

## MEETING NOTICE

A meeting of the  
**Bayside Local Planning Panel - Other Applications**  
will be held in the Committee Room, Botany Town Hall  
Corner of Edward Street and Botany Road, Botany  
**on Tuesday 10 February 2026 at 4:00 PM**  
to consider items outside the public meeting  
in accordance with the Operational Procedures

Members of the public do not have the opportunity to speak on these items.

## 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**

Nil

### **5 REPORTS – PLANNING PROPOSALS**

Nil

### **6 REPORTS – DEVELOPMENT APPLICATIONS**

6.1	MDA-2025/38 - 100A, 102-106 Robey Street Mascot - Section 4.55 Modification .....	2
6.2	DA-2025/658 - 9 Union Street ARNCLIFFE NSW 2205 - Development Application .....	159

Meredith Wallace  
**General Manager**

## Bayside Local Planning Panel - Other Applications

**10/02/2026**

Item No	6.1
Application No	MDA-2025/38
Property	<b>100A, 102-106 Robey Street Mascot</b>
Application Type	Section 4.55 Modification
Proposal	Modification to DA-2024/111 to approved hotel including an additional eight (8) hotel rooms at level 1, construction of one (1) additional storey for pool, bar and guest facilities and internal changes
Owner	Blacksmith And Beard Sydney Airport Hotel Constructions Pty Ltd
Applicant	Blacksmith And Beard Sydney Airport Hotel Constructions Pty Ltd
Ward	Ward 2
Lodgement Date	24/03/2025
No. of Submissions	Nil
Cost of Development	\$7,107,654.00
Reason Criteria	Departure from standards
Report by	Peter Barber, Director City Futures

### Reason for the Report

This application has been referred to the Bayside Local Planning Panel for the following reason:

In accordance with Section 2 and Section 3 of Schedule 1 from the Local Planning Panels Direction issued by the Minister for Planning and Public Spaces (dated 6 March 2024), states that Local Planning Panels are to determine applications under section 4.55(2) of the Act for the modification of development consents granted by the panel that meet the criteria for development applications set out in the schedule to the direction relating to development standards.

Development consent to the original DA (DA-2024/111) was granted by the panel on 16 December 2024.

The development contravenes a development standard imposed by an environmental planning instrument by more than 10% and must be determined by a local planning panel. The proposed development for the subject site contravenes the floor space ratio development standard as imposed by the Bayside Local Environmental Plan 2021, Clause 4.4 by more than 10%.

### Officer Recommendation

1. That the Bayside Local Planning Panel, exercising the functions of Council as the consent authority, pursuant to S4.55(2) of the *Environmental Planning and Assessment Act 1979*

be satisfied that the proposed modification:

- a) is the same or substantially the same development as the development for which consent was originally granted and before that consent was modified;
- b) the relevant Minister, public authority or approval body has been consulted;
- c) has been notified and no submissions were received by Council;
- d) is acceptable after considering reasons for the consent sought to be modified; and
- e) is acceptable having regard to the relevant matters in Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

2. 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 MDA-2025/38 for Modification to DA-2024/111 to approved hotel including an additional eight (8) hotel rooms at Level 1, construction of one (1) additional storey for pool, bar and guest facilities, and internal changes at 100A, 102-106 Robey Street, Mascot NSW 2020 by **GRANTING CONSENT** to modify the original consent in the following manner:

- A. By amending conditions 1, 7, 12, 14(c), 16, 18, 34, 50, 111(c), 112(e), 121 and 156 to read as outlined in the planning assessment report; and,
- B. By imposing one additional condition being condition 14C in relation to swimming pools as outlined in the planning assessment report.

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## Location Plan



## Attachments

- 1 [↓](#) Planning Assessment Report
- 2 [↓](#) Site Plan, Elevations and Sections
- 3 [↓](#) S.4.55(2) Planning Statement (from Applicant)
- 4 [↓](#) Draft Notice of Determination

# BAYSIDE COUNCIL

## Planning Assessment Report



### Application Details

<b>Application Number:</b>	MDA-2025/38
<b>Date of Receipt:</b>	24 March 2025
<b>Property:</b>	100A, 102-106 Robey Street, MASCOT NSW 2020 Lot 41 in DP 1296247
<b>Owner:</b>	Blacksmith And Beard Sydney Airport Hotel Constructions Pty Ltd
<b>Applicant:</b>	Blacksmith And Beard Sydney Airport Hotel Constructions Pty Ltd
<b>Architect:</b>	Design Workshop Australia Architects
<b>Town Planner:</b>	Sutherland & Associates Planning
<b>Proposal:</b>	Modification to DA-2024/111 to approved hotel including an additional eight (8) hotel rooms at Level 1, increase the number of hotel rooms from 145 to 153 hotel rooms, construction of one (1) additional storey for pool, bar and guest facilities, and internal changes
<b>Recommendation:</b>	Approval
<b>No. of submissions:</b>	Nil
<b>Author:</b>	Michael Maloof – Senior Development Assessment Planner
<b>Date of Report:</b>	15 December 2025

### Key Issues

The key issues identified in the assessment of the Modification Application relate to:

- Increased Building height;
- Increased Floor Space Ratio;
- Number of rooms; and
- Swimming pool and Spa.

The Modification Application ("the proposal") has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* ("the Act") and *Environmental Planning and Assessment Regulation 2021* ("the Regulation") and is recommended for approval, subject to conditions of consent.

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 S4.55(2) of the *Environmental Planning and Assessment Act 1979* be satisfied that the proposed modification:
  - a) is the same or substantially the same development as the development for which consent was originally granted and before that consent was modified;
  - b) the relevant Minister, public authority or approval body has been consulted;
  - c) has been notified and the submissions made have been considered;
  - d) is acceptable after considering reasons for the consent sought to be modified; and
  - e) is acceptable having regard to the relevant matters in Section 4.15 of the *Environmental Planning and Assessment Act 1979*.
2. 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 MDA-2025/38 for Modification to DA-2024/111 to approved hotel including an additional eight (8) hotel rooms at Level 1, construction of one (1) additional storey for pool, bar and guest facilities, and internal changes at 100A, 102-106 Robey Street, Mascot NSW 2020 by **GRANTING CONSENT** to modify the original consent in the following manner:

- A. By amending conditions 1, 7, 12, 14(c), 16, 18, 50, 34, 111(c), 112(e), 121 and 156 to read as follows:

### 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.

<b>Approved Plans (25/210535)</b>				
<b>Plan No.</b>	<b>Revision No.</b>	<b>Plan Title</b>	<b>Drawn By</b>	<b>Date of Plan</b>
<b>Architectural Plans</b>				
Dwg No A00.000	E	Cover Sheet		25/06/2025

Dwg No A010	A	Floor Plan - Basement 2 Plan	Design Workshop Australia (DWA)	25/06/2025
Dwg No A011	D	Floor Plan - Basement 1 Plan		25/06/2025
Dwg No A012	F	Level 00 Ground Plan		25/06/2025
Dwg No A013	D	Level 01 Plan		25/06/2025
Dwg No A014	D	Level 02 Plan		25/06/2025
Dwg No A015	D	Levels 03-11 Plans		25/06/2025
Dwg No A016	E	Level 12		25/06/2025
Dwg No A017	D	Roof Plan		25/06/2025
Dwg No A030	E	Elevation North		25/06/2025
Dwg No A031	D	Elevation East		25/06/2025
Dwg No A032	D	Elevation South		25/06/2025
Dwg No A033	D	Elevation West		25/06/2025
Dwg No A040	G	Section A		25/06/2025
Dwg No A041	E	Section B		25/06/2025
Dwg No A045	A	Ramp Section	DWA	25/06/2025

**Stormwater Plans (24/286866)**

Plan No.	Revision No.	Plan Title	Drawn By	Date of Plan
C0-00	B	Coversheet	E Egis	26/09/2024
C0-02	B	Notes and Legend		26/09/2024
C2-00	D	Ground Floor Plan		26/09/2024
C2-01	C	Basement Level 1		26/09/2024
C2-02	C	Basement Level 2		26/09/2024
C3-10	C	Driveway Section 1		26/09/2024
C3-11	C	Driveway Section 2		26/09/2024
C4-20 C4-21	B	Stormwater Details		26/09/2024

C4-22				
C4-60	B	Stormwater Catchment		26/09/2024

<b>Approved Documents</b>			
<b>Document Title</b>	<b>Version No.</b>	<b>Prepared By</b>	<b>Date of Document</b>
Hotel Plan of Management	1	Blacksmith and Beard	April 2024
BCA Assessment Report	1	Stuart Boyce	7 December 2022
Wind Assessment	Final Report Version 3	CCP Wind Engineering Consultants	December 2022
Section J Report	03	E-Lab Consulting	26 March 2024
Noise Impact Assessment Report As amended by Revised Noise Impact Assessment Report	0	Acoustic Logic	4 November 2022
Noise Impact Assessment Report As amended by Revised Noise Impact Assessment Report	0	Acoustic Logic	12 April 2024
<b>S4.55 Planning Statement (25/107405)</b>	<b>0</b>	<b>Sutherland &amp; Associates Planning</b>	<b>March 2025</b>
Traffic Impact Assessment Report (25/210536)	Rev B	JMT Consulting	25 June 2025

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

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

## 7. Parking Allocation

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

<b>Use</b>	<b>Number of Spaces Allocated</b>
Hotel	35 car spaces (including one accessible space)
<b>Others</b>	
Loading Bay	1 SRV
<b>Bicycle parking</b>	
Hotel	16 bicycle spaces

The above allocation must be adhered and complied with at all times.

## 12. Sydney Airport

The following conditions are imposed by the Sydney Airport Corporation Limited (SACL) in their letter dated **10 December 2025** and must be complied with:

- a) The building **must not exceed** a maximum height of 51.81m AHD, including all lift over-runs, vents, chimneys, aerials, antennas, lightning rods, any roof top garden plantings, exhaust flues, etc.
- b) The building **must be obstacle lit** by low intensity steady red lighting during the hours of darkness and periods of low visibility at the highest point of the building. Obstacle lights are to be arranged as per Section 9.31 of the Civil Aviation Safety Regulations 1998 - Part 139 (Aerodromes) Manual of Standards (MOS). The characteristics for low intensity lighting are described in Section 9.32 of the MOS.
- c) The proponent **must ensure** that obstacle lighting is monitored and maintained in serviceable condition at all times and any outage immediately notified to SACL.
- d) The Proponent **must ensure** the obstacle lighting is remotely monitored. For detailed requirements for the monitoring of obstacle lights within the aerodrome's OLS refer to Section 9.36 of the MOS.
- e) Separate approval **must be sought** under the Regulations for any equipment (e.g., cranes, concrete pumps) required to construct the building. Construction cranes or concrete pumps may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Airports (Protection of Airspace) Regulations. Therefore, it is advisable that approval to operate construction equipment (e.g. cranes, concrete pumps) be obtained prior to any commitment to construct.
- f) The Proponent **must advise** Airservices Australia at least three business days prior to the controlled activity commencing by emailing [ifp@airservicesaustralia.com](mailto:ifp@airservicesaustralia.com) and quoting YSSY-CA-1056.
- g) The Proponent **must advise** SACL at least seven business days prior to the constructed height of the building reaching 48 metres AHD. From this date, the following lighting condition **must be met** at all times:
  - a. If at any time after the height of the building has reached 48 metres AHD, the crane(s) used to construct the building are removed and no other crane(s) are in place then the Proponent **must arrange** for the highest point of the building to be obstacle lit with low intensity steady red lighting at night.
- h) Following completion of the building the Proponent **must advise** SACL in writing:
  - a. that the future owner(s)/manager(s) of the building **have been informed** of their **obligation to maintain** the obstacle lighting in accordance with conditions of this approval; and,
  - b. the contact details of the person/position **responsible for the maintenance** of the obstacle lighting. These details **must be reviewed regularly** and kept up to date.
- i) On completion of construction of the building, the Proponent **must provide** SACL with a written report from a certified surveyor on the finished height of the building.
- j) A separate assessment and approval under the Regulations will be required for any further addition to the height of the building (including the installation of antennas) as it will increase the penetration of the OLS.
- k) Breaches of approval conditions are subject to significant penalties under Section 185 and 187 of the Act.

I) Sydney Airport advises that approval to operate construction equipment (i.e., cranes) should be obtained prior to any commitment to construct.

The application sought approval for the property development to a **height of 51.81 metres** Australian Height Datum (AHD) or 43.8m Above Ground Level.

Based on the above conditions, the approved height of **51.81m AHD** is inclusive of all vents, chimneys, aerials, TV antennae and construction cranes etc. No permanent or temporary structure is to exceed this height without further approval from Sydney Airport Corporation Limited.

Note: Under Section 186 of the *Airports Act 1996*, it is an offence not to give information to the Airport Operator that is relevant to a proposed “controlled activity” and is punishable by a fine of up to 50 penalty units.

For further information on Height Restrictions please contact SACL on 9667 9246.

#### **16. Payment of Fees and Security Deposits (if applicable)**

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	\$ 25.50
Section 7.11 Contributions	\$ 66,471.64
Builders Damage Deposit (Security Deposit)	\$ 49,350.00
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.*

**18. Payment of Section 7.11 Contributions**

A Section 7.11 contribution of \$66,471.64 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.

	<b>MDA-2025/38</b>	<b>Code</b>
Community Facilities	\$ 5,797.80	MMS1
Recreation and Open Space	\$ 48,159.60	MMS2
Transport Facilities	\$ 11,982.44	MMS3
Administration	\$ 531.80	MMS4
<b>Total in 2025/26</b>	<b>\$ 66,471.64</b>	

The contribution amount listed above is for the subject application only including the additional hotel rooms. The development contribution, as indexed, under DA-2022/423 is required to be paid in accordance with that consent. If DA-2022/423 is to be surrendered, then the above contribution amount is to be modified by Council to include the entire development, at an indexed rate.

Copies of the Contribution Plan can be inspected at the Council's Customer Services Centre, Administration Building, 444-446 Princes Highway, Rockdale.

**34. Mechanical Parking Facility System – Detailed Design**

Prior to the issue of the relevant Construction Certificate, the design of the mechanical parking facility systems proposed (car stacker / turntable) must address the following criteria:

- a) Ensure operating noise and vibration levels are limited to acceptable levels in accordance with appropriate standards and any plant equipment is housed in noise attenuating housing as required/appropriate;
- b) Provide detailed design and manufacturer specifications for the mechanical parking facility system(s) required within the development. A detailed design certificate from an experienced/practicing and qualified manufacturer designer/installer that confirms that the mechanical parking facility system(s) are functional, workable, fit for purpose and are designed in accordance with the relevant Australian standards shall be provided;
- c) Provide operational details/management plan of the entire facility, demonstrating safe and functional access for all users, including details of safety protection systems for users and non-users; and

- d) The turntable to be designed to accommodate an SRV vehicle as per AS/NZS2890.2 2018.
- e) The car stacker systems must provide a minimum of 34 car spaces with manufacturer specifications as per the approved traffic report.

The design must be certified by an engineer registered with the National Engineering Register (NER).

#### 50. Detailed Landscape Plan

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

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. There is to be a dense layered planting scheme consisting of trees, shrubs and groundcovers in all deep soil areas.
- b) The rear (southern) **setback must incorporate a 2-meter-wide landscape area which shall maximise tree planting. The paved area between the landscape area and the built form shall be permeable paving.**
- c) **The level 12 communal level shall be planted with native shrubbery, groundcover and cascading plants.**
- d) **Landscape plans shall include every level of the development.**
- e) The front setback shall include at least three canopy trees capable to reach at least 8 metres in height at maturity in local conditions.
- f) All new trees in deep soil areas shall be planted at minimum 200 litres.
- g) Planter beds within the front setback shall include suitable planting to deliver greenery to the streetscape and shall follow CPTED principles.
- h) A minimum of 80% of the proposed planting scheme is to consist of native or indigenous plants. Deep soil areas shall only include indigenous species, deciduous species may be included only if sun access is required in living areas.
- i) Indicate the location of all basement structures relative to the landscape areas, if any.
- j) Specifications detailing soil and mulch finishes, root barriers, irrigation, edging and other landscape handworks such as retaining walls, steps, planter walls, feature walls, skateboard restrictions, tree pits, tree grates, tree guards, tree pit treatment. Areas of paving, schedule of materials, edge treatments, tactile and sectional construction details. Details of all fencing, privacy screening, arbors and the like- elevations and materials, impacting or visible to public domain areas.
- k) 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.

Prior to the issue of the Construction Certificate, a Landscape Maintenance Schedule and Specifications must be submitted to, and approved by, the Director City Futures (or delegate) of Bayside Council. Maintenance Documentation is 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).

**111(c).** Installation of the **mechanical turntable and car stacker**,

**112(e).** It must be confirmed that 30 car spaces are provided in the triple car stacker system, and four car spaces are provided in the double car stacker system.

**121. Mechanical/Electronic Parking Systems – Operations and Installation Certification**

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that an Operation and Management Plan has been prepared and implemented for the mechanical/electronic parking systems (mechanical turntable / car stacker /traffic signals).

The Plan must set out the following, at a minimum:

- a) The proposed maintenance regime, specifying that the system is to be regularly inspected and checked by qualified practitioners, and
- b) The proposed method of management of the facility, including procedures, directions to users, safety protection systems, emergency response plan in the event of mechanical failure, etc., and
- c) Any person required to operate the parking system must be trained to do so, and
- d) Provide signage that shall be erected prominently alongside the mechanical parking facility stipulating the maximum height/width/length of vehicle that can enter the facility, and
- e) It must be confirmed that 30 car spaces are provided in the triple car stacker system, and four car spaces are provided in the double car stacker system.

The Plan must be prepared by a suitably qualified professional and provided to the Principal Certifier prior to the issue of an Occupation Certificate.

Furthermore, an Engineer, registered with the National Engineering Register (NER), is to certify the installation of the Mechanical/Electronic Parking Systems within the completed development. This certification is to include testing and inspections of the system in operation.

**156. Ongoing Use Mechanical Parking Facility**

The Operation and Management Plan for the mechanical/electronic parking systems (turntable/car stacker/traffic signals), approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times. The systems shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the systems at all times.

B By imposing an additional condition to read as follows:

### 14C Swimming Pools

- a) The edge of the coping of the proposed plunge pool and spa on the roof top level shall be setback a minimum of 1m (not 0.6m) from the balustrade along the northern edge of the roof top terrace. This will ensure adequate separation around the edge of the pool and comply with the requirements of part 5.1.3 of Council's DCP 2022.
- b) The design and construction of the swimming pool and associated fencing and equipment must comply with:
  - i. *Swimming Pools Act 1992*, and
  - ii. *Swimming Pool Regulation 2018*, and
  - iii. National Construction Code, and
  - iv. AS 1926.1 - Swimming Pool Safety - Safety Barriers for Swimming Pools, and
  - v. *Protection of the Environment Operations Act 1997*.

Details demonstrating compliance with the requirements of this condition are to be submitted to the Principal Certifier prior to the issue of the Construction Certificate and must be complied with prior to the issue of the Occupation Certificate.

- c) The swimming pool shall be designed and constructed in a manner that does not allow water to be drained to the adjoining properties, and
- d) Waste water from the pool or spa shall be discharged into the Sydney Water system, and
- e) The swimming pool shall be registered in accordance with the requirements of the *Swimming Pools Act 1992* prior to issue of any Occupation Certificate, and
- f) The pool / spa shall not be filled until the safety fences have been completed in accordance with this consent and inspected by the Principal Certifier, and
- g) The motor, filter, pump and sound producing equipment of fittings associated with or forming part of the pool filtering system shall be sound insulated and/or isolated so as not to create an offensive noise to neighbours.

The swimming pool is to be installed with a timer that limits the recirculation and filtration systems operation such that it does not emit noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to the room is open):

- i. Before 8.00 am or after 8.00 pm on any Sunday or public holiday, or
- ii. Before 7.00 am or after 8.00 pm on any other day.

## Background

### History

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

- MDA-2025/38 - Modification to DA-2024/111 to approved hotel including an additional eight (8) hotel rooms at Level 1, construction of one (1) additional storey for pool, bar and guest facilities, and internal changes – lodged on 24 March 2025 the subject of this assessment report.

- DA-2024/111 - Alterations and additions to DA-2022/423 to increase the number of hotel rooms from 77 to 145 hotel rooms, associated facilities, conversion of existing basement into car parking, additional basement level and new private road – Approved by the Local Planning Panel on 16 December 2024.
- DA-2022/423 - Demolition of existing structures, lot consolidation, and construction of a 12 storey hotel with 77 rooms; associated facilities and signage – Approved by the Bayside Local Planning Panel on 13 December 2023 subject to conditions.
- DA-2017/1013 – Demolition of the existing structures and erection of a new six (6) storey hotel comprising fifty-eight (58) rooms with one (1) level of basement car parking and the provision of twenty-eight (28) car spaces in total – Considered by the Design Review Panel on 2 March 2017 and again on 27 February 2018 – Refused by Council under delegated authority on 21 May 2018.

The history of the subject application is summarised as follows:

- 24 March 2025 - The DA was lodged with Council.
- 28 March 2025 – Internal referrals sought
- 10 April 2025 – Revised plans and information submitted by the applicant
- 1 May 2025 – Referred to the Design Review Panel
- 8 May 2025 – Minutes of DRP meeting and Council letter sent to applicant
- 2 June 2025 - Internal engineering referral response received
- 2 June 2025 – Additional information submitted from the applicant
- 3 June 2025 - Additional information submitted from the applicant
- 16 June 2025 – Revised plans and information submitted from the applicant
- 24 June 2025 – Email to applicant requesting car stacker information
- 26 June 2025 – Additional information submitted regarding car stacker
- 4 July 2025 – Internal referral responses received
- 3 and 28 July 2025 – Amended architectural plans and Transport information submitted from the applicant
- 12 September 2025 – Correspondence from and to Sydney Airport Corporation Ltd
- 15 September 2025 – Final internal referral response from Council's Engineer
- 13 October 2025 - Site Inspection undertaken
- 14 October 2025 – Internal contributions referral response received
- 10 December 2025 – Referral response from SACL received

## Proposal

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The current application (MDA-2025/38) seeks consent to modify the approved hotel development (DA-2024/111) at 100A, 102-106 Robey Street, Mascot NSW 2020 by including an additional eight (8) hotel rooms at Level 1, construction of one (1) additional storey on top of the building for pool, bar and guest facilities, and minor internal changes to the building.

In particular, the proposal seeks to undertake the following modifications:

### Construction

- The additional eight (8) hotel rooms at level 1 will replace the previously approved conference room, lounge area and gym on that level. These facilities will be relocated to a new level 12 on top of the building. The proposed eight (8) hotel rooms comprise narrow rooms (101 to 103 and 109 to 113) and result in a total of 153 rooms on the site.
- Increase building height by one storey (new level 12) which contains a gym, function room, toilets, sauna and pool and associated bar and outdoor areas. The additional

level will increase the building height by 3.235m from RL 48.575 (top of plant room) to RL 51.81 (top of lift overrun).

- Minor reconfiguration of the ground floor arrangement with new ramp to the entrance, reconfiguration of the luggage room, and new toilet facilities, and change to the substation level (RL 9.0m from RL 8.26m) with steps to the front setback.
- Introduction of a connecting door between two rooms on every level to provide flexibility of rooms sizes for families.
- Minor change to the window at the western end of the corridor on Level 01 and above for BCA compliance. This change is barely noticeable with one windowpane being fixed and the other operable with a 0.3m step in between.

#### Landscape

- The proposal will not involve any significant changes to the previously approved landscaping areas around the building, apart from a small reduction with the extra steps in front of the substation.

#### Change of Use/Operational Matters

- The proposal will not involve any changes to the previously approved hours of operation, number of staff, car parking numbers (33 spaces), landscaped area (137m<sup>2</sup>), loading/unloading, deliveries etc.

The figures below are extracts of the original DA approval and current Modification proposal related to the changes to level 8 and the proposed pool level being sought to be amended:

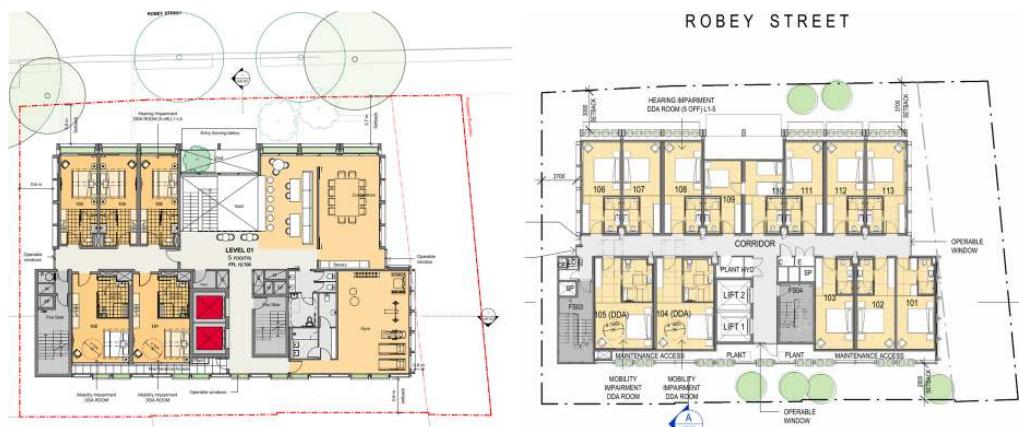


Figure 1: Previously approved level 1 (left) and proposed level 1 with all hotel rooms (right)

The applicant has requested amendment to condition 2 to refer to the revised plans for the proposed development. However, the consent contains the approved plans in condition 1. Accordingly, condition 1 shall be amended in this regard.



Figure 2: Plan of the proposed plunge pool and facilities on level 12 on top of the building



Figure 3: Previously approved front elevation (left) and proposed front elevation (right)

The proposal will result in the amendment to condition 1 to refer to the modified plans, condition 7 relating to parking, condition 12 to refer to SACL requirements, condition 50 in respect to landscaping and conditions 34, 111(c), 112(e), 121 and 156 in relation to the operation of the use, car stacker, vehicular access and parking.

## Site Location and Context

The subject site comprises three regular shaped allotments known as Nos. 100A, 102 and 106 Robey Street, Mascot and has a legal description of Lot 41 in DP 1296247 (100A) and Lots 621 and 622 in DP 1031958 (106 & 102) respectively. The subject site is located on the southern side of Robey Street between O'Riordan Street to the west and Botany Road to the east. The subject site is located within the E3 – Productivity Support (formerly the B5 Business Development zone) and the Mascot Business Development Precinct.

The subject site has a combined area of 897.7m<sup>2</sup>, a front (northern) boundary of 34.9m, side boundaries of 25.13m (eastern) and 24.465m (western) boundary, and rear (southern) boundary 37.195m (taken from the survey).

The subject site falls within Class 4 Acid Sulphate Soils area, 25-30 ANEF Contour and within the 48-50 metre Obstacle Limitation Surface Map area (OLS), and the Civil Aviation Building Height control Regulation of 15.42m applies to the subject site. The proposal does not involve any increase in building height and was not referred to Sydney Airport Corporation Limited (SACL) for review.

The site currently contains a single storey brick building to the west and single storey fibro cottage to the east both with a pitched metal roof and a vacant narrow lot formerly part of the Sydney Water SWOOS asset. Adjoining the subject site to the west is a nine (9) storey serviced apartment building (Quest), to the east is a vacant site (being the remaining portion of the Sydney Water SWOOS asset) which has containers stored and Sydney Water materials and to the rear is an eight (8) storey hotel (Citadines Connect Hotel). Given the proximity of the subject site to the airport, development in the local area is mixed, commercial development including hotel/motel accommodation predominantly located along to the west of O'Riordan Street, whilst residential development is located to the east of O'Riordan Street. The site is located approximately 100 metres west of the Sydney Airport's bounds.

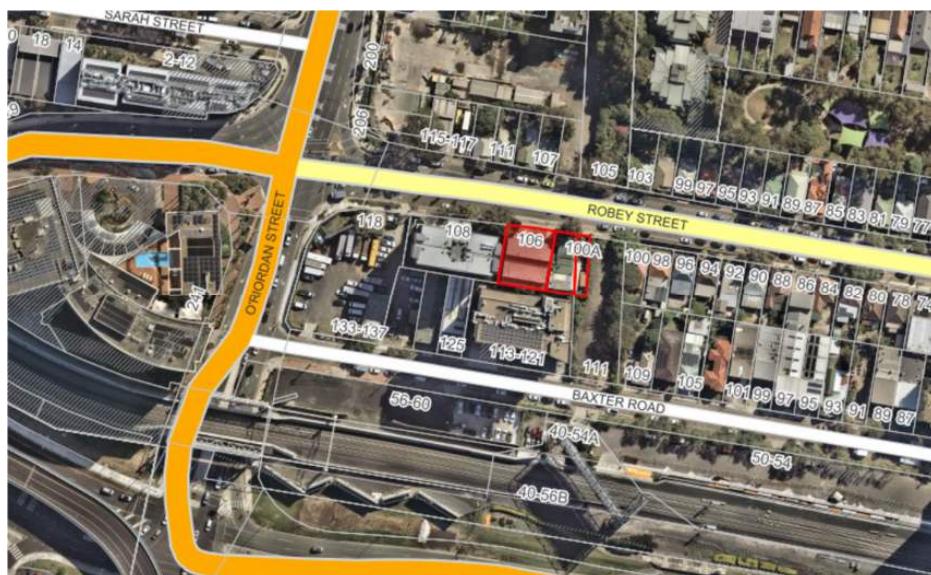


Figure 4: Aerial photograph of the site and surrounds



Figure 5: Zoning of the site and surrounding lands under the Bayside LEP 2021 (Source: Intramaps)



Figure 6: Aerial photograph of the site (close up) and adjoining lands (Source: Intra-maps)

The property at No. 100A Robey Street was previously part of the adjoining property to the east (Sydney Water Corridor) and has since been purchased by the owner from Sydney Water. The additional lot has an area of 132.4m<sup>2</sup>. The site comprises three lots as shown outlined in red in Figure 3 shown below. Lot 41 can be seen in Figure 4 in yellow being zoned SP2 Infrastructure Reservation. Council is currently considering rezoning this lot to E3 – Productivity Support so that it is consistent with the two lots of the site.

There are no trees of significance on the site and the street tree in front of the property at No. 102 Robey Street will be retained.

## 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").

#### **S4.55 – Modifications Generally**

##### **S4.55(2) – Other Modifications**

The following quotes the provisions of this Section of the Act, including a response to each:

The Section 4.55(2) of the Act states:

*A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify a development consent if:*

- a) *It is satisfied that the development to which the consent as modified relates is the same or substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*

Comment: The proposal remains as previously approved, namely a hotel development. The proposed modifications will not change the land use or substantially alter the nature of the development. The proposal will increase the provision of services to hotel guests including a swimming pool and function room on the upper level. Having regard to both the qualitative and quantitative changes proposed, it is considered the proposed Modification application remains the same or substantially the same development as that originally approved.

While the proposal will increase the intensity of the hotel use, the application is the first modification and is therefore not considered likely to result in any cumulative changes to the previous approval.

- b) *It has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*

Comment: Consultation was with a Minister, public authority or approval body was not required in this instance.

- c) *It has notified the application in accordance with:*  
(i) *the regulations, if the regulations so require, or*

(ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

Comment: The proposal has been notified in accordance with the applicable Development Control Plan.

d) *It has considered any submission made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

Comment: No submissions have been received.

**S4.55(3) of the Act (Matters for Consideration and Reasons for the Consent or conditions sought to be varied)**

S4.55(3) of the Act states:

*In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application.*

Response: An assessment and consideration of matters within Section 4.15(1) of the Act is contained in the following Section of this report.

*The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.*

Response: The relevant consent which is sought to be varied (being DA-2024/111) included the following reasons for approval with conditions being imposed:

- The proposed contravention of the maximum floor space ratio control has been assessed in accordance with Section 4.6 of Bayside Local Environmental Plan 2021 and is considered acceptable in the circumstances of the case.
- The development, subject to conditions, is consistent with the objectives of the E3 Productivity Support zone and the relevant objectives of Bayside Local Environmental Plan 2021.
- The development, subject to conditions, is consistent with the objectives of and relevant requirements in the Bayside Development Control Plan 2022.
- The proposal and intensity of use are suited to the site and its context.
- 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.
- The proposal will not result in any significant impact on the environment or the amenity of nearby residents.
- The issue raised by the objector has been considered and where appropriate, addressed via amendments to plans and conditions of consent.
- Recommended conditions of consent appropriately mitigate and manage potential environmental impacts of the proposal.

The proposed modification, as conditioned, is consistent with the above reasons and will not undermine the basis of approving the original application.

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

As outlined in Section 4.55(3) of the Act above, the provisions of S4.15(1) of the Act must be considered for this Modification Application. This consideration is outlined below.

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

#### **State Environmental Planning Policies**

The proposed modifications will not alter the basis of the previous decision to approve the hotel development on the site when considering the SEPPs previously considered. This includes the SEPP (Transport and Infrastructure) 2021, SEPP (Resilience and Hazards) 2021, SEPP (Industry and Employment) 2021 and SEPP (Biodiversity and Conservation) 2021. In this regard, the proposed modifications are acceptable and no further assessment under the relevant SEPPS is required in this instance.

### **State Environmental Planning Policy (Housing) 2021 Chapter 4 - Design Quality of Residential Apartment Development**

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

#### **The advice of the Design Review Panel (DRP)**

The previous application (DA-2024/111) that was approved by Council was referred to the Design Review Panel (Panel) on two occasions being 16 May 2023 and 7 September 2023. The Panel raised concerns with the original proposal and requested amendments to improve the amenity within the proposed hotel rooms. The applicant amended the plans and at the second meeting the Panel supported the revised scheme.

The current application was referred to the Panel on 1 May 2025 who noted that the height compliance and additional massing is contained within the approved hotel footprint. As such, no objections were raised to the scheme which is supported based on minor changes which are discussed below:

#### *Built Form and Scale*

*The function room as well as the gym should be able to open out to and visually connect with the external area so there is a flow of space and movement.*

*Concern is also raised as to whether the pool pump equipment would actually fit beneath the raised deck on that level.*

*The pergola structure should also be better integrated with the proposed massing to the southern side of the building rather than a disparate and projecting form sitting in the open space area separated from the built form.*

**Comment:** The plans have been revised in accordance with the above suggestions and includes the function room and gym opening out onto the external roof top area. The pool pump equipment can fit beneath the raised deck, and the pergola structure has been integrated with the massing on the southern side of the level.

### Landscape

*The design layout needs further refinement to resolve pinch points, congested areas and a sense of open space within a series of rooftop garden rooms. Functionality should be therefore carefully considered to the bar area, function room, gym interface and the operation of the swimming pool and filtration system to ensure adequate space is made for a commercial filtration system.*

*The opportunity here is to overlook to and through a landscaped rooftop, instead of just a blank ballast space, that can hold the view to and from this rooftop area. This space should work carefully with the resolution of the façade of the proposed addition.*

**Comment:** The design has been amended to include a well landscaped roof top with the addition of Japanese simplicity with planters along the northern edge and a narrower landscape planter between the pool and pre-function area. The functionality of the pre-function area has been improved with a better connection using bifold doors. The view to the north can be seen from the open areas while the roof is setback from the northern edge reducing the visual bulk of the building.

The Panel noted the additional storey improves the amenity for guests and is supported subject to the above improvements.

Based on the above, the proposal will retain the same materials and finishes and suitable external appearance that will add to the diversity of styles in the street, include suitable glazed proportions and a massing and expression which is appropriate for the site. In this regard, the Panel stated that the proposed modification satisfies the Design Excellence requirements, and no objections are raised to the proposal in respect to urban design.

## Bayside Local Environmental Plan 2021

The following table outlines the relevant Clauses of Bayside Local Environmental Plan 2021 ("the LEP") applicable to the proposal, while aspects warranting further discussion follows:

Relevant Sections	Compliance with Objectives	Compliance with Standard / Provision
2.3 E3 Productivity Support Zone / Zone Objectives	Yes - see discussion	Yes - see discussion
4.3 Height of buildings	Yes - see discussion	Yes - see discussion
4.4 Floor space ratio ("FSR")	Yes - see discussion	Yes - see discussion
4.6 Exceptions to development standards	Not Applicable	Not Applicable
5.21 Flood planning	Yes - see discussion	Yes - see discussion
6.1 Acid Sulfate Soil Class 4	Yes - see discussion	Yes - see discussion
6.3 Stormwater and water sensitive urban design	Yes - see discussion	Yes - see discussion
6.7 Airspace operations	Yes - see discussion	Yes - see discussion

Relevant Sections	Compliance with Objectives	Compliance with Standard / Provision
6.8 Development in areas subject to aircraft noise	Yes - see discussion	Yes - see discussion
6.10 Design Excellence	Yes - see discussion	Yes - see discussion
6.11 Essential services	Yes - see discussion	Yes - see discussion

### **2.3 – E3 Productivity Support Zone**

The subject site is zoned E3 Productivity Support and SP2 Infrastructure under the provisions of Bayside Local Environmental Plan 2021 (BLEP 2021). The proposed modifications are ancillary to the approved use on the site being defined as *Hotel or motel accommodation* which is a permissible development only with development consent within that part of the site zoned E3 Productivity Support. The proposal is consistent with the objectives of the E3 zone which are:

- *To provide a range of facilities and services, light industries, warehouses and offices.*
- *To provide for land uses that are compatible with, but do not compete with, land uses in surrounding local and commercial centres.*
- *To maintain the economic viability of local and commercial centres by limiting certain retail and commercial activity.*
- *To provide for land uses that meet the needs of the community, businesses and industries but that are not suited to locations in other employment zones.*
- *To provide opportunities for new and emerging light industries.*
- *To enable other land uses that provide facilities and services to meet the day to day needs of workers, to sell goods of a large size, weight or quantity or to sell goods manufactured on-site.*
- *To promote redevelopment that is likely to contribute to the locality, including by improving the visual character of the locality, improving access and parking, reducing land use conflicts and increasing amenity for nearby residential development.*
- *To encourage uses in arts, technology, production and design sectors.*
- *To promote businesses along main roads and to encourage a mix of compatible uses.*

The hotel development within the land zoned E3 above satisfies the objectives of the zone.

That part of the site zoned SP2 Infrastructure is located at No. 100A Robey Street and was previously owned by Sydney Water as it formed part of the Sydney Water SWOOS corridor. The land was purchased by the applicant and contains a “private road” or driveway to the basement parking level. The proposed modification is not within the land zoned SP2 Infrastructure and is located on top of the previously approved building.

Notwithstanding this, the proposed modification is consistent with the objectives of the SP2 zone which are:

- To provide for infrastructure and related uses.
- To prevent development that is not compatible with or that may detract from the provision of infrastructure.

Council has received a Planning Proposal which seeks to rezone No. 100A Robey Street from SP2 Infrastructure to E3 Productivity Support zone which is consistent with the remainder of the subject site.

Based on the above, the proposed modifications are ancillary to the previously approved hotel and are permissible with development consent within the E3 and SP2 zoned land. Accordingly, the proposal is acceptable in this instance.

#### **4.3 - Height of Buildings**

A maximum height standard of 44 metres (W2) applies to the subject site. The proposed modifications will involve an increase in the previously approved height of the hotel building by 3.235m to a maximum height of 43.1m being an increase from 48.575 RL to 51.81 RL.

Basement 2 has been lowered from RL 1.45m to RL 0.3m (or 1.15m) with the pit beneath the triple car stacker being lowered to RL 0.5m in order to have full access to any of the three cars within the stacker at one time. The pit represents one third of the basement 2 level and is not unreasonable. The application was referred to Council's Development Engineer who raised no objections to the proposed basement design subject to standard conditions being imposed in relation to the car stacker.

Based on the above, the proposed modifications will increase the previously approved development in respect to height. Notwithstanding this, the proposal complies with the maximum height control of 44m applying to the site. As such, the proposal is consistent with the objectives of and complies with the provisions in this section.

#### **4.4 – Floor Space Ratio**

A maximum FSR standard of 3:1 (GFA of 2,693.1m<sup>2</sup>) applies to the subject site and proposal (Site area – 897.7m<sup>2</sup>).

The proposal modification involves a small increase in gross floor area of 145.2m<sup>2</sup> which when compared with the approved FSR from 4.75:1 (4,265m<sup>2</sup>) increases to 4.91:1 (4,410.2m<sup>2</sup>), which does not comply with the provisions of this Clause. The additional floor space will be located on the roof top level comprising the function room, gymnasium, amenities and services given the additional rooms will occupy the floor space on level 1.

The FSR increase of 0.16:1 equates to a contravention of 5.4% compared to the development standard of 3:1 and 3.4% compared to the previously approved development. As the proposal is a modification and is substantially the same development (i.e., not a Development Application), the provisions of Section 4.6 – Exceptions to Development Standards do not apply. However, the commentary below adopts a similar approach to consider the proposed variation as would apply to a contravention request under Section 4.6 of the LEP. This includes dialogue whether compliance is unnecessary and unreasonable and whether the environmental planning grounds are adequate to justify the variation.

The applicant considers the variation to be reasonable for the following reasons (these are summarised points for brevity):

- The proposal is an increase of 145.2m<sup>2</sup> which is very minor and is not a meaningful change to the overall density;
- The previously approved communal facilities were not optimal and the current modification seeks to improve them with better grouping of the facilities and the minor increase in FSR is direct result of this;
- The increase in FSR is minimal to the approved building envelope with the floor space on the roof top not being visible from the public domain whilst remaining height compliant with no significant increase in building scale.

- The proposal responds to opportunities and site constraints with an appropriate outcome. Reduction in the FSR would reduce hotel accommodation in an ideal location that is near the airport.
- The additional floor space can be supported by the available local public transport and associated infrastructure.
- The non-compliance does not result in any direct or unreasonable amenity impacts.
- The proposal is compatible with the location and is consistent with the planning principle as most observers would not find the development offensive, jarring or unsympathetic.

Officer comment:

The proposal will not result in an unreasonable increase in building bulk, scale or height and the contravention of the FSR control is not likely to undermine the standard given the resulting building form is consistent with the existing neighbouring buildings in the precinct and complies with the maximum building height control. The proposal will retain the same high-quality finishes as previously approved and was found to be acceptable by the Design Review Panel.

The proposal is consistent with the objectives of the FSR control, and the scheme will have no greater adverse amenity impacts than the previously approved development on the site. The increased floor space is well accommodated on the site despite the development maintaining an appropriate visual relationship between new and existing development within the precinct that is undergoing transition. The modification will provide a significant increase in amenity for the future occupants without compromising the basis of the previous assessment to support the original development on the site.

The arguments provided by the applicant are well founded and confirm that strict compliance with the FSR control is unreasonable and unnecessary.

**5.21 – Flood Planning**

Council records indicate that the lot is not subject to flooding. The application was reviewed by Council's Development Engineer who advised that the property is not flood affected and as such, no flooding controls apply to the proposal.

Accordingly, the proposal is satisfactory with respect of the provisions of this LEP Section.

**6.1 – Acid Sulfate Soils**

Acid Sulfate Soils (ASS) – Class 4 affect the property. Development Consent is required as the proposal involves building works which include basement levels containing car parking (basement 1) and kitchen, housekeeping, office and services below natural ground level (basement 2). Class 4 refers to works that are more than 2 metres below the natural ground surface and works by which the water-table is likely to be lowered more than 2 metres below the natural ground surface.

The plans show that the proposal will exceed a 2m depth below the ground surface. The Geotechnical report submitted with the previous application, prepared by Core Geotech Pty Ltd dated 9 December 2022, states that the ground water level is approximately 3.7m below the natural ground level but there does not appear to be any acid sulfate soils within this depth on the site. The report states there will be permeable sandy soils at this level, and the basement may therefore be 'tanked'. Conditions imposed relating to the geotechnical certification were imposed on the previous approval. Such conditions shall be retained, and Council's Development Engineer raises no objections to the proposal in this regard.

The Statement of Environmental Effects prepared by Sutherland & Associates Planning confirms there are no acid sulfate soils on the site and as such an Acid Sulfate Soils Management Plan is not warranted in this instance.

Based on the above, the proposal is consistent with the objectives and requirements of Section 6.1 of Council's LEP 2022.

### **6.3 – Stormwater and WSUD**

The development was previously approved with an on-site detention system (OSD) which is to be located within the front and side setback on the site. Stormwater plans were submitted with the previous application and were prepared by C&M Consulting Engineers and dated 17 April 2024, Revision 3.

The current application did not include any revised stormwater plans but was reviewed by Councils Development Engineer who had no objections to it subject to conditions being imposed within the draft Notice of Determination. These conditions required changes being made to the proposed roof plan and roof catchment plan in the stormwater plans, to relate to the current modification and being submitted to Council with the Construction Certificate. Accordingly, the proposed modification can comply with the requirements of this clause.

### **6.7 – Airspace Operations**

The site is located within an area defined in schedules of the Civil Aviation (Buildings Control) Regulations which limit the height of structures to 15.24 metres above existing ground height (AEGH) without prior approval of the Civil Aviation Safety Authority.

The previous application sought approval for the redevelopment of the site to a maximum overall building height of 48.575 metres Australian Height Datum (AHD).

This application was referred to Sydney Airports Corporation Limited (SACL) who did not object to the proposal subject to a maximum height of 51.81 metres AHD and the imposition of conditions of development consent. These conditions include the building being limited to this height and being obstacle lit by low intensity steady red lighting during the hours of darkness and periods of low visibility at the highest point of the building. The lighting must comply with Part 139 of the Manual of Standards (MOS), a document that details the requirements for airports with published instrument flight procedures in Australia. The MOS sets standards for aerodrome facilities, obstacle control, operational procedures, and safety management to ensure safe airport operations. Key requirements include regular inspections and maintenance of pavement, lighting, and other facilities.

Based on the above, (subject to the amendment of condition 12 relating to the SACL requirements) the proposed modification would not constitute an unacceptable hazard for aircraft operations. The proposal complies with the conditions imposed to limit the building height to a maximum of 51.81m AHD. Accordingly, the proposal is satisfactory with respect to the objectives and requirements of this section.

### **6.8 – Development in Areas subject to Aircraft Noise**

The subject site is located within the 25 to 30 ANEF Contour, thus subject to potential adverse aircraft noise. Given this, appropriate noise attenuation measures are required for the proposed development.

The previously approved development on the site was accompanied by an Acoustic Report prepared by Acoustic Logic dated 10 March 2023 Revision 2 which examined acoustic controls and limitations applying to the proposed development. The application was approved subject to the recommendations of the acoustic report being implemented. The current application will not

alter the basis of the previous assessment and the conditions imposed relating to the acoustic report will be retained in the development consent.

Based on the above, the proposal is satisfactory with respect to the requirements and objectives of this clause, subject to the recommended conditions of consent.

#### **6.10 – Design Excellence**

In accordance with this Section, development consent must not be granted to development to which this Section applies unless the consent authority considers that the development exhibits design excellence. The Design Excellence clause applies to the proposal and requires that the development deliver the highest standard of architectural, urban and landscape design.

