

MEETING NOTICE

A meeting of the
Bayside Local Planning Panel
will be held in the Committee Room, Botany Town Hall
Corner of Edward Street and Botany Road, Botany
on **Tuesday 12 March 2024 at 6:00 pm**

ON-SITE INSPECTIONS

On-site inspections are undertaken beforehand.

AGENDA

1 ACKNOWLEDGEMENT OF COUNTRY

Bayside Council acknowledges traditional custodians: the Gadigal and Bidjigal people of the Eora nation, and pays respects to Elders past, present and emerging. The people of the Eora nation, their spirits and ancestors will always remain with our waterways and the land, our Mother Earth.

2 APOLOGIES

3 DISCLOSURES OF INTEREST

4 MINUTES OF PREVIOUS MEETINGS

4.1 Minutes of the Bayside Local Planning Panel Meeting - 12 December 20232

5 REPORTS – PLANNING PROPOSALS

Nil

6 REPORTS – DEVELOPMENT APPLICATIONS

6.1 DA-2022/421 - 1557 Botany Road Botany - Development Application..11

Members of the public, who have requested to speak at the meeting, will be invited to address the Panel by the Chairperson.

The meeting will be video recorded and live streamed to the community via Youtube.

Meredith Wallace
General Manager

Bayside Local Planning Panel

12/03/2024

| | |
|-----------|---|
| Item No | 4.1 |
| Subject | Minutes of the Bayside Local Planning Panel Meeting - 12 December 2023 |
| Report by | Rinda Cashion, Applications Processing Officer |
| File | SF23/8105 |

Recommendation

That the Bayside Local Planning Panel noted that the Minutes of the Bayside Local Planning Panel meeting held on 12 December 2023 have been confirmed as a true record of proceedings by the Chairperson of that meeting.

Present

Dr Gary Shiels, Independent Expert Member
Judith Clark, Independent Expert Member
Peter Brennan, Independent Expert Member
Carine Elias, Community Representative

Also present

Luis Melim, Manager Development Services
Angela Lazaridis, Coordinator Development Administration & Advisory
Dawson Heperi, Customer Relationship Analyst
Christopher Mackey, Coordinator Development Assessment
Pascal Van De Walle, Coordinator Development Assessment
Fiona Prodromou, Senior Development Assessment Planner
Reanne Salame, Development Assessment Planner
Jason Perica, Consultant

The Chairperson opened the meeting at 6:00pm.

1 Acknowledgement of Country

Bayside Council acknowledges the traditional custodians: the Gadigal and Bidjigal people of the Eora nation, and pays respects to Elders past, present and emerging. The people of the Eora nation, their spirits and ancestors will always remain with our waterways and the land, our Mother Earth.

2 Apologies

There were no apologies received.

3 Disclosures of Interest

Carine Elias declared a conflict of interest in Item 6.2 on the basis that she is a friend of the report author for this item – refer to the attached declarations.

4 Minutes of Previous Meetings

4.1 Minutes of the Bayside Local Planning Panel Meeting - 24 October 2023

Decision

That the Bayside Local Planning Panel noted that the Minutes of the Bayside Local Planning Panel meeting held on 24 October 2023 have been confirmed as a true record of proceedings by the Chairperson of that meeting.

5 Reports – Planning Proposals

Nil

6 Reports – Development Applications

6.1 DA-2023/154 - UA, 1-7 Green Street, Banksmeadow - Development Application

Panel members have undertaken inspection of the site.

The following people spoke at the meeting:

- Mr Ian Kalmek, affected neighbour, on behalf of the Owners SP 99319, spoke against the officer's recommendation and responded to the Panel's questions.
- Miss Gemma Bassett, an applicant representative, spoke for the officer's recommendation and responded to the Panel's questions.

Determination

- 1 That the Bayside Local Planning Panel, exercising the functions of Council as the consent authority pursuant to s4.16 and s4.17 of the *Environmental Planning and Assessment Act 1979*, determine Development Application DA-2023/154 for the change of use and fit out of Unit A for a depot operating between 3:30am – 6:30pm Monday to Saturday and construction of a storage shed at 1-7 Green Street, Banksmeadow by GRANTING CONSENT subject to the recommended conditions of consent attached to this report.
- 2 The following conditions are to be amended and added in the Notice of Determination:
 - a) Amend Condition No. 1 to include the swept path diagram and to reference the updated Acoustic Report.

- b) Add Condition No. 2A as follows:

This consent does not include any works to the mezzanine level nor any change of operating hours to that mezzanine level.

REASON

To confirm that the mezzanine level does not form part of this application as noted in the documentation submitted.

- c) Add Condition No. 3A as follows:

An Operational Management Plan is to be submitted to the Manager Development Services prior to the issue of any Construction Certificate. The Operational Management Plan shall include measures to address entry and exiting of vehicles from the site and minimising any queuing of vehicles on the street.

REASON

To minimise impacts from vehicles entering and existing the site and the potential for pedestrian and vehicle conflict.

- d) Amend Condition No. 4 as follows:

Plan of Management

Section 9 (Noise Management) of the Plan of Management shall be updated to include, and be consistent with, all measures recommended within the Acoustic Report by Acoustic Logic dated 1 December 2023, and the updated Plan of Management shall be submitted to the Manager Development Services prior to the issue of any Construction Certificate.

The premises shall be managed in accordance with the updated Plan of Management.

REASON To ensure the approved Plan of Management incorporates all recommended acoustic measures, and any other reasonable measures to minimise any adverse impacts on the locality.

- e) Amend Condition No. 67 as follows:

The approved Noise Emissions Assessment by Acoustic Logic Pty Ltd dated 1 December 2023 (and all recommendations regarding ongoing operations), as referred to in Condition 1, shall be complied with at all times during use and operation of the premises.

REASON

To minimise any adverse impacts to the locality.

f) Add Condition No. 75 as follows:

All parts of the premises must be kept in a clean and healthy condition, and free from vermin.

REASON

To maintain the premises in a clean and healthy state.

3 That the submitters be notified of the Panel's decision.

| Name | For | Against |
|---------------|-------------------------------------|--------------------------|
| Gary Shields | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Judith Clark | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Peter Brennan | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Carine Elias | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

Reason for Panel’s Determination:

The Panel adopts the reasons outlined in the Council Officer’s Assessment Report, with some amendments to conditions.

Panel’s Comments:

- After hearing from the residents in the area, the Panel has requested that the applicant provide an operational management plan to ensure any potential conflict between vehicles entering and exiting the site and residents, including school children, has been minimised. Condition No. 3A be added to request an Operational Management Plan to be submitted to Council.
- The Panel notes that an amended acoustic report had been submitted late in the assessment of the application. Condition Nos. 1, 4 and 67 are to be amended to reflect the amended report.
- The Panel notes that the first floor mezzanine is outside the scope of assessment in this application and no approval, including hours of operation, is given by this consent. Condition No. 2A be added to state this.
- A condition be imposed requiring measures to be taken to ensure that the site is regularly cleaned and free of vermin.

6.2 DA-2022/398 - 5 Bryant Street & Part of 1 Market Street Rockdale - Development Application

Panel members have undertaken inspection of the site.

Carine Elias, the Community Representative declared an interest, was not present at the site inspection and did not take part in the deliberations.

The following person spoke at the meeting:

- Mr Andrew Nicolle, an applicant representative, spoke for the officer's recommendation and responded to the Panel's questions.
- Ms Louise Farrell, an applicant representative, spoke for the officer's recommendation and responded to the Panel's questions.

Determination

- a) That Development Application DA-2022/398 for alterations, additions and conversion of existing church into a community and cultural centre for Bayside Council operating 8:00am to 11:00pm Monday to Saturday and 10:00am to 10:00pm Sunday at 5 Bryant Street and Part of 1 Market Street, ROCKDALE NSW 2216 be APPROVED pursuant to s4.16(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.
- b) Amend Condition No. 61 as follows:

The hours of operation of the approved use are limited to Monday to Saturday 8.00am to 11.00pm and Sunday 10.00am to 10.00pm

| Name | For | Against |
|---------------|-------------------------------------|--------------------------|
| Gary Shields | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Judith Clark | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Peter Brennan | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

Reason for Panel's Determination:

The Panel adopts the reasons outlined in the Council Officer's Assessment Report.

Panel's Comments:

- The Panel accepts the recommendation in the Council Officer report with an amendment to Condition No. 61.
- The Panel amends Condition No. 61 to allow for the community use of the building during public holidays. The condition is worded as follows:

The hours of operation of the approved use are limited to Monday to Saturday 8.00am to 11.00pm and Sunday 10.00am to 10.00pm.

The Chairperson closed the meeting at 6:30pm.

Certified as true and correct.

Dr Gary Shiels AM
Chairperson



Bayside Council

Declaration of Interest - Bayside Local Planning Panel Meeting 12/12/2023

| Non-Public Meeting | | |
|--------------------|--|---|
| Item | Description | Declaration of Interest |
| 5.1 | Planning Proposal 263 & 273 Coward Street, Mascot | In relation to this matter, I declare that I have: no known conflict of interest <input checked="" type="checkbox"/> or an actual ¹ <input type="checkbox"/> , potential ² <input type="checkbox"/> or reasonably perceived ³ <input type="checkbox"/> conflict of interest as detailed in the attached document. |
| 6.1 | DA-2022/231 - 6 & 8A Wickham Street, Arncliffe | In relation to this matter, I declare that I have: no known conflict of interest <input checked="" type="checkbox"/> or an actual ¹ <input type="checkbox"/> , potential ² <input type="checkbox"/> or reasonably perceived ³ <input type="checkbox"/> conflict of interest as detailed in the attached document. |
| 6.2 | DA-2022/294 - 177 Bay Street, Botany NSW 2019 | In relation to this matter, I declare that I have: no known conflict of interest <input checked="" type="checkbox"/> or an actual ¹ <input type="checkbox"/> , potential ² <input type="checkbox"/> or reasonably perceived ³ <input type="checkbox"/> conflict of interest as detailed in the attached document. |
| Public Meeting | | |
| 6.1 | DA-2023/154 - UA, 1-7 Green Street, Banksmeadow | In relation to this matter, I declare that I have: no known conflict of interest <input checked="" type="checkbox"/> or an actual ¹ <input type="checkbox"/> , potential ² <input type="checkbox"/> or reasonably perceived ³ <input type="checkbox"/> conflict of interest as detailed in the attached document. |
| 6.2 | DA-2022/398 - 5 Bryant Street & Part of 1 Market Street Rockdale | In relation to this matter, I declare that I have: no known conflict of interest <input type="checkbox"/> or an actual ¹ <input type="checkbox"/> , potential ² <input type="checkbox"/> or reasonably perceived ³ <input checked="" type="checkbox"/> conflict of interest as detailed in the attached document. |

Name: Carine Elias

Signed:



Date: 12/12/2023



Bayside Council

Declaration of Interest - Bayside Local Planning Panel Meeting 12/12/2023

| Item No. | Details of Conflict of Interest |
|---------------|---|
| Public 6.2 | DA-2022/398 - 5 Bryant Street & Part of 1 Market Street Rockdale I am friends with the Author..... |



Declaration of Interest - Bayside Local Planning Panel Meeting 12/12/2023

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Name: DR GARY A SHIELDS AM

Signed:

Date: 12-12-2023




Declaration of Interest - Bayside Local Planning Panel Meeting 12/12/2023

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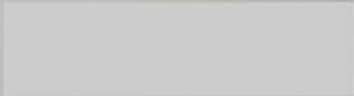
Signed

Judith Clark 7/12/2023

 **Declaration of Interest - Bayside Local Planning Panel Meeting 12/12/2023**

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Name: PETER BRENNAN.

Signed: 

Date: 11/12/23.

Bayside Local Planning Panel

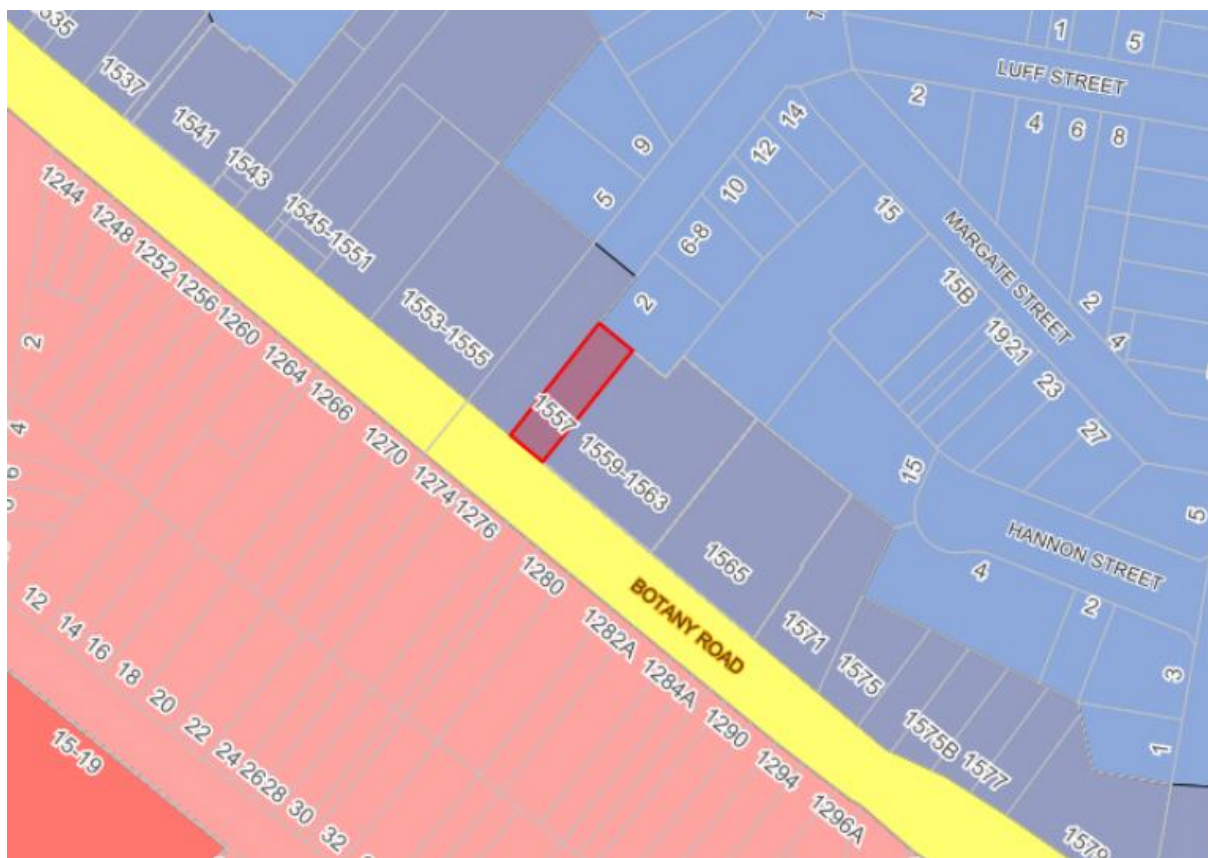
12/03/2024

| | |
|---------------------|---|
| Item No | 6.1 |
| Application No | DA-2022/421 |
| Property | 1557 Botany Road Botany |
| Application Type | Development Application |
| Proposal | Integrated Development - Demolition of existing structures and construction of a three (3) storey shop-top housing development with basement storage and services |
| Owner | Dan Holdings NSW Pty Ltd |
| Applicant | Mr Daniel Djordjevic |
| Ward | Ward 1 |
| Lodgement Date | 19/12/2022 |
| No. of Submissions | Round One: Nine (9) Objections Round Two: Four (4) objections |
| Cost of Development | \$2,174,265.00 |
| Reason Criteria | Departure from standards |
| Report by | Peter Barber, Director City Futures |

Officer Recommendation

- 1 That the Bayside Local Planning Panel, exercising the functions of Council as the consent authority pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979* approve the variation to Clause 4.3 - *Height of Building* of the Bayside Local Environmental Plan 2021, as it is satisfied that the applicant's request has adequately addressed the matters required to be demonstrated by cl4.6 of that Plan, and the proposed development would be in the public interest because it is consistent with the objectives of that particular standard and the objectives for development within the zone.
- 2 That Development Application DA-2022/421 for the Integrated Development for the demolition of existing structures and construction of a three (3) storey shop-top housing development with basement storage and services at 1557 Botany Road, Botany be issued an APPROVAL pursuant to s4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* and subject to the conditions of consent attached to this report.
- 3 That the submitters are to be notified of the Panel's decision.

Location Plan



Attachments

- 1 Development Assessment Report [↓](#)
- 2 Draft Conditions of Consent [↓](#)
- 3 Site and Demolition Plan [↓](#)
- 4 Elevations Plan [↓](#)
- 5 Landscape Plan [↓](#)
- 6 3D Perspective Plan 1 of 2 [↓](#)
- 7 3D Perspective Plan 2 of 2 [↓](#)
- 8 Shadow Diagram [↓](#)
- 9 Clause 4.6 Variation Request [↓](#)
- 10 DRP Minutes [↓](#)

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

| | |
|----------------------------|---|
| Application Number: | DA-2022/421 |
| Date of Receipt: | 19 December 2022 |
| Property: | 1557 Botany Road, BOTANY NSW 2019 Lot A DP 386436 |
| Owner: | Dan Holdings Pty Ltd |
| Applicant: | Daniel Djordjevic |
| Proposal: | Integrated Development for demolition of existing structures and construction of a three (3) storey shop-top housing development with basement storage and services |
| Recommendation: | Approval |
| No. of submissions: | Round One: Nine (9) objections Round Two: Four (4) objections |
| Author: | A Kiziltekin – Development Assessment Planner |
| Date of Report: | 20 February 2024 |

Key Issues

Bayside Council received Development Application No. DA-2022/421 on 19 December 2022 seeking consent for an Integrated Development for demolition of existing structures and construction of a three (3) storey shop-top housing development with basement storage and services at 1557 Botany Road, Botany.

The development has been notified in accordance with Part 2 - Notification and Advertising of the Botany Bay Development Control Plan 2013. The application was initially notified between 18 January and 20 February 2023. Nine (9) submissions were received. The application was re-notified following amended plans between 28 November and 12 December 2023. Four (4) submissions were received.

The key issues identified in the assessment of the development application relate to:

- Building Height
- Apartment Design Guide non-compliances
- Visual Privacy impacts

The proposal breaches the maximum building height of 10 metres by 930mm to have a maximum building height of 10.93 metres. The building exceeds the height to the lift overrun and is limited to a minor area of non-compliance with the building largely under the height limit. The applicant has provided a Clause 4.6 variation which has been assessed later in the report. It is considered that the Clause 4.6 provides sufficient environmental planning grounds and strict compliance with the development standard is unreasonable and unnecessary in this case.

The site is not a heritage item however is located within the vicinity of heritage items I196 - Presbyterian Church of Australia and manse at 1561–1563 Botany Road and I186 – House Group at 1268–1270 Botany Road. The application was referred to Council's Heritage Advisor however no objection was raised to the proposal.

An assessment against SEPP No. 65 and the Apartment Design Guide has been carried out. The proposal does not comply with the provisions of building setback and separation or the communal open space area. The degree of non-compliance for the setbacks is acceptable in this instance due to the site constraints and corner location, and with regards to the works proposed. The non-compliance in COS is acceptable following direction from the Design Review Panel for its removal and increase to private open space provisions within the proposed units. Council agrees with this position and the non-compliance is supported.

Initially, the proposal included the removal of the site tree (*Cinnamomum camphora*) on the rear adjoining property at 2 Tenterden Road. However, following issues raised by both Council and the Design Review Panel the proposal was amended to provide a 3m rear setback and removal of additional structures within the tree canopy area to retain the tree.

The development application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* and is recommended for approval, subject to conditions within the notice of determination.

The officers involved in writing and authorising this report declare, to the best of their knowledge, that they have no interest, pecuniary or otherwise, in this application or persons associated with it and have provided an impartial assessment.

Recommendation

1. That the Bayside Local Planning Panel, exercising the functions of Council as the consent authority pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979* approve the variation to Clause 4.3 - *Height of Building* of the Bayside Local Environmental Plan 2021, as it is satisfied that the applicant's request has adequately addressed the matters required to be demonstrated by cl4.6 of that Plan, and the proposed development would be in the public interest because it is consistent with the objectives of that particular standard and the objectives for development within the zone.
2. That Development Application DA-2022/421 for Integrated Development for demolition of existing structures and construction of a three (3) storey shop-top housing development with basement storage and services at 1557 Botany Road, Botany be issued an APPROVAL pursuant to s4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* and subject to the conditions of consent attached to this report.
3. That the submitters be notified of the Panel's decision.

Background

History

Site History

The following applications have previously been considered by Council in relation to the subject site:

- **Pre-DA-2022/27** for demolition of all existing structures and construction of new three-storey mixed-use development comprising four (4) residential units and three (3) retail tenancies above basement parking, finalised 5 July 2022.

Development Application History

The history of the subject application is summarised as follows:

- **19 Dec 22:** The development application was lodged.
- **18 Jan – 20 Feb 23:** The application was placed on public notification .
- **18 Jan 23:** Water NSW requested additional information.
- **28 Feb 23:** Site inspection carried out.
- **6 Apr 23:** The application was presented to a Design Review Panel meeting.
- **17 Apr 23:** Applicant submitted information requested by Water NSW.
- **2 May 23:** DRP minutes sent to applicant.
- **2 Jun 23:** Request for additional information including DRP comments, relating to building height, SEPP 65 and compliance with ADG, stormwater management, parking and access, contamination, environmental health, and public domain.
- **13 Jul 23:** Council following up Applicant for outstanding information.
- **14 Jul 23:** Additional site inspection conducted.
- **26 Jul 23:** Submission of draft architectural plans.
- **5 Sep 23:** Council provided comments in response to draft plans and applicant advised of timing requirements to meet deadline for October DRP meeting.
- **19 Sep 23:** Council following up Applicant for outstanding information.
- **21 Sep 23:** Applicant declined October DRP meeting and information remains outstanding.
- **29 Sep 23:** Submission of plans for DRP, however does not include all outstanding information.
- **5 Oct 23:** Council requesting final submission plans to organize DRP.
- **6 Nov 23:** Submission of architectural plans, arborist report, cl4.6 variation request, and response to original DRP comments. Engineering matters raised remain outstanding.
- **28 Nov – 12 Dec 23:** Re-notification of application.
- **7 Dec 23:** The application was presented to a second Design Review Panel.
- **20 Dec 23:** DRP minutes provided to applicant.
- **21 Dec 23:** Applicant advised of all outstanding matters/information to be submitted.
- **19 Jan 24:** Applicant email with architectural plans for submission. Council advised all outstanding information required for final submission on the Planning Portal.
- **30 Jan 24:** The applicant submitted all outstanding information.

Proposal

The proposed development is summarised as follows:

Demolition/Excavation

- Demolition of all structures on the site including single storey dwelling and two storey outbuilding, and soft landscaping within front setback area.
- Excavation of the site to accommodate one basement level.
- Relocation of power pole at the proposed driveway entrance location on Tenterden Rd.

Construction

- Construction of a three-storey shop-top housing development with one basement level for storage and services, one commercial tenancy, and four (4) residential units. This is broken down as follows:
 - **Basement Level:** Storage room, pump room, bin storage area and bulk waste room, switch room, OSD tank, lift and stair access.
 - **Ground Floor:** One commercial tenancy measuring 77.5m² fronting Botany Road with decking and landscaping to the front setback area, accessible bathroom, commercial bin storage area, lobby area fronting Tenterden Road, internal fire stairs and lift, fire booster, mail boxes, nine (9) car parking spaces.
 - **Level One:** Lift and fire stair, one x 1-bed unit and one x 3-bed unit, balconies to the perimeter along eastern side elevation with landscape planter beds and fronting both Botany Rd and Tenterden Rd.
 - **Level Two:** Lift and fire stair, one x 1-bed unit and one x 3-bed unit, balconies fronting Botany Rd and Tenterden Rd.

The total breakdown of units is two x 1-bedroom units, and two x 3-bedroom units. The below figures are of the proposal:



Figure 1: 3D Perspective of the proposal from Tenterden Road\



Figure 2: North-Western Side Elevation facing Tenterden Road

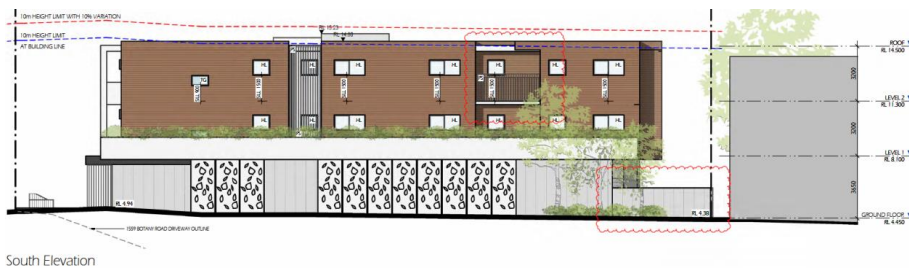
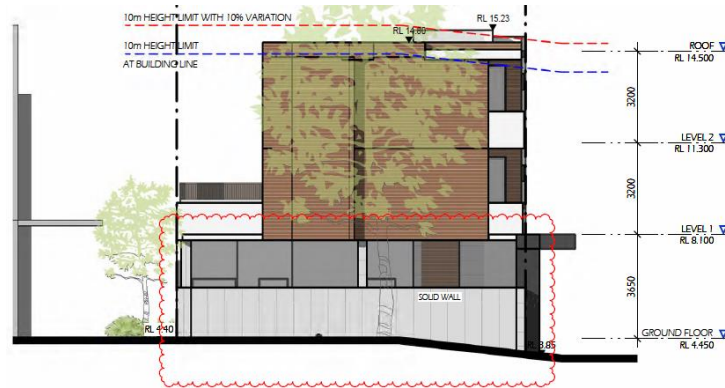


Figure 3: South-Eastern Side Elevation facing adjoining property at 1559-1563 Botany Road



Figure 4: South-Western Front Elevation facing Botany Road



East Elevation

Figure 5: North-Eastern Rear Elevation facing 2 Tenterden Road

Site Location and Context

The subject site is legally identified as Lot A DP 386436, known as 1557 Botany Road, Botany. The site is a rectangular shape with front and rear boundary width of 12.19m, and lot depth of 40.84m. The site has a dual frontage, primarily fronting Botany Road to the south-west, and Tenterden Road to the north-west. The site has a gradual slope from front to rear approximately 740mm.

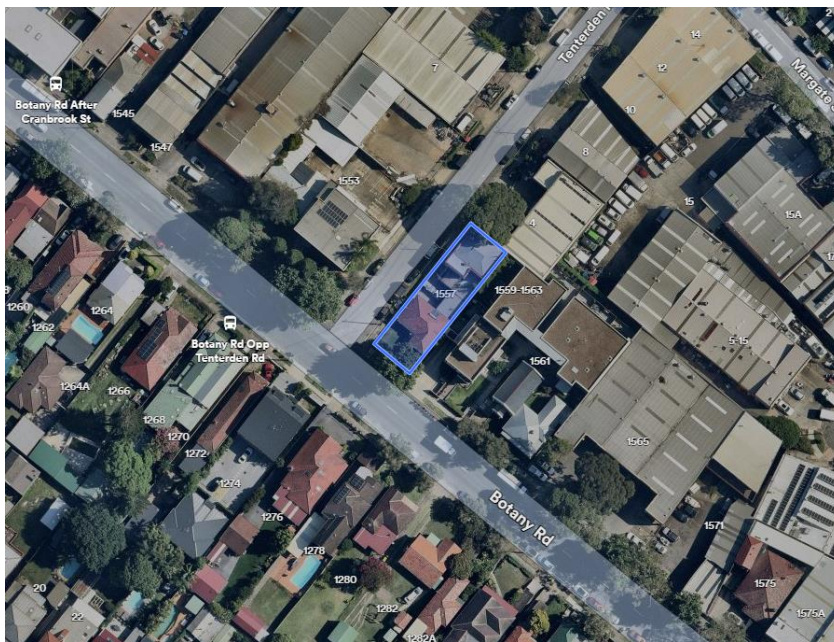


Figure 6: Satellite image of the subject site highlighted blue.

The subject site contains a single storey dwelling and rear two storey detached building. The site is located on the northern side of Botany Road on the corner of Tenterden Road, between Cranbrook Street to the west and Sir Joseph Banks Street to the east. The south-eastern adjoining properties to the side contains a two storey residential flat building with basement car parking and a church (1559-1563 Botany Rd), and the north-eastern rear adjoining property contains a large *Cinnamomum camphora* tree near the boundary and two storey building with on site car parking (2 Tenterden Rd). The adjoining church is identified as a heritage item as discussed within this report. The site is located within an MU1 Mixed Use Zone, and adjoins the E3 Productivity Support Zone to the north and R2 Low Density Residential Zone to the south. There are several different development typologies within the immediate site context including light industrial and commercial developments, residential flat buildings, dwellings and semi-detached dwellings.



Figure 7: View of the subject site from Botany Rd on the left and the adjoining property at 1559-1563 Botany Rd on the right



Figure 8: View of the subject site from Tenterden Rd

Statutory Considerations

Environmental Planning and Assessment Act, 1979

An assessment of the application has been undertaken pursuant to the provisions of the *Environmental Planning and Assessment Act, 1979* ("the Act").

S4.46 – Development that is Integrated Development

The development application is Integrated Development in accordance with the *Water Management Act 2000* as the development involves a temporary construction dewatering activity.

The proposal involves excavation of one basement level to RL 1.45m AHD plus the slab and basement to be tanked, it is anticipated an additional 800mm may be required for excavation. Testing on site has been undertaken and the geotechnical report prepared by EI Australia dated 27 October 2022 demonstrates that groundwater was encountered a depth of 1m (RL 3.8m AHD), with testing to a depth of 8m. Accordingly as the development will encounter groundwater, dewatering will be required.

The application was referred to Water NSW for concurrence. In a letter dated 30 May 2023 Water NSW provided their General Terms of Approval (GTA) for the proposal. These have been incorporated within the Notice of Determination.

S4.15 (1) - Matters for Consideration - General

S4.15 (1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

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

The applicant has submitted a BASIX Certificate for the proposed development, being certificate number 1347813M_02 dated 30 January 2024.

Commitments made within BASIX certificates result in reductions in energy and water consumption on site post construction. A condition has been imposed on the consent to ensure that the stipulated requirements are adhered to. The proposal is satisfactory in this regard.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 Vegetation in Non-Rural Areas relates to the proposal. The application was accompanied with an Arborist Report prepared by Redgum Horticultural as the original proposal involved the removal of the *Cinnamomum camphora* (Camphor Laurel) site tree located on the adjoining property and retention of the *Platanus x hispanica* (London Plane Tree) located within the public domain of Botany Road in front of the site. The proposal as amended provides updated Arborist Report dated 25 October 2023 which seeks to now retain both trees. The application was referred to Council's Tree Management Officer who did not raise objections subject to compliance with the relevant conditions and recommendations of the Arborist Report.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 of the Resilience and Hazards SEPP 2021 relates to the Remediation of Land. The provisions of the SEPP have been considered in the assessment of the development application. Subsection 4.6 of the SEPP requires Council to be satisfied that the site is or can be made suitable for its intended use at the time of determination of an application.

In accordance with the requirements of the SEPP, a Preliminary and Detailed Environmental Site Investigation Report prepared by EI Australia Geo-Environmental Engineering and dated 1 October 2021 has been submitted. The application was referred to Councils Environmental Scientist who provided the following comments:

“The Detailed Site Investigation (DSI) report summarised the site description and site history information initially presented within the Preliminary Site Investigation (PSI) report and included updated results from the SafeWork Dangerous Goods Records search undertaken. According to SafeWork records, one underground storage tank (UST) (~10,000L petrol) and a fuel pump/bowser were installed within the north-eastern portion of the site in 1977. Records indicate that the UST was abandoned in situ by filling with inert solid material in December 1995.

Based on the information identified within the PSI and the results of the SafeWork search, EI Australia (EIA) identified potential contamination sources and primary contaminants of concern at the site requiring further intrusive investigation.

The key findings of the DSI include:

- *The site was occupied by a two-storey brick commercial building at the northern portion of the site and a one-storey residential brick building at the southern portion of the site;*
- *A laundry business and several mechanic workshops were located approximately 100m to 190m to the northern, up-gradient boundary;*
- *A search of the Stored Chemical Information Database maintained by SafeWork NSW located one ~10,000L petrol UST at the north-eastern portion of the site. The UST was abandoned and filled with solid inert material in 1996 with no evidence that the UST and associated infrastructure was removed from the site. The presence of the UST was not confirmed by EIA during the DSI investigation;*
- *The subsurface profile consisted of surface concrete pavement overlying fill/topsoil (silty sand), then naturally silty sand;*
 - *Seven (7) soil sampling locations were proposed, five (5) soil sampling locations were assessed as part of this DSI to a maximum depth of 1m below the ground surface (bgs).*
- *No odour, ash, slag or other foreign materials (including ACM) was observed in recovered fill or natural soil;*
- *No contaminants of concern (heavy metals, VOCs, BTEX compounds, PAHs, OCPs, OPPs, PCBs and PFAS) were reported at concentrations above adopted health-based criteria;*
- *Asbestos was not detected in samples of fill material recovered from each of the investigation locations;*
- *No contaminants of concern were reported in soil at concentrations above adopted ecological criteria at investigation locations outside of the building construction footprint;*
- *Groundwater was assessed as part of the DSI from one (1) pre-installed location (no borehole or monitoring well installation information was included).*
 - *The standing water level was recorded at 2.25m BTOC (approximately 2.35m bgs).*
- *Contaminant concentrations in groundwater were reported below the adopted criteria, except for the following:*

- Copper was reported in groundwater at a concentration that marginally exceeded adopted criterion for marine water in monitoring well BH1M. The risk from heavy metals in groundwater is considered to be low and acceptable.

Based on the findings obtained from this DSI, EIA conclude that the site can be made suitable for the potential future site redevelopment, provided the following recommendations are implemented:

- Before commencement of demolition works, a Hazardous Materials Survey (HMS) shall be completed by a suitably qualified consultant, to identify any hazardous materials present within the existing building fabrics.
 - The HMS should guide subsequent building and infrastructure demolition at the site, to prevent release of hazardous materials; and
- Following the demolition works, additional intrusive investigation to close data gaps remaining at the subject site, including:
 - Soil characterisation within the footprint of the current commercial building (northern portion of the site).
 - Soil characterisation within the southern portion of the site (residential portion of the site).
 - Confirmation of the location of the UST by ground penetrating radar (GPR) scanning.
 - Characterisation of soil in the vicinity of the suspected UST.

I concur with the DSI recommendations and the requirement for additional investigation to close out the existing data gaps to demonstrate that the site is, or can be made, suitable for the proposed development. I concur that this additional investigation work would be best undertaken following demolition of the existing structures at the site, but prior to any demolition or construction works.

In addition to the data gaps and recommendations identified by EIA, I also note:

- The proposed development design will include the excavation of the proposed basement (1 level) to approximately 1.46m AHD. This excavation extends to a depth approximately 3m below the existing ground level (bgl) and the design indicates that the excavation will encompass the majority of the site footprint. I note that the soil investigation undertaken to date has been conducted to a depth of 1m bgs only and has not considered the depth of excavation as the proposed target depth.
- The subject site is approximately 495m². The assessment guidelines state that the minimum soil sampling locations required to assess a site of this size, if using a systematic sampling grid is eight (8) locations. Only five (5) locations have been assessed to date and these locations have not been placed on a systematic grid.
- Groundwater has only been assessed at one location. Depending on the location of the UST, and the hydraulic gradient across the site, additional groundwater assessment may be required.

Potential contamination risks must be considered as part of demolition works, excavation works, dewatering restrictions and basement/building design.

The additional investigation (and Remedial Action Plan, if required) must be completed by a suitably qualified and experience environmental consultant in accordance with the NSW guidelines and the additional investigation must conclude that the works have been completed appropriately and the land is, or can be made, suitable for the intended land use.”

Council's Environmental Scientist has accepted the recommendations contained within the reports as being satisfactory in addition to their own recommended conditions.

These conditions have been included in the Draft Notice of Determination.

Therefore, in accordance with Subsection 4.6(1)(b) of the SEPP, Council is satisfied that the land could be made suitable for the purpose for which the development is proposed to be carried out.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 2 of the Transport and Infrastructure SEPP 2021 relates to Infrastructure. The provisions of the SEPP have been considered in the assessment of the development application.

