



INNER WEST COUNCIL

ELECTRONIC ATTACHMENTS

for

BUSINESS PAPER

6.30PM, TUESDAY, 23 JULY, 2019

Attachments

**Item 3 Sydney Eastern City Planning Panel Report: DA201700558:
1-9 Rich Street, Marrickville**

Attachment 1: Council Officer SECPP Assessment Report with Conditions	
1-9 Rich Street Marrickville DA201700558	2
Attachment 3: Council Officer SECPP Supplementary Report - DA201700558	
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Item 6 Delegation to execute Tcorp Loan for Ashfield Aquatic Centre

Attachment 1: Inner West Council - Loan Agreement FY19 141

File Ref: DA201700558

Synopsis

This report concerns an application that seeks approval for a staged commercial development. Stage 1 of the development comprises site preparation works including demolition of existing structures and removal of vegetation; construction of 2 new buildings incorporating ground level food and drink tenancies, studio spaces and upper level offices and car parking being the 3 storey North Hub building and 4 storey South Hub building. Stage 2 of the proposal involves the construction of a 5 storey "Marker Building" with ground floor food and drink premises and upper level offices with a roof terrace at level 6. The application includes the use of the new buildings for a range of creative light industries, office premises and food and drink premises; and new site landscaping including creation of a new publicly accessible open space and pedestrian connections.

The application was notified in accordance with Council's Notification Policy and 26 submissions were received, 23 in support of the proposal and 3 objecting to the proposal.

The proposal generally complies with the aims, objectives and design parameters contained in Marrickville Local Environmental Plan 2011 (MLEP 2011) and Marrickville Development Control Plan 2011 (MDCP 2011).

Concern remains outstanding with regard to the design of the Marker Building, the amount of accessible car parking provided and traffic and vehicular access (particularly for larger vehicles) entering and exiting the site.

The application is suitable for approval subject to the imposition of deferred commencement consent.

PART A - PARTICULARS

Location: North-eastern side of Rich Street, between Victoria Road and Shepherd Street, Marrickville.



Image 1: Location Map

D/A No: 201700558

- Application Date:** 13 November 2017. Additional information submitted on 24 April 2018, 14 May 2018, 13 August 2018, 29 October 2018, 13 November 2018, 29 November 2018, 14 December 2018, 15, 17 January 2019, 6 February 2018, 5, 6 March 2019.
- Proposal:** This report concerns an application that seeks approval for a staged commercial development. Stage 1 of the development comprises site preparation works including demolition of existing structures and removal of vegetation; construction of 2 new buildings incorporating ground level food and drink tenancies, studio spaces and upper level offices and car parking being the 3 storey North Hub building and 4 storey South Hub building. Stage 2 of the proposal involves the construction of a 5 storey "Marker Building" with ground floor food and drink premises and upper level offices with a roof terrace at level 6. The application includes the use of the new buildings for a range of creative light industries, office premises and food and drink premises; site landscaping including creation of a new publicly accessible open space, pedestrian connections and new soft landscaping.
- Applicant:** Danias Holdings Pty Ltd
- Estimated Cost:** \$48,265,859.00
- Zoning:** B5 - Business Development

PART B - THE SITE AND ITS CONTEXT

Existing on the site: Various Industrial Buildings



Image 2: Malco Building (Corner Victoria Road and Rich Street)



Image 3: Rich Street (from Victoria Road Intersection looking West)



Image 4: Rich Street existing road for access over channel (looking from Southern Boundary to Northern Boundary at the Western Boundary)



Image 5: Brompton Street Entry to the site (south-west view)

- Current Use:**
- Malco Building (corner Victoria Road and Rich Street) contains a vacant 2 storey office/industrial building;
 - Remnants of former furniture warehouse destroyed by fire in 2016 fronting Rich Street;
 - Single storey brick building used by artwork business;
 - 2 storey concrete industrial building facing Brompton Street used by PFD Food Service;
 - Single storey brick building at the centre of the site used for the production of statues; and
 - Tin shed utilised by the bus depot on the northern boundary of the site.

PART C - REQUIREMENTS

1. **Zoning**
Is the proposal permissible under zoning provisions? Yes
2. **Development Standards (Mandatory Requirements):**

Type	Required	Proposed
Marker Site – Lot 51		
Height of Buildings (max)	23 metres	22.63 metres
Floor Space Ratio (max)	2:1	1.99:1
North & South Hub Site – Lots 52&53		
Height of Buildings (max)	20 metres	19.945 metres
Floor Space Ratio (max)	1:1	1:1

3. **Departures from Council's Codes and Policies:**

<i>Type</i>	<i>Required</i>	<i>Proposed</i>
Design	Discussed in body of report	
Accessibility	Discussed in body of report	
Car Parking	Discussed in body of report	
Bicycle Parking	Discussed in body of report	
4. **Community Consultation:**

Required: Yes (newspaper advertisement, on-site notice and resident notification)

Submissions: 26 submissions (23 in support, 3 objections)
5. **Other Requirements:**

ANEF 2033 Affectation: 30-35 ANEF

Marrickville Section 94/94A Contributions Plan 2014

PART D - ASSESSMENT

1. The Site and Surrounds

The site is located on the north-eastern side of Rich Street, between Victoria Road and Shepherd Street, Marrickville. The site is known as 1-9 Rich Street, containing 3 allotments with frontages to Rich Street, Victoria Road and Brompton Street and is legally described as Lot 5 in Deposited Plan 643446, Lot A in Deposited Plan 178259 and Lot 53 in Deposited Plan 868710. The 3 allotments known as 'the site' have a total area of 12,591m². The site is relatively flat with a slight fall west to east towards Victoria Road.

Currently occupying the site are five buildings ranging in height to a maximum of 2 storeys and remnants of a sixth building which was destroyed by fire in 2016.

An open stormwater drainage channel owned by Sydney Water, runs from the west to the east, through the centre of the site within a registered easement requiring it be maintained for stormwater drainage.

The site is not heritage listed or located in a heritage conservation area, however a heritage item is located adjacent to the site at No.61-65 Shepherd Street, Marrickville (item I118), being the Sims Metal Factory, including interiors, and is in the vicinity of a heritage item located at No.14 Rich Street (item I117), being the industrial façade under Schedule 5 of Marrickville Local Environment Plan 2011 (MLEP 2011).

There are 6 trees located on the site and 11 street trees in the vicinity of the site on Rich Street and Victoria Road.

A 2 storey former industrial building, utilised as the *Factory Theatre* adjoins the site to the east, known as 105 Victoria Road. A 2 storey industrial complex fronting Jabez Street adjoins the site to the north. Directly adjacent the site to the north-west is No.11 Rich Street, operating as Euro Marble within a 2 storey warehouse. Antstav, occupies the site adjacent to Euro Marble which is located within the heritage listed warehouse building fronting 61-65 Shepherd Street and has its back of house loading facilities adjoining the site. Both the Euro Marble site and Antstav warehouse have entitlements to utilise a right of carriageway that exists over the subject site which provides access to loading facilities for both properties, and is the only form of access to the Euro Marble site, as Meeks Lane which runs along the western side of the Euro Marble site is unformed.

Operating to the south of the site on the opposite side of Rich Street are a number of industrial and commercial warehouse uses, similarly along Brompton Street there are a number of 1 and 2 storey commercial and industrial buildings. Four dwelling houses are also located at 3-9 Brompton Street, being the secondary street entry to the site.

The overall nature of the surrounding context of the site is industrial with a mix of commercial uses and a limited number of purpose built dwelling houses throughout the surrounding streets.

In a regional context, the site is located approximately 900m north of Sydenham railway station and 500m west of the *Marrickville Metro* shopping centre.

2. Background

On 3 November 2015, the former Marrickville Council Infrastructure, Planning and Environmental Services Committee considered a planning proposal for the Victoria Road precinct. The Victoria Road Precinct encompasses nearly 18 hectares of land that is generally concentrated on Victoria Road (refer image 1 below).

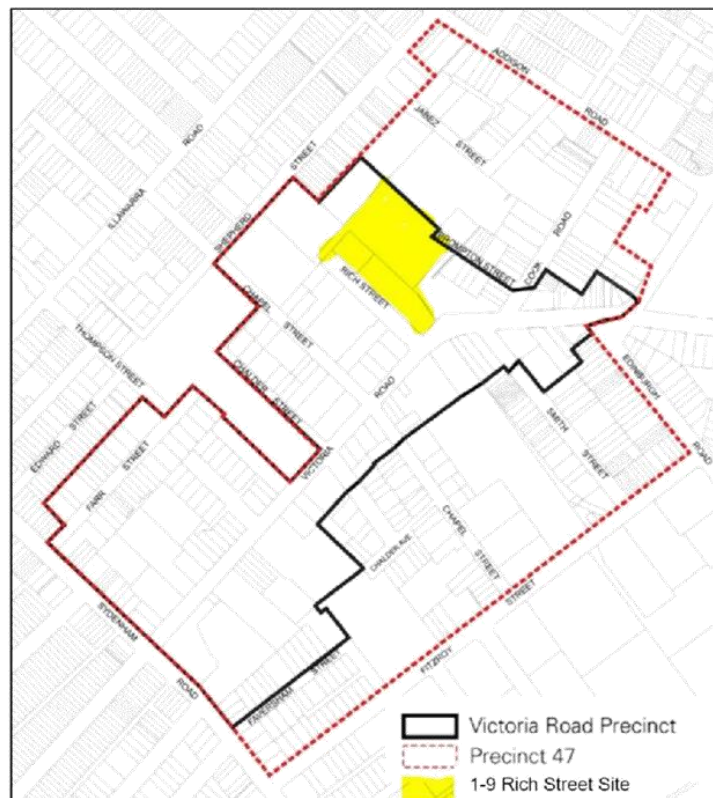


Image 6: Map indicating the area encompassed by the Victoria Road Precinct Planning Proposal (outlined in black)

The key features of the planning proposal were:

- To rezone land from 'IN1 General Industrial' to medium and high density residential zones, mixed use zones and business zones;
- To create approximately 1,100 apartment dwellings and a variety of business uses including creative industries;
- To increase the maximum height of buildings (building heights range from 3 to 14 storeys);
- To increase the maximum floor space ratios for the precinct ranging from 1:1 to 3.5:1;
- To provide acoustic design specifications to mitigate aircraft noise (all dwellings proposed are within the 25-30 Australian Noise Exposure Forecast (ANEF) aircraft noise contour); and

- To provide 3 per cent of residential floor space for use as affordable housing by amending the Marrickville Local Environmental Plan.

The former Marrickville Council resolved to submit the Planning Proposal in the form lodged by the proponent to the Department of Planning and Environment (DPE) for Gateway determination. On 14 March 2016, the DPE issued a Gateway Determination for the precinct.

The Planning proposal was exhibited between September and November 2016 and was referred to the relevant public authorities listed in the Gateway Determination.

Following a detailed assessment, the planning proposal was reported to Council in June 2017 with a recommendation that the Administrator request the Minister for Planning to determine that the planning proposal not proceed in its current form.

At that meeting the Administrator determined that:

"Council forwards the Victoria Road Planning Proposal to the Minister for Planning indicating its support for the Proposal subject to:

1. Resolution of matters the subject of an unresolved objection from the Roads and Maritime Service;
2. There is to be no change to the existing IN1 – General Industrial zoning on the south eastern side of Victoria Road. This land forms part of the core Sydenham / Marrickville Industrial Area and should be preserved in line with the recommendations of the Marrickville Employment Lands Study and subsequent Review. Council will further consider its position subject to review of the Sydenham to Bankstown Urban Renewal Corridor Strategy;
3. With the exception of the properties on the north western side of Farr Street to be zoned R3 – Medium Density Residential, no properties in the precinct are to be zoned residential; the Danias Timbers Site / Timber Yards Sub-precinct to be zoned B4 – Mixed Use (along Victoria Road and Sydenham Road) and B7 – Business Park (for the remainder of the sub-precinct) with an appropriate mix of employment and residential uses to be provided via site specific provision. The remainder of the precinct north-west of Victoria Road and north of Chalder Street to be zoned B5 – Business Development;
4. Any intersection upgrade works necessitated by the planning proposal cannot require the acquisition of parts of Wicks Park or properties outside the area covered by the planning proposal;
5. The planning proposal must adequately deal with infrastructure planning, funding and delivery (including any required property acquisitions) in consultation with Council;
6. The planning proposal must reflect the urban design and built form recommendations provided by Rod Simpson and Council's Architectural Excellence Panel;
7. Affordable housing being provided in accordance with the requirements of the Inner West Council Affordable Housing Policy;
8. The planning proposal cannot result in the loss of any existing areas of public open space and adequate new additional areas of public open space must be provided to service the new resident and worker population (e.g. an expansion and embellishment of Wicks Park);
9. The planning proposal must provide suitable mechanisms to deliver the new laneways and road connections required to service the rezoning and stated vision for the Victoria Road corridor; and
10. The planning proposal must adequately deal with identified potential heritage."

At the time of lodgement of the subject development application, draft Marrickville Local Environment Plan (Amendment No.14) (being the Victoria Road planning proposal) was still under consideration by the DPE. Since the lodgement of the development application, the LEP amendment has been made and came into force on 12 December 2017. The amendment resulted in changes to the zoning and height / FSR standards applying to the land in the precinct as well as the insertion of two additional local provisions into Part 6 of MLEP 2011, being Clauses 6.17 and 6.18. Clause 6.17 of MLEP 2011 requires that a DCP be prepared for the precinct.

On 28 August 2018 Council adopted Marrickville Development Control Plan 2011 (Amendment No.10) which contained changes to Part 9 Strategic Context of the MDCP 2011 replacing the previous Part 9.47 Victoria Road Precinct Planning Controls with new controls for the precinct as required by Clause 6.17 of Marrickville Local Environment Plan 2011. The amendment to the MDCP 2011 came into effect on 26 September 2018.

3. The Proposal

The application seeks approval for a staged commercial development including landscaping and civil works on the site.

Stage 1 of the development comprises the following:

- Site preparation works including demolition of existing structures and removal of vegetation;
- Construction of 4 storey North Hub Building containing:
 - 56 car spaces over 3 levels including 2 accessible spaces;
 - Up to 5 studio spaces, 2 food premises on the ground floor;
 - 110sqm pop up space;
 - Loading Dock for a MRV & HRV Truck;
 - Services and waste storage facilities;
 - 1222sqm of Office space, lobby and 129sqm pop up tenancy on first floor;
 - 2046sqm of Office space on the second floor with access to 3 private balconies overlooking the central lawn;
- Construction of a landscaped central lawn which would be publicly accessible;
- Construction of Studio and Malco Lane as publicly accessible private roads and associated civil infrastructure including footpaths, landscaping, 69 at grade internal car parking spaces including 4 accessible spaces and 40 bicycle spaces;
- Construction of a 3 storey South Hub building containing:
 - Up to 4 studio spaces fronting Rich Street
 - 2 food and beverage premises facing the stormwater channel;
 - Building services;
 - 36 parking spaces on level 1, including 2 accessible spaces;
 - Lobby entry to 2 office spaces on level 1;
 - 1293sqm and 335sqm office spaces with communal kitchen and outdoor terrace on level 2;
 - 3 office spaces with multiple balconies facing both the stormwater channel and Rich Street on level 3.
- Construction of 22 on-street perpendicular parking spaces on Rich Street;
- Planting of 23 brushbox trees between the at grade parking spaces;
- Planting of 2 large trees within the central lawn and multiple other smaller trees and landscaping and the entry to the central lawn from Brompton and Rich Street via Malco Lane;
- Outdoor seating under the colonnades of the north and south hub buildings and in the central lawn area.

Stage 2 of the proposal comprises the following:

- Construction of the 5 storey Marker Building containing:
 - Ground floor food and drink premises and 199sqm office;
 - Building lobby and services;
 - 4 levels with 509sqm office space on each level;
 - level 6 roof terrace
- 10 perpendicular parking spaces on Rich Street including 2 car share spaces;
- Olive Grove Plaza landscaped area.

The application includes the use of the new buildings for a range of creative light industries, office premises and food and drink premises. Standard hours are proposed for the future uses of these premises, with the Statement of Environmental Effects indicating that any premises looking to operate outside these hours would require separate development consent. The proposed hours are as follows (Note: the reference to “12pm” is taken to mean midnight):

Proposed Land Use	Proposed Base Operating Hours
Light Industry	7am to 6pm, 7 days per week
Industrial Retail Outlets	7am to 6pm, 7 days per week
Business Premises	7am to 6pm, 7 days per week
Food and Beverage	Monday to Saturday – 6am to 12pm Sundays & Public Holidays – 6am to 10pm
Office Premises	Not restricted

Image 7: Extract from SEE – Proposed Hours of Operation

A copy of the site plan, floor plans and elevations of the development are reproduced below:

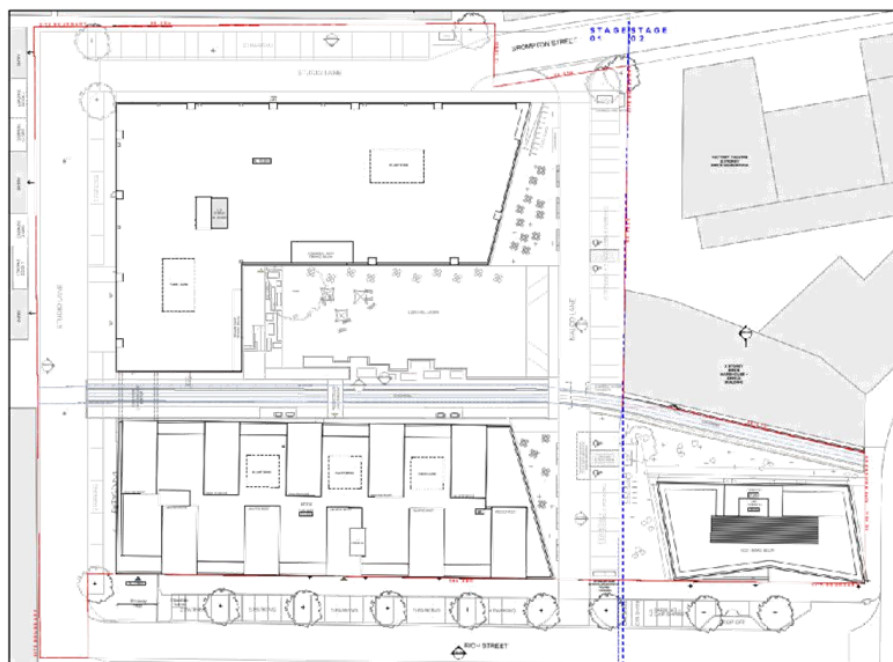


Image 8: Site Plan

Sydney Eastern City Planning Panel
1 – 9 RICH STREET, MARRICKVILLE

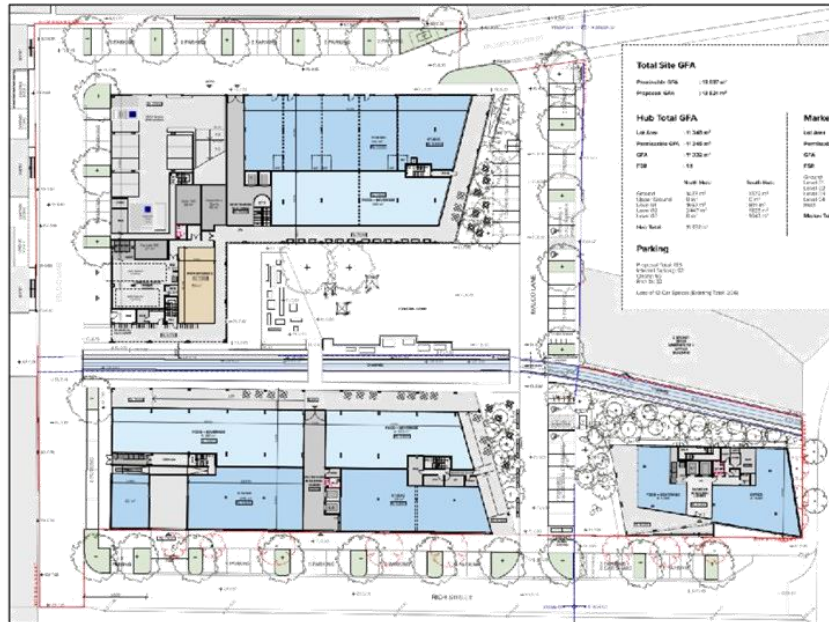


Image 9: Ground Floor Plan

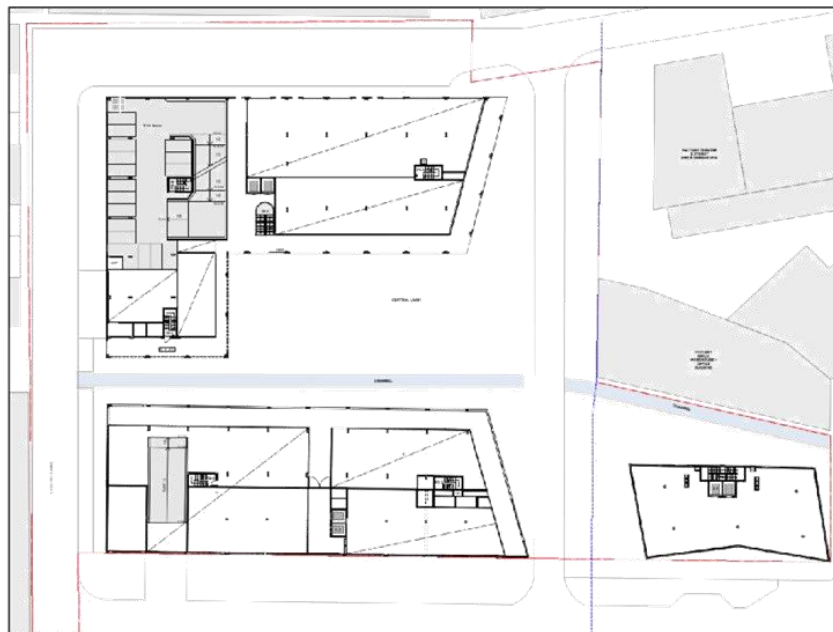


Image 10: Upper Ground Floor



Image 11: Level 1 Plan

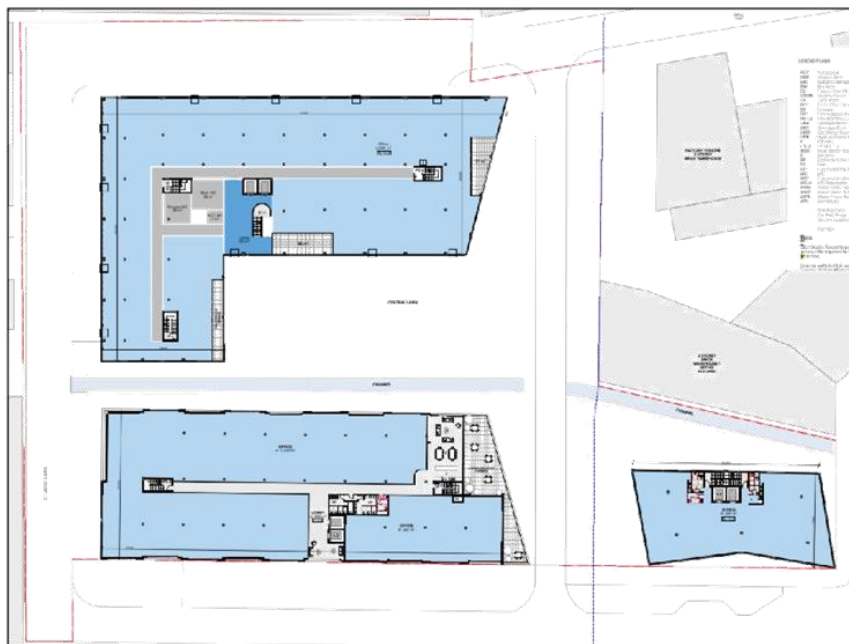


Image 12: Level 2 Plan

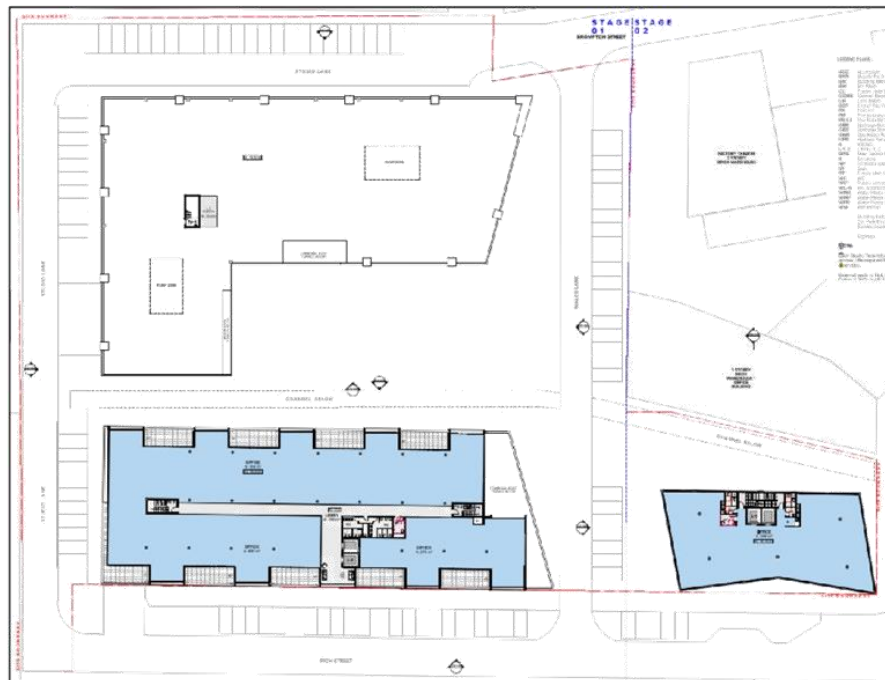


Image 13: Level 3 Plan

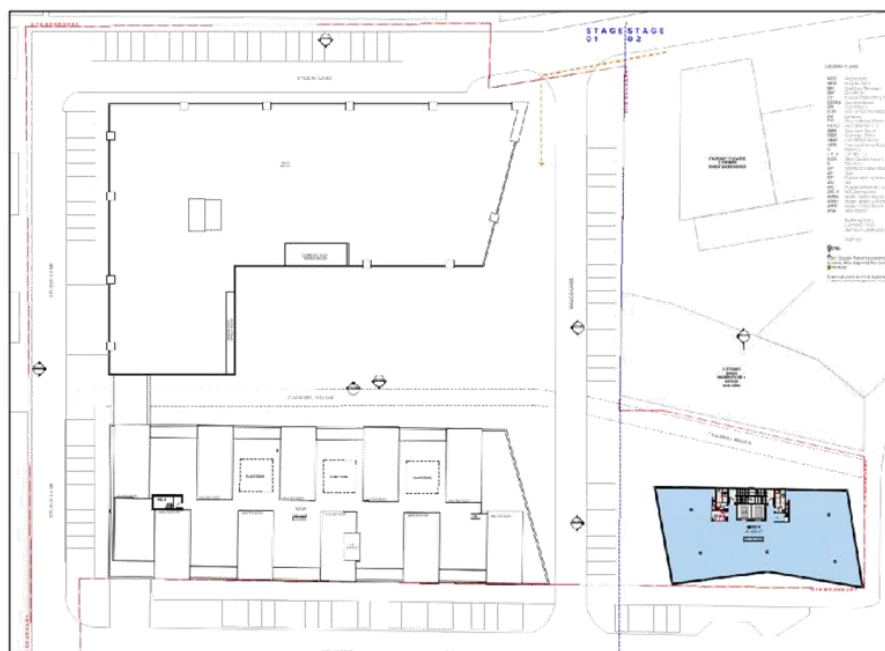


Image 14: Level 4 Plan

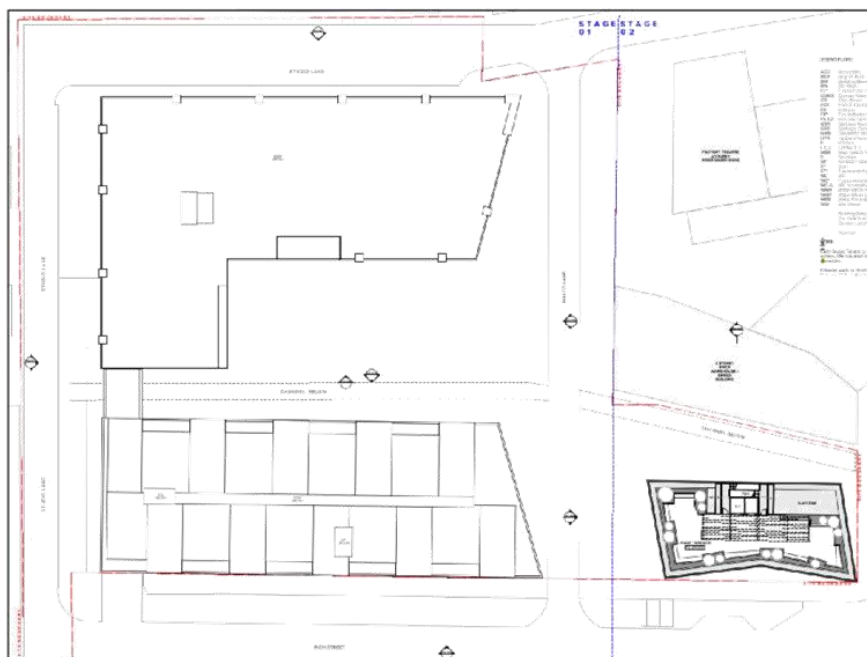
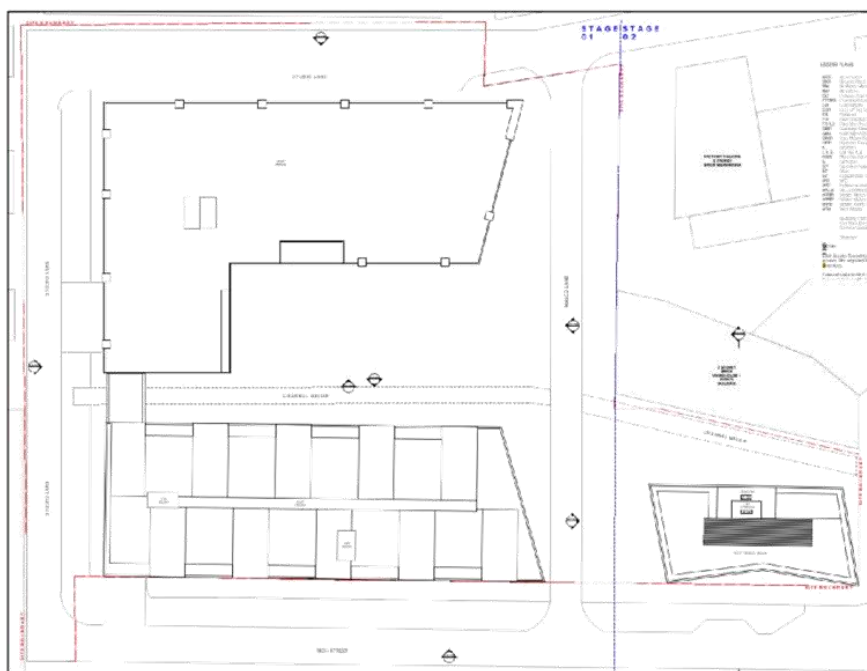


Image 15: Level 5 Plan



Level 16: Roof Plan



Image 17: South Hub South Elevation (Rich Street)



*Image 18: South Hub Northern Elevation
Image 19: North Hub South Elevation (Overlooking Channel)*



Image 20: North Hub Northern Elevation (Studio Lane)

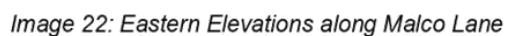




Image 24: Marker Building Perspectives



Image 25: South Hub Building Perspective

4. State Environmental Planning Policy No 55—Remediation of Land

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) provides planning guidelines for remediation of contaminated land. Part 2.24 of Marrickville Development Control Plan 2011 provides controls and guidelines for remediation works. SEPP 55 requires the consent authority to be satisfied that "the site is, or can be made, suitable for the proposed use" prior to the granting of consent.

The site has been used in the past for activities which could have potentially contaminated the site. It is considered that the site will require remediation in accordance with SEPP 55. The Remediation Action Plan (RAP) prepared by Aargus dated 4 July 2018 has concluded the site will be rendered suitable for the proposed use subject to the implementation of remediation and validation works in accordance with this RAP. The application was referred to Council's Environmental Health Officer (EHO) who requires the following be implemented via conditions of consent to accompany the application should consent be granted:

- Undertake Ground Penetrating Radar (GPR) scan of the site to ascertain whether any USTs are located within the site.
- An accredited Occupational Hygienist is recommended to prepare an Asbestos Removal Control Plan (ARCP) which will outline the requirements for the handling, monitoring and contractor disposal requirements for the Special Waste soils.
- Decommission the UST's and associated piping in accordance with AS1940, AIP and WorkCover requirements.
- The floor and walls of the tank pits/bowlers/pipe runs will be validated to ensure the successful removal of fill soils.
- Prepare a fill material excavation and or capping plan based on the recommendations of the additional investigation/assessment undertaken based of SAQP for data gaps dated June 2018.
- Utilise results of previous investigation and the additional investigation to confirm the volume of fill material to be disposed of off-site.
- The floors and walls of the excavated hotspots will be validated by taking at least 1 floor sample and 1 wall sample for each wall plus QA/QC samples. This will confirm that remaining fill soils do not contain any contaminant of concern. Chasing up of contaminants may be required during this stage of works if levels are still found to contain contaminant of concern above the validation criteria.
- Cap the northern part of Lot 53 in DP868710 as required but excluding the soft landscaping areas.

Subject to the inclusion of the conditions recommended by Council's EHO regarding the above requirements the application is supported. The application is considered acceptable with regard to SEPP 55 and Clause 2.24 of MDCP 2011.

5. State Environmental Planning Policy No. 64 - Advertising and Signage

The following is an assessment of the development under the relevant controls contained in State Environmental Planning Policy No. 64 - Advertising and Signage (SEPP 64).

SEPP 64 specifies aims and objectives and assessment criteria for signage as addressed below.

The application seeks consent for numerous signs throughout the site. 4 types of signs are proposed with the numbering system indicated on the plans:

1. Building Identification Signs X 5 – containing the address of the buildings - RT01
2. Tenancy Signage X 25 – business identification signs - RT02
3. Anchor Tenancy Signs X 2 – business identification signs – RT03
4. Wayfinding and Identity Signage X 3 – RT04

The purpose of including the size and location of the signs at this stage is stated by the applicant so as to provide a consistent approach to tenancy signage throughout the site. In addition to the signage proposed, Council's Architectural Excellence Panel (AEP) have recommended the imposition of a condition (which is included in the recommendation of this report) requiring interpretive signage of the historic uses of the site. The details of the size, location and content of these signs are to be submitted to Council's Heritage and Urban Design Team Leader prior to the lodgement of any construction certificate.

Schedule 1 of SEPP 64 specifies assessment criteria for signage relating to character of the area, special areas, views and vistas, streetscape, setting or landscaping, site and building, illumination and safety. The proposed signage is considered satisfactory having regard to the assessment criteria contained in Schedule 1 of SEPP 64.

The proposed signage strategy is discussed in further detail within this report under the provisions of Marrickville Local Environmental Plan 2011 and Marrickville Development Control Plan 2011.

6. State Environmental Planning Policy (State and Regional Development) 2011

The application meets the criteria for regional development under Clause 2 of Schedule 7 of the State Environmental Planning Policy (State and Regional Development) 2011 being 'general development' with a Capital Investment Value over \$30 million. As a result, the application is referred to the Sydney Eastern City Planning Panel for determination.

7. State Environmental Planning Policy (Infrastructure) 2007

The proposed development site will be primarily accessed via Rich Street which intersects with Victoria Road (an RMS 'Classified' Regional Road carrying approximately 17,000 vehicles per day). Rich Street is a local cul-de-sac and is approximately 11 meters in width currently carrying 670 vehicles per day. The development is anticipated to generate up to 1,380 vehicle trips per day and 277 vehicle trips per peak hour.

The site has a frontage to Victoria Road which is a classified road. Under Clause 101 (2) of State Environmental Planning Policy (Infrastructure) 2007, (Infrastructure SEPP) the consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that the efficiency and operation of the classified road will not be adversely affected by the development. Similarly, the development is of a size and proximity to the classified road that it is considered to be traffic generating development under Clause 104 as listed under Schedule 3 of the Infrastructure SEPP.

The application was referred to Roads and Maritime Authority (RMS) a number of times during the assessment. Initially, the original RMS referral advised that the application could not be determined until a DCP and state infrastructure plan was developed for the precinct.

On 8 August 2018, RMS provided a response to Council advising that it was satisfied with the proposal subject to the requirement to provide a central concrete median island on Victoria Road to restrict access into and out of Rich Street (to a left-in, left-out manoeuvre only) and other conditions listed in the referral relating to general vehicular access and parking requirements. It should also be noted that concern was raised at the Local Traffic Committee regarding the performance of the intersection of Victoria Road and Rich Street and recommended the consideration of Left-in and Left out only restrictions at the intersection. Council wrote to the applicant requiring detailed information be provided demonstrating that a central concrete median could be accommodated within the existing road reserve.

A letter dated 24 October 2018 was submitted to Council which was prepared by PTC consultants on behalf of the applicant outlining that there was inadequate width within the existing road to provide the concrete median without road widening occurring. The applicant's preference was to therefore progress with a triangular island in lieu of the requirement by RMS at the entry to Rich Street to

restrict traffic turning in and out of Rich Street into Victoria Road via left in and left out movements only. This option was forwarded to RMS on 31 October 2018 for consideration. On 1 November 2018 RMS advised that they raise no objection to the proposed triangular island when coupled with supporting signage. However, it was also detailed in the response that *"Given that Victoria Road is a 2000 Series Classified Road, under the care and control of Council, any treatment should be to the satisfaction of Council"*. As a result of this Council requested a swept path analysis to demonstrate the applicant's suggested solution would be adequate for the largest vehicles required to use the site and adjoining properties which utilise this point of access, being a Heavy Rigid Vehicle and Emergency Services vehicle. The swept path analysis prepared by the applicant indicates that the installation of a triangular island would require trucks and emergency vehicles entering or exiting Rich Street to mount and drive over the proposed triangular island which is not considered acceptable by Council's Development Engineer.

As a result, Council requires the proposal to respect the RMS's original requirement and Council's recommended solution of the central median on Victoria Road, so as to restrict access to Rich Street to left in/ left out. A deferred commencement condition is included in the recommendation, requiring adequate information be submitted to Council to provide for the central median on Victoria Road. This may require road widening to ensure that sufficient width is available in the road reserve to install the island.

Council has relayed the requirement to provide the median on Victoria Road to the applicant who maintains a position that the left-in, left-out is unjustified as the traffic volumes generated by the proposal do not warrant the requirement.

It should be noted that the Traffic Impact Assessment Report prepared by PTC, dated 19 October 2017 does not take into consideration any of the proposed uses on the site apart from the office uses proposed. The report states that *"ancillary uses such as cafes, restaurants, workshops etc., are expected to predominantly serve the users of the offices and hence will not generate external trips"*. This statement is an incorrect assumption particularly as the entire ground floor of the North and South Hub buildings and half of the ground floor of the Marker building (which constitutes over 3000sqm of floor area) consists of these uses which have not been included in the calculation of traffic generation. The increased traffic as a result of the proposed development is a concern shared by Council, the Local Traffic Committee and evidently RMS given the requirement to provide the median at the intersection.

It is considered that subject to the imposition of the deferred commencement condition, that the proposed development would not affect the safety, efficiency and on-going operation of the classified road and would satisfy both RMS and Council requirements relating to Clause 102 and 104 of the Infrastructure SEPP.

8. State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 concerns the protection/removal of vegetation identified under the SEPP and gives effect to the local tree preservation provisions of Council's DCP.

The application seeks the removal of vegetation from within the site and on Council land. The application was referred to Council's Tree Management Officer whose comments are summarised as follows:

- There are six small trees currently on the subject property which provide about one percent urban forest canopy. All six trees have low retention value and are proposed to be removed.
- Nine street trees, *Fraxinus griffithii* (evergreen ash trees), along Rich Street mostly have moderate retention value, two have low and very low retention value and the two *Tristanopsis laurina* (water gums) in Victoria Street have low retention value. All are proposed to be removed.
- Around 50 trees are proposed to be planted.

During the assessment of the application Council advised the applicant that the proposed 9% urban forest canopy cover proposed through new plantings including replacement planting of the 9 street trees in Rich Street would not be sufficient in order for Council to permit the removal of the Council owned street trees. It was requested that the applicant revise the landscape plan and amend it to achieve significantly higher levels of urban forest canopy levels within the medium term. Initially a target of 25% was set to provide improved liveability for the site and broader surrounding area.

Amended plans were submitted by the applicant, dated 13 August 2018, where two additional *Lophostemon confertus* (brush box) were added to the Studio Lane parking area. The additional two trees would have increased the canopy cover over the whole site from 9% to 10% and will provide about 33% shade for the parking area in the medium term. However, Council's Tree Officer advised that the increase of 1% fails to achieve the minimum 15% required by the IWC Tree DCP Amendment Discussion Paper which proposes the canopy cover target for town centres (B1 to B7 zones).

The applicant has subsequently increased the number of trees so that the latest landscape plan, dated 29 November 2018, will provide approximately 12% urban forest canopy in the medium term (15 to 20 years). This does not include the street trees in Rich Street which would provide canopy, equivalent to 3.5% of the site area, along the site perimeter.

Council's Tree Officer advised that *"the proposed tree plantings, which would provide approximately 12% canopy in the next 15 to 20 years would not be considered sufficient to justify the removal of nearly a quarter of that amount now, which would also need to be re-established. It is not considered good urban forest management. From an urban forest management perspective, it would be preferable to replace the existing street tree when the new trees have established, and at the earliest, no sooner than 10 years after the new trees are planted."* Council's Tree Officer was requested to provide conditions both requiring the retention of the street trees in Rich Street and also for their removal so a holistic decision could be made in consideration of the competing planning issues on the site.

Notwithstanding Council's Tree Officer's recommendation, Council must consider the balance of the competing planning controls for the site, this includes car parking, accessibility, stormwater and flooding and given the site levels are being adjusted due to the civil works required. Given the retention of the trees would create a number of impacts which would affect compliance with the controls listed above, on balance, it is considered acceptable that the street trees are replaced with advanced trees.

Overall, the proposal is considered acceptable with regard to the Vegetation SEPP and Part 2.20 of Marrickville Development Control Plan 2011 (MDCP) subject to the imposition of conditions which have been included in the recommendation of this report.

9. Civil Aviation (Building Controls) 1988

The site is located within an area defined in Schedule 3 of the Civil Aviation (Building Control) Regulations 1988, which requires approval from the Civil Aviation Safety Authority for the construction of any structure greater than 50 feet (15.24 metres) above existing ground level. The application was referred to the Sydney Airport Corporation Limited (SACL) for approval, pursuant to Clause 5 of the Civil Aviation (Building Control) Regulations 1988.