The site is located within the Mascot Station Precinct Area. The proposed development is consistent with and includes the same external appearance as that which was considered by Councils Design Excellence Panel on 1 May 2025. At this meeting, the Design Excellence Panel made the following recommendations:

*The Panel recommends that the recommended changes/refinements be made to demonstrate that Design Excellence has been achieved in accordance with Clause 6.10 of Bayside LEP 2021.*

The proposed modification has been amended to address the refinements as outlined previously in this report and as such, no additional conditions were required to be imposed in this regard. For more information, please refer to the section titled “Design Quality of Residential Flat Development under the SEPP Housing 2021. The application will not alter the external appearance of the previously approved development on the site to any significant degree and was improved as previously discussed. Accordingly, the application is acceptable and was not required to be referred back to the Design Review Panel for further comment.

Based on the above, the proposal is acceptable in respect of the requirements of this section in relation to Design Excellence.

#### **6.11 – Essential Services**

Services are generally available on site to facilitate the proposed development, as proposed to be modified. Appropriate conditions have been recommended requiring approval or consultation with relevant utility providers with regard to any specific requirements for the provision of services on the site.

### **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:

#### **Bayside Development Control Plan 2022**

The application is subject to the Bayside Development Control Plan 2022 ("the DCP"). This is the comprehensive DCP relevant to the proposal. The DCP was adopted by the elected Council on 22 March 2022 and came into effect on 10 April 2023 and supports the provisions of the LEP.

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

Relevant Clauses	Compliance with Objectives	Compliance with Standard / Provision
<b>PART 3 – GENERAL DEVELOPMENT PROVISIONS</b>		
3.2 Design Excellence	Yes - see discussion	Yes - see discussion
3.5 Transport, Parking and Access	Yes - see discussion	Yes - see discussion
3.6 Social Amenity, Accessibility and Adaptable Design	Yes - see discussion	Yes - see discussion
3.7 Landscaping, Private Open Space and Biodiversity	Yes - see discussion	Yes - see discussion
3.8 Tree Preservation and Vegetation Management	Yes - see discussion	Yes - see discussion
3.9 Stormwater Management and WSUD	Yes - see discussion	Yes - see discussion
3.11 Contamination	Yes - see discussion	Yes - see discussion
3.12 Waste Minimisation and Site Facilities	Yes - see discussion	Yes - see discussion
3.13 Areas subject to Aircraft Noise and Airport airspace	Yes - see discussion	Yes - see discussion
3.14 Noise, Wind, Vibration and Air Quality	Yes - see discussion	Yes - see discussion
3.16 Signs and Advertising	Yes - see discussion	Yes - see discussion
<b>PART 5 – RESIDENTIAL AND MIXED-USE DEVELOPMENTS</b>		
5.1.3 Pools and Spas	Yes - see discussion	Yes - see discussion
<b>PART 6 – NON-RESIDENTIAL DEVELOPMENTS</b>		
6.1.1 General Controls	Yes - see discussion	Yes - see discussion
6.7.3 Hotel and Motel	Yes - see discussion	Yes - see discussion
<b>PART 7 – SPECIFIC PLACES</b>		
7.7 Mascot West Employment Lands	Yes - see discussion	Yes - see discussion

The following sections elaborate on key matters from the above table.

Part 7 is dealt with first, as the DCP states: “provisions in the chapter [7] prevail over any similar provisions in other sections of the DCP”.

## Part 7 – Mascot West Employment Lands

This section of the DCP provides controls and guidelines for 17 areas within the Local Government Area. Not all areas are included. The areas chosen are either unique or have been subject to detailed masterplanning controls, with more specific controls to guide development.

As stated, the provisions of this Part prevail over other Parts of the DCP, including where there is any inconsistency.

The site is located within the Mascot West Employment Lands between O’Riordan Street and Botany Road.

### Description

The description of the locality includes a general mix of uses such as warehousing and distribution developments as well as industrial developments and commercial and office locations. The site is located towards the southern portion of this area and forms part of the airport related uses within the context of the locality having proximity to the airport.

### Desired Future Character

The proposed development will retain the previously approved hotel building which is consistent with the desired future character of the locality. The proposal is not unlike other recently approved hotels in the area and will service the area as an airport related industry.

The proposal is acceptable in respect to the desired future character of the area and will make a positive contribution to the development within Robey Street.

### Controls

The proposed alterations and additional storey to the previously approved hotel development on the site generally complies with the controls within the Mascot West Employment Lands in Council’s DCP 2022. In this regard, the proposal is acceptable in respect to the provisions in Part 7 and no objections are raised to the scheme.

## PART 3 – GENERAL DEVELOPMENT CONTROLS

### Part 3.2 – Design Excellence

The proposal is acceptable in respect to Design Excellence, and this has been addressed previously in this report. For more information, please refer to section 6.10 discussion earlier in this report.

### Part 3.5 – Transport, Parking and Access

The proposal includes the provision of 35 car parking spaces within the basement parking level which includes the use of car stackers. The scheme was referred to Council’s Development Engineer who required improvements to the scheme which have been made in the final plans submitted for the application.

The car stackers include some two and three car stacker systems which use a pit below so that the cars can move up and down and enable any car to be moved at any time. The proposal has increased the floor to ceiling height to facilitate this design. The stacker allows immediate access to and from spaces without having to manage the entire parking area with a valet. Even though a

valet system was originally approved, the current amendment allows the independent operation of the car park by individuals as well as hotel staff.

The applicant submitted amended plans and information to Council in relation to parking and the use of stackers on 3 July 2025 which was referred to Council's Development Engineer.

Table 3 of the DCP stipulates the parking required, based on the proposed use. For this proposal, the proposed hotel use generates a requirement for 39 car spaces for the 8 additional rooms resulting in a total of 153 rooms at 1 space per 4 rooms. The revised proposal includes 35 car parking spaces using 5 triple level (6 spaces each) and 2 double (2 spaces each) car stackers and one space in the basement and one at grade (in front of the site) for visitors. One basement space is an accessible car parking space. The shortfall will result in a deficiency of 3 spaces. Despite this, the proposal is acceptable based on the parking survey conducted by the applicant in relation to nearby hotels. This is also based on the use of an efficient shuttle bus service to the airport and city by the hotel. The hotel includes a pick up and drop off space for the shuttle bus and for cars in front of the site. As with the previous scheme, the revisions to the plan addressed the concerns of the Bayside Traffic Development Advisory Committee and Council's Development Engineer.

All of the car parking spaces within the basement level can comply with the relevant Australian Standard AS 2890.1 and the minimum dimension and access requirements. The private road on the site contains a driveway ramp to the basement parking level which can either be operated by a valet or independently and uses a roller door for security reasons. In this regard, a traffic signal system will be used to allow vehicles safe passage in a one-way direction at all times. This system will improve safety both on the site and road network with suitable sight distances.

The design and location of the parking facilities and pedestrian access on the site is acceptable having regard to the nature of the site and the intensity of the proposal. This is subject to minor amendments to conditions 7, 34, 111(c), 112(e), 121 and 156 in relation to the operation of the use, car stacker, vehicular access and parking.

The final plan was referred to Council's Development Engineer who had no objections to the proposal, subject to the above amendment of conditions which have been included in the draft conditions of consent.

Based on the above, the revised scheme satisfies the transport, access and parking requirements of the Council's DCP and is acceptable in this regard.

### **Part 3.6 – Social Amenity, Accessibility and Adaptable Design**

The proposal will retain the same design so that the development is accessible from the public domain and internally. The development provides level access from the footpath, disabled bathrooms and access to the levels of the building affected by the proposal through the lift core.

The development provides an accessible car space located within the basement parking level, and this space is located in close proximity to the lifts. This will also be addressed through the imposition of a condition of development consent.

The proposal is satisfactory and complies with the objectives of this Part of the DCP.

### **Part 3.7 and 3.8 – Landscaping, Private Open Space, Biodiversity and Tree/Vegetation Management**

The modified scheme includes a front setback that is consistent with the previous approval part from changes to include stair access to the substation. The increased finished floor level of the substation from RL 8.26 to RL 9.0 (by 0.74m) has been requested and will allow a flat surface to

be provided for the substation just above the natural ground level, as the site has a small fall, to ensure minimal disruption for the power grid.

The proposal will retain appropriate vegetation to Robey Street and integrate the pedestrian access areas with landscaping at the front of the site. The revised scheme includes generous landscape planting along the eastern side and rear elevations which are capable of screening the proposed development. In this regard, the proposal is largely consistent when compared to the previous approval on the site. For more information, please refer to Figures 2 and 3 of this report.

The application was referred to Council's Landscape Architect, who raised no objections to the proposal subject to a previously imposed condition being amended in the draft development consent. Condition 50 has been amended in this regard. Consistent with the previous approval, the proposal seeks to retain the existing street tree in front of the site and provide two additional street trees and tree planting at the front and rear of the site within planter beds at ground level.

The proposal is satisfactory in regard to the objectives and provisions of Parts 3.7 and 3.8 of the DCP, subject to recommended conditions.

### **Part 3.9 – Stormwater Management and WSUD**

An assessment against stormwater management has been discussed in response to Clause 6.3 of the LEP, in the previous Section of this report.

### **Part 3.11 – Contamination**

An assessment of contamination has been discussed in response to *SEPP (Resilience and Hazards) 2021* in a previous Section of this report.

### **Part 3.12 – Waste Minimisation and Management**

Proposed waste collection arrangements meet Council's specifications and requirements and are not altered when compared with the previously approved development on the site. A revised Operational Waste Minimisation and Management Plan prepared by Elephants Food Company dated 9 April 2024 Revision E was submitted with the previous development application. The application confirmed the previous method of waste collection can be increased to cater for the increase in hotel rooms. The current proposal is an addition of eight rooms which can also be accommodated within the scope of the Waste Management Plan. In this regard, the previously imposed conditions shall be retained in the Draft Notice of Determination. Accordingly, the proposal complies with the requirements of Council's DCP 2022 in respect to waste management.

### **3.13 – Development in areas subject to Aircraft Noise and Sydney Airport Operations**

The proposal increases the height of the previously approved building by an additional storey. In this regard, the proposal was referred Sydney Airport Corporation, who raised no objections to the proposal. This has been addressed in more detail previously in this report. For more information, please refer to Sections 6.7 and 6.8 discussed previously in this report under the Bayside LEP 2021.

### **3.14 - Noise, Wind, Vibration and Air Quality**

The proposal will involve an increase in the number of hotel rooms from 145 to 153 and relocate the previously approved facilities including a gym, bar and conference room. The increase in rooms is limited to eight (8) and the rooms will be mechanically ventilated and not have access to

the balconies at the side or rear. The proposal can safely accommodate the increase with minimal or no increase in privacy impacts due to the design of the building on the site and setbacks that will be retained.

The previous application addressed noise impacts by way of submission of an acoustic report and subject to conditions of development consent. The proposal does not alter the basis of the previous acoustic report to any significant degree. The conditions shall be retained in the current proposal, which is considered acceptable in respect to acoustic impacts.

Under Part 3.14.3 of Council's DCP 2022, the proposal is not likely to result in any greater aural or visual privacy impacts than the previously approved development on the site. In this regard, the proposal is acceptable and complies with the provisions of Part 3.14.3 of Council's DCP 2022.

### **Part 3.16 – Signs and Advertising**

The current modification does not alter the previously approved signage on the site. An assessment against the signage was assessed under the provisions of the *SEPP (Industry and Employment) 2021* in the previous assessment report. The current modification will not alter the basis of the previous assessment in respect to business signage on the site. The signage has been included in the plans currently being assessed and the conditions previously imposed will be retained in this regard.

The proposed modification does not include any new signage that would be assessed under Part 3.16 of Council's DCP 2022. Accordingly, the proposal complies with Council's requirements and is acceptable in respect to signage.

## **PART 5 – RESIDENTIAL AND MIXED-USE DEVELOPMENT**

### **5.1.3 Swimming Pools, Spa Pools, and Child-Resistant Barriers**

The proposal includes the addition of a plunge pool, spa and sauna with associated pool deck on the additional floor at the top of the building. The proposal will include suitable pool fencing around the pool deck in accordance with AS1926. A condition has been included in this regard.

The proposed plunge pool requires a minimum 1m setback from the side and rear boundaries to the pool coping under control C4 in Council's DCP. While this ordinarily applies to ground level properties, the proposed plunge pool and spa will be setback 0.6m from the balustrade along the northern edge of the roof top. This should be increased to 1m to ensure adequate safety and separation and can be addressed through the imposition of a condition of development consent.

C5 of Council's DCP requires pumps, filters and other noise emitting devices for pools should be enclosed, screened or acoustically protected to minimise any visual or acoustic impacts. The applicant has indicated that the pumps and filters are to be located underneath the pool deck and will receive the appropriate acoustic treatment without affecting the ventilation and operation of the equipment. This has been addressed through the imposition of a condition of development consent.

The plunge pool and spa on the roof top terrace have been located to maximise solar access and generally comply with the requirements of Council's DCP in this regard. Based on the above, the proposal subject to imposition of the conditions of development, complies with Council's requirements and is acceptable in this regard.

#### **5.2.4.5 Solar Access and Overshadowing**

Although normally applied to high density residential development, the proposal has been considered under this section of Council's DCP in respect to overshadowing and the extension of the line of shadow cast by the additional storey. Shadow diagrams were submitted with the application identifying the hourly shadows for the proposed modification.

The proposal will result in an extension of the previously approved line of shadow cast to the south by approximately 1.2m to 1.5m. However, this will fall over Baxter Road to the south and will not result in any adverse impacts on the properties containing residential dwellings further to the east (approximately 50m away) as the shadow swings through from the southwest to the southeast in mid-winter. This is despite these properties being zoned E3 Productivity Support under the BLEP 2021. The properties further away on the southern side of Baxter Road contain a large car park that extends along the Goods Railway line.

Based on the above, the proposed modification complies with the requirements of this clause of Council's DCP and is acceptable in respect to solar access and overshadowing.

### **PART 6 – NON-RESIDENTIAL DEVELOPMENT**

#### **6.7.3 Hotel and Motel**

The previous approval included a Plan of Management (POM) as an approved document for the operations of the hotel. The proposal will retain the POM, and this complies with the controls under part 6.7.3 of Council's DCP 2022. The condition will be retained should the current modification be recommended for approval.

The proposed modification complies with the design requirements under this clause which includes the access point being at the street frontage, landscaping being used to soften the amenity impacts from the use and lockable storage areas within each sleeping room.

The modification includes changes to rooms on level 1, including 2 smaller rooms around 16m<sup>2</sup> for single overnight stays and other DDA rooms which include hearing impairment aids. The proposal includes rooms that are consistent with the previous approval and provide access to increased guest services including the additional roof top terrace.

Based on the above, the proposal complies with the requirements of Council's DCP 2022, will improve amenity for guests and is acceptable in this regard.

#### **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 Modification submission has included sufficient information to enable environmental assessment of the application (Part 5, Division 1 of the Regulation).

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. The impacts that have not already been addressed or warrant some elaboration are as follows:

### **Natural Environmental Impacts**

#### Acid Sulphate Soils

The revised scheme is acceptable in respect to acid sulfate soils. This has been addressed previously in this report. Please refer to section 6.1 under the Bayside LEP 2021 for more information.

#### Excavation and Earthworks

The revised scheme is acceptable in respect to excavation and earthworks. This has been addressed previously in this report. Please refer to section 6.2 discussion under the Bayside LEP 2021 for more information.

#### Stormwater Quality and Quantity

The revised scheme is acceptable in respect to stormwater management. This has been addressed previously in this report. Please refer to section 6.3 discussion under the Bayside LEP 2021 for more information.

#### Contamination

The revised scheme is acceptable in respect to contamination. This has been addressed previously in this report. Please refer to section headed SEPP (Resilience and Hazards) 2021 for more information.

### **Built Environmental Impacts**

#### Streetscape

The revised scheme is acceptable in respect to streetscape and external appearance. This has been addressed previously in this report.

#### Views and Overshadowing

The proposed development will not involve any changes to building setbacks but will increase the building height and this has been addressed previously in this report.

#### Privacy (Aural and Visual)

The revised scheme is acceptable in respect to aural and visual privacy. This has been addressed previously in this report. Please refer to Part 3.14 under Council's DCP 2022 for more information.

#### Operational Impacts

- Hours of Operation
- Management of patrons
- Safety and Security
- Responsible Service of Alcohol
- Plan of Management

-

The revised scheme will not alter the previous approval on the site for a hotel in respect of the above matters. In this regard, there will be no changes to the hours of operation, safety and security, service of alcohol and implementation of the POM. While the number of patrons is expected to increase, the hotel can still operate and be adequately managed with the same number of staff.

#### Traffic and Parking

The revised scheme complies with Council's requirements and is acceptable in respect to traffic and parking. This has been addressed previously in this report. Please refer to Part 3.5 under Council's DCP for more information.

#### **Social Impacts**

The hotel rooms, as proposed, serve an important role in providing accommodation for people who value accommodation in the area whether it be for business or tourist purposes. The simple and flexible tenure arrangements provide a valuable service to the community. For various reasons, the hotel is an effective option and a preference for people which will provide a positive social impact on the community.

#### **Economic Impacts**

In terms of economic impacts, the proposal will cause no anticipated negative economic impacts and will result in positive economic impacts from the materials and labour needed for construction and ongoing use of the proposal.

### **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 submissions made, and consideration of matters raised within those submission, has been previously outlined in response to the relevant subsection in Section 4.55(3) of the Act.

### **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 Modification 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 proposal 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

The application was referred to Council's Development Contributions Planner who indicated the following:

The MDA seeks modification to DA-2024/111 for an approved hotel through an additional eight (8) hotel rooms at Level 1, construction of one (1) additional storey for pool, bar and guest facilities, and internal changes. The number of the employees in the proposed development will not pass the 22 number of staff used in the calculation of the payable contributions for DA-2024/111 per the confirmation letter (25/171105) and email (25/172959) from the applicant. Therefore, following the calculation method used for MDA-2025/21 (Modification to DA-2024/111), the S7.11 monetary contribution is levied under DA-2024/111 is for the share 22 employees apportioned to the 8 additional number of rooms under DA-2024/111 to be modified. No credit is given as it has been given for the existing development in DA-2022/423. The contribution amount listed below is for the subject application only including the additional hotel rooms. The development contribution, as indexed, under DA-2022/423 is required to be paid in accordance with that consent. If DA-2022/423 is to be surrendered, then the above condition amount is to be modified by Council to include the entire development, at an indexed rate.

Condition:

A Section 7.11 contribution of \$66,471.64 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.

	MDA-2025/38	Code
Community Facilities	\$ 5,797.80	MMS1
Recreation and Open Space	\$ 48,159.60	MMS2
Transport Facilities	\$ 11,982.44	MMS3
Administration	\$ 531.80	MMS4
<b>Total in 2025/26</b>	<b>\$ 66,471.64</b>	

The contribution amount listed above is for the subject application only including the additional hotel rooms. The development contribution, as indexed, under DA-2022/423 is required to be paid in accordance with that consent. If DA-2022/423 is to be surrendered, then the above contribution amount is to be modified by Council to include the entire development, at an indexed rate.

Copies of the Contribution Plan can be inspected at the Council's Customer Services Centre, Administration Building, 444-449 Princes Highway, Rockdale.

## Conclusion and Reasons for Decision

The proposed development at 100A, 102-106 Robey Street, Mascot NSW 2020 has been assessed in accordance with Sections 4.55 and 4.15 of the *Environmental Planning and Assessment Act 1979* including relevant environmental planning instruments and Bayside Development Control Plan 2022.

The proposal is a Modification Application under Section 4.55(2) of the Act, The Modification proposed seeks to modify Development consent DA-2024/111, which approved alterations and additions to DA-2022/423 to increase the number of hotel rooms from 77 to 145 with associated facilities, conversion of the existing basement into car parking, an additional basement level and new private road originally approved by the Bayside Local Planning Panel on 16 December 2024. The proposed Modifications essentially involve modifications to DA-2024/111 to an approved hotel including an additional eight (8) hotel rooms at Level 1, construction of one (1) additional storey for pool, bar and guest facilities, and internal changes.

In response to the public notification, there were no submissions received by Council. The proposal is supported for the following main reasons:

- The proposal remains the same or substantially the same development as originally approved.
- The proposal, subject to conditions, is consistent with the objectives of the E3 Productivity Support zone and the relevant objectives of Bayside Local Environmental Plan 2021.
- The proposal is consistent with the objectives of and complies with the controls in the Bayside Development Control Plan 2022.
- The proposal and use of the roof top terrace is suited to the site and area.
- The scale and design of the proposed additional storey is suitable for the location and is compatible with the desired future character of the locality.
- The proposal will not result in any significant impact on the environment or the amenity of nearby residents.
- Recommended conditions of consent appropriately mitigate and manage potential environmental impacts of the proposal.

## Schedule 1 – Draft Conditions of Consent

Refer to draft conditions attached separately.

# HOTEL DEVELOPMENT

102-106 ROBEY STREET, MASCOT

WENTWORTH HOTEL CONSTRUCTIONS

DRAWING LIST - S4.55	
SHEET NO.	SHEET NAME
S4.55 - 1	
A000	COVER SHEET
A010	FLOOR PLAN - BASEMENT 2
A011	FLOOR PLAN - BASEMENT 1
A012	FLOOR PLAN - LEVEL 00 - GROUND
A013	FLOOR PLAN - LEVEL 01
A014	FLOOR PLAN - LEVEL 02
A015	FLOOR PLAN - LEVEL 03-11
A016	FLOOR PLAN - LEVEL 12
A017	ROOF PLAN
A030	ELEVATION - NORTH
A031	ELEVATION - EAST
A032	ELEVATION - SOUTH
A033	ELEVATION - WEST
A040	SECTION A
A041	SECTION B
A045	RAMP SECTION
A050	GFA PLANS
A090	SOLAR ANALYSIS - WINTER SOLSTICE



## DISCLAIMER

Subject to: full site survey, measurements are preliminary, discussions and meetings with authorities, approval from authorities, relevant consultant information as per council DA requirements. Feasibility completed based on information provided by client. Drawings are not suitable for purchase of property.

All parking and ramps to traffic engineers details. (Subject to Approval)

REF.	DATE	AMENDMENT
C	28.03.2025	ISSUED FOR S4.55 - REVISED AS CLOUDED
D	09.05.2025	DRP AMENDMENTS
E	25.06.2025	ISSUED FOR S4.55 - ADDITIONAL SECTIONS ADDED

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Nominated Architect:  
Robert Gizzi (Reg. 8286)

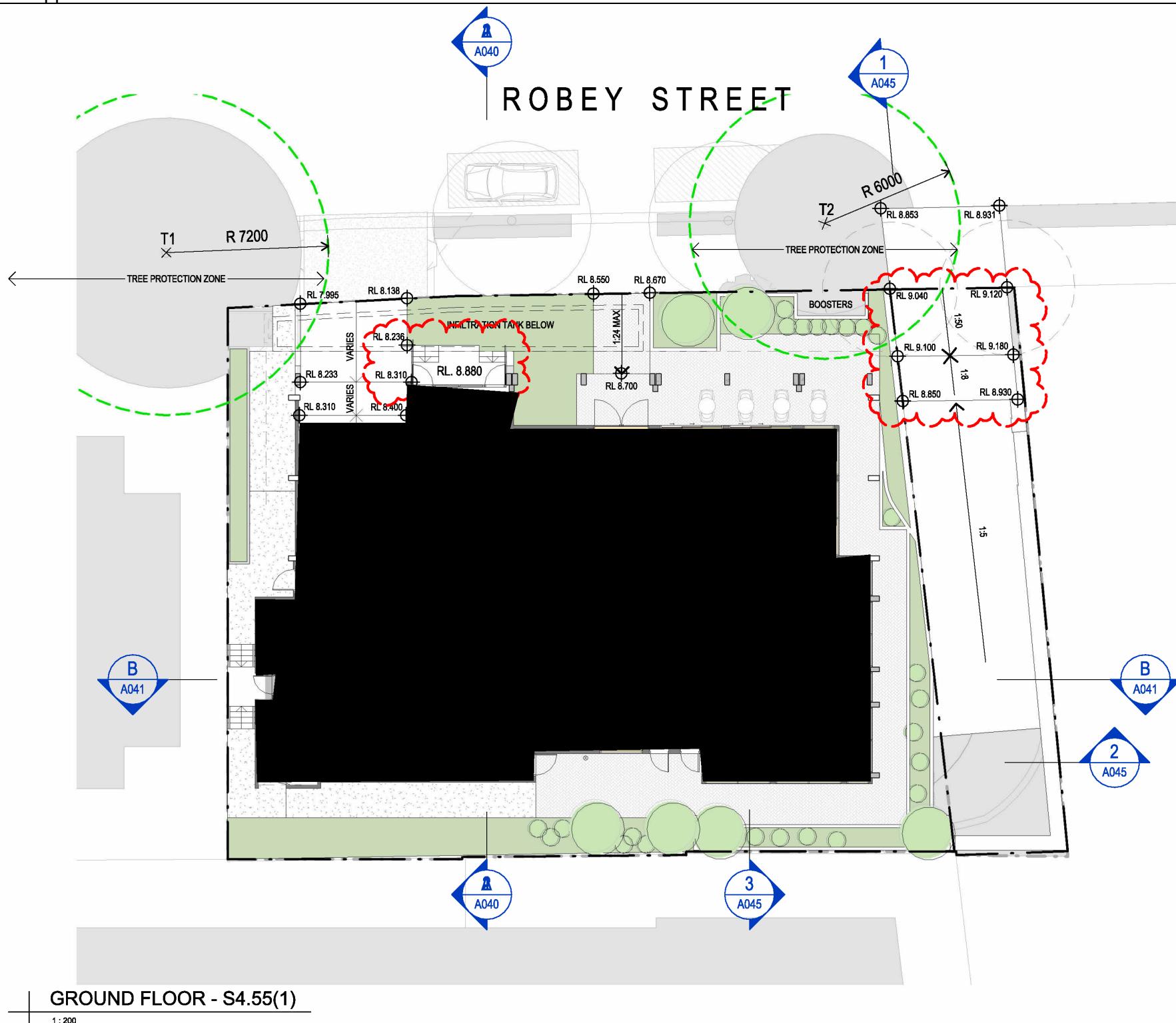
CLIENT: WENTWORTH HOTEL  
CONSTRUCTION  
ADDRESS: 102-106 ROBEY ST, MASCOT  
DRAWING NAME: COVER SHEET

SCALE BAR:

**PRELIMINARY**

ISSUE DATE:	25.06.2025	PROJECT No.
DRAWN:	SL	2828
SCALE:		DWG No. Rev.
QA:	RG	A000 E

A3



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REF.	DATE	AMENDMENT
D	09.05.2025	DRP AMENDMENTS
E	11.06.2025	ISSUED FOR S4.55 - REVISED AS CLOUDED
F	25.06.2025	ISSUED FOR S4.55 - ADDITIONAL SECTIONS ADDED

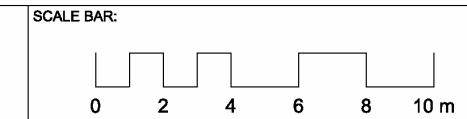
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CLIENT: WENTWORTH HOTEL  
BONDI DEVELOPMENT  
ADDRESS: 102-106 ROBEY ST, MASCOT  
DRAWING NAME: FLOOR PLAN - LEVEL 00 - GROUND



ISSUE DATE: 25.06.2025  
DRAWN: SL  
SCALE: 1 : 200  
QA: RG  
PROJECT No. 2828  
DWG No. A012  
Rev. F

**PRELIMINARY**



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All parking and ramps to traffic engineers details. (Subject to Approval)

REF.	DATE	AMENDMENT
C	28.03.2025	ISSUED FOR \$4.55 - REVISED AS CLOUDED
D	09.05.2025	DRP AMENDMENTS
E	25.06.2025	ISSUED FOR \$4.55 - ADDITIONAL SECTIONS ADDED

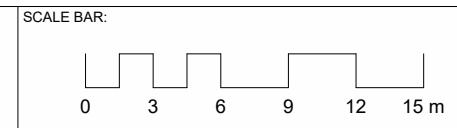
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Nominated Architect:  
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CLIENT: WENTWORTH HOTEL  
BONDI DEVELOPMENT  
ADDRESS: 102-106 ROBEY ST, MASCOT  
DRAWING NAME: ELEVATION - NORTH

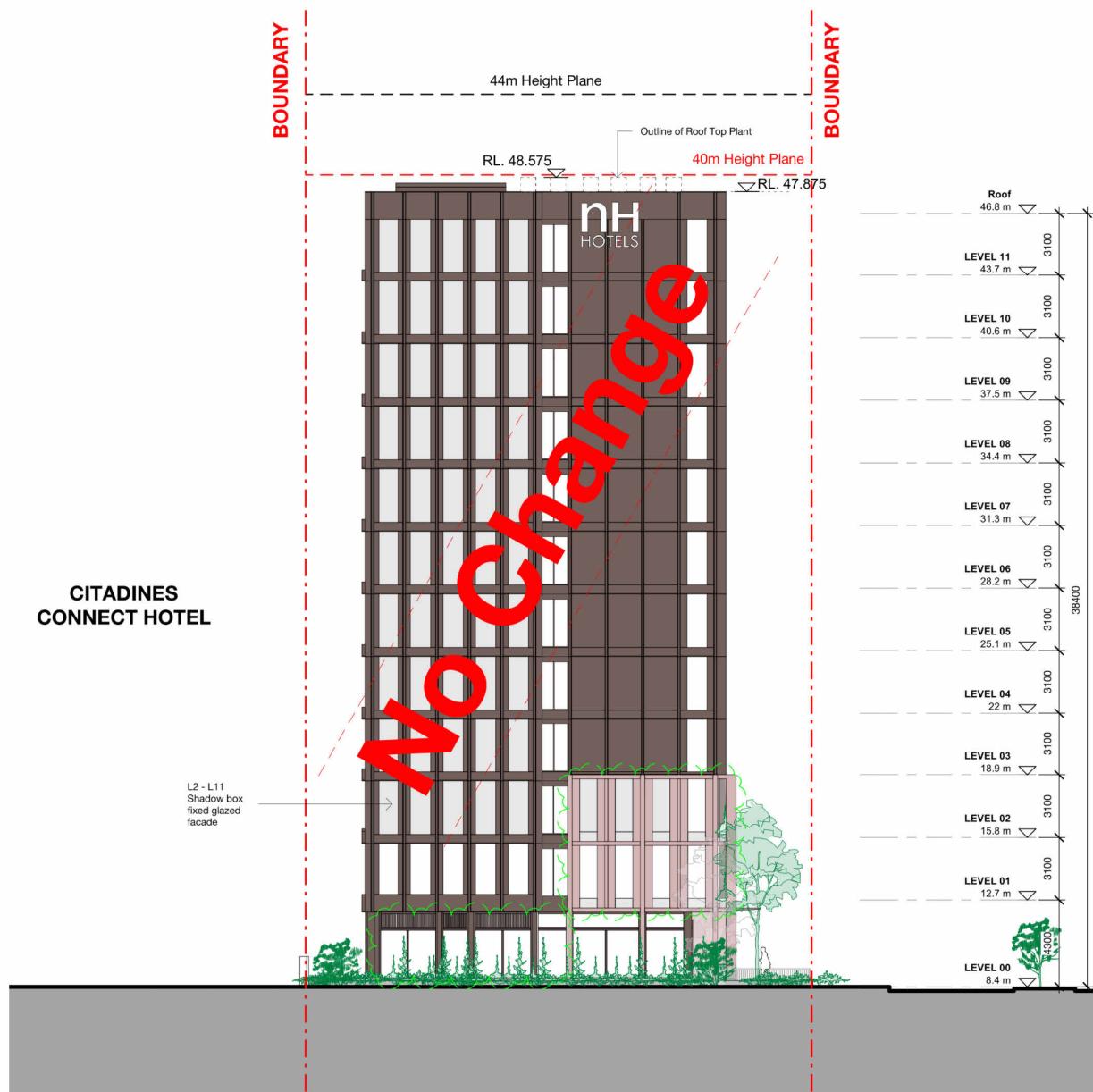


**PRELIMINARY**

ISSUE DATE: 25.06.2025  
DRAWN: SL  
SCALE: 1 : 300  
DWG No. A030  
PROJECT No. 2828  
Rev. E  
QA: RG

A3

## APPROVED



ELEVATION - EAST - APPROVED

APPROVED EAST ELEVATION DRAWING BY BATES SMART  
DRAWING REFERENCE: A07.002(C) - 09.04.2024

## PROPOSED



EAST ELEVATION - PROPOSED

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Subject to: full site survey, measurements are preliminary, discussions and meetings with authorities, approval from authorities, relevant consultant information as per council DA requirements. Feasibility completed based on information provided by client. Drawings are not suitable for purchase of property.  
All parking and ramps to traffic engineers details. (Subject to Approval)

REF.	DATE	AMENDMENT
A	25.02.2025	DRAFT S4.55 ISSUE
B	04.03.2025	ISSUED FOR S4.55
C	09.05.2025	DRP AMENDMENTS
D	25.06.2025	ISSUED FOR S4.55 - ADDITIONAL SECTIONS ADDED

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Nominated Architect:  
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CLIENT: WENTWORTH HOTEL  
ADDRESS: 102-106 ROBEY ST, MASCOT  
DRAWING NAME: ELEVATION - EAST

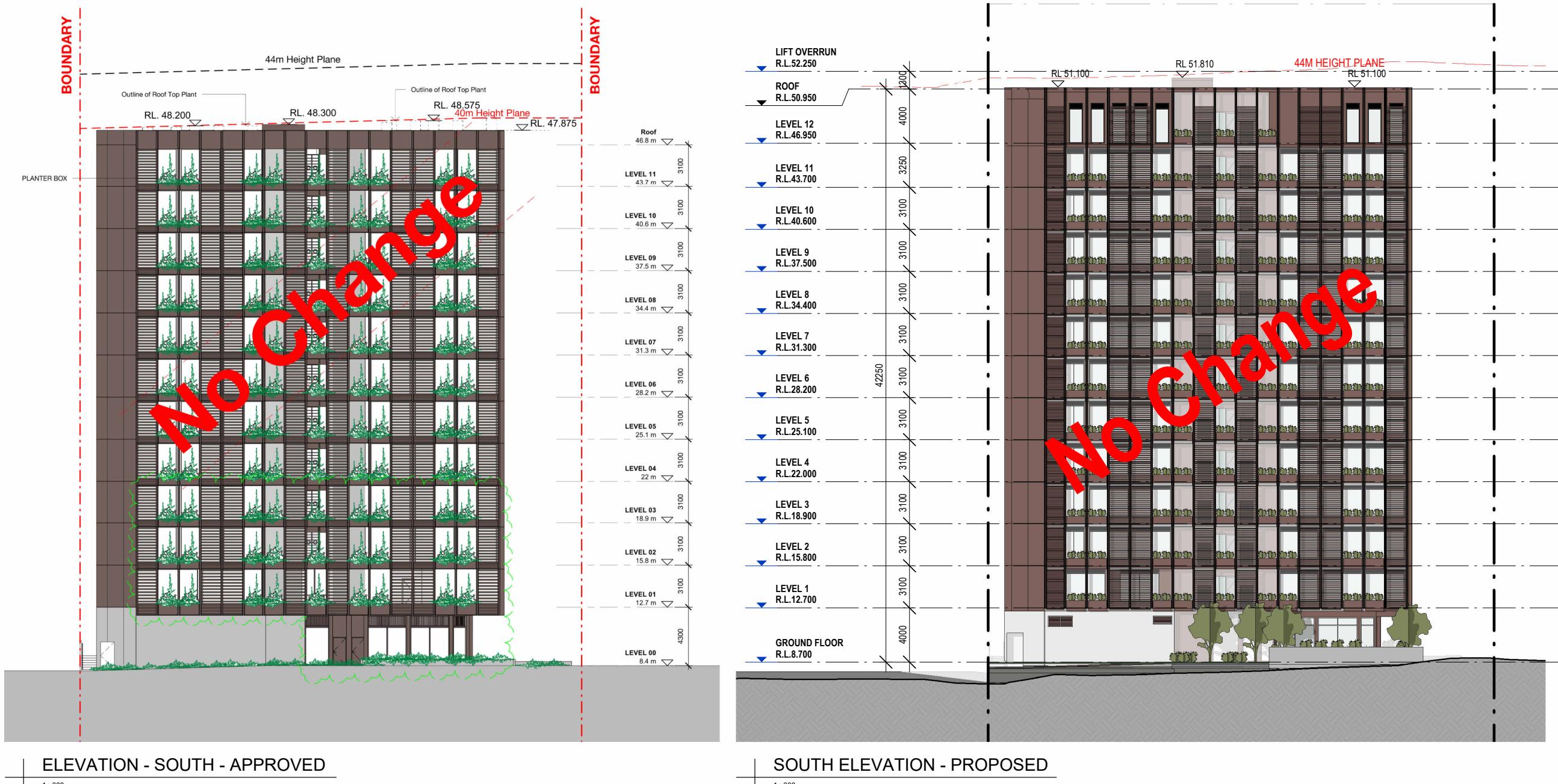
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**PRELIMINARY**  
ISSUE DATE: 25.06.2025  
DRAWN: SL  
SCALE: 1:300  
DWG No. A031  
PROJECT No. 2828  
Rev. D  
QA: RG

A3

APPROVED

PROPOSED



**DISCLAIMER**

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All parking and ramps to traffic engineers details. (Subject to Approval)

REF.	DATE	AMENDMENT
A	25.02.2025	DRAFT S4.55 ISSUE
B	04.03.2025	ISSUED FOR S4.55
C	09.05.2025	DRP AMENDMENTS
D	25.06.2025	ISSUED FOR S4.55 - ADDITIONAL SECTIONS ADDED

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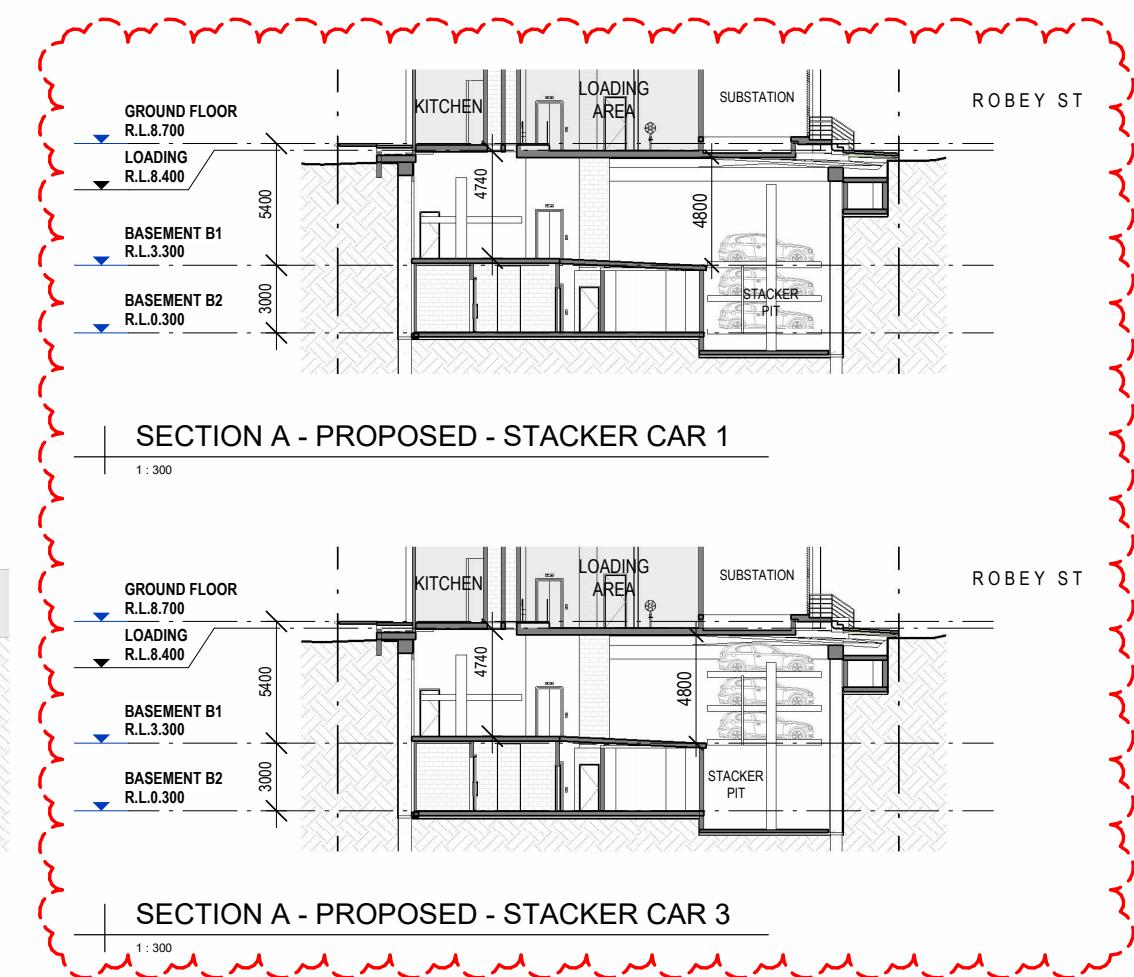
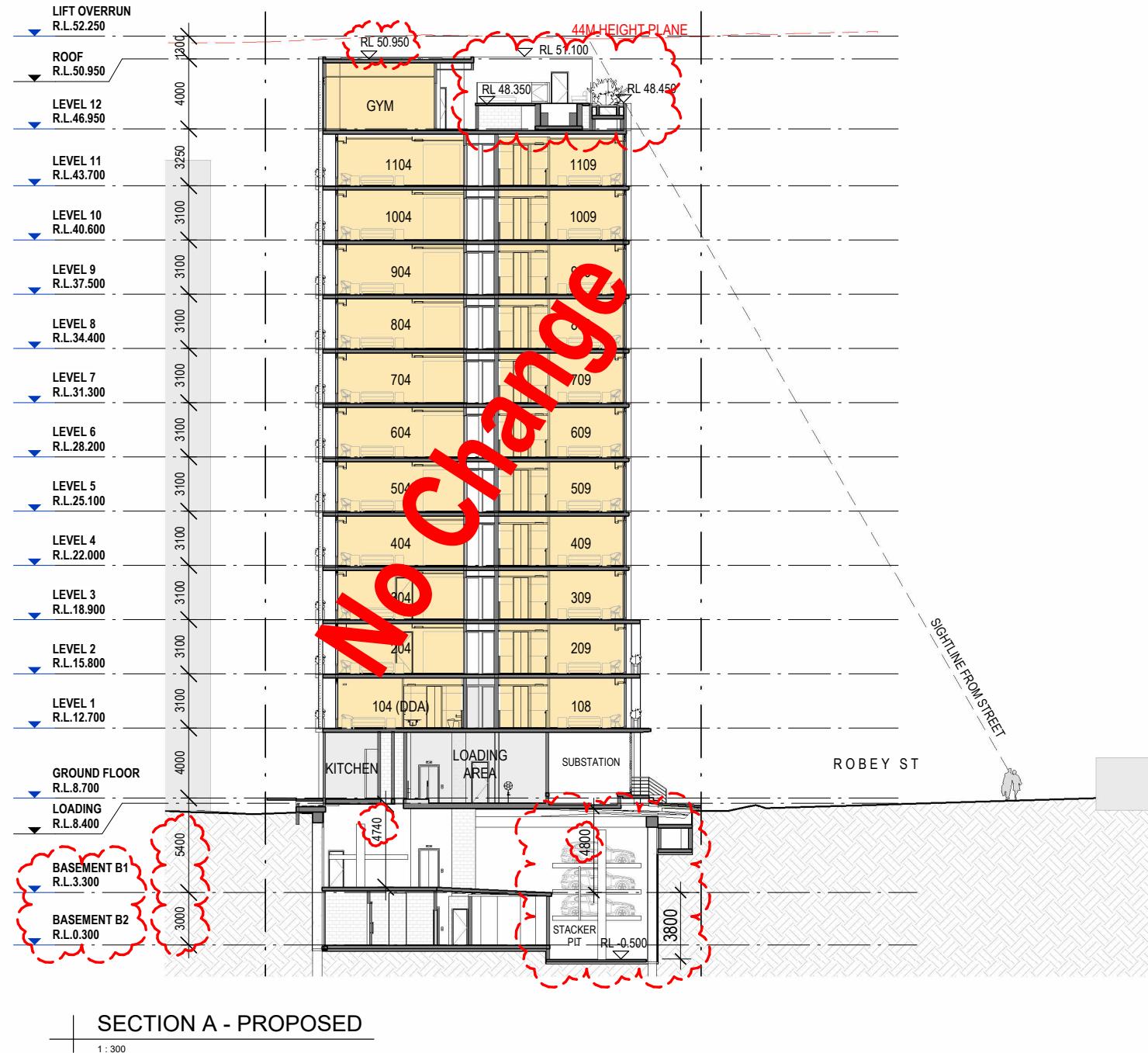
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Nominated Architect:  
Robert Gizzi (Reg. 8286)

CLIENT: WENTWORTH HOTEL  
BONDI DEVELOPMENT  
ADDRESS: 102-106 ROBEY ST, MASCOT  
DRAWING NAME: ELEVATION - SOUTH

SCALE BAR:  
0 3 6 9 12 15 m

PRELIMINARY  
ISSUE DATE: 25.06.2025  
DRAWN: SL  
SCALE: 1:300  
DWG No. A032  
Rev. D  
QA: RG





DISCLAIMER

Subject to: full site survey, measurements are preliminary, discussions and meetings with authorities, approval from authorities, relevant consultant information as per council DA requirements. Feasibility completed based on information provided by client. Drawings are not suitable for purchase of property.