Section 2.48 – Development likely to affect an electricity transmission or distribution network

The application is subject to Section 2.48 of the SEPP as the development proposes works within the vicinity of electricity infrastructure and therefore in accordance with Section 2.45(2) the consent authority must give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and take into consideration any response to the notice that is received within 21 days after the notice is given. The proposal is located within the vicinity of Ausgrid underground cables and overhead powerlines.

The application was referred to Ausgrid and a response was provided on 24 January 2023. No objections were raised to the proposed development subject to the imposition of standard conditions of consent relating to undergrounding cables and powerlines which have been imposed on the Notice of Determination. The application is consistent with the provisions of the SEPP and is acceptable in this regard. The proposal satisfies Section 2.45 of the SEPP.

Section 2.119 - Development with frontage to classified road

The proposed development is located on land with a frontage to a classified road (i.e. Botany Road). In this regard, Section 2.119 Development with frontage to a classified road, of the SEPP must be considered before consent can be granted.

While the site maintains a dual frontage to Botany Road and Tenterden Road, the proposed vehicular access is to Tenterden Road. The application was accompanied by a Traffic Report prepared by Varga Traffic Planning Pty Ltd dated 16 November 2022 (later updated to reflect amended information dated 24 January 2024).

The application was referred to TfNSW for comment, and a response was received on 13 January 2023. No objections were raised to the proposal subject to imposition of conditions within the notice of determination.

The proposal therefore satisfies Section 2.119 of the SEPP.

Section 2.120 – Impact of road noise or vibration on non-road development

The proposed development is for a mixed-use development including residential units that is on land adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 20,000 vehicles (based on the traffic volume data published on the website of RMS) and is considered likely to be adversely affected by road noise or vibrations. Accordingly, s2.120 Impact of road noise or vibration on nonroad development, of SEPP Infrastructure is required to be considered as part of this assessment.

The consent authority must not grant consent to the development for residential use unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:

- (a) *in any bedroom in the building* 35 dB(A) at any time between 10 pm and 7 am,
- (b) *anywhere else in the building (other than a garage, kitchen, bathroom or hallway)* 40 dB(A) at any time.

As identified on the Traffic Volume Maps provided by Transport for New South Wales (TfNSW), the subject site is identified as being located on land adjacent to a road corridor (being Botany Road) carrying between 20,000 and 40,000 annual average daily traffic (AADT). Residential accommodation within this AADT is likely to be adversely impacted by road traffic noise and it is recommended that development include noise mitigation measures. The key objective of the SEPP is to ensure that adjacent development achieves an appropriate acoustic amenity inside the building.

An Acoustic Report prepared by Pulse White Noise Acoustics Pty Ltd dated 19 September 2022 was submitted with the application. An assessment has been provided to satisfy the requirements of this section. The report concludes that subject to relevant construction measures being imposed the building can be appropriately acoustically treated to satisfy the provisions of this section. Relevant conditions have been included to ensure compliance with the Acoustic Report.

State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development

Note - On 14 December 2023 SEPP 65 was repealed, with replacement provisions added to the Housing SEPP 2021. Schedule 7A of SEPP Amendment (Housing) 2023 incorporates general savings provisions for applications made but not as yet determined by 14 December 2023. Accordingly, given the subject application was submitted prior to 14 December 2023, an assessment against the relevant provisions of SEPP 65 has been undertaken below.

In accordance with Clause 28(2) of this policy, the consent authority must take into consideration the following:

a. The advice of the Design Review Panel (DRP)

The proposal has been referred to the Design Review Panel twice, first on 6 April 2023 and second on 7 December 2023. The Panel generally supports the proposal with their detailed comments provided in the report below.

The Panel have supported the revised scheme, confirmed it demonstrated that it can satisfy design quality principles and recommended that the proposal did not require submission back to the Panel, subject to the applicant carrying out their proposed changes.

b. The design quality of the development when evaluated in accordance with the design quality principles.

The design quality principles have been considered in the assessment of the proposal and are found to be satisfactory as indicated below. Design Review Panel minutes are attached to this report.

Principle 1 – Context and Neighborhood Character

Panel Comment:

While additional information has been provided, the site and context analysis remains very basic. Even so, with the currently proposed built form amendments and some

recommended refinements (see below), it is acknowledged that the proposed built form can achieve an acceptable interface with its streetscape and built form contexts.

Council Comment:

The proposal has been amended to provide a more compact built form, removal of communal open space in place for increased private open space provisions, a redesigned floor plan to include one commercial tenancy and two residential units per level, and increased building setbacks. Panel comments regarding a context analysis have been generally adopted, particularly with amendments to retain the adjoining tree. As discussed further below, Council agrees that the interface between the proposal and the adjoining residential development to the south-east (1559-1563 Botany Rd) has not been resolved and requires amendment to increase the side setback and provide more appropriate building separation/relief.

Principle 2 – Built Form and Scale

Panel Comment:

The south-eastern setback is now acceptable; however, a more substantially landscaped planter is encouraged to achieve greater privacy to the adjacent property. While the zero setback to the rear of the property is removed, it is recommended that the currently proposed planter along the elevation is removed so as to establish a clear 3m setback; the currently proposed balcony in this location is not supported.

The core and stairs have been relocated as recommended, which results in better internal amenity. Removing the communal terrace allows for the two units now proposed on levels one and two which is a better outcome. However, further refinements are encouraged to improve the amenity of all units and their relationships with adjoining properties:

- *Re-planning of Units 2 and 4 could reduce potential privacy issues and compromised side facing bedroom windows as proposed; perhaps entering past a street facing bedroom could allow for three bedrooms without reliance on the side facing orientation.*
- *Both living spaces are stepped along their length, which creates awkward pinch points; the relocation of the duct at the rear of the lift may allow stair and lift to shuffle so as to remove these apparent misalignments.*
- *These misalignments also appear along the elevations, with ground floor walls and openings struggling to align with walls and openings above. The mixture of materials along the north elevation is particularly weak, with feature screening, glass blocks and a very wide roller drawer clashing with the brick materiality proposed above. Greater consistency of alignment and material - as well as architectural refinement - is therefore encouraged.*

The single commercial tenancy is supported with discrete access to parking and waste storage now provided.

It is noted that ground level uses along the Botany Road frontage must be active; the landscape design indicates café uses, however an office was mentioned at the meeting, which the Panel was advised would not comply with Council requirements. It is therefore recommended that the compliance of all proposed uses be confirmed with Council.

The side and rear boundary walls must be reviewed in terms of BCA requirements, noise attenuation and light spill from parking as well as constructability. In particular, the eastern side boundary wall to the parking should be made solid to 1.8m for privacy and light spill reasons. We note that, due to the choice for a zero lot-line/zero setback, this wall cannot not be relied upon to naturally ventilate the parking area, as the

neighbour may in future wish to build a solid wall within their boundary.

Council Comment:

Council disagrees that the nil setback with balcony and landscape planters to the south-eastern side elevation is an appropriate outcome for the site, and the landscape planters cannot be relied upon solely to minimise privacy impacts. As discussed further in this report, Council recommends that the balcony and planters to this elevation be removed and an unobstructed 3m building setback is provided in accordance with Part 9B of the Botany Bay DCP 2013. Whilst this does not achieve compliance with the ADG requirements, given the site constraints, compliance with the BBDCP in this instance is considered a reasonable variation to the requirement.

Noted regarding comments to remove the rear facing balcony (towards 2 Tenterden Rd), as adopted in amended plans maintaining a 3m setback with minor protrusion from a splayed building element. Council agrees that the removal of the communal open space results in a better outcome for the site.

Minor amendments to the floor plan are noted. Relevant condition is to be included regarding the commercial tenancy at the ground floor to ensure compliance with the active street frontage requirement of the site under s6.9 of the BLEP 2021.

Nil setback is proposed at the ground floor to the sides and rear solid wall fencing replaces previously proposed screening to car park area to minimise light spill and noise.

Principle 3 – Density

Panel Comment:

No issues.

Council Comment:

Council has calculated the development to provide a compliant FSR of 0.92:1, lesser than the 1:1 permitted under s4.4 of the BLEP 2021.

Principle 4 - Sustainability

Panel Comment:

It is not clear from the drawings what sustainability measures are being proposed. A building of this scale should include a raft of well considered items, including solar panels, water collection and reuse etc. All sustainability commitments should be clearly shown on drawings.

Council Comment:

Reasonable solar access and good natural ventilation is achieved for all residential units. EV charging is not required given the minor scale of development and number of units proposed.

Principle 5 – Landscape

Panel Comment:

It is noted that the horticultural requirements of the large existing Camphor Laurel tree to the rear of the property have been acknowledged with permeable paving to the car parking area.

The landscape proposal, with tables and chairs indicated to a paved area to the front of the site presumes a use for the commercial space as a café or similar. While the

organic nature of the design provides a relief to the streetscape and surrounds, the design needs to better reflect a range of potential uses for the commercial space, otherwise there is a danger that the space will be under utilised.

Planter boxes to the upper levels are adequate and provide an appropriate soil mass for the purposes of screening shrubs.

Council Comment:

As a result of feedback from both Council and the first Design Review Panel meeting, the proposal was amended to retain the rear adjoining site tree, increase rear setback, and remove structures within this area to reduce impacts onto the tree. The rear car parking area is proposed to be finished with permeable paving, and sufficient landscaping provided within the front setback area to provide a good relationship with the public domain and meet the minimum BBDCP requirements for landscaping.

Planter boxes to the front (facing Botany Rd) and north-western side elevation (Facing Tenterden Rd) are supported. However, as identified above and discussed further in this report, the planter boxes to the south-eastern side (facing 1559-1563 Botany Rd) are not supported and relevant condition is included for its removal.

Principle 6 – Amenity

Panel Comment:

See notes above regarding :

- *misaligned walls and pinch points within living spaces*
- *potential privacy impacts and compromised windows to south facing third bedroom to Units 2 and 4*
- *3m eastern setback compromised by planter*
- *need to control light spill, privacy and noise impacts of car parking area to adjacent properties*

As noted above, all balconies should be considered in terms of potential privacy impacts due to its proximity to adjacent properties. Ideally, all balconies would face the street with the southern setback heavily landscaped so as to optimise privacy. Due to potential privacy impacts, the east facing balcony should be removed.

Council Comment:

The amended plans include nil setback to both side elevations at the ground and first floor. The first floor containing residential units includes balcony and landscape planter boxes. Council agrees that the balcony in this location is problematic and likely to have privacy impacts to adjoining residential property. Removal of balcony and planters results in compliance with the 3m setback requirement and provides more appropriate spatial relief between buildings. This is discussed further in this report.

Principle 7 - Safety

Panel Comment:

No issues.

Council Comment:

The proposal includes activated ground floor use orientated to Botany Road, with side residential access from lobby at Tenterden Rd, and vehicular access to the rear. The upper residential levels provide good sized windows and balconies to both frontages to provide passive surveillance to the street and immediate surroundings. There are no

isolated or hidden spaces that would lend itself to be dangerous areas. Overall, the proposal satisfies safety provisions.

Principle 8 - Housing Diversity and Social Interaction

Panel Comment:

No issues.

Council Comment:

The mix of units is suitable and considered appropriate for the site. Given the site constraints, the proposal provides four (4) residential units, broken down into two x 1-bedroom units and two x 3-bedroom units. The proposal maintains a compliant FSR, providing an appropriate development density.

Principle 9 – Aesthetics

Panel Comment:

Greater refinement and simplification of all facades is recommended. This is a small building; therefore a greater consistency of alignments and consistency of materials would be beneficial aesthetically.

Council Comment:

Noted. The Panel recommended a *'greater consistency of alignments and materials'*. The applicant has amended their plans to adopt the changes suggested by the Panel. A condition has been imposed relating to materiality of the development.

c. The Apartment Design Guide

The proposal has been assessed against the Apartment Design Guide (ADG). The proposed development is considered to have performed adequately in respect to the objectives and design criteria contained within the ADG. The relevant issues are discussed below:

| CLAUSE | DESIGN CRITERIA | COMMENTS | COMPLIES |
|------------------------------|---|--|---------------------------|
| 3C – Public Domain Interface | Max 1m level change from footpath to ground floor level of building. Landscaping to soften building edge and improve interface. | Noted that there are no ground floor level apartments. Notwithstanding, the development does not exceed 1 metre above the footpath. Additional landscaping and tree planting proposed within the front setback area integrated to the decking and seating area. | Yes |
| | Mailboxes located in lobbies or integrated into front fence | Mailboxes are located within the lobby at the ground floor building entrance to Tenterden St. | Yes |
| 3D - Communal Open Space | 25% (124.48m ²) of the site area | Following original submission review by the DRP, the communal open space was removed and | No- See note below |

| CLAUSE | DESIGN CRITERIA | COMMENTS | COMPLIES |
|--|---|---|---------------------------|
| | | instead greater private open space provided. | |
| 3E - Deep Soil Zone | 7% (34.85m ²) site area Minimum Dimensions 3m | Soft landscaping and tree planting provided to the front setback area, (39.19m ² = 9.19%), with permeable paving proposed to the rear car parking area. | Yes |
| 3F - Visual Privacy <i>Min separation - side & rear boundaries.</i> | <u>Up to 12m (4 storeys)</u> Hab. Rooms / Balconies = 12m Non Hab. Rooms = 6m | <u>South-Western Front Setback (Botany Rd)</u> <ul style="list-style-type: none"> • Ground: 6m • Level 1: 5m • Level 2: 5m – 6.3m <u>North-Western Side Setback (Tenterden Rd)</u> <ul style="list-style-type: none"> • Ground Lvl: Nil • Level 1: Nil – 1.1m • Level 2: Nil – 1.1m <u>North-Eastern Rear Setback (2 Tenterden Rd)</u> <ul style="list-style-type: none"> • Ground Lvl: Nil – 4.3m • Level 1: 3m – 4.2m • Level 2: 3m – 4.2m <u>South-Eastern Side Setback (1559-1563 Botany Rd)</u> <ul style="list-style-type: none"> • Ground Lvl: Nil • Level 1: Niln • Level 2: 3m | No- See note below |
| 3G – Pedestrian Access & Entries | Multiple entries provided to activate street edge | The ground floor contains one main residential entry to Tenterden Rd and one commercial tenancy to Botany Rd. These activate the street frontages. | Yes |
| | Building access clearly visible from public domain & communal spaces | All building entries are clearly visible and legible from the streetscape | Yes |
| | Steps / ramps integrated into building & landscape design | There are no steps or ramps leading up to the building. Fire stairs are provided within the building, however lift access is provided. | Yes |

| CLAUSE | DESIGN CRITERIA | COMMENTS | COMPLIES |
|--|--|---|----------|
| 3H – Vehicular Access | Car park access integrated with building façade & behind building line. | Car parking is integrated within the building design provided at ground level to the rear, with vehicular access from Tenterden Rd. | Yes |
| | Garbage collection, loading & servicing areas screened | Garbage to be stored within basement for residential, and ground floor for commercial. Street collection available given small number of units. | Yes |
| | Pedestrian / vehicle access separated & distinguishable. | There is a clear distinction between pedestrian and vehicular access within the site | Yes |
| 3J - Bicycle & Car Parking | Parking as per Council DCP. | Refer to Part 3A below. | Yes |
| 4A – Solar & Daylight Access | Living rooms + POS of at least 70% (23 of 32) of apartments receive min 2hrs direct sunlight b/w 9am & 3 pm mid-winter | All four units will receive minimum solar access requirement. | Yes |
| | Max 15% (5 of 32) apartments receive no direct sunlight b/w 9am & 3pm mid-winter | All units receive sunlight. | Yes |
| 4B – Natural Ventilation | Min 60% (19 of 32) of apartments are naturally cross ventilated in the first nine storeys of the building. | All units are sufficiently cross ventilated with windows to all elevations. | Yes |
| 4C – Ceiling Heights | <u>Floor to Ceiling</u> Habitable – 2.7m Non Habitable - 2.4m Ground floor commercial: 3.3m | The ground floor commercial tenancy has a floor to ceiling height of 3.4m. Both levels of residential units have a floor to ceiling height of 2.95m. | Yes |
| 4D – Apartment Size & Layout <i>+5sq/m per extra bathroom</i> | 1 bed – 50sqm | 63.92m ² to each unit | Yes |
| | 3 bed + 2 bath - 95sqm | 103.93m ² to each unit | Yes |
| | 1 bed – 8sqm 2m min depth | Unit 1: 19m ² depth of 1m-3.3m | Yes |

| CLAUSE | DESIGN CRITERIA | COMMENTS | COMPLIES |
|--|---|---|----------|
| 4E – Private Open Space & Balconies. | | Unit 3: 14.5m ² depth of 3.3m | |
| | 3 bed – 12sqm / 2.4m min depth | Unit 2: 13.5m ² depth of 1m – 3.2m Unit 4: 17m ² depth of 1m – 3.2m | Yes |
| 4F – Common Circulation & Spaces | Max apartments off a circulation core on a single level is eight. | 1x commercial ground floor unit and 2x units per residential level. | Yes |
| 4G – Storage <i>50% is located within apartment</i> | 1 bed - 6 cubic metres | Storage is provided within all units and within the basement levels | Yes |
| | 2 bed - 8 cubic metres | | |
| | 3 bed - 10 cubic metres | | |
| 4K – Apartment Mix | Variety of apartment types provided & flexible apartment configurations to support diverse household types and stages of life | The development proposes the following unit mix: <ul style="list-style-type: none"> • Two x 1-bedroom units (50%) • Two x 3-bedroom units (50%) | Yes |

Discussion of ADG Non-Compliances

The following discussion delves into the non-compliances of the Apartment Design Guide:

Part 3D- Communal Open Space

Part 3D of the ADG requires a minimum communal open space (COS) area of 25% of the site (124.48m²). The original proposal included communal open space within Level 2 for residential use. Following Council’s additional information request and feedback from the first Design Review Panel, it was recommended that the communal open space be removed and private open space to the residential units increased in size. Council agrees with this recommendation given the relatively minor scale of development proposed being four (4) units. This increases the amenity to the residents and allows for a practical distribution of floor area as the proposal was consequently amended to provide two units for level following removal of the rooftop communal open space area.

The resultant private open space areas for each unit exceeds the minimum requirement and provides better amenity for the residents (see table below). It is noted that the south-eastern balcony area to units 1 and 2 are recommended for removal and relevant condition has accordingly been included for their removal. Therefore these areas have not been included in private open space calculations, and notwithstanding the proposal exceeds the minimum requirements.

| Clause | Requirement | Proposal | Comment |
|-------------------------------------|---|---|-------------------------------------|
| 4E – Private Open Space & Balconies | 1 bed – 8m ² with min depth 2m | Unit 1: 19m ² depth of 1m-3.3m | Unit 1: Exceeds by 11m ² |
| | | Unit 3: 14.5m ² depth of | Unit 3: Exceeds by |

| | | | |
|--|--|--|--|
| | | 3.3m | 6.5m ² |
| | 3 bed – 12m ² with min depth 2.4m | Unit 2: 13.5m ² depth of 1m – 3.2m Unit 4: 17m ² depth of 1m – 3.2m | Unit 2: Exceeds by 1.5m ² Unit 4: Exceeds by 5m ² |

Part 3F- Visual Privacy

The proposal does not generally comply with the setback requirements of the ADG, as identified in the ADG compliance table above under 3F.

To the rear the ground floor contains a new solid boundary wall identified within the site boundary at a height of 1.8m – 2.3m. The original proposal included an enclosed carparking structure to the rear which was not supported given the likely impacts to the adjoining site tree. The proposal as amended removes structures within this area and provides an open form. The ground floor supporting columns to the building are setback 4.3m from the rear. The amended proposal provides sufficient permeable paving to car parking areas, and setback from the neighbouring site tree to reduce impacts. Whilst not compliant with the ADG, is considered acceptable in this instance.

At the ground floor, the development proposes a nil setback to the side boundaries. To the south-east facing the adjoining residential development there are no openings and privacy is maintained. The design goes further to ensure this elevation is finished appropriately to avoid large expanse of blank wall. To the north-west facing Tenterden Rd, the nil setback is considered acceptable as the development provides an appropriate relationship with the public domain and provides direct access to the residential component of the development.

The side setbacks to both upper levels are proposed to be between nil – 1.1m. The nil setback is generally maintained to habitable rooms and balconies, and the 1.1m provided to the lift area fronting Tenterden Rd to provide some articulation to the building. As acknowledged in this report, the sites corner location, small lot size, and established surrounding development are considered in the assessment. The nil setback to the residential levels to the north-western elevation fronting Tenterden Rd are acceptable, given the lack of impact, and narrow lot width. The balconies and windows to this elevation will allow for the passive surveillance of the street and benefit from afternoon solar access.

To the south-eastern elevation Level 1 proposes a nil setback, and Level 2 maintains a 3m setback. Whilst non-compliant with the ADG, the 3m provided to Level 2 is considered acceptable as it provides reasonable building separation and relief to the adjoining property and is not likely to have visual privacy impacts. The nil setback to Level 1 is not supported. The proposal claims to maintain a 3m side setback to the building line, however Council disagrees with this assessment and the setback is calculated from the edge of the balcony/planter boxes given this is an extension of the building. Council’s additional information request sought a minimum 3m side setback to ensure compliance with Part 9B of the BBDCP 2013 in lieu of the ADG given the site constraints. This was not provided.

As viewed from the neighbouring property, the nil setback results in a solid form wall with height of 4.2m – 4.8m. This provides insufficient building separation, increased visual privacy impacts from the balcony area which unreasonably relies on the landscaping to mitigate these impacts, adverse visual impact from the high solid wall, and loss of natural light to the neighbouring property. It is noted that the balcony area to this elevation is not required to achieve the minimum private open space requirements for the units, nor to provide the additional space as recommended by the Design Review Panel as this can be achieved with the other balconies fronting Botany Rd/Tenterden Rd. Having regard to the above, Council considers that the resulting impacts of the nil setback are unreasonable and

are not supported. Therefore, a relevant condition has been included for the removal of the balcony and planter boxes to the south-eastern elevation.

Bayside Local Environmental Plan 2021

The provisions of the Bayside Local Environmental Plan 2021 have been considered in the assessment of the development application as per the table below.

| Relevant Clauses | Compliance with Objectives | Compliance with Standard / Provision |
|--|----------------------------|--------------------------------------|
| 2.3 Zone – MU1 Mixed Use | Yes | Yes - See discussion |
| 2.7 Demolition requires consent | Yes | Yes - See discussion |
| 4.3 Height of buildings | Yes | No - See discussion |
| 4.4 Floor space ratio Residential zones | Yes | Yes - See discussion |
| 4.6 Exceptions to development standards | Yes | Yes - See discussion |
| 5.10 Heritage conservation | Yes | Yes - See discussion |
| 6.1 Acid Sulfate Soil Class 2 | Yes | Yes - See discussion |
| 6.2 Earthworks | Yes | Yes - See discussion |
| 6.3 Stormwater Management | Yes | Yes - See discussion |
| 6.8 Development in areas subject to aircraft noise | Yes | Yes - See discussion |
| 6.9 Active street frontages | Yes | Yes - See discussion |

2.3 – MU1 Mixed Use

The subject site is zoned MU1 Mixed Use under the provisions of Bayside Local Environmental Plan 2021 (BLEP 2021). The proposal is defined as shop-top housing containing ground floor commercial tenancy and upper level residential units, which constitutes a permissible development only with development consent. The objectives of the zone are:

- To encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities.
- To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.
- To ensure built form and land uses are commensurate with the level of accessibility, to and from the zone, by public transport, walking and cycling.

The proposed development satisfies the objectives of the zone. The proposal provides a

compatible land use which encourages ground floor commercial tenancy and residential accommodation. The proposal is considered appropriate within its context and not likely to adversely impact onto surrounding development.

2.7 - Demolition

The proposal seeks consent for demolition of all structures on the site including single storey dwelling and two storey outbuilding, and soft landscaping within front setback area. In this regard, the proposal satisfies the provisions of this Clause.

4.3 - Height of Buildings

A maximum height standard of 10 metres applies to the subject site.

The proposal has a maximum height of 10.93 metres (RL 15.23 AHD) which does not comply with the provisions of this clause. The maximum building height is exceeded to the lift overrun by 930mm (9.3% variation) and to the edge line of the roof fronting Tenterden Rd by 420mm-490mm (4.2% - 4.9% variation). The non-compliance is discussed in Clause 4.6 – Exceptions to Development Standards below.

4.4 – Floor Space Ratio

A maximum FSR standard of 1:1 (GFA of 497.9m²) applies to the subject site.

The proposal has a maximum GFA of 460.5m², based on Council's calculations, and equates to an FSR of 0.92:1 which complies with the provisions and objectives of this clause. The proposal satisfies the provisions of this Clause.

4.6 - Exceptions to Development Standards

Section 4.6 allows a variation to a development standard subject to a written request by the applicant justifying the variation by demonstrating:

Section (3)(a)- that compliance with the standard is unreasonable or unnecessary in the circumstances of the case, and

Section (3)(b)- that there are sufficient environmental planning grounds to justify the variation.

In considering the applicant's submission, the consent authority must be satisfied that:

- i. Section 4(a)(1)- the applicant's written request is satisfactory in regards to addressing subsection (3) above, and*
- ii. Section 4(a)(ii)- the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives of the relevant zone.*
- iii. Section 5(a)- The consent authority must also consider whether contravention of the development standard raises any matter of significance for State or Regional environmental planning, and*
- iv. Section 5(b)- the public benefit of maintaining the development standard.*

The assessment of Section 4.6 below has been undertaken in accordance with the principles established by the Chief Judge in ***Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*** where it was observed that:

- in order for there to be 'sufficient' environmental planning grounds to justify a written request under section 4.6, the focus must be on the aspect or element of the development that contravenes the development standard and the environmental

planning grounds advanced in the written request must justify contravening the development standard, not simply promote the benefits of carrying out the development as a whole; and

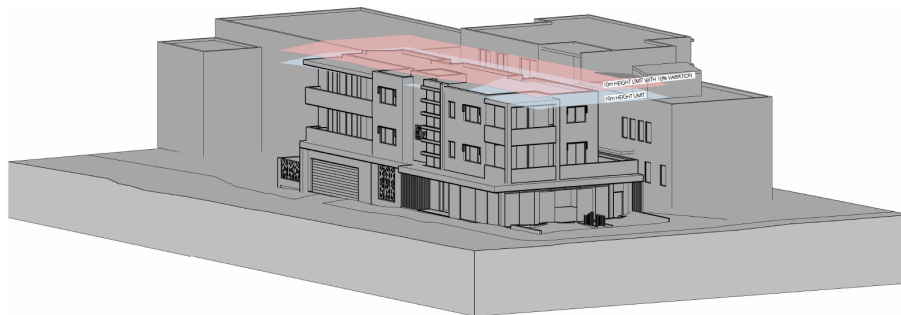
- there is no basis in Section 4.6 to establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development.

The applicant is seeking to vary the s4.3 Height of Buildings development standard by a maximum of 930mm which equates to a 9.3% variation. A Section 4.6 variation to justify the non-compliance has been prepared by Planning Ingenuity. The Clause 4.6 variation includes figures which demonstrate the degree of non-compliance. The figures are provided below:



HEIGHT STUDY - SECTION
1:100

Figure 9: Section Plan indicating the maximum permitted building height limit in blue, and the 10% variation limit in red. The building is proposed to have a variation of 9.3% sitting under the red line.



HEIGHT STUDY - VIEW

Figure 10: 3D perspective of the development and area exceeding the height limit.

The applicants' Clause 4.6 variation argues that there are sufficient environmental planning grounds to support the non-compliant Building Height. The variation is templated to address at least one of the five tests including whether the variation is unreasonable or unnecessary and provides environmental planning grounds to argue their case. The applicant has chosen the first method test for their assessment. These components are summarised below with Councils response provided:

Section 4.6(3)(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case,

Officer Comment:

The applicant utilises the first Wehbe method to address the variation to the development standard and outlines how the development satisfies the provisions of the MU1 Mixed Use Zone and the objectives of s4.3 of the BLEP 2021.

As identified by the applicant, the majority of the proposed building is compliant with the height of buildings development standard with a minor variation along the edges of the roof adjoining the street frontage to Tenterden Road and the lift overrun (see Figure 2 and 4). The variation sought is minor, being 930mm to the overall height, with a lesser variation to the roof edge line being 420mm-490mm (4.2%-4.9%) It is acknowledged that following amendments the variation sought was reduced to remain under 10%.

Council agrees that the additional height is not discernable from the streetscape, or likely to result in a significant adverse impact onto the surrounding area. The proposed development results in an appropriate transition between the MU1 Mixed Use Zone and adjoining E3 Productivity Support Zone to the north and R2 Low Density Residential Zone to the south.

The objectives are considered to be satisfied by the proposal and have been sufficiently justified by the variation request.

Section 4.6(3)(b)- Are there sufficient environmental planning grounds to justify contravening the development standard?Officer Comment:

The scale of the built form is consistent with development in the surrounding area and results in a building typology that is consistent with the existing streetscape. The applicant demonstrates that notwithstanding the minor variation request, the proposal will not adversely impact the public domain, or onto the amenity of the adjoining properties. The offending portion of the development has been sited to ensure minimal impacts, not significantly contributing to visual privacy, or overshadowing (see Figure 10). As viewed from the streetscape, the street tree is maintained with the proposed building sited behind the local tree canopy and no significant protrusion into the skyline. The building maintains a compatible rhythm within the streetscape, and Council agrees that the variation requested is negligible and will not adversely impact onto the surrounding area.

Having regard to the above, there are sufficient environmental planning grounds to justify contravening the development standard.

Section 4.6(4)(a)(i)- Consent authority satisfied that this written request has adequately addressed the matters required to be demonstrated by Section 4.6(3)Officer Comment:

An assessment of Section 4.6(3) as outlined above has been undertaken. The justifications provided in addressing each point relating to planning grounds and unreasonableness are supported and Council is indirectly satisfied.

Section 4.6(4)(a)(ii) - Consent authority that the proposal is in the public interest because it is consistent with the zone and development standard objectives

The objectives of the zone are as follows:

- *To encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities.*
- *To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*

- *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*
- *To ensure built form and land uses are commensurate with the level of accessibility, to and from the zone, by public transport, walking and cycling.*

The objectives of the Height of Buildings standard are as follows:

- (a) to ensure that building height is consistent with the desired future character of an area,*
- (b) to minimise visual impact of new development, disruption of views, loss of privacy and loss of solar access to existing development,*
- (c) to nominate heights that will provide an appropriate transition in built form and land use intensity.*

Officer Comment:

The proposal satisfies the relevant objectives of the zone and development standard and results in a built form compatible with its surrounding context, and likely to have minimal adverse visual and environmental impacts.

The site is within the MU1 Mixed Use Zone and demonstrates that the development will be carried out in a context and setting to minimise impacts onto the character and amenity of the area. The proposal is a shop top housing development which includes both commercial and residential uses. Both uses service the needs of the people that will live and utilise the development. It also provides for employment opportunities by comprising the commercial tenancy at the ground level and providing an activated streetscape. The objectives of the standard have been addressed in the applicant's discussion on whether the development is unreasonable or unnecessary. The proposal has been designed to take into consideration the objectives of the building height standard and this has been appropriately addressed.

The proposal is in the public interest as it has been designed to reflect the heritage and desired character of the area and will increase the housing and employment uses in the area.

Given the above, Council the consent authority is satisfied that the provisions of clause 4.6(4) have been achieved and that the clause 4.6 is satisfactory, therefore the variation is supported.

5.10 – Heritage Conservation

The site is not a heritage item however is located within the vicinity of heritage items I196 - *Presbyterian Church of Australia and manse* at 1561–1563 Botany Road and I186 – *House Group* at 1268–1270 Botany Road. The application was referred to Council's Heritage Advisor however no objection was raised to the proposal. The following comments were provided:

“The adjacent heritage item #196 has been redeveloped and a new 2 storey apartment building has been constructed between the subject site and the Church. On the boundary with the subject site is a driveway down to underground parking.

The existing development at 1559-1563 Botany Road blocks most of the view to the Church and Manse. The proposed building at the subject site has a large setback from Botany Road which allows views to the heritage item to be retained from the north west of Botany Road. Due to existing development at 1559 – 1563 Botany Road, the proposed development will not adversely impact the significance of heritage item #196. The setting and views of the former Presbyterian Church of Australia and manse together with its heritage significance will not be adversely impacted by the proposed development.

The heritage item #186 is far enough removed from the subject site so as not be affected by the development.”

Having regard to the above, the proposal satisfies the relevant provisions and is supported.

6.1 – Acid Sulfate Soils

Acid Sulfate Soils (ASS) – Class 2 affect the property. Development Consent is required as the proposal involves excavation works to accommodate one basement level for storage and services to approximately RL 1.46m AHD, plus the excavation for the basement slab and tanking. This excavation extends to a depth approximately 3m below the existing ground level (bgl) and the design indicates that the excavation will encompass the majority of the site footprint.

Given the potential for Acid Sulfate Soils and the depth of excavation proposed, an Acid Sulfate Soils Management Assessment Report, prepared by EI Australia dated 5 December 2022 was submitted with the application. The report concludes that the proposed development will not disturb, expose or drain acid sulfate soil material and that an Acid Sulfate Soils Management Plan is not warranted in this instance.

The report was reviewed by Councils Environmental Scientist who provided the following comments:

“Based on the location of the site and the results of the analysis undertaken as part of the Acid Sulfate Soil Management Plan (ASSMP), acid sulfate soils (ASS) are unlikely to be encountered during the proposed development works up to a depth of 4m below the existing ground level. Also that the development works are unlikely to result in the drawdown of groundwater below 1m AHD to impact surrounding PASS areas.

If excavation works are likely to extend to 4m bgl (or greater), or temporary dewatering is likely to lower the water table below 4m bgl, the management and controls set out within the ASSMP (EI Australia, December 2022) should be followed.”

The proposal is consistent with the objectives and requirements of s6.1, subject to compliance with the recommendations of the report and relevant conditions.

6.2 – Earthworks

The proposal involves excavation within the site to accommodate one level of basement for storage and services. The depth of excavation proposed is approximately 3m BGL (RL 1.46 metres AHD).

The applicant has submitted a geotechnical report prepared by EI Australia dated 27 October 2022 which demonstrates that groundwater was encountered at a depth of 1m (RL 3.8m AHD), and water seepage observed at a depth of 1.5m (RL 3m AHD).

Given the proposal will intercept the groundwater table, a referral to Water NSW was sent and GTAs were received and included within the Notice of Determination.

The impacts of the proposed earthworks have been considered in the assessment of this proposal. Conditions have been imposed in the Notice of Determination to ensure minimal impacts on the amenity of surrounding properties, drainage patterns and soil stability. The proposal meets the objectives of this clause.

6.3 – Stormwater Management

The development proposes an on-site detention system (OSD) which is to be located within the basement level towards the rear. Following additional information request from Council, additional MUSIC model and investigation was required. Amended Stormwater plans were submitted prepared by C&M Consulting Engineers dated 29 January 2024. The application was reviewed by Councils Development Engineer who had no objections to the proposal subject to conditions imposed within the Notice of Determination. Of note, it was identified that the

basement level is required to be fully tanked, which has been included in conditions. The relevant modelling and investigations provided indicate compliance with the Botany Bay DCP and technical specifications.

6.8 – Development in Areas subject to Aircraft Noise

The subject site is located within the 20 to 25 ANEF Contour, thus subject to adverse aircraft noise. Given the aforementioned, appropriate noise attenuation measures are required for the proposed development.

The proposal was accompanied by an Acoustic Report prepared by Pulse White Noise Acoustics dated 19 September 2022 which assessed:

- Aircraft Noise
- Traffic Noise
- Mechanical Ventilation
- Glazing Construction

The proposal has been conditioned to ensure the recommendations of the report are implemented on site. Additionally, a separate acoustic condition for attenuation of units has been included within the notice of determination. As conditioned, the proposal is satisfactory with respect of the requirements and objectives of this clause.

6.9 – Active Street Frontages

The subject site is required to provide an active street frontage at ground floor level, along the Botany Road frontage of the property.

The E1 Local Centre and MU1 Mixed Use Zones along Botany Road within the site context are required to provide an active street frontage. Development within the vicinity of the subject site with an active street frontage includes industrial sites, mechanical repair shop and sales, petrol station and commercial premises.