SACL raised no objection subject to the overall height of the building including any ancillary structure or equipment not exceeding 28.0 metres AHD. Conditions of consent are included in the recommendation to this effect.

10. Marrickville Local Environmental Plan 2011

(i) Aims of the Plan (Clause 1.2)

MLEP 2011 identifies aims of the plan. The proposal is considered consistent with aims (a) through to (g) for the following reasons:

- The proposal supports the efficient use of land, adds to the vitalization of the centre, and provides an appropriate mix of uses, i.e., both commercial and light industrial;
- Increases employment densities in an appropriate location near public transport;
- Facilitates new business and employment through the provision of commercial floor area,
- Promotes sustainable transport through providing car share parking and increase use of public transport, walking and cycling through creating improved pedestrian and cycling connections to and through the site;
- The interpretive signage (imposed by way of condition) will provide a historical record on the site of the history of the Malco metal factory that previously operated on the site which is an important piece of the industrial history of the area.

Aim (h) of Clause 1.2 of MLEP 2011 is “to promote a high standard of design in the private and public domain”. In order to ensure the proposal actually achieves a high standard of design, the application was referred to Council’s Architectural Excellence Panel (AEP).

Council’s AEP visited the site and held a meeting on 29 May 2018, and report provided on 13 June 2018. The AEP report raised a number of concerns with regarding to the proposed development which are summarised as follows:

- Concern regarding lack of solar access to the central lawn “publicly accessible open space”;
- Lack of context plan provided for site-connectivity;
- Insufficient landscaping/trees to Studio Lane and Malco Lane;
- Increased level of detail regarding the pedestrian link through the site along the canal required;
- Poor architectural expression of the 3 buildings, suggested a restrained use of the arch theme, increase required of solid to void ratio for marker building;
- Probability of the design excellence being diminished during the construction stages of the project to reduce cost;
- Deeper reveals and improved fenestration of the building required;
- Concern raised regarding use of pre-cast concrete, preference for in-situ concrete over pre-cast;
- Improved detail required for wall junctions, brick detailing and overall materials and finishes and confirmation of the build ability of the development;
- Requirement for heritage interpretation signage for the previous factory buildings on the site

The applicant responded to the comments of the AEP by providing a site and context analysis and increased landscaping to Studio Lane on the landscape drawings. However, no amendments were made to the design of the buildings. A design report was prepared by Turners Architects to justify the position of the existing design scheme.

On 24 September 2018 Council’s AEP provided a further report reviewing the additional information and design response. The AEP report highlighted that the applicant had not addressed the recommendations provided by the panel (summarised above) and that the panel maintains its position and reiterated the following concerns:

- The aspect of the proposal that needs careful attention and substantial reconsideration is the architectural proposition of the buildings, particularly the Marker Building;
- Lack of reference to the repetitive use of the arch motif in the local character which comprises robust rectangular forms;
- Concern regarding lack of solar access to the central lawn “publicly accessible open space”;

- Lack of site-connectivity. Cycleway and footpath with no undercroft should be provided on one side of the canal;
- Insufficient landscaping/trees to Studio Lane and Malco Lane;
- Increased level of detail regarding the pedestrian link through the site along the canal required;
- A restrained use of the arch theme is required as the repetitive use weakens the distinctive element. Proposal requires an increase of solid to void ratio for marker building;
- Use of pre-cast concrete would not achieve the robustness required for a successful architectural outcome;
- Deeper reveals and improved fenestration of the building required;
- Probability of the design excellence being diminished during the construction stages of the project to reduce cost;
- Improved detail required for wall junctions, brick detailing and overall materials and finishes and confirmation of the buildability of the development;
- Requirement for heritage interpretation signage for the previous factory buildings on the site

On 4 October 2018 Council met with the Applicant to discuss a number of outstanding concerns with the development which included architectural merit of the design and the reluctance to enhance the architectural expression of the proposed buildings, in particular the Marker building.

On 29 October 2018, the applicant submitted a design report prepared by Turner's Architects which contained the following:

- Revised ground and first floor plans, ground floor showing increasing the landscaping; and trees over the site;
 - Deleting the high level bridge from the plans;
 - Solar analysis;
 - Demonstration of a 1.8 metre wide pedestrian link through the site;
 - Two alternate façade designs for the Marker building*
 - 1) Brick base with circular arch
 - 2) Pre-cast concrete circular arches
- *noting that the applicant still prefers the original design

The design report submitted addressed some of the outstanding concerns raised by the AEP but still failed to resolve the fundamental concerns regarding the architectural expression of the proposal. As a result, a further meeting with Council, AEP members and the applicant was tabled on 13 November 2018 to discuss the application at which time draft amended plans were lodged by the applicant.

Following the meeting, Council confirmed in writing on 20 November 2018 that the amended plans tabled at the meeting which included modifications to the Marker and North Hub buildings address majority of the comments and recommendations issued to date. However, further design development was still required regarding demonstration to Council that the architectural quality when built could include a sense of depth and material expression. On the 17th of January 2019, further plans were submitted.

A final AEP meeting to review the amendments was held on 12 February 2019 with final comments provided on 25 February 2019 below. For ease of assessment, the comments are provided in italics with analysis of the points are provided below:

1. *The amended plans satisfactorily address the comments and recommendations provided previously by the Panel for the South Hub Building. The level of detail and enrichment to the Ground Level colonnade on the South Hub Building (face-brick) is positive and is supported. The Panel restates its preference for dry-pressed bricks over extruded bricks.*

During the assessment process significant modifications have been made and information provided by the applicant to address the architectural merit of the South Hub building. The composition of brickwork, concrete and the solid base of the building contrasting with the 5 vaulted arched roofs

extruding from the solid rectangular base create an interesting aesthetic that is supported by Council. A condition is included in the recommendation of this report requiring the replacement of the extruded bricks with dry-pressed bricks to ensure the building is executed with a high quality finish.

2. However, the Panel reiterates the following point - given their strong presence and proposed public uses, further design development of the Marker and North Hub Buildings is warranted in order to provide Council with greater certainty of the expected level of architectural quality through execution. This is particularly relevant at the buildings' most public interface - the colonnades at Ground Level. The amended plans for the Marker and North Hub Buildings have not yet adequately addressed the Panel's concerns.
3. To help direct the design team's particular areas of focus, the Panel is concerned that pre-cast concrete - due to its relatively shallow depth - will not achieve an adequate sense of robustness, or the necessary quality of finish (specifically on the reverse face of ground level panels) to achieve a high quality architectural outcome along the colonnaded elements of the Marker and North Hub Buildings. The amended plans have not yet adequately addressed the Panel's concerns in the comments dated 20 November 2018 ...
4. It is recommended that further design development and elaboration of the colonnaded elements of the Marker and North Hub Buildings be provided. Please refer to a suggestion on one possible approach to resolve the colonnade treatment on the Marker and North Hub Building in the sketch attached. The objective inherent in the sketch is to achieve a more substantial sense of depth and material expression to the colonnades at Ground Level for each of the pre-cast concrete buildings.

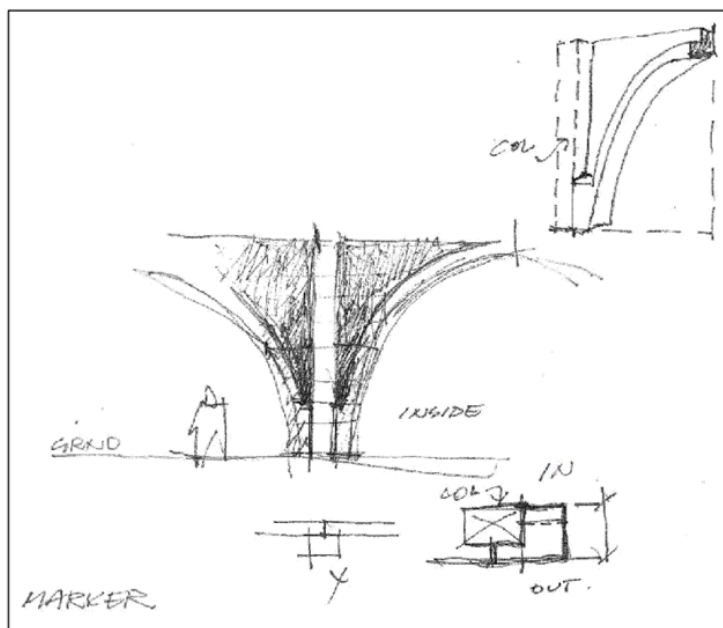


Image 26: Sketch prepared by Peter Ireland, AEP Panelist

5. Additionally, the Panel is concerned for the environmental performance of the Marker and North Hub Buildings as a result of the repeated use of a similar architectural expression on all facades, and the absence of self-shading elements within the facade composition. The highly co-planar architectural expression within pre-cast concrete and the resulting sheer facade on the Marker Building particularly - in the view of the Panel - requires an alternative design strategy to achieve an acceptable environmental performance and an appropriate, high quality expression.

During the assessment of the application, the AEP reviewed the proposed development on five occasions and met with the Applicant on two of those occasions. Council has provided the applicant many opportunities to amend the design of the proposal with a focus on the Marker Building, but these have not been taken up.

The applicant's unwillingness to amend the design, particularly the 'arched themed' Marker building which Council considers the most significant building given its location on Victoria Road is disappointing. Whilst the aesthetic merits of a buildings' appearance are somewhat subjective, the advice of the AEP, which is comprised of highly regarded leading professionals in the architectural field is invaluable in providing guidance in achieving a high quality architectural and urban design outcome for the site.

The disregard for the AEP's concern about the Marker Building in particular result in a residual concern that the design fails to achieve a balance between the applicant's needs and a built form which sits comfortably within an urban renewal precinct with a rich cultural history. The arch motif has no tangible relationship with either the history or the desired future character of the site.

The comments from the AEP indicate that it is likely the Marker building when constructed will not achieve the architectural robustness required, particularly at the ground level colonnade where the public will interact with the building due to the lack of depth in the pre-cast concrete material chosen. Similarly, the geometric form of the arch repeated across the building at such a large scale requires enrichment through more robust elements to offset this, and this is not provided in the proposed design scheme. The poor choice of material and uncharacteristic, repetitive arch theme used on the façade of the building will result in a diminished architectural outcome for the site.

6. *In addition to the above, the following conditions of consent are recommended:*

- a. *A safe lighting strategy along the canal and within the publicly accessible open spaces must be submitted to and approved by Council's Manager Development Assessment before the issuing of the construction certificate.*
- b. *A carefully considered night lighting strategy for the Marker Building must be submitted to and approved by Council's Manager Development Assessment before the issuing of the construction certificate.*
- c. *The fencing along the canal must be of a high quality and of an aesthetically pleasing material, with a maximum height of 1.2m and be a minimum of 85 percent transparent to ensure visual connection across the canal and a high quality urban environment for pedestrians and users of the park.*
- d. *The through-site pedestrian link along the canal must be a minimum of 1.8m wide.*
- e. *A heritage interpretation strategy must be prepared by a heritage consultant with experience in undertaking interpretation strategies and in accordance with the NSW Heritage Guide on Heritage Interpretation Policy (www.heritage.nsw.gov.au). The strategy must detail how information on the history and significance of the site will be provided for the public and make recommendations regarding public accessibility, signage and lighting. Art, details of the heritage design or the display of selected artefacts (such as remnants of the building wall on the site) are some means that can be used. The heritage interpretation strategy must be submitted to and approved by Council's heritage and urban design team leader prior to the issuing of a construction certificate.*

The recommended conditions of consent are to provide Council with a level of comfort that those elements of the proposal relating to lighting, fencing, pedestrian connectivity and heritage are appropriately designed (and have been agreed to by the Applicant in recent correspondence with Council).

Having regard to the information provided above and Council's insistence in directing the applicant towards achieving design excellence, Council is not satisfied that the Marker building which is contained within Stage 2 of the development would result in a high quality architectural outcome for the site. The amendments to the plans that were provided towards the end of the assessment appear to address a number of concerns that have been raised during the process. However, the lack of co-operation by the applicant to change the façade of the Marker Building remains the unsatisfactorily resolved issue with the development from a design excellence standpoint which will leave a distinctive mark as the first project within an important revitalisation precinct of the Inner West. Council accept the subjective nature of architectural excellence and therefore leave this decision at the discretion of the consent authority to determine if this element of the application is acceptable.

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

The property is zoned B5 – Business Development under the provisions of Marrickville Local Environmental Plan 2011 (MLEP 2011). The development is permissible with Council's consent under the zoning provisions applying to the land.

The development is acceptable having regard to the objectives of the B5 - Business Development zone.

(iii) Subdivision (Clause 2.6)

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

(iv) Demolition (Clause 2.7)

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

(v) Height (Clause 4.3)

A maximum building height of 23 metres for the Marker site and 20 metres for the North and South Hub site as indicated on the Height of Buildings Map that accompanies MLEP 2011. The proposed development has a maximum building height of 22.63 metres for the Marker Building, 19.945 metres for the South Hub & 14.43 metres for the North Hub Building which complies with the height development standard.

(vi) Floor Space Ratio (Clause 4.4)

A maximum floor space ratio (FSR) of 2:1 applies to the Marker site and 1:1 on the north and south hub site land as indicated on the Floor Space Ratio Map that accompanies MLEP 2011 (Image 27).

The subdivision of Lots 52 and 53 will result in an uneven distribution of GFA between the two sites with an FSR of 1.975:1 on Lot 52 and 0.67:1 on Lot 53 which would not comply with the development standard as outlined in Image 27 below on the MLEP 2011 FSR Map. This was discussed with the Applicant during the assessment of the application. It was agreed, in order to ensure ongoing compliance with the maximum FSR applicable to each land parcel, a covenant would be imposed making clear that the GFA of Lots 52 and 53 being the North and South Hub have been considered as a 'super lot' for the purpose of calculating GFA and FSR and that the maximum FSR has been exhausted.

Having regard to the above, the development has a gross floor area (GFA) of 11,332sqm for the North and South Hub which equates to a FSR of 1:1 on the 11,345sqm site which complies with the FSR development standard.

The development has a gross floor area (GFA) of 2490sqm for the Marker which equates to a FSR of 2:1 on the 1524sqm site which complies with the FSR development standard.

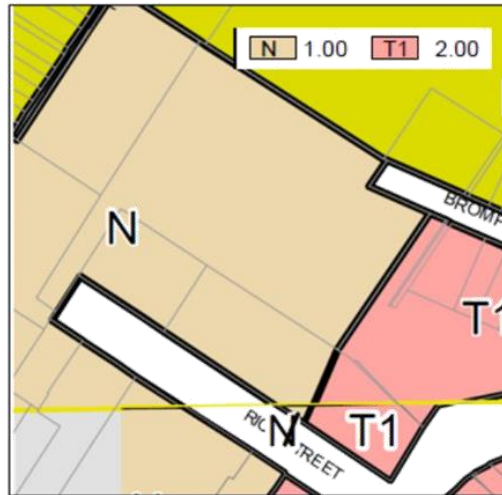


Image 27: FSR Map – MLEP 2011

(vii) Heritage Conservation (Clause 5.10)

The site is not heritage listed or located in a heritage conservation area, however a heritage item is located adjacent to the site at No.61-65 Shepherd Street, Marrickville (item I118), being the Sims Metal Factory, including interiors. The site is also in the vicinity of a heritage item located at No.14 Rich Street (item I117), being the industrial façade listed in Schedule 5 of Marrickville Local Environment Plan 2011 (MLEP 2011).

The application was reviewed by Council's Heritage and Urban Design Advisor who provided the following comments.

"The subject site was previously occupied by the factories named Malleable Castings Limited (for electrical fittings, motor parts, agricultural and coach builder's work) and Richard Brothers (iron and brass foundries) located between Rich Street and the canal."

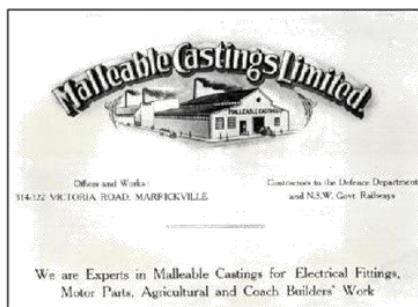


Image 28&29: Historic Advertisements of former Business's on the site

*It is **recommended** that a heritage interpretation strategy be prepared by a heritage consultant with experience in undertaking interpretation strategies and in accordance with NSW Heritage Guide on Heritage Interpretation Policy (www.heritage.nsw.gov.au). The strategy must detail how information on the history and significance of the site will be provided for the public and make recommendations regarding public accessibility, signage and lighting. Art, details of the heritage design or the display of selected artefacts (such as remnants of the building wall on the site) are some means that can be used."*

No objection was raised with the proposal having regard to the adjoining or surrounding heritage items and as a result subject to the imposition of the condition recommended above, the application satisfactorily addresses the relevant heritage conservation provisions contained in Clause 5.10 of MLEP 2011 and Part 8 and 9.47.14 of Marrickville Development Control Plan 2011 (MDCP).

(viii) Acid Sulfate Soils (Clause 6.1)

The land is identified as land being affected by Class 2 Acid Sulfate Soils (ASS) for the eastern portion of the site and Class 5 for the remaining area of the site on the MLEP 2011 Acid Sulfate Soils Map. An ASS Assessment prepared by Aargus, dated 14 October 2013 was lodged with the application. The report concludes that acid sulfate soils could be potentially intercepted as part of the excavations across the site, although unlikely. As a result, a condition of consent is included in the recommendation requiring an ASS Management Plan be prepared for the development prior to the issue of a Construction Certificate. Subject to compliance with the condition, the proposal is considered acceptable with regard to Clause 6.1 of MLEP 2011 and Part 2.23 of MDCP 2011.

(ix) Earthworks (Clause 6.2)

The proposed development involves earthworks to improve the grade of the site with regard to flood planning and contamination. Appropriate conditions are included with regard to the fill, excavation, drainage, and the amenity of adjoining properties with regard to the required earthworks. The proposal is considered acceptable subject to Clause 6.2 of MLEP 2011.

(x) Flood Planning (Clause 6.3)

The land is identified as land that is shown as "Flood planning area", being subject to flooding during a 1% Annual Exceedance Probability (AEP) storm event on the MLEP 2011 Flood Planning Area Map. A Sydney Water owned open stormwater channel traverses the site, north-west to south-east. In major flood events flows are conveyed through the site via the channel and overland flow on the site.

The application was referred to Sydney Water during the assessment process. An initial referral response was received by Council on 21 February 2018 advising that no objections were raised with regard to wastewater and water servicing. However, concerns were raised with regard to flooding on the site and the stormwater channel that is owned by Sydney Water and traverses the site. Sydney Water advised that they would not consent to any of the proposed new bridges and the existing bridge would require removal unless Council provided written confirmation that these bridges were required for public thoroughfare and that Council would be required to take ownership of the bridges.

Council has since met with the proponent on multiple occasions and with Sydney Water on two occasions to discuss stormwater management and the proposed bridges. Amended plans were submitted deleting the high level bridge, and Sydney Water has advised that they are happy with the preliminary flood modelling presented at the most recent meeting and strategy to provide precinct wide benefits. They also advised that they are satisfied with the deletion of the high level bridge and that issues regarding maintenance and ownership of the other proposed bridges over the channel would be dealt with between Sydney Water and the proponent and no longer required Council to take ownership as previously stated in the initial referral. On 8 February 2019 Sydney Water wrote to Council advising the following:

Sydney Water has no objection to the proposed development, provided any development works at the vicinity of the Sydney Water's stormwater channel comply with the following:

- *Retention of the existing bridge vehicular at the North-Western boundary of the site.*
- *Construction of a new pedestrian bridge approximately mid site along the stormwater channel.*
- *Construction of a new vehicular bridge nearer to the South-Eastern boundary of the site.*
- *No permission would be given for any elevated bridge.*
- *The arrangements and dimensions of overbank flow paths and avoidance of flow path obstructions that are reflected in the modelling of the Flood Report by GRC dated 21 November 2018 are clearly stated and identified so that architects and landscape architects 'tweaking' the site design / arrangements do not inadvertently introduce obstructions not allowed for in the modelling. In particular, the creek cross sections and the bridge waterway clearances and the clear surface path for overtopping flows from the site at the downstream end of the site.*
- *Flood planning level requirements and other relevant Council flood controls measure would apply despite flood inundation extents are contracted."*

The applicant has submitted the Rich Street Marrickville Flood Report by GRC Hydro dated 21 November 2018. The report notes that during a 1% AEP event, approximately 9 m³/s flow in the Sydney Water channel while approximately 2 m³/s, is overland flow. After discussions with Council and Sydney Water, the applicant was directed to model overland flow from the subject site being diverted back into the Sydney Water channel. This will for the most part contain the overland flows through the site along the line of the channel and the overbank areas. The top water level (channel full scenario) will be used to set the flood planning levels for the site. It is agreed by Council and Sydney Water that the best outcome for the site is the redirection of all water into the stormwater channel, with appropriate minor works in the channel to reduce the speed of flow through the channel. The net benefits of this strategic approach and improvement to a number of sites outweigh the negative impacts that may occur further downstream until redevelopment of those sites occur.

The proposal is acceptable with regard to Clause 6.3 of MLEP 2011 and Part 2.20 & Part 9.47.8 of MDCP 2011.

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

The land is located within the 30-35 Australian Noise Exposure Forecast (2033) Contour.

The development is likely to be affected by aircraft noise.

The carrying out of development would result in an increase in the number of people affected by aircraft noise.

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

(xii) Development on certain land at Victoria Road, Marrickville (Clause 6.17)

The application was originally lodged as a Concept Development Application under Clause 83C of the Environmental Planning and Assessment Act. A Concept Development Application would negate the need for the preparation of the DCP as required under Clause 6.17(3).

On 28 August 2018, Council adopted Marrickville Development Control Plan 2011 (Amendment No.10) which contained changes to Part 9 Strategic Context of the MDCP 2011 replacing the previous Part 9.47 Victoria Road Precinct Planning Controls with new controls for the precinct as required by Clause 6.17 of Marrickville Local Environment Plan 2011. The amendment to the MDCP 2011 came into effect on 26 September 2018. As a result, Council can determine the application without the need to consider the application under Section 83C of the Environmental Planning and Assessment Act 1979.

(xiii) Arrangements for designated State public infrastructure in relation to development on certain land at Victoria Road, Marrickville (Clause 6.18)

Council received the Secretary's Certificate for satisfactory arrangements for designated public infrastructure for the subject development application dated 3 September 2018. As a result, the proposal is considered acceptable with regard to Clause 6.18 of MLEP 2011.

11. Draft Marrickville Local Environment Plan 2011 (Amendment No.4)

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

The amended provisions contained in the Draft LEP Amendment contains an additional Clause in the LEP to be known as Clause 6.19 – Design Excellence which aims to deliver the highest standard of architectural, urban and landscape design in the LGA. The clause would be applicable to the development site as it has a maximum permitted building height of more than 14 metres and requires an assessment of whether the proposal exhibits design excellence. The quality of the proposed design has been assessed under Section 10 (i) Clause 1.2 of MLEP 2011 as part of this assessment.

12. Marrickville Development Control Plan 2011

PART 2 - GENERIC PROVISIONS

(i) Site and Context Analysis (Part 2.3)

A site and context analysis was submitted during the assessment of the development application and is acceptable.

(ii) Equity of Access and Mobility (Part 2.5)

Part 2.5 of MDCP 2011 requires consideration to be given to accessibility before granting development consent.

For commercial developments Part 2.5 of MDCP 2011 requires:

- Appropriate access for all persons through the principal entrance of a building and a continuous accessible path of travel (CAPT), designed in accordance with the National Construction Code (Building Code of Australia) and relevant Australian Standards; and
- General access for all persons to appropriate sanitary facilities and other common facilities including kitchens, lunch room, shower facilities and outdoor recreational facilities; and
- In a car parking area containing 10 or more car spaces, a minimum of 1 accessible car parking space being provided for every 10 car spaces or part thereof.

The applicant provided commentary in relation to Part 2.5 of MDCP 2011 as part of the subject development application and submitted an Accessibility Review Report prepared by ABE Consulting dated 20 October 2017 that demonstrates that the proposal satisfies the access and mobility controls contained in MDCP 2011 in that:

- Appropriate access is provided for all persons through the principal entrance to the premises;
- A Continuous Accessible Path of Travel (CAPT) to and within the subject premises is provided which allows a person with a disability to gain access to all areas within the shop; and
- An accessible toilet is provided.

However, the report and application fails to demonstrate why compliance with the accessible car parking requirement of 10% of the required parking under Part 2.5 of MDCP 2011 cannot be achieved for the development. Overall the development requires 150 car spaces, therefore 15 accessible parking spaces would be required to be provided. The development includes only 8 accessible car parking spaces, which is 53% of the required spaces.

The concern regarding the non-compliance with the provision of accessible parking was raised during the assessment in multiple letters to the applicant. The applicant contends that the accessible parking rate of MDCP 2011 is above the BCA requirement of 2% and the Ashfield and Leichhardt DCP's which require 5% and 1% respectively. The application was referred to Council's Access and Inclusion Planning Leader who reviewed the proposal and provided comments summarised as follows:

- *In areas like the Inner West (and most of Sydney) public transport is not yet very accessible for people with disability, so they are more dependent on vehicles and parking than people without a disability who can access the full range of public transport.*
- *The reason (the [Marrickville] control) is above any BCA requirement is in recognition that the BCA doesn't adjust the % it requires on actual numbers of mobility parking authorities issued in NSW. The NSW Mobility Parking Scheme (MPS) varies in eligibility significantly from other states and has a large and growing user base. For example, several years back (mid 2000's) the MPS was running at around 12% of private registered vehicle owners had a permit. I'm confident that would have grown since then and so is still well in advance of the numbers proposed in the BCA and MDCP 2011.*
- *There are also other factors that need to be considered. The general trend we have is for an ageing community and people incur restricted mobility as they age. Seniors account for a large number of MPS users.*
- *The rate of growth of people with disability is also rising in the community (around 20%). Not all but many impairments also result in restricted mobility and thus add to the numbers eligible for an MPS permit. All this puts pressure on existing mobility parking need and supply.*
- *Feedback from people with disability who require the wide bay (off street) mobility parking confirms it is difficult to find in the inner west and particularly where parking is in short supply. This is a basic supply and demand issue. When you need a wider space (to enter/exit vehicle) you will have access to the MPS and the demand/competition for spaces continues to increase. The supply however is not linked with the actual need and as such is, in relative terms, shrinking.*
- *There are arguably situations that may occur where the context may not warrant a 10% allocation but that is likely to be where the context doesn't support parking anyway. However, this would not be the case in this instance.*

Given the above it is considered reasonable to require the development to comply with the accessible car parking requirements. A review of the parking plans indicates that there is sufficient area for the provision of the prescribed accessible parking without comprising the prescribed quantum of parking for the site as required by Part 2.10 of MDCP 2011 - Parking. A condition is included in the recommendation requiring additional accessible spaces to be provided in amended plans to be lodged before the issue of a Construction Certificate.

Given the significant amount of re-development that will continue to take place in the Victoria Road Precinct, it would be irresponsible of Council to allow a shortfall in accessible parking which would set an undesirable precedent for the other sites in the precinct yet to be developed.

In addition to the above, at the Construction Certificate stage the development will be required to demonstrate compliance with the Premises Standards.

(iii) Acoustic and Visual Privacy (Part 2.6)

The site is located in a predominantly industrial area. However, there are a small number of existing dwelling houses located approximately 30 metres from the North Hub building. The proposed uses being primarily offices and food and drink premises would result in a lesser impact than those currently operating on the site. The proposed food and beverage uses have been orientated to face internally to the site with access to the central lawn and in the case of the Marker building, to the olive grove plaza. The overall layout and design of the development ensures that the acoustic and visual privacy currently enjoyed by residents of adjoining residential properties is protected. The proposal is considered acceptable having regard to Part 2.6 of MDCP 2011.

(iv) Solar Access and Overshadowing (Part 2.7)

The shadow diagrams submitted with the application illustrate the proposal generally results in self-shadow; some shadows fall over Rich Street and minimal areas of overshadowing occur over the front setback of the properties on the opposite of Rich Street during the morning only on 21 June. The extent of overshadowing on adjacent properties is considered acceptable.

The original plans indicated that extensive overshadowing of the central lawn which is proposed as publicly accessible open space would occur on 21 June. Concerns were raised by Council and the AEP and as a result further shadowing analysis was submitted to Council during the assessment of the application and minor amendments were made to the North Hub building to allow 50% of the central lawn to receive solar access for 2 hours between 9am and 2pm on 21 June.

(v) Community Safety (Part 2.9)

Part 2.9 of MDCP 2011 requires the consideration of community safety with respect to the CPTED principles (Crime Prevention Through Environmental Design) and requires the submission of a Plan of Management for the ongoing use of the development.

The application was accompanied by a CPTED assessment report and an Operational Plan of Management (PoM).

Crime Prevention Through Environmental Design

The report determines that the existing site is considered to have a high crime risk rating due to the location, absence of surveillance cameras and opportunities for passive surveillance, evidence of vandalism, evidence of dumping on site and absence of activity on the site.

The proposed development is reasonable having regard to the CPTED principles and will improve community safety for the following reasons:

- The proposed mixed use nature of the development would bring increased occupancy, intensity and hours of use of the site which will result in increased natural and casual surveillance of the site and surrounds;
- The design of the 3 buildings includes large windows on all elevations of the buildings and a number of terraces on the upper levels overlooking the private and public roads and footpaths;
- Surveillance cameras are proposed to be installed around the site, in particular along Studio Lane which has mainly loading facilities with the lowest opportunity for passive surveillance;
- Lighting in and around the site is required to at minimum comply with Australian Light Standard AS/NZ 1158 for public areas to facilitate facial recognition to a distance of at least 15 metres;
- The clear relationship of pedestrian movements and entrances, colonnades and definition of public spaces throughout the site provide territorial reinforcement;
- Maintenance of the site specified in plan of management;
- Access throughout the site is unrestricted as it is 'publicly accessible'. Specific tenancies will have individual entries on the ground floor and upper levels via lobby entry points which can be secured through technical measures;
- A range of tenancy and way finding signage is proposed.

A number of recommendations for the site are made in the report which are considered appropriate. It is considered appropriate that compliance with the recommendations of the report be incorporated in the development and a condition is included to this effect.

Plan of Management

An Operational Plan of Management (PoM) was submitted with the application for the use of the various tenancies proposed. The PoM specifies the following information:

- Description of the uses of the site;
- All tenancies will be required to abide by PoM and will be given a copy upon lease;
- Food and Drink premises requiring above 50 seats and special events require DA consent and specific PoM tailored to the use;
- Other uses could obtain consent via complying development;
- Intended operation of the public car park;
- Areas specified for unrestricted public access;
- Proposed operating hours;
- Onsite management and security;
- Loading and unloading;
- Waste management;
- Specific procedures for food and drink premises;
- Complaints handling and resolution; and
- Emergency and evacuation procedures

The PoM is considered to provide an acceptable level of direction to the future tenants and Council as to the general strategies for management of the site. Given the large extent of changes made to the application a number of modifications are required to be made to the PoM to ensure it is consistent with any consent provided for the proposed development. A condition is included in the recommended requiring the PoM be updated prior to the issue of a Construction Certificate and that the future uses of the site comply with the PoM at all times.

(vi) Parking (Part 2.10)

Car, Bicycle and Motorcycle Parking Spaces

The site is located in Parking Area 2 under Part 2.10 of MDCP 2011. The following table summarises the car, bicycle and motorcycle parking requirements for the development:

Component	Control	Required	Proposed	Complies?
Car Parking				
Restaurant and takeaway food or drink premises	1 space per 80sqm GFA for customers and staff	1165sqm GFA = 15 spaces	153 proposed	YES
Office Premises	1 space per 80sqm GFA for staff & visitors	9172sqm = 115 spaces		
Business/Retail – indicated as 'pop-up spaces on GF & FF of North Hub & Studio Spaces	1 space per 80sqm of GFA for staff & visitors	1572sqm = 20 spaces		
TOTAL		150		
Accessible Parking	1 per 10 spaces	15 spaces	8 spaces	NO (see discussion above)
Bicycle Parking				
Commercial Bicycle Parking - Staff	1 bicycle parking space per 100sqm GFA	10576sqm GFA = 106 spaces	100 spaces	NO (but acceptable – see below)
Motorcycle Parking				
Motorcycle Parking	5% of the total car parking requirement	150 car parking spaces required = 8 spaces	8 spaces	YES

Table 1: Car, Bicycle and Motorcycle Parking Control Compliance Table

Car Parking

The following table provides a break-down of the total number of spaces proposed on the site:

Location	Number of Standard Spaces	Number of Accessible Spaces	Total
AT GRADE			
At Grade	65	4	69
CAR PARKS			
North Hub Ground Floor	10	2	12
North Hub Upper Ground	15	-	15
North Hub First Floor	29	-	29
South Hub First Floor	34	2	36
SUB TOTAL	153	8	161

Table 2: Proposed break-down of Internal Parking Spaces as shown on Plans

As demonstrated by Tables 1 and 2 above, the application proposes to provide 161 total car parking spaces where the GFA of the development generates a demand for 150 spaces, this results in an excess of 11 spaces. The development proposes the provision of 8 accessible car parking spaces where the MDCP requirement is 15 based on the 150 spaces required. As discussed under Section 12 (ii) of this report, Council requires the number of accessible parking spaces to be increased which works two-fold in that the additional spaces proposed that exceed the requirements of Part 2.10 of MDCP 2011 will need to be converted to accessible spaces so as to meet the minimum requirements prescribed by Part 2.5 of MDCP 2011 (Equity of Access and Mobility). A condition requiring this amendment is included in the recommendation.

It should be noted that Council's Local Traffic Committee reviewed the proposal and raised the following concerns with regard to the proposed car parking:

- *The proposed development does not comply with Council's parking requirements as it stands, nor with Council's accessible parking requirements and motorcycle parking requirements.*
- *The provision of car share within the development site.*
- *Traffic does not support paid parking during normal business hours*

Overall, it is considered that the parking if modified via conditions included in the recommendation will be acceptable with regard to Part 2.10 of MDCP 2011 and resolves the concerns raised by Council's Traffic Committee in relation to car parking.

It should also be noted that in addition to the proposed on site spaces outlined in the tables above, 32 spaces will be provided on Rich Street which is a loss of 3 public parking spaces as a result of the re-forming of the street. The public spaces are not included in the calculation as they are not on the site and not for the exclusive use of the site. Whilst the loss of 3 on-street spaces is not ideal, given the improvements to public domain, and inclusion of 10 trees along Rich Street at Council's request, the loss is considered acceptable.

Parking Allocation

The application includes the commercial operation of the car park which includes charging customers and potentially staff via leasing arrangements to use the car parking spaces. Council's Traffic Committee and Council planning officers raise concerns with regard to this as it would encourage staff and customers to seek free parking elsewhere in the surrounding streets, of which there is little availability. The provision rates required for the development under Part 2.10 of MDCP 2011 are required to be provided for staff and customers, therefore this should be provided for each tenancy in line with the control which is 1 space per 80sqm of GFA. Whilst it is acknowledged a method for control of the internal car parks within the buildings would be required, there are other methods to control carpark access that would not involve payment – boom gates, sliding gates etc. Given it

would be difficult to allocate parking for customers of each tenancy until the tenancies are occupied and the exact area of these tenancies is yet to be finalised, it is considered practical that the 'at grade spaces' on the streets of Malco and Studio Lane be provided for customers and the internal car parking areas inside the North and South Hub buildings be provided for staff of the 3 buildings on the site. A condition is included in the recommendation requiring this, to ensure that adequate provision of parking is provided to each tenancy as required under the planning controls. It is not considered acceptable that parking be negotiated at leasing and that some tenancies would have no parking, it is a requirement that at minimum each tenancy is provided with parking in their lease agreement in line with the requirement of Part 2.10 of MDCP 2011.

Car Share Parking

The application includes 2 of the on-street spaces to the south of the Marker Building as car share spaces. This is encouraged in Part 2.10.9 of MDCP 2011 subject to a condition requiring the establishment and operation of a car share scheme upon operation of the site. It is considered that is more appropriate that these spaces be provided on the internal roads of the site and negotiated with a car share provider without Council's consent being required due to the spaces being located on a public road. A condition requiring the relocation of the car share spaces to two of the proposed spaces within the site (not accessible spaces) is included in the recommendation, as is the requirement of the DCP to establish a car share scheme upon operation of the site.

Bicycle Parking

As outlined in Table 1, the proposal requires 106 bicycle spaces. The proposal includes 100 bicycle spaces, consisting of 60 vertically stacked spaces located in the south colonnade adjacent to the loading areas of the site, with the other 40 spaces at grade along Malco Lane. The shortfall of 6 spaces is negligible in the context of the site and volume of spaces provided and is considered acceptable. The controls contained within Part 2.10 also require lockers for staff using bicycles, the plans indicate end of trip facilities and ample female, male and accessible WC's for staff and customers and there are multiple service rooms that can be adapted to accommodate locker facilities for staff to use once tenancies and fit-outs are established.

Motorcycle Parking

The development includes the provision of 8 motorcycle spaces distributed at grade on site within the car park which is considered acceptable.

Vehicle Service and Delivery Areas

At least one vehicle service space is required to be provided for the development as it is between 4000sqm and 20,000sqm in size. The proposal includes a loading dock capable of accommodating 1 X HRV truck and 1 X MRV truck.

The PoM states the following with regard to loading and unloading:

- *All major deliveries are to occur via the common loading dock. Tenants should liaise with building management to schedule and coordinate major site deliveries to ensure that the loading dock occurs within the capacity of this facility.*
- *Ground level business tenancies with direct frontage to Studio Lane or Malco Lane may receive smaller deliveries (i.e. from vehicles no larger than a van) from the internal road network.*
- *Tenants shall use their best endeavors to ensure that deliveries to the site are made between 6am and 6pm.*

A condition of consent is recommended requiring loading and unloading to occur from within the site only and not on or over Rich Street and between the hours of 6am – 6pm as specified above.

(vii) Signage and Advertising Structures (Part 2.12)

Part 2.12 of MDCP 2011 specifies Council's objectives and requirements for the erection and display of advertising signs. Those provisions are intended to protect the significant characteristics of retail/commercial strips, neighbourhoods, buildings, streetscapes, vistas and the skyline. The provisions include general controls for signage, prohibitions, preferred options for signage and size restrictions for signage.

The application seeks approval for a site wide signage scheme to ensure consistency with signage across all tenancies on the site. This is consistent with Part 2.12.6 of MDCP 2011 which states that *"Standard modules may not be acceptable in particular business centres. In such instances it may be more appropriate to consider the design of a one-off design which reinforces the cultural and visual setting of the centre"*. Given the large area and number of tenancies on the site, it is considered that this approach is appropriate in this instance. The general approach to signage is provided through 4 sign types which are shown on the signage plans as follows:

1. RT01 - Building Identification Signs X 5 – containing the address of the buildings
2. RT02 - Tenancy Signage X 25 – business identification signs
3. RT03 - Anchor Tenancy Signs X 2– business identification signs
4. RT04 - Wayfinding and Identity Signage X 3

The content of the signs will be input once the tenancies are leased, however the size and location is proposed as part of the application. All signs as shown above would be business or building identification signs or wayfinding and identity signage.

MDCP 2011 states that the total permissible area of all signs must not exceed 1sqm of advertising per 1.5 metre of street frontage. The area of signage for each frontage is outlined below:

Building Name/Frontage	Frontage (metres)	Area of Signage Permissible (sqm)	Area of Signage Proposed (sqm)	Complies Y/N
MARKER				

Southern Elevation (Rich Street)	29.77m	19.85sqm	7sqm	Yes
Eastern Elevation (Victoria Road)	17.7m	11.8sqm	7.4sqm	Yes
SOUTH HUB				
Southern Elevation (Rich Street)	80.875m	53.91sqm	10.8sqm	Yes
Northern Elevation (Channel)	80.875m	53.91sqm	5.495sqm	Yes
NORTH HUB				
Northern Elevation (Studio Lane)	77.037m	51.4sqm	6.54sqm	Yes
Southern Elevation (Channel)	48.7m	32.5sqm	5.94sqm	Yes

Table 3: Signage Proposed

The signage is considered to be of a modest nature, and compatible with the buildings proposed and locality. The signage is considered acceptable having regard to the controls contained in Part 2.12 of MDCP 2011.

(viii) Energy Efficiency (Part 2.16)

Part 2.16 of MDCP 2011 contains objectives and controls relating to energy efficiency. Concerns were raised by Council's AEP with regard to the poor performance of the proposed Marker Building given the large extent of glazed surfaces being the arches and absence of any of these windows being operable. The applicant responding outlining that a Section J report prepared by Evolved Engineering was submitted with the application with regard to the proposed buildings' energy performance. Council's standard conditions are included in the recommendation relating to the provision of energy and water efficient fixtures and fittings for the development. The proposal does not seek to achieve any high standard of sustainability beyond these Part J minimum requirements.

(ix) Water Sensitive Urban Design (Part 2.17)

Part 2.17 of MDCP 2011 contains objectives and controls relating to Water Sensitive Urban Design (WSUD) including requirements for commercial, retail, and industrial development with a total site area greater than 2,000sqm, which results in new or increased gross floor area of greater than 50% and for developments with parking areas with 10 or more spaces. The applicant prepared a Stormwater and WSUD Management Report including MUSIC modelling incorporating WSUD measures into the development. Council's Development Engineer reviewed the proposal and raised no objection subject to the imposition of conditions which are included in the recommendation.

(x) Landscaping and Open Spaces (Part 2.18)

Part 2.18.11.11 of MDCP 2011- (landscaping in car parks) prescribes that a tree is to be planted between every 5 car parking spaces in any outdoor ground level car park. This has generally been achieved on the amended plans on all internal streets and along Rich Street. Further discussion has been provided earlier in Section 8 of this report. A fully automatic irrigation system is required for the car park trees across the site including Rich Street. A condition is included in the recommendation.

Part 2.18.11.12 of MDCP 2011-Development within Business Centres, requires the applicant to bear the cost of mature street trees to be planted along any public street. Given the removal of 9 mature street trees from Rich Street, the replacement with the 10 proposed brush-box trees is acceptable subject to conditions provided by Council's Tree Officer which has been discussed in Section 8 of this report.

(xi) Site Facilities and Waste Management (Part 2.21)

A Recycling and Waste Management Plan (RWMP) in accordance with Council's requirements was submitted with the application and is considered to be adequate.

An initial referral was received from Council's Waste Management Team after lodgement of the application raising concern regarding the size of the proposed waste storage room, width of the doorway to the room, and height and size of loading area, lack of waste and recycling bins provided in the proposed open space areas, and limited opportunity for composting and re-use and recycling within the site. An updated waste management plan for the ongoing operation of the site and associated architectural plans were required to be submitted.