All parking and ramps to traffic engineers details. (Subject to Approval)

REF.	DATE	AMENDMENT
F	16.06.2025	ISSUED FOR \$4.55 - ADDITIONAL SECTIONS ADDED
G	25.06.2025	ISSUED FOR \$4.55 - ADDITIONAL SECTIONS ADDED

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CLIENT: WENTWORTH HOTEL  
BONDI DEVELOPMENT  
ADDRESS: 102-106 ROBEY ST, MASCOT  
DRAWING NAME: SECTION A

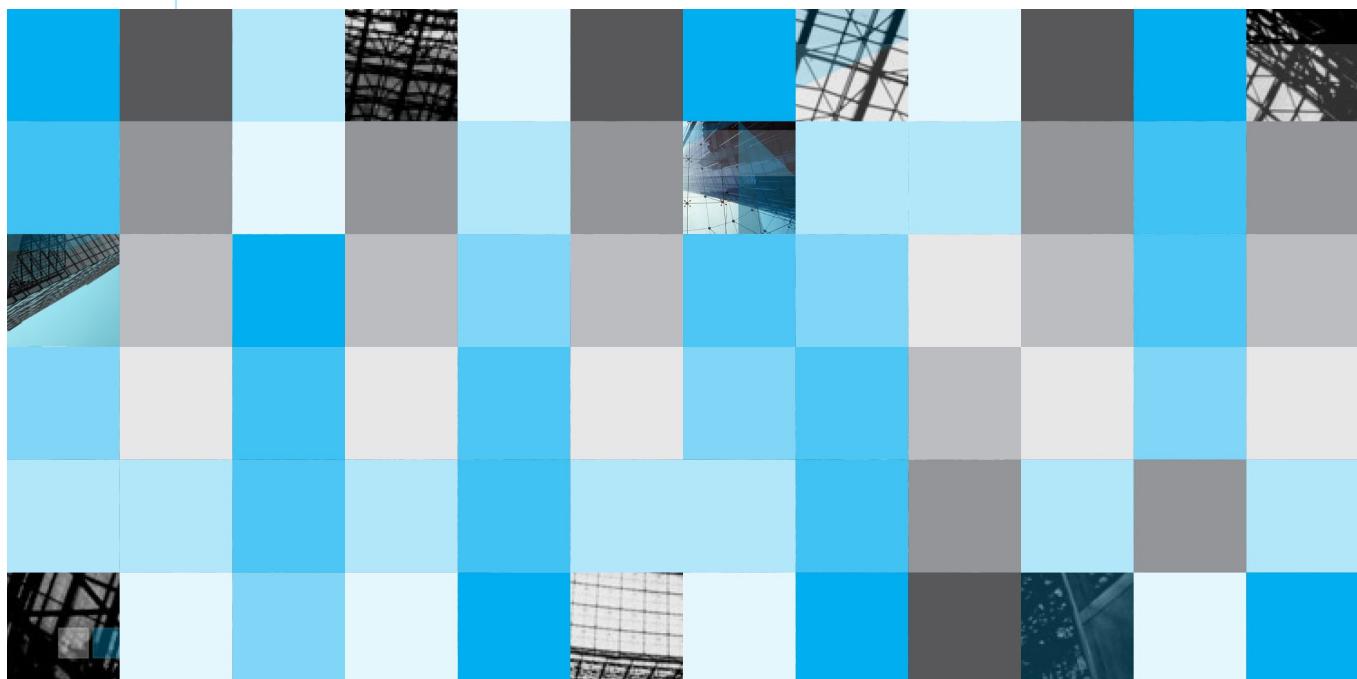
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PRELIMINARY

ISSUE DATE: 25.06.2025  
DRAWN: SL  
SCALE: 1 : 300  
DWG No. A040  
PROJECT No. 2828  
Rev. G  
QA: RG

A3

**SUTHERLAND  
& ASSOCIATES  
PLANNING**



100A, 102-106 Robey Street, Mascot

## Section 4.55 Planning Statement

## SUTHERLAND & ASSOCIATES PLANNING

ABN 14 118 321 793 ACN 144 979 564

# Section 4.55 Planning Statement

100A, 102-106 ROBEY STREET, MASCOT

Proposed amendments to approved 12 storey  
hotel development

**March 2025**

Prepared under instructions from  
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by

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## 1.0 INTRODUCTION

This submission has been prepared as supporting documentation for an application made pursuant to Section 4.55(2) of the *Environmental Planning and Assessment Act 1979* to modify Development Application 2024/111 for Alterations and additions to DA-2022/423 to increase the number of hotel rooms from 77 to 145 hotel rooms, associated facilities, conversion of existing basement into car parking, additional basement level and new private road at 100A, 102-106 Robey Street, Mascot.

The application seeks the following modifications to the approved development:

- Minor reconfiguration of the ground floor arrangement with new ramp to the entrance, reconfiguration of the luggage room, and new toilet facilities, and change to the substation level.
- Replacement of conference room, lounge area and gym on Level 01 with 8 additional hotel rooms.
- Introduction of a connecting door between two rooms on every level to provide flexibility for families.
- Minor change to the window at the western end of the corridor on Level 01 and above for BCA compliance
- Introduction of new part level 12 which comprising a gym, function room, toilets, sauna and pool and associated bar and outdoor areas.

The subject application is supported by the following documentation:

Document	Author
Amended architectural plans	DWA Architects

This Statement has been prepared pursuant to Section 4.55(2) of the Environmental Planning and Assessment Act 1979. The Statement provides an assessment of the amended proposal having regard to the relevant legislative context, social economic and environmental impacts, potential amenity impacts of the development on the surrounding locality.

The Statement details the proposed amendments against applicable environmental planning instruments and development control plans including:

- Bayside Local Environmental Plan 2021
- Bayside Development Control Plan 2021

Having regard to the applicable legislative framework, the proposed amendments to the approved development retain the same fundamental characteristics and the amended proposal is therefore substantially the same development. The amendments represent a refinement to the approved development and significant improvement to the communal facilities offered by the hotel by locate them on the top floor and adjacent to expansive outdoor area. The amended development remains consistent with the aims and objectives of the relevant environmental planning instruments and development control plan whilst remaining compatible with the character of the locality.

## 2.0 SITE DESCRIPTION AND LOCATION

### 2.1 Locality Description

The site is located in the suburb of Mascot which is located within the Bayside local government area. The location of the site is illustrated in Figure 1 below.

The site is located within the Mascot Character Precinct and the Mascot Business Development Precinct as identified in the Botany Bay Development Control Plan. The existing character of the Mascot Business Development Precinct is described in the DCP as follows:

This Precinct is bounded by Coward Street, Alexandra Canal to the west and the airport to the south. The Precinct is comprised of warehouse and distribution developments (related to freight transportation); and industrial developments including smash repair stations and welding businesses. Newer buildings include commercial and office premises with active street frontages comprising coffee shops and retail outlets. Company headquarters occupy the commercial buildings in close proximity to their warehouse operations.

The Precinct is affected by a number of Classified Road Widenings which are identified on the Botany Bay Local Environmental Plan 2013 - Land Reservation Acquisition Map. The Precinct is affected by 20 to 25 and 25 to 30 ANEF Contours and significant road and rail noise.

Part of the suburb is within the zone of influence of the High Pressure Gas Pipeline that follows the ARTC Rail Corridor to the Qenos Site at the Botany Industrial Park, Denison Street, Banksmeadow. Development Applications, planning proposals and rezoning of land received by Council for land within the Zone of Influence will be referred to the APA Group for consideration and comment.

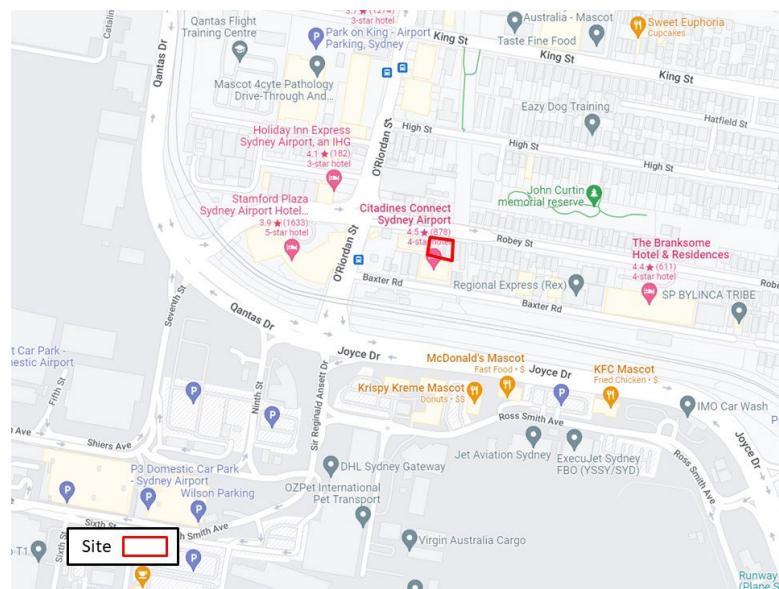


Figure 1:

Site Location:  
(Source:  
Google Maps)

## 2.2 Site Description

The subject site comprises the following three allotments:

Address	Lot	DP
100A Robey Street	41	1296247
102 Robey Street	622	1031958
104-106 Robey Street	621	1031958

An aerial view of the new site and surrounds is included as Figure 2.

The site is irregular in shape with a combined frontage of 34.9 metres to Robey Street, a western side boundary of 24.465 metres, an eastern side boundary of 25.13 metres, and a combined rear boundary of 37.165 metres, resulting in a total area of 897.7 square metres. The site is relatively level with a minor fall from the south-eastern corner to the north-western corner of 1-1.5 metres. The site is currently occupied by two buildings, being a single storey clad cottage on 102 Robey Street, and a small industrial building on 104-106 Robey Street. The industrial building occupies the majority of the site and is built to the rear boundary. There is minimal soft landscaping and no trees, and the front setback is dominated by concrete and gravel hardstand. The original cottage on 102 Robey Street has a minimal street setback and paved yard.

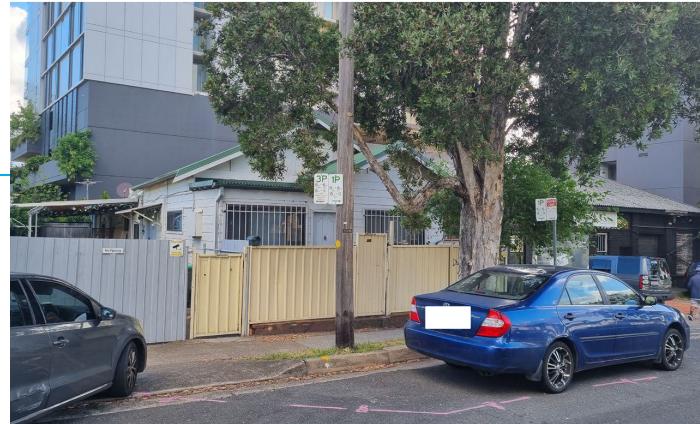


Figure 2:

Site Location (Source: Six Maps 2024)

**Photograph 1:**

The existing dwelling at  
102 Robey Street



**Photograph 2:**

The area which is 100A  
Robey adjacent to the  
dwelling at 102 Robey  
Street



**Photograph 3:**

The existing industrial  
building at 104-106  
Robey Street



## 3.0 BACKGROUND

### 3.1 Development Consent D-2022/391

On 5 December 2023, development consent was granted to DA-2022/423 for the Demolition of existing structures and construction of a 12 storey hotel with 77 rooms; associated facilities and signage at 102-106 Robey Street. The approved development provides 4 levels of car parking within the podium of the building and a single basement level containing plant and back of house areas.

The approved development was supported by both the Council staff, the Design Review Panel and the Local Planning Panel and has established an appropriate building envelope and architectural language for the development.



Figure 2:

CGI of approved development as viewed facing south-west

### 3.2 Development Consent D-2024/111

On 16 December 2024, development consent was granted to DA-2024/111 for the Alterations and additions to DA-2022/423 to increase the number of hotel rooms from 77 to 145 hotel rooms, associated facilities, conversion of existing basement into car parking, additional basement level and new private road.

The approved development was supported by both the Council staff, the Design Review Panel and the Local Planning Panel and has established an appropriate building envelope and architectural language for the development.



Figure 4:

CGI of amended development as viewed facing south-west

### 3.3 MDA-2025/21 – Section 4.55

On 24 February 2025, S4.55 modification MDA-2025/21 was lodged to modify DA-2024/111 as follows:

- Amendment to the shoring wall for the basement levels including additional excavation and the creation of a void below the private road to comply with the DA consent requirement for ensuring the basement is tanked
- Deletion of Condition No. 14A and the requirement for consolidation of the allotments
- Modification to Condition Nos. 16 and 18 to provide a stand alone Section 7.11 condition which does not rely on DA-2022/423 and also to accurately reflect the number of workers associated with the hotel

## 4.0 PROPOSAL MODIFICATIONS

### 4.1 General Description of Modifications

The application seeks the following modifications to the approved development:

- Minor reconfiguration of the ground floor arrangement with new ramp to the entrance, reconfiguration of the luggage room, and new toilet facilities, and change to the substation level.
- Replacement of conference room, lounge area and gym on Level 01 with 8 additional hotel rooms.
- Introduction of a connecting door between two rooms on every level to provide flexibility for families.
- Minor change to the window at the western end of the corridor on Level 01 and above for BCA compliance
- Introduction of new part level 12 which comprising a gym, function room, toilets, sauna and pool and associated bar and outdoor areas.

### 4.2 Redesign of communal facilities

Since achieving consent for the hotel, the future operator has identified that there is a need to optimise the communal facilities and amenity of the hotel in order to attract guests and provide facilities that no other hotel in the area is offering in the highly competitive airport hotel market. It is important to be able to create a point of difference in the offering.

As a consequence, it was determined that the location of the approved communal facilities of gym, conference room, and lounge area on Level 2 was sub-optimal considering there is no adjacent outdoor space and also no outlook of note at this level. The development has been approved 4 metres under the 44 metre height control, which has provided the opportunity to relocate the communal facilities to the top of the approved building, where a very attractive outlook and northerly aspect is available. Furthermore, the relocation of the indoor facilities to the top of the building facilitates co-location with outdoor areas comprising pool, spa, bar and outdoor decking.

The indoor areas are located the rear (southern side) of the floorplate, and the outdoor facilities area also setback from the front edge of the building, such that they are not readily visible from the public domain of Robey Street, as illustrated in Section A (Drawing A040) which accompanies this submission.

Whilst the proposed amendment has marginally increased the floor space associated with the development, this does not result in a built form which is contrary to the anticipated scale of development for this site.

The proposed amendments represent an important and desirable design refinement which significantly improves the amenity of the hotel and without adverse impact.

The roof top communal facilities are intended to be a signature piece for the hotel with a premium design outcome and fitout, with the intended aesthetic illustrated in the figures below:



Figure 5:

Artist's impression of rooftop pool area and decking



Figure 6:

Intended design approach and aesthetic for the roof top pool and decking



Figure 7:

Intended design approach and aesthetic for the sauna

Figure 8:

Intended design approach and aesthetic for the gym



Figure 9:

Intended design approach and aesthetic for the bar area

4.3 Numerical Comparison

Element	Approved	Amended
Site Area	897.7 square metres	897.7 square metres
Gross Floor Area	4,265 square metres	4,410.2 square metres
Height	39.875 metres	44 metres
Levels	12 storey	13 storey
Hotel rooms	145	153
Car parking	33 spaces	33 spaces
Landscaped area	137 square metres (equivalent of 18% of site area)	137 square metres (equivalent of 18% of site area)

4.4 Proposed Amendments to Conditions

The application proposes the following amendments to the conditions of consent:

**4.4.1 Condition No. 2**

It is proposed to amend Condition No. 2 to reflect the updated architectural plans and elevations and accompanying documentation which forms part of this application.

## 5.0 STATUTORY PLANNING FRAMEWORK

### 5.1 Environmental Planning and Assessment Act 1979

Section 4.55(2) of the Environmental Planning and Assessment Act 1979 empowers Council to modify a development consent, as follows:

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and

(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and

(c) it has notified the application in accordance with:

(i) the regulations, if the regulations so require, or

(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.

The amended proposal retains the fundamental components of the approved layout and spatial characteristics of the development. Conceptually, the proposal remains a hotel development and the amended proposal also retains largely similar envelope to the approved development, with some additional elements at the top of the building. To the casual observer, the amended proposal would appear generally the same as the approved development.

Quantitatively, the proposed amendments to the approved development are not such that they significantly change the development in relation to the gross floor area, height, parking, or landscaped area. The proposed amendments are improvements to the functionality of the building and do not radically transform the proposal.

The proposal is therefore considered to be "essentially or materially" the same as the approved development in that the modification does not materially alter any fundamental elements of the original application such as the use or scale of the development on the site.

On this basis the proposal is appropriately categorised as being "substantially the same" as required by Section 4.55(2) of the EP&A Act.

## 5.2 Environmental Planning Instruments

In accordance with Section 4.55(3) of the Environmental Planning and Assessment Act 1979 in determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application.

The provisions contained within the applicable environmental planning instruments and development control plan which are relevant to the proposed modification are addressed below.

### 5.2.1 Bayside Local Environmental Plan 2021

#### Zoning and Permissibility

The majority of the site is located within the E3 Productivity Support zone pursuant to the Bayside Local Environmental Plan 2021 (BLEP). An extract of the Land Zoning Map is included as Figure 5. The approved development, which is proposed to be modified, is for the demolition of all structures on the site and the construction of a new hotel which meets the definition of 'hotel or motel accommodation'. The proposed amendments do not alter the approved use and the amended development remains permissible with consent.



Figure 5:

Extract from the BLEP  
Land Zoning Map

#### Height

In accordance with clause 4.3 'Height of Buildings' 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'. A 44 metre (Zone W2) height applies to the site as shown in Figure 6.

The approved development has a compliant height of 39.875 metres and the amended proposal does not result in any change to this approved height and remains compliant with the maximum 44 metre height control.



Figure 6:

Extract from the BLP  
Height of Buildings  
Map

Floor Space Ratio

Clause 4.4(2) of the BLP provides that the maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map. The floor space ratio control on the part of the subject site zoned E3 is 3:1 as shown in Figure 7.



Figure 7:

Extract from the  
BLP FSR Map

A comparison of the approved Gross Floor Area and Floor Space Ratio for the site is shown in the table below:

Element	Approved	Amended
Site Area	897.7 square metres	897.7 square metres
Gross Floor Area	4,265 square metres	4,410.2 square metres
FSR	4.75:1	4.91:1

The increase in Gross Floor Area for the development as a consequence of the proposed amendments is only 145.2 square metres, or an increase of 3.4% of the previously approved floor area.

Whilst the proposed amendment increases the approved FSR from 4.75:1 to 4.91:1, the proposed further variation to the 3:1 FSR control is considered reasonable in this instance for the following reasons:

- The proposed amendment only actually increases the overall Gross Floor Area by 145.2 square metres which is very minor and does not represent any meaningful change to the approved density of the overall development.
- The approved arrangement for the communal facilities provides for a sub-optimal outcome and the proposal seeks to significantly improve the amenity for the hotel by grouping the internal and external areas at the top of the building. It is this design refinement which is directly responsible for the increase in FSR, and this is a beneficial outcome which should be supported.
- The increase in the FSR results in only minimal change to the overall approved building envelope as the new internal areas on the top floor of the building have been located to the rear of the floorplate, and are not readily visible from the public domain in front of the building. Furthermore, the amended design remains compliant with the 44 metre height control and therefore does not result in a scale of development which is inconsistent with the intended scale of development on the location.
- The amended proposal responds properly to opportunities and constraints of the site and is considered to achieve an appropriate design outcome. A reduction in the floor space ratio of the development would not result in any meaningful difference in relation to the impact of the proposal within the context of the site. A reduction in floor space would unnecessarily reduce hotel accommodation on an ideally located site near the Sydney airport.
- The availability and capacity of local infrastructure and public transport supports the additional floor space proposed. The site is located in close proximity to Mascot Train Station and a range of bus services.
- The increase in overall density of 145.2 square metres does not give rise to any unreasonable impacts on the adjoining properties in terms of overshadowing, loss of privacy or visual impact.
- Having regard to the planning principle established in the matter of *Project Venture Developments v Pittwater Council [2005] NSWLEC 191* most observers would not find the amended development offensive, jarring or unsympathetic to its location and the proposed development will be compatible with its context.

#### Design excellence

Clause 6.10 of the BLEP applies to development involving the erection of a new building development on land shown edged heavy black on the Design Excellence Map, which includes the subject site.

Clause 6.10(5)(b) states that development consent must not be granted to development to which this clause applies for a building over 40 metres or 12 storeys in height unless an architectural design competition is held in relation to the development. However, it is noted that as the application is a modification pursuant to Section 4.55 of the *Environmental Planning & Assessment Act 1979*, there is a well established and extensive list of case law which confirms that this application is not seeking "development consent" and is instead seeking approval for a modification to an existing development consent. Accordingly, the subject application is not constrained by Clause 6.10(5)(b) and the consent authority has the power to determine the application, which exceeds 40m and does not involve a design competition.

The amended development is considered to retain design excellence for the following reasons:

- The approved development for the site was considered to achieve design excellence by Council in their assessment report and also by the Design Review Panel. The approved development has established an appropriate built form and architectural language for the development and these elements are all retained in the amended proposal.
- The approved development on the site has established the appropriate side, rear and front setbacks, the appropriate landscape design and treatment, the appropriate ground floor design, and the appropriate architectural expression and design for the building. The proposed alterations and additions to the approved development retains all of these essential elements without any change, and the only external change is the additional elements on the roof of the building. These have been intentionally setback from the front edge of the building, such that the amended proposal appears remarkably similar to the approved development.
- The amended development achieves an improved design outcome by relocating communal facilities to the roof top where they are co-located with the new external facilities, which achieves a significant improvement to the communal offering for hotel guests.
- The amended development retains the unique architectural language and façade expression of the approved building which provides a high quality signature building on this site which was a key feature for support of the development by the Design Review Panel.
- The amended design retains the previously identified high standard of architectural design and materiality as detailed in the architectural plans.
- The amended proposal retains the principles of ecologically sustainable development which supported the approved development.
- The amended development does not adversely impact view corridors from the public domain.
- The amended development has maximised internal amenity having regard to the constraints of the site.
- The redevelopment of the site will deliver public benefits for the community with upgrades to the public domain enhancing the amenity and liveability for residents, workers and visitors. A number of existing vehicular crossings will become redundant resulting in additional space for on-street parking in Robey Street.
- The amended development retains a comprehensive design for the landscaping of the site and all public domain areas surrounding the site.
- The amended proposal will deliver much needed additional hotel accommodation in an ideal locality in close proximity to Sydney Airport.

#### Remaining Provisions

The subject proposal is only for minor design amendments to the approved development and does not require any further consideration against the remaining provisions of the BLEP beyond those which were considered in the assessment of the original development application

#### 5.3 Bayside Development Control Plan

The Bayside Development Control Plan 2022 (BDCP) came into force on 10 April 2023.

The proposal is for alterations and additions to an existing approved hotel building, and as such there are limited relevant controls in the DCP.

The following table addresses the provisions of the DCP which are relevant to the nature of the proposal as being alterations and additions to the previously approved hotel development on the site.

Requirement	Proposed
<b>3.2 Design Excellence</b>  Development is to give consideration to the principles of design excellence as outlined within Clause 6.10 of Bayside Local Environmental Plan 2021 and within Council's Design Excellence Guidelines.	<p>The amended proposal is considered to continue to achieve exhibit design excellence and in fact achieves an improvement for the following reasons:</p> <ul style="list-style-type: none"><li>• The approved development for the site was considered to achieve design excellence by Council in their assessment report and also by the Design Review Panel. The approved development has established an appropriate built form and architectural language for the development and these elements are all retained in the amended proposal.</li><li>• The approved development on the site has established the appropriate side, rear and front setbacks, the appropriate landscape design and treatment, the appropriate ground floor design, and the appropriate architectural expression and design for the building. The proposed alterations and additions to the approved development retains all of these essential elements without any change, and the only external change is the additional elements on the roof of the building. These have been intentionally setback from the front edge of the building, such that the amended proposal appears remarkably similar to the approved development.</li><li>• The amended development achieves an improved design outcome by relocating communal facilities to the roof top where they are co-located with the new external facilities, which achieves a significant improvement to the communal offering for hotel guests.</li><li>• The amended development retains the unique architectural language and façade expression of the approved building which provides a high quality signature building on this site which was a key feature for support of the development by the Design Review Panel.</li><li>• The amended design retains the previously identified high standard of architectural design and materiality as detailed in the architectural plans.</li></ul>

Requirement	Proposed
	<ul style="list-style-type: none"> <li>The amended proposal retains the principles of ecologically sustainable development which supported the approved development.</li> <li>The amended development does not adversely impact view corridors from the public domain.</li> <li>The amended development has maximised internal amenity having regard to the constraints of the site.</li> <li>The redevelopment of the site will deliver public benefits for the community with upgrades to the public domain enhancing the amenity and liveability for residents, workers and visitors. A number of existing vehicular crossings will become redundant resulting in additional space for on-street parking in Robey Street.</li> <li>The amended development retains a comprehensive design for the landscaping of the site and all public domain areas surrounding the site.</li> <li>The amended proposal will deliver much needed additional hotel accommodation in an ideal locality in close proximity to Sydney Airport.</li> </ul>
<b>3.5 Transport, Parking and Access</b>	
<b>3.5.3 On-site car parking rates</b> <ul style="list-style-type: none"> <li>1 space per 4 rooms</li> </ul>	<p>The DCP suggests a rate of 1 car parking space per 4 rooms which would require 36 car parking spaces, for the approved development. However, the DCP also provides that Council may reduce car parking provision in certain circumstances, including where peak parking and traffic activity occurs during periods where surrounding parking demand is lowest, located adjacent to high frequency public transport services and/or urban services, or includes management regimes to minimise car use, such as Workplace "Green" Travel Plans or on-site car share schemes.</p> <p>The approved development provides 33 car parking spaces (1 space per 4.4 rooms) and the variation was supported on the following grounds:</p> <p style="padding-left: 20px;"><i>...the proposal is acceptable based on the parking survey conducted by the applicant in relation to nearby hotels. This is also based on the use of an efficient shuttle bus service to the airport and city by the hotel. The hotel includes a pick up and drop off space for the shuttle bus and for cars in front of the site. The revisions to the plan address the concerns of the Bayside</i></p>

Requirement	Proposed
	<p><i>Traffic Development Advisory Committee and Council's Development Engineer.</i></p> <p>The amended proposal has increased the number of hotel rooms to 153 as a consequence of relocating the communal facilities to the rooftop, however, retains the approved 33 car parking spaces as it is not possible to increase car parking any further. This results in a car parking provision of 1 space per 4.6 rooms. This is a very minor change to the approved car parking provision of 1 space per 4.4 rooms and it is considered that the amended proposal remains acceptable in relation to car parking provision for the same reasons that supported the previous approval. That is, the 33 car parking spaces are sufficient for the 153 rooms based on the parking survey of nearby hotels which demonstrates limited demand for on-site car parking for hotels in Mascot due to the close proximity to the airport. Furthermore, the development incorporates an efficient shuttle bus service to the airport and city by the hotel, and the hotel also includes a pick up and drop off space for the shuttle bus and for cars in front of the site.</p>
<b>7.7 Mascot West Employment Lands</b>	
Transport and Traffic	The proposed amendments to the approved development will not result in any meaningful difference in relation to traffic impacts to the surrounding road network.

## 6.0 CONCLUSION

This application seeks to amend Development Application 2024/111 for Alterations and additions to DA-2022/423 to increase the number of hotel rooms from 77 to 145 hotel rooms, associated facilities, conversion of existing basement into car parking, additional basement level and new private road at 100A, 102-106 Robey Street, Mascot.

The application seeks the following modifications to the approved development:

- Minor reconfiguration of the ground floor arrangement with new ramp to the entrance, reconfiguration of the luggage room, and new toilet facilities, and change to the substation level.
- Replacement of conference room, lounge area and gym on Level 01 with 8 additional hotel rooms.
- Introduction of a connecting door between two rooms on every level to provide flexibility for families.
- Minor change to the window at the western end of the corridor on Level 01 and above for BCA compliance
- Introduction of new part level 12 which comprising a gym, function room, toilets, sauna and pool and associated bar and outdoor areas.

The amendments represent a refinement to the approved development and significant improvement to the communal facilities offered by the hotel by locating them on the top floor and adjacent to expansive outdoor area. The amended proposal retains the fundamental components of the approved layout and spatial characteristics of the development.

As detailed in this submission the proposed modifications may be made by the consent authority in accordance with Section 4.55(2) of the Environmental Planning and Assessment Act 1979 as the proposed amendments are substantially the same development as originally approved and will not result in any adverse impacts on the amenity of the locality.

The proposed amendments remain consistent with the aims and objectives of the relevant environmental planning instruments and development control plan and will not result in any adverse impacts on the amenity of the locality. Accordingly, the proposed amendments are considered acceptable as they represent refinements and improvements to the hotel facilities and therefore warrant approval.



**NOTICE OF DETERMINATION FOR MODIFICATION OF DEVELOPMENT CONSENT**

<b>Application number</b>	MDA-2025/38 PAN-518235
<b>Applicant</b>	Blacksmith & Beard Sydney Airport Hotel Constructions Pty Ltd PO Box 1222 Mascot NSW 1460
<b>Description of development</b>	Modification to DA-2024/111 to approved hotel including an additional eight (8) hotel rooms at Level 1, increase the number of hotel rooms from 145 to 153 hotel rooms, associated facilities, construction of one additional storey for pool, bar and guest facilities and internal changes
<b>Property</b>	100A, 102-106 ROBEY STREET, MASCOT NSW 2020 LOT 41 DP 1296247, LOT 622 DP 1031958 LOT 42 DP 1296247, LOT 621 DP 1031958)
<b>Determination</b>	Approved Consent Authority – Bayside Local Planning Panel
<b>Date of determination</b>	10/02/26
<b>Date from which the consent operates</b>	16/12/24
<b>Date on which the consent lapses</b>	16/12/29

Under section 4.55(1A) of the EP&A Act, notice is given that the above application to modify DA-2024/111 has been approved, subject to the conditions specified in this notice and as described in the Modification Summary.

### **Reasons for approval**

- The proposal remains the same or substantially the same development as originally approved.
- The proposal, subject to conditions, is consistent with the objectives of the E3 Productivity Support zone and the relevant objectives of Bayside Local Environmental Plan 2021.
- The proposal is consistent with the objectives of and complies with the controls in the Bayside Development Control Plan 2022.
- The proposal and use of the roof top terrace is suited to the site and area.
- The scale and design of the proposed additional storey is suitable for the location and is compatible with the desired future character of the locality.
- The proposal will not result in any significant impact on the environment or the amenity of nearby residents.
- Recommended conditions of consent appropriately mitigate and manage potential environmental impacts of the proposal.

### **Right of appeal / review of determination**

If you are dissatisfied with this determination:

#### **Request a review**

You may request a review of the consent authority's decision under section 8.3(1) of the EP&A Act. The application must be made to the consent authority within 6 months from the date that you received the original determination notice provided that an appeal under section 8.9 of the EP&A Act has not been disposed of by the Court.

#### **Rights to appeal**

You have a right under section 8.9 of the EP&A Act to appeal to the Court within 6 months after the date on which the determination appealed against is notified or registered on the NSW planning portal.

The Dictionary at the end of this consent defines words and expressions for the purposes of this determination.

Carine Elias  
Manager Development Services  
Person on behalf of the consent authority

For further information, please contact Michael Maloof on 02 9562 1686 / Senior Development Assessment Planner

## Modification Summary

### Modified Conditions

Application Number (PAN)	Determination Date	Modification Description
PAN-518235	10/02/2026	Amendments to Conditions 1, 7, 12, 14(c), 16, 18, 50, 34, 111(c), 112(e), 121 and 156 Insertion of condition 14C

### Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

## 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 (25/210535)				
Plan No.	Revision No.	Plan Title	Drawn By	Date of Plan
<b>Architectural Plans</b>				
Dwg No A00.000	E	Cover Sheet		25/06/2025
Dwg No A010	A	Floor Plan - Basement 2 Plan		25/06/2025
Dwg No A011	D	Floor Plan - Basement 1 Plan		25/06/2025
Dwg No A012	F	Level 00 Ground Plan		25/06/2025

<i>Dwg No A013</i>	<i>D</i>	<i>Level 01 Plan</i>	<i>Design Workshop Australia (DWA)</i>	<i>25/06/2025</i>
<i>Dwg No A014</i>	<i>D</i>	<i>Level 02 Plan</i>		<i>25/06/2025</i>
<i>Dwg No A015</i>	<i>D</i>	<i>Levels 03-11 Plans</i>		<i>25/06/2025</i>
<i>Dwg No A016</i>	<i>E</i>	<i>Level 12</i>		<i>25/06/2025</i>
<i>Dwg No A017</i>	<i>D</i>	<i>Roof Plan</i>		<i>25/06/2025</i>
<i>Dwg No A030</i>	<i>E</i>	<i>Elevation North</i>		<i>25/06/2025</i>
<i>Dwg No A031</i>	<i>D</i>	<i>Elevation East</i>		<i>25/06/2025</i>
<i>Dwg No A032</i>	<i>D</i>	<i>Elevation South</i>		<i>25/06/2025</i>
<i>Dwg No A033</i>	<i>D</i>	<i>Elevation West</i>		<i>25/06/2025</i>
<i>Dwg No A040</i>	<i>G</i>	<i>Section A</i>		<i>25/06/2025</i>
<i>Dwg No A041</i>	<i>E</i>	<i>Section B</i>		<i>25/06/2025</i>
<i>Dwg No A045</i>	<i>A</i>	<i>Ramp Section</i>	<i>DWA</i>	<i>25/06/2025</i>
<b>Stormwater Plans (24/286866)</b>				
<b>Plan No.</b>	<b>Revision No.</b>	<b>Plan Title</b>	<b>Drawn By</b>	<b>Date of Plan</b>
C0-00	B	Coversheet	<i>E Egis</i>	<i>26/09/2024</i>
C0-02	B	Notes and Legend		<i>26/09/2024</i>
C2-00	D	Ground Floor Plan		<i>26/09/2024</i>
C2-01	C	Basement Level 1		<i>26/09/2024</i>

C2-02	C	Basement Level 2		26/09/2024
C3-10	C	Driveway Section 1		26/09/2024
C3-11	C	Driveway Section 2		26/09/2024
C4-20	B	Stormwater Details		26/09/2024
C4-21				
C4-22				
C4-60	B	Stormwater Catchment		26/09/2024

<b>Approved Documents</b>				
<b>Document Title</b>	<b>Version No.</b>	<b>Prepared By</b>	<b>Date of Document</b>	
Hotel Plan of Management	1	Blacksmith and Beard	April 2024	
BCA Assessment Report	1	Stuart Boyce	7 December 2022	
Wind Assessment	Final Report Version 3	CCP Wind Engineering Consultants	December 2022	
Section J Report	03	E-Lab Consulting	26 March 2024	
Noise Impact Assessment Report As amended by Revised Noise Impact Assessment Report	0 0	Acoustic Logic Acoustic Logic	4 November 2022 12 April 2024	
<b>S4.55 Planning Statement V1 (25/107405)</b>	<b>0</b>	<b>Sutherland and Associates Planning</b>	<b>March 2025</b>	
<b>Traffic Impact Assessment Report (25/210536)</b>	<b>Rev B</b>	<b>JMT Consulting</b>	<b>25 June 2025</b>	

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

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.*

**[PAN-518235 20250210 Condition was amended]**

**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. 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.*

**4. Enclosure of Structures**

The balconies and car parking spaces shall not be enclosed at any future time without prior development consent.

**REASON**

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

**5. 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.*

**6. Approved Materials and Finishes**

The finishes, materials and colour scheme approved under condition 1 and any other relevant conditions 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.*

## 7. Parking Allocation

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

Use	Number of Spaces Allocated
Hotel	35 car spaces (including one accessible space)
<b>Others</b>	
Loading Bay	1 SRV
<b>Bicycle parking</b>	
Hotel	16 bicycle spaces

The above allocation must be adhered and complied with at all times.

### **REASON**

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

**[PAN-518235 20250210 Condition was amended]**

## 8. 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.*

## 9. Design Architect Involvement

- a) In order to ensure the design excellence of the development is retained:
  - i) A registered architect is to have direct involvement in the design documentation, contract documentation and construction stages of the project, and
  - ii) The design architect is to have full access to the site and is to be authorised by the applicant to respond directly to the consent authority where information or clarification is required in the resolution of design issues throughout the life of the project, and
  - iii) Evidence of the design architect's commission is to be provided to the Council prior to release of the Construction Certificate.
- b) The design architect of the project is not to be changed without prior notice and approval of the Council.

**REASON**

*To ensure design quality is achieved in accordance with the approved plans and documentation.*

**10. Food Premises – Grease Trap**

Adequate provision must be made for the treatment of waste water from the premises to include provision for a Sydney Water approved grease trap. The grease trap, including any pumps must be installed below ground and outside of the confines of the kitchen and food storage areas.

The grease trap installation must service all commercial sections of the development and be designed, constructed and operated in accordance with: Australian Standard AS 3500 and National Plumbing & Drainage Code.

Details demonstrating compliance with the requirements of this condition are to be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

**REASON**

*To protect the environment.*

**11. Tree Protection and Management**

a) Tree Protection:

- i) Prior to commencement of any work on site, in order to ensure that the existing street tree in front of No. 102 Robey Street is protected during demolition and construction, and the health and structural stability ensured, a Tree Protection Zone (TPZ) shall be established as follows:
  - A. 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
  - B. Protective fences at least 1.5 metres high erected, at the greater of the drip lines or 1 metre from the trunk, around the tree which is to be retained. 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
  - C. 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
  - D. 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.

- ii) 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.
- iii) There shall be no excavation, walls (retaining or otherwise), drainage / OSD, pavement works including footpath and driveway crossover, kerb and gutter, or trenching for utility services within the drip line of trees. Any unavoidable work within the TPZ may only be undertaken with agreement in writing of Council's Tree Management Officer (or Project Arborist).
  - A. Where unavoidable foot access is required in the TPZ, provide timber sheets to minimise soil compaction, spillage or root damage, and
  - B. Where unavoidable excavation is required within the canopy drip line and/or TPZ of any tree, works shall be carried out manually using hand tools to minimise root damage or disturbance, and
  - C. If roots greater than 40mm diameter are encountered Council's Tree Management Officer or the Project Arborist is required to inspect and provide advice prior to works continuing. In such cases, alternative construction methods (e.g. raft slab) may be required.
- iv) Existing soil levels within the drip line of trees shall not be altered without written agreement from Council's Tree Management Officer.
- v) Fencing / walls or retaining walls located within the drip line of the street tree shall be of pier and beam construction to minimise damage to major or structural tree roots. Trench or strip footings are not permitted.
- vi) Any pruning of branches of any size, or tree roots 40mm in diameter or greater requires prior written consent from Council in the form of a Permit. For trees located on adjoining sites, written consent of the tree owner is also required. The work must be carried out in accordance with AS4373-2007 and the Code of Practice Amenity Tree Industry (Safe Work NSW) by an experienced Arborist with minimum AQF Level 3 Qualifications in Arboriculture.
- vii) If adjustment or connection to service utilities is required, all work must be undertaken outside of the drip line / structural root zone so as not to impact or harm existing trees. New overhead service wires shall be located to ensure they are outside of the canopy of any existing trees – canopy pruning will not be permitted. Any unavoidable work within the drip line requires agreement in writing and supervision from Council's Tree Management Officer or the Project Arborist.

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.*

**12. Sydney Airport**

The following conditions are imposed by the Sydney Airport Corporation Limited (SACL) in their letter dated **7 October 2025** and must be complied with:

- a) The building shall be obstacle lit by low intensity steady red lighting during the hours of darkness and periods of low visibility at the highest point of the building. Obstacle lighting shall be arranged in accordance with the requirements of Section 9.31 of Part 139 Manual of Standards (MOS).  
*The proponent shall ensure that the obstacle lighting is monitored and maintained at all times. The characteristics for low intensity obstacle lighting are described in subsection 9.32 of MOS.*
- b) The approved height is inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae, construction cranes etc.
- c) Should you wish to exceed this height a new application must be submitted.
- d) Should the height of any temporary structure and/or equipment be greater than 15.24 metres AEGH, a new approval must be sought in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161.
- e) Construction cranes may be required to operate at a height significantly higher than that of the proposed development and consequently, may not be approved under the Airports (Protection of Airspace) Regulations.
- f) Sydney Airport advises that approval to operate construction equipment (i.e., cranes) should be obtained prior to any commitment to construct.

The application sought approval for the property development to a **height of 51.81 metres** Australian Height Datum (AHD) or 43.8m Above Ground Level.

Based on the above conditions, the approved height of **51.81m AHD** is inclusive of all vents, chimneys, aerials, TV antennae and construction cranes etc. No permanent or temporary structure is to exceed this height without further approval from Sydney Airport Corporation Limited.

Note: Under Section 186 of the *Airports Act 1996*, it is an offence not to give information to the Airport Operator that is relevant to a proposed "controlled activity" and is punishable by a fine of up to 50 penalty units.

For further information on Height Restrictions please contact SACL on 9667 9246.

**REASON**

*To ensure compliance with requirements of Sydney Airports Corporation Limited.*

***[PAN-518235 20250210 Condition was amended]***

### 13. Ausgrid

The following conditions are imposed by Ausgrid and must be complied with:

Care should be taken to ensure that construction activities do not interfere with existing underground cables located in the footpath or adjacent roadways.

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).

The following points should 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.

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](http://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](http://www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries)

For new connections or to alter the existing electrical connection to the property from the Ausgrid network, the proponent should engage an Accredited Service Provider and submit a connection application to Ausgrid as soon as practicable.

Visit the Ausgrid website for further details:

<https://www.ausgrid.com.au/Connections/Get-connected>

Should you have any enquiries please contact Ausgrid at:

[Development@ausgrid.com.au](mailto:Development@ausgrid.com.au)

#### ***REASON***

*To ensure compliance with requirements of Ausgrid.*

#### **14. Sydney Water**

The following conditions are imposed by Sydney Water in their letter dated 28 February 2023 and must be complied with:

##### *Water and Wastewater Servicing*

- Water and wastewater servicing is available to the site.
- Amplifications, adjustments, and/or minor extensions may be required.

Sydney Water understands the proposal is adjacent Sydney Water land at 111 Baxter Road, Mascot and that the proposal adopts a variable and staggered setback from the eastern adjacent boundary with the Sydney Water corridor. This setback is between nil and approximately 1.8m. Further discussions between Sydney Water and the Applicant may be undertaken when the development is referred to Sydney Water for a Section 73 application.

This advice is not formal approval of our servicing requirements. Detailed requirements, including any potential extensions or amplifications, will be provided once the development is referred to Sydney Water for a Section 73 application. More information about the Section 73 application process is available on our web page in the Land Development Manual.

Further advice and requirements for this proposal are below.

##### *Section 73 Compliance Certificate*

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water.

The proponent is advised to make an early application for the certificate, as there may be water and wastewater pipes to be built that can take some time. This can also impact on other services and buildings, driveways or landscape designs.

Applications must be made through an authorised Water Servicing Coordinator. For help either visit [www.sydneywater.com.au](http://www.sydneywater.com.au) > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.

##### *Building Plan Approval*

The approved plans must be submitted to the Sydney Water Tap in™ 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.

The Tap in™ service provides 24/7 access to a range of services, including:

- building plan approvals
- connection and disconnection approvals
- diagrams

- trade waste approvals
- pressure information
- water meter installations
- pressure boosting and pump approvals
- changes to an existing service or asset, e.g. relocating or moving an asset.

Sydney Water's Tap in™ online service is available at:

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

Sydney Water recommends developers apply for Building Plan approval early as in some instances the initial assessment will identify that an Out of Scope Building Plan Approval will be required.

*Out of Scope Building Plan Approval*

Sydney Water will need to undertake a detailed review of building plans:

1. That affect or are likely to affect any of the following:
  - Wastewater pipes larger than 300mm in size
  - Pressure wastewater pipes
  - Drinking water or recycled water pipes
  - Our property boundary
  - An easement in our favour
  - Stormwater infrastructure within 10m of the property boundary.
2. Where the building plan includes:
  - Construction of a retaining wall over, or within the zone of influence of our assets
  - Excavation of a basement or building over, or adjacent to, one of our assets
  - Dewatering – removing water from solid material or soil.

The detailed review is to ensure that:

- our assets will not be damaged during, or because of the construction of the development
- we can access our assets for operation and maintenance
- your building will be protected if we need to work on our assets in the future.

The developer will be required to pay Sydney Water for the costs associated with the detailed review.

*Tree Planting*

Certain tree species placed in close proximity to Sydney Water's underground assets have the potential to inflict damage through invasive root penetration and soil destabilisation. Sydney Water requires that all proposed or removed trees and vegetation included within the proposal adhere to the specifications and requirements within Section 46 of the Sydney Water Act (1994) and Diagram 5 – Planting Trees within our Technical guidelines – Building over and adjacent to pipe assets. Please note these guidelines include more examples of potential activities impacting our assets which may also apply to your development.

If any tree planting proposed breaches our policy, Sydney Water may need to issue an order to remove every tree breaching the act, or directly remove every tree breaching the Act and bill the developer or Council for their removal.

**REASON**

*To ensure compliance with requirements of Sydney Water.*

**14A Consolidation of Lots**

All allotments involved in this proposal (Lot 621 & 622 in DP 1031958 and Lot 41 in DP 1296247) must be consolidated into one allotment. Details demonstrating compliance with the requirements of this condition and evidence of registration of the plan of consolidation with the NSW Land registry Services are to be submitted to the satisfaction of the Principal Certifier prior to the issue of an Occupation Certificate.

**REASON**

*To encourage the orderly and economic use of the land.*

**14B Water NSW**

**Dewatering**

GT0115-00001 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.

GT0116-00001 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.

GT0117-00001 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 paragraph17A, Schedule 4 of the Water Management (General) Regulation 2018.

GT0118-00001 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.

GT0119-00001 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. GT0120-00001 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.

GT0121-00001 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.

GT0122-00001 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)

GT0123-00001 (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/waterlicensing/dewatering](http://www.waternsw.com.au/customer-service/waterlicensing/dewatering)

GT0150-00001 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 & ASS, details of proposed management and treatment of soil and groundwater. Testing and management should align with the NSW Acid Sulphate Soil Manual

GT0151-00001 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.

GT0152-00001 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.

GT0155-00001 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.*

**14C Swimming Pools**

- a) The edge of the coping of the proposed plunge pool and spa on the roof top level shall be setback a minimum of 1m (not 0.6m) from the balustrade along the northern edge of the roof top terrace. This will ensure adequate separation around the edge of the pool and comply with the requirements of part 5.1.3 of Council's DCP 2022.
- b) The design and construction of the swimming pool and associated fencing and equipment must comply with:
  - i) *Swimming Pools Act 1992*, and
  - ii) *Swimming Pool Regulation 2018*, and
  - iii) *National Construction Code*, and
  - iv) *AS 1926.1 - Swimming Pool Safety - Safety Barriers for Swimming Pools*, and
  - v) *Protection of the Environment Operations Act 1997*.

Details demonstrating compliance with the requirements of this condition are to be submitted to the Principal Certifier prior to the issue of the Construction Certificate and must be complied with prior to the issue of the Occupation Certificate.

- c) The swimming pool shall be designed and constructed in a manner that does not allow water to be drained to the adjoining properties, and
- d) Waste water from the pool or spa shall be discharged into the Sydney Water system, and
- e) The swimming pool shall be registered in accordance with the requirements of the *Swimming Pools Act 1992* prior to issue of any Occupation Certificate, and

- f) The pool / spa shall not be filled until the safety fences have been completed in accordance with this consent and inspected by the Principal Certifier, and
- g) The motor, filter, pump and sound producing equipment of fittings associated with or forming part of the pool filtering system shall be sound insulated and/or isolated so as not to create an offensive noise to neighbours.

The swimming pool is to be installed with a timer that limits the recirculation and filtration systems operation such that it does not emit noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to the room is open):

- i. Before 8.00 am or after 8.00 pm on any Sunday or public holiday, or
- ii. Before 7.00 am or after 8.00 pm on any other day.

**REASON**

*To minimise impacts and achieve compliance with relevant legislation.*

*[PAN-518235 20250210 Condition was inserted]*

## 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 existing boundary levels along the entire development site frontage need to be revised to provide an acceptable public domain outcome. A civil engineering & landscape public domain plan must be prepared by a suitably qualified consultants (civil engineer & landscape architect) and be submitted to the Bayside Council Director of City Futures (or delegate) for approval prior to the issue of any construction certificate addressing the below mentioned points:
  - I. The boundary levels along the entire frontage of the site must be raised to be set at the adjacent top of kerb level at minimum with a suitable crossfall provided from the boundary to the kerb. This boundary level adjustment will require minor regrading at the interface with adjoining properties along the frontage of 102A and 108 Robey Street (similar to what is shown in the approved civil plans prepared by EGIS drawing C2-00 rev D).
  - II. A longitudinal driveway profile for the private road shall be prepared by a qualified Civil Engineer. The profile shall start in the centre of the road and be along the critical edge (worst case) of the private road. Gradients and transitions shall be in accordance with AS/NZS 2890.1:2004 for a B99 Vehicle. The profile shall include all relevant levels, grades (%), headroom clearances and lengths. A minimum driveway crest of RL9.1m AHD shall be provided.