The proposal as amended includes one ground floor commercial tenancy with frontage to Botany Road. The tenancy has not been confirmed, however is acknowledged by the proposal that the use is to remain a business premises, retail premises, or medical centre with regards to the requirements of this section. A relevant condition is included to ensure compliance with the above, and separate approval is obtained for the first use of the tenancy.

The design of the ground floor tenancy allows for an appropriate relationship with the public domain, incorporating landscaping and encouraging seating areas. The 6m front setback is assessed based on merit, given it's prominent corner location is deemed appropriate to activate the site and attract pedestrian traffic.

Subject to compliance with the conditions imposed, the proposal satisfies the provisions of this section.

S4.15(1)(a)(ii) - Provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority

There are no draft environmental planning instruments of direct relevance to the proposal.

S4.15 (1)(a)(iii) - Provisions of any Development Control Plan

The following Development Control Plan is relevant to this application:

Botany Bay Development Control Plan 2013

The following table outlines the relevant Clauses of the DCP applicable to the proposal, while aspects warranting further discussion follows:

Part 3A – Parking and Access

Table 1 of Part 3A of the BBDCP 2013 outlines the car parking requirements of the site. This is stipulated in the table below with the proposed car parking rates for comparison:

| Use | Required | Proposed |
|-------------------|--|---|
| Shop Top Housing | One (1) Bedroom Dwelling/Studio: 1 space Two (2) or more Bedroom Dwelling: 2 spaces Per five (5) Dwellings: 1 Visitor Space | 2x One Bedroom Dwellings: 1 space per dwelling 2x Three Bedroom Dwellings: 2 spaces per dwelling 1x Visitor Space |
| Business Premises | Per 40m ² of GFA: 1 space | 1x Commercial Tenancy (77.57m ²): 2 spaces |
| Total | 6x Residential car spaces 2x Commercial car spaces 1x Visitor space | 6x residential car spaces 2x commercial car spaces 1x Visitor space |

Based on the above, the proposal satisfies the minimum car parking requirement under the DCP for both commercial and residential components of the development. The car parking is to be located at ground level within the rear of the site, with vehicular access from Tenterden Road. The car parking spaces are located along the rear boundary, and underneath the cantilevered portion of the building. The application was accompanied with driveway profile, swept path analysis, and Traffic Report prepared by Varga Traffic Planning Pty Ltd. It is noted that car parking has been raised as an issue from objectors, and the potential impacts onto street parking available and increased movements around the site. As reviewed by Council’s Development Engineer, the information provided within the Traffic Report is sufficient and parking rates provided on site meet the requirements of Council. The development is of a relatively small scale and is considered to have an appropriate density relative to the site constraints.

The application was referred to Councils Development Engineer, with the following comments of note:

“A 5.5m wide driveway access has been provided at the property boundary, meeting the requirements of AS 2890.1. The parking layout complies with AS2890.1 with minimum dimension of 5.4mx2.4m with considering enclosed walls on both ends. Similarly, the aisle widths and blind aisle are compliant.

As per Botany Bay DCP Table 2, the proposal is required to provide 1x Van and 1x MRV loading bay on site. However, given the small scale of the development and the physical constraints of the site, no loading bay is required in this instance.

It is also noted that the overhead wires along the sites Tenterden Road frontage will be required to be relocated underground as part of the development as per BBDCP part 4C.4.7 control C8. The redundant power poles will need to be removed and replaced with

underground supplied street lighting. As part of this process the new underground supplied street column will be located outside of the driveway location.”

The proposal will have their waste collected from the street by Council, as discussed under Part 3N of the BBDCP 2013 below.

The application was referred to TfNSW for comments and a response was provided with conditions of consent as no objections were raised.

The proposal satisfies the relevant requirements of this section, and subject to compliance with the conditions imposed, is supported.

Part 3B – Heritage

An assessment against heritage, given the subject site is located within the vicinity of two heritage items (items I196 - *Presbyterian Church of Australia and manse* at 1561–1563 Botany Road and I186 – *House Group* at 1268–1270 Botany Road), has been discussed under s5.10 of the BLEP 2021 above.

Part 3C – Access and Mobility

The proposal has been designed so that the development is accessible from the public domain and internally. The development provides levelled access from the footpath to the commercial area directly from Botany Road, disabled bathroom at ground level for use by the commercial tenancy, and level access to the lobby and lift area for residential access from Tenterden Road.

There are no designated adaptable units within the development. Given there are only four (4) residential units overall the small scale of the proposal warrants a concession in this instance. One (1) of the designated commercial car parking spaces is provided as an accessible car space.

The applicant has provided an access report prepared by Vista Access Architects Pty Ltd dated 2 November 2022. Appropriate conditions have been imposed within the Notice of Determination. The proposal is satisfactory and complies with the objectives of the DCP.

Part 3G – Stormwater Management

An assessment against stormwater management has been discussed in Clause 6.3 of the BLEP 2021 above.

Part 3I – Crime Prevention, Safety and Security

The proposal provides opportunities for active and passive surveillance to both street frontages of Botany Road and Tenterden Road.

The building has been designed so that windows and balconies are provided on the upper levels of the development to provide passive surveillance to the surrounding context. The ground floor commercial tenancy provides sufficient street activation. The basement level is accessible for pedestrians only via stairs or the lift. 24-hour CCTV security surveillance system will be conditioned within the development.

Suitable landscaping is proposed or conditioned which will not restrict safety, visibility and legibility from the public domain and within the site.

Appropriate lighting has been recommended and this is conditioned within the draft Notice of Determination.

Part 3J – Aircraft Noise and OLS

An assessment against aircraft noise has been discussed under s6.8 of the BLEP 2021 above. The Acoustic Report submitted indicates that subject to the recommended measures being

adopted, the site can achieve compliance with the relevant provisions of this section.

Part 3K – Contamination

An assessment against contamination has been discussed in the Resilience and Hazard SEPP above.

Part 3L – Landscaping and Tree Management

The proposal provides approximately 39.19m² (equivalent to 9.19%) of soft landscaped area across the site. This is made up of the ground floor landscaped area including significant planting and coverage in relation to the site (see Figure 11). The permeable paving to car parking areas do not meet deep soil landscaping definition and have therefore not been included as such. As discussed under 3E of the ADG assessment, the minimum landscaping requirements of the site are satisfied.

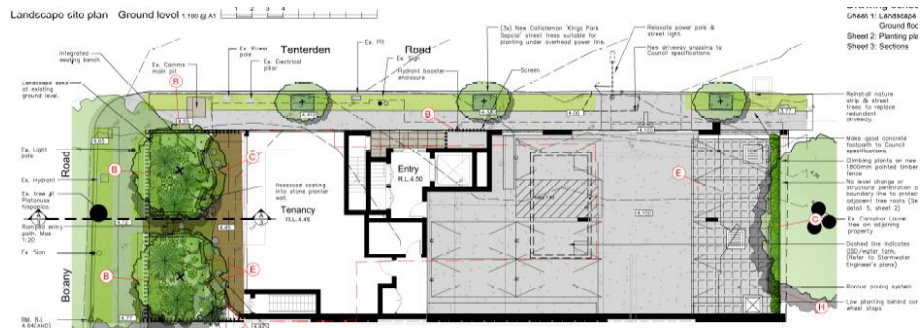


Figure 11: Excerpt of Landscape Plan and planting to Ground Floor Level

As identified under the Biodiversity and Conservation SEPP discussion earlier in the report, there is no longer any tree removal proposed as part of the application.

The planter box landscaping proposed to the edge of the first floor south-eastern elevation (facing 1559-1563 Botany Rd) have not been included in the landscaping calculations given this area is recommended for removal. Notwithstanding, the proposal meets the minimum landscaping requirements of the site.

The application was referred to Council’s Landscape Officer who supports the application, subject to conditions of consent. These conditions have been included, and subject to compliance the relevant provisions are satisfied.

Part 3N – Waste Minimisation and Management

A Waste Minimisation and Management Plan prepared by Dickens Solutions dated November 2022 was submitted with the application listing methods for minimising and managing construction and ongoing waste on site. The waste management plan was not updated following from amended plans therefore conditions of consent have been included requiring an amended plan prior to the construction certificate stage.

The amended plans have demonstrated that residential bins and bulk waste room will be located at basement level, to be collected kerbside via Council collection. Commercial bins are located at the ground level, to the rear of the commercial tenancy. Specific conditions relating to the waste holding rooms and the location of collection have been included within the notice of determination. The applicants waste management plan is to detail how much

waste will be generated from within the site, collection of both residential and commercial waste and how this will be treated, and the type of bins proposed.

An appropriate condition has been imposed in the Notice of Determination.

Part 9B – Botany South Precinct

The proposed development is for shop-top housing within the Mu1 Mixed Use Zone (previously the B4 Mixed Use Zone), and an assessment against the relevant controls of Part 9B- Botany South Precinct has been undertaken. The controls of relevance are located within Part 9B.4.1.1 of the BBDCP 2013.

Desired Future Character Controls

The proposed development will encourage an active relationship between the private and public domain of the prominent corner site and will provide additional opportunity to live and work in the area. The ground floor commercial use provides sufficient activation through landscaping, open form windows and glazing, and seating area. The upper two levels of residential units are of a minor scale which transition appropriately to neighbouring R2 Low Density Residential and E3 Productivity Support Zones. Existing street trees and neighbouring site trees are maintained and supported with additional landscaping.

Pedestrian amenity is maintained with direct access from the ground floor to the commercial tenancy, and with sufficient setback to the Botany Road frontage. Vehicular access is limited to the Tenterden Rd frontage.

Streetscape character is maintained as the building design provides a sympathetic balance between predominant architectural brick features and modern finishes to feature walls. Subject to compliance with relevant conditions, it is considered that the proposal is consistent with the desired future character of the area.

General Controls

The ground floor contains commercial tenancy, car parking and storage areas. All residential units are on the upper two levels. Relevant condition is included to ensure the active street frontage requirement under s6.9 of the BLEP 2021 is adhered to. The development is minor in scale with only one commercial tenancy, and four residential units. In this regard, the amenity of residents is not likely to be adversely impacted.

The proposal sufficiently consider the aircraft noise affectation, and relevant condition are included to ensure compliance with the submitted Acoustic Report. Similarly, the building design takes into consideration impacts of road noise onto residential development, as identified within the Acoustic report. This has been sufficiently addressed as discussed under SEPP (transport and Infrastructure) 2021.

Amalgamation and Subdivision

Not applicable to the proposal.

Change of Use

Not applicable to the proposal.

Building and Site Layout

The subject corner site is constrained with its location, and small lot width and size. The building has been designed to minimise impacts where possible. The car parking is located to the rear, residential uses on upper levels, and the commercial use to the Botany Rd frontage. The

prominent corner site has been effectively acknowledged and utilised in the design to provide an active relationship between the private and public domain. It is noted that the site adjoins other sites within the MU1 Mixed Use Zone and E3 Productivity Support Zone. It is further noted the impacts to the residential component of the adjoining property (1559-1562 Botany Rd) have been taken into consideration in both Council’s assessment and the proposed design.

Setbacks

It is acknowledged that the ADG takes precedence over the DCP controls. The proposal varies the controls as discussed below:

| Building Setback | Requirement under Part 9B | Comment |
|------------------|--|---|
| Front Setback | 7m | The proposal provides a 6m front setback. This variation is considered acceptable given the prominent corner location of the site, and provision of landscaping within the front setback. Given there is no vehicular access required to the front, the variation is supported. |
| Side Setback | Nil – 1.5m, unless adjoining a residential use which requires 3m | <p><u>NW to Tenterden Rd</u> A nil setback is provided. This is acceptable and likely to have minimal impacts.</p> <p><u>SE to 1559-1563 Botany Rd</u> Nil setback to the Ground and First Floors, and 3m to the Second Floor. Council’s additional information request acknowledged the narrow lot width and size of the site and requested that the proposal be amended to achieve compliance with Part 9B in lieu of the ADG with regards to setbacks. The Ground Floor is acceptable in this instance given the lack of impacts. The First Floor is not supported as this area services the proposed balcony and landscape planter boxes. This will likely have overlooking and adverse visual privacy impacts, and provides insufficient building separation and relief between the adjoining residential development. See discussion under ADG assessment of 3F Visual Privacy.</p> |
| Rear Setback | Nil – 3m, unless adjoining a residential use which requires 6m | The proposal as amended is setback 4.3m to the ground floor supporting columns, and First and Second Floors generally setback 4.2m with minor protrusion into the setback area remaining 3m from the rear boundary. |

Parking and Vehicle Access

See discussion under Part 3A of the BBDCP. Car parking provisions, location and impacts are considered acceptable on the site.

Flooding

Not applicable to the proposal.

Landscaping

Proposed landscaping is sufficient. See discussion within report under Part 3L of the BBDCP, ADG assessment and SEPP (Biodiversity and Conservation).

Fences

The proposal includes fencing to the rear car parking area to a maximum height of 2.2m. The solid wall fencing will assist with minimising any adverse noise or light spill to neighbouring properties. Whilst not typically characteristic of development in the area, is considered appropriate for the site.

Residential Component

Assessment has been provided against the ADG as this takes precedent over Part 4 of the BBDCP.

Mixed Use Development

The ground floor commercial tenancy sufficiently activates the street frontage in accordance with s6.9 of the BLEP 2021. The specific use of the tenancy has not been identified, therefore condition has been included for separate approval from Council to be obtained. The proposed shop top housing development is considered appropriate for the site and potential impacts onto the surrounding area have been sufficiently addressed in this report.

Part 8 – Botany Character Precinct

See assessment under Part 9B above. A further assessment against Part 8 is not warranted in this instance.

S4.15(1)(a)(iii) – Provisions any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4

There is no planning agreement applicable to the proposal.

S4.15(1)(a)(iv) Provisions of the Regulation

In terms of provisions of the Regulation:

- The DA submission has included sufficient information to enable environmental assessment of the application (Clause 24);
- No other concurrences or other approvals are proposed or required (Clause 25);
- No approval under the Local Government Act 1993 is sought as part of this DA (Clause 31(3)); and
- Demolition works are able to meet the provisions of Australian Standard (“AS”) 2601 and this is addressed by conditions of consent.

All relevant provisions of the Regulations have been taken into account in the assessment of this

proposal.

S4.15(1)(b) - Likely Impacts of Development

This Section of the Act requires consideration of natural and built environmental impacts, and social and economic impacts. The potential and likely impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls.

S4.15(1)(c) Suitability of the Site

The relevant matters pertaining to the suitability of the site for the proposed development have been considered in the assessment of the proposal, throughout this report. There are no known major physical constraints, environmental impacts, natural hazards or exceptional circumstances that would hinder the suitability of the site for the proposed development. Appropriate conditions of consent are proposed to further manage and mitigate impacts on neighbouring properties and the environment. Subject to the recommended conditions, the proposal is suitable for the site.

S4.15(1)(d) Public Submissions

The application was initially notified between 18 January and 20 February 2023, and nine (9) submissions were received. The application was notified between 28 November and 12 December 2023, and four (4) more submissions were received. Therefore, a total of thirteen (13) submissions were received during the assessment of the application. The issues raised in the submissions are discussed below:

- *Bulk and Scale too large for the surrounding area.*

The bulk and scale of the development is considered appropriate for the site and results in a compliant FSR. The development density is relative to the lot size and shape and contains only four (4) residential units and one (1) commercial tenancy. The proposed use as shop top housing is permissible under the BLEP and is encouraged for the site and the desired future character of the area. The non-compliance in the height and setbacks have been discussed in the report above and the reasons provided for their non-compliance has been accepted. As discussed within this report, and subject to conditions, the proposal is considered suitable for the site and not likely to adversely impact onto the surrounding area.

- *Traffic impacts of development onto surrounding area and on-street car parking.*

Traffic and car parking has been addressed within the report, see Part 3A of the BBDCP. Sufficient justifications and information are provided in the Traffic Report as reviewed and supported by Council's Development Engineers. The proposal satisfies the car parking requirement for both commercial and residential components of the development within the site and there is no reliance on on-street car parking.

- *Objectors Comment: "there are already two other developments on botany road by Henley developments that are shops and housing @ banksmeadow and @ hale street and those shops are empty and dormant and banksmeadow has been so FOR YEARS"*

Outside the scope of assessment. The proposal provides sufficient information to determine suitability of the site.

- *Concern raised over large trucks/heavy vehicles required for construction.*

Relevant conditions are included with regards to separate approvals or permits which may be

required during construction to be addressed post-determination. It is expected that there will be associated trucks/vehicles for the construction works, however Council cannot restrict access to a site. In addition to above, there are conditions with regards to construction methodology and ensuring minimal impacts adjoining properties and compliance with relevant provisions of the BCA, Australian Standards etc.

- Noise and exhaust fumes from carparking area at the rear.

The car parking is located partially under the cantilevered portion of the building, and partially open form at the rear of the site. This predominantly open form design means that additional mechanical ventilation is not required, and general noise/fumes can be expected. However, given there is only provisions for a total of nine (9) vehicles the impacts are considered negligible and a reasonable outcome for the development. Appropriate high boundary fencing within the site is proposed to the side and rear elevations to minimise light spill, noise and adverse impacts.

- Reduction of natural light to neighbouring residential property.

As discussed within this report, the proposal results in an appropriate development density and land use which is compatible with the desired future character of the area. The area is undergoing a transition from a lower density to higher density, as evident in the redevelopment of the adjoining property. It is acknowledged that there will be an increased impact from the demolition of single storey dwelling and rear two storey outbuilding, and construction of the proposal, however this density is appropriate and anticipated for the site. The removal of the south-eastern facing balcony and provision of a 3m side setback will improve the availability of natural light to this area.

- Height breach will contribute to visual privacy impacts and noise impacts to adjoining residential property.

An assessment of the applicants Clause 4.6 variation has been undertaken in the report above. Strict non-compliance with the numerical control is considered to be unreasonable and unnecessary in this case. As discussed, the offending portion of the development exceeding the height limit will not result in visual privacy or noise impacts given it is limited to the roof edge line and lift overrun.

- Visual privacy impacts from south-eastern elevation onto adjoining residential property, particularly given the non-compliance with the setback requirements.

Council agrees that the proposed nil setback to the first floor of the south-eastern side elevation, facing adjoining neighbouring property at 1559-1563 Botany Rd, is inappropriate and likely to result in adverse visual privacy impacts. Relevant condition has been included for its removal, and 3m unobstructed side setback to be provided. Further, a condition is proposed for the windows at first floor level to be finished either with a raised sill height or with translucent glass to ensure there are no direct impacts onto the adjoining property. The location of other windows and private open space areas are not likely to have impacts as they have been designed with appropriate visual privacy measures.

- Adverse impacts from Communal Open Space at the upper level.

The proposal as amended no longer includes a rooftop communal open space area.

- Waste from visitors to commercial tenancy.

It is anticipated that appropriate facilities would be provided by the future commercial tenancy

to avoid adverse environmental impacts onto the public domain. This would generally form part of the assessment for this separate approval. Notwithstanding, without specific details for the future commercial tenancy the Waste Management Plan submitted for ongoing waste management of this area is supported and the approved document included as a condition to ensure compliance.

- Overshadowing impacts to adjoining residential property.

As discussed within this report, the adjoining property will maintain the minimum required solar access to satisfy the relevant provisions. It is anticipated that the redevelopment of the site would result in an increase to impacts, particularly the front portion being a single storey dwelling. The proposal is consistent with the desired future character, and the density is reflective of the transitioning character of the area from lower density to higher density.

The BLEP prohibits dwelling houses within the zone, therefore the redevelopment of the site and subsequent demolition of dwelling house on the site is both an anticipated outcome, and consistent with the desired future character of area.

- Removal of rear adjoining site tree.

The proposal as amended no longer seeks to remove the rear adjoining site tree as discussed within this report.

- Non-compliance with deep soil landscaping requirements.

As discussed within this report, the application exceeds the minimum deep soil landscaping requirement.

- Construction impacts from noise, dust, fumes etc.

Appropriate conditions relating to safe work management and adverse impacts to the neighbouring development, including during works, have been included within the notice of determination.

Noise conditions have been imposed within the notice of determination, including noise during construction, and from mechanical ventilation. Appropriate construction fencing is required to be installed as part of a condition in the notice of determination.

There are no construction methods proposed or unique site conditions that would require additional monitoring or conditions to be imposed.

S4.15(1)(e) - Public interest

The proposal has been assessed against the relevant planning instruments and controls applying to the site, also having regard to the applicable objectives of the controls. As demonstrated in this assessment of the development application, the proposal is suitable for the site and has acceptable environmental impacts, subject to recommended conditions. Impacts on adjoining properties have been considered and addressed. As such, granting approval to the proposed development will be in the public interest, subject to the recommended conditions which help manage and mitigate environmental or potential environmental impacts.

S7.11 Development Contributions

It is considered that the proposed development will increase the demand for public amenities within the area, and in accordance with Council's Section 7.11 Contribution Plan 2016.

The application was referred to Council’s Development Contributions Planner who indicated the contributions are broken down as follows:

| | |
|---------------------------|-------------|
| Community Facilities | \$3,678.48 |
| Recreation and Open Space | \$29,355.82 |
| Transport Facilities | \$6,674.84 |
| Administration | \$290.86 |

The total amount of contributions that is generated by the development is **\$40,000.00**.

This has been conditioned as part of the notice of determination.

Conclusion and Reasons for Decision

The proposed development at 1557 Botany Road, Botany has been assessed in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979* including relevant environmental planning instruments and Bayside Development Control Plan 2022.

The proposed development, being demolition of existing structures and construction of a three (3) storey shop-top housing development with basement storage and services, is a permissible land use within the zone with development consent. In response to the public notification, a total of thirteen (13) submissions were received across both notification periods. The issues raised in these submissions have been addressed in this report and by way of condition. The proposal is supported for the following main reasons:

- The development, subject to conditions, is consistent with the objectives of the MU1 Mixed Use Zone and the relevant objectives of Bayside Local Environmental Plan 2021.
- The development, subject to conditions, is generally consistent with the objectives of Botany Bay Development Control Plan 2013, and generally consistent with the relevant requirements of Apartment Design Guide.
- The variation request is well founded and satisfies the requirements of s4.6 of the BLEP 2021 to support the variation to the s4.3 Height of Buildings development standard.
- The proposal is an appropriate response to the streetscape and topography and will not result in any significant impact on the environment or the amenity of nearby residents. The scale and design of the proposal is suitable for the location and is compatible with the desired future character of the locality.

**Development Assessment
CONDITION SET**



| | |
|---|---|
| Development Application No: | DA-2022/421 |
| Property: | 1557 Botany Road, BOTANY NSW 2019 Lot A DP 386436 |
| Proposal: | Integrated Development - Demolition of existing structures and construction of a three (3) storey shop-top housing development with basement storage and services |
| Assessment Planner: | Ayse Kiziltekin |
| Content Manager No: | 24/45035 |
| Read in conjunction with Planning Assessment Report Content Manager No: | 24/47760 |

GENERAL CONDITIONS

The following conditions restrict the work to the detail provided in the Development Application and are to ensure that the development is complete.

1. Approved Plans and Supporting Documentation

Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.

| Approved Plans | | | | |
|-----------------------|---------------------|--------------------|---------------------------|---------------------|
| Plan No. | Revision No. | Plan Title. | Drawn By. | Date of Plan |
| DA-104 | C | Demolition Plan | Zhinar Architects Pty Ltd | 17.01.2024 |
| DA-100 | B | Basement Plan | Zhinar Architects Pty Ltd | 23.10.2023 |
| DA-101 | D | Ground Floor Plan | Zhinar Architects Pty Ltd | 17.01.2024 |
| DA-102 | D | Level One Plan | Zhinar Architects Pty Ltd | 17.01.2024 |
| DA-103 | D | Level Two Plan | Zhinar Architects Pty | 17.01.2024 |

| | | | | |
|--------|---|-----------------------------------|---------------------------|------------|
| | | | Ltd | |
| DA-200 | D | Elevation Plans | Zhinar Architects Pty Ltd | 17.01.2024 |
| DA-201 | C | Section Plans | Zhinar Architects Pty Ltd | 17.01.2024 |
| DA-202 | B | Schedule of Colours and Materials | Zhinar Architects Pty Ltd | 23.10.2023 |

| Approved Documents | | | |
|---|---|-----------------------------------|-------------------------|
| Document Title. | Version No. | Prepared By. | Date of Document |
| Landscape Plan | Sheet 1-4 Issue G | Paul Scrivener Landscape | 24.01.2024 |
| Stormwater Management Plan | Rev 2 Drawing No. 02670-100, 201, 202, 203, 204, 205, 401, 402, 601, 621, 622, and 701 | C & M Consulting Engineers | 29.01.2024 |
| Survey Plan | 240014.1 Version v1 sheet 1-3 | Survey3D | 24.01.2024 |
| Arboricultural Impact Assessment Report | 8526.1 | Redgum Horticultural | 25.10.2023 |
| BASIX Certificate | 1347813M_02 | - | 30.01.2024 |
| Dewatering Management Plan | E25780.E16_Rev0 | EI Australia | 14.04.2023 |
| Groundwater Take Assessment | E25780.G12 | EI Australia | 23.03.2023 |
| Traffic Report | 22402 | Varga Traffic Planning Pty Ltd | 16.11.2022 |
| Geotechnical Investigation Report | E25780.G03 | EI Australia | 27.10.2022 |
| Preliminary Site Investigation | E25780.E01_Rev1 | EI Australia | 05.12.2022 |
| Detailed Site Investigation | E25780.E02_Rev0 | EI Australia | 30.03.2023 |
| Acoustic Report | 220424 | Pulse White Noise Acoustics | 19.09.2022 |
| Access Report | 22294 | Vista Access Architects | 01.11.2022 |

| | | | |
|-----------------------------------|------------------|--------------|------------|
| Acid Sulfate Soil Management Plan | E25780.E14_Rev.1 | EI Australia | 05.12.2022 |
|-----------------------------------|------------------|--------------|------------|

In the event of any inconsistency between the approved plans and documents, the approved condition prevails.

In the event of any inconsistency with the approved plan and a condition of this consent, the condition prevails.

REASON

To ensure all parties are aware of the approved plans and supporting documentation that apply to the development.

2. Construction Certificate Required

A Construction Certificate must be obtained from Council or a Principal Certifier prior to any building work commencing.

Building work is defined under the *EPA Act Part 6*.

REASON

To ensure that a Construction Certificate is obtained at the appropriate time.

3. Compliance with the Building Code of Australia (BCA)

Building work must be carried out in accordance with the requirements of the BCA.

REASON

EP&A Regulation Clause 69(1).

4. Certification of External Wall Cladding

The external walls of the building, including attachments must comply with the relevant requirements of the National Construction Code (NCC). Prior to the issue of a Construction Certificate and Occupation Certificate the Principal Certifier must:

- a) Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the relevant requirements of the NCC, and
- b) Ensure that the documentation relied upon in the approval process include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built.

REASON

To ensure development complies with the NCC and fire safety requirements.

5. Amendments Require Modification Application

Further alterations and/or additions to the subject building, including the relocation of the fire booster valves and/or provision of an electricity substation, the fitting of any

form of doors and/or walls, shall not be undertaken without first obtaining approval from Council under Section 4.55 of the *EP&A Act*.

REASON

To avoid changes that may result in adverse impacts without proper assessment.

6. Separate Application Required for Commercial Tenancy

Separate approval shall be obtained for the specific use of the ground floor commercial tenancy prior to their commencement. The use of the commercial tenancy shall be consistency with the definition of ‘active street frontage’ as defined in Bayside LEP 2021. Additional conditions may be applicable.

Note: Parking and loading provisions in a mixed use development may preclude certain uses.

REASON

To ensure that a proper assessment and approvals are undertaken for future uses.

7. Earthworks Not Shown on Plans

No further excavation, backfilling or retaining walls can be carried out or constructed other than those identified on the approved drawings which form part of this consent unless it is otherwise permitted as exempt or complying development.

REASON

To avoid changes that may result in adverse impacts without proper assessment.

8. Approved Materials and Finishes

The finishes, materials and colour scheme and façade details, approved under condition 1 and any other relevant condition(s) of this consent must not be altered or amended at the construction certificate stage without a separate Section 4.55 approval.

REASON

To ensure that the development is finished in accordance with the approved plans and documentation.

9. Parking Allocation

Parking spaces and associated facilities shall be provided and allocated in accordance with the table below:

| Use | Number of Spaces Allocated |
|---------------------|--|
| Residential | |
| Residential units | A total of 6 spaces allocated as per below: 1 space per studio/1 bedroom unit 2 space per 2 bedroom unit 2 space per 3 or more bedroom unit |
| Residential visitor | 1 space |

| | |
|------------------------|----------|
| Non-Residential | |
| Commercial | 2 spaces |

The above allocation must be adhered and complied with at all times and shall be reflected in any subsequent Strata subdivision of the development.

All residential visitor spaces, car wash bays and loading bays shall be stated as common property on any Strata plan for the site.

All residential accessible parking spaces shall be allocated to adaptable dwelling units.

Any tandem / stacked parking spaces shall be allocated to a single residential / commercial unit only.

REASON

To ensure that car parking is provided and allocated in accordance with the approved plans and documentation.

10. Separate Approval for Signage

A separate consent must be obtained for any proposed signage, in addition to signage specifically approved under this consent / prior to the erection of any additional signage, (other than exempt and complying development).

Advisory Note: 'signage' is defined as follows:

'signage' means any sign, notice, device, representation or advertisement that advertises or promotes any goods, services or events and any structure or vessel that is principally designed for, or that is used for, the display of signage, and includes any of the following:

- a) an advertising structure, and
- b) building identification sign, and
- c) business identification sign.

REASON

To avoid changes that may result in adverse impacts without proper assessment.

11. Carrying out of works wholly within the Site

All approved works shall be carried out inside the confines of the site boundary and not in adjacent forecourts, yards, access ways, car parking areas, or on Council's footpath.

REASON

To avoid encroachment of the development beyond the site boundaries.

REQUIREMENTS OF CONCURRENCE, INTEGRATED AND OTHER AUTHORITIES

These conditions have been imposed by other NSW Government agencies either through their role as referral bodies, concurrence authorities or by issuing General Terms of Approval under the Integrated provisions of the *Environmental Planning and Assessment Act 1979*:

12. Transport for NSW (TfNSW)

The following conditions are imposed by Transport for NSW (TfNSW) in their letter dated 13 January 2023 and must be complied with:

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

REASON

To ensure compliance with requirements of Transport for NSW (TfNSW).

13. Ausgrid

The following conditions are imposed by Ausgrid in their letter issued on the NSW Planning Portal on 24 January 2023 and must be complied with:

- a) Ausgrid Underground Cables are in the vicinity of the development
 - i. Special care should be taken to ensure that driveways and any other construction activities do not interfere with existing underground cables located in the footpath or adjacent roadways.
 - ii. It is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area. Information regarding the position of cables along footpaths and roadways can be obtained by contacting Dial Before You Dig (DBYD).
 - iii. In addition to DBYD the proponent should refer to the following documents to support safety in design and construction:
 - SafeWork Australia – Excavation Code of Practice.
 - Ausgrid’s Network Standard NS156 which outlines the minimum requirements for working around Ausgrid’s underground cables. This document can be found by visiting the Ausgrid website via www.ausgrid.com.au.
 - The Ausgrid Quick Reference Guide for Safety Clearances “Working Near Ausgrid Assets - Clearances”. This document can also be found by visiting the Ausgrid website www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries
 - iv. The following points should also be taken into consideration.
 - Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed.
 - Should ground anchors be required in the vicinity of Ausgrid underground cables, the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable.
- b) Ausgrid Overhead Powerlines are in the vicinity of the development
 - i. The developer should refer to SafeWork NSW Document – Work Near Overhead Powerlines: Code of Practice. This document outlines the minimum separation requirements between electrical mains (overhead wires) and structures within the development site throughout the construction process. It is a statutory

- requirement that these distances be maintained throughout the construction phase.
- ii. Consideration should be given to the positioning and operating of cranes, scaffolding, and sufficient clearances from all types of vehicles that are expected be entering and leaving the site.
 - iii. The "as constructed" minimum clearances to the mains must also be maintained. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid's website at www.ausgrid.com.au.
 - iv. It is the responsibility of the developer to verify and maintain minimum clearances onsite. In the event where minimum safe clearances are not able to be met due to the design of the development, the Ausgrid mains may need to be relocated in this instance. Any Ausgrid asset relocation works will be at the developer's cost.
 - v. Additional information can be found in the Ausgrid Quick Reference Guide for Safety Clearances "Working Near Ausgrid Assets - Clearances". This document can be found by visiting the following Ausgrid website: www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries

REASON

To ensure compliance with requirements of Ausgrid.

14. Water NSW

The following conditions are imposed by WaterNSW in their letter dated 30 May 2023 and must be complied with. The proposal must be carried out in accordance with this letter and the General Terms of Approval below:

- a) The following General Terms of Approval issued by WaterNSW do not constitute an approval under the Water Management Act 2000. The development consent holder must apply to WaterNSW for a Water Supply Work approval after consent has been issued by Council and before the commencement of any work or activity. A completed application form must be submitted to WaterNSW together with any required plans, documents, application fee, and proof of Council's development consent. Application forms are available from the WaterNSW website.
- b) Groundwater must only be pumped or extracted for the purpose of temporary construction dewatering at the site identified in the development application. For clarity, the purpose for which this approval is granted is only for dewatering that is required for the construction phase of the development and not for any dewatering that is required once construction is completed.
- c) Before any construction certificate is issued for any excavation under the development consent, the applicant must: 1. apply to WaterNSW for, and obtain, an approval under the Water Management Act 2000 or Water Act 1912, for any water supply works required by the development; and 2. notify WaterNSW of the programme for the dewatering activity to include the commencement and proposed completion date of the dewatering activity Advisory Note: 3. An approval under the Water Management Act 2000 is required to construct and/or install the water supply works. For the avoidance of doubt, these General Terms of Approval do not represent any authorisation for the take of groundwater, nor do they constitute the grant or the indication of an intention to grant, any required

Water Access Licence (WAL). A WAL is required to lawfully take more than 3ML of water per water year as part of the dewatering activity. 4. A water use approval may also be required, unless the use of the water is for a purpose for which a development consent is in force.