The table below, provided by Council's Waste Officer demonstrates that a total of 21.48sqm for the North Hub and 3.7sqm for the Marker Building are required for waste storage. The areas designated on the amended plans meet these minimum area requirements. Amended plans were required to be submitted as part of an updated package during the assessment and included an 18sqm bin storage room in the South Hub with door access from Studio Lane which meets the requirements of Council's Waste Management Officer.

Waste Stream	Bin size L	Number of bins	Emptied/ week	Capacity	Estimated volume/ week	Footprint m ²	Total Footprint m ²
NORTH HUB							
General Waste	1100	7	3	23,100	20,864	1.7	11.9
Organics	120	4	2	960	800	0.27	1.08
Recycling	1100	5	3	16,500	14,483	1.7	8.5
Total	16						21.48
MARKER							
General Waste	1100	1	3	3,300	2,026	1.7	1.7
Organics	120	1	2	240	75	0.27	0.27
Recycling	1100	1	3	3,300	1,384	1.7	1.7
Total	16						3.67

Table 4: Waste Generation and Garbage Area Required

The Waste Management Plan submitted by the applicant indicates the following:

- A 240 litre bin for waste and one for recycling will be located on each level.
- Cleaners and/or tenant staff will empty smaller bins into these on a needs basis.
- Cleaners will be responsible for transporting these bins to the waste storage areas located on the Ground Levels and decanting contents into the designated 1,100m² bins.
- For the North and South Hub buildings, prior to each collection, building management/onsite cleaning staff will ensure all bins from the ground level waste storage rooms are accessible via the loading dock.
- The collection vehicle will service the bins and it will be the responsibility of building management/onsite cleaning staff to return the bins to the waste room after collection.
- For the Marker Building, the appointed contractor will provide the service from either Rich Street or Malco Lane.

- The building cleaning contractor will place the bins at the designated location on the evening prior to collection and then collect the bins from the Marker Building waste storage area and then return them once emptied.

Overall the proposed management of waste from the site is considered acceptable subject to standard conditions recommended by Council's Waste Management Officer which are included in the recommendation.

PART 3 -SUBDIVISION, AMALGAMATION AND MOVEMENT NETWORKS

The site contains 3 allotments with frontages to Rich Street, Victoria Road and Brompton Street and is legally described as Lot 5 in Deposited Plan 643446, Lot A in Deposited Plan 178259 and Lot 53 in Deposited Plan 868710. The 3 allotments known as 'the site' have a total area of 12,591m². The existing survey is provided below with the proposed subdivision plan following.

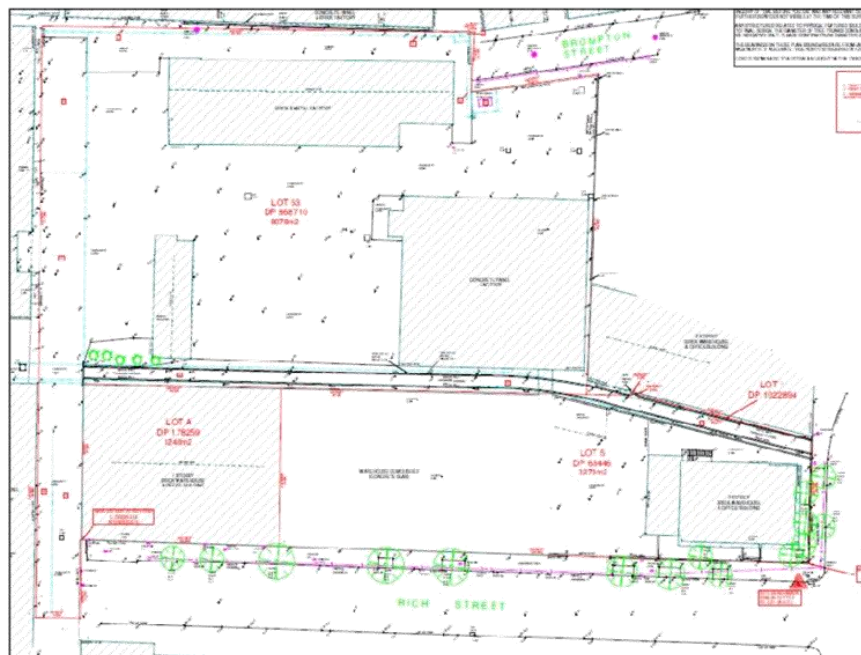


Image 30: Existing Plan of Subdivision

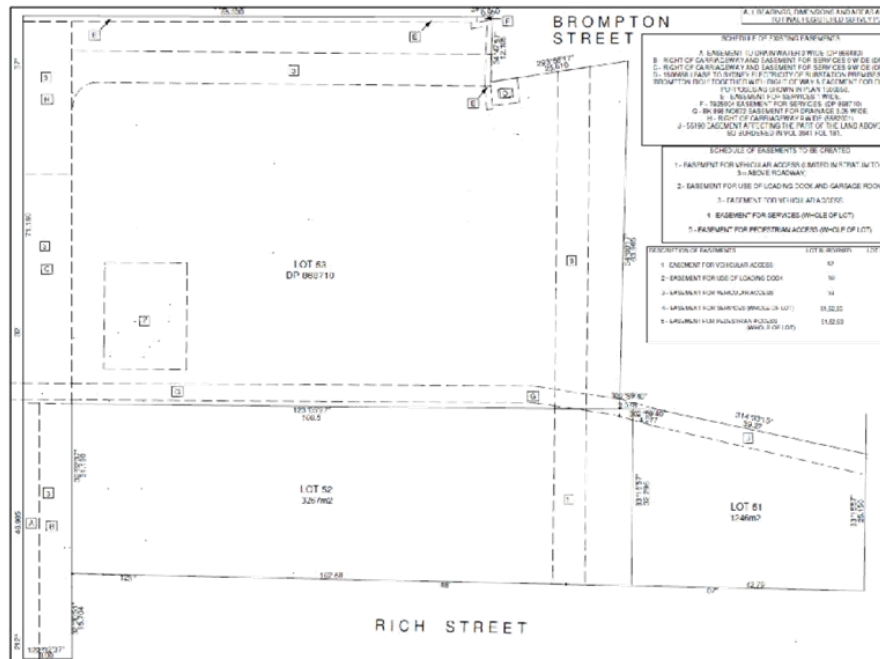


Image 31: Proposed Subdivision Plan

As outlined under Section 10 (vi) of this report, subject to a condition regarding the FSR having a covenant over Lots 52 and 53, the application is acceptable with regards to Part 3 of MDCP 2011.

PART 5 - COMMERCIAL AND MIXED USE DEVELOPMENT

The application involves the construction of commercial development on the site. Given the site is a new 'masterplan' style development of the site, the controls contained within Part 5 relating to building form and detail, design guidelines, and general objectives are provided within the precinct specific controls which are discussed further in this report. The relevant controls contained within Part 5 are assessed below.

(xii) Commercial/Light Industrial/Residential Interface (Part 2.21)

Noise and Vibration Generation

The site is located in a predominantly industrial and recently re-zoned business zone. Notwithstanding this there are some purpose built and occupied residential dwellings located within 30 metres of the site on Brompton Road. As outlined earlier in this report a PoM was submitted which outlines measures to ameliorate any impacts on adjoining properties during the operation of the different uses on the site. Standard conditions are also included in the recommendation regarding noise and vibration generation.

Hours of Operation

The Statement of Environmental Effects (SEE) submitted with the application outlined the proposed hours of operation for the different proposed tenancies on the site. Which are provided below in Image 32.

Proposed Land Use	Proposed Base Operating Hours
Light Industry	7am to 6pm, 7 days per week
Industrial Retail Outlets	7am to 6pm, 7 days per week
Business Premises	7am to 6pm, 7 days per week
Food and Beverage	Monday to Saturday – 6am to 12pm Sundays & Public Holidays – 6am to 10pm
Office Premises	Not restricted

*Image 32: Extract from SEE including Table with Proposed Hours of operation. (*Note reference to “12pm” is in error and applicant seeks trading until midnight, rather than midday).*

The proposed hours of operation are considered appropriate for the following reasons:

- The location of the premises being in a business zone with industrial zone surrounding;
- The adjoining property “the factory theatre” has approved permanent hours till midnight and a trial period till 2am;
- The location of the food and beverage tenancies face internally to the site and not towards the street;
- The fact that any tenancy with 50 or more seats would require DA approval where trading hours can be reviewed;
- A PoM accompanies the application to provide measures for the appropriate control of noise, vibration and security for the site.

However, the proposal to have the office premises hours as ‘not restricted’ is not considered acceptable. Whilst it is understood that operation of an office would be low impact, it is considered reasonable to restrict the hours of operation to between 6am to 9pm Monday to Sunday to ensure that any operation outside these times could be considered in more detail. The impacts of a use being permitted to operate 24 hours a day requires specific assessment as with regard to acoustic, management and security measures which if required should be subject to a separate application.

PART 9 - STRATEGIC CONTEXT

The property is located in the Victoria Road Planning Precinct (Precinct 47) under Marrickville Development Control Plan 2011. As discussed earlier in this report Clause 6.17 of MLEP 2011 required a DCP be adopted to provide for a number of planning considerations for development proposed in the precinct. The amended Part 9.47 provides more specific controls for the site, where these differ from the generic provisions under Part 2, 3, and 5 of MDCP 2011 an analysis is provided below as Part 9.47.1.3 of MDCP 2011 states that the precinct specific controls prevail in the event of any inconsistency.

(xiii) Desired Future Character (Part 9.47.3)

In terms of land use and layout, the application is in keeping with the desired future character for the following reasons:

- The proposal would create an active commercial corridor along Victoria Road with the use of ground floor food and drink premises;
- Creates new roads and pedestrian links to and through the site;
- Fosters the transition from existing industrial use to light and creative industries;
- Aims to create a vibrant hub for Marrickville’s creative industries;
- Provides a new publicly accessible open space at the centre of the site.

(xiv) Sub-precincts (Part 9.47.4)

The subject site is located in sub-precinct 4 – Chapel Street Sub-precinct. The aim of the precinct is to foster creative industries and create active street frontages both of which the subject proposal will achieve.

(xv) Indicative Masterplan (Part 9.47.5)

The proposal is consistent with the indicative masterplan in that it allows for the publicly accessible open space, pedestrian through site links and possible future road connections as outlined in the masterplan.

(xvi) Movement network (Part 9.47.6)

The application complies with the controls regarding movement network for the following reasons:

- Provides for Malco and Studio Lane, being private roads with public access within the site which are indicated as possible future connections on the Movement network plan;
- The pedestrian through site links are provided along and across the channel as per the Movement network plan;
- It is unclear how much land will be required to be provided from the existing road and footpath corridor to allow the central concrete median along Victoria Road. Any conditions will ensure that the street network characteristics provided in Table 1 of Part 9.47.6 of MDCP 2011 will be complied with.

Green Links

Part 9.47.6 of MDCP 2011 requires a publicly accessible open space to be provided in the centre of the Rich Street site, which is proposed as part of the application.

Indicative Street Sections

The proposal complies with the indicative street section, the South Hub Building would be 4 storeys due to the maximum height limit for the site, however the Marker Building would be 5 storeys with a roof terrace which again complies with the maximum height limit for that site. The development provides for the zero ground floor setback to Rich Street with 3.4metre wide footpaths, this which complies with Figure 12 as shown in Image 33 below. The road as shown on the section with the architectural plans is narrower than the 9.5metres wide shown, this is due to the provision of vertical parking which requires a greater depth than 2.5 metres as shown on the indicative section. It is considered prudent that this parking be provided on Rich Street in line with the existing parking on the street.

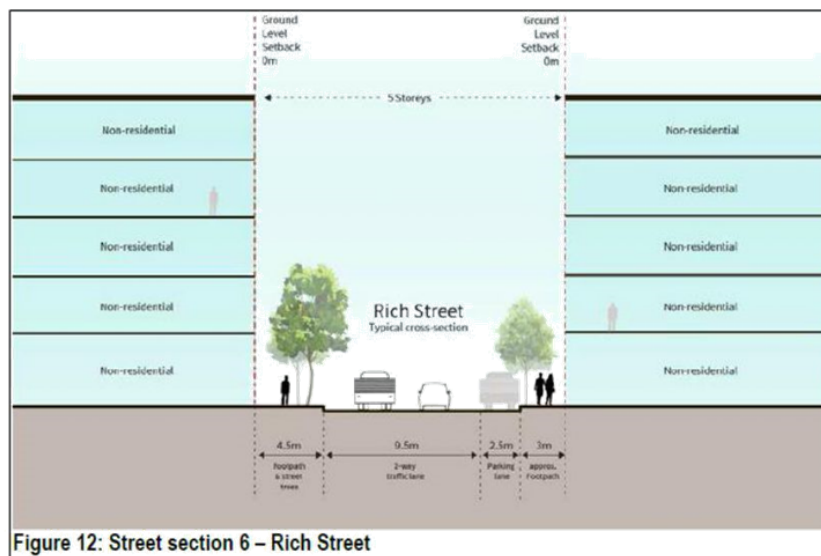


Figure 12: Street section 6 – Rich Street

Image 33: Indicative Rich Street Section as per DCP

(xvii) Public open space network (Part 9.47.7)

The application complies with the requirements of the public open space controls for the following reasons:

- The proposed new internal roads, upgrade of Rich Street and new pedestrian connections through the site will provide a high level of physical and visual access to the public open space;
- There is an increase in urban forest canopy for the site; and
- The central lawn meets the minimum 1200sqm as outlined in Figure 15 and is publicly accessible.

(xviii) Built form (Part 9.47.9)

- The development complies with the maximum building heights as outlined in Section 10 (v) of this report.
- The buildings proposed comply with the ground and upper level setbacks being a zero setback on the ground floors and 4 metre setback above the fifth floor which is only applicable to the Marker Building which contains a roof terrace above the 5th floor which is setback the minimum 4 metres; and
- The food and drink premises and studio spaces provide an active frontage to Rich Street, Malco Lane and the north of Studio Lane.

13. Marrickville Section 94/94A Contributions Plan 2014

The carrying out of the development would result in an increased demand for public amenities and public services within the area. A contribution of \$1,515,871.37 would be required for the redevelopment under Marrickville Section 94/94A Contributions Plan 2014. A condition requiring that contribution to be paid is included in the recommendation.

14. Community Consultation

The application was advertised, an on-site notice displayed on the property and resident's/property owners in the vicinity of the property were notified of the development in accordance with Council's policy. 26 submissions, 23 of which were in support of the proposal were received.

3 submissions were received raising the following concerns which have already been discussed throughout the main body of this report:

- (i) Increased traffic; and
- (ii) Car parking

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

- (i) *Encroachments into easement for access to adjoining properties loading dock and fire hoses.*

Comment:

The original plans submitted with the application showed encroachment of the proposed parking spaces into the 9metre wide easement that exists along the western boundary of the site. Amended plans submitted during the assessment of the application removed all encroachments into the easement for right of carriageway servicing Euro Marble and Anstav.

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

15. Conclusion

The application seeks approval for a staged commercial development on the site. Stage 1 of the development comprises site preparation works including demolition of existing structures and removal of vegetation; construction of 2 new buildings incorporating ground level food and drink tenancies, studio spaces and upper level offices and car parking being the 3 storey North Hub building and 4 storey South Hub building. Stage 2 of the proposal involves the construction of a 5 storey Marker Building with ground floor food and drink premises and upper level offices with a roof terrace at level 6. The application includes the use of the new buildings for a range of creative light industries, office premises and food and drink premises; site landscaping including creation of a new publicly accessible open space, pedestrian connections and new landscaping.

The heads of consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, as are of relevance to the application, have been taken into consideration in the assessment of this application.

The proposal generally complies with the aims, objectives and design parameters contained in Marrickville Local Environmental Plan 2011 and Marrickville Development Control Plan 2011. The development will not result in any significant impacts on the amenity of adjoining premises and the streetscape.

The application is generally in line with recent amendments to LEP and DCP controls specific to the Victoria Road Precinct although the architectural quality of the "Marker Building" and the traffic access are not fully resolved. Many of the issues identified have been resolved by the applicant's amendments or can be mitigated through the imposition of the recommended conditions.

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

PART E - RECOMMENDATION

- A. **THAT** the application to construct a staged commercial development on the site; with stage 1 of the development comprises site preparation works including demolition of existing structures and removal of vegetation; construction of 2 new buildings incorporating ground level food and drink tenancies, studio spaces, upper level offices and car parking being the 3 storey North Hub building and 4 storey South Hub building and Stage 2 of the proposal comprising the construction of a 5 storey Marker Building with ground floor food and drink premises and upper level offices with a roof terrace at level 6; as well as the use of the new buildings for a range of creative light industries, office premises and food and drink premises; site landscaping including creation of a new publicly accessible open space, pedestrian connections and landscaping be **APPROVED** and a **DEFERRED COMMENCEMENT CONSENT** be issued subject to the following terms and conditions:

PART A - DEFERRED COMMENCEMENT CONSENT

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

1. Provision of a suitable design to restrict traffic movements into and out of the intersection of Victoria Road and Rich Street to left in/left out via the installation of a central concrete median island constructed in Victoria Road. The design must allow for the largest vehicle likely to access the site (including emergency vehicles) and be designed in accordance with latest Austroads and RMS guidelines. The plans must include details of any road widening required to ensure the design can proceed.

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

PART B - CONDITIONS OF CONSENT

Once operative the consent is subject to the following conditions:

GENERAL

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

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by	Date Submitted
DA-100-010, Revision 02	Demolition Plan	14.1.19	Turners Architects	6.3.19
DA-100-020, Revision 02	Site Plan	14.1.19	Turners Architects	6.3.19
DA-110-009, Revision 5	Ground Level	6.3.19	Turners Architects	6.3.19
DA-110-010, Revision 02	Upper Ground	16.1.19	Turners Architects	6.3.19
DA-110-020, Revision 05	Level 01	6.3.19	Turners Architects	6.3.19
DA-110-030, Revision 03	Level 02	16.1.19	Turners Architects	6.3.19
DA-110-040, Revision 04	Level 03	6.3.19	Turners Architects	6.3.19
DA-110-050, Revision 03	Level 04	16.1.19	Turners Architects	6.3.19

DA-110-060, Revision 03	Level 05	16.1.19	Turners Architects	6.3.19
DA-110-070, Revision 03	Roof Plan	16.1.19	Turners Architects	6.3.19
DA-210-010, Revision 04	Rich St South Hub South Elevation	4.3.19	Turners Architects	6.3.19
DA-210-020, Revision 04	Rich St South Hub North Elevation	4.3.19	Turners Architects	6.3.19
DA-210-030, Revision 03	Studio Lane North Hub South Elevation	4.3.19	Turners Architects	6.3.19
DA-210-040, Revision 03	Studio Lane North Hub Elevation	4.3.19	Turners Architects	6.3.19
DA-210-050, Revision 03	Studio Lane West Elevation	4.3.19	Turners Architects	6.3.19
DA-210-060, Revision 03	Malco Lane East Elevation	4.3.19	Turners Architects	6.3.19
DA-210-070, Revision 03	Marker Building Elevations	4.3.19	Turners Architects	6.3.19
DA-300-010, Revision 04	Marker Building Section	4.3.19	Turners Architects	6.3.19
DA-400-010, Revision 02	Marker Building Precast	14.1.19	Turners Architects	6.3.19
DA-400-020, Revision 02	Marker Building Precast Panel Setout	14.1.19	Turners Architects	6.3.19
DA-400-030, Revision 02	North Hub Building Precast	14.1.19	Turners Architects	6.3.19
DA-400-040, Revision 02	North Hub Building Precast Setout	14.1.19	Turners Architects	6.3.19
DA-400-050, Revision 02	South Hub Building Rich Street	14.1.19	Turners Architects	6.3.19
DA-400-060, Revision 02	South Hub Building Central Lawn	14.1.19	Turners Architects	6.3.19
DA-400-070, Revision 02,	North Hub Unfolded Ramp Section	16.1.19	Turners Architects	6.3.19
DA-400-080, Revision 02	South Hub Ramp Section	16.1.19	Turners Architects	6.3.19
DA-730-010& DA- 730-020, Revision 3	External Signage	16.1.19	Turner	6.3.19
DA-900-010, Revision 03	Perspective 01	16.1.19	Turner	6.3.19
DA-900-020, Revision 03	Perspective 02	16.1.19	Turner	6.3.19
DA-900-030, Revision 03	Perspective 03	16.1.19	Turner	6.3.19
DA-900-040, Revision 03	Perspective 04	16.1.19	Turner	6.3.19
DA-900-050, Revision 02	Perspective 05	16.1.19	Turner	6.3.19

DA-900-060, Revision 02	Perspective 06	16.1.19	Turner	6.3.19
DA-910-010, Revision 03	Materials & Finishes Schedule	16.1.19	Turner	6.3.19
LD-SK-01, Revision I	Public Domain Plan	29.11.18	McGregor Coxall	29.11.18
LD-SK-02, Revision B	Rooftop Landscape Plan	19.11.18	McGregor Coxall	29.11.18
LD-SK-03, Revision D	Planting Plan	29.11.18	McGregor Coxall	29.11.18
LD-SK-04, Revision C	Site Sections	14.11.18	McGregor Coxall	29.11.18
LD-SK-05, Revision C	Channel Section	29.11.18	McGregor Coxall	29.11.18
LD-SK-06, Revision C	Channel Section	29.11.18	McGregor Coxall	29.11.18
LD-SK-07, Revision C	Channel Section	29.11.18	McGregor Coxall	29.11.18
LD-SK-08, Revision A	Channel Section	14.11.18	McGregor Coxall	29.11.18
LD-SK-09, Revision A	Precedent/Materi ality	29.9.17	McGregor Coxall	29.11.18
LD-SK-12, Revision B	Indicative Lighting Plan	29.11.18	McGregor Coxall	29.11.18
170020	Flood Report	21.11.18	GRC Hydro	29.11.18
2851-1	Subdivision Plan	14.3.19	True North	14.3.19
P17246-ESD-B Revision B	Energy Efficiency Performance Report	17.10.17	Evolved Engineering	13.11.17
J17172RP1	DA Acoustic Assessment	6.10.17	EMM Consulting	24.11.17
GS5544/2A	Geotechnical Investigation Report	20.12.13	Aargus	13.11.17
Version 3	Arboricultural Impact Assessment Report	6.10.17	Earthscape Horticultural Services	13.11.17
17385, Final	Operational Plan of Management	24.4.18	Ethos Urban	14.5.18
	Operational Waste Management Plan	April 2018	Waste Audit & Consultancy Services	14.5.18
ES7032.2, Rev 1	Sampling, Analysis & Quality Plan	19.6.18	Aargus Pty Ltd	13.8.18
ES7032	Limited Site Investigation	20.9.17	Aargus	13.11.17
ES5544/3	Acid Sulphate Soils Assessment	14.10.13	Aargus Pty Ltd	13.11.17
ES7032/3	Remediation Action Plan	4.7.18	Aargus Pty Ltd	13.8.18
17385	CPTED	31.10.17	Ethos Urban	13.11.17

	Assessment			
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and details submitted to Council on 13 November 2017 with Additional information submitted on 24 April 2018, 14 May 2018, 13 August 2018, 29 October 2018, 13 November 2018, 29 November 2018, 14 December 2018, 15 & 17 January 2019, 6 February 2018, 5, 6 & 14 March 2019 with the application for development consent and as amended by the matters referred to in Part A of this Determination and the following conditions.

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

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

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

3. No live music or entertainment is permitted to be provided within any premises on the site.
4. A footpath licence must be obtained from Council for the use of any part of the footpath area adjacent to the site prior to using such area. The usage of any part of the footpath must only be carried out whilst the footpath licence remains in force.
5. Separate Development Consent or Complying Development Certificate must be obtained for the fit-out of the tenancies prior to the occupation of each tenancy. Any food and drink tenancy that is to contain more than 50 seats must also seek Development consent by way of a Development Application.
6. No retailing is to be carried out from the premises with the exception of food and drink premises approved under this application. Consent for other forms of retailing (where permissible) is to be obtained by way of lodgement of a new Development Application for use.
7. There are to be no emissions or discharges from the premises which will give rise to an offence under the Protection of the Environment Operations Act 1997 and Regulations.

Emission control equipment must be provided in the mechanical exhaust system serving the appliances, to effectively minimise the emission of odours, vapours and oils. Details of the proposed emission control equipment must be provided in the relevant plans and specifications for the Construction Certificate for the subject works.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

8. **150** Off-street car parking spaces including **15** accessible off-street spaces must be provided, paved and maintained at all times in accordance with the standards contained within Part 2.10 of Marrickville Development Control Plan 2011 – Parking.
9. No paid car parking is permitted on the site. All parking, including parking along the public rights of way/private roads and internal car parks must be free at all times and allocated in accordance with the following requirements:

- a) All at grade parking spaces within the site are required to be provided for customers only.
 - b) All internal spaces within the North and South Hub Car Parks are required to be distributed between the 3 buildings on the site for the use of staff only. This must be included on any strata subdivision plan or lease agreement with any tenancy on the site.
10. All parking spaces and turning area thereto must be provided in accordance with the design requirements set out within Part 2.10 of Marrickville Development Control Plan 2011 - Parking, and must be used exclusively for parking and not for storage or any other purpose. A sign legible from the street must be permanently displayed to indicate that customer parking is available on site.
11. The use of the premises must not give rise to:
- a) transmission of unacceptable vibration to any place of different occupancy;
 - b) a sound pressure level at any affected premises that exceeds the background (LA90) noise level in the absence of the noise under consideration by more than 5dB(A). The source noise level must be assessed as an LAeq,15min and adjusted in accordance with Environment Protection Authority guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content as described in the NSW Environment Protection Authority's Environmental Noise Control Manual and Industrial Noise Policy 2000 and The Protection of the Environment Operations Act 1997 (NSW).
12. The signage must be erected substantially in accordance with the Plan No/s. DA-730-010 & DA-730-020, Revision 3 dated 16.1.19 and details submitted to Council on 6.3.19 with the application for development consent as amended by the following conditions.
13. A separate application must be submitted to, and approved by, Council prior to the erection of any advertisements or advertising structures other than the signage approved in this consent. The tenancy windows must not be painted or covered with advertisements and no flashing lights are to be installed on the premises.
14. The advertising structure(s) and associated advertisement(s) must be properly and safely maintained at all times.
15. Any advertisement to be displayed must be only to identify the premises, the occupier of the site, the activity conducted thereon or the goods and services available on the premises associated with the use approved in this development consent.
16. The signage must:
- a) not flash, move, be animated, or be decorated with rotating or flashing lights;
 - b) not have any apparatus attached to it which will provide sound of any description whether associated with the sign or other object or activity;
 - c) be neatly affixed to the building and any damage to the building caused to the exterior of the building by the erection of the advertising structure must be promptly repaired with materials to match those of the existing building;
 - d) comply with the Advertising Code of Ethics; and
 - e) comply with the requirements of the Roads and Maritime Services Authority.
17. The required fee under Council adopted fees and charges for "Signs and Advertising Structures Projecting onto or Over Public Space" must be paid to Council. The advertisement/advertising structures must only remain in place when the annual licensing fee for that year has been paid.
Note: The fee needs to be paid annually.
18. Certification by a Structural Engineer as to the adequacy of the method of affixing the sign must be submitted to the Principal Certifying Authority prior to the erection of the signs.

19. No storage of goods or equipment external to any building on the site is permitted (excluding bicycles).
20. No signs or goods must be displayed for sale or stored on the footpath in front of the premises at any time without the prior approval of Council.
21. All loading and unloading in connection with the use must be carried out wholly within the property, during the approved hours of operation and in such a manner so as to not cause an inconvenience to the public.
22. All machinery must be installed in accordance with the manufacturer's specifications and being maintained at all times if in use.
23. The hours of operation for all tenancies on the site must be restricted to between the hours as applicable to the approved use indicated in the table below:

Use of Premises	Operating Hours
Light Industry	7am to 6pm, 7 days per week
Industrial Retail Outlet	7am to 6pm, 7 days per week
Business Premises	7am to 6pm 7 days per week
Food and Beverage	6am to Midnight Monday –Saturday 6am to 10pm Sundays and Public Holidays
Office Premises	6am to 9pm, 7 days per week
Pop-Up Tenancy	6am to 6pm, 7 days per week

24. The developer must liaise with the Sydney Water Corporation, Ausgrid, AGL and Telstra concerning the provision of water and sewerage, electricity, natural gas and telephones respectively to the property.
25. All trade waste must be stored within the site boundaries and must be contained in such a manner so as not to cause a nuisance.
26. The construction, fitout and finishes of the food premises must comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code under the Food Act 2003 and AS 4674 - Design, Construction and Fitout of Food Premises.

NOTE: Copies of AS 4674-2004 may be obtained from the Standards Australia Customer Service on telephone 1300 65 46 46 or by visiting the website www.standards.com.au

Copies of the Food Standards Code (Australia) may be obtained by contacting the Food Standards Australia and New Zealand Authority on telephone (02) 6271 2222, email info@foodstandards.gov.au or by visiting the website www.foodstandards.gov.au.

27. The storage and/or handling of food products externally of the approved food premises are prohibited.
28. The following conditions relate to Sydney Airport Corporation Limited (SACL) approval and must be complied with:
 - a) The development is approved to a maximum height of 28.0 metres above Australian Height Datum (AHD) inclusive of all lift over-uns, vents, chimneys, aerals, TV antennae, construction cranes etc.;
 - b) Should the proposal exceed the height referred to in (a) above, a new application must be submitted;

- c) Should the height of any temporary structure and / or equipment be greater than 50 feet (15.24 metres) above existing ground height (AEGH), a new approval must be sought in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161;
 - d) Construction cranes 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;
 - e) SACL advises that approval to operate construction equipment (i.e. Cranes) should be obtained prior to any commitment to construct.
29. Prior to the lodgement of any Construction Certificate, amended plans and documentation are to be submitted to Council's Heritage and Urban Design Team Leader satisfaction demonstrating the following;
- a) A safe lighting strategy along the canal and within the publicly accessible open spaces;
 - b) A night lighting strategy for the Marker Building;
 - c) The fencing along the canal must be of a high quality and of an aesthetically pleasing material, with a maximum height of 1.2m and be a minimum of 85 percent transparent to ensure visual connection across the canal and a high quality urban environment for pedestrians and users of the park;
 - d) The through-site pedestrian link along the canal must be a minimum of 1.8m wide for its entire length; and
 - e) A heritage interpretation strategy must be prepared by a heritage consultant with experience in undertaking interpretation strategies and in accordance with the NSW Heritage Guide on Heritage Interpretation Policy (www.heritage.nsw.gov.au). The strategy must detail how information on the history and significance of the site will be provided for the public and make recommendations regarding public accessibility, signage and lighting. Art, details of the heritage design or the display of selected artefacts (such as remnants of the building wall on the site) are some means that can be used.
30. The materials and finishes of the building constructed pursuant to this consent must be strictly in accordance with the materials and finishes identified in Drawing Nos. DA-910-010, Revision 3 dated 16.1.2019 prepared by Turner Architects. No changes may be made to these drawings except by way of an application under section 4.55 of the Environmental Planning and Assessment Act 1979.
31. The proposed extruded bricks are required to be replaced with dry-pressed bricks to ensure the building is executed with a high quality finish.
32. The Plan of Management is required to be updated to reflect the details contained in this determination and recommendations in the CPTED assessment prepared by Ethos Urban dated 30 October 2017 and submitted to Council prior to the issue of a Construction Certificate for Stage 1 of the development. The Plan of Management is not permitted to be modified in any way without the written consent of Inner West Council.
33. The use of any premises on the site must comply at all times with the Plan of Management referred to in condition 1 above and as amended by the conditions in this Determination.
34. A minimum of 100 bicycle spaces and 8 motorcycle spaces are required to be provided on the site, paved and maintained at all times in accordance with the standards contained within Part 2.10 of Marrickville Development Control Plan 2011 – Parking.
35. All bin storage areas within the site must comply with the following:

- a) Be provided with artificial lighting, with control switches to be located both outside and inside the room in close proximity to the entry door;
 - b) Have hot and cold water outlet with hose cock for cleaning of the bins and storage areas;
 - c) Drain to sewer;
 - d) Have adequate ventilation which complies with the provisions of *Australian Standard 1668:2012*;
 - e) Have doors provide a minimum of 1200mm clearance to allow manoeuvring of bins
 - f) Be located wholly within the site and in an area that minimises any noise or odour impacts on the amenity of nearby premises; and
 - g) The Loading dock must accommodate front lift loading waste vehicle with a minimum clearance height of 6.2m. There must be written evidence of all valid and current contract/s (held on site) for waste and recycling collection for disposal or processing of all waste streams provided to the Certifying Authority prior to the issue of an Occupation Certificate.
36. All fire hydrant and sprinkler booster valves and the like are required to be enclosed on all sides to reduce visual impacts to streetscape.
37. All prescribed trees must be retained and protected in accordance with these conditions and with the Australian Standard *Protection of Trees on Development Sites* AS 4970—2009 unless their removal, pruning or other works is explicitly approved under the terms of this consent. Trees numbered 1 to 14 in the Arboricultural Impact Assessment Report (Earthscape Horticultural Services, October 2017) may be removed. The street trees in Victoria Road, numbers 15 and 16, must be retained.
38. All reasonable directions in writing by the project arborist in relation to tree management and tree protection must be complied with. All directions by the project arborist must be confirmed in writing to the project manager.
39. During construction the project arborist must undertake periodic inspections of trees and tree protection measures, as deemed necessary by the project arborist.
40. A fully automatic irrigation system is required to be provided and operated to schedule for the car park trees across the site including Rich Street. Details are required to be provided to the Certifying Authority prior to the issue of any Occupation Certificate for Stage 1 of the development.
41. An Acid Sulfate Soils Management Plan is required to be prepared and submitted to the Certifying Authority prior to the issue of any Construction Certificate for Stage 1 of the development.
42. Owners and occupants of the proposed building will not be eligible to obtain parking permits under any existing or future resident parking scheme for the area. The person acting on this consent must advise any purchaser or prospective tenant of this condition.
43. All stormwater drainage being designed in accordance with the provisions of the Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3 'Stormwater Drainage' and Marrickville Council Stormwater and On Site Detention Code. Pipe and channel drainage systems must be designed to cater for the twenty (20) year Average Recurrence Interval (A.R.I.) storm in the case of low and medium residential developments, the twenty (20) year A.R.I. storm in the case of high density residential development and commercial and/or industrial developments and the fifty (50) year A.R.I. storm in the case of heavy industry. In all cases the major event surface flow paths must be designed to cater for the one hundred (100) year A.R.I. storm.
44. Should the proposed development require the provision of an electrical substation, such associated infrastructure must be incorporated wholly within the development site. Prior to

proceeding with your development further, you are directed to contact Ausgrid directly with regard to the possible provision of such an installation on the property.

45. All building work must be carried out in accordance with the provisions of the National Construction Code (Building Code of Australia).

PRIOR TO COMMENCING DEMOLITION, EXCAVATION AND/OR BUILDING WORK

46. No work must commence until:

- a) A PCA has been appointed. Where an Accredited Certifier is the appointed PCA, Council must be notified within 2 days of the appointment; and
- b) A minimum of 2 days written notice given to Council of the intention to commence work.

47. A Construction Certificate must be obtained prior to commencing building work. Building work means any physical activity involved in the construction of a building. This definition includes the installation of fire safety measures.

48. Sanitary facilities must be provided at or in the vicinity of the work site in accordance with the WorkCover Authority of NSW, Code of Practice 'Amenities for Construction'. Each toilet must be connected to the sewer, septic or portable chemical toilet prior to commencing building work.

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

49. All demolition work must:

- a) Be carried out in accordance with the requirements of Australian Standard AS 2601 'The demolition of structures' and the Occupational Health and Safety Act and Regulations; and
- b) Where asbestos is to be removed it must be done in accordance with the requirements of the WorkCover Authority of NSW and disposed of in accordance with requirements of the Department of Environment, Climate Change and Water.

50. Where any loading, unloading or construction is to occur from a public place, Council's Infrastructure Services Division must be contacted to determine if any permits or traffic management plans are required to be obtained from Council prior to commencing building work.

51. All services in the building being demolished must be disconnected in accordance with the requirements of the responsible authorities prior to commencing building work.

52. A rigid and durable sign must be erected in a prominent position on the site, prior to commencing building work. The sign must be maintained at all times until all work has been completed. The sign must include:

- a) The name, address and telephone number of the PCA;
- b) A telephone number on which Principal Contractor (if any) can be contacted outside working hours; and
- c) A statement advising: 'Unauthorised Entry To The Work Site Is Prohibited'.

53. A Soil and Water Management Plan must be prepared in accordance with Landcom Soils and Construction, Volume 1, Managing Urban Stormwater (Particular reference is made to Chapter 9, "Urban Construction Sites") and submitted to and accepted by the PCA. A copy

of this document must be submitted to and accepted by PCA prior to commencing building work. The plan must indicate:

- a) Where the builder's materials and waste are to be stored;
- b) Where the sediment fences are to be installed on the site;
- c) What facilities are to be provided to clean the wheels and bodies of all vehicles leaving the site to prevent the tracking of debris and soil onto the public way; and
- d) How access to the site will be provided.

All devices must be constructed and maintained on site while work is carried out.

54. The person acting on this consent must be responsible for arranging and meeting the cost of dilapidation reports prepared by a suitably qualified person. The reports are to include colour photographs and are to be submitted to the Certifying Authority's satisfaction, with a colour copy being provided to Council and the respective property owner(s) of the identified properties, prior to commencing building work, on the buildings on the adjoining properties at No.s 105-107 Victoria Road, No.8 Brompton Street, Nos.2 & 4 Jabez Street, and No.61-65 Shepherd Street, and No.11 Rich Street, Marrickville, if the consent of the adjoining property owner(s) can be obtained. In the event that the consent of the adjoining property owner(s) cannot be obtained copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the PCA prior to commencing building work.
55. All wastewater arising from the use of the premises must be directed to the Sewers of the Sydney Water Corporation (SWC) under a Trade Waste License Agreement. The person acting on this consent is advised that pre treatment of wastewater may be a requirement of the corporation prior to the discharge to sewer. Details of the Corporation's requirements must be obtained prior to the commencement of work.
56. Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent must obtain all applicable Permits from Council in accordance with Section 68 (Approvals) of the Local Government Act 1993 and/or Section 138 of the Roads Act 1993. Permits are required for the following activities:
 - a) Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application.
 - b) A concrete pump across the roadway/footpath
 - c) Mobile crane or any standing plant
 - d) Skip bins
 - e) Scaffolding/Hoardings (fencing on public land)
 - f) Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.
 - g) Awning or street verandah over footpath
 - h) Partial or full road closure
 - i) Installation or replacement of private stormwater drain, utility service or water supply

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

Applications for such Permits must be submitted and approved by Council prior to the commencement of the works associated with such activity.

57. The person acting on this consent must ensure the site is secured with temporary fencing prior to any works commencing.

If the work involves the erection or demolition of a building and is likely to cause pedestrian or vehicular traffic on public roads or Council controlled lands to be obstructed or rendered inconvenient, or building involves the enclosure of public property, a hoarding or fence must

be erected between the work site and the public property. Additionally an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property, where necessary.

Separate approval is required from Council under the Roads Act 1993 to erect a hoarding or temporary fence or awning on public property. Approvals for hoardings, scaffolding on public land must be obtained and clearly displayed on site for the duration of the works.

Any hoarding, fence or awning is to be removed when the work is completed and must be maintained clear of any advertising.

58. A Construction Pedestrian Traffic Management Plan (CPTMP) detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted, after consultation and endorsement from Roads and Maritime, to Council for approval prior to the issue of a Construction Certificate.
59. A dilapidation report on the visible and structural condition of the following public infrastructure must be provided to the Principal Certifying Authority prior to the commencement of demolition or issue of a Construction Certificate (whichever occurs first):
 - a) Full width and length of both Rich and Brompton Streets;
 - b) Half width of Cook Road from Victoria Road to Brompton Street; and
 - c) Half width of Victoria Road from Rich Street to Cook Road

The dilapidation report is to be prepared by a practicing Structural/Civil Engineer agreed to by both the applicant and Council and include road pavement, stormwater drainage infrastructure, kerb and gutter and footpath. All costs incurred in achieving compliance with this condition must be borne by the applicant.

The liability of 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.

60. Any person acting on this consent or any contractors carrying out works on public roads or Council controlled lands must take out Public Liability Insurance with a minimum cover of twenty (20) million dollars in relation to the occupation of, and approved works within those lands. The Policy is to note, and provide protection for Inner West Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property.
61. If new street numbers or a change to street numbers (this includes unit and shop numbers) are required, a separate application must be made to and approved by Council prior to those street numbers being displayed.
62. A project arborist with a minimum AQF level 5 qualification in arboriculture and who does not remove or prune trees in the Inner West local government area must be engaged prior to commencing building work for the duration of site preparation, demolition, construction and landscaping.
63. The contact details of the project arborist must be advised to council prior to commencing building work and maintained up to date for the duration of works. If a new project arborist is appointed details of the new project arborist must be notified to council within 7 days.
64. The tree protection measures detailed in Section 10 of the Arboricultural Impact Assessment Report (Earthscape Horticultural Services, October 2017) must be established for the street trees in Victoria Road prior to commencing building work. Tree protection measures must

be consistent with the Australian Standard *Protection of Trees on Development Sites* AS 4970—2009.

65. The project arborist must inspect tree protection measures, including the location of tree protection fencing and signage, and certify in writing to the Principal Certifying Authority, prior to commencing building work, that the measures comply with Section 10 of the Arboricultural Impact Assessment Report (Earthscape Horticultural Services, October 2017) and the Australian Standard *Protection of Trees on Development Sites* AS 4970—2009.
66. Tree valuation must be undertaken by the project arborist for each of the street trees that is being retained, using Thyer tree valuation methodology. The schedule of tree valuations must be submitted to and agreed with by Council prior to the start of any work.
67. Refundable security deposits for the street trees being retained, equal to those listed in the schedule of tree valuations submitted by the project arborist and agreed to by Council, must be deposited with council prior to the start of works. The security deposits will be refunded in full or in part no sooner than 12 months from the date of the issue of the occupation certificate. Full or partial forfeiture of the relevant security deposit will occur if the street tree is injured, or declines in health and / or vigour, or dies due to any development-related impact. Council's Urban Forest Manager will determine the amount of any forfeiture of a security deposit based on the health and condition of the trees and any decline thereof.
68. A refundable security deposit for each of the eleven new street tree of \$1,600 each must be deposited with council prior to the start of works. The security deposits will be refunded in full or in part no sooner than 12 months from the date of the issue of the occupation certificate. Full or partial forfeiture of each security deposit will occur if the new street tree dies or fails to establish properly. Council's Urban Forest Manager will determine the amount of any forfeiture of the security deposit based on the health and condition of the new street trees.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE FOR STAGE 1 OF THE DEVELOPMENT (North & South Hub Buildings) which comprises site preparation works including demolition of existing structures and removal of vegetation; construction of 2 new buildings incorporating ground level food and drink tenancies and studio spaces facing a central landscaped lawn, upper level offices and car parking being the 3 storey North Hub building and 4 storey South Hub buildings and overall landscaping and at grade parking on the site.