- III. A longitudinal driveway profile for the driveway to the loading dock shall be prepared by a qualified Civil Engineer. The profile shall start in the centre of the road and be along the critical edge (worst case) of the private road. Gradients and transitions shall be in accordance with AS/NZS 2890.1:2004 for a B99 vehicle & AS2890.2:2018 for the SRV vehicle. The profile shall include all relevant levels, grades (%), headroom clearances and lengths. A minimum driveway crest of RL8.23m AHD shall be provided.
- IV. For the extent of the on-street pick-up/drop-off area, the paved footpath shall extend from the property boundary to the kerb with street tree pits. The paver details shall be consistent with the frontage of 108 Robey Street.

The internal design levels for access points (e.g. pedestrian and vehicular entry) shall be designed from the approved boundary levels and be reflected on the construction certificate plans.

- b) The architectural plans are to be amended to provide 16 bicycle spaces in the basement designed as per AS2890.3.
- c) 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.
- d) Screen any hot water system / unit in the balconies from view from the public domain.
- e) Finish the internal vehicle entrance area and driveway surrounds that is visible from the public domain in a manner that is consistent with the overall façade design.
- f) Balustrades shall be constructed with opaque or solid materials to a minimum height of 1000mm.
- g) Details shall be submitted to the satisfaction of the Principal Certifier prior to the issue of a Construction Certificate.

**REASON**

*To require minor amendments to the approved plans and supporting documentation following assessment of the development.*

**16. Payment of Fees and Security Deposits (if applicable)**

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	\$ 25.50
Section 7.11 Contributions	\$ <b>66,471.64</b>
Builders Damage Deposit (Security Deposit)	\$ 49,350.00
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.*

**[PAN-518235 20250210 Condition was amended]**

**16A. Long Service Levy**

Before the issue of the relevant Construction Certificate, the long service levy of \$54,532.20, 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.*

**17. Payment of Security Deposits**

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

- make payment of \$49,350.00 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 Section 7.11 Contributions**

A Section 7.11 contribution of \$66,471.64 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.

	MDA-2025/38	Code
Community Facilities	\$ 5,797.80	MMS1
Recreation and Open Space	\$ 48,159.60	MMS2
Transport Facilities	\$ 11,982.44	MMS3
Administration	\$ 531.80	MMS4
<b>Total in 2025/26</b>	<b>\$ 66,471.64</b>	

**The contribution amount listed above is for the subject application only including the additional hotel rooms. The development contribution, as indexed, under DA-2022/423 is required to be paid in accordance with that consent. If DA-2022/423 is to be surrendered, then the above contribution amount is to be modified by Council to include the entire development, at an indexed rate.**

Copies of the Contribution Plan can be inspected at the Council's Customer Services Centre, Administration Building, 444-446 Princes Highway, Rockdale.

**REASON**

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

**[PAN-518235 20250210 Condition was amended]**

**19. Housing and Productivity Contribution**

The housing and productivity contribution (HPC) is required to be made as set out in the table below, or as indexed or adjusted before the quarter in which the payment is made.

Housing and Productivity Contribution	Amount
Housing and Productivity Contribution (base component)	\$ 43,590.90
Transport Project Component	N/A
<b>Total Housing and Productivity Contribution</b>	<b>\$ 43,590.90</b>

The HPC must be paid using the NSW Planning Portal.

At the time of payment, the amount of the HPC is to be adjusted in accordance with the *Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2024 (HPC Order)*.

The HPC may be made wholly or partly as a non-monetary contribution (apart from any transport project component) if the Minister administering the *Environmental Planning and Assessment Act 1979* agrees.

The HPC is not *required* to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the *Environmental Planning and Assessment Act 1979* to the development, or the HPC Order exempts the development from the contribution.

The amount of the contribution may also be reduced under the HPC Order, including if payment is made before 1 July 2025.

**REASON**

*To require contributions towards the provision of regional infrastructure.*

**20. 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.*

**21. 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.*

**22. Wind Report**

The Hotel development shall be constructed in accordance with the approved Wind Report listed in Condition 1. Details are to be provided on the Construction Certificate plans.

**REASON**

*To ensure that adverse impacts from wind are minimised in accordance with specified performance measures.*

**23. Car Parking Details**

Before the issue of the relevant Construction Certificate, written evidence prepared by a suitably qualified Engineer must be obtained that demonstrates, to the Certifier satisfaction, the plans for parking facilities comply with the relevant parts of AS 2890.1 *Parking Facilities – Off-Street Carparking* and Council's relevant Development Control Plan (in force as at the date of the determination of this consent).

**REASON**

*To ensure parking facilities are designed in accordance with the Australian Standard and Council's DCP.*

**24. 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.*

**25. 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.*

**26. Dilapidation Report**

Before any site work commences, a Dilapidation Report must be prepared by a suitably qualified Engineer detailing the structural condition of adjoining buildings, structures or works and public land, to the satisfaction of the Principal Certifier.

Where access has not been granted to any adjoining properties to prepare the Dilapidation Report, the Report must be based on a survey of what can be observed externally and demonstrate, in writing, to the satisfaction of the Principal Certifier, that all reasonable steps were taken to obtain access to the adjoining properties.

**REASON**

*To establish and document the structural condition of adjoining properties and public land for comparison as site work progresses and is completed and ensure neighbours and Council are provided with the Dilapidation Report.*

**27. 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 Private 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.*

**28. 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.*

**29. 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.*

### 30. 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. Bayside Technical Specification Stormwater Management 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 Bayside Technical Specification Stormwater Management.

The detailed drainage design plans shall incorporate the provisions generally made in the stormwater concept plans prepared by EGIS, revision D along with the requirements detailed below:

- a) A minimum 10,000 litre rainwater tank shall be provided for the development, connected to all ground floor toilets, clothes washers and external taps/landscape irrigation for non-potable stormwater re-use. Planter boxes not allowed to drain into the rainwater tank.
- b) The stormwater ground floor drainage plan is to be provided indicating the pipe sizes, pit sizes and pipe grades. The pipe and pit invert levels to be shown on the plan. Overland flow paths to be shown on the plan. The proposed absorption system surface level and invert level to be shown on the plan.
- c) All pits fitted with Oceanguards to be shown clearly in a pit schedule with the surface level and invert level.
- d) The basement level 1 plan 'C2-01' to be revised to show the surface level of the rainwater outlets including the minimum 0.5% crossfall towards the rainwater outlets. The grading of the basement level to be shown on the plans.
- e) The grated trench drain surface level and invert level to be shown on the basement level 1 'C2-01' and stormwater ground floor plan 'C2-00'. The grated trench drain in the basement level 1 to be 300mm wide.
- f) The basement level 2 plan 'C2-02' to be revised to show the drainage for the stacker pit.
- g) A pump out pit section to be provided to show the surface level, base levels, top water level (TWL), and minimum 1% fall towards the pumps. The top water level (TWL) is to be 100mm lower than the invert level of the inlet pipe.
- h) The combined rainwater and stormfilter chamber section 'C4-21' to be revised to show the surface level, invert levels, rainwater tank weirs and stormfilter weirs.
- i) The combined rainwater tank and stormfilter tank base plan is to be provided, showing all base levels and minimum 1% fall towards the outlet pipe. The internal dimensions to be shown including the rainwater tank weir and stormfilter weir level.

- j) A lid plan to be submitted for the combined rainwater tank and the stormfilter chamber; showing the distance from pit centre to centre.
- k) The absorption system section 'C4-22' to be revised to show the surface level and the invert level including the invert level of the outlet pipe.
- l) A sump plan showing the base levels of the pump out pit is to be provided, showing the minimum 1% fall towards the pumps.
- m) Calculations for the rainwater tank weir to be shown on the plans.
- n) A maintenance schedule is to be provided for the stormwater drainage system including the roof gutters and the Water Sensitive Urban Design (WSUD) products.
- o) A stormwater basement drainage plan is to be provided. The stormwater basement plan must show the basement as a fully "tanked" system (full structural tanking and waterproofing) with adequate provision for future fluctuation of the water table. 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.

**REASON**

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

**31. Detailed Roof Drainage**

Prior to the issue of the relevant Construction Certificate, a detailed roof drainage plan to be prepared by a qualified hydraulic engineer designed in accordance with AS/NZS 3500.3 2021 and 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.

**REASON**

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

**32. 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 "floatation" (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.*

**33. 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, Bicycle and Motorcycle Parking:
  - i) The parking facility (including parking spaces, aisles, vehicular crossing etc.) must comply in full with AS2890.1. The longitudinal profile of the access driveway 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 and
  - iv) Pedestrian sightlines for vehicles exiting the site are to comply with AS2890.1, and
  - v) Convex mirrors shall be provided at blind corners within, and leading to, the car parking levels to provide increased sight distance for vehicles, and
  - vi) A minimum of 16 bicycle parking spaces must be provided as part of the development and designed in accordance with AS2890.3:2015 and AS2890.1 respectively, and
- b) Compliance with AS2890.2 Commercial (Service) Vehicle Parking:
  - i) Loading and unloading within the site shall be designed and be restricted to commercial vehicles not exceeding the size and mass description of the SRV from AS2890.2:2018. Commercial vehicles greater in size and mass than the SRV are not permitted to enter the site, and
  - ii) The design of the parking facility (including driveways/access ramps/vehicular crossings etc.) shall conform with Australian Standards AS2890.2:2018 along the travel path of the service vehicles, and
  - iii) All service vehicles shall enter the property front in front out, and
  - iv) Swept path analysis shall be provided for manoeuvring of SRV commercial vehicles, depicting a forward entry and forward exit manoeuvre to/from the site via the loading dock proposed within the development, and
  - v) A longitudinal section plotting headroom clearance along the travel path of

the service vehicle is to be provided. It must be demonstrated that a safe headroom clearance of 3.5m is achieved along the entire travel path, parking and manoeuvring areas of the SRV within the development, and

- vi) All waste collection must be undertaken on-site, no bins/waste are permitted to be presented to the street for collection.

The design of the entire car parking facility is to be certified by a Civil Engineer registered with the National Engineering Register (NER) as being strictly in accordance with the abovementioned requirements and the Australian Standard 2890 parking facilities series.

**REASON**

*To ensure compliance with the relevant Australian Standard.*

**34. Mechanical Parking Facility System – Detailed Design**

Prior to the issue of the relevant Construction Certificate, the design of the mechanical parking facility systems proposed (car stacker / turntable) must address the following criteria:

- a) Ensure operating noise and vibration levels are limited to acceptable levels in accordance with appropriate standards and any plant equipment is housed in noise attenuating housing as required/appropriate;
- b) Provide detailed design and manufacturer specifications for the mechanical parking facility system(s) required within the development. A detailed design certificate from an experienced/practicing and qualified manufacturer designer/installer that confirms that the mechanical parking facility system(s) are functional, workable, fit for purpose and are designed in accordance with the relevant Australian standards shall be provided;
- c) Provide operational details/management plan of the entire facility, demonstrating safe and functional access for all users, including details of safety protection systems for users and non-users; and
- d) The turntable to be designed to accommodate an SRV vehicle as per AS/NZS2890.2 2018.
- e) The car stacker systems must provide a minimum of 34 car spaces with manufacturer specifications as per the approved traffic report.

The design must be certified by an engineer registered with the National Engineering Register (NER).

**REASON**

*To ensure the mechanical parking facility is designed and constructed in accordance with specifications and relevant standards.*

***[PAN-518235 20250210 Condition was amended]***

### 35. Traffic Signal System

Prior to the issue of the relevant Construction Certificate, a traffic light signal and sensor system shall be provided for the development and therefore, the following is required to be submitted to the Principal Certifier:

- a) A traffic signal management system (including traffic lights and vehicular sensors) to manage conflicting two-way movements on the adjacent to the one-way ramps shall be designed and certified by a Civil Engineer for implementation within the parking facility. Traffic lights are provided at both the top and bottom of each ramp in locations that are readily visible and prompt vehicles to stop where and when needed.
- b) Line marking and signage must be provided at both the entry to the basement and within the basement parking facility to clearly delineate waiting bay areas that provide for passing of vehicles entering/exiting the car park via the ramp and traversing through the parking facility. The function of these waiting areas must be demonstrated using swept paths for a B85 passing a B99 vehicle with appropriate clearances as per AS/NZS 2890.1. 2004.
- c) The traffic signals shall operate with the following operational mode:
  - Automatically revert to and dwell on green for incoming.
  - Outgoing driver activates sensor.
  - Signals change to red for incoming and green for outgoing.
  - After a pre-set clearance time signals revert to red for outgoing traffic and green for incoming traffic.

#### **REASON**

*To minimise impacts associated with vehicle movements into and out of the site.*

### 36. 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.*

**37. Geotechnical Certification**

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

- a) Conduct a thorough geotechnical investigation of the site in line with geotechnical industry standards. The type and extent of substrata formations on the site shall be determined via the provision of a minimum of two (2) representative bore hole logs which are to provide a full description of all material from ground surface to 1.0m below the finished basement floor level and include the location and description of any anomalies encountered in the profile. The surface and depth of the bore hole logs shall be related to Australian Height Datum.
- 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.
- c) 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.
- d) Certify that the construction certificate plans and supporting documentation are satisfactory from a geotechnical perspective.
- e) Inspect the works as they progress at frequencies determined by the geotechnical engineer (where necessary).
- f) Details of the fully "tanked" basement construction methodology must be detailed. Cut off walls socketing into an impermeable stratum layer are to be implemented

in the basement construction design to reduce the amount of groundwater extraction required for constructing the basement.

g) Demonstrate that there will be no adverse impact on surrounding properties and infrastructure as a result of construction of the development (including construction dewatering and post construction building design):

- i. As a result of changes in the local hydrogeology (behaviour of groundwater) created by the required method of construction and excavation.
- ii. From changes to the permanent hydrogeology (behaviour of groundwater) of the surrounding area, created by the nature of the required "fully tanked" constructed subsurface structure form.
- iii. The cumulative impact will require hydrogeological modelling to demonstrate no adverse impact on the surrounding property or infrastructure. The extent of modelling must consider the potential for future development to extend the damming effect and must, as a minimum, extend between street blocks.
- iv. Provide details of temporary dewatering method (with required licences and permits) and details of volume and flow rates of extracted groundwater, and
- v. Determine the existing groundwater levels through long term groundwater monitoring and quantify seepage and provide a recommendation for seepage management during construction, noting that permanent dewatering is not permitted.
- vi. Permanent changes to the groundwater level as a result of construction must be kept within the historical range of natural groundwater fluctuations. Where data is limited or unavailable the permanent change in the level of the natural water table due to the development is not to exceed 0.10m.
- vii. Demonstrate and certify that the permanent changes to the groundwater level as a result of construction will not exceed 0.10m or negatively impact surrounding building structures within 50m of the proposed development

The professional recommendations 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.*

### **38. 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.*

### **39. 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.*

### **40. 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.*

**41. Sustainability**

Prior to the issue of the relevant Construction Certificate, the applicant is to demonstrate the use of the following sustainability measures within the development:

- a) Provision of photovoltaic cell systems on the rooftops. Detailed design for the photovoltaic cells systems is to be provided, the provision of photovoltaic cells is to be at a rate that maximises the coverage of available non-trafficable space on the rooftop. A storage battery is to be provided where possible. This solar power shall be utilised in communal areas and other suitable areas to reduce the developments demand for electricity from the grid.
- b) Sensor controlled and zoned internal lighting within the building's car park and common areas.
- c) Electric hot water and electric appliances are to be utilised instead of gas.
- d) Use of admixtures in concrete to minimise cement and reduce embodied carbon.
- e) Separate circuiting for temporary power to minimal stair and corridor lighting.
- f) Use of LEDs and other low energy flicker free lighting resources.
- g) Provision of Electric Vehicle (EV) charging car parking spaces. At least 1 car parking space must be designed to be equipped with EV charging facilities. The EV charging systems shall be provided as 'Level 2' charging infrastructure with a power range of 7kW-22kW or greater, as defined by NSW Electric and Hybrid Vehicle Plan Future Transport 2056.

The above measures shall be implemented on site prior to the issue of the Final Occupation Certificate.

**REASON**

*To improve the sustainability of the development in accordance with Council's Development Control Plan.*

**42. Mechanical Plant and Equipment Design**

Details demonstrating compliance with the following requirements are to be submitted to the satisfaction of the Principal Certifier prior to the issue of the Construction Certificate:

- a) Any exhaust from the car park, food premises and hotel rooms and offices shall be ventilated to the roof and away from the property boundaries, and in accordance with the provisions of AS1668.1 - *The use of ventilation and air-conditioning in buildings - Fire and smoke control in multi-compartment buildings* and AS1668.2 - *The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings*, and

- b) All mechanical plant and equipment (including but not limited to air conditioning equipment) is to be located within the basement or other areas of the site where it is not visible from the public domain or adjoining properties. Any plant and equipment located on the roof must be located as shown in the approved plans and must be appropriately screened, and
- c) All plumbing stacks, vent pipes, stormwater downpipes and the like shall be kept within the building and suitably concealed from view. This condition does not apply to the venting to atmosphere of the stack above roof level.

**REASON**

*To minimise amenity impacts resulting from the operation of mechanical plant and equipment including compliance with relevant standards.*

**43. Submission of Odour / Air Report**

A report prepared by a suitably qualified Air Quality Engineer shall be submitted to the Principal Certifier for approval prior to the issue of the Construction Certificate. The report shall (at minimum) include:

- a) Details of the type of control equipment, if any, that is necessary to prevent an odour nuisance arising from the operation of the premises, and
- b) Certification that the proposed control equipment will be adequate to prevent an odour nuisance arising due to the operation of the premises.

**REASON**

*To protect the environment, comply with relevant standards and minimise amenity impacts resulting from site operations.*

**44. Trade Waste Agreement**

Evidence of a Sydney Water permit or consent for discharge of wastewater to the sewer shall be submitted to the Principal Certifier prior to the issue of the Construction Certificate. Where a permit or consent may not be required from Sydney Water, certification shall be provided verifying that any discharges to the sewer will meet specific standards imposed by Sydney Water.

**REASON**

To protect the environment and comply with relevant Sydney Water requirements.

**45. Air Handling and Water Cooling Systems**

All air handling evaporative cooling, hot water, humidifying warm water and water cooling systems shall be designed, installed and maintained in accordance with the requirements of the *Public Health Act 1991, Public Health (Microbial Control) Regulation 2003, Public Health Act 2010, Public Health Regulation 2012* and (AS3666 - 2002) AS3666 - 2012 Air handling and water systems in buildings. All waste water from the cooling tower / humidifier / warm water system shall be discharged to the sewer under a Trade Waste Agreement from Sydney Water Corporation. Details shall be submitted to the Principal Certifier prior to issue of the Construction Certificate.

**REASON**

*To protect the environment, comply with relevant standards and minimise amenity impacts resulting from site operations.*

**46. Preparation of Mechanical Ventilation Plans**

Before the issue of a Construction Certificate, detailed plans of the mechanical exhaust ventilation system must be prepared by a suitably qualified person.

The detailed plans must be in accordance with the following and submitted to the Certifier:

- a) *Australian Standard 1668: - The use of ventilation and air-conditioning in buildings; and*
- b) *ensure all generate heated air, smoke, fumes, steam or grease vapours do not:*
  - i) *cause a nuisance to persons within or nearby to the premises, or*
  - ii) *cause air pollution as defined under the NSW Protection of the Environmental Operations Act 1997.*

**REASON**

*To ensure that detailed professional plans of the approve mechanical ventilation system are submitted before the issue of a Construction Certificate.*

**47. Preparation of Construction and Fit Out Plans for Food and Drink Premises**

Before the issue of a Construction Certificate, detailed plans of all food and beverage preparation, serving and storage areas (including for perishable stock, waste, chemicals and personal belongings) must be prepared by a suitably qualified person.

The detailed plans must be prepared in accordance with the following editions in force on the date of determination and provided to the Principal Certifier:

- a) *Food Standards Code (Australia) and Food Safety Standard 3.2.3 – Food Premises and Equipment.*
- b) *Food Act 2003 and Food Regulation 2015.*
- c) *Plumbing Code of Australia and Australian Standard / New Zealand Standard AS/NZS 3500 series on Plumbing and Drainage.*
- d) *Sydney Water Authority commercial trade wastewater requirements for food premises, and*
- e) *Any relevant Water Services Association of Australia codes of practice, guidelines, policies and requirements.*

**REASON**

*To ensure detailed construction and fit out plans are submitted which comply with the relevant standards.*

#### 48. Food Premises – Fit-Out Requirements

Details of the construction and fit out of food premises must be submitted to the Principal Certifier prior to issue of the Construction Certificate. The plans and specifications must demonstrate compliance with:

- a) An extraction system shall be provided where there is any dishwasher and other washing and sanitising equipment that vents steam into the area to the extent that there is or is likely to be condensation collecting on the walls and ceiling;
- b) All walls within the kitchen, food preparation, storage and display areas shall be of solid construction. Walls in food preparation areas shall be finished with one or a combination of glazed tiles, stainless steel, aluminium sheeting, laminated thermosetting plastic sheeting, poly vinyl sheeting with welded seams or similar impervious material which is adhered directly to the wall. The finishing materials of the wall surfaces shall provide a smooth even surface free from buckles, ledges, fixing screws, picture rails, open joint spaces, cracks or crevices;
- c) The intersection of walls and plinths with floors in the kitchen, food preparation, storage and display areas shall be coved with a minimal 25mm radius;
- d) The floors within the kitchen, food preparation, storage and display areas shall be constructed of a suitable material which is non-slip, durable, resistant to corrosion, non-toxic, non-absorbent and impervious to moisture. Floors which drain to a floor waste shall be evenly graded (at least 1:100) so that water falls to the floor waste;
- e) Plinths shall be of solid construction, at least 75mm high, have an impervious finish, be rounded at all exposed edges, coved at the intersection of the floor and wall to a minimum radius of 25mm;
- f) The surface finish of the ceiling shall not be perforated and shall be finished in an impervious material which is free from open joints, cracks, crevices, (in accordance with AS 4674-2004, acoustic and decorative panels are not to be used in wet areas, food preparation areas, bin storage areas or other areas where open food is displayed or served). The ceiling over the food preparation, storage and display areas shall be painted with a washable paint of a light colour. The intersection of walls and the ceiling shall be tight jointed, sealed and dust-proof;
- g) All food premises shall have natural or artificial lighting in accordance with the requirements of the Building Code of Australia. Where artificial lighting is provided to a food premises the lighting levels shall comply with the requirements of AS1680 and ASNZS 1680.2.4;
- h) In areas where open food is handled or stored, light fittings whether they are intended to provide light or heat or as part of equipment, shall be designed and constructed to prevent the contamination of food should the globe or tube shatter and free from any features which would harbour any dirt, dust or insects or make the fitting difficult to clean;
- i) In areas where open food is handled or stored, light fittings whether they are intended to provide light or heat or as part of equipment, shall be designed and constructed to prevent the contamination of food should the globe or tube shatter and free from any features which would harbour any dirt, dust or insects or make the fitting difficult to clean;

- j) There shall be no surfaces constructed which permit the accumulation of dirt, dust or grease or the harbourage of pests;
- k) All service pipes conduits and electrical wiring shall be either:
  - i) Concealed in floors, walls, ceilings or concrete plinths, or
  - ii) Fixed with brackets so as to provide at least 25mm clearance between the pipe and the adjacent vertical surface and 100mm between the pipe or conduit and the adjacent horizontal surface, and
- l) All openings in the walls, floors and ceilings through which service pipes and electrical conduits pass through shall be designed and constructed so as to prevent the access of vermin;
- m) All shelving being provided for the storage of food, equipment and containers shall have the lowest shelf at least 150mm above the floor level;
- n) Where toilets are provided on food premises, toilet cubicles shall be separated from areas where open food is handled, displayed or stored by an intervening ventilated spaced fitted with self-closing doors or provided with self-closing doors and a mechanical exhaust system that operate when the sanitary compartment is in use and for at least 30 seconds after the cubicle is vacated;
- o) Toilets intended for public and/or customer use shall not be accessed through areas where open food is handled, displayed or stored (other than customer dining areas or similar);
- p) All surfaces of counters, bars, food display units, window display, self-service displays and bain-maries shall be smooth, durable, impervious and free from crack. Crevices and cavities. The underside shall have an impervious finish. Window displays for wet foods shall be coved at all intersections and installed in accordance with AS/NZS 3500.2.2 – 2003;
- q) Cupboards and cabinets shall be constructed on materials with a smooth, washable, impervious surface. No backing board shall be provided to cupboards which abut the wall, although the wall shall be finished with a smooth washable surface;
- r) A temperature gauge shall be provided to each cool room, chiller, freezer, refrigeration unit, hot and cold food storage/display units. The temperature gauge shall be accurate to one degree Celsius (1oC) and be visible from the outside of such units;
- s) Equipment shall be moveable for cleaning, built into walls with the enclosure completely vermin proofed, butted against walls or other equipment and the joints sealed. Where equipment cannot be moved easily, clearance space shall be provided so that the area around the equipment and below can be cleaned. Where equipment is constructed on legs, brackets or framework, there shall be a space between the floor and the underside of the fitting which is a minimum of 150mm;
- t) A commercial kitchen shall be provided with a kitchen exhaust hood in compliance with Australian Standard AS1668 Parts 1 and 2 where any cooking apparatus having a total maximum electrical output exceeding 8 kW, or a total gas power input exceeding 29 MJ/h; or a total maximum power input to more than one

apparatus exceeds 0.05 kW electrical power; or 1.8 MJ of gas for each square metre of the floor area of the room or enclosure;

- u) Cavities, false bottoms and similar hollow spaces capable of providing access and harbourage for vermin are not permitted to be formed in the construction of the food preparation or storage areas, or in the installation of fixtures, fittings and equipment;
- v) Facilities for the storage of clothing and belongings shall be a change room, lockers or cupboards in a change room or enclosed cupboards dedicated for the storage of personal belongings and located outside of the food preparation, food processing, food storage and utensil washing areas;
- w) Cleaning chemicals, cleaning equipment, pest control chemicals and equipment shall be located in a room designated for that use and enclosed in cupboards dedicated for that use which is located away from food preparation storage and display areas and not able to contaminate personal effects and clothing;
- x) Where premises are enclosed, windows shall be protected against the entry of pests by being tight-fitting and permanently fixed closed, or fitted with mesh screens which can be removed for cleaning or protected by a permanent mesh screen which can be cleaned in place. Entry/exits, serving hatches and similar openings to food premises shall be protected against the entry of pests by tight-fitting solid self-closing doors, roller shutters or other means of closing off the entrance or tight fitting self-closing mesh screen doors;
- y) A floor waste fitted with a basket arrestor shall be located outside the cool room adjacent to the door;
- z) Condensation from the refrigeration units and cool room motors shall be directed to a tundish installed in accordance with the requirements of Sydney Water Corporation;
- aa) The surrounds of the cool room shall be either open for cleaning and inspection or enclosed so that a vermin proof enclosure is formed;
- bb) All equipment shall be supported on wheels, castors or legs;
- cc) Hot and cold food display and/or holding appliances shall be designed and capable of holding cold perishable foods at or below 5oC; and hot perishable foods at or above 60oC when the appliances are operating at full capacity;
- dd) Hot and cold mounted taps fitted with hose connectors positioned at least 600 mm above floor level shall be installed in a convenient and accessible location in the kitchen/food preparation area;
- ee) A double bowl sink or two compartment tub which is of a size capable of fully immersing the largest piece of equipment shall be provided with hot and cold water supplied through a single spout in the kitchen/food preparation area. Double bowl sink or tubs shall be supplied with water of at least 45oC in one bowl for washing purposes; and 80oC in the other bowl for sanitising purposes if hot water sanitising occurs at the sink;
- ff) Premises which require food to be prepared by immersion in water shall install a designated food preparation sink which shall not be used for the washing of equipment or hands;

- gg) Premises shall be provided with a cleaner's or sluice sink, floor waste or other similar facility which is connected to drainage that is not intended for use to prepare food, wash any equipment or for hands/face washing for disposing of mop water and similar liquid waste and shall be located outside of areas where open food is handled;
- hh) Hand wash basins shall be located (kitchen, toilet and front display area) so that they are not obstructed, are at bench height either permanently fixed to a wall, supporting frame or sunk into the bench top, accessible and no further than 5 metres (excluding toilet hand basins) from any place where food handlers are handling open food, in the parts of the premises where open food is handled, in utensil/equipment washing areas, in staff entrance to areas where open food is handled and in toilet cubicles or immediately adjacent to toilets. Hand basins shall have a permanent supply of warm running potable water delivered through a single outlet and taps which operate hands free shall be provided at all hand basins with sufficient space between the spout and base of basin for the washing of hands and arms;
- ii) Dishwashers and glass washers used to sanitise food contact surfaces, eating and drinking utensils shall be designed to operate so that the temperature of water used in the sanitising rinse cycles, combined with the time that the utensils are rinsed in water at that temperature (or in combination) shall be sufficient to ensure that the utensils are sanitised and comply with AS 2945;
- jj) All hand basins shall be provided with soap and a towel dispenser for dispensing single use towels or other means of drying hands and arms which prevents the transfer of pathogenic micro-organisms to the hands or arms (air dryers as the only means of drying hands shall not be permitted). A receptacle for used towels shall be provided at the hand wash basin;
- kk) Grease arrestors shall not be located in areas where food, equipment or packaging material are handled or stored. Access to grease arrestors for emptying shall not be through areas where open food is handled or stored or where food contact equipment and packaging materials are handled or stored;
- ll) Rooms and areas designated for the storage and washing of garbage receptacles shall be designed and constructed in accordance with the following requirements:
  - i) The floors and walls shall be constructed of a suitable material which is durable, smooth, resistant to corrosion, impervious to moisture and coved with a minimum radius of 25mm at the intersection of walls with floors, and
  - ii) The floor shall be graded and drained to a floor waste gully connected to the sewerage system and traps of the premises in accordance with all Sydney Water requirements, and
  - iii) Provide a hose tap connected to the water supply. Water used for cleaning garbage receptacles may be either potable or non- potable water.
- mm) The room shall be ventilated with either natural ventilation or alternatively mechanically ventilated in accordance with the requirements of Australian Standards AS 1668.

**REASON**

*To ensure compliance with relevant standards.*

#### 49. External Lighting

Before the issue of a Construction Certificate, plans detailing external lighting must be prepared by a suitably qualified person.

The lighting plan must be consistent with the approved plans and documents, and the following requirements:

- a) comply with AS 1158: Lighting for Roads and Public Spaces;
- b) comply with AS 4282: Control of Obtrusive Effects of Outdoor Lighting;
- c) lighting must be placed at all entrances to, and exits from the premises;
- d) lighting must provide coverage of the premises and surrounding areas for visibility and to reduce hidden areas;
- e) lighting must not interfere with traffic safety;
- f) lighting must not give rise to obtrusive light or have adverse impacts on the amenity of surrounding properties;
- g) external lighting must not flash or intermittently illuminate unless required for safe ingress/egress of vehicles crossing a pedestrian footway or approved vehicle entrance; and
- h) Relevant Council development control plan.

The lighting plan must be submitted to the Certifier.

Note – All above documents refer to the version in effect at the time the consent is granted.

#### **REASON**

*To ensure external lighting is provided for safety reasons and to protect the amenity of the local area.*

#### 50. Detailed Landscape Plan

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

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. There is to be a dense layered planting scheme consisting of trees, shrubs and groundcovers in all deep soil areas.
- b) The rear (southern) **setback must incorporate a 2-meter-wide landscape area which shall maximise tree planting. The paved area between the landscape area and the built form shall be permeable paving.**
- c) **The level 12 communal level shall be planted with native shrubbery, groundcover and cascading plants.**

- d) **Landscape plans shall include every level of the development.**
- e) The front setback shall include at least three canopy trees capable to reach at least 8 metres in height at maturity in local conditions.
- f) All new trees in deep soil areas shall be planted at minimum 200 litres.
- g) Planter beds within the front setback shall include suitable planting to deliver greenery to the streetscape and shall follow CPTED principles.
- h) A minimum of 80% of the proposed planting scheme is to consist of native or indigenous plants. Deep soil areas shall only include indigenous species, deciduous species may be included only if sun access is required in living areas.
- i) Indicate the location of all basement structures relative to the landscape areas, if any.
- j) Specifications detailing soil and mulch finishes, root barriers, irrigation, edging and other landscape handworks such as retaining walls, steps, planter walls, feature walls, skateboard restrictions, tree pits, tree grates, tree guards, tree pit treatment. Areas of paving, schedule of materials, edge treatments, tactile and sectional construction details. Details of all fencing, privacy screening, arbors and the like- elevations and materials, impacting or visible to public domain areas.
- k) 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.
- l) Prior the issue of the Construction Certificate, a Landscape Maintenance Schedule and Specifications must be submitted to, and approved by, the Director City Futures (or delegate) of Bayside Council. Maintenance Documentation is 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).

**REASON**

*To ensure compliance with landscape requirements from relevant policies.*

**[PAN-518235 20250210 Condition was amended]**

**51. General Landscape Conditions**

- a) The landscaping shall be maintained for the life of the development. All soft landscape areas are to 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.

- b) 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.
- c) Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements:
  - i) 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.
- d) All planter boxes shall have the required depth to sustain the proposed planting, as detailed below:
  - i) Trees over 8 metres: Minimum soil depth 1.3 metre.
  - ii) Medium trees (8 metre canopy diameter at maturity): Minimum soil depth one (1) metre.
  - iii) Small trees (4 metre canopy diameter at maturity): Minimum soil depth 800mm.
  - iv) Shrubs: Minimum soil depths 500-600mm.
  - v) Groundcover: Minimum soil depths 300-450mm.
- e) Any subsurface drainage requirements are in addition to the minimum soil depths quoted above.

- f) 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.
- g) Soil depths of planter on slabs shall be in accordance with the requirements of Table 5 of Part 4P of the Apartment Design Guide.
- h) Podium landscaping and paved areas shall be drained into stormwater drainage system. All waterproofing for planters on slab shall be installed and certified by a licensed waterproofing contractor.
- i) 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.
- j) All telecommunication and utility services (including all high and low voltage power lines) are to be placed underground along the entire development site frontage including the installation of underground supplied street lighting columns. The extent of works required in order to achieve this outcome may involve works beyond the frontage of the development site. All works (including the installation of underground supplied street lighting columns) are to be completed prior to the issue of any Occupation Certificate to the satisfaction of Bayside Council.

**REASON**

*To ensure compliance with landscape requirements from relevant policies.*

**52. 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, 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.

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

**REASON**

*To ensure compliance with landscape requirements from relevant policies.*

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

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

### **53. 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.*

### **54. 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.*

### **55. 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).*

## 56. 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.*

## 57. 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*, Bayside Development Control Plan 2022 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 Bayside Development Control Plan 2022).
- 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 Bayside Development Control Plan 2022.
- 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.*

**58. 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.*

**59. 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) License 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.*

**60. 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 damage 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.*

**61. 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.*

## **62. 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) 108 Robey Street MASCOT NSW 2020
- b) 113-121 Baxter Road MASCOT NSW 2020

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.*

## **63. 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.*

## **64. 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.*

**65. 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.*

**66. Demolition Noise**

Prior to commencement of any demolition works, the applicant must submit to the Principal Certifier an acoustic report prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants) which includes the following:

- a) All potentially noisy activities are to be identified, and
- b) The duration of all potentially noisy activities are to be identified, and
- c) Detail noise mitigation measures to minimise community disturbance and to meet the following conditions, and
- d) Recommendation to inform the community of the type and duration of essential noisy activities.

**REASON**

*To minimise adverse noise impacts to surrounding residents.*

**67. 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.*

**68. 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 License 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 10m<sup>2</sup> 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.*

**69. 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. Permanent dewatering is not permitted.

**REASON**

*To protect the environment.*

**70. 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 protect the environment.*

## **DURING ANY WORKS (including Demolition, Excavation and Construction)**

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

### **71. 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.*

### **72. Hours of Work**

Site work, building work, demolition or vegetation removal must only be carried out between 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 of a public authority.

**REASON**

*To protect the amenity of the surrounding area.*

**73. 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.*

**74. 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.*

**75. 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.*

**76. 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.*

**77. Surveys by a Registered Surveyor**

While building work is being carried out, the positions of the following must be measured and marked by a registered Surveyor and provided to the Principal Certifier:

- a) All footings / foundations in relation to the site boundaries and any registered and proposed easements.
- b) At other stages of construction – any marks that are required by the Principal Certifier.

**REASON**

*To ensure buildings are sited and positioned in the approved location.*

**78. 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.*

**79. Tree Protection during Work**

While site work is being carried out, all required tree protection measures must be maintained in good condition in accordance with:

- a) the Construction Site Management Plan required under this consent,
- b) the relevant requirements of *AS 4970 Protection of Trees on Development Sites*, and
- c) the relevant controls in Council's Development Control Plan (in force as at the date of determination of this consent).

This includes maintaining adequate soil grades and ensuring all machinery, builders refuse, spoil and materials remain outside tree protection zones.

**REASON**

*To protect trees during the carrying out of site work.*

**80. 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.*

### 81. 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.*

### 82. 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*.

### 83. 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.*

**84. 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.*

**85. 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.*

**86. 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](http://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.*

**87. 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.*

**88. Vibration During Demolition Works**

Demolition and construction works shall not give rise to the transmission of a vibration nuisance or damage to other premises as defined in the Environment Protection Authority's *Technical Guidelines for Assessing Vibration*.

**REASON**

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

**89. 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.*

**90. 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.*

**91. 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.*

**92. 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.*

**93. Additional Information - Contamination**

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.

**REASON**

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

**94. Importation of Fill (General)**

To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill must be appropriately certified material and must be validated in accordance with the:

- a) NSW Environment Protection Authority (EPA) approved guidelines; and

- b) Protection of the Environment Operations Act 1997; and
- c) Protection of the Environment Operations (Waste) Regulation 2014.

All imported fill must be accompanied by documentation from the supplier which certifies that the material has been analysed and is suitable for the proposed land use.

**REASON**

*To protect the environment and human health.*

**95. Water 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 protect the environment and human health.*

**96. 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 10m<sup>2</sup> 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.*

**97. 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.*

**98. 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.*

**PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE**

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

**99. 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.*

#### **100. 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](http://www.sydneywater.com.au) > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.

**REASON**

*To comply with Sydney Water requirements.*

#### **101. Signage during Ongoing Use**

During ongoing use of the premises:

- a) Signage of the building street number and building name (where applicable) must be clearly displayed.
- b) Advertising signs must not be placed or displayed on any public space (including the public footpath or street).
- c) Any approved lighting of signs must comply with *Australian Standard AS 4282:209 – Control of the Obtrusive Effects of Outdoor Lighting*.
- d) No upward facing light sources can be displayed on signs on the premises.
- e) Signs must only be illuminated when the premises are in operation and only during the operating hours approved under this consent.

**REASON**

*To protect the amenity of the local area.*

#### **102. 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 5 dBA 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.*

#### **103. 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.*

**104. Annual Fire Safety Certificate (if applicable)**

During occupation and ongoing use of the building, the applicant must provide an annual fire safety statement to Council and the Commissioner of Fire and Rescue NSW in accordance with section 89 of the *EP&A (Development Certification and Fire Safety) Regulation 2021*.

**REASON**

*To ensure annual checks on fire safety measures.*

**105. 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.*

**106. 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.*

**107. Certification of New Stormwater System**

Prior to the issue of any Occupation Certificate, a Civil Engineer registered with the National Engineering Register (NER) or a Chartered Civil Engineer (CPEng) must certify that the stormwater system has been constructed in accordance with the approved plans and as required by Bayside Technical Specification Stormwater Management. 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.*

**108. Certification of Roof Drainage System**

Prior to the issue of any Occupation Certificate, a qualified Engineer must certify that the roof drainage system has been constructed in accordance with the approved plans and in accordance relevant Australian Standard and Codes.

The constructed roof drainage system shall be inspected, evaluated, and certified. The certification shall demonstrate compliance with the approved plans, relevant Australian Standards, Codes and Council Specifications.

**REASON**

*To ensure that the roof drainage system is constructed as approved and in accordance with Australian Standards relevant standards.*

**109. 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 landscape plans prior Construction Certificate by Bayside Council for the approved development.
- 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 deep soil areas in the ground level are in accordance with the approved CC landscape plans and have been planted at minimum 200 litres. Trees at time of inspection shall have a minimum height of 3.5 metres, 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 the podium landscaping.
  - 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:

- 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);
- Frequency and methodology of different maintenance requirements including the removal of green waste, irrigation system tests, waterproofing inspections.
- Details of safety procedures
- Laminated copies of 'As Built' Landscape drawings.
- Manufacturer's contact details and copies of manufacturers' typical details and specification.
- Copies of warranties and guarantees relating to all materials and plant used in construction.

**REASON**

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

**110. 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.*

**111. 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,
- b) The longitudinal driveway profile,
- c) Installation of the **mechanical turntable and car stacker**,
- d) A copy of the plans must be provided to Council.

**REASON**

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

**[PAN-518235 20250210 Condition was amended]**

**112. Positive Covenant Application**

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that an Operation and Management Plan has been prepared and implemented for the mechanical/electronic parking systems (mechanical turntable / car stacker /traffic signals).

The Plan must set out the following, at a minimum:

- a) The proposed maintenance regime, specifying that the system is to be regularly inspected and checked by qualified practitioners, and
- b) The proposed method of management of the facility, including procedures, directions to users, safety protection systems, emergency response plan in the event of mechanical failure, etc., and
- c) Any person required to operate the parking system must be trained to do so, and
- d) Provide signage that shall be erected prominently alongside the mechanical parking facility stipulating the maximum height/width/length of vehicle that can enter the facility, and
- e) Mechanical car stacker system.

The Plan must be prepared by a suitably qualified professional and provided to the Principal Certifier prior to the issue of an Occupation Certificate.

Furthermore, an Engineer, registered with the National Engineering Register (NER), is to certify the installation of the Mechanical/Electronic Parking Systems within the completed development. This certification is to include testing and inspections of the system in operation.

**REASON**

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

**[PAN-518235 20250210 Condition was amended]**

**113. 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.*

#### **114. 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.*

#### **115. 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 all external taps/landscape irrigations for non-potable stormwater re-use.

**REASON**

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

#### **116. 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.

The certification must be submitted to the Principal Certifier.

**REASON**

*To ensure compliance with the relevant standards.*

### **117. Erection of Signage**

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

a) 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".

b) Headroom clearance signage for the waste collection and the basement access.

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.*

### **118. Entry and Exit of Patrons**

During ongoing use of the premises, patrons must enter and leave the vicinity of the premises in an orderly manner.

Assisting signage must be placed in clearly visible positions within the premises, with due regard to maintaining the amenity of the area.

**REASON**

*To ensure patrons do not detrimentally affect the amenity of the neighbourhood.*

### **119. Private Waste Collection**

Waste and recycling must be collected by a private waste contractor within the site. A contract for waste and recycling collection must be entered into prior to issue of the Occupation Certificate and the maximum size of the waste collection vehicle shall be equal to or smaller than a SRV vehicle (as denoted by AS2890.2). The company engaged must ensure that all recycling is collected separately from waste. Council must be advised in writing within seven (7) days of a private contractor being engaged for waste collection services.

**REASON**

*To ensure the waste can be collected on site in accordance with the approved development.*

### **120. Green Travel Plan**

Prior to the issue of the Occupation Certificate, a Green Travel Plan shall be developed by a suitably qualified traffic consultant in order to encourage people (including any and all residents, staff and visitors) to make good use of public transport, cycling, walking and car sharing for commuting work related journeys and reduce car based travel demand. The Green Travel Plan shall be in accordance with Bayside Council requirements and include, but not be limited to, the following:

a) Encourage people to cycle and/or walk to the workplace, and

- b) Encourage people to use public transport to travel by providing financial incentive or shuttle bus services, and
- c) Adopt car sharing and /or car pool scheme, and
- d) Provide priority parking for car pool, and
- e) Provide bike storage area and end-of-trip facilities in the convenient locations, and
- f) Include clear and time bound targets, actions, measurements and monitoring framework, and
- g) Develop Transport Access Guides (TAGs) to TfNSW requirements for staff and visitors about information on how to reach the site via public transport, walking or cycling.

The Green Travel Plan and TAGs must be prominently displayed within the communal areas within the development.

**REASON**

*To ensure sustainable transport alternatives are used.*

**121. Mechanical/Electronic Parking Systems – Operations and Installation Certification**

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that an Operation and Management Plan has been prepared and implemented for the mechanical/electronic parking systems (mechanical turntable / car stacker /traffic signals).

The Plan must set out the following, at a minimum:

- a) The proposed maintenance regime, specifying that the system is to be regularly inspected and checked by qualified practitioners, and
- b) The proposed method of management of the facility, including procedures, directions to users, safety protection systems, emergency response plan in the event of mechanical failure, etc., and
- c) Any person required to operate the parking system must be trained to do so, and
- d) Provide signage that shall be erected prominently alongside the mechanical parking facility stipulating the maximum height/width/length of vehicle that can enter the facility, and
- e) It must be confirmed that 30 car spaces are provided in the triple car stacker system, and four car spaces are provided in the double car stacker system.

The Plan must be prepared by a suitably qualified professional and provided to the Principal Certifier prior to the issue of an Occupation Certificate.

Furthermore, an Engineer, registered with the National Engineering Register (NER), is to certify the installation of the Mechanical/Electronic Parking Systems within the completed development. This certification is to include testing and inspections of the system in operation.

**REASON**

*To ensure that mechanical parking facilities are operated and maintained in good working order at all times.*

**[PAN-518235 20250210 Condition was amended]**

**122. Parking Access Management Plan**

Prior to the issue of an Occupation Certificate, the applicant shall prepare a detailed (pick-up/drop-off) management plan to address how to manage HRV coach and taxi/visitor movements through the on-street pick up and drop off will be managed by the Hotel use to ensure that no queuing of vehicles results on to the surrounding road network and road safety is not compromised. A copy of the approved management plan is to be kept on site at all times and shall be implemented for the lifetime of the development.

**REASON**

*To ensure that vehicular access to the site is conducted in a suitable manner and the use is operated with minimal adverse impacts on the adjoining properties.*

**123. Shuttle Bus Operation**

A shuttle bus is required to service the Hotel and must be provided to transport occupants to and from the development site to Sydney Airport and the City at regular hourly intervals from 5am – 11pm, 7 days a week. Evidence of the provision of the shuttle bus as part of the operation of the hotel is to be provided to the satisfaction of the Principal Certifier prior to the issue of the relevant Occupation Certificate.

**REASON**

*To ensure that shuttle bus is operated in a suitable manner that will not result in adverse amenity impacts on the adjoining properties.*

**124. Regulatory Signage Approval (Street)**

Prior to the issue of any Occupation Certificate, the required changes to the regulatory signage fronting the site to enable pick up and drop off are to be approved by the Bayside Local Traffic Committee and endorsed by Bayside Council. The length of the 1/4P parking (5am-11pm) is to be determined based on accommodating at least 1 taxi space and one (1) 12.5m HRV coach space and Swept paths be provided for a 12.5m HRV and B99 vehicle entering and exiting the pick-up/drop-off area. A signage and line marking plan prepared by a suitable qualified Civil Engineer is to be provided for the on-street pick up and drop off area.