- d) A water access licence, for the relevant water source, must be obtained prior to extracting more than 3ML per water year of water as part of the construction dewatering activity. Advisory Notes: 1. This approval is not a water access licence. 2. A water year commences on 1 July each year. 3. This approval may contain an extraction limit which may also restrict the ability to take more than 3ML per water year without further information being provided to WaterNSW. 4. Note that certain water sources may be exempted from this requirement - see paragraph 17A, Schedule 4 of the Water Management (General) Regulation 2018.
- e) If no water access licence is obtained for the first 3ML / year (or less) of water extracted, then, in accordance with clause 21(6), Water Management (General) Regulation 2018, the applicant must: (a) record water taken for which the exemption is claimed, and (b) record the take of water not later than 24 hours after water is taken, and (c) make the record on WAL exemption form located on WaterNSW website "Record of groundwater take under exemption", and (d) keep the record for a period of 5 years, and (e) give the record to WaterNSW either via email to Customer.Helpdesk@waternsw.com.au or post completed forms to - PO Box 398 Parramatta NSW 2124 (i) not later than 28 days after the end of the water year (being 30 June) in which the water was taken, or (ii) if WaterNSW directs the person in writing to give the record to WaterNSW on an earlier date, by that date.
- f) All extracted groundwater must be discharged from the site in accordance with Council requirements for stormwater drainage or in accordance with any applicable trade waste agreement.
- g) The design and construction of the building must prevent: (a) any take of groundwater, following the grant of an occupation certificate (and completion of construction of development), by making any below-ground levels that may be impacted by any water table fully watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation; (b) obstruction to groundwater flow, by using sufficient permanent drainage beneath and around the outside of the watertight structure to ensure that any groundwater mounding shall not be greater than 10 % above the pre-development level; and (c) any elevated water table from rising to within 1.0 m below the natural ground surface.
- h) Construction phase monitoring bore requirements GTA: a) A minimum of three monitoring bore locations are required at or around the subject property, unless otherwise agreed by WaterNSW. b) The location and number of proposed monitoring bores must be submitted for approval, to WaterNSW with the water supply work application. c) The monitoring bores must be installed and maintained as required by the water supply work approval. d) The monitoring bores must be protected from construction damage.
- i) Construction Phase Monitoring programme and content: a) A monitoring programme must be submitted, for approval, to WaterNSW with the water supply work application. The monitoring programme must, unless agreed otherwise in writing by WaterNSW, include matters set out in any Guide published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no Guide is current or published, the monitoring programme must include the following (unless

- otherwise agreed in writing by WaterNSW): i. Pre-application measurement requirements: The results of groundwater measurements on or around the site, with a minimum of 3 bore locations, over a minimum period of 3 months in the six months prior to the submission of the approval to WaterNSW. ii. Field measurements: Include provision for testing electrical conductivity; temperature; pH; redox potential and standing water level of the groundwater; iii. Water quality: Include a programme for water quality testing which includes testing for those analytes as required by WaterNSW; iv. QA: Include details of quality assurance and control v. Lab assurance: Include a requirement for the testing by National Association of Testing Authorities accredited laboratories. b) The applicant must comply with the monitoring programme as approved by WaterNSW for the duration of the water supply work approval (Approved Monitoring Programme).
- j) (a) Prior to the issuing of the occupation certificate, and following the completion of the dewatering activity, and any monitoring required under the Approved Monitoring Programme, the applicant must submit a completion report to WaterNSW. (b) The completion report must, unless agreed otherwise in writing by WaterNSW, include matters set out in any guideline published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no guideline is current or published, the completion report must include the following (unless otherwise agreed in writing by WaterNSW): 1) All results from the Approved Monitoring Programme; and 2) Any other information required on the WaterNSW completion report form as updated from time to time on the WaterNSW website. c) The completion report must be submitted using "Completion Report for Dewatering work form" located on WaterNSW website www.waternsw.com.au/customer-service/water-licensing/dewatering.
- k) The extraction limit shall be set at a total of 3ML per water year (being from 1 July to 30 June). The applicant may apply to WaterNSW to increase the extraction limit under this condition. Any application to increase the extraction limit must be in writing and provide all information required for a hydrogeological assessment. Advisory note: Any application to increase the extraction limit should include the following: - Groundwater investigation report describing the groundwater conditions beneath and around the site and subsurface conceptualisation - Survey plan showing ground surface elevation across the site - Architectural drawings showing basement dimensions - Environmental site assessment report for any sites containing contaminated soil or groundwater (apart from acid sulphate soils (ASS)) - Laboratory test results for soil sampling testing for ASS - If ASS, details of proposed management and treatment of soil and groundwater. Testing and management should align with the NSW Acid Sulphate Soil Manual.
- l) Any dewatering activity approved under this approval shall cease after a period of two (2) years from the date of this approval, unless otherwise agreed in writing by WaterNSW (Term of the dewatering approval). Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.
- m) This approval must be surrendered after compliance with all conditions of this approval, and prior to the expiry of the Term of the dewatering approval, in condition GT0151-00001. Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.
- n) The following construction phase monitoring requirements apply (Works Approval): a. The monitoring bores must be installed in accordance with the number and location shown, as modified by this approval, unless otherwise agreed in writing with WaterNSW. b. The applicant must comply with the

monitoring programme as amended by this approval (Approved Monitoring Programme). c. The applicant must submit all results from the Approved Monitoring Programme, to WaterNSW, as part of the Completion Report.

REASON

To ensure compliance with requirements of WaterNSW.

PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

The following conditions must be completed prior to the issue of the Construction Certificate:

15. Design Amendments

Before the issue of a Construction Certificate, the Certifier must ensure the approved Construction Certificate plans and specifications detail the following required amendments to the approved plans and documents:

- (a) The first floor balcony and associated landscape planter boxes to the south-eastern elevation facing 1559-1563 Botany Road shall be deleted. The building shall maintain a 3m side setback to this elevation on Level 1 and Level 2. The windows to Level 1 on this elevation shall either be raised to have a 1.5m sill height above the finished floor level, or be finished with translucent glazing.
- (b) The awning is to be shown on ground and first floor plan and elevations and sections for the entire frontage of the building on both streets and in compliance with the requirements of condition 49 of this consent.
- (c) The location of air conditioning units (if any) to ensure they are not visible from the public domain or adjacent property.
- (d) The inclusion of solar panels, electrical appliances and additional sustainability measures.
- (e) Conceal drainage pipes within the floor slabs and walls so that they do not appear in the exterior of the building, including balconies and driveway entrances.
- (f) Any hot water system / unit (if in the balconies) are screened from view from the public domain.

REASON

To require minor amendments to the plans endorsed by the consent following assessment of the development.

16. Payment of Fees and Security Deposits

Before the commencement of any works on the site or the issue of a Construction Certificate, the Applicant must make all of the following payments to Council and provide written evidence of these payments to the Certifier:

| | |
|--|-------------|
| Soil and Water Management Sign Fee | \$24.00 |
| Section 7.11 Contributions | \$40,000.00 |
| Builders Damage Deposit (Security Deposit) | \$17,513.00 |
| Tree Preservation Bond (Security Deposit) | \$2,000.00 |

The payments will be used for the cost of:

- making good any damage caused to any Council property (including street trees) as a consequence of carrying out the works to which the consent relates,

- completing any public work such as roadwork, kerbing and guttering, footway construction, stormwater drainage and environmental controls, required in connection with this consent, and
- any inspection carried out by Council in connection with the completion of public work or the making good any damage to Council property.

Note: The inspection fee includes Council's fees and charges and includes the Public Road and Footpath Infrastructure Inspection Fee (under the *Roads Act 1993*). The amount payable must be in accordance with council's fees and charges at the payment date.

Note: At the completion of the project only security deposits can be refunded, fees and contributions are non-refundable.

REASON

To ensure any damage to public infrastructure is rectified and public works can be completed.

17. Payment of Security Deposits

Before the issue of the relevant Construction Certificate, the Applicant must:

- make payment of \$17,513.00 Builders Damage Deposit for a security deposit to the consent authority, and
- if a Principal Certifier is required to be appointed for the development provide the Principal Certifier with written evidence of the payment and the amount paid.

REASON

To ensure any damage to public infrastructure is rectified and public works can be completed.

18. Payment of Fees

Before any site work commences, the following must be paid to Council and written evidence of these payments provided to the Principal Certifier:

- Inspection fees as specified in Council's fees and charges at the payment date.

REASON

To ensure fees are paid for inspections carried out by Council in connection with the completion of public work such as footway construction or stormwater drainage required in connection with the consent or the making good of any damage to Council property.

19. Long Service Levy

Before the issue of the relevant Construction Certificate, the long service levy of \$5,435.66, as calculated at the date of this consent, must be paid to the Long Service Corporation or Council under the *Building and Construction Industry Long Service Payments Act 1986*, section 34, and evidence of payment is to be provided to the Principal Certifier.

REASON

To ensure the long service levy is paid.

20. Payment of Section 7.11 Contributions

A Section 7.11 contribution of \$40,000.00 shall be paid to Council. The contribution is calculated according to the provisions contained within Council's adopted Former City of Botany Bay s7.11 Development Contributions Plan 2016 (Amendment 1) and having regard to the Ministerial Directive of 21 August 2012 (the \$20,000 cap). The amount to be paid is to be adjusted at the time of payment, in accordance with the review process contained Contributions Plan. The contribution is to be paid prior to the issue of any compliance certificate; subdivision certificate or construction certificate The contributions are only used towards the provision or improvement of the amenities and services identified below. Copies of the Contribution Plan can be inspected at the Council's Customer Services Centre, Administration Building, 444-449 Princes Highway, Rockdale.

| | |
|---------------------------|--------------------|
| Community Facilities | \$3,678.48 |
| Recreation and Open Space | \$29,355.82 |
| Transport Facilities | \$6,674.84 |
| Administration | \$290.86 |
| Total in 2023/2024 | \$40,000.00 |

REASON

To ensure development contributions are paid to address the increased demand for public amenities and services resulting from the approved development.

21. Street Tree Preservation Bond

Prior to the commencement of any work the applicant is to submit payment for a Tree Preservation Bond of \$2,000.00 to ensure protection of the retained Public Domain trees.

The duration of the Bond shall be limited to a period of twelve months (12 months) after the occupation certificate is issued.

At completion of the bond period of twelve months (12 months) the Bond shall be refunded pending an inspection of the tree by council. If a tree is found to be dead, pruned or dying and will not recover the applicant will forfeit all or part of the bond to replace or maintain the tree/s.

REASON

To minimise adverse impacts on trees, protect local canopy through tree retention and replacement and ensure best practice is implemented.

22. Contamination – Additional Investigations & Remediation (following building demolition)

Following demolition of the existing buildings a Supplementary Investigation must be completed by a suitably qualified and experienced environmental consultant in accordance with:

- a) NSW EPA (2020) 'Consultants reporting on contaminated land';

- b) NSW Environment Protection Authority (NSW EPA) approved guidelines under the Contaminated Land Management Act 1997; and
- c) Chapter 4 of the State Environmental Planning Policy (Resilience and Hazards).

The Supplementary Investigation must include, but is not limited to, the following intrusive works:

- a) Soil characterisation within the footprint of the current commercial building (northern portion of the site).
- b) Soil characterisation within the southern portion of the site (current residential portion of the site).
- c) Confirmation of the location of the UST by ground penetrating radar (GPR) scanning.
- d) Characterisation of soil in the vicinity of the suspected UST.
- e) Characterisation of soil to the depth of the proposed excavation.
- f) Further characterisation of groundwater (if required).

Following completion of the Supplementary Investigation, if required a Remedial Action Plan (RAP) must be prepared. Active management measures to manage risks from residual contamination, including the reliance on mechanical car-park ventilation systems, will not be supported by Bayside Council. Passive measures that are not reliant on powered mechanically systems must be used to manage any residual risks and must be appropriate for the life of the development.

The Supplementary Investigation and RAP must be provided to the Principal Certifying Authority, and to Bayside Council for written concurrence, prior to the issue of any Construction Certificate involving excavation or construction.

REASON

To protect the environment and ensure remediation of land is in accordance with legislative requirements.

23. Construction Site Management Plan

Before the issue of a Construction Certificate, a construction site management plan must be prepared, and provided to the Principal Certifier. The plan must include the following matters:

- (a) The location and materials for protective fencing and hoardings on the perimeter of the site;
- (b) Provisions for public safety;
- (c) Pedestrian and vehicular site access points and construction activity zones;
- (d) Details of construction traffic management including:
 - i. Proposed truck movements to and from the site;
 - ii. Estimated frequency of truck movements; and
 - iii. Measures to ensure pedestrian safety near the site;
- (e) Details of any bulk earthworks to be carried out;
- (f) The location of site storage areas and sheds;
- (g) The equipment used to carry out all works;

- (h) The location of a garbage container with a tight-fitting lid;
- (i) Dust, noise and vibration control measures;
- (j) The location of temporary toilets;
- (k) The protective measures for the preservation of trees on-site and in adjoining public areas including measures in accordance with:
 - i. AS 4970 - Protection of trees on development sites;
 - ii. An applicable Development Control Plan;
 - iii. An arborist's report approved as part of this consent.

A copy of the construction site management plan must be kept on-site at all times while work is being carried out.

REASON

To require details of measures that will protect the public, and the surrounding environment, during site works and construction.

24. Design Verification Statement

Prior to the issue of a Construction Certificate, a statement from a qualified designer (Registered Architect) is to be submitted 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 quality principles, in accordance with the requirements of the *Environmental Planning and Assessment Regulation 2021*.

REASON

To ensure compliance with the Environmental Planning and Assessment Regulation 2021.

25. Sydney Water Tap-in

Prior to the issue of the Construction Certificate, the approved plans must be submitted to Sydney Water Tap inTM online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.

Sydney Water's Tap inTM online service is available at:

<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

REASON

To ensure compliance with Sydney Water requirements.

26. Safer by Design Requirements

To maximise security in and around the development the following shall be incorporated into the development. Details for the following are to be approved by the Principal Certifier prior to the issue of the Construction Certificate, implemented prior to issue of the Occupation Certificate, and maintained for the lifetime of the development:

- (a) Monitored CCTV facilities shall be implemented throughout the development. Areas of focus include the basement car park (including entry and exits), main entry areas to the development and garbage/storage areas, and

- (b) A lighting maintenance policy shall be established for the development. Lighting shall be designed to the Australian and New Zealand Lighting Standards. Australia and New Zealand Lighting Standard 1158.1 - Pedestrian, requires lighting engineers and designers to consider crime risk and fear when selecting lamps and lighting levels, and
- (c) Security mirrors shall be installed within corridors and on blind corners to enable users to see around blind corners, and
- (d) Graffiti resistant materials shall be used to ground level external surfaces, and
- (e) Intercom facilities shall be installed at all vehicular and pedestrian entry/exit points to enable residents to communicate and identify with people prior to admitting them to the development, and
- (f) The front window of the ground floor tenancy must be kept free of shelves, and a maximum of 15% of the window display area may be covered with promotional materials to ensure passive surveillance is maintained to and from the tenancy, and
- (g) The ceiling of the basement car park shall be finished in light colour in order to maximise visibility.

REASON

To ensure compliance with the Crime Prevention Through Environmental Design (CPTED) principles.

27. Encroachment of Structures not Permitted

No part of any structure, including gutters and eaves and front fences (including footings), may encroach or overhang any property boundary and/or public footway.

REASON

To ensure all development is contained wholly within the site and minimise impacts on surrounding land.

28. Lighting

All external lights shall comply with the Australian Standard AS4282 - Control of the Obtrusive Effects of Outdoor Lighting. In this regard, the lighting of the premises shall be directed so as not to cause nuisance to the owners or occupiers of adjacent/adjoining premises or to motorists on adjoining or nearby roads.

REASON

To ensure that adverse impacts from lighting are minimised in accordance with relevant standards.

29. Services in Garbage Room

Hot and cold water supply shall be provided to the garbage room.

Services or utility systems shall not be located within the garbage room.

Details demonstrating compliance shall be provided to the satisfaction of the Principal Certifier, prior to the issue of a Construction Certificate.

REASON

To ensure the proper storage and management of waste and minimise adverse impacts to human health.

30. Utilities and Services

Before the issue of the relevant Construction Certificate, written evidence of the following service provider requirements must be provided to the Principal Certifier:

- (a) a letter from Ausgrid demonstrating that satisfactory arrangements can be made for the installation and supply of electricity.
- (b) a response from Sydney Water as to whether the plans accompanying the application for a construction certificate would affect any Sydney infrastructure, and whether further requirements need to be met.
- (c) other relevant utilities or services – that the development as proposed to be carried out is satisfactory to those other service providers, or if it is not, the changes that are required to make the development satisfactory to them.

REASON

To ensure relevant utility and service providers' requirements are provided to the certifier.

31. Inter-Tenancy Acoustic Attenuation

The development shall achieve the following minimum equivalent AAAC Star Rating within the below specified areas of the development:

- (a) Three (3) Star for tiled areas within kitchens, balconies, bathrooms and laundries. Tiled flooring within corridors, living areas and bedrooms is not permitted, and
- (b) Four (4) Star for timber flooring in any area, and
- (c) Five (5) Star for carpet in any area.

The development shall comply with the Building Code of Australia requirement for walls dividing occupancies.

A report shall be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate. The report is to include BCA requirements and details of floor/ceilings between residential apartments. Floor coverings within apartments shall be identified within the report.

A suitably qualified Acoustic Engineer with MIE Australia membership or employed by a consulting firm eligible for AAAC membership is to certify that the details provided in the said report satisfy the requirements of this condition, with the certification to be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate for the relevant stage of works.

REASON

To minimise adverse amenity impacts to residents within the building.

32. Aircraft Noise – Compliance with Submitted Report

Prior to issue of the Construction Certificate, the measures required in the acoustical assessment report prepared by Pulse White Noise Acoustics dated 19 September 2022 shall be included in the construction drawings and in accordance with the provisions of AS 2021 - 2015: Acoustics - Aircraft Noise Intrusion - Building Siting and Construction.

The work detailed in the report includes:

- a) Appropriate acoustic glazing to stated windows and doors, and
- b) Detailed roof and ceiling construction, and
- c) Wall and ceiling corner details, and
- d) External door specification.
- e) Acoustically treated mechanical ventilation

REASON

To minimise adverse amenity impacts to residents within the building.

33. Rail and/or Road Noise

The development must be constructed to ensure compliance with the recommendations of the approved acoustic report under Condition 1 and to meet the relevant provisions of *Australian Standard AS 2107:2000* Recommended design sound levels and reverberation times for building interiors. Compliance with this condition must be achieved within the approved building envelope, form and design. Any variations to the approved plans externally to achieve compliance must be the subject of a Section 4.55 application to modify the approved plans. Details of the provisions must be provided on the Construction Certificate plans submitted to the Principal Certifier prior to the release of a Construction Certificate.

REASON

To minimise adverse amenity impacts to residents within the building.

34. Erosion and Sediment Control Plan

Before the issue of a Construction Certificate, an erosion and sediment control plan must be prepared by a suitably qualified person in accordance with the following documents and provided to the Principal Certifier:

- (a) Council's relevant Development Control Plan,
- (b) the guidelines set out in the NSW Department of Housing Manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book), and
- (c) the 'Do it Right On-Site, Soil and Water Management for the Construction Industry' (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust) (as amended from time to time).

REASON

To ensure no substance other than rainwater enters the stormwater system and waterways.

35. Waste Management Plan

Before the issue of a Construction Certificate, a Waste Management Plan for the development must be provided to the Principal Certifier.

REASON

To ensure resource recovery is promoted and local amenity protected during construction.

36. Waste Management Plan Requirements

Before the issue of a Construction Certificate, a Waste Management Plan for the development must be prepared and provided to the Principal Certifier. The plan must be prepared:

- (a) in accordance with:
 - i) the Environmental Protection Authority's Waste Classification Guidelines as in force from time to time, and
 - ii) a development control plan that provides for waste management that applies to the land on which the work or the clearing of vegetation is carried out, and
- (b) include the following information:
 - i) the contact details of the person removing the waste,
 - ii) an estimate of the type and quantity of waste,
 - iii) whether waste is expected to be reused, recycled or sent to landfill,
 - iv) the address of the disposal location for waste.

A copy of the Waste Management Plan must be kept on-site at all times while work approved under the development consent is being carried out.

REASON

To ensure resource recovery is promoted and local amenity protected during construction.

37. Provision of Detailed Plans for Construction Certificate Application

Before the issue of a Construction Certificate, detailed plans must be prepared by a suitably qualified person and provided to the Certifier for approval that are consistent with the plans and documentation approved under this consent.

Detailed plans must also show the following:

- (a) Car parking facilities
- (b) Acoustic Report
- (c) Disability Access Plan
- (d) Pedestrian access
- (e) Signage location and structures
- (f) Mechanical ventilation

REASON

To ensure that detailed Construction Certificate plans are consistent with the approved plans and supporting documentation.

38. Property Address Allocation

Prior to the issue of a Construction Certificate for the development an application for street addresses Property Address Allocation and associated fee shall be submitted to Council for each individual residential dwelling within the development in accordance with Section 5.2 of the NSW Address Policy and User Manual dated May 2021.

The form is available for download at:

<https://www.bayside.nsw.gov.au/sites/default/files/2022-06/Property%20Address%20Allocation.PDF>

Derivation and production of address data components is governed by the NSW Address Policy and User Manual May 2021 to ensure consistency of application.

https://www.qnb.nsw.gov.au/data/assets/pdf_file/0004/229216/NSW_Address_Policy_and_User_Manual_2021.pfd

REASON

To ensure property addresses are allocated in accordance with relevant standards.

39. Retaining Walls Over 600mm

Retaining walls over 600mm in height shall be designed and specified by a structural engineer registered with the National Engineering Register (NER).

REASON

To ensure the structural adequacy of new retaining walls.

40. Detailed Design Stormwater Management Plan

Prior to the issue of any Construction Certificate, detailed drainage design plans for the management of stormwater are to be submitted to the Principal Certifier for assessment and approval. Engineering design certification and drainage design calculations are to be submitted with the plans. Botany Bay DCP Part 10 - Stormwater Management Technical Guidelines sets out the minimum documentation requirements for detailed design plans. Stormwater management requirements for the site, including the final discharge/end connection point, must comply with Botany Bay DCP Part 10 - Stormwater Management Technical Guidelines.

The detailed drainage design plans shall incorporate the provisions generally made in the stormwater concept plans prepared by C&M CONSULTING ENGINEERS, dated 29/1/24, revision/issue 2 along with the revisions/requirements detailed below:

- a) A minimum 15,000 litre rainwater tank shall be provided for the development, connected to all toilets, clothes washers and external taps/landscape irrigation for non-potable stormwater re-use. Balconies and planter boxes cannot drain into the rainwater tank.
- b) Manufacturer details is to be provided for the proprietary products for stormwater treatment.
- c) A OSD base plan is to be provided for the OSD, showing all base levels and minimum 1% fall towards the outlet pipe.

- d) A sump plan for the pump out pit to be provided showing all the base levels and the minimum 1% fall towards the pump.
- e) Details of the kerb inlet pit to be shown on the plans including sections. Details of the butterfly grate also to be provided.
- f) A maintenance schedule is to be provided for the stormwater drainage system including the roof gutters and the Water Sensitive Urban Design (WSUD) products.

REASON

To ensure compliance with Council's Stormwater Management Technical Guidelines / Specifications.

41. Tanking and Waterproofing Basement Intercepting Groundwater Table

Prior to the issue of any Construction Certificate, all subsurface structures shall be designed with a waterproof retention system (i.e., full structural tanking and waterproofing) with adequate provision for future fluctuation of the water table. The subsurface structure is required to be designed with consideration of uplift due to water pressure and "flotation" (buoyancy) effects. If subsoil drainage is permitted to be provided around the subsurface structure, the subsoil drainage around the subsurface structure must allow free movement of groundwater around the structure but must not be connected to the internal drainage system. No groundwater is permitted to enter the subsurface structures and, no pump-out system is permitted to be used to drain and discharge groundwater from the subsurface structures. The design of subsurface structure, tanking, waterproofing and subsoil drainage shall be undertaken and certified by Engineer(s) registered with the National Engineering Register (NER). Design details, construction specifications and engineering design certification shall be included in the documentation accompanying the Construction Certificate.

REASON

To ensure that subsurface structures are designed to prevent ingress of groundwater.

42. Detailed Parking Facility Design Requirements and Certification

Prior to the issue of any Construction Certificate, the construction certificate plans and supporting documentation shall demonstrate compliance with the following:

- a) Compliance with AS2890 Car Parking:
 - i. The parking facility (including parking spaces, ramps, aisles, vehicular crossing etc.) must comply in full with AS2890.1. The longitudinal profile(s) of the access driveway and any ramps within the parking facilities must comply with the Ground Clearance, Gradient (%) and Length requirements of the 2890 Australian Standards Series, and
 - ii. All vehicles are to enter and exit the site in a forward direction, and
 - iii. The minimum number of accessible car parking spaces shall be in accordance with the relevant disability legislation. The design and construction of accessible car parking spaces shall be in accordance with AS2890.6.

REASON

To ensure compliance with the relevant Australian Standard.

43. Structural Certificate Basement Structure Adjacent to Public Road

Prior to the issue of the Construction Certificate a certificate from a Structural Engineer, registered with National Engineering Register (NER), shall be submitted to Bayside Council stating that the subsurface structural components located on the boundary of the public road, including but not limited to the slabs, walls and columns, have been designed in accordance with all SAA Codes for the design loading from truck and vehicle loads.

REASON

To minimise risk to personal safety and property.

44. Use of Neighbouring Properties and Roadways for Support

Prior to the issue of the Construction Certificate, if neighbouring properties or roadway are to be utilised for excavation support, the legal rights of any adjoining properties must be respected including for permanent and temporary excavation supports. In this regard the written permission of the affected property owners must be obtained and a copy of the owner's consent for excavation support or other material in adjacent lands must be lodged to the Principal Certifier.

Where excavation support materials are proposed to be used in public land, an application must be made to Council for approval under Section 138 of the *Roads Act 1993*, via a permit application. The submission would need to be supported by an engineering report prepared by an Engineer registered with the National Engineering Register (NER), with supporting details addressing the following issues:

- a) Demonstrate that any structures will not adversely affect public infrastructure, and the proposed supports within the road reserve are of adequate depth to ensure no adverse impact on existing or potential future service utilities in the road reserve. All existing services must be shown on a plan and included on cross sectional details where appropriate.

The report must be supported by suitable geotechnical investigations to demonstrate the efficacy of all design assumptions.

REASON

To ensure landowner's legal rights are protected and that damage to adjoining land is minimised.

45. Geotechnical Certification

Prior to the issue of any Construction Certificate, a Geotechnical Engineer must:

- a) Review and ensure the appropriate construction methodology, parameters, and recommendations in the geotechnical report prepared by EI Australia, report no. E25780.G03, dated 27/10/2022, have been implemented and relied upon during the preparation of the Construction Certificate plans and documentation.
- b) Provide detailed recommendations to allow the satisfactory implementation of the works:
 - i The appropriate means of any excavation/shoring is to be determined and detailed, considering the proximity to adjacent property and structures,

- ii Potential vibration caused by the method of excavation and potential settlements affecting nearby footings/foundations/buildings shall be discussed and ameliorated,
 - iii Review and certify the proposed method to temporarily and permanently support any excavation adjacent to adjoining property, structures and road reserve if nearby (full support to be provided within the subject site),
 - iv An implementation program is to be prepared along with a suitable monitoring program (as required) including control levels for vibration, shoring support, ground level and groundwater level movements during construction. The implementation program is to nominate suitable hold points at the various stages of the works for verification of the design intent before sign-off and before proceeding with subsequent stages.
- b) Prepare a Construction Methodology report demonstrating that the proposed construction methods (including any excavation, and the configuration of the built structures) will have no adverse impact on any surrounding property and infrastructure, and
 - c) Certify that the construction certificate plans and supporting documentation are satisfactory from a geotechnical perspective, and
 - d) Inspect the works as they progress at frequencies determined by the Geotechnical Engineer (where necessary).

The professional recommendations of the report shall be implemented in full during the relevant stages of excavation and construction.

Note: A failure by contractors to adequately assess and seek professional engineering (geotechnical) advice to ensure that appropriate underpinning and support to adjoining land is maintained prior to commencement may result in damage to adjoining land and buildings. Such contractors are likely to be held responsible for any damages arising from the removal of any support to supported land as defined by section 177 of the *Conveyancing Act 1919*.

REASON

To ensure that structural designs are adequate and that damage to adjoining land is minimised.

46. Frontage Works Application

Prior to the issue of any Construction Certificate, an application for Frontage Works (Public Domain Construction – Frontage / Civil Works Application) shall be made to Bayside Council's Customer Service Centre for assessment of all required works within the road reserve. A fee is payable to Bayside Council in accordance with Council's adopted fees and charges.

Prior to the commencement of the public domain works, a Public Domain Frontage Design package must be prepared by suitably qualified professionals for all frontage works that are required to be constructed within the public domain that are subject to assessment and approval pursuant to Section 138 of the *Roads Act 1993*. Public domain frontage works can include, but not be limited to, civil, drainage, landscaping, undergrounding of services, lighting, traffic signage, line marking, parking, and traffic devices to address and satisfy relevant development consent conditions. All frontage works shall be in accordance with Bayside Council technical manuals, specifications,

master plans, town centre plans, Australian Standards, and standard design drawings.

A public domain performance bond is to be provided to Bayside Council prior to the issue of the Final Occupation Certificate. The performance bond is calculated by Bayside Council as part of the frontage works process as per Bayside Council's adopted fees and charges. The performance bond will be kept for a period of 12 months after the completion of all external works and the issuing of a Final Occupation Certificate (defects liability/street tree maintenance period). The bond may be applied by Bayside Council to rectify defective/non-conforming public domain works and the establishment and maintenance of landscaping & street trees. Bayside Council is entitled to recover any monies expended more than the bond amount in undertaking such works.

REASON

To ensure that public domain works are designed and constructed in accordance with relevant requirements and standards.

47. Clear Public Access Ways

Before issue of a Construction Certificate, construction plans must demonstrate that access doors to enclosures for building services and facilities, such as hydrant and sprinkler booster assemblies or the like, except fire stair doors, will not open over the footway or roadway.

REASON

To ensure doors used to house building services and facilities do not obstruct pedestrians and vehicles.

48. Equal Access to Premises

Before the issue of a Construction Certificate, plans which demonstrate that adequate access to the premises will be provided for persons with disabilities in accordance with the *Commonwealth Disability (Access to Premises – Buildings) Standards 2010*. These plans must be submitted to the Certifier.

REASON

To ensure safe and easy access to the premises for people with a disability.

49. Awnings over Public Footpath

Prior to issue of the Construction Certificate, details of the approved street awning, including plans and sections, must be provided to the Principal Certifier. The awning shall be consistent with the approved development application plans unless specifically varied below. The details must include:

- a) A minimum setback of 600mm from the face of the kerb, maximum fascia height 600mm, minimum soffit height 3.3m and a maximum step of 900mm for sloping sites. The awnings must be entirely self-supporting; posts are not permitted, and
- b) All stormwater is to be collected and connected to Council's street gutter. In this regard awning downpipes for drainage are to be fully concealed within or recessed into the ground floor frontage of the building. Awning gutters are to be constructed so that they are not visible from the footpath or are integral to the awning structure, and
- c) The design and certification by a Structural Engineer registered with the National

Engineering Register (NER) for Roof Category R1 in accordance with AS/NZS 1170.1: 2002, AS/NZS 1170.0: 2002, and AS/NZS 1170.3: 2011. The design must incorporate all loads including dead loads, live loads, wind load (lateral, uplift, and downward pressure), and potential impact load, and

- d) The awning(s) must be constructed of non-combustible/light materials (ie. not an extension of the first floor slab), and
- e) Lighting is required and must comply with AS/NZS 1158.3.1: 2005 and AS/NZS 1158.0: 2005. Lighting must be recessed into the awning and be integral to its structure with all wiring and conduits concealed.

Subject to compliance with the requirements above, Bayside Council grants approval pursuant to Section 138 of the *Roads Act 1993*. Council's approval remains whilst the structure is in place and the structural stability of the awning is not compromised. Maintenance of the awning is the responsibility of the owner of the land.

REASON

To ensure that awnings are designed, constructed and maintained in accordance with relevant requirements and standards.

50. Undergrounding of Overhead Services and Installation of Lighting

All overhead cables, including electricity and telecommunication cables, along the entire length of all frontages of the development site must be relocated underground as part of the development. The Ausgrid lighting and power poles will need to be decommissioned and new underground supplied lighting columns shall be constructed (where necessary) satisfying the applicable requirements. Ausgrid's approval for the works must be obtained. The location of the new electrical pillars, new lighting poles, any new pits and trenches for utilities shall be confirmed with Bayside Council prior to the commencement of public domain works. The applicant is responsible for all relocation costs, including costs associated with other cabling such as telecommunications cables. These works must be completed to the satisfaction of Bayside Council prior to the issue of the Final Occupation Certificate.

Where the road reserve is congested with underground utility services and/or street trees, the person acting on the consent must design the undergrounding works around the congestion to the requirements of Ausgrid and Bayside Councils Landscape Architect/Arborist.

If further works are required beyond the frontages of the development site (e.g. across a road) to support the required undergrounding works, these works must also be carried out at no cost or expense to Bayside Council.

REASON

To improve the public domain in accordance with Council's Development Control Plan.

51. Waste Storage (Residential and Mixed Use Developments)

The plans shall include details of the waste storage area. The waste storage area shall not be visible from the street. The waste storage area shall be located within the lot / building in accordance with the approved plans.

The waste storage area shall be large enough to accommodate the required number of bins for the development and located in an area to suitably facilitate servicing on waste collection day.

The path to the bin room is to be at least 1.0 metres wide and kept clear and unobstructed at all times.

52. Residential Waste

The development will require the provision of the following waste and recycling facilities:

- a) Domestic Waste - 2 x 240 litre mobile bins, and
- b) Domestic Recycling - 2 x 240 litre mobile bin, and
- c) Green Waste - 1 x 240 litre mobile bins, and
- d) Bulk Waste Storage Area - Minimum 10m².

53. Commercial Waste

For the Commercial portion of the building appropriate waste and recycling containers and facilities will need to be provided for all specific end use businesses in accordance with the following waste generation rates:

- a) Retail Trading - shops, to 100 square metres - 0.1-0.2 cubic metres per 100 square metres of floor area per day, and
- b) Restaurants and Food Shops - 0.3-0.6 square metres per 100 meals, plus up to 0.15 cubic metres of beverage containers per 100 meals, and
- c) Office - 0.01-0.03 cubic metres per 100 square metres of floor area per day.

REASON

To manage waste in accordance with Council's Waste Management Technical Specifications.

PRIOR TO THE COMMENCEMENT OF ANY WORK (including demolition and excavation)

The following conditions must be completed prior to the commencement of works:

54. Erosion and Sediment Controls in Place

Before any site work commences, the Principal Certifier must be satisfied the erosion and sediment controls in the Erosion and Sediment Control Plan are in place. These controls must remain in place until any bare earth has been restabilised in accordance with the *NSW Department of Housing Manual 'Managing Urban Stormwater: Soils and Construction Certificate'* (the Blue Book) (as amended from time to time).

REASON

To ensure sediment laden runoff and site debris do not impact local stormwater systems and waterways.

55. Tree Protection and Management

- a) The *Cinnamomum camphora* (Camphor Laurel) located on the rear adjoining property (2 Tenterden Rd) shall be retained and protected with a Tree Protection Zone (TPZ). The tree must not be removed or pruned, including root pruning, without the written consent of Council.

- b) The *Platanus x hispanica* (London Plane Tree) located within the public domain on Botany Rd shall be retained and protected with a Tree Protection Zone (TPZ). The tree must not be removed or pruned, including root pruning, without the written consent of Council.
- c) No trees located within the site, adjoining properties or Council's nature strip shall be removed or pruned without the prior written consent of Council in the form of a Permit issued under Council's Development Control Plan and/or *State Environmental Planning Policy (Biodiversity and Conservation) 2021*.
- d) Tree Protection - Comply with all recommendations, requirements, and management plans contained within the Council approved Arborist report, prepared by Redgum Horticultural dated 25 October 2023. Trees to be retained are to be tagged with clearly visible marking tape at a height of approximately 2 metres from ground and numbered with the corresponding number in the Arborist Report.
- The key recommendations to be complied with include the retention and Tree Protection Zone management for the *Cinnamomum camphora* (Camphor Laurel) on the rear adjoining property (2 Tenterden Rd), and the *Platanus x hispanica* (London Plane Tree) located within the public domain on Botany Rd.
- e) Prior to commencement of any work on site, in order to ensure that the trees listed under (a) and (b) above are protected during demolition and construction, and the health and structural stability ensured, Tree Protection Zones (TPZs) shall be established as follows:
- i. In accordance with AS4970-2009 protective fences consisting of chain wire mesh temporary fence panels with a height 1.8m shall be erected outside the drip-line. The fence panels must be securely mounted and braced to prevent movement. The area within the fencing must be mulched with leaf mulch to a depth of 100mm and a weekly deep watering program undertaken, and
 - ii. The protective fences shall consist of para-webbing or chain wire mesh mounted on star pickets or similar metal posts, shall be in place prior to the commencement of any work on site and shall remain until the completion of all building and hard landscape construction, and
 - iii. Fencing shall be erected to ensure that the public footway is unobstructed. If there is insufficient space to erect fencing, wrap the trunk with hessian or carpet underlay to a height of 2.5m or to the trees first lateral branch, whichever is greater, and affix timber palings around the tree with strapping or wire (not nails), and
 - iv. The applicant is required to contact Council for an inspection and/or provide photographic evidence of the fenced tree protection zones. Council approval is required prior to commencement of any works
 - v. All TPZ's as well as the entire Council nature strip are a 'No-Go' zone. There shall be no storage of waste bins, materials and equipment, site residue, site sheds, vehicle access, concrete / chemical mixing/disposal, or washing down of tools and equipment permitted within the TPZ's at any time.
 - vi. Existing soil levels within the drip line of trees shall not be altered without written agreement from Council's Tree Management Officer.

If there is any contravention of these tree preservation conditions, or a tree was found to be damaged (including roots), in decline, dead or pruned without permission, then

Council may claim all or part of the lodged security bond prior to its release as well as require remedial pruning work.

The above listed requirements and tree protection measures must be complied with at all times until completion of all building and hard landscape construction.

REASON

To minimise adverse impacts on trees, protect local canopy through tree retention and replacement and ensure best practice is implemented.

56. Tree Protection Measures

Before any site work commences, the Principal Certifier, or Council where a principal certifier is not required, must be satisfied the measures for tree protection detailed in the construction Site Management Plan are in place.

REASON

To protect and retain trees.