69. a) This condition is imposed in accordance with Section 7.11 of the Environmental Planning and Assessment Act 1979.
- b) Prior to the issue of the Construction Certificate for Stage 1 of the development, the Council must be paid a monetary contribution of \$1,515,871.37 indexed in accordance with Marrickville Section 94/94A Contributions Plan 2014 ("CP").

The above contribution is the contribution applicable as at 11 March 2019.

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

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

(CONTRIBUTION PAYMENT REFERENCE NO. DC002540)

- c) The contribution payable has been calculated in accordance with the CP and relates to the following public amenities and/or services and in the following amounts:
- | | |
|-----------------------|----------------|
| Community Facilities | \$44,328.15 |
| Plan Administration | \$29,723.00 |
| Recreation Facilities | \$1,255,862.68 |
| Traffic Facilities | \$185,957.55 |
- d) A copy of the CP can be inspected at Council's offices at 2-14 Fisher Street, Petersham or online at <http://www.innerwest.nsw.gov.au>.
- e) The contribution must be paid either in **cash, by unendorsed bank cheque (from an Australian Bank only), via EFTPOS (Debit only) or credit card***.

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

70. Noise attenuation measures must be incorporated into the development complying with Australian Standard 2021-2015 in relation to interior design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction), in accordance with details to be submitted to the Certifying Authority's satisfaction prior the issue of a Construction Certificate together with certification by a suitably qualified acoustical engineer that the proposed noise attenuation measures satisfy the requirements of Australian Standard 2021-2015.
71. Prior to the issue of a Construction Certificate an amended plan must be submitted to the Certifying Authority's satisfaction addressing the requirements of The Disability (Access to Premises – buildings) Standards 2010 (the Premises Standards).
72. Prior to the issue of a Construction Certificate an amended plan must be submitted to the Certifying Authority's satisfaction indicating the following:
- Access to the premises via the principal place of entry to all buildings, complying with AS 1428.1- 2009 'Design for access and mobility';
 - Accessible toilets complying with AS 1428.1- 2009 'Design for access and mobility';
 - The lift design must comply with AS 1735.12 -1999 'Lifts, escalators and moving walkways Part 12: Facilities for persons with disabilities' as a minimum requirement.
73. Details of an anti-graffiti treatment to the northern and western elevations of the North Hub Building and western elevation of the South Hub building to a minimum height of the maximum height of the ground floor level must be submitted to, and approved by the Certifying Authority prior to the issue of a Construction Certificate for Stage 1 of the development.
74. Lighting details of the communal car parking areas and the entrances to the buildings being submitted to the Certifying Authority's satisfaction prior the issue of a Construction Certificate.
75. Letterboxes and mail collection facilities being provided and adequately protected. Details of such are required to be submitted to the Certifying Authority's satisfaction prior to the issue of a Construction Certificate.
76. Evidence of payment of the building and construction industry Long Service Leave Scheme, must be submitted to the Certifying Authority's satisfaction prior to the issue of a Construction Certificate. (The required payment can be made at the Council Offices).

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

Corporation is currently of 0.35% of the cost of the building and construction work.

For more information on how to calculate the amount payable and where payments can be made contact the Long Services Payments Corporation.
http://www.lspc.nsw.gov.au/levy_information/?levy_information/levy_calculator.stm

77. To ensure the adequate storage and collection of waste from the occupation or the use of the food premises, all garbage and recyclable materials emanating from the premises must be stored in a designated waste storage area. The waste storage area must be designed and constructed in accordance with AS 4674 - Design, Construction and Fitout of Food Premises. Detailed plans and specifications for the construction of the waste storage area must be submitted to the Certifying Authority's satisfaction prior to the issue of a Construction Certificate and must include the following:

- a) Provided with a hose tap connected to the water supply;
- b) Paved with impervious floor materials;
- c) Coved at the intersection of the floor and walls;
- d) Graded and drained to a waste disposal system in accordance with the relevant regulatory authority (Sydney Water);
- e) Adequately ventilated (mechanically or naturally) so that odour emissions do not cause offensive odour as defined by the Protection of the Environment Operations Act 1997; and
- f) Fitted with appropriate interventions to meet fire safety standards in accordance with the National Construction Code (Building Code of Australia).

78. Prior to the commencement of demolition works or a Construction Certificate being issued for works approved by this development consent (whichever occurs first), a security deposit and inspection fee **must be paid to Council** to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of carrying out the works and as surety for the proper completion of any road, footpath and drainage works required by this consent.

Security Deposit	\$388,000
Inspection fee	\$2,306.50

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

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

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

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

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

79. Prior to the issue of a Construction Certificate amended plans are to be submitted to the satisfaction of Council's Development Engineer demonstrating the provision of a minimum 150 off-street car parking spaces of which 15 spaces are accessible. All parking spaces and turning area thereto must be provided in accordance with the design requirements set out within Part 2.10 of Marrickville Development Control Plan 2011 – Parking and Part 2.5 of Marrickville Development Controls Plan- Equity of Access and Mobility.
80. Prior to the issue of a Construction Certificate the site plans must be amended to accurately show the location of the Council's stormwater pipe through the property. Details of any proposed diversion must be submitted to Council's Development Engineer for approval.
81. All footings adjacent to Council's stormwater pipe must be taken to a depth 500mm below a line of influence measured at 45° from a point 1m from the invert of the stormwater pipe in the direction of the footing. Plans, and supporting documents, detailing the proposed foundations adjacent to Council's drainage system, must be submitted to and accepted by Council's Development Engineer prior to the issue of a Construction Certificate.
82. Plans, details and calculations of the site stormwater drainage system including on-site detention system (if required by Sydney Water) in accordance with Marrickville Council Stormwater and On Site Detention Code must be submitted to and approved by Council's Development Engineer prior to the issue of a Construction Certificate. The design of the OSD system must comply with the following:-
 - a) Detailed calculations for sizing of the site drainage system must be provided for assessment and must include a Hydraulic Grade Line analysis and the DRAINS files used in the design;
 - b) All plumbing within the site must be carried out in accordance with Australian Standard AS/NZS3500.3.2015 Plumbing and Drainage – Stormwater Drainage;
 - c) Compliance with all of the requirements of Sydney Water regarding the connection to the stormwater channel;
 - d) Details of external catchments currently draining to the site must be included on the plans; Existing natural overland flows from external catchments may not be blocked or diverted, but must be captured and catered for within the proposed site drainage system. Where necessary an inter-allotment drainage system must be incorporated into the design;
 - e) Details of the 1 in 100 year overflow route in case of failure/blockage of the site drainage system must be provided, This must include any existing overland flow routes from upstream;
 - f) Construction details for the diversion of the Council stormwater pipe system in Rich Street and Victoria Road. The pipe system must be designed to cater for a 1 in 20 year storm. Details must include a long section of the pipe detailing all utility services, bedding and road restoration detail;
 - g) A WSUD Strategy Report and a MUSIC model (including .sqz file) must be provided to ensure the treatment measures proposed meet Council's water quality targets; and
 - h) A detailed WSUD maintenance plan outlining how all elements of the water quality treatment facility will be maintained and to record annual inspections/maintenance works to be undertaken.
83. A Flood Risk Management Plan, prepared by a qualified practicing Civil Engineer must be submitted to and approved by Council's Development Engineer prior to the issue of a Construction Certificate. Any changes recommended by the Flood Risk Management Plan must be reflected in the Architectural Plans. The Plan must be prepared to make provision for the following:

- a) Identify the flood hazard of overland flows through the site and measures required to ensure that they suitably managed so as avoid vehicles becoming buoyant during a 1 in 100 year ARI event;
 - b) Recommendations on all precautions to minimise risk to personal safety of occupants and the risk of property damage for the total development. Such recommendations must be consistent with the approved development. The flood impacts on the site must be assessed for the 100 year ARI and Probable Maximum Flood (PMF) storm events. The precautions must include but not be limited to the following:
 - i. Types of materials to be used to ensure the structural integrity of the building to immersion and impact of velocity and debris.
 - ii. Waterproofing methods, including electrical equipment, wiring, fuel lines or any other service pipes or connections.
 - iii. Flood warning signs/depth indicators for areas that may be inundated
 - iv. Flood emergency response/evacuation Plan for both the 1 in 100 year and PMF storms.
 - v. On site response plan to minimise flood damage, demonstrating that adequate storage areas are available for hazardous materials and valuable goods above the flood level.
 - c) Specify the architectural and structural plans upon which the above recommendations have been incorporated.
84. Details of satisfaction of the following requirements must be submitted to Council's Development Engineer prior to the issue of a Construction Certificate. This must include the full design package and information submitted to Sydney Water for approval including but not limited to the following:
- a) Retention of the existing bridge at the North-Western boundary of the site;
 - b) Construction of a new pedestrian bridge approximately mid site along the stormwater channel;
 - c) Construction of a new vehicular bridge nearer to the South-Eastern boundary of the site;
 - d) No elevated bridge must be permitted (i.e. first floor level);
 - e) The arrangements and dimensions of overbank flow paths and avoidance of flow path obstructions that are reflected in the modelling of the Flood Report by GRC dated 21 November 2018 must be clearly stated and identified. The design of the overbank flow paths must be carried through to the architectural and landscape plans to ensure that there is no inadvertent obstruction introduced into the design not allowed for in the modelling. In particular the cross sections and the bridge waterway clearances and the clear surface path for overtopping flows from the site at the downstream end of the site must be clearly defined.
 - f) Flood planning level requirements and other relevant Council flood controls measure must apply despite flood inundation extents being contracted.
 - g) An analysis of the quantum of dynamic flood storage provided relative to existing dynamic flood storage distributed over the site must be undertaken to determine if OSD will be required in conjunction with the development.
85. Detailed design and construction plans of the major overland flowpath through the site from the North-Western boundary to Victoria Road must be submitted to and approved by Council's Development Engineer prior to the issue of a Construction Certificate. This must include details of the stormwater channel and overbank dimensions reflecting the capacity detailed in the Flood Report by GRC dated 21 November 2018. Details must include cross sections of the stormwater channel and overbank areas at 10m intervals and at critical locations indicating the top water level profile. These top water levels must be used to set floor levels for the buildings adjacent to the channel 500mm above the top water level. The design must also provide details of the velocity x depth calculation within the overland flow path areas.

86. The architectural plans must be amended and submitted to and approved by Council's Development Engineer prior to the issue of a Construction Certificate to address the following:
 - a) The floor levels of the development must be set 500mm freeboard above the top water level of the 1 in 100 year overland flow paths.
 - b) Any road widening required to provide adequate left in/left out traffic restrictions at the intersection of Victoria Road and Rich Street.
87. Full detailed construction plans and specifications must be submitted to Council's Development Engineer for approval under Section 138 of the Roads Act 1993 prior to the issue of a Construction Certificate with all works completed prior to the issue of an Occupation Certificate. Traffic related works and signage must be subject to a separate application to and approval of the Local Traffic Committee. In order to provide satisfactory vehicular and pedestrian access, drainage, landscaping and aesthetic improvements to the public domain adjacent to the site, the following works must be undertaken at no cost to Council and included on the plans and specifications:
 - a) The public domain along all frontages of the site inclusive of footpath paving, kerb, internal private road network, street trees, landscaping, street furniture, etc. must be reconstructed and upgraded in accordance with the Street Tree Masterplan and the Marrickville Public Domain Design Guide and generally in accordance with the Civil Set of Plans DAC001 to DAC096 Rev C by ATL;
 - b) A median island must be constructed in Victoria Road to provide a left in/left out restriction for vehicles at the intersection of Victoria Road and Rich Street;
 - c) The construction of heavy duty vehicular crossings to all vehicular access locations and removal of all redundant vehicular crossings to the site;
 - d) New kerb and gutter along the frontage of the site. The kerb type (concrete or stone) must be consistent with the majority of kerb type at this location. A long section of the new kerb must be submitted to Council;
 - e) Cross sections are to be provided at the boundary at a minimum distance of every 5m and at all pedestrian and vehicular access locations. Note, the cross fall of the footpath must be set at 2.5%. These sections will set the alignment levels at the boundary. Cross sections must include existing and design levels for back of footpath; top of kerb; kerb invert; kerb lip; road level 1m from kerb lip and road centre line;
 - f) Street tree and planting details;
 - g) Details of all existing and proposed signage and line marking for Brompton Street, Rich Street, the intersection of Rich and Victoria Road and the internal road network; and
 - h) A Street lighting design for Brompton Street, Rich Street, the intersection of Rich and Victoria Road and the internal road network.
88. The vehicular access and associated vehicle standing areas must be designed in accordance with Australian Standard AS/NZS 2890.1-2004 Parking Facilities: Off-street car parking, Australian Standard AS 2890.2-2002 Parking Facilities: Commercial vehicle facilities, AS/NZS 2890.6-2009 Parking facilities: Off-street parking for people with disabilities so that:-
 - a) The layout and minimum dimensions of any standing area comply with clause 2.4 of AS/NZS 2890.1-2004 such that:-
 - (i) car spaces adjacent to walls or fences are increased in width by an additional 300mm;
 - (ii) end spaces are provided with an additional 1m aisle extension; and
 - (iii) the location of columns within the carpark complies with figure 5.1 of AS/NZS 2890.1-2004;
 - b) At the property boundary the access from the road to a standing area is (as near as practicable) perpendicular to the line of the adjacent road;
 - c) The relative surface levels of the internal access from the road being controlled so that:-
 - (i) the surface levels at the property boundary match "alignment levels";

- (ii) the change in grade for any 2m length of accessway does not exceed 1 in 8 (12.5%) unless suitable transitions are provided in accordance with AS2890.1;
- (iii) the maximum grade at any point does not exceed 1 in 5 (20%) or in the case of ramps greater than 20m in length 1 in 6 (16.7%); and
- (iv) the maximum grade at the property boundary does not exceed 1 in 20 (5%) within 6m of the property boundary;
- d) The vehicle egress is designed such that there are no obstructions to lines of sight, along the footpath and the roadway for drivers of egressing vehicles; and
- e) The top of the ramp of the south western building must be widened to allow for satisfactory 2 way traffic flow to the building. This must necessitate the deletion of a carspace at the top of the ramp.

Details of compliance with the above requirements including a Traffic Engineers certification must be submitted to and approved by Council prior to the issue of a Construction Certificate.

89. The vehicular crossing and driveway ramp to the site must be designed to satisfy the ground clearance template (Figure C1) from Australian Standard AS/NZS 2890.1-2004 Parking Facilities: Off-street car parking. A long section, along both sides of the proposed vehicular crossing and ramp, drawn at a 1:20 natural scale, must be submitted to and approved by Council's Development Engineer prior to the issue of a Construction Certificate. The long section must begin from the centreline of the adjacent road to 3 metres past the bottom of the ramp.
90. The removal, replacing or decommissioning of an underground petroleum storage system must comply with the requirements of The Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008, The Protection of the Environment Operations Act 1997 and Australian Standard AS4976-2008: The removal and disposal of underground petroleum storage tanks.

Details demonstrating compliance with the requirements of this condition are to be submitted for approval to the Principal Certifying Authority prior to the issue of any Construction Certificate.

91. An Asbestos Survey prepared by a suitably qualified Occupational Hygienist must be prepared for the premises. The Survey is to incorporate appropriate Asbestos removal and disposal methods in accordance with the requirements of WorkCover NSW, NSW Environmental Planning and Assessment Amendment (Asbestos) Regulation 2009 and NSW Environment Protection Authority, Safe Removal of Asbestos 2nd Edition [NOHSC: 2002 (2005)] and conditions of this consent.

A copy of any WorkCover approval documents is to be included as part of the documentation. Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to any works on site commencing or the issue of the Construction Certificate (whichever occurs first).

92. The landscape plan must be amended and must approved by Council's Tree Management Officer prior to the issue of a Construction Certificate to include the following information:
 - a) show the species and planting sizes of trees detailed in the Planting Plan, McGregor + Coxall, 29/9/17,
 - b) show the number and location of trees shown in the North Hub Alternate Design Ground Level, Drawing No. DA-130-010, 9/11/18, and
 - c) provide two additional *Lophoestemon confertus* (brush box), to be planted as street trees on the southern side of Rich Street.

Note: Council's Coordinator Public Trees should be consulted with respect to the exact location and required planting detail of the two new trees on the southern side of

Rich Street.

93. Planting details must be submitted to and approved by Council's Tree Management Officer prior to the issue of a Construction Certificate. Street trees and trees planted in car parking areas and other hard surfaces must be planted in soil vaults that provide sufficient soil volume for trees to fully establish. WSUD principles must be incorporated to ensure adequate irrigation.
94. The 2 car share spaces are required to be relocated to 2 of the at grade spaces within the site (not accessible spaces). Amended plans detailing this requirement is to be provided to Council's Development Engineer prior to the issue of a Construction Certificate. A plan detailing the establishment, management and operation of the car share scheme is required to accompany the amended plans.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE FOR STAGE 2 OF THE DEVELOPMENT (Marker Building) being the construction of a 5 storey Marker Building with ground floor food and drink premises and upper level offices with a roof terrace at level 6.

95. Noise attenuation measures must be incorporated into the development complying with Australian Standard 2021-2015 in relation to interior design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction), in accordance with details to be submitted to the Certifying Authority's satisfaction prior to the issue of a Construction Certificate together with certification by a suitably qualified acoustical engineer that the proposed noise attenuation measures satisfy the requirements of Australian Standard 2021-2015.
96.
 - a) This condition is imposed in accordance with Section 7.11 of the Environmental Planning and Assessment Act 1979.
 - b) Prior to the issue of the Construction Certificate for Stage 2 of the development, evidence that the monetary contribution specified under Stage 1 of the development consent having been paid in its entirety is required to be provided to the Certifying Authority.
97. Prior to the issue of a Construction Certificate an amended plan must be submitted to the Certifying Authority's satisfaction indicating the following:
 - a) Access to the premises via the principal place of entry to all buildings, complying with AS 1428.1- 2009 'Design for access and mobility';
 - b) Accessible toilets complying with AS 1428.1- 2009 'Design for access and mobility';
 - c) The lift design must comply with AS 1735.12 -1999 'Lifts, escalators and moving walkways Part 12: Facilities for persons with disabilities' as a minimum requirement.
98. Prior to the issue of a Construction Certificate an amended plan must be submitted to the Certifying Authority's satisfaction addressing the requirements of The Disability (Access to Premises – buildings) Standards 2010 (the Premises Standards).
99. Lighting details of the communal car parking areas and the entrances to the buildings being submitted to the Certifying Authority's satisfaction prior the issue of a Construction Certificate.
100. Details of an anti-graffiti treatment to the northern elevation of the Marker Building to a minimum height of the maximum height of the ground floor level must be submitted to and approved by the Certifying Authority, prior to the issue of a Construction Certificate.

101. Letterboxes and mail collection facilities being provided and adequately protected. Details of such are required to be submitted to the Certifying Authority's satisfaction prior to the issue of a Construction Certificate.
102. To ensure the adequate storage and collection of waste from the occupation or the use of the food premises, all garbage and recyclable materials emanating from the premises must be stored in a designated waste storage area. The waste storage area must be designed and constructed in accordance with AS 4674 - Design, Construction and Fitout of Food Premises, and must be:
- a) Provided with a hose tap connected to the water supply;
 - b) Paved with impervious floor materials;
 - c) Coved at the intersection of the floor and walls;
 - d) Graded and drained to a waste disposal system in accordance with the relevant regulatory authority (Sydney Water);
 - e) Adequately ventilated (mechanically or naturally) so that odour emissions do not cause offensive odour as defined by the Protection of the Environment Operations Act 1997; and
 - f) Fitted with appropriate interventions to meet fire safety standards in accordance with the National Construction Code (Building Code of Australia).

Detailed plans and specifications for the construction of the waste storage area must be submitted to the Certifying Authority's satisfaction prior to the issue of a Construction Certificate.

103. Prior to the commencement of demolition works or a Construction Certificate being issued for works approved under stage 2 of the development (whichever occurs first), a security deposit and inspection fee (amount specified under Stage 1) must be paid to Council to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of carrying out the works and as surety for the proper completion of any road, footpath and drainage works required by this consent.

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

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

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

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

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

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

104. All footings adjacent to Council's stormwater pipe must be taken to a depth 500mm below a line of influence measured at 45° from a point 1m from the invert of the stormwater pipe in the direction of the footing. Plans, and supporting documents, detailing the proposed foundations adjacent to Council's drainage system, must be submitted to and accepted by Council's Development Engineer prior to the issue of a Construction Certificate.
105. The architectural plans must be amended and submitted to and approved by Council's Development Engineer prior to the issue of a Construction Certificate to address the following:
 - a) The floor levels of the development must be set 500mm freeboard above the top water level of the 1 in 100 year overland flow paths.
 - b) Any road widening required to provide adequate left in/left out traffic restrictions at the intersection of Victoria Road and Rich Street.
106. In order to provide satisfactory vehicular and pedestrian access, drainage, landscaping and aesthetic improvements to the public domain adjacent to the site, the following works must be undertaken at no cost to Council:
 - a) The public domain along all remaining frontages of the site inclusive of footpath paving, kerb, internal private road network, street trees, landscaping, street furniture, etc. must be reconstructed and upgraded in accordance with the Street Tree Masterplan and the Marrickville Public Domain Design Guide and generally in accordance with the Civil Set of Plans DAC001 to DAC096 Rev C by ATL;
 - b) A median island must be constructed in Victoria Road to provide a left in/left out restriction for vehicles at the intersection of Victoria Road and Rich Street;
 - c) New kerb and gutter along the frontage of the site. The kerb type (concrete or stone) must be consistent with the majority of kerb type at this location. A long section of the new kerb must be submitted to Council;
 - d) Cross sections are to be provided at the boundary at a minimum distance of every 5m and at all pedestrian and vehicular access locations. Note, the cross fall of the footpath must be set at 2.5%. These sections will set the alignment levels at the boundary. Cross sections must include existing and design levels for back of footpath; top of kerb; kerb invert; kerb lip; road level 1m from kerb lip and road centre line;
 - e) Street tree and planting details;
 - f) Details of all existing and proposed signage and line marking for Brompton Street, Rich Street, the intersection of Rich and Victoria Road and the internal road network; and
 - g) A Street lighting design for Brompton Street, Rich Street, the intersection of Rich and Victoria Road and the internal road network.

Full detailed construction plans and specifications must be submitted to Council for approval under Section 138 of the Roads Act 1993 prior to the issue of a Construction Certificate with all works completed prior to the issue of an Occupation Certificate. Traffic related works and signage must be subject to a separate application to and approval of the Local Traffic Committee.

107. The vehicular access and associated vehicle standing areas must be designed in accordance with Australian Standard AS/NZS 2890.1-2004 Parking Facilities: Off-street car parking, Australian Standard AS 2890.2-2002 Parking Facilities: Commercial vehicle facilities, AS/NZS 2890.6-2009 Parking facilities: Off-street parking for people with disabilities so that:-
 - a) The layout and minimum dimensions of any standing area comply with clause 2.4 of AS/NZS 2890.1-2004 such that:
 - (i) car spaces adjacent to walls or fences are increased in width by an additional 300mm;
 - (ii) end spaces are provided with an additional 1m aisle extension; and

- (iii) the location of columns within the carpark complies with figure 5.1 of AS/NZS 2890.1-2004;
- b) At the property boundary the access from the road to a standing area is (as near as practicable) perpendicular to the line of the adjacent road;

Details of compliance with the above requirements must including a Traffic Engineers certification must be submitted to and approved by Council prior to the issue of a Construction Certificate.

108. The removal, replacing or decommissioning of an underground petroleum storage system must comply with the requirements of The Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008, The Protection of the Environment Operations Act 1997 and Australian Standard AS4976-2008: The removal and disposal of underground petroleum storage tanks.

Details demonstrating compliance with the requirements of this condition are to be submitted for approval to the Principal Certifying Authority prior to the issue of any Construction Certificate.

109. An Asbestos Survey prepared by a suitably qualified Occupational Hygienist must be prepared for the premises. The Survey is to incorporate appropriate Asbestos removal and disposal methods in accordance with the requirements of WorkCover NSW, NSW Environmental Planning and Assessment Amendment (Asbestos) Regulation 2009 and NSW Environment Protection Authority, Safe Removal of Asbestos 2nd Edition [NOHSC: 2002 (2005)] and conditions of this consent.

A copy of any WorkCover approval documents is to be included as part of the documentation. Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to any works on site commencing or the issue of the Construction Certificate (whichever occurs first).

110. Planting details must be submitted to and approved by Council prior to the issue of the Construction Certificate. Street trees and trees planted in car parking areas and other hard surfaces must be planted in soil vaults that provide sufficient soil volume for trees to fully establish. WSUD principles must be incorporated to ensure adequate irrigation.

111. The 2 car share spaces are required to be relocated to two of the at grade spaces within the site (not accessible spaces). Amended plans detailing this requirement is to be provided to Council's Development Engineer, prior to the issue of a Construction Certificate. A plan detailing the establishment, management and operation of the car share scheme is required to accompany the amended plans.

SITE WORKS

112. Unless otherwise approved by Council, excavation, demolition, construction or subdivision work must only be permitted during the following hours:
- a) 7:00 am to 6.00 pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm);
 - b) 8:00 am to 1:00 pm on Saturdays with no demolition works occurring during this time; and
 - c) at no time on Sundays or public holidays.

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

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

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

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

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

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

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

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

113. The area surrounding the building work must be reinstated to Council's satisfaction upon completion of the work.
114. The placing of any materials on Council's footpath or roadway is prohibited, without the consent of Council. The placement of waste storage containers in a public place requires Council approval and must comply with Council's Policy - 'Placement of Waste Storage Containers in a Public Place'.
115. All demolition work must be carried out in accordance with the following:
 - a) compliance with the requirements of Australian Standard AS 2601 'The demolition of structures' with specific reference to health and safety of the public, health and safety of the site personnel, protection of adjoining buildings and protection of the immediate environment;
 - b) all works involving the demolition, removal, transport and disposal of asbestos cement must be carried out in accordance with the 'Worksafe Code of Practice for Removal of Asbestos' and the requirements of the WorkCover Authority of NSW and the Department of Environment, Climate Change and Water;
 - c) all building materials arising from the demolition must be disposed of in an approved manner in accordance with Part 2.21 of Marrickville Development Control Plan 2011 – Site Facilities and Waste Management and any applicable requirements of the Department of Environment, Climate Change and Water;
 - d) sanitary drainage, stormwater drainage, water, electricity and telecommunications must be disconnected in accordance with the requirements of the responsible authorities;
 - e) the generation of dust and noise on the site must be controlled;
 - f) the site must be secured to prohibit unauthorised entry;
 - g) suitable provision must be made to clean the wheels and bodies of all vehicles leaving the site to prevent the tracking of debris and soil onto the public way;
 - h) all trucks and vehicles associated with the demolition, including those delivering to or removing material from the site, must only having access to the site during work hours nominated by Council and all loads must be covered;

- i) all vehicles taking materials from the site must be loaded wholly within the property unless otherwise permitted by Council;
 - j) no waste collection skips, spoil, excavation or demolition material from the site must be deposited on the public road, footpath, public place or Council owned property without the approval of Council; and
 - k) the person acting on this consent must ensure that all contractors and sub-contractors associated with the demolition are fully aware of these requirements.
116. The works must be inspected at critical stages of construction, by the PCA or if the PCA agrees, by another certifying authority. The last inspection can only be carried out by the PCA. The critical stages of construction are:
- a) At the commencement of the building work;
 - b) For Class 2, 3 and 4 buildings, prior to covering waterproofing in any wet areas (a minimum of 10% of wet areas within a building);
 - c) Prior to covering any stormwater drainage connections, and after the building work has been completed and prior to any occupation certificate being issued in relation to the building; and
 - d) After the building work has been completed and prior to any Occupation Certificate being issued in relation to the building.

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

117. If it is necessary to excavate below the level of the base of the footings of a building on the adjoining allotments, including a public place such as footways and roadways, the person acting on this consent must ensure that:
- a) At least 7 days' notice is given to the owners of the adjoining land of the intention to excavate below the base of the footings. The notice must include complete details of the work; and
 - b) Any building is preserved and protected from damage.

Where a dilapidation report has not been prepared on any building adjacent to the excavation, the person acting on this consent is responsible for arranging and meeting the cost of a dilapidation report prepared by a suitably qualified person. The report must be submitted to and accepted by the PCA prior to works continuing on site, if the consent of the adjoining property owner can be obtained. Copies of all letter/s that have been sent via registered mail to the adjoining property owner and copies of any responses received must be forwarded to the PCA prior to work commencing.

118. All vehicles carrying materials to, or from the site must have their loads covered with tarpaulins or similar covers.
119. A certificate of survey from a registered land surveyor must be submitted to the PCA upon excavation of the footings and prior to the pouring of the concrete to verify that the structure will not encroach on the allotment boundaries.
120. A clear unobstructed path of travel of not less than 1,000mm must be provided to all exits and paths of travel to exits.
121. Any coolroom which is of sufficient size for a person to enter must have:
- a) a door which is capable of being opened by hand from inside without a key;
 - b) internal lighting controlled only by a switch which is located adjacent to the entrance doorway inside the coolroom;
 - c) an indicated lamp positioned outside the coolroom which is illuminated when the interior lights are switched on; and

- d) an alarm that is -
 - i. located outside but controllable only from within the coolroom; and
 - ii. able to achieve a sound pressure level outside the coolroom of 90dB(A) when measured 3 metres from the sounding device,
 - iii. in accordance with Clause G1.2 of the National Construction Code (Building Code of Australia).
- 122. Fixtures for bathroom and kitchen taps, showerheads, dishwashers, toilet cisterns and urinals must have a minimum 3 Star WELS rating.

 NOTE: Information on the star rating scheme, and all 'star' rated products are available to view at the Water Efficiency Labelling and Standards (WELS) website: www.waterrating.gov.au.
- 123. New or replacement toilets must have a minimum 3 Star WELS rating and being 6/3 litre dual flush or more efficient

 NOTE: Information on the star rating scheme, and all 'star' rated products are available to view at the Water Efficiency Labelling and Standards (WELS) website: www.waterrating.gov.au.
- 124. Any new information revealed during development works that has the potential to alter previous conclusions about site contamination or hazardous materials must be immediately notified to the Council and the Principal Certifying Authority.
- 125. Alignment levels for the site at all pedestrian and vehicular access locations must be set by the approved public domain design. Note: This may require the internal site levels to be adjusted locally at the boundary to ensure that they match the above alignment levels. Failure to comply with this condition will result in vehicular access being denied.
- 126. The applicant must, within fourteen (14) days of notification by Council, execute any and all maintenance works required by Council. In the event that the applicant fails to undertake such work, Council may undertake the required maintenance works, utilising part or all of the maintenance security bond and Council may recover any costs in excess of the security from the applicant.
- 127. Tree protection measures detailed in Section 10 of the Arboricultural Impact Assessment Report (Earthscape Horticultural Services, October 2017) and in Section 4 of Australian Standard *Protection of Trees on Development Sites* AS 4970—2009 must be implemented and complied with for the duration of works including site preparation, demolition, construction and landscaping (except where these conditions permit otherwise). Prohibited activities as detailed in AS 4970—2009 must not be permitted within any designated Tree Protection Zone (TPZ) unless approved under this consent and these conditions. Any reasonable directions in writing by the Project Arborist relating to tree protection must be complied with.
- 128. Trees to be removed must be removed by a practicing arborist who has a minimum qualification of Certificate 3 in Arboriculture, in compliance with the *Safe Work Australia Guide to Managing Risks of Tree Trimming and Removal Work*, July 2016.
- 129. Landscaping of the site must be carried out prior to occupation or use of the premises in accordance with the approved amended landscape plan and must be maintained at all times to Council's satisfaction. Specified tree protection measures must be complied with for all landscaping works, except where these conditions permit otherwise.
- 130. Following completion of construction and prior to the issue of the Occupation Certificate, new trees must be planted as detailed in the approved amended landscape plan.

131. The new trees must be planted in accordance with the following criteria:

- a) The new trees must be located in accordance with the approved amended landscape plan.
- b) The species of trees and planting stock sizes must be as detailed in the approved landscape plan.
- c) The planting stock must comply with the Australian Standard *Tree Stock for Landscape Use* AS 2303-2015.
- d) The new trees must be planted in accordance with the tree planting detail included in the Marrickville Street Tree Master Plan 2014. Note that planting holes for trees must not be excavated deeper than the root ball and that new trees must not be tied to stakes.
- e) The new trees must be planted by a qualified horticulturist or arborist, with a minimum qualification of Certificate 3.
- f) Each new tree must be maintained in a healthy and vigorous condition until it attains a height of 5 metres, from which time it is protected by Council's Development Control Plan (DCP).
- g) If any tree dies or needs to be removed prior to that time it must be replaced with a similar tree in accordance with these conditions at the expense of the applicant.

PRIOR TO THE ISSUE OF A TORRENS TITLE SUBDIVISION CERTIFICATE

132. The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to the issue of a Subdivision Certificate.

- a) A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Make early application for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.
- b) Application must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing > Providers > Lists or telephone 13 20 92.

133. Prior to the issue of a Subdivision Certificate a restrictive covenant under Section 88E of the Conveyancing Act must be created over Lot 53 stating that the site has utilised a Floor Space Ratio (FSR) of 1:1 in the calculation of FSR when related to any future development of that lot. The instrument creating the restriction is to include in it a provision that the restriction may not be revoked or modified without the prior approval of Council and is to be registered at the Land Titles Office prior to the issue of a Subdivision Certificate.

134. The submission of a final survey plan and 5 copies for the subdivision.

135. The payment of the required fee, under Council's adopted fees and charges, for the approval of the final plan under the terms of Section 109J of the Environmental Planning and Assessment Act.

136. All instruments under Section 88B of the Conveyancing Act used to create positive covenants, easements or right-of-ways must include the condition that such easements or right-of-ways may not be varied, modified or released without the prior approval of Inner West Council.

PRIOR TO OCCUPATION OF THE BUILDING FOR STAGE 1 OF THE DEVELOPMENT (North & South Hub Buildings) which comprises site preparation works including demolition of existing structures and removal of vegetation; construction of 2 new buildings incorporating ground level food and drink tenancies, studio spaces, upper level offices and car parking being the 3 storey North Hub building and 4 storey South Hub building

137. You must obtain an Occupation Certificate from your PCA prior to you occupy or use the building. The PCA must notify the Council of the determination of the Occupation Certificate and forward the following documents to Council within 2 days of the date of the Certificate being determined:
- a) A copy of the determination;
 - b) Copies of any documents that were lodged with the Occupation Certificate application;
 - c) A copy of Occupation Certificate, if it was issued;
 - d) A copy of the record of all critical stage inspections and any other inspection required by the PCA;
 - e) A copy of any missed inspections; and
 - f) A copy of any compliance certificate and any other documentary evidence relied upon in issuing the Occupation Certificate.
138. Occupation of the building must not be permitted until such time as:
- a) All preconditions to the issue of an Occupation Certificate specified in this development consent have been met;
 - b) The building owner obtains a Final Fire Safety Certificate certifying that the fire safety measures have been installed in the building and perform to the performance standards listed in the Fire Safety Schedule; and
 - c) An Occupation Certificate has been issued.
139. The owner of the premises, as soon as practicable after the Final Fire Safety Certificate is issued, must:
- a) Forward a copy of the Final Safety Certificate and the current Fire Safety Schedule to the Commissioner of Fire and Rescue New South Wales and the Council; and
 - b) Display a copy of the Final Safety Certificate and Fire Safety Schedule in a prominent position in the building (i.e. adjacent the entry or any fire indicator panel).
- Every 12 months after the Final Fire Safety Certificate is issued the owner must obtain an Annual Fire Safety Certificate for each of the Fire Safety Measures listed in the Schedule. The Annual Fire Safety Certificate must be forwarded to the Commissioner and the Council and displayed in a prominent position in the building.
140. The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.
- a) A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Make early application for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.
 - b) Application must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing > Providers > Lists or telephone 13 20 92.
141. a) Upon completion of the required noise attenuation measures referred to in the "Prior to the Issue of a Construction Certificate" Section of this Determination, and prior to the occupation of the development a report must be prepared and submitted to the Certifying Authority's satisfaction by an accredited Acoustics Consultant certifying that the final construction meets AS2021-2015 as set down in the subject condition of this consent. Such report must include external and internal noise levels to ensure that the external noise levels during the test are representative of the typical maximum levels that may occur at this development; and

- b) Where it is found that internal noise levels are greater than the required dB(A) rating due to faulty workmanship or the like, necessary corrective measures must be carried out and a further certificate being prepared and submitted to Council in accordance with the requirements as set down in Part a) of this condition.
142. Prior to the issue of an Occupation Certificate, Council must be notified that the premises are being used for the preparation, manufacture or storage of food for sale so that the premises can be registered on Council's food premises database.
143. Prior to the commencement of food handling operations, the food business operator must notify the NSW Food Authority. You may notify the NSW Food Authority via the Internet on www.foodnotify.nsw.gov.au or by contacting the Council for a notification form.
144. All works required to be carried out in connection with drainage, crossings, alterations to kerb and guttering, footpaths and roads resulting from the development must be completed prior to the issue of an Occupation Certificate. Works must be in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications".
145. All public domain works required to be carried out in connection with drainage, crossings, alterations to kerb and guttering, footpaths and roads resulting from the development must be completed prior to the issue of an Occupation Certificate. Works must be in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications".
146. Heavy duty concrete vehicle crossings, in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" must be constructed at the vehicular access locations prior to the issue of the Occupation Certificate and at no cost to Council.
147. All redundant vehicular crossings to the site must be removed and replaced by kerb and gutter and footpath paving in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" prior to the issue of the Occupation Certificate and at no cost to Council. Where the kerb in the vicinity of the redundant crossing is predominately stone (as determined by Council's Engineer) the replacement kerb must also be in stone.
148. Encroachments onto Council's road or footpath of any service pipes, sewer vents, boundary traps, downpipes, gutters, stairs, doors, gates, garage tilt up panel doors or any structure whatsoever must not be permitted. Any encroachments on to Council road or footpath resulting from the building works will be required to be removed prior to the issue of the Occupation Certificate.
149. You are advised that Council has not undertaken a search of existing or proposed utility services adjacent to the site in determining this application. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development must be at no cost to Council and undertaken prior to the issue of an Occupation Certificate.
150. The existing stone kerb adjacent to the site is of local heritage value and is to be preserved at no cost to Council. Any damage to the stone kerb will require the replacement of the damaged individual stone units prior to the issue of the Occupation Certificate. Please note any stormwater outlets through sandstone kerbs must be carefully core drilled. Non-compliance with this condition will result in loss of your security deposit. Any sandstone approved to be removed must be transported to Council.

151. The existing unsatisfactory road pavements in Brompton Street (full width) and Rich Street (half width) must be repaired using a 40mm Mill and Fill treatment width for the full frontage of the site. Any failed section must be boxed out and replaced with deeplift asphalt prior to the Mill and Fill treatment.
152. Prior to the issue of the Occupation Certificate written verification from a suitably qualified competent person, stating that all stormwater drainage and quality measures have been constructed in accordance with the approved plans must be submitted to and accepted by Council. In addition, full works-as-executed plans, prepared and signed by a registered surveyor, must be submitted to Council. These plans must include levels for all drainage structures, buildings (including floor levels), finished ground levels and pavement surface levels.
153. A Positive Covenant under Section 88B or 88E, whichever is relevant to the subject development, of the Conveyancing Act, must be created on the title of the property detailing the following (at the Applicant's full cost):
- surface flow path;
 - finished pavement and ground levels;
 - prevent the erection of any structures or fencing;
 - on-site stormwater detention and/or retention system.

The wording in the Instrument must be submitted to and approved by the Inner West Council prior to lodgement at the Land Titles Office and prior to the release of the Occupation Certificate (a typical document is available from Council's Development Assessment Engineer). The Instrument must be registered prior to the completion of development.

The following documents must be submitted to Council as part of the Positive Covenant process and requirements, for the site OSD/OSR system:

i) Work-As-Executed Plans

A "Work-as-Executed" plan prepared and signed by a registered surveyor must be submitted to the Inner West Council's Development Assessment Engineer at the completion of the works showing the location of the detention basin with finished surface levels, contours at 0.2 metre intervals and volume of storage available. Also the outlet pipe from the detention basin to its connection to Council's/Sydney Water's drainage system, must be shown together with the following information:

- location;
- pipe diameter;
- gradient;
- pipe material i.e. PVC or EW etc;
- orifice size;
- trash screen at orifice;
- emergency overflow dimensions and RL;
- all buildings (including floor levels) and finished ground and pavement surface levels.

ii) Engineer's Certificate

A qualified practising Civil Engineer must certify on the completion of drainage works in respect of:

- the soundness of the storage structure;
- the capacity of the detention storage;
- the emergency overflow system being in place;

- the works being constructed in accordance with the Development Application Consent and Council's Stormwater Management DCP/Code;
- the freeboard from maximum water surface level to the finished floor and garage levels are at or above the minimum required in Council's Stormwater Management DCP/Code;
- basement car park pumps are class one zone two.

iii) Restriction-As-To-User

A "Restriction-as-to-User" must be placed on the title of the subject property to indicate the location and dimensions of the detention area/overland flow paths. This is to ensure that works, which could affect the function of the stormwater detention system, must not be carried out without the prior consent in writing of the Council.

Such restrictions must not be released, varied or modified without the consent of the Council.

A typical document is available from Council's Development Assessment Engineer.

iv) A Maintenance Schedule

A typical document is available from Council's Development Assessment Engineer.

154. Unrestricted Public rights-of-way must be created for the full length and width of the internal private road network including the footpaths prior to the issue of the Occupation Certificate.
155. Positive covenants must be created over the public rights-of-way (private roads) to ensure that the private roads (including the bridges) are adequately maintained during their lifetime. The maintenance must include the provision of suitable lighting for pedestrians and vehicles respectively.
156. All works required to be undertaken on public roads must be designed and constructed in accordance with Council's standard plans and specifications. The works must be supervised and certified by a qualified civil engineer who is listed under the Institution of Engineers, Australia "National Professional Engineers Register" (NPER) and must state that the works have been constructed in accordance with the approved plans and specifications prior to the issue of the Occupation Certificate.
- Video inspection (CCTV) must be carried out of completed stormwater drainage works that are to revert to Council and a copy provided to Council to support the certification of those works.
- In addition, full works-as-executed plans in PDF or CAD format (dwg or dxf files), prepared and signed by a registered surveyor, must be submitted to Council upon completion of the works.
157. The existing overhead power cables along all Road frontages of the site must be relocated underground with appropriate street lighting and new steel standard poles being installed at no cost to Council and prior to the issue of an Occupation Certificate. The street lighting must be designed in accordance with Australian Standard AS1158-Road Lighting and the Network Standards of Ausgrid and must meet lighting category required by RMS. Plans must be submitted to and approved by Council prior to submission to Ausgrid for implementation.
158. The applicant must provide security, in a manner satisfactory to Council for the proper maintenance of the public domain works in an amount of \$40,000 for a period of twelve (12) months from the date of completion of the public domain works as surety for the proper maintenance of these works.