Upon receiving approval and endorsement, the regulatory signage changes are to be installed fronting the site in accordance with the approval. 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 any Occupation Certificate.

**NOTE:** The satisfaction of this condition can be time consuming and as such, the process of obtaining the required regulatory approvals should be started as soon as possible to avoid delays towards the end of the project.

**REASON**

*To ensure that mechanical parking facilities are operated and maintained in good working order at all times.*

**125. 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.*

**126. Loading Dock Management Plan**

Prior to the issue of the Occupation Certificate, the Applicant shall prepare a detailed loading and servicing management plan for the development which includes, but shall not be limited to, operation hours, use of off-peak deliveries, methods to avoid congestion of service vehicles, booking system, how the vicinity will be shared and general mitigation measures to prevent amenity impacts to neighbouring properties and residents within the site. The plan shall be prepared by a suitably qualified professional and submitted to the Principal Certifier. The management plan is to be implemented for the lifetime of the use of the development.

**REASON**

*To ensure that loading docks are operated in a manner that minimises amenity impacts to residents within the site and surrounding properties.*

**127. 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 Council's 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.*

**128. External Lighting during Ongoing Use**

During ongoing use of the premises, all lighting must be operated and maintained in accordance with the approved plans.

**REASON**

*To ensure the safe operation of the premises and protect the amenity of the local area.*

**129. 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 (match to existing public domain to neighbouring Quest hotel as per the Mascot Station Precinct public domain plan) and planting of required street trees/landscaping along all frontages of the development site.
- b) Construction of vehicular entrance/s 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) Installation of 1/4P signage for the on-street pick up and drop off of HRV coaches and taxis which requires approval from the Bayside Traffic Committee.

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.*

**130. 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.*

**131. 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.*

**132. Registration – Environmental Health**

Prior to issue of an Occupation Certificate, the premises food premises and cooling tower must be registered with Council's Environmental Health Section in accordance with the following relevant legislation:

- a) Food Shop - NSW Food Act 2003 and the Australia New Zealand Food Standards Code – 3.2.2 – Food Safety Practices and General Requirements.
- b) Cooling Towers / Evaporative cooler / warm water system - Public Health Act 2010 and Public Health Regulation 2012,

**REASON**

*To ensure registration of the use in accordance with relevant legislation.*

**133. Water Authority Certification**

Before the issue of an Occupation Certificate, a certificate of compliance must be obtained in relation to the proposed use(s) from Sydney Water.

**REASON**

*To ensure compliance with the water supply authority's requirements.*

**134. Notice of Food Business**

Before the issue of an Occupation Certificate, Council must be notified of the food business in accordance with the *NSW Food Act 2003* and the *Australia New Zealand Food Standards Code – 3.2.2 – Food Safety Practices and General Requirements*.

**REASON**

*To enable Council to ensure compliance with the consent when the business is operating.*

**135. Food Safety Supervisor**

Prior to issue of any Occupation Certificate, the occupier of the food premises shall provide a Food Safety Supervisor (FSS) for the business. The original FSS Certificate must be kept on the premises.

For further information regarding FSS, visit the NSW Food Authority website at:  
[www.foodauthority.nsw.gov.au](http://www.foodauthority.nsw.gov.au).

**REASON**

*To ensure that food premises are operated in accordance with relevant policy requirements.*

**136. 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.*

**137. Construction and Installation of Ventilation System**

Before the issue of an Occupation Certificate, a suitably qualified person must provide details demonstrating compliance to the Principal Certifier which demonstrates that the mechanical exhaust ventilation system has been constructed and installed in accordance with the approved plans.

**REASON**

*To ensure the mechanical ventilation system has been constructed and installed as approved.*

**138. Trade Waste Agreement**

Liquid trade waste materials are to be disposed of in accordance with the requirements of Sydney Water, under a Trade Waste License Agreement.

A copy of a Trade Waste Agreement demonstrating compliance with the requirements of this condition is to be submitted, to the satisfaction of the Principal Certifier, prior to the issue of any Occupation Certificate.

**REASON**

*To ensure compliance with Sydney Water requirements.*

**139. Acoustic Measures Validation**

A report prepared by a suitably qualified Acoustic Consultant, must be submitted to Council certifying that the development complies with the requirements of (as relevant):

- a) *State Environmental Planning Policy (Transport and Infrastructure) 2021*, and
- b) ANEF - the indoor design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021, and
- c) conditions of development consent, and

d) recommendations of the Noise Impact Assessment undertaken by Acoustic Logic Revision 2 dated 10 March 2023 for the development at 102 -106 Robey Street, Mascot NSW 2020.

The report shall include post construction validation test results. Details demonstrating compliance with the requirements of this condition is to be submitted to the satisfaction of the Principal Certifier prior to the issue of any Occupation Certificate.

**REASON**

*To ensure that adverse amenity impacts are minimised.*

**140. Certification of Acoustic Measures**

Before the issue of an Occupation Certificate, a suitably qualified person must provide details demonstrating compliance to the Principal Certifier that the acoustic measures have been installed in accordance with the Acoustic Report approved under this consent.

**REASON**

*To protect the amenity of the local area.*

**141. Managing Noise with Ongoing Acoustic Treatment**

During ongoing use of the premises, the premises must be operated in accordance with any approved acoustic report.

Where the approved acoustic report recommends ongoing acoustic treatments, an acoustic implementation report form a suitably qualified person must be submitted to Council within six (6) months of the date of the issue of the Occupation Certificate.

The report must confirm the implementation of acoustic treatment and demonstrate the external and internal noise levels satisfy the criteria nominated in accordance with the approved acoustic report.

**REASON**

*To ensure operational noise levels comply with the approved acoustic report and do not unreasonably impact on the amenity of adjoining and nearby premises.*

**142. Emergency Spill Response Management Plan**

An Emergency Spill Response Management Plan shall be prepared and submitted to Council for approval prior to the issuing of the Occupation Certificate. The Plan is to conform with the Environmental Management Plan and shall include the following:

- a) list of chemicals and maximum quantities to be stored at the site, and
- b) identification of potentially hazardous situations, and
- c) procedure for incident reporting, and
- d) details of spill stations and signage, and
- e) containment and clean-up facilities and procedures, and
- f) roles of all staff in the Plan and details of staff training.

**REASON**

*To ensure compliance with the Environmental Management Plan and minimise adverse impacts resulting from spills.*

**143. Limitations on Food Preparation during Ongoing Use**

During ongoing use of the premises, food preparation that generates heated air, smoke, fumes, steam or grease vapours must not be undertaken unless mechanical ventilation has been approved and installed under this consent.

**REASON**

*To ensure the safe operation of the premises and to protect the amenity of adjoining premises and the surrounding area.*

**144. Thermostatic Mixing Valve**

Should a thermostatic mixing valve be installed in the premises, the following requirements shall be met:

- a) The thermostatic mixing valves shall be set at a predetermined temperature of no lower than 37°C and no higher than 43°C. The "fail safe" mixing valves shall be installed, and
- b) A copy of the commissioning report for the thermostatic mixing valve shall be submitted to Council with an additional copy kept on the premises. The thermostatic mixing valves are to be serviced annually by a suitably qualified and registered Plumber who has completed a TAFE course in mixing valves, and
- c) The thermostatic mixing valve shall be registered with Council as a warm water system, by completing the attached registration form, in accordance with the provisions of the *NSW Public Health Act 2010* and the *Public Health Regulation 2012* for the control and prevention of Legionnaires Disease.

**REASON**

*To ensure compliance with the relevant legislation and to protect human health.*

**145. Storage and Disposal of Waste Materials during Ongoing Use**

During ongoing use of the premises:

- a) An adequate number and size of bins must be put on the premises for the storage of any waste that is generated (including for recycling).
- b) All garbage and recyclable materials generated from the premises must be stored wholly within any approved storage area and must not be stored outside the premises (including any public place) at any time.
- c) Arrangements must be implemented for the separation of recyclable materials from garbage.
- d) Any approved waste storage area must be appropriately maintained to prevent litter and the entry of pests.

- e) Where Council does not provide commercial garbage and recyclable materials collection services:
  - i) A contract must be entered into with a licensed contractor to provide these services for the premises; and
  - ii) A copy of the contract must be kept on premises and provided to relevant authorities including Council officers on request.
- f) Where the collection of garbage and recyclable materials from the premises is undertaken by a licensed contractor, it must only occur between 7am and 6pm any day.
- g) All liquid trade waste discharged to sewerage system must comply with the trade waste approval issued by the relevant water authority.
- h) All liquid trade waste pre-treatment devices must be regularly maintained to remain effective in accordance with the conditions of the liquid trade waste approval issued by the relevant water authority.

**REASON**

*To ensure proper handling of waste, garbage and recyclable materials generated during operation of the premises.*

**146. 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.*

**OPERATIONAL CONDITIONS**

**147. Hours of Operation**

The hours of operation of the approved hotel use shall be 24 hours a day, 7 days per week. The approved hours of operation include trading and preparation but do not include waste collection and deliveries to and from the premises.

**REASON**

*To minimise impacts to the community.*

**148. 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.*

#### **149. Noise Compliance Report**

Within a period of six (6) months, but not exceeding nine (9) months following the issue of Final Occupation Certificate, a Noise Compliance Report prepared by a qualified practicing Acoustic Engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants) shall be submitted to Council confirming the noise emissions from the premises complies with the Acoustic Report.

The report shall include the following:

- a) One (1) noise monitoring shall be carried out within the twelve (12) months following the issue of this consent. The noise monitoring shall be undertaken for both the evening (6.00 pm to 10.00 pm) and night operations (10.00 pm to 3.00 am) on either Friday or Saturday. The report shall be prepared setting out the methodology, findings and conclusion of the acoustic surveys for submission to Council, and
- b) Spurious noise emissions found as a consequence of complying with the conditions of this consent must be located and steps employed to ensure compliance. A copy of the acoustic report must be provided to Council.

If additional noise attenuation measures are required following compliance with above, further validation must occur to ensure compliance with the Acoustic Report.

**REASON**

*To ensure compliance with the approved acoustic requirements so that adverse impacts to the locality are minimised.*

#### **150. Staffing / Number of Persons**

The maximum number of full time persons working within the hotel development shall be limited to twenty two (22) at any one time.

The Manager is responsible for ensuring the number of persons in the premises does not exceed that specified above.

**REASON**

*To minimise adverse impacts resulting from the approved use.*

#### **151. Signage Requesting Orderly Behaviour**

Signs shall be appropriately located within the hotel advising patrons of the nearby residences and seeking quiet and orderly ingress and egress from the premises. The proprietors of the hotel shall ensure that staff give appropriate directions to, and take reasonable steps to, control noisy or offensive behaviour of patrons entering or leaving the hotel.

**REASON**

*To minimise adverse impacts resulting from the approved use.*

### **152. Surveillance Cameras**

- a) CCTV surveillance cameras shall be strategically installed, operated and maintained throughout the premises with particular coverage to principal entrance/s and exits, all areas within the premise occupied by the public (excluding toilets), staircases in multilevel premises and the area within a 10m radius external to the public entrance(s) to the premises, and
- b) Suitable and clearly visible signage shall be displayed at the principal entrance(s) to the premise and in a prominent position on each floor accessible to the public, in lettering not less than 50mm in height with the words "Closed Circuit Television in Use on these Premises", and
- c) All CCTV recording equipment and cameras shall be of high grade digital quality, capable of establishing the population and identification of patrons, offenders and incidents within the depth of field view of the cameras, and
- d) CCTV recording discs or hard drive recordings shall be retained for twenty-eight (28) days before being re-used, destroyed or deleted. Time and date shall be auto recorded on the disc or hard drive. Copy discs must be handed to Council, Police Officer or Special Inspectors as required, and
- e) All CCTV recording devices and cameras shall be checked daily to ensure the equipment is operating correctly, and
- f) All CCTV recording devices and cameras shall be operated at all times when the premises are open to the public and, where premises do not operate 24 hours a day, continuously for at least one hour, prior to opening and closing times of the premises, and
- g) The CCTV recording device shall be secured within the premises and only be accessible to senior management personnel so as to maintain the integrity of the recorded footage. When the premises is operating there must be at least one staff member present at the premises who is authorised to access the CCTV system, and able to immediately review recordings and produce copies, and
- h) Camera views are not to be obstructed by temporary or permanent structures, signage or other impediments.

#### **REASON**

*To ensure that safety and security measures are implemented as approved.*

### **153. Plan of Management – Compliance with Approved PoM**

The POM shall be revised to reflect the approved development. The hotel shall at all times be operated in accordance with the approved Plan of Management (PoM). A copy of the approved PoM shall be displayed in back of house areas and the staff office on site at all times.

The approved Plan of Management (as referred to in Condition 1) shall be complied with at all times. Any amendments to the Plan of Management shall require a separate approval from Council.

A copy of the Plan of Management must be displayed on site at all times and made available to all staff and/or occupants. A copy of the PoM shall be made freely available to neighbouring property owners and local residents, if requested.

The PoM shall be reviewed annually. Any amendments to the Plan of Management will require a separate approval from Council. If the Plan of Management is updated following the review, the operator is required to:

- i) ensure that the amended PoM is consistent with all conditions of this consent;
- ii) submit a copy of the amended Plan of Management to Council for review and approval within 7 days of completion;
- iii) include comments provided by Council where the POM is to be updated.

**REASON**

*To manage site operations so that adverse impacts are minimised.*

**154. Operation of Vehicles on the 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) All commercial vehicles (including deliveries and garbage collection) shall enter and exit the site in a forward direction and exit the site in a forward direction.
- c) All loading / unloading and garbage / waste collection activities shall take place on-site wholly within the dedicated loading areas and not from public places, public streets, or any road related area (e.g. footpath, nature strip, road shoulder, road reserve).
- d) The maximum size of vehicles accessing the site shall be limited to an 6.4m long SRV Vehicle (as denoted in AS2890.2).
- e) All manoeuvring movements of vehicles shall be carried out wholly within the site and vehicle manoeuvring area shall be kept clear at all times.
- f) 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.
- g) 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.*

**155. Shuttle Bus Ongoing Operation**

A shuttle bus is required to service the Hotel and must be provided to transport occupants to and from the development site to Sydney Airport and the City at regular hourly intervals from 5am – 11pm, 7 days a week. If the shuttle bus no longer be provided, for whatever reason, a separate development application shall be submitted

to Council to provide an alternative travel and parking arrangement for the development.

**REASON**

*To ensure the ongoing operation of the shuttle bus in associated with the approved hotel use on the site.*

**156. Ongoing Use Mechanical Parking Facility**

The Operation and Management Plan for the mechanical/electronic parking systems (turntable/car stacker/traffic signals), approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times. The systems shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the systems at all times.

**REASON**

*To manage and maintain the mechanical parking facility so that approved on-site parking remains available at all times.*

*[PAN-518235 20250210 Condition was amended]*

**157. Maintenance of Stormwater Drainage System**

During occupation and ongoing use of the building, the wastewater and stormwater drainage system and treatment devices (including all pits, pipes, absorption, detention structures, treatment devices, sumps, traps, 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 and in accordance with any positive covenant (if applicable). 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 and protect sewerage and stormwater systems.*

**158. Green Travel Plan and Transport Access Guide**

The Green Travel Plan and Transport Access Guide shall be monitored and reviewed annually in order to revise and improve the plan to achieve the targets on the number of occupants to travel by public transport, cycling and walking. Copy of the annual review shall be submitted to bayside Council. In order to ensure the certainty to implement Green Travel Plan for all future tenants of the site, a copy of the green travel plan and transport access guide shall be part of the lease agreement for all tenants.

**REASON**

*To reduce car dependency.*

#### **159. Impacts on the Amenity (Light Industrial)**

The operation of the premises shall be conducted in such a manner as not to interfere with or materially affect the amenity of the neighbourhood by reason of noise, vibration, odour, fumes, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil, or otherwise.

**REASON**

*To manage site operations so that adverse impacts to the locality are minimised.*

#### **160. Health Impacts (Non-Residential Uses)**

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

**REASON**

*To manage site operations so that adverse impacts to the locality are minimised.*

#### **161. Smoking**

The proposed use of the premises must comply with the *Smoke-Free Environment Act 2000*, *Smoke-free Environment Regulation 2016* and *Public Health (Tobacco) Act 2008*, *smoking in enclosed areas and outdoor areas for food premises is prohibited*:

- *Commercial outdoor dining areas in licensed venues (including clubs and hotels), restaurants and cafes must be smoke free;*
- *Areas within four metres of a pedestrian entrance to or exist from a licensed venue, restaurant or café must be smoke free; and*
- *Mandatory prescribed signage 'NO SMOKING' must be displayed within a commercial outdoor dining area.*

**Smoke** means use, consume, hold or otherwise have control over a tobacco product, non-tobacco smoking product or e-cigarette that is generating (whether or not by burning) smoke or an aerosol or vapour.

**Smoking accessory** includes cigarette papers, pipes, cigarette holders, hookahs, water pipes or any other smoking implement.

**REASON**

*To ensure compliance with the relevant legislation.*

#### **162. Maintenance of Food Premises**

The food premises must be maintained in accordance with the following:

- a) *Food Act 2003*, and

- b) *Food Regulation 2015*, and
- c) Australia and New Zealand Food Standards Code, and
- d) The Australian Standard AS 4674-2004: Construction and fit out of food premises, and
- e) Standard 3.2.3 – Food Premises and Equipment.

**REASON**

*To ensure compliance with the relevant standards and legislation.*

**163. Noise from Mechanical Plant / Ventilation and Air Conditioning**

- a) The use of the premises, building services, equipment, machinery and, ancillary fittings shall not give rise to an “offensive noise” as defined under the provisions of the *Protection of the Environment Operations Act 1997*, and
- b) The use of mechanical plant including air conditioners, fans, compressors, condensers, freezers, swimming pool or spa pumps (whether commercial or domestic) shall not cause sound pressure levels in excess of the criteria given in the *NSW Industrial Noise Policy – 2000*.

**REASON**

*To manage site operations so that adverse impacts to the locality are minimised.*

**164. Acoustic Impacts**

The proposed use of the premises and the operation of all plant and equipment shall not give rise to ‘offensive noise’ as defined in the *Protection of the Environment Operations Act 1997* and Regulations:

- a) The operation of all plant and equipment shall not give rise to an equivalent continuous (Laeq) sound pressure level at any point on any residential property/affected premises greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration), and
- b) The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds Laeq 50dB(A) day time and Laeq 40 dB(A) night time, and
- c) The operation of all plant and equipment when assessed on any neighbouring commercial / industrial premises shall not give rise to a sound pressure level that exceeds Laeq 65dB(A) day time / night time.

For assessment purposes, the above Laeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.

**REASON**

*To manage site operations so that adverse impacts to the locality are minimised.*

#### **165. Maintenance of Sound Attenuation**

Sound attenuation must be maintained in accordance with the Acoustic Logic Noise Impact Report Revision 2 dated 10/3/23.

**REASON**

*To manage site operations to the locality are minimised.*

#### **166. Noise Emissions – Licensed Premises**

Noise emissions from the licensed premises shall comply with the following:

- a) The LA10 noise level emitted from the licensed premises shall not exceed 5dB above the background (LA90) noise level in any Octave Band Centre Frequency (31.5Hz to 8KHz inclusive) between the hours of 7.00am to 12.00 midnight when assessed at the nearest affected residential boundary. The background noise level shall be measured in the absence of noise emitted from the licensed premises, and
- b) The LA10 noise level emitted from the licensed premises shall not exceed the background (LA90) noise level in any Octave Band Centre Frequency (31.5Hz to 8KHz inclusive) between the hours of 12.00 midnight to 7.00am when assessed at the nearest affected residential boundary. The background noise level shall be measured in the absence of noise emitted from the licensed premises.

Notwithstanding compliance with the above clauses, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours 12.00 midnight to 7.00 am. Where this condition is inconsistent with the requirements imposed by the Liquor Administration Board or Liquor Licensing Court, the more stringent condition shall prevail.

**REASON**

*To manage site operations so that adverse impacts to the locality are minimised.*

#### **167. Vibration from Plant and Equipment**

The use of the premises and the operation of plant and equipment shall not give rise to the transmission of a vibration nuisance or damage to other premises as defined in the Environment Protection Authority's *Technical Guidelines for Assessing Vibration*.

**REASON**

*To manage site operations so that adverse impacts to the locality are minimised.*

#### **168. Odour and Dust Control**

The operation shall not give rise to offensive odour or other air impurities in contravention of the *Protection of the Environment Operations Act 1997*. The Principal contractor shall ensure that all practical means are applied to minimise dust and odour from the site.

**REASON**

*To ensure compliance with the Protection of the Environment Operations Act 1997.*

#### **169. Water Pollution and OEMP**

The operation of the premises shall be conducted in a manner which does not pollute water as defined by the *Protection of the Environment Operations Act*. Treated overflow or other discharge shall not cause pollution of the council's stormwater system in accordance with the *Protection of the Environment Operations Act 1997*. Management of the site shall be undertaken in accordance with measures outlined in the Operational Environmental Management Plan (OEMP).

**REASON**

*To ensure compliance with the Protection of the Environment Operations Act 1997.*

#### **170. Waste Collection – Commercial / Industrial**

All waste and recycling containers shall be stored in the designated waste storage area. The waste containers are not to be over filled and the lids kept closed at all times except when material is being put in them. The occupier shall be responsible for cleaning the waste storage area, equipment, and waste collection containers.

To ensure minimal impacts on surrounding properties commercial waste and recyclable material generated by the premises must not be collected between the hours of 9.00 pm and 8.00 am.

**REASON**

*To minimise adverse impacts to the locality.*

#### **171. Landscape – Maintenance**

- a) The landscaped areas on the property / site shall be maintained in accordance with any approved landscape plans and Council's Development Control Plan. The landscaped areas shall be maintained in a clean and tidy state and with a dense, even coverage of plants to Council's satisfaction at all times. All planting as depicted in approved landscape plan shall be maintained at all times.
- b) Dead or declined trees shall be replaced with same trees as specified in approved plans. Replacement of planting material, including trees as indicated in approved landscape plan, with an alternative tree species shall be approved by the Director City Futures (or delegate) of Bayside Council. Maintenance tasks will include pruning to ensure CPTED principles are always met. All tree works must be done by a qualified arborist with a minimum level 3 in arboriculture (AQF). Trees along frontages are not to be pruned in height, unless required for safety reasons or for better development of the tree.
- c) 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
- d) An automatic drip irrigation system shall be installed and maintained in working order for all landscaped areas, and
- e) The Applicant / occupier is responsible for the maintenance of the new street trees for 12 months after planting. Such maintenance shall include watering,

feeding, weed removal and adjustment of stakes and ties (any stakes and ties shall be removed at the expiration of the 12 month period). Any trimming or pruning shall require Council's approval under the Tree Preservation Order.

**REASON**

*To ensure ongoing maintenance of approved landscaping.*

## DEVELOPMENT CONSENT ADVICE

**a) 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.

**b) 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.

**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](http://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:

- i) *Work Health and Safety Act 2011*, and
- ii) *Work Health and Safety Regulation 2011*, and
- iii) *Code of Practice for the Safe Removal of Asbestos [NOHSC: 2002 (2005)]*, and
- iv) *Code of Practice for the Management and Control of Asbestos in Workplaces [NOHSC: 2018 (2005)]*, and
- v) *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) 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:

- i) Within 12 months after the date on which the Fire Safety Certificate was received, and
- ii) Subsequent Annual Fire Safety Statements are to be given within 12 months after the last such statement was given, and
- iii) 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
- iv) 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.

**h) 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.

## Bayside Local Planning Panel - Other Applications

**10/02/2026**

Item No	6.2
Application No	DA-2025/658
Property	<b>9 Union Street ARNCLIFFE NSW 2205</b>
Application Type	Development Application
Proposal	Demolition of existing shed and construction of a secondary dwelling
Owner	Mr. Martin Chia
Applicant	Daoud Building Group Pty Limited
Ward	Ward 2
Lodgement Date	13/11/2025
No. of Submissions	One (1)
Cost of Development	\$225,000.00
Reason Criteria	Departure from standards
Report by	Peter Barber, Director City Futures

### Reason for the Report

This application has been referred to the Bayside Local Planning Panel for the following reason:

In accordance with Section 3 of Schedule 1 from the Local Planning Panels Direction issued by the Minister for Planning and Public Spaces (dated 6 March 2024), development which contravenes a development standard imposed by an environmental planning instrument by more than 10% must be determined by a local planning panel. The proposed development for the subject site contravenes the minimum site area standard as imposed by the State Environmental Planning Policy (Housing) 2021, Clause 53(2)(a) by more than 10%.

### Officer Recommendation

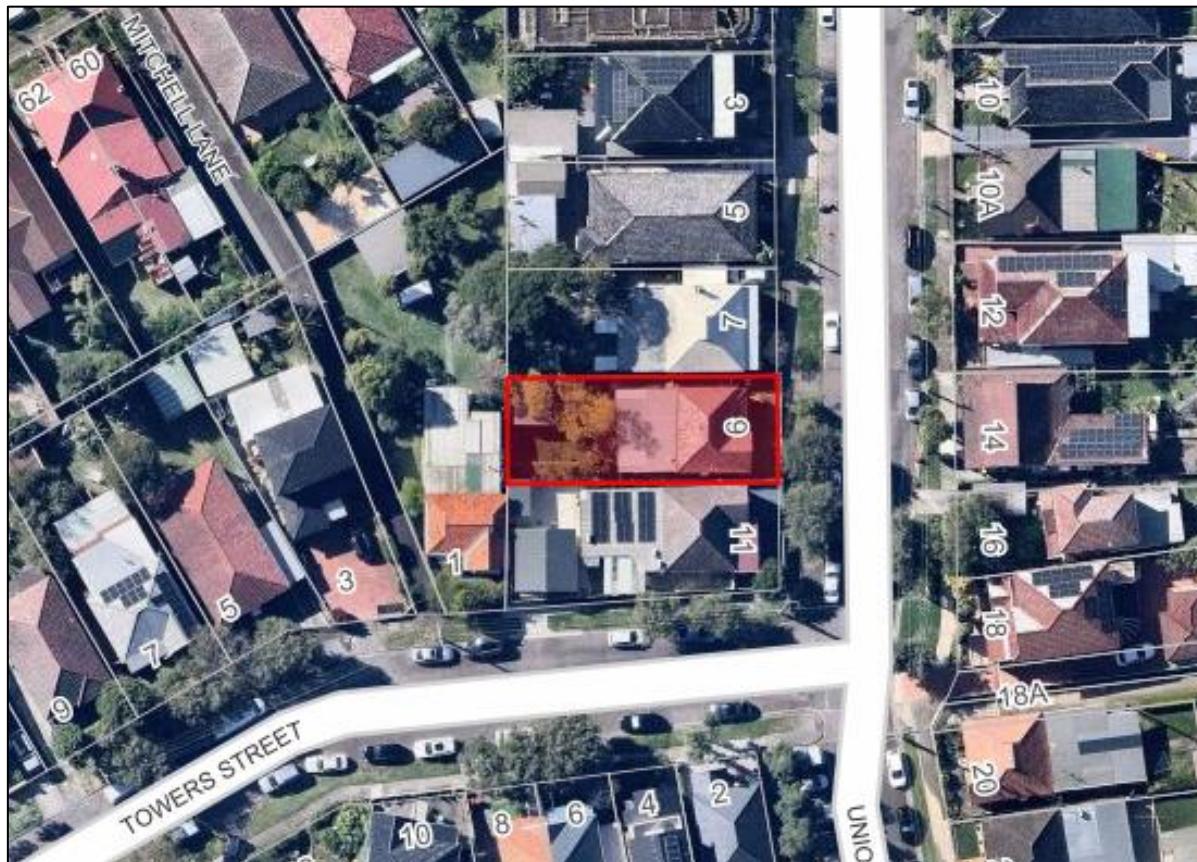
That the Bayside Local Planning Panel is satisfied that the applicant's written request to contravene Clause 53(2)(a) of the State Environmental Planning Policy (Housing) 2021 has adequately addressed the matters required to be demonstrated by Section 4.6 of the Bayside Local Environmental Plan 2021.

1. That the Bayside Local Planning Panel, exercising the functions of Council as the consent authority is satisfied that the applicant's written request to contravene Clause 53(2)(a) of the State Environmental Planning Policy (Housing) 2021 has adequately addressed the matters required to be demonstrated by Section 4.6 of the Bayside Local Environmental Plan 2021.
2. 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-2025/658 for the demolition of existing shed and construction of a secondary dwelling at 9 Union Street, ARNCLIFFE NSW 2205 by

GRANTING CONSENT subject to the recommended conditions of consent attached to this report.

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

### Location Plan



### Attachments

- 1 [BLPP Planning Assessment Report](#)
- 2 [Draft Conditions of Consent](#)
- 3 [Clause 4.6 Variation Request](#)
- 4 [Architectural Plans](#)
- 5 [Schedule of External Colours & Finishes](#)

# BAYSIDE COUNCIL

## Planning Assessment Report



### Application Details

<b>Application Number:</b>	DA-2025/658
<b>Date of Receipt:</b>	13 November 2025
<b>Property:</b>	9 Union Street, ARNCLIFFE NSW 2205 Lot 14 Sec 2 DP 979714
<b>Owner:</b>	Mr. Martin Chia
<b>Applicant:</b>	Daoud Building Group Pty Limited
<b>Proposal:</b>	Demolition of existing shed and construction of a secondary dwelling
<b>Recommendation:</b>	Approval
<b>No. of submissions:</b>	One (1)
<b>Author:</b>	Pavel Zaytsev
<b>Date of Report:</b>	12 January 2026

### Key Issues

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

- Variation to the development standard relating to minimum site area under clause 53(2)(a) of the State Environmental Planning Policy (Housing) 2021.

The development application ("DA") has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* ("the Act") and is recommended for approval.

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 is satisfied that the applicant's written request to contravene Clause 53(2)(a) of the State Environmental Planning Policy (Housing) 2021 has adequately addressed the matters required to be demonstrated by Section 4.6 of the Bayside Local Environmental Plan 2021.
2. 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-2025/658 for the demolition of existing shed and construction of a secondary dwelling at 9 Union Street, ARNCLIFFE NSW 2205 by GRANTING CONSENT subject to the recommended conditions of consent attached to this report.
3. That the submitter be notified of the Panel's decision.

## Background

### History

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

Application Number	Description	Determination
DA-1995/546	Demolition of existing garage and addition of new store room	Approved – 8 February 1999.
TOP-2025/269	Removal of <i>Robinia pseudoacacia</i> (Black Lotus) within the backyard of the property	Approved – 3 September 2025

The history of the subject application is summarised as follows:

- 13 November 2025 – The application was lodged.
- 17 November 2025 – Development Engineer Referral received.
- 20 November 2025 – Tree Management Officer Referral received.
- 24 November 2025 – Development Contributions Planner Referral received.
- 27 November 2025 – Site inspection conducted by assessing officer.
- 15 December 2025 – Additional information requested from applicant.
- 8 January 2026 – Additional information received from applicant.

## Proposal

The proposed development is summarised as follows:

### Demolition work

- Demolition of an existing outbuilding at the rear of the site.
- Demolition of a garden bed located along the southern boundary at the rear of the site.

### Construction work

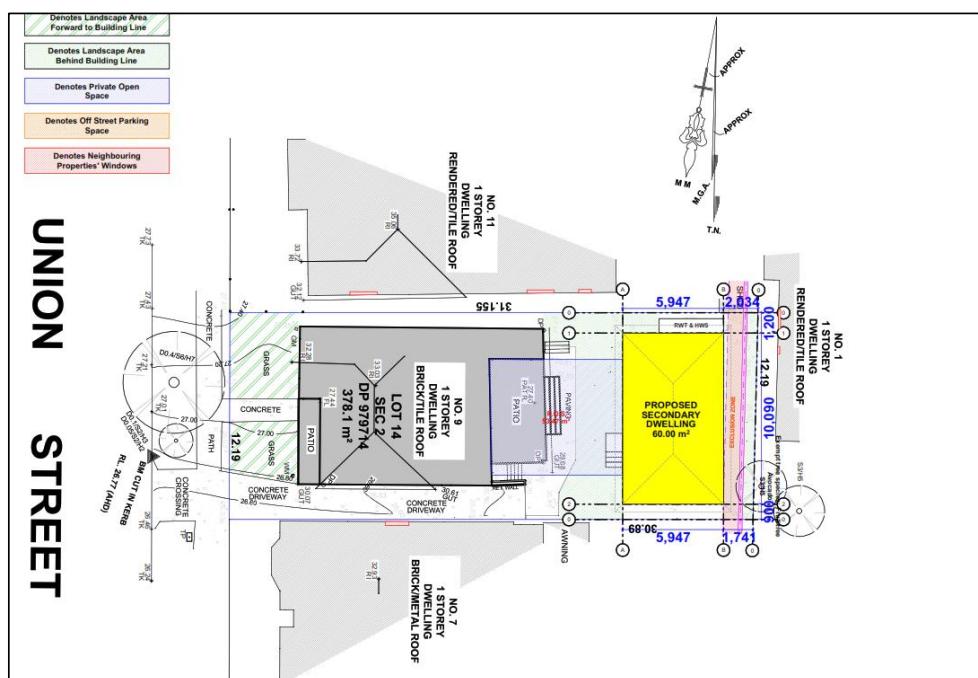
- Construction of a secondary dwelling at the rear of the site.

### Landscaping work

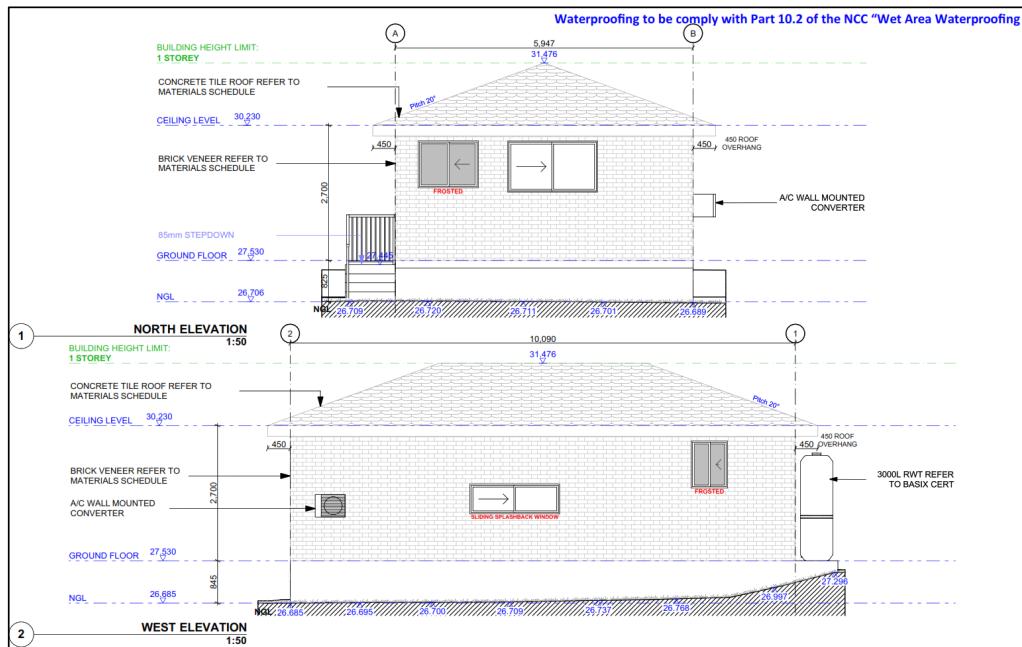
- Associated landscaping works to comply with the landscaping provisions of the BDCP 2022.

### Stormwater work

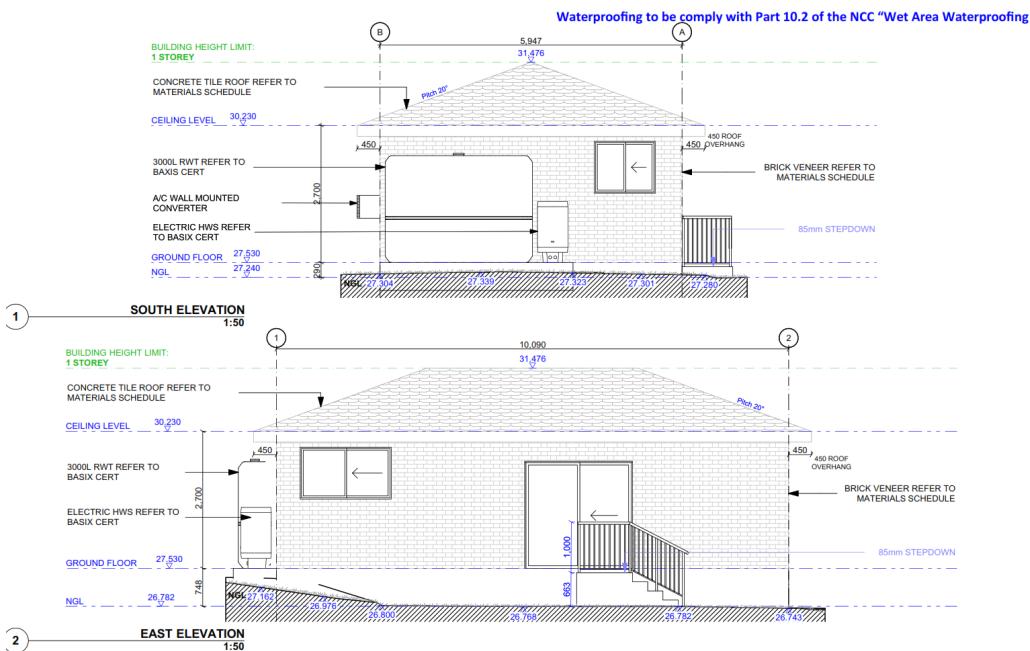
- Construction of a 3,000L rainwater tank adjacent to the southern wall of the secondary dwelling in accordance with the BASIX certificate.



**Figure 1.** Proposed site plan and landscape plan prepared by the applicant.



**Figure 2.** North and west elevations prepared by the applicant.



**Figure 3.** South and east elevations prepared by the applicant.

## Site Location and Context

The subject site is legally identified as Lot 14, Section 2, in DP 979714 and is known as No. 9 Union Street, Arncliffe. The site is rectangular in shape with a front and rear boundary width of 12.19 metres. The northern side boundary is 30.89 metres, and the southern side boundary is 31.155 metres. The site has sole frontage to Union Street. The total site area is 378.1sqm by survey. The topography of the site is relatively flat, however, the natural topography of the sites along Union Street decline in natural ground level from the south to the north.

The subject site contains a single storey dwelling with a basement and an outbuilding at the rear. The site is located on the western side of Union Street. Adjoining development to the sides include a single storey dwelling at No. 7 Union Street and a single storey dwelling at No. 11 Union Street. The site abuts a single storey dwelling at No. 1 Towers Street. The streetscape is predominantly single storey detached dwellings.

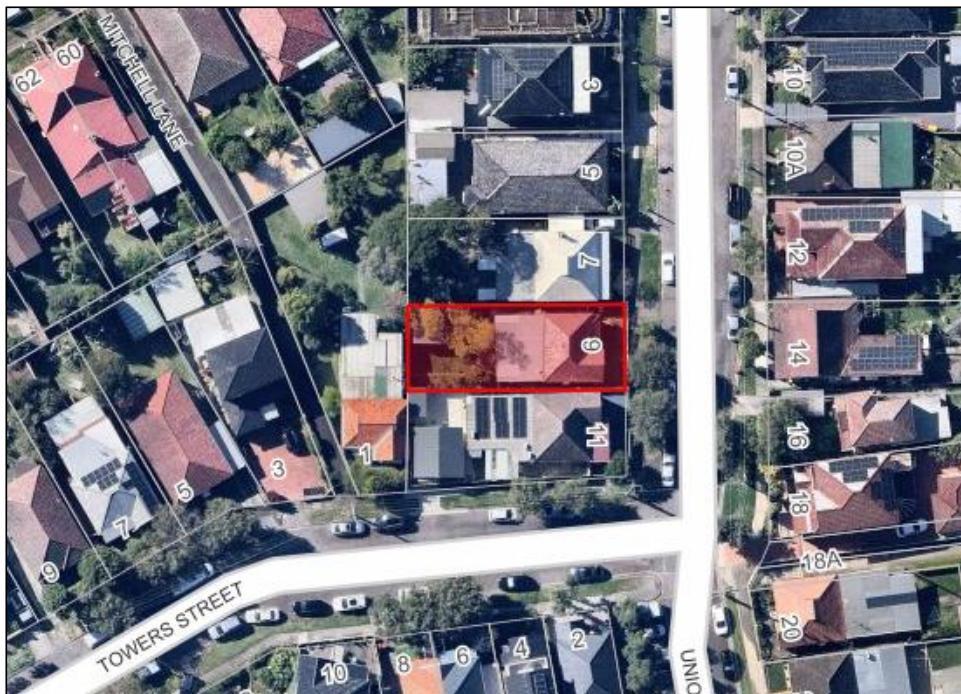


Figure 4. Aerial view of subject site.



**Figure 5.** Subject site as viewed from Union Street.



**Figure 6 & 7.** Existing outbuilding (left), view towards adjoining property at No. 7 Union Street facing north-east (right).



**Figure 8 & 9.** View of boundary fencing facing No. 11 Union Street (left), and No. 7 Union Street (right).

Along the rear boundary at No. 1 Towers Street are two (2) fruit trees. There is one (1) *Callistemon viminalis* (Weeping Bottlebrush) located in the public domain.

## 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").

#### **S4.15 (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 Policies**

#### **State Environmental Planning Policy (Sustainable Buildings) 2022**

The applicant has submitted a BASIX Certificate for the proposed development, Certificate number 1818253S\_02.

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

#### **State Environmental Planning Policy (Housing) 2021**

The proposal is for the purpose of a secondary dwelling. Therefore, the provisions of Chapter 3 (Diverse Housing), Part 1 of this SEPP applies, as the provisions apply to the R2 Low Density Residential zone where secondary dwellings are permissible with consent. The following responds to the provisions of the SEPP:

### **Clause 51 – No subdivision**

No subdivision is proposed in this development application.

### **Clause 52 - Development may be carried out with consent**

The proposal complies with this Clause, as:

- no dwellings, other than the principal dwelling and the secondary dwelling, will be located on the land;
- the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area permitted for a dwelling house on the land under another environmental planning instrument; and
- The total floor area of the secondary dwelling is no more than 60sqm.

### **Clause 53 - Non-discretionary development standards**

The proposal does not comply with Clause 53(2)(a), as:

- The site has an area of 378.1 square metres as opposed to the required 450 square metres under the development standard.

This non-compliance features a 15.97% or 71.9sqm variation to Clause 53(2)(a). A Clause 4.6 Variation Request was submitted by the applicant, refer to Clause 4.6 Exceptions to development standards under Bayside Local Environmental Plan 2021.

On the other hand, the proposal does comply with Clause 53(2)(b), as:

The number of parking spaces provided on the site will be the same as the number of parking spaces provided on the site immediately before the development is carried out.

The site has a historical parking shortfall and will maintain its existing nil (0) parking spaces. No additional parking is required as per the SEPP (Housing) 2021.

## **State Environmental Planning Policy (Resilience and Hazards) 2021**

### **Chapter 4 – Remediation of Land**

The provisions of Chapter 4 of the SEPP have been considered in the assessment of the proposal. 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.

The proposal was referred to Council's Contaminated Land Officer who indicated that a review of aerial photographs reveals that the site and surrounding area has been residential since the earliest photo from 1943. The existing dwelling has been present since at least 1943. A rear extension is visible in 1965, which was demolished and replaced by 2000. No significant changes have occurred since. There are no indications of potential onsite or nearby offsite contamination sources.

The site therefore appears to have been continuously used for residential purposes. The adjoining and adjacent properties are currently used for residential purposes. The site and surrounding land were not previously zoned for purposes identified under Table 1 of the contaminated land-planning guide in SEPP 55, in particular industrial, agricultural or defence uses. There is no significant excavation proposed.

On the above basis, the site is considered suitable in its present state for the proposed residential development. No further investigations of contamination are considered necessary. The proposal satisfies the requirements of Subsection 4.6 of the SEPP, subject to conditions.

## **Bayside Local Environmental Plan 2021**

The following table outlines the relevant Clauses of Bayside Local Environmental Plan 2021 ("the LEP") applicable to the proposal, while aspects warranting further discussion follows:

<b>Relevant Clauses</b>	<b>Compliance with Objectives</b>	<b>Compliance with Standard / Provision</b>
2.3 Zone and Zone Objectives R2 Low Density Residential	Yes - see discussion	Not Applicable
2.7 Demolition requires consent	Not Applicable	Yes - see discussion
4.3 Height of buildings	Yes - see discussion	Yes - see discussion
4.4 Floor space ratio ("FSR")	Yes - see discussion	Yes - see discussion
4.6 Exceptions to development standards	Yes - see discussion	Yes - see discussion
5.4 Controls relating to miscellaneous permissible uses	Not Applicable	Yes - see discussion
5.21 Flood planning	Yes - see discussion	Yes - see discussion
6.1 Acid Sulfate Soil - Class 5	Yes - see discussion	Yes - see discussion
6.3 Stormwater and water sensitive urban design	Yes - see discussion	Yes - see discussion
6.7 Airspace operations	Yes - see discussion	Yes - see discussion
6.10 Design excellence	Not applicable	Not Applicable
6.11 Essential services	Yes - see discussion	Yes - see discussion

### **2.3 - Zone**

The subject site is zoned R2 Low Density Residential under the provisions of LEP. The proposal is defined as a *secondary dwelling* which constitutes a permissible development only with development consent. The objectives of the zone are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To ensure land uses are carried out in a context and setting that minimises impact on the character and amenity of the area.*
- *To enable residential development in accessible locations to maximise public transport patronage and encourage walking and cycling.*

The proposed development satisfies the objectives of the zone considering the points below:

- The proposed secondary dwelling will provide additional housing whilst keeping the existing low-density residential environment.
- The proposal does not enable other land uses and maintains the existing use of the site for the purpose of residential accommodation.
- The proposal enables a residential development in an accessible location, close to Arncliffe Railway Station, which is approximately 400 metres from the site.

#### **4.3 - Height of Buildings**

A maximum height standard of 8.5 metres applies to the subject site.

The proposal has a maximum height of 4.7 metres (RL 31.476 AHD) which complies with the provisions and objectives of this Clause.

#### **4.4 – Floor Space Ratio**

A maximum FSR standard of 0.5:1 (GFA of 189.05 sqm) applies to the subject site and proposal.

The proposal has a maximum GFA of 128.7 sqm and equates to an FSR of 0.34:1 which complies with the provisions and objectives of this clause.

#### **4.6 - Exceptions to Development Standards**

Section 4.6 of the LEP allows a contravention to a development standard subject to a written request by the applicant justifying the contravention 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 contravention.*

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.