57. Detailed Landscape Plan

Prior the issue of the Construction Certificate, amended landscape plans must be submitted to, and approved by, the Director City Futures (or delegate) of Bayside Council.

The amended plans shall be generally in accordance with the approved Landscape Plan listed in Condition 1 and must comprise detailed landscape construction documentation (plans and specifications).

The detailed plan shall include, but not be limited to, the following:

- a) A planting plan at 1:100 showing all plant locations/groupings and plant centres/species.
- b) Required services shall not negatively affect the public areas. Provide details of all services provided along the interface with the public domain, including fire Hydro boosters, substations, gas meters and other.
- c) Interface with public domain. All planting proposal along site frontages shall follow CPTED principles. Proposed architectural and landscape design shall deliver passive surveillance.
- d) Trees planted in the front setback with interface with the public domain shall be planted at minimum 200 litres pot size. Front setback tree planting shall include at least 2 native canopy trees capable to reach a minimum of seven (7) metres in local conditions in tree pits of minimum 2x2m.
- e) Include climbers to pergolas to ensure shade in summer months.
- f) Details of all other hardscape landscape elements such as street furniture, pedestrian amenity lighting, bins, bollards. Location to be clearly identified on plan. Provide sectional construction details and elevations.

- g) Conflict between landscaped beds, existing/proposed trees or landscaped areas and underground utilities (including stormwater structures) are to be avoided. Where there is a conflict, this shall be resolved with Bayside Council.
- h) Landscape Maintenance Schedule to cover a 12 month period to provide a guide to the landowner or occupier on how to best maintain the constructed landscaped areas; and include the following information: shrub pruning/trimming (frequency, plant requirements); Fertilising and pest control (soil testing, types, rate, frequency); Mulching, weeding and soil improvement (frequency, materials); Irrigation (checks, adjustments); tree maintenance (fertilising, mulching, tree stakes adjustments, special tree requirements); Maintenance of hard landscape elements (paving, edges, walls, pergolas, seats, and planter box walls); and planter boxes/roof gardens/green wall (specialised maintenance requirements).

Note: All CC documentation shall depict the TPZ s of all trees to be retained as per arborist report prepared by REDGUM Horticultural dated 25th October 2023. The trees to be retained are the following: T1 (in the Public Domain) & T2 (within neighbouring property - 2 Tenterden Road), as per nominated arborist report.

REASON

To ensure compliance with landscape requirements from relevant policies.

58. General Landscape Conditions

- a) New street trees shall be maintained by the Applicant / Owner / Strata Corporation for a period of twelve (12) months after final inspection by Council. Maintenance includes twice weekly watering within the first 6 months then weekly thereafter, biannual feeding, weed removal round the base, mulch replenishment at 3 monthly intervals (to 75mm depth) and adjusting of stakes and ties; to sustain adequate growth and health. Maintenance does not include trimming or pruning of the trees under any circumstances.
- b) Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements:
 - i. Soil depths must be in accordance with Council's DCP and associated Technical Specifications. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes.
 - ii. A concrete hob or haunch shall be constructed at the internal join between the sides and base of the planter to contain drainage to within the planter.
 - iii. Planters are to be fully waterproofed and sealed internally with a proprietary sealing agent and applied by a qualified and experienced tradesman to eliminate water seepage and staining of the external face of the planter. All internal sealed finishes are to be sound and installed to manufacturer's directions prior to backfilling with soil. An inspection of the waterproofing and sealing of edges is required by the Certifier prior to backfilling with soil.
 - iv. Drainage cell must be supplied to the base and sides of the planter to minimize damage to the waterproof seal during backfilling and facilitate drainage. Apply a proprietary brand filter fabric and backfill with an imported lightweight soil suitable for planter boxes compliant with AS 4419 and AS 3743. Install drip irrigation including to lawns.

- v. Planter boxes must be an external finish that is consistent with the character of the colour schemes and finishes of the building (e.g. with a suitable paint, render or tile to match the character of the approved building).
 - vi. All planter boxes shall be provided with a fully automated drip irrigation system.
 - vii. All planter boxes shall have the required depth to sustain the proposed planting.
- c) Irrigation. To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscaped areas. The system shall be installed by a qualified landscape contractor and provide full coverage of planted areas with no more than 300mm between drippers, automatic controllers and backflow prevention devices, and should be connected to a recycled water source. Irrigation shall comply with both Sydney Water and Council requirements as well as Australian Standards, and be maintained in effective working order at all times.
- d) Planters as approved in landscape plan are not to be reduced in size or soil volumes, or replace with individual pots, unless a modification with acceptable justification is provided and approved by Council landscape architect.

REASON

To ensure compliance with landscape requirements from relevant policies.

59. Landscape Frontage Works Application

Prior to the issue of any Construction Certificate, the applicant must submit a Frontage Works Application (Public Domain Construction – Frontage / Civil Works Application) to Bayside Council. Prior to the commencement of public domain works, a public domain landscape improvements plan shall be submitted to Bayside Council for assessment and approval. The plans shall be undertaken by a suitably experienced Landscape Architect and shall include, but not be limited to, new street tree planting, footpath paving (segmental/other), street tree pit treatments and tree guards, street furniture, in ground landscaping and irrigation. The landscape plan must indicate locations of lighting poles, underground services, stormwater infrastructure etc. The design shall be in accordance with Council's City Identity Program Arncliffe and Banksia Public Domain Plan and Technical Manual, Landscape DCP and any other Council specification or requirement. Contact Council's Landscape Architect for further details of specific requirements in preparation of the plan. Any required street tree shall be supplied and planted at minimum 200 litres pot size. At least four (4) new street trees shall be planted on Tenterden Road, along the frontage of the development site. Tree species shall be *Corymbia ficifolia*, unless other is specified by Bayside Council.

Note: Only one frontage works application needs to be submitted for the development consent.

REASON

To ensure compliance with landscape requirements from relevant policies.

60. Signs on site

A sign must be erected in a prominent position on any site on which building work or demolition work is being carried out:

- a) showing the name, address and telephone number of the Principal Certifier for the work, and
- b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside work hours, and
- c) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work or demolition work is being carried out, but must be removed when the work has been completed.

Note: This does not apply in relation to building work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

REASON

Prescribed condition EP&A Regulation, Section 70 (2) and (3).

61. Compliance with Home Building Act

In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

REASON

Prescribed condition EP&A Regulation, Section 69(2).

62. Home Building Act requirements

Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information –

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

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

REASON

Prescribed condition EP&A Regulation, Section 71(1), (2) and (3).

63. Notice regarding Dilapidation Report

Before the commencement of any site or building work, the Principal Certifier must ensure the adjoining building owner(s) is provided with a copy of the Dilapidation Report for their property(ies) no less than 7 days before the commencement of any site or building works and provide a copy of the report to Council at the same time.

REASON

To advise neighbours and Council of any Dilapidation Report.

64. Demolition Management Plan

Before demolition work commences, a demolition management plan must be prepared by a suitably qualified person.

The demolition management plan must be prepared in accordance with *Australian Standard 2601 – the Demolition of Structures*, the *Code of Practice – Demolition Work*, Botany Bay Development Control Plan 2013 and must include the following matters:

- (a) The proposed demolition methods.
- (b) The materials for and location of protective fencing and any hoardings to the perimeter of the site.
- (c) Details on the provision of safe access to and from the site during demolition work, including pedestrian and vehicular site access points and construction activity zones.
- (d) Details of construction traffic management, including proposed truck movements to and from the site, estimated frequency of those movements, and compliance with *AS 1742.3 Traffic Control for Works on Roads* and parking of vehicles.
- (e) Protective measures for on-site tree preservation and trees in adjoining public domain (if applicable) (including in accordance with *AS 4970-2009 Protection of Trees on Development Sites* and Botany Bay Development Control Plan 2013.
- (f) Erosion and sediment control measures which are to be implemented during demolition and methods to prevent material being tracked off the site onto surrounding roadways.
- (g) Dust, noise and vibration control measures, in accordance with any Noise and Vibration Control Plan approved under this consent.
- (h) Details of the equipment that is to be used to carry out demolition work and the method of loading and unloading excavation and other machines.
- (i) Details of any bulk earthworks to be carried out.
- (j) Details of re-use and disposal of demolition waste material in accordance with Botany Bay Development Control Plan 2013.
- (k) Location of any reusable demolition waste materials to be stored on-site (pending future use).
- (l) Location and type of temporary toilets on-site.
- (m) A garbage container with a tight-fitting lid.

REASON

To provide details of measures for the safe and appropriate disposal of demolition waste and the protection of the public and surrounding environment during the carrying out of demolition works on the site.

65. Disconnection of Services before Demolition Work

Before demolition work commences, all services, such as water, telecommunications, gas, electricity and sewerage, must be disconnected in accordance with the relevant authority's requirements.

REASON

To protect life, infrastructure and services.

66. Vibration Monitoring

Vibration monitoring equipment must be installed and maintained, under the supervision of a professional engineer with expertise and experience in geotechnical engineering, between any potential source of vibration and any building identified by the professional engineer as being potentially at risk of movement or damage from settlement and/or vibration during the excavation and during the removal of any excavated material from the land being developed.

If vibration monitoring equipment detects any vibration at the level of the footings of any adjacent building exceeding the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity an audible alarm must activate such that the principal contractor and any sub-contractor are easily alerted to the event. Where any such alarm triggers all excavation works must cease immediately.

Prior to the vibration monitoring equipment being reset by the professional engineer and any further work recommencing the event must be recorded and the cause of the event identified and documented by the professional Engineer.

Where the event requires, in the opinion of the professional engineer, any change in work practices to ensure that vibration at the level of the footings of any adjacent building does not exceed the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity these changes in work practices must be documented and a written direction given by the professional engineer to the principal contractor and any sub-contractor clearly setting out required work practice.

A copy of any written direction required by this condition must be provided to the Principal Certifier within 24 hours of any event.

Where there is any movement in foundations such that damaged is occasioned to any adjoining building or such that there is any removal of support to supported land, the professional engineer, Principal Contractor and any Sub-Contractor responsible for such work must immediately cease all work, inform the owner of that supported land and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the supported land.

REASON

To protect the amenity of the neighbourhood and the structural integrity of nearby developments.

67. Soil Stockpile Area

A sufficient area shall be provided onsite to enable separate stockpiling and treatment of excavated materials for sampling and analysis prior to removal or reuse on site. Details of this area shall be provided in the Erosion and Sediment Control Plan (ESCP) prior to commencement of works.

This plan shall incorporate and reference the construction environmental management plan (CEMP) and address site limitations.

REASON

To minimise adverse impacts on surrounding properties and the environment.

68. Notice of Commencement for Demolition

At least one week before demolition work commences, written notice must be provided to Council and the occupiers of neighbouring premises of the work commencing. The notice must include:

- (a) Name;
- (b) Address;
- (c) Contact telephone number;
- (d) Licence type and license number of any demolition waste removal contractor and, if applicable, asbestos removal contractor;
- (e) The contact telephone number of Council; and
- (f) The contact telephone number of SafeWork NSW (PH 4921 2900).

REASON

To advise neighbours about the commencement of demolition work and provide contact details for enquiries.

69. Dilapidation Report - Public Domain - Pre-Construction

Prior to the commencement of any work, a professional engineer specialising in civil, structural, or geotechnical engineering shall prepare a Dilapidation Report detailing the current condition of Bayside Council's infrastructure adjoining, and within 50m of, the development site. This includes the condition of the road reserve (including footpath, nature strip, landscaping, trees, kerb and gutter, pits, pipes, traffic devices, signs, retaining walls, driveways, and road pavement) and any other adjacent Bayside Council properties.

Photographs are to be in colour, digital, annotated and date stamped. The full name, accreditation, professional registration, and signature of the professional engineer is to be detailed. The report is to be supplied in an electronic format to the Principal Certifier and Bayside Council.

The liability for any damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded by the requirements of this condition, will be borne by the Applicant. The Applicant shall bear the cost of all restoration works to Council's property damaged by the Applicant during this development.

REASON

To advise Council of, and provide Council with, the required dilapidation report.

70. Dilapidation Report – Private Land

A professional engineer specialising in structural or geotechnical engineering shall prepare a Pre-Construction Dilapidation Report detailing the current structural condition of all adjoining premises, a photographic survey, and including buildings, foundations, and structures likely to be affected by the excavation as determined by the consulting engineer. This shall include, but not be limited to, the following properties:

- a) 1559-1563 Botany Road, Botany.
- b) 2 Tenterden Road, Botany.

The report shall be prepared at the expense of the applicant and a copy of the Dilapidation Survey and an insurance policy that covers the cost of any rectification works shall be submitted to the Principal Certifier prior to commencement of any works. The insurance cover shall be a minimum of \$10 million.

A copy of the Pre-Construction Dilapidation Report is to be provided to the adjoining properties (subject of the Dilapidation Report), a minimum of five (5) working days prior to the commencement of work. Evidence confirming that a copy of the Dilapidation Report was delivered to the adjoining properties must be provided to the PCA.

Should the owners of properties (or their agents) refuse access to carry out inspections, after being given reasonable written notice, this shall be reported to Council to obtain Council's agreement to complete the report without access. Reasonable notice is a request for access in no sooner than 14 days between 8.00 am and 6.00 pm.

REASON

To establish and document the structural condition of adjoining properties for comparison as building work progresses and is completed.

71. Video CCTV for Council Stormwater Pipe before Construction

Prior to the issue of any Construction Certificate or the commencement of any works on site, whichever occurs first, a qualified practitioner shall undertake a closed-circuit television (CCTV) inspection and then report on the existing condition of Bayside Council's stormwater drainage infrastructure on Tenterden Road where the proposed stormwater drainage is connecting into. The camera and its operation shall comply with the following:

- a) The internal surface of the drainage pipe shall be viewed and recorded in a clear and concise manner, and
- b) The CCTV camera used shall be capable to pan, tilt and turning at right angles to the pipe axis over an entire vertical circle to view the conduit joints, and
- c) Distance from the drainage pit shall be accurately measured, and
- d) The inspection survey shall be conducted from manhole to manhole.

The written report, together with a copy of the digital video footage of the pipeline shall be submitted to the satisfaction of Bayside Council prior to the commencement of any works. A written acknowledgment shall be obtained from Bayside Council attesting to this condition being appropriately satisfied and submitted to the Principal Certifier. If the existing pipe is full of debris preventing the effective inspection of the pit and pipe system, the contractor shall clear the pipe to a degree where CCTV inspection is possible at the Applicant's expense.

REASON

To require details of the condition of Council's stormwater asset prior to commencement of any works.

72. Utility Services Adjustments

The approved elements including driveways, stormwater connections, (etc.) prevail over the location of existing utility services and power poles. All services shall be adjusted at the Applicants cost to suit the construction of approved design elements. Applicants must seek approval from the relevant public utility, state authority or service provider.

REASON

To ensure required changes to public utility services are completed, in accordance with the relevant agency requirements, before occupation.

73. Hazardous Material Survey before Demolition

Before demolition work commences, a hazardous materials survey of the site must be prepared by a suitably qualified person and a report of the survey results must be provided to Council at least one week before demolition commences.

Hazardous materials include, but are not limited to, asbestos materials, synthetic mineral fibre, roof dust, PCB materials and lead based paint.

The report must include at least the following information:

- (a) The location of all hazardous material throughout the site.
- (b) A description of the hazardous material.
- (c) The form in which the hazardous material is found, e.g. AC sheeting, transformers, contaminated soil, roof dust.
- (d) An estimation of the quantity of each hazardous material by volume, number, surface area or weight.
- (e) A brief description of the method for removal, handling, on-site storage and transportation of the hazardous materials.
- (f) Identification of the disposal sites to which the hazardous materials will be taken.

REASON

To require a plan for safely managing hazardous materials.

74. Site Preparation

Before demolition work commences the following requirements, as specified in the approved demolition management plan, must be in place until the demolition work and demolition waste removal are completed:

- (a) Protective fencing and any hoardings to the perimeter on the site.
- (b) Access to and from the site.
- (c) Construction traffic management measures.
- (d) Protective measures for on-site tree preservation and trees in adjoining public domain.
- (e) On-site temporary toilets.
- (f) A garbage container with a tight-fitting lid.

REASON

To protect workers, the public and the environment.

75. Asbestos Removal Signage

Before demolition work commences involving the removal of asbestos, a standard commercially manufactured sign containing the words 'DANGER: Asbestos removal in progress' (measuring not less than 400mm x 300mm) must be erected in a prominent position at the entry point/s of the site and maintained for the entire duration of the removal of the asbestos.

REASON

To alert the public to any danger arising from the removal of asbestos.

76. Handling of Asbestos during Demolition

While demolition work is being carried out, any work involving the removal of asbestos must comply with the following requirements:

- (a) Only an asbestos removal contractor who holds the required class of Asbestos Licence issued by SafeWork NSW must carry out the removal, handling and of any asbestos material;
- (b) Asbestos waste in any form must be disposed of at a waste facility licensed by the NSW Environment Protection Authority to accept asbestos waste; and
- (c) Any asbestos waste load over 100kg (including asbestos contaminated soil) or 10m² or more of asbestos sheeting must be registered with the EPA on-line reporting tool WasteLocate.

REASON

To ensure that the removal of asbestos is undertaken safely and professionally.

77. Dewatering – Permit to Discharge to Stormwater

To ensure that relevant engineering and water quality provisions are met during the period of dewatering for construction, prior to any water from site dewatering to be permitted to go to Council's stormwater system a permit to discharge to the stormwater shall be obtained from Council. Dewatering shall not commence until this is issued by Council.

REASON

To protect the environment.

DURING ANY WORKS (including Demolition, Excavation and Construction)

The following conditions must be complied with during demolition, excavation and/or construction:

78. Approved Plans kept on Site

A copy of the Construction Certificate, the Development Consent and the approved and current stamped Construction Certificate plans and specifications must be kept on the site at all times and be available to Council officers upon request.

REASON

To ensure relevant information is available on site.

79. Noise during Construction

The following shall be complied with during construction and demolition:

a) Construction Noise

Noise from construction activities associated with the development shall comply with the NSW Environmental Protection Authority's Interim Construction Noise Guidelines and the *Protection of the Environment Operations Act 1997*.

b) Level Restrictions

Any building works being carried out must ensure that any noise caused by demolition, vegetation removal or construction does not exceed an LAeq (15 min) of 5dB(A) above background noise, when measured at any lot boundary of the property where the construction is being carried out.

c) Out of hours work

For any activity that is required to be undertaken outside normal construction hours due to public safety, traffic related reasons, or significant concrete pour, a separate Out of Hours Works Permit is required prior to commencement of any out of hours works being undertaken.

An Out of Hours Application must be submitted for each separate event to Council a minimum of one month prior to the planned activity being undertaken.

d) Silencing

All possible steps should be taken to silence construction site equipment.

REASON

To protect the amenity of the neighbourhood.

80. Hours of Work

Site work must only be carried out between the following times:

For building work, demolition or vegetation removal from 7:00am to 5:00pm on Monday to Saturday. No works to be carried out on Sunday and public holidays.

Site work is not to be carried out outside of these times except where there is an emergency, or for urgent work directed by a Police Officer or a public authority.

REASON

To protect the amenity of the surrounding area.

81. Deliveries

While site work is being carried out, deliveries of material and equipment must only be carried out between –
7:00am to 5:00pm on Monday to Saturday. No deliveries to be carried out on Sunday and public holidays.

REASON

To protect the amenity of neighbouring properties.

82. Procedure for Critical Stage Inspections

While building work is being carried out, the work must not continue after each critical stage inspection unless the Principal Certifier is satisfied the work may proceed in accordance with this consent and the relevant Construction Certificate.

REASON

To require approval to proceed with building work following each critical stage inspection.

83. Implementation of the Site Management Plans

While site work is being carried out:

- (a) the measures required by the Construction Site Management Plan and the Erosion and Sediment Control Plan (plans) must be implemented at all times, and
- (b) a copy of these plans must be kept on site at all times and made available to Council officers upon request.

REASON

To ensure site management measures are implemented during the carrying out of site work.

84. Implementation of BASIX Commitments

While building work is being carried out, the Applicant must undertake the development strictly in accordance with the commitments listed in the BASIX certificate(s) approved by this consent, for the development to which the consent applies.

REASON

To ensure BASIX commitments are fulfilled in accordance with the BASIX certificate (prescribed condition under Section 75 EP&A Regulation).

85. Site Management - Principal Certifier Inspections

Upon inspection of each stage of construction, the Principal Certifier (or other suitably qualified person on behalf of the Principal Certifier) is also required to ensure that adequate provisions are made for the following measures (as applicable), to ensure compliance with the terms of Council's approval:

- a) Sediment control measures, and
- b) Provision of secured perimeter fences or hoardings for public safety to restrict access to building sites, and
- c) Maintenance of the public place free from unauthorised materials, waste containers or other obstructions.

REASON

To protect public safety and water quality around building sites.

86. Noise and Vibration – an approved document of this Consent

While site work is being carried out, noise generated from the site must be controlled in accordance with the requirements of the approved noise and vibration management plan.

REASON

To protect the amenity of the neighbourhood during construction.

87. Noise and Vibration Requirements

While site work is being carried out, noise generated from the site must not exceed an LAeq (15 min) of 5dB(A) above background noise, when measured at any lot boundary of the site.

REASON

To protect the amenity of the neighbourhood during construction.

88. Responsibility for changes to Public Infrastructure

While site work is being carried out, any costs incurred as a result of the approved removal, relocation or reconstruction of infrastructure (including ramps, footpaths, kerb and gutter, light poles, kerb inlet pits, service providers pits, street trees or any other infrastructure in the street footpath area) must be paid as directed by the consent authority.

REASON

To ensure payment of approved changes to public infrastructure.

89. Shoring and Adequacy of Adjoining Property

If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land (including any structure or work within a road or rail corridor), the person having the benefit of the development consent must, at the person's own expense –

- a) Protect and support the building, structure or work from possible damage from the excavation, and

- b) Where necessary, underpin the building, structure or work to prevent any such damage.

This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

REASON

Prescribed condition – EP&A Regulation, Section 74.

90. Implementation of Soil and Water Management Plan

All management measures recommended and contained within the Soil and Water Management Plan (SWMP) shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times throughout the entire demolition, excavation and construction phases of the development and for a minimum three (3) month period after the completion of the project, where necessary. The plan is to be available to Council Officers, on request.

Council's warning sign for soil and water management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign shall be erected prior to commencement of works and shall be displayed throughout construction.

REASON

To ensure no substance other than rainwater enters the stormwater system and waterways.

91. Toilet Facilities

- a) Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site, and
- b) Each toilet must:
- i. Be a standard flushing toilet connected to a public sewer, or
 - ii. Have an on-site effluent disposal system approved under the *Local Government Act 1993*, or
 - iii. Be a temporary chemical closet approved under the *Local Government Act 1993*.

REASON

To ensure compliance with the Local Government Act 1993.

92. Construction Activities – Minimise Pollution

The following conditions are necessary to ensure minimal impacts during construction:

- a) Building, demolition and construction works not to cause stormwater pollution and being carried out in accordance with Council's stormwater pollution control requirements. Pollutants such as concrete slurry, clay and soil shall not be washed from vehicles onto roadways, footways or into the stormwater system. Drains, gutters, roadways and access ways shall be maintained free of sediment.

Where required, gutters and roadways shall be swept regularly to maintain them free from sediment, and

- b) Stormwater from roof areas shall be linked via a temporary downpipe to an approved stormwater disposal system immediately after completion of the roof area, and
- c) All disturbed areas shall be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls, and
- d) Building and demolition operations such as brick cutting, washing tools or paint brushes, and mixing mortar shall not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system, and
- e) Stockpiles are not permitted to be stored on Council property (including nature strip) unless prior approval has been granted. In addition, stockpiles of topsoil, sand, aggregate, soil or other material shall be stored clear of any drainage line or easement, natural watercourse, kerb or road surface, and
- f) Wind blown dust from stockpile and construction activities shall be minimised by one or more of the following methods:
 - i. spraying water in dry windy weather, and
 - ii. cover stockpiles, and
 - iii. fabric fences.
- g) All vehicles transporting soil, sand or similar materials and demolition material to or from the site shall cover their loads at all times, and
- h) The applicant shall conduct all construction works and any related deliveries/activities wholly within the site, and
- i) During the construction works, the Council nature strip shall be maintained in a clean and tidy state at all times and shall be suitably repaired and/or replaced in accordance with Council Specifications at the completion of construction works, and
- j) Access to the site shall be restricted to no more than two 3m driveways. Council's footpath shall be protected at all times. Within the site, provision of a minimum of 100mm coarse crushed rock is to be provided for a minimum length of two metres to remove mud from the tyres of construction vehicles, and
- k) An All-Weather Drive System or a vehicle wheel wash, cattle grid, wheel shaker or other appropriate device, shall be installed prior to commencement of any site works or activities, to prevent mud and dirt leaving the site and being deposited on the street. Vehicular access is to be controlled so as to prevent tracking of sediment onto adjoining roadways, particularly during wet weather or when the site is muddy. Where any sediment is deposited on roadways it is to be removed by means other than washing and disposed of appropriately.

REASON

To protect neighbourhood amenity and the quality of the waterways.

93. Site Fencing

The site shall be secured by an 1800mm (minimum) high temporary fence for the duration of the work. Gates shall be provided at the opening points and open and secured in such a way as to not obstruct the public footway. Such protection work, including fences, is to be constructed, positioned and maintained in a safe condition to the satisfaction of the Principal Certifier, prior to the demolition of the existing structures and commencement of building operations.

REASON

To protect the amenity of the neighbourhood and ensure public safety.

94. Site Fencing and Hoarding

A hoarding or fence shall be erected between the work site and the public place when the work involved in the erection or demolition of a building:

- a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
- b) building involves the enclosure of a public place.

Where the development site adjoins a public thoroughfare, the common boundary between them must be fenced for its full length with a hoarding, unless, the least horizontal distance between the common boundary and the nearest part of the structure is greater than twice the height of the structure. The hoarding must be constructed of solid materials (chain wire or the like is not acceptable) to a height of not less than 1.8m adjacent to the thoroughfare.

Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an overhead protective structure, type B Hoarding, and the facing facade protected by heavy duty scaffolding unless either:

- a) the vertical height above footpath level of the structure being demolished is less than 4m, or
- b) the least horizontal distance between footpath and the nearest part of the structure is greater than half the height of the structure.

The overhead structure must consist of a horizontal platform of solid construction and vertical supports, and the platform must:

- a) extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary, and
- b) have a clear height above the footpath of not less than 2.1m, and
- c) terminate not less than 200mm from the edge of the carriageway (clearance to be left to prevent impact from passing vehicles) with a continuous solid upstand projecting not less than 0.5m above the platform surface, and
- d) together with its supports, be designed for a uniformly distributed live load of not less than 7 kPa.

The 'B' Class hoarding is to be lit by fluorescent lamps with anti-vandalism protection grids.

Any such hoarding, fence or awning is to be removed when the work has been completed.

The Principal Contractor or owner builder must pay all fees and rent associated with the application and occupation and use of the road (footway) for required hoarding or overhead protection.

REASON

To protect the amenity of the neighbourhood and ensure public safety.

95. Demolition Requirements During Works

Demolition is to be carried out in the accordance with the following:

- a) The approved Safe Work Method Statement required by this consent, and
- b) Demolition is to be carried out in accordance with *Australian Standard 2601:2001: Demolition of structures, Work Health & Safety Act 2011 (NSW), Work Health & Safety Regulation 2011 (NSW)* and the requirements of the NSW WorkCover Authority, and
- c) Vibration monitors must be placed at the footings of the nearest residential and/or commercial property(s) boundaries prior to any demolition commencing; and
- d) Hazardous or intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of WorkCover New South Wales and the Environmental Protection Authority, and
- e) Dust control - dust emission must be minimised for the full height of the building. Compressed air must not be used to blow dust from the building site, and
- f) Demolition procedures must maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal, and
- g) During demolition, public property (footpaths, roads, reserves etc) must be clear at all times and must not be obstructed by any demolished material or vehicles. The footpaths and roads must be swept (not hosed) clean of any material, including clay, soil and sand. On the spot fines may be levied by Council against the demolisher and/or owner for failure to comply with this condition, and
- h) All vehicles leaving the site with demolition materials must have their loads covered and vehicles must not track soil and other materials onto public property (footpaths, roads, reserves etc) and the footpaths must be suitably protected against damage when plant and vehicles access the site, and
- i) The burning of any demolished material on site is not permitted and offenders will be prosecuted. The demolition by induced collapse and the use of explosives is not permitted, and
- j) Care must be taken during demolition to ensure that existing services on the site (ie, sewer, electricity, gas, phone) are not damaged. Any damage caused to existing services must be repaired by the relevant authority at the Applicant's expense. *Dial Before You Dig* website: www.1100.com.au should be contacted prior to works commencing, and
- k) Suitable erosion and sediment control measures in accordance with the Soil and Water Management Plan must be erected prior to the commencement of demolition works and must be maintained at all times, and

- l) Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with WorkCover NSW requirements. *Protection of the Environment Operations Act 1997, Protection of the Environment Operation (Waste) Regulation and 'Waste Classification Guidelines 2014'* prepared by the NSW Office of Environment and Heritage. Following completion, an Asbestos Clearance Certificate is to be provided to Council following the final asbestos clearance inspection.

REASON

To protect the amenity of the neighbourhood and ensure public safety.

96. Demolition Requirements

All demolition work shall be carried out in accordance with AS2601 – 2001. The Demolition of Structures and with the requirements of the WorkCover Authority of NSW.

REASON

To comply with relevant Australian Standard and Work Cover requirements.

97. Protection of Council's Property

During demolition, excavation and construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of demolition, excavation, and construction. The area fronting the site and in the vicinity of the development shall also be made safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Bayside Council.

REASON

To ensure public safety at all times and to protect the function and integrity of public infrastructure.

98. Vibration During Demolition Works

Vibration levels induced by the demolition activities must not exceed levels listed in Standard DIN 4150-3 (1999-02), *Structural vibration Part 3 – Effects of vibration on structures Table 12-7.*

The operation of plant and equipment must not give rise to the transmission of vibration nuisance or damage to other premises.

Prior to commencement a specific vibration monitor must be set up to monitor and record the vibration levels affecting surrounding buildings.

REASON

To protect the amenity of the neighbourhood and the structural integrity of nearby developments.

99. Approval and Permits under *Roads Act* and *Local Government Act* for Works Activities on Public Land

During all stages of demolition and construction, application(s) shall be made to Bayside Council (upon payment of a fee in accordance with Bayside Council's adopted fees and charges) to obtain the necessary approvals and permits for any and all works/activities on Bayside Council land or road reserve pursuant to the *Roads Act 1993* and *Local Government Act 1993*. All applications associated with works and activities on Bayside Council's land must be made at least 7-10 days prior to the programmed completion of works and all construction must be completed and approved by Bayside Council. Refer to Bayside Council "Work Activities on Council Sites Application Form" and "Road Opening Application" to obtain permits/approvals for the following:

- Road, Footpath and Road Related Area Closure – To temporarily close any part of the road, footpath or car park to vehicle or pedestrian traffic. This permit is required to allow the Applicant to close a road or part of, footpath or car park to vehicle or pedestrian traffic.
- Stand and Operate Registered Vehicle or Plant – To occupy any part of the road, footpath or car park to work from a vehicle parked on the street. This permit is required when construction activities involve working from a vehicle parked on the street including mobile crane, concrete truck, concrete pump or other similar vehicles.
- Occupy Road with Unregistered Item – To place a waste container or other item within the roadway which is not a registered vehicle. This permit is required to allow the Applicant to place unregistered items within the roadway including waste containers and skip bins.
- Erection of a Works Zone – To implement a statutory Work Zone for activities adjacent to the development site. These applications are assessed by Bayside Council officers and are referred to the Traffic Committee for approval. A Work Zone being that you must not stop or park in a work zone unless you are driving a vehicle that is engaged in construction work in or near the zone.
- Placement of Scaffolding, Hoarding and Fencing – To erect a temporary structure in a public place to enclose a work area. This permit is required for all temporary structures to enclose a work area within the public domain. These include site fencing, types A & B hoarding, type A & B hoarding with scaffolding and type B hoarding plus site sheds.
- Temporary Shoring/Support using Ground Anchors in Council Land – To install temporary ground anchors in public road to support excavation below the existing road surface level. This permit is required to allow the Applicant to install temporary support system in or under a public road to support excavation below the existing road surface level. The support systems include ground anchors and shoring.
- Tower Crane – To swing or hoist over and across Council property (including roadway). This permit is required when tower crane(s) are used inside the work site and will swing, slew or hoist over Council property or asset.
- Public Land Access – To access through or occupy Council land. This permit is required by Applicants in order to access over or occupy Council land.

- **Temporary Dewatering** – To pump out groundwater from the site and discharge into Council's drainage system including road gutter. This permit is required when temporary dewatering is required to pump out water from the construction site into Council stormwater drainage system including gutter, pits and pipes. Dewatering management plan and water quality plan are required for this application.
- **Road Opening Application** - Permit to open road reserve area including roads, footpaths or nature strip for any purpose whatsoever, such as relocation / re-adjustments of utility services. This does not apply to public domain works that are approved through Bayside Council's permit for Driveway Works (Public Domain Construction – Vehicle Entrance / Driveway Application) / Frontage Works (Public Domain Construction – Frontage / Civil Works Application) under section 138 of the *Roads Act*.

A valid permit/approval to occupy Bayside Council land or road reserve to carry out any works or activities within the public domain must be obtained, and permit conditions complied with, during all stages of demolition and construction. Fines apply if an activity commences without a valid permit being issued. It shall be noted that any works/activities shown within Bayside Council land or road on the DA consent plans are indicative only and no approval of this is given until this condition is satisfied.

REASON

To ensure appropriate permits are applied for and comply with the Roads Act 1993.

100. Temporary Dewatering Permit - Water Quality Requirements

To ensure that relevant engineering and water quality provisions are met during the period of temporary dewatering for construction, a permit must be obtained from Council to permit discharge to the stormwater system. Temporary dewatering shall not commence until this permit is issued by Council. The permit must be current and valid at all times during dewatering operations.

The water quality must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for marine water. The results of all testing must be completed by a NATA accredited laboratory.

All laboratory results must be accompanied by a report prepared by a suitably qualified person indicating the water meets these guidelines and is acceptable to be released into council's stormwater system. If it is not acceptable, details of treatment measures to ensure that the water is suitable for discharge to council's stormwater shall be provided in this report.

Reports shall be provided to Council prior to discharge of any groundwater to the stormwater system.

REASON

To ensure any ground water encountered during works is appropriately treated and disposed of.

101. Waste Management

While site work is being carried out:

- (a) all waste management must be undertaken in accordance with the Waste Management Plan, and
- (b) upon disposal of waste, records of the disposal must be compiled and provided to the Principal Certifier detailing the following:
 - (i) The contact details of the person(s) who removed the waste.
 - (ii) The waste carrier vehicle registration.
 - (iii) The date and time of waste collection.
 - (iv) A description of the waste (type of waste and estimated quantity) and whether the waste is expected to be reused, recycled or go to landfill.
 - (v) The address of the disposal location(s) where the waste was taken.
 - (vi) The corresponding tip docket/receipt from the site(s) to which the waste is transferred, noting date and time of delivery, description (type and quantity) of waste.

If waste has been removed from the site under an EPA Resource Recovery Order or Exemption, records in relation to that Order or Exemption must be maintained and provided to the Principal Certifier and Council.

REASON

To require records to be provided, during site work, documenting the lawful disposal of waste.

102. Waste Disposal Verification Statement

On completion of demolition work:

- (a) A signed statement must be submitted to Council verifying that demolition work, and any recycling of materials, was undertaken in accordance with the waste management plan approved under this consent, and
- (b) If the demolition work involved the removal of asbestos, an asbestos clearance certificate issued by a suitably qualified person, must be submitted to Council within 14 days of completion of the demolition work.

REASON

To provide for the submission of a statement verifying that demolition waste management and recycling has been undertaken in accordance with the approved waste management plan.

103. Asbestos

Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with:

- a) SafeWork NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m² of bonded asbestos and/or any friable asbestos, and
- b) Protection of the *Environment Operations Act 1997*, and
- c) Protection of the *Environment Operations (Waste) Regulation 2014*, and
- d) NSW Environment Protection Authority Waste Classification Guidelines 2014.

REASON

To ensure compliance with relevant guidelines and legislation.