159. A second Dilapidation Report addressing the public infrastructure identified in the pre-work dilapidation report including a photographic survey and structural condition, must be submitted after the completion of works. A copy of this Dilapidation Report must be lodged with Council and the Principal Certifying Authority prior to the issue of an Occupation Certificate.

Any damage identified in the Dilapidation Report must be fully rectified by the applicant or owner at no cost to Council prior to the issue of an Occupation Certificate.

160. Prior to issue of the Occupation Certificate the person acting on this consent must obtain from Council a compliance Certificate(s) stating that all Road, Footpath, drainage and Public Domain Works on Council property required to be undertaken as a result of this development have been completed satisfactorily and in accordance with Council approved plans and specifications.
161. The vehicular crossing and/or footpath works are required to be constructed by your own contractor. You or your contractor must complete an application for 'Construction of Vehicle Crossing and Public Domain Works' form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, prior to commencement of works.
162. Prior to the issue of an Occupation Certificate, a street number and identifier of separate occupancies (if applicable) must be clearly displayed in a readily visible location (numbers having a height of not less than 75mm). If any new street numbers or change to street numbers (this includes unit and shop numbers) are required they must have the prior approval of Council prior to being displayed.
163. Prior to the issue of any interim / final Occupation Certificate, certification from an appropriately qualified environmental consultant is to be provided stipulating that the requirements of the following contamination reports:

Title	Prepared by	Date
Remediation Action Plan	Aargus Pty Ltd	4 July 2018

have been complied with throughout excavation, demolition & development work stages. The certification must also include:

- A validation and site monitoring report prepared in accordance with relevant guidelines issued under the Contaminated Land Management Act 1997 must be submitted to the Council within one month from completion of the remediation work.
- A detailed survey of all sites used for landfill disposal must be prepared within one month from completion of the remediation work, and submitted to Council.
- Identification of the extent and depth of all fill material in relation to existing roadways and buildings. The survey must also include a detailed survey of all site used as landfill disposal pits, identifying boundaries and depth of disposal pits in relation to existing roadways and buildings.

Details demonstrating compliance with the requirements of this condition is to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any interim / final occupation certificate.

164. Any soil proposed to be disposed off site must be classified, removed and disposed of in accordance with the EPA Environmental Guidelines; Assessment, Classification and Management of Liquid and Non-Liquid Wastes 1999 and the Protection of the Environmental Operations Act 1997.

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

165. A validation report prepared by a suitably qualified and experienced person must be submitted to Council. The report is to confirm that the underground petroleum storage system has been removed, replaced or decommissioned in accordance with The Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008, The Protection Environment Operations Act 1997 and Australian Standard AS4976-2008: The removal and disposal of underground petroleum storage tanks.

Details demonstrating compliance with the requirements of this condition is to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any interim / final occupation certificate.

166. A validation report must be prepared by a suitably qualified Environmental Consultant and be submitted to Council upon completion of remediation works and prior to the site being occupied. The validation report must be prepared in accordance with relevant NSW Environment Protection Authority guidelines, including the guidelines 'Consultants Reporting on Contaminated Sites' and must include :

- Description and documentation of all works performed
- Results of validation testing and monitoring
- Validation results if any imported fill was transferred to site
- Demonstrate how all agreed clean-up criteria and relevant regulations have been satisfied

Confirmation and justification as to the suitability of the site for the proposed use and the potential for off site migration of any residual contaminants.

An Environmental Management Plan (EMP) must be prepared for the approved development.

The plan must be prepared by a suitably qualified person and must be to the satisfaction of Council and must address:

Risk assessment of all Environmental Aspects and impacts to site and other potentially impacted properties

The impacts must at minimum consider the following areas:

- Hazardous Substances
- Water
- Air
- Noise
- Vibration
- Waste & Litter
- Land
- Community
- Environmental Protection objectives and control strategies
- Environmental conditions using measurable indicators and standards
- Emergency Response Plan
- Environmental monitoring and reporting plan

The plan must be submitted to Council and correspondence obtained stating that the plan satisfies the condition obtained by Council, prior to the release of an Occupation Certificate.

167. The project arborist must certify in writing to the Principal Certifying Authority (PCA) prior to the issue of the Occupation Certificate that the conditions of consent relating to tree removal, tree protection and tree planting have been complied with and that the protected trees have not been damaged or, if the recommendations have not been complied with, detail the extent and nature of the departure from the conditions. The Principal Certifying Authority must report breaches of the conditions to Inner West Council.
168. The landscaping of the site must be carried out prior to occupation or use of the premises in accordance with the approved details and must be maintained at all times to Council's satisfaction.
169. The use and operation of the car share spaces must be managed by the owner or contracted by the owner to a car share operator to the satisfaction of Council. The use and operation of the car share space must be accommodated in the titling and management of the development, including covenants, building or strata management statement, by laws and other instruments before the issue of an Occupation Certificate, and must provide for:
 - a) Free use of the car share space;
 - b) The car share vehicle shall be a small car as defined by AS2890.1:2004;
 - c) Public access at all times to the car share vehicle; and
 - d) Insurances, including public liability.

PRIOR TO OCCUPATION OF THE BUILDING STAGE 2 OF THE DEVELOPMENT (Marker Building) being the construction of a 5 storey Marker Building with ground floor food and drink premises and upper level offices with a roof terrace at level 6

170. You must obtain an Occupation Certificate from your PCA prior to you occupy or use the building. The PCA must notify the Council of the determination of the Occupation Certificate and forward the following documents to Council within 2 days of the date of the Certificate being determined:
 - a) A copy of the determination;
 - b) Copies of any documents that were lodged with the Occupation Certificate application;
 - c) A copy of Occupation Certificate, if it was issued;
 - d) A copy of the record of all critical stage inspections and any other inspection required by the PCA;
 - e) A copy of any missed inspections; and
 - f) A copy of any compliance certificate and any other documentary evidence relied upon in issuing the Occupation Certificate.
171. Occupation of the building must not be permitted until such time as:
 - a) All preconditions to the issue of an Occupation Certificate specified in this development consent have been met;
 - b) The building owner obtains a Final Fire Safety Certificate certifying that the fire safety measures have been installed in the building and perform to the performance standards listed in the Fire Safety Schedule; and
 - c) An Occupation Certificate has been issued.
172. The owner of the premises, as soon as practicable after the Final Fire Safety Certificate is issued, must:
 - a) Forward a copy of the Final Safety Certificate and the current Fire Safety Schedule to the Commissioner of Fire and Rescue New South Wales and the Council; and

- b) Display a copy of the Final Safety Certificate and Fire Safety Schedule in a prominent position in the building (i.e. adjacent the entry or any fire indicator panel).

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

173. The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

- a) A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Make early application for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.
- b) Application must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing > Providers > Lists or telephone 13 20 92.

174. a) Upon completion of the required noise attenuation measures referred to in the "Prior to the Issue of a Construction Certificate" Section of this Determination, and prior to the occupation of the development a report must be prepared and submitted to the Certifying Authority's satisfaction by an accredited Acoustics Consultant certifying that the final construction meets AS2021-2015 as set down in the subject condition of this consent. Such report must include external and internal noise levels to ensure that the external noise levels during the test are representative of the typical maximum levels that may occur at this development; and

- b) Where it is found that internal noise levels are greater than the required dB(A) rating due to faulty workmanship or the like, necessary corrective measures must be carried out and a further certificate being prepared and submitted to Council in accordance with the requirements as set down in Part a) of this condition.

175. Prior to the issue of an Occupation Certificate, Council must be notified that the premises are being used for the preparation, manufacture or storage of food for sale so that the premises can be registered on Council's food premises database.

176. Prior to the commencement of food handling operations, the food business operator must notify the NSW Food Authority. You may notify the NSW Food Authority via the Internet on www.foodnotify.nsw.gov.au or by contacting the Council for a notification form.

177. All works required to be carried out in connection with drainage, crossings, alterations to kerb and guttering, footpaths and roads resulting from the development must be completed prior to the issue of an Occupation Certificate. Works must be in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications".

178. All public domain works required to be carried out in connection with drainage, crossings, alterations to kerb and guttering, footpaths and roads resulting from the development must be completed prior to the issue of an Occupation Certificate. Works must be in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications".

179. Heavy duty concrete vehicle crossings, in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" must be constructed at the vehicular access locations prior to the issue of the Occupation Certificate and at no cost to Council.

180. All redundant vehicular crossings to the site must be removed and replaced by kerb and gutter and footpath paving in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" prior to the issue of the Occupation Certificate and at no cost to Council. Where the kerb in the vicinity of the redundant crossing is predominately stone (as determined by Council's Engineer) the replacement kerb must also be in stone.
181. Encroachments onto Council's road or footpath of any service pipes, sewer vents, boundary traps, downpipes, gutters, stairs, doors, gates, garage tilt up panel doors or any structure whatsoever must not be permitted. Any encroachments on to Council road or footpath resulting from the building works will be required to be removed prior to the issue of the Occupation Certificate.
182. You are advised that Council has not undertaken a search of existing or proposed utility services adjacent to the site in determining this application. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development must be at no cost to Council and undertaken prior to the issue of an Occupation Certificate.
183. The existing stone kerb adjacent to the site is of local heritage value and is to be preserved at no cost to Council. Any damage to the stone kerb will require the replacement of the damaged individual stone units prior to the issue of the Occupation Certificate. Please note any stormwater outlets through sandstone kerbs must be carefully core drilled. Non-compliance with this condition will result in loss of your security deposit. Any sandstone approved to be removed must be transported to Council.
184. The existing unsatisfactory road pavements in Brompton Street (full width) and Rich Street (half width) must be repaired using a 40mm Mill and Fill treatment width for the full frontage of the site. Any failed section must be boxed out and replaced with deeplift asphalt prior to the Mill and Fill treatment.
185. Prior to the issue of the Occupation Certificate written verification from a suitably qualified competent person, stating that all stormwater drainage and quality measures have been constructed in accordance with the approved plans must be submitted to and accepted by Council. In addition, full works-as-executed plans, prepared and signed by a registered surveyor, must be submitted to Council. These plans must include levels for all drainage structures, buildings (including floor levels), finished ground levels and pavement surface levels.
186. A Positive Covenant under Section 88B or 88E, whichever is relevant to the subject development, of the Conveyancing Act, must be created on the title of the property detailing the following (at the Applicant's full cost):
- a) surface flow path;
 - b) finished pavement and ground levels;
 - c) prevent the erection of any structures or fencing;
 - d) on-site stormwater detention and/or retention system.

The wording in the Instrument must be submitted to and approved by the Inner West Council prior to lodgement at the Land Titles Office and prior to the release of the Occupation Certificate (a typical document is available from Council's Development Assessment Engineer). The Instrument must be registered prior to the completion of development.

The following documents must be submitted to Council as part of the Positive Covenant process and requirements, for the site OSD/OSR system:

i) Work-As-Executed Plans

A "Work-as-Executed" plan prepared and signed by a registered surveyor must be submitted to the Inner West Council's Development Assessment Engineer at the completion of the works showing the location of the detention basin with finished surface levels, contours at 0.2 metre intervals and volume of storage available. Also the outlet pipe from the detention basin to its connection to Council's/Sydney Water's drainage system, must be shown together with the following information:

- location;
- pipe diameter;
- gradient;
- pipe material i.e. PVC or EW etc;
- orifice size;
- trash screen at orifice;
- emergency overflow dimensions and RL;
- all buildings (including floor levels) and finished ground and pavement surface levels.

ii) Engineer's Certificate

A qualified practising Civil Engineer must certify on the completion of drainage works in respect of:

- the soundness of the storage structure;
- the capacity of the detention storage;
- the emergency overflow system being in place;
- the works being constructed in accordance with the Development Application Consent and Council's Stormwater Management DCP/Code;
- the freeboard from maximum water surface level to the finished floor and garage levels are at or above the minimum required in Council's Stormwater Management DCP/Code;
- basement car park pumps are class one zone two.

iii) Restriction-As-To-User

A "Restriction-as-to-User" must be placed on the title of the subject property to indicate the location and dimensions of the detention area/overland flow paths. This is to ensure that works, which could affect the function of the stormwater detention system, must not be carried out without the prior consent in writing of the Council.

Such restrictions must not be released, varied or modified without the consent of the Council.

A typical document is available from Council's Development Assessment Engineer.

iv) A Maintenance Schedule

A typical document is available from Council's Development Assessment Engineer.

187. Positive covenants must be created over the public rights-of-way (private roads) to ensure that the private roads (including the bridges) are adequately maintained during their lifetime. The maintenance must include the provision of suitable lighting for pedestrians and vehicles respectively.
188. All works required to be undertaken on public roads must be designed and constructed in accordance with Council's standard plans and specifications. The works must be supervised

and certified by a qualified civil engineer who is listed under the Institution of Engineers, Australia "National Professional Engineers Register" (NPER) and must state that the works have been constructed in accordance with the approved plans and specifications prior to the issue of the Occupation Certificate.

Video inspection (CCTV) must be carried out of completed stormwater drainage works that are to revert to Council and a copy provided to Council to support the certification of those works.

In addition, full works-as-executed plans in PDF or CAD format (dwg or dxf files), prepared and signed by a registered surveyor, must be submitted to Council upon completion of the works.

189. The existing overhead power cables along all Road frontages of the site must be relocated underground with appropriate street lighting and new steel standard poles being installed at no cost to Council and prior to the issue of an Occupation Certificate. The street lighting must be designed in accordance with Australian Standard AS1158-Road Lighting and the Network Standards of Ausgrid and must meet lighting category required by RMS. Plans must be submitted to and approved by Council prior to submission to Ausgrid for implementation.
190. The applicant must provide security, in a manner satisfactory to Council for the proper maintenance of the public domain works in an amount of \$40,000 for a period of twelve (12) months from the date of completion of the public domain works as surety for the proper maintenance of these works.
191. A second Dilapidation Report addressing the public infrastructure identified in the pre-work dilapidation report including a photographic survey and structural condition, must be submitted after the completion of works. A copy of this Dilapidation Report must be lodged with Council and the Principal Certifying Authority prior to the issue of an Occupation Certificate.

Any damage identified in the Dilapidation Report must be fully rectified by the applicant or owner at no cost to Council prior to the issue of an Occupation Certificate.

192. Prior to issue of the Occupation Certificate the person acting on this consent must obtain from Council a compliance Certificate(s) stating that all Road, Footpath, drainage and Public Domain Works on Council property required to be undertaken as a result of this development have been completed satisfactorily and in accordance with Council approved plans and specifications.
193. The vehicular crossing and/or footpath works are required to be constructed by your own contractor. You or your contractor must complete an application for 'Construction of Vehicle Crossing and Public Domain Works' form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, prior to commencement of works.
194. Prior to the issue of an Occupation Certificate, a street number and identifier of separate occupancies (if applicable) must be clearly displayed in a readily visible location (numbers having a height of not less than 75mm). If any new street numbers or change to street numbers (this includes unit and shop numbers) are required they must have the prior approval of Council prior to being displayed.
195. Prior to the issue of any interim / final Occupation Certificate, certification from an appropriately qualified environmental consultant is to be provided stipulating that the requirements of the following contamination reports:

Title	Prepared by	Date
Remediation Action Plan	Aargus Pty Ltd	4 July 2018

have been complied with throughout excavation, demolition & development work stages. The certification must also include:

- a) A validation and site monitoring report prepared in accordance with relevant guidelines issued under the Contaminated Land Management Act 1997 must be submitted to the Council within one month from completion of the remediation work.
- b) A detailed survey of all sites used for landfill disposal must be prepared within one month from completion of the remediation work, and submitted to Council.
- c) Identification of the extent and depth of all fill material in relation to existing roadways and buildings. The survey must also include a detailed survey of all site used as landfill disposal pits, identifying boundaries and depth of disposal pits in relation to existing roadways and buildings.

Details demonstrating compliance with the requirements of this condition is to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any interim / final occupation certificate.

196. Any soil proposed to be disposed off site must be classified, removed and disposed of in accordance with the EPA Environmental Guidelines; Assessment, Classification and Management of Liquid and Non-Liquid Wastes 1999 and the Protection of the Environmental Operations Act 1997.

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

197. A validation report prepared by a suitably qualified and experienced person must be submitted to Council. The report is to confirm that the underground petroleum storage system has been removed, replace or decommissioned in accordance with The Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008, The Protection Environment Operations Act 1997 and Australian Standard AS4976-2008: The removal and disposal of underground petroleum storage tanks.

Details demonstrating compliance with the requirements of this condition is to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any interim / final occupation certificate.

198. A validation report must be prepared by a suitably qualified Environmental Consultant and be submitted to Council upon completion of remediation works and prior to the site being occupied. The validation report must be prepared in accordance with relevant NSW Environment Protection Authority guidelines, including the guidelines 'Consultants Reporting on Contaminated Sites' and must include :

- Description and documentation of all works performed
- Results of validation testing and monitoring
- Validation results if any imported fill was transferred to site
- Demonstrate how all agreed clean-up criteria and relevant regulations have been satisfied

Confirmation and justification as to the suitability of the site for the proposed use and the potential for off site migration of any residual contaminants.

An Environmental Management Plan (EMP) must be prepared for the approved development.

The plan must be prepared by a suitably qualified person and must be to the satisfaction of Council and must address:

Risk assessment of all Environmental Aspects and impacts to site and other potentially impacted properties

The impacts must at minimum consider the following areas:

- Hazardous Substances
- Water
- Air
- Noise
- Vibration
- Waste & Litter
- Land
- Community
- Environmental Protection objectives and control strategies
- Environmental conditions using measurable indicators and standards
- Emergency Response Plan
- Environmental monitoring and reporting plan

The plan must be submitted to Council and correspondence obtained stating that the plan satisfies the condition obtained by Council, prior to the release of an Occupation Certificate.

199. The project arborist must certify in writing to the Principal Certifying Authority (PCA) prior to the issue of the Occupation Certificate that the conditions of consent relating to tree removal, tree protection and tree planting have been complied with and that the protected trees have not been damaged or, if the recommendations have not been complied with, detail the extent and nature of the departure from the conditions. The Principal Certifying Authority must report breaches of the conditions to Inner West Council.
200. The landscaping of the site must be carried out prior to occupation or use of the premises in accordance with the approved details and must be maintained at all times to Council's satisfaction.
201. The use and operation of the car share spaces must be managed by the owner or contracted by the owner to a car share operator to the satisfaction of Council. The use and operation of the car share space must be accommodated in the titling and management of the development, including covenants, building or strata management statement, by laws and other instruments before the issue of an Occupation Certificate, and must provide for:
 - e) Free use of the car share space;
 - f) The car share vehicle shall be a small car as defined by AS2890.1:2004;
 - g) Public access at all times to the car share vehicle; and
 - h) Insurances, including public liability.

ADVISORY NOTES

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

- A complete assessment of the application under the provisions of the National Construction Code (Building Code of Australia) has not been carried out.
- The approved plans must be submitted to the Customer Centre of any office of Sydney Water prior to the commencement of any work to ensure that the proposed work meets the requirements of Sydney Water. Failure to submit those plans prior to commencing work may result in the demolition of the structure if found not to comply with the requirements of Sydney Water.
- The vehicular crossing and/or footpath works are required to be constructed by your own contractor. You or your contractor must complete an application for 'Construction of a Vehicular Crossing & Civil Works' form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, prior to commencement of works.
- Buildings built or painted prior to the 1970's may have surfaces coated with lead-based paints. Recent evidence indicates that lead is harmful to people at levels previously thought safe. Children particularly have been found to be susceptible to lead poisoning and cases of acute child lead poisonings in Sydney have been attributed to home renovation activities involving the removal of lead based paints. Precautions should therefore be taken if painted surfaces are to be removed or sanded as part of the proposed building alterations, particularly where children or pregnant women may be exposed, and work areas should be thoroughly cleaned prior to occupation of the room or building.
- Contact "Dial Prior to You Dig" prior to commencing any building activity on the site.
- Useful Contacts

BASIX Information ☎ 1300 650 908 weekdays 2:00pm - 5:00pm
www.basix.nsw.gov.au

Department of Fair Trading ☎ 13 32 20
www.fairtrading.nsw.gov.au
Enquiries relating to Owner Builder Permits and Home Warranty Insurance.

Dial Prior to You Dig ☎ 1100
www.dialprior.toyoudig.com.au

Landcom ☎ 9841 8660
To purchase copies of Volume One of "Soils and Construction"

Long Service Payments Corporation ☎ 131441
www.lspc.nsw.gov.au

NSW Food Authority ☎ 1300 552 406
www.foodnotify.nsw.gov.au

NSW Government
www.nsw.gov.au/fibro
www.diySAFE.nsw.gov.au
Information on asbestos and safe work practices.

NSW Office of Environment and Heritage ☎ 131 555
www.environment.nsw.gov.au

**Sydney Eastern City Planning Panel
1 – 9 RICH STREET, MARRICKVILLE**

Sydney Water	 13 20 92 www.sydneywater.com.au
Waste Service - SITA Environmental Solutions	 1300 651 116 www.wasteservice.nsw.gov.au
Water Efficiency Labelling and Standards (WELS)	www.waterrating.gov.au
WorkCover Authority of NSW	 13 10 50 www.workcover.nsw.gov.au Enquiries relating to work safety and asbestos removal and disposal.

SUMMARY

This report concerns the initial design package and subsequent amended plans and supporting documentation submitted to Council on 7 and 31 May 2019, respectively for an application to construct a staged commercial development at 1-9 Rich Street, Marrickville. Stage 1 of the development comprises site preparation works including demolition of existing structures and removal of vegetation; construction of 2 new buildings incorporating ground level food and drink tenancies, studio spaces, upper level offices and car parking being the 3 storey North Hub building and 4 storey South Hub building, site landscaping including creation of a new publicly accessible open space, pedestrian connections and landscaping and subdivision of the site into 3 allotments. Stage 2 of the proposal comprises the construction of a 5 storey Marker Building with ground floor food and drink premises and upper level offices with a roof terrace at level 6.

The amended plans and additional information were submitted in response to the resolution of the Sydney Eastern City Planning Panel (SECPP) at its meeting on 4 April 2019.

The application is referred to the SECPP for determination.

1. Background

A report on an application to construct a staged commercial development on the site; with stage 1 of the development comprising site preparation works including demolition of existing structures and removal of vegetation; construction of 2 new buildings incorporating ground level food and drink tenancies, studio spaces, upper level offices and car parking being the 3 storey North Hub building and 4 storey South Hub building, site landscaping including creation of a new publicly accessible open space, pedestrian connections and landscaping and subdivision of the site into 3 allotments, with Stage 2 of the proposal comprising the construction of a 5 storey Marker Building with ground floor food and drink premises and upper level offices with a roof terrace at level 6 was considered by the SECPP at its meeting on 4 April 2019.

The Panel resolved unanimously to approve part of the application pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979 and to defer the determination of the Marker building component of the application for the following reasons:

"The Panel accepted the recommendation of the assessment report to approve the application, except in respect of the Marker Building, the approval of which is deferred. The exclusion of the Marker Building from the approval at this time is under s 4.16(4)(b) of the EPA Act 1979. The reason for the exclusion is that the assessment report questioned the design quality of the Marker Building, fell short of making a recommendation in respect of the design quality and "left the decision to determine this element to the discretion of the consent authority".

As for the entirety of the proposal, the Panel agrees with the assessment report that it is an appropriate response to the planning of its locality in which it is the first major renewal project.

As for the Marker Building, the Panel notes that, while it has been before the Council's Architectural Excellence Panel (AEP) five times, it has not received that Panel's endorsement. This Panel (City East Planning panel) requests the applicant to submit a revised design to the AEP, which responds to the comments of the AEP dated 25 February 2019. Above all, the applicant should respond to point 5 of the AEP minutes, which call into question the use of a similar architectural expression on all facades and the absence of self-shading elements. The Panel will reconsider the approval of the Marker Building when it has been redesigned and that new design has received the endorsement of the AEP.

The applicant is to submit amended plans to Council within eight weeks of the date of this determination in respect of the Marker building. The Council is to refer the amended plans to the AEP for consideration and advice upon receipt of the plans. The Council is to prepare an assessment report on the amended plans within four weeks of receipt of advice from the AEP and refer the plans and assessment report to the Panel for determination with respect to the marker building.

In the event the applicant advises the Council that it will not submit amended plans the Council to advise the panel and the panel be reconvened electronically to determine the application as it relates to the Marker building."

2. Amended Plans

On 14 May 2019, Council's Architectural Excellence Panel (AEP), met with the applicant to discuss alternative façade designs for the Marker building that were submitted to Council on 7 May 2019. The proposed design alternatives are shown below:



Image 1: Preference 1



Image 2: Preference 1 – detailing



Image 3: Preference 2



Image 4: Preference 3



Image 5: Preference 4

Following on from the meeting the AEP provided the following comments in relation to the design options provided by the applicant in response to the SECPP deferral of the Marker Building.

"The Panel notes that:

- 1. Each of the revised options responds to the Panel's repeated concern for the 'flimsiness' of the precast concrete proposal.*
- 2. Three of the four alternatives (applicant preferences 1-3) have abandoned precast concrete in favour of brick, and the fourth scheme (applicant preference 4) uses a concrete frame with 'standing seam' metal and glass infill panels set behind and at an angle to the structural frame.*
- 3. Three of the alternatives depart from the earlier arched expression, while one alternative retains a similar expression to the earlier iterations.*
- 4. While noting that preference 4 shows a visually interesting design that could be supported, due to the brick character of the wider development and context the Panel supports a well-resolved and detailed brick solution.*
- 5. The Panel notes that each of the brickwork alternatives appear to adopt traditional bricklaying to achieve a more substantial character and expression, including in the depth of reveal to the colonnade.*
- 6. The use of dry-pressed brickwork provides the opportunity to create a link with the brickwork buildings in the local context, and to form a 'familial' relationship with the other buildings proposed as part of the development.*
- 7. The Panel notes the previous co-planar architectural expression to the façade has been amended by the creation of deeper reveals to windows, including the offset of the glazing line to the entry lobby, and the addition of solar shading.*
- 8. The Panel notes there is the opportunity to add fine grain and enrichment to the design through the design detailing, for example by the use of brick details (eg. soldier courses) and through fenestration patterns.*
- 9. The Panel recommends that the applicant's preferred scheme (Preference 1) be further developed and resolved, including a schedule of finishes and large scale (1:20) drawings of indicative elevations and sections showing important architectural detailing and key façade junctions such as typical rectangular window and arch reveal, typical detail of window protruding over the parapet, typical awning section, brickwork detailing and detail of colonnade. The intention is to confirm the design intent.*

The AEP considers that the applicant's preferred scheme (Preference 1), subject to design development and detailing as discussed above, is capable of meeting the design principles previously expressed by the Panel, to create a well-mannered building which makes a positive architectural contribution to the urban domain."

On 31 May 2019, the applicant submitted amended plans that responded to the comments above from the AEP and presented a full architectural set of drawings for preference 1 as recommended by the AEP in line with the applicant's preferred choice.

The relevant amended plans are reproduced below:



Image 6: Elevation Plans for Marker Building

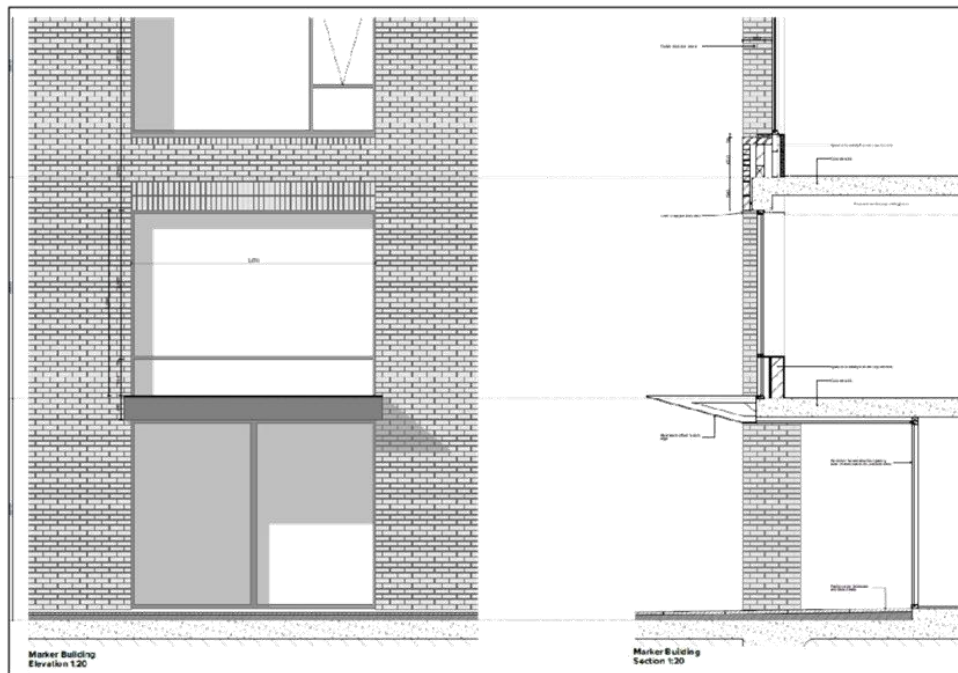


Image 7: Marker Building Section Detail

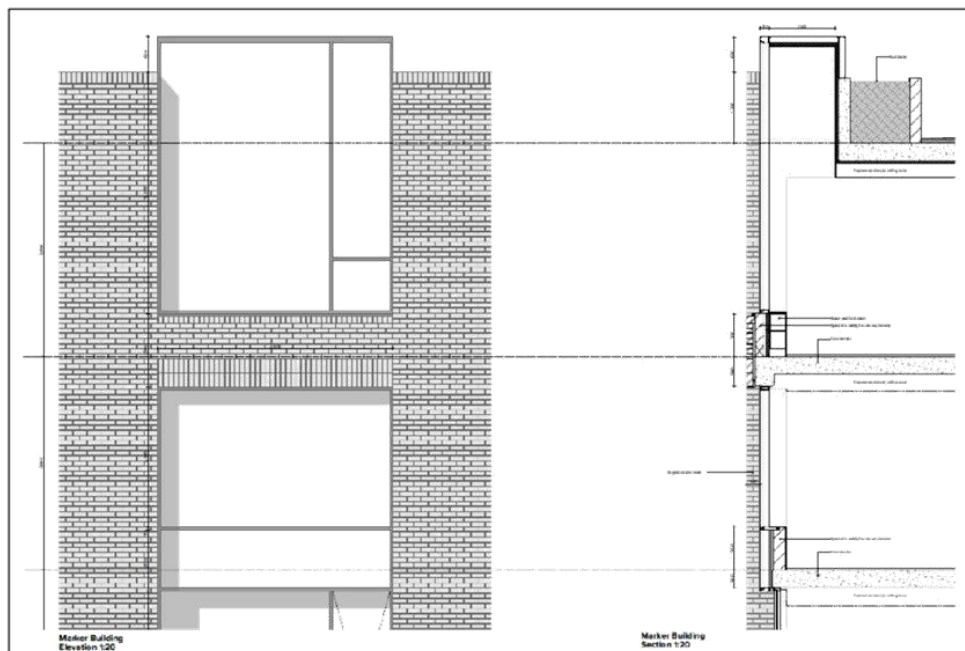


Image 8: Marker Building Section Detail



Image 9: Perspective – Marker Building (corner Victoria Road and Rich Street)

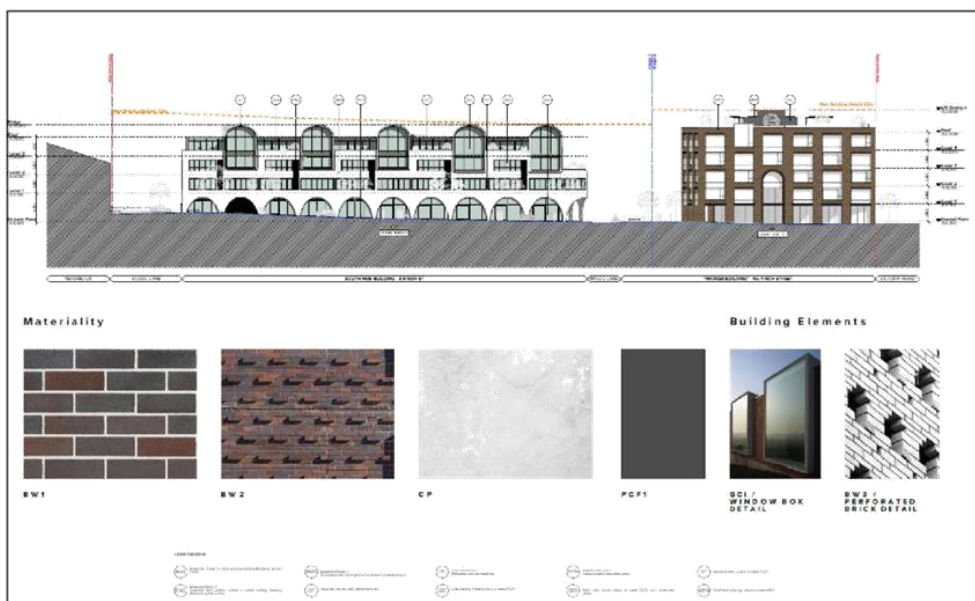


Image 10: Schedule of Materials & Finishes

3. Planning Assessment

Below is an assessment of the amended plans and additional information submitted in response to the resolution of the SECPP at its meeting on 4 April 2019:

- a) *This Panel request the applicant to submit a revised design to the AEP, which responds to the comments of the AEP, dated 25 February 2019. Above all, the applicant should respond to point 5 of the AEP minutes, which call into question, the use of a similar architectural expression on all facades and the absence of self-shading elements. The panel will reconsider the approval of the Marker building when it has been redesigned and that new design has received endorsement of the AEP.*

Comment:

The AEP comments provided on 25 February 2019 are provided as follows:

1. *The amended plans satisfactorily address the comments and recommendations provided previously by the Panel for the South Hub Building. The level of detail and enrichment to the Ground Level colonnade on the South Hub Building (face-brick) is positive and is supported. The Panel restates its preference for dry-pressed bricks over extruded bricks.*
2. *However, the Panel reiterates the following point - given their strong presence and proposed public uses, further design development of the Marker and North Hub Buildings is warranted in order to provide Council with greater certainty of the expected level of architectural quality through execution. This is particularly relevant at the buildings' most public interface - the colonnades at Ground Level. The amended plans for the Marker and North Hub Buildings have not yet adequately addressed the Panel's concerns.*
3. *To help direct the design team's particular areas of focus, the Panel is concerned that pre-cast concrete - due to its relatively shallow depth - will not achieve an adequate sense of robustness, or the necessary quality of finish (specifically on the reverse face of ground level panels) to achieve a high quality architectural outcome along the colonnaded elements of the Marker and North Hub Buildings. The amended plans have not yet adequately addressed the Panel's concerns in the comments dated 20 November 2018 (TRIM 95418.18).*
4. *It is recommended that further design development and elaboration of the colonnaded elements of the Marker and North Hub Buildings be provided. Please refer to a suggestion on one possible approach to resolve the colonnade treatment on the Marker and North Hub Building in the sketch attached. The objective inherent in the sketch is to achieve a more substantial sense of depth and material expression to the colonnades at Ground Level for each of the pre-cast concrete buildings.*
5. *Additionally, the Panel is concerned for the environmental performance of the Marker and North Hub Buildings as a result of the repeated use of a similar architectural expression on all facades, and the absence of self-shading elements within the facade composition. The highly co-planar architectural expression within pre-cast concrete and the resulting sheer facade on the Marker Building particularly - in the view of the Panel - requires an alternative design strategy to achieve an acceptable environmental performance and an appropriate, high quality expression.*

To address the comments raised by the AEP panel above and the SECPP concerns, the

applicant has amended the façade design for the Marker building. The main points previously raised by the AEP on 25 February 2019 as extracted and quoted above, relate to the concern regarding the use of pre-cast concrete and the ability of the material to have a high quality finish when executed, in particular at the ground floor level colonnade where people would interact with the building. This concern has been addressed through the deletion of the pre-cast concrete material and the use of dry pressed brick for the building including the colonnade, to provide the depth, expression and robust finish sought by the AEP. This combined with the proposed steel awning over the footpath, boxed frame style powder coated finish windows and deeper reveals at the openings will result in a high-quality finish in keeping with the character of the area and other buildings already approved on the site.

To create a familial relationship, three of the elevations would also retain a singular arched opening or window element with a steel frame which protrudes from the building creating a link back to the arches used for the south hub buildings. The lack of self-shading elements has also been addressed through the introduction of horizontal baton shading elements on the northern, western and eastern elevation windows. An updated Energy Efficiency report was also submitted on 4 June 2019 to support the proposed façade changes.

The co-planar architectural expression to the façade has been removed through the abandonment of the pre-cast concrete and introduction of square and rectangular window elements with robust frames which protrude from the brick façade and above the parapet on the top level. A level of visual interest has been provided through the use of different sized openings and articulated building elements. The use of deeper reveals to the windows, offset of the glazing line to the entry lobby and use of soldier courses above the window openings introduces finer grain details that the previous proposal was lacking. Overall, it is considered that the architectural quality of the building has been greatly increased in that the proposed materials and finishes can be executed as per the design to provide a high quality finish both for the building as a whole and at the colonnade level adjacent to the food and drink premises where staff and the general public will interact with the building.

It should be noted that the gross floor area of the building has not been altered by the proposed façade changes and the development retains compliance with the relevant development standards applicable under Marrickville Local Environment Plan 2011.

The revised architectural set of plans discussed above were reviewed by the AEP and the following final comments were provided to Council staff on 7 June 2019:

"The Architectural Excellence Panel has reviewed the revised drawings for the Marker Building, and the Panel considers that the overall façade composition and proportions are well resolved and the detailed drawings have addressed the Panel's concerns regarding the building materiality and depth of wall treatment. The Panel is satisfied that the proposal is capable of design excellence."

As a result, the amended plans for the revised Marker building facade are put forward to the Panel for consideration with Council and AEP endorsement.

- b) *The applicant is to submit amended plans to Council within eight weeks of the date of this determination in respect of the Marker building. The Council is to refer the amended plans to the AEP for consideration and advice upon receipt of the plans. The Council is to prepare an assessment report on the amended plans within four weeks of receipt of advice from the AEP and refer to plans and the assessment report to the Panel for determination with respect to the Marker building.*

Comment:

The applicant submitted draft options to Council on 7 May 2019, a meeting was then convened with the AEP on 14 May 2019 to discuss the proposed amendments. Final submission of a full set of architectural plans was submitted to Council on 31 May 2019. This is within the prescribed timeframes of within 8 weeks of the date of determination (being 4 April 2019). Council referred the final set of plans to the AEP on 4 June 2019. On 7 June 2019, Council received endorsement for the amended plans from the AEP. The subject assessment report and conditions of consent have been prepared for the Panel for determination on 25 July 2019.

c) *The development application was approved subject to the conditions in the Council Assessment Report with the following amendments:*

- *All conditions relating to the Marker building to be deleted.*
- *The deferred commencement condition is deleted, on the grounds that no need has been demonstrated for it and replaced with a condition requiring the erection of "no right hand turn" from Victoria Road into Rich Street and Rich Street into Victoria Road for vehicles under 8.8m in length.*
- *Condition 3 is changed to reflect the applicant's request that the prohibition apply only to amplified live music.*
- *Condition 23 is changed to allow offices to be open 24 hours 7 days a week and pop-up tenancies to be open 6 am to 10 pm 7 days a week, as these hours are more appropriate for the vibrant development that is proposed than are the more restrictive hours proposed by the council.*
- *Conditions 85, 86 and 105 are retained on the grounds that they apply a local area-wide practice of requiring 0.5m freeboard.*
- *Condition 92(c) is deleted on the grounds that the two trees required have been provided.*

Comment:

The above conditions have been modified and are included in the recommended conditions of consent at the end of this document with the exception of the first point which required conditions relating to the marker building to be deleted. These have been included for the purpose of issuing one single consent for the entire application, since the panel have yet to issue a consent for the north and south hub buildings which have already been approved, this is considered the most practical way forward.

4. Other Matters

The applicant requested during the discussions regarding the Marker Building design a slight modification to condition 105 regarding the Marker building freeboard requirement. The proposed wording change to part a) of the condition would replace the wording of "the top water level of the 1 in 100 year overland flow paths" with "the 1 in 100 year flood level at the relevant point of entry or openings into the building". The is requested by the applicant as the phrase "top water level" is unclear and could be construed to mean the flood level in the channel at the western end of the south hub building which is over 140metres away and not relevant to the Marker building. Council's Engineer reviewed the requested wording change and raised no objections. The proposed wording change is included in the proposed conditions within this report for the Panel's consideration.

5. Conclusion

The amended plans for the Marker Building have received endorsement by the Inner West Council's Architectural Excellence Panel. The proposed changes to the design of the Marker

building have addressed the concerns raised by the panel regarding the use of a similar architectural expression on all facades and absence of self-shading elements.

6. Recommendation

It is recommended that the Marker building be approved and that the conditions of consent imposed relate to the development in its entirety as outlined below.

The following conditions have been prepared for the SECPP to consider, should the Marker building be approved.