#### **State Environmental Planning Policy (Housing) 2021 – Clause 53(2)(a)**

The applicant is seeking to contravene the non-discretionary development standard relating to the minimum site area for a detached secondary dwelling. The development standard is varied

by requested to be varied by 71.9 sqm or which equates to a 15.97% contravention. A contravention request in accordance with Section 4.6 of the LEP, seeking to justify the proposed contravention, has been prepared by Brosnan & Moore dated 8 January 2026.

The applicant's Section 4.6 contravention request argues that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to support the non-compliant minimum site area. These components are summarised below, with the assessing officer's response provided:

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

Applicant Comments/Arguments (summarised):

The applicant has argued the following that compliance with the development standard is unreasonable is unreasonable as the burden imposed on the applicant is disproportionate to the consequences attributable to the proposed development as referenced in *Botany Bay City Council v Saab Corp [2011] NSWCA 308*. The applicant argues that:

- *The extent of the variation is visually imperceptible when viewed from adjoining properties or the public domain*
- *The development outcome is indistinguishable from a complying development in built form and amenity terms*
- *Strict adherence to the numerical standard would not produce any discernible environmental or planning benefit*

Officer Comment:

The applicant has nominated the first Wehbe test to demonstrate that the proposal is unreasonable in the circumstances of the case. The assessing officer agrees that compliance with Clause 53(2)(a) of the Housing SEPP is unreasonable, given that the proposed development is designed in a manner that achieves compliance with all relevant development standards and provisions of SEPP (Housing) 2021, BLEP 2021, and BDCP 2022. In this instance, it is satisfied that the applicant has demonstrated that compliance with the development standard is unnecessary in this case.

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

Applicant Comments/Arguments (summarised):

The applicant has argued that pursuant to Clause 4.6(3)(b) of the Bayside Local Environmental Plan 2021 that the proposed development has sufficient environmental planning grounds to justify contravening the relevant development standard. The applicant has stated that:

*"The proposed variation to the minimum site area requirement under Clause 53(2)(a) of the State Environmental Planning Policy (Housing) 2021 does not result in any adverse environmental, amenity or planning impacts. There are sufficient environmental planning grounds to justify the proposed variation for the reasons outlined below.*

*Having regard to Clause 4.6(3)(b), and as discussed in Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90, the assessment of this numerical non-compliance is guided by the absence of adverse impacts and whether allowing flexibility achieves a better planning outcome.*

*In this instance, the proposed non-compliance does not adversely affect:*

- *the amenity of future occupants of the secondary dwelling;*
- *the character of the surrounding low density residential area; or*
- *adjoining or nearby properties in terms of privacy, overshadowing, bulk or visual impact.*

*The proposed secondary dwelling complies with all other relevant development standards under the Housing SEPP 2021, Bayside LEP 2021, and the applicable Development Control Plan. The numerical non-compliance which is planning-neutral in effect shortfall in site area does not alter the built form outcome in any material way and has no discernible environmental or amenity consequence.*

*Allowing flexibility in the application of the site area standard achieves a better outcome for and from development, consistent with Clause 4.6(1)(b). The proposal facilitates a well-designed secondary dwelling on a site that is otherwise highly suited for such development, without compromising residential amenity or environmental outcomes.*

*Strict enforcement of the minimum site area requirement would not result in a better design outcome. The proposed development already demonstrates that a compliant, orderly and low-impact secondary dwelling can be accommodated on the site in accordance with the applicable planning controls.*

*There are therefore sufficient environmental planning grounds to justify the variation to the site area control, particularly given that:*

- *the development has been designed to minimise impacts on neighbouring properties and the public domain;*
- *strict compliance with the site area standard would not deliver any material built form, environmental or amenity benefit; and*
- *refusal on this basis would be founded on a technical non-compliance rather than any substantive planning concern.*

Officer Comment:

The applicant states that “refusal on this basis would be founded on a technical non-compliance rather than any substantive planning concern,” which is considered well founded. Strict compliance with Clause 53(2)(a) would not deliver any benefit to the proposal and would ultimately restrict development on a site that is capable of accommodating this increase in density.

Furthermore, the proposal is well designed and, in essence, will meet the objectives (b), (g), and (k) of the Environmental Planning and Assessment Act 1979 as it:

- Promotes the supply, delivery and maintenance of housing.
- Promotes good design, amenity and proper construction of the built environment.

- Promotes the orderly and economic use and development of land.

It is therefore considered that the applicant's written request demonstrates that there are sufficient environmental planning grounds to justify contravention of the development standard.

#### **5.4 Controls relating to miscellaneous permissible uses**

The proposed development is for the purpose of a secondary dwelling. The total floor area of the dwelling, excluding any area used for parking, must not exceed the greater of 60 square metres or 20% of the total floor area of the principal dwelling. The proposal does not exceed 60 square metres in total floor area.

#### **5.21 – Flood Planning**

Council records indicate that the lot is not subject to flooding in a 1% AEP flood event. However, the site is affected by localized flooding due to the depression in the ground levels.

The minimum habitable floor level is the 1% AEP flood level + 0.5m freeboard which is RL 27.53m AHD. The proposed development achieves the required floor levels and comply.

A Flood Risk Management Plan prepared by D.T Civil Pty Ltd and dated 30 October was submitted with the application. The report concludes that the proposal will meet the requirements of the Department of Planning's Floodplain Development Manual' and Bayside Council's DCP provided that all procedures and recommendations presented in the report are implemented.

The report and proposal were reviewed by Council's Development Engineer who advised that the development application is supported, subject to conditions of consent.

The proposal has been designed to adhere to the relevant minimum flood levels and is satisfactory with respect to the provisions of this LEP Clause.

#### **6.1 – Acid Sulfate Soils**

Acid Sulfate Soils (ASS) – Class 5 affect the property by the LEP mapping.

The proposal was referred to Council's Contaminated Land Officer who indicated that according to the Architectural Plans (Master Granny Flats, 16/12/2025), the existing ground level ranges RL 26.7-27.3m AHD in the proposed dwelling footprint area. The dwelling ground floor level will be raised to RL 27.5m AHD. Minor cut and fill excavations will be required for the dwelling foundation and footings. The AP indicates footings will extend 0.75m below existing ground level (begl).

A 'Site Classification Assessment' (SCA, Australian Ground Sciences, 9/10/2025) was provided to support the application. The SCA completed hand augering of one borehole at the rear of the site until a depth of 1.2m begl. The site subsurface was found to comprise of silty sand fill until 0.5m begl, underlain by natural silty sands until the borehole termination depth. No anthropogenic inclusions were noted in the fill. No groundwater was intercepted. The borehole log provided.

According to Council IntraMaps, the site is situated within Class 5 Acid Sulfate Soils (ASS) land. ASS are not typically found in Class 5 areas. As the works are not within 500m of adjacent ASS Class land nor will be below 5m AHD, there are no requirements to complete any ASS assessment or management.

The proposal does not involve any excavation below natural ground level other than for footings.

As excavation is less than 2 metres in depth, an Acid Sulfate Soils Management Plan is not warranted in this instance, and the proposal is acceptable in the context of the LEP Clause.

### **6.3 – Stormwater and WSUD**

The development proposes a 3000L rainwater tank which is to be located adjacent to the southern elevation of the secondary dwelling. Stormwater plans were submitted with the application and were prepared by National Engineering Consultants Pty Ltd and dated 22 October 2025. The application was reviewed by Council's Development Engineer who had no objections to the proposal subject to conditions, which have been included in the recommended conditions.

### **6.7 Airspace operations**

The development site is subject to a maximum obstacle limitations surface (OLS) of 51m AHD. The resultant development seeks an overall height at RL 31.476m AHD and remains well below the maximum.

In this respect, a referral to Sydney Airport/Civil Aviation Safety Authority (CASA) was not required as the development is not situated at, or over the prescribed height. Therefore, the proposal does not adversely impact airspace around airports and is acceptable.

### **6.10 Design Excellence**

The development involves the erection of a new building within the Arncliffe Precinct, and the site is identified on the *Design Excellence Map*.

The proposed development exhibits design excellence by demonstrating a high standard of architectural design and consistency with the principal dwelling in terms of materials and detailing. The proposal will not detrimentally impact the public domain as a significant bulk of the development will be concealed behind the principal dwelling. The proposal achieves compliance with the provisions of setbacks, landscaping, and all other provisions of the current development control plan which is in force.

The development is suitable for the land as a secondary dwelling and is permitted within the zone and under the SEPP. This proposal is consistent with the predominant residential character of Union Street and does not impact on matters such as heritage issues, street frontage heights, ecologically sustainable development, or public/private access.

Therefore, the consent authority is satisfied that the development exhibits design excellence and is acceptable.

### **6.11 Essential Services**

Services are generally available on the site to facilitate the proposed development. Appropriate conditions have been recommended requiring approval from, or consultation with, the relevant utility providers regarding any specific requirements for the provision of services to the site.

### **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:

#### **Bayside Development Control Plan 2022**

The application is subject to the Bayside Development Control Plan 2022 ("the DCP"). The following table outlines the relevant Clauses of the DCP applicable to the proposal, while aspects not previously addressed under state policies are further discussed as follows:

Relevant Clauses	Compliance with Objectives	Compliance with Standard / Provision
<b>PART 3 – GENERAL DEVELOPMENT PROVISIONS</b>		
3.1 Site Analysis and Locality	Yes - see discussion	Yes - see discussion
3.5 Transport, Parking and Access	Yes - see discussion	<b>No</b> - see discussion
3.7 Landscaping, Private Open Space and Biodiversity	Yes - see discussion	Yes - see discussion
3.8 Tree Preservation and Vegetation Management	Yes - see discussion	Yes - see discussion
3.9 Stormwater Management and WSUD	Yes - see discussion	Yes - see discussion
3.10 Flood Prone Land	Yes - see discussion	Yes - see discussion
3.11 Contamination	Yes - see discussion	Yes - see discussion
3.12 Waste Minimisation and Site Facilities	Yes - see discussion	Yes - see discussion
<b>PART 5 – RESIDENTIAL AND MIXED USE DEVELOPMENTS</b>		
5.1.2 Ancillary Uses – Additions, Garages, Secondary Dwellings and Studios	Yes - see discussion	<b>No</b> - see discussion
5.2.1 Low-density residential (dwellings, dual occupancy, semi-detached dwellings)	Yes - see discussion	Yes - see discussion

The following Sections elaborate on Key matters from the above table.

#### **PART 3 – GENERAL DEVELOPMENT CONTROLS**

##### **Part 3.5 – Transport, Parking and Access**

The existing use of the site, which is for the purpose of a dwelling house, requires two (2) parking spaces. The proposal involves the erection of a secondary dwelling which adds an additional parking space to the requirement. A total of three (3) parking spaces are required in accordance with Table 3 of 3.5.3 On-site Car Parking Rates.

The site features a vehicular access from Union Street. A concrete driveway spans through the site from the east to the west at the northern portion of the site. The width of the driveway is

approximately 2 metres which cannot accommodate a vehicle. The front setback of the existing dwelling house is also not capable of accommodating a compliant AS.2890.1 parking space.

The shortfall of parking provisions is historical, and the Council's engineer raised no objection to the proposal, subject to conditions of consent.

The proposal satisfies the transport, access and parking requirements of the DCP.

#### **Part 3.7 and 3.8 – Landscaping, Private Open Space, Biodiversity and Tree/Vegetation Management**

The proposed use generates a required landscaped area of 25% of the site area. The proposal complies with this control, with 25.07% of the site being landscaped area.

The proposal complies with the requirement that at least 20% of the front setback is landscaped area (with 20.46% provided) and a maximum of 20% of total landscaped area being in the side setbacks (with 2.5% provided). The proposal also complies with the control that at least 75% of the landscaped area comprises planting areas, as opposed to paving/gravel (with 100% provided).

As per TP-2025/269, dated 03/09/2025 consent was granted to remove one (1) *Robinia pseudoacacia* (Black Locus). This tree has been removed however, the replacement offset trees have not been planted.

Council's Tree Management Officer has recommended conditions be imposed, which have been included in the recommended conditions of consent.

The proposal is satisfactory in regard to the objectives and provisions of Parts 3.7 and 3.8 of the DCP.

#### **Part 3.9 – Stormwater Management and WSUD**

An assessment against stormwater management has been discussed in response to Clause 6.3 of the LEP, in the previous Section of this report.

#### **Part 3.10 – Flood Prone Land**

An assessment against flood management has been discussed in response to Clause 5.21 and 5.22 of the LEP, in the previous Section of this report.

#### **Part 3.11 – Contamination**

An assessment of contamination has been discussed in response to *SEPP (Resilience and Hazards) 2021* in a previous Section of this report.

#### **Part 3.12 – Waste Minimisation and Management**

A Waste Minimisation and Management Plan prepared by Daoud Building Group Pty Limited and dated 26 September 2025 was submitted with the application listing methods for minimising and managing construction and ongoing waste on site.

An appropriate condition has been included in the recommended conditions.

## PART 5 – RESIDENTIAL AND MIXED-USE DEVELOPMENTS

### 5.1.2 - Ancillary residential uses - rear and side lane additions, detached garages, secondary dwellings and studios

The proposed secondary dwelling achieves the minimum required setback of 900mm from the side and rear boundaries.

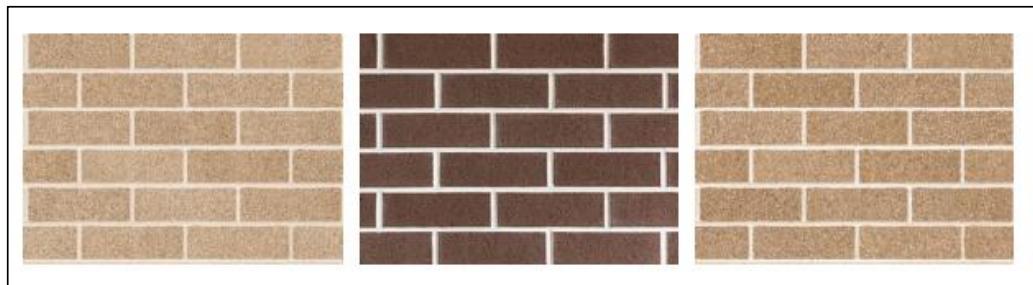
The proposed outbuilding, being the secondary dwelling, does not result in non-compliances relating to minimum landscaped area, private open space, overshadowing, privacy and other relevant provisions outlined in SEPP (Housing) 2021 except for the minimum site area requirement.

The proposal is considered acceptable in this regard and justified under the section relating to the Clause 4.6 Variation Request under this report.

The proposal involves the demolition of an existing outbuilding and the construction of a outbuilding (secondary dwelling) which does not exceed the 70 square metre maximum permitted gross floor area of all outbuildings.

A schedule of external colours and finishes was submitted by the applicant which features the following:

#### Brick Veneer



#### Roof Tiles, aluminium window frames and timber door



The submitted external colours, materiality and finishes for the secondary dwelling are considered in keeping with the character of the locality and existing dwelling.

### **5.2.1 - Low-density residential (dwellings, dual occupancy, semi-detached dwellings)**

#### **5.2.1.1 - Streetscape, Local Character and Quality of Design**

This proposal does not impact the local streetscape character as the proposed secondary dwelling will be situated behind the primary dwelling. The proposed secondary dwelling incorporates a range of materials and colours which complement the existing dwelling.

Therefore, it is reasonable to conclude the proposal is consistent with the objectives and controls relating to building design, materials and finishes.

#### **5.2.1.2 - Built Form Controls**

The proposed secondary dwelling is single storey and most of the provisions within this section do not apply.

The proposal incorporates a roof form which is consistent with the primary dwelling and features a pitch of 20 degrees. Roof overhangs are in excess of 450mm.

No further consideration can be given and the proposal is considered satisfactory in regard to the objectives and provisions of 5.2.1.2 – Built Form Controls.

#### **5.2.1.3 – Setbacks**

The setback controls in section 5.1.2 - Ancillary residential uses - rear and side lane additions, detached garages, secondary dwellings and studios of the DCP have been addressed previously.

#### **5.2.1.4 - Landscaping and Private Open Space**

The landscaping controls in Part 3.7 of the DCP have been addressed previously.

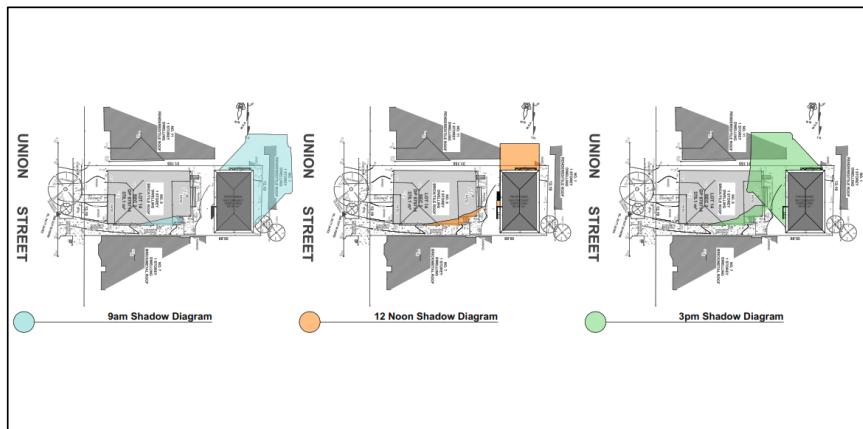
#### **5.2.1.5 - Solar Access and Overshadowing**

Dwellings within the development site and adjoining properties are required to receive a minimum of 2 hours direct sunlight to habitable living rooms (family rooms, rumpus, lounge and kitchen areas) and to at least 50% of the primary open space between 9am and 3pm in mid-winter (June 21).

The subject site is orientated east to west with the frontage of the site facing the east and the rear of the site facing the west. The lot pattern of the street is such that each adjoining site also has the same orientation.

The applicant has provided proposed aerial shadow diagrams at the intervals of 9am, 12pm and 3 pm.

As demonstrated within the shadow diagrams, the proposal will not result in the development site or adjoining properties to receive less than 2 hours of direct sunlight to habitable living rooms or to at least 50% of the primary open space between 9am and 3pm.



**Figure 10.** Shadow diagrams prepared by applicant.

The proposal is satisfactory in regard to the objectives and provisions of 5.2.1.5 - Solar Access and Overshadowing of the DCP.

#### **5.2.1.6 - Parking and Access**

This has been addressed previously in accordance with Part 3.5 of the DCP.

#### **5.2.1.7 - Visual and Acoustic Privacy**

An assessment of potential privacy impacts upon neighbours has been undertaken having regard to the controls and objectives of this Part of the DCP.

The proposed development has been designed and sited to reasonably minimise overlooking to and from adjoining properties, incorporating:

- Highlight windows with a minimum sill height of 1.5 metres;
- Obscure or translucent glazing to windows;
- Windows that are offset from windows at adjacent dwellings.

#### **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 (Section 61(1))

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. The impacts that have not already been addressed or warrant some elaboration are as follows:

#### **Natural Environmental Impacts**

##### Trees

The proposal does not propose the removal of trees and the recommended conditions of consent from the Tree Management Officer will ensure that impacts on trees are mitigated.

#### **Built Environmental Impacts**

##### Acoustic Impacts

The proposal involves a wall-mounted air conditioning unit to service the secondary dwelling. The unit would be situated above the boundary fence and face the side boundary of the adjoining development at No. 1 Towers Street. The noise emissions from the unit may present acoustic impacts to the adjoining property and as such, the recommended conditions of consent include a condition for the unit to be lowered as close as possible to the natural ground level, below the fence height of the adjoining neighbor. The boundary fencing will act as an acoustic barrier and mitigate any impacts in terms of noise for the adjoining property.

##### Parking

As mentioned above in this report, the site features a historical shortfall of parking provisions, with zero (0) spaces provided.

The subject site is located in proximity to Arncliffe Railway Station which is 400 metres north-east of the site. The walking distance from the subject site to Arncliffe Railway Station is 500 metres, with an estimated time of arrival of seven (7) minutes on foot.

The Arncliffe area is generally well serviced by busses and the additional occupants because of the secondary dwelling will be able to comfortably travel using either means of transport.

This proposal is considered to directly address the objectives of Zone R2 Low Density Residential by enabling a residential development in an accessible location which will maximise public transport patronage and encourage walking and cycling.

##### Construction Impacts

Temporary construction-related impacts do affect amenity and this is partially inevitable from demolition, excavation and constructing new works. However, these are not anticipated to unduly affect surrounding residents. These construction-related impacts are able to be addressed by standard conditions of consent, as recommended, to reasonably manage and

mitigate impacts, while allowing rational and orderly construction.

### **Social Impacts**

The social impacts of the proposal are expected to be positive or neutral, with a development of high-quality design and amenity to meet the needs of future residents, within a form compatible with the character of the area and with impacts which are not significantly adverse, and commensurate with impacts to be expected from development of the site, given the planning controls.

### **Economic Impacts**

In terms of economic impacts, the proposal will cause no anticipated negative economic impacts and will result in positive economic impacts from the materials and labour needed for construction of the proposal.

### **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**

#### **Public Submissions**

The development has been notified in accordance with the DCP, between 24 November 2025 to 8 December 2025. One (1) submission was received.

The issues raised in the submissions are discussed below:

#### Issue 1: Non-compliances with State Environmental Planning Policy (Housing) 2021

Comment: The submission states that the proposed development is non-compliant with SEPP (Housing) 2021 policy in terms of the minimum lot size required under Clause 53(2)(a) and the provisions under Schedule 1 Complying development—Secondary dwellings.

It is clarified that the provisions under Schedule 1 of the SEPP (Housing) 2021 policy strictly apply under the Complying Development pathway which is not subject to the merit based assessment pathway under a Development Application.

The submission had also stated that a “non—discretionary standard” is one that is mandatory.

Non-discretionary development standards, also known as non-refusal standards, identify development standards for particular matters like building heights, floor space ratio or lot size.

They have the effect of prevailing over an equivalent standard set out in a local environmental plan (LEP) or development control plan (DCP) that is more onerous. If the proposed development complies with the non-discretionary standard, a consent authority cannot refuse the application on the grounds that the development does not comply with the standard.

#### Issue 2: Concern in relation to the potential of the secondary dwelling being two (2) storeys.

Comment: As per C3 in Part 5.1.2.1 General of the BDCP 2022, where the BLEP 2021 enables

the development of a 2 storey outbuilding, the second storey of the building must have a traditional pitched form with dormer windows and generally contained within the attic.

Notwithstanding the above, this application involves a single storey secondary dwelling.

Any future application which involves a second storey addition will be assessed based on its merits and compliance with the provisions of Council's policies.

Issue 3: The tree and shrubbery removed from the subject site have impacted the soil and pushes up against No. 7 Union Street boundary fencing.

Comment: As noted in this assessment report, an application (TP-2025/269) was granted consent on the 3 September 2025 by Bayside Council to remove one (1) *Robinia pseudoacacia* (Black Lotus). The replacement offset trees are to be replanted in accordance with the above consent and will improve the vegetation on site.

Issue 4: The removal of the trees and shrubbery including the construction of a secondary dwelling, counteracts the natural cross-property cooling effect of the Bayside sea breeze.

Comment: The removal of vegetation is discussed in Issue 3. The proposed development is not anticipated to negatively impact the prevailing winds which travel from the south-west corner of the site to the north-east given the bulk and scale of the development. The winds can pass above or around the proposed development and continue to pass through No. 7 Union Street.

#### **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.

#### **S7.11/7.12 - Development Contributions**

The application was referred to Council's Development Contributions Planner who indicated that the development is subject to S7.11 Development Contributions under the Arncliffe and Banksia Local Infrastructure Contribution Plan 2020 with a total of \$20,000.00 required to be paid. An overall breakdown of the calculated amounts are included below:

Transport	\$ 6,170.25
Stormwater Management	\$ 892.60
Open Space	\$ 3,864.80
Community Facilities	\$ 8,835.45
Administration	\$ 236.90
<b>Total in 2025/26</b>	<b>\$ 20,000.00</b>

In this respect, a suitable condition will be included in the draft notice of determination requiring the payment of the above stated amount prior to the issue of a Construction Certificate.

## **Housing and Productivity Contribution (HPC)**

A secondary dwelling is not subject to the Housing and Productivity Contribution (HPC) under the *Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023*.

## **Conclusion and Reasons for Decision**

The proposed development at 9 Union Street, ARNCLIFFE NSW 2205 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 shed and construction of a secondary dwelling, is a permissible land use within the zone with development consent. In response to the public notification, one (1) submission was received. The matters raised in this submission include non-compliance with SEPP (Housing) 2021, tree removal, and potential overdevelopment. These matters have been discussed and addressed in this report and in this instance do not warrant refusal of the proposal.

The proposal is supported for the following main reasons:

- The proposed contravention has been assessed in accordance with Section 4.6 of Bayside Local Environmental Plan 2021 and is considered acceptable subject to conditions of consent.
- The development, subject to conditions, is consistent with the objectives of the R2 Low Density Residential zone and the relevant objectives of Bayside Local Environmental Plan 2021.
- The development, subject to conditions, is consistent with the objectives of Bayside Development Control Plan 2022 and generally consistent with the relevant requirements of Bayside Development Control Plan 2022.
- The issues raised by objectors have been considered and where appropriate, addressed via amendments to plans or conditions or consent.

## **Schedule 1 – Draft Conditions of Consent**

Refer to draft conditions attached separately.



## NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

<b>Application number</b>	DA-2025/658 PAN-590225
<b>Applicant</b>	Master Granny Flats 2B Pritchard Pl, Peakhurst NSW 2210
<b>Description of development</b>	Construction of proposed secondary dwelling and demolition of existing shed and gardening bed.
<b>Property</b>	9 UNION STREET ARNCLIFFE 2205 14/2/DP979714
<b>Determination</b>	Approved Consent Authority - Local Planning Panel
<b>Date of determination</b>	
<b>Date from which the consent operates</b>	

Under section 4.18(1) of the EP&A Act, notice is given that the above development application has been determined by the granting of consent using the power in section 4.16(1)(a) of the EP&A Act, subject to the conditions specified in this notice.

### Reasons for approval

- The proposed contravention has been assessed in accordance with Section 4.6 of Bayside Local Environmental Plan 2021 and is considered acceptable subject to conditions of consent.

- The development, subject to conditions, is consistent with the objectives of the R2 Low Density Residential zone and the relevant objectives of Bayside Local Environmental Plan 2021.
- The development, subject to conditions, is consistent with the objectives of Bayside Development Control Plan 2022 and generally consistent with the relevant requirements of Bayside Development Control Plan 2022.
- The issues raised by objectors have been considered and where appropriate, addressed via amendments to plans or conditions or consent.

#### **Right of appeal / review of determination**

If you are dissatisfied with this determination:

#### **Request a review**

You may request a review of the consent authority's decision under section 8.3(1) of the EP&A Act. The application must be made to the consent authority within 6 months from the date that you received the original determination notice provided that an appeal under section 8.7 of the EP&A Act has not been disposed of by the Court.

#### **Rights to appeal**

You have a right under section 8.7 of the EP&A Act to appeal to the Court within 6 months after the date on which the determination appealed against is notified or registered on the NSW planning portal.

The Dictionary at the end of this consent defines words and expressions for the purposes of this determination.

Marta Gonzalez-Valdes  
Coordinator Development Assessment  
Person on behalf of the consent authority

For further information, please contact Pavel Zaytsev / Development Assessment Planner / 9562 1582

### Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

### General Conditions

1	<b>Compliance with Building Code of Australia and insurance requirements under Home Building Act 1989</b>
<ol style="list-style-type: none"><li>1. It is a condition of a development consent for development that involves building work that the work must be carried out in accordance with the requirements of the Building Code of Australia.</li><li>2. It is a condition of a development consent for development that involves residential building work for which a contract of insurance is required under the Home Building Act 1989, Part 6 that a contract of insurance is in force before building work authorised to be carried out by the consent commences.</li><li>3. It is a condition of a development consent for a temporary structure used as an entertainment venue that the temporary structure must comply with Part B1 and NSW Part H102 in Volume 1 of the Building Code of Australia.</li><li>4. In subsection (1), a reference to the Building Code of Australia is a reference to the Building Code of Australia as in force on the day on which the application for the construction certificate was made.</li><li>5. In subsection (3), a reference to the Building Code of Australia is a reference to the Building Code of Australia as in force on the day on which the application for development consent was made.</li><li>6. This section does not apply—<ol style="list-style-type: none"><li>a. to the extent to which an exemption from a provision of the Building Code of Australia or a fire safety standard is in force under the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, or</li><li>b. to the erection of a temporary building, other than a temporary structure to which subsection (3) applies.</li></ol></li></ol>	
<b>Condition reason:</b> Prescribed condition under section 69 of the Environmental Planning and Assessment Regulation 2021.	
2	<b>Erection of signs</b>
<ol style="list-style-type: none"><li>1. This section applies to a development consent for development involving building work, subdivision work or demolition work.</li><li>2. It is a condition of the development consent that a sign must be erected in a prominent position on a site on which building work, subdivision work or demolition work is being carried out—</li></ol>	

	<ul style="list-style-type: none"> <li>a. showing the name, address and telephone number of the principal certifier for the work, and</li> <li>b. showing the name of the principal contractor, if any, for the building work and a telephone number on which the principal contractor may be contacted outside working hours, and</li> <li>c. stating that unauthorised entry to the work site is prohibited.</li> </ul> <p>3. The sign must be—</p> <ul style="list-style-type: none"> <li>a. maintained while the building work, subdivision work or demolition work is being carried out, and</li> <li>b. removed when the work has been completed.</li> </ul> <p>4. This section does not apply in relation to—</p> <ul style="list-style-type: none"> <li>a. building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or</li> <li>b. Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.</li> </ul>
	<p><b>Condition reason:</b> Prescribed condition under section 70 of the Environmental Planning and Assessment Regulation 2021.</p>
3	<p><b>Fulfilment of BASIX commitments</b></p> <p>It is a condition of a development consent for the following that each commitment listed in a relevant BASIX certificate is fulfilled—</p> <ul style="list-style-type: none"> <li>1. BASIX development,</li> <li>2. BASIX optional development, if the development application was accompanied by a BASIX certificate.</li> </ul> <p><b>Condition reason:</b> Prescribed condition under section 75 of the Environmental Planning and Assessment Regulation 2021.</p>
4	<p><b>Notification of Home Building Act 1989 requirements</b></p> <ul style="list-style-type: none"> <li>1. This section applies to a development consent for development involving residential building work if the principal certifier is not the council.</li> <li>2. It is a condition of the development consent that residential building work must not be carried out unless the principal certifier for the development to which the work relates has given the council written notice of the following— <ul style="list-style-type: none"> <li>a. for work that requires a principal contractor to be appointed— <ul style="list-style-type: none"> <li>i. the name and licence number of the principal contractor, and</li> <li>ii. the name of the insurer of the work under the Home Building Act 1989, Part 6,</li> </ul> </li> <li>b. for work to be carried out by an owner-builder— <ul style="list-style-type: none"> <li>i. the name of the owner-builder, and</li> <li>ii. if the owner-builder is required to hold an owner-builder permit under the Home Building Act 1989—the number of the owner-builder permit.</li> </ul> </li> </ul> </li> </ul>

	<p>3. If the information notified under subsection (2) is no longer correct, it is a condition of the development consent that further work must not be carried out unless the principal certifier has given the council written notice of the updated information.</p> <p>4. This section does not apply in relation to Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.</p>																																																					
	<p><b>Condition reason:</b> Prescribed condition under section 71 of the Environmental Planning and Assessment Regulation 2021.</p>																																																					
5	<p><b>Approved plans and supporting documentation</b></p> <p>Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.</p>																																																					
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	BASIX Certificate 1818253S_02	Daoud Building Group Pty Limited	22/10/2025	
	Flood Risk Management Plan	D.T Civil Pty Ltd	30/10/2025	
	Site Classification Assessment	Australian Ground Sciences	09/10/2025	
	Waste Management Plan	Daoud Building Group Pty Limited	26/09/2025	
<p>In the event of any inconsistency between the approved plans and documents, the approved plans prevail.</p> <p>In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.</p> <p><b>Condition reason:</b> To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.</p>				
6	<p><b>Construction Certificate Required</b></p> <p>A Construction Certificate must be obtained from Council or a Principal Certifier prior to any building work commencing.</p> <p>Building work is defined under the Environmental Planning and Assessment Act Part 6.</p> <p><b>Condition reason:</b> To ensure that a Construction Certificate is obtained at the appropriate time.</p>			
7	<p><b>Earthworks Not Shown on Plans</b></p> <p>No further excavation, fill, 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.</p> <p><b>Condition reason:</b> To avoid changes that may result in adverse impacts without proper assessment.</p>			
8	<p><b>Single Occupancy Only</b></p> <p>The building is approved as a single dwelling only. It shall not be used for separate residential occupation, including, but not limited to, such as a boarding house or a separate residential flats.</p> <p><b>Condition reason:</b> To ensure that the intensity of development is suitable for the site.</p>			
9	<p><b>Tree Protection Guidelines</b></p> <p><b>Tree Protection Guidelines.</b></p>			

<p>The existing boundary fencing will act as a Tree Protection Zone for the two (2) fruit trees at No. 1 Towers Street which are adjacent to the rear boundary of the subject site.</p> <p>The TPZ area is to have a minimum of two signs that include the words "Tree Protection Zone – Keep Out". Each sign shall be a minimum size of 60cm x 50cm and the name and contact details of the Project Arborist. The following activities shall not be carried out within any Tree Protection Zone:</p> <ol style="list-style-type: none"><li>1. disposal of chemicals and liquids (including concrete and mortar slurry, solvents, paint, fuel or oil);</li><li>2. stockpiling, storage or mixing of materials;</li><li>3. refuelling, parking, storing, washing and repairing tools, equipment, machinery and vehicles;</li><li>4. disposal of building materials and waste;</li></ol> <p>The following activities shall not be carried out within any Tree Protection Zone unless under the supervision of the Project Arborist (AQF Level 5) or Councils Tree Management Officer.</p> <ol style="list-style-type: none"><li>1. increasing or decreasing soil levels (including cut and fill);</li><li>2. soil cultivation, excavation or trenching;</li><li>3. placing offices or sheds;</li><li>4. erection of scaffolding or hoardings; and/or</li><li>5. any other act that may adversely affect the vitality or structural condition of the protected tree/s.</li></ol> <p><b>Tree Offset Controls.</b></p> <p>To offset the loss of canopy the applicant is required to replace the one (1) removed tree at a 2:1 replacement ratio, therefore a total of two (2) new trees shall be planted to offset the canopy loss for environmental reasons. Two (2) x 45 Litre native trees are to be planted.</p> <p><b>Public Domain Tree Bond.</b></p> <p>Prior to the commencement of any work the applicant is to submit payment for a Tree Bond of \$2,000.00 to ensure protection of the Public Domain tree.</p> <p>The duration of the Bond shall be limited to a period of 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 trees.</p> <p><b>Breach of Conditions</b></p>
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	<p>The above listed requirements and tree protection measures must be complied with at all times until completion of all building and hard landscape construction.</p> <p>Council may choose to issue an infringement notice or pursue legal action if the conditions of consent have been broken.</p> <p>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 required remedial work.</p> <p>Council will invoice the Applicant for costs associated with remedial pruning work or tree replacement. For trees on private property, the Applicant will be required to undertake tree maintenance/replacement work, as specified by Council.</p> <p><b>Condition reason:</b> To minimise adverse impacts on trees, protect local canopy through tree retention and replacement and ensure best practice is implemented.</p>
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## Building Work

### Before issue of a construction certificate

10	<b>Erosion and sediment control plan</b>
	<p>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 in accordance with the following:</p> <ol style="list-style-type: none"> <li>1. Council's relevant development control plan,</li> <li>2. the guidelines set out in 'Managing Urban Stormwater: Soils and Construction' prepared by Landcom (the Blue Book) (as amended from time to time), and</li> <li>3. the 'Guidelines for Erosion and Sediment Control on Building Sites' (Department of Planning, Housing and Infrastructure) (dated 2024, as amended from time to time).</li> </ol> <p><b>Condition reason:</b> To ensure no substance other than rainwater enters the stormwater system and waterways.</p>
11	<b>Payment of security deposits</b>
	<p>Before the issue of a Construction Certificate, the applicant must:</p> <ol style="list-style-type: none"> <li>1. make payment of \$1,425.00 for a security deposit to the consent authority; and</li> <li>2. 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.</li> </ol> <p><b>Condition reason:</b> To ensure any damage to public infrastructure is rectified and public works can be completed.</p>
12	<b>Waste Management Plan – an approved document of this consent</b>

	<p>Before the issue of a Construction Certificate, a waste management plan for the development must be provided to the Principal Certifier.</p> <p><b>Condition reason:</b> To ensure resource recovery is promoted and local amenity protected during construction.</p>
13	<p><b>Construction Site Management Plan</b></p> <p>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:</p> <ol style="list-style-type: none"> <li>1. The location and materials for protective fencing and hoardings on the perimeter of the site;</li> <li>2. Location of dedicated washdown areas (located away from drainage lines, stormwater drains and water bodies);</li> <li>3. Provisions for public safety;</li> <li>4. Pedestrian and vehicular site access points and construction activity zones;</li> <li>5. Details of construction traffic management including:             <ol style="list-style-type: none"> <li>a. Proposed truck movements to and from the site;</li> <li>b. Estimated frequency of truck movements; and</li> <li>c. Measures to ensure pedestrian safety near the site;</li> </ol> </li> <li>6. Details of bulk earthworks to be carried out;</li> <li>7. The location of site storage areas and sheds;</li> <li>8. The equipment used to carry out works;</li> <li>9. The location of a garbage container with a tight-fitting lid;</li> <li>10. Dust, noise and vibration control measures;</li> <li>11. Details of chemical storage and management;</li> <li>12. The location of temporary toilets;</li> <li>13. The protective measures for the preservation of trees on-site and in adjoining public areas including measures in accordance with:             <ol style="list-style-type: none"> <li>a. AS 4970 – Protection of trees on development sites;</li> <li>b. An applicable Development Control Plan;</li> <li>c. An arborist's report approved as part of this consent</li> </ol> </li> </ol> <p>A copy of the construction site management plan must be kept on-site at all times while work is being carried out.</p> <p><b>Condition reason:</b> To require details of measures that will protect the public, and the surrounding environment, during site works and construction.</p>
14	<p><b>Design amendments</b></p> <p>Before the issue of a construction certificate, the Principal Certifier must ensure the construction certificate plans and specifications detail the following required amendments to the approved plans and documents:</p> <ol style="list-style-type: none"> <li>1. The A/C Wall Mounted Converter proposed at the west elevation of the proposed secondary dwelling is to be relocated to be as close as possible to the existing</li> </ol>

	<p>natural ground level and below the fence height of the existing rear boundary fencing.</p>
	<p><b>Condition reason:</b> To require minor amendments to the plans endorsed by the consent authority following assessment of the development.</p>
15	<p><b>Sydney Water Tap-in</b></p> <p>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.</p> <p>Sydney Water's Tap inTM online service is available at:  <a href="https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm">https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm</a></p> <p><b>Condition reason:</b> To ensure compliance with Sydney Water requirements.</p>
16	<p><b>Detailed Design Stormwater Management Plan</b></p> <p>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. Bayside Technical Specification Stormwater Management 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 Bayside Technical Specification Stormwater Management.</p> <p>The detailed drainage design plans shall incorporate the provisions generally made in the stormwater concept plans prepared by NEC, job number 25-0523, dated 22.10.2025, revision A along with the requirements detailed below:</p> <ol style="list-style-type: none"> <li>1. A minimum 3,000 litre rainwater tank shall be provided for the development, connected to all toilet flushing, the cold water tap that supplies each clothes washing machine and external taps/landscape irrigation for non-potable stormwater re-use. The rainwater tank overflow invert level to be shown.</li> <li>2. A rainwater tank detail is to be provided to show the surface level, top of tank, top water level and the invert level of the overflow pipe. For charged roof systems, a minimum of 0.5m head difference is required from the roof gutter level to the top of rainwater tank.</li> <li>3. All charged line calculations to be shown on the plans.</li> <li>4. A sediment and erosion control plan to be provided showing all erosion measures including the surface pits.</li> <li>5. A stormwater roof drainage plan is to be provided indicating the downpipe sizes. Typical details for the proposed gutters to be provided.</li> <li>6. Typical rainwater tank warning sign to be provided.</li> </ol> <p><b>Condition reason:</b> To ensure compliance with Council's Stormwater Management Technical Guidelines / Specifications.</p>

17	<p><b>Payment of fees and security deposits.</b></p> <p>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:</p> <table border="1"><tr><td>Soil and Water Management Sign Fee</td><td>\$27.00</td></tr></table> <p>Note: The amount payable must be in accordance with Council's fees and charges at the payment date.</p> <p>Note: At the completion of the project only security deposits can be refunded, fees and contributions are non-refundable.</p> <p><b>Condition reason:</b> To ensure any damage to public infrastructure is rectified and public works can be completed.</p>	Soil and Water Management Sign Fee	\$27.00								
Soil and Water Management Sign Fee	\$27.00										
18	<p><b>Payment of Section 7.11 Contributions.</b></p> <p>Before the issue of a construction certificate the applicant must pay the following contributions to Council for:</p> <p>(a) Arncliffe and Banksia Local Infrastructure Contribution Plan 2020</p> <table border="1"><tr><td>Transport</td><td>\$6,170.26</td></tr><tr><td>Stormwater Management</td><td>\$892.60</td></tr><tr><td>Open Space</td><td>\$3,864.80</td></tr><tr><td>Community Facilities</td><td>\$8,835.45</td></tr><tr><td>Administration</td><td>\$236.90</td></tr></table> <p>The total contribution payable to Council under the condition is \$20,000.00 as calculated at the date of this consent, in accordance with the Arncliffe and Banksia Local Infrastructure Contribution Plan 2020.</p> <p>The total amount payable may be adjusted at the time the payment is made, in accordance with the provisions of the Arncliffe and Banksia Local Infrastructure Contribution Plan 2020.</p> <p>A copy of the development contributions plan is available for inspection at <a href="#">Arncliffe and Banksia Local Infrastructure Contributions Plan 2020   Bayside Council   NSW</a>.</p> <p><b>Condition reason:</b> To ensure development contributions are paid to address the increased demand for public amenities and services resulting from the approved development.</p>	Transport	\$6,170.26	Stormwater Management	\$892.60	Open Space	\$3,864.80	Community Facilities	\$8,835.45	Administration	\$236.90
Transport	\$6,170.26										
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Community Facilities	\$8,835.45										
Administration	\$236.90										

**Before building work commences**

19	<p><b>Erosion and sediment controls in place</b></p> <p>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.</p> <p>These controls must remain in place until any bare earth has been restabilised in accordance with the erosion and sediment control plan.</p> <p><b>Condition reason:</b> To ensure sediment laden runoff and site debris do not impact local stormwater systems and waterways.</p>
20	<p><b>Dilapidation report</b></p> <p>Before any site work commences, a dilapidation report must be prepared by a suitably qualified engineer detailing the structural condition of adjoining buildings, structures or works and public land, to the satisfaction of the principal certifier.</p> <p>At the proposed point of construction site entry, a full photographic survey showing the existing conditions of Bayside Council's infrastructure shall be submitted to Bayside Council and the Principal Certifier.</p> <p>The survey shall detail the physical conditions and identify any existing damages to the road, kerb, gutter, footpath, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 20m from the development.</p> <p>Failure to do so will result in the Applicant being liable for any construction related damages to these assets. Any damage to Bayside Council's infrastructure during the course of this development shall be restored at the Applicant's cost.</p> <p>Where access has not been granted to any adjoining properties to prepare the dilapidation report, the report must be based on a survey of what can be observed externally and demonstrate, in writing, to the satisfaction of the principal certifier, that all reasonable steps were taken to obtain access to the adjoining properties.</p> <p>No less than two (2) days before any site work commences, adjoining building owner(s) must be provided with a copy of the dilapidation report for their property(ies) and a copy of the report(s) must be provided to Council (where Council is not the principal certifier) at the same time.</p> <p><b>Condition reason:</b> To establish and document the structural condition of adjoining properties and public land for comparison as site work progresses and is completed and ensure neighbours and Council are provided with the dilapidation report.</p>
21	<p><b>Before You Dig Australia</b></p> <p>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 <i>Before You Dig Australia</i> at <a href="http://www.byda.com.au">www.byda.com.au</a> or telephone on 1100 before excavating or erecting structures (This is the law in NSW).</p>

	<p>If alterations are required to the configuration, size, form or design of the development upon contacting the <i>Before You Dig Australia</i> 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.</p> <p>It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the <i>Before You Dig Australia</i> service in advance of any construction or planning activities.</p> <p><b>Condition reason:</b> To protect the amenity of the neighbourhood and ensure public safety.</p>
22	<p><b>Dilapidation Report - Public Domain - Pre-Construction - Minor</b></p> <p>At the proposed point of construction site entry, a full photographic survey showing the existing conditions of Bayside Council's infrastructure shall be submitted to Bayside Council and the Principal Certifier. The survey shall detail the physical conditions and identify any existing damages to the road, kerb, gutter, footpath, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 20m from the development. Failure to do so will result in the Applicant being liable for any construction related damages to these assets. Any damage to Bayside Council's infrastructure during the course of this development shall be restored at the Applicant's cost.</p> <p><b>Condition reason:</b> To advise Council of, and provide Council with, the required dilapidation report.</p>

### During building work

23	<p><b>Hours of work</b></p> <p>Site work must only be carried out between the following times:</p> <p>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.</p> <p>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.</p> <p><b>Condition reason:</b> To protect the amenity of the surrounding area.</p>
24	<p><b>Implementation of the site management plans</b></p> <p>While site work is being carried out:</p> <ol style="list-style-type: none"> <li>1. the measures required by the construction site management plan and the erosion and sediment control plan (plans) must be implemented at all times; and</li> </ol>

	<p>2. a copy of these plans must be kept on site at all times and made available to Council officers upon request.</p> <p><b>Condition reason:</b> To ensure site management measures are implemented during the carrying out of site work.</p>
25	<p><b>Procedure for critical stage inspections</b></p> <p>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.</p> <p><b>Condition reason:</b> To require approval to proceed with building work following each critical stage inspection.</p>
26	<p><b>Waste management</b></p> <p>While site work is being carried out:</p> <ol style="list-style-type: none"> <li>1. all waste management must be undertaken in accordance with the waste management plan; and</li> <li>2. upon disposal or removal of the waste, records of the disposal or other fate (such as re-use on site) must be compiled and provided to &lt;Insert the principal certifier or Council (where a principal certifier is not required)&gt;, detailing the following:             <ol style="list-style-type: none"> <li>a. The name and contact details of the person(s) who removed the waste,</li> <li>b. The waste carrier vehicle registration,</li> <li>c. The date and time of waste collection,</li> <li>d. A description of the waste (type of waste, classification and estimated quantity) and whether the waste is to be reused, recycled, go to landfill or other fate.</li> <li>e. The contact details and address of the disposal location or other offsite location(s) where the waste was taken,</li> <li>f. 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.</li> </ol> </li> <li>3. The waste generated on site during construction must be classified in accordance with the Environment Protection Authority's Waste Classification Guidelines, 2014 (as amended from time to time) and disposed of to an approved waste management facility or otherwise lawfully managed.</li> </ol> <p>If waste has been removed from the site where the waste is under an Environment Protection Authority Resource Recovery Order or Exemption, records in relation to and required by that Order or Exemption must be maintained and provided to the principal certifier and council.</p> <p><b>Condition reason:</b> To require records to be provided, during site work, documenting the lawful disposal of waste.</p>
27	<p><b>Approval and Permits under Roads Act and Local Government Act for Works Activities on Public Land</b></p>