104. Soil Management

While site work is being carried out, the Principal Certifier must be satisfied all soil removed from or imported to the site is managed in accordance with the following requirements:

- (a) All excavation material removed from the site must be classified in accordance with the EPA's Waste Classification Guidelines before it is disposed of at an approved waste management facility and the classification and the volume of material removed must be reported to the Principal Certifier.
- (b) All fill material imported to the site must be:
 - (i) Virgin Excavated Natural Material as defined in Schedule 1 of the *Protection of the Environment Operations Act 1997*, or
 - (ii) a material identified as being subject to a resource recovery exemption by the NSW EPA, or
 - (iii) a combination of Virgin Excavated Natural Material as defined in Schedule 1 of the *Protection of the Environment Operations Act 1997* and a material identified as being subject to a resource recovery exemption by the NSW EPA.

REASON

To ensure soil removal from the site is appropriately disposed of and soil imported to the site is not contaminated and is safe for future occupants.

105. Uncovering Relics or Aboriginal Objects

While site work is being carried out, if a person reasonably suspects a relic or Aboriginal object is discovered:

- (a) the work in the area of the discovery must cease immediately;
- (b) the following must be notified:
 - (i) for a relic – the Heritage Council; or
 - (ii) for an Aboriginal object – the person who is the authority for the protection of Aboriginal objects and Aboriginal places in New South Wales under the *National Parks and Wildlife Act 1974*, section 85.

Site work may recommence at a time confirmed in writing by:

- (a) for a relic – the Heritage Council; or
- (b) for an Aboriginal object – the person who is the authority for the protection of Aboriginal objects and Aboriginal places in New South Wales under the *National Parks and Wildlife Act 1974*, section 85.

REASON

To ensure the protection of objects of potential significance during works.

106. Additional information – Contamination – Cease Work

Any new information that comes to light during demolition or construction, which has the potential to alter previous conclusions about site contamination and remediation, must be notified to Council and the Principal Certifier immediately. All work on site shall cease until the Council is notified of the appropriate measures to be implemented, by an appropriately qualified and experienced Environmental Consultant, to assess and manage the contamination in accordance with any relevant NSW EPA adopted guidelines.

REASON

To protect the environment and human health.

107. Contamination – UPSS Decommissioning and Removal

Decommissioning and removal of underground petroleum storage systems (UPSS) must be carried out in accordance with:

- a) Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019;
- b) NSW EPA (2020) 'Guidelines for Implementing the Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019.

REASON

To protect the environment and human health.

108. Contamination – Final Report

A report must be completed in accordance with Clause 24 of the Protection of the Environment Operations (Underground Petroleum Storage System) Regulation 2019 that:

- a. Is prepared by a duly qualified person in accordance with EPA guidelines, and
- b. Describes the processes used to remove or replace the tanks concerned and assess contamination at the storage site, and
- c. Describes any remediation work carried out during the removal or replacement of the tanks concerned.

This report is to be provided to both the Strategic Planning Unit and to the Environmental Health Unit of Council.

REASON

To protect the environment and human health.

109. Acid Sulfate Soil Management – Specific Plan

Should any excavation occur at a level equivalent to 4m below existing ground level (or greater), or temporary dewatering is likely to lower the water table below 4m bgl, the management of potential and actual acid sulfate soils must be conducted in accordance with all recommendations within the 'Acid Sulfate Soils Management Plan, 1557 Botany Road, Botany NSW' (Report E25780.E14_Rev1), by EI Australia, dated 5 December 2022.

REASON

To ensure compliance with relevant guidelines and legislation.

110. Dewatering Water Quality Requirements

For any water from site dewatering to be permitted to go to the stormwater system, the water must meet the relevant default guideline values (DGVs) under the Australian & New Zealand Guidelines for Fresh & Marine Water Quality. All testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified and experienced person indicating the water is acceptable to be released into Council's stormwater system. If it is not acceptable, details of treatment measures to ensure that the water is suitable for discharge to council's stormwater must be provided in this report. Reports must be provided to council prior to discharge of any groundwater to the stormwater system.

REASON

To ensure there are no contaminants in the groundwater impacting Council's stormwater system.

PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE

The following conditions must be complied with prior to issue of the Occupation Certificate:

111. Preservation of Survey Marks

Before the issue of an Occupation Certificate, documentation must be submitted by a registered Surveyor to the Principal Certifier which demonstrates that:

- (a) no existing survey mark(s) have been removed, damaged, destroyed, obliterated or defaced, or
- (b) any survey mark(s) that were damaged, destroyed, obliterated or defaced have been re-established in accordance with the Surveyor General's Direction No. 11 – Preservation of Survey Infrastructure.

REASON

To protect the State's survey infrastructure.

112. Design Verification Statement

Prior to the issue of an Occupation Certificate for occupation or use of residential flat development, a design verification statement from a qualified designer certifying 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 Part 2 of *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development*.

REASON

To ensure the design quality is delivered in accordance with approved plans and the provisions under SEPP 65

113. Section 73 Certificate - Sydney Water

Prior to the issue of the Final Occupation Certificate, a Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water.

It is recommended that applicants apply early 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 > Developing > Land development or telephone 13 20 92.

REASON

To comply with Sydney Water requirements.

114. BASIX / Energy Efficiency Commitments

A Compliance Certificate must be provided to the Principal Certifier confirming that the development has been constructed in accordance with the commitments contained within the approved BASIX Certificate listed in Condition 1 prior to the issue of any Occupation Certificate.

REASON

To ensure BASIX and Energy Efficiency commitments are fulfilled.

115. Registration of Strata By-law

- a) A by-law shall be registered and maintained for the life of the development, which requires that:
 - i. Balconies are not to be used as clothes drying areas, storage of household goods and air-conditioning units that would be visible from the public domain, and
 - ii. An owner of a lot must ensure that all floor space within the lot complies with the acoustic conditions for floors specified in this consent, and
 - iii. Notwithstanding subclause (b), in the event that a floor covering in the lot is removed, the newly installed floor covering shall have a weighted standardised impact sound pressure level not greater than L_{nT,w} 45 measured in accordance with AS ISO 140.7 and AS ISO 717.2. A test report from a qualified Acoustic Engineer employed by a firm eligible to membership of the Association of Australian Acoustical Consultants shall be submitted to the Owners Corporation within 14 days of the installation of the new floor covering demonstrating compliance with that standard. In the event that the standard is not complied with, the floor covering shall be removed and replaced with a floor covering that conforms to that standard in accordance with any directions given by the Owners Corporation, and
 - iv. Any graffiti evident on the exterior facades and visible from a public place shall be removed forthwith.
 - v. No unit within the development shall be used for short-term rental accommodation.

- b) Proof of registration of the By-Law shall be submitted to Council prior to the issue of the Occupation Certificate.

REASON

To protect the amenity of future occupants and surrounding area.

116. Anti-Graffiti Coating

Prior to issue of the Occupation Certificate, ground level surfaces are to be treated with anti-graffiti coating to minimise the potential of defacement.

REASON

To protect the amenity of the surrounding area.

117. Provision of Intercom System

Prior to the issue of the Occupation Certificate, the entry to the car park and each pedestrian entry at the ground floor level of the building shall be provided with an intercom system.

The intercom system shall be connected to each dwelling unit / tenancy, and enable those units / tenancies to provide access to the car park for visitors.

REASON

To prevent queuing of vehicles and to ensure safe and effective access to the building.

118. Location of Mechanical Ventilation

During occupation and ongoing use of the building, all mechanical ventilation system(s) or other plant and equipment that generates noise must be located on the site (including in a soundproofed area where necessary) to ensure the noise generated does not exceed 5dBa above the ambient background noise at the boundary adjacent to any habitable room of adjoining residential premises.

REASON

To protect the residential amenity of neighbouring properties.

119. Compliance with Acoustic Report

An appropriately qualified Noise Consultant is to certify that Australian Standard 2021-2000 Acoustic – Aircraft Noise Intrusion and recommendations of the approved Acoustic Report under Condition 1 have been met before an Occupation Certificate will be issued.

REASON

To ensure the relevant Australian Standards are addressed and acoustic treatment has been provided.

120. Waste Classification – Excavated Materials

All materials excavated from the site (fill or natural) must be classified in accordance with the NSW Environment Protection Authority (EPA) Waste Classification Guidelines (2014) prior to being disposed of to a NSW approved landfill or to a recipient site. Appropriate records must be retained to support this.

REASON

To ensure compliance with relevant guidelines and legislation.

121. Occupation Certificate

The Occupation Certificate must be obtained prior to any use or occupation of the building/development or part thereof. The Principal Certifier must ensure that all works are completed in accordance with this consent, including all conditions.

REASON

To ensure that an Occupation Certificate is obtained.

122. Repair of Infrastructure

Before the issue of an Occupation Certificate:

- (a) any public infrastructure damaged as a result of the carrying out of work approved under this consent (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concreting vehicles) must be fully repaired to the written satisfaction of Council, and at no cost to Council, or
- (b) if the works in (a) are not carried out to Council's satisfaction, Council may carry out the works required and the costs of any such works must be paid as directed by Council and in the first instance will be paid using the security deposit required to be paid under this consent.

REASON

To ensure any damage to public infrastructure is rectified.

123. Release of Securities

When Council receives an Occupation Certificate, an application may be lodged to release the securities held in accordance with Council's fees and charges for development.

REASON

To allow release of securities and authorise Council to use the security deposit to complete works to its satisfaction.

124. Certification of New Stormwater System

Prior to the issue of any Occupation Certificate, a Civil Engineer registered with the National Engineering Register (NER) must certify that the stormwater system has been constructed in accordance with the approved plans and as required by Botany Bay DCP Part 10 – Stormwater Management Technical Guidelines. The constructed stormwater drainage system shall be inspected, evaluated and certified. The certification shall demonstrate compliance with the approved plans, relevant Australian Standards, Codes and Council Specifications. A works-as-executed (WAE) drainage plan shall be prepared by a registered surveyor based on a survey of the completed works. The WAE plan must clearly illustrate the surveyed dimensions and details of all drainage aspects. The certification and WAE plan(s) shall be supplied to the Principal Certifier and Bayside Council.

REASON

To ensure that the stormwater system is constructed as approved and in accordance with relevant standards.

125. Completion of Public Utility Services

Before the issue of the relevant Occupation Certificate, confirmation must be obtained from the relevant authority that 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, have been completed and this confirmation must be provided to the Principal Certifier.

REASON

To ensure required changes to public utility services are completed, in accordance with the relevant agency requirements, before occupation.

126. Works-As-Executed Plans and any other Documentary Evidence

Before the issue of the relevant Occupation Certificate, works-as-executed plans, any compliance certificates and any other evidence confirming the following completed works must be submitted to the satisfaction of the Principal Certifier:

- (a) All stormwater drainage systems and storage systems, and
- (b) Longitudinal Driveway Profile, and
- (c) A copy of the plans must be provided to Council with the Occupation Certificate.

REASON

To confirm the location of works once constructed that will become Council assets.

127. Positive Covenant Application

Prior to the issue of the Occupation Certificate, a restriction on Use of Land and Positive Covenant pursuant to the *Conveyancing Act 1919* are to be created on the title of the lots on which the following systems are present:

- a) Stormwater Detention System
- b) Stormwater Pump System
- c) Stormwater Quality Improvement Devices

The terms of the instruments to be in favour of Bayside Council and are to be submitted to Bayside Council for review and approval. An application must be lodged with, and approved by, Bayside Council prior to issue of the Occupation Certificate.

Bayside Council must be provided with the relevant fees and all supporting information required (such as works-as-executed drainage plans and certification) prior to Bayside Council endorsing the Instrument. Council requires proof of lodgement of the signed documents with the NSW Land Registry Services prior to the issue of the Occupation Certificate.

REASON

To ensure that the approved stormwater system is maintained in good working condition.

128. Certification of Tanking and Waterproofing

Prior to the issue of any Occupation Certificate, an Engineer registered with the National Engineering Register (NER) shall certify that the tanking and waterproofing of all subsurface structures has been constructed in accordance with the approved design and specification. The certification is to include an inspection and evaluation of the works.

REASON

To ensure that subsurface structures are designed to prevent ingress of groundwater.

129. Geotechnical Certification

Prior to the issue of any Occupation Certificate, a Geotechnical Engineer shall certify that the construction works have been constructed in accordance with the approved construction geotechnical report/recommendations and include an evaluation of the completed works.

REASON

To ensure that the construction works have been completed in accordance with the approved construction geotechnical report/recommendations.

130. Rainwater Tank – Plumbing Certification

Prior to the issue of any Occupation Certificate, a registered plumber shall certify that the rainwater tank has been connected to all ground floor toilet flushing, and the landscape irrigation system for non-potable stormwater re-use. Balconies and planter boxes are not allowed to drain into the rainwater tank.

REASON

To ensure that the rainwater will be reused within the site in accordance with this approval.

131. Parking Facility Certification

Prior to the issue of the Occupation Certificate, a Civil Engineer registered with the National Engineering Register (NER) shall certify that the vehicular access and off-street parking facilities have been constructed & line marked in accordance with the approved construction plans and the applicable Australian Standards (i.e., AS/NZS 2890.1, AS 2890.2, AS 2890.3, AS/NZS 2890.6, AS 1742). The car parking area is to be clearly and appropriately line marked/signposted indicating all the vehicular movements on the site. All parking spaces must be clearly designated as to their use in accordance with this development consent.

Furthermore, the below shall be certified as being implemented within the completed development:

- Wheel stops shall be installed in all car parking spaces adjoining high obstructions in accordance with AS/NZS 2890.1.
- Bollards shall be erected for all accessible parking spaces that are designed in accordance with AS/NZS 2890.6.

- Large convex mirrors are to be installed at all corners/bends throughout the parking facility to provide increased sight distance for vehicles.

The certification must be submitted to the Principal Certifier.

REASON

To ensure compliance with the relevant standards.

132. Erection of Signage

Prior to the issue of the Occupation Certificate, the following signage shall be erected:

- Vehicles Enter & Exit in Forward Direction:
All vehicles shall enter and exit the site in a forward direction at all times. A plaque with minimum dimensions 300mm x 200mm shall be permanently fixed to a prominent place near the primary vehicular entrance to the site, approved by the Principal Certifier, stating the following: "All vehicles shall enter and exit the site in a forward direction at all times".

The owners shall preserve the plaque(s) in a good condition and keep it visible.

REASON

To ensure that signposting occurs where required to advise people of restrictions or hazards.

133. Video CCTV for Council Stormwater Pipe after Construction

Prior to the issue of the Final Occupation Certificate, a qualified practitioner shall undertake a closed-circuit television (CCTV) inspection, and then report on the post construction condition of Bayside Council stormwater drainage infrastructure Tenterden Road. The camera and its operation shall comply with the following:

- The internal surface of the drainage pipe shall be viewed and recorded in a clear and concise manner, and
- The CCTV camera used shall be capable to pan, tilt and turning at right angles to the pipe axis over an entire vertical circle, to view the conduit joints, and
- Distance from the manholes shall be accurately measured, and
- The inspection survey shall be conducted from manhole to manhole.

The written report, together with a copy of the digital video footage of the pipeline, shall be submitted to Bayside Council for review. Any damage to the culvert / pipeline since the commencement of construction on the site, shall be repaired in full to the satisfaction of Bayside Council. A written acknowledgment shall be obtained from Bayside Council (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifier.

REASON

To ensure the integrity of Council's infrastructure has not been compromised.

134. Compliance of Works as Executed for Mixed Use

Before the issue of an Occupation Certificate, certification from a suitably qualified person must be provided to the Principal Certifier that the following works as executed are consistent with the plans and specifications approved under this consent.

- (a) Car parking facilities
- (b) Acoustic Report
- (c) Disability access plan
- (d) Pedestrian access
- (e) Signage location and structures
- (f) Mechanical ventilation

REASON

To ensure work has been completed in accordance with the development consent.

135. Undergrounding of Overhead Services and Installation of Lighting

Prior to the issue of the Final Occupation Certificate, all overhead cables, including electricity and telecommunications cables, along the entire length of all frontages of the development site must be relocated underground to the satisfaction of Bayside Council. The Ausgrid lighting and power poles will need to be decommissioned and new underground supplied lighting columns shall be construction (where necessary) satisfying the applicable lighting requirements.

All works shall be carried out at the applicant's expense, to the satisfaction of the asset owner and Bayside Council. If further works are required beyond the frontages of the development site (e.g. across a road) to support the required works, these works must also be carried out at no cost or expense to Bayside Council. Bayside Council's Director of City Futures (or delegate) must advise in writing that the works have been completed to their satisfaction, prior to the issue of the Occupation Certificate.

REASON

To ensure that overhead services are placed underground to achieve required public domain outcomes.

136. Roads Act / Public Domain Works - Major Development Frontage Works

Prior to the issue of any Occupation Certificate, the Applicant shall carry out the following works as specified by Bayside council in accordance with Bayside Council's Engineer, Landscape Architect, Public Domain Masterplans, and Infrastructure Specifications:

- a) Construction of a new footpath and planting of required street trees/landscaping along all frontages of the development site.
- b) Construction of vehicular entrance designed to accommodate the largest vehicle entering the site.
- c) Construction of new kerb and gutter along the frontage of the development site.
- d) Removal of the existing concrete vehicular entrance/s, kerb laybacks and other damaged/redundant public domain improvements which will no longer be required.
- e) Reconstruction of selected areas of the existing footpath, vehicular entrances, road, kerb, and gutter as required.

- f) Construct new kerb inlet pits and associated 375mm diameter stormwater pipe, connecting to existing stormwater infrastructure in Tenterden Road to Bayside Council infrastructure specifications.

The public footpaths shall be constructed in accordance with the approved Public Domain Plan and Bayside Council specifications. The footpath dimensions, location, pavement type and construction methods shall be in accordance with these specifications. If pavers are necessary, they shall be ordered allowing for adequate lead time for manufacture (10-12 weeks).

All works within the road reserve, which are subject to approval pursuant to Section 138 of the *Roads Act 1993*, shall be completed to the satisfaction of Bayside Council at the Applicant's expense. A report shall be submitted in accordance with Bayside Council's Contributed Asset Procedure for all constructed assets in the ownership of Bayside Council. Works-As-Executed plans prepared by a registered surveyor and engineering certification shall be submitted.

Final inspection reports for the works on the road reserve shall be obtained from Bayside Council's authorised officer and submitted to the Principal Certifier attesting that this condition has been satisfied prior to the issue of any Occupation Certificate.

REASON

To ensure that required public domain outcomes are achieved.

137. Post-Construction Dilapidation Report

Before the issue of any Occupation Certificate, a post-construction dilapidation report must be prepared by a suitably qualified Engineer, to the satisfaction of the Principal Certifier detailing whether:

- a) after comparing the pre-construction dilapidation report to the post-construction dilapidation report required under this condition, there has been any structural damage to any adjoining buildings; and
- b) where there has been structural damage to any adjoining buildings, that it is a result of the building work approved under this development consent, and
- c) a copy of the post-construction dilapidation report must be provided to Council (where Council is not the Principal Certifier or a Principal Certifier is not required) and to the relevant adjoining property owner(s).

REASON

To identify any damage to adjoining properties resulting from site work on the development site.

138. Dilapidation Report – Public Domain – Post-Construction

After the completion of all construction and public domain works, a professional Engineer specialising in civil, structural, or geotechnical engineering shall prepare a dilapidation report detailing the post-construction condition of Bayside Council's infrastructure adjoining, and within 50m of, the development site. This includes the condition of the road reserve (including footpath, nature strip, landscaping, trees, kerb and gutter, pits, pipes, traffic devices, signs, retaining walls, driveways, and road pavement etc.) and any other adjacent Bayside Council properties.

Photographs are to be in colour, digital, annotated and date stamped. The full name, accreditation, professional registration, and signature of the professional Engineer is to be detailed. The report is to be supplied in an electronic format to the Principal Certifier and Bayside Council.

Any damage identified in the dilapidation report must be fully rectified by the Applicant or owner at no cost to Bayside Council. Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of Bayside Council's Director of City Futures (or delegate), prior to the issue of the Final Occupation Certificate.

REASON

To identify damage to adjoining properties resulting from building work on the development site.

139. Pedestrian Safety Signage

Before the issue of an Occupation Certificate, ensure an appropriate sign(s) is provided and maintained within the site to advise all vehicles to be aware of pedestrians within the shared driveway.

REASON

To make drivers aware of pedestrians and to ensure the safety of pedestrians using the shared driveway.

140. Storage of Goods during Ongoing Use

During ongoing use of the premises, all goods must be stored wholly within the premises and must not be stored or displayed outside the premises, including any public place, without Council's approval.

REASON

To ensure goods are stored wholly within the premises and protect the amenity of the local area.

141. Removal of Waste Upon Completion

Before the issue of an Occupation Certificate:

- (a) all refuse, spoil and material unsuitable for use on-site must be removed from the site and disposed of in accordance with the approved Waste Management Plan, and
- (b) written evidence of the waste removal must be provided to the satisfaction of the Principal Certifier.

REASON

To ensure waste material is appropriately disposed or satisfactorily stored.

142. General Landscape

Prior to the issue of the Occupation Certificate, the following must be complied with to the satisfaction of the Principal Certifier:

- a) All landscape works are to be carried out in accordance with the approved construction landscape plans for the development. The landscaping is to be maintained to the approved standard at all times.
- b) A Landscape Architect shall provide a report to the principal certifier (with a copy provided to Council, if Council is not the principal certifier) certifying that the landscape works have been carried out in accordance with the approved plans and documentation. The certificate shall, amongst other matters included in approved plans, confirm compliance with the following requirements:
 - i. Trees in ground level along interfaces with public spaces shall be planted at minimum 200 litres, trees at time of inspection shall have a minimum height of 3.5 meters, calliper at 300mm greater than 60mm, installed with stakes and ties within a mulch bed or equivalent.
 - ii. A fully automated irrigation system has been installed to all podium landscaping, in ground levels and in roof terraces.
 - iii. Podium landscaping and paved areas are drained into the stormwater drainage system.
- c) Prior to the issue of an Occupation Certificate, a maintenance plan is to be submitted and approved by the Principal Certifying Authority. A copy of the maintenance plan is to be kept on site at all times during construction and shall be produced to Council on request following completion. The Maintenance Manual shall include as a minimum:
 - i. A 12 months Landscape Maintenance Schedule to provide a guide to the landowner or manager on how to best maintain the constructed landscaped areas; and include the following information: shrub pruning/trimming (frequency, plant requirements); Fertilising and pest control (soil testing, types, rate, frequency); Mulching, weeding and soil improvement (frequency, materials); Irrigation (checks, adjustments); maintenance of plants (fertilising, mulching, tree stakes adjustments, special plants requirements, alternative plants replacements if required); Maintenance of hard landscape elements (planters, waterproofing, irrigation, paving, edges, pergolas, seats, and any specialised maintenance requirements); Maintenance tasks of all play equipment,
 - ii. Frequency and methodology of different maintenance requirements including the removal of green waste; irrigation system tests, waterproofing inspections.
 - iii. Details of safety procedures.
 - iv. Laminated copies of 'As Built' Landscape drawings, and a site plan with nominating all communal open spaces to be maintained by Strata.

REASON

To ensure the approved landscaping works have been completed before occupation, in accordance with the approved landscaping plan(s).

143. Completion of Landscape and Tree Works

Before the issue of an Occupation Certificate, the Principal Certifier must be satisfied all landscape and tree-works have been completed in accordance with the approved plans and documents and any relevant conditions of this consent.

REASON

To ensure the approved landscaping works have been completed in accordance with the approved landscaping plan(s).

OPERATIONAL CONDITIONS**144. Maintenance of Wastewater and Stormwater Treatment Device**

During occupation and ongoing use of the building, all wastewater and stormwater treatment devices (including drainage systems, sumps and traps, and on-site detention) must be regularly maintained to remain effective and in accordance with any positive covenant (if applicable).

REASON

To protect sewerage and stormwater systems.

145. Maintenance of Stormwater Drainage System

The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines. The water from the rainwater tank should not be used for drinking. Rainwater tanks shall be routinely de-sludged and all contents from the de-sludging process disposed: Solids shall be disposed to the waste disposal and de-sludged liquid shall be disposed to the sewer.

REASON

To protect waterways and minimise adverse impacts to the environment.

146. Noise from Air-Conditioning Units

Residential air conditioners shall not cause 'offensive noise' as defined by the Protection of the Environment Operations Act 1997 or contravene provisions of the Protection of the Environment (Noise Control) Regulation 2008 where emitted noise from a residential air conditioner can be heard within a habitable room in any other residential premises at night.

REASON

To manage noise from air-conditioning units so that adverse impacts to the locality are minimised.

147. Graffiti Removal

During ongoing use of the premises, ensure graffiti is removed from the exterior of the building or associated structures, including any fences, site services and retaining/planter bed walls.

REASON

To protect and preserve the visual amenity of the surrounding public domain.

148. Graffiti Removal

Where the external walls of the building, landscaped structures and / or other facilities within the property / site are vandalised by graffiti, the graffiti shall be removed with the affected areas returned to its former state within seven (7) days of the occurrence.

REASON

To protect the amenity of the surrounding area.

149. Waste Management – Private Waste Collection

The Owner's Corporation / Operator must comply with the following at all times during operations:

- a) Compliance with the approved Waste Management Plan as referred to in Condition 1, at all times during use and operation of the premises, and
- b) The operator shall ensure that a commercial contract for the collection of trade / commercial waste and recyclables arising from the premises is in place at all times during operations. A copy of all contracts and receipts shall be kept on the premises and made available to Council Officers on request.

REASON

To minimise adverse impacts to the locality.

150. Access to Car Park for Commercial and Visitors

The control mechanism for the car park gate shall be arranged such that access to the car parking for registered proprietors of the commercial units, and their visitors, does not require security clearance or assisted entrance between the hours of 7.30 am and 6.00 pm, Monday to Saturday, and 7.30 am to 1.00 pm on Sunday.

Where the hours of operation of the commercial units are approved outside of these hours, the access arrangements shall match the approved hours of operation.

REASON

To ensure that approved car spaces are available for users of commercial premises during operating hours.

151. Operation of Vehicular Premises

The operation of the development and movements of vehicles shall comply with the following requirements:

- a) All vehicles must enter and exit the site in a forward direction.
- b) The maximum size of vehicles accessing the site shall be limited to an B99 Vehicle (as denoted in AS2890.1).
- c) All manoeuvring movements of vehicles shall be carried out wholly within the site and vehicle manoeuvring area shall be kept clear at all times.
- d) Parking spaces must not be enclosed without further approval of Bayside Council. The enclosure of car spaces is not permitted unless the enclosure complies with the design requirements of AS/NZS 2890.1.

- e) All vehicles shall be parked in the marked parking bays. All parking bays on-site shall be set aside for parking purpose only and shall not be used for storage of goods or machinery.

REASON

To manage site operations so that adverse impacts are minimised.

152. Awnings over Footpaths

The awnings over the footpaths adjacent to the development site shall be maintained in a structurally sound and safe condition at all times by the Owner / Owner's Corporation of the building. The awning must be inspected and regular maintenance be carried out to ensure the awning's structural integrity, aesthetic and functional qualities are maintained.

REASON

To minimise risk to life and property.

153. Landscape – Maintenance

- a) The landscaped areas on the property / site shall be maintained in accordance with the approved Maintenance Schedule provided as part of the landscape documentation. Where vegetation approved as part of this consent dies, it must be replaced with new landscaping that achieves a similar height and form to that approved under the landscape plan, and
- b) Buffer planting, including trees and screening shrubs, along the periphery of the site as indicated in Approved final CC landscape plans is to be maintained at all times to ensure amenity and privacy is delivered.
- c) Maintenance tasks of trees along the 3 meters front setback will include pruning to ensure CPTED principles are always met. All tree maintenance works must be done by a qualified arborist with a minimum level 3 in arboriculture (AQF). Trees along front setback to Botany Road are not to be pruned in height, unless required for safety reasons or for better development of the tree.
- d) A landscape contractor shall be engaged weekly for a minimum period of 52 weeks from completion of the landscape installation to maintain the landscaping. After that time monthly maintenance is required, and
- e) An automatic drip irrigation system shall be installed and maintained in working order for all landscaped areas.

REASON

To ensure ongoing maintenance of approved landscaping.

DEVELOPMENT CONSENT ADVICE

a. Lapsing of Consent

This consent will lapse five (5) years from the date of consent, unless the building, engineering or construction work relating to the building, subdivision or work is physically commenced on the land to which the consent applies before the date on which the consent would otherwise lapse.

b. Out of Hours Construction Work

For any activity that is required to be undertaken outside normal construction hours due to public safety, traffic related reasons, or significant concrete pour, a separate Out of Hours Works Permit is required prior to commencement of any out of hours works being undertaken.

An Out of Hours Works Application must be submitted for each separate event to Council, a minimum of one month prior to the planned activity being undertaken.

c. Consult with Utility Provider

You are advised to consult with your utility providers (i.e. Ausgrid, Telstra, etc.) in order to fully understand their requirements before commencement of any work.

d. Dial Before You Dig

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets, please contact *Dial Before You Dig* at www.1100.com.au or telephone on 1100 before excavating or erecting structures (This is the law in NSW).

If alterations are required to the configuration, size, form or design of the development upon contacting the *Dial Before You Dig* service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets.

It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the *Dial Before You Dig* service in advance of any construction or planning activities.

e. Dividing Fences Act 1991

This approval is not to be construed as a permission to erect any structure on or near a boundary contrary to the provisions of the *Dividing Fences Act 1991*.

f. Asbestos

All asbestos fibre demolition material and asbestos dust shall be handled, stored and removed in accordance with the relevant legislation and guidelines including:

- a) *Work Health and Safety Act 2011*, and
- b) *Work Health and Safety Regulation 2011*, and
- c) *Code of Practice for the Safe Removal of Asbestos [NOHSC: 2002 (2005)]*, and
- d) *Code of Practice for the Management and Control of Asbestos in Workplaces [NOHSC: 2018 (2005)]*, and
- e) *Protection of the Environment Operations (Waste) Regulation 2005*.

All work procedures shall be devised to minimise the release of dust and fibres. A checklist of safety precautions when working with asbestos is available in the Health and Safety Guidelines prepared by the WorkCover Authority of NSW. Collection,

storage and transportation is subject to the *Protection of the Environment Operations (Waste) Regulation 2005*.

g. Hazardous Waste

Hazardous and/or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of the relevant statutory authorities (NSW WorkCover Authority and the NSW Environment Protection Authority), together with the relevant regulations, including:

- a) *Work Health and Safety Act 2011*, and
- b) *Work Health and Safety Regulation 2011*, and
- c) *Protection of the Environment Operations (Waste) Regulation 2005*.

h. Annual Fire Safety Statement

In accordance with Clause 177 of the *Environmental Planning and Assessment Regulation 2000*, the owner of the building premises must cause the Council to be given an Annual Fire Safety Statement in relation to each essential fire safety measure implemented in the building.

The Annual Fire Safety Statement must be given:

- a) Within 12 months after the date on which the Fire Safety Certificate was received, and
- b) Subsequent Annual Fire Safety Statements are to be given within 12 months after the last such statement was given, and
- c) An Annual Fire Safety Statement is to be given in or to the effect of Clause 181 of the *Environmental Planning and Assessment Regulation 2000*, and
- d) A copy of the statement is to be given to the Commissioner of Fire and Rescue NSW, and a further copy is to be prominently displayed in the building.

i. Street / Shop

A street / shop number shall be prominently displayed at the front of the development. The street number shall be a minimum of 120mm in height to assist emergency services and visitors to locate the property. The numbering shall be erected prior to commencement of operations.

j. Lead-Based Paint

The removal, cleaning and disposal of lead-based paint shall conform with the requirements of the NSW Environment Protection Authority's Guideline - "*Lead Alert – The Six Step Guide to Painting Your Home (2014)*".

k. Noise Minimisation during Demolition and Construction

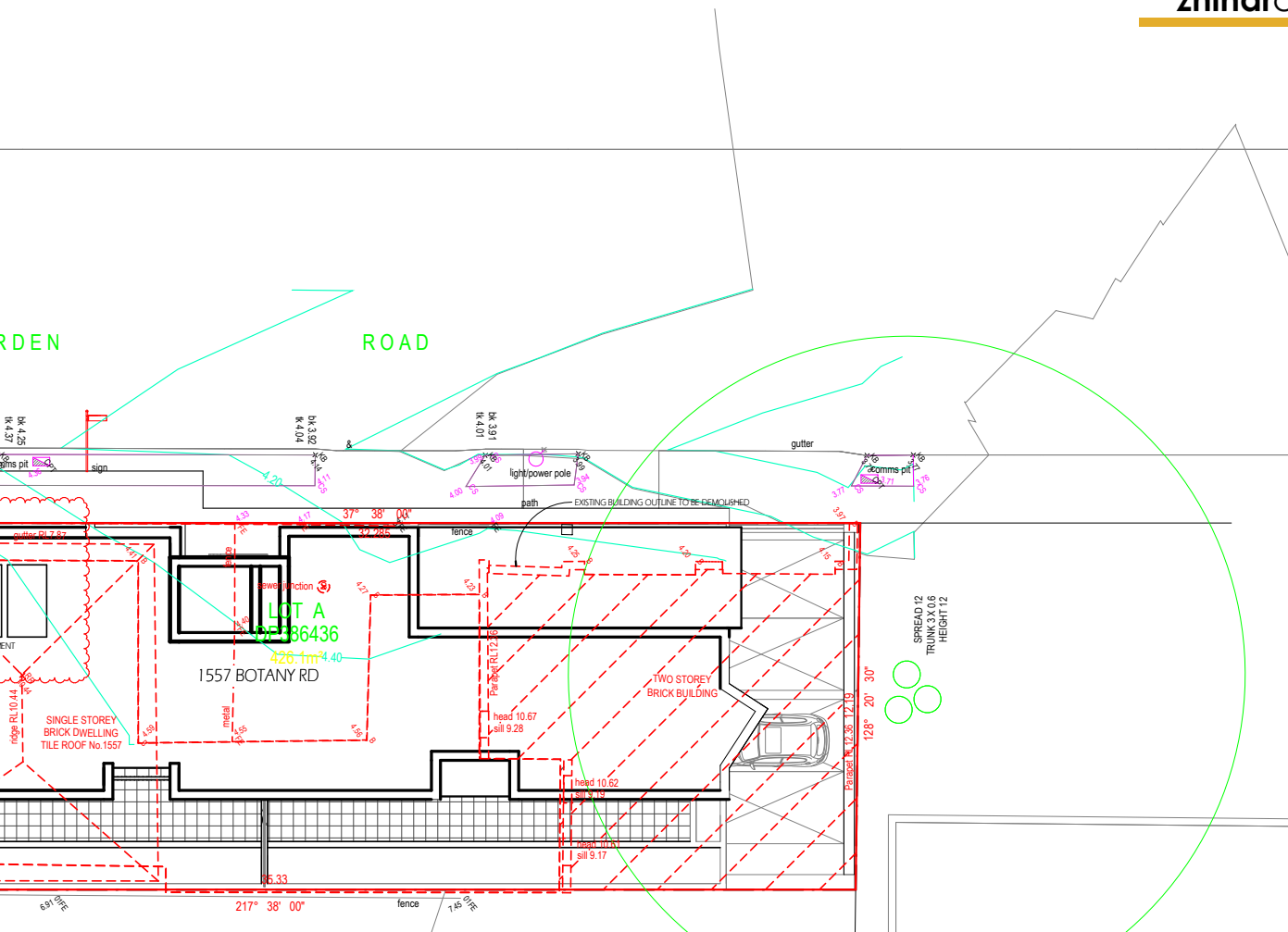
Demolition and construction shall minimise the emission of excessive noise and prevent "offensive noise" as defined in the *Protection of the Environment Operations Act 1997*.

Noise reduction measures shall include, but are not limited to, the following strategies:

- a) choosing quiet equipment, and
- b) choosing alternatives to noisy activities, and
- c) relocating noise sources away from affected neighbours, and
- d) educating staff and contractors about quiet work practices, and
- e) informing neighbours of potentially noise activities in advance, and
- f) equipment such as de-watering pumps, that are needed to operate on any evening or night between the hours of 8.00 pm and 7.00 am, or on any Sunday or Public Holiday, shall not cause a noise nuisance to neighbours of adjoining or nearby residences.

Where the emitted noise exceeds 5 dB(A) [LAeq(15m)] above the background sound level [LA90] at the most affected point on the nearest residential boundary, at any time previously stated, the equipment shall be acoustically insulated, isolated or otherwise enclosed so as to achieve the sound level objective.

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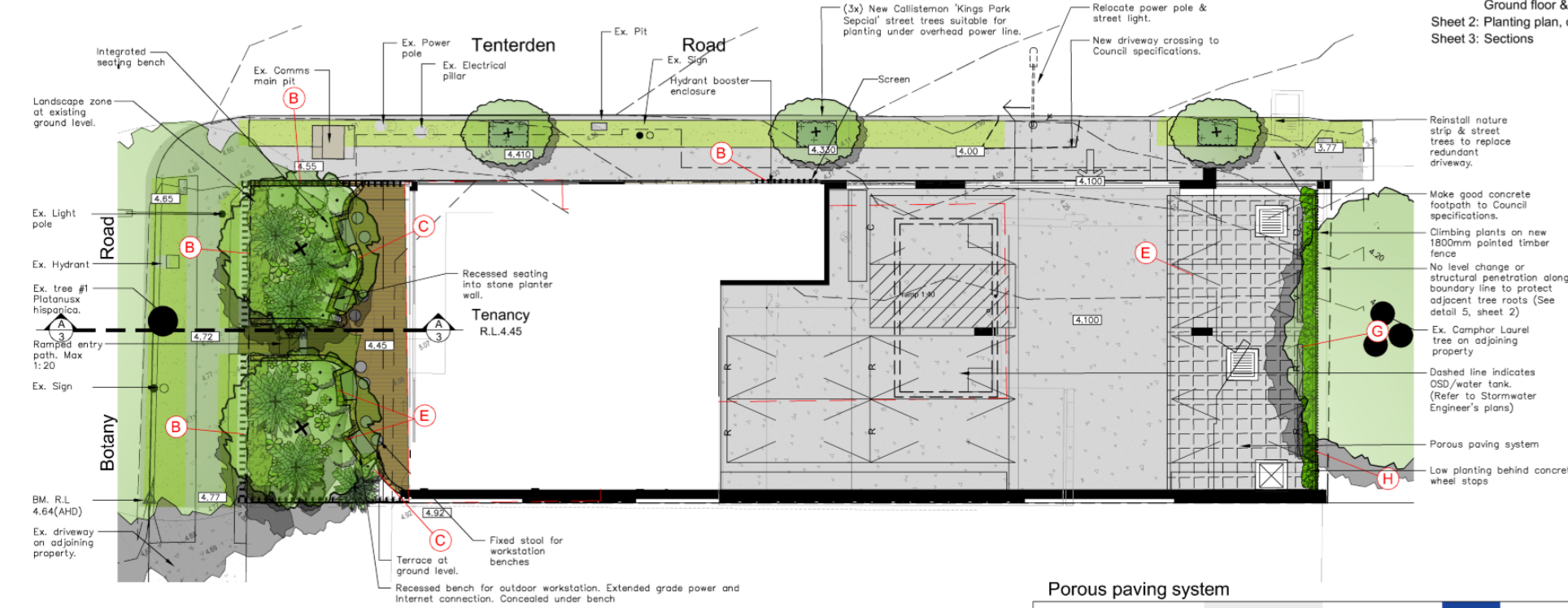


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LEGEND:
TG - TRANSLUCENT GLASS
HL - HIGHLIGHT WINDOW
PS - PRIVACY SCREEN



Landscape site plan - Ground level 1:100 @ A1



Drawing schedule
 Sheet 1: Landscape site plan - Ground floor & Level 1
 Sheet 2: Planting plan, details & notes
 Sheet 3: Sections

Typical design images



Legend

- Existing trees
- Proposed evergreen trees
- Proposed Deciduous tree
- Taller palm
- Strappy leaved understorey plants
- Low shrubs / ornamental grasses
- Screen plants
- Private open space paving
- Terrace
- Concrete
- Walls
- Proposed levels
- Survey layer under
- Porous paving system

Amendments

| | | |
|---|------------|-------------|
| G | 24.01.2024 | For DA |
| F | 24.10.2023 | Council RFI |
| E | 24.11.2022 | For DA |



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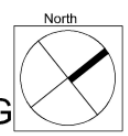
Project: Proposed Development
 1557 Botany Road,
 Botany, NSW

Dwg: Landscape site plan

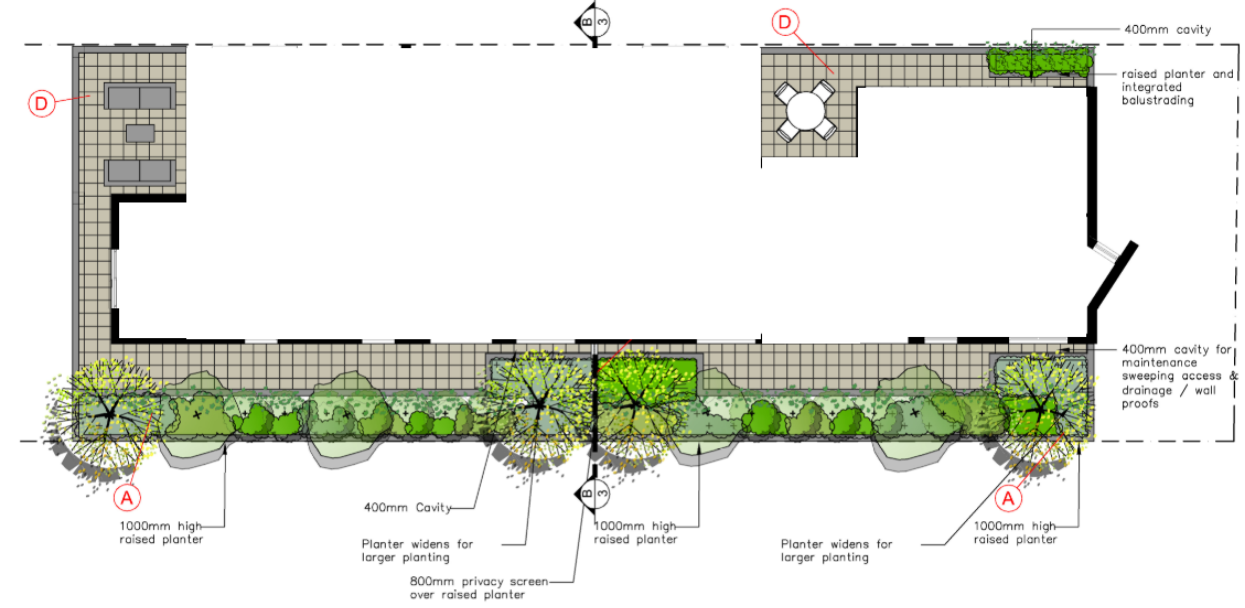
Date: 24.01.24 Scale: 1:100 @ A1

Job Ref: 22/2473 Sheet No: 1 of 3

1 of 4
 ISSUE- G



Landscape site plan - Level 1 1:100 @ A1



Porous paving system

Construction
 While easy to construct, HydroSTON pavements need to be free draining and structurally stable. This requires creation of voids in the pavement substructure and compaction of materials having minimal fines.

Maintenance
 Regular removal of surface debris will maintain the performance of HydroSTON pavements. HydroSTON can be cleaned by brooming and sweeping with readily available water/suction equipment.

Research
 HydroSTON pavers manufactured in Australia benefit from extensive research conducted over many years in Germany. Research focuses on hydraulic behaviour, pollutant retention, design, construction and maintenance.

Colours
 Charcoal
 Natural
 Other concrete colours can be manufactured during scheduled production runs.

Applications
 HydroSTON Pedestrian
 Suitable for footpaths, walkways, plazas, courtyards and tree surrounds.

HydroSTON Traffic
 Suitable for carparks, driveways and minor roads.

Permeable Concrete Pavers

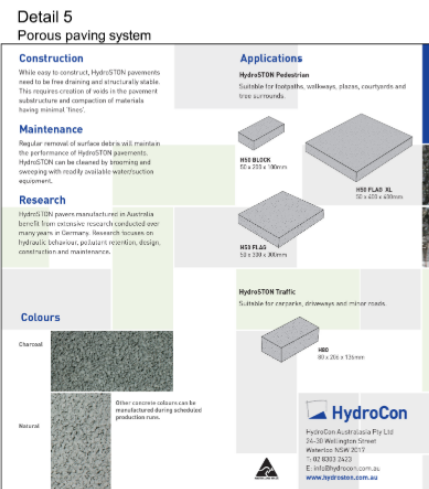
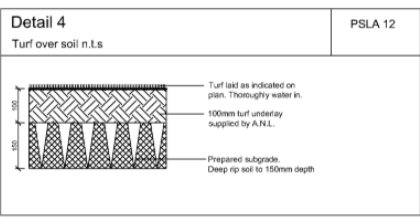
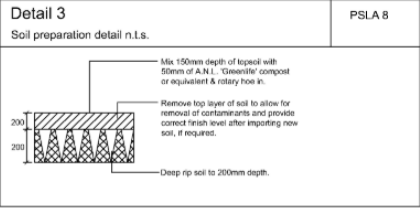
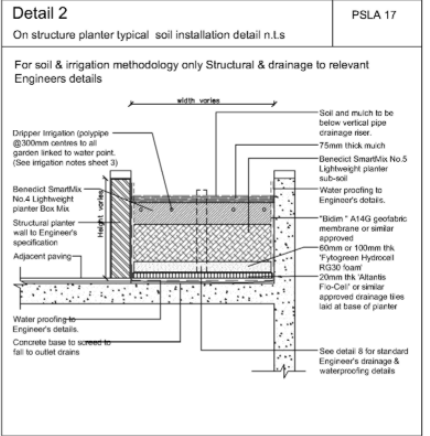
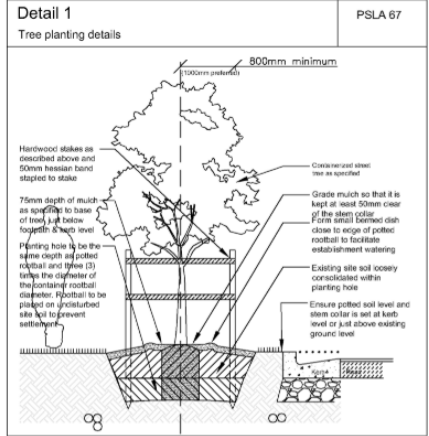
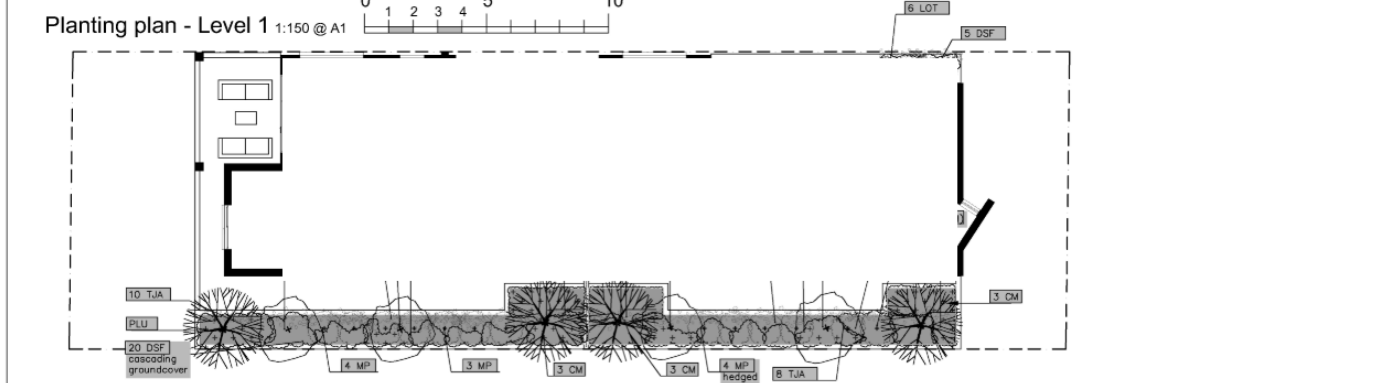
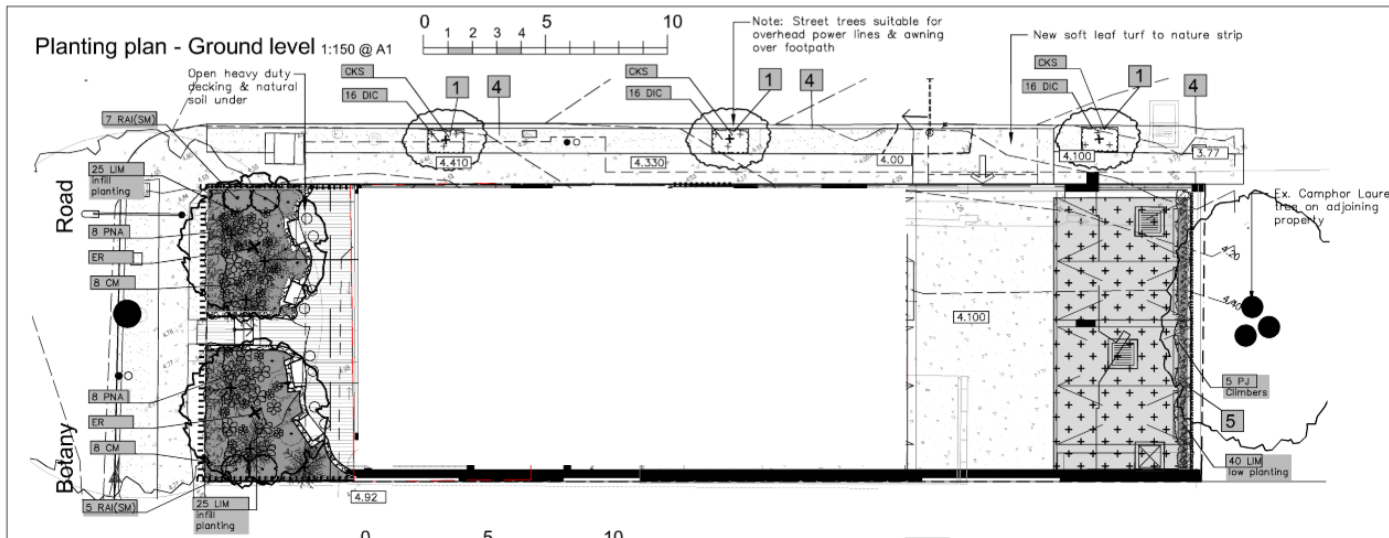
HydroSTON
 from HydroCon

HydroCon
 HydroCon Australia Pty Ltd
 24-30 Westglen Street
 Waterloo NSW 2117
 T: 91 8300 3423
 E: info@hydrocon.com.au
 www.hydrocon.com.au

Managing water in the urban environment

Typical design palette





General installation notes

- Site preparation**
Any existing lines and vegetation to be retained shall be preserved and protected from damage during the execution of landscape work. In particular, root systems of existing plants must not be disturbed if possible. Any nearby site works should be carried out using hand tools. To ensure the survival and growth of existing trees during landscaping works, protect by fencing or arming where necessary. Trees shall not be removed or topped unless specific written approval to do so is given or is indicated on plan. Storage of materials, mixing of materials, vehicle parking, disposal of liquids, machinery repairs and refuelling, site office and sheds, and the lighting of fires shall not occur within three (3) metres of any existing trees. Do not stockpile soil, rubble or other debris cleared from the site, or building materials, within the drip-line of existing trees. Vehicular access shall not be permitted within three (3) metres of any tree.
- Soil preparation**
All proposed planting areas to be deep ripped to 200mm (where possible) and clay soils to be treated with clay breaker. Apply at least 200mm depth good quality garden soil mix to all garden planting areas. To comply with AS 4419 Tuffed areas as noted to be laid over 100mm min. good quality turf underlay over existing soil which is to be deep ripped to 200mm depth prior to installation. To be worked in with rotary hoe except where tree root damage would otherwise occur. In such situations care to be taken to hand cultivate in any area where existing tree roots exist to preserve health of trees and to comply with the requirements of the Arborist's report. Where planting is to occur in existing soil profiles ensure soil conditions and compost worked into the top 200mm profile. To comply with AS 4454-1999.
- New plantings**
Newly planted trees and large shrubs should be secured to stakes with hessian twine to prevent rocking by wind. Planting holes for plant material should be large enough in size to take root ball with additional space to take back filling of good quality planting mix. (Please note mature heights of planting as shown on planting schedule can vary due to site conditions, locations in contained deep soil or over slab planters and so forth) Also shallow soils in certain locations may affect planting heights. Nominated heights for plantings in raised planters over slabs are nominated as less than their normal expected heights in acknowledgement of the contained soil environment. For other deep soil areas heights are subject to particular site conditions, and intended hedging or pruning for functional requirements such as available planting width, intended access under branches and solar access.
- Planter wall waterproofing**
All slab areas to be waterproofed and 'Attardi' drainage installed with geotextile fabric or similar approved. Refer Engineer's details for ALL structural drainage and installation details whatsoever for wall construction. All raised garden areas to have the following soils:
• Benetics Smart Mix no. 4 Lightweight Planter Mix (or approved equivalent) to min. 400-500mm depth. To comply with AS 4419 and AS 3743
• All planter boxes are to have automatic dripline irrigation system.
• Landscape contractor to install all planter box fill material and plant material after other site works are completed to ensure no deterioration of waterproof membrane behind external walls.
- Mulching**
All planting areas to be mulched with a minimum 75mm thick cover of recycled hard wood chip mulch and then all plant areas to be thoroughly soaked with water. To comply with AS 4454
- Fertiliser**
All planting areas to be fertilised with 9 month 'NPK' slow release fertiliser.
- Staking**
To those plants indicated on the planting schedules provide hardwood stakes as nominated and driven into ground to a depth able to achieve right support. No staking in raised planters to avoid damaging waterproofing installation.
- Turfing**
Turfed areas to be laid over 100mm good quality turf underlay over existing soil which is to be deep ripped to 200mm depth prior to installation. See details sheet.
- Structural**
All structural details whatsoever to Engineer's details.

Irrigation notes

Automatic drip line watering system to be selected. To extend to ALL common area garden and landscape zones in the development including both the deep soil and raised planter wall areas and including all raised planter boxes over slab on all levels. (All lawn areas to be excluded).

Water supply tap hoses and water supply conduit to be coordinated by Hydraulic and Structural Engineers' details. Drip-line supply system only to be incorporated.

Prior to approval by the project manager and prior to installation the Contractor responsible for the irrigation installation is to provide an irrigation design to meet the following requirements:

Generally: Supply an automatic drip line irrigation system. To include all piping to solenoids either PVC lines and/or class 12 pressure pipe or low density rubber modified polypropylene reticulation as required to provide water supply to the nominated areas. To be coordinated with Hydraulic engineers plans. To include all bends, junctions, ends, ball valves, solenoids and all other ancillary equipment. Backwash valve. An approved backwash prevention valve is to be located at the primary water source for top up valves to rainwater tanks (where applicable).

Ensure rain sensor is installed for common area garden zones connected to timers

Root inhibiting system: Drip-lines to be 'Netafim Techline AS XR' drip tubing or approved equivalent.

Automatic Controller: For all common area landscape areas provide automatic 2 week timer with hourly multi-cycle operation for each zone as noted on the irrigation areas plan on sheet. Battery tanks to be installed in private terraces.

Performance: It shall be the Landscape Contractor's responsibility to ensure and guarantee satisfactory operation of the irrigation system. The system is to be fit for the purpose and should utilize sufficient solenoids to provide for the varying watering requirements of landscape areas to allow all plants and lawn areas to thrive and attain long term viability.

Testing: After the system has been installed to the satisfaction of the project manager, the installation shall be tested under working conditions. Acceptance of the installed plant and equipment shall be subject to these being satisfactory.

Warranty: A twelve month warranty is to be provided in writing by the Landscape Contractor, which shall commit the Landscape Contractor to rectify the system (the items they have installed) to the satisfaction of the project manager or nominated representative. This will apply should any fault develop, or the capacity or efficiency fall below that guaranteed, or should the discharge or pressure be inadequate, or should defects develop in the filter unit or control heads, or any backlogs that may develop in the system.

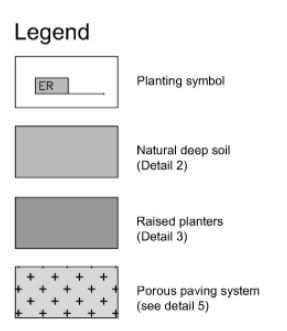
Approval: The Landscape Contractor is to liaise as necessary, to ensure that the irrigation system conforms with all Water Board, Council and Australian standards (AS)

Maintenance schedule

The Landscape Contractor shall maintain the contract areas by accepted horticultural practices as well as rectifying any defects that become apparent in the works under normal use. The Landscape Contractor shall maintain the works and make good all defects for a period of twenty six (26) weeks after the date of practical completion. Practical completion of the landscape works shall include but not be limited to the replacement of plants which have failed or been damaged or stolen during work under the contract. Landscape maintenance shall include but not be limited to the following: watering, rubbish removal, spraying and wiping leaf surfaces, replacing failed plants, maintaining mulch, pruning, insect and disease control, cleaning of surrounding areas. Mow the nature strip turf when it is established at regular intervals to maintain an average height of 50mm.

After the completion of the defects period noted above the owners corporation of the residence are responsible for the ongoing maintenance and viability of the gardens and ongoing maintenance shall include the following:

- Regular hand watering of gardens if installed drip line irrigation system is turned off. Irrigation to be installed and maintained as per manufacturers specifications including regular checks for function of system, to check for leaks and to ensure general good working operation. Regular maintenance of the irrigation system battery timers (where required) for isolated planter beds in common areas. Battery timers for private terraces are the responsibility of the individual unit owners.
- Mulch is to be regularly topped up every 6 months to ensure an even 75mm coverage in all garden beds
- Regular pruning of plants is to be undertaken to ensure continued uniform growth of canopy and foliage of trees and shrubs. Removal of vegetation over the long term (if and when required) as the garden matures. Subject to the relevant council applications
- Regular assessment of plants for evidence of insect attack or disease. Appropriate pest oil, white oil of industry standard safe to use pest spray is to be employed if required
- Garden/lawn edging to be inspected regularly after practical completion to ensure it is maintained in good order. Replace where required if defective sections are discovered
- All garden refuse, rubbish and associated items that arise from the regular garden maintenance procedures are to be collected and stored in appropriate general waste or green waste containers as is appropriate. Excess waste unable to be stored in Council waste containers is to be removed from the site in a timely manner.



Amendments

| | Date | For |
|---|------------|-------------|
| G | 24.01.2024 | For DA |
| F | 24.10.2023 | Council RFI |
| E | 24.11.2022 | For DA |



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Project: Proposed Development
1557 Botany Road,
Botany, NSW

Dwg: Planting plan, Notes and Details

Date: 24.01.24 Scale: 1:150 @A1
Job Ref: 22/2473 Sheet No: 2 of 3

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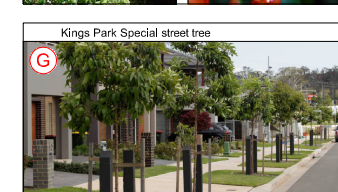
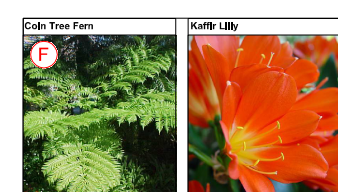
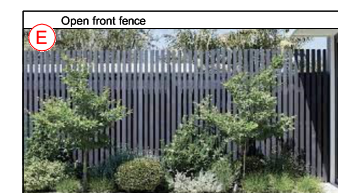
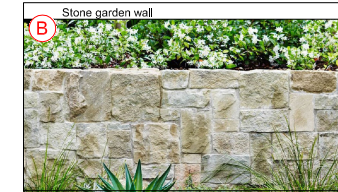
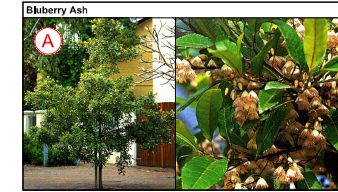
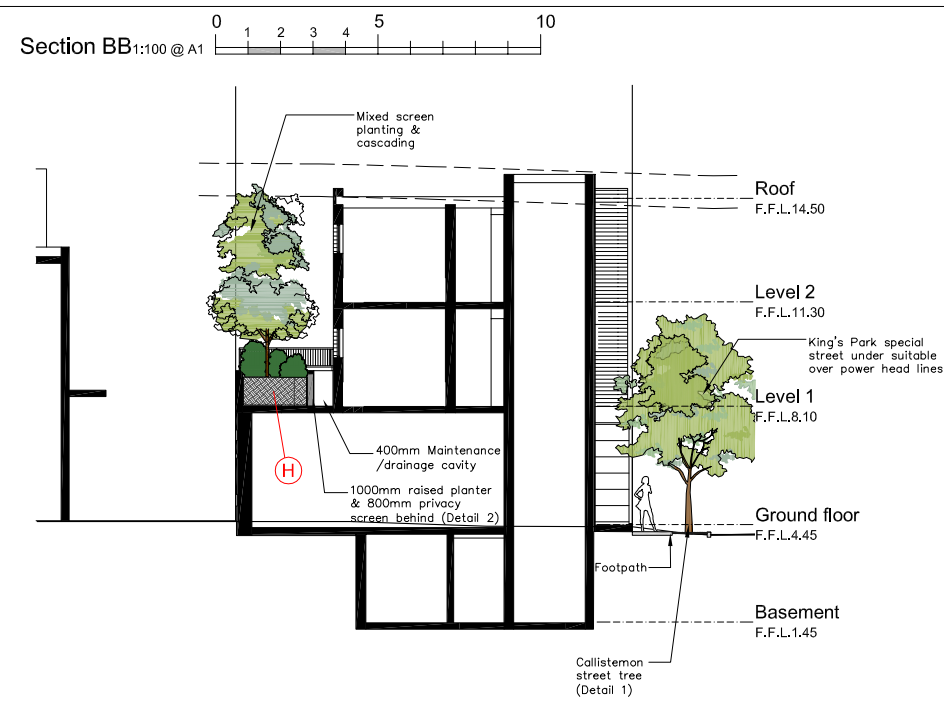
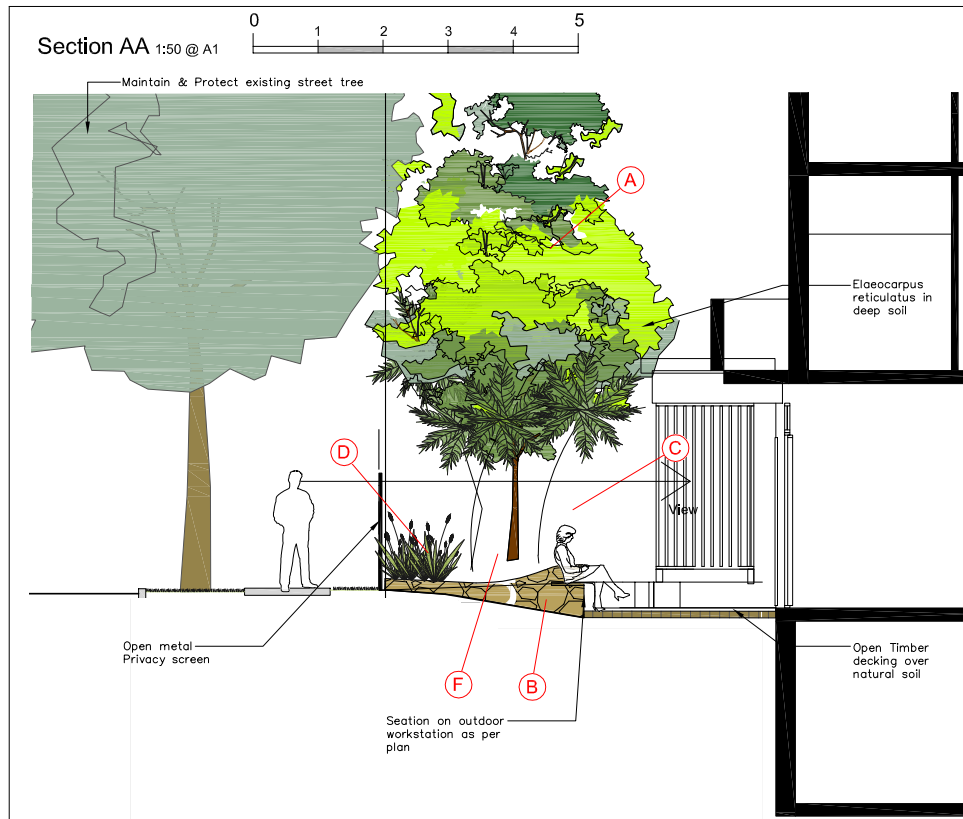


Planting schedule

| Symbol | Botanical name | Common name | Cont. size | Staking | Mature height | No req. |
|---|---------------------------------|--|------------|------------------------|---------------|---------|
| Trees | | | | | | |
| ER | Elaeocarpus reticulatus | Blueberry Ash (indigenous small tree) | 45L | 3x50x50x1800 | 6-8.0M | 2 |
| CKS | Callistemon Kings Park Special | Bottlebrush small (native tree for planterbox) | 300mm | 2x50x50x1800 | 3-3.5M | 3 |
| Shrubs / Screening plants/ Palms | | | | | | |
| CVE | Callistemon citrinus 'Endeavor' | Endeavor Crimson Bottlebrush (flowering native small tree) | 300mm | nil | 2-3.0M | 5 |
| PLU | Plumeria acutifolia | Frangipani (small flowering deciduous tree) | 45L | 2x50x50x1800 | 3-4.0M | 4 |
| MP | Murraya paniculata | Orange Jessamine (flowering screening plant) | 300mm | hedged | 2-3.0M | 11 |
| RAI (SM) | Raphiolepis indica SM | Snow Maiden (hedging dense flowering plant) | 300mm | nil | 1.0M | 14 |
| Groundcovers/Climbers/Ornamental grasses | | | | | | |
| CM | Clivea miniatia | Kaffir Lily (shade tolerant groundcover) | 200mm | nil | 0.5M | 25 |
| CGT | Casuarina glauca 'Cousin It' | Cousin It Groundcover (hybrid groundcover) | 200mm | nil | 0.15M | 16 |
| DIC | Dianella caerulea | Blue Flax Lily (blue foliage native grass like plant) | 100mm | nil | 0.4M | 48 |
| DSF | Dichondra 'Silver Falls' | Silver Falls (cascading groundcover in roof garden) | 200mm | nil | 0.15M | 45 |
| LIM | Liriope Evergreen Giant | Turf Lily (shade tolerant groundcover) | 150mm | nil | 0.4M | 90 |
| LOT | Lomandra 'Tanika' | Dwarf Mat Rush (native mass planted groundcover) | 150mm | nil | 0.4M | 6 |
| MYP | Myoporum parvifolium | Creeping Boobialla (native cascading groundcover) | 150mm | nil | 0.2M | 20 |
| PJ | Pandorea jasminoides | Bower Plant (native climbing/cascading groundcover) | 200mm | wire supports on fence | 2.5M | 5 |
| PNA | Pennisetum alopecuroides | Natray NAFRAY® 'PA300' PBR (flowering ornamental grass) | 150mm | nil | 0.8-1.0M | 16 |
| TJA | Tracholopium asiaticum | Flatmat Star Jasmine (FT01 Oxblood hybrid groundcover) | 200mm | nil | 0.2M | 28 |

Planting schedule species to be sourced from local nurseries supplying plants of local provenance wherever possible. Landscape contractor is to check plant numbers on plan against the schedule prior to submitting tender price. Contact landscape architect if any number discrepancies are found. Council compliance controls require that any substitution of species variety or container size MUST be confirmed with landscape architect to ensure a compliance certificate can be issued that meets the specific development consent conditions of the project.

Note: Refer also to Arborist report prepared by Redgum Horticultural. Ref #8526 Dated 14 Oct 2022.



Amendments

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| G | 24.01.2024 | For DA |
| F | 24.10.2023 | Council RFI |
| E | 24.11.2022 | For DA |

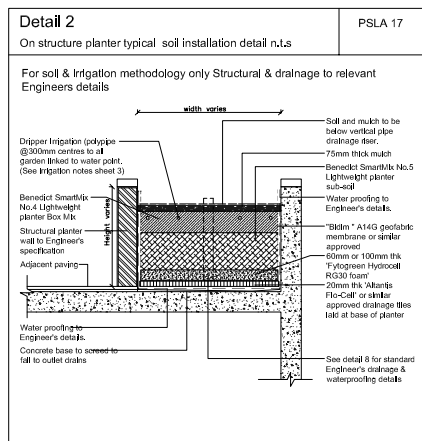
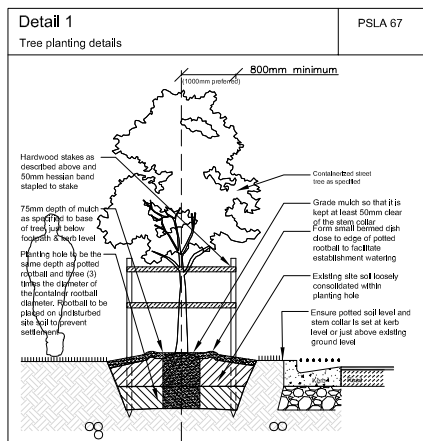


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 1557 Botany Road,
 Botany, NSW

Dwg: Concept Section C.O.S layout
 Date: 24.01.24 Scale: As Shown @A1
 Job Ref: 22/2473 Sheet No: 3 of 3

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 ISSUE- G





Amendments

| | | |
|---|------------|-------------|
| G | 24.01.2024 | For DA |
| F | 24.10.2023 | Council RFI |
| E | 24.11.2022 | For DA |

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Project: Proposed Development
 1557 Botany Road,
 Botany, NSW

Dwg: Elevation

Date: 24.01.24 Scale: 1:100 @A1

Job Ref: 22/2473 Sheet No: 3 of 3

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 ISSUE- G

North

zhinarchitects



Aerial View 2

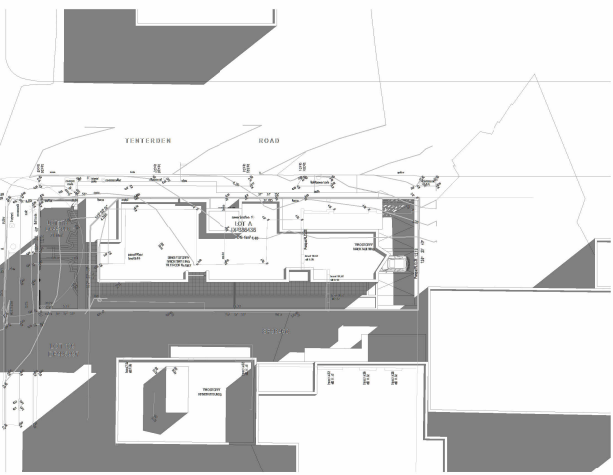
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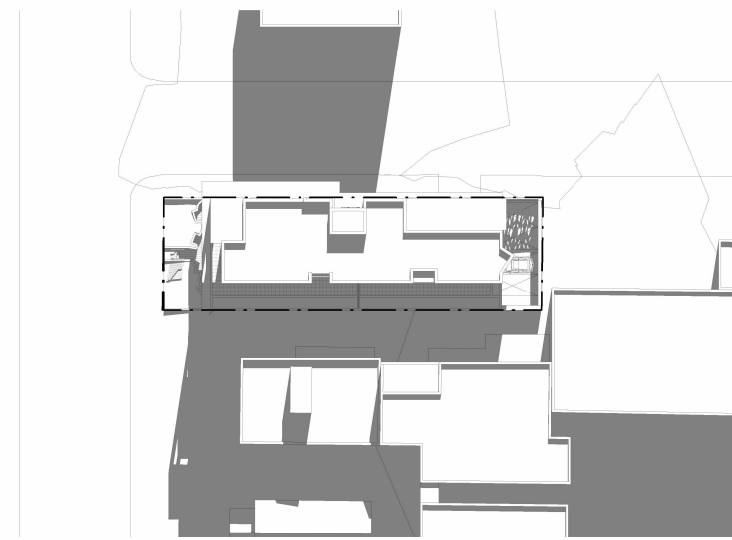
SUN-EYE VIEW 22 JUNE 11AM



zhinarchitects



12 PM



JUNE 22 - 3PM



AMENDED ANNEXURE C

Clause 4.6 – Height of Buildings (Clause 4.3)



Clause 4.6 variation statement – Height of buildings (clause 4.3)

1. Introduction

This Variation Statement has been prepared in accordance with Clause 4.6 of the Bayside Local Environmental Plan 2021 (BLEP 2021). The subject application seeks consent for demolition of existing structures and erection of a three (3) storey mixed use building containing one ground floor commercial tenancy and four (4) shop top housing apartments at No. 1557 Botany Road, Botany ('the site').