PART E - RECOMMENDATION

- A. **THAT** the application to construct a staged commercial development on the site; with stage 1 of the development comprising site preparation works including demolition of existing structures and removal of vegetation; construction of 2 new buildings incorporating ground level food and drink tenancies, studio spaces, upper level offices and car parking being the 3 storey North Hub building and 4 storey South Hub building, site landscaping including creation of a new publicly accessible open space, pedestrian connections and landscaping and subdivision of the site into 3 allotments, with Stage 2 of the proposal comprising the construction of a 5 storey Marker Building with ground floor food and drink premises and upper level offices with a roof terrace at level 6 be **APPROVED and issued** subject to the following terms and conditions:

GENERAL

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

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by	Date Submitted
DA-100-010, Revision 02	Demolition Plan	14.1.19	Turners Architects	6.3.19
DA-100-020, Revision 02	Site Plan	14.1.19	Turners Architects	6.3.19
DA-110-009, Revision 06	Ground Level	30.5.19	Turners Architects	31.5.19
DA-110-010, Revision 07	Upper Ground	9.7.19	Turners Architects	9.7.19
DA-110-020, Revision 07	Level 01	9.7.19	Turners Architects	9.7.19
DA-110-030, Revision 07	Level 02	9.7.19	Turners Architects	9.7.19
DA-110-040, Revision 07	Level 03	9.7.19	Turners Architects	9.7.19
DA-110-050, Revision 07	Level 04	9.7.19	Turners Architects	9.7.19
DA-110-060, Revision 07	Roof Plan	9.7.19	Turners Architects	9.7.19
DA-210-010, Revision 04	Rich St South Hub South Elevation	4.3.19	Turners Architects	6.3.19
DA-210-020, Revision 04	Rich St South Hub North Elevation	4.3.19	Turners Architects	6.3.19

DA-210-030, Revision 03	Studio Lane North Hub South Elevation	4.3.19	Turners Architects	6.3.19
DA-210-040, Revision 03	Studio Lane North Hub Elevation	4.3.19	Turners Architects	6.3.19
DA-210-050, Revision 03	Studio Lane West Elevation	4.3.19	Turners Architects	6.3.19
DA-210-060, Revision 03	Malco Lane East Elevation	4.3.19	Turners Architects	6.3.19
DA-210-070, Revision 06	Marker Building Elevations	30.5.19	Turners Architects	31.5.19
DA-300-010, Revision 06	Marker Building Section	30.5.19	Turners Architects	31.5.19
DA-400-010, Revision 06	Marker Building Section Detail 1	30.5.19	Turners Architects	31.5.19
DA-400-011, Revision 06	Marker Building Section Detail 2	30.5.19	Turners Architects	31.5.19
DA-400-030, Revision 06	North Hub Building Precast	30.5.19	Turners Architects	31.5.19
DA-400-040, Revision 02	North Hub Building Precast Setout	14.1.19	Turners Architects	6.3.19
DA-400-050, Revision 02	South Hub Building Rich Street	14.1.19	Turners Architects	6.3.19
DA-400-060, Revision 02	South Hub Building Central Lawn	14.1.19	Turners Architects	6.3.19
DA-400-070, Revision 02,	North Hub Unfolded Ramp Section	16.1.19	Turners Architects	6.3.19
DA-400-080, Revision 02	South Hub Ramp Section	16.1.19	Turners Architects	6.3.19
DA-730-010& DA- 730-020, Revision 6	External Signage	30.5.19	Turner	31.5.19
DA-900-010, Revision 06	Perspective 01	30.5.19	Turner	31.5.19
DA-900-020, Revision 06	Perspective 02	30.5.19	Turner	31.5.19
DA-900-030, Revision 03	Perspective 03	16.1.19	Turner	6.3.19
DA-900-040, Revision 03	Perspective 04	16.1.19	Turner	6.3.19
DA-900-050, Revision 05	Perspective 05	16.1.19	Turner	6.3.19
DA-900-060, Revision 02	Perspective 06	16.1.19	Turner	6.3.19
DA-910-010, Revision 06	Materials & Finishes Schedule	30.5.19	Turner	31.5.19
LD-SK-01, Revision I	Public Domain Plan	29.11.18	McGregor Coxall	29.11.19
LD-SK-02,	Rooftop	19.11.18	McGregor Coxall	29.11.19

Revision B	Landscape Plan			
LD-SK-03, Revision D	Planting Plan	29.11.18	McGregor Coxall	29.11.19
LD-SK-04, Revision C	Site Sections	14.11.18	McGregor Coxall	29.11.19
LD-SK-05, Revision C	Channel Section	29.11.18	McGregor Coxall	29.11.19
LD-SK-06, Revision C	Channel Section	29.11.18	McGregor Coxall	29.11.19
LD-SK-07, Revision C	Channel Section	29.11.18	McGregor Coxall	29.11.19
LD-SK-08, Revision A	Channel Section	14.11.18	McGregor Coxall	29.11.19
LD-SK-09, Revision A	Precedent/Materiality	29.9.17	McGregor Coxall	29.11.19
LD-SK-12, Revision B	Indicative Lighting Plan	29.11.18	McGregor Coxall	29.11.19
170020	Flood Report	21.11.18	GRC Hydro	29.11.19
2851-1	Subdivision Plan	14.3.19	True North	14.3.19
P17246-ESD-B Revision C	Energy Efficiency Performance Report	31.5.2019	Evolved Engineering	4.6.2019
J17172RP1	DA Acoustic Assessment	6.10.17	EMM Consulting	24.11.17
GS5544/2A	Geotechnical Investigation Report	20.12.13	Aargus	13.11.17
Version 3	Arboricultural Impact Assessment Report	6.10.17	Earthscape Horticultural Services	13.11.17
17385, Final	Operational Plan of Management	24.4.18	Ethos Urban	14.5.18
2851-1	Plan of Proposed Subdivision	14.3.18	True North Surveys	14.3.18
	Operational Waste Management Plan	April 2018	Waste Audit & Consultancy Services	14.5.18
ES7032.2, Rev 1	Sampling, Analysis & Quality Plan	19.6.18	Aargus Pty Ltd	13.8.18
ES7032	Limited Site Investigation	20.9.17	Aargus	13.11.17
ES5544/3	Acid Sulphate Soils Assessment	14.10.13	Aargus Pty Ltd	13.11.17
ES7032/3	Remediation Action Plan	4.7.18	Aargus Pty Ltd	13.8.18
17385	CPTED Assessment	31.10.17	Ethos Urban	13.11.17

and details submitted to Council on 13 November 2017 with Additional information submitted on 24 April 2018, 14 May 2018, 13 August 2018, 29 October 2018, 13 November 2018, 29 November 2018, 14 December 2018, 15 & 17 January 2019, 6

February 2018, 5, 6 & 14 March 2019, 7 & 31 May 2019, 4 & 9 June 2019 with the application for development consent and as amended by the matters referred to in Part A of this Determination and the following conditions.

2. Where any plans and/or information forming part of a Construction Certificate issued in relation to this consent are inconsistent with:

- a) the plans and/or information approved under this consent; or
- b) any relevant requirements of this consent,

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

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

3. No amplified live music or entertainment is permitted to be provided within any premises on the site unless appropriate noise mitigation measures are provided to the satisfaction of Council.
4. A footpath licence must be obtained from Council for the use of any part of the footpath area adjacent to the site prior to using such area. The usage of any part of the footpath must only be carried out whilst the footpath licence remains in force.
5. Separate Development Consent or Complying Development Certificate must be obtained for the fit-out of the tenancies prior to the occupation of each tenancy.
6. No retailing is to be carried out from the premises with the exception of food and drink premises approved under this application. Consent for other forms of retailing (where permissible) is to be obtained by way of lodgement of a new Development Application for use.
7. There are to be no emissions or discharges from the premises which will give rise to an offence under the Protection of the Environment Operations Act 1997 and Regulations.

Emission control equipment must be provided in the mechanical exhaust system serving the appliances, to effectively minimise the emission of odours, vapours and oils. Details of the proposed emission control equipment must be provided in the relevant plans and specifications for the Construction Certificate for the subject works.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

8. **150** Off-street car parking spaces including **15** accessible off-street spaces must be provided, paved and maintained at all times in accordance with the standards contained within Part 2.10 of Marrickville Development Control Plan 2011 – Parking.
9. No paid car parking is permitted on the site. All parking, including parking along the public rights of way/private roads and internal car parks must be free at all times and allocated in accordance with the following requirements:
- a) All at grade parking spaces within the site are required to be provided for customers only.

- b) All internal spaces within the North and South Hub Car Parks are required to be distributed between the 3 buildings on the site for the use of staff only. This must be included on any strata subdivision plan or lease agreement with any tenancy on the site.
- 10. All parking spaces and turning area thereto must be provided in accordance with the design requirements set out within Part 2.10 of Marrickville Development Control Plan 2011 - Parking, and must be used exclusively for parking and not for storage or any other purpose. A sign legible from the street must be permanently displayed to indicate that customer parking is available on site.
- 11. The use of the premises must not give rise to:
 - a) transmission of unacceptable vibration to any place of different occupancy;
 - b) a sound pressure level at any affected premises that exceeds the background (LA90) noise level in the absence of the noise under consideration by more than 5dB(A). The source noise level must be assessed as an LAeq,15min and adjusted in accordance with Environment Protection Authority guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content as described in the NSW Environment Protection Authority's Environmental Noise Control Manual and Industrial Noise Policy 2000 and The Protection of the Environment Operations Act 1997 (NSW).
- 12. The signage must be erected substantially in accordance with the Plan No/s. DA-730-010& DA-730-020, Revision 6 dated 30.5.19 and details submitted to Council on 31.5.19 with the application for development consent as amended by the following conditions.
- 13. A separate application must be submitted to, and approved by, Council prior to the erection of any advertisements or advertising structures other than the signage approved in this consent. The shop windows must not be painted with advertisements and no flashing lights must be installed on the premises.
- 14. The advertising structure(s) and associated advertisement(s) must be properly and safely maintained at all times.
- 15. Any advertisement to be displayed must be only to identify the premises, the occupier of the site, the activity conducted thereon or the goods and services available on the premises associated with the use approved in this development consent.
- 16. The signage must:
 - a) not flash, move, be animated, or be decorated with rotating or flashing lights;
 - b) not have any apparatus attached to it which will provide sound of any description whether associated with the sign or other object or activity;
 - c) be neatly affixed to the building and any damage to the building caused to the exterior of the building by the erection of the advertising structure must be promptly repaired with materials to match those of the existing building;
 - d) comply with the Advertising Code of Ethics; and
 - e) comply with the requirements of the Roads and Maritime Services Authority.
- 17. The required fee under Council adopted fees and charges for "Signs and Advertising Structures Projecting onto or Over Public Space" must be paid to Council. The advertisement/advertising structures must only remain in place when the annual licensing fee for that year has been paid.
Note: The fee needs to be paid annually.

18. Certification by a Structural Engineer as to the adequacy of the method of affixing the sign must be submitted to the Principal Certifying Authority prior to the erection of the signs.
19. No storage of goods or equipment external to any building on the site being permitted.
20. No signs or goods must be displayed for sale or stored on the footpath in front of the premises at any time without the prior approval of Council.
21. All loading and unloading in connection with the use must be carried out wholly within the property, during the approved hours of operation and in such a manner so as to not cause an inconvenience to the public.
22. All machinery must be installed in accordance with the manufacturer's specifications and being maintained at all times if in use.
23. The hours of operation for all tenancies on the site must be restricted to between the hours as applicable to the approved use indicated in the table below:

Use of Premises	Operating Hours
Light Industry	7am to 6pm, 7 days per week
Industrial Retail Outlet	7am to 6pm, 7 days per week
Business Premises	7am to 6pm 7 days per week
Food and Beverage	6am to Midnight Monday –Saturday 6am to 10pm Sundays and Public Holidays
Office Premises	24 hours per day, 7 days per week
Pop-Up Tenancy	6am to 10pm, 7 days per week

24. The developer must liaise with the Sydney Water Corporation, Ausgrid, AGL and Telstra concerning the provision of water and sewerage, electricity, natural gas and telephones respectively to the property.
25. All trade waste must be stored within the site boundaries and must be contained in such a manner so as not to cause a nuisance.
26. The construction, fitout and finishes of the food premises must comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code under the Food Act 2003 and AS 4674 - Design, Construction and Fitout of Food Premises.

NOTE: Copies of AS 4674-2004 may be obtained from the Standards Australia Customer Service on telephone 1300 65 46 46 or by visiting the website www.standards.com.au

Copies of the Food Standards Code (Australia) may be obtained by contacting the Food Standards Australia and New Zealand Authority on telephone (02) 6271 2222, email info@foodstandards.gov.au or by visiting the website www.foodstandards.gov.au.

27. The storage and/or handling of food products externally of the approved food premises are prohibited.
28. The following conditions relate to Sydney Airport Corporation Limited (SACL) approval and must be complied with:

- a) The development is approved to a maximum height of 28.0 metres above Australian Height Datum (AHD) inclusive of all lift over-uns, vents, chimneys, aerials, TV antennae, construction cranes etc.;
 - b) Should the proposal exceed the height referred to in (a) above, a new application must be submitted;
 - c) Should the height of any temporary structure and / or equipment be greater than 50 feet (15.24 metres) above existing ground height (AEGH), a new approval must be sought in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161;
 - d) Construction cranes 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;
 - e) SACL advises that approval to operate construction equipment (i.e. Cranes) should be obtained prior to any commitment to construct.
29. Prior to the lodgement of any Construction Certificate, amended plans and documentation are to be submitted to Council's Heritage and Urban Design Team Leader satisfaction demonstrating the following;
- a) A safe lighting strategy along the canal and within the publicly accessible open spaces;
 - b) A night lighting strategy for the Marker Building;
 - c) The fencing along the canal must be of a high quality and of an aesthetically pleasing material, with a maximum height of 1.2m and be a minimum of 85 percent transparent to ensure visual connection across the canal and a high quality urban environment for pedestrians and users of the park;
 - d) The through-site pedestrian link along the canal must be a minimum of 1.8m wide for its entire length; and
 - e) A heritage interpretation strategy must be prepared by a heritage consultant with experience in undertaking interpretation strategies and in accordance with the NSW Heritage Guide on Heritage Interpretation Policy (www.heritage.nsw.gov.au). The strategy must detail how information on the history and significance of the site will be provided for the public and make recommendations regarding public accessibility, signage and lighting. Art, details of the heritage design or the display of selected artefacts (such as remnants of the building wall on the site) are some means that can be used.
30. The materials and finishes of the building constructed pursuant to this consent must be strictly in accordance with the materials and finishes identified in Drawing Nos. DA-910-010, Revision 06 dated 30.5.19 prepared by Turners Architects. No changes may be made to these drawings except by way of an application under section 4.55 of the Environmental Planning and Assessment Act 1979.
31. The proposed extruded bricks are required to be replaced with dry-pressed bricks to ensure the buildings are executed with a high quality finish.
32. The Plan of Management is required to be updated to reflect the details contained in this determination and recommendations in the CPTED assessment prepared by Ethos Urban dated 30 October 2017 and submitted to Council prior to the issue of a Construction Certificate for Stage 1 of the development. The Plan of Management is not permitted to be modified in any way without the written consent of Inner West Council.

33. The use of any premises on the site must comply at all times with the Plan of Management referred to in condition 1 above and as amended by the conditions in this Determination.
34. A minimum of 100 bicycle spaces and 8 motorcycle spaces are required to be provided on the site, paved and maintained at all times in accordance with the standards contained within Part 2.10 of Marrickville Development Control Plan 2011 – Parking.
35. All bin storage areas within the site must comply with the following:
 - a) Be provided with artificial lighting, with control switches to be located both outside and inside the room in close proximity to the entry door;
 - b) Have hot and cold water outlet with hose cock for cleaning of the bins and storage areas;
 - c) Drain to sewer;
 - d) Have adequate ventilation which complies with the provisions of *Australian Standard 1668:2012*;
 - e) Have doors provide a minimum of 1200mm clearance to allow manoeuvring of bins
 - f) Be located wholly within the site and in an area that minimises any noise or odour impacts on the amenity of nearby premises; and
 - g) The Loading dock must accommodate front lift loading waste vehicle with a minimum clearance height of 6.2m. There must be written evidence of all valid and current contract/s (held on site) for waste and recycling collection for disposal or processing of all waste streams provided to the Certifying Authority prior to the issue of an Occupation Certificate.
36. All fire hydrant and sprinkler booster valves and the like are required to be enclosed on all sides to reduce visual impacts to streetscape.
37. All prescribed trees must be retained and protected in accordance with these conditions and with the Australian Standard *Protection of Trees on Development Sites* AS 4970—2009 unless their removal, pruning or other works is explicitly approved under the terms of this consent. Trees numbered 1 to 14 in the Arboricultural Impact Assessment Report (Earthscape Horticultural Services, October 2017) may be removed. The street trees in Victoria Road, numbers 15 and 16, must be retained.
38. All reasonable directions in writing by the project arborist in relation to tree management and tree protection must be complied with. All directions by the project arborist must be confirmed in writing to the project manager.
39. During construction the project arborist must undertake periodic inspections of trees and tree protection measures, as deemed necessary by the project arborist.
40. A fully automatic irrigation system is required to be provided and operated to schedule for the car park trees across the site including Rich Street. Details are required to be provided to the Principal Certifying Authority prior to the issue of any Construction Certificate for Stage 1 of the development.
41. An Acid Sulfate Soils Management Plan is required to be prepared and submitted to the Certifying Authority prior to the issue of any Construction Certificate for Stage 1 of the development.
42. Owners and occupants of the proposed building will not be eligible to obtain parking permits under any existing or future resident parking scheme for the area. The person

acting on this consent must advise any purchaser or prospective tenant of this condition.

43. All stormwater drainage being designed in accordance with the provisions of the Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3 'Stormwater Drainage' and Marrickville Council Stormwater and On Site Detention Code. Pipe and channel drainage systems must be designed to cater for the twenty (20) year Average Recurrence Interval (A.R.I.) storm in the case of low and medium residential developments, the twenty (20) year A.R.I. storm in the case of high density residential development and commercial and/or industrial developments and the fifty (50) year A.R.I. storm in the case of heavy industry. In all cases the major event surface flow paths must be designed to cater for the one hundred (100) year A.R.I. storm.
44. Should the proposed development require the provision of an electrical substation, such associated infrastructure must be incorporated wholly within the development site. Prior to proceeding with your development further, you are directed to contact Ausgrid directly with regard to the possible provision of such an installation on the property.
45. All building work must be carried out in accordance with the provisions of the National Construction Code (Building Code of Australia).

PRIOR TO COMMENCING DEMOLITION, EXCAVATION AND/OR BUILDING WORK

46. No work must commence until:
 - a) A PCA has been appointed. Where an Accredited Certifier is the appointed, Council must be notified within 2 days of the appointment; and
 - b) A minimum of 2 days written notice given to Council of the intention to commence work.
47. A Construction Certificate must be obtained prior to commencing building work. Building work means any physical activity involved in the construction of a building. This definition includes the installation of fire safety measures.
48. Sanitary facilities must be provided at or in the vicinity of the work site in accordance with the WorkCover Authority of NSW, Code of Practice 'Amenities for Construction'. Each toilet must be connected to the sewer, septic or portable chemical toilet prior to commencing building work.

Facilities must be located so that they will not cause a nuisance.
49. All demolition work must:
 - a) Be carried out in accordance with the requirements of Australian Standard AS 2601 'The demolition of structures' and the Occupational Health and Safety Act and Regulations; and
 - b) Where asbestos is to be removed it must be done in accordance with the requirements of the WorkCover Authority of NSW and disposed of in accordance with requirements of the Department of Environment, Climate Change and Water.
50. Where any loading, unloading or construction is to occur from a public place, Council's Infrastructure Services Division must be contacted to determine if any permits or traffic management plans are required to be obtained from Council prior to commencing building work.

51. All services in the building being demolished must be disconnected in accordance with the requirements of the responsible authorities prior to commencing building work.
52. A rigid and durable sign must be erected in a prominent position on the site, prior to commencing building work. The sign must be maintained at all times until all work has been completed. The sign must include:
 - a) The name, address and telephone number of the PCA;
 - b) A telephone number on which Principal Contractor (if any) can be contacted outside working hours; and
 - c) A statement advising: 'Unauthorised Entry To The Work Site Is Prohibited'.
53. A Soil and Water Management Plan must be prepared in accordance with Landcom Soils and Construction, Volume 1, Managing Urban Stormwater (Particular reference is made to Chapter 9, "Urban Construction Sites") and submitted to and accepted by the PCA. A copy of this document must be submitted to and accepted by PCA prior to commencing building work. The plan must indicate:
 - a) Where the builder's materials and waste are to be stored;
 - b) Where the sediment fences are to be installed on the site;
 - c) What facilities are to be provided to clean the wheels and bodies of all vehicles leaving the site to prevent the tracking of debris and soil onto the public way; and
 - d) How access to the site will be provided.

All devices must be constructed and maintained on site while work is carried out.
54. The person acting on this consent must be responsible for arranging and meeting the cost of dilapidation reports prepared by a suitably qualified person. The reports are to include colour photographs and are to be submitted to the Certifying Authority's satisfaction, with a colour copy being provided to Council and the respective property owner(s) of the identified properties, prior to commencing building work, on the buildings on the adjoining properties at No.s 105-107 Victoria Road, No.8 Brompton Street, Nos.2 & 4 Jabez Street, and No.61-65 Shepherd Street, and No.11 Rich Street, Marrickville, if the consent of the adjoining property owner(s) can be obtained. In the event that the consent of the adjoining property owner(s) cannot be obtained copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the PCA prior to commencing building work.
55. All wastewater arising from the use of the premises must be directed to the Sewers of the Sydney Water Corporation (SWC) under a Trade Waste License Agreement. The person acting on this consent is advised that pre treatment of wastewater may be a requirement of the corporation prior to the discharge to sewer. Details of the Corporation's requirements must be obtained prior to the commencement of work.
56. Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent must obtain all applicable Permits from Council in accordance with Section 68 (Approvals) of the Local Government Act 1993 and/or Section 138 of the Roads Act 1993. Permits are required for the following activities:
 - a) Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application.
 - b) A concrete pump across the roadway/footpath
 - c) Mobile crane or any standing plant
 - d) Skip bins
 - e) Scaffolding/Hoardings (fencing on public land)

- f) Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.
- g) Awning or street verandah over footpath
- h) Partial or full road closure
- i) Installation or replacement of private stormwater drain, utility service or water supply

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

Applications for such Permits must be submitted and approved by Council prior to the commencement of the works associated with such activity.

57. The person acting on this consent must ensure the site is secured with temporary fencing prior to any works commencing.

If the work involves the erection or demolition of a building and is likely to cause pedestrian or vehicular traffic on public roads or Council controlled lands to be obstructed or rendered inconvenient, or building involves the enclosure of public property, a hoarding or fence must be erected between the work site and the public property. Additionally an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property, where necessary.

Separate approval is required from Council under the Roads Act 1993 to erect a hoarding or temporary fence or awning on public property. Approvals for hoardings, scaffolding on public land must be obtained and clearly displayed on site for the duration of the works.

Any hoarding, fence or awning is to be removed when the work is completed and must be maintained clear of any advertising.

58. A Construction Pedestrian Traffic Management Plan (CPTMP) detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted, after consultation and endorsement from Roads and Maritime, to Council for approval prior to the issue of a Construction Certificate.
59. A dilapidation report on the visible and structural condition of the following public infrastructure must be provided to the Principal Certifying Authority prior to the commencement of demolition or issue of a Construction Certificate (whichever occurs first):
- a) Full width and length of both Rich and Brompton Streets;
 - b) Half width of Cook Road from Victoria Road to Brompton Street; and
 - c) Half width of Victoria Road from Rich Street to Cook Road

The dilapidation report is to be prepared by a practicing Structural/Civil Engineer agreed to by both the applicant and Council and include road pavement, stormwater drainage infrastructure, kerb and gutter and footpath. All costs incurred in achieving compliance with this condition must be borne by the applicant.

The liability of 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.

60. Any person acting on this consent or any contractors carrying out works on public roads or Council controlled lands must take out Public Liability Insurance with a

minimum cover of twenty (20) million dollars in relation to the occupation of, and approved works within those lands. The Policy is to note, and provide protection for Inner West Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property.

61. If new street numbers or a change to street numbers (this includes unit and shop numbers) are required, a separate application must be made to and approved by Council prior to those street numbers being displayed.
62. A project arborist with a minimum AQF level 5 qualification in arboriculture and who does not remove or prune trees in the Inner West local government area must be engaged prior to commencing building work for the duration of site preparation, demolition, construction and landscaping.
63. The contact details of the project arborist must be advised to council prior to commencing building work and maintained up to date for the duration of works. If a new project arborist is appointed details of the new project arborist must be notified to council within 7 days.
64. The tree protection measures detailed in Section 10 of the Arboricultural Impact Assessment Report (Earthscape Horticultural Services, October 2017) must be established for the street trees in Victoria Road prior to commencing building work. Tree protection measures must be consistent with the Australian Standard *Protection of Trees on Development Sites* AS 4970—2009.
65. The project arborist must inspect tree protection measures, including the location of tree protection fencing and signage, and certify in writing to the Principal Certifying Authority, prior to commencing building work, that the measures comply with Section 10 of the Arboricultural Impact Assessment Report (Earthscape Horticultural Services, October 2017) and the Australian Standard *Protection of Trees on Development Sites* AS 4970—2009.
66. Tree valuation must be undertaken by the project arborist for each of the street trees that is being retained, using Thyer tree valuation methodology. The schedule of tree valuations must be submitted to and agreed with by Council prior to the start of any work.

67. Refundable security deposits for the street trees being retained, equal to those listed in the schedule of tree valuations submitted by the project arborist and agreed to by Council, must be deposited with council prior to the start of works. The security deposits will be refunded in full or in part no sooner than 12 months from the date of the issue of the occupation certificate. Full or partial forfeiture of the relevant security deposit will occur if the street tree is injured, or declines in health and / or vigour, or dies due to any development-related impact. Council's Urban Forest Manager will determine the amount of any forfeiture of a security deposit based on the health and condition of the trees and any decline thereof.
68. A refundable security deposit for each of the eleven new street tree of \$1,600 each must be deposited with council prior to the start of works. The security deposits will be refunded in full or in part no sooner than 12 months from the date of the issue of the occupation certificate. Full or partial forfeiture of each security deposit will occur if the new street tree dies or fails to establish properly. Council's Urban Forest Manager will determine the amount of any forfeiture of the security deposit based on the health and condition of the new street trees.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE FOR STAGE 1 OF THE DEVELOPMENT (North & South Hub Buildings) which comprises site preparation works including demolition of existing structures and removal of vegetation; subdivision of the site, construction of 2 new buildings incorporating ground level food and drink tenancies and studio spaces facing a central landscaped lawn, upper level offices and car parking being the 3 storey North Hub building and 4 storey South Hub buildings and overall landscaping and at grade parking on the site.

Section 7.11 Contribution

- ~ a) This condition is imposed in accordance with Section 7.11 of the Environmental Planning and Assessment Act 1979.
- b) Before the *issue of a Construction Certificate for Stage 1 of the development, the Council must be paid a monetary contribution of \$1,505,706.53 indexed in accordance with Marrickville Section 94/94A Contributions Plan 2014 ("CP").

The above contribution is the contribution applicable as at 09 July 2019.

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

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

(CONTRIBUTION PAYMENT REFERENCE NO. DC002647)

- c) The contribution payable has been calculated in accordance with the CP and relates to the following public amenities and/or services and in the following amounts:

Community Facilities	\$44,289.37
Plan Administration	\$29,524.00
Recreation Facilities	\$1,246,098.32
Traffic Facilities	\$185,794.84
- d) A copy of the CP can be inspected at Council's offices at 2-14 Fisher Street, Petersham or online at <http://www.marrickville.nsw.gov.au>.

- e) The contribution must be paid either in cash, by unendorsed bank cheque (from an Australian Bank only), via EFTPOS (Debit only) or credit card*.

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

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

69. Noise attenuation measures must be incorporated into the development complying with Australian Standard 2021-2015 in relation to interior design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction), in accordance with details to be submitted to the Certifying Authority's satisfaction prior to the issue of a Construction Certificate together with certification by a suitably qualified acoustical engineer that the proposed noise attenuation measures satisfy the requirements of Australian Standard 2021-2015.
70. Prior to the issue of a Construction Certificate an amended plan must be submitted to the Certifying Authority's satisfaction addressing the requirements of The Disability (Access to Premises – buildings) Standards 2010 (the Premises Standards).
71. Prior to the issue of a Construction Certificate an amended plan must be submitted to the Certifying Authority's satisfaction indicating the following:
 - a) Access to the premises via the principal place of entry to all buildings, complying with AS 1428.1- 2009 'Design for access and mobility';
 - b) Accessible toilets complying with AS 1428.1- 2009 'Design for access and mobility';
 - c) The lift design must comply with AS 1735.12 -1999 'Lifts, escalators and moving walkways Part 12: Facilities for persons with disabilities' as a minimum requirement.
72. Details of an anti-graffiti treatment to the northern and western elevations of the North Hub Building and western elevation of the South Hub building to a minimum height of the maximum height of the ground floor level must be submitted to and approved by Council prior to the issue of a Construction Certificate for Stage 1 of the development.
73. Lighting details of the communal car parking areas and the entrances to the buildings being submitted to the Certifying Authority's satisfaction prior to the issue of a Construction Certificate.
74. Letterboxes and mail collection facilities being provided and adequately protected. Details of such are required to be submitted to the Certifying Authority's satisfaction prior to the issue of a Construction Certificate.
75. Evidence of payment of the building and construction industry Long Service Leave Scheme, must be submitted to the Certifying Authority's satisfaction prior to the issue of a Construction Certificate. (The required payment can be made at the Council Offices).

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

For more information on how to calculate the amount payable and where payments can be made contact the Long Services Payments Corporation.

http://www.lspc.nsw.gov.au/levy_information/?levy_information/levy_calculator.stm

76. To ensure the adequate storage and collection of waste from the occupation or the use of the food premises, all garbage and recyclable materials emanating from the premises must be stored in a designated waste storage area. The waste storage area must be designed and constructed in accordance with AS 4674 - Design, Construction and Fitout of Food Premises. Detailed plans and specifications for the construction of the waste storage area must be submitted to the Certifying Authority's satisfaction prior to the issue of a Construction Certificate and must include the following:
- a) Provided with a hose tap connected to the water supply;
 - b) Paved with impervious floor materials;
 - c) Coved at the intersection of the floor and walls;
 - d) Graded and drained to a waste disposal system in accordance with the relevant regulatory authority (Sydney Water);
 - e) Adequately ventilated (mechanically or naturally) so that odour emissions do not cause offensive odour as defined by the Protection of the Environment Operations Act 1997; and
 - f) Fitted with appropriate interventions to meet fire safety standards in accordance with the National Construction Code (Building Code of Australia).
77. Prior to the commencement of demolition works or a Construction Certificate being issued for works approved by this development consent (whichever occurs first), a security deposit and inspection fee **must be paid to Council** to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of carrying out the works and as surety for the proper completion of any road, footpath and drainage works required by this consent.

Security Deposit	\$388,000
Inspection fee	\$2,306.50

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

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

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

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

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

78. Prior to the issue of a Construction Certificate amended plans are to be submitted to the satisfaction of Council's Development Engineer demonstrating the provision of a minimum 150 off-street car parking spaces of which 15 spaces are accessible. All parking spaces and turning area thereto must be provided in accordance with the design requirements set out within Part 2.10 of Marrickville Development Control Plan 2011 – Parking and Part 2.5 of Marrickville Development Controls Plan- Equity of Access and Mobility.
79. Prior to the issue of a Construction Certificate the site plans must be amended to accurately show the location of the Council's stormwater pipe through the property. Details of any proposed diversion must be submitted to Council's Development Engineer for approval.
80. All footings adjacent to Council's stormwater pipe must be taken to a depth 500mm below a line of influence measured at 45° from a point 1m from the invert of the stormwater pipe in the direction of the footing. Plans, and supporting documents, detailing the proposed foundations adjacent to Council's drainage system, must be submitted to and accepted by Council's Development Engineer prior to the issue of a Construction Certificate.
81. Plans, details and calculations of the site stormwater drainage system including on-site detention system (if required by Sydney Water) in accordance with Marrickville Council Stormwater and On Site Detention Code must be submitted to and approved by Council's Development Engineer prior to the issue of a Construction Certificate. The design of the OSD system must comply with the following:
 - a) Detailed calculations for sizing of the site drainage system must be provided for assessment and must include a Hydraulic Grade Line analysis and the DRAINS files used in the design;
 - b) All plumbing within the site must be carried out in accordance with Australian Standard AS/NZS3500.3.2015 Plumbing and Drainage – Stormwater Drainage;
 - c) Compliance with all of the requirements of Sydney Water regarding the connection to the stormwater channel;
 - d) Details of external catchments currently draining to the site must be included on the plans; Existing natural overland flows from external catchments may not be blocked or diverted, but must be captured and catered for within the proposed site drainage system. Where necessary an inter-allotment drainage system must be incorporated into the design;
 - e) Details of the 1 in 100 year overflow route in case of failure\blockage of the site drainage system must be provided, This must include any existing overland flow routes from upstream;
 - f) Construction details for the diversion of the Council stormwater pipe system in Rich Street and Victoria Road. The pipe system must be designed to cater for a 1 in 20 year storm. Details must include a long section of the pipe detailing all utility services, bedding and road restoration detail;
 - g) A WSUD Strategy Report and a MUSIC model (including .sqz file) must be provided to ensure the treatment measures proposed meet Council's water quality targets; and

- h) A detailed WSUD maintenance plan outlining how all elements of the water quality treatment facility will be maintained and to record annual inspections/maintenance works to be undertaken.
82. A Flood Risk Management Plan, prepared by a qualified practicing Civil Engineer must be submitted to and approved by Council's Development Engineer prior to the issue of a Construction Certificate. Any changes recommended by the Flood Risk Management Plan must be reflected in the Architectural Plans. The Plan must be prepared to make provision for the following:
- a) Identify the flood hazard of overland flows through the site and measures required to ensure that they suitably managed so as avoid vehicles becoming buoyant during a 1 in 100 year ARI event;
 - b) Recommendations on all precautions to minimise risk to personal safety of occupants and the risk of property damage for the total development. Such recommendations must be consistent with the approved development. The flood impacts on the site must be assessed for the 100 year ARI and Probable Maximum Flood (PMF) storm events. The precautions must include but not be limited to the following:
 - c) Types of materials to be used to ensure the structural integrity of the building to immersion and impact of velocity and debris.
 - i. Waterproofing methods, including electrical equipment, wiring, fuel lines or any other service pipes or connections.
 - ii. Flood warning signs/depth indicators for areas that may be inundated
 - iii. Flood emergency response/evacuation Plan for both the 1 in 100 year and PMF storms.
 - iv. On site response plan to minimise flood damage, demonstrating that adequate storage areas are available for hazardous materials and valuable goods above the flood level.
 - d) Specify the architectural and structural plans upon which the above recommendations have been incorporated.
83. Details of satisfaction of the following requirements must be submitted to Council's Development Engineer prior to the issue of a Construction Certificate. This must include the full design package and information submitted to Sydney Water for approval including but not limited to the following:
- a) Retention of the existing bridge at the North-Western boundary of the site;
 - b) Construction of a new pedestrian bridge approximately mid site along the stormwater channel;
 - c) Construction of a new vehicular bridge nearer to the South-Eastern boundary of the site;
 - d) No elevated bridge must be permitted (i.e. first floor level);
 - e) The arrangements and dimensions of overbank flow paths and avoidance of flow path obstructions that are reflected in the modelling of the Flood Report by GRC dated 21 November 2018 must be clearly stated and identified. The design of the overbank flow paths must be carried through to the architectural and landscape plans to ensure that there is no inadvertent obstruction introduced into the design not allowed for in the modelling. In particular, the cross sections and the bridge waterway clearances and the clear surface path for overtopping flows from the site at the downstream end of the site must be clearly defined.
 - f) Flood planning level requirements and other relevant Council flood controls measure must apply despite flood inundation extents being contracted.

- g) An analysis of the quantum of dynamic flood storage provided relative to existing dynamic flood storage distributed over the site must be undertaken to determine if OSD will be required in conjunction with the development.
- 84. Detailed design and construction plans of the major overland flowpath through the site from the North-Western boundary to Victoria Road must be submitted to and approved by Council's Development Engineer prior to the issue of a Construction Certificate. This must include details of the stormwater channel and overbank dimensions reflecting the capacity detailed in the Flood Report by GRC dated 21 November 2018. Details must include cross sections of the stormwater channel and overbank areas at 10m intervals and at critical locations indicating the top water level profile. These top water levels must be used to set floor levels for the buildings adjacent to the channel 500mm above the top water level. The design must also provide details of the velocity x depth calculation within the overland flow path areas.
- 85. The architectural plans must be amended and submitted to and approved by Council's Development Engineer prior to the issue of a Construction Certificate to address the following:
 - a) The floor levels of the development must be set 500mm freeboard above the top water level of the 1 in 100 year overland flow paths.
 - b) The locations and details of "no right hand turn" signs required from Victoria Road into Rich Street and Rich Street into Victoria Road for vehicles under 8.8m in length.
- 86. Full detailed construction plans and specifications must be submitted to Council's Development Engineer for approval under Section 138 of the Roads Act 1993 prior to the issue of a Construction Certificate with all works completed prior to the issue of an Occupation Certificate. Traffic related works and signage must be subject to a separate application to and approval of the Local Traffic Committee. In order to provide satisfactory vehicular and pedestrian access, drainage, landscaping and aesthetic improvements to the public domain adjacent to the site, the following works must be undertaken at no cost to Council and included on the plans and specifications:
 - a) The public domain along all frontages of the site inclusive of footpath paving, kerb, internal private road network, street trees, landscaping, street furniture, etc. must be reconstructed and upgraded in accordance with the Street Tree Masterplan and the Marrickville Public Domain Design Guide and generally in accordance with the Civil Set of Plans DAC001 to DAC096 Rev C by ATL;
 - b) The construction of heavy duty vehicular crossings to all vehicular access locations and removal of all redundant vehicular crossings to the site;
 - c) New kerb and gutter along the frontage of the site. The kerb type (concrete or stone) must be consistent with the majority of kerb type at this location. A long section of the new kerb must be submitted to Council;
 - d) Cross sections are to be provided at the boundary at a minimum distance of every 5m and at all pedestrian and vehicular access locations. Note, the cross fall of the footpath must be set at 2.5%. These sections will set the alignment levels at the boundary. Cross sections must include existing and design levels for back of footpath; top of kerb; kerb invert; kerb lip; road level 1m from kerb lip and road centre line;
 - e) Street tree and planting details;
 - f) Details of all existing and proposed signage and line marking for Brompton Street, Rich Street, the intersection of Rich and Victoria Road and the internal road network; and
 - g) A Street lighting design for Brompton Street, Rich Street, the intersection of Rich and Victoria Road and the internal road network.

87. The vehicular access and associated vehicle standing areas must be designed in accordance with Australian Standard AS/NZS 2890.1-2004 Parking Facilities: Off-street car parking, Australian Standard AS 2890.2-2002 Parking Facilities: Commercial vehicle facilities, AS/NZS 2890.6-2009 Parking facilities: Off-street parking for people with disabilities so that:-
- a) The layout and minimum dimensions of any standing area comply with clause 2.4 of AS/NZS 2890.1-2004 such that:-
 - (i) car spaces adjacent to walls or fences are increased in width by an additional 300mm;
 - (ii) end spaces are provided with an additional 1m aisle extension; and
 - (iii) the location of columns within the carpark complies with figure 5.1 of AS/NZS 2890.1-2004;
 - b) At the property boundary the access from the road to a standing area is (as near as practicable) perpendicular to the line of the adjacent road;
 - c) The relative surface levels of the internal access from the road being controlled so that:-
 - (i) the surface levels at the property boundary match "alignment levels";
 - (ii) the change in grade for any 2m length of accessway does not exceed 1 in 8 (12.5%) unless suitable transitions are provided in accordance with AS2890.1;
 - (iii) the maximum grade at any point does not exceed 1 in 5 (20%) or in the case of ramps greater than 20m in length 1 in 6 (16.7%); and
 - (iv) the maximum grade at the property boundary does not exceed 1 in 20 (5%) within 6m of the property boundary;
 - d) The vehicle egress is designed such that there are no obstructions to lines of sight, along the footpath and the roadway for drivers of egressing vehicles; and
 - e) The top of the ramp of the south western building must be widened to allow for satisfactory 2 way traffic flow to the building. This must necessitate the deletion of a carspace at the top of the ramp.

Details of compliance with the above requirements must including a Traffic Engineers certification must be submitted to and approved by Council prior to the issue of a Construction Certificate.

88. The vehicular crossing and driveway ramp to the site must be designed to satisfy the ground clearance template (Figure C1) from Australian Standard AS/NZS 2890.1-2004 Parking Facilities: Off-street car parking. A long section, along both sides of the proposed vehicular crossing and ramp, drawn at a 1:20 natural scale, must be submitted to and approved by Council's Development Engineer prior to the issue of a Construction Certificate. The long section must begin from the centreline of the adjacent road to 3 metres past the bottom of the ramp.
89. The removal, replacing or decommissioning of an underground petroleum storage system must comply with the requirements of The Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008, The Protection of the Environment Operations Act 1997 and Australian Standard AS4976-2008: The removal and disposal of underground petroleum storage tanks.

Details demonstrating compliance with the requirements of this condition are to be submitted for approval to the Principal Certifying Authority prior to the issue of any Construction Certificate.

90. An Asbestos Survey prepared by a suitably qualified Occupational Hygienist must be prepared for the premises. The Survey is to incorporate appropriate Asbestos removal

and disposal methods in accordance with the requirements of WorkCover NSW, NSW Environmental Planning and Assessment Amendment (Asbestos) Regulation 2009 and NSW Environment Protection Authority, Safe Removal of Asbestos 2nd Edition [NOHSC: 2002 (2005)] and conditions of this consent.

A copy of any WorkCover approval documents is to be included as part of the documentation. Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to any works on site commencing or the issue of the Construction Certificate (whichever occurs first).

91. The landscape plan must be amended and must approved by Council's Tree Management Officer prior to the issue of a Construction Certificate to include the following information:

- a) show the species and planting sizes of trees detailed in the Planting Plan, McGregor + Coxall, 29/9/17,
- b) show the number and location of trees shown in the North Hub Alternate Design Ground Level, Drawing No. DA-130-010, 9/11/18, and

Note: Council's Coordinator Public Trees should be consulted with respect to the exact location and required planting detail of the two new trees on the southern side of Rich Street.

92. Planting details must be submitted to and approved by Council's Tree Management Officer prior to the issue of a Construction Certificate. Street trees and trees planted in car parking areas and other hard surfaces must be planted in soil vaults that provide sufficient soil volume for trees to fully establish. WSUD principles must be incorporated to ensure adequate irrigation.
93. The 2 car share spaces are required to be relocated to two of the at grade spaces within the site (not accessible spaces). Amended plans detailing this requirement is to be provided to the Principal Certifying Authority prior to the issue of a Construction Certificate. A plan detailing the establishment, management and operation of the car share scheme is required to accompany the amended plans.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE FOR STAGE 2 OF THE DEVELOPMENT (Marker Building) being the construction of a 5 storey Marker Building with ground floor food and drink premises and upper level offices with a roof terrace at level 6.

94. Noise attenuation measures must be incorporated into the development complying with Australian Standard 2021-2015 in relation to interior design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction), in accordance with details to be submitted to the Certifying Authority's satisfaction prior to the issue of a Construction Certificate together with certification by a suitably qualified acoustical engineer that the proposed noise attenuation measures satisfy the requirements of Australian Standard 2021-2015.
95.
 - a) This condition is imposed in accordance with Section 7.11 of the Environmental Planning and Assessment Act 1979.
 - b) Prior to the issue of the Construction Certificate for Stage 2 of the development, evidence that the monetary contribution specified under Stage 1 of the

development consent having been paid in its entirety is required to be provided to the Certifying Authority.