	<p>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:</p> <ul style="list-style-type: none"><li>• 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.</li><li>• 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.</li><li>• 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.</li><li>• 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.</li><li>• 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 &amp; B hoarding, type A &amp; B hoarding with scaffolding and type B hoarding plus site sheds.</li><li>• 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.</li><li>• 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.</li><li>• 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.</li><li>• 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.</li></ul>
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	<ul style="list-style-type: none"> <li>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.</li> </ul> <p>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.</p> <p><b>Condition reason:</b> To ensure appropriate permits are applied for and comply with the Roads Act 1993.</p>
28	<p><b>Approved Plans kept on Site</b></p> <p>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.</p> <p><b>Condition reason:</b> To ensure relevant information is available on site.</p>
29	<p><b>Construction Activities - Minimise Pollution</b></p> <p>The following conditions are necessary to ensure minimal impacts during construction:</p> <p>(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</p> <p>(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</p> <p>(c) All disturbed areas shall be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls, and</p> <p>(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</p> <p>(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</p>

	<p>(f) Windblown dust from stockpile and construction activities shall be minimised by one or more of the following methods:</p> <ul style="list-style-type: none"> <li>(i) spraying water in dry windy weather, and</li> <li>(ii) cover stockpiles, and</li> <li>(iii) fabric fences.</li> </ul> <p>(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</p> <p>(h) The applicant shall conduct all construction works and any related deliveries/activities wholly within the site, and</p> <p>(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</p> <p>(j) Access 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</p> <p>(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.</p> <p><b>Condition reason:</b> To protect neighbourhood amenity and the quality of the waterways.</p>
30	<p><b>Protection of Council's Property</b></p> <p>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.</p> <p><b>Condition reason:</b> To ensure public safety at all times and to protect the function and integrity of public infrastructure.</p>
31	<p><b>Demolition Requirements</b></p>

	<p>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.</p> <p><b>Condition reason:</b> To comply with relevant Australian Standard and Work Cover requirements.</p>
32	<p><b>Additional information – Contamination</b></p> <p>Any new information that comes to light during demolition, excavation, or construction, which has the potential to alter previous conclusions about site contamination, must be notified to Council and an accredited certifier immediately.</p> <p><b>Condition reason:</b> To protect human health and the environment in accordance with legislative requirements.</p>
33	<p><b>Asbestos</b></p> <p>Any material containing asbestos found on site must be removed and disposed of in accordance with:</p> <ol style="list-style-type: none"> <li>1. SafeWork NSW requirements – an appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m<sup>2</sup> of bonded asbestos and/or any friable asbestos;</li> <li>2. 'Protection of the Environment Operations Act 1997';</li> <li>3. 'Protection of the Environment Operations (Waste) Regulation 2014'; and</li> <li>4. NSW EPA Waste Classification Guidelines 2014.</li> </ol> <p><b>Condition reason:</b> To protect human health and the environment in accordance with legislative requirements.</p>
34	<p><b>Waste Classification – Excavated Materials</b></p> <p>All materials excavated from the site (fill or natural) must be classified in accordance with the NSW 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.</p> <p><b>Condition reason:</b> To protect human health and the environment in accordance with legislative requirements.</p>
35	<p><b>Importation of Fill (General)</b></p> <p>To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill must be appropriately certified material and must be validated in accordance with:</p> <ol style="list-style-type: none"> <li>a) NSW EPA approved guidelines;</li> <li>b) Protection of the Environment Operations Act 1997; and</li> <li>c) Protection of the Environment Operations (Waste) Regulation 2014.</li> </ol> <p>All imported fill must be accompanied by documentation from the supplier which certifies that the material has been analysed and is suitable for the proposed land use.</p>

	<b>Condition reason:</b> To protect human health and the environment in accordance with legislative requirements.
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**Before issue of an occupation certificate**

36	<b>Repair of infrastructure</b>  Before the issue of an Occupation Certificate: <ol style="list-style-type: none"><li>1. 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</li><li>2. 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.</li></ol> <b>Condition reason:</b> To ensure any damage to public infrastructure is rectified.
37	<b>BASIX / Energy Efficiency Commitments.</b>  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 1818253S_02 under "Approved Plans and Supporting Documents" condition prior to the issue of any Occupation Certificate.  <b>Condition reason:</b> To ensure BASIX and Energy Efficiency commitments are fulfilled.
38	<b>Occupation Certificate.</b>  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.  <b>Condition reason:</b> To ensure that an Occupation Certificate is obtained.
39	<b>Release of Securities</b>  When Council receives an Occupation Certificate, an application may be lodged to release the securities held in accordance with councils' fees and charges for development.  <b>Condition reason:</b> To allow release of securities and authorise Council to use the security deposit to complete works to its satisfaction.
40	<b>Certification of New Stormwater System</b>  Prior to the issue of any Occupation Certificate, a qualified Civil Engineer must certify that the stormwater system including the roof drainage system has been constructed in accordance with the approved plans and as required by Bayside Technical Specification Stormwater Management. The constructed stormwater drainage system shall be

	<p>inspected, evaluated, and certified. The certification shall demonstrate compliance with the approved plans, relevant Australian Standards, Codes and Council Specifications. The WAE plan must clearly illustrate the surveyed dimensions and details of all drainage aspects including but not limited to finished floor levels, pipe size, pit sizes, pit surface levels, rainwater tank volume, signages. The certification and WAE plan(s) shall be supplied to the Principal Certifier and Bayside Council.</p> <p><b>Condition reason:</b> To ensure that the stormwater system is constructed as approved and in accordance with relevant standards.</p>
41	<p><b>Rainwater Tank - Plumbing Certification</b></p> <p>Prior to the issue of any Occupation Certificate, a registered plumber shall certify that the rainwater tank has been connected to all toilet flushing, the cold water tap that supplies the clothes washing machine and all external taps/landscape irrigations for non-potable stormwater re-use for the secondary dwelling.</p> <p><b>Condition reason:</b> To ensure that the rainwater will be reused within the site in accordance with this approval.</p>

### Occupation and ongoing use

42	<p><b>Maintenance of Stormwater Drainage System</b></p> <p>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.</p> <p><b>Condition reason:</b> To protect waterways and minimise adverse impacts to the environment.</p>
43	<p><b>Noise from Air-Conditioning Units</b></p> <p>Residential air conditioners shall not cause 'offensive noise' as defined by the Protection of the <i>Environment Operations Act 1997</i> or contravene provisions of the <i>Protection of the Environment (Noise Control) Regulation 2008</i> where emitted noise from a residential air conditioner can be heard within a habitable room in any other residential premises at night.</p> <p><b>Condition reason:</b> To manage noise from air-conditioning units so that adverse impacts to the locality are minimised.</p>

### **General advisory notes**

This consent contains the conditions imposed by the consent authority which are to be complied with when carrying out the approved development. However, this consent is not an exhaustive list of all obligations which may relate to the carrying out of the development under the EP&A Act, EP&A Regulation and other legislation. Some of these additional obligations are set out in the [\*Conditions of development consent: advisory notes\*](#). The consent should be read together with the *Conditions of development consent: advisory notes* to ensure the development is carried out lawfully.

The approved development must be carried out in accordance with the conditions of this consent. It is an offence under the EP&A Act to carry out development that is not in accordance with this consent.

Building work or subdivision work must not be carried out until a construction certificate or subdivision works certificate, respectively, has been issued and a principal certifier has been appointed.

A document referred to in this consent is taken to be a reference to the version of that document which applies at the date the consent is issued, unless otherwise stated in the conditions of this consent.

## Dictionary

The following terms have the following meanings for the purpose of this determination (except where the context clearly indicates otherwise):

**Approved plans and documents** means the plans and documents endorsed by the consent authority, a copy of which is included in this notice of determination.

**AS** means Australian Standard published by Standards Australia International Limited and means the current standard which applies at the time the consent is issued.

**Building work** means any physical activity involved in the erection of a building.

**Certifier** means a council or a person that is registered to carry out certification work under the *Building and Development Certifiers Act 2018*.

**Construction certificate** means a certificate to the effect that building work completed in accordance with specified plans and specifications or standards will comply with the requirements of the EP&A Regulation and *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

**Council** means BAYSIDE COUNCIL.

**Court** means the Land and Environment Court of NSW.

**EPA** means the NSW Environment Protection Authority.

**EP&A Act** means the *Environmental Planning and Assessment Act 1979*.

**EP&A Regulation** means the *Environmental Planning and Assessment Regulation 2021*.

**Independent Planning Commission** means Independent Planning Commission of New South Wales constituted by section 2.7 of the EP&A Act.

**Local planning panel** means Bayside Local Planning Panel

**Occupation certificate** means a certificate that authorises the occupation and use of a new building or a change of building use for an existing building in accordance with this consent.

**Principal certifier** means the certifier appointed as the principal certifier for building work or subdivision work under section 6.6(1) or 6.12(1) of the EP&A Act respectively.

**Site work** means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.

**Stormwater drainage system** means all works and facilities relating to:

- the collection of stormwater,
- the reuse of stormwater,
- the detention of stormwater,
- the controlled release of stormwater, and
- connections to easements and public stormwater systems.

**Strata certificate** means a certificate in the approved form issued under Part 4 of the *Strata Schemes Development Act 2015* that authorises the registration of a strata plan, strata plan of subdivision or notice of conversion.

**Sydney district or regional planning panel** means Sydney Eastern City Planning Panel.

**BROSANAN & MOORE**  
EST. 2019.

## **Clause 4.6 Variation Request: Minimum Lot Size**



**Subject Site: 9 Union Street  
Arncliffe 2205**

**PREPARED ON BEHALF OF:**

**Daoud Building Group Pty Limited**

**Revision No. 4**

**Date: 8 January 2026**

**B | M**

**Page 1 of 18**

BROSANAN & MOORE  
EST. 2019.

Prepared by:



**Brosnan & Moore**  
**Town Planning Services**

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### **1. Summary**

The proposal seeks development consent for the construction of a detached secondary dwelling at 9 Union Street, Arncliffe, within the Bayside Local Government Area.

The proposal results in a non-compliance which does not translate into any adverse built form, amenity or environmental outcomes with the minimum site area requirement prescribed under Clause 53(2)(a) of the State Environmental Planning Policy (Housing) 2021 (Housing SEPP 2021), which requires a minimum site area of 450m<sup>2</sup> for a detached secondary dwelling.

A Clause 4.6 Exception to Development Standard has therefore been prepared in relation to the proposed variation to Clause 53(2)(a) of the Housing SEPP 2021.

Clause 53 of the Housing SEPP 2021 states:

#### **53 Non-discretionary development standards—the Act, s 4.15**

(1) The object of this section is to identify development standards for particular matters relating to development for the purposes of a secondary dwelling that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.

(2) The following are non-discretionary development standards in relation to the carrying out of development to which this Part applies—

- (a) for a detached secondary dwelling—a minimum site area of 450m<sup>2</sup>,
- (b) the number of parking spaces provided on the site is the same as the number of parking spaces provided on the site immediately before the development is carried out.

Clause 53(2)(a) requires a minimum site area of 450m<sup>2</sup>. The subject allotment has a surveyed site area of 378.1m<sup>2</sup>, representing a variation of 71.9m<sup>2</sup>, or approximately 15.97% below the prescribed standard.

The proposed variation is a non-compliance which does not translate into any adverse built form, amenity or environmental outcomes, technical and negligible in planning terms and does not result in any adverse environmental, amenity or built form impacts.

This Clause 4.6 variation has been prepared in accordance with the relevant statutory requirements and with regard to the applicable planning principles and case law, including Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118.

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## **2. Name of the Planning Instrument Being Varied**

The development standard the subject of this variation request is contained within:

### **State Environmental Planning Policy (Housing) 2021**

Specifically:

- **Clause 53(2)(a)** – Minimum site area for a detached secondary dwelling.

## **3. Zoning of the Site and Consistency with Zone Objectives**

The subject site is zoned **R2 – Low Density Residential** pursuant to the **Bayside Local Environmental Plan 2021**.

The objectives of the R2 – Low Density Residential zone include:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day-to-day needs of residents.
- To ensure land uses are carried out in a context and setting that minimises impacts on the character and amenity of the area.
- To enable residential development in accessible locations to maximise public transport patronage and encourage walking and cycling.

### **Comment**

The proposed development is consistent with the objectives of the R2 zoning in that it provides an appropriate form of low-scale residential development that contributes to housing diversity within an established low density residential area.

The secondary dwelling has been carefully designed and sited to maintain the amenity of future occupants, the principal dwelling, and adjoining properties. The development maintains appropriate setbacks, private open space, deep soil zones and landscaping, consistent with the prevailing character of the locality.

The secondary dwelling is single storey in height and is located within the rear portion of the site, ensuring that privacy, overshadowing and visual impacts are appropriately managed. Adequate separation between the principal dwelling and the secondary dwelling is provided to minimise internal and external amenity impacts.

Importantly, the proposal does not give rise to any additional non-compliances with applicable development standards and remains compliant with relevant controls relating to building height, setbacks, site coverage, landscaping and deep soil. The numerical shortfall in site area does not undermine the planning outcomes sought by the zone objectives or the Housing SEPP.

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### **1) Application of the Objectives and Relevant Provisions of Clause 4.6 of the Bayside LEP 2021**

In assessing the proposed variation to Clause 53 of the State Environmental Planning Policy (Housing) 2021, consideration has been given to the objectives and relevant provisions of Clause 4.6 of the Bayside Local Environmental Plan 2021, which provides as follows.

#### **Clause 4.6 – Exceptions to development standards**

(1) The objectives of this clause are as follows—

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

#### **Comment**

The detailed assessment contained within this written request demonstrates that the application of flexibility to the minimum site area standard is warranted in this instance. The proposed variation facilitates an appropriate planning outcome without undermining the intent of the development standard or the objectives of the zone. On merit, the proposed development represents a circumstance where strict numerical compliance is unnecessary to achieve acceptable planning outcomes.

(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.

#### **Comment**

This written request has been prepared to support a variation to **Clause 53(2)(a) of the Housing SEPP 2021**. Clause 53 is not a development standard that is expressly excluded from the operation of Clause 4.6. Accordingly, Clause 4.6 is the appropriate statutory mechanism for the assessment of the proposed non-compliance.

(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.

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**Comment**

This written request has been prepared to demonstrate that strict compliance with the minimum site area requirement is unreasonable and unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify the proposed variation. These matters are addressed in detail in the sections below, having regard to the specific characteristics of the site, the nature of the proposal, and the planning outcomes achieved.

(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.

**Comment**

As demonstrated in this report, the proposed development is consistent with the objectives of Clause 53 of the Housing SEPP 2021 and the objectives of the R2 – Low Density Residential zone under the Bayside LEP 2021. Despite the non-compliance with the minimum site area requirement, the proposal achieves an appropriate built form outcome, maintains residential amenity, and does not result in any adverse environmental or planning impacts.

Accordingly, the proposed development is considered to be in the public interest and satisfies the requirements of Clause 4.6(4) of the Bayside LEP 2021.

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### 1) Consideration of NSW Land and Environment Court Case Law

#### (a) *Wehbe v Pittwater Council* [2007] NSWLEC 827

The decision of Preston J in *Wehbe v Pittwater Council* [2007] NSWLEC 827 expanded upon the principles established in *Winten v North Sydney Council* [2001] NSWLEC 46 and articulated a number of ways in which a request to vary a development standard may be considered well founded.

Relevantly, the Court identified that a variation may be justified where:

- the objectives of the development standard are achieved notwithstanding the non-compliance;
- the underlying objective or purpose of the standard is not relevant to the development and strict compliance is therefore unnecessary;
- the underlying objective or purpose of the standard would be defeated or thwarted if compliance were required, rendering compliance unreasonable;
- the development standard has been effectively abandoned through repeated departures by the consent authority; or
- the zoning of the land is unreasonable or inappropriate, such that the application of the standard to the land is unreasonable or unnecessary.

In the present case, the proposed variation relies primarily on the first limb identified in *Wehbe*, namely that the objectives of the development standard are achieved notwithstanding the numerical non-compliance. As demonstrated throughout this written request, the proposed development achieves the intent and planning outcomes of Clause 53 of the Housing SEPP 2021, including acceptable built form, residential amenity and compatibility with the surrounding low density residential context.

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**(b) *Randwick City Council v Micaul Holdings Pty Ltd [2016] NSWLEC 7***

In *Randwick City Council v Micaul Holdings Pty Ltd [2016] NSWLEC 7*, Preston CJ clarified the approach required under Clause 4.6 when determining a development application that contravenes a development standard.

At paragraph 7, his Honour noted that development consent cannot be granted unless the consent authority:

- considers the applicant's written request under Clause 4.6(3); and
- is satisfied that the written request adequately addresses the matters required by Clause 4.6(3), and that the development is in the public interest because it is consistent with the objectives of the relevant development standard and the objectives of the applicable zone.

Importantly, at paragraph 39, Preston CJ confirmed that:

*"The consent authority does not have to be directly satisfied that compliance with each development standard is unreasonable or unnecessary in the circumstances of the case, but only indirectly by being satisfied that the applicant's written request has adequately addressed the matter in subclause (3)(a)."*

His Honour further affirmed that an established and accepted means of demonstrating that compliance is unreasonable or unnecessary is by reference to consistency with the objectives of the development standard and the absence of adverse environmental or amenity impacts.

**Conclusion on Case Law Application**

Having regard to the above authorities, and based on the detailed assessment against:

- the objectives of Clause 53 of the Housing SEPP 2021; and
- the objectives of the R2 – Low Density Residential zone under the Bayside LEP 2021,

it is concluded that strict compliance with the minimum site area requirement is unreasonable and unnecessary in the circumstances of this case. The proposal achieves the intended planning outcomes of the development standard notwithstanding the numerical shortfall and does not give rise to any adverse environmental, amenity or planning impacts.

Accordingly, the proposed variation is consistent with the principles established in *Wehbe* and *Micaul* and satisfies the requirements of Clause 4.6 of the Bayside LEP 2021.

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**(c) *Moskovich v Waverley Council* [2016] NSWLEC 1015**

In *Moskovich v Waverley Council* [2016] NSWLEC 1015, Commissioner Tuor considered the operation of Clause 4.6 following the decision in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 and clarified the interaction between Clause 4.6(3) and Clause 4.6(4).

Relevantly, the Commissioner observed that:

- Clause 4.6(3)(a) is analogous to clause 6 of SEPP 1, and the principles identified in *Wehbe v Pittwater Council* remain equally applicable. One of the most commonly relied upon approaches is demonstrating that the objectives of the development standard are achieved notwithstanding the non-compliance.
- Clause 4.6(4)(a)(ii) contains different wording and is directed to consistency with the objectives of the standard and the objectives of the zone, rather than achievement of those objectives.
- The assessment under Clause 4.6(3)(a) is more onerous than that under Clause 4.6(4)(a)(ii), as it requires consideration of whether the proposed development achieves the objectives of the standard to an equal or better degree than a complying development.
- Establishing that compliance is unreasonable or unnecessary under Clause 4.6(3)(a) may rely on one or more of the *Wehbe* principles, either individually or cumulatively.

The *Wehbe* list is not exhaustive but represents a synthesis of the relevant case law.

The decision confirms that a properly structured written request may rely on the *Wehbe* principles to demonstrate that compliance is unreasonable or unnecessary, while separately addressing the public interest test under Clause 4.6(4)(a)(ii).

**1) Clause 4.6(3)(a):**

**Why Compliance with the Development Standard Is Unreasonable or Unnecessary in the Circumstances of This Case**

The NSW Land and Environment Court in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 considered the operation of Clause 4.6 and reaffirmed that the question of whether compliance is "unreasonable or unnecessary" must be addressed directly under Clause 4.6(3)(a), rather than assumed by mere consistency with the objectives of the standard.

In doing so, the Court referred to the principles articulated in *Wehbe v Pittwater Council* [2007] NSWLEC 827, where Preston CJ identified a number of ways in which an objection to a development standard may be well founded.

Of particular relevance to the present case, Preston CJ stated:

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"An objection under State Environmental Planning Policy No 1 may be well founded ... because the objectives of the development standard are achieved notwithstanding non-compliance with the standard."

His Honour further explained:

"Development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives... If the proposed development proffers an alternative means of achieving the objective, strict compliance with the standard would be unnecessary and unreasonable."

While *Four2Five* clarified that the public interest test is addressed under Clause 4.6(4)(a)(ii), it does not displace the relevance of the *Wehbe* principles when determining whether compliance is unreasonable or unnecessary under Clause 4.6(3)(a).

### **Application of the *Wehbe* Principles**

In accordance with the above authorities, compliance with the minimum site area requirement under Clause 53(2)(a) of the Housing SEPP 2021 is considered unreasonable and unnecessary in the circumstances of this case for the following reasons.

#### **(1) Objectives Achieved Notwithstanding Non-Compliance**

The objectives of the site area requirement are achieved notwithstanding the numerical non-compliance. The proposed secondary dwelling:

- Is modest in scale and limited to the maximum permissible floor area
- Maintains acceptable residential amenity, including privacy, solar access and landscaping
- Complies with all other applicable development standards, including height, floor space ratio, setbacks and private open space

The shortfall of approximately 71.9m<sup>2</sup>, or approximately 15.97% below the prescribed standard is negligible in planning terms and does not result in any adverse environmental or amenity impacts.

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## **(2) Disproportionate Burden of Strict Compliance**

In *Botany Bay City Council v Saab Corp* [2011] NSWCA 308, the Court of Appeal held that a requirement may be unreasonable where the burden imposed on the applicant is disproportionate to the consequences attributable to the proposed development.

In this instance:

- The extent of the variation is visually imperceptible when viewed from adjoining properties or the public domain
- The development outcome is indistinguishable from a complying development in built form and amenity terms
- Strict adherence to the numerical standard would not produce any discernible environmental or planning benefit

Accordingly, strict application of the minimum site area requirement would impose a disproportionate and unnecessary burden, without advancing the underlying planning objectives.

### **Conclusion on Clause 4.6(3)(a)**

For the reasons outlined above, and having regard to the principles established in *Wehbe*, *Four2Five*, *Moskovich* and *Saab*, it is concluded that strict compliance with the minimum site area requirement under Clause 53(2)(a) of the Housing SEPP 2021 is **unreasonable and unnecessary in the circumstances of this case**.

The proposal achieves the objectives of the development standard to an equal or better degree than a complying development and does not result in any adverse environmental or planning impacts.

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**Consistency with the Objectives and Principles of the Housing SEPP 2021**

The proposed development has been assessed against the relevant principles of the State Environmental Planning Policy (Housing) 2021, and is considered to be consistent with those principles, as outlined below.

**(a) Enabling the development of diverse housing types, including purpose-built rental housing**

The proposed variation facilitates the provision of a secondary dwelling in conjunction with the principal dwelling, thereby contributing to a more diverse housing mix. The secondary dwelling may be utilised as a low-cost rental housing option or as independent accommodation associated with the principal dwelling, consistent with the objectives of the Housing SEPP.

**(b) Encouraging the development of housing that will meet the needs of vulnerable members of the community, including very low to moderate income households, seniors and people with a disability**

Secondary dwellings provide a flexible and affordable housing option for vulnerable cohorts, including seniors, small households and low to moderate income earners. The proposed development enables the delivery of housing that may be offered at a more affordable rental level relative to larger detached dwellings, thereby supporting housing affordability outcomes within the local area.

**(c) Ensuring new housing development provides residents with a reasonable level of amenity**

The proposed secondary dwelling has been designed to provide a reasonable and appropriate level of amenity for future occupants. The dwelling includes well-proportioned internal living areas exceeding 20m<sup>2</sup> and two bedrooms that meet minimum size requirements. Adequate solar access, ventilation, privacy and private open space are provided, ensuring a functional and comfortable living environment.

**(d) Promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services**

The subject site is located within an established residential area that is well serviced by existing infrastructure, public transport, local centres and community facilities. The proposal represents an efficient use of existing urban land and infrastructure without placing any additional demand on new services.

**(e) Minimising adverse climate and environmental impacts of new housing development**

The development is accompanied by a valid BASIX Certificate, demonstrating that appropriate sustainability measures have been incorporated into the design in accordance with SEPP BASIX 2022. The proposal therefore minimises adverse environmental impacts and supports improved energy and water efficiency outcomes.

**(f) Reinforcing the importance of designing housing in a way that reflects and enhances its locality**

The secondary dwelling has been sensitively designed to reflect the established low-density residential character of the locality. It is single storey in height, located

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to the rear of the site, and visually screened by the existing principal dwelling. The proposal does not detract from the streetscape or neighbourhood character and will not result in adverse amenity impacts on adjoining properties.

**(g) Supporting short-term rental accommodation as a home-sharing activity and contributor to local economies, while managing social and environmental impacts**

The proposal allows flexibility for the secondary dwelling to be used as either short-term or long-term rental accommodation, subject to applicable controls. This flexibility supports housing choice and contributes to the local economy without generating adverse social or environmental impacts.

**(h) Mitigating the loss of existing affordable rental housing**

The proposal does not result in the loss of any existing affordable housing. Rather, it increases the overall housing stock and contributes positively to the availability of smaller and more affordable rental accommodation within the locality.

**Clause 4.6(3) Conclusion**

Given that:

- the objectives of the Housing SEPP 2021 are achieved notwithstanding the non-compliance, a numerical non-compliance which is planning-neutral in effect;
- the proposal complies with all other applicable development standards under the Housing SEPP 2021, Bayside LEP 2021, and relevant DCP provisions;
- the development will have no adverse environmental, amenity or planning impacts;
- the numerical shortfall in site area is negligible in planning terms, strict compliance with the minimum site area requirement is considered unreasonable and unnecessary in the circumstances.

The proposal is therefore justified on environmental planning grounds and satisfies the requirements of Clause 4.6(3) of the Bayside Local Environmental Plan 2021.

The development will deliver a high-quality residential outcome through a well-planned and functional built form, providing a superior level of amenity for future occupants while maintaining the amenity of surrounding development. No broader environmental or planning benefit would be achieved by insisting on strict compliance with the minimum site area control.

For the reasons outlined above, it is respectfully requested that Council support the proposed variation to the minimum site area development standard pursuant to Clause 4.6 of the Bayside LEP 2021.

While the Housing SEPP prescribes a minimum site area standard for detached secondary dwellings, the Bayside Development Control Plan 2022 does not impose a numerical minimum lot size for secondary dwellings. Instead, the DCP focuses on qualitative planning controls including siting, setbacks, private open space, landscaping, amenity and compatibility with surrounding development. This demonstrates that acceptable planning outcomes for secondary dwellings are not dependent on strict numerical site area compliance alone.

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### **1) Does the Proposal Provide Sufficient Environmental Planning Grounds to Justify Contravening the Development Standard?**

Pursuant to Clause 4.6(3)(b) of the Bayside Local Environmental Plan 2021, development consent must not be granted unless there are sufficient environmental planning grounds to justify contravening the relevant development standard. Importantly, those grounds must relate to the specific non-compliance, rather than to the merits of the development generally.

The proposed variation to the minimum site area requirement under Clause 53(2)(a) of the State Environmental Planning Policy (Housing) 2021 does not result in any adverse environmental, amenity or planning impacts. There are sufficient environmental planning grounds to justify the proposed variation for the reasons outlined below.

Having regard to Clause 4.6(3)(b), and as discussed in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90, the assessment of this numerical non-compliance is guided by the absence of adverse impacts and whether allowing flexibility achieves a better planning outcome.

In this instance, the proposed non-compliance does not adversely affect:

- the amenity of future occupants of the secondary dwelling;
- the character of the surrounding low density residential area; or
- adjoining or nearby properties in terms of privacy, overshadowing, bulk or visual impact.

The proposed secondary dwelling complies with all other relevant development standards under the Housing SEPP 2021, Bayside LEP 2021, and the applicable Development Control Plan. The numerical non-compliance which is planning-neutral in effect shortfall in site area does not alter the built form outcome in any material way and has no discernible environmental or amenity consequence.

Allowing flexibility in the application of the site area standard achieves a better outcome for and from development, consistent with Clause 4.6(1)(b). The proposal facilitates a well-designed secondary dwelling on a site that is otherwise highly suited for such development, without compromising residential amenity or environmental outcomes.

Strict enforcement of the minimum site area requirement would not result in a better design outcome. The proposed development already demonstrates that a compliant, orderly and low-impact secondary dwelling can be accommodated on the site in accordance with the applicable planning controls.

There are therefore sufficient environmental planning grounds to justify the variation to the site area control, particularly given that:

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- the development has been designed to minimise impacts on neighbouring properties and the public domain;
- strict compliance with the site area standard would not deliver any material built form, environmental or amenity benefit; and
- refusal on this basis would be founded on a technical non-compliance rather than any substantive planning concern.

Strict enforcement of the minimum site area requirement would impose an unreasonable and disproportionate burden on the development, without advancing the objectives of the Housing SEPP or the EP&A Act.

## **2) Will the Proposed Variation Be in the Public Interest?**

The proposed variation is considered to be in the public interest, as required by Clause 4.6(4)(a)(ii).

The development is consistent with the objectives of the R2 – Low Density Residential zone under the Bayside LEP 2021, in that it provides a modest, well-sited form of residential development that maintains neighbourhood character and residential amenity.

The proposal is also consistent with the principles of the Housing SEPP 2021, including the promotion of housing diversity, efficient use of serviced urban land, and delivery of low-impact residential accommodation.

The environmental planning grounds established above demonstrate that the variation to Clause 53 does not undermine the intent of the development standard and remains firmly within the public interest.

## **3) Public Benefit of Varying the Standard**

Varying the minimum site area standard will not undermine any public benefit. Rather, the proposal contributes positively to the local housing stock by providing a secondary dwelling that may be used as low-cost rental accommodation or ancillary accommodation associated with the principal dwelling.

The proposed use is consistent with the intended land uses and objectives of the R2 – Low Density Residential zone.

The site's orientation, location and context are well suited to the proposed development. The design takes advantage of favourable solar orientation and provides functional living spaces while maintaining adequate private open space, landscaping and separation from adjoining properties.

The variation will result in no perceptible difference when compared to a fully compliant site. The proposal remains compliant with key development controls, including:

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- maximum building height;
- floor space ratio;
- maximum size of the secondary dwelling;
- private open space and landscaping; and
- solar access and amenity requirements.

The departure from the minimum site area requirement does not compromise the orderly and economic development of land and does not undermine the objectives of the applicable planning controls.

#### **4) Conclusion**

For the reasons outlined above, the proposal adequately satisfies the objectives of the R2 – Low Density Residential zone and the principles of the Housing SEPP 2021. The extent of the variation is a non-compliance which does not translate into any adverse built form, amenity or environmental outcomes, has been adequately justified, and results in a negligible planning impact.

Strict numerical compliance with the minimum site area requirement would not result in a better design outcome or a material reduction in impacts. The proposal will not generate any adverse environmental or amenity impacts and remains compliant with the key development controls of the Bayside LEP 2021 and the applicable DCP, including floor space ratio, building height, size of the secondary dwelling, private open space, landscaping and solar access.

Accordingly, strict compliance with the development standard is unreasonable and unnecessary in the circumstances of this case, and the application of Clause 4.6 of the Bayside LEP 2021 to vary the minimum site area control is appropriate.

There are sufficient environmental planning grounds to support the proposed variation, and allowing flexibility will achieve a better environmental planning outcome. On this basis, it is concluded that strict compliance with the development standard is not necessary and that a better outcome is achieved by permitting the proposed variation.

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### **Final Clause 4.6 Assessment Summary**

This written request has been prepared in direct response to Council's request for a Clause 4.6 Variation Request in relation to the non-compliance with the minimum site area requirement under Clause 53(2)(a) of the State Environmental Planning Policy (Housing) 2021.

The subject site has a surveyed area of 378.1m<sup>2</sup>, resulting in a shortfall of 71.9m<sup>2</sup> (approximately 15.97%) below the prescribed minimum of 450m<sup>2</sup>. While the variation is measurable in numerical terms, it is planning-neutral in effect and does not result in any adverse environmental, amenity or built form impacts.

In accordance with Clause 4.6(3) of the Bayside Local Environmental Plan 2021 (as amended), this request demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify the contravention.

The proposal achieves the objectives of the minimum site area standard notwithstanding the non-compliance. The secondary dwelling is modest in scale, appropriately sited, and fully compliant with all other applicable development standards and controls. The proposal maintains residential amenity, achieves acceptable separation, solar access and landscaping outcomes, and is compatible with the established low-density residential character of the locality. A development strictly complying with the numerical site area requirement would not produce a materially different or improved planning outcome.

Consistent with the principles articulated by the Chief Judge in *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, the assessment of this variation has focused on whether the non-compliance undermines the planning outcomes sought by the development standard. In this instance, the variation does not offend the purpose or intent of the Housing SEPP and does not give rise to any adverse impacts that would warrant strict enforcement of the numerical requirement.

There are sufficient environmental planning grounds to justify the variation, including the efficient use of an established residential site, the delivery of a form of low-impact housing consistent with the objectives of the Housing SEPP, and the absence of any adverse impacts on surrounding properties or the public domain. Strict enforcement of the minimum site area standard would impose a disproportionate burden on the development without achieving any corresponding environmental or planning benefit.

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The proposal is therefore consistent with the intent of Clause 4.6, the objectives of the R2 – Low Density Residential zone, and the broader objects of the Environmental Planning and Assessment Act 1979. Allowing flexibility in this instance will achieve a better outcome for and from development, consistent with the contemporary application of Clause 4.6 as confirmed by recent legislative amendments and case law.

For these reasons, it is concluded that strict compliance with the minimum site area requirement is unreasonable and unnecessary, that there are sufficient environmental planning grounds to justify the variation, and that the proposed Clause 4.6 variation is worthy of Council support.

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## DEVELOPMENT APPLICATION SET OF A SECONDARY DWELING AT:

LOT 14, SECTION 2, DP 979714  
9 UNION ST, ARNCLIFFE NSW 2205

### DRAWING LIST

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DA 0404 : SITE PLAN ANALYSIS

DA 1000 : FLOOR PLAN

DA 1100 : SCHEDULES

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CLIENT	DRAWING TITLE
MR. MARTIN CHIA LOT 14, SECTION 2, DP 979714 9 NION STREET, ARNCLIFFE, 2205	General Arrangements
PROJECT	COVER PAGE
DEVELOPMENT APPLICATION SET Construction of Secondary Dwelling	A3

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REVISION	DESCRIPTION	DATE	DRAWN	SCALE	DRAWN	CHECKED	DATE
P01	PRELIMINARY DRAFT	20.08.2025	JF				
P02	PRELIMINARY DRAFT	25.08.2025	JF				
DA01	ARCHITECTURE SET	13.10.2025	JF				
DA02	ARCHITECTURE SET	16.10.2025	JF				
DA03	ARCHITECTURE SET	22.10.2025	JF				
DA04	ARCHITECTURE SET	03.11.2025	JV				
DA05	ARCHITECTURE SET	11.11.2025	CT				
DA06	ARCHITECTURE SET	13.11.2025	CT				
DA07	ARCHITECTURE SET	16.12.2025	JF				

1:3.636 JF 16.12.2025

PROJECT No DRAWING No REVISION

C25-00011495 DA 0000 DA07

**GENERAL NOTES**

-DO NOT SCALE PLANS, USE WRITTEN DIMENSIONS ONLY. IF IN DOUBT, ASK.  
-THE OWNER/BUILDER SUBCONTRACTOR SHALL VERIFY ALL DIMENSIONS, LEVELS, SETBACKS AND SPECIFICATIONS PRIOR TO COMMENCING WORKS OR ORDERING MATERIALS AND SHALL BE RESPONSIBLE FOR ENSURING THAT ALL BUILDING WORKS CONFORM TO THE BUILDING CODE OF AUSTRALIA, CURRENT AUSTRALIAN STANDARDS, BUILDING REGULATIONS AND TOWN PLANNING REQUIREMENTS, REPORT ANY DISCREPANCIES TO THE OWNER OR CONTRACTOR.

-ALL WORKS SHALL COMPLY WITH BUT NOT LIMITED TO THE BUILDING CODE OF AUSTRALIAN AND THE AUSTRALIAN STANDARDS LISTED.

AS 1288 - 1994 GLASS IN BUILDINGS - SELECTION AND INSTALLATION

AS 1562 - 1992 DESIGN AND INSTALLATION OF SHEET ROOF AND WALL CLADDING

AS 1684 - 2010 NATIONAL TIMBER FRAMING CODE

AS 2049 - 1996 ROOF TILES

AS 2050 - 1995 INSTALLATION OF ROOF TILES

AS 2870 - 1996 RESIDENTIAL SLAB AND FOOTINGS - CONSTRUCTION

AS/NZS 2904 - 1995 DAMP-PROOF COURSES AND FLASHINGS

AS 3600 - 1994 CONCRETE STRUCTURES

AS 3660 - 2004 BARRIERS FOR SUBTERRANEAN TERMITES

AS 3700 - 1998 MASONRY IN BUILDINGS

AS 3740 - 2010 WATERPROOFING OF WET AREAS IN RESIDENTIAL BUILDINGS

AS 3786 - 1993 SMOKE ALARMS

AS 4105 - 1992 WIND LOADINGS FOR HOUSING

AS 4100 - 1996 STEEL STRUCTURES

-THESE PLANS SHALL BE READ IN CONJUNCTION WITH ANY SOIL, STRUCTURAL AND CIVIL ENGINEERING CALCULATIONS AND DRAWINGS.

-ALL BUILDINGS SHALL BE PROTECTED AGAINST TERMITE ATTACK IN ACCORDANCE WITH AS 3660.1 AND A DURABLE NOTICE SHALL BE PLACED IN THE METER BOX INDICATING TYPE OF BARRIER AND REQUIRED PERIODICAL INSPECTIONS.

-SAFETY GLAZING TO BE USED IN THE FOLLOWINGS CASES -

i) ALL ROOMS - WITHIN 500mm VERTICAL OF THE FLOOR

ii) BATHROOMS - WITHIN 1500mm VERTICAL OF THE BATH BASE

iii) FULLY GLAZED DOORS

iv) SHOWER SCREENS

v) WITHIN 300mm OF A DOOR AND <1200mm ABOVE FLOOR LEVEL

vi) WINDOW SIZES ARE NOMINAL ONLY, ACTUAL SIZES WILL VARY WITH MANUFACTURER, AND ARE TO BE VERIFIED WITH SAME. FLASHING ALL ROUND.

-TILED DECKS OVER LIVABLE AREAS ARE TO BE, IN THE FOLLOWING ORDER -OVER THE FLOOR JOISTS - 19mm COMPRESSED FIBRE CEMENT SHEET, WITH ONE LAYER OF PARCHEM EMERPROOF 750 WITH A SECOND LAYER OF SAND SEED WITH A DFT OF 1300 MICRON, INSTALLED TO MANUF. SPECIFICATIONS, AND FLOOR TILES OVER, ALL CORNERS TO HAVE 20mm MASTIC SEALANT UNDER THE PARCHEM EMERPROOF 750.

-FOOTINGS ARE TO BE WHOLLY WITHIN TITLE BOUNDARIES AND ARE NOT TO ENROACH EASEMENTS. IT IS RECOMMENDED THAT WHERE BUILDINGS ARE TO BE LOCATED IN CLOSE PROXIMITY OF BOUNDARIES, A CHECK SURVEY BE CONDUCTED BY A LICENSED SURVEYOR.

-ALL STEELWORK IN MASONRY TO BE HOT DIP GALVANISED.

-ALL WET AREAS TO COMPLY WITH BCA 3.8.1.2 AND AS 3740. SPLASH BACKS SHALL BE IMPERVIOUS FOR 150mm ABOVE SINKS, TROUGHS AND HAND BASINS WITHIN 75mm OF THE WALL.

-PROVIDE WALL TIES AT 600mm SPACINGS BOTH VERTICAL AND HORIZONTAL AND WITHIN 300mm OF ARTICULATION JOINTS. BRICK TIES TO BE STAINLESS STEEL.

-SUB-FLOOR VENTILATION MINIMUM 7500mm/sq FOR EXTERNAL WALLS AND 1500mm/sq FOR INTERNAL WALLS BELOW BEARER.

-THERMAL INSULATION TO BE PROVIDED TO ACHIEVE MINIMUM REQUIREMENTS AS SPECIFIED BY LICENSED ASSESSOR.

-STAIR REQUIREMENTS : MIN. TREAD 240mm, MIN. RISER 115mm, MAX. RISER 190mm, SPACE BETWEEN OPEN TREADS MAX. 125mm, TREADS TO BE NON SLIP SURFACE.

-BALUSTRADES : MIN. 1000mm ABOVE LANDINGS WITH MAX. OPENING OF 125mm AND IN ACCORDANCE WITH BCA 3.9.2

-FOR STAINLESS STEEL BALUSTRADE, REFER TO Table 3.9.2.1 (WIRE BALUSTRADE CONSTRUCTION - REQUIRED WIRE TENSION AND MAXIMUM PERMISSIBLE DEFLECTION) OF THE BCA.

-THE BUILDER SHALL TAKE ALL STEPS NECESSARY TO ENSURE THE STABILITY OF EXISTING AND NEW STRUCTURES THROUGH-OUT CONSTRUCTION.

-SMOKE DETECTORS (refer electrical layout plans), TO BE HARD WIRED WITH EMERGENCY BACK-UP AND COMPLY WITH AS 3786.

-PROVIDE LIFT OFF HINGES, OPEN OUT DOOR OR MIN 1200mm CLEARANCE FROM DOOR TO PAN IN WATER CLOSETS.

-EXHAUST FANS FROM SANITARY COMPARTMENTS ARE TO BE DUCTED EXTERNALLY OR TO A VENTED ROOF SPACE IN COMPLIANCE WITH AS 1668.2

-THESE NOTES ARE NEITHER EXHAUSTIVE NOR A SUBSTITUTE FOR REGULATIONS, STATUTORY REQUIREMENTS, BUILDING PRACTICE OR CONTRACTUAL OBLIGATIONS.

-THESE PLANS ARE PROTECTED BY COPY RIGHT AND ARE THE PROPERTY OF THE AUTHOR.

**BASIX™ Certificate**

Building Sustainability Index  
www.planningportal.nsw.gov.au/development-and-assessment/basix

**Single Dwelling**

Certificate number: 18182535\_02

This certificate confirms that the proposed development will meet the NSW government's requirements for sustainability. It is built in accordance with the conditions of the development application and the plans and drawings, the meaning given by the document entitled "BASIX Definitions" dated 10/02/2026. The document is available at www.planningportal.nsw.gov.au/basix.

Date of issue: Wednesday, 22 October 2025

The certificate is issued in accordance with a development application or lodged with a complying development certificate application within 3 months of the date of issue.

Secretary

Department of Planning, Housing and Infrastructure

NSW

**Project summary**

Project name: 9 Union Street, Arncliffe, 2205

Street address: 9 UNION Street ARNCLIFFE 2205

Local Government Area: Bayside Council

Plan name and plan number: Deemed Plan DP97114

Lot no.: 14

Section no.: 2

Project type: dwelling house (detached) - secondary dwelling

Number of dwellings: 2

Project score: 43

Water: ✓ 43 Target 40

Thermal Performance: ✓ Pass Target Pass

Energy: ✓ 72 Target 69

Materials: ✓ 5 Target n/a

Certificate Prepared by: DAICO BUILDING GROUP PTY LIMITED

ABN (if applicable): 54120830000

<b>Description of project</b>														
<table border="1"> <tr> <td><b>Project address</b></td> <td><b>Assessor details and thermal loads</b></td> </tr> <tr> <td>Project name: 9 Union Street, Arncliffe, 2205 Street address: 9 UNION Street ARNCLIFFE 2205 Local Government Area: Bayside Council Plan type and plan number: Deemed Plan DP97114</td> <td>NSW/RS certificate number: n/a Climate zone: n/a Projected adjusted cooling load (MJ): n/a Projected adjusted heating load (MJ): n/a</td> </tr> <tr> <td><b>Project type</b></td> <td><b>Project score</b></td> </tr> <tr> <td>dwelling house (detached) - secondary dwelling</td> <td>Water: ✓ 43 Target 40 Thermal Performance: ✓ Pass Target Pass Energy: ✓ 72 Target 69 Materials: ✓ 5 Target n/a</td> </tr> <tr> <td><b>Site details</b></td> <td><b>Assessor details and thermal loads</b></td> </tr> <tr> <td>Site area (m²): 378 Roof area (m²): 75 Concreted floor area (m²): 52.09 Unconcreted floor area (m²): 1.51 Total area of garden and lawn (m²): 100 Roof area of the existing dwelling (m²): 124 Number of bedrooms in the existing dwelling: 3</td> <td>Water: ✓ 43 Target 40 Thermal Performance: ✓ Pass Target Pass Energy: ✓ 72 Target 69 Materials: ✓ 5 Target n/a</td> </tr> </table>			<b>Project address</b>	<b>Assessor details and thermal loads</b>	Project name: 9 Union Street, Arncliffe, 2205 Street address: 9 UNION Street ARNCLIFFE 2205 Local Government Area: Bayside Council Plan type and plan number: Deemed Plan DP97114	NSW/RS certificate number: n/a Climate zone: n/a Projected adjusted cooling load (MJ): n/a Projected adjusted heating load (MJ): n/a	<b>Project type</b>	<b>Project score</b>	dwelling house (detached) - secondary dwelling	Water: ✓ 43 Target 40 Thermal Performance: ✓ Pass Target Pass Energy: ✓ 72 Target 69 Materials: ✓ 5 Target n/a	<b>Site details</b>	<b>Assessor details and thermal loads</b>	Site area (m²): 378 Roof area (m²): 75 Concreted floor area (m²): 52.09 Unconcreted floor area (m²): 1.51 Total area of garden and lawn (m²): 100 Roof area of the existing dwelling (m²): 124 Number of bedrooms in the existing dwelling: 3	Water: ✓ 43 Target 40 Thermal Performance: ✓ Pass Target Pass Energy: ✓ 72 Target 69 Materials: ✓ 5 Target n/a
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**Schedule of BASIX commitments**

The commitments set out below regulate how the proposed development is to be carried out. It is a condition of any development consent granted, or complying development certificate issued, for the proposed development, that BASIX commitments be complied with.

<b>Water Commitments</b>		
Show on DA plans	Show on CCDC plans & specs	Checklist
<b>Fixtures</b> The applicant must install showerheads with a minimum rating of 4 star (i.e. > 8 L/min plus spray force and/or coverage test) in all showers in the development. The applicant must install a toilet flushing system with a minimum rating of 6 star in each toilet in the development. The applicant must install taps with a minimum rating of 6 star in the kitchen in the development. The applicant must install basin taps with a minimum rating of 6 star in each bathroom in the development.		
✓	✓	✓
<b>Assessor details and thermal loads</b> The applicant must install at least one ceiling fan in at least one daytime habitable space, such as living room.		
✓	✓	✓
<b>Thermal Performance and Materials commitments</b> <b>Celing fans</b> The applicant must install at least one ceiling fan in at least one daytime habitable space, such as living room.		
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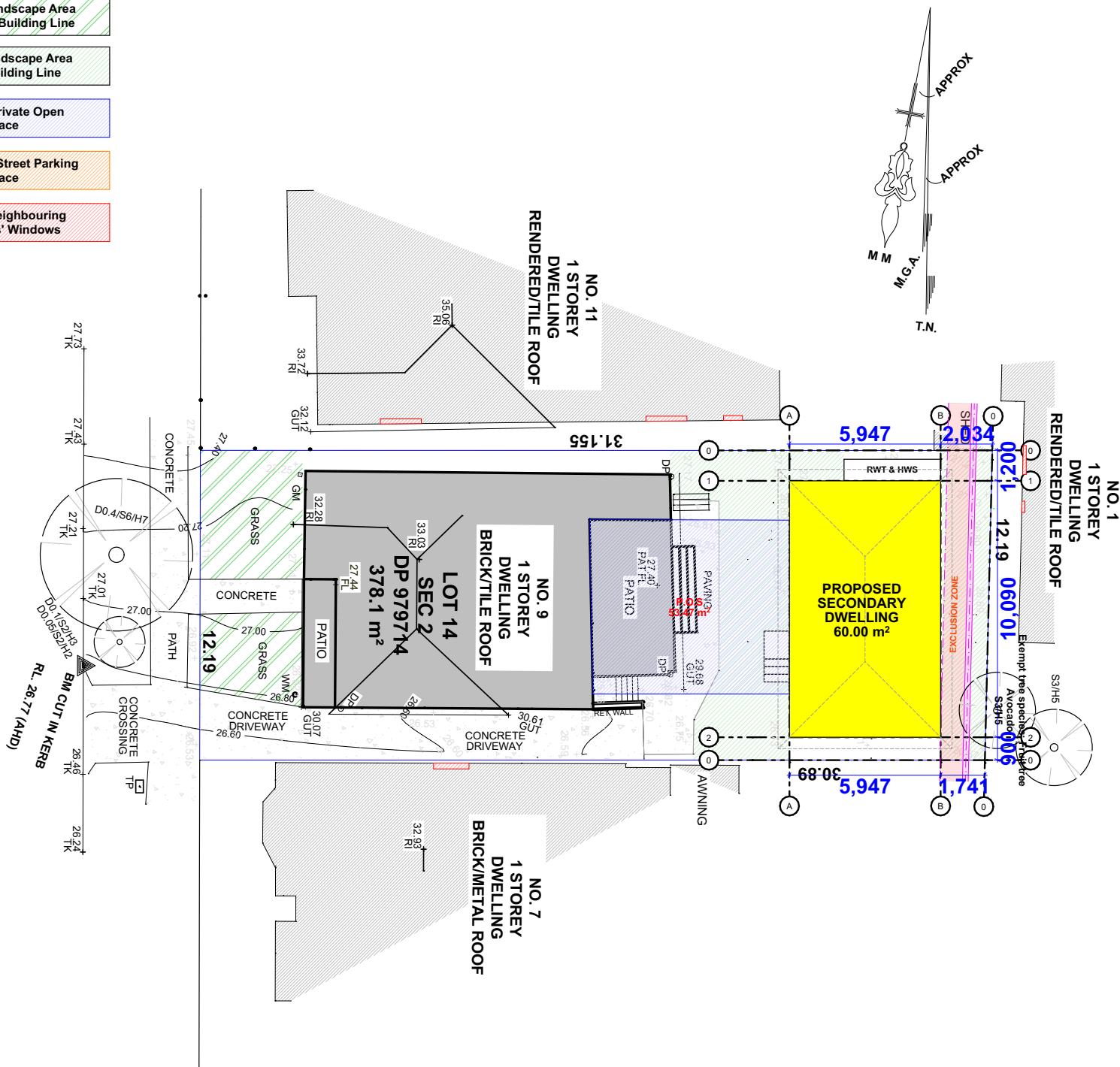
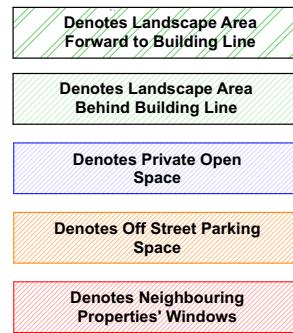
<b>Thermal Performance and Materials commitments</b>		
Show on DA plans	Show on CCDC plans & specs	Checklist
<b>General features</b> The dwelling must be a Class 1 dwelling according to the National Construction Code, and must not have more than 2 storeys.		
✓	✓	✓
<b>Fixtures</b> The applicant must install showerheads with a minimum rating of 4 star (i.e. > 8 L/min plus spray force and/or coverage test) in all showers in the development.		
✓	✓	✓
<b>Water</b> <b>Water tanks</b> The applicant must install a rainwater tank at least 2000 litres on the site. This rainwater tank must meet, and be installed in accordance with, the requirements of the applicable regulatory authorities.		
✓	✓	✓
<b>Assessor details and thermal loads</b> <b>Roof, walls and ceiling</b> The applicant must construct the floors, walls, and ceiling of the dwelling in accordance with the specifications listed in the table below.		
✓	✓	✓
<b>Construction</b> <b>Area - m²</b> Non-concrete slab on ground: 60 External walls: n/a Internal walls: 2.54 x 3.0 including construction, fibreglass batts or foil, and/or mineral wool cavity		
✓	✓	✓
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✓	✓	✓

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✓	✓	✓
<b>Construction</b> <b>Area - m²</b> Non-concrete slab on ground: 60 External walls: n/a Internal walls: 2.54 x 3.		

# UNION STREET



1 SITE & LANDSCAPE PLAN 1:200

CLIENT	DRAWING TITLE
MR. MARTIN CHIA	Construction Details
LOT 14, SECTION 2, DP 979714 9 NION STREET, ARNCLIFFE, 2205	SITE & LANDSCAPE PLAN
PROJECT	DEVELOPMENT APPLICATION SET
DEVELOPMENT APPLICATION SET Construction of Secondary Dwelling	A3

**MASTER GRANNY FLATS**  
719 FOREST ROAD, PEAKHURST 2210 NSW  
1300 643 528  
www.mastergrannyflats.com.au  
design@mastergrannyflats.com.au



REVISION	DESCRIPTION	DATE	DRAWN	SCALE	DRAWN	CHECKED	DATE
P01	PRELIMINARY DRAFT	20.08.2025	JF				
P02	PRELIMINARY DRAFT	25.08.2025	JF				
DA01	ARCHITECTURE SET	13.10.2025	JF				
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DA07	ARCHITECTURE SET	16.12.2025	JF				

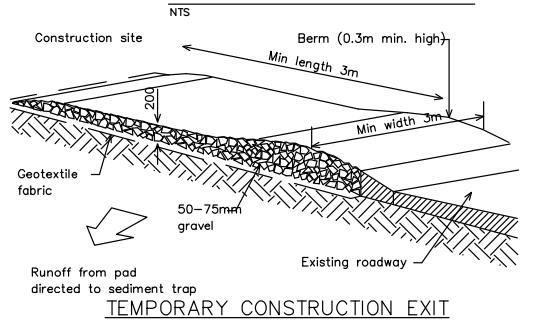
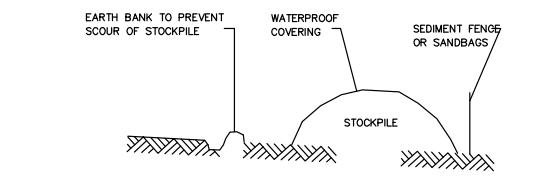
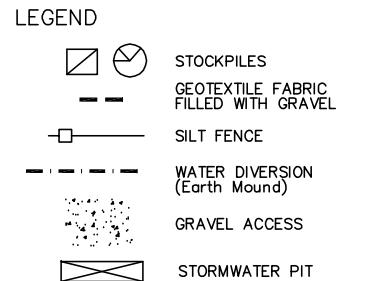
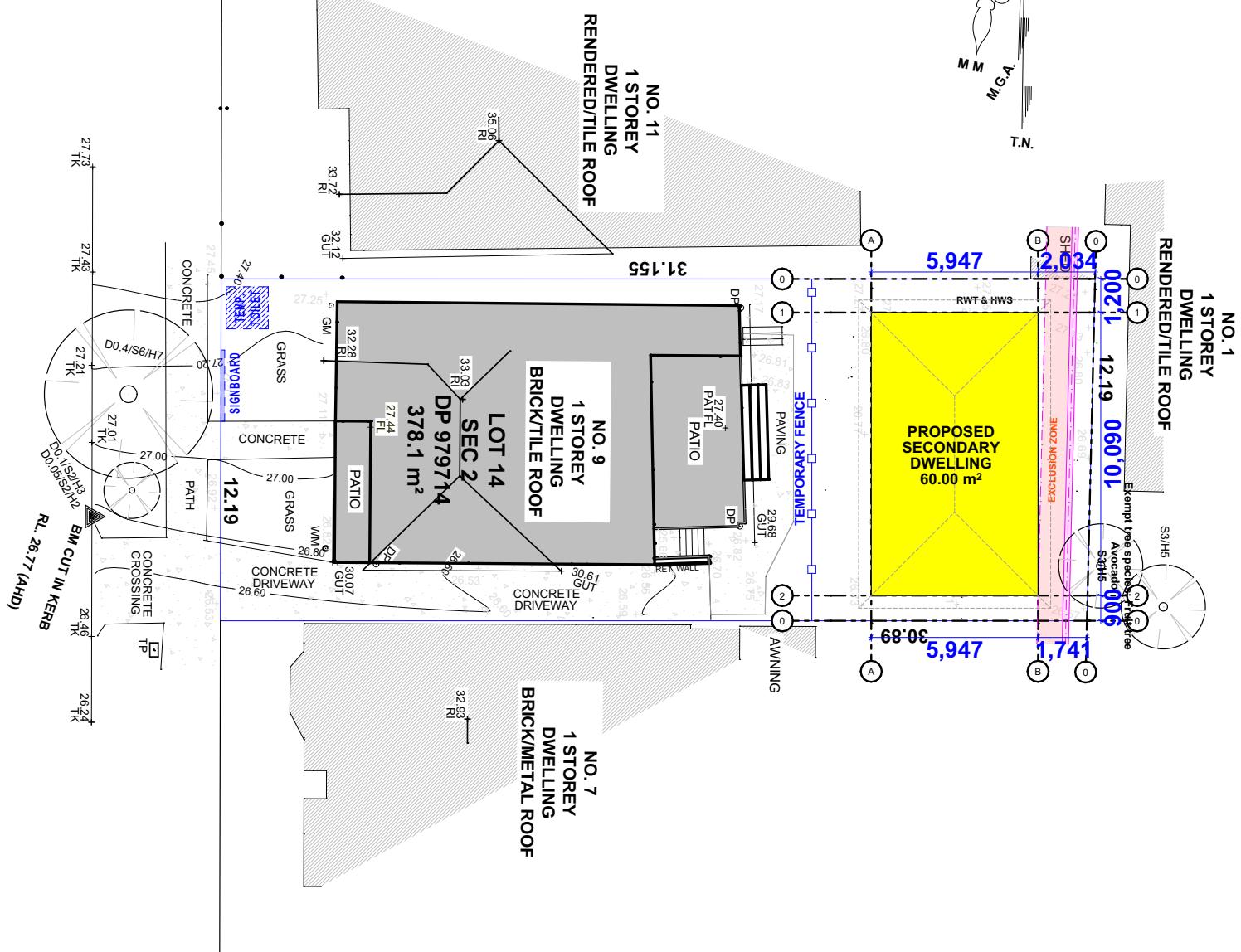
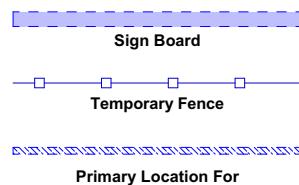
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PROJECT No DRAWING No REVISION  
C25-00011495 DA 0400 DA07

# UNION STREET

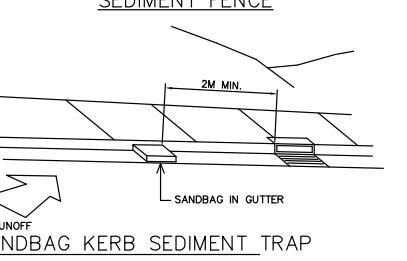
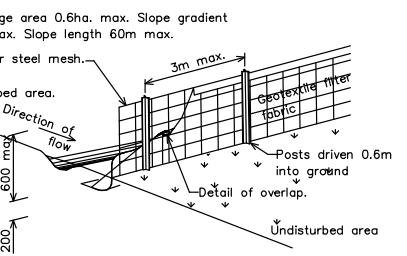
## SEDIMENT CONTROL PLAN 1:200

4

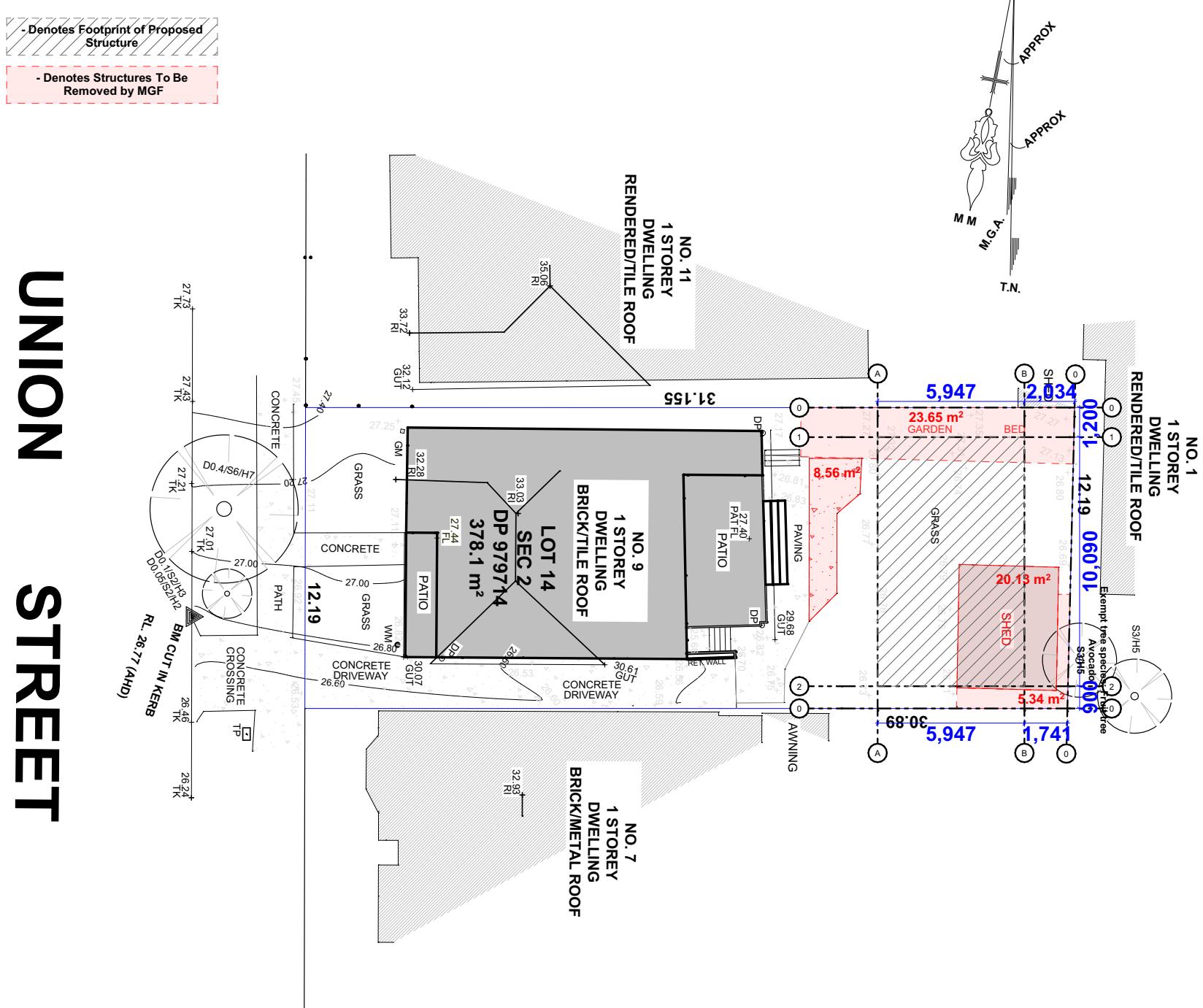
CLIENT	DRAWING TITLE	REVISION	DESCRIPTION	DATE	DRAWN	SCALE	DRAWN	CHECKED	DATE
MR. MARTIN CHIA LOT 14, SECTION 2, DP 979714 9 NION STREET, ARNCLIFFE, 2205	Construction Details SEDIMENT CONTROL & SITE ANALYSIS PLAN	P01	PRELIMINARY DRAFT	20.08.2025	JF				
PROJECT	MASTER GRANNY FLATS 719 FOREST ROAD, PEAKHURST 2210 NSW	P02	PRELIMINARY DRAFT	25.08.2025	JF				
DEVELOPMENT APPLICATION SET Construction of Secondary Dwelling	1300 643 528 www.mastergrannyflats.com.au design@mastergrannyflats.com.au	DA01	ARCHITECTURE SET	13.10.2025	JF				
		DA02	ARCHITECTURE SET	16.10.2025	JF				
		DA03	ARCHITECTURE SET	22.10.2025	JF				
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		DA07	ARCHITECTURE SET	16.12.2025	JF				



STORMWATER CONCEPT TO COMPLY WITH COUNCILS REQUIREMENTS. COUNCILS REQUIREMENTS WILL TAKE PRECEDENCE OVER THE STORM WATER PLAN



# UNION STREET



1

# DEMOLITION PLAN

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**CLIENT**  
MR. MARTIN CHIA  
LOT 14, SECTION 2, DP 979714  
9 NION STREET, ARNCLIFFE, 2205  
**PROJECT**  
DEVELOPMENT APPLICATION  
Construction of Secondary Dwelling

## Construction Details

## DEMOLITION PLANS

42

1

## MASTER GRANNY FLAT

719 FOREST ROAD, PEAKHURST 2210 NSW

1300 643 528  
[www.mastergrannyflats.com.au](http://www.mastergrannyflats.com.au)  
[design@mastergrannyflats.com.au](mailto:design@mastergrannyflats.com.au)



# MASTER GRANNYFLATS



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				1:200	JF			16.12.2025
				PROJECT No		DRAWING No		REVISION
				C25-00011495	DA 0402	DA07		

C25-00011495 DA 0402 DA07

DEVELOPMENT APPLICATION TABLE (BAYSIDE DCP 2022 & BAYSIDE LEP 2021)

CLAUSE	REQUIRED	PROPOSED	COMPLIES
<b>BDCP 2022 Clause 4.4 SITE &amp; LOT REQUIREMENTS</b>	- No Minimum Lot Size Req. for Secondary Dwellings	- 12.1m frontage & 378.1m <sup>2</sup>	Y
<b>LEP 2021 Clause 4.4A &amp; BDCP 2022 CLAUSE 5.1.2.1 MAX FLOOR SPACE RATIO</b>	50% Maximum FSR	45.4% (total 171.7m <sup>2</sup> /378.1m <sup>2</sup> )	Y
<b>BDCP 2022 Clause 5.1.2.1 MAX HEIGHT IN STOREYS</b>	- 1 STOREY	- 1 STOREY	Y
<b>BDCP 2022 Clause 5.1.2.1 SIDE SETBACK</b>	- Min 0.9M SIDE SETBACK	- 0.9m & 1.6m	Y
<b>BDCP 2022 Clause 5.1.2.1 REAR SETBACK</b>	- Min 0.9M REAR SETBACK	- 1.04m	Y
<b>BDCP 2022 Clause 3.7.1 LANDSCAPED AREA</b>	- Min. 25% landscaped area for R2 Zone	- 26.4% (total 99.74m <sup>2</sup> / 378.1m <sup>2</sup> )	Y
<b>BDCP 2022 Clause 3.7.3 PRIVATE OPEN SPACE</b>	- 50m <sup>2</sup> of P.O.S (May be shared With Existing Dwelling). - Min width of 5m	- 50m <sup>2</sup>	Y

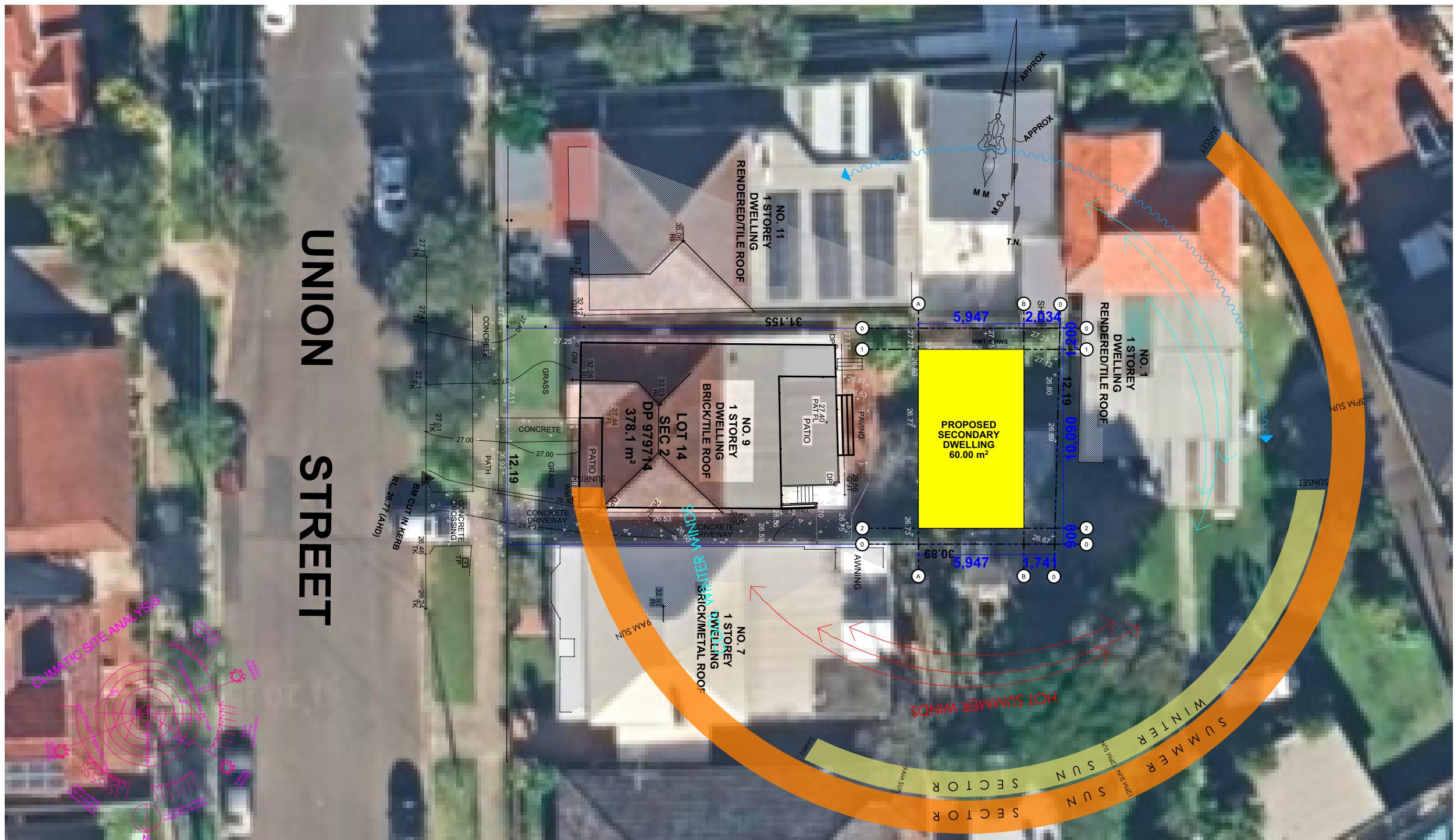
COMPLYING DEVELOPMENT APPLICATION TABLE (SEPP 2021 HOUSING)

CLAUSE	REQUIRED	PROPOSED	COMPLIES
<b>2 SITE &amp; LOT REQUIREMENTS</b>	- At least 12m frontage and between 450m <sup>2</sup> - 900m <sup>2</sup>	- 12.1m Frontage & Site Area 378.1m <sup>2</sup>	N
<b>3 MAX SITE COVERAGE</b>	- 50% of the area if the lot has an area between 450m <sup>2</sup> & 900m <sup>2</sup>	- 48.6% (total 183.9m <sup>2</sup> / 378.1m <sup>2</sup> ) - Existing main dwelling: 123.9m <sup>2</sup> - Proposed Secondary dwelling: 60m <sup>2</sup>	Y
<b>4 MAX FLOOR AREA OF PRINCIPAL &amp; SECONDARY DWELLING</b>	- 60m <sup>2</sup> floor area of secondary dwelling - Maximum floor area of Principal Dwelling: 360m <sup>2</sup> for lots 600m <sup>2</sup> - 900m <sup>2</sup>	- 123.9m <sup>2</sup> Existing Dwelling - 60m <sup>2</sup> Proposed Secondary Dwelling - <b>Total: 183.9m<sup>2</sup></b>	Y
<b>6 BUILDING HEIGHT</b>	- 3.8m max from NGL	- 1 Storey	N
<b>9 SETBACKS FROM SIDE BOUNDARIES</b>	0.9m	- 0.9m & 1.6m	Y
<b>10 SETBACKS FROM REAR BOUNDARIES</b>	3m	- 1.04m	N
<b>16 LANDSCAPED AREA</b>	- 25% if the lot has an area of 600m <sup>2</sup> - 900m <sup>2</sup> - 50% of landscaped area to be located behind building line	-Total Landscape Area: 26.4% (total 99.74m <sup>2</sup> /378.1m <sup>2</sup> ) - Landscaping Behind Building Line: 66.5% (65.7m <sup>2</sup> / 98.74m <sup>2</sup> )	Y
<b>17 PRIVATE OPEN SPACE</b>	- 24m <sup>2</sup> of P.O.S P.O.S to be directly accessible and adjacent from a habitable room other than a bedroom and is 4m wide and not steeper than 1 in 50 grade	- 24m <sup>2</sup>	Y

COMPLIANCE TABLE

1

CLIENT	DRAWING TITLE	REVISION	DESCRIPTION	DATE	DRAWN	SCALE	DRAWN	CHECKED	DATE
MR. MARTIN CHIA LOT 14, SECTION 2, DP 979714 9 NION STREET, ARNCLIFFE, 2205	Construction Details COMPLIANCE TABLE	P01 P02 DA01 DA02 DA03 DA04 DA05 DA06 DA07	PRELIMINARY DRAFT PRELIMINARY DRAFT ARCHITECTURE SET ARCHITECTURE SET ARCHITECTURE SET ARCHITECTURE SET ARCHITECTURE SET ARCHITECTURE SET ARCHITECTURE SET	20.08.2025 25.08.2025 13.10.2025 16.10.2025 22.10.2025 03.11.2025 11.11.2025 13.11.2025 16.12.2025	JF JF JF JF JF JV CT CT JF				
PROJECT DEVELOPMENT APPLICATION SET Construction of Secondary Dwelling	SHEET SIZE A3								
MASTER GRANNY FLATS 719 FOREST ROAD, PEAKHURST 2210 NSW 1300 643 528 www.mastergrannyflats.com.au design@mastergrannyflats.com.au	 <b>MASTER GRANNYFLATS</b>								
1:132.476 JF PROJECT No C25-00011495	DRAWING No DA 0403	REVISION DA07	16.12.2025						



# SITE ANALYSIS PLAN

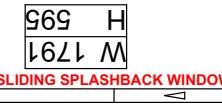
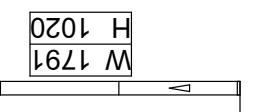
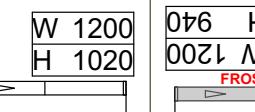
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## MENT

CLIENT	DRAWING TITLE	REVISION	DESCRIPTION	DATE	DRAWN	SCALE	DRAWN	CHECKED	DATE
MR. MARTIN CHIA LOT 14, SECTION 2, DP 979714 9 NION STREET, ARNCLIFFE, 2205	Construction Details SITE ANALYSIS PLAN	P01 P02 DA01 DA02 DA03 DA04 DA05 DA06 DA07	PRELIMINARY DRAFT PRELIMINARY DRAFT ARCHITECTURE SET ARCHITECTURE SET ARCHITECTURE SET ARCHITECTURE SET ARCHITECTURE SET ARCHITECTURE SET ARCHITECTURE SET	20.08.2025 25.08.2025 13.10.2025 16.10.2025 22.10.2025 03.11.2025 11.11.2025 13.11.2025 16.12.2025	JF JF JF JF JF JV CT CT JF	1:200	JF		16.12.2025
PROJECT	DEVELOPMENT APPLICATION SET	PROJECT No	DRAWING No	REVISION					
Construction of Secondary Dwelling	A3	C25-00011495	DA 0404	DA07					

## Item 6.2 – Attachment 4

**NOTE: ORIENTATION OF WINDOWS & DOORS TO BE AS PER FLOOR PLAN ONLY.**

Window List					
ID	W01	W02	W03	W04	W05
Quantity	1	2	1	1	1
From Room Number	<Undefined>	<Undefined>	<Undefined>	<Undefined>	<Undefined>
Height	595	1,020	1,020	940	940
Width	1,791	1,791	1,200	1,200	724
Window sill height	936	1,366	1,366	1,452	1,452
Window head height	1,531	2,386	2,386	2,392	2,392
2D Symbol					

2 Window List  
1:1

Door List			
ID	D01	D02	D03
Quantity	1	3	1
To Room Number	<Undefined>	<Undefined>	<Undefined>
W x H Size	2,122×2,109	820×2,109	720×2,109
Door sill height	0	0	0
Door head height	2,109	2,109	2,109
2D Symbol			

1 Door List  
1:1

**Note: Solid core for all internal doors (x4)**

CLIENT DRAWING TITLE  
MR. MARTIN CHIA  
LOT 14, SECTION 2, DP 979714  
9 NION STREET, ARNCLIFFE, 2205  
PROJECT  
DEVELOPMENT APPLICATION SET  
Construction of Secondary Dwelling

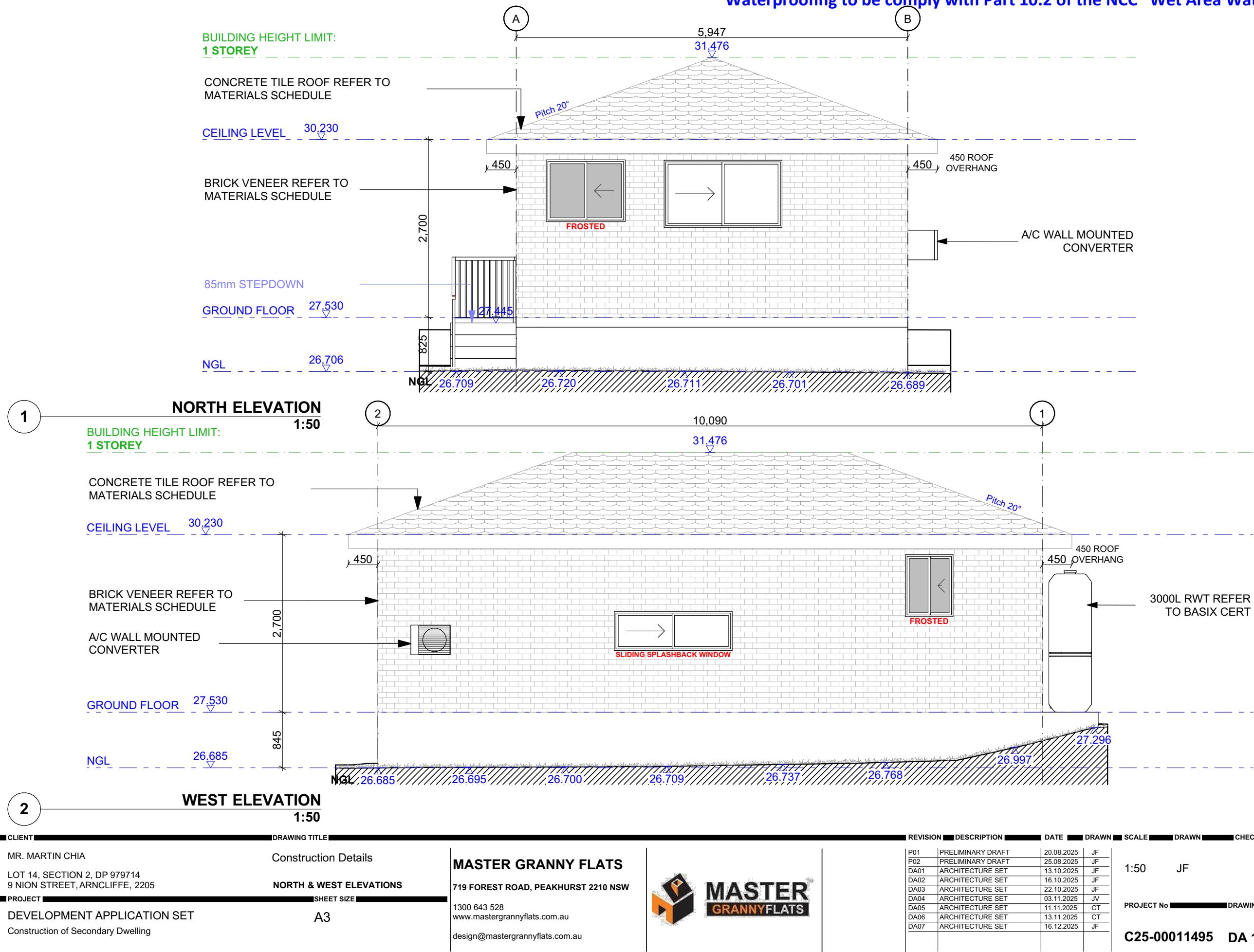
Construction Details  
SCHEDULES  
SHEET SIZE  
A3

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719 FOREST ROAD, PEAKHURST 2210 NSW  
1300 643 528  
www.mastergrannyflats.com.au  
design@mastergrannyflats.com.au

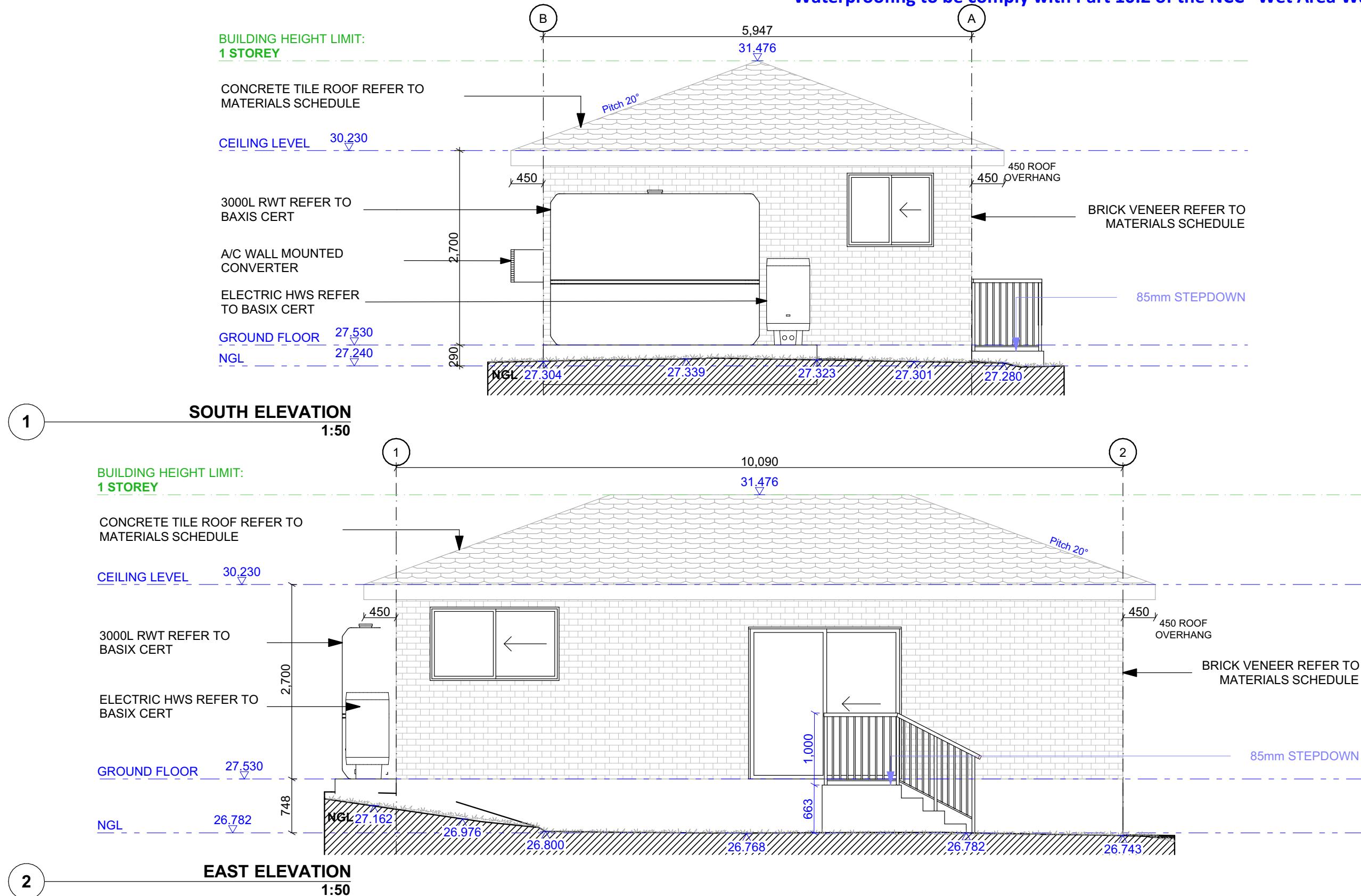


REVISION DESCRIPTION DATE DRAWN SCALE DRAWN CHECKED DATE  
P01 PRELIMINARY DRAFT 20.08.2025 JF  
P02 PRELIMINARY DRAFT 25.08.2025 JF  
DA01 ARCHITECTURE SET 13.10.2025 JF  
DA02 ARCHITECTURE SET 16.10.2025 JF  
DA03 ARCHITECTURE SET 22.10.2025 JF  
DA04 ARCHITECTURE SET 03.11.2025 JV  
DA05 ARCHITECTURE SET 11.11.2025 CT  
DA06 ARCHITECTURE SET 13.11.2025 CT  
DA07 ARCHITECTURE SET 16.12.2025 JF  
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PROJECT No DRAWING No REVISION  
C25-00011495 DA 1100 DA07

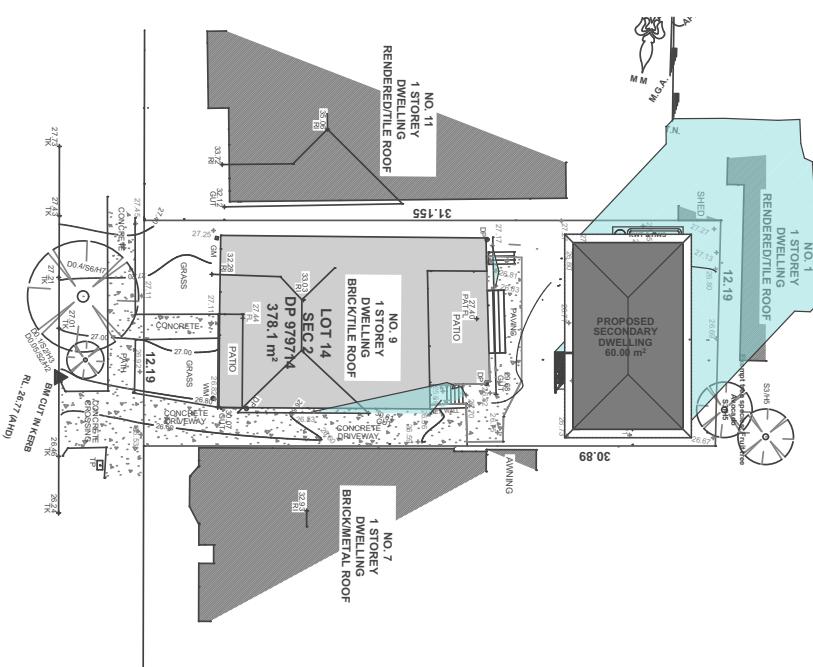
Waterproofing to be comply with Part 10.2 of the NCC "Wet Area Waterproofing"



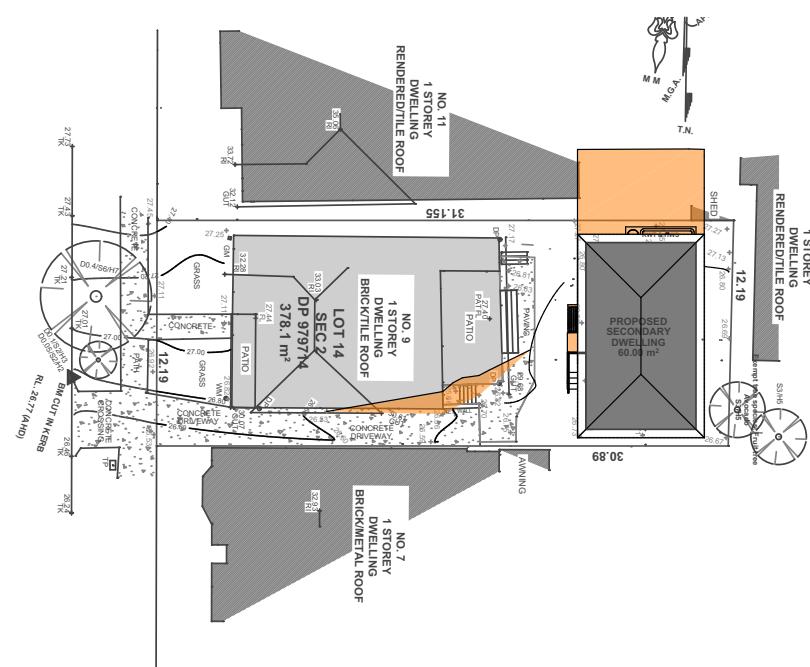
Waterproofing to be comply with Part 10.2 of the NCC "Wet Area Waterproofing



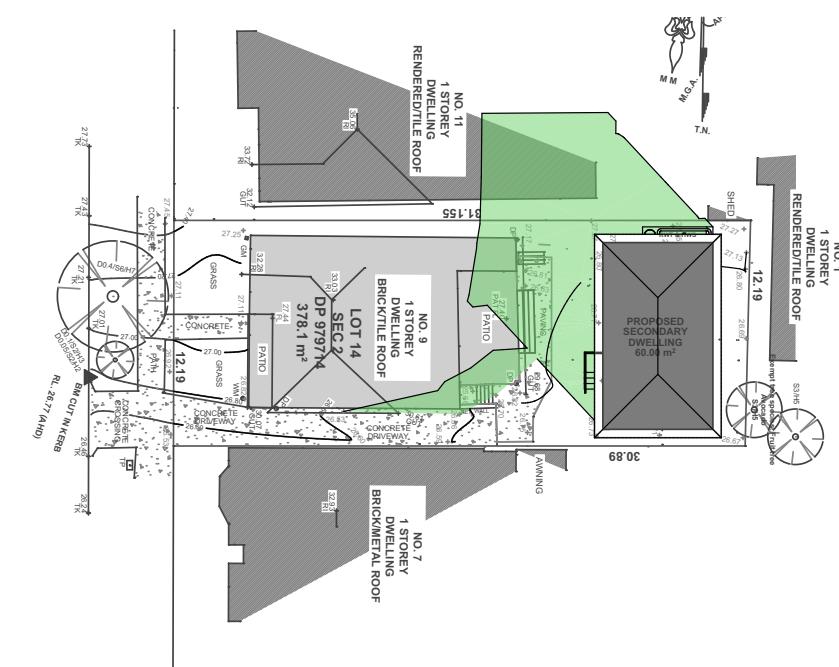
UNION  
STREET



UNION  
STREET



UNION  
STREET



CLIENT	DRAWING TITLE
MR. MARTIN CHIA	Construction Details
LOT 14, SECTION 2, DP 979714 9 NION STREET, ARNCLIFFE, 2205	SHADOW DIAGRAMS
PROJECT	DEVELOPMENT APPLICATION SET
DEVELOPMENT APPLICATION SET	Construction of Secondary Dwelling

**MASTER GRANNY FLATS**  
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[design@mastergrannyflats.com.au](mailto:design@mastergrannyflats.com.au)



REVISION	DESCRIPTION	DATE	DRAWN	SCALE	DRAWN	CHECKED	DATE
P01	PRELIMINARY DRAFT	20.08.2025	JF				
P02	PRELIMINARY DRAFT	25.08.2025	JF				
DA01	ARCHITECTURE SET	13.10.2025	JF				
DA02	ARCHITECTURE SET	16.10.2025	JF				
DA03	ARCHITECTURE SET	22.10.2025	JF				
DA04	ARCHITECTURE SET	03.11.2025	JV				
DA05	ARCHITECTURE SET	11.11.2025	CT				
DA06	ARCHITECTURE SET	13.11.2025	CT				
DA07	ARCHITECTURE SET	16.12.2025	JF				

1:365.465,JF  
1:365.361  
PROJECT No **C25-00011495** DRAWING No **DA 1700** REVISION **DA07**

16.12.2025

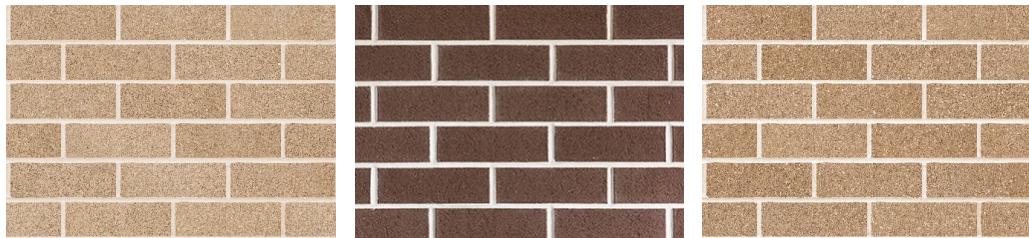


## External Colours and Finishes Schedule

### 9 Union Street, Arncliffe

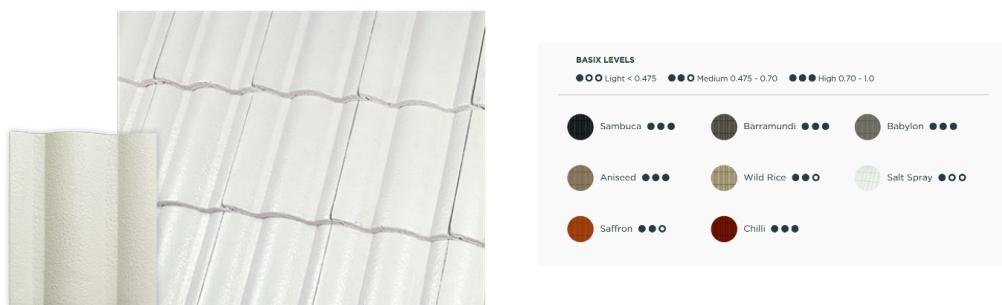
External Walls:

Brick Veneer



Roof:

CSR Concrete Roof Tiles



Window Finish:

Aluminium framed glass windows: JS & G Aluminium



Door Finish:

Standard hollow internal door