2. Height of Building Standard

Clause 4.3 of BLEP 2021 relates to the maximum height requirements and refers to the Height of Buildings Map.

Building height is defined as:

building height (or height of building) means—

(a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or

(b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,

including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

The relevant map (Map HOB_009 & 010) reproduced below at **Figure 1** identifies the subject site as having a maximum height development standard of 10m. Important also to note from Figure 1 that adjoining land to the north east in Zone E3 is subject to a height development standard of 12m.

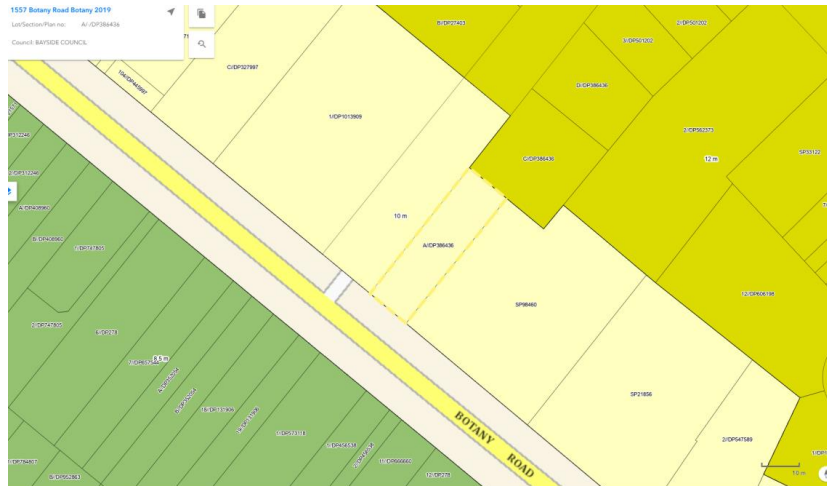


Figure 1: Extract from Height of Buildings mapping layer to BLEP 2021 (Source: NSW Planning Portal accessed 6 October 2023)

3. Proposed variation to height of buildings development standard



The majority of the proposed building is compliant with the height of buildings development standard with a minor variation along the edges of the roof adjoining the street frontage to Tenterden Road as shown in the height blanket diagram in Figure 2. The proposed maximum building height is 10.93m (RL15.23m) which is a maximum breach of the standard by 0.93m and a maximum 9.3% variation to the standard. The small sections of the roof edge along the Tenterden Street elevation exceed the height control by 0.42m to 0.49m.

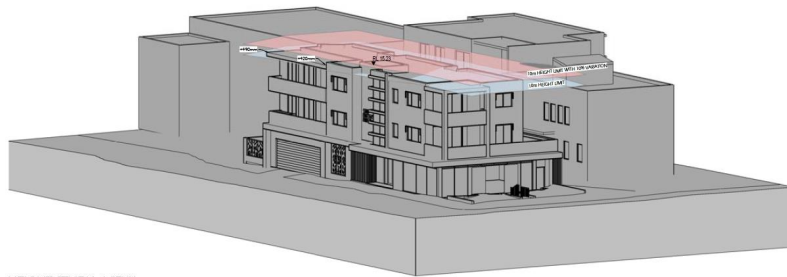
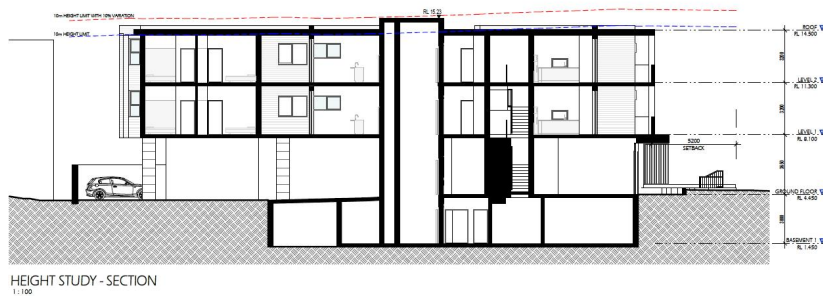


Figure 2: Section and 3D height blanket diagram illustrating sections of the roof which are more than 10m above existing ground level

4. Clause 4.6 to BLEP 2021

The maximum building height control is a “development standard” to which exceptions can be granted pursuant to clause 4.6 of the LEP.

The objectives and provisions of clause 4.6 are as follows:

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 Planning Secretary has been obtained.

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

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

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

(c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.

(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if—

(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or

(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

Note— When this Plan was made it did not include all of these zones.

(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).

(8) This clause does not allow development consent to be granted for development that would contravene any of the following—

(a) a development standard for complying development,

(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,



- (c) clause 5.4,
- (ca) clauses 6.4 and 6.5,
- (cb) clauses 6.9 and 6.10.
- (cc) clauses 7.3 and 7.8.”.

The development standard in clause 4.3 is not “expressly excluded” from the operation of clause 4.6.

Objective 1(a) of clause 4.6 is satisfied by the discretion granted to a consent authority by virtue of subclause 4.6(2) and the limitations to that discretion contained in subclauses (3) to (8). This submission will address the requirements of subclauses 4.6(3) and (4). In this regard, the extent of the discretion afforded by subclause 4.6(2) is not numerically limited, in contrast with the development standards referred to in subclause 4.6(6).

The *Height of Buildings Map* nominates a maximum height of 10m for the site (see Figure 1). It is hereby requested that an exception to this development standard be granted pursuant to clause 4.6 so as to permit a maximum height of 10.93m which equates to a numerical variation of 0.93m (9.3%).

5. Compliance is unreasonable or unnecessary in the circumstances of the case (Clause 4.6(3)(a))

Of relevance to Clause 4.6(3)(a), in *Wehbe v Pittwater Council (2007) NSW LEC 827* Preston CJ sets out ways of establishing that compliance with a development standard is unreasonable or unnecessary. It states, *inter alia*:

“An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.”

The judgement goes on to state that:

“The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served).”

Preston CJ in the judgement then expressed the view that there are 5 different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy, as follows (with emphasis placed on number 1 for the purposes of this Clause 4.6 variation [our underline]):

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



that would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

Relevantly, in *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118* (paragraph 16), Preston CJ makes reference to *Wehbe* and states:

"...Although that was said in the context of an objection under State Environmental Planning Policy No 1 – Development Standards to compliance with a development standard, the discussion is equally applicable to a written request under cl 4.6 demonstrating that compliance with a development standard is unreasonable or unnecessary."

Clause 4.6(3)(a) requires that the written request to vary a development standard demonstrate that compliance with the development standard is unnecessary or unreasonable in the circumstances of the case. Requiring strict compliance with the standard is unreasonable or unnecessary because:

- The development is consistent with the standard and zone objectives, even with the proposed variation (refer to Section 8 below); and
- There are no additional significant adverse impacts arising from the proposed non-compliance.

On this basis, the requirements of Clause 4.6(3)(a) are satisfied.

Notably, under Clause 4.6(4)(a)(ii) a consent authority must now be satisfied that the contravention of a development standard 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. Clause 4.6(4)(a)(ii) is addressed in Section 8 below.

6. Sufficient environmental planning grounds (Clause 4.6(3)(b))

Having regard to Clause 4.6(3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard. Specifically, Preston CJ in *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118* (paragraph 24) states:

*The environmental planning grounds relied on in the written request under cl 4.6 must be "sufficient". There are two respects in which the written request needs to be "sufficient". First, the environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard". The focus of cl 4.6(3)(b) is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole: see *Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248* at [15]. Second, the written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under cl 4.6(4)(a)(i) that the written request has adequately addressed this matter: see *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90* at [31].*

The assessment of this numerical non-compliance is also guided by the decisions of the NSW LEC in *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90* whereby Justice Pain ratified the decision of Commissioner Pearson and in *Moskovich v Waverley Council [2016] NSWLEC 1015*.



On the above basis, the following environmental planning grounds are submitted to justify contravening the maximum building height:

1. The height breach relates to a small portion of the roof which sits above the lowest existing ground levels within the site. The non-compliance is very minor as a portion of the overall built form.
2. The non-compliance occurs along the street-front edges of the articulated parapet and would not be discernible to the casual observer within the broader streetscape. The non-compliant section is continuous with the remainder of the compliant roofline and not a specific design element that would attract specific attention.
3. The built form will appear as a three storey building consistent with the neighbouring two and three storey residential buildings to the east.
4. The non-compliant section of the building is furthest from the nearest neighbouring building to the east and would not, by visual comparison, have the external appearance of a building height that is out of place with the existing and desired future character of the streetscape and locality.
4. The section of the building which exceeds the height control does not result in an additional storey or other prominent building feature that would look out of place in the streetscape and locality.
5. The existing street tree in Botany Road fronting the site will be retained and is of a scale compatible with the proposed height of the building. The tree is part of a row of street trees extending along Botany Road and, within the streetscape, these trees are more visually prominent than the built form behind them and will complement the anticipated three storey scale of future development in the streetscape.
6. The finished ground floor level of the building has been selected to be compatible with accessible pathways and compliant vehicle grades to accommodate the at-grade car park, commercial premises and back of house facilities. The levels are matched to the only suitable location for the vehicle crossing which is from the northern corner of the site. Subsequent design levels above the ground floor require minimum floor to ceiling heights for the ground floor commercial premises and residential storeys above. The resultant roof height is the minimum efficient design level incorporating the abovementioned requirements.
7. The social and community benefits of providing additional housing stock, within a highly sought after location should be given weight in consideration of the variation request. The slight non-compliance with the height control does not breach the anticipated number of storeys or the FSR control. It would be a loss to the community (and contrary to the public interest) to deny the minor variation and require the removal of an apartment within a well located and well-designed development.
8. It is considered that there is an absence of any significant material impacts attributed to the breach on the amenity or the environmental values of surrounding properties, the amenity of future building occupants and on the character of the locality. Specifically:
 - a. The extent of the additional height creates no adverse additional overshadowing impacts to adjoining residential properties when compared to a compliant building envelope. The extent of additional impact from the increased building height is insignificant and or no consequence to the owners/occupants of the adjoining residential properties especially as the breach relates to portion of the roof adjacent to Tenterden Road and not in proximity to the residential neighbours to the south.
 - b. The height breach does not result in any adverse privacy impacts. The building height is compliant to the south and east therefore the breach in height does not have any greater impact on the privacy to the adjoining residential properties. The proposed additional height of 1m does not increase the



number of apartments within the development or contribute to any overlooking impacts. As such, the loss of privacy to neighbouring properties caused by the non-compliant element would be insignificant or nil; and

- c. The height breach will not result in any significant view loss. It is not anticipated that the proposed additional height of 1m along the street frontage will result in any loss of views over the proposed development. The land to the south east is already developed with a similar height and scale as the proposed building and given the locality is relatively flat there are no views. The maximum 1m height non-compliance along the street frontage will not impact upon the outlook for neighbouring dwellings. The increased height will not impact upon views for any future development.
9. The height breach facilitates an arrangement of floor space on the site in a manner that is effective in providing high levels of amenity to occupants of the development. The portion of the building above 10m is minor and limited to a small portion of the parapet and roof in the north west corner of the site, its impact is therefore isolated and modest.
 10. Insistence on compliance with the height control would result in the removal of one apartment at Level 2. It is considered that the loss of a unit is a disproportionate response to the impacts created by the proposal.
 11. The proposed development meets the objectives of the development standards and meets the objectives of the MU1 Mixed Use zone (as further detailed in Section 7 below);
 12. The proposed development achieves the objects in Section 1.3 of the EPA Act, specifically:
 - a. The proposal promotes the orderly and economic use and development of land through the redevelopment of an underutilised site for residential uses (1.3(c));
 - b. The proposed development promotes good design and amenity of the built environment through a well-considered design which is responsive to its setting and context (1.3(g)).
 13. The variation to the height of buildings development standard will give better effect to the aims of State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development (SEPP 65). In particular:
 - a. The proposed variation will provide more sustainable housing in social and environmental terms and better achieve urban planning policies (clause 2(3)(a)(i));
 - b. Approval of the proposed variation will allow for a variation of building height and scale which results in a three storey building as envisaged by the planning controls and is an accepted urban design approach with an appropriate degree of flexibility; and
 - c. Approval of the proposed variation will facilitate a variety of housing types by providing a well-located and compact development suitable for a variety of household types (clause 2(3)(g)).

The above environmental planning grounds are not general propositions and are unique circumstances to the proposed development, particularly given the location of the site within Botany which is well located to public transport, employment opportunities and services. The additional height does not significantly impact the amenity of the neighbouring properties and has been designed in such a way to ensure the additional height is compatible with the public domain. The additional height also provides for improved amenity and therefore benefits the future occupants whilst limiting surrounding impacts.





It is noted that in *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, Preston CJ clarified what items a Clause 4.6 does and does not need to satisfy. Importantly, there does not need to be a "better" planning outcome:

86. *The second way is in an error because it finds no basis in cl 4.6. Clause 4.6 does not directly or indirectly establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development. This test is also inconsistent with objective (d) of the height development standard in cl 4.3(1) of minimising the impacts of new development on adjoining or nearby properties from disruption of views or visual intrusion. Compliance with the height development standard might be unreasonable or unnecessary if the non-compliant development achieves this objective of minimising view loss or visual intrusion. It is not necessary, contrary to what the Commissioner held, that the non-compliant development have no view loss or less view loss than a compliant development.*
87. *The second matter was in cl 4.6(3)(b). I find that the Commissioner applied the wrong test in considering this matter by requiring that the development, which contravened the height development standard, result in a "better environmental planning outcome for the site" relative to a development that complies with the height development standard (in [141] and [142] of the judgment). Clause 4.6 does not directly or indirectly establish this test. The requirement in cl 4.6(3)(b) is that there are sufficient environmental planning grounds to justify contravening the development standard, not that the development that contravenes the development standard have a better environmental planning outcome than a development that complies with the development standard.*

As outlined above, it is considered that in many respects, the proposal will provide for a better planning outcome than a strictly compliant development. At the very least, there are sufficient environmental planning grounds to justify contravening the development standard.

7. The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), (Clause 4.6(4)(a)(i))

Preston CJ in *Initial Action Pty Ltd v Woollahra Municipal Council* details how Clause 4.6(4)(a) needs to be addressed (paragraphs 15 and 26 are rephrased below):

The first opinion of satisfaction, in clause 4.6(4)(a)(i), is that a written request seeking to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by clause 4.6(3). These matters are twofold: first, that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (clause 4.6(3)(a)) and, secondly, that there are sufficient environmental planning grounds to justify contravening the development standard (clause 4.6(3)(b)). This written request has addressed Clause 4.6(3)(a) in Section 5 above (and furthermore in terms of meeting the objectives of the development standard, this is addressed in Section 8 below). Clause 4.6(3)(b) is addressed in Section 6 above.

The second opinion of satisfaction, in clause 4.6(4)(a)(ii), is that the proposed development will be in the public interest because it is consistent with the objectives of the particular development standard that is contravened and the objectives for development for the zone in which the development is proposed to be carried out. The second opinion of satisfaction under cl 4.6(4)(a)(ii) differs from the first opinion of satisfaction under clause 4.6(4)(a)(i) in that the consent authority, or the Court on appeal, must be directly satisfied about the matter in clause 4.6(4)(a)(ii), not indirectly satisfied that the applicant's written request has adequately addressed the matter in clause 4.6(4)(a)(ii). The matters in Clause 4.6(4)(a)(ii) are addressed in Section 8 below.



8. 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 (Clause 4.6(4)(a)(ii))

8a. Height of Buildings Objectives

The objectives and relevant provisions of Clause 4.3 of BLEP 2021 are as follows, inter alia:

- (1) *The objectives of this clause are as follows—*
- (a) *to ensure that building height is consistent with the desired future character of an area,*
 - (b) *to minimise visual impact of new development, disruption of views, loss of privacy and loss of solar access to existing development,*
 - (c) *to nominate heights that will provide an appropriate transition in built form and land use intensity.*
- (2) *The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.*

In order to address the requirements of subclause 4.6(4)(a)(ii), the objectives of clause 4.3 are addressed in turn below.

Objective (a):

Objective (a) seeks to ensure that building height is consistent with the desired future character of an area.

It is noted that objective (a) refers to being ‘consistent’ with the desired future character of an area. Part 9B Botany South of the Botany Bay DCP relates principally to the subject site and surrounding area and 9B.4.1 refers to the desired future character of land within the B4 (now MU1) zone. It is anticipated that the Botany South Precinct will be developed into a high quality area of mixed uses featuring medium density housing, low impact commercial and business uses and creative industries.

The redevelopment of this area is to provide a transition from non-residential to surrounding residential uses with the intention of buffering any adverse amenity issues created within the B7 zone. New residential uses within the MU1 - Mixed Use zone need to ensure that through site layout and building design any impacts from the B7 zone are adequately mitigated.

The built form when viewed from the street will appear as predominately compliant with the building envelope controls. Only where the site slopes towards Tenterden Street, will a minor height breach be present. The proposed development has been designed as a high-quality contemporary form which is consistent with the current and desired streetscape within South Botany. The proposal will allow there to be a transition between the B7 zoned land and the residential properties to the west which is a key objective for development in this location.

As mentioned, the proposed design successfully masks the height breach and presents as a compliant built form which will not be visible to the casual observer given compatibility with other buildings in the locality. It is considered that the variation will not result in a scale of development that is noticeably different from the remaining compliant built form. The design of the proposal, location of the height breach towards the northeastern side of the building ensures that the development will nestle comfortably within its urban context, particularly as the site to the east is located within a B7 ‘Business Park’ zoned land which permits a 12m height and non-residential uses. As such, it is considered that the proposed non-compliance will not be visually jarring when viewed from the public domain and is considered to achieve objective (a).

Objective (b):

Objective (b) relates to minimising the visual impact of new development, disruption of views, loss of privacy and loss of solar access to existing development.

With regards to the neighbouring properties, the non-compliant portion of the building will not be highly visible and will be like variations already approved nearby. Given the variation only pertains to a 1m breach of parapet and roof along the north-



western street frontage, it will not be visually intrusive from the neighbouring properties and in turn will not give rise to any disruption of views, loss of privacy or solar access.

The proposal meets objective (b) through a considered design which pushes the development away from the existing residential development to the south, ensuring the building complies with height, privacy and solar access in relation to the closest residential neighbours.

Objective (c):

This objective seeks to provide a transition in the scale of development particularly between the B7 zoned land and the adjoining lower density residential zone to protect local amenity.

The subject site falls within an MU1 Mixed use zone and will be located opposite an R2 Low density residential zone. In this regard the breach will have no impact as the 1m building height breach occurs to the side of the building, along Tenterden Road, away from the neighbouring lower density zone. From the street frontage adjoining the lower density zone the building is compliant with a height of 10m and therefore the proposal seeks to protect the amenity of the dwellings opposite the site.

In relation to the rear boundary the site adjoins the B7 Business Park zoned land where a building height of 12m is permitted and therefore the impact of a 1m variation is negligible when considering its context.

It is therefore considered that the amenity of adjoining properties is preserved. That is, the amenity of adjoining properties will not be lessened in a significant way compared to a scheme that is fully compliant with the relevant building envelope controls. Therefore, the proposal is consistent with objective (c), despite the minor height breach.

8b. Zone Objectives

Clause 4.6 (4)(a)(ii) also requires consideration of the relevant zone objectives. The objectives of the MU1 Mixed Use Zone are as follows:

- *To encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities.*
- *To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*
- *To ensure built form and land uses are commensurate with the level of accessibility, to and from the zone, by public transport, walking and cycling.*

Clause 4.6(4)(a)(ii) also requires that the consent authority be satisfied that the development is in the public interest because it is consistent with relevant zone objectives. The proposed development is consistent with the relevant zone objectives in that:

- The proposal seeks to provide a combination of commercial premises and residential dwellings which are compatible land uses with the adjoining adaptive re-use residential neighbour to the south east and the industrial property to the north east;
- The proposal includes a commercial tenancy which will generate employment opportunities;
- The design activates both street frontages with the accessible entry to the ground floor commercial tenancy and the decking fronting Botany Road providing an inviting place for outdoor seating beneath the canopy of the existing street tree;



- The design is suitably compatible with the interface with the industrial premises to the north east and also achieves the retention of the tree close to the shared boundary with the industrial premises which creates an effective and attractive buffer between the two uses;
- The proposal increases residential density at a site which is accessible to a variety of transport options;
- The proposal seeks to integrate residential and commercial uses within the same development in an accessible location that will maximise public transport patronage and encourage walking and cycling; and
- The apartments will provide a greater housing choice to meet the needs of the community.

The building height variation does not contravene any objectives for the zone and for that reason the proposed variation is acceptable.

9. The concurrence of the Secretary has been obtained (Clause 4.6(4)(b))

The second precondition in cl 4.6(4) that must be satisfied before the consent authority can exercise the power to grant development consent for development that contravenes the development standard is that the concurrence of the Secretary (of the Department of Planning and the Environment) has been obtained (cl 4.6(4)(b)). Under cl 64 of the Environmental Planning and Assessment Regulation 2000, the Secretary has given written notice, attached to the Planning Circular PS 20-002 issued on 5 May 2020, to each consent authority, that it may assume the Secretary's concurrence for exceptions to development standards in respect of applications made under cl 4.6, subject to the conditions in the table in the notice.

10. Whether contravention of the development standard raises any matter of significance for State or Regional environmental planning (Clause 4.6(5)(a))

Contravention of the maximum height development standard proposed by this application does not raise any matter of significance for State or regional environmental planning.

11. The public benefit of maintaining the development standard (Clause 4.6(5)(b))

As detailed in this submission there are no unreasonable impacts that will result from the proposed variation to the maximum building height. As such there is no public benefit in maintaining strict numeric compliance with the development standard. Whilst the proposed building height exceeds the maximum permitted on the site, the breach is a result of the site topography and the desire to achieve level access throughout the building that matches the vehicle entry point and minimum floor to ceiling and floor to floor heights required by the current BCA and National Construction Code which have been updated since the height of buildings standard was established. The proposed development is consistent with the objectives of the development standard and the objectives for development of the zone in which the development is proposed to be carried out. It is the proposed development's consistency with the objectives of the development standard and the objectives of the zone that make the proposed development in the public interest.

12. Conclusion

This written request has been prepared in relation to the proposed variation to the 10m height of buildings development standard contained in Clause 4.3 of BLEP 2021.

Having regard to all of the above, it is our opinion that compliance with the maximum height development standard is unreasonable and unnecessary in the circumstances of this case as the development meets the objectives of that standard and the zone objectives. The proposal has also demonstrated sufficient environmental planning grounds to support the breach.

Therefore, insistence upon strict compliance with that standard would be unreasonable. On this basis, the requirements of Clause 4.6(3) are satisfied and the variation supported.

Bayside Design Review Panel

REPORT OF THE BAYSIDE DESIGN REVIEW PANEL

Meeting held on Thursday, 7 December 2023 at Bayside Council

Panel members:

Emili Fox
 Duncan Corrigan
 Brendan Randles
 Matthew Taylor (Landscape)

Coordinator:

Marta Gonzalez-Valdes

ITEM # 4

| | |
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| Date of Panel Assessment: | 7 December 2023 |
| Applicant: | Mr D Djordjevic |
| Architect: | Sinisa Design & Project Management |
| Property Address: | 1557 Botany Road, Botany |
| Proposal: | Integrated Development - Demolition of existing structures, tree removal and construction of a three (3) storey shop-top housing development with basement storage and services |
| No. of Buildings: | 1 |
| No. of Storeys: | 3 |
| No. of Units: | 4 |
| Consent Authority Responsible: | Bayside Council |
| Application No.: | DA-2022/421 |
| Declaration of Conflict of Interest: | Nil |

The Panel inspected the site, reviewed the submitted documentation and met with representatives of the applicant Ian Conley & Jeffrey Anwar, Architects – Zhinar Architects; Sophie Perry, Planner – Planning Ingenuity; Sinisa Vujica, Client’s representative and Marta Gonzalez-Valdes, Co-ordinator and Ayse Kiziltekin, Planner – Bayside Council.

This proposal was previously reviewed by the panel at its meeting on 6 April 2023. The minutes of the meeting are in [Blue](#).

| Design Principle | Comments |
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| <p>Context and Neighbourhood Character</p> <p>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</p> <p>Responding to context involves identifying the desirable elements of an area's existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.</p> <p>Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</p> | <p><u>6 April 2023</u></p> <p>The Panel notes that the area is undergoing change and Botany Road in particular. A more in depth site analysis (see ADG pages 44-47) would help to identify the challenges and constraints of the site and particularly to set out how the key questions of setbacks (side front and rear), height and built form have been dealt with on neighbouring sites. Furthermore, it should clearly identify the boundary conditions (including setbacks, private open space, window and door openings) of the residential building to the south-east and the impact of any future development on the site to the north-east.</p> <p>Greater consideration should be given to likely built form at the rear of the site and how the proposal could allow for better outcomes. An analysis of landscape and mature trees in the immediate vicinity of the site would also facilitate a better appreciation of the key decision to seek removal of the neighbouring tree that abuts the north-eastern boundary.</p> <p><u>7 December 2023</u></p> <p>While additional information has been provided, the site and context analysis remains very basic. Even so, with the currently proposed built form amendments and some recommended refinements (see below), it is acknowledged that the proposed built form can achieve an acceptable interface with its streetscape and built form contexts.</p> |
| <p>Built Form and Scale</p> <p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</p> <p>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</p> <p>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p> | <p><u>6 April 2023</u></p> <p>The Panel believes that the planning of the building is not as yet sufficiently resolved.</p> <p>Building setbacks need to be re-considered in line with the Botany Bay DCP 2013 (Part 4C and 9B). Of particular concern is the south-eastern setback non-compliance and the zero setback to the rear.</p> <p>The rear setback should be achieved and the ground-level landscape given some definition with permeable paving. Care should also be taken to work with the constraints of the mandated south-eastern side setback (3m) to maximize the internal amenity of habitable rooms in each unit and minimize negative impacts of overshadowing and privacy to the neighbouring building.</p> <p>Some of the internal planning deficiencies result from an inefficient core and unequal apartment distribution between Levels 1 & 2. Consideration should be given to a simpler more rational floor plan of two units per floor. This would achieve the current total of 4 dwellings but also remove the un-necessarily long & inefficient circulation on Level 1. A narrow lift/stair core that runs from Tenderden Road (north-west) to the south-east boundary might also result in a more efficient floor plan.</p> <p>The Panel acknowledges that this strategy would entail the removal of the Level 2 COS and a variation to the front built form setback. However, the Panel believes that the dedicated</p> |

| Design Principle | Comments |
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| | <p>roof area for COS is un-necessary for a building of this small size and that the change to the built-form would not be inconsistent with the street-scape character – especially with a supporting urban design argument, noting its corner location, ground floor activation etc.</p> <p>The resulting built form would not need to be markedly different from the corner tower element currently proposed at roof terrace level. Furthermore, if generous balconies are provided for each unit, it can be successfully argued that the objectives of the COS requirements of the ADG would be satisfied.</p> <p>The commercial tenancies currently share facilities and access corridors with the residential lobby. This should also be resolved to separate uses and enable WC facilities at ground level, a loading dock and separate waste facilities that do not rely on the residential lobby for access. One well-designed tenancy may function better than two within this space as a result. If a prospective Food and Beverage Tenancy is desired, as indicated in the meeting, there should also be provision for exhaust extraction up through the development.</p> <p><u>7 December 2023</u></p> <p>The south-eastern setback is now acceptable; however, a more substantially landscaped planter is encouraged to achieve greater privacy to the adjacent property. While the zero setback to the rear of the property is removed, it is recommended that the currently proposed planter along the elevation is removed so as to establish a clear 3m setback; the currently proposed balcony in this location is not supported.</p> <p>The core and stairs have been relocated as recommended, which results in better internal amenity. Removing the communal terrace allows for the two units now proposed on levels one and two which is a better outcome. However, further refinements are encouraged to improve the amenity of all units and their relationships with adjoining properties:</p> <ul style="list-style-type: none"> - Re-planning of Units 2 and 4 could reduce potential privacy issues and compromised side facing bedroom windows as proposed; perhaps entering past a street facing bedroom could allow for three bedrooms without reliance on the side facing orientation. - Both living spaces are stepped along their length, which creates awkward pinch points; the relocation of the duct at the rear of the lift may allow stair and lift to shuffle so as to remove these apparent misalignments. - These misalignments also appear along the elevations, with ground floor walls and openings struggling to align with walls and openings above. The mixture of materials along the north elevation is particularly weak, with feature screening, glass blocks and a very wide roller drawer clashing with the brick materiality proposed above. Greater consistency of alignment and material - as well as architectural refinement - is therefore encouraged. |

| Design Principle | Comments |
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| | <p>The single commercial tenancy is supported with discrete access to parking and waste storage now provided.</p> <p>It is noted that ground level uses along the Botany Road frontage must be active; the landscape design indicates café uses, however an office was mentioned at the meeting, which the Panel was advised would not comply with Council requirements. It is therefore recommended that the compliance of all proposed uses be confirmed with Council.</p> <p>The side and rear boundary walls must be reviewed in terms of BCA requirements, noise attenuation and light spill from parking as well as constructability. In particular, the eastern side boundary wall to the parking should be made solid to 1.8m for privacy and light spill reasons. We note that, due to the choice for a zero lot-line/zero setback, this wall cannot not be relied upon to naturally ventilate the parking area, as the neighbour may in future wish to build a solid wall within their boundary.</p> |
| <p>Density</p> <p>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</p> <p>Appropriate densities are consistent with the area’s existing or projected population.</p> <p>Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</p> | <p><u>6 April 2023</u></p> <p>The proposed density is acceptable.</p> <p><u>7 December 2023</u></p> <p>Unchanged</p> |
| <p>Sustainability</p> <p>Good design combines positive environmental, social and economic outcomes.</p> <p>Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and livability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs.</p> <p>Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.</p> | <p><u>6 April 2023</u></p> <p>Little detail is provided. The site affords good solar access and ventilation to all units. Consideration should be given to ensuring that all bathrooms and kitchens receive natural light and air. The stair should similarly get natural light and air and be made open to the street.</p> <p>Consideration should be given to providing :</p> <ul style="list-style-type: none"> - PVs on the roof, - all electric appliances and heat-pump hot water. - EV charging in the carpark would be desirable. <p><u>7 December 2023</u></p> <p>It is not clear from the drawings what sustainability measures are being proposed. A building of this scale should include a raft of well considered items, including solar panels, water collection and reuse etc. All sustainability commitments should be clearly shown on drawings.</p> |

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| <p>Landscape</p> <p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</p> <p>Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, coordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</p> <p>Good landscape design optimises usability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long-term management.</p> | <p>6 April 2023</p> <p>The general built form aims to provide an active street front and a generous Communal Open space to the rooftop. However, the general built form results in a series of design decisions that have resulted in some negative void spaces, devoid of landscape and unable to provide amenity to residents or neighbours</p> <p>The development makes little attempt to ameliorate any visual impacts or softening to the adjacent residential flat building, despite the opportunity existing.</p> <p>The Panel considered a number of more efficient design layout decisions internally can equally result in a better design layout decision externally. A more rational floor plan should enable a better internal-external relationship to landscape spaces along with the ability to provide landscape treatment to neighbouring properties and provision of a better quality of deep soil treatment.</p> <p>To the front setback, a well-designed and considered public domain interface, particularly on a corner lot, is highly desirable and as outlined in the meeting can in part go to delivering a better social interaction and engagement in the scale of this type of development. The important aspect of this space is that it feels civic in nature and delivers a quality result. Permeable paving, planting and integrated seating walling can better serve the space than a deck structure. The intent to deliver deep soil in this zone is noted. However, a high-quality permeable planting and paving solution in connection to the public domain streetscape interface delivers a better long-term outcome.</p> <p>A rationalised floor plate can potentially shorten the length of the built form and enable the delivery of further deep soil to the adjacent northern neighbour, noting numerical compliance for the provision of deep soil and landscape area should, as a minimum, be provided.</p> <p>Within any on grade parking, look to provide permeable paving solutions so that tree planting can be facilitated. The removal of a tree within an adjacent property should not form part of this application and retention or removal does not therefore determine or underpin the outcomes acceptable on site. In fact, if a detailed contextual analysis was undertaken, the amenity and streetscape value of the existing tree would be recognized as an important element, the proposal to remove this tree should therefore elevate the need for replacement canopy within the streetscape, does not diminish it.</p> <p>Finally, as outlined previously, generous private balconies along with a well-designed public domain interface on the ground floor and numerical compliance for landscape and deep soil areas could be argued as a better-quality outcome within the scale of this development over the provision of a large rooftop communal space.</p> |

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| | <p><u>7 December 2023</u></p> <p>It is noted that the horticultural requirements of the large existing Camphor Laurel tree to the rear of the property have been acknowledged with permeable paving to the car parking area.</p> <p>The landscape proposal, with tables and chairs indicated to a paved area to the front of the site presumes a use for the commercial space as a café or similar. While the organic nature of the design provides a relief to the streetscape and surrounds, the design needs to better reflect a range of potential uses for the commercial space, otherwise there is a danger that the space will be under utilised.</p> <p>Planter boxes to the upper levels are adequate and provide an appropriate soil mass for the purposes of screening shrubs.</p> |
| <p>Amenity</p> <p>Good design positively influences internal and external amenity for residents and neighbours.</p> <p>Achieving good amenity contributes to positive living environments and resident well-being.</p> <p>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.</p> | <p><u>6 April 2023</u></p> <p>Care should be taken to ensure that all habitable spaces conform with the ADG and BCA with regards to natural light, privacy and ventilation.</p> <p>Bedrooms should ideally be located so that they benefit from a primary street frontage with studies located at secondary side or rear walls. Instead of facing a bedroom to a narrow rear garden as proposed in Unit 1, it would be better to allow both bedrooms to face the street.</p> <p>As noted above, the current layout necessitates accessing Unit 1 in an odd location, which leads to unsuccessful circulation and compromised living spaces within. It would better to change the circulation so as to allow units to be accessed comfortably and efficiently.</p> <p>The Panel considers that a reduction in carparking may be warranted so as to would free up the ground floor for soft landscape. However this should be addressed separately between the applicant and council.</p> <p><u>7 December 2023</u></p> <p>See notes above regarding :</p> <ul style="list-style-type: none"> - misaligned walls and pinch points within living spaces - potential privacy impacts and compromised windows to south facing third bedroom to Units 2 and 4 - 3m eastern setback compromised by planter - need to control light spill, privacy and noise impacts of car parking area to adjacent properties <p>As noted above, all balconies should be considered in terms of potential privacy impacts due to its proximity to adjacent properties. Ideally, all balconies would face the street with the southern setback heavily landscaped so as to optimise privacy. Due to potential privacy impacts, the east facing balcony should be removed.</p> |

| Design Principle | Comments |
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| <p>Safety</p> <p>Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose.</p> <p>Opportunities to maximise passive surveillance of public and communal areas promote safety.</p> <p>A positive relationship between public and private spaces is achieved through clearly defined secure access points and well-lit and visible areas that are easily maintained and appropriate to the location and purpose.</p> | <p>6 April 2023 Acceptable.</p> <p>7 December 2023 Unchanged</p> |
| <p>Housing Diversity and Social Interaction</p> <p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets. Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</p> | <p>6 April 2023 Acceptable.</p> <p>7 December 2023 Unchanged</p> |
| <p>Aesthetics</p> <p>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.</p> <p>The visual appearance of a well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</p> | <p>6 April 2023</p> <p>The Panel supports the use of face brick. However, the elevations are somewhat diagrammatic. Further consideration and detail should be given to resolving the difficult corner junctions of window lintels and slab edges / soffits.</p> <p>For such a low-scale building the Panel also wonders whether the brick could be made load-bearing so that the construction requirements tally with the aesthetic representation and detail of the brickwork.</p> <p>The strategy of shifting wall planes is supported but should be reinforced through careful application of materials that consistently identify primary and secondary surfaces.</p> |

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| | <p><u>7 December 2023</u></p> <p>Greater refinement and simplification of all facades is recommended. This is a small building; therefore a greater consistency of alignments and consistency of materials would be beneficial aesthetically.</p> |

RECOMMENDATION

- The Panel supports the application subject to the changes described above. The application satisfies the design quality principles contained in SEPP 65.