96. Prior to the issue of a Construction Certificate an amended plan must be submitted to the Certifying Authority's satisfaction indicating the following:
 - a) Access to the premises via the principal place of entry to all buildings, complying with AS 1428.1- 2009 'Design for access and mobility';
 - b) Accessible toilets complying with AS 1428.1- 2009 'Design for access and mobility';
 - c) The lift design must comply with AS 1735.12 -1999 'Lifts, escalators and moving walkways Part 12: Facilities for persons with disabilities' as a minimum requirement.
97. Prior to the issue of a Construction Certificate an amended plan must be submitted to the Certifying Authority's satisfaction addressing the requirements of The Disability (Access to Premises – buildings) Standards 2010 (the Premises Standards).
98. Lighting details of the communal car parking areas and the entrances to the buildings being submitted to the Certifying Authority's satisfaction prior to the issue of a Construction Certificate.
99. Details of an anti-graffiti treatment to the northern elevation of the Marker Building to a minimum height of the maximum height of the ground floor level must be submitted to and approved by Council prior to the issue of a Construction Certificate.
100. Letterboxes and mail collection facilities being provided and adequately protected. Details of such are required to be submitted to the Certifying Authority's satisfaction prior to the issue of a Construction Certificate.
101. To ensure the adequate storage and collection of waste from the occupation or the use of the food premises, all garbage and recyclable materials emanating from the premises must be stored in a designated waste storage area. The waste storage area must be designed and constructed in accordance with AS 4674 - Design, Construction and Fitout of Food Premises, and must be:
 - a) Provided with a hose tap connected to the water supply;
 - b) Paved with impervious floor materials;
 - c) Coved at the intersection of the floor and walls;
 - d) Graded and drained to a waste disposal system in accordance with the relevant regulatory authority (Sydney Water);
 - e) Adequately ventilated (mechanically or naturally) so that odour emissions do not cause offensive odour as defined by the Protection of the Environment Operations Act 1997; and
 - f) Fitted with appropriate interventions to meet fire safety standards in accordance with the National Construction Code (Building Code of Australia).

Detailed plans and specifications for the construction of the waste storage area must be submitted to the Certifying Authority's satisfaction prior to the issue of a Construction Certificate.

102. Prior to the commencement of demolition works or a Construction Certificate being issued for works approved under stage 2 of the development (whichever occurs first), a security deposit and inspection fee (amount specified under Stage 1) must be paid to Council to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of carrying out the works and as surety

for the proper completion of any road, footpath and drainage works required by this consent.

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

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

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

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

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

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

103. All footings adjacent to Council's stormwater pipe must be taken to a depth 500mm below a line of influence measured at 45° from a point 1m from the invert of the stormwater pipe in the direction of the footing. Plans, and supporting documents, detailing the proposed foundations adjacent to Council's drainage system, must be submitted to and accepted by Council's Development Engineer prior to the issue of a Construction Certificate.
104. The architectural plans must be amended and submitted to and approved by Council's Development Engineer prior to the issue of a Construction Certificate to address the following:
 - a) The floor levels of the development must be set 500mm freeboard above the 1 in 100 year flood level at the relevant point of entry or openings into the building.
 - b) The locations and details of "no right hand turn" signs required from Victoria Road into Rich Street and Rich Street into Victoria Road for vehicles under 8.8m in length.
105. Full detailed construction plans and specifications must be submitted to Council's Development Engineer for approval under Section 138 of the Roads Act 1993 prior to the issue of a Construction Certificate with all works completed prior to the issue of an Occupation Certificate. Traffic related works and signage must be subject to a separate application to and approval of the Local Traffic Committee. In order to provide satisfactory vehicular and pedestrian access, drainage, landscaping and aesthetic improvements to the public domain adjacent to the site, the following works must be undertaken at no cost to Council and included on the plans and specifications:

- a) The public domain along all remaining frontages of the site inclusive of footpath paving, kerb, internal private road network, street trees, landscaping, street furniture, etc. must be reconstructed and upgraded in accordance with the Street Tree Masterplan and the Marrickville Public Domain Design Guide and generally in accordance with the Civil Set of Plans DAC001 to DAC096 Rev C by ATL;
 - b) New kerb and gutter along the frontage of the site. The kerb type (concrete or stone) must be consistent with the majority of kerb type at this location. A long section of the new kerb must be submitted to Council;
 - c) Cross sections are to be provided at the boundary at a minimum distance of every 5m and at all pedestrian and vehicular access locations. Note, the cross fall of the footpath must be set at 2.5%. These sections will set the alignment levels at the boundary. Cross sections must include existing and design levels for back of footpath; top of kerb; kerb invert; kerb lip; road level 1m from kerb lip and road centre line;
 - d) Street tree and planting details;
 - e) Details of all existing and proposed signage and line marking for Brompton Street, Rich Street, the intersection of Rich and Victoria Road and the internal road network; and
 - f) A Street lighting design for Brompton Street, Rich Street, the intersection of Rich and Victoria Road and the internal road network.
106. The vehicular access and associated vehicle standing areas must be designed in accordance with Australian Standard AS/NZS 2890.1-2004 Parking Facilities: Off-street car parking, Australian Standard AS 2890.2-2002 Parking Facilities: Commercial vehicle facilities, AS/NZS 2890.6-2009 Parking facilities: Off-street parking for people with disabilities so that:-
- a) The layout and minimum dimensions of any standing area comply with clause 2.4 of AS/NZS 2890.1-2004 such that:
 - (i) car spaces adjacent to walls or fences are increased in width by an additional 300mm;
 - (ii) end spaces are provided with an additional 1m aisle extension; and
 - (iii) the location of columns within the carpark complies with figure 5.1 of AS/NZS 2890.1-2004;
 - b) At the property boundary the access from the road to a standing area is (as near as practicable) perpendicular to the line of the adjacent road;

Details of compliance with the above requirements must including a Traffic Engineers certification must be submitted to and approved by Council prior to the issue of a Construction Certificate.

107. The removal, replacing or decommissioning of an underground petroleum storage system must comply with the requirements of The Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008, The Protection of the Environment Operations Act 1997 and Australian Standard AS4976-2008: The removal and disposal of underground petroleum storage tanks.

Details demonstrating compliance with the requirements of this condition are to be submitted for approval to the Principal Certifying Authority prior to the issue of any Construction Certificate.

108. An Asbestos Survey prepared by a suitably qualified Occupational Hygienist must be prepared for the premises. The Survey is to incorporate appropriate Asbestos removal and disposal methods in accordance with the requirements of WorkCover NSW, NSW Environmental Planning and Assessment Amendment (Asbestos) Regulation 2009 and

NSW Environment Protection Authority, Safe Removal of Asbestos 2nd Edition [NOHSC: 2002 (2005)] and conditions of this consent.

A copy of any WorkCover approval documents is to be included as part of the documentation. Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to any works on site commencing or the issue of the Construction Certificate (whichever occurs first).

109. Planting details must be submitted to and approved by Council prior to the issue of the Construction Certificate. Street trees and trees planted in car parking areas and other hard surfaces must be planted in soil vaults that provide sufficient soil volume for trees to fully establish. WSUD principles must be incorporated to ensure adequate irrigation.

SITE WORKS

110. Unless otherwise approved by Council, excavation, demolition, construction or subdivision work must only be permitted during the following hours:
- a) 7:00 am to 6:00 pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm);
 - b) 8:00 am to 1:00 pm on Saturdays with no demolition works occurring during this time; and
 - c) at no time on Sundays or public holidays.

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

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

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

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

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

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

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

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

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

112. The placing of any materials on Council's footpath or roadway is prohibited, without the consent of Council. The placement of waste storage containers in a public place requires Council approval and must comply with Council's Policy - 'Placement of Waste Storage Containers in a Public Place'.
113. All demolition work must be carried out in accordance with the following:
- a) compliance with the requirements of Australian Standard AS 2601 'The demolition of structures' with specific reference to health and safety of the public, health and safety of the site personnel, protection of adjoining buildings and protection of the immediate environment;
 - b) all works involving the demolition, removal, transport and disposal of asbestos cement must be carried out in accordance with the 'Worksafe Code of Practice for Removal of Asbestos' and the requirements of the WorkCover Authority of NSW and the Department of Environment, Climate Change and Water;
 - c) all building materials arising from the demolition must be disposed of in an approved manner in accordance with Part 2.21 of Marrickville Development Control Plan 2011 – Site Facilities and Waste Management and any applicable requirements of the Department of Environment, Climate Change and Water;
 - d) sanitary drainage, stormwater drainage, water, electricity and telecommunications must be disconnected in accordance with the requirements of the responsible authorities;
 - e) the generation of dust and noise on the site must be controlled;
 - f) the site must be secured to prohibit unauthorised entry;
 - g) suitable provision must be made to clean the wheels and bodies of all vehicles leaving the site to prevent the tracking of debris and soil onto the public way;
 - h) all trucks and vehicles associated with the demolition, including those delivering to or removing material from the site, must only having access to the site during work hours nominated by Council and all loads must be covered;
 - i) all vehicles taking materials from the site must be loaded wholly within the property unless otherwise permitted by Council;
 - j) no waste collection skips, spoil, excavation or demolition material from the site must be deposited on the public road, footpath, public place or Council owned property without the approval of Council; and
 - k) the person acting on this consent must ensure that all contractors and sub-contractors associated with the demolition are fully aware of these requirements.
114. The works must be inspected at critical stages of construction, by the PCA or if the PCA agrees, by another certifying authority. The last inspection can only be carried out by the PCA. The critical stages of construction are:
- a) At the commencement of the building work;
 - b) For Class 2, 3 and 4 buildings, prior to covering waterproofing in any wet areas (a minimum of 10% of wet areas within a building);
 - c) Prior to covering any stormwater drainage connections, and after the building work has been completed and prior to any occupation certificate being issued in relation to the building; and
 - d) After the building work has been completed and prior to any Occupation Certificate being issued in relation to the building.

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

115. If it is necessary to excavate below the level of the base of the footings of a building on the adjoining allotments, including a public place such as footways and roadways, the person acting on this consent must ensure that:

- a) At least 7 days' notice is given to the owners of the adjoining land of the intention to excavate below the base of the footings. The notice must include complete details of the work; and
- b) Any building is preserved and protected from damage.

Where a dilapidation report has not been prepared on any building adjacent to the excavation, the person acting on this consent is responsible for arranging and meeting the cost of a dilapidation report prepared by a suitably qualified person. The report must be submitted to and accepted by the PCA prior to works continuing on site, if the consent of the adjoining property owner can be obtained. Copies of all letter/s that have been sent via registered mail to the adjoining property owner and copies of any responses received must be forwarded to the PCA prior to work commencing.

116. All vehicles carrying materials to, or from the site must have their loads covered with tarpaulins or similar covers.
117. A certificate of survey from a registered land surveyor must be submitted to the PCA upon excavation of the footings and prior to the pouring of the concrete to verify that the structure will not encroach on the allotment boundaries.
118. A clear unobstructed path of travel of not less than 1,000mm must be provided to all exits and paths of travel to exits.
119. Any coolroom which is of sufficient size for a person to enter must have:
- a) a door which is capable of being opened by hand from inside without a key;
 - b) internal lighting controlled only by a switch which is located adjacent to the entrance doorway inside the coolroom;
 - c) an indicated lamp positioned outside the coolroom which is illuminated when the interior lights are switched on; and
 - d) an alarm that is -
 - i. located outside but controllable only from within the coolroom; and
 - ii. able to achieve a sound pressure level outside the coolroom of 90dB(A) when measured 3 metres from the sounding device,
 - iii. in accordance with Clause G1.2 of the National Construction Code (Building Code of Australia).
120. Fixtures for bathroom and kitchen taps, showerheads, dishwashers, toilet cisterns and urinals must have a minimum 3 Star WELS rating.

NOTE: Information on the star rating scheme, and all 'star' rated products are available to view at the Water Efficiency Labelling and Standards (WELS) website: www.waterrating.gov.au.

121. New or replacement toilets must have a minimum 3 Star WELS rating and being 6/3 litre dual flush or more efficient

NOTE: Information on the star rating scheme, and all 'star' rated products are available to view at the Water Efficiency Labelling and Standards (WELS) website: www.waterrating.gov.au.

122. Any new information revealed during development works that has the potential to alter previous conclusions about site contamination or hazardous materials must be immediately notified to the Council and the Principal Certifying Authority.
123. Alignment levels for the site at all pedestrian and vehicular access locations must be set by the approved public domain design. Note: This may require the internal site levels to be adjusted locally at the boundary to ensure that they match the above alignment levels. Failure to comply with this condition will result in vehicular access being denied.
124. The applicant must, within fourteen (14) days of notification by Council, execute any and all maintenance works required by Council. In the event that the applicant fails to undertake such work, Council may undertake the required maintenance works, utilising part or all of the maintenance security bond and Council may recover any costs in excess of the security from the applicant.
125. Tree protection measures detailed in Section 10 of the Arboricultural Impact Assessment Report (Earthscape Horticultural Services, October 2017) and in Section 4 of Australian Standard *Protection of Trees on Development Sites* AS 4970—2009 must be implemented and complied with for the duration of works including site preparation, demolition, construction and landscaping (except where these conditions permit otherwise). Prohibited activities as detailed in AS 4970—2009 must not be permitted within any designated Tree Protection Zone (TPZ) unless approved under this consent and these conditions. Any reasonable directions in writing by the Project Arborist relating to tree protection must be complied with.
126. Trees to be removed must be removed by a practicing arborist who has a minimum qualification of Certificate 3 in Arboriculture, in compliance with the Safe Work Australia *Guide to Managing Risks of Tree Trimming and Removal Work*, July 2016.
127. Landscaping of the site must be carried out prior to occupation or use of the premises in accordance with the approved amended landscape plan and must be maintained at all times to Council's satisfaction. Specified tree protection measures must be complied with for all landscaping works, except where these conditions permit otherwise.
128. Following completion of construction and prior to the issue of the Occupation Certificate, new trees must be planted as detailed in the approved amended landscape plan.
129. The new trees must be planted in accordance with the following criteria:
 - a) The new trees must be located in accordance with the approved amended landscape plan.
 - b) The species of trees and planting stock sizes must be as detailed in the approved landscape plan.
 - c) The planting stock must comply with the Australian Standard *Tree Stock for Landscape Use* AS 2303-2015.
 - d) The new trees must be planted in accordance with the tree planting detail included in the Marrickville Street Tree Master Plan 2014. Note that planting holes for trees must not be excavated deeper than the root ball and that new trees must not be tied to stakes.
 - e) The new trees must be planted by a qualified horticulturist or arborist, with a minimum qualification of Certificate 3.

- f) Each new tree must be maintained in a healthy and vigorous condition until it attains a height of 5 metres, from which time it is protected by Council's Development Control Plan (DCP).
- g) If any tree dies or needs to be removed prior to that time it must be replaced with a similar tree in accordance with these conditions at the expense of the applicant.

PRIOR TO THE ISSUE OF A TORRENS TITLE SUBDIVISION CERTIFICATE

- 130. The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to the issue of a Subdivision Certificate.
 - a) A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Make early application for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.
 - b) Application must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing > Providers > Lists or telephone 13 20 92.
- 131. Prior to the issue of a Subdivision Certificate a restrictive covenant under Section 88E of the Conveyancing Act must be created over Lot 53 stating that the site has utilised a Floor Space Ratio (FSR) of 1:1 in the calculation of FSR when related to any future development of that lot. The instrument creating the restriction is to include in it a provision that the restriction may not be revoked or modified without the prior approval of Council and is to be registered at the Land Titles Office prior to the issue of a Subdivision Certificate.
- 132. The submission of a final survey plan and 5 copies for the subdivision.
- 133. The payment of the required fee, under Council's adopted fees and charges, for the approval of the final plan under the terms of Section 109J of the Environmental Planning and Assessment Act.
- 134. All instruments under Section 88B of the Conveyancy Act used to create positive covenants, easements or right-of-ways must include the condition that such easements or right-of-ways may not be varied, modified or released without the prior approval of Inner West Council.

**PRIOR TO OCCUPATION OF THE BUILDING FOR STAGE 1 OF THE DEVELOPMENT
(North & South Hub Buildings) which comprises site preparation works including
demolition of existing structures and removal of vegetation; subdivision and
construction of 2 new buildings incorporating ground level food and drink tenancies,
studio spaces, upper level offices and car parking being the 3 storey North Hub
building and 4 storey South Hub building**

- 135. You must obtain an Occupation Certificate from your PCA prior to you occupy or use the building. The PCA must notify the Council of the determination of the Occupation Certificate and forward the following documents to Council within 2 days of the date of the Certificate being determined:
 - a) A copy of the determination;
 - b) Copies of any documents that were lodged with the Occupation Certificate application;

- c) A copy of Occupation Certificate, if it was issued;
- d) A copy of the record of all critical stage inspections and any other inspection required by the PCA;
- e) A copy of any missed inspections; and
- f) A copy of any compliance certificate and any other documentary evidence relied upon in issuing the Occupation Certificate.

136. Occupation of the building must not be permitted until such time as:

- a) All preconditions to the issue of an Occupation Certificate specified in this development consent have been met;
- b) The building owner obtains a Final Fire Safety Certificate certifying that the fire safety measures have been installed in the building and perform to the performance standards listed in the Fire Safety Schedule; and
- c) An Occupation Certificate has been issued.

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

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

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

138. The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

- a) A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Make early application for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.
- b) Application must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing > Providers > Lists or telephone 13 20 92.

139. a) Upon completion of the required noise attenuation measures referred to in the "Prior to the Issue of a Construction Certificate" Section of this Determination, and prior to the occupation of the development a report must be prepared and submitted to the Certifying Authority's satisfaction by an accredited Acoustics Consultant certifying that the final construction meets AS2021-2015 as set down in the subject condition of this consent. Such report must include external and internal noise levels to ensure that the external noise levels during the test are representative of the typical maximum levels that may occur at this development; and

- b) Where it is found that internal noise levels are greater than the required dB(A) rating due to faulty workmanship or the like, necessary corrective measures must be carried out and a further certificate being prepared and submitted to Council in accordance with the requirements as set down in Part a) of this condition.

140. Prior to the issue of an Occupation Certificate, Council must be notified that the premises are being used for the preparation, manufacture or storage of food for sale so that the premises can be registered on Council's food premises database.
141. Prior to the commencement of food handling operations, the food business operator must notify the NSW Food Authority. You may notify the NSW Food Authority via the Internet on www.foodnotify.nsw.gov.au or by contacting the Council for a notification form.
142. All works required to be carried out in connection with drainage, crossings, alterations to kerb and guttering, footpaths and roads resulting from the development must be completed prior to the issue of an Occupation Certificate. Works must be in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications".
143. All public domain works required to be carried out in connection with drainage, crossings, alterations to kerb and guttering, footpaths and roads resulting from the development must be completed prior to the issue of an Occupation Certificate. Works must be in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications".
144. Heavy duty concrete vehicle crossings, in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" must be constructed at the vehicular access locations prior to the issue of the Occupation Certificate and at no cost to Council.
145. All redundant vehicular crossings to the site must be removed and replaced by kerb and gutter and footpath paving in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" prior to the issue of the Occupation Certificate and at no cost to Council. Where the kerb in the vicinity of the redundant crossing is predominately stone (as determined by Council's Engineer) the replacement kerb must also be in stone.
146. Encroachments onto Council's road or footpath of any service pipes, sewer vents, boundary traps, downpipes, gutters, stairs, doors, gates, garage tilt up panel doors or any structure whatsoever must not be permitted. Any encroachments on to Council road or footpath resulting from the building works will be required to be removed prior to the issue of the Occupation Certificate.
147. You are advised that Council has not undertaken a search of existing or proposed utility services adjacent to the site in determining this application. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development must be at no cost to Council and undertaken prior to the issue of an Occupation Certificate.
148. The existing stone kerb adjacent to the site is of local heritage value and is to be preserved at no cost to Council. Any damage to the stone kerb will require the replacement of the damaged individual stone units prior to the issue of the Occupation Certificate. Please note any stormwater outlets through sandstone kerbs must be carefully core drilled. Non-compliance with this condition will result in loss of your security deposit. Any sandstone approved to be removed must be transported to Council.
149. The existing unsatisfactory road pavements in Brompton Street (full width) and Rich Street (half width) must be repaired using a 40mm Mill and Fill treatment width for the

full frontage of the site. Any failed section must be boxed out and replaced with deeplift asphalt prior to the Mill and Fill treatment.

150. Prior to the issue of the Occupation Certificate written verification from a suitably qualified competent person, stating that all stormwater drainage and quality measures have been constructed in accordance with the approved plans must be submitted to and accepted by Council. In addition, full works-as-executed plans, prepared and signed by a registered surveyor, must be submitted to Council. These plans must include levels for all drainage structures, buildings (including floor levels), finished ground levels and pavement surface levels.
151. A Positive Covenant under Section 88B or 88E, whichever is relevant to the subject development, of the Conveyancing Act, must be created on the title of the property detailing the following (at the Applicant's full cost):
 - a) surface flow path;
 - b) finished pavement and ground levels;
 - c) prevent the erection of any structures or fencing;
 - d) on-site stormwater detention and/or retention system.

The wording in the Instrument must be submitted to and approved by the Inner West Council prior to lodgement at the Land Titles Office and prior to the release of the Occupation Certificate (a typical document is available from Council's Development Assessment Engineer). The Instrument must be registered prior to the completion of development.

The following documents must be submitted to Council as part of the Positive Covenant process and requirements, for the site OSD/OSR system:

i) Work-As-Executed Plans

A "Work-as-Executed" plan prepared and signed by a registered surveyor must be submitted to the Inner West Council's Development Assessment Engineer at the completion of the works showing the location of the detention basin with finished surface levels, contours at 0.2 metre intervals and volume of storage available. Also the outlet pipe from the detention basin to its connection to Council's/Sydney Water's drainage system, must be shown together with the following information:

- location;
- pipe diameter;
- gradient;
- pipe material i.e. PVC or EW etc;
- orifice size;
- trash screen at orifice;
- emergency overflow dimensions and RL;
- all buildings (including floor levels) and finished ground and pavement surface levels.

ii) Engineer's Certificate

A qualified practising Civil Engineer must certify on the completion of drainage works in respect of:

- the soundness of the storage structure;
- the capacity of the detention storage;

- the emergency overflow system being in place;
- the works being constructed in accordance with the Development Application Consent and Council's Stormwater Management DCP/Code;
- the freeboard from maximum water surface level to the finished floor and garage levels are at or above the minimum required in Council's Stormwater Management DCP/Code;
- basement car park pumps are class one zone two.

iii) Restriction-As-To-User

A "Restriction-as-to-User" must be placed on the title of the subject property to indicate the location and dimensions of the detention area/overland flow paths. This is to ensure that works, which could affect the function of the stormwater detention system, must not be carried out without the prior consent in writing of the Council.

Such restrictions must not be released, varied or modified without the consent of the Council.

A typical document is available from Council's Development Assessment Engineer.

iv) A Maintenance Schedule

A typical document is available from Council's Development Assessment Engineer.

152. Public rights-of-way must be created for the full length and width of the internal private road network including the footpaths prior to the issue of the Occupation Certificate.
153. Positive covenants must be created over the public rights-of-way (private roads) to ensure that the private roads (including the bridges) are adequately maintained during their lifetime. The maintenance must include the provision of suitable lighting for pedestrians and vehicles respectively.
154. All works required to be undertaken on public roads must be designed and constructed in accordance with Council's standard plans and specifications. The works must be supervised and certified by a qualified civil engineer who is listed under the Institution of Engineers, Australia "National Professional Engineers Register" (NPER) and must state that the works have been constructed in accordance with the approved plans and specifications prior to the issue of the Occupation Certificate.

Video inspection (CCTV) must be carried out of completed stormwater drainage works that are to revert to Council and a copy provided to Council to support the certification of those works.

In addition, full works-as-executed plans in PDF or CAD format (dwg or dxf files), prepared and signed by a registered surveyor, must be submitted to Council upon completion of the works.

155. The existing overhead power cables along all Road frontages of the site must be relocated underground with appropriate street lighting and new steel standard poles being installed at no cost to Council and prior to the issue of an Occupation Certificate. The street lighting must be designed in accordance with Australian Standard AS1158-Road Lighting and the Network Standards of Ausgrid and must meet lighting category

required by RMS. Plans must be submitted to and approved by Council prior to submission to Ausgrid for implementation.

156. The applicant must provide security, in a manner satisfactory to Council for the proper maintenance of the public domain works in an amount of \$40,000 for a period of twelve (12) months from the date of completion of the public domain works as surety for the proper maintenance of these works.

157. A second Dilapidation Report addressing the public infrastructure identified in the pre-work dilapidation report including a photographic survey and structural condition, must be submitted after the completion of works. A copy of this Dilapidation Report must be lodged with Council and the Principal Certifying Authority prior to the issue of an Occupation Certificate.

Any damage identified in the Dilapidation Report must be fully rectified by the applicant or owner at no cost to Council prior to the issue of an Occupation Certificate.

158. Prior to issue of the Occupation Certificate the person acting on this consent must obtain from Council a compliance Certificate(s) stating that all Road, Footpath, drainage and Public Domain Works on Council property required to be undertaken as a result of this development have been completed satisfactorily and in accordance with Council approved plans and specifications.

159. The vehicular crossing and/or footpath works are required to be constructed by your own contractor. You or your contractor must complete an application for 'Construction of Vehicle Crossing and Public Domain Works' form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, prior to commencement of works.

160. Prior to the issue of an Occupation Certificate, a street number and identifier of separate occupancies (if applicable) must be clearly displayed in a readily visible location (numbers having a height of not less than 75mm). If any new street numbers or change to street numbers (this includes unit and shop numbers) are required they must have the prior approval of Council prior to being displayed.

161. Prior to the issue of any interim / final Occupation Certificate, certification from an appropriately qualified environmental consultant is to be provided stipulating that the requirements of the following contamination reports:

Title	Prepared by	Date
Remediation Action Plan	Aargus Pty Ltd	4 July 2018

have been complied with throughout excavation, demolition & development work stages. The certification must also include:

- A validation and site monitoring report prepared in accordance with relevant guidelines issued under the Contaminated Land Management Act 1997 must be submitted to the Council within one month from completion of the remediation work.
- A detailed survey of all sites used for landfill disposal must be prepared within one month from completion of the remediation work, and submitted to Council.
- Identification of the extent and depth of all fill material in relation to existing roadways and buildings. The survey must also include a detailed survey of all site used as landfill disposal pits, identifying boundaries and depth of disposal pits in relation to existing roadways and buildings.

Details demonstrating compliance with the requirements of this condition is to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any interim / final occupation certificate.

162. Any soil proposed to be disposed off site must be classified, removed and disposed of in accordance with the EPA Environmental Guidelines; Assessment, Classification and Management of Liquid and Non-Liquid Wastes 1999 and the Protection of the Environment Operations Act 1997.

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

163. A validation report prepared by a suitably qualified and experienced person must be submitted to Council. The report is to confirm that the underground petroleum storage system has been removed, replaced or decommissioned in accordance with The Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008, The Protection Environment Operations Act 1997 and Australian Standard AS4976-2008: The removal and disposal of underground petroleum storage tanks.

Details demonstrating compliance with the requirements of this condition is to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any interim / final occupation certificate.

164. A validation report must be prepared by a suitably qualified Environmental Consultant and be submitted to Council upon completion of remediation works and prior to the site being occupied. The validation report must be prepared in accordance with relevant NSW Environment Protection Authority guidelines, including the guidelines 'Consultants Reporting on Contaminated Sites' and must include :

- Description and documentation of all works performed
- Results of validation testing and monitoring
- Validation results if any imported fill was transferred to site
- Demonstrate how all agreed clean-up criteria and relevant regulations have been satisfied

Confirmation and justification as to the suitability of the site for the proposed use and the potential for off site migration of any residual contaminants.

An Environmental Management Plan (EMP) must be prepared for the approved development.

The plan must be prepared by a suitably qualified person and must be to the satisfaction of Council and must address:

Risk assessment of all Environmental Aspects and impacts to site and other potentially impacted properties

The impacts must at minimum consider the following areas:

- Hazardous Substances
- Water
- Air
- Noise

- Vibration
- Waste & Litter
- Land
- Community
- Environmental Protection objectives and control strategies
- Environmental conditions using measurable indicators and standards
- Emergency Response Plan
- Environmental monitoring and reporting plan

The plan must be submitted to Council and correspondence obtained stating that the plan satisfies the condition obtained by Council, prior to the release of an Occupation Certificate.

165. The project arborist must certify in writing to the Principal Certifying Authority (PCA) prior to the issue of the Occupation Certificate that the conditions of consent relating to tree removal, tree protection and tree planting have been complied with and that the protected trees have not been damaged or, if the recommendations have not been complied with, detail the extent and nature of the departure from the conditions. The Principal Certifying Authority must report breaches of the conditions to Inner West Council.
166. The landscaping of the site must be carried out prior to occupation or use of the premises in accordance with the approved details and must be maintained at all times to Council's satisfaction.

PRIOR TO OCCUPATION OF THE BUILDING STAGE 2 OF THE DEVELOPMENT (Marker Building) being the construction of a 5 storey Marker Building with ground floor food and drink premises and upper level offices with a roof terrace at level 6

167. You must obtain an Occupation Certificate from your PCA prior to you occupy or use the building. The PCA must notify the Council of the determination of the Occupation Certificate and forward the following documents to Council within 2 days of the date of the Certificate being determined:
- a) A copy of the determination;
 - b) Copies of any documents that were lodged with the Occupation Certificate application;
 - c) A copy of Occupation Certificate, if it was issued;
 - d) A copy of the record of all critical stage inspections and any other inspection required by the PCA;
 - e) A copy of any missed inspections; and
 - f) A copy of any compliance certificate and any other documentary evidence relied upon in issuing the Occupation Certificate.
168. Occupation of the building must not be permitted until such time as:
- a) All preconditions to the issue of an Occupation Certificate specified in this development consent have been met;
 - b) The building owner obtains a Final Fire Safety Certificate certifying that the fire safety measures have been installed in the building and perform to the performance standards listed in the Fire Safety Schedule; and
 - c) An Occupation Certificate has been issued.
169. The owner of the premises, as soon as practicable after the Final Fire Safety Certificate is issued, must:

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

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

170. The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.
- a) A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Make early application for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.
 - b) Application must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing > Providers > Lists or telephone 13 20 92.
171. a) Upon completion of the required noise attenuation measures referred to in the "Prior to the Issue of a Construction Certificate" Section of this Determination, and prior to the occupation of the development a report must be prepared and submitted to the Certifying Authority's satisfaction by an accredited Acoustics Consultant certifying that the final construction meets AS2021-2015 as set down in the subject condition of this consent. Such report must include external and internal noise levels to ensure that the external noise levels during the test are representative of the typical maximum levels that may occur at this development; and
- b) Where it is found that internal noise levels are greater than the required dB(A) rating due to faulty workmanship or the like, necessary corrective measures must be carried out and a further certificate being prepared and submitted to Council in accordance with the requirements as set down in Part a) of this condition.
172. Prior to the issue of an Occupation Certificate, Council must be notified that the premises are being used for the preparation, manufacture or storage of food for sale so that the premises can be registered on Council's food premises database.
173. Prior to the commencement of food handling operations, the food business operator must notify the NSW Food Authority. You may notify the NSW Food Authority via the Internet on www.foodnotify.nsw.gov.au or by contacting the Council for a notification form.
174. All works required to be carried out in connection with drainage, crossings, alterations to kerb and guttering, footpaths and roads resulting from the development must be completed prior to the issue of an Occupation Certificate. Works must be in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2- "Roadworks Specifications".
175. All public domain works required to be carried out in connection with drainage, crossings, alterations to kerb and guttering, footpaths and roads resulting from the development must be completed prior to the issue of an Occupation Certificate. Works

must be in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications".

176. Heavy duty concrete vehicle crossings, in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" must be constructed at the vehicular access locations prior to the issue of the Occupation Certificate and at no cost to Council.
177. All redundant vehicular crossings to the site must be removed and replaced by kerb and gutter and footpath paving in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" prior to the issue of the Occupation Certificate and at no cost to Council. Where the kerb in the vicinity of the redundant crossing is predominately stone (as determined by Council's Engineer) the replacement kerb must also be in stone.
178. Encroachments onto Council's road or footpath of any service pipes, sewer vents, boundary traps, downpipes, gutters, stairs, doors, gates, garage tilt up panel doors or any structure whatsoever must not be permitted. Any encroachments on to Council road or footpath resulting from the building works will be required to be removed prior to the issue of the Occupation Certificate.
179. You are advised that Council has not undertaken a search of existing or proposed utility services adjacent to the site in determining this application. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development must be at no cost to Council and undertaken prior to the issue of an Occupation Certificate.
180. The existing stone kerb adjacent to the site is of local heritage value and is to be preserved at no cost to Council. Any damage to the stone kerb will require the replacement of the damaged individual stone units prior to the issue of the Occupation Certificate. Please note any stormwater outlets through sandstone kerbs must be carefully core drilled. Non-compliance with this condition will result in loss of your security deposit. Any sandstone approved to be removed must be transported to Council.
181. The existing unsatisfactory road pavements in Brompton Street (full width) and Rich Street (half width) must be repaired using a 40mm Mill and Fill treatment width for the full frontage of the site. Any failed section must be boxed out and replaced with deeplift asphalt prior to the Mill and Fill treatment.
182. Prior to the issue of the Occupation Certificate written verification from a suitably qualified competent person, stating that all stormwater drainage and quality measures have been constructed in accordance with the approved plans must be submitted to and accepted by Council. In addition, full works-as-executed plans, prepared and signed by a registered surveyor, must be submitted to Council. These plans must include levels for all drainage structures, buildings (including floor levels), finished ground levels and pavement surface levels.
183. A Positive Covenant under Section 88B or 88E, whichever is relevant to the subject development, of the Conveyancing Act, must be created on the title of the property detailing the following (at the Applicant's full cost):
 - a) surface flow path;
 - b) finished pavement and ground levels;
 - c) prevent the erection of any structures or fencing;
 - d) on-site stormwater detention and/or retention system.

The wording in the Instrument must be submitted to and approved by the Inner West Council prior to lodgement at the Land Titles Office and prior to the release of the Occupation Certificate (a typical document is available from Council's Development Assessment Engineer). The Instrument must be registered prior to the completion of development.

The following documents must be submitted to Council as part of the Positive Covenant process and requirements, for the site OSD/OSR system:

i) Work-As-Executed Plans

A "Work-as-Executed" plan prepared and signed by a registered surveyor must be submitted to the Inner West Council's Development Assessment Engineer at the completion of the works showing the location of the detention basin with finished surface levels, contours at 0.2 metre intervals and volume of storage available. Also the outlet pipe from the detention basin to its connection to Council's/Sydney Water's drainage system, must be shown together with the following information:

- location;
- pipe diameter;
- gradient;
- pipe material i.e. PVC or EW etc;
- orifice size;
- trash screen at orifice;
- emergency overflow dimensions and RL;
- all buildings (including floor levels) and finished ground and pavement surface levels.

ii) Engineer's Certificate

A qualified practising Civil Engineer must certify on the completion of drainage works in respect of:

- the soundness of the storage structure;
- the capacity of the detention storage;
- the emergency overflow system being in place;
- the works being constructed in accordance with the Development Application Consent and Council's Stormwater Management DCP/Code;
- the freeboard from maximum water surface level to the finished floor and garage levels are at or above the minimum required in Council's Stormwater Management DCP/Code;
- basement car park pumps are class one zone two.

iii) Restriction-As-To-User

A "Restriction-as-to-User" must be placed on the title of the subject property to indicate the location and dimensions of the detention area/overland flow paths. This is to ensure that works, which could affect the function of the stormwater detention system, must not be carried out without the prior consent in writing of the Council.

Such restrictions must not be released, varied or modified without the consent of the Council.

A typical document is available from Council's Development Assessment Engineer.

iv) A Maintenance Schedule

A typical document is available from Council's Development Assessment Engineer.

184. Public rights-of-way must be created for the full length and width of the internal private road network including the footpaths prior to the issue of the Occupation Certificate.
185. Positive covenants must be created over the public rights-of-way (private roads) to ensure that the private roads (including the bridges) are adequately maintained during their lifetime. The maintenance must include the provision of suitable lighting for pedestrians and vehicles respectively.
186. All works required to be undertaken on public roads must be designed and constructed in accordance with Council's standard plans and specifications. The works must be supervised and certified by a qualified civil engineer who is listed under the Institution of Engineers, Australia "National Professional Engineers Register" (NPER) and must state that the works have been constructed in accordance with the approved plans and specifications prior to the issue of the Occupation Certificate.

Video inspection (CCTV) must be carried out of completed stormwater drainage works that are to revert to Council and a copy provided to Council to support the certification of those works.

In addition, full works-as-executed plans in PDF or CAD format (dwg or dxf files), prepared and signed by a registered surveyor, must be submitted to Council upon completion of the works.

187. The existing overhead power cables along all Road frontages of the site must be relocated underground with appropriate street lighting and new steel standard poles being installed at no cost to Council and prior to the issue of an Occupation Certificate. The street lighting must be designed in accordance with Australian Standard AS1158-Road Lighting and the Network Standards of Ausgrid and must meet lighting category required by RMS. Plans must be submitted to and approved by Council prior to submission to Ausgrid for implementation.
188. The applicant must provide security, in a manner satisfactory to Council for the proper maintenance of the public domain works in an amount of \$40,000 for a period of twelve (12) months from the date of completion of the public domain works as surety for the proper maintenance of these works.
189. A second Dilapidation Report addressing the public infrastructure identified in the pre-work dilapidation report including a photographic survey and structural condition, must be submitted after the completion of works. A copy of this Dilapidation Report must be lodged with Council and the Principal Certifying Authority prior to the issue of an Occupation Certificate.

Any damage identified in the Dilapidation Report must be fully rectified by the applicant or owner at no cost to Council prior to the issue of an Occupation Certificate.

190. Prior to issue of the Occupation Certificate the person acting on this consent must obtain from Council a compliance Certificate(s) stating that all Road, Footpath, drainage and Public Domain Works on Council property required to be undertaken as a

result of this development have been completed satisfactorily and in accordance with Council approved plans and specifications.

191. The vehicular crossing and/or footpath works are required to be constructed by your own contractor. You or your contractor must complete an application for 'Construction of Vehicle Crossing and Public Domain Works' form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, prior to commencement of works.
192. Prior to the issue of an Occupation Certificate, a street number and identifier of separate occupancies (if applicable) must be clearly displayed in a readily visible location (numbers having a height of not less than 75mm). If any new street numbers or change to street numbers (this includes unit and shop numbers) are required they must have the prior approval of Council prior to being displayed.
193. Prior to the issue of any interim / final Occupation Certificate, certification from an appropriately qualified environmental consultant is to be provided stipulating that the requirements of the following contamination reports:

Title	Prepared by	Date
Remediation Action Plan	Aargus Pty Ltd	4 July 2018

have been complied with throughout excavation, demolition & development work stages. The certification must also include:

- a) A validation and site monitoring report prepared in accordance with relevant guidelines issued under the Contaminated Land Management Act 1997 must be submitted to the Council within one month from completion of the remediation work.
- b) A detailed survey of all sites used for landfill disposal must be prepared within one month from completion of the remediation work, and submitted to Council.
- c) Identification of the extent and depth of all fill material in relation to existing roadways and buildings. The survey must also include a detailed survey of all site used as landfill disposal pits, identifying boundaries and depth of disposal pits in relation to existing roadways and buildings.

Details demonstrating compliance with the requirements of this condition is to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any interim / final occupation certificate.

194. Any soil proposed to be disposed off site must be classified, removed and disposed of in accordance with the EPA Environmental Guidelines; Assessment, Classification and Management of Liquid and Non-Liquid Wastes 1999 and the Protection of the Environmental Operations Act 1997.

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

195. A validation report prepared by a suitably qualified and experienced person must be submitted to Council. The report is to confirm that the underground petroleum storage system has been removed, replace or decommissioned in accordance with The Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008, The Protection Environment Operations Act 1997 and Australian Standard AS4976-2008: The removal and disposal of underground petroleum storage tanks.

Details demonstrating compliance with the requirements of this condition is to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any interim / final occupation certificate.

196. A validation report must be prepared by a suitably qualified Environmental Consultant and be submitted to Council upon completion of remediation works and prior to the site being occupied. The validation report must be prepared in accordance with relevant NSW Environment Protection Authority guidelines, including the guidelines 'Consultants Reporting on Contaminated Sites' and must include :

- Description and documentation of all works performed
- Results of validation testing and monitoring
- Validation results if any imported fill was transferred to site
- Demonstrate how all agreed clean-up criteria and relevant regulations have been satisfied

Confirmation and justification as to the suitability of the site for the proposed use and the potential for off site migration of any residual contaminants.

An Environmental Management Plan (EMP) must be prepared for the approved development.

The plan must be prepared by a suitably qualified person and must be to the satisfaction of Council and must address:

Risk assessment of all Environmental Aspects and impacts to site and other potentially impacted properties

The impacts must at minimum consider the following areas:

- Hazardous Substances
- Water
- Air
- Noise
- Vibration
- Waste & Litter
- Land
- Community
- Environmental Protection objectives and control strategies
- Environmental conditions using measurable indicators and standards
- Emergency Response Plan
- Environmental monitoring and reporting plan

The plan must be submitted to Council and correspondence obtained stating that the plan satisfies the condition obtained by Council, prior to the release of an Occupation Certificate.

197. The project arborist must certify in writing to the Principal Certifying Authority (PCA) prior to the issue of the Occupation Certificate that the conditions of consent relating to tree removal, tree protection and tree planting have been complied with and that the protected trees have not been damaged or, if the recommendations have not been complied with, detail the extent and nature of the departure from the conditions. The Principal Certifying Authority must report breaches of the conditions to Inner West Council.

198. The landscaping of the site must be carried out prior to occupation or use of the premises in accordance with the approved details and must be maintained at all times to Council's satisfaction.
199. The use and operation of the car share spaces must be managed by the owner or contracted by the owner to a car share operator to the satisfaction of Council. The use and operation of the car share space must be accommodated in the titling and management of the Residential Development, including covenants, building or strata management statement, by laws and other instruments before the issue of an Occupation Certificate, and must provide for:
- Free use of the car share space;
 - The car share vehicle shall be a small car as defined by AS2890.1:2004;
 - Public access at all times to the car share vehicle; and
 - Insurances, including public liability.
200. Prior to the issue of an Occupation Certificate (interim or final), the Principal Certifying Authority is required to be provided with evidence of the installation of the required 'no right turn signs' required at the intersection of Victoria Road and Rich Street for vehicles under 8.8 metres in length. The cost of the manufacture, installation and maintenance of the signs is required to be Bourne by the applicant.

