Council. These plans must include levels for all drainage structures, buildings (including floor levels), finished ground levels and pavement surface levels.
97. 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 shall be placed on the Title in favour of Council before the issue of an Occupation Certificate.
98. All instruments under Section 88B of the Conveyancing Act used to create easements or right-of-ways shall include the condition that such easements or right-of-ways may not be varied, modified or released without the prior approval of Marrickville Council.
99. The existing overhead power cables along New Canterbury Road frontage of the site must be relocated underground with appropriate street lighting and a new steel light pole being installed at no cost to Council and before the issue of an Occupation Certificate. The street lighting shall be designed in accordance with Australian Standard AS1158-Road Lighting and the Network Standards of Ausgrid and must meet lighting category required by RMS. Plans shall be submitted to and approved by Council before submission to Ausgrid for implementation.
100. Prior to issue of an Occupation Certificate the person acting on this consent shall obtain from Council a compliance Certificate(s) stating that all Road, Footpath and Civil 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.
101. Before the issue of an Interim or Final 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.

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 proposed 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 www.basix.nsw.gov.au
Department of Fair Trading	☎ 13 32 20 www.fairtrading.nsw.gov.au Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Before You Dig	☎ 1100 www.dialbeforeyoudig.com.au
Landcom	☎ 9841 8660 To purchase copies of Volume One of "Soils and Construction"
Long Service Payments Corporation	☎ 131441 www.lspc.nsw.gov.au
NSW Government	www.nsw.gov.au/fibro www.diySAFE.nsw.gov.au Information on asbestos and safe work practices.
NSW Office of Environment and Heritage	☎ 131 555 www.environment.nsw.gov.au
Sydney Water	☎ 13 20 92 www.sydneywater.com.au
Waste Service - SITA Environmental Solutions	☎ 1300 651 116 www.wasteservice.nsw.gov.au
Water Efficiency Labelling and	www.waterrating.gov.au

Standards (WELS)

WorkCover Authority of NSW

☎ 13 10 50

www.workcover.nsw.gov.au

Enquiries relating to work safety and asbestos removal and disposal.

- B. 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 standards:

<u>Premises:</u>	843 New Canterbury Road, Dulwich Hill
<u>Applicant:</u>	BKA Architecture
<u>Proposal:</u>	To demolish the existing improvements and construct a mixed use development containing 1 x 5 storey building fronting New Canterbury Road and 1 x 4 storey building towards the rear of the site comprising a total of 1 commercial tenancy and 20 dwellings with basement car parking
<u>Determination:</u>	Deferred commencement consent
<u>DA No:</u>	201600564
<u>Lot and DP:</u>	Lot A in DP 320960
<u>Category of Development:</u>	9: Mixed
<u>Environmental Planning Instrument:</u>	Marrickville Local Environmental Plan 2011
<u>Zoning of Land:</u>	B2 Local Centre
<u>Development Standard(s) varied:</u>	Clause 4.3 – Height of Building Clause 4.4 – Floor Space Ratio
<u>Justification of variation:</u>	Strict compliance with the Height of Building and FSR development standard is unnecessary; the additional building height and FSR does not contribute to additional adverse impacts on adjacent development; the development is compatible with the bulk/scale and overall character of the area; and the proposal compares favourably to recent approvals in the precinct.
<u>Extent of variation:</u>	Building Height: 17.1% FSR: 13.1%
<u>Concurring Authority:</u>	Council under assumed concurrence of the Secretary Department of Planning and Environment
<u>Date of Determination:</u>	

Legend:	
1 Bedroom Unit	Storage
2 Bedroom + Study Unit	Proposed New WC
2 Bedroom Unit	Changing Rm
Commercial	3000 Designation
Common Drive Slab	Proposed New Tiers
Dark Set Zone	Proposed New Parking

Abbreviations:	
FFL	Final Floor Level
GDQ	Ground Level
CD	Common Drive
R	Room
W	Window
W.C.	Water Closet
TOF	Total of Floor
UDF	Utility Open Space
FR	Fire
DN	Down
UP	Up
DN	Down
UP	Up

	
DKA architecture 8/153-155 Victoria Road, North Sydney, NSW 1585 Tel: (02) 9439 1000 Email: info@dka.com.au Website: www.dka.com.au	
Mixed Use Development 843 NEW CANTERBURY ROAD DULWICH HILL NSW 2203 Malora Building Contractors Pty Ltd Ground Floor Plan	
DATE:	16/04/23
PROJECT:	DA102



Legend:	<ul style="list-style-type: none"> 1 Bedroom Unit 2 Bedroom + Study Unit 2 Bedroom Unit Commercial Common Drive Slab Drive Slab Zone Storage Proposed New WC Changing Rm Proposed New Kitchen Proposed New Living Proposed New Dining Proposed New Bedroom Proposed New Parking
Abbreviations:	<ul style="list-style-type: none"> FFA Final Floor Level QSD Quota System Designation R Room KW Kitchen TOF Top of Finish UDF Utility Open Space DNB Drive Slab Zone Proposed New WC Proposed New Kitchen Proposed New Living Proposed New Dining Proposed New Bedroom Proposed New Parking



NORTH

DKA architecture

10/100 NEWCASTLE STREET, SYDNEY NSW 1585
 PH: (02) 9550 1000
 WWW.DKAARCHITECTURE.COM.AU

Mixed Use Development

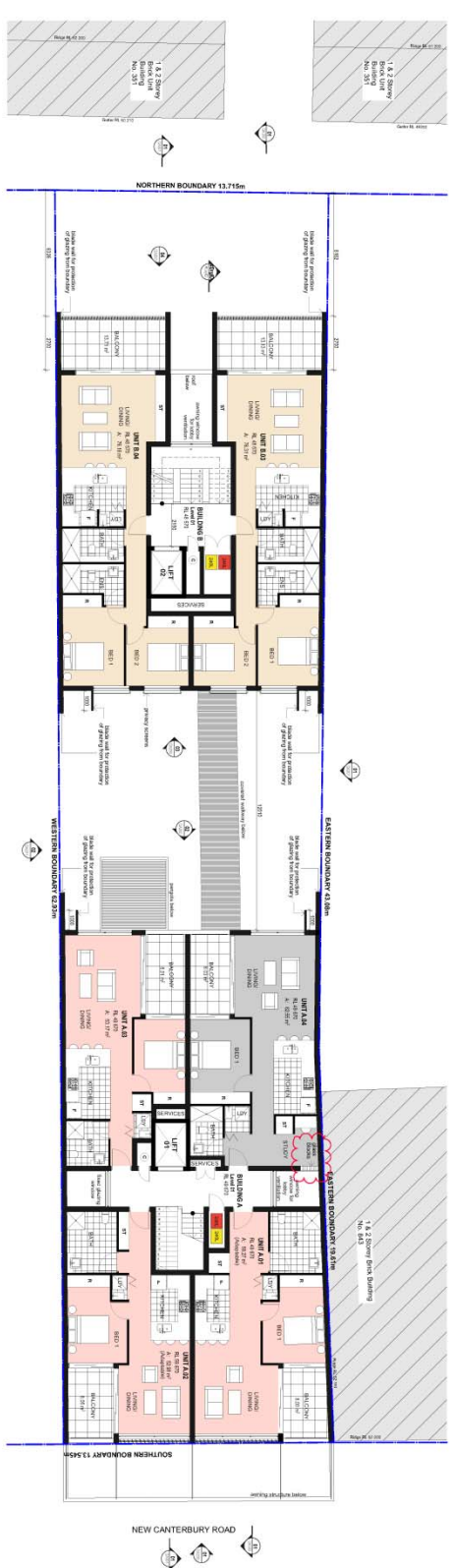
843 NEW CANTERBURY ROAD DULWICH HILL NSW 2203

Mehora Building Contractors Pty Ltd

Level 01 Floor Plan

DATE	NO	DESCRIPTION
15/08/2023	1	ISSUED FOR PERMIT
15/08/2023	2	ISSUED FOR PERMIT
15/08/2023	3	ISSUED FOR PERMIT
15/08/2023	4	ISSUED FOR PERMIT
15/08/2023	5	ISSUED FOR PERMIT
15/08/2023	6	ISSUED FOR PERMIT
15/08/2023	7	ISSUED FOR PERMIT
15/08/2023	8	ISSUED FOR PERMIT
15/08/2023	9	ISSUED FOR PERMIT
15/08/2023	10	ISSUED FOR PERMIT
15/08/2023	11	ISSUED FOR PERMIT
15/08/2023	12	ISSUED FOR PERMIT
15/08/2023	13	ISSUED FOR PERMIT
15/08/2023	14	ISSUED FOR PERMIT
15/08/2023	15	ISSUED FOR PERMIT
15/08/2023	16	ISSUED FOR PERMIT
15/08/2023	17	ISSUED FOR PERMIT
15/08/2023	18	ISSUED FOR PERMIT
15/08/2023	19	ISSUED FOR PERMIT
15/08/2023	20	ISSUED FOR PERMIT
15/08/2023	21	ISSUED FOR PERMIT
15/08/2023	22	ISSUED FOR PERMIT
15/08/2023	23	ISSUED FOR PERMIT
15/08/2023	24	ISSUED FOR PERMIT
15/08/2023	25	ISSUED FOR PERMIT
15/08/2023	26	ISSUED FOR PERMIT
15/08/2023	27	ISSUED FOR PERMIT
15/08/2023	28	ISSUED FOR PERMIT
15/08/2023	29	ISSUED FOR PERMIT
15/08/2023	30	ISSUED FOR PERMIT
15/08/2023	31	ISSUED FOR PERMIT
15/08/2023	32	ISSUED FOR PERMIT
15/08/2023	33	ISSUED FOR PERMIT
15/08/2023	34	ISSUED FOR PERMIT
15/08/2023	35	ISSUED FOR PERMIT
15/08/2023	36	ISSUED FOR PERMIT
15/08/2023	37	ISSUED FOR PERMIT
15/08/2023	38	ISSUED FOR PERMIT
15/08/2023	39	ISSUED FOR PERMIT
15/08/2023	40	ISSUED FOR PERMIT
15/08/2023	41	ISSUED FOR PERMIT
15/08/2023	42	ISSUED FOR PERMIT
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15/08/2023	48	ISSUED FOR PERMIT
15/08/2023	49	ISSUED FOR PERMIT
15/08/2023	50	ISSUED FOR PERMIT
15/08/2023	51	ISSUED FOR PERMIT
15/08/2023	52	ISSUED FOR PERMIT
15/08/2023	53	ISSUED FOR PERMIT
15/08/2023	54	ISSUED FOR PERMIT
15/08/2023	55	ISSUED FOR PERMIT
15/08/2023	56	ISSUED FOR PERMIT
15/08/2023	57	ISSUED FOR PERMIT
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15/08/2023	98	ISSUED FOR PERMIT
15/08/2023	99	ISSUED FOR PERMIT
15/08/2023	100	ISSUED FOR PERMIT

Level 01 Floor Plan
1:100



Level 02 Floor Plan
1:100



Legend:	Abbreviations:				
<ul style="list-style-type: none"> 1 Bedroom Unit 2 Bedroom + Study Unit 2 Bedroom Unit Commercial Common Drive Slab Drive Slab Zone Storage Proposed New lift Change R/W To be demolished Proposed New Frame Proposed New Parking 	<ul style="list-style-type: none"> Fin GSD R/W LOP DMS Proposed Floor Level Common Driveway Access No. of Proprietary Lift Utility Open Space 				
NORTH					
<p>BKA architecture</p> <p>Mixed Use Development</p> <p>843 NEW CANTEBRURY ROAD DULWICH HILL NSW 2203</p> <p>Melborn Building Contractors Pty Ltd</p> <p>Level 02 Floor Plan</p>					
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">PROJECT NO</td> <td style="text-align: center;">16043</td> </tr> <tr> <td style="text-align: center;">DATE</td> <td style="text-align: center;">DA104</td> </tr> </table>		PROJECT NO	16043	DATE	DA104
PROJECT NO	16043				
DATE	DA104				



Legend:	Abbreviations:
1 Bedroom Unit	FLR - Floor Level
2 Bedroom Unit	GS - Green Sign
Storage	CH - Change Room
Proposed New HC	R - Recess
Change Rm	W - Window
To Be Demolished	TCF - Top of Car Park
Proposed New Floor	LOF - Lot of Floor
Proposed New Parking	LOF - Lot of Floor
Proposed New Parking	LOF - Lot of Floor
Proposed New Parking	LOF - Lot of Floor
Dense Silt Zone	LOF - Lot of Floor

Project: Mixed Use Development Address: 843 NEW CANTERBURY ROAD DULWICH HILL NSW 2203 Client: Malboro Building Contractors Pty Ltd Level: Level 03 Floor Plan		Scale: 1:100 Drawn By: [Name] Checked By: [Name] Approved By: [Name]	
Project No: 16043 DA No: DA105		North Arrow: [North Arrow]	

Notes:
1. This plan is a reproduction of the original drawing. It is not to be used as a basis for construction.
2. All dimensions are in millimeters unless otherwise stated.
3. All walls are 200mm thick unless otherwise stated.
4. All windows are 1200mm wide unless otherwise stated.
5. All doors are 900mm wide unless otherwise stated.
6. All doors are to be right hand opening unless otherwise stated.
7. All doors are to be self-closing unless otherwise stated.
8. All doors are to be fire rated unless otherwise stated.
9. All doors are to be 1800mm high unless otherwise stated.
10. All doors are to be 75kg fire rated unless otherwise stated.
11. All doors are to be 1800mm wide unless otherwise stated.
12. All doors are to be 2100mm high unless otherwise stated.
13. All doors are to be 75kg fire rated unless otherwise stated.
14. All doors are to be 1800mm wide unless otherwise stated.
15. All doors are to be 2100mm high unless otherwise stated.
16. All doors are to be 75kg fire rated unless otherwise stated.
17. All doors are to be 1800mm wide unless otherwise stated.
18. All doors are to be 2100mm high unless otherwise stated.
19. All doors are to be 75kg fire rated unless otherwise stated.
20. All doors are to be 1800mm wide unless otherwise stated.

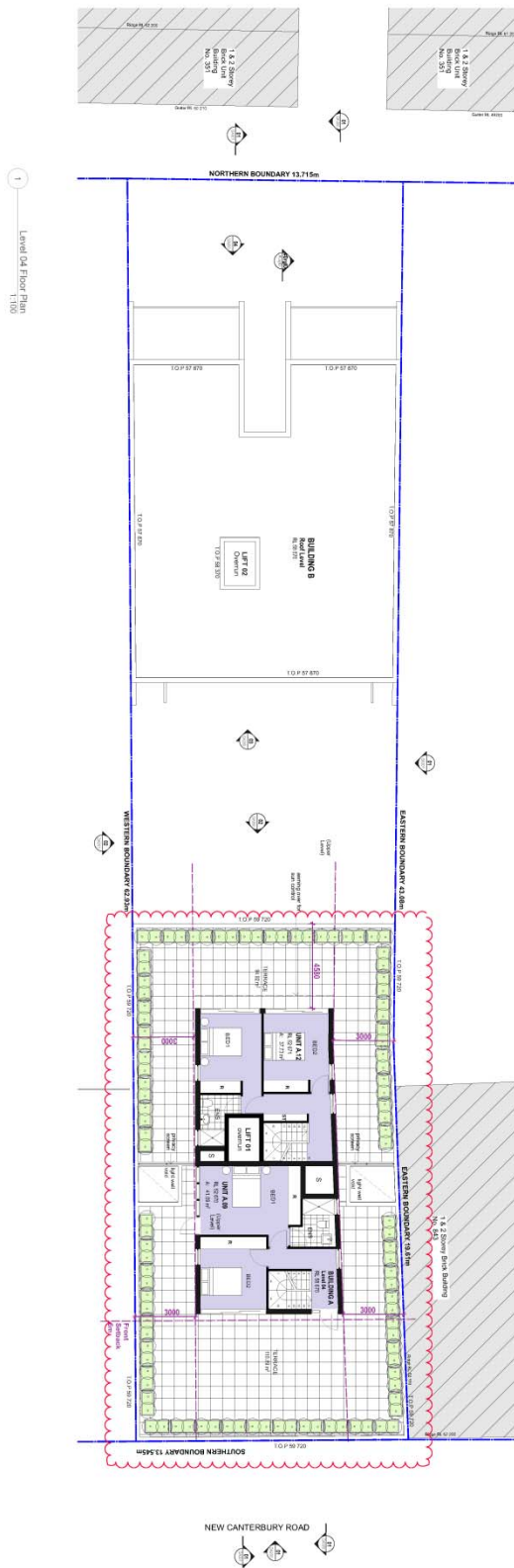
Legend:	<ul style="list-style-type: none"> 1 Bedroom Unit 2 Bedroom + Study Unit 2 Bedroom Unit Commercial Common Drive Slab Open Site Zone Storage Proposed New Use Change Use 30% Development Proposed New Frame Proposed New Parking
Abbreviations:	<ul style="list-style-type: none"> FFL Final Floor Level GDQ Ground R/W Reserve TOP Top of Proposed UDF Utility Open Space DN5 Drains

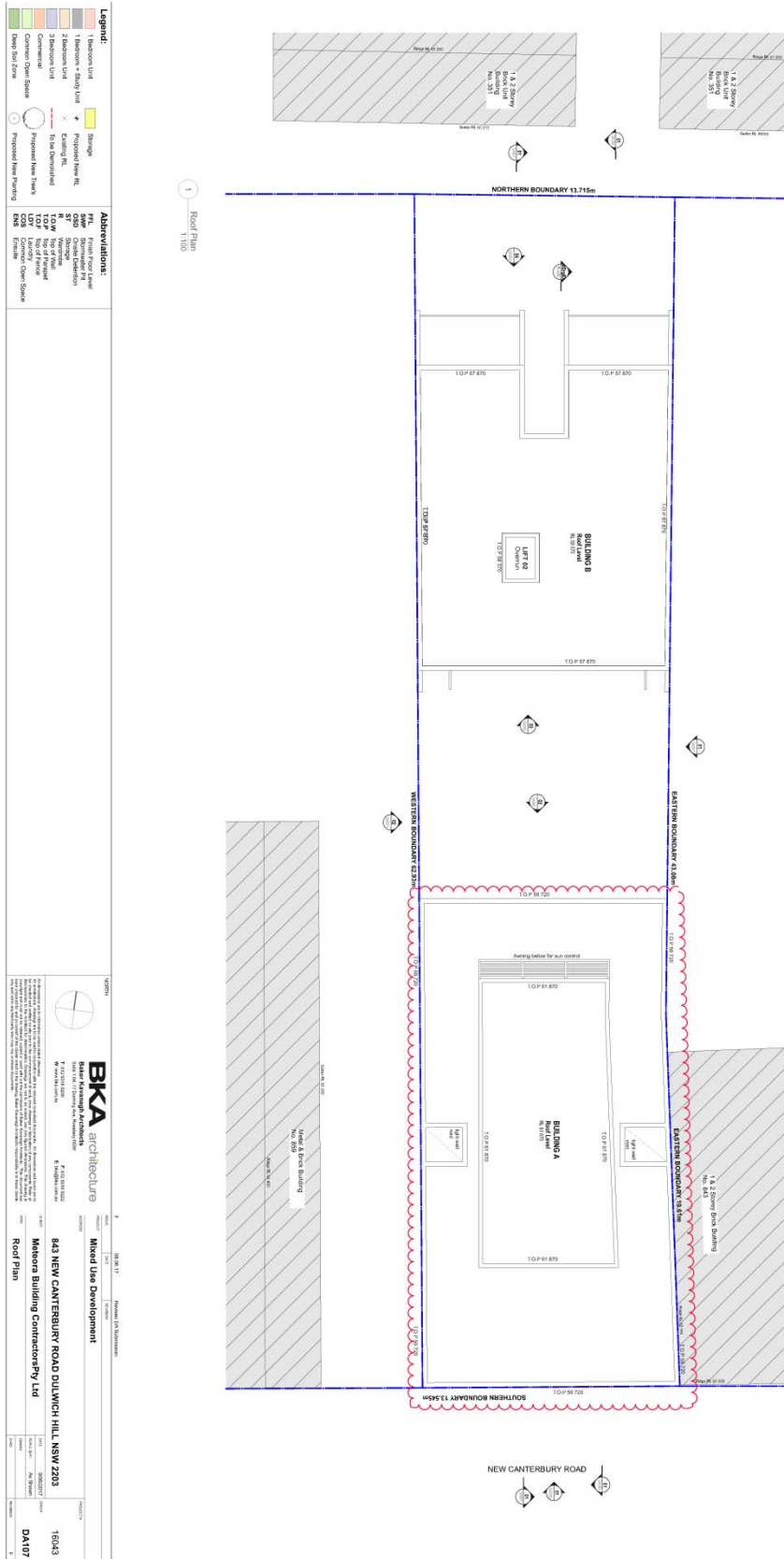


BKA architecture

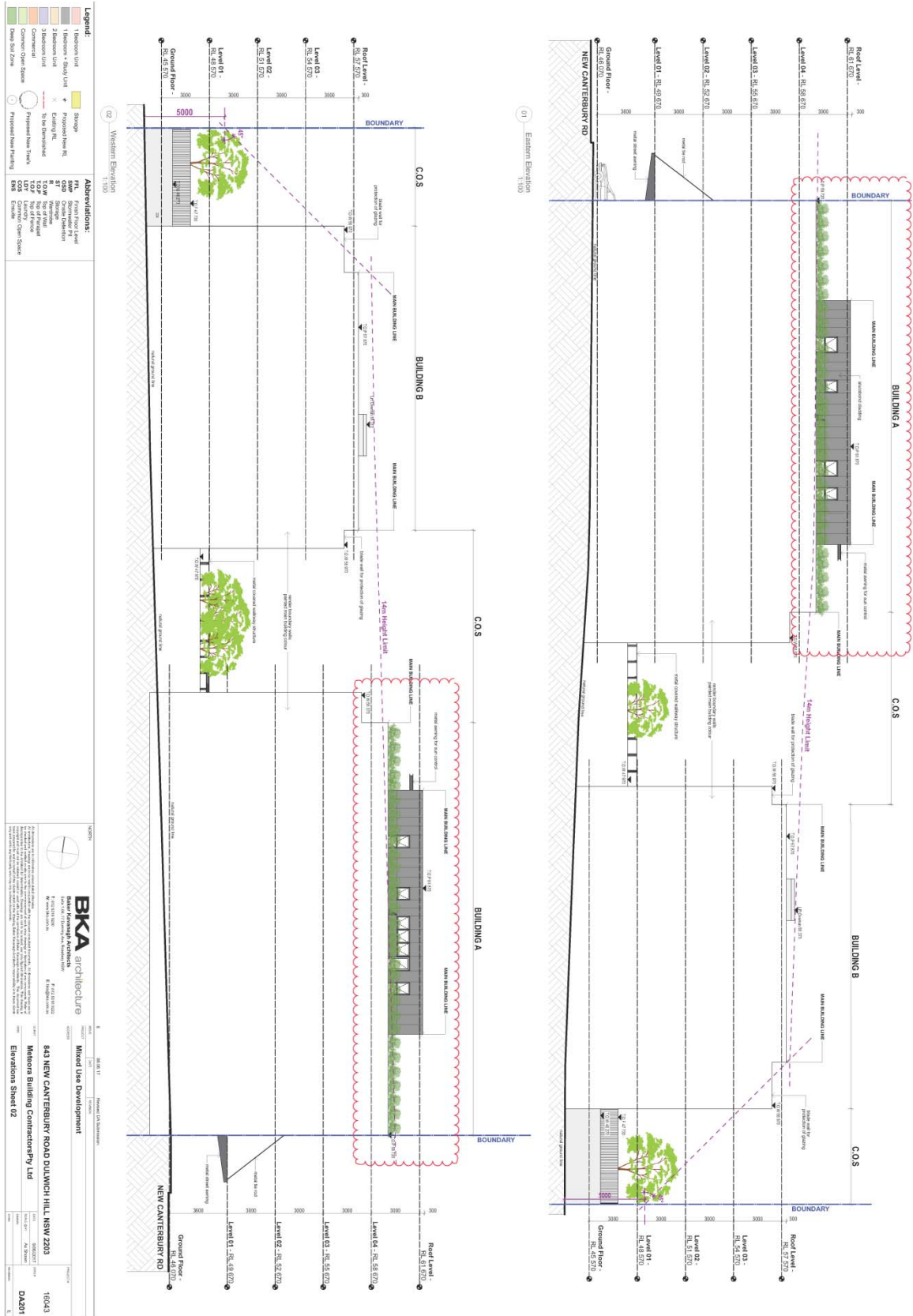
16/17-18/19 Market Street, Sydney NSW 1500
 Ph: (02) 9550 1000
 www.bka.com.au

PROJECT:	Mixed Use Development
ADDRESS:	843 NEW CANTERBURY ROAD DULWICH HILL NSW 2203
CLIENT:	Melbora Building Contractors Pty Ltd
DATE:	16/04/23
SCALE:	DA106









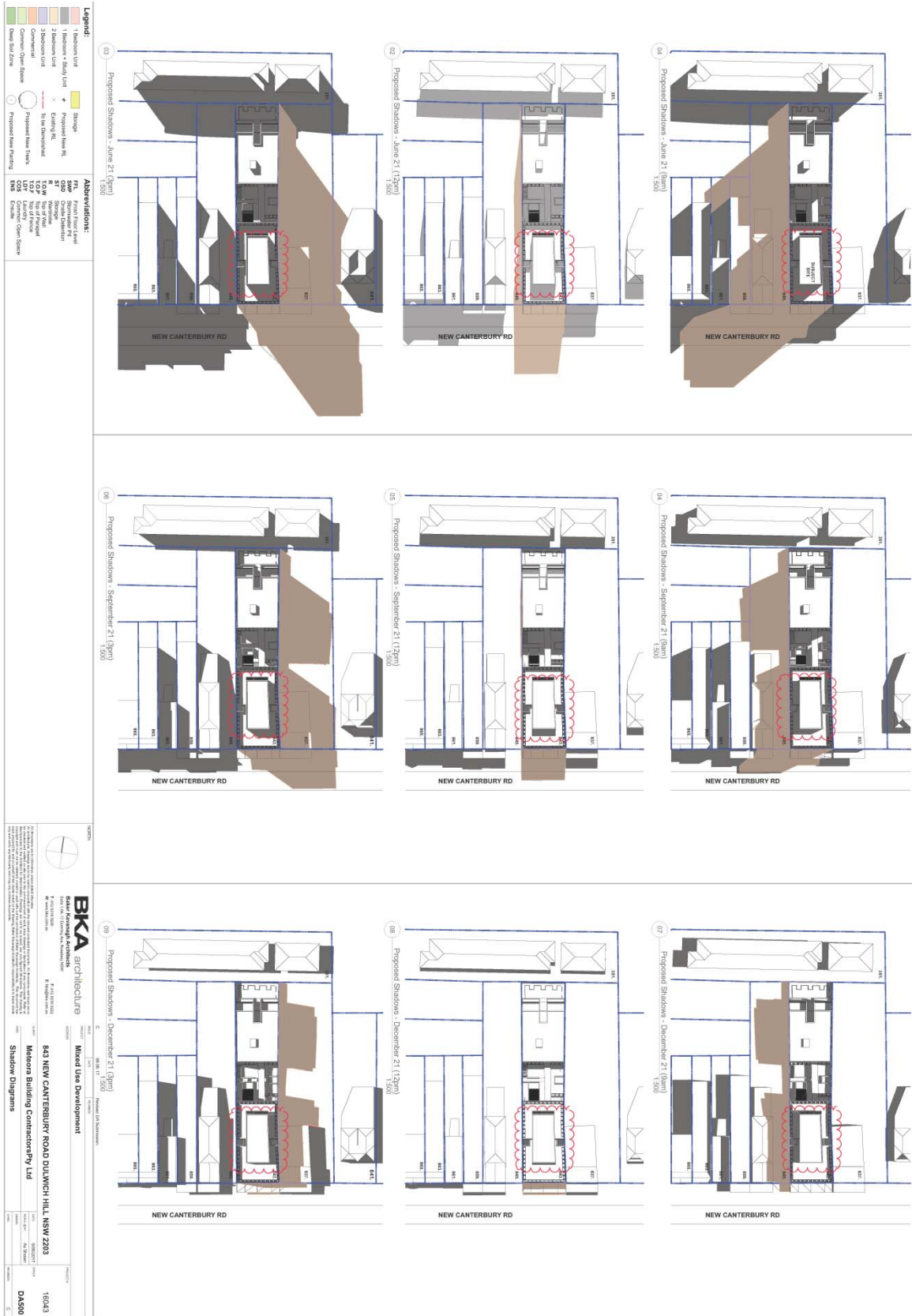


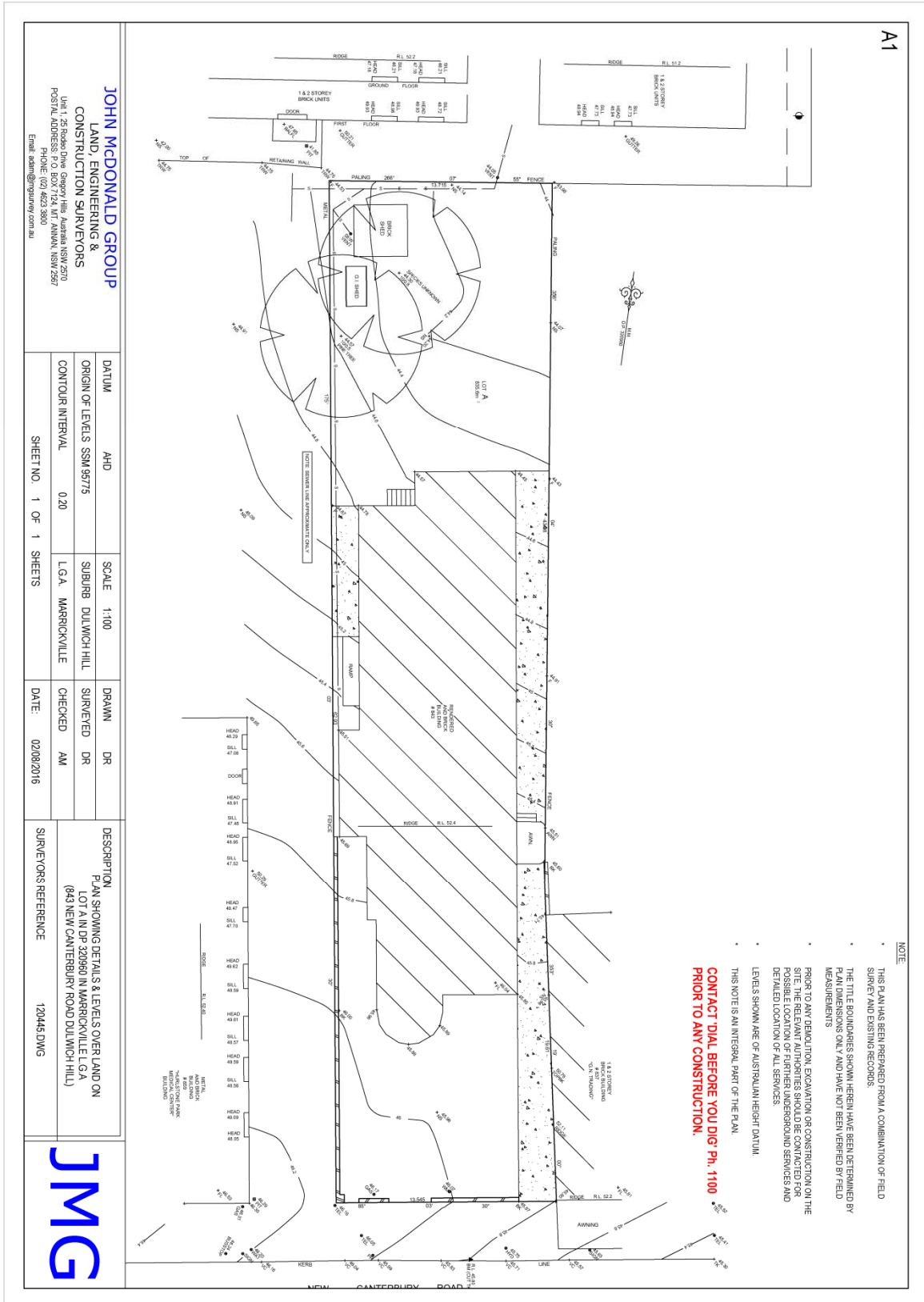




<p>FSR CALCULATIONS:</p> <p>■ - Denotes GFA calculated area</p> <p>SITE AREA = 835.6sqm.</p> <p>ALLOWABLE FSR = 1.75 : 1 (1,462.3sqm)</p> <p>TOTAL PROPOSED GFA = 1615sqm.</p> <p>PROPOSED FSR = 1.93 : 1</p>	<p>LANDSCAPE CALCULATIONS:</p> <p>■ - Denotes Deep Soil Planting calculated area</p> <p>SITE AREA = 835.6sqm.</p> <p>REQUIRED LANDSCAPING = 'on merit' for mixed use developments as outlined in Meritguide's DCP-2001</p> <p>TOTAL PROPOSED DEEPSOIL LANDSCAPING = 58.8sqm</p> <p>TOTAL PROPOSED PLANTING ON STRUCTURE = 47.5sqm</p>	<p>COMMUNAL OPEN SPACE CALCULATIONS:</p> <p>■ - Denotes Deep Soil Planting calculated area</p> <p>SITE AREA = 835.6sqm.</p> <p>TOTAL COMMUNAL OPEN SPACE = 223sqm (27%)</p>	<p>UNIT MIX:</p> <p>1 BED = 9 (45%)</p> <p>1 BED + STUDY = 3 (15%)</p> <p>2 BEDROOM = 6 (30%)</p> <p>3 BEDROOM + STUDY = 2 (10%)</p> <p>TOTAL NO. OF UNITS = 20</p>
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<p>Legend:</p> <ul style="list-style-type: none"> 1 Bedroom Unit 2 Bedroom Unit Commercial Common Open Space Deep Soil Zone Storage Proposed New Use Existing Use Proposed New Use Proposed New Use Proposed New Use 	<p>Abbreviations:</p> <ul style="list-style-type: none"> FFA - First Floor Level GF - Ground Floor GF2 - Ground Floor GF3 - Ground Floor GF4 - Ground Floor GF5 - Ground Floor GF6 - Ground Floor GF7 - Ground Floor GF8 - Ground Floor GF9 - Ground Floor GF10 - Ground Floor GF11 - Ground Floor GF12 - Ground Floor GF13 - Ground Floor GF14 - Ground Floor GF15 - Ground Floor GF16 - Ground Floor GF17 - Ground Floor GF18 - Ground Floor GF19 - Ground Floor GF20 - Ground Floor GF21 - Ground Floor GF22 - Ground Floor GF23 - Ground Floor GF24 - Ground Floor GF25 - Ground Floor GF26 - Ground Floor GF27 - Ground Floor GF28 - Ground Floor GF29 - Ground Floor GF30 - Ground Floor GF31 - Ground Floor GF32 - Ground Floor GF33 - Ground Floor GF34 - Ground Floor GF35 - Ground Floor GF36 - Ground Floor GF37 - Ground Floor GF38 - Ground Floor GF39 - Ground Floor GF40 - Ground Floor GF41 - Ground Floor GF42 - Ground Floor GF43 - Ground Floor GF44 - Ground Floor GF45 - Ground Floor GF46 - Ground Floor GF47 - Ground Floor GF48 - Ground Floor GF49 - Ground Floor GF50 - Ground Floor GF51 - Ground Floor GF52 - Ground Floor GF53 - Ground Floor GF54 - Ground Floor GF55 - Ground Floor GF56 - Ground Floor GF57 - Ground Floor GF58 - Ground Floor GF59 - Ground Floor GF60 - Ground Floor GF61 - Ground Floor GF62 - Ground Floor GF63 - Ground Floor GF64 - Ground Floor GF65 - Ground Floor GF66 - Ground Floor GF67 - Ground Floor GF68 - Ground Floor GF69 - Ground Floor GF70 - Ground Floor GF71 - Ground Floor GF72 - Ground Floor GF73 - Ground Floor GF74 - Ground Floor GF75 - Ground Floor GF76 - Ground Floor GF77 - Ground Floor GF78 - Ground Floor GF79 - Ground Floor GF80 - Ground Floor GF81 - Ground Floor GF82 - Ground Floor GF83 - Ground Floor GF84 - Ground Floor GF85 - Ground Floor GF86 - Ground Floor GF87 - Ground Floor GF88 - Ground Floor GF89 - Ground Floor GF90 - Ground Floor GF91 - Ground Floor GF92 - Ground Floor GF93 - Ground Floor GF94 - Ground Floor GF95 - Ground Floor GF96 - Ground Floor GF97 - Ground Floor GF98 - Ground Floor GF99 - Ground Floor GF100 - Ground Floor 	<p>Project Information:</p> <p>Client: Melbora Building Contractors Pty Ltd</p> <p>Address: 843 NEW CANTERBURY ROAD DULWICH HILL NSW 2203</p> <p>Project Name: Melbora Building Contractors Pty Ltd</p> <p>Project ID: DA400</p> <p>Project Stage: Calculation Sheet</p>
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A1

NOTE:

- THIS PLAN HAS BEEN PREPARED FROM A COMBINATION OF FIELD SURVEY AND EXISTING RECORDS.
- THE TITLE BOUNDARIES SHOWN HEREIN HAVE BEEN DETERMINED BY MEASUREMENTS ONLY AND HAVE NOT BEEN VERIFIED BY FIELD MEASUREMENTS.
- PRIOR TO ANY DEMOLITION, EXCAVATION OR CONSTRUCTION ON THE SITE THE RELEVANT AUTHORITIES SHOULD BE ADVISED OF THE POSSIBLE LOCATION OF FURTHER UNDERGROUND SERVICES AND DETAILED LOCATION OF ALL SERVICES.
- LEVELS SHOWN ARE OF AUSTRALIAN HEIGHT DATUM.
- THIS NOTE IS AN INTEGRAL PART OF THE PLAN.

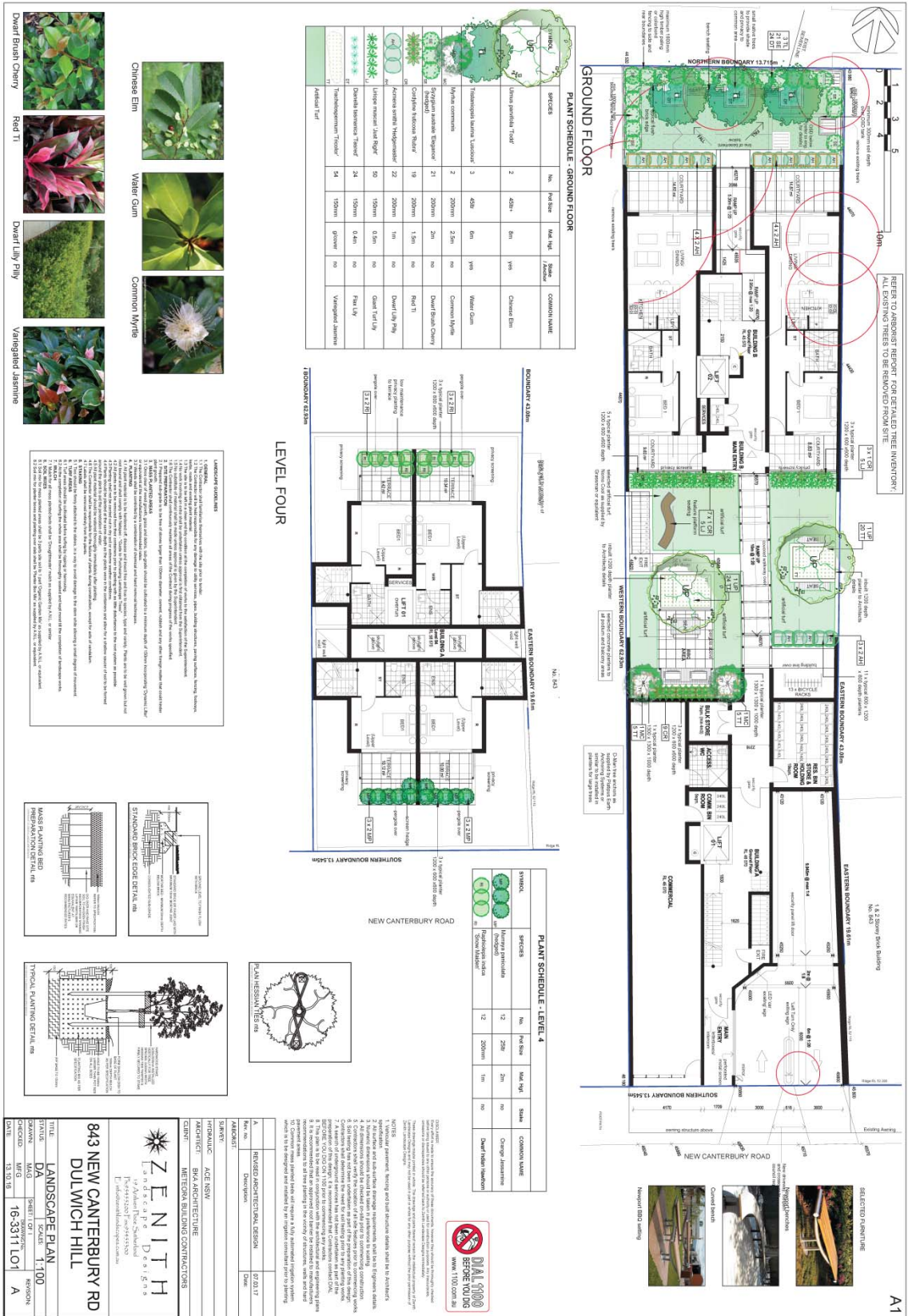
**CONTACT DIAL BEFORE YOU DIG Ph. 1100
PRIOR TO ANY CONSTRUCTION.**

JOHN McDONALD GROUP
 LAND, ENGINEERING &
 CONSTRUCTION SURVEYORS
 Unit 1, 25 Rodda Drive, Gregory Hills Australia NSW 2570
 POSTAL ADDRESS P.O. BOX 7124, MT ANNAN, NSW 2567
 PHONE: (02) 4623 3800
 Email: adam@jmcgroup.com.au

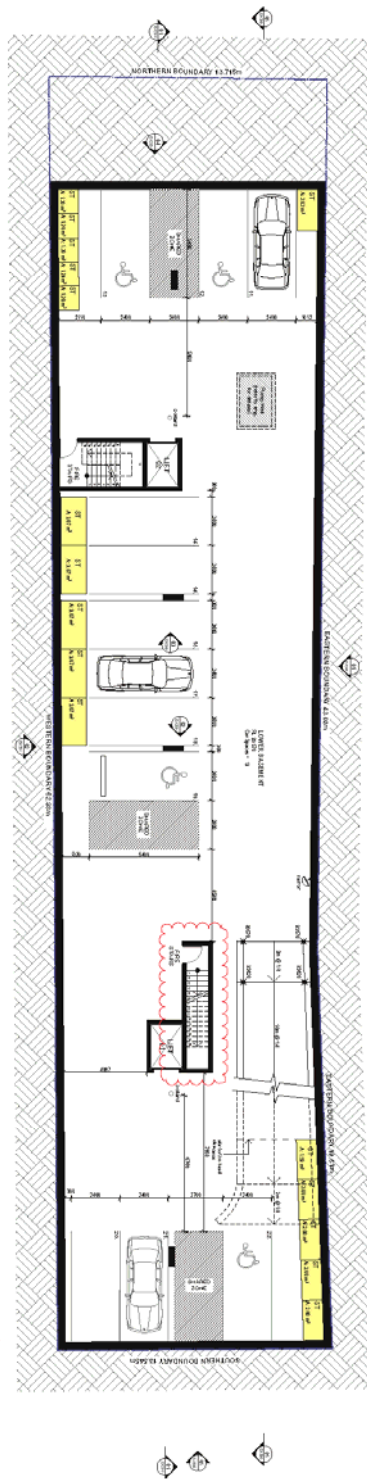
DATUM	AHD	SCALE	1:100	DRAWN	DR
ORIGIN OF LEVELS	NSM 85775	SUBURB	DULWICH HILL	SURVEYED	DR
CONTOUR INTERVAL	0.20	L.G.A.	MARRICKVILLE	CHECKED	AM
SHEET NO. 1 OF 1 SHEETS		DATE:		02/08/2016	

DESCRIPTION
 PLAN SHOWING DETAILS & LEVELS OVER LAND ON
 LOT 7A IN DP 32090 IN MARRICKVILLE L.G.A.
 (843 NEW CANTEBURY ROAD DULWICH HILL)
 SURVEYORS REFERENCE 120445 DWG









1 Lower Restaurant Floor Plan
1:100

Legend:	Abbreviations:
<ul style="list-style-type: none"> 1 Existing Use 2 Existing Use 3 Existing Use 4 Existing Use 5 Existing Use 6 Existing Use 7 Existing Use 8 Existing Use 9 Existing Use 10 Existing Use 11 Existing Use 12 Existing Use 13 Existing Use 14 Existing Use 15 Existing Use 16 Existing Use 17 Existing Use 18 Existing Use 19 Existing Use 20 Existing Use 21 Existing Use 22 Existing Use 23 Existing Use 24 Existing Use 25 Existing Use 26 Existing Use 27 Existing Use 28 Existing Use 29 Existing Use 30 Existing Use 31 Existing Use 32 Existing Use 33 Existing Use 34 Existing Use 35 Existing Use 36 Existing Use 37 Existing Use 38 Existing Use 39 Existing Use 40 Existing Use 41 Existing Use 42 Existing Use 43 Existing Use 44 Existing Use 45 Existing Use 46 Existing Use 47 Existing Use 48 Existing Use 49 Existing Use 50 Existing Use 51 Existing Use 52 Existing Use 53 Existing Use 54 Existing Use 55 Existing Use 56 Existing Use 57 Existing Use 58 Existing Use 59 Existing Use 60 Existing Use 61 Existing Use 62 Existing Use 63 Existing Use 64 Existing Use 65 Existing Use 66 Existing Use 67 Existing Use 68 Existing Use 69 Existing Use 70 Existing Use 71 Existing Use 72 Existing Use 73 Existing Use 74 Existing Use 75 Existing Use 76 Existing Use 77 Existing Use 78 Existing Use 79 Existing Use 80 Existing Use 81 Existing Use 82 Existing Use 83 Existing Use 84 Existing Use 85 Existing Use 86 Existing Use 87 Existing Use 88 Existing Use 89 Existing Use 90 Existing Use 91 Existing Use 92 Existing Use 93 Existing Use 94 Existing Use 95 Existing Use 96 Existing Use 97 Existing Use 98 Existing Use 99 Existing Use 100 Existing Use 	<ul style="list-style-type: none"> 1. Kitchen 2. Dining 3. Bar 4. Service 5. Stair 6. Lift 7. Entry 8. Exit 9. Storage 10. Wash 11. Rest 12. Office 13. Reception 14. Reception 15. Reception 16. Reception 17. Reception 18. Reception 19. Reception 20. Reception 21. Reception 22. Reception 23. Reception 24. Reception 25. Reception 26. Reception 27. Reception 28. Reception 29. Reception 30. Reception 31. Reception 32. Reception 33. Reception 34. Reception 35. Reception 36. Reception 37. Reception 38. Reception 39. Reception 40. Reception 41. Reception 42. Reception 43. Reception 44. Reception 45. Reception 46. Reception 47. Reception 48. Reception 49. Reception 50. Reception 51. Reception 52. Reception 53. Reception 54. Reception 55. Reception 56. Reception 57. Reception 58. Reception 59. Reception 60. Reception 61. Reception 62. Reception 63. Reception 64. Reception 65. Reception 66. Reception 67. Reception 68. Reception 69. Reception 70. Reception 71. Reception 72. Reception 73. Reception 74. Reception 75. Reception 76. Reception 77. Reception 78. Reception 79. Reception 80. Reception 81. Reception 82. Reception 83. Reception 84. Reception 85. Reception 86. Reception 87. Reception 88. Reception 89. Reception 90. Reception 91. Reception 92. Reception 93. Reception 94. Reception 95. Reception 96. Reception 97. Reception 98. Reception 99. Reception 100. Reception

<p>Project Information:</p> <p>Project Name: 843 NEW CANTERSBURY ROAD DULWICH HILL NSW 2133</p> <p>Client: Makera Building Contractors Pty Ltd</p> <p>Site: Lower Restaurant Floor Plan</p>	<p>Architect:</p> <p>BJKA architecture</p> <p>15/150 Pitt Street, Sydney NSW 2000</p> <p>Phone: (02) 9231 1111</p> <p>Email: info@bjka.com.au</p> <p>Website: www.bjka.com.au</p>	<p>Project Details:</p> <p>Project No: DA100</p> <p>Scale: 1:100</p> <p>Date: 10/03/2021</p> <p>Drawn by: [Name]</p> <p>Checked by: [Name]</p>
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ADAPTABLE COMMITMENTS

1. Indicate structure to be removed
2. Access egress to AS 128.1 and AS 4299
3. Bathroom - undertake modification as indicated; Shower screen to be removed and replaced with noise screen with curtain + ceiling mounting track. Existing wash outlet location to be utilised. Accessible conceptual fittings and taps to be provided. Increased basin depth to be provided at outset
4. To allow for secure fitting of grab rails, all linings to bathroom area to be reinforced at outset with 12mm structural plywood. Location details to the requirements of AS 4299
5. Kitchen to be refitted to provide circulation clearances as indicated, wall oven and dedicated dishwasher work surface.
6. Accessible finished to be provided to the cupboard or walloven area's of the unit from the outset.
7. Tiling and waterproofing where required is to extend underneath joistery and battens / filings. Tiling and other resilient floor surfaces to be slip resistant from the outset.
8. Power sockets, GPO and lighting requirements of AS 4299 to be provided at the outset
9. Combined front loading washer dryer required

TOTAL ADAPTABLE UNITS = 4

DRAWING ABBREVIATIONS:

- WS - work surface area
- ST - storage
- INT - CHEN
- LOV - laundry
- F - fridge



Legend:	
1. Existing Unit	Proposed New Unit
2. Existing Unit	Proposed New Unit
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100. Existing Unit	Proposed New Unit

Attachment C – Clause 4.6 Exception: Height

Statement of Environmental Effects

843 New Canterbury Road, Dulwich Hill

APPENDIX 1

CLAUSE 4.6 TO CLAUSE 4.3 OF MARRICKVILLE LEP 2011 EXCEPTIONS TO DEVELOPMENT STANDARDS - HEIGHT VARIATION

Demolition of existing structures and erection of a shop-top housing and residential flat
development

843 NEW CANTERBURY ROAD, DULWICH HILL

SUBMITTED TO
INNER WEST COUNCIL

PREPARED BY
ABC PLANNING PTY LTD
October 2016

MARRICKVILLE LEP 2011 - CLAUSE 4.6 EXCEPTION TO DEVELOPMENT STANDARDS

This Clause 4.6 submission has been prepared to accompany the Statement of Environmental Effects submitted to Inner West Council by ABC Planning Pty Ltd for demolition of the existing structures and erection of a new shop-top housing and residential flat development at 843 New Canterbury Road, Dulwich Hill.

The proposal seeks a variation to the development standard contained within clause 4.3 of the *Marrickville LEP 2011* - maximum height of 14m.

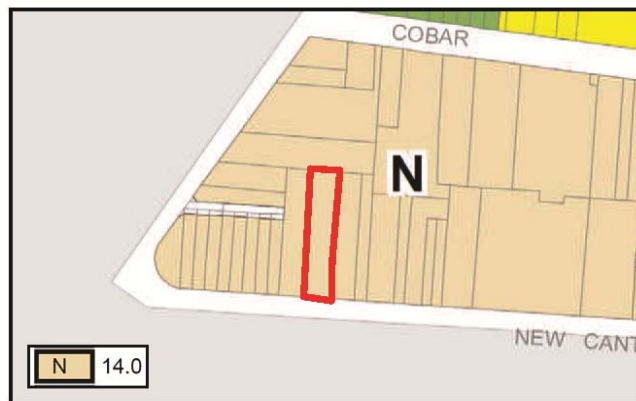


Figure 21: Height of Buildings Map

The proposed variation of 1.3m for the front/southern building is considered to be appropriate for the subject site.

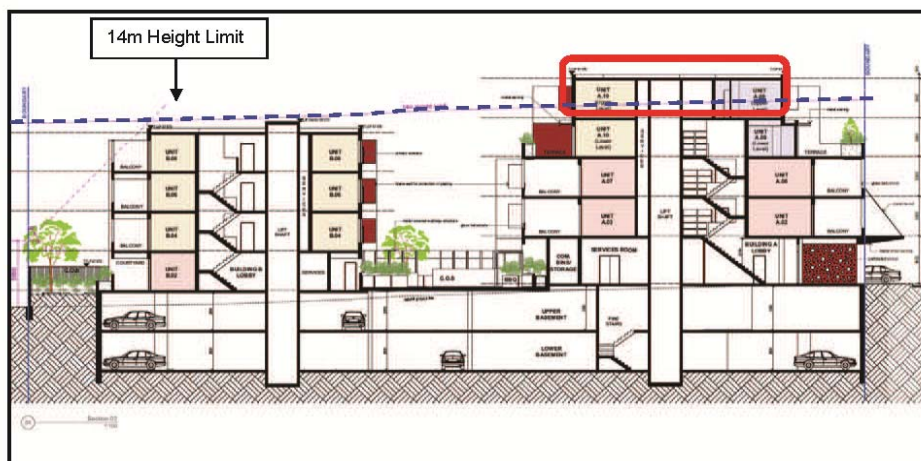


Figure 22: Section showing extent of height breach is confined to the front building

Clause 4.6 Exceptions to development standards

- (1) The objectives of this clause are as follows:
- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (4) Development consent must not be granted for development that contravenes a development standard unless:
- (a) the consent authority is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
 - (b) the concurrence of the Director-General has been obtained.
- (5) In deciding whether to grant concurrence, the Director-General must consider:
- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
 - (b) the public benefit of maintaining the development standard, and
 - (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.

1. Consistency with the objectives of the height standard in the LEP

The following assessment addresses each of the relevant criteria under Clause 4.3:

Clause 4.3 Height:

The objectives of this clause are as follows:

- a) to establish the maximum height of buildings,

Assessment: Clause 4.3 of the LEP which establishes the height standard is also accompanied by Clause 4.6 which recognises that flexibility to the height standard may be appropriate in certain circumstances. It is considered that the subject site represents an appropriate circumstance to vary the height standard in this regard. This is based upon compatibility of the proposed height with the scale and form of the neighbouring buildings to the east which are under construction and which are also in the course of being approved. The proposed 3 levels on the street front with 2 recessed levels 6m from the street front is consistent with the scale and built form desired by the DCP and which has been adopted along this section of New Canterbury.

Therefore, it is considered that the proposed maximum height as sought is suitable on the subject site.

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

Assessment: As outlined above, the provision of 3 storeys with 2 recessed levels is consistent with the desired future character of the area that has been achieved by the approval of numerous buildings to the east of the subject site. The recessed nature of the upper level which breaches the height limit minimises its perception in the streetscape and also ensures that it does not adversely affect the amenity of any surrounding neighbour. The compatibility of the recessed upper level with other built forms in this section of New Canterbury Road also confirms that the proposed height would be consistent with the desired future character of the area.

c) *to ensure buildings and public areas continue to receive satisfactory exposure to the sky and sunlight,*

Assessment: The recessed nature of the upper level which breaches the height limit ensures that the public domain along New Canterbury Road will continue to receive adequate solar access and sky exposure. The recessed nature of the upper level and its likely consistency with adjoining building also ensures the proposed recessed nature of the upper levels will not adversely affect solar access to any adjoining property. In this regard, it is likely that other redevelopments will accord with that proposed which is also in line with other developments that have been approved and erected. The limitation of the height variation to the southern portion of the site also ensures that the northern component of the development is unaffected, as are neighbouring properties to the east or west of the subject site.

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

Assessment: The proposed height, bulk and scale relationship on the subject site is considered to be appropriate as it achieves a height, bulk and scale which is consistent with that which has been approved and supported by Council in numerous occasions nearby. The achievement of an appropriate transition in built form is achieved by the limitation of the height variation to the front portion of the site, whereby the rear portion of 4-storeys within the height limit sits comfortably alongside the existing residential flat buildings to the north. This transition of development also maintains amenity to neighbouring properties for any future redevelopment for the subject site as these would be likely redeveloped in a similar manner and as which has already been carried out.

2. Consistency with the objectives of the B2 Local Centre zone

Objectives:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To provide housing attached to permissible non-residential uses which is of a type and scale commensurate with the accessibility and function of the centre or area.*
- *To provide for spaces, at street level, which are of a size and configuration suitable for land uses which generate active street-fronts.*
- *To constrain parking and reduce car use.*

Assessment: It is considered that the proposed height variation will not generate any inconsistency with the zone objectives as the proposed height variation contributes to the provision of housing in association with an active street frontage. The shop-top nature of the front/southern built form, is consistent with the objectives of the B2 Local Centre zone as the height variation is associated with a mixed use development as desired by the zone controls.

3. Consistency with State and Regional planning policies

Assessment: The proposed height variation ensures the orderly and economic use of land as envisaged by the *Environmental Planning and Assessment Act, 1979*. The proposed height allows for achievement of an appropriate increase in building envelope/density to a site that is highly accessible to public transport, employment, parks and general services. The provision of residential housing in close proximity to public transport and established services and recreation areas is consistent with the State Government Urban Consolidation Policy.

Justification on these grounds has also been endorsed by Council for the other developments further to the east along New Canterbury Road which have achieved similar height variations.

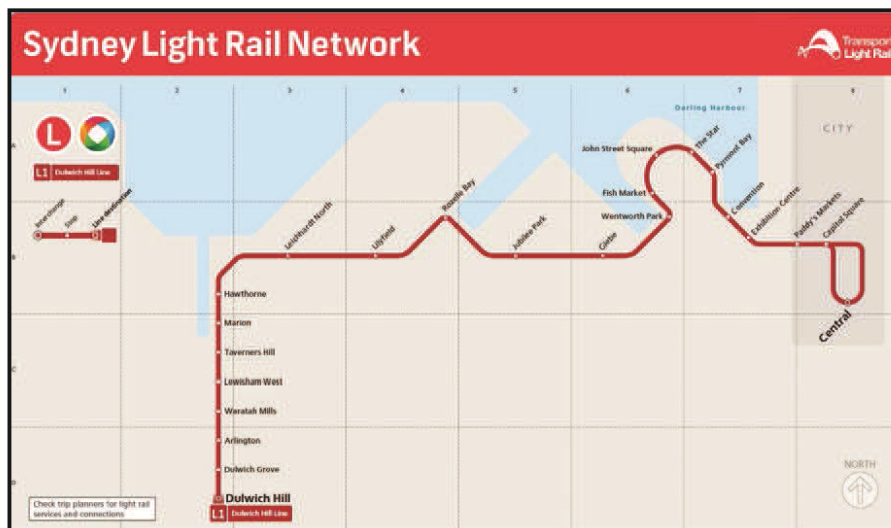


Figure 23: Sydney Light Rail Map

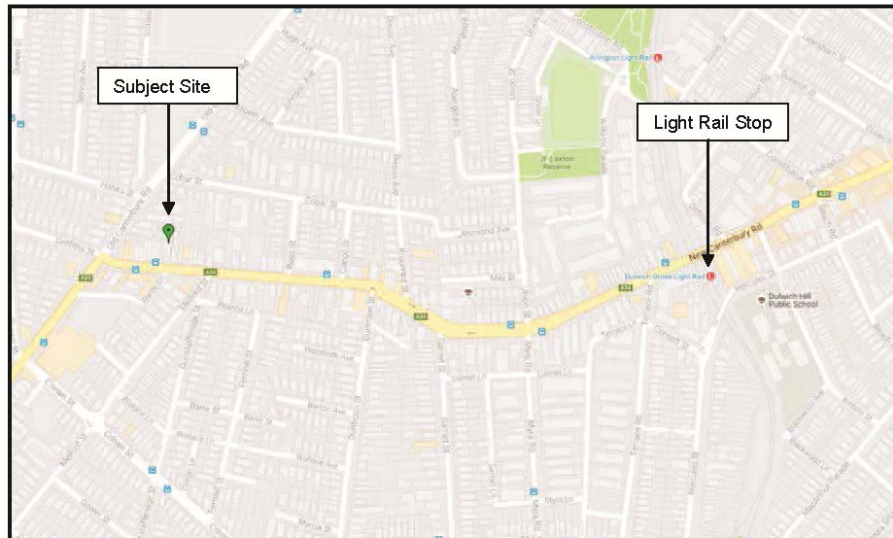


Figure 24: Aerial photo showing the proximity of the site to the Dulwich Hill light rail stop

4. The variation allows for a better planning outcome

Assessment: It is considered that the provision of 3-storeys with a recessed 5th storey (whereby the 5th level triggers the breach) achieves a better outcome as it achieves the desired future character of 3-storey street wall with 2 recessed levels. Removal of the 5th level would also create an incompatibility with other developments that have been approved which forms the desired future character.

Importantly, the additional height is not responsible for any greater impacts than a compliant development in regard to streetscape presentation, visual impacts, loss of sunlight, views or privacy. These factors confirm that the additional height can be accommodated on the subject site.

It is considered that the proposed height represents a more desirable planning and urban outcome than a proposal with a compliant height.

5. There are sufficient environmental grounds to permit the variation

Assessment: Outperformance of the internal amenity indicators within the DCP and ADG in relation to solar access and cross ventilation demonstrate that there are sufficient environmental grounds to permit the variation. The height non-compliance does not compromise the internal performance of the units.

Externally, the lack of impact to surrounding properties as demonstrated above, particularly in relation to retention of solar access further displays the suitability of the proposed height variation in this instance. The height non-compliance will not be responsible for any greater shadowing to any surrounding property.

Furthermore, the height variation will not interfere with any views from surrounding properties. There will also be no adverse visual or acoustic privacy impacts generated by the additional height due to its recessed nature.

The above assessment demonstrates that there are sufficient environmental grounds to permit the variation.

6. The variation is in the public interest

Assessment: The height variation is considered to be in the public interest given that it meets the objectives of the height standard and the objectives of the zone.

Given the proposal replaces a detracting built form with high quality residential and commercial space which achieve a high level of internal amenity and make efficient use of the site which is accessible to public transport, employment, parks and general services, the proposal is in the public interest. The appropriate bulk and scale along New Canterbury Road, and lack of external amenity impacts further demonstrates that the proposal and its associated height are in the public interest.

Conclusion

For reasons mentioned herein, this Clause 4.6 variation is forwarded to Council in support of the shop-top housing and residential flat development proposal at 843 New Canterbury Road, Dulwich Hill and is requested to be looked upon favourably by Council.

Attachment D – Clause 4.6 Exception: FSR

Statement of Environmental Effects

843 New Canterbury Road, Dulwich Hill

APPENDIX 2

CLAUSE 4.6 TO CLAUSE 4.4 OF MARRICKVILLE LEP 2011 EXCEPTIONS TO DEVELOPMENT STANDARDS - FSR VARIATION

Demolition of existing structures and erection of a shop-top housing and residential flat
development

843 NEW CANTERBURY ROAD, DULWICH HILL

SUBMITTED TO
INNER WEST COUNCIL

PREPARED BY
ABC PLANNING PTY LTD
October 2016

MARRICKVILLE LEP 2011 - CLAUSE 4.6 EXCEPTION TO DEVELOPMENT STANDARDS

This Clause 4.6 submission has been prepared to accompany the Statement of Environmental Effects submitted to Inner West Council by ABC Planning Pty Ltd for demolition of the existing structures and erection of a new shop-top housing and residential flat development at 843 New Canterbury Road, Dulwich Hill.

The proposal seeks a variation to the development standard contained within clause 4.4 of the *Marrickville LEP 2011* - maximum FSR of 1.75:1. The proposed FSR is 1.925:1 which represents a 10% variation.

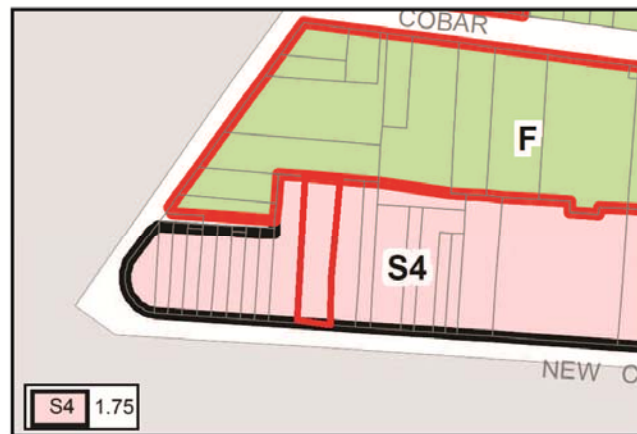


Figure 25: FSR Map

Clause 4.6 Exceptions to development standards

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

- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
- (b) the concurrence of the Director-General has been obtained.
- (5) In deciding whether to grant concurrence, the Director-General must consider:
- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
- (b) the public benefit of maintaining the development standard, and
- (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.

1. Consistency with the objectives of the FSR standard in the LEP

The following assessment addresses each of the relevant criteria under Clause 4.4:

Clause 4.4 FSR:

The objectives of this clause are as follows:

- a) *to establish the maximum floor space ratio,*

Assessment: The FSR standard under Clause 4.4 is accompanied by Clause 4.6 which recognises that a degree of flexibility may be appropriate in certain circumstances. It is considered that the proposed variation to the FSR standard is appropriate in this instance as it allows for a built form and intensity of usage which is consistent with that approved and developed on neighbouring sites.

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

Assessment: As with the assessment of height, it is considered that the proposed FSR contributes to achieving an appropriate bulk and scale on the subject site which achieves the desired future character of the area, that being 3-5 storey buildings at the front with 4-storey buildings to the rear. The appropriate degree of separation and site orientation ensures that the provision of the proposed built form on the subject site achieves a coherent streetscape outcome, avoids amenity impacts to surrounding properties and provides for an appropriate prototype for neighbouring developments.

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

Assessment: As stated throughout this report, the proposed distribution of FSR and height on the subject site achieves the desired future character established by the controls, the DCP and that which has been granted for other approvals in the immediate locality. The combination of these aspects ensures that there are no adverse environmental impacts in regard to visual bulk, streetscape, privacy, view loss or shadow impacts. Such factors have been supported in other instances when demonstrated by the court and Council in demonstrating that there are sufficient environmental impacts to support variations.

2. Consistency with the objectives of the B2 Local Centre zone

Objectives:

- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.
- To encourage employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To provide housing attached to permissible non-residential uses which is of a type and scale commensurate with the accessibility and function of the centre or area.
- To provide for spaces, at street level, which are of a size and configuration suitable for land uses which generate active street fronts.
- To constrain parking and reduce car use.

Assessment: It is considered that the variation to the FSR standard will not compromise the objectives of the B2 Local Centre zone in this instance as the provision of additional floor space provides for commercial and residential spaces which will support the vitality and viability of the local area. The proximity of the site to public transport also confirms that the proposed standard of development is appropriate in this instance and that the proposal will achieve the objectives of the zone, notwithstanding the FSR variation.

3. Consistency with State and Regional planning policies

Assessment: The proposed FSR variation ensures the orderly and economic use of land as envisaged by the *Environmental Planning and Assessment Act, 1979*. The proposed height allows for achievement of an appropriate increase in building envelope/density to a site that is highly accessible to public transport, employment, parks and general services. The provision of residential housing in close proximity to public transport and established services and recreation areas is consistent with the State Government Urban Consolidation Policy.

4. The variation allows for a better planning outcome

Assessment: As with height, it is considered that the proposal achieves a better planning outcome as it provides for additional housing in a well serviced area. The proposed FSR is also associated with a form of development which is consistent with the desired future character of the area and any reduction would result in an incompatible form of development that has been approved on nearby sites. The provision of 3 storeys to the street with recessed levels above along with 4 storeys separated by 12m from the front building and with a 6m setback achieves a building envelope that is consistent with Councils controls. This demonstrates that the proposed built form and density is consistent with that contemplated for the subject site and that there would be no public benefit in maintaining the standard in this instance.

It is considered that the proposed FSR represents a more desirable planning and urban outcome than a proposal with a compliant FSR.

Therefore, it is considered that the additional height provides for a better amenity outcome than a potentially complying development.

5. There are sufficient environmental grounds to permit the variation

Assessment: Outperformance of the internal amenity indicators within the DCP and ADG in relation to solar access and cross ventilation demonstrate that there are sufficient environmental grounds to permit the variation. The height non-compliance does not compromise the internal performance of the units.

Externally, the lack of impact to surrounding properties as demonstrated above, particularly in relation to retention of solar access further displays the suitability of the proposed height variation in this instance. The height non-compliance will not be responsible for any greater shadowing to any surrounding property.

Furthermore, the height variation will not interfere with any views from surrounding properties. There will also be no adverse visual or acoustic privacy impacts generated by the additional height due to its recessed nature.

The above assessment demonstrates that there are sufficient environmental grounds to permit the variation.

6. The variation is in the public interest

Assessment: The height variation is considered to be in the public interest given that it meets the objectives of the height standard and the objectives of the zone.

Given the proposal replaces a detracting built form with high quality residential and commercial space which achieve a high level of internal amenity and make efficient use of the site which is accessible to public transport, employment, parks and general services, the proposal is in the public interest. The appropriate bulk and scale along New Canterbury Road, and lack of external amenity impacts further demonstrates that the proposal and its associated height are in the public interest.

Conclusion

For reasons mentioned herein, this Clause 4.6 variation is forwarded to Council in support of the shop-top housing and residential flat development proposal at 843 New Canterbury Road, Dulwich Hill and is requested to be looked upon favourably by Council.