ADVISORY NOTES

- The Disability Discrimination Act 1992 (Commonwealth) and the Anti-Discrimination Act 1977 (NSW) impose obligations on persons relating to disability discrimination. Council's determination of the application does not relieve persons who have obligations under those Acts of the necessity to comply with those Acts.
- A complete assessment of the application under the provisions of the National Construction Code (Building Code of Australia) has not been carried out.
- The approved plans must be submitted to the Customer Centre of any office of Sydney Water prior to the commencement of any work to ensure that the proposed work meets the requirements of Sydney Water. Failure to submit those plans prior to commencing work may result in the demolition of the structure if found not to comply with the requirements of Sydney Water.
- The vehicular crossing and/or footpath works are required to be constructed by your own contractor. You or your contractor must complete an application for 'Construction of a Vehicular Crossing & Civil Works' form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, prior to commencement of works.
- Buildings built or painted prior to the 1970's may have surfaces coated with lead-based paints. Recent evidence indicates that lead is harmful to people at levels previously thought safe. Children particularly have been found to be susceptible to lead poisoning and cases of acute child lead poisonings in Sydney have been attributed to home renovation activities involving the removal of lead based paints. Precautions should therefore be taken if painted surfaces are to be removed or sanded as part of the proposed building alterations, particularly where children or pregnant women may be exposed, and work areas should be thoroughly cleaned prior to occupation of the room or building.

- Contact "Dial Prior to You Dig" prior to commencing any building activity on the site.
- Useful Contacts

BASIX Information	☎ 1300 650 908 weekdays 2:00pm - 5:00pm www.basix.nsw.gov.au
Department of Fair Trading	☎ 13 32 20 www.fairtrading.nsw.gov.au Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Prior to You Dig	☎ 1100 www.dialprior toyoudig.com.au
Landcom	☎ 9841 8660 To purchase copies of Volume One of "Soils and Construction"
Long Service Payments Corporation	☎ 131441 www.lspc.nsw.gov.au
NSW Food Authority	☎ 1300 552 406 www.foodnotify.nsw.gov.au
NSW Government	www.nsw.gov.au/fibro www.diysafe.nsw.gov.au Information on asbestos and safe work practices.
NSW Office of Environment and Heritage	☎ 131 555 www.environment.nsw.gov.au
Sydney Water	☎ 13 20 92 www.sydneywater.com.au
Waste Service - SITA Environmental Solutions	☎ 1300 651 116 www.wasteservice.nsw.gov.au
Water Efficiency Labelling and Standards (WELS)	www.waterrating.gov.au
WorkCover Authority of NSW	☎ 13 10 50 www.workcover.nsw.gov.au Enquiries relating to work safety and asbestos removal and disposal.



Loan Agreement – NSW Local Councils

New South Wales Treasury Corporation

and

Inner West Council

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Loan Agreement

Date: The date specified in Schedule 1

Parties

1. **NEW SOUTH WALES TREASURY CORPORATION ABN 99 095 235 825**, constituted pursuant to the *Treasury Corporation Act 1983* (NSW) (**Lender**)
2. The party described in Schedule 1 (**Borrower**)

Background

- A. The New South Wales Government has approved the Lender establishing the Loan Scheme.
- B. The Lender's application for a loan under the Loan Scheme has been approved.
- C. The Lender has agreed to make a loan facility available to the Borrower on the terms and conditions set out in this agreement.

The Parties Agree

1. Interpretation

1.1 Definitions

In this agreement, unless expressed or implied otherwise:

Accounting Standards means the accounting standards, principles and practices applying by law or otherwise generally accepted and consistently applied in Australia.

ADI means Authorised Deposit Taking Institution.

Advance means an advance made by the Lender to the Borrower under this agreement or, where the context requires, the balance of the loan which is outstanding. The maximum number of Advances permitted under this agreement is specified at Item 1 of Schedule 1.

Amortising Loan means a loan whereby the principal outstanding is repaid progressively over the term of the loan.

Amortising Loan Amount means, in respect of an Amortising Loan, the payment required to be made by the Borrower to the Lender on each Interest Payment Date, as notified by the Lender to the Borrower.

Annuity Payment means the payment calculated by the Lender in accordance with clause 7.3.

Annuity Payment Date has the meaning specified in Item 11 of Schedule 1.

Approved Purpose has the meaning specified Item 2 of Schedule 1.

Authorised Officer means:

- (a) in respect of the Borrower, any person from time to time nominated as an Authorised Officer by the Borrower by a notice to the Lender signed by the Chief Executive Officer of the Borrower, accompanied by certified copies of signatures of all persons so appointed (and in respect of which the Lender has not received notice of revocation of the appointment); and
- (b) in respect of the Lender, any person appointed by the Lender pursuant to its delegation authorities as authorised to sign documents, provide notices or take actions under this Agreement.

Availability Period means the period set out in Item 3 of Schedule 1.

Borrower's Bank Account means the account specified in Item 4 of Schedule 1.

Break Costs means any losses and costs incurred or suffered by the Lender and reasonably determined in the sole discretion of the Lender by reason of:

- (a) the liquidation, prepayment, repayment or re-employment of deposits, borrowings or other funds acquired or contracted for by or on account of the Lender to fund or maintain the Advance;
- (b) terminating, cancelling or varying any arrangements to fund or maintain the Advance or any interest rate or currency hedge or any related trading position entered into to hedge, fix or limit its effective cost of funding or maintaining the Advance and whether such arrangement is with a third party or established pursuant to any internal accounting policy,

and the amount of loss or cost may be determined by the Lender in such manner as it reasonably thinks fit including without limitation by reference to its estimation of current market interest rates for relevant bonds issued by the Lender or other similar market instruments or by reference to a pool of funds, notional borrowings, averaging techniques or such other reasonable methods adopted by the Lender rather than by reference to a specific borrowing or a specific contract made to fund or maintain the Loan.

Break Gains means any gains derived by the Lender and reasonably determined in the sole discretion of the Lender by reason of:

- (c) the liquidation, prepayment, repayment or re-employment of deposits, borrowings or other funds acquired or contracted for by or on account of the Lender to fund or maintain the Advance;
- (d) terminating, cancelling or varying any arrangements to fund or maintain the Advance or any interest rate or currency hedge or any related trading position entered into to hedge, fix or limit its effective cost of funding or maintaining the Advance and whether such arrangement is with a third party or established pursuant to any internal accounting policy,

and the amount of any gain may be determined by the Lender in such manner as it reasonably thinks fit including without limitation by reference to its estimation of current market interest rates for relevant bonds issued by the Lender or other similar market instruments or by reference to a pool of funds, notional borrowings, averaging techniques or such other reasonable methods adopted by the Lender rather than by reference to a specific borrowing or a specific contract made to fund or maintain the Loan.

Business Day means a day that banks are open for business in Sydney, but excludes a Saturday, Sunday or public holiday.

Cash Expense Ratio means on any Relevant Date, $(A/B) \times 12$, where

- (a) A is the cash and cash equivalents (including term deposits) for the financial year ending on that date; and
- (b) B is total expenses less depreciation and Interest Expense for the financial year ending on that date.

Commonwealth Government Guarantee (Financial Claims Scheme) refers to the protections afforded to 'protected accounts' with a 'declared ADI' under the Banking Act and currently limited to \$250,000.

Consumer Price Index or CPI means the "Weighted Average of Eight Capital Cities: All-Groups Index" as maintained and published quarterly by the Australian Bureau of Statistics ("ABS"), subject to:

- (a) if the ABS ceases to publish the CPI and publishes another index which it states to be in replacement of the CPI, then that index will be used as CPI for the purposes of this agreement; and
- (b) If a relevant CPI number is revised after the Annuity Payment Date, a subsequent adjustment will be made to the Annuity Payment to take account of any discrepancy.

Debt Service Cover Ratio means on any Relevant Date, the ratio of A:B where:

- (a) A is EBITDA of the Borrower for the financial year ending on that date; and
- (b) B is the sum of principal repayments made in that financial year and Interest Expense for the financial year ending on that date.

Default Rate means the aggregate of the Interest Rate and 3% per annum.

Drawdown Notice means a notice given under clause 3.1.

EBITDA means the net operating result before Interest Expense, depreciation and amortisation.

Event of Default has the meaning given in clause 12.1.

Facility means the loan facility made available under this agreement for the purposes set out in clause 2.2.

Facility Limit means an aggregate amount equal the amount set out in Item 5 of Schedule 1 or such other amount as requested by the Borrower and agreed by the Lender (in its absolute discretion).

Final Repayment Date means the date specified in Item 11 of Schedule 1.

Finance Document means:

- (a) this Agreement;
- (b) any Related Loan Agreement; and

- (c) a document that the Lender and the Borrower agree is a Finance Document.

Financial Liability means any present or future, actual or contingent indebtedness in respect of any financial accommodation, bill of exchange, credit or hedging arrangement, finance lease or hire purchase arrangement or any guarantee or other assurance given in respect of any such indebtedness.

Fixed Rate means the interest rate as determined by the Lender using the current TCorp benchmark midpoint yield curve and notified to the Borrower, in respect of the Advance, with such interest rate including the Margin.

Government Authority means any government or any governmental or semi-governmental entity, authority, agency, commission, corporation or body, local government authority, administrative or judicial body or tribunal.

GST means the goods and services tax levied under the GST Act.

GST Act means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Indexed Annuity Loan means an inflation indexed annuity loan, where the Annuity Payments consist of components of principal and interest and is otherwise adjusted in accordance with clause 7.

Interest Cover Ratio means, on any Relevant Date, the ratio of A:B where:

- (a) A is EBITDA of the Borrower for the financial year ending on that date; and
(b) B is Interest Expense for the financial year ending on that date.

Interest Expense means, in respect of a financial year, interest and amounts in the nature of interest, or having a similar purpose or effect to interest, whether paid, payable or capitalised by the Borrower in respect of that financial year.

Interest Payment Date means the last day of each Interest Period.

Interest Period means each period of the number of months specified in Item 9 of Schedule 1, commencing on the date of the first Advance, with the final period ending on the Final Repayment Date.

Interest Rate means:

- (a) where the Interest Rate Type is "Fixed Rate", the Fixed Rate; and
(b) where the Interest Rate Type is "Floating Rate", the Floating Rate.

Interest Rate Type means the type of interest rate nominated in Item 7 of Schedule 1.

Investment Funds means the total pool of investments made by the Borrower in compliance with the current Investment Order issued by the Minister for Local Government and the Borrower's Investment Policy.

LG Act means the *Local Government Act 1993* (NSW).

LG Regulation means the *Local Government (General) Regulation 2005* (NSW).

Loan Scheme means the loan scheme established by TCorp for the provision of loans to Councils in connection with the NSW Government's "Fit For The Future" reform program.

Long Term Debt Rating means the rating assigned by Standard and Poor's Rating Services to the long term, unsecured and unsubordinated indebtedness of an ADI.

Loan Type means the form of the loan nominated in Item 6 of Schedule 1, being a Principal at Maturity Loan, an Amortising Loan or an Indexed Annuity Loan.

Long Term Financial Plan means the Borrower's 10 year financial plan prepared in accordance with the integrated planning and reporting guidelines determined by the OLG.

Margin means the amount as set out in Item 10 of Schedule 1.

Obligations means all the liabilities and obligations of the Borrower to the Lender under or by reason of any Finance Document, and includes any liabilities or obligations which:

- (a) are liquidated or unliquidated;
- (b) are present, prospective or contingent;
- (c) are in existence before or come into existence after the date of this document;
- (d) relate to the payment of money or the performance or omission of any act;
- (e) sound in damages only; or
- (f) accrue as a result of any Event of Default,

and irrespective of:

- (g) whether the Borrower is liable or obligated solely, or jointly, or jointly and severally with another person;
- (h) the circumstances in which the Lender comes to be owed each liability or obligation, including any assignment of any liability or obligation; or
- (i) the capacity in which the Borrower and the Lender comes to owe or to be owed that liability or obligation.

OLG means the NSW Office of Local Government, a division of the NSW Department of Planning and Environment.

Permitted Use Certificate means a certificate substantially in the form provided by the Borrower in its Application, applicable as at the date of this document, signed by the Mayor and Chief Executive Officer of the Borrower.

Potential Event of Default means any event which with the giving of notice, lapse of time, satisfaction of a condition or determination could constitute an Event of Default.

Principal at Maturity Loan means a loan where the principal is only repayable on the Final Repayment Date.

Principal Outstanding means the aggregate of all Advances drawn under this agreement.

Related Loan Agreement means any other loan agreement between the Lender and the Borrower in connection with the Loan Scheme, whether entered into before or after the date of this agreement.

Relevant Date means 30 June each year.

Settlement Date means, in relation to an Advance, the date on which funds are provided to the Borrower.

Statute means any legislation of the Parliament of the Commonwealth of Australia or of any State or Territory of the Commonwealth of Australia in force at any time, and any rule, regulation, ordinance, by-law, statutory instrument, order or notice at any time made under that legislation.

Taxes means all present and future taxes, levies, imposts, deductions, charges, fees and withholdings, in each case plus interest, related penalties, and any charges, fees or other amounts in respect of any of them.

TCorp Portal means the secure web-based TCorp Client Portal at portal.tcorp.nsw.gov.au/login (or such other platform made available as notified by TCorp).

Termination Date means the earlier of:

- (a) the Final Repayment Date; and
- (b) any date on which the Facility is terminated or cancelled by the Lender in accordance with this document.

Unrated ADI means an ADI that does not have a Long Term Debt Rating or acceptable rating assigned by a rating agency approved by the Lender.

1.2 Interpretation

In this agreement, unless the contrary intention appears:

1.2.1 a reference to:

- (a) a person includes an individual, the estate of an individual, a corporation, and authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;
- (b) a party includes that party's executors, administrators, successors and permitted assigns, including persons taking by way of novation and, in the case of a trustee, includes a substituted or an additional trustee;
- (c) a document (including this agreement) is to that document as varied, novated, ratified or replaced from time to time;
- (d) a statute includes its delegated legislation and a reference to a statute or delegated legislation or a provision of either includes consolidations, amendments, re-enactments and replacements;
- (e) a word importing the singular includes the plural (and vice versa), and a word indicating a gender includes every other gender;
- (f) a party, clause, schedule, exhibit, attachment or annexure is a reference to a party, clause, schedule, exhibit, attachment or annexure to or of this agreement including all schedules, exhibits, attachments and annexures to it;

1.2.2 if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;

1.2.3 'includes' in any form is not a word of limitation; and

- 1.2.4 a reference to '\$' or 'dollar' is to Australian currency.

2. Advances

2.1 Advances

- 2.1.1 On the Borrower's request the Lender agrees that it shall make one or more Advances to the Borrower at the time and in the amount specified in a Drawdown Notice during the Availability Period, provided that the total aggregate amount of Advances made by the Lender shall not exceed the Facility Limit.
- 2.1.2 The Borrower acknowledges the:
- (a) Facility Limit represents the amount of funds available for borrowing during the current financial year;
 - (b) Facility Limit may not represent all amounts required to be borrowed by the Borrower in connection with the Approved Purpose; and
 - (c) provision of the Loan under this Agreement does not oblige the Lender to provide additional funds to the Borrower, whether in respect of the Approved Purpose or otherwise, and should the Borrower require additional funds, it must submit a new loan application to the Lender in respect of such required funds.

2.2 Approved Purpose

The Borrower may only use the amounts borrowed by it under the Facility for the Approved Purpose.

2.3 Availability

- 2.3.1 Any amount which has not been drawn at 5.00pm on the last day of the Availability Period is cancelled.
- 2.3.2 Unless provided for in Item 3 of Schedule 1, the Borrower acknowledges that the Availability Period ends on 30 June of the financial year in which this agreement is executed. The Availability Period will end on the determined date irrespective of whether the Approved Purpose for which the loan has been sought requires additional funds for completion.

2.4 Security

The parties acknowledge that the Facility and each Advance provided hereunder is secured by a charge on the income of the Borrower pursuant to section 623 of the LG Act and clause 229 of the LG Regulation.

3. Drawdown

3.1 Notice

- 3.1.1 The Borrower may draw down the Facility on a Business Day by giving written notice of its intention to do so to the Lender by way of a Drawdown Request sent through the TCorp Portal.

- 3.1.2 The proceeds of each Advance will be deposited directly to the Borrower's Bank Account (or such other account notified by the Borrower to the Lender in writing not less than 5 Business Days before a drawdown date).

3.2 Requirements of Drawdown Request

- 3.2.1 Each Drawdown Request will be irrevocable and must:
- (a) specify the amount of the drawdown, term, repayment frequency and the proposed Settlement Date;
 - (b) be received by the Lender 3 Business Days before the proposed Settlement Date (or such other time as agreed between the Lender and the Borrower);
 - (c) be made by the Chief Executive Officer or Authorised Officer of the Borrower; and
 - (d) not be given if the making of the Advance requested would cause the Facility Limit to be exceeded or otherwise would not comply with any term of this agreement.
- 3.2.2 When each Drawdown Request is given, the Borrower is deemed to make the following representations and warranties:
- (a) the proceeds of the Advance will be used only for the Approved Purposes;
 - (b) each representation and warranty made by the Borrower in, or in connection with, the Facility, including without limitation, those set out in clause 10, repeated with reference to the facts and circumstances subsisting at the date of the Drawdown Request, remains true and correct; and
 - (c) no Event of Default or Potential Event of Default has occurred which remains remedied or which has not been waived in writing or will occur as a result of the drawdown.

4. Conditions Precedent

4.1 Conditions Precedent to the First Advance

The obligation of the Lender to make the first Advance is subject to the condition that it has first received all of the following in form and substance satisfactory to it:

- 4.1.1 **Certificate:** a certificate in the form of Schedule 2 providing the details and annexures specified in that schedule dated not more than 20 days before the first Settlement Date, in respect of the Borrower;
- 4.1.2 **Permitted Use Certificate:** the Permitted Use Certificate;
- 4.1.3 **Insurance:** certificates of currency in relation to insurance held by the Borrower; and
- 4.1.4 **Original Documents:** this document fully executed;

4.2 Conditions precedent to each Advance

The obligation of the Lender to make each Advance is subject to the condition that:

- 4.2.1 **Representations and warranties true:** the representations and warranties set out in this document are true and correct as at the date of the Drawdown Request and the Settlement Date as though made at that date;
- 4.2.2 **No Event of Default:** no Event of Default or Potential Event of Default is subsisting at the date of the Drawdown Request and the Settlement Date or will result from the provision or continuation of the Advance.

5. Interest Provisions

5.1 Application of Part 5

This part 5 applies to all Loan Types except Indexed Annuity Loans.

5.2 Interest

- 5.2.1 The Principal Outstanding bears interest on the principal outstanding from and including the initial Settlement Date up until, but excluding, the Final Repayment Date.
- 5.2.2 The interest rate for each Interest Period is the Interest Rate.
- 5.2.3 Each Interest Period in relation to the Principal Outstanding is the period commencing on:
 - (a) in the case of the initial Interest Period, the Settlement Date for the initial Advance; and
 - (b) in the case of each subsequent Interest Period, on the day after the expiry of the immediately preceding Interest Period for the Advance,
 and ending on the last day of such Interest Period.
- 5.2.4 The term of each Interest Period is subject to any marginal adjustment as the Lender in its discretion determines so that the final Interest Period ends on the Termination Date.

5.3 Calculation of interest

- 5.3.1 Interest is to be computed on a daily basis on the actual number of days in a year.
- 5.3.2 Interest accrues during an Interest Period from day to day until it is paid.

5.4 Payment of interest

The Borrower will pay to the Lender all interest accrued during the course of an Interest Period in relation to the Loan in arrears on the Interest Payment Date.

5.5 Switching Interest Rates

- 5.5.1 The Borrower may by written notice to the Lender request to switch the type of interest payable in respect of the Loan. The Lender will use all reasonable endeavours to agree to the request, but it is not required to do so.
- 5.5.2 The Interest Rate on the Loan may only be changed as from the Interest Payment Date immediately following the Lender's agreement to the change requested.

- 5.5.3 If the Borrower is changing from a Fixed Rate to a Floating Rate:
- (a) where Break Costs are incurred in connection with such switch, the Borrower will be required to pay to the Lender such Break Costs; and
 - (b) where Break Gains are realised in connection with such switch, the Lender will pay to the Borrower such Break Gains.
- 5.5.4 In the case of a switch from Floating Rate to Fixed Rate, the Lender will notify the Borrower of the Interest Rate to apply to the loan as from the next Interest Payment Date.

6. Repayment

6.1 Application of Part 6

This part 6 applies to all Loan Types except Indexed Annuity Loans.

6.2 Repayment

- 6.2.1 If the Borrower has selected a Principal at Maturity Loan, the Borrower must pay to the Lender the Principal Outstanding on the Final Repayment Date.
- 6.2.2 If the Borrower has selected an Amortising Loan, the Borrower must pay to the Lender the Amortising Loan Amount (consisting of principal and interest) on each Interest Payment Date, up to and including the Final Repayment Date. The Lender must notify the Borrower of the Amortising Loan Amount (and its components) as soon as practicable after it makes such determination.

6.3 Prepayment

- 6.3.1 The Borrower may prepay the whole or part of the Loan on an Interest Payment Date on giving not less than 3 Business Days' prior written notice to the Lender, provided that any part repayment of the Loan must be for a minimum amount of A\$1,000,000 or the balance of the Principal Outstanding (whichever is lower).
- 6.3.2 Any notice of prepayment given by the Borrower is irrevocable and the Borrower is bound to prepay in accordance with the notice.
- 6.3.3 Interest accrued on any amount prepaid under this agreement must be paid at the time of prepayment.
- 6.3.4 Any prepayment is permanent and the Facility will be cancelled to the extent of the prepayment.
- 6.3.5 On the proposed prepayment date, the Borrower must:
- (a) pay the amount notified to be prepaid;
 - (b) pay all interest and other amounts accrued or due under this agreement on the amount prepaid; and
 - (c) if applicable, pay any Break Costs (or if any Break Gains are realised, any prepayment may be reduced by the amount of such Break Gains).

7. Indexed Annuity Loans
7.1 Application of Part 7

This part 7 applies to Indexed Annuity Loans only.

7.2 Annuity Payments

7.2.1 The Borrower must pay the Annuity Payments to the Lender in accordance with this clause 7.

7.2.2 Each Annuity Payment comprises components of principal, interest and inflation adjustment.

7.2.3 Annuity Payments are payable on each Annuity Payment Date, up to and including the Final Repayment Date.

7.3 Calculation of Annuity Payments

Each Annuity Payment is calculated in accordance with the following formula:

$$B_t = B_0 \times \frac{CPI_t}{CPI_0}$$

Where:

B_t = the amount of the relevant Annuity Payment at time t .

B_0 = Base Annuity Payment (as notified by the Lender to the Borrower).

CPI_0 = CPI for the second last full calendar quarter prior to the Initial Settlement Date.

CPI_t = the highest CPI from CPI_0 to the CPI for the full calendar quarter prior to the relevant Annuity Payment Date.

7.4 Notification of Annuity Payments

In respect of each Annuity Payment Date, the Lender must notify the Borrower of the Annuity Payment and the components of principal, interest and inflation adjustment for that Annuity Payment, as soon as practicable after it has made such determination.

7.5 Prepayment

7.5.1 The Borrower may prepay the whole or part of the Loan on an Annuity Payment Date on giving not less than 3 Business Days' prior written notice to the Lender, provided that any part repayment of the Loan must be for a minimum amount of A\$1,000,000 or the balance of the Principal Outstanding (whichever is lower).

7.5.2 Any notice of prepayment given by the Borrower is irrevocable and the Borrower is bound to prepay in accordance with the notice.

7.5.3 Interest accrued on any amount prepaid under this agreement must be paid at the time of prepayment.

7.5.4 Any prepayment is permanent and the Facility will be cancelled to the extent of the prepayment.

- 7.5.5 On the proposed prepayment date, the Borrower must:
- (a) pay the amount notified to be prepaid;
 - (b) pay all interest and other amounts accrued or due under this agreement on the amount prepaid; and
 - (c) if applicable, pay any Break Costs (or if any Break Gains are realised, any prepayment may be reduced by the amount of such Break Gains).

8. Interest on Overdue Amounts

8.1 Payment of Interest

The Borrower will pay interest on all amounts due and payable by it under or in respect of this document and unpaid, including any interest payable under this clause 8.

8.2 Accrual of Interest

Interest will accrue on all amounts due and payable from day to day from the day 2 Business Days after due date up to the date of actual payment, before and (as a separate and independent obligation) after judgment, at the Default Rate for successive 30 day periods (as if these were 30 day Interest Periods) commencing on the date of default and, if not paid when due, will itself bear interest in accordance with this clause 8.2.

9. Payments

9.1 Time and place

Unless expressly provided otherwise in writing, all payments by the Borrower under this document are to be made to the Lender in dollars in immediately available funds not later than 11.00 am Sydney time on the due date to the account that the Lender from time to time designates, or as otherwise agreed between the Borrower and the Lender.

9.2 No deduction for Taxes and no set-off or counterclaim

All payments by the Borrower under this document, whether of principal, interest or other amounts due under this document, will be:

- 9.2.1 free of any set-off or counterclaim; and
- 9.2.2 without deduction or withholding for any present or future Taxes, unless the Borrower is compelled by law to deduct or withhold the same, in which event the Borrower will pay to the Lender any additional amount necessary to enable the Lender to receive, after all deductions and withholdings for Taxes, a net amount equal to the full amount which would otherwise have been payable had no such deduction or withholding been required to be made.

9.3 Merger

If the liability of the Borrower to pay any of the Obligations to the Lender becomes merged in any judgment or order, the Borrower will, as an independent obligation, pay interest at the rate which is the higher of that payable under this document and that fixed by or payable under the judgment or order.

9.4 GST gross-up

If any party:

- 9.4.1 is liable to pay GST on a supply made in connection with this agreement; and
- 9.4.2 certifies to the recipient of the supply that it has not priced the supply to include GST,

then the recipient of the supply agrees to pay that party an additional amount equal to the consideration payable for the supply multiplied by the prevailing GST rate.

10. Representations and Warranties
10.1 Representations and Warranties

The Borrower represents and warrants to the Lender:

- 10.1.1 **Legal power:** it has full power and authority to own its assets and to enter into and perform the obligations under this agreement;
- 10.1.2 **Legally binding obligation:** this agreement constitutes a valid and legally binding obligation of the Borrower in accordance with its terms;
- 10.1.3 **Due authority:** it has taken all action required to enter into this agreement and to authorise the execution and delivery of this agreement and the satisfaction of its obligations under it; and
- 10.1.4 **Execution, delivery and performance:** the execution, delivery and performance of this agreement does not violate any Statute or law, or any document or agreement to which the Borrower is a party or which is binding on it or any of its assets;
- 10.1.5 **Filings:** it has filed all notices and document with the OLG and all of those filings are current, complete and accurate.
- 10.1.6 **No material adverse effect:** no litigation, arbitration, mediation, conciliation, criminal or administrative proceedings are current, pending or, to the knowledge of the Borrower, threatened, which, if adversely determined would or could have a material adverse effect on the financial condition of the Borrower;
- 10.1.7 **Solvency:** there are no reasonable grounds to suspect that it is unable to pay its debts as and when they become due and payable;
- 10.1.8 **Information accurate:** Any information provided by or on behalf of the Borrower to the Lender in writing in connection with this agreement was true and accurate in all material respects as at the date it was provided or as at the date (if any) at which it is stated, and nothing has occurred and no information has been given or withheld that results in the information provided by the Borrower being untrue or misleading in any material respect;
- 10.1.9 **Borrowings:** it is not in default in the payment of any material sum, or in the satisfaction of any material obligation in respect of any Financial Liability, and no event has occurred which with the giving of notice, lapse of time or other condition could constitute a default in respect of any Financial Liability;
- 10.1.10 **No Event of Default:** no event has occurred which constitutes an Event of Default;

- 10.1.11 **Statutes:** the Borrower has complied with all Statutes;
- 10.1.12 **Financial statements:** its most recent financial statements, together with the notes thereto complies with current accounting practice and all applicable laws, is a true and fair statement of its financial position and state of affairs as at the date to which it is prepared and discloses or reflects all its actual and contingent liabilities as at that date; and
- 10.1.13 **No adverse change:** since the date of the financial statements referred to in clause 10.1.12, there has been no change in its affairs which has had or may have a material adverse effect on it.

10.2 Representations and Warranties Repeated

Each representation and warranty in this document will be repeated on each day whilst any of the Obligations remain outstanding (whether or not then due for payment) or the Facility is available for drawdown, with reference to the facts and circumstances then subsisting, as if made on each such day.

11. Undertakings

11.1 General Undertakings

For as long as any amount is outstanding under the Facility or the Facility is available for drawdown, the Borrower undertakes to the Lender that it will:

- 11.1.1 **Satisfy Obligations:** satisfy the Obligations;
- 11.1.2 **Maintain all consents:** obtain, renew, maintain and comply with all consents, licences, approvals and authorisations necessary for the validity and enforceability of this agreement, the satisfaction of its obligations under this agreement, and it will promptly provide copies of these to the Lender when they are obtained or renewed;
- 11.1.3 **Provision of information:** supply to the Lender:
 - (a) as soon as they are available and within 180 days of the end of each financial year copies of its audited financial statements for that financial year;
 - (b) copies of any updated Long Term Financial Plan;
 - (c) promptly on request, any additional financial or other information the Lender may request (including, but not limited to, information in relation to the Borrower's management and structure);
- 11.1.4 **Comply with laws:** comply with all Statutes and all lawful requirements of every Government Authority, including any Ministerial directions issued in respect of the Borrower or councils generally;
- 11.1.5 **Insurance:** take out and keep in full force and effect insurance over all of its physical assets and premises for such amounts and against such risks as is reasonably prudent for a NSW local council;
- 11.1.6 **Notification of certain events:** immediately notify the Lender in writing if it becomes aware of the occurrence of the following:
 - (a) **Event of Default:** any Event of Default or Potential Event of Default;

- (b) **Litigation:** any litigation, arbitration, criminal or administrative proceedings or labour disputes relating to the Borrower or the Borrower's property, assets or revenues that involves a claim against the Borrower that, if decided adversely to the Borrower, could have a material adverse effect on the ability of the Borrower to perform the Obligations.

11.2 Financial Covenant Undertakings

- 11.2.1 After the initial Settlement Date, the Borrower must ensure that on each Relevant Date up until the Final Repayment Date:
 - (a) **(Debt Service Cover Ratio)** the Debt Service Cover Ratio must be at least 1.50:1;
 - (b) **(Interest Cover Ratio)** the Interest Cover Ratio must be at least 3.00:1; and
 - (c) **(Cash Expense Ratio)** the Cash Expense Ratio must be at least 2 months.
- 11.2.2 The financial covenants referred to above shall be:
 - (a) calculated by reference to the Accounting Standards; and
 - (b) based on the then most recent audited financial statements of the Borrower.
- 11.2.3 At the time the Borrower provides the financial statements under clause 11.1.3(a), the Borrower must provide calculations demonstrating its compliance with the financial ratios in clause 11.2.1.
- 11.2.4 In addition, in connection with its financial projections in the most recently provided Long Term Financial Plan, the Borrower must include calculations demonstrating whether the financial projections of the Borrower for the following 5 years would comply with the financial covenants in clause 11.2.1.
- 11.2.5 Where the calculations made for the purposes of clauses 11.2.3 or 11.2.4 indicate that the Borrower has not, or may not in the future (as the case may be), comply with the financial ratios in clause 11.2.1:
 - (a) the Lender and the Borrower will discuss the non-compliance as part of the annual review under clause 11.3; and
 - (b) the Borrower acknowledges that the Lender may notify OLG of such non-compliance, which may lead to OLG seeking a performance improvement order in respect of the Borrower.
- 11.2.6 For the avoidance of doubt, a failure by the Borrower to comply with the financial ratios under this clause 11.2 is not to be taken as a breach of this agreement and does not entitle the Lender to take action against the Borrower under clause 12 of this Agreement or at general law.

11.3 Annual Review

- 11.3.1 The Lender will conduct an annual review of the Borrower, and the Borrower will provide the Lender with such information as reasonably required by the Lender for the purposes of the review.

11.4 Investments

11.4.1 In relation to the investment of Council's Investment Funds, the following limitations must be observed throughout the Term of the Facility:

- (a) Combined investments with ADIs with a Long Term Debt Rating of BBB+ and BBB are to be reduced to a maximum of 20% of Council's Investment Funds by 30 April 2020; and
- (b) Investments with an ADI with a Long Term Debt Rating of BBB- and an Unrated ADI are to be limited to the amount of the Commonwealth Government Guarantee (Financial Claims Scheme).

12. Default and Termination
12.1 Events of Default

Each of the following events is an Event of Default, whether or not the cause is beyond the control of the Borrower, or any other person:

- 12.1.1 **Failure to pay:** the Borrower does not pay at or within 5 Business Days of the due date and in the manner specified in this agreement or otherwise in accordance with the Obligations;
- 12.1.2 **Failure to comply:** the Borrower defaults in fully performing and observing any provision of this agreement other than a provision requiring the payment of money as contemplated by clause 12.1.1, and that default is not remedied within 20 Business Days of its occurrence;
- 12.1.3 **Untrue warranty:** any representation, warranty or statement made, repeated or deemed to be made or repeated in this agreement or in connection with the Facility or any accounts, or any opinion furnished under this document is proved to be untrue in any material respect when made or repeated or deemed to be made or repeated (as the case may be);
- 12.1.4 **Breach of undertaking:** the Borrower breaches any undertaking given at any time to the Lender or fails to comply with any condition imposed by the Lender in agreeing to any matter (including any waiver);
- 12.1.5 **Cross default:** the Borrower fails to pay any indebtedness when due or within an applicable grace period;
- 12.1.6 **Void or voidable:** this agreement, becomes or is claimed by the Borrower to be void, voidable or unenforceable in whole or in part;
- 12.1.7 **Illegality:** at any time it is unlawful for the Borrower to perform any of its obligations under this agreement;
- 12.1.8 **Failure to comply with Statutes:** the Borrower fails to duly and punctually comply with all Statutes binding on it;
- 12.1.9 **Material change:** any other event or series of events whether related or not (including, any material adverse change in the material assets or financial condition of the Borrower) occurs which in the reasonable opinion of the Lender could affect the ability of the Borrower to satisfy all or any of its respective obligations under this agreement.

12.2 Lender's Rights on Event of Default

If any Event of Default occurs and if it continues, the Lender may (but is not obliged to), by written notice to the Borrower:

- (a) declare the Lender's obligations under this document to be cancelled immediately (including, but not limited to, any obligation to provide any further advance) and the same and the Facility (including any part of the Facility) will be cancelled immediately; and/or
- (b) declare the Principal Outstanding, interest on the Principal Outstanding and all other money the payment of which forms part of the Obligations immediately due and payable, and the same are immediately due and payable,

and for the avoidance of doubt, any decision by the Lender to reserve its rights or not to exercise its rights under this clause 12.2 is not to be interpreted as waiver of, or election in reaction to, such rights.

12.3 Appointment of consultants and disclosures:

12.3.1 The Lender may where it considers an Event of Default has or is likely to have occurred or is reasonably likely to occur within 12 months:

- (a) appoint consultants (in this clause, **Investigating Consultants**) to investigate the affairs and financial position of the Borrower; and
- (b) notify the OLG of the occurrence (or potential occurrence) of an Event of Default or appointment of Investigating Consultants.

12.3.2 The Borrower:

- (a) unconditionally authorises the Investigating Consultants to take all actions which may be reasonably necessary for the investigation; and
- (b) undertakes to give the Investigating Consultants all reasonable assistance for that purpose.

12.3.3 The Borrower unconditionally authorises the disclosure by:

- (a) Investigating Consultants to the Lender, OLG and its legal and other professional advisers all information and documents obtained or generated in the course of or in connection with the investigation; and
- (b) the Lender to the OLG all information and documents relating to the occurrence (or potential occurrence) of an Event of Default.

12.3.4 The Borrower is liable for the costs and expenses of the investigations described in this clause 12.3 and must upon demand by the Lender pay the Investigating Consultants and reimburse the Lender for any such costs or expenses incurred or paid by it.

13. Indemnities, change in law or circumstance**13.1 Borrower to indemnify Lender**

The Borrower will on demand indemnify the Lender against any loss or reasonable costs or expenses which the Lender may sustain or incur as a consequence of:

- 13.1.1 any sum payable by the Borrower under this document not being paid when due;
- 13.1.2 the occurrence of any Event of Default; or
- 13.1.3 the Lender receiving payments of principal other than on the last day of an Interest Period (or any other day permitted under the terms of this agreement)

13.2 Unlawfulness

If, at any time, the Lender reasonably determines that the introduction of or a change in a law, guideline, direction, request or requirement (whether or not having the force of law) or in the interpretation or application of any of them by a Government Authority makes it unlawful for the Lender to make, fund or maintain the Facility or an Advance, or to otherwise give effect to a provision of this agreement, then:

- 13.2.1 the Lender may notify the Borrower of its determination;
- 13.2.2 on that notification, the Facility is cancelled and the obligation to make, fund or maintain the Facility or an Advance or give effect to the relevant provision ceases; and
- 13.2.3 the Borrower must pay the Principal Outstanding (plus all accrued interest) to the Lender within:
 - (a) 60 days; or
 - (b) another period specified in the notice and certified by the Lender as being required or permitted by the relevant law.

13.3 Increased costs

If the Lender reasonably decides that:

- 13.3.1 the cost to it of providing, funding or maintaining the Facility is increased; or
- 13.3.2 an amount payable or the effective return to it under this agreement is reduced;

because of any law or regulation or a directive by a Government Authority (including, but not limited to, those relating to taxation, other change in tax rules (in each case, not being a tax imposed on its overall net income), capital adequacy or reserve requirements or banking or monetary control or any policy with which it habitually complies) or any change in the way they are interpreted or applied, then:

- 13.3.3 the Lender must promptly notify the Borrower of that decision; and
- 13.3.4 the Borrower indemnifies the Lender against that loss and must pay the Lender on demand whatever amount the Lender certifies is reasonably necessary to indemnify it.

14. Expenses and Taxes**14.1 Expenses**

The Borrower must reimburse the Lender on demand for, and indemnifies the Lender against all reasonable expenses, including legal fees, costs and disbursements (on a solicitor/own client basis) incurred in connection with:

- 14.1.1 **Consents:** any consent, agreement, approval, waiver, or amendment relating to this agreement; and
- 14.1.2 **Enforcement:** exercising, enforcing or preserving, or attempting to exercise, enforce or preserve, rights under this agreement, including any expenses incurred in the evaluation of any matter of material concern to the Lender.

14.2 Taxes

The Borrower:

- 14.2.1 must pay all stamp duty, transaction, registration and similar Taxes, including fines and penalties and debts tax which may be payable to or required to be paid by any appropriate authority or determined to be payable in connection with the execution, delivery, performance or enforcement of this agreement or any payment, receipt or other transaction contemplated by them; and
- 14.2.2 indemnifies the Lender against any loss or liability incurred or suffered by it as a result of the delay or failure by the Borrower to pay Taxes.

15. Assignment**15.1 Assignment by Lender**

The Lender cannot assign any of its rights under this agreement without the Borrower's prior written consent (not to be unreasonably withheld).

15.2 Assignments by the Borrower

The Borrower cannot assign any of its rights under this agreement without the Lender's prior written consent (not to be unreasonably withheld).

16. Miscellaneous**16.1 Governing law and jurisdiction**

- 16.1.1 This agreement is governed by and must be construed according to the law applying in New South Wales.
- 16.1.2 Each party irrevocably submits to the non-exclusive jurisdiction of the courts of New South Wales, and the courts competent to determine appeals from those courts, with respect to any proceedings which may be brought at any time relating to this agreement.

16.2 Certificate of Lender

A certificate in writing signed by the Lender or by an officer of the Lender certifying the amount payable by the Borrower under this document to the Lender or stating any other act, matter or thing relating to this agreement is conclusive and binding on the Borrower in the absence of manifest error on the face of the certificate.

16.3 Counterparts

This agreement may be executed in any number of counterparts and by the parties on separate counterparts. Each counterpart constitutes an original of this agreement, and all together constitute one agreement.

16.4 Amendment

No provision of this agreement may be amended, supplemented, waived, varied or charged in any way or assigned (subject to clause 9 above), novated or transferred (in whole or part) without the prior written consent of the parties hereto.

16.5 Notices

Any notice required or permitted to be given by a party hereunder will be left at, sent by registered or recorded delivery post to the address below:

16.5.1 Lender

New South Wales Treasury Corporation
Level 7, Deutsche Bank Place
126 Phillip Street
SYDNEY NSW 2000

Attention: General Counsel

Facsimile: 02 9325 9333

Email: legal@tcorp.nsw.gov.au

16.5.2 Borrower

See Schedule 1

16.6 Severance

If at any time a provision of this agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that will not affect or impair:

16.6.1 the legality, validity or enforceability in that jurisdiction of any other provision of this agreement; or

16.6.2 the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this agreement.

16.7 Waiver

16.7.1 A waiver or consent given by the Lender under this agreement is only effective and binding on the Lender if it is given or confirmed in writing.

16.7.2 No waiver of a breach of a term of this agreement operates as a waiver of another breach of that term or of a breach of any other term of this agreement.

Signing Page

Executed as an agreement

NEW SOUTH WALES TREASURY CORPORATION
by its authorised signatories:

Authorised signatory

Authorised signatory

Name (please print)

Name (please print)

INNER WEST COUNCIL
by the Mayor and Chief Executive Officer:

Mayor

Chief Executive Officer

Darcy Byrne

Michael Deegan

Schedule 1 - Variables

Date of Agreement: 2019

Borrower: Inner West Council
ABN 19 488 017 987

Notice Details: 2-14 Fisher Street, Petersham NSW 2049

Attention: Mr Michael Deegan, CEO

Email: michael.deegan@innerwest.nsw.gov.au

Item		
1.	Advances	One
2.	Approved Purpose	Ashfield Aquatic Centre redevelopment
3.	Availability Period	Until 31 August 2019
4.	Borrower's Bank Account	BSB No.: 062227 Account No.: 10231800 Account Name: Inner West Council - General Account
5.	Facility Limit	\$40,047,146
6.	Loan Type	Amortising Loan
7.	Interest Rate Type	Fixed Rate
8.	Term	20 years
9.	Interest Period	Semi-annual
10.	Margin	0.55% p.a.
11.	Final Repayment Date	

Schedule 2 - Condition precedent certificate

To: New South Wales Treasury Corporation (the " **Lender**")

This condition precedent certificate is given under clause 4 of the Loan Agreement between the Lender and Inner West Council ("Borrower"). Terms defined in the Loan Agreement have the same meaning in this condition precedent certificate.

I, Michael Deegan, being the Chief Executive Officer of the Borrower, certify that true, complete and up to date copies of an extract of minutes (marked "Annexure A") of a duly convened meeting of the governing body of the Borrower approving execution of the Loan Agreement are attached to this Certificate, which minutes are fully effective and have not been varied or revoked.

Signed: _____

Chief Executive Officer

Date: