

A meeting of the Cumberland Local Planning Panel will be held at 11:30am at the Merrylands Administration Building, 16 Memorial Avenue, Merrylands on Wednesday, 13 November 2019.

Business as below:

Yours faithfully

Hamish McNulty General Manager

ORDER OF BUSINESS

- 1. Receipt of Apologies
- 2. Confirmation of Minutes
- 3. Declarations of Interest
- 4. Address by invited speakers
- 5. Reports:
 - Development Applications
 - Planning Proposals
- 6. Closed Session Reports



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Item No: LPP071/19

SECTION 8.3 REVIEW OF APPLICATION - 2/2-6 PEEL STREET, HOLROYD

Responsible Division: Environment & Planning

Officer: Executive Manager Development and Building

File Number: DA 2018/185

Application lodged	4 July 2019
Applicant	MB Town Planning
Owner	The Charitable Islamic Association of Beirut City
	Incorporated
Application No.	2018/185
Description of land	2/2-6 Peel Street, Holroyd
Proposed	Section 8.3 review of refusal for the use of premises as a
development	place of public worship
Site area	2995.7 m ² (entire site) 535 m ² (lot 2 in SP75506)
Zoning	IN2 – Light Industrial
Principal	N/A
development	
standards	
Disclosure of	Nil disclosure
political donations	
and gifts	
Heritage	Site is opposite Goodlet & Smith (brickmaking plant and
	chimney and Hoffman kiln and chimney), which is listed as
	a local heritage item
Issues	Unauthorised works
	Unauthorised use
	Traffic and parking
	 Public submissions (26)
	Inadequacy of POM

SUMMARY:

- 1. The subject review application was lodged on 4 July 2019 and notified to properties within a 100 m radius from 24 July to 7 August 2019. The application was renotified from 14 August to 28 August 2019 due to an error in the original notification. A total of 26 public submissions were received as a result of the notification, including two submissions in support of the proposal.
- 2. Pursuant to clause 8.3(5) of the Environmental Planning and Assessment Act 1979, the application must be referred to the Cumberland Local Planning Panel (CLPP) for determination.
- 3. The application is also considered to be contentious in accordance with the Ministerial direction issued 27 January 2018, given the number of public submissions received.



- 4. The application has been assessed against the relevant provisions of the Environmental Planning and Assessment Act 1979, Holroyd Local Environmental Plan 2013 (HLEP 2013) and Holroyd Development Control Plan 2013 (HDCP 2013).
- 5. The application involves the following numerical non-compliances which are not considered supportable in this instance:

Control	Required	Proposed	%
			Variation
Car parking	60	6	90%
Accessible parking spaces	2 per 100 spaces	0	100%
Minimum carriageway width	10 m	7.5 m	25%

- 6. No additional information was submitted, and no amendments were made to the proposal in response to the reasons for refusal of the original application. The applicant is seeking review of the decision made by the Panel 22 May 2019, based on the information that was provided to Council 1 February 2019.
- 7. It is recommended that the Panel confirm the determination from 22 May 2019 to refuse the application.

REPORT:

Subject Site and Surrounding Area

The subject site is known as unit 2, 2-6 Peel Street, Holroyd. The legal description of the site is lot 2 in strata plan 75506. The site is zoned IN2 – Light Industrial under the provisions of the HLEP 2013. 2-6 Peel Street is a factory complex with 6 units, constructed pursuant to DA 2003/1166. Unit 2 that is the subject of this application is located at the south eastern corner of the allotment and has frontage to both Walpole Street and Peel Street.

The sites to the east, west and north of the subject site are also zoned IN2 – Light Industrial. The sites to the south are zoned R4 – High Density Residential and have vehicular and pedestrian access via Refractory Court. Holroyd Sportsground is located at the opposite end of Peel Street.





Subject site hatched red – 2-6 Peel Street, Holroyd



View of subject site from corner of Peel Street and Walpole Street.





Northern elevation of subject building from Peel Street

Description of the Proposed Development

DA 2018/185 sought consent for use of the existing factory unit as a place of public worship (mosque). No building works, internal or external, were proposed as part of the application.

The proposal is for the place of public worship to operate 7 days a week with up to six services a day: with the first service commencing 45 minutes prior to sunrise and the last service commencing 90 minutes after sunset.

Site History

Council's Compliance Officers attended the subject site on 12 May 2017 in response to a complaint that was lodged regarding unauthorised use and works at the subject site. At the time of the inspection it was observed that building works that would have required development consent had been carried out within the building without the necessary consent having been obtained.

On 15 May 2017 Council issued a notice of intention to give orders to demolish the unauthorised works and reinstate the premises to its prior condition; and to cease the use of the premises as a place of public worship.



The applicant attempted to lodge an application (DA 2017/211) to regularise the unauthorised use of the premises on 25 May 2017. That application was rejected due to inadequate detail submitted with the application and lack of consent from the owner's corporation.

The issues raised in the rejection letter were addressed by the applicant, and DA 2017/270 was lodged with Council on 28 June 2017.

DA 2017/270 was assessed by Council and it was found that the application could not be supported due to the lack of on-site parking, and the inadequacies of the acoustic report and plan of management submitted with the DA. The applicant was advised of Council's non-support for the application and withdrew the DA on 13 December 2017.

The history of the site and the subject application is summarised in the following table.

Date	Action
28 June 2017	DA 2017/270 lodged with Council
26 July to 16	DA 2017/270 publicly notified. A total of 21 submissions were
August 2017	received.
28 November 2017	Correspondence sent to the applicant for DA 2017/270 advising
	that the application would not be supported by Council
13 December 2017	DA 2017/270 withdrawn by the applicant
1 June 2018	DA 2018/185 lodged with Council
27 June to 18 July	DA 2018/185 publicly notified. A total of 15 submissions were
2018	received.
19 October 2018	Correspondence sent to the applicant advising that staff would not
	support the proposal and inviting withdrawal of the application
4 March 2019	Additional information was submitted to address the issues raised
	in Council's correspondence dated 19 October 2018
2 May 2019	Correspondence sent to the applicant advising that assessment of
	DA 2018/185 had been finalised, and that the application would not
	be supported.
22 May 2019	DA 2018/185 refused by CLPP
4 July 2019	Section 8.3 review application lodged with Council
5 August 2019	Correspondence sent to the applicant seeking
	information/amendments to address the reasons for refusal.
13 November 2019	Section 8.3 review application reported to CLPP for determination.

As physical works have already been carried out without the necessary consent, a deferred commencement condition requiring the lodgement of an application for a building information certificate would be imposed if consent were to be granted.

Applicant's Supporting Statement

This review is based on the correspondence from MB Town Planning dated 1 February 2019. No additional information was submitted with the review application.



Contact with Relevant Parties

The assessment officer has undertaken an inspection of the subject site and has been in contact with the applicant throughout the assessment process.

Internal Referrals

The application was referred to Council's Environmental Health, Engineering, Building Services, and Development Compliance and Waste units for comment. All departments re-stated their concerns regarding the original application. See previous CLPP report at attachment 4 for further details.

External Referrals

NSW Police – Cumberland Police Area Command

The application was referred to NSW Police – Cumberland Police Area Command for comment. The LAC also re-stated the concerns raised in response to the original application.

Planning Assessment

Section 8.3 of the Environmental Planning and Assessment Act 1979 (EP&A Act)

The requirements of clause 8.3 are considered in the following table.

Requirement	Comment
(1) An applicant for development consent may request a consent authority to review a determination or decision made by the consent authority. The consent authority is to review the determination or decision if duly requested to do so under this Division.	The review request was made by the applicant for the original DA.
(2) A determination or decision cannot be reviewed under this Division: (a) after the period within which any appeal may be made to the Court has expired if no appeal was made, or (b) after the Court has disposed of an appeal against the determination or decision.	The original application was determined on 22 May 2019. The applicant's right of appeal has not yet expired.
(3) In requesting a review, the applicant may amend the proposed development the subject of the original application for development consent or for modification of development consent. The consent authority may review the matter having regard to the amended development,	In making the review request, the applicant has not sought to amend the proposal. The Panel can therefore be satisfied that the proposal is substantially the same as that for which consent was previously refused.



but only if it is satisfied that it is substantially the same development.	
(4) The review of a determination or decision made by a delegate of a council is to be conducted: (a) by the council (unless the determination or decision may be made only by a local planning panel or delegate of the council), or (b) by another delegate of the council who is not subordinate to the delegate who made the determination or decision.	The original application was determined by the CLPP and as such the review decision cannot be made by a delegate of the Council.
(5) The review of a determination or decision made by a local planning panel is also to be conducted by the panel.	The application is referred to Panel for determination.

Section 4.15 of the Environmental Planning and Assessment Act 1979

The provisions of any Environmental Planning Instruments (EP&A Act s4.15 (1)(a)(i))

The following Environmental Planning Instruments apply to the proposed development:

(a) State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55)

The requirement at clause 7 of SEPP 55 for Council to be satisfied that the site is suitable or can be made suitable for the proposed development is considered in the following table.

Matter for consideration	Yes	No
Does the application involve re-development of the site or a change of land use?		
Is the development going to be used for a sensitive land use (e.g. residential, educational, recreational, childcare or hospital)?	\boxtimes	
Does information available to you indicate that an activity listed below has ever been approved, or occurred at the site? acid/alkali plant and formulation, agricultural/horticultural activities, airports, asbestos production and disposal, chemicals manufacture and formulation, defence works, drum re-conditioning works, dry cleaning establishments, electrical manufacturing (transformers), electroplating and heat treatment premises, engine works, explosive industry, gas works, iron and steel works, landfill sites, metal treatment, mining and extractive industries, oil production and storage, paint formulation and manufacture, pesticide manufacture and formulation, power stations, railway yards, scrap yards, service stations, sheep and cattle dips, smelting and refining, tanning and associated trades, waste storage and		



Matter for consideration	Yes	No
treatment, wood preservation		
Is the site listed on Council's Contaminated land database?	\boxtimes	
Is the site subject to EPA clean-up order or other EPA restrictions?		\boxtimes
Has the site been the subject of known pollution incidents or illegal		\boxtimes
dumping?		
Does the site adjoin any contaminated land/previously contaminated	\boxtimes	
land?		
Has the appropriate level of investigation been carried out in respect of		
contamination matters for Council to be satisfied that the site is suitable	\boxtimes	
to accommodate the proposed development or can be made suitable to		Ш
accommodate the proposed development?		
There is no information in Council's records that would indicate that	the s	ite is
contaminated and there are no works proposed that would penetrate		
concrete slab. Based on the available information there is nothing to wa	rrant fu	urther
investigation in relation to contamination.		

(b) Holroyd Local Environmental Plan 2013

The proposed development is defined as a 'place of public worship' under the provisions of Holroyd Local Environmental Plan (HLEP) 2013. A place of public worship is permitted with consent in the IN2 – Light Industrial zone which applies to the land. The proposal complies with the relevant development standards. A comprehensive HLEP compliance table is provided at attachment 1.

The proposal is considered to be not inconsistent with the objectives of the zone.

The objectives of the IN2 – Light Industrial zone are as follows:

- To provide a wide range of light industrial, warehouse and related land uses.
- To encourage employment opportunities and to support the viability of centres.
- To minimise any adverse effect of industry on other land uses.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.
- To support and protect industrial land for industrial uses.

The first three objectives are not relevant to the subject application as the proposed use is not for industrial or warehouse purposes.

With regard to the fourth objective, the approval of the subject application would allow for a use that could satisfy the day to day needs of workers in the local area.

With regard to the fifth objective, the proposal does not preclude ongoing use of surrounding sites, or the future use of the subject land, for industrial purposes.



Further evidence would be required to demonstrate that the use could operate without adversely impacting on the existing operation of surrounding land uses. However, Council is satisfied that the proposal is not inconsistent with the objectives of the IN2 zone.

(c) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The subject site is identified as being located within the area affected by the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. The proposed development raises no issues as no impact on the catchment is envisaged.

(Note: - the subject site is not identified in the relevant map as 'land within the 'Foreshores and Waterways Area' or 'Wetland Protection zone', is not a 'Strategic Foreshore Site' and does not contain any heritage items. Hence the majority of the SREP is not directly relevant to the proposed development).

The provisions of any proposed instrument that is or has been the subject of public consultation (EP&A Act s4.15 (1)(a)(ii))

There are no draft EPIs relevant to the proposed development.

The provisions of any Development Control Plans (EP&A Act s4.15 (1)(a)(iii))

Holroyd Development Control Plan 2013

Holroyd Development Control Plan (HDCP) 2013 contains general controls which relate to all developments under Part A, controls relating to industrial premises under Part D, and controls for Places of Public Worship under Part G. Many of the controls within Part G are not relevant to the proposal as there are no changes to the physical structure of the building. However, section 1 - Locational Requirements, and section 7 - Parking and Traffic, are relevant to the assessment. The proposal is considered to be inconsistent with the following objectives of Part G:

Section 1 – Locational requirements:

- O1. To guide the appropriate location of places of public worship to ensure that amenity for surrounding residents and businesses is maintained.
- O3. To ensure sites and streets are capable of containing the required parking and stormwater management facilities on site.
- O4. To minimise the locating of conflicting land uses within the vicinity of places of public worship.

Section 7 – Parking and traffic:

- O1. To ensure the provision of adequate car parking spaces for places of public worship.
- O2. To ensure the safety of both pedestrians and other vehicle users in the surrounding locality.



O4. To ensure that the impact of parking and vehicular movement for a place of public worship is assessed and does not affect the amenity of the surrounding locality.

As detailed elsewhere in the report, the proposal involves a significant non-compliance with the applicable parking requirements, and this has adverse impacts on safety and amenity in the locality. The parking of attendee's vehicles in surrounding streets is affecting truck movements associated with existing light industrial operations in the locality. This issue was raised in a number of submissions received during the public notification of the application.

Inconsistency with the DCP objectives was not included as a reason for refusal in the original determination. It is recommended that an additional reason be included to address this issue.

A comprehensive assessment against the relevant HDCP controls is provided at attachment 2. The DCP non-compliances are discussed below.

No.	Required/Permitted	Provided Provided	Con	npliar	тсе
	A – General Controls		Ye	No	N/
			S		Α
3	Car Parking				
	1 space per 8.5m ² of GFA. In this case, 506.8 m ² floor space = 59.62 (60) spaces required	6 spaces provided (existing). This is a significant non-compliance and cannot be supported. See further comments below.		\boxtimes	
	Parking for the disabled at the rate of 2 spaces per 100 visitors	O accessible spaces existing /proposed. A noncompliance with this control could be supported if no additional spaces were required. However, as detailed above, the proposal involves a significant non-compliance with the minimum off street parking space requirement.		\boxtimes	
Part	D - Industrial Controls				
•	Retail and Commercial uses in in	idustrial zones			
	The Council, under normal circumstances, restricts the hours of industrial operations to the hours of 7 am to 7 pm, Monday to Friday; 7 am to 12 noon, Saturday and no work on	The proposed hours of operation are approximately 5 am to 10 pm, 7 days which is outside the times permitted by the control.		\boxtimes	



	Sunday.	An acoustic report was submitted by the applicant and indicates that the place of public worship is capable of operating within the relevant noise criteria. Subject to implementation of recommended noise management practices, and compliance with standard consent conditions, the hours of operation would be supportable.		
Part (G – Places of Public Worship Con	trols		
1	Locational requirements			
	Places of public worship not permitted on roads with carriageway width less than 10 m	Peel Street has carriageway width of less than 10 m. As identified in the public submissions received, the location of the facility of Peel Street and associated on street parking by patrons of the facility is having a detrimental impact on the operation of existing businesses, and residential amenity in the area. Accordingly, this is included as a reason for refusal.		
	Acoustic privacy			
	Noise Impact Statement to be submitted where proposal is located within or adjacent to a residential zone	The site is located adjacent to a residential zone (opposite side of Walpole Street). An acoustic report was submitted with the application and reviewed by Council's Environmental Health Unit. As detailed above, the referral comments identified inconsistencies between the acoustic report and the other information	\boxtimes	



7	Parking and traffic Car parking to comply with requirements under Part A All parking to be provided on site	submitted by the applicant. If the application were to be supported this issue could be resolved by requesting additional information from the applicant or by the imposition of conditions. Proposal is deficient by 54 car parking spaces. Application seeks to rely on parking spaces on street to support the proposed development.		
	Traffic impact statement shall be submitted for establishment of place of public worship or where proposal is to increase capacity to 50 persons or more Note: A Traffic Impact Statement, at a minimum, shall assess the number of parking spaces required for such development, the impact of the proposed place of public worship on the surrounding locality and the measures taken to minimise any potential issues. The statement shall also detail the impact of any festivals or functions (i.e. weddings) and their impact in relation to car parking and vehicular access.	A traffic impact statement was submitted with the application and additional information regarding traffic management was provided with the amended application. As detailed above, the proposed development does not satisfy the minimum on-site parking requirements for this type of development. Council is not satisfied that the traffic and parking impacts of the proposed development are adequately addressed by the plan of management. See further comments below.		
8	Operational management An operation management plan is	The operational		
	to be submitted addressing the following: The frequency of all proposed services, events and the like; The proposed hours of operation for all proposed services and events and the like: The likely number of persons	management plan submitted with the application deals with the issues specified in the DCP control. However, a central aspect of the amended application is the capping of attendees	\boxtimes	



to attend each type of service,	at 80. There are no details
event etc.;	in the plan of
Whether street parades or	management, or in any
road closures are proposed.	other documentation
Any other uses that may take	provided by the applicant
place within the place of public	to indicate how this would
worship (i.e. community uses -	be achieved. See further
youth group, community	comments below.
colleges etc.), the frequency of	

 Any particular custom or practice (such as ringing bells) that may occur and the frequency and length of such rituals.

these uses and the number of patrons proposed for these.

 The nomination of a contact person that will be responsible in responding to any issues or complaints raised by the community or Council.

Car Parking

Section 3, Part A of HDCP 2013 requires a minimum of 1 car space per 8.5 m2 of GFA for all places of public worship. In this case, the facility has a GFA of 506.8 m2, and therefore requires a minimum of 60 car spaces to satisfy the control.

The subject unit has access to 6 existing car spaces, and no new spaces are proposed under this application. The parking shortfall is therefore, 54 spaces.

The applicant seeks to justify the non-compliance on the following grounds:

The operators proposed to cap attendee numbers at 80 persons

As detailed below, Council is not satisfied that there are adequate measures either currently in operation, or proposed under this application to cap the number of attendees at 80 persons.

 Observations of the demand for parking spaces as a result of the unauthorised use indicate that the place of public worship generates demand for 0.66 spaces per attendee.

The Traffic and Parking Assessment Report identified that the use of the premises as a place of public worship is generating demand for 0.37 to 0.66 spaces per attendee. If a rate of 0.66 spaces per attendee is applied to the proposed number of 80 attendees, the facility would require 53 car spaces to satisfy demand. This is not significantly lower than 60 spaces required when applying the DCP rate and as detailed elsewhere, only 6 spaces are proposed/existing. Given that Council is not satisfied that the numbers can reasonably be capped at 80, the 0.66 spaces per



attendee rate would indicate that parking demand as a result of the proposal is in the order of 180 to 210 spaces.

The applicant's correspondence dated 1 February 2019 suggests that the 0.66 spaces rate could be mitigated by the implementation of measures seeking to encourage attendees to use alternate means of travel. However, insufficient details regarding specific management measures and methods of implementation have been provided for assessment.

It is also not considered practical that attendees would opt for public or active transport modes if they are not already living or working in the immediate vicinity of the site as most of the services provided at the facility have a maximum duration of 25 minutes. It is also unlikely that people would choose active or public transport options for the early morning or late evening services.

 There is sufficient off-site parking in the vicinity of the subject site to accommodate the proposal.

The applicant identified in the correspondence dated 1 February 2019 that there are 316 on street parking spaces in the vicinity of the subject site, as well as 105 spaces in the Holroyd Gardens car park. That is, there are a total of 421 publicly accessible car spaces in the vicinity of the site. The Traffic and Parking Assessment submitted with the application indicates that the spaces closest to the subject site on Peel Street, Fox Street and Walpole Street were in highest demand at the time of the survey.

There is no footpath on either side of Peel, Robert or Fox Streets, and this raises concerns about pedestrian safety and accessibility if on street parking in these locations is to be utilised.

Spaces on Walpole Street or within the Holroyd Gardens are accessible from the subject site via footpaths. However, the DCP controls specifically require parking spaces to be provided on site. In this case, the vast majority of the spaces required to support the development are located on street or on Council land (Holroyd Gardens).

The Auburn DCP has a less onerous parking rate for places of public worship.

The Auburn DCP has a rate of 1 car space per 20 m2 of GFA. This would equate to 25.34 (26) spaces for the subject proposal. The applicant acknowledges that the Auburn DCP does not apply to the subject land but suggests that this control should be considered as the Holroyd and Auburn DCPs apply to the same LGA.

The Traffic and Parking Assessment submitted with the original application states that 'mosques typically generate a higher parking demand than the DCP typically allows for 'religious land uses' due to the higher population density in the prayer area'. This would suggest that applying the less onerous Auburn DCP control is not appropriate in the circumstances. Notwithstanding, the proposal would still have a significant non-compliance of at least 20 car spaces if the Auburn rate were applied.



For the reasons detailed above, Council is not satisfied that the number of existing on-site parking spaces is sufficient to meet the demand generated by the proposal. Approval of an application with such a significant parking non-compliance with the relevant parking rate would set an undesirable precedent for other development in the locality. This was included as a reason for refusal in determination of the original application.

Plan of Management

The applicant submitted a number of separate documents dealing with operational management aspects of the proposal. The original application included an operational plan of management prepared by MB Town Planning, and a separate plan of management prepared by TTPP dealing with traffic and parking aspects of the development.

The amended application included a revised operational plan of management, and additional correspondence from MB Town Planning including updated survey of on street parking spaces.

A key element of the applicant's argument to support the on-site parking non-compliance is a suggested cap in the number of attendees. In the correspondence dated 1 February 2019, the applicant indicated that the number of attendees would be capped at 80. This would be achieved by 'advising some of the current attendees to attend services that are available at another place of worship at Merrylands, and by refusing to admit additional attendees when the numbers have reached a specified limit.'

It is not clear at what point the attendees would be advised to attend other services. If this were to occur at the time of the religious service, it would have limited benefit in terms of managing demand for on-street parking and restricting vehicular traffic in the area, as attendees would need to arrive at the site, and park their vehicles before being advised that they need to make alternative arrangements to fulfil their religious duties. If some other method of communication with attendees is proposed, further details of the timing, content and method of this communication would be required in order to make a full and proper assessment. On the basis of the available information, Council is not satisfied that adequate measures are either in place or proposed to achieve a cap in the number of attendees. Accordingly, it is assumed that the demand for parking in the locality as a result of the proposal would not be significantly less that that required under the DCP.

The provisions of any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4 (EP&A Act s4.15(1)(a)(iiia))

There is no planning agreement or draft planning agreement associated with the subject application.



The provisions of the Regulations (EP&A Act s4.15 (1)(a)(iv))

Pursuant to clause 93 of the Regulation, a consent authority must take into consideration whether the fire protection and structural capacity of the building will be appropriate for the proposed use.

Any existing deficiencies with the building could be rectified as part of the assessment and determination of a building information certificate application. Council's Building Services Unit has not identified any specific non-compliances with the relevant provisions of the NCC.

The likely environmental, social or economic impacts in the locality (EP&A Act s4.15 (1)(b))

Insufficient information was submitted with the application to satisfy Council that the proposed development will have acceptable environmental impacts in the locality. Accordingly, this is included as a reason for refusal.

The suitability of the site for the development (EP&A Act s4.15 (1)(c))

The site is located within the IN2 – Light Industrial zone, where places of public worship are permitted with development consent. However, owing to the significant deficiency of on-site car parking, and the impacts on traffic movement within the light industrial area, the site is not considered suitable for the proposed use. This is included as a reason for refusal.

Submissions made in accordance with the Act or Regulation (EP&A Act s4.15 (1)(d))

The application was notified in accordance with Part E – Public Participation of HDCP 2013 from 24 July to 7 August 2019. The application was renotified from 14 August to 28 August 2019 due to an error in the original notification. Twenty six (26) submissions were received as a result of the notification. The issues raised in the submissions are discussed in the following table:

Submissions objecting to the proposal

Concern	Response
Unauthorised works Orders issued by Council	No orders have been issued for the unauthorised work, or for the ongoing unauthorised use of the premises.
	Council's Development Compliance Officers have issued notices of intention to cease the use, demolish unauthorised works, and re-instate the premises to its condition prior to the carrying out of unauthorised works. However, these notices have not been progressed to orders because the owners made representations to the notices of intention by way of lodging development applications to regularise the unauthorised works



	and use.
	Further compliance action may be taken by Council to address these issues once the subject review application is determined.
NCAT orders (public interest)	The outcome of NCAT proceedings is not a matter for consideration in the assessment of a DA, pursuant to section 4.15 of the EP&A Act.
Owners consent for DA lodgement	The subject application is for the use of unit 2 as a place of public worship. The applicant acknowledges that unauthorised works have been carried out within the unit and this has been subject to separate action by Council's Development Compliance Unit.
	It is not necessary to obtain Owners' Corporation consent to lodge a development application if no works are proposed to the common property.
Ongoing unauthorised use of the premises	The application is for use of the subject site as a place of public worship. Council cannot grant development consent for building work that has already been carried out. However, nothing prevents a consent authority from regularising an unauthorised use by granting consent.
	If approval were to be granted for the change of use, a condition would be imposed requiring the applicant to obtain a building information certificate for the unauthorised works from Council.
Inconsistency with the objectives of the IN2 – Light Industrial zone. Specifically, the development does not 'support and protect industrial land for industrial uses.'	satisfied that the proposal is not inconsistent with the relevant objectives of the zone as it could provide a service to meet the day to day needs of workers, and it does not preclude the use of neighbouring sites for industrial uses. There is also nothing in the proposal that would preclude the use of the subject lot for industrial purposes in the future.
Site does not benefit from existing use rights	The application does not rely on existing use rights pursuant to division 4.11 of the Environmental Planning & Assessment Act 1979. The proposed land use is permitted with consent in the IN2 – Light Industrial zone.
Inconsistencies regarding maximum capacity of the premises (up to 400)	of 80 attendees.
	Council is not satisfied that there are any practical measures proposed to limit the number of attendees to 80 as suggested in the operational



Troffic and narking issues	plan of management. It is considered that compliance with this proposed cap is key to minimising the acoustic and other impacts in the locality. Accordingly, this was included as a reason for refusal.
 Traffic and parking issues Parking on common property or other unit's parking spaces Patrons ignoring traffic management provisions 	The impacts resulting from the significant under- provision of on-site parking on existing businesses in the locality are considered to be unsatisfactory and this was included as a reason for refusal in the determination.
 Conflicts with heavy vehicles accessing neighbouring industrial premises Heavy reliance on onstreet parking to 	Approval of the application would set an undesirable precedent by allowing the proposed development to rely on Council owned, and on street parking to accommodate a shortfall in the on-site parking requirement.
 support the use Insufficient parking Parking too close to street corners Restricting access to residential properties 	The traffic and parking impacts of the proposal result from the lack of on-site parking and the limited carriageway width of the adjoining streets. These impacts are not considered satisfactory and it is recommended that the Panel confirm the refusal of the application.
Unauthorised use may void owners corporation insurance	This is not a matter for assessment under section 4.15 of the Environmental Planning & Assessment Act 1979.
Inconsistency with objectives of Part G, HDCP 2013	As discussed in the body of the report. The proposal is considered to be inconsistent with a number of objectives within Part G of HDCP 2013. It is recommended that this be included as an additional reason for refusal.
Proposal does not facilitate orderly and economic use of land	Insufficient information is available to establish that
Unreasonable noise impacts	The acoustic report that was submitted in support of the application indicates that the proposal can comply with the relevant noise criteria. However, the acoustic report makes a number of assumptions that are not consistent with the other information submitted by the applicant.
	The inadequacy of the acoustic assessment was included as a reason for refusal.
Conflict with events at Holroyd Sportsground	The proposal in its current form does not seek approval for use of the Holroyd Sportsground car park.
Restriction of public access to Holroyd Gardens	The application relates to use of unit 2/2-6 Peel Street. However, the proposal also relies on



No additional information or change to the proposal as part of this review application	parking within the surrounding streets, and at Holroyd Gardens. The inadequacy of the on-site parking, and reliance on street and Council owned car parking was included as a reason for refusal. Section 8.3 of the Environmental Planning & Assessment Act provides that an applicant may request a review of a determination, and that the consent authority must review the determination if
Lack of accessible parking spaces on site	such a request is made by the applicant. There is no requirement for the proposal to be amended in any way prior to lodgement of a review application. It is recommended that the Panel confirm refusal of the application. The lack of accessible parking spaces was included as a reason for refusal, and has not been addressed by the applicant in this review application.
Lack of footpaths on Fox Street and Robert Street linking on street parking spaces to the subject site	There are no footpaths on Peel Street, Fox Street
Insufficient detail regarding how the applicant intends to cap patrons at 80	Due to the deficiencies of the plan of management, and inconsistency of the information submitted by the applicant, Council cannot be satisfied that appropriate measures can or would be taken to manage the impacts of the development. This was included as a reason for refusal in the original determination.
period are imprecise	If the application were to be approved, appropriate conditions would be drafted by Council to limit/control adverse impacts on the locality. This could include a condition for the use to require further assessment/approval after a set period of time.
Social impacts, risk to public safety	A place of public worship is permitted with consent in the IN2 – Light Industrial zone and Council does not have any concerns about the social impacts of the proposed development. The application was also forwarded to NSW Police
Inappropriate reliance on on-	for comment. The response received made standard recommendations for consent conditions and did not raise any concerns regarding risks to public safety.
street parking to support the	·



proposed use	satisfactory as there is plenty of on street parking available to cover the shortfall. Council considers that the proposal is not supportable due to the lack of on-site parking provided and the undesirable precedent that would be set by approving a development that relies on Council owned and onstreet parking spaces. Non-compliance with the DCP parking rate was included as a reason for refusal.
Concerns regarding structural adequacy of unauthorised building works.	Pursuant to clause 93 of the EP&A Regulation, in

Submissions in support of the proposal

Concern	Response
Place of public worship makes	These comments are noted. However, proposal
the locality safer as it attracts	fails to comply with relevant parking controls and
more people to the streets.	does not propose any appropriate management
Worshippers are peaceful and	techniques to limit the impacts on local traffic and
	parking. Accordingly, Council is not satisfied that
deter unsocial activities.	the impacts of the proposal in the locality will be
	acceptable.
No adverse parking impact,	The non-compliance with relevant parking controls
most worshippers walk to the	is a reason for refusal.
facility	

The public interest (EP&A Act s4.15(1)(e))

The public interest is served by permitting the development of land, in a manner that is sensitive to the surrounding environment and has regard to the reasonable amenity expectations of surrounding land users. In view of the foregoing analysis it is considered that approval of the development as proposed would be contrary to the public interest.

Disclosure of Political Donations And Gifts

The application and notification process did not result in any disclosure of political donations or gifts.

CONCLUSION:

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979, Environmental Planning and



Assessment Regulation 2000, Holroyd Local Environmental Plan 2013 and the Holroyd Development Control Plan 2013.

The applicant has not altered their proposal in any way, or provided any additional information, to address the reasons for refusal of the original application. The Panel can be satisfied that the decision made on 22 May 2019 was appropriate, given the non-compliance with the on-site parking requirements, and uncertainty around measures proposed to manage traffic and parking impacts, or to limit the number of attendees.

CONSULTATION:

There are no further consultation processes for Council associated with this report.

FINANCIAL IMPLICATIONS:

There are no further financial implications for Council associated with this report.

POLICY IMPLICATIONS:

There are no policy implications for Council associated with this report.

COMMUNICATION / PUBLICATIONS:

The final outcome of this matter will be notified in the newspaper. The objectors will also be notified in writing of the outcome.

REPORT RECOMMENDATION:

1. That the Panel confirm the decision from 22 May 2019 to refuse DA 2018/185.

i)

2. That those persons who made a submission be advised of the determination.

ATTACHMENTS

- 1. HLEP 2013 Compliance Table J
- 2. HDCP 2013 Compliance Table J
- 3. Draft Notice of Determination U
- 4. CLPP Report dated 22 May 2019 J
- 5. Refusal Notice for DA 2018/185 U
- 6. Applicant's correspondence dated 1 February 2019 U
- 7. Redacted Public Submissions <a>U <a>I <a>U <a>I <a>I

DOCUMENTS ASSOCIATED WITH REPORT LPP071/19

Attachment 1 HLEP 2013 Compliance Table



Attachment 1 - Holroyd Local Environmental Plan 2013

Clause	Comment	Yes	No	N/A
Land use table				
Zone IN2 – Light Industrial				
To provide a wide range of light industrial, warehouse and related land uses To encourage employment opportunities and to support the viability of centres To minimise any adverse effect of industry on other land uses To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area To support and protect industrial land for industrial uses	The proposal is not inconsistent with the objectives of the Light Industrial zone. See discussion in the body of the report.			
2 Permitted without consent Nil				
3 Permitted with consent Depots; Food and drink premises; Garden centres; Hardware and building supplies; Industrial training facilities; Kiosks; Landscaping material supplies; Light industries; Neighbourhood shops; Places of public worship; Plant nurseries; Roads; Timber yards; Warehouse or distribution centres; Any other development not specified in item 2 or 4	Places of public worship are permitted with consent.			
4 Prohibited Agriculture; Air transport facilities; Airstrips; Amusement centres; Animal boarding or training establishments; Biosolids treatment facilities; Boat launching ramps; Boat sheds; Camping grounds; Car parks; Caravan parks; Cemeteries; Charter and tourism boating facilities; Commercial premises; Correctional centres; Crematoria; Eco-tourist facilities; Educational establishments; Electricity generating works; Entertainment facilities;				



Clause	Comment	Yes	No	N/A
Environmental facilities; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Function centres; Health services facilities; Heavy industrial storage establishments; Helipads; Highway service centres; Home businesses; Home industries; Home occupations; Home occupations (sex services); Industries; Information and education facilities; Jetties; Marinas; Mooring pens; Moorings; Mortuaries; Open cut mining; Recreation facilities (major); Research stations; Residential accommodation; Restricted premises; Rural industries; Sewage treatment plants; Sex services premises; Tourist and visitor accommodation; Vehicle body repair workshops; Veterinary hospitals; Waste disposal facilities; Water recreation structures; Water recycling facilities; Water supply systems; Wharf or boating facilities				
 (1) The objectives of this clause are as follows: (a) to minimise the visual impact of development and ensure sufficient solar access and privacy for neighbouring properties, (b) to ensure development is consistent with the landform, (c) to provide appropriate scales and intensities of development through height controls. (2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings 	There is no building height standard for the subject site. The proposal also does not include any physical works. The unauthorised works that have been carried out did not alter the height of the building.			
Map. 4.4 Floor space ratio				
(1) The objectives of this clause are as follows: (a) to support the viability of commercial centres and	No Floor Space Ratio standard applies to the subject site.			\boxtimes



Clause	Comment	Yes	No	N/A
provide opportunities for economic development within those centres, (b) to facilitate the development of a variety of housing types, (c) to ensure that development is compatible with the existing and desired future built form and character of the locality, (d) to provide a high level of amenity for residential areas and ensure adequate provision for vehicle and pedestrian access, private open space and landscaping.				
(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.				
4.6 Exceptions to development standards Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument.	The proposal complies with the relevant development standards.			\boxtimes
5.10 Heritage conservation Schedule 5 of LEP lists heritage items. The Heritage Map shows heritage conservation area & heritage items.	Subject site is located opposite an item which is listed as having local heritage significance (Goodlet & Smith). As the proposal does not involve any physical works and the unauthorised works that have already been carried out are confined to the interior of the building, it is considered that the proposed development will not have any adverse impact on the heritage item.			
Part 6 Additional local provisions	_			
6.1 Acid sulfate soils	The site is ASS - class 5. However, the proposal does not involve the carrying out of any works. Accordingly, the provisions of clause 6.1 do not apply.			\boxtimes
6.2 Earthworks Development consent is required for	No earthworks proposed.			\boxtimes



Clause	Comment	Yes	No	N/A
earthworks unless: The earthworks are exempt development under this Plan or another applicable environmental planning instrument.				
6.3 Essential services Development consent must not be granted to development unless the consent authority is satisfied that the necessary essential services are or can be made available.	Council is satisfied that the relevant services are available.	\boxtimes		
6.4 Flood planning This clause applies to land at or below the flood planning level.	The subject site is located below the flood planning level and clause 6.4 applies.			
Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development: (a) is compatible with the flood hazard of the land, and (b) will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and (c) incorporates appropriate measures to manage risk to life from flood, and (d) will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction or riparian vegetation or a reduction in the stability of river banks or watercourses, and (e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.	The application was reviewed by Council's Development Engineering section. No concerns were raised and no conditions recommended.			
6.5 Terrestrial biodiversity This clause applies to land identified as "Remnant Native Vegetation" on the Biodiversity Map.	The subject site is not identified on the Biodiversity Map			\boxtimes
6.6 Riparian land and watercourses This clause applies to the land identified as "Riparian Land" on the Riparian Lands and Watercourses Map.	The subject site is not identified on the Riparian Lands and Watercourses Map.			
6.7 Stormwater management	There are no changes to the existing stormwater			\boxtimes



Clause Comment		Yes	No	N/A
	management arrangements as part of this application.			
6.8 Salinity This clause applies to land identified as "Known Salinity", "High Salinity Potential" or "Moderate Salinity Potential" on the Salinity Map.	The site is identified as having moderate salinity potential. No external building works proposed and as such the proposal will not affect salinity processes in the land and salinity will not affect the proposed development.			\boxtimes
6.9 Buffer between industrial and residential This clause applies to land identified as "Industrial-residential buffer area" on the Site Specific Provisions Map.	Site is not identified as an industrial-residential buffer area.			
6.10 Ground floor development in Zones B2 and B4 This clause applies to land in the following zones: (a) Zone B2 Local Centre (b) Zone B4 Mixed Use	The subject site is zoned IN2 - Light Industrial.			
6.11 Design excellence This clause applies to development involving the construction of a new building, or external alterations to an existing building, that will result in a building that is greater than 30 metres in height on land shown bounded by a blue line on the Design Excellence Map.	Not applicable to the subject site.			





DOCUMENTS ASSOCIATED WITH REPORT LPP071/19

Attachment 2 HDCP 2013 Compliance Table



Attachment 2 – Holroyd Development Control Plan 2013 Compliance Table

No.	Required/Permitted	Provided	Com	ce	
Part A	A – General Controls		Yes	No	N/A
3	Car Parking				
	1 space per 8.5m ² of GFA. In this case, 506.8 m ² floor space = 59.62 (60) spaces required	6 on-site spaces existing. See discussion in body of report.		\boxtimes	
	Parking for the disabled at the rate of 2 spaces per 100 visitors	accessible spaces provided. See discussion in body of the report.			
10	Safety and Security				
C1.	A site management plan and formal crime risk assessment (Safer by Design Evaluation) involving the NSW Police Service may be required for large developments which, in Council's opinion, would create a crime risk.	A site management plan is not considered warranted given the scope of the proposed development and size of the subject site.			
C2.	Design new development to reduce the attractiveness of crime by minimising, removing or concealing crime opportunities. The design of development should increase the possibility of detection, challenge and apprehension of persons engaged in crime.	The proposal is for change of use only, no building works are proposed			
11	Waste Management				
	All applications for development shall be accompanied by a Site Waste Minimisation and Management Plan	Satisfactory Waste Management Plan submitted with the application.	\boxtimes		
Part I	O - Industrial Controls				
4	Retail and Commercial uses in indus	trial zones			
	The Council, under normal circumstances, restricts the hours of industrial operations to the hours of 7 am to 7 pm, Monday to Friday; 7 am to 12 noon, Saturday and no work on Sunday.	The proposed hours of operation are 5am to 10.30pm, 7 days which is outside the times permitted by the control. See discussion in the body of the report.			
Part 0	3 – Places of Public Worship Controls				
1	Locational requirements				
	Minimum lot size in R2, R3 and R4 zones is 900m	Site is zoned IN2			\boxtimes
	Places of public worship not permitted on roads with carriageway width less than 10 m	Peel Street has carriageway width of less than 10 m.			
	Places of public worship not permitted on cul-de-sacs	N/A			



	Places of public worship not to be located within view from existing or approved sex services premises	Complies	\boxtimes	
2	Floor space ratio and site coverage			
	Places of public worship in residential zones must have site coverage not greater than 50%	N/A – site is zoned IN2		\boxtimes
3	Setbacks			
	Minimum front setback in residential zone 6 m	N/A – site is zoned IN2		\boxtimes
	Side setbacks in residential zones 3 m	N/A		
	Minimum rear setback in residential zone 6 m	N/A		\boxtimes
4	Built form			
	Height limit in accordance with LEP, no storey limit	No LEP height limit applies to the subject site		\boxtimes
	In or adjacent to residential areas to be consistent with the character of the streetscape	Residential zoned land on the opposite side of Walpole Street. The proposal does not include any building works and as such this control is not relevant.		
	Front entrance to be in clear view from the street	Complies	\boxtimes	
	Where a place of public worship has dual frontages, the development shall be designed to address both streets	N/A – existing building, no external works proposed		\boxtimes
	In residential zones where side wall length is longer than 10m, wall to incorporate some form of articulation	N/A		
	Where fencing is proposed it must comply with the fencing provisions in the relevant part of the DCP pertaining to the zoning of the site.	N/A – no fencing proposed		
5	Landscaping and open space			
	Landscaped area to comply with relevant sections of Part D of HDCP 2013	N/A – proposal is for change of use only, no impact on built form or change to existing landscaped area		
6	Amenity			
	Comply with sunlight access provisions in Part D of HDCP 2013	N/A - proposal for change of use only.		
	Visual privacy	<u> </u>		
	Places of public worship shall be sited to not cause loss of visual amenity to surrounding residential land uses	No impact on visual amenity of surrounding residential properties.		
	Location of windows, doors or balconies to have regard to privacy of adjoining properties	No building works proposed. No privacy impacts associated with the development		



	Use of landscaping as visual privacy buffer is encouraged	N/A			\boxtimes
	Acoustic privacy				
	Noise Impact Statement to be submitted where proposal is located within or adjacent to a residential zone	Acoustic report submitted with the application and reviewed by EHU. The acoustic report is inconsistent with the other information submitted in support of the application. This is included as a reason for refusal.			
	Design to increase acoustic privacy through building layout, site design, landscaping and materials	Proposal is for change of use of an existing building. No changes proposed to building layout or site design. Insufficient information provided regarding acoustic impacts of the proposal.			
	Accessibility				
	Design to minimise barriers to less mobile persons	A condition could be imposed to ensure compliance with this control if consent were to be granted.	\boxtimes		
	Main entrance to enable wheelchair access	Complies	\boxtimes		
	Access to be provided in accordance with relevant Australian Standard	A condition could be imposed to address this issue if consent were to be granted.	\boxtimes		
7	Parking and traffic				
	Car parking to comply with requirements under Part A	Proposal is deficient by 54 spaces. See discussion in body of report.		\boxtimes	
	All parking to be provided on site	Application relies on off-site parking to support the proposal. See discussion in body of report.		\boxtimes	
	All vehicles shall be able to enter and leave the site in a forward direction	Existing on-site parking complies.	\boxtimes		
	Provision of parking shall not reduce required landscaped area	N/A - no additional parking spaces proposed			\boxtimes
	Traffic impact statement shall be submitted for establishment of place of public worship or where proposal is to increase capacity to 50 persons or more Note: A Traffic Impact Statement, at a minimum, shall assess the number of parking spaces required for such development, the impact of the proposed place of public worship on	The Traffic and Parking Assessment submitted with the original application sought to justify the significant variation to the DCP parking rate on the basis of an informal agreement the operators had secured for the use of the Holroyd Sportsground			



	the surrounding locality and the measures taken to minimise any potential issues. The statement shall also detail the impact of any festivals or functions (i.e. weddings) and their impact in relation to car parking and vehicular access.	car park, and the availability of on-street parking spaces within walking distance of the subject site. The applicant has not submitted a revised Traffic Assessment to address the concerns raised with the original proposal.		
8	Operational management An operation management plan is to	The information submitted		
	 be submitted addressing the following: The frequency of all proposed services, events and the like; The proposed hours of operation for all proposed services and events and the like: The likely number of persons to attend each type of service, event etc.; Whether street parades or road closures are proposed. Any other uses that may take place within the place of public worship (i.e. community uses – youth group, community colleges etc.), the frequency of these uses and the number of patrons proposed for these. Any particular custom or practice (such as ringing bells) that may occur and the frequency and length of such rituals. The nomination of a contact person that will be responsible in responding to any issues or complaints raised by the community or Council. 	by the applicant generally addresses the matters identified in this control. However, there are inconsistencies between the different documents. The plan of management submitted by the applicant is not considered adequate to manage the impacts of the development in the locality.		

DOCUMENTS ASSOCIATED WITH REPORT LPP071/19

Attachment 3 Draft Notice of Determination



Our Reference: Contact: Phone: 2018/185 Miss S Pritchard 02 8757 9959

ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979 NOTICE OF DETERMINATION OF APPLICATION

13 November 2019

MB Town Planning Attn: Matthew Benson PO Box 415 GORDON NSW 2072

Dear Sir/Madam

Pursuant to Section 8.4 of the Act, Council has refused to grant approval to your Development Application described as follows:

PROPERTY: Lot: 2 SP: 75506

STREET ADDRESS: 2/2-6 Peel Street Holroyd

REFUSAL NO. 2018/185/1

DECISION: Cumberland Local Planning Panel

PROPOSED DEVELOPMENT: Section 8.3 review of refusal for the use of premises as

a place of public worship

CLASSIFICATION:

This Development Application is **REFUSED** in accordance with the Environmental Planning & Assessment Act 1979. The reasons for refusal are set out below.

NOTES:

 Section 8.7 of the Act provides that an applicant who is dissatisfied with the Council's determination of the Development Application may appeal to the Land and Environment Court within twelve (12) months of the date of determination, or as otherwise prescribed.



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REASONS FOR REFUSAL

Holroyd Development Control Plan (HDCP) 2013

 The development as proposed does not satisfy the following objectives of Part G, of HDCP 2013:

Section 1 - Locational requirements:

- O1. To guide the appropriate location of places of public worship to ensure that amenity for surrounding residents and businesses is maintained.
- O3. To ensure sites and streets are capable of containing the required parking and stormwater management facilities on site.
- O4. To minimise the locating of conflicting land uses within the vicinity of places of public worship.

Section 7 - Parking and traffic:

- O1. To ensure the provision of adequate car parking spaces for places of public worship.
- O2. To ensure the safety of both pedestrians and other vehicle users in the surrounding locality.
- O4. To ensure that the impact of parking and vehicular movement for a place of public worship is assessed and does not affect the amenity of the surrounding locality.
- The development as proposed does not comply with the following provisions of HDCP 2013:
 - a. Section 3, Part A Car parking

A minimum of 60 on site car parking spaces are required to support the proposed use. The subject unit has access to 6 on site spaces, and no new spaces are proposed. This results in a shortfall of 54 car spaces.

A minimum of 2 accessible spaces are required per 100 spaces. No accessible car spaces are proposed under this application and there are no existing accessible spaces available for attendees of the proposed place of public worship.

b. Section 1, Part G – Locational requirements

Part G of HDCP 2013 identifies that roads with a carriageway width of less than 10 m are unsuitable for places of public worship. Peel Street has a carriageway less than 10 m wide and is therefore considered to be an unsuitable location for a place of public worship.

Pedestrian safety

 Reliance on off-site parking compromises pedestrian safety and accessibility as the surrounding streets do not have footpaths connecting the off-site parking spaces to the subject site.



Page 3 of 3

Insufficient and inconsistent information

- 4. The acoustic report submitted with the application is inconsistent with the other documentation submitted to support the application. The acoustic report also makes a number of assumptions that are not supported by the other information submitted with the application.
- 5. The Operational Plan of Management submitted with the amended application indicates that the number of attendees at the place of public worship would be limited to 80, which is significantly lower than the physical capacity of the premises. However, there are no specific measures proposed in the Operational Plan of Management, or the other supporting documentation, to achieve this limit. Failure to comply with the proposed 80 person cap would continue to have unacceptable traffic, parking, and acoustic impacts in the locality.

Suitability of the site for the proposed development

6. The subject site is not considered suitable for the development due to its location (pursuant to Part G of HDCP 2013), and the lack of available on site parking (section 4.15(c) of the Environmental Planning and Assessment Act 1979).

Public interest

- 7. Due to the deficiencies detailed above, approval of the proposed development would be contrary to the public interest (section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979).
- Approval of the subject application would set an undesirable precedent for similar development in the local government area with respect to the insufficient provision of on site parking.

Yours faithfully,

Karl Okorn
EXECUTIVE MANAGER DEVELOPMENT AND BUILDING

DOCUMENTS ASSOCIATED WITH REPORT LPP071/19

Attachment 4 CLPP Report dated 22 May 2019



TO: Cumberland Local Planning Panel

SUBJECT: Development application for 2/2-6 Peel Street Holroyd

FILE: 2018/185

Application lodged	1 June 2018		
Applicant	MB Town Planning		
Owner	The Charitable Islamic Association of Beirut City Incorporated		
Application No.	2018/185		
Description of land	2/2-6 Peel Street, Holroyd		
Proposed development	Use of premises as place of public worship		
Site area	2995.7 m ² (entire site) 535 m ² (lot 2 in SP75506)		
Zoning	IN2 – Light Industrial		
Principal development standards	N/A		
Disclosure of political donations and gifts	Nil disclosure		
Heritage	Site is opposite Goodlet & Smith (brickmaking plant and chimney and Hoffman kiln and chimney), which is listed as a local heritage item		
Issues	 Unauthorised works Unauthorised use Traffic and parking Public submissions (14) Inadequacy of POM 		

SUMMARY

- The subject application was lodged on 1 June 2018 and notified to properties within a 100 m radius from 27 June 2018 to 18 July 2018. In response, 14 public submissions were received.
- The application is being reported to the Cumberland Local Planning Panel (CLPP) for determination due to the number of public submissions received.
- The subject application has been assessed against the relevant provisions of the Environmental Planning and Assessment Act 1979, Holroyd Local Environmental Plan 2013 (HLEP 2013) and Holroyd Development Control Plan 2013 (HDCP 2013).
- 4. The application involves the following numerical non-compliances which are not considered supportable in this instance:

Control	Required	Proposed	% Variation
Car parking	60	6	90%
Accessible parking spaces	2 per 100 spaces	0	100%
Minimum carriageway width	10 m	7.5 m	25%

It is recommended that the application be refused for the reasons detailed at attachment 3.

SUBJECT SITE AND SURROUNDING AREA

The subject site is known as unit 2, 2-6 Peel Street, Holroyd. The legal description of the site is lot 2 in strata plan 75506. The site is zoned IN2 – Light Industrial under the provisions of

1



the HLEP 2013. 2-6 Peel Street is a factory complex with 6 units, constructed pursuant to DA 2003/1166. Unit 2 that is the subject of this application is located at the south eastern corner of the allotment and has frontage to both Walpole Street and Peel Street.

The sites to the east, west and north of the subject site are also zoned IN2 – Light Industrial. The sites to the south are zoned R4 – High Density Residential and have vehicular and pedestrian access via Refractory Court. Holroyd Sportsground is located at the opposite end of Peel Street.



Subject site hatched red - 2-6 Peel Street, Holroyd.



View of subject site from corner of Peel Street and Walpole Street.

2





View of subject site, looking north along Peel Street



Walpole Street frontage

DESCRIPTION OF THE PROPOSED DEVELOPMENT

DA 2018/185 proposes change of use of the existing factory unit as a place of public worship (mosque). No building works, internal or external, are proposed as part of this application. The proposal is for the place of public worship to operate 7 days a week as detailed in the following table:

3



Prayer service	Maximum duration	Maximum participants
Outside of Ramadan		
Pre-dawn (45 minutes prior to sunrise)	15 minutes	30
Noon (Saturday to Thursday)	25 minutes	30
Noon Fridays	25 minutes	80
Mid-afternoon (approx. 3pm)	15 minutes	30
Sunset daily	15 minutes	30
Night (90 minutes after sunset)	15 minutes	30
During Ramadan		
Pre-dawn daily	15 minutes	30
Noon (Saturdays to Thursdays	25 minutes	30
Noon (Fridays)	25 minutes	80
Mid-afternoon (approx. 3pm)	15 minutes	50
Sunset daily	15 minutes	50
Night (90 minutes after sunset	15 minutes	50
Eid Al Fitr (one day per year)		
Between 6 am and 7.30 am	90 minutes	80
Eid Al Adha (one day per year)		
Between 6 am and 7.30 pm	90 minutes	80

SITE HISTORY

Council's Compliance Officers attended the subject site on 12 May 2017 in response to a complaint that was lodged regarding unauthorised use and works at the subject site. At the time of the inspection it was observed that building works that would have required development consent had been carried out within the building without the necessary consent having been obtained.

On 15 May 2017 Council issued a notice of intention to give orders to demolish the unauthorised works and reinstate the premises to its prior condition; and to cease the use of the premises as a place of public worship.

The applicant attempted to lodge an application (DA 2017/211) to regularise the unauthorised use of the premises on 25 May 2017. That application was rejected for the following reasons:

- No. 2-6 Peel Street Holroyd is subject to Strata Plan 75506. The submitted Development Application does not provide owners consent from the Strata Title/Body Corporate and legal advice has not been provided to support your claim that this consent is not required.
- 2. Failure to provide the following details on the submitted plans in accordance with Part 1 of Schedule 1 of the Environmental Planning and Assessment Regulation 2000:
 - · The uses of existing buildings on the land;
 - The location and uses of buildings on sites adjoining the land; and
 - · Layout, partitioning, room sizes and intended uses of each part of the building
- 3. Any future Development Application should also address the following issues:
 - The submitted Statement of Environmental Effects (SEE) indicates that the place of public worship within Unit 2 is 537m² with a maximum capacity of 150 people. A floor plan is required detailing the area required for each person to worship. It appears that Unit 2 could potentially hold a larger number of

4



people so details are also required on how the floor area will be physically divided or managed to prevent this occurring.

- A Social Impact Assessment is required
- Sufficient separate male, female and accessible toilet facilities complaint (sic) with the BCA should be show (sic) on plans if you are applying for a place of public worship.

The issues raised in the rejection letter were addressed by the applicant, and DA 2017/270 was lodged with Council on 28 June 2017.

DA 2017/270 was withdrawn by the applicant on 13 December 2017, following correspondence from Council advising that the application would not be supported. The reasons for staff not supporting DA 2017/270 related to the lack of on site parking, and the inadequacies of the acoustic report and plan of management submitted with the application.

The history of the site and the subject application is summarised in the following table.

Date	Action
28 June 2017	DA 2017/270 lodged with Council
13 July 2017	DA 2017/270 referred to Council's internal departments, and to NSW
	Police for review
26 July to 16 August	DA 2017/270 publicly notified. A total of 21 submissions were received as
2017	a result of the notification.
28 November 2017	Correspondence sent to the applicant for DA 2017/270 advising that the
	application would not be supported by Council
13 December 2017	DA 2017/270 withdrawn by the applicant
1 June 2018	DA 2018/185 (subject application) lodged with Council
20 June 2018	DA 2018/185 referred to Council's internal departments, and to NSW
	Police for review
27 June to 18 July 2018	DA 2018/185 publicly notified. A total of 15 submissions were received.
19 October 2018	Correspondence sent to the applicant advising that staff would not
	support the proposal and inviting withdrawal of the application
4 March 2019	Additional information submitted to address the issues raised in Council's
	correspondence dated 19 October 2018
22 May 2019	DA 2018/185 reported to CLPP for determination

As physical works have already been carried out without the necessary consent, a deferred commencement condition requiring the lodgement of an application for a building information certificate would be imposed if consent were to be granted.

APPLICANT'S SUPPORTING STATEMENT

A Statement of Environmental Effects prepared by MB Town Planning, dated 31 May 2018 was submitted in support of the application. Additional correspondence dated 1 February 2019 was submitted in support of the amended application.

CONTACT WITH RELEVANT PARTIES

The assessment officer has undertaken an inspection of the subject site and has been in contact with the applicant throughout the assessment process.

5



INTERNAL REFERRALS

Environmental Health Unit

The application was referred to Council's Environmental Health Officer for comment. The response received on 7 March 2019 raised concerns about inconsistency between the plan of management and the acoustic report with regard to the number of attendees. These matters could be addressed by condition if the application were to be approved.

Traffic Engineering

The application was referred to Council's Traffic Engineering section for comment. The response received indicated that the proposal is not supported due to the significant deficiency in the number of off-street parking spaces provided.

Council's Traffic Engineer also raised concerns regarding the accuracy of the information provided in the traffic report, use of Holroyd Gardens and Holroyd Sportsground car parks, and road/lane closures as proposed in the traffic management plan.

Whilst the proposal has been amended and no longer seeks to rely on the Holroyd Gardens or Holroyd Sportsground car parks, no additional on site parking has been proposed and the traffic management plan has not been updated to clarify the measures that are proposed to manage impacts of the development on the local road network.

Building Services Unit

The application was referred to Council's Building Services Unit for comment. The response received 10 January 2019 indicates that the proposal is satisfactory subject to conditions for an NCC compliance report to be prepared, and the recommendations implemented prior to the issue of an occupation certificate. As the proposal is for change of use only, and the physical works have already been carried out without consent, there is no requirement for any construction certificate or occupation certificate to be issued. However, if consent were to be granted for the use, a deferred commencement condition would be imposed to require the applicant to obtain a building information certificate prior to the issue of operative consent. Any NCC non-compliance issues would be resolved in the assessment of the building information certificate application.

Development Engineering

The application was referred to Council's Development Engineering section for comment. No concerns were raised and no conditions recommended.

Waste

The application was referred to Council's Waste section for comment. Council's Senior Resource Recovery Project Officer advised that the proposal is satisfactory subject to a condition requiring the provision of a dedicated waste storage area.

Development Compliance

The application was referred to Council's Development Compliance unit for comment. The response received indicated that it may not be possible for the applicant to lodge a building information certificate application for the unauthorised works; as the consent of the owners corporation would be required for such an application to be lodged, and the owners corporation had previously indicated that it would not consent to such an application.

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This is not a matter for consideration under section 4.15 of the Environmental Planning and Assessment Act 1979. As mentioned elsewhere in this report, a condition would be imposed if consent were to be granted requiring the applicant to obtain a building information certificate for the unauthorised work prior to the consent becoming operational. If consent were to be granted and the applicant was unable to obtain a building information certificate, the consent would not become operational and would then lapse.

EXTERNAL REFERRALS

NSW Police - Cumberland Police Area Command

The application was referred to NSW Police – Cumberland Police Area Command for comment. The LAC raised concerns regarding:

- · theft of motor vehicles due to the proximity to public transport,
- competition for use of parking spaces on Fridays between the sportsground and the place of public worship,
- · amenity impacts on nearby residential properties, and
- · access control.

The LAC also recommended conditions be imposed on any consent relating to:

- surveillance (CCTV)
- lighting
- · territorial reinforcement
- maintenance policy, and
- access control

PLANNING ASSESSMENT

Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act)

The provisions of any Environmental Planning Instruments (EP&A Act s4.15 (1)(a)(i))

The following Environmental Planning Instruments are relevant to the assessment of the subject application:

(a) State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55)

The requirement at clause 7 of SEPP 55 for Council to be satisfied that the site is suitable or can be made suitable for the proposed development has been considered in the following table.

Matter for consideration	Yes	No
Does the application involve re-development of the site or a change of land use?	\boxtimes	
Is the development going to be used for a sensitive land use (e.g. residential, educational, recreational, childcare or hospital)?	\boxtimes	
Does information available to you indicate that an activity listed below has ever been approved, or occurred at the site?		
acid/alkali plant and formulation, agricultural/horticultural activities, airports, asbestos production and disposal, chemicals manufacture and formulation, defence works, drum re-conditioning works, dry cleaning establishments, electrical manufacturing (transformers), electroplating and heat treatment		

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Matter for consideration	Yes	No
premises, engine works, explosive industry, gas works, iron and steel works, landfill sites, metal treatment, mining and extractive industries, oil production and storage, paint formulation and manufacture, pesticide manufacture and formulation, power stations, railway yards, scrap yards, service stations, sheep and cattle dips, smelting and refining, tanning and associated trades, waste storage and treatment, wood preservation		
Is the site listed on Council's Contaminated land database?		
Is the site subject to EPA clean-up order or other EPA restrictions?		\boxtimes
Has the site been the subject of known pollution incidents or illegal dumping?		\boxtimes
Does the site adjoin any contaminated land/previously contaminated land?	\boxtimes	
Has the appropriate level of investigation been carried out in respect of contamination matters for Council to be satisfied that the site is suitable to accommodate the proposed development or can be made suitable to accommodate the proposed development?	\boxtimes	
There is no information in Council's records that would indicate that the site is and there are no works proposed that would penetrate the existing concrete si		

There is no information in Council's records that would indicate that the site is contaminated and there are no works proposed that would penetrate the existing concrete slab. Based on the available information there is nothing to warrant further investigation in relation to contamination.

(b) Holroyd Local Environmental Plan 2013

The proposed development is defined as a 'place of public worship' under the provisions of Holroyd Local Environmental Plan (HLEP) 2013. A place of public worship is permitted with consent in the IN2 – Light Industrial zone which applies to the land. The proposal complies with the relevant development standards. A comprehensive HLEP compliance table is provided at attachment 1.

The proposal is not considered to be consistent with the objectives of the zone and this is included as a reason for refusal.

The objectives of the IN2 - Light Industrial zone are as follows:

- To provide a wide range of light industrial, warehouse and related land uses.
- To encourage employment opportunities and to support the viability of centres.
- To minimise any adverse effect of industry on other land uses.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.
- To support and protect industrial land for industrial uses.

The applicant provided the following commentary regarding compliance with zone objectives:

"The proposed land use relates to the use of an existing building and will not impact upon or detract from the use of adjoining industrial premises. In addition, the proposed use will:

- Not restrict the provision of a wide range of industrial and warehouse and uses on the site noting the occupied units in the buildings on site will continue to operate unchanged;
- Encourage employment opportunities, including for the maintenance of the building when required; and
- Enable the change of land use to a place of public worship that is highly desired in the local area and to provide for the daily religious practices of local residents and workers of the Islamic faith.

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As demonstrated above, the proposed change of land use to a place of public worship is in keeping with the objectives of the IN2 Light Industrial zone and will not adversely impact on the existing operation of surrounding land uses."

Planner's comment:

The first three objectives are not relevant to the subject application as the proposed use is not for industrial or warehouse purposes.

With regard to the fourth objective, the approval of the subject application would allow for a use that could satisfy the day to day needs of workers in the local area.

With regard to the fifth objective, the proposal does not preclude ongoing use of surrounding sites, or the future use of the subject land for industrial purposes.

Further evidence would be required to demonstrate that the use could operate without adversely impacting on the existing operation of surrounding land uses. However, Council is satisfied that the proposal is not inconsistent with the objectives of the IN2 zone.

(c) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The subject site is identified as being located within the area affected by the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. The proposed development raises no issues as no impact on the catchment is envisaged.

(Note: - the subject site is not identified in the relevant map as 'land within the 'Foreshores and Waterways Area' or 'Wetland Protection zone', is not a 'Strategic Foreshore Site' and does not contain any heritage items. Hence the majority of the SREP is not directly relevant to the proposed development).

The provisions of any proposed instrument that is or has been the subject of public consultation (EP&A Act s4.15 (1)(a)(ii))

(a) Draft State Environmental Planning Policy (Environment)

The draft SEPP relates to the protection and management of our natural environment with the aim of simplifying the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property. The changes proposed include consolidating the following seven existing SEPPs:

- State Environmental Planning Policy No. 19 Bushland in Urban Areas
- State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011
- State Environmental Planning Policy No. 50 Canal Estate Development
- Greater Metropolitan Regional Environmental Plan No. 2 Georges River Catchment
- Sydney Regional Environmental Plan No. 20 Hawkesbury-Nepean River (No.2-1997)
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Willandra Lakes Regional Environmental Plan No. 1 World Heritage Property.

The draft policy will repeal the above existing SEPPs and certain provisions will be transferred directly to the new SEPP, amended and transferred, or repealed due to overlaps with other areas of the NSW planning system.



Changes are also proposed to the Standard Instrument – Principal Local Environmental Plan. Some provisions of the existing policies will be transferred to new Section 117 Local Planning Directions where appropriate.

The provisions of any Development Control Plans (EP&A Act s4.15 (1)(a)(iii))

Holroyd Development Control Plan 2013

Holroyd Development Control Plan (HDCP) 2013 contains general controls which relate to all developments under Part A, controls for Places of Public Worship under Part G and controls relating to industrial premises under Part D.

A comprehensive HDCP assessment is attached to this report at attachment 2. The DCP non-compliances are discussed below.

No.	Required/Permitted Provided		Compliance		е
Part A	– General Controls		Yes	No	N/A
3	Car Parking				
	1 space per 8.5m ² of GFA. In this case, 506.8 m ² floor space = 59.62 (60) spaces required	6 spaces provided (existing). This is a significant non-compliance and cannot be supported. See further comments below.		\boxtimes	
	Parking for the disabled at the rate of 2 spaces per 100 visitors	O accessible spaces existing /proposed. A non-compliance with this control could be supported if no additional spaces were required. However, as detailed above, the proposal involves a significant non-compliance with the minimum off street parking space requirement.			
) - Industrial Controls				
4	Retail and Commercial uses in industri				
	The Council, under normal circumstances, restricts the hours of industrial operations to the hours of 7 am to 7 pm, Monday to Friday; 7 am to 12 noon, Saturday and no work on Sunday.	The proposed hours of operation are approximately 5 am to 10 pm, 7 days which is outside the times permitted by the control. An acoustic report was submitted by the applicant and indicates that the place of public worship is capable of operating within the relevant noise criteria. Subject to implementation of recommended noise management practices, and compliance with standard consent conditions, the hours of operation would be supportable.			
Part G	– Places of Public Worship Controls				
1	Locational requirements				
	Places of public worship not permitted on roads with carriageway width less than 10 m	Peel Street has carriageway width of less than 10 m. As identified in the public		\boxtimes	

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submissions received, location of the facility of Peel Street and associated on street parking by patrons of the facility is having a detrimental impact on the operation of existing businesses, and residential amenity in the area. Accordingly, this is included as a reason for refusal. Acoustic privacy The site is located adjacent to a Noise Impact Statement to be submitted where proposal is located within or residential zone (opposite side adjacent to a residential zone of Walpole Street). An acoustic report was submitted with the application and reviewed by Council's Environmental Health Unit. As detailed above, the referral comments identified inconsistencies between the \bowtie acoustic report and the other information submitted by the applicant. If the application were to be supported this issue could be resolved by requesting additional information from the applicant or by the imposition of conditions. Parking and traffic Proposal is deficient by 54 car Car parking to comply with requirements \boxtimes under Part A parking spaces. All parking to be provided on site Application seeks to rely on parking spaces on street to \boxtimes support the proposed development. impact statement shall be A traffic impact statement was submitted for establishment of place of submitted with the application public worship or where proposal is to additional information increase capacity to 50 persons or more regarding traffic management Note: A Traffic Impact Statement, at a was provided with the amended minimum, shall assess the number of application. parking spaces required for such development, the impact of the As detailed above, the proposed proposed place of public worship on the development does not satisfy the minimum on-site parking surrounding locality and the measures \boxtimes requirements for this type of taken to minimise any potential issues. The statement shall also detail the development. impact of any festivals or functions (i.e. Council is not satisfied that the weddings) and their impact in relation to traffic and parking impacts of the car parking and vehicular access. proposed development are adequately addressed by the plan of management. further comments below. 8 Operational management An operation management plan is to be The operational management submitted addressing the following: submitted with application deals with the issues The frequency of all proposed \bowtie specified in the DCP control. services, events and the like;



•	The	e proposed	hours	of	opera	ition	for
	all	proposed	servic	es	and	eve	nts
	and	the like:					

- The likely number of persons to attend each type of service, event etc.;
- Whether street parades or road closures are proposed.
- Any other uses that may take place within the place of public worship (i.e. community uses – youth group, community colleges etc.), the frequency of these uses and the number of patrons proposed for these.
- Any particular custom or practice (such as ringing bells) that may occur and the frequency and length of such rituals.
- The nomination of a contact person that will be responsible in responding to any issues or complaints raised by the community or Council.

However, a central aspect of the amended application is the capping of attendees at 80. There are no details in the plan of management, or in any other documentation provided by the applicant to indicate how this would be achieved. See further comments below.

Car Parking

Section 3, Part A of HDCP 2013 requires a minimum of 1 car space per 8.5 m^2 of GFA for all places of public worship. In this case, the facility has a GFA of 506.8 m^2 , and therefore requires a minimum of 60 car spaces to satisfy the control.

The subject unit has access to 6 existing car spaces, and no new spaces are proposed under this application. The parking shortfall is therefore, 54 spaces.

The applicant seeks to justify the non-compliance on the following grounds:

• The operators proposed to cap attendee numbers at 80 persons

As detailed below, Council is not satisfied that there are adequate measures either currently in operation, or proposed under this application to cap the number of attendees at 80 persons.

 Observations of the demand for parking spaces as a result of the unauthorised use indicate that the place of public worship generates demand for 0.66 spaces per attendee.

The Traffic and Parking Assessment Report identified that the use of the premises as a place of public worship is generating demand for 0.37 to 0.66 spaces per attendee. If a rate of 0.66 spaces per attendee is applied to the proposed number of 80 attendees, the facility would require 53 car spaces to satisfy demand. This is not significantly lower than 60 spaces required when applying the DCP rate and as detailed elsewhere, only 6 spaces are proposed/existing. Given that Council is not satisfied that the numbers can reasonably be capped at 80, the 0.66 spaces per attendee rate would indicate that parking demand as a result of the proposal is in the order of 180 to 210 spaces.



The applicant's correspondence dated 1 February 2019 suggests that the 0.66 spaces rate could be mitigated by the implementation of measures seeking to encourage attendees to use alternate means of travel. However, insufficient details regarding specific management measures and methods of implementation have been provided for assessment.

It is also not considered practical that attendees would opt for public or active transport modes if they are not already living or working in the immediate vicinity of the site as most of the services provided at the facility have a maximum duration of 25 minutes. It is also unlikely that people would choose active or public transport options for the early morning or late evening services.

 There is sufficient off-site parking in the vicinity of the subject site to accommodate the proposal.

The applicant identified in the correspondence dated 1 February 2019 that there are 316 on street parking spaces in the vicinity of the subject site, as well as 105 spaces in the Holroyd Gardens car park. That is, there are a total of 421 publicly accessible car spaces in the vicinity of the site. The Traffic and Parking Assessment submitted with the application indicates that the spaces closest to the subject site on Peel Street, Fox Street and Walpole Street were in highest demand at the time of the survey.

There is no footpath on either side of Peel, Robert or Fox Streets, and this raises concerns about pedestrian safety and accessibility if on street parking in these locations is to be utilised.

Spaces on Walpole Street or within the Holroyd Gardens <u>are</u> accessible from the subject site via footpaths. However, the DCP controls specifically require parking spaces to be provided on site. In this case, the vast majority of the spaces required to support the development are located on street or on Council land (Holroyd Gardens).

• The Auburn DCP has a less onerous parking rate for places of public worship.

The Auburn DCP has a rate of 1 car space per 20 m² of GFA. This would equate to 25.34 (26) spaces for the subject proposal. The applicant acknowledges that the Auburn DCP does not apply to the subject land but suggests that this control should be considered as the Holroyd and Auburn DCPs apply to the same LGA.

The Traffic and Parking Assessment submitted with the original application states that 'mosques typically generate a higher parking demand than the DCP typically allows for 'religious land uses' due to the higher population density in the prayer area'. This would suggest that applying the less onerous Auburn DCP control is not appropriate in the circumstances. Notwithstanding, the proposal would still have a significant non-compliance of at least 20 car spaces if the Auburn rate were applied.

For the reasons detailed above, Council is not satisfied that the number of existing on-site parking spaces is sufficient to meet the demand generated by the proposal. Approval of an application with such a significant parking non-compliance with the relevant parking rate would set an undesirable precedent for other development in the locality. This is included as a reason for refusal in the draft determination.

Plan of Management



The applicant submitted a number of separate documents dealing with operational management aspects of the proposal. The original application included an operational plan of management prepared by MB Town planning, and a separate plan of management prepared by TTPP dealing with traffic and parking aspects of the development.

The amended application included a revised operational plan of management, and additional correspondence from MB Town Planning including updated survey of on street parking spaces.

A key limb of the applicant's argument to support the on-site parking non-compliance is a suggested cap in the number of attendees. In the correspondence dated 1 February 2019, the applicant indicated that the number of attendees would be capped at 80. This would be achieved by 'advising some of the current attendees to attend services that are available at another place of worship at Merrylands, and by refusing to admit additional attendees when the numbers have reached a specified limit.'

It is not clear at what point the attendees would be advised to attend other services. If this were to occur at the time of the religious service, it would have limited benefit in terms of managing demand for on-street parking and restricting vehicular traffic in the area, as attendees would need to arrive at the site, and park their vehicles before being advised that they need to make alternative arrangements to fulfil their religious duties. If some other method of communication with attendees is proposed, further details of the timing, content and method of this communication would be required in order to make a full and proper assessment. On the basis of the available information, Council is not satisfied that adequate measures are either in place or proposed to achieve a cap in the number of attendees. Accordingly, it is assumed that the demand for parking in the locality as a result of the proposal would not be (significantly) less that that required under the DCP.

The provisions of any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4 (EP&A Act s4.15(1)(a)(iiia))

There is no planning agreement or draft planning agreement associated with the subject application.

The provisions of the Regulations (EP&A Act s4.15 (1)(a)(iv))

Pursuant to clause 93, a consent authority must take into consideration whether the fire protection and structural capacity of the building will be appropriate for the proposed use. Council's Senior Building Surveyor reviewed the application and conducted an inspection of the site. As detailed under 'internal referrals' above, it is considered that any existing deficiencies with the building could be rectified as part of the assessment of a building information certificate application. No specific non-compliances with the relevant clauses of the NCC have been identified.

The likely environmental, social or economic impacts in the locality (EP&A Act s4.15 (1)(b))

Insufficient information was submitted with the application to satisfy Council that the proposed development will have acceptable environmental impacts in the locality. Accordingly, this is included as a reason for refusal.

The suitability of the site for the development (EP&A Act s4.15 (1)(c))



The site is located within the IN2 – Light Industrial zone, where places of public worship are permitted with development consent. However, owing to the significant deficiency of on-site car parking, and the impacts on traffic movement within the light industrial area, the site is not considered suitable for the proposed use. This is included as a reason for refusal in the draft determination.

Submissions made in accordance with the Act or Regulation (EP&A Act s4.15 (1)(d))

The application was notified in accordance with Part E – Public Participation of HDCP 2013 for a period of twenty one days from 27 June to 18 July 2018. Fourteen (14) submissions were received by Council as a result of the notification. The concerns raised in the submissions are discussed below.

Concern	Response
Noise impacts on surrounding residences Loud vehicles arriving and leaving Persons congregating outside the mosque	The applicant submitted an acoustic report in support of the application which indicates that the proposal can comply with the relevant noise criteria. However, the acoustic report makes a
	number of assumptions that are not consistent with the other information submitted by the applicant.
	Council is also not satisfied that there are any practical measures proposed to limit the number of attendees to 80 as suggested in the operational plan of management. It is considered that compliance with this proposed cap is key to minimising the acoustic and other impacts in the locality.
	The inadequacy of the acoustic assessment is included as a reason for refusal in the draft determination.
Traffic restricting truck access to existing businesses. conflict between trucking business and large numbers of people parking on the street Excessive traffic and parking impacts multiple times per day Impacts of significant increase in vehicular and pedestrian traffic	Whilst the amended proposal indicates that the facility will accommodate a maximum of 80 attendees at any one time, there are no specific practical measures identified in the applicant's operational plan of management to achieve this limit. Accordingly, Council is not satisfied that the 80 person cap can be achieved and regardless, there is still a significant non-compliance with the required on-site parking rate that would continue to impact on the local road network, potentially affecting truck access to existing businesses in the locality.
No proper footpath for people parking	The impact of the significant under-provision of on site parking on existing businesses in the locality is considered to be unsatisfactory and is included as a reason for refusal. The application as lodged sought to rely on

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at Holroyd Sportsground.	the use of the Holroyd Sportsground car park
Conflict between proposed	to support the proposed use. The applicant was advised that the use of the Holroyd
development and events held at	l
Holroyd Sportsground.	due to
	The lack of owner's consent (from
Pedestrian safety concerns	Council)
·	The lack of an ongoing agreement or
	ability to register a restriction on the title
	of the land
	The distance separating the two sites
	The lack of a footpath connecting the car
	park with the subject site
	The undesirable precedent that would be
	set by allowing the proposed
	development to rely on a Council owned car park to accommodate a shortfall in the
	on-sit parking requirement.
	on sit parking requirement.
	The application was subsequently amended
	to reduce the number of attendees to a
	maximum of 80. The applicant is also no
	longer seeking to rely on the Sportsground
	car park to support the proposed use.
	However the proposal still relies on off site
	However, the proposal still relies on off-site parking (on street and at Holroyd Gardens) to
	support the development. There are no
	footpaths on Peel Street, Fox Street or
	Robert Street which raises pedestrian safety
	and accessibility concerns.
Traffic problems in existing narrow street	HDCP 2013 requires that new places of
	public worship be located on streets with a
	minimum carriageway width of 10 m. Peel
	Street has a carriageway of approximately
	7.5 m which is less than the minimum
	required under the DCP. This is included as a reason for refusal in the draft determination.
Inappropriate reliance on on-street parking to	
support the proposed use	compliance with the minimum parking
	requirement is satisfactory as there is plenty
	of on street parking available to cover the
	shortfall. Council considers that the proposal
	is not supportable due to the lack of on-site
	parking provided and the undesirable
	precedent that would be set by approving a
	development that relies on Council owned
	and on-street parking spaces.
	 Non-compliance with the DCP parking rate is
	included as a reason for refusal in the draft
	determination.
Impact of traffic congestion and illegal	
parking on existing businesses in the locality.	proposal result from the lack of on-site



	parking and the limited carriageway width of the adjoining streets. These impacts are not considered satisfactory and the application is recommended for refusal.
Antisocial behaviour from attendees	The behaviour of attendees is a matter for consideration only to the extent that the behaviour has a specific impact on owners and occupants of neighbouring properties, or users of the public domain.
	The parking, traffic and noise impacts of the proposal are relevant to the consideration of the application and as discussed elsewhere in this report, are not considered satisfactory.
	Other behaviour of attendees that is not specifically linked with the operation of the facility is not a relevant matter for consideration.
The proposal is the same as the previous application but with a different applicant	DA 2017/270 was lodged by the Charitable Islamic Association of Beirut City Incorporated, and was withdrawn following advice from Council staff that the application would not be supported.
	DA 2018/185 (the subject application) was lodged by MB Town Planning, with the consent of the property owner as required under the Environmental Planning and Assessment Regulation 2000.
	Nothing in the Act or Regulation prevents a person from lodging a new development application following the determination or withdrawal of another application for the same site.
Non-compliance with Order issued by Council	No orders have been issued. Council's Development Compliance Officers have issued notices of intention to cease the use, demolish unauthorised works, and re-instate the premises to its condition prior to the carrying out of unauthorised works. However, these notices have not been progressed to orders because the owners made representations to the notices of intention by way of lodging development applications to regularise the unauthorised works and use. Further compliance action may be taken to address these issues once the subject application is determined.
 Ongoing unauthorised use Unauthorised building works 	The application is for use of the subject site as a place of public worship. Council cannot grant development consent for building work
	that has already been carried out. However,

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	nothing prevents a consent authority from regularising an unauthorised use by granting consent.
	If approval were to be granted for the change of use, a condition would be imposed requiring the applicant to obtain a building information certificate for the unauthorised works from Council.
	If the application is refused, Council's Development Compliance Unit will take appropriate action to remedy the unauthorised works and unauthorised use in accordance with Council's enforcement policy.
New place of public worship compromise harmony of the local residential community	No new buildings are proposed, and the subject unit is located within the IN2 – Light Industrial zone. Accordingly, there is not considered to be any impact on the harmony or multi-cultural make-up of the neighbouring residential area resulting from the proposal.
Traffic and pedestrian management suggestion to provide permanent barriers on the footpath to discourage people from spilling out onto the roadway. suggestion to provide a drop off zone in Walpole Street	The application does not seek consent for the installation of barriers, or to formalise a drop off zone in Walpole Street. As such, these options have not been assessed or considered by Council. However, it is noted that these types of traffic management measures would require the approval of the Cumberland Traffic Committee.
Latecomers are not subject to traffic management procedures	The applicant's revised operational plan of management indicates that there would be two traffic wardens deployed for Friday prayers, Eid al Fitr and Eid al Adha.
	It is not clear where the wardens would be stationed, at what time they would commence their duties or at what time they would cease.
	Due to the deficiencies of the plan of management, and inconsistency of the information submitted by the applicant. Council cannot be satisfied that appropriate measures can or would be taken to address manage the impacts of the development in the locality. This is included as a reason for refusal in the draft determination.
No owners corporation consent for the unauthorised works.	The subject application is for the use of the premises as a place of public worship. The applicant acknowledges that unauthorised works have been carried out within the unit and this has been subject to separate action by Council's Development Compliance Unit.



It is not necessary to obtain Owners' Corporation consent to lodge an application for change of use if no works are proposed to the common property. The provisions of the Schemes Management Breaches of the Strata Schemes Act and any orders issued by NCAT are not Management Act and non-compliance with NCAT orders matters for consideration under section 4.15 of the EP&A Act. The Owners Corporation can take further legal action to remedy breaches of the strata by-laws as necessary. Pursuant to clause 93 of the EP&A Concerns regarding structural adequacy of unauthorised building works. Regulation, in determining an application for change of use where no building works are proposed, a consent authority must take into consideration whether the fire protection and structural capacity of the building will be appropriate for the proposed use. An inspection of the premises by Council's Senior Building Surveyor did not identify any specific concerns regarding the structural adequacy or fire safety measures in the building. However, if consent were to be granted, any NCC non-compliance issues would be addressed through the lodgement and assessment of a building information certificate application. The objectives of the IN2 - Light Industrial Inconsistency with the objectives of the IN2 -Light Industrial zone. Specifically, the zone are as follows: development is not 'required to meet the day To provide a wide range of light to day needs of workers in the area.' industrial, warehouse and related land uses Τo encourage employment opportunities and to support the viability of centres To minimise any adverse effect of industry on other land uses To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area To support and protect industrial land for industrial uses. The first three objectives are not relevant to the subject application as no industrial uses are proposed. Council is satisfied that the proposal is not inconsistent with the relevant objectives of the zone as it could provide a service to meet the day to day needs of workers, and it does not preclude the use of neighbouring



	sites for industrial uses. There is also no impact on the use of the subject lot for industrial purposes in the future.
Site does not benefit from existing use rights	The application does not rely on existing use rights under 4.11 of the Environmental Planning & Assessment Act 1979. The proposed land use is permitted with consent in the IN2 – Light Industrial zone.
Increase in maximum occupancy numbers from 150 people under the previous application to 320 people under the current application.	The application as lodged sought consent for up to 320 attendees. Following initial review of the DA, the applicant was advised that the proposal could not be supported due to the significant non-compliance with the minimum parking rate specified in the DCP. The applicant subsequently amended the application to limit the number of attendees to 80, in order to minimise the traffic and parking impacts of the development.
Ensuring compliance with the traffic management plan would place undue burden on Council resources.	The application is recommended for refusal. If the application were to be approved, a trial period could be imposed by condition. Noncompliance with any relevant conditions of consent or Plan of Management provisions would be considered in the assessment of a modification application to extend or permanently conclude the trial period.

The public interest (EP&A Act s4.15(1)(e))

The public interest is served by permitting the orderly and economic use and development of land, in a manner that is sensitive to the surrounding environment and has regard to the reasonable amenity expectations of surrounding land users. In view of the foregoing analysis it is considered that approval of the development as proposed would be contrary to the public interest.

DISCLOSURE OF POLITICAL DONATIONS AND GIFTS

The application and notification process did not result in any disclosure of Political Donations or Gifts.

CONCLUSION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Holroyd Local Environmental Plan 2013 and the Holroyd Development Control Plan 2013.

Due to the inconsistency with the zone objectives, non-compliance with the on-site parking requirements and the uncertainty around proposed measures to manage traffic and parking impacts, and to manage the number of attendees, the application is recommended for refusal.

RECOMMENDATION

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- That DA 2018/185 be refused for the reasons contained in the draft notice of determination.
- 2. That those persons who made a submission are advised of the determination.

Consultation

There are no consultation processes for Council associated with this report.

Financial Implications

There are no financial implications for Council associated with this report.

Policy Implications

There are no policy implications for Council associated with this report.

Communication / Publications

The outcome will be notified in the newspaper and those persons who made a submission will also be notified.

ATTACHMENTS

- 1. HLEP 2013 compliance table
- 2. HDCP 2013 compliance table
- 3. Draft notice of determination
- 4. Architectural plans
- 5. Statement of Environmental Effects
- 6. Traffic plan of management
- 7. Correspondence from applicant
- 8. Revised operational plan of management
- 9. Redacted public submissions

DOCUMENTS ASSOCIATED WITH REPORT LPP071/19

Attachment 5 Refusal Notice for DA 2018/185





Our Reference: Contact: Phone:

2018/185 Miss S Pritchard 02 8757 9959

ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979 NOTICE OF DETERMINATION OF APPLICATION

22 May 2019

MB Town Planning Attn: Matthew Benson PO Box 415 GORDON NSW 2072

Dear Sir/Madam

Pursuant to Section 4.16 of the Act, Council has refused to grant approval to your Development Application described as follows:

PROPERTY:

Lot 2, SP 75506

STREET ADDRESS:

2/2-6 Peel Street Holroyd

REFUSAL NO.

2018/185/1

DECISION:

Cumberland Local Planning Panel

PROPOSED DEVELOPMENT: Use of premises as place of public worship

This Development Application is REFUSED in accordance with the Environmental Planning & Assessment Act 1979. The reasons for refusal are set out below.

NOTES:

Section 8.2 of the Act provides that an applicant may request, within 6 months of the date of determination of the Development Application, that the Council review its determination (this does not apply to designated development). A fee is required for this review.

It should also be noted that an application under Section 8.2 of the Act cannot be reviewed/determined after 6 months of the date of determination. Therefore, the submission of a Section 8.2 application must allow sufficient time for Council to complete its review within the prescribed time frame, including the statutory requirement for public notification.

2. Section 8.10 of the Act provides that an applicant who is dissatisfied with the Council's determination of the Development Application may appeal to the Land and Environment Court within six (6) months of the date of determination, or as otherwise prescribed.

16 Memorial Avenue, PO Box 42, Merrylands NSW 2160 T 02 8757 9000 F 02 9840 9734 E council@cumberland.nsw.gov.au W cumberland.nsw.gov.au ABN 22 798 563 329

Welcome Belong Succeed



mportant

English

his letter contains important information. If you do not understand it please ask a relative or friend to translate it or come to council and discuss this letter with Council's staff using the Telephone Interpreter Service.

-14

Arabic

تحتوي هذه الرسالة على معلومات هامة. إذا لم تكن تفهمها يُرجى طلب ترجمتها من قريب أو صديق أو إحضر إلى المجلس وناتش هذه الرسالة مع موظفي المجلس عن طريق الاستعانة بخدمة الترجمة الهاتفية.

重要資訊

Cantonese

本函包含重要的資訊。如果您無法理解相關內容,可請您的親屬或朋友翻譯成中文,或者前往市政府並通過電話傳譯服務 與市政府的工作人員討論本函內容。

مهد

Dari

این نامه هاوی معلومات مهم است. اگر شما ان را نمی فهمید، از دوستان یا فلمیل تان بخو اهید که برایتان نرجمه کند و یا به شور ا آمده و در مورد این نامه با کارمندان شورا با استفاده از خدمات ترجمه تلیفونی بحث کنید.

ξημαντικό

Greek

λυτή η επιστολή περιέχει σημαντικές πληροφορίες. Εάν δεν την καταλαβαίνετε, ζητήστε από ένα συγγενή ή φίλο να σας την ιεταφράσει, ή ελάτε στο Συμβούλιο και συζητήστε για την επιστολή με το προσωπικό του Συμβουλίου χρησιμοποιώντας την Τηλεφωνική Υπηρεσία Διερμηνέων.

महत्त्वपूर्ण

Hindi

इस पत्र में महत्वपूर्ण जानकारी दी गई है । यदि आप इसे नहीं समझ पाते हैं तो कृपया अपने रिश्तेदार या दोस्त से कहें कि वे इसे प्रमुवाद कर बताएँ या परिषद में आएँ और टेलीफोन दुभाषिया सेवा का इस्तेमाल करते हुए परिषद के स्टाफ के साथ इस पत्र पर वर्षों करें ।

MPORTANTE

Italian

Questa lettera contiene informazioni importanti. Se non la comprende chieda ad un parente od amico di tradurgliela, o venga al Vunicipio a discuterla col personale del Comune con l'aiuto del Servizio Telefonico Interpreti.

중요

Korean

기 서신에는 중요한 정보가 포함되어 있습니다. 잘 이해되지 않으면, 친척이나 친구에게 번역을 부탁하거나 또는 위원회를 방문하여 전화 통역 서비스로 위원회 직원과 이 서신에 대해 논의하십시오.

mportanti

Maltese

Din l-ittra fiha taghrif importanti. Jekk ma tifimhiex, jekk joghgbok staqsi lil qarib jew habib blex jittraducihielek jew ejja sal-Kunsill u ddiskuti din l-ittra ma' l-istaff tal-Kunsill billi tuza s-Servizz Telefoniku tal-Interpreti.

重要信息

Mandarin

本函包含重要的信息。如果您无法理解相关内容,可请您的亲属或朋友翻译成中文,或者前往市政府并通过电话传译服务与市政府的工作人员讨论本函内容。

Mahalaga

Tagalog

Ang sulat na ito ay naglalaman ng mahalagang impormasyon. Kung hindi mo ito nauunawaan, mangyaring hilingin ang isang kamag-anak o kaibigan na isalin ito o lumapit sa isang Council at talakayin ang sulat na ito sa kawani ng Council gamit ang Serbisyo ng Interpreter sa Telepono.

முக்கிய குறிப்பு:

Tamil

இந்த கடிதத்தில் முக்கிய தகவல் அடங்கியுள்**ளது**. உங்களுக்கு இது புரியவில்லையென்றால், உங்கள் உறவினர் அல்லது நண்பரை மொழிபெயர்க்க சொல்லி கேட்கவும் அல்லது அமைச்சகத்திற்கு வருகை அளித்து, அமைச்சக ஊழியருடன் தொலைபேசி மொழிபெயர்ப்பு சேவை உதவியுடன் இந்த கடிதத்தைப் பற்றி விவாதிக்கவும்.

Önemli

Turkish

Bu mektup önemli bilgiler içermektedir. Bu bilgileri anlamıyorsanız lütfen bir akrabanızdan veya arkadaşınızdan onu çevirmesini isteyin ya da Konseye gelin ve Telefonla Sözlü Çeviri Hizmeti'ni kullanarak bu mektup hakkında Konsey personeli ile görüşün.

TIN QUAN TRONG

Vietnamese

Tin tực trong thư này rất quan trọng. Nếu qui vi không hiểu rò, xin hỏi những người thân hoặc bạn be phiên dịch cho qui vi hoặc đến hỏi nhân viên Tòa Hành Chánh, tại đây có phương tiện Thông Ngôn Qua Điện Thoại

LPP071/19 - Attachment 5



REASONS FOR REFUSAL

Holroyd Development Control Plan (HDCP) 2013

- The development as proposed does not comply with the following provisions of HDCP 2013:
 - a. Section 3, Part A Car parking

A minimum of 60 on site car parking spaces are required to support the proposed use. The subject unit has access to 6 on site spaces, and no new spaces are proposed. This results in a shortfall of 54 car spaces.

A minimum of 2 accessible spaces are required per 100 spaces. No accessible car spaces are proposed under this application and there are no existing accessible spaces available for attendees of the proposed place of public worship.

b. Section 1, Part G – Locational requirements

Part G of HDCP 2013 identifies that roads with a carriageway width of less than 10 m are unsuitable for places of public worship. Peel Street has a carriageway less than 10 m wide and is therefore considered to be an unsuitable location for a place of public worship.

Pedestrian safety

 Reliance on off-site parking compromises pedestrian safety and accessibility as the surrounding streets do not have footpaths connecting the off-site parking spaces to the subject site.

Insufficient and inconsistent information

- The acoustic report submitted with the application is inconsistent with the other documentation submitted to support the application. The acoustic report also makes a number of assumptions that are not supported by the other information submitted with the application.
- 4. The Operational Plan of Management submitted with the amended application indicates that the number of attendees at the place of public worship would be limited to 80, which is significantly lower than the physical capacity of the premises. However, there are no specific measures proposed in the Operational Plan of Management, or the other supporting documentation, to achieve this limit. Failure to comply with the proposed 80 person cap would continue to have unacceptable traffic, parking, and acoustic impacts in the locality.

Suitability of the site for the proposed development

 The subject site is not considered suitable for the development due to its location (pursuant to Part G of HDCP 2013), and the lack of available on site parking (section 4.15(c) of the Environmental Planning and Assessment Act 1979).



Public interest

- 6. Due to the deficiencies detailed above, approval of the proposed development would be contrary to the public interest (section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979).
- Approval of the subject application would set an undesirable precedent for similar development in the local government area with respect to the insufficient provision of on site parking.

Yours faithfully

Jai Shankar

TEAM LEADER - DEVELOPMENT ADVISORY SERVICES

DOCUMENTS ASSOCIATED WITH REPORT LPP071/19

Attachment 6 Applicant's correspondence dated 1 February 2019





Suite 10, 895 Pacific Hwy, PYMBLE NSW 2073 | PO Box 415, GORDON NSW 2072 www.mbtownplanning.com | mb@mbtownplanning.com | (02) 9144 7968

Karl Okorn
Manager Development Assessments
Cumberland Council
16 Memorial Avenue
MERRYLANDS NSW 2160

By email: council@cumberland.nsw.gov.au

Dear Mr Okorn,

Development application 2018/185/1 | Unit 2, 2-6 Peel Street, Holroyd | Proposed place of worship | Revised submission

Following from your letter dated 19 October 2018 and from subsequent meetings at Council on 10 January 2019, this letter advises Council of amendments to the development application.

Separately to this letter, I am obtaining additional information regarding acoustic impacts and fire safety and access.

Revised numbers of patrons

The operators of the place of worship are able to limit the numbers of attendees by advising some of the current attendees to attend services that are available at another place of worship at Merrylands, and by refusing to admit additional attendees when the numbers have reached a specified limit.

The place of worship is already operating outside of the approval framework. In those circumstances, it is appropriate to provide the place of worship with an opportunity to operate with a reduced number of patrons in order that it may be demonstrated that the limitation to numbers can be implemented.

It is therefore proposed that the number of attendees at the place of worship is limited to 80. That would be the maximum number of patrons at any one time, regardless of the occasion during the year.

That proposed maximum number of patrons is a major reduction from the originally submitted proposal that there are as many as 320 patrons.

The proposed schedule of activities is therefore amended to become as follows:

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Type and time of service	Max. duration	Max. Participants			
Outside of Ramadan (as defined by the Islamic Association of Australia or equivalent)					
Pre-dawn daily (45 minutes before sunrise)	15 mins	30			
Noon Saturdays to Thursdays	25 mins	30			
Noon Fridays (Friday prayers)	25 mins	80			
Mid-afternoon (around 3:00pm) daily	15 mins	30			
Sunset daily	15 mins	30			
Night (90 minutes after sunset) daily	15 mins	30			
During Ramadan (as defined by the Islamic Association of Australia or equivalent)					
Pre-dawn daily (45 mins before sunrise)	15 mins	30			
Noon Saturdays to Thursdays	25 mins	30			
Noon Fridays (Friday prayers)	25 mins	80			
Mid-afternoon (around 3:00pm) daily	15 mins	50			
Sunset daily	15 mins	50			
Night (90 minutes after sunset) daily	15 mins	50			
Eid Al Fitr (as defined by the Islamic Association of Australia or equivalent)					
Between 6:00am and 7:30am on one day per year	90 mins	80			
Eid Al Adha (as defined by the Islamic Association of Australia or equivalent)					
Between 6:00am and 7:30am on one day per year	90 mins	80			

2. Revised parking provision details

In Council's letter dated 19 October 2018, it is stated that the submitted architectural details do not describe the provision of 6 parking spaces under the Strata Plan and also do not indicate the provision of two spaces in front of the existing roller door, as described in the submitted statement of environmental effects.

It is now proposed that the number of spaces provided on site should simply reflect the number of spaces already in existence on the Strata Plan as being allocated to the existing light industrial unit. It is no longer proposed to allocate additional spaces in front of the existing roller door as it is considered appropriate to reflect the existing approved arrangements for the complex.

The existing car space allocation under the Strata Plan is clearly shown in highlighted extracts from the Strata Plan in Figure 1 below. Based upon that, it can be clearly seen that there is a 7.67 metre wide parking area to the north of the subject unit (Unit 2), of the standard 5.5 metre length, that would provide for three cars. To the south a 5 metre wide area (of 5.64 metres length) would fit two spaces and the 2.5 metre wide by 5.5 metre long space would fit one car. The total is 6 spaces. Please see below Figure 2 which transposes the parking spaces clearly onto the site plan.

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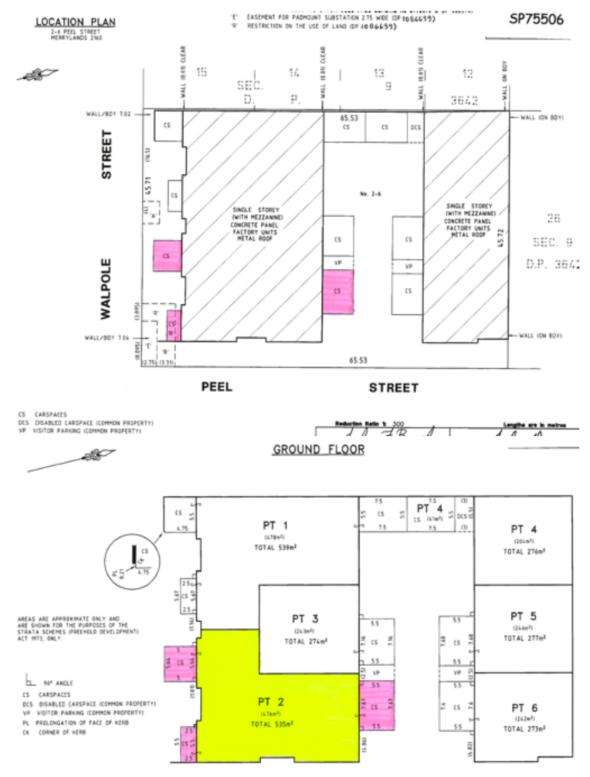


Figure 1: Extracts from Strata Plan with existing car parking spaces indicated

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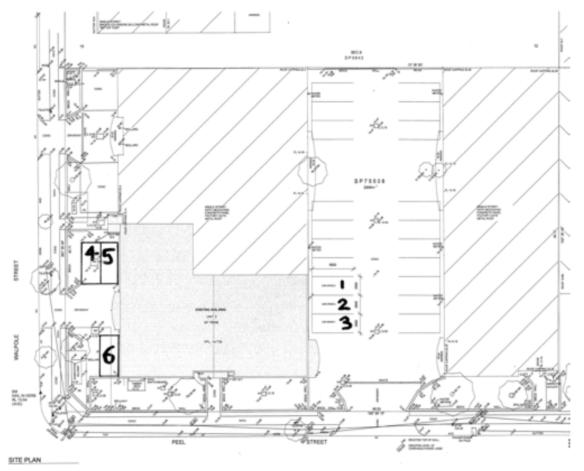


Figure 2: Extract from submitted site plan marked up to indicate parking spaces from the survey

Please note that there is an adjacent visitor parking space to the north of the site, which can be clearly seen in Figure 1. That visitor space is for visitors to the complex generally – not only to Unit 2. The availability of that space cannot be assured and it is therefore not proposed to rely upon that space for this development application.

Council is requested at this time not to require provision of turning circle details or fully scaled revised drawings of the parking space, because the parking spaces are already approved, shown in the Strata Plan, and are in existence. The proposal is simply to use those existing parking spaces.

Assessment of actual demand for car-parking

In Council's letter dated 19 October 2018 it is stated that the assessed parking requirement is for 60 spaces, based upon 506.8 square metres of gross floor area and a parking generation rate of 1 car space per 8.5 square metres of gross floor area. On that assessment, the proposed development provides 54 parking space less than required.

The parking rate is set by Part 3.1 of *Holroyd Development Control Plan 2013* (HDCP2013), which includes a table of car parking requirements identifying a rate of 1 car space per 8.5 square metres gross floor area.

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Part G of HDCP2013 relates to places of public worship. Part G7 relates to parking and traffic and includes Control C5, being:

Traffic impact statements shall be submitted for the establishment of a place of public worship or where alterations and additions are proposed that increase the capacity to 50 persons or more.

Note: A Traffic Impact Statement, at a minimum, shall assess the number of parking spaces required for such development, the impact of the proposed place of worship on the surrounding locality and the measures taken to minimise any potential issues. The statement shall also detail the impact of any festivals or functions (ie weddings) and their impact in relation to car parking and vehicular access.

That provision suggests that the straight application of the gross floor area parking rate is not necessarily determinative of the required amount of parking. Otherwise, there would be no need for an assessment of the required number of parking spaces.

The development application is accompanied by a traffic impact statement, which includes an assessment of available on-street parking spaces; the impact of the current use; and an estimate of parking generation based on a user survey. The collection of data was associated with a Friday midday prayer service.

That traffic impact statement was based upon the submitted proposed to have as many as 320 patrons on the premises at any one time.

A discrepancy is identified within the traffic impact statement between the expected parking generation based on the user survey and the observed increase in the number of occupied parking services associated with Friday midday prayers. It is considered that the observations of the flux in parking occupancy are more empirically sound than the user survey data. The observations of the increased occupancy of parking spaces in the locality are that there was a demand for 176 car spaces. The number of attendees was identified to be 267. That means that, on an empirically reliable basis, the activity can be expected to generate a demand for 0.66 car spaces for every attendee. That figure does not take into account the potential for mitigation of that level of demand through implementation of measures seeking to encourage attendees to use alternate means of travel.

Without obtaining a revised Traffic Impact Statement, it is reasonable to say that the figure of 0.66 car spaces per attendee can be used. That would be considered to be a reasonably conservative figure.

It is considered reasonable to say that if the number of attendees was limited to 80, the expected demand for car parking spaces would be 53 car spaces.

On that basis, if the current use was limited to 80 attendees, all six spaces available on -site would be used and 47 cars would be parked in available on-street car parking spaces.

That level of use would occur on Fridays around noon and on two occasions per year in the early morning.

At other times during the day there would be a maximum of 30 attendees. On those occasions there would be 12 cars parked in available on-street spaces.

During Ramadan, there would additionally mid-afternoon, sunset and evening services attended by 50 attendees. On those occasions there would be 27 car parked in available on-street spaces.

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4. Assessment of the availability of on-street car-parking spaces in the locality

The submitted traffic and parking report includes the identification of the number of on-street carparking spaces (also including in certain public carparks) within 400 metres of the proposed place of worship. It identifies the existence of 631 parking spaces, or 593 parking spaces if the Holroyd Sportsground parking area is excluded.

The development application has proposed the use of the Holroyd Sportsground Parking Area for specified events because an informal arrangement for such use has already commenced. Allowing usage of that carpark seems to make sense in terms of the optimal use of scarce resources, because that carpark is only needed for sporting activities at certain time, not including Friday prayer times.

However, Council's 19 October 2018 letter states that the use of that area should not be factored into the assessment of available parking spaces because the proponent cannot be sure that that area will not be unavailable in the future.

Council's 19 October 2018 letter also states that the submitted survey of on-street car-parking spaces overestimated the number of available spaces by failing to take into account existing parking restrictions and driveways.

MB Town Planning has undertaken a count of available parking spaces in some of the surrounding streets, with areas where kerb crossing are located or where there are parking restrictions excluded. Some key streets where it is likely that attendees of the place of worship would seek to park include:

Western side of Peel Street: 11 (compared to 17)
Eastern side of Peel Street: 15 (compared to 25)
South side Robert Street: 35 (compared to 49)
North side Robert Street: 45 (compared to 53)

Those discrepancies may arise because a conservative 7 metre parking space length was assumed by MB Town Planning, as well as the possibility of some driveway crossings and restrictions not be accounted for in the submitted parking report.

The submitted traffic and parking report identified an average occupancy of parking spaces of between 21 percent and 67 percent during the day that observations were made (a Friday). The figure of 67 percent was associated with peak usage around Friday prayers.

Whilst there are discrepancies within the data concerning the number of on-street parking spaces, it is nonetheless considered that the proposed usage at 30 percent of the peak intensity of that observed usage will be sufficiently low that there will be sufficient on-street parking to readily meet the needs of the use with relatively minimal impact on other users in the locality.

The number of on-parking spaces for which there is conservatively estimated to be a demand is 47. On Robert Street alone, by a conservative count there are 80 spaces and there is normally only a low level of use of those spaces. There are an additional 4 spaces in Fox Street north of Robert Street.

Along Peel Street there 26 spaces – during the survey period they were heavily used and it may therefore be appropriate that attendees are requested not to park there because a number of

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businesses address that street, whereas attendees parking along Robert Street will cause minimal inconvenience.

Along Walpole Street, where the original traffic report identified 104 spaces, the peak occupancy was identified to be at 83 percent around Friday prayers. That amount of occupancy would be expected to fall considerably with the proposed capping of numbers at 80.

There is also the potential for use of the Holroyd Gardens carpark. The numbers of spaces there can be reliably identified as 105. It was found that it had a peak occupancy of 47 percent, with occupancy outside of the peak Friday prayer time being around 10 percent.

Because of the significantly lower number of attendees that is now proposed, it is considered that there are enough on-street parking spaces in the locality to readily accommodate the demand for 47 such spaces to be used for the short duration associated with the peak intensity of the proposed use.

It is proposed that the use be allowed to operate with a cap of 80 attendees subject to a 12 month trial period. During such a trial, data on on-street car parking occupancy rates in the surrounding area may be collected and the impact of the proposal with that cap on numbers may be confirmed.

5. Alternative ways of assessing the parking requirement

In order to gauge whether the required number of car parking spaces should be assessed as 60 spaces based on the DCP table, it is appropriate to consider what floor areas ought to be considered to generate car parking demand.

Places of worship generally can include various types of floor space that may or may not generate attendances. It is therefore appropriate to consider what are the attendee generating areas of the proposed place of worship – on a maximum number at any one time basis.

Figure 3 below indicates the floor areas used for prayer services as a maximum at any one time. Other parts of the building are not used at those times. That indicates that the area used is 223 square metres. Based upon that area actually used, the required amount of parking is 26 spaces, and the shortfall of the proposal is by 20 car spaces.

It is also appropriate to take into consideration how the car parking rate is applied within other parts of the Cumberland Council area. In that regard, *Auburn Development Control Plan* imposes a car parking requirement of 1 car space per 20 square metres gross floor area. If the proposed development was assessed under that rate, the required amount of parking would be 26 car spaces. If the amount of floor area referred to in Figure 3 was applied, the required parking would be just 11 car spaces, and the proposed would be under by only 5 spaces.

It is noted that the Auburn control also refers to a "per seat" rate, meaning in essence a rate per attendee. That rate is 1 car space per 10. Based on the proposed maximum number of attendees being 80, that would lead to a parking requirement of 8 spaces, and the proposal would be under that amount by only 2 spaces.

It is recognised that the Auburn controls are not actually applicable. However, the subject site is within the same local government area and the circumstances of Holroyd are not significantly different to those in Auburn. It is clear that the Auburn controls reflect an expectation that there may be some degree of use of on-street car parking spaces. Council is requested to take a similar approach in this instance and to make an allowance for a peak amount of 47 cars to be accommodated on-street.

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LPP071/19 – Attachment 6 Page 85



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Figure 3: Mark-ups on submitted floor plans indicated areas used during peak prayer times

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6. Revisions to the operational plan of management

It is intended that the operational plan of management is revised to reflect the changed details set out in this letter. That will reflect the changed numbers of attendees.

Two plans of management were submitted – one is an addendum to the submitted statement of environmental effects and the other is a traffic plan of management. It is proposed that that will be simplified into one plan of management to be prepared by MB Town Planning. That revised plan of management will be provided subject to Council's response to the presently proposed amendments to the development application.

It is indicated in Council's 19 October 2018 letter that Council is not supportive of the placement by wardens of traffic cones on Council's road reserve. That placement of traffic cones is therefore no longer proposed and the revised operational plan of management will delete that component.

It is indicated in Council's 19 October 2018 letter that Council is unclear as to whether the traffic wardens would be unable to properly perform their duties because they may be going to pray at the place of worship in order to meet their religious obligations. However, the operators of the place of worship advise that the wardens' performance of their duties does meet their religious obligations. They will therefore be able to perform their duties.

It is proposed that there be regular communication with attendees at the place of worship regarding parking activities associated with the place of worship. From further review, it is evident that it would be desirable for attendees at the place of worship to park along Walpole Street or Robert Street, rather than on Peel Street. That would minimise the potential for impact to businesses along Peel Street. Robert Street is adjoined by long side property boundaries and clearly does not have a high level of use of available on street parking spaces. Walpole Street is similar in that regard.

When attendees speak with wardens, the wardens would direct the attendees to go along Peel Street and to park along Robert Street or to go along Robert Street, turn left into William Street, and park along Walpole Street.

Attendees would also be advised that the preferred pedestrian route to the place of worship from Robert Street is along Gough or William Streets, as Gough Street provides a better pedestrian environment than Peel Street and Fox Street as it is a residential area. It should be noted that the numbers of pedestrian would be low and would not generate significant noise or disturbance to residents along Gough Street.

It should be noted that the walking distances associated with parking along Robert Street, which is the furthest away option, is no greater than 400 metres, which is a recognised benchmark as a reasonable walking distance.

7. Additional issues to be addressed

Council's 19 October 2018 letter raises issues concerning the consistency of certain information within the acoustic report. That may be addressed through amendments to the acoustic report which will be pursued should Council be amendable in-principle to the amended proposal.

Council's 19 October 2018 letter also raises issue regarding certain *Building Code of Australia* and fire safety matters. Those issues have been discussed directly with Council and are being addressed by the proponent and by the appointed building regulations consultant. Should Council be amenable in-principle to the amended proposal, those matters will be fully addressed prior to determination.

MB Town Planning Pty Ltd ACN 161 704 927 as Trustee for the Durney Benson Family Trust trading as MB Town Planning

LPP071/19 – Attachment 6 Page 87



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8. <u>Summary and further comments in conclusion</u>

The development application is hereby amended so that the maximum number of attendees will be 80, with the times and numbers of attendees to be in accordance with the table on page 2 of this letter. The application is also amended by making it clear that only six car spaces are proposed to be provided on-site – those being the existing approved car space that are already part of the existing Strata Plan.

Council is also hereby requested to consider granting consent to the proposal on a 12 month trial basis. During the trial period, further traffic and parking data would be collected and Council would have the opportunity to monitor the use.

Council is being asked to support a proposal that relies upon some level of use of on-street carparking. With numbers of attendees capped at 80, the most conservative estimate is that there will be the demand for 53 car spaces. That means that, on that conservative estimate, there will be a demand for up to 47 on-street car parking spaces.

It is understandable that Council normally does not support such a level of reliance upon on-street car-parking. However, the following arguments are put forward in support of allowing such use of on-street car parking spaces in this instance:

The subject site is within the Cumberland Council Area. There are different parking
requirements for places of worship between the former Holroyd Council Area and the
former Auburn Council area (being the two main former Council areas), and two different
development controls plans are applicable within the Cumberland Council Area.

The rate for Holroyd is one car space per 8.5 square metres gross floor area. However, for Auburn, it is 1 car space per 10 seats. That rate for Auburn reflects an approach that must involve some reliance upon on-street parking, as the rate of car use would clearly normally be greater than 1 car per 10 attendees.

Although the site does not come under the Auburn controls, the rate that is applied in Auburn does reflect that it is acceptable within the local government area for there to be some level of reliance for a place of worship upon on-street car parking.

 Places of worship, including this particular place of worship, have low parking demand except during peak events. Outside of special events and periods the peak rate of use including time to allow people to park, attend the service, and then leave the area – is less than one hour on one occasion per week.

For such a concentrated peak time of usage, it would be onerous to require the parking to be on-site. If that was implemented, then most of the time the car-park would be empty. It would represent a waste of resources to construct such a car park. To do so would involve the community raising a large amount of money for a purpose that is not necessary, given that the parking requirements of the use can actually be met on-street.

In meeting the car-parking requirements substantially on-street, minimal inconvenience to other property owners in the locality would be caused. That is because of the short duration of the peak use and also because there would continue to be ample on-street car parking in the locality.

10



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It is acknowledged that the originally proposed number of attendees, being the number that are actually currently using the facility outside of an approval, may be excessive. It is not particularly evident that there is significant inconvenience to other property owners the level of complaints is not great. The number of submissions in response to notification of the application raising concerns about parking impact was not particularly high for a development application of this nature.

However, with the proposed reduction in the number of attendees to only 30 percent of the current number, it can reasonably be expected that there will be a greatly reduced level of impact.

- Whilst there was some level of overstatement of the number of existing on-street carparking spaces in the locality, the survey nonetheless provides an understanding of the order of magnitude of the impact of the current use. With the proposed major reduction in the number of attendees, it is evident from the data provided that the availability of onstreet parking in the locality will not be unreasonably affected. Mitigation of the impact on Peel Street in particular may occur through implementation of a plan of management seeking that attendees park along Walpole or Robert Streets rather than along Peel Street.
- The proposal makes sense from a land use planning and traffic management perspective. If the proposal was refused on the basis that all car-parking should be required to be provided on-site, then it would be non-feasible for an Islamic place of worship to be provided within the local area, where there is a significant proportion of people with a religious affiliation to Islam. That would effectively mean that sites would have to be located further afield in areas of Sydney on the metropolitan fringe. The overall effect of that would be that places of worship would be larger, and people would travel to them by car to a greater extent, travelling across greater distances and having a greater environmental and traffic-related impact.

Whilst the proportion of attendees at the place of worship travelling by car is relatively high, they are nonetheless travelling a relatively short distance compared to if the facility had to be located in the metropolitan fringe. Furthermore, over time as Sydney's transport systems change the percentage travelling by car is likely to fall and alternatives to the car are more likely to be used.

From a general town planning perspective, it is desirable for places of worship to be located relatively close to where people live. Approval of the proposed place of worship would be consistent with that approach.

The development application can be made the subject of a 12 month trial period. That will
allow the consent authority to conduct random inspections and to undertake monitoring of
the impact of the use, as well as to monitor the public response.

Whilst Council might be inclined not to wish to undertake such monitoring, Council is reminded of data provided in the submitted statement of environmental effects, which demonstrates that 27.2 percent of residents in Holroyd have a religious affiliation with

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Islam. That figure is 24.6 percent for adjoining Merrylands. Council is requested to allow the use on a trial basis and to undertake some monitoring during that trial period, as the proposed place of worship will serve people of an Islamic religious affiliation who are a significant part of the Holroyd and Merrylands communities.

I trust that you are able, in-principle, to support an amended proposal capped at 80 attendees, subject to a 12 month trial. Please let me know your response to this letter and please let me know if there are any questions.

Yours faithfully,

Matthew Benson

Principal - MB Town Planning

1 February 2019

DOCUMENTS ASSOCIATED WITH REPORT LPP071/19

Attachment 7 Redacted Public Submissions



Sarah Pritchard

From:

Sent: Saturday, 27 July 2019 1:49 PM

To: Records Department

Subject: Submission (public): DA-185/2018 HOLROYD - DA's - 2 / 2 - 6 Peel ST, HOLROYD

NSW 2142

Council

I'm not impressed with the use of Refractory Court, Patent Square, Brickworks Road etc being used for parking for this prayer hall. This side of Walpole street is residential and should only be accessible to the residents within that area ...and as it is the streets/roads are already narrow and congested without adding further congestions from people that want to attend this prayer hall.

Why can't you stipulate to them that parking should only be allowed on Walpole Street, Peel Street and Robert Street etc. Surely it can't be that hard to enforce that.

Regards,

1

Page 93



30th July, 2019.

Cumberland Council council@cumberland.nsw.gov.au

Attention Sarah Pritchard
Re Development Application 2018/185/1
Submission regarding Review .

As advised by your correspondence and on speaking to Miss Pritchard we are again presenting our concerns regarding this development as we were told our previous concerns would not be taken into account.

Our concerns:

- 1. Parking- lack of parking especially on days when the oval is being used.
- 2. Parking- not obeying parking rules and parking illegally too close to corners etc.
- 3. Congestion-delivery trucks have difficulty accessing businesses in the street.
- 4. Pedestrian safety- especially at night when it is difficult to see because of poor lighting and disregard for motorists and their own safety.
- 5. Pedestrian Access from council carpark (Roberts Road)- no footpath and difficult for some people to walk on the grass so many wander up the roadway.
- Lately the prayer hall seems to have been busier and we have had people parking across our driveway after the parking attendants have gone in to pray.

Thank you for considering these concerns.



Sarah Pritchard

From:

Sent: Thursday, 1 August 2019 11:39 AM

To: Records Department Subject: Ref: 2018/185

Regarding DA 2018/185/1

Good Morning,

We have lived/owned a property in Refractory Court, Holroyd for 12 years now.

In regards to the proposed development at 2/2-6 Peel Street, Holroyd, we are **against** this for the following reason:

• The excessive nature of cars/traffic that it will create multiple times a day, everyday.

The streets in this area are relatively quiet and not equiped to handle this amount of traffic or parking needed. We feel this will cause an added danger in that we have a lot of young families with small children living in the area and also visiting the playground plus the daycare. Children & families walking mixed with many cars trying to find parking (most likely will be inside the Holroyd Gardens area) will not work well.

This area is already busy enough with daily park visits by families and residents and when there are events on, the streets become somewhat chaotic which we believe is exactly how this would be every day with this new development. Unfortunately people don't concentrate on their driving as much as they should when looking for a parking space especially when they need to be some where at a specific time.

Once again, we hope you take our submission into consideration in that we are against this development.

Kind Regards



Sarah Pritchard

From:

Sent: Sunday, 4 August 2019 1:43 PM

To: Records Department

Cc:

Subject: 2/2-6 Peel Street Holyoyd | DA 2018/185/1 Development Application 2/2-6 Peel

Street Holroyd | Submission against application

04 August 2019

Development Application: 2018/185/1 Council Reference: DA 2018/185/1 Premises: 2/2-6 Peel Street Holroyd

Proposal: Use of premises as a place of public worship

Re: DA 2018/185/1 Development Application 2/2-6 Peel Street Holroyd

I refer to your letter of 22 July 2019. I strongly object to this DA proposal for the reasons outline below.

Noise Pollution

The development of a public worship hall will lead to a heightened increase in noise pollution from traffic and people gathering in the area for worship daily. Where additional events are held at the venue particularly around special worship seasons this will led to further noise from traffic and gathering of crowds.

The proximity of the development is very close to residential areas. Refractory Court building backyards face Walpole Street. There is very little space between the proposed development and the residential buildings. Refractory court buildings currently face dust pollution as well from Walpole Street. This will increase exponentially with increase traffic in and out of the prayer hall.

Stress on Parking and Traffic Congestion

Holroyd Gardens surrounding areas see a lot of traffic especially in the weekends. Currently, Refractory Court and adjacent streets see a lot of parking overflows and traffic congestion from Holroyd Gardens. The increased amount of traffic from the very early hours of the mornings to late at nights from the proposed prayer hall, by vehicles entering and leaving and worshipers congregating prior to and after prayers, would add to traffic congestion and be extremely disturbing to all nearby residents in this area.

Risk to public safety especially children

Residents around Holroyd Gardens are predominately young couples with little kids.

The huge increase in traffic flow and the constant traffic flow at all hours will be a major safety issue to residents.

I urge the Council to consider the well- being of the local residents, its rate payers, when considering this DA. The close proximity of the prayer hall to local families and its impact; not only increase noise pollution, and traffic congestion but also heightens safety risk. For these reasons, Council should deny this DA.

Yours Sincerely



Sarah Pritchard

From:

Sent: Sunday, 4 August 2019 9:50 PM

To: Records Department

Subject: Submission (public): DA-185/2018 HOLROYD - DA's - 2 / 2 - 6 Peel ST, HOLROYD

NSW 2142

Dear Sir/Madam,

Regarding the DA-185/2018 to use the premises as a place of public worship. We are worried the additional traffics add to Walpole street and Crescent street. Current Friday workshop has turned Walpole street into car park. It causes chaos on the road during the business hours as there are trucks for other light industries, visitors for childcare center and Holroyd gardens. And it is easy to cause accident due to lack of guildline of parking or driving.

Kind Regards



Sarah Pritchard

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Sent: Monday, 12 August 2019 11:03 AM

Subject: RE: Section 8.3 Review of Refusal DA 2018/185/1 2/2-6 Peel Street, Holroyd

Attn: Sarah Pritchard,

Regarding: 2/2-6 Peel Street Holroyd

Ref: 2018/185/1

We are the owners and occupiers of

and have been operating a trucking business on this

premises for over 20 years.

Our concerns regarding the Development Application are as follows:

Parking and Access

As there will be a large number of people attending 2/2-6 Peel Street at any time we ask that the Council be mindful regarding Parking that may hinder our trucks access to our site.

Please don't hesitate to contact me on if you need to discuss.

Regards

Regards



Sarah Pritchard

From:

Sent: Saturday, 17 August 2019 12:49 PM

To: Records Department

Subject: Re: Submission (public): DA-185/2018 HOLROYD - DA's - 2 / 2 - 6 Peel ST,

HOLROYD NSW 2142

Council

In response to your latest letter that has been sent out. I still have an issue with the parking as per my email below, that has not changed and needs to be addressed. Also, after what I saw during the period 12-16th August 2019 can you please clarify exactly what is being proposed here as the application is stating that 2/2-6 Peel Street is to be used as the place of public worship but during the week of 12-16th August it appears that now Holroyd Gardens <u>public park</u> is a place of worship...since when has a public park been a place of worship?? Why are large amounts of people using the park as a place of worship ...isn't the application specifying the building at 2/2-6 Peel Street is to be public place of worship?

Regards,

On 27 Jul 2019, at 13:48,

wrote:

Council

I'm not impressed with the use of Refractory Court, Patent Square, Brickworks Road etc being used for parking for this prayer hall. This side of Walpole street is residential and should only be accessible to the residents within that area ...and as it is the streets/roads are already narrow and congested without adding further congestions from people that want to attend this prayer hall.

Why can't you stipulate to them that parking should only be allowed on Walpole Street, Peel Street and Robert Street etc. Surely it can't be that hard to enforce that.

Regards,





17 August 2019

Cumberland Council 16 Memorial Avenue PO Box 42 Merrylands NSW 2160

Ref: 2018/185 (Section 8.3 Review of Council Refusal for the Use of Premises as A Place for Public Worship, Development Application 2/2-6 Peel Street Holroyd)

Dear Sir/Madam:

We are writing to response the recent council letter dated 12 August 2019, (**Review of Council Refusal for the Use of Premises a Place for Public Worship,** Development Application 2/2-6 Peel Street Holroyd circulated by Cumberland Council, Ref: 2018/185).

We have previously specified our strong oppositions against the development plan in writing both in 2017 & 2018. In the previous letters, we have given the reasons to oppose the plan, i.e. (1) the establishment of a new building for public worship would break the harmony, tranquilization, and balance in our area where a multi-culture environment has already been established for many years in the neighborhood; (2) the proposed public place would create traffic problem to the already overloaded narrow Walpole St; (3) the proposed development plan would generate extra noises to the vicinity of our home due to the manifestation of too many cars and people to the area during the worship time.

In this letter, we would like to express our further concerns if such development plan be allowed to go ahead. In recent years, there have been a number of horrific incidents occurred in the world and in Australia, which were related to the conflicts of religious beliefs between different religious groups, and due to certain radical thoughts and religious activities, causing deaths and injuries of innocent people and loss of properties. We wish that such kind of tragedies would not have opportunities to happen in our neighborhood. Moreover, Parramatta City is now under developing and expending. As a neighboring city, Holroyd may also have corresponding developing plans in conjunction with the future development of Parramatta region. We think that a place for public worship to be built near Parramatta City Center would be inconsistent with any possible development plans.

We have noticed that Cumberland Council had already refused the proposal in the past. Therefore, we support the council decision to reject the proposed development plan.

Regards,



17 August 2019

Cumberland Council 16 Memorial Avenue PO Box 42 Merrylands NSW 2160

Ref: 2018/185 (Section 8.3 Review of Council Refusal for the Use of Premises as A Place for Public Worship, Development Application 2/2-6 Peel Street Holroyd)

Dear Sir/Madam:

I am writing to give my response to the recent council letter dated 12 August 2019, (Review of Council Refusal for the Use of Premises a Place for Public Worship, Development Application 2/2-6 Peel Street Holroyd circulated by Cumberland Council, Ref: 2018/185).

I am the owner of Holroyd. I have previously expressed objections of my family against the development plan in 2017 & 2018, on the basis of several reasons, i.e. (1) new buildings for public worship would break the harmony, tranquilization, and balance in our area where a multi-culture environment has already been established for many years in the neighborhood; (2) the proposed public place would create traffic problem to the already overloaded narrow Walpole St; (3) the proposed development plan would generate extra noises to the vicinity of our home due to the manifestation of too many cars and people to the area during the worship time.

In this letter, I would like to raise my further concerns if such development plan be allowed to go ahead. In recent years, there have been a number of terrible incidents occurred in the world and in Australia, which were related to the conflicts of religious beliefs between different religious groups, and due to certain radical thoughts and religious activities, causing deaths and injuries of innocent people and loss of properties. We wish that such kind of tragedies would not have opportunities to happen in our neighborhood. Moreover, Parramatta City is now under developing and expending. As a neighboring city, Holroyd may also have corresponding developing plans in conjunction with the future development of Parramatta region. We think that a place for public worship to be built near Parramatta City Center would be inconsistent with any possible development plans.

I have noticed that Cumberland Council had already refused the proposal in the past. Therefore, I fully support the council decision to refuse the proposed development plan.

Regards,







Our ref: 01623 Your ref: 2018/185

19 August 2019

The General Manager Cumberland Council 16 Memorial Avenue PO Box 24 Merrylands NSW 2160



BY EMAIL AND EXPRESS POST: council@cumberland.nsw.gov.au

Dear Sir /Madam

Re: Submission on Request for Review Decision of Development

Application & Notification by Cumberland Local Planning Panel

Premises: 2/2-6 Peel Street, Holroyd

Proposal: Use of Premises as a Place of Public Worship

Applicant: MB Town Planning (on behalf of Charitable Islamic Association of

Beirut City Incorporated)

Development Application DA 2018/185

We act for The Owners – Strata Plan No. 75506 (the **Owners Corporation**). The Owners Corporation are the proprietors of the common property of the land at 2-6 Peel Street, Holroyd. We have been instructed to advise Cumberland Council (**Council**) of our client's objections to MB Town Planning's (the **Applicant**) request for review of the Local Planning Panel (the **Panel**) decision to refuse DA 185-2018 (**DA**), and to object to the trial period proposed by the Applicant.

The DA as submitted by the Applicant on 1 June 2018 concerned a request for change of use of lot 2 in Strata Plan No. 75506, being a lot within Strata Plan No. 75506. Our client's objections to this were recorded by letter to Council dated 16 July 2018. The DA was amended by the Applicant's correspondence of 1 February 2019 (**MB Letter**) and amended Operational Plan of Management dated 4 March 2019 (**Operational Plan of Management**). Significantly, the 1 February 2019 amendments proposed:

- 1. reduced the number of maximum anticipated patrons from 320 to 80;
- 2. proposed a new schedule of activities;
- 3. revised parking provisions from 8 to 6 on-site parks;
- 4. suggested that parking for patrons at Holroyd Sports Ground Area remains a viable option and further suggested that Holroyd Gardens park be considered as off-site parking spaces, as well as on-street parking in Peel, Robert, Fox and Walpole Streets and proposed a 12 month "trial period";
- 5. proposed that Council consider neighbouring DCP from Auburn Council in relation to parking;
- advised that the Applicant intended to propose one simplified plan of management (the Operation Plan of Management)

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The original DA application and supporting documents, as well as the MB Letter and Operational Management Plan were taken into the Panel's consideration on 22 May 2019 to refuse consent.

By letter and application form to Council of 4 July 2019, the Applicant request that Council change their decision of 22 May 2019 and grant consent to the proposal in the MB Letter on a 12 month trial basis. Only the letter dated 4 July 2019 was publically available to us on Council's DA tracker. We have not seen a copy of the form referred to.

Objections

Our client's objections to the proposed trial period are as follows:

1. Council has already considered the conditions of the proposed trial period

In their decision of 22 May 2019, Council considered all of the conditions of the proposed trial period including that patrons be capped, the Operational Plan of Management would control traffic and on-street parking in refusing the DA. Council found that the application was not to be supported because there were insufficient on-site parking spaces available pursuant to the Holroyd DCP, that the Applicant's proposal to use Holroyd Gardens and Fox, Walpole and Robert Street's as alternative parking locations would not satisfy the demand for the proposal, and the cap on patrons was unlikely to alleviate the impact of traffic and parking in the area. Accordingly, there is no need for the Council to review their decision.

2. Revised on-site parking

Whilst the Applicant proposed to use only the 6 car spaces allocated to the owner of lot 2 as on-site parking, we note that in order to access these parks, patrons must cross common property to access them. Common property is regulated by the Strata Schemes Management Act 2015 (SSMA) and by-laws, however, by operation of the SSMA by-laws may only regulate owners and occupiers, they cannot be enforced against invitees. Therefore, the Owners Corporation cannot effectively enforce measures to regulate safe parking, ingress and egress from the common property, such as speed limits, placement of cones, or the conduct of persons controlling traffic (ie traffic wardens as proposed by the Applicant). (A copy of the by-laws regulating the scheme is attached to our letter dated 18 July 2018).

We are instructed that patrons already and continually block entrances to the car spaces of other lots and conduct risky turning manoeuvres on common property to leave the property. The blocking of entrance ways and entrances to other lot car parks is more than a mere inconvenience as it prevents lot owners and occupiers from entering and existing the strata plan when they need to. It also limits the operation of business being carried out by those in the strata plan in other lots.

There are no designated pedestrian ways on the common property and, furthermore, being located in an industrial zone, trucks and forklifts are in regular operation not conducive to high pedestrian activity and indeed possess a safety risk for patrons.

The Applicant also proposed that traffic wardens operate during peak times to direct traffic away from the premises and into on-street parking near-by. As mentioned, the Owners Corporation is essentially toothless in their ability to regulate the operation of traffic wardens and/or cars entering if and when they are on common property.



The proposed reliance on on-street parking and traffic wardens is deficient. Under item 6 of the MB Letter, the Applicant proposes that patrons are to arrive on site, speak to a traffic warden and then be directed to other parking locations. This does not stem the flow of traffic to the site and will only increase in the number of cars stopping along narrow Peel Street and blocking common property to obtain direction from traffic wardens.

We note that the Applicant has limited their DA to 6 on-site parks that already exist. However, we wish to note that the owner of lot 2 has not requested from the Owners Corporation use of any other part of the common property for the purpose of car parking and that furthermore, such additional parking is unlikely to be granted due to the limited amount of common property available (a copy of the strata plan demonstrating this is attached to our letter dated 18 July 2018).

There are no accessible car parks on the common property as none were designed as such on registration of the strata plan. At this time, the Owners Corporation has no intention to allocate or create accessible parking on the common property. We note that whilst the Applicant has not relied on any accessible parking being made available on the common property, that at this stage, such spaces are unlikely.

3. Reliance on on-street parking

The Applicant proposes that patrons be advised to park on Fox Street and or Robert Street neither of which have pedestrian pathways on either side of the street and are streets where truck and forklifts regularly operate in connection with businesses on those streets.

The Operational Plan of Management proposes that patrons speak to traffic wardens upon arrival who can then direct patrons down to Robert Street or back to Walpole Street. As only two traffic wardens are proposed, they will have no real time knowledge of whether there are parking spots available along either of Robert or Walpole (or Fox) Street. Accordingly, such a plan it unlikely to limit the flow or congestion of traffic. Furthermore, it is likely that vehicles will have to execute U-turns in order to access parking spots as they are directed to them depending on the direction from which they approach Peel Street to speak to traffic wardens. As Peel Street is a narrow street that is less than 10meters wide, this is likely to cause traffic congestion.

4. Capping of patrons at 80

The Operational Plan of Management does not sufficiently detail how the Applicant intends to cap patrons at 80. It refers to communications with the community but does not describe the frequency or precise method of how this is to be relayed and enforced other than to take down registration numbers of vehicles and ask those persons to move vehicles after they are already parked in an illegal or offending manner. Furthermore, it relies on asking patrons to consider alternative modes of transport to the site and provides not supporting documentation on the availability of public transport to the site.

Elsewhere in the MB Letter the Applicant suggests that patrons arrive on site and then be directed to parking or to other nearby places of worship if the cap is reached. Our client submits that it is impractical as persons wishing to attend services are likely to fluctuate without notice to the Applicant or owner of lot 2. The likely outcome is that traffic along narrow Peel, Fox and Robert Streets is unlikely to be reduced by capping the number of patrons as they are likely to arrive regardless.

Furthermore, whilst Council considered that capping may be effective, our client submits that to the contrary, the proposal does not regulate persons parking elsewhere nearby



and then attending on foot, meaning that the cap may be reached based on persons who spoke to traffic wardens, but others may have parked elsewhere and attend on foot, meaning that neither the traffic wardens nor the owner of lot 2 will have effective control over the number of cars parked on-street or the number of patrons attending. We are instructed that during services that large number of people continue to attend lot 2.

5. Unauthorised works

The change in use of lot 2 to a place of worship has been facilitated by unauthorised works to the lot and common property. Council noted in their notes on submissions made in accordance with the Act or Regulation section 4.15 that the Owners Corporation consent is not required for a change of use if no works are proposed, in this instance, however, the cart has come before the horse. Indeed Council has issued orders to remove the unauthorised works as early as 2 June 2017 which to date have not been complied with. Further, the Owners Corporation to date have not provided their consent to the unauthorised works being carried out to common property. Proceedings in the NSW Civil and Administrative Tribunal have held that the Owners Corporation refusal to grant retrospective approval was a reasonable decision (we refer to Proceedings No. SC 18/11282 a copy of which is **enclosed**). Accordingly, to date, the works remain unauthorised by Council and the Owners Corporation. Our client is not aware of any application to Council to regularise the unauthorised work and to the extent that any application should be made, our client intends to oppose them.

Conclusion

The conditions of the proposed trial period are imprecise, insufficient and in any event, do not meet the parking requirements for places of worship required by the Holroyd DCP. Council should dismiss the review and in any event, reject the proposed trial period. The Applicant's request to rely on neighbouring Auburn DCP should not be considered by Council. In their decision of 22 May 2019, Council has already considered the conditions of the proposal trial period as the conditions of the proposed trial period are the same conditions that Council took into consideration in making their decision.

If you have any questions, please contact Gemma Lumley 02 8706 7060 or gemma@kerinbensonlawyers.com.au

Yours sincerely

Kerin Benson Lawyers
Contact: Gemma Lumley

Office: Sydney
CC: Karl Okorn
Sarah Pritchard

Α





Civil and Administrative Tribunal New South Wales

Case Name: Charitable Islamic Association of Beirut City

Incorporated v The Owners-Strata Plan No 75506

Medium Neutral Citation: [2019] NSWCAT

Hearing Date(s): 3 July 2018; subsequent timetable for written

submissions

Date of Orders: 13 June 2019

Date of Decision: 13 June 2019

Jurisdiction: Consumer and Commercial Division

Before: G J Sarginson, Senior Member

Decision: The application is dismissed.

If there is an application for costs, it is to be made in writing by 14 days of the date of this decision, with a copy filed with the Tribunal and served on the other

party.

The application is to include reference to whether the party making the application consents to the issue of costs being determined on the papers. If such an application is made, the Tribunal will make further directions regarding the filing and serving of written

submissions.

If no costs application is made, each party will bear its own costs of the proceedings in accordance with s 60 (1) of the Civil and Administrative Tribunal Act 2013

(NSW).

Catchwords: STRATA SCHEMES---Application for special

privileges by-law---Whether unreasonably refused

Legislation Cited: Civil and Administrative Tribunal Act 2013 (NSW)

Environmental Planning and Assessment Act 1979

(NSW).

Strata Schemes Management Act 2015 (NSW)



Cases Cited: Ainsworth v Albrecht [2016] HCA 40

Capcelea v The Owners-Strata Plan No 48887 [2019]

NSWCATCD 27

Owners Strata Plan No 50411 & Ors v Cameron North

Sydney Investments Pty Ltd [2003] NSWCA 5. Roseby v The Owners-Strata Plan No 2400 [2018]

NSWCATCD 72

Category: Principal judgment

Parties: Charitable Islamic Association of Beirut City

Incorporated (Applicant)

The Owners – Strata Plan No. 75506 (Respondent)

Representation: Counsel:

Mr T. Bors (Applicant)

Mr M. Klooster (Respondent)

Solicitors:

Strata Specialist Lawyers (Applicant)

Kerin Benson Lawyers Pty Ltd (Respondent)

File Number(s): SC 18/11282

Publication Restriction: Nil



REASONS FOR DECISION

- The proceedings involve a dispute under the Strata Schemes Management Act 2015 (NSW) ('the SSMA') between a Lot owner and the owners corporation regarding the use of a Lot and common property as a prayer hall for persons of the Muslim faith.
- The proceedings involve an application by the Lot owner for the passing of a special privileges by law which the Lot owner asserts was unreasonably refused by the owners corporation; and the owners corporation giving consent to the Lot owner lodging a Development Application with the local Council.
- In this decision, any reference to "the Lot owner" is a reference to the applicant; and any reference to "the owners corporation" is a reference to the respondent.
- 4 The applicant is the owner of Lot 2.
- The strata scheme is comprised of six (6) Lots and is located at Merrylands in an area zoned as "IN2 Light Industrial" by the local Council. Prior to the purchase of Lot 2 by the applicant, all of the Lots in the strata scheme were used as light commercial premises, including warehouses.
- The strata plan was registered on 25 August 2005. Lot 2 was purchased by the applicant in about March 2016.
- Petween purchase the date of purchase of Lot 2 and March 2017, the applicant conducted significant modification of the Lot and surrounding common property to transform the Lot into premises for use as a prayer hall. The modifications to the property relevantly include:
 - (a) Replacement and extension of the ground floor bathroom below the northern mezzanine;



- (b) Installation of a prayer room in the level of the northern mezzanine;
- (c) Removal of ground floor bathrooms and conversion into a store room below the western mezzanine;
- (d) Enclosure of stairs from the ground floor to the western mezzanine level, and the extension of the western mezzanine level to create two offices; a kitchen; and a bathroom;
- (e) Installation of an air-conditioning system;
- (f) Installation of security alarm and closed circuit television camera system.
- The modifications to common property were conducted without the knowledge or consent of the owners corporation, or any Development Application being approved by the local Council.
- 9 From 31 March 2017, the applicant has conducted prayer meetings at the Lot.
- 10 Other than Lot 2, the other 5 Lots that comprise the registered strata plan continue to be used for light industrial purposes.
- 11 In May 2017, in Matter No SC 17/21877, the owners corporation sought orders from the Tribunal for the applicant to remove unauthorised alterations to common property and restore the common property.
- On 23 November 2017, the Tribunal relevantly ordered that the applicant:
 - (i) Remove all unauthorised alterations and additions to common property and restore common property at its own cost by 31 March 2018;



- (ii) Notify the strata scheme's managing agent within 7 days of the completion of the restoration works and allow a representative of the owners corporation to inspect the works.
- The Lot owner lodged an appeal to the Appeal Panel of the Tribunal from the decision of the Tribunal dated 23 November 2017. However, the appeal was based upon the Tribunal's failure to grant the Lot owner an adjournment. Subsequent to the hearing of this matter, the Appeal Panel of the Tribunal in Matter AP 17/54206 dismissed the Lot owner's appeal. The decision of the Appeal Panel is dated 10 September 2018, and the Medium Neutral Citation is [2018] NSWCATAP 207.
- Neither party in these proceedings made any application for these proceedings to be adjourned until the Appeal Panel proceedings were determined; and both parties submitted that this application should be determined.
- As the Appeal Panel proceedings involved different issues to the issues being determined by the Tribunal in these proceedings, the Tribunal has given no weight to the reasons of the Appeal Panel, which in any event occurred after the close of the timetable for written submissions in these proceedings. However, the Appeal Panel proceedings were raised by the owners corporation regarding the issue of jurisdiction under s 232 of the SSMA, and the Tribunal will discuss that issue later in this decision.
- In July 2017, the owners corporation engaged a building consultant Mr Mark Kavanagh of Integrated Consultancy Group to inspect Lot 2 and surrounding common property and prepare a report. The report of Mr Kavanagh is dated 19 July 2017.
- 17 Between July 2017 and early December 2017 there was correspondence between the parties and their legal representatives regarding a Development Application being lodged by the Lot owner with the local Council to approve a



change in zoning and the modifications to the Lot and common property; and a special privileges by-law being passed to approve the alterations of the common property.

- The Lot owner submitted 2 Development Applications to the local Council in 2017, but withdrew the applications and intended to file a further Development Application after obtaining advice from a planning consultant (MB Town Planning) and other consultants.
- On 5 December 2017, the owners corporation held its annual general meeting ('AGM'). Relevantly, there were 2 Motions considered by the AGM.
- Motion 15 was that a special privilege by law be passed pursuant to s 141 of the SSMA authorising the "Past Works" conducted by the Lot owner ("Past Works" being defined as the work identified at paragraph 7.3 of the report of Mr Kavanagh dated 19 July 2017), with the Lot owner to provide within 28 days certification that the Past Works complied with "the Building Code of Australia; pertinent Australian Standards; and manufacturers specifications" and a building certificate under Section 149A to 149E of the *Environmental Planning and Assessment Act 1979* (NSW).
- Further, Motion 15 stated that, if a building certificate under the relevant provisions of the *Environmental Planning and Assessment Act 1979* (NSW) was not provided within the stipulated time; the owners corporation must consent to the Lot owner making such an application within 7 days and the Lot owner must then lodge then application with the local Council within 7 days.
- 22 Motion 16 was that the owners corporation consented to the Lot owner lodging a Development Application with the local Council regarding the modifications to the Lot and common property, and would provide written consent to such an application including the affixing of the common seal of the owners corporation on the application. It was noted in Motion 16 that the consent of the owners corporation to the Lot owner lodging a Development



Application did not indicate the owners corporation was giving consent to any subsequent application by the Lot owner for the passing of a special privileges by-law regarding the works.

- No representative of the Lot owner attended the AGM, nor was there any proxy vote by the Lot owner. According to the affidavit of Mr Moustapha Darwiche, President of the Lot owner, this was because "the date was missed in my diary".
- Both Motion 15 and Motion 16 failed to pass. According to the minutes of the AGM and the statutory declaration of the strata manager of the owners corporation Mr Stephen Webb dated 21 June 2018, Lot owners other than the owner of Lot 2 had appointed persons from the owners corporation's Solicitors, Kerin Benson Lawyers, to act as proxies. The AGM was held at the offices of the owners corporation's Solicitors. Voting was comprised by the lodging of proxy forms by the Lot owners of owners of Lots 1, 3, 4, 5, and 6. The owners of Lots 1, 3, 5 and 6 voted against Motions 15 and 16.

THE CLAIM

- 25 The Lot owner seeks the following orders:
 - (a) An order pursuant to s 149 of the SSMA that a special by-law be made in the same terms as Motion 15 of the AGM dated 5 December 2017;
 - (b) An order pursuant to s 232 of the SSMA that the owners corporation consent to the lodging of a Development Application by the Lot owner, in the same terms as Motion 16 of the AGM dated 5 December 2017.

EVIDENCE OF THE PARTIES

26 Neither party sought to cross examine the witnesses of the other party.



27 The documentary evidence of the parties was as follows:

Applicant

Affidavit of Mr Moustapha Darwiche dated 30 May 2018, and attached documents. Such documents relevantly included a report of Mr Blaszczakiewicz, structural engineer, dated 6 February 2018; a copy of a Development Application to the local Council including a report by Mr Tobin of BCA Vision; and correspondence between the parties.

Respondent

- 29 Statutory Declaration of Mr Stephen Webb, strata manager, dated 21 June 2018.
- 30 Statutory Declaration of Mr Peter Wahbe, director of the owner of Lots 4 and 5, dated 21 June 2018;
- 31 Statutory Declaration of Mr David Wehbe, director of the owner of Lots 1, 3 and 6, dated 21 June 2018;
- 32 Statutory Declaration of Ms Gemma Lumley, employed Solicitor for the Solicitors for the owners corporation, dated 21 April 2017.

APPLICABLE LEGAL PRINCIPLES-UNREASONABLE REFUSAL TO PASS SPECIAL PRIVILEGES BY-LAW

- 33 The Lot owner is an "interested person" within the meaning of s 226 of the SSMA and has standing to bring the application. On 5 March 2018, NSW Fair Trading Strata Mediation Unit issued a letter stating that mediation had been declined by the owners corporation. Accordingly, the Tribunal accepted the filing of the application under s 227 (1) (b) of the SSMA.
- 34 Under s 111 of the SSMA, a Lot owner must not perform work affecting common property (relevantly, other than the provisions dealing with cosmetic work by a Lot owner or minor renovations by a Lot owner under ss 109 and

110 of the SSMA which are clearly inapplicable to this dispute) without the passing of a common property rights by-law, or approval of the owners corporation by special resolution or any other manner authorised by the by-laws.

35 A "common property rights by-law" is defined in s 142 of the SSMA as:

142 Common property rights by-law

For the purposes of this Act, a *common property rights by-law* is a by-law that confers on the owner or owners of a specified lot or lots in the strata scheme:

- (a) a right of exclusive use and enjoyment of the whole or any specified part of the common property, or
- (b) special privileges in respect of the whole or any specified part of the common property (including, for example, a licence to use the whole or any specified part of the common property in a particular manner or for particular purposes),

or that changes such a by-law.

- 36 By reason of s 141 (1) of the SSMA, a common property rights by-law must be passed by a special resolution of the owners corporation.
- 37 Any such common property rights by-law may be passed authorising alterations to common property that previously occurred.
- 38 Section 149 of the SSMA states:

149 Order with respect to common property rights by-laws

- (1) The Tribunal may make an order prescribing a change to a by-law if the Tribunal finds:
- (a) on application made by an owner of a lot in a strata scheme, that the owners corporation has unreasonably refused to make a common property rights by-law, or
- (b) on application made by an owner or owners corporation, that an owner of a lot, or the lessor of a leasehold strata scheme, has unreasonably refused to consent to the terms of a proposed common property rights by-law, or to the proposed amendment or repeal of a common property rights by-law, or



- (c) on application made by any interested person, that the conditions of a common property rights by-law relating to the maintenance or upkeep of any common property are unjust.
- (2) In considering whether to make an order, the Tribunal must have regard to:
- (a) the interests of all owners in the use and enjoyment of their lots and common property, and
- (b) the rights and reasonable expectations of any owner deriving or anticipating a benefit under a common property rights by-law.
- (3) The Tribunal must not determine an application by an owner on the ground that the owners corporation has unreasonably refused to make a common property rights by-law by an order prescribing the making of a by-law in terms to which the applicant or, in the case of a leasehold strata scheme, the lessor of the scheme is not prepared to consent.
- (4) The Tribunal may determine that an owner has unreasonably refused consent even though the owner already has the exclusive use or privileges that are the subject of the proposed by-law.
- (5) An order under this section, when recorded under section 246, has effect as if its terms were a by-law (but subject to any relevant order made by a superior court).
- (6) An order under this section operates on and from the date on which it is so recorded or from an earlier date specified in the order.
- 39 In Roseby v The Owners-Strata Plan No 2400 [2018] NSWCATCD 72 at [21]-[24], the Tribunal set out the relevant principles applicable to whether the owners corporations refusal was "unreasonable" as follows:

"In respect of predecessor provisions under the *Strata Schemes Management 1996* (NSW) the principles for whether or not a decision of the owners corporation was, or was not, reasonable were set out by Member Ringrose in *Carroll OC SP 865 v Aldritt* [2013] NSWCTTT 525 at [54]-[55] as follows:

"The provisions of section 140 and of section 158 of the Act each require a determination of whether a decision or the actions of an Owners Corporation were unreasonable. "Unreasonable" is not defined in the Act. It is therefore to be understood as it would be in the common everyday meaning of that word (see Sole Australia Pty Limited v Public Interest Advocacy Centre) and anor (1992) 36 FCR 111 at 122 and Curragh Coal Sales Company Pty Limited v Wilcox (1984) FCR 46 per Davies J). The Macquarie dictionary provides the following definition:

"unreasonable"- not reasonable, not endowed with reason, not guided by reason or good sense, not based on or in accordance with reasonable sound judgement.



The test of what is reasonable is an objective test which requires the existence of facts which are sufficient to induce that state of mind in a reasonable person (see *George v Rocket [1990] HCA 26; (1990) 170 CLR 104 at 112*). A decision by the Owners Corporation to withhold consent could be seen as reasonable if there was, on the material before it, a sound basis for making that decision. Conversely if there was no such sound basis it would be unreasonable."

Application of the dictionary meaning of "unreasonable" was also the approach adopted by Senior Member Thode in *OC SP 69481 v Want* [2013] NSWCTTT 440 at [47].

In Bartlett v Owners Corporation SP 1429 ('Bartlett') [2011] NSWCTTT 219, Member Ross stated:

"It is immaterial that there was also material which may not provide a sound basis for the decision. The onus is on the appellant to demonstrate that the Owners Corporation decision was unreasonable. The Owners Corporation does not have to prove that it acted reasonably in refusing its consent to the proposed by-law".

The principle that the onus is upon the Lot owner to demonstrate that the decision of the owners corporation was unreasonable, rather than the owners corporation having to prove it acted reasonably, was applied by Member Ringrose in Olive Grove Investment Holdings Pty Ltd v The Owners-Strata Plan No 5942 [2015] NSWCATCD 120 at [69]."

A Lot owner bringing an application that the refusal of a proposed special privileges by-law must demonstrate the unreasonableness of the refusal, not the reasonableness of the proposed change (*Ainsworth v Albrecht* [2016] HCA 40 at [55]; [63]-[64]; [74]; [84]-[90]). Regarding this issue, and the relevant considerations under s 149 of the SSMA, the Tribunal stated in *Capcelea v The Owners-Strata Plan No 48887* [2019] NSWCATCD 27 at [56]-[59]:

"The fundamental assessment, on which the challenging owners bear the onus of proof as further discussed below, is whether or not, taking into account those interests, rights and expectations, the decision to refuse the proposed by-law was unreasonable.

But the exercise required by s 149(2), unlike the exercise in *Ainsworth*, requires not only the consideration of an objective rational basis for refusal taking into account the interests of all owners in their lots and the common property but, also, an assessment of that basis by taking into account the rights and expectations of the owners propounding the by-law and anticipating a benefit from them.





It is not a simple balancing exercise to test for reasonableness of the proposal being rejected, as the adjudicator engaged in and the Queensland Court of Appeal endorsed, in *Ainsworth*.

But it is an exercise in which the unreasonableness of a refusal is assessed by, not only the interests of the refusing owners in their perception and expression of the status quo property rights, but also by the rights and reasonable expectations of the proponent owners that the refusing owners ought (to avoid acting unreasonably) have taken into account in coming to a decision. The Tribunal intrudes into the decision because it is required by the wording of s 149(2) to have regard to the matters in s 149(2) as they presented at the time of the refusal, and on an objective basis, in assessing the quality of the decision made by the refusing owners."

UNREASONABLE REFUSAL TO PASS SPECIAL PRIVILEGES BY LAW-SUBMISSIONS OF THE PARTIES

The Lot Owner

- The Lot owner's submissions and submissions in reply regarding the reasonableness of the decision of the owners corporation at the AGM dated 5 December 2017 to refuse to pass the proposed special privileges by-law can be summarised as follows:
 - (a) The minutes of the AGM contain no information regarding the reasons why the majority of Lot owners voted against Motions 15 and 16 at the AGM;
 - (b) There is nothing to indicate the Lot owners who voted at the AGM considered the report of Mr Kavanagh, nor his comments in the report regarding the compliance with plans; quality of construction; or compliance with the Building Code of Australia or National Construction Code;
 - (c) There is nothing to indicate the owners corporation or Lot owners considered the "compliance assessment report of Mr Tobin of BCA Vision dated 28 March 2017;
 - (d) The only matters raised in evidence by Lot owners involve the use of Lot 2 as a prayer hall involving an increased number of



visitors to the strata scheme at certain times; parking concerns; and safety concerns. There was no evidence that such matters were considered at the AGM, and "the specific instances" referred to in the evidence of Mr Wahbe and Mr Wehbe "were vet to occur as at December 2017.

- (e) Further, the matters raised in evidence by the Lot owners did not address the issue of whether the by-law ought to be made; and whether the owner of Lot 2 be permitted to make an application for a building certificate from the Council, which were the subject matter of the Motions. The proposed special privileges by-law only related to the modifications and alterations to common property, not the use of the Lot. The proposed by-laws did not seek any approval or consent for the Lot to be used for a certain purpose (being use as a prayer hall). Accordingly, it was unreasonable for the other Lot owners to consider the purpose of the modifications and alterations to common property, or the effect such modifications and alterations would have rather than the modifications and alterations themselves.
- (f) Any issues regarding the structural integrity; quality; or compliance with relevant codes and Australian Standards regarding the works are adequately dealt with in Clauses 4 and 5 of the proposed special privileges by-law, because the onus is placed upon the Lot owner to provide appropriate evidence and certification regarding the structural adequacy of the works.
- (g) The alterations to common property do not affect the use and enjoyment of other Lot owners to the common property or their Lots.
- (h) The Lot owner has "an expectation to develop the Lot and so much of the common property to maximize its use of the Lot".



The Owners Corporation

- The submissions of the Owners Corporation can be summarised as follows:
 - (a) No structural plans have been provided to the owners corporation regarding the alterations to common property.
 - (b) The report of Mr Kavanagh expressly states that he does not comment upon the structural adequacy of the works.
 - (c) The report of Mr Blaszczakiewicz of Demlakian Consulting Engineers is irrelevant because it came into existence after the AGM on 5 December 2017.
 - (d) In any event, Mr Blaszczakiewicz does not certify the structural integrity of the works.
 - (e) Lot owners have a reasonable expectation that other Lot owners will only use Lots in accordance with the permitted use prescribed by the planning laws. The area is zoned light commercial; Lot 2 was used previously for light commercial purposes; and other Lot owners use their Lots for light commercial purposes.
 - (f) The practical effect of the modifications and alterations to common property is that Lot 2 and common property attached to Lot 2 is being used as a prayer hall. Large number of persons regularly gathers at the strata scheme, which is located in an industrial estate area. This creates parking and access difficulties for the other Lot owners, whose use of their Lots involves trucks, forklifts and couriers accessing their Lots and common property.
 - (g) The proposed special privileges by-law is inadequate because it does not identify who performed the works or that they were



suitably licenced, and the warranties contained in the proposed by-law are ineffectual because of 7 of the proposed by-law refers to work that has not yet been performed, rather than works that have previously been performed.

CONSIDERATION-WAS THE REJECTION OF THE PROPOSED SPECIAL PRIVILEGES BY-LAW UNREASONABLE?

- The evidence of Mr Wahbe and Mr Wehbe refer to the amount of persons attending the strata scheme for prayer meetings. Mr Wahbe refers to having personally reviewed CCTV footage from May to June 2018. The specific events in May and June 2018 are irrelevant, because they occurred after the AGM on 5 December 2017.
- However, Mr Wahbe also states that the first prayer meeting was conducted on 31 March 2017 and he has been advised by tenants of Lots that "on a Friday hundreds of people attend the midday prayer service and parking and navigating through Peel and Walpole streets is difficult due to the large number of people". Mr Wahbe also states that the large number of people that attend prayer services, particularly on a Friday, cause access and parking problems, and raise potential safety issues in circumstances where other than Lot 2 the Lots are used as warehouses, and large numbers of persons are parking and attending the area proximate to the strata scheme.
- Mr Wehbe also states that having a large number of persons using common property to access Lot to that are not employees, couriers, customers or tradespersons is a safety concern, and:

"Parking is limited in the scheme and on the surrounding streets with access being tight for large trucks if cars are parked on either side of the street. Using Lot 2 as a place of worship attracts hundreds of people and affects the parking for the employees and visitors for the businesses operating out of the other Lots in the strata plan.

Cars belonging to people attending Lot 2 of Friday for midday prayers often park in the car spaces designated for Lot 1.

When the Friday prayers are over hundreds of people leave dangerously cross the road in front of cars and trucks".



- Mr Darwiche in his affidavit of 30 May 2018 does not dispute that large numbers of persons attend Lot 2 on Fridays for prayer services, but states that no other Lot owners made him aware prior to the AGM on 5 December 2017 that they had any "comments or concerns" regarding the alternations and modifications to Lot 2 and common property, or its impact upon the interests of other Lot owners.
- The Tribunal accepts that large numbers of persons attend the strata scheme to participate in prayers at Lot 2 on Fridays, and many of those persons travel by car, which then involves cars being parked on common property or the adjacent street area.
- The strata scheme is located in an area zoned for light industrial purposes, and other than the modification of Lot 2 and surrounding common property into a prayer room, the strata scheme has been, and continues to be used for light industrial purposes.
- The interests of the owners of Lots 1, 3, 4, 5 and 6 regarding the use of their Lots and common property include the use and operation of their Lots and common property to facilitate the use of their Lots for light industrial purposes. Such use involves Lots being used as warehouses, and the Lots being accessed through common property by vehicles delivering and transporting materials on a regular basis, and parking on common property for that purpose.
- 50 The alterations and modifications of Lot 2 and associated common property by the applicant have caused a large number of persons to attend the strata scheme and adjacent area for the purpose of attending the prayer hall. This is a fundamentally different use of the common property than for light industrial purposes. The Tribunal accepts that the owners of Lots 1, 3, 4, 5 and 6 had, at the date of the AGM on 5 December 2017, valid concerns regarding the large number of persons who were attending the strata scheme on Fridays to attend prayer meetings, and the affect that was having upon



parking and accessing the Lots by employees; customers; and delivery persons attending Lots 1, 3, 4, 5 and 6.

- The submission of the Lot owner is that s 149 of the SSMA should be construed in a manner that focusses upon the physical alterations and modifications of the Lot and their structural integrity, rather than how such modifications and alterations changed the use of the Lot.
- However, s 149 (2) (a) of the SSMA refers to the "interests of all owners in the use and enjoyment of their lots and common property" being considered. The alterations and modifications to Lot 2 and associated common property have caused a large number of persons to attend the strata scheme on Fridays for the purpose of prayer. This affects the interests of the other Lot owners by having the practical effect of restricting access to their Lots and the ability to park on common property. Section 149 (2) (a) is not to be interpreted in a manner that does not consider the change in use of the Lot and how it has affected the use and enjoyment of other Lot owners to their Lots and the common property of the strata scheme, particularly where the change in use is inconsistent with the zoning of the area by the local Council as light industrial.
- The Lot owner submits that it has the right to use and enjoy its Lot and common property, and that the alterations and modifications are consistent with that right. The Tribunal must consider the rights of the Lot owner in the context of s 149 (2) (a) of the SSMA, and has done so. What the owner of Lot 2 has done is to convert a Lot used previously for light industrial purposes into a prayer hall.
- However, the rights of the Lot owner are not unfettered. The Lot owner purchased a Lot in a strata scheme in an area zoned by the local Council as light industrial. The other Lots in the scheme were used for light industrial purposes. Without any notice to the owners corporation, and without having planning permission by the local Council, the Lot owner performed very significant alterations and modifications to common property which caused a



substantial change in the previous use of the Lot and caused a large number of persons to attend the strata scheme on an ongoing basis for reasons that had nothing to do with accessing light industrial premises.

- Further, as of 5 December 2017, the only expert evidence regarding the works provided to the owners corporation by the Lot owner was the report of Mr Kieran Tobin, of BCA Vision dated 26 June 2017 that was prepared as part of the Lot owner's Development Application, and was further submitted to the owners corporation prior to the AGM on 5 December 2017.
- Although Mr Tobin asserts that the "proposed works are consistent with the relevant Building Code of Australia clauses", he identifies further work that needs to be performed to ensure appropriate fire rating is achieved regarding under stair storage enclosures beneath each of the stairs to the mezzanine level. Further, Mr Tobin recommended that all exit door handles be replaced; an additional fire hose reel be installed at the rear of the premises; portable fire extinguishers be installed; and exit lights be made operational and tested.
- The Lot owner provided no information to the owners corporation regarding who it intended to engage in such work; when such work would be done; and that the persons engaging in such work would be suitable licensed and insured.
- The owners corporation had obtained a report from Mr Kavanagh (Integrated Consultancy Group), building consultant, dated 19 July 2017.
- Mr Kavanagh stated that, other than the necessity for a step ramp to be installed adjacent to a disabled toilet under the northern mezzanine area, the works he inspected were compliant with the National Construction Code and were generally of a "high standard". However, Mr Kavanagh also stated that he was "unable to comment on the structural adequacy of the works other than what could be felt e.g. would the structure physically shake".



The Lot owner did not obtain any expert evidence or certification by a suitably qualified expert, such as a structural engineer, that the works were structurally sound prior to the AGM on 5 December 2017. The Lot owner submits that it was unnecessary to do so, in circumstances where the proposed special privileges by law states at clause 4:

"The Owner must, within 28 days of the making of this by-law, provide the following to the owners corporation in relation to the Past Works:

- (a) certification that the Past Works were carried out in accordance with the Building Code of Australia, pertinent Australian Standards, and manufacturer's specifications;
- (b) subject to clause 5 and only if required at law, a copy of a building certificate under Section 149A to 149E of the Environmental Planning and Assessment Act 1979 in relation to the Past Works."
- However, although clause 4 of the proposed special privileges by-law places an obligation on the Lot owner to provide "certification" within 28 days of the making of the by-law, the fact that there was not any expert evidence that clearly stated that the structural modifications and alterations to common property were adequate, in circumstances where there had been significant structural changes, was a relevant matter to be considered by the owners corporation regarding whether or not to consent to the proposed special privileges by-law at the AGM on 5 December 2017.
- The fact that the Lot owner has obtained an expert report after AGM on 5 December 2017 and its contents is irrelevant to whether the decision made at the AGM not to pass the proposed special privileges by-law was unreasonable. The information contained in that report (and any further expert reports obtained by the parties) become relevant if there is a further Motion by the Lot owner regarding a special privileges by-law.
- The Lot owner raises in its submissions that the owners corporation did not give reasons in the minutes of the AGM on 5 December 2017 why the Motions failed to pass, or otherwise give an explanation for the decision. However, the task of the Tribunal in this application is to consider whether, assessed objectively and taking into account the considerations under s 149

- (2) of the SSMA, whether the Lot owner has established that the decision of the owners corporation not to pass the special privileges by-law was unreasonable. It is the decision itself, not the adequacy of the explanation of the decision, which is the focus of s 149 of the SSMA.
- The Tribunal is not satisfied that the Lot owner has established on the balance of probabilities that the decision of the owners corporation not to pass the proposed special privileges by-law on 5 December 2017 was unreasonable within the meaning of s 149 of the SSMA.

THE ORDER SOUGHT THAT THE OWNERS CORPORATION CONSENT TO THE LODGING OF A DEVELOPMENT APPLICATION

- The second order sought by the applicant is that the owners corporation provide consent to the Lot owner lodging a Development Application with the local Council. Any Development Application will likely deal with seeking a change to the zoning of the Lot as being in a light industrial area, and will further involve consideration being given to access and parking issues.
- 66 Section 232 of the SSMA relevantly states as follows:

"232 Orders to settle disputes or rectify complaints

(1) Orders relating to complaints and disputes

The Tribunal may, on application by an interested person, original owner or building manager, make an order to settle a complaint or dispute about any of the following:

- (a) the operation, administration or management of a strata scheme under this Act,
- (b) an agreement authorised or required to be entered into under this Act
- (c) an agreement appointing a strata managing agent or a building manager,
- (d) an agreement between the owners corporation and an owner, mortgagee or covenant chargee of a lot in a strata scheme that relates to the scheme or a matter arising under the scheme,
- (e) an exercise of, or failure to exercise, a function conferred or imposed by or under this Act or the by-laws of a strata scheme,

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(f) an exercise of, or failure to exercise, a function conferred or imposed on an owners corporation under any other Act.

(2) Failure to exercise a function

For the purposes of this section, an owners corporation, strata committee or building management committee is taken not to have exercised a function if:

- (a) it decides not to exercise the function, or
- (b) application is made to it to exercise the function and it fails for 2 months after the making of the application to exercise the function in accordance with the application or to inform the applicant that it has decided not to exercise the function in accordance with the application.

(3) Other proceedings and remedies

A person is not entitled:

- (a) to commence other proceedings in connection with the settlement of a dispute or complaint the subject of a current application by the person for an order under this section, or
- (b) to make an application for an order under this section if the person has commenced, and not discontinued, proceedings in connection with the settlement of a dispute or complaint the subject of the application.

(6) Disputes relating to consent to development applications

The Tribunal must consider the interests of all the owners of lots in a strata scheme in the use and enjoyment of their lots and the common property in determining whether to make an order relating to a dispute concerning the failure of an owners corporation for a strata scheme to consent to the making of a development application under the *Environmental Planning and Assessment Act 1979* relating to common property of the scheme.

..."

- The owners corporation submitted that the Tribunal had no jurisdiction to make such an order by reason of s 232 (3) of the SSMA, because the Lot owner had commenced Appeal Panel proceedings involving Matter SC 17/21877.
- The Tribunal does not accept that the Appeal Panel proceedings involving Matter SC 17/21877 deprive the Tribunal of jurisdiction under s 232 of the SSMA in these proceedings. Those proceedings involved an application brought by the owners corporation for the Lot owner to restore common

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property. That is an entirely separate issue and separate cause of action to a dispute regarding an owners corporation refusing to consent to a Development Application being lodged.

In respect of Development Applications that affect common property (as distinct from Development Applications that wholly involve Lot property) the consent of the owners corporation is required, but only before the approval of the Development Application. The consent of the owners corporation is not required to make or lodge the Development Application: Owners Strata Plan No 50411 & Ors v Cameron North Sydney Investments Pty Ltd [2003] NSWCA 5.

The owners corporation submits that, if the Tribunal is against it on the jurisdiction point, then it accepts that the Lot owner should not be deprived of the opportunity to lodge a Development Application, in circumstances where the owners corporation (and individual Lot owners) can make objections to the local Council as part of the Development Application consideration process. As the owners corporation correctly concedes, consent by an owners corporation to a Lot owner lodging a Development Application is not a concession that the owners corporation agrees with the substance of the Development Application.

Onder these circumstances, the Tribunal would have no hesitation making an order that the owners corporation consent to the Lot owner making a Development Application to the local Council, save for one issue that goes to the exercise of discretion. The order sought by the applicant is that the owners corporation consent to the Development Application "in the form considered in by the respondent in the general meeting on 5 December 2017". In submissions, the Lot owner stated that a further Development Application had been lodged with the local Council. However, considering the evidence of Mr Darwiche that the Lot owner had engaged further consultants and was in the process of lodging a further Development Application, it is unclear to the Tribunal whether the Development Application is the same, or



different, to the Development Application that was before the AGM on 5 December 2017.

- 1f the Development Application is different, there is no utility to making an order that the owners corporation give consent to a Development Application "in the form considered by the respondent in the general meeting on 5 December 2017".
- Accordingly, the Tribunal does not make the order sought. The Lot owner can again seek that the owners corporation consent to the making of the particular Development Application that has been lodged. Considering the reasoning process of the Tribunal in these proceedings and the concession made by the owners corporation regarding the issue of consent, it is extremely difficult to envisage how the owners corporation could justify any future refusal of consent.

CONCLUSION

The application is dismissed. However, the dismissal of the application under s 149 of the SSMA does not prevent the Lot owner putting forward a fresh Motion seeking the passing of a special privileges by-law to be considered at a meeting of the owners corporation, and obtaining further evidence that addresses concerns of the other Lot owners.

COSTS

As both parties are legally represented, the potential exists for a costs application. If any such application is made, it is to be made in writing by 14 days of the date of this decision, with a copy filed with the Tribunal and served on the other party. The application is to include reference to whether the party making the application consents to the issue of costs being determined on the papers. If such an application is made, the Tribunal will make further directions regarding the filing and serving of written submissions.



76 If no costs application is made, each party will bear its own costs of the proceedings in accordance with s 60 (1) of the *Civil and Administrative Tribunal Act 2013* (NSW).

ORDERS

- 77 The Tribunal makes the following orders:
 - (1) The application is dismissed.
 - (2) If there is an application for costs, it is to be made in writing by 14 days of the date of this decision, with a copy filed with the Tribunal and served on the other party. The application is to include reference to whether the party making the application consents to the issue of costs being determined on the papers. If such an application is made, the Tribunal will make further directions regarding the filing and serving of written submissions.
 - (3) If no costs application is made, each party will bear its own costs of the proceedings in accordance with s 60 (1) of the *Civil and Administrative* Tribunal Act 2013 (NSW).



I hereby certify that this is a true and accurate record of the reasons for decision of the New South Wales Civil and Administrative Tribunal.

Registrar



Sarah Pritchard

From:

Sent: Wednesday, 21 August 2019 12:54 PM

To: Records Department

Subject: RE 2/2-6 Peel street Holroyd. Review of council refusal for the use of premises as a

place of worship.

To whom it may concern,

I live at holroyd, around the corner from this place of worship. Personally I feel that it is unfair to refuse this as a place of worship. It attracts alot of people and this is great as it brings life to this part of merrylands. The people attending the place of worship are peaceful and friendly. We never ever have an issue with parking because most of them park across the road in the carpark or they walk from home.

Please review this in a reasonable manner. Thank you.

Kind regards,



Sarah Pritchard

From:

Sent: Wednesday, 21 August 2019 2:40 PM

To: Records Department

Subject: Decision to close place of worship.

To whom it may concern,

I own a house in brickworks drive holroyd.

The place of worship has made our environment a safer place as people use the prayer place in the evening. This road is very dark when walking home from the train station and there has been an incident where a girl was followed and molested in Walpole st.

I have never had an issue with the carparking on a Friday. This is a quite time and the car park at the park is available. Mostly I notice people walking there.

On the weekends, there is much more unruly people using the park.

They park across our drive ways and thumping music from early on a Sunday morning.

The people attending the place of worship are peaceful and and respectful of our homes.

Please consider this request as we need that area to be well lit and used, as that area attracts homeless people drinking and taking drugs.

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Thank you



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Sarah Pritchard

From:

Sent: Thursday, 22 August 2019 5:02 PM

To: Records Department

Subject: Attention Miss S Pritchard: Development Application 2018/185

To whom it may concern,

We the Owners at are writing to express opposing/refusal of the proposal for development reference: 2018/185/1.

Issues faced over the last couple of years:

- 1. Restricted access to our property on several occasions our driveway has been blocked by vehicles attending the site in question.
- 2. Our bins have often been missed by the rubbish truck due to being moved by people attending the site, which have resulted in having missed our rubbish pick-up.
- Most recently been verbally abused when asking attendees to not block our driveway or park on our footpath. Also parking close to corners restricting vision of oncoming traffic.
- 4. Also being told that the Park that is Council Property is closed due to being used for a religious prayer function, this is unacceptable as this isn't privately owned. My grandchildren and I were deeply upset about the treatment from the Parking attendants apparently hired to conduct traffic for this event. This wasn't public knowledge as my neighbour was also upset when they went to walk dog and was told she was prohibited from entering the public park premises. Which is visible in the pictures.
- 5. The amount of disturbance that will generated if this approved will be unbearable for the area residents, at times have are subject to excessive littering.
- 6. The ongoing congestion causing traffic issues in the small neighbourhood. (As you can see from the pictures attached below) for a small neighbourhood this causes us issues accessing or exiting our property, orange cones being used to reserve spots for the property in question for no particular reason.

Overall we feel that this would not be in the best interest of the residents of Holroyd, I pride myself living in this part of Holroyd. I strongly agree with your decision to refuse the application. We fear repercussions if this is disclosed publicly so please respect our privacy and withhold our names and property number if a third party requests to view the content of this email.

Happy to discuss further.

Kind Regards,











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24th August 2019

2 6 AUG 2019

Cumberland Council

Notice of Development Application

Premises: 2/2-6 Peel Street Holroyd

Proposal: Section 8.3 Review of Council Refusal for the use of premises as a

place of public worship

Applicant: MB Town Planning

Development Application: 2018/185/1

Dear Mayor,

l, wish to strongly reject this notice of development

application.

In relation to the Premises as a place of public worship, I'm concerned with the required number of people to attend and require parking within the area. It has been estimated between 200-300 people/cars. I don't believe this small industrial area could handle this mass of people and cars.

The Traffic Congestion for this area is a major concern. The traffic congestion from the proposed units in The Crescent, the Sports ground for local and outsider use. Seasonal football and cricket etc and this request will cause chaos.

In close proximity to Holroyd, Premises/Places of worship are already available, this being Auburn Gallipoli Mosque, Omar Mosque – Auburn, Masijid Abu Bakr Al-Siddeeq Mosque, Islamic Dawah Centre Mosque and Auburn Musallah Mosque and Ferndel Street South Granville, Masjid El Noor.

I don't feel the Premises as a place of public worship is the best fit for this area and community.

Cumberland Council have and has ongoing projects for this area and this request is not in the best interest of the area and community.

Yours faithfully,



23rd August 2019

2 8 AUG 2019

Cumberland Council

Notice of Development Application

Premises: 2/2-6 Peel Street Holroyd

Proposal: Section 8.3 Review of Council Refusal for the use of premises as a

place of public worship

Applicant: MB Town Planning

Development Application: 2018/185/1

Dear Mayor,

I wish to strongly reject again this notice of development

application.

Fox and Peel Street has always been an industrial area and I have not received any notification to this change.

Currently we have two multicultural parks within the vicinity, this being Peel Street Park which holds little athletics and many football events. The other park is Holroyd Gardens, which, is for play and also holds events.

Parking is a struggle at the best of times within this area when events are held at the parks. The streets are full of cars and no car park in sight to accommodate the masses of people from the area and especially from outside the area. Add this to the Granny Flats built within the area and again, parking was a low concern to everyone who does not live in the area and needs to park out the front of their home. Safe parking does not appear to be of any concern and there is not enough off street parking for so many vehicles. The streets in this area are so narrow that they reduce to single lane driving with vehicles on both sides of the road or driving on the incorrect side of the road for nearly the entire length of the street.

The Traffic Congestion for this area is a major concern. The traffic congestion from the proposed units in The Crescent, the Sports ground for local and outsider use. Seasonal football and cricket etc and this request will cause chaos.

Places of worship are already available around the area, this being Auburn Gallipoli Mosque, Omar Mosque — Auburn, Masijid Abu Bakr Al-Siddeeq Mosque, Islamic Dawah Centre Mosque and Auburn Musallah Mosque and Ferndel Street South Granville, Masjid El Noor and I believe parking is a major concern, or lack of parking to cater. It is evident the place of public worships are already established within the close proximity of this area, therefore, it is unnecessary to force another place of worship on residents who live here. Unfortunately, the Mosque or place of public worship is not just for the local community it attracts people from outside the area and this area has always been a quiet and humble area and I would not like to see this change to chaos. I believe the place of public worship will hold between 200 to 300 people and not close until 10pm at night. This is not acceptable to the residents within the area.



I believe the request for a place of worship is not fit for this area and as a community we need to remain multicultural and remember this is a small unzoned industrial area that consists of 2 streets. The area has been opened to rezoning for the past 10 years and a 20 year plan was put in place by the council, which, did not have a place of worship amongst it.

The proposal of duplexes on 600 metre blocks is also being raised through council and wouldn't the land be better put to use by moving the factories out and building the duplexes that houses many people while there is a housing supply shortage and very much in demand and have the parks within the area utilised to the full potential by many multicultural families.

If you wish to discuss this matter further, please feel free to contact me.

Yours faithfully,





23rd August 2019

Cumberland Council

Notice of Development Application

Premises: 2/2-6 Peel Street Holroyd

Proposal: Section 8.3 Review of Council Refusal for the use of premises as a

place of public worship

Applicant: MB Town Planning

Development Application: 2018/185/1

Dear Mayor,

, wish to strongly reject this notice of development

application.

We have lived within this humble and relatively quiet neighbourhood for 46 years and have considered the industrial area to remain to themselves during these years.

We are concerned with this notice of development and the lack of parking available. From the details available the impact to ourselves and the surrounding residents in the respect of parking, people from outside the area will see this area become mayhem. This centrally located, relatively quiet and harmonies area has and is at the moment a pleasant place to live.

We believe the Premises as a place of public worship will hold between 200 to 300 people and not close until 10pm at night. This is not acceptable to the residents and aged residents within the area. This industrial area is quiet small in comparison to the expected cars and people and this raises many concerns for us.

The Traffic Congestion for this area is a major concern. The traffic congestion from the proposed units in The Crescent, the Sports ground for local and outsider use. Seasonal football and cricket etc and this request will cause mayhem.

When events are held at Peel Street Park and Holroyd Gardens Park, the cars attending events held continue to struggle with parking within the area.

We don't feel the Premises as a place of public worship is the best fit for this area and community.

In close proximity to Holroyd, Premises/Places of worship are already available, this being Auburn Gallipoli Mosque, Omar Mosque – Auburn, Masijid Abu Bakr Al-Siddeeq Mosque, Islamic Dawah Centre Mosque and Auburn Musallah Mosque and Ferndel Street South Granville, Masjid El Noor.

Over the years we have seen and had many proposals from Cumberland Council. Whilst it is evident further plans are in progress with the council, at this time, this request is not in the best interest of the area and community.

Yours faithfully,



23rd August 2019

2 6 AUG 2019

Cumberland Council

Notice of Development Application

Premises: 2/2-6 Peel Street Holroyd

Proposal: Section 8.3 Review of Council Refusal for the use of premises as a

place of public worship

Applicant: MB Town Planning

Development Application: 2018/185/1

Dear Mayor,

l, wish to strongly reject this notice of development application.

I am concerned with this notice of development and the lack of parking available and traffic congestion to this area. From the details available the impact to the local area and surrounding residents in the respect of parking, people from the local area and outside the area will see this area become chaos.

The light industrial area has never impacted on the residents within the area until now. I believe the Premises as a place of public worship will hold between 200 to 300 people and not close until 10pm at night. This is not acceptable to the residents and aged residents within the area. This small, quiet and harmonies industrial area is not equipped to cater to the number of people and cars. This will affect residents.

The Traffic Congestion for this area is a major concern. Residents should never have to park elsewhere. Residents should always be able to park out the front of their own home. Chaos will occur from the traffic congestion from the proposed units in The Crescent, the Sports ground for local and outsider use.

In close proximity to Holroyd, Premises/Places of worship are already available, this being Auburn Gallipoli Mosque, Omar Mosque – Auburn, Masijid Abu Bakr Al-Siddeeq Mosque, Islamic Dawah Centre Mosque and Auburn Musallah Mosque and Ferndel Street South Granville, Masjid El Noor.

The premises as a place of public worship is not the best fit for this area and community.

Yours faithfully,



Sarah Pritchard

From:

Sent: Monday, 26 August 2019 6:31 AM

To: Nirosha Mendis; Records Department

Cc: Sarah Pritchard

Subject: Re: Section 8.3 Review of Refusal DA 2018/185/1 2/2-6 Peel Street, Holroyd

26 August 2019

Development Application: 2018/185/1 Council Reference: DA 2018/185/1 Premises: 2/2-6 Peel Street Holroyd

Proposal: Section 8.3 Review of Council Refusal for the use of Premises as a Place of Public Worship

Re: DA 2018/185/1 Development Application 2/2-6 Peel Street Holroyd

I refer to your letter of 12 August 2019 and previous letter of 22 July 2019. I maintain my strong objection to this DA proposal for the reasons outline below.

Noise Pollution

The development of a public worship hall will lead to a heightened increase in noise pollution from traffic and people gathering in the area for worship daily. Where additional events are held at the venue particularly around special worship seasons this will led to further noise from traffic and gathering of crowds.

The proximity of the development is very close to residential areas. Refractory Court building backyards face Walpole Street. There is very little space between the proposed development and the residential buildings. Refractory court buildings currently face dust pollution as well from Walpole Street. This will increase exponentially with increase traffic in and out of the prayer hall.

Stress on Parking and Traffic Congestion

Holroyd Gardens surrounding areas see a lot of traffic especially in the weekends. Currently, Refractory Court and adjacent streets see a lot of parking overflows and traffic congestion from Holroyd Gardens. The increased amount of traffic from the very early hours of the mornings to late at nights from the proposed prayer hall, by vehicles entering and leaving and worshipers congregating prior to and after prayers, would add to traffic congestion and be extremely disturbing to all nearby residents in this area.

Risk to public safety especially children

Residents around Holroyd Gardens are predominately young couples with little kids.

The huge increase in traffic flow and the constant traffic flow at all hours will be a major safety issue to residents especially children.

I urge the Council to consider the well- being of the local residents, its rate payers, when considering this DA. The close proximity of the prayer hall to local families and its impact; not only increase noise pollution, and traffic congestion but also heightens safety risk. For these reasons, Council should deny this DA and maintain its refusal.

Yours Sincerely

On Thu, Aug 8, 2019 at 2:56 PM Nirosha Mendis Nirosha.Mendis@cumberland.nsw.gov.au wrote:

Dear Sir/Madam,

Please see attached correspondence.

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Sarah Pritchard

From: Sent: To: Cc: Subject:	Monday, 26 August 2019 10:39 AM Records Department Nirosha Mendis Review of Council Refusal to DA 2018/185/1 (Proposal to Use of Premises as a Place of Public Worship)
26 August 2019	
Attn: Miss S Pritchard Cumberland Council 16 Memorial Avenue Merrylands, NSW 2160	
Dear Sir/Madam,	
RE: Review of Council Refu Public Worship)	sal to DA 2018/185/1 (Proposal to Use of Premises as a Place of
I would like to express my o	pposition to this development application.
I noticed that there is no cha	anges to the parking arrangements of the worshippers.
parking space to each worst regarding to an allocation of	worship regardless of what religion or faith, should provide enough hipper or member. I noted in the application that there is no mention a parking spots to each worshipper. Therefore, it will then create a bigents of Refractory Court for not having an enough parking space.
during Friday worshipped. C	ers are continuously parked at Refractory Court and Brickworks Drive Consequently, the sudden influx of motor vehicles using street parking ested Refractory Court and will create a very big problem to the
Respectfully Yours,	
	1



Tuesday, 27 August 2019

Cumberland Council

PO Box 42 Merrylands NSW 216

Attention: The General Manager (cc Dania Elassi & Miss S Pritchard)

Re: Development Application (Ref 2018/185/1)

Section 8.3 Review Of Council Refusal For The Use Of Premises As A Place Of

Public Worship

Dear Sir (and Ms Elassi & Miss Pritchard),

I am writing to you regarding the recent Notice of Development (Ref 2018/185/1) that we have received. We are occupants of a nearby property where we conduct our business of manufacturing signage and similar associated products. We also are a tenant of 2-6 Peel Street Holroyd (same complex as the currently operating place of worship)

We have previously received notice of development for this proposal and our position on the matter remains largely unchanged. Our comments are as follows.

While we don't have objection to the intended use (Place of Worship) of 2/2-6 Peel Street, Holroyd – we do have serious concerns regarding the impact caused by the significant increase in vehicular and pedestrian traffic in the immediate and surrounding areas. Friday appears to be the day of the week of most activity (confirmed in the previously submitted Statement of Environmental Impact) – during which time there is a huge influx of traffic attempting to find parking in the area. At these times there are several hundred visitors to the place of worship. While we have noticed that traffic wardens are now in place on Fridays, and much traffic seems to be using the carpark at the corner of Peel and Robert Streets, there is no proper foothpath and there have been many 'near misses' of pedestrians walking along the roadway. Further, late comers to the events seems to be quite frantic and lose regard for their surroundings (and even become aggressive in their haste to make it to their destination on time). There are quite regularly heavy, oversized vehicles operating within Peel Street that struggle for manoeuvrability – the large number of cars and pedestrians creates a very real cause for concern of an accident taking place.

Further, given there are frequently events held at the sporting ground in Peel Street (involving busloads of school children, and cars driven by spectators and parents) we have concern that the culmination of both events potentially occurring on the same day may not only result in significant disruption, but also the increased possibility an accident / injury occurring.

Also, we don't understand how the Place of Worship has been permitted to operate despite previous applications having been rejected.

Again, we don't have objection to the intended use of the premises – however it is our and concern that the immediate area is unable to accommodate the increased volume of pedestrians and vehicles and is therefore an unsuitable location for the intended use of the premises.

Thank you for taking the time to consider our concerns. Should you wish to discuss further, please feel free to contact the undersigned.



Sarah Pritchard

From:

Sent: Tuesday, 27 August 2019 12:03 PM

To: Records Department

Subject: Submission (public): DA-185/2018 HOLROYD - DA's - 2 / 2 - 6 Peel ST, HOLROYD

NSW 2142

Dear Miss Pritchard,

I'm writing to you regarding the application above. And I would like to express my opinion/concern.

I have a property in Holroyd, and when the property subject to the application above was used as a place a worship, people used to flood the surrounding streets with cars and on many occasions park in our front yard, which lead to few confrontations. Specially that all worshipers were men (no women or children) that was by itself an intimidation for the neighbourhood (finding a bunch of middle age men out of your door , a home alone mom will be so intimidated asking not to park on our Grass) .

If the above application is to be approved or reviewed, it is in the best interest of the community that this place has enough private parking, and we are talking about 60-70 plus car spots.

Thanks for taking the time to read my e-mail.

--

Regards

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Our ref: 01623 Your ref: 2018/185

28 August 2019

The General Manager Cumberland Council 16 Memorial Avenue PO Box 24 Merrylands NSW 2160

Sender to keep 603 08498844 093

BY EMAIL AND EXPRESS POST: council@cumberland.nsw.gov.au

Dear Sir /Madam

Re:

Submission on Request for Review Decision of Development

Application & Notification by Cumberland Local Planning Panel

Premises:

2/2-6 Peel Street, Holroyd

Proposal:

Use of Premises as a Place of Public Worship

Applicant:

MB Town Planning (on behalf of Charitable Islamic Association of

Beirut City Incorporated)

Development Application DA 2018/185

We act for The Owners - Strata Plan No. 75506 (the Owners Corporation). Further to our letter to Council dated 19 August 2019 under the clause titled "5. Unauthorised work", the Owners Corporation makes the following additional submissions:

In NSW Civil and Administrative Tribunal (the Tribunal) proceedings Charitable Islamic Association of Beirut City Incorporated v The Owners-Strata Plan No 75506 [2019] NSWCAT No. SC 18/11282 (a copy of which was attached to the 19 August 2019 letter), the Tribunal found that the unauthorised works included structural works that had not been certified as adequate, we refer to paragraph 61 of the written decision. The Tribunal also found that additional works to secure fire and life safety were required after considering an expert report by Mr Kieran Tobin, we refer to paragraphs 56. The Owners Corporation is unaware as to whether additional works have been undertaken.

The unauthorised structural works, and additional works required to ensure fire and life safety are clearly safety issues that pose a risk to and affect not only the Owners Corporation, the lot owners within the scheme and their occupiers and visitors, but also the patron's to the Applicant's lot. Accordingly, in their review of the Applicant's DA, Council should consider whether the Applicant has adequately addressed the structural and fire safety short comings that were present on 5 December 2017 before granting a change of use that has been facilitated by the construction of the unauthorised works. As noted above, the Owners Corporation does not know as to whether additional works have been undertaken.

NEWCASTLE P: 02 4032 7990 591 Glebe Rd

SYDNEY P: 02 8706 7060 Suite 9.02, 46 Market St ADAMSTOWN NSW 2289SYDNEY NSW 2000

CANBERRA P: 02 6140 3270 Level 5, 15 Moore St CANBERRA CITY ACT 2600

KERIN BENSON LAWYERS ABN 53 168 995 266 www.kerinbensonlawyers.com.au Fax: 02 8706 7061

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In their written decision, the Tribunal also found that an Owners Corporation was entitled to refuse that a special by-law be made to regularise unauthorised works that have the affect of changing the use of the lot, we refer to paragraphs 49 to 52 of the written decision. The Tribunal accepted evidence that hundreds of persons were attending the Applicant's lot and impacted the other lot owners access to their lots and parking within their lots and common property, and that this affected all lot owners within the strata scheme, we refer to paragraph 52 of the written decision. The written decision highlights that the Applicant's unauthorised works had already severely impacted on the amenity of the common property of the strata scheme, and was impacting the surrounding public spaces including car park use and road use which we are instructed continues of occur to date.

Disclosure of Political Donations

Neither I, nor the company of which I am a director of, not have a financial interest in the development application and have not made any political donations for the benefit of a political party, an elected member, group, candidate, local Councillor or council employee

If you have any questions, please contact Gemma Lumley 02 8706 7060 or gemma@kerinbensonlawyers.com.au

Yours sincerely

CC:

Kerin Benson Lawyers
Contact: Gemma Lumley

Office: Sydney

Karl Okorn Sarah Pritchard



Sarah Pritchard

From: Wednesday, 28 August 2019 11:47 AM Sent: To: Sarah Pritchard Cc: Records Department; Subject: Fw: Letter of Objection - Section 8.3 Review of DA Refusal - DA2018/185/1 - Unit 2/2-6 Peel Street Holroyd Attachments: Ncat Peel St.pdf; The GM Cumberland Council Unit - 2-6 Peel Street Holroyd - Place of Public Worship.pdf Sarah, Hi. Please find attached my clients objection to this Review Application. Regards, Allan Caladine Town Planning Consultant

Caladines Town Planning Pty Ltd 1 Lynbrook Court Castle Hill NSW 2154 Ph (02) 96597211 Fax (02) 96597244 0413 597 295

Email: caladines@optusnet.com.au





Civil and Administrative Tribunal New South Wales

Case Name: Charitable Islamic Association of Beirut City

Incorporated v The Owners-Strata Plan No 75506

Medium Neutral Citation: [2019] NSWCAT

Hearing Date(s): 3 July 2018; subsequent timetable for written

submissions

Date of Orders: 13 June 2019

Date of Decision: 13 June 2019

Jurisdiction: Consumer and Commercial Division

Before: G J Sarginson, Senior Member

Decision: The application is dismissed.

If there is an application for costs, it is to be made in writing by 14 days of the date of this decision, with a copy filed with the Tribunal and served on the other

party.

The application is to include reference to whether the party making the application consents to the issue of costs being determined on the papers. If such an application is made, the Tribunal will make further directions regarding the filing and serving of written

submissions.

If no costs application is made, each party will bear its own costs of the proceedings in accordance with s 60 (1) of the Civil and Administrative Tribunal Act 2013

(NSW).

Catchwords: STRATA SCHEMES---Application for special

privileges by-law---Whether unreasonably refused

Legislation Cited: Civil and Administrative Tribunal Act 2013 (NSW)

Environmental Planning and Assessment Act 1979

NSW).

Strata Schemes Management Act 2015 (NSW)



Cases Cited: Ainsworth v Albrecht [2016] HCA 40

Capcelea v The Owners-Strata Plan No 48887 [2019]

NSWCATCD 27

Owners Strata Plan No 50411 & Ors v Cameron North

Sydney Investments Pty Ltd [2003] NSWCA 5. Roseby v The Owners-Strata Plan No 2400 [2018]

NSWCATCD 72

Category: Principal judgment

Parties: Charitable Islamic Association of Beirut City

Incorporated (Applicant)

The Owners - Strata Plan No. 75506 (Respondent)

Representation: Counsel:

Mr T. Bors (Applicant)

Mr M. Klooster (Respondent)

Solicitors:

Strata Specialist Lawyers (Applicant)

Kerin Benson Lawyers Pty Ltd (Respondent)

File Number(s): SC 18/11282

Publication Restriction: Nil



REASONS FOR DECISION

- The proceedings involve a dispute under the *Strata Schemes Management Act 2015* (NSW) ('the SSMA') between a Lot owner and the owners corporation regarding the use of a Lot and common property as a prayer hall for persons of the Muslim faith.
- The proceedings involve an application by the Lot owner for the passing of a special privileges by law which the Lot owner asserts was unreasonably refused by the owners corporation; and the owners corporation giving consent to the Lot owner lodging a Development Application with the local Council.
- In this decision, any reference to "the Lot owner" is a reference to the applicant; and any reference to "the owners corporation" is a reference to the respondent.
- 4 The applicant is the owner of Lot 2.
- The strata scheme is comprised of six (6) Lots and is located at Merrylands in an area zoned as "IN2 Light Industrial" by the local Council. Prior to the purchase of Lot 2 by the applicant, all of the Lots in the strata scheme were used as light commercial premises, including warehouses.
- The strata plan was registered on 25 August 2005. Lot 2 was purchased by the applicant in about March 2016.
- Petween purchase the date of purchase of Lot 2 and March 2017, the applicant conducted significant modification of the Lot and surrounding common property to transform the Lot into premises for use as a prayer hall. The modifications to the property relevantly include:
 - (a) Replacement and extension of the ground floor bathroom below the northern mezzanine;



- (b) Installation of a prayer room in the level of the northern mezzanine;
- (c) Removal of ground floor bathrooms and conversion into a store room below the western mezzanine;
- (d) Enclosure of stairs from the ground floor to the western mezzanine level, and the extension of the western mezzanine level to create two offices; a kitchen; and a bathroom;
- (e) Installation of an air-conditioning system;
- (f) Installation of security alarm and closed circuit television camera system.
- 8 The modifications to common property were conducted without the knowledge or consent of the owners corporation, or any Development Application being approved by the local Council.
- 9 From 31 March 2017, the applicant has conducted prayer meetings at the Lot.
- 10 Other than Lot 2, the other 5 Lots that comprise the registered strata plan continue to be used for light industrial purposes.
- In May 2017, in Matter No SC 17/21877, the owners corporation sought orders from the Tribunal for the applicant to remove unauthorised alterations to common property and restore the common property.
- 12 On 23 November 2017, the Tribunal relevantly ordered that the applicant:
 - (i) Remove all unauthorised alterations and additions to common property and restore common property at its own cost by 31 March 2018;



- (ii) Notify the strata scheme's managing agent within 7 days of the completion of the restoration works and allow a representative of the owners corporation to inspect the works.
- The Lot owner lodged an appeal to the Appeal Panel of the Tribunal from the decision of the Tribunal dated 23 November 2017. However, the appeal was based upon the Tribunal's failure to grant the Lot owner an adjournment. Subsequent to the hearing of this matter, the Appeal Panel of the Tribunal in Matter AP 17/54206 dismissed the Lot owner's appeal. The decision of the Appeal Panel is dated 10 September 2018, and the Medium Neutral Citation is [2018] NSWCATAP 207.
- Neither party in these proceedings made any application for these proceedings to be adjourned until the Appeal Panel proceedings were determined; and both parties submitted that this application should be determined.
- As the Appeal Panel proceedings involved different issues to the issues being determined by the Tribunal in these proceedings, the Tribunal has given no weight to the reasons of the Appeal Panel, which in any event occurred after the close of the timetable for written submissions in these proceedings. However, the Appeal Panel proceedings were raised by the owners corporation regarding the issue of jurisdiction under s 232 of the SSMA, and the Tribunal will discuss that issue later in this decision.
- In July 2017, the owners corporation engaged a building consultant Mr Mark Kavanagh of Integrated Consultancy Group to inspect Lot 2 and surrounding common property and prepare a report. The report of Mr Kavanagh is dated 19 July 2017.
- 17 Between July 2017 and early December 2017 there was correspondence between the parties and their legal representatives regarding a Development Application being lodged by the Lot owner with the local Council to approve a



change in zoning and the modifications to the Lot and common property; and a special privileges by-law being passed to approve the alterations of the common property.

- The Lot owner submitted 2 Development Applications to the local Council in 2017, but withdrew the applications and intended to file a further Development Application after obtaining advice from a planning consultant (MB Town Planning) and other consultants.
- On 5 December 2017, the owners corporation held its annual general meeting ('AGM'). Relevantly, there were 2 Motions considered by the AGM.
- Motion 15 was that a special privilege by law be passed pursuant to s 141 of the SSMA authorising the "Past Works" conducted by the Lot owner ("Past Works" being defined as the work identified at paragraph 7.3 of the report of Mr Kavanagh dated 19 July 2017), with the Lot owner to provide within 28 days certification that the Past Works complied with "the Building Code of Australia; pertinent Australian Standards; and manufacturers specifications" and a building certificate under Section 149A to 149E of the *Environmental Planning and Assessment Act 1979* (NSW).
- Further, Motion 15 stated that, if a building certificate under the relevant provisions of the *Environmental Planning and Assessment Act 1979* (NSW) was not provided within the stipulated time; the owners corporation must consent to the Lot owner making such an application within 7 days and the Lot owner must then lodge then application with the local Council within 7 days.
- Motion 16 was that the owners corporation consented to the Lot owner lodging a Development Application with the local Council regarding the modifications to the Lot and common property, and would provide written consent to such an application including the affixing of the common seal of the owners corporation on the application. It was noted in Motion 16 that the consent of the owners corporation to the Lot owner lodging a Development



Application did not indicate the owners corporation was giving consent to any subsequent application by the Lot owner for the passing of a special privileges by-law regarding the works.

- No representative of the Lot owner attended the AGM, nor was there any proxy vote by the Lot owner. According to the affidavit of Mr Moustapha Darwiche, President of the Lot owner, this was because "the date was missed in my diary".
- Both Motion 15 and Motion 16 failed to pass. According to the minutes of the AGM and the statutory declaration of the strata manager of the owners corporation Mr Stephen Webb dated 21 June 2018, Lot owners other than the owner of Lot 2 had appointed persons from the owners corporation's Solicitors, Kerin Benson Lawyers, to act as proxies. The AGM was held at the offices of the owners corporation's Solicitors. Voting was comprised by the lodging of proxy forms by the Lot owners of owners of Lots 1, 3, 4, 5, and 6. The owners of Lots 1, 3, 5 and 6 voted against Motions 15 and 16.

THE CLAIM

- 25 The Lot owner seeks the following orders:
 - (a) An order pursuant to s 149 of the SSMA that a special by-law be made in the same terms as Motion 15 of the AGM dated 5 December 2017;
 - (b) An order pursuant to s 232 of the SSMA that the owners corporation consent to the lodging of a Development Application by the Lot owner, in the same terms as Motion 16 of the AGM dated 5 December 2017.

EVIDENCE OF THE PARTIES

26 Neither party sought to cross examine the witnesses of the other party.



27 The documentary evidence of the parties was as follows:

Applicant

Affidavit of Mr Moustapha Darwiche dated 30 May 2018, and attached documents. Such documents relevantly included a report of Mr Blaszczakiewicz, structural engineer, dated 6 February 2018; a copy of a Development Application to the local Council including a report by Mr Tobin of BCA Vision; and correspondence between the parties.

Respondent

- 29 Statutory Declaration of Mr Stephen Webb, strata manager, dated 21 June 2018;
- 30 Statutory Declaration of Mr Peter Wahbe, director of the owner of Lots 4 and 5, dated 21 June 2018;
- 31 Statutory Declaration of Mr David Wehbe, director of the owner of Lots 1, 3 and 6, dated 21 June 2018;
- 32 Statutory Declaration of Ms Gemma Lumley, employed Solicitor for the Solicitors for the owners corporation, dated 21 April 2017.

APPLICABLE LEGAL PRINCIPLES-UNREASONABLE REFUSAL TO PASS SPECIAL PRIVILEGES BY-LAW

- The Lot owner is an "interested person" within the meaning of s 226 of the SSMA and has standing to bring the application. On 5 March 2018, NSW Fair Trading Strata Mediation Unit issued a letter stating that mediation had been declined by the owners corporation. Accordingly, the Tribunal accepted the filing of the application under s 227 (1) (b) of the SSMA.
- 34 Under s 111 of the SSMA, a Lot owner must not perform work affecting common property (relevantly, other than the provisions dealing with cosmetic work by a Lot owner or minor renovations by a Lot owner under ss 109 and



110 of the SSMA which are clearly inapplicable to this dispute) without the passing of a common property rights by-law, or approval of the owners corporation by special resolution or any other manner authorised by the by-laws.

35 A "common property rights by-law" is defined in s 142 of the SSMA as:

142 Common property rights by-law

For the purposes of this Act, a *common property rights by-law* is a by-law that confers on the owner or owners of a specified lot or lots in the strata scheme:

- (a) a right of exclusive use and enjoyment of the whole or any specified part of the common property, or
- (b) special privileges in respect of the whole or any specified part of the common property (including, for example, a licence to use the whole or any specified part of the common property in a particular manner or for particular purposes),

or that changes such a by-law.

- 36 By reason of s 141 (1) of the SSMA, a common property rights by-law must be passed by a special resolution of the owners corporation.
- 37 Any such common property rights by-law may be passed authorising alterations to common property that previously occurred.
- 38 Section 149 of the SSMA states:

149 Order with respect to common property rights by-laws

- (1) The Tribunal may make an order prescribing a change to a by-law if the Tribunal finds:
- (a) on application made by an owner of a lot in a strata scheme, that the owners corporation has unreasonably refused to make a common property rights by-law, or
- (b) on application made by an owner or owners corporation, that an owner of a lot, or the lessor of a leasehold strata scheme, has unreasonably refused to consent to the terms of a proposed common property rights by-law, or to the proposed amendment or repeal of a common property rights by-law, or



- (c) on application made by any interested person, that the conditions of a common property rights by-law relating to the maintenance or upkeep of any common property are unjust.
- (2) In considering whether to make an order, the Tribunal must have regard to:
- (a) the interests of all owners in the use and enjoyment of their lots and common property, and
- (b) the rights and reasonable expectations of any owner deriving or anticipating a benefit under a common property rights by-law.
- (3) The Tribunal must not determine an application by an owner on the ground that the owners corporation has unreasonably refused to make a common property rights by-law by an order prescribing the making of a by-law in terms to which the applicant or, in the case of a leasehold strata scheme, the lessor of the scheme is not prepared to consent.
- (4) The Tribunal may determine that an owner has unreasonably refused consent even though the owner already has the exclusive use or privileges that are the subject of the proposed by-law.
- (5) An order under this section, when recorded under section 246, has effect as if its terms were a by-law (but subject to any relevant order made by a superior court).
- (6) An order under this section operates on and from the date on which it is so recorded or from an earlier date specified in the order.
- In Roseby v The Owners-Strata Plan No 2400 [2018] NSWCATCD 72 at [21][24], the Tribunal set out the relevant principles applicable to whether the
 owners corporations refusal was "unreasonable" as follows:

"In respect of predecessor provisions under the *Strata Schemes Management 1996* (NSW) the principles for whether or not a decision of the owners corporation was, or was not, reasonable were set out by Member Ringrose in *Carroll OC SP 865 v Aldritt* [2013] NSWCTTT 525 at [54]-[55] as follows:

"The provisions of section 140 and of section 158 of the Act each require a determination of whether a decision or the actions of an Owners Corporation were unreasonable. "Unreasonable" is not defined in the Act. It is therefore to be understood as it would be in the common everyday meaning of that word (see Sole Australia Pty Limited v Public Interest Advocacy Centre) and anor (1992) 36 FCR 111 at 122 and Curragh Coal Sales Company Pty Limited v Wilcox (1984) FCR 46 per Davies J). The Macquarie dictionary provides the following definition:

"unreasonable"- not reasonable, not endowed with reason, not guided by reason or good sense, not based on or in accordance with reasonable sound judgement.





The test of what is reasonable is an objective test which requires the existence of facts which are sufficient to induce that state of mind in a reasonable person (see *George v Rocket* [1990] HCA 26; (1990) 170 CLR 104 at 112). A decision by the Owners Corporation to withhold consent could be seen as reasonable if there was, on the material before it, a sound basis for making that decision. Conversely if there was no such sound basis it would be unreasonable."

Application of the dictionary meaning of "unreasonable" was also the approach adopted by Senior Member Thode in *OC SP 69481 v Want* [2013] NSWCTTT 440 at [47].

In Bartlett v Owners Corporation SP 1429 ('Bartlett') [2011] NSWCTTT 219, Member Ross stated:

"It is immaterial that there was also material which may not provide a sound basis for the decision. The onus is on the appellant to demonstrate that the Owners Corporation decision was unreasonable. The Owners Corporation does not have to prove that it acted reasonably in refusing its consent to the proposed by-law".

The principle that the onus is upon the Lot owner to demonstrate that the decision of the owners corporation was unreasonable, rather than the owners corporation having to prove it acted reasonably, was applied by Member Ringrose in Olive Grove Investment Holdings Pty Ltd v The Owners-Strata Plan No 5942 [2015] NSWCATCD 120 at [69]."

A Lot owner bringing an application that the refusal of a proposed special privileges by-law must demonstrate the unreasonableness of the refusal, not the reasonableness of the proposed change (*Ainsworth v Albrecht* [2016] HCA 40 at [55]; [63]-[64]; [74]; [84]-[90]). Regarding this issue, and the relevant considerations under s 149 of the SSMA, the Tribunal stated in *Capcelea v The Owners-Strata Plan No 48887* [2019] NSWCATCD 27 at [56]-[59]:

"The fundamental assessment, on which the challenging owners bear the onus of proof as further discussed below, is whether or not, taking into account those interests, rights and expectations, the decision to refuse the proposed by-law was unreasonable.

But the exercise required by s 149(2), unlike the exercise in *Ainsworth*, requires not only the consideration of an objective rational basis for refusal taking into account the interests of all owners in their lots and the common property but, also, an assessment of that basis by taking into account the rights and expectations of the owners propounding the by-law and anticipating a benefit from them.



It is not a simple balancing exercise to test for reasonableness of the proposal being rejected, as the adjudicator engaged in and the Queensland Court of Appeal endorsed, in *Ainsworth*.

But it is an exercise in which the unreasonableness of a refusal is assessed by, not only the interests of the refusing owners in their perception and expression of the status quo property rights, but also by the rights and reasonable expectations of the proponent owners that the refusing owners ought (to avoid acting unreasonably) have taken into account in coming to a decision. The Tribunal intrudes into the decision because it is required by the wording of s 149(2) to have regard to the matters in s 149(2) as they presented at the time of the refusal, and on an objective basis, in assessing the quality of the decision made by the refusing owners."

UNREASONABLE REFUSAL TO PASS SPECIAL PRIVILEGES BY LAW-SUBMISSIONS OF THE PARTIES

The Lot Owner

- The Lot owner's submissions and submissions in reply regarding the reasonableness of the decision of the owners corporation at the AGM dated 5 December 2017 to refuse to pass the proposed special privileges by-law can be summarised as follows:
 - (a) The minutes of the AGM contain no information regarding the reasons why the majority of Lot owners voted against Motions 15 and 16 at the AGM;
 - (b) There is nothing to indicate the Lot owners who voted at the AGM considered the report of Mr Kavanagh, nor his comments in the report regarding the compliance with plans; quality of construction; or compliance with the Building Code of Australia or National Construction Code;
 - (c) There is nothing to indicate the owners corporation or Lot owners considered the "compliance assessment report of Mr Tobin of BCA Vision dated 28 March 2017:
 - (d) The only matters raised in evidence by Lot owners involve the use of Lot 2 as a prayer hall involving an increased number of



visitors to the strata scheme at certain times; parking concerns; and safety concerns. There was no evidence that such matters were considered at the AGM, and "the specific instances" referred to in the evidence of Mr Wahbe and Mr Wehbe "were yet to occur as at December 2017.

- (e) Further, the matters raised in evidence by the Lot owners did not address the issue of whether the by-law ought to be made; and whether the owner of Lot 2 be permitted to make an application for a building certificate from the Council, which were the subject matter of the Motions. The proposed special privileges by-law only related to the modifications and alterations to common property, not the use of the Lot. The proposed by-laws did not seek any approval or consent for the Lot to be used for a certain purpose (being use as a prayer hall). Accordingly, it was unreasonable for the other Lot owners to consider the purpose of the modifications and alterations to common property, or the effect such modifications and alterations would have rather than the modifications and alterations themselves.
- (f) Any issues regarding the structural integrity; quality; or compliance with relevant codes and Australian Standards regarding the works are adequately dealt with in Clauses 4 and 5 of the proposed special privileges by-law, because the onus is placed upon the Lot owner to provide appropriate evidence and certification regarding the structural adequacy of the works.
- (g) The alterations to common property do not affect the use and enjoyment of other Lot owners to the common property or their Lots.
- (h) The Lot owner has "an expectation to develop the Lot and so much of the common property to maximize its use of the Lot".



The Owners Corporation

- 42 The submissions of the Owners Corporation can be summarised as follows:
 - (a) No structural plans have been provided to the owners corporation regarding the alterations to common property.
 - (b) The report of Mr Kavanagh expressly states that he does not comment upon the structural adequacy of the works.
 - (c) The report of Mr Blaszczakiewicz of Demlakian Consulting Engineers is irrelevant because it came into existence after the AGM on 5 December 2017.
 - (d) In any event, Mr Blaszczakiewicz does not certify the structural integrity of the works.
 - (e) Lot owners have a reasonable expectation that other Lot owners will only use Lots in accordance with the permitted use prescribed by the planning laws. The area is zoned light commercial; Lot 2 was used previously for light commercial purposes; and other Lot owners use their Lots for light commercial purposes.
 - (f) The practical effect of the modifications and alterations to common property is that Lot 2 and common property attached to Lot 2 is being used as a prayer hall. Large number of persons regularly gathers at the strata scheme, which is located in an industrial estate area. This creates parking and access difficulties for the other Lot owners, whose use of their Lots involves trucks, forklifts and couriers accessing their Lots and common property.
 - (g) The proposed special privileges by-law is inadequate because it does not identify who performed the works or that they were



suitably licenced, and the warranties contained in the proposed by-law are ineffectual because cl 7 of the proposed by-law refers to work that has not yet been performed, rather than works that have previously been performed.

CONSIDERATION-WAS THE REJECTION OF THE PROPOSED SPECIAL PRIVILEGES BY-LAW UNREASONABLE?

- The evidence of Mr Wahbe and Mr Wehbe refer to the amount of persons attending the strata scheme for prayer meetings. Mr Wahbe refers to having personally reviewed CCTV footage from May to June 2018. The specific events in May and June 2018 are irrelevant, because they occurred after the AGM on 5 December 2017.
- However, Mr Wahbe also states that the first prayer meeting was conducted on 31 March 2017 and he has been advised by tenants of Lots that "on a Friday hundreds of people attend the midday prayer service and parking and navigating through Peel and Walpole streets is difficult due to the large number of people". Mr Wahbe also states that the large number of people that attend prayer services, particularly on a Friday, cause access and parking problems, and raise potential safety issues in circumstances where other than Lot 2 the Lots are used as warehouses, and large numbers of persons are parking and attending the area proximate to the strata scheme.
- 45 Mr Wehbe also states that having a large number of persons using common property to access Lot to that are not employees, couriers, customers or tradespersons is a safety concern, and:

"Parking is limited in the scheme and on the surrounding streets with access being tight for large trucks if cars are parked on either side of the street. Using Lot 2 as a place of worship attracts hundreds of people and affects the parking for the employees and visitors for the businesses operating out of the other Lots in the strata plan.

Cars belonging to people attending Lot 2 of Friday for midday prayers often park in the car spaces designated for Lot 1.

When the Friday prayers are over hundreds of people leave dangerously cross the road in front of cars and trucks".

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- Mr Darwiche in his affidavit of 30 May 2018 does not dispute that large numbers of persons attend Lot 2 on Fridays for prayer services, but states that no other Lot owners made him aware prior to the AGM on 5 December 2017 that they had any "comments or concerns" regarding the alternations and modifications to Lot 2 and common property, or its impact upon the interests of other Lot owners.
- The Tribunal accepts that large numbers of persons attend the strata scheme to participate in prayers at Lot 2 on Fridays, and many of those persons travel by car, which then involves cars being parked on common property or the adjacent street area.
- The strata scheme is located in an area zoned for light industrial purposes, and other than the modification of Lot 2 and surrounding common property into a prayer room, the strata scheme has been, and continues to be used for light industrial purposes.
- The interests of the owners of Lots 1, 3, 4, 5 and 6 regarding the use of their Lots and common property include the use and operation of their Lots and common property to facilitate the use of their Lots for light industrial purposes. Such use involves Lots being used as warehouses, and the Lots being accessed through common property by vehicles delivering and transporting materials on a regular basis, and parking on common property for that purpose.
- 50 The alterations and modifications of Lot 2 and associated common property by the applicant have caused a large number of persons to attend the strata scheme and adjacent area for the purpose of attending the prayer hall. This is a fundamentally different use of the common property than for light industrial purposes. The Tribunal accepts that the owners of Lots 1, 3, 4, 5 and 6 had, at the date of the AGM on 5 December 2017, valid concerns regarding the large number of persons who were attending the strata scheme on Fridays to attend prayer meetings, and the affect that was having upon



parking and accessing the Lots by employees; customers; and delivery persons attending Lots 1, 3, 4, 5 and 6.

- The submission of the Lot owner is that s 149 of the SSMA should be construed in a manner that focusses upon the physical alterations and modifications of the Lot and their structural integrity, rather than how such modifications and alterations changed the use of the Lot.
- However, s 149 (2) (a) of the SSMA refers to the "interests of all owners in the use and enjoyment of their lots and common property" being considered. The alterations and modifications to Lot 2 and associated common property have caused a large number of persons to attend the strata scheme on Fridays for the purpose of prayer. This affects the interests of the other Lot owners by having the practical effect of restricting access to their Lots and the ability to park on common property. Section 149 (2) (a) is not to be interpreted in a manner that does not consider the change in use of the Lot and how it has affected the use and enjoyment of other Lot owners to their Lots and the common property of the strata scheme, particularly where the change in use is inconsistent with the zoning of the area by the local Council as light industrial.
- The Lot owner submits that it has the right to use and enjoy its Lot and common property, and that the alterations and modifications are consistent with that right. The Tribunal must consider the rights of the Lot owner in the context of s 149 (2) (a) of the SSMA, and has done so. What the owner of Lot 2 has done is to convert a Lot used previously for light industrial purposes into a prayer hall.
- However, the rights of the Lot owner are not unfettered. The Lot owner purchased a Lot in a strata scheme in an area zoned by the local Council as light industrial. The other Lots in the scheme were used for light industrial purposes. Without any notice to the owners corporation, and without having planning permission by the local Council, the Lot owner performed very significant alterations and modifications to common property which caused a



substantial change in the previous use of the Lot and caused a large number of persons to attend the strata scheme on an ongoing basis for reasons that had nothing to do with accessing light industrial premises.

- Further, as of 5 December 2017, the only expert evidence regarding the works provided to the owners corporation by the Lot owner was the report of Mr Kieran Tobin, of BCA Vision dated 26 June 2017 that was prepared as part of the Lot owner's Development Application, and was further submitted to the owners corporation prior to the AGM on 5 December 2017.
- Although Mr Tobin asserts that the "proposed works are consistent with the relevant Building Code of Australia clauses", he identifies further work that needs to be performed to ensure appropriate fire rating is achieved regarding under stair storage enclosures beneath each of the stairs to the mezzanine level. Further, Mr Tobin recommended that all exit door handles be replaced; an additional fire hose reel be installed at the rear of the premises; portable fire extinguishers be installed; and exit lights be made operational and tested.
- The Lot owner provided no information to the owners corporation regarding who it intended to engage in such work; when such work would be done; and that the persons engaging in such work would be suitable licensed and insured.
- The owners corporation had obtained a report from Mr Kavanagh (Integrated Consultancy Group), building consultant, dated 19 July 2017.
- Mr Kavanagh stated that, other than the necessity for a step ramp to be installed adjacent to a disabled toilet under the northern mezzanine area, the works he inspected were compliant with the National Construction Code and were generally of a "high standard". However, Mr Kavanagh also stated that he was "unable to comment on the structural adequacy of the works other than what could be felt e.g. would the structure physically shake".



The Lot owner did not obtain any expert evidence or certification by a suitably qualified expert, such as a structural engineer, that the works were structurally sound prior to the AGM on 5 December 2017. The Lot owner submits that it was unnecessary to do so, in circumstances where the proposed special privileges by law states at clause 4:

"The Owner must, within 28 days of the making of this by-law, provide the following to the owners corporation in relation to the Past Works:

- (a) certification that the Past Works were carried out in accordance with the Building Code of Australia, pertinent Australian Standards, and manufacturer's specifications;
- (b) subject to clause 5 and only if required at law, a copy of a building certificate under Section 149A to 149E of the Environmental Planning and Assessment Act 1979 in relation to the Past Works."
- However, although clause 4 of the proposed special privileges by-law places an obligation on the Lot owner to provide "certification" within 28 days of the making of the by-law, the fact that there was not any expert evidence that clearly stated that the structural modifications and alterations to common property were adequate, in circumstances where there had been significant structural changes, was a relevant matter to be considered by the owners corporation regarding whether or not to consent to the proposed special privileges by-law at the AGM on 5 December 2017.
- The fact that the Lot owner has obtained an expert report after AGM on 5 December 2017 and its contents is irrelevant to whether the decision made at the AGM not to pass the proposed special privileges by-law was unreasonable. The information contained in that report (and any further expert reports obtained by the parties) become relevant if there is a further Motion by the Lot owner regarding a special privileges by-law.
- The Lot owner raises in its submissions that the owners corporation did not give reasons in the minutes of the AGM on 5 December 2017 why the Motions failed to pass, or otherwise give an explanation for the decision. However, the task of the Tribunal in this application is to consider whether, assessed objectively and taking into account the considerations under s 149



- (2) of the SSMA, whether the Lot owner has established that the decision of the owners corporation not to pass the special privileges by-law was unreasonable. It is the decision itself, not the adequacy of the explanation of the decision, which is the focus of s 149 of the SSMA.
- The Tribunal is not satisfied that the Lot owner has established on the balance of probabilities that the decision of the owners corporation not to pass the proposed special privileges by-law on 5 December 2017 was unreasonable within the meaning of s 149 of the SSMA.

THE ORDER SOUGHT THAT THE OWNERS CORPORATION CONSENT TO THE LODGING OF A DEVELOPMENT APPLICATION

- The second order sought by the applicant is that the owners corporation provide consent to the Lot owner lodging a Development Application with the local Council. Any Development Application will likely deal with seeking a change to the zoning of the Lot as being in a light industrial area, and will further involve consideration being given to access and parking issues.
- 66 Section 232 of the SSMA relevantly states as follows:

"232 Orders to settle disputes or rectify complaints

(1) Orders relating to complaints and disputes

The Tribunal may, on application by an interested person, original owner or building manager, make an order to settle a complaint or dispute about any of the following:

- (a) the operation, administration or management of a strata scheme under this Act,
- (b) an agreement authorised or required to be entered into under this Act
- (c) an agreement appointing a strata managing agent or a building manager,
- (d) an agreement between the owners corporation and an owner, mortgagee or covenant chargee of a lot in a strata scheme that relates to the scheme or a matter arising under the scheme,
- (e) an exercise of, or failure to exercise, a function conferred or imposed by or under this Act or the by-laws of a strata scheme,

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(f) an exercise of, or failure to exercise, a function conferred or imposed on an owners corporation under any other Act.

(2) Failure to exercise a function

For the purposes of this section, an owners corporation, strata committee or building management committee is taken not to have exercised a function if:

- (a) it decides not to exercise the function, or
- (b) application is made to it to exercise the function and it fails for 2 months after the making of the application to exercise the function in accordance with the application or to inform the applicant that it has decided not to exercise the function in accordance with the application.

(3) Other proceedings and remedies

A person is not entitled:

- (a) to commence other proceedings in connection with the settlement of a dispute or complaint the subject of a current application by the person for an order under this section, or
- (b) to make an application for an order under this section if the person has commenced, and not discontinued, proceedings in connection with the settlement of a dispute or complaint the subject of the application.

(6) Disputes relating to consent to development applications

The Tribunal must consider the interests of all the owners of lots in a strata scheme in the use and enjoyment of their lots and the common property in determining whether to make an order relating to a dispute concerning the failure of an owners corporation for a strata scheme to consent to the making of a development application under the *Environmental Planning and Assessment Act 1979* relating to common property of the scheme.

..."

- The owners corporation submitted that the Tribunal had no jurisdiction to make such an order by reason of s 232 (3) of the SSMA, because the Lot owner had commenced Appeal Panel proceedings involving Matter SC 17/21877.
- The Tribunal does not accept that the Appeal Panel proceedings involving Matter SC 17/21877 deprive the Tribunal of jurisdiction under s 232 of the SSMA in these proceedings. Those proceedings involved an application brought by the owners corporation for the Lot owner to restore common

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property. That is an entirely separate issue and separate cause of action to a dispute regarding an owners corporation refusing to consent to a Development Application being lodged.

In respect of Development Applications that affect common property (as distinct from Development Applications that wholly involve Lot property) the consent of the owners corporation is required, but only before the approval of the Development Application. The consent of the owners corporation is not required to make or lodge the Development Application: Owners Strata Plan No 50411 & Ors v Cameron North Sydney Investments Pty Ltd [2003] NSWCA 5.

The owners corporation submits that, if the Tribunal is against it on the jurisdiction point, then it accepts that the Lot owner should not be deprived of the opportunity to lodge a Development Application, in circumstances where the owners corporation (and individual Lot owners) can make objections to the local Council as part of the Development Application consideration process. As the owners corporation correctly concedes, consent by an owners corporation to a Lot owner lodging a Development Application is not a concession that the owners corporation agrees with the substance of the Development Application.

Onder these circumstances, the Tribunal would have no hesitation making an order that the owners corporation consent to the Lot owner making a Development Application to the local Council, save for one issue that goes to the exercise of discretion. The order sought by the applicant is that the owners corporation consent to the Development Application "in the form considered in by the respondent in the general meeting on 5 December 2017". In submissions, the Lot owner stated that a further Development Application had been lodged with the local Council. However, considering the evidence of Mr Darwiche that the Lot owner had engaged further consultants and was in the process of lodging a further Development Application, it is unclear to the Tribunal whether the Development Application is the same, or



different, to the Development Application that was before the AGM on 5 December 2017.

- If the Development Application is different, there is no utility to making an order that the owners corporation give consent to a Development Application "in the form considered by the respondent in the general meeting on 5 December 2017".
- Accordingly, the Tribunal does not make the order sought. The Lot owner can again seek that the owners corporation consent to the making of the particular Development Application that has been lodged. Considering the reasoning process of the Tribunal in these proceedings and the concession made by the owners corporation regarding the issue of consent, it is extremely difficult to envisage how the owners corporation could justify any future refusal of consent.

CONCLUSION

The application is dismissed. However, the dismissal of the application under s 149 of the SSMA does not prevent the Lot owner putting forward a fresh Motion seeking the passing of a special privileges by-law to be considered at a meeting of the owners corporation, and obtaining further evidence that addresses concerns of the other Lot owners.

COSTS

As both parties are legally represented, the potential exists for a costs application. If any such application is made, it is to be made in writing by 14 days of the date of this decision, with a copy filed with the Tribunal and served on the other party. The application is to include reference to whether the party making the application consents to the issue of costs being determined on the papers. If such an application is made, the Tribunal will make further directions regarding the filing and serving of written submissions.



76 If no costs application is made, each party will bear its own costs of the proceedings in accordance with s 60 (1) of the Civil and Administrative Tribunal Act 2013 (NSW).

ORDERS

- 77 The Tribunal makes the following orders:
 - (1) The application is dismissed.
 - (2) If there is an application for costs, it is to be made in writing by 14 days of the date of this decision, with a copy filed with the Tribunal and served on the other party. The application is to include reference to whether the party making the application consents to the issue of costs being determined on the papers. If such an application is made, the Tribunal will make further directions regarding the filing and serving of written submissions.
 - (3) If no costs application is made, each party will bear its own costs of the proceedings in accordance with s 60 (1) of the Civil and Administrative Tribunal Act 2013 (NSW).



I hereby certify that this is a true and accurate record of the reasons for decision of the New South Wales Civil and Administrative Tribunal.

Registrar



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The General Manager Cumberland Council 16 Memorial Avenue Merrylands NSW 2160 26 August 2019

Attention: Sarah Pritchard Senior Development Planner

Re: Section 8.3 Review Application
Refusal of Development Application – 2018/185/1
Use of Premises as a Place of Public Worship
Unit 2, 2-6 Peel Street Holroyd

Dear Sarah,

I refer to the abovementioned Review Application and advise that I act on behalf of who is the owner of within the light industrial complex at 2-6 Peel Street Holroyd.

On behalf of my client, I wish to lodge an objection to the abovementioned review application that seeks to have Council's Local Planning Panel to review their decision to refuse the original DA to use the Unit 2 for the purpose of a place of public worship.

As Council is well aware, the church is already using Unit 2 for the purpose of a place of public worship and enjoying the benefits of car parking legally allocated on the strata plan to unit 2 however I am instructed that some church members from time to time park their vehicles in other unit owner's car spaces, which is causing problems amongst other tenants in this complex

As previously raised in my firm's original letter of objection to the refused DA, the church has already carried out physical works to the building including works to common property without development consent.

The Body Corporate for the complex refused to grant owners consent to the church to lodge an application to Council to regulate the unauthorised works. The Church subsequently lodged an appeal with the Civil and Administrative Tribunal NSW however this appeal was dismissed. I am advised that a subsequent appeal by the church to the Appeal Panel of the Tribunal was lodged but was dismissed on 13 June 2019. See copy of such appeal judgment attached.

Commentary on this issue as part of Council's assessment of this s8.3 review application is a consequence of the Chair of Council's the Local Planning Panel asking a question during the meeting about how that appeal was progressing. In light that the Tribunal's Appeal Panel has now refused the churches appeal, this information is relevant as a public interest matter.





The reasons why we believe the DA should be refused are set out as follows:

Holroyd DCP 2013 - Part A General Controls

On-Site Car Parking

Unit 2 within the complex is provided with 6 associated on site car parking spaces. The proposed place of public worship pursuant to Part A of Holroyd DCP 2013 requires the provision of 63 spaces (535m2 divided by 8.5m2 = 63 spaces).

The proposal therefore provides a shortfall in on site car parking of 57 spaces, which is unacceptable in a built urban environment that is on the interface with high density residential development across the road in Peel Street where on street car parking is not readily available.

The applicant relies on the use of other spaces within the subject site, which are owned by other occupants of the complex. It is understood that other occupant's car parking spaces are already being used by members of the church during worship times.

The applicant also relies on providing designated car parking spaces on street that are policed by traffic wardens to control the use of on street parking solely by members of the church during prayer times. The centre also relies on car-pooling and the use of nearby public car parking areas to justify the proposal on car parking grounds.

The shortfall in the amount of onsite car parking and the on street parking arrangements proposed clearly demonstrate that the use of the site for the purpose of a place of public worship is unacceptable as it will unreasonably impact upon the use of the sites light industrial complex as a whole and more broadly impact upon the local precinct in terms of safety for pedestrians and road users in that the proposal seeks to utilise designated on street public parking for a site specific land use.

Holroyd DCP 2013 – Part G Places of Public Worship Locational requirements Objectives

01.To guide the appropriate location of places of public worship to ensure that amenity for surrounding residents and businesses is maintained.

O2. To ensure the dimensions for sites of places of public worship are appropriate with regard to the character and use of the area.

O3. To ensure sites and streets are capable of containing the required parking and stormwater management facilities on site.

O4. To minimise the locating of conflicting land uses within the vicinity of places of public worship.

Comment

Part G of Holroyd DCP - Place of Public Worship, provides clear objectives for the location of these types of land uses.

The proposal does not comply with the objectives of Part G of Council's DCP in that:

 The proposal will impact upon the amenity of local residents and occupants of other unit owners within the light industrial complex that my client in part owns;

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- The use will have unacceptable amenity impacts upon other uses in the area in terms of on and off street car parking and general loss of amenity;
- The use is currently in operation and is already causing impacts upon other users within my client's site and other members of the general public utilizing the local road network and on street car parking.

7. Parking and Traffic

Objectives

- O1. To ensure the provision of adequate car parking spaces for places of public worship.
- O2. To ensure the safety of both pedestrians and other vehicle users in the surrounding locality.
- O3. To require that the provision of vehicular parking does not reduce opportunities for deep soil zones within a site.
- O4. To ensure that the impact of parking and vehicular movement for a place of public worship is assessed and does not affect the amenity of the surrounding locality

Comment

As mentioned previously in this submission, the proposal is required to provide 63 on site car spaces whereby only 6 car spaces are provided for unit 2.

This departure will adversely impact upon other units within my clients light industrial unit complex with members of the church already parking their cars within other unit owners car spaces.

The proposal therefore does not comply with the relevant objectives for Parking and Traffic of that are contained within Part G of this DCP.

Operational Management Objectives

- O1. To ensure the amenity of residents within the vicinity of a place of public worship is maintained and any potential impacts are minimised.
- O2. To create a balance of flexibility of hours of use for a place of public worship, whilst maintaining adequate amenity for surrounding residents.
- O3. To ensure any ancillary uses of a place of public worship are adequate and do not impact on the amenity on the surrounding area.

Comment

Because the church land use is already in operation, it can readily be seen that the way it operates already fails to meet the objectives of this control.





In conclusion, we say that:

- The proposal provides insufficient car parking to comply with Council's DCP numeric controls for this type of land use or complement the Part G objectives for a Place of Public Worship DCP;
- Because the proposal only provides for 6 on site car spaces, the departure from the DCP control of 57 spaces demonstrates the proposal is an overdevelopment of the site:
- Use of on street car parking and nearby public car parks as alternative methods to
 justify the land use is inappropriate for a development of this scale;
- The proposed land use will impact upon the amenity of occupants within my clients light industrial complex and also those residential uses opposite the site;
- The proposal is inconsistent with the objectives of the Environmental Planning and Assessment Act 1979 as it fails to provide for the orderly and economic use of land and
- The proposal is not in the public interest as it will have unreasonable environmental
 impacts upon the amenity of the local neighbourhood.

Should Council need to discuss any of the abovementioned comments, please do not hesitate to contact me.

Yours sincerely,

Allan Caladine

Town Planning Consultant

ALLAN CALADINE
Town Planner MPIA

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Local Government Specialist ABN 91 096 903 347



Sarah Pritchard

From:

Sent: Wednesday, 28 August 2019 5:04 PM

Subject: DA Place of Public Worship 2/2-6 Peel St Holroyd

Dear Council

I object to this application on the grounds of insufficient parking. I would advise Council to consider that the applicant's original intention was to have 320 people in this building, and unless part of the building will be knocked down to provide parking, then the building can still hold 320. That the applicant just reduced the numbers is laughable. The traffic around Wellington Rd mosque on Friday afternoon will demonstrate what happens when places of public worship are not done with very strict guidelines. In my experience attendance figures and hours of operation are not accurate and bound to increase. Places of public worship are no longer small buildings serving the immediate community where most people walked to get there, but are now serving a wider area where most people would be driving, maybe only one person per car if coming from work.

Having lived at my address for many many years I have witnessed what was a small church and local congregation being taken over by a regional church whose original intention was to build a 960 seat cathedral with no parking spaces. I have seen them make life unpleasant for neighbours who sold up and thus they have expanded from 21-31 Bolton St Guildford and into Station St. So I am well aware about the rubbery figures about attendance and hours of operation. Not only are they disrespectful of the neighbourhood but they don't pay taxes.

Please contact me if you need more information.

Yours sincerely





Your Ref: DA-2018/185/1

27th August 2019

The General Manager Cumberland Council PO Box 42 MERRYLANDS NSW 2160

By Post and Email: council@cumberland.nsw.gov.au

Dear Sir / Madam

RE: Notice of Development Application

PREMISES: 2/2-6 Peel Street, Holroyd

PROPOSAL: Section 8.3 Review of Council Refusal for the use of Premises as a

Place of Public Worship

APPLICANT: The Charitable Islamic Association of Beirut City Incorporated

DEVELOPMENT APPLICATION: 2018/185/1

We refer to Council's letter dated 22 July 2019 in relation to the review of Councils refusal of the development application for change of use by the owners of 2/2-6 Peel Street, Holroyd.

We are the directors of the registered proprietor/s of Unit 1, 3 & 6, 2-6 Peel Street. Our tenants operate:

- Unit 1 Raysons Constructions Pty Ltd: Storage of Construction Materials and Equipment. Raysons regularly have staff entering and leaving the premises to pick up construction equipment or materials that are stored on site. They also receive deliveries to the unit which are then sent out to site when required.
- Unit 3 Kingstar Flooring & Joinery: A flooring retailer that provides the supply and
 install of Timber Floors as well as other residential joinery products. They often have
 bulk deliveries of material that is then delivered to each customer as required.
- Unit 5 Technical Glass Aluminium: TGA are a Window Manufacturer & Installer.
 They regularly receive bulk deliveries of aluminium & glass which they use to
 manufacture the windows and then deliver to site for installation. This means they
 have a regular flow of trucks in and out of their unit.



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We refer to the Development Application DA-185/2018 submitted by The Charitable Islamic Association of Beirut City Incorporated (the **Applicant**). The Applicant is the registered proprietor of Lot 2, 2-6 Peel Street, Merrylands and proposes to change the use of Lot 2 from a factory unit to a 'place of worship / prayer hall' and to regulate 'associated internal works'.

We object to the abovementioned review of the refused development application to change the use of 2/2-6 Peel Street, Holroyd from a factory to a prayer hall and to regulate the internal works conducted by the Applicant on the following grounds(as per our original objection):

1. Building Works

The Applicant has made extensive alterations to Lot 2 in violation of both planning and strata legislation. The Applicant has completed the following works in Lot 2:

North Mezzanine

- stripping out the original ground floor level male and female and disabled WC which includes the removal of existing waterproof membrane and fixtures and fittings including floor and wall tiles, toilet and basin;
- the North Mezzanine Level has been extended out (South) to approximately 6000 mm leaving an open area under the extended section;
- the upper area of the mezzanine has been fully plaster boarded to create a "private prayer room";
- a new tiled bathroom including disabled WC and large washing area has been constructed within the closed off area on the ground floor beside the stairs;

Western Mezzanine

- stripping out the original ground floor male and female and disabled WC which includes
 the removal of existing waterproof membrane and fixtures and fittings including floor
 and wall tiles, toilet and basin and amendments to plumbing capping the pipes and
 converting the area to a store room;
- the West Mezzanine Level has been extended out (East) to approximately 7,000mm to line up with the doglegged Northern end dividing wall between Lots 2 and 3 in the Strata Plan;
- the upper mezzanine level has been full plasterboard sheeted and floor finished with HWD T&G boards;
- the installation of new partition walls to create two separate offices, a kitchen and a small tiled bathroom including installation of a new waterproof membrane and fixtures and fittings including floor and wall tiles, basin and toilet;
- enclosure of the stairs in the ground floor area.

We note Council is aware of the unauthorised works and has issued orders 2 and 12 pursuant to section 121B of the *Environmental Planning and Assessment Act 1979* (**EPA Act**). The works also required the prior consent from the Owners Corporation which has not been obtained. The Applicant has made unauthorised alterations to the common property. The Owners Corporation applied to the NSW Civil and Administrative Tribunal (the **Tribunal**) and



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obtained orders that the Applicant reinstate the alterations made to the common property by 31 March 2018 (we refer to proceedings no. SC 17/21877). The Applicant appealed the decision of the Tribunal and the orders made in November 2017 in proceedings SC 17/21877. We note that the appeal was dismissed by the Appeal Panel on 13 June 2019

Pursuant to clause 49(1) of the EPA Act a development application may be made by any person, with the consent in writing of the owner of the land. The Owners Corporation is the registered proprietor of the common property affected by the building works and has not provided its consent to the Applicant to lodge any development application seeking to regularise the internal works conducted to the lot and the common property. To this extent the development application has not satisfied clause 49(1) of the EPA Act and should not proceed.

Additionally, the Applicant has been unlawfully operating a prayer hall in Lot 2 from March 2017 and continues to have regular weekly prayer services. Such services are conducted in complete disregard for Council regulations, planning laws and the interests of surrounding neighbours. Council should not allow the Applicant's flagrant disregard for laws and processes to be remedied by retrospectively approving the change of use and completely disregarding the unauthorised works. The Owners Corporation has taken steps in the Tribunal in relation to the Applicant's breaches of the *Strata Schemes Management Act 2015* and the Owners Corporation urges Council to take appropriate action in relation to the Applicant's breach of the EPA Act.

We, along with other owners in the scheme voted overwhelmingly against the motion to approve the unauthorised works. Despite the unauthorised works being complete in April 2017 the Applicant has not submitted any as built structural plans. This is concerning given the unauthorised works relate the extension of a mezzanine level which is used to support many people during daily prayers. The only structural report submitted by the Applicant has significant and concerning caveats such as no structural plans were reviewed and no measurements were taken. As the unauthorised works were complete at the time of the inspection and much of the structural elements enclosed the adequacy of the unauthorised works was tested by shaking the structure which is concerning.

2. Zoning of the Site

The premises is an industrial scheme to which the industrial model by-laws apply. Out of the six lots all but two lots are used as light commercial premises for either light manufacturing or as storage warehouses for import/export businesses. Pursuant to the *Holroyd Local Environmental Plan 2013* (**LEP**) the Strata Plan is zoned IN2 – Light industrial. We refer to the objectives of the zone listed in the LEP:

- To provide a wide range of light industrial, warehouse and related land uses.
- To encourage employment opportunities and to support the viability of centres.
- To minimise any adverse effect of industry on other land uses.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.
- To support and protect industrial land for industrial uses.

The change of use to a place of worship is permitted with the consent of Council. However, the proposed change of use would not support the objectives of the zone and does not support and protect industrial land for industrial purposes. The change of use will have the opposite



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effect reducing industry and job opportunities by replacing a property suitable for use as a factory warehouse with a prayer hall.

Additionally, a prayer hall in the area is not required to meet the day to day needs of workers. There is a mix of ethnicities and religions in the area and more than enough facilities to meet the demand. The Merrylands Prayer Hall, Guilford Mosque and Parramatta Mosque are all located within 10 minutes from 2 -6 Peel Street, Merrylands. Council should consider the objectives of the zone and reject the development application which does not support the objectives or promote industry.

3. Existing Use Rights

As part of the development application the Applicant has indicated that there are existing use rights by ticking the relevant box. The Applicant has not established that there are existing use rights to use the premises as a place of worship. The premises is zoned as light industrial and has been since at least 2003. The Statement of Environmental Effects submitted as part of the development application states that "the title plan image for the site suggests that the existing light industrial/warehouse complex on the site was approved in 2003 and completed in around 2005." The Applicant has illegally utilised the premises in contravention of planning legislation as a prayer hall since March 2017, however this does not amount to existing use rights to use the premises as a place of worship.

4. Maximum Capacity of the Premises

The Applicant has conducted works to the premises to extend the mezzanine levels. In a previous Statement of Environmental Effects dated August 2017 which was submitted to the Owners Corporation the maximum capacity for the premises, following the completion of the mezzanine extensions was 150 people. The revised Statement of Environmental Effects by MB Town Planning dated 31 May 2018 states that the maximum capacity for the same area is 320. Despite contrasting representations about the maximum capacity of the premises, by the Applicant's own admission in proceedings in the Tribunal 400 people attend the Friday prayer service which is well in excess of the maximum capacity outlined in either Statement of Environmental Effects. On Fridays I/we see hundreds of people accessing the premises. If between 300 and 400 people are attending the premises, in excess of the maximum capacity for the space, this causes safety concerns, particularly fire and life safety.

5. Traffic and Parking

Parking within the Strata Plan and on the common property is limited. Pursuant to by-law 1 of the strata scheme an owner or occupier must not park on the common property without prior written consent of the Owners Corporation (no such consent has been provided) and invitees must not park on the common property except in designated visitor car parking spaces. There are two designated visitor car parking spaces and one designated disabled car parking space. There are approximately six car spaces which form part of Lot 2. They are adjacent to the northern and southern facades of the building. There are hundreds of people who attend the Friday prayer services and there is insufficient parking to accommodate the number of people attending.

Attendees have resorted to parking in the surrounding streets being Peel Street, Walpole Street and Fox Street. Attendees have even parked in car spaces belonging to lot owners and common property driveways blocking access. At times the patrons will park other vehicles in forcing patrons to manoeuvre their vehicles in a dangerous manner to exit. Patrons utilise the entrance of the common property drive way off Peel Street as a drop off zone and ignore traffic cones despite the presence of traffic wardens. This has caused parking issues and traffic



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concerns. The premises is zoned light industrial and as such often has large trucks, cars and vans entering and existing and accessing the surrounding streets. The number of cars parking on the street restricts the access of cars and trucks and negatively impacts on the businesses that operate from the premises and surrounding properties.

The traffic control plan relies heavily on off street parking to accommodate spaces for all the patrons that attend the hall. Of the 680 spaces identified in the traffic control plan 480 of the car spaces (76%) are off street parking. When cars park on both sides of the street it is difficult for a car, let alone large trucks to navigate the tight streets in an industrial zoned area. The proposal does not sufficiently regulate street parking and balance the interests and requirements of industries in the area.

6. Surrounding Safety of Pedestrians

The premises is an industrial complex and as stated above all but two of the lots are used for light industrial and warehouses for import/export businesses. Large trucks and forklifts are operated in the Strata Plan and over the common property to facilitate the needs of the businesses. The Applicant has been unlawfully operating as a prayer hall for over a year and this has increased the amount of people accessing the common property throughout the week, not just during Friday prayer service. The increased number of people accessing the common property has created a legitimate safety concern for owners and occupiers in the scheme given the large trucks accessing the common property and surrounding streets. Particularly in circumstances where the unlawful use of Lot 2 may void the insurance of the Owners Corporation.

We further note that should visitors to Lot 2 utilise the six car spaces forming part of the lot, the car spaces are on opposite facades of the building meaning persons attending Lot 2 are accessing Lot 2 from at least two different directions and the common property for each is used for vehicular access to other lots within the Strata Plan.

Disclosure of Political Donations

Neither I, nor the company of which I am a director of, do not have a financial interest in the development application and have not made any political donations for the benefit of a political party, an elected member, group, candidate, local Councillor or council employee.

Should Council have any questions in relation to the above, please do not hesitate to contact us

Yours sincerely



Item No: LPP072/19

DEVELOPMENT APPLICATION-17 NOTTINGHILL ROAD, LIDCOMBE NSW 2141

Responsible Division: Environment & Planning

Officer: Executive Manager Development and Building

File Number: DA-153/2019

Application lodged	27 May 2019	
Applicant	Elray Property Group P/L	
Owner	Elray Property Group Pty Ltd	
Application No.	DA-153/2019	
Description of Land	17 Nottinghill Road, LIDCOMBE NSW 2141, Lot 2 DP	
	962677	
Proposed	Demolition of existing structures and construction of a 48	
Development	place childcare facility with basement level parking to operate	
	7.00 a.m. to 6.00 p.m. Monday to Friday	
Site Area	828.40m ²	
Zoning	R2 – Low Density Residential	
Disclosure of political	Nil disclosure	
donations and gifts		
Heritage	No	
Principal Development	Height of Building	
Standards	Permissible: 9m	
	Proposed: 8.6m	
Issues	Submissions	

SUMMARY:

- Development Application No.DA-153/2019 was received on 27 May 2019 for the demolition of existing structures and construction of a 48 place childcare facility with basement level parking to operate 7.00 a.m. to 6.00 p.m. Monday to Friday
- 2. The application was publicly notified to occupants and owners of the adjoining properties for a period of 14 days between 11 June 2019 and 25 June 2019, between 10 July 2019 and 24 July 2019, and between 8 October 2019 and 22 October 2019. In response, six submissions were received.
- 3. The application is recommended for conditional approval, subject to the conditions as provided in the attached schedule.
- 4. The application is referred to the Panel as the proposal is considered to be contentious due to the number of submissions received.

REPORT:

Subject Site and Surrounding Area



The site forms 17 Nottinghill Road, LIDCOMBE NSW 2141 and is known as Lot 2 DP 962677. The site has an area of 832.89m2 and a frontage to Nottinghill Road of 16.76m. The site has a fall of approximately 1.3m from rear to front.

The site is currently occupied by a single storey stone cottage dwelling and an ancillary structure to the rear.

The subject site is located within an established low-density residential area comprising of older style single storey residential dwellings and cottages and also larger two storey dwellings, as illustrated by an aerial map extract below



Locality Map



Aerial View







Street View

Description of the Proposed Development

Council is in receipt of a development application lodged on 27 May 2019 seeking approval for demolition of existing structures and construction of a 48 place childcare facility with basement level parking to operate 7.00 am to 6.00 pm Monday to Friday. The detailed breakdown of the proposal is as below:

Demolition:

Single storey dwelling

Construction:

- Basement:
 - 12 car spaces (one of which is accessible);
 - Lift and stairs;
 - Waste storage area;
 - Laundry.
- Ground floor:
 - Two play rooms with 24 children each;
 - Children's toilet and nappy change area;
 - Reception;
 - Directors office;
 - Lift and stairs;





- o Kitchen;
- Laundry chute;
- Staff toilet.
- First floor:
 - Staff room;
 - Storage area.

History

The applicant sought pre-DA advice from Council on 30 January 2019 (PL-4/2019).

Applicants Supporting Statement

The applicant has provided a Statement of Environmental Effects prepared by Think Planners dated 16 May 2019 and was received by Council on 27 May 2019 in support of the application.

Contact with Relevant Parties

The assessing officer has undertaken a site inspection of the subject site and surrounding properties and has been in regular contact with the applicant throughout the assessment process.

Internal Referrals

<u>Development Engineer</u>

The development application was referred to Council's Development Engineer for comment who has advised that the development proposal is satisfactory therefore can be supported subject to recommended conditions of consent.

Environment and Health

The development application was referred to Council's Environment and Health Officer for comment who has advised that the development proposal is satisfactory and therefore can be supported subject to recommended conditions of consent.

Landscape Architect/Officer

The development application was referred to Council's Landscape Architect/Officer for comment who has advised that the development proposal is satisfactory and therefore can be supported subject to recommended conditions of consent.

Waste Management



The development application was referred to Council's Waste Management Officer for comment who has advised that the development proposal is satisfactory therefore can be supported subject to recommended conditions of consent.

Child Care Services Coordinator

The development application was referred to Council's Child Care Services Coordinator for comment who has advised that the development proposal is satisfactory subject to amendments which have formed part of the conditions of consent.

External Referrals

Heritage

The site is not heritage listed nor is it in a heritage conservation area, however concerns were raised by residents that the dwelling to be demolished had heritage significance. Council engaged an independent heritage consultant to conduct an investigation into the history of the dwelling, determine whether if the dwelling had heritage significance and whether the dwelling should be considered for local heritage listing.

The report from the consultant concludes as follows:

The report concludes that 17 Nottinghill Road, Lidcombe, does not meet the threshold for listing at the local level for the following reasons:

- The house is of limited historical significance, and information regarding the history and provenance of the dwelling could not be substantiated.
- No. 17 Nottinghill Road is no longer a good example of a Victorian Georgian sandstone cottage, as the dwelling has been substantially modified and is no longer intact.

Accordingly, is not considered to reach the threshold for listing as a heritage item of local significance within the Auburn LEP.

Should demolition of the dwelling be approved by Council, it is recommended that Council attach a condition of consent requiring the archival recording of the dwelling, in accordance with NSW Heritage Office Guidelines. The archival recording should be placed in Council's Local Studies collection.

An appropriate condition is included in the draft conditions to ensure the applicant provides an historical record of the existing building on the site for archival purposes.

The full report is attached as Attachment 6.

Planning Comments

The provisions of any Environmental Planning Instruments (EP&A Act s4.15 (1)(a)(i))

State Environmental Planning Policies



The proposed development is affected by the following State Environmental Planning Policies:

(a) State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)

Clause 7 of SEPP 55 requires Council to be satisfied that the site is suitable or can be made suitable to accommodate the proposed development. The matters listed within Clause 7 have been considered in the assessment of the development application.

Matter for Consideration	Yes/No
Does the application involve re-development of the site or a change of land use?	
Does the application involve re-development of the site or a change of land use?	Yes □ No
	✓ Vaa □ Na
In the development going to be used for a sensitive land use (e.g.: residential, educational, recreational, childcare or hospital)?	⊠ Yes □ No
Does information available to you indicate that an activity listed below has ever been approved, or occurred at the site? acid/alkali plant and formulation, agricultural/horticultural activities, airports, asbestos production and disposal, chemicals manufacture and formulation, defence works, drum re-conditioning works, dry cleaning establishments, electrical manufacturing (transformers), electroplating and heat treatment premises, engine works, explosive industry, gas works, iron and steel works, landfill sites, metal	☐ Yes ⊠ No
treatment, mining and extractive industries, oil production and storage, paint formulation and manufacture, pesticide manufacture and formulation, power stations, railway yards, scrap yards, service stations, sheep and cattle dips, smelting and refining, tanning and associated trades, waste storage and treatment, wood preservation	
Is the site listed on Council's Contaminated Land database?	Yes 🔀 No
Is the site subject to EPA clean-up order or other EPA restrictions?	☐ Yes ☐ No
Has the site been the subject of known pollution incidents or illegal dumping?	☐ Yes ⊠ No
Does the site adjoin any contaminated land/previously contaminated land?	☐ Yes ⊠ No
Has the appropriate level of investigation been carried out in respect of contamination matters for Council to be satisfied that the site is suitable to accommodate the proposed development or can be made suitable to accommodate the proposed development?	☐ Yes ⊠ No
Details of contamination investigations carried out at the site:	
A Phase II Environmental Site Assessment report prepared by Ensubmitted with the application. The report did reveal some potentic concern (lead and asbestos) with regard to contamination and concerned and action Plan is required for the site to be suitable for its intended.	ial matters of cludes that a



Matter for Consideration

Yes/No

A Remedial Action Plan (RAP) was prepared by Envirotech which sets out strategies to be followed. This report finds that the site can be made suitable for the intended use through remedial action. This RAP forms part of the conditions of consent.

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

The proposal does not exceed the biodiversity offsets scheme threshold. Therefore, the proposed vegetation removal is considered acceptable. Please refer to the DCP compliance table for further discussion.

Regional Environmental Plans

The proposed development is affected by the following Regional Environmental Plans:

(a) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The subject site is identified as being located within the area affected by the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. The proposed development raises no issues as no impact on the catchment is envisaged.

(Note: - the subject site is not identified in the relevant map as 'land within the 'Foreshores and Waterways Area' or 'Wetland Protection zone', is not a 'Strategic Foreshore Site' and does not contain any heritage items. Hence the majority of the SREP is not directly relevant to the proposed development).

Children (Education and Care Services) Supplementary Provisions Regulation 2012

Requirement	Yes/No	Comments
28 Space requirements—centre		
based education and care		
services		
(1) The premises of a centre		
based education and care service	Υ	There is a director's office adjacent to
must have:		the reception area
(a) a room or an area that is used		
only for administration of the		
service and for private consultation	Υ	There is a staff room that can be used
between staff and parents, and		for respite of staff on the first floor
(b) a room or an area,		
located away from the areas		
used by children, that is used	N/A	The proposal does not include children
for respite of staff, and		under the age of 2
(c) a room or an area that is		
used only for sleeping for		
children under 2 years of age.	Υ	Room 1: 24 children need 78m²,



Requirement	Yes/No	Comments
requirement	103/110	provided 78.9m²
(2) The premises of a centre based education and care service must have at least 3.25 square metres of unencumbered indoor play space per child that is exclusively for the use of children provided with education and care while in attendance at the service.	Noted	Room 2: 24 children need 78m², provided 79.6m² Noted.
(3) For the purposes of calculating unencumbered indoor play space, items such as any passage way or thoroughfare, door swing areas, kitchen, cot rooms, toilet or shower areas located in the building or any other facility such as cupboards and areas set aside as referred to in subclause (1) are to be excluded.	Y	The childcare centre has one outdoor area. Children 48 need 336m², provided 336m²
(4) Subject to subclauses (7) and (8), the premises of a centre based education and care service must have at least 7 square metres of useable outdoor play space per child that is exclusively for the use of children provided with education and care while in attendance at the service.	Noted	Noted
(5) For the purposes of calculating useable outdoor play space, items such as car parking areas, storage sheds and other fixed items that prevent children from using the space or that obstruct the view of staff supervising children in the space are to be excluded.	Y N/A	Outdoor area is adequately shaded
(6) The outdoor play space must be adequately shaded, having regard to The Shade Handbook, published by the New South Wales Cancer Council in 2008.		
(7) If the Regulatory Authority is satisfied that the location of a	N/A	



Requirement	Yes/No	Comments
centre based education and care service makes it impracticable to provide the required amount of useable outdoor play space, the Regulatory Authority may consent to the provision of some or all of that space in an indoor area that is to be designed and equipped to permit children to participate in activities that promote gross motor skills.		
(8) The Regulatory Authority may impose conditions on such a consent relating to any matter the Regulatory Authority sees fit, including the availability of natural light and ventilation.		

State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017

The relevant provisions of Part 3 are addressed below:

Requirement	Yes/No	Comments	
Part 3 Early education and care facilities—specific development controls			
22 Centre-based child care			
facility—concurrence of	N/A	The proposal complies with regulation	
Regulatory Authority required		107 and 108 of the Education and	
for certain development		Care Services National Regulations	
(1) This clause applies to		and thus does not require concurrence	
development for the purpose of a		from the Regulatory Authority.	
centre-based child care facility if:			
		Regulation 107 requires 3.25sqm of	
(a) the floor area of the		unencumbered indoor space per child	
building or place does not		which has been provided in this	
comply with regulation 107		proposal.	
(indoor unencumbered space			
requirements) of		Regulation 108 requires 7sqm of	
the <u>Education</u> and <u>Care</u>		unencumbered outdoor space per child	
<u>Services</u> National		which has been provided in this	
<u>Regulations,</u> or		proposal.	
(b) the second of the second			
(b) the outdoor space			
requirements for the building			
or place do not comply with			
regulation 108 (outdoor			
unencumbered space			



Requirement	Yes/No	Comments
requirements) of those		
Regulations.		
23 Centre-based child care		
facility—matters for	Noted	See discussion provided.
consideration by consent		
authorities		
Before determining a development		
application for development for the		
purpose of a centre-based child care facility, the consent authority		
must take into consideration any		
applicable provisions of the Child		
Care Planning Guideline, in		
relation to the proposed		
development.		
24 Centre-based child care	A 1 / A	
facility in Zone IN1 or IN2—	N/A	Subject site is not located in these
additional matters for		zones.
consideration by consent authorities		
25 Centre-based child care		
facility—non-discretionary		
development standards		
(1) The object of this clause is to	Noted	
identify development standards for		
particular matters relating to a centre-based child care facility		
that, if complied with, prevent the		
consent authority from requiring		
more onerous standards for those		
matters.		
(2) The following are non-		
discretionary development		
standards for the purposes of section 4.15 (2) and (3) of the Act		
in relation to the carrying out of		
development for the purposes of a		
centre-based child care facility:	Noted	
(a) location—the		
development may be located		
at any distance from an		
existing or proposed early education and care facility,		
Cododion and care facility,	Υ	Complies as discussed above.
(b) indoor or outdoor space	•	25
for development to which		



Requirement	Yes/No	Comments
regulation 107 (indoor		
unencumbered space		
requirements) or 108		
(outdoor unencumbered		
space requirements) of the		
Education and Care		
Services National		
Regulations applies—the		
unencumbered area of		
indoor space and the		
unencumbered area of		
outdoor space for the		
development complies with	Υ	Complies as discussed above.
the requirements of those		·
regulations, or		
(ii) for development to		
which clause 28		
(unencumbered indoor		
space and useable outdoor		
play space) of the Children		
(Education and Care		
Services) Supplementary		
Provisions Regulation 2012	Noted	
applies—the development		
complies with the indoor		
space requirements or the		
useable outdoor play space		
requirements in that clause,		
	Noted	
(c) site area and site		
dimensions—the		
development may be located		
on a site of any size and have		
any length of street frontage		
or any allotment depth,		
	Noted	
(d) colour of building		
materials or shade		
structures—the development		
may be of any colour or		
colour scheme unless it is a		
State or local heritage item or		
in a heritage conservation		
area.		
(3) To remove doubt, this clause		
does not prevent a consent		
authority from:		
5.5.1.5.1ty 1.51111		



Requirement	Yes/No	Comments
(a) refusing a development application in relation to a matter not specified in subclause (2), or		
(b) granting development consent even though any standard specified in subclause (2) is not complied with.		
26 Centre-based child care		
plans (1) A provision of a development control plan that specifies a requirement, standard or control in relation to any of the following matters (including by reference to ages, age ratios, groupings, numbers or the like, of children) does not apply to development for the purpose of a centre-based child care facility:	Noted	
(a) operational or management plans or arrangements (including hours of operation),		
(b) demonstrated need or demand for child care services,		
(c) proximity of facility to other early education and care facilities,		
(d) any matter relating to development for the purpose of a centre-based child care facility contained in: (i) the design principles set out in Part 2 of the Child Care Planning Guideline, or (ii) the matters for consideration set out in Part 3 or the regulatory		



Requirement	Yes/No	Comments
requirements set out in Part 4 of that Guideline (other than those concerning building height, side and rear setbacks or car parking rates).		
(2) This clause applies regardless of when the development control plan was made.		

The Child Care Planning Guidelines also list matters for consideration when assessing development application. This development application is considered to satisfactorily address these matters listed. A full assessment table is attached in Appendix B.

Local Environmental Plans

Auburn Local Environmental Plan, 2010

The provision of the Auburn Local Environmental Plan, 2010 is applicable to the development proposal. It is noted that the development achieves compliance with the key statutory requirements of the Auburn Local Environmental Plan, 2010 and the objectives of the R2 – Low Density Residential Zone.

(a) Permissibility:-

The proposed development is defined as a "centre-based child care facility" and is permissible in the R2 – Low Density Residential Zone with consent.

A centre-based child care facility means:

- (a) a building or place used for the education and care of children that provides any one or more of the following:
- (i) long day care,
- (ii) occasional child care.
- (iii) out-of-school-hours care (including vacation care),
- (iv) preschool care, or
- (b) an approved family day care venue (within the meaning of the Children (Education and Care Services) National Law (NSW)),

Note. An approved family day care venue is a place, other than a residence, where an approved family day care service (within the meaning of the Children (Education and Care Services) National Law (NSW)) is provided.

but does not include:

(c) a building or place used for home-based child care or school-based child care, or



- (d) an office of a family day care service (within the meanings of the Children (Education and Care Services) National Law (NSW)), or
- (e) a babysitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or
- (f) a child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium) to care for children while the children's parents are using the facility, or
- (g) a service that is concerned primarily with providing lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or providing private tutoring, or
- (h) a child-minding service that is provided by or in a health services facility, but only if the service is established, registered or licensed as part of the institution operating in the facility.

The relevant matters to be considered under Auburn Local Environmental Plan, 2010 and the applicable clauses for the proposed development are summarised below.

Auburn LEP 2010 Compliance Table

DEVELOPMENT STANDARD	COMPLIANCE	DISCUSSION
4.3 Height of Buildings - Max. 9m	Y	The maximum building height is 8.6m
4.4 Floor Space Ratio	Y	There is no FSR prescribed to the zone
5.10 Heritage Conservation	Y	There are no heritage items in the vicinity of the development and the subject site is not in a Heritage Conservation area
6.1 Acid Sulphate Soils	Y	Class 5 - Acceptable
6.2 Earthworks	Y	The earthwork will not cause a detrimental impact on the environmental functions and processes
6.3 Flood Planning	Y	The site is not affected by flooding

The provisions of any proposed instrument that is or has been the subject (EP&A Act s4.15 (1)(a)(ii))

(a) Draft State Environmental Planning Policy (Environment)

The draft SEPP relates to the protection and management of our natural environment with the aim of simplifying the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property. The changes proposed include consolidating the following seven existing SEPPs:

- State Environmental Planning Policy No. 19 Bushland in Urban Areas
- State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011
- State Environmental Planning Policy No. 50 Canal Estate Development



- Greater Metropolitan Regional Environmental Plan No. 2 Georges River Catchment
- Sydney Regional Environmental Plan No. 20 Hawkesbury-Nepean River (No.2-1997)
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Willandra Lakes Regional Environmental Plan No. 1 World Heritage Property.

The draft policy will repeal the above existing SEPPs and certain provisions will be transferred directly to the new SEPP, amended and transferred, or repealed due to overlaps with other areas of the NSW planning system.

Changes are also proposed to the Standard Instrument – Principal Local Environmental Plan. Some provisions of the existing policies will be transferred to new Section 117 Local Planning Directions where appropriate.

The provisions of any Development Control Plans (EP&A Act s4.15 (1)(a)(iii))

The Auburn DCP 2010 provides guidance for the design and operation of development to achieve the aims and objectives of the Auburn LEP 2010.

A comprehensive assessment and compliance table is contained in Appendix C.

The proposed development complies with the provisions of Council's Auburn DCP 2010 and is considered acceptable from an environmental planning view point.

The provisions of any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4 (EP&A Act s4.15(1)(a)(iiia))

There is no draft planning agreement associated with the subject Development Application.

The provisions of the Regulations (EP&A Act s4.15 (1)(a)(iv))

The proposed development raises no concerns as to the relevant matters arising from the Environmental Planning and Assessment Regulations 2000 (EP&A Reg).

The Likely Environmental, Social or Economic Impacts (EP&A Act s4.15 (1)(b))

It is considered that the proposed development will have no significant adverse environmental, social or economic impacts in the locality.

The suitability of the site for the development (EP&A Act s4.15 (1)(c))

The subject site and locality is not known to be affected by any natural hazards or other site constraints likely to have a significant adverse impact on the proposed development. Accordingly, it is considered that the development is suitable in the context of the site and surrounding locality.



Submissions made in accordance with the Act or Regulation (EP&A Act s4.15 (1)(d))

Advertised (newspaper)	Mail 🔀	Sign 🖂	Not Required
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In accordance with Council's Notification requirements contained within the Auburn DCP 2010, the proposal was publicly notified for a period of 14 days between 11 June 2019 and 25 June 2019 and again between 10 July 2019 and 24 July 2019 and again between 8 October 2019 and 22 October 2019. The notification generated six submissions in respect of the proposal with nil disclosing a political donation or gift. All submissions received were received during the first notification period. The issues raised in the public submissions are summarised and commented on as follows:

Issu	ie	Planner's Comment
1.	The site notice was covered, then removed	The application has been notified in accordance with the DCP. The site notice was placed on site at the beginning of the exhibition period and evidence is on file attesting to the erection of the site notice at the start of the exhibition period. The application was also notified on Council's website and local newspaper. Council renotified the application for a further two weeks and a new site notice sign was placed on the subject site.
2.	The notification period should be extended until September, November, January, February	The application was re-notified for a further two weeks to allow residents to submit formal objections. Council then sought an independent heritage assessment of the building, upon the completion of this report Council renotified the application for a further two weeks.
3.	Some residents did not receive notification letters	Council record shows that the immediate neighbours were notified via a letter in regards to the application which is in accordance with Council's notification policy. The application was then renotified for a further two weeks which included letters to a wider range of adjoining neighbours and any objector that sought an extension to the notification period.
4.	Full copy of plans and documents to be sent to neighbours/objectors	All relevant plans/documents were available for viewing at Council's libraries and customer service during the notification period. All relevant plans/documents are also available for



		viewing at all times through Council's website.
5.	This is a 2A zone and not for commercial purposes	A child care centre is a permissible form of development in the R2 zone under the Auburn Local Environmental Plan 2010.
6.	The home has great historical value and is a heritage item	The subject property is not listed as a heritage item under Auburn Local Environmental Plan 2010. Furthermore Council has obtained the services of a Heritage Consultant to conduct a review and make recommendation if the property should be locally listed. The recommendation of the report found that the property did not pass the required threshold for it to be listed as a heritage item.
7.	What does '48 place' mean in terms of construction requirement?	The '48 place' means that the child care centre is limited to a maximum of 48 children at any given time.
8.	Is this kind of development acceptable in the zone?	A child care centre is a permissible form of development in the R2 zone under the Auburn Local Environmental Plan 2010.
9.	What other developments are allowed?	A wide range of development is permissible in R2 zone under the Auburn Local Environmental Plan 2010. These are listed in the Auburn Local Environmental Plan 2010.
10.	If there is a child care centre across the road how will this impact other development applications in the future? What kind of things are not allowed to be built/operated near a child care centre?	All future development applications are subject to assessment against the Auburn Local Environmental Plan 2010 and Auburn Development Control Plan 2010 regardless of the childcare centre.
11.	Contact details of panel members to be provided	All submissions are forwarded via Council to the panel members. Residents also have the opportunity to address Panel members on the meeting day being a public meeting.
12.	The child care centre would be located on a busy road	Nottinghill Road is considered a local road and therefore considered to be a safe location for a child care centre.
13.	Carparks are prohibited in a R2 zone	The proposed development is for a child care centre and not a carpark. The carpark is ancillary to the development and therefore permissible. Basement carparks are encouraged for child care



centres in the LGA.
00111100 111 1110 207 1.

The public interest (EP&A Act s4.15(1)(e))

In view of the foregoing analysis it is considered that the development, if carried out subject to the conditions set out in the recommendation below, will have no significant adverse impacts on the public interest.

Section 7.11 (Formerly S94) Contribution Towards Provision or Improvement of Amenities or Services

This part of the Act relates to the collection of monetary contributions from applicants for use in developing key local infrastructure.

Comments:

The development requires the payment of contributions in accordance with Council's Section 94 Contributions Plans.

The calculation is based on the use being employment generating development:

The fee payable is \$12,683.08. This figure is subject to indexation as per the relevant plan. The draft determination attached includes a condition requiring payment of the contribution prior to issue of a Construction Certificate.

Disclosure of Political Donations And Gifts

The applicant and notification process did not result in any disclosure of Political Donations and Gifts.

CONCLUSION:

The development application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979*, Children (Education and Care Services) Supplementary Provisions Regulation 2012, *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017*, Auburn LEP 2010 and Auburn DCP 2010 and is considered to be satisfactory for approval subject to conditions.

CONSULTATION:

There are no further consultation processes for Council associated with this report.

FINANCIAL IMPLICATIONS:

There are no further financial implications for Council associated with this report.

POLICY IMPLICATIONS:

There are no policy implications for Council associated with this report.



COMMUNICATION / PUBLICATIONS:

The final outcome of this matter will be notified in the newspaper. The objectors will also be notified in writing of the outcome.

REPORT RECOMMENDATION:

- That Development Application No. DA-153/2019 for the demolition of existing structures and construction of a 48 place childcare facility with basement level parking to operate 7.00 a.m. to 6.00 p.m. Monday to Friday on land at 17 Nottinghill Road, LIDCOMBE NSW 2141 be approved subject to attached conditions.
- 2. Persons whom have lodged a submission in respect to the application be notified of the determination of the application.

ATTACHMENTS

- 1. Draft Notice of Determination J.
- 2. Architectural Plans J
- 3. Stormwater Engineering Plans J.
- 4. Plan of Management U
- 5. Submissions J 🖫
- 6. Heritage Assessment J
- 7. Childcare Planning Guidelines Assessment J
- 8. ADCP Assessment \checkmark

DOCUMENTS ASSOCIATED WITH REPORT LPP072/19

Attachment 1 Draft Notice of Determination



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CONDITIONS OF DEVELOPMENT CONSENT

DA No: DA-153/2019

Property: 17 Nottinghill Road, LIDCOMBE NSW 2141

Description: Demolition of existing structures and construction of a 48 place

childcare facility with basement level parking to operate 7.00 a.m to

6.00 p.m. Monday to Friday

1. Approved Plans

The development is to be carried out in accordance with the approved stamped plans as numbered below:

Plan Number	Prepared By	Revision No.	Dated
Plan 01 of 08	Idraft Architects	В	27.06.2019
Plan 02 of 08	Idraft Architects	В	27.06.2019
Plan 03 of 08	Idraft Architects	Α	15.03.2019
Plan 4 of 8	Idraft Architects	Α	15.03.2019
Landscape Concept Plan 19039DA1	Vision Dynamics	А	16.04.2019
Colour and Material Scheme	Idraft Architects	DA	15.03.2019
Plan of Management	-	-	28.06.2019
Remedial Action Plan REP- 19-7990-A	Envirotech	A	16.05.2019
Acoustic Report REF-19-7570-A1	Envirotech	A1	23.03.2019

except as otherwise provided by the conditions of this determination (Note:modifications to the approved plans will require the lodgement and consideration by Council of a modification pursuant to Section 4.55 of the Environmental Planning and Assessment Act (as amended)).

Reason:- to confirm and clarify the terms of Council's approval.

2. Time period of consent

This consent shall lapse five (5) years from the date of determination unless the approved building, engineering or construction work has been physically commenced in accordance with this consent.

Development consent for the use of land does not lapse if the approved use of any land, building or work is actually commenced prior to the date on which the consent would otherwise lapse.

<u>Reason</u>:- to satisfy the requirements of Section 4.53 of the Environmental Planning and Assessment Act (as amended).

3. Submission of Construction Certificate



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Construction works are not to commence until such time that a construction certificate for the proposed works has been issued by Council or an Accredited Certifier.

Where an Accredited Certifier issues a construction certificate, a copy of the following documents must be forwarded to Council within 2 days of issue, together with payment of the Council's adopted registration fee: determination; application to which it relates; construction certificate issued; plans and specifications; any fire safety schedule; and any other documents lodged with the certificate.

Any modification involving building works to the approved development made under Section 4.55 of the Environmental Planning and Assessment Act 1979 (as amended) requires the submission of an amended construction certificate.

<u>Reason</u>:- to comply with the requirements of Section 4.19, 6.6, 6.7, 6.12, 6.13, 6.14 of the Environmental Planning and Assessment Act (as amended) and clause 142 of the Environmental Planning and Assessment Regulation 2000.

4. Auburn DCP 2007: Section 7.11 Development Contributions

Development Contributions are payable in accordance with Auburn Council Council's Section 7.11 Development Contribution Plan 2007, which has been prepared under Section 7.11 of the Environmental Planning and Assessment Act 1979 (as amended).

The amounts payable will be adjusted in accordance with the section titled Review of Contribution rates and are generally indexed on a quarterly basis by the Consumer Price Index CPI (all Groups Sydney) unless otherwise stated in the plan.

Contributions will be adjusted at the payment date in accordance with the plan and payment is to be made prior to the issue of any Construction Certificate.

Council's Development Contribution Plan 2007 is available for inspection at Council's Customer Services Centre, Civic Place, 16 Memorial Avenue, Merrylands or online at: www.cumberland.nsw.gov.au

<u>Reason</u>: To ensure that the development complies with the Auburn DCP 2007: Section 7.11 Development Contributions.

5. Auburn DCP 2007 - Employment Generating Development

A sum of \$12,683.08 is to be paid to Council for the purpose of the provision of additional services and public facilities that is likely to generate from employment generating development with the Auburn LGA.

The above sum is broken down to the following items:

Item	Amount
	Amount
Employment Generating Development	\$12,683.08
TOTAL	\$12,683.08

<u>Reason</u>:- to assist in the provision of additional services and public facilities that is likely to generate from employment generating development with the Auburn LGA.



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6. No alteration without prior Council approval

The completed building is not to be altered externally in character or colour without the prior consent of Council.

<u>Reason</u>:- to ensure the external appearance of the development is not obtrusive or offensive and does not degrade the visual quality of the surrounding area.

7. Appointment of Principal Certifying Authority/Notice of Commencement of Work

Site works are not to commence until:-

- a construction certificate for the building work has been issued by the consent authority, and
- b) the person having the benefit of the development consent has:-
 - appointed a principal certifying authority for the building work, and
 - ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
- b1) the principal certifying authority has, no later than 2 days before the building work commences:-
 - notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
 - notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- b2) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:-
 - appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
 - ii) notified the principal certifying authority of any such appointment, and
 - iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- c) the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the erection of the building.

<u>Reason</u>:- to comply with the requirements of Section 4.19, 6.6, 6.7, 6.12, 6.13, 6.14 of the Environmental Planning and Assessment Act (as amended).

8. Principal Certifying Authority

 The person having the benefit of a development consent or complying development certificate for development involving building work or subdivision work may appoint the consent authority, the council or an accredited certifier as the principal certifying authority for the development.



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- 1A) Despite subsection (1), such an appointment may not be made by any contractor or other person who will carry out the building work or subdivision work unless the contractor or other person is the owner of the land on which the work is to be carried out.
- 2) Despite subsection (1), an accredited certifier must not be appointed as the principal certifying authority for development involving subdivision work unless the subdivision to which the work relates is of a kind identified by an environmental planning instrument as one in respect of which an accredited certifier may be a certifying authority.
- A principal certifying authority for building work or subdivision work to be carried out on a site is required to be satisfied:-
 - that a construction certificate or complying development certificate has been issued for such of the building work or subdivision work as requires development consent and over which the principal certifying authority has control, before the work commences on the site, and
 - b) that the principal contractor for the work is the holder of the appropriate licence and is covered by the appropriate insurance, in each case if required by the *Home Building Act 1989*, before any residential building work over which the principal certifying authority has control commences on the site, unless the work is to be carried out by an owner-builder, and
 - c) that the owner-builder is the holder of any owner-builder permit required under the Home Building Act 1989, before an owner-builder commences on the site any residential building work over which the principal certifying authority has control, and
 - d) that building work or subdivision work on the site has been inspected by the principal certifying authority or another certifying authority on such occasions (if any) as are prescribed by the regulations and on such other occasions as may be required by the principal certifying authority, before the principal certifying authority issues an occupation certificate or subdivision certificate for the building or work, and
 - e) that any preconditions required by a development consent or complying development certificate to be met for the work before the issue of an occupation certificate or subdivision certificate have been met, before the principal certifying authority issues the occupation certificate or subdivision certificate.
- 4) A principal certifying authority must also comply with such other requirements of a like or different nature as may be imposed on principal certifying authorities by the regulations.

<u>Reason</u>:- to comply with the requirements of Section 6.5 of the Environmental Planning and Assessment Act (as amended).

9. Recommendation of Heritage Assessment

Prior to the demolition of the existing structures on site – the archival recording of the dwelling shall be done. The recording shall be in accordance with the NSW Heritage Office Guidelines. These archival records shall be submitted to Council for Council's local studies collection.

Reason:- To comply with the recommendations of the Heritage Assessment.



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10. Provision of Street Numbers

A street number is to be displayed in a prominent position at the entrance to the premises. Numbers are to be of a colour contrasting with the wall to which they are affixed.

Reason:- to clearly identify the street number of the property.

11. Compliance with the Building Code of Australia

All building work must be carried out in accordance with the requirements of the Building Code of Australia.

<u>Reason</u>:- to ensure compliance with the requirements of the Building Code of Australia and to comply with Clause 98 of the Environmental Planning and Assessment Regulation 2000.

12. Disabled Access & Facilities

Access and facilities for people with disabilities must be provided in accordance with the relevant requirements of the Building Code of Australia (for all new building work) and in addition, with the relevant requirements of the 'Disability (Access to Premises – Building) Standards 2010' (including for existing buildings, whether or not any works are proposed). Details of the proposed access, facilities and car parking for people with disabilities are to be included in the plans/specifications for the **construction certificate**.

Reason: to ensure compliance with the requirements of the Building Code of Australia

13. Replacement of Principal Certifying Authorities

Unless the relevant authority so approves in writing, a person may not be appointed to replace another person as the principal certifying authority for development.

A principal certifying authority appointed to replace another principal certifying authority must ensure that notice of the appointment and of the approval of that appointment is given to the consent authority (and, if the consent authority is not the council, to the council) within 2 days of the appointment.

<u>Reason</u>:- to comply with the requirements of Section 6.5 of the Environmental Planning and Assessment Act (as amended) and clause 162 of the Environmental Planning and Assessment Regulation.

14. Notice to Allow Inspections

To allow a principal certifying authority or another certifying authority time to carry out critical stage inspections or any other inspections required by the principal certifying authority, the principal contractor for a building site, or the owner-builder, must notify the principal certifying authority at least 48 hours before building work is commenced at the site if a critical stage inspection is required before the commencement of the work.

<u>Reason</u>:- to comply with the requirements of Clause 163 of the Environmental Planning and Assessment Regulation.

15. Erection of Signs



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A rigid and durable sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:-

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

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

Note: Principal certifying authorities and principal contractors must also ensure that signs required by this clause are erected and maintained (see clause 227A which currently imposes a maximum penalty of \$1,100.

<u>Reason</u>:- to comply with the requirements of Clause 98A and 136B of the Environmental Planning and Assessment Regulations.

16. Construction/Demolition Hours

Site works, building works and demolition works, including the delivery of materials or equipment to and from the property are to be carried out between the hours of 7.00 am and 6.00 p.m. only from Mondays to Fridays and between 8.00 am and 4.00 p.m. only on Saturdays. No construction works or deliveries for the construction are to take place on Sundays or public holidays.

Prior to commencement of any demolition or construction work the applicant is to erect signs on the site, which are clearly visible from the footpaths adjoining the site boundaries, which state the permitted construction/demolition hours. These signs must also state "Any instances of site works, building works, demolition works or deliveries outside the permitted hours can be reported to Cumberland Council on 8757 9000 during office hours or 0417-287-113 outside office hours".

<u>Reason</u>:- to reduce nuisance to the surrounding properties during the construction period.

17. Information required prior to the issue of Construction Certificate

The following documentation (where applicable) is to be submitted to Council or the accredited certifier, prior to the granting of the construction certificate:

- Detailed building plans and specifications containing sufficient information to verify that the completed building will comply with the Building Code of Australia.
- A list of any existing fire safety measures provided in relation to the land or any existing building on the land (not applicable to dwellings or outbuildings)
- c) A list of any proposed fire safety measures provided in relation to the land or any existing building on the land (not applicable to dwellings or outbuildings)
- d) A report prepared by a professional engineer detailing the proposed methods of excavation, shoring or pile construction, and what measures are to be implemented to prevent damage from occurring to adjoining or nearby premises as a result of the proposed excavation works. (NOTE: Any practices or procedures specified to avoid damage to adjoining or nearby premises are to be incorporated



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- into the plans and specifications for the construction certificate).
- e) Method of protecting window/door openings as required by BCA Part 3.
- f) Method of ventilating the basement car park. (Note: If mechanical ventilation is required, mechanical ventilation plans shall be submitted that also confirm the minimum height clearances specified by AS 2890.1 – Car parking, will be achieved).

<u>Reason</u>:- to ensure that adequate information is submitted to enable assessment or that the development can proceed with the concurrence of others.

18. Prior to the issue of the construction certificate

The following structural engineering details or design documentation (where appropriate) shall be submitted to the Principal Certifying Authority (Council or accredited certifier) prior to the issue of the construction certificate:

- a) Reinforced concrete strip footings.
- b) Reinforced concrete raft slab.
- c) Suspended reinforced concrete slabs.
- d) Structural steelwork.
- e) Structural timber work exceeding the design parameters of AS1684-1999 "Residential timber-framed construction".
- f) Upper floor joist layout
- g) Retaining walls.
- h) Roof trusses.
- i) Wall/roof bracing
- The existing structure is to be certified as being structurally adequate to carry out the proposed additional loadings.
- k) Other.

<u>Reason</u>:- to ensure the building or structure and its materials and components are capable of sustaining at an acceptable level of safety and serviceability.

19. Infrastructure Fee

The infrastructure inspection fee in accordance with Councils Fees and Charges Schedule shall be paid prior to the issue of the Construction Certificate.

<u>Reason</u>: to contribute to the cost of inspection and identification of any damage to Council's infrastructure as a result of the development.

20. Maintain plans on-site

A copy of the construction certificate, the approved plans & specifications and development consent conditions must be kept on the site at all times and be available to the Council officers upon request.

Reason:- to ensure a record of the approved plans are readily available.

21. PCA – Inspection of works – general & site management

The building works are to be inspected by the principal certifying authority (or other suitably qualified person on behalf of the applicant if permitted by the PCA) to monitor compliance with Council's approval and the relevant standards of construction.

Documentary evidence of compliance with Council's approval and relevant standards of



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construction is to be maintained by the principal certifying authority.

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

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

ADVISORY NOTE

If Council is appointed as the PCA, the following critical inspections (as applicable to the development), must be arranged:

- a) Prior to the commencement of Building Works, ensure erosion controls PCA and the Builders signs are displayed and a temporary toilet is located on site.
- b) Subdivision works (including drainage lines and the construction of roadways)
- c) The pier holes before they are filled with concrete.
- d) The foundation material prior to covering.
- e) The steelwork when in position and before concrete is poured (footings, lintels, beams, columns, floors, walls, retaining walls or the like).
- f) The dampcourse level, ant capping and floor timbers before the floor materials are laid.
- g) The framework including roof members when completed and prior to the fixing of any internal sheets.
- h) Prior to covering waterproofing in any wet area.
- i) Fire resisting construction before concealment.
- j) Upper floor beams and joists before the fixing of any flooring material.
- k) The rainwater drainage lines within the property boundaries when completed and before covering.
- The swimming pool safety fence prior to filling the pool with water.
- m) Foundation material before installation of the swimming pool or laying of any bedding material.
- n) Pool shell reinforcement including pool coping.
- o) Final inspection

A minimum of 48 hours notice must be provided to Council to enable the following inspections to be carried out during the course of construction

<u>Reason</u>:- to ensure the development is adequately monitored during the construction phase.

22. Items not to be placed on roadway

The following items must not be placed on the footpath, roadway or nature strip at any time:-

- a) Building materials, sand, waste materials or construction equipment;
- b) Bulk bins/waste skips/containers; or
- c) Other items that may cause a hazard to pedestrians.



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<u>Reason</u>:- to ensure the public is not inconvenienced, placed in danger and to prevent harm to the environment occurring.

23. Remediation and Validation Works

Remediation and validation works shall be undertaken in accordance with the Remedial Action Plan prepared by Envirotech, their reference REP-19-7990-A dated 16 May 2019. Additionally, any new information that comes to light during remediation, demolition, excavation and/or construction works which has the potential to previous conclusions about site conditions shall trigger compliance with the Unexpected Finds Protocol at section 9.0 of the Envirotech report.

Reason:- to ensure the land is properly remediated and suitable for its intended new use

24. Remediation and validation

The following shall be complied with in respect of remediation and validation works at the property:

- Remediation and validation works shall be carried out in accordance with the approved Remediation Action Plan. The applicant shall inform Council in writing of any proposed variation to the remediation works. Council shall approve these variations in writing prior to the commencement of works. Please note that variations to the approved remediation works may require the submission to Council of a Section 96 Application or further Development Application pursuant to the Environmental Planning and Assessment Act 1979.
- b) After completion of the remedial works, a copy of the Validation Report shall be submitted to Council prior to the commencement of construction works. The Occupation Certificate shall not be issued until Council reviews and approves the final Validation Report. The validation report shall be prepared in accordance with the EPA guidelines, Consulting Reporting on Contaminated Sites, and shall:
 - i) Describe and document all works performed;
 - ii) Include results of validation testing and monitoring;
 - iii) Include validation results of any fill imported on to the site;
 - iv) Show how all agreed clean-up criteria and relevant regulations have been complied with; and
 - v) Include clear justification as to the suitability of the site for the proposed use and the potential for off-site migration of any residual contaminants.
 - c) Following the preparation of the validation report, Council may require that the applicant engage an accredited auditor under the Contaminated Land Management Act 1997 to review the Validation Report prepared by the contaminated land consultant and issue a Site Audit Statement. The accredited auditor shall consult with Council prior to finalising and issuing the Site Audit Statement. The Site Audit Statement should allow for soil access to occur as per the approved Remedial Action Plan.

The accredited auditor shall provide Council with a copy of the Site Audit Report and Site Audit Statement, **prior to the issuing of the Occupation Certificate**.

In circumstances where the SAS conditions (if applicable) are not consistent with the consent, the consent shall prevail to the extent of the inconsistency and a



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Section 96 Application or further Development Application pursuant to the Environmental Planning and Assessment Act 1979 will be required.

<u>Reason</u>:- to ensure the provisions of State Environmental Planning Policy No. 55 – Remediation of Land and the Contaminated Land Management Act are complied with.

25. Remediation works – contact details

The applicant shall provide Council with a 24 hour contact number for the manager of the remediation works prior to the commencement of any works at the site.

<u>Reason</u>:- to ensure a point of contact is provided to Council to liaise with, if necessary, in respect of the remediation works.

26. <u>Discovery of additional information during remediation, demolition or construction</u>

Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination shall be notified to the Council and the PCA immediately.

<u>Reason:</u>- to ensure Council is informed of any new information relevant to site conditions and site contamination associated with the development.

27. Sign to be erected concerning unauthorised entry to the site

A sign must be erected in a prominent position stating that unauthorised entry to the site is not permitted. The sign must also name the builder or other person responsible for the site and a telephone number at which the builder or other person can be contacted outside working hours. Where Council is not the Principal Certifying Authority, the sign shall also display the name and contact details of the nominated Principal Certifying Authority. The sign is to be removed when the building works have been completed.

<u>Reason</u>:- to restrict public access to the site and to provide suitable contact details in a clear and conspicuous position.

28. Toilet accommodation for people working at the site

Suitable toilet accommodation is to be provided at the work site at all times. If temporary toilet accommodation is proposed, it must:-

- · Have a hinged door capable of being fastened from both inside and outside,
- Be constructed of weatherproof material,
- Have a rigid and impervious floor; and
- Have a receptacle for, and supply of, deodorising fluid.

Reason:- to ensure suitable toilet accommodation is provided for workers.

29. Excavated and Filled Areas

All excavated and filled areas shall be battered to a slope not steeper than two (2) horizontal to one (1) vertical and the fill area shall continue a minimum of one metre past the edge of the house, or similarly be retained in accordance with a retaining wall detail approved by Council. In the event that the retaining wall exceeds 600 mm when measured vertically from the base of the cut, the wall shall be designed by a practicing



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Structural Engineer, the details submitted to Council, and approved prior to work commencing.

<u>Reason</u>:- to adequately retain excavated and filled areas and prevent soil movement, which may be detrimental to the subject or adjoining premises.

30. Fencing of Construction Sites – Rental details to be provided to the PCA

Public access to the site and building works, materials and equipment on the site is to be restricted, when work is not in progress or the site is unoccupied.

A temporary hoarding or fence is to be provided to protect the public, located to the perimeter of the site (unless the site is separated from the adjoining land by an existing structurally adequate fence, having a minimum height of 1.5 metres). Hoardings or fences are to have a minimum height of 1.8 metres and be constructed of solid plywood sheeting (painted white) or of cyclone wire fencing with geotextile fabric attached to the inside of the fence, to provide dust control.

Hoardings or fences are to be structurally adequate and be constructed in a good and workmanlike manner and the use of poor quality materials or steel reinforcement mesh as fencing is not permissible.

The public safety provisions and temporary fences must be in place prior to the commencement of any demolition, excavation or building works and be maintained throughout construction.

NOTE: Should ANY part of the fence or hoarding encroach beyond the boundaries of the site, it will be necessary to:-

- Make payment to Council for the rental of the road reserve area in accordance with Council's adopted charges (per metre per month – minimum 3 months) BEFORE the fence/hoarding is erected.
- Supply evidence that the road reserve rental fee has been paid to the PCA and to any authorised Council officer.
- Comply with Council's specifications for the erection of Class A Hoardings.

 $\underline{\textit{Reason}}$:- to provide protection to public places and to prevent unauthorised access to the site.

31. Sedimentation Control

Prior to the commencement of site works, the following measures are to be implemented on the site to assist with sedimentation control during the construction phase of the project:-

- a) A dish shaped diversion drain or similar structure will be constructed above the proposed building works to divert run-off to a stable discharge area such as dense ground cover. This diversion drain is to be lined with turf or otherwise stabilised.
- b) A sediment-trapping fence using a geotechnical fabric specifically designed for such purpose and installed to manufacturer's specifications is to be placed below the construction area.
- c) Vegetation and/or existing building structures will be cleared from the construction site only, other areas to remain undisturbed.
- d) Restricting vehicle access to one designated point and having these driveways



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adequately covered at all times with blue metal or the like.

- e) A vehicle wheel wash, cattle grid, wheel shaker or other appropriate device, shall be installed prior to commencement of any site works or activities, to prevent mud and dirt leaving the site and being deposited on the street.
- f) Building operations such as brick cutting, washing tools or brushes and mixing mortar are not permitted on public roadways or footways or in any other locations which could lead to the discharge of materials into the stormwater drainage system.
- g) Stockpiles of topsoil, sand, aggregate, soil or other material shall not be located on any drainage line or easement, natural watercourse, footpath or roadway and shall be protected with adequate sediment controls.
- h) The installation of gutters, downpipes, and the connection of downpipes to the stormwater disposal system prior to the fixing of the roof cladding.

Such measures are to be maintained at all times to the satisfaction of Council and the Principal Certifying Authority. Failure to do so may result in the issue of penalty infringement notices.

<u>Reason</u>:- to minimise soil erosion and control sediment leaving the site during construction and to prevent water pollution from occurring.

32. Display of a warning sign for soil and water management

Throughout the construction/remediation/demolition period, a warning sign for soil and water management must be displayed on the most prominent point of the building site, visible to both the street and site works.

<u>Reason</u>:- to ensure all building workers are aware of the need to maintain the sediment and erosion control devices.

33. Engineering Design - Basement Excavation

The following engineering details or design documentation (where appropriate) shall be submitted to the Principal Certifying Authority (Council or accredited certifier) **prior to** the issuing of a construction certificate:-

- a) Documentary evidence prepared by a suitably qualified professional geotechnical engineer shall be submitted to the certifying authority, that confirms the suitability and stability of the site for the proposed excavation and building as well as certifying the suitably and adequacy of the proposed design and construction of the building for the site.
- b) A report shall be prepared by a professional engineer and submitted to the certifying authority prior to the issuing of a construction certificate, detailing the proposed methods of excavation, shoring or pile construction, including details of vibration emissions and detailing any possible damage which may occur to adjoining or nearby premises that may be caused by the proposed building and excavation works.

Any practices or procedures specified in the engineer's report in relation to the avoidance or minimisation of structural damage to nearby premises, are to be fully complied with and incorporated into the plans and specifications for the construction certificate.



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A copy of the engineer's report is to be submitted to the Council, if the Council is not the certifying authority.

- c) Driven type piles/shoring must not be provided unless a geotechnical engineer's report is submitted to the certifying authority, prior to the issuing of a construction certificate, which states that damage should not occur to any adjoining premises and public place as a result of the works.
- d) The installation of ground or rock anchors underneath any adjoining premises including (a public roadway or public place) must not be carried out without the specific written consent of the owners of the affected adjoining premises and (where applicable) details of compliance must be provided to the certifying authority prior to the commencement of any excavation or building works.

<u>Reason</u>:- to ensure the proposed method of excavation is suitable for the site and to prevent damage from occurring to adjoining premises.

34. Excavations extending below the base of footings of adjoining development

Where excavations extend below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must preserve and protect the building from damage and, if necessary, underpin and support the adjoining building in an approved manner. The person causing the excavation must give the owner of the adjoining property at least seven (7) days written notice of its intention to excavate below the level of the base of the footing. The person must also furnish the adjoining property owner with particulars of the proposed work.

Reason:- to ensure the support for neighbouring buildings.

35. <u>Dilapidation Report - Prior to Excavation of Basement</u>

A dilapidation report prepared by a *professional engineer* or suitably qualified building professional shall be submitted to the Principal Certifying Authority **prior to the commencement of demolition**, excavation or building works.

The report shall detail the current condition and status of all buildings, including ancillary structures (i.e. including dwellings, residential flat buildings, commercial/industrial building, garages, carports, verandahs, fences, retaining walls, swimming pools and driveways etc.) located upon all of the premises adjoining the subject site

The report is to be supported with photographic evidence of the status of the buildings and a copy of the report must also be forwarded to the Council and to the owners of each of the above stated premises, prior to the commencement of any works. The applicant shall bear the full cost of this report.

<u>Reason</u>:- to enable the monitoring of any potential damage that may be caused to adjoining premises as a result of excavating and building in close proximity to the adjoining premises.

36. Survey Documentation

A Registered Surveyors check survey certificate or *compliance certificate* is to be forwarded to the principal certifying authority (and a copy is to be forwarded to the Council, if the Council is not the principal certifying authority), detailing compliance with Council's approval at the **following stage/s of construction:**-



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- a) Prior to construction of the footings or first completed floor slab (prior to the pouring of concrete), showing the area of the land, building and boundary setbacks.
- b) Prior to construction of the first completed floor/floor slab (prior to pouring of concrete), showing the area of land, building and boundary setbacks and verifying that the building is being constructed at the approved levels.
- c) Prior to construction of *each floor level* showing the land, building and boundary setbacks and verifying that the building is being constructed at the approved level.
- d) On completion of the erection of the building showing the area of the land, the position of the building and boundary setbacks and verifying that the building has been constructed at the approved levels.

Reason:- to ensure each stage of the development complies with the approved plans.

37. Fencing of construction sites – Rental details to be provided to the PCA (A & B Type Hoardings)

A separate application is to be made to Council for Approval under Section 68 of the Local Government Act 1993 to erect any hoarding or scaffolding in a public place and such application is to include:

- A payment to Council for the following fees in accordance with Council's adopted charges:
 - Hoarding/Structure Application Fee
 - Rental of Footpath Area (per metre per month minimum 3 months rental)
 - Footpath Bond
- Submit the following documents to Council with your application:
 - Certificate of Currency for Public Liability Insurance
 - Certificate of Currency for Worker's Compensation Insurance
 - Letter indemnifying Council against claims and expenses made in relation to the existence of the structure and/or traffic provisions
 - Traffic/Pedestrian Control Plan
 - In respect to any required Type B Hoarding, structural certification prepared and sign by an appropriately qualified practising Structural Engineer
- Comply with Council's specifications for the erection of Class A Hoardings.
- Supply evidence to the PCA and to any authorised Council officer that the road reserve rental fee has been paid.

Note: Public access to the site and building works, materials and equipment on the site is to be restricted, when work is not in progress or the site is unoccupied.

A temporary hoarding or fence is to be provided to protect the public, located to the perimeter of the site (unless the site is separated from the adjoining land by an existing structurally adequate fence, having a minimum height of 1.5 metres). Hoardings or fences are to have a minimum height of 1.8 metres and be constructed of solid plywood sheeting (painted white) or of cyclone wire fencing with geotextile fabric attached to the inside of the fence, to provide dust control.

Note: A "B Class" overhead type hoarding is required to be provided to protect the public, located adjacent to the development, prior to the commencement of any works on the site which comprise:



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- Any works or hoisting of materials over a public footway or adjoining premises, or
- Any building or demolition works on buildings which are over 7.5 metres in height and located within 3.6 metres of the street alignment.

Hoardings or fences are to be structurally adequate and be constructed in a good and workmanlike manner and the use of poor quality materials or steel reinforcement mesh as fencing is not permissible.

The public safety provisions and temporary fences must be in place prior to the commencement of any demolition, excavation or building works and be maintained throughout construction. Details of the proposed hoardings or fences located upon the site are to be submitted to the PCA and the public safety provision and temporary fences must be in place prior to the commencement of any site works, demolition, excavation or building works and maintained throughout construction.

<u>Reason:</u> to provide protection to public places, prevent unauthorised access to the site and a safe working environment.

38. Noise from construction activities

Noise from construction activities associated with the development shall comply with the NSW Interim Construction Noise Guidelines (DECCW) 2009.

<u>Reason</u>:- to ensure noise arising from construction activities is in accordance with relevant legislation and Environment Protection Authority requirements.

39. Dial before you dig (advisory)

Dial Before You Dig is a free national community service designed to prevent damage and disruption to the vast pipe and cable networks which provides Australia with the essential services we use everyday – electricity, gas, communications and water.

Before you dig call "Dial before you dig" on 1100 (listen to the prompts) or facsimile 1300 652 077 (with your street no./name, side of street and the distance to the nearest cross street) or register on line at www.dialbeforeyoudig.com.au for underground utility services information for any excavation areas.

The Dial Before You Dig service is also designed to protect Australia's excavators. Whether you are a back yard renovator, an individual tradesman or a professional excavator the potential for injury, personal liability and even death exists every day. Obtaining accurate information about your work site significantly minimises these risks.

<u>Reason:</u> To ensure that essential services such as electricity, gas, communications and water are not affected by excavation or construction.

40. Number of Car Parking Spaces

A total of 12 off-street car parking spaces are to be provided to the development. The spaces are to have minimum dimensions of 5.5 m x 2.4 m and be suitably sealed, marked, drained and freely accessible at all times.

Carparking spaces are not to be enclosed by any device, such as a wire or mesh cage, walls or other similar fixtures unless there is a minimum clear internal width of 3 metres. Carparking spaces shall not be enclosed without the prior consent of council.



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<u>Reason</u>:- to ensure there is sufficient car parking for the development and to comply with Auburn Parking & Loading DCP.

41. Vehicles Driven in Forward Direction

All vehicles must be driven in a forward direction at all times when entering or leaving the premises.

Reason:- to preserve and enhance the safe operation of the car parking area.

42. Headroom clearance - within the Basement

The headroom clearance within the basement shall comply with the usage. In this regard, minimum 4.0m shall be provided in waste collection area and associated turning area. Other areas shall comply with AS 2890.1 and 2890.6 requirements.

Detail plans showing the compliance of above requirements shall be submitted and approved by the Principle Certifying Authority <u>prior to issue of a Construction</u> Certificate.

<u>Reason</u>: to ensure headroom clearance complies with Australian Standards AS 2890.1 AS2890.6 and Council's DCP.

43. Ramp gradients

Circulation ramp grades shall comply with section 2.5.3 of the Australian Standard AS2890.1:2004. In this regard detail longitudinal section of the ramps to a scale of 1:20, shall be submitted to and approved by the Principal Certifying Authority **prior to the issue of any Construction Certificate.**

Copy of the approved plan shall be submitted to Council.

Reason:- to ensure the access ramps comply with Australian Standard AS28890.1:2004.

44. Footpath /Nature strip maintenance during and after construction

The footpath and nature strip within the street frontages shall be maintained during the period of construction to Council's satisfaction.

<u>Reason:</u> to ensure pedestrian safety during the construction period.

45. Protective bar to vehicular entry

A protective bar shall be installed at the vehicular entry to the development to prevent damage from vehicles that are too high or those that fail to wait for the opening of any roller shutter etc. Details and installation of the proposed protective bar shall be noted on the Construction Certificate drawings and installed prior to the issue of Occupation Certificate.

<u>Reason</u>:- to prevent damage from oversized vehicles when entering the premises.

46. Roller doors and shutters – silent operation



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The roller doors or other shutters to the car park shall operate silently and be appropriately maintained.

Reason:- to ensure quiet operation and ongoing maintenance to car park doors.

47. <u>Driveway surface treatment</u>

Driveway surface treatments must finish at the property boundary.

Reason:- to ensure compliance with Council's Development Control Plan requirements.

48. Car park and service vehicle area layout

- a) The layout of the car park shall comply with Australian Standard AS2890.1:2004 Parking Facilities Part 1: Off Street Parking. All parking spaces are to be line marked.
- b) The layout of the service vehicle area shall comply with Australian Standard AS2890.2:2004 Off Street Parking Part 2 Commercial Vehicle Facilities.

<u>Reason</u>:- to ensure that the car parking and service vehicles areas are designed and constructed to meet relevant Australian Standards.

49. Reinstatement of footpath and footpath crossing

The footpath and footpath crossing/s adjacent to the property shall be reinstated by Council at the completion of works with all costs being borne by the developer. Alternatives to the pre-payment for this work will be considered if written request is made to Council.

<u>Reason</u>:- to ensure the footpath and the footpath crossings are repaired from any damage caused during the construction phase.

50. Vehicle Driveway Crossings and Gutter Laybacks

Arrangements shall be made with Council for the prepaid construction of vehicular crossings and gutter laybacks at all property entrances and exits, and for the removal of all disused driveway crossings and gutter laybacks. Alternatives to the pre-payment for this work will be considered if written request is made to Council. The gutter crossing and/or the removal of any redundant crossings must be constructed to the satisfaction of Council (and to the Council's specifications including payment of any required bonds) or the prepayment made to Council for Council to carry out the work, prior to the issue of any occupation certificate.

Removal of obstructions, such as power poles, trees, drainage pits and the like shall be carried out at the applicant's expense.

Reason:- to ensure that works are carried out in accordance with Council's standard.

51. Carrying capacity of driveways - Heavy duty

Suitable heavy-duty driveway crossings are to be installed at all ingress/egress points to the property at the applicant's cost by Council. Alternatives to the pre-payment for this work will be considered if written request is made to Council. The gutter crossing and/or the removal of any redundant crossings must be constructed to the satisfaction of



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Council (and to the Council's specifications including payment of any required bonds) or the prepayment made to Council for Council to carry out the work, prior to the issue of any occupation certificate.

<u>Reason</u>:- to ensure the driveways can support the expected weight of heavy vehicles likely to frequent the site.

52. Street boundary levels

Street boundary levels for vehicle access and drainage purposes are to be obtained at the applicant's cost from Council's Service Planning Department prior to commencement of any works. These levels are to be incorporated in all drainage submissions required under this determination.

Reason:- to ensure the correct levels are obtained and used for the development.

53. Road opening permit

Prior to commencement of any work on Council roads and footpaths, a road-opening permit shall be obtained from Council's Service Planning Department.

Reason:- to safeguard Council property against damage.

54. Restoration works

Prior to commencement of any excavation work on Council roads or footpaths, the applicant shall pay for all restoration costs. The area of restoration shall be determined on site between the applicant or its contractor and Council's Contracts & Maintenance Engineer.

<u>Reason</u>:- to ensure that Council's infrastructure is maintained in a safe and trafficable manner.

55. Redundant driveway

<u>Prior to the issue of any Occupation Certificate</u>, redundant driveway shall be removed and replaced with footpath and kerb & gutter at no cost to Council. Nature strip area also be restored at applicants cost.

Arrangements shall be made with Council's Service Planning Department for the prepaid for the removal of all disused driveway crossings and gutter laybacks. Alternatives to the prepayment for this work will be considered if written request is made to Council.

Reason:- to ensure Council's assets are restored in accordance with Council's standard.

56. Structural Engineering Certificate

The applicant shall submit a structural engineer's certificate of adequacy verifying that the works as detailed on the approved plans for the storage tank have been completed under his/her supervision and that the design is adequate to support the anticipated design loads. The certificate shall be submitted to Council with the works-as-executed plan.

<u>Reason</u>:- to ensure the construction is structurally adequate.



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57. Water Reuse

The stormwater generated from the roof area shall be reused for the irrigation of the landscape area within the subject development site.

Full details of the Water reuse facilities shall be submitted to Council or the Accredited Certifier with the Construction Certificate.

On completion, a certificate from a registered plumber shall be submitted for the pipe network. The certification shall indicate the water reuse system has been installed in accordance with the approved water reuse design plans.

<u>Reason</u>:- to ensure the water reuse facilities within the development are constructed and maintained in good working order.

58. Drainage design

Amended drainage plans addressing following shall be submitted to and approved by Cumberland Council's Manager Engineering and Traffic:

- Ponding depth within the OSD basin shall be limited to 600mm otherwise pool type fence shall be provided as per Council's DCP requirements.
- i) Stormwater outlet shall not encroach more than 1.0m into the adjoining site.

Reason:- to ensure OSD system complies with Council's DCP and stormwater connection complies with Council's requirements

59. Stormwater Disposal

Stormwater runoff generated from the development shall be directed to the On Site Detention system prior to being discharged to Nottinghill Street gutter by gravity system.

Reason:- to ensure the stormwater is suitably discharged.

60. Surface runoff

Allowances shall be made for surface runoff from adjacent properties, and to retain existing surface flow path systems through the site. Any redirection or treatment of these flows shall not adversely affect any other property.

Reason:- to prevent adverse impact on adjoining properties.

61. Submission of full stormwater disposal details

Full stormwater drainage details showing the proposed method of stormwater collection and disposal are to be submitted to Council or the Accredited Certifier to ensure the approved stormwater plans are incorporated with the Construction Certificate.

The details shall be prepared by a suitably qualified person and must be in accordance "Auburn Development Control Plans 2010 - Stormwater Drainage" and "Australian Rainfall &



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Runoff 1987".In this regard,

- The proposed stormwater system shall be generally in accordance with the stormwater concept plans approved as part of condition 58 above.
- All access grates to the detention facility shall be double (2/900x450) hinged grates.

Note: "Auburn Development Control Plans 2010 - Stormwater Drainage" is available to purchase at Council or the document can be found at Auburn Council's web page www.auburn.nsw.gov.au

Reason:- to ensure the stormwater is suitably discharged.

62. Stormwater disposal - on-site detention

On-site stormwater detention storage is to be provided in conjunction with the stormwater disposal. The storage is to comply with Council's on-site stormwater detention parameters. Where multiple detention basins with differing top water levels are used, the basins must be routed to the outlet pit independent of each other.

A positive covenant under Section 88E of the Conveyancing Act is to be created on the title of the property detailing the on-site stormwater detention system incorporated in the development. The wording of the instrument is to be submitted and approved by Council prior to lodgement at the NSW Land Registry Services. Evidence confirming the positive covenant has been registered shall be submitted to Council **prior to occupation of the building or issue of the occupation certificate.**

Work as executed plan(s) and engineers' certifications shall be submitted to and approved by Council prior to the endorsement of Positive Covenant.

<u>Reason</u>:- to prevent localised flooding by ensuring the detention system is maintained as designed.

63. Maintenance schedule - OSD

Prior to the issue of the occupation certificate, a maintenance schedule of the proposed on-site detention facility shall be submitted to Council for approval with the stormwater work-as executed plan. This maintenance schedule shall be registered as part of the positive covenant.

Reason:- to ensure the onsite detention facility is in good working order

64. Annual maintenance inspection of OSD

Annual maintenance inspection summary of the onsite detention with associated certificates shall be sent to Council within the first month of every calendar year. In this regard:

- All critical inspections shall be carried out by a qualified person.
- A maintenance log book shall be maintained as per the approved maintenance schedule on site and readily available for inspection by a Council officer.

All associated cost shall be borne by the owner



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Reason:- to ensure the onsite detention facility is in good working order

65. Engineer Certificate for critical pump

A certificate from a practising hydraulic engineer verifying that the stormwater pump installation and the design with the executed levels shall be submitted to the Council with the work as executed plan prior to the release of Occupation Certificate.

<u>Reason</u>:- to ensure the system has been constructed Council's standards and specifications.

66. Basement drainage system

Basement drainage is to comply with "Auburn development control plans 2010 stormwater drainage". In this regard:

- a) Two pump units being installed, the capacity of each being calculated on t basis of a hundred year storm recurrence interval and a storm duration of (five) minutes, one pump acting in reserve capacity.
- a) The two pumps being designed to work on an alternate basis to ensure the both pumps receive equal usage and neither pump remains continuous idle.
- b) A holding well being provided within the basement, of sufficient capacity store the discharge based on a hundred year storm recurrence interval a storm duration of ninety minutes. In addition to this an above ground storal shall be provided up to a hundred year storm recurrence interval and storm duration of two hours. The holding well is to be designed so that a minimular volume of water is retained in the well for health reasons when the pum are in the "off" position or if there is a break in electrical supply.
- c) A storm of two hours' duration has been adopted as a basis for determini the size of the well, the assumption being that electrical supply will reinstated within this period.
- d) The pump out system is to be independent of any gravity drainage line except at the property boundary where a grated surface pit is to constructed from which a connection will be permitted to the gravity drainasystem. The invert levels of the pipes in the grated surface pit are to be su that the outlet from the pump out system is above the inlet of the grav system.
- Storage areas and areas used for purposes other than car parking or acce aisles are to be constructed a minimum of 100mm above the top water leve
- f) The contributing catchment area to the pump out system is to be limited the access ramp area only and subsoil drainage.

Reason:- to prevent localised flooding.

67. Works-as-Executed Plan



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Prior to occupation of the building or issue of the occupation certificate, two (2) copies of the Works-as-Executed (W.A.E.) Plan prepared by a registered surveyor and certified by the design engineer shall be submitted to Council. The W.A.E. plan shall show (where applicable):-

- i) Whether all works have been completed generally with the approved drainage plans.
- ii) Any departure from the approved plan and conditions.
- iii) Any additional work that has been undertaken.
- iv) Location, levels and sizes of pipes and pits.
- v) Finished floor and finished surface levels. The location of finished levels should in general correspond with those shown on Council's approved drainage plan.
- vi) Basement pump out volumes.

NOTE: The WAE surface level shall be taken after all landscaping has been completed.

In this regard

 The above information is to be superimposed on a full sized copy of Council approved drainage plan and is to be submitted to Council.

Reason:- to account for minor variations and to ensure Council has the final details.

68. Sediment control

Temporary measures shall be provided in accordance with the NSW Department of Housing, Managing Urban Stormwater, Soils and Construction Manual dated March 2004 and regularly maintained during demolition, excavation and construction to prevent sediment and polluted waters discharging from the site.

<u>Reason</u>:- to ensure sediment and erosion controls are maintained during the construction process to prevent water pollution from occurring.

69. Service relocation / Adjustment

The applicant shall locate any utility services affected by the proposal and shall be responsible for any damage to, or relocation of services required by the proposal including adjustment to the levels of pit lids etc. All works shall be carried out to the satisfaction of the relevant Authority or Council.

All the costs shall be borne by the applicant.

Reason:- to protect utility services

70. Traffic Management

A traffic management plan shall be submitted to and approved by Council for all demolition,



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excavation and construction activities associated with the development <u>prior to</u> commencement of work.

Reason:- to minimise the impact on street traffic.

71. Footpath Construction – Nottinghill Road

The footpath adjoining Nottinghill Road frontage shall be reconstructed in accordance with the Council's Standard footpath construction requirements. Site boundary line levels shall be raised to the boundary line levels, with satisfactory end-transitions provided.

- Detail footpath design shall be submitted and approved by Council's Works and Services section prior to the issue of a Construction Certificate.
- Street boundary levels obtained from Council shall be incorporated in the design.
- The details of construction requirements shall be requested from the Council prior to commencement of construction.
- Formwork inspection and footpath inspection shall be carried out by Council.
- All associated cost shall be borne by the applicant.
- The footpat shall be constructed at the completion of works and finished to the satisfaction of Council prior to the issue of an Occupation certificate.
- · All associated cost shall be borne by the applicant

<u>Reason</u>:- to provide a safe footpath for increased pedestrian use and one that will complement the Cumberland Council requirements

72. Sydney Water Approval

The approved development application plans must be accompanied by a valid Building Plan Assessment Approval Receipt. This receipt can be acquired through the "Sydney Water Tap" in system by the Sydney Water Authority.

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

- Information on the "Sydney Water Tap in" system and
- Registering and applying for the approval receipt for the Proposed Building Plan.

or telephone 13 20 92.

Note:

The consent authority or accredited certifier must either:

- ensure that a valid approval receipt has been obtained from Sydney Water before the issue of any Construction Certificate (receipt valid usually 1 year from the date of issue); or
- if there is a combined Development/Construction Certificate application, ensure that a valid approval receipt has been obtained prior to works commencing on site.



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<u>Reason:</u> to ensure the development does not damage or interfere with Sydney Water assets.

73. Mail Box Structure

An Australia Post approved lockable mail box structure(s) shall be centrally located to the primary street entry of the site.

Reason:- to ensure compliance with Council's Development Control Plan requirements.

74. Fencing/gates and adjoining land

There must be no encroachment of any part of the structure/s onto the adjoining premises or onto Council's road reserve, footway or public place. Any gate openings shall be constructed so that the gates, when hung, will be fitted in such a manner that they will not open over the footway or public place.

Reason:- to ensure the fence/gates do not restrict access and that encroachments do not occur

75. Suitable arrangements to be made for garbage and recycling services

Suitable arrangements for garbage and recycling services are to be made with Council prior to occupation of the building.

<u>Reason</u>:- to ensure adequate garbage and recycling services are provided for the development.

76. Garbage Storage and Collection

All garbage shall be removed from the site directly via the basement/at grade garbage storage area. Garbage bins shall not be stored on or collected from the footpath or kerb.

<u>Reason</u>:- to ensure that all garbage storage and collection is managed efficiently and without significant impact on the street.

77. Waste and recyclables storage area:

The waste and recyclable storage area shall be fully enclosed, adequately ventilated and constructed with a concrete floor and concrete or cement rendered walls covering the floor. The floor shall be graded to an approved sewer connection incorporating a sump and galvanised grate cover or basket. A hot and cold hose cock shall be provided within the room. Details shall be provided with the Construction Certificate and endorsed on the construction drawings, and works completed prior to the issue of an Occupation Certificate.

<u>Reason</u>:- to ensure the waste and recyclables storage area is appropriately constructed and able to be readily cleaned and maintained.

78. Intruder Alarms

Any intruder alarm at the premises shall be suitably constructed, such as with a timing device, so that the alarm complies with the requirements of the Protection of the Environment Operations (Noise Control) Regulation 2017 - Division 1, Sections 40-43 –



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Building Intruder Alarms.

<u>Reason:</u>- to prevent ongoing noise arising from intruder alarms and ensure compliance with relevant legislation.

79. Air conditioning units – location and acoustics

- Air conditioning units are not to be visible from the street or public place and are not to obscure windows/window frames or architectural features of the building.
- b) The operation of air conditioning units shall be so:
 - as not to cause "offensive noise" as defined under the Protection of the Environment Operations Act 1997;
 - (ii) as to be inaudible at the nearest affected residence between the hours of 10.00pm and 7.00am on weekdays and 10.00pm and 8.00am on weekends and public holidays:
 - (iii) as not to discharge a condensate or moisture onto the ground surface of the premises or into a stormwater drainage system in contravention of the requirements of the Protection of the Environment Operations Act 1997.
- c) Should Council receive noise complaints from neighbouring residents in relation to the air conditioning units, Council may issue a Noise Notice. Such notice may require you to engage the services of a competent and appropriately qualified Acoustic Consultant to undertake a noise level assessment of the air conditioning unit. If the unit is assessed as exceeding the permitted noise criteria, you may be directed to provide noise attenuation measures such as an acoustic enclosure and/or relocation of the unit.

<u>Reason</u>:- to ensure that air conditioning units associated with the development are appropriately located and do not detract from the appearance of the buildings and to ensure the operation of air conditioning units does not adversely impact on the acoustic amenity of the locality.

80. Light Overspill

Any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby roads, and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with AS4282-1997 Control of the obtrusive effects of outdoor lighting.

<u>Reason</u>:- to ensure light overspill arising from the development does not interfere with the amenity of the locality and complies with relevant Australian Standards.

81. Off-site soil disposal

Any soil disposed of offsite shall be classified in accordance with the procedures in the NSW EPA Environmental Guidelines: Assessment, Classification & Management of Liquid & Non-Liquid Wastes (1999).

<u>Reason</u>:- to ensure soil disposed off-site is classified in accordance with relevant EPA requirements.

82. Compliance with Arborist Report

The recommendations stated in the Tree Inspection Report prepared by Treehaven Enviroscapes, dated 15/04/2019, shall be complied with at all times, particularly written



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consent provided the property owner at no. 21 Nottinghill Rd for the removal of Tree No.'s 4, 5, 6, 7, 8, 9, 10, 12 & 13. Details demonstrating compliance shall be submitted to the Principal Certifying Authority for approval prior to the commencement of any site works and issue of the Construction Certificate as relevant to the particular recommendation.

<u>Reason</u>:- To ensure protection of existing trees on the adjoining property.

83. Works within the Tree Protection Zone

If the adjoining property owner does not provide written consent for the removal Tree No.'s 4, 5, 6, 7, 8, 9, 10, 12 & 13, all works that require excavation within the Tree Protection Zone of these trees is to be undertaken by hand held equipment under the supervision of an AQF Level 5 Consulting Arborist, along the closest line of cut to the trees. No roots over 50mm in diameter are to be cut within the Tree Protection Zone without prior consultation with Council officers or the Consulting Arborist.

The Arborist engaged to the proper protection and management of trees that are to be retained, is to provide a brief report to Council concerning the health and condition of the tree/s, and if necessary any remedial works are required. The report should also provide documentary evidence that the tree protection conditions were complied with throughout the demolition/construction phases, in the form of site notes and photographs. Details demonstrating compliance shall be submitted to the Principal Certifying Authority.

Reason:- To ensure protection of existing trees on the adjoining property.

84. Final Fire Safety Certificate

Prior to the occupation of the building, the owner of the building shall submit to the Principal Certifying Authority (Council or Accredited Certifier), a **final fire safety certificate** in relation to each essential fire safety measure specified in the **fire safety schedule**, attached to the development consent or construction certificate.

Such certificate shall state that each essential fire safety measure specified:-

- a) Has been assessed by a properly qualified person, and
- b) Was found, at the date of assessment, to be capable of performing to a standard not less than that required by the current fire safety schedule for the building for which the certificate is issued.

NOTES:

- As soon as practicable after a final fire safety certificate is issued, the owner of the building to which it relates:-
 - Must cause a copy of the statement (and current fire safety schedule) to be given to the Commissioner of NSW Fire Brigades, and
 - ii) Must cause a further copy of the statement (and current copy of the current fire safety schedule) to be prominently displayed in the building.
- A "fire safety measure" is defined as any measure (including any item of equipment, form of construction or fire safety strategy) that is, or is proposed to be, implemented in the building to ensure the safety of persons using the building in the event of fire.

Reason:- to ensure compliance with Regulations 149 & 171 of the Environmental



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Planning and Assessment Regulation 2000.

85. Kitchen fitout

Fitout of the kitchen shall comply with the requirements of Australian Standard 4674-2004 "Design, construction and fit-out of food premises" and Food Safety Standard 3.2.3 "Food Premises and equipment".

Reason:- to ensure fitout complies with relevant standards of construction.

86. Annual Fire Safety Statement

The owner of any building in which fire safety measures are installed, must cause the Council to be given an **annual fire safety statement**, within 12 months after the last such statement or final fire safety certificate was issued.

The certificate shall certify:-

- a) That each essential fire safety measure has been assessed by a properly qualified person and was found, at the date of assessment, to be capable of performing to a standard not less than that required by the current fire safety schedule.
- b) That a properly qualified person has inspected the building and has certified that, as at the date of inspection, the condition of the building did not disclose any grounds for a prosecution under Division C.

NOTES:

- As soon as practicable after an annual fire safety statement is issued, the owner of the building to which it relates:-
 - must cause a copy of the statement (and current fire safety schedule) to be given to the Commissioner of NSW Fire Brigades, and
 - ii) must cause a further copy of the statement (and current copy of the current fire safety schedule) to be prominently displayed in the building.
- A "fire safety measure" is defined as any measure (including any item of equipment, form of construction or fire safety strategy) that is, or is proposed to be, implemented in the building to ensure the safety of persons using the building in the event of fire.

<u>Reason</u>:- to ensure compliance with Regulation 171 of the Environmental Planning and Assessment Regulation 2000.

87. Fire Safety Notices

The fire-isolated stairway, fire-isolated passageway or fire-isolated ramp must contain a notice advising of "Offences relating to fire exits". The notice shall contain the wording prescribed by Clause 183 of the Environmental Planning and Assessment Regulation, 2000 and the Building Code of Australia.

<u>Reason</u>:- to comply with Clause 183 of the Environmental Planning and Assessment Regulation 2000 and the BCA.

88. Plan of Management



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The child care centre must always be operated and managed at all times in accordance with the DA approved Plan of Management (titled "Plan of Management: Child Care Centre Development 17 Nottinghill Road, Lidcombe", dated 28 June 2019). In the event of any inconsistency, the conditions of this consent will prevail over the Plan of Management.

Reason:- To ensure compliance with the Plan of Management provided.

89. Altering Plan of Management

The daily programme time for outdoor play (and any other activity that would reasonably give rise to noise being heard off-site) as described in the approved Plan of Management shall not be altered without firstly obtaining concurrence of Council. Should Council be informed of an intended change in time Council will consult with immediate neighbours seeking their opinion. At least 45 days notice in advance of the intended date of change is required.

<u>Reason:</u>- to ensure certainty for neighbours of the times outdoor play and similar noisy activities will take place so neighbours can be ready for the noise intrusion to their premises.

90. Air conditioners

Any air conditioning equipment when in use individually and/or in combination shall be designed so as not to operate:

during peak time - at a noise level that exceeds 5 dBA above the ambient noise level measured at any property boundary, or

during off-peak time - at a noise level that is audible in habitable rooms of an adjoining residence.

<u>Reason:</u> to minimise noise intrusion on neighbours whilst air conditioners are in operation.

91. Basement ventilation discharge location

The basement mechanical exhaust ventilation shall discharge in a location that does not cause an odour or air movement nuisance to any neighbouring property.

Reason:- to obviate any nuisance of odour or air movement to neighbouring properties.

92. Acoustic Report

Noise control measures specified in the acoustic report prepared by Envirotech, their reference REF-19-7570-A1 dated 25 March 2019, shall be installed in the building's construction (see page 23 of the report) and/or incorporated into operation of the child care centre.

<u>Reason:</u> to ensure use of the child care centre does not interfere unreasonably with noise amenity of the neihghbourhood.

93. Hours of operation



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The hours of operation of the development are limited to 7 a.m. to 6 p.m. Monday to Friday. Closed on all other days.

<u>Reason</u>:- to limit the operating hours of the development so as to reduce the likely nuisance on adjoining development.

94. Separate Development Consent

No signs, whether for advertising, directory or identification purposes or for any other purpose, are to be erected on the land without the written consent of Council having first been obtained.

Reason: to limit and control advertising.

95. Front Catchment Area

A child proof catchment area shall be created at the entry (adjacent to the sign in area) so that children cannot run from inside the centre outside.

Reason:- To protect children's safety.

96. Children's Lockers

Lockers for the children shall be installed along the wall in the hallway (opposite the sign in area and lift). Children's lockers shall not be provided within the play rooms.

Reason:- To ensure sufficient indoor space is provided for children to play.

97. Hand basin

An additional hand basin shall be included in the children's toilet. This can be provided by slightly reducing the nappy change area.

<u>Reason:-</u> to ensure sufficient hand wash basins are provided for the number of children proposed.

98. Occupation Certificate

A person must not commence occupation or use of the whole or part of a new building unless an occupation certificate has been issued in relation to the building or part.

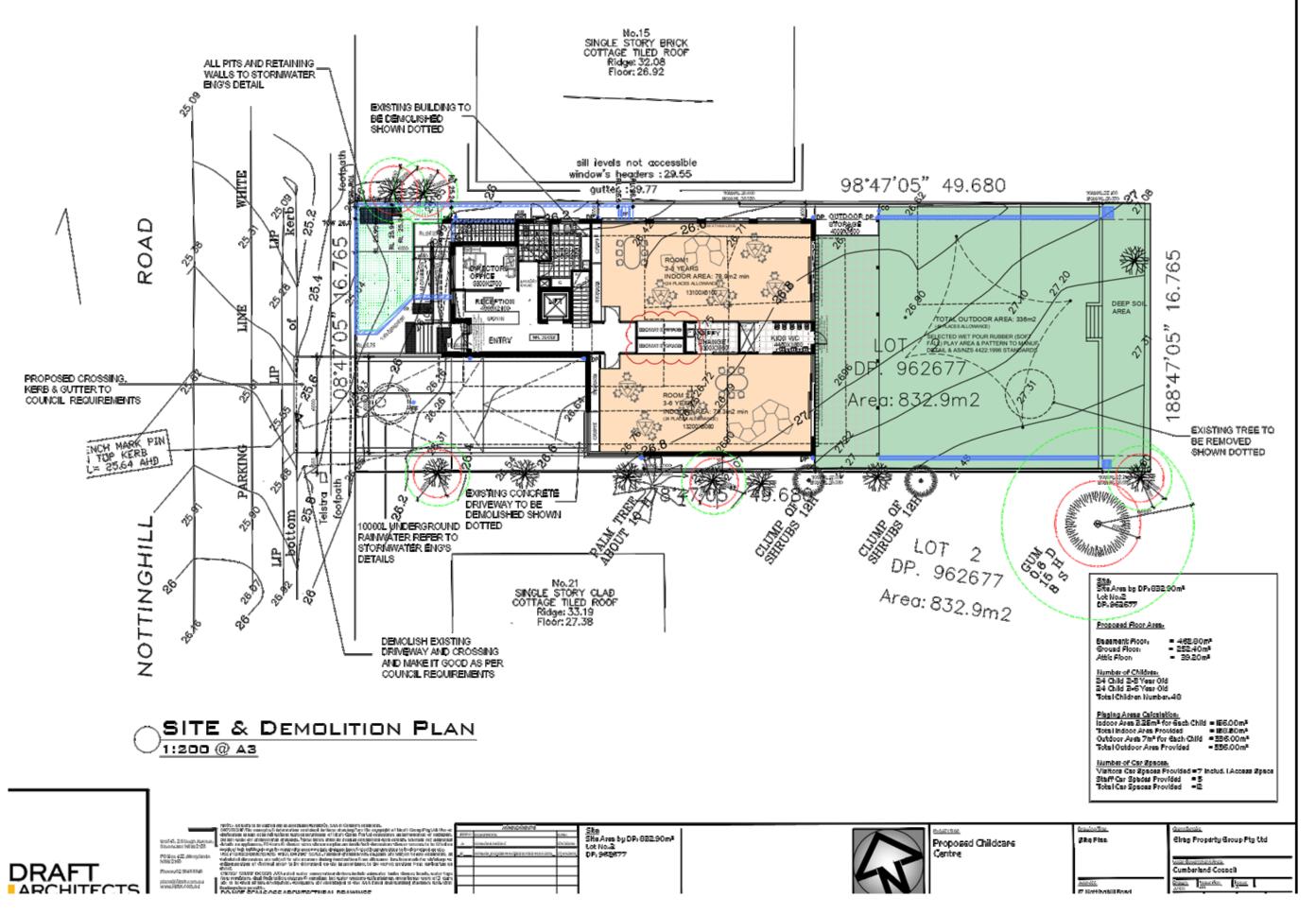
The application for an Occupation Certificate must be made to the Principal Certifying Authority (Council or an accredited certifier) using the approved form.

<u>Reason</u>:- to comply with the requirements of Section 6.9 of the Environmental Planning and Assessment Act (as amended).

DOCUMENTS ASSOCIATED WITH REPORT LPP072/19

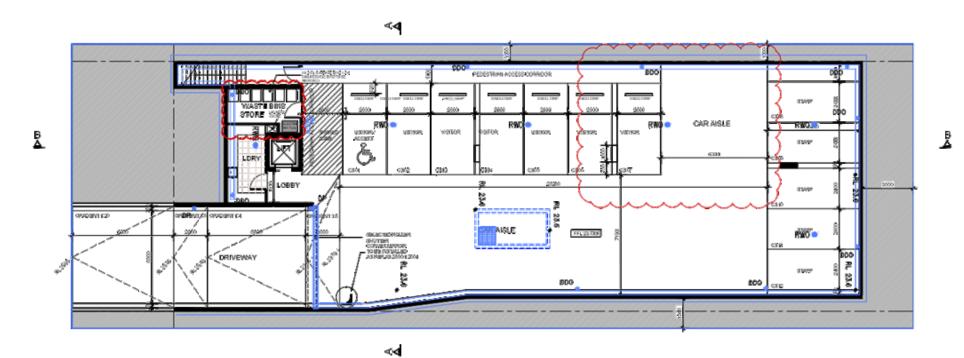
Attachment 2 Architectural Plans

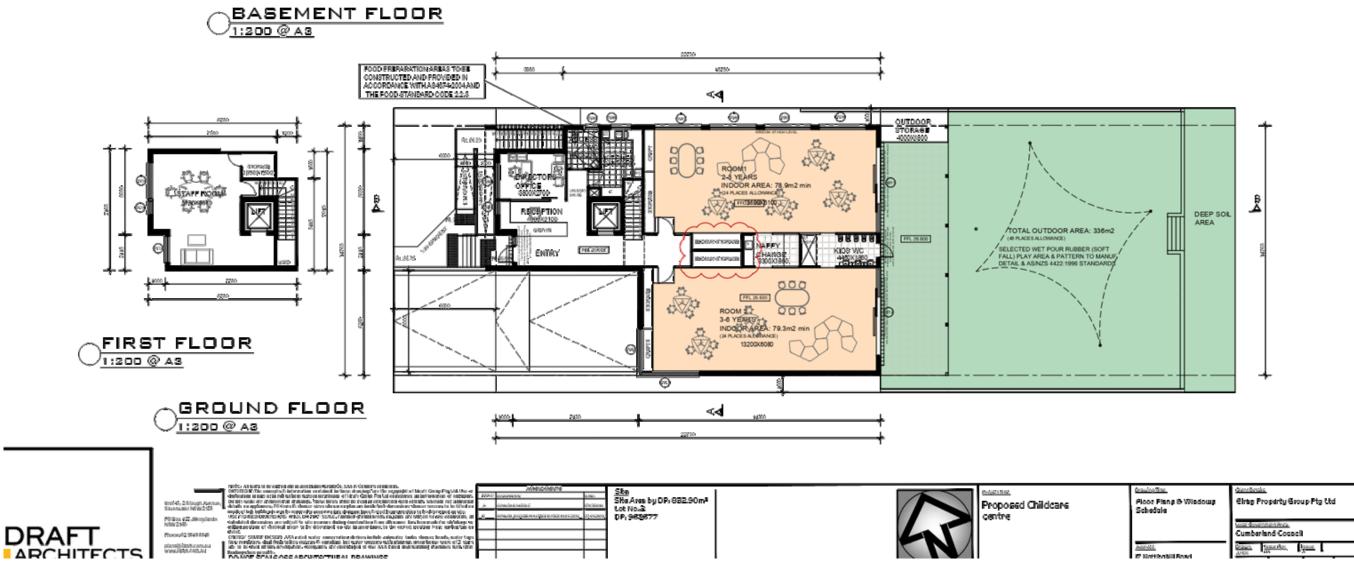






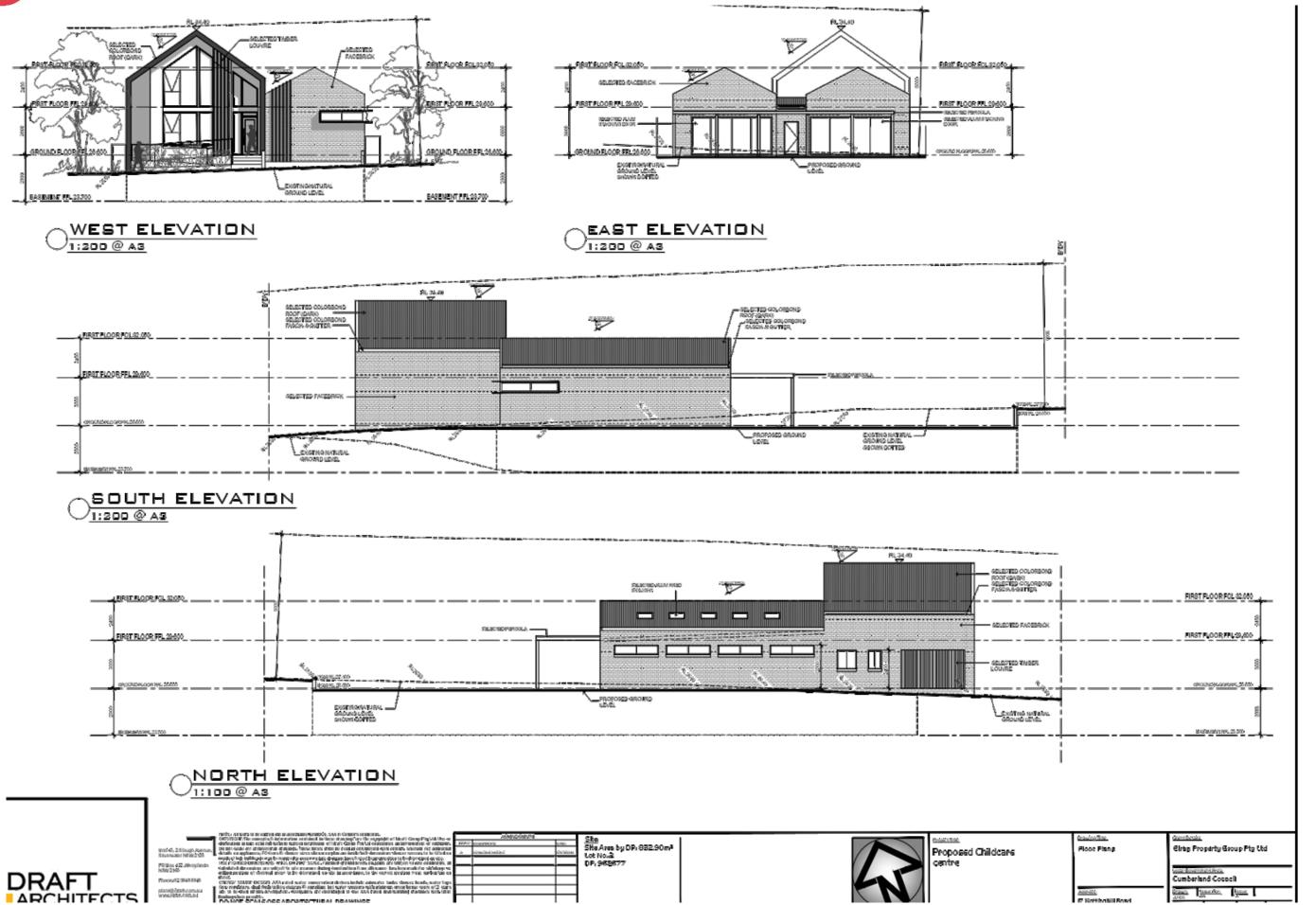




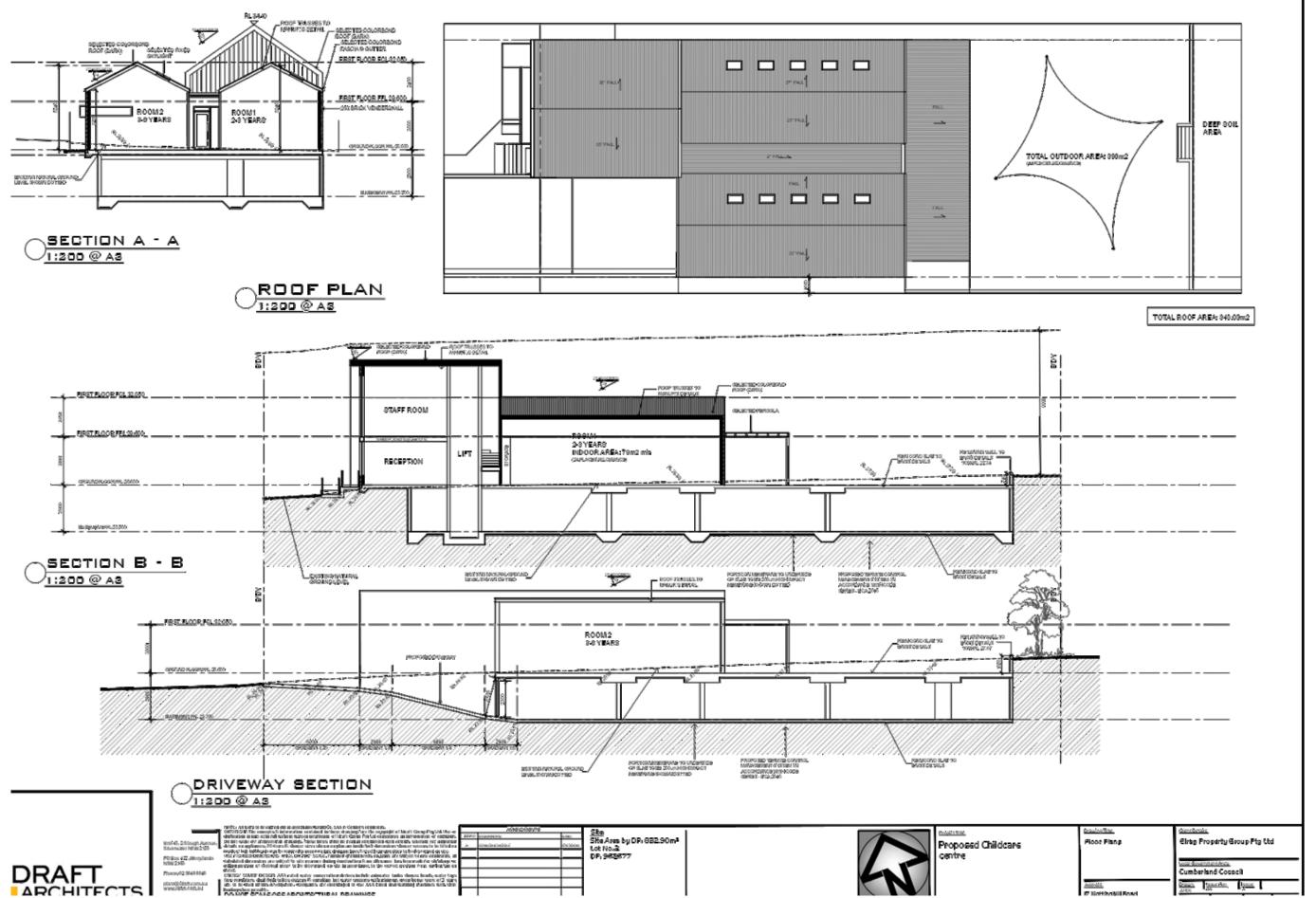


LPP072/19 – Attachment 2



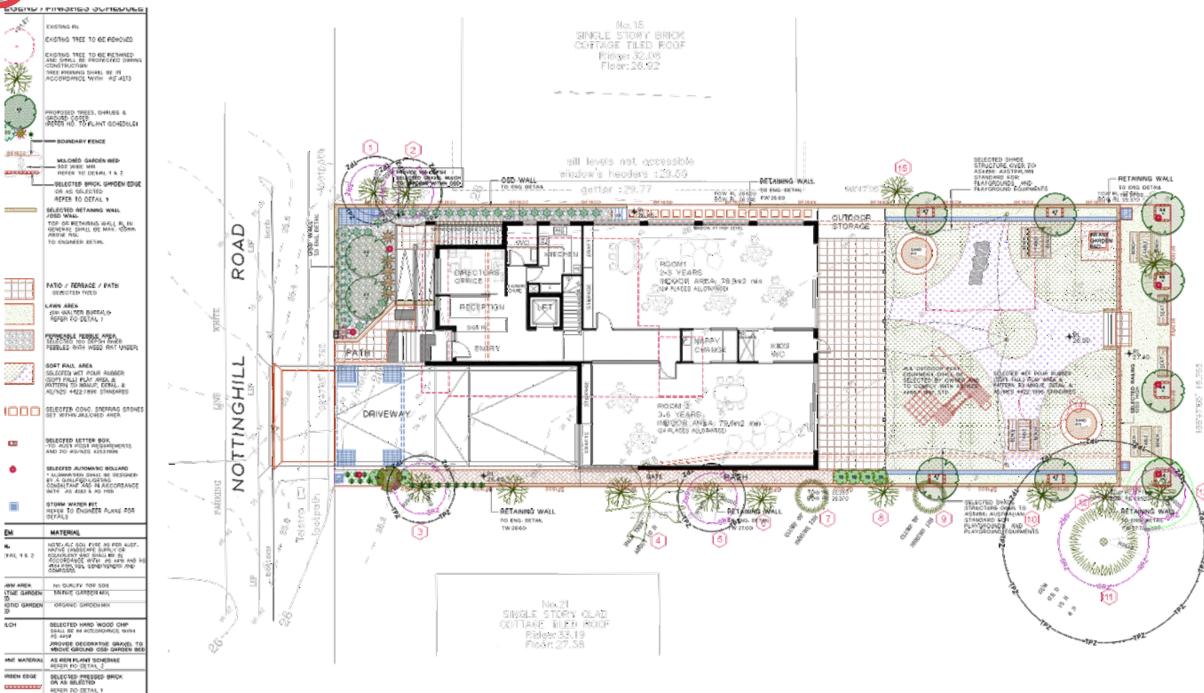


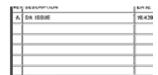




CUMBERLAND COUNCIL

Cumberland Local Planning Panel Meeting 13 November 2019





NOTE:

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MAINTENANCE

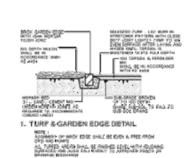
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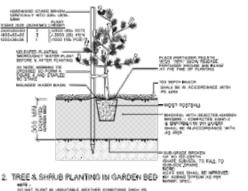
17 Nottinghill Rd, Lidcombe



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PROPOSED PLANT SCHEDULE

GROUND_COVER_/ BOARDER 2 Tonanga TAMEX

FEATURE SHRUBS

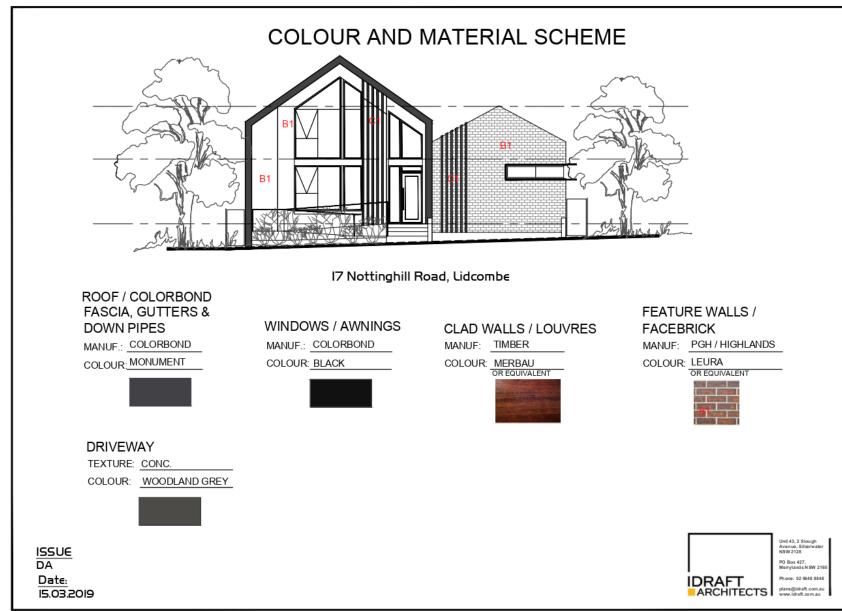
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DOCUMENTS ASSOCIATED WITH REPORT LPP072/19

Attachment 3 Stormwater Engineering Plans



PROPOSED CHILDCARE DWELLING AT 17 NOTTINGHILL ROAD, LIDCOMBE CONCEPT STORMWATER DRAINAGE PLAN

LEGEND	
DP •	00WNPIPE
	STORMWATER LINE
	STORMWATER LINE
or	OVER PLOW PIPE
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0000	DISH DRAIN OUTLET
PD 4	PLANTER DRAIN
3	CAPPING
@	PYT TAG/NUMBER
(RH)®	MANRICAG
	DOWNPAPE DROP
6×3	NON RETURN WALKS
X	WILL PENETRATION
DP+	DOWNPARE SPREATIER
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	DRAWING REGISTER	
NUMBER	NAME	REVISION
SWDF01	COVER SHEET	E
SWDP02	STORMWATER DESIGN PLAN - BASEMENT	Б
SWDP03	STORMWATER DESIGN PLAN - GROUND FLOOR + OSD PLAN	E
SWDP04	STORWWATER DESIGN PLAN - ROOF PLAN	E
SW0P05	OSD SECTIONS	E
SWDP06	DETAILED SECTIONS	E







IT IS THE BUILDERS RESPONSIBILITY TO MAKE SURE ALL SURVEY MARKS TO BE PRESERVED AT ALL COST

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DEVELOPMENT APPLICATION (DA)

Rex	Description	By.	Chk.	App.	Date
E	FOR AMPROVAL - IOA - COUNCIL COMMENTS	20.	RF.	P.E.	27.06.2019
10	FOR APPROVAL - DA - COUNCL COMMENTS	40.	R.F.	P.E.	26:06:2019
Ĉ	FOR APPROVAL - DA - ARCHITECTURAL CHANSES	934	SEN	P.E.	17.04.2019
8	The state of the s				27.05.2019
K.	FOR APPROVAL - DA - ARCHITECTURAL CHANSES	SCH	S.C.H	P.E.	15.83:2019



ELRAY PROPERTY GROUP P/L

17 NOTTINGHILL ROAD, LIDCOMBE

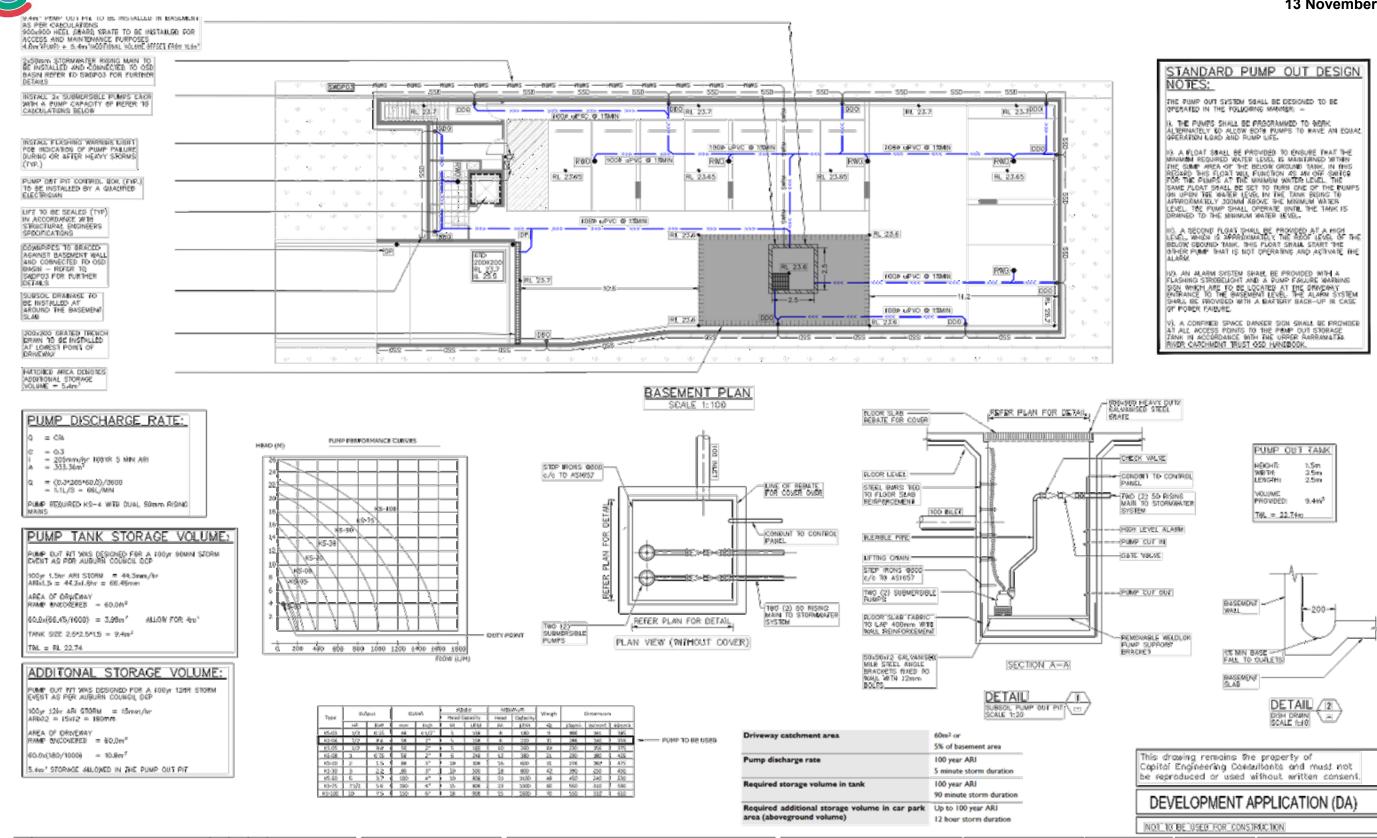
COVER SHEET

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LPP072/19 - Attachment 3





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ELRAY PROPERTY GROUP PTY/LTD

17 NOTTINGHILL ROAD, LIDCOMBE

STORMWATER DESIGN PLAN BASEMENT



27.06.2019
1:100 @ A1 (original size
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Date

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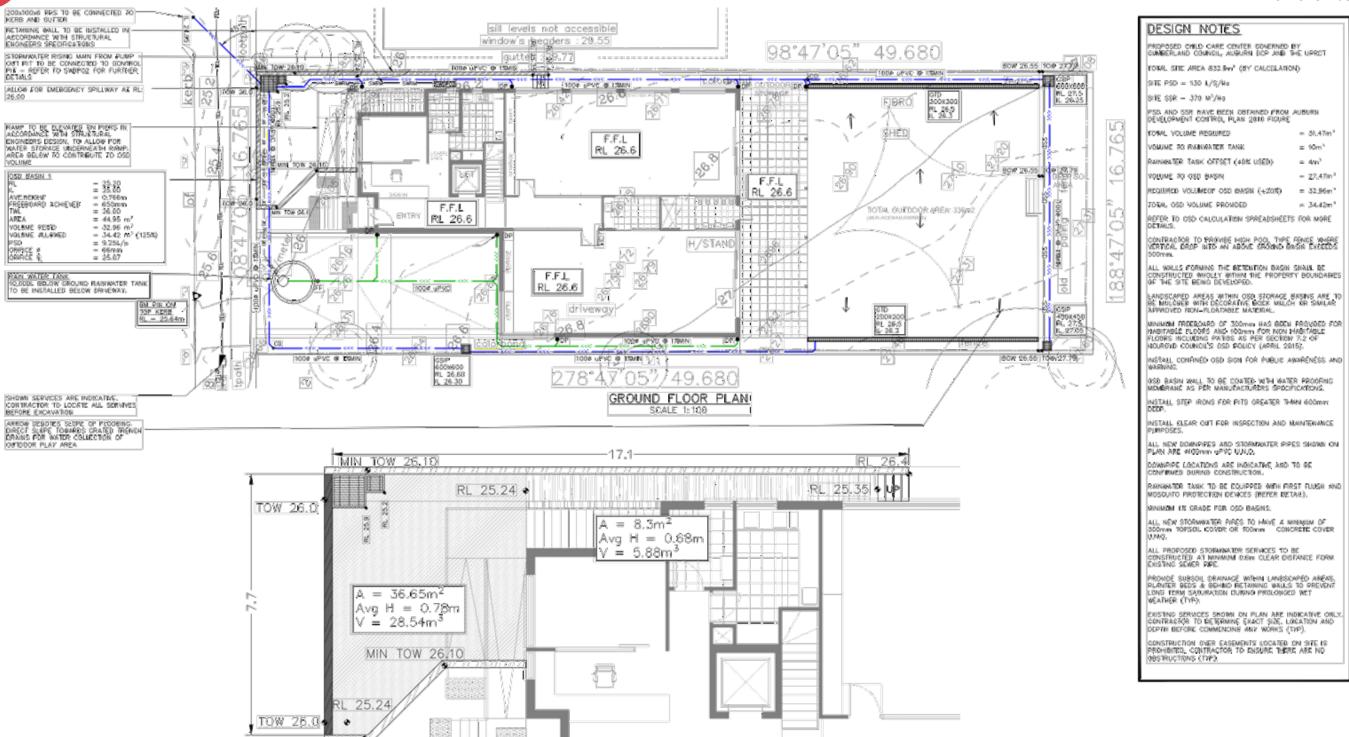
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LPP072/19 – Attachment 3





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DEVELOPMENT APPLICATION (DA)

NOTE TO BE USED FOR CONSTRUCTION



MIN TOW 26,

ELRAY PROPERTY GROUP PTY/LTD

OSD PLAN

SCALE 1:50

17 NOTTINGHILL ROAD, LIDCOMBE

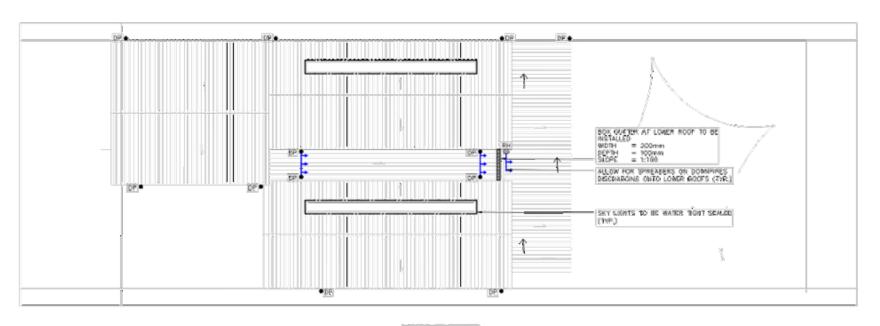
STORMWATER DESIGN

GROUND FLOOR + OSD PLAN

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LPP072/19 – Attachment 3





SCALE 1:100

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ELRAY PROPERTY GROUP PTY/LTD 17 NOTTINGHILL ROAD, LIDCOMBE

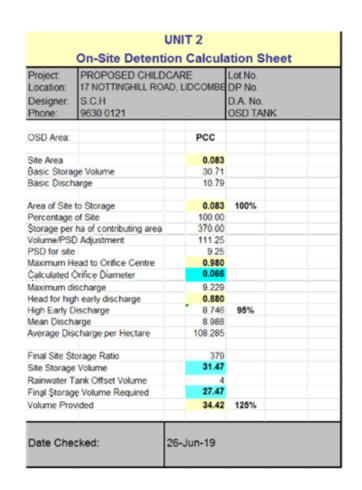
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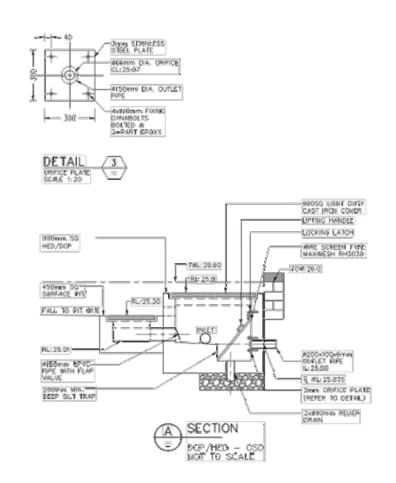
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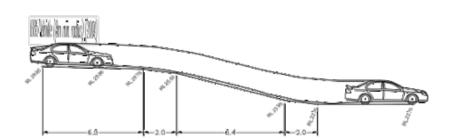
ROOF PLAN







OSD SECTIONS



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ELRAY PROPERTY GROUP PTY/LTD

17 NOTTINGHILL ROAD, LIDCOMBE

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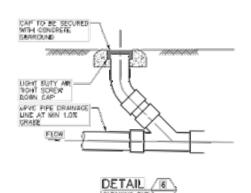


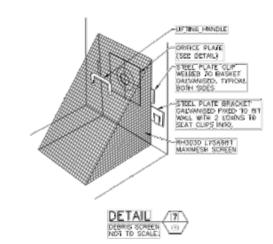
GALVANISED STEEL GRATE

GRADE BASE FALL TO OUTLET

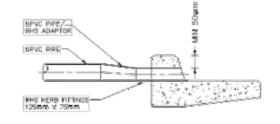




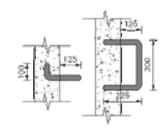








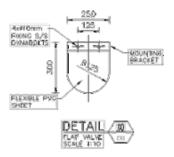


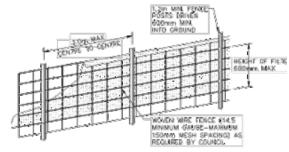




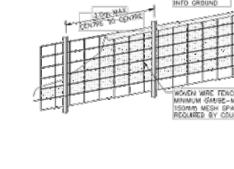
FILTERED WATER

RUN-OFF WATER WITH SEBMENT











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DEVELOPMENT APPLICATION (DA)

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C)	FOR APPROVAL - DA - ARCHITECTURAL CHANCES	904	ISEN	P.E.	17.04.2019
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DOCUMENTS ASSOCIATED WITH REPORT LPP072/19

Attachment 4
Plan of Management



Plan of Management

CHILD CARE CENTRE DEVELOPMENT 17 NOTTINGHILL ROAD, LIDCOMBE

Child Care Facility
Date: 28 June 2019

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Plan of Management: 17 Nottinghill Road, Lidcombe

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Plan of Management: 17 Nottinghill Road, Lidcombe

PLAN OF MANAGEMENT OVERVIEW

This Plan of Management has been prepared for the operation and management of a Child Care Centre at 17 Nottinghill Road, Lidcombe.

The Child Care Facility accommodates a total of 48 child care placements and will operate 7am to 6pm Monday to Friday. The development is serviced by a total of 12 carspaces that connect to the ground floor via a lift.

This Plan of Management identifies appropriate strategies and procedures to address operational elements of the facility.

A plan of management is an accepted concept in environmental law and can be used in a range of circumstances. This plan of management assists in addressing a better understanding of the proposal and the way in which it is proposed to operate.

This Plan of Management will require ongoing revision to reflect operational needs and may need to be updated to reflect any DA conditions of consent imposed by Council.

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Plan of Management: 17 Nottinghill Road, Lidcombe

CHILD CARE CENTRE OPERATION

The Child Care Facility accommodates a total of 48 child care placements and will operate 7am to 6pm Monday to Friday. The development is serviced by a total of 12 carspaces that connect to the ground floor via a lift.

The various age groupings of the children are as follows:

- 24 children in the 2-3 year bracket
- 24 children in the 3-5 year bracket;

Staffing arrangements are proposed to align with the provisions of the Education and Care Services National Regulation as follows:

Age Group & Children Number	Educator Ratio	Staff Required	Staff Provided
0-2 years:	1 per 4	0	
2-3 years: 24	1 per 5	5	
3-5 years: 24	1 per 10	3	
Total		8	8

It is noted that this will exclude any person associated with the administration of the centre and any staff associated with food preparation- i.e. 8 educators is the minimum and administration staff are in addition to this and it is understood there will be 1 person associated with administration on site.

On that basis a minimum of 8 educators involved in the supervision of children are required and a total of 8 are to be provided.



Plan of Management: 17 Nottinghill Road, Lidcombe

DAILY PROGRAMMES AND ROUTINES

DAILY PROGRAMME AND ROUTINE FOR AGES 2 - 3 YEARS

7am- Centre Opens

7.30-8.30am	Breakfast/Morning Tea (A quiet time for children)
8:30-9.30	Free Indoor/Outdoor Play (small groups-Discuss child's interests, transition). Outdoor play is to be staggered such that no more than 24 children outdoor any one time- meaning the 2-3 and 3-5 will have outdoor play with their respective age grouping and staggered accordingly.
9:30-10.15	Child interest based learning (Talk about child's interests, weekly topics, story time that is indoor.
10:15-10:30	Packing away followed by Music & movement
10:30-10.45	Art and craft
10:45-11.00	Nappy changing & preparing beds
11:00-11.30	Lunch time
11:30-1.30	Rest time/Quiet activities for the children who do not sleep
1:30-2.00	Small group activities. Outdoor play is to be staggered such that no more than 24 children using outdoor space at any one time.
2:00-2.15	Afternoon Nappy change
2:15-2.30	Afternoon tea
2:30-4.00	Interest based learning
4:00-4.15	Late afternoon tea/snack
4:00-4.30	Combined groups for free play. Outdoor play is to be staggered such that no more than 24 children at using the outdoor space at any one time.

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Plan of Management: 17 Nottinghill Road, Lidcombe

DAILY PROGRAMME AND ROUTINE FOR AGES 3 - 5 YEARS

7am	Centre Opens
7.30-8.30am	Breakfast/Morning Tea (A quiet time for children)
8:30-9.30	Free Indoor/Outdoor Play (small groups-Discuss child's interests, transition). Outdoor play is to be staggered such that no more than 24 children outdoor any one time- meaning the 2-3 and 3-5 will have outdoor play with their respective age grouping and staggered accordingly.
9:30-10.15	Child interest based learning (Talk about child's interests, weekly topics, story time that is indoor.
10:15-10:30	Packing away followed by Music & movement
10:30-10.45	Art and craft
10:45-11.00	Nappy changing & preparing beds
11:00-11.30	Lunch time
11:30-1.30	Rest time/Quiet activities for the children who do not sleep
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2:00-2.15	Afternoon Nappy change
2:15-2.30	Afternoon tea
2:30-4.00	Interest based learning
4:00-4.15	Late afternoon tea/snack
4:00-4.30	Combined groups for free play. Outdoor play is to be staggered such that no more than 24 children at using the outdoor space at any one time.



Plan of Management: 17 Nottinghill Road, Lidcombe

TRAFFIC AND PARKING MANAGEMENT

The following procedures are to be adopted for the use of the childcare centre car parking area:

- There should be a total of 12 parking spaces made available;
- All parking associated with the childcare must occur within the sign posted spaces;
- Parents are to use the basement parking spaces for drop-off and pick-up to avoid congestion and impacts on on-street parking.
- Vehicles must enter and exit the site car parking area in a forward direction at all times;
- The disabled car spaces must be used by people with a valid disability permit;
- The pedestrian walkway connecting the car parking spaces to be kept clear at all times;
- No double parking is permitted in the car parking aisle;
- The security door at the entrance to the car park should remain open during childcare centre operating hours;
- The car parking area is not to be used for storage purposes, thereby reducing the number of available car spaces;
- Staff, parents and carers must be encouraged to report improper use of the car parking area to the centre's manager;
- Staff are to regularly monitor the car park during operating hours to ensure the above items are adhered to, particularly during peak drop off/pickup periods;
- This traffic & parking management plan must be issued to all new parents, staff, with a copy to be included on the centre's website;
- This traffic & parking management plan is to be regularly reviewed & amended as deemed necessarily.



Plan of Management: 17 Nottinghill Road, Lidcombe

NOISE MANAGEMENT

The following procedures are to be adopted in relation to the management of noise;

- The childcare centre is to operate as per the relevant recommendations of the approved Acoustic Report.
- Time out of doors is an essential component of the child's experience of the centre. When children are in the 'active' play area, each group will be fully supervised at all times.
- There will be no outdoor activity before 8:00am and after 5:30pm- meaning that children are located inside the child care centre at these times.
- The maximum number of children on the ground level outdoor play area is 24 children at any one time. The staging of the outdoor play times is incorporated into the daily operational routine for the children as detailed in the daily program above.
- Centre management recognizes the importance of ensuring all educators and carers are properly trained.
- In-house training will include familiarization with the procedures in the operation of the centre.
- Staff will be instructed to engage the children in educational play and activities that children find mentally and physically stimulating at all times.
- Centre management will maintain a log of any, and all complaints received.
- Centre management will endeavour to respond to any noise complaint at the time of the event and record such events in a daily log.
- A laminated copy of the noise management plan will be displayed in the foyer.
- All educators are required to read the noise management plan.
- Children who are excessively noisy with regard to screaming/crying will be comforted and if unable to be calmed will be taken inside to avoid excessive noise.
- Children who are creating noise creating nuisance are to be managed and if the behavior continues taken inside for a time out.



Plan of Management: 17 Nottinghill Road, Lidcombe

MECHANISM FOR CONVEYING POLICIES & UPDATES TO PARENTS

- The centre operations are documented in our policies and procedures.
- These policies and procedures make up many volumes. All educators and carers must read the policies and procedures and confirm in writing that they have done so. The policies and procedures are discussed at staff meetings and continually updated and redistributed as they are amended.
- Policies are also located in the front foyer for all families and visitors to have access to at all times.
- Centre policies are reviewed throughout the year on a monthly basis following a schedule. All revised policies are mentioned in the centres monthly newsletter, and displayed in the front foyer for the families to be updated and advised of any changes that have been made.

POLICY & PROCEDURURAL ASPECTS

The following provisions of the National Quality Standard are relevant and will be adhered to:

QA4

- 4.2 Educators, co-ordinators and educators are respectful and ethical.
- 4.2.1 Professional standards guide practice, interactions and relationships.
- 4.2.2 Educators and coordinators work collaboratively and affirm, challenge, support and learn from others to further develop their skills.
- 4.2.3 Interactions, convey mutual respect, equity and recognition of each other's strengths and skills.

QA7

- 7.2.3 An effective self-assessment and quality improvement process is in place.
- 7.3.2 Administrative systems are established and maintained to ensure the effective operation of the service.
- 7.3.5 Service practices are based on effectively documented policies and procedures that are available at the service and reviewed regularly.



Plan of Management: 17 Nottinghill Road, Lidcombe

The following provisions of the Education and Care Services National Regulations are to be complied with:

- 31- Condition on service approval-QIP
- 55-56-QIP
- 168- education and care services must have policies and procedures
- 170- policies and procedures to be followed
- 171- policies and procedures to be kept available
- 172- Notification of change to policies and procedures affecting ability to family.

POLICY & PROCEDURURAL IMPLEMENTATION

Our centre believes that reflection and evaluation is an important aspect of quality improvement. Reviewing the centres practices and strategies will ensure that we continually strive to improve our service to families and the children in our care. To this end, we have implemented the strategies below.

Policies and procedures will be made available to families, located in the service.

Educators will ensure that families can have access to policies and procedures, this gives both families and educators opportunities to suggest elements the need improving.

For educators and management this will occur :-

- At meetings
- At the policy review points
- Family meetings
- Newsletters
- Parent educator meetings

Who is affected by this policy:-

- Children
- Families
- Educators/Staff
- Management



Plan of Management: 17 Nottinghill Road, Lidcombe

SECURITY MEASURES

The centre will have the following security measures in place :-

Surrounding child proof fences and gates, security cameras and CCTV.

The relevant legislative provisions outlined below are also to be complied with.

QA2

- 2.3.2 Every precaution is taken to protect children from harm and any hazards likely to cause injury.
- 2.3.4 Educators, coordinators and staff members are aware of their roles to respond to every child at risk of abuse or neglect.

National Regulations

84 Awareness of child protection law 99 Children leaving the education and care service premises 158 Children's attendance record to be kept by approved provider

Aim

The aim of this policy is to ensure that delivery and collection procedures are consistent with the safety of children. Children are delivered and collected from the centre by an authorized person only.

Implementation

The nominated supervisor, educators, staff will adhere to the following procedures at all times to ensure the safety of children.

Children and families will not be allowed to enter the service before opening hours. We encourage you to drop children off before 10.30am, as we program daily for children and a late drop off may make it difficult to effectively include children in learning stories/daily journals.

If your child is going to be away on the day for any reason, please inform the centre via email.



Plan of Management: 17 Nottinghill Road, Lidcombe

ARRIVAL PROCEDURES

- All children are to be bought into the centre by an adult to an educator;
- Parent are required to make contact with educators when collecting their child;
- All children must be signed in by their parent or person who delivers them to the centre. If for any reason they are unable to sign, the nominated supervisor may sign them in;
- An educator will greet and receive the child;
- A locker or shelf space will be available for the child's belongings.

DEPARTURE PROCEDURES

- All children must be signed out by their parent or person who collects the child;
- Children can only be collected by a parent, authorized nominee who information is located on enrolment;
- It is the parent's responsibility to ensure there information is regularly updated;
- No child will be released into the care of unauthorized persons;
- Educators will always ensure the safety of the child first, if a person become aggressive or violent Educators may not release the child and ring the police on 000;
- Nominated supervisor will make sure that the child's records are kept up to date;
- No child will be released into the care of anyone not known to the educators

Parent must give prior notice when :-

- The person collecting the child is someone other than those mentioned on enrolment:
- There is a variation in the persons picking up of the child;
- If educators do not recognize the person by face they may need to provide a form of identification (license);
- If the person collecting the child appears to be intoxicated, or under the influence of drugs, educators are to bring the matter to the persons attention before releasing the child;
- Signing in & out is a condition of your child's enrolment at the centre;
- Two educators verify and initial the open and close sign in sheets of the day;
- Individuals visiting the premises must sign in and out of the centre (visitors);

If a child has not been collected by the time we are due to close the service, the Nominated supervisor will :-

- Attempt to contact the parents, authorized person;
- Leave a voice-mail and call again;
- Wait a few minutes and attempt to re dial, if the person has yet not arrived, ring the protection hotline for guidance before ringing emergency services (000)



Plan of Management: 17 Nottinghill Road, Lidcombe

The review will be conducted by :-

- Management;
- Families;
- Employees.



Plan of Management: 17 Nottinghill Road, Lidcombe

SUPERVISION OF CHILDREN

Activities

Outdoor activities vary from day to day and are dependent upon the weather and program. They include :-

- Ball games
- Team play
- Free Play
- Water-based play
- Sand play
- Balancing and climbing games
- Gross motor skills
- Supervised play

There will be no outdoor activity before 8:00am and after 5:30pm- meaning that children are located inside the child care centre.

The maximum number of children on the ground level outdoor play area is 20 children at any one time.

Monitoring process for outdoor play is the same as for indoor.

SUPERVISION POLICY

The following legislation is to be followed with regard to supervision.

NQS

QA2

- 2.3.2 Every reasonable precaution is taken to protect children from harm and any hazards or injury
- 4.1.1 Educator to child ratios requirements are maintained at all times.
- 5.2.3 The dignity and rights of every child are maintained at all times

National regulations

168- Policies & procedures are required in relation to health & safety Implementation

The service defines 'supervision' as actively watching and attending their environment. Educators should avoid carrying out activities that will draw attention away from supervision. The supervision policy is committed to :-

- Complying with education and care services
- ensuring that children are supervised at all times
- considering the design and arrangement of children's environments



Plan of Management: 17 Nottinghill Road, Lidcombe

- guiding educators to make decisions about when children's play needs to be interrupted
- identifying high risk experiences and developing strategies, depending on the age and development of children.

The procedures relating to the supervision policy are laminated, clearly labelled and displayed for everyone to read :-

- Supervision procedures & practices are made easy to read and interpret
- The service will consider obtaining information in community languages
- The centre will have a supervision plan.

Procedure

Supervision is one of the most important care giving strategies and skills required by educators to develop and master. Listening and watching is an active combination of supervising. Children learn about who they are, how they react in situations, and discover interests. There are vital skills to develop as they assist staff to predict children's play patterns.

Positioning of educators

- It is important carers are able to move around effortlessly and view play areas from different angles
- Carers should be close enough to children to intervene promptly and prevent injury;
- Educators should ensure that students are being considered when coordinating supervision.

Listening when children play

• Listening is important and different sounds can alert educators to potential risks.

Knowledge of the environment and its potential risks

Please refer to the maintenance policy

Setting up of the environment

• It is important that the design and layout should be safe enough to allow adults to freely interact.

Promoting play and learning experiences

 Supervision can ensure that children's play is enjoyable and their learning opportunities are promoted.



Plan of Management: 17 Nottinghill Road, Lidcombe

Risk management strategies

Please refer to the services OH&S policy

Children's arrival & departure

- To ensure only authorized-persons collect children from the centre
- Upon enrolment and first starting day a parent is shown where to sign the child in & out

In relation to parents

- Parents or authorized persons MUST be responsible for the supervision of children not enrolled at the centre
- Parent must ensure that staff are aware of theirs child's arrival/departure
- Parent must hand the child over personally to staff/educators

In relation to staff

- Educators are to ensure that no child will exit the centre without a parent or authorized person
- While on duty, educators have a first priority to ensure safety of children

Nappy changes & toileting

Please refer to the policy (toileting, nappy change)

Transporting children

Please refer to the services OH&S policy

Protective behaviours & practices

- Staff, students, carers are role models
- Children learn through example and modelling to teach children

Staff professional development opportunities

• The service aims to maintain and strengthen the skills and knowledge of educators in relation to active supervision.



Plan of Management: 17 Nottinghill Road, Lidcombe

EMERGENCY EVACUATION PLAN

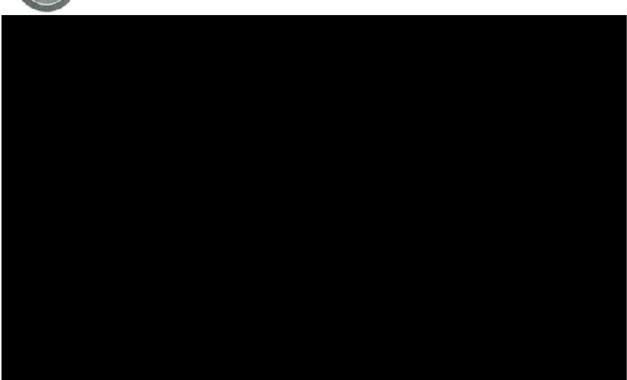
An Emergency Evacuation Plan will be prepared and attached to this Plan of Management prior to commencement of operations of the child care centre. The plan will contain pictorial instructions detailing evacuation steps in the case of an emergency. The plan is to include evacuation routes, assembly points, and a plan of action once a fire alarm has been activated. The Emergency Evacuation Plan is to be prominently located in each room and in the common area. The phone numbers of appropriate contacts will be maintained in the administrative centre.

DOCUMENTS ASSOCIATED WITH REPORT LPP072/19

Attachment 5
Submissions







Subject: Re: URGENT - Private & Confidential - Extension of time request for formal lodgement of objection submissions PLUS evidence in relation to DA-153/2019 & its HERITAGE STATUS IN THE COMMUNITY:17 nottinghill road lidcombe, 2141 and arrange a meeting with ...

To the General Manager, and proper officer

The residents of lidcombe request the following

- 1) Email address contact details for all the 'independent planning panel' that will be determining the alleged proposed DA-153/2019 at 17 Nottinghill road, Lidcombe
- 2) Email address details, phone numbers for all "heritage consultants, and directors within council"
- 3) Email address contact details, phone numbers

1

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4) All applicable planning controls, including public exhibition requirements under the act

On Wed, Jul 24, 2019 at 5:49 PM

Thank you have for your prompt response. The community wised you guys arranged a meeting with us earlier as we requested over 3 weeks ago now. Not on the last day of submission/s. You are the only member of the planning department who has emailed us back. We also ask for a direct contact list of all the planning panel (including the new Independent QC and ask if they will determine the final application, if so the residents request all email contact details of the entire panel so the objection submissions can be submitted to them directly, otherwise legal action in the land and environment court shall be instigated for failure to inform of necessary head legal contact details and further obstruction of justice.

We understand, you may be pressed for time and are grateful for your response, albeit very late and getting back to us on this important heritage issue. I will also address the submissions on Cumberland's heritage list that was advertised on Tuesday 9th July 2019 in the auburn review paper with reference no. 'SC604' and speak in relation to properties 17 nottinghill road lidcombe

plus 65 kerrs road lidcombe 71 kerrs road lidcombe

and other homes for heritage consideration, otherwise a class action litigation will be taken out by the residents and media involved.

I will take your email now to mean that council has granted a 2 week extension of submissions, we state on the record that this is not appropriate given the HUGE HERITAGE ISSUES WE FACE IN OUR LOCAL COMMUNITY AND the fact that council has not even done a heritage study on all the above 4 properties. Although as I have stated I have personally consulted and rung 2 eminent heritage experts and they will need a period of 6 to 8 weeks minimum to inspect the property and do their expert reports. I will address these and other major issues of heritage with you on Monday 29th July 2019.

I ask all councillors on this email to attend if possible and the General Manager and and request you invite the appropriate Heritage Director in council and let us know who this is within council.

Kind regards

On Wed, Jul 24, 2019 at 5:37 PM S

I must say a large thank you to Ms (whom I have only rung a few times with the presence of a neighbour whom could not speak English well enough) and say that as a councillor she does her job properly by addressing the community concerns promptly and with ease and on a timely basis. Unlike the rest of council who do not even answer their phones and pass the buck onto someone else. (we appreciate your time on the phone and understanding that the Arabic, Chinese, Vietnamese, Russian, croation, Korean, indian, greek, Burmese and other community members are grateful to be able to indicate their concerns re extension on objections/that is submissions needing proper assessment and time to write up in peoples own languages, further technical issues will need to be explained to the community whose English is limited and who do not even have a university degree and are not lawyers, professionals who can and are able to understand technical drafting language used in development drawings, yet alone write an objection within such a limited timeframe, which still has not been provided.

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Moreover, the road on nottinghill road and the cross streets of Murray street, Victoria st, allan road, boulevard, kerrs road, caroll street, Raymond street east, and others leading up it including the main road Olympic road are all heavy with traffic and the actuall site is definitely not safe nor suitable for any kind of this "alleged proposed development" which is illegal in our area. The distance is less than 28metres from Murray street and less than 60metres from Victoria street. Carparks of any kind are not permissible development in 2A zoned areas and are prohibited under the ALEP 2010. This is a heritage home and will be proven to be and the development proposal will be rejected by council on this ground alone, not to mention the myriad of other "illegal issues" that will arise if this was even contemplated by the council or if internal persons were found to be taking money and corruption was ensuing.

Today , we did not receive a satisfactory response on our request for extension. Mr also had his written request for an extension "purposely ignored and not answered to"... this shows a high level of internal corruption and not doing one's job in accordance with the proper protocols of a governing and employed employee of council. This will be used against the relevant parties if and when the time arrives for the residence to say "enough is enough, the legal system will be involved" and action taken in the land and environment court with possible current affair coverage Channel 9 news is on standby.

The residents also wish to state that a "more detailed and conclusive objection/s will be forthcoming" re: 17 Nottinghill Road, Lidcombe on the grounds of it being a Heritage item and requesting council to state its position on whether it shall list the over 106+ year old sandstone former home of Mr and Mrs Armstrong on it's local heritage list. The residents need a minimum of 9 to 14 weeks to get a detailed heritage report which will cost more than \$3000 dollars and which we shall be seeking council to pay its costs.

Kind Regards

On behalf of

On Wed, Jul 24, 2019 at 5:07 PM

Please respond today, otherwise we shall take this to mean that our extension until Dec 2019 and Jan/Feb next year is granted...

regards

On Wed, Jul 24, 2019 at 2:30 PM

Hi General Manager and the proper officer,

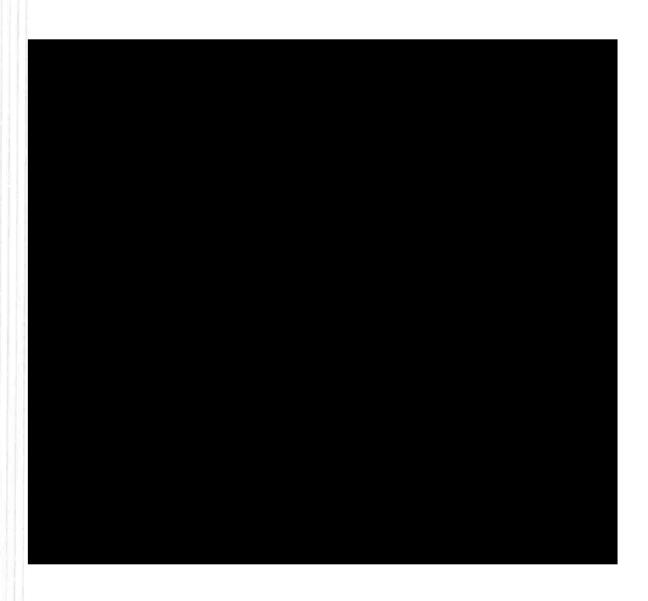
I thank you for your email and your response, but the residents have continuously asked for an extension of time to be granted re putting on their objections. We would still like to know in writing whether the residents including myself are able to get an extension of time on putting in our formal submissions for objecting to the development proposal?

Further we were informed that extension was granted and also the signage would be 're exhibited after notices of dA letters were provided to a wider section of the community, and the date then would be announced for reexhibition to date this has not occurred.

I look forward to our meeting this coming Monday.

Kind regards





RE: 17 Nottinghill Rd, Lidcombe 2141 Heritage Item

and the proper officer and all others concerned

To the General Manager (



The community expects a written response to the email i sent a few days ago, asking for an extension of time to be granted ASAP!!!! We wish to note on the record, if a response re: WHEN the exhibition period restarted and ends and no response is given before this time, we shall ask for another exhibition period and notification. We requested this, when the DA sign was completely covered at the premises, and a gentleman who works for MR mamed was personally shooing people away like chickens and being discourteous to say the least, and then Mr father interfering with the public, and police having to intervene unfortunately.

The residents still do not have the necessary DA letters as was promised by council and then a exhibition period would be re-instated. Again, this was not followed correctly. In the interests of all parties, we suggest council notify all residents, again the exhibition period announced and then re-exhibited with a proper sign up above ground level.

The residents all wish for an immediate interim heritage order be placed on the property and ask for an extension of time to file their valid objections. This home and associated parts and vegetatation is solid, is part of our local community and has immense heritage significance in the local area and indeed at state level, we vehemently object to its demolition.

The residents, request an extension of time as they will need interpreters, they need to have the sign explained in their language and all technical da and other development documents will need to be gone throught and advice be provided from lawyers, planners and other experts independently so council can consider our valid objections BEFORE determining matters. If council has already made a decision before allowing the community an opportunity then proceedings will be brought in the land and environment court and a full indemnity costs order shall be sought as council is well aware of what it is doing, primae facie along with compensatory damages to the loss of amenity and other damages that result to this heritage building, both at state and local level and on other legal legislative avenues and the safety issues and loss of value on peoples home and peace of mind of living in a happy 2A low density residential neighbourhood. This site, is NOT appropriate for any development at all, yet alone a childcare facility.

The residents are elderly, their children all go to school, work as are trying to make a living so we request a meeting on this coming Monday 29th July 2019 at 10am alternatively the following Monday 5th July 2019 at 10am. Only a few residents can attend as most will be at work, at least the major issues can be attentioned.

I reiterated the urgency in this matter, for people to get interpreters, and have all the technical documentation explained to them, in order for opinions to be generated fairly and be given access to such documents in peoples language of birth...so formal objections can be submitted.

Most residents children do not live in the locale anymore, and are requesting this extension until next year February 2019 at the minimum... most are away from November, December and January and i personally cannot make the meeting for this Thursday at 9am, due to medical reasons of my own.

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We requested a written response but did not get one, and we also many weeks ago requested a meeting with all councillors, mayor, deputy mayor, planning panel, development panel, General manager Monday, before any exhibition end date and again this was not responded to, for well over 2 weeks.

Kindly attention this matter

I have CC'd the ombudsman as reference and for further deliberation and complaint if need be



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From:	
Sent: 18 July 2019 5:36 PM	
To:	
Subject: Re: URGENT - Private & Confidential	- Extension of time request for formal lodgement of objection

Subject: Re: URGENT - Private & Confidential - Extension of time request for formal lodgement of objection submissions PLUS evidence in relation to DA-153/2019 & its HERITAGE STATUS IN THE COMMUNITY: 17 nottinghill road lidcombe, 2141 and arrange a meeting with ...

Apologies,

I forgot to also ask for a formal meeting to be arranged this coming Monday at 11am if possible with Councillors, and all other parties concerned, ie) heritage officer and or team

The residents and I are not familiar with whom is responsible for HERITAGE in our area, as this person is now believed to have resigned and another member as unfortunately passed away, by not allowing the community and council the appropriate time to follow up this serious issue, serious irrevocable consequences will occur and injustices will occur and council no doubt will have negligence issues on its hands and legal action in the land and environment court may result on behalf of the residents as independent respondents to this very serious heritage issue and concern

Your patience and time in reading the above information is kindly appreciated, and I look forward to a positive outcome on behalf of our wonderfully diverse ethnic and cultural community



regards

beginning from 8th July???

On Thu, Jul 18, 2019 at 5:29 PM
Dear Councillors: & others, leading (General Manager), (Mayor), Deputy Mayor (Director Environment & Planning), leading (Director Community Development), Planning Department and for completeness so as to not exclude: Mr QC and others of concern
As discussed briefly with Ms and last week and Mr
The home which is the subject of great significant cultural, local and heritage concern is <u>17</u> Nottinghill Road Lidcombe, 2141.
Currently, the Exhibition Period was re-instated or rather recently exhibited after evidence of
1) covering of the DA signage board with a grey fabric, (worker or other) for the entire first week
 photographic evidence of obstruction and indeed no paperwork or identification material on signage board
3) Physical interference by worker named (of maoori origin) in public trying to view signage
4) And then the applicants father further obstructing the process of seeing the sign and chasing 2 female neighbours to their homes after one elderly Vietnamese lady (who does not wish to be named - took a photo of the sign board missing the entire notice and DA details) police were called on behalf of the other resident
I am representing the residents and ask council to firstly look at the following critical issues of concern the community shares:
1) The current signage has different dates for the new exhibition period in front of the home as being from the 17th July 2019 until Wed 24th July 2019.
Unfortunately the website details say something entirely different ie) as the new period

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- *** The 8th of July was still missing all the signage, council's website has different dates (given past history, the residents would still like a copy of the DA application, to date this has not been received by residents at no's 13, 11, 9, 7, 5, 3 etc etc nottinghill road, the backyard neighbours on Beatrice street also have not received the DA application letter of notification as was promised by council... and other residents at 21, 23, 25, 27 etc have not been notified, nor any residents on Murray street (whom this proposal would massively affect and would like to object).
- 2) As is well documented in the Auburn Review (local paper) Tuesday 9th July 2019 the Cumberland Region particularly the residents in the lidcombe, auburn, berala, regents park locale come from largely immigrant backgrounds, and some of refugee status, etc are greatly limited in their English language and are also elderly in nature and have great troubles with the English language and wish to put their formal objections in and have indeed on a number of occasions via phone calls to council, email and some meetings in persons in council have continuously requested for a minimum 13 week extension, to get interpreters, to explain the DA documents and get access to the information in their language as they cannot understand the details on the signage board nor when details have been changed continuously and no full formal letters have been sent to residents where this will have a DIRECT OUTCOME of negative repercussions on behalf of the entire community. The community believes this property to already be on the heritage registrar and are demanding access to DA documents in their language. Also there are a high number of renters whom need to contact the principal owners but as the signage was obstructed and those owners do not always reside or are at home, the information is missing to say the least.
- 3) The residents clearly seek a minimum extension until 30 November 2019 to finalise their objections. The reasons for this request include what I have mentioned in 2) above and also they are seeking and asking council for a FULL COMPREHENSIVE HERITAGE ASSESSMENT TO BE DONE BY COUNCIL AND TO CONSIDER THE PROPERTY AND INDEED THE ONE FURTHER UP THE ROAD ON NOTTINGHILL ROAD AS 2 HERITAGE ITEMS AND BE FORMALLY INSTATED ON THE LOCAL REGISTRY.
- 4) Today, I have briefly asked on behalf of the residents for a full HERITAGE ASSESSMENT INDEPENDENT REPORT THROUGH 2 OF THE COUNTRIES BEST EXPERTS... THEY have advised that due to current workloads, these assessments cannot be done in 2 to 3week time periods and will need a period of 8 weeks to do their investigations, gather the appropriate information and write up their reports, although have indicated a preliminary view of 17 Nottinghill Road, Lidcombe as a heritage item and should be put on the local registry. The neighbours and indeed the surrounding areas of berala and regents park all have expressed their concerns to me and have asked me to attention these items of major interest. We as a community are seeking a LOCAL HERITAGE ORDER and request that an IMMEDIATE INTERIM ORDER BE PUT THROUGH, AND OR TIME FOR COUNCIL TO DO A COMPREHENSIVE STUDY OF THE LOCALE...
- 5) As noted in Tuesday's 9th July 2019 Auburn Review local newspaper, under the ANNOUNCEMENTS SECTION... in particular under the "COMMUNITY FEEDBACK ON CUMBERLAND'S HERITAGE LIST..."Council is undertaking a comprehensive heritage review of Cumberland's Heritage List. Stage 1 of this review is an audit of all local heritage items and places within Cumberland which are currently listed in Council's existing planning controls. Stage 2 of this



review will focus on recommendations for new items and places that could be added to the list as local heritage items in the future...

The residents not only wish to have their opinions on this heritage item, but have it formally recognized and indeed the one further up from it...but an extension of time until 30th November or mid December 2019 for such a serious issue is not disadvantageous to anyone, especially as their shall be a petition forthcoming to council.

Please let me know a response in relation to extension

Kind Regards

(on behalf of residents along Nottinghill road, Beatrice st, murray street, Victoria st, Raymond street, kerrs road and others...

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Subject: Proposed Alleged development at 17 Nottinghill road, Lidcombe

I am writing this email to state my opposition to development at 17 Nottinghill road, Lidcombe.

We as owners did not receive council notification of development application. Today I have been informed that something large not a house will be constructed. We oppose this.

We wish to get a copy of the DA letter and wish to tell council the sign at the front of the home does not have any details... it was obstructed last week with a grey cloth.

As a community we are upset and wish to be notified in writing and seek an extension based on the reasons I have said. My English is not the best and I will require an interpreter to put a more formal application.

We understand there are now over 20 households who oppose the application and have not been notified as the sign is missing and was covered the previous week.

I am working tomorrow 25 June 2019 and I would like the exhibition period to be extended and notices provided to us and all residents on Nottinghill road as this will affect us all. Failure to do this will result in seeking legal opinion and legal action by the residents.

Please do the needful and right thing and notify us all and so we can put in our objections.

Thank you

Sent from my iPhone



From:	
Sent:	24 June 2019 8:52 PM
То:	
Subject:	17 nottinghill road Lidcombe-photos no sign, missing information

Dear council,

My name is _______. I have taken five photos and I am a concerned local resident as due process is not being followed by council.

Neighbours wish to be informed of development application and not have the process obstructed. We wish to object to any development and want to be first be notified of what is proposed but the residents do not have any details. We will be providing our objections to this in writing by 29th of September.

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Kind regards.

Cumberland Local Planning Panel Meeting 13 November 2019

From: Sent: To: Cc: Subject:	24 June 2019 10:11 PM Records Department Extension of notice for development at 17 Nottinghill Rd Lidcombe
Dear	
I am writing in relation to a p	proposed development at 17 Nottinghill Rd Lidcombe NSW 2141.
As a resident of crossroad proposed development applic the floor and not clearly visib	we have not been notified of an alleged sation. The notice regarding the development at the front of the property is on sele.
Therefore, we are not properly	y informed and request the following:
 An extension of notice for Full copy of all documents 	development until 30 September 2019. in colour to be made available by post and email.
In addition, this is a 2A reside this property development.	ential zoned area not for commercial purposes and we resist the application of



From:
Sent: 1 July 2019 8:01 AM
To:
Subject: Trim FW: Private -Urgent Issues 17 Nottinghill Road Lidcombe 2141

-----Original Message-----From:
Sent: Sunday, 30 June 2019 5:01 PM
To:
Subject: Private -Urgent Issues 17 Nottinghill Road Lidcombe 2141

Dear Councillors, General Manager Mr , Mayor , Director of Environment & Planning , Mayor , and other persons of interest

I wish to formally object to any proposed development at 17 Nottinghill Road Lidcombe, 2141. This is a home of great significance and historical heritage importance in the area and I believe it to be heritage. It has been in the same location for well over 60 years.

Today whilst passing the property I have noticed no signage with relevant DA no's or relevant legal contact details.

I have not been notified of any development applications in the mail and I wish to inform council of this. I would like a full set of documents in relation to any proposed development as I would like to put my objections in writing. I note this is a low density residential area. I also note I may need an interpreter to formalise my complaint letter to you all and need an extension of time, until 30th November 2019 to write up, please note the community is upset.

Please let us know what is going on

Kind regards



From: Sent:

To:

11 June 2019 8:49 PM Records Department

Subject:

Development Proposal 17 Nottinghill Rd Lidcombe

Hi

I am the owner

I'm just hoping to clarify a few things.

- 1. What does '48 place' mean in terms of construction requirements?
- 2. is this kind of development acceptable in our zoning? And, what other kinds of things like this are we allowed to do?
- 4. if there is a childcare across the road, how does that affect nearby development applications in the future? For example, what kind of things are not allowed to be built/operated near a childcare? And how far?

Thanks



From:

Sent:

12 June 2019 3:20 PM

To:

Elma Sukurma

Subject:

Attachments:

Re: Development Proposal 17 Nottinghill Rd Lidcombe

image640484.jpg

Hi,

Thanks

I had a look but i couldn't find anything, can you send a copy of (i) the building plans and (ii) the traffic management plan?

Thanks



DOCUMENTS ASSOCIATED WITH REPORT LPP072/19

Attachment 6
Heritage Assessment





17 Nottinghill Road, Lidcombe

Heritage Assessment

Report prepared for Cumberland Council

September 2019



Sydney Office Level 6 372 Elizabeth Street Surry Hills NSW Australia 2010 T +61 2 9319 4811

Canberra Office 2A Mugga Way Red Hill ACT Australia 2603 T +61 2 6273 7540

GML Heritage Pty Ltd ABN 60 001 179 362

www.gml.com.au

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Report Register

The following report register documents the development and issue of the report entitled 17 Nottinghill Road, Lidcombe—Heritage Assessment, undertaken by GML Heritage Pty Ltd in accordance with its quality management system.

Job No.	Issue No.	Notes/Description	Issue Date
19-0355	1	Draft Report	2 September 2019
19-0355	2	Final Report	9 September 2019

Quality Assurance

GML Heritage Pty Ltd operates under a quality management system which has been certified as complying with the Australian/New Zealand Standard for quality management systems AS/NZS ISO 9001-2016

The report has been reviewed and approved for issue in accordance with the GML quality assurance policy and procedures.

Project Manager:	Kate Long	Project Director & Reviewer:	Lisa Trueman
Issue No.	2	Issue No.	2
Signature	Heng	Signature	Alm
Position:	Heritage Consultant	Position:	Associate
Date:	9 September 2019	Date:	9 September 2019

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Cover Image: 17 Nottinghill Street, Lidcombe (GML 2019)

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GML Heritage

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GML Heritage

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17 Nottinghill Road, Lidcombe—Heritage Assessment, September 2019

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GML Heritage

1

1.0 Introduction

1.1 Background

Cumberland Council (Council) has commissioned GML Heritage Pty Ltd (GML) to provide a heritage assessment of 17 Nottinghill Road, Lidcombe, in order to determine if it reaches the threshold for listing as a heritage item within the *Auburn Local Environmental Plan 2010*.

Council has received a development application (DA 153/2019) that involves the demolition of the existing dwelling on the subject site and the construction of a new child care facility with basement carparking. In response to the proposed demolition, Council has requested a heritage assessment for the subject property.

The approach, methodology, assessment procedures, criteria and recommendations of the report have been prepared in accordance with the *Australia ICOMOS Burra Charter*, 2013 (the Burra Charter) and the guideline document 'Assessing Heritage Significance' prepared by the Heritage Division of the Office of the Environment and Heritage and contained in the *NSW Heritage Manual*.

1.2 Identification of Study Area

The subject site is located at 17 Nottinghill Road, Lidcombe, within the Cumberland Council local government area (LGA) and is identified in Figure 1.1 and 1.2 below. The property is located on the eastern side of Nottinghill Road and comprises Lot 2, DP 962677. The land is zoned R2 Low Density Residential.

1.3 Heritage Context

The subject site is not listed as an item under the *Auburn Local Environment Plan 2010* (LEP), nor located within a Heritage Conservation Area. The closest heritage item to the subject site, being Item 129 'Dwelling' listed under the Auburn LEP, is located approximately 200 metres to the north of the subject site.

1.4 Methodology

This Heritage Assessment (HA) report uses methodology and terminology consistent with the *NSW Heritage Manual* guidelines, including 'Assessing Heritage Significance' and the guidelines of the Burra Charter.

1.5 Terminology

The terminology used in this report is consistent with the *NSW Heritage Manual*, prepared by the Heritage Office (now Heritage Division), and the Burra Charter.

Place means site, area, land, landscape, building or other work, group of buildings or other works, and may include components, contents, spaces and views.

Cultural significance means aesthetic, historic, scientific, social or spiritual value for past, present or future generations. Cultural significance is embodied in the place itself, its fabric, setting, use, associations, meanings, records, related places and related objects. Places may have a range of values for different individuals or groups.

Fabric means all the physical material of the place including components, fixtures, contents, and objects.



GML Heritage

Conservation means all the processes of looking after a place so to retain its cultural significance.

Maintenance means the continuous protective care of the fabric and setting of a place, and is to be distinguished from repair. Repair involves restoration or reconstruction.

Preservation means maintaining the fabric of a place in its existing state and retarding deterioration.

Restoration means returning the existing fabric of a place to a known earlier state by removing accretions or by reassembling existing components without the introduction of new material.

Reconstruction means returning the place to a known earlier state and is distinguished from restoration by the introduction of new material into the fabric.

Adaptation means modifying a place to suit the existing use or a proposed use.

Use means the functions of a place, as well as the activities and practices that may occur at the place.

Compatible use means a use which respects the cultural significance of a place. Such a use involves no, or minimal, impact on cultural significance.

Curtilage is defined as the area of land surrounding an item that is required to retain its heritage significance. The nature and extent of the curtilage will vary and can include but is not limited to lot boundaries and visual catchments.

Setting means the area around a place, which may include the visual catchment.

Related place means a place that contributes to the cultural significance of another place.

1.6 Limitations

The background research for this report has been limited to a desktop analysis of available information only. No additional primary or archival research has been included in the scope of this assessment.

1.7 Authorship and Acknowledgements

This report has been prepared by Kate Long (Heritage Consultant), Minna Muhlen-Schulte (Senior Heritage Consultant, Historian), with review and input from Lisa Trueman (Associate).



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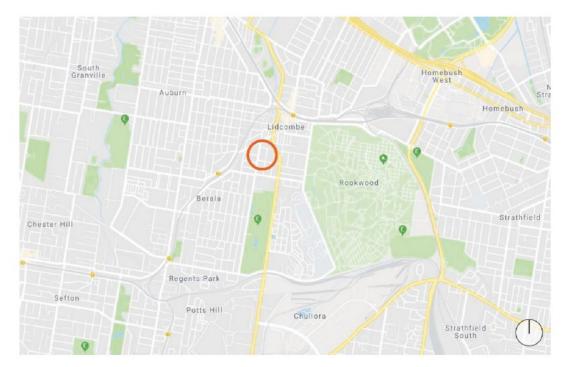


Figure 1.1 Map showing the location of 17 Nottinghill Road, Lidcombe. (Source: Google Maps with GML overlay)



Figure 1.2 Site layout. (Source: Nearmap with GML overlay)



2.0 Statutory Context

2.1 Introduction

In NSW, items of heritage significance are afforded statutory protection under the following Acts:

- Heritage Act 1977 (NSW) (Heritage Act); and
- Environmental Planning and Assessment Act 1979 (NSW) (EPA Act).

2.2 Heritage Act 1977

The Heritage Act is a statutory tool designed to conserve NSW's environmental heritage. It is used to regulate the impacts of development on the state's heritage assets. The Heritage Act describes a heritage item as 'a place, building, work, relic, moveable object or precinct'.

The subject site is not listed on the State Heritage Register (SHR). There are no items listed on the SHR in the vicinity.

2.3 Environmental Planning and Assessment Act 1979

The EPA Act is administered by the NSW Department of Planning and Environment and provides for environmental planning instruments to be made to guide the process of development and land use. The EPA Act also provides for the protection of local heritage items and conservation areas through listing on Local Environmental Plans (LEPs) and State Environmental Planning Policies (SEPPs) which provide local councils with the framework required to make planning decisions.

2.3.1 Auburn Local Environmental Plan 2010

The Auburn LEP is the principal environmental planning instrument applying to the land. Schedule 5 of the LEP identifies heritage items and heritage conservation areas. The subject site is not listed as a heritage item nor is it located within a listed conservation area. The objectives of Clause 5.10 are as follows:

- (a) to conserve the environmental heritage of Auburn,
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,
- (c) to conserve archaeological sites,
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.

The subject site is not currently listed as a heritage item, nor is it within a heritage conservation area, within the Auburn LEP.



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3.0 Historical Overview

3.1 Introduction

This section provides an overview of the historical background of the subject site. It is based upon secondary sources, supplemented with additional primary research from the National Library of Australia (NLA), the State Library of NSW and NSW Land Registry Service.

3.2 Aboriginal History

The Cumberland Plain has been home to Aboriginal people for thousands of generations, with evidence from archaeological sites in the Parramatta region confirming their presence for at least 39,000 years. The Lidcombe area was strongly associated with the Wangal people, who were a part of the Darug language speaking group. Ethnohistoric accounts of the region suggest that the Wangal inhabited the south side of Sydney Harbour, from Darling Harbour west to Parramatta. ²

Inland areas of the Cumberland Plain provided rich resources for, and were actively managed by, Aboriginal people across an extended cultural landscape. Resources in the area would have included small amounts of freshwater fish, including mullet and eels, taken from adjacent waterways and supplemented by terrestrial animals and plants. Wallabies, bandicoots and birds were often snared along creeks and rivers, while possums and gliders were a common food source in the open woodlands across the Cumberland Plain. Wild honey, the Burrawong nut, berries and banksia flowers were also significant sources of food.³

British colonisation had a significant impact on the Aboriginal people of the Sydney region. A major smallpox epidemic followed the arrival of the First Fleet and devastated the population and caused major disruptions to Aboriginal society. Dispossession and dislocation, the restriction of access to Country and resources, and violence became the reality for many and had long-lasting impacts on Aboriginal communities to the present day.

Despite the dramatically changed circumstances, Aboriginal people continued to live on Country, wherever they could. The extent of European settlement left Aboriginal groups with limited options, which included trying to integrate into the fringes of colonial society, relocating to potential hostile lands.

3.3 Early Land Grants and European Occupation

On 16 February 1788, an exploring party rowed up the Parramatta River. After passing mud flats and an island covered with mangroves, it traced the course of a river, believed to be Duck River, for four miles.

In Auburn, the first area to be taken up as grants was along Parramatta Road and the river. Land to the south was not taken up until the 1820s.⁴ Thomas Bates received a grant on 1 January 1806, along with Samuel Haslem and Thomas Francis. Bates took up occupation of his land and successfully saved three bridges on the road during a bushfire.⁵

At the time of the 1828 census, the area that became Lidcombe lay within the District of Parramatta and partially in Concord. Land was granted to free settlers and ex-convicts and there was a thin spread of settlers over the area. Most grants were small, often only 30 to 100 acres, and were awarded to people such as the government official Edward Gould, the merchant Henry Marr and John O'Donnell. Larger grants went to prominent merchants and officials, such as Joseph Hyde Potts, who was given 410 acres.⁶



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The original vegetation of the area was open forest of grey box, ironbark and stringybark, with woollybutt red gums dominating. Many settlers were slow to clear their land. J and W Haslem had cleared a mere 8%, and Samuel Haslem only 50%, in 1828. Many other grants were unoccupied, so that large areas were still covered with their original vegetation. Over time, several large fires reduced the tree cover.

Father John Joseph Therry, one of the first official Roman Catholic priests in New South Wales, arrived in May 1820 and conceived of a religious centre in the town of St Ann, near Cook's River. Although there were no overt plans, Therry's development of the town of St Joachim's near Haslems Creek (now spelt Haslams) had the effect of creating a line of Catholic settlement. He purchased Patrick Kirk's grant in 1831, and most of George Sunderland's grant, as the basis for the town. The railway to Parramatta bisected the land at Haslams Creek, and the town was arranged on either side of the line with streets named after various saints. In his will, Therry left instructions to devote the proceeds of the sale of land at St Ann to the church there, but none regarding the Haslams Creek land.⁸

After Therry's death on 6 May 1867, the land was auctioned as the township of St Joseph, laid out on a different arrangement (refer to Figure 3.2). The acquisition of a large area of nearby land for a cemetery, Rookwood Cemetery, by the government meant that home sites in St Joseph had a ready market. The township of St Joseph forms the core of present-day Lidcombe. Several stonemasons bought allotments adjoining the cemetery and established their yards there.

The railway to Parramatta Junction (now Granville) opened in 1855. A station opened at Haslams Creek (now Lidcombe) in October 1859. From the 1860s to the 1880s, a number of major roads were officially aligned and gazetted through the area. In August 1862, a road from Parramatta Road to the station was opened, which later became John Street. Another road running south to Bankstown (now Joseph Street) was opened at the same time.⁹

The establishment of Rookwood Cemetery gave a new name to the area which was proclaimed the Borough of Rookwood in 1891. In 1913, when the name Rookwood no longer appealed to residents, a new name was created for the suburb from Mayor Lidbury's surname and that of his main mayoral opponent, Alexander Larcombe, to create the name 'Lidcombe'. 10

By 1945, Lidcombe was estimated to have 35% of its land in industrial use (including the abattoirs), 23% as residential land, 2% as recreational land, with Commonwealth and state government land and the cemetery occupying the remaining 40%.² In Auburn, industry occupied 19.3% of the area, residential land 38.6%, recreation space 1.2%, whilst another 19.2% was vacant land.¹¹

LPP072/19 - Attachment 6



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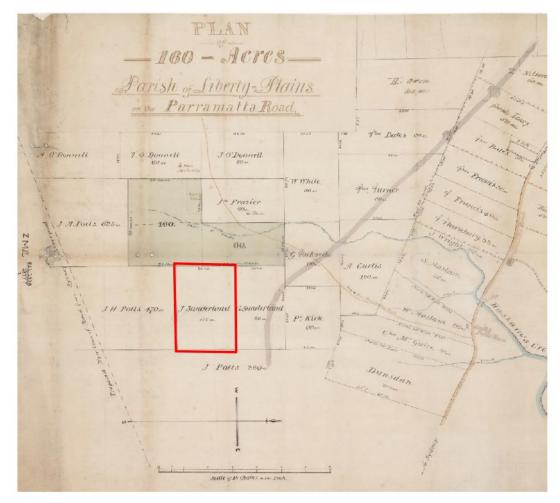


Figure 3.1 Excerpt from parish of Liberty Plains on the Parramatta Road, 1877, showing John Sunderland land grant. (Source: State Library of NSW M2811.1338/1877/1)





Figure 3.2 Township of St Joseph Subdivision 1867, property of the late Reverent Therry. Approximate location of subject site indicated in red. (Source: State Library of NSW M2811.1338/1877/1)



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3.4 17 Nottinghill Road

The subject site formed part of the land that was originally granted to John Sunderland by Crown Grant on 30 June 1823. Based on the Township of St Joseph Subdivision plan the land was likely purchased by Father Therry sometime before his death in 1864. In 1867, the land was purchased by Robert Robinson as lot 64 of the Township of St Joseph Subdivision (refer to Figure 3.2).¹²

The land was then transferred to the Town and Country Land Building and Investment Company Limited in 1886 and subdivided into smaller individual lots. The lots were auctioned off as the Albert Park Estate, Rookwood (refer to Figure 3.3). The subject site formed part of Lot 14 and 13, Section D, of Deposited Plan 1767.¹³

The land comprising the subject site was not sold in the initial subdivision and was later transferred to a new Certificate of Title with the remaining unsold lots. In 1907, Lots 14, 15 and part of Lot 13 of Section D of Deposited Plan 1767 were purchased by Thomas Jessep of Waverley. Jessep was a Waverley Municipal Council alderman from 1889–1892 and was later elected to the New South Wales Legislative Assembly as the Free Trade member for Waverley.

In 1912, the land was transferred to Robert Armstrong of Rookwood. ¹⁵ Robert Armstrong was a local butcher, who held a store nearby in Joseph Street. The dwelling on the site first appears on the Sands Directory in 1913 with Robert Armstrong listed as the occupant. It is believed that the extant dwelling erected by Robert Armstrong was purchased, relocated and reconstructed on site from its former location at Regents Park. The sandstone cottage was supposedly located within the proposed Lidcombe to Regents Park rail corridor. The subject site is included in the publication *The Roof Over Our Heads* by Kathy Mealing as follows:

17 Nottinghill Road., Lidcombe, was originally known as Jamison's Stone Cottage, built before the turn of the century at Regents Park. As it was in the path of the Regents Park-Liverpool railway line, it was skid and dismantled in 1913 to be re-erected on its present site by its new owner Robert Armstrong. He built his shop on Joseph St. at the same time.

The house is of the Colonial Georgian style and build of solid sandstone blocks each 4'x 12"x 9"(220 x 30 x 23cm) and weighing approx.. 4 cwt. (200 kg). The interior walls were of rough sandstone bricks, but these have been replaced with gyprock. A new iron roof was fitted in 1913, replacing slate. The ceilings were of timber boards; most of these have been replaced with gyprock also. The solid cedar front door is the original. The iron lace on the verandah is a modern version of the original. The front fence of sandstone blocks no longer has the iron pickers atop.

The house is now the home of Robert Armstrong's grandson, Bill, the local locksmith. 16

Aside from this anecdotal information, no documentary evidence has been found to accurately identify the origin of the sandstone dwelling or the previous owner.

It is believed Armstrong and his wife Caroline and children lived in the dwelling. Several newspaper articles make reference to Robert Armstrong, including an article on his death by suicide in 1918 at his store premises in Joseph Street. Tearlier in 1915, Robert Armstrong had transferred his property at Nottinghill Road to his daughter Mildred.

In 1919, the land parcel was divided into the current Lots 1 and 2 of DP 962677. Lot 1 was transferred to William Armstrong of Lidcombe and Lot 2 (17 Nottinghill Road) was retained by Mildred Armstrong. In 1958 the subject site was transferred to William Armstrong of Lidcombe. In 1969, the property was transferred to William Armstrong Junior.



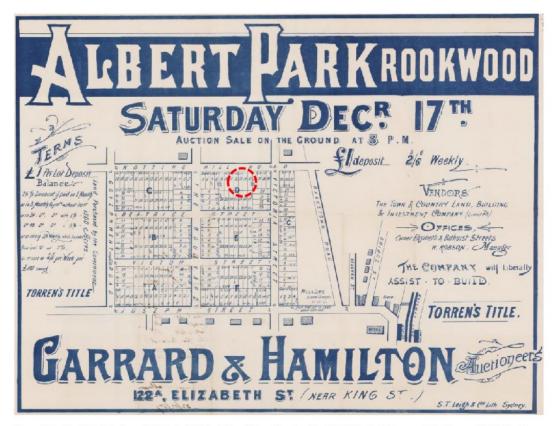


Figure 3.3 Albert Park Rookwood Estate Subdivision Plan with location of subject site indicated. (Source: State Library of NSW File No. FI 8982708)



Figure 3.4 1943 aerial, subject site indicated in red. (Source: SIX Maps)





Figure 3.5 View of subject dwelling c1988. (Source: The Roof Over Our Heads, Kathy Mealing)

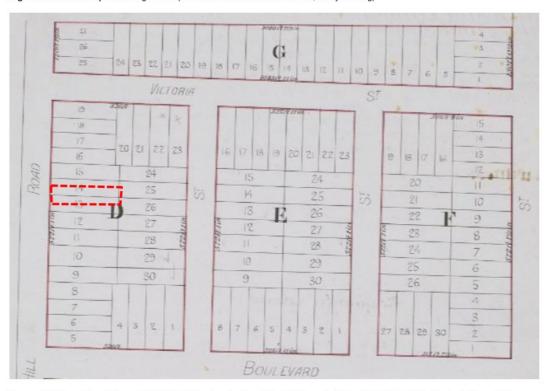


Figure 3.6 Excerpt from Volume 810 Folio 185 showing Sections D to G of Deposited Plan 1767. Subject site is indicated in red. (Source: NSW Land Registry Services)

17 Nottinghill Road, Lidcombe—Heritage Assessment, September 2019



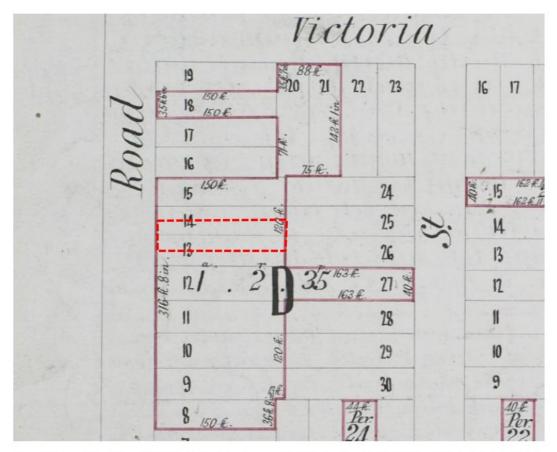


Figure 3.7 Excerpt from Volume 1185 Folio 28 showing land parcels which did not sell in original subdivision. Subject site indicated in red. (Source: NSW Land Registry Services)

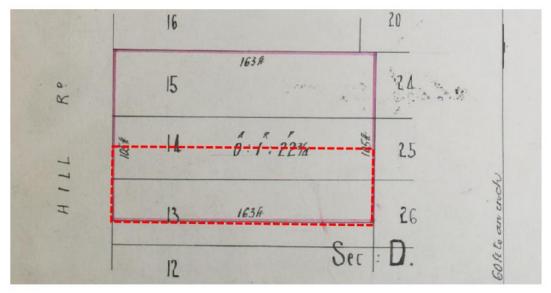


Figure 3.8 Excerpt from Volume 1803 Folio 35 showing land transferred to Thomas Jessep in 1907. (Source: NSW Land Registry Services)



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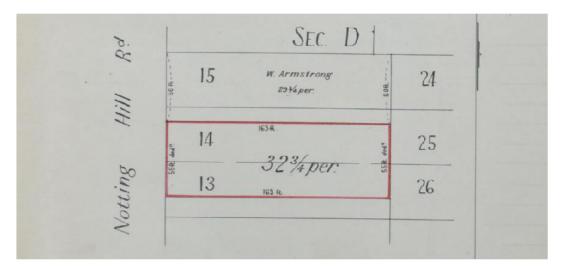


Figure 3.9 Excerpt from Volume 2959 Folio 190 showing land retained by Mildred Armstrong in 1919. (Source: NSW Land Registry Services)

Table 3.1 Table of Property Owners and Details.

	Vol-Fol
Lot 64 of the Township of St Joseph being eighteen acres and one rood to the western edge of Joseph Street.	284-36
As above.	492-174
ilding All Lots contained within Sections A to G of Deposited Plan 1767.	810-185
ilding Various Lots contained within Sections A to G of Deposited Plan 1767.	1185-28
That piece of land containing one rood, 22 and three quarter perches of land being Lots 14, 15 and part of Lot 13 of Section D of Deposited Plan 1767.	1803-35
As above.	1803-35
As above.	1803-35
fford (sic) Armstrong That piece of land containing 32 and three quarter perches of land being part of Lot 13 and 14 of Section D of DP 1767.	
As above.	2959-190
As above.	2959-190
	As above.



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Date	Owner	Description	Vol-Fol
22 July 1919	William Armstrong of Lidcombe, Grocer's Assistant	That part of land being Lot 15 and part of lot 14 Section D of DP 1767.	2953-148
2 November 1971	Ernestine Elizabeth Armstrong of Lidcombe, Widow	As above.	2953-148

3.5 Endnotes

- White, B and McDonald, J 2010, 'Lithic artefact distribution in the Rouse Hill Development Area, Cumberland Plain, NSW', Australian Archaeology, vol 70, p 36.
- AHMS, Rookwood Necropolis NSW—Aboriginal Archaeological Potential Desk-top Assessment, report prepared for the Rookwood Necroplis Trust, July 2010, p 5.
- ³ Kelleher Nightingale Consulting 2010, Area 20 Precinct Northwest Growth Centre—Aboriginal Heritage Assessment, report prepared for the NSW Department of Planning, September 2010, p 25.
- 4 Jervis, J 1933, The story of Parramatta and district, Sydney, p 83.
- 5 Liberty Plains: a history of Auburn New South Wales, centenary edition, Council of the Municipality of Auburn, Auburn, New South Wales, 1992, p 288.
- 6 Terry Kass for Neustein Associates, Auburn Heritage Study Historical Context Report, Auburn Council, May 1966, p 4.
- ⁷ Terry Kass for Neustein Associates, Auburn Heritage Study Historical Context Report, Auburn Council, May 1966, p 5.
- Terry Kass for Neustein Associates, Auburn Heritage Study Historical Context Report, Auburn Council, May 1966, p 26.
- ⁹ Terry Kass for Neustein Associates, Auburn Heritage Study Historical Context Report, Auburn Council, May 1966, p 6.
- 10 Terry Kass for Neustein Associates, Auburn Heritage Study Historical Context Report, Auburn Council, May 1966, p 30.
- Royal Commission on Local Government Boundaries, 1945–46, Statements of Evidence, in Terry Kass for Neustein Associates, Auburn Heritage Study – Historical Context Report, Auburn Council, May 1966, p 10.
- NSW Land Registry Services, Old Form Torrens Register, Certificate of Title Vol. 284 Folio. 36.
- NSW Land Registry Services, Old Form Torrens Register, Certificate of Title Vol. 810 Fol. 185.
- NSW Land Registry Services, Old Form Torrens Register, Certificate of Title Vol. 1803 Fol. 35.
- NSW Land Registry Services, Old Form Torrens Register, Certificate of Title Vol. 1803 Fol. 35.
- Mealing, K 1988, The Roof Over Our Heads, a bi-centenary project of the Auburn District Historical Society.
- 'Suicide by Hanging', The Cumberland Argus and Fruitgrowers Advocate, 8 June 1918, Trove, National Library of Australia, p 2, viewed 16 August 2019 http://nla.gov.au/nla.news-article86207279.



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4.0 Site Analysis

4.1 Site and Setting

The subject site is located on the eastern side of Nottinghill Road, Lidcombe, between Victoria Street West and The Boulevard. Nottinghill Road runs from Kerrs Road in the north to Amy Street in the south.

The surrounding area is predominantly characterised by freestanding one to two storey residential dwellings of varying ages and styles. The topography is predominantly flat and follows a typical grid pattern with rectangular lots and houses orientated towards the street.

The subject dwelling is orientated to the west and set back from the street by a small grassed area. There is a large level garden to the rear of the property. Vehicular access to the property is via a concrete driveway along the southern boundary. The property is bound by a low sandstone wall with pillars to Nottinghill Road. There are no prominent views to or from the subject site.

4.2 The Dwelling

No. 17 Nottinghill Road, Lidcombe, was inspected internally and externally by GML consultants on 14 August 2019. The property is a single storey dwelling constructed of large sandstone blocks with a pitched concrete tile roof. The original part of the dwelling is L-shaped with a detached fibro laundry and toilet at the rear of the dwelling. A flat roofed patio has been added directly at the rear of the dwelling, and there is a later detached garage/workshop structure located in the rear garden.

The dwelling has undergone a number of alterations which appear to date from the 1950/60s and 1980s, although its external form remains largely intact. Alterations have been made to both the interior and exterior of the dwelling.

Exterior

The building is a single storey block sandstone cottage with symmetrical design and simple pitched roof with concrete tiles. It has a front entrance verandah that extends across its front façade, with centrally located front entrance door. The verandah has a tiled roof and plasterboard ceiling. The verandah has been infilled at either end with tiles to the inner side, corrugated metal to the exterior and timber between. The windows to the front elevation are timber framed with painted stone sills. Each window contains a large fixed window pane to the top with two small awning windows below. The windows are not original and would appear to date from the 1950/60s. The metal lacework, tiling and posts to the verandah are not original.

The southern elevation contains two timber framed windows with painted stone sills. Both windows contain a large fixed window pane to the top with two small awning windows below. There is a sandstone chimney with chimney pots to the rear end of the dwelling.

The rear elevation comprises the covered patio, detached bathroom and laundry and fibro addition. The roof to the carport, bathroom, laundry and fibro addition are corrugated metal. The windows to the fibro addition are timber framed with both fixed and awning windows. The door is also timber framed with timber door and aluminium screen door. The area beneath the carport has been tiled.

The northern elevation contains three windows: a timber framed awning window to the fibro addition; and two windows to the sandstone portion comprising a timber framed window with painted sill and a small aluminium window in an opening previously used for an air conditioning unit.



Across the dwelling the sandstone blocks have been repointed with concrete mortar and show signs of deterioration.

Interior

The dwelling retains some of its original layout, including a central corridor with two bedrooms to the front, lounge and dining room at the centre and kitchen, bathroom and family room to the rear.

However, the internal fabric has been significantly modified. The ceilings are predominantly plasterboard with the exception of the northern bedroom which retains its original timber panelled ceiling. Internal walls are lined with wallpaper throughout. Internal doors are timber but not original.

The original fireplace, located in the living room, has been removed and replaced with an ornamental sandstone feature that appears to date from the mid-twentieth century. The fireplace in the kitchen has also been removed and modified for use as a cupboard. The chimney breast has been retained in both rooms. Flooring to the bedrooms and living areas is carpet.

4.3 Site Photographs

The following photographs were taken by GML on 14 August 2019.

Exterior Images



Figure 4.1 Front elevation of the dwelling at 17 Nottinghall Road.



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Figure 4.2 View west along southern elevation.

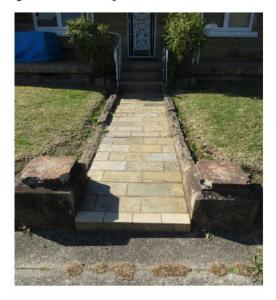


Figure 4.3 Front pathway with low sandstone posts and flanking stones and c1950s infill of paving.



Figure 4.4 View south at front verandah with lowered ceiling, c1950s tiling and infill to end.





Figure 4.5 Driveway and gate to south of dwelling.



Figure 4.6 Handrailing and tiled steps to front verandah.



Figure 4.7 Fibro addition and covered patio to rear of dwelling.



Figure 4.8 View south showing sandstone dwelling and separate fibro laundry and covered patio at rear of dwelling.



Figure 4.9 Fibro garage/work shed in rear garden.



Figure 4.10 View west towards dwelling from rear garden.



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Figure 4.11 Southern end of verandah showing corrugated metal backing to enclosed verandah.



Figure 4.12 Southern elevation of fibro addition to rear of dwelling.



Figure 4.13 Window of southern façade.



Figure 4.14 Window to fibro bathroom on northern elevation.





Figure 4.15 Detail of sandstone blocks along northern elevation showing signs of deterioration and spalling from salt attack/rising damp.



Figure 4.16 Detail of sandstone blocks showing concrete repointing work.

Interior Images



Figure 4.17 View east along central corridor from front entrance.



Figure 4.18 View west along corridor to front entrance.



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Figure 4.19 View south across living room.



Figure 4.20 View north across northwest bedroom.



Figure 4.21 Bathroom.



Figure 4.22 View north across living room.



Figure 4.23 Ornamental stone mantle in front of original fireplace Figure 4.24 Timber ceiling to northwest bedroom.





5.0 Heritage Context

5.1 Heritage Listings

The subject site is not listed as a heritage item on the NSW State Heritage Register or Schedule 5 of the Auburn LEP, nor is it located within a Heritage Conservation Area (HCA).

Non-statutory heritage listings have also been investigated as part of this assessment. The subject site is not listed on the National Trust (NSW) Register, nor is it located within a National Trust Register Listed Urban Conservation Area. The subject site is not listed on the Australian Institute of Architects (AIA) Register of Significant Architecture in NSW.

5.2 Heritage Items in the Vicinity

The subject site is located within the vicinity of No. 55 Kerrs Road, Lidcombe, which is listed as a heritage item of local significance on Schedule 5 of the Auburn LEP (Item number I29). Its location is shown in Figure 5.1.



Figure 5.1 Excerpt from Auburn Local Environmental Plan 2010, showing heritage items within the vicinity of the subject site. (Source: Auburn LEP, Heritage Map Sheet HER_003)



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6.0 Assessment of Significance

The following section contains an assessment of the significance of the property at 17 Nottinghill Road, Lidcombe, based on the NSW Heritage Office Heritage Assessment Criteria. The assessment is informed by the historical background in Section 3.0 of this report and the State Heritage Inventory database sheets for nearby heritage items.

6.1 Integrity

The subject dwelling is a single storey sandstone cottage with pitched concrete tile roof. The dwelling is an example of a reconstructed Victorian Georgian style cottage which has undergone several layers of alteration over times

The dwelling was originally constructed in 1913 from large rough faced sandstone blocks which are believed to have been relocated from a former dwelling at Regents Park. Based on anecdotal information the dwelling originally had a slate roof, which was replaced with a corrugated metal roof when it was reconstructed at its current location. The roof is now of concrete tiles which are unsympathetic to the style of the dwelling.

The original form and sandstone block walls remain intact. The stone walls have been repointed using concrete mortar show signs of deterioration and rising damp. Deterioration is particularly evident along the northern elevation, where sandstone blocks at the base of the building have eroded by several centimetres and show signs of spalling from salt attack/rising damp (refer to Figure 4.15 and Figure 4.16).

Original materials and decorative details to the front elevation including roof tiles, metal balustrade and gates, lacework and verandah posts are not original and detract from the integrity of the building. These features appear to date from the mid twentieth century. The timber framed windows and doors throughout the dwelling are not original, and also appear to date from the mid twentieth century. The ceiling to the verandah has been lowered and partially obstructs the highlight to the front door.

A number of additions have been constructed to the rear of the dwelling including a bathroom/family area, external covered patio, and detached toilet and laundry. The timber framed windows to the north and south elevation are also not original.

Internally, original features including the fireplaces, timber ceilings, doors and fittings have predominantly been removed or replaced. The dwelling also appears to have undergone some internal reconfiguration to remove a section of the hallway wall to open up the living/dining rooms. No documentation relating to these alterations and additions could be sourced from Cumberland Council.

Overall the dwelling lacks integrity due to the level of modifications and loss of original details, and in its current condition, is not considered to be a notable nor intact example of its type. It no longer retains the characteristic forms, materials and stylistic detailing of the Victorian Georgian style.

6.2 Comparative Assessment

This comparative assessment has been undertaken based on buildings of similar architectural style and age within the Lidcombe/Auburn area. The examples have been sourced using the NSW State Heritage Inventory Database.



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Summary

The following properties located within the vicinity of 17 Nottinghill Road and listed as local heritage items within the Auburn LEP were used in the comparative analysis:

- 55 Kerrs Road, Lidcombe;
- 258 Cumberland Road, Auburn;
- 8–10 Mary Street, Aubum;
- 16 Queen Street, Auburn; and
- 24 Silverwater Road, Silverwater.

Based on this comparative analysis, the subject site appears to be unique in its combination of age and style, being a (reconstructed) Victorian Georgian sandstone cottage. No other buildings of similar architectural style and age could be found in the proximity of the subject site.

However, there are several other Victorian era dwellings of different architectural styles which are listed as local heritage items (listed above). These include Victorian Italianate and Victorian Regency dwellings, and are generally more intact and contain a finer level of stylistic details and key fatures of the style, in relation to 17 Nottinghill Road, as detailed in These properties are finer and more intact representative examples than 17 Nottinghill Road.

Table 6.1 Comparative Analysis Table.

55 Kerrs Road, Lidcombe





55 Kerrs Road as viewed from laneway. (Source: GML, 2019)

55 Kerrs Road as viewed from Kerrs Road. (Source: Realestate.com.au)

Date of Construction

1876-1900

Architect

Unknown

17 Nottinghill Road, Lidcombe—Heritage Assessment, September 2019

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Heritage Significance Local

Historical Summary

The cottage is a very early surviving example of fibro construction in Auburn. It was built for William White, carriage builder of Rookwood. The building may have been situated on a larger block, with small sheds or outhouses adjacent. These appear to have been demolished. The orientation of the residence suggests a variation in street alignment or development of the street at a later date.

Key Features

- Styles: Victorian.
- Victorian single storey residence, set back on a different alignment than the street frontage. The main part of the building
 has a simple rectangular plan with a hipped corrugated metal roof.
- · Bull nosed verandah with four symmetrically arranged posts.
- Centrally located front door with two small side windows.
- Two large, three paned casement windows are located in the wall either side of this front entrance.
- · A brick chimney projects from the roof of the side wall with a terracotta chimney pot.
- Small centrally located dormer window with a decorative timber barge board and two casement windows containing small stained-glass panels.
- The residence appears to be in intact condition and well-maintained.

Statement of Significance

This site has local historic significance as a representative example of the many suburban residences erected throughout the study area in the late nineteenth century on the new subdivisions then being laid out.

The site also, through its character and location, provides evidence of the influence of the railway and industrial development on the residential suburb of Auburn.

It has aesthetic significance as it provides a good representative example of a worker's residence, erected throughout the municipality during this phase of development. The original fabric of the building is intact and it has attractive and interesting decorative detail.



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258 Cumberland Road, Auburn





258 Cumberland Road, Auburn. (Source: NSW State Heritage Inventory Database No. 1030014)

258 Cumberland Road, Auburn. (Source: Corelogic)

Date of Construction	1876–1900	Architect	Unknown
Heritage Significance	Local		

Historical Summary

This brick residence in Cumberland Road is situated on one of the early subdivisions of the Auburn region in the late nineteenth century. This residence is an example of one of the earliest residential types to be constructed in Auburn in this area. It was owned by Martin Long. It may provide evidence of one of the earliest uses of brick in the region. This property is one of the few extant early Victorian properties situated on a large block that remains intact with few modifications.

Key Features

- Styles: Victorian Italianate.
- Corrugated iron gabled roof with a smaller gabled wing extending towards the street with a corbelled brick chimney behind.
- The street elevation of the gabled wing features a bayed wall containing three arched, timber framed, double hung, sash windows with moulded reveals.
- Gable end features a decoratively carved timber barge board and finial.
- . A bull nosed verandah extends along the front of the building, supported by decorative cast iron posts and brackets.
- The wall at the rear of this verandah features two full height, double hung, sash windows with timber frames. The front
 door is located adjacent to the front wing.
- It appears to be in intact condition and well-maintained

Statement of Significance

The site has local historic significance as a rare example of a suburban residence erected in the study area in the late nineteenth century on the new subdivisions then being laid out. The site, through its character and location, provides evidence of the influence of the railway and industrial development on the residential suburb of Auburn.

It has aesthetic significance as it provides a good example of a substantial Victorian Italianate residence erected in the Municipality during this phase of development. The original fabric of the building is largely intact and it has attractive and interesting decorative detail.

The site also, through its character and location, provides evidence of the influence of the railway and industrial development on the residential suburb of Auburn.

17 Nottinghill Road, Lidcombe—Heritage Assessment, September 2019

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GML Heritage

8-10 Mary Street, Auburn





8–10 Mary Street, Auburn. (Source: NSW State Heritage Inventory Database No. 1030038)

8-10 Mary Street, Auburn. (Source: NSW State Heritage Inventory Database No. 1030038)

Date of Construction	1901–1950	Architect	Unknown
Heritage Significance	Local		

Historical Summary

After the Great Depression, in the early 1930s, building activity was considerably slowed and only the simplest of structures were erected. This residence in Mary Street appears to be an exception to these trends. It would have been constructed in the late 1920s or early 1930s. It was the residence of a prominent local doctor, Dr. Lawson. The ground floor was used for waiting rooms and a surgery with the residence upstairs. The boundary fence appears to be original, suggesting that the residence was not situated on a larger block.

Key Features

- · External materials: Rendered brick and stone, terracotta tiling, decorative iron, timber joinery.
- Styles: Inter-War Georgian Revival.
- Two storey rendered brick and stone residence with hipped terracotta tile roof.
- Simple, rectangular massing with a symmetrical street façade featuring an entrance portico in the classical order.
 Entrance portico features a moulded entablature with decorative pediment.
- · Corners of the building are quoined.
- Paned, double hung windows with timber frames and pair of French doors to the balcony over the entrance portico.
- · Balcony features a decorative iron balustrade, similar in style to the iron detailing of the boundary wall around the site.
- Low wall features a central gateway, leading directly to the entrance portico behind.
- Tall, narrow, rendered brick chimney is situated in the side wall of the building.
- · It appears to be in intact condition and well-maintained

Statement of Significance

The site has local historic significance as a rare example of a suburban residence erected in the study area in the early twentieth century on a block relatively close to the town centre. It has aesthetic significance as a good rare example of a large residence, erected in the municipality during the First World War and Inter War Years. The original fabric of the building is intact and it has attractive and interesting decorative detail.





GML Heritage

16 Queen Street, Auburn





16 Queen Street, Auburn. (Source: NSW State Heritage Inventory Database No. 1030051)

16 Queen Street, Auburn. (Source: NSW State Heritage Inventory Database No. 1030051)

Date of Construction	1851–1875	Architect	Unknown
Heritage Significance	Local		

Historical Summary

The improved transportation infrastructure to the region, including rail and road networks, and the relocation of many industries and other utilities to Auburn resulted in a growth in residential development around the emerging town centres and within walking distance from the places of employment. The nature of these early residences varied according to their location. This is a surviving cottage on one of the early subdivisions of Auburn.

Key Features

- Styles: Victorian Regency.
- This grand, one storey residence is of rendered brickwork with simple square plan and hipped roof.
- · Rendered brickwork, corrugated iron, ceramic roof tiles, sandstone, timber detailing and joinery.
- The roof eaves feature decorative masonry brackets.
- · It has a symmetrical street façade, featuring a full length and corner verandah.
- Verandah is supported by simple timber posts. The corrugated iron is painted in Victorian stripes.
- Centrally located front door with quoined reveals.
- Double hung, timber framed, sash windows have similar quoining around the reveals. A window is located either side of the central entrance.
- Stone fence is located along the street boundary.
- It appears to be in intact condition and well-maintained.

Statement of Significance

The site has local historic significance as a representative example of an early residence erected in the study area in the late nineteenth century on one of the earlier subdivisions. It is aesthetically significant as a good example of a Victorian residence where the original fabric of the building is largely intact, and it has attractive and interesting detail. The site also, through its character and location, provides evidence of the influence of the transport routes and industrial development in the residential suburb of Auburn.



GML Heritage

24 Silverwater Road, Silverwater





24 Silverwater Road, Silverwater (Source: NSW State Heritage Inventory Database No. 1030051)

24 Silverwater Road, Silverwater. (Source: NSW State Heritage Inventory Database No. 1030051)

Date of Construction	1876–1900	Architect	Unknown
Heritage Significance	Local		

Historical Summary

The improved transportation infrastructure to the region, including rail and road networks, and the relocation of many industries and other utilities to Auburn resulted in a growth in residential development around the emerging town centres and within walking distance from the places of employment.

The brick residence in Silverwater Road may have been situated on one of the subdivisions of the Newington Estate in the late nineteenth or early twentieth century, such as the subdivision by the Intercolonial Investment Land and Building Company Ltd, from the 1880s onwards. The residence has been extended to the rear in the late twentieth century, though it remains largely intact.

Key Features

- Styles: Victorian Italianate.
- . Single storey asymmetrical building of face brick and rendered brick with corrugated gabled iron roof and timber detailing.
- Street elevation of the gabled wing features a bay window containing two timber framed, double hung, sash windows.
 One has been infilled with bricks.
- The gable end features a decoratively carved timber barge board.
- Verandah extends along the front of the building, supported by two pairs of timber posts and a brick balustrade. The wall
 at the rear of this verandah features a single double-hung sash window with a timber frame.
- The front door is located adjacent to the front wing.
- · It appears to be in intact condition and well-maintained.

Statement of Significance

This site has local historic significance as a rare example of a suburban residence erected in the study area in the late nineteenth century on the new subdivision then being laid out. The site, through its character and location, provides evidence of the influence of the transport routes and industrial development in the residential suburb of Auburn.

It is aesthetically significant as it provides a good example of a Victorian Italianate residence, erected in the municipality during this phase of development. The original fabric of the building is intact, and it has attractive and interesting decorative detail.



GML Heritage

6.3 Assessment Against Standard Criteria

This section sets out an assessment of the heritage significance of 17 Nottinghill Road in accordance with the standard criteria established in the NSW Heritage Office guidelines (Appendix A of this report). The evaluation includes consideration of the original and subsequent layering of fabric, uses, associations and meanings of the place, as well as its relationship to both the immediate and wider setting.

The NSW Heritage Manual guidelines, prepared by the NSW Heritage Office and Department of Urban Affairs and Planning (July 2001), provide the framework for the assessment and the Statement of Significance in this report. These guidelines incorporate the five types of cultural heritage values identified in the Burra Charter into a specially structured framework, which is the format required by heritage authorities in New South Wales.

Under these guidelines, items (or 'places' in Burra Charter terminology) are assessed in accordance with a specific set of criteria, as set out below. An item is significant in terms of the criterion if the kinds of attributes listed in the inclusion guidelines help to describe it. Similarly, the item is not significant in terms of that criterion if the kinds of attributes listed in the exclusion guidelines help to describe it. The inclusion and exclusion guidelines are checklists only—they do not cancel each other out. The exclusion guidelines should not be applied in isolation from the inclusion guidelines, but should be used to help review and qualify the conclusions reached about the item's significance.

To apply the assessment criteria, both the nature and degree of significance for the place need to be identified. This is because items vary in the extent to which they embody or reflect key values and in the relative importance of their evidence or associations.

The assessment also needs to relate the item's values to its relevant geographical and social context, usually identified as either local or state contexts. Items may have both local and state significance for similar or different values/criteria.

6.3.1 Criterion A (Historical Significance)

An item is important in the course, or pattern, of NSW's—or the local area's—cultural or natural history

No. 17 Nottinghill Road was constructed in c1913 and is associated with the early development of the Lidcombe area. Based on anecdotal information the house was relocated and reconstructed from its previous location in Regents Park when the Regents Park to Lidcombe line was built. Although the dwelling may provide some evidence of the influence of the transport routes and industrial development in the residential suburb of Auburn, this evidence has not been substantiated. Based on the available evidence, the dwelling is not considered to meet this criterion at the local level.

6.3.2 Criterion B (Associative Significance)

An item has strong or special association with the life or works of a person, or group of persons, of importance in NSW's—and/or the local area's—cultural or natural history.

There is no evidence that the property has a strong or special association with a person of importance to the local area. Although the property was retained by the Armstrong family for several decades, the family not well known or historically prominent in the Auburn area. No documentary evidence could be found to identify the former owner or builder of the cottage, nor the namesake Jamison's Cottage.

The property does not meet this criterion at the local level.



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6.3.3 Criterion C (Aesthetic Significance)

An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW—or the local area.

No. 17 Nottinghill Road is a modified and reconstructed example of a Victorian Georgian sandstone cottage. The dwelling is understood to have been reconstructed using recycled stone blocks and undergone several layers of internal and external alterations. Although the building generally retains its original form, it is highly modified, with removal of original materials and details. The original slate roof has been replaced with concrete tiles. Other original details to the exterior have also been lost including the original windows, door, verandah floor and detailing. The house is highly modified internally although some of the original room layout remains intact.

Overall the dwelling is not a notable nor intact example of its type and has lost many of the characteristic materials and stylistic detailing of the style.

The property does not meet this criterion at the local level.

6.3.4 Criterion D (Social Significance)

An item has strong or special association with a particular community or cultural group in NSW—or the local area—for social, cultural or spiritual reasons.

There is no evidence to suggest that the property holds any strong or significant associations with any local community or cultural groups.

The property does not meet this criterion at the local level.

6.3.5 Criterion E (Research Potential)

An item has potential to yield information that will contribute to an understanding of NSW's—or the local area's—cultural or natural history.

No. 17 Nottinghill Road is unlikely to yield any information that could contribute to the understanding of the local area that isn't otherwise available. Archaeological potential is out of the scope of this assessment.

The property does not meet this criterion at the local level.

6.3.6 Criterion F (Rarity)

An item possesses uncommon, rare or endangered aspects of NSW's cultural or natural history (or the cultural or natural history of the local area)

No. 17 Nottinghill Road is an uncommon example of an architectural and aesthetic typology within the local area. No other similar dwellings constructed in the Victorian Georgian style were identified through the comparative analysis. However, it is highly modified and no longer a representation of its original Victorian Georgian typology.

The dwelling does not meet the threshold for significance under this criterion.



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6.3.7 Criterion G (Representativeness)

An item is important in demonstrating the principal characteristics of a class of NSW's (or a class of the local area's):

- cultural or natural places; or
- cultural or natural environments

The building has been significantly modified and no longer demonstrates the principal characteristics of its type. The house lacks integrity through removal and replacement of original materials and details, and is no longer an intact representation of its type.

The dwelling does not meet the threshold under this criterion.

6.4 Statement of Significance

No. 17 Nottinghill Road was constructed in c1913 and has some association with the early development of the Lidcombe area. Based on anecdotal information, it is understood that the house may have been relocated and reconstructed from a previous location in Regents Park when the Regents Park to Lidcombe railway line was built. Although the dwelling provides some evidence of the influence of the transport routes and industrial development in Auburn, this evidence has not been substantiated. As such, it does not fulfill the criterion for local historical significance.

The dwelling is a modified example of a Victorian Georgian cottage constructed of sandstone blocks. Although the building generally retains its original symmetrical form it has undergone several layers of alterations and additions, including replacement of the original roofing, windows and doors and internal finishes, and a number of additions at the rear. Overall the dwelling is not a notable nor intact example of its type.

No. 17 Nottinghill Road does not hold any associative or social significance to the local community and is unlikely to yield any information that could contribute to the understanding of the local area. The property does not reach the criteria for heritage significance under any of the standard criteria.

LPP072/19 - Attachment 6



GML Heritage

7.0 Conclusions and Recommendations

This report has assessed the heritage significance of the dwelling at 17 Nottinghill Road, Lidcombe, based on historical research, investigation of the subject site, a comparative analysis against similar locally listed items, and an assessment of its local context. It includes a detailed assessment of the site against the SHR standard evaluation criteria to determine the significance of the place to the Lidcombe area and Cumberland LGA.

The report concludes that 17 Nottinghill Road, Lidcombe, does not meet the threshold for listing at the local level for the following reasons:

- The house is of limited historical significance, and information regarding the history and provenance of the dwelling could not be substantiated.
- No. 17 Nottinghill Road is no longer a good example of a Victorian Georgian sandstone cottage, as the dwelling has been substantially modified and is no longer intact.

Accordingly, is not considered to reach the threshold for listing as a heritage item of local significance within the Auburn LEP.

Should demolition of the dwelling be approved by Council, it is recommended that Council attach a condition of consent requiring the archival recording of the dwelling, in accordance with NSW Heritage Office Guidelines. The archival recording should be placed in Council's Local Studies collection.





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Appendix A—NSW Heritage Office Heritage Assessment Guidelines

The NSW Heritage Manual guidelines, prepared by the NSW Heritage Office and Department of Urban Affairs and Planning (July 2001), provide the framework for the assessment and the statement of significance in this report. These guidelines incorporate the five types of cultural heritage value identified in the Burra Charter into a specially structured framework, which is the format required by heritage authorities in New South Wales.

Under these guidelines, items (or 'places' in Burra Charter terminology) are assessed in accordance with a specific set of criteria, as set out below. An item is significant in terms of the particular criterion if the kinds of attributes listed in the inclusion guidelines help to describe it. Similarly, the item is not significant in terms of that particular criterion if the kinds of attributes listed in the exclusion guidelines help to describe it. The inclusion and exclusion guidelines are checklists only—they do not cancel each other out. The exclusion guidelines should not be applied in isolation from the inclusion guidelines, but should be used to help review and qualify the conclusions reached about the item's significance.

The criteria for assessment established by the NSW Heritage Council in accordance with the *Heritage Act* 1977 (NSW) (Heritage Act) are set out below.

Criterion (a)—An item is important in the course, or pattern, of NSW's cultural or natural history (or the cultural or natural history of the local area)

Gui	delines for Inclusion	Guidelines for Exclusion	
•	shows evidence of a significant human activity; is associated with a significant activity or historical phase; or maintains or shows the continuity of a historical process or activity.	has incidental or unsubstantiated connections with historically important activities or processes; provides evidence of activities or processes that are of dubious historical importance; or has been so altered that it can no longer provide evidence of a particular association.	

Criterion (b)—An item has strong or special association with the life or works of a person, or group of persons, of importance in the cultural or natural history of NSW (or the cultural or natural history of the local area)

Guidelines for Inclusion	Guidelines for Exclusion	
 shows evidence of a significant human occupation; or is associated with a significant event, person, or group of persons. 	has incidental or unsubstantiated connections with historically important people or events; provides evidence of people or events that are of dubious historical importance; or has been so altered that it can no longer provide evidence of a particular association.	



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Criterion (c)—An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area)

Guidelines for Inclusion	Guidelines for Exclusion	
shows or is associated with creative or technical innovation or achievement; is the inspiration for a creative or technical innovation or	is not a major work by an important designer or artist; has lost its design or technical integrity; its positive visual or sensory appeal or landmark and	
achievement; is aesthetically distinctive;	scenic qualities have been more than temporarily degraded; or	
 has landmark qualities; or exemplifies a particular taste, style or technology. 	has only a loose association with a creative or technical achievement.	

Criterion (d)—An item has strong or special association with a particular community or cultural group in NSW (or the local area) for social, cultural or spiritual reasons

Guidelines for Inclusion	Guidelines for Exclusion	
 is important for its associations with an identifiable group; or is important to a community's sense of place. 	is only important to the community for amenity reasons; or is retained only in preference to a proposed alternative.	

Criterion (e)—An item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history (or the cultural or natural history of the local area)

Gui	delines for Inclusion	Guidelines for Exclusion	
•	has the potential to yield new or further substantial scientific and/or archaeological information;	the knowledge gained would be irrelevant to research on science, human history or culture;	
•	is an important benchmark or reference site or type; or	has little archaeological or research potential; or	
•	provides evidence of past human cultures that is unavailable elsewhere.	 only contains information that is readily available from other resources or archaeological sites. 	

Criterion (f)—An item possesses uncommon, rare or endangered aspects of NSW's cultural or natural history (or the cultural or natural history of the local area)

Gui	delines for Inclusion	Guide	elines for Exclusion
•	provides evidence of a defunct custom, way of life or process;		is not rare; or is numerous but under threat.
•	demonstrates a process, custom or other human activity that is in danger of being lost;		
•	shows unusually accurate evidence of a significant human activity;		
•	is the only example of its type;		
•	demonstrates designs or techniques of exceptional interest; or		
•	shows rare evidence of a significant human activity important to a community.		



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Criterion (g)—An item is important in demonstrating the principal characteristics of a class of NSW's (or a class of the local area's) cultural or natural places; or cultural or natural environments

Gui	delines for Inclusion	Guidelines for Exclusion
•	is a fine example of its type;	is a poor example of its type;
•	has the principal characteristics of an important class or group of items;	does not include or has lost the range of characteristics of a type; or
•	has attributes typical of a particular way of life, philosophy, custom, significant process, design, technique or activity;	does not represent well the characteristics that make up a significant variation of a type.
•	is a significant variation to a class of items;	
•	is part of a group which collectively illustrates a representative type;	
•	is outstanding because of its setting, condition or size; or	
•	is outstanding because of its integrity or the esteem in which it is held.	

DOCUMENTS ASSOCIATED WITH REPORT LPP072/19

Attachment 7 Childcare Planning Guidelines Assessment



Child Care Planning Guidelines

Requirement	Yes/No	Comments
Design quality principles	103/110	Comments
Principle 1 - Context	Υ	The proposed child care centre is within a low
Good design responds and contributes to		density area. The dwellings in the vicinity are
its context, including the key natural and		, , , , , , , , , , , , , , , , , , , ,
built features of an area, their relationship		older style single storey dwellings or newer two
and the character they create when		storey dwellings. The area is within walking
combined. It also includes social.		distance to Berala and Lidcombe shops and
economic, health and environmental		Train station.
conditions. Well-designed child care		
facilities respond to and enhance the		
qualities and identity of the area including		
adjacent sites, streetscapes and		
neighbourhood. Well-designed child care		
facilities take advantage of its context by optimising nearby transport, public		
facilities and centres, respecting local		
heritage, and being responsive to the		
demographic, cultural and socio-economic		
makeup of the facility users and		
surrounding communities.		The site is leasted in a sendential and the law
Principle 2 - Built form	Y	The site is located in a predominantly low
Good design achieves a scale, bulk and		density residential area that includes single
height appropriate to the existing or		storey and two storey dwellings. The child care
desired future character of the surrounding		centre is designed as a modern part single part
area. Good design achieves an		two storey structure with matching setbacks to
appropriate built form for a site and the		those of adjoining dwellings that fits well within
building's purpose in terms of building		
alignments, proportions, building type,		its local context.
articulation and the manipulation of		
building elements. Good design also uses		
a variety of materials, colours and textures.		
Appropriate built form defines the public		
domain, contributes to the character of		
streetscapes and parks, including their		
views and vistas, and provides internal		
amenity and outlook. Contemporary facility		
design can be distinctive and unique to		
support innovative approaches to teaching		
and learning, while still achieving a visual		
appearance that is aesthetically pleasing,		
complements the surrounding areas, and		
contributes positively to the public realm.		
Principle 3 - Adaptive learning spaces	Y	The internal layout ensures that there are
Good facility design delivers high quality		adequate and separated amenities for both
learning spaces and achieves a high level		children and adults and that there is an
of amenity for children and staff, resulting		acceptable distance between the two.
in buildings and associated infrastructure		
that are fit-for-purpose, enjoyable and easy		The internal play areas are well design with easy
to use. This is achieved through site layout,		access to toilets, nappy change area and storage.
building design, and learning spaces fit-		The indoor area is rectangular in design which
out. Good design achieves a mix of		allows for adaptive use of the space. The indoor
inclusive learning spaces to cater for all		is also well connected with the outdoor area with
students and different modes of learning.		a covered area in between.
This includes appropriately designed		
physical spaces offering a variety of		
settings, technology and opportunities for		
interaction.		



Requirement	Yes/No	Comments
Principle 4 - Sustainability	Y	The centre is well designed in terms of solar
Sustainable design combines positive	'	access and cross ventilation as indoor spaces,
environmental, social and economic		staff room and office are provided with external
outcomes. This includes use of natural		windows.
cross ventilation, sunlight and passive		······································
thermal design for ventilation, heating and		The child care centre is considered well designed
cooling reducing reliance on technology		with sustainability in mind. The north facing play
and operation costs. Other elements		room includes highlight windows that will allow for
include recycling and re-use of materials		the winter sun to enter it. There are also sky lights
and waste, use of sustainable materials		proposed to both rooms. The large sliding doors
and deep soil zones for groundwater		have a small cover in front which will allow for the
recharge and vegetation. Well-designed		morning sun to penetrate the play areas. All the
facilities are durable and embed resource		play areas are well protected from the western
efficiency into building and site design,		sun.
resulting in less energy and water		
consumption, less generation of waste and		
air emissions and reduced operational		
costs.		
Principle 5 - Landscape	Y	The landscape plan shows a lot of interest with
Landscape and buildings should operate		trees/shrubs surrounding the outdoor play area
as an integrated and sustainable system,		and benches and seating for the children in
resulting in attractive developments with		between. The landscape plan has been assessed
good amenity. A contextual fit of well-		by Council's tree management officer and the
designed developments is achieved by		species proposed are all considered acceptable.
contributing to the landscape character of		The second secon
the streetscape and neighbourhood. Well-		There is a neighbouring tree that is proposed to
designed landscapes make outdoor spaces assets for learning. This includes		be retained and conditions of consent have been provided to ensure of that.
designing for diversity in function and use,		provided to ensure or that.
age-appropriateness and amenity. Good		
landscape design enhances the		
development's environmental performance		
by retaining positive natural features which		
contribute to the local context. co-		
ordinating water and soil management,		
solar access, micro-climate, tree canopy,		
habitat values and preserving green		
networks.		
Principle 6 – Amenity	Υ	The child care centre has been designed to
Good design positively influences internal		provide a high level of amenity to the children.
and external amenity for children, staff and		The internal play areas are well design with easy
neighbours. Achieving good amenity		access to toilets, nappy change area and storage.
contributes to positive learning		The indoor is also well connected with the
environments and the well-being of		outdoor area with a covered area in between.
students and staff. Good amenity		<u></u>
combines appropriate and efficient indoor		The landscape plan demonstrates that the space
and outdoor learning spaces, access to		has been designed to allow for active free play as
sunlight, natural ventilation, outlook, visual		well as providing equipment for the children. The
and acoustic privacy, storage, service		area at the rear has not been cut and maintains
areas and ease of access for all age		its natural level allowing for a great outlook from the height of the outdoor play area providing for
groups and degrees of mobility. Well- designed child care facilities provide		further interest to the children.
		Trainer interest to the children.
comfortable, diverse and attractive spaces		
to leam, play and socialise. Principle 7 - Safety	Y	The shild core centre has been design with a fet.
Well-designed child care facilities optimise	ľ	The child care centre has been design with safety of the children in mind.
the use of the built and natural environment		or the children in minu.
for learning and play, while utilising		In order to keep the outdoor play area level some
equipment, vegetation and landscaping		cutting has been proposed. This cutting allows for
equipment, vegetation and landscaping	<u> </u>	j catang nas been proposed. This catang allows for



Requirement	Yes/No	Comments
that has a low health and safety risk, and		a safe area for children and provides a high
can be checked and maintained efficiently		acoustic fence from within the child care centre
and appropriately. Good child care facility		without impacting the height of the fence on the
design balances safety and security with		neighbouring side.
the need to create a welcoming and		
accessible environment. It provides for		Passive surveillance is proposed via the large
quality public and private spaces that are		windows from the reception area, office and staff
inviting, clearly defined and allow		room. This allows for staff to clearly see who is
controlled access for members of the		entering and leaving the site.
community. Well-designed child care		
facilities incorporate passive surveillance		
and Crime Prevention Through		
Environmental Design (CPTED).		

Matters for consideration		
3.1 Site selection and location		
Objective: To ensure that appropriate zone considerations are assessed when selecting a site. C1 For proposed developments in or adjacent to a residential zone, consider: • the acoustic and privacy impacts of the proposed development on the residential properties • the setbacks and siting of buildings within the residential context • traffic and parking impacts of the proposal on residential amenity.	Y	The proposal is accompanied with an Acoustic report which sets out measures to ensure impact to adjacent properties are kept to a minimum. A 1m side setback has been proposed which is considered acceptable. The windows from the play areas facing the side are all highlight windows protecting the neighbours privacy and acoustically. The traffic and parking has been considered by the engineering team and is found to be acceptable in this instance.
Objective: To ensure that the site selected for a proposed child care facility is suitable for the use. C2 When selecting a site, ensure that: • the location and surrounding uses are compatible with the proposed development or use • the site is environmentally safe including risks such as flooding, land slip, bushfires, coastal hazards • there are no potential environmental contaminants on the land, in the building or the general proximity, and whether hazardous materials remediation is needed • the characteristics of the site are suitable for the scale and type of development proposed having regard to: - size of street frontage, lot configuration, dimensions and overall size - number of shared boundaries with residential properties - the development will not have adverse environmental impacts on the surrounding area, particularly in sensitive environmental or cultural areas • where the proposal is to occupy or retrofit an existing premises, the interior and	Y	The site is located in a predominantly residential area which is considered acceptable. There are no environmental hazards that could jeopardise the safety of the children. The child care centre is designed to appear as a modern part single part two storey dwelling with matching setbacks to those of adjoining dwellings that fits well within the local area.



exterior spaces are suitable for the		
proposed use		
there are suitable drop off and pick up		
areas, and off and on street parking		
the type of adjoining road (for example)		
classified, arterial, local road, cul-de-sac)		
is appropriate and safe for the proposed		
use		
• it is not located closely to incompatible		
social activities and uses such as restricted		
premises, injecting rooms, drug clinics and		
the like, premises licensed for alcohol or		
gambling such as hotels, clubs, cellar door		
premises and sex services premises.		T
Objective: To ensure that sites for child		The site is located some 800m from Lidcombe
care facilities are appropriately located.	Y	town centre and 900m to Lidcombe Train station.
C3 A child care facility should be located:		The site is also located 900m from Berala centre
near compatible social uses such as		and Train station.
schools and other educational		and man statem.
establishments, parks and other public		
open space, community facilities, places of		
public worship		
• near or within employment areas, town		
centres, business centres, shops		
with access to public transport including		
rail, buses, ferries		
• in areas with pedestrian connectivity to		
the local community, businesses, shops,		
services and the like.		
Objective: To ensure that sites for child		The proposal is located in a predominantly
care facilities do not incur risks from	Y	residential area and not near any industrial areas.
environmental, health or safety		
hazards.		
C4 A child care facility should be located to		
avoid risks to children, staff or visitors and		
adverse environmental conditions		
arising from:		
proximity to:		
- heavy or hazardous industry, waste		
transfer depots or landfill sites		
- LPG tanks or service stations		
- water cooling and water warming systems		
- odour (and other air pollutant) generating		
uses and sources or sites which, due to		
Tuses and sources or siles which follows		
prevailing land use zoning, may in future		
prevailing land use zoning, may in future accommodate noise or odour generating		
prevailing land use zoning, may in future		
prevailing land use zoning, may in future accommodate noise or odour generating		
prevailing land use zoning, may in future accommodate noise or odour generating uses - extractive industries, intensive		
prevailing land use zoning, may in future accommodate noise or odour generating uses - extractive industries, intensive agriculture, agricultural spraying activities		
prevailing land use zoning, may in future accommodate noise or odour generating uses - extractive industries, intensive agriculture, agricultural spraying activities • any other identified environmental hazard		
prevailing land use zoning, may in future accommodate noise or odour generating uses - extractive industries, intensive agriculture, agricultural spraying activities • any other identified environmental hazard or risk relevant to the site and/ or existing		
prevailing land use zoning, may in future accommodate noise or odour generating uses - extractive industries, intensive agriculture, agricultural spraying activities • any other identified environmental hazard or risk relevant to the site and/ or existing buildings within the site.		
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prevailing land use zoning, may in future accommodate noise or odour generating uses - extractive industries, intensive agriculture, agricultural spraying activities • any other identified environmental hazard or risk relevant to the site and/ or existing buildings within the site. 3.2 Local character, streetscape and the pure that the child care facility is compatible with the local character and surrounding streetscape.		The area is low density residential and
prevailing land use zoning, may in future accommodate noise or odour generating uses - extractive industries, intensive agriculture, agricultural spraying activities • any other identified environmental hazard or risk relevant to the site and/ or existing buildings within the site. 3.2 Local character, streetscape and the pure that the child care facility is compatible with the local character and surrounding streetscape. C5 The proposed development should:		The area is low density residential and predominantly includes single and two storey dwellings.
prevailing land use zoning, may in future accommodate noise or odour generating uses - extractive industries, intensive agriculture, agricultural spraying activities • any other identified environmental hazard or risk relevant to the site and/ or existing buildings within the site. 3.2 Local character, streetscape and the pure to be contacted by the local character and surrounding streetscape. C5 The proposed development should: • contribute to the local area by being		The area is low density residential and predominantly includes single and two storey dwellings. The child care centre is designed to appear as a
prevailing land use zoning, may in future accommodate noise or odour generating uses - extractive industries, intensive agriculture, agricultural spraying activities • any other identified environmental hazard or risk relevant to the site and/ or existing buildings within the site. 3.2 Local character, streetscape and the pu Objective: To ensure that the child care facility is compatible with the local character and surrounding streetscape. C5 The proposed development should: • contribute to the local area by being designed in character with the locality and		The area is low density residential and predominantly includes single and two storey dwellings. The child care centre is designed to appear as a modern part single part two storey dwelling that
prevailing land use zoning, may in future accommodate noise or odour generating uses - extractive industries, intensive agriculture, agricultural spraying activities • any other identified environmental hazard or risk relevant to the site and/ or existing buildings within the site. 3.2 Local character, streetscape and the pure street of the control of the pure facility is compatible with the local character and surrounding streetscape. C5 The proposed development should: • contribute to the local area by being		The area is low density residential and predominantly includes single and two storey dwellings. The child care centre is designed to appear as a





 reflect the predominant form of surrounding land uses, particularly in low density residential areas recognise predominant streetscape qualities, such as building form, scale, materials and colours include design and architectural treatments that respond to and integrate with the existing streetscape use landscaping to positively contribute to the streetscape and neighbouring amenity integrate car parking into the building and site landscaping design in residential areas. Objective: To ensure clear delineation between the child care facility and public spaces. C6 Create a threshold with a clear transition between public and private realms, including: fencing to ensure safety for children 	Y	The area in the front setback is proposed to be used as an OSB basin. Council's engineers have requested for that area to be no more than 600mm in depth but if it were required to be deeper than that then pool style fencing must be proposed to comply with Council's DCP. This is considered acceptable as the fence would be
 fencing to ensure safety for children entering and leaving the facility windows facing from the facility towards the public domain to provide passive surveillance to the street as a safety measure and connection between the facility and the community integrating existing and proposed landscaping with fencing. C7 On sites with multiple buildings and/or entries, pedestrian entries and spaces associated with the child care facility should be differentiated to improve legibility for visitors and children by changes in materials, plant species and colours. C8 Where development adjoins public parks, open space or bushland, the facility should provide an appealing streetscape frontage by adopting some of the following design solutions: 		considered acceptable as the fence would be open style fence. Windows from reception/office and staff area have a clear view of the street promoting passive surveillance.
 clearly defined street access, pedestrian paths and building entries low fences and planting which delineate communal/ private open space from adjoining public open space • minimal use of blank walls and high fences. 		
Objective: To ensure that front fences and retaining walls respond to and complement the context and character of the area and do not dominate the public domain. C9 Front fences and walls within the front setback should be constructed of visually permeable materials and treatments. Where the site is listed as a heritage item, adjacent to a heritage item or within a conservation area front fencing should be designed in accordance with local heritage provisions.	Y	The area in the front setback is proposed to be used as an OSB basin. Council's engineers have requested for that area to be no more than 600mm in depth but if it were required to be deeper than that then pool style fencing must be proposed to comply with Council's DCP. This is considered acceptable as the fence would be open style fence.



C10 High solid acoustic fencing may be		
used when shielding the facility from noise		
on classified roads. The walls should be		
setback from the property boundary with		
screen landscaping of a similar height		
between the wall and the boundary.		
3.3 Building orientation, envelope and design	ın	
Objective: To respond to the		Privacy screening in the form of fencing is
streetscape and site, while optimising	Y	provided to the perimeter of the outdoor play
solar access and opportunities for		space and highlight windows are provided on the
shade.		side elevations of the play areas to mitigate
C11 Orient a development on a site and		overlooking to adjoining properties.
design the building layout to:		
 ensure visual privacy and minimise 		There is some cutting proposed to keep the
potential noise and overlooking impacts on		outdoor space level for children. This is
neighbours by:		considered acceptable and does not impact the
- facing doors and windows away from		neighbouring properties.
private open space, living rooms and		
bedrooms in adjoining residential		The overshadowing of adjoining properties are
properties		considered minimal.
- placing play equipment away from		
common boundaries with residential		
properties		
- locating outdoor play areas away from		
residential dwellings and other sensitive		
uses		
· optimise solar access to internal and		
external play areas		
 avoid overshadowing of adjoining 		
residential properties		
minimise cut and fill		
ensure buildings along the street frontage		
define the street by facing it		
· ensure that where a child care facility is		
located above ground level, outdoor play		
areas are protected from wind and other		
climatic conditions.		
Objective: To ensure that the scale of		Height and setbacks are addressed in the LEP
the child care facility is compatible with	Y	and DCP. The height, scale and setbacks are
adjoining development and the impact		considered compatible with the local area.
on adjoining buildings is minimised.		·
C12 The following matters may be		
considered to minimise the impacts of the		
proposal on local character:		
 building height should be consistent with 		
other buildings in the locality		
· building height should respond to the		
scale and character of the street		
· setbacks should allow for adequate		
privacy for neighbours and children at the		
proposed child care facility		
 setbacks should provide adequate 		
access for building maintenance		
 setbacks to the street should be 		
consistent with the existing character.		
Objective: To ensure that setbacks from		The proposed setback is compatible to those
the boundary of a child care facility are	Y	existing on the adjoining sites.
consistent with the predominant		3 3
development within the immediate		
context.		
		I.



C13 Where there are no prevailing setback controls minimum setback to a classified road should be 10 metres. On other road frontages where there are existing buildings within 50 metres, the setback should be the average of the two closest buildings. Where there are no buildings within 50 metres, the same setback is required for the predominant adjoining land use. C14 On land in a residential zone, side and rear boundary setbacks should observe the prevailing setbacks required for a dwelling house.		
Objective: To ensure that the built form,		The site is located in a predominantly low density
articulation and scale of development	Y	residential area that includes single storey and
relates to its context and buildings are		two storey dwellings. The child care centre is
well designed to contribute to an area's		designed as a modern part single part two storey
character.		structure that fits well within its local context.
C15 The built form of the development		
should contribute to the character of the		
local area, including how it:		
 respects and responds to its physical context such as adjacent built form, 		
neighbourhood character, streetscape		
quality and heritage		
contributes to the identity of the place		
retains and reinforces existing built form		
and vegetation where significant		
considers heritage within the local		
neighbourhood including identified		
heritage items and conservation areas		
responds to its natural environment including lead landacens setting and		
including local landscape setting and climate		
contributes to the identity of place.		
Objective: To ensure that buildings are		Entry location faces the street and is directly
designed to create safe environments	Y	accessible via the street,
for all users.		
C16 Entry to the facility should be limited		
to one secure point which is:		
• located to allow ease of access,		
particularly for pedestrians		
directly accessible from the street where possible		
directly visible from the street frontage		
easily monitored through natural or		
camera surveillance		
not accessed through an outdoor play		
area.		
• in a mixed-use development, clearly		
defined and separate from entrances to		
other uses in the building.		
Objective: To ensure that child care		The proposed development is considered to
facilities are designed to be accessible	Y	comply with this requirement.
by all potential users. C17 Accessible design can be achieved		The basement car parking provides an accessible
by:		space with lift entry into the child care centre. The
57.		front of the child care centre is slightly elevated
	I	Si ulo offici ocitio is siigitily olevated



· providing accessibility to and within the		and therefore stairs are provided. A ramp access
building in accordance with all relevant		is provided adjacent to the stairs.
legislation		
linking all key areas of the site by level or		
ramped pathways that are accessible to		
prams and wheelchairs, including between		
all car parking areas and the main building		
entry		
providing a continuous path of travel to		
and within the building, including access		
between the street entry and car parking		
and main building entrance. Platform lifts		
should be avoided where possible		
minimising ramping by ensuring building		
entries and ground floors are well located		
relative to the level of the footpath.		
NOTE: The National Construction Code,		
the Discrimination Disability Act 1992 and		
the Disability (Access to Premises –		
Buildings) Standards 2010 set out the		
requirements for access to buildings for		
people with disabilities.		
3.4 Landscaping	1	A
Objective: To provide landscape design		Acceptable planting has been proposed around
that contributes to the streetscape and	Y	the outdoor play area that include trees and
amenity.		shrubs with seating in between.
C18 Appropriate planting should be		
provided along the boundary integrated		
with fencing. Screen planting should not be		
included in calculations of unencumbered		
outdoor space.		
Use the existing landscape where feasible		
to provide a high quality landscaped area		
by:		
reflecting and reinforcing the local context		
• incorporating natural features of the site,		
such as trees, rocky outcrops and		
vegetation communities into landscaping.		
C19 Incorporate car parking into the		
landscape design of the site by:		
planting shade trees in large car parking		
areas to create a cool outdoor environment		
and reduce summer heat radiating into		
buildings		
taking into account streetscape, local		
character and context when siting car		
parking areas within the front setback		
using low level landscaping to soften and		
screen parking areas.		
3.5 Visual and acoustic privacy		
Objective: To protect the privacy and		Privacy screening in the form of fencing is
security of children attending the	Y	provided to the perimeter of the outdoor play
facility.		space and highlight windows are provided on the
C20 Open balconies in mixed use		side elevations of the play areas to protect
developments should not overlook facilities		children's privacy.
nor overhang outdoor play spaces.		' '
C21 Minimise direct overlooking of indoor		
rooms and outdoor play spaces from public		
areas through:		
appropriate site and building layout		
- appropriate site and building layout		<u> </u>



• suitably locating pathways, windows and		
doors		
permanent screening and landscape		
design.		
Objective: To minimise impacts on		Privacy screening in the form of fencing is
privacy of adjoining properties.	Y	provided to the perimeter of the outdoor play
C22 Minimise direct overlooking of main		space and highlight windows are provided on the
internal living areas and private open		side elevations of the play areas to mitigate
spaces in adjoining developments through:		overlooking to adjoining properties.
•appropriate site and building layout		
•suitable location of pathways, windows		
and doors		
•landscape design and screening.		
Objective: To minimise the impact of		Council's Environmental Health officers have
child care facilities on the acoustic	Y	assessed the submitted acoustic report and have
privacy of neighbouring residential	'	found it to be satisfactory.
developments.		Tourid it to be satisfactory.
C23 A new development, or development		
that includes alterations to more than 50		
		Acoustic fencing has been provided in line with
per cent of the existing floor area, and is located adjacent to residential		the accompanying Acoustic report.
accommodation should:		ine accompanying Acoustic report.
provide an acoustic fence along any		
boundary where the adjoining property		
contains a residential use. (An acoustic		
fence is one that is a solid, gap free fence).		
ensure that mechanical plant or		
equipment is screened by solid, gap free		
material and constructed to reduce noise		
levels e.g. acoustic fence, building, or		
enclosure.		
C24 A suitably qualified acoustic		
professional should prepare an acoustic		
report which will cover the following		
matters:		
identify an appropriate noise level for a		
child care facility located in residential and		
other zones		
determine an appropriate background		
noise level for outdoor play areas during		
times they are proposed to be in use		
determine the appropriate height of any		
acoustic fence to enable the noise criteria		
to be met.		
3.6 Noise and air pollution		
Objective: To ensure that outside noise		The subject site is not located near noise
levels on the facility are minimised to	Y	sources.
acceptable levels.		
C25 Adopt design solutions to minimise the		
impacts of noise, such as:		
creating physical separation between		
buildings and the noise source		
orienting the facility perpendicular to the		
noise source and where possible buffered		
by other uses		
using landscaping to reduce the		
perception of noise		
Imiting the number and size of openings		
facing noise sources		
lacing hoise sources	<u> </u>	



using double or acoustic glazing, acoustic		
louvres or enclosed balconies		
(wintergardens)		
 using materials with mass and/or sound 		
insulation or absorption properties, such as		
solid balcony balustrades, external		
screens and soffits		
locating cot rooms, sleeping areas and		
play areas away from external noise		
sources.		
C26 An acoustic report should identify		
appropriate noise levels for sleeping areas		
and other non play areas and examine		
impacts and noise attenuation measures		
where a child care facility is		
proposed in any of the following locations:		
on industrial zoned land		
where the ANEF contour is between 20		
and 25, consistent with AS 2021 - 2000		
along a railway or mass transit corridor,		
as defined by State Environmental		
Planning Policy (Infrastructure) 2007		
• on a major or busy road		
other land that is impacted by substantial		
external noise.		
		The cite is approximately 100m away from a
Objective: To ensure air quality is	, , , , , , , , , , , , , , , , , , ,	The site is approximately 180m away from a
acceptable where child care facilities	Y	major road being Olympic Drive. The distance in
are proposed close to external sources		this instance is considered acceptable.
of air pollution such as major roads and		
industrial development.		The site is not close to industrial development.
C27 Locate child care facilities on sites		
which avoid or minimise the potential		
impact of external sources of air pollution		
such as major roads and industrial		
development.		
C28 A suitably qualified air quality		
professional should prepare an air quality		
assessment report to demonstrate that		
proposed child care facilities close to major		
roads or industrial developments can meet		
air quality standards in accordance with		
relevant legislation and guidelines.		
The air quality assessment report should	I	l .
evaluate design considerations to		
evaluate design considerations to minimise air pollution such as:		
evaluate design considerations to minimise air pollution such as: • creating an appropriate separation		
evaluate design considerations to minimise air pollution such as: • creating an appropriate separation distance between the facility and the		
evaluate design considerations to minimise air pollution such as: • creating an appropriate separation distance between the facility and the pollution source. The location of play		
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Objective: To minimise the impact of		The site is in a low density residential area and
the child care facility on the amenity of	Y	therefore the hours proposed are 7am - 6pm
neighbouring residential		Monday to Friday.
developments.		
C29 Hours of operation within areas where		
the predominant land use is residential		
should be confined to the core hours of		
7.00am to 7.00pm weekdays. The hours of		
, ,		
operation of the proposed child care facility		
may be extended if it adjoins or is adjacent		
to non-residential land uses.		
C30 Within mixed use areas or		
predominantly commercial areas, the		
hours of operation for each child care		
facility should be assessed with respect to		
its compatibility with adjoining and co-		
located land uses.		
	l	
3.8 Traffic, parking and pedestrian circulation	1	Nicontrol of publication and the Control of the Con
Objective: To provide parking that		Number of parking spaces provided complies
satisfies the needs of users and	Y	with Council's controls.
demand generated by the centre.		See DCP discussion for detail
C31 Off street car parking should be		
provided at the rates for child care facilities		
specified in a Development Control Plan		
that applies to the land.		
Where a Development Control Plan does		
not specify car parking rates, off street car		
parking should be provided at the following		
rates: Within 400 metres of a metropolitan		
train station:		
• 1 space per 10 children		
1 space per 2 staff. Staff parking may be		
stack or tandem parking with no more than		
2 spaces in each tandem space. In other		
areas:		
1 space per 4 children.		
A reduction in car parking rates may be		
considered where:		
the proposal is an adaptive re-use of a		
heritage item		
the site is in a B8 Metropolitan Zone or		
other high density business or residential		
zone		
the site is in proximity to high frequency		
and well connected public transport		
the site is co-located or in proximity to		
other uses where parking is appropriately		
provided (for example business centres,		
schools, public open space, car parks)		
there is sufficient on street parking		
available at appropriate times within		
proximity of the site.		
C32 In commercial or industrial zones and		
mixed use developments, on street parking		
may only be considered where there are no		
conflicts with adjoining uses, that is, no		
high levels of vehicle movement or		
potential conflicts with trucks and large		
vehicles.		



C33 A Traffic and Parking Study should be prepared to support the proposal to quantify potential impacts on the surrounding land uses and demonstrate how impacts on amenity will be minimised. The study should also address any proposed variations to parking rates and demonstrate that: • the amenity of the surrounding area will not be affected • there will be no impacts on the safe operation of the surrounding road network.		Traffic and parking impacts have been considered by the applicant who has submitted a Traffic and Parking assessment report, ref 17365, dated 8 December 2017, prepared by Varga Traffic Planning with the application. However, Council's Engineer has reviewed the report and is not supportive of the parking shortfall. In this regard, the application is recommended for refusal.
Objective: To provide vehicle access from the street in a safe environment that does not disrupt traffic flows. C34 Alternate vehicular access should be provided where child care facilities are on sites fronting: • a classified road • roads which carry freight traffic or transport dangerous goods or hazardous materials. The alternate access must have regard to: • the prevailing traffic conditions • pedestrian and vehicle safety including bicycle movements • the likely impact of the development on traffic. C35 Child care facilities proposed within cul-de-sacs or narrow lanes or roads should ensure that safe access can be provided to and from the site, and to and from the wider locality in times of emergency.	Y	The site is not located on a classified road, on a road that carries freight traffic, in a cul-de-sac or narrow road.
Objective: To provide a safe and connected environment for pedestrians both on and around the site. C36 The following design solutions may be incorporated into a development to help provide a safe pedestrian environment: • separate pedestrian access from the car park to the facility • defined pedestrian crossings included within large car parking areas • separate pedestrian and vehicle entries from the street for parents, children and visitors • pedestrian paths that enable two prams to pass each other • delivery and loading areas located away from the main pedestrian access to the building and in clearly designated, separate facilities • in commercial or industrial zones and mixed use developments, the path of travel from the car parking to the centre entrance physically separated from any truck circulation or parking areas • vehicles can enter and leave the site in a forward direction.	Y	Basement car parking area has been designed in a manner to protect children's safety. There is a lift that leads directly into the childcare centre and stairs that lead to the ground floor. The stairs are connected to the ramp that leads to the entry of the child care centre. Separate entry for cars and pedestrian provided. Pedestrian access leads to the main door via stairs or an accessible ramp. All cars are able to leave in a forward direction.





C37 Mixed use developments should		
include:		
driveway access, manoeuvring areas and		
parking areas for the facility that are		
1.		
separate to parking and manoeuvring		
areas used by trucks		
drop off and pick up zones that are		
exclusively available for use during the		
facility's operating hours with spaces		
clearly marked accordingly, close to the		
main entrance and preferably at the same		
floor level. Alternatively, direct		
access should avoid crossing driveways or		
maneuvering areas used by vehicles		
accessing other parts of the site		
parking that is separate from other uses,		
located and grouped together and		
conveniently located near the entrance or		
access point to the facility.		
C38 Car parking design should:		
include a child safe fence to separate car		
parking areas from the building entrance		
and play areas		
 provide clearly marked accessible 		
parking as close as possible to the primary		
entrance to the building in accordance with		
appropriate Australian Standards		
include wheelchair and pram accessible		
parking.		
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4. Applying the National Regulations to		nt proposals
4. Applying the National Regulations to a A. INTERNAL PHYSICAL ENVIRONMENT		nt proposals
A. INTERNAL PHYSICAL ENVIRONMENT		nt proposals
A. INTERNAL PHYSICAL ENVIRONMENT 4.1 Indoor space requirements		nt proposals
A. INTERNAL PHYSICAL ENVIRONMENT 4.1 Indoor space requirements Regulation 107 Education and Care		nt proposals
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A. INTERNAL PHYSICAL ENVIRONMENT 4.1 Indoor space requirements Regulation 107 Education and Care Services National Regulations Every child being educated and cared for		As discussed previously, sufficient
A. INTERNAL PHYSICAL ENVIRONMENT 4.1 Indoor space requirements Regulation 107 Education and Care Services National Regulations Every child being educated and cared for within a facility must have a minimum of		As discussed previously, sufficient unencumbered indoor space is provided for the
A. INTERNAL PHYSICAL ENVIRONMENT 4.1 Indoor space requirements Regulation 107 Education and Care Services National Regulations Every child being educated and cared for within a facility must have a minimum of 3.25m2 of unencumbered indoor space.		As discussed previously, sufficient
A. INTERNAL PHYSICAL ENVIRONMENT 4.1 Indoor space requirements Regulation 107 Education and Care Services National Regulations Every child being educated and cared for within a facility must have a minimum of 3.25m2 of unencumbered indoor space. Note: If this requirement is not met, the		As discussed previously, sufficient unencumbered indoor space is provided for the
A. INTERNAL PHYSICAL ENVIRONMENT 4.1 Indoor space requirements Regulation 107 Education and Care Services National Regulations Every child being educated and cared for within a facility must have a minimum of 3.25m2 of unencumbered indoor space.		As discussed previously, sufficient unencumbered indoor space is provided for the
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All unencumbered indoor spaces must be provided as a secure area for children. The design of these spaces should consider the safe supervision of children. When calculating indoor space requirements, the area required for any additional child may be waived when the child is being cared for in an emergency circumstance as set out in regulation 123(5) or the child is being educated or cared for in exceptional circumstances as set out in regulation 124(5) and (6) of the National Regulations. Applicants should also note that regulation 81 requires that the needs for sleep and rest of children at the service be met, having regard to their ages, development stages and individual needs. Development applications should indicate how these needs will be accommodated. Verandahs may be included when calculating indoor space with the written approval from the regulatory authority.		
4.2 Laundry and hygiene facilities Regulation 106 Education and Care Services National Regulations There must be laundry facilities or access to laundry facilities; or other arrangements for dealing with soiled clothing, nappies and linen, including hygienic facilities for storage prior to their disposal or laundering. The laundry and hygienic facilities must be located and maintained in a way that does not pose a risk to children. Child care facilities must also comply with the requirements for laundry facilities that are contained in the National Construction Code.	Y	An adequate laundry has been provided in the basement area
4.3 Toilet and hygiene facilities Regulation 109 Education and Care Services National Regulations A service must ensure that adequate, developmentally and age-appropriate toilet, washing and drying facilities are provided for use by children being educated and cared for by the service; and the location and design of the toilet, washing and drying facilities enable safe use and convenient access by the children. Child care facilities must comply with the requirements for sanitary facilities that are contained in the National Construction Code.	Y	There is an accessible staff toilet and adequate children's toilets
4.4 Ventilation and natural light Regulation 110 Education and Care Services National Regulations Services must be well ventilated, have adequate natural light, and be maintained at a temperature that ensures the safety and wellbeing of children. Child care facilities must comply with the light and	Υ	Sufficient light and ventilation has been provided through external openings to the proposed child care centre.



the reception area has
the reception area has
with a bench and basin
play areas have been
relevant playrooms to
ınsupervised access.
windows have been
cilities.
been submitted with the
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D EVTERNAL BUVEICAL ENVIRONMENT	<u> </u>	
B. EXTERNAL PHYSICAL ENVIRONMENT	<u> </u>	
4.9 Outdoor space requirements		
Regulation 108 Education and Care	Y	Sufficient external play area has been provided
Services National Regulations		for the proposed number of children.
An education and care service premises		
must provide for every child being		
educated and cared for within the facility to		
have a minimum of 7.0m2 of		
unencumbered outdoor space.		
Note: If this requirement is not met, the		
concurrence of the regulatory authority is		
required under the SEPP.		
Unencumbered outdoor space excludes		
any of the following:		
pathway or thoroughfare, except where		
used by children as part of the education		
and care program		
• car parking area		
storage shed or other storage area		
• laundry		
other space that is not suitable for		
children		
requirements, the area required for any		
additional child may be waived when the		
child is being cared for in an emergency		
circumstance as set out in regulation		
123(5) or the child is being educated or		
cared for in exceptional circumstances as		
set out in regulation 124(5) and (6) of the		
National Regulations. Applicants should		
also note that regulation 274 (Part 7.3		
NSW Provisions) states that a centre-		
based service for children preschool age or		
under must ensure there is no swimming		
pool on the premises, unless the swimming		
pool existed before 6 November 1996.		
Where there is an existing swimming pool,		
a water safety policy will be required.		
A verandah that is included within indoor		
space cannot be included when calculating		
outdoor space and vice versa.		
4.10 Natural environment		
Regulation 113 Education and Care	Υ	The proposal includes various outdoor
Services National Regulations		experiences detailed in the landscape plan.
The approved provider of a centre-based		
service must ensure that the outdoor		
spaces allow children to explore and		
experience the natural environment.		
4.11 Shade		
	Y	Addressed proviously under slaves 20/6) of the
Regulation 114 Education and Care	r	Addressed previously under clause 28(6) of the
Services National Regulations		Children (Education and Care Services)
The approved provider of a centre-based		Supplementary Provisions Regulation 2012.
service must ensure that outdoor spaces		
include adequate shaded areas to protect		
children from overexposure to ultraviolet		
radiation from the sun.		
4.12 Fencing		
Regulation 104 Education and Care	Υ	The proposed acoustic fencing satisfies this
Services National Regulations		requirement.



Any outdoor space used by children must be enclosed by a fence or barrier that is of a height and design that children preschool age or under cannot go through, over or under it. This regulation does not apply to a centre-based service that primarily provides education and care to children over preschool age, including a family day care venue where all children are over preschool age. Child care facilities must also comply with the requirements for fencing and protection of outdoor play spaces that are contained in the <i>National Construction Code</i> .		
A.13 Soil assessment Regulation 25 Education and Care Services National Regulations Subclause (d) of regulation 25 requires an assessment of soil at a proposed site, and in some cases, sites already in use for such purposes as part of an application for service approval. With every service application one of the following is required: • a soil assessment for the site of the proposed education and care service premises • if a soil assessment for the site of the proposed child care facility has previously been undertaken, a statement to that effect specifying when the soil assessment was undertaken • a statement made by the applicant that states, to the best of the applicant's knowledge, the site history does not indicate that the site is likely to be contaminated in a way that poses an unacceptable risk to the health of children.	Y	A Phase 2 contamination report has been submitted. This has been assessed by Council's Environmental Heath team. A Remedial Action Plan has also been lodged which forms part of a condition of consent which must be complied with.

DOCUMENTS ASSOCIATED WITH REPORT LPP072/19

Attachment 8 ADCP Assessment



AUBURN DEVELOPMENT CONTROL PLAN 2010 - CHILD CARE CENTRES

The requirements of the Auburn Development Control Plan 2010 – Child care centres have been taken into consideration in the assessment of the development application as detailed below:

Requirement	Yes	No	N/A	Comments
1.0 Introduction			,	•
1.4 Location of child care centres				
Development controls				The shild core is not leasted in
D1 Child care centres shall be located away from any environmental health hazard or risk.	\boxtimes			The child care is not located in proximity to an environmental hazard or risk.
Note: Any house built prior to 1970 may require testing for lead levels. A qualified Environmental Contamination Auditor may be required to carry a preliminary lead investigation and further action may be required.				The house is to be demolished.
D2 Child care centres shall not be located within close proximity to a mobile phone tower(s), antennae, transmission line easements or other similar electromagnetic radiation sources.				Child care centre is not located near any of the listed items
D3 Where possible, child care centres shall be located near schools and public transport.				The site location is considered acceptable. The site is within 900m of Lidcombe and Berala train station
2.0 Design				
2.1 Site layout and design				
Development controls				
D1 New buildings shall be orientated to maximise solar access.	\boxtimes			Orientation acceptable.
D2 New buildings shall be orientated so that the maximum length of the building is facing out onto the playground to ensure staff and children can move easily between the building and the playground.	\boxtimes			Maximum length of the building is facing the outdoor play area allowing for a connection between the indoor
D3 Developments shall be designed to ensure maximum space is available for outdoor play areas.	\boxtimes			and outdoor. Sufficient outdoor play area has been provided.
D4 New developments shall be designed so that all people entering or leaving the premises can be seen from the building.	\boxtimes			Large windows are provided to the front from the reception area, office and staff room which allows for passive surveillance.
2.2 Visual impact				
Development controls				



 D1 Visual screening in the form of vegetation or fencing over 3m high shall be provided to outdoor play areas where: The child care centre or the outside playing areas are within 15m of an adjoining building line. The child care centre shares a boundary with residentially zoned land. The view from within the child care centre may be offensive, daunting or inappropriate. 			The fence is 2m high on the neighbouring side but due to cutting on the subject site and the use of retaining walls the fence + retaining wall has a maximum height of 3.19m (at the highest).
2.3 Noise			
Development controls			
D1 Acoustic attenuation may be required if the child care centre is likely:to be affected by heavy traffic noise,		\boxtimes	Acoustic attenuation has been
is situated on a collector/main road, or is located in an industrial zone or receives aircraft noise or in circumstances where childcare centres have the potential to affect the amenity of adjoining properties.			discussed previously in the Draft Child Care Planning Guidelines compliance table.
Note: In some circumstances, a report from an acoustic consultant may be required by Council to ensure noise impacts on the child care centre and resulting from the child care centre are minimised.			
2.4 Private dwelling used in conjunction with a child care service			
Development controls			
D1 If a private dwelling is proposed in conjunction with a child care centre, the dwelling shall be designed in accordance with the relevant Parts of this DCP.		\boxtimes	None proposed
D2 A separate private open space area shall be provided for residents in accordance with the relevant Parts of this DCP.		\boxtimes	
D3 Open space for the residents of the dwelling shall be screened to ensure privacy.		\boxtimes	
D4 Separate access and parking shall be provided for residents of the dwelling in accordance with the relevant Parts of this DCP.		\boxtimes	
2.5 Water conservation			
Development controls			
D1 New developments shall connect to recycled water if serviced by dual reticulation system for permitted non potable uses such as toilet flushing, irrigation, car washing, fire fighting and other suitable purposes		\boxtimes	Acceptable



D2 Where a property is not serviced by a dual reticulation system, development shall include an onsite rainwater harvesting system or an onsite reusable water resource for permitted non potable uses such as toilet flushing, irrigation, car washing, fire fighting and other suitable purposes.		\boxtimes	
D3 Development shall install all water using fixtures that meet the WELS (Water Efficiency Labelling Scheme) rated industry standards in accordance with Sydney Water's industry requirements.	\boxtimes		
3.0 Indoor areas and facilities			
1.1 Entry areas and foyer			
Development controls			
D1 Entries to the child care centres shall be located to be accessible from walkways and parking area(s).			The entry to the child care centre is accessible from the street and car park
D2 A covered area shall be provided at the entry of the building to protect users from weather conditions.			Front part is covered
D3 Doorways of an adequate width for access for twin strollers and people with a disability shall be provided and designed in accordance with the relevant Australian Standard.			A condition of consent is to be imposed to ensure compliance with this control.
D4 The entry area shall be enclosed with a childproof fence and gate.	\boxtimes		A condition of consent is to be imposed to ensure compliance with this control.
D5 The floor surfaces of the entry and foyer shall be non-slip hard wearing, easy to maintain and shall flow continuously between the indoor and outdoor spaces.	\boxtimes		This can be a condition of consent.
D6 The foyer shall be designed so it is located next to the covered external entry area.	\boxtimes		The location of the foyer is acceptable.
D7 The foyer shall have a sign in/sign out area.	\boxtimes		The foyer has a sign in/out area
1.2 Pram and stroller areas			
Development controls			
D1 A designated sheltered and secure storage area for prams and strollers shall be provided.	\boxtimes		Sufficient space within the foyer area
1.3 Playroom			
Development controls			
D1 Developments shall have at least 3.25m ² of unencumbered indoor play space per child	\boxtimes		Sufficient space has been proposed.



in accordance with the Children's Services Regulation 2004.			
Note: Refer to Clause 30(3) of the <i>Children's</i> Services Regulation 2004.			
 D2 Playroom areas shall be designed to provide the following: Direct access to active play areas; Direct access to children's toilets; An area where children can sleep. This 			All play rooms have been designed adequately. This has been discussed under the Assessment against the Child Care Planning Guidelines.
area shall be such that there is easy access to each child and that ease of exit is maintained;	\boxtimes		
 An area which can be organised into distinct spaces for a variety of activities; and 			
 Each room shall have at least two (2) windows with sills no higher than 500mm above the floor. Glazing materials shall comply with relevant Australian Standards. 			
1.4 Storage facilities			
Development controls			
D1 Storage facilities and areas shall be inaccessible to children if dangerous materials, substances and or equipment are stored within.			A laundry has been proposed in the basement which can store hazardous material. Indoor area has storage above the lockers and storage for sleeping mats. Outdoor storage area also proposed.
D2 A room which facilitates open lockers shall have hanging space for each child's bag, belongings and other personal articles.	\boxtimes		Lockers to be provided in the hallway.
1.5 Rest and sleep facilities			
Development controls			
D1 Sleep or rest areas and facilities shall be:			
 Located in a low noise section of the building e.g. away from verandahs; In an area that has natural light; and Designed to ensure that all children in the area are readily accessible to staff of the service. 			Sleep areas are adequate. No children under 2 are proposed.
1.6 Children's bath/washroom			
Development controls			



D1 Children's bath or washroom and toilets shall have adequate toilet, washing and bathing facilities that are safe and appropriate to the ages of the children and must comply with the Building Code of Australia (BCA).			Adequate washrooms have been provided which also includes a children shower.
D2 The bathroom shall have adequate natural or mechanical ventilation and lighting. Any proposed mechanical ventilation system shall comply with the relevant Australian Standards. Plans and specifications detailing design and calculations shall be submitted to Council for approval prior to installation.			Complies
D3 The bath/wash room and toilet areas shall incorporate windows or half glass partitions and or view windows from the playroom at a height of 1.5m.			Windows incorporated in design. The room is also open on three sides.
Note: Glazing materials used shall comply with the relevant Australian Standards.			
1.7 Requirements for children under two (2) years of age			
Development controls			
D1 A minimum area of 3.25m ² of unencumbered indoor play space per child shall be provided in accordance with the <i>Children's Services Regulation 2004</i> .		\boxtimes	Children under two not proposed as part of this application
Note: Refer to <i>Children's Services Regulation</i> 2004 for explanation of unencumbered indoor play space.			
D2 The playroom shall be located so it has immediate access to the nappy change area and baby sleep room.		\boxtimes	
D3 The playroom shall be well ventilated. Any proposed mechanical ventilation system shall comply with the relevant Australian Standards. Plans and specifications detailing design and calculations shall be submitted to Council for approval prior to installation.			
1.8 Nappy change facilities			
Development controls			
D1 Nappy change facilities shall:			
 Be designed, located and maintained so as to prevent unsupervised access by children; Be separated from food and craft preparation facilities; Have facilities for storage of clean nappies; Have hand washing facilities for adults in the immediate vicinity; and 			A separate nappy change room is proposed to be provided and will be required to meet the relevant provisions of the BCA with regards to ventilation.



Be well ventilated or have other means of temperature control systems to prevent accumulated smells. Any proposed mechanical ventilation system shall comply with the relevant Australian Standards. Plans and specifications detailing design and calculations shall be submitted to Council for approval prior to installation. Note: Refer also to the waste control for commercial and industrial development in the Waste Part of this DCP. Applicants are to take special note of provisions for food, restaurants, refrigerated garbage, childcare and medical Waste.			
1.9 Bottle preparation area			
Development controls			
D1 Bottle preparation areas shall be separate from the nappy change area.			Bottles can be prepared in the kitchen as there are no children under 2 years of age in the centre.
1.10 Sleep areas			
Development controls			
D1 Sleep areas shall:			
Be located in a quiet area; Have direct emergency fire access from the cot room. The exit door to the cot room shall be wide enough to push a cot			All children are above the age of 2 and the sleep area within the playroom is adequate.
 through for emergency evacuation; Not be sound proof so as to enable staff to hear babies who are awake; 		\boxtimes	
Incorporate windows allowing children to view outside; and		\boxtimes	
Be well ventilated. Any proposed mechanical ventilation system shall comply with the relevant Australian Standards. Plans and specifications			
detailing design and calculations shall be submitted to Council for approval prior to installation.			
D2 Be designed to ensure that all children in the area are readily accessible to staff of the service.			
1.11 Babies' and toddlers' transition area			
Development controls			
D1 A transition area shall:			
 Have a minimum of 2m² per child; Have a fixed low divided fence with a gate with child proof catches; and 			All children are above the age of 2 and therefore a transition area is therefore not required.



Adjoin a play room with direct flow through to the playroom.		\boxtimes	
Note: Transition area - An indoor or outdoor area which performs an important role in helping extend children's play into the outside areas e.g. covered verandah or terrace.			
1.12 Staff and service facilities			
Development controls			
D1 A room or an area shall be provided that is used only for administration of the services and for private consultation between staff and parents.			A reception area is provided on the ground floor with an office attached to it.
D2 A room or an area shall be provided that is used for the respite of staff and is located away from the areas used by children.			A separate staff room has been provided on the first floor.
D3 Adult toilet and washing facilities shall be provided separate from children's toilets. Provision shall be made for persons with a disability and this shall comply in accordance with the relevant Australian Standards.	\boxtimes		There is a toilet on the ground floor that can be used by staff.
D4 Food hygiene/handling practices and fit out of the kitchen shall comply with the requirements of the relevant Acts and Regulations.			This can be a condition of consent.
D5 A designated area shall be provided that is safe for both food preparation and storage.	\boxtimes		There is a kitchen on the ground floor.
D6 The designated area shall be of adequate dimensions so as to accommodate a stove or microwave, sink, refrigerator, food preparation area and suitable disposal facilities.			The kitchen is considered adequate.
D7 Facilities for the preparation and storage of food shall be designed and located so as to prevent children from gaining access to any harmful substance, equipment or amenity.			The design is considered acceptable.
D8 The laundry shall have a minimum area of 10m ² and shall comply with the BCA.			Laundry is in the basement and is 10m² in size
1.13 Emergency procedures and fire safety			
Development controls			
D1 Developments shall comply with the BCA.	\boxtimes		A condition of consent is to be
D2 Emergency and evacuation procedures and the provision of the fire safety equipment shall be in accordance with the BCA and Children's Services Regulations 2004.			imposed to ensure compliance with the BCA. Compliance with the Children (Education and Care Services) Supplementary Provisions Regulation 2012 (which supersedes the Children's Services Regulations 2004) is



			a matter for the Department of Community Services at the time of issuing a licence.
4.0 Outdoor areas and facilities			
Development controls			
D1 Developments shall have at least 7m2 of useable outdoor play space per child in accordance with the Children's Services Regulation 2004.			Sufficient space has been provided for outdoor play area.
Note: Refer to Children's Services Regulation 2004 for an explanation of usable outdoor area.			
4.1 Landscaping			
D1 A landscaped front setback shall be provided which is consistent with the setback controls for the development potential of the zone in which the childcare centre is located, e.g. low density residential, townhouses, residential flat buildings and so on.			Front landscaping is considered acceptable. The setback matches to the setbacks of the adjoining dwellings.
D2 Outdoor areas shall be designed to take advantage of existing vegetation and natural features.			There is some cut proposed at the rear to allow the children to have a level, safe environment to play in. The rea at the back retains its natural levels which provides a point of interest for the children.
D3 Tree and shrub planting shall be provided along the boundaries of the site adjoining residential properties. The screen planting shall reach a minimum mature height of 3m.			The planting of trees/shrubs on the boundary with seating in between has found to be adequate.
D4 Street tree planting shall be required along street frontages within the footpath area.	\boxtimes		No removal pf street trees has been proposed.
4.2 Outdoor shading			
Development controls			
D1 The outdoor play space must be adequately shaded in accordance with the Children's Services Regulations 2004.	\boxtimes		Adequate shading has been provided at the rear. There is also a small covered area
D2 Permanent shade cloth shall be provided for sandpits and climbing equipment.	\boxtimes		attached to the indoor play area.
4.3 Outdoor safety			
Development controls			
D1 All garden sheds containing play equipment must be padlocked or lockable with a child proof	\boxtimes		There is a storage area provided outside



locking device but accessible to children when unlocked.		
D2 Child care centres within the vicinity of a swimming pool are discouraged.		Council's aerial photos indicate that there are no swimming pools in the vicinity
D3 Where a pool is existing or proposed with a private dwelling, it shall be securely fenced in accordance with the requirements of the relevant Act.		of the site. N/A
D4 The playground environment and equipment shall be designed to comply with all relevant Australian Standards and Children's Services Regulations 2004.		All playground equipment will be required to comply with the relevant Australian Standards and requirements of the State Government licensing authority.
4.4 Fencing and gates		
Development controls D1 Outdoor areas shall be fenced on all sides with minimum height of 1800mm high.		The outdoor play areas are to be surrounded by 2m high fencing (plus retaining wall around 3m) from within and 2m from the neighbours' side.
D2 All gates leading to or from play areas shall be 1800mm high and be equipped with a child proof self-locking mechanism.		A condition of consent is recommended to be imposed that all gates are fitted with child proof self-locking
D3 Child care centres adjacent to or providing access to, any hazards (including water hazards or main roads) shall be isolated from such hazards by a fence at least 1800mm high or by an approved pool fence.		mechanism. The site is not adjacent to any hazards such as water hazards or main roads.
5.0 Access and Car Parking		
5.1 Pick up/set down		
Development controls		
D1 The pick up and set down of children shall occur within the site.		The basement is adequate
5.2 Parking		
Development controls		
D1 Basement car parking shall be provided where site conditions permit.		Basement provided
D2 Pathways that link directly to the main entry of the building from the periphery of the car park shall be provided to ensure safe access for children and parents.		Provided.
D3 Council may reduce the number of spaces required for staff where the following conditions are met:		All children are above the age of 2



The childcare centre allocates a minimum of 25% of its places to 0-2 year olds. The proposed variation shall be supported by a traffic and parking analysis prepared by a suitably qualified Traffic Consultant. Note: For car parking controls relating to child care centre development, applicants must refer to the Parking and Loading Part of this DCP.	\boxtimes		Per child: 12 spaces Per sqm: 307 = 9 spaces 12 spaces needed 12 spaces provided
5.3 Loading areas			
Development controls			
D1 A service vehicle area shall have direct access to the building to ensure safe delivery of items, e.g. food and nappy service.	\boxtimes		Loading can occur within site outside of core hours.
Consideration shall be given to permit the car park to be used for this purpose.	\boxtimes		
A courier vehicle space with minimum dimensions of 2.6m x 5.4m shall be acceptable in this instance.	\boxtimes		
Note: For car parking controls relating to child care centre development, applicants must refer to the Parking and Loading Part of this DCP.			
5.4 Disabled parking			
Development controls			
D1 Parking for people with a disability shall be provided at the rate of one (1) space per 10 spaces. If the car parking required is less than 10 then at least one (1) space shall be provided.			One accessible space has been provided.
D2 A set down/pick up area for people with a disability shall be located as close as possible to an accessible entrance of the child care centre or to a wheelchair access lift.	\boxtimes		
Note: For car parking controls relating to child care centre development, applicants must refer to the Parking and Loading Part of this DCP.			



Item No: LPP073/19

MODIFICATION APPLICATION - 15 HYACINTH STREET, GREYSTANES

Responsible Division: Environment & Planning

Officer: Executive Manager Development and Building

File Number: DA 2018/284/2

Application lodged	2 August 2019
Applicant	Baini Design
Owner	Ishak Group Holdings Pty Ltd
Application No.	2018/284/2
Description of Land	15 Hyacinth Street, Greystanes (Lot 29 in DP 239685)
Proposed	Section 4.55(1A) modification seeking removal of the
Development	external storage shed and dense planting, reinstatement
-	of visitor parking space numbered 10 in the basement,
	and amendments to the outdoor play space to increase
	capacity of approved child care centre from 26 to 30
	places
Site Area	560.2m ²
Zoning	R2 – Low Density Residential
Principal	 Floor Space Ratio – 0.5:1 (HLEP 2013)
Development	 Height of Buildings – 9m (HELP 2013)
Standards	
Disclosure of political	Nil disclosure
donations and gifts	
Heritage	The subject site does not contain a heritage item, and is
	not located within the vicinity of the heritage item or
	heritage conservation area.
Issues	- Number of children and outdoor unencumbered space

SUMMARY:

Background / History

On 16 April 2019, the original development application (DA2018/284/1) for demolition of existing structures and construction of a 26 place two storey, child care centre over basement parking accommodating 9 parking spaces; was granted a deferred commencement approval by Cumberland Local Planning Panel.

The Panel noted the extensive amount of impervious area proposed and having regard to the reduction in the approved number of children to 26 places, considered it appropriate to reduce the number of basement car spaces to allow a corresponding increase in the amount of area for deep soil planting on site. Accordingly, the Panel recommended that the following deferred commencement conditions be imposed to:

 Car space numbered 10 (visitor) on drawing number 05 (floor plans) is to be deleted and that portion of the basement is to be cut back accordingly. The corresponding ground area is to be provided for deep soil planting and be



suitably landscaped, including one mature canopy tree capable of achieving a height of 6 metres.

2. The width of car space 4 (staff) on drawing number 05 (floor plans) is to be increased to 2.7 metres.

On 12 June 2019, a Schedule A letter was issued confirming that above deferred commencement conditions have been complied with to Council's satisfaction.

The date from which DA2018/284/1 consent operates is 12 June 2019.

On 2 August 2019, Section 4.55(1A) modification application (DA2018/284/2) seeking removal of the external storage shed and dense planting, reinstatement of visitor parking space numbered 10 in the basement, and amendments to the outdoor play space to increase capacity of approved child care centre from 26 to 30 places; was lodged with Council.

In accordance with Part E – Public Participation of Holroyd Development Control Plan 2013, the application was notified to adjoining and opposite owners, and residents who submitted an objection to original DA, by way of letters, for 14 days from 2 September 2019 to 16 September 2019. In response, the application received 5 submissions.

The subject application has been assessed against the relevant provisions of State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017, Child Care Planning Guideline (the Guideline) 2017, and Holroyd Development Control Plan 2013 (HDCP).

The proposal seeks the following notable non-compliance which is considered supportable as discussed in summary below and detailed elsewhere in the report:

Control	Required	Proposed	% Variation
Number of children and outdoor unencumbered space (regulation 108 part 4.9 the Guideline)	(a) 7m ² x 30 = 210m ²	(b) 210m² (including OSD pits, open swale channel, retaining walls and dense planting) Assessing officer's calculation = 192m² / 7 = 27.4 children Recommendation = reduce number of children to 27	10%

The application is being reported to the Cumberland Local Planning Panel (CLPP) for determination as the modification seeks to alter an aspect of the approved development specifically required by the Panel, being the reinstatement of the visitor parking space within the basement and amendments to the outdoor play space.





The application is recommended for approval subject to the conditions in the draft determination at Attachment 2.

REPORT:

Introduction

The subject site is known as 15 Hyacinth Street, Greystanes, and is legally described as Lot 29 in DP 239685. The site is located on the western side of Hyacinth Street. The site is a rectangular block with a frontage of 20.4m, depth of 27.4m and a total site area of 560.2m². Existing improvements on the site include a single-storey dwelling with attached carport on the southern side. Adjoining developments consist of one to two storey detached dwelling houses with landscaped front setbacks. Widemere Public School directly adjoins the subject site and shares its rear boundary. Nemesia Street Park is located 100m walking distance north-east from the subject site. The subject site and all of adjoining properties are zoned R2 Low Density Residential.



Figure 1 - Aerial view of the locality with subject site shown highlighted in red. Source: Cumberland Council 2019



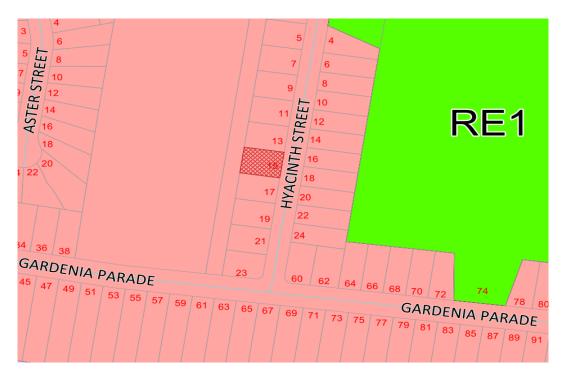


Figure 2 – Zoning map with subject site shown hatched. Source: Cumberland Council 2019



Figure 3 – Street view of subject site – 15 Hyacinth Street, Greystanes. Source: Cumberland Council 2019



Description of the Proposed Development

DA2018/284/2 seeks removal of the external storage shed and dense planting, reinstatement of visitor parking space numbered 10 in the basement, and amendments to the outdoor play space to increase capacity of approved child care centre from 26 to 30 places.

Key features of the development proposal are as follows:

Level	Original Approval (DA2018/284/1)	Modified Proposal
Basement	9 car parking spaces (4 staff, 5	Additional parking space to
Level	visitor including 1 accessible)	provide a total of 10 car parking
		spaces (2 staff, 8 visitor including
	Fire stairs, lift and bin room	1 accessible)
Ground	Reception and office	3-5yr old indoor play area remains
Floor		unchanged in area (65m²).
	2-3yr old indoor play area (10	
	children)	The modified proposal seeks to
	3-5yr old indoor play area (16	increase the number of children
	children)	cared for in the 3-5yr old indoor
		play area from 16 to and 20
	Outdoor play area includes dense	children.
	planting to side and rear	
	boundaries, and freestanding	Deletion of dense planting and
	storage shed	freestanding storage shed
First	Staff room, kitchen, office, laundry,	No amendments proposed to
Floor	front balcony	approved first floor plan

The modified child care centre seeks to increase children placement from 26 to 30 children, as follows:

- 10 children 2-3 years
- 20 children 3-5 years

The proposed centre will operate from 7.00am to 6.00pm Monday to Friday, and will employ 4 staff.

Application History

Application mist	tory		
Date	Action		
2 August 2019	The subject modification application was lodged with Council.		
30 August 2019	The application was referred to the following internal sections:		
	Development Engineering		
	Traffic Engineering		
	Landscape and Tree Management		
	Children's Services		
2 – 16	Application placed on notification. In response, 5 submissions were		
September 2019	received.		
11 October 2019	The applicant was advised that unencumbered outdoor space		



	provided is capable of accommodating 27 children, and as such the subject modification would only result in 1 additional child placement for the centre. No response was received in reply to Council's correspondence.
13 November 2019	Application referred to CLPP for determination.

Applicant's Supporting Statement

The applicant provided a Statement of Environmental Effects prepared by Think Planners Pty Ltd dated July 2019 in support of the application.

Contact with Relevant Parties

The assessing officer has undertaken a site inspection of the subject site and surrounding properties and has been in regular contact with the applicant throughout the assessment process.

Internal Referrals

<u>Development Engineer</u>

The application was referred to Council's Development Engineer for comment who has raised no objections to the modifications sought. No amendments to conditions or additional conditions are recommended to be imposed.

Traffic Engineer

The application was referred to Council's Traffic Engineer for comment who has advised that the development is supportable in regards to the manoeuvring and onsite parking provision in the modified basement layout. No amendments to conditions or additional conditions are recommended to be imposed.

Tree Management Officer

The application was referred to Council's Tree Management Officer for comment who has advised that the Backhousia citriodora (Lemon Myrtle) proposed at the north-west corner of the site will be able to achieve a mature canopy height of 6m given its proposed location and soil volume, should the tree be maintained appropriately in 5-6 years following planting. In this regard, the proposed tree planting is able to satisfy deferred commencement condition No. 1 with the reinstatement of the visitor car parking space at the north-west corner of the basement. Conditions are recommended to be imposed requiring all trees installed within close proximity to the rear boundary fence line that are 45L and greater in container size, be appropriately maintained by a qualified horticulturalist for a minimum period of 12 months from the date of the issue of the final Occupation Certificate, or until the respective trees reach a height of 6m and greater, measured from the base of the tree.



Children's Services

The development application was referred to Council's Children's Services section for comment who has advised that the development is supportable in regards to compliance with the provisions of Education and Care Services National Regulations and Law, subject to conditions.

External Referrals

N/A

Planning Assessment

Section 4.55(1A) Modifications involving minimal environmental impact

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

Re	quirement	Comment
(a)	It is satisfied that the proposed modification is of minimal environmental impact, and	The development as proposed to be modified seeks an increase in children from 26 to 30 places, and is substantially the same as the development for which consent was originally granted. The proposal provides for the same building footprint, height and assessed to be of minimal environmental impact with a reduction in children to 27 places.
(b)	it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and	The modified proposal is substantially the same development as that originally approved.
(c)	it has notified the application in accordance with: (i) the regulations, if the regulations so require, or (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and	The application was notified in accordance with Holroyd Development Control Plan 2013, and as required by the regulations. The persons who made a submission in respect to the original application were also notified of the proposal.
(d)	it has considered any submissions made concerning the proposed modification within the period prescribed by the	As a result of the notification, 5 submissions were received and have been considered as part of the



Requirement	Comment
regulations or provided by the development control plan, as the case may be.	assessment of the modified proposal.
Subsections (1), (2) and (5) do not apply to such a modification.	
(3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the	(c) The provisions of the applicable EPIs are discussed elsewhere in this report.The provisions of the applicable DCP
development the subject of the application.	are discussed elsewhere in this report.
	There are no planning agreements or draft planning agreements related to this application.
	There are no relevant matters referred to in the regulations.
	The likely impacts of the development as proposed to be modified are considered satisfactory.
	The site is considered to be suitable for the development as proposed to be modified.
	The S4.55(1A) Modification was notified in accordance with Holroyd Development Control Plan 2013. In response, 5 submissions were received, and concerns raised have been considered as part of the assessment of the modified proposal.
	Approval of the subject application is not contrary to the public interest.
(4) The modification of a development consent in accordance with this section is taken not to be the granting of development consent under this Part, but a reference in this or any other Act to a development consent includes a reference to a development consent as so modified.	Noted



Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act)

State Environmental Planning Policies

The proposed development is affected by the following State Environmental Planning Policies:

(a) State Environmental Planning Policy No. 55 – Remediation of Land

The requirement at Clause 7 of SEPP 55 for the consent authority to be satisfied that the site is suitable or can be made suitable to accommodate the proposed development was considered under the original application. The proposed modifications do not raise any new concerns regarding site contamination.

(b) State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017

The relevant provisions of the SEPP have been considered in the assessment of the Application.

A comprehensive assessment and compliance table is attached to this report in Appendix A, which indicates that there is a non-compliance with the SEPP 2017 with regard to number of children proposed and outdoor unencumbered space as follows:

Control	Required	Provided
(d) Number of children and outdoor unencumbered space (regulation 108 SEPP 2017 and part 4.9 the Guideline)	7m² x 30 = 210m²	The application indicates that an unencumbered area of 210m² is provided. However, this has not taken consideration of OSD pits, open swale channel, retaining walls and dense planting. The assessment officer's calculation of the unencumbered outdoor space equates to 192m². This will accommodate only 27.4 children. This report recommends an increase of 1 child placement, taking the total number of children cared for at the centre from 26 to 27. The consent is recommended to be amended to reflect this change.

(c) Statement Environmental Planning Policy No 19 - Bushland in Urban Areas

The subject site does not adjoin land zoned or reserved for public open space. The proposal does not propose to disturb bushland zoned or reserved for public open space.

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

Tree removal was assessed as part of the original application. No additional tree removal is sought as part of this modification application. Council's Tree



Management Officer has reviewed the proposed modification and raised no objections, subject to the imposition of conditions.

Regional Environmental Plans (Deemed State Environmental Planning Policies)

(e) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The subject site is identified as being located within the area affected by the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. The proposed development raises no issues as no impact on the catchment is envisaged.

Note: The subject site is not identified in the relevant map as land within the 'Foreshores and Waterways Area' or 'Wetland Protection Zone', is not a 'Strategic Foreshore Site' and does not contain any heritage items. Hence the majority of the SREP is not directly relevant to the proposed development.

Local Environmental Plans

(f) Holroyd Local Environmental Plan (LEP) 2013

The proposed development is defined as a 'centre based child care facility' under the provisions of Holroyd Local Environmental Plan (LEP) 2013. Centre based child care facilities are a permissible land use with consent under the R2 – Low Density Residential zoning applying to the land under Holroyd LEP 2013.

The proposed modifications do not result in any new non-compliances with the LEP. A comprehensive assessment and compliance table is attached to this report in Appendix B which demonstrates the development proposal's compliance with the relevant planning controls that are applicable to the site under the Holroyd LEP 2013.

The provisions of any draft Environmental Planning Instruments (EP & A Act Section 4.15(1)(a)(ii))

The draft SEPP will combine seven existing SEPPs into one accessible instrument. The new SEPP will repeal and replace:

- State Environmental Planning Policy No. 19—Bushland in Urban Areas
- State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011
- State Environmental Planning Policy No. 50—Canal Estate Development
- Greater Metropolitan Regional Environmental Plan No. 2—Georges River Catchment
- Sydney Regional Environmental Plan No. 20—Hawkesbury-Nepean River (No.2-1997)
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Willandra Lakes Regional Environmental Plan No. 1—World Heritage Property.



Comment: The draft SEPP has been considered for the proposed development and is only affected by Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005, which has already been assessed as above.

The provisions of any Development Control Plans (Environmental Planning & Assessment Act Section 4.15(1)(a)(iii))

(g) Holroyd Development Control Plan (HDCP) 2013

The Holroyd DCP 2013 provides guidance for the design and operation of development within Holroyd to achieve the aims and objectives of Holroyd LEP 2013.

The proposed modifications do not result in any new non-compliances with the relevant DCP controls and are supported. Parts A, B & I apply to the proposal. A comprehensive assessment and compliance table is attached to this report at Appendix C which demonstrates the development proposal's compliance with the relevant planning controls that are applicable to the site.

Any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4

There are no draft planning agreements or planning agreements associated with the subject Application.

The provisions of the Regulations

The proposed development raises no concerns as to the relevant matters arising from the Environmental Planning & Assessment Regulations 2000.

The likely impacts of the development

The likely impacts of the modifications have been considered in the assessment of the application and it is considered that the proposed development will have no significant adverse environmental, social or economic impacts in the locality.

The suitability of the site for the development

The site is considered suitable to accommodate the proposed development. The proposed development has been assessed in regard to its environmental consequences and having regard to this assessment, it is considered that the development is suitable in the context of the site and surrounding locality.

Submissions made in accordance with the Act or Regulation

Advertised (newspaper)	Mail 🖂	Sign	Not Required
In accordance with Part E – Pu Plan 2013, the application was residents who submitted an obje	notified to	adjoining and o	oposite owners, and



from 2 September 2019 to 16 September 2019. In response, the application received 5 submissions.

The issues raised in the public submissions are summarised and commented on as follows:

Concern

Traffic and Parking

approval of the original modifications application and sought for the proposed child care centre adds to the congestion currently experienced in morning and afternoons within Hyacinth Street. The street is narrow especially when cars are parked on both sides of the road. The traffic impacts are further exacerbated with the proposed increase in children placement from 26 to 30.

Comment

As stated in this report, the unencumbered outdoor space provided is capable of accommodating 27 children, and as such the subject modification would only result in 1 additional child placement for the centre.

Under Holroyd Development Control Plan 2013, the required parking rate for child care centres is 1 space per 4 children and 1 space per 2 staff, which equates to 9 spaces required for 27 children.

The proposed development provides for 10 car parking spaces (8 visitor and 2 staff car spaces) within the basement level, which is an excess of 1 car parking space required for the centre.

It is noted that Council's rate of 1 car space per 4 children is consistent with the recently introduced NSW State Government document entitled *Child Care Planning Guideline*, in which the rate of 1 space per 4 children encompasses the whole centre including all staff. This rate has been provided on site, which takes into account staff and visitor parking demands.

Traffic and parking impacts were assessed as part of the original application to be acceptable based on 30 children placement. The modified proposal would accommodate a maximum of 27 children and as such remains to be a low trip generator which can be accommodated in the locality without affecting performance within the existing 7m width street, result in delays or queues of nearby intersections, and complies with Council's parking requirements.

The number of parking spaces provided on-site is considered acceptable and appropriate to meet the parking demand of the proposed centre without placing unacceptable demands on the availability of parking within the locality



Concern	Comment
Concorn	or on the local street network.
The provision of car parking within the basement is impractical for a child care centre having regard to minimum widths of car parking spaces provided. It is noted that the car parking spaces comply with the Australian Standard, however, the width of the	Council's Traffic Engineer has reviewed the modified basement layout and outlined that the car parking spaces and design of the basement is satisfactory and complies with the relevant Australian Standards. Furthermore, an operational management plan (OMP) is enforced by Condition 139 within the
proposed car parking spaces do not provide for comfortable or convenient spacing for parents to manoeuvre children in and out of	development consent DA2018/284/1 to encourage the use of the basement parking facility.
vehicles. It is considered that as a result, parents will be more inclined to park on the street which would lead to parents parking on Hyacinth Street, and not using the basement parking.	All pickup and drop-off is expected to take place within the basement and it is not considered to create any adverse impact on the public space.
Concerns are raised regarding how emergency vehicles or garbage trucks will access and travel via Hyacinth Street when cars are parked on both sides of the road. It is outlined that	Given the operation of the child care centre will be wholly contained in the subject site, disruption to any emergency and garbage vehicles access onto Hyacinth Street is not anticipated.
Hyacinth Street can only accommodate one vehicle going up or down the street if cars are parked on both sides of the road.	In addition, Condition 25 within the development consent DA2018/284/1 requires a 'no stopping' parking restriction to the frontage of the site. As such, there would only be parked vehicles on the opposite side of Hyacinth Street fronting the site.
The proposed child care centre is	not suitable for the street
The proposed child care is not suitable within Hyacinth Street having regard to the local	DA2018/284/1 granted approval the 26 place child care centre at the subject site.
character of the street, having regard to the additional noise, traffic and parking impacts.	The subject modification application would result in 1 additional child, which is a total of 27 children for the approved child care centre.
	Appropriate acoustic measures and compliant on-site parking has been provided for the modified child care centre. The impacts of the increased child placement to 27 is considered to be acceptable having regard to noise, traffic



Concern	Comment
001100111	and parking impacts.
	and parking impacts.
Submissions received outline that there is no demand / need for a child care centre at the subject	DA2018/284/1 granted approval the 26 place child care centre at the subject site.
site, and that there are vacancies at existing early education and child care centres within the vicinity of the site in the Greystanes area.	Centre based child care facilities are a permissible land use with consent under the R2 – Low Density Residential zoning applying to the land under Holroyd LEP 2013.
The approved child care centre in Camilla Street has still not materialised and has been placed on sale and subsequently	The proposed child care centre is consistent with the objectives of the R2 zone as it provides a service that meets the day to day needs of residents.
withdrawn from sale, so it is concluded that there is no need for another child care centre within the area.	On 29 June 2018, DA2017/449/1 granted development consent for demolition of existing structures, and construction of a 35 place child care centre over basement car park accommodating 13 car parking spaces; at 15 Camellia Street, Greystanes. The lapse date of this development consent is 29 June 2023.
This will be the first non-residential development in the street and does not reflect the quiet nature of the suburban street. The proposed development is considered to be against The Childcare Planning	The suitability of the proposed child care centre at the subject site was assessed as part of DA2018/284/1 and deemed to be compatible with the existing streetscape and character of the immediate area.
Guideline as it does not "respond and enhance the qualities and identity of the area, including adjacent sites, streetscapes and	Furthermore, the proposed development with its commercial nature is a permissible land use within the R2 – Low Density Residential zone.
neighbourhood".	The building appearance of the approved proposal remains unchanged. The modified proposal is considered to be acceptable having regard to its relationship with neighbouring properties and surrounding environment, and is consistent with the provisions of the Childcare Planning Guideline.
Having a non-residential development on Hyacinth Street	There is no evidence which suggests that the proposal will reduce property values. This is not
will reduce property values significantly as it does not fit in the nature and landscape of the street. The introduction of a non-	a matter for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979.
residential development within a	The proposed development with its commercial



Concern Comment

mid-block suburban street does not respect and reflect the local heritage and nature of Hyacinth Street and is contrary to the Childcare Planning Guidelines.

nature is a permissible land use within the R2 – Low Density Residential zone.

The subject site does not contain a heritage item, and is not located within the vicinity of the heritage item or heritage conservation area.

The location of the proposed child care centre on a suburban street, away from main roads would mean as a parent you would need to be going out of your way to pick up and drop off your child. There are no other child care facilities within this estate as it is a residential area and should remain that way. The proposal is considered to be for commercial activity and does not benefit the community or reflect the local character of the community.

The suitability of the proposed child care centre at the subject site was assessed as part of DA2018/284/1 and deemed to be compatible with the existing streetscape and character of the immediate area.

The modified proposal remains to be acceptable having regard to measures implemented to minimise amenity and traffic impacts to properties within the vicinity of the site, and its compatibility within the existing streetscape and character of the local area.

Impacts of proposed landscaping and planting

This modification seeks to move the recommended tree for deep soil planting into the north-west corner of the property increasing the risk that its root structure and branches, and would interfere and overhang adjoining properties. It is assumed that the Panel proposed this condition to ensure that patrons of the child care centre benefitted from a mature sized tree within the property. The proposed amendments sought would incur additional risk and maintenance obligations to the adjoining properties.

The application was referred to Council's Tree Management Officer for comment who has advised that the Backhousia citriodora (Lemon Myrtle) proposed at the north-west corner of the site will be able to achieve a mature canopy height of 6m given its proposed location and soil volume, should the tree be maintained appropriately in 5-6 years following planting. In this regard, the proposed tree planting is able to satisfy deferred commencement condition No. 1 imposed by the Panel, with the reinstatement of the visitor car parking space at the north-west corner of the basement.

The proposed Lemon Myrtle has a spread of 3m. Plans submitted demonstrate that the canopy of this tree will exceed partially over the boundary with the neighbouring site to the rear (Widemere Public School) and north (13 Hyacinth St). The location of the Lemon Myrtle was reviewed by Council's Tree Management Officer to be acceptable having regard to the amenity it would provide for the children within the outdoor play area, and also having regard to the impact it may have on neighbouring



Concern	Comment
Goncern	properties.
	properties.
The proposed amendments seek to remove the small storage shed and garden plantings to increase the outdoor play area. The landscape 3D impressions submitted still show the foliage on the southern boundary.	The modified proposal seeks to delete the approved screen planting along the southern side boundary fence, between the OSD pit and gate. Conditions are proposed requiring a landscape buffer to be provided in this area which is also suitable for children to play within.
	The landscape buffer along the side boundary with the neighbouring residential property mitigates acoustic and visual privacy impacts between properties as well as provides sensory experiences, listening to leaves, feeling different textures of foliage, and opportunities for children to enter and explore in a low growing garden/planting setting.
	The modified proposal removes the external storage shed along the northern boundary, between the north-west column and gate. Conditions are proposed requiring a landscape buffer to be provided in this area which is also suitable for children to play within.
	The 3D impressions shown on the landscape plan are for illustrative purposes only (as stated on the plan). The design and layout of the outdoor play area for the centre shall be in accordance with the 2D form landscape plan, as amended by conditions referenced above.
Noise	
The proposed child care centre will be a noise nuisance to surrounding properties. Concerns are raised regarding how noise from traffic flows during peak times will be controlled.	Design of acoustic fencing location, height and thickness, and acoustic assessment report and noise management plan have been reviewed by Council's Environmental Health officer and are considered satisfactory to comply with the relevant noise control provisions. The acoustic report demonstrates that the proposed centre can be accommodated on the site without noise nuisance to adjoining and surrounding properties, as the noise generated from both indoor and outdoor play activities can comply with the relevant environmental noise guidelines with the imposition of a noise management plan submitted with the application and the installation of relevant noise



Concern	Comment	
	mitigation measures such as acoustic fencing. The acoustic consultant recommendation is captured within the Noise Management Plan.	

Section 7.11 Contribution Towards Provision or Improvement of Amenities or Services

This part of the Act relates to the collection of monetary contributions from applicants for use in developing key local infrastructure. The development does not require the payment of contributions in accordance with Holroyd Section 94 Contributions Plan 2013.

The Public Interest

The public interest is served by permitting the orderly and economic use of land, in a manner that is sensitive to the surrounding environment and has regard to the reasonable amenity expectations of surrounding land users. In view of the foregoing analysis, it is considered that approval of the proposed development would not be contrary to the public interest.

Disclosure of Political Donations And Gifts

The NSW Government introduced The Local Government and Planning Legislation Amendment (Political Donations) Act 2008 (NSW). This disclosure requirement is for all members of the public relating to political donations and gifts. The law introduces disclosure requirements for individuals or entities with a relevant financial interest as part of the lodgement of various types of development proposals and requests to initiate environmental planning instruments or development control plans.

The application and notification process did not result in any disclosure of Political Donations and Gifts.

CONCLUSION:

The Application has been assessed in accordance with the relevant requirements of the Environmental Planning and Assessment Act 1979, State Environmental Planning Policy No. 55 – Remediation of Land, State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017, Education and Care Services National Regulations, Holroyd Local Environmental Plan 2013 and the Holroyd Development Control Plan 2013 and is considered to be satisfactory for approval to allow an additional child, increasing the number of approved children from 26 to 27 (to comply with the outdoor unencumbered space) and the draft conditions.

CONSULTATION:

There are no further consultation processes for Council associated with this report.



FINANCIAL IMPLICATIONS:

There are no further financial implications for Council associated with this report.

POLICY IMPLICATIONS:

There are no policy implications for Council associated with this report.

COMMUNICATION / PUBLICATIONS:

The final outcome of this matter will be notified in the newspaper. The objectors will also be notified in writing of the outcome.

REPORT RECOMMENDATION:

- 1. That Section 4.55(1A) modification application (DA2018/284/2) seeking removal of the external storage shed and dense planting, reinstatement of visitor parking space numbered 10 in the basement, and amendments to the outdoor play space to increase the capacity of approved child care centre from 26 to 27 places, on land at 15 Hyacinth Street, Greystanes, be approved, subject to the attached conditions, provided at Attachment 2.
- 2. That the applicant and those persons who lodged a submission in respect of the application be notified of the determination of the application.

ATTACHMENTS

- Appendix A State Environmental Planning Policy (Educational Establishments & Child Care Facilities) 2017
- 2. Appendix B Holroyd Local Environmental Plan 2013 J
- 3. Appendix C Holroyd Development Control Plan 2013 J
- 4. Appendix D Child Care Planning Guideline 2017 I
- 5. Draft Notice of Determination Section 4.55 (1A) J
- 6. Architectural Plans U
- 7. Landscape Plan J
- 8. Acoustic Impact Assessment U
- 9. Noise Management Plan U
- 10. Parking & Traffic Impact Assessment J
- 11. Submissions J. 🖫
- 12. Minutes of CLPP Meeting held on 16 April 2019 I
- 13. Original Consent (DA 2018/284/1) U
- 14. Schedule A Letter for DA 2018/284/1 to become operative J. 🖺
- 15. Approved Architectural & Landscape Plans (DA 2018/284/1) 🗓 🖺

DOCUMENTS ASSOCIATED WITH REPORT LPP073/19

Attachment 1

Appendix A - State Environmental Planning Policy (Educational Establishments & Child Care Facilities) 2017



APPENDIX A

State Environmental Planning Policy (Educational Establishments & Child Care Facilities) 2017

The subject Development Application falls under Part 3 of the SEPP, entitled *Early education and care facilities—specific development controls.* An assessment against the relevant clauses of the SEPP is provided in the table below:

Part 3 Early education and care facilities—specific development controls

Standard	Required/Permitted	Provided	Compliance
Notes	Note 1. A service approval is required to operate an early education and care facility that is an education and care service to which the Children (Education and Care Services) National Law (NSW) applies or a State regulated education and care service to which the Children (Education and Care Services) Supplementary Provisions Act 2011 applies. Approved services are subject to various operational requirements under that legislation, including requirements for the physical environment of the approved service. Note 2. Complying development controls specifically for school-based child care are provided for in clause 40.	A service approval from the NSW Dept. of Education (DEC) is required to be obtained by the operator.	Conditioned under original consent.
22 Centre-based child care facility— concurrence of Regulatory Authority required for certain development	(1) This clause applies to development for the purpose of a centre-based child care facility if: (a) the floor area of the building or place does not comply with regulation 107 (indoor unencumbered space requirements) of the Education and Care Services National Regulations, or (b) the outdoor space requirements for the building or place do not comply with regulation 108 (outdoor unencumbered space requirements) of those Regulations. (2) The consent authority must not grant development consent to development to	The proposed development complies with Clause 107 of the National Regulations. The proposed development complies with Clause 108 of the National Regulations.	Yes – subject to conditions reducing children placement to 27.
23 Centre-based child care facility— matters for consideration by consent authorities	which this clause applies except with the concurrence of the Regulatory Authority. Before determining a development application for development for the purpose of a centre-based child care facility, the consent authority must take into consideration any applicable provisions of the Child Care Planning Guideline, in relation to the proposed development.	Refer to assessment contained at Appendix D.	Refer to Appendix D



	T	I	1
25 Centre- based child care facility— non- discretionary development standards	(1) The object of this clause is to identify development standards for particular matters relating to a centre-based child care facility that, if complied with, prevent the consent authority from requiring more onerous standards for those matters.		
	(2) The following are non-discretionary development standards for the purposes of section 79C (2) and (3) of the Act in relation to the carrying out of development for the purposes of a centre-based child care facility:		
	(a) location —the development may be located at any distance from an existing or proposed early education and care facility,	Noted	Noted
	(b) indoor or outdoor space		
	(i) for development to which regulation 107 (indoor unencumbered space requirements) or 108 (outdoor	The proposed development complies with Clause 107 of the National Regulations.	Yes
	unencumbered space requirements) of the <u>Education</u> and <u>Care Services National</u> <u>Regulations</u> applies—the unencumbered area of indoor space and the unencumbered	The proposed development complies with Clause 108 of the National Regulations.	Yes – subject to conditions
	area of outdoor space for the development complies with the requirements of those regulations, or (ii) for development to which clause 28 (unencumbered indoor	The proposed development complies with Clause 28(2) of the Supplementary Provisions Regulation.	Yes
	space and useable outdoor play space) of the <u>Children</u> (<u>Education and Care Services</u>) <u>Supplementary Provisions</u> <u>Regulation 2012</u> applies—the development complies with the indoor space requirements or the useable outdoor play space requirements in that clause,	The proposed development complies with Clause 28(4) of the Supplementary Provisions Regulation.	Yes
	(c) site area and site dimensions— the development may be located on a site of any size and have any length of street frontage or any allotment depth,	Noted	Noted
	(d) colour of building materials or shade structures—the development may be of any colour	Noted	Noted



	or colour scheme unless it is a State or local heritage item or in a heritage conservation area. (3) To remove doubt, this clause does not prevent a consent authority from: (a) refusing a development application in relation to a matter not specified in subclause (2), or (b) granting development consent even though any standard specified in subclause (2) is not complied with.	Noted	Noted
26 Centre-based child care facility— development control plans	 (1) A provision of a development control plan that specifies a requirement, standard or control in relation to any of the following matters (including by reference to ages, age ratios, groupings, numbers or the like, of children) does not apply to development for the purpose of a centre-based child care facility: (a) operational or management plans or arrangements (including hours of operation), (b) demonstrated need or demand for child care services, (c) proximity of facility to other early education and care facilities, (d) any matter relating to development for the purpose of a centre-based child care facility contained in: (i) the design principles set out in Part 2 of the Child Care Planning Guideline, or (ii) the matters for consideration set out in Part 3 or the regulatory requirements set out in Part 4 of that Guideline (other than those concerning building height, side and rear setbacks or car parking rates). (2) This clause applies regardless of when the development control plan was made. 	Noted	Noted

Consideration of the relevant requirements of the Child Care Planning Guideline is provided at Appendix D to this report.

DOCUMENTS ASSOCIATED WITH REPORT LPP073/19

Attachment 2 Appendix B - Holroyd Local Environmental Plan 2013



APPENDIX B

Holroyd Local Environmental Plan 2013

The proposed development is defined as a 'centre – based child care facility' under the provisions of Holroyd LEP 2013. Child care facilities are a permissible land use with consent under the R2 – Low Density Residential zoning applying to the land under Holroyd LEP 2013.

A summary of the relevant provisions applicable to the Application is provided in the following table.

Clause	Standard	Comment	Comply?			
			Yes	No	N/A	
Part 2 Per	mitted or prohibited development			1	1	
	Zone R2 - Low Density Residential Objectives of zone To provide for the housing needs of the community within a low density residential environment. To enable other land uses that provide facilities or services to meet the day to day needs of residents. To allow residents to carry out a range of activities from their homes while maintaining neighbourhood amenity.	The proposed centre based child care facility is consistent with the objectives of the zone as it provides a service that meets the day to day needs of residents.				
	Permissible Uses/Development	A centre based child care facility is a permissible form of development within the R2 – Low Density Residential Zone, and requires the consent of Council.	\boxtimes			
2.7	Demolition requires consent	Demolition is sought and approved as part of the original consent.	\boxtimes			
Part 4 Prin	ncipal development standards					
4.3	Height of Buildings 9 metres	The maximum height of the proposed building is 8.4m, as measured from natural ground level.				
4.4	Floor Space Ratio 0.5:1	Site Area: 560.2m² Maximum FSR: 0.5:1 Maximum GFA: 280.1m² Provided: 268m² (0.47:1)				
4.6	Exceptions to development standards	N/A				
	cellaneous provisions					
5.10	Heritage conservation	The site is not identified as a heritage item and it is not located within a heritage conservation area or in the vicinity of other heritage items.				



Clause	Standard	Comment	Comply?		
Clause	Standard	Comment	Yes	No	N/A
Part 6 Add	ditional local provisions				
6.1	Acid Sulfate Soils	The site is not affected by potential acid sulfate soils.			\boxtimes
6.4/6.7	Flood planning and Stormwater Management	The site is not affected by flooding. Overland flood study undertaken applies to the site. No modifications to the approved finished floor levels are proposed. Council's Development Engineer has raised no objections to the modified proposal.			
6.5	Terrestrial Biodiversity	The site is not identified as being affected by biodiversity.			\boxtimes
6.7	Riparian land and watercourses	N/A			\boxtimes
6.8	Salinity	The site is located on lands identified as being affected by moderate salinity potential. Standard conditions have been included under the original consent.			

DOCUMENTS ASSOCIATED WITH REPORT LPP073/19

Attachment 3

Appendix C - Holroyd Development Control Plan 2013



APPENDIX C

Holroyd Development Control Plan 2013

The relevant objectives and provisions of Holroyd Development Control Plan 2013 have been considered in the following assessment table:

No.	Clause	Comment	Yes	No	N/A
PART	A – GENERAL CONTROLS				
2	Roads and Access				
2.4	Access: Vehicular Crossings,	Splay Corners, Kerb & Guttering			
	VC to be reconstructed if in	Vehicular access consistent with			
	poor condition, damaged or	approved plans. No changes sought	$ \boxtimes $		
	design doesn't comply.	to the location of the entry and exit to			
	Avoid services/facilities in road	the basement.			
	reserve, existing trees,				
	pedestrian crossing, pram				
	ramps etc.				
	Corner sites VC to be min. 6m	Not Applicable.			
	from the tangent point.	<u> </u>			
	Corner sites require 3m x 3m	Not Applicable.			
	(residential) and 4m x 4m				
	(commercial) splay corner to be dedicated.		—		—
2.7	Road Widening	Not Applicable.			
3		Not Applicable.			
3.1	Car Parking				
3.1	Minimum Parking Spaces	10 car parking spaces provided			
	1 per 4 children & 1 per two employees.	within basement level with the			
	employees.	following ratio.			
	With the reduction of children	Staff = 2 spaces			
	to 27:	Visitor = 8 spaces			
	No of children – 27/4 = 6.75	Visitor – o spaces			
	(7)	1 additional parking space is			
	No. of employees = 4/2 = 2	provided within the basement			
		and is supported to alleviate			
	Total Required: 9	concerns raised with respect to			—
		reduced availability of parking in			
		Hyacinth Street during drop off			
		and pick up times. The additional			
		parking space does not permit a			
		child placement for the centre			
		beyond 27, and has been			
		conditioned accordingly.			
3.3	Car Parking, Dimensions & Gr			Ι	1
	- Min. clear length 5.5m (5.4m AS2890.1-2004).	The application was referred to			
	(5.4m A52690.1-2004).	Council's Traffic Engineer, who raised no objections to the modified			
	open space; 3m for				
	between walls.	car parking layout.			
	- Min. clearance height 2.3m.				
3.5	Access, Maneuvering and Lay	out	l		
	Driveways shall be setback a	The approved driveway is setback			
	minimum of 1.5m from the side	1.2m from the eastern boundary. No			
	boundary.	changes sought to the approved	🗀	\boxtimes	
		driveway.			



No.	Clause	Comment	Yes	No	N/A
3.6	Parking for the Disabled				
	2 spaces per 100 spaces up to 400, and 1 per 100 thereafter, or part thereof.	1 accessible car parking space provided. Given the relatively low number of parking spaces in total this has been considered acceptable by Council's Traffic Engineer.	\boxtimes		
4	Tree and Landscape Works	Council's Tree Management Officer has assessed the modified plans and documentation and advised the proposal is acceptable, subject to conditions.			
5	Biodiversity	The land is not environmentally sensitive land and is not zoned E2 Environmental Conservation.			\boxtimes
6.1	Retaining Walls	No changes sought to retaining walls associated with the basement.	\boxtimes		
6.3	Erosion and Sediment Control Plan	application.	\boxtimes		
7	Stormwater Management	The application was referred to Council's Development Engineer, who raised no objection, and no additional conditions to be imposed.	\boxtimes		
8	Flood Prone Land	The site is not affected by flooding. Overland flood study undertaken applies to the site. No modifications to the approved finished floor levels are proposed. Development Engineer has raised no objections to the modified proposal.	\boxtimes		
9	Managing External Road Noise and Vibration	The site is not affected by road or rail noise.			\boxtimes
10	Safety and Security	The design is considered to be satisfactory from a safety and security perspective.			
11	Waste Management	Waste Management Plan endorsed under original application. No changes to on-going waste management arrangements sought.			
PAR1	B - RESIDENTIAL CONTROLS	ITPOLS			
1.1	GENERAL RESIDENTIAL CON Building Materials	Acceptable materials and finishes proposed. Unchanged from approval.	\boxtimes		
1.2	Fences	No changes sought to approved 1.1m high front fence and 2.1m high side and rear fencing. Acoustic fencing conditioned under original consent.	\boxtimes		
1.3	Views	The proposed development does not impede existing views currently enjoyed by neighbouring properties.	\boxtimes		
1.4	Visual Privacy	Visual privacy considered acceptable under original approval. No changes sought to the approved	\boxtimes		



No.	Clause	Comment	Yes	No	N/A
		design that poses adverse visual			
1.5	Landscape Area Min. 20% = 112.04m² Landscaped area as provided under original consent = 94.8m² (16.9%)	The modified proposal seeks to delete the approved screen planting along the southern side boundary fence, between the OSD pit and gate. Conditions are proposed requiring a landscape buffer to be provided in this area which is also suitable for children to play within. The landscape buffer along the side boundary with the neighbouring residential property mitigates acoustic and visual privacy impacts between properties as well as provides sensory experiences, listening to leaves, feeling different textures of foliage, and opportunities for children to enter and explore in a low growing garden/planting setting. The modified proposal removes the external storage shed along the northern boundary, between the north-west column and gate. Conditions are proposed requiring a landscape buffer to be provided in this area which is also suitable for children to play within. The modified proposal, with the incorporation of the above conditions results in an increased landscaped area of 2.2m². Landscaped area provided = 97m² (17.3%)			
		The variation to the landscaped area is acceptable.			
	Max. 50% of provided landscaped area shall be forward of the front building line	No changes sought to landscaped area within the front setback area.	\boxtimes		
	Only hard paved areas for driveways/pathways to be in front setback area. Not to cover entire area.	Only driveway and pathways to the entry of the centre is provided as hardstand areas. No change from approval.	\boxtimes		
1.6	Safety & Security	Safety and security has been maintained to an acceptable level,	\boxtimes		



No.	Clause	Comment	Yes	No	N/A
		as identified above in Part A,			
1.8	Sunlight Access	Section 10. Adequate solar access to proposed			
1.0	Julingili Access	child care centre and surrounding	\boxtimes		
1.9	Cut and Fill	dwellings. No change from approval.			
1.9	out and I iii	140 change nom approval.	\boxtimes		
1.11	Vehicular Access and Driveways	Vehicular access consistent with approved plans.	\boxtimes		
	Basement Parking	Whilst basement parking shall not be located outside the building footprint for single dwellings and dual occupancies, this provision does not apply to child care centres. Minor changes are sought to the			
		basement layout. The modified basement layout exceeds beyond the building footprint of the child care centre, with the provision of deep soil at the north-west corner of the site, and is considered acceptable.			
2.2	Site Coverage Max. 60% of the site area (Max. 336.12m²)	Unchanged from approval. 175.9m² (31.4%)	\boxtimes		
2.3	Setbacks - Principal St: 6m (articulation zone max. 25% of the building width and 1.5m in length) - Side: 0.9m - Rear: 3m to single storey component; 7m to 2 storey component	No changes to approved building envelope.			
2.4	Building Height Max. 2 storey and 9m; if single storey max. 7m (this also applies to attics) Min. 2.4m floor to ceiling height	No changes to approved building envelope. Total building height = 8.4m Ground floor: 3m floor to ceiling height. First floor: 2.7m floor to ceiling height.			
	Building Appearance Design: Have regard to the size/shape/orientation of lot; style not to be in strong visual contrast to locality. Bulk and scale: Max. 10m blank wall on first floor side; min. 1m wide indent.	No changes sought to the approved building design and appearance.			



Front Facade: Front door and a window of a habitable room on the ground floor to face Principal Street. Corner lot: Address Secondary Street with windows, architectural features, surveillance Building facades to be modulated in plan and elevation, articulated to reduce the appearance of bulk and express the elements of the buildings architecture. Part E - Public Participation Notification Requirements In accordance with Part E - Public Participation of Holroyd Development Control Plan 2013, the application was notified to adjoining and opposite owners, and residents who submitted an objection to original DA, by way of letters, for 14 days from 2 September 2019 to 16 September 2019. In response, the application received 5 submissions. The grounds of objections raised in the submissions are addressed elsewhere in this report and are not considered sufficient to warrant refusal of the application. PART I - CHILDCARE CENTRES SIZE, DENSITY AND LOCATION No. Clause Centres in R2 zones should be limited in size to accommodate not more than forty-five (45) children. Capacities of child care centres located in other zones will be assessed on the merits of each application. Development in residential zones shall have an appropriate size, scale, bulk, etc sympathetic to the surrounding residential development in residentin	No.	Clause	Comment	Yes	No	N/A
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zones shall have an appropriate size, scale, bulk, etc sympathetic to the surrounding residential		Development in residential				
appropriate size, scale, bulk, etc sympathetic to the surrounding residential consistent with other newer-style two-storey dwellings in the locality.		•	The proposed two storey building is			
etc sympathetic to the two-storey dwellings in the locality.						
surrounding residential						
development		surrounding residential	,			
actor-pinetta		development.				



No.	Clause	Comment	Yes	No	N/A
	The general design requirements for Child Care Centres located within R2 and R3 zones, should comply with the standards outlined in Part B of this DCP relating to one and two storey residential development.	The design illustrates consistency with Part B.			
	Note: If the proposed child care centre has a common boundary with an existing child care centre, the applicant must demonstrate that the new centre is not an addition to the existing centre by way of illustrating that the centre cannot be combined at a later stage.	There are no child care centres located on the adjoining lots.			
	If the proposed child care centre is to be located in a building consisting of more than one level, the child care centre component must be located on the ground floor of the buildings with office and storage space permitted on the upper level.	The first floor will be used for kitchen and for staff facilities. The laundry for the childcare centre is also proposed to be located at the first floor level.			
	The minimum site frontage for a child care centre is 20 metres.	The site has a frontage of 20.4m to Hyacinth Street.			
	LOCATION		L		
	The site must not be 300m from hazardous industries, LP gas sites, mobile telephone base stations and towers, and safe from any other environmental health hazards, such as high lead levels, chemical spraying in rural areas, or proximity to cooling tower drift in high rise building areas.	This has been addressed as part of the original application and it is considered that there are no hazardous land uses within the locality.			
	Child care centres should not be located having frontage to any road, which in the opinion of Council, is unsuitable for the establishment of a child care centre having regard to:- (a) prevailing traffic conditions;	This has been addressed as part of the original application The proposal is considered to be satisfactory from a locational perspective. The site does not have frontage to an arterial or sub-arterial road.			



No.	Clause	Comment	Yes	No	N/A
	(b) pedestrian and traffic safety; and (c) the likely impact of development on the flow of traffic on the surrounding street system.	The site / road is not listed within Appendix 1 or 2 of Part I of the HDCP 2013.			
	In this regard child care centres should not be located having frontage to an arterial or subarterial road (see Appendix 1 to Part I of HDCP 2013). As a general guide the roads identified in Appendix 2 are also considered by Council to be generally unsuitable for the establishment of child care centres, without special consideration firstly being given to the prevailing traffic conditions. All applications are to be supported by a Traffic and Parking Report prepared by a suitably qualified person addressing the above issues to Council's satisfaction.	The modified development has been accompanied by a Parking and Traffic Impact Assessment which has been reviewed and deemed acceptable by Council's Traffic Engineering department.			
2	VEHICULAR ACCESS AND PA	ARKING			
	Separate entry and exit driveways shall be provided where safe and convenient on street parking is not otherwise available, to Council's satisfaction, for the setting down and picking up of children. The design of such driveways shall ensure that inbound and outbound vehicles are separated and that vehicles enter and leave the site in a forward direction.	Separate entry/exit driveways are provided as per the original approval.			
	Applications for Child Care Centres will not be favourably considered where the site has frontage to an arterial road, sub-arterial road or where the development would be contrary to the environmental capacity of the street or contrary to the traffic movement on the surrounding street system.	The site does not have frontage to an arterial or sub-arterial road. The application is supported by a Parking and Traffic Impact Assessment, which has been assessed by Council's Traffic Section as satisfactory.			



No.	Clause	Comment	Yes	No	N/A
	All applications are to be				
	supported by a Traffic and				
	Parking Report prepared by a				
	suitably qualified person				
	addressing the above issues to				
	Council's satisfaction.				
	PARKING				
	All staff parking shall be	The development is compliant with			
	provided on-site in any event.	regard to the minimum number of parking spaces to be provided.			
	To eliminate the possibility of				
	frontages and access ways				
	containing expanses of plain				
	cement, decorative pavement				
	treatment shall be provided to all driveways and parking				
	areas. That is, the use of			П	
	decorative paving materials				
	such as exposed aggregate or				
	pattern stamped and coloured				
	concrete and paving bricks.				
	Plain cement or coloured				
	cement will not be accepted for				
	driveways and parking areas				
	for aesthetic and amenity				
	purposes. ACOUSTIC AND VISUAL PRIV	ACV			
	An acoustic assessment	The subject S4.55 application has			
	must be completed by a	been accompanied by the same			
	suitably qualified person.	acoustic report submitted with the			
		original application which			
	A Noise Management Plan	considered a total of 30 children.			
	shall accompany the	Although the proposal seeks to			
	development application.	increase the children placement			
	This should, as a minimum,	from 26 to 30, only 1 additional child			
	provide details of child	placement is supported as part of			
	to staff ratios, noise control measures of children while in	the subject S4.55 application			
		having regard to the provided unencumbered outdoor space.			
	outdoor play areas and seasonal play times	unencumbered outdoor space.			
	Scasonal play tilles	Council's Environmental Health			
	Noise abatement measures are	Unit has reviewed the modified			
	to be undertaken to ensure that	proposal and acoustic report and			
	inside noise levels do not	raises no objections or additional			
	exceed 40dB(A) (Leq 24).	conditions to be imposed.			
	Assessments should take	[, <u>,</u> , , , ,			
	background noise levels into	Visual privacy of the adjoining			
	account	properties is acceptable.			
	A landscape buffer with	A landscape buffer has been			
	suitable screening plants and a	continuously provided adjacent to			
	minimum width of 1 metre shall	outdoor spaces along the side and			
	be provided along the side and	rear boundaries – Refer to			
L_	rear boundaries of the	conditions to be imposed			
	•				



No.	Clause	Comment	Yes	No	N/A
	development to help minimise	regarding landscape buffer as			
	overlooking.	stated above.			
4	INDOOR SPACES				
	Where achievable, windows of indoor play areas are to be located with a northern orientation and should receive at least three hours of sunlight between the hours of 9am and 3pm on June 21. For locations where a northern orientation for indoor play areas is not achievable, they should be located where they will receive a minimum of 3 hours of sunlight, where possible	All indoor play spaces are provided with good access to direct sunlight.	\boxtimes		
5	OUTDOOR SPACES				
	a) Located away from the main entrance of the child care centre, car parking areas or vehicle circulation areas; b) Integrated with indoor space and provide direct and easy access between those two areas; c) Of a design and layout to enable clear lines of sight to all areas of the outdoor space to allow direct staff supervision from other areas of the child care centre; d) Located away from existing and potential noise and environmental health sources; e) If the child care centre is located in a predominantly residential area, outdoor spaces are to be located away from the living/bedroom windows of surrounding dwellings; f) Inaccessible from public areas outside of the child care centre, except in the case of an emergency evacuation or centre deliveries such as sand replacement; g)Located away from areas where objects can be projected down onto play areas; and h) Adequately fenced on all sides Transitional Areas	b) The indoor spaces lead onto the outdoor play area which provides a transitional space between the two areas. c) The levels proposed between the indoor areas and outdoor areas will enable sightlines to be maintained to allow direct staff supervision. d) The outdoor area is located away from existing and potential noise sources as it is located at the rear of the site. e) The outdoor areas are located away from the bedrooms/living area of surrounding dwellings, and any potential noise impacts will be mitigated by way of recommendations made within the acoustic report – conditioned as part of original consent. f) The proposed outdoor areas are			



No.	Clause	Comment	Yes	No	N/A
	a) A transitional area between	Transitional Areas - unchanged			
	the building and the play area	from approval			
	supporting space for both	a) A transitional area in the			
	indoor and outdoor activities is	form of an outdoor deck has			
	to be provided. It is space	been provided,			
	additionally required for the	•			
	building and the playground	b) The primary rear			
	and may only be included as	deck/transitional area is			
	either the outdoor or indoor	covered by roof,			
	space requirement, not both. It	,			
	may comprise of a verandah;	c) Achievable			
	b) The roof area of the				
	transitional area must be a	d) Achievable			
	minimum of 4 meters in width to				
	ensure sufficient activity zones				
	with access space around				
	them:				
	c) The transitional area must be				
	designed in a manner that				
	offers protection from				
	unfavourable weather				
	conditions, including strong				
	winds and rainfall;				
	d) The transitional area must be				
	designed in a manner that				
	utilises natural temperature				
	controlling measures,				
	including cross ventilation.				
6	LANDSCAPING				
	A detailed landscape plan	A landscape plan was submitted in			
	prepared by a suitably	support of the modifications sought			
	qualified landscape	and is considered satisfactory.			
	professional should be				
	submitted with all	Separation of outdoor space			
	development applications for	according to age range is not			
	child care centres and should	included in the landscape plan,			
	demonstrate the following:	however, such a control is not a			
	a) Separation of outdoor space	requirement of the Education &			
	into active quiet areas;	Care Services National			
	b) Proposed planting, with a	Regulations, the Education and			
	variety of trees and plants to be	Child Care SEPP, or the Child Care			
	used which create visual	Planning Guideline.			
	interest for children, and can				
	provide shading where	The landscape plan includes details			
	appropriate;	of all equipment proposed. The			
	c) Locations of play equipment;	landscape plan shows a variety of			
	d) Separation of outdoor space	ground surfaces.			
	according to age ranges,				
	including the locations of lower				
	fencing or other structures				
	which divide the outdoor				
	spaces; and				
	e) Outdoor spaces which				
	include a variety of surfaces				
	such as grass, soft porous				
	paving and the like				
	·	•			



No.	Clause Comment		Yes	No	N/A
7	FENCING				
	Outdoor space is required to be fenced on all sides with a height of at least 1.8m. Acoustic fences should not be	Side and rear fencing is proposed to be erected in accordance with acoustic recommendations, as follows:			
	higher than 2m. If a fence higher than 2m is unavoidable it must be contained within the development site with a 1.8m traditional lapped and capped boundary fence and the remaining height to be of thick, transparent perspex to ensure any views are maintained.	2.1m high fencing for the side and rear boundaries adjacent to outdoor spaces is recommended in the acoustic report. A 1.8m high solid boundary fence is proposed to the remaining boundaries.	\boxtimes		
	any views are maintained.	Fencing as stated above are imposed as conditions of consent within the original approval.			
8	FIRE SAFETY AND EMERGEN	CIES			
	An evacuation plan complying with AS3745-2002 Emergency Control Organisation and Procedures for Buildings, Structures and Workplaces shall be submitted as part of the Development Application	An evacuation plan has been submitted as part of the original application.			
9	ACCESSIBILITY				
	All new child care centres, building conversions and additions to existing premises shall comply with the minimum access requirements outlined in Part D3 of the Building Code of Australia and AS 1428.1 Design for Access and Mobility – General Requirements for Access – New Building Work. Details are to be included on plans to be submitted with the application for development consent.	An accessibility report was submitted as part of the original application. Standard condition of consent are imposed within the original consent requiring compliance with the BCA, Disability Discrimination Act and Disability (Access to Premises – Buildings) Standards 2010.	\boxtimes		

DOCUMENTS ASSOCIATED WITH REPORT LPP073/19

Attachment 4 Appendix D - Child Care Planning Guideline 2017



APPENDIX D

CHILD CARE PLANNING GUIDELINE 2017

The Guideline establishes the assessment framework to deliver consistent planning outcomes and design quality for centre-based child care facilities in NSW. Consent Authorities must consider Parts 2, 3 & 4 of the Guideline.

An assessment against Parts 2, 3 & 4 of the Guideline is provided in the tables below:

Part 2 – Design quality principles

The design quality principles establish the broad design context guide of all new proposals for child care facilities, regardless of whether they are stand alone, part of a mixed-use development, modifications or retrofits of existing buildings or seeking to occupy premises without incurring new building works.

Good design is integral to creating sustainable and liveable communities. There is growing appreciation of the significant role that good design can play in education with increasing evidence that learning outcomes are closely related to the quality of learning environments.

Factors such as air quality, ventilation, natural lighting, thermal comfort and acoustic performance have been shown to have a profound impact on learning, engagement, social interactions and competencies. They also contribute to wellbeing through creating a sense of belonging, self-esteem and confidence.

Comment:

The 7 design quality principles have been considered within the DCP assessment sections of this report, as well as in detail in Part 3 below, entitled *Matters for consideration*, which provide specific design controls and criteria to support the overarching design quality principles.

The proposed development is considered to have been designed having regard to the 7 design quality principles, however, additional detail is required to demonstrate full compliance, as outlined below.

Part 3 Matters for consideration

The considerations give guidance to applicants on how to design a high-quality proposal that takes account of its surroundings and any potential environmental impacts the development may cause and to be mindful of potential impacts that may arise from existing uses and conditions within a locality.

The matters support the design principles and must be considered by the consent authority when assessing a DA for a child care facility. Child care facilities can be developed in a broad range of locations and need to be flexible in how they respond to the requirements and challenges this brings.

Criteria Comments		Com	pliand	:e
3.1 Site selection and location		Yes	No	N/A
For proposed developments in or adjacent to a residential zone, consider:	Acoustic report submitted as part of			
the acoustic and privacy impacts of the proposed development on the residential properties	subject modification application considered satisfactory. Refer to discussion provided under Appendix C. Visual privacy considered satisfactory.	\boxtimes		
the setbacks and siting of buildings within the residential context	No changes are sought to the approved building envelope. Setbacks and siting of the building complies with HDCP requirements.			

1



•	traffic and parking impacts of the proposal on residential amenity.	Traffic and parking report submitted with modified application considered satisfactory. Refer to discussion provided		
3	2 Local character, streetscape and	under Appendix C.		
	ne proposed development should:	the public domain interface		
•	contribute to the local area by being designed in character with	No changes sought to the approved building design and appearance.		
•	the locality and existing streetscape reflect the predominant form of surrounding land uses, particularly in low density residential areas	It is considered that the landscaping proposed will contribute positively to the visual amenity of the site and locality. Basement car parking provided.		
•	use landscaping to positively contribute to the streetscape and neighbouring amenity			
•	integrate car parking into the building and site landscaping design in residential areas.			
tra	reate a threshold with a clear insition between public and private alms, including:			
•	fencing to ensure safety for children entering and leaving the facility	A front catchment area provided at the entrance for children safety.		
•	windows facing from the facility towards the public domain to provide passive surveillance to the street as a safety measure and connection between the facility and the community	The centre provides a satisfactory level of passive surveillance to the street.		
3.	3 Building orientation, envelope a			
•	Orient a development on a site and design the building layout to ensure visual privacy and minimise potential noise and overlooking impacts on neighbours.	Visual privacy considered to be satisfactorily maintained.	\boxtimes	
•	optimise solar access to internal and external play areas	Solar access to indoor and outdoor space is optimised.		
•	avoid overshadowing of adjoining residential properties	The proposed development does not overshadow adjoining properties.		
•	minimise cut and fill	No changes sought to cut and fill proposed to accommodate the development.		
•	building height should be consistent with other buildings in the locality	No changes are sought to the approved building envelope.		



	building height should respond to the scale and character of the street setbacks should allow for adequate privacy for neighbours and children at the proposed child care facility setbacks should provide adequate access for building maintenance setbacks to the street should be consistent with the existing character	The height of the building is 2 storey / 8.4m and is consistent with surrounding dwellings and complies with HLEP height standard. Setbacks comply with HDCP controls for child care centres and are considered satisfactory. Adequate access is provided for building maintenance. Setbacks comply with HDCP controls for buildings in a residential zone and are consistent with new residential development.			
Ac by:	cessible design can be achieved	All areas of the site are accessible through			
•	linking all key areas of the site by	the use of lifts and ramps.			
	level or ramped pathways that are accessible to prams and		\boxtimes	П	П
	wheelchairs, including between all car parking areas and the				
	main building entry				
3.4	Landscaping				
•	Appropriate planting should be provided along the boundary integrated with fencing.	Appropriate landscaping is provided.	\boxtimes		
•	Screen planting should not be included in calculations of unencumbered outdoor space.				
	orporate car parking into the dscape design of the site by:				
	g,-				
•	planting shade trees in large car parking areas to create a cool				
	outdoor environment and reduce				
	summer heat radiating into buildings				
•	taking into account streetscape,				
	local character and context when siting car parking areas within the				
	front setback using low level landscaping to				
	soften and screen parking areas.				
	Visual and acoustic privacy				
roc	nimise direct overlooking of indoor ones and outdoor play spaces from polic areas through:				
•	appropriate site and building layout	The centre has been designed to ensure visual and acoustic privacy is maintained	\boxtimes		
•	suitably locating pathways, windows and doors	between properties.			
		The provision of 2.1m high acoustic	\boxtimes		



•	permanent screening and landscape design.	potential overlooking from the outdoor play area.		
tha 50 an	new development, or development t includes alterations to more than per cent of the existing floor area, d is located adjacent to residential commodation should:		\boxtimes	
•	provide an acoustic fence along any boundary where the adjoining property contains a residential use. (An acoustic fence is one that is a solid, gap free fence).	Acoustic report submitted which recommends the installation of acoustic fencing.		
•	ensure that mechanical plant or equipment is screened by solid, gap free material and constructed to reduce noise levels e.g. acoustic fence, building, or enclosure.	Type and location of mechanical plant provided. Satisfactory.		
pro	suitably qualified acoustic ofessional should prepare an oustic report which will cover the owing matters:	Acoustic report submitted.		
	identify an appropriate noise level for a child care facility located in residential and	Projected noise levels identified.		
	 other zones determine an appropriate background noise level for outdoor play areas during 	Background noise levels identified.		
	 times they are proposed to be in use determine the appropriate height of any acoustic fence to enable the noise criteria to be met. 	Heights of acoustic fences recommended.		
3.6	Noise and air pollution			
ap are exa	acoustic report should identify propriate noise levels for sleeping eas and other non play areas and amine impacts and noise enuation measures where a child	Acoustic report submitted. The site is not affected by external noise or vibration.		
	re facility is proposed in any of the owing locations: on industrial zoned land			
•	where the ANEF contour is between 20 and 25, consistent with AS 2021 – 2000			
•	along a railway or mass transit corridor, as defined by State Environmental Planning Policy (Infrastructure) 2007 • on a major or busy road			



other land that is impacted by substantial external noise.			
Locate child care facilities on sites which avoid or minimise the potential impact of external sources of air pollution such as major roads and industrial development	The site is not located adjacent to a major road and is not affected by air pollution.	\boxtimes	
3.7 Hours of operation			
Hours of operation within areas where the predominant land use is residential should be confined to the core hours of 7.00am to 7.00pm weekdays. The hours of operation of the proposed child care facility may be extended if it adjoins or is adjacent to non-residential land uses.	The core operating hours for the centre proposed are contained to between 7.00am and 6.00pm. Hours of operation imposed within original consent.		
3.8 Traffic, parking and pedestrian of	irculation		
Off street car parking should be provided at the rates for child care facilities specified in a Development Control Plan that applies to the land.	On-site parking complies with HDCP 2013.	\boxtimes	
A Traffic and Parking Study should be prepared to support the proposal to quantify potential impacts on the surrounding land uses and demonstrate how impacts on amenity will be minimised. The study should also address any proposed variations to parking rates and demonstrate that: • the amenity of the surrounding area will not be affected • there will be no impacts on the safe operation of the surrounding road network. Alternative vehicular access should be provided where child care facilities are on sites fronting:	The application is supported by a Parking and Traffic Impact Assessment, which has indicated that the modified development remains to be a low trip generator which can be accommodated in the locality without affecting performance, delays or queues of nearby intersections, and complies with Council's parking requirements. Not applicable.		
a classified road The following design solutions may be incorporated into a development to help provide a safe pedestrian environment:		\boxtimes	
 separate pedestrian access from the car park to the facility delivery and loading areas located away from the main pedestrian access to the building and in clearly designated, separate facilities 	Pedestrian access is separate from vehicular access. The approved and modified proposal does not include a loading area. It was considered as part of the original application that, given the nature of the use, delivery trucks would not be servicing the site. At most, light commercial vans would deliver any required products to be		



	used, if not brought to	the centre by the			
vehicles can enter and leave operator.					
the site in a forward direction.	 Vehicles can enter and	Vehicles can enter and exit the site in a			
	forward manner. F				
	comments.				
Car parking design should:					
include a child safe fence to	The basement car	parking area is			
separate car parking areas	separated from the mair	eparated from the main building entrance			
from the building entrance	and foyer area. The ca		\boxtimes		
and play areas	also separated from outdoor play areas.	any indoor and			
 provide clearly marked accessible parking as close 	outdoor play areas.				
as possible to the primary	1 accessible space is	provided, which is			
entrance to the building in	clearly marked. Condit				
accordance with appropriate	requiring the accessit				
Australian Standards	to be relocated closer	to the lift.			
 include wheelchair and pram accessible parking. 	Lift access is provided.				
Part 4 – Applying the National Regul	lations to development	proposals			
4.1 Indoor space requirements					
(Regulation 107)	Required: (Based on reduction	Provided			
Min. 3.25sqm of unencumbered	of children to 27)	97.5sqm			
indoor space	27 x 3.25sqm =	37.03qm			
(Regulation 107)	87.75sqm		\boxtimes		
04					
Storage: - Min. 0.3m³ per child of external	27 x 0.3m³ = 8.1m³	9m³			
storage	27 x 0.5111 = 6.1111	3111			
- Min. 0.2m³ per child of internal	27 x 0.2m ³ = 5.4m ³	6m³			
storage 4.2 Laundry and hygiene facilities					
(Regulation 106)					
(toguizue 100)	Laundry is located on fi	rst floor.			
On-site laundry facilities should	-				
contain:					
a washer or washers capable of dealing with the heavy requirements			\boxtimes		
of the centre					
• a dryer					
laundry sinks					
adequate storage for soiled items					
prior to cleaning. 4.2 Laundry and hygiene facilities					
(Regulation 109)					
Toilet and hygiene facilities should					
be designed to maintain the amenity					
and dignity of the occupants. Design					
considerations could include:	Achievable		\boxtimes		
 junior toilet pans, low level sinks and hand drying facilities for 	/ Cillevable				
children					
a sink and handwashing facilities	Provided				
in all bathrooms for adults					



direct access from both activity rooms and outdoor play areas	Provided		
windows into bathrooms and			
cubicles without doors to allow	Supervision is achievable		
supervision by staff	Capervision is asmovable		
Supervision by stair			
external windows in locations that			
prevent observation from	Window locations and sizes considered		
neighbouring properties or from side	appropriate.		
boundaries			
4.4 Ventilation and natural light			
(Regulation 110)			
Services must be well ventilated.	The 0-2yrs and 2-3yrs indoor activity		
have adequate natural light, and be	rooms receive adequate sunlight from		
maintained at a temperature that	openings along the eastern and northern		
ensures the safety and wellbeing of	elevations respectively.	\boxtimes	
children.			
Child care facilities must comply with	Conditions are imposed within the original		
the light and ventilation and minimum	consent requiring BCA compliance for		
ceiling height requirements of the	light and ventilation.		
National Construction Code.			
Ceiling height requirements may be			
affected by the capacity of the	Room depths exceed 2.5 times the height,		
facility.	BCA compliant, and have good cross-flow		
	ventilation.		
Designers should aim to minimise			
the need for artificial lighting during			
the day, especially in circumstances			
where room depth exceeds ceiling			
height by 2.5 times. It is			
recommended that ceiling heights be			
proportional to the room size, which			
can be achieved using raked ceilings			
and exposed trusses, creating a			
sense of space and visual interest.			
4.5 Administrative space			
(Regulation 111)	Broyidad		
A service must provide adequate	Provided.		
area or areas for the purposes of conducting the administrative			
functions of the service, consulting		\boxtimes	$\mid \; \sqcup \; \mid$
with parents of children and			
conducting private conversations.			
4.6 Nappy change facilities			
(Regulation 112)			
Child care facilities must provide for	Provided.		
children who wear nappies, including			
appropriate hygienic facilities for		\boxtimes	
nappy changing and bathing. All			
nappy changing facilities should be			
designed and located in an area that			
prevents unsupervised access by			
children.			
Child care facilities must also comply	Conditions are imposed within original		
with the requirements for nappy	consent regarding compliance with the		
changing and bathing facilities that	BCA.		



are contained in the National Construction Code.			
4.7 Premises designed to facilitate s	supervision		
(Regulation 115) A centre-based service must ensure that the rooms and facilities within the premises (including toilets, nappy change facilities, indoor and outdoor activity rooms and play spaces) are designed to facilitate supervision of children at all times, having regard to the need to maintain their rights and	Provided.	\boxtimes	
dignity. Child care facilities must also comply with any requirements regarding the ability to facilitate supervision that are contained in the <i>National Construction Code</i> . 4.8 Emergency and evacuation proc	Conditions are imposed within original consent regarding compliance with the BCA.		
(Regulation 97 & 168) Regulation 168 sets out the list of procedures that a care service must have, including procedures for emergency and evacuation. Regulation 97 sets out the detail for	Information provided.	\boxtimes	
what those procedures must cover including: instructions for what must be done in the event of an emergency an emergency and evacuation floor plan, a copy of which is displayed in a prominent position near each exit a risk assessment to identify potential emergencies that are relevant to the service. 4.9 Outdoor space requirements			
			<u> </u>
(Regulation 108) Min. 7sqm of unencumbered outdoor space per child. (Based on reduction of children to 27) 27 x 7sqm = 189sqm	The assessment officer's calculation of the unencumbered outdoor space equates to 192m². This will accommodate only 27.43 children. This report recommends a condition for a reduction in the number of children to 27 to correspond with the provided unencumbered outdoor space	\boxtimes	
Where a covered space such as a verandah is to be included in outdoor	accordingly. The open swale channel, OSD pits, dish drain, retaining walls, dense planting, gate door swings and safety fence are not included in calculations. Rear covered deck is open to the rear and sides, greater than 1/3 open.		

8



•	be open on at least one third of its perimeter				
•	have a clear height of 2.1 metres	3m			
•	have a wall height of less than 1.4 metres where a wall with an opening forms the perimeter	N/A			
•	have adequate flooring and roofing	Adequate flooring achievable.			
•	be designed to provide adequate protection from the elements	The rear deck is covered.			
4.1	0 Natural environment				
Th ba	egulation 113) e approved provider of a centre- sed service must ensure that the tdoor spaces allow children to	Satisfactory.			
	plore and experience the natural		\boxtimes	$ \; \sqcup \; $	ΙШ
-	vironment.				
	1 Shade				
lim sur pro an	egulation 114) Introlled exposure to daylight for ited periods is essential as nlight provides vitamin D which protes healthy muscles, bones d overall wellbeing. Outdoor play eas should be provided with introlled solar access throughout	The rear outdoor areas receive sunlight from the north and west.	\boxtimes		
	year.				
""	year.				
Ou	tdoor play areas should: have year-round solar access to				
•	at least 30 per cent of the ground area, with no more than 60 per cent of the outdoor space covered.	The shade structures provided total 92.8m² in area, which equates to approximately 50% coverage (i.e. 92.8m² / 185.5m²).			
•	provide shade in the form of				
	trees or built shade structures giving protection from ultraviolet radiation to at least 30 per cent of the outdoor play area	Shade structures and shade trees are provided.			
•	have evenly distributed shade structures over different activity spaces.				
4.1	2 Fencing	1			
	egulation 104)	At least 1.8m high fencing is proposed for			
	y outdoor space used by children	the boundaries, and secure fencing is			
	ist be enclosed by a fence or	provided at the front of the site to stop			
	rrier that is of a height and design	children from leaving the centre			
	it children preschool age or under	unsupervised or people entering from the	\boxtimes		ΙП
	nnot go through, over or under it.	sides.			
	3 Soil Assessment				
(R	egulation 25)	A soil assessment report is required in accordance with the Child Care Planning			



Where children will have access to soil the regulatory authority requires a preliminary investigation of the soil.
--

DOCUMENTS ASSOCIATED WITH REPORT LPP073/19

Attachment 5 Draft Notice of Determination Section 4.55 (1A)



 Our Reference:
 2018/284/2

 Contact:
 Ms D Hang

 Phone:
 8757 9493

13 November 2019

Baini Design PO Box 2402 NORTH PARRAMATTA NSW 1750

Dear Sir/Madam.

PREMISES: 15 HYACINTH STREET, GREYSTANES
SECTION 4.55(1A) MODIFICATION TO DEVELOPMENT CONSENT NO. 2018/284/1
MODIFICATION APPLICATION NO. 2018/284/2

I refer to your application lodged on 2 August 2019 seeking amendment to Development Consent 2018/284/1 issued for demolition of existing structures and construction of a 26 place two storey, child care centre over basement parking accommodating 9 parking spaces. This modification seeks removal of the external storage shed and dense planting, reinstatement of visitor parking space numbered 10 in the basement, and amendments to the outdoor play space to increase capacity of approved child care centre from 26 to 30 places.

Pursuant to Section 4.55(1A) of the Environmental Planning & Assessment Act, 1979, Council grants approval for modifications sought, subject to a reduction in the number of children to 27 places (to comply with the outdoor unencumbered space).

Accordingly, Development Consent 2018/284/1 is amended as follows:-

The proposed development description is to be amended to read as follows:

Proposed Development: Demolition of existing structures and construction of a 26

27 place two storey, child care centre over basement

parking accommodating 9 10 parking spaces

SCHEDULE "B"

Condition 2 is amended to read as follows:

- Development shall take place in accordance with the following endorsed plans and documents:
 - Architectural Plans prepared by Baini Design, Job No. 18156, Drawing No. 05, dated 06/07/17, Drawing No. 06, dated 07/17/18, Drawing No. 03, 07, 10, and 12, dated 08/07/18, Drawing No. 14, dated 02/12/19 as amended to satisfy Schedule A, Conditions 14 and 15;



Page 2 of 4

- Acoustic fencing/Slimwall prepared by Slimwall Next Generation Fencing, Drawing Nos. S0, S1, S3, S4 & S12 (Rev B dated 31 July 2015) and Nos. S2, S5-S11 inclusive (Rev A dated 25 February 2015);
- Stormwater Management Plans prepared by M.M. Farah Civil/Structural Pty Ltd, Job Nos. SW-15 HYNCINTH, Sheet No. 1 and 2 of 2, dated 22 February 2019 (OSD Plan No.2019-065) – as amended to satisfy Schedule A;
- Landscape plan prepared by Outside in Design Group Pty Ltd, Drawing No L-01, Issue E, dated 28 February 2019 – as amended to satisfy Schedule A;
- Acoustic Impact Assessment prepared by Rodney Stevens Acoustics, Reference R180318R2, Revision 1, dated 11 February 2019;
- Noise Management plan prepared by Rodney Stevens Acoustics, Reference R180318NMP1, Revision 0, dated 11 February 2019 – as amended to satisfy Condition 15;
- Arboricultural Assessment and Tree Management Plan prepared by Horticultural Management Services, dated 15 February 2019; and
- Waste management plan prepared by Baini Design, dated 8 August 2018.

except as otherwise provided by the conditions of this determination and/or amended in red.

As amended by the following plans and documents approved to satisfy Schedule "A" of Development Consent 2018/284/1, dated 12 June 2019:

 Architectural Plans prepared by Baini Design, Job No. 18156, Drawing No. 05, dated 06/07/17.

As amended by the following plans and documents approved by application 2018/284/2, dated 13 November 2019:

Architectural Plans prepared by Baini Design, Project No. 18156			
Dwg No.	Revision	Title	Date
03	Α	Site Plan	05/07/2019
05	Α	Floor Plans	05/07/2019
06	Α	Elevations	05/07/2019
07	Α	Call Out Elevations / Sections	05/07/2019

 Landscape plan prepared by Outside in Design Group Pty Ltd, Drawing No L-01, Issue G, dated 19 July 2019.



Page 3 of 4

Condition 8 is amended to read as follows:

Child Care Centres

An approval shall be obtained from Department of Education and Communities (DEC)
prior to commencement of operations. The number of children cared for in the new
centre shall not exceed 26 27 aged up to 5 years.

Condition 14(d) is amended to read as follows:

Amended Plans

- 14. Amended plans shall be submitted to the Principal Certifying Authority, prior to the issue of a Construction Certificate addressing the following issues:
 - d) At least 7 8 on site car parking spaces are to be allocated to visitors.

Condition 14(e) is added to read as follows:

- 14. Amended plans shall be submitted to the Principal Certifying Authority, prior to the issue of a Construction Certificate addressing the following issues:
 - The accessible parking space shall be relocated closer to the lift within the basement level.

Condition 14(f) is added to read as follows:

- 14. Amended plans shall be submitted to the Principal Certifying Authority, prior to the issue of a Construction Certificate addressing the following issues:
 - f) A landscape buffer which is also suitable for children to play within shall be provided in the area:
 - i. along the southern boundary fence between the OSD pit and gate; and
 - along the northern boundary fence between the north-west column of the awning and gate.

Condition 179 is amended to read as follows:

Parking

179. Nine (9) Ten (10) on site car parking spaces numbered and linemarked in accordance with the endorsed plan, are to be made available at all times for employees and visitors' vehicles only in conjunction with the occupation of the building/premises at 15 Hyacinth Street, Greystanes.



Page 4 of 4

Condition 202 is amended to read as follows:

General

202. The number of children cared for in the new centre shall not exceed 26 27 aged up to 5 years.

Condition 206A is added to read as follows:

206A. All trees installed within close proximity to the rear boundary fence line that are 45L and greater in container size shall be appropriately maintained by a qualified horticulturalist for a minimum period for 12 months from the date of issue of the final Occupation Certificate, or until the respective trees reach a height of 6m and greater, measured from the base of the tree.

All other conditions of Development Consent 2018/284/1 remain unchanged.

Section 8.9 of the Environmental Planning & Assessment Act 1979 confers upon an applicant, dissatisfied with Council's determination of an application made pursuant to Section 4.55(1A) a right of appeal to the Land and Environment Court within 6 months of the date of determination.

Section 8.2 of the Act provides that an applicant may request, within 28 days of the date of determination of the Section 4.55(1A) Application, that the Council review its determination (this does not apply to designated development). A fee is required for this review.

If you have any further enquiries please contact Ms D Hang of Council's Environment & Infrastructure Division on 02 8757 9493, Monday to Friday.

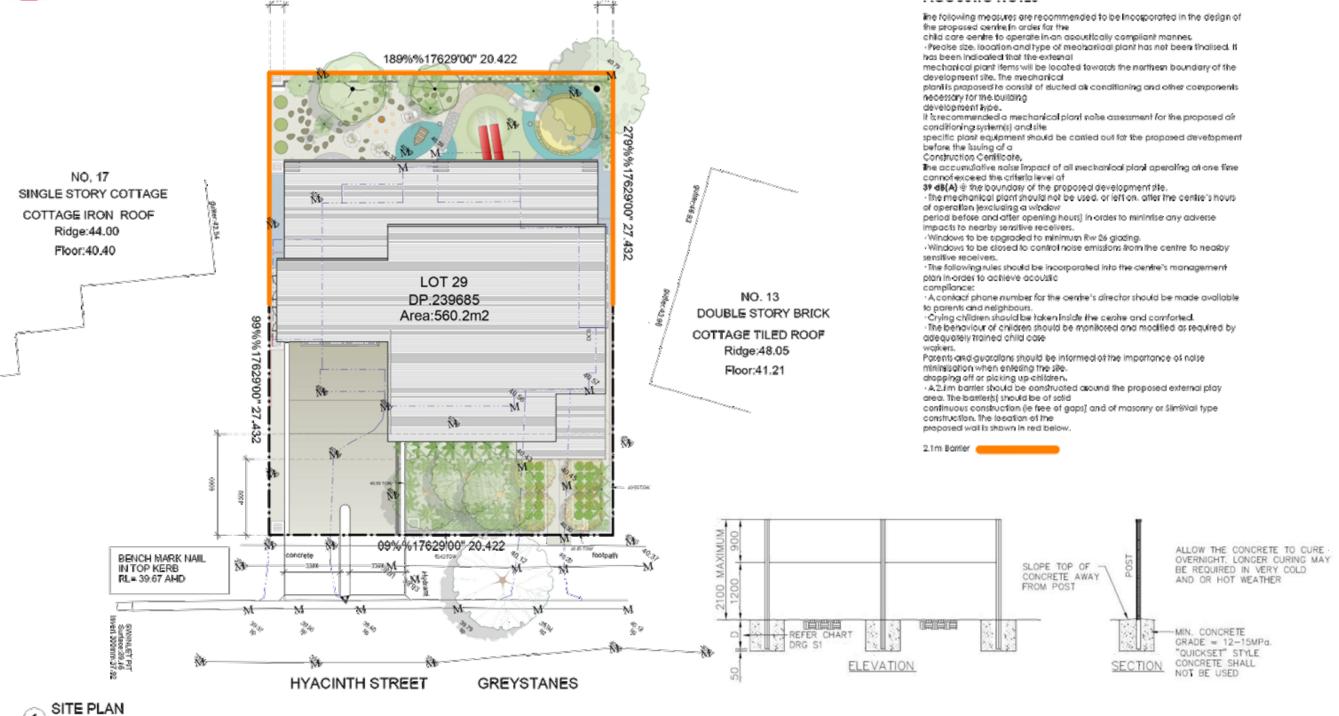
Yours faithfully,

Sohail Faridy
COORDINATOR DEVELOPMENT ASSESSMENT

DOCUMENTS ASSOCIATED WITH REPORT LPP073/19

Attachment 6 Architectural Plans





TYPICAL SLIMWALL FENCE DETAIL AS PER ACOUSTIC ENGINEER'S NOTES (NOT TO SCALE)

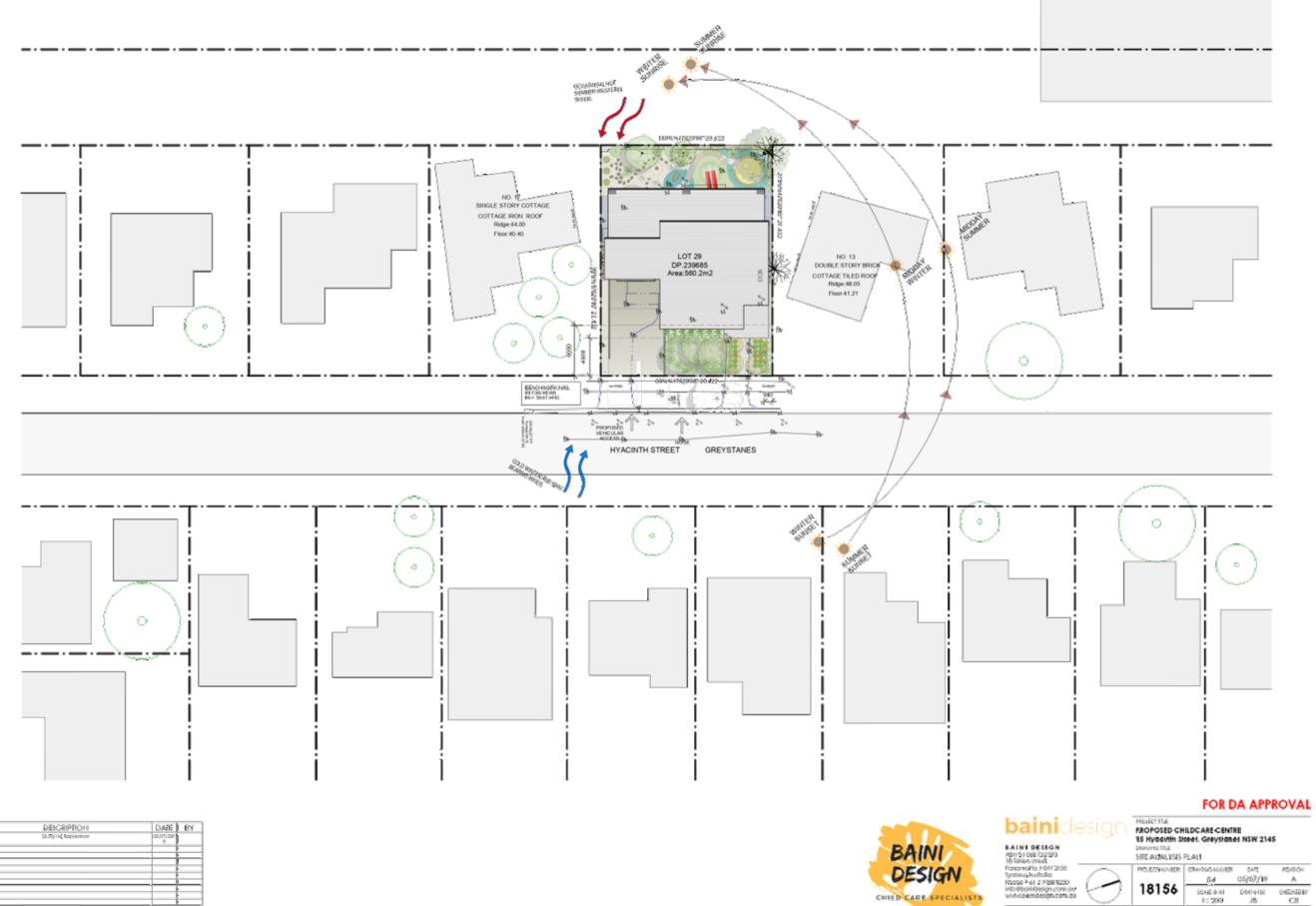




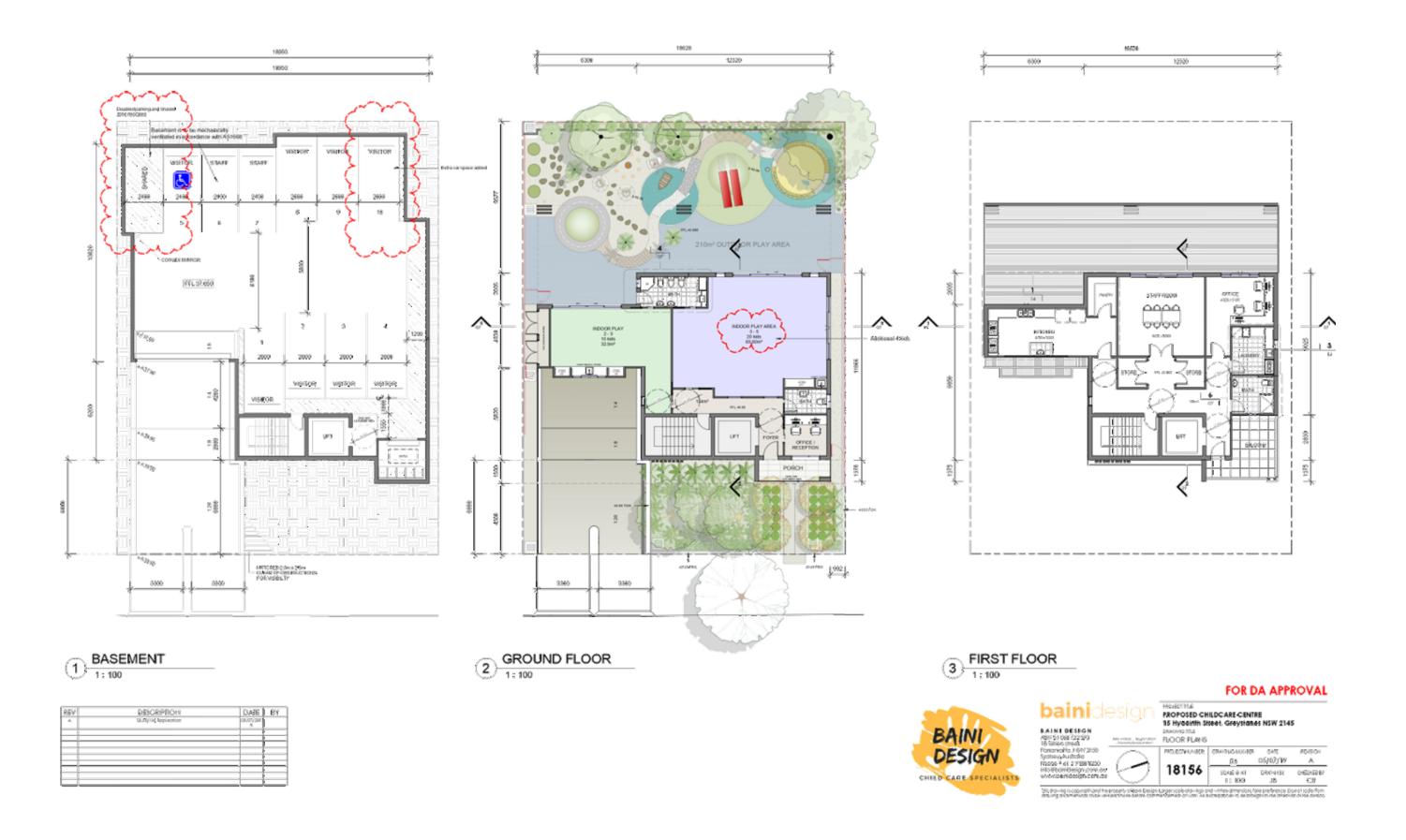
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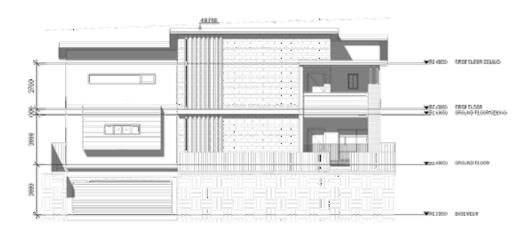










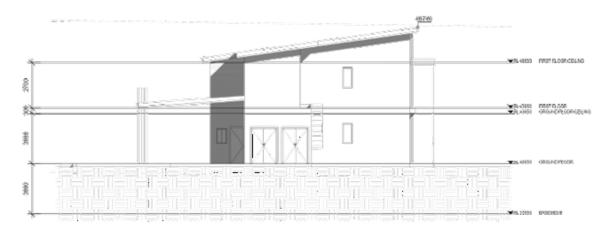


East Elevation

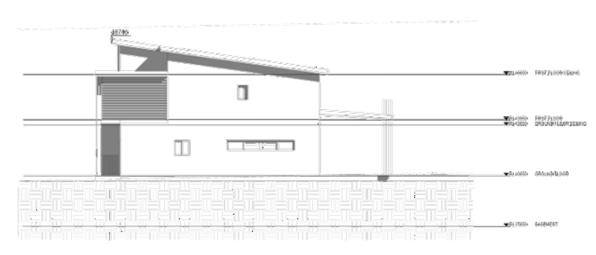


West Elevation
1:100

REV	DESCRIPTION	DATE	i e
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South Elevation
1: 100



North Elevation
1: 100

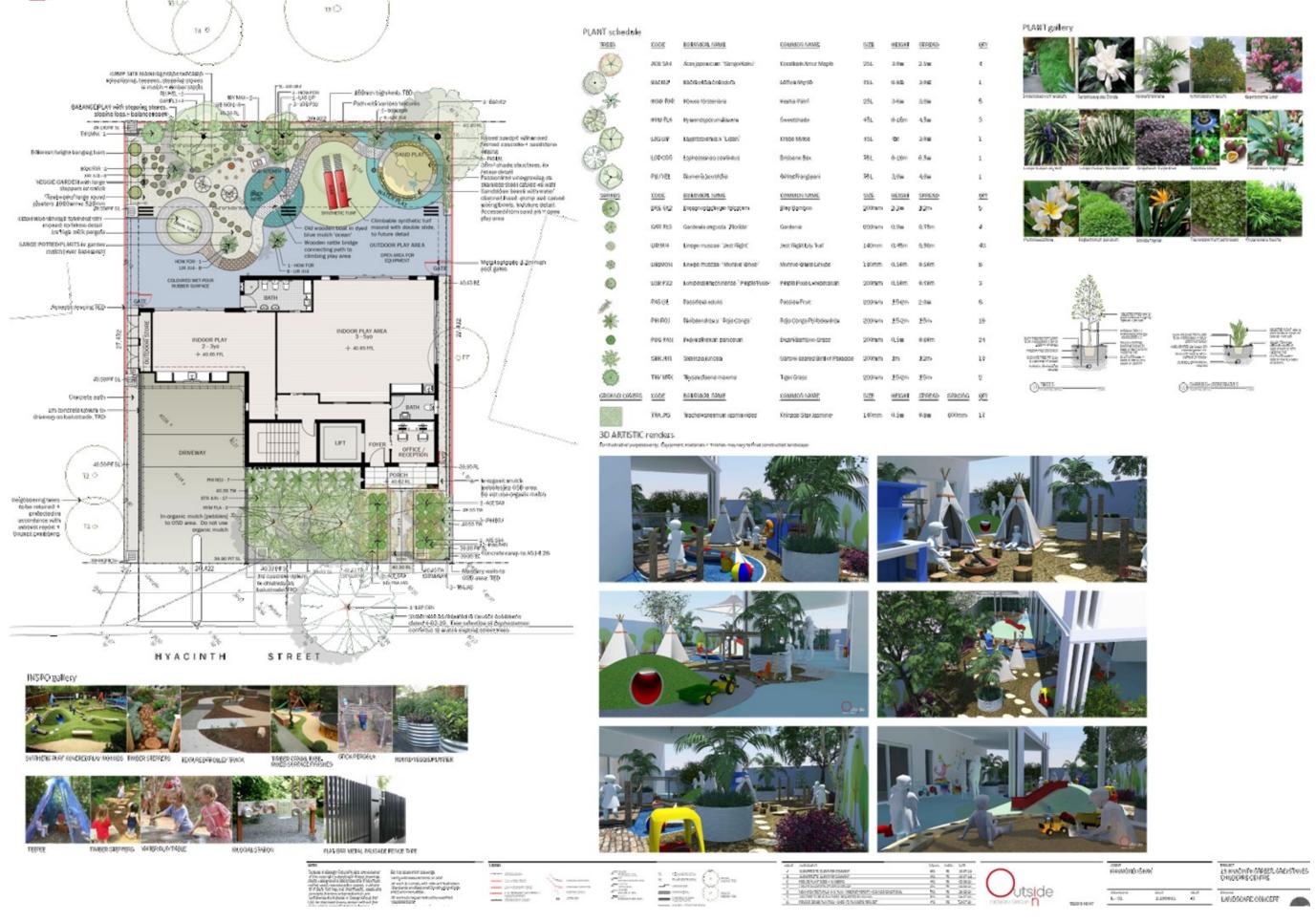


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DOCUMENTS ASSOCIATED WITH REPORT LPP073/19

Attachment 7
Landscape Plan





DOCUMENTS ASSOCIATED WITH REPORT LPP073/19

Attachment 8 Acoustic Impact Assessment





Member Australian Acoustical Society

(((())))))))

Proposed Child Care Centre Acoustic Impact Assessment

15 Hyacinth Street Greystanes NSW 2145

REPORT R180318R2 Revision 1

Prepared for: Baini Design 1B Villiers Street PARRAMATTA NSW 2150

11 February 2019

PO Box 522 Wahroonga NSW 2076 P 02 9943 5057 F 02 9475 1019 mail @ rodneystevensacoustics.com.au

ABN 78 149 311 455 rodneystevensacoustics.com.au





Proposed Child Care Centre

Acoustic Impact Assessment

15 Hyacinth Street, Greystanes NSW 2145

PREPARED BY:

Rodney Stevens Acoustics Pty Ltd

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DOCUMENT CONTROL

Reference	Status	Date	Prepared	Checked	Authorised
R180318R1	Revision 0	9 July 2018	Thomas Carney	Desmond Raymond	Rodney Stevens
R180318R2	Revision 1	11 February 2019	Thomas Carney	Desmond Raymond	Rodney Stevens

Rodney Stevens Acoustics Report Number R180318R2 Revision 1 Proposed Child Care Centre Acoustic Impact Assessment 15 Hyacinth Street, Greystanes NSW 2145

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Rodney Stevens Acoustics Report Number R180318R2





1 INTRODUCTION

Rodney Stevens Acoustics Pty Ltd (RSA) has been commissioned by Baini Design to undertake an acoustical assessment of a proposed 30 place child care centre located at 15 Hyacinth Street, Greystanes NSW 2145. This assessment has been prepared to assist council's consideration of the submission.

This report details the results of ambient noise measurements, calculations of potential noise emissions and the assessment of operational noise emissions from the proposed facility upon surrounding potentially affected sensitive receivers. The report also addresses the impact of road traffic noise upon the proposed centre.

Council has requested additional information as part of the assessment and this has been included in this version of the report.

A glossary of the acoustical terminology used throughout this report is contained within Appendix A.

2 PROJECT DESCRIPTION

2.1 Proposed Development

The proposal is to build a child care centre to accommodate 30 children. The centre is proposed to operate between 7:00 am and 6:00 pm, Monday to Friday.

The proposed children age groups are:

- 2 years 3 years: 10 children
- 3 years 5 years: 20 children

A variety of activities will be provided throughout the day, these activities involve both indoor free-play and structured learning and play.

The times and the number of children engaged in play varies, however, conservative calculations have been based on the assumption that all children may be involved in play in the proposed play areas.

2.2 Site Location

The proposed child care centre (CCC) is located at 15 Hyacinth Street, Greystanes NSW.

The site will be exposed to contributions from local traffic. The surrounding premises are residential and Widemere Public School servicing the area.

The site location is shown in Figure 2-1.

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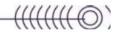


Figure 2-1 Site Location



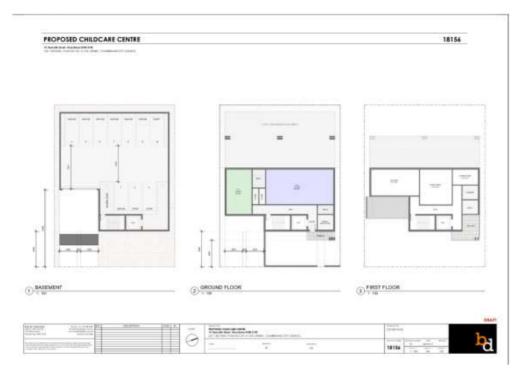
Aerial image of courtesy of © 2018 nearmap ltd





The proposed site plan is presented in Figure 2-2.

Figure 2-2 Floor Plans



3 ASSESSMENT CRITERIA

3.1 Association of Australian Acoustical Consultants (AAAC)

A guideline for the assessment of noise from child care centres has been prepared by the Association of Australian Acoustical Consultants (AAAC) as a result of a NSW Australian Acoustical Society (AAS) Technical Meeting held in September 2007 on Child Care Noise. The document, AAAC Guideline for Child Care Centre Acoustic Assessment, October 2013, provides criteria for the assessment of noise intrusion into and noise emissions from child care centres and provides recommendations for treatment to minimise acoustical impacts upon neighbouring premises. The guideline has been placed before the Land and Environment Court during matters involving child care centre applications.

3.1.1 Indoor Activities, Mechanical Plant & On-Site Traffic

The AAAC recommended criterion is that the Laeq(15minute) noise level emitted from the cumulative operation of indoor activities, mechanical plant and traffic on the site shall not exceed the background noise level by more than 5 dB at the assessment location. The assessment location is defined as the most affected point on or within any sensitive receiver property boundary.

The limiting criterion for continuous operational noise emissions, such as indoor activity noise and mechanical plant is "background noise level by not more than 5 dB" based upon the NPfl procedures. However in accordance with NPfl principles, where a noise source occurs over a limited duration throughout the day, adjustments are applied to the acceptable noise level at the receiver.

These adjustments generally apply where a single-event noise is continuous for a period less than two and a half hours in any 24-hour period. Applying such an adjustment to the assessment criterion for a CCC carpark operation would not seem unreasonable given the operation of the source of noise is mainly concentrated over a one-hour period (at most) during the morning arrival and afternoon departure periods.

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Although it could be argued that this is not a single event noise (since it occurs over two separate periods throughout the day) the essentially (and expected) short duration nature of the activity does not warrant the application of an intrusiveness-based criterion. In consultation with the NPfl procedures, a more reasonable criterion against which to compare and assess noise emissions associated with a carpark of this nature is an additional 5 dBA increase in the acceptable noise level at the receptor, (ie LA90 + 5 dBA).

3.1.2 Outdoor Play

Since the time in which children are involved in outdoor play is limited, the potential impact associated with these noise emissions is minimised. The AAAC consider a total limit of 2 hours outdoor play per day (typically 1 hour in the morning and 1 hour in the afternoon) reasonable to apply a criterion that the LAeq(15minute) noise level emitted from the outdoor play area not exceed the background noise level by more than 5 dB at the assessment location. A "background + 5 dBA" criterion has also been applied in other local government areas within the Sydney Metropolitan area and has been found acceptable within Land and Environment Court hearings.

3.1.3 Noise Intrusion to Child Care Centres

The AAAC child care centre guideline also presents recommendations for external noise impact upon children in child care centres.

- The LAeq(1 hour) intrusive noise level from road traffic or industry at any location within an outdoor play area should not exceed 55 dBA
- The LAeq(1 hour) intrusive noise level from road traffic or industry within the indoor play or sleeping areas should not exceed 40 dBA.

3.2 Operational Noise Criteria

Responsibility for the control of noise emissions in New South Wales is vested in Local Government and the EPA. The EPA oversees the Noise Policy for Industry (NPfI) October 2017 which provides a framework and process for deriving noise criteria. The NPfI criteria for industrial noise sources have two (2) components:

- · Controlling the intrusive noise impacts for residents and other sensitive receivers in the short term; and
- Maintaining noise level amenity for particular land uses for residents and sensitive receivers in other land uses.

Intrusiveness Criterion

For assessing intrusiveness, the background noise generally needs to be measured. The intrusiveness criterion essentially means that the equivalent continuous noise level (LAeq) of the source should not be more than 5 dB(A) above the measured Rated Background Level (RBL), over any 15 minute period.

Amenity Criterion

The amenity criterion is based on land use and associated activities (and their sensitivity to noise emission). The cumulative effect of noise from industrial sources needs to be considered in assessing the impact. The criteria relate only to other industrial-type noise sources and do not include road, rail or community noise. The existing noise level from industry is measured.

If it approaches the criterion value, then noise levels from new industrial-type noise sources, (including air-conditioning mechanical plant) need to be designed so that the cumulative effect does not produce total noise levels that would significantly exceed the criterion.

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Area Classification

The NPfl characterises the "Suburban" noise environment as an area with an acoustical environment that:

- has local traffic with characteristically intermittent traffic flows or with some limited commerce or industry.
- This area often has the following characteristic: evening ambient noise levels defined by the natural environment and human activity

The area surrounding the proposed development falls under the "Suburban" area classification.

Project Specific Noise Levels

Having defined the area type, the processed results of the attended noise monitoring have been used to determine project specific noise criteria. The intrusive and amenity criteria for nearby residential premises are presented in Table 3-1.

These criteria are nominated for the purpose of assessing potential noise impacts from the proposed development.

In this case, the ambient noise environment is not controlled by industrial noise sources and therefore the project amenity noise level are assigned as per Table 2.2 of the NPfI (Recommended Amenity Noise Levels). For each assessment period, the lower (i.e. the more stringent) of the amenity or intrusive criteria are adopted.

These are shown in bold text in Table 3-1.

Table 3-1 Operational Project Trigger Noise Levels

Receiver	eceiver Time of ANL 1		Measured	Measured		Criteria for New Sources	
	Day	LAeq(15min)	RBL ² L _{A90(15min)}	L _{Aeq} Noise Level)	Intrusive L _{Aeq(15min)}	Amenity L _{Aeq(15min)}	
Residential	Day	55	34	49	39	55	
School Classroom	When in use					35	
School Play Areas	When in use					55	

Note 1: ANL = "Amenity Noise Level" for residences in Suburban Areas.

Note 2: RBL = "Rating Background Level".

In summary, the project specific noise level for the assessment of (continuous L_{Aeq(15minute)}) operational noise emissions between 7:00 am and 6:00 pm, based upon the procedures documented within the NSW NPfL, is **39 dBA**. The operational noise emissions for school classrooms when in use, based upon the procedures documented within the NSW NPfl is **35 dBA** inside the classroom. The operational noise emissions for school play areas when in use, based upon the procedures documented within the NSW NPfl is **55 dBA**.

4 EXISTING NOISE ENVIRONMENT

4.1 Surrounding Environment

The surrounding community consists of residential properties and Widemere Public School. The acoustical environment is generally controlled by noise emissions from vehicular movements largely associated with through and local traffic and other activities associated with residential activity in the area along with activities associated with the aforementioned public school.

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The nearest potentially sensitive receiver locations in relation to noise emissions from the proposed development are the properties to the north (13 Hyacinth Street), east (16 Hyacinth Street), south (17 Hyacinth Street) and west (Widemere Public School).

4.2 Ambient Noise Survey

In order to quantify the existing ambient noise environment of the area, noise monitoring was conducted at the proposed development site and is shown in Figure 2-1. This location was selected after a detailed inspection of the project area giving consideration to other noise sources which may influence the readings, the proximity of noise-sensitive receivers, security issues for the noise monitoring device and gaining permission for access from the residents or landowners.

Unattended environmental noise monitoring was conducted between 28 June 2018 and 5 July 2018.

Instrumentation for the survey comprised a Rion NL42 Environmental Noise Logger (serial number 546394) fitted with microphone and windshield. Calibration of the logger was checked prior to and following measurements. Drift in calibration did not exceed ±0.5 dBA. All equipment carried appropriate and current NATA (or manufacturer) calibration certificates.

The measured data was processed according to the NSW EPA's *Noise Policy for Industry* (NPfI) and the NSW *SEPP (Infrastructure) 2007* assessment time periods. The processed noise monitoring results (based upon noise levels recorded during the weekday daytime period) are presented in Table 4-1.

Table 4-1 Measured Ambient Noise Levels Corresponding to NSW NPfl Assessment Time Periods

Logger Location	Noise Level	Noise Level – dBA re 20 µPa				
	Daytime 7.00 am – 6.00 pm		Evening 6.00 pm – 10.00 pm		Night-time 10.00 pm – 7.00 am	
	RBL ¹	LAeq ²	RBL	LAeq	RBL	LAeq
15 Hyacinth Street	34	49	34	49	32	43

Note 1: The RBL noise level is representative of the average minimum background sound level (in the absence of the source under consideration), or simply the background level.

Note 2: The LAeq is essentially the average sound level. It is defined as the steady sound level that contains the same amount of acoustical energy as a given time-varying sound.

5 NOISE IMPACT ASSESSMENT

5.1 Noise Emissions from Mechanical Plant

Precise mechanical plant selection has not been determined. It is recommended the selection and its acoustic impact to the nearby sensitive receivers is to be determined prior to the installation of any mechanical plant before the issuing of a Construction Certificate.

Precise size, location and type of mechanical plant has not been finalised. It has been indicated that the external mechanical plant items will be located towards the northern boundary of the development site. The mechanical plant is proposed to consist of ducted air conditioning and other components necessary for the building development type.

The criteria for mechanical plant has been established, any mechanical plant equipment must comply with **39 dB(A)** at the nearest sensitive receiver.

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5.2 Noise Emissions from Indoor Activities

Noise level predictions for internal noise emissions at the site have been predicted by utilising NSW EPA recognised and approved computer noise model SoundPlan 8 software. SoundPlan is a fully integrating software suite that specialises in computer simulations of noise situations incorporating over 50 calculation standards. The model calculates overall noise levels at receiver locations considering distance, atmospheric absorption, barriers effects of intervening ground types, source levels, source and receiver locations and topography.

Based on an internal reverberant sound pressure level of 90 dBA within the largest internal play areas, the predicted cumulative L_{Aeq(15minute)} noise level at the residential receivers adjacent to the proposed centre with the proposed internal configuration and associated capacity, is **52 dBA** with **windows open**. Noise emissions to the level at the residential receiver is predicted to be **42 dBA** with the **glazing closed**.

The recommended assessment criterion of **39 dBA** will be achieved with the windows closed at all sensitive receivers with recommendations in this report.

5.3 Noise Emissions from Outdoor Play Areas

5.3.1 Outdoor Activity Noise Levels

Noise generated by the children outside in the play area will occur generally after morning arrival, continuing until commencement of the indoor programme (likely to be around 9:00 am), possibly for short periods during the day after morning tea and lunch and again in the later afternoon prior to departure. The number of children involved in outdoor activities outside these main free-play times may vary and would be generally be in smaller groups managed by the centre staff.

The AAAC Child Care Centre guideline recommends the following range of sound power levels for groups of 10 children playing:

- 10 Children aged 2 to 3 years 83 to 87 dBA
- 10 Children aged 3 to 6 years 84 to 90 dBA

Based upon the results of extensive measurements of noise levels associated with a wide range of vocal efforts and of noise emissions from child care centres, it is extremely unlikely that these sound power levels could be sustained over a 15 minute period by a child between the ages of 3 and 6 years, particularly given the Department of Community Services (DOCS) requirements in relation to the management of child care centres and the typical behaviour patterns observed of young children engaged in outdoor play.

Notwithstanding this consideration, we have used these guideline source noise levels in the calculation of noise emissions from the outdoor play area of the CCC.

5.3.2 Assessment of Noise Emissions from Outdoor Play Area

Noise level predictions for external noise emissions at the site have been predicted by utilising NSW EPA recognised and approved computer noise model SoundPlan 8 software. SoundPlan is a fully integrating software suite that specialises in computer simulations of noise situations incorporating over 50 calculation standards. The model calculates overall noise levels at receiver locations considering distance, atmospheric absorption, barriers effects of intervening ground types, source levels, source and receiver locations and topography.

Calculations have been conducted to determine the expected typical (maximum) noise levels (L_{Aeq(15minute)}) from the outdoor play area at the neighbouring residential properties to the north (13 Hyacinth Street), east (16 Hyacinth Street), south (17 Hyacinth Street) and west (Widemere Public School).

Using the noise levels applied to groups of children located across the overall outdoor play area, the expected maximum $L_{\text{Aeq}(15\text{minute})}$ noise levels have been predicted to the nearest neighbouring residential receivers, including the shielding loss provided by the proposed building itself. The noise source locations representing each group of children have been distributed across the playground area and the cumulative emissions from all children have been calculated to each of the neighbouring residential properties.

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With 30 children engaged in outdoor play on the site, the predicted maximum LAeq(15minute) noise levels are expected to be in the order of **57 dBA** to the north and south, **47 dBA** to the west (public school play area) and **below 30 dBA** to the east site boundaries and school classrooms. Actual levels may at times be expected to vary from these projected levels depending upon the locations of the children and the activities in which they are engaged.

The assessment criterion relative to emissions to residential receivers, based upon the recommendations of the AAAC, is that the LAeq(15minute) noise level emitted from the outdoor play area not exceed the background noise level by more than 5 dB at the assessment location. The weekday background level at the site, based upon the ambient noise survey results was 34 dBA during the daytime. The criterion for the assessment of noise emissions from the proposed outdoor play area therefore becomes **39 dBA**. The proposed outdoor play area shows exceedance with criteria with all children engaged in outdoor play at some of the sensitive receivers with 1.8m standard fencing. The proposed outdoor play area will achieve criteria with recommendations in this report.

5.4 External Noise Intrusion

5.4.1 Indoor Spaces

Based on a daytime road traffic (and other environmental sources) noise level LAeq(15 hour) of 49 dBA, predicted noise intrusion to the indoor play area is **39 dBA** with windows open and **below 30 dBA** with windows closed (assuming standard 4mm glass and seals). The proposed development will meet the recognised criteria for external noise intrusion with windows closed.

5.4.2 Outdoor Spaces

A design limit of 55 dBA is recommended at outdoor play areas and based upon the ambient noise survey results, this level will be achieved with the design proposed. Based on a daytime road traffic (and other environmental sources) noise level LAeq(1 hour) was 49 dBA, predicted noise intrusion to the outdoor play area is **39 dBA**.

5.5 Carpark and Road Traffic

Given the location and the times at which vehicles can be expected to arrive (and leave), vehicle and traffic noise is not considered likely to constitute an adverse impact upon the acoustical amenity of neighbouring residents. Vehicular movements associated with the centre will begin to occur around 6:30 am when the first staff arrive and the morning drop-offs commence and will then continue, likely in regular intervals across the period until around 9:00 am.

A similar traffic flow is expected during the afternoon period, commencing from around 3:00 pm with the majority of children likely to be picked up between 4:00 pm and 6:00pm. On-site parking is in the basement. In context with the existing environment, vehicles arriving and leaving the site are comparable with any typical situation and on-street events will not be discernible above the prevailing vehicular activity.

Typical sound power levels for low speed vehicle activities are included in Table 5-1 along with the corresponding predicted noise levels at the identified residential dwellings.

Table 5-1 Typical Vehicle Related Noise Emissions at Nearby Noise Sensitive Receiver

Location	Typical Maximum Sound Power Level Lw (dBA)			Predicted Noise Impact	Criteria	Compliance
	Car Accelerating	Car Starting	Car Door Closing			
Adjacent residents on Hyacinth Street	93 – 98	91 – 97	88 – 93	35 – 39	39	Compliance

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The additional traffic generated due to contribution from the proposed centre will result in compliance at all the nearby sensitive receivers. There will be no appreciable change to existing traffic noise levels currently experienced at the other receivers in the vicinity. The maximum noise levels due to individual vehicular events currently received at surrounding properties will remain unchanged.

5.6 Assessment of Noise from Activities Not Associated with Child Care

Council has requested an additional assessment of the noise impact associated with activities that are not associated with child care. This would include staff meetings and cleaning.

Calculations of the amount of noise transmitted to these receivers from the proposed boarding house have been based on voice levels as referenced in the Handbook of Acoustical Measurements and Noise Control by Cyril M. Harris. This handbook provides voice spectrums for males and females as well as different vocal efforts. The spectrum is given in Table 5-2.

The spectra have been scaled based upon the overall amount of patrons expected to be in the communal areas at any given time

Table 5-2 Speech Spectrums - Handbook of Acoustical Measurements and Noise Control.

Typo	No	Overall						
Туре	125	250	500	1 k	2 k	4 k	8 k	dB(A)
Male (Normal)	49	55	58	51	47	43	37	58
Female (Normal)	37	51	54	49	44	43	38	54

Cleaners will clean the centre after closing time for approximately one hour. Based on a worst case scenario of 2 people cleaning (inside and outside) the centre at one time the predicted noise impact is **33 dB(A)** to the north and **below 30 dB(A)** to all the remaining receivers.

Meetings will take place inside the centre during operating hours once a week. Based on a worst case scenario of 6 people in the meeting at one time the predicted noise impact is **below 30 dB(A)** to all sensitive receivers.

6 RECOMMENDATIONS

The following measures are recommended to be incorporated in the design of the proposed centre in order for the child care centre to operate in an acoustically compliant manner.

Precise size, location and type of mechanical plant has not been finalised. It has been indicated that the external
mechanical plant items will be located towards the northern boundary of the development site. The mechanical
plant is proposed to consist of ducted air conditioning and other components necessary for the building
development type.

It is recommended a mechanical plant noise assessment for the proposed air conditioning system(s) and site specific plant equipment should be carried out for the proposed development before the issuing of a Construction Certificate.

The accumulative noise impact of all mechanical plant operating at one time cannot exceed the criteria level of **39 dB(A)** @ the boundary of the proposed development site.

 The mechanical plant should not be used, or left on, after the centre's hours of operation (excluding a window period before and after opening hours) in order to minimise any adverse impacts to nearby sensitive receivers.

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- · Windows to be upgraded to minimum Rw 26 glazing.
- Windows to be closed to control noise emissions from the centre to nearby sensitive receivers.
- The following rules should be incorporated into the centre's management plan in order to achieve acoustic compliance:
 - · A contact phone number for the centre's director should be made available to parents and neighbours.
 - Crying children should be taken inside the centre and comforted.
 - The behaviour of children should be monitored and modified as required by adequately trained child care workers.

Parents and guardians should be informed of the importance of noise minimisation when entering the site, dropping off or picking up children.

A 2.1m barrier should be constructed around the proposed external play area. The barrier(s) should be of solid
continuous construction (ie free of gaps) and of masonry or SlimWall type construction. The location of the
proposed wall is shown in red below.

Allowance for stormwater openings in the proposed barrier will not have a significant detrimental impact on the performance of the barrier.



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7 CONCLUSION

Rodney Stevens Acoustics has conducted an acoustical assessment of a proposed child care centre at 15 Hyacinth Street, Greystanes NSW. The assessment has included acoustical measurements to characterise the ambient noise environment of the area, establishment of noise criteria, and a comparison of predicted noise levels with regard to guidelines established by council.

Noise emissions associated with the proposed development to the surrounding nearest sensitive receivers have been calculated with the noise criteria as established in accordance with the council criteria if recommendations in this report are followed.

Approved:-

Rodnev Stevens - MAAS.

Principal/Manager





Appendix A - Acoustical Terminology

A-weighted sound pressure

The human ear is not equally sensitive to sound at different frequencies. People are more sensitive to sound in the range of 1 to 4 kHz (1000-4000 vibrations per second) and less sensitive to lower and higher frequency sound. During noise measurement an electronic 'A-weighting' frequency filter is applied to the measured sound level dB(A) to account for these sensitivities. Other frequency weightings (B, C and D) are less commonly used. Sound measured without a filter is denoted as linear weighted dB(linear).

Ambient noise

The total noise in a given situation, inclusive of all noise source contributions in the near and far field.

Community annoyance Includes noise annoyance due to:

- character of the noise (e.g. sound pressure level, tonality, impulsiveness, low-frequency content)
- character of the environment (e.g. very quiet suburban, suburban, urban, near industry)
- miscellaneous circumstances (e.g. noise avoidance possibilities, cognitive noise, unpleasant associations)
- human activity being interrupted (e.g. sleep, communicating, reading, working, listening to radio/TV, recreation).

Compliance

The process of checking that source noise levels meet with the noise limits in a statutory context.

Cumulative noise level

The total level of noise from all sources.

Extraneous noise

Noise resulting from activities that are not typical to the area. Atypical activities may include construction, and traffic generated by holiday periods and by special events such as concerts or sporting events. Normal daily traffic is not considered to be extraneous.

Feasible and reasonable measures

Feasibility relates to engineering considerations and what is practical to build; reasonableness relates to the application of judgement in arriving at a decision, taking into account the following factors:

- Noise mitigation benefits (amount of noise reduction provided, number of people protected).
- · Cost of mitigation (cost of mitigation versus benefit provided).
- Community views (aesthetic impacts and community wishes).

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 Noise levels for affected land uses (existing and future levels, and changes in noise levels).

Impulsiveness

Impulsive noise is noise with a high peak of short duration or a sequence of these peaks. Impulsive noise is also considered annoying.

Low frequency

Noise containing major components in the low-frequency range (20 to 250 Hz) of the frequency spectrum.

Noise criteria

The general set of non-mandatory noise levels for protecting against intrusive noise (for example, background noise plus 5 dB) and loss of amenity (e.g. noise levels for various land use).

Noise level (goal)

A noise level that should be adopted for planning purposes as the highest acceptable noise level for the specific area, land use and time of day.

Noise limits

Enforceable noise levels that appear in conditions on consents and licences. The noise limits are based on achievable noise levels, which the proponent has predicted can be met during the environmental assessment. Exceedance of the noise limits can result in the requirement for either the development of noise management plans or legal action.

Performance-based goals

Goals specified in terms of the outcomes/performance to be achieved, but not in terms of the means of achieving them.

Rating Background Level (RBL) The rating background level is the overall single figure background level representing each day, evening and night time period. The rating background level is the 10th percentile min L_{A90} noise level measured over all day, evening and night time monitoring periods.

Receptor

The noise-sensitive land use at which noise from a development can be heard.

Sleep disturbance

Awakenings and disturbance of sleep stages.

Sound and decibels (dB)

Sound (or noise) is caused by minute changes in atmospheric pressure that are detected by the human ear. The ratio between the quietest noise audible and that which should cause permanent hearing damage is a million times the change in sound pressure. To simplify this range the sound pressures are logarithmically converted to decibels from a reference level of $2 \times 10-5 \, \text{Pa}$.

The picture below indicates typical noise levels from common noise sources.

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dB is the abbreviation for decibel – a unit of sound measurement. It is equivalent to 10 times the logarithm (to base 10) of the ratio of a given sound pressure to a reference pressure.

Sound power level (SWL)

The sound power level of a noise source is the sound energy emitted by the source. Notated as SWL, sound power levels are typically presented in dB(A).

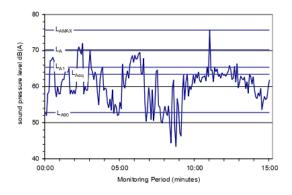
Sound pressure level (SPL)

The level of noise, usually expressed as SPL in dB(A), as measured by a standard sound level meter with a pressure microphone. The sound pressure level in dB(A) gives a close indication of the subjective loudness of the noise.

Statistical noise levels

Noise levels varying over time (e.g. community noise, traffic noise, construction noise) are described in terms of the statistical exceedance level

A hypothetical example of A weighted noise levels over a 15 minute measurement period is indicated in the following figure:



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Key descriptors:

L_{Amax} Maximum recorded noise level.

La1 The noise level exceeded for 1% of the 15 minute interval.

L_{A10} Noise level present for 10% of the 15 minute interval. Commonly referred to the average maximum noise level.

L_{Aeq} Equivalent continuous (energy average) A-weighted sound pressure level. It is defined as the steady sound level that contains the same amount of acoustic energy as the corresponding time-varying sound.

L_{A90} Noise level exceeded for 90% of time (background level). The average minimum background sound level (in the absence of the source under consideration).

Threshold

The lowest sound pressure level that produces a detectable response (in an instrument/person).

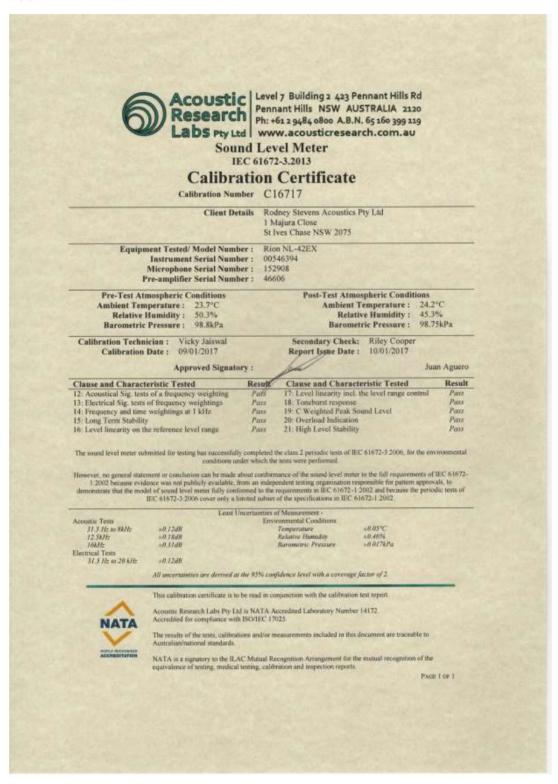
Tonality

Tonal noise contains one or more prominent tones (and characterised by a distinct frequency components) and is considered more annoying. A 2 to 5 dBA penalty is typically applied to noise sources with tonal characteristics.





Appendix B - Calibration Certificate



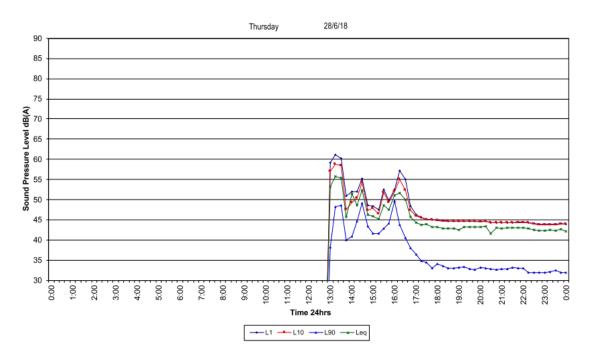
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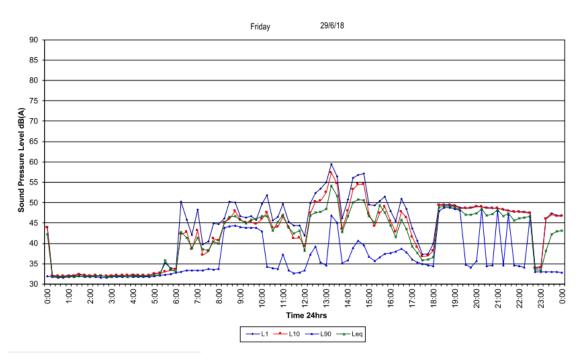


Appendix C - Unattended Noise Monitoring Results

15 Hyacinth St, Greystanes



15 Hyacinth St, Greystanes

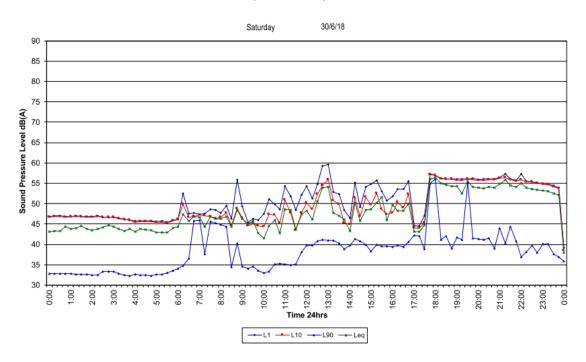


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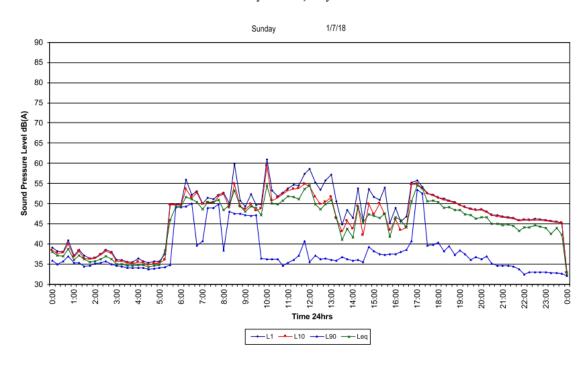




15 Hyacinth St, Greystanes



15 Hyacinth St, Greystanes

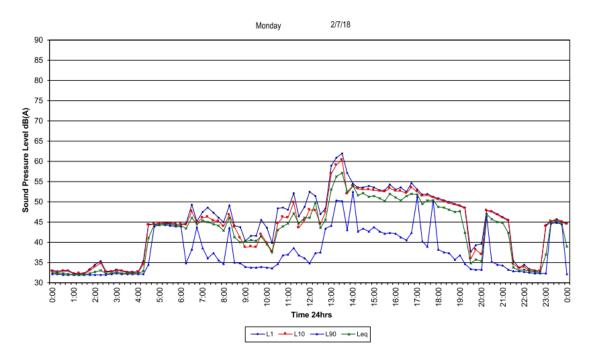


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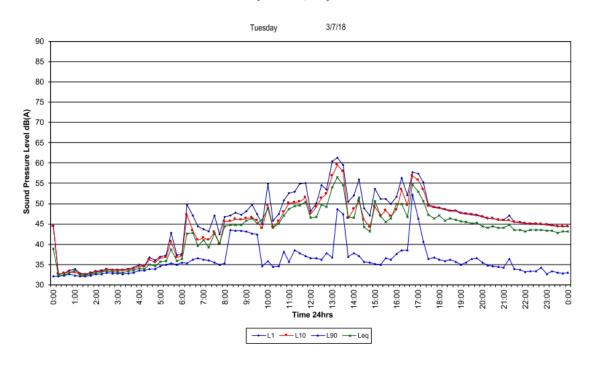




15 Hyacinth St, Greystanes

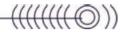


15 Hyacinth St, Greystanes

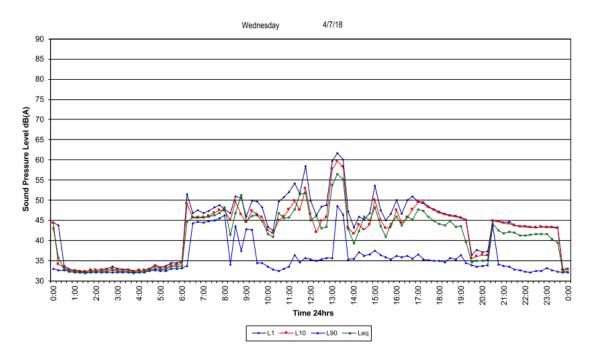


Rodney Stevens Acoustics Report Number R180318R2 Revision 1

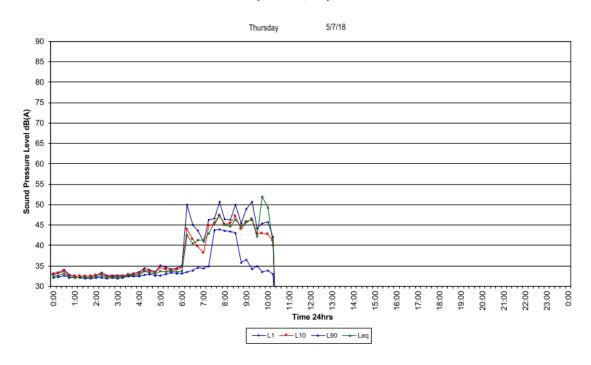




15 Hyacinth St, Greystanes



15 Hyacinth St, Greystanes



Rodney Stevens Acoustics Report Number R180318R2 Revision 1

DOCUMENTS ASSOCIATED WITH REPORT LPP073/19

Attachment 9 Noise Management Plan







COUSTICS

Member Australian Acoustical Society

Proposed Child Care Centre 15 Hyacinth Street, Greystanes NSW 2145 Noise Management Plan

REPORT R180318NMP1

Revision 0

Prepared for:

Baini Design

1B Villiers Street

PARRAMATTA NSW 2150

11 February 2019

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Proposed Child Care Centre

15 Hyacinth Street, Greystanes NSW 2145

Noise Management Plan

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DOCUMENT CONTROL

Reference	Status	Date	Prepared	Checked	Authorised
R180318NMP1	Revision 0	11 February 2019	Thomas Carney	Desmond Raymond	Rodney Stevens

Rodney Stevens Acoustics Report Number R180318NMP1 Revision 0 Proposed Child Care Centre 15 Hyacinth Street, Greystanes NSW 2145 Noise Management Plan Page 2



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1 INTRODUCTION

Rodney Stevens Acoustics Pty Ltd (RSA) has been engaged by Baini Design to prepare a noise management plan for the proposed child care centre located at 15 Hyacinth Street, Greystanes NSW.

RSA acoustics prepared an acoustical assessment addressing the noise environment of the centre and surrounding area and the potential acoustical impact on nearby residential receivers associated with the proposed development. RSA report "R180318R1 15 Hyacinth St, Greystanes" dated 9 July 2018 provided recommendations and mitigation measures for the proposed child care centre.

Specific acoustic terminology is used in this report. An explanation of common acoustic terms is provided in Appendix C.

2 PROJECT OVERVIEW

2.1 Project Location

The proposed development is located at 15 Hyacinth Street, Greystanes. The project area and its surrounding environment are presented in Figure 2-1 below.

Figure 2-1 Project Area and Surrounding Environment



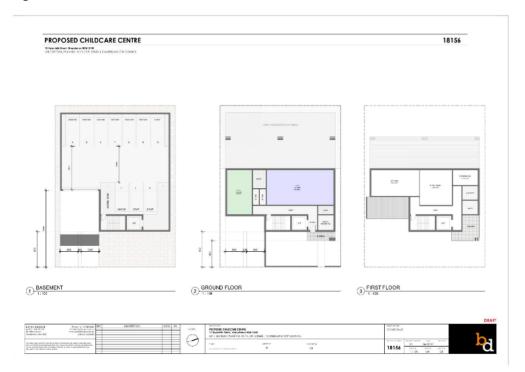
Aerial image courtesy of © 2019 Nearmap





The proposed site layout of the development site is presented in Figure 2-2.

Figure 2-2 Floor Plans



3 ASSESSMENT CRITERIA

A comprehensive acoustic assessment has been previously conducted for the proposed development by Rodney Stevens Acoustics Report No. R180318R1 15 Hyacinth St, Greystanes dated 9 July 2018. The report contained the operational noise criteria for the child care centre as:

Table 3-1 Project Specific NPfl Criteria

Assessment Period	ANL LAeq(Period)	Existing Noise Level - dBA		INP Criteria - dBA	
renou	LACY(I CITOU)	RBL	LAeq(Period)	Intrusive LAeq(15min)	Amenity LAeq(Period)
Residential	Day	55	34	49	39
School Classroom	When in use				35
School Play Areas	When in use				55

The limiting criterion for continuous operational noise emissions from the proposed development is 51 dB(A) for residential receivers during the daytime, 35 dB(A) for classrooms when in use and 55 dB(A) for outdoor school play areas when in use.

Rodney Stevens Acoustics Report Number R180318NMP1 Proposed Child Care Centre 15 Hyacinth Street, Greystanes NSW 2145 Noise Management Plan



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4 NOISE MANAGEMENT PLAN

One of the most effective measures that should be implemented in conjunction with the physical noise controls is a noise management plan (NMP). The NMP should be incorporated within the child care centre's overall management plan:

- Child to staff ratios are: 2-3 year olds (2 teachers, 1:5 children); 3-6 year olds (2 teachers, 1:10 children).
- A separate daily program for both the warmer and cooler months should be established in order to regulate the total time spent outdoors and indoors.
- A contact phone number for the centre office should be made available to neighbours to facilitate
 communication and to resolve any neighbourhood issues that may arise due to operation of the child
 care centre;
- The behaviour of children should be monitored and modified as required by staff during outdoor play;
- Parents and guardians should be informed of the importance of noise minimisation when entering the site, dropping off or picking up children;
- · Staff should be educated to control the level of their voice while outside;
- · Amplified music should be avoided to meet the noise criteria.
- A system will be put in place where child care staff will actively monitor the children playing outside, any
 child making excessive noise i.e. crying or screaming will be taken into the child care and once the child
 has calmed down he/she will be allowed to go to the outdoor area.

In previous developments of Child Care Centres in NSW, Rodney Stevens Acoustics has adopted the following key aspects with regard to acoustic intrusion to nearby and adjoining residential dwellings:

- It is important to balance the operation of child care facilities with community expectations. To achieve
 this outcome, many councils consider it necessary to seek appropriate acoustic privacy measures that
 are compatible with the prevailing character of residential areas. This is the preferred outcome rather
 than resorting to more extreme noise attenuation walls.
- There is also recognition that the good long-term operation and management of child care facilities can
 help to ensure development continues to harmoniously co-exist with the surrounding residential amenity.
- The location and design of the centre must consider the projection of noise from various activities to avoid any adverse impacts on the residential amenity of adjoining land.

RSA report R180318R1 15 Hyacinth St, Greystanes dated 9 July 2018 provides a number of mitigation measures that must be implemented in conjunction with this noise management plan.



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5 CONCLUSION

Rodney Stevens Acoustics has conducted a noise management plan for the proposed child care centre's site at 15 Hyacinth St, Greystanes NSW. Noise emissions from the outdoor play can be sufficiently mitigated and or controlled with the implementation of recommendations of RSA previous report R180318R1 15 Hyacinth St, Greystanes dated 9 July 2018, its revision (R2) and the recommendations in this noise management plan.

Approved: -

Kodney O. Stevens.

Rodney Stevens - MAAS





Appendix A – Acoustic Terminology

A-weighted pressure

sound The human ear is not equally sensitive to sound at different frequencies. People are more sensitive to sound in the range of 1 to 4 kHz (1000 - 4000 vibrations per second) and less sensitive to lower and higher frequency sound. During noise measurement, an electronic 'A-weighting' frequency filter is applied to the measured sound level dB(A) to account for these sensitivities. Other frequency weightings (B, C and D) are less commonly used. Sound measured without a filter is denoted as linear weighted dB(linear).

Ambient noise

The total noise in a given situation, inclusive of all noise source contributions in the near and far field.

Community annoyance

Includes noise annoyance due to:

- character of the noise (e.g. sound pressure level, tonality, impulsiveness, low-frequency content)
- character of the environment (e.g. very quiet suburban, suburban, urban, near industry)
- miscellaneous circumstances (e.g. noise avoidance possibilities, cognitive noise, unpleasant associations)
- human activity being interrupted (e.g. sleep, communicating, reading, working, listening to radio/TV, recreation).

Compliance

The process of checking that source noise levels meet with the noise limits in a statutory context.

Cumulative noise level

The total level of noise from all sources

Extraneous noise

Noise resulting from activities that are not typical to the area. Atypical activities may include construction, and traffic generated by holiday periods and by special events such as concerts or sporting events. Normal daily traffic is not considered to be extraneous.

Feasible reasonable measures Feasibility relates to engineering considerations and what is practical to build; reasonableness relates to the application of judgement in arriving at a decision, taking into account the following factors:

Noise mitigation benefits (amount of noise reduction provided, number of people protected).





•	Cost of mitigation	cost of mitigation versus benefit	t provided).
---	--------------------	-----------------------------------	--------------

Community views (aesthetic impacts and community wishes).

Noise levels for affected land uses (existing and future levels, and changes in noise levels).

Impulsiveness Impulsive noise is noise with a high peak of short duration or a sequence of

these peaks. Impulsive noise is also considered annoying.

Low frequency Noise containing major components in the low-frequency range (20 to 250 Hz)

of the frequency spectrum.

Noise criteria The general set of non-mandatory noise levels for protecting against intrusive

noise (for example, background noise plus 5 dB) and loss of amenity (e.g. noise

levels for various land use).

Noise level (goal) A noise level that should be adopted for planning purposes as the highest

acceptable noise level for the specific area, land use and time of day.

Noise limits Enforceable noise levels that appear in conditions on consents and licences.

> The noise limits are based on achievable noise levels, which the proponent has predicted can be met during the environmental assessment. Exceedance of the noise limits can result in the requirement for either the development of noise

management plans or legal action.

Performance-based

goals

Goals specified in terms of the outcomes/performance to be achieved, but not

in terms of the means of achieving them.

Rating

Level (RBL)

Background The rating background level is the overall single figure background level representing each day, evening and night time period. The rating background

level is the 10th percentile min LA90 noise level measured over all day, evening

and night time monitoring periods.

Receptor The noise-sensitive land use at which noise from a development can be heard.

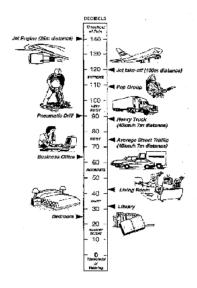
Sleep disturbance Awakenings and disturbance of sleep stages.

Sound and decibels (dB) Sound (or noise) is caused by minute changes in atmospheric pressure that are

> detected by the human ear. The ratio between the quietest noise audible and that which should cause permanent hearing damage is a million times the change in sound pressure. To simplify this range the sound pressures are logarithmically converted to decibels from a reference level of 2 x 10-5 Pa.



The picture below indicates typical noise levels from common noise sources.



dB is the abbreviation for decibel - a unit of sound measurement. It is equivalent to 10 times the logarithm (to base 10) of the ratio of a given sound pressure to a reference pressure.

Sound (SWL)

Level The sound power level of a noise source is the sound energy emitted by the source. Notated as SWL, sound power levels are typically presented in dB(A).

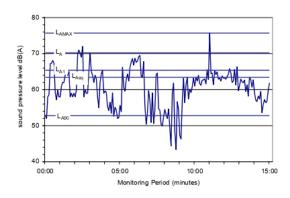
(SPL)

Sound Pressure Level The level of noise, usually expressed as SPL in dB(A), as measured by a standard sound level meter with a pressure microphone. The sound pressure level in dB(A) gives a close indication of the subjective loudness of the noise.

Statistical noise levels

Noise levels varying over time (e.g. community noise, traffic noise, construction noise) are described in terms of the statistical exceedance level.

A hypothetical example of A weighted noise levels over a 15 minute measurement period is indicated in the following figure:



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Proposed Child Care Centre 15 Hyacinth Street, Greystanes NSW 2145 Noise Management Plan



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Key descriptor

- LAmax Maximum recorded noise level.
- LA1 The noise level exceeded for 1% of the 15 minute interval.
- LA10 Noise level present for 10% of the 15 minute interval. Commonly referred to the average maximum noise level.
- LAeq Equivalent continuous (energy average) A-weighted sound pressure level. It is defined as the steady sound level that contains the same amount of acoustic energy as the corresponding time-varying sound.
- LA90 Noise level exceeded for 90% of time (background level). The average minimum background sound level (in the absence of the source under consideration).

Threshold

The lowest sound pressure level that produces a detectable response (in an instrument/person).

Tonality

Tonal noise contains one or more prominent tones (and characterised by a distinct frequency components) and is considered more annoying. A 2 to 5 dBA penalty is typically applied to noise sources with tonal characteristics.

DOCUMENTS ASSOCIATED WITH REPORT LPP073/19

Attachment 10 Parking & Traffic Impact Assessment







UPDATED PARKING & TRAFFIC IMPACT ASSESSMENT

PROPOSED CHILD CARE CENTRE DEVELOPMENT
15 HYACINTH STREET
GREYSTANES

PREPARED FOR BAINI DESIGN OUR REF: 18-103-2



FEBRUARY 2019

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- 2. Swept Path Plans
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- 4. SIDRA Output (Existing Conditions)
- 5. Parking Survey Data



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1. INTRODUCTION

1.1 Scope of Assessment

Stanbury Traffic Planning has been commissioned by Baini Design to prepare an Updated Parking & Traffic Impact Assessment to accompany a Development Application to be lodged with Cumberland City Council. The Development Application seeks consent for the demolition of an existing detached residence and the construction of a purpose built child care centre at 15 Hyacinth Street, Greystanes (hereafter referred to as the 'subject site').

The two storey child care centre is proposed to be capable of accommodating up to 30 children. The centre is to be serviced by a single level of basement parking for up to 10 passenger vehicles. Vehicular access is proposed via a single combined ingress / egress driveway connecting with Hyacinth Street in the southeastern corner of the site.

The aim of this assessment is to investigate and report upon the potential parking and traffic consequences of the development application and to recommend appropriate ameliorative measures where required. This report provides the following scope of assessment:

- Section 1 provides a summary of the site location, details, existing and surrounding land-uses;
- Section 2 describes the proposed development;
- Section 3 assesses the adequacy of the proposed site access arrangements, parking provision, internal circulation and servicing arrangements with reference to relevant Council, Roads & Maritime Services and Australian Standard specifications;
- Section 4 assesses the existing traffic, parking and transport conditions surrounding and servicing the subject development site including a description of the surrounding road network, traffic demands, operational performance and available public transport infrastructure; and
- Section 5 estimates the projected traffic generating ability of the proposed development and assesses the ability or otherwise of the surrounding road network to be capable of accommodating the altered demand in a safe and efficient manner.

The report has been prepared pursuant to State Environmental Planning Policy (Infrastructure) 2007. The application is not of sufficient scale to be referred to the Roads & Maritime Services under this Instrument.



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1.2 Background

A Development Application (DA 2018/284/1) was lodged with Cumberland City Council in July 2018 seeking consent for the demolition of an existing detached residence and the construction of a purpose built child care centre capable of accommodating up to 30 children. The centre was originally and is proposed to be serviced by a single level of basement parking for up to 10 passenger vehicle, with connectivity to Hyacinth Street via a single combined ingress / egress driveway located within the south-eastern corner of the site.

This Practice prepared a Parking & Traffic Impact Assessment (dated July 2018) in support of the original Development Application. This report concluded the following:

- The proposed site access arrangements are projected to result in motorists being capable of entering and exiting the subject site in a safe and efficient manner;
- The proposed off-street parking provision accords with the requirements of HDCP 2013;
- The internal passenger vehicle circulation arrangements are envisaged to provide for safe and efficient internal manoeuvring;
- The surrounding road network operates with a reasonable level of service during peak periods;
- The subject development has been projected to generate up to 24 vehicle movements to and from the site during weekday commuter peak hours; and
- The surrounding road network is considered to be capable of accommodating the additional traffic projected to be generated by the subject development.

Despite the findings of the July 2018 Parking & Traffic Impact Assessment, Cumberland City Council provided a correspondence requesting additional information dated 4 February 2019.

The above correspondence has been reviewed and the development architectural plans have subsequently been amended by Baini Design to address the items raised by Council. These amendments include, but are not limited to, minor alterations to the site access arrangements to facilitate the provision of sperate entry and exit driveways, in preference to the originally proposed single combined ingress / egress driveway.

The amended architectural plans, reduced scale copies of a selection of which are contained as **Appendix 1**, are to be submitted to Council under separate cover. This report forms an Updated Traffic & Parking Impact Assessment, reflecting the latest development scheme and specifically addressing the Council requests for additional information which relate to traffic and parking considerations. **Table 1** overleaf provides a summary of Council's request for



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additional information relating to parking and traffic issues and a reference to the section of this report which addresses each request.

TABLE 1 SUMMARY OF COUNCIL COMMENTS AND SECTIONS OF THIS REPORT		
ADDRESSING Council Comment	Section of Report	
The numbers of car parking allocated for visitor / parent do not comply, given that 6 spaces are proposed where 8 spaces are required. Separate entries and exits to the site as required have not been provided. Refer to further comments below by Council's Traffic Engineer.	Section 3.2	
Consideration for best practice within car park design: • A child safe fence / catchment area to separate car parking area from the building entrance • Provide clearly marked accessible parking as close as possible to the entrance to the building in accordance with appropriate Australian Standards • Include wheelchair and pram accessible parking	Section 3.4.1 and 3.5	
The submitted traffic assessment report states that the parking observations were undertaken on 24th July 2918 Tuesday between 7:00am &9:00am and 4:00pm & 6:00pm. The 24th of July is the first day back to school after the two week holiday periods generally this day does not affect the reality. Therefore, the applicant's traffic consultant shall undertake another observation in mid-February on a Thursday. Also the time period shall be 7:00am & 9:30am and 2:30pm & 6:00pm. It is advised that the extended time is required to understand the road usage during the school hours and before and after hours.	Section 4.2 and 4.5	
Also the submitted traffic report states that the Hyacinth Street is 7m wide and two way traffic movements occur under courtesy arrangements. In this regard, further assessment of this courtesy arrangement such as delay in travel time from one end to the other end of Hyacinth Street and how many waiting period is required for a single trip from one end to the other.	Section 4.3.2, 5.3 and 5.4	

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TABLE 1 SUMMARY OF COUNCIL COMMENTS AND SECTIONS OF THIS REPORT ADDRESSING COMMENTS			
Council Comment	Section of Report		
The conclusion of the report shall address the impact of the additional 24 vehicles movements in Hyacinth Street with regards to the delay and amenity of the existing residents on this narrow street.	Section 5.3 and 6		
Separate entry and exit driveways shall be provided with a minimum width of 3m each in accordance with Holroyd DCP 2013. This will produce the traffic circulation system, minimise the number of vehicles reversing out and improve a safety of children in the car park.	Section 3.1.1		
Swept path analysis shall be provided for a vehicle enter, manoeuvre and exit the site in a forward direction. Details of the road including, kerbline, sign, devices, power poles, other structures and neighbouring driveways shall be shown on the plans.	Section 3.4.1		
The proposed driveway shall be located 1.0m (min.) from any structures including power poles, street lighting, signs, road furniture etc. The existing power pole may require relocation.	Section 3.1.1		
All vehicles shall be able to enter and exit the site in a forward direction.	Section 3.1.1 and 3.4.1		
Long section of the proposed driveway / ramp shall be provided to Council with gradients and dimensions. The transition at the top and bottom of the driveway / ramps should be checked for scraping and bottoming out.	Section 3.4.2		

1.3 Reference Documents

Reference is made to the following documents throughout this report:

- The Roads & Maritime Services' Guide to Traffic Generating Developments;
- Holroyd Council's Holroyd Development Control Plan 2013 (HDCP 2013);
- Australian Standard for Parking Facilities Part 1: Off-Street Car Parking (AS2890.1:2004);



- Australian Standard for Parking Facilities Part 3: Bicycle Parking Facilities (AS2890.3:2015); and
- Australian Standard for Parking Facilities Part 6: Off-Street Parking for People with Disabilities (AS2890.6:2009);
- NSW Government's Children (Education and Care Services) Supplementary Provisions Regulation 2012;
- NSW Government's State Environmental Planning Policy (Educational Establishment and Child Care Facilities) 2017; and
- NSW Government's Child Care Planning Guideline.

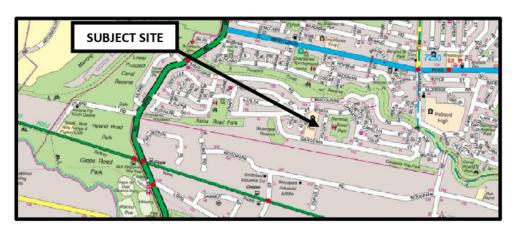
Amended architectural plans have been prepared by Baini Design Pty. Ltd. and should be read in conjunction with this report, reduced copies of a selection of which are included as **Appendix 1** for reference.

1.4 Site Details

1.4.1 Site Location

The subject site is situated on the western side of Hyacinth Street, approximately midway between Nemesia Street and Gardenia Parade, Greystanes. The site location is illustrated below within a local and aerial context by **Figure 1** and **Figure 2**, respectively.

FIGURE 1
SITE LOCATION WITHIN A LOCAL CONTEXT



Source: UBD's Australian City Streets - Version 4

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FIGURE 2 SITE LOCATION WITHIN AN AERIAL CONTEXT



Source: Six Maps (accessed 10/05/18)

1.4.2 Site Description

The subject site provides a street address of 15 Hyacinth Street, Greystanes.

The allotment provides a predominantly rectangular shaped parcel of land with approximate frontage of 20m to Hyacinth Street. The site extends approximately 28m to the west away from Hyacinth Street, resulting in a total site area in the order of 560m².

1.4.3 Existing Site Use

The subject site currently contains a single detached residential dwelling. This dwelling is currently serviced by two driveways connecting with Hyacinth Street in the south-eastern and north-eastern corners of the site.

1.4.4 Surrounding Uses

The site is adjoined by a mix of one and two storey detached residential dwellings located north, south and east, fronting and serviced by Hyacinth Street. Widemere Public School is situated to the west, fronting and being serviced by Nemesia Street and Gardenia Parade.

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PROPOSED DEVELOPMENT

2.1 Built Form

The subject application seeks Council's approval to the demolition of existing detached residence and the construction of a purpose built child care centre capable of accommodating up to 30 children.

The child care centre is proposed to be contained within a two storey building situated within the central portion of the site. The ground floor of the building is proposed to contain two separate indoor playrooms, an entrance foyer, reception, play area in conjunction with ancillary amenities. The first floor is proposed to contain staff room, kitchen, store room and ancillary amenities.

The building is proposed to be serviced by a single basement level of parking containing 10 passenger vehicle parking spaces.

Vehicular connectivity between the basement parking area and Hyacinth Street is proposed via separate 3.3m wide ingress and egress driveways located in the south-eastern corner of the site.

Pedestrian access between the building and the western Hyacinth Street footpath is proposed via a pathway located to the north and separate to the abovementioned vehicular access driveway.

2.2 Proposed Operation

The child care centre is proposed to accommodate up to 30 children as follows:

- 10 children aged between two and three years of age; and
- 20 children aged between three and five years of age.

The centre is required to employ a minimum of four staff in accordance with the current *Children (Education and Care Services) National Law (NSW)* requirements, as follows:

- Two staff associated with the children aged between two and three years of age; and
- Two staff associated with the children aged between three and six years of age.

The centre is proposed to operate between 7:00am and 6:00pm Monday to Friday.

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3. SITE ACCESS & INTERNAL CIRCULATION

3.1 Access Arrangements

3.1.1 Vehicular Access

Vehicular access between the development site and Hyacinth street is proposed to be provided via separated 3.3m wide ingress and egress driveways situated within the south-eastern corner of the site.

AS2890.1:2004 provides driveway design specifications based on the proposed primary land use, the functional order of the access road and the number of spaces the driveway is to serve. Tables 3.1 and 3.2 of AS2890.1:2004 specify that, at minimum, a Category 1 type driveway is required, providing a combined ingress / egress driveway width of between 3m and 5.5m based on the local (non-arterial) functional order of Hyacinth Street, the child care centre land-use proposed and the passenger vehicle parking provision within the parking area of 10 spaces. The proposed separated 3.3m wide ingress and egress driveways therefore exceed the minimum AS2890.1-2004 specifications and accordingly is considered to be satisfactory.

Swept path plans have been prepared in order to demonstrate the ability of passenger vehicles to enter and exit the site, copies of which are included as **Appendix 2**. These swept paths also indicate that all vehicles are able to enter and exit the site in a forward direction.

The safety and efficiency of access / egress movements are also proposed to be assisted by the following:

- The provision of a relatively level (less than 1:20) grade within the first 6m inside the property boundary;
- The consistent horizontal and vertical alignment of Hyacinth Street in the vicinity of the subject site results in a good level of sight distance prevailing between the frontage road and the proposed site access driveway;
- No obstructions to visibility between exiting motorists and pedestrians along the western Hyacinth Street footpath adjacent to the driveway in accordance with AS2890.1:2004; and
- The driveway is located at least 1.0m from any structures including power poles, street lighting, signs, road furniture etc.

3.1.2 Pedestrian Access

Pedestrian access to the development is proposed via a pathway located to the north and separate to the vehicular access driveway, connecting the building to the western Hyacinth Street footpath.

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3.2 Passenger Vehicle Parking

3.2.1 Parking Provision

The development is proposed to be serviced by 10 on-site passenger vehicle parking spaces.

NSW Government's *Child Care Planning Guideline* specifies that parking should be provided in accordance with HDCP 2013, which provides the following minimum vehicular parking rates for child care centres:

One space per four children
One space per two staff (within R2 zone)

Application of the abovementioned parking rates to the proposed centre capacity of 30 children results in a passenger minimum vehicle parking requirement of 9.5 (adopt 10) spaces.

The proposed parking provision of 10 spaces is therefore considered to be satisfactory.

3.2.2 Passenger Vehicle Parking Allocation

The 10 on-site passenger vehicle parking spaces are proposed to be allocated as follows:

- · Four staff parking spaces; and
- Six visitor / parent / guardian parking spaces (including one disabled space).

The following sub-sections of this report provide assessment of the suitability or otherwise of the proposed parking provision and allocation.

3.2.2.1 Staff Parking

The staff parking provision represents a parking rate of one space per staff member required in accordance with current Children (Education and Care Services) National Law (NSW) requirements specified within Section 2.2 of this report.

3.2.2.2 Parent / Guardian Parking

In order to undertake an assessment of the suitability of the proposed visitor parking provision of six spaces, reference is made to the Roads & Maritime Services' *Guide to Traffic Generating Developments*. This publication specifies that the average length of stay of parents / guardians when setting-down / picking-up children at child care centres is 6.8 minutes. On the basis of all children being set-down and picked-up with an even distribution over a period of two hours (say, 7:00am – 9:00am and 4:00pm – 6:00pm), the arrival rate of parents / guardians will be one parent / guardian every four minutes.



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The above length of stay and arrival rate results in an average of two (6.8/4) parents / guardians being on-site at any one time during the peak set-down / pick-up periods. The average parent / guardian parking demand during peak pick-up / set-down periods is therefore projected to be two spaces.

It should however be noted that the above analysis represents an absolute worst case scenario for the following reasons:

- It assumes that all parents / guardians will drive their children to and from the centre;
- · It assumes a zero sibling rate; and
- It assumes that all children will be set-down and picked-up within a two hour period, when children can be set-down / picked-up at any time during the operational hours.

The above analysis, indicating a parent / guardian parking demand of two spaces has however been retained in order to account for variations in average demand associated with short term peak influxes of parents / guardians during set-down / pick-up periods. In consideration of this and the above discussion, the proposed parent / guardian parking allocation of six spaces is considered to be appropriate.

3.2.2.3 Discussion on Child Care Centre Parking Allocation

Council officers have expressed concern with respect to the suitability or otherwise of the proposed allocation of the abovementioned total parking provision between staff and parents / visitors. In this regard, it is understood that Council officers are of the opinion that Council's rate of one space per four children should be wholly allocated to parents and the additional rate of one space per two staff (applicable only in the R2 zone) should be wholly allocated to staff.

Council's based parking requirement of 1 space per 4 children would appear to be based upon the recommended parking rate provided within the Roads & Maritime Services' *Guide to Traffic Generating Developments*. The Roads & Maritime Services' parking rate of 1 space per 4 children in this regard is inclusive of both visitors and staff.

The previous operational assessment concludes that the child care centre is expected to generate an average parent parking demand during peak morning and afternoon child set-down / pick-up periods of two spaces. Accordingly, the specific allocation of eight (30/4) parking spaces to visitor vehicles, is significantly excessive, and is envisaged to undesirably result in the following:

- · An underutilisation of the on-site parking infrastructure; and
- Unreasonable long term staff parking demands being accommodated on the surrounding public parking infrastructure.



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The proposed staff parking provision of four spaces, equating to one space per staff member is considered appropriate.

Whilst it is acknowledged that DCP 2013 provides a higher parking requirement for child care centres in R2 land use zones (being an additional 1 space per 2 staff over and above the previously presented base rate of 1 space per 4 children), it is not necessarily intended that this additional parking be specifically allocated to staff. The intention of the additional parking is, in the view of this Practice, to provide for reasonable parking oversupply to eliminate or at least reduce the potential for centres to generate demand for parking within surrounding parking infrastructure, thereby placing undesirable amenity impacts on surrounding land-uses.

The following is accordingly concluded:

- The provision of six visitor parking spaces is considered to be appropriate
 considering a practical assessment of the visitor parking demand during peak
 set-down / pick-up periods in accordance with the Roads & Maritime Services'
 Guide to Traffic Generating Developments results in an average demand of
 four spaces; and
- The provision of four staff parking spaces is considered to be appropriate for a minimum staffing level of eight employees.

3.3 Service Vehicle Parking

The centre is likely to necessitate regular servicing with respect to the collection of refuse. Refuse is proposed to be stored within a bin room located centrally in basement. These bins are to be wheeled to the Hyacinth Street frontage for collection in a similar manner to adjoining residential development.

Minor deliveries associated with the centre operation are expected to be undertaken by vans and utilities. Such servicing activities are proposed to be accommodated within single visitor passenger vehicle parking spaces located within the on-site car park. These activities are to be undertaken outside of the normal operational periods of the centre in accordance with operational requirements contained within the NSW Government's *Child Care Planning Guideline*.

3.4 Parking Circulation and Manoeuvrability

3.4.1 Parking Design

Passenger vehicles upon entry to the site, will travel in a forward direction to access the basement parking area via an access roadway / ramp running along the southern site boundary.

The basement parking area comprises two standard 90 degree angled parking rows consisting of seven and three spaces to the west and east of a central parking aisle, respectively, forming an extension of the site access roadway / ramp.

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The basement parking area has generally been designed to accord with the minimum requirements of AS2890.1:2004, providing the following minimum dimensions:

- Staff vehicle parking space width = 2.4m;
- Visitor vehicle parking space width = 2.6m;
- Additional space width adjoining obstruction = 0.3m;
- Vehicle parking space length = 5.4m;
- Parking aisle width = 6.1m; and
- Clearance = 2.2m.

Safe and efficient internal manoeuvring and parking space accessibility is anticipated to result, taking into consideration the above compliance with the relevant AS2890.1:2004 specifications.

Further to the above, the parking area provides a single disabled parking space within the north-eastern corner of the basement, directly adjacent to the building access lift. This parking space provides dimensions of 2.4m x 5.4m with an adjoining 2.4m wide shared area in accordance with the relevant requirements of AS2890.6:2009. Clearance above this space (and the adjacent shared area) is 2.5m as required by the Standard.

In order to demonstrate the internal passenger vehicle manoeuvrability within the vicinity of these areas and generally throughout the overall parking area, this Practice has prepared a number of swept path plans which are included as **Appendix 2**. The turning paths provided on the plans have been generated using Autoturn software and derived from B99 and B85 vehicle specifications provided within AS2890.1:2004.

Section B4.4 of AS2890.1:2004 states the following with regard to the use of templates to assess vehicle manoeuvring:

'Constant radius swept turning paths, based on the design vehicle's minimum turning circle are not suitable for determining the aisle width needed for manoeuvring into and out of parking spaces. Drivers can manoeuvre vehicles within smaller spaces than swept turning paths would suggest.'

It would therefore appear that whilst the turning paths provided within AS2890.1:2004 can be utilised to provide a 'general indication' of the suitability or otherwise of internal parking and manoeuvring areas, vehicles can generally manoeuvre more efficiently than the paths indicate. Notwithstanding this, the swept path plans illustrate that passenger vehicles can manoeuvre throughout and enter and exit the most difficult passenger vehicle parking spaces within the parking areas.



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Whilst the basement parking area forms a dead-end aisle, the alignment of the internal basement parking aisle with the access roadway allows for passenger vehicles to undertake a three point turn in order to exit the site in a forward direction in the event of all parking spaces being occupied. The proposed basement parking area layout as it relates to passenger vehicle manoeuvrability is therefore considered to be satisfactory.

3.4.2 Internal Ramp Design

The amended architectural plans provide for a longitudinal section including all gradients and dimensions of the proposed access roadway / ramp connecting the basement car parking level to Hyacinth Street. The gradients illustrated by the section are suitably compliant with the relevant requirements of AS2890.1:2004, providing the following minimum design criterion:

- Minimum two-way roadway = 5.5m;
- Maximum ramp grade = 1:4;
- Maximum ramp grade within 6m of property boundary = 1:20; and
- Maximum change in ramp gradient = 1:8.

Despite the above compliance of the ramp grades with AS2890.1:2004, in response to a request from Council officers, a ground clearance assessment has been undertaken in order to assess whether B85 vehicles are capable of negotiating the proposed ramp profile. The ground clearance assessment, a copy of which is contained within **Appendix 2**, has been prepared utilising the AutoTURN program and vehicle specifications for B85 passenger vehicles in accordance with AS2890.4:2004. The ground clearance assessment concludes that B85 vehicles are capable of negotiating the site access ramp without any unreasonable bottoming out or scraping.

The proposed site access roadway / ramp profile is accordingly considered to be satisfactory.

3.5 Internal Pedestrian Circulation

Pedestrian connectivity between the child care centre building and the western Hyacinth Street footway is proposed via pathway separate and to the north of the vehicular access driveway. Further to this access, pedestrian connectivity between all parking spaces within the basement parking area and the building is proposed via stairs and a lift located on the eastern wall of the carpark. A pedestrian pathway is provided around the periphery of the basement car parking area, ensuring pedestrians can move between all visitor parking spaces and the building, clear of vehicular circulation / manoeuvring areas.

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4. EXISTING TRAFFIC CONDITIONS

4.1 Surrounding Road Network

The following provides a description of the local road network surrounding the subject site:

 Hyacinth Street performs a local access function, providing a north-south alignment between Nemesia Street in the north and Gardenia Parade in the south.

Hyacinth Street provides a 7m wide pavement providing one through lane of traffic in each direction in conjunction with untimed parallel parking along both kerb alignments, in the vicinity of the site. Traffic flow is governed by a speed limit of 50km/h.

The prevailing pavement width of Hyacinth Street requires two-way traffic to occur under courtesy conditions in the event of cars parking on both sides of the road. The low traffic demands and the provision of breaks in parking demand however ensure that there are adequate passing opportunities and accordingly impedance to traffic flow efficiency is not unreasonable. The proliferation of abutting development driveways also assist in this regard. This is discussed further in subsequent sections of this report.

Hyacinth Street intersects Nemesia Street and Gardenia Parade to the north and south of the site, respectively, operating under major / minor priority control with Hyacinth Street forming the minority route in both instances.

 Nemesia Street performs a local access function, providing an east-west alignment between Dahila Street to the west and Carnation Street to the east, intersecting with both under major / minor priority control with Nemesia Street forming the minority route in both instances.

Nemesia Street provides an 8m wide pavement providing one through lane of traffic in each direction in conjunction with untimed parallel parking along both kerb alignments, in the vicinity of the site. Additionally, 45-degree angled parking is provided on the southern kerb adjacent to Nemesia Street Park. Traffic flow is governed by a speed limit of 50km/h, however a 40km/h school zone speed limit applies in the vicinity of Hyacinth Street during prescribed school start and finish periods associated with Widemere Public School.

 Gardenia Parade performs a local access function, providing an east-west alignment between Dahila Street to the west and Tulip Street to the east.

Gardenia Parade provides a 10m wide pavement providing one through lane of traffic in each direction in conjunction with parallel parking along both kerb alignments, in the vicinity of the site. Traffic flow is governed by a speed limit of 50km/h, however a 40km/h school zone speed limit applies to the west of Hyacinth Street during prescribed school start and finish periods associated with Widemere Public School.



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Gardenia Parade intersects with a series of local north-south access streets within the subject precinct in Dahila Street, Hyacinth Street and Tulip Street, operating under major / minor priority control with Gardenia Street forming the priority route.

4.2 Existing Traffic Volumes

This Practice has undertaken peak hour traffic surveys of the following intersections in order to accurately ascertain traffic existing demands within the immediate precinct:

- · The junction of Nemesia Street and Hyacinth Street; and
- · The junction of Gardenia Parade and Hyacinth Street.

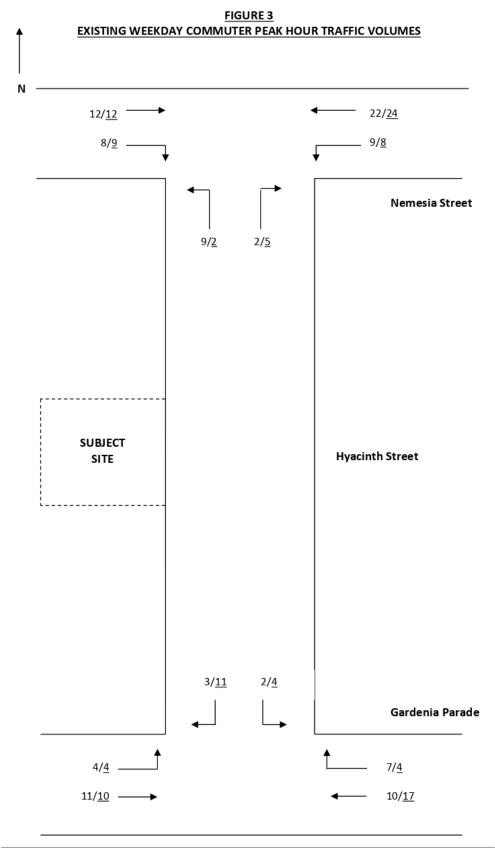
Surveys were undertaken between 7:00am - 9:30am and 2:30pm - 6:00pm on Thursday the 21^{st} of February 2019.

Figure 3 overleaf provides a summary of the surveyed peak hour (8:30am - 9:30am and 2:30pm - 3:30pm) traffic flows at the subject intersections, whilst full details are contained within **Appendix 3**. Minor gains / losses are evident at adjoining intersections as a result of parking / unparking manoeuvres and abutting private development.



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Figure 3 indicate the following weekday commuter peak hour traffic demands:

- Directional traffic flows within Hyacinth Street adjacent to the site are less than 20 vehicles per hour; and
- Directional traffic flows within Nemesia Street and Gardenia Parade to the north and south of the site, respectively, are generally less than 20 vehicles per hour.

4.3 Existing Road Network Operation

4.3.1 Intersection Performance

The surveyed intersections have been analysed utilising the SIDRA computer intersection analysis program in order to objectively assess the operation of the nearby public road network.

SIDRA is a computerised traffic arrangement program which, when volume and geometrical configurations of an intersection are imputed, provides an objective assessment of the operation efficiency under varying types of control (i.e. signs, signal and roundabouts). Key indicators of SIDRA include level of service where results are placed on a continuum from A to F, with A providing the greatest intersection efficiency and therefore being the most desirable by the Roads and Maritime Services.

SIDRA uses detailed analytical traffic models coupled with an iterative approximation method to provide estimates of the abovementioned key indicators of capacity and performance statistics. Other key indicators provided by SIDRA are average vehicle delay, the number of stops per hour and the degree of saturation. Degree of saturation is the ratio of the arrival rate of vehicles to the capacity of the approach. Degree of saturation is a useful and professionally accepted measure of intersection performance.

SIDRA provides analysis of the operating conditions that can be compared to the performance criteria set out in **Table 2** below (being the RMS NSW method of calculation of Level of Service).

	TABLE 2 LEVEL OF SERVICE CRITERIA FOR INTERSECTIONS PRIORITY CONTROLLED INTERSECTIONS			
Level of	f Average Delay per Expected Delay			
Service	Vehicle (secs/veh)			
Α	Less than 14	Good		
В	15 to 28	Acceptable delays and spare capacity		
С	29 to 42	Satisfactory		
D	43 to 56	Near capacity		
E	57 to 70	At capacity and requires other control mode		
F	> 70	Unsatisfactory and requires other control mode		

The existing conditions have been modelled utilising the peak hour traffic volumes presented within **Figure 3**.

Table 3 below provides a summary of the SIDRA output data whilst more detailed summaries are included as **Appendix 4**.

TABLE 3 SIDRA OUTPUT – EXISTING WEEKDAY PEAK HOUR PERFORMANCE							
AM PM							
Nemesia Street & Hyacinth Street							
Delay	5.7	5.7					
Degree of Saturation	0.02	0.02					
Level of Service	A	A					
Gardenia Parade & Hyacinth Street							
Delay	5.6	5.6					
Degree of Saturation	0.01	0.01					
Level of Service	A	A					

Table 3 indicates that the immediate precinct and adjoining public road intersections provide a level of service of A during peak commuter periods, representing good operation with spare capacity.

4.3.2 Hyacinth Street Performance

The previous traffic surveys indicates that Hyacinth Street currently accommodates directional traffic demands during weekday commuter peak hours of less than 20 vehicles per hour.

Reference is made to the Roads & Maritime Services' *Guide to Traffic Generating Developments* in order to undertake an assessment of the operational performance of the surrounding local road network. This publication indicates that a single lane of traffic accommodating peak hour traffic demands of less than 200 vehicles, such as that observed within Hyacinth Street, provides a level of service 'A'. Such a level service indicates free flow where drivers are virtually unaffected by other vehicles and have freedom to select their desired speed and to manoeuvre within the traffic stream.

Notwithstanding the above, it has previously been presented that the limited pavement width of Hyacinth Street (7m) is such that two-way traffic flow occurs under courtesy conditions in the event that kerb-side parking occurs. Vehicles can, at times therefore, be required to wait in breaks in kerb-side parking to allow opposing vehicles to pass. The particularly low traffic demands, being less than one vehicle in each direction every three minutes during peak periods, in conjunction with the low observed parking demands (see Section 4.5), is such that impedance / delays to directional traffic flow is extremely minimal.

In regard to the above, traffic movements between Hyacinth Street and abutting development sites (in the immediate vicinity of the site) have been observed to occur in a safe and efficient manner, being assisted by the low traffic demands within the frontage road and the consistent vertical and horizontal alignment of the public road.



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4.3.3 Regional Road Connectivity

Whilst traffic demands within the surrounding regional road network servicing the immediate precinct (comprising Merrylands Road and Gipps Road) are higher commensurate with their functional hierarchy in the road network, the local road network provides safe and efficient connectivity to the surrounding regional and state road network as follows:

- Merrylands Road intersects with Cumberland Road under traffic signal control with all movements permitted; and
- Gipps Road intersections with Macquarie Road under traffic signal control with all movements permitted.

4.4 Public Transport

4.4.1 Buses

Transit Systems operate the following bus services in the immediate vicinity of the site:

- Route 806 Liverpool to Parramatta;
- Route 810 Merrylands to Parramatta; and
- Route 810x Merrylands to Parramatta.

Route 806 operates along Macquarie Road, with stops being located within 400m walking distance of the site. Route 806 provides a service frequency of 15-30 minutes during weekday commuter peaks, 30 minutes during weekday business periods and Saturdays and 60 minutes during weekday evenings and Sundays.

Routes 810 and 810x operate along Gardenia Parade, with stops being situated within 150m walking distance of the site. These routes combine to provide a service frequency of 15-30 minutes during weekday peaks, extending to 60 minutes during other periods.

4.4.2 Pedestrians

Pedestrians are provided with the following access and mobility infrastructure within the immediate vicinity of the subject site:

- Footpaths are provided along both sides of Hyacinth Street;
- Footpaths are provided along both sides and the northern side of Nemesia Street to the west and east of Hyacinth Street, respectively;
- A footpath is provided along the northern side of Gardenia Parade; and
- A raised marked pedestrian crossing is provided over Dahlia Street to the south of Nemesia Street.

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4.4.3 Cyclists

A dedicated shared path is provided approximately 300 metres to the north along the Prospect Canal Reserve. This shared path links with Pemulwuy to the west and Guildford to the south-east.

4.5 Parking Provision and Demand

Parallel parking is unrestricted within the immediate vicinity of the site along both kerb alignments of Hyacinth Street.

Surveys have indicated that demand is particularly low in the immediate vicinity of the site, with a minimum of 34 spaces being available between Nemesia Street and Gardenia Parade during the likely peak operational periods of the development (see **Appendix 5** for full details).

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PROJECTED TRAFFIC CONDITIONS

5.1 Traffic Generation

Traffic generation rates for various land-uses have been established through extensive surveys undertaken throughout NSW and published within the Roads & Maritime Services' *Guide to Traffic Generating Developments*. This publication specifies the following traffic generation rates for child care centres:

0.8 vehicle trips per child during the morning commuter peak hour 0.7 vehicle trips per child during the evening commuter peak hour

Application of the above traffic generation rates to the proposed 30 place child care centre results in an estimated development traffic generation of 24 vehicle trips per hour during the morning peak and 21 vehicle trips per hour during the evening peak.

5.2 Trip Assignment and Projected Traffic Volumes

The development generated trips are likely to be evenly distributed between inbound and outbound movements associated with the setting down and picking up of children during the morning and evening peak periods, respectively. The development is therefore projected to generate 12 ingress and 12 egress movements during the morning peak hour and 10 ingress and 11 egress movements during the evening peak hour.

5.3 Traffic Impacts

The development has been projected to generate up to 24 vehicle movements per hour during commuter peak periods.

Figure 3 indicates that the maximum traffic demands within Hyacinth Street during weekday commuter peak periods has been surveyed to be 11 vehicles in the northbound direction and 17 vehicles in the southbound direction. Under an absolute worst case scenario that the abovementioned additional 24 peak hour vehicle movements occur within a single section of Hyacinth Street (to the north of the site), the peak hourly traffic demands are projected to be 23 vehicles in the northbound direction and 29 vehicles in the southbound direction, or a total two-directional traffic flow of 52 vehicles.

It has previously been presented that the limited pavement width of Hyacinth Street (7m) is such that two-way traffic flow occurs under courtesy conditions in the event that kerb-side parking occurs. Vehicles can, at times therefore, be required to wait in breaks in kerb-side parking to allow opposing vehicles to pass. The particularly low projected traffic demands, being less than one vehicle each direction every two minutes during peak periods, in conjunction with the low surveyed parking demands (see Section 4.5), is such that impedance / delays to directional traffic flow is expected to continue to be extremely minimal. It is accordingly not expected that there will be any unreasonable impacts on road user amenity within Hyacinth Street, despite prevailing pavement width.



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On a more regional scale, whilst it is acknowledged that surrounding regional roads accommodate more considerable traffic demands, the abovementioned extent of additional traffic generating ability of the development, representing less than one additional vehicle movement every two minutes during peak periods, is not anticipated to result in any unreasonable impacts on overall road network performance. In this regard, the previous assessment contained within this report has revealed that traffic demands within the surrounding road network are low to moderate and accordingly motorists are provided with a reasonable level of service with spare capacity.

In consideration of the above, the impact of the development is most likely to be a result of the safety and efficiency with which motorists are capable of entering and exiting the development. The low traffic demands within Hyacinth Street, combined with the provision of good sight distance provisions between the frontage road is such that it is envisaged that motorists will be capable of entering and exiting the site in a safe and efficient manner.

5.4 Parking Impacts

The proposed development provides an off-street parking provision which complies with the requirements of the Holroyd DCP, the Roads & Maritime Services' *Guide to Traffic Generating Developments* and NSW Government's *Child Care Planning Guideline*. It is accordingly not expected that the development will result in unreasonable impacts on surrounding public road parking supply / capacity.

Notwithstanding the above, in the unlikely event that short term on-street parking demand is generated by the development during peak set-down and pick-up periods, the following should be acknowledged:

- Surveys have indicated that demand for on-street parking in the immediate vicinity of the site is low and there is capacity to accommodate additional demand; and
- There is ready capacity to accommodate at least one casually parked vehicle
 in a parallel arrangement along the western kerb alignment of Hyacinth
 Street, immediately adjacent to the subject site thereby not having any
 unreasonable impact on adjoining properties; and

Whilst it is acknowledged that the prevailing 7m width of the Hyacinth Street pavement can, at times, require two-way traffic to occur under courtesy conditions when parallel parking occurs along both kerb alignments, the low traffic demands and the particularly low surveyed parking demand ensures that there is adequate passing opportunities. In any case, it should be noted that two-way traffic has been observed to generally occur in an unimpeded fashion within Hyacinth Street in combination with kerb-side parking along both alignments. It is accordingly not anticipated that the development will result in any impacts on surrounding residential amenity or public road efficiency in the unlikely event that some on-street parking occurs as a result of the centre.



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5.5 Transport Impacts

The subject site is located within reasonably close walking distance to a number of bus services. It is accordingly expected that a portion of the future centre users / staff will utilise the surrounding public transport infrastructure to access destinations throughout the Sydney metropolitan area. The capacity of the existing public transport system is however not envisaged to be measurably affected by any additional demand associated with the development, given its limited scale.

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CONCLUSION

This report assesses the potential parking and traffic implications associated with a proposed child care centre at 15 Hyacinth Street, Greystanes. Based on this assessment, the following conclusions are now made:

- The site access arrangements are projected to result in motorists being capable of entering and exiting the subject site in a safe and efficient manner;
- The proposed off-street parking provision accords with the requirements of HDCP 2013, thereby indicating that there should not be any increased onstreet parking demand as a result of the development;
- The internal passenger vehicle circulation arrangements are envisaged to provide for safe and efficient internal manoeuvring;
- The limited pavement width of Hyacinth Street (7m) is such that two-way traffic flow occurs under courtesy conditions in the event that kerb-side parking occurs. Vehicles can accordingly, at times, be required to wait in breaks in kerb-side parking to allow opposing vehicles to pass;
- The particularly low traffic demands within Hyacinth Street, being less than
 one vehicle in each direction every three minutes during peak periods, in
 conjunction with the low surveyed parking demands, is such that impedance
 / delays to directional traffic flow is extremely minimal;
- The surrounding local road network, including the Hyacinth Street junctions with Nemesia Street and Gardenia Parade, operates with a good level of service during peak periods;
- The subject development has been projected to generate up to 24 vehicle movements to and from the site during weekday commuter peak hours;
- Directional traffic demands within Hyacinth Street incorporating the subject development are projected to be less than one vehicle every two minutes during weekday commuter peak periods;
- The particularly low projected traffic demands, in conjunction with the low surveyed parking demand, is such that impedance / delays to directional traffic flow is expected to continue to be extremely minimal, thereby ensuring that unreasonable impacts on road user amenity within Hyacinth Street should not occur; and
- The surrounding local road network is considered to be capable of accommodating the additional traffic projected to be generated by the subject development.

It is considered, based on the contents of this report and the conclusions contained herein, there are no parking or traffic related issues that should prevent approval of the subject application. This action is therefore recommended to Council.



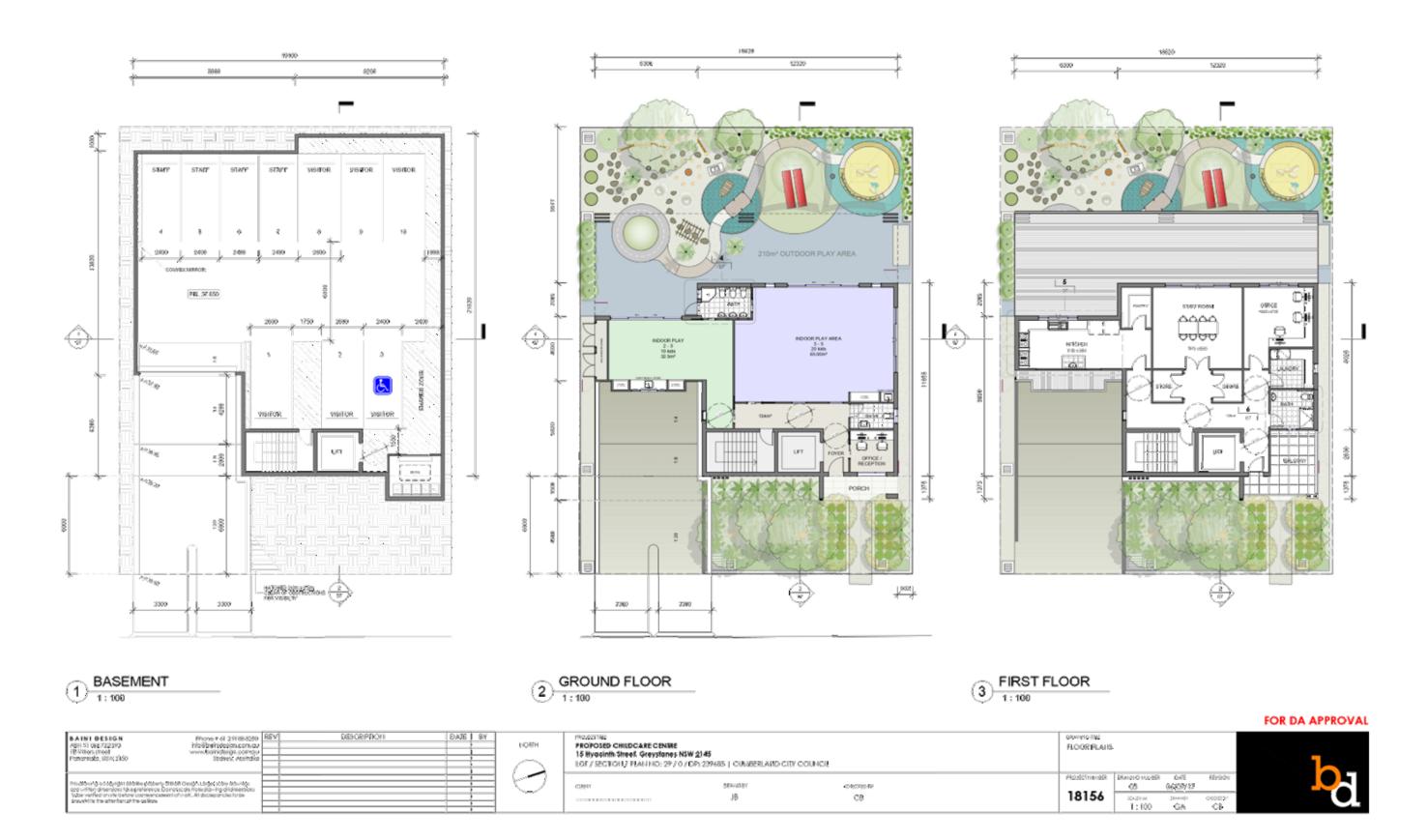
APPENDIX 1



PROPOSED CHILDCARE CENTRE 18156

15 Hyacinth Street, Greystanes NSW 2145

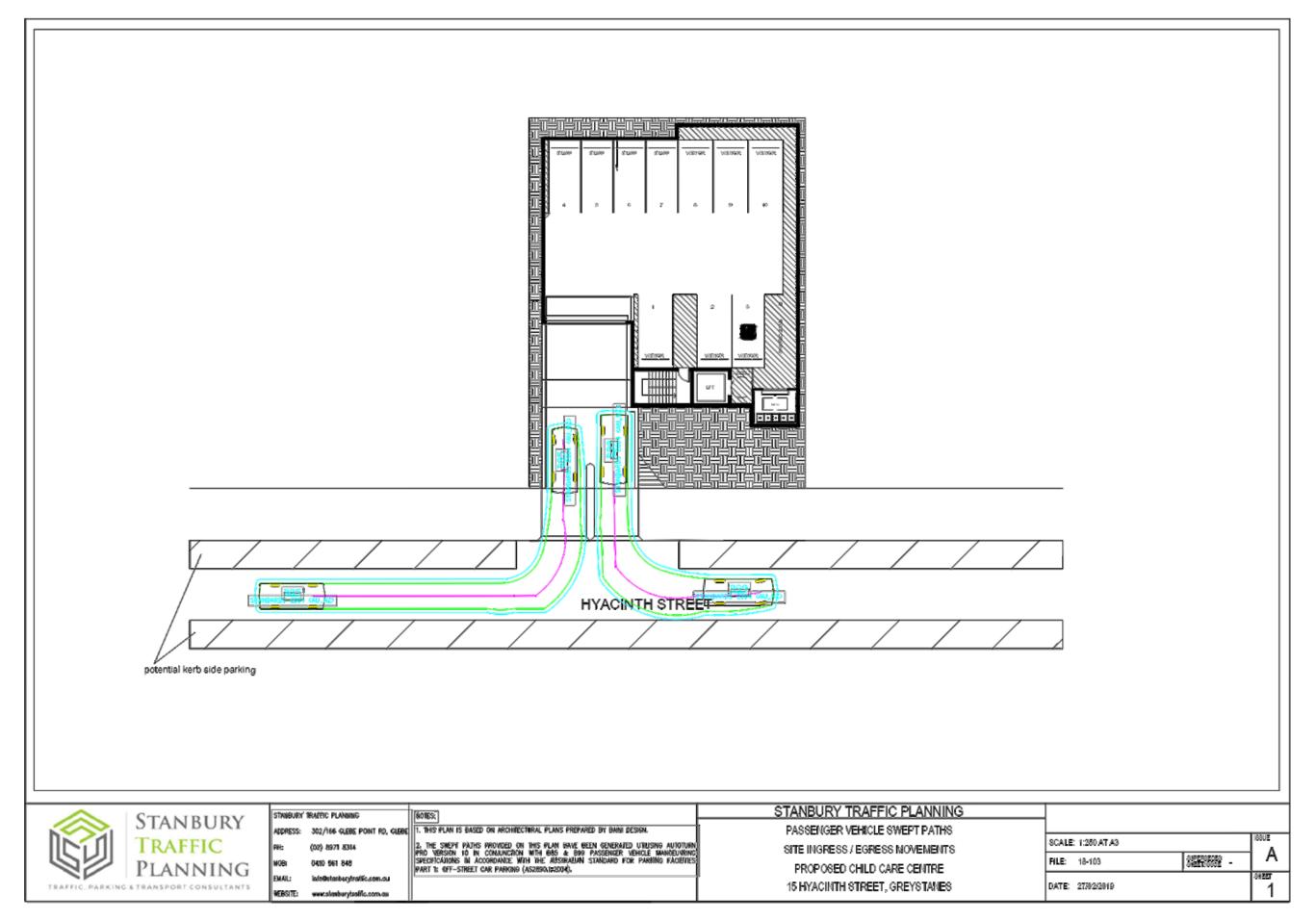
DOT / SECTION / PLANNIC: 29 / 0 / DP; 239685 | CUMBERLAND CITY COUNCIL



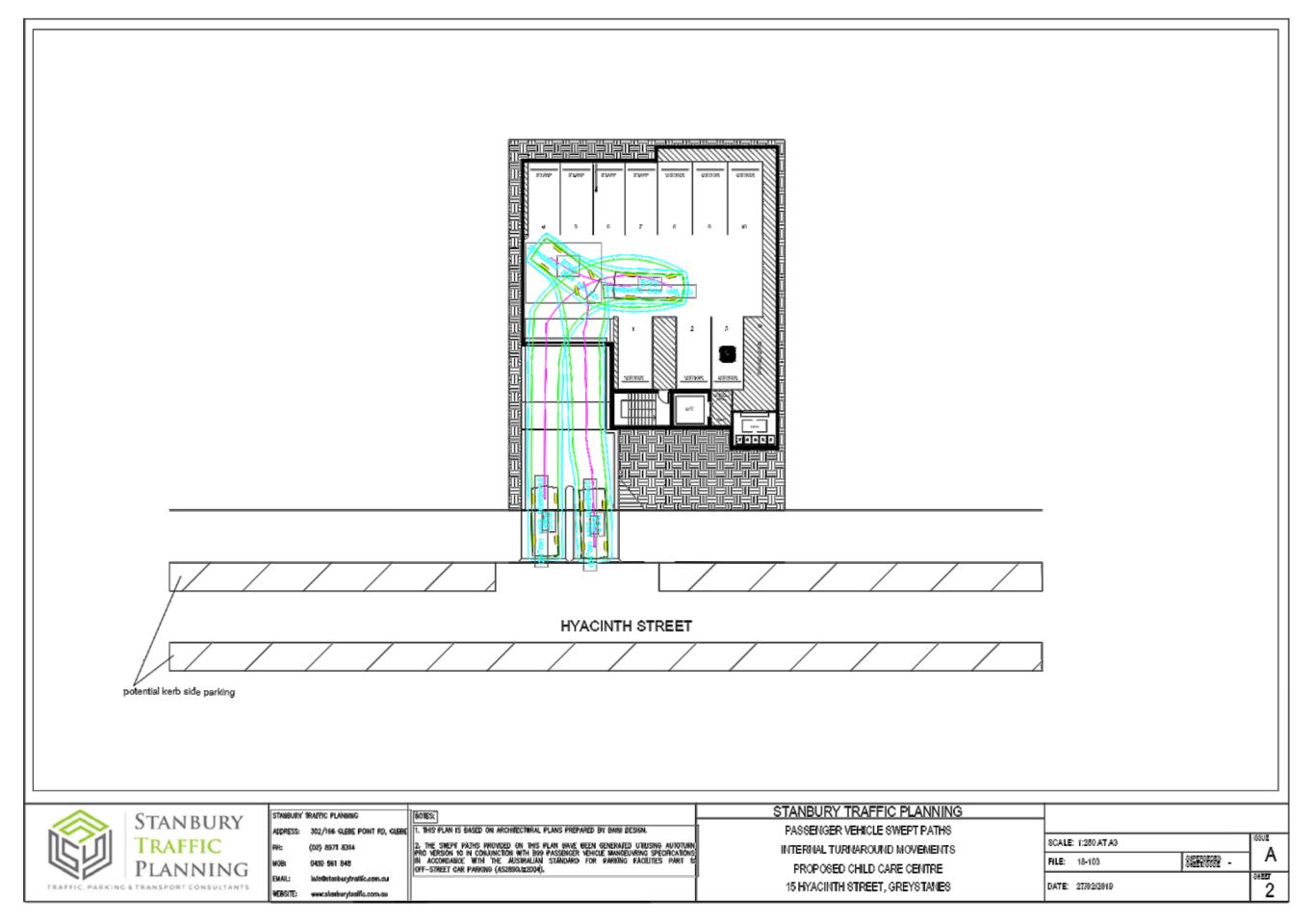


APPENDIX 2

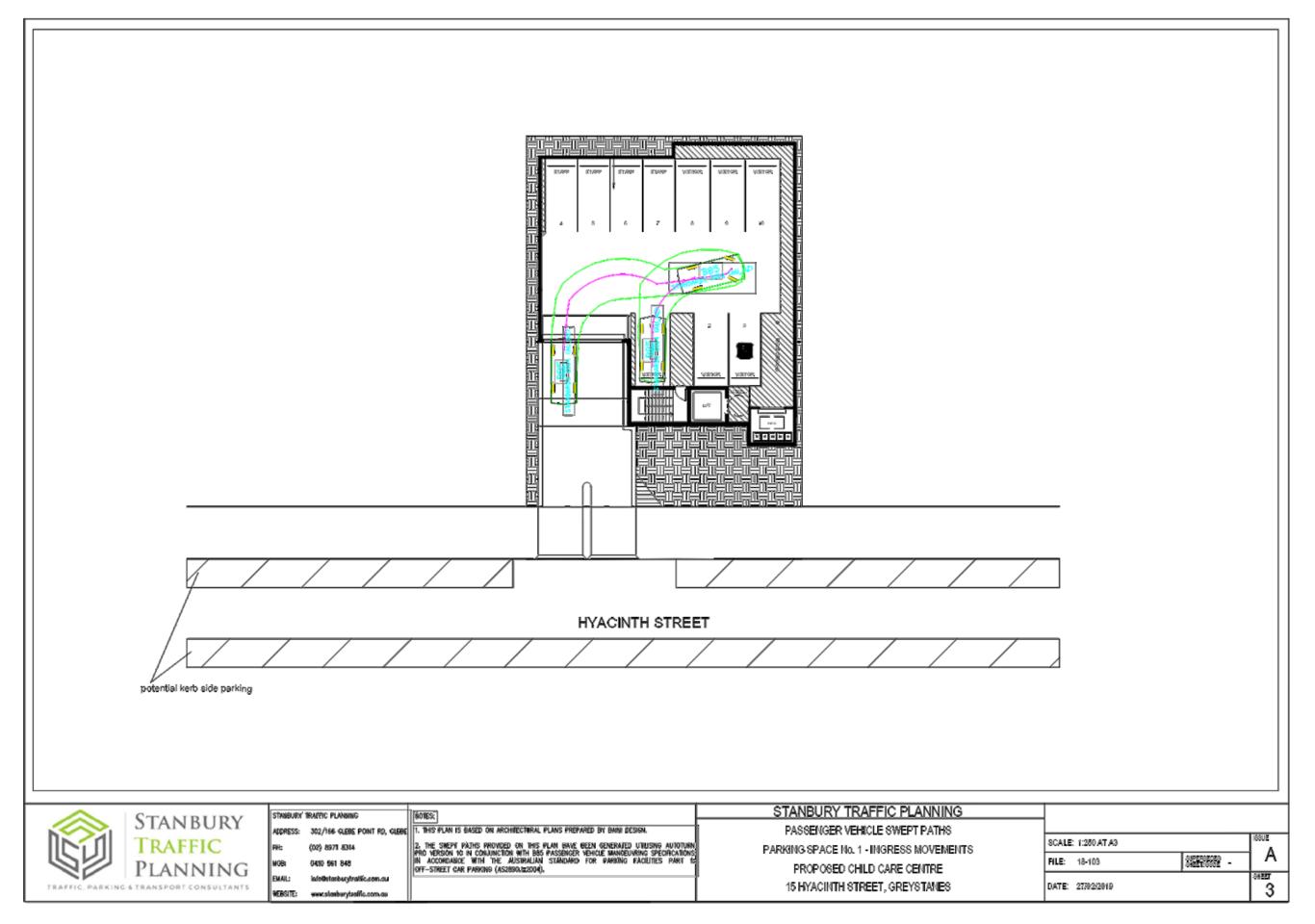




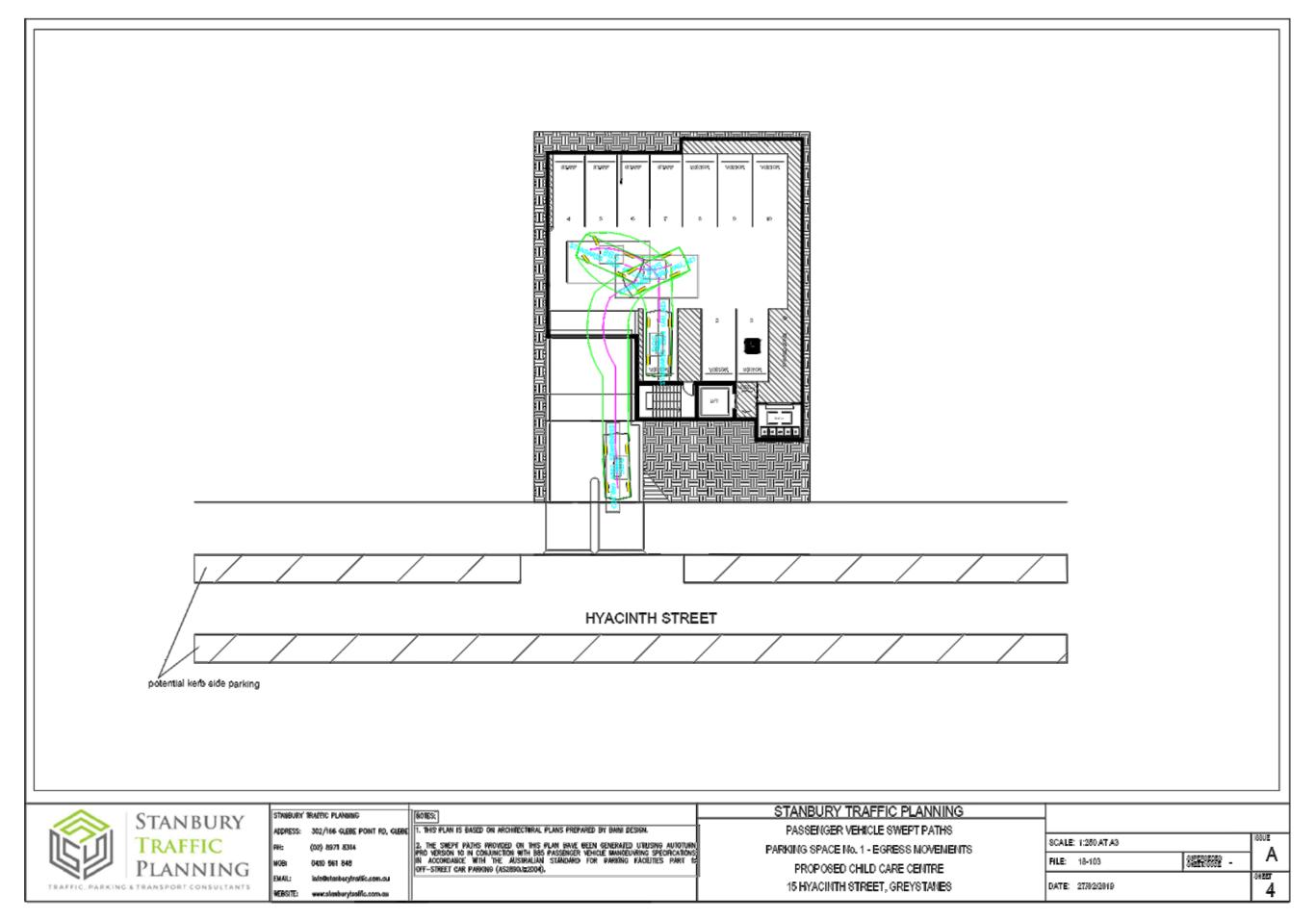




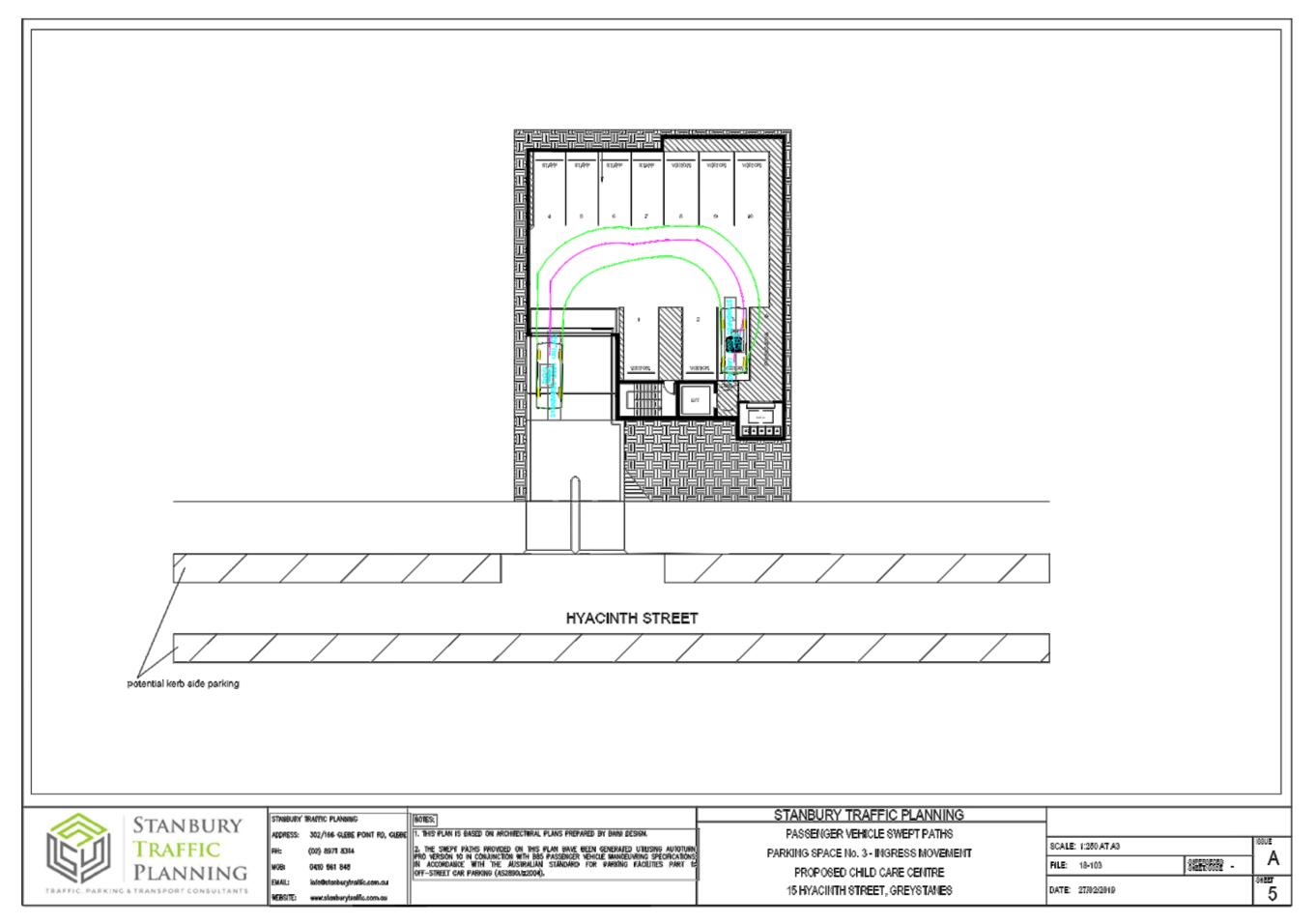






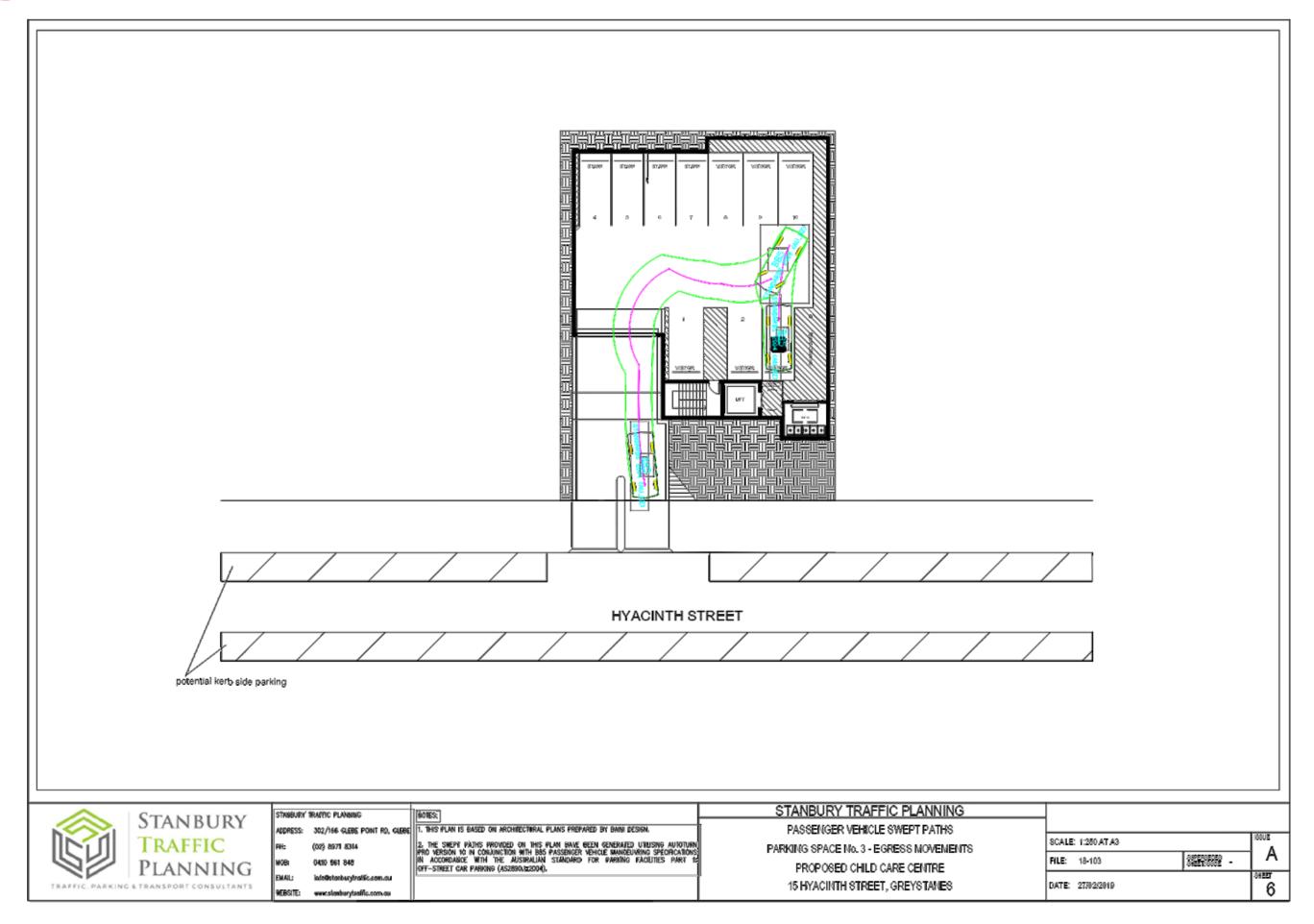






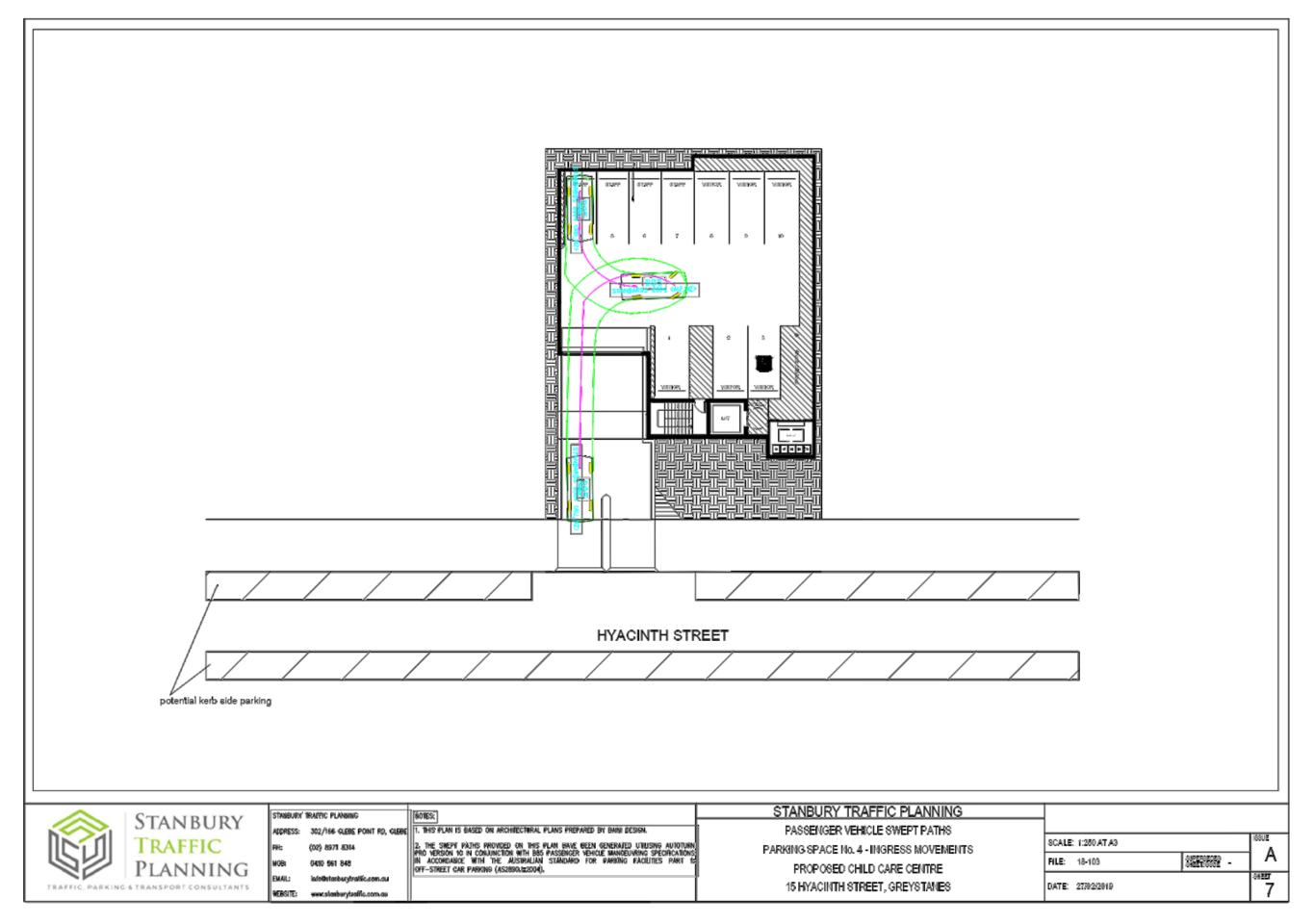
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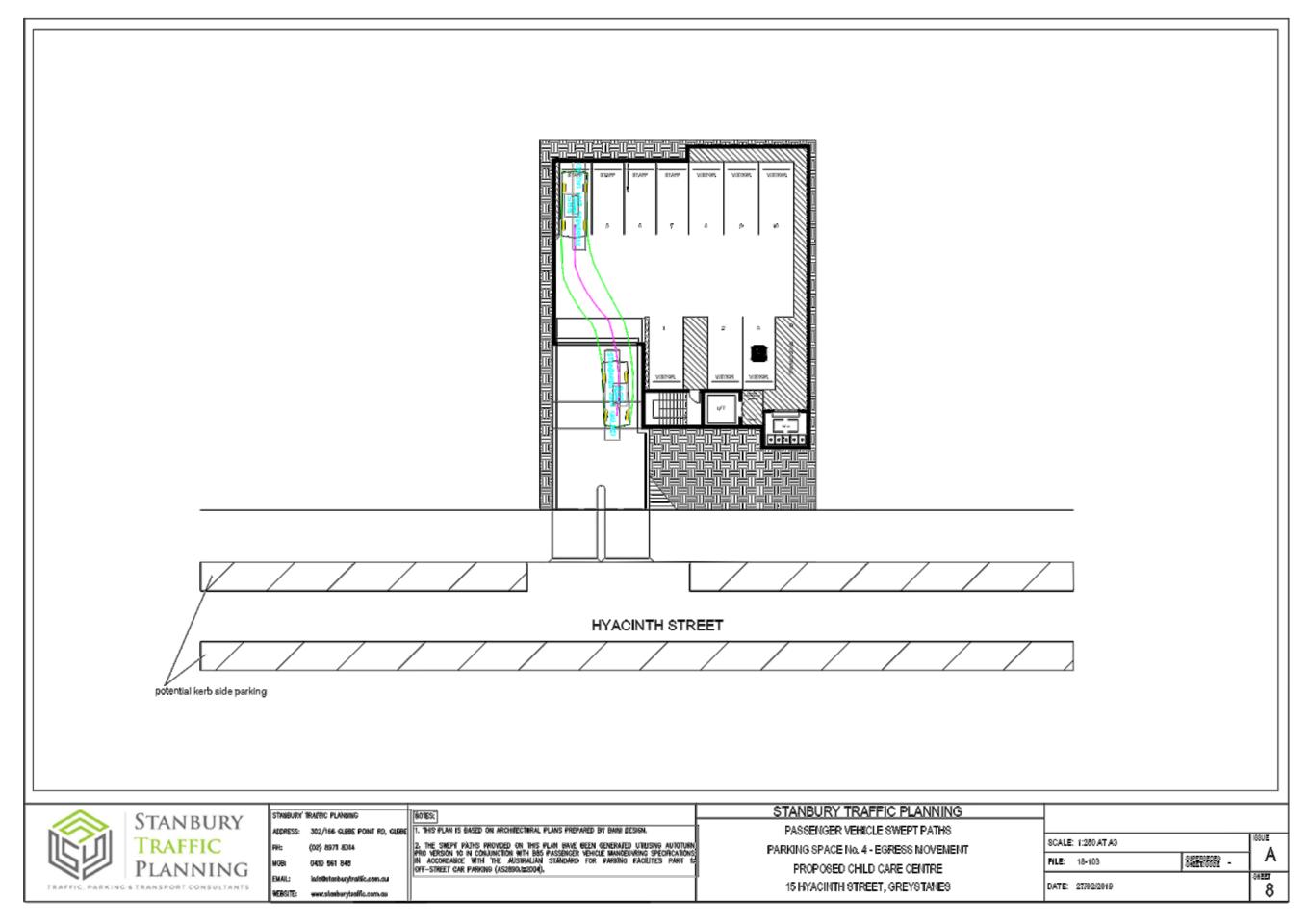


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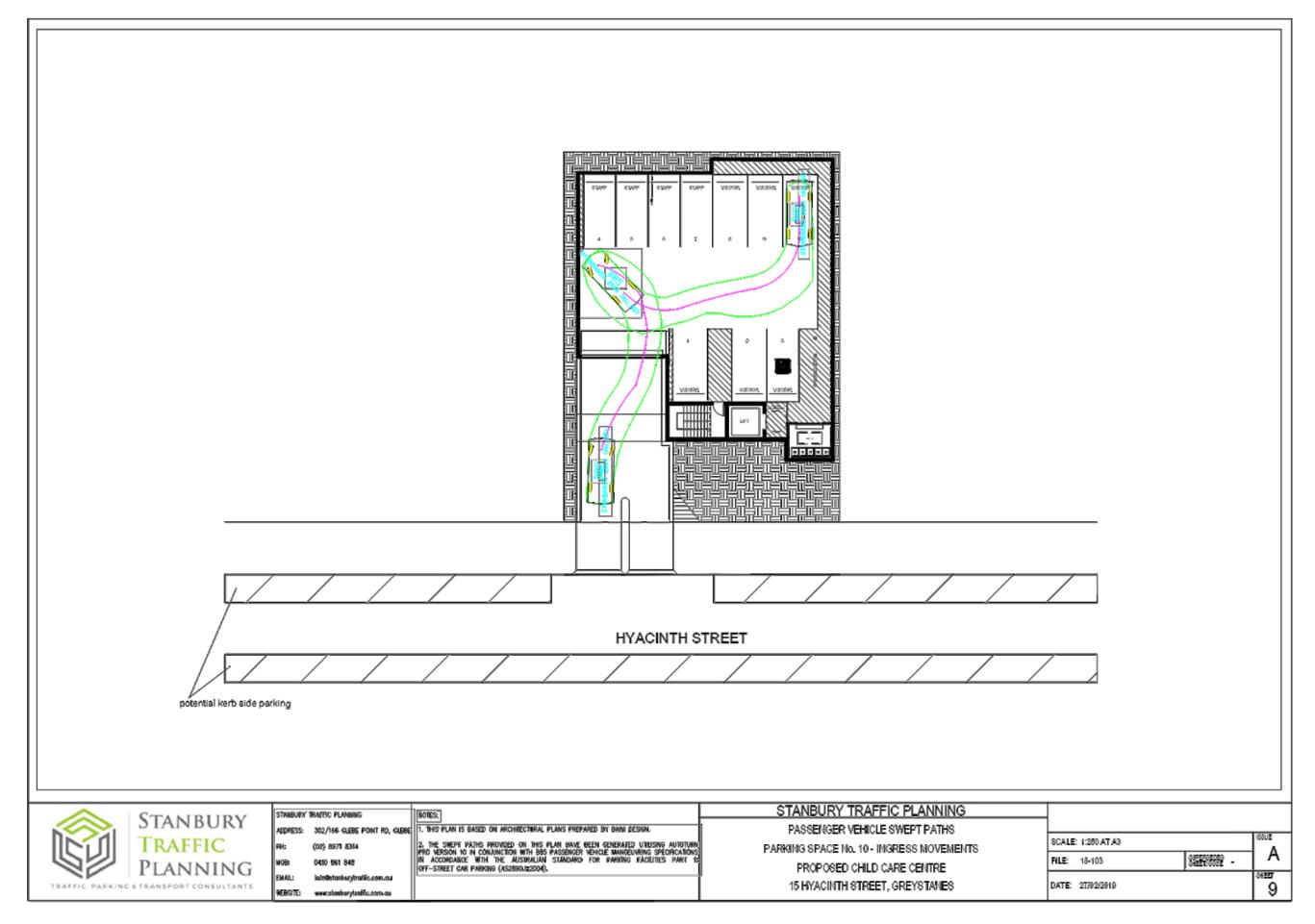




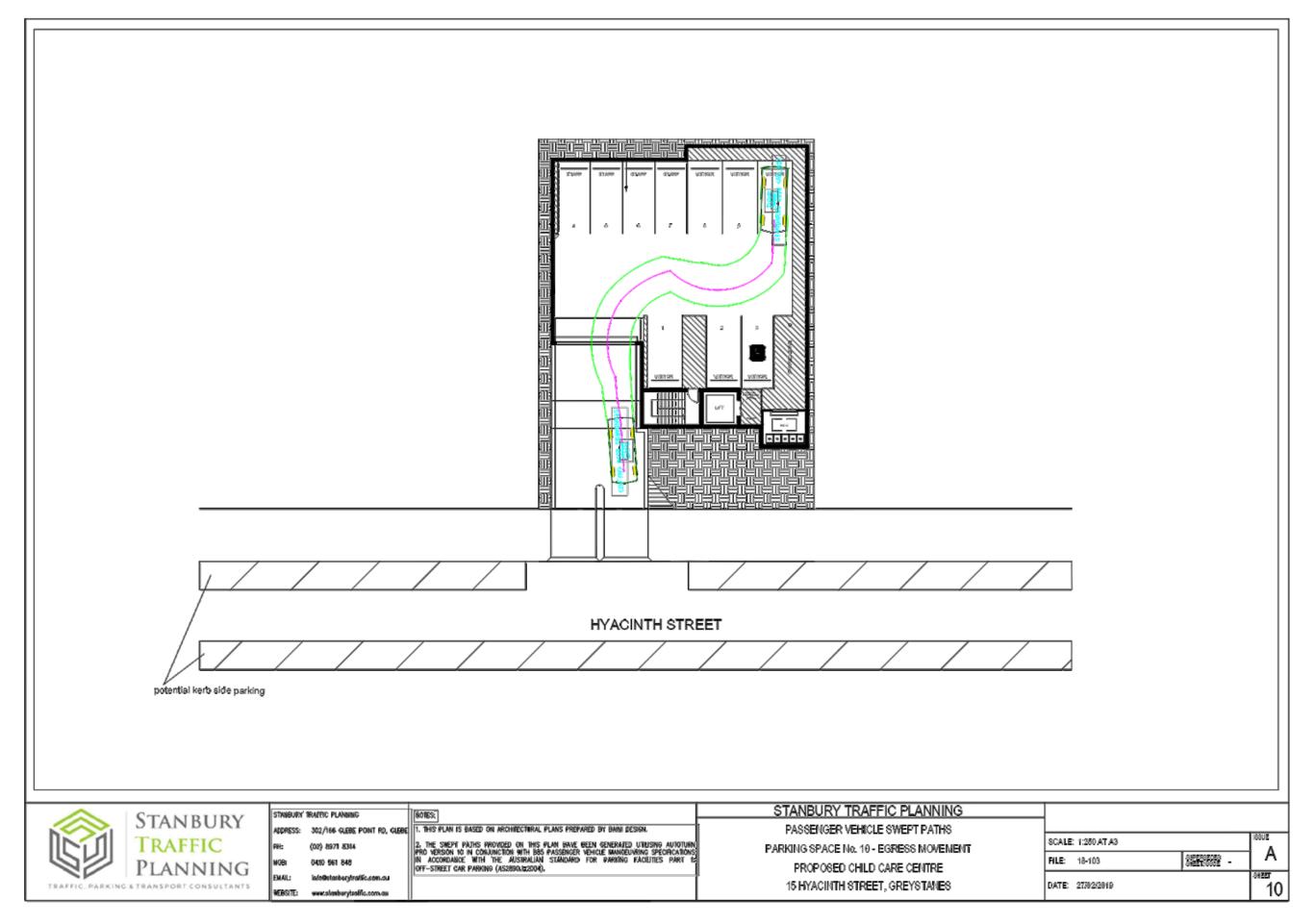




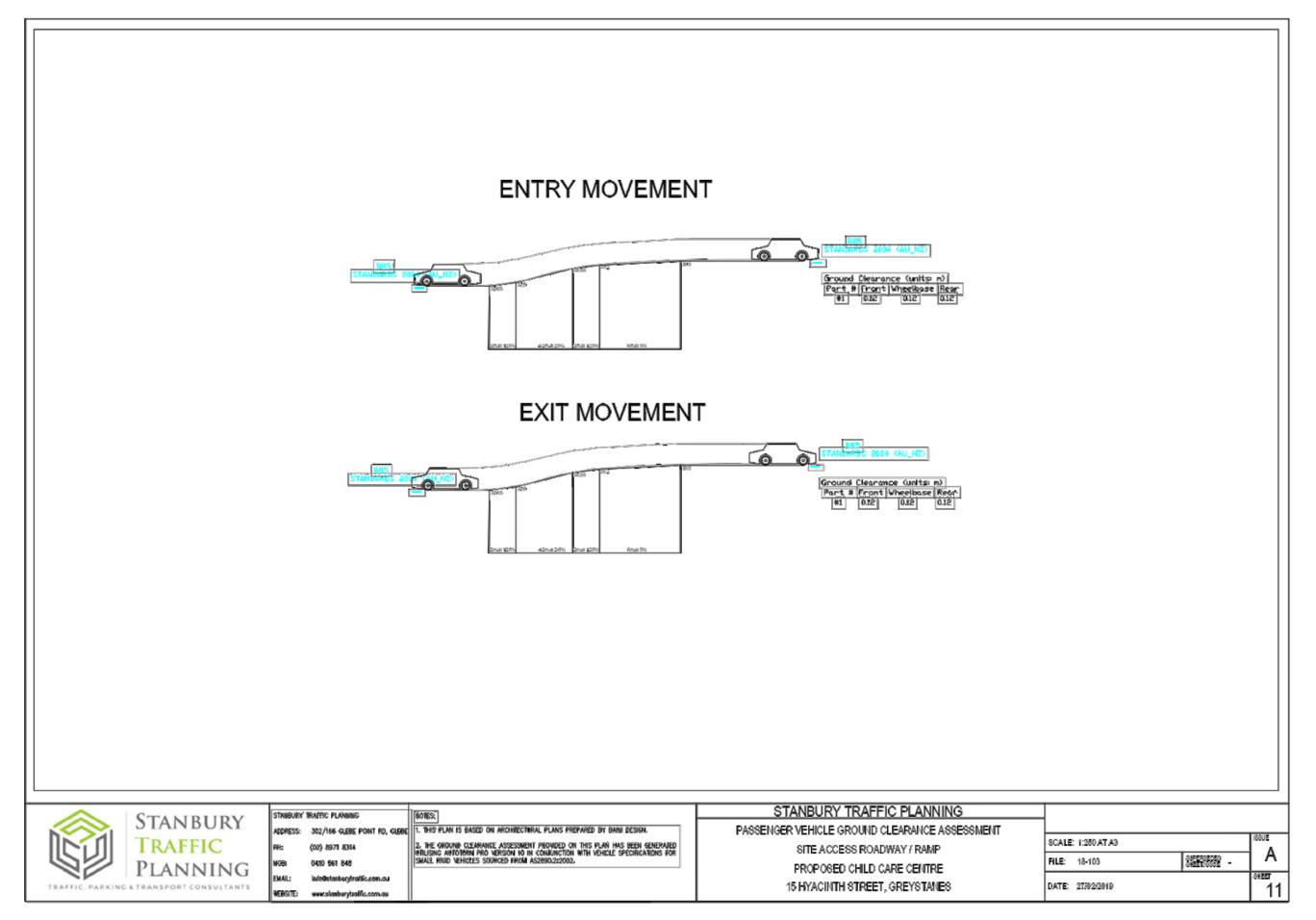














APPENDIX 3

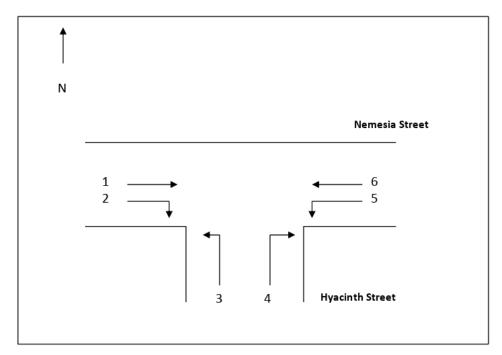




TRAFFIC COUNTS AT: Junction of Nemesia Street & Hyacinth Street, Greystanes

DATE: 21st of February 2019 TIME: 7:00-9:30am & 2:30-6:00pm

Time		Direct	tion of Ve	hicular T	raffic	
	1	2	3	4	5	6
7.00 – 7.15am	1	-	1	4	1	3
7.15 – 7.30am	2	-	1	-	-	4
7.30 – 7.45am	6	-	-	1	-	5
7.45 – 8.00am	4	-	-	1		9
TOTAL	12	0	2	6	1	21
8.00 – 8.15am	1	-	3	1	2	5
8.15 – 8.30am	-	1	1	-	-	1
8.30 – 8.45am	2	2	3	-	1	4
8.45 – 9.00am	3	1	2	-	1	6
TOTAL	6	4	9	1	4	16
9.00 – 9.15am	4	5	2	2	5	5
9.15 – 9.30am	3	-	2	-	2	7
TOTAL	7	5	4	2	7	12
2.30 - 2.45pm	1	2	-	-	-	-
2.45 – 3.00pm	2	1	1	-	2	1
3.00 – 3.15pm	5	2	-	2	5	8
3.15 – 3.30pm	5	5	1	3	1	15
TOTAL	12	9	2	5	8	24
3.30 - 3.45pm	5	3	2	1	1	5
3.45 – 4.00pm	3	1	2	1	1	3
4.00 – 4.15pm	3	2	2	-	1	4
4.15 – 4.30pm	3	2	-	-	2	1
TOTAL	14	8	6	2	5	13
4.30 – 4.45pm	1	2	-	-	1	2
4.45 – 5.00pm	1	4	-	-	2	3
5.00 – 5.15pm	5	4	2	-	3	4
5.15 – 5.30pm	2	4	1	2	3	2
TOTAL	9	14	3	2	9	11
5.30 – 5.45pm	6	2	1	1	1	-
5.45 – 6.00pm	1	2	1		2	1
TOTAL	7	4	2	1	3	1





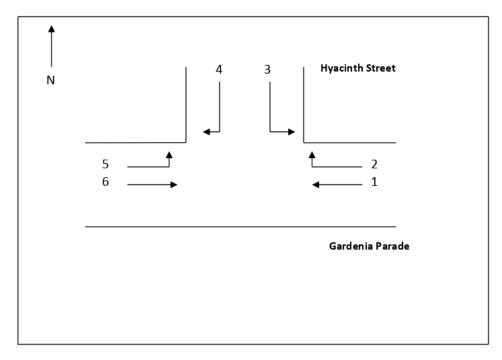


TRAFFIC COUNTS AT: Junction of Gardenia Parade & Hyacinth Street, Greystanes

DATE: 21st of February 2019

TIME: 7:00 – 9:00am & 2:30 – 6:00pm

Time		Direct	tion of Ve	hicular T	raffic	
	1	2	3	4	5	6
7.00 – 7.15am	2	-	-	-	-	2
7.15 – 7.30am	1	-	-	-	-	1
7.30 – 7.45am	5	-	1	-	-	2
7.45 – 8.00am	2	-		-	-	4
TOTAL	9	0	1	0	0	9
8.00 – 8.15am	-	2	1	-	-	-
8.15 – 8.30am	3	1	-	1	1	4
8.30 – 8.45am	5	2	-	-	2	5
8.45 – 9.00am	3	4	1	1	-	-
TOTAL	11	9	2	2	3	9
9.00 – 9.15am	1	1	1	2	2	2
9.15 – 9.30am	1					4
TOTAL	2	1	1	2	2	6
2.30 - 2.45pm	4	-	-	-	-	3
2.45 – 3.00pm	3	1	-	-	1	1
3.00 - 3.15pm	6	2	-	-	3	2
3.15 – 3.30pm	4	1	4	1		4
TOTAL	17	4	4	11	4	10
3.30 – 3.45pm		1	2	1	1	2
3.45 – 4.00pm	2	-	-	-	-	-
4.00 – 4.15pm	-	2	-	-	-	1
4.15 – 4.30pm	1	1	-	-	-	1
TOTAL	3	4	2	1	1	4
4.30 – 4.45pm	2	1	2	1	2	-
4.45 – 5.00pm	3	-	1	-	-	1
5.00 - 5.15pm	-	1	1	3	1	1
5.15 – 5.30pm		3	2		1	3
TOTAL	5	5	6	4	4	5
5.30 – 5.45pm	3	-	-	-	1	5
5.45 – 6.00pm	1	-	-	-	-	2
TOTAL	4	0	0	0	1	7





APPENDIX 4



MOVEMENT SUMMARY

∇ Site: [Nemesia Street & Hyacinth Street]

Existing AM Site Category: (None) Giveway / Yield (Two-Way)

Move	Movement Performance - Vehicles											
Mov ID	Turn	Demand f Total veh/h	Flows HV %	Deg. Satn v/c	Average Delay sec	Level of Service	95% Back Vehicles veh	of Queue Distance m	Prop. Queued	Effective Stop Rate	Aver. No. Cycles	
South	: Hyacin	th Street										
1	L2	9	5.0	0.007	5.7	LOSA	0.0	0.2	80.0	0.55	0.08	53.2
3	R2	2	5.0	0.007	5.7	LOSA	0.0	0.2	80.0	0.55	0.08	52.6
Appro	ach	11	5.0	0.007	5.7	LOSA	0.0	0.2	0.08	0.55	0.08	53.1
East:	Nemesia	a Street East	t									
4	L2	9	5.0	0.017	5.6	LOSA	0.0	0.0	0.00	0.17	0.00	56.7
5	T1	22	5.0	0.017	0.0	LOS A	0.0	0.0	0.00	0.17	0.00	58.4
Appro	ach	31	5.0	0.017	1.6	NA	0.0	0.0	0.00	0.17	0.00	57.9
West:	Nemesi	a Street Wes	st									
11	T1	12	5.0	0.011	0.1	LOSA	0.0	0.3	80.0	0.23	0.08	57.6
12	R2	8	5.0	0.011	5.6	LOSA	0.0	0.3	0.08	0.23	0.08	55.3
Appro	ach	20	5.0	0.011	2.3	NA	0.0	0.3	0.08	0.23	0.08	56.7
All Vel	hicles	62	5.0	0.017	2.5	NA	0.0	0.3	0.04	0.26	0.04	56.6

Site Level of Service (LOS) Method: Delay (RTA NSW). Site LOS Method is specified in the Parameter Settings dialog (Site tab). Vehicle movement LOS values are based on average delay per movement.

Minor Road Approach LOS values are based on average delay for all vehicle movements.

NA: Intersection LOS and Major Road Approach LOS values are Not Applicable for two-way sign control since the average delay is not a good LOS measure due to zero delays associated with major road movements.

SIDRA Standard Delay Model is used. Control Delay includes Geometric Delay.

Gap-Acceptance Capacity: SIDRA Standard (Akçelik M3D).

HV (%) values are calculated for All Movement Classes of All Heavy Vehicle Model Designation.

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MOVEMENT SUMMARY

∇ Site: [Nemesia Street & Hyacinth Street]

Existing PM Site Category: (None) Giveway / Yield (Two-Way)

Move	Movement Performance - Vehicles											
Mov ID	Turn	Demand I Total veh/h	Flows HV %	Deg. Satn v/c	Average Delay sec	Level of Service	95% Back Vehicles veh	of Queue Distance m	Prop. Queued	Effective Stop Rate	Aver. No. Cycles	
South	: Hyacin	th Street										
1	L2	2	5.0	0.005	5.7	LOSA	0.0	0.1	0.09	0.56	0.09	53.2
3	R2	5	5.0	0.005	5.7	LOSA	0.0	0.1	0.09	0.56	0.09	52.6
Appro	ach	7	5.0	0.005	5.7	LOSA	0.0	0.1	0.09	0.56	0.09	52.8
East:	Nemesia	a Street East	t									
4	L2	8	5.0	0.017	5.6	LOSA	0.0	0.0	0.00	0.15	0.00	56.9
5	T1	24	5.0	0.017	0.0	LOS A	0.0	0.0	0.00	0.15	0.00	58.7
Appro	ach	32	5.0	0.017	1.4	NA	0.0	0.0	0.00	0.15	0.00	58.2
West:	Nemesi	a Street We	st									
11	T1	12	5.0	0.012	0.1	LOSA	0.0	0.3	80.0	0.25	0.08	57.5
12	R2	9	5.0	0.012	5.6	LOS A	0.0	0.3	0.08	0.25	0.08	55.1
Appro	ach	21	5.0	0.012	2.4	NA	0.0	0.3	0.08	0.25	0.08	56.5
All Ve	hicles	60	5.0	0.017	2.3	NA	0.0	0.3	0.04	0.23	0.04	56.9

Site Level of Service (LOS) Method: Delay (RTA NSW). Site LOS Method is specified in the Parameter Settings dialog (Site tab). Vehicle movement LOS values are based on average delay per movement.

Minor Road Approach LOS values are based on average delay for all vehicle movements.

NA: Intersection LOS and Major Road Approach LOS values are Not Applicable for two-way sign control since the average delay is not a good LOS measure due to zero delays associated with major road movements.

SIDRA Standard Delay Model is used. Control Delay includes Geometric Delay.

Gap-Acceptance Capacity: SIDRA Standard (Akçelik M3D).

HV (%) values are calculated for All Movement Classes of All Heavy Vehicle Model Designation.

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MOVEMENT SUMMARY

∇ Site: [Gardenia Parade & Hyacinth Street]

Existing AM Site Category: (None) Giveway / Yield (Two-Way)

Move	Movement Performance - Vehicles											
Mov ID	Turn	Demand I Total veh/h	Flows HV %	Deg. Satn v/c	Average Delay sec	Level of Service	95% Back Vehicles veh	of Queue Distance m	Prop. Queued	Effective Stop Rate	Aver. No. Cycles	
East:	Gardenia	a Parade Ea	ıst									
5	T1	10	5.0	0.009	0.0	LOS A	0.0	0.2	0.05	0.24	0.05	57.7
6	R2	7	5.0	0.009	5.5	LOSA	0.0	0.2	0.05	0.24	0.05	55.3
Appro	ach	17	5.0	0.009	2.3	NA	0.0	0.2	0.05	0.24	0.05	56.7
North	Hyacint	th Street										
7	L2	2	5.0	0.004	5.6	LOSA	0.0	0.1	0.06	0.57	0.06	53.3
9	R2	3	5.0	0.004	5.6	LOSA	0.0	0.1	0.06	0.57	0.06	52.7
Appro	ach	5	5.0	0.004	5.6	LOSA	0.0	0.1	0.06	0.57	0.06	52.9
West:	Gardeni	ia Parade W	'est									
10	L2	4	5.0	0.008	5.6	LOS A	0.0	0.0	0.00	0.16	0.00	56.8
11	T1	11	5.0	0.008	0.0	LOSA	0.0	0.0	0.00	0.16	0.00	58.6
Appro	ach	15	5.0	0.008	1.5	NA	0.0	0.0	0.00	0.16	0.00	58.1
All Ve	hicles	37	5.0	0.009	2.4	NA	0.0	0.2	0.03	0.25	0.03	56.7

Site Level of Service (LOS) Method: Delay (RTA NSW). Site LOS Method is specified in the Parameter Settings dialog (Site tab). Vehicle movement LOS values are based on average delay per movement.

Minor Road Approach LOS values are based on average delay for all vehicle movements.

NA: Intersection LOS and Major Road Approach LOS values are Not Applicable for two-way sign control since the average delay is not a good LOS measure due to zero delays associated with major road movements.

SIDRA Standard Delay Model is used. Control Delay includes Geometric Delay.

Gap-Acceptance Capacity: SIDRA Standard (Akçelik M3D).

HV (%) values are calculated for All Movement Classes of All Heavy Vehicle Model Designation.

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MOVEMENT SUMMARY

∇ Site: [Gardenia Parade & Hyacinth Street]

Existing PM Site Category: (None) Giveway / Yield (Two-Way)

Movement Performance - Vehicles												
Mov ID	Turn	Demand f Total veh/h	Flows HV %	Deg. Satn v/c	Average Delay sec	Level of Service	95% Back Vehicles veh	of Queue Distance m	Prop. Queued	Effective Stop Rate	Aver. No. Cycles	
East:	Gardenia	a Parade Ea	ıst									
5	T1	17	5.0	0.011	0.0	LOS A	0.0	0.2	0.03	0.11	0.03	58.9
6	R2	4	5.0	0.011	5.5	LOSA	0.0	0.2	0.03	0.11	0.03	56.4
Appro	ach	21	5.0	0.011	1.1	NA	0.0	0.2	0.03	0.11	0.03	58.4
North	Hyacint	th Street										
7	L2	4	5.0	0.012	5.6	LOSA	0.0	0.3	0.06	0.57	0.06	53.3
9	R2	11	5.0	0.012	5.6	LOS A	0.0	0.3	0.06	0.57	0.06	52.7
Appro	ach	15	5.0	0.012	5.6	LOSA	0.0	0.3	0.06	0.57	0.06	52.9
West:	Gardeni	ia Parade W	est									
10	L2	4	5.0	0.008	5.6	LOS A	0.0	0.0	0.00	0.17	0.00	56.7
11	T1	10	5.0	0.008	0.0	LOSA	0.0	0.0	0.00	0.17	0.00	58.5
Appro	ach	14	5.0	0.008	1.6	NA	0.0	0.0	0.00	0.17	0.00	57.9
All Ve	hicles	50	5.0	0.012	2.6	NA	0.0	0.3	0.03	0.27	0.03	56.5

Site Level of Service (LOS) Method: Delay (RTA NSW). Site LOS Method is specified in the Parameter Settings dialog (Site tab). Vehicle movement LOS values are based on average delay per movement.

Minor Road Approach LOS values are based on average delay for all vehicle movements.

NA: Intersection LOS and Major Road Approach LOS values are Not Applicable for two-way sign control since the average delay is not a good LOS measure due to zero delays associated with major road movements.

SIDRA Standard Delay Model is used. Control Delay includes Geometric Delay.

Gap-Acceptance Capacity: SIDRA Standard (Akçelik M3D).

HV (%) values are calculated for All Movement Classes of All Heavy Vehicle Model Designation.

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APPENDIX 5





PARKING DEMAND SURVEY HYACINTH STREET, GREYSTANES 21 FEBRUARY 2019									
Time		Number of Parking Spaces Occupied							
	Eastern Side	Western Side	Total						
	Capacity = 22	Capacity = 24	Capacity = 46						
MORNING PERIOD									
7:00am	2	1	3						
7:15am	2	1	3						
7:30am	2	1	3						
7:45am	1	1	2						
8:00am	1	1	2						
8:15am	2	1	3						
8:30am	3	1	1						
8:45am	3	1	1						
9:00am	2	3	5						
9:15am	7	3	10						
9:30am	4	2	6						
AFTERNOON PERI	OD								
2:30pm	5	2	7						
2:45pm	5	2	7						
3:00pm	6	3	9						
3:15pm	10	9	19						
3:30pm	6	3	9						
3:45pm	3	1	4						
4:00pm	4	1	5						
4:15pm	5	1	6						
4:30pm	4	2	6						
4:45pm	5	2	7						
5:00pm	5	3	8						
5:15pm	7	3	10						
5:30pm	9	3	12						
5:45pm	9	3	12						
6:00pm	9	3	12						

Notes:

 ${\bf 1.} \quad \text{Kerb-side parking within Hyacinth Street is unrestricted along both kerb alignments}.$

DOCUMENTS ASSOCIATED WITH REPORT LPP073/19

Attachment 11 Submissions



.- 9 SEP 2019

Hyacinth Street

Greystanes. 2145

9th September 2019

Ref 2018/284/2

Dania Elassie

Let me reference our previous expressions of disgust at your approval to grant the building of a child care centre in narrow Hyacinth Street, adding to the congestion experienced in the morning and afternoons that we suffer now.

You have on record our reaction to the plan of which I get the feeling that despite our protestations it was a forgone conclusion with the "planning group" and no matter who or how many turned up to protest is was just a gesture on the council's part.

We also get the feeling that it was always going to increase from 26 to 30 and maybe more depending on the developer's resources and wishes.

I also feel that it's just a grab for more money while granting developments that don't suit the environment.

The community feel totally gutted to think we voted in councillors that had in mind to grant developers wishes at whatever cost to the neighbourhood.

You have lost a lot of "customers", who's vote you will lose next election.

To quote a famous saying "Let them eat cake", it shows insensitivity to or incomprehension of the realities for the people.

R.I.P. good community planning.

With respect



Hyacinth Street Greystanes

Please find my submission to the proposal at 15 Hyacinth Street Greystanes DA2018/284/2.

I am a resident in Hyacinth Street and would like to raise the following concerns with the proposed amended development proposal for a child care centre at 15 Hyacinth St Greystanes.

Concerns with Amendment 2

- 1. This amended application seeks to amend the conditions placed upon the amended application determined by the Cumberland Local Planning Panel.
- This amended application seeks to move the recommended tree for deep soil planting into the north west corner of the property increasing the risk that its root structure and branches will interfere and overhang the adjoining properties.
- 3. It is assumed that the Planning Panel proposed this condition to ensure the patrons of the child care centre benefitted from the benefits of a mature size tree within the property.
- 4. This proposed amendment seeks to incur additional risk and maintenance obligations to the adjoining properties.
- This amended proposal seeks also to remove a small storage shed and garden plantings to increase the permissible playing area in the outside play area. The landscape 3D impressions submitted with this amendment still show the foliage on the southern boundary.

General Concerns

We still oppose this development for the additional noise, traffic, parking arrangements and unsuitable location on a mid block that does not enhance or suit the local character of the street.

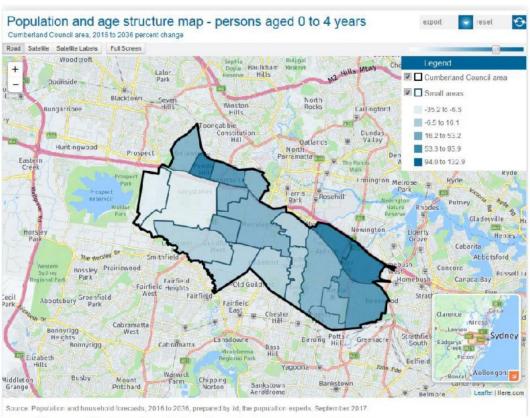
I request that recent series of proposed amendments are refused.



Appendix for population and demand for future child care.

In the absence of a published child care study into the demand of child care within the local area, I have attempted to define a rough estimate of the potential number of customers for this facility based on current local population and forecast population estimates in the Cumberland Council Communityld website.

I have also identified the latest public information on child care locations and plotted the locations in a heatmap for Greystanes.



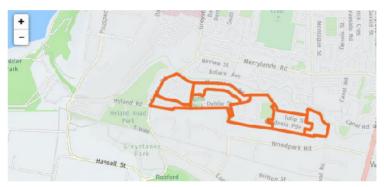
https://forecast.id.com.au/cumberland/population-age-structure-map



Using the following Statistical Areas from the ABS, an estimate of the population for the Flower Estate has been used to pro-rata the local demand for child care within the Flower Estate. Using the Flower Estate total of 2,600 population for 2016 and then using the Greystanes age profile from the Population ID website.

The 0-4 age group yields approximately 188 children, and if evenly spread across the ages, this leaves approximately 110 children in total for the 2-5 year old bracket. This would be a maximum potential catchment as some children would not require child care, attend every day or attend within area where parents may have access to work based child care.

Selected Statistical Area 1 sourced from https://atlas.id.com.au/cumberland



Cumberland Council, Population density, 2016, Usual residence, Persons, Persons per hectare

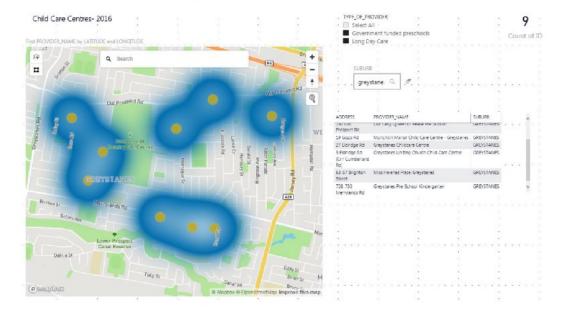
SA1	Density	Population	Hectares
1148253	29.14	225	7.72
1148252	33.91	438	12.92
1148245	21.7	447	20.6
1148244	31.62	434	13.72
1148236	38.23	546	14.28
1148243	36.41	314	8.62
1148235	36.37	196	5.39
	Total	2600	



	2016	2026	2036					
	2016	2026	2036					
Age group (years)	2600	%	2678		2758.3		Change	
0 to 4	188	7.2	167	6.2	169	6.3	-19	loss of 19
5 to 9	192	7.4	179	6.7	176	6.6	-16	
10 to 14	155	5.9	185	6.9	177	6.6	22	
15 to 19	152	5.8	183	6.8	176	6.6	24	
20 to 24	167	6.4	149	5.6	159	5.9	-8	
25 to 29	155	6.0	150	5.6	158	5.9	3	
30 to 34	180	6.9	168	6.3	165	6.2	-15	
35 to 39	191	7.4	173	6.5	172	6.4	-19	
40 to 44	178	6.8	181	6.7	177	6.6	-1	
45 to 49	158	6.1	184	6.9	175	6.5	18	
50 to 54	155	6.0	170	6.4	170	6.3	15	
55 to 59	135	5.2	151	5.6	164	6.1	28	
60 to 64	138	5.3	140	5.2	147	5.5	9	
65 to 69	161	6.2	112	4.2	120	4.5	-41	
70 to 74	126	4.9	110	4.1	110	4.1	-16	
75 to 79	80	3.1	124	4.6	93	3.5	13	
80 to 84	50	1.9	87	3.2	81	3.0	31	
85 and over	38	1.5	66	2.5	87	3.2	48	
	2600	100.0	2678		2678			



Child care centre locations in Greystanes - 2016





Sent: Monday, 16 September 2019 10:08 AM

To: Olivia Yana

Subject: Re: DA-284/2018 GREYSTANES - 15 Hyacinth Street

Good morning Olivia,

It it with regret that we once again revisit this unwanted & unwarranted development in our street.

Having had their application approved by the "Independent Planning Board", it proves that greed and money are the only objectives for this developer.

I stated in my original objection letter that this was not a financial viable development and this has now been proven. If they were doing this for the betterment or the community, then 26 places should be more than adequate but no, they want more.

From what I can see in the revised plans, not a lot has changed, cosmetic at best is all I can say. A shrub removed here and there, the lose of a shed, nothing major yet they want more children coming in which equates to more \$\$\$\$\$\$.

As for the need for this development in the first place, I did a ring-a-round to several daycare centres within a few kilometres (see below) and the results show that there are vacancies in all of them, so why the need for another centre.

1



The approved application for a centre in Camellia Street has still not materialised and has been placed on sale and subsequently withdrawn from sale, so why the need for another unwanted development??

Toys amd Tots
Level 2/30 Watkin Tench parade
Fridays available
Miss Helena's place
Brighton Street Greystanes
Monday and Fridays available
Crayonz Child Care Centre
118 Whalans road Greystanes
All 5 days available
Greystanes Preschool and Kindergarten
730 Merrylands Rd, Greystanes NSW 2145
all 5 day available
TLC
Early education and care centres
27 Eldridge Rd, Greystanes NSW 2145
Monday, Thursday Friday available
Smarties Preschool and Long Day Care Centre
1 Jason St, Greystanes NSW 2145
all 5 days available for under 2yrs and over 2yrs
First Academy Preschool Childcare Centre
2



134 Old Prospect Rd, Greystanes NSW 2145

5 days available across all age groups.

I hope that this goes to show in some way that this development was not and is still not required in our subdivision and that council decline this application outright.

Regards



Diep Hang

From:

Sent:

Monday, 16 September 2019 9:17 AM

To:

Records Department

Subject:

Submission (public): DA-284/2018.2 GREYSTANES - DA's - 15 Hyacinth ST,

GREYSTANES NSW 2145

Please enter the details of your public submission below (attachments can be included if necessary);

We have concerns over street congestion. The street is congested as it is especially with a school in the street already. The street is very narrow especially with cars parked on both sides.



15th September, 2019

Hyacinth St Greystanes

Attention: Diep Hang

RE: DA 2018/284/2 - 15 Hyacinth St Greystanes

My wife and I are residents in Hyacinth Street, Greystanes and would like to once again raise the ongoing concerns with the proposed development at 15 Hyacinth St Greystanes. As you aware, we along with other residents of Hyacinth Street have raised our concerns previously with this proposed development and our views have not changed.

We would like to take this opportunity once again to outline our ongoing strong objections to this proposal.

- As previously stated, this will be the first non-residential development in the street and does not
 reflect the quiet nature of this suburban street. The Child Care Guidelines as issued by the NSW
 government state that a child care should "respond and enhance the qualities and identity of the
 area, including adjacent sites, streetscapes and neighbourhood". This proposed development
 clearly goes against what these guidelines advise.
- 2. Having a non-residential development on our street will also devalue the value of our property significantly as it does not fit within the nature and landscape of our street. The introduction of a non-residential development within a mid-block suburban street does not respect and reflect the local heritage and nature of our street and neighbourhood, once again going against what the Child Care guidelines advise.
- 3. Furthermore to the above point, the location of this proposed development in context of the surrounding neighbourhood also does not make practical sense. Situated in suburbia and away from main roads, this would mean as a parent you would need to be going out of your way to pick up and drop off your child. As a parent, this is not an attraction point when considering location of child care. There are no other child care centre facilities within this estate as it is a residential area and should remain that way. We believe this development is for commercial activity and does not benefit the community or reflect the local character of this community.
- 4. Despite there being allocated underground parking, this is not practical. Being parents of a young child ourselves, we have first-hand experience in how much space is required to remove a young child from a car seat. Although the car park spaces may provide the compliant width required, this is not practical when you need to have the car door wide open to comfortably and practically remove and place a child in the car seat. The tight nature of the underground car park is also not attractive to parents who will more than likely park on the street for ease and practicality, in turn creating an overflow of traffic onto the street which has always been one of our main concerns. There are also not sufficient parking spots for staff, hence staff will likely park on the street as well creating more unwanted traffic.
- 5. There are still ongoing concerns in regards to noise and acoustics and how it will be controlled. With predicted traffic flows during the peak times this is significantly going to increase not only the traffic flow that the street does not see on a day to day basis but also the added traffic noise that comes with cars coming and going, this is not comparable to any typical situation and onstreet events that would occur every day. The underground basement car park will not be a sufficient control of noise as parents will not likely use it.



6. There is also united concern amongst residents regarding how emergency vehicles or garbage disposal trucks will make their way up and down the street if cars are parked on both sides of the road. As previously demonstrated to you in photos, the street can only accommodate one vehicle going up or down the street if cars are parked on both sides.

In summary, the proposed development of the child care centre does not fit within the nature and streetscape of this residential area. It will create increased traffic and noise that does not belong in a quiet suburban street.

We DO NOT support this application.

Thank you for your consideration.

Hyacinth Street Greystanes, 2145

DOCUMENTS ASSOCIATED WITH REPORT LPP073/19

Attachment 12 Minutes of CLPP Meeting held on 16 April 2019





Extraordinary Cumberland Local Planning Panel Meeting 16 April 2019

Minutes of the Extraordinary Cumberland Local Planning Panel Meeting held at Merrylands Administration Building, 16 Memorial Avenue, Merrylands on Tuesday 16 April 2019.

PRESENT:

C-- - - I-- ---

Julie Walsh (Chairperson), Brian Kirk, Michael Ryan and Irene Simms.

IN ATTENDANCE:

Karl Okorn, Monica Cologna, Sohail Faridy, Bianca Chiu, Esra Calim, Somer Ammar, Laith Jammal.

NOTICE OF LIVE STREAMING OF CUMBERLAND LOCAL PLANNING PANEL MEETING

The Chairperson advised that the Cumberland Local Planning meeting was being streamed live on Council's website and members of the public must ensure their speech to the Panel is respectful and use appropriate language.

The meeting here opened at 11:30a.m.

DECLARATIONS OF INTEREST:

There were no declarations of interest.

ADDRESS BY INVITED SPEAKERS:

The following persons had made application to address the Cumberland Local Planning Panel meeting:

14 - - - N - C. - I-: - - 4

Speakers	Item No. Subject
Brad Delapierre	Development Application 5-7 Bransgrove Street and 1-3 Irwin Place, Wentworthville
Alan Thompson	Development Application for 15 Hyacinth Street, Greystanes
Marilyn Power	Development Application for 15 Hyacinth Street, Greystanes
Jonathon Wood	Development Application for 15 Hyacinth Street, Greystanes
Geoff Burton	Development Application for 15 Hyacinth Street, Greystanes
Raymond Ishak	Development Application for 15 Hyacinth Street, Greystanes
Peter Israel	Development Application for 2-22 Willian Street, Granville

The Chairperson enquired to those present in the Gallery as to whether there were any further persons who would like to address the Panel.





Extraordinary Cumberland Local Planning Panel Meeting 16 April 2019

Speakers

Item No. Subject

The open session of the meeting here closed at 11:57a.m.

The closed session of the meeting here opened at 11:58a.m.

ITEM EELPP020/19 - DEVELOPMENT APPLICATION 5-7 BRANSGROVE STREET AND 1-3 IRWIN PLACE, WENTWORTHVILLE

RESOLVED:

- That Development Application 2018/123/1 for demolition of existing structures, consolidation of 4 lots into 1 lot, construction of a 5 storey residential flat building over basement parking accommodating 48 units and 47 parking spaces under Affordable Rental Housing SEPP 2009, be approved under Deferred Commencement, subject to the attached conditions, provided at Attachment 5.
- 2. The Panel notes the minor increase in height and has considered the applicants written request to vary the development standard pursuant to clause 4.6. The Panel considers that the Clause 4.6 request is well founded, and that the minor variation to the development standard is acceptable in the circumstances of the case and will not result in any unacceptable environmental impacts.
- 3. Amendment to condition 35 Affordable Housing as follows:

A minimum of thirteen (13) units, being units 1, 4, 5, 11, 14, 15, 21, 24, 25, 31, 34 and 35 and Unit 3 (53.51m²) as identified on the plans listed in condition 2; shall be nominated for the purpose of affordable housing prior to the issue of Construction Certificate.

4. Amendment to condition 38 Accessibility as follows:

Prior to the issue of a Construction Certificate, plans must be submitted to the Principal Certifying Authority, indicating that the new development has been designed to comply with Adaptable Housing requirements as per AS4299-1995 – *Adaptable Housing.* In this regard, Units 3, 8, 13, 18, 23, 28, 33 and 38 as identified on the plans listed in condition 2 shall be nominated as adaptable units.





Extraordinary Cumberland Local Planning Panel Meeting 16 April 2019

Amendment to condition 160 Restriction as to User as follows:

For a period of at least 10 years from the date of the issue of the Occupation Certificate:

- i) A minimum of 1,075.81m² of the gross floor area (being Units 1, 3, 4, 5, 11, 14, 15, 21, 24, 25, 31, 34 and 35 as identified on the plans listed in condition 2) must be used for the purpose of affordable housing as defined for the purposes of State Environmental Planning Policy (Affordable Rental Housing) 2009; and
- ii) All accommodation that is used for affordable housing shall be managed by a registered community housing provider. Details of the registered community housing provider agreement shall be provided to Council prior to occupation of the premises.
 - a) A positive covenant being registered on the title to the property under Section 88E of the Conveyancing Act, to give effect to part (i) of this condition. Such covenant shall not be revoked or modified without prior approval of Council. The covenant shall be registered before the issue of an Occupation Certificate.
 - b) The rental amount of the affordable units is to meet the requirement of Part 1 Clause 6 (1) of State Environmental Planning Policy (Affordable Rental Housing) 2009.

Amendment to condition 161 as follows:

A restriction as to user must be registered, before the date of the issue of the Occupation Certificate, against the title of the property, in accordance with Section 88E of the Conveyancing Act 1919, to ensure that the requirements of Condition 160, requiring the use of Units 1, 3, 4, 5, 11, 14, 15, 21, 24, 25, 31, 34 and 35 as identified on the plans listed in condition 2 (being a minimum GFA of 1,075.81m²) for the purpose of affordable housing under the Affordable Rental Housing SEPP 2009, that accommodation must be managed by a registered community housing provider.

Documents giving effect to the creation of a Restriction on Use must be submitted to the Council for approval prior to lodging with Land and Property Information NSW. The terms of the instruments are to be to the satisfaction of Council.

Council is to be named in the instrument as the only party authorised to release, vary or modify the instrument.

Registered title documents showing the covenants and restrictions must be submitted to and approved by Council prior to the issue of any Occupation Certificate.

The restriction to use and any associated documentation must be prepared and registered at the sole cost of the applicant, including the reasonable costs of Council in obtaining legal advice on the restriction terms, the cost and expense of





Extraordinary Cumberland Local Planning Panel Meeting 16 April 2019

negotiating the terms and conditions of the restriction, producing documents or otherwise facilitating the preparation and registration of the required documents.

7. Amendment to condition 164 Use for Affordable Housing as follows:

Units 1, 3, 4, 5, 11, 14, 15, 21, 24, 25, 31, 34 and 35 as identified on the plans in condition 2 (being minimum GFA of 1,075.81m²); must be used for the purposes of affordable housing under the Affordable Rental Housing SEPP 2009, and that accommodation must be managed for the purposes of affordable housing by a registered community housing provider for a period of 10 years from the date of the issue of the occupation certificate

For: Julie Walsh (Chairperson), Brian Kirk, Michael Ryan and Irene Simms. **Against**: Nil.

Reason:

1. The Panel generally concurs with the Council Officer's report and recommendation subject to a minor refinement to the conditions as set out above.

ITEM EELPP021/19 - DEVELOPMENT APPLICATION FOR 15 HYACINTH STREET, GREYSTANES

RESOLVED:

 That Development Application 2018/284/1 for demolition of existing structures and construction of a two storey, 26 place child care centre over basement parking accommodating 10 parking spaces on land at 15 Hyacinth Street, Greystanes, be Approved as a deferred commencement consent, subject to the below deferred commencement conditions and conditions provided at Attachment 1.

2. Deferred commencement conditions

- a. Car space numbered 10 (visitor) on drawing number 05 (floor plans) is to be deleted and that portion of the basement is to be cut back accordingly. The corresponding ground area is to be provided for deep soil planting and be suitably landscaped, including one mature canopy tree capable of achieving a height of 6 metres.
- b. The width of car space 4 (staff) on drawing number 05 (floor plans) is to be increased to 2.7 metres.

3. Amendment to condition 168 as follows:

For the purposes of preserving the amenity of neighbouring occupations and residents, hours of operation; including the operation of all plant and machinery; are to be restricted to between 7.00am and 6.00pm Monday to Friday. All deliveries shall occur only during the approved hours of operation. Any use of the childcare centre outside those hours for meetings, training, early drop-offs, late





Extraordinary Cumberland Local Planning Panel Meeting 16 April 2019

pick-ups, cleaning, maintenance etc will require an amended acoustic report to be prepared and modification to the Development Consent for the approved hours of use.

Amendment to conditions 139 and 177 Operational Management Plan as follows:

An Operational Management Plan (OMP) shall be prepared and submitted to Council prior to the issue of an Occupation Certificate and be approved by Council's Manager Development Assessment and reviewed on a regular basis. The plan shall detail how the Childcare Centre will be managed to minimise impact on neighbouring properties (particularly on-street parking). The OMP should include but not be limited to the below:

- a) Drop off / pick up time is staged and occurs within the basement carpark area,
- b) Encourage staff and parents to use public transport,
- c) Advice parents to not park outside neighbouring properties and respect residents' amenity,
- d) Regular monitoring of off-street and on-street parking,
- e) The Noise Management plan prepared by Rodney Stevens Acoustics, Reference R180318NMP1, Revision 0, dated 11 February 2019 as amended to satisfy Condition 15, and
- f) Any other conditions of this consent relevant to operational management of the centre.

The Operational Management Plan (OMP) shall be reviewed on regular basis to ensure all road safety conditions are adequately addressed. Any changes to the OMP are to be submitted to and approved by Council's Manager Development Assessment.

5. Amendment to Condition 179 as follows:

Nine (9) on site car parking spaces numbered and linemarked in accordance with the endorsed plan, are to be made available at all times for employees and visitors' vehicles only in conjunction with the occupation of the building/premises at 15 Hyacinth Street, Greystanes.

6. That the applicant and those persons who lodged a submission in respect of the application be notified of the determination of the application.

For: Julie Walsh (Chairperson), Brian Kirk, Michael Ryan and Irene Simms. **Against**: Nil.

Reason:

- 1. The Panel generally concurs with the Council Officer's report and recommendation subject to the amendments to the conditions as set out above.
- 2. The Panel notes the extensive amount of impervious area proposed and having regard to the reduction in the approved number of children, it is considered appropriate to reduce the number of basement car spaces and allow a corresponding increase in the amount of area for deep soil planting on the site.





Extraordinary Cumberland Local Planning Panel Meeting 16 April 2019

 The Panel has considered the objections raised and considers that the proposal is appropriate having regard to the provisions of State Environmental Planning policy (Educational Establishments and Childcare Facilities) 2017 subject to conditions as modified above.

ITEM EELPP022/19 - PLANNING PROPOSAL REQUEST FOR 2-22 WILLIAM STREET, GRANVILLE

RESOLVED:

The Panel recommends that:

- Council proceed with the preparation of a Planning Proposal for 2-22 William Street, Granville (Lots 18 – 31 DP 2371 and SP 31488), with the following development standards:
 - a floor space ratio of 1.7:1; and
 - · a maximum building height of 16m;
- A voluntary planning agreement be negotiated between Council and the Proponent to ensure a public benefit is derived from the uplifting value that this planning proposal will achieve.
- Council prepare site specific development controls that prohibit rooftop communal open space, specify the maximum number of storeys, and ensures an appropriate transition in built form between the higher density development on the site and neighbouring low density dwellings.
- 4. The proponent undertake the following, prior to any demolition approval if allowed:
- prepare an archival recording of the heritage item at 10 William Street as per the NSW OEH Guideline How to prepare archival records of heritage items:
- organise for an interpretation strategy to be prepared by a qualified heritage consultant for the group of three cottages at 6, 8 and 10 William Street, and for this strategy to be integrated into any proposed development in accordance with The Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance 2013, and the NSW OEH documents namely Interpreting Heritage Places and Items Guidelines 2005, and the Heritage Interpretation Policy 2005. The interpretation strategy should also integrate the reuse of any salvaged material; and





Extraordinary Cumberland Local Planning Panel Meeting 16 April 2019

 organise for a qualified heritage consultant to prepare a list of items and materials to be salvaged. Any material identified for salvaging should be photographed, tagged and catalogued by a heritage consultant and stored until reused in a secure, weather-proof location. The location of the storage should be ascertained by the proponent in consultation with Cumberland Council.

For: Julie Walsh (Chairperson), Brian Kirk, Michael Ryan and Irene Simms. **Against**: Nil.

The closed session of the meeting here closed at 1:50p.m

The open session of the meeting here opened at 1:51p.m. The Chairperson delivered the Cumberland Local Planning Panel's resolutions to the Public Gallery.

The meeting terminated at 1:55p.m.

Signed:

Julie Walsh Chairperson

DOCUMENTS ASSOCIATED WITH REPORT LPP073/19

Attachment 13 Original Consent (DA 2018/284/1)





Our Reference: Contact: Phone:

2018/284 Ms O Yana 8757 9544

ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979 NOTICE OF DETERMINATION OF APPLICATION

DEFERRED COMMENCEMENT

16 April 2019

Baini Design PO Box 2402 NORTH PARRAMATTA NSW 1750

Dear Sir/Madam

Pursuant to Section 4.16(3) of the Act, Council has granted conditional approval to your Development Application described as follows:

PROPERTY:

Lot 29 in DP 239685

STREET ADDRESS:

15 Hyacinth Street GREYSTANES

DEVELOPMENT CONSENT NO:

2018/284/1

DECISION:

Cumberland Local Planning Panel

DATE FROM WHICH CONSENT OPERATES: TO BE ADVISED UPON SATISFACTORY

COMPLETION OF SCHEDULE 'A'

DATE OF EXPIRY OF CONSENT: TO BE ADVISED UPON SATISFACTORY

COMPLETION OF SCHEDULE 'A'

PROPOSED DEVELOPMENT:

Demolition of existing structures and construction of

a 26 place two storey, child care centre over

basement parking accommodating 9 parking spaces

This Development Application is APPROVED in accordance with the Environmental Planning & Assessment Act 1979 and is subject to compliance with the requirements of Cumberland Council, the Building Code of Australia, the Local Government Act 1993, and the following conditions as set out hereunder and/or endorsed upon the attached plans.

THIS CONSENT DOES NOT OPERATE UNTIL COUNCIL IS SATISFIED THAT ALL SCHEDULE 'A' CONDITIONS HAVE BEEN SATISFIED.

16 Memorial Avenue, PO Box 42, Merrylands NSW 2160 T 02 8757 9000 F 02 9840 9734 E council@cumberland.nsw.gov.au W cumberland.nsw.gov.au ABN 22 798 563 329

Welcome Belong Succeed

LPP073/19 - Attachment 13 Page 563



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SCHEDULE "A"

Consent to the demolition of existing structures and construction of a 26 place two storey, child care centre over basement parking accommodating 9 parking spaces shall not operate until all of the following Schedule "A" conditions have been complied with to Council's satisfaction.

- 1. Car space numbered 10 (visitor) on drawing number 05 (floor plans) is to be deleted and that portion of the basement is to be cut back accordingly. The corresponding ground area is to be provided for deep soil planting and be suitably landscaped, including one mature canopy tree capable of achieving a height of 6 metres.
- 2. The width of car space 4 (staff) on drawing number 05 (floor plans) is to be increased to 2.7 metres.

In accordance with clause 95(3) of the Environmental Planning and Assessment Regulation 2000, you must produce evidence to the Council within a period of <u>2 years</u>, sufficient enough for Council to be able to be satisfied of the above matters.

If evidence is produced within the specified period, in accordance with Clause 95(5) of the Regulation, Council will notify you whether or not it is satisfied as to the above matters and whether or not the consent will operate.

* * * * * * * * * * * * * * *



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SCHEDULE "B"

This consent cannot operate until such time as Council is satisfied with the evidence produced in response to Schedule "A" and has notified the applicant in writing of the date from which the consent operates.

PRELIMINARY

- 1. This consent shall lapse if the above development is not physically commenced by the date of expiry shown on the front page of this Consent.
- Development shall take place in accordance with the following endorsed plans and documents:
 - Architectural Plans prepared by Baini Design, Job No. 18156, Drawing No. 05, dated 06/07/17, Drawing No. 06, dated 07/17/18, Drawing No. 03, 07, 10, and 12, dated 08/07/18, Drawing No. 14, dated 02/12/19 as amended to satisfy Schedule A, Conditions 14 and 15;
 - Acoustic fencing/Slimwall prepared by Slimwall Next Generation Fencing, Drawing Nos. S0, S1, S3, S4 & S12 (Rev B dated 31 July 2015) and Nos. S2, S5-S11 inclusive (Rev A dated 25 February 2015);
 - Stormwater Management Plans prepared by M.M. Farah Civil/Structural Pty Ltd, Job Nos. SW-15 HYNCINTH, Sheet No. 1 and 2 of 2, dated 22 February 2019 (OSD Plan No.2019-065) – as amended to satisfy Schedule A;
 - Landscape plan prepared by Outside in Design Group Pty Ltd, Drawing No L-01, Issue E, dated 28 February 2019 – as amended to satisfy Schedule A;
 - Acoustic Impact Assessment prepared by Rodney Stevens Acoustics, Reference R180318R2, Revision 1, dated 11 February 2019;
 - Noise Management plan prepared by Rodney Stevens Acoustics, Reference R180318NMP1, Revision 0, dated 11 February 2019 – as amended to satisfy Condition 15;
 - Arboricultural Assessment and Tree Management Plan prepared by Horticultural Management Services, dated 15 February 2019; and
 - Waste management plan prepared by Baini Design, dated 8 August 2018.
 - except as otherwise provided by the conditions of this determination and/or amended in red.
- 3. All building work shall be carried out in accordance with the requirements of the Building Code of Australia. Fully detailed plans including fire safety details shall be submitted with the Construction Certificate application. No work is to commence until such time as a Construction Certificate is obtained for the work/building permitted by this Consent.



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Appointment of Council or a Private Certifier as the Principal Certifying Authority (PCA)

Either Council or a Private Certifier is to be appointed as the Principal Certifying Authority (PCA) for the development in accordance with Section 109E of the Act.

Accordingly, wherever reference is made to the Principal Certifying Authority in this Consent, it refers to Council or the Private Certifier as chosen by you.

Note: Once you have chosen either Council or a Private Certifier as the PCA, you cannot change from one to the other, or from one Private Certifier or another, without the approval of Department of Planning & Infrastructure.

- The applicant shall consult with, as required:
 - (a) Sydney Water Corporation Limited
 - (b) Integral Energy
 - (c) Natural Gas Company
 - (d) A local telecommunications carrier

regarding their requirements for the provision of services to the development and the location of existing services that may be affected by proposed works, either on site or on the adjacent public road(s).

The proposed structure/s are to be located clear of existing Council easements. Special footings will be required where the proposed/existing structures are adjacent to a drainage easement. The footings shall be taken down to the invert level of the existing drainage structure or to solid rock, whichever is the lesser. The footing depth may decrease by 500mm for every 1000mm increment in distance the footing is from the easement boundary.

The footing system is to be designed by a practising professional structural engineer.

7. Building materials, builders sheds, waste bins, site fencing, gates or any material of any description shall not be left or placed on any footway, road or nature strip. Footways and nature strips shall be maintained, including the cutting of vegetation, so as not to become unsightly or a hazard for pedestrians. Offenders will be prosecuted.

Child Care Centres

- An approval shall be obtained from Department of Education and Communities (DEC) prior to commencement of operations. The number of children cared for in the new centre shall not exceed 26 aged up to 5 years.
- 9. Compliance with the Education and Care Services National Regulations is required.
 - **N.B.** The subject Development Consent issued by Council does not imply or otherwise verify compliance with the Regulation.



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Demolition

- 10. In the event that demolition is to occur prior to the issue/release of a Construction Certificate, all relevant fees and bonds such as the demolition inspection fee, kerb & gutter and tree protection bonds shall be paid in full to Council prior to demolition commencing (as per the relevant conditions elsewhere in this Development Consent). Furthermore, the applicant/developer is to ensure that all relevant conditions in this Development Consent relating to the protection of the site, adjoining lands and trees are adhered to in full prior to commencement of any demolition works.
- Permission is granted for the nominated demolition works on the property, subject to strict compliance with the following:
 - a) Demolition is to be carried out in accordance with the applicable provisions of Australian Standard AS2601-2001 Demolition of Structures. Note: Developers are reminded that WorkCover requires that all plant and equipment used in demolition work must comply with the relevant Australian Standards and manufacturer specifications. a) The developer is to notify owners and occupiers of premises on either side, opposite and at the rear of the development site 5 working days prior to demolition. Such notification is to be a clearly written on A4 size paper giving the date demolition will commence and is to be placed in the letterbox of every premises (including every residential flat or unit, if any) either side, immediately at the rear of, and directly opposite the demolition site. The demolition must not commence prior to the date stated in the notification.
 - b) 5 working days (i.e., Monday to Friday with the exclusion of Public Holidays) notice in writing is to be given to Cumberland Council for inspection of the site prior to the commencement of works. Such written notice is to include the date when demolition will commence and details of the name, address, business hours, contact telephone number and licence number of the demolisher. Works are not to commence prior to Council's inspection and works must also not commence prior to the commencement date nominated in the written notice.
 - c) On the first day of demolition, work is not to commence until Cumberland Council has inspected the site. Should the building to be demolished be found to be wholly or partly clad with asbestos cement, approval to commence demolition will not be given until Council is satisfied that all measures are in place so as to comply with WorkCover's document "Your Guide to Working with Asbestos", a copy of which accompanies this Development Consent and demolition works must at all times comply with its requirements.
 - d) On demolition sites where buildings to be demolished contain asbestos cement, a standard commercially manufactured sign containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm is to be erected in a prominent visible position on the site to the satisfaction of Council's officers. Advice on the availability of these signs can be obtained by telephoning Council's Customer Service Centre during business hours on 8757 9000. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site to an approved waste facility. This condition is imposed for the purpose of worker and public safety and to ensure compliance with Clause 259(2)(c) of the Occupational Health and Safety Regulation 2001.



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- Demolition shall not commence until all trees required to be retained/transplanted are protected in accordance with those conditions stipulated under "Prior to Works Commencing" in this Consent.
- f) All previously connected services are to be appropriately disconnected as part of the demolition works. The applicant is obliged to consult with the various service authorities regarding their requirements for the disconnection of services.
- g) Demolition works involving the removal and disposal of asbestos cement must only be undertaken by contractors who hold a current WorkCover "Demolition Licence" and a current WorkCover "Class 2 (Restricted) Asbestos Licence".
- h) Demolition is to be completed within 5 days of commencement.
- Demolition works are restricted to Monday to Friday between the hours of 7.00am to 6.00pm. No demolition works are to be undertaken on Saturdays, Sundays or Public Holidays.
- j) Protective fencing is to be installed to prevent public access to the site.
- k) All asbestos laden waste, including asbestos cement flat and corrugated sheets must be disposed of at a tipping facility licensed by the Office of Environment and Heritage (OEH).
- Before demolition operations begin, the property shall be connected to the sewer of Sydney Water to which a pedestal pan shall be temporarily connected for the use as the employees' toilet service during demolition operations.
- m) After completion, the applicant shall notify Cumberland Council within 7 days to assess the site and ensure compliance with AS2601-2001 – Demolition of Structures.

NOTE: The person responsible for disposing of the above asbestos waste is to telephone the OEH on (02) 9995 5000 or Council's Waste Officer on (02) 8757 9000 to determine the location of a tip licensed to receive asbestos. Within fourteen (14) days of the completion of demolition works, the applicant must lodge with Council, all original weighbridge receipts issued by the receiving tip as evidence of proper disposal.

- n) Within 14 days of completion of demolition, the applicant shall submit to Council:
 - An asbestos clearance certificate carried out by a licensed asbestos assessor (normally a NATA accredited occupational hygienist), or a person who has the knowledge and skills to be a licensed assessor, regardless of whether or not they are licensed; and
 - ii) A signed statement verifying that demolition work and the recycling of materials was undertaken in accordance with the Waste Management Plan approved with this consent under DCP 2013 Part A, Section 11.0. In reviewing such documentation Council will require the provision of original weighbridge receipts for the recycling/disposal of all materials; and

Note: To find a list of NATA accredited facilities visit the NATA website at www.nata.asn.au and under 'Facilities and Labs' click on 'Facilities List by Field', then click on 'Chemical Testing', then click on 'Asbestos' and finally click on 'identification'. A list of laboratories will be produced which you can contact for the purpose of having a clearance certificate issued.

12. Payment of \$470.00 fee for inspection by Council of the demolition site prior to commencement of any demolition works.



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Signage

13. No approval is granted or implied for the installation of signage in association with the proposed use. Separate Consent is required.

NOTE: FEES, BONDS & CONTRIBUTIONS INDICATED IN CONDITIONS OF THIS CONSENT MAY VARY IN ACCORDANCE WITH THOSE ADOPTED BY COUNCIL AT SUBSEQUENT ANNUAL REVIEWS OF ITS "FEES AND CHARGES" AND SUBSEQUENT CHANGES TO THE BUILDING PRICE INDEX. FEES CHARGED WILL BE THOSE CURRENT AT THE TIME OF PAYMENT.



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PRIOR TO ISSUE/RELEASE OF CONSTRUCTION CERTIFICATE/PRELIMINARY CONDITIONS FOR DEMOLITION

The following conditions must be complied with prior to the issue of a Construction Certificate, or where relevant prior to demolition occurring. In many cases the conditions require certain details to be included with or incorporated in the detailed plans and specifications which accompany the Construction Certificate:

Amended Plans

- 14. Amended plans shall be submitted to the Principal Certifying Authority, prior to the issue of a Construction Certificate addressing the following issues:
 - a) Finished floor level of indoor play area for age 3 5 years old shall be increased to RL 40.80m AHD minimum.
 - b) A 2.1m high acoustic fence as measured from the finished floor level of the outdoor play area shall be constructed entirely within the subject property.
 - c) All boundary fence on top of retaining wall with the fence height exceeding 2.4m as measured from the lower adjacent ground level, shall be constructed of transparent Perspex/lattice type of materials in its place.
 - d) At least 7 on site car parking spaces are to be allocated to visitors.
- 15. Prior to the issue of a construction certificate, amended plans/documents are to be submitted to Council's Manager of Development Assessment to address the following:
 - a) A soil assessment for the site of the proposed education and care service premises shall be undertaken by an appropriately qualified consultant as required by the Child Care Planning Guideline issued by NSW Department of Planning and Environment.
 - b) Noise Management plan prepared by Rodney Stevens Acoustics, Reference R180318NMP1, Revision 0, dated 11 February 2019 shall be reviewed and updated to reference the endorsed Acoustic Impact Assessment prepared by Rodney Stevens Acoustics, Reference R180318R2, Revision 1, dated 11 February 2019.

Payment of Bonds, Fees and Long Service Levy

The Principal Certifying Authority is to ensure and obtain written proof that all bonds, fees and contributions as required by this consent have been paid to the applicable authority. This includes all Long Service Levy payments to be made to the Long Service Payments Corporation.

Damage Deposit

17. A cash bond/bank guarantee of \$2,780.00 must be paid/lodged with Council to cover making good any damage caused to the property of Council, during the course of construction associated with the development. This will be held for 'six (6) months after the



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completion of works' or six (6) months after the issue of 'Final Occupation Certificate' (whichever occurs last) to remedy any defects that may arise within this time.

Note:- The applicant/owner shall be held responsible for and may be required to pay the full reinstatement costs for damage caused to Council's property, unless the applicant/owner notifies Council in writing and provides photographic proof of any existing damage to Council's property. Such notification shall occur prior to works/demolition commencing. However, if in the opinion of Council, during the course of construction existing damage has worsened, Council may require full reinstatement. If damage does occur during the course of construction, prior to reinstating any damage to Council's property, the applicant/owner shall obtain design specifications of all proposed restoration works. Restoration/construction works within the road reserve shall be carried out by a licensed construction contractor at the applicant/owners expense and shall be inspected by Council prior to placement of concrete and/or asphalt.

Consistency with Endorsed Development Consent Plans

18. The Principal Certifying Authority must ensure that any certified plans forming part of the Construction Certificate, are in accordance with the Development Consent plans.

Landscape Inspection Fee

19. Payment of a \$372.00 fee for the inspection by Council of landscape works and/or trees to be retained at the key stages, where Council is the Principal Certifying Authority.

Engineering Fees and Bonds

- Payment of a \$609.00 fee for the inspection by Council of the stormwater drainage and Onsite Stormwater Detention System at the key stages, where Council is the Principal Certifying Authority.
- 21. The applicant shall lodge with Council a \$3,000 cash bond or bank guarantee to cover the removal of redundant vehicular crossings and laybacks along the full road frontage and replacement with kerb and gutter. This bond will be held for 'Six (6) months after the completion of works' or issue of a 'Final Occupation Certificate' (whichever occurs last) to remedy and defects that may arise within this time.
- 22. The applicant shall lodge with Council a \$6,135 cash bond to cover the registration of a Positive Covenant and Restriction as to User over the Onsite Stormwater Detention System. This bond is refundable upon the submission of proof of registration of the Restriction on Use and Positive Covenant with the Land and Property Information NSW.

Construction and Traffic Management Plan

23. A Traffic Management Plan shall be lodged with Council for any road and drainage works to be carried out within public road reserves, or where construction activity impacts on traffic flow or pedestrian access, in strict compliance with the requirements of Australian Standard 1742.3 (Traffic Control Devices for Works on Roads). In this regard, the applicant shall pay Council a \$428.00 fee for the assessment of the Traffic Management



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Plan by Council, prior to commencing works within the road reserves. A copy of the approved Traffic Management Plan shall be kept on site during the course of construction for reference and compliance.

- 24. The applicant shall also provide a Construction and Traffic Management Plan, prepared by a suitably qualified consultant and submitted to Council for approval. The following matters must be specifically addressed in the Plan:
 - i. A plan view (min 1:100 scale) of the entire site and frontage roadways indicating:
 - Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways;
 - b) Signage type and location to manage pedestrians in the vicinity;
 - c) The locations of any proposed Work Zones in the frontage roadways note:
 Work Zone fees apply in accordance with Council's Fees and Charges;
 - d) Locations and type of any hoardings proposed along all street frontages;
 - e) Area of site sheds and the like;
 - f) Location of any proposed crane standing areas;
 - g) A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries;
 - Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected;
 - ii. A Traffic Control Plan for the site must be prepared for approval by Council incorporating the following:
 - a) Traffic control devices proposed in the road reserve must in accordance with the RMS publication "Traffic Control Worksite Manual" and designed by a person licensed to do so with appropriate qualification. The main stages of the development requiring specific construction management measures shall be identified and specific traffic control measures identified for each.
 - b) A detailed description and route map of the proposed route for vehicles involved in spoil removal, material delivery and machine floatage must be provided detailing: -
 - Light traffic roads and those subject to a load or height limit must be avoided at all times; and
 - A copy of this route is to be made available to all contractors, and shall be clearly depicted at a location within the site.
 - Evidence of RMS concurrence where construction access is provided directly or within 20m of an Arterial Road.



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d) A schedule of site inductions to be held on regular occasions and as determined necessary to ensure all new employees are aware of the construction management obligations. These must specify that construction-related vehicles to comply with the approved requirements;

Council's adopted fee for certification of compliance with this condition shall be payable on lodgement, or in any event, prior to the issue of the relevant approval.

- iii. Any use of Council property shall require appropriate approvals and demonstration of liability insurances prior to such work commencing.
- iv. Failure to provide complete and detailed information may result in delays. It is recommended that your Construction and Traffic Management Plan be lodged with Council as early as possible.
- v. Dependent on the circumstances of the site, Council may request additional information to that detailed above.
- vi. Subject to an application for the occupation of public roadway or footway (Section 138, Local government Act 1993), and covered by a minimum Public Liability cover of \$20,000,000. Cumberland Council shall be named on the certificate of currency as an interested party.

Traffic Conditions

- 25. The applicant shall provide 'No Stopping' parking restrictions along the frontage of the site. The proposed 'No Stopping' parking restrictions is subject to Council's Traffic Committee approval. In this regard, plan shall be provided to Council's Traffic Committee meeting four weeks prior to meeting date.
 - Note: contact Council's Traffic Engineer to include an item for the proposed 'No Stopping' parking restrictions on Hyacinth Street along the frontage of the site.
- 26. Any required adjustment to utility services, trees, signs and other street furniture requires approval of the appropriate authority shall be undertaken by the applicant. All cost associated with the proposed works shall be borne from the applicant and at no cost to Council.
- Any works requiring closure of any road or footway closure will require submission of a Council's Temporary Road Closure application form and payment of fees.
- 28. Signs and line marking plans for the car parking area (e.g. parking spaces, internal arrows, Give-way signs, pedestrian crossing/walkways etc.) shall be prepared prior to the issue of Construction Certificate and to be in accordance with AS 2890.1-2004, AS 2890.6-2009 and the endorsed plans.

Sight Distance

29. To maintain sight distance to pedestrians, all fencing and landscaping within 2.0m of a driveway shall have a maximum height of 1.0 m and 50% transparent above a height of



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0.5m. All solid posts higher than 0.5m (but lower than 1m) shall have a maximum width 350mm and a minimum spacing of 1.2m.

Basement Drainage

- 30. Basement drainage system shall comply with Council's Stormwater DCP. Basement below ground and above ground storage volumes shall be calculated in accordance with Section 7.3 C12 of the DCP. Detail calculations shall be provided.
- 31. Submit engineering details and manufacturers specifications for the pumps and switching system including a plot of the system curve against the pump curve.

Access Ramp

- 32. A long section of the access ramps to basements shall be submitted showing all gradients and dimensions. The transitions shall be checked for scraping and bottoming out in accordance with AS2890.1:2004 for B85 vehicles. Also the following shall be addressed:
 - Boundary line levels at the Hyacinth Street frontage shall be obtained from Council. The levels shall provide adequate protection to the basement from stormwater flows within the road reserve.
 - The maximum gradient for the first 6m shall be 5%.
 - iii. A minimum clear headroom clearance of 2.2m shall be available for vehicles for the full travel length and manoeuvring areas (including turning area).
 - iv. The ramp shall be designed to comply with the relevant Australian Standards.

On-site detention

- 33. The development has been identified as requiring an on-site storm water detention (OSD) system which has formed part of the development consent. Therefore, in order to satisfy the drainage requirements for the building, any construction certificate for the building shall include the construction of the OSD system. In this regard, design and construction details of the OSD system demonstrating compliance with the development consent, OSD plan number 2019-065 and council's on-site detention policy shall be submitted to the certifying authority prior to the issue of a construction certificate. The system shall generally be in accordance with the stamped approved drawings however the following shall also be addressed:
 - i. All pipe sizes and grades shall be annotated on the plan.
 - ii. A safety fence or an equivalent barrier shall be provided where there is a vertical drop of greater than 500mm from a walkway into an above ground basin area.
 - iii. All mulch to landscaped areas of the above ground basin shall be non-floatable (ie rock/gravel or similar).
 - iv. A minimum of 85% of the site area shall be discharged to storage in accordance with Council's OSD policy.



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v. The maximum head to orifice centre and the same for high early discharge as shown in the plan doesn't correspond to the calculations.

Required Submissions to Certifying Authority

- 34. If the development likely to disturb or impact upon telecommunications infrastructure, written confirmation from the service provider that they have agreed to the proposed works must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate or any works commencing, whichever occurs first.
- 35. The arrangements and costs associated with any adjustment to telecommunications infrastructure shall be borne in full by the applicant/developer.
- 36. Retaining walls greater than 1.0m above finished ground level or other approved methods necessary to prevent the movement of excavated or filled ground, together with associated stormwater drainage measures, shall be designed by an appropriately qualified person. Details are to be included with any Construction Certificate application.
- 37. Structural engineer's details (in duplicate) prepared and certified by a practising qualified structural engineer of all reinforced concrete and structural members shall be submitted to the Principal Certifying Authority.
- 38. Details for compliance with the Disability (Access to Premises Buildings) Standards 2010 are required to be submitted to the Principal Certifying Authority with the Construction Certificate application.
- 39. An emergency evacuation plan shall be submitted to the Principal Certifying Authority with the Construction Certificate application.
- 40. The colour and finishes of the proposed driveway shall be constructed in accordance with Section 2, Part I of Holroyd Development Control Plan 2013 Part I.2.
- An acoustic report for all associated mechanical ventilation system to be installed on the site outlining acoustic treatment is to be submitted and approved by the Principal Certifying Authority.

Acoustic

42. All recommendations contained in the Acoustic Impact Assessment prepared by Rodney Stevens Acoustics, Reference R180318R2, Revision 1, dated 11 February 2019 shall be adopted, implemented, and adhered to.

Tree Protection

43. The recommendations stated in the 'Arboricultural Impact Assessment and Tree Management Plan', particularly the 'Tree Management Plan' as per Section 12.0, prepared by Horticultural Management Services, dated 15 February 2019, shall be complied with at all times. Details demonstrating compliance with the recommendations of this report shall be submitted to the Principal Certifying Authority for approval.



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Salinity

44. The site has been identified as having a potential salinity hazard. To prevent moisture/salinity from entering the built structure, appropriate construction methods are to be incorporated for all buildings. Details of proposed methods of construction are to be detailed in the engineering plans and submitted to the PCA.

Note: Further information for building in a saline environment is available in the following documents:

- "Building in Saline Environment" prepared by DIPNR 2003.
- Water Sensitive Urban Design in the Sydney Regions "Practice Note 12: Urban Salinity"
- Wagga Wagga City Council's "Urban Salinity Action" October 1999
- "Guide to Residential Slabs and Footings in Saline Environments" prepared by Cement Concrete and Aggregates Australia, May 2005

Sydney Water

45. A building plan approval must be obtained from Sydney Water Tap In™ to ensure the development will not affect any sewer, water or stormwater mains or easements.

A copy of the building plan approval receipt from Sydney Water must be submitted to the certifying authority, prior to the issue of a construction certificate.

Please go to sydneywater.com.au/tapin to apply.

Fire Safety Upgrading & Essential Services

46. The Construction Certificate is to include a schedule specifying all of the essential fire or other safety measures that are required for the building or premises to ensure the safety of persons in the building in the event of fire.

External Walls and Cladding Flammability

- The external walls of the building including attachments must comply with the relevant requirements of the National Construction Code (NCC). Prior to the issue of a Construction Certificate, the Certifying Authority and Principal Certifying Authority must:
 - Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the relevant requirements of the NCC; and
 - b) Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built.



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PRIOR TO DEMOLITION / WORKS COMMENCING

The following conditions are to be complied with prior to demolition / any works commencing on the site:

Appointment of Principal Certifying Authority and Notification of Commencement of Work

- 48. The person having the benefit of the development consent, not the principal contractor (builder), must:
 - a) Appoint a Principal Certifying Authority in accordance with Section 6.6 of the Act.
 - b) Have the Principal Certifying Authority complete the 'Accredited Certifier Details' on the approved form provided by Council for this purpose, an original of which is attached to this Development Consent.
 - c) Notify Council of the appointment of the Principal Certifying Authority and of the intention to commence building work, such notification is to be given to Council at least two (2) working days prior to the proposed commencement date, and be on the approved form provided by Council for this purpose, an original of which is attached to this Development Consent.

If nominated, Council can provide this service for you and act as the Principal Certifying Authority.

N.B. The Principal Certifying Authority must also notify the person having the benefit of the Development Consent of any mandatory critical stage inspections and other inspections that are to be carried out in respect of the building work such notification must comply with Clause 103A of the Regulations.

Notification of Principal Contractor (Builder)/Owner-Builder

- 49. The person having the benefit of the Development Consent must:
 - a) Notify the Principal Certifying Authority that the person will carry out the work as an owner-builder, if that is the case;

OR

- b) Appoint a Principal Contractor for the building work (who must be the holder of a contractor licence if any residential building work is involved), and notify the Principal Contractor of any mandatory critical stage inspections and other inspections that are to be carried out in respect of the building work.
- c) Notify the Principal Certifying Authority of any such appointment.

Where Council is the Principal Certifying Authority, such notification is to be on the approved form provided by Council for this purpose, an original of which is attached to this Development Consent.



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Required Submissions to Council or the Principal Certifying Authority

- 50. To facilitate a complete assessment and enable the Certifying Authority to check compliance on site, truss validation and design, details certified by a qualified practising structural engineer shall be submitted to Council or the Principal Certifying Authority for examination and approval. Details shall include:
 - a) job address and builder's name
 - b) design wind velocity
 - c) terrain category
 - d) truss spacing
 - e) roof pitch
 - f) material of roof
 - g) roof batten/purlin spacing
 - h) material of ceiling
 - i) job number

Photographic Record of Council Property - Damage Deposit

51. The applicant shall submit to Council, for the purposes of the damage deposit bond lodged to cover making good any damage caused to the property of Council, a full and satisfactory photographic record of the condition of Council's property (i.e., road pavement, kerb and guttering, footway, stormwater drainage, etc.) adjacent to the subject site. The purpose of the photographic record is to establish any pre-existing damage to Council's property to ensure that you are not liable for any re-instatement works associated with that damage. However, if in the opinion of Council, the existing damage has worsened or any new damage is caused during the course of construction, the Council may require either part or full re-instatement.

Note: Failure to provide a full and satisfactory photographic record described above, is likely to render the applicant liable to rectify all damages unless satisfactory proof can be provided that the damage was pre-existing.

Notification to Relevant Public Authority

52. The applicant shall ensure that relevant public utility authorities are made aware of the salinity problems that have been identified within the subject site by the Department of Land and Water Conservation, such that their services are designed to take into consideration the effects the saline soils may have on their installations.

Fencing of Sites

53. Fencing of sites is required to prevent public access when the site is unoccupied and building works are not in progress. In this regard the MINIMUM acceptable standard of fencing to the site is properly constructed chain wire fencing 1.8m high, clad internally with Hessian or Geotextile fabric. All openings are to be provided with gates, such gates are not at any time to swing out from the site or obstruct the footpath or roadway.



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Signs to be Erected on Sites

- 54. A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted **outside working hours** and at any time for business purposes, and
 - c) stating that unauthorised entry to the work site is prohibited.

The sign must be rigid and durable and be read easily by anyone in any public road or other public place adjacent to the site.

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

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

Note: Principal Certifying Authorities and Principal Contractors must also ensure that signs required by this clause are erected and maintained (clause 227A of the Regulations currently imposes a maximum penalty of \$1,100).

Prohibited Signage

55. Advertising, Real Estate Agents, Architects, Designers, site suppliers and any other signage not mentioned in the conditions, is not to be placed or displayed on the site, such that the signage is visible from any public place. Offenders may be prosecuted.

Protection of Public Places

56. A hoarding or fence must be erected between the work site and any public place, if the work involved in the erection or demolition of the building; is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the enclosure of a public place.

If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.

The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.



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Site Control Measures

57. Suitable erosion and sediment control measures shall be provided at all vehicular entry/exit points and all other measures required with and/or shown on plans accompanying the Construction Certificate, to control soil erosion and sedimentation, are to be in place prior to the commencement of construction works. Such controls are to be provided in accordance with Holroyd City Council's "Erosion & Sediment Control Policy."

Note: On-the-spot fines may be issued by council where measures are absent or inadequate.

Footpaving, Kerbing and Guttering

- 58. Protection must be provided for Council footpaving, kerbing and guttering. Wooden mats must also be provided at all entrances where the site fronts paved footpaths.
- 59. Finished street levels shall not be assumed. The owner or builder must make application to Council's Engineering Services Department for street levels.

Support for Neighbouring Buildings

- If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land (including a public road and any other public place), the person causing the excavation to be made:
 - a) must preserve and protect the building from damage, and
 - b) if necessary, must underpin and support the building in an approved manner, and
 - c) must, at least seven (7) days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars to the owner of the building being erected or demolished.

The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land. (In this clause, *allotment of land* includes a public road and any other public place).

61. A dilapidation report of adjoining properties/allotments and details of the proposed excavation works in excess of 2m or within the zone of influence of neighbouring building foundations and required underpinning and supportive measures shall be submitted to the Principal Certifying Authority. Any required underpinning and supportive measures shall be designed by a practising structural engineer and details shall be submitted to the Principal Certifying Authority for approval prior to construction works commencing.

Toilet Facilities

- 62. Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

 Each toilet provided:
 - a) Must be a standard flushing toilet, and
 - b) Must be connected:



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- i) To a public sewer,
- ii) If connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or
- iii) If connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.
- iv) The position of the toilet on the site shall be determined by Council's Building Surveyor and/or Sydney Water.

Tree Protection

- 63. The recommendations stated in the 'Arboricultural Impact Assessment and Tree Management Plan', particularly the 'Tree Management Plan' as per Section 12.0, prepared by Horticultural Management Services, dated 15 February 2019, shall be complied with at all times.
- 64. An Arborist qualified to at least Australian Qualifications Framework (AQF) Certificate Level 4 shall be retained throughout all demolition/construction work to ensure the proper protection and management of the tree/s required to be retained/transplanted and that any necessary pruning work within 1m of the building/s approved, is carried out in accordance with Australian Standard 4373-1996 "Pruning of Amenity Trees". This includes on site supervision of the erection of tree protection measures and, where necessary, any works that are required within tree protection zones.
- 65. The tree/s identified on the endorsed plans as being retained/transplanted shall be protected prior to and throughout the demolition/construction process in accordance with the 'Arboricultural Impact Assessment and Tree Management Plan', particularly the 'Tree Management Plan' as per Section 12.0, prepared by Horticultural Management Services, dated 15 February 2019 for the Protection of Trees On and Adjacent To Demolition/Building sites, and relevant conditions of this Consent. All trees not authorised to be removed by this Consent must be retained. Prior to any work commencing, certification of the installation and inspection of the required tree protection works is to be provided to the Principal Certifying Authority by a suitably qualified person or the Arborist (as appropriate) engaged to ensure the proper protection and management of the tree/s required to be retained/transplanted. A copy of the Certificate is to be issued to Council within seven (7) days of the inspection and prior to any works commencing. Additionally, trees identified for removal are to be retained until immediately prior to works commencing, to assist with soil management and erosion control.
 - 66. Protective fencing is to be installed around the tree/s to be retained/transplanted in line with the outer edge of the canopy which overhangs the site and no further than 0.5m from any buildings. This fencing is to be constructed of chainwire mesh 1.8m high, which is supported by steel stakes or piping and braced to resist impacts. Where appropriate the trunk/s of the tree/s on the site and any street tree/s (which are not to be fenced other than as mentioned above), shall also be protected by vertical timber boards, installed by or under the supervision of a suitably qualified person or the arborist (as appropriate) engaged to ensure the proper protection and management of the trees required to be retained/transplanted to accepted horticultural and TAFE standards.



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Note:Removal of the protective fencing or timber boards during construction work, will affect the Bonds and may result in legal proceedings being instigated by Council against the applicant and builder.

Roadworks

- 67. The applicant is to submit to Council an application for a road opening permit when the drainage connection into Council's system is within the road reserve. In this regard the applicant shall pay Council a relevant fee prior to the commencement of works. Additional road opening permits and fees may be necessary where there are connections to public utility services (eg. telephone, electricity, sewer, water or gas) required within the road reserve.
- 68. The applicant to arrange with the relevant public utility authority the alteration or removal of any affected services in connection with the development. Any such work being carried out at the applicant's cost.

Works Within Council's Reserve

- 69. All works within the Council reserve shall be completed within three (3) weeks of the date of commencement. Council's Development Engineer shall be advised prior to the commencement of works.
- 70. Submission to Council of a Certificate of Currency of the contractor's Workers' Compensation Policy prior to the commencement of works.
- 71. All construction works shall be in accordance with the WorkCover safety requirements. Submission of insurance documentation demonstrating a minimum Public Liability cover of \$20,000,000 is to be submitted prior to commencement of works. Council shall be named on the Certificate of Currency as an interested party.

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DURING DEMOLITION/ CONSTRUCTION

The following conditions are applicable during demolition/construction:-

Endorsed Plans & Specifications

72. A copy of the endorsed stamped plans and specifications, together with a copy of the Development Consent, Construction Certificate and approved Traffic Management Plan are to be retained on site at all times.

Hours of Work & Display of Council Supplied Sign

73. For the purpose of preserving the amenity of neighbouring occupations building work including the delivery of materials to and from the site is to be restricted to the hours of 7.00am to 6.00pm Mondays to Fridays and 8.00am to 4.00pm Saturdays. Work on the site on Sundays and Public Holidays is prohibited. Note: Demolition work is not permitted on weekends or Public Holidays - refer to specific demolition condition for approved hours.

The yellow "Hours of Building Work" sign (supplied by Council with the approval), is to be displayed in a prominent position at the front of the site for the duration of the work.

Site Control

- 74. All soil erosion measures required in accordance with the approved sediment and erosion control plan and any other relevant conditions of this Consent are to be put in place prior to commencement of construction works are to be maintained during the entire construction period until disturbed areas are restored by turfing, paving or revegetation. This includes the provision of turf laid on the nature strip adjacent to the kerb.
- 75. Builder's refuse disposal and storage facilities are to be provided on the development site for the duration of construction works and all rubbish shall be removed from the site upon completion of the project.
- 76. Stockpiles of sand, soil and other material shall be stored clear of any drainage line or easement, tree protection zone, water bodies, footpath, kerb or road surface and shall have erosion and sediment control measures in place to prevent the movement of such materials onto the aforementioned areas and adjoining land.

Asbestos Cement Sheeting

- 77. i) All asbestos cement sheeting must be removed by contractors with an appropriate licence issued by WorkCover and who are familiar with asbestos removal prior to the commencement of:-
 - (a) Recladding or brick veneering of any building where the existing walls to be covered are currently clad with asbestos cement;

OR



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(b) Construction work where new work abuts existing asbestos cement sheeting and/or where parts of the existing building clad with asbestos cement sheeting are to be altered or demolished.

Removal must be carried out strictly in accordance with WorkCover's "Your Guide to Working with Asbestos" (copy attached).

 All asbestos laden waste, including asbestos cement flat and corrugated sheets must be disposed of at a tipping facility licensed by the Office of Environment and Heritage (OEH).

Note: The person responsible for disposing of the above asbestos waste is to telephone the OEH on (02) 9995 5000 or Council's Waste Officer on (02) 8757 9000 to determine the location of a tip licensed to received asbestos. Upon completion of tipping operations the applicant shall lodge with the Council, all receipts issued by the receiving tip as evidence of proper disposal.

iii) Within fourteen (14) days of completion of renovation or recladding or brick veneering works where asbestos cement sheeting was removed, the applicant shall submit to Council an asbestos clearance certificate prepared by a NATA accredited occupational hygienist.

Note: To find a list of NATA accredited facilities visit the NATA website at www.nata.asn.au and under 'Find a Facility or Lab' type in 'asbestos identification' in 'keywords' then click on 'chemical testing' in NSW then click on the search button. A list of laboratories will be produced which you can contact for the purpose of having a clearance certificate issued.

Waste Management Plan

- 78. The approved Waste Management Plan must be implemented and complied with during all stages of works on site.
- 79. Within seven (7) days of completion of construction/building works, the applicant shall submit a signed statement to Council or the Principal Certifying Authority verifying that demolition work and recycling of materials was undertaken in compliance with the Waste Management Plan. The Principal Certifying Authority shall submit a copy of the statement to Council.

In reviewing such documentation Council will require the provision of actual weighbridge receipts for the recycling/disposal of all materials.

Compliance with Critical Stage Inspections and other Inspections nominated by the Principal Certifying Authority

80. Section 6.5 of the Act requires certain specific inspections (prescribed by clause 162A of the Regulations) and known as 'Critical Stage Inspections' to be carried out for building work. Prior to permitting commencement of the work your Principal Certifying Authority is required to give notice of these inspections pursuant to clause 103A of the Regulations.



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N.B. An Occupation Certificate cannot be issued and the building may not be able to be used or occupied where any mandatory critical stage inspections or other inspections required by the Principal Certifying Authority are not carried out.

Where Council is nominated as Principal Certifying Authority, notification of all inspections required is provided with the Construction Certificate approval.

Construction

81. The building and external walls are not to proceed past ground floor formwork/reinforcing steel level until such time as the Principal Certifying Authority has been supplied with a check survey report prepared by a registered surveyor certifying that the floor levels and external wall locations to be constructed, comply with the approved plans, finished floor levels (FFL)s and setbacks to boundary/ies. The slab shall not be poured, nor works continue, until the Principal Certifying Authority has advised the builder/developer that the floor level and external wall setback details shown on the submitted survey are satisfactory.

In the event that Council is not the Principal Certifying Authority, a copy of the survey shall be provided to Council within three (3) working days.

On placement of the concrete, works again shall not continue until the Principal Certifying Authority has issued a Certificate stating that the Condition of approval has been complied with and that the slab has been poured at the approved levels.

Salinity

82. The building and external walls are not to proceed past ground floor formwork/reinforcing steel level until such time as the Principal Certifying Authority has confirmed that all required construction measures addressing salinity, as required by this Consent and its accompanying Construction Certificate have been carried out.

Landscaping/Site Works

- 83. All turfed areas shall be finished level with adjoining surfaces and also fall evenly to approved points of drainage discharge.
- 84. The tree/s identified on the endorsed plans as being retained/transplanted shall be protected against damage throughout the demolition/construction process in accordance with the 'Arboricultural Impact Assessment and Tree Management Plan', particularly the 'Tree Management Plan' as per Section 12.0, prepared by Horticultural Management Services, dated 15 February 2019 for the Protection of Trees On and Adjacent to Demolition/Building Sites and relevant conditions of this Consent.
- 85. A report is to be prepared and submitted to Council by the Arborist engaged to ensure the proper protection and management of the tree/s required to be retained/transplanted that:
 - i) Sets out maintenance work carried out on tree/s; and
 - Assesses the health and condition of the tree/s required to be retained/transplanted and protected.



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The report should also provide documentary evidence that the tree protection conditions are being complied with in the form of site notes and photographs and be provided at three monthly intervals during construction works that are within 5m of any tree.

- 86. The applicant shall accept all responsibility for the accuracy of the information provided to Council for assessment. If any tree/s are not shown on the endorsed plan or are required to be retained/transplanted and protected but are threatened by demolition/construction work through unforeseen construction requirements or plan inaccuracy, all site and building works so affected are to cease until the matter is resolved to the satisfaction of Council. Council's Environmental and Planning Services Department is to be notified immediately upon such a problem being encountered.
- 87. Branches of trees to be retained/transplanted within 1m of the approved building, may be pruned by an Arborist qualified to at least Australian Qualification Framework (AQF) Certificate Level 3 in accordance with Australian Standard AS4373-1996 'Pruning of Amenity Trees' to enable demolition/construction works to occur.

Note: Any other pruning works not authorised by this Consent are subject to the approval of an application for General Tree Works activities.

88. No works are to occur within the fenced tree protection zone. All authorised works/activities within the fenced tree protection zone/s are to be undertaken by hand held equipment under the supervision of the consulting Arborist. No roots over 50mm in diameter are to be cut within the tree protection zone without prior consultation with Council officers or the consulting Arborist.

All roots over 50mm in diameter which are encountered outside the fenced tree protection zone/s are to be cleanly cut and not ripped.

89. In accordance with the Acoustic Impact Assessment prepared by Rodney Stevens Acoustics, Reference R180318R2, Revision 1, dated 11 February 2019, the fencing/barrier along proposed external play area shall be constructed to height of 2.1 metres from the finished floor level. The barrier(s) should be of solid continuous construction (i.e. free of gaps) and of masonry or SlimWall type construction at full cost to the developer.

In all other instances, new 1.8m high lapped and capped timber paling or colorbond fences (colour to be sympathetic with the development) determined in consultation with adjoining property owner(s), are to be erected along and within all side and rear boundaries and between courtyards at full cost to the developer, such fencing to be constructed on or within the property boundary.

In situations where the boundary fence is proposed on top of a retaining wall, the height of the fence (including lattice screen where applicable) shall not exceed a maximum of 2.4m as measured from the lower adjacent ground level. A Statutory Declaration or other documentary evidence of such consultation is to be submitted to the Principal Certifying Authority. Details shall be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate.



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Inspection of On Site Detention Works

- 90. The stormwater drainage works are to be inspected during construction, by the Council or by a suitably qualified Civil Engineer. Documentary evidence of compliance with Council's specifications shall be obtained prior to proceeding to the subsequent stages of construction, encompassing not less than the following key stages:
 - a) Initial inspection to discuss concept and site conditions/constraints prior to commencement of construction of the detention basin/tank.
 - b) Prior to landscaping of detention basin or pouring of the roof of the detention tank.
 - c) After completion of storage but prior to installation of fittings (e.g. orifice plates, screens, flap valves etc.)
 - d) Final Inspection

Council's standard inspection fee will apply to each of the above set inspection key stages. Additional inspection fees will apply for additional inspections required to be undertaken by Council.

Road Works and Footpaving

- 91. Pedestrian access, including disabled and pram access, is to be maintained as per Australian Standard AS1742.3 "Part 3 Traffic Control Devices for Works on Roads".
- 92. All advisory and regulatory sign posting (for example parking restriction signage, pedestrian crossing signs, warning signs) are to remain in place during construction.

Child Care Centre Kitchen

93. The premises are to be constructed and fitted out strictly in accordance with the Australian/New Zealand Food Safety Standards Code 3.2.3 'Food Premises and Equipment' and Australian Standard 4674.2004 Design, Construction & Fit Out of Food Premises.

Underground Power Connection

94. Where electricity reticulation cannot be obtained directly from the street, power connection is to be underground. No intermediate power pole is permitted.

Alarms

- 95. With regard to basement level pump out system, a warning system shall be provided to alert occupants of the building that a basement stormwater pump out failure has occurred, which could cause flooding. As a minimum, the system shall include:
 - a flashing light with warning sign at each pedestrian and vehicular entrance into the basement from outside the building; and



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a warning system, such as an audible alarm with flashing light and warning sign
installed within a common area or areas of the building, such as the ground
floor lobby.

Note: Any audible alarms shall be installed within the building.

Basement Parking

- 96. A convex mirror is to be provided so that drivers can see up the driveway from within the basement.
- 97. An intercom device is to be located:
 - i) on the driver's side wall at the top of the driveway to the basement carpark, so that visitors can access the carparking spaces; and
 - within the basement foyer so that disabled persons can contact any unit if the lift is not working.
- 98. Details of any control device for the roller gates (if proposed) shall be shown on the plans. The control device shall not reduce the width of the access driveway/ramp (i.e. maintain compliance with AS2890.1-2004) and shall not impact on the flow of traffic and road safety.

Vehicle Cleansing

99. Concrete trucks and trucks used for the transportation of building materials shall not traffic soil, cement or similar materials onto the road. Hosing down of vehicle tyres shall be conducted in a suitable off-street area where wash water is prevented from entering the stormwater system or adjoining property.

Importation of Fill

100. All imported fill shall be validated in accordance with Council's Contaminated Land Policy to ensure that it is suitable for the proposed land use from a contamination perspective.

Additional Information during Construction

101. Any new information which comes to light during construction works which has the potential to alter previous conclusions about site contamination, shall be notified to Council immediately.

Fitout of Food Preparation Area

- 102. A rigid smooth faced impervious ceiling shall be provided over the food preparation, cooking and serving areas. The surface finish shall be free of open joints, cracks, crevices or openings with the intersection of the walls and ceiling being tight jointed, sealed and dustproof.
- 103. The ceiling shall be painted with a light coloured washable paint.



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- 104. All fluorescent light fittings shall be fitted with a smooth faced diffuser. The light fitting shall be either recessed so that the diffuser is flush with the ceiling, or designed to ensure that no horizontal surface exists which would allow dust and grease to accumulate.
- 105. Coving is to be provided between all walls and the floor and between the floor and all fittings. This can be achieved by coving tiles, cement render, or by turning vinyl flooring up the walls. In this case a fillet or backing piece is required to support the cove.
- 106. The floor shall be constructed of a material which is impervious to water, non slip and graded and drained to the floor waste.
- 107. The walls of food preparation areas to be tiled with close-jointed, glazed tiles of a light colour to a height of 2 metres.
- 108. The walls of the food preparation areas to be tiled with close-jointed, glazed tiles of a light colour to a height of 450mm above all sinks, tubs, draining boards, wash hand basins and preparation benches.
- 109. The walls of the food preparation areas to be tiled with close-jointed, glazed tiles of a light colour from the floor to the underside of the exhaust hood.
- 110. All walls where not tiled shall be cement rendered to a smooth even surface and painted with a light coloured washable paint.
- 111. Refrigeration, frozen food cabinets, cooking appliances, equipment, fittings, cupboards, and cabinets are to be supported on one of the following systems:-
 - · Wheels or casters which allow the fully loaded fitting to be easily moved
 - Legs which provide a minimum 150mm clearance from the floor to the underside of the fitting.
- 112. All shelving being installed on approved metal brackets and kept at least 25mm clear of wall.
- 113. Food preparation benches shall be constructed of stainless steel.
- 114. The top and exposed edges of all benches, counters and shelving shall be finished in a smooth and non absorbent material free of joints.
- 115. All service pipes and electrical conduits shall be concealed within the floors, plinths, walls or ceilings.
- All service pipes and electrical conduits which are not capable of being concealed within the walls shall be mounted on brackets so as to provide at least 25mm clearance between the pipe and adjacent (wall) vertical surface and 100mm between the pipe and adjacent (floor) horizontal surface.
- 117. A freestanding hand wash basin is to be provided in an approved position in the kitchen/food preparation area, which provides a supply of warm water (minimum 40°c) through a single spout. The hand wash basin shall facilitate hands free operation (should a mixer tap be used for this purpose it shall have an extended handle of not less that 250mm



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- in length), and shall be provided with a mounted liquid soap and paper towel dispenser adjacent to the basin.
- 118. All openings in the walls, floors and ceiling and all external doors and windows must be vermin proof.
- 119. All windows and doors to the external air are to be provided with fly screens.
- 120. All doors be rendered vermin proof by installing a metal strip 150mm wide at the bottom of the door on both sides of the door.
- 121. A kitchen exhaust hood is to be provided above all appliances of heating capacity greater than 8KW in accordance with AS 1668 Part 2. A test certificate shall be submitted to the Principal Certifying Authority with application for an Occupation Certificate.

General

122. The recommendations of the Acoustic Impact Assessment prepared by Rodney Stevens Acoustics, Reference R180318R2, Revision 1, dated 11 February 2019; shall be implemented.



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PRIOR TO ISSUE OF FINAL OCCUPATION CERTIFICATE

The following conditions are to be complied with prior to the issue of a final occupation certificate:-

Certificates/Documentary Evidence

- 123. A final clearance is to be obtained from Integral Energy if such clearance has not previously been issued.
- 124. A Section 73 Certificate (Sydney Water) must be submitted to the Principal Certifying Authority prior to occupation of the development.
- A Structural Engineer's certificate from the supervising structural engineer responsible for the design shall be submitted to the Principal Certifying Authority and shall state that all foundation works/reinforced concrete/structural members have been carried out/erected in accordance with the Engineer's requirements and the relevant SAA Codes.

Note: Any such certificate is to set forth the extent to which the engineer has relied on relevant specifications, rules, codes of practice or publications in respect of the construction.

Playground Equipment Certification

126. Certification is to be provided to the Principal Certifying Authority (PCA) from the installer of the playground equipment that the equipment has been constructed and installed in accordance with the relevant Australian Standards. If Council is not the PCA, a copy of this certification is to be provided to Council with the Occupation Certificate.

Landscaping/Tree Protection

- 127. Certification is to be provided to the Principal Certifying Authority (PCA) from the installer of the playground equipment that the equipment has been constructed and installed in accordance with the relevant Australian Standards. If Council is not the PCA, a copy of this certification is to be provided to Council with the Occupation Certificate.
- 128. Certification is to be provided to the Principal Certifying Authority (PCA), from the designer of the landscape proposal (as appropriate), that all tree planting/landscape works have been carried out in accordance with the endorsed plan. If Council is the PCA, the certification is to be submitted to Council prior to or at the final landscape inspection. If Council is not the PCA, a copy of the certification is to be provided to Council with the Occupation Certificate.
- 129. The Arborist engaged to ensure the proper protection and management of the trees required to be retained/transplanted is to provide a report to Council concerning the health and condition of the tree/s and if necessary any remedial works required. The report should also provide documentary evidence that the tree protection conditions were complied with throughout the demolition/construction phases, in the form of site notes and photographs. Should the trees require remedial works which are not exempt under Council's Tree Management Order, an application for General Tree Works will be required to be submitted



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- and approved before the works are carried out and certified by the Arborist. Remedial works which are exempt under Council's Tree Management Order will also be required to be completed and certified.
- As shown on the endorsed plan 1 x Lophostemon confertus is to be planted in the footpath area/s of «insert_streetname». The tree is to come from a minimum 75L container and be planted, so as not to affect existing services, in accordance with the attached guidelines.
- 131. Boundary and courtyard fences must be erected and finished in a professional manner.

Parking/Driveway

- 132. The vehicle crossing between the street and front boundary shall be constructed of plain concrete with no colour or stencilling.
- 133. All parking spaces shall be signposted and linemarked in accordance with Australian Standards 2890.1-2004 and 2890.6-2009.
- 134. All accessible parking spaces shall be provided with a shared area and bollards in accordance with Australian Standard 2890.6.2009.
- 135. The entry / exit driveway shall be indicated with appropriate signage and linemarking to avoid conflict at the driveway.
- 136. The height clearance at the entry/exit point of the ramp shall be in accordance with AS 2890.1-2004.
- Wheel stops shall be provided at appropriate parking locations in accordance with AS 2890.1-2004.
- 138. The applicant shall install 'No Stopping' signs on Hyacinth Street along the frontage of the site at no cost to Council.

Operational Management Plan

- 139. An Operational Management Plan (OMP) shall be prepared and submitted to Council prior to the issue of an Occupation Certificate and be approved by Council's Manager Development Assessment and reviewed in regular basis. The plan shall detail how the Childcare Centre will be managed to minimise impact on neighbouring properties (particularly on-street parking). The OMP should include but not limited to the below:
 - a) Drop off / pick up time is staged and occurs within the basement carpark area,
 - b) Encourage staff and parents to use public transport,
 - Advice parents to not park outside neighbouring properties and respect residents' amenity.
 - Regular monitoring of off-street and on-street parking,
 - e) The Noise Management plan prepared by Rodney Stevens Acoustics, Reference R180318NMP1, Revision 0, dated 11 February 2019 as amended to satisfy Condition 15, and



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f) Any other conditions of this consent relevant to operational management of the centre.

Fire Safety

140. Submission to Council of a Final Fire Safety Certificate pursuant to Clause 170 of the Environmental Planning and Assessment Regulation 2000 in respect of each essential fire or other safety measure listed on the Fire Safety Schedule attached to the Construction Certificate.

NOTE:

- Such Certificate shall state, pursuant to Clause 80E in relation to each essential fire safety measure mentioned in the certificate:-
 - that the service has been assessed by a properly qualified person (chosen by the owner of the building); and
 - that the service was found to be, when assessed, capable of performing to at least the standard required by the current fire safety schedule for the building for which the certificate is issued.
- The person who carries out the assessment must inspect and verify the performance
 of each fire safety measure being assessed, and must test the operation of each
 new item of equipment installed in the building premises that is included in the
 current fire safety schedules for the building.
- The assessment must have been carried out within the three (3) months prior to the date on which the final fire safety certificate is issued.
- 141. At least once in each period of twelve (12) months after a Fire Safety Certificate is required to have been furnished to the Council, the owner of the building shall, pursuant to Clause 177 of the Regulation, submit to the Council and the Commissioner of the New South Wales Fire Brigades, an Annual Fire Safety Statement, in respect of each essential fire or other safety measure listed on the current Fire Safety Schedule. A copy of the Certificate and Schedule is to be prominently displayed in the building.

External Walls and Cladding Flammability

- 142. The external walls of the building including attachments must comply with the relevant requirements of the National Construction Code (NCC). Prior to the issue of an Occupation Certificate, the Certifying Authority and Principal Certifying Authority must:
 - (a) Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the relevant requirements of the NCC; and
 - (b) Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built.



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On-Site Stormwater Detention, Certification, Covenant and Maintenance Schedule

- 143. A copy of the as approved stormwater drainage and On Site Detention System showing work as executed details shall be submitted to Council. The work as executed plan shall be in accordance with Council's standards and specifications for stormwater drainage and onsite stormwater detention.
- 144. The On-site Stormwater Detention design summary calculation sheet using the Works-as-Executed levels shall be provided to Council.
- 145. A certificate of compliance in accordance with Council's standards and specifications for stormwater drainage and On Site Detention System shall be issued to the Principal Certifying Authority by a suitably qualified Civil Engineer.
- 146. A certificate of compliance for the pump out drainage system of the basement level shall be issued to the Principal Certifying Authority by the pump installers stating that the pump out system has been installed to operate in accordance with the Council requirements and approved drawings.
- 147. Documents giving effect to the creation of a Positive Covenant and Restriction on Use over the as constructed On Site Detention shall be submitted to the authority benefited for approval prior to lodging with the Land and Property Information NSW. The wording of the terms of the Positive Covenant and Restriction On Use shall be in accordance with Council's standards and specifications for stormwater drainage and on-site stormwater detention. The documents shall be approved by the benefiting authority for registration with Land and Property Information NSW.

Note: Prior to release of the documents creating the Restriction on Use and Positive Covenant, the benefiting authority shall be satisfied that the as-constructed On Site Detention is in accordance with the approved drawings and Council requirements.

The Positive Covenant and Restriction on Use documents shall be registered with the Land and Property Information NSW within six (6) months from the date of release by the benefiting authority.

- 148. A maintenance schedule for the stormwater and On-Site Detention system including a sketch plan of the components forming the sites stormwater and On-Site Detention system shall be submitted. The maintenance schedule shall be prepared by a qualified hydraulic engineer and shall be in accordance with the Upper Parramatta River Catchment Trust requirements.
- 149. The applicant shall provide a standard OSD sign within the aboveground basin area in accordance with Clause 7.1 (i) of the Council's OSD policy.
- 150. An On-site Stormwater Detention plate shall be installed within the detention basin or tank. The plate shall be located in or near the Discharge Control Unit to alert future owners of their obligations to maintain the facility and its restrictions. The wording and plate shall be in accordance with Council's standard requirements.



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Road Works

- 151. Any works requiring levels within the road reserve will require the submission of Council's Vehicle Crossing application form.
- 152. A full width **heavy duty** vehicular crossing shall be provided opposite each vehicular entrance to the site, with a maximum width of **8** metres and a minimum width of **6.1** metres at the boundary line. These works shall be carried out by a licensed construction contractor at the applicant's expense and shall be in accordance with Council's issued drawings and level sheets.
- 153. The reconstruction of cracked and/or damaged concrete kerb and gutter and any associated works along all areas of the site frontage. These works shall be carried out by a licensed construction contractor at the applicant's expense and shall be in accordance with Council's standard drawing SD 8100 and issued level sheets.
- 154. Removal of all redundant vehicular crossings and laybacks along the full road frontage and replacement with kerb and gutter. These works shall be carried out by a licensed construction contractor at the applicant's expense and shall be in accordance with Council's standard drawing number SD-8100.
- 155. The removal of existing and construction of footpath paving to the site frontage. The works shall be in accordance with and Council approved design, levels and specifications. These works shall be carried out by a licensed construction contractor at the applicant's expense and shall address the following:
 - A minimum 1.8m wide footpath paving, and full width adjoining any potential drop off area, with associated works.
 - ii. Street tree planting. In this regard trees shall be sited considering sight lines etc. Trees shall be planted in accordance with Council requirements for street trees eg. Numbers, species, size, guards, surface treatments, root barriers.
 - All footpath areas within the road reserves that are not concrete shall be turfed with ST85 Buffalo or 'Sir Walter'.
- 156. A certificate of compliance for the construction of vehicular crossings, footpath paving, kerb and guttering and roadworks shall be obtained from Council and be submitted to the Principal Certifying Authority.

Child Care Centre Kitchen

- 157. A certificate shall be submitted to Council for the air conditioning system, together with a copy of the test report done at completion of installation and balancing in accordance with the minimum requirements of AS.1668, Part 1 and 2.
- 158. Food Business registration shall be obtained from Council, PRIOR to commencement of business operations, in accordance with Council's adopted policy.



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- 159. To ensure compliance with the Australia/New Zealand Food Safety Standards Code, Food Safety Standards 3.2.3 "Food Premises and Equipment" and Australian Standard 4674.2004 Design, Construction & Fit Out of Food Premises", Council is to be given forty eight (48) hours notice prior of intention to occupy the premises and commence trade.
- 160. Certification that the mechanical ventilation system has been tested and found to comply with the approved plans and specification together with a copy of the final test figures shall be submitted to the Principal Certifying Authority.
- 161. Certification must be provided from a suitably qualified person that all work in connection with the occupation or use of the premises for the preparation, display and storage of food has been carried out in accordance with the terms of this development consent.
- 162. A notification/registration application shall be submitted to Council's Compliance & Environment Department for the food business.

Street Number

163. A street number must be displayed on all newly developed properties in accordance with Council's "Policy on the Display of House Numbers".

Air Conditioning

164. Certification that the mechanical ventilation system has been tested and found to comply with the approved plans and specification together with a copy of the final test figures shall be submitted to the Principal Certifying Authority.

Noise Compliance Report

165. The Principal Certifying Authority (PCA) shall obtain a certificate from an appropriately qualified acoustic consultant, stating that the recommendations outlined in the Acoustic Impact Assessment prepared by Rodney Stevens Acoustics, Reference R180318R2, Revision 1, dated 11 February 2019 have been completed and that relevant noise criteria have been satisfied prior to the issue of any Occupational Certificate.

General

166. Documentary evidence and/or certificate of compliance must be submitted to Council to show that all works have been completed in accordance with this Development Consent and its accompanying Construction Certificate.



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CONDITIONS RELATING TO USE

The following conditions are applicable to the use of the development:-

Safety and Amenity

- 167. No signs or goods are to be displayed or trading of any description is to be carried out on the public road, public footpath, utility service land, customer and/or employee parking area, the driveways or pedestrian walkways outside or in the immediate vicinity of the premises.
- 168. For the purposes of preserving the amenity of neighbouring occupations and residents, hours of operation; including the operation of all plant and machinery; are to be restricted to between 7.00am and 6.00pm Monday to Friday. All deliveries shall occur only during the approved hours of operation. Any use of the childcare centre outside those hours for meetings, training, early drop-offs, late pick-ups, cleaning, maintenance etc will require an amended acoustic report to be prepared and modification to the Development Consent for the approved hours of use.
- 169. No use of the premises is permitted on Saturday, Sunday or Public Holidays.
- 170. No approval is granted or implied to hold events on the site including concerts, recitals, fetes, fairs, markets and the like. Separate approval shall be obtained from Council for these activities.
- 171. Business is to be conducted and patrons are to be controlled at all times so that no interference occurs to the amenity of the adjoining occupations.
- 172. The operation of the premises shall be conducted in such a manner as not to interfere with or materially affect the amenity of the neighbourhood by reason of noise, vibration, odour, fumes, vapour, steam, soot, ash, dust, particulate matter, waste water, waste products or other impurities which are a nuisance or injurious to health.
- 173. Where an intruder alarm is installed on the premises it shall be fitted with a timing device in accordance with the requirements of the Protection of the Environment Operations Act 1997.
- 174. Within three months of the premises being occupied by the childcare centre, an acoustic report by a suitably qualified person, is to be submitted to the consent authority demonstrating that the noise emitted from the premises complies with the criteria contained in the acoustic report prepared by Acoustic Impact Assessment prepared by Rodney Stevens Acoustics, Reference R180318R2, Revision 1, dated 11 February 2019. Where the criteria are not met the acoustic report is to include recommendation of noise control measures that are to be implemented to ensure compliance with the criteria. The report is to include post validation results.



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Mechanical Ventilation System

175. Noise and vibration from the use of the air handling system (mechanical exhaust ventilation) system shall not exceed the background level by more than 5dB(A) and shall not be audible in any premises of a different occupancy.

Operational Management Plan

- 176. Compliance with Operational Management Plan (OMP) (refer to Condition 139) throughout the life of this consent.
- 177. The Operational Management Plan (OMP) shall be reviewed on regular basis to ensure all road safety conditions are adequately addressed. Any changes to the OMP are to be submitted to and approved by Council's Manager Development Assessment.

Parking

- 178. The car parking spaces, driveways and manoeuvring areas are to be used for employees' and visitors' vehicles only and not for the storage of new or used materials, finished goods or commercial vehicles.
- 179. Nine (9) on site car parking spaces numbered and linemarked in accordance with the endorsed plan, are to be made available at all times for employees and visitors' vehicles only in conjunction with the occupation of the building/premises at 15 Hyacinth Street, Greystanes.
- 180. All vehicles shall enter and leave the site in a forward direction.

Acoustic Measures

181. In reference to the Acoustic Impact Assessment prepared by Rodney Stevens Acoustics, Reference R180318R2, Revision 1, dated 11 February 2019; the recommendations of the report shall be adhered to at all times.

Hygiene and Food Storage

- 182. Sufficient provisions must be made for the installation of adequate double bowl wash sinks (or single bowl with dishwasher), food preparation sinks and hand wash basins within all food handling areas including bottle preparation areas.
- 183. Staff food must be stored in a separate area for food intended for the children. Sufficient space must be available to store any required dry goods for the premises.

Refuse & Trade Waste

184. Waste storage bins must be covered at all times to prevent entry of stormwater or dispersal by wind and must be sealed to prevent leakage.



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Emergency Procedures

185. The owner of a building to which an essential fire safety measure is applicable must not fail to maintain each essential fire safety measure in the building premises to a standard not less than that specified in the Fire Safety Schedule.

Air Emissions

- 186. The use of the premises shall not give rise to air impurities in contravention of the *Protection of the Environment Operations Act 1997* and shall be controlled in accordance with the requirements of such Act.
- 187. In the event of Council receiving complaints regarding air pollution or odour from the premises, the person(s) in control of the premises shall at their own cost arrange for an environmental investigation to be carried out (by a suitably qualified person) and submit a report to Council specifying the proposed methods for the control of odour exiting the premises.
- 188. Any discharge to the atmosphere must not result in any odour or other air impurity detectable outside the boundaries of the property.
- 189. In the event of Council receiving complaints regarding excessive odour from the garbage bay area, the person(s) in control of the premises shall at their own cost arrange for an environmental investigation to be carried out (by a suitably qualified person) and submit a report to Council specifying the proposed methods for the control of odour emanating from the garbage bay area.

Noise - Outdoor play areas at childcare centre

190. To minimise the ongoing impact on the nearby residents:

The Leq, 15min noise level emitted from the outdoor play area shall not exceed the background noise level by more than 5 dB for any outdoor play periods.

The noise level assessment shall be measured at the most affected point on or within any residential receiver property boundary.

Examples of this location may include:

- 1.5 m above ground level;
- On a balcony on the ground or higher floors;
- Outside a window on the ground or higher floors.
- 191. The operation of all plant and equipment shall not give rise to an equivalent continuous (LA_{eq}) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background L_{A90} level (in the absence of the noise under consideration).
- 192. In the event of Council receiving complaints regarding excessive noise, the person(s) in control of the premises shall at their own cost arrange for an acoustic investigation to be carried out (by a suitably qualified person) and submit a report to Council specifying the proposed methods for the control of noise emanating from the premises.



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193. Noise and vibration from the use of the air conditioning system (if any installed) shall not exceed the background level by more than 5dB(A) and shall not be audible in any premises of a different occupancy between 10:00pm and 7:00am on weekdays and 10:00pm and 8:00am on weekends and public holidays.

Clean Water Discharge

194. The operation of the premises shall be conducted in a manner, which does not pollute waters as defined by the *Protection of the Environment Operations Act 1997*.

Waste Collection

195. Liquid and solid wastes generated on the site shall be collected, transported and disposed of in accordance with the *Protection of the Environment Operation Act 1997*. Records shall be kept of all liquid and solid waste disposal from the site, and be made available to Council Officers on request.

Lighting

196. Any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby roads, and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with AS4282-1997 Control of the obtrusive effects of outdoor lighting.

Storage

197. Provision shall be made for the storage of cleaning chemicals, equipment and staff personal belongings.

Waste Storage

- 198. All putrescible waste must be stored in approved, lidded, flyproof containers. Proper arrangements such as waste paper bales and stands are to be provided for any waste paper or cardboard.
- 199. A sufficient number of approved garbage receptacles must be provided on the premises for the storage of garbage and trade waste. Such receptacles are to be fitted with close fitting and flyproof lids.

Mechanical Ventilation

- 200. Any discharge to the atmosphere from the subject development shall not result in any odour or other air impurity being detected outside the boundaries of the property.
- 201. The mechanical exhaust ventilation system effectively capturing and conveying all heat, fumes and other aerosols to the hood exhaust openings, but in a case the capture velocity at any position over the face area of the hood, serving the cooking facilities, being not less than requirement under AS 1668 Parts 1 & 2.



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General

- 202. The number of children cared for in the new centre shall not exceed 26 aged up to 5 years.
- 203. The first floor shall only be associated with administrative, office, kitchen or storage functions.
- 204. No retail sales or advertising of retail sales is to be undertaken from the subject site at any time
- 205. Identification number/s is/are to be clearly displayed at the front of the premises.
- 206. All privacy measures shall be maintained in their approved condition for the life of the development and shall not be modified or removed without written consent from Council.



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ADVISORY NOTES

Other Necessary Approvals

- A. The applicant's attention is drawn to the need to obtain Council's separate approval for any ancillary activity not approved by this consent, including:
 - (a) Works, including the pruning or removal of any tree(s) not authorised in the preceding conditions or on the approved plans. Council's Tree Preservation Order protects trees by definition taller than 3.5m or having a trunk circumference exceeding 500mm measured one metre above ground level. If in doubt contact Council's Tree Management Officer.
 - (b) Any fencing located forward of the proposed building and exceeding the limitations specified in State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.
 - (c) The erection of any advertising sign, not being exempt from the need to obtain approval.
 - (d) The installation of any furnace, kilns, steam boiler, chemical plant, sand blast, spray painting booth or the like.
- B. Section 8.7 of the Act provides that an applicant who is dissatisfied with the Council's determination of the Development Application may appeal to the Land and Environment Court within 6 months of the date of determination, or as otherwise prescribed.
- C. Section 8.3 of the Act provides that an applicant may request, within 6 months of the date of determination of the Development Application, that the Council review its determination (this does not apply to designated development). A fee is required for this review.
 - It should also be noted that an application under Section 8.3 of the Act cannot be reviewed/determined after 6 months of the date of determination. Therefore, the submission of a Section 8.3 application must allow sufficient time for Council to complete its review within the prescribed time frame, including the statutory requirement for public notification.
- D. The applicant and Owner are advised that the Commonwealth Disability Discrimination Act 1992 may apply to this particular proposal. Approval of this application does not imply or confer compliance with this Act. Applicants and owners should satisfy themselves as to compliance and make their own enquiries to the Australian Human Rights Commission. Attention is also drawn to the provisions of Parts 2, 3 and 4 of Australian Standard 1428 -Design for Access and Mobility.
- E. A Construction Certificate shall be obtained in accordance with Section 6.7 of the Act, prior to the commencement of any work on site. Council can provide this service for you.
- F. An Occupation Certificate is to be issued by the Principal Certifying Authority prior to the occupation of the building.



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G. BANK GUARANTEES

Bank guarantees will be accepted from list of banks which have at least an "A" rating from Standard and Poors and at least an "A2" or "Prime-1" standard from Moodys Investor Services.

To enable the bank guarantee to be enforceable during an entire project with consideration for delays, the guarantee must not contain a facility expiry date.

To get to Standard and Poors <u>www.standardpoors.com</u> then from Ratings Action choose Ratings Lists. Then click on Financial Institutions followed by clicking on Financial Institutions Counterparty Ratings List. Go to "Banks" and download to Australian Banks.

To get to Moodys <u>www.moodys.com</u> then look up Ratings and then Banking and then Bank Ratings list. It will take you to Bank Credit Research page. Look at the table of contents and choose Global Bank Ratings by Country. Look up Australian Banks.

H. SMOKE DETECTORS

A system of self-contained smoke alarms complying with the requirements of AS3786-1993, Smoke Alarms or listed in the Scientific Services Laboratory Register of Accredited Products being installed in the dwelling, connected to the mains power supply and provided with a standby power supply. Alarms are to be positioned on the ceiling and setback a minimum distance of 300mm from any wall. Alarms are to be placed in the vicinity of each area containing bedrooms with a minimum of one (1) alarm required for each storey of the dwelling.

TERMITE PROTECTION

Structural members are to be protected from attacked by subterranean termites in accordance with the requirements of AS3660.1-2000 Protection of building from subterranean termites and a durable notice must be affixed within the metre box indicating the type of protection, its date of installation, life expectancy of any chemical barrier used, and system maintenance and inspection requirements. A certificate of compliance of the approved system must be submitted to Council or the Principal Certifying Authority on completion of the system installation. With respect to chemical protection, a pipe system shall be installed beneath the slabs plastic membrane to allow re-application of the chemical border.

J. WET AREAS

Wet areas in the dwelling are to be waterproofed in accordance with AS3740 Waterproofing of wet areas within residential buildings.

Where Council is the Principal Certifying Authority for the works, the submission of evidence of suitability for the waterproofing product used will be required at the wet area inspection stage. The evidence of suitability is to be in the form of:-

A current Certificate of Accreditation for the product.



Page 42 of 43

AND

 A certificate from the person responsible for the installation of the product advising that the product was applied in accordance with the relevant manufacturers specifications.

Note: Any copy of documentary evidence submitted, must be a complete copy of the original report or document.

K. SARKING

To reduce the risk of injury during works to the roof, sarking with fall arresting ability is to be provided to the underside of the roof. Manufacturers specifications for the sarking is to be submitted to Council prior to its installation.

L. CONSTRUCTION/OCCUPATION CERTIFICATE FEES

An administration fee per certificate (in accordance with Council's adopted fees and charges) is payable to Council on lodgement of Construction and Occupation Certificates from Principal Certifying Authorities.

M. SOUND TRANSMISSION AND INSULATION

To ensure the amenity of occupants in multi-residential development (Class 2 and 3 buildings and Class 9c Aged Care buildings), separating walls must be constructed in accordance with Part F5 of the Building Code of Australia.

N. GLAZING CERTIFICATION

A certificate shall be submitted to the Principal Certifying Authority stating that safety glazing has been used in the building in accordance with AS1288 - "Glass in Buildings - Selection and Installation".

O. DIAL BEFORE YOU DIG

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.



Page 43 of 43

P. TELECOMMUNICATIONS ACT 1997 (COMMONWEALTH)

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution.

Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact Telstra's Network Integrity Team on Phone Number 1800810443.

Q. DIVIDING FENCES

Please be advised that arrangements concerning existing or proposed fences between properties are a civil matter determined by the involved parties under the <u>Dividing Fences</u> <u>Act</u>. You are therefore required to consult with the owners of neighbouring properties if fences are to be removed or constructed.

The Dividing Fences Act is administered by the <u>Department of Lands</u> who can act as a mediator in disputes.

Yours faithfully

ACTING MANAGER DEVELOPMENT ASSESSMENT

DOCUMENTS ASSOCIATED WITH REPORT LPP073/19

Attachment 14 Schedule A Letter for DA 2018/284/1 to become operative





 Our Reference:
 2018/284/1

 Contact:
 Ms O Yana

 Phone:
 8757 9544

12 June 2019

Baini Design PO Box 2402 NORTH PARRAMATTA NSW 1750

Dear Sir/Madam

PREMISES: 15 Hyacinth Street GREYSTANES, DEVELOPMENT CONSENT NO.: 2018/284/1

DATE FROM WHICH CONSENT OPERATES: 12 June 2019

DATE OF EXPIRY: 12 June 2024

I refer to the abovementioned Development Consent which was determined by granting of deferred commencement consent pursuant to section 4.16(3) of the Environmental Planning & Assessment Act 1979, and correspondence/information submitted by you on 20 May 2019.

It is stipulated that Schedule "B" consent for demolition of existing structures and construction of a 26 place two storey, child care centre over basement parking accommodating 9 parking spaces, shall not operate until such time as Schedule "A" conditions have been complied with to Council's satisfaction.

You are advised that conditions set forth in Schedule "A" of Development Consent No. 2018/284/1 has now been complied with to Council's satisfaction and Schedule "B" consent shall become operative. The date from which the consent operates is 12 June 2019.

For the purposes of Schedule "B" of the Consent, development shall take place in accordance with the documentation specified in Condition 2, and the following attached endorsed documentation:

 Architectural Plans prepared by Baini Design, Job No. 18156, Drawing No. 05, dated 06/07/17;

Except as otherwise provided by the conditions of the determination and/or marked in red.

If you have any further enquiries please contact Ms O Yana of Council's Environment and Planning Department on 02 8757 9544, Monday to Friday.

Yours faithfully,

Sohail Falidy

COORDINATOR DEVELOPMENT ASSESSMENT

16 Memorial Avenue, PO Box 42, Merrylands NSW 2160 T 02 8757 9000 F 02 9840 9734 E council@cumberland.nsw.gov.au W cumberland.nsw.gov.au ABN 22 798 563 329

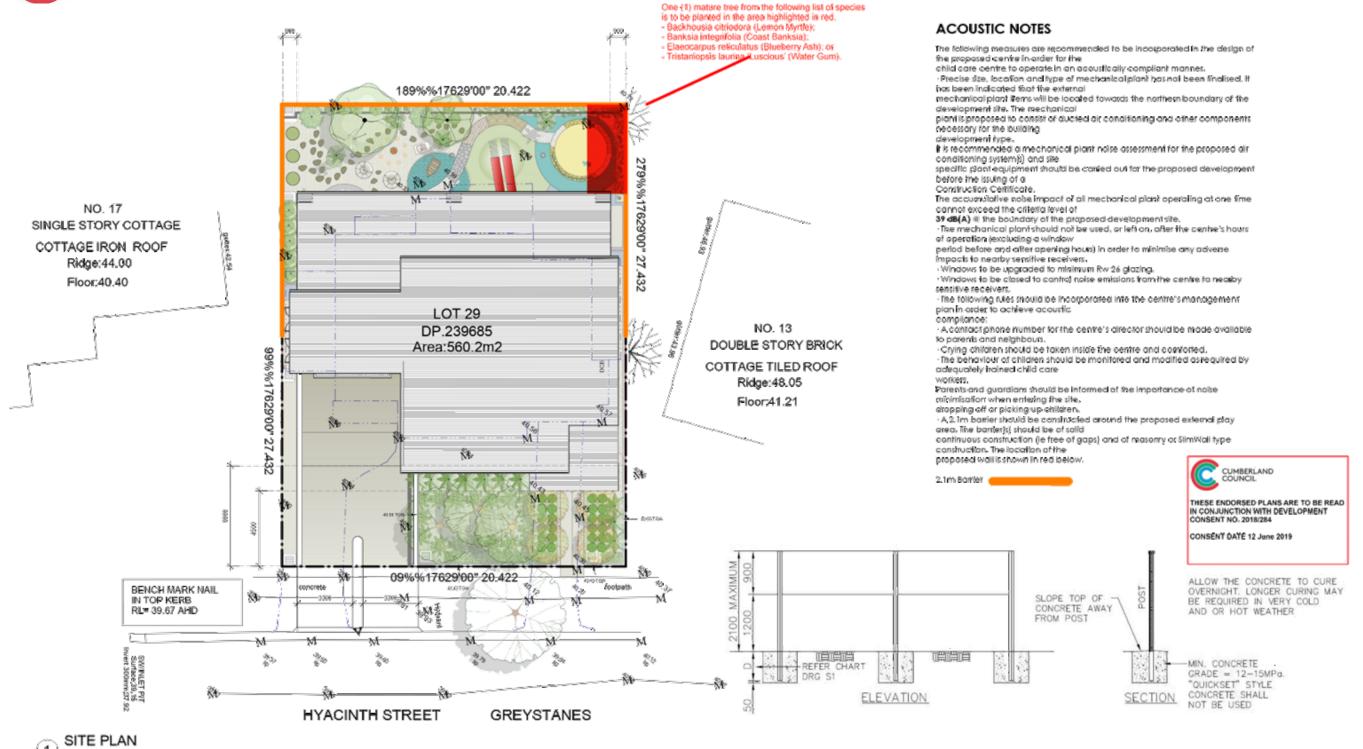
Welcome Belong Succeed

LPP073/19 – Attachment 14 Page 609

DOCUMENTS ASSOCIATED WITH REPORT LPP073/19

Attachment 15
Approved Architectural &
Landscape Plans (DA
2018/284/1)



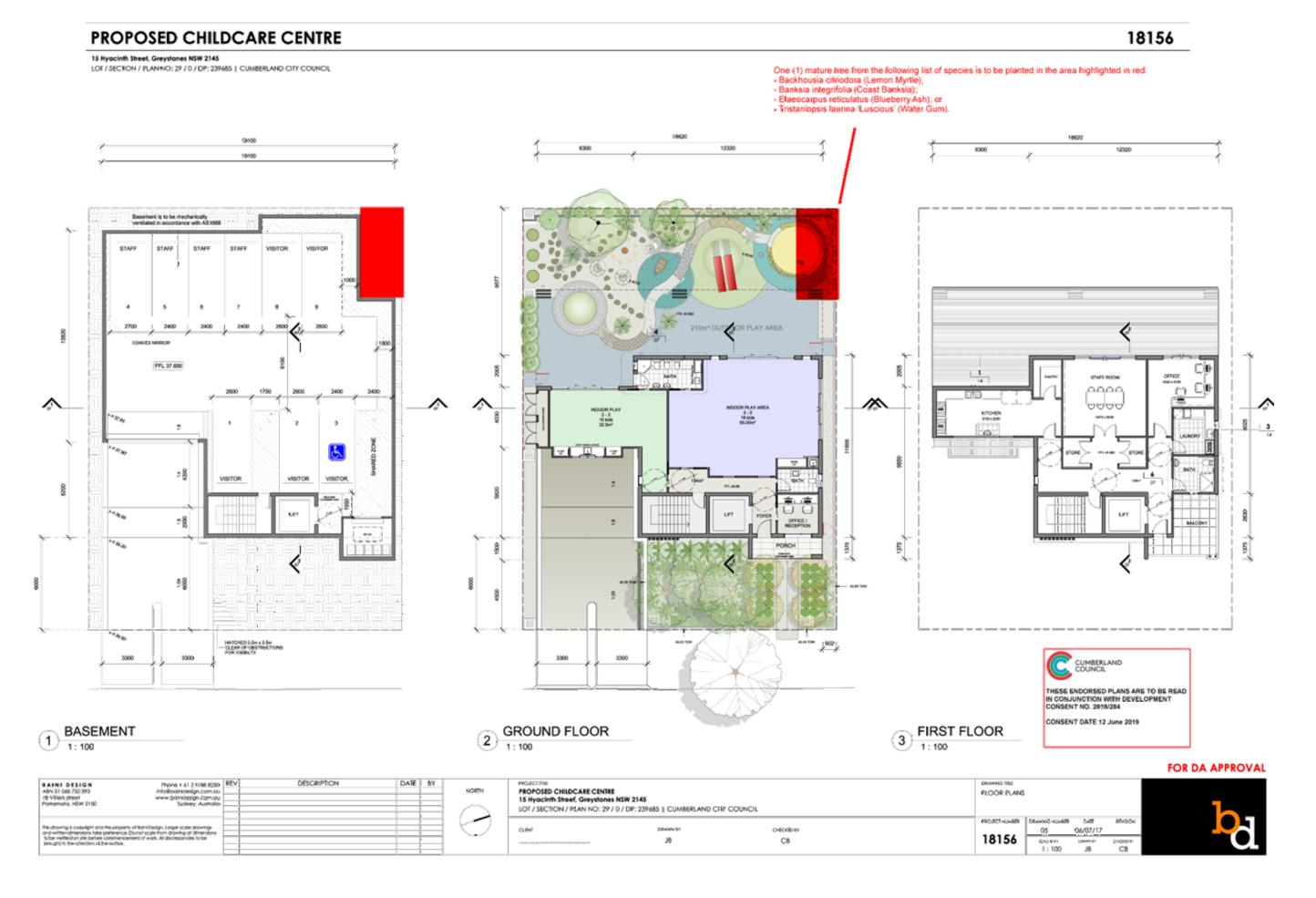


TYPICAL SLIMWALL FENCE DETAIL AS PER ACOUSTIC ENGINEER'S NOTES (NOT TO SCALE)

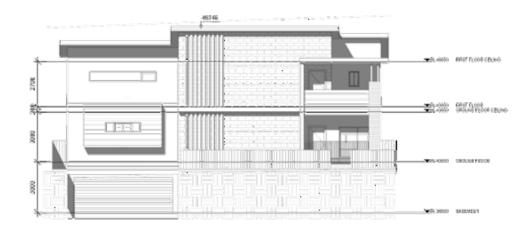
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LPP073/19 – Attachment 15

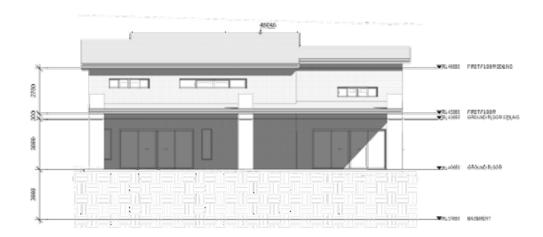






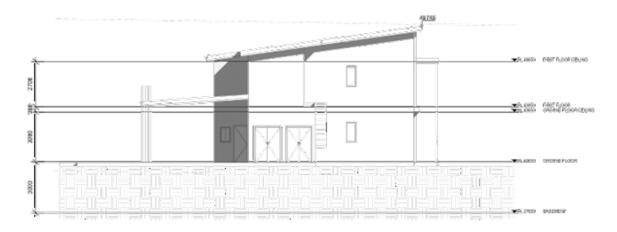




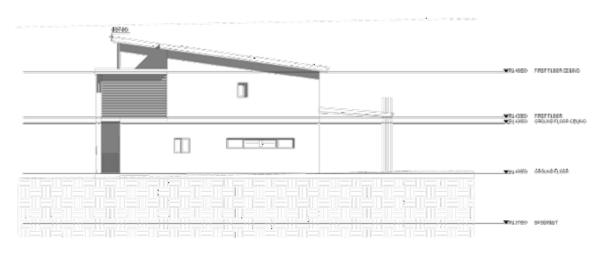








South Elevation
1:100

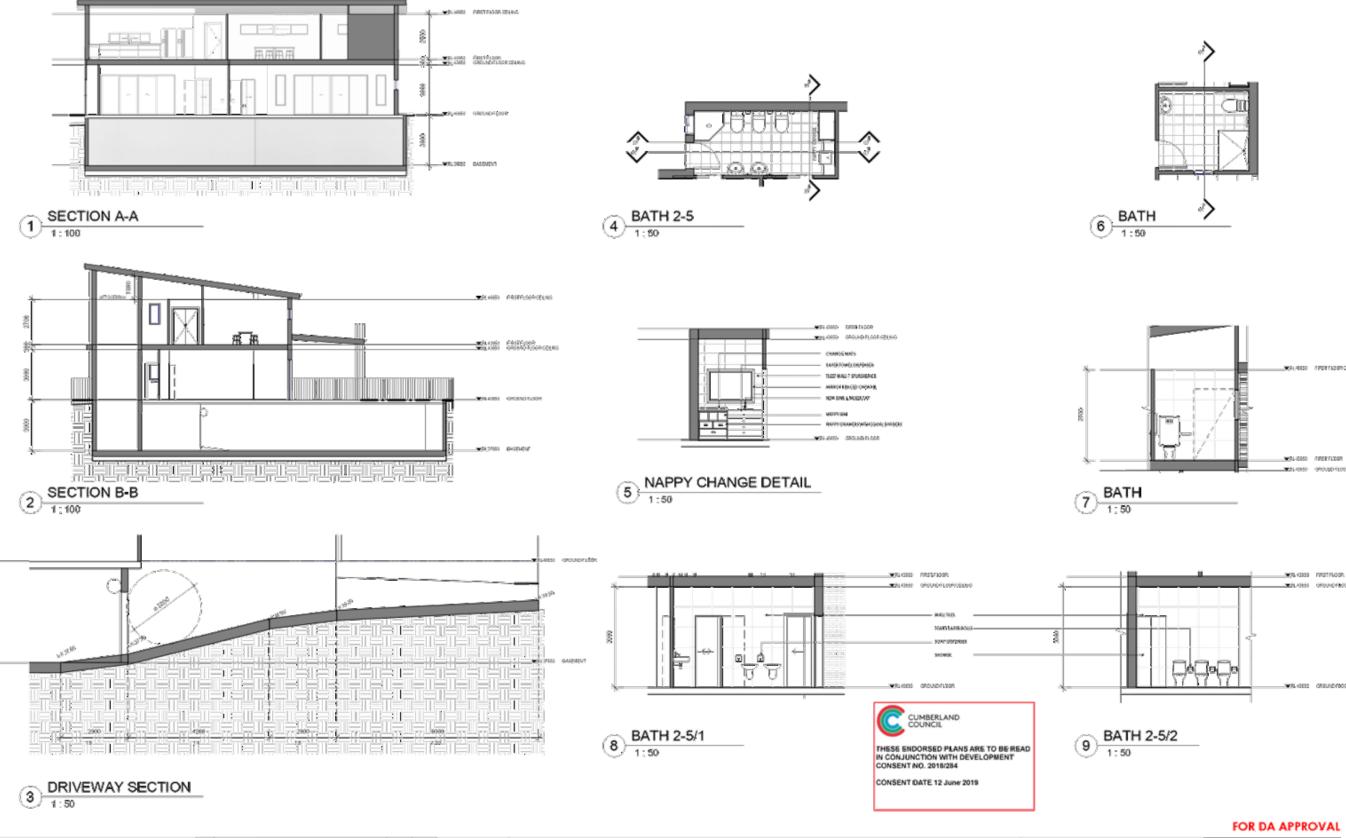


North Elevation

1-

FOR DA APPROVAL



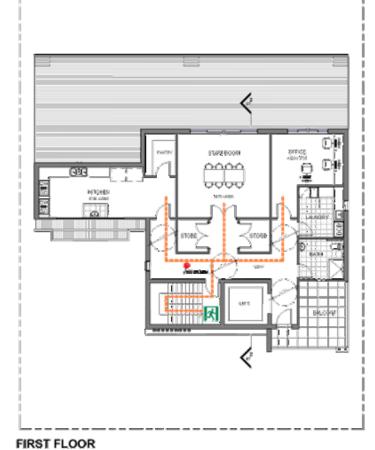


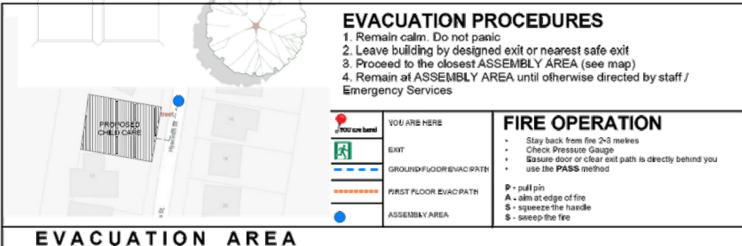
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LPP073/19 – Attachment 15









IN CASE OF EMERGENCY

FIRE / AMBULANCE / POLICE **DIAL 000**

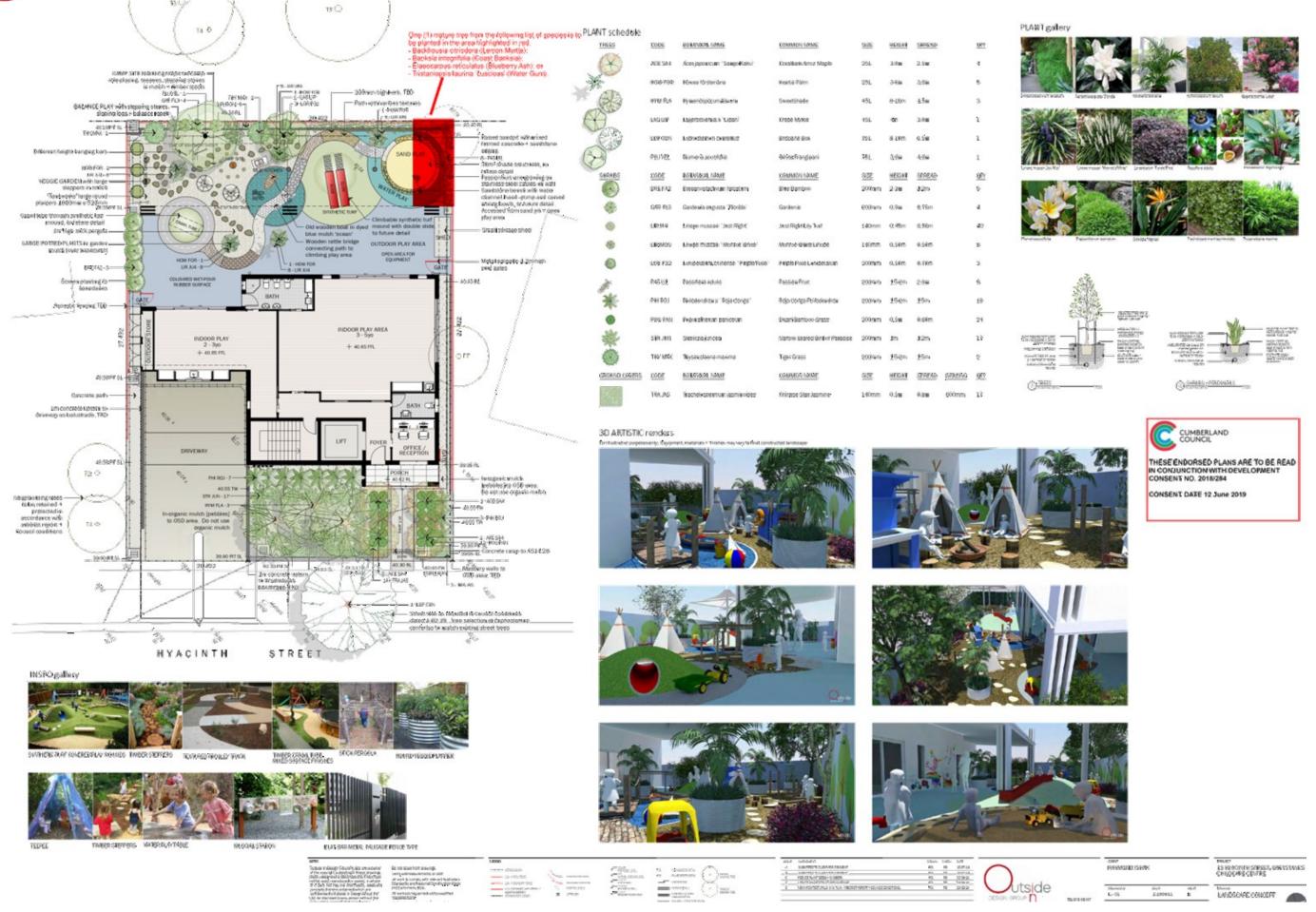


FOR DA APPRORAFT

BAINI DESIGN ABN 51 068722593 (BWiles steet Panariota, NSW 2150 PROPOSED CHILDCARE CENTRE
15 Hyacinth Street, Greystanes NSW 2145
LGF / SECTION / PLAN NO: 29 / 0 / 0P) 239683 | CUMBERLAND CITY COUNCIL NORTH EVACUATION PLAN 18156 1:100

LPP073/19 - Attachment 15 Page 617





LPP073/19 – Attachment 15



Item No: LPP074/19

DEVELOPMENT APPLICATION - 9-15 RAPHAEL STREET, LIDCOMBE

Responsible Division: Environment & Planning

Officer: Executive Manager Development and Building

File Number: DA-224/2019

Application lodged	19 July 2019	
Applicant louged	Mickon Construction Pty Ltd	
Owner	•	
	James Group Properties Pty Ltd	
Application No.	DA-224/2019	
Description of Land	9-15 Raphael Street, LIDCOMBE NSW 2141, Lots 9-12, DP 397	
Proposed	Alterations and additions to approved 10 storey residential flat	
Development	building to increase total unit numbers from 117 to 120 including an additional 3x2 bedroom units on level 10, amendments to facade and unit mix, and installation of substation and fire hydrant and pump room, provision of an additional level of basement, resulting in 5 levels of basement, with provision for 206 car parking spaces.	
Site Area	1,761m ²	
Zoning	B4 – Mixed Use under the Auburn LEP 2010	
Disclosure of political donations and gifts	Nil disclosure	
Heritage	No – The land does not contain a heritage item and is not located in the vicinity of a heritage item. The land is not within a Heritage Conservation Area.	
Principal Development	FSR	
Standards	Permissible: 5:1	
	Proposed: 5:1	
	Height of Building	
	Permissible: 32m	
	Proposed: 34.76m	
Issues	Deep soil (ADG)	
	Setback of the top floor to the western boundary (ADG)	
	Parking (ADG)	
	Number of apartments serviced by a single lift (ADG)	
	Building height (LEP)	
Independent Planning	Independent planning assessment undertaken by Mr. Glenn	
Assessment	Apps (cohesiveplanning)	
	F1- (

SUMMARY:

1. Development Application No. 224/2019 was received on 19 July 2019 for alterations and additions to an approved 10 storey residential flat building. The



alterations seek to increase the total unit numbers from 117 to 120 including an additional 3x2 bedroom units on the roof level, resulting in an 11 storey building. Amendments to the facade and unit mix are proposed as well as the installation of a substation, fire hydrant and pump room. An additional level of basement parking is proposed which will result in 5 levels of basement, with provision for 206 car parking spaces.

- 2. In total, the proposed amended development will provide 120 residential units comprising 2 x studios, 71 x 1 bedroom, 46 x 2 bedroom and 1 x 3 bedroom units. 5 levels of basement will provide parking for 206 vehicles, residential storage and various plant and pump rooms.
- 3. The application was publicly notified to occupants and owners of the adjoining properties for a period of 14 days between 6 August 2019 and 20 August 2019 and re-notified for a period of 14 days between 24 September 2019 and 8 October 2019. No submissions were received.
- 4. The proposed development involves a number of variations to relevant planning controls as follows:

Control	Required	Provided	% variation
Deep soil areas (ADG)	124m ²	Nil	100%
Visual Privacy (ADG)	12m to balconies and	9m to balconies	25%
	habitable rooms above 9 th floor	11.8m to habitable rooms	1.7%
Number of apartments serviced by a single lift (ADG)	Maximum of 40	63 and 45	57.5% and 12.5%
Building height (LEP)	32m	34.76m	8.6%

- 5. With the exception of the visual privacy to the new top floor, the above variations are consistent with those granted under DA-220/2017 for the approved development.
- 6. The application is recommended for the granting of conditional consent, subject to the conditions as provided in the attached schedule.
- 7. The application is referred to the Panel as State Environmental Planning Policy No.65 Design Quality of Residential Apartment Development applies to the development. The building is more than 4 storeys in height.

REPORT:

Subject Site and Surrounding Area

The subject site is known as Lots 9, 10, 11 and 12, DP 397, No. 9-15 Raphael Street, Lidcombe. The subject site is located on the southwest corner of Raphael Street and Davey Street.



The location of the site is shown at Figure 1. An aerial image of the site and surrounding area is at Figure 2.

The site is situated within a mixed use zone within the Lidcombe town centre and is approximately 380m walking distance to Lidcombe railway station.

The site has a frontage to Raphael Street of 49.675m to the east and a frontage to Davey Street of 35.21m to the north. The site is generally rectangular in shape and has a total area of 1,761m2.

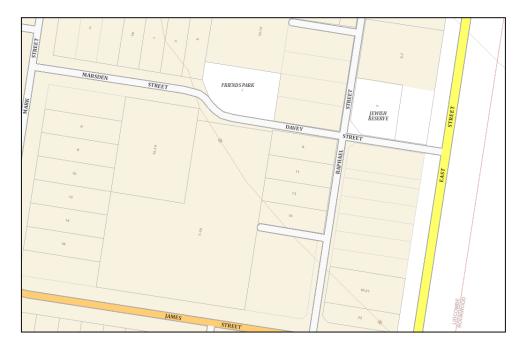


Figure 1 – Locality Plan of subject site





Figure 2 – Aerial view of subject site

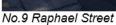
The land is currently occupied by 4 single dwellings, comprising single storey fibro or weatherboard cottages on Nos. 9, 11 and 15 Raphael Street and a 2 storey brick dwelling on No.13 Raphael Street

The site is adjoined by a 4 storey residential flat building to the west and a 10 storey residential flat building to the south. A number of industrial premises exist on the eastern side of Raphael Street.

Land to the north is currently used for storage; however is zoned RE1 Public Recreation and is earmarked for acquisition in the Auburn LEP 2010 for public park purposes.

Figure 3 – Street view of subject site showing existing development







No.11 Raphael Street







No.13 Raphael Street

No.15 Raphael Street

Description of the Proposed Development

Council has received a development application for the alterations and additions to a residential flat building that was approved under DA-280/2017 at 9-15 Raphael Street, Lidcombe. Construction of that building had not commenced at the time this report was prepared.

Specifically, DA-280/2017 granted consent to the:

"Demolition of all existing structures and construction of 10 storey residential flat building consisting of 117 units with 4 levels of basement parking."

The subject development application (DA-224/2019) proposes the following alterations and additions to the approved development:

- (i) altering the apartment mix to 2 x studio, 71 x 1 bedroom, 46 x 2 bedroom and 1 x 3 bedroom units;
- (ii) the addition of three 2 bedroom units on the rooftop level to provide a total of 120 residential units and a new floor of apartments;
- (iii) modification for stairs at the ground floor;
- (iv) provide a padmount substation and hydrant/booster;
- (v) provide a sprinkler pump room and additional residential storage at basement level 1;
- (vi) change the façade treatment by removing decorative blades; and
- (vii) provide an additional level of basement parking to provide for 206 vehicles.

Apartment mix and new units on the roof top level

The apartment mix under the original development and as proposed is as follows:



	DA-	DA-	Variation
	208/2017	224/2019	
Studio	2 (1.7%)	2 (1.6%)	-
1 bedroom	73 (62.4%)	71 (59.2%)	-2
2 bedroom	42 (35.9%)	46 (38.3%)	+4
3 bedroom	0 (0%)	1 (0.9%)	+1
TOTAL	117	120	+3

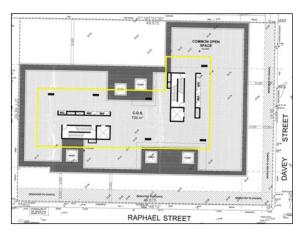
The amended apartment mix is a slight improvement over the original proposal in that it reduces the number of 1 bedroom apartments, provides a 3 bedroom apartment that was not featured in the original apartment mix, and a slight increase in the number and proportion of 2 bedroom apartments.

The additions include 3 x 2 bedroom apartments on the 11th storey, which replaces part of the rooftop structure used in conjunction with the rooftop common open space as shown below. Two apartments on the 10th storey become maisonette apartments with their living rooms on the 11th storey.

Figure 4 – Comparison of elevations and level 10 (11th storey) plans showing new apartments on level 10









The additional apartments on the top level and extend the envelope of the approved rooftop structures (shown in yellow on the original approved plan) with a minor



increase to the built form beyond the line of the rooftop structure extending to the east and west.

As demonstrated in the shadow diagrams on drawing No. DA6002 Issue F, the increase in overshadowing beyond that the approved development is minor.

Ground floor alterations including substation, hydrant booster and fire stairs

Other alterations are made at the ground floor level to provide a substation and hydrant booster, as well as minor changes to the fire stairs leading from the basement carpark.

These changes result in the loss of some ground level landscaping as shown below in green.

BULKY WASTE

PROPOSED OSD

PRO

Figure 5 – Comparison of ground floor plans showing loss of planting



Changes to the façade treatment

Amendments are sought to the façade treatment to remove decorative blades to give a cleaner appearance to the external façade. The removal of the blades will also result in a building façade that is easier to maintain.

The changes to the façade treatment are considered to be positive.

A comparison of the perspectives of the building looking south west from the corner of Davey Street and Raphael Street is shown below at Figure 6.

It should be noted that the colour palette remains the same and any discrepancies in the colours shown in Figure 6 is merely the result of different printing and scanning.







Figure 6 – Comparison of schedule of external finishes

Additional level of basement car parking

An additional basement level of car parking is proposed to provide 49 parking spaces, services, storage and left access. The additional basement levels result in a total of in 206 car parking spaces being provided.

A parking assessment is provided within this report when dealing with matters under the ADG.

The location of access to the basements from Raphael Street has not changed from the approved scheme.

Other aspects of the development including waste management remain unchanged.

A total of 12 accessible apartments are provided, comprising 10% of the apartment yield.

The total residential GFA and FSR is as follows:

	GFA	FSR
Approved	8,397m2	4.77:1
Proposed	8,805m2	5.00:1

The FSR of the proposed scheme meets the maximum FSR of 5:1 under the Auburn LEP 2010.

History

DA-280/2017 was lodged with Council on 27 June 2017 for the demolition of all existing structures and construction of 10 storey residential flat building consisting of 117 units with 4 levels of basement parking at 9-15 Raphael Street, Lidcombe.

DA-280/2017 was granted consent on 7 March 2018.

To date, works have not commenced.





The subject DA-224/2019 was lodged on 19 July 2019.

The application was placed on notification between 6 August 2019 and 20 August 2019.

Amended plans were received on 4 September 2019.

The amended application was placed on notification between 24 September 2019 and 8 October 2019.

Applicants Supporting Statement

The application is supported by the following material:

Document	Author	Date
Architectural plans	Urban Link	27 June 2019
Landscape Plans	Vision Dynamics	16 October 2019
Stormwater plans	Alpha Engineering and Development	30 August 2019
On-Site Detention checklist	Alpha Engineering and Development	2 September 2019
Quantity Surveyors Report	QPC and C Pty Ltd	28 August 2019
Traffic and Parking Assessment	Varga Traffic Planning	27 August 2019
Statement of Environmental Effects	Blondie Consulting	September 2019
Clause 4.6 Statement	Blondie Consulting	June 2019
Acoustic Report	Acoustic Vibration and Noise Pty Ltd	10 July 2019
BASIX Certificate	Building and Energy Consultants	17 July 2019
SEPP 65 Verification Statement	Urban Link	18 July 2019
Waste Management Plan	No author	Undated

Contact With Relevant Parties

The consulting planner carrying out the assessment has undertaken a site inspection of the subject site and surrounding properties. Council's officer with carriage of the DA has been in regular contact with the applicant throughout the assessment process.

Internal Referrals

Development Engineer

The development application was referred to Council's Development Engineer for comment who has advised that the development proposal is satisfactory and can be supported subject to recommended conditions of consent.



Waste Management

The development application was referred to Council's Waste Management Officer for comment who has advised that the alterations and additions to the approved development are satisfactory and the existing approved waste storage and handling are capable of meeting the demand of the additional apartments.

External Referrals

Ausgrid

The development application was referred to Ausgrid for comment who has advised that the proposal is satisfactory, subject to conditions being imposed about the proximity of works to overhead powerlines and underground cables.

Planning Comments

The provisions of any Environmental Planning Instruments (EP&A Act s4.15 (1)(a)(i))

State Environmental Planning Policies

The proposed development is affected by the following State Environmental Planning Policies:

(a) State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)

Clause 7 of SEPP 55 requires Council to be satisfied that the site is suitable or can be made suitable to accommodate the proposed development.

In considering DA-280/2017, Council received and considered a Preliminary Site Investigation prepared by STS Geotechnical Pty Ltd which concluded that the site is suitable for the development. Conditions of consent were imposed on DA-280/2017 requiring disposal of excavated materials in accordance with NSW EPA Guidelines and that any unexpected finds during excavation be notified to Council and the PCA.

The proposal is for alterations and additions to the approved development. Those alterations and additions do not require the submission of a further Preliminary Site Investigation.

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

SEPP 65 applies to the development as the building is 3 storeys or more and contains more than 4 dwellings. A design statement addressing the design quality principles prescribed by SEPP 65 was prepared by the project architect. Integral to SEPP 65 is the Apartment Design Guide (ADG), which sets benchmarks for the appearance, acceptable impacts and residential amenity of the development.



Following a detailed assessment of the proposal against the provisions of SEPP 65 and the ADG, it is considered the proposal is generally compliant with the exception of the provision of deep soil areas and building separation. These variations are discussed below.

The provision of parking, while compliant with the ADG, is also discussed below.

• 3E-1 – Deep Soil

The ADG requires 7% of a site area be provided as deep soil. Based on a site are of 1,761m2, the development would need to provide 124m2 of deep soil.

The proposed development does not provide any deep soil areas due to the extent of the basement structure.

The development as approved under DA-280/2017 did not propose deep soil areas. The subject development application does not change this aspect of the development.

The proposed development provides common open space areas at both ground and rooftop levels which complies with the ADG provisions.

3F-1 – Visual Privacy

The ADG requires Minimum required separation distances from buildings to the side and rear boundaries are as follows:

Building height	Habitable rooms & balconies	Non habitable rooms
Up to 12m		
(4 storeys)	6m	3m
Up to 25m	_	
(5-8 storeys)	9m	4.5m
Over 25m		_
(9 + storeys)	12m	6m

Where the subject DA proposes a change to the approved scheme, the setbacks to the western boundary are as follows:

Floor	Required	Provided by DA- 280/2017	Provided by DA- 244/2019	Complies?
9 (10 th floor)	12m to balconies and habitable rooms.	9m to balconies	9m to balconies	No, but no change to the previous approval
10	12m to	N/A	9m to balconies	No



	balconies	11.8m to habitable
(11 th	and	rooms
floor)	habitable	
	rooms	

Setbacks are in accordance with the previous approval under DA-280/2017 for all floors up to Level 9 (being the 10th floor). The creation of apartments on Level 10 (the 11th floor) results in a minor non-compliance for the apartments on that floor of 200mm.

The adjoining 4 storey residential flat building has balconies setback 12m from the boundary, which results in a 21m separation. This is considered satisfactory noting that the adjoining building is 4 storeys in height and there is no direct privacy impact from the balconies and living rooms providing on the top storey. The balconies are bordered by planter boxes which will assist in providing privacy to the adjoining development.

The reduced setback does not result in any increase in overshadowing of adjoining properties above that which has been approved. No non-compliance with solar access provisions of the ADG or ADCP results from the increased floor space.

The reduced setback is supported on the grounds above.

• 3J-1 – Car parking

The land is within 800m of a railway station within the Sydney Metropolitan Area and as such car parking is based on the lesser of the minimum car parking requirement for residents and visitors as set out in either the RMS Guide to Traffic Generating Developments, or the car parking requirement prescribed by the ADCP.

The RMS Guide to Traffic Generating Development requires the following parking:

74 x 1 bed @ 0.6 spaces= 44.4

46 x 2 bed @ 0.9 spaces = 41.4

1 x 3 bed @ 1.4 spaces= 1.4

Total Resident – 87.2 spaces

Visitor – 120 units @ 1space/5 units = 24

Total min. required – 112 spaces

For comparison, the ADCP requires:

74 x 1 bed @ 1 spaces= 74

46 x 2 bed @ 1 spaces = 46

1 x 3 bed @ 2 spaces= 2



Total Resident – 122 spaces

Visitor – 120 units @ 0.2 = 24

Total min. required – 146 spaces

206 spaces are proposed.

The proposal, therefore, exceeds the required minimum number of car parking spaces. Deletion of the proposed basement 5 level would still provide 157 spaces which is compliant with both sets of controls.

The need for additional car parking is questioned, particularly given the proximity to Lidcombe railway station and bus interchange.

The loss of the additional basement level 5 would not result in a shortfall in car parking.

The loss of the additional basement level 5 would result in 2 less storage cages which could be provided within another basement level without creating any non-compliance with parking.

• 4F-1 – Common circulation and spaces

The ADG provides that in buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.

The building provides 2 lifts. Between the first floor and the ninth floor, each lift serves a separate wing of the building with the northern lift solely serving 63 apartments and the southern lift solely serving 45 apartments. The ground floor and the top floor have access to both lifts.

Although this does not comply with the ADG, the development as approved under DA-280/2017 also provided 63 apartments being served by the northern lift and 45 apartments being served by the southern lift.

The current application therefore does not change the number of apartments that are served by each of the lifts.

A comprehensive assessment against SEPP 65 and the ADG is contained in Appendix A.

(b) State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)

The provisions of the ISEPP 2007 have been considered in the assessment of the original development application.

Clause 45 - Development likely to affect an electricity transmission or distribution network



The subject development occurs within 5 metres of an overhead electricity power line. As such, the Consent Authority is required to give written notice to an electricity supply authority.

The development application was referred to Ausgrid who have responded with conditions of consent.

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

The proposal does not exceed the biodiversity offsets scheme threshold.

The proposed vegetation removal is considered acceptable.

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

BASIX Certificate 832067M_02 dated issued on 17 July 2019 prepared by Building and Energy Consultants Australia has been submitted with the development application and is considered to be satisfactory.

Regional Environmental Plans

The proposed development is affected by the following Regional Environmental Plans:

(a) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The subject site is identified as being located within the area affected by the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. The proposed development raises no issues as no impact on the catchment is envisaged.

(Note: - the subject site is not identified in the relevant map as 'land within the 'Foreshores and Waterways Area' or 'Wetland Protection zone', is not a 'Strategic Foreshore Site' and does not contain any heritage items. Hence the majority of the SREP is not directly relevant to the proposed development).

Local Environmental Plans

Auburn LEP 2010

The provision of the Auburn LEP 2010 is applicable to the development proposal. It is noted that the development achieves compliance with the key statutory requirements of the Auburn LEP 2010 and the objectives of the B4 Mixed Use zone.

(a) Permissibility:-

The proposed development is defined as a "residential flat building" and is permissible in the B4 Mixed Use zone with consent.

"Residential flat building" is defined by the Auburn LEP 2010 as:





"a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing"

The relevant matters to be considered under Auburn LEP 2010 and the applicable clauses for the proposed development are summarised below.

A comprehensive LEP assessment is contained in Appendix B

Figure 5 – Auburn 2010 Compliance Table

DEVELOPMENT STANDARD	COMPLIANC E	DISCUSSION
4.3 Height of Buildings Maximum 32m	No	The proposed development provides a maximum height of 34.76m. A Clause 4.6 variation has been provided and is discussed in this report.
4.4 Floor Space Ratio Maximum 5:1	Yes	The FSR is compliant at 5.0:1

(a) Clause 4.6 – Variation to Building Height

Clause 4.6 allows the consent authority to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes. The consent authority may grant the exception as the Secretary's concurrence can be assumed where clause 4.6 is adopted as per the Department of Planning Circular PS 18-003, dated 21 February 2018.

The applicant has submitted a written request to vary the development standards for building height under Clause 4.3. Based on various case laws established by the Land and Environment Court of NSW such as Four2five P/L v Ashfield Council [2015] NSWLEC 9, Randwick City Council v Micaul Holdings P/L [2016] NSW LEC7 and Zhang and anor v Council of the City of Ryde [2016] NSWLEC 1179, a 3 part assessment framework for a variation request proposed under clause 4.6 has been considered and an assessment of the proposed variance, following the 3 part test is discussed in detail below.

The 3 preconditions which must be satisfied before the application can proceed are as follows:

1. Is the proposed development consistent with the objectives of the zone?

Objective	Applicant's justification	Planner's comment
To provide a mixture of	The proposal maintains	Agreed.
compatible land uses	the approved compatible	
	residential units and is	The proposal is
	therefore compliant with	compatible with the
	the zones land use table.	emerging character of the
		Lidcombe town centre.



To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling	The proposed modification provides and maintains residential apartments in the Lidcombe Town Centre that are close to transport and walking distance to shops and facilities.	Agreed. The proposed development is located within an accessible location and in proximity to the range of services available in the Lidcombe town centre, including public transport opportunities.
To encourage high density residential development	The proposal maintains the approved high density residential apartments and complies with this objective.	Agreed. The proposal meets this objective.
To encourage appropriate businesses that contribute to economic growth	The proposal does not seek to change the original consent that did not provide retail or commercial in the building. The residents could utilise the home office provisions in the Exempt and Complying DCP that may contribute to economic growth in the town centre.	This objective is not considered relevant to the proposed development which does not seek to provide for commercial opportunities. Notwithstanding, the development will attract population to the Lidcombe town centre.
To achieve an accessible, attractive and safe public domain	The proposal maintains and enhances the public domain and provides casual surveillance by residential balconies.	Agreed. The development will help to activate the eastern part of the Lidcombe town centre.

1. Is the proposed development consistent with the objectives of the development standard which is not met?

Objective	Applicant's justification	Planner's comment
	The proposed variance in height is consistent	Agreed.
appropriate	with the development standards as the	control has already been
development density to be achieved	development provides a high amenity communal	
	open space and allows	the approved breach to



	development to be consistent with the desired future character of the area.	residential GFA enables the maximum FSR to be realised.
To ensure that the height of buildings is compatible with the character of the locality	with approved	The proposal is consistent with the built form approved under DA-280/2017 as well as

2. (a) Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

Applicant's justification

The proposed variance in height is consistent with development the standards as the development provides a high amenity communal open space and allows development to be consistent with the desired future character of the area including the sites approved development height at 21-23 James Street, Lidcombe, 4-14 Mark Street, Lidcombe; 2 Mark & 1-3 Marsden Street, Lidcombe; 18-24 Railway Street, Lidcombe.

The height exceedance complies with the ADG requirements for privacy and communal open space and the area of exceedance will not be visually prominent.

Planner's comment

The Clause 4.6 variation has met the first of the "Wehbe methods" to demonstrate that compliance with a development standard is unreasonable or unnecessary in the circumstances of the case by demonstrating that the objectives, of the control are met notwithstanding the breach.

When undertaking an assessment against the underlying objectives of the standard, compliance would be inconsistent with the aims of the clause as the proposed height is in response to the existing DA consent (DA 280/2017) for 9-15 Raphael Street, Lidcombe whereby a Clause

The Clause 4.6 variation meets the third of the Wehbe methods to demonstrate that compliance with a development standard is unreasonable or unnecessary in the circumstances of the case by demonstrating that the underlying objective or purpose of the standard (i.e. To ensure that the height



4.6 standard was granted for the same departure sought.	of buildings is compatible with the character of the locality) would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.
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(b) Are there sufficient environmental planning grounds to justify contravening the development standard and therefore is the applicant's written justification well founded?

Applicant's justification	Planner's comment
The proposal does not present an attempt to exceed the nominated FSR for the site.	Agreed. The variation to the height does not result from an attempt to achieve an FSR that is non-compliant.
The non-compliance is relatively minor in nature with the departure relating to the provision of additional units within	It is agreed that the departure is minor from a numerical point of view.
the approved envelope of the roof level that does not impact on ADG complaint communal open space nor on any approved lift over-run and stairwell.	Further, the envelope of the roof level has not changed from that which was considered appropriate under the previous DA.
The impacts to the streetscape are negligible as it will not be visually noticeable when viewed from the street level.	Agreed. The departure in height will not be read from the street.
The departure is consistent with the heights established in other developments in the vicinity.	Agreed. The height and building form is in keeping with similar developments in the zone.
The proposal is located within the Lidcombe Town Centre and the proposal represents an appropriate built form on the site.	It is agreed that the built form is appropriate and in keeping with a development within a town centre such as Lidcombe.
Due to the minor nature of the variation it will not have any adverse amenity impacts. In this regard, it is noted:	It is agreed that the quantum of the variation is minor and will not impact on solar access, view loss or privacy.
- The variation will not lead to the reduction in solar penetration on site or to adjoining properties or will it lead to excessive sunlight loss or overshadowing;	
- The proposed variation will not lead to view loss or interrupt on views to and from the site;	
The proposed variation will not lead to a reduction in privacy afforded to	



existing residential or future residents of the proposal.	
The development proposal has been designed to comply with key planning requirements, with the proposal positively contributing towards increasing the housing choice, diversity and stock within the Lidcombe Town Centre.	housing choice is not considered to be a planning ground to justify the breach of the height control, it is

The environmental planning grounds are considered to be sufficient to justify the breach, noting the minor nature of the breach.

3. Is the proposed development consistent with the objectives of the zone?

The Clause 4.6 variation does not address the objectives of the zone.

This is a necessary precondition of a Clause 4.6 variation which must satisfy Clause 4.6(4)(a)(ii) which states:

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

In the absence of any commentary on how the development will remain consistent with the objectives of the zone, notwithstanding the breach of the height control, consent cannot be granted.

Conclusion:

The applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6 subclause (3).

Further, the Clause 4.6 request has demonstrated that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

It is the author's view that the justification provided is satisfactory and having considered the application on its merit, the exception to the maximum building height development standard is considered acceptable in this instance.



The provisions of any proposed instrument that is or has been the subject (EP&A Act s4.15 (1)(a)(ii))

(a) Draft State Environmental Planning Policy (Environment)

The draft SEPP relates to the protection and management of our natural environment with the aim of simplifying the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property. The changes proposed include consolidating the following seven existing SEPPs:

- State Environmental Planning Policy No. 19 Bushland in Urban Areas
- State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011
- State Environmental Planning Policy No. 50 Canal Estate Development
- Greater Metropolitan Regional Environmental Plan No. 2 Georges River Catchment
- Sydney Regional Environmental Plan No. 20 Hawkesbury-Nepean River (No.2-1997)
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Willandra Lakes Regional Environmental Plan No. 1 World Heritage Property.

The draft policy will repeal the above existing SEPPs and certain provisions will be transferred directly to the new SEPP, amended and transferred, or repealed due to overlaps with other areas of the NSW planning system.

The SEPPs relevant to the draft SEPP (Environment) have been addressed above insofar as they are relevant to the subject proposal.

The provisions of any Development Control Plans (EP&A Act s4.15 (1)(a)(iii))

The Auburn DCP 2010 provides guidance for the design and operation of development to achieve the aims and objectives of the Auburn LEP 2010

A comprehensive assessment and compliance table is contained in Appendix C.

The proposed development has been assessed against the Residential Flat Buildings provisions and the Local Centres provisions of the Auburn DCP.

The proposed development complies with the provisions of those parts of the Auburn DCP 2010 and is considered acceptable.

The provisions of any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4 (EP&A Act s4.15(1)(a)(iiia))



There is no draft planning agreement associated with the subject Development Application.

The provisions of the Regulations (EP&A Act s4.15 (1)(a)(iv))

The proposed development raises no concerns as to the relevant matters arising from the Environmental Planning and Assessment Regulations 2000 (EP&A Reg).

The Likely Environmental, Social or Economic Impacts (EP&A Act s4.15 (1)(b))

It is considered that the proposed alterations and additions to the approved development will have no significant adverse environmental, social or economic impacts in the locality.

The suitability of the site for the development (EP&A Act s4.15 (1)(c))

The subject site is not known to be affected by any natural hazards or other site constraints likely to have a significant adverse impact on the proposed development. Accordingly, it is considered that the development is suitable in the context of the site and surrounding locality.

Submissions made in accordance with the Act or Regulation (EP&A Act s4.15 (1)(d)

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In	accordance	with Council's	Notification	requirements	contained	within	tha	Auburn

In accordance with Council's Notification requirements contained within the Auburn DCP 2010, the proposal was publicly notified for a period of 14 days between 6 August 2019 and 20 August 2019. The proposal was subsequently re-notified for a period of 14 days between 24 September 2019 and 8 October 2019. The notification periods did not generate any submissions.

The public interest (EP&A Act s4.15(1)(e))

In view of the foregoing analysis it is considered that the development, if carried out subject to the conditions set out in the recommendation below, will have no significant adverse impacts on the public interest.

Section 7.11 (Formerly S94) Contribution Towards Provision or Improvement of Amenities or Services

This part of the Act relates to the collection of monetary contributions from applicants for use in developing key local infrastructure.

Comments:

The development requires the payment of contributions in accordance with Council's Section 94 Contributions Plans for the additional apartments and change in the apartment mix, noting that contributions were levied on DA-280/2017 for the approved number and mix of apartments.



The calculation is based on:

As at 22 October 2019, the fee payable is \$495,934.09. This figure is subject to indexation as per the relevant plan. The draft determination attached includes a condition requiring payment of the contribution prior to issue of a Construction Certificate.

Disclosure of Political Donations And Gifts

The applicant and notification process did not result in any disclosure of Political Donations and Gifts.

CONCLUSION:

The development application has been assessed in accordance with the relevant requirements of the Environmental Planning and Assessment Act 1979, SEPP 65 – Design Quality of Residential Apartment Development, Auburn LEP 2010 and Auburn DCP 2010.

The development is considered to be satisfactory for approval subject to conditions and subject to receipt of a revised Clause 4.6 variation which addresses Clause 4.6(4)(a)(ii) of the Auburn LEP 2010 with regard to the zone objectives and public interest.

The proposed development is appropriately located within the B4 Mixed Use zone under the relevant provisions of the Auburn LEP 2010, however variations in relation to the separation of buildings to the western boundary under the ADG and the maximum height of buildings under the Auburn LEP 2010 are sought.

Having regard to the assessment of the proposal from a merit perspective, the Panel may be satisfied that the alterations and additions to the previously approved development have been responsibly designed and provide for acceptable levels of amenity for future residents. It is considered that the proposal successfully minimises adverse impacts on the amenity of neighbouring properties. Hence the development, irrespective of the departures noted above, is consistent with the intentions of Council's planning controls and represents a form of development contemplated by the relevant statutory and non-statutory controls applying to the land.

For these reasons, it is considered that the proposal is satisfactory having regard to the matters of consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979.

CONSULTATION:

There are no further consultation processes for Council associated with this report.

FINANCIAL IMPLICATIONS:

There are no further financial implications for Council associated with this report.



POLICY IMPLICATIONS:

There are no policy implications for Council associated with this report.

COMMUNICATION / PUBLICATIONS:

The final outcome of this matter will be notified in the newspaper. The objectors will also be notified in writing of the outcome.

REPORT RECOMMENDATION:

- 1. That the Local Planning Panel approve the variation to the Development Standard relating to building height as contained within Clause 4.3 of the Auburn Local Environmental Plan 2010 as the applicant's Clause 4.6 objection has adequately addressed the matters required to be demonstrated by Clause 4.6 (3) and the development will be in the public interest as it is consistent with the objectives of the Height Standard and the objectives of the B4 – Mixed Use;
- 2. That Development Application No. DA-224/2019 for alterations and additions to approved 11 storey residential flat building (DA-280/2017) which will accommodate a total of 120 residential units (2 x studio apartments, 71 x 1 bedroom, 46 x 2 bedroom and 1 x 3 bedroom units) over a 5 level basement for 206 vehicles on land at 9-15 Raphael Street, Lidcombe be granted consent subject to attached conditions.

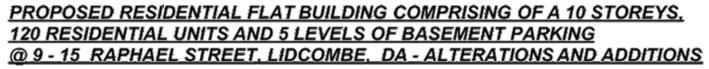
ATTACHMENTS

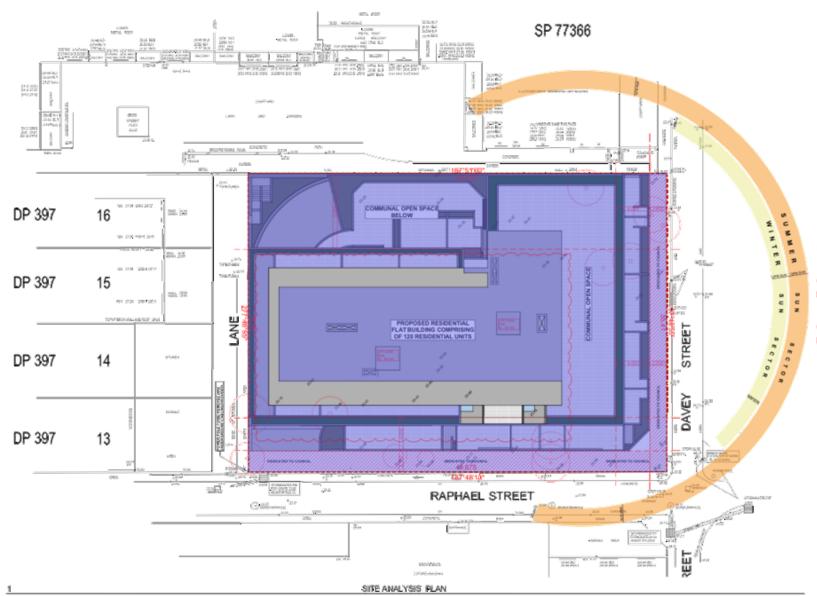
- 1. Architectural Plan External 👃 📸
- 2. Architectural Plans Internal J
- 3. Stormwater Engineering Plans J
- 4. Appendix A J 🚡
- 5. Appendix B J 🖫
- 6. Appendix C 🗓 🖫
- 7. Clause 4.6 Request 👃 🖺
- 8. Draft Notice of Determination 1 12
- 9. Notice of determination DA-280/2017 I
- 10. Stamped Plans Part 1 DA-280/2017 U
- 11. Stamped Plans Part 2 DA-280/2017 🗓 🖺

DOCUMENTS ASSOCIATED WITH REPORT LPP074/19

Attachment 1 Architectural Plan External







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LOCATION MAP

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DRAWING INDEX
DA1001 - COVERSNEET DA1002 - SITE PLAN AND SERVICE DA1002 - SITE ANALYSIS R.AN AND DA1001 - CONTEXTUAL SITE ANALYSIS
DA2001 - BASEMENT 1 DA2002 - BASEMENT 2 DA2003 - BASEMENT 3 DA2004 - BASEMENT 4 DA2004 - BASEMENT 4 DA2005 - GROUND PLOOR DA2005 - GROUND PLOOR DA2005 - BIGTH FLOOR DA2005 - BIGTH FLOOR DA2005 - ROOF TOP TERRACE - SEMENT DA2005 - ROOF TOP TERRACE - SEMENT
DA3081 - GFA DIAGRAMS AND DE
D44001 - NORTH & WEST ELEVS AMENDS D44002 - SOUTH & EAST ELEVS AMENDS
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DA6001 - SHADOWS VIEWS FROM SUNAWOOD DA6002 - SHADOWS IN PLAN ************************************
DA7081 - SCHEDULE OF FINISHES

APPROVED DEVELOPMENT SHOWN HATCHED

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9-15 Raphael Street, Lidcombe

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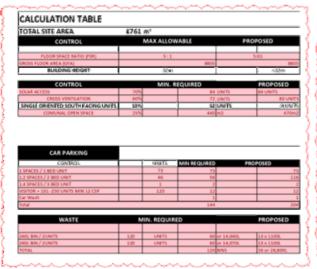
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Control DA 1002 F

(Alterations & Additions)

Nathers - Thermal COMFORT SUMMARY

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	- Brita Veneer	The state of the s
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Common walls between units & Costidor	Hebell Fower panel or the fike	RES Insulation - Product MeValue to open contriors
Common walls between	163mm Concrete + Studs + Insulation +	RJ.S insulation - Product B-Value
units %.lift shaft, fire stairs	Maskesboard	
& garbage room		
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Ceiling	Plastesboard	
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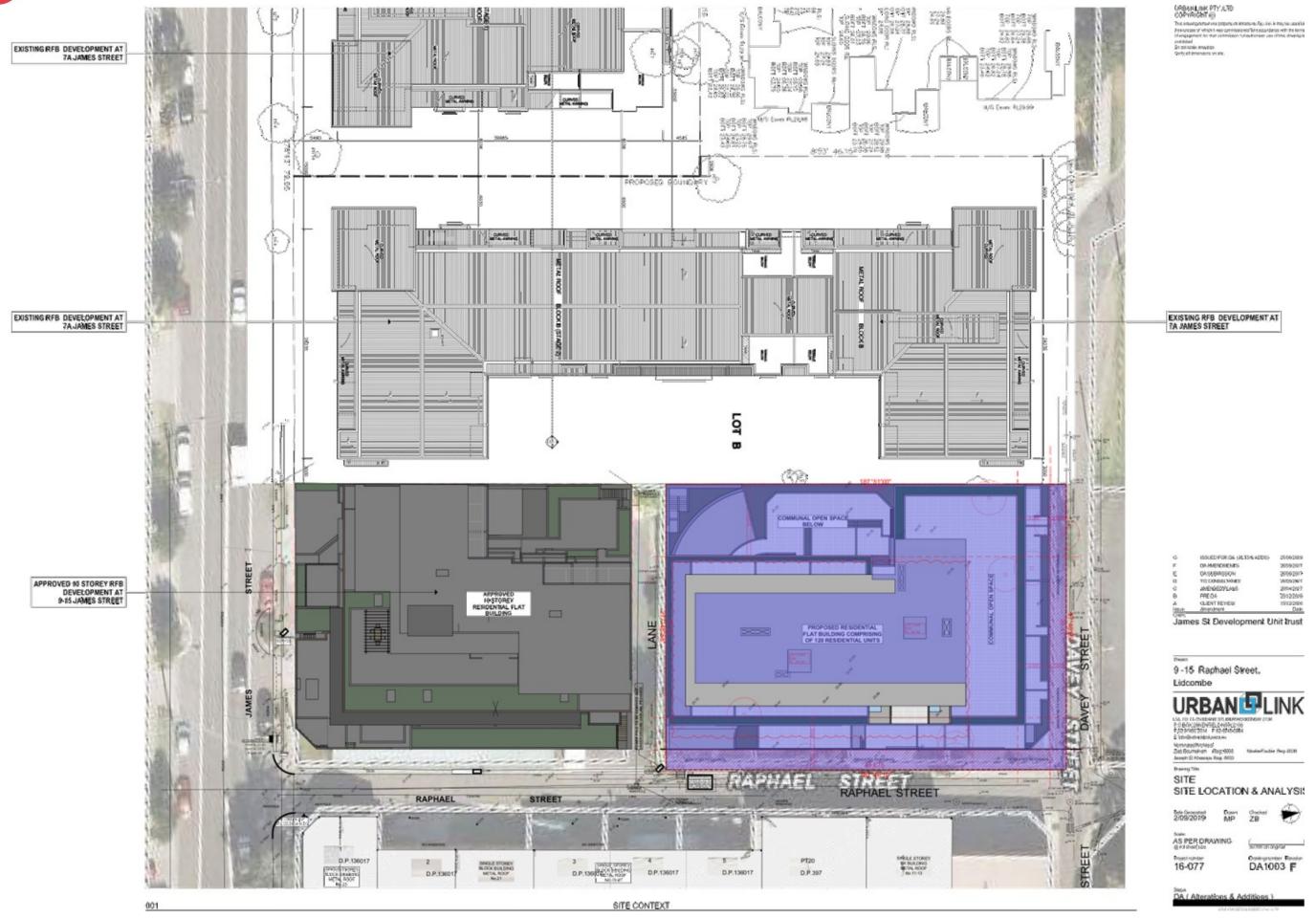
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UNIT MIX

TOTAL	8805	
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LPP074/19 – Attachment 1

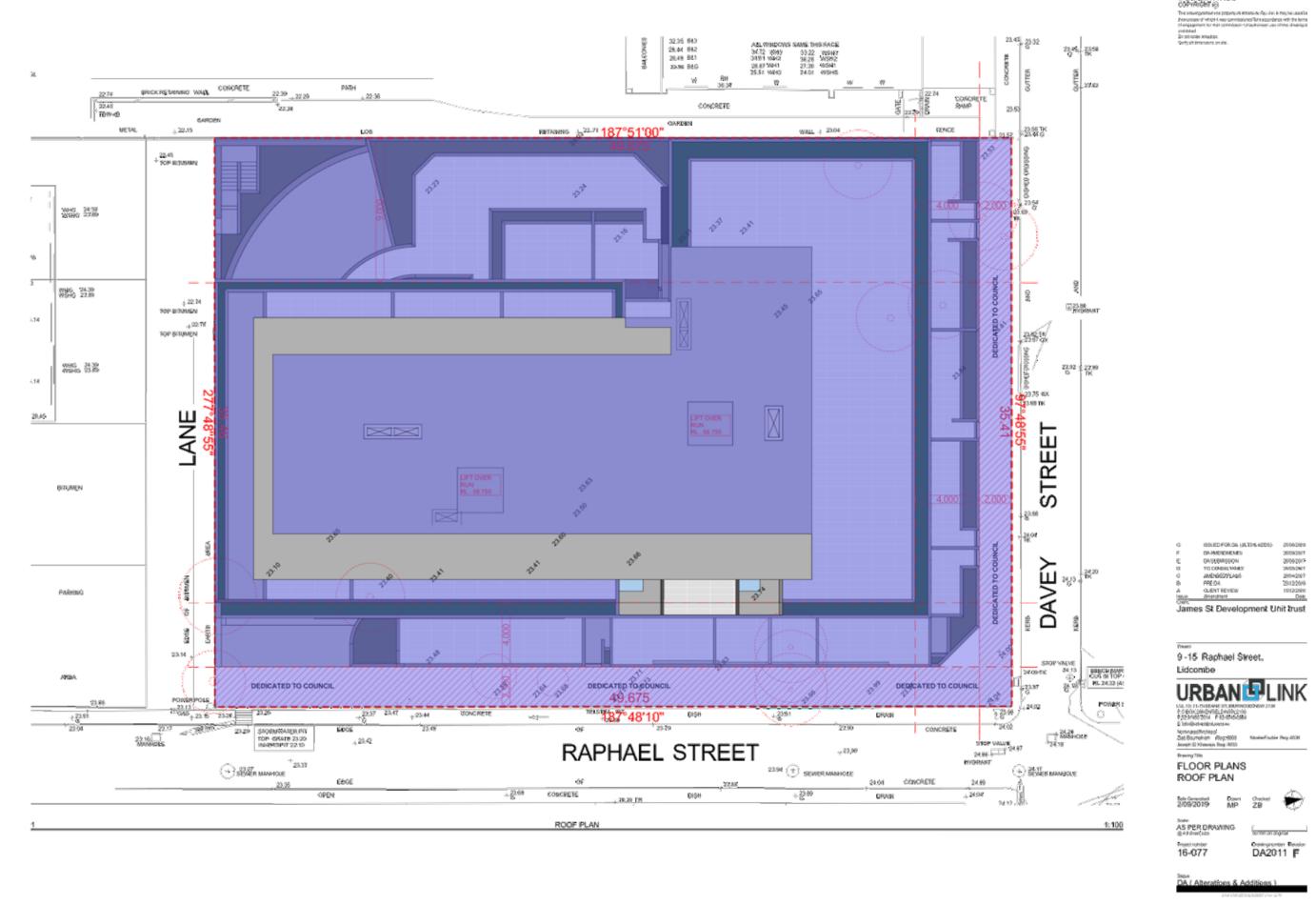
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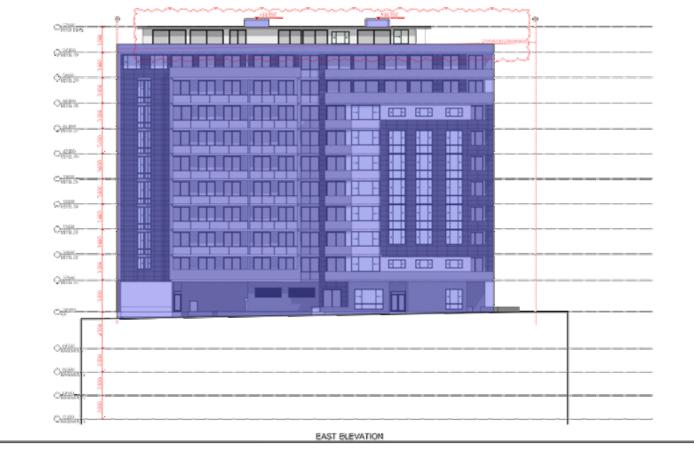
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Cumberland Local Planning Panel Meeting 13 November 2019

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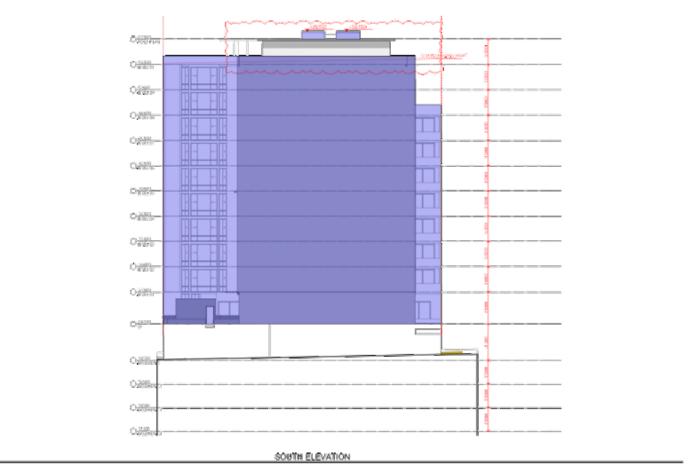


Cumberland Local Planning Panel Meeting 13 November 2019

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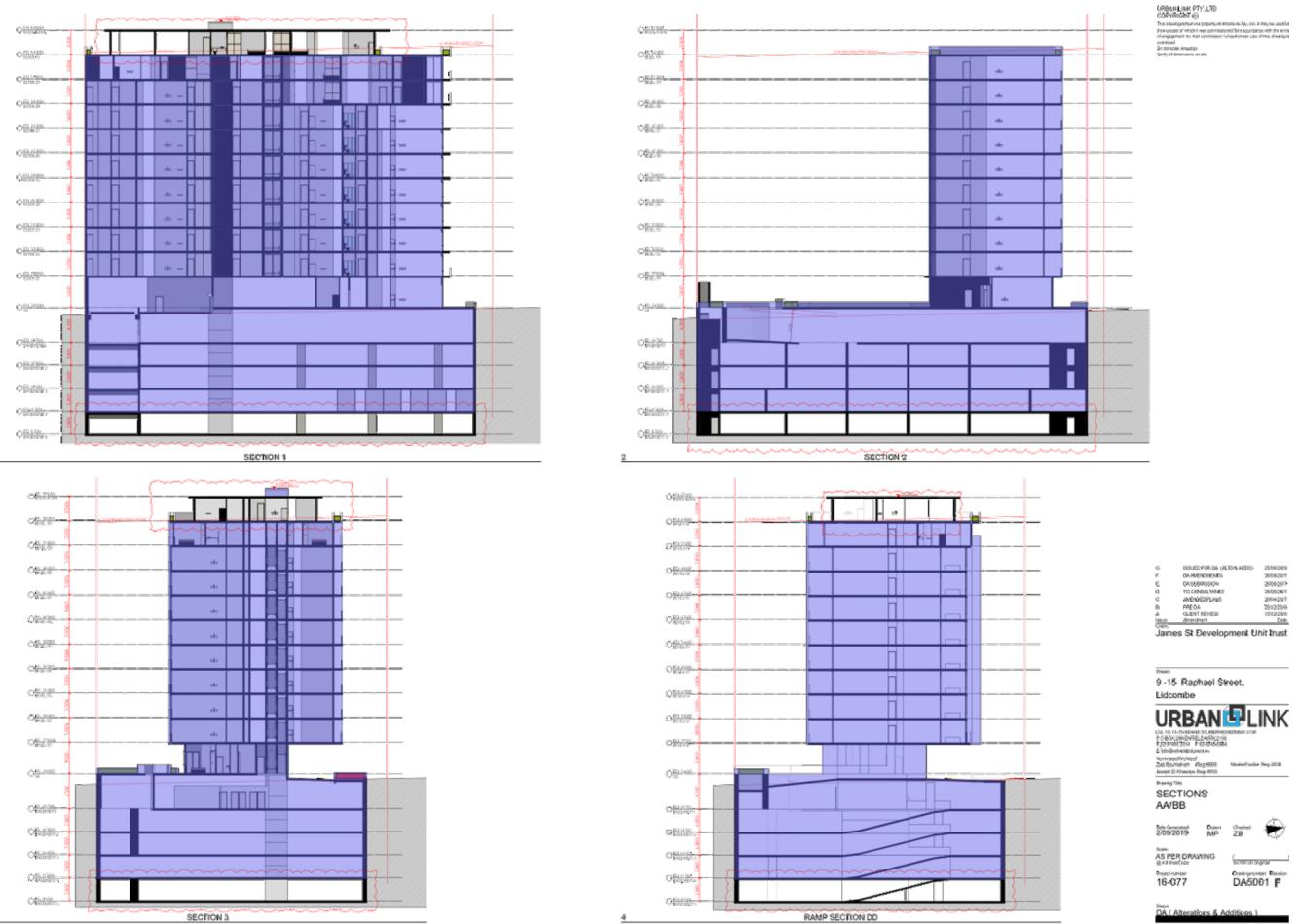
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SCHEDULE OF EXTERNAL FINISHES FOR PROPOSED RESIDENTIAL FLAT DEVELOPMENT @ 9 - 15 RAPHAEL STREET, LIDCOMBE, NSW



VIEW LOOKING SOUTH WEST FROM CNR OF MARSDEN AND RAPHAEL STREET

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PRE FINISHED CONCRETE PANELS - DULUX - GUITAR OR SIMILIAR



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James St Development Unit trust



FINISHES SCHEDULE



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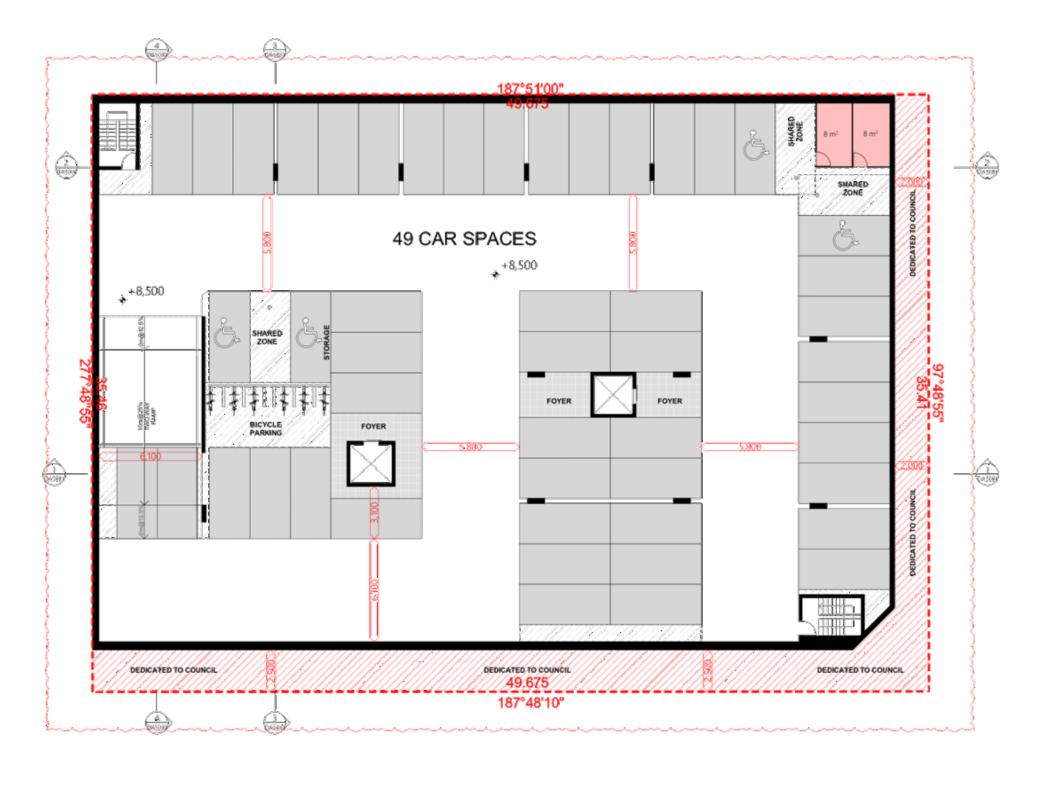
LPP074/19 - Attachment 1 Page 652

DOCUMENTS ASSOCIATED WITH REPORT LPP074/19

Attachment 2 Architectural Plans Internal



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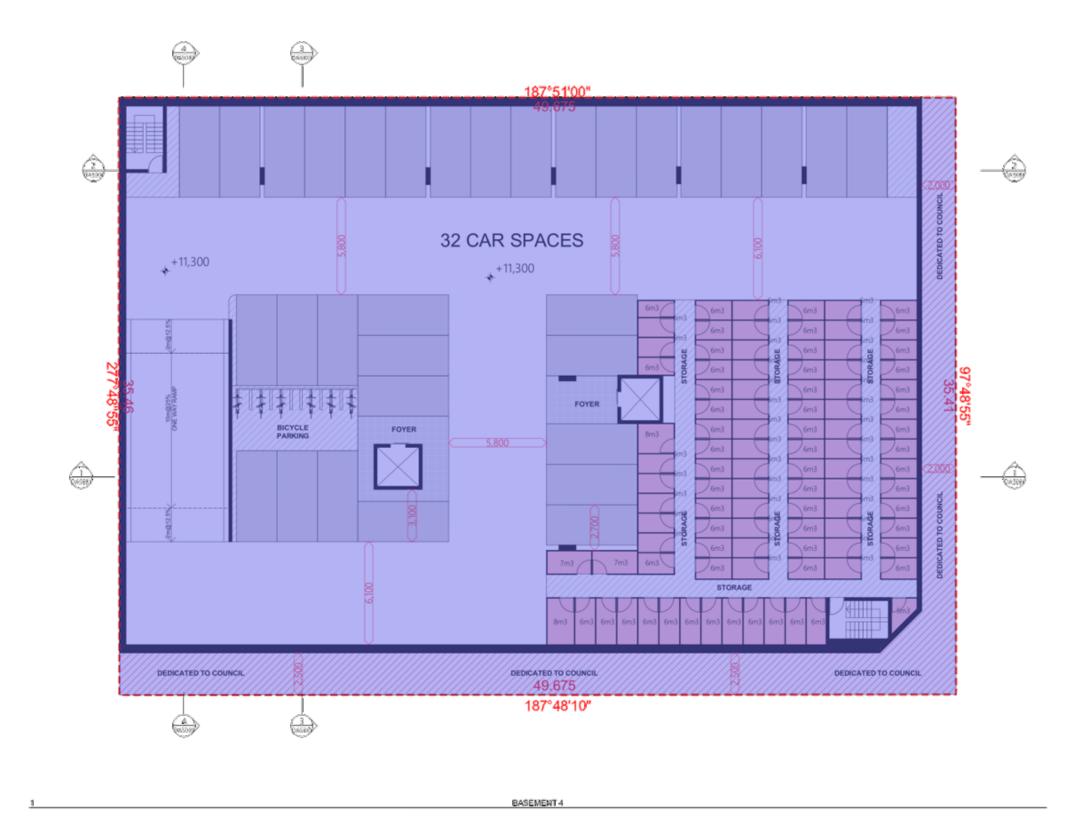
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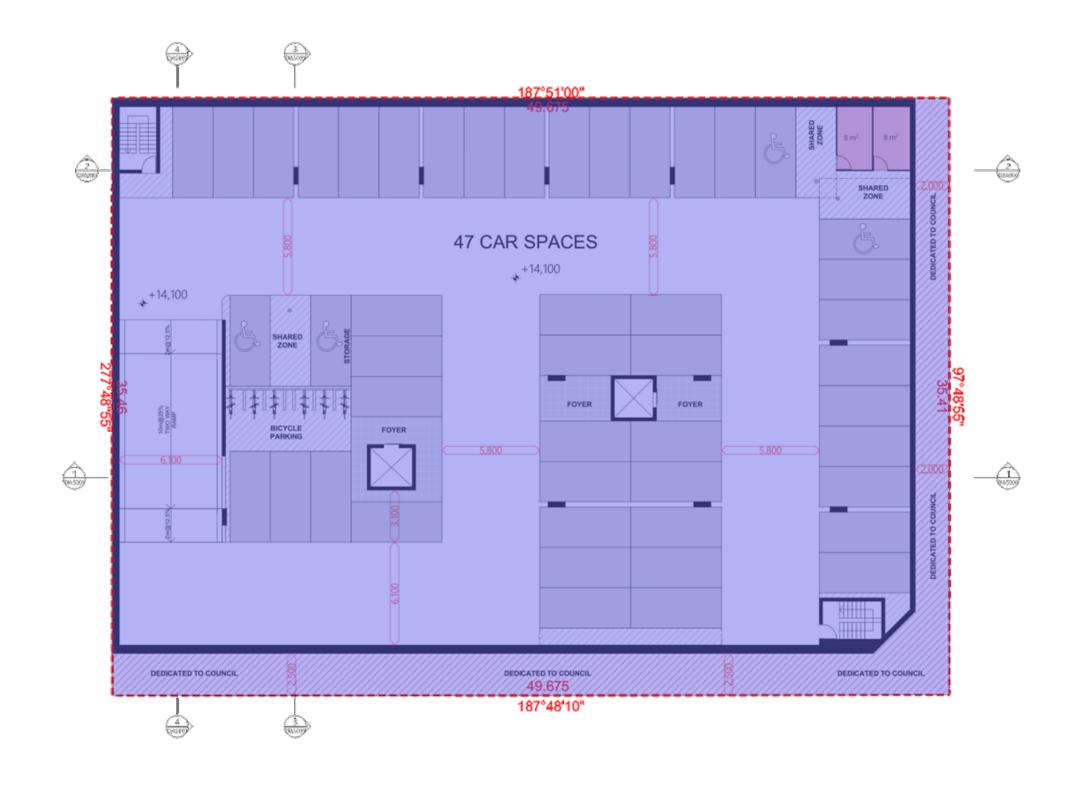
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FLOOR PLANS _A BASEMENT 3

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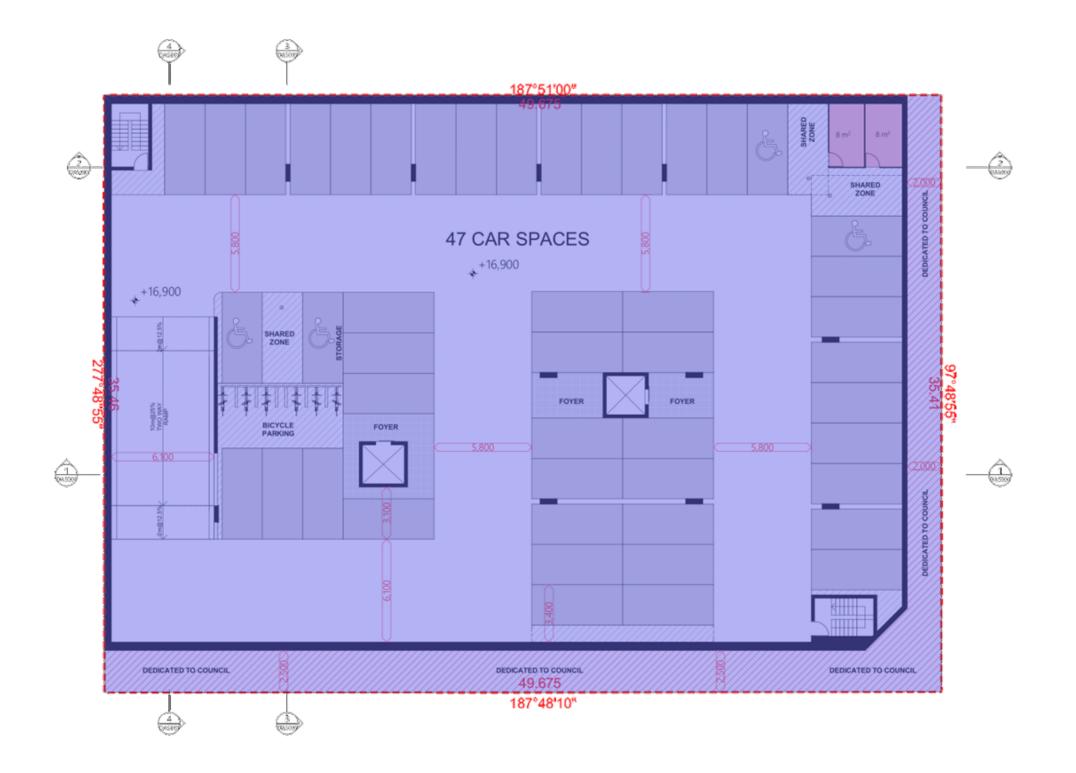
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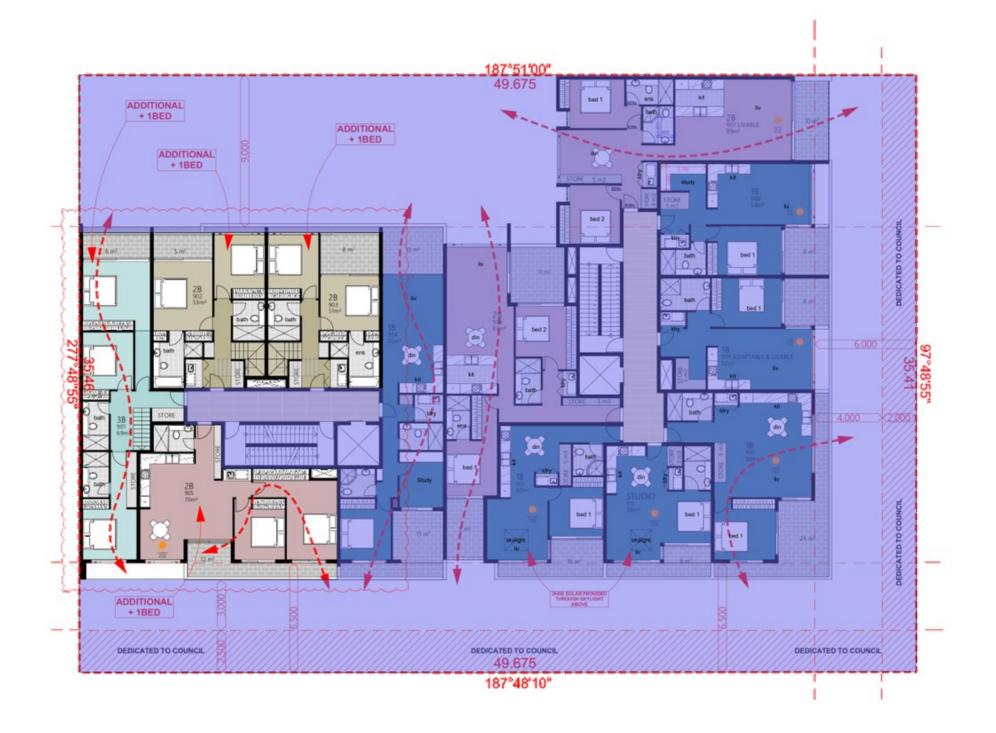
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FLOOR PLANS _A LEVEL 9

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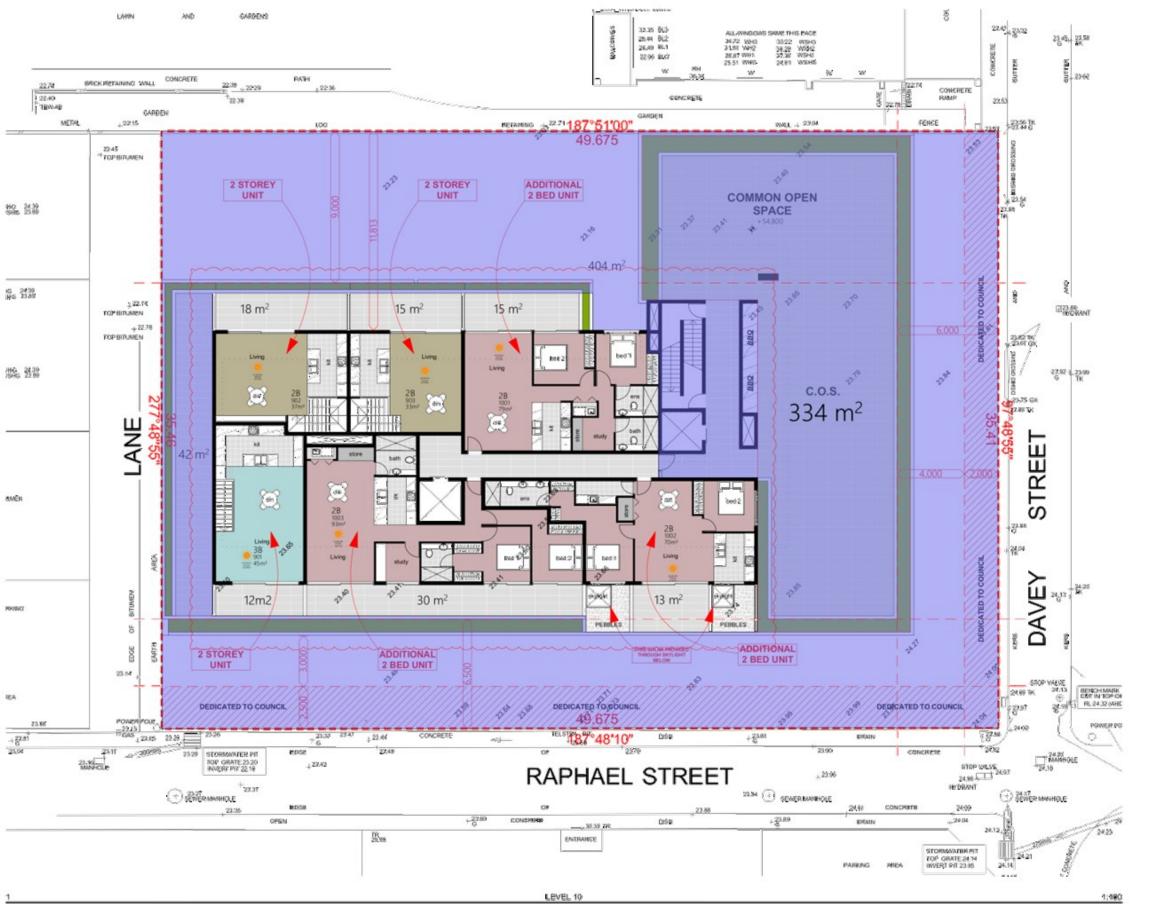
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Page 663 LPP074/19 – Attachment 2



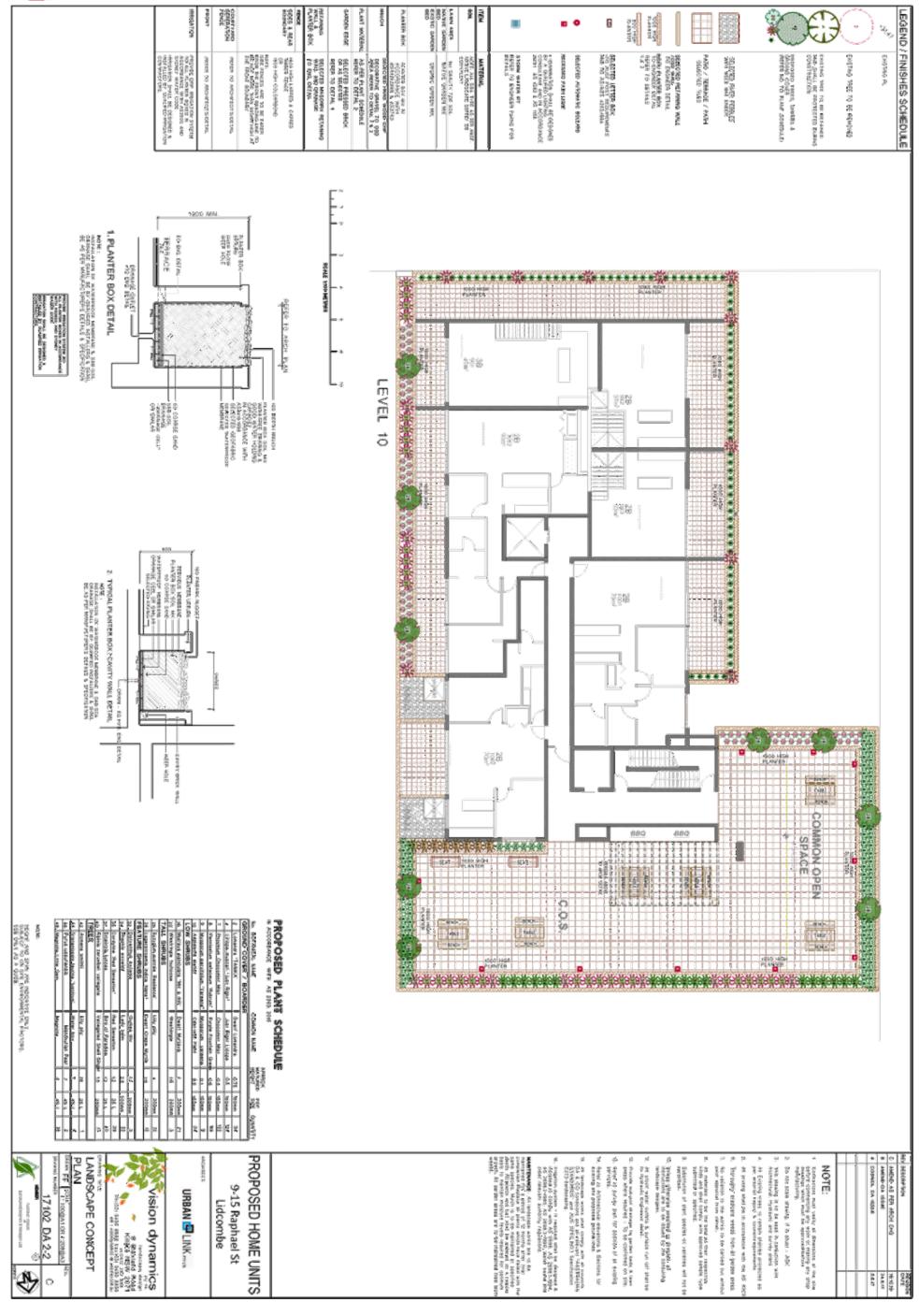


James St Development Unit trust 9-15 Raphael Street. FLOOR PLANS ROOF TOP TERRACE 2/09/2019 AS PER DRAWING 16-077 DA2010 F









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LPP074/19 – Attachment 2 Page 667

DOCUMENTS ASSOCIATED WITH REPORT LPP074/19

Attachment 3 Stormwater Engineering Plans



PROPOSED DEVELOPMENT 9 - 15 RAPHAEL STREET, LIDCOMBE

STORMWATER PLANS

- GENERAL NOTES

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EROSION AND SEDIMENT NOTES

- EROSION AND SEGMENT NOTES

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EROSION AND SERIMENT NOTES

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PIT SIZES AND DESIGN

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89mm T9:590rara	800 x 990 KMV-0
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- 2025-)-	DENOTES 225mm DIA RVC (SEWER GRADE) AF 1% MIN. GRADE U.N.O.
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SCHEDULE OF DRAWINGS

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COVER	GENERAL NOTES
SW01	SEDIMENT AND EROSION CONTROL PLAN
SW02	BASEMENT 5 DRAINAGE PLAN
SW03	BASEMENT 4 DRAINAGE PLAN
SW04	BASEMENT 3 DRAINAGE PLAN
SW05	BASEMENT 2 DRAINAGE PLAN
SW/06	BASEMENT 1 DRAINAGE PLAN
SW07	GROUND FLOOR DRAINAGE PLAN
\$W08	STORMWATER SECTIONS AND DETAILS
SW09	STORMWATER SECTIONS AND DETAILS



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PROJECT PROPOSED DEVELOPMENT 9-15 RAPHAEL STREET. LIDCOMBE

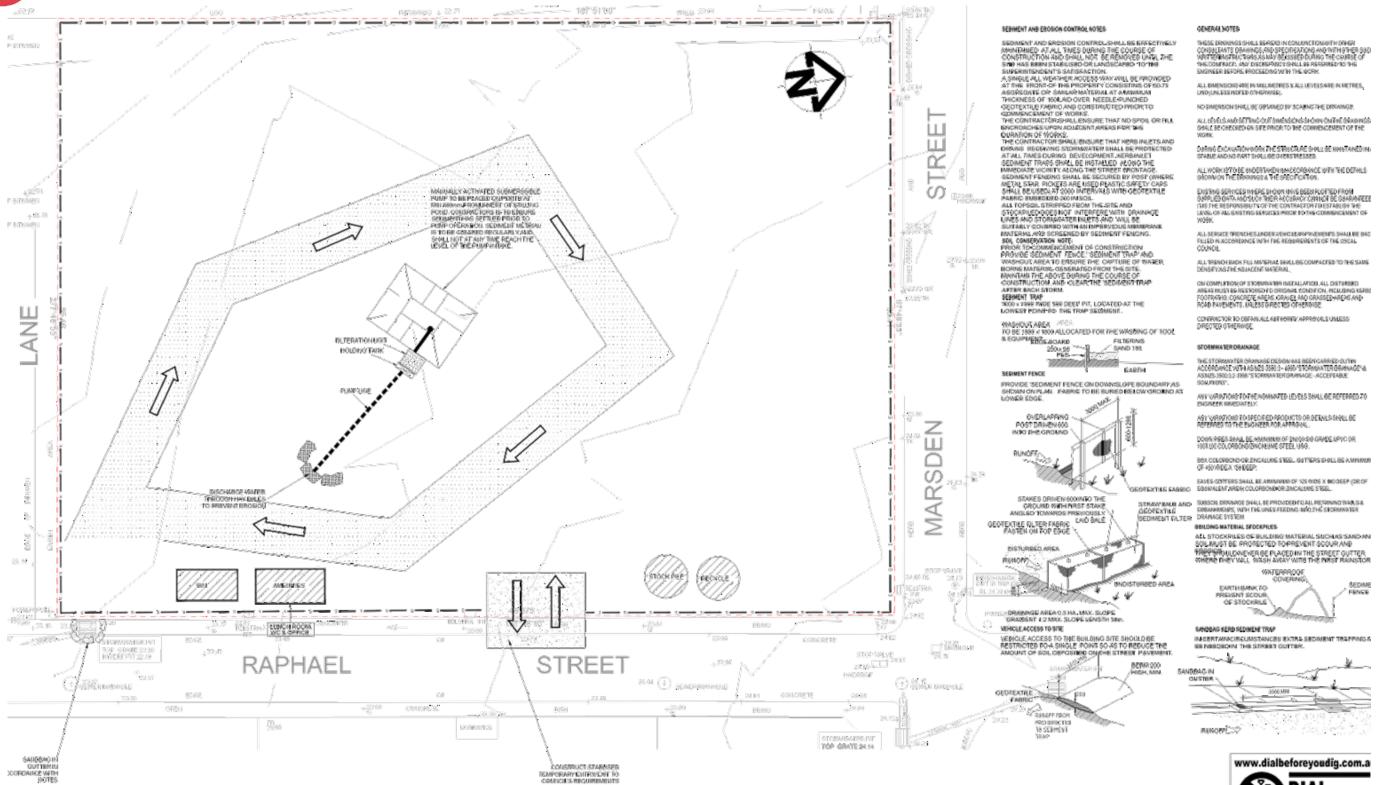
GENERAL NOTES SCALES

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LPP074/19 - Attachment 3 Page 671





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ARCHITECT PROJECT (02) 9745 5202 Phone: Fax: (02) 8004 7461 **URBAN** LINK AMENDED AS PER LATEST ARCHITECTURAL PLAN 30-08-2019 Email: jean@alphaengineering.com.au AMENDED AS PER LATEST ARCHITECTURAL PLAN 25-09-2017 Address: 24A Burleigh St, ISSUED FOR DA APPROVAL ENGINEERING & DEVELOPMENT Website: www.alphaengineering.com.au Chap 6-11 SQLL i vepoelfraudi priestrota y se P. S (ESS) pad 96-6 (Declary SE Phose (III) 16-6 30 47 m (II) 51 4-60 M Trant chi@uturich comos ISSUED FOR DA COORDINATION ISSUED FOR COORDINATION LIDCOMBE

SEDIMENT & EROSION CONTROL PLAN

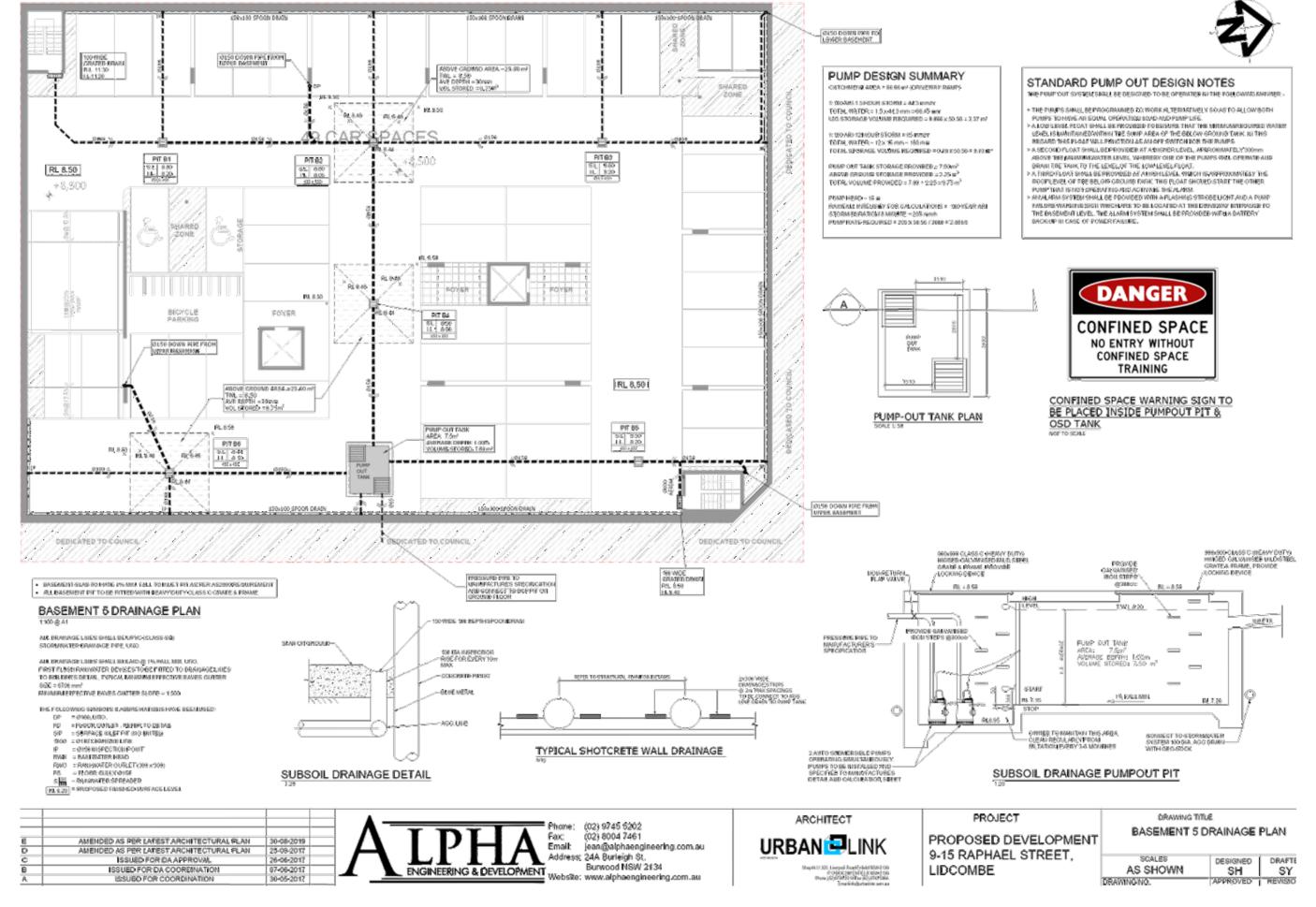
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9-15 RAPHAEL STREET,

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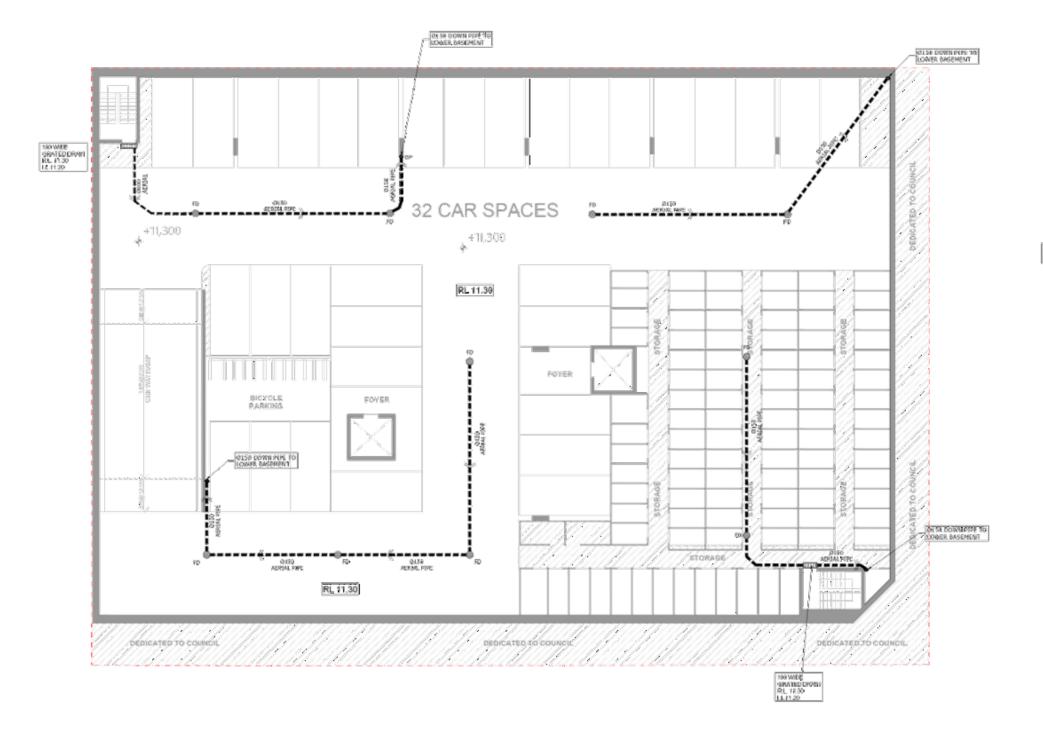
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BASEMENT 4 DRAINAGE PLAN

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WARNING PUMP OUT SYSTEM FAILURE IN BASEMENT WHEN LIGHT IS FLASHING AND SIREN IS SOUNDING

PUMP FAILURE WARNING SIGN AT BASEMENT ENTRY



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AS SHOWN





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DRAWING TITLE BASEMENT 4 DRAINAGE PLAN SCALES DRAFTE DESIGNED

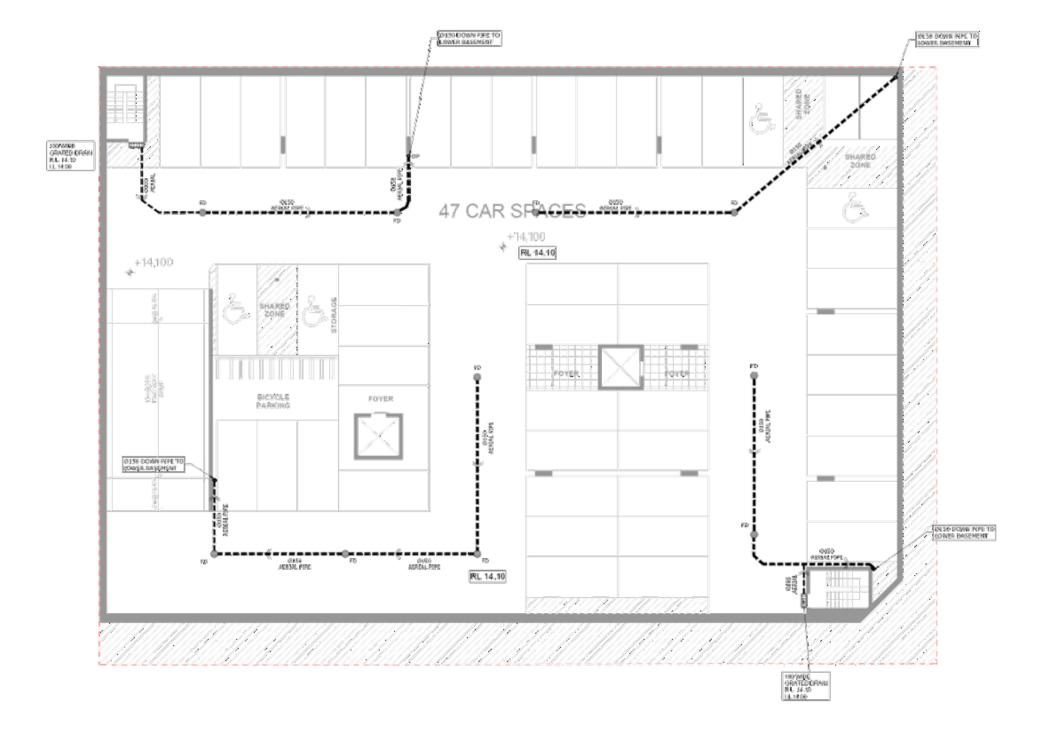
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LPP074/19 - Attachment 3 Page 674









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(AND = 0/00 CHARGES LINE.

P = 8158 RISPECTION PORT

RVAN = RARI VALETY HEAD

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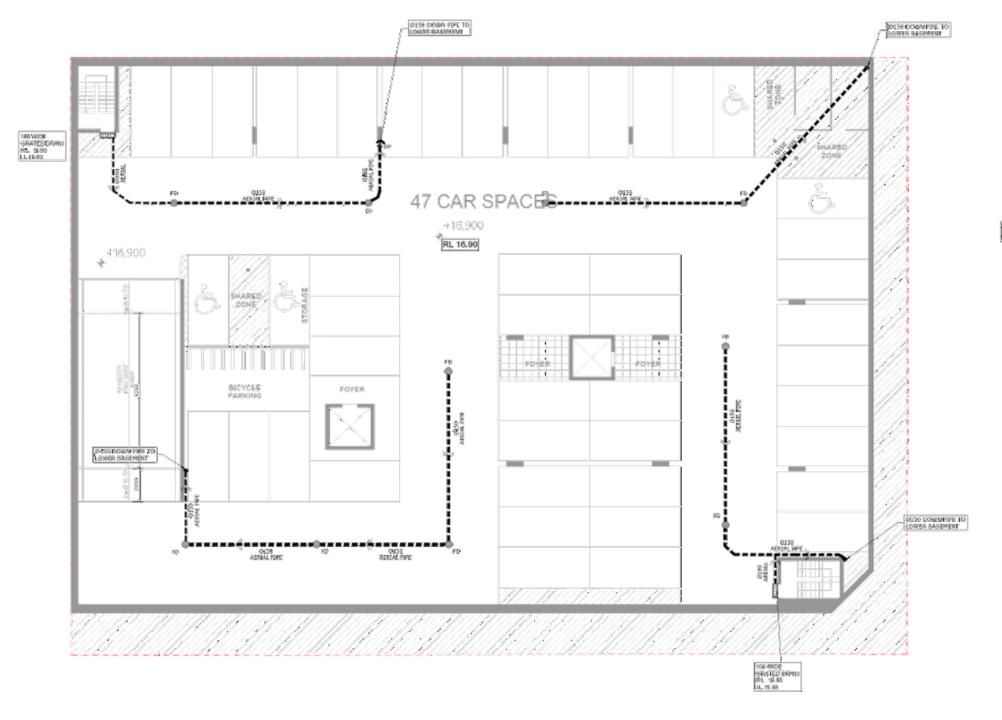
PROJECT PROPOSED DEVELOPMENT 9-15 RAPHAEL STREET, LIDCOMBE

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BASEMENT 2 DRAINAGE PLAN

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THE FOLLOWING SYMBOLS & ABBREWATIONS HAVE BEEN USED.

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1000 = OTOL CHARGED LINE IP = 0 WOUNSPECTION POINT

IP "O HOMISPECTICAL POINT
PANN = PANN WATER (NEWS)
PAN = PANN WATER (NEWS) 384 3800
PG = PECICE SULLY'N 350
SING = RAINWATER SPREADER
PE 528 = PROPOSED FINISHED SURFACE LEVEL



ISSUED FOR DA APPROVAL

AMENDED AS PER LATEST ARCHITECTURAL PLAN AMENDED AS PER LATEST ARCHITECTURAL PLAN 30-08-2019 25-09-2017 ISSUED FOR DA APPROVAL ISSUED FOR DA COORDINATION ISSUED FOR COORDINATION



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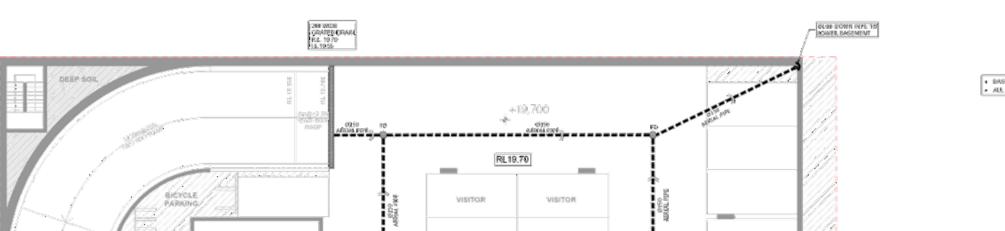
ARCHITECT **URBAN** LINK Strap 6-11 320 Liverpoil Swall Friendscopy in Projection Set (Lipedscop) Phone (Kr.) 15-63 30 47-or (12/57-6-6064 Treat Helpstrade homous

PROJECT PROPOSED DEVELOPMENT 9-15 RAPHAEL STREET, LIDCOMBE

DRAWING TITLE BASEMENT 2 DRAINAGE PLAN

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THE FOLLOWING SYMBOLS & ABBREWATIONS HAVE BEEN USES:

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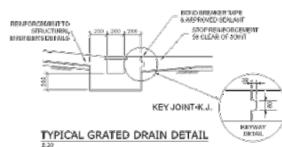
SP -SUBPRISE HER PRIT AND ENTRE!

1008 -0780 CHARGED LINE

IP -10780 HISPECTION PORIT

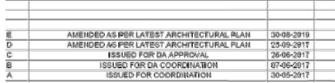
FORCE = MARILY MATERIA DENS FORCE = RANK WATER OUTLET (388 x 308)

PE = NOON COUNTY OF SE SEC = ROUNDATION SPRINGER RESEARCH SERVICE SERVICE LEVEL





ISSUED FOR DA APPROVAL



OSD + RWT DUTUMR ON GROUND FLOOR

0158 DOWN PIPE TO LOWING KASEMENT



WISITOR

FOYER

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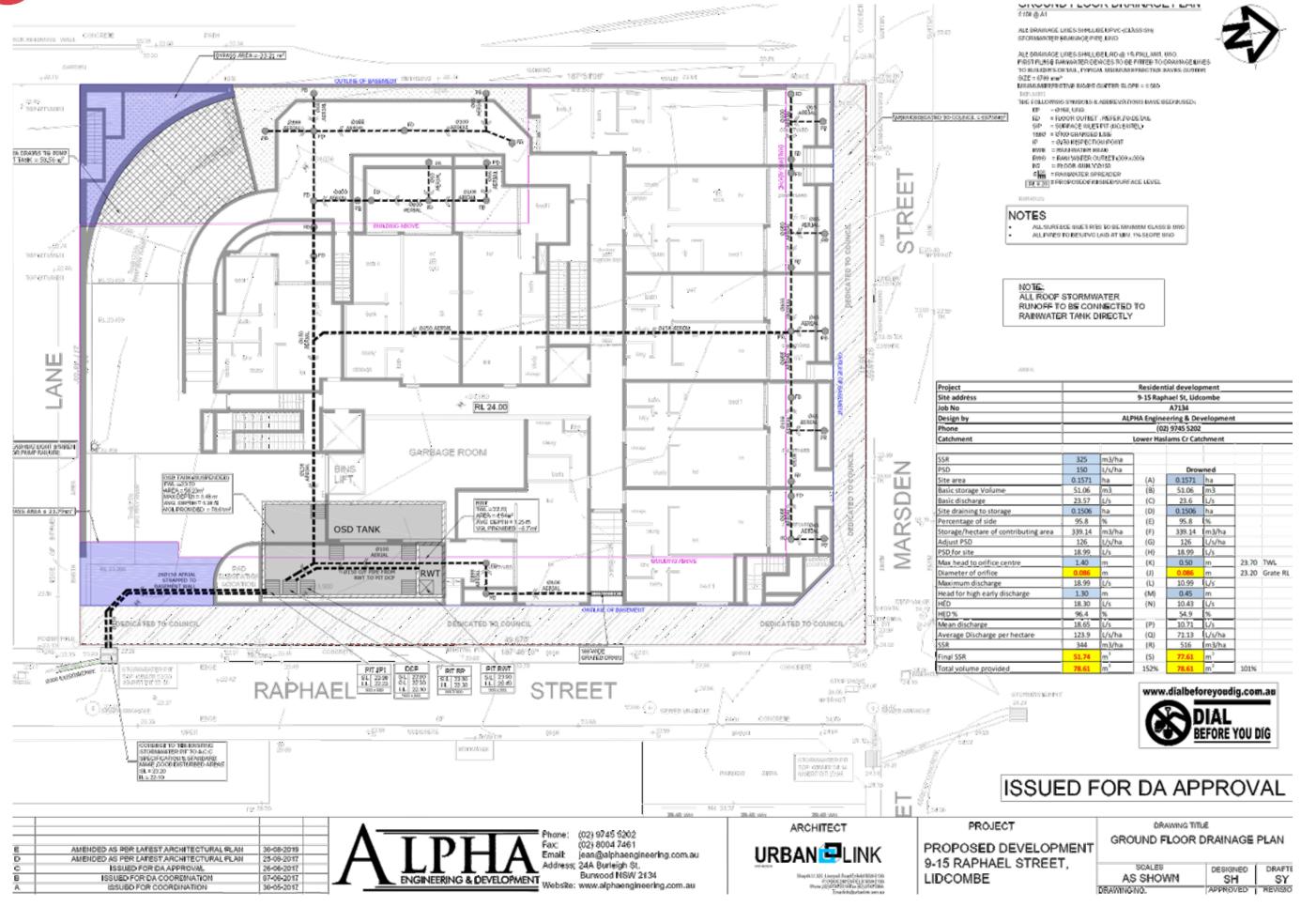
PROJECT PROPOSED DEVELOPMENT 9-15 RAPHAEL STREET, LIDCOMBE

DRAWING TITLE BASEMENT 1 DRAINAGE PLAN

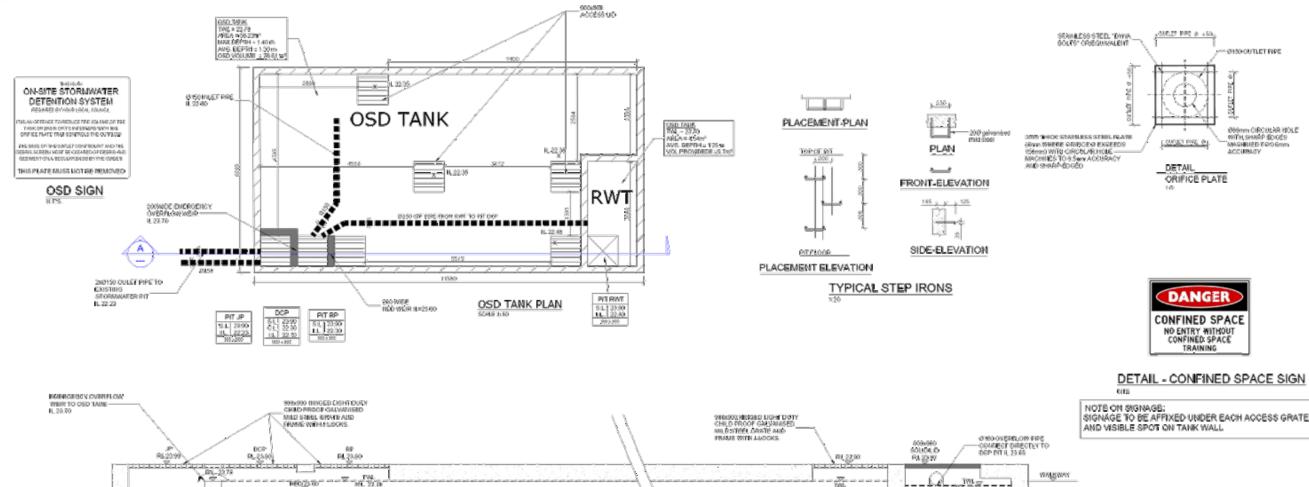
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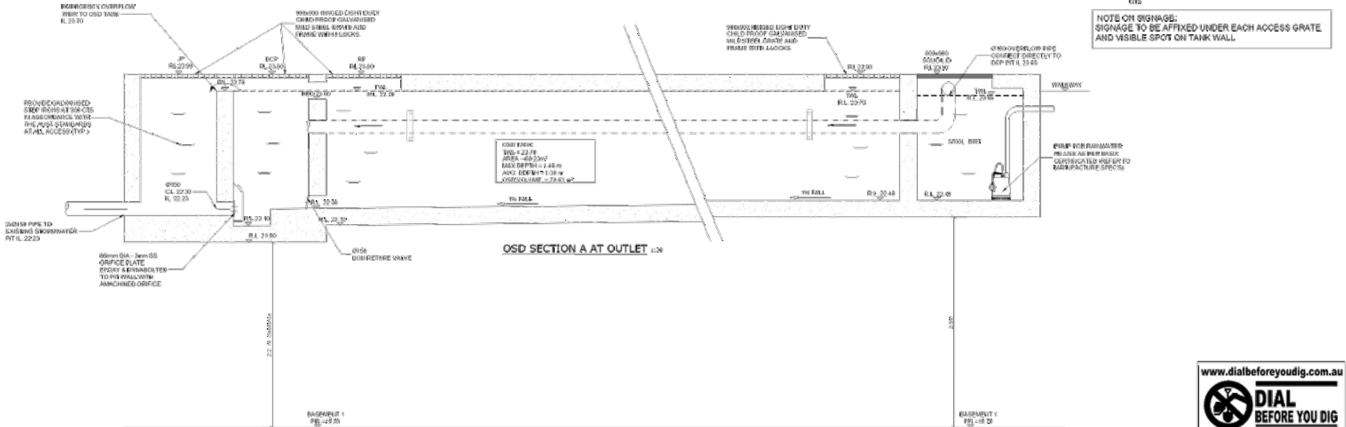


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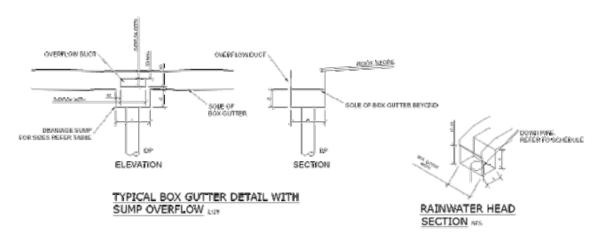




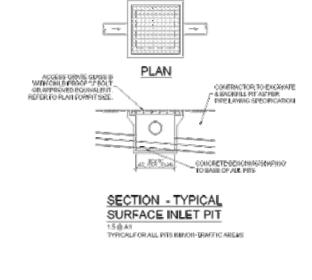
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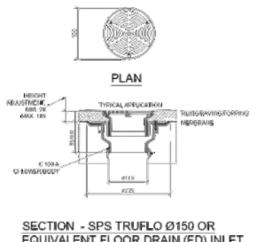
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¢ B	ISSUED FOR DA APPROVAL. ISSUED FOR DA COORENNATION ISSUED FOR COORDINATION	26-06-2017 07-06-2017 30-05-2017	=.	Address: 24A Burleigh St. Burwood NSW 2134 Website: www.alphaengineering.com.au	entrimentum Sikanpaksisi 2001. Lienepadi Stambili hakel Silasi 1906 Silasi Silasi Silasi Silasi Silasi Sila	9-15 RAPHAEL STREET, LIDCOMBE	SCALES DESIGNED AS SHOWN SH DRAWINGNO. APPROVED	D DRAFTE SY D REVISIO



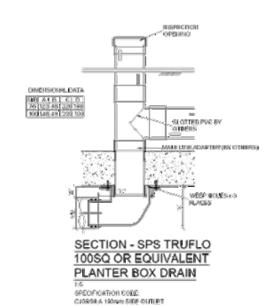


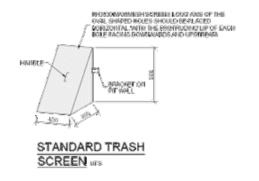
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HODE BOX OUTTER SIZE PANIMATER HEAD SIZE SUMP SIZE CAERFLOW TO SUMP DOWNER PE & with						
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	ISSUED FOR DA COORDINATION	07-06-2017
A	ISSUED FOR COORDINATION	38-85-2017



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ARCHITECT **URBAN** LINK

PROJECT PROPOSED DEVELOPMENT 9-15 RAPHAEL STREET, LIDCOMBE

DRAWING TITLE STORMWATER SECTIONS AND DETAILS SCALES. DRAFTE DESIGNED AS SHOWN SH SY

DOCUMENTS ASSOCIATED WITH REPORT LPP074/19

Attachment 4
Appendix A



APPENDIX A

State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development (SEPP 65)

The provisions and design quality principles of SEPP 65 and Apartment Design Guide (ADG) have been considered in the assessment of the development application within the following table:

SEPP 65 - Design Quality of Residential Apartment Development

Requirement		Yes	No	N/A	Comment
Part 1 Preliminary			140	11//	Comment
Clause 2 Aims, objectives etc.					
0.0	and I raine, objectives etc.				
(1)	This Policy aims to improve the design quality of residential flat development in New South Wales.	\boxtimes			The proposal is considered to satisfy the aims and objectives of SEPP 65.
(2)	This Policy recognises that the design quality of residential flat development is of significance for environmental planning for the State due to the economic, environmental, cultural and social benefits				Non-compliances with the Apartment Design Guide are highlighted in red and discussed in greater detail below.
(3)	of high quality design. Improving the design quality of residential flat development aims:	\boxtimes			
	(a) To ensure that it contributes to the sustainable development of NSW: (i) by providing sustainable housing in social and environmental terms; (ii) By being a long-term asset to its neighbourhood; (iii) By achieving the urban planning policies for its regional and local contexts.				
	(b) To achieve better built form and aesthetics of buildings and of the streetscapes and the public spaces	\boxtimes			
	they define. (c) To better satisfy the increasing demand, the changing social and demographic profile of the community, and the needs of the widest range of people from childhood to old age, including those with disabilities.				
	(d) To maximise amenity, safety and security for the benefit of its occupants and the wider community.	\boxtimes			
	To minimise the consumption of energy from non-renewable resources to conserve the environment and to	\boxtimes			
	reduce greenhouse gas emissions. (f) to contribute to the provision of a variety of dwelling types to meet	\boxtimes			
	population growth. (g) to support housing affordability. (h) to facilitate the timely and efficient assessment of applications for development to which this Policy applies.	\boxtimes			
(4)	This Policy aims to provide: (a) consistency of policy and mechanisms across the State, and	\boxtimes			

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Rec	uirement	Yes	No	N/A	Comment
	(b) a framework for local and regional	\boxtimes			
	planning to achieve identified outcomes	_	_	—	
_	for specific places.				
	t 3 Design Review Panels				
28	Determination of development applications				
	аррисация				
(1)	After receipt of a development application for			\boxtimes	Although a Design Review Panel has
	consent to carry out development to which				been established for the Cumberland
	this Policy applies (other than State				LGA, the subject application is only a
	significant development) and before it determines the application, the consent				modification to the approved scheme and referral to the DRP was not
	authority is to refer the application to the				required.
	relevant design review panel (if any) for				1-4
	advice concerning the design quality of the				
	development.				
(2)	In determining a development application for				
(2)	consent to carry out development to which				
	this Policy applies, a consent authority is to				
	take into consideration (in addition to any				
	other matters that are required to be, or may be, taken into consideration):				
	(a) (a)the advice (if any) obtained from the				
	design review panel, and				
	(b) (b)the design quality of the				
	development when evaluated in accordance with the design quality				
	principles, and				
	(c) (c)the Apartment Design Guide.				
<i>(-</i>)					
(3)	However, if the relevant design review panel fails to inform the consent authority of its	ш	ш		
	advice concerning the design quality of the				
	development to which this Policy applies				
	within 14 days after its first meeting to deal				
	with the application concerned, the consent authority may determine the development				
	application without considering any such				
	advice and a development consent so				
	granted is not voidable on that ground.				
(4)	The 14 day period referred to in subclause				
	(3) does not increase or otherwise affect the				
	period within which a development application is required to be determined by a				
	consent authority.				
	A company of the site is not according to a basis				
	A consent authority is not required to obtain the advice of a relevant design review			$ \boxtimes $	
	panel under subclause (1) if an				
	architectural design competition that is				
	consistent with the Design Excellence Guidelines has been held in relation to				
	the proposed development.				
29	Determination of applications for				
	development consent modifications				
(1)	This clause applies if a consent authority is			\boxtimes	Although a Design Review Panel has
	required by clause 115 (3A) of the Environmental Planning and Assessment	_	_		been established for the Cumberland
	Regulation 2000 to refer an application for				LGA, the subject application is only a modification to the approved scheme
	the modification of development consent				and referral to the DRP was not
	(other than in relation to State significant				required.
	development) to a relevant design review				The application involves alterations and

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Requirement	Yes	No	N/A	Comment
modifications diminish or detract from the design quality, or compromise the design intent, of the development for which the consent was granted. (2) In determining an application to which this clause applies, the consent authority is to take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration):			\boxtimes	additions to approved 10 storey residential flat building (DA-280/2017) at 9-15 Raphael Street, Lidcombe including the addition of three 2 bedroom units to Level 10, improving the unit mix and variety of apartments, minor changes to façade, location of services and an additional basement parking level.
(a) the advice (if any) obtained from the design review panel, and (b) the design quality of the development (as modified) when evaluated in accordance with the design quality principles, and (c) the Apartment Design Guide.				
(3) However, if the relevant design review panel fails to inform the consent authority of its advice within 14 days after its first meeting to deal with the application concerned, the consent authority may determine the application without considering any such advice and a modification of consent so granted is not voidable on that ground.			\boxtimes	
(4) The 14-day period referred to in subclause (3) does not increase or otherwise affect the period within which an application for the modification of development consent is required to be determined by a consent authority.			\boxtimes	
30 Standards that cannot be used as grounds to refuse development consent or modification of development consent				
(1) If an application for the modification of a development consent or a development application for the carrying out of development to which this Policy applies satisfies the following design criteria, the consent authority must not refuse the application because of those matters:				
(a) if the car parking for the building will be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide,				The proposal provides for parking to meet the minimum requirements of the ADG.
(b) if the internal area for each apartment will be equal to, or greater than, the recommended minimum internal area for the relevant apartment type specified in Part 4D of the Apartment Design Guide,				The apartments comply with the minimum areas specified by the Apartment Design Guide.
(c) if the ceiling heights for the building will be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide. Note. The Building Code of Australia specifies minimum ceiling heights for				The floor to ceiling heights of the apartments complies with the minimum heights specified in the Apartment Design Guide.
residential flat buildings. (2) Development consent must not be granted if, in the opinion of the consent authority,				



Requirement	Yes	No	N/A	Comment
the development or modification does not				
demonstrate that adequate regard has been given to: (a) the design quality principles, and (b) the objectives specified in the Apartment Design Guide for the relevant design criteria.	\boxtimes			The design of the proposed development has given adequate regard to the design quality principles and the objectives specified in the Apartment Design Guide for the relevant design
(3) To remove doubt: (a) subclause (1) does not prevent a consent authority from refusing an application in relation to a matter not specified in subclause (1), including on the basis of subclause (2), and (b) the design criteria specified in subclause (1) are standards to which clause 79C (2) of the Act applies.				criteria.
Schedule 1 Design quality principles				
Principle 1: Context and Neighbourhood Character Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions. Responding to context involves identifying the desirable elements of an area's existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Consideration of local context is important for all sites, including sites in established areas, those				The proposed development is considered to respond appropriately to its context in terms of the existing and likely future character of the streetscape and neighbourhood.
undergoing change or identified for change. Principle 2: Built Form and Scale Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings. Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.				The proposed bulk, scale and height of the development is considered to be respond appropriately to the existing and desired future character of the street and surrounding buildings, having regard to the applicable development standards. The development has also been well designed in terms of alignments, proportions articulation and building elements. The development is also considered to make a positive contribution to the streetscape and the public domain.
Principle 3: Density Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context. Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.				The proposed development complies with the maximum FSR of 5:1 for the site under ALEP 2010.



Requirement	Yes	No	N/A	Comment
Principle 4: Sustainability Good design combines positive environmental, social and economic outcomes.				A BASIX Report has been submitted with the development application.
Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling				The BASIX certification requires sustainable development features to be installed into the development. The proposal will incorporate features
reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.				relating to ESD in the design and construction of the development inclusive of water efficient fixtures and energy saving devices.
Principle 5: Landscape Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive	\boxtimes			A landscape plan has been submitted with the application. The approved plans demonstrate
image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.				appropriate opportunities for planting at the street level and ground level open space, as well as embellishment of the rooftop common open space area.
Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.				
Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.				
Principle 6: Amenity Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident wellbeing.	\boxtimes			The proposal will deliver sufficient amenity to residents of the building. The proposal achieves compliance with the ADG in this regard.
Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.				Suitable access is provided to all parts of the building, through the efficient use of lifts to access all levels.
Principal 7: Safety Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended				The position and orientation of the various building elements allows for balconies and communal open space areas to overlook the street.
purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.				The development has been designed with distinct and secure access points and proper demarcation between public and private spaces.
A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.				anu private spaces.
Principal 8: Housing Diversity and Social Interaction				The development provides a mix of



Requirement	Yes	No	N/A	Comment
Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets. Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.				studio, 1 and 2 bedroom apartments, with one 3 bedroom apartment. 12 (10%) of the apartments are adaptable apartments. The development has also been designed communal open space which will cater for a broad range of residents and provide opportunity for social interaction.
Principle 9: Aesthetics Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures. The visual appearance of a well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.				The development has an attractive contemporary appearance and utilises building elements that provide individuality to the development without compromising the streetscape or detracting from the appearance of existing surrounding development. The building responds well in this regard with its provision of good aesthetics and the intended use of high quality materials, attention to detail in its internal spaces and how it addresses the street frontages. The building provides an appropriate response to the existing and likely future character of the locality.
Clause 28 Determination of DAs (1) After receipt of a development application for consent to carry out development to which this Policy applies (other than State significant development) and before it determines the application, the consent authority is to refer the application to the relevant design review panel (if any) for advice concerning the design quality of the development. (2) In determining a development application for consent to carry out development to which this Policy applies, a consent authority is to take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration): (a) the advice (if any) obtained from the design review panel, and (b) the design quality of the development when evaluated in accordance with the design quality principles, and (c) the Apartment Design Guide.				Although a Design Review Panel has been established for the Cumberland LGA, the subject application is only a modification to the approved scheme and referral to the DRP was not required. The design quality principles of SEPP 65 and the objectives and design criteria of the ADG are considered to be satisfied.

Apartment Design Guide (ADG)

Requirement	Yes	No	NA	Comment
Part 3B - Orientation				
3B-1 Design Guidance Buildings along the street frontage define the street, by facing it and incorporating direct access from the street	\boxtimes			The building defines the street and has direct access from the street. This aspect of the approved proposal



Where the street frontage is to the east or west, rear buildings should be orientated to the north.			remains unaltered by the subject development application.
Where the street frontage is to the north or south, overshadowing to the south should be minimised and buildings behind the street frontage should be orientated to the east and west (see figure 3B.2).			The development has been designed to maximise solar access to the apartments.
3B-2 Design Guidance Living areas, private open space and communal open space should receive solar access in accordance with sections 3D Communal and public open space and 4A Solar and daylight access.			The development achieves the minimum solar access requirements to private and communal open spaces.
Solar access to living rooms, balconies and private open spaces of neighbours should be considered.			Overshadowing of adjoining properties is minimised.
Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures solar access to neighbouring properties is not reduced by more than 20%.			The setbacks are unaltered by the subject development application.
If the proposal will significantly reduce the solar access of neighbours, building separation should be increased beyond minimums contained in section 3F Visual privacy.			The variation to the height limit does not result in adverse overshadowing impacts to adjoining properties. The proposal is therefore considered to comply with the requirements pertaining to solar access.
Overshadowing should be minimised to the south or downhill by increased upper level setbacks.	\boxtimes		The building maintains the form of
It is optimal to orientate buildings at 90 degrees to the boundary with neighbouring properties to minimise overshadowing and privacy impacts, particularly where minimum setbacks are used and where buildings are higher than the adjoining development.			that approved for 9-15 Raphael Street.
A minimum of 4 hours of solar access should be retained to solar collectors on neighbouring buildings.			There are currently no solar collectors on affected buildings to the south or west.
Part 3C - Public domain interface			
3C-1 Design Guidance Terraces, balconies and courtyard apartments should have direct street entry where appropriate.			The proposed development provides access from Raphael Street through a defined lobby. Ground floor apartments have direct street access.
Changes in level between private terraces, front gardens and dwelling entries above the street level provide surveillance and improve visual privacy for ground level dwellings.			Ground floor apartments achieve privacy through planters.
Upper level balconies and windows should overlook the public domain.	\boxtimes		It is considered that the development provides an appropriate interface with the public domain.
Front fences and walls along street frontages should use visually permeable materials and treatments. The height of solid fences or walls should be limited to 1m.		\boxtimes	Planters are integrated into the design and are place to achieve privacy over permeability.
Length of solid walls should be limited along street frontages.	\boxtimes		Solid walls have been minimised or broken up where is achievable.
In developments with multiple buildings and/or			



entries, pedestrian entries and spaces associated with individual buildings/entries should be differentiated to improve legibility for residents, using a number of the following design solutions: architectural detailing. changes in materials. plant species. colours.			Glazing is interspersed with solid walls to address the street front.
Opportunities should be provided for casual interaction between residents and the public domain. Design solutions may include seating at building entries, near letter boxes and in private courtyards adjacent to streets.			
Opportunities for people to be concealed should be minimised.			
3C-2 Design Guidance Planting softens the edges of any raised terraces to the street, for example above sub-basement car parking.	\boxtimes		These aspects of the approved proposal remain unaltered by the subject development application.
Mail boxes should be located in lobbies, perpendicular to the street alignment or integrated into front fences where individual street entries are provided.			
The visual prominence of underground car park vents should be minimised and located at a low level where possible.			
Substations, pump rooms, garbage storage areas and other service requirements should be located in basement car parks or out of view.			
Ramping for accessibility should be minimised by building entry location and setting ground floor levels in relation to footpath levels.			
Durable, graffiti resistant and easily cleanable materials should be used.	\boxtimes		
Where development adjoins public parks, open space or bushland, the design positively addresses this interface and uses a number of the following design solutions:			
 street access, pedestrian paths and building entries which are clearly defined. paths, low fences and planting that clearly 			
delineate between communal/private open space and the adjoining public open space. • minimal use of blank walls, fences and ground level parking.			
On sloping sites protrusion of car parking above ground level should be minimised by using split levels to step underground car parking.		\boxtimes	
Part 3D - Communal and public open space 3D-1 Design Criteria			



Communal open space has a minimum area equal to 25% of the site (see figure 3D.3).			The development provides approximately 470m ² of communal open space equating to 26.7% of the
Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter).			site area. This is comprised of 136m ² on ground level as well as 334m ² of rooftop areas.
			The rooftop open space areas receive solar access throughout the day.
3D-1 Design Criteria Communal open space should be consolidated into a well-designed, easily identified and usable area.	\boxtimes		Communal open space is to be provided in large, useable areas located on the rooftop.
Communal open space should have a minimum dimension of 3m, and larger developments should consider greater dimensions.	\boxtimes		
Communal open space should be co-located with deep soil areas.		\boxtimes	
Direct, equitable access should be provided to communal open space areas from common circulation areas, entries and lobbies.			Equitable access from common circulation areas is maintained.
Where communal open space cannot be provided at ground level, it should be provided on a podium or roof.			
Where developments are unable to achieve the design criteria, such as on small lots, sites within business zones, or in a dense urban area, they should:			
provide communal spaces elsewhere such as a landscaped roof top terrace or a common room.	\boxtimes		The land is in proximity to 2 small pocket parks which are proposed to
provide larger balconies or increased private open space for apartments. demonstrate good proximity to public open			be joined upon acquisition of the land to the north of the subject site which links the 2 existing parks.
space and facilities and/or provide contributions to public open space.			
SD-2 Design Guidance Facilities are provided within communal open spaces and common spaces for a range of age groups (see also 4F Common circulation and spaces), incorporating some of the following			
elements: seating for individuals or groups. barbecue areas.			Embellishment of the open space area is provided with BBQ areas and
play equipment or play areas. swimming pools, gyms, tennis courts or common rooms.			seating.
The location of facilities responds to microclimate and site conditions with access to sun in winter, shade in summer and shelter from strong winds and down drafts.			Services are located so as not to impact on the visual amenity of the communal open space areas.
Visual impacts of services should be minimised, including location of ventilation duct outlets from basement car parks, electrical substations and detention tanks.			
3D-3 Design Guidance Communal open space and the public domain			



should be readily visible from habitable rooms and private open space areas while maintaining visual privacy. Design solutions may include:-	\boxtimes		
Bay windows.Corner windows.Balconies.			Surveillance of communal open space is improved by having apartments at the same level to increase activity.
Communal open space should be well lit.			
Where communal open space / facilities are provided for children and young children they are safe and contained.			
3D-4 Design Guidance The public open space should be well connected with public streets along at least one edge.		\boxtimes	Public open space is not provided within the development.
The public open space should be connected with nearby parks and other landscape elements.		\boxtimes	
Public open space should be linked through view lines, pedestrian desire paths, termination points and the wider street grid.			
Solar access should be provided year round along with protection from strong winds.		\boxtimes	
A positive address and active frontages should be provided adjacent to public open space.		\boxtimes	
Boundaries should be clearly defined between public open space and private areas.			
	l		I
Part 3E1 - Deep soil zones			
Part 3E1 - Deep soil zones 3E-1 Design criteria Deep soil zones are to meet the following			No deep soil zones are proposed as
3E-1 Design criteria			No deep soil zones are proposed as part of this DA which is reflective of the existing approval.
3E-1 Design criteria Deep soil zones are to meet the following minimum requirements: Site Area Dimensions Deep Soil			part of this DA which is reflective of the existing approval.
3E-1 Design criteria Deep soil zones are to meet the following minimum requirements: Site Area Dimensions Deep Soil Less than 650m² 7%			part of this DA which is reflective of the existing approval. Given the site is located with the
3E-1 Design criteria Deep soil zones are to meet the following minimum requirements: Site Area Dimensions Deep Soil			part of this DA which is reflective of the existing approval. Given the site is located with the mixed use zone of the Lidcombe town centre, the requirement to provide deep soil zones is not practical in this
3E-1 Design criteria Deep soil zones are to meet the following minimum requirements: Site Area Dimensions Deep Soil			part of this DA which is reflective of the existing approval. Given the site is located with the mixed use zone of the Lidcombe town centre, the requirement to provide deep soil zones is not practical in this instance without significantly
3E-1 Design criteria Deep soil zones are to meet the following minimum requirements: Site Area			part of this DA which is reflective of the existing approval. Given the site is located with the mixed use zone of the Lidcombe town centre, the requirement to provide deep soil zones is not practical in this
3E-1 Design criteria Deep soil zones are to meet the following minimum requirements: Site Area			part of this DA which is reflective of the existing approval. Given the site is located with the mixed use zone of the Lidcombe town centre, the requirement to provide deep soil zones is not practical in this instance without significantly compromising the development
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3E-1 Design criteria Deep soil zones are to meet the following minimum requirements: Site Area			part of this DA which is reflective of the existing approval. Given the site is located with the mixed use zone of the Lidcombe town centre, the requirement to provide deep soil zones is not practical in this instance without significantly compromising the development potential of the site. No deep soil zones have been proposed. This aspect of the
3E-1 Design criteria Deep soil zones are to meet the following minimum requirements: Site Area			part of this DA which is reflective of the existing approval. Given the site is located with the mixed use zone of the Lidcombe town centre, the requirement to provide deep soil zones is not practical in this instance without significantly compromising the development potential of the site.
3E-1 Design criteria Deep soil zones are to meet the following minimum requirements: Site Area			part of this DA which is reflective of the existing approval. Given the site is located with the mixed use zone of the Lidcombe town centre, the requirement to provide deep soil zones is not practical in this instance without significantly compromising the development potential of the site. No deep soil zones have been proposed. This aspect of the development has not changed from the previous approval under DA-280/2017.
3E-1 Design criteria Deep soil zones are to meet the following minimum requirements: Site Area			part of this DA which is reflective of the existing approval. Given the site is located with the mixed use zone of the Lidcombe town centre, the requirement to provide deep soil zones is not practical in this instance without significantly compromising the development potential of the site. No deep soil zones have been proposed. This aspect of the development has not changed from the previous approval under DA-280/2017. Deep soil provision has not decreased from that under DA-
3E-1 Design criteria Deep soil zones are to meet the following minimum requirements: Site Area			part of this DA which is reflective of the existing approval. Given the site is located with the mixed use zone of the Lidcombe town centre, the requirement to provide deep soil zones is not practical in this instance without significantly compromising the development potential of the site. No deep soil zones have been proposed. This aspect of the development has not changed from the previous approval under DA-280/2017. Deep soil provision has not



do - l 4b - 4					
footprints. use of increadequate of long term he co-location	with other deep es to create larg	e setbacks rees to ensure soil areas on			
Achieving the design criteria may not be possible on some sites including where: the location and building typology have limited or no space for deep soil at ground level (e.g. central business district, constrained sites, high density areas, or in					Adequate on-structure planting is
	00% site cover ses at ground floo		\boxtimes		proposed, including ground level planting on the perimeter.
requirements, management sho	Where a proposal does not achieve deep soil requirements, acceptable stormwater management should be achieved and alternative forms of planting provided such as on structure.				The site coverage is characteristic of a mix used zone.
Part 3F - Visual p	rivacy				
3F-1 Design crit Separation betw			\boxtimes		
	ed separation d side and rear bou				
Building height	Habitable rooms & balconies 6m	Non habitable rooms			The proposed building setbacks are compliant except those units within the new addition abutting the northern
Up to 12m (4 storeys) Up to 25m	rooms & balconies	habitable rooms			compliant except those units within
height Up to 12m (4 storeys) Up to 25m (5-8 storeys) Over 25m (9 + storeys)	rooms & balconies 6m 9m 12m	habitable rooms 3m 4.5m		—	compliant except those units within the new addition abutting the northern boundary.
height Up to 12m (4 storeys) Up to 25m (5-8 storeys) Over 25m (9 + storeys) Separation distal same site show separations depending 3F.2). Gallery access of habitable space	rooms & balconies 6m 9m 12m 12m nces between build combine required on the type circulation should when measing the street of th	habitable rooms 3m 4.5m 6m ildings on the uired building of room (see			compliant except those units within the new addition abutting the northern boundary. While the lower floors are supported (except the window location) the upper floors also lack the required setbacks as follows: Floor Req'd Prov'd Ground Nil Nil 1 6m 9m 2 6m 9m 3 6m 9m 3 6m 9m 4 9m 9m 9m 5 9m
height Up to 12m (4 storeys) Up to 25m (5-8 storeys) Over 25m (9 + storeys) Separation distasame site shows separations dependent of the store o	rooms & balconies 6m 9m 12m 1ces between build combine required in the type circulation should be when measurances between	habitable rooms 3m 4.5m 6m ildings on the uired building of room (see be treated as uring privacy			compliant except those units within the new addition abutting the northern boundary. While the lower floors are supported (except the window location) the upper floors also lack the required setbacks as follows: Floor Req'd Prov'd Ground Nil Nil 1 6m 9m 2 6m 9m 3 6m 9m 4 9m 9m 9m 4 9m



Generally one step in the built form as the height increases due to building separations is desirable. Additional steps should be careful not to cause a 'ziggurat' appearance.				This aspect of the approved proposal remains unaltered by the subject development application.
For residential buildings next to commercial buildings, separation distances should be measured as follows:- • for retail, office spaces and commercial balconies use the habitable room distances. • for service and plant areas use the non-habitable room distances.				
New development should be located and oriented to maximise visual privacy between buildings on site and for neighbouring buildings. Design solutions include:				
 site layout and building orientation to minimise privacy impacts (see also section 3B Orientation). 				
 on sloping sites, apartments on different levels have appropriate visual separation distances (see figure 3F.4). 				
Apartment buildings should have an increased separation distance of 3m (in addition to the requirements set out in design criteria 1) when adjacent to a different zone that permits lower density residential development to provide for a transition in scale and increased landscaping (figure 3F.5).				
Direct lines of sight should be avoided for windows and balconies across corners.				
No separation is required between blank walls.		П	П	
3F-2 Design Guidance Communal open space, common areas and access paths should be separated from private open space and windows to apartments, particularly habitable room windows. Design solutions may include: setbacks. solid or partially solid balustrades to balconies at lower levels. fencing and/or trees and vegetation to separate spaces. screening devices.				Adequate separation and privacy treatments are provided between private and communal open space areas through physical separation, screening and screen planting.
 bay windows or pop out windows to provide privacy in one direction and outlook in another. raising apartments/private open space 				
above the public domain or communal open space.				
 planter boxes incorporated into walls and balustrades to increase visual separation. pergolas or shading devices to limit 				
 pergolas or shading devices to limit overlooking of lower apartments or private open space. 	_			
 on constrained sites where it can be demonstrated that building layout opportunities are limited, fixed louvres or screen panels to windows and/or balconies. 				
Bedrooms, living spaces and other habitable.				Services areas and kitchens are provided adjacent to gallery access



	and other open circulation space by the apartment's service areas.			areas.
	Balconies and private terraces should be located in front of living rooms to increase internal privacy	\boxtimes		Balconies and private terraces are located in front of living rooms.
	Windows should be offset from the windows of adjacent buildings.	\boxtimes		
	Recessed balconies and/or vertical fins should be used between adjacent balconies.	\boxtimes		Fin walls are provided between balconies to ensure privacy.
Ì	Part 3G - Pedestrian access and entries			
	3G-1 Design Guidance Multiple entries (including communal building entries and individual ground floor entries) should be provided to activate the street edge.			This aspect of the approved proposal remains unaltered by the subject development application.
	Entry locations relate to the street and subdivision pattern and the existing pedestrian network.	\boxtimes		
	Building entries should be clearly identifiable and communal entries should be clearly distinguishable from private entries.	\boxtimes		
	Where street frontage is limited and multiple buildings are located on the site, a primary street address should be provided with clear sight lines and pathways to secondary building entries.		\boxtimes	
	3G-2 Design Guidance Building access areas including lift lobbies, stairwells and hallways should be clearly visible from the public domain and communal spaces.	\boxtimes		This aspect of the approved proposal remains unaltered by the subject development application.
	The design of ground floors and underground car parks minimise level changes along pathways and entries.			
	Steps and ramps should be integrated into the overall building and landscape design.	\boxtimes		
	For large developments 'way finding' maps should be provided to assist visitors and residents (see figure 4T.3).		\boxtimes	
	For large developments electronic access and audio/video intercom should be provided to manage access.			
	3G-3 Design Guidance Pedestrian links through sites facilitate direct connections to open space, main streets, centres and public transport.		\boxtimes	
	Pedestrian links should be direct, have clear sight lines, be overlooked by habitable rooms or private open spaces of dwellings, be well lit and contain active uses, where appropriate.		\boxtimes	
1	Part 3H - Vehicle Access		 	
	 3H-1 Design Guidance Car park access should be integrated with the building's overall facade. Design solutions may include:- the materials and colour palette to minimise 			Carpark access is provided at a logical location under the previous DA.
-1			 	This aspect of the approved proposal



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visibility from the street. security doors or gates at entries that minimise voids in the facade.	\boxtimes			remains unaltered by the subject development application.
 where doors are not provided, the visible interior reflects the facade design and the building services, pipes and ducts are concealed. 				
Car park entries should be located behind the building line.	\boxtimes			Access is from Raphael Street
Vehicle entries should be located at the lowest point of the site minimising ramp lengths, excavation and impacts on the building form and layout.				
Car park entry and access should be located on secondary streets or lanes where available.			\boxtimes	
Vehicle standing areas that increase driveway width and encroach into setbacks should be avoided.				
Access point locations should avoid headlight glare to habitable rooms.	\boxtimes			
Adequate separation distances should be provided between vehicle entries and street intersections.	\boxtimes			
The width and number of vehicle access points should be limited to the minimum.	\boxtimes			
Visual impact of long driveways should be minimised through changing alignments and screen planting.				
The need for large vehicles to enter or turn around within the site should be avoided.				
Garbage collection, loading and servicing areas are screened.				
Clear sight lines should be provided at pedestrian and vehicle crossings.				
Traffic calming devices such as changes in paving material or textures should be used where appropriate.	\boxtimes			
Pedestrian and vehicle access should be separated and distinguishable. Design solutions may include:				
 changes in surface materials. level changes. the use of landscaping for separation. 		H		
Part 3J - Bicycle and car parking				
3J-1 Design Criteria				
For development in the following locations: on sites that are within 800 metres of a	\boxtimes			The site is approximately 380m walking distance from Lidcombe
railway station or light rail stop in the Sydney Metropolitan Area; or				Railway Station. In this instance the car parking rate in the Guide to Traffic Generating Development is less than
 on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated 				the ADCP rate. The applicable rate to be applied is the metropolitan sub-



The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant				residential flat building (i.e. 20 or more dwellings) as follows: Required
council, whichever is less. The car parking needs for a development must be provided off street.				74 x 1 bed @ 0.6 spaces= 44.4 46 x 2 bed @ 0.9 spaces = 41.4 1 x 3 bed @ 1.4 spaces= 1.4 Total Resident – 87.2 spaces
				Visitor – 120 units @ 1space/5 units = 24
				Total min. required – 112 spaces
				For comparison, the ADCP requires:
				74 x 1 bed @ 1 spaces = 74 46 x 2 bed @ 1 spaces = 46 1 x 3 bed @ 2 spaces = 2 Total Resident – 122 spaces
				Visitor – 120 units @ 0.2 = 24
				Total min. required – 146 spaces
				206 spaces are proposed.
				The proposal, therefore, exceeds the required minimum number of car parking spaces. Deletion of the proposed basement 5 level would provide 157 spaces. This is discussed in the assessment report.
3J-1 Design Guidance Where a car share scheme operates locally, provide car share parking spaces within the development. Car share spaces when provided should be on site.			\boxtimes	A car share parking space is not proposed.
Where less car parking is provided in a development, Council should not provide on street resident parking permits.			\boxtimes	The minimum required number of car parking spaces are provided to the development.
3J-2 Design Guidance Conveniently located and sufficient numbers of parking spaces should be provided for motorbikes and scooters.				Bicycle spaces are provided with the basement.
Secure undercover bicycle parking should be provided that is easily accessible from both the public domain and common areas.				Although no designated motorcycle parking is proposed, the parking is in excess of the minimum requirement which allows for parking of motorbikes
Conveniently located charging stations are provided for electric vehicles, where desirable.				without the need for designated areas. This aspect of the approved proposal remains unaltered by the subject development application.
3J-3 Design Guidance Supporting facilities within car parks, including garbage, plant and switch rooms, storage areas and car wash bays can be accessed without crossing car parking spaces.				This aspect of the approved proposal remains unaltered by the subject development application.
Direct clearly visible and well lit access should be	I	I	I	1



provided into common circulation areas.	\boxtimes		
A clearly defined and visible lobby or waiting area should be provided to lifts and stairs.	\boxtimes		
For larger car parks, safe pedestrian access should be clearly defined and circulation areas have good lighting, colour, line marking and/or bollards.		\boxtimes	
3J-4 Design Guidance Excavation should be minimised through efficient car park layouts and ramp design.	\boxtimes		The basement level has been efficiently designed so as to minimise excavation and protrusion above
Car parking layout should be well organised, using a logical, efficient structural grid and double loaded aisles.	\boxtimes		ground level. This aspect of the approved proposal
Protrusion of car parks should not exceed 1m above ground level. Design solutions may include stepping car park levels or using split levels on sloping sites.			remains unaltered by the subject development application.
Natural ventilation should be provided to basement and sub-basement car parking areas.	\boxtimes		
Ventilation grills or screening devices for car parking openings should be integrated into the facade and landscape design.			
3J-5 Design Guidance On-grade car parking should be avoided.		\boxtimes	At-grade parking is not proposed.
Where on-grade car parking is unavoidable, the following design solutions are used:-			This aspect of the approved proposal remains unaltered by the subject
 parking is located on the side or rear of the lot away from the primary street frontage. 		\boxtimes	development application.
 cars are screened from view of streets, buildings, communal and private open space areas. 		\boxtimes	
 safe and direct access to building entry points is provided. 		\boxtimes	
 parking is incorporated into the landscape design of the site, by extending planting and materials into the car park space. 		\boxtimes	
 stormwater run-off is managed appropriately from car parking surfaces. bio-swales, rain gardens or on site detention 		\boxtimes	
tanks are provided, where appropriate. • light coloured paving materials or permeable		\boxtimes	
paving systems are used and shade trees are planted between every 4-5 parking spaces to reduce increased surface temperatures from large areas of paving.			
3J-6 Design Guidance Exposed parking should not be located along primary street frontages.		\boxtimes	All car parking is provided at basement level.
Screening, landscaping and other design elements including public art should be used to integrate the above ground car parking with the			
facade. Design solutions may include:- car parking that is concealed behind the facade, with windows integrated into the overall facade design (approach should be		\boxtimes	



•	limited to developments where a larger floor plate podium is suitable at lower levels). car parking that is 'wrapped' with other uses, such as retail, commercial or two storey Small Office/Home Office (SOHO) units along the street frontage (see figure 3J.9).		\boxtimes	
	ositive street address and active frontages ould be provided at ground level.			The development provides a positive street address by minimising vehicular access to one point.
Pi	art 4A - Solar and daylight access			
Li 70 m ar	A-1 Design Criteria ving rooms and private open spaces of at least 1% of apartments in a building receive a nimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan			Yes 84 units receive a minimum of 2 hours between 9 and 3 in mid winter. 84/120 = 70%
	ea and in the Newcastle and Wollongong local overnment areas.			This is a slight improvement on the approved proposal which achieved 69% (81/117)
sr re	all other areas, living rooms and private open aces of at least 70% of apartments in a building ceive a minimum of 3 hours direct sunlight atween 9 am and 3 pm at mid-winter.		\boxtimes	N/A
re	maximum of 15% of apartments in a building ceive no direct sunlight between 9 am and 3 pm mid-winter.			Yes 10/120 = 8.3%
Ti ni	A-1 Design Guidance ne design maximises north aspect and the imber of single aspect south facing apartments minimised.			The number of north-facing units has been maximised by the layout.
	ngle aspect, single storey apartments should we a northerly or easterly aspect.		\boxtimes	
	ving areas are best located to the north and rvice areas to the south and west of apartments.	\boxtimes		Yes, where possible.
ar	o optimise the direct sunlight to habitable rooms of balconies a number of the following design atures are used: dual aspect apartments. shallow apartment layouts. two storey and mezzanine level apartments. bay windows.			Dual aspect apartments have been provided where it is feasible to do so.
sı sı m	o maximise the benefit to residents of direct unlight within living rooms and private open baces, a minimum of 1m ² of direct sunlight, easured at 1m above floor level, is achieved for least 15 minutes.			
	chieving the design criteria may not be possible a some sites. This includes: where greater residential amenity can be achieved along a busy road or rail line by orientating the living rooms away from the noise source.			
:	on south facing sloping sites. where significant views are oriented away from the desired aspect for direct sunlight.			



4A-2 Design Guidance Courtyards, skylights and high level windows (with sills of 1,500mm or greater) are used only as a secondary light source in habitable rooms.		\boxtimes	
Where courtyards are used: use is restricted to kitchens, bathrooms and service areas. building services are concealed with appropriate detailing and materials to visible walls. courtyards are fully open to the sky. access is provided to the light well from a communal area for cleaning and maintenance. acoustic privacy, fire safety and minimum privacy separation distances (see section 3F Visual privacy) are achieved.			
Opportunities for reflected light into apartments are optimised through: • reflective exterior surfaces on buildings opposite south facing windows. • positioning windows to face other buildings or surfaces (on neighbouring sites or within the site) that will reflect light. • integrating light shelves into the design. • light coloured internal finishes.			
 4A-3 Design Guidance A number of the following design features are used: balconies or sun shading that extend far enough to shade summer sun, but allow winter sun to penetrate living areas. shading devices such as eaves, awnings, balconies, pergolas, external louvres and planting. horizontal shading to north facing windows. vertical shading to east and particularly west facing windows. operable shading to allow adjustment and choice. high performance glass that minimises external glare off windows, with consideration given to reduced tint glass or glass with a reflectance level below 20% (reflective films are avoided). 			The development has been designed with balcony overhangs to provide shading of living room windows and balconies.
Part 4B - Natural ventilation 4B-1 Design Guidance The building's orientation maximises capture and use of prevailing breezes for natural ventilation in habitable rooms. Depths of habitable rooms support natural			The building has been designed to achieve natural ventilation of 67% of all units.
ventilation. The area of unobstructed window openings should be equal to at least 5% of the floor area served.			
Light wells are not the primary air source for habitable rooms.			



Doors and openable windows maximise natural ventilation opportunities by using the following design solutions: • adjustable windows with large effective openable areas. • a variety of window types that provide safety and flexibility such as awnings and louvres. • windows which the occupants can reconfigure to funnel breezes into the apartment such as vertical louvres, casement windows and externally opening doors.			
4B-2 Design Guidance Apartment depths are limited to maximise ventilation and airflow.			While some units are elongated in their layout, this allows for a separation of bedrooms from living
Natural ventilation to single aspect apartments is achieved with the following design solutions: • primary windows are augmented with plenums and light wells (generally not suitable for cross ventilation).	\boxtimes		areas. Also, those units are dual aspect which allows for some amenity throughout the unit and assists with natural ventilation.
stack effect ventilation / solar chimneys or similar to naturally ventilate internal building areas or rooms such as bathrooms and laundries.			
courtyards or building indentations have a width to depth ratio of 2:1 or 3:1 to ensure effective air circulation and avoid trapped smells.			
4B-3 Design Criteria At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.			Yes 80/120 = 66.6% This is a similar ratio to the approved proposal of 66.6% (78/117).
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.			Maximum apartment depth is 16m This aspect of the approved proposal remains unaltered by the subject development application.
4B-3 Design Guidance The building should include dual aspect apartments, cross through apartments and corner apartments and limit apartment depths.	\boxtimes		The development has been designed to provide a number of dual aspect and corner apartments so as to
In cross-through apartments external window and door opening sizes/areas on one side of an apartment (inlet side) are approximately equal to the external window and door opening sizes/areas on the other side of the apartment.			maximise cross-ventilation.
Apartments are designed to minimise the number of corners, doors and rooms that might obstruct airflow.			
Apartment depths, combined with appropriate ceiling heights, maximise cross ventilation and airflow.			



4C - Ceiling heights						
4C-1 Design Crite						
	nished floor level to finished					
	um ceiling heights are:					
Coming lover, minim	diri delining riengrite dire.					
Type / Use	Minimum ceiling height					
Habitable	2.7m.					
rooms					Residential floors have a floor to	
Non habitable	2.4m.				ceiling height of 2.7m (i.e. 3000 minus	
rooms					300 slab)	
For 2 storey	2.7m for main living area				This could be a second as a second	
apartments	floor.		$ \Box $	ΙШ	This aspect of the approved proposal	
	2.4m for second floor where				remains unaltered by the subject	
	its area does not exceed				development application.	
A 44:	50% of the apartment area.					
Attic spaces	1.8m at edge of room with a					
	30 degree minimum ceiling					
If located in	slope. 3.3m for ground and first				No commercial space is proposed,	
mixed use	floor to promote future	$ \boxtimes $	$ \sqcup $	ш	notwithstanding the ground floor has	
areas	flexibility of use.				a floor to ceiling height of 3.5m (i.e.	
aicas	noxibility of use.				3.8m - 300 floor slab).	
These minimums	do not preclude higher ceilings if				,	
desired.	ao not procidae ingrier comingo in				This aspect of the approved proposal	
accirca.					remains unaltered by the subject	
					development application.	
1015						
4C-1 Design Guid						
	n accommodate use of ceiling	$ \boxtimes $	$ \sqcup $	$ \sqcup $		
fans for cooling and	a neat distribution.					
4C-2 Design Guid	ance					
	ollowing design solutions can be					
used:	mowning design solutions can be					
	of rooms in an apartment is	П		\boxtimes		
	changes in ceiling heights and	—	$ \sqcup $			
,	such as raked or curved					
ceilings, or de	ouble height spaces.					
	oned rooms are provided, for					
example, sma	aller rooms feel larger and more		$ \Box $	ш		
spacious with	n higher ceilings.					
	ts are maximised in habitable					
	nsuring that bulkheads do not	$ \boxtimes$	$ \sqcup $	ΙШ		
	stacking of service rooms from					
	and coordination of bulkhead					
	ve non-habitable areas, such as					
robes or stora	age, can assist.					
4C-3 Docien Cuid	lanco					
4C-3 Design Guid	ower level apartments in centres				Non-residential use of apartments is	
	than the minimum required by	$ \sqcup $	$ \sqcup $	\boxtimes	not supported for amenity reasons.	
the design crite					not supported for amenity reasons.	
conversion to non-	, , , , , , , , , , , , , , , , , , , ,					
4D - Apartment si	ze and layout					
4D-1 Design Crite						
Apartments are re	equired to have the following					
minimum internal a	reas:					
		_	_			
Apartment type	Minimum internal area				All apartment sizes comply with the	
Studio	35m²				minimum requirements.	
1 bedroom	50m²		ΙĦ	ΙĦ	Apperture plant that are 2 hadrons where	
2 bedroom	70m²				Apartments that are 2 bedroom plus a	
3 bedroom	90m²		$ \sqcup $	$ \sqcup $	study capable of use as a bedroom (e.g. apartment 1003) have been	
The minimum	m internal areas include only				taken to be a 3 bedroom apartment	



one bathroom. Additional bathrooms increase the minimum internal area by 5m ² each.			and exceed 90m ² .
A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.		\boxtimes	
Every habitable room must have a window in an external wall with a total minimum class	\boxtimes		
area of not less than 10% of the floor area of the room. Daylight and air may not be			
borrowed from other rooms.			
4D-1 Design Guidance Kitchens should not be located as part of the main circulation space in larger apartments (such as hallway or entry space).			All kitchens are separate to entry corridors.
A window should be visible from any point in a habitable room.	\boxtimes		All habitable rooms are regular shaped and have windows.
Where minimum areas or room dimensions are not met apartments need to demonstrate that they are well designed and demonstrate the usability and functionality of the space with realistically scaled furniture layouts and circulation areas.		\boxtimes	
These circumstances would be assessed on their merits.		\boxtimes	
4D-2 Design Criteria			
Habitable room depths are limited to a maximum of 2.5 times of the ceiling height.			
In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.			7m maximum depth is maintained for open planned apartments.
4D-2 Design Guidance Greater than minimum ceiling heights can allow for proportional increases in room depth up to the permitted maximum depths.	\boxtimes		
All living areas and bedrooms should be located on the external face of the building. Where			
possible: • bathrooms and laundries should have an external openable window	\boxtimes		Mechanical ventilation is provided to bathrooms.
main living spaces should be oriented toward the primary outlook and spacet and surey.			Main living rooms are appropriately
the primary outlook and aspect and away from noise sources.			Main living rooms are appropriately oriented.
4D-3 Design Criteria			
Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space).			The proposed bedrooms sized comply with the minimum requirements. All master bedrooms have a minimum area of between 10sqm-12.5sqm and secondary bedrooms also exceed 9sqm in area.
Bedrooms have a minimum dimension of 3m (excluding wardrobe space).			All bedrooms have minimum dimensions of 3m or greater.
Living rooms or combined living/dining rooms have a minimum width of: 3.6m for studio and 1 bedroom apartments. 4m for 2 and 3 bedroom apartments.			The width of combined living/dining rooms complies with the minimum standards.



The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.	\boxtimes		Cross over units are a minimum of 4m width.
4D-3 Design Guidance Access to bedrooms, bathrooms and laundries is separated from living areas minimising direct openings between living and service areas.			Access to bedrooms and service areas have been grouped together where possible to minimise direct openings from living rooms.
All bedrooms allow a minimum length of 1.5m for robes.			openings non-living rooms.
The main bedroom of an apartment or a studio apartment should be provided with a wardrobe of a minimum 1.8m long, 0.6m deep and 2.1m high.			All bedrooms are provided with adequate wardrobes.
Apartment layouts allow flexibility over time, design solutions may include: dimensions that facilitate a variety of furniture arrangements and removal. spaces for a range of activities and privacy levels between different spaces within the apartment. dual master apartments.			All apartments have been designed with open plan living/ding rooms to allow for flexible furniture layout.
 dual key apartments Note: dual key apartments which are separate but on the same title are regarded as two sole occupancy units for the purposes of the Building Code of Australia and for calculating the mix of apartments. room sizes and proportions or open plans (rectangular spaces (2:3) are more easily 			Dual key apartments are not proposed.
furnished than square spaces (1:1)). Efficient planning of circulation by stairs, corridors and through rooms to maximise the amount of usable floor space in rooms.			The apartments have been efficiently designed to maximise usable floor space in rooms.
Part 4E - Private open space and balconies			
4E-1 Design Criteria All apartments are required to have primary balconies as follows:			
Dwelling type Minimum Minimum			All balancias provide or evened the
Studio apartments 4m ² -			All balconies provide, or exceed, the minimum width and area
1 bedroom 8m ² 2m apartments			requirements.
2 bedroom 10m ² 2m apartments			
3 plus bedroom 12m ² 2.4m apartments			
The minimum balcony depth to be counted as contributing to the balcony area is 1m.			
4E-1 Design Guidance			All belonders and the second
Increased communal open space should be provided where the number or size of balconies are reduced.			All balconies meet or are in excess of the minimum requirements.
Storage group on belooping is additional to the			Palagnias de pet contribute to stara a



minimum balcony size.		\boxtimes	volumes.
Balcony use may be limited in some proposals by: consistently high wind speeds at 10 storeys and above. close proximity to road, rail or other noise sources. exposure to significant levels of aircraft noise. heritage and adaptive reuse of existing buildings. In these situations, Juliet balconies, operable walls, enclosed wintergardens or bay windows may be appropriate, and other amenity benefits			The use of balconies is not constrained by any of these matters
for occupants should also be provided in the apartments or in the development or both. Natural ventilation also needs to be demonstrated.			
4E-2 Design Guidance Primary open space and balconies should be located adjacent to the living room, dining room or kitchen to extend the living space.	\boxtimes		Private open space and balconies are located on the north, east and west sides of the building with direct access from living areas.
Private open spaces and balconies predominantly face north, east or west.	\boxtimes		monning areas.
Primary open space and balconies should be orientated with the longer side facing outwards or be open to the sky to optimise daylight access into adjacent rooms.			All primary open space areas and balconies are oriented with the longer side facing outwards so as to maximise daylight access to adjoining rooms.
4E-3 Design Guidance Solid, partially solid or transparent fences and balustrades are selected to respond to the location. They are designed to allow views and passive surveillance of the street while maintaining visual privacy and allowing for a range of uses on the balcony. Solid and partially solid balustrades are preferred.			
Full width full height glass balustrades alone are generally not desirable.	\boxtimes		
Projecting balconies should be integrated into the building design and the design of soffits considered.			No such features are provided, However, balconies are recessed protected on either side by fin walls or
Operable screens, shutters, hoods and pergolas are used to control sunlight and wind.		\boxtimes	walls of adjoining rooms, and are of such a depth, that much of the balcony will be protected from
Balustrades are set back from the building or balcony edge where overlooking or safety is an issue.			windows and harsh sunlight.
Downpipes and balcony drainage are integrated with the overall facade and building design.	\boxtimes		Conditions of consent are recommended to be imposed with
Air-conditioning units should be located on roofs, in basements, or fully integrated into the building design.			regards to integration of services.
Where clothes drying, storage or air conditioning units are located on balconies, they should be screened and integrated in the building design.		\boxtimes	



	Ceilings of apartments below terraces should be insulated to avoid heat loss.	\boxtimes		
	Water and gas outlets should be provided for primary balconies and private open space.			At common open space level for BBQs.
	4E-4 Design Guidance Changes in ground levels or landscaping are minimised.	\boxtimes		Changes in level have been minimised.
	Design and detailing of balconies avoids opportunities for climbing and falls.	\boxtimes		The balcony balustrade design does not allow for climbing.
ŀ	Part 4F - Common circulation and spaces 4F-1 Design criteria			
	The maximum number of apartments off a circulation core on a single level is eight.			The maximum apartments per floor of a single core is 7. Note that 9 units are provided on the ground floor however 6 of those also have direct access to the street.
	For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.			63 apartments share the northern lift in the building and 45 apartments share the southern lift. This aspect of the approved proposal remains unaltered by the subject development application.
	4F-1 Design Guidance Greater than minimum requirements for corridor widths and/ or ceiling heights allow comfortable movement and access particularly in entry lobbies, outside lifts and at apartment entry doors.	\boxtimes		These aspects of the approved proposal remains unaltered by the subject development application.
	Daylight and natural ventilation should be provided to all common circulation spaces that are above ground.	\boxtimes		
	Windows should be provided in common circulation spaces and should be adjacent to the stair or lift core or at the ends of corridors.			
	Longer corridors greater than 12m in length from the lift core should be articulated. Design solutions may include:			
	 a series of foyer areas with windows and spaces for seating. 		\boxtimes	
	wider areas at apartment entry doors and varied ceiling heights.		\boxtimes	
	Design common circulation spaces to maximise opportunities for dual aspect apartments, including multiple core apartment buildings and cross over apartments.			The development maximises dual aspect and corner apartments and properly locates common circulation spaces.
	Achieving the design criteria for the number of apartments off a circulation core may not be possible. Where a development is unable to achieve the design criteria, a high level of amenity for common lobbies, corridors and apartments should be demonstrated, including:			
	 sunlight and natural cross ventilation in apartments. 			
	access to ample daylight and natural	П	\boxtimes	



 ventilation in common circulation areas for seating a generous corridors with greateriling heights. other innovative design soluhigh levels of amenity. 	nd gathering ater than minimum			
Where design criteria 1 is not a than 12 apartments should b circulation core on a single level.	e provided off a			
Primary living room or bedroom not open directly onto common of whether open or enclosed. Vis privacy from common circulation other rooms should be carefully of	circulation spaces, sual and acoustic on spaces to any			
4F-2 Design Guidance Direct and legible access shot between vertical circulation poir entries by minimising corridor o give short, straight, clear sight lir	nts and apartment r gallery length to			Direct and legible access is provided between the stairs/lifts and apartment entries as the gallery access is limited to short, straight corridors with clear sightlines. Tight corners are avoided.
Tight corners and spaces are ave	oided.			signames. Tight comers are avoided.
Circulation spaces should be we	ll lit at night.			
Legible signage should be provi numbers, common areas and ge				
Incidental spaces, for example in a corridor, at a stair landing, are provided.			\boxtimes	
In larger developments, comr activities such as owners corpor resident use should be provided located with communal open spa	ration meetings or and are ideally co-			
Where external galleries are p more open than closed above the their length.			\boxtimes	
4G - Storage				
4G-1 Design Criteria				
In addition to storage in kitchen bedrooms, the following storage				
Dwelling type Studio apartments 1 bedroom apartments	Storage 4m³ 6m³			All apartments have storage provided in the apartment with additional storage provided in the basement.
2 bedroom apartments	8m³			
3 plus bedroom apartments 4G-1 Design Guidance	10m³			
Storage is accessible from eit	her circulation or			Internal storage cupboards are
living areas.	nor diculation of			accessible from the living rooms.
Storage provided on balconies minimum balcony size) is int balcony design, weather proof a view from the street.	egrated into the			
Left over space such as under storage.	stairs is used for			
4G-2 Design Guidance Storage not located in apartme	nts is secure and			



clearly allocated to specific apartments.			
Storage is provided for larger and less frequently accessed items.	\boxtimes		
Storage space in internal or basement car parks is provided at the rear or side of car spaces or in cages so that allocated car parking remains accessible.			
If communal storage rooms are provided they should be accessible from common circulation areas of the building.		\boxtimes	
Storage not located in an apartment is integrated into the overall building design and is not visible from the public domain.			
Part 4H - Acoustic Privacy			
4H-1 Design Guidance Adequate building separation is provided within the development and from neighbouring buildings/adjacent uses (see also section 2F Building separation and section 3F Visual privacy).	\boxtimes		Discussed previously.
Window and door openings are generally orientated away from noise sources.			
Noisy areas within buildings including building entries and corridors should be located next to or above each other and quieter areas next to or above quieter areas.			This aspect of the approved proposal remains unaltered by the subject development application.
Storage, circulation areas and non-habitable rooms should be located to buffer noise from external sources.			
The number of party walls (walls shared with other apartments) are limited and are appropriately insulated.	\boxtimes		
Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms.			
4H-2 Design Guidance Internal apartment layout separates noisy spaces from quiet spaces, using a number of the following design solutions:			
rooms with similar noise requirements are grouped together.			
 doors separate different use zones. wardrobes in bedrooms are co-located to act as sound buffers. 			
Where physical separation cannot be achieved noise conflicts are resolved using the following design solutions: double or acoustic glazing. acoustic seals. use of materials with low noise penetration properties. continuous walls to ground level courtyards where they do not conflict with streetscape or			



other amenity requirements.				
Part 4J - Noise and pollution				
4J-1 Design Guidance To minimise impacts the following design solutions may be used:				
 physical separation between buildings and the noise or pollution source. 			\boxtimes	This aspect of the approved proposal remains unaltered by the subject
 residential uses are located perpendicular to the noise source and where possible buffered by other uses. 			\boxtimes	development application.
 non-residential buildings are sited to be parallel with the noise source to provide a continuous building that shields residential 			\boxtimes	
 uses and communal open spaces. non-residential uses are located at lower levels vertically separating the residential component from the noise or pollution source. Setbacks to the underside of residential floor levels should increase relative to traffic volumes and other noise sources. 				
 buildings should respond to both solar access and noise. Where solar access is away from the noise source, non-habitable rooms can provide a buffer. 	\boxtimes			
 where solar access is in the same direction as the noise source, dual aspect apartments with shallow building depths are preferable (see 			\boxtimes	
 figure 4J.4). landscape design reduces the perception of noise and acts as a filter for air pollution generated by traffic and industry. 				
Achieving the design criteria in this Apartment Design Guide may not be possible in some situations due to noise and pollution. Where developments are unable to achieve the design criteria, alternatives may be considered in the following areas: • solar and daylight access. • private open space and balconies. • natural cross ventilation.				
4J-2 Design Guidance				
Design solutions to mitigate noise include: • limiting the number and size of openings				
facing noise sources.	\boxtimes	Ш	ш	
 providing seals to prevent noise transfer 	\boxtimes	П		
through gaps.using double or acoustic glazing, acoustic				
louvres or enclosed balconies	\boxtimes			
(wintergardens). • using materials with mass and/or sound				
 using materials with mass and/or sound insulation or absorption properties e.g. solid balcony balustrades, external screens and soffits. 				
Part 4K - Apartment mix				
4K-1 Design Guidance				
A variety of apartment types is provided. The apartment mix is appropriate, taking into consideration:				A mix of 1, 2 and 3 bedroom apartments have been provided with open plan living rooms to provide flexible layouts.
 the distance to public transport, employment and education centres. the current market demands and projected 	\boxtimes			The subject application revises the apartment mix to better reflect the
future demographic trends.				market needs.



 the demand for social and affordable housing. different cultural and socioeconomic groups. 			
Flexible apartment configurations are provided to support diverse household types and stages of life including single person households, families, multigenerational families and group households			
4K-2 Design Guidance Different apartment types are located to achieve successful facade composition and to optimise solar access (see figure 4K.3). Larger apartment types are located on the ground or roof level where there is potential for more open space and on corners where more building			The building has been designed with varying unit types to achieve a varied façade composition.
frontage is available.			
4L - Ground floor apartments 4L-1 Design Guidance Direct street access should be provided to ground floor apartments. Activity is achieved through front gardens,	\boxtimes		Apartments achieve access from both within the lobby and from the street which allows for activation of Davey Street with 5 units and, to a lesser
terraces and the facade of the building. Design solutions may include:			extent, Raphael Street with the main entry and 1 unit.
 both street, foyer and other common internal circulation entrances to ground floor apartments. private open space is next to the street doors and windows face the street. 			This aspect of the approved proposal remains unaltered by the subject development application.
Retail or home office spaces should be located along street frontages.			
Ground floor apartment layouts support small office home office (SOHO) use to provide future opportunities for conversion into commercial or retail areas. In these cases provide higher floor to ceiling heights and ground floor amenities for easy conversion.			
4L-2 Design Guidance Privacy and safety should be provided without obstructing casual surveillance. Design solutions			
may include: • elevation of private gardens and terraces above the street level by 1-1.5m (see figure		\boxtimes	The ground floor units and courtyards have been designed to ensure the
4L.4). Iandscaping and private courtyards. window sill heights that minimise sight lines into a portrace.		\boxtimes	privacy of occupants. This aspect of the approved proposal remains unaltered by the subject
 into apartments. integrating balustrades, safety bars or screens with the exterior design. 		\boxtimes	development application.
Solar access should be maximised through: high ceilings and tall windows. trees and shrubs that allow solar access in winter and shade in summer.		\boxtimes	
4M - Facades			
4M-1 Design Guidance Design solutions for front building facades may include: • a composition of varied building elements • a defined base, middle and top of buildings. • revealing and concealing certain elements			The building façade has been designed to present an attractive and contemporary façade to both Raphael Street and Dayey Street so as to



	 changes in texture, material, detail and colour to modify the prominence of elements. 	\boxtimes			ensure an appropriately scaled building.
	Building services should be integrated within the overall façade.	\boxtimes			
	Building facades should be well resolved with an appropriate scale and proportion to the streetscape and human scale. Design solutions				
	may include: • well composed horizontal and vertical elements • variation in floor heights to enhance the				
	human scale elements that are proportional and arranged in patterns	\boxtimes			
	 in patterns public artwork or treatments to exterior blank walls 			\boxtimes	
	 grouping of floors or elements such as balconies and windows on taller buildings 				
	Building facades relate to key datum lines of adjacent buildings through upper level setbacks, parapets, cornices, awnings or colonnade heights. Shadow is created on the facade throughout the day with building articulation, balconies and deeper window reveals.				
	4M-2 Design Guidance Building entries should be clearly defined.				The building entries are clearly
	Important corners are given visual prominence through a change in articulation, materials or colour, roof expression or changes in height.				defined.
	The apartment layout should be expressed externally through facade features such as party walls and floor slabs.				The apartment layout has been expressed externally with living areas and balconies being the dominant feature and protruding party walls provide definition between apartments.
ŀ	4N - Roof design				
	AN-1 Design Guidance Roof design relates to the street. Design solutions may include:- special roof features and strong corners. use of skillion or very low pitch hipped roofs. breaking down the massing of the roof by using smaller elements to avoid bulk. using materials or a pitched form				Roof treatments are varied with parapets, balconies and planter boxes.
	complementary to adjacent buildings.				
	Roof treatments should be integrated with the building design. Design solutions may include: roof design proportionate to the overall building size, scale and form. roof materials compliment the building. service elements are integrated.				
	4N-2 Design Guidance Habitable roof space should be provided with good levels of amenity. Design solutions may include:				
	penthouse apartments.dormer or clerestory windows.openable skylights.				Habitable roof space is not provided internally.
ı	Open space is provided on roof tops subject to		ıĦ		Roof top communal open space is



acceptable visual and acoustic privacy, comfort levels, safety and security considerations.				provided where solar access to courtyards is not maximised.
4N-3 Design Guidance Roof design maximises solar access to apartments during winter and provides shade during summer. Design solutions may include: • the roof lifts to the north • eaves and overhangs shade walls and windows from summer sun	\boxtimes			The roof has been appropriately designed having regard to passive solar design principles for both the apartments and the common open space facilities.
Skylights and ventilation system should be integrated into the roof design				
40 - Landscape Design				
40-1 Design Guidance Landscape design should be environmentally				
sustainable and can enhance environmental				
performance by incorporating:-				The prepared landscape decign is
diverse and appropriate planting.bio-filtration gardens.			H	The proposed landscape design is satisfactory.
 appropriately planted shading trees. 	H			,
 areas for residents to plant vegetables and herbs. 	H	H		
Composting.	lH.	H		
green roofs or walls.	H	H		
Microclimate is enhanced by:	ш	ш		
appropriately scaled trees near the eastern	M	П	П	
and western elevations for shade.		lĦ	ΙĦ	
 a balance of evergreen and deciduous trees to provide shading in summer and sunlight 				
access in winter.			_	
shade structures such as pergolas for	$ \boxtimes $			
balconies and courtyards.				
Tree and shrub selection considers size at maturity		П		
and the potential for roots to compete.				
40-2 Design Guidance				
Landscape design responds to the existing site				
conditions including: changes of levels.				These aspects of the approved
Views.		H	A	proposal remain unaltered by the
significant landscape features including trees		l H	$ \Box$	subject development application.
and rock outcrops.	ш	Ш		
Significant landscape features should be protected				
 tree protection zones (see figure 40.5). 				
appropriate signage and fencing during	H			
construction.	ш	ш		
Plants selected should be endemic to the region				
and reflect the local ecology.	$ \boxtimes $			
4P - Planting on structures				
4P-1 Design Guidance				
Structures are reinforced for additional saturated soil weight.				
Soil volume is appropriate for plant growth,				
considerations include:- modifying depths and widths according to the planting mix and irrigation frequency.	\boxtimes			



 free draining and long soil life span. tree anchorage. 				
Minimum soil standards for plant sizes should be provided in accordance with Table 5.				
4P - Planting on structures				
4P-2 Design Guidance Plants are suited to site conditions, considerations include:				
drought and wind tolerance.				
 seasonal changes in solar access. 		lH	lH	
modified substrate depths for a diverse range		lH.	l H	
of plants. • plant longevity.		lH.		
plant forigovity.		ш	ш	
A landscape maintenance plan is prepared.				
Irrigation and drainage systems respond to:	M			
changing site conditions.soil profile and the planting regime.		lH.	H	
 whether rainwater, stormwater or recycled. 		lH.	H	
grey water is used.		ш	ш	
4P-3 Design Guidance				
Building design incorporates opportunities for				
planting on structures. Design solutions may				
include:		_		
 green walls with specialised lighting for indoor areen walls. 				
wall design that incorporates planting.				
 green roofs, particularly where roofs are 				Planting on the roof is proposed and
visible from the public domain.	$ \boxtimes $			planter boxes will also be provided at
planter boxes.				ground level.
Note: structures designed to accommodate green			\boxtimes	
walls should be integrated into the building facade	ш	ш		
and consider the ability of the facade to change over time.				
over une.				
4Q - Universal design				
4Q-1 Design Guidance				A condition of consent is to be
Developments achieve a benchmark of 20% of the total apartments incorporating the Liveable	$ \boxtimes$	$ \sqcup $	$ \sqcup $	A condition of consent is to be imposed to ensure compliance.
Housing Guideline's silver level universal design				imposed to ensure sempliance.
features.				
4Q-2 Design Guidance				
Adaptable housing should be provided in	\boxtimes			12 adaptable dwellings have been
accordance with the relevant council policy.		—	—	provided which is 10% of the yield.
Design solutions for adaptable apartments				
include:-				
convenient access to communal and public				
areas.		lH.	H	
 high level of solar access. minimal structural change and residential 		lH.	H	
amenity loss when adapted.		$ \sqcup $		
 larger car parking spaces for accessibility. 	\square	П		
parking titled separately from apartments or abared our parking arrangements.		lH	lH	
shared car parking arrangements.				
4Q-3 Design Guidance				
Apartment design incorporates flexible design solutions which may include:-				
rooms with multiple functions.				
•				



	 dual master bedroom apartments with separate bathrooms. larger apartments with various living space options open plan 'loft' style apartments with only a 				
	fixed kitchen, laundry and bathroom.				
ŀ	4R - Adaptive reuse - N/A. This section has been	delete	ed fron	the co	ompliance table
ŀ	4S - Mixed use				
	Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement			\boxtimes	
	Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents	\boxtimes			
ŀ	4T - Awnings and signage		l		
	Awnings are well located and complement and integrate with the building design	\boxtimes			
	Signage responds to the context and desired streetscape character			\boxtimes	Signage is not proposed as part of this application.
Ì	4U - Energy efficiency				
ŀ	4U-1 Design Guidance				
	Adequate natural light is provided to habitable rooms.				The development has been designed to ensure that all habitable rooms will receive adequate natural light.
	Well located, screened outdoor areas should be provided for clothes drying.				A condition of consent is to be imposed requiring that the opaque glazing be used in the balcony balustrades so as to prevent views from the street of clothes being aired on the balconies.
	4U-2 Design Guidance A number of the following design solutions are				
	 used: the use of smart glass or other technologies on north and west elevations. thermal mass in the floors and walls of north facing rooms is maximised. polished concrete floors, tiles or timber rather than carpet. insulated roofs, walls and floors and seals on window and door openings. overhangs and shading devices such as awnings, blinds and screens. 				A condition of consent can be imposed with regards to the installation of energy efficient glass in these elevations. Internal finishes have not been provided, however, the BASIX certificate indicates that energy targets will be met.
	Provision of consolidated heating and cooling infrastructure should be located in a centralised location (e.g. the basement).				Balconies provide shading to living room windows.
	4U-2 Design Guidance A number of the following design solutions are used: rooms with similar usage are grouped together. natural cross ventilation for apartments is optimised. natural ventilation is provided to all habitable rooms and as many non-habitable rooms, common areas and circulation spaces as possible.				The development has been designed to optimise natural ventilation to all habitable rooms and common circulation areas so as to improve energy efficiency.



4V - Water management and conservation				
4V-1 Design Guidance				
Water efficient fittings, appliances and wastewater reuse should be incorporated.			Ш	These matters are required by the BASIX Certificate to meet the required targets.
Apartments should be individually metered.	\boxtimes			required targets.
Rainwater should be collected, stored and reused on site.	\boxtimes			
Drought tolerant, low water use plants should be used within landscaped areas.	\boxtimes			
4V-2 Design Guidance				
Water sensitive urban design systems are designed by a suitably qualified professional.				
A number of the following design solutions are used:				
runoff is collected from roofs and balconies in water tanks and plumbed into toilets, laundry	\boxtimes			These matters are required by the BASIX Certificate to meet the
and irrigation. • porous and open paving materials is			l	required targets.
 porous and open paving materials is maximised. 				
on site stormwater and infiltration, including				
bio-retention systems such as rain gardens or	—	—		
street tree pits.				
4V-3 Design Guidance				
Detention tanks should be located under paved		$ \sqcup $	$ \sqcup $	See Engineers comments.
areas, driveways or in basement car parks.				
On large sites parks or open spaces are designed				
to provide temporary on site detention basins.		$ \sqcup $	$ \sqcup $	
4W - Waste management				
4W-1 Design Guidance				
Adequately sized storage areas for rubbish bins	\boxtimes	$ \sqcup $	$ \sqcup $	The Waste officer advises that the
should be located discreetly away from the front of the development or in the basement car park.				waste management is satisfactory.
are development of in the basement can pain.				This aspect of the approved proposal
Waste and recycling storage areas should be well				remains unaltered by the subject
ventilated.				development application.
Circulation design allows bins to be easily				
manoeuvred between storage and collection	\boxtimes			
points.				
Temporary storage should be provided for large				
bulk items such as mattresses.				
A waste management plan should be prepared.	\boxtimes			
, waste management plan should be propared.				
4W-2 Design Guidance				
All dwellings should have a waste and recycling		ΙП		The Waste officer advises that the
cupboard or temporary storage area of sufficient	—	—	—	waste management is satisfactory.
size to hold two days worth of waste and				
recycling.				
Communal waste and recycling rooms are in				
convenient and accessible locations related to	$ \sqcup $		\boxtimes	
each vertical core.				
For mixed use developments, residential waste	ΙШ	$ \sqcup $	\boxtimes	
and recycling storage areas and access should be separate and secure from other uses.				
Soparate and Secure north other uses.				
Alternative waste disposal methods such as	ΙП		\boxtimes	
composting should be provided.				



4X - Building Maintenance		
4X-1 Design Guidance A number of the following design solutions are used: roof overhangs to protect walls. hoods over windows and doors to protect openings. detailing horizontal edges with drip lines to avoid staining of surfaces. methods to eliminate or reduce planter box leaching. appropriate design and material selection for hostile locations.		The building is appropriately designed and detailed to assist with its maintenance.
AX-2 Design Guidance Window design enables cleaning from the inside of the building. Building maintenance systems should be incorporated and integrated into the design of the building form, roof and façade. Design solutions do not require external scaffolding for maintenance access. Manually operated systems such as blinds, sunshades and curtains are used in preference to mechanical systems. Centralised maintenance, services and storage should be provided for communal open space areas within the building.		
4X-3 Design Guidance A number of the following design solutions are used:- • sensors to control artificial lighting in common circulation and spaces. • natural materials that weather well and improve with time such as face brickwork. • easily cleaned surfaces that are graffiti resistant. • robust and durable materials and finishes are used in locations which receive heavy wear and tear, such as common circulation areas and lift interiors.		The proposed range of external materials and finishes are durable and able to be readily maintained.

DOCUMENTS ASSOCIATED WITH REPORT LPP074/19

Attachment 5
Appendix B





APPENDIX B

Auburn Local Environmental Plan (LEP) 2010

The relevant objectives and provisions of Auburn LEP 2010 have been considered in the following assessment table:

Clau	se	Yes	No	N/A	Comment
Part 1	Preliminary				
	ame of Plan				
This F	Plan is Aubum Local Environmental Plan	\boxtimes			
	A Commencement				
	Plan commences on the day on which it lished on the NSW legislation website.	\boxtimes			The plan was gazetted on 29 October 2010.
1.2	Aims of Plan				
Aubur standa under	This Plan aims to make local numental planning provisions for land in in accordance with the relevant ard environmental planning instrument section 33A of the Act. The particular aims of this Plan are as s:				
b.	to establish planning standards that are clear, specific and flexible in their application, to foster integrated, sustainable development that contributes to Auburn's environmental, social and	\boxtimes			
C.	physical well-being, to protect areas from inappropriate development,				The proposed development is considered to be satisfactory with regard to the aims of this plan.
d.	to minimise risk to the community by restricting development in sensitive areas, to integrate principles of ecologically				The proposal is an appropriate development for the land and its context.
	sustainable development into land use controls,				
,	to protect, maintain and enhance the natural ecosystems, including watercourses, wetlands and riparian land,				
	to facilitate economic growth and employment opportunities within Auburn,				
h.	to identify and conserve the natural, built and cultural heritage,				
i.	to provide recreational land, community facilities and land for public purposes.				
1.3 La	and to which Plan applies				
	his Plan applies to the land identified on the Land Application Map.	\boxtimes			The plan applies to the site.
	ote. Part 23 of Schedule 3 to the State invironmental Planning Policy (Major				



Cla	use	Yes	No	N/A	Comment
	Development) 2005 applies to certain land identified on the Land Application Map.				
` ′	Despite subclause (1), this Plan does not apply to the land identified on the Land Application Map as "Deferred matter".	\boxtimes			
1.4	Definitions				
word Plan		\boxtimes			The proposed development is defined as a residential flat building which is a permissible use in the zone.
1.6	Consent authority				
	consent authority for the purposes of this is (subject to the Act) the Council.	\boxtimes			The proposal requires determination by the LPP.
1.9	Application of SEPPs and REPs				
(1)	This Plan is subject to the provisions of any State environmental planning policy that prevails over this Plan as provided by section 36 of the Act.	\boxtimes			There are a number of State Policies relevant to the development application which are addressed elsewhere in the report.
(2)	The following State environmental planning policies (or provisions) do not apply to the land to which this Plan applies:				The state policies specified below are not relevant to this application.
	e Environmental Planning Policy No 1— elopment Standards.				
Hon	ney Regional Environmental Plan No 24 nebush Bay Area.				
	Suspension of covenants, agreements instruments				
(1)	For the purpose of enabling development on land in any zone to be carried out in accordance with this Plan or with a development consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.				
(2)	This clause does not apply: (a) to a covenant imposed by the Council or that the Council requires to be imposed, or (b) to any prescribed instrument within the meaning of section 183A of the Crown Lands Act 1989, or (c) to any conservation agreement within the meaning of the National Parks and Wildlife Act 1974, or (d) to any Trust agreement within the meaning of the Nature Conservation Trust Act 2001, or (e) to any property vegetation plan within the meaning of the Native Vegetation				



Clause	Yes	No	N/A	Comment
Act 2003, or (f) to any biobanking agreement within the meaning of Part 7A of the Threatened Species Conservation Act 1995, or (g) to any planning agreement within the meaning of Division 6 of Part 4 of the Act.				
(3) This clause does not affect the rights or interests of any public authority under any registered instrument.				
(4) Under section 28 of the Act, the Governor, before the making of this clause, approved of subclauses (1)–(3).				
Part 2 Permitted or prohibited development 2.1 Land use zones				
2.1 Land use zones				
Business Zones B4 Mixed Use				The land is zone B4 Mixed Use. The proposed development is permitted with consent on land so zoned.
2.2 Zoning of land to which Plan applies				
For the purposes of this Plan, land is within the zones shown on the Land Zoning Map.	\boxtimes			
2.3 Zone objectives and land use table				
(1) The Table at the end of this Part specifies for each zone:				
(a) the objectives for development, and				The zone objectives have been considered during the assessment of the development application.
(b) development that may be carried out without consent, and				
(c) development that may be carried out only with consent, and				
(d) development that is prohibited.				
(2) The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.				
(3) In the Table at the end of this Part:				
(a) a reference to a type of building or other thing is a reference to development for the purposes of that type of building or other thing, and				
(b) a reference to a type of building or other thing does not include (despite any definition in this Plan) a reference to a type of building or other thing referred to separately in				



Clause	Yes	No	N/A	Comment
the Table in relation to the same zone.				
(4) This clause is subject to the other provisions of this Plan.				
Notes.				
Schedule 1 set out additional permitted uses for particular land.		Ш	Ш	
2. Schedule 2 sets out exempt development (which is generally exempt from both Parts 4 and 5 of the Act). Development in the land use table that may be carried out without consent is nevertheless subject to the environmental assessment and approval requirements of Part 5 of the Act or, if applicable, Part 3A of the Act.				
 Schedule 3 sets out complying development (for which a complying development certificate may be issued as an alternative to obtaining development consent). 				
4. Clause 2.6 requires consent for subdivision of land.				
5. Part 5 contains other provisions which require consent for particular development.				
6. Part 6 contains local provisions which				
require consent for particular development. 2.4 Unzoned land				
(1) Development may be carried out on unzoned land only with consent.			\boxtimes	Not applicable as the land is zoned.
(2) Before granting consent, the consent authority:			\boxtimes	
(a) must consider whether the development will impact on adjoining zoned land and, if so, consider the objectives for development in the zones of the adjoining land, and				
(b) must be satisfied that the development is appropriate and is compatible with permissible land uses in any such adjoining land.				
2.6 Subdivision—consent requirements				
(1) Land to which this Plan applies may be subdivided, but only with consent.			\boxtimes	Subdivision is not proposed by this development application.
Notes:-				
If a subdivision is specified as exempt development in an applicable environmental planning instrument, such as this Plan or State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 the Act				



Clause	Yes	No	N/A	Comment			
enables it to be carried out without development consent. 2 Part 6 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 provides that the strata subdivision of a building in certain circumstances is complying							
certain circumstances is complying development. (2) Development consent must not be granted for the subdivision of land on which a secondary dwelling is situated if the subdivision would result in the principal dwelling and the secondary dwelling being situated on separate lots, unless the resulting lots are not less than the minimum size shown on the Lot Size Map in relation to that land. 2.7 Demolition requires consent							
The demolition of a building or work may be carried out only with consent. Note. If the demolition of a building or work is identified in an applicable environmental planning instrument, such as this plan or State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 as exempt development, the Act enables it to be				Demolition has been approved under a separate application.			
Carried out without development consent. Land Use Table Note. A type of development referred to in the Land Use Table is a reference to that type of development only to the extent it is not regulated by an applicable State environmental planning policy. The following State environmental planning policies in particular may be relevant to development on land to which this Plan applies: State Environmental Planning Policy No 55—Remediation of Land State Environmental Planning Policy No 64—Advertising and Signage State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 State Environmental Planning Policy (Infrastructure) 2007 State Environmental Planning Policy (State and Regional Development) 2011 State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017							
To provide a mixture of compatible land uses. To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling. To encourage high density residential development. To encourage appropriate businesses that contribute to economic growth.				The proposed development meets the relevant objectives of the zone by providing high density residential development in proximity to the Lidcombe commercial centre and public transport hub.			



Clause	Yes	No	N/A	Comment
To achieve an accessible, attractive and safe public domain.				
2 Permitted without consent Nil				
3 Permitted with consent Backpackers' accommodation; Boarding houses; Business premises; Child care centres; Community facilities; Educational establishments; Entertainment facilities; Function centres; Hostels; Hotel or motel accommodation; Information and education facilities; Office premises; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Residential flat buildings; Retail premises; Roads; Self-storage units; Seniors housing; Warehouse or distribution centres; Any other development not specified in item 2 or 4				The proposed development is permissible with consent in the B4 Mixed Use zone as a residential flat building.
Agriculture; Air transport facilities; Animal boarding or training establishments; Boat building and repair facilities; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Crematoria; Depots; Eco-tourist facilities; Electricity generating works; Environmental facilities; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Heavy industrial storage establishments; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industrial training facilities; Industries; Marinas; Mooring pens; Moorings; Open cut mining, Recreation facilities (major); Research stations; Residential accommodation; Rural industries; Sewerage systems; Sex services premises; Storage premises; Tourist and visitor accommodation; Transport depots; Waste or resource management facilities; Water recreation structures; Water supply systems; Wharf or boating facilities; Wholesale supplies				
Part 4 Principal development standards				
4.1 Minimum subdivision lot size				
(1) The objectives of this clause are as follows: (a) to ensure that lot sizes are able to accommodate development consistent with relevant development controls, and				Further subdivision is not proposed. The allotments will be consolidated.
(b) to ensure that subdivision of land is capable of supporting a range of development types.				



Cla	use	Yes	No	N/A	Comment
(2)	This clause applies to a subdivision of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Plan.				
(3)	The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.			\boxtimes	
(3A)	Despite subclause (3), the minimum lot size for dwelling houses is 450 square metres.				
(3B)	Despite subclause (3), if a lot is a battle-axe lot or other lot with an access handle and is on land in Zone R2 Low Density Residential, Zone R3 Medium Density Residential, Zone B6 Enterprise Corridor, Zone B7 Business Park, Zone IN1 General Industrial and Zone IN2 Light Industrial, the minimum lot size excludes the area of the access handle.				
(3C)	Despite subclauses (3)–(3B), the minimum lot size for development on land within the Former Lidcombe Hospital Site, as shown edged blue on the Lot Size Map, is as follows in relation to development for the purpose of:				
	(a) dwelling houses:				
	(i) 350 square metres, or				
	(ii) if a garage will be accessed from the rear of the property - 290 square metres, or				
	(iii) if the dwelling house will be on a zero lot line - 270 square metres,				
	(b) semi-detached dwellings - 270 square metres,				
	(c) multi dwelling housing - 170 square metres for each dwelling,				
	(d) attached dwellings - 170 square metres.				
(4)	This clause does not apply in relation to the subdivision of any land:			\boxtimes	Strata Subdivision is likely to be carried out under a separate application.
(a)	by the registration of a strata plan or strata plan of subdivision under the Strata Schemes Development Act 2015, or				
(b)	by any kind of subdivision under the Community Land Development Act 1989				



Cla	use	Yes	No	N/A	Comment
4.3 l	leight of buildings				
(1)	The objectives of this clause are as follows:	\boxtimes			The maximum height of buildings specified on the map is 32 metres.
	(a) to establish a maximum building height to enable appropriate development density to be achieved, and				
	(b) to ensure that the height of buildings is compatible with the character of the locality				
(2)	The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.		\boxtimes		The development proposes a height of 34.76m.
(2A)	Despite subclause (2), the maximum height of office premises and hotel or motel accommodation is:			\boxtimes	A variation under Clause 4.6 has been provided to justify the variation.
	(a) if it is within the Parramatta Road Precinct, as shown edged orange on the Height of Buildings Map—27 metres,				
	(b) if it is on land within Zone B6 Enterprise Corridor within the Silverwater Road Precinct, as shown edged light purple on the Height of Buildings Map—14 metres.				
4.4	loor space ratio				
(1)	The objectives of this clause are as follows:	_	_	_	
	To establish a maximum floor				The prescribed floor space ratio is 5.0:1.
	space ratio to enable appropriate development density to be achieved, and				The site is 1,761m2 in size. The FSR allows a GFA of 8,805m².
	To ensure that development intensity reflects its locality.				The proposed development has been designed to provide a total GFA of 8,805m ² which meets the 5.0:1 FSR.
(2)	The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.				
(2A)	Despite subclause (2), the maximum floor space ratio for development for the purpose of multi dwelling housing on land other than land within the Former Lidcombe Hospital Site, as shown edged black on the Floor Space Ratio Map, is as follows:				
	(a) for sites less than 1,300 square metres—0.75:1,				
	(b) for sites that are 1,300 square metres				



Cla	use	Yes	No	N/A	Comment
	or greater but less than 1,800 square metres—0.80:1,				
	(c) for sites that are 1,800 square metres or greater—0.85:1.				
(2B)	Despite subclause (2), the maximum floor space ratio for the following development on land in Zone B6 Enterprise Corridor within the Parramatta Road Precinct, as shown edged orange on the Floor Space Ratio Map, is as follows:				
	 (a) 1.5:1 for bulky goods premises, entertainment facilities, function centres and registered clubs, and 				
	(b) 3:1 for office premises and hotel or motel accommodation.			_	
(2C)	Despite subclause (2), the maximum floor space ratio for the following development on land in Zone B6 Enterprise Corridor within the Silverwater Road Precinct, as shown edged light purple on the Floor Space Ratio Map, is as follows:				
	(a) 1.5:1 for bulky goods premises, entertainment facilities, function centres and registered clubs, and				
	(b) 2:1 for office premises and hotel or motel accommodation.				
(2D) Despite subclause (2), the maximum floor space ratio for retail premises on land in Zone B6 Enterprise Corridor within the Commercial Precinct, as shown edged green on the Floor Space Ratio Map is 1.5:1.					
4.5 (Calculation of floor space ratio and site				
(1)	Objectives				
The	objectives of this clause are as follows:				
(a)	to define <i>floor space ratio</i> ,	\boxtimes			Noted.
(b)	to set out rules for the calculation of the site area of development for the purpose of applying permitted floor space ratios, including rules to:				
	 (i) prevent the inclusion in the site area of an area that has no significant development being carried out on it, and 				
	(ii) prevent the inclusion in the site area of an area that has already been included as part of a site area to maximise floor space area in another building, and				



Clause	Yes	No	N/A	Comment
(iii) require community land and public places to be dealt with separately.				
(2) Definition of "floor space ratio"				
The floor space ratio of buildings on a site is the ratio of the gross floor area of all buildings within the site area.				
(3) Site area				
In determining the site area of proposed development for the purpose of applying a floor space ratio, the <i>site area</i> is taken to be:				
(a) if the proposed development is to be carried out on only one lot, the area of that lot, or				
(b) if the proposed development is to be carried out on 2 or more lots, the area of any lot on which the development is proposed to be carried out that has at least one common boundary with another lot on which the development is being carried out.				
In addition, subclauses (4)–(7) apply to the calculation of site area for the purposes of applying a floor space ratio to proposed development.				
(4) Exclusions from site area				
The following land must be excluded from the site area:		Ш		
(a) land on which the proposed development is prohibited, whether under this Plan or any other law,				
(b) community land or a public place (except as provided by subclause (7)).				
(5) Strata subdivisions				
The area of a lot that is wholly or partly on top of another or others in a strata subdivision is to be included in the calculation of the site area only to the extent that it does not overlap with another lot already included in the site area calculation.				Strata subdivision is not proposed by this application.
(6) Only significant development to be included	\boxtimes			Only the lots affected by the development are
The site area for proposed development must not include a lot additional to a lot or lots on which the development is being carried out unless the proposed development includes significant development on that additional lot.				included in the floor space ratio calculation.
(7) Certain public land to be separately				



Clause	Yes	No	N/A	Comment
considered				
For the purpose of applying a floor space ratio to any proposed development on, above or below community land or a public place, the site area must only include an area that is on, above or below that community land or public place, and is occupied or physically affected by the proposed development, and may not include any other area on which the proposed development is to be carried out.				
(8) Existing buildings				
The gross floor area of any existing or proposed buildings within the vertical projection (above or below ground) of the boundaries of a site is to be included in the calculation of the total floor space for the purposes of applying a floor space ratio, whether or not the proposed development relates to all of the buildings.				
(9) Covenants to prevent "double dipping"				
When consent is granted to development on a site comprised of 2 or more lots, a condition of the consent may require a covenant to be registered that prevents the creation of floor area on a lot (the restricted lot) if the consent authority is satisfied that an equivalent quantity of floor area will be created on another lot only because the site included the restricted lot.				
(10) Covenants affect consolidated sites				
If:	П		\boxtimes	
(a) a covenant of the kind referred to in subclause (9) applies to any land (affected land), and				
(b) proposed development relates to the affected land and other land that together comprise the site of the proposed development,				
the maximum amount of floor area allowed on the other land by the floor space ratio fixed for the site by this Plan is reduced by the quantity of floor space area the covenant prevents being created on the affected land.				
(11) Definition			\boxtimes	
In this clause, <i>public place</i> has the same meaning as it has in the <i>Local Government Act</i> 1993.				
4.6 Exceptions to development standards				
(1) The objectives of this clause are:				



Cla	use	Yes	No	N/A	Comment
	(a) to provide an appropriate degree of				A Cl.4.6 variation request has been provided.
	flexibility in applying certain development standards to particular development, and				The Cl.4.6 request correctly finds that the objectives of the height control are met.
	(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.				The Cl.4.6 request notes that variation to the height control is to provide structures on the rooftop as part of the common open space.
(2)	Consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.				
(3)	Consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:				
	(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and				
	(b) that there are sufficient environmental planning grounds to justify contravening the development standard.				
(4)	Consent must not be granted for development that contravenes a development standard unless:				The Clause 4.6 variation addresses the matters
	(a) the consent authority is satisfied that:	and also demonstrates the de	required to be demonstrated under Clause 4.6(3) and also demonstrates the development is in the public interest as it meets the objectives of the		
	 the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and 				height control and the zone.
	(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and (b) the concurrence of the Director-				



Cla	use	Yes	No	N/A	Comment
	General has been obtained.				
(5)	In deciding whether to grant concurrence, the Director-General must consider:			\boxtimes	
	(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and				
	(b) the public benefit of maintaining the development standard, and				
	(c) any other matters required to be taken into consideration by the Director-General before granting concurrence.				
(6)	Development consent must not be granted under this clause for a subdivision of land in Zone RUI Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:				
	(a) The subdivision will result will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or				
	(b) The subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.				
(7)	After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).				
(8)	This clause does not allow consent to be granted for development that would contravene any of the following:				
	(a) a development standard for complying development,				
	(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State				



Cla	use	Yes	No	N/A	Comment
	Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,				
	(c) clause 5.4.				
	t 5 Miscellaneous provisions Architectural roof features				
(1)	The objectives of this clause are:				
(-)	 (a) To ensure that any decorative roof element does not detract from the architectural design of the building, and 				
	(b) To ensure that prominent architectural roof features are contained within the height limit.				
(2)	Development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by clause 4.3 may be carried out, but only with consent.			\boxtimes	
(3)	Development consent must not be granted to any such development unless the consent authority is satisfied that:			\boxtimes	
	(a) the architectural roof feature:				
	(i) comprises a decorative element on the uppermost portion of a building, and				
	(ii) is not an advertising structure, and				
	(iii) does not include floor space area and is not reasonably capable of modification to include floor space area, and				
	(iv) will cause minimal overshadowing, and				
	(b) any building identification signage or equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like) contained in or supported by the roof feature is fully integrated into the design of the roof feature.				
5.9	Preservation of trees or vegetation				
(1)	The objective of this clause is to preserve the amenity of the area, including biodiversity values, through the preservation of trees and other vegetation.				Consent is sought for the removal of vegetation. The outcome of the vegetation removal is acceptable, given the commercial zoning and



Clause	Yes	No	N/A	Comment
(2) This clause applies to species or kinds of trees or other vegetation that are prescribed for the purposes of this clause by a development control plan made by the Council.				context of the site. There is no vegetation on the site that is significant or provides a high level of amenity.
Note. A development control plan may prescribe the trees or other vegetation to which this clause applies by reference to species, size, location or other manner.				
(3) A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by:				
(a) development consent, or (b) a permit granted by the Council.				
(4) The refusal by the Council to grant a permit to a person who has duly applied for the grant of the permit is taken for the purposes of the Act to be a refusal by the Council to grant consent for the carrying out of the activity for which a permit was sought.				
(5) This clause does not apply to a tree or other vegetation that the Council is satisfied is dying or dead and is not required as the habitat of native fauna.				
(6) This clause does not apply to a tree or other vegetation that the Council is satisfied is a risk to human life or property.				
(7) A permit under this clause cannot allow any ringbarking, cutting down, topping, lopping, removal, injuring or destruction of a tree or other vegetation:				
(a) that is or forms part of a heritage item, or that is within a heritage conservation area, or (b) that is or forms part of an Aboriginal object or that is within an Aboriginal place of heritage significance, unless the Council is satisfied that the proposed activity:				
(c) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area,				
(d) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area.				
Note. As a consequence of this subclause, the				



Clause	Yes	No	N/A	Comment
activities concerned will require development consent. The heritage provisions of clause 5.10 will be applicable to any such consent.				
(8) This clause does not apply to or in respect of:				
(a) the clearing of native vegetation:				
(i) that is authorised by a development consent or property vegetation plan under the			\boxtimes	
Native Vegetation Act 2003, or (ii) that is otherwise permitted under Division 2			\boxtimes	
or 3 of Part 3 of that Act, or (b) the clearing of vegetation on State			\boxtimes	
protected land (within the meaning of clause 4 of Schedule 3 to the <i>Native Vegetation Act 2003</i>) that is authorised by a development consent under the provisions of the <i>Native Vegetation Conservation Act 1997</i> as continued in force by that clause, or			\boxtimes	
(c) trees or other vegetation within a State forest, or land reserved from sale as a timber or forest reserve under the <i>Forestry Act 1916</i> , or			\boxtimes	
(d) action required or authorised to be done by or under the <i>Electricity Supply Act 1995</i> , the <i>Roads Act 1993</i> or the <i>Surveying and Spatial Information Act 2002</i> , or			\boxtimes	
(e) plants declared to be noxious weeds under the Noxious Weeds Act 1993.				
Note. Permissibility may be a matter that is determined by or under any of these Acts.				
(9) Not adopted 5.9AA Trees or vegetation not prescribed				
by development control plan				
(1) This clause applies to any tree or other vegetation that is not of a species or kind prescribed for the purposes of clause 5.9 by a development control plan made by the Council.				Tree removal is covered by this development application.
(2) The ringbarking, cutting down, topping, lopping, removal, injuring or destruction of any tree or other vegetation to which this clause applies is permitted without development consent.			\boxtimes	



Clause	Yes	No	N/A	Comment
5.10 Heritage conservation				
Note. Heritage items, if any are listed and described in Schedule 5. Heritage conservation areas (if any) are shown on the Heritage Map as well as being described in Schedule 5.				
(1) Objectives				
The objectives of this clause are as follows:			\boxtimes	The site is not within proximity to any item that is
(a) to conserve the environmental heritage of Auburn,	_		_	listed in the Auburn Local Environmental Plan 2010.
(b) to conserve the heritage significance of heritage items and heritage conservation areas including associated fabric, settings and views,				
(c) to conserve archaeological sites,				
(d) to conserve Aboriginal objects and Aboriginal places of heritage significance.				
(2) Requirement for consent				
Development consent is required for any of the following:			\boxtimes	
(a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance):				
(i) a heritage item,				
(ii) an Aboriginal object,				
(iii) a building, work, relic or tree within a heritage conservation area,				
(b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,				
(c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,				
(d) disturbing or excavating an Aboriginal place of heritage significance,				
(e) erecting a building on land:			\boxtimes	



Clause	Yes	No	N/A	Comment
(i) on which a heritage item is located or that is within a heritage conservation area, or				
(ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,				
(f) subdividing land:				
(i) on which a heritage item is located or that is within a heritage conservation area, or				
(ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.				
(3) When consent not required				
However, development consent under this clause is not required if:				
(a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development:				
(i) is of a minor nature, or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or archaeological site, or a building, work, relic, tree or place within the heritage conservation area, and				
(ii) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place, archaeological site or heritage conservation area, or				
(b) the development is in a cemetery or burial ground and the proposed development:				
(i) is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and				
(ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to an Aboriginal place of heritage significance, or				
(c) the development is limited to the removal of a tree or other vegetation that the Council is satisfied is a risk to human life or property, or				
(d) the development is exempt development.				
(4) Effect of proposed development on				



Clause	Yes	No	N/A	Comment
heritage significance				
The consent authority must, before granting consent under this clause, in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).				
(5) Heritage assessment				
The consent authority may, before granting consent to any development:				
(a) on land on which a heritage item is located, or				
(b) on land that is within a heritage conservation area, or				
(c) on land that is within the vicinity of land referred to in paragraph (a) or (b),				
require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.				
(6) Heritage conservation management plans				
The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.				
(7) Archaeological sites				
The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the Heritage Act 1977 applies):				
(a) notify the Heritage Council of its intention to grant consent, and				
(b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.				



Clause	Yes	No	N/A	Comment
(8) Aboriginal places of heritage significance				
The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance: 2010 No 616 Auburn Local Environmental Plan 2010 Clause 5.11 Miscellaneous provisions Part 5 Page 47				
(a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and				
(b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate about the application and take into consideration any response received within 28 days after the notice is sent.				
(9) Demolition of nominated State heritage items				
The consent authority must, before granting consent under this clause for the demolition of a nominated State heritage item:				
(a) notify the Heritage Council about the application, and				
(b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.				
(10) Conservation incentives				
The consent authority may grant consent to development for any purpose of a building that is a heritage item, or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, even though development for that purpose would otherwise not be allowed by this Plan, if the				
consent authority is satisfied that: (a) the conservation of the heritage item or			\boxtimes	
Àboriginal place of heritage significance is facilitated by the granting of consent, and				
(b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and				
(c) the consent to the proposed development				



Clause		Yes	No	N/A	Comment
work identifi document is (d) the pro adversely af the heritage heritage sign	e that all necessary conservation ed in the heritage management carried out, and posed development would not fect the heritage significance of item, including its setting, or the ifficance of the Aboriginal place of ifficance, and				
(e) the propo any significa of the surrou	sed development would not have nt adverse effect on the amenity				
6.1 Acid sul					
that d expose	jective of this clause is to ensure evelopment does not disturb, or drain acid sulfate soils and environmental damage.				The land is given a Class 5 rating however is not within 500m of land with a higher classification.
the can Table t on the	relopment consent is required for rying out of works described in the to this subclause on land shown Acid Sulfate Soils Map as being of se specified for those works.				
Class	Works of land				
1	Any works				
2	Works below the natural ground surface. Works by which the watertable is likely to be lowered.				
3	Works more than 1 metre below the natural ground surface. Works by which the watertable is likely to be lowered more than 1 metre below the natural ground surface.				
4	Works more than 2 metres below the natural ground surface. Works by which the watertable is likely to be lowered more than 2 metres below the natural ground surface.				
5 S	Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.				



Cla	nuse	Yes	No	N/A	Comment
	granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority.				
(4)	Despite subclause (2) Development consent is not required under this clause for the carrying out of works if:			\boxtimes	
(a)	a preliminary assessment of the proposed works prepared in accordance with the Acid Sulfate Soils Manual indicates that an acid sulfate soils management plan is not required for the works, and				
(b)	the preliminary assessment has been provided to the consent authority and the consent authority has confirmed the assessment by notice in writing to the person proposing to carry out the works.				
(5)	Despite subclause (2), development consent is not required under this clause for the carrying out of any of the following works by a public authority (including ancillary work such as excavation, construction of access ways or the supply of power):				
(a)	emergency work, being the repair or replacement of the works of the public authority required to be carried out urgently because the works have been damaged, have ceased to function or pose a risk to the environment or to public health and safety,				
(b)	routine management work, being the periodic inspection, cleaning, repair or replacement of the works of the public authority (other than work that involves the disturbance of more than 1 tonne of soil),				
(c)	minor work, being work that costs less than \$20,000 (other than drainage work).				
(6)	Despite subclause (2), development consent is not required under this clause to carry out any works if:			\boxtimes	
(a)	the works involve the disturbance of more than 1 tonne of soil, such as occurs in carrying out agriculture, the construction or maintenance of drains, extractive industries, dredging, the construction of artificial water bodies (including canals, dams and detention basins) or foundations, or flood mitigation works, or				



Clause	Yes	No	N/A	Comment
(b) the works are likely to lower the water table.				
6.2 Earthworks				
(1) The objectives of this clause are as follows:	\boxtimes			Earthworks (i.e. excavation for the basement) are considered as part of this application.
(a) to ensure that earthworks for which a development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses or heritage items and features of the surrounding land,				
(b) to allow earthworks of a minor nature without separate development consent.				
(2) Development consent is required for earthworks, unless:	\boxtimes			
(a) the work does not alter the ground level (existing) by more than 600 millimetres, or				
(b) the work is exempt development under this Plan or another applicable environmental planning instrument, or				
(c) the work is ancillary to other development for which development consent has been given.				
(3) Before granting development consent for earthworks, the consent authority must consider the following matters:				
(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,				
(b) the effect of the proposed development on the likely future use or redevelopment of the land,				
(c) the quality of the fill or of the soil to be excavated, or both,				
 (d) the effect of the proposed development on the existing and likely amenity of adjoining properties, 				
(e) the source of any fill material and the destination of any excavated material,				
(f) the likelihood of disturbing relics,				
(g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.				
Note. The National Parks and Wildlife Act 1974, particularly section 86, deals with disturbing or excavating land and Aboriginal objects.				



Cla	use	Yes	No	N/A	Comment
6.3	Flood planning				
(1)	The objectives of this clause are:				
(a)	to minimise the flood risk to life and property associated with the use of land,				The site is not mapped as within a Flood Planning Area.
(b)	to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,				
(c)	to avoid significant adverse impacts on flood behaviour and the environment.				
(2)	This clause applies to:				
(a)	land that is shown as "Flood planning area" on the Flood Planning Map, and				
(b)	other land at or below the flood planning level.				
(3)	Development consent must not be granted for development on land to which this clause applies unless the consent authority is satisfied that the development:				
(a)	is compatible with the flood hazard of the land, and				
(b)	is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and				
(c)	incorporates appropriate measures to manage risk to life from flood, and				
(d)	is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and				
(e)	is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.				
(4)	A word or expression used in this clause has the same meaning as it has in the NSW Government's Floodplain Development Manual published in 2005, unless it is otherwise defined in this clause.				
(5)	In this clause:				
1:10	od planning level means the level of a 00 ARI (average recurrent interval) flood nt plus 0.5 metre freeboard.				
Env	od Planning Map means the Auburn Local ironmental Plan 2010 Flood Planning Map. Essential Services				
	Development consent must not be				Services are provided to the site.



Clause	Yes	No	N/A	Comment
granted to development unless the consent authority is satisfied that any of the following services that are essential for the proposed development are available or that adequate arrangements have been made to make them available when required:				
(a) the supply of water,				
(b) the supply of electricity,				
(c) the disposal and management of sewage.				
(d) stormwater drainage or on-site conservation,				
(e) suitable road access.				
(2) This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any essential service referred to in this clause.				
6.6 Particular dual occupancy subdivisions must not be approved				
(1) Development consent must not be granted for a subdivision that would create separate titles for each of the two dwellings resulting from a dual occupancy development.				Not applicable.
(2) This clause does not apply in relation to the subdivision under either of the following Acts:				
(a) The Community Land Development Act 1989.				
(b) The Strata Schemes (Freehold Development Act 1973).				
6.8 Arrangements for contributions to designated State public infrastructure (Carter Street Priority Precinct)				
(1) The objective of this clause is to require assistance towards the provision of designated State public infrastructure to satisfy needs arising from intensive development for residential accommodation and commercial purposes on the land identified as "Carter Street Priority Precinct" on the Priority Precinct Map (Carter Street Priority Precinct Iand). (2) This clause applies to development for residential accommodation and commercial purposes (including by way of subdivision) on Carter Street Priority Precinct land. (3) Development consent must not be granted for development to which this clause applies unless the Secretary has				The land is not within the Carter Street Precinct.



Clause	Yes	No	N/A	Comment
certified in writing to the consent authority that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure in relation to that development. (4) This clause does not apply to the granting of development consent if: (a) the development will not result in an increase in the floor space for residential accommodation and commercial purposes provided on Carter Street Priority Precinct land, or (b) the whole or any part of the land on which the development is to be carried out is in a special contributions area (as defined by section 93C of the Act). (5) In this clause, designated State public infrastructure means public facilities or services that are provided or financed by the State (or, if provided or financed by the private sector, to the extent of a financial or an in-kind contribution by the State) of any of the following kinds: (a) State and regional roads, (b) land required for social infrastructure and facilities (such as land for schools, hospitals, emergency services and justice purposes).				
(1) This clause applies to the land known as the Commercial Precinct (1) This clause applies to the land known as the Commercial Precinct, as shown edged dark blue and marked "Commercial Precinct" on the Key Sites Map. (2) Despite any other provision of this Plan, retail premises are permissible with development consent on land to which this clause applies in Zone B6 Enterprise Corridor.			\boxtimes	The land is not within the Commercial Precinct.
6.10 Development of certain land at Wentworth Point (1) This clause applies to land at Wentworth Point, identified as "Wentworth Point Maritime Precinct" on the Key Sites Map. (2) Despite any other provision of this Plan, development of the land to which this clause applies for any of the following purposes is permissible with development consent: (a) boat building and repair facilities, (b) boat launching ramps, (c) boat sheds, (d) marinas. Schedule 1 Additional permitted uses "Nil"				The land is not within the Wentworth Point Maritime Precinct.



Clause	Yes	No	N/A	Comment

Summary of Non-Compliances/Variations to the Auburn Local Environmental Plan 2010

Clause & Details of Standard	Comment				
4.3 Building Height	A maximum building height limit of 32m applies to the land. The proposal seeks a height of 34.76m.				
	A clause 4.6 variation has been prepared to support the variation.				
	The Clause 4.6 variation is sound and the variation to the building height should be supported.				

DOCUMENTS ASSOCIATED WITH REPORT LPP074/19

Attachment 6
Appendix C





APPENDIX C

ADCP 2010 - Residential Flat Buildings

The objectives, performance criteria of the Auburn DCP 2010 – Residential Flat Buildings have been considered in the assessment of the development application. Relevant consideration has been given to DCP requirements relating to *Built Form*, *Open Space and Landscaping*, *Access and Car parking*, *Privacy and Security*, *Solar Amenity & Stormwater Reuse*, *Ancillary Facilities*, *Subdivision*, *Adaptable Housing and Development Control Diagrams*.

The following table includes an assessment of the relevant development standards applicable to the application.

Requirement	Yes	No	N/A	Comments
1.0 Introduction				
1.1 Development to which this Part applies This part applies to residential flat building development. It does not apply to Newington and Wentworth Point (formerly Homebush Bay West) areas. Please refer to the Newington Parts of this ADCP 2010 or the Wentworth Point DCPs listed in Section 1.6 of the Introduction Part of this ADCP 2010.			\boxtimes	The development site is not located in the Wentworth Point or Newington locality.
1.2 Purpose of this Part The purpose of this Part is to ensure residential flat buildings: are pleasant to live in and create enjoyable urban places; promote amenable, vibrant and lively streets: facilitate a safe, welcoming and attractive public domain; are designed to cater for multiple demographics and tenancies; foster ecologically sustainable development; maintain a high level of amenity; contribute to the overall street locality; minimise the impact on the environment; and optimise use of the land.				The development is considered to be generally in compliance with this part. The proposal has been designed so as to contribute to the activation of streets in the Lidcombe centre and is compatible with other development that has taken place in the immediate vicinity.
2.0 Built Form				
2.1 Site area D1 A residential flat building development shall have a minimum site area of 1000m² and a street frontage of 20m in the B4 Zone or 26m in the R4 Zone.				The site is in 1,761m² in total.
D2 Where lots are deep and have narrow street frontages the capacity for maximising residential development is limited. Two or more sites may need to be amalgamated to provide a combined site with sufficient width for good building design.				The site complies with the frontage requirements to each street.
Site coverage The built upon area shall not exceed 50% of the total site area.		\boxtimes		The built upon area exceeds 50% of the total site area and has already been approved under DA-280/2017.



Red	quirement	Yes	No	N/A	Comments
D2	The non-built upon area shall be landscaped and consolidated into one communal open space and a series of courtyards.				Compliance is unreasonable given the zoning, location of the site within the mixed use zone of the Lidcombe town centre and the applicable planning controls that allow a high floor space ratio within a certain height limit. Non-built upon areas accommodate courtyards and landscaped edges.
	Building envelope Council may consider a site specific building envelope for certain sites, including: double frontage sites; sites facing parks; sites adjoining higher density zones; and isolated sites.				The building footprint is considered under the ADG.
D2	The maximum building footprint dimensions, inclusive of balconies and building articulation but excluding architectural features, is 24m x 45m for sites up to 3,000m²				
D3	The tower component of any building above the podium or street wall height is to have a maximum floor plate of 850m ² .				This issue was considered in the assessment of DA-280/2017 and remains unchanged by the subject DA.
2.4.	Setbacks 1 Front setback The minimum front setback shall be between 4 to 6m (except for residential flat development in the B1 and B2 zones) to provide a buffer zone from the street where residential use occupies the ground level.			\boxtimes	This issue was considered in the assessment of DA-280/2017 and remains unchanged by the subject DA.
D2	Where a site has frontage to a lane, the minimum setback shall be 2m, however, this will vary depending on the width of the lane.				
D3	Where a new building is located on a corner, the main frontage shall be determined on the existing streetscape patterns. Where the elevation is determined as the 'secondary' frontage, the setback may be reduced to 3m except where it relates to a primary frontage on that street.				
D4	Front setbacks shall ensure that the distance between the front of a new building to the front of the building on the opposite side of the street is a minimum of 10m for buildings up to 3 storeys high. For example, a 2m front setback is required where a 6m wide laneway is a shareway between the front of 2 buildings. Where a				



Red	quirement	Yes	No	N/A	Comments
	footpath is to be incorporated a greater setback shall be required.				
D5	All building facades shall be articulated by bay windows, verandahs, balconies and/or blade walls. Such articulation elements may be forward of the required building line up to 1m.	\boxtimes			
D6	In all residential zones, levels above 4 storeys are to be setback for mid-block sites.			\boxtimes	
	2 Side setback In all residential zones, buildings shall have a side setback of at least 3m.			\boxtimes	
D2	Eaves may extend a distance of 700mm from the wall.			\boxtimes	
	3 Rear setback Rear setbacks shall be a minimum of 10m.	\boxtimes			
D2	Where there is a frontage to a street and a rear laneway the setback to the rear laneway shall be a minimum of 2m.				
D3	Where a building is an L or T shape with the windows facing side courtyards the rear setback shall be a minimum of 2m.				
2.4.	4 Haslam's creek setback				
D1	A minimum 10m setback from the top of the creek bank of Haslam's Creek and its tributaries shall be required. Refer to the Stormwater Drainage Part of this ADCP 2010 for additional controls.				The development site is not in vicinity of Haslam's Creek.
2.4. D1	5 Setbacks at Olympic Drive, Lidcombe For sites with frontage to Olympic Drive, buildings shall be designed to address Olympic Drive and provide a setback of 4m.				Not applicable to this site.
D2	The setback area and verge shall be landscaped and planted with a double row of street trees.				
D3	The setback to east-west streets shall be generally 4 to 6m and ensure view corridors to Wyatt Park are maintained			\boxtimes	
2.5 D1	Building depth The maximum depth of a residential flat building shall be 24m (inclusive of balconies and building articulation but excluding architectural features).	\boxtimes			This issue was considered in the assessment of DA-280/2017 and remains unchanged by the subject DA.



Req	uirement	Yes	No	N/A	Comments
2.6 D1	Floor to ceiling heights The minimum floor to ceiling height shall be 2.7m. This does not apply to mezzanines.	\boxtimes			Floor to ceiling heights satisfy the ADG.
D2	Where there is a mezzanine configuration, the floor to ceiling height may be varied.			\boxtimes	
2.7 D1	Head Height of Windows The head height of windows and the proportion of windows shall relate to the floor to ceiling heights of the dwelling.	\boxtimes			Satisfactory.
D2	For storeys with a floor to ceiling height of 2.7m, the minimum head height of windows shall be 2.4m.	\boxtimes			
D3	For storeys with a floor to ceiling height of 3m, the minimum head height of windows shall be 2.7m.				
2.8 D1	Heritage All development adjacent to and/or adjoining a heritage item shall be: responsive in terms of the curtilage and design; accompanied by a Heritage Impact Statement; and respectful of the building's heritage significance in terms of the form, massing, roof shapes, pitch, height and setbacks.				Not applicable.
2.9. ²	Building Design Materials Il developments shall be constructed from durable, high quality materials.	\boxtimes			Materials and finishes are appropriate.
2.9.2 D1	Building articulation Windows and doors in all facades shall be provided in a balanced manner and respond to the orientation and internal uses.	\boxtimes			Satisfactory
D2	Dwelling entrances shall create a sense of individuality and act as a transitional space between private and communal spaces. Entrances shall be clearly articulated and identifiable from the street through use of address signage, lighting, canopies and/or architectural statements.	\boxtimes			Satisfactory
D3	Elevations shall provide for variation and depth rather than relying on front façade treatment only. Varied massing projections and recesses shall be used to create a sense of articulation and depth.				Satisfactory
	Roof forms shall be designed in a way				The roof form and paraget treatments



Rec	uirement	Yes	No	N/A	Comments
	that the total form does not add to height	\square			are satisfactory.
	and bulk of the building.				
	4 Balustrades and balconies	l	l		
D1	Balustrades and balconies shall be				Balcony treatments are satisfactory.
	designed to maximise views of the street.	_	—	—	
	The design of the underside of the balcony shall take into consideration the view of the underside from the street and shall avoid having exposed pipes and utilities.	\boxtimes			A condition of consent should be imposed to ensure that clear glazing is not used.
	duities.				
D2	Opaque glazing and/or masonry for balustrading and balconies is encouraged.				
D3	Clear glazing for balustrading and balconies is prohibited.				
2.10	Dwelling size				
D1	The size of the dwelling shall determine the maximum number of bedrooms permitted.				Dwelling sizes satisfy the ADG Relationship between living areas and
					balconies is satisfactory.
	mber of bedrooms Size				
Stu	dio 50m² edroom (cross through) 50m²				
	edroom (maisonette) 62m ²				
	edroom (masonette) 62m edroom (single aspect) 63m ²				
	edrooms (corner) 80m ²				
	edrooms (cross through or 90m²				
ove					
	edrooms 115m ²				
4 b	edrooms 130m ²				
		l	l	l	
D2	At least one living area shall be spacious and connect to private outdoor areas.				
	Apartment mix and flexibility				
D1	A variety of apartment types between				Apartment mix is in keeping with other
	studio, one, two, three and three plus-				development in the area.
	bedroom apartments shall be provided,	l	l		A slight improvement to the apartment
	particularly in large apartment buildings.	\boxtimes	$ \; \sqcup \; $	$ \; \sqcup \; $	A slight improvement to the apartment mix results from this DA.
	Variety may not be possible in smaller buildings, for example, up to six units.				This results from the Dr. ii
D2	The appropriate apartment mix for a location shall be refined by: considering population trends in the future as well as present market demands; and noting the apartment's location in relation to public transport, public facilities, employment areas, schools and universities and retail centres.				
D3	A mix of one (1) and three (3) bedroom apartments shall be located on the ground level where accessibility is more easily achieved for disabled, elderly people or	\boxtimes			Single bedroom dwellings are distributed throughout all floors.



Red	quirement	Yes	No	N/A	Comments
	families with children.				
D4	The possibility of flexible apartment configurations, which support future change to optimise the building layout and to provide northern sunlight access for all apartments, shall be considered.				Dwellings layouts are functional.
D5	Robust building configurations which utilise multiple entries and circulation cores shall be provided especially in larger buildings over 15m long.	\boxtimes			
D6	Apartment layouts which accommodate the changing use of rooms shall be provided.				
	Design solutions may include: windows in all habitable rooms and to the maximum number of non-habitable rooms; adequate room sizes or open-plan apartments, which provide a variety of furniture layout opportunities; and dual master bedroom apartments, which can support two independent adults living together or a live/work situation.				
D7	Structural systems that support a degree of future change in building use or configuration shall be used. Design solutions may include: • a structural grid, which accommodates car parking dimensions, retail, commercial and residential uses vertically throughout the building; • the alignment of structural walls, columns and services cores between floor levels; • the minimisation of internal structural walls; • higher floor to ceiling dimensions on the ground floor and possibly the first floor; and • knock-out panels between apartments to allow two adjacent apartments to be amalgamated.				
	Open space and landscaping				
3.1	Development application requirements				
requirements A landscape plan shall be submitted with all development applications for residential flat buildings. The landscape plan should specify landscape					The landscape plan provides a satisfactory concept for the embellishment and enhancement of the development.
	mes, vegetation (location and species), ing and lighting that provide a safe,				



	uirement	Yes	No	N/A	Comments
	ctive and functional environment for ents, integrates the development with the				
	nbourhood and contributes to energy				
	ency and water management.				
	de consendence and the con				
	dscape plan prepared by a professionally fied landscape architect or designer shall				
	ubmitted with the development application				
	n shows:				
	proposed site contours and reduced levels				
	at embankments, retaining walls and other				
	critical locations; existing vegetation and the proposed				
	planting and landscaping (including				
	proposed species);				
	general arrangement of hard landscaping				
	elements on and adjoining the site; ocation of communal facilities;				
	proposed lighting arrangements;				
• p	proposed maintenance and irrigation				
	systems; and				
• p	proposed street tree planting.				
3.2	Landscaping				David and Bridge II
	f an area is to be paved, consideration shall be given to selecting materials that	\boxtimes	$ \; \sqcup \; $	$ \sqcup $	Paved areas are limited to pathways and driveways.
	will reduce glare and minimise surface				and direways.
	run-off.				
D2	All landscaped podium areas shall	_	_	_	Adaquata sail donth is provided to
	All landscaped podium areas shall maintain a minimum soil planting depth of	\boxtimes			Adequate soil depth is provided to planters.
6	600mm for tree provision and 300mm for				parties of
	urf provision.				
3.3	Deep soil zone A minimum of 30% of the site area shall				
	be a deep soil zone.		\boxtimes		Limited deep soil is proposed which is
	·				appropriate given the CBD context.
	The majority of the deep soil zone shall be			\boxtimes	This issue was considered in the
	provided as a consolidated area at the rear of the building.				This issue was considered in the assessment of DA-280/2017 and
'	ca. c. tro building.				remains unchanged by the subject DA.
	Deep soil zones shall have minimum				
	dimensions of 5m.	Ш		\boxtimes	
D4 1	Deep soil zones shall not include any				
	mpervious (hard) surfaces such as paving			\boxtimes	
	or concrete.				
3.4	Landscape setting Development on steeply sloping sites shall				
	be stepped to minimise cut and fill.	Ш		\boxtimes	
'					
	Existing significant trees shall be retained			\boxtimes	
'	within the development.				No existing trees are proposed to be retained or warrant retention. This
D3 1	The minimum soil depth for terraces	_	_	_	issue was considered in the
- \	where tree planting is proposed is 800mm.			\boxtimes	assessment of DA-280/2017 and
L.	Applicants shall describe to the C				remains unchanged by the subject DA.
	Applicants shall demonstrate that the development will not impact adversely			\boxtimes	
	upon any adjoining public reserve or				
	bushland.				



Requirement		Yes	No	N/A	Comments
D5	Residential flat buildings shall address and align with any public open space and/or bushland on their boundary.				
D6	All podium areas and communal open space areas, which are planted, shall be provided with a water efficient irrigation system.				
3.5 D1	Private open space Private open space shall be provided for each dwelling in the form of a balcony, roof terrace or, for dwellings on the ground floor, a courtyard.	\boxtimes			Private open space satisfies the ADG requirements.
D2	Dwellings on the ground floor shall be provided with a courtyard that has a minimum area of 9m² and a minimum dimension of 2.5m.				Ground floor units have a courtyards area that meets the minimum dimensions.
D3	Dwellings located above ground level shall be provided with a balcony or roof terrace that has a minimum area of 8m ² and a minimum dimension of 2m.				Yes
D4	Balconies may be semi enclosed with louvres and screens.	\boxtimes			Yes
D5	Private open space shall have convenient access from the main living area.	\boxtimes			Yes
D6	Part of the private open space shall be capable of serving as an extension of the dwelling for relaxation, dining, recreation, entertainment and children's play.				Yes
D7	Additional small, screened service balconies may be provided for external clothes drying areas and storage.				Yes
D8	Private open space and balconies shall take advantage of mid to long distance views where privacy impacts will not arise.				Yes
3.6 D1	Communal open space Communal open space shall be useable, have a northern aspect and contain a reasonable proportion of unbuilt upon (landscaped) area and paved recreation	\boxtimes			While ground level COS is located to the rear, the residents have the benefit of rooftop areas.
D2	area. The communal open space area shall have minimum dimensions of 10m.	\boxtimes			This issue was considered in the assessment of DA-280/2017 and remains unchanged by the subject DA.
3.7 D1				\boxtimes	Not applicable.
D2	Existing trees are to be retained and integrated into a new landscaping scheme, wherever possible. Suitable			\boxtimes	



Rec	quirement	Yes	No	N/A	Comments
	replacement trees are to be provided if existing trees cannot be retained.				
sha	e: For additional requirements, applicants Il refer to the Tree Preservation Part of this CP 2010.				
3.8 D1	Biodiversity The planting of indigenous species shall be encouraged.	\boxtimes			The species selection includes indigenous species and other natives.
3.9 D1	Street trees Driveways and services shall be located to preserve existing significant trees.			\boxtimes	Not applicable.
	Additional street trees shall be planted at an average spacing of 1 per 10 lineal metre of street frontage.	\boxtimes			By condition of consent
fron all	e: Where a site has more than one street tage, street tree planting shall be applied to street frontages, excluding frontage to eways.				
4.0	Access and car parking				l .
4.2	Basements Where possible, basement walls shall be located directly under building walls.	\boxtimes			Satisfactory
D2	A dilapidation report shall be prepared for all development that is adjacent to sites which build to the boundary.	\boxtimes			By condition of consent.
D3	Basement walls not located on the side boundary shall have minimum setback of 1.2m from the side boundary to allow planting.				
D4	Basement walls visible above ground level shall be appropriately finished (such as face brickwork and/or render) and appear as part of the building.				
5.0	Privacy and security				
5.1 D1	Privacy Buildings shall be designed to form large external courtyards with a minimum distance of 10 to 12m between opposite windows of habitable rooms.				This issue was considered in the assessment of DA-280/2017 and remains unchanged by the subject DA.
D2	Windows to living rooms and main bedrooms shall be oriented to the street and to the rear, or to the side when buildings form an 'L' or 'T' shape.				
D3	Site layout and building design shall ensure that windows do not provide direct and close views into windows, balconies or private open spaces of adjoining dwellings.	\boxtimes			



Requirement		Yes	No	N/A	Comments
D4	Views onto adjoining private open space shall be obscured by: Screening that has a maximum area of 25% openings, shall be permanently fixed and made of durable materials; or Existing dense vegetation or new planting.	\boxtimes			
Noise To acoustic privacy, buildings shall: be designed to locate noise sensitive rooms and private open space away from the noise source or by use of solid barriers where dwellings are close to high noise sources;		\boxtimes			The site is not in an area of high noise.
	 minimise transmission of sound through the building structure and in particular protect sleeping areas from 	\boxtimes			
	 noise intrusion; and all shared floors and walls between dwellings to be constructed in accordance with noise transmission and insulation requirements of the BCA. 				
Note: For development within or adjacent to a rail corridor, or major road corridor with an annual average daily traffic volume of more than 40,000 vehicles, applicants must consult State Environmental Planning Policy (Infrastructure) 2007 and the NSW Department of Planning's Development Near Rail Corridors and Busy Roads – Interim Guidelines 2008.					
	Security Shared pedestrian entries to buildings shall be lockable.	\boxtimes			Security and safety measures are appropriate.
D2	Ensure lighting is provided to all pedestrian paths, shared areas, parking areas and building entries.				
D3	High walls which obstruct surveillance are not permitted.	\boxtimes			
D4	The front door of a residential flat building shall be visible from the street.	\boxtimes			
D5	Buildings adjacent to public streets or public spaces should be designed so residents can observe the area and carry out visual surveillance. At least one window of a habitable room should face the street or public space.				Casual surveillance is provided by the location of windows and balconies.
D6	A council approved street number should be conspicuously displayed at the front of new development or the front fence of such development.				By condition of consent.



Requirement	Yes	No	N/A	Comments
D7 Fences higher than 900mm shall be of an open semitransparent design.				
D8 Balconies and windows shall be positioned to allow observation of entrances.	\boxtimes			
D9 Proposed planting must not obstruct the building entrance from the street or sightlines between the building and the street frontage.	\boxtimes			
D10 Blank walls facing a rear laneway should be avoided to discourage graffiti.	\boxtimes			Blank walls are minimised.
D11 Pedestrian and vehicular entrances must be designed so as to not be obstructed by existing or proposed plantings.	\boxtimes			
D12 If seating is provided in communal areas of a development it should generally only be located in areas of active use where it will be regularly used.				
D13Buildings adjacent to streets or public spaces shall be designed to allow casual surveillance over the public area.	\boxtimes			
D14 Ground floor apartments may have individual entries from the street.	\boxtimes			
D15 Residential flat buildings adjoining a park or public open space shall be treated like a front entrance/garden for the length of the park. Refer to Figure 4 - Park frontage in section 10.0.				
5.4 Fences				
D1 The front and side dividing fences, where located within the front yard area, shall not exceed 1.2m as measured above existing ground level and shall be a minimum of 50% transparent.				This issue was considered in the assessment of DA-280/2017 and remains unchanged by the subject DA.
D2 Materials of construction will be considered on their merit, with regard being given to materials that are similar to other contributory fences in the vicinity, with a general prohibition on the following materials: • Cement block; • Metal sheeting, profiled, treated or pre-coated. • Fibro, flat or profile; • Brushwood; and • Barbed wire or other dangerous material.				
D3 All fences forward of the building alignment shall be treated in a similar	\boxtimes			



Req	uirement	Yes	No	N/A	Comments
	way.				
D4	Solid pre-coated metal fences shall be discouraged and shall not be located forward of the front building line.	\boxtimes			
D5	Front fences shall satisfy the acoustic abatement criteria and be provided with a landscaped area on the street side of the fence.				
D6	Fences located on side or rear boundaries of the premises, behind the main building line shall not exceed a maximum height of 1.8m.	\boxtimes			
D7	Fencing and associated walls must be positioned so as not to interfere with any existing trees.	\boxtimes			
D8	Gates and doors are to be of a type which does not encroach over the street alignment during operation.				
6.0 \$	Solar amenity and stormwater reuse				
	ectives				
a.	To minimise overshadowing of adjoining residences and to achieve energy efficient housing in a passive solar design that provides residents with year round comfort and reduces energy				The siting of the building is such that surrounding buildings and private open space will receive adequate solar access.
b.	consumption. To create comfortable living environments.				The development incorporates a suite of energy efficiency and water conservation measure and detailed in
C.	To provide greater protection to the natural environment by reducing the amount of greenhouse gas emissions.	\boxtimes			the submitted plans and BASIX certificate.
d.	To reduce the consumption of non- renewable energy sources for the purposes heating water, lighting and temperature control.	\boxtimes			
e.	To encourage installation of energy efficient appliances that minimise greenhouse gas generation.				
6.1	Solar amenity				
D1	Solar collectors proposed as part of a new development shall have unimpeded solar access between 9:00am to 3:00pm on June 21.				
	Solar collectors existing on the adjoining properties shall not have their solar access impeded between 9:00am to 3:00pm on June 21.			\boxtimes	
	Where adjoining properties do not have any solar collectors, a minimum of 3m² of north facing roof space of the adjoining dwelling shall retain unimpeded solar access between 9:00am to 3:00pm on			\boxtimes	



Requirement		Yes	No	N/A	Comments
loca	e: Where the proposed development is ted on an adjacent northern boundary this not be possible.			\boxtimes	
D2	Buildings shall be designed to ensure sunlight to at least 50% of the principal area of ground level private open space	\boxtimes			Solar amenity complies with the ADG requirements.
	of adjoining properties for at least 3 hours between 9:00am and 3:00pm on June 21.				This issue was considered in the assessment of DA-280/2017 and remains unchanged by the subject DA.
D3	If the principal area of ground level private open space of adjoining properties does not currently receive at least this amount of sunlight, then the new building shall not further reduce solar access.				
D4	Habitable living room windows shall be located to face an outdoor space.				
D5	North-facing windows to living areas of neighbouring dwellings shall not have sunlight reduced to less than 3 hours between 9:00am and 3:00pm on June 21 over a portion of their surface.				
D6	Where the proposed residential flat building is on an adjacent northern boundary or located within an area undergoing transition, compliance with D1, D2, D3 and D4 development controls may not be achievable.				
D7	Internal living areas and external recreation areas shall have a north orientation for the majority of units in the development, where possible.				
D8	The western walls of the residential flat building shall be appropriately shaded.				
6.2 D1	Ventilation Rooms with high fixed ventilation openings such as bathrooms and laundries shall be situated on the southern side to act as buffers to insulate the building from winter winds.				
D2	Apartments shall be designed to consider ventilation and dual aspect. This can be achieved with cross over apartments, cross through apartments, corner apartments and two (2) storey apartments. Single aspect apartments shall be kept to a minimum except for those that are north facing. Single aspect apartments shall be limited in depth to 8m from a window.				Cross ventilation satisfies the requirements of the ADG
D3	Where possible residential flat buildings				



Req	uirement	Yes	No	N/A	Comments		
	laundries, and kitchens positioned on an						
	external wall with a window to allow for						
	natural ventilation of the room.						
6.3	Rainwater tanks						
D1	Developments may have rain water tanks	Ш			Rainwater tanks are not proposed.		
	for the collection and reuse of stormwater						
	for car washing and watering of						
	landscaped areas.						
D2	Deigustas taulia aball ba capaturatad						
D2	Rainwater tanks shall be constructed, treated or finished in a non-reflective						
	material which blends in with the overall			—			
	tones and colours of the building and the						
	surrounding developments.						
	ourrounding doctorprise.						
D3	The suitability of rainwater tanks erected						
	within the side setback areas of		\sqcup				
	development will be assessed on an						
	individual case by case basis.						
D.	Delinarian tanka akalli ast ta ka k						
D4	Rainwater tanks shall not be located			$ \boxtimes $			
	within the front setback.						
D5	The overflow from the domestic rain						
	water tank shall discharge to the site	Ш	\sqcup				
	stormwater disposal system. For						
	additional details refer to the Stormwater						
	Drainage Part of this ADCP 2010.						
D6	The rain water tank shall comply with the	Ш	\sqcup				
	applicable Australian Standards AS/NZ						
	2179 and AS 2180 for rainwater goods						
	and installation.						
	Stormwater drainage			l —	Saa Faainaana sammanta		
	icants shall refer to the stormwater nage requirements in the Stormwater	\boxtimes	\sqcup	$ \sqcup $	See Engineers comments		
	nage Part of this ADCP 2010.						
	Ancillary site facilities				ı		
7.1	Clothes washing and drying						
D1	Each dwelling shall be provided with	\boxtimes		\Box	Each apartment has laundry facilities.		
	individual laundry facilities located within				,		
	the dwelling unit.						
	On the shallow that the William I was				[
D2	Open air clothes drying facilities shall be	\boxtimes		ΙП	Drying can be carried out on balconies		
	provided in a sunny, ventilated and				which are screened by opaque balustrades.		
	convenient location which is adequately screened from streets and other public				balustrades.		
	places, where possible.						
	piaces, miero possible.						
7.2	Storage						
D1	Storage space of 8m3 per dwelling shall	\boxtimes			Storage complies with the ADG		
	be provided. This space may form part of			l	requirements.		
	a garage or be a lockable unit at the side						
	of the garage.						
Б.	Otanaaa ahall ast laadas sa th						
D2	Storage space shall not impinge on the	\boxtimes					
	minimum area to be provided for parking spaces.						
7.3	Utility services						
D1	Where possible, services shall be	\square		\Box	Noted.		



Requirement		Yes	No	N/A	Comments
	underground.				
7.4 D1	Other site facilities A single TV/antenna shall be provided for each building.	\boxtimes			This issue was considered in the assessment of DA-280/2017 and remains unchanged by the subject DA.
D2	A mailbox structure that meets the relevant Australia Postal Service requirements shall be provided, located centrally and close to the major street entry to the site. All letterboxes shall be lockable.				Ternams unchanged by the subject on.
D3	Individual letterboxes can be provided where ground floor residential flat building units have direct access to the street.				
App	Waste disposal licants shall refer to the requirements held e Waste Part of this ADCP 2010.	\boxtimes			See Waste officer's comments.
8.0 \$	Subdivision				
8.1 D1	Lot amalgamation Development sites involving more than one lot shall be consolidated.	\boxtimes			Subject to condition of consent.
D2	Plans of Consolidation shall be submitted to, and registered with, the office of the NSW Land and Property Management Authority. Proof of registration shall be produced prior to release of the Occupation Certificate.				
D3	Adjoining parcels of land not included in the development site shall be capable of being economically developed.				Adjoining lots are already developed.
8.2 D1	Subdivision The community title or strata title subdivision of a residential flat building shall be in accordance with the approved development application plans, particularly in regard to the allocation of private open space, communal open space and car parking spaces.				
D2	Proposed allotments, which contain existing buildings and development, shall comply with site coverage and other controls contained within this Part.				
8.3 D1	Creation of new streets Where a new street is to be created, the street shall be built to Council's standards and quality assurance requirements having reported to the circumstances of			\boxtimes	



Requirement		Yes	No	N/A	Comments
	each proposal. Consideration shall be given to maintaining consistency and compatibility with the design of existing roads in the locality.				
D2	A minimum width of 6m shall be provided for all carriageways on access roads. If parallel on-street parking is to be provided, an additional width of 2.5m is required per vehicle per side. For specific information detailing Council's road design specifications, refer to Table 1 – Development Standards for Road Widths in section 10.2.			\boxtimes	
D3	For larger self-contained new residential areas, specific road design requirements shall be considered for site specific development controls.			\boxtimes	
9.0	Adaptable housing				
Evid Hou Stan lodg and	Development application requirements ence of compliance with the Adaptable sing Class C requirements of Australian dard (AS) 4299 shall be submitted when ing a development application to Council certified by an experienced and qualified ling professional.				12 units will meet Class C level.
	Design guidelines				
D1					10% of apartments are designed to be adaptable.
	External and internal considerations shall include:				
	 access from an adjoining road and footpath for people who use a wheel chair; 	\boxtimes			
	 doorways wide enough to provide unhindered access to a wheelchair; 	\boxtimes	Ш	Ш	
	 adequate circulation space in corridors and approaches to internal doorways; 	\boxtimes			
	 wheelchair access to bathroom and toilet; electrical circuits and lighting systems capable of producing adequate lighting for people with poor vision; 	\boxtimes			
	 avoiding physical barriers and obstacles; 	\boxtimes			
	 avoiding steps and steep end gradients; visual and tactile warning techniques; level or ramped well lit uncluttered 	$\boxtimes\boxtimes\boxtimes$			
	approaches from pavement and parking areas;providing scope for ramp to AS				
	1428.1 at later stage, if necessary;providing easy to reach controls, taps,	\mathbb{Z}			



Requirement		Yes	No	N/A	Comments	
basins, sinks, cupboards, shelves, windows, fixtures and doors; internal staircase designs for adaptable housing units that ensure a staircase inclinator can be installed at any time in the future; and				\boxtimes	Adaptable units are not maisonette style.	
		a disabled car space for velling designated as	\boxtimes			
	adaptable.	0				
appl		of residential flat buildings, sider the Access and ADCP 2010.				
D2		ent proposals with five or	\boxtimes	П	П	12 Class C apartments are required.
		units shall be capable of (Class C) under AS 4299.	_	_		12 Class C level apartments are
		number of adaptable				provided.
	housing units is	s set out below.				
	o. of dwellings	No. of adaptable units				
	5-10	1				
	11-20	2				
	21 – 30 31- 40	3 4				
	41 - 50	5				
	Over 50	6				
(Plus 10% of additional dwellings beyond 60, rounded up to the nearest whole number) Note: Adaptable Housing Class C incorporates all essential features listed in Appendix A – Schedule of Features for Adaptable Housing in AS 4299.						
9.3 Lifts D1 Lifts are encouraged to be installed in four (4) storey residential flat buildings where adaptable housing units shall be required.		\boxtimes			This issue was considered in the assessment of DA-280/2017 and remains unchanged by the subject DA.	
D2 Where the development does not provide any lifts and includes adaptable housing units, the adaptable housing units shall be located within the ground floor of the development.						
9.4 D1		ers, obstacles, steps and ts within the development	\boxtimes			

DOCUMENTS ASSOCIATED WITH REPORT LPP074/19

Attachment 7
Clause 4.6 Request



Clause 4.6 Statement Auburn LEP 2010

Development Application

9 - 15 Raphael Street, Lidcombe

Lot 9,10,11,12 DP397



June 2019



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	Appendices
Appendix	Title
Α	Development Consent DA 280/2019 9-15 Raphael Street
В	Shadow diagram analysis



1 Introduction

1.1 Summary

	Site Details
Address	9-15 Raphael Street, Lidcombe
Property Description	Lot 9,10,11,12 DP397
Local Government Area	Cumberland Council
Area	1,761 m ²
Zoning	B4 Mixed Use – Auburn LEP 2010
Clause 4.6 variation	Variation to Council's maximum building height control - Aubum LEP 2010

	General Details
Applicant	Mickon Constructions Pty Ltd
Proposal	Development Application - Alterations and additions to approved 10 storey residential flat building (DA-280/2017) at 9-15 Raphael Street, Lidcombe including the addition of three 2 bedroom units to Level 10, improving the unit mix and variety of apartments, minor changes to services and removal of blades that will accommodate a total of 120 residential units (2 x studio, 71 x 1 bedroom, 46 x 2 bedroom and 1 x 3 bedroom units), 4 levels of basement for 157 vehicles at 9 - 15 Raphael Street, Lidcombe.
Application Type	Development Application
Level of Assessment	Local Application
Consent Authority	Cumberland Council.



1.2 Approved Development – 9 – 15 Raphael Street, Lidcombe

The development application DA 280/2017 was approved by Regional Planning Panel on the 7 March 2018 for the demolition of existing structures and construction of a ten storey residential development consisting of 117 units with 4 levels of basement parking.

The development was granted a Clause 4.6 objection to height relating to lift motor rooms and communal open space with a total height of 34.76 metres.

(Appendix A – Development Consent DA 280/2017)



Figure 1: Clause 4.6 objection was approved by the Local Panel with the north and east street elevations.



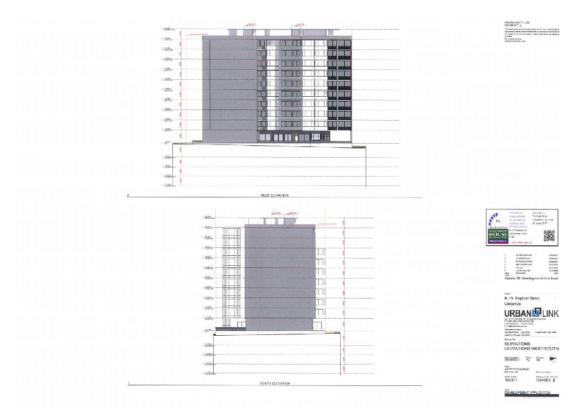


Figure 2:The approved west and south elevations showing the blank elevations to laneway and adjoining.



Figure 3: The approved sections with the proposed additions not exceeding the approved height limit...

Clause 4.6 Objection - Height - 9 - 15 Raphael Street, Lidcombe

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Introduction

2.1 Clause 4.6 introduction

This request has been prepared under Clause 4.6 of the Auburn LEP 2010 to justify the contravention of the height of the building standard by demonstrating:

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

A number of decisions in the Land and Environment Court and the NSW Court of Appeal have also shaped the required justifications necessary these include:

- 1) Wehbe v Pittwater Council [2007] LEC 827;
- 2) Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009;
- 3) Randwick City Council v Micaul Holdings Pty Ltd [2016] NSWLEC 7;
- 4) Brigham v Canterbury Bankstown Council [2018] NSWLEC 1406;
- 5) Initial Action v Woollahra Council [2018] NSW LEC 118;
- 6) Turland v Wingercarribee Shire Council [2018] NSW LEC 1511

There is a variety of case law that provides guidance when considering an exemption to a development standard as follows:

- What is the underlying purpose of the standard?
- Is the planning control in question a development standard?
- Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?
- Are there sufficient environmental planning grounds to justify contravening the development standard and therefore determine that the objection is weel founded?

The following report assesses, addresses and satisfies these issues.



3. Clause 4.6 exemption

3.1 What is the nature of the contravention of a standard

The site is subject to ALEP2010 Clause 4.3 Height of buildings where the Building heights map identifies the area as U1 with a maximum permissible height applicable to the subject site is 32 metres.

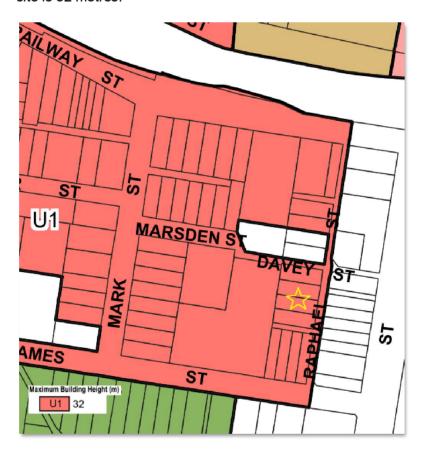


Figure 4 Extract of the Height map ALEP2010 Showing the site with a maximum height of 32 metres.

The approved building at 9 - 15 Raphael Street, Lidcombe received a Clause 4.6 exemption for a exceedance of height the 34.76 m being 2.76 metres above the maximum height of 32 metres representing a departure of (8.625%) – see **Figures 5,6,7**.

The building height of the proposed building infill to Level 10 being part of the approved communal open space at 9 - 15 Raphael Street, Lidcombe exceeds the LEP maximum height of 32 metres in the order of 1.81 metres (5.65%) to 33.81 metres.



This increase in height does not exceed the approved height departure of 34.76 m being 2.76 metres above the maximum height and still provides compliant communal open space whilst maintaining access to as approved lift motor room, stairs and overrun.

The height exceedance provides necessary casual surveillance of the roof top level, will not be visually prominent and negligible impact on solar amenity.



Figure 5: The increase in height relates to the southern portion of the former communal open space. There is no change to lift motor room and stair as approved DA 280/2017.



Proposed North Elevation - Davey Street

Figure 6: The northern elevation demonstrates a minimal change to the elevation whilst maintaining the approved height limit departure DA 280/2017.



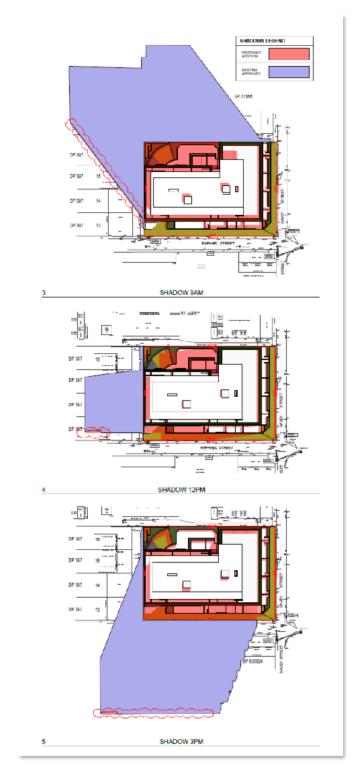


Figure 7: The north facing roof top terrace is complaint with the ADG requirements and the proposed addition is setback so that it does not add bulk and scale when viewed from the streetscape. The additional apartments provides casual surveillance and benefit from better outlook and amenity.



Figure 8: Scale relationship with the adjoining property 21-23 James Street, Lidcombe. The proposed addition will remove the communal open space from the southern boundary that may have posed potential privacy impacts.





Clause 4.6 Objection - Height - 9 - 15 Raphael Street, Lidcombe

Figure 9: Shadow diagram showing the minimal impact the proposed addition has on the adjoining properties as a result of the height departure. The additional shadowing in red.

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Figure 10: View north east demonstrating the additions negligible impact on the streetscape.



Figure 11: View looking south with the addition simply fill on the sides of the approved roof structure.

3.2 Is the planning control a development standard?

The planning control in Clause 4.3 relating to maximum height under the definition in the Environmental Planning and Assessment Act 1979 Part 1 Clause 1.4 that defines a development standard as:

development standards means provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are





fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:

(c) the character, location, siting, bulk, scale, shape, size, **height**, density, design or external appearance of a building or work,

Therefore, the height control under Clause 4.3 is an established development standard.

3.3 What is the purpose/object of the standard?

The objectives of the height of building development standard under clause 4.3 are as follows:

- (a) to establish a maximum height of buildings to enable appropriate development density to be achieved, and
- (b) to ensure that the height of buildings is compatible with the character of the locality.

The proposed variance in height is consistent with the development standards as the development provides a high amenity communal open space and allows development to be consistent with the desired future character of the area including the sites approved development height at 21-23 James Street, Lidcombe, 4-14 Mark Street, Lidcombe; 2 Mark & 1-3 Marsden Street, Lidcombe; 18-24 Railway Street, Lidcombe.

The height exceedance complies with the ADG requirements for privacy and communal open space and the area of exceedance will not be visually prominent. The proposed amendment is in the public interest because it is consistent with the objectives of the height controls.

3.4 Is compliance with the development standard consistent with the requirements of Clause 4.6?

The aims/objectives of the Clause 4.6 controls is:

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

When undertaking an assessment against the underlying objectives of the standard, compliance would be inconsistent with the aims of the clause as the proposed height is in





response to the existing DA consent (DA 280/2017) for 9-15 Raphael Street, Lidcombe whereby a Clause 4.6 standard was granted for the same departure sought.

Therefore, non-compliance with the height control is appropriate, acceptable and consistent with the characteristics of the site and the downtown Lidcombe Town centre location as well as the future Lidcombe town centres precinct.

The departures will not result in any adverse impacts with regard to the shadowing analysis as attached in the Appendices.

The proposed development is therefore a case where flexibility in the application of the development standards is justified in order to provide consistent built form with the approved DA 280/2017 for 9-15 Raphael Street, Lidcombe and maintaining ADG complaint north facing communal open space.

3.5 Is compliance with the Development Standard unreasonable or unnecessary in the circumstances of the case ?

Strict compliance with Clause 4.3 of ALEP 2010 is considered unreasonable and unnecessary in the circumstances of the case as the numerical increase results in providing communal open space on the roof to increase the amenity of the development for residents. This increase is considered reasonable in the context of the site and its ability to result in no adverse impacts on adjoining neighbours.

Compliance is also unnecessary as the comprehensive analysis of the proposal subject of this SEE has found no identifiable adverse amenity impact such as loss of privacy, overshadowing, or view loss etc. The non compliance relates to the new infill addition that maintains and seeks to continue the approved departure (DA 280/2017) in height of 9-15 Raphael Street, Lidcombe.

3.6 Is the request well founded?

The development seeks to depart from the height control noting that the proposal remains consistent with the objectives of the clause and is a more appropriate outcome on the site because of the following:

 The development is appropriate in this location and provides for an appropriate design response to the corner of Raphael and Davey Streets;





- The development is consistent with the intent of the maximum height control and will provide an attractive building that addresses all street frontages being Raphael and Davey Streets;
- The proposal does not present an attempt to exceed the nominated FSR for the site;
- Non-compliance is relatively minor in nature with the departure relating to the
 provision of additional units within the approved envelope of the roof level that
 does not impact on ADG complaint communal open space nor on any approved
 lift over-run and stairwell. The impacts to the streetscape are negligible as it will
 not be visually noticeable when viewed from the street level;
- The departure is consistent with the heights established in DA 363/2017 4-14
 Mark Street Lidcombe and the new building addition seeks to provide a consistent built form;
- The departure is consistent with the heights established in DA 503/2017 2 Mark
 Street and 1-3 Marsden Street Lidcombe and the new building addition seeks to provide a similar height built envelope form;
- The departure is consistent with the heights established in DA 423/2016 18-24 Railway Street and the new building addition seeks to provide a similar height to the 38.87 metres approved;
- The departure is consistent with the heights established in DA 352/2015 13-17
 Taylor Street, Lidcombe and the new building addition seeks to provide a similar height to the 34.76 metres approved;
- Detailed shadow diagrams demonstrate that the encroachment to height control
 will not have unacceptable additional impacts on the solar access of neighbouring
 properties See Figure 9 and Appendix B;
- The proposal is located within the Lidcombe Town Centre and the proposal represents an appropriate built form on the site;
- Due to the minor nature of the variation it will not have any adverse amenity impacts. In this regard, it is noted:
 - The variation will not lead to the reduction in solar penetration on site or to adjoining properties or will it lead to excessive sunlight loss or overshadowing;



- The proposed variation will not lead to view loss or interrupt on views to and from the site;
- The proposed variation will not lead to a reduction in privacy afforded to existing residential or future residents of the proposal.
- The development proposal has been designed to comply with key planning requirements, with the proposal positively contributing towards increasing the housing choice, diversity and stock within the Lidcombe Town Centre.
- 3.7 Does the Clause 4.6 meet each of the zones objectives?

The principal environmental planning instrument relevant to the site is *Auburn Local Environmental Plan 2010* (ALEP2010), under which the site is zoned B4 Mixed Use.

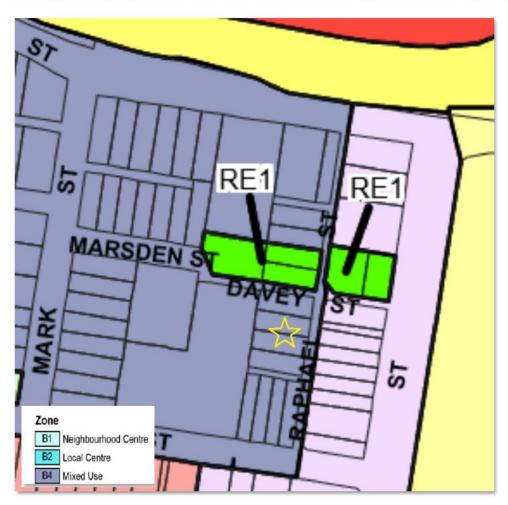


Figure 12: Extract from ALEP2010 zoning map marked up to show the subject site with a star showing the B4 Mixed Use zone.

Clause 4.6(4)(a)(ii) states:

Clause 4.6 Objection - Height - 9 - 15 Raphael Street, Lidcombe



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

The objectives of the B4 Mixed Use zone are detailed and commented on as follows:

To provide a mixture of compatible land uses.

Comment: The proposal maintains the approved compatible residential units and is therefore compliant with the zones land use table.

To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.

Comment: The proposed modification provides and maintains residential apartments in the Lidcombe Town Centre that are close to transport and walking distance to shops and facilities.

To encourage high density residential development.

Comment: The proposal maintains the approved high density residential apartments and complies with this objective.

To encourage appropriate businesses that contribute to economic growth.

Comment: The proposal does not seek to change the original consent that did not provide retail or commercial in the building. The residents could utilise the home office provisions in the Exempt and Complying DCP that may contribute to economic growth in the town centre.

To achieve an accessible, attractive and safe public domain.

Comment: The proposal maintains and enhances the public domain and provides casual surveillance by residential balconies.

Therefore it is concluded that the development is in the public interest because it is consistent with the zone objectives and the objectives of the height control as detailed above.



4. Conclusion

The conclusion the proposed noncompliance with the height standards do not undermine or frustrate their underlying objectives. The non-compliance does not result in any adverse impacts with the exceedance in height not exceeding the nominated floor space ratio and occurs as a result of providing casual surveillance to the compliant north facing communal open space. Further it is noted that the development is in the public interest because it is consistent with the zone objectives and the objectives of the height control.

Therefore, it is considered that strict compliance with the height development standards is unreasonable and unnecessary in the circumstances of the case and the objection is well founded. Accordingly, it is recommended that approval of the development application would be consistent with the aims and objectives set out in Clause 4.6 and that the requested exception as detail in this report should be supported by the Panel.

DOCUMENTS ASSOCIATED WITH REPORT LPP074/19

Attachment 8 Draft Notice of Determination



Page 1 of 33

DA-224/2019 22 October 2019

CONDITIONS OF DEVELOPMENT CONSENT

DA No: DA-224/2019

Property: 9-15 Raphael Street, LIDCOMBE

Description: Alterations and additions to approved 10 storey residential flat building to

increase total unit numbers from 117 to 120 including an additional 3x2 bedroom units on level 10, amendments to facade and unit mix, and installation of substation and fire hydrant and pump room, provision of an additional level of basement, resulting in 5 levels of basement, with

provision for 206 carparking spaces.

1. Approved Plans

The development is to be carried out in accordance with the approved stamped plans as numbered below:

Project & Plan No.	Description	Prepared By	Rev	Dated
16-077; DA1002	Site Plan		G	27.06.2019
16-077; DA1003	Site Location & Analysis		G	27.06.2019
16-077; DA1004	Site Context Plan		G	27.06.2019
16-077; DA2001	Floor Plans – Basement 5		G	27.06.2019
16-077; DA2002	Floor Plans_A Basement 4		G	27.06.2019
16-077; DA2003	Floor Plans_A Basement 3		G	27.06.2019
16-077; DA2004	Floor Plans_A Basement 2		G	27.06.2019
16-077; DA2004	Floor Plans Basement 1		G	27.06.2019
16-077; DA2005	Floor Plans – Ground Floor Plan		G	27.06.2019
16-077; DA2007	Floor Plans_A Level 1-7– Level 1-7	UrbanLink	G	27.06.2019
16-077; DA2008	Floor Plans_A Level 8		G	27.06.2019
16-077; DA2009	Floor Plans_A Level 9		G	27.06.2019
16-077; DA2010	Floor Plans - Roof Top Terrace		G	27.06.2019
16-077; DA2011	Floor Plans – Roof		G	27.06.2019
16-077; DA4001	Elevations – East/North		G	27.06.2019
16-077; DA4002	Elevations – West/South		G	27.06.2019
16-077; DA5001	Sections – AA/BB		G	27.06.2019
16-077; DA7001	External Finishes - Finishes Schedules		G	27.06.2019
A7134 – COVER	General Notes		Е	30.08.2019
A7134 – SW01	Sediment and Erosion Control Plan		Е	30.08.2019
A7134 – SW06	Basement 1 Drainage Plan	ALPHA	E	30.08.2019
A7134 – SW05	Basement 2 Drainage Plan	Engineering &	Е	30.08.2019
A7134 – SW04	Basement 3 Drainage Plan	Development	Е	30.08.2019
A7134 – SW03	Basement 4 Drainage Plan		Е	30.08.2019
A7134 – SW02	Basement 5 Drainage Plan		Е	30.08.2019
A7134 – SW07	Ground Floor Drainage Plan		Е	30.08.2019



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A7134 – SW08	Stormwater Sections and Details		Е	30.08.2019
A7134 – SW09	Stormwater Sections and Details		Е	30.08.2019
2017-196	Acoustic Report - Environmental Noise Assessment	Acoustic Noise & Vibration Solutions Pty Ltd	1	10.07.2019
17102; DA1-2	Landscape Concept Plan – Ground Floor	Vicion Dynamica	С	16.10.2019
17102; DA2-2	Landscape Concept Plan – Level 10	Vision Dynamics	С	16.10.2019
-	Waste Management Plan – 9-15 Raphael Street, Lidcombe	-	-	Undated
19358	Traffic and Parking Assessment Report	Varga Traffic Planning Pty Ltd	-	18.07.2019
832067M_02	BASIX Certificate	Building & Energy Consultants Australia	-	17.07.2019

except as otherwise provided by the conditions of this determination (Note:- modifications to the approved plans will require the lodgement and consideration by Council of a modification pursuant to Section 4.55 of the Environmental Planning and Assessment Act (as amended)).

Reason:- to confirm and clarify the terms of Council's approval.

2. Time period of consent

This consent shall lapse five (5) years from the date of determination unless the approved building, engineering or construction work has been physically commenced in accordance with this consent.

Development consent for the use of land does not lapse if the approved use of any land, building or work is actually commenced prior to the date on which the consent would otherwise lapse.

<u>Reason</u>:- to satisfy the requirements of Section 4.53 of the Environmental Planning and Assessment Act (as amended).

3.

Modification of DA-280/2017

The development consent DA-224/2019 for 9-15 Raphael Street, Lidcombe amends and changes various aspects of DA-280/2017 issued over 9-15 Raphael Street, Lidcombe.

Pursuant to s.4.17(1)(b) of the *Environmental Planning and Assessment Act 1979*, prior to the issue of a Construction Certificate, Development Consent No. 280/2017 must be modified in the following manner:

The following conditions of DA-280/2017 are amended to read as follows:

Condition No. 1 is amended to read:

1. Approved Plans



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The development is to be carried out generally in accordance with the following plans as numbered below:

Project & Plan No.	Description	Prepared By	Rev	Dated
16-077; DA1002	Site Plan		G	27.06.2019
16-077; DA1003	Site Location & Analysis		G	27.06.2019
16-077; DA1004	Site Context Plan		G	27.06.2019
16-077; DA2001	Floor Plans – Basement 5		G	27.06.2019
16-077; DA2002	Floor Plans_A Basement 4		G	27.06.2019
16-077; DA2003	Floor Plans_A Basement 3		G	27.06.2019
16-077; DA2004	Floor Plans_A Basement 2		G	27.06.2019
16-077; DA2004	Floor Plans Basement 1		G	27.06.2019
16-077; DA2005	Floor Plans – Ground Floor Plan	UrbanLink	G	27.06.2019
16-077; DA2007	Floor Plans_A Level 1-7- Level 1-7		G	27.06.2019
16-077; DA2008	Floor Plans_A Level 8		G	27.06.2019
16-077; DA2009	Floor Plans_A Level 9		G	27.06.2019
16-077; DA2010	Floor Plans - Roof Top Terrace		G	27.06.2019
16-077; DA2011	Floor Plans – Roof		G	27.06.2019
16-077; DA4001	Elevations – East/North		G	27.06.2019
16-077; DA4002	Elevations – West/South		G	27.06.2019
16-077; DA5001	Sections – AA/BB		G	27.06.2019
16-077; DA7001	External Finishes - Finishes Schedules		G	27.06.2019
A7134 – COVER	General Notes		Е	30.08.2019
A7134 – SW01	Sediment and Erosion Control Plan		Е	30.08.2019
A7134 – SW06	Basement 1 Drainage Plan		Е	30.08.2019
A7134 – SW05	Basement 2 Drainage Plan		Е	30.08.2019
A7134 – SW04	Basement 3 Drainage Plan	ALPHA	E	30.08.2019
A7134 – SW03	Basement 4 Drainage Plan	Engineering & Development	Е	30.08.2019
A7134 – SW02	Basement 5 Drainage Plan		Е	30.08.2019
A7134 – SW07	Ground Floor Drainage Plan		Е	30.08.2019
A7134 – SW08	Stormwater Sections and Details		E	30.08.2019
A7134 – SW09	Stormwater Sections and Details		Е	30.08.2019
2017-196	Acoustic Report - Environmental Noise Assessment	Acoustic Noise & Vibration Solutions Pty Ltd	1	10.07.2019



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2017-196	Noise & Vibration Management Plan	Acoustic Noise & Vibration Solutions Pty Ltd	-	22.09.2017
2017-196	Acoustic Report - Environmental Noise Assessment	Acoustic Noise & Vibration Solutions Pty Ltd	-	22.06.2017
17102; DA1-2	Landscape Concept Plan – Ground Floor	Visian Dynamics	С	16.10.2019
17102; DA2-2	Landscape Concept Plan - Level 10	Vision Dynamics	С	16.10.2019
17102; DA1-2	Landscape Concept Plan – Ground Floor (amended in red)	Vision Dynamics	В	05.06.2017
17102; DA2-2	Landscape Concept Plan - Roof Top Terrace		В	05.06.2017
20739/6439C; 16/0011	Preliminary Site Investigation	STS GeoEnvironmental Pty Ltd	-	January 2016
J170282	BCA Compliance Capability Report	VIC Lilli & Partners Consulting	-	26.06.2017
-	Waste Management Plan – 9-15 Raphael Street, Lidcombe	-	-	Undated
17282	Traffic and Parking Assessment Report	Varga Traffic Planning Pty Ltd	-	23.06.2017
19358	Traffic and Parking Assessment Report	Varga Traffic Planning Pty Ltd	-	18.07.2019
832067M_02	BASIX Certificate	Building & Energy Consultants Australia	-	17.07.2019
17107	Access Compliance Report – 9-15 Raphael Street, Lidcombe	Vista Access Architects Pty Ltd	-	Undated
-	Arboricultural Assessment Report	Tree and Landscape Consultants	-	06.06.2017

except as otherwise provided by the conditions of the determination (Note:modifications to the approved plans will require the lodgement and consideration by Council of a modification pursuant to Section 4.55 of the *Environmental Planning and Assessment Act* (as amended).

Reason:- to confirm and clarify the terms of Council's approval.

Condition No. 3 is amended to read as follows:

3. Auburn Section 94 Development Contribution Plan 2007

A monetary contribution comprising \$457,903.06 is to be paid to Cumberland Council for the purpose of LGA Wide plans being the provision of open space and recreation facilities, community facilities, accessibility and traffic works, town centre upgrades, car parking and Council's administration of the development contributions framework in accordance with Cumberland Council's *Auburn Section 94 Development Contribution Plan 2007*, which has been prepared under Section 94 of the *Environmental Planning and Assessment Act 1979*, as amended.



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The above sum is broken down to the following items:

Item	Amount
Community Facilities	\$122,296.56
Public Domain	\$270,483.71
Accessibility and Traffic	\$74,528.37
Administration	\$28,625.45
TOTAL	\$495,934.09

The amounts payable will be adjusted in accordance with the section titled Review of Contribution rates and are generally indexed on a quarterly basis by the Consumer Price Index CPI (all Groups Sydney) unless otherwise stated in the plan.

Contributions will be adjusted at the payment date in accordance with the plan and payment is to be made prior to the issue of any Construction Certificate.

<u>Reason</u>:- To provide open space and recreation facilities, community facilities, accessibility and traffic works, town centre upgrades, car parking and Council's administration of the development contributions framework.

Condition No. 81 is deleted:

81. Details on the Location of the Padmount Substation

Details of the padmount substation for the development including its location, service access and landscaping are to be submitted to Council for approval prior to the issue of a construction certificate.

Reason:- to ensure a minimal impact for the proposed padmount substation.

Condition No. 83 is amended to read as follows:

83. Aboveground Power Lines

Where practicable, all existing overhead power lines adjacent to the development site shall be relocated underground to Ausgrid standards and specifications.

If not practicable to relocate the power lines underground, arrangements shall be made with Ausgrid to place the conduit to carry those power lines underground so that they can be utilised at a later date by Ausgrid. In this regard all associated costs shall be borne by the applicant.

The design indicates a proposal to relocate the existing overhead assets on Raphael Street adjacent the development site to underground. Contact is to be made with Ausgrid's contestability group for an application to be made regarding this proposal.

Please refer to the following link to complete the relocation asset document online - https://www.ausgrid.com.au/Connections/Get-connected/Apply-for-a-connection

<u>Reason</u>:- to improve the aesthetic quality of the area.



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Condition No. 86 is amended to read as follows:

86. Number of Car Parking Spaces

A total of 206 off-street car parking spaces are to be provided to the development as follows:-

- Residential spaces Minimum 182 spaces including 12 accessible spaces.
- Visitor spaces Minimum 24 spaces including 4 accessible spaces.

The spaces are to be suitably sealed, marked, drained and freely accessible at all times. Visitor carparking spaces shall be a minimum width of 2.6m. All accessible spaces shall comply with AS 2890.06.

Carparking spaces are not to be enclosed by any device, such as a wire or mesh cage, walls or other similar fixtures unless there is a minimum clear internal width of 3m. Carparking spaces shall not be enclosed without the prior consent of council.

<u>Reason</u>:- to ensure there is sufficient car parking for the development and to comply with the Parking & Loading section of the <u>Auburn Development Control Plan 2010</u>.

The modification of Development Consent No. 280/2017 must be given effect in the manner prescribed by s.4.17(5) of the Act and clause 97(1) and (2) of the *Environmental Planning and Assessment Regulation*.

<u>Reason:</u> To ensure consistency between DA-280/2017 and DA-224/2019 for the development over Lots 9, 10, 11 & 12 in DP 397, 9-15 Raphael Street, Lidcombe.

4. External Walls & Cladding Flammability

The external walls of the building including attachments must comply with the relevant requirements of the National Construction Code. Prior to the issue of a Construction Certificate and Occupation Certificate the Certifying Authority and Principal Certifying Authority must:-

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

<u>Reason</u>:- to ensure compliance with the requirements of the National Construction Code.

Waste area head room

Prior to issue of any Construction Certificate, a detail design addressing the following shall be submitted to and approved by the Principal Certifying Authority that the waste collection facility shall be designed for medium rigid vehicle with 4.0m headroom. In this regard detail longitudinal section showing compliance of above requirement shall be submitted.

<u>Reason:</u>- to ensure 4.0m headroom is provided within waste collection area and overland flow path is provided through the site.



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6. On street drainage design

Prior to issue of any Construction Certificate, a detail design for the proposed connection to existing Council's stormwater pipe shall be submitted and approved by the Cumberland Council's Manager Development Assessment. In this regard the longitudinal section, of the proposed stormwater outlet within the Council controlled land, showing the depth and location of all the services within the area of the proposed works shall be submitted.

Reason: to ensure Council's assets are designed to Council's requirements.

7. Curved ramp design

Prior to issue of any Construction Certificate, a detail design addressing the following shall be submitted to and approved by the Principal Certifying Authority:

- A separator or median shall be provided on two-way curved ramp in accordance with Section 2.5.1 (b) of the Australian standard AS2890.1.
- Longitudinal section along the internal curve of the ramp shall comply with section 2.5.3 of the Australian Standard AS2890.1:2004.

Reason:- to ensure curved ramp comply with Australian Standard AS2890.1.

8. On street drainage construction

Prior to the commencement of any drainage works the street drainage works shall be completed to Council's satisfaction at no cost to Council. In this regard,

- Inspections will be required for the works related to the proposed connection to Council's stormwater drainage system at following stages:
 - i) After the excavation of pipeline trenches.
 - After the laying of all pipes prior to backfilling.
 - iii) After the completion of all pits and connection points.
- b) A minimum of 48 hours' notice shall be given to Council to inspect works. Inspections may be arranged by telephoning Council's Works and Services Section during office hours.
- Work is not to proceed until the works are inspected and approved by Council.

<u>Reason:</u>- to ensure Council's assets are constructed to Council's requirements.

9. Stormwater disposal

All stormwater runoff generated from the proposed development shall be directed to the On Site Detention system prior to being discharged to existing Council's pipe drainage system in Raphael Street.

Reason:- to prevent localised flooding

Surface runoff

Allowances shall be made for surface runoff from adjacent properties, and to retain existing surface



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flow path systems through the site. Any redirection or treatment of these flows shall not adversely affect any other property.

Reason:- to prevent adverse impact on adjoining properties.

11. Works within Council controlled lands

- a) For drainage works:
 - i) Within Council controlled lands.
 - ii) Connecting to Council's stormwater drainage system.

Inspections will be required:-

- After the excavation of pipeline trenches.
- After the laying of all pipes prior to backfilling.
- After the completion of all pits and connection points.
- b) A minimum of 48 hours' notice shall be given to Council to inspect works. Inspections may be arranged by telephoning Council's Works and Services Section during office hours.
- c) Work is not to proceed until the works are inspected and approved by Council.

<u>Reason:</u>- to ensure works on public/Council controlled lands are carried out as per Council's requirements.

12. Footpath /Nature strip maintenance during and after construction

The footpath and nature strip within the street frontages shall be maintained during the period of construction to Council's satisfaction.

Reason: to ensure pedestrian safety during the construction period.

13. Convex safety mirror

Convex safety mirrors shall be provided in the curved sections of the ramp to improve the sight distance. In this regard,

- Detail plans showing the compliance of above requirements shall be submitted and approved by the Principle Certifying Authority prior to issue of a Construction Certificate.
- b) Convex safety mirrors shall be maintained in good condition.

Reason: to improve the sight distance.

14. Traffic Management

A traffic management plan prepared by a suitably qualified person shall be submitted to and approved by Council for all demolition, excavation and construction activities associated with the development prior to commencement of any work within the subject development site.

Reason: to minimise the impact on local road network.



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15. Sediment control

Temporary measures shall be provided in accordance with the NSW Department of Housing, Managing Urban Stormwater, Soils and Construction Manual dated March 2004 and regularly maintained during demolition, excavation and construction to prevent sediment and polluted waters discharging from the site.

<u>Reason</u>:- to ensure sediment and erosion controls are maintained during the construction process to prevent water pollution from occurring.

16. Minimum Headroom - accessible parking spaces

Head room clearance within accessible parking shall be minimum 2500mm to comply with Australian Standards AS2890 requirements. Headroom shall be measured clear of any beams and service ducts.

Sectional plans to comply with these headroom requirements showing all beams and service ducts shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a Construction Certificate.

Reason:- to ensure headroom complies with AS2890.

17. Ramp gradients

Circulation ramp grades shall comply with section 2.5.3 of the Australian Standards AS2890.1:2004. In this regard detail longitudinal section of the ramps to a scale of 1:20, shall be submitted to and approved by the Principal Certifying Authority prior to the issue of any Construction Certificate.

Copy of the approved plan shall be submitted to Council.

Reason:- to ensure the access ramps comply with Australian Standard AS28890.1:2004.

18. Service relocation / Adjustment

The applicant shall locate any utility services affected by the proposal and shall be responsible for any damage to, or relocation of services required by the proposal including adjustment to the levels of pit lids etc. All works shall be carried out to the satisfaction of the relevant Authority or Council.

All the costs shall be borne by the applicant.

Reason:- to protect utility services.

19. Ausgrid Requirements

Underground Cables

There are existing 11KV underground cables in Raphael Street. Special care should also be taken to ensure that driveways and any other construction activities within the footpath area do not interfere with the existing cables in the footpath. Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed. Hence it is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area.



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Safework Australia – Excavation Code of Practice, and Ausgrid's Network Standard NS156 outlines the minimum requirements for working around Ausgrid's underground cables.

Should ground anchors be required in the vicinity of the underground cables, the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable.

Supply of Electricity

"It is recommended for the nominated electrical consultant/contractor to provide a preliminary enquiry to Ausgrid to obtain advice for the connection of the proposed development to the adjacent electricity network infrastructure. An assessment will be carried out based on the enquiry which may include whether or not:

- The existing network can support the expected electrical load of the development
- A substation may be required on-site, either a pad mount kiosk or chamber style and;
- site conditions or other issues that may impact on the method of supply.

The developer should refer to Ausgrid's website, www.ausgrid.com.au about how to connect to Ausgrid's network."

Reason:- To comply with Ausgrid requirements.

20. Submission of Construction Certificate

Construction works are not to commence until such time that a construction certificate for the proposed works has been issued by Council or an Accredited Certifier.

Where an Accredited Certifier issues a construction certificate, a copy of the following documents must be forwarded to Council within 2 days of issue, together with payment of the Council's adopted registration fee: determination; application to which it relates; construction certificate issued; plans and specifications; any fire safety schedule; and any other documents lodged with the certificate.

Any modification involving building works to the approved development made under Section 4.55 of the Environmental Planning and Assessment Act 1979 (as amended) requires the submission of an amended construction certificate.

<u>Reason</u>:- to comply with the requirements of Section 4.19, 6.6, 6.7, 6.12, 6.13, 6.14 of the Environmental Planning and Assessment Act (as amended) and clause 142 of the Environmental Planning and Assessment Regulation 2000.

21. No alteration without prior Council approval

The completed building is not to be altered externally in character or colour without the prior consent of Council.

<u>Reason</u>:- to ensure the external appearance of the development is not obtrusive or offensive and does not degrade the visual quality of the surrounding area.

22. Appointment of Principal Certifying Authority/Notice of Commencement of Work

Site works are not to commence until:-



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- a) a construction certificate for the building work has been issued by the consent authority,
 and
- b) the person having the benefit of the development consent has:-
 - appointed a principal certifying authority for the building work, and
 - ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
- b1) the principal certifying authority has, no later than 2 days before the building work commences:-
 - notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
 - notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- b2) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:-
 - appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
 - ii) notified the principal certifying authority of any such appointment, and
 - unless that person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the erection of the building.

<u>Reason</u>:- to comply with the requirements of Section 4.19, 6.6, 6.7, 6.12, 6.13, 6.14 of the Environmental Planning and Assessment Act (as amended).

23. Principal Certifying Authority

- The person having the benefit of a development consent or complying development certificate for development involving building work or subdivision work may appoint the consent authority, the council or an accredited certifier as the principal certifying authority for the development.
- 1A) Despite subsection (1), such an appointment may not be made by any contractor or other person who will carry out the building work or subdivision work unless the contractor or other person is the owner of the land on which the work is to be carried out.
- 2) Despite subsection (1), an accredited certifier must not be appointed as the principal certifying authority for development involving subdivision work unless the subdivision to which the work relates is of a kind identified by an environmental planning instrument as one in respect of which an accredited certifier may be a certifying authority.
- A principal certifying authority for building work or subdivision work to be carried out on a site is required to be satisfied:-



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- that a construction certificate or complying development certificate has been issued for such of the building work or subdivision work as requires development consent and over which the principal certifying authority has control, before the work commences on the site, and
- b) that the principal contractor for the work is the holder of the appropriate licence and is covered by the appropriate insurance, in each case if required by the *Home Building Act 1989*, before any residential building work over which the principal certifying authority has control commences on the site, unless the work is to be carried out by an owner-builder, and
- c) that the owner-builder is the holder of any owner-builder permit required under the Home Building Act 1989, before an owner-builder commences on the site any residential building work over which the principal certifying authority has control, and
- d) that building work or subdivision work on the site has been inspected by the principal certifying authority or another certifying authority on such occasions (if any) as are prescribed by the regulations and on such other occasions as may be required by the principal certifying authority, before the principal certifying authority issues an occupation certificate or subdivision certificate for the building or work, and
- e) that any preconditions required by a development consent or complying development certificate to be met for the work before the issue of an occupation certificate or subdivision certificate have been met, before the principal certifying authority issues the occupation certificate or subdivision certificate.
- 4) A principal certifying authority must also comply with such other requirements of a like or different nature as may be imposed on principal certifying authorities by the regulations.

<u>Reason</u>:- to comply with the requirements of Section 6.5 of the Environmental Planning and Assessment Act (as amended).

24. Compliance with the Building Code of Australia

All building work must be carried out in accordance with the requirements of the Building Code of Australia.

<u>Reason</u>:- to ensure compliance with the requirements of the Building Code of Australia and to comply with Clause 98 of the Environmental Planning and Assessment Regulation 2000.

25. Insurance requirements under the Home Building Act 1989

A contract of insurance for residential building work must be in force before any building works commence, where the works are being undertaken by a builder and tradesperson and the works have a market value of greater than \$20,000 (or as varied from time to time by the Home Building Act 1989).

Where the contract price or the reasonable market cost of the labour and materials involved does not exceed \$20,000, there is no legal requirement for home warranty insurance to be obtained.

Contractors who carry out residential building work must still hold an appropriate licence with Fair Trading where the labour and materials involved are valued at over \$1,000.

Home owners should be wary of any builder or tradesperson who says they do not need insurance if the value of work exceeds \$20,000, or who suggests you obtain an owner-builder permit while they carry out the work for you.



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NOTE: Evidence of the contract of insurance or owner builder permit, if required, must be submitted with the application for construction certificate. The construction certificate will not be released by Council unless this evidence is provided.

<u>Reason</u>:- to comply with Clause 98 of the Environmental Planning and Assessment Regulation 2000.

26. Disabled Access & Facilities

Access and facilities for people with disabilities must be provided in accordance with the relevant requirements of the Building Code of Australia (for all new building work) and in addition, with the relevant requirements of the 'Disability (Access to Premises – Building) Standards 2010' (including for existing buildings, whether or not any works are proposed). Details of the proposed access, facilities and car parking for people with disabilities are to be included in the plans/specifications for the **construction certificate**.

Reason: to ensure compliance with the requirements of the Building Code of Australia

27. Commonwealth Disability Discrimination Act

The Commonwealth Disability Discrimination Act 1992 commenced the 'Disability (Access for Premises – Buildings) Standards 2010' on 1 May 2011 and now applies to all new buildings and affected parts of existing buildings. Submission and/or approval of this application does not imply or confer compliance with either the Act or the new Access Standard. Applicants should satisfy themselves and make their own inquiries to the Human Rights and Equal Opportunity Commission.

<u>Reason:</u> to provide advice on the requirements of the Commonwealth Disability Discrimination Act 1992

28. Replacement of Principal Certifying Authorities

Unless the relevant authority so approves in writing, a person may not be appointed to replace another person as the principal certifying authority for development.

A principal certifying authority appointed to replace another principal certifying authority must ensure that notice of the appointment and of the approval of that appointment is given to the consent authority (and, if the consent authority is not the council, to the council) within 2 days of the appointment.

<u>Reason</u>:- to comply with the requirements of Section 6.5 of the Environmental Planning and Assessment Act (as amended) and clause 162 of the Environmental Planning and Assessment Regulation.

29. Notice to Allow Inspections

To allow a principal certifying authority or another certifying authority time to carry out critical stage inspections or any other inspections required by the principal certifying authority, the principal contractor for a building site, or the owner-builder, must notify the principal certifying authority at least 48 hours before building work is commenced at the site if a critical stage inspection is required before the commencement of the work.



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<u>Reason</u>:- to comply with the requirements of Clause 163 of the Environmental Planning and Assessment Regulation.

30. Erection of Signs

A rigid and durable sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:-

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

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

Note: Principal certifying authorities and principal contractors must also ensure that signs required by this clause are erected and maintained (see clause 227A which currently imposes a maximum penalty of \$1,100.

<u>Reason</u>:- to comply with the requirements of Clause 98A and 136B of the Environmental Planning and Assessment Regulations.

31. BASIX Requirements

Under Clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for the development are fulfilled. In this condition:-

- a) Relevant BASIX Certification means:-
 - A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under Section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified) or;
 - ii) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate; and
- BASIX Certificate has the meaning given to that term in the Environmental Planning & Assessment Regulation 2000.

<u>Reason:-</u> To comply with the Environmental Planning and Assessment Regulations.

32. Construction/Demolition Hours

Site works, building works and demolition works, including the delivery of materials or equipment to and from the property are to be carried out between the hours of 7.00a.m. and 6.00p.m. only from Mondays to Fridays and between 8.00a.m. and 4.00p.m. only on Saturdays. No construction works or deliveries for the construction are to take place on Sundays or public holidays.



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Prior to commencement of any demolition or construction work the applicant is to erect signs on the site, which are clearly visible from the footpaths adjoining the site boundaries, which state the permitted construction/demolition hours. These signs must also state "Any instances of site works, building works, demolition works or deliveries outside the permitted hours can be reported to Cumberland Council on 02 8757 9000 during office hours or 0417 287 113 outside office hours".

Reason:- to reduce nuisance to the surrounding properties during the construction period.

33. Information required prior to the issue of Construction Certificate

The following documentation (where applicable) is to be submitted to Council or the accredited certifier, prior to the granting of the Construction Certificate:

- Detailed building plans and specifications containing sufficient information to verify that the completed building will comply with the Building Code of Australia.
- b) A list of any existing fire safety measures provided in relation to the land or any existing building on the land (not applicable to dwellings or outbuildings)
- A list of any proposed fire safety measures provided in relation to the land or any existing building on the land (not applicable to dwellings or outbuildings)
- d) A report prepared by a professional engineer detailing the proposed methods of excavation, shoring or pile construction, and what measures are to be implemented to prevent damage from occurring to adjoining or nearby premises as a result of the proposed excavation works. (Note: Any practices or procedures specified to avoid damage to adjoining or nearby premises are to be incorporated into the plans and specifications for the construction certificate).
- e) Method of protecting window/door openings as required by Building Code of Australia Part
- f) Method of ventilating the basement car park. (Note: If mechanical ventilation is required, mechanical ventilation plans shall be submitted that also confirm the minimum height clearances specified by Australian Standards AS 2890.1 Car parking, will be achieved).

<u>Reason</u>:- to ensure that adequate information is submitted to enable assessment or that the development can proceed with the concurrence of others.

34. Infrastructure Fee

The infrastructure inspection fee in accordance with Councils Fees and Charges Schedule shall be paid prior to the issue of the Construction Certificate.

<u>Reason</u>: to contribute to the cost of inspection and identification of any damage to Council's infrastructure as a result of the development.

35. Maintain plans on-site

A copy of the construction certificate, the approved plans & specifications and development consent conditions must be kept on the site at all times and be available to the Council officers upon request.

Reason:- to ensure a record of the approved plans are readily available.



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36. Items not to be placed on roadway

The following items must not be placed on the footpath, roadway or nature strip at any time:-

- a) Building materials, sand, waste materials or construction equipment;
- b) Bulk bins/waste skips/containers; or
- c) Other items that may cause a hazard to pedestrians.

<u>Reason</u>:- to ensure the public is not inconvenienced, placed in danger and to prevent harm to the environment occurring.

37. Sign to be erected concerning unauthorised entry to the site

A sign must be erected in a prominent position stating that unauthorised entry to the site is not permitted. The sign must also name the builder or other person responsible for the site and a telephone number at which the builder or other person can be contacted outside working hours. Where Council is not the Principal Certifying Authority, the sign shall also display the name and contact details of the nominated Principal Certifying Authority. The sign is to be removed when the building works have been completed.

<u>Reason</u>:- to restrict public access to the site and to provide suitable contact details in a clear and conspicuous position.

38. Toilet accommodation for people working at the site

Suitable toilet accommodation is to be provided at the work site at all times. If temporary toilet accommodation is proposed, it must:-

- Have a hinged door capable of being fastened from both inside and outside,
- Be constructed of weatherproof material,
- Have a rigid and impervious floor; and
- Have a receptacle for, and supply of, deodorising fluid.

Reason:- to ensure suitable toilet accommodation is provided for workers.

39. Survey Report

A Registered Surveyors check Survey Certificate is to be forwarded to the Principal Certifying Authority (and a copy is to be forwarded to the Council, if the Council is not the Principal Certifying Authority), detailing compliance with Council's approval at the following stage/s of construction:

(Setbacks and levels at commencement – new dwellings)

a) Prior to construction of the first completed floor/floor slab (prior to pouring of concrete), showing the area of land, building and boundary setbacks and verifying that the building is being constructed at the approved levels.

(Setbacks and levels at completion – new dwellings)

b) On completion of the erection of the building showing the area of the land, the position of the building and boundary setbacks and verifying that the building has been constructed at the approved levels.

Reason:- to ensure each stage of the development complies with the approved plans.



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40. Display of a warning sign for soil and water management

Throughout the construction/remediation/demolition period, a warning sign for soil and water management must be displayed on the most prominent point of the building site, visible to both the street and site works.

<u>Reason</u>:- to ensure all building workers are aware of the need to maintain the sediment and erosion control devices.

41. Engineering Design – Basement Excavation

The following engineering details or design documentation (where appropriate) shall be submitted to the Principal Certifying Authority (Council or accredited certifier) prior to the issuing of a Construction Certificate:-

- a) Documentary evidence prepared by a suitably qualified professional geotechnical engineer shall be submitted to the certifying authority, that confirms the suitability and stability of the site for the proposed excavation and building as well as certifying the suitably and adequacy of the proposed design and construction of the building for the site.
- b) A report shall be prepared by a professional engineer and submitted to the certifying authority prior to the issuing of a Construction Certificate, detailing the proposed methods of excavation, shoring or pile construction, including details of vibration emissions and detailing any possible damage which may occur to adjoining or nearby premises that may be caused by the proposed building and excavation works.

Any practices or procedures specified in the engineer's report in relation to the avoidance or minimisation of structural damage to nearby premises, are to be fully complied with and incorporated into the plans and specifications for the Construction Certificate.

A copy of the engineer's report is to be submitted to the Council, if the Council is not the certifying authority.

- c) Driven type piles/shoring must not be provided unless a geotechnical engineer's report is submitted to the certifying authority, prior to the issuing of a Construction Certificate, which states that damage should not occur to any adjoining premises and public place as a result of the works.
- d) The installation of ground or rock anchors underneath any adjoining premises including (a public roadway or public place) must not be carried out without the specific written consent of the owners of the affected adjoining premises and (where applicable) details of compliance must be provided to the certifying authority prior to the commencement of any excavation or building works.

<u>Reason</u>:- to ensure the proposed method of excavation is suitable for the site and to prevent damage from occurring to adjoining premises.

42. Excavations extending below the base of footings of adjoining development

Where excavations extend below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must preserve and protect the building from damage and, if necessary, underpin and support the adjoining building in an



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approved manner. The person causing the excavation must give the owner of the adjoining property at least seven (7) days written notice of its intention to excavate below the level of the base of the footing. The person must also furnish the adjoining property owner with particulars of the proposed work.

Reason:- to ensure the support for neighbouring buildings.

43. Dilapidation Report - Prior to Excavation of Basement

a) A dilapidation report prepared by a professional engineer or suitably qualified building professional shall be submitted to the Principal Certifying Authority prior to the commencement of demolition, excavation or building works.

The report shall detail the current condition and status of all buildings, including ancillary structures (i.e. including dwellings, residential flat buildings, commercial/industrial building, garages, carports, verandahs, fences, retaining walls, swimming pools and driveways etc.) located upon all of the premises adjoining the subject site.

The report is to be supported with photographic evidence of the status of the buildings and a copy of the report must also be forwarded to the Council and to the owners of each of the abovestated premises, prior to the commencement of any works. The applicant shall bear the full cost of this report.

b) Notwithstanding (a) above, certification by a practicing professional engineer in lieu of a dilapidation report may be provided prior to the commencement of demolition, excavation or building works certifying that the demolition, excavation and or building works will not have an impact on any adjoining structure including ancillary structures (i.e. including dwellings, residential flat buildings, commercial/industrial building, garages, carports, verandahs, fences, retaining walls, swimming pools and driveways etc.).

The applicant shall bear the full cost of this certification and the Council or Principal Certifier reserves the right to request a full report as described in (a) above should the certification provided by the engineer be considered unacceptable or insufficient.

<u>Reason</u>:- to enable the monitoring of any potential damage that may be caused to adjoining premises as a result of excavating and building in close proximity to the adjoining premises.

44. Footpath area to be illuminated

Where any hoarding or awning is constructed over the public place, the footpath area shall be kept illuminated between sunset and sunrise.

Reason:- the ensure the safety of pedestrians when passing the site.

45. Fencing of construction sites – Rental details to be provided to the PCA (A & B Type Hoardings)

A separate application is to be made to Council for Approval under Section 68 of the *Local Government Act 1993* to erect any hoarding or scaffolding in a public place and such application is to include:

- A payment to Council for the following fees in accordance with Council's adopted charges:
 - o Hoarding/Structure Application Fee



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- Rental of Footpath Area (per metre per month minimum 3 months rental)
- Footpath Bond
- Submit the following documents to Council with your application:
 - o Certificate of Currency for Public Liability Insurance
 - Certificate of Currency for Worker's Compensation Insurance
 - Letter indemnifying Council against claims and expenses made in relation to the existence of the structure and/or traffic provisions
 - Traffic/Pedestrian Control Plan
 - In respect to any required Type B Hoarding, structural certification prepared and sign by an appropriately qualified practising Structural Engineer
- Comply with Council's specifications for the erection of Class A Hoardings.
- Supply evidence to the Principal Certifying Authority and to any authorised Council officer that the road reserve rental fee has been paid.

Note: Public access to the site and building works, materials and equipment on the site is to be restricted, when work is not in progress or the site is unoccupied.

A temporary hoarding or fence is to be provided to protect the public, located to the perimeter of the site (unless the site is separated from the adjoining land by an existing structurally adequate fence, having a minimum height of 1.5m). Hoardings or fences are to have a minimum height of 1.8m and be constructed of solid plywood sheeting (painted white) or of cyclone wire fencing with geotextile fabric attached to the inside of the fence, to provide dust control.

Note: A "B Class" overhead type hoarding is required to be provided to protect the public, located adjacent to the development, prior to the commencement of any works on the site which comprise:

- · Any works or hoisting of materials over a public footway or adjoining premises, or
- Any building or demolition works on buildings which are over 7.5m in height and located within 3.6m of the street alignment.

Hoardings or fences are to be structurally adequate and be constructed in a good and workmanlike manner and the use of poor quality materials or steel reinforcement mesh as fencing is not permissible.

The public safety provisions and temporary fences must be in place prior to the commencement of any demolition, excavation or building works and be maintained throughout construction. Details of the proposed hoardings or fences located upon the site are to be submitted to the Principal Certifying Authority and the public safety provision and temporary fences must be in place prior to the commencement of any site works, demolition, excavation or building works and maintained throughout construction.

<u>Reason:</u>- to provide protection to public places, prevent unauthorised access to the site and a safe working environment.

46. Sediment Removal from Vehicle Wheels - Large sites

A vehicle wheel wash, cattle grid, wheel shaker or other appropriate device, shall be installed in accordance with the Soil and Water Management Plan, prior to commencement of any site works or activities, to prevent mud and dirt leaving the site and being deposited on the street.



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<u>Reason</u>:- to ensure suitable controls are in place prior to any works commencing to prevent water pollution from occurring.

47. Noise from construction activities

Noise from construction activities associated with the development shall comply with the NSW Interim Construction Noise Guidelines (DECCW) 2009.

<u>Reason</u>:- to ensure noise arising from construction activities is in accordance with relevant legislation and Environment Protection Authority requirements.

48. Dial before you dig (advisory)

Dial Before You Dig is a free national community service designed to prevent damage and disruption to the vast pipe and cable networks which provides Australia with the essential services we use everyday – electricity, gas, communications and water.

Before you dig call "Dial before you dig" on 1100 (listen to the prompts) or facsimile 1300 652 077 (with your street no./name, side of street and the distance to the nearest cross street) or register on line at www.dialbeforeyoudig.com.au for underground utility services information for any excavation areas.

The Dial Before You Dig service is also designed to protect Australia's excavators. Whether you are a back yard renovator, an individual tradesman or a professional excavator the potential for injury, personal liability and even death exists every day. Obtaining accurate information about your work site significantly minimises these risks.

<u>Reason:</u> To ensure that essential services such as electricity, gas, communications and water are not affected by excavation or construction.

49. Structural Engineering Certificate

The applicant shall submit a structural engineer's certificate of adequacy verifying that the works as detailed on the approved plans for the storage tank have been completed under his/her supervision and that the design is adequate to support the anticipated design loads. The certificate shall be submitted to Council with the works-as-executed plan.

Reason:- to ensure the construction is structurally adequate.

50. Water Reuse

The stormwater generated from the roof area shall be reused for the irrigation of the landscape area within the subject development site.

Full details of the Water reuse facilities shall be submitted to Council or the Accredited Certifier with the Construction Certificate.

On completion, a certificate from a registered plumber shall be submitted for the pipe network. The certification shall indicate the water reuse system has been installed in accordance with the approved water reuse design plans.

Reason:- to ensure the water reuse facilities within the development are constructed and



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maintained in good working order.

51. Submission of full stormwater disposal details

Full stormwater drainage details showing the proposed method of stormwater collection and disposal are to be submitted to Council or the Accredited Certifier to ensure the approved stormwater plans are incorporated with the Construction Certificate.

The details shall be prepared by a suitably qualified person and must be in accordance "Auburn Development Control Plans 2010 - Stormwater Drainage" and "Australian Rainfall & Runoff 1987".In this regard:

- The proposed stormwater system shall be generally in accordance with the approved stormwater concept plans A7134 – COVER to A7134-SW09 issue E dated 30. 08. 2019 prepared by Alpha including amendments marked in red on the plans.
- Stormwater outlet within Council land shall be a straight pipe. No bends are permitted within Council land.
- iii. Cleaning eye shall be provided within the site over the outlet pipe.
- iv. A flap valve shall be provided within the site to prevent the backwater effect.
- v. Grated pit shall be provided behind the flap valve in accordance with Council's standard drawing.
- vi. All access grates to the detention facility shall be double (2/900x450) hinged grates.
- vii. Maximum spacing between the grated access pits in the OSD shall not exceed 5.0m.
- viii. Stormwater runoff from access ways will have to undergo some form of industrial standard primary treatment/separation prior to disposal into existing stormwater systems. In this regard, stormwater treatment device capable of removing litter, oil, grease and sediment shall be provided prior to discharge to the stormwater system.

Note: "Auburn Development Control Plans 2010 - Stormwater Drainage" is available to purchase at Council or the document can be found at Auburn Council's web page www.auburn.nsw.gov.au.

Reason:- to ensure the stormwater is suitably discharged.

52. Stormwater disposal – on-site detention

On-site stormwater detention storage is to be provided in conjunction with the stormwater disposal. The storage is to comply with "Auburn Development Control Plans 2000 - Stormwater Drainage". Where multiple detention basins with differing top water levels are used, the basins must be routed to the outlet pit independent of each other.

A positive covenant under Section 88E of the Conveyancing Act is to be created on the title of the property detailing the on-site stormwater detention system incorporated in the development. The wording of the instrument is to be submitted and approved by Council prior to lodgement at the Land Titles Office. Evidence confirming the positive covenant has been registered shall be



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submitted to Council prior to occupation of the building or issue of the occupation certificate.

Note:

- Positive covenant wording shall be obtained from Council prior to lodgement.
- Work as executed plan shall be accompanied by relevant checklists.

<u>Reason</u>:- to prevent localised flooding by ensuring the detention system is maintained as designed.

53. Maintenance schedule - OSD

Prior to the issue of the Occupation Certificate, a maintenance schedule of the proposed on-site detention facility shall be submitted to Council for approval with the stormwater work-as executed plan. This maintenance schedule shall be registered as part of the positive covenant.

Reason:- to ensure the onsite detention facility is in good working order.

54. Engineer Certificate for critical pump

A certificate from a practising hydraulic engineer verifying that the stormwater pump installation and the design with the executed levels shall be submitted to the Council with the work as executed plan prior to the release of Occupation Certificate.

Reason:- to ensure the system has been constructed Council's standards and specifications.

55. Basement drainage system

Basement drainage is to comply with "Auburn Development Control Plans 2010 – Stormwater Drainage". In this regard:

- a) Two pump units being installed, the capacity of each being calculated on the basis of a hundred year storm recurrence interval and a storm duration of 5 (five) minutes, one pump acting in reserve capacity.
- b) The two pumps being designed to work on an alternate basis to ensure that both pumps receive equal usage and neither pump remains continuously idle.
- c) A holding well being provided within the basement, of sufficient capacity to store the discharge based on a hundred year storm recurrence interval and storm duration of ninety minutes. In addition to this an above ground storage shall be provided up to a hundred year storm recurrence interval and storm duration of two hours. The holding well is to be designed so that a minimum volume of water is retained in the well for health reasons when the pumps are in the "off" position or if there is a break in electrical supply.
- d) A storm of two hours' duration has been adopted as a basis for determining the size of the well, the assumption being that electrical supply will be reinstated within this period.
- e) The pump out system is to be independent of any gravity drainage lines, except at the property boundary where a grated surface pit is to be constructed from which a connection will be permitted to the gravity drainage system. The invert levels of the pipes in the grated surface pit are to be such that the outlet from the pump out system is above the inlet of the gravity system.
- f) Storage areas and areas used for purposes other than car parking or access aisles are to be constructed a minimum of 100mm above the top water level.
- g) The contributing catchment area to the pump out system is to be limited to the access ramp area only and subsoil drainage.



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Reason: to prevent localised flooding.

56. Works-as-Executed Plan – Drainage Plans

Prior to occupation of the building or issue of the Occupation Certificate, two (2) copies of the Works-as-Executed (W.A.E.) Plan prepared by a registered surveyor and certified by the design engineer shall be submitted to Council. The W.A.E. plan shall show (where applicable):

- a) Whether all works have been completed generally with the approved drainage plans.
- b) Any departure from the approved plan and conditions.
- c) Any additional work that has been undertaken.
- d) Location, levels and sizes of pipes and pits.
- e) Finished floor and finished surface levels. The location of finished levels should in general correspond with those shown on Council's approved drainage plan.
- f) Basement pump out volumes.

Note: The W.A.E. surface level shall be taken after all landscaping has been completed.

In this regard:

 The above information is to be superimposed on a full sized copy of Council approved drainage plan and is to be submitted to Council.

Reason:- to account for minor variations and to ensure Council has the final details.

57. Arrangements for Water and Sewer Services

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

Application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's web site at www.sydneywater.com.au then the "edeveloper" icon or telephone 132 092.

Following application a "Notice of Requirements" will detail water and sewer extensions to be built or charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscaping design.

The Section 73 Certificate must be submitted to the Principal Certifying Authority (Council or accredited certifier) prior to release of the final plan of subdivision or occupation of the development.

<u>Reason</u>:- to ensure that adequate water and sewer services can be provided to the site.

58. Sydney Water Approval

The approved development application plans must be accompanied by a valid Building Plan Assessment Approval Receipt. This receipt can be acquired through the "Sydney Water Tap" in system by the Sydney Water Authority.

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

Information on the "Sydney Water Tap in" system and



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Registering and applying for the approval receipt for the Proposed Building Plan.

or telephone 13 20 92.

Note:

The consent authority or accredited certifier must either:

- ensure that a valid approval receipt has been obtained from Sydney Water before the issue of any Construction Certificate (receipt valid usually 1 year from the date of issue); or
- if there is a combined Development/Construction Certificate application, ensure that a valid approval receipt has been obtained prior to works commencing on site.

Reason:- to ensure the development does not damage or interfere with Sydney Water assets.

59. Television Aerial/Satellite Dish

A single common television aerial, and/or satellite dish (having a maximum diameter of 700mm and not located on the front or street elevation of the building) is to be installed to serve the development.

<u>Reason</u>:- to ensure the provision of these services does not impact on the finished appearance of the development.

60. Aboveground Power Lines

Where practicable, all existing overhead power lines adjacent to the development site shall be relocated underground to Ausgrid standards and specifications.

If not practicable to relocate the power lines underground, arrangements shall be made with Ausgrid to place the conduit to carry those power lines underground so that they can be utilised at a later date by Ausgrid. In this regard all associated costs shall be borne by the applicant.

The design indicates a proposal to relocate the existing overhead assets on Raphael Street adjacent the development site to underground. Contact is to be made with Ausgrid's contestability group for an application to be made regarding this proposal.

Please refer to the following link to complete the relocation asset document online - https://www.ausgrid.com.au/Connections/Get-connected/Apply-for-a-connection

Reason:- to improve the aesthetic quality of the area.

61. Number of Car Parking Spaces

A total of 206 off-street car parking spaces are to be provided to the development as follows:-

- Residential spaces Minimum 182 spaces including 12 accessible spaces.
- Visitor spaces Minimum 24 spaces including 4 accessible spaces.

The spaces are to be suitably sealed, marked, drained and freely accessible at all times. Visitor carparking spaces shall be a minimum width of 2.6m. All accessible spaces shall comply with AS 2890.06.

Carparking spaces are not to be enclosed by any device, such as a wire or mesh cage, walls or other similar fixtures unless there is a minimum clear internal width of 3m. Carparking spaces shall not be enclosed without the prior consent of council.



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<u>Reason</u>:- to ensure there is sufficient car parking for the development and to comply with the Parking & Loading section of the *Auburn Development Control Plan 2010*.

62. Signs for Visitor Parking

Suitable signs shall be erected at the front of the property indicating the availability of visitor parking within the property. All visitor parking spaces shall be clearly signmarked.

Reason:- to ensure the visitor parking spaces are clearly identified.

63. Adequate Signs and Pavement Markings Required to Assist Traffic Flow on Site.

Adequate signs and pavement markings are to be provided to direct the flow of traffic within the site. Details are to be provided prior to the issue of the construction certificate.

Reason:- to assist with traffic flow within the development.

64. Car Wash Bay

An open service area measuring at least 7.6m x 3.0m is to be provided for use by residents for car cleaning and washing activities. This area is to be suitably located, paved, graded and drained.

All waste water from the car wash bay shall be discharged to sewer under a Trade Waste Agreement from Sydney Water. This may require the installation of a pre-treatment device. Alternative water management and disposal options may be appropriate where water is recycled, minimised or re-used on the site.

The means of disposal shall comply with:-

- EPA's Environment Protection Manual for Authorised Officers: Technical Section (Car Washing Waste)
- EPA's Managing Urban Stormwater: treatment techniques

Details are to be submitted with the construction certificate.

<u>Reason</u>:- to designate a car washing area within the development and to ensure waste water is properly managed.

65. Vehicles Driven in Forward Direction

All vehicles must be driven in a forward direction at all times when entering or leaving the premises.

Reason:- to preserve and enhance the safe operation of the car parking area.

66. Loading and Unloading of Vehicles

All deliveries to and from the site are to be conducted from vehicles standing within designated loading areas and not on access driveways, car parking spaces or landscaped areas.



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Reason:- to ensure delivery vehicles do not obstruct these designated areas of the site.

67. Protective bar to vehicular entry

A protective bar shall be installed at the vehicular entry to the development to prevent damage from vehicles that are too high or those that fail to wait for the opening of any roller shutter etc. Details and installation of the proposed protective bar shall be noted on the Construction Certificate drawings and installed prior to the issue of Occupation Certificate.

<u>Reason</u>:- to prevent damage from oversized vehicles when entering the premises.

68. Roller doors and shutters - silent operation

The roller doors or other shutters to the car park shall operate silently and be appropriately maintained.

Reason:- to ensure quiet operation and ongoing maintenance to car park doors.

69. Intercom/remote access to basement

An intercom and remote access system shall be provided at all vehicular access points to the basement car park and connected to all residential units. Details of the proposed intercom and remote access system to the basement car park are to be submitted with the Construction Certificate plans/specifications and the locations detailed on the construction drawings.

<u>Reason</u>:- to ensure that visitor car parking spaces are easily and conveniently accessible for visitors to the premises.

70. Car Parking Spaces - Restrictive Covenant

The following shall be complied with:-

- a) The on site car parking spaces, exclusive of service and visitor spaces, are not to be used by those other than the occupant or tenant of the subject building. Any occupant, tenant, lessee or registered proprietor of the development site or part thereof shall not enter into an agreement to lease, license or transfer ownership of any car parking spaces to those other than an occupant, tenant or lessee in the building.
- b) Prior to Occupation Certificate under the Environmental Planning and Assessment Act 1979 a documentary Restrictive Covenant, is to be registered on the Title of the development site pursuant to Section 88E of the Conveyancing Act 1919, to the effect of (a) above. The Covenant is to be created appurtenant to Council, at no cost to and to the satisfaction of Council.
- c) Any future strata subdivision of the site is to include a Restriction on User pursuant to Section 39 of the Strata Titles (Freehold Development) Act 1973, as amended, burdening all utility car parking allotments in the Strata Plan and/or an appropriate Restrictive Covenant pursuant to Section 88B of the Conveyancing Act 1919 burdening all car parking lots in the strata scheme.

<u>Reason</u>:- to ensure the car parking spaces are used in accordance with the details of the development approval.



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71. Headroom clearance - within the Basement

The headroom clearance within the basement shall comply with the usage. In this regard, minimum 4.0m shall be provided in waste collection area and associated turning area. Other areas shall comply with Australian Standards AS2890.1 and AS2890.6 requirements.

Detail plans showing the compliance of above requirements shall be submitted and approved by the Principle Certifying Authority prior to issue of a Construction Certificate.

<u>Reason:</u>- to ensure headroom clearance complies with Australian Standards AS 2890.1 AS2890.6 and Council's <u>Auburn Development Control Plan 2010</u>.

72. Materials and Finishes

Materials and finishes to the development shall be in accordance with the details of the approved plans and the following requirements:-

- Quality and durable materials are to be used throughout the development.
- b) The applied external paint finishes to the building shall have a minimum aggregate thickness of 200 microns.

Reason:- to ensure a high quality appearance to all materials within the development.

73. SEPP 65 – Design Verification

The following requirements arising from State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Buildings must be complied with:-

- a) A certifying authority must not issue a Construction Certificate in respect of the development unless the certifying authority has received a design verification from a qualified designer, being a statement in which the qualified designer verifies that the plans and specification achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles set out in Part 2 of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development.
- b) A certifying authority must not issue an Occupation Certificate to authorise a person to commence occupation or use of the development unless the certifying authority has received a design verification from a qualified designer, being a statement in which the qualified designer verifies that the development as shown in the plans and specifications in respect of which the Construction Certificate was issued, having regard to the design quality principles set out in Part 2 of State Environmental Planning Policy No. 65 Design Quality of Residential Apartment Development.

<u>Reason</u>:- to ensure that the requirements of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development and the Environmental Planning and Assessment Regulations 2000 are complied with in the carrying out of the development.

74. Architect - Notify Council if Changed

The architect of the project, as approved, should not be changed without prior notice to Council.

Reason:- to ensure Council is aware and kept informed of the current project architect.



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75. Underside of balconies

The underside of the balconies within the development must be designed to prevent exposed pipes and utilities being visible.

<u>Reason</u>:- to ensure an attractive appearance to the development in accordance with Council's Development Control Plan requirements.

76. Switchboards/Service Panels

Switchboards and/or service panels for utilities are not to be attached to the front facades/elevations of the building(s).

<u>Reason:</u>- to ensure that switchboards and service panels are appropriately located and do adversely impact on the appearance/presentation of the front building facade.

77. Reflectivity Index of Glazing

The reflectivity index (expressed as a percentage of the reflected light falling upon any surface) of external glazing for windows, walls or roof finishes of the proposed development is to be no greater than 20%. Written conformation of the reflectivity index of materials is to be submitted with the Construction Certificate.

Note: The reflectivity index of glazing elements can be obtained from glazing manufacturers. Glass with mirrored or reflective foil finishes is unlikely to achieve compliance with this requirement.

<u>Reason:</u>- to ensure that excessive glare or reflectivity nuisance from glazing does not occur as a result of the development.

78. Security fencing

All security fencing shall be on an alignment of 4.5m to the street boundary. Under no circumstances are gates to open over Council's footway or obstruct access to car parking spaces.

<u>Reason</u>:- to ensure the development operates in accordance with the approval and does not cause a nuisance or a hazard to the public.

79. Side/Rear Boundary Fencing

Fences located on the side or rear boundaries of the premises, behind the main building setback (not within the front yard), shall not exceed a maximum height of 1.8m.

<u>Reason</u>:- to maintain reasonable levels of amenity to the adjoining premises.

80. Fencing/gates and adjoining land

There must be no encroachment of any part of the structure/s onto the adjoining premises or onto Council's road reserve, footway or public place. Any gate openings shall be constructed so that the gates, when hung, will be fitted in such a manner that they will not open over the footway or public place.



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<u>Reason</u>:- to ensure the fence/gates do not restrict access and that encroachments do not occur.

81. Removal of litter and graffiti:

In addition to Council's street sweeping and cleansing operations, the owner/manager of the building shall ensure that the footpath, gutter, building entry and surrounds are kept clean and clear of litter at all times.

The owner of the building shall also be responsible for the prompt removal of any graffiti from the building.

Reason:- to maintain a satisfactory level of amenity in the locality.

82. Telecommunications Facilities - Residential

The following requirements apply to telecommunication facilities in the building:-

- Appropriate access and space within the plant area of the building shall be provided for a minimum of three telecommunication carriers or other providers of broad-band access by ground or satellite delivery.
- b) Appropriate ducting and cabling shall be provided for a minimum of three telecommunication carriers or other providers for telecommunication access and broadband cabling to each apartment of the building.
- c) The details of (a) and (b) above shall be submitted for the approval of the certifying authority, prior to issue of a construction certificate for the building under the *Environmental Planning and Assessment Act 1979*.
- d) A separate Development Application must be submitted at the appropriate time for any external receiving device proposed to be installed. For each form of transmitter, there shall be only one common receiving device installed on the subject development.

Reason:- to ensure adequate provision for telecommunication facilities within the development.

83. Lighting to publicly accessible areas

The following lighting requirements shall be complied with:

- a) The public areas shall be provided with lighting to ensure pedestrian safety. Such lighting shall be at a minimum level of 10 lux in the horizontal and vertical plane.
- b) Details of the lighting is to be submitted for the approval of the Principal Certifying Authority prior to issue of the Construction Certificate and location of the lighting endorsed on the construction drawings.

<u>Reason</u>:- to ensure publicly accessible areas of the development are provided with sufficient illumination.

84. Mail Box Structure

An Australia Post approved lockable mail box structure(s) shall be centrally located to the primary street entry of the site.

Reason:- to ensure compliance with Council's Development Control Plan requirements.



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85. Suitable arrangements to be made for garbage and recycling services

Suitable arrangements for garbage and recycling services are to be made with Council prior to occupation of the building.

Reason:- to ensure adequate garbage and recycling services are provided for the development.

86. Waste Management Plan – New works

A Waste Management Plan shall be submitted to the PCA for. The plan must be submitted and approved prior to the issuing of the construction certificate.

The approved Waste Management Plan for the site must be displayed in an appropriate location on-site and complied with at all times during construction/remediation/demolition and ongoing occupation.

The builder/construction company shall be provided with at least one copy of the waste management plan.

Reason:- to ensure waste is properly managed.

87. Display of Waste Management Plan - Ongoing use

The occupant/body corporate shall be provided with at least one copy of the waste management plan. An additional copy of the plan shall be displayed in a secure, visible and accessible position within or adjacent to the waste storage area. The approved Waste Management Plan must be complied with at all times during occupation.

Reason:- to ensure waste is properly managed by occupants of the building.

88. Ongoing Waste Management

Ongoing waste management within the development shall be carried out in accordance with the approved Waste Management Plan and the following requirements:-

- a) Appropriate waste management practices are to be adopted within the development at all times.
- b) The waste storage room shall be kept in a clean, tidy and hygienic condition at all times.
- c) The waste and recyclable storage area shall be fully enclosed, adequately ventilated and constructed with a concrete floor and concrete or cement rendered walls covering the floor. The floor shall be graded to an approved sewer connection incorporating a sump and galvanised grate cover or basket. A hot and cold hose cock shall be provided within the room. Details shall be provided with the Construction Certificate and endorsed on the construction drawings, and works completed prior to the issue of an Occupation Certificate.
- d) A person shall be employed/nominated to manage the collection of waste material by Council, including, but not limited to bin placement at the road edge and retrieval of bins soon after collection of contents, cleansing of bins, storage of bins in the compound and the like.
- e) The nature strip is to be kept in a clean and tidy condition upon garbage collection.

<u>Reason:</u>- to ensure appropriate ongoing waste management practices within the development in accordance with Council's Development Control Plan requirements.



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89. Waste and recyclables storage area:

The waste and recyclable storage area shall be fully enclosed, adequately ventilated and constructed with a concrete floor and concrete or cement rendered walls covering the floor. The floor shall be graded to an approved sewer connection incorporating a sump and galvanised grate cover or basket. A hot and cold hose cock shall be provided within the room. Details shall be provided with the Construction Certificate and endorsed on the construction drawings, and works completed prior to the issue of an Occupation Certificate.

<u>Reason</u>:- to ensure the waste and recyclables storage area is appropriately constructed and able to be readily cleaned and maintained.

90. Final Fire Safety Certificate

Prior to the occupation of the building, the owner of the building shall submit to the Principal Certifying Authority (Council or Accredited Certifier), a **final fire safety certificate** in relation to each essential fire safety measure specified in the **fire safety schedule**, attached to the development consent or construction certificate.

Such certificate shall state that each essential fire safety measure specified:-

- a) Has been assessed by a properly qualified person, and
- b) Was found, at the date of assessment, to be capable of performing to a standard not less than that required by the current fire safety schedule for the building for which the certificate is issued.

NOTES:

- 1. As soon as practicable after a final fire safety certificate is issued, the owner of the building to which it relates:
 - i) Must cause a copy of the statement (and current fire safety schedule) to be given to the Commissioner of NSW Fire Brigades, and
 - ii) Must cause a further copy of the statement (and current copy of the current fire safety schedule) to be prominently displayed in the building.
- A "fire safety measure" is defined as any measure (including any item of equipment, form
 of construction or fire safety strategy) that is, or is proposed to be, implemented in the
 building to ensure the safety of persons using the building in the event of fire.

<u>Reason</u>:- to ensure compliance with Regulations 149 & 171 of the Environmental Planning and Assessment Regulation 2000.

91. Annual Fire Safety Statement

The owner of any building in which fire safety measures are installed, must cause the Council to be given an **annual fire safety statement**, within 12 months after the last such statement or final fire safety certificate was issued.

The certificate shall certify:-

That each essential fire safety measure has been assessed by a properly qualified person



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and was found, at the date of assessment, to be capable of performing to a standard not less than that required by the current fire safety schedule.

b) That a properly qualified person has inspected the building and has certified that, as at the date of inspection, the condition of the building did not disclose any grounds for a prosecution under Division C.

NOTES:

- As soon as practicable after an annual fire safety statement is issued, the owner of the building to which it relates:-
 - must cause a copy of the statement (and current fire safety schedule) to be given to the Commissioner of NSW Fire Brigades, and
 - ii) must cause a further copy of the statement (and current copy of the current fire safety schedule) to be prominently displayed in the building.
- A "fire safety measure" is defined as any measure (including any item of equipment, form
 of construction or fire safety strategy) that is, or is proposed to be, implemented in the
 building to ensure the safety of persons using the building in the event of fire.

<u>Reason</u>:- to ensure compliance with Regulation 171 of the Environmental Planning and Assessment Regulation 2000.

92. Fire Safety Notices

The fire-isolated stairway, fire-isolated passageway or fire-isolated ramp must contain a notice advising of "Offences relating to fire exits". The notice shall contain the wording prescribed by Clause 183 of the Environmental Planning and Assessment Regulation, 2000 and the Building Code of Australia.

<u>Reason:</u>- to comply with Clause 183 of the Environmental Planning and Assessment Regulation 2000 and the BCA.

93. Air conditioning units - location and acoustics

- Air conditioning units are not to be visible from the street or public place and are not to obscure windows/window frames or architectural features of the building.
- b) The operation of air conditioning units shall be so:
 - as not to cause "offensive noise" as defined under the Protection of the Environment Operations Act 1997;
 - (ii) as to be inaudible at the nearest affected residence between the hours of 10.00pm and 7.00am on weekdays and 10.00pm and 8.00am on weekends and public holidays;
 - (iii) as not to discharge a condensate or moisture onto the ground surface of the premises or into a stormwater drainage system in contravention of the requirements of the Protection of the Environment Operations Act 1997.
- c) Should Council receive noise complaints from neighbouring residents in relation to the air conditioning units, Council may issue a Noise Notice. Such notice may require you to engage the services of a competent and appropriately qualified Acoustic Consultant to undertake a noise level assessment of the air conditioning unit. If the unit is assessed as exceeding the permitted noise criteria, you may be directed to provide noise



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attenuation measures such as an acoustic enclosure and/or relocation of the unit.

<u>Reason</u>:- to ensure that air conditioning units associated with the development are appropriately located and do not detract from the appearance of the buildings and to ensure the operation of air conditioning units does not adversely impact on the acoustic amenity of the locality.

94. Ventilation of the Basement Car Park

The basement car park shall be naturally or mechanically ventilated. The ventilation system shall comply with the requirements of the *Building Code of Australia* and relevant standards including AS1668.1 – 1998 The Use of Ventilation and Air conditioning in Buildings Part 1: Fire and Smoke Control in Multi Compartment Buildings and/or AS 1668.2-2002; The Use of ventilation and Air conditioning in Buildings Part 2: Ventilation Design for Indoor Air Contaminant Control.

The system shall be certified by a suitably qualified and experienced engineer at the completion of installation prior to the issue of an Occupation Certificate. A copy of the certificate shall be provided to the Principal Certifying Authority. A copy shall also be provided to Council if Council is not the Principal Certifying Authority.

Any mechanical ventilation provided to the basement car park shall not create an offensive odour emission nor shall it create an offensive noise and shall comply with the requirements of the *Protection of Environment Operations Act 1997* and all subsequent relevant Regulations/

Reason:- To ensure adequate ventilation of the basement.

95. Submission of Works-as-Executed Fire Services Plan

A works-as-executed fire services plan is to be submitted to the Council **prior to occupation** of the development, detailing the location of the essential fire safety measures installed within the building premises.

<u>Reason</u>:- to ensure a record of the location and type of fire safety services is documented.

96. Occupation Certificate

A person must not commence occupation or use of the whole or part of a new building unless an occupation certificate has been issued in relation to the building or part.

The application for an Occupation Certificate must be made to the Principal Certifying Authority (Council or an accredited certifier) using the approved form.

<u>Reason</u>:- to comply with the requirements of Section 6.9 of the Environmental Planning and Assessment Act (as amended).

DOCUMENTS ASSOCIATED WITH REPORT LPP074/19

Attachment 9 Notice of determination DA280/2017



Our Reference Contact DA-280/2017 Elizabeth Chan

Urbanlink Pty Limited PO Box 2223 BURWOOD NSW 2134

7 March 2018

Notice of determination of development application (Form 4)

(Section 4.18(1)(a) - the Environmental Planning and Assessment Act 1979(as amended))

Development Application	DA-280/2017
Land to be developed	Lot 9 DP 397, Lot 10 DP 397, Lot 11 DP 397, Lot 12 DP
	397, 9-15 Raphael Street, LIDCOMBE NSW 2141
Proposed development	Demolition of all existing structures and construction of 10 storey residential flat building consisting of 117 units with 4 levels of basement parking
Determination	Approved

The consent is granted subject to the following conditions:

1. Approved Plans

The development is to be carried out in accordance with the approved stamped plans as numbered below:

Project & Plan No.	Description	Prepared By	Rev	Dated
-	Cover Sheet			undated
16-077; DA1002	Site Plan		F	26.07.2017
16-077; DA1003	Site Location & Analysis		F	26.07.2017
16-077; DA1004	Site Context Plan		F	26.07.2017
16-077; DA2001	Floor Plans – Basement Level 4		F	26.07.2017
16-077; DA2002	Floor Plans – Basement Level 3	Urban Link Pty Ltd	F	26.07.2017
16-077; DA2003	Floor Plans – Basement Level 2		F	26.07.2017
16-077; DA2004	Floor Plans – Basement Level 1		F	26.07.2017
16-077; DA2005	Floor Plans – Ground Floor		F	26.07.2017
16-077; DA2006	Floor Plans – Level 1-7		F	26.07.2017



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16-077; DA2007	Floor Plans – Level 8		F	26.07.2017
16-077; DA2008	Floor Plans – Level 9		F	26.07.2017
16-077; DA2009	Floor Plans – Roof Top Terrace		F	26.07.2017
16-077; DA2010	Floor Plans – Roof	1	F	26.07.2017
16-077; DA4001	Elevations – East/North	1	F	26.07.2017
16-077; DA4002	Elevations – West/South]	F	26.07.2017
16-077; DA5001	Sections – AA/BB		F	26.07.2017
16-077; DA7001	External Finishes & Finishes Schedules		Е	26.06.2017
A7134 – Cover	General Notes		D	25.09.2017
A7134 – SW01	Sediment and Erosion Control Plan		D	25.09.2017
A7134 – SW02	Basement 4 Drainage Plan		D	25.09.2017
A7134 – SW03	Basement 3 Drainage Plan	1	D	25.09.2017
A7134 – SW04	Basement 2 Drainage Plan	ALPHA	D	25.09.2017
A7134 – SW05	Basement 1 Drainage Plan	Engineering &	D	25.09.2017
A7134 – SW06	Ground Floor Drainage Plan	Development	D	25.09.2017
A7134 – SW07	Level 9 & Roof Drainage Plan		D	25.09.2017
A7134 – SW08	Stormwater Sections and Details		D	25.09.2017
A7134	Overland flor Modelling		Α	25.09.2017
2017-196	Noise & Vibration Management Plan	Acoustic Noise &	-	22.09.2017
2017-196	Acoustic Report - Environmental Noise Assessment	Vibration Solutions Pty Ltd	-	22.06.2017
17102; DA1-2	Landscape Concept Plan – Ground Floor (amended in red)	Vision Dynamics	В	05.06.2017
17102; DA2-2	Landscape Concept Plan – Roof Top Terrace		В	05.06.2017
20739/6439C; 16/0011	Preliminary Site Investigation	STS GeoEnvironmental Pty Ltd	-	January 2016
J170282	BCA Compliance Capability Report	VIC Lilli & Partners Consulting	-	26.06.2017
-	Waste Management Plan – 9-15 Raphael Street, Lidcombe	-	-	Undated
17282	Traffic and Parking Assessment Report	Varga Traffic Planning Pty Ltd	-	23.06.2017
832067M	BASIX Certificate	Building & Emergu Consultants Australia	-	23.06.2017
17107	Access Compliance Report – 9-15 Raphael Street, Lidcombe	Vista Access Architects Pty Ltd	-	Undated
-	Arboricultural Assessment Report	Tree and Landscape Consultants	-	06.06.2017



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except as otherwise provided by the conditions of this determination (Note:modifications to the approved plans will require the lodgement and consideration by Council of a modification pursuant to Section 96 of the Environmental Planning and Assessment Act 1979).

Reason:- to confirm and clarify the terms of Council's approval.

2. Time period of consent

This consent shall lapse five (5) years from the date of determination unless the approved building, engineering or construction work has been physically commenced in accordance with this consent.

Development consent for the use of land does not lapse if the approved use of any land, building or work is actually commenced prior to the date on which the consent would otherwise lapse.

Reason:- to satisfy the requirements of Section 95 of the Environmental Planning and Assessment Act 1979.

Auburn Section 94 Development Contribution Plan 2007

A monetary contribution comprising \$457,903.06 is to be paid to Cumberland Council for the purpose of LGA Wide plans being the provision of open space and recreation facilities, community facilities, accessibility and traffic works, town centre upgrades, car parking and Council's administration of the development contributions framework in accordance with Cumberland Council's Auburn Section 94 Development Contribution Plan 2007, which has been prepared under Section 94 of the Environmental Planning and Assessment Act 1979, as amended.

The above sum is broken down to the following items:

Item	Amount
Community Facilities	\$112,917.85
Public Domain	\$249,740.99
Accessibility and Traffic	\$68,809.57
Administration	\$26,434.65
TOTAL	\$457,903.06

The amounts payable will be adjusted in accordance with the section titled Review of Contribution rates and are generally indexed on a quarterly basis by the Consumer Price Index CPI (all Groups Sydney) unless otherwise stated in the plan.

Contributions will be adjusted at the payment date in accordance with the plan and payment is to be made prior to the issue of any Construction Certificate.

Reason:- To provide open space and recreation facilities, community facilities, accessibility and traffic works, town centre upgrades, car parking and Council's administration of the development contributions framework.



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4. External Walls & Cladding Flammability

The external walls of the building including attachments must comply with the relevant requirements of the National Construction Code. Prior to the issue of a Construction Certificate and Occupation Certificate the Certifying Authority and Principal Certifying Authority must:-

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

<u>Reason</u>:- to ensure compliance with the requirements of the National Construction Code.

5. Raphael Street and Davey Street widening

Prior to issue of any Construction Certificate, a detail design for Raphael Street widening shall be submitted to and approved by the Cumberland Council's Manager Development Assessment. In this regard,

- Detail design of roads including kerb & gutter and footpath, setting out plans, signposting and design contour plans and street lighting plans shall be submitted for assessment.
- b) Construction methodology and construction programme shall be submitted.
- Signposting and line marking plans shall be submitted to and approved by Council's Local traffic committee.
- d) Written approval from relevant authorities' shall be obtained for the street lighting upgrade at the intersection and other required service adjustments.
- e) All the dimensions shall be marked on the plans.
- f) All the costs shall be borne by the applicant.

Reason:- to ensure Council's assets are designed to Council's requirements.

6. Land dedication and construction of Raphael Street & Davey Street widening

Prior to the issue of any Occupation Certificate, a clearance letter shall be obtained from Cumberland Council's Manager Development Assessment for following:

- Widening of Raphael Street and Davey Street shall be completed to Cumberland Council's Manager Development Assessment's Satisfaction.
- A 2.5m land along the Raphael frontage of the development shall be dedicated to Council.
- A 2.0m wide land along Davey Street frontage of the development shall be dedicated to Council.
- A 2.5 long splay at the Raphael Street and Davey Street corner shall be dedicated to Council.
- e) All the cost associated with the Raphael Street and Davey Street widening including any service adjustments and street lighting shall be borne by the applicant.



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- f) All associated inspections shall be carried out by Council.
- The above land dedications shall be at no cost to Council. g)

Reason:- to ensure adequate road width is available for the proposed development.

7. Waste area head room

Prior to issue of any Construction Certificate, a detail design addressing the following shall be submitted to and approved by the Principal Certifying Authority that the waste collection facility shall be designed for medium rigid vehicle with 4.0m headroom. In this regard detail longitudinal section showing compliance of above requirement shall be submitted.

Reason:- to ensure 4.0m headroom is provided within waste collection area and overland flow path is provided through the site.

On street drainage design 8.

Prior to issue of any Construction Certificate, a detail design for the proposed connection to existing Council's stormwater pipe shall be submitted and approved by the Cumberland Council's Manager Development Assessment. In this regard the longitudinal section, of the proposed stormwater outlet within the Council controlled land, showing the depth and location of all the services within the area of the proposed works shall be submitted.

Reason:- to ensure Council's assets are designed to Council's requirements.

Curved ramp design

Prior to issue of any Construction Certificate, a detail design addressing the following shall be submitted to and approved by the Principal Certifying Authority:

- a) A separator or median shall be provided on two-way curved ramp in accordance with Section 2.5.1 (b) of the Australian standard AS2890.1.
- b) Longitudinal section along the internal curve of the ramp shall comply with section 2.5.3 of the Australian Standard AS2890.1:2004.

Reason:- to ensure curved ramp comply with Australian Standard AS2890.1.

10. On street drainage construction

Prior to the commencement of any drainage works the street drainage works shall be completed to Council's satisfaction at no cost to Council. In this regard,

- a) Inspections will be required for the works related to the proposed connection to Council's stormwater drainage system at following stages:
 - i) After the excavation of pipeline trenches.
 - ii) After the laying of all pipes prior to backfilling.
 - iii) After the completion of all pits and connection points.
- b) A minimum of 48 hours' notice shall be given to Council to inspect works. Inspections may be arranged by telephoning Council's Works and Services Section during office hours.
- c) Work is not to proceed until the works are inspected and approved by Council.



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Reason:- to ensure Council's assets are constructed to Council's requirements.

11. Stormwater disposal

All stormwater runoff generated from the proposed development shall be directed to the On Site Detention system prior to being discharged to existing Council's pipe drainage system in Raphael Street.

Reason:- to prevent localised flooding

12. Surface runoff

Allowances shall be made for surface runoff from adjacent properties, and to retain existing surface flow path systems through the site. Any redirection or treatment of these flows shall not adversely affect any other property.

Reason:- to prevent adverse impact on adjoining properties.

13. Works within Council controlled lands

- For drainage works: a)
 - i) Within Council controlled lands.
 - Connecting to Council's stormwater drainage system. ii)

Inspections will be required:-

- After the excavation of pipeline trenches.
- After the laying of all pipes prior to backfilling.
- After the completion of all pits and connection points.
- A minimum of 48 hours' notice shall be given to Council to inspect works. b) Inspections may be arranged by telephoning Council's Works and Services Section during office hours.
- Work is not to proceed until the works are inspected and approved by Council.

Reason:- to ensure works on public/Council controlled lands are carried out as per Council's requirements.

14. Footpath /Nature strip maintenance during and after construction

The footpath and nature strip within the street frontages shall be maintained during the period of construction to Council's satisfaction.

<u>Reason:</u>- to ensure pedestrian safety during the construction period.

15. Convex safety mirror

Convex safety mirrors shall be provided in the curved sections of the ramp to improve the sight distance. In this regard,



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- Detail plans showing the compliance of above requirements shall be submitted and approved by the Principle Certifying Authority prior to issue of a Construction Certificate.
- b) Convex safety mirrors shall be maintained in good condition.

Reason: to improve the sight distance.

16. Traffic Management

A traffic management plan prepared by a suitably qualified person shall be submitted to and approved by Council for all demolition, excavation and construction activities associated with the development prior to commencement of any work within the subject development site.

Reason: to minimise the impact on local road network.

17. Sediment control

Temporary measures shall be provided in accordance with the NSW Department of Housing, Managing Urban Stormwater, Soils and Construction Manual dated March 2004 and regularly maintained during demolition, excavation and construction to prevent sediment and polluted waters discharging from the site.

<u>Reason</u>:- to ensure sediment and erosion controls are maintained during the construction process to prevent water pollution from occurring.

18. Minimum Headroom - accessible parking spaces

Head room clearance within accessible parking shall be minimum 2500mm to comply with Australian Standards AS2890 requirements. Headroom shall be measured clear of any beams and service ducts.

Sectional plans to comply with these headroom requirements showing all beams and service ducts shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a Construction Certificate.

Reason:- to ensure headroom complies with AS2890.

19. Ramp gradients

Circulation ramp grades shall comply with section 2.5.3 of the Australian Standards AS2890.1:2004. In this regard detail longitudinal section of the ramps to a scale of 1:20, shall be submitted to and approved by the Principal Certifying Authority prior to the issue of any Construction Certificate.

Copy of the approved plan shall be submitted to Council.

<u>Reason:</u>- to ensure the access ramps comply with Australian Standard AS28890.1:2004.



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20. Service relocation / Adjustment

The applicant shall locate any utility services affected by the proposal and shall be responsible for any damage to, or relocation of services required by the proposal including adjustment to the levels of pit lids etc. All works shall be carried out to the satisfaction of the relevant Authority or Council.

All the costs shall be borne by the applicant.

Reason:- to protect utility services.

21. **Splay**

Prior to the issue of any Construction Certificate detail plan showing a 2.5m splay at James Street and Davey Street corner shall be submitted to an approved by Principal Certifying Authority. No structures shall be located within the splay area.

Reason:- to ensure splay area is clear of any structure and dedicated to Council.

22. Submission of Construction Certificate

Construction works are not to commence until such time that a Construction Certificate for the proposed works has been issued by Council or an Accredited Certifier.

Where an Accredited Certifier issues a Construction Certificate, a copy of the following documents must be forwarded to Council within 2 days of issue, together with payment of the Council's adopted registration fee: determination; application to which it relates; Construction Certificate issued; plans and specifications; any fire safety schedule; and any other documents lodged with the certificate.

Any modification involving building works to the approved development made under Section 96 of the *Environmental Planning and Assessment Act* 1979 requires the submission of an amended construction certificate.

<u>Reason</u>:- to comply with the requirements of Section 81A of the <u>Environmental Planning</u> and Assessment Act 1979 and clause 142 of the <u>Environmental Planning</u> and Assessment Regulation 2000.

23. Consolidation of lots

The individual lots are to be consolidated into a single parcel. Written evidence of registration of consolidation by the Land and Property Information Office is to be submitted to Council prior to the granting of the occupation certificate.

<u>Reason</u>:- to ensure the whole of the land essential to the proper operation of the development is preserved.

24. No alteration without prior Council approval

The completed building is not to be altered externally in character or colour without the prior consent of Council.



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Reason:- to ensure the external appearance of the development is not obtrusive or offensive and does not degrade the visual quality of the surrounding area.

25. Appointment of Principal Certifying Authority/Notice of Commencement of Work

Site works are not to commence until:-

- a Construction Certificate for the building work has been issued by the consent authority, and
- b) the person having the benefit of the Development Consent has:
 - appointed a Principal Certifying Authority for the building work, and
 - notified the Principal Certifying Authority that the person will carry out the ii) building work as an owner-builder, if that is the case, and
- b1) the Principal Certifying Authority has, no later than 2 days before the building work commences:
 - i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
 - ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- b2) the person having the benefit of the Development Consent, if not carrying out the work as an owner-builder, has:
 - i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
 - ii) notified the Principal Certifying Authority of any such appointment, and
 - unless that person is the principal contractor, notified the principal iii) contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- c) the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the erection of the building.

Reason:- to comply with the requirements of Section 81A of the Environmental Planning and Assessment Act 1979.

26. Principal Certifying Authority

- a) The person having the benefit of a Development Consent or Complying Development Certificate for development involving building work or subdivision work may appoint the consent authority, the council or an accredited certifier as the Principal Certifying Authority for the development.
- a1) Despite subsection (a), such an appointment may not be made by any contractor or other person who will carry out the building work or subdivision work unless the contractor or other person is the owner of the land on which the work is to be carried out.



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- b) Despite subsection (a), an accredited certifier must not be appointed as the Principal Certifying Authority for development involving subdivision work unless the subdivision to which the work relates is of a kind identified by an environmental planning instrument as one in respect of which an accredited certifier may be a certifying authority.
- c) A Principal Certifying Authority for building work or subdivision work to be carried out on a site is required to be satisfied:-
 - that a Construction Certificate or Complying Development Certificate has been issued for such of the building work or subdivision work as requires development consent and over which the Principal Certifying Authority has control, before the work commences on the site, and
 - ii) that the principal contractor for the work is the holder of the appropriate licence and is covered by the appropriate insurance, in each case if required by the *Home Building Act 1989*, before any residential building work over which the Principal Certifying Authority has control commences on the site, unless the work is to be carried out by an owner-builder, and
 - that the owner-builder is the holder of any owner-builder permit required under the *Home Building Act 1989*, before an owner-builder commences on the site any residential building work over which the Principal Certifying Authority has control, and
 - iv) that building work or subdivision work on the site has been inspected by the Principal Certifying Authority or another certifying authority on such occasions (if any) as are prescribed by the regulations and on such other occasions as may be required by the Principal Certifying Authority, before the Principal Certifying Authority issues an Occupation Certificate or Subdivision Certificate for the building or work, and
 - that any preconditions required by a Development Consent or Complying Development Certificate to be met for the work before the issue of an Occupation Certificate or Subdivision Certificate have been met, before the Principal Certifying Authority issues the Occupation Certificate or Subdivision Certificate.
- d) A Principal Certifying Authority must also comply with such other requirements of a like or different nature as may be imposed on Principal Certifying Authorities by the regulations.

Note. Section 81A prohibits the commencement of building work or subdivision work unless the consent authority has been notified of the appointment of a Principal Certifying Authority for the work. Section 109D (2) prohibits the issue of an Occupation Certificate authorising the occupation and use of a new building except by the Principal Certifying Authority appointed for the erection of the building. Section 109D (3) prohibits the issue of a Subdivision Certificate for a subdivision involving subdivision work except by the Principal Certifying Authority appointed for the carrying out of the subdivision.

<u>Reason</u>:- to comply with the requirements of Section 109E of the *Environmental Planning and Assessment Act 1979*.



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27. Provision of Street Numbers

A street number is to be displayed in a prominent position at the entrance to the premises. Numbers are to be of a colour contrasting with the wall to which they are affixed.

Reason:- to clearly identify the street number of the property.

28. Compliance with the Building Code of Australia

All building work must be carried out in accordance with the requirements of the Building Code of Australia.

Reason:- to ensure compliance with the requirements of the Building Code of Australia and to comply with Clause 98 of the Environmental Planning and Assessment Regulation 2000.

29. Insurance requirements under the Home Building Act 1989

A contract of insurance for residential building work must be in force before any building works commence, where the works are being undertaken by a builder and tradesperson and the works have a market value of greater than \$20,000 (or as varied from time to time by the Home Building Act 1989).

Where the contract price or the reasonable market cost of the labour and materials involved does not exceed \$20,000, there is no legal requirement for home warranty insurance to be obtained.

Contractors who carry out residential building work must still hold an appropriate licence with Fair Trading where the labour and materials involved are valued at over \$1,000.

Home owners should be wary of any builder or tradesperson who says they do not need insurance if the value of work exceeds \$20,000, or who suggests you obtain an owner-builder permit while they carry out the work for you.

Note: Evidence of the contract of insurance or owner builder permit, if required, must be submitted with the application for construction certificate. The Construction Certificate will not be released by Council unless this evidence is provided.

Reason:- to comply with Clause 98 of the Environmental Planning and Assessment Regulation 2000.

30. Disabled Access & Facilities

Access and facilities for people with disabilities must be provided in accordance with the relevant requirements of the Building Code of Australia (for all new building work) and in addition, with the relevant requirements of the 'Disability (Access to Premises – Building) Standards 2010' (including for existing buildings, whether or not any works are proposed). Details of the proposed access, facilities and car parking for people with disabilities are to be included in the plans/specifications for the Construction Certificate.



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<u>Reason</u>: to ensure compliance with the requirements of the Building Code of Australia.

31. Commonwealth Disability Discrimination Act 1992

The Commonwealth Disability Discrimination Act 1992 commenced the 'Disability (Access for Premises – Buildings) Standards 2010' on 1 May 2011 and now applies to all new buildings and affected parts of existing buildings. Submission and/or approval of this application does not imply or confer compliance with either the Act or the new Access Standard. Applicants should satisfy themselves and make their own inquiries to the Human Rights and Equal Opportunity Commission.

<u>Reason:</u> to provide advice on the requirements of the Commonwealth Disability Discrimination Act 1992.

32. Replacement of Principal Certifying Authorities

Unless the relevant authority so approves in writing, a person may not be appointed to replace another person as the Principal Certifying Authority for development.

A Principal Certifying Authority appointed to replace another Principal Certifying Authority must ensure that notice of the appointment and of the approval of that appointment is given to the consent authority (and, if the consent authority is not the council, to the council) within 2 days of the appointment.

<u>Reason</u>:- to comply with the requirements of Section 109EA of the <u>Environmental Planning</u> and Assessment Act 1979 and clause 162 of the <u>Environmental Planning</u> and Assessment Regulation 2000.

33. Notice to Allow Inspections

To allow a Principal Certifying Authority or another certifying authority time to carry out critical stage inspections or any other inspections required by the Principal Certifying Authority, the principal contractor for a building site, or the owner-builder, must notify the Principal Certifying Authority at least 48 hours before building work is commenced at the site if a critical stage inspection is required before the commencement of the work.

<u>Reason</u>:- to comply with the requirements of Clause 163 of the *Environmental Planning and Assessment Regulation 2000*.

34. Erection of Signs

A rigid and durable sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:-

- showing the name, address and telephone number of the Principal Certifying Authority for the work, and
- showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and

c) stating that unauthorised entry to the work site is prohibited.



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

Note: Principal Certifying Authorities and principal contractors must also ensure that signs required by this clause are erected and maintained (see clause 227A which currently imposes a maximum penalty of \$1,100.

<u>Reason</u>:- to comply with the requirements of Clause 98A and 136B of the <u>Environmental Planning and Assessment Regulations 2000.</u>

35. BASIX Requirements

Under Clause 97A(3) of the *Environmental Planning and Assessment Regulation* 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for the development are fulfilled. In this condition:-

- a) Relevant BASIX Certification means:-
 - A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under Section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified) or;
 - ii) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate; and
- b) BASIX Certificate has the meaning given to that term in the *Environmental Planning and Assessment Regulation 2000.*

<u>Reason:-</u> To comply with the Environmental Planning and Assessment Regulations 2000.

36. Demolition of buildings

The building/s shall only be demolished in accordance with the requirements of AS 2601-2001 "The Demolition of Structures".

Amongst others, precautions to be taken shall include compliance with the requirements of the WorkCover Authority of New South Wales, including but not limited to:-

- a) Protection of site workers and the general public.
- b) Erection of hoardings where appropriate.
- Asbestos handling and disposal where applicable.
- d) Any disused service connections shall be capped off to Council's requirements.
- e) The disposal of refuse is to be to an approved waste disposal depot.

<u>Reason</u>:- to ensure protection of the public, environment and to uphold public health standards. This also complies with the requirements of clause 92 of the *Environmental Planning and Assessment Regulation 2000*.



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37. Demolition - Lead Management Work Plan

A Lead Management Work Plan shall be prepared in accordance with AS2601-2001 Demolition of Structures by a person with suitable expertise and experience and submitted to the Principal Certifying Authority or Council for approval prior to the issuing of the Construction Certificate. The Lead Management Work Plan shall outline the identification of any hazardous materials, including surfaces coated with lead paint, method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials. The Lead Management Work Plan shall be prepared in accordance with:-

- a) AS 4361:1998 Guide to lead paint management;
- b) Australian Standard AS 2601: 2001 Demolition of Structures;
- c) Lead Safe A renovator's guide to the dangers of lead, NSW EPA, 1998 (booklet)

<u>Reason</u>:- to ensure suitable procedures are employed to manage demolition activities involving lead paint.

38. Demolition - Lead Paint Disposal

The demolition and disposal of materials incorporating lead such as lead paint and dustpaint shall be conducted in accordance with AS2601-2001 Demolition of Structures. Removal, cleaning and disposal of lead-based paint shall conform with relevant EPA guidelines including the Lead Safe A renovator's guide to the dangers of lead, NSW EPA, 1998. Hazardous dust shall not be allowed to escape from the site. Any existing accumulations of dust (eg; ceiling voids and wall cavities) shall be removed by the use of an industrial vacuum fitted with a high efficiency particulate air (HEPA) filter. All dusty surfaces and dust created from work shall be suppressed by a fine water spray. Water shall not be allowed to enter the street and stormwater systems. Demolition shall not be performed during high winds, which may cause dust to spread beyond the site boundaries. Please note that Council may require testing to verify that the soil lead levels are below acceptable health criteria.

<u>Reason</u>:- to ensure the disposal and demolition of materials incorporating lead is carried out in a safe manner in accordance with relevant regulations.

39. Demolition – common sewerage system

If the land to which the application relates is served by a common sewerage system that is also used by others, then measures must be placed in effect and prior to the commencement of work to ensure the operation of the sewerage system is without disruption to other joint users.

<u>Reason</u>:- to ensure demolition activities do not disrupt the operation of the sewerage system for other users of the system.

40. Demolisher Details

The demolisher/owner/applicant shall:-

 Lodge with Council, and at least forty-eight (48) hours prior to the commencement of work (due to the potential impact on Council's infrastructure):-



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- Written notice, indicating the date when demolition of the building is to commence.
- ii) The demolisher's full name and address.
- iii) Details of Public Liability Insurance.
- b) Comply with Australian Standard 2601 2001 "Demolition of Structures"; and,
- Have a current public liability/risk insurance, and policy details of such shall be submitted to Council for its records.
- d) Ensure that all possible/practicable steps are taken to prevent nuisance to the inhabitants of the surrounding neighbourhood from wind-blown dust, debris, noise and the like arising from the demolition works

This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.

<u>Reason</u>:- to ensure details of the demolisher are provided to Council and relevant safety requirements are met.

41. Demolition Works - noise and vibration

The following shall be compiled with:-

- Vibration levels induced by the demolition activities shall not exceed 1mm/sec peak particle velocity (ppv) when measured at the footing of any occupied building.
- b) Vibration levels induced by the demolition activities shall not exceed 3mmsec peak particle velocity (ppv) when measured at the footing of any unoccupied building.
- c) The upper noise level from the demolition operations measured over a period of 10 minutes must not exceed the background noise level by more than 10dB(A).

<u>Reason</u>:- to ensure noise and vibration arising from the demolition works does not impact on the amenity of the surrounding area.

42. Asbestos

- a) In the event that asbestos is on a site or building under demolition or construction, WorkCover NSW is to be contacted to ascertain the appropriate response, to ensure the safety and protection of existing and future workers and residents. An Asbestos Removal Contractor licensed by WorkCover NSW is to handle/remove/transport and dispose of any products containing asbestos in a manner approved of by the Department of Environment and Conservation (DEC). Copies of tipping dockets are to be retained and able for viewing by Council officers on request.
- b) Asbestos material can only be disposed of at a landfill site nominated by Waste Services NSW for that purpose. An appointment must be made with Waste Services NSW to dispose of asbestos materials at the nominated landfill.



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c) Anyone who removes, repairs or disturbs bonded or a friable asbestos material must hold a current removal licence from Workcover NSW. Before starting work, a work site-specific permit approving each asbestos project must be obtained from Workcover NSW. A permit will not be granted without a current Workcover licence. All removal, repair or disturbance of or to asbestos material must comply with:-

- i) Work Health and Safety Act 2011;
- The Work Health and Safety Regulation 2011; ii)
- Protection of the Environment Operations Act 1997 iii)
- Environmental Guidelines: Assessment, Classification and Management of iv) Liquid and Non-Liquid Wastes, NSW EPA, May 1999
- Waste Avoidance and Resource Recovery Act 2001. v)
- The Code of Practice for the Safe Removal of Asbestos [NOHSC: 2002 vi) (1998)];
- vii) The Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998)] http://www.nohsc.gov.au; and
- The Workcover NSW Guidelines for Licensed Asbestos Removal viii) Contractors.

Note: The Code of Practice and Guide referred to above are known collectively as the Worksafe Code of Practice and Guidance Notes on Asbestos. They are specifically referenced in the Occupational Health and Safety Regulation 2001 under Clause 259.

Under the Work Health and Safety Regulation 2011, the Worksafe Code of Practice and Guidance Notes on Asbestos are the minimum standards for asbestos removal work.

Council does not control or regulate the Worksafe Code of Practice and Guidance Notes on Asbestos. You should make yourself aware of the requirements by visiting http://www.workcover.nsw.gov.au or one of Workcover NSW's offices for further advice.

In order to ensure safe handling of asbestos materials, the re-use or sale of asbestos building materials is strictly prohibited.

Reason:- to ensure the safe handling, treatment and disposal of asbestos materials arising from the demolition/construction works.

43. Services to be capped

Prior to the commencement of demolition works, the applicant must ensure that utility services to the land upon which the building to be demolished stands, as well as the building itself, are terminated and capped in accordance with the requirements of supply authority, e.g. Electricity-Supplier of Electricity to the subject premises, Gas-Supplier of Gas to the subject premises.

Reason:- to ensure all services are capped adequately.



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44. Site to be kept in a clean condition

Upon completion of demolition works and if no new building works are commenced on site, the site shall be kept in a clean manner with landscaping and fencing to the satisfaction of Council.

Reason: to control soil erosion, and not have any unsightly views.

45. Neighbour 24 notification of commencement of demolition

Prior to the commencement of work the applicant shall provide 24 hours notice in writing to the neighbours adjoining and opposite the site of the intended time and date of the start of the demolition work.

Reason:- to ensure details of the demolisher are provided to neighbours.

46. Construction/Demolition Hours

Site works, building works and demolition works, including the delivery of materials or equipment to and from the property are to be carried out between the hours of 7.00a.m. and 6.00p.m. only from Mondays to Fridays and between 8.00a.m. and 4.00p.m. only on Saturdays. No construction works or deliveries for the construction are to take place on Sundays or public holidays.

Prior to commencement of any demolition or construction work the applicant is to erect signs on the site, which are clearly visible from the footpaths adjoining the site boundaries, which state the permitted construction/demolition hours. These signs must also state "Any instances of site works, building works, demolition works or deliveries outside the permitted hours can be reported to Cumberland Council on 02 8757 9000 during office hours or 0417 287 113 outside office hours".

<u>Reason</u>:- to reduce nuisance to the surrounding properties during the construction period.

47. Information required prior to the issue of Construction Certificate

The following documentation (where applicable) is to be submitted to Council or the accredited certifier, prior to the granting of the Construction Certificate:

- Detailed building plans and specifications containing sufficient information to verify that the completed building will comply with the Building Code of Australia.
- b) A list of any existing fire safety measures provided in relation to the land or any existing building on the land (not applicable to dwellings or outbuildings)
- A list of any proposed fire safety measures provided in relation to the land or any
 existing building on the land (not applicable to dwellings or outbuildings)
- d) A report prepared by a professional engineer detailing the proposed methods of excavation, shoring or pile construction, and what measures are to be implemented to prevent damage from occurring to adjoining or nearby premises as a result of the proposed excavation works. (Note: Any practices or procedures specified to avoid damage to adjoining or nearby premises are to be incorporated into the plans and specifications for the construction certificate).
- e) Method of protecting window/door openings as required by Building Code of Australia Part 3.



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f) Method of ventilating the basement car park. (Note: If mechanical ventilation is required, mechanical ventilation plans shall be submitted that also confirm the minimum height clearances specified by Australian Standards AS 2890.1 - Car parking, will be achieved).

Reason:- to ensure that adequate information is submitted to enable assessment or that the development can proceed with the concurrence of others.

48. Infrastructure Fee

The infrastructure inspection fee in accordance with Councils Fees and Charges Schedule shall be paid prior to the issue of the Construction Certificate.

Reason:- to contribute to the cost of inspection and identification of any damage to Council's infrastructure as a result of the development.

49. Maintain plans on-site

A copy of the construction certificate, the approved plans & specifications and development consent conditions must be kept on the site at all times and be available to the Council officers upon request.

Reason:- to ensure a record of the approved plans are readily available.

50. Items not to be placed on roadway

The following items must not be placed on the footpath, roadway or nature strip at any time:-

- a) Building materials, sand, waste materials or construction equipment;
- b) Bulk bins/waste skips/containers; or
- Other items that may cause a hazard to pedestrians.

Reason:- to ensure the public is not inconvenienced, placed in danger and to prevent harm to the environment occurring.

51. Sign to be erected concerning unauthorised entry to the site

A sign must be erected in a prominent position stating that unauthorised entry to the site is not permitted. The sign must also name the builder or other person responsible for the site and a telephone number at which the builder or other person can be contacted outside working hours. Where Council is not the Principal Certifying Authority, the sign shall also display the name and contact details of the nominated Principal Certifying Authority. The sign is to be removed when the building works have been completed.

Reason:- to restrict public access to the site and to provide suitable contact details in a clear and conspicuous position.

52. Toilet accommodation for people working at the site

Suitable toilet accommodation is to be provided at the work site at all times. If temporary toilet accommodation is proposed, it must:-



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- Have a hinged door capable of being fastened from both inside and outside,
- Be constructed of weatherproof material,
- Have a rigid and impervious floor; and
- Have a receptacle for, and supply of, deodorising fluid.

Reason:- to ensure suitable toilet accommodation is provided for workers.

53. Survey Report

A Registered Surveyors check Survey Certificate is to be forwarded to the Principal Certifying Authority (and a copy is to be forwarded to the Council, if the Council is not the Principal Certifying Authority), detailing compliance with Council's approval at the following stage/s of construction:

(Setbacks and levels at commencement – new dwellings)

Prior to construction of the first completed floor/floor slab (prior to pouring of concrete), showing the area of land, building and boundary setbacks and verifying that the building is being constructed at the approved levels.

(Setbacks and levels at completion – new dwellings)

On completion of the erection of the building showing the area of the land, the position of the building and boundary setbacks and verifying that the building has been constructed at the approved levels.

Reason:- to ensure each stage of the development complies with the approved plans.

54. Display of a warning sign for soil and water management

Throughout the construction/remediation/demolition period, a warning sign for soil and water management must be displayed on the most prominent point of the building site, visible to both the street and site works.

Reason:- to ensure all building workers are aware of the need to maintain the sediment and erosion control devices.

55. Engineering Design – Basement Excavation

The following engineering details or design documentation (where appropriate) shall be submitted to the Principal Certifying Authority (Council or accredited certifier) prior to the issuing of a Construction Certificate:-

- Documentary evidence prepared by a suitably qualified professional geotechnical engineer shall be submitted to the certifying authority, that confirms the suitability and stability of the site for the proposed excavation and building as well as certifying the suitably and adequacy of the proposed design and construction of the building for the site.
- A report shall be prepared by a professional engineer and submitted to the certifying authority prior to the issuing of a Construction Certificate, detailing the proposed methods of excavation, shoring or pile construction, including details of vibration emissions and detailing any possible damage which may occur to adjoining or nearby premises that may be caused by the proposed building and excavation works.



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Any practices or procedures specified in the engineer's report in relation to the avoidance or minimisation of structural damage to nearby premises, are to be fully complied with and incorporated into the plans and specifications for the Construction Certificate.

A copy of the engineer's report is to be submitted to the Council, if the Council is not the certifying authority.

- c) Driven type piles/shoring must not be provided unless a geotechnical engineer's report is submitted to the certifying authority, prior to the issuing of a Construction Certificate, which states that damage should not occur to any adjoining premises and public place as a result of the works.
- d) The installation of ground or rock anchors underneath any adjoining premises including (a public roadway or public place) must not be carried out without the specific written consent of the owners of the affected adjoining premises and (where applicable) details of compliance must be provided to the certifying authority prior to the commencement of any excavation or building works.

<u>Reason</u>:- to ensure the proposed method of excavation is suitable for the site and to prevent damage from occurring to adjoining premises.

56. Excavations extending below the base of footings of adjoining development

Where excavations extend below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must preserve and protect the building from damage and, if necessary, underpin and support the adjoining building in an approved manner. The person causing the excavation must give the owner of the adjoining property at least seven (7) days written notice of its intention to excavate below the level of the base of the footing. The person must also furnish the adjoining property owner with particulars of the proposed work.

Reason:- to ensure the support for neighbouring buildings.

57. Dilapidation Report - Prior to Excavation of Basement

 A dilapidation report prepared by a professional engineer or suitably qualified building professional shall be submitted to the Principal Certifying Authority prior to the commencement of demolition, excavation or building works.

The report shall detail the current condition and status of all buildings, including ancillary structures (i.e. including dwellings, residential flat buildings, commercial/industrial building, garages, carports, verandahs, fences, retaining walls, swimming pools and driveways etc.) located upon all of the premises adjoining the subject site.

The report is to be supported with photographic evidence of the status of the buildings and a copy of the report must also be forwarded to the Council and to the owners of each of the abovestated premises, prior to the commencement of any works. The applicant shall bear the full cost of this report.

b) Notwithstanding (a) above, certification by a practicing professional engineer in lieu of a dilapidation report may be provided prior to the commencement of demolition, excavation or building works certifying that the demolition,



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excavation and or building works will not have an impact on any adjoining structure including ancillary structures (i.e. including dwellings, residential flat buildings, commercial/industrial building, garages, carports, verandahs, fences, retaining walls, swimming pools and driveways etc.).

The applicant shall bear the full cost of this certification and the Council or Principal Certifier reserves the right to request a full report as described in (a) above should the certification provided by the engineer be considered unacceptable or insufficient.

<u>Reason</u>:- to enable the monitoring of any potential damage that may be caused to adjoining premises as a result of excavating and building in close proximity to the adjoining premises.

58. Footpath area to be illuminated

Where any hoarding or awning is constructed over the public place, the footpath area shall be kept illuminated between sunset and sunrise.

Reason:- the ensure the safety of pedestrians when passing the site.

59. Fencing of construction sites – Rental details to be provided to the PCA (A & B Type Hoardings)

A separate application is to be made to Council for Approval under Section 68 of the *Local Government Act 1993* to erect any hoarding or scaffolding in a public place and such application is to include:

- A payment to Council for the following fees in accordance with Council's adopted charges:
 - Hoarding/Structure Application Fee
 - o Rental of Footpath Area (per metre per month minimum 3 months rental)
 - Footpath Bond
- Submit the following documents to Council with your application:
 - o Certificate of Currency for Public Liability Insurance
 - o Certificate of Currency for Worker's Compensation Insurance
 - Letter indemnifying Council against claims and expenses made in relation to the existence of the structure and/or traffic provisions
 - o Traffic/Pedestrian Control Plan
 - In respect to any required Type B Hoarding, structural certification prepared and sign by an appropriately qualified practising Structural Engineer
- Comply with Council's specifications for the erection of Class A Hoardings.
- Supply evidence to the Principal Certifying Authority and to any authorised Council officer that the road reserve rental fee has been paid.

Note: Public access to the site and building works, materials and equipment on the site is to be restricted, when work is not in progress or the site is unoccupied.



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A temporary hoarding or fence is to be provided to protect the public, located to the perimeter of the site (unless the site is separated from the adjoining land by an existing structurally adequate fence, having a minimum height of 1.5m). Hoardings or fences are to have a minimum height of 1.8m and be constructed of solid plywood sheeting (painted white) or of cyclone wire fencing with geotextile fabric attached to the inside of the fence, to provide dust control.

Note: A "B Class" overhead type hoarding is required to be provided to protect the public, located adjacent to the development, prior to the commencement of any works on the site which comprise:

- Any works or hoisting of materials over a public footway or adjoining premises, or
- Any building or demolition works on buildings which are over 7.5m in height and located within 3.6m of the street alignment.

Hoardings or fences are to be structurally adequate and be constructed in a good and workmanlike manner and the use of poor quality materials or steel reinforcement mesh as fencing is not permissible.

The public safety provisions and temporary fences must be in place prior to the commencement of any demolition, excavation or building works and be maintained throughout construction. Details of the proposed hoardings or fences located upon the site are to be submitted to the Principal Certifying Authority and the public safety provision and temporary fences must be in place prior to the commencement of any site works, demolition, excavation or building works and maintained throughout construction.

Reason:- to provide protection to public places, prevent unauthorised access to the site and a safe working environment.

60. Noise from construction activities

Noise from construction activities associated with the development shall comply with the NSW Interim Construction Noise Guidelines (DECCW) 2009.

Reason:- to ensure noise arising from construction activities is in accordance with relevant legislation and Environment Protection Authority requirements.

61. Dial before you dig (advisory)

Dial Before You Dig is a free national community service designed to prevent damage and disruption to the vast pipe and cable networks which provides Australia with the essential services we use everyday - electricity, gas, communications and water.

Before you dig call "Dial before you dig" on 1100 (listen to the prompts) or facsimile 1300 652 077 (with your street no./name, side of street and the distance to the nearest cross street) or register on line at www.dialbeforeyoudig.com.au for underground utility services information for any excavation areas.

The Dial Before You Dig service is also designed to protect Australia's excavators. Whether you are a back yard renovator, an individual tradesman or a professional excavator the potential for injury, personal liability and even death exists every day. Obtaining accurate information about your work site significantly minimises these risks.



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<u>Reason:</u>- To ensure that essential services such as electricity, gas, communications and water are not affected by excavation or construction.

62. Reinstatement of footpath and footpath crossing

The footpath and footpath crossing/s adjacent to the property shall be reinstated by Council at the completion of works with all costs being borne by the developer. Alternatives to the pre-payment for this work will be considered if written request is made to Council.

<u>Reason</u>:- to ensure the footpath and the footpath crossings are repaired from any damage caused during the construction phase.

63. Vehicle Driveway Crossings and Gutter Laybacks

Arrangements shall be made with Council for the prepaid construction of vehicular crossings and gutter laybacks at all property entrances and exits, and for the removal of all disused driveway crossings and gutter laybacks. Alternatives to the pre-payment for this work will be considered if written request is made to Council. The gutter crossing and/or the removal of any redundant crossings must be constructed to the satisfaction of Council (and to the Council's specifications including payment of any required bonds) or the prepayment made to Council for Council to carry out the work, prior to the issue of any Occupation Certificate.

Removal of obstructions, such as power poles, trees, drainage pits and the like shall be carried out at the applicant's expense.

Reason:- to ensure that works are carried out in accordance with Council's standard.

64. Carrying capacity of driveways - Heavy duty

Suitable heavy-duty driveway crossings are to be installed at all ingress/egress points to the property at the applicant's cost by Council. Alternatives to the pre-payment for this work will be considered if written request is made to Council. The gutter crossing and/or the removal of any redundant crossings must be constructed to the satisfaction of Council (and to the Council's specifications including payment of any required bonds) or the prepayment made to Council for Council to carry out the work, prior to the issue of any Occupation Certificate.

<u>Reason</u>:- to ensure the driveways can support the expected weight of heavy vehicles likely to frequent the site.

65. Street boundary levels

Street boundary levels for vehicle access and drainage purposes are to be obtained at the applicant's cost from Council's Service Planning Department prior to commencement of any works. These levels are to be incorporated in all drainage submissions required under this determination.

<u>Reason</u>:- to ensure the correct levels are obtained and used for the development.



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66. Road opening permit

Prior to commencement of any work on Council roads and footpaths, a road-opening permit shall be obtained from Council's Service Planning Department.

Reason:- to safeguard Council property against damage.

67. Restoration works

Prior to commencement of any excavation work on Council roads or footpaths, the applicant shall pay for all restoration costs. The area of restoration shall be determined on site between the applicant or its contractor and Council's Contracts & Maintenance Engineer.

<u>Reason</u>:- to ensure that Council's infrastructure is maintained in a safe and trafficable manner.

68. Structural Engineering Certificate

The applicant shall submit a structural engineer's certificate of adequacy verifying that the works as detailed on the approved plans for the storage tank have been completed under his/her supervision and that the design is adequate to support the anticipated design loads. The certificate shall be submitted to Council with the works-as-executed plan.

Reason: to ensure the construction is structurally adequate.

69. Water Reuse

The stormwater generated from the roof area shall be reused for the irrigation of the landscape area within the subject development site.

Full details of the Water reuse facilities shall be submitted to Council or the Accredited Certifier with the Construction Certificate.

On completion, a certificate from a registered plumber shall be submitted for the pipe network. The certification shall indicate the water reuse system has been installed in accordance with the approved water reuse design plans.

<u>Reason:</u>- to ensure the water reuse facilities within the development are constructed and maintained in good working order.

70. Stormwater disposal - on-site detention

On-site stormwater detention storage is to be provided in conjunction with the stormwater disposal. The storage is to comply with "Auburn Development Control Plans 2000 - Stormwater Drainage". Where multiple detention basins with differing top water levels are used, the basins must be routed to the outlet pit independent of each other.



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A positive covenant under Section 88E of the *Conveyancing Act 1919* is to be created on the title of the property detailing the on-site stormwater detention system incorporated in the development. The wording of the instrument is to be submitted and approved by Council prior to lodgement at the Land Titles Office. Evidence confirming the positive covenant has been registered shall be submitted to Council prior to occupation of the building or issue of the occupation certificate.

Note:

- 1. Positive covenant wording shall be obtained from Council prior to lodgement.
- Work as executed plan shall be accompanied by relevant checklists.

<u>Reason:</u>- to prevent localised flooding by ensuring the detention system is maintained as designed.

71. Maintenance schedule - OSD

Prior to the issue of the Occupation Certificate, a maintenance schedule of the proposed on-site detention facility shall be submitted to Council for approval with the stormwater work-as executed plan. This maintenance schedule shall be registered as part of the positive covenant.

Reason:- to ensure the onsite detention facility is in good working order.

72. Annual maintenance inspection of OSD

Annual maintenance inspection summary of the onsite detention with associated certificates shall be sent to Council within the first month of every calendar year. In this regard:

- All critical inspections shall be carried out by a qualified person.
- A maintenance log book shall be maintained as per the approved maintenance schedule on site and readily available for inspection by a Council officer.
- All associated cost shall be borne by the owner.

Reason: - to ensure the onsite detention facility is in good working order.

73. Engineer Certificate for critical pump

A certificate from a practising hydraulic engineer verifying that the stormwater pump installation and the design with the executed levels shall be submitted to the Council with the work as executed plan prior to the release of Occupation Certificate.

 $\underline{\textit{Reason}}$:- to ensure the system has been constructed Council's standards and specifications.

74. Basement drainage system

Basement drainage is to comply with "Auburn Development Control Plans 2010 - Stormwater Drainage". In this regard:

a)Two pump units being installed, the capacity of each being calculated on the basis of a hundred year storm recurrence interval and a storm duration of 5 (five) minutes, one pump acting in reserve capacity.



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- b) The two pumps being designed to work on an alternate basis to ensure that both pumps receive equal usage and neither pump remains continuously idle.
- c) A holding well being provided within the basement, of sufficient capacity to store the discharge based on a hundred year storm recurrence interval and storm duration of ninety minutes. In addition to this an above ground storage shall be provided up to a hundred year storm recurrence interval and storm duration of two hours. The holding well is to be designed so that a minimum volume of water is retained in the well for health reasons when the pumps are in the "off" position or if there is a break in electrical supply.
- d) A storm of two hours' duration has been adopted as a basis for determining the size of the well, the assumption being that electrical supply will be reinstated within this period.
- e) The pump out system is to be independent of any gravity drainage lines, except at the property boundary where a grated surface pit is to be constructed from which a connection will be permitted to the gravity drainage system. The invert levels of the pipes in the grated surface pit are to be such that the outlet from the pump out system is above the inlet of the gravity system.
- f) Storage areas and areas used for purposes other than car parking or access aisles are to be constructed a minimum of 100mm above the top water level.
- g) The contributing catchment area to the pump out system is to be limited to the access ramp area only and subsoil drainage.

Reason:- to prevent localised flooding.

75. Footpath Construction - Raphael Street

The footpath adjoining Raphael Street frontage shall be reconstructed in concrete unit paving in accordance with the Council's Town Centres Infrastructure Manual specifications. Site boundary line levels shall be raised to the boundary line levels, with satisfactory end-transitions provided.

- Detail footpath design shall be submitted and approved by Council's Works and Services section prior to the issue of a Construction Certificate.
- Street boundary levels obtained from Council shall be incorporated in the design.
- The details of construction requirements shall be requested from the Council prior to commencement of construction.
- Formwork inspection and footpath inspection shall be carried out by Council.
- All associated cost shall be borne by the applicant.
- The footpat shall be constructed at the completion of works and finished to the satisfaction of Council prior to the issue of an Occupation Certificate.
- All associated cost shall be borne by the applicant

<u>Reason:</u>- to provide a safe footpath for increased pedestrian use and one that will complement the Council requirements.

76. Footpath Construction – Davey Street

The footpath adjoining Davey Street frontage shall be reconstructed in concrete unit paving in accordance with the Council's Town Centres Infrastructure Manual specifications. Site boundary line levels shall be raised to the boundary line levels, with satisfactory end-transitions provided.



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- Detail footpath design shall be submitted and approved by Council's Works and Services section prior to the issue of a Construction Certificate.
- Street boundary levels obtained from Council shall be incorporated in the design.
- The details of construction requirements shall be requested from the Council prior to commencement of construction.
- Formwork inspection and footpath inspection shall be carried out by Council.
- All associated cost shall be borne by the applicant.
- The footpat shall be constructed at the completion of works and finished to the satisfaction of Council prior to the issue of an Occupation Certificate.
- All associated cost shall be borne by the applicant

<u>Reason:</u>- to provide a safe footpath for increased pedestrian use and one that will complement the Council requirements.

77. Works-as-Executed Plan – Drainage Plans

Prior to occupation of the building or issue of the Occupation Certificate, two (2) copies of the Works-as-Executed (W.A.E.) Plan prepared by a registered surveyor and certified by the design engineer shall be submitted to Council. The W.A.E. plan shall show (where applicable):

- a) Whether all works have been completed generally with the approved drainage plans.
- b) Any departure from the approved plan and conditions.
- c) Any additional work that has been undertaken.
- d) Location, levels and sizes of pipes and pits.
- e) Finished floor and finished surface levels. The location of finished levels should in general correspond with those shown on Council's approved drainage plan.
- f) Basement pump out volumes.

Note: The W.A.E. surface level shall be taken after all landscaping has been completed.

In this regard:

 The above information is to be superimposed on a full sized copy of Council approved drainage plan and is to be submitted to Council.

Reason: - to account for minor variations and to ensure Council has the final details.

78. Arrangements for Water and Sewer Services

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

Application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's web site at www.sydneywater.com.au then the "e-developer" icon or telephone 132 092.



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Following application a "Notice of Requirements" will detail water and sewer extensions to be built or charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscaping design.

The Section 73 Certificate must be submitted to the Principal Certifying Authority (Council or accredited certifier) prior to release of the final plan of subdivision or occupation of the development.

<u>Reason</u>:- to ensure that adequate water and sewer services can be provided to the site

79. Sydney Water Approval

The approved development application plans must be accompanied by a valid Building Plan Assessment Approval Receipt. This receipt can be acquired through the "Sydney Water Tap" in system by the Sydney Water Authority.

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

- Information on the "Sydney Water Tap in" system and
- Registering and applying for the approval receipt for the Proposed Building Plan.

or telephone 13 20 92.

Note:

- The consent authority or accredited certifier must either:
- ensure that a valid approval receipt has been obtained from Sydney Water before the issue of any Construction Certificate (receipt valid usually 1 year from the date of issue); or
- if there is a combined Development/Construction Certificate application, ensure that a valid approval receipt has been obtained prior to works commencing on site.

<u>Reason:-</u> to ensure the development does not damage or interfere with Sydney Water assets.

80. Television Aerial/Satellite Dish

A single common television aerial, and/or satellite dish (having a maximum diameter of 700mm and not located on the front or street elevation of the building) is to be installed to serve the development.

<u>Reason</u>:- to ensure the provision of these services does not impact on the finished appearance of the development.

81. <u>Details on the Location of the Padmount Substation</u>

Details of the padmount substation for the development including its location, service access and landscaping are to be submitted to Council for approval prior to the issue of a construction certificate.

<u>Reason</u>:- to ensure a minimal impact for the proposed padmount substation.



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Subdivision development application requirements

The following requirements will apply to any future development application for subdivision at the site:-

- a) The Strata subdivision or other subdivision of the development being the subject of a further Development Application to Council; and,
- b) This development application for subdivision must be accompanied by the following documentation that indicates:
 - i) The requirement for the employment of a person to manage the collection of waste material by Council, including, but not limited to bin placement at the road edge and retrieval of bins soon after collection of contents, cleansing of bins, storage of bins in the compound and the like.
 - ii) Responsibilities with regard to the ongoing maintenance of the building and landscaped areas at the property in accordance with the plans and details approved under this Development Consent.
 - Responsibilities with regard to the operation maintenance of artificial iii) features at the property (eg water features, intercom systems, vehicle access doors etc.) in accordance with the plans and details approved under this Development Consent.
 - iv) Responsibilities for ensuring owners and/or tenants have adequate and hygienic waste sterile, disposal and collection arrangements and for ensuring the waste storage area is appropriately maintained and kept in a clean and safe state at all times.
 - Responsibilities to ensure that receptacles for the removal of waste, v) recycling on the designated day of collection.
 - The Owners Corporation obligations under clauses 177, 182, 183, 184, 185 and 186 of the Environmental Planning and Assessment Regulation 2000.
 - vii) The Owners Corporation/Executive Committee obligations to ensure all wastewater and stormwater treatment devices (including drainage systems, sumps and traps) are regularly maintained in order to remain effective. All solid and liquid wastes collected from the devices shall be disposed of in a manner that does not pollute waters and in accordance with the Protection of the Environment Operations Act 1997.

Reason:- to ensure appropriate documentation is submitted with any application for subdivision of the development.

83. Aboveground Power Lines

Where practicable, all existing overhead power lines adjacent to the development site shall be relocated underground to Energy Australia standards and specifications. If not practicable to relocate the power lines underground, arrangements shall be made with Energy Australia to place the conduit to carry those power lines underground so that they can be utilized at a later date by Energy Australia. In this regard all associated costs shall be borne by the applicant.

Reason: - to improve the aesthetic quality of the area.



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84. <u>Discovery of additional information during remediation, demolition or construction</u>

Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination shall be notified to the Council and the Principal Certifying Authority immediately.

<u>Reason:</u>- to ensure Council is informed of any new information relevant to site conditions and site contamination associated with the development.

85. Off-site soil disposal

Any soil disposed of offsite shall be classified in accordance with the procedures in the NSW EPA Environmental Guidelines: Assessment, Classification & Management of Liquid & Non-Liquid Wastes (1999).

<u>Reason</u>:- to ensure soil disposed off-site is classified in accordance with relevant EPA requirements.

86. Number of Car Parking Spaces

A minimum of 107 off-street car parking spaces are to be provided to the development as follows:-

- Residential spaces Minimum 83 spaces including 13 accessible spaces.
- Visitor spaces Minimum 24 spaces including 2 accessible spaces.

The spaces are to be suitably sealed, marked, drained and freely accessible at all times. Visitor carparking spaces shall be a minimum width of 2.6m. All accessible spaces shall comply with AS 2890.06.

Carparking spaces are not to be enclosed by any device, such as a wire or mesh cage, walls or other similar fixtures unless there is a minimum clear internal width of 3m. Carparking spaces shall not be enclosed without the prior consent of council.

<u>Reason</u>:- to ensure there is sufficient car parking for the development and to comply with the Parking & Loading section of the *Auburn Development Control Plan 2010*.

87. Signs for Visitor Parking

Suitable signs shall be erected at the front of the property indicating the availability of visitor parking within the property. All visitor parking spaces shall be clearly signmarked.

Reason:- to ensure the visitor parking spaces are clearly identified.

88. Adequate Signs and Pavement Markings Required to Assist Traffic Flow on Site.

Adequate signs and pavement markings are to be provided to direct the flow of traffic within the site. Details are to be provided prior to the issue of the construction certificate.

Reason: - to assist with traffic flow within the development.



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89. Car Wash Bay

An open service area measuring at least $7.6m \times 3.0m$ is to be provided for use by residents for car cleaning and washing activities. This area is to be suitably located, paved, graded and drained.

All waste water from the car wash bay shall be discharged to sewer under a Trade Waste Agreement from Sydney Water. This may require the installation of a pretreatment device. Alternative water management and disposal options may be appropriate where water is recycled, minimised or re-used on the site.

The means of disposal shall comply with:-

- EPA's Environment Protection Manual for Authorised Officers: Technical Section (Car Washing Waste)
- EPA's Managing Urban Stormwater: treatment techniques

Details are to be submitted with the construction certificate.

<u>Reason</u>:- to designate a car washing area within the development and to ensure waste water is properly managed.

90. Vehicles Driven in Forward Direction

All vehicles must be driven in a forward direction at all times when entering or leaving the premises.

Reason:- to preserve and enhance the safe operation of the car parking area.

91. Loading and Unloading of Vehicles

All deliveries to and from the site are to be conducted from vehicles standing within designated loading areas and not on access driveways, car parking spaces or landscaped areas.

<u>Reason</u>:- to ensure delivery vehicles do not obstruct these designated areas of the site

92. Protective bar to vehicular entry

A protective bar shall be installed at the vehicular entry to the development to prevent damage from vehicles that are too high or those that fail to wait for the opening of any roller shutter etc. Details and installation of the proposed protective bar shall be noted on the Construction Certificate drawings and installed prior to the issue of Occupation Certificate.

Reason:- to prevent damage from oversized vehicles when entering the premises.

93. Roller doors and shutters – silent operation

The roller doors or other shutters to the car park shall operate silently and be appropriately maintained.



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Reason:- to ensure quiet operation and ongoing maintenance to car park doors.

94. Intercom/remote access to basement

An intercom and remote access system shall be provided at all vehicular access points to the basement car park and connected to all residential units. Details of the proposed intercom and remote access system to the basement car park are to be submitted with the Construction Certificate plans/specifications and the locations detailed on the construction drawings.

<u>Reason</u>:- to ensure that visitor car parking spaces are easily and conveniently accessible for visitors to the premises.

95. Car Parking Spaces - Restrictive Covenant

The following shall be complied with:-

- a) The on site car parking spaces, exclusive of service and visitor spaces, are not to be used by those other than the occupant or tenant of the subject building. Any occupant, tenant, lessee or registered proprietor of the development site or part thereof shall not enter into an agreement to lease, license or transfer ownership of any car parking spaces to those other than an occupant, tenant or lessee in the building.
- b) Prior to Occupation Certificate under the Environmental Planning and Assessment Act 1979 a documentary Restrictive Covenant, is to be registered on the Title of the development site pursuant to Section 88E of the Conveyancing Act 1919, to the effect of (a) above. The Covenant is to be created appurtenant to Council, at no cost to and to the satisfaction of Council.
- c) Any future strata subdivision of the site is to include a Restriction on User pursuant to Section 39 of the Strata Titles (Freehold Development) Act 1973, as amended, burdening all utility car parking allotments in the Strata Plan and/or an appropriate Restrictive Covenant pursuant to Section 88B of the Conveyancing Act 1919 burdening all car parking lots in the strata scheme.

<u>Reason</u>:- to ensure the car parking spaces are used in accordance with the details of the development approval.

96. Headroom clearance - within the Basement

The headroom clearance within the basement shall comply with the usage. In this regard, minimum 4.0m shall be provided in waste collection area and associated turning area. Other areas shall comply with Australian Standards AS2890.1 and AS2890.6 requirements.

Detail plans showing the compliance of above requirements shall be submitted and approved by the Principle Certifying Authority prior to issue of a Construction Certificate.

<u>Reason:</u>- to ensure headroom clearance complies with Australian Standards AS 2890.1 AS2890.6 and Council's *Auburn Development Control Plan 2010*.



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97. Materials and Finishes

Materials and finishes to the development shall be in accordance with the details of the approved plans and the following requirements:-

- Quality and durable materials are to be used throughout the development.
- b) The applied external paint finishes to the building shall have a minimum aggregate thickness of 200 microns.

Reason: to ensure a high quality appearance to all materials within the development.

98. SEPP 65 - Design Verification

The following requirements arising from State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Buildings must be complied with:-

- a) A certifying authority must not issue a Construction Certificate in respect of the development unless the certifying authority has received a design verification from a qualified designer, being a statement in which the qualified designer verifies that the plans and specification achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles set out in Part 2 of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development.
- b) A certifying authority must not issue an Occupation Certificate to authorise a person to commence occupation or use of the development unless the certifying authority has received a design verification from a qualified designer, being a statement in which the qualified designer verifies that the development as shown in the plans and specifications in respect of which the Construction Certificate was issued, having regard to the design quality principles set out in Part 2 of State Environmental Planning Policy No. 65 Design Quality of Residential Apartment Development.

<u>Reason</u>:- to ensure that the requirements of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development and the Environmental Planning and Assessment Regulations 2000 are complied with in the carrying out of the development.

99. Architect - Notify Council if Changed

The architect of the project, as approved, should not be changed without prior notice to Council.

<u>Reason</u>:- to ensure Council is aware and kept informed of the current project architect.

100. Underside of balconies

The underside of the balconies within the development must be designed to prevent exposed pipes and utilities being visible.

<u>Reason</u>:- to ensure an attractive appearance to the development in accordance with Council's Development Control Plan requirements.



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101. Switchboards/Service Panels

Switchboards and/or service panels for utilities are not to be attached to the front facades/elevations of the building(s).

<u>Reason:</u>- to ensure that switchboards and service panels are appropriately located and do adversely impact on the appearance/presentation of the front building facade.

102. Reflectivity Index of Glazing

The reflectivity index (expressed as a percentage of the reflected light falling upon any surface) of external glazing for windows, walls or roof finishes of the proposed development is to be no greater than 20%. Written conformation of the reflectivity index of materials is to be submitted with the Construction Certificate.

Note: The reflectivity index of glazing elements can be obtained from glazing manufacturers. Glass with mirrored or reflective foil finishes is unlikely to achieve compliance with this requirement.

<u>Reason:</u>- to ensure that excessive glare or reflectivity nuisance from glazing does not occur as a result of the development.

103. Security fencing

All security fencing shall be on an alignment of 4.5m to the street boundary. Under no circumstances are gates to open over Council's footway or obstruct access to car parking spaces.

<u>Reason</u>:- to ensure the development operates in accordance with the approval and does not cause a nuisance or a hazard to the public.

104. Side/Rear Boundary Fencing

Fences located on the side or rear boundaries of the premises, behind the main building setback (not within the front yard), shall not exceed a maximum height of 1.8m.

Reason:- to maintain reasonable levels of amenity to the adjoining premises.

105. Fencing/gates and adjoining land

There must be no encroachment of any part of the structure/s onto the adjoining premises or onto Council's road reserve, footway or public place. Any gate openings shall be constructed so that the gates, when hung, will be fitted in such a manner that they will not open over the footway or public place.

<u>Reason</u>:- to ensure the fence/gates do not restrict access and that encroachments do not occur.



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106. Removal of litter and graffiti:

In addition to Council's street sweeping and cleansing operations, the owner/manager of the building shall ensure that the footpath, gutter, building entry and surrounds are kept clean and clear of litter at all times.

The owner of the building shall also be responsible for the prompt removal of any graffiti from the building.

Reason:- to maintain a satisfactory level of amenity in the locality.

107. Telecommunications Facilities - Residential

The following requirements apply to telecommunication facilities in the building:-

- Appropriate access and space within the plant area of the building shall be provided for a minimum of three telecommunication carriers or other providers of broad-band access by ground or satellite delivery.
- b) Appropriate ducting and cabling shall be provided for a minimum of three telecommunication carriers or other providers for telecommunication access and broad-band cabling to each apartment of the building.
- c) The details of (a) and (b) above shall be submitted for the approval of the certifying authority, prior to issue of a construction certificate for the building under the *Environmental Planning and Assessment Act 1979*.
- d) A separate Development Application must be submitted at the appropriate time for any external receiving device proposed to be installed. For each form of transmitter, there shall be only one common receiving device installed on the subject development.

 $\underline{\textit{Reason}}$:- to ensure adequate provision for telecommunication facilities within the development.

108. Lighting to publicly accessible areas

The following lighting requirements shall be complied with:

- a) The public areas shall be provided with lighting to ensure pedestrian safety. Such lighting shall be at a minimum level of 10 lux in the horizontal and vertical plane.
- b) Details of the lighting is to be submitted for the approval of the Principal Certifying Authority prior to issue of the Construction Certificate and location of the lighting endorsed on the construction drawings.

<u>Reason</u>:- to ensure publicly accessible areas of the development are provided with sufficient illumination.

109. Mail Box Structure

An Australia Post approved lockable mail box structure(s) shall be centrally located to the primary street entry of the site.

<u>Reason</u>:- to ensure compliance with Council's Development Control Plan requirements.



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110. Suitable arrangements to be made for garbage and recycling services

Suitable arrangements for garbage and recycling services are to be made with Council prior to occupation of the building.

<u>Reason</u>:- to ensure adequate garbage and recycling services are provided for the development.

111. Waste Management Plan - New works

The Waste Management Plan shall be submitted to the Principal Certifying Authority for approval prior to the issuing of the Construction Certificate.

The approved Waste Management Plan for the site must be displayed in an appropriate location on-site and complied with at all times during construction/remediation/demolition and ongoing occupation.

The builder/construction company shall be provided with at least one copy of the waste management plan.

Reason:- to ensure waste is properly managed.

112. Display of Waste Management Plan - Ongoing use

The occupant/body corporate shall be provided with at least one copy of the waste management plan. An additional copy of the plan shall be displayed in a secure, visible and accessible position within or adjacent to the waste storage area. The approved Waste Management Plan must be complied with at all times during occupation.

Reason:- to ensure waste is properly managed by occupants of the building.

113. Ongoing Waste Management

Ongoing waste management within the development shall be carried out in accordance with the approved Waste Management Plan and the following requirements:-

- Appropriate waste management practices are to be adopted within the development at all times.
- b) The waste storage room shall be kept in a clean, tidy and hygienic condition at all times.
- c) The waste and recyclable storage area shall be fully enclosed, adequately ventilated and constructed with a concrete floor and concrete or cement rendered walls covering the floor. The floor shall be graded to an approved sewer connection incorporating a sump and galvanised grate cover or basket. A hot and cold hose cock shall be provided within the room. Details shall be provided with the Construction Certificate and endorsed on the construction drawings, and works completed prior to the issue of an Occupation Certificate.
- d) A person shall be employed/nominated to manage the collection of waste material by Council, including, but not limited to bin placement at the road edge and retrieval of bins soon after collection of contents, cleansing of bins, storage of bins in the compound and the like.



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 The nature strip is to be kept in a clean and tidy condition upon garbage collection.

<u>Reason:</u>- to ensure appropriate ongoing waste management practices within the development in accordance with Council's Development Control Plan requirements.

114. Waste and recyclables storage area:

The waste and recyclable storage area shall be fully enclosed, adequately ventilated and constructed with a concrete floor and concrete or cement rendered walls covering the floor. The floor shall be graded to an approved sewer connection incorporating a sump and galvanised grate cover or basket. A hot and cold hose cock shall be provided within the room. Details shall be provided with the Construction Certificate and endorsed on the construction drawings, and works completed prior to the issue of an Occupation Certificate.

<u>Reason</u>:- to ensure the waste and recyclables storage area is appropriately constructed and able to be readily cleaned and maintained.

115. Final Fire Safety Certificate

Prior to the occupation of the building, the owner of the building shall submit to the Principal Certifying Authority (Council or Accredited Certifier), a Final Fire Safety Certificate in relation to each essential fire safety measure specified in the fire safety schedule, attached to the Development Consent or Construction Certificate.

Such certificate shall state that each essential fire safety measure specified:-

- a) Has been assessed by a properly qualified person, and
- b) Was found, at the date of assessment, to be capable of performing to a standard not less than that required by the current fire safety schedule for the building for which the certificate is issued.

Notes:

- a) As soon as practicable after a final fire safety certificate is issued, the owner of the building to which it relates:
 - i) Must cause a copy of the statement (and current fire safety schedule) to be given to the Commissioner of NSW Fire Brigades, and
 - ii) Must cause a further copy of the statement (and current copy of the current fire safety schedule) to be prominently displayed in the building.
- b) A "fire safety measure" is defined as any measure (including any item of equipment, form of construction or fire safety strategy) that is, or is proposed to be, implemented in the building to ensure the safety of persons using the building in the event of fire.

<u>Reason</u>:- to ensure compliance with Regulations 149 & 171 of the <u>Environmental Planning and Assessment Regulation 2000</u>.



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DA-280/2017

Lot 9 DP 397, Lot 10 DP 397, Lot 11 DP 397, Lot 12 DP 397, 9-15 Raphael Street, LIDCOMBE NSW 2141 7 March 2018

116. Annual Fire Safety Statement

The owner of any building in which fire safety measures are installed, must cause the Council to be given an Annual Fire Safety Statement, within 12 months after the last such statement or final fire safety certificate was issued.

The certificate shall certify:-

- a) That each essential fire safety measure has been assessed by a properly qualified person and was found, at the date of assessment, to be capable of performing to a standard not less than that required by the current fire safety schedule.
- b) That a properly qualified person has inspected the building and has certified that, as at the date of inspection, the condition of the building did not disclose any grounds for a prosecution under Division C.

Notes:

- a) As soon as practicable after an annual fire safety statement is issued, the owner of the building to which it relates:-
 - must cause a copy of the statement (and current fire safety schedule) to be given to the Commissioner of NSW Fire Brigades, and
 - ii) must cause a further copy of the statement (and current copy of the current fire safety schedule) to be prominently displayed in the building.
- b) A "fire safety measure" is defined as any measure (including any item of equipment, form of construction or fire safety strategy) that is, or is proposed to be, implemented in the building to ensure the safety of persons using the building in the event of fire.

<u>Reason</u>:- to ensure compliance with Regulation 171 of the <u>Environmental Planning</u> and Assessment Regulation 2000.

117. Fire Safety Notices

The fire-isolated stairway, fire-isolated passageway or fire-isolated ramp must contain a notice advising of "Offences relating to fire exits". The notice shall contain the wording prescribed by Clause 183 of the *Environmental Planning and Assessment Regulation 2000* and the Building Code of Australia.

<u>Reason</u>:- to comply with Clause 183 of the <u>Environmental Planning and Assessment Regulation 2000</u> and the Building Code of Australia.

118. Air conditioning units – location and acoustics

- Air conditioning units are not to be visible from the street or public place and are not to obscure windows/window frames or architectural features of the building.
- b) The operation of air conditioning units shall be so:
 - as not to cause "offensive noise" as defined under the Protection of the Environment Operations Act 1997;



39 of 41 DA-280/2017 Lot 9 DP 397, Lot 10 DP 397, Lot 11 DP 397, Lot 12 DP 397, 9-15 Raphael Street, LIDCOMBE NSW 2141 7 March 2018

- as to be inaudible at the nearest affected residence between the hours of 10.00p.m. and 7.00a.m. on weekdays and 10.00p.m. and 8.00a.m. on weekends and public holidays;
- iii) as not to discharge a condensate or moisture onto the ground surface of the premises or into a stormwater drainage system in contravention of the requirements of the *Protection of the Environment Operations Act 1997*.
- c) Should Council receive noise complaints from neighbouring residents in relation to the air conditioning units, Council may issue a Noise Notice. Such notice may require you to engage the services of a competent and appropriately qualified Acoustic Consultant to undertake a noise level assessment of the air conditioning unit. If the unit is assessed as exceeding the permitted noise criteria, you may be directed to provide noise attenuation measures such as an acoustic enclosure and/or relocation of the unit.

<u>Reason</u>:- to ensure that air conditioning units associated with the development are appropriately located and do not detract from the appearance of the buildings and to ensure the operation of air conditioning units does not adversely impact on the acoustic amenity of the locality.

119. Ventilation of the Basement Car Park

The basement car park shall be naturally or mechanically ventilated. The ventilation system shall comply with the requirements of the *Building Code of Australia* and relevant standards including AS1668.1 – 1998 The Use of Ventilation and Air conditioning in Buildings Part 1: Fire and Smoke Control in Multi Compartment Buildings and/or AS 1668.2-2002; The Use of ventilation and Air conditioning in Buildings Part 2: Ventilation Design for Indoor Air Contaminant Control.

The system shall be certified by a suitably qualified and experienced engineer at the completion of installation prior to the issue of an Occupation Certificate. A copy of the certificate shall be provided to the Principal Certifying Authority. A copy shall also be provided to Council if Council is not the Principal Certifying Authority.

Any mechanical ventilation provided to the basement car park shall not create an offensive odour emission nor shall it create an offensive noise and shall comply with the requirements of the *Protection of Environment Operations Act 1997* and all subsequent relevant Regulations/

120. Compliance with Submitted Acoustic Report

The recommendations specified in the Acoustic Report prepared by Acoustic Noise and Vibration Solutions Pty Ltd (reference number 2017-196), shall be installed prior to the issuing of the Occupation Certificate. These recommendations are to be complied with at all times when the premises is in use.



40 of 41 DA-280/2017 Lot 9 DP 397, Lot 10 DP 397, Lot 11 DP 397, Lot 12 DP 397, 9-15 Raphael Street, LIDCOMBE NSW 2141 7 March 2018

121. Acoustic Certification

Within three (3) months of the premises being occupied, an acoustic report prepared by a suitably qualified person, is to be submitted to the consent authority demonstrating that the noise emitted from the premises complies with the criteria contain in the acoustic report prepared by Acoustic Noise and Vibration Solutions Pty Ltd (reference number 2017-196). Where the criteria are not meet the acoustic report is to include recommendation of noise control measures that are to be implemented to ensure compliance with the criteria.

122. Submission of Works-as-Executed Fire Services Plan

A works-as-executed fire services plan is to be submitted to the Council prior to occupation of the development, detailing the location of the essential fire safety measures installed within the building premises.

<u>Reason</u>:- to ensure a record of the location and type of fire safety services is documented.

123. Occupation Certificate

A person must not commence occupation or use of the whole or part of a new building unless an occupation certificate has been issued in relation to the building or part.

The application for an Occupation Certificate must be made to the Principal Certifying Authority (Council or an accredited certifier) using the approved form.

<u>Reason</u>:- to comply with the requirements of Section 109M/N of the Environmental Planning and Assessment Act 1979.



41 of 41 DA-280/2017 Lot 9 DP 397, Lot 10 DP 397, Lot 11 DP 397, Lot 12 DP 397, 9-15 Raphael Street, LIDCOMBE NSW 2141 7 March 2018

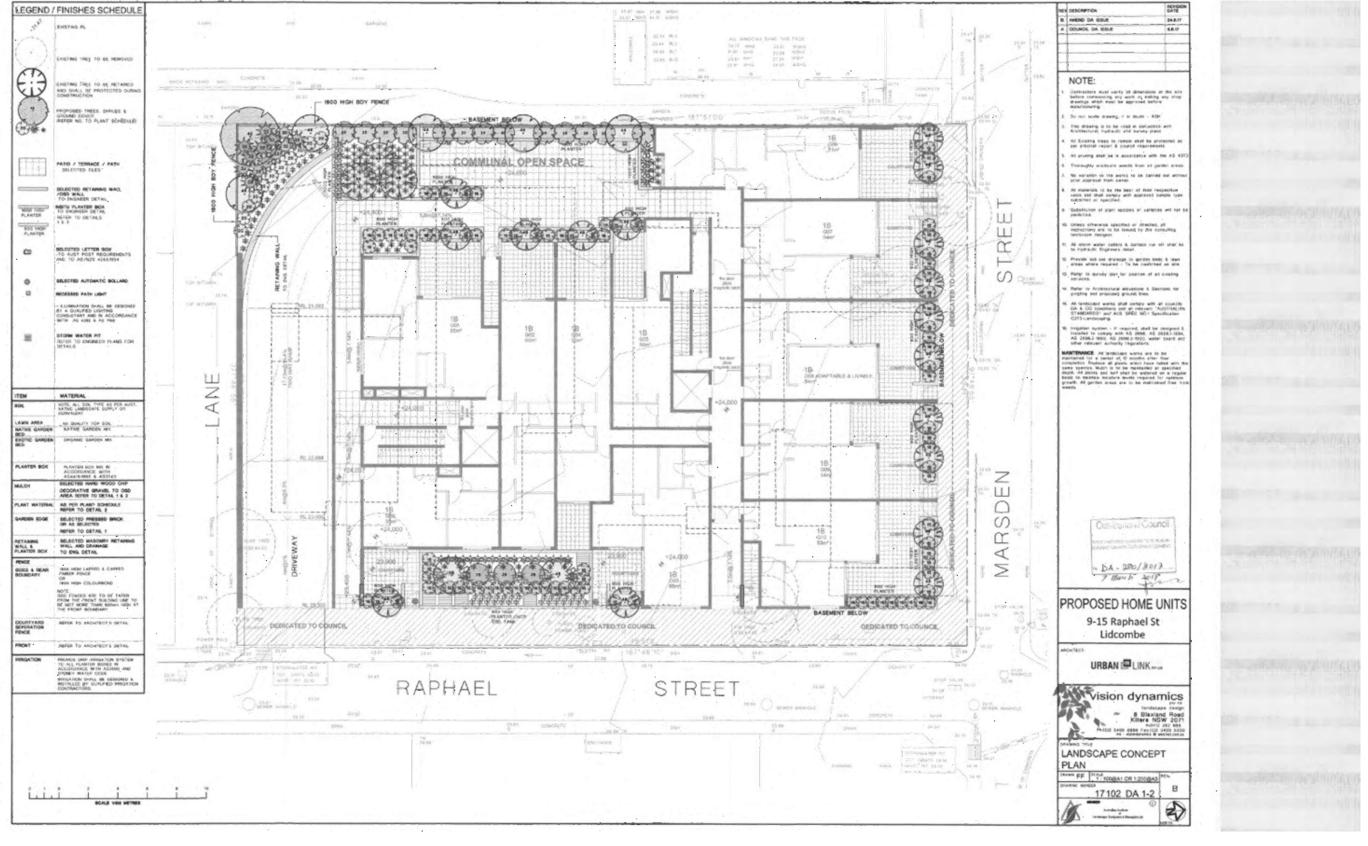
Consent to operate from:	7 March 2018	(see note 1)
Consent to lapse on:	7 March 2023	
Other approvals		
List Local Government Act 1993		
Approvals granted under s 78A(5)	Not Applicable	
Right of appeal (also see note 3)	If you are dissatisfied with this decision s Environmental Planning and Asses amended) gives you the right to app Environment Court within:	sment Act 1979(as
	 12 months - consents lodged before 2 6 months - consents lodged after 28 l 	
	*Section 8.7, 8.10 of the Environn Assessment Act 1979(as amended) d determination of a development a significant development or local designa has been the subject of a Commission of	oes not apply to the pplication for State ated development that
Signed	on behalf of the consent authority	
Signature Name	Hamish McNulty ACTING GENERAL MANAGER	

Note 1	Where the consent is subject to a condition that the consent is not to operate until the applicant satisfies a particular condition the date should not be endorsed until that condition has been satisfied.
Note 2	Clause 101 of the Regulation contains additional particulars to be included in a notice of determination where a condition under section 7.11 of the Environmental Planning and Assessment Act 1979(as amended) has been imposed.
Note 3	Section 8.2, 8.3, 8.4, 8.5 of the Environmental Planning and Assessment Act(as amended) permits a review of the determination

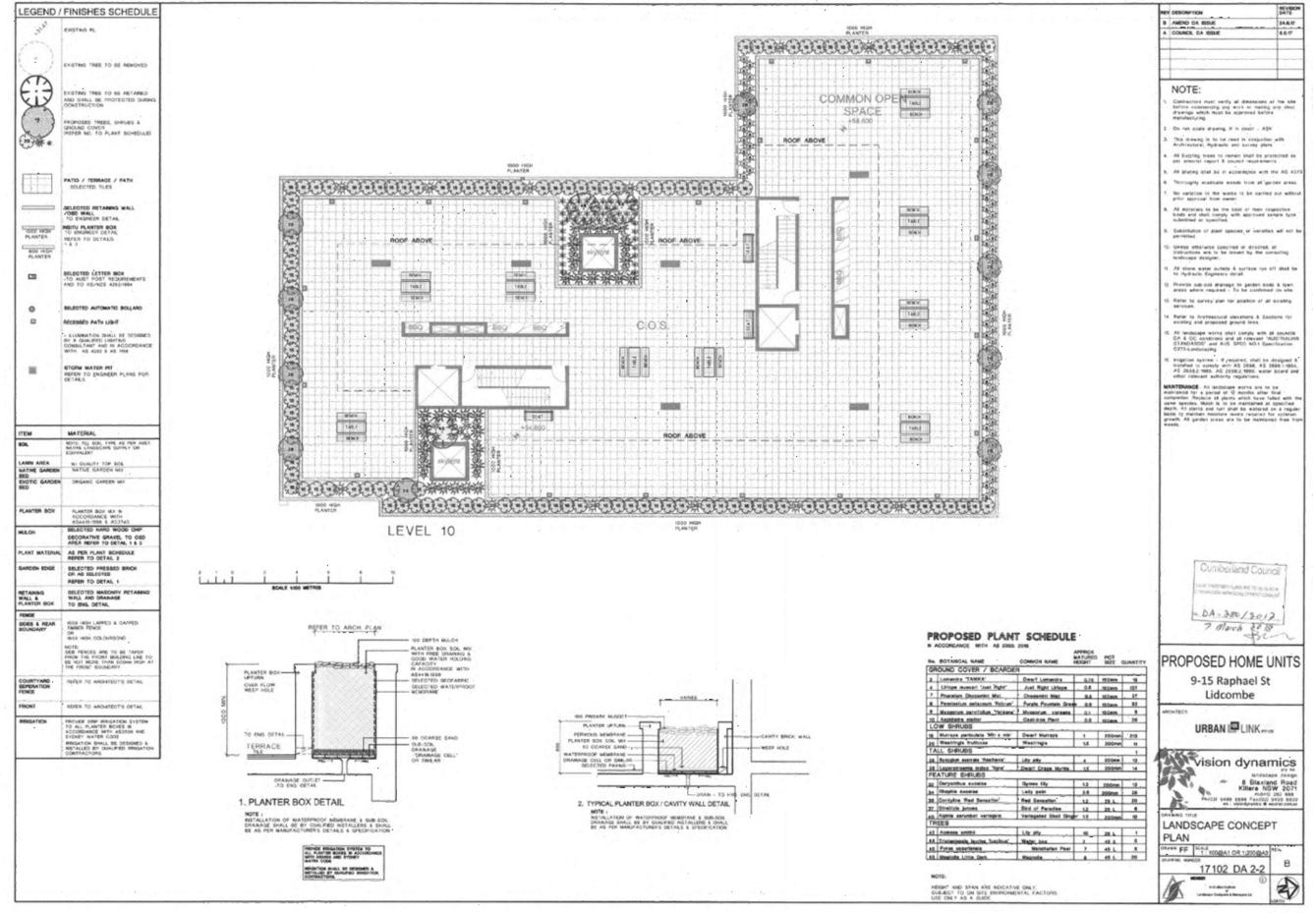
DOCUMENTS ASSOCIATED WITH REPORT LPP074/19

Attachment 10
Stamped Plans - Part 1 - DA280/2017













VIEW LOOKING SOUTH WEST FROM CNR OF MARSDEN AND RAPHAELS STREET 10 STOREYS, 117 RESIDENTIAL UNITS AND 4 LEVELS OF BASEMENT PARKING

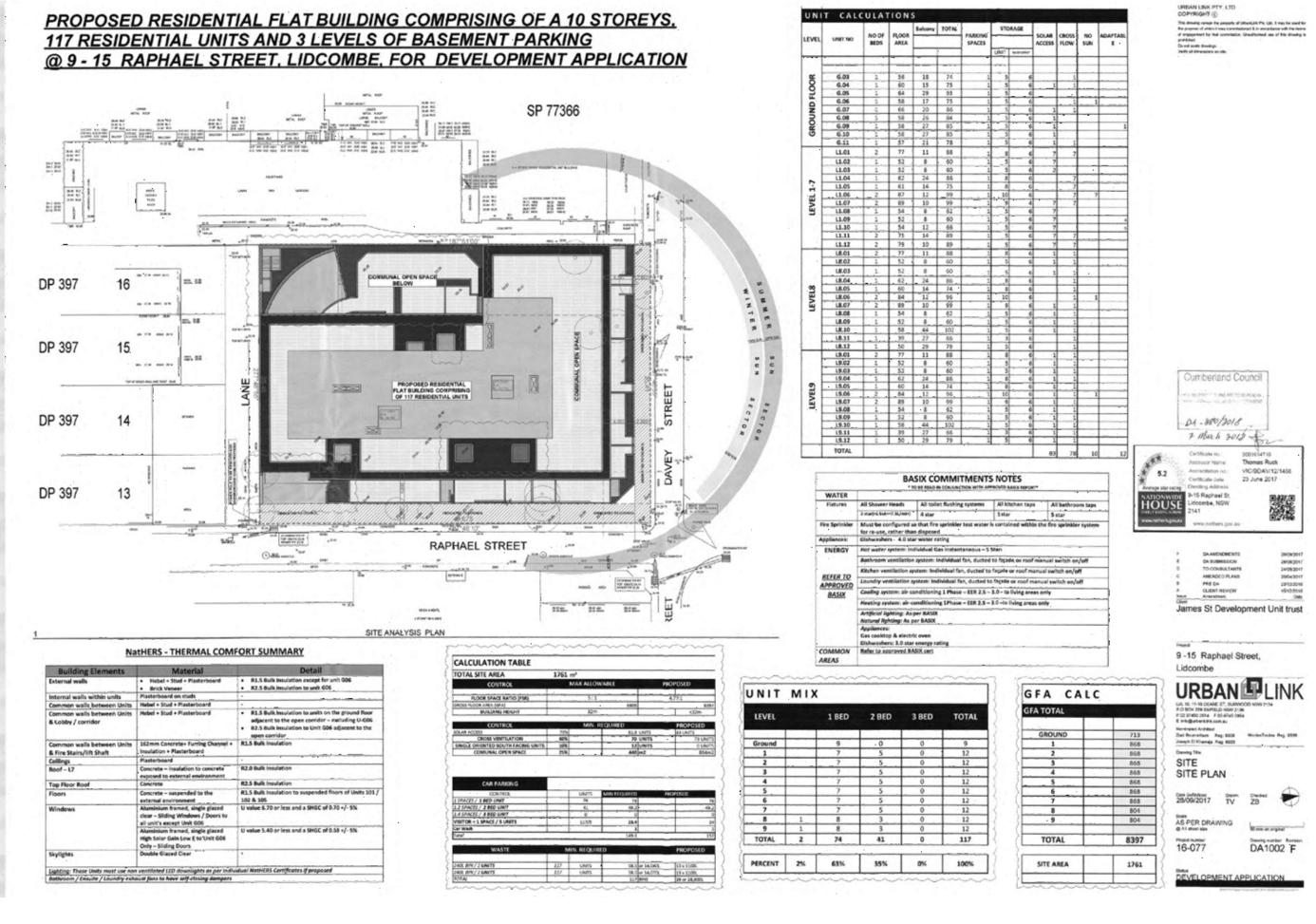
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DA5001 - SE	CTIONS			
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COMMINAL OPEN SPACE	88			

Street, Lidcombe, NSW, Residential Flat Building @ 9 - 15 Raphael SEVELOPMENT APPLICATION 28/09/2017

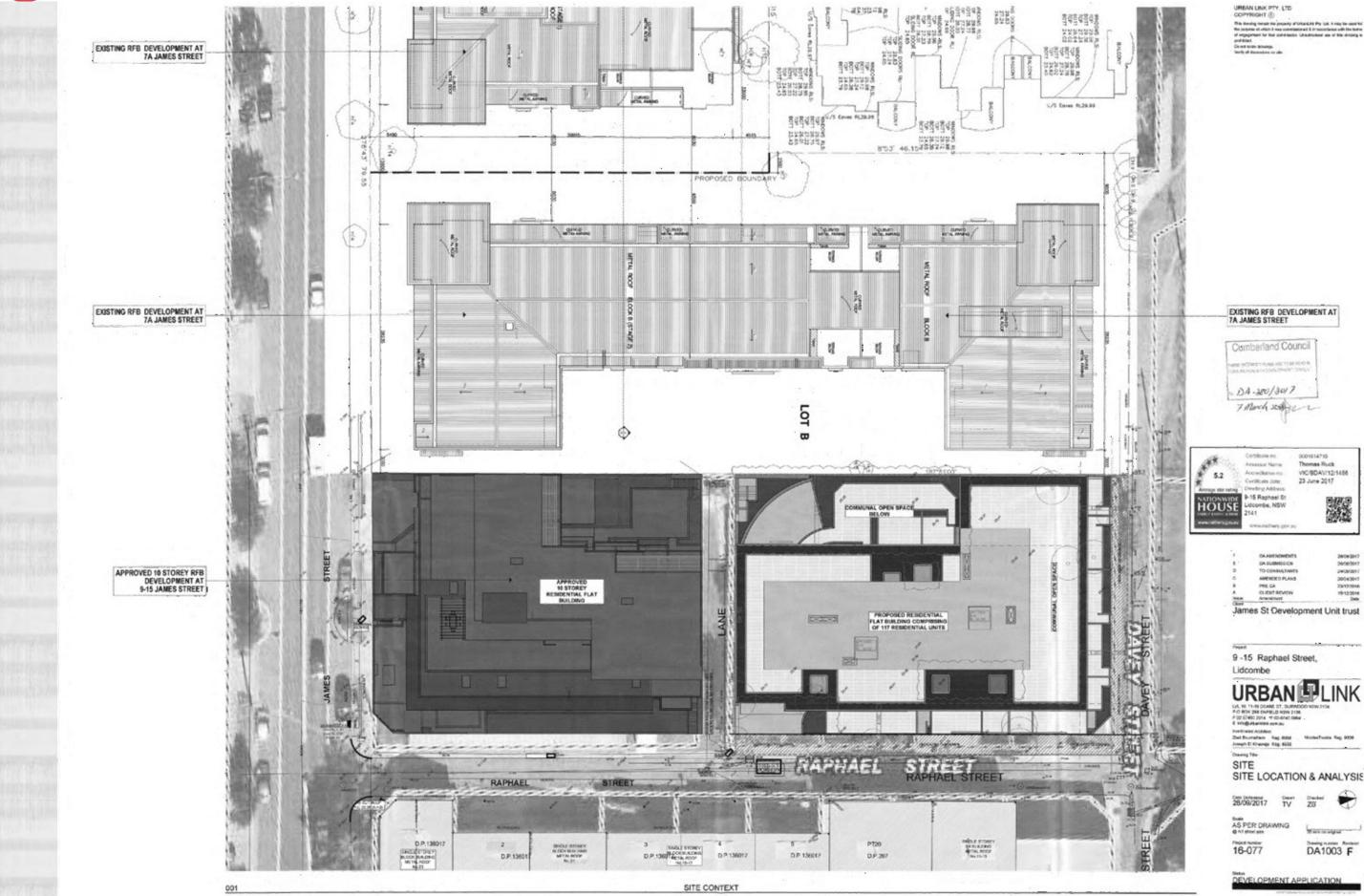
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LPP074/19 – Attachment 10











EXISTING RFB DEVELOPMENT AT

EXISTING RFB DEVELOPMENT AT 7A JAMES STREET





0001614710 Thomas Ruck VIC/8DAV/12/1456 23 June 2017

James St Development Unit trust

EXISTING WAREHOUSE DEVELOPMENT AT 23 EAST STREET

EXISTING RFB DEVELOPMENT AT 7A JAMES STREET

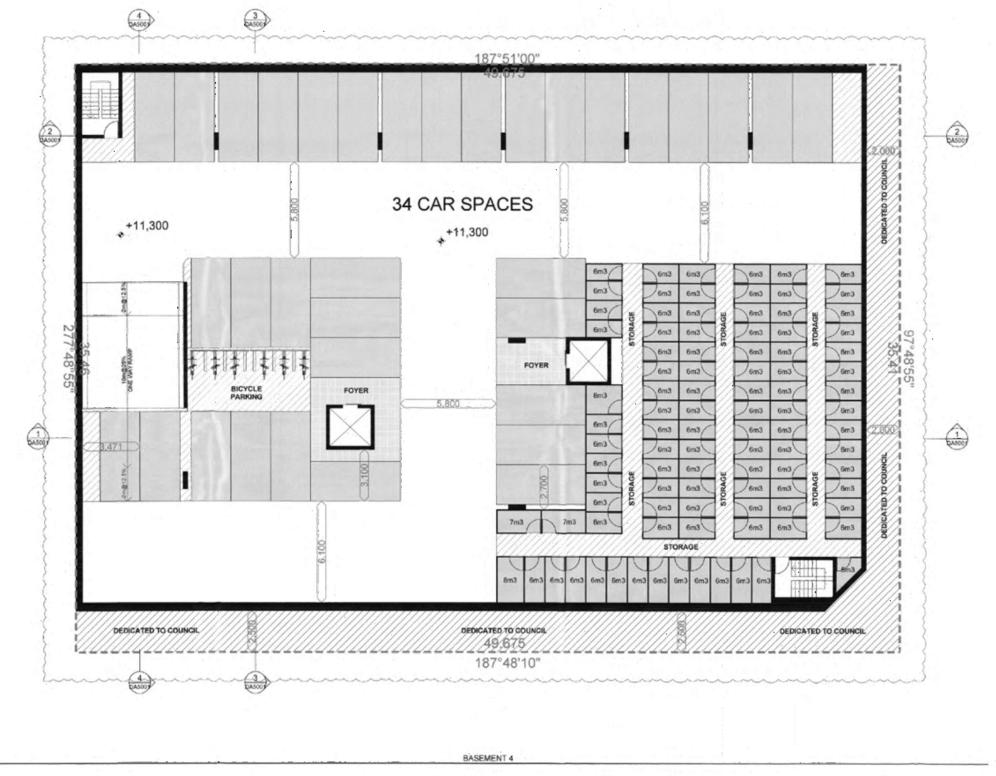
**Cumberland Council** DA . 280 /2012 7 March 345



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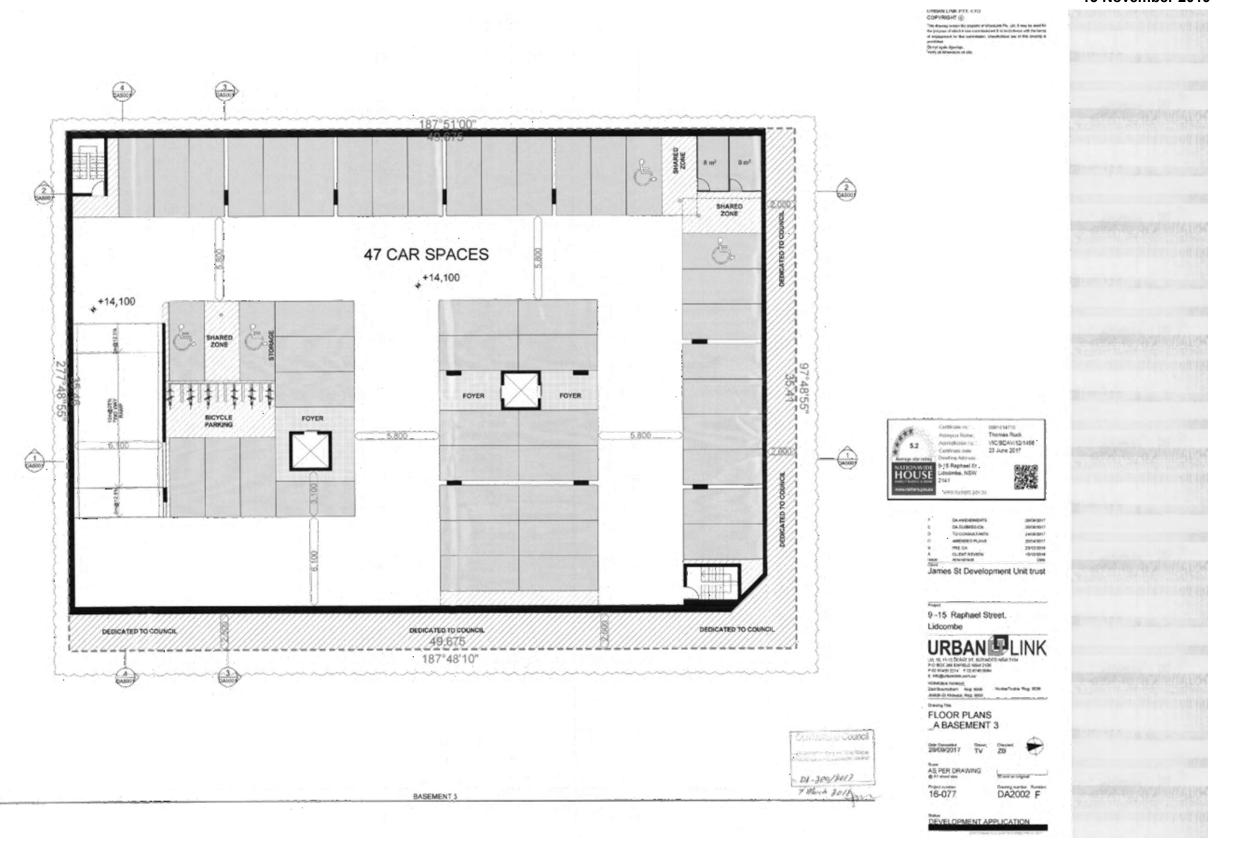


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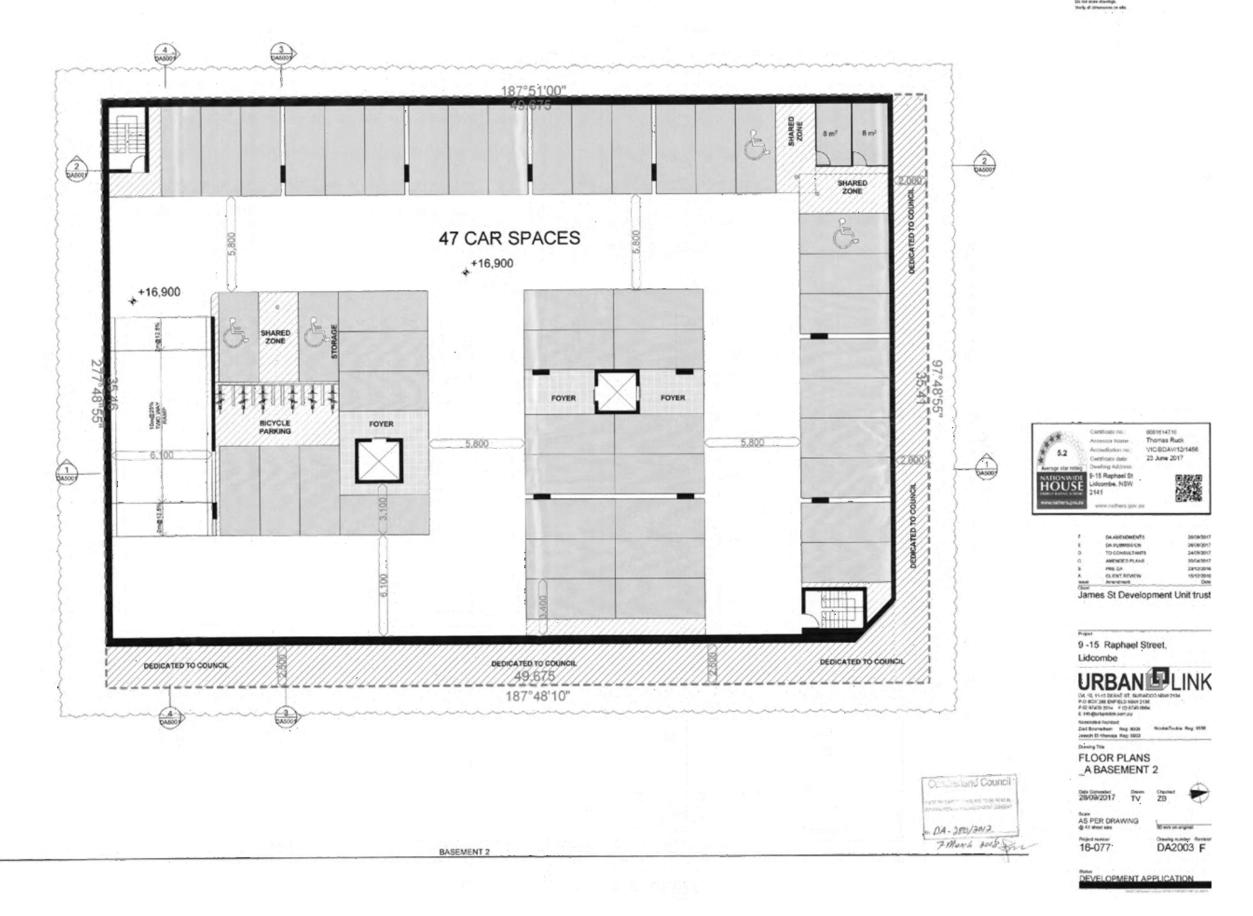
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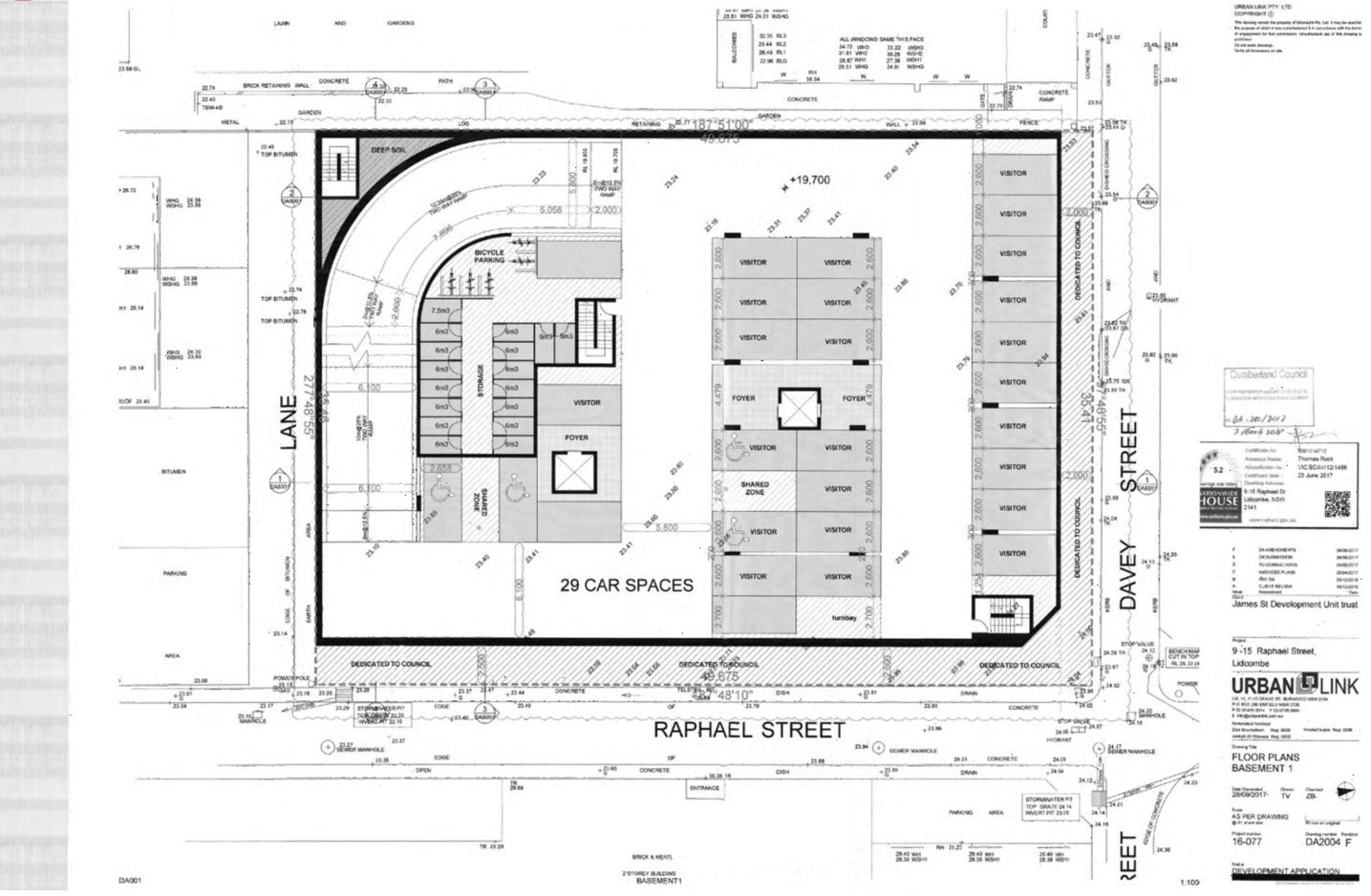




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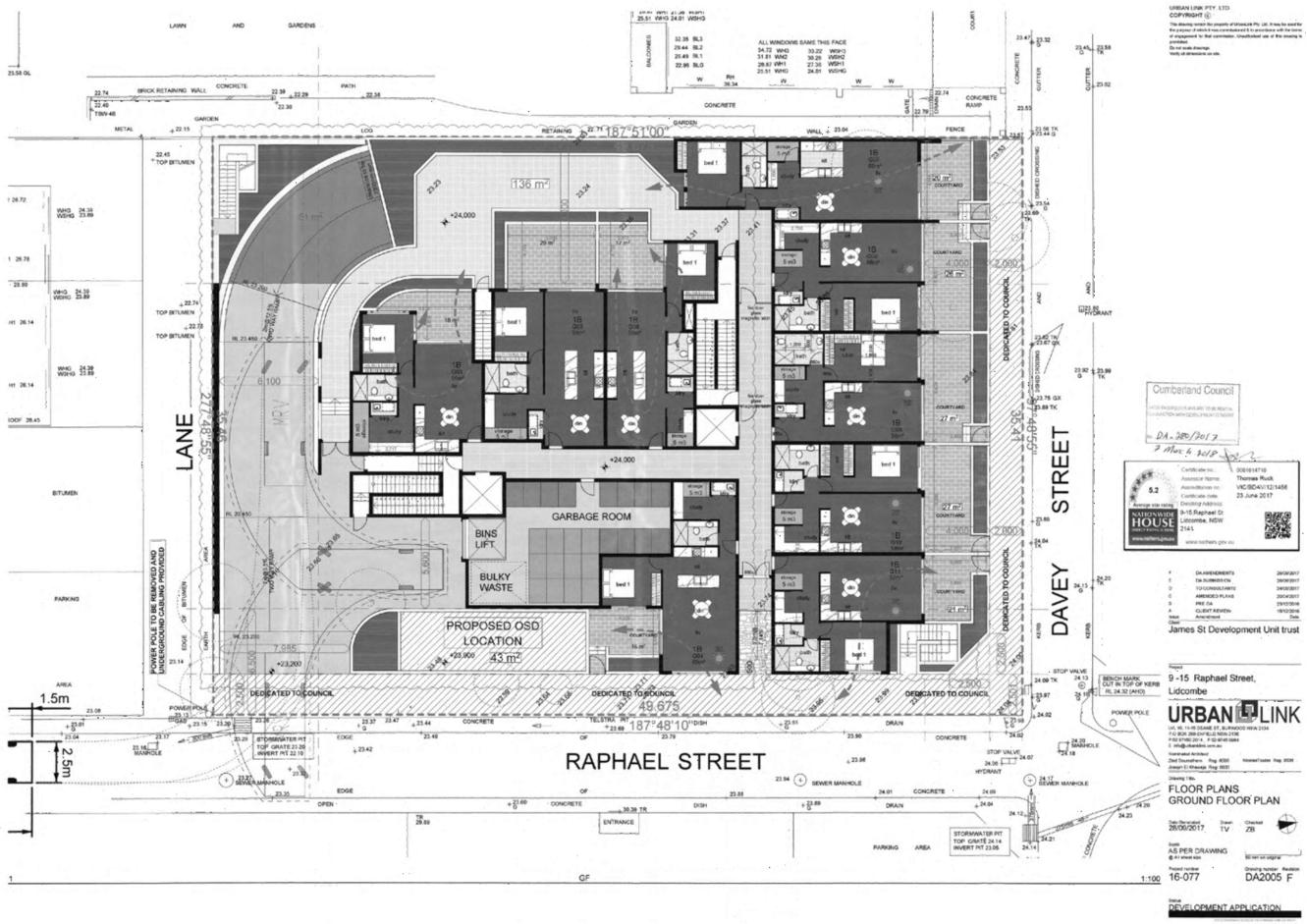




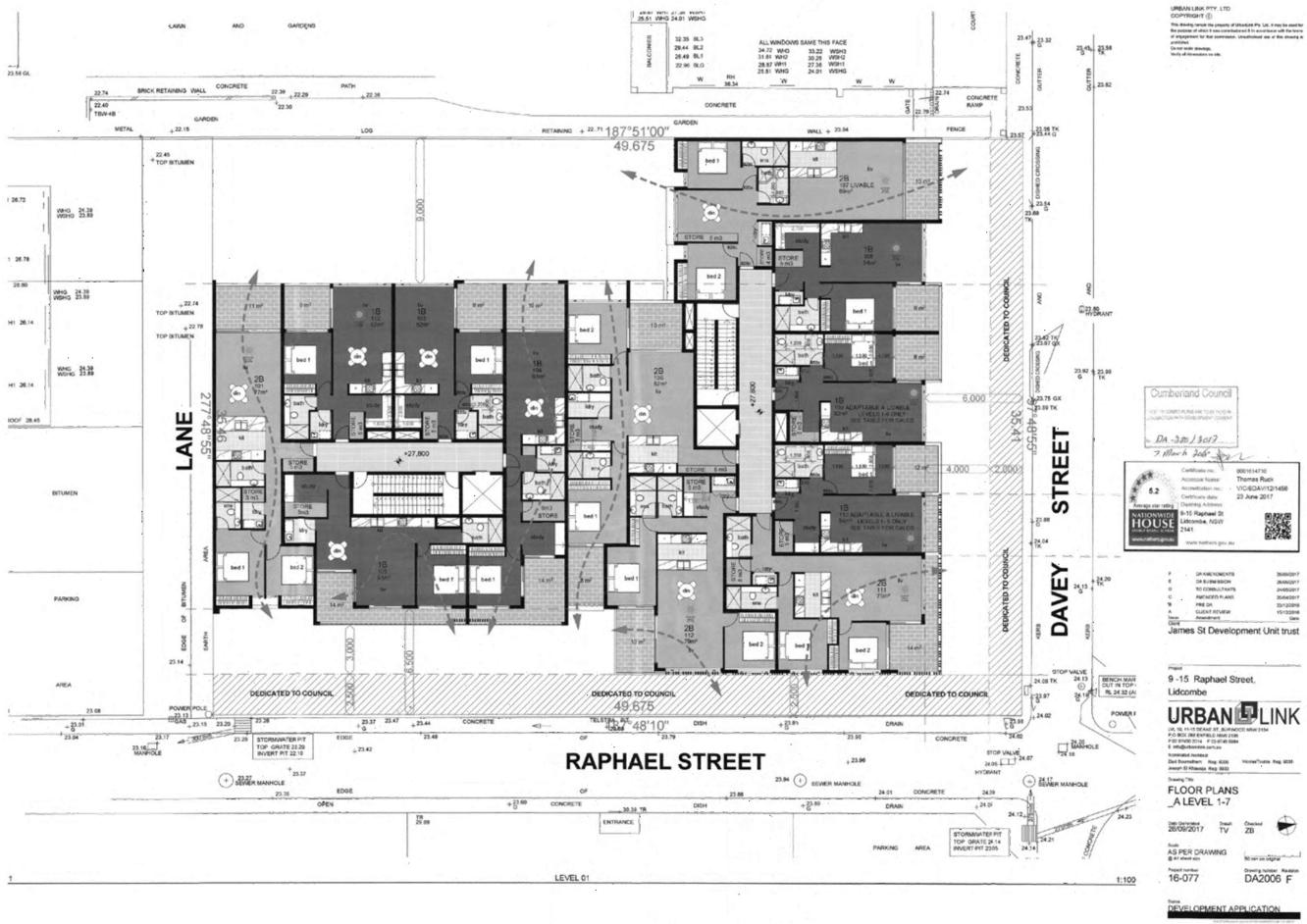


LPP074/19 – Attachment 10









URBAN LINK PTY LTD . COPYRIGHT (E)

0001614710 Thomas Ruck VIC/BDAV/12/1456 23 June 2017

26/09/2017 26/06/2017 26/05/2017 26/05/2017 25/12/2016 15/12/2016 Date

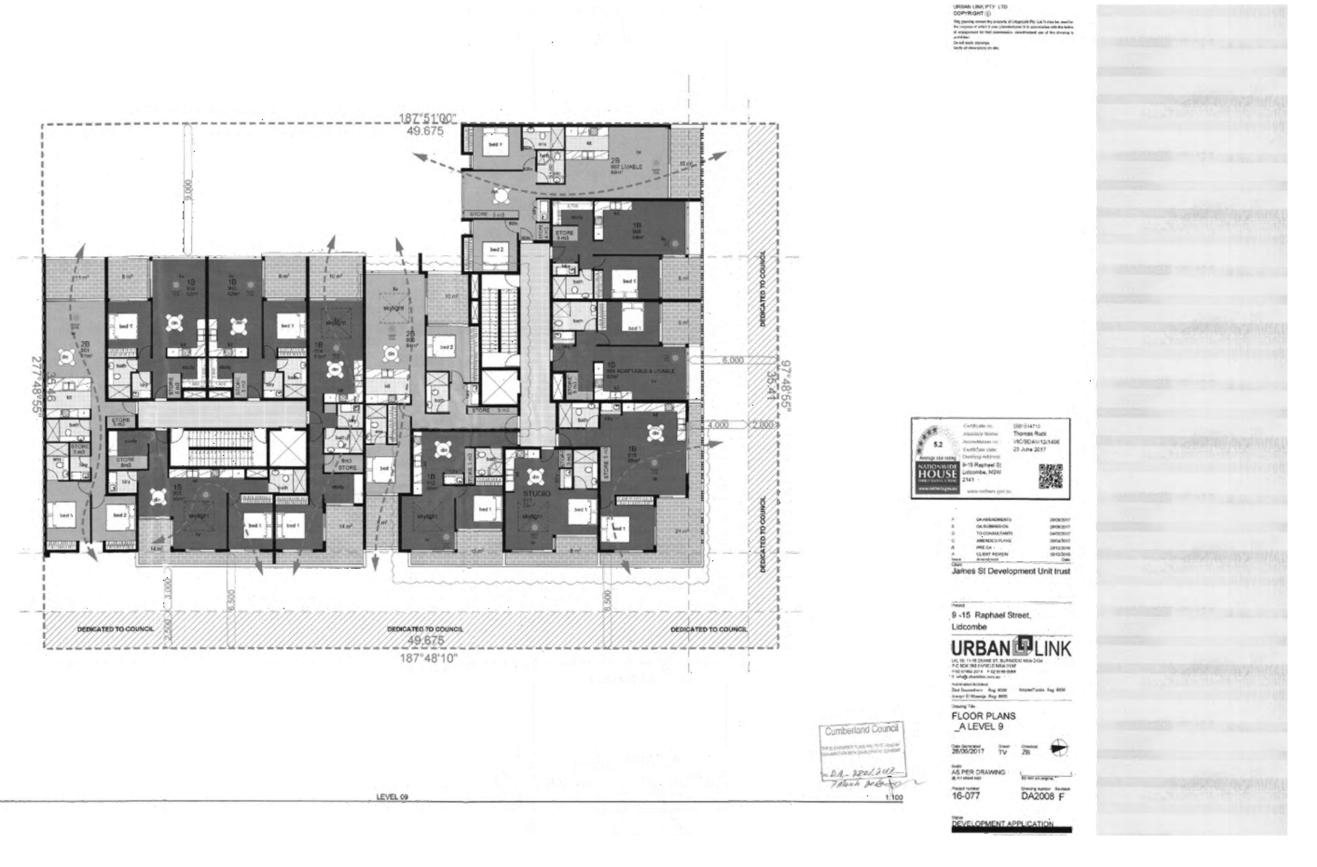
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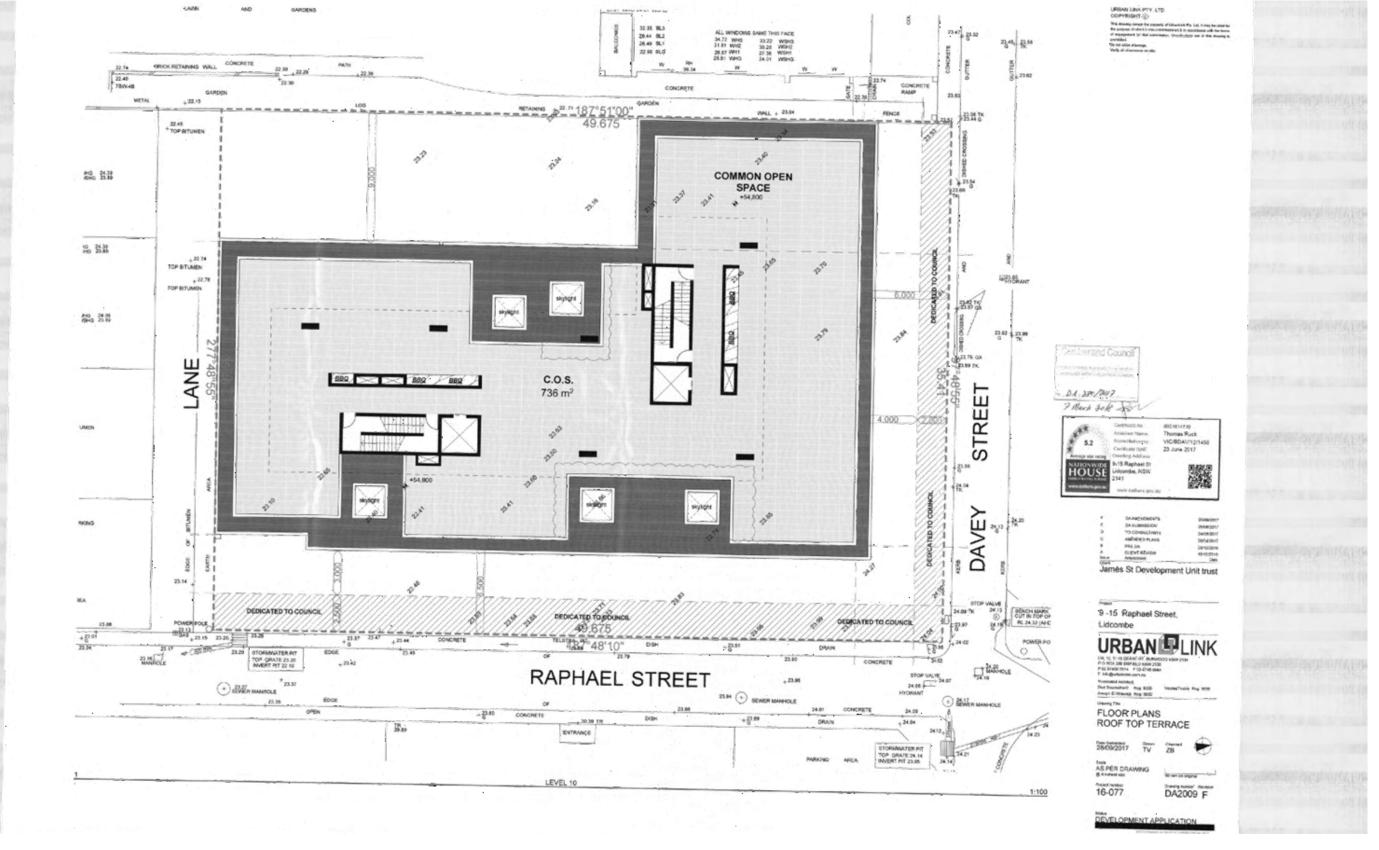




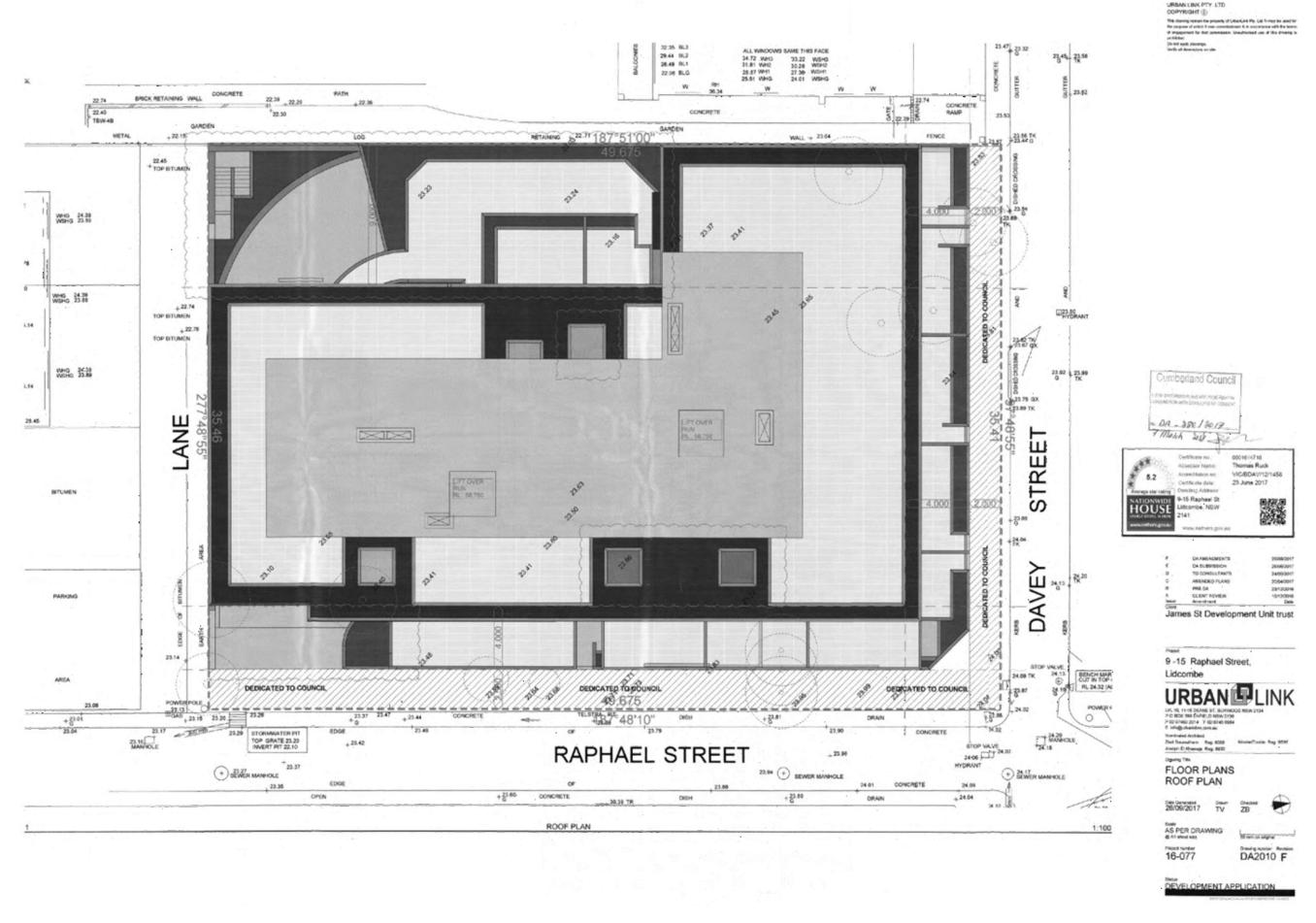


LPP074/19 – Attachment 10

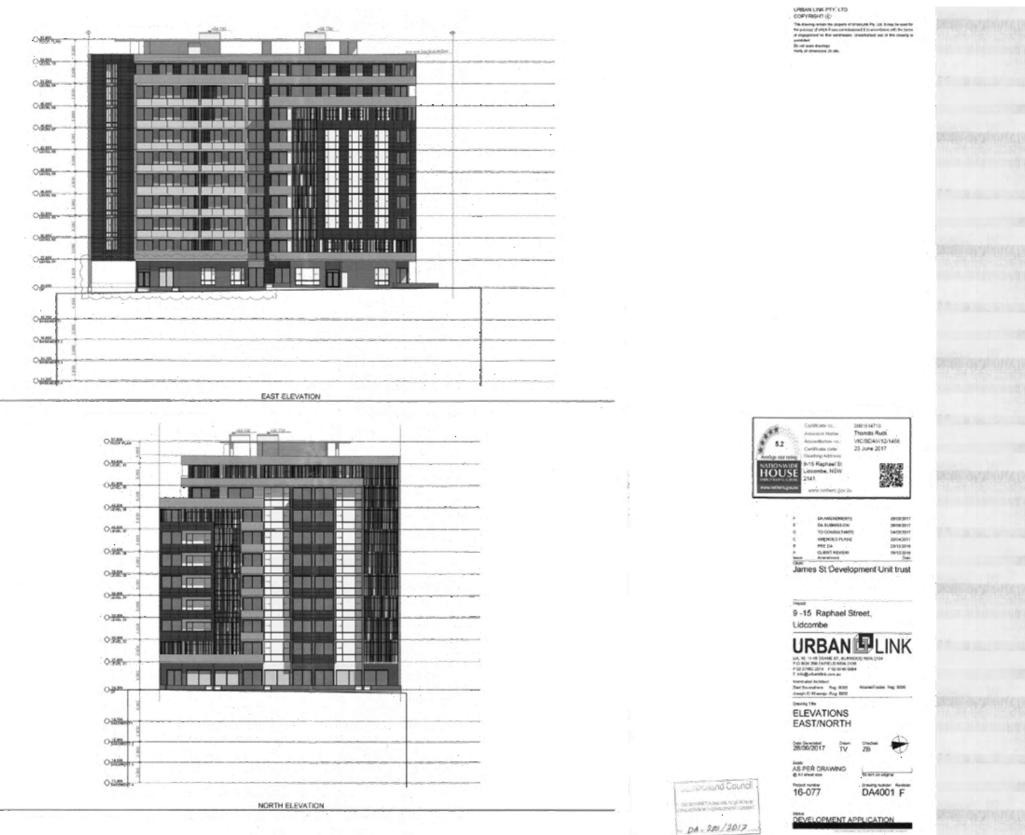










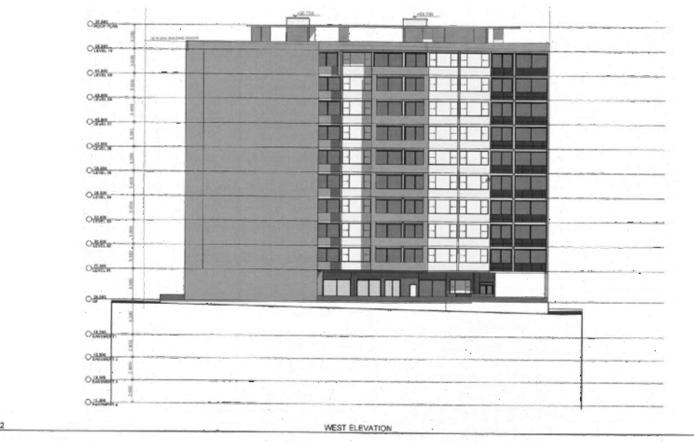


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James St Development Unit trust

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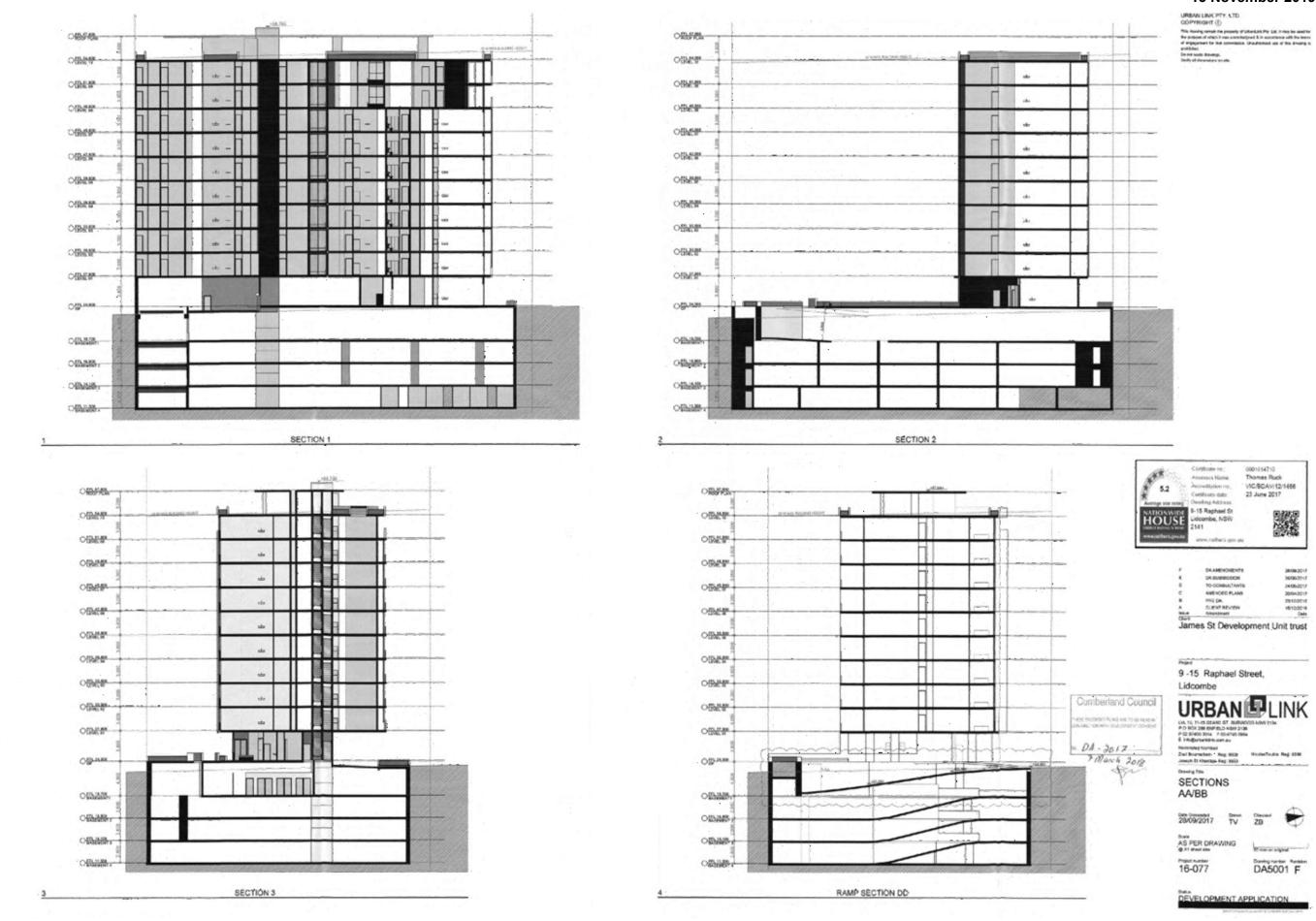
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Dumberland Council

DA- 380/2017 3 March 3018 500 DA4002 F







# DOCUMENTS ASSOCIATED WITH REPORT LPP074/19

Attachment 11
Stamped Plans - Part 2 - DA280/2017



### SCHEDULE OF EXTERNAL FINISHES FOR PROPOSED RESIDENTIAL FLAT DEVELOPMENT @ 9 - 15 RAPHAEL STREET, LIDCOMBE, NSW



VIEW LOOKING SOUTH WEST FROM CNR OF MARSDEN AND RAPHAEL STREET





PRE FINISHED CONCRETE PANELS - DULUX - MALI



RENDER & PAINT FINISH DULUX VIVID WHITE PN2-B6





PRE FINISHED CONCRETE



BLACK FRAMED SEMI TRANSPARENT GLASS BALUSTRADE





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James St Development Unit trust

9 -15 Raphael Street,

EXTERNAL FINISHES FINISHES SCHEDULE

27/06/26:17 TV AS PER DRAWING

DA7001 E

DEVELOPMENT APPLICATION



Item No: LPP075/19

#### **DEVELOPMENT APPLICATION - 6/1-3 FERNGROVE PLACE, CHESTER HILL**

Responsible Division: Environment & Planning

Officer: Executive Manager Development and Building

File Number: DA-257/2019

Application lodged	20 August 2019			
Applicant	Unity For The Community Pty Ltd			
Owner	T & R Investment Group Pty Limited			
Application No.	DA-257/2019			
Description of Land	6/1-3 Ferngrove Place, CHESTER HILL NSW 2162, Lot 6 SP 34532			
Proposed	Use and fitout of an existing industrial tenancy as a Place of			
Development	Public Worship to operate 10.00 a.m. to 7.30 p.m. Monday to			
	Friday and 10.00 a.m. to 1.00p.m. Saturday			
Site Area	3838.2m ²			
Zoning	IN1 General Industrial			
Disclosure of political	Nil disclosure			
donations and gifts				
Heritage	No – the site is not heritage listed or within a heritage			
	conservation area			
<b>Principal Development</b>	N/A			
Standards	IV/A			
Issues	Car parking, site suitability & submissions			

#### **SUMMARY:**

- 1. Development Application No. DA-257/2019 was received on 20 August 2019 for the use and fitout of an existing industrial tenancy as a Place of Public Worship to operate 10.00 a.m. to 7.30 p.m. Monday to Friday and 10.00 a.m. to 1.00 p.m. Saturday.
- 2. The application was publicly notified to occupants and owners of the adjoining properties for a period of 21 days between 3 September 2019 and 27 September 2019. In response, fourteen (14) submissions were received.
- 3. The application is recommended for refusal, subject to the reasons provided in the attached schedule.
- 4. The application is referred to the Panel as the proposal is considered to be contentious, having regard to the number of submissions received.

#### **REPORT:**

#### Subject Site and Surrounding Area





The site forms Lot 6 SP 34532 and is known as 6/1 Ferngrove Place, CHESTER HILL NSW 2162. The site has an area of 3838.2m2 and a dual frontage to Ferngrove Place of 66.46 metres and Ferndell Street in order of 43.2m2.

Existing improvements on the site comprise an industrial unit complex comprising a total of six (6) industrial units and associated car parking. Vehicular access to the site is gained via separate entry and exit driveways off Ferngrove Place. Unit 6, the subject of this application, is situated within eastern portion of the building and has a total approved area of 603m2; comprising 463m2 on the ground floor and 140m2 on the mezzanine level. Unit 6 has a total of nine (9) allocated car parking spaces, three (3) along the site's northern boundary and six (6) along the site's eastern boundary.

Unit 2 adjoining the site is currently used for the processing of poultry. Existing development immediately opposite the site to the north, south and west comprises general industrial land uses, including a 24/7 fitness studio, warehousing and offices. Immediately opposite the site along Ferndell Street to the east is low density residential development.

Ferndell Street is classified as a Regional road in the RMS Schedule of Classified Roads.



Figure 1 – Locality Plan of subject site (Nearmap)





Figure 2 – Street view of subject site from Ferndell Street (eastern elevation)



Figure 3 – Street view of subject site from Ferngrove Place (northern elevation)

#### Description of the Proposed Development

Council has received a development application for the use and fitout of an existing industrial tenancy as a Place of Public Worship to operate 10.00 a.m. to 7.30 p.m. Monday to Friday and 10.00 a.m. to 1.00 p.m. Saturday.

The place of public worship will provide the following services to the community, as detailed in the Timetable in the Plan of Management (POM):



- Pre-Kindy Islamic Spiritual classes (max. 15 children);
- Mother's Support Group (maximum 11 people);
- Arabic Calligraphy;
- Arabic classes (maximum 30 children);
- Islamic Spiritual classes (maximum 10 children);
- Religious classes (maximum 10 children);
- Counselling classes (maximum 10 children); and
- Isha Prayer (maximum 8 people).

No food is proposed to be prepared on the site.

A maximum of twenty (20) volunteers work at the site of which no more than four (4) would be engaged on-site at the one time.

Part of the ground floor area is proposed to be fitout and used for internal vehicle car parking, comprising six (6) car parking spaces (including one (1) disabled space) and two (2) mini-bus parking spaces. Access to these spaces is proposed via an existing roller door on the southern building elevation.

These internal spaces are proposed to be used in conjunction with the nine (9) car parking spaces allocated to Unit 6 in SP 34532, resulting in the provision of a total of seventeen (17) on-site parking spaces. In addition to these spaces, the development also proposes to use the remaining nineteen (19) on-site car parking spaces allocated to the remaining units in the building as well as surrounding on-street car parking.

The mini-bus spaces are to be utilised by a bus service, operated by the place of public worship, to provide pick up/drop off services for members of the community visiting the site.

The remainder of the ground floor area is proposed to be used as foyer space, including a centrally located water fountain, with separate male and female ablution blocks and a storage room. The main pedestrian entry to the building is along the northern building elevation. There is direct pedestrian access from the proposed internal car parking/drop-off area to the foyer.

Unit 6 has an approved mezzanine area of 140m2. An additional 120m2 of mezzanine floor area has been constructed without development consent, resulting in a total mezzanine floor area of 260m2. The mezzanine area is proposed to be fitout to facilitate three (3) rooms for religious classes, one (1) room for counselling and a central open space to be utilised as a prayer area.



It is acknowledged that a Building Certificate for the unauthorised mezzanine extension has not been submitted to Council. Further, a Section 4.55 Application has not been submitted to amend the original Development Application for the building.

The proposed use of the site, the subject of this application is currently operating without development consent.

#### History

Following is a discussion of the history of the site, including previous development applications and compliance action undertaken on Unit 6 1-3 Ferngrove Place, Chester Hill.

- <u>DA-9989/1995</u> Lodged on 18 October 1995 to extend the mezzanine floor within Unit 6. The application was subsequently withdrawn.
- <u>DA-667/2009</u> Lodged on 28 September 2009 for the proposed change of use from industrial premises to a place of worship and signage. The hours of operation proposed were Tuesday to Sunday 9.00am to 9.00pm.
   The application was withdrawn, on the grounds of insufficient information.
- <u>EPA-40/2018</u> On 22 March 2018, a Notice of Intention to Issue an Order was issued on Unit 6 for the unauthorised use of the premises as a place of public worship. An Order was subsequently issued on 21 May 2018 for the use of the premises for a place of public worship to cease.
- <u>EPA-41/2018</u> On 22 March 2018, a Notice of Intention to Issue an Order was issued on Unit 6 for the unauthorised extension and partition of the mezzanine level. An Order was subsequently issued on 24 May 2019 to demolish the unauthorised mezzanine level.

Further compliance action was placed on hold, pending the outcome of the below mentioned Development Application, submitted to address the matters raised in the compliance Orders.

• <u>DA-110/2019</u> Lodged on 1 April 2019 seeking development consent for the use and fit-out of an existing industrial tenancy (Unit 6) as a place of public worship having operational hours of 5.00am to 9.45am.

Based on a site inspection undertaken on 17 May 2019, the fit-out works for which development consent were sought, as part of DA-110/2019, were determined to have already been undertaken. These works included the construction of partition walls and the extension and fit-out of the mezzanine area. The mezzanine area was increased from the approved 140m2 to 330m2, with internal partitions constructed to create individual rooms.

It was acknowledged that a Building Certificate for these works had not been submitted to Council. Further, a Section 4.55 Application had not been submitted to amend the original development consent for the building.



On 17 May 2019, an Invitation to Withdraw letter was issued to the Applicant, advising that Council were unable to support the proposed development, namely due to the fact that the site is not capable of providing the required number of on-site car parking spaces generated by the proposed change of use.

The Applicant engaged in discussions with Council officers and the application was subsequently withdrawn on 20 June 2019.

Acknowledging withdrawal of DA-110/2019, on 22 July 2019, Council's compliance team issued Directions to comply on both EPA-40/2018 and EPA-41/2018, providing until 23 August 2019 to comply.

On 20 August 2019, DA-257/2019 (the application the subject of this assessment) was lodged with Council. Further compliance action has been placed on hold, pending the outcome of this determination.

#### **Applicants Supporting Statement**

The applicant has provided a Statement of Environmental Effects (SEE) prepared by Rockeman Town Planning dated August 2019 and was received by Council on 20 August 2019, in support of the application.

#### **Contact With Relevant Parties**

The assessing officer has undertaken a site inspection of the subject site and surrounding properties and has been in regular contact with the applicant throughout the assessment process.

#### Internal Referrals

#### **Development Engineer**

The development application was referred to Council's Development Engineer for comment who has advised that the development cannot be supported for the following reasons:

- The number of car parking spaces proposed is not adequate, having regard to the car parking rates in the Parramatta DCP 2011 for places of public worship.
- The provision of car parking spaces within the building cannot be supported, car parking spaces are required to be provided external to the building:
  - The proposed internal parking layout does not comply with Australian Standards AS2890.1 and AS2890.6.
  - Adequate manoeuvring area is not available for the number of car parking spaces proposed.



- A turning area has not been provided within the building to facilitate the forward entry and exit of vehicles, in the event that the car parking area is fully occupied.
- It is not acceptable to share the car parking spaces allocated to other tenancies.
- On-street car parking spaces cannot be counted towards the provision of car parking, in lieu of on-site car parking; all car parking is to be provided on-site.

#### **Environment and Health**

The development application was referred to Council's Environment and Health Officer for comment who has advised that the development proposal is satisfactory having regard to site contamination and acoustic impacts and therefore can be supported, subject to recommended conditions of consent.

#### Waste Management

The development application was referred to Council's Waste Management Officer for comment who has advised that the development proposal is satisfactory, provided a dedicated area for the storage of general waste and recycling bins is nominated. The development can therefore be supported, subject to recommended conditions of consent.

#### External Referrals

The application was not required to be referred to any external government authorities for comment.

#### **Planning Comments**

## The provisions of any Environmental Planning Instruments (EP&A Act s4.15 (1)(a)(i))

State Environmental Planning Policies

The proposed development is affected by the following State Environmental Planning Policies:

## (a) State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)

Clause 7 of SEPP 55 requires Council to be satisfied that the site is suitable or can be made suitable to accommodate the proposed development. The matters listed within Clause 7 have been considered in the assessment of the development application.

Figure 1 –SEPP 55 Compliance Table

_	1 .ga. 0 1 0=1 1 00 00p	
	Matter for Consideration	Yes/No
Ī	Does the application involve re-development of the site or a change	Yes □ No
	of land use?	



Matter for Consideration	Yes/No
In the development going to be used for a sensitive land use (e.g.:	☐ Yes 🖂 No
residential, educational, recreational, childcare or hospital)?	
Does information available to you indicate that an activity listed	☐ Yes ⊠ No
below has ever been approved, or occurred at the site?	
acid/alkali plant and formulation, agricultural/horticultural activities,	
airports, asbestos production and disposal, chemicals manufacture	
and formulation, defence works, drum re-conditioning works, dry	
cleaning establishments, electrical manufacturing (transformers),	
electroplating and heat treatment premises, engine works, explosive	
industry, gas works, iron and steel works, landfill sites, metal	
treatment, mining and extractive industries, oil production and	
storage, paint formulation and manufacture, pesticide manufacture	
and formulation, power stations, railway yards, scrap yards, service	
stations, sheep and cattle dips, smelting and refining, tanning and	
associated trades, waste storage and treatment, wood preservation	
Is the site listed on Council's Contaminated Land database?	☐ Yes ⊠ No
Is the site subject to EPA clean-up order or other EPA restrictions?	Yes No
Has the site been the subject of known pollution incidents or illegal	Yes No
dumping?	
Does the site adjoin any contaminated land/previously contaminated	☐ Yes ⊠ No
land?	
Has the appropriate level of investigation been carried out in respect	⊠ Yes □ No
of contamination matters for Council to be satisfied that the site is	
suitable to accommodate the proposed development or can be	
made suitable to accommodate the proposed development?	
Details of contamination investigations carried out at the site:	l
<b>3</b>	
The application does not propose any demolition or alterations to	the existing
building on the site. There is also no exposed soil, other than the	garden beds
along the site's frontages to Ferndell Street and Ferngrove Place. De	•
Applicant submitted a Preliminary Site and Soil Investigation	
iEnvironmental Australia (Reference: 20180803, dated: 8 September 2	
	,
This document was reviewed by Council's Environmental Health Ur	nit (EHU) who
advised that the there are no changes to the building structure or	, ,
(apart from very minor internal alterations to fitout) and the site is a	
hardstand apart from small garden beds along the footpath of the sit	
sampling of this garden bed area was undertaken as part of the	
assessment, and results indicate that most criteria are not exceeded	
exceedance of some ecological screening criteria for hydrocarbons. T	•
concludes that the site is suitable for the proposed use as a pl	
worship.	•
'	
Council's EHU have advised that based on the observations and sit	te history, the
site is considered suitable for the proposed use from a contamination	•
and that an unexpected finds protocol be followed, should any	
encountered which would alter previous conclusions about site suitable	



#### (a) State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)

The provisions of the ISEPP 2007 have been considered in the assessment of the development application.

Clause 85 – Development adjacent to railway corridors

The application is not subject to clause 85 of the ISEPP, because the subject site is in or adjacent to a railway corridor.

Clause 86 – Excavation in, above, below or adjacent to rail corridors

The application is not subject to clause 86 of the ISEPP as the proposed development does not involve any excavation works on land within, below or above a rail corridor, or within 25m (measured horizontally) of a rail corridor.

Clause 87 – Impact of rail noise or vibration on non-rail development

The application is not subject to clause 87 of the ISEPP as the site is not in or adjacent to a rail corridor, nor is it likely to be adversely affected by rail noise or vibration.

Clause 101 – Frontage to classified road

Having regard to Clause 101, the site maintains a frontage to Ferndell Street, which is identified as a Regional classified road.

No changes are proposed to the existing vehicular access to the site; off Ferngrove Place. The development does not currently maintain, nor propose any vehicular access of Ferndell Street.

Notwithstanding the above, the application is recommended for refusal on the grounds of the inability of the site to provide an adequate number of on-site car parking spaces, to service the proposed use.

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

The application is not subject to clause 102 of the ISEPP as the annual average daily traffic volume of Ferndell Street is not greater than 40,000 vehicles.

Clause 104 – Traffic generation developments

The application is not subject to clause 104 as the proposal does not trigger the requirements for traffic generating developments listed in Schedule 3 of the ISEPP.

### (b) State Environmental Planning Policy No 64—Advertising and Signage (SEPP 64)

There are three wall signs associated with the proposed use, which have been erected on the building, one above the main pedestrian building entrance, one on the northern building elevation and one on the eastern building elevation.



The SEE submitted with the application states that this signage forms part of the proposal, however, has failed to provide an assessment of these signs against the provisions of SEPP 64.

#### Regional Environmental Plans

The proposed development is affected by the following Regional Environmental Plans:

### (a) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SREP 2005)

The subject site is identified as being located within the area affected by the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. The proposed development raises no issues as no impact on the catchment is envisaged.

(Note: - the subject site is not identified in the relevant map as 'land within the 'Foreshores and Waterways Area' or 'Wetland Protection zone', is not a 'Strategic Foreshore Site' and does not contain any heritage items. Hence the majority of the SREP is not directly relevant to the proposed development).

#### Local Environmental Plans

#### Parramatta Local Environmental Plan 2011 (Parramatta LEP 2011)

The provisions of the Parramatta LEP 2011 are applicable to the development proposal. It is noted that the development achieves compliance with the key statutory requirements of the Parramatta LEP 2011 and the objectives of the IN1 General Industrial land use zone.

#### (a) Permissibility:-

The proposed development is defined as a place of public worship and is permissible in the IN1 General Industrial land use zone, with consent.

#### A place of public worship:

means a building or place used for the purpose of religious worship by a congregation or religious group, whether or not the building or place is also used for counselling, social events, instruction or religious training.

The relevant matters to be considered under the Parramatta LEP 2011 and the applicable clauses for the proposed development are detailed below.

Figure 2 –Parramatta LEP 2011 Compliance Table

DEVELOPMENT STANDARD	COMPLIANCE	DISCUSSION
4.3 Height of Buildings	Υ	The existing building which
Maximum 12 metres		includes Unit 6 is less than 12



		metres in height. No changes to the external fabric of the building are proposed that would impact the existing building height.
4.4 Floor Space Ratio Maximum 1:1	Y	The approved FSR (based on Strata Plan areas) equates to a total gross floor area of 2,106sqm resulting in an FSR of 0.55:1. The increase to the mezzanine area of Unit 6 results in total gross floor area of 2,226sqm, resulting in an FSR of 0.58:1.
5.10 Heritage conservation	N/A	The site is not identified as a heritage item, is not within a heritage conservation area and is not in the vicinity of any heritage items. Notwithstanding, the proposed development does propose any alterations to the exterior of the existing building; all proposed works are internal.
6.1 Acid Sulfate soils Class 5	Y	The building is existing and no works are proposed that would penetrate the existing ground.
6.2 Earthworks	N/A	No earthworks are proposed as part of the development.
6.3 Flood planning	N/A	The site is not flood affected.

The provisions of any proposed instrument that is or has been the subject (EP&A Act s4.15 (1)(a)(ii))

### (a) Draft State Environmental Planning Policy (Environment) (Draft SEPP Environment)

The draft SEPP relates to the protection and management of our natural environment with the aim of simplifying the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property. The changes proposed include consolidating the following seven existing SEPPs:

- State Environmental Planning Policy No. 19 Bushland in Urban Areas
- State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011
- State Environmental Planning Policy No. 50 Canal Estate Development
- Greater Metropolitan Regional Environmental Plan No. 2 Georges River Catchment
- Sydney Regional Environmental Plan No. 20 Hawkesbury-Nepean River (No.2-1997)



- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Willandra Lakes Regional Environmental Plan No. 1 World Heritage Property.

The draft policy will repeal the above existing SEPPs and certain provisions will be transferred directly to the new SEPP, amended and transferred, or repealed due to overlaps with other areas of the NSW planning system.

Changes are also proposed to the Standard Instrument – Principal Local Environmental Plan. Some provisions of the existing policies will be transferred to new Section 117 Local Planning Directions where appropriate.

#### The provisions of any Development Control Plans (EP&A Act s4.15 (1)(a)(iii))

The Parramatta DCP 2011 provides guidance for the design and operation of development to achieve the aims and objectives of the Parramatta LEP 2011.

A comprehensive assessment and compliance table is contained in Appendix A.

The following table highlights non-compliances with the DCP, which relate primarily to the provision of car parking.

Figure 3 –Parramatta DCP 2011 Summary Compliance Table

01-	Parramatta DCP 20		A I'
Clause	Control	Proposed	Complies
5.3.3.5 Traffic, Parking and Access	P.2 On-site parking shall be provided at the rate determined by the traffic impact statement having regard to the objectives of this clause. As a general guide for places of public worship, new development shall provide 1 car parking space per 5m² of usable floor space for the first 100m² and 1 car parking space per 3m² of usable floor space thereafter. (Usable floor space not being corridor space, stairways, storage areas, toilets and other floor space that will not increase the capacity of the development.)	Utilising the general guide for places of public worship, the proposed use generates the following car parking requirement:  Total useable floor space = 373sqm  100/5 = 20 273/3 = 91  This generates the requirement for a total of 111 car parking spaces.  The development proposes seventeen (17) car parking spaces, the 9 allocated to Unit 6 in SP 34532 and 8 internal to the building.  The application is accompanied by a Traffic Impact and Parking Assessment Study (Rev B,	No



dated 10/08/2019) (the Study).

This Study has calculated the number of car parking spaces required in accordance with the Parramatta DCP 2011 to be 41 car parking spaces; based off a usable floor area of 164sqm (i.e. the mezzanine 'prayer area').

The Study has calculated the maximum number of vehicles generated by the development during the peak hour of 12 vehicles (assuming that all patrons would travel to the site by car, with none using the minibus service).

The Study provides the justification that, considering the fact that the peak activities would occur after 5:00pm, and considering the fact that there are another additional 19 (nineteen) off-street parking spaces, located at the site, for which 'Unity 4 Community' has obtained permission from the other five businesses to freely used their parking spaces after 5:00pm. when the businesses are closed and when most of the 'Unity 4 Community' activity at the development site would occur, means that, in total, 36 off-street parking spaces, would be only slightly under the maximum parking demand of 41 vehicles.

However, in reality, the parking demand is likely to be lower than 41 parking spaces, due to the fact that the mini-bus service has been provided and is already operational at the site, thus significantly reducing the parking demand at the site.



Therefore, we are of opinion that even under this criteria, there would be enough off-street parking spaces provide at the development site, even though the Parramatta parking rates are far less applicable for this particular development site, when compared with the other two, as the Parramatta rates were calculated within the busy, densely populated Parramatta area, and not the local area where the development site has been located.

In addition to the on-street parking, the parking accumulation survey results also reveal that, after 5:00pm, there are a significant number of vacant on-site parking spaces, available to be used for parking by the community centre's patrons.

The maximum projected increase in traffic activity, as a consequence of the development, is insignificant particularly considering volume of traffic on the adjacent road network. There is also ample spare capacity on Ferngrove Place.

It is acknowledged that the inconsistent Study is referencing the proposed use, alternating between a 'place of public worship' and 'community centre' - these are separate land uses: separately defined in the Parramatta LEP 2011.

Council do not support the justification provided for the



	reasons detailed below.	
P.3 All vehicles shall enter and leave the site in a forward direction. Clear distinctions should be made for vehicular traffic and pedestrian movements, both onsite and off-site. Measures should be taken to separate these and reduce potential conflict through design and management practices.	Council's Development Engineer has advised that a turning area has not been provided within the building to facilities the forward entry and exit of vehicles, in the event that all car parking spaces are occupied.	No
P.4 Car parking spaces are to be designed to ensure ease of access, egress and manoeuvring on-site. The standards of AS 2890 are to be complied with.	Council's Development Engineer has advised that the proposed internal car parking layout does not comply with the Australian Standards AS2890.1 and AS2890.6.  Adequate manoeuvring space has not been provided for the number of car parking spaces provided.	No

As indicated in the compliance table above, the proposed development departs from the parking and access requirements at Section 5.3.3.5 pf the Parramatta DCP 2011.

Having regard to these departures, as discussed above, it is considered that the proposal performs unsatisfactorily from an environmental planning viewpoint for the reasons discussed below:

It is Council's assertion that the useable floor space adopted by the Study, for the purpose of calculating the required number of car parking spaces, has been incorrectly calculated. Council's calculation has identified a useable floor space of 373sqm. This generates the requirement for 111 on-site car parking spaces, in accordance with the general rate at P2.

Notwithstanding the above, Council do not support the justification provided in the Study for the deficit in on-site car parking spaces to be accounted for by the remaining 19 car spaces allocated to Units 1 to 5 in SP 34532 and the use of onstreet car parking along Ferngrove Place. Council's Development Engineer has advised that it is not suitable to share the parking spaces allocated to other tenants and all car parking for the development is required to be provided on-site.

On this basis, it is evident that the site is unable to accommodate the number of car parking spaces required to service the proposed development and the application is subsequently recommended for refusal.



The provisions of any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4 (EP&A Act s4.15(1)(a)(iiia))

There is no draft planning agreement associated with the subject Development Application.

#### The provisions of the Regulations (EP&A Act s4.15 (1)(a)(iv))

The proposed development raises no concerns as to the relevant matters arising from the Environmental Planning and Assessment Regulations 2000 (EP&A Reg).

#### The Likely Environmental, Social or Economic Impacts (EP&A Act s4.15 (1)(b))

Whilst it is acknowledged that the development is proposing a use that would cater for the social needs of the community, the site is considered to be constrained in its ability to accommodate the proposed place of public worship.

The site is unable to provide an adequate number of on-site car parking spaces to service the development. The use of spaces allocated to the remaining five (5) units in SP 34532 is not considered acceptable and has the potential to cause adverse economic impacts for the owners/tenants of these tenancies, which would have flow on economic impacts on the locality.

The proposed car parking within the building is not acceptable on the grounds that the car parking layout does not comply with the relevant Australian Standard AS2890 as well as the fact that the operation of vehicles internal to the building presents an environmental health risk having regard to exhaust emissions from vehicles and the impact of this on patrons frequenting the place of public worship, noting that a high proportion of users of the site comprise children.

The development will result in adverse economic and environmental impacts, for the reasons detailed above.

#### The suitability of the site for the development (EP&A Act s4.15 (1)(c))

Whilst places of public worship are permitted in the IN1 General Industrial land use zone, the site is not considered suitable for the development proposed, for the following reasons:

- The site is not capable of accommodating the number of car parking spaces required for a place of public worship, pursuant to the provisions of the Parramatta DCP 2011.
   i)
- The proposed use includes a number of children's activities/classes. Given the surrounding industrial developments within the complex and the activities associated with these uses, the site is not considered to be a suitable environment for children to be frequenting, having regard to safety.



Accordingly, it is considered that the development is not suitable in the context of the site and surrounding locality.

### Submissions made in accordance with the Act or Regulation (EP&A Act s4.15 (1)(d))

Advertised (newspaper)  $\boxtimes$  Mail  $\boxtimes$  Sign  $\boxtimes$  Not Required  $\square$ 

In accordance with Council's Notification requirements contained within the Parramatta DCP 2011, the proposal was publicly notified for a period of 21 days between 3 September 2019 and 27 September 2019. The notification generated fourteen (14) submissions in respect of the proposal with no submissions disclosing a political donation or gift.

The issues raised in the public submissions are summarised and commented on as follows:

Figure 4 – Submissions Summary Table

Figure 4 – Submissions Summary Table			
Issue	Planner's Comment		
It is dangerous for children to be frequenting the site, due to the industrial setting and the deliveries and forklift use associated with the industrial uses.	Pursuant to the provisions of s.4.15(1)(c) of the <i>Environmental Planning and Assessment Act</i> 1979, the suitability of the site has been considered. The proposed use includes a number of children's activities/classes. Given the surrounding industrial developments within the complex and the activities associated with these uses, the site is not considered to be a suitable environment for children to be frequenting, having regard to safety. This is a reason for refusal of the application.		
There will be a disruption to the existing businesses as a result of increased traffic.	The development has failed to demonstrate that adequate on-site car parking spaces can be accommodated on-site. The assertion that the existing car parking spaces allocated to the remaining units in SP 34532 can be used by the proposed development is not supported by Council. This is a reason for refusal of the application.		
The use is unauthorised and a DA is required.	The Development Application the subject of this report has been lodged with Council to seek to legitimise the unauthorised use.		
The development will impact the availability of on-street parking along Ferngrove Place and Ferndell Street.	Council do not support the inclusion of on-street car parking spaces to achieve the required number of car parking spaces generated by the proposed use, pursuant to the Parramatta DCP 2011. This is a reason for refusal of the application.		
There are insufficient car parking spaces provided for the development. This will cause	There is a deficit in the number of car parking spaces provided. The Parramatta DCP 2011 requires a total of 111 on-site car parking spaces		



vehicle parking to spill onto the street.	for the proposed use. The development provides 17 on-site car parking spaces, with the shortfall to be accounted for by the use of the remaining car parking spaces in SP 34532 as well as with the use of on-street car parking spaces. Council do not support the inclusion of on-street car parking spaces to achieve the required number of car parking spaces generated by the proposed use, pursuant to the Parramatta DCP 2011. This is a reason for refusal of the application.
The use will generate traffic noise.	The Noise Assessment submitted with the application considered the impact of the development on road traffic noise and concluded that 'given the number of attendees is in the order of thirty (30) people, traffic generation and road traffic noise associated with the proposal will be minimal and well below the assessment objective of 60dB(A) LAeq,15hr(daytime)'. Council's Environmental Health Unit reviewed the Noise Assessment and deemed it to be satisfactory, subject to recommended conditions of consent. Notwithstanding, the application is recommended for refusal.

#### The public interest (EP&A Act s4.15(1)(e))

In view of the foregoing analysis it is considered that the development as proposed would not be consistent with the public interest.

#### Section 7.12 (Formerly S94a) Fixed Development Consent Levies

This part of the Act relates to the collection of monetary contributions from applicants for use in developing key local infrastructure.

The development does not require the payment of contributions in accordance with Council's Section 94 Contributions Plans.

#### Disclosure of Political Donations And Gifts

The applicant and notification process did not result in any disclosure of Political Donations and Gifts.

#### **CONCLUSION:**

The development application has been assessed in accordance with the relevant requirements of the Environmental Planning and Assessment Act 1979, SEPP 55, ISEPP, SEPP 64, SREP 2005, Draft SEPP Environment, Parramatta LEP 2001 and Parramatta DCP 2011 and is considered to be unsatisfactory for approval subject to reasons for refusal.



Having regard to the relevant matters of consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development is unacceptable for the reasons outlined in this report. It is recommended that the development application be refused.

#### **CONSULTATION:**

There are no further consultation processes for Council associated with this report.

#### FINANCIAL IMPLICATIONS:

There are no further financial implications for Council associated with this report.

#### **POLICY IMPLICATIONS:**

There are no policy implications for Council associated with this report.

#### **COMMUNICATION / PUBLICATIONS:**

The final outcome of this matter will be notified in the newspaper. The objectors will also be notified in writing of the outcome.

#### REPORT RECOMMENDATION:

- 1. That Development Application No. DA-257/2019 for the use and fitout of an existing industrial tenancy as a Place of Public Worship to operate 10.00 a.m. to 7.30 p.m. Monday to Friday and 10.00 a.m. to 1.00 p.m. Saturday on land at 6/1-3 Ferngrove Place, CHESTER HILL NSW 2162 be refused for the reasons listed in the attached schedule. ii)
- 2. Persons whom have lodged a submission in respect to the application be notified of the determination of the application.

#### **ATTACHMENTS**

- 1. Draft Notice of Determination J
- 2. Architectural Plans External U
- 3. Architectural Plans Internal J
- 4. Plan of Management J.
- 5. Traffic Impact & Parking Assessment Study J. 🖺
- 6. Public Submissions J.
- 7. Appendix A Parramatta DCP 2011 Compliance Table J

## DOCUMENTS ASSOCIATED WITH REPORT LPP075/19

# Attachment 1 Draft Notice of Determination



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#### REASONS FOR REFUSAL

DA No: DA-257/2019

Property: 6/1 Ferngrove Place, CHESTER HILL NSW 2162

Description: Unauthorised use and fitout of an existing industrial tenancy as a Place of Public

Worship to operate 10.00 a.m to 7.30 p.m. Monday to Friday and 10.00 a.m. to 1.00

p.m. Saturday

 The proposed development does not satisfy the objectives of the Parramatta Development Control Plan 2011 at part 5 (Places of Public Worship and Educational Establishments), specifically Section 5.3:

O.2 To ensure that places of public worship and educational establishments have a scale and intensity that is suitable to the site and consistent with the prevailing and likely neighbourhood character in which the development is proposed.

The useable floor space of the development generates a car parking rate which the site is unable to accommodate. Further, the development proposes a high proportion of children's activities/classes and given the surrounding industrial land uses within the complex and the activities associated with these uses, the site is not considered to be a suitable environment for children to be frequenting, having regard to safety.

(Environmental Planning and Assessment Act 1979 (as amended) Sec 4.15 (1)(a)(iii)).

- 2. The proposed development does not satisfy the objectives of the Parramatta Development Control Plan 2011, at part 5 (Places of Public Worship and Educational Establishments), specifically section 5.3.3.5:
  - O.1 To ensure that pedestrian safety is maintained and protected.

The proposed internal car parking fails to provide a separation between vehicles and pedestrians, resulting in the potential for conflict. Further, the location of the site within an industrial complex, surrounded by existing industrial uses, results in an environment that is not appropriate for children, having regard to truck movements within the industrial complex.

O.3 To minimise the impact of parking on the local streets.

The development proposes to utilise on-street parking along Ferngrove Place, in lieu of providing the required number of off-street car parking spaces. This would result in an unsatisfactory impact on the availability on-street car parking.

(Environmental Planning and Assessment Act 1979 (as amended) Sec 4.15 (1)(a)(iii)).

- 3. The proposed development does not comply with the provisions of the Parramatta Development Control Plan 2011, at part 5 (Other Provisions), specifically section 5.3.3.5 (Traffic, Parking and Access):
  - P.2 On-site parking shall be provided at the rate determined by the

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traffic impact statement having regard to the objectives of this clause. As a general guide for places of public worship, new development shall provide 1 car parking space per  $5m^2$  of usable floor space for the first 100m2 and 1 car parking space per  $3m^2$  of usable floor space thereafter. (Usable floor space not being corridor space, stairways, storage areas, toilets and other floor space that will not increase the capacity of the development.)

The usable floor space of the development generates the requirement for 111 onsite car parking spaces. The seventeen (17) on-site car parking spaces proposed to service the development are inadequate. The Traffic Impact and Parking Assessment Study fails to provide a satisfactory justification for the reduced car parking provision; Council do not support the sharing of car parking spaces allocated to other tenants within Units 1 to 5 in SP 34532, nor do Council support the use of on-street parking.

P.3 All vehicles shall enter and leave the site in a forward direction. Clear distinctions should be made for vehicular traffic and pedestrian movements, both onsite and off-site. Measures should be taken to separate these and reduce potential conflict through design and management practices.

A turning area has not been provided within the building to facilitate the forward entry and exit of vehicles, in the event that all car parking spaces are occupied. Further, the design of the internal car parking fails to provide a clear separation between vehicles and pedestrians, creating the potential for conflict.

P.4 Car parking spaces are to be designed to ensure ease of access, egress and maneuvering on-site. The standards of AS 2890 are to be complied with.

The internal car parking layout does not comply with the Australian Standards AS2890.1 and AS2890.6. Adequate manoeuvring space has not been provided for the number of car parking spaces proposed.

(Environmental Planning and Assessment Act 1979 (as amended) Sec 4.15 (1)(a)(iii)).

 The proposed development, will have an adverse environmental impact in the locality as the amount of traffic likely to be generated will impact on the movement of traffic in the local road system.

(Environmental Planning and Assessment Act (as amended) Sec 4.15 (1)(b)).

 The proposed development will have an adverse environmental impact in the locality given the inadequate proposed area available for the manoeuvring of vehicles within the building.

(Environmental Planning and Assessment Act 1979 (as amended) Sec 4.15 (1)(b)).

 The proposed development will have an adverse environmental impact in the locality as the use of the car parking spaces allocated to the remaining five (5) units in SP 34532 has the potential to cause adverse operational impacts for the owners/tenants of these tenancies.

(Environmental Planning and Assessment Act 1979 (as amended) Sec 4.15 (1)(b)).

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7. The proposed development will have an adverse environmental impact in the locality as the operation of vehicles, internal to the building, presents an environmental health risk, having regard to exhaust emissions and the impact of this on patrons frequenting the place of public worship, noting that a high proportion of users of the site would comprise children.

(Environmental Planning and Assessment Act 1979 (as amended) Sec 4.15 (1)(b)).

8. The site is considered unsuitable to accommodate the proposed development as the site is not capable of accommodating the number of car parking spaces required for a place of public worship, pursuant to the provisions of the Parramatta DCP 2011.

(Environmental Planning and Assessment Act 1979 (as amended) Sec 4.15 (1)(c)).

In the circumstances of the case, approval of the application is not in the public interest.

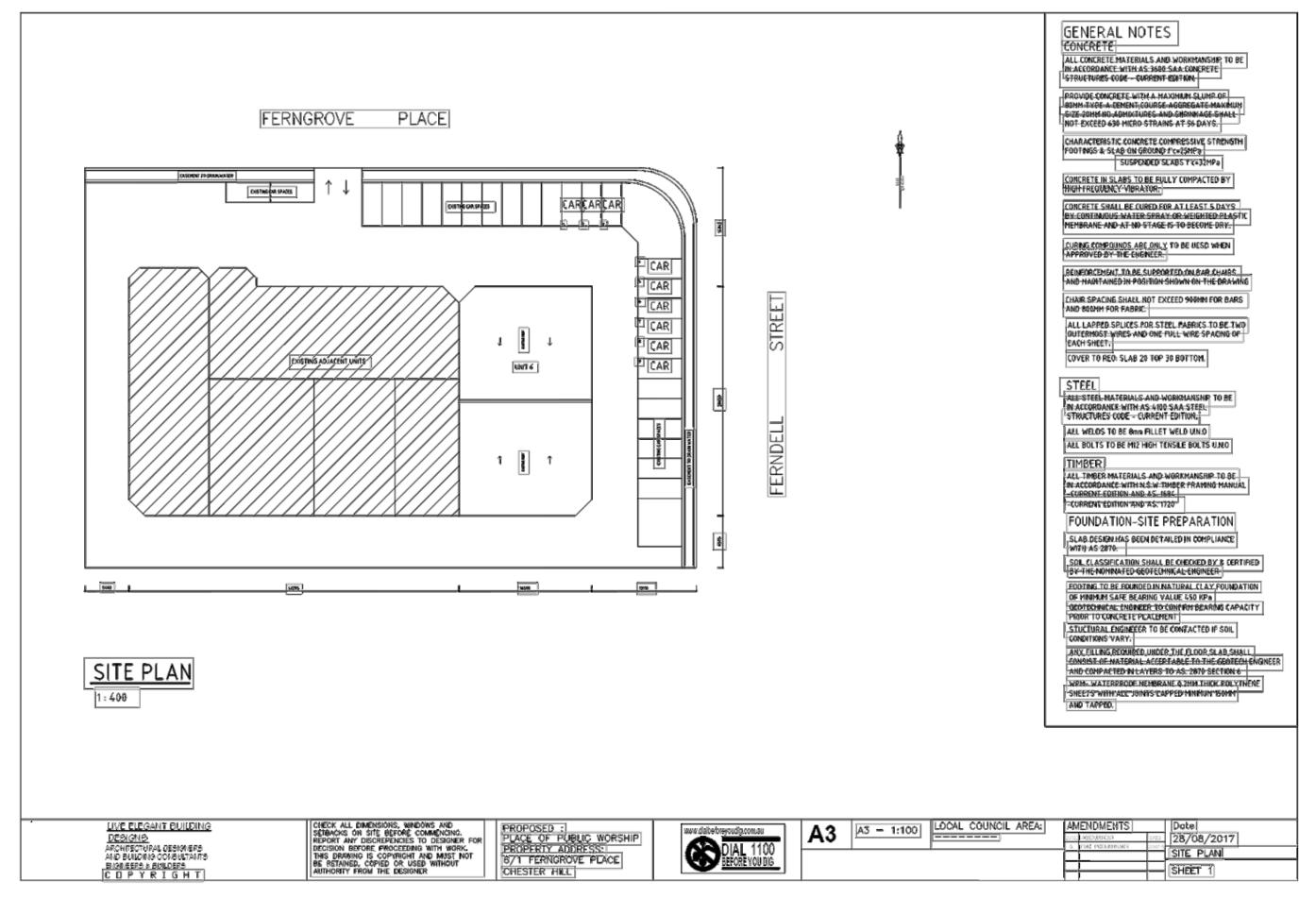
(Environmental Planning and Assessment Act 1979 (as amended) Sec 4.15 (1)(e)).

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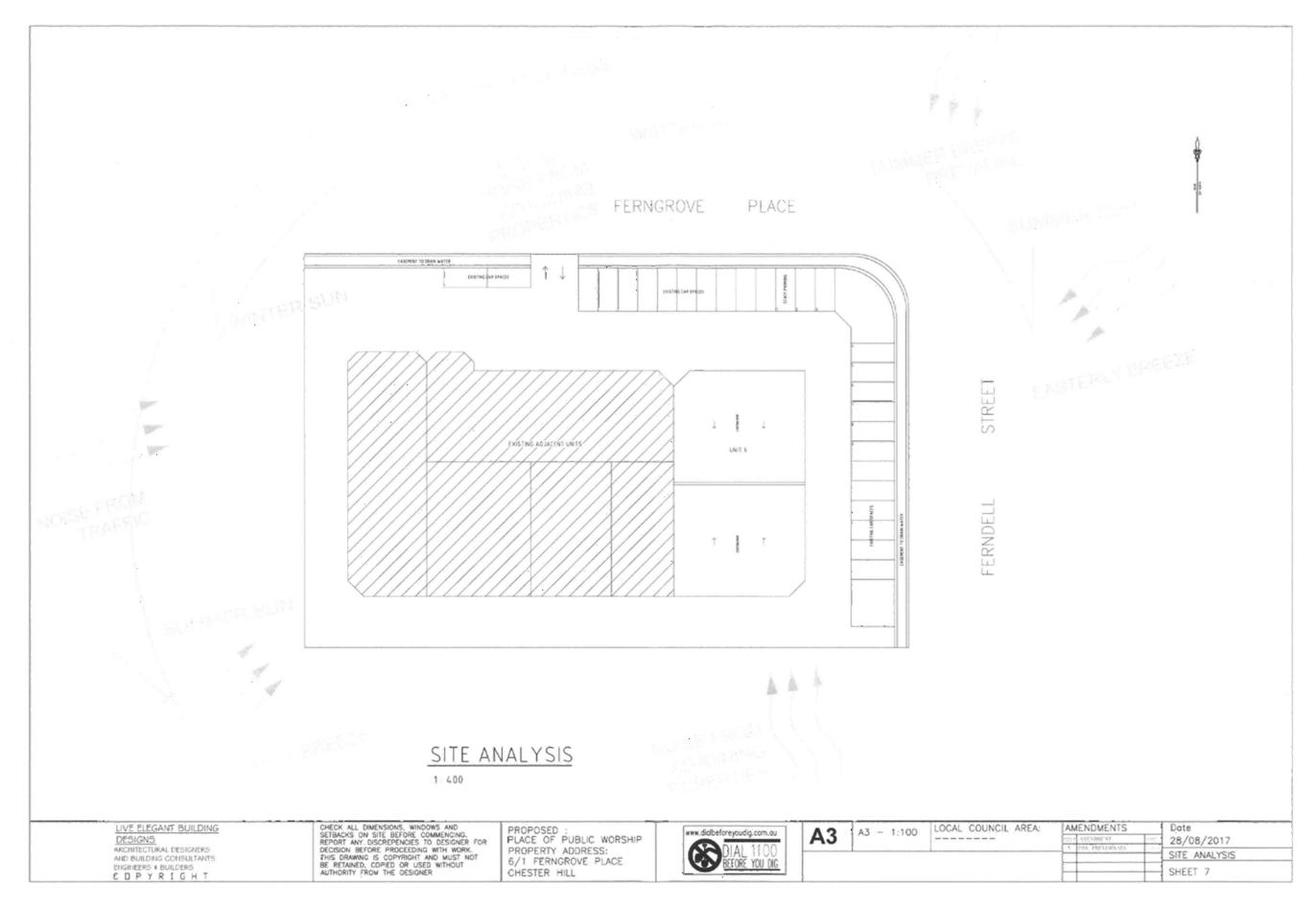
## DOCUMENTS ASSOCIATED WITH REPORT LPP075/19

# Attachment 2 Architectural Plans External

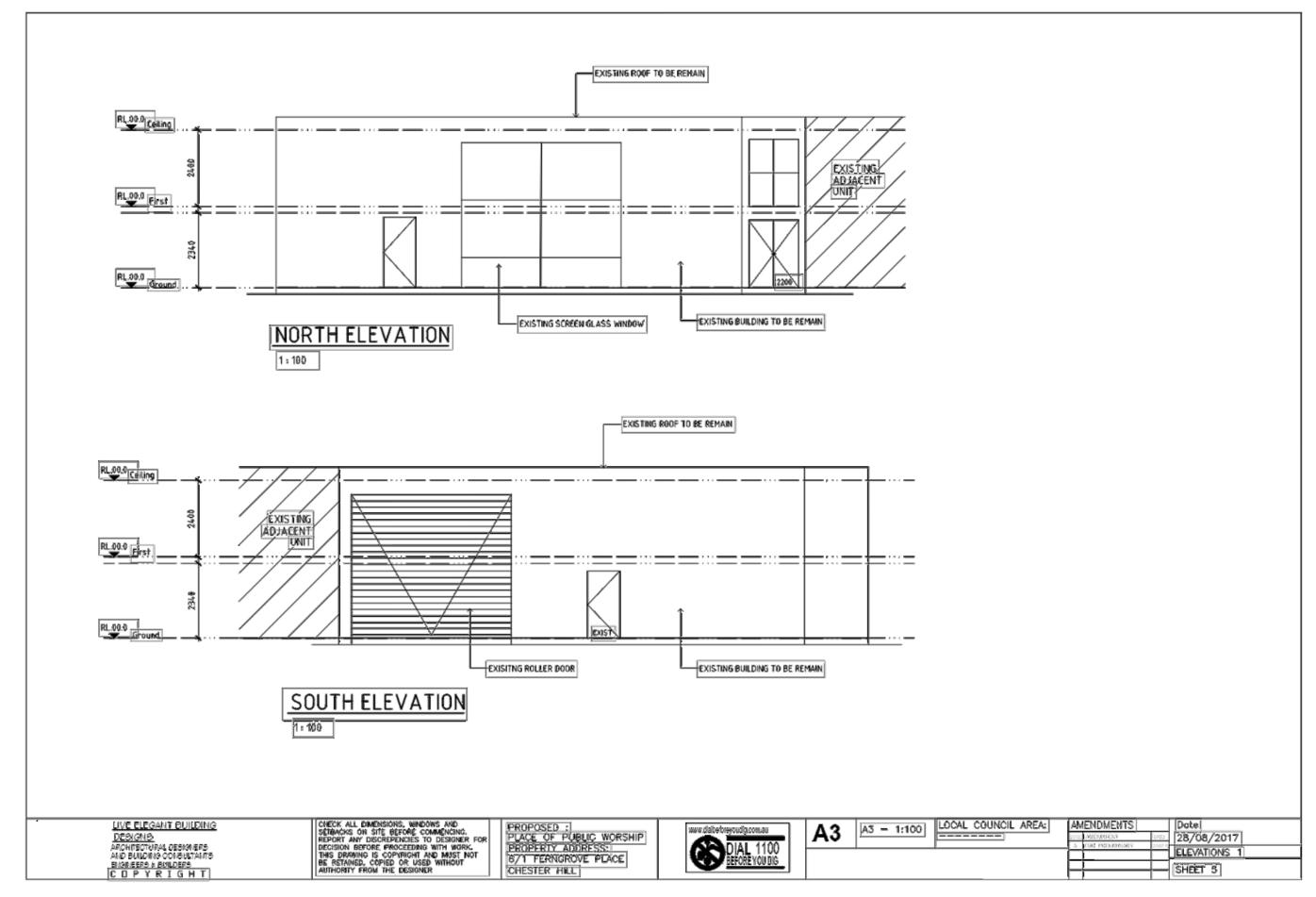




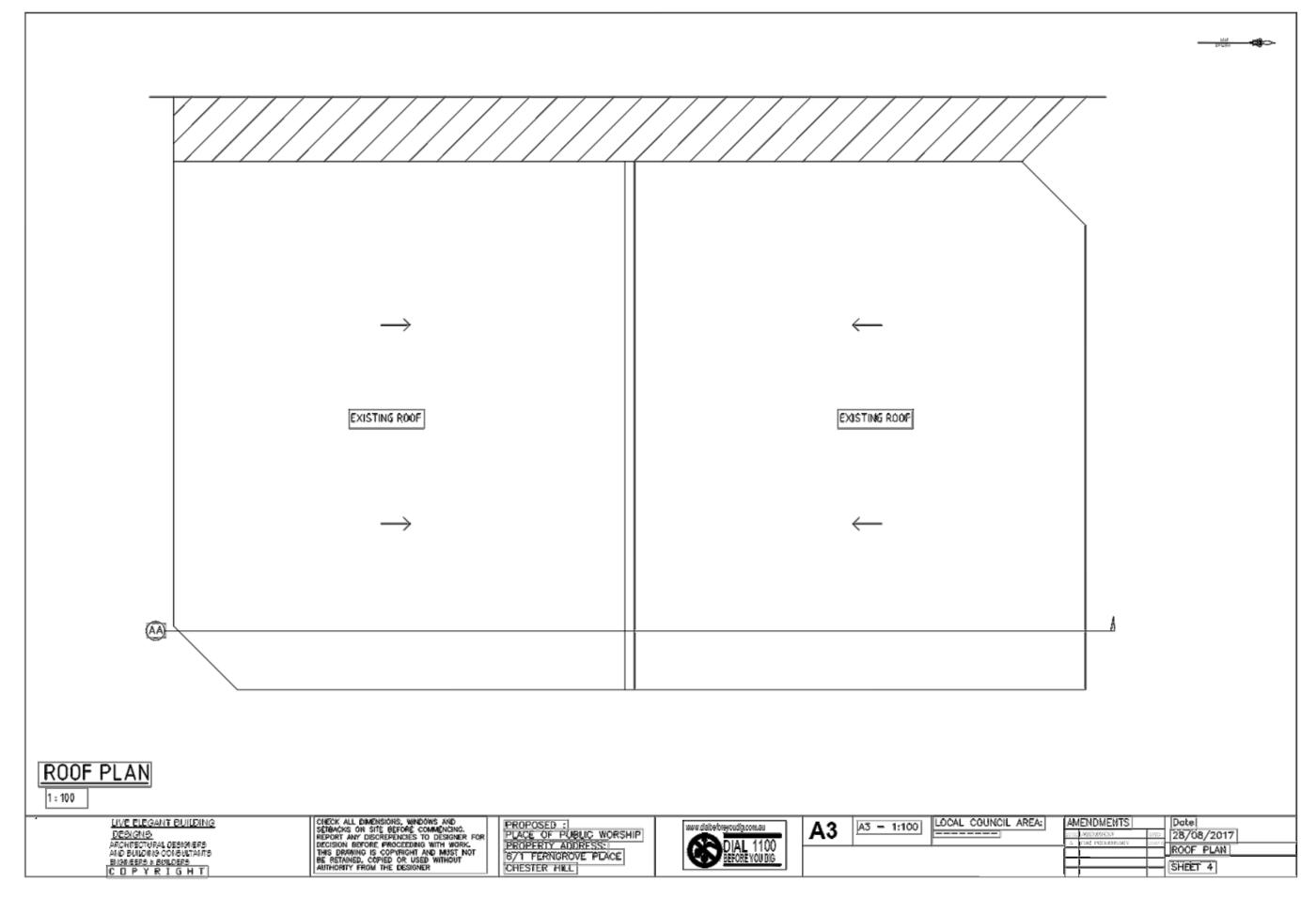




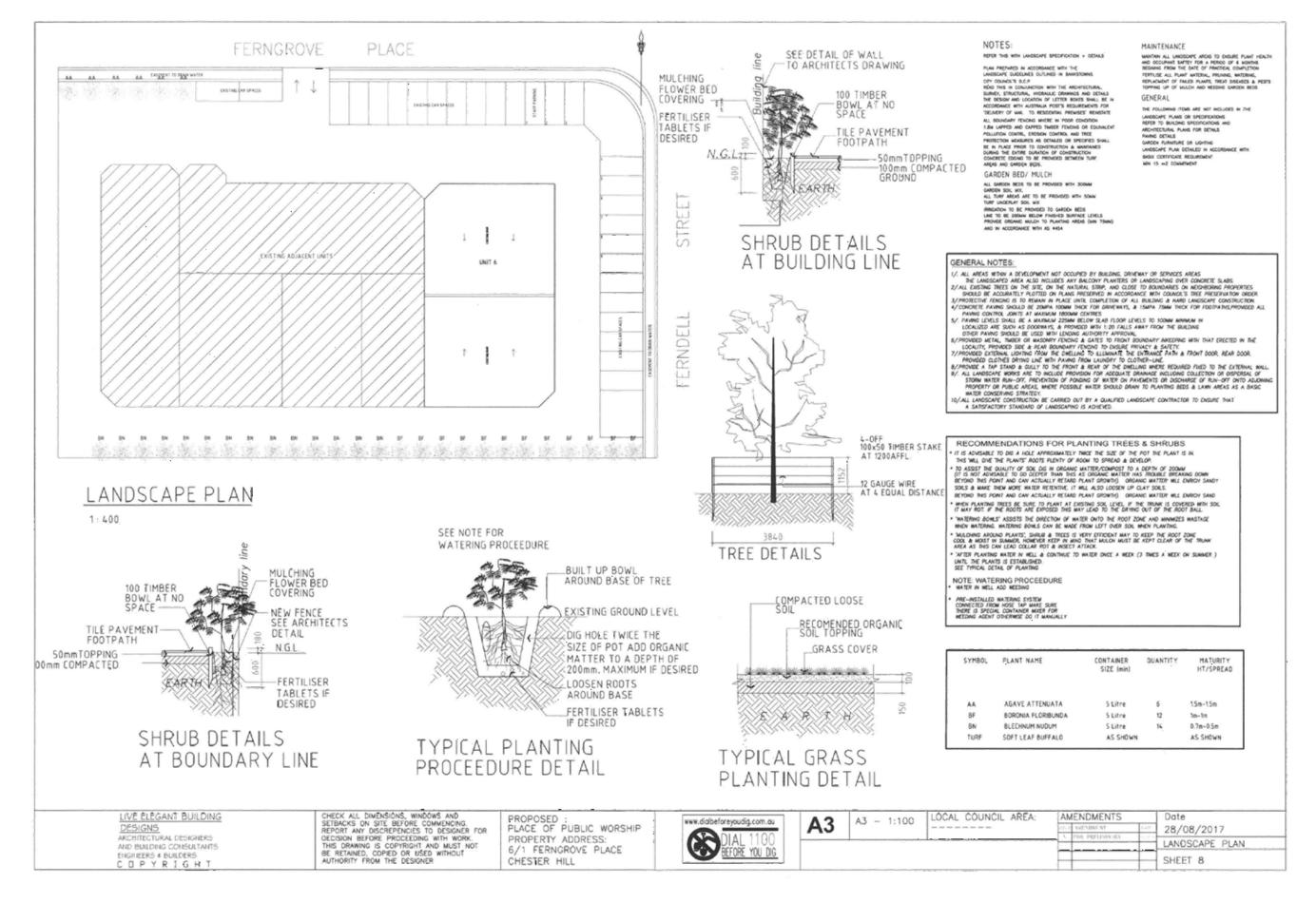




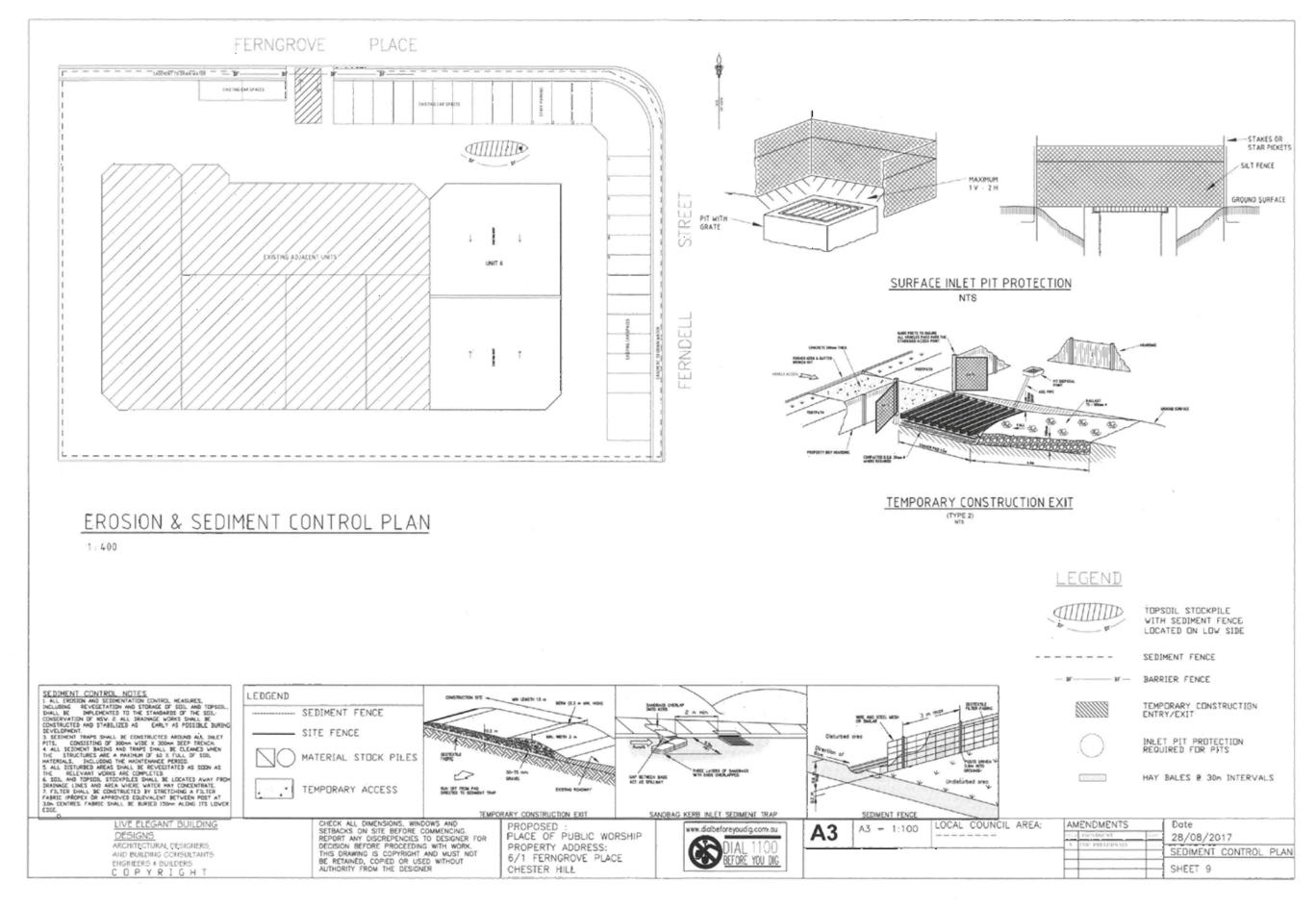




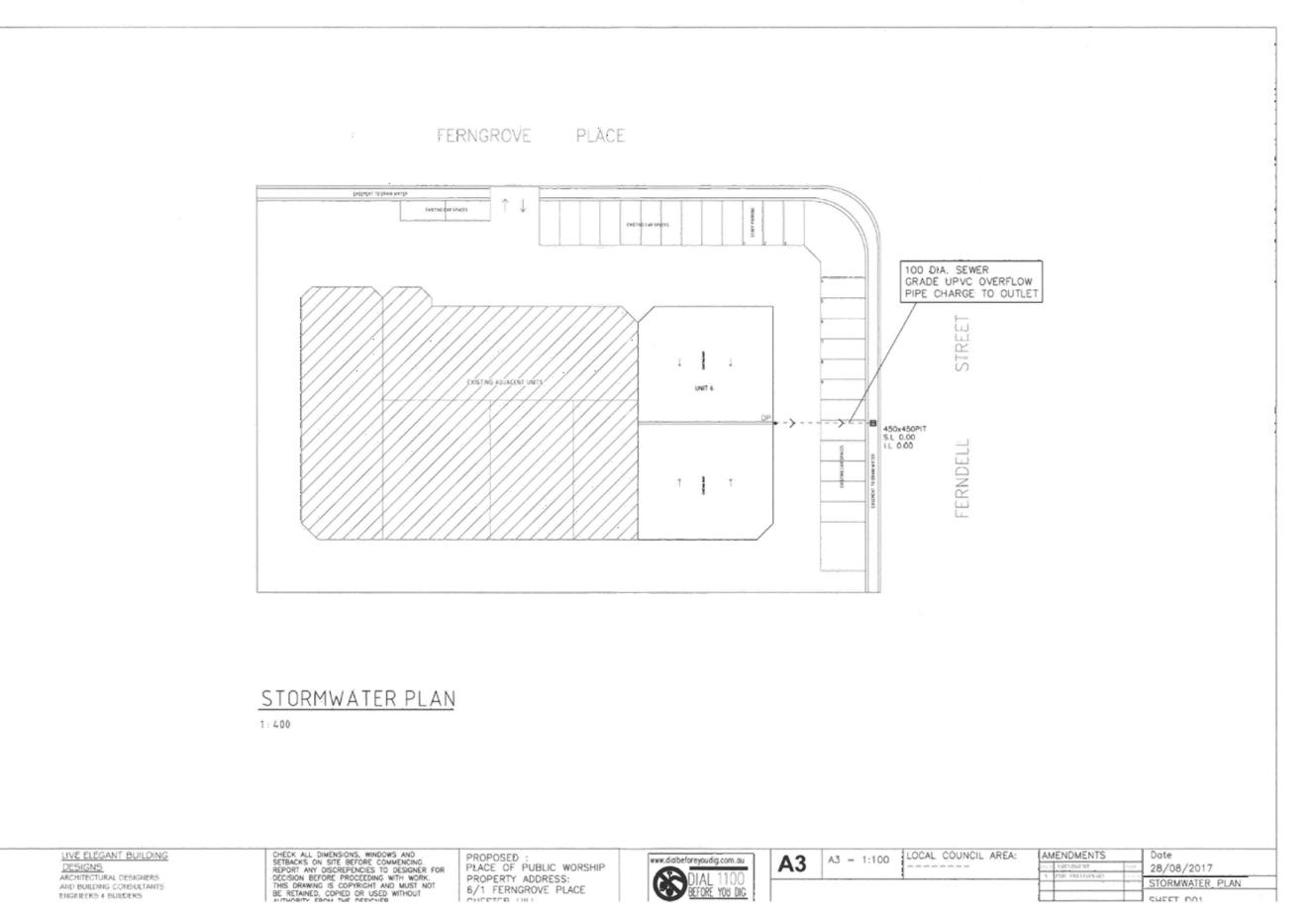








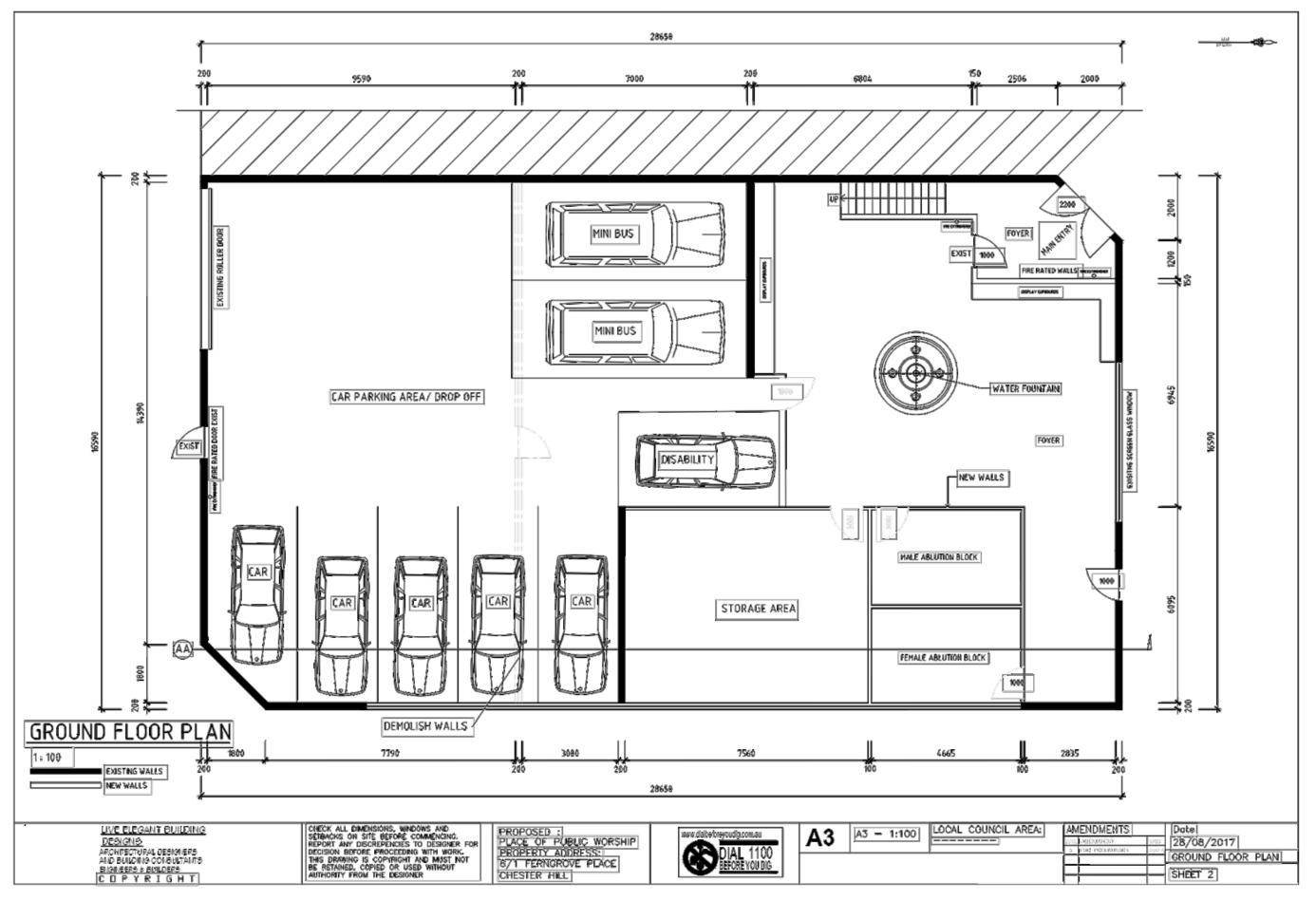




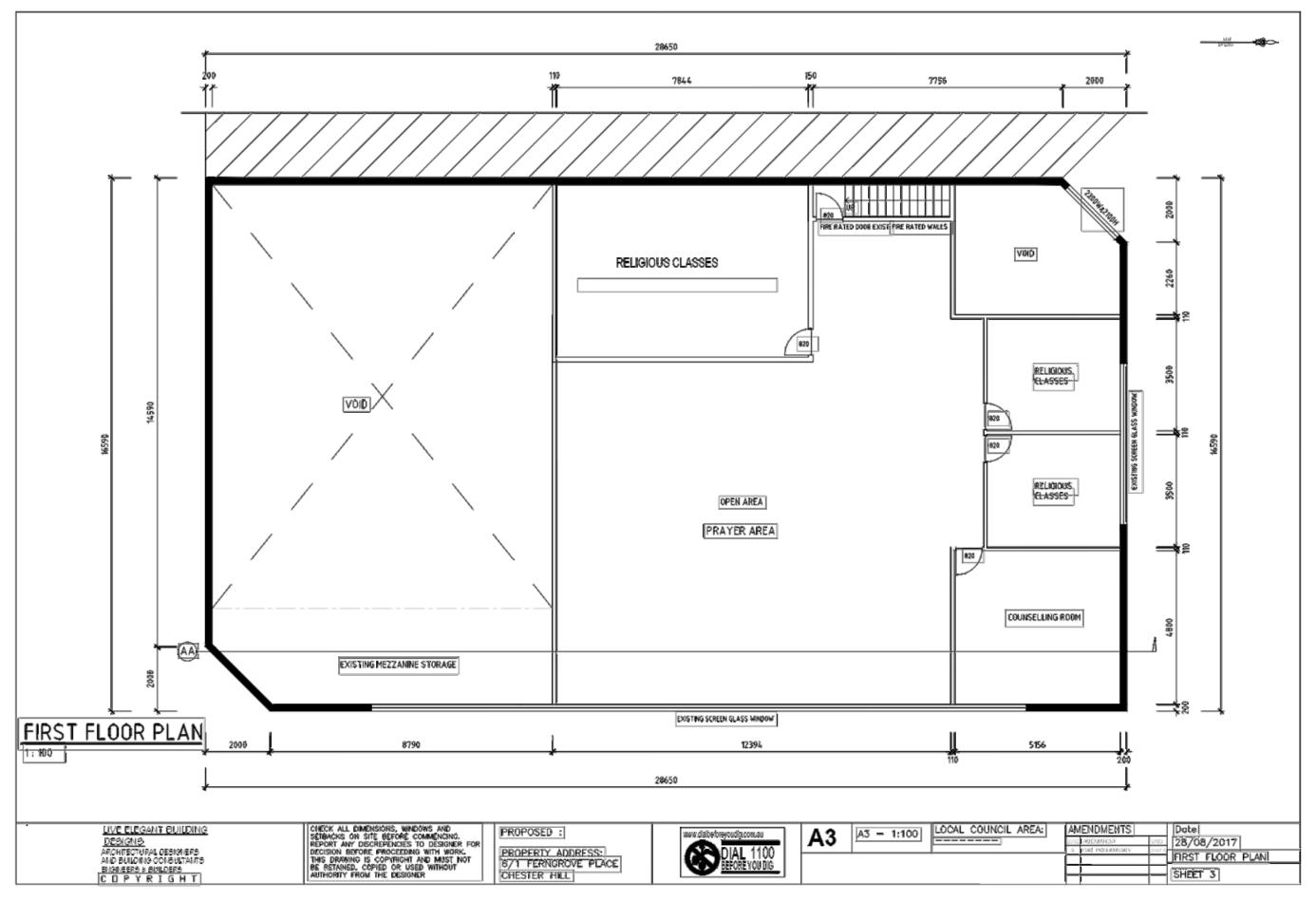
## DOCUMENTS ASSOCIATED WITH REPORT LPP075/19

# Attachment 3 Architectural Plans Internal









## DOCUMENTS ASSOCIATED WITH REPORT LPP075/19

Attachment 4
Plan of Management



# Plan of Management

Unity for the Community
Place of Public Worship

Address: Unit 6/1-3 Ferngrove Place, Chester Hill

Prepared by: Unity for the Community

Amended August, 2019



Plan of Management - Unity for the Community

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Plan of Management - Unity for the Community

## 1 Introduction

- 1.1 This Plan of Management (dated August, 2019) provides directions and controls on the operation of the premise identified below as a place of public worship. The directions and controls are to be strictly adhered to in the operation of the community facility, to ensure the amenity requirements for both users of the facility and surrounding residents are met.
- **1.2** The Plan of Management (POM) has been prepared for a place of public worship at premises:

Unit 6/1-3 Ferngrove Place, Chester Hill

The place of public worship shall operate in accordance with the terms of this Plan as well as the Conditions of Consent (Council's development consent), as provided in Annexure A.

- 1.3 We will make such provisions as is considered necessary for the following:
  - Educating staff and volunteers using the centre, on the management system and requirements;
  - Managing the office times as well as changeover periods to avoid nuisance to surrounding properties;
  - c) Managing noise including measures recommended;
  - Managing transport including parking for volunteers and staff;
  - e) Managing Complaints.



Plan of Management - Unity for the Community

## 2 Definitions

- 2.1 In this Plan of Management (POM):
- a) Building: means the buildings known as 87-89 Rookwood Road, Yagoona.
- b) Council: means Cumberland City Council.
- c) Management: means the identified Manager of Unity for the Community.
- d) Owner: Unity for the Community



Plan of Management - Unity for the Community

## 3 Background Information

Unity for the Community is a non-profit organisation that provides prayer spaces and congregations, Islamic and inner peace guidance, Arabic studies, counselling and religious classes from 10.00am to 7:30pm.

5



Plan of Management - Unity for the Community

### 4 Administration

The management of Unity for the Community is run by an executive management committee who oversee the day to day tasks of the organisation.

#### Board

The board consists of members of Unity for the Community, and constitutes the roles of Chairperson, secretary, treasurer, CEO, public officer and directors. They ensure that the organisation is run in accordance with the constitution and legal requirements.

#### Executive Management

The executive management committee who oversee the day to day tasks of the organisation. This includes managing the affairs of Unity for the Community and will review and make recommendations detailed in this plan including complaints handling, centre activities, noise control and traffic management.

#### Centre Manager

It is the role of the Centre Manager to ensure all staff are adequately equipped to complete the day to day activities of the centre in compliance with any specific Council approval conditions and this operational manual. The Centre Manager must have a thorough understanding of the Council conditions and this operational manual.

#### Staff

Staff will be allocated to the following roles and tasks, all staff must understand the Council conditions and this operational manual;

- Reception staff: Handling enquiries from donors and visitors, over the phone, internet, and in person.
- Managing the centre during the miscellaneous activities: Ensuring the centre sound system and air-conditioning are operating in accordance to the council conditions.
- Managing the attendees at the centre: Ensuring all attendees participate in scheduled activities in a safe and orderly manner
- Community Liaison Officer: Complaint manager and community awareness initiatives

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Plan of Management - Unity for the Community

## 5 Operation and function

The primary use of the centre will be a place of public worship and religious tuition. The main activities in the centre will be:

- Operation from 10:00am to 7:30pm;
- Prayers
- · Islamic and inner peace guidance;
- Arabic studies;
- · Counselling, religious courses

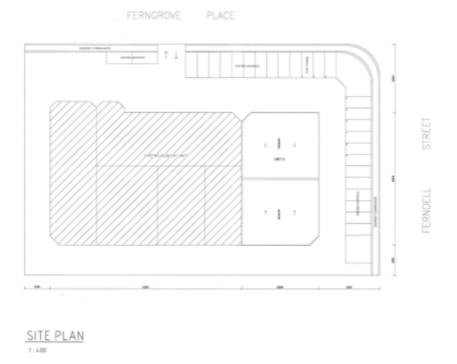


Figure 11: Site plan

7



Plan of Management - Unity for the Community

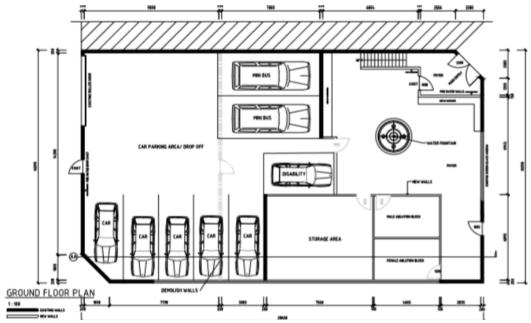


Figure 12: Ground floor plan

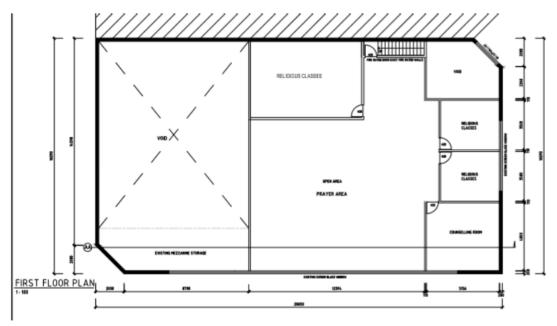


Figure 13: First floor plan

8



Plan of Management - Unity for the Community

## Weekly Schedule



MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
10:00am - 1pm Pre-Kindy Islamic Spiritual Classes App. 10 - 15 Kids	10:00am - 1pm Mothers Support Group App. 6-11 people	10:00am - 1pm Pre-Kindy Islamic Spiritual Classes App. 10 - 15 Kids	10:00am - 1pm Pre-Kindy slamic Spiritual Classes App. 5-10 Kids	10:00am - 1pm Volunteers Cleaning App. 3 - 4people	10:00am - 1pm Arabic Calligraphy
1:30 - 3:30pm CLOSED	1:30 - 3:30pm CLOSED	1:30 - 3:30pm CLOSED	1:30 - 3:30pm CLOSED	1:30 - 3:30pm CLOSED	
3:45 • 4:45pm Islamic Spiritual Classes Pick up/ Drop off ON.Y App. 5 - 10 Kids	3:45 - 4:45pm Religious classes Pick up/ Drop off ONLY App. 5-10 Kids	3:45 - 4:45pm Counseling classes Pick up/ Drop off ONLY App. 5 - 10 Kids	3:45 - 4:45pm Religious classes Pick up/ Drop off ONLY App. 5- 10 Kids	3:45 - 4:45pm Religious classes Pick up/ Drop off ONLY App. 5 - 10 Kids	
5:00 - 6:30pm  Arabic Classes  Bus Service /  Pick up + Drop off ONLY  App. 30 kids	5:00 - 7:00pm  Arabic Classes  Bus Service /  Pick up + Drop off ONLY  App. 30 kids	5:00 - 6:30pm  Arabic Classes  Bus Service /  Pick up + Drop off ONLY  App. 30 kids	5:00 - 7:00 pm Arabic Classes Bus Service / Pick up + Drop off ONLY App.30 kids	5:00 - 6:30pm Arabic Classes Bus Service / Pick up + Drop off ONLY App. 30 kids	
7:10 - 7:30pm Isha Prayer App. 5-8 people	7:10 - 7:30pm Isha Prayer App. 5-8people	7:10 - 7:30pm Isha Prayer App.5-8 people	<b>7:10 - 7:30pm</b> Isha Prayer App. 5 - 8 people	7:10 - 7:30pm Isha Prayer App. 5 - 8 people	

Figure 14: Table of proposed activities and timetable to be held at the place of public worship

## **Holiday Program**



MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
		10:00-11:30am Drop off ONLY Games/ Kids competition 20-30 kids	10:00 - 11:30am  Drop off ONLY  ART AND CRAFT  20 - 30 kids	10:00 - 11:30am Drop off ONLY Islamic Art 20-30 kids	
		11:30am-11:45am LUNCH BREAK	11:30 - 11:45am LUNCH BREAK	11:30 - 11:45am LUNCH BREAK	
		11:45 - 1pm Art and Craft	11:45 - 1pm Science Experiments	11:45 - 1pm Movie	
		1pm -1:30pm LUNCH BREAK	1pm -1:30pm LUNCH BREAK	1pm -1:30pm LUNCH BREAK	
		1:30 - 2:30pm Islamic/Spiritual Studies	1:30 - 2:30pm Islamic/Spiritual Studies	1:30 - 2:30pm Islamic/Spiritual Studies	
		2: 30pm Hometime Pick up ONLY	2: 30pm Hometime Pick up ONLY	2: 30pm Hometime Pick up ONLY	

Figure 15: Table of proposed holiday timetable to be held at the place of public worship

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Plan of Management - Unity for the Community

#### Hours of operation

The centre's operational hours will be between 10:00am and 7:30pm. On a week day, peak activity period commences at 5.00pm while, on Saturdays the site operates from 10am to 1pm. The Centre will be closed on Sundays.

#### **Number of Patrons**

The maximum number of patrons will vary between 30 and 35 at any given time. A complete detailed disclosure of the operations and function can be found in the attached Plan of Management annexure.

#### **Number of employees**

As a place of public worship, the centre has approximately 5 volunteers, of which no more than 4 (four) would be engaged simultaneously at any given time.

Plan of Management - Unity for the Community

#### 6 Traffic Management

#### 7.1 Parking

- At least a total of ninety-six (96) local parking spaces -refer to Traffic Report;
- Two (2) parking spaces are allocated to a bus service for the centre. The bus service provides a pick up/drop off service for members of the community to reduce the need for on-site parking for patrons. The bus service is to operate in accordance with the timetable below:

## **Bus Service**



**13 November 2019** 

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Bus Service	Bus Service	Bus Service	<b>Bus Service</b>	Bus Service	Not in Service
4:00pm - 4:45pm	4:00pm - 4:45pm	4:00pm - 4:45pm	4:00pm - 4:45pm	4:00pm - 4:45pm	
Bus Service	Bus Service	Bus Service	Bus Service	Bus Service	Not in Service
6:30pm - 7:15pm	7:00pm - 7:45pm	6:30pm - 7:15pm	7:00pm - 7:45pm	6:30pm - 7:15pm	

Figure 16: Bus service timetable

- To ensure adequate traffic flow, worship services are not to commence until thirty minutes have elapsed following the completion of any preceding service;
- It is envisaged there are sufficient parking spaces on site for the number of people to attend the premises at any one time. For the local attendees that do not choose to drive public transport is located within close proximity to the premises.

#### 7.2 Access

Access to the premises is from Ferngrove Place.

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Plan of Management - Unity for the Community

## 7 Security and monitoring

- **6.1** Security cameras will be installed both inside and outside the building. Footage of security cameras are checked regularly.
- 6.2 An alarm system will be installed with integration to security access control system.

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Plan of Management - Unity for the Community

## 8 Fire safety

- 6.3 A copy of any annual fire safety compliance statement and current fire safety schedule for the centre will be prominently displayed in the reception area. Annual certification is to be carried out by a fire safety consultant.
- **6.4** Annual certification inspections must be organised by the centre management. The centre management is responsible for ensuring the required fire safety measures are maintained in a functional state.
- 6.5 Details of any required Emergency Management & Evacuation Plans will be placed on public display by the centre management. It must include the location of all fire safety measures; emergency egress from the mosque, assembly points; emergency contact details; and evacuation procedures/ actions that are to take in the event of a fire or fire threatening situation. In addition, a floor plan will be permanently fixed to the inside of the door of each room to indicate the available emergency egress routes from the respective room. The Manager will be responsible for providing and maintaining the floor plan.





Plan of Management - Unity for the Community

# 9 Cleaning, maintenance, waste management

- 6.6 The subject premises are at all times to be maintained in a safe and healthy condition with all areas to be cleaned to a professional standard on a regular basis.
- **6.7** All landscaping shall be maintained in an appropriate manner.
- 6.8 Pest control by a professional contractor shall be carried out on a regular basis.
- 6.9 The external presentation of the premises is to be maintained to a high standard.
- 6.10 All waste shall be disposed of in appropriate refuse and recycling facilities.
- **6.11** The centre management shall be responsible for the storage and collection of all recycling and waste bins by Council or Council's nominated contractor.

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Plan of Management - Unity for the Community

## 10 Safety and security

**6.12** The following measures are to be provided within the property:

- Internal signage indicating the name and contact numbers of the centre management.
- Internal signage indicating emergency contact numbers for essential services including fire, ambulance, police and utilities such as gas, electricity, plumbing and the like.
- A landline telephone within the centre available for use by people in the event of an emergency.

## 11 Public liability insurance

**6.13** The centre management will maintain public liability cover during the operation of the centre as a place of public worship.

15



Plan of Management - Unity for the Community

## 12 Suggestions or complaints

6.14 Unity for the Community recognises that people are free to raise complaints and have them resolved in a manner that is fair, sensitive and prompt. Unity for the Community recognises complaints as a feedback mechanism to improve the organisation's practices, policies and procedures.

In particular, Unity for the Community;

- Will encourage complaints to be raised at an early stage.
- Will handle complaints promptly, and advise complainants of appropriate timeframes at all stages of the process.
- Will treat complaints seriously and sensitively.
- Complaints will be handled with procedural fairness.

All information will be treated with due confidentiality.

6.15 The Community Liaison Officer will have the overall responsibility of all complaints handling system, this role will be set once the DA has been approved. The relevant email address and phone number are clearly displayed outside the centre for any complaints, questions or suggestions. These will be formally logged including time of day and nature of the correspondence.

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## DOCUMENTS ASSOCIATED WITH REPORT LPP075/19

Attachment 5
Traffic Impact & Parking
Assessment Study



Development of a Place of Public Worship, at Unit 6 / 1-3 Ferngrove Place, Chester Hill, NSW

Traffic impact and parking assessment study

April 2018

**Unity 4 Community** 

#### **Traffic Engineering Centre**

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Revision	Details	Date	Amended By
Α		11.07.2018.	ZB
В		10.08.2019.	ZB

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#### Traffic Engineering Centre

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#### **Traffic Engineering Centre**

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Granted off-street / on-site parking permissions

#### **Executive Summary**

Traffic Engineering Centre was commissioned to undertake a traffic and parking impact assessment for the proposed use as a place of public worship of Unit 6, at 1-3 Ferngrove Place, Chester Hill, NSW.

The study area is centred on the development site, which is located at 1-3 Ferngrove Place, Chester Hill, NSW, with the main vehicular access/exit route to/from the development site via an existing access driveway, off Ferngrove Place.

The particular study tasks included:

- review the current traffic and parking arrangements within the vicinity of the development site;
- calculate the additional traffic generation and parking demand that might result from the proposed use of the site as a community centre;
- compare the existing traffic levels on Ferngrove Place, adjacent to the site with the anticipated road usage levels during various community uses;
- identify the Council's requirements that are pertinent to the site;
- recommend measures to ameliorate any traffic and parking impact (if any) arising from community uses at this site.

#### The study found:

The maximum parking demand would be met [during the peak activity period, after 5:00pm] by up to 36 on-site off-street parking spaces [17 of which allocated to the Unite 6, and 19 of other off-street parking spaces allocated to the other five units, but predominantly unoccupied after working hours].

In addition to the on-street parking, the parking accumulation survey results also reveal that, after 5:00pm, there are a significant number of vacant on-site parking spaces, available to be used for parking by the community centre's patrons.

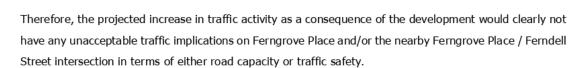
The maximum projected increase in traffic activity, as a consequence of the development, is insignificant particularly considering the volume of traffic on the adjacent road network. There is also ample spare capacity on Ferngrove Place.

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The development would not negatively impact on public transport, pedestrian or cyclists' amenity and safety.

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#### 1. Introduction and Site Location

Traffic Engineering Centre has been commissioned by 'Unity 4 Community' to undertake a traffic impact and parking requirement study. The study's purpose was to identify potential traffic and transport impacts along with the parking requirements resulting from the proposed use as a place of public worship of Unit 6, at 1-3 Ferngrove Place, in Chester Hill, NSW (refer to Figures 1.1 & 1.2, and Photo 1.1).

The proposed community centre is to be located in an established industrial area comprising a number of existing industrial and warehouses within the locality (refer to Figure 1.2).



Figure 1.1: Locality map (Source: nearmap)



Figure 1.2: Locality map (Source: nearmap)

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Photo 1.1: View of the development site (Photo: Traffic Engineering Centre Pty Ltd)

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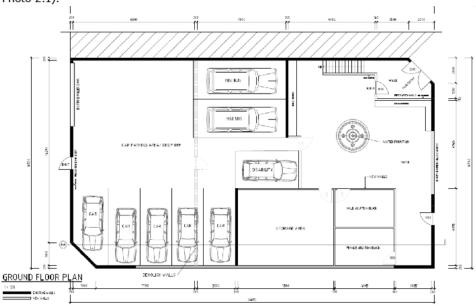
#### Traffic Engineering Centre

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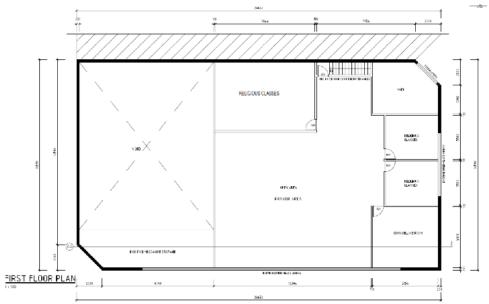
#### 2. Appreciation of the development

'Unity 4 Community' seeks consents to change the use of Unit 6, at 1-3 Ferngrove Place, in Chester Hill, NSW to a public place of worship.

The public place of worship proposes to occupy the Unit 6, (refer to Figures 2.1 & 2.2), in an existing, approved building comprising a number of commercial/light industrial units (refer to Photo 2.1).



**Figure 2.1: Development - Ground floor plan** (Source: Unity 4 Community)



**Figure 2.2: Development - First floor plan** (Source: Unity 4 Community)

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Photo 2.1: View of the commercial/light industrial units adajcent to the development site (Photo: Traffic Engineering Centre Pty Ltd)

As a place of public worship, the centre has approximately 20 volunteers, of which no more than 4 (four) would be engaged simultaneously at any given time, while the maximum number of patrons will be 30, after 5:00pm (refer to Table 2.1).

## Weekly Schedule



MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
10:00am - 1pm Pre-Kindy Islamic Spiritual Classes App. 10 - 15 Kids	10:00am - 1pm Mothers Support Group App. 6-11 people	10:00am - 1pm Pre-Kindy Islamic Spiritual Classes App. 10 - 15 Kids	10:00am - 1pm Pre-Kindy slamic Spiritual Classes App. 5 - 10 Kids	10:00am - 1pm Volunteers Cleaning App. 3 - 4 people	10:00am - 1pm Arabic Calligraphy
1:30 - 3:30pm CLOSED	1:30 - 3:30pm CLOSED	1:30 - 3:30pm CLOSED	1:30 - 3:30pm CLOSED	1:30 - 3:30pm CLOSED	
3:45 - 4:45pm Islamic Spiritual Classes Pick up/ Drop off ONLY App. 5-10 Kids	3:45 - 4:45pm Religious classes Pick-up/ Drop off ONLY App. 5 - 10 Kids	3:45 - 4:45pm Counseling classes Pick up/ Drop off ONLY App. 5 - 10 Klds	3:45 - 4:45pm Religious classes Pick up/ Drop off ONLY App. 5 - 10 Kids	3:45 - 4:45pm Religious classes Pickup/Drop off ONLY App. 5 - 10 Kids	
5:00 - 6:30pm Arabic Classes Bus Service / Pick up + Drop off ONLY App. 30 kids	5:00 - 7:00pm Arabic Classes Bus Service / Pick up + Orop off ONLY App. 30 kids	5:00 - 6:30pm  Arabic Classes  Bus Service / Pick up + Drop off ONLY  App. 30 kids	5:00 - 7:00pm  Arabic Classes  Bus Service / Pick-up + Drop off ONLY  App. 30 kids	5:00 - 6:30pm Arabic Classes Bus Service / Pick up + Drop off ONLY App. 30 kids	
7:10 - 7:30pm Isha Prayer App.5-8 people	7:10 - 7:30pm Isha Prayer App. 5 - 8 people	7:10 - 7:30pm Isha Prayer App. 5 - 8 people	7:10 - 7:30pm Isha Prayer App. 5 - 8 people	7:10 - 7:30pm Isha Prayer App.5-8 people	

**Table 2.1: Proposed weekday Schedule of activities / Timetable** [Source: Unity 4 Community]

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## **Holiday Program**



MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
		10:00-11:30am Drop off ONLY Games/ Kids competition 20-30 kids	10:00 - 11:30am Drop off ONLY ART AND CRAFT 20 - 30 kids	10:00 - 11:30am Drop off ONLY Islamic Art 20-30 klds	
		11:30am-11:45am LUNCH BREAK	11:30 - 11:45am LUNCH BREAK	11:30 - 11:45am LUNCH BREAK	
		11:45 - 1pm Art and Craft	11:45 - 1pm Science Experiments	11:45 - 1pm Movie	
		1pm -1:30pm LUNCH BREAK	1pm -1:30pm LUNCH BREAK	1pm -1:30pm LUNCH BREAK	
		1:30 - 2:30pm Islamic/ Spiritual Studies	1:30 - 2:30pm Islamic/ Spiritual Studies	1:30 - 2:30pm Islamic/ Spiritual Studies	
		2:30pm Hometime Pick up ONLY	2:30pm Hometime Pick up ONLY	2:30pm Hometime Pick up ONLY	

**Table 2.2: Proposed Holiday Program of activities / Timetable** [Source: Unity 4 Community]

The centre is a place of public worship, providing spiritual guidance and Islamic inner peace to the local community, Religious tuition, Arabic courses, sisterhood, brotherhood, and the five daily prayers from 10:00am to 7:30pm (refer to Tables 2.1 & 2.2).

The centre's operational hours will be between 10:00am and 7:30pm on weekdays (refer to Table 2.1); between 10:00am and 1:00pm, on Saturdays; and between 10:00am and 2:30pm, during the holidays.

On a weekday, peak activity period commences at 5:00pm while.

The Centre will be closed on Sundays.

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#### 3. Study requirements

#### This study:

- reviews the current traffic and parking arrangements within the vicinity of the proposed development site;
- collects the existing parking occupancies in the available on-street parking spaces adjacent to the proposed development site;
- compares the existing traffic levels on the streets around the development site with the anticipated road usage levels once the development is complete; and
- identifies the local authority requirements relating to parking and traffic that are pertinent to the site.

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#### 4. Existing conditions

#### 4.1 Site inspection

A site inspection was carried out on Friday 23 March 2018, and again on Tuesday 27 March 2018.

Unity 4 Community's representatives were present during both site inspections, providing Traffic Engineering Centre with valuable background information and local knowledge about the proposed development.

A walk over of the site was undertaken to investigate the possible implications of the proposed development on the surrounding road network, traffic movements, parking and pedestrian facilities.

A number of photographs were taken.

#### 4.2 Car parking availability

There are in total at least 96 local parking spaces, of which:

 17 (seventeen) off-street parking spaces, allocated to the development site / Unit 6 (refer to Photos 4.1 & 4.2, and Figures 4.1 to 4.3);



Photo 4.1: View of the 6 (six) parking spaces [out of 9 (nine)] allocated to Unit No.6 (Photo: Traffic Engineering centre Pty Ltd)

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Photo 4.2: View of the 3 (three) parking spaces [out of 9 (nine)] allocated to Unit No.6 (Photo: Traffic Engineering centre Pty Ltd)



Figure 4.1: 9 (nine) off-street parking spaces allocated to the development site (source: nearmap)

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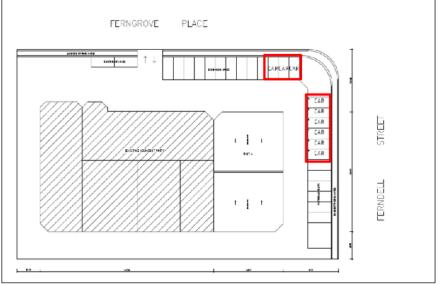
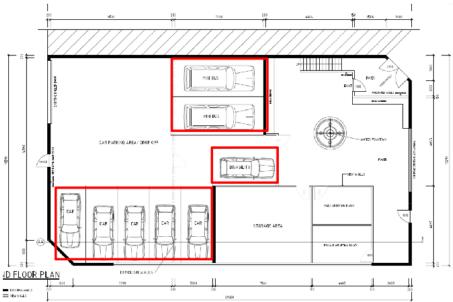


Figure 4.2: 9 (nine) off-street parking spaces allocated to the development site (source: Unity 4 Community)



**Figure 4.3: 8 (eight) off-street parking spaces allocated to the development site** (source: Unity 4 Community)

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 at least 60 on-street, unrestricted parking spaces, located on Ferngrove Place, or Ferndell Street, adjacent to the development site, within a short walking distance of up to 100m (refer to Figures 4.4 & 4.3).

**Note**: Approximate number of available on-street unrestricted parking spaces was calculated by dividing the kerbside length, available for accommodating the on-street parking (refer to Figure 4.4), with length of a typical intermediate parallel parking bay, of a minimum 6.0m [for a low traffic volume street and low parking turnover], as per AS 2890.5-1993.

According to the same Standard, the length of the end space, where a vehicle may enter or leave the space directly [as it is the case here] is 5.4m minimum.



Figure 4.4: Available length of kerb-side on-street parking, in vicinity to the development site (map and measures: nearmap)



Figure 4.5 Available number of on-street, and off-street parking spaces at or in vicinity to the development site (off-street shown in red; on-street shown in green)

(map: nearmap)

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The locally available on-street parking spaces comprise:

 5 (five) on-street, un-restricted, kerb-side parking spaces, adjacent to the development site, located on the section of Ferngrove Place, between the exit driveway from the development site, and the intersection with Ferndell Street (refer to Photo 4.2 and Figure 4.3);



Photo 4.3: Available on-street parking spaces - section of Ferngrove Place, adjacent to the development site

(Photo: Traffic Engineering Centre Pty Ltd)

 2 (two) on-street, un-restricted, kerbside parking spaces, adjacent to the development site, located on the section of Ferngrove Place, between the exit and access driveways from/to the development site (refer to Photo 4.4 and Figure 4.4);



Photo 4.4: Available on-street parking spaces - section of Ferngrove Place, adjacent to the development site

(Photo: Traffic Engineering Centre Pty Ltd)

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 1 (one) on-street, un-restricted, kerbside parking space, located between the entry driver to the development site and the entry driver of the property No.5 Ferngrove Place, adjacent to the development site, (refer to Photo 4.5 and Figure 4.4);



Photo 4.5: Available on-street parking spaces - section of Ferngrove Place, adjacent to the development site

(Photo: Traffic Engineering Centre Pty Ltd)

 20 (twenty) on-street, un-restricted, kerbside parking spaces, located on Ferngrove Place, between the entry driveway of the property No.5 Ferngrove Place and the cul-desac (refer to Photo 4.6 and Figure 4.4);



Photo 4.6: Available on-street parking spaces - section of Ferngrove Place, in proximity to the development site

(Photo: Traffic Engineering Centre Pty Ltd)

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20 (twenty) on-street, un-restricted, kerbside car parking spaces, located across
 Ferngrove Place, in vicinity to the development site (refer to Photo 4.7 and Figure 4.4);



Photo 4.7: Available on-street parking spaces - section of Ferngrove Place, in vicinity to the development site

(Photo: Traffic Engineering Centre Pty Ltd)

 5 (five) on-street, un-restricted, kerbside car parking spaces, located across Ferngrove Place, in vicinity to the development site (refer to Photo 4.8 and Figure 4.4);



Photo 4.8: Available on-street parking spaces - section of Ferngrove Place, in vicinity to the development site

(Photo: Traffic Engineering Centre Pty Ltd)

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7 (seven) on-street, un-restricted, kerbside car parking spaces, located across
 Ferngrove Place, in vicinity to the development site (refer to Photo 4.9 and Figure 4.4);



Photo 4.9: Available on-street parking spaces - section of Ferndell Street, adjacent to the development site

(Photo: Traffic Engineering Centre Pty Ltd)

In addition, there are another, additional **19 (nineteen) off-street parking spaces**, located at the site [1-3 Ferngrove Place] and allocated to the Units 1 - 5 (refer to Photos 4.10 to 4.12).

Traffic Engineering Centre understood that 'Unity 4 Community' has obtained permission from the other five businesses to freely used their parking spaces after 5:00pm, when the businesses are closed and when most of the 'Unity 4 Community' activity at the development site would occur (the permissions has been attached as Appendix A to this report).



Photo 4.10: Additional 7 (seven) [out of total 19] on-site, off-street parking spaces, available to be utilised by the development generated vehicles after 5:00pm (Photo: Traffic Engineering Centre Pty Ltd)

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## Traffic Engineering Centre

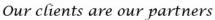




Photo 4.11: Additional 10 (ten) [out of total 19] on-site, off-street parking spaces, available to be utilised by the development generated vehicles after 5:00pm (Photo: Traffic Engineering Centre Pty Ltd)



Photo 4.12: Additional 2 (two) [out of total 19] on-site, off-street parking spaces, available to be utilised by the development generated vehicles after 5:00pm (Photo: Traffic Engineering Centre Pty Ltd)

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## 4.3 Provision for pedestrians

There is an extensive network of the footpaths within the study area, and adjacent to the site (refer to Photo 4.13 & 4.14).

Therefore, from pedestrian viewpoint, the site is well connected with the adjoining commercial, industrial, and residential areas, public transport, and the nearby on-street and off-street parking spaces.



Photo 4.13: Pedestrian footpath beside Ferndell Street, adjacent to the development site (Photo: Traffic Engineering Centre Pty Ltd)



Photo 4.14: Pedestrian footpath beside Ferngrove Place, adjacent to the development site (Photo: Traffic Engineering Centre Pty Ltd)

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During the site visits, not many pedestrians were observed in the vicinity of the site. However, despite the lack of a dedicated pedestrian crossing adjacent to the development site, even older pedestrians could comfortably cross Ferngrove Place, without experiencing any problems. This is due to low traffic volumes, relatively low traffic speed, and ample safe gaps in the traffic streams in which a pedestrian could cross the road.

## 4.4 Provision for cyclists

There is no on-street or off-street dedicated cycling facilities adjacent to the development site. However, Ferndell Street is signposted as a cycling route (refer to Photo 4.15), while Ferngrove Place is wide enough, and has low traffic volumes, to safely accommodate cyclists.

During the site visits, only a few cyclists were observed to actually ride along Ferngrove Place (refer to Photos 4.16 & 4.17).



Photo 4.15: Ferndell Street, signposted as a cycling route (Photo: Traffic Engineering Centre Pty Ltd)

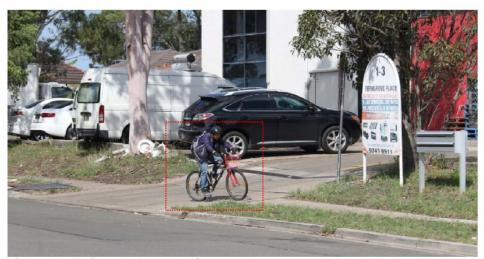


Photo 4.16: Cycling on Ferngrove Place (Photo: Traffic Engineering Centre Pty Ltd)

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**Photo 4.17: Cycling on Ferngrove Place** (Photo: Traffic Engineering Centre Pty Ltd)

## 4.5 Public transport

There are currently three (3) bus routes operating along Ferndell Street (refer to Photo 4.18), with two bus stops located either adjacent or just across the road, within a convenient walking distances of less than 50m from the development site (refer Figure 4.6).

The development site is therefore considered to be very well serviced by public transport services.



Figure 4.6: Locality of the bus stops in proximity to the development site (source: nearmap)

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Photo 4.18: Bus route and frequencies in vicinity of the development sites (Photo: Traffic Engineering Centre Pty Ltd)

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#### 4.6 Traffic volumes

Ferngrove Place, adjacent to the development site, is a 'no through' road (refer to Figure 4.7), with [as observed] low daily traffic volumes on a weekday, and extremely low traffic volumes on the weekend, when the industrial and commercial business are closed.



Figure 4.7: Ferngrove Place – locality map (source: nearmap)

## 4.7 Current traffic safety issues

No traffic safety issues, associated with the proposed development, were observed during the site inspection.

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## 4.8 Parking accumulation survey

A parking accumulation survey was undertaken on Tuesday 26 March 2018, beetween 2:00pm and 7:00pm. Tables 4.1 to 4.3 show parking accumulation survey results while Figure 4.6 shows location of the surveyed parkings zones [nine (9) of them] at or in proximity to the developent site.



Figure 4.6: Zones (marked in black) for parking accumulation survey – locality map [map: nearmap]

Table 4.1: Number of occupied parking spaces (2:30pm - 6:30pm)

abic 1111	Humb	CIOIO	ccupic	Ju pui	King 5	pucco	(2100	·P····	Oisop	··· <i>i</i>
Time	1	2	3	4	5	6	7	8	9	Total
2:30pm	3	3	0	0	8	10	0	3	10	37
2:45pm	3	3	0	0	8	10	0	2	12	38
3:00pm	3	3	0	0	8	10	1	2	12	39
3:15pm	3	2	0	0	9	11	3	3	11	42
3:30pm	3	2	2	1	7	8	2	3	10	38
3:45pm	3	2	2	1	7	7	2	3	10	39
4:00pm	4	2	2	1	6	7	2	4	12	38
4:15pm	3	2	2	1	6	6	2	3	10	35
4:30pm	3	2	2	1	6	6	3	3	10	36
4:45pm	1	2	2	1	6	6	2	5	12	37
5:00pm	1	2	2	1	6	6	2	4	13	37
5:15pm	1	2	2	1	6	6	2	3	12	35
5:30pm	1	2	2	1	6	5	1	6	11	35
5:45pm	0	2	2	1	5	6	1	5	11	33
6:00pm	0	1	2	1	5	6	3	5	10	33
6:15pm	0	1	2	0	5	6	2	6	8	30
6:30pm	0	1	2	0	5	6	1	5	8	28

Table 4.2: Parking space supply per parking zone

 Turking Space Supply per purking zone										
1	2	3	4	5	6	7	8	9	Total	
7	5	2	1	20	20	5	9	19	88	

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Table 4.3: Number of non-occupied [available] parking spaces (2:30pm - 6:30pm)

Time	1	2	3	4	5	6	7	8	9	Total
2:30pm	4	2	2	1	12	10	5	6	9	51
2:45pm	4	2	2	1	12	10	5	7	7	50
3:00pm	4	2	2	1	12	10	4	7	7	49
3:15pm	4	3	2	1	11	9	2	6	8	46
3:30pm	4	3	0	1	13	12	3	6	9	50
3:45pm	4	3	0	0	13	13	3	6	9	49
4:00pm	3	3	0	0	14	13	3	4	7	50
4:15pm	4	3	0	0	14	14	3	5	9	53
4:30pm	4	3	0	0	14	14	2	5	9	52
4:45pm	6	3	0	0	14	14	2	3	7	51
5:00pm	6	3	0	0	14	14	3	4	6	51
5:15pm	6	3	0	0	14	14	3	5	7	53
5:30pm	6	3	0	0	14	15	3	2	8	53
5:45pm	7	3	0	0	15	14	4	3	8	55
6:00pm	7	4	0	0	15	14	3	3	9	55
6:15pm	7	4	0	1	15	14	2	2	11	58
6:30pm	7	4	0	1	15	14	4	3	11	60

The parking accumulation survey results reveal the following for the weekend parking:

- during the assumed weekend peak community centre's activities hours, there were always a significant number of free, and unrestricted, both off-street and on-street parking spaces (between 46 and 60) available at any given time between 2:30pm and 6:30pm, in close proximity to the development site;
- as all surveyed parking spaces are located within less than 100m from the developments site this suggests that there is plenty of spare parking spaces available to be utilised by the vehicles generated by the development.
- in addition to the on-street parking, the parking accumulation survey results also reveal that, at any given time, bust especially after 5:00pm, there is a significant number of vacant off-street / on-site parking spaces, available to be used for parking by the community centre's generated vehicles.
- as the development site is already operations, it means that the observed parking accumulation does indeed include vehicles generated by the development, yet, ample of parking spaces are still available.

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# 5. Proposed development and its potential impact on traffic and parking requirements

## 5.1 Proposed development

Traffic Engineering Centre understands that the Community Centre would employ 20 volunteers, of which only 4 (four) will be at the site at any given time, while the number of patrons will, in the peak hours of activities, be 30 kids per session.

The maximum number of patrons is expected on weekdays, after 5:00pm, once the daily working hours are over.

Tables 5.1 & 5.2 show the proposed Schedule of activities / Timetable.

## Weekly Schedule



MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
10:00am - 1pm Pre-Kindy Islamic Spiritual Classes App. 10 - 15 Kids	10:00am - 1pm Mothers Support Group App. 6-11 people	10:00am - 1pm Pre-Kindy Islamic Spiritual Classes App. 10 - 15 Kids	10:00am - 1pm Pre-Kindy slamic Spiritual Classes App. 5-10 Kids	10:00am - 1pm Volunteers Cleaning App. 3 - 4 people	10:00am - 1pm Arabic Calligraphy
1:30 - 3:30pm CLOSED	1:30 - 3:30pm CLOSED	1:30 - 3:30pm CLOSED	1:30 - 3:30pm CLOSED	1:30 - 3:30pm CLOSED	
3:45 - 4:45pm Islamic Spiritual Classes Pick up/ Drop off ONLY App. 5-10 Kids	3:45 - 4:45pm Religious classes Pickup/ Drop off ONLY App. 5 - 10 Klds	3:45 - 4:45pm Counseling classes Pick up/ Drop off ONLY App. 5 - 10 Kids	3:45 - 4:45pm Religious classes Pick up/ Drop off ONLY App. 5-10 Kids	3:45 - 4:45pm Religious classes Pick up/ Drop off ONLY App. 5 - 10 Kids	
5:00 - 6:30pm Arabic Classes Bus Service / Pick up + Drop off ONLY App. 30 kids	5:00 - 7:00pm  Arabic Classes  Bus Service / Pick up + Drop off ONLY  App. 30 kids	5:00 - 6:30pm  Arabic Classes  Bus Service / Pick up + Drop off ONLY  App. 30 kids	5:00 - 7:00pm  Arabic Classes  Bus Service / Pick-up + Drop off ONLY  App.30 kids	5:00 - 6:30pm Arabic Classes Bus Service / Pick up + Drop off ONLY App. 30 klds	
7:10 - 7:30pm Isha Prayer App. 5 - 8 people	7:10 - 7:30pm Isha Prayer App. 5-8 people	<b>7:10 - 7:30pm</b> Isha Prayer App. 5 - 8 people	7:10 - 7:30pm Isha Prayer App. 5 - 8 people	7:10 - 7:30pm Isha Prayer App.5-8 people	

Table 5.1: Proposed weekday Schedule of activities / Timetable

[Source: Unity 4 Community]

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# **Holiday Program**



MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
		10:00-11:30am Drop off ONLY Games/ Kids competition 20-30 klds	10:00 - 11:30am Drop off ONLY ART AND CRAFT 20 - 30 kids	10:00 - 11:30am Drop off ONLY Islamic Art 20-30 kids	
		11:30am-11:45am LUNCH BREAK	11:30 - 11:45am LUNCH BREAK	11:30 - 11:45am LUNCH BREAK	
		11:45 - 1pm Art and Craft	11:45 - 1pm Science Experiments	11:45 - 1pm Movie	
		1pm -1:30pm LUNCH BREAK	1pm -1:30pm LUNCH BREAK	1pm -1:30pm LUNCH BREAK	
		1:30 - 2:30pm Islamic/ Spiritual Studies	1:30 - 2:30pm Islamic/ Spiritual Studies	1:30 - 2:30pm Islamic/ Spiritual Studies	
		2:30pm Hometime Pick up ONLY	2:30pm Hometime Pick up ONLY	2:30pm Hometime Pick up ONLY	

**Table 5.2: Proposed weekend Schedule of activities / Timetable** [Source: Unity 4 Community]

#### 5.2 Traffic

#### 5.2.1 Calculated estimate of the traffic generation

The potential traffic generated by the use of the development site as a place of public worship was calculated based on the 'worst case' scenario (35 people).

The proposed development could generate traffic from:

- staff members,
- attendees at the centre

The RMS' Guide to Traffic Generating Developments, Section 3 – Land Use Traffic Generation (2002) does not provide suitable rates for this type of land use. The traffic generation has thus been calculated from First principles assuming a mean mode split of the cars of 0.85 and a mean car occupancy of 2.2. Based on these assumptions the maximum traffic generation for the proposed use of the development site would be:

• number of cars generated by the patrons during the peak hours, for 30 persons' event =  $30* 0.85 / 2.2 = 11.59 \approx 12 \text{ cars}$ 

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It should be noted that the centre operates 3 charter mini buses that bring over 90 percent of the patrons to the site after 3:30pm, meaning that the development is more than likely to generated even less than 12 vehicles during the peak hour of its activity.

number of charter buses used to bring the patrons during the peak hours, is 3
mini-buses, which are observed at the site to already bring more than 90% of all
attending children, after the school, from their respective schools to the venue (refer to
Photos 5.1 to 5.3)



Photo 5.1: Mini-bus #1 - Rego: `KOOL 6' (NSW), observed [during the site inspection] to bring children to the development site

(Photo: Traffic Engineering Centre Pty Ltd)



Photo 5.2: Mini-bus #2 – Rego: 'KOOL 3' (NSW), bringing children to the development site (Photo: Traffic Engineering Centre Pty Ltd)

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Photo 5.3: Mini-bus #3 – Rego: 'KOOL 05' (NSW), observed [during the site inspection] to bring children to the development site (Photo: Traffic Engineering Centre Pty Ltd)

Table 5.3 shows the currently used [and proposed to be continuously used] mini-bus time-table.

During the 5 hrs long site inspection, the mini-buses were observed to seemingly operate in accordance to the table, and to bring more than 90 percent of all attending children after 4:00pm, this more than significantly reducing the number of overall generated vehicles.

During the site inspection, the same mini-buses were also observed to take some of the children to home or so (refer to Photo 5.4).

# **Bus Service**



MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Bus Service	Bus Service	Bus Service	<b>Bus Service</b>	Bus Service	Not In Service
4:00pm - 4:45pm	4:00pm - 4:45pm	4:00pm - 4:45pm	4:00pm - 4:45pm	4:00pm - 4:45pm	
Bus Service	<b>Bus Service</b>	Bus Service	<b>Bus Service</b>	<b>Bus Service</b>	Not In Service
6:30pm - 7:15pm	7:00pm - 7:45pm	6:30pm - 7:15pm	7:00pm - 7:45pm	6:30pm - 7:15pm	

Table 5.2: The existing and also the future Timetable

[Source: Unity 4 Community]

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Photo 5.4: Mini-buses were observed to take some of the children to [presumably] home, from the development site, after 4:30pm

(Photo: Traffic Engineering Centre Pty Ltd)

It was assumed that the staff would arrive at the venue before an event/activity at the community centre commence and leave the venue after the event has been finished, and all patrons left.

The calculated **maximum total number of vehicles generated by the development** during the **peak hour** is **12 vehicles**, if assumed that all of the patrons would come with the cars, and none would use the mini-buses [which, in all likelihood and foreseen circumstances, will never happened.

#### 5.2.2 Traffic impact

The projected increase in traffic activity during the peak hours for the proposed [and already operational] community centre is insignificant when compared with traffic capacity of Ferngrove Place (which could be expected to have a capacity in the order of 600 vehicles / hour).

The projected increase in traffic activity, as a consequence of the proposed use, would clearly not have any unacceptable traffic implications on Nollands Road [with ample spare capacity], nor its nearby intersections with Ferndell Street, and so the impact of the proposed use would be negligible.

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## 5.3 Parking demand and provision

#### 5.3.1 Authority requirements

Cumberland Council's Development Control Plan (2011) provide several indications of the parking requirements for a place of public worship (refer to Tables 5.3 to 5.5).

[www.cumberland.nsw.gov.au/development/policies-plans-and-controls/development-control-plan]

Other:

Whichever is greater of:

I space per 10 seats or
I space per 5 seats
I space per 20m² GFA (where no seats are provided or seating is in the form of traditional pews).

Table 5.3: Parking rates – Place of Public worship

[Source: Auburn Development Control Plan, Part 'Parking AND Loading', page 24, issued 2010]

Places of Public Worship	GFA	I per 8.5m²	n/a
--------------------------	-----	-------------	-----

Table 5.4: Parking rates – Place of Public worship

[Source: Holroyd Development Control Plan, Part A, page 30, issued on August 2013]

P.2 On-site parking shall be provided at the rate determined by the traffic impact statement having regard to the objectives of this clause. As a general guide for places of public worship, new development shall provide 1 car parking space per 5m2 of usable floor space for the first 100m² and 1 car parking space per 3m2 of usable floor space thereafter. (Usable floor space not being corridor space, stairways, storage areas, toilets and other floor space that will not increase the capacity of the development.)

Table 5.5: Parking rates – Place of Public worship

[Source: City of Parramatta Development Control Plan, Part 5, page 5-46, issued 2011]

**Note:** These difference parking rates are because as the Cumberland Council was formed on 12 May 2016 from the merger of parts of the Cities of Auburn, Parramatta (Woodville Ward), and Holroyd.

Parking rates are not produced from a formula, nor based on a scientific law, nor calculated – simply, they are based on empirical data, or, in other words, produced from various surveys.

Therefore, more likely than not, there are huge discrepancy in surveys from an area such as densely populated Parramatta, and the area in which this particular development is located.

For this reason, in our opinion, the Parramatta rates are far less applicable in this case, than the other two rates.

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## 5.3.2 Usable floor area for the purpose of public worship

According to the attached plans (refer to Figure 5.1 & 5.2), the area dedicated as 'Prayer Area' is only 164.32m2 [calculated as  $(12.394m \times 16.590m)$  – Recreational/entertainment room of  $7.844m \times 5.2601m$ )].

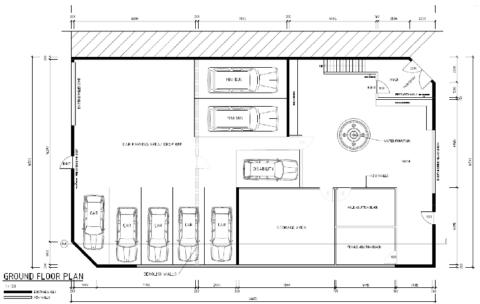


Figure 5.1: Development - Ground floor plan

(Source: Unity 4 Community)

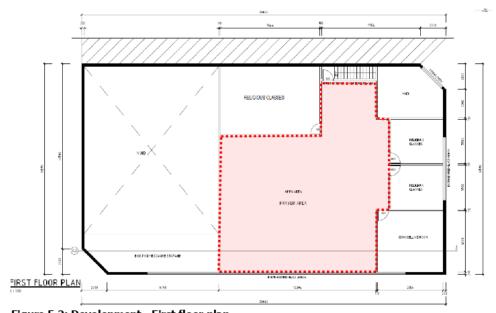


Figure 5.2: Development - First floor plan

(Source: Unity 4 Community)

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## 5.3.3 Calculated estimate of the future parking demand, Method #1.1 – from the Council's Control Development Plan – <u>Auburn DCP</u>

As in an Islamic place of public worship, seats are not provided nor seating is in the form of traditional pews, the parking rates applicable for this development is 1 parking space per 20m² GFA (refer to Table 5.3).

Subsequently, the number of the required parking spaces is:  $164.32m^2 / 20m^2 = 8.2$  parking spaces  $\approx$  9 parking spaces

The number of provided parking on-site parking spaces [17 (seventeen)] which exceed the maximum parking demand of 9 vehicles.

## 5.3.4 Calculated estimate of the future parking demand, Method #1.2 – from the Council's Control Development Plan – Holroyd DCP

The parking rates applicable for this development is 1 parking space per 8.5m² GFA (refer to Table 5.4).

Subsequently, the number of the required parking spaces is:  $164.32m^2 / 8.5m^2 = 19.33$  parking spaces  $\approx$  **20 parking spaces** 

The number of provided parking on-site parking spaces [17 (seventeen)] is slightly under the maximum parking demand of 20 vehicles, under this criterion.

However, considering the fact that the peak activities would occur after 5:00pm (refer to Table 5.1), and considering the fact that there are another additional 19 (nineteen) off-street parking spaces, located at the site, for which 'Unity 4 Community' has obtained permission from the other five businesses to freely used their parking spaces after 5:00pm, when the businesses are closed and when most of the 'Unity 4 Community' activity at the development site would occur (the permissions has been attached as Appendix A to this report), means that , in total, 36 off-street parking spaces, would exceed the maximum parking demand of 20 vehicles.

## 5.3.5 Calculated estimate of the future parking demand, Method #1.3 – from the Council's Control Development Plan – Parramatta DCP

The parking rates applicable for this development is 1 parking space per 5m² GFA of usable floor space for the first 100m² and 1 car parking space per 3m² of usable floor space thereafter (refer to Table 5.5).

Subsequently, the number of the required parking spaces is:

(100m2 / 5m2 =) 20 parking spaces + (64m2 / 3m2 =) 21 parking space = **41 parking space** 

The number of provided parking on-site parking spaces [17 (seventeen)] is under the maximum parking demand of 20 vehicles, under this criterion.

However, considering the fact that the peak activities would occur after 5:00pm (refer to Table 5.1), and considering the fact that there are another additional 19 (nineteen) off-street parking spaces, located at the site, for which 'Unity 4 Community' has obtained permission from the other five businesses to freely used their parking spaces after 5:00pm, when the businesses are closed

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and when most of the 'Unity 4 Community' activity at the development site would occur (the permissions has been attached as Appendix A to this report), means that, in total, 36 off-street parking spaces, would be only slightly under the maximum parking demand of 41 vehicles.

However, in reality, the parking demand is likely to be lower than 41 parking spaces, due to the fact that the mini-bus service has been provided and is already operational at the site, thus significantly reducing the parking demand at the site (refer to Photos 5.1 to 5.4, and table 5.2).

Therefore, we are of opinion that even under this criteria, there would be enough off-street parking spaces provide at the development site, even though the Parramatta parking rates are far less applicable for this particular development site, when compared with the other two, as the Parramatta rates were calculated within the busy, densely populated Parramatta area, and not the local area where the development site has been located.

#### 5.3.6 Conclusion

There are sufficient number of off-street parking spaces, especially after 5:00pm when the peak activities would occur at the development site, to satisfy the likely parking demand generated by the development proposal.

Therefore, it is concluded that the proposed development will not have any unacceptable parking implication to the on-street parking in the surrounding streets.

## 5.4 Location of the vehicular access to the development

The vehicular access/exit to/from the site is provided through the existing access/exit driveway, located off Ferngrove Place (refer to Photo 5.5).

It provides a safe and convenient access and exit from the development site, because the mutual visibility between a vehicle exiting the development site and vehicles travelling on Ferngrove Place as well as a pedestrian walking on the adjacent footpath is unobstructed, with more than minimum sight distances provided in each direction, when looking from or toward the access gate.



Photo 5.5: Vehicular access/exit to/from the site, off Ferngrove Place (Photo: Traffic Engineering Centre Pty Ltd)

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## 5.5 Impact on public transport

Development would not have any negative impact on the public transport, as there are no public transport services adjacent to the development site.

## 5.6 Impact on cyclists

Due to an insignificant increase in the generated traffic volumes, as well as an expected small number of cyclists on the nearby roads, the development would not make any negative impact on the safety and amenity of the cyclists, who may ride on surrounding streets.

## 5.7 Impact on pedestrian safety

Due to a low number of ingress and/or egress development related vehicular movements as well as low number of pedestrians, the development would not [in any foreseen circumstances] make any negative impact on the pedestrian safety and amenity.

## 5.8 Impact on traffic safety

A relatively small increase in the number of vehicle trips (a maximum of only 24 vehicles per peak hour - when compared with the far bigger number of vehicles generated by the whole, already approved for use, industrial and commercial area, surrounding the development site), would have a negligible impact on the traffic safety on Ferngrove Place, and nearby intersections.

## 5.9 Impact on residential amenity

There is no residential dwelling in vicinity of the development site.

Therefore, an increase in traffic of maximum 24 vehicles per hour, generated by the proposed development, would have negligible impact on the local residents' amenity, in vicinity to the development site.

This is due to:

- insignificant increase in traffic generated by use of the Community Centre;
- ample of road capacity and the intersection capacity available at these times;
- not creating additional parking demand in any of the local, but quite away residential streets;
- no impact on the vehicular access to the residential properties;
- no impact on the pedestrian access to any of residential properties;
- no increase in heavy vehicles percentage as result of the development.

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#### 6. Conclusions

This assessment has found that the increased traffic generation associated with the proposed development of a Place of public worship at Unit 6 / 1-3 Ferngrove Place, Chester Hill, NSW, would have negligible impact on the road network adjacent to the project site, and that the traffic conditions on the surrounding network would remain satisfactory with the proposed developed site in place.

The maximum projected increase in traffic activity as a consequence of the development is insignificant, particularly considering the volume of traffic on the adjacent road network, as well as ample spare capacity on Ferngrove Place.

Therefore, the projected increase in traffic activity as a consequence of the development would clearly not have any unacceptable traffic implications on Ferngrove Place and/or the nearby Ferngrove Place / Ferndell Street intersection in terms of either road capacity or traffic safety.

The maximum parking demand would be met [during the peak activity period, after 5:00pm] by up to 36 on-site off-street parking spaces [17 of which allocated to the Unite 6, and 19 of other off-street parking spaces allocated to the other five units, but predominantly unoccupied after working hours].

In addition to the on-street parking, the parking accumulation survey results also reveal that, after 5:00pm, there is a significant number of vacant off-street / on-site parking spaces, available to be used for parking by the community centre's patrons.

The development would negatively impact on public transport, pedestrian or cyclists' amenity and safety.

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## **Appendix A**

Granted off-street / on-site parking permissions

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3 Porking



Unity For Our Community P/L at 6/1 Ferngrove place, Chester Hill has been granted

permission from KING RICKUS to use the following car spaces

MNIT 3 after 5pm during the week from Monday to Saturday. Thank

you kindly for understanding this matter.

Company name: READY 2 RISE

Date: 26/03/18

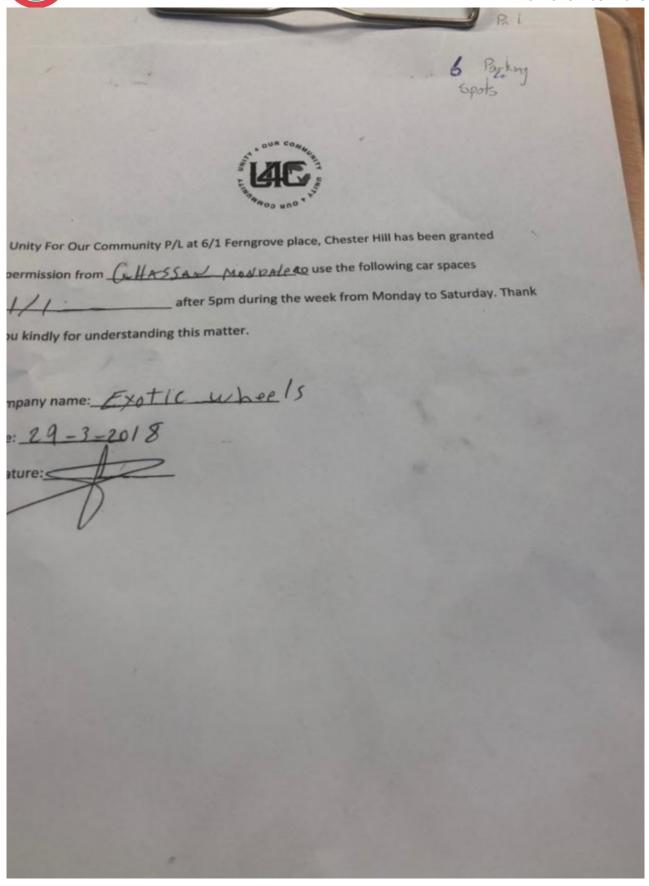
Signature:



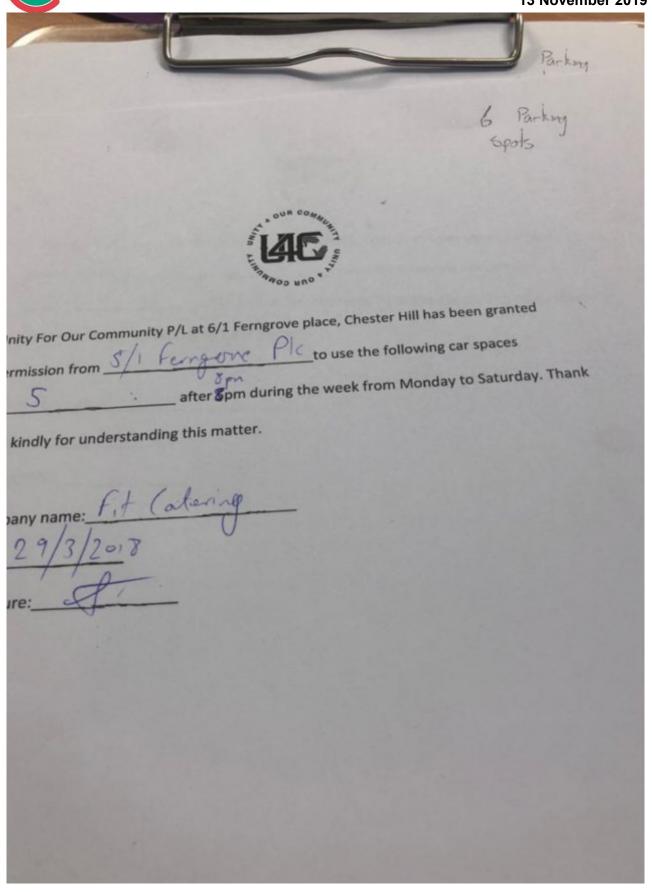


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Unity For Our Con	nmunity P/L at 6/1 Ferngro	ove place, Chester Hill has be	en granted
permission from _	Paranth porly	to use the following car	spaces
- Unid	2 after 5pm durin	ng the week from Monday to	Saturday. Thank
you kindly for unde	erstanding this matter.		
Company name:	Paramete Darly		
Date: 26/03) Signature:	6		
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# DOCUMENTS ASSOCIATED WITH REPORT LPP075/19

Attachment 6
Public Submissions



## CONFIDENTIAL

CUMBERLAND COUNCIL

7 September 2019

Fax: 9840 9734

Re: DA-2

DA-257/2019 - 6/1 Ferngrove Place, Chester Hill; Lot 6 SP 34532

Unauthorised use and fitout of a tenancy.

## OBJECTION to unauthorised use and fitout of a tenancy

The Rule of Law should apply.

Use of a tenancy should be authorised.

A proper DA should be submitted if an authorised use is desired.

LPP075/19 - Attachment 6



Attention Rennie Rounds

Ref: DA-257/2019

We are strongly opposed to the development of Unit 6, 1 Ferngrove Place for Unity For The Community P/L.

This is an inappropriate area for any sort of place of worship or for children to be in the area. Number 1 Ferngrove Place and whole street is a commercial/industrial area-large delivery coming in and out, forklifts operating, high level of traffic with

customers/suppliers/employees coming and going. Additionally there is a construction machine company (large bulldozers and other heavy machinery/equipment) which sells/rents these machines just across the road.

It is dangerous for any child to be in the area and the increased traffic/risk will disrupt the businesses in the area.

We strongly oppose.



## UNIT 6 1-3 FERNGROVE PLACE CHESTER HILL DA-257/2019 CHESTER HILL

Development Applications –

Unauthorised use and fitout of an existing industrial tenancy as a Place of Public Worship

to operate 10.00 a.m to 7.30 p.m. Monday to Friday and 10.00 a.m. to 1.00 p.m. Saturday

Lodged: 20/08/2019

Estimated Cost of Work: \$ 110,000

Officer: Rennie Rounds



As residents of Ferndell Street for over 40 years, we strongly object to the above proposal. We live directly opposite the industrial unit, and we believe that our quality of life will be impacted on if the re-zoning proposal to a Place of Public Worship is approved.

The Residents of Ferndell Street Chester Hill have not been notified in writing of the Development Plans for a Place of Public Worship.

Also we don't understand what the meaning is of **UNAUTHORISED USE** that is mentioned in the application. Does this mean they will be doing something illegal?

#### PARKING AND ADDITIONAL TRAFFIC VOLUMES

There are only 9 parking spaces allocated to Unit 6. The proposed re-zoning will cause an obvious overflow of parking onto both Ferngrove Place and Ferndell Street. Special festivals and conferences will require additional parking.

The western side of Ferndell Street including Ferngrove Place is currently zoned LIGHT INDUSTRIAL, with parking in the area currently at capacity. There is also a continuous heavy flow of traffic including large Semi Trailers and B-Doubles accessing the many industrial units in the vicinity which makes it very dangerous.

We are concerned about the additional cars parking in the street and the noise from the extra traffic that would be created. It would have a considerable impact on our quality of life and making it very dangerous for the residents and our visitors to access and leave our properties.

Because there are residential houses on the eastern side of Ferndell Street and Light Industrial on the western side, we feel that the area is not suitable for a Place of Public Worship.



A very large Place of Public Worship called **Masjib Al Noor** is already operating at 1-3 Ferndell Street South Granville which creates very heavy traffic in the area.

Also **Transdev Bus Company Depot** is located 24 Ferndell Street South Granville creating a heavy volume of traffic all through the early morning all day and night.

There is also a plan that has been approved (as shown below) for FOUR Industrial buildings operating 7 days a week 24 hours a day in Ferndell Stret.

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Ferndell Street would not be able to cope with the extra traffic created by the Place of Public Worship planned for Ferngrove Place.



DH-257/2019 R-Rounds

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LPP075/19 – Attachment 6 Page 1010



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LPP075/19 – Attachment 6 Page 1012



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LPP075/19 – Attachment 6 Page 1016



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LPP075/19 – Attachment 6 Page 1022



#### **CHESTER HILL NSW 2162**

DA-257/2019

**Attention: Rennie Rounds** 

I live boundary / Ferndell road and I strongly object the proposal for the DA 257/2019

The volume of additional traffic and Parking is not suitable for this area especially 6days a week from 10am to 7.30 pm

there will be more noise more trouble what the council can't regulate

The council can't guarantee the change of time or days if approved

There are other place of worship in the Cumberland council area

I hope you accept my submission of disapproval



Please refer to the attached copy of the plan.

- Entry to the premises isn't shown in the correct place on your copy of the plan, it looks like it
  is blocked off. Entry onto the premises is actually at the end of the property and all motor
  vehicles (cars, vans, trucks etc) need to follow the Entry One Way signs and arrows on the
  ground and drive around the building to get to the exit. The exit sign has been there for
  years and is not temporary.
- The chicken wholesaler (unit 2) constantly has trucks coming in uploading and down loading chicken stock all day and using the driveway for both entry and exit is impossible. It's always been an "Exit only" driveway.
- Green highlighted area indicates stacks of tyres (near unit 1) assembled there which all
  vehicles need to drive past to reach the car park.
- Orange highlighted area (in front of unit 3) indicates scaffolding assembled. This scaffolding
  is loaded and unloaded regularly with a forklift. Scaffolding is also stored out along the wall
  ready for next job. Forklift is used carrying the scaffold from warehouse (unit 3) past the day
  care (unit 6) to be loaded onto truck.
- Being a commercial/industrial area, Four Forklifts are in use daily (Units 1, 2, 3, 5).
  - Unit 2 forklift operation is close to the front entrance of the centre unit 6.
  - Unit 5 forklift operation is right next door to the back roller door entrance of the centre unit 6.
- · Couriers drive through and are in and out of the premises all day.

We don't find this area to be safe for children. There is heavy traffic with parents dropping of children between approximately 9am and 10am and pick up approximately 2.30pm and 3.00pm on a daily basis, which is the main courier time pick-ups. Unfortunately even though there are speed humps installed, drivers do not slow down when driving around the block.

I would appreciate a call to organise a meeting and discuss further.

LPP075/19 – Attachment 6 Page 1024

# DOCUMENTS ASSOCIATED WITH REPORT LPP075/19

# Attachment 7 Appendix A - Parramatta DCP 2011 Compliance Table



# APPENDIX A – Parramatta Development Control Plan 2011 Compliance Table

Requirement	Yes	No	N/A	Comments			
PART 3 DEVELOPMENT PRINCIPLES							
3.3 Environmental Amenity							
3.3.7 Waste Management Applicants are also required to prepare a Waste Management Plan addressing the above objectives in accordance with the requirements detailed in City of Parramatta Council's Waste Management Plan template 2016 and Waste Management Guidelines for new Development Applications 2016.				A Waste Management Plan accompanied the application, however, the application is recommended for refusal.			
PART 5 PLACES OF PUBLIC WORSHIP AND I	EDUC	ATION	AL E	STABLISHMENTS			
5.3.3.1 Locational Requirements							
P.1 Larger places of public worship (ie. with a seating capacity of greater than 250) are to be located within lands zoned for business or industrial purposes.				The development proposes a maximum capacity of 30 attendees and is located within the IN1 General Industrial land use zone.			
5.3.3.2 Bulk and Scale							
P.1 Applications for places of public worship and educational establishments will be subject to the same height, floor space ratio and envelope controls that are identified in the Parramatta LEP 2011, Parramatta City Centre DCP 2007 and Part 3 of this DCP applicable to the land for permissible development within the applicable zone.				The development proposes the change of use of the existing Unit 6 in the industrial complex at 1 Ferngrove Place, Chester Hill. The development does not involve any external works to the existing building that would alter the existing building envelope or existing building height.			
P.2 Consideration will be given to variation of the applicable height or envelope controls to accommodate the unique architectural requirements of places of public worship establishments as long as the objectives of the controls and				There has been an unathorised extension to			
this clause are maintained.  P.3 Site planning must be sensitive to the streetscape			$\boxtimes$	the approved mezzanine level, however, even with the increase to the gross floor			
character and views.  P.4 Places of public worship and educational establishments are to be designed and landscaped in a manner that enhances the quality and visual amenity of the streetscape.			$\boxtimes$	area, the amended FSR of 0.58:1, across the site, is within the maximum FSR of 1:1.			
5.3.3.3 Acoustic Privacy							
P.1 The design of the proposed place of public worship or educational establishment should minimise the projection of noise from the various activities anticipated to occur within the site. Adjoining and nearby residents should not be exposed to unreasonable levels of noise arising from the proposed use.				The Application was accompanied by a Noise Assessment, which was reviewed by Council's Environmental Health Unit, who advised that acoustic impacts have been satisfactorily considered and addressed.			
P.2 A noise impact assessment statement, prepared by a suitably qualified acoustic engineer, is to be submitted with all applications for development within residential zones or which adjoin residential zones. This should describe hours of operation and predicted noise levels for regular lunch and tea breaks and for special events such as festivals and religious celebrations. Where possible, reference should be made to similar operating uses whether or not within the Parramatta Local Government area.	$\boxtimes$						

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# APPENDIX A – Parramatta Development Control Plan 2011 Compliance Table

Requirement	Yes	No	N/A	Comments
PART 5 PLACES OF PUBLIC WORSHIP AND E	DUC	NOITA	AL E	STABLISHMENTS
5.3.3.5 Traffic, Parking and Access				
P.1 A traffic impact statement is to be included with the development application. The statement shall:  a. assess the impact upon the surrounding streets and the measures proposed to mitigate such impacts.				The application is accompanied by a Traffic Impact and Parking Assessment Study (Rev B, dated 10/08/2019) (the Study).
<ul> <li>b. identify the number of parking spaces required on the basis of the general use of the site. Reference should be made to similar existing and operating premises in similar neighbourhoods as far as possible. For educational establishments, on-site parking must be provided for employees, student drivers (for senior level educational establishments only), pick-up and drop-off areas and bicycle parking.</li> </ul>				
c. identify the activities (e.g. carnivals, celebrations, festivals) and other gatherings which are likely to attract larger than normal attendances at the premises, the attendance numbers associated with such events and measures to mitigate and manage their impacts associated with traffic movements.				
adequately consider future parking needs that may result from anticipated growth in the congregation of places of public worship.				
P.2 On-site parking shall be provided at the rate determined by the traffic impact statement having regard to the objectives of this clause. As a general guide for places of public worship, new development shall provide 1 car				Utilising the general guide for places of public worship, the proposed use generates the following car parking requirement:
parking space per 5m ² of usable floor space for the first				Total useable floor space = 373sqm
100m ² and 1 car parking space per 3m ² of usable floor space thereafter. (Usable floor space not being corridor space, stairways, storage areas, toilets and other floor space that will not increase the capacity of the				100/5 = 20 273/3 = 91
development.)				This generates the requirement for a total of 111 car parking spaces.
				The development proposes seventeen (17) car parking spaces, the 9 allocated to Unit 6 in SP 34532 and 8 internal to the building.
P.3 All vehicles shall enter and leave the site in a forward direction. Clear distinctions should be made for vehicular traffic and pedestrian movements, both onsite and off-site. Measures should be taken to separate these and reduce potential conflict through design and management practices.				Council's Development Engineer has advised that a turning area has not been provided within the building to facilities the forward entry and exit of vehicles, in the event that all car parking spaces are occupied.
P.4 Car parking spaces are to be designed to ensure ease of access, egress and manoeuvring on-site. The standards of AS 2890 are to be complied with.				Council's Development Engineer has advised that the proposed internal car parking layout does not comply with the Australian Standards AS2890.1 and AS2890.6.
				Adequate maneuvering space has not been provided for the number of car parking spaces provided.

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2



3

# APPENDIX A – Parramatta Development Control Plan 2011 Compliance Table

not to commence until thirty minutes have elapsed following the completion of any preceding service.				has not spaced sessions with 30 minute intervals.
Requirement	Yes	No	N/A	Comments
PART 5 PLACES OF PUBLIC WORSHIP AND E	DUC/	NOITA	AL E	STABLISHMENTS
<ul> <li>P.1 A development application for the purposes of establishing a new place of public worship or educational establishment must include an Operational Plan of Management. This will be used both for the assessment of the application as well as a means to manage the ongoing operation of the proposed premises through the conditions of development consent. The Operational Plan of Management (as may be amended) will be incorporated as a condition of development consent. This plan must include, but is not limited to the following information for each proposed use:</li> <li>Details of the proposed hours of operation, a schedule of regular services held and recurring events and special events throughout the year. Where special events attracting greater than 250 people will occur, details including the expected numbers of people are to be provided.</li> <li>A list of the types of community purposes (i.e. community colleges, senior citizens groups, youth groups etc) the building may be used for outside the regular services. How often and how many people it will attract.</li> <li>A list of the type of organisations that may let or use the building and for what purposes. How often and how many people it will attract.</li> <li>An explanation of the measures that will be in place to manage parking and local traffic when a special event is scheduled.</li> <li>The estimated number of people to be in attendance at regular services, main events and those other times where it is described that the place of public worship will be in use.</li> <li>Contact persons who will be responsible for complaints handling. This is to be updated periodically.</li> <li>Anticipated growth of the congregation and how these long term projections will be factored into the development and managed in the future.</li> </ul>				A Plan of Management (PoM) accompanies the application.

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Item No: LPP076/19

# MODIFICATION APPLICATION - 27B & 29 GARFIELD STREET, WENTWORTHVILLE

Responsible Division: Environment & Planning

Officer: Executive Manager Development and Building

File Number: 2018/196/2

Application lodged	5 August 2019
Applicant	Dany Khoury on behalf of Blue Sox Developments Pty Ltd
Owner	Blue Sox Developments Pty Ltd
Application No.	2018/196/2
Description of Land	Lot Y DP 383623, lot 23 DP 816973
	27B & 29 Garfield Street Wentworthville
Proposed	Section 4.55(2) application for alterations and additions to
Development	approved residential flat building including additional
	ground floor unit, changes to pedestrian access and
	basement egress, and deletion of padmount substation
Site Area	1267.2 m ²
Zoning	R4 – High Density Residential
Disclosure of	Nil disclosure
political donations	
and gifts	
Heritage	No heritage items in the vicinity
Principal	Height of Buildings – 15 m
development	Floor Space Ratio – 1.2:1
standards	
Issues	Nil

#### **SUMMARY:**

- 1. The subject application was lodged on 5 August 2019 and notified to surrounding properties from 28 August to 18 September 2019. No submissions were received as a result of the notification.
- 2. The application was deferred on 24 September 2019. Additional information and amended plans to address the deferral items were submitted on 16 October 2019. The amended plans did not require re-notification.
- 3. The application is being reported to the Cumberland Local Planning Panel for determination as it seeks to modify an aspect of the development that was approved by the Panel.
- 4. The application has been assessed against the relevant provisions of the Environmental Planning and Assessment Act 1979, State Environmental Planning Policy No 65 Design Quality of Residential Apartment Development, Holroyd Local Environmental Plan (HLEP) 2013 and Holroyd Development Control Plan (HDCP 2013).



- 5. The development as approved involves a number of non-compliances with the relevant DCP controls. The subject application does not introduce any additional non-compliances. However, it does result in a reduction in the amount of landscaped area proposed from 27% of the site, to 18.6% of the site. This is considered supportable as discussed in detail elsewhere in the report.
- 6. The application is recommended for approval subject to the conditions in the draft determination at attachment 4.

#### **REPORT:**

#### Introduction

The subject site is known as 27B & 29 Garfield Street Wentworthville and is legally described as lot 23 in DP 816973 and lot Y in DP 383623. The site has an area of 1267.2 m2 and frontage of 16.52m to Garfield Street and 31.755m to Emert Street (Cumberland Highway). The site is located opposite the intersection of Garfield Street and McKern Street. The site has generally been cleared of vegetation and structures. Removal of the existing street trees was approved under the original application.

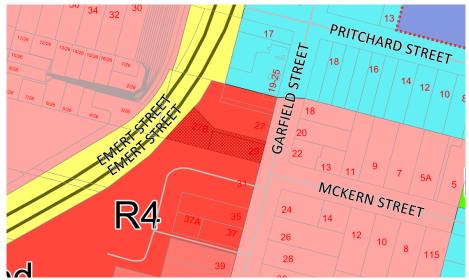
The site is zoned R4 – High Density Residential, as are neighbouring sites to the north and south. The land on the opposite side of Garfield Street is zoned R2 – Low Density Residential.

The subject site does not contain any heritage items and is not within a heritage conservation area. There are a number of local heritage items within proximity of the subject site. However, there is significant physical separation between the subject site and the local heritage items and the development as proposed to be modified will have no adverse impact on the setting or significance of any of the items.



Aerial view of the locality with subject site indicated in blue. Source: Nearmap 2019





Zoning map. Source: Cumberland Council 2019



View of site from Garfield Street frontage. Source: Cumberland Council 2019





Garfield Street frontage, looking north. Source: Cumberland Council 2019

#### Description of The Proposed Development

The modifications proposed under this application are:

- Addition of a one bedroom ground floor unit facing Garfield Street.
- Changes to the ground floor entry area to accommodate the additional unit
- Deletion of padmount substation at north eastern corner of site
- Changes to the design of windows on the southern elevation.

The proposal seeks to alter the unit mix as follows:

Approved	Proposed
• 3 x 1 bed (15.7%)	• 4 x 1 bed (20%)
• 14 x 2 bed (73.6%)	• 14 x 2 bed (70%)
• 2 x 3 bed (10.5%)	• 2 x 3 bed (10%)

#### Application History

The subject site was isolated as a result of the approval of DA 2016/478 for development of 27 and 27A Garfield Street (now 27 Garfield Street). That application was lodged concurrently with DA 2016/474 for development of 29 Garfield Street which was also subsequently approved by Council.



During the assessment of those applications, valuations were prepared and submitted to Council for the remaining lot (27B Garfield Street), which at that time was owned by the Department of Housing. Concept plans for development of 27B as an isolated site were also submitted for assessment. Council was satisfied at the time of approving DA 2016/474 and DA 2016/478 that the applicant had made reasonable attempts to acquire 27B Garfield Street but had been unsuccessful, and that it was possible to develop both 27B and 29 as separate lots.

The applicant later acquired 27B from the Department of Housing, and lodged a new application (DA 2018/196) for development of a consolidated scheme for 27B and 29 Garfield Street. That application was approved by the Panel on 13 February 2019, subject to a condition requiring deletion of one two bedroom unit (B201).

The consent granted on 13 February 2019 also included a number of deferred commencement conditions requiring:

- the registration of a drainage easement to benefit the subject site,
- registration of an easement on the adjacent property to protect the fire exclusion zone for the new padmount substation, and
- confirmation from RMS that stormwater can be discharged into the RMS system within Emert Street.

The deferred commencement conditions have all been satisfied and the consent is now operational.

The subject modification application was deferred on 24 September 2019, seeking amended plans and additional information. The response received 16 October 2019 provided for deletion of the second floor COS area, amendments to the design of windows on the southern elevation, and deletion of the padmount substation.

#### Applicant's Supporting Statement

A Statement of Environmental Effects prepared by Think Planners, dated 31 July 2019 was submitted in support of the application.

#### **Contact With Relevant Parties**

The assessing officer has undertaken an inspection of the subject site and has been in contact with the applicant throughout the assessment process.

#### Internal And External Referrals

The application was not referred to any internal or external departments.

#### Planning Assessment

Section 4.55 (2) of the Environmental Planning and Assessment Act 1979 (EP&A Act s4.15 (1)(a)(i))



Pursuant to section 4.55(2), a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

#### Requirement

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

#### Comment

DA 2018/196 was approved by the CLPP for construction of a part 4, part 5 storey RFB at the subject site.

The consent granted 13 February 2019 included a condition requiring deletion of one 2 bedroom apartment (B201).

The proposed modification seeks to add a one bedroom unit on the ground floor of building A. This results in a small increase in GFA as compared to the approved development, but the new unit is located wholly within the approved building footprint.

The proposal is compliant with all applicable development standards. There are no adverse privacy, overshadowing, or other amenity impacts on neighbouring properties resulting from the proposed modification.

Accordingly, the Panel can be satisfied that the development as proposed to be modified is substantially same as that for which consent was originally granted.

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

No Minister, public authority or approval body was required to be consulted.



consent, and	
It has notified the application in accordance with:  (i) the regulations, if the regulations so require, or  (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and	The application was notified in accordance with Part E of Holroyd Development Control Plan 2013.
It has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	No submissions were received as a result of the notification.
In determining an application for modification of a consent under this	The provisions of the applicable EPIs are discussed elsewhere in this report.
section, the consent authority must take into consideration such of the matters referred to in section 4.15(1)	The provisions of the applicable DCP are discussed elsewhere in this report.
as are of relevance to the development the subject of the application.	There are no planning agreements or draft planning agreements related to this application.
	The regulations do not prescribe any relevant matters for consideration.
	The likely impacts of the proposal are considered satisfactory.
	The site is considered to be suitable for the development as proposed to be modified.
	The application was notified in accordance with the DCP and no submissions were received.
	Approval of the subject application would not be contrary to the public interest.
The consent authority must also take	The consent authority relevantly provided
into consideration the reasons given by	the following reason for their decision to



the consent authority for the grant of the consent that is sought to be modified.

approve the original application:

2. The Panel considers that the adverse overshadowing, privacy and built form impacts associated with the proposed development will be ameliorated to an acceptable level through the deletion of unit B-201 and associated roof elements. Further conditions are also imposed to improve streetscape and privacy impacts.

The addition of a ground floor unit facing Garfield Street will not have any adverse impact on the adjacent property in terms of privacy or overshadowing. The Panel's concerns regarding the streetscape impact of the void area will also be ameliorated by the introduction of the ground floor unit.

The other reasons given by the Panel are not relevant to the subject modification application.

# Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP & A Act)

#### **Environmental Planning Instruments**

The following Environmental Planning Instruments are relevant to the assessment of the subject application:

# (a) State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55)

The requirement at clause 7 of SEPP 55 for Council to be satisfied that the site is suitable or can be made suitable to accommodate the proposed development was considered under the original application. The proposed modifications do not raise any new concerns about potential contamination.

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

BASIX certificate 926540M_02, dated 17 July 2019 was submitted with the application and is consistent with the architectural plans.



# (c) State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development (SEPP 65)

The proposal is classified as a residential apartment development and SEPP 65 applies. A design verification statement was submitted with the amended application which generally satisfies the requirements of clauses 115(3A) and 115(3B) of the Regulation.

The design quality principles from schedule 1 of the SEPP are considered in the following table:

Design quality principle	Response
1. Context and neighbourhood character	The proposed modifications do not alter previous conclusions regarding the appropriateness of the development for its context.
2. Built form and scale	The proposed modification will have minimal impact on the perceived bulk of the building, and does not alter the overall height from the original approval.
3. Density	The density of the development is considered appropriate, having regard to the location of the site with respect to the Wentworthville Centre, and the FSR standard that applies to the site.
4. Sustainability	An amended BASIX Certificate has been submitted, demonstrating that the building meets the required energy and water efficiency targets.
5. Landscape	An updated landscape plan was submitted with the amended application. The proposed planting will provide good amenity for the occupants of the subject development, and will contribute to the streetscape. The species selection is appropriate given that much of the landscaping is provided in planter boxes.
6. Amenity	The proposed unit will receive adequate amenity, with appropriately sized rooms, access to natural light and ventilation, and private outdoor space.
7. Safety	The proposed modifications will improve the passive surveillance of Garfield Street by providing a ground floor unit to address the street frontage. Adequate safety and privacy is maintained for the proposed unit with access control including secure lobby and courtyard fences.
8. Housing diversity and social interaction	The proposed mix of apartment sizes is considered satisfactory, with a range of layouts and apartment sizes provided. The proposed communal spaces will provide for a range of active and passive activities, and will provide opportunities for social interaction among residents.
9. Aesthetics	The proposed modification will improve the aesthetic appeal of the development by filling in the 'void' that



was ap	proved	under	the	original	applica	ation.	The
building	comp	osition	and	externa	al fini:	shes	are
otherwis	e in	accor	dance	with	the	appr	oved
developr	nent.						

#### ADG non-compliance

The development, as approved, includes variations to the building separation requirements at all levels. The proposed unit has habitable room windows located 3 m from the southern boundary, where a minimum of 6 m is required. This is consistent with the variations that have already been approved. The bedroom window has fixed obscure glazing and will not result in any visual or acoustic privacy impacts for neighbouring properties. As such, the variation is considered supportable.

A comprehensive ADG compliance table is provided at attachment 3.

## (d) State Environmental Planning Policy (Coastal Management) 2018

The subject site is not identified as a coastal wetland nor is it land identified as being within a "proximity area for coastal wetlands" as per Part 2, Division 1 of the SEPP Coastal Management 2018.

## (e) Holroyd Local Environmental Plan 2013 (HLEP 2013)

The proposed development is defined as a 'residential flat building' under the provisions of HLEP 2013. Residential flat buildings are permitted with consent in the R4 – High Density Residential zone which applies to the land.

The proposal complies with the relevant provisions of HLEP 2013. A comprehensive LEP assessment is provided at attachment 1.

The provisions of any proposed instrument that is or has been the subject of public consultation (EP&A Act s4.15 (1)(a)(ii))

No draft Environmental Planning Instruments apply to the proposal.

#### The provisions of any Development Control Plans (EP&A Act s4.15 (1)(a)(iii))

#### (f) Holroyd Development Control Plan 2013

HDCP 2013 contains general controls which relate to all developments under Part A, and Residential Controls under Part B.

There are no new DCP non-compliances resulting from the proposed modifications. However, the proposal does result in a reduction in the amount of landscaped area proposed from 27% of the site, to 18.6% of the site (when considering areas with minimum dimensions of 2 m).

In this case, there are no further opportunities for providing additional landscaping on the site and the non-compliance is considered satisfactory. It is also noted that when



landscaped areas with dimensions of less than 2 m are included in the calculation, the total area exceeds 30%.

A comprehensive DCP compliance table is provided at attachment 3.

Any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4 (EP&A Act s 4.15(1)(a)(iiia))

There is no planning agreement or draft planning agreement associated with the subject application.

#### The provisions of the Regulations (EP&A Act s4.15 (1)(a)(iv))

The Regulations do not prescribe any relevant matters for consideration.

#### The Likely Environmental, Social or Economic Impacts (EP&A Act s4.15 (1)(b))

The likely environmental, social and economic impacts of the development have been assessed and are considered satisfactory.

## The suitability of the site for the development (EP&A Act s4.15 (1)(c))

The site is considered suitable for the development as proposed to be modified.

# Submissions made in accordance with the Act or Regulation (EP&A Act s4.15 (1)(d))

Advertised (newspaper)	Mail 🔀	Sign 🔀	Not Required	

In accordance with Part E - Public Participation of HDCP 2013, the proposal was publicly notified for a period of 21 days between 28 August and 18 September 2019. As a result of the notification, Council received no public submissions.

#### The public interest (EP&A Act s4.15(1)(e))

The public interest is served by permitting the orderly and economic use of land, in a manner that is sensitive to the surrounding environment and has regard to the reasonable amenity expectations of surrounding land users. In view of the foregoing analysis, it is considered that approval of the proposed development would not be contrary to the public interest.

# Section 7.11 (Formerly S94) Contribution Towards Provision or Improvement of Amenities or Services

The subject development attracts development contributions in accordance with Holroyd Section 94 Development Contributions Plan 2013.

A condition was imposed on the original consent requiring payment of contributions in accordance with Holroyd Section 94 Development Contributions Plan 2013. This



application results in one additional unit and as such the contributions need to be recalculated.

In accordance with the currently indexed rates for the Wentworthville Centre contribution area, the following contributions apply:

- 4 x 1 bedroom dwellings 8,765 x 4 = \$35,060
- 14 x 2 bedroom dwellings –14,822 x 14 = \$207,508
- 2 x 3 bedroom dwellings 20,000 x 2 = \$40,000
- minus credit for the existing 1 x 2 bedroom and 1 x 3 bedroom dwellings –
   \$34,822

At the time of this development consent, the current rate of the contribution is **\$247,746.** The draft determination at attachment 4 includes an amended condition to require payment of contributions prior to the issue of a construction certificate.

#### Disclosure of Political Donations And Gifts

The application and notification process did not result in any disclosure of political donations or gifts.

#### **CONCLUSION:**

The development application has been assessed in accordance with the relevant requirements of the Environmental Planning and Assessment Act 1979, State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development, Holroyd Local Environmental Plan 2013 and the Holroyd Development Control Plan 2013 and is considered to be satisfactory.

#### **CONSULTATION:**

There are no further consultation processes for Council associated with this report.

#### FINANCIAL IMPLICATIONS:

There are no further financial implications for Council associated with this report.

#### **POLICY IMPLICATIONS:**

There are no policy implications for Council associated with this report.

## **COMMUNICATION / PUBLICATIONS:**

The final outcome of this matter will be notified in the newspaper.

## REPORT RECOMMENDATION:





That DA 2018/196/2 for alterations and additions to approved residential flat building including additional ground floor unit, changes to pedestrian access and basement egress, and deletion of padmount substation be approved, subject to the conditions within the draft notice of determination provided at attachment 4.

#### **ATTACHMENTS**

- 1. HLEP 2013 Compliance Table J
- 2. Apartment Design Guide Compliance Table J
- 3. HDCP 2013 Compliance Table U
- 4. Draft Notice of Determination U
- 5. Architectural Plans U
- 6. Consent for DA 2018/196/1 U

## DOCUMENTS ASSOCIATED WITH REPORT LPP076/19

# Attachment 1 HLEP 2013 Compliance Table



#### Attachment 1 – Holroyd Local Environmental Plan 2013 compliance table

Clause	Yes	No	N/A	Comment
Land use table				
To provide for the housing needs of the community within a high density residential environment     To provide a variety of housing types within a high density residential environment     To provide a variety of housing types within a high density residential environment     To enable other land uses that provide facilities to meet the day to day needs of residents.				The proposal provides for the housing needs of the community within a high density residential environment.
2 Permitted without consent				
Home occupations				
Attached dwellings; Boarding houses; Building identification signs; Business identification signs; Centre-based child care facilities; Community facilities; Environmental protection works; Exhibition homes; Home businesses; Home industries; Hostels; Kiosks; Multi dwelling housing; Neighbourhood shops; Places of public worship; Recreation areas; Residential flat buildings; Respite day care centres; Roads; Seniors housing; Shop top housing  4 Prohibited  Any development not specified in item 2 or 3				A residential flat building is permitted with consent.
4.3 Height of buildings				
(1) The objectives of this clause are as follows:      (a) to minimise the visual impact of development and ensure sufficient solar access and privacy for neighbouring properties,     (b) to ensure development is consistent with the landform,	$\boxtimes$			In accordance with the Height of Buildings Map accompanying HLEP 2013, a maximum 15 m building height applies to the site.
(c) to provide appropriate scales and intensities of development through height controls.  (2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.				The development as approved has a height of 14.9 m which complies with the standard. The proposed modifications do not alter the height of the building.
4.4 Floor space ratio				A maximum FSR of
(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.				1.2:1 applies to the subject site.  The development as proposed to be



Clause	Yes	No	N/A	Comment
				modified has an FSR of 1.18:1 which complies with the standard.
				This excludes the plant room, garbage room and storage areas at lower ground level.
4.6 Exceptions to development standards				
Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument.				The subject application is for modification to an existing consent.
5.10 Heritage conservation			$\boxtimes$	The subject site is not located within the vicinity of any heritage item or heritage conservation area.
6.1 Acid sulfate soils				The subject site is not affected by acid sulfate soils.
6.2 Earthworks				The subject modification application does not involve any additional earthworks.
6.4 Flood planning				
<ul> <li>(2) This clause applies to land at or below the flood planning level.</li> <li>(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development.</li> <li>(a) is compatible with the flood hazard of the land, and</li> <li>(b) will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and</li> <li>(c) incorporates appropriate measures to manage risk to life from flood, and</li> <li>(d) will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and</li> <li>(e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.</li> </ul>				There are no changes to the floor levels or stormwater layout as a result of the proposed modifications.
6.5 Terrestrial Biodiversity			$\boxtimes$	The site is not identified as containing any Remnant Native Vegetation on the Biodiversity Map.



Clause	Yes	No	N/A	Comment
6.7 Stormwater Management				There are no changes to the approved stormwater system under this modification application.
6.8 Salinity				The site is identified as having moderate salinity potential. Appropriate conditions were included in the original consent to address this issue.

## DOCUMENTS ASSOCIATED WITH REPORT LPP076/19

# Attachment 2 Apartment Design Guide Compliance Table





#### Attachment 2 - Apartment Design Guide compliance table

No.	Control	Comments	Comp	liance	
PART 3	- SITING THE DEVELOPMENT				
3A	Site Analysis		Yes	No	N/A
3A-1	Site analysis illustrates that design de opportunities and constraints of the relationship to the surrounding context.				
3B	Orientation		Yes	No	N/A
3B-1	Building types and layouts respond to to optimising solar access within the development.	ppment.			
3B-2	Overshadowing of neighbouring proper winter.	ties is minimised during mid-	$\boxtimes$		
3C	Public Domain Interface		Yes	No	N/A
3C-1	Transition between private and public compromising safety and security.	domain is achieved without	$\boxtimes$		
3C-2	Amenity of the public domain is retained	and enhanced.	$\boxtimes$		
3D	Communal and Public Open Space		Yes	No	N/A
3D-1	An adequate area of communal open seriodential amenity and to provide opportunity		$\boxtimes$		
	Design Criteria Communal open space has a minimum area equal to 25% of the site.  Required: 25% x 1267.2 m² = 316.8 m².	<ul> <li>226.5 m² at lower ground</li> <li>105.1 m² at ground level</li> <li>128.9 m² at rooftop</li> <li>460.5 m² (36.3%) proposed.</li> </ul>			
	Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter).	Approximately half of the useable COS area is provided at roof top and will receive unobstructed solar access throughout the day.			
	Design Guidance Communal open space should be consolidated into a well designed, easily identified and usable area.	Three COS areas are provided. The COS areas are well-defined and usable.	$\boxtimes$		
	Communal open space should be colocated with deep soil areas.	Not possible due to the isolated nature of the site.		$\boxtimes$	
	Direct, equitable access should be provided to communal open space areas from common circulation areas, entries and lobbies.	The usable part of the COS area is accessible.			
	Where communal open space cannot be provided at ground level, it should be provided on a podium or roof.	Rooftop COS provided.	$\boxtimes$		
3D-2	Communal open space is designed to respond to site conditions and be attracti		$\boxtimes$		
3D-3	Communal open space is designed to m		$\boxtimes$		
3D-4	Public open space, where provided, pattern and uses of the neighbourhood.	is responsive to the existing			$\boxtimes$
3E	Deep Soil Zones		Yes	No	N/A
3E-1	Deep soil zones provide areas on the shealthy plant and tree growth. They impromote management of water and air q	prove residential amenity and			
	Design Criteria  Deep soil zones are to meet the following minimum requirements:	289.6 m ² (22.8%) with 3 m dimensions.			



	Site area	Minimum	Deep soil zone (% of site area)				
	less than 650m²	-	(33333)				
	650m² - 1,500m²	3m					
	greater than 1,500m ²	6m	7%				
	greater than 1,500m ²						
	with significant existing tree cover	6m					
	Required: 7%	x 1267.2	m²				
	= 88.704 m ²						
	Design Guidar						
	On some sites possible	greater	DSZ may b	The subject site has total area of less than 1500 m ²			
	• 10% of	f the site	on sites with	n			$\boxtimes$
		50 – 1500					
			on sites greate	r			
3F	than 15 Visual Privacy				Yes	No	N/A
3F-1			ration distance	s are shared equitably between	103	140	N/A
				onable levels of external and	$\boxtimes$		
	internal visual p						
	Design Criteria			North			
	Separation be balconies is pro		windows and		П		
	privacy is achie						
	separation dista						
	the side and r	ear bou	ndaries are a				
	follows:	Habitable	e Non-	N/A street facing			$\boxtimes$
	Building height	rooms ar balconie	id habitable	N/A Street lacing			
	up to 12m (4 storeys)	6m	3m	South			
	up to 25m (5-8 storeys		4.5m	6 m required.		$\boxtimes$	
	over 25m (9+ storeys)	12m	6m	3 m proposed			
				See discussion in body of report			
3F-2		_	9	its increase privacy without			
				and balance outlook and views			
3G	from habitable i			space.	Yes	No	N/A
3G-1				connects to and addresses the			
20.0	public domain.			21 1 12	_		
3G-2 3G-3				essible and easy to identify. s for access to streets and	$\boxtimes$		
36-3	connection to d	estination		s ioi access to streets and			
3H	Vehicle Acces				Yes	No	N/A
3H-1 3J	No change to v			s modification application	Yes	No	N/A
3J-1				proximity to public transport in			
33-1	metropolitan Sy	dney and					
	Design Criteria						
	For developm locations:	ent in	the following	·   · · · ·			
	iocations.			within 800 metres of Wentworthville train station.		П	
	on sites tha	t are with	nin 800 metre:				
			r light rail stop	applies.			
	in the Sydne	y Metrop	olitan Area; or				



	on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre,  The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.  The car parking needs for a development must be provided off street.				
3J-2	Parking and facilities are provided for other modes of transport.	12 bicycle spaces required under HDCP 2013 16 spaces provided			
3J-3	Car park design and access is safe and		$\boxtimes$		
3J-4	Visual and environmental impacts of minimised.				
3J-5	Visual and environmental impacts of minimised.				$\boxtimes$
3J-6	Visual and environmental impacts of parking are minimised.	above ground enclosed car			$\boxtimes$
	- DESIGNING THE BUILDING				
4A	Solar and Daylight Access		Yes	No	N/A
4A-1	To optimise the number of apartments rooms, primary windows and private ope		$\boxtimes$		
	Design Criteria Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas.  Required: 70% x 20 units = 14 units minimum	75% (15/20 units) receive minimum 2 hours direct solar access to living rooms and POS at mid-winter.			
	A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter.  Maximum: 15% x 20 units = 3 units maximum	O units receive no direct sunlight at mid-winter.			
4A-2	Daylight access is maximised where sun				$\boxtimes$
4A-3	Design incorporates shading and glare of months.	control, particularly for warmer			$\boxtimes$
4B	Natural Ventilation		Yes	No	N/A
4B-1	All habitable rooms are naturally ventilate		$\boxtimes$		
4B-2	The layout and design of single aspect apartments maximises natural ventilation.	Proposed unit is dual aspect			
4B-3	The number of apartments with natural to create a comfortable indoor environment				
	Design Criteria At least 60% of apartments are	70% of units (14/20) are	$\boxtimes$		



	nine storey Apartments a are deemed to if any enclose these levels ventilation a enclosed.	at ten storeys or greater to be cross ventilated only sure of the balconies at allows adequate natural and cannot be fully	naturally cross ventilated.			
		% x 20 units = 12 units	Marrian dan Ha 40 m			
	through apart	of a cross-over or cross- ment does not exceed 18 glass line to glass line.	Maximum depth 10 m			
4C	Ceiling Heigh			Yes	No	N/A
4C-1			tural ventilation and daylight	$\boxtimes$		
	Design Criter	ria	The proposal provides for			
	_	m finished floor level to	3.1 m floor to floor at all			
	finished ceilin	ig level, minimum ceiling	levels which can			
	heights are:		accommodate 2.7 m ceiling			
	Minimum ceiling I for apartment and r		heights.			
	Habitable rooms	2.7m				
	Non-habitable	2.4m				
	For 2 storey	2.7m for main living area floor			П	
	apartments	2.4m for second floor, where its area does not exceed 50% of the apartment area				
	Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope				
	If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use				
	higher ceilings					
4C-2		It increases the sense of It increases the sense of It increases	of space in apartments and	$\boxtimes$		
4C-3			ty of building use over the life		П	
	of the building					
4D		ize and Layout		Yes	No	N/A
4D-1			nt is functional, well organised			
		a high standard of amenity	<u>.</u>			
	Design Crite	па				
		mum internal areas:	Proposed unit is 1 bedroom with 53 m ²			
	Studio	35m²				
	1 bedroom	50m²				
	2 bedroom	70m²				
	3 bedroom	90m²		$\boxtimes$		
	only one bathrooms i internal area b	n internal areas include bathroom. Additional ncrease the minimum by 5 m² each.				



	minimum internal area by 12 m ² each.				
	Every habitable room must have a	Habitable rooms have			
	window in an external wall with a total	adequate access to daylight			
	minimum glass area of not less than	and ventilation.	$\boxtimes$	П	
	10% of the floor area of the room.				
	Daylight and air may not be borrowed				
	from other rooms.				
4D-2	Environmental performance of the apartr		$\boxtimes$		
	Design Criteria	Proposed unit complies			
	Habitable room depths are limited to a		$\boxtimes$		ΙШ
	maximum of 2.5 x the ceiling height.	D			
	In open plan layouts (where the living,	Proposed unit complies			
	dining and kitchen are combined) the		$\boxtimes$		
	maximum habitable room depth is 8m				
4D-3	from a window.  Apartment layouts are designed to	accommodato a varioty of			
40-3	household activities and needs.	accommodate a vallety of			
	Design Criteria	Proposed unit complies			
	Master bedrooms have a minimum	1 Toposed drift compiles	_	_	_
	area of 10m ² and other bedrooms 9m ²		$\boxtimes$		
	(excluding wardrobe space).				
	Bedrooms have a minimum dimension	Proposed unit complies			
	of 3m (excluding wardrobe space).	. repessa anni sempines	$\boxtimes$		$  \; \sqcup \;$
	Living rooms or combined living/dining	Proposed unit AG02			
	rooms have a minimum width of:	complies (1 bedroom, 3.725			
	3.6m for studio and 1 bedroom	m) ,			
	apartments				
	<ul> <li>4m for 2 and 3 bedroom apartments.</li> </ul>				
	The width of cross-over or cross-	Proposal complies			
	through apartments are at least 4m		$\square$		
	internally to avoid deep narrow				
45	apartment layouts.				NI/A
4E	apartment layouts.  Private Open Space and Balconies	ad private open chase and	Yes	No	N/A
4E 4E-1	apartment layouts.  Private Open Space and Balconies  Apartments provide appropriately size				N/A
	apartment layouts.  Private Open Space and Balconies  Apartments provide appropriately size balconies to enhance residential amenity		Yes	No	
	apartment layouts.  Private Open Space and Balconies  Apartments provide appropriately size balconies to enhance residential amenity  Design Criteria	1.	Yes	No	
	apartment layouts.  Private Open Space and Balconies  Apartments provide appropriately size balconies to enhance residential amenity  Design Criteria  All apartments are required to have		Yes	No	
	apartment layouts.  Private Open Space and Balconies  Apartments provide appropriately size balconies to enhance residential amenity  Design Criteria  All apartments are required to have primary balconies as follows:  Dwelling Minimum Minimum	Proposed unit is located at	Yes	No	
	apartment layouts.  Private Open Space and Balconies  Apartments provide appropriately size balconies to enhance residential amenity  Design Criteria  All apartments are required to have primary balconies as follows:  Dwelling Minimum area Minimum depth	Proposed unit is located at ground floor. See comment	Yes	No	
	apartment layouts.  Private Open Space and Balconies  Apartments provide appropriately size balconies to enhance residential amenity  Design Criteria  All apartments are required to have primary balconies as follows:  Dwelling Minimum Alinimum depth  Studio apartments 4m² -	Proposed unit is located at ground floor. See comment	Yes	No	
	apartment layouts.  Private Open Space and Balconies  Apartments provide appropriately size balconies to enhance residential amenity  Design Criteria  All apartments are required to have primary balconies as follows:  Dwelling Minimum area Minimum depth	Proposed unit is located at ground floor. See comment	Yes	No	
	apartment layouts.  Private Open Space and Balconies  Apartments provide appropriately size balconies to enhance residential amenity  Design Criteria  All apartments are required to have primary balconies as follows:  Dwelling Minimum Alinimum depth  Studio apartments 4m² -	Proposed unit is located at ground floor. See comment	Yes	No	
	apartment layouts.  Private Open Space and Balconies  Apartments provide appropriately size balconies to enhance residential amenity  Design Criteria  All apartments are required to have primary balconies as follows:  Dwelling Minimum Minimum depth  Studio apartments 4m² -  1 bedroom apartments 8m² 2m	Proposed unit is located at ground floor. See comment	Yes	No	
	apartment layouts.  Private Open Space and Balconies  Apartments provide appropriately size balconies to enhance residential amenity  Design Criteria  All apartments are required to have primary balconies as follows:  Dwelling Minimum area Minimum depth  Studio apartments 4m² -  1 bedroom apartments 8m² 2m  2 bedroom apartments 10m² 2m	Proposed unit is located at ground floor. See comment	Yes	No	
	apartment layouts.  Private Open Space and Balconies  Apartments provide appropriately size balconies to enhance residential amenity  Design Criteria  All apartments are required to have primary balconies as follows:  Dwelling Minimum Minimum depth  Studio apartments 4m² -  1 bedroom apartments 8m² 2m  2 bedroom apartments 10m² 2m  3+ bedroom apartments 12m² 2.4m  The minimum balcony depth to be counted as contributing to the balcony	Proposed unit is located at ground floor. See comment	Yes	No	
	apartment layouts.  Private Open Space and Balconies  Apartments provide appropriately size balconies to enhance residential amenity  Design Criteria  All apartments are required to have primary balconies as follows:  Dwelling Minimum depth  Studio apartments 4m² - 1  1 bedroom apartments 8m² 2m  2 bedroom apartments 10m² 2m  3+ bedroom apartments 12m² 2.4m  The minimum balcony depth to be counted as contributing to the balcony area is 1 m.	Proposed unit is located at ground floor. See comment below	Yes	No	
	apartment layouts.  Private Open Space and Balconies  Apartments provide appropriately size balconies to enhance residential amenity  Design Criteria  All apartments are required to have primary balconies as follows:  Dwelling Minimum Minimum depth  Studio apartments 4m² -  1 bedroom apartments 8m² 2m  2 bedroom apartments 10m² 2m  3+ bedroom apartments 12m² 2.4m  The minimum balcony depth to be counted as contributing to the balcony area is 1 m.  For apartments at ground level or on a	Proposed unit is located at ground floor. See comment below  Proposed unit AG02 has 35	Yes	No	
	apartment layouts.  Private Open Space and Balconies  Apartments provide appropriately size balconies to enhance residential amenity  Design Criteria  All apartments are required to have primary balconies as follows:  Dwelling Minimum Minimum depth  Studio apartments 4m² -  1 bedroom apartments 8m² 2m  2 bedroom apartments 10m² 2m  3+ bedroom apartments 12m² 2.4m  The minimum balcony depth to be counted as contributing to the balcony area is 1 m.  For apartments at ground level or on a podium or similar structure, a private	Proposed unit is located at ground floor. See comment below  Proposed unit AG02 has 35 m² POS with minimum 3 m	Yes	No	
	apartment layouts.  Private Open Space and Balconies  Apartments provide appropriately size balconies to enhance residential amenity  Design Criteria  All apartments are required to have primary balconies as follows:  Dwelling Minimum depth  Studio apartments 4m² - 1  1 bedroom apartments 8m² 2m  2 bedroom apartments 10m² 2m  3+ bedroom apartments 12m² 2.4m  The minimum balcony depth to be counted as contributing to the balcony area is 1 m.  For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a	Proposed unit is located at ground floor. See comment below  Proposed unit AG02 has 35	Yes	No	
	apartment layouts.  Private Open Space and Balconies  Apartments provide appropriately size balconies to enhance residential amenity  Design Criteria  All apartments are required to have primary balconies as follows:  Dwelling Minimum Minimum depth  Studio apartments 4m² -  1 bedroom apartments 8m² 2m  2 bedroom apartments 10m² 2m  3+ bedroom apartments 12m² 2.4m  The minimum balcony depth to be counted as contributing to the balcony area is 1 m.  For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area	Proposed unit is located at ground floor. See comment below  Proposed unit AG02 has 35 m² POS with minimum 3 m	Yes	No	
4E-1	apartment layouts.  Private Open Space and Balconies  Apartments provide appropriately size balconies to enhance residential amenity  Design Criteria  All apartments are required to have primary balconies as follows:  Dwelling Minimum depth  Studio apartments 4m² -  1 bedroom apartments 8m² 2m  2 bedroom apartments 10m² 2m  3+ bedroom apartments 12m² 2.4m  The minimum balcony depth to be counted as contributing to the balcony area is 1 m.  For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15 m² and a minimum depth of 3 m.	Proposed unit is located at ground floor. See comment below  Proposed unit AG02 has 35 m² POS with minimum 3 m dimensions.	Yes	No	
	apartment layouts.  Private Open Space and Balconies  Apartments provide appropriately size balconies to enhance residential amenity  Design Criteria  All apartments are required to have primary balconies as follows:  Dwelling Minimum depth  Studio apartments 4m² -  1 bedroom apartments 8m² 2m  2 bedroom apartments 10m² 2m  3+ bedroom apartments 12m² 2.4m  The minimum balcony depth to be counted as contributing to the balcony area is 1 m.  For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15 m² and a minimum depth of 3 m.  Primary private open space and balconic	Proposed unit is located at ground floor. See comment below  Proposed unit AG02 has 35 m² POS with minimum 3 m dimensions.	Yes	No	
4E-1	apartment layouts.  Private Open Space and Balconies  Apartments provide appropriately size balconies to enhance residential amenity  Design Criteria  All apartments are required to have primary balconies as follows:  Dwelling Minimum Minimum depth  Studio apartments 4m² -  1 bedroom apartments 10m² 2m  3+ bedroom apartments 12m² 2.4m  The minimum balcony depth to be counted as contributing to the balcony area is 1 m.  For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15 m² and a minimum depth of 3 m.  Primary private open space and balconie enhance liveability for residents.	Proposed unit is located at ground floor. See comment below  Proposed unit AG02 has 35 m² POS with minimum 3 m dimensions.	Yes	No	
4E-1	apartment layouts.  Private Open Space and Balconies  Apartments provide appropriately size balconies to enhance residential amenity  Design Criteria  All apartments are required to have primary balconies as follows:  Dwelling Minimum depth  Studio apartments 4m² -  1 bedroom apartments 8m² 2m  2 bedroom apartments 10m² 2m  3+ bedroom apartments 12m² 2.4m  The minimum balcony depth to be counted as contributing to the balcony area is 1 m.  For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15 m² and a minimum depth of 3 m.  Primary private open space and balconic	Proposed unit is located at ground floor. See comment below  Proposed unit AG02 has 35 m² POS with minimum 3 m dimensions.  es are appropriately located to esign is integrated into and	Yes	No	
4E-1	apartment layouts.  Private Open Space and Balconies  Apartments provide appropriately size balconies to enhance residential amenity  Design Criteria  All apartments are required to have primary balconies as follows:  Dwelling Minimum Minimum depth  Studio apartments 4m² -  1 bedroom apartments 10m² 2m  2 bedroom apartments 10m² 2m  3+ bedroom apartments 12m² 2.4m  The minimum balcony depth to be counted as contributing to the balcony area is 1 m.  For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15 m² and a minimum depth of 3 m.  Primary private open space and balconic enhance liveability for residents.  Private open space and balcony deprivate	Proposed unit is located at ground floor. See comment below  Proposed unit AG02 has 35 m² POS with minimum 3 m dimensions.  es are appropriately located to esign is integrated into and rm and detail of the building.	Yes	No	
4E-2 4E-3	apartment layouts.  Private Open Space and Balconies  Apartments provide appropriately size balconies to enhance residential amenity  Design Criteria  All apartments are required to have primary balconies as follows:  Dwelling Minimum Minimum depth  Studio apartments 4m² -  1 bedroom apartments 10m² 2m  2 bedroom apartments 12m² 2.4m  The minimum balcony depth to be counted as contributing to the balcony area is 1 m.  For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15 m² and a minimum depth of 3 m.  Primary private open space and balconic enhance liveability for residents.  Private open space and balcony decontributes to the overall architectural for	Proposed unit is located at ground floor. See comment below  Proposed unit AG02 has 35 m² POS with minimum 3 m dimensions.  es are appropriately located to esign is integrated into and rm and detail of the building.	Yes 🖂	No	



	service the number of apartments.				
	Design Criteria				
	The maximum number of apartments	Two circulation cores with a	$\boxtimes$		
	off a circulation core on a single level	maximum of three units per			
	is eight.	core on a single level.			
	For buildings of 10 storeys and over,	Building is less than 10			
	the maximum number of apartments	storeys high.			$\boxtimes$
	sharing a single lift is 40.				
4F-2	Common circulation spaces promote	safety and provide for social	$\boxtimes$		
40	interaction between residents.			NI -	NI/A
4G	Storage	: d - d : b d b	Yes	No	N/A
4G-1	Adequate, well designed storage is prov	ided in each apartment.			
	Design Criteria	The proposed unit has 3.4m ³			
	In addition to storage in kitchens, bathrooms and bedrooms, the	internally, and a storage			
	following storage is provided:	cage at lower ground level.			
	Dwelling type Storage size volume	cage at lower ground level.			
		A condition was also			
	Studio apartments 4m ³	included in the original			
	1 bedroom apartments 6m ³	consent to require	$\boxtimes$		
	2 bedroom apartments 8m³	compliance with the ADG			
	3+ bedroom apartments 10m³	criteria.			
	At least 50% of the required storage is				
	to be located within the apartment.				
4G-2	Additional storage is conveniently	Additional storage is	_	_	_
	located, accessible and nominated for	conveniently located and	$\boxtimes$	Ш	
	individual apartments.	accessible.			
4H	Acoustic Privacy	B	Yes	No	N/A
4H-1	Noise transfer is minimised through the	Design minimises noise transfer.	$\boxtimes$		
4H-2	sitting of buildings and building layout.  Noise impacts are mitigated within ap	I .			
411-2	acoustic treatments.	dariments unough layout and	$\boxtimes$		
4J	Noise and Pollution		Yes	No	N/A
4J-1	In noisy or hostile environments the in	mpacts of external noise and			1477
	pollution are minimised through the		$\boxtimes$		
	buildings.	,			_
4J-2	Appropriate noise shielding or attenuati	on techniques for the building			
	design, construction and choice of mate	rials are used to mitigate noise	$\boxtimes$		
	transmission.				
4K	Apartment Mix		Yes	No	N/A
4K-1	A range of apartment types and sizes				
	is provided to cater for different				
	household types now and into the				
	future.	4 x 1 bedroom (20%),			
		14 x 2 bedroom (70%), and 2 x 3 bedroom (10%)			
		2 X 3 Dediooni (10%)			
		This is considered			
		satisfactory.			
4K-2	The apartment mix is distributed to				
	building.				
4L	Ground Floor Apartments		Yes	No	N/A
4L-1	Street frontage activity is maximised	Proposed modification			
	where ground floor apartments are	introduces a street facing	$\boxtimes$		
	located.	ground floor unit.			
4L-2	Design of ground floor apartments de	livers amenity and safety for	$\boxtimes$		
4M	residents.				N/A
Z IVI	FACADES		Yes	No	INI/A



4M-1	Building facades provide visual interest along the street while	$\boxtimes$		
4M-2	respecting the character of the local area.			
4N-2	Building functions are expressed by the façade.			N/A
	Roof Design	Yes	No	IN/A
4N-1	Roof treatments are integrated into the building design and positively respond to the street.			
4N-2	Opportunities to use roof space for residential accommodation and open space are maximised.			
4N-3	Roof design incorporates sustainability features.	$\boxtimes$		
40	Landscape Design	Yes	No	N/A
40-1	Landscape design is viable and sustainable.	$\boxtimes$		
40-2	Landscape design contributes to the streetscape and amenity.	$\overline{\boxtimes}$		
4P	Planting on Structures	Yes	No	N/A
4P-1	Appropriate soil profiles are provided.	$\boxtimes$		
4P-2	Plant growth is optimised with appropriate selection and maintenance.	$\overline{\boxtimes}$		
4P-3	Planting on structures contributes to the quality and amenity of communal and public open spaces.	$\boxtimes$		
4Q	Universal Design	Yes	No	N/A
4Q-1	Universal design features are included in apartment design to promote			
40-1	flexible housing for all community members.			
	Developments achieve a benchmark of 4 liveable units required.			
	20% of the total apartments			
	incorporating the Liveable Housing 4 liveable units proposed.	$\boxtimes$		
	Guideline's silver level universal design			
40.2	features  A variety of apartments with adaptable designs are provided.			
4Q-2 4Q-3				
4Q-3	Apartment layouts are flexible and accommodate a range of lifestyle needs.			
4R	Adaptive Reuse	Yes	No	N/A
4R-1			NO	
4K-1	New additions to existing buildings are contemporary and			$\boxtimes$
4R-2	complementary and enhance an area's identity and sense of place.  Adapted buildings provide residential amenity while not precluding			
711-2	future adaptive reuse.			$\boxtimes$
48	Mixed Use		No	N/A
4S-1	Mixed use developments are provided in appropriate locations and	Yes		
	provide active street frontages that encourage pedestrian movement.			$\boxtimes$
4S-2	Residential levels of the building are integrated within the			
70.2	development, and safety and amenity is maximised for residents.			$\boxtimes$
4T	Awnings and Signage	Yes	No	N/A
4T-1	Awnings are well located and complement and integrate with the			
	building design.			
4T-2	Signage responds to the context and desired streetscape character.			$\boxtimes$
4U	Energy Efficiency	Yes	No	N/A
4U-1	Development incorporates passive environmental design.	$\boxtimes$		
4U-2	Development incorporates passive solar design to optimise heat	$\boxtimes$		
	storage in winter and reduce heat transfer in summer.			
4U-3	Adequate natural ventilation minimises the need for mechanical	$\boxtimes$		
	ventilation.			
4V	Water Management and Conservation	Yes	No	N/A
4V-1	Potable water use is minimised.	$\square$		
4V-2	Urban stormwater is treated on site before being discharged to receiving waters.	$\boxtimes$		
4V-3	Flood management systems are integrated into site design.			
4W	Waste Management	Yes	No	N/A
4W-1	Waste storage facilities are designed to minimise impacts on the			
	streetscape, building entry and amenity of residents.			
4W-2	Domestic waste is minimised by providing safe and convenient source		П	П
	separation and recycling.			
4X	Building Maintenance	Yes	No	N/A



4X-1	Building design detail provides protection from weathering.	$\boxtimes$	
4X-2	Systems and access enable ease of maintenance.	$\boxtimes$	
4X-3	Material selection reduces ongoing maintenance costs.	$\boxtimes$	

## DOCUMENTS ASSOCIATED WITH REPORT LPP076/19

# Attachment 3 HDCP 2013 Compliance Table





#### Attachment 3 - Holroyd Development Control Plan 2013 compliance table

No.	Clause	Comment	Yes	No	N/A
PART	A – GENERAL CONTROLS				
1	Subdivision				
	Subdivision of land not proposed unde	r this application.			
2	Roads and Access				
2.4	Access: Vehicular Crossings, Splay				
	No change to vehicular access arrange	ements under this application.			
2.7	Road Widening				
	The subject site is not affected by road	widening or realignment.			
3	Car Parking				
3.1	Minimum Parking Spaces				
	Car Parking – Residential	See comment above regarding			
	Minimum spaces required:	compliance with the RMS parking			
	• 1 bed unit = 0.8	rate.			
	• 2 bed unit = 1				
	• 3 bed unit = 1.2	Minimum DCP parking			
	<ul> <li>4+ bed unit = 1.5</li> </ul>	0.8 x 4 = 3.2	$\boxtimes$		
	<ul> <li>Visitor = 0.2 per unit</li> </ul>	1 x 14 = 14 1.2 x 2 = 2.4			
		1.5 x 0 = 0			
		0.2 x 20 = 4			
		Total required = 23.6 (24)			
		24 spaces proposed			
	Bicycle Parking	24 Spaces proposed			
	Minimum spaces required:				
	Studio / 1 bed. unit = 0.5	0.5 x 20 = 10	_	l _	_
	• bed unit = 0.5	0.1 x 20 = 2	$\boxtimes$		
	• 3+ bed unit = 0.5	Total required – 12			
	Visitor = 0.1 per unit.	16 bicycle spaces provided			
3.3	Car Parking, Dimensions & Gradient	<u> </u>			
	Approved basement design complies				
3.5	Access, Maneuvering and Layout				
	Driveways shall be setback a	No driveway proposed			
	minimum of 1.5m from the side	, tto amena, proposed			
	boundary.			_	-
3.6	Parking for the Disabled		1		
	2 spaces per 100 spaces up to 400,	3 accessible spaces provided. 3			
	and 1 per 100 thereafter, or part	adaptable units proposed.	$\boxtimes$		
	thereof.				
4	Tree and Landscape Works				
	Council's Landscaping and Tree Ma	nagement Officer advised that the			
	proposed tree removal and landscapi	ing works are satisfactory subject to	$\boxtimes$		
	conditions.				
5	Biodiversity				
	The subject site is not identified on the				
	and is not within an E2 - Environmenta	l Conservation zone.			
6	Soil Management				
6.1	Retaining Walls				
	Conditions imposed on the original	consent to require full details of			
	retaining walls prior to CC.				
6.3	Erosion and Sediment Control Plan				
	Erosion and sediment control plan end	orsed under the original consent.			
6.3 7	Erosion and sediment control plan end Stormwater Management	_			
7	Erosion and sediment control plan end Stormwater Management The proposed modification will not affe	_			
	Erosion and sediment control plan end Stormwater Management	ct stormwater management			



9	Managing External Road Noise			
	The rear boundary of the subject site fronts the Cumberland Highway which is a classified road. The acoustic report endorsed under the original approval makes recommendations for construction detailing to achieve the relevant standards for intrusiveness and amenity criteria. The proposed changes would not alter the conclusions or recommendations of the acoustic report.			
10	Safety and Security			 
	The proposed modification improves the passive surveillance of Garfield Street by introducing habitable rooms at street level.			
11	Waste Management			 
	satisfactory.	arrangements are considered	$\boxtimes$	
12	Services			
	Appropriate conditions were imposed		$\boxtimes$	П
	consultation with relevant service provid	ers.		
	B - RESIDENTIAL CONTROLS			
1	GENERAL RESIDENTIAL CONTROLS			
1.1	Building Materials			
	Acceptable materials and finishes proposed.			
1.2	Fences			
	Fencing forward of the building line is to have a maximum height of 1.5 m and be at least 50% transparent above 1m.	Proposed front fence complies. Condition recommended to require that any fencing to the POS area for the proposed ground floor unit is to have a maximum height of 1.5 m and be at least 50% transparent above 1m.		
1.3	Views			 
	No significant views will be affected by the	ne proposed development.	$\boxtimes$	
1.5	Landscape Area			
	-	7		 
	Min. 30% for a residential flat building.  Required: 1267.2 x 30% = 380.6 m ²	This is less than the minimum required, and less than the amount of landscaped area approved under the original application. Note: the original report was inaccurate with regard to the amount of landscaped area proposed, owing to an inconsistency in the scaling of the landscape plan.  In this case, there are no further opportunities for providing additional landscaping and the non-compliance is considered satisfactory. It is also noted that when landscaped areas with dimensions of less than 2 m are included in the calculation, the proposed complies		
19	Required: 1267.2 x 30% = 380.6 m ²	This is less than the minimum required, and less than the amount of landscaped area approved under the original application. Note: the original report was inaccurate with regard to the amount of landscaped area proposed, owing to an inconsistency in the scaling of the landscape plan.  In this case, there are no further opportunities for providing additional landscaping and the non-compliance is considered satisfactory. It is also noted that when landscaped areas with dimensions of less than 2 m are		
1.8		This is less than the minimum required, and less than the amount of landscaped area approved under the original application. Note: the original report was inaccurate with regard to the amount of landscaped area proposed, owing to an inconsistency in the scaling of the landscape plan.  In this case, there are no further opportunities for providing additional landscaping and the non-compliance is considered satisfactory. It is also noted that when landscaped areas with dimensions of less than 2 m are included in the calculation, the proposal complies.		



	Min. 50% of required POS of existing adjacent dwellings to receive 3 hours direct sunlight between 9am and 4pm,	No change to overshadowing as a result of the proposed modification.			
10	22 June.				
1.9	Cut and Fill	ult of the proposed modification			
1.10	No change to depth of cut or fill as a res	uit of the proposed modification.			
1.10	Approval for demolition is required	Demolition approved under			I
	from Council.	original application.			
1.11	Vehicular Access and Driveways	original application.			
1	No change to vehicular access arrangen	nents under proposed modification			
1.12	Universal Housing and Accessibility	ments under proposed modification.			
1.12	15% of units shall be adaptable units	3 adaptable units proposed.			
	Class B.	5 adaptable driks proposed.			
	Glass B.		$\boxtimes$		
	Required: 15% x 20 units = 3 units				
	minimum				
6.0	Residential Flat Buildings				
	Minimum lot frontage for residential flat	Subject site has frontage of 16.52			
	buildings is 24m or 28m	m to Garfield Street which is less			
		than the required minimum.			
		However, consent has already			
		been granted for construction of			
		an RFB on the lot.			
	Residential flat buildings are not	Site is not a battleaxe lot		П	
	permitted on battleaxe lots				
	Maximum site coverage of any	Approved development has site			
	residential flat development shall not	coverage of 41.4 %. No change to			
	exceed 30%	site coverage under this		_	-
	1267.2 x 0.3 = 380.16 m ² max	modification application.			
	Setbacks				
	Front setback from principal street	Proposed unit A-G02 has 5.8 m			
	minimum 6m	setback to Garfield Street which is			
		consistent with the setbacks			
		already approved for the upper		-	
		levels.			
	Front setback from secondary street	No change to secondary street			
	minimum 4m	setback under this application.	Ш		
	Minimum rear setback required:	Approved development has 5.6 m		l	
	Up to four storeys – 20%	(7.6%) rear setback. No change			
	Five storeys or more – 30%	to rear setback under this			
	0:1 11 1 :: 0	application.			
	Side setback minimum 3m	Approved development has 2.5 m			
		setback to northern and southern			
		side boundaries. No change to side setback proposed under this		П	
		modification application. The new			
		ground floor unit complies with the			
		3 m side setback control.			
	Minimum upper storey setback of 3 m	Building has four storey			
	is required for all floors above 4	presentation to the street.			
	storeys.				
	Basement setback to side and rear	Approved basement has a nil			
	boundaries minimum 3m	setback to the northern and			
		southern side boundaries. No			
		change proposed under this			
		modification application.			
	Building height				



		Approved development is technically five storeys as the basement protrudes more than 1 m out of natural ground.					
		Permitted Heig	aht (storevs)	in out of natural ground.			
		Height	Storeys	No change to number of storeys			
		9m	1	under this modification			
		11m	2	application.			
		12.5m	3				
		15m	4				
		18m	5				
		21m	6				
		24 m	7				
		The minimum floor	to ceiling heights	3.2 m ceiling height proposed at			
		shall be:		ground floor level.			
			habitable rooms.				
			for non habitable				
rooms.			$\boxtimes$	$  \; \sqcup \;  $			
		2.4 metres for the					
		section of two store more of the apartme					
		minimum ceiling hei					
		Attics are permissible		No attics proposed			
	6.7	Building appearance		140 dilies proposed			
	- · · · ·	Facades to be co		Design response is appropriate to			
		appropriate scale		the context of the site.	$\boxtimes$		
		proportion	.,,		_	_	_
		Roof design is to	respond to the	No change to roof design under			
		orientation of the		this modification application.			
		eaves and skillion r	oofs to respond to				
		sun access.					
	6.8	Building entry and					
		Building entries sha		Pedestrian entry is sheltered and visible from the street.	$\boxtimes$		
		the street, sheltered Main building entry		Separate pedestrian access to the			
		from car park entry	is to be separate	building is provided from the	$\boxtimes$	ΙП	П
		nom our pain only		street			
		Only basement	car parking is	Basement parking proposed			
		permitted for resider	ntial flat buildings				
		Where possible,	vehicular parking	Vehicular access is to be provided			
		entries shall be loca	ated off secondary	via 27 Garfield Street.			
		streets.					
	6.9	Parking and vehicu					
		Shall be maintained		Basement parking proposed.			
		Vehicle entries sha		Vehicle entry via adjacent site.			
		the main façade a shall be provided to					
		improve the appear	•				
		entries	arance or venicle				
		One car wash bay s	hall be provided for	Separate car wash bay provided.			
		all developments h	•		$\boxtimes$		
		dwellings (not a visit			_	_	_
	6.10	Vehicular access	<u> </u>				
		No change to veh	nicular access arra	ngements under this modification			$\boxtimes$
		application.				$\Box$	
	6.11	Internal circulation					
		All common facilities	s must be	All common facilities are	$\boxtimes$		
		accessible.	ha internal	accessible.	M		
п		L All STAIRCASES ARE TO	ne internal	Staircases are internal	IXI	1 1 1	i I I



	Sensitive noise rooms shall be located away from less sensitive noise rooms, corridors and stairwells.	Proposal satisfactory in this regard			
6.12	Facilities and amenities				
	Each unit shall be provided with a	Proposed unit contains a laundry.	$\boxtimes$		П
	laundry within the unit.				
	Open air clothes drying facilities shall	Sufficient space for clothes drying	_		_
	be provided in a sunny, ventilated	provided.	$\boxtimes$	📙	$  \; \sqcup \;$
	area, screened from the public domain.				
	Clothes drying areas shall be screened	Not considered necessary		ΙП	
	by 1.5m high walls.				
6.15	Waste management				
	Bin storage must:	The area is a			
	Be located behind the building	The proposed bin storage area is			
	line and screened from the street	located at lower ground level and			
	and any public place.	is accessible to all dwellings.			
	Be accessible and relatively		$\boxtimes$		
	close to each dwelling.				
	Not impact upon the amenity of				
	adjoining premises or dwellings within the development, i.e.				
	odour.				
	Allow for unobstructed access that	Unobstructed access provided to			
	does not exceed a grade of 1:8 for bins	Garfield Street for bin	$\boxtimes$	П	
	to be wheeled to the collection point.	presentation (using lift).			
7	Landlocked sites	procentation (asing my			
_	Residential R4 zoned lots should not	The proposed development does			
	result in the creation of landlocked	not result in land locking of any			
	sites.	other site.			
	Where adjacent sites are developed	Adjacent sites are already under			
	concurrently, amalgamation or	development.		П	
	integration of public domain / open				
	spaces shall be explored.				
	Proposals that create landlocked sites	The proposed development does			
	shall:	not result in land locking of any			
	Provide two written independent	adjacent sites.			
	valuations representing the				
	affected sites value.				
	Provide evidence that a				
	reasonable offer has been made to the affected owners.				
	Where a proposed development is	The proposed development does			
	likely to result in an isolated site the	not result in isolation of any other			
	applicant is to demonstrate how a	site.			
	future development on the isolated site				
	can be achieved to ensure a high				
	quality streetscape. The following				
	should be addressed:			П	
	Height				
	Car parking access				
	Site coverage				
	Constructability				
	Envelope separation				
	Open space				
	Existing landlocked sites				
	Existing landlocked sites shall be	The existing site is landlocked in			
	assessed on their merits.	that it does not meet the minimum	$\boxtimes$	П	
		frontage requirements as detailed			



	opportunity for amalgamation. This has been taken into consideration in the assessment of the application.		
Proposals shall achieve a satisfactory level of amenity, privacy, solar access, landscaping and setbacks and shall not detract from the streetscape.			

## DOCUMENTS ASSOCIATED WITH REPORT LPP076/19

# Attachment 4 Draft Notice Of Determination



 Our Reference:
 2018/196/2

 Contact:
 Miss S Pritchard

 Phone:
 02 8757 9959

13 November 2019

Dany Khoury on behalf of Blue Sox Developments Pty Ltd PO Box 495 PARRAMATTA NSW 2124

Dear Sir/Madam

Premises: 27B & 29 Garfield Street Wentworthville Section 4.55(2) modification to development consent no. 2018/196/1 Modification no. 2018/196/2

I refer to your application lodged on 5 August 2019 seeking amendment to DA 2018/196/1 issued for demolition of existing structures and construction of a part 4, part 5 storey residential flat building over basement parking accommodating a total of 19 units and 24 parking spaces. The modification seeks consent for alterations and additions to the approved residential flat building including additional ground floor unit, changes to pedestrian access and basement egress, and deletion of padmount substation.

Pursuant to Section 4.55(2) of the Environmental Planning & Assessment Act 1979, Council grants approval for the modifications sought.

Accordingly, DA 2018/196/1 is amended as follows:-

The description of development is amended to read as follows:

PROPOSED DEVELOPMENT:

Demolition of existing structures and construction of a part 4, part 5 storey residential flat building over basement parking accommodating a total of 20 units and 24 parking spaces

Condition 2 is amended as follows:

- Development shall take place in accordance with the following endorsed plans and documents:
  - Architectural plans prepared by Faubourg 24 Pty Ltd, job number 100194;

Drawing No.	Title	Issue
DA01	Site Plan	D
DA02	Overall Basement Plan	D
DA04	Basement Plan	D
DA05	Lower Ground Floor Plan	D



Page 2 of 4

DA06	Ground Floor Plan	D
DA07	First Floor Plan	D
DA08	Second Floor Plan	D
DA09	Third Floor Plan	D
DA10	Roof Plan	D
DA11	Pre-Post Adaptation Plan	D
DA12	Elevations	D
DA13	Elevations	D
DA14	Sections	D
DA15	Sections	D
DA21	Demolition Plan	D
DA22	On-going Waste Management Plan	D

- Landscape plans prepared by Vision Dynamics, drawing numbers 18076 DA 1-2 and 18076 DA 2-2, both revision B, dated 14 December 2018 – as amended to satisfy condition 11:
- Stormwater plans prepared by Mance Arraj Civil & Structural Engineers, project number 2450-DA, drawing numbers SW010, SW020 and SW021, issue B dated 31 May 2018, and drawing number SW030, issue A dated 10 May 2018 (OSD Plan No. 2018-180);
- Acoustic report prepared by Acoustic Logic, project number 20180544.1, revision 1, dated 22 May 2018;
- BASIX certificate number 926540M, dated 27 May 2018;
- Waste management plan prepared by Faubourg 24, dated 1 June 2018;
- Geotechnical investigation report prepared by JK Geotechnics, report no. 31246Vrpt Wentworthville, revision 0, dated 19 March 2018;
- Asbestos materials register including hazardous material audit prepared by EBG Environmental Geoscience, report ID EBG.HMA-02681.05.18rpt, dated May 2018;
- Correspondence from Endeavour Energy dated 9 July 2018; and
- Correspondence from RMS dated 1 August 2018

except as otherwise provided by the conditions of this determination and/or marked in red.

As amended by the following plans and documents endorsed under the subject modification application:

Architectural plans prepared by Faubourg 24 Pty Ltd, job number 100194;

Drawing No.	Title	Issue
S96-01	Site Plan	Α
S96-02	Basement Plan Combined - 27, 27A, 27B and 29 Garfield	Α
S96-04	Basement Plan	В
S96-05	Lower Ground Floor Plan	В
S96-06	Ground Floor Plan	В
S96-07	First Floor Plan	В
S96-08	Second Floor Plan	В



Page 3 of 4

S96-09	Third Floor Plan	В
S96-10	Roof Plan	В
S96-11	Adaptable Units	В
S96-12	Elevations	В
S96-13	Elevations	В
S96-14	Sections	В
S96-15	Sections	В

 Landscape plans prepared by Vision Dynamics, drawing numbers 18076 CC 1-2 and 18076 CC 2-2, both revision E, dated 7 October 2019.

Condition 13 is deleted.

Condition 19 is deleted.

The following condition is added:

18A. Details of fencing to separate the courtyard of unit A-G02 from common areas of the development are to be submitted to the certifying authority for approval prior to the issue of a construction certificate. Any fencing forward of the building line is to have a maximum height of 1.5 m, and be at least 50% transparent above 1 m.

Condition 21 is amended to read as follows:

21. Prior to the issue of a construction certificate, a monetary contribution imposed under section 7.11 of the Environmental Planning and Assessment Act 1979 and Holroyd Section 94 Development Contributions Plan 2013, for four (4) x 1 bedroom dwellings, fourteen (14) x 2 bedroom dwellings, and two (2) x 3 bedroom dwellings, minus credit for the existing 1 x 2 bedroom and 1 x 3 bedroom dwellings on site. At the time of this development consent, the current rate of the contribution is \$247,746. The amount of the contribution will be determined at the time of payment in accordance with the relevant Contributions Plan in force at that time. A copy of the Holroyd Section 94 Development Contributions Plan 2013 can be viewed on Council's website at <a href="https://www.cumberland.nsw.gov.au">www.cumberland.nsw.gov.au</a> or inspected at Council's Civic Centre located at 16 Memorial Avenue, Merrylands between the hours of 8 am and 4.30 pm Monday to Friday.

All other conditions of Development Consent 2018/196/1 remain unchanged.

Note: This determination is strictly for the changes sought under modification application 2018/196/2. No approval is granted or implied for any other works/changes to the subject development.

Section 8.9 of the Environmental Planning & Assessment Act 1979 confers upon an applicant, dissatisfied with Council's determination of an application made pursuant to section 4.55(2) a right of appeal to the Land and Environment Court.



Page 4 of 4

Section 8.3 of the Act provides that an applicant may request, within 28 days of the date of determination of the section 4.55(2) application, that the Council review its determination (this does not apply to designated development). A fee is required for this review.

If you have any further enquiries please contact Miss S Pritchard of Council's Environment and Planning Department on 02 8757 9959, Monday to Friday.

Yours faithfully,

Sohail Faridy

COORDINATOR DEVELOPMENT ASSESSMENT

## DOCUMENTS ASSOCIATED WITH REPORT LPP076/19

## Attachment 5 Architectural Plans



Diffue Requirements. As exhaust faire and downlooks (if intraffed) to be seeled to prevent air-inflication.

To units: A-301, A-302, B-101, B-203, B-204 To units: B-202

Faubourg 24 Pty Ltd

SOPAC Edwin Flack Avenue Sydney Olympic Park - T 0403664825 E admin@faubourg24.comwww.faubourg24.com
ABN 47-012-991-610- Nominated Archtect: Dany Romanos Khoury NSVP Reg8 7753

# Proposed Residential Flat Building 27B-29 Garfield Street, Wenwtorthville

	1	3 N	love
7001	DA00	Cover	Drawing
			List:

Site Analysis Site Plan Basement plan combined - 27,27A,27B and 29 Garfield Ground Floor Combined - 27,27A,27B and 29 Garfield

Basement Plan Lower Ground Floor Plan Ground Floor Plan First Floor Plan Second Floor Plan

Roof Plan Third Floor Plan Adaptable Units

Calculations Calculations Elevations Sections Elevations

Shadow Diagrams

vitramo el su	E-tarrel		R20		4608
	Detail	adicon	Added Insulation	Construction	External walls
10 URL 0-202	0.79	ž	Aumenum	dingle glezad, clear	Shuan
Detail	SHOC	CJ Walker	Fisher	Gless	Skyllights
To units: A-Q01 and B-LQ01 — all plauting	9 4	ļ :	Alminium	Double glazed; thermally broken, low a high sole; gain	Default
To units: A-102 — Iving yours and terman south facing glasting	9	8	Auninum	Single placed, low E	William C
0-202 – all placing	0.41	2	MUNIMUM	low solar gain	SHARE
Generally for window types (assect where noted Stiding window door, couple hung, hasd, louves	8	6.7	Auminium	Single glezed, clear	Verbud:
Generally for eindow types (ascept where noted below) hereing, listfold casement, (b) "n" ham	9,67	8.7	Numinium	Single plazed, glear	SWIND
Detell	SHGC	C/volue	Frame	Gless	Windows
<ul> <li>if details included in these Specifications vary from he. if only one specification option is detailed for a built purplent.</li> </ul>	if it base prepartient and for the	essessive shaf take ; finat elam	he naskiškiš peofications d instances o	peofications upon which the apeofications, these to seofication must apply to a	These are the a freeings or with slament, that sp
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				MINDAIS	OTHER COMMITMENTS
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No	Dedicated	100		Leasing	TED HEART
Yes	Dedcased	Yes	ilets	All Bathrats/Feilels	So as filterand
Yes	Dedicated	100		-	90 06 5830046
Yes	Dedicated		Number of Living/Diningrooms		Lighting
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ęú.	Yes to	iets	Window/SkyEght in Bathrooms/Tollets	WindowSkyl	Lighting
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englass	Specification on	PΑ	COMMITMENTS - Refer to	OMFORT COM	THERMAL COMPORT
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			ga on name.	se date du tridullation de partir de	Jeb seberadiox
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ADG Compliance:
Solar Access: 15/20 or 75%
Cross Ventilation: 19/20 or 95%
All units will have at least 1 hr of solar access on the 21st of June

External Areas including entry podium, Lower Ground floor podium and planter box

20 separate cages between 5m³~11m³

Storage Spaces: Total area:

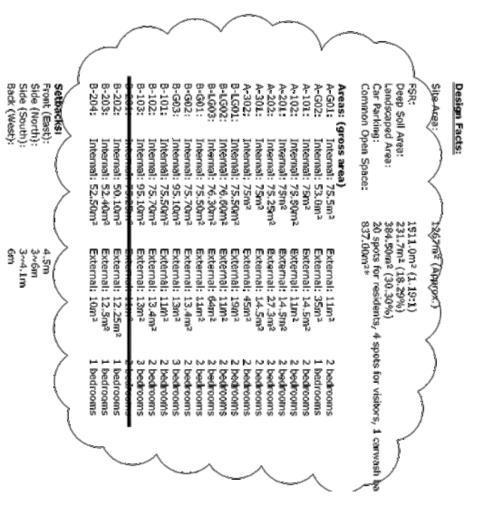
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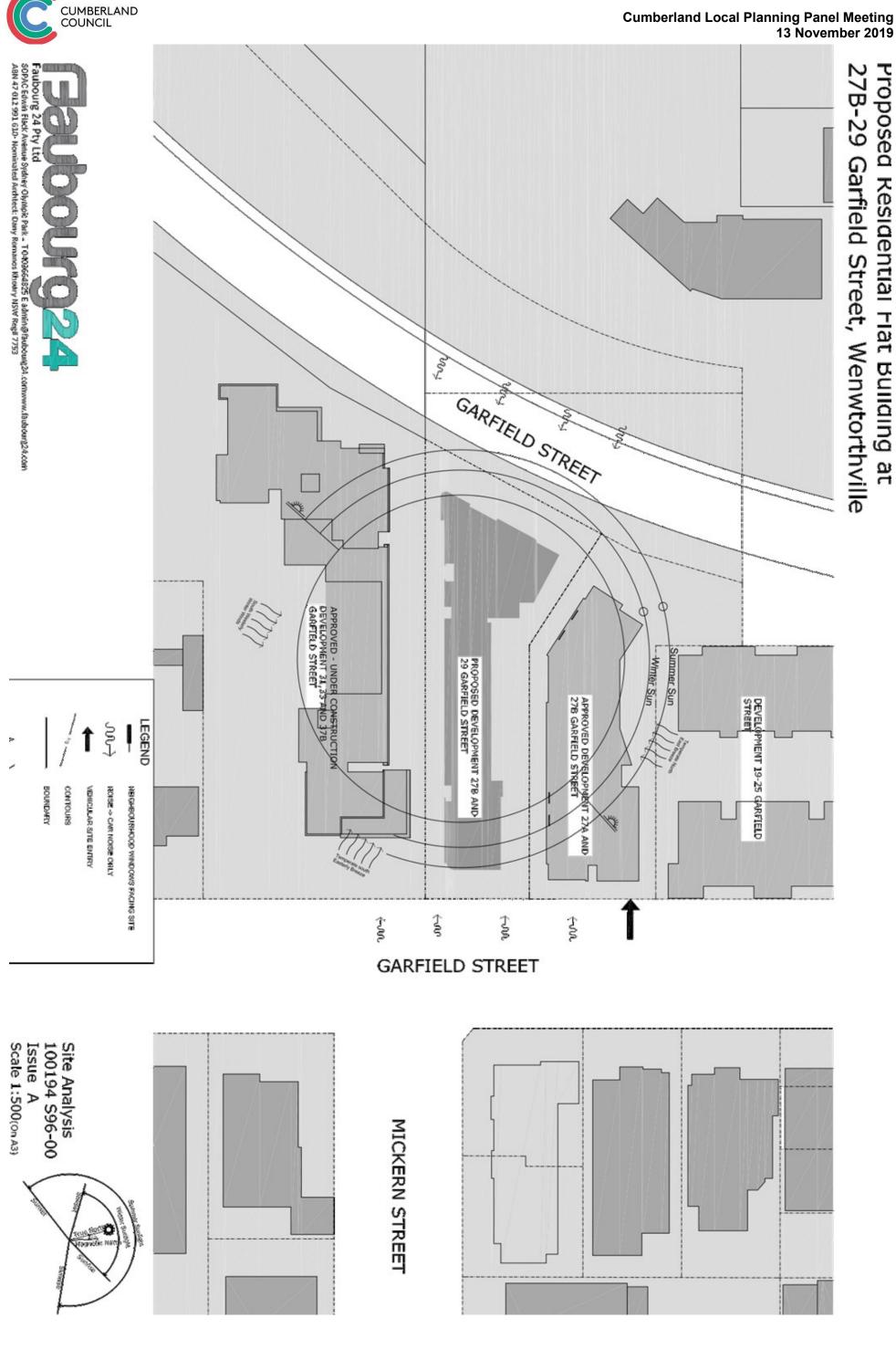
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Issue B 100194 COVER Cover Page le NTS



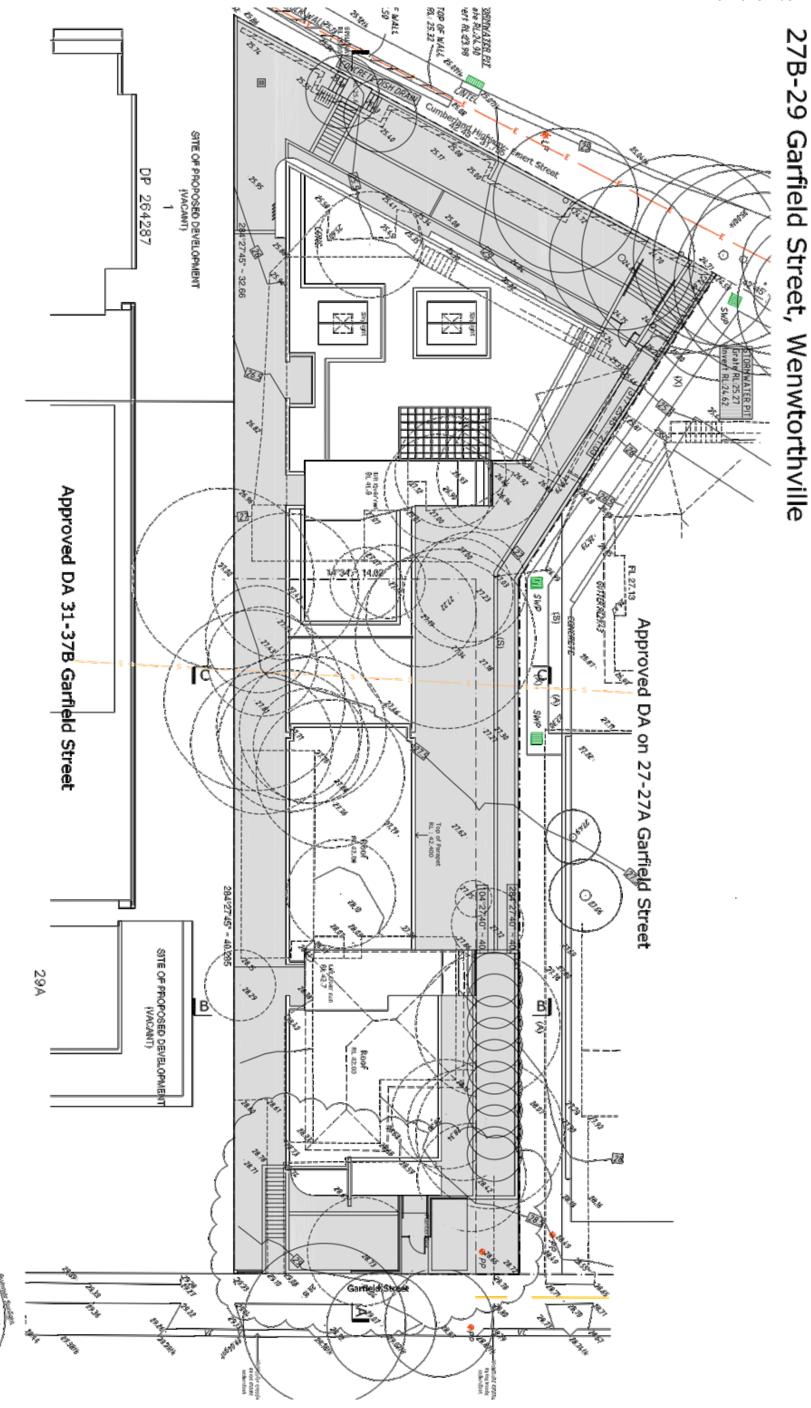
LPP076/19 - Attachment 5



Proposed Kesidential Flat Building at







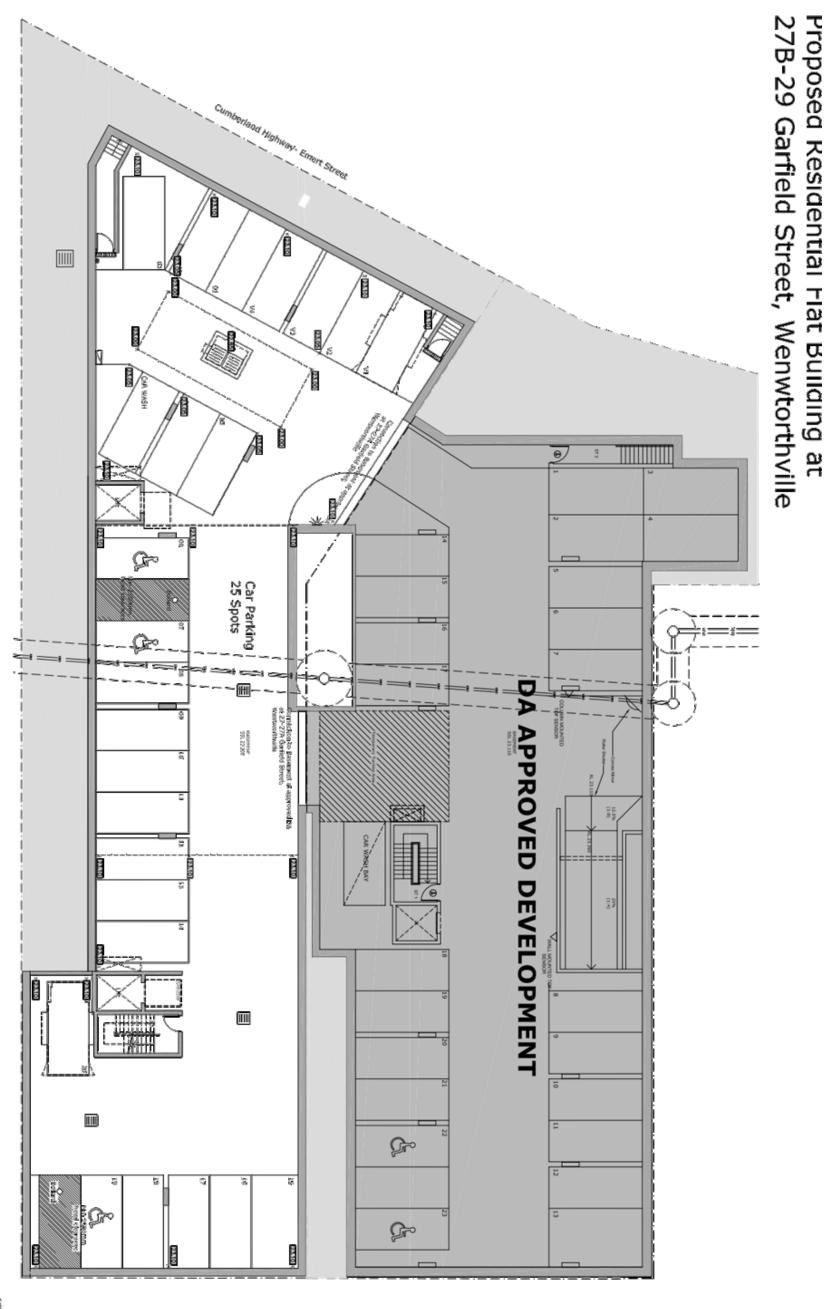
Site Plan 100194 S96-01 Issue A Scale 1:200_(On A3)





Overall Basemer 27-27A and 27B 100194 S96-02 Issue A Scale 1:200m as

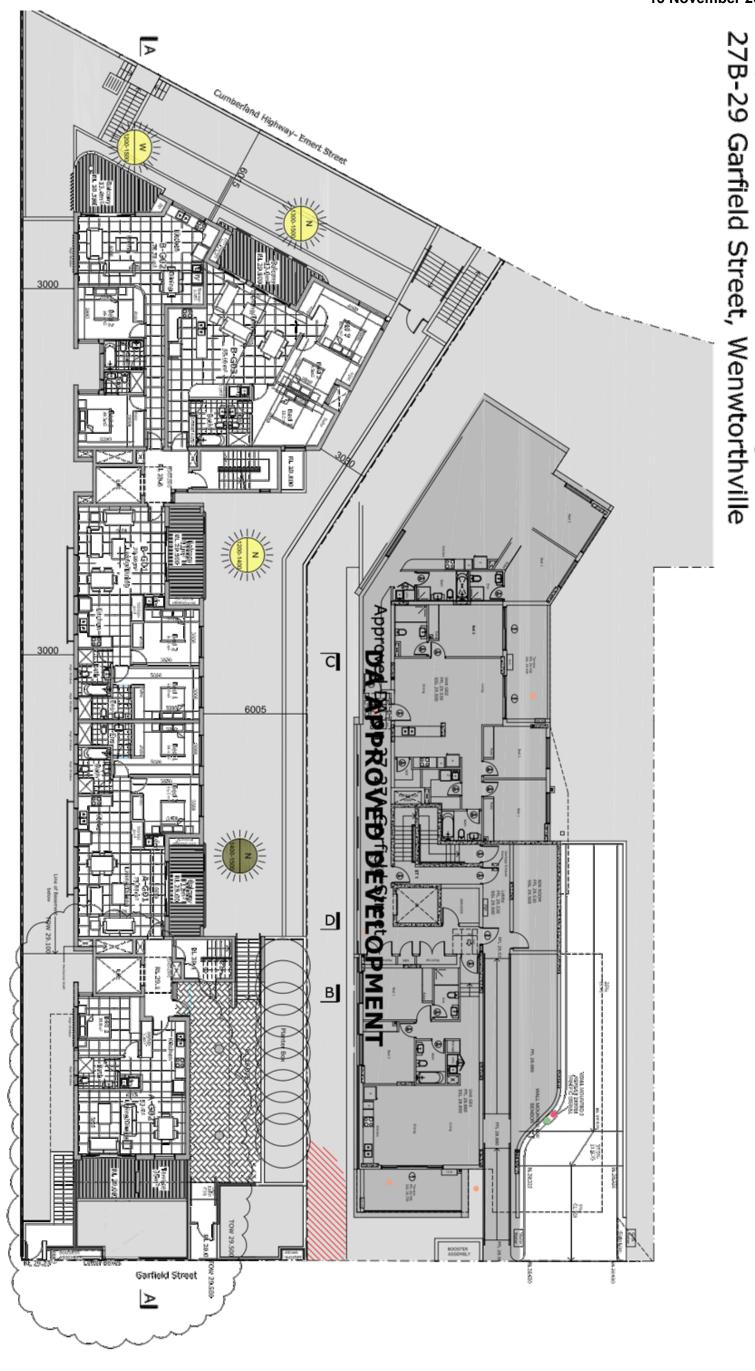
7A and 27B-2 94 S96-02

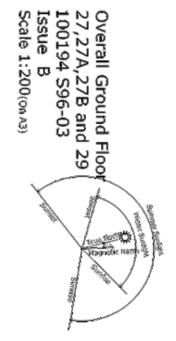


Proposed Residential Flat Building at





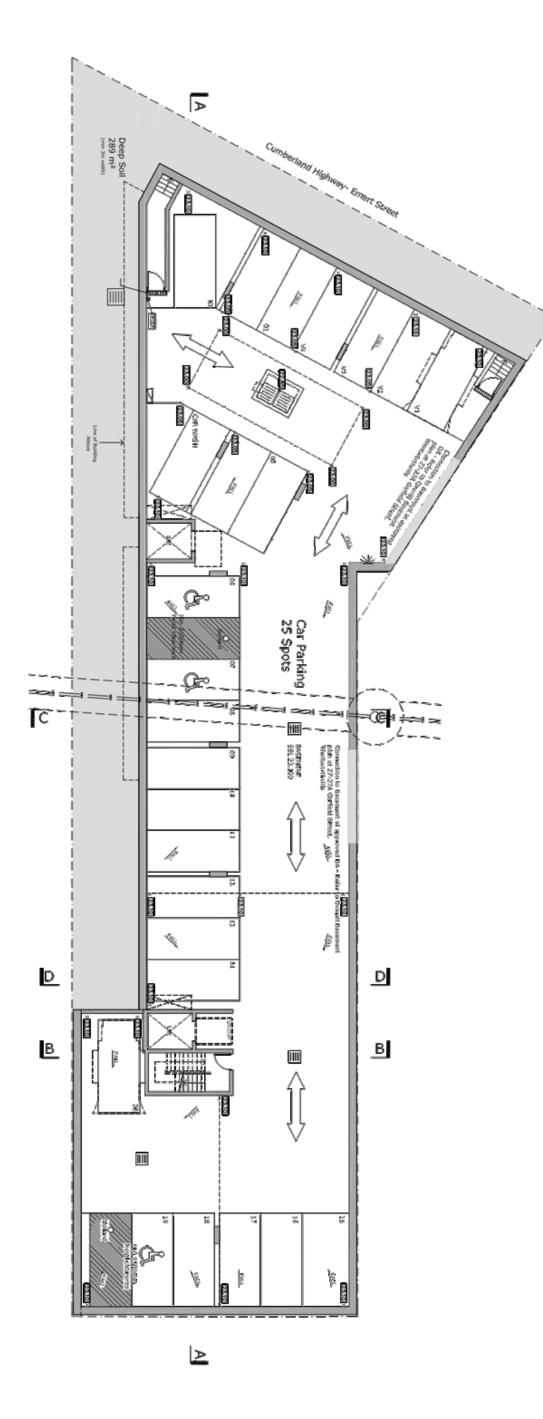






# Faubourg 24 Pty Ltd SOPAC Edwin Flack Avenue Sydney Olympic Park - T 0408664825 E admin@faubourg24.comww ABN 47 612 991 610- Nominated Architect: Dany Romanos Khoury NSVV Regs 7753

# Proposed Kesidential Flat Building at 27B-29 Garfield Street, Wenwtorthville



Basement plan 100194 S96-04 Issue A Scale 1:200(on A3)



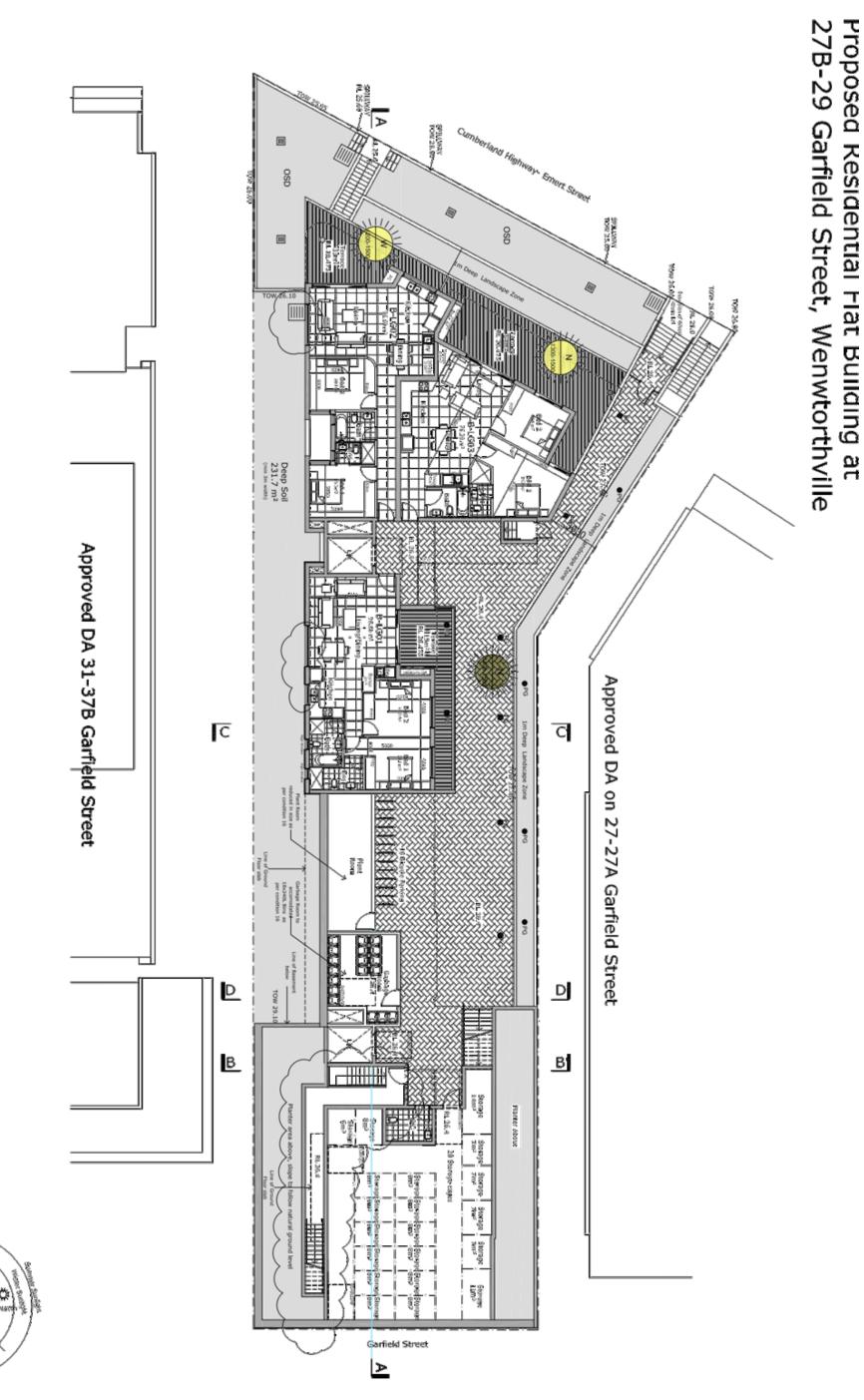


Faubourg 24 Pty Ltd

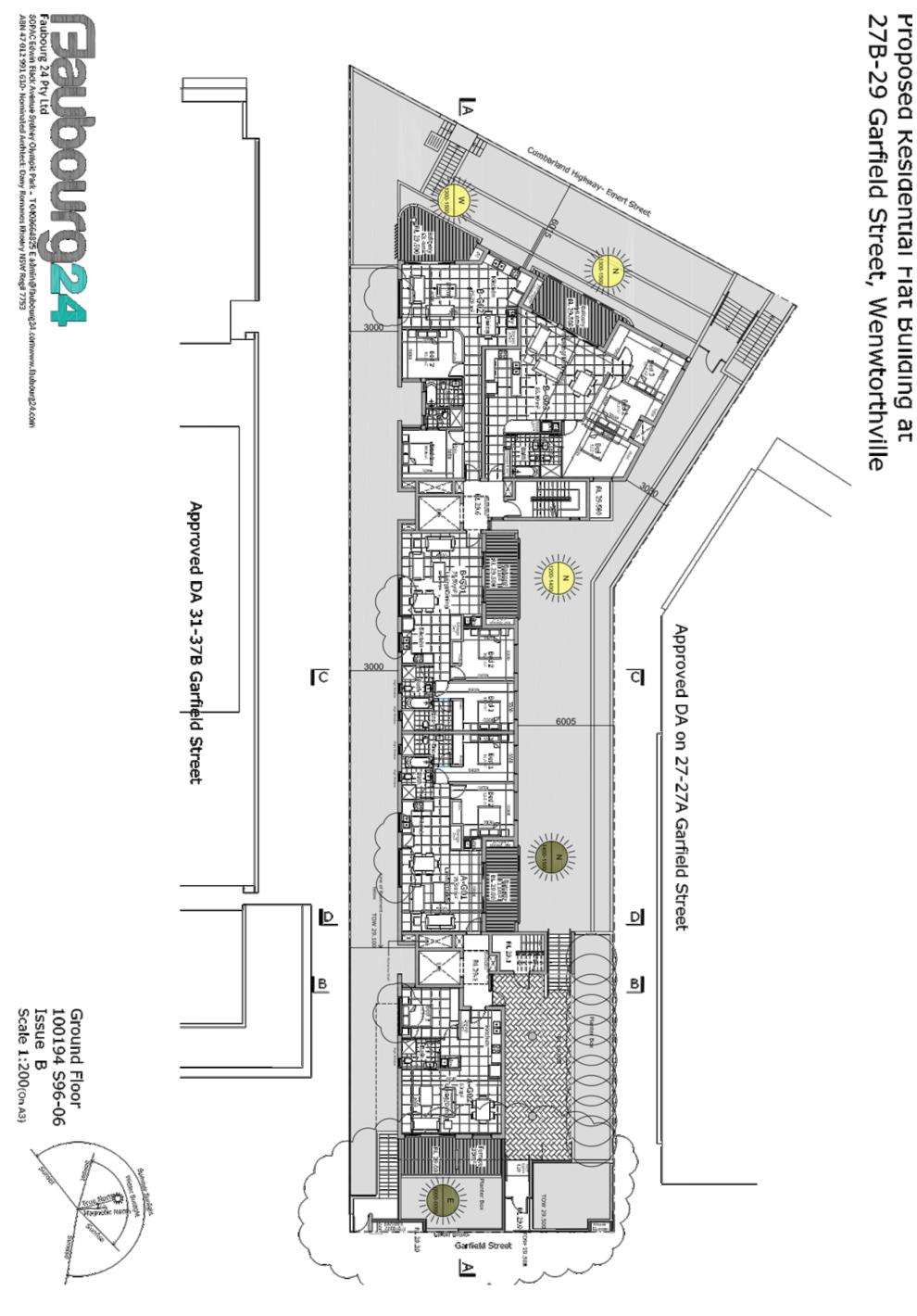
SOPAC Edwin Flack Avenue Sydney Olympic Park - T 0403664825 E admin@flaubourg24.com

ABN 47 012 991 610- Nominated Architect: Dany Romanos Khoury NSW Regit 7753

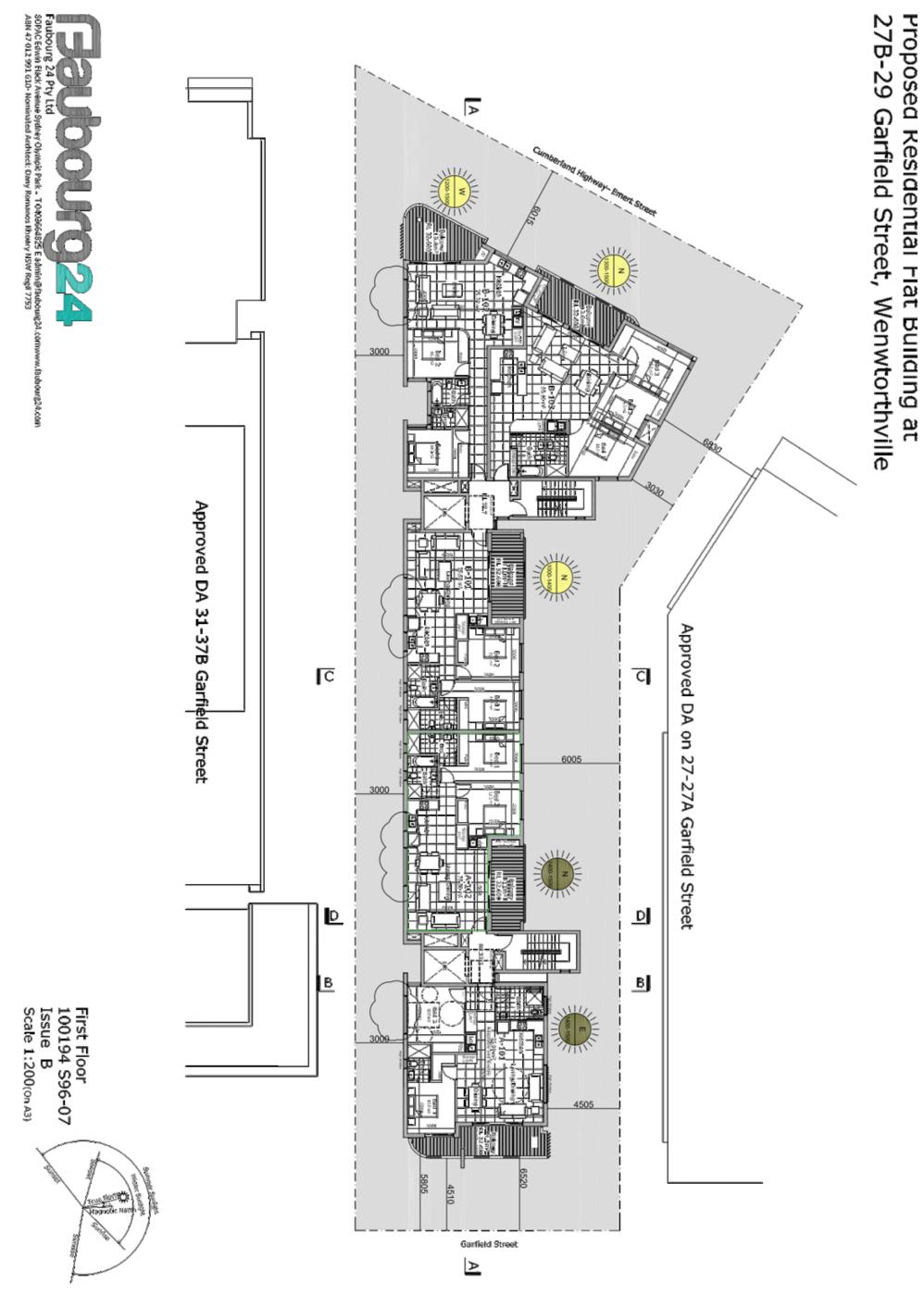
Lower Ground F 100194 S96-05 Issue B Scale 1:200(on A3)



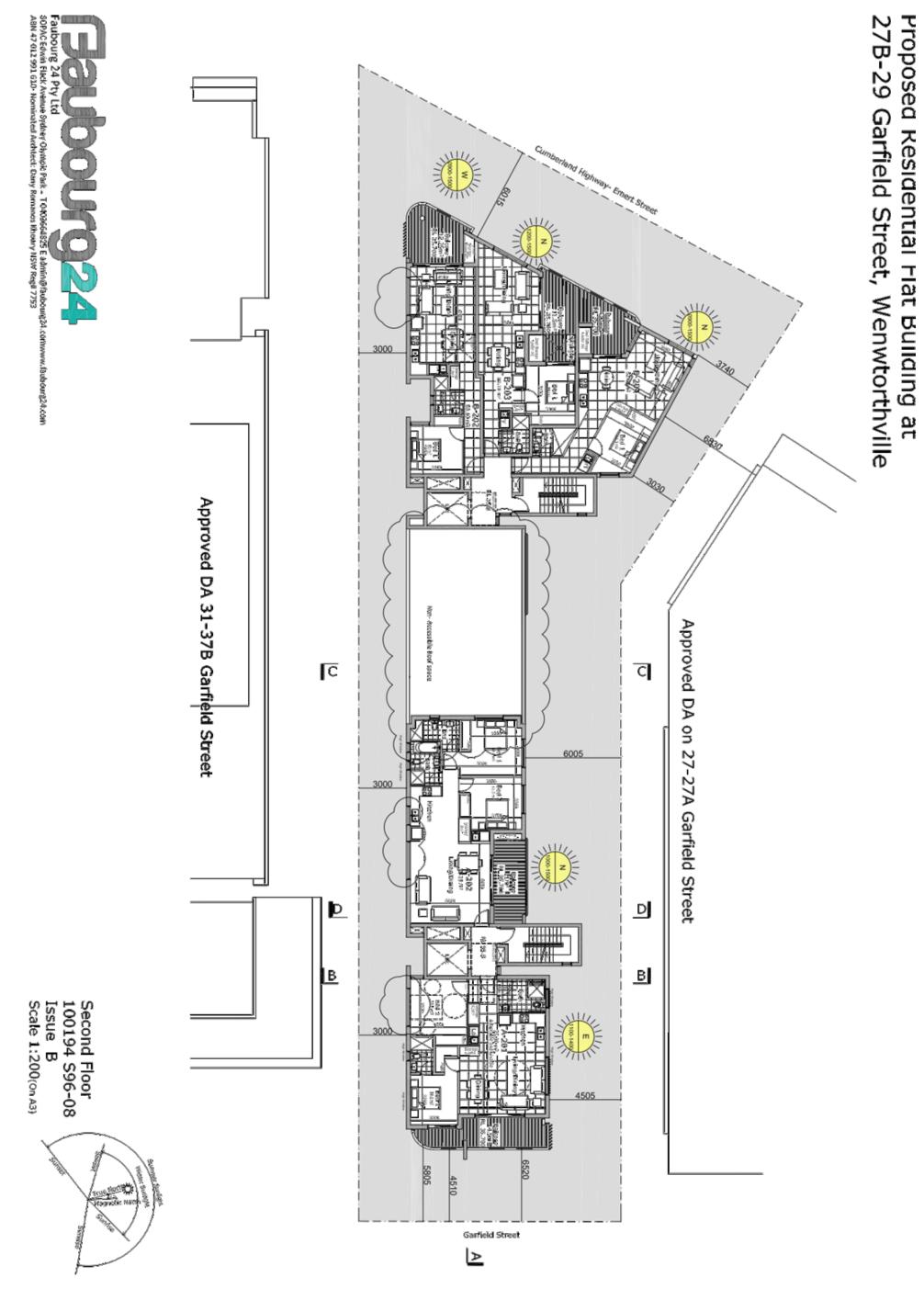






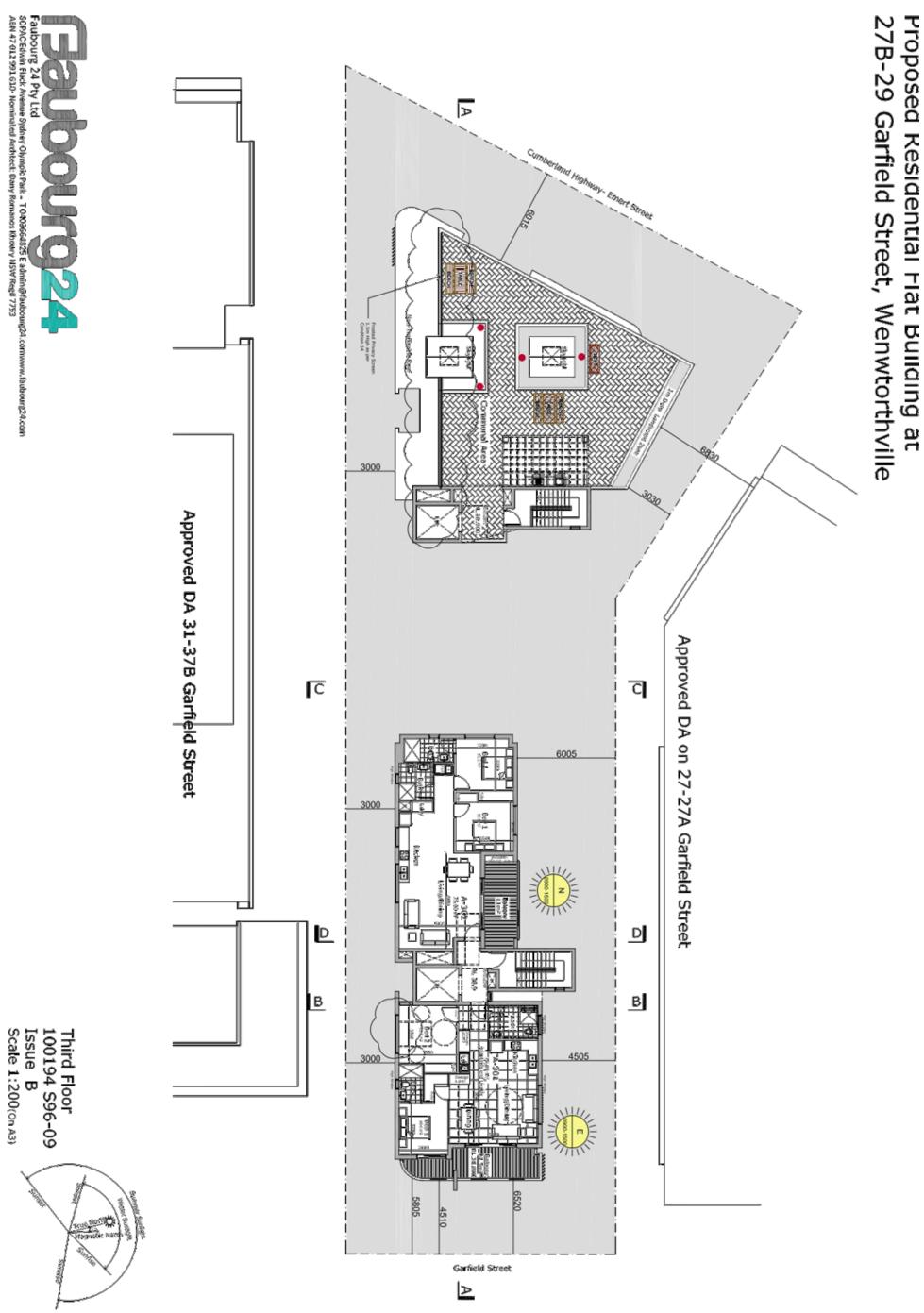






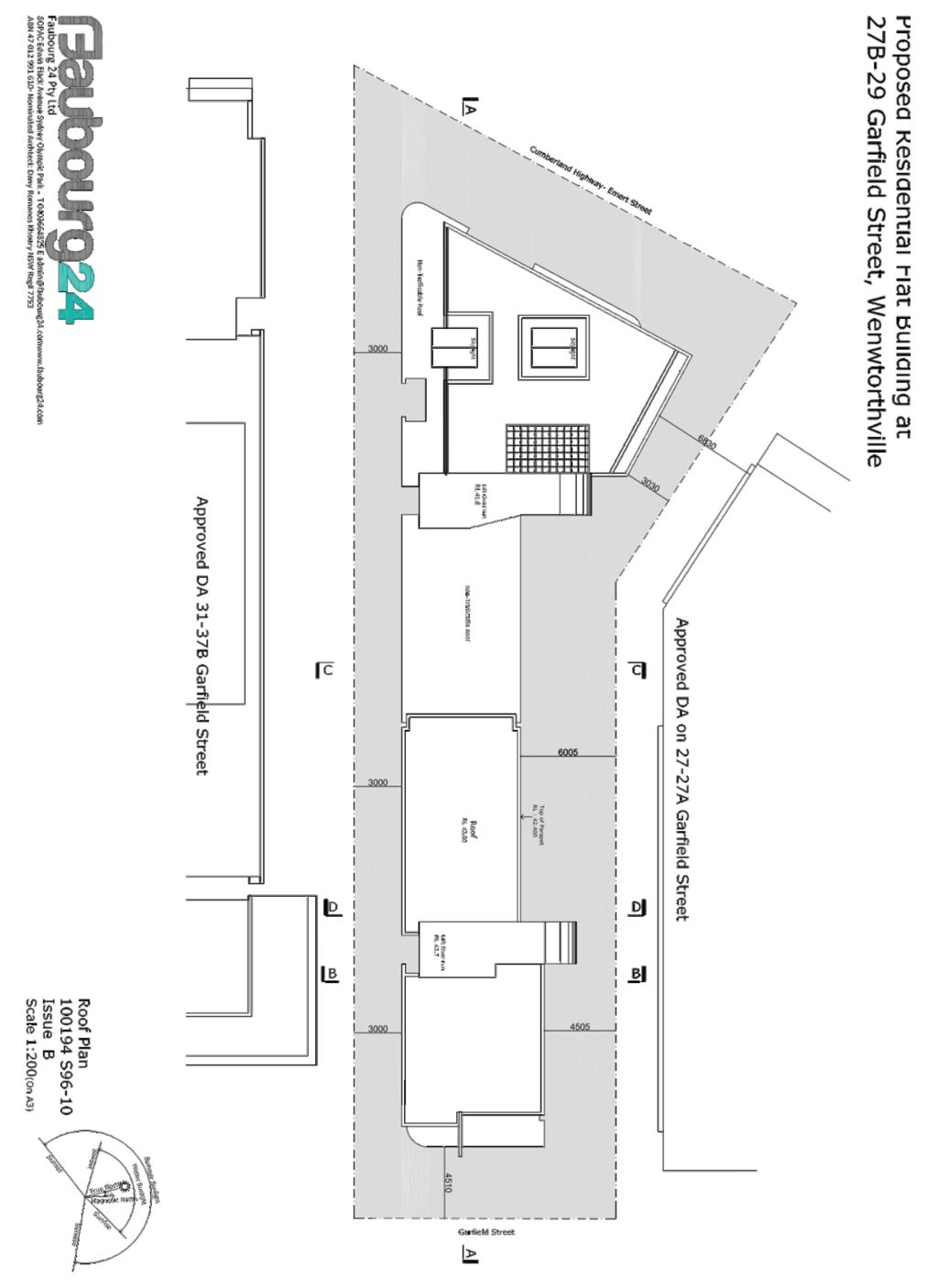
LPP076/19 – Attachment 5





LPP076/19 – Attachment 5





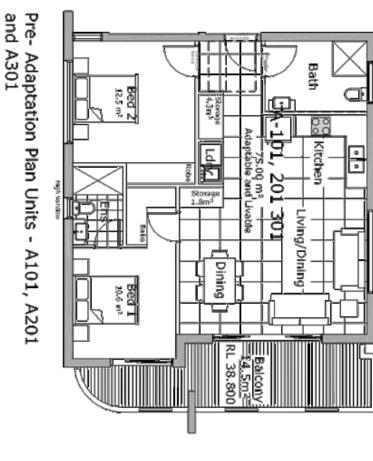


Faubourg 24 Pty Ltd

SOPAC Edwin Flack Avenue Sydney Olympic Park - TO403664825 E admin@faubourg24.comwww.faubourg24.com

ABN 47-012-991-610- Nominated Architect: Dany Romanos Khoury NSVP Reg8 7753

## 27B-29 Garfield Street, Wenwtorthville Proposed Residential Flat Building at



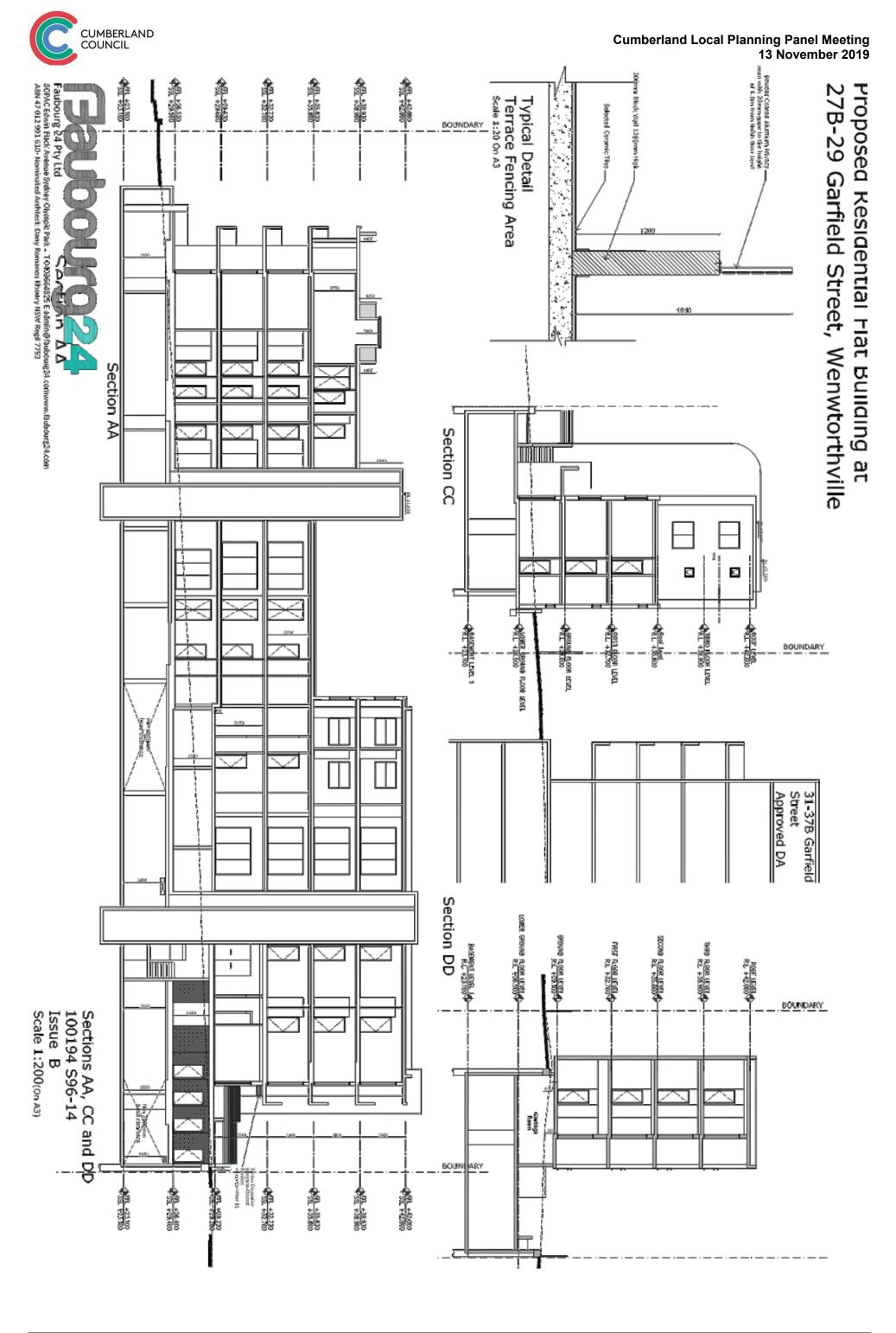
3 Bed 2 Adaptable and Livable Kitchen LMP1 A-301 0 ving/Dining Dining Bed 1 Balcony 34.5m² RL 38.800

Post Adaptation Plan Units - A101, A201 and A301

Issue B Scale 1:200(on A3) Pre-Post Adaptation Pla 100194 S96-11







LPP076/19 – Attachment 5

Proposed Residential Flat Building at

27B-29 Garfield Street, Wenwtorthville



### Third Floor

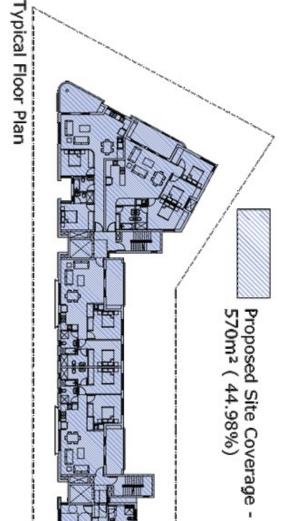
SOPAC Edwin Flack Avenue Sydney Olympic Park - T 0408664825 E admin@flaubburg24.com www.faubburg24.com ABN 47 012 991 610- Nominated Archtect: Dany Romanos Khoury NSW Reg# 7753

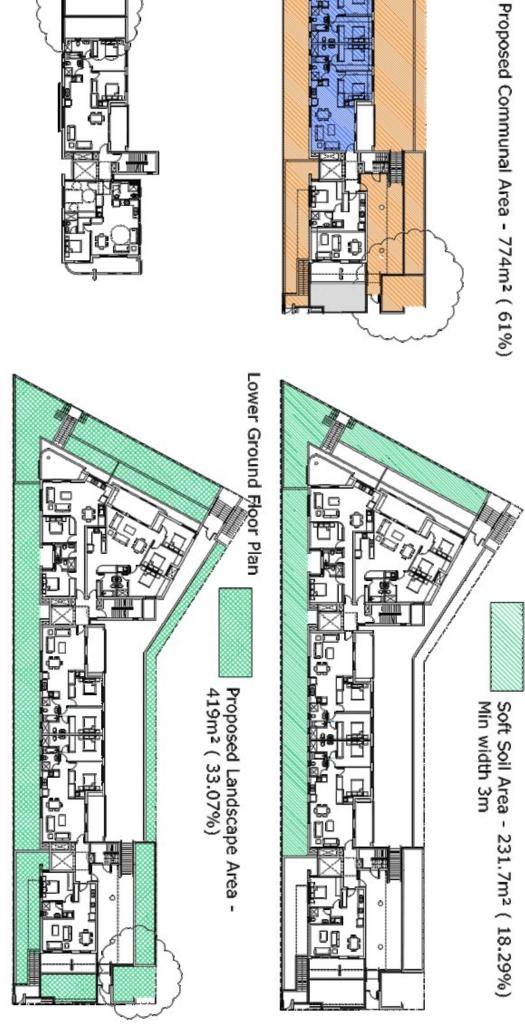


Second Floor









Ground Floor

FSR Calculations 100194 S96-17 Issue B Scale 1:400(on A3)

27B-29 Garfield Street, Wenwtorthville

Proposed Residential Flat Building at

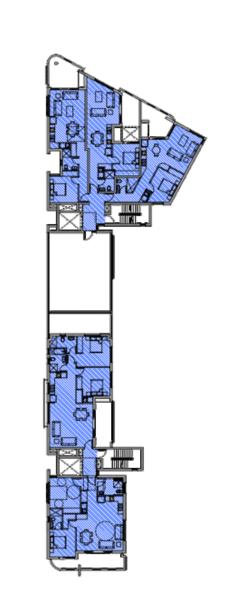


First Floor

### Ground Floor Lower Ground Floor

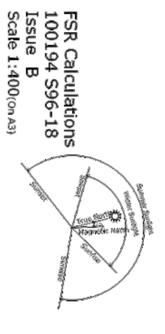
Second Floor









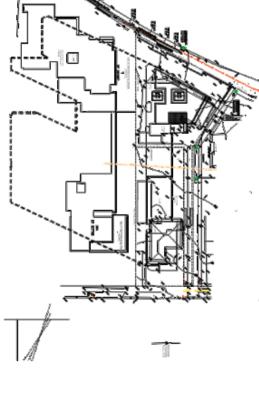


LPP076/19 – Attachment 5

Faubourg 24 Pty Ltd

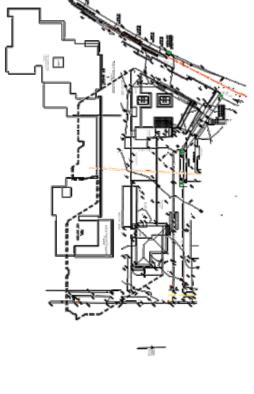
SOPAC Edwin Flack Avenue Sydney Olympic Park = T0403664825 E admin@faubourg24.com www.faubourg24.com
ABN 47-012-991-610- Nominated Architect: Dany Romanos Khoary NSVF Reg8 7753

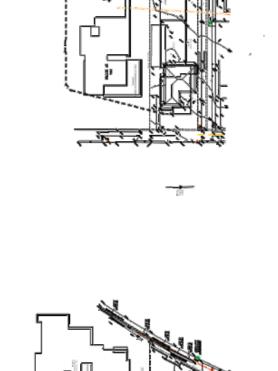
## Proposed Kesidential Flat Building at 27B-29 Garfield Street, Wenwtorthville

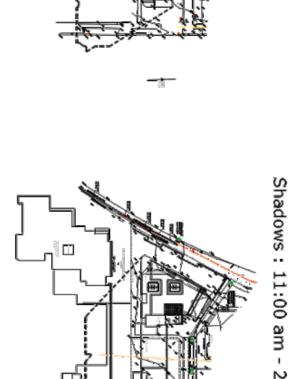


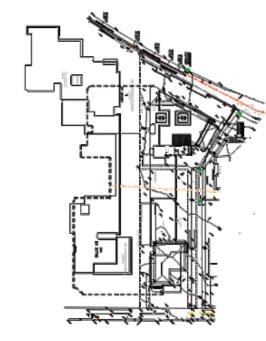
Shadows: 9:00 am - 21 June

Shadows: 10:00 am - 21 June









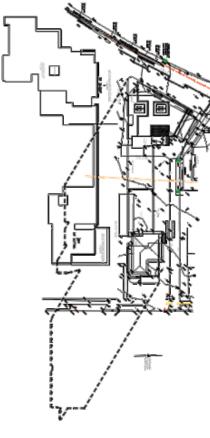
Shadows: 03:00 pm - 21 June

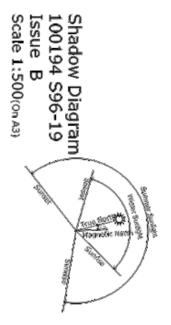
Shadows: 12:00 pm - 21 June

Shadows: 01:00 pm - 21 June

Shadows: 02:00 pm -

21 June













Proposed Residential Flat Building at 273-29 Garfield Street, Wentworthville

Artist Impressions 100194 CS 01

Issue

### DOCUMENTS ASSOCIATED WITH REPORT LPP076/19

### Attachment 6 Consent for DA 2018/196/1





2018/196 Miss S Pritchard 02 8757 9959

### ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979 NOTICE OF DETERMINATION OF APPLICATION

**DEFERRED COMMENCEMENT** 

13 February 2019

Blue Sox Developments Pty Ltd PO Box 495 PARRAMATTA NSW 2124

Dear Sir/Madam

Pursuant to section 4.16(3) of the Act, Council has granted "deferred commencement" consent to your development application described as follows:

PROPERTY: Lot 23, DP 816973 & Lot Y, DP 383623

STREET ADDRESS: 27B & 29 Garfield Street Wentworthville

DEVELOPMENT CONSENT NO: 2018/196/1

DECISION: Cumberland Local Planning Panel

DATE FROM WHICH TO BE ADVISED UPON SATISFACTORY CONSENT OPERATES: COMPLETION OF SCHEDULE 'A'

DATE OF EXPIRY OF CONSENT: TO BE ADVISED UPON SATISFACTORY

COMPLETION OF SCHEDULE 'A'

PROPOSED DEVELOPMENT: Demolition of existing structures and construction of a

part 4, part 5 storey residential flat building over basement parking accommodating a total of 19 units and

24 parking spaces

This Development Application is APPROVED in accordance with the Environmental Planning & Assessment Act 1979 and is subject to compliance with the requirements of Cumberland Council, the Building Code of Australia, the Local Government Act 1993, and the following conditions as set out hereunder and/or endorsed upon the attached plans.

THIS CONSENT DOES NOT OPERATE UNTIL COUNCIL IS SATISFIED THAT ALL SCHEDULE 'A' CONDITIONS HAVE BEEN SATISFIED.

16 Memorial Avenue, PO Box 42, Merrylands NSW 2160 T 02 8757 9000 F 02 9840 9734 E council@cumberland.nsw.gov.au W cumberland.nsw.gov.au ABN 22 798 563 329

Welcome Belong Succeed



Important English

This letter contains important information. If you do not understand it please ask a relative or friend to translate it or come to Council and discuss this letter with Council's staff using the Telephone Interpreter Service.

هاد

Arabic

تحتوي هذه الرسالة على معلومات هامة. إذا لم تكن تقهمها يرجي طلب ترجمتها من قريب أو صديق أو إحضر إلى المجلس وناقش هذه الرسالة مع موظفي المجلس عن طريق الاستعانة بخدمة الترجمة الهاتفية.

重要資訊

本函包含重要的資訊。如果您無法理解相關內容,可請您的親屬或朋友翻譯成中文,或者前往市政府並通過電話傳譯服務 與市政府的工作人員討論本函內容。

منهم

Dari

این نامه هاوی معلومات مهم است. اگر شما آن را نصی فهعید، از دوستان یا فامیل تان بخواهید که بر اینان ترجمه کند و با به شور ا آمده و در مورد این نامه با کارمندان شور ا با استفاده از خدمات درجمه تلیغونی بحث کنید.

Σημαντικό Greek

Αυτή η επιστολή περιέχει σημαντικές πληροφορίες. Εάν δεν την καταλαβαίνετε, ζητήστε από ένα συγγενή ή φίλο να σας την μεταφράσει, ή ελάτε στο Συμβούλιο και συζητήστε για την επιστολή με το προσωπικό του Συμβουλίου χρησιμοποιώντας την Τηλεφωνική Υπηρεσία Διερμηνέων.

अहत्वपर्ण Hind

इस पत्र में महत्वपूर्ण जानकारी दी गई है । यदि आप इसे नहीं समझ पाते हैं तो कृपया अपने रिश्तेदार या दोस्त से कहें कि वे इसे अनुवाद कर बताएँ या परिषद में आएँ और टेलीफोन दुभाषिया सेवा का इस्तेमाल करते हुए परिषद के स्टाफ के साथ इस पत्र पर चर्चा करें ।

IMPORTANTE Italian

Questa lettera contiene informazioni importanti. Se non la comprende chieda ad un parente od amico di tradurgliela, o venga al Municipio a discuterla col personale del Comune con l'aiuto del Servizio Telefonico Interpreti.

중요 Korean

이 서신에는 중요한 정보가 포함되어 있습니다. 잘 이해되지 않으면, 친척이나 친구에게 번역을 부탁하거나 또는 위원회를 방문하여 전화 통역 서비스로 위원회 직원과 이 서신에 대해 논의하십시오

Importanti Maltese

Din I-ittra fiha taghrif importanti. Jekk ma tifimhiex, jekk joghgbok staqsi lil qarib jew habib biex jittraducihielek jew ejja sal-Kunsill u ddiskuti din I-ittra ma' I-istaff tal-Kunsill billi tuza s-Servizz Telefoniku tal-Interpreti.

重要信息
Mandarin

本函包含重要的信息。如果您无法理解相关内容,可请您的亲属或朋友翻译成中文,或者前往市政府并通过电话传译服务与市政府的工作人员讨论本函内容。

Mahalaga

Tagalog

Ang sulat na ito ay naglalaman ng mahalagang impormasyon. Kung hindi mo ito naujunawaan, mangyaring hilingin ang isang

Ang sulat na ito ay naglalaman ng mahalagang impormasyon. Kung hindi mo ito nauunawaan, mangyaring hilingin ang isang kamag-anak o kaibigan na isalin ito o lumapit sa isang Council at talakayin ang sulat na ito sa kawani ng Council gamit ang Serbisyo ng Interpreter sa Telepono.

முக்கிய குறிப்பு:

இந்த கடிதத்தில் முக்கிய தகவல் அடங்கியுள்ளது. உங்களுக்கு இது புரியவில்லையென்றால், உங்கள் உறவினர் அல்லது நண்பரை மொழிபெயர்க்க சொல்லி கேட்கவும் அல்லது அமைச்சகத்திற்கு வருகை அளித்து, அமைச்சக ஊழியருடன் தொலைபேசி மொழிபெயர்ப்பு சேவை உதவியுடன் இந்த கடிதத்தைப் பற்றி விவாதிக்கவும்.

Önemli Turkish

Bu mektup önemli bilgiler içermektedir. Bu bilgileri anlamıyorsanız lütfen bir akrabanızdan veya arkadaşınızdan onu çevirmesini isteyin ya da Konseye gelin ve Telefonla Sözlü Çeviri Hizmeti'ni kullanarak bu mektup hakkında Konsey personeli ile görüşün.

TIN QUAN TRONG Vietnamese

Tin tước trong thư này rất quan trọng. Nếu qui vị không hiểu rồ, xin hoi những người thân hoặc bạn bể phiên dịch cho qui vị hoặc đến hỏi nhân viên Tòa Hành Chánh, tại đây có phương tiện Thông Ngôn Qua Điện Thoại



Page 2 of 35

### **SCHEDULE "A"**

Consent for the demolition of existing structures and construction of a part 4, part 5 storey residential flat building over basement parking accommodating a total of 20 units and 24 parking spaces shall not operate until all of the following Schedule "A" conditions have been complied with to Council's satisfaction.

### **Easement Creation**

- A drainage easement 1.25 m wide (minimum) being created in favour of the property to be developed over downstream properties, to permit the disposal of stormwater to Cumberland Highway. Documents relating to the creation of the easement (existing/Proposed) to benefit the properties Lot 23, DP816973 and Lot Y, DP383623 shall be lodged with the NSW Land Registry Services with registration being effected prior to this consent becoming operational. All costs associated with piping, relocation and creation of easements shall be borne by the applicant.
- 2. An easement is to be registered on the title of 27 Garfield Street (lot 1 in DP 1241459) to protect the fire exclusion zone for the proposed padmount substation, in accordance with Endeavour Energy's Mains Design Instruction Document No: MDI 0044 'Easements and Property Tenure'. Documents relating to the creation of the easement burdening 27 Garfield Street must be lodged with the NSW Land Registry Services, with registration being effected prior to this consent becoming operational. All costs associated with the creation of the easement shall be borne by the applicant.

### Stormwater Discharge

Stormwater is to be disposed of into the NSW Road and Maritime Services (RMS)
drainage system, subject to RMS approval. Written approval from RMS shall be submitted
to the Principal Certifying Authority in conjunction with the stormwater drainage plans.

In accordance with clause 95(3) of the Environmental Planning and Assessment Regulation 2000, you must produce evidence to the Council within a period of <u>2 years</u>, sufficient enough for Council to be able to be satisfied of the above matters.

If evidence is produced within the specified period, in accordance with Clause 95(5) of the Regulation, Council will notify you whether or not it is satisfied as to the above matters and whether or not the consent will operate.

* * * * * * * * * * * * * * *



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### SCHEDULE "B"

This consent cannot operate until such time as Council is satisfied with the evidence produced in response to Schedule "A" and has notified the applicant in writing of the date from which the consent operates.

### **PRELIMINARY**

- 1. This consent shall lapse if the above development is not physically commenced within 5 years of the date of operation.
- 2. Development shall take place in accordance with the following endorsed plans and documents:
  - Architectural plans prepared by Faubourg 24 Pty Ltd, job number 100194;

Drawing No.	Title	Issue
DA01	Site Plan	D
DA02	Overall Basement Plan	D
DA04	Basement Plan	D
DA05	Lower Ground Floor Plan	D
DA06	Ground Floor Plan	D
DA07	First Floor Plan	D
DA08	Second Floor Plan	D
DA09	Third Floor Plan	D
DA10	Roof Plan	D
DA11	Pre-Post Adaptation Plan	D
DA12	Elevations	D
DA13	Elevations	D
DA14	Sections	D
DA15	Sections	D
DA21	Demolition Plan	D
DA22	On-going Waste Management Plan	D

- Landscape plans prepared by Vision Dynamics, drawing numbers 18076 DA 1-2 and 18076 DA 2-2, both revision B, dated 14 December 2018 as amended to satisfy condition 11;
- Stormwater plans prepared by Mance Arraj Civil & Structural Engineers, project number 2450-DA, drawing numbers SW010, SW020 and SW021, issue B dated 31 May 2018, and drawing number SW030, issue A dated 10 May 2018 (OSD Plan No. 2018-180);
- Acoustic report prepared by Acoustic Logic, project number 20180544.1, revision 1, dated 22 May 2018;
- BASIX certificate number 926540M, dated 27 May 2018;
- Waste management plan prepared by Faubourg 24, dated 1 June 2018;
- Geotechnical investigation report prepared by JK Geotechnics, report no. 31246Vrpt Wentworthville, revision 0, dated 19 March 2018;
- Asbestos materials register including hazardous material audit prepared by EBG Environmental Geoscience, report ID EBG.HMA-02681.05.18rpt, dated May 2018;
- Correspondence from Endeavour Energy dated 9 July 2018; and



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Correspondence from RMS dated 1 August 2018

except as otherwise provided by the conditions of this determination and/or marked in red.

3. All building work shall be carried out in accordance with the requirements of the Building Code of Australia. Fully detailed plans including fire safety details shall be submitted with the Construction Certificate application. No work is to commence until such time as a Construction Certificate is obtained for the work/building permitted by this Consent.

### Appointment of Council or a Private Certifier as the Principal Certifying Authority (PCA)

4. Either Council or a Private Certifier is to be appointed as the Principal Certifying Authority (PCA) for the development in accordance with section 6.6 of the Act.

Accordingly, wherever reference is made to the Principal Certifying Authority in this Consent, it refers to Council or the Private Certifier as chosen by you.

**Note:** Once you have chosen either Council or a Private Certifier as the PCA, you cannot change from one to the other, or from one Private Certifier or another, without the approval of Department of Planning & Infrastructure.

- 5. The applicant shall consult with, as required:
  - (a) Sydney Water Corporation Limited
  - (b) Integral Energy
  - (c) Natural Gas Company
  - (d) A local telecommunications carrier

regarding their requirements for the provision of services to the development and the location of existing services that may be affected by proposed works, either on site or on the adjacent public road(s).

6. The proposed structure/s are to be located clear of existing Council easements. Special footings will be required where the proposed/existing structures are adjacent to a drainage easement. The footings shall be taken down to the invert level of the existing drainage structure or to solid rock, whichever is the lesser. The footing depth may decrease by 500mm for every 1000mm increment in distance the footing is from the easement boundary.

The footing system is to be designed by a practising professional structural engineer.

- Building materials, builders sheds, waste bins, site fencing, gates or any material of any description shall not be left or placed on any footway, road or nature strip. Footways and nature strips shall be maintained, including the cutting of vegetation, so as not to become unsightly or a hazard for pedestrians. Offenders will be prosecuted.
- 8. Payment of \$470.00 fee for inspection by Council of the demolition site prior to commencement of any demolition works.

### **BASIX (Building Sustainability Index)**

 Under Clause 136D of the Environmental Planning & Assessment Regulation 2000, it is a condition of this Development Consent that all the commitments listed as per Condition 2 in relation to BASIX are fulfilled.



Page 5 of 35

### Substation / Fire Hydrant Boosters

10. No approval is granted or implied for any encasing structures (i.e. blast walls or radiant heat shields) associated with the installation of any substations or fire hydrant booster pumps. Separate Development Consent is required for such structures.

### Cranes

11. No approval is granted or implied for the installation of any crane on the premises that has the potential to swing beyond the boundaries of the subject site. Separate necessary approvals, including but not limited to Section 138 of the Roads Act and/or Section 68 of the Local Government Act, must be obtained from Council prior to installation of any crane that swings over Council land.

NOTE: FEES, BONDS & CONTRIBUTIONS INDICATED IN CONDITIONS OF THIS CONSENT MAY VARY IN ACCORDANCE WITH THOSE ADOPTED BY COUNCIL AT SUBSEQUENT ANNUAL REVIEWS OF ITS "FEES AND CHARGES" AND SUBSEQUENT CHANGES TO THE BUILDING PRICE INDEX. FEES CHARGED WILL BE THOSE CURRENT AT THE TIME OF PAYMENT.



Page 6 of 35

### PRIOR TO ISSUE/RELEASE OF CONSTRUCTION CERTIFICATE/PRELIMINARY CONDITIONS FOR DEMOLITION

The following conditions must be complied with prior to the issue of a Construction Certificate, or where relevant prior to demolition occurring. In many cases the conditions require certain details to be included with or incorporated in the detailed plans and specifications which accompany the Construction Certificate:-

### **Amended Plans**

- 12. The landscape plans are to be updated for consistency with the approved architectural plans. The amended plans are to include 2 x Tristaniopsis laurina in the footpath area to Garfield Street, from 100 litre pots.
- 13. Apartment B-201, together with the communal area and bedroom balcony in unit A-302 on the roof of apartment B-201, are to be deleted.
- 14. A frosted glass privacy screen shall be provided along the southern edge of the communal roof terrace to a height of 1.5 metres above finished floor level of the terrace to the satisfaction of Council's Manager Development Assessment.
- 15. The installation of a lightweight decorative screening to partially enclose the front void area (beneath unit A-101) and to conceal any services from the apartments above. Details are to be provided to the satisfaction of Council's Manager Development Assessment.
- 16. The plant room at lower ground level is to be reduced in size to provide for additional waste storage and bicycle parking or communal open space. A minimum of 18 x 240 litre bins are to be accommodated in the waste storage room with sufficient space to access and manoeuvre all bins.
- 17. The design of the southern elevation is to be amended to improve the amenity of the proposed units, and the visual amenity of the adjacent property to the south. The amended design is to include the following:
  - Larger windows to habitable rooms incorporating fixed opaque glazed panels to prevent overlooking of the adjacent site to the south.
  - ii. Feature awnings over the windows to prevent overlooking from the adjacent property to the south into the proposed units.
  - iii. Amended external finish to the central portion of the southern elevation to provide contrast with the other sections of that elevation.

Details demonstrating compliance with this condition are to be submitted to the satisfaction of Council's Manager Development Assessment prior to the issue of a construction certificate.

18. The off-form concrete elements of the development are to be minimum Class 2, high quality finish. Detail to be provided to the satisfaction of the certifying authority prior to the issue of the relevant **construction certificate**.



Page 7 of 35

### **Substation Design**

19. Written confirmation from Endeavour Energy confirming that satisfactory arrangements have been made for the connection of electricity and the design requirements for the substation, are to be submitted to the certifying authority for approval prior to the issue of a construction certificate.

### Payment of Bonds, Fees and Long Service Levy

20. The Principal Certifying Authority is to ensure and obtain written proof that all bonds, fees and contributions as required by this consent have been paid to the applicable authority. This includes all Long Service Levy payments to be made to the Long Service Payments Corporation.

### Section 7.11 Contribution

21. Prior to the issue of a Construction Certificate, a monetary contribution imposed under section 7.11 of the Environmental Planning and Assessment Act 1979 and Holroyd Section 94 Development Contributions Plan 2013, for three (3) x 1 bedroom dwellings, fourteen (14) x 2 bedroom dwellings, and two (2) x 3 bedroom dwellings, minus credit for the existing 1 x 2 bedroom and 1 x 3 bedroom dwellings on site. At the time of this development consent, the current rate of the contribution is \$237,665. The amount of the contribution will be determined at the time of payment in accordance with the relevant Contributions Plan in force at that time. A copy of the Holroyd Section 94 Development be viewed on Council's website 2013 can Contributions Plan www.cumberland.nsw.gov.au or inspected at Council's Civic Centre located at 16 Memorial Avenue, Merrylands between the hours of 8am and 4.30pm Monday to Friday.

### **Damage Deposit**

A cash bond/bank guarantee of \$6,005 must be paid/lodged with Council to cover making good any damage caused to the property of Council, during the course of construction associated with the development. This will be held for 'six (6) months after the completion of works' or six (6) months after the issue of 'Final Occupation Certificate' (whichever occurs last) to remedy any defects that may arise within this time.

Note:- The applicant/owner shall be held responsible for and may be required to pay the full reinstatement costs for damage caused to Council's property, unless the applicant/owner notifies Council in writing and provides photographic proof of any existing damage to Council's property. Such notification shall occur prior to works/demolition commencing. However, if in the opinion of Council, during the course of construction existing damage has worsened, Council may require full reinstatement. If damage does occur during the course of construction, prior to reinstating any damage to Council's property, the applicant/owner shall obtain design specifications of all proposed restoration works. Restoration/construction works within the road reserve shall be carried out by a licensed construction contractor at the applicant/owners expense and shall be inspected by Council prior to placement of concrete and/or asphalt.

### Consistency with Endorsed Development Consent Plans

23. The Principal Certifying Authority must ensure that any certified plans forming part of the Construction Certificate, are in accordance with the Development Consent plans.



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### Landscape Inspection Fee

Payment of a \$668 fee for the inspection by Council of landscape works and/or trees to be retained at the key stages, where Council is the Principal Certifying Authority.

### **Engineering Fees and Bonds**

- 25. Payment of a \$487.50 fee for the inspection by Council of the stormwater drainage and Onsite Stormwater Detention System at the key stages, where Council is the Principal Certifying Authority.
- 26. The applicant shall lodge with Council a \$2,500 cash bond or bank guarantee to cover the removal of redundant vehicular crossings and laybacks along the full road frontage and replacement with kerb and gutter. This bond will be held for 'Six (6) months after the completion of works' or issue of a 'Final Occupation Certificate' (whichever occurs last) to remedy and defects that may arise within this time.
- 27. The applicant shall lodge with Council a \$4,000 cash bond or bank guarantee for the satisfactory completion of the construction and/or reconstruction of the concrete footpath paving adjacent to the site. This bond will be held for 'Six (6) months after the completion of works' or issue of a 'Final Occupation Certificate' (whichever occurs last) to remedy and defects that may arise within this time.
- 28. The applicant shall lodge with Council a \$1,500 cash bond or bank guarantee for the satisfactory completion of the construction of the drainage system through a public area or adjoining private property. This bond will be held for 'Six (6) months after the completion of works' or issue of a 'Final Occupation Certificate' (whichever occurs last) to remedy and defects that may arise within this time.
- 29. The applicant shall lodge with Council a \$6,135 cash bond to cover the registration of a Positive Covenant and Restriction as to User over the Onsite Stormwater Detention System. This bond is refundable upon the submission of proof of registration of the Restriction on Use and Positive Covenant with the Land and Property Information NSW.

### On-site Stormwater Detention

- 30. The development has been identified as requiring an on-site stormwater detention (OSD) system which has formed part of the development consent. Therefore, in order to satisfy the drainage requirements for the building, any construction certificate for the building shall include the construction of the OSD system. In this regard, design and construction details of the OSD system demonstrating compliance with the development consent, OSD plan number 2018-180 and Council's on-site stormwater detention policy shall be submitted to the certifying authority prior to the issue of a construction certificate. The following shall also be addressed:
  - The maximum depth of water ponding within the above ground OSD basins shall not exceed 600 mm.
  - ii. Amendments in RED on the stormwater plan.



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### Traffic - Access & Parking

31. Boundary alignment levels shall not be assumed. The owner or builder must make application to Council's Engineering Services Department to obtain the boundary line levels prior to issue of construction certificate.

### Construction and Traffic Management Plan (Major Developments)

- 32. A Traffic Management Plan shall be lodged with Council for any road and drainage works to be carried out within public road reserves, or where construction activity impacts on traffic flow or pedestrian access, in strict compliance with the requirements of Australian Standard 1742.3 (Traffic Control Devices for Works on Roads). In this regard, the applicant shall pay Council a \$196.00 initial fee for the assessment of the Traffic Management Plan by Council, prior to commencing works within the road reserves. A copy of the approved Traffic Management Plan shall be kept on site during the course of construction for reference and compliance.
- 33. The applicant shall also provide a Construction and Traffic Management Plan, prepared by a suitably qualified consultant and submitted to Council for approval. A fee \$232.00 initial fee for the assessment of the plan shall also be lodged to Council. The following matters must be specifically addressed in the Plan:
  - (a) A plan view (min 1:100 scale) of the entire site and frontage roadways indicating:
    - Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways;
    - Signage type and location to manage pedestrians in the vicinity;
    - The locations of any proposed Work Zones in the frontage roadways note:
       Work Zone fees apply in accordance with Council's Fees and Charges;
    - Locations and type of any hoardings proposed along all street frontages;
    - Area of site sheds and the like;
    - Location of any proposed crane standing areas;
    - A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries;
    - Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected;
    - The provision of an on-site parking area for employees, tradesperson and construction vehicles as far as possible; and
  - (b) A Traffic Control Plan for the site must be prepared for approval by Council incorporating the following: -
    - (i) Traffic control devices proposed in the road reserve must in accordance with the RMS publication "Traffic Control Worksite Manual" and designed by a person licensed to do so (minimum RMS 'red card' qualification). The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each.
    - (ii) A detailed description and route map of the proposed route for vehicles involved in spoil removal, material delivery and machine floatage must be provided detailing: -
      - Light traffic roads and those subject to a load or height limit must be avoided at all times; and
      - b. A copy of this route is to be made available to all contractors, and shall be clearly depicted at a location within the site.



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- Evidence of RMS concurrence where construction access is provided directly or within 20m of an Arterial Road.
- (iv) A schedule of site inductions to be held on regular occasions and as determined necessary to ensure all new employees are aware of the construction management obligations. These must specify that construction-related vehicles to comply with the approved requirements;
- (v) For those construction personnel that drive to the site, the Applicant shall provide on-site parking so that their personnel's vehicles do not impact on the area.
  - (c) Council's adopted fee for certification of compliance with this condition shall be payable on lodgement, or in any event, prior to the issue of the relevant approval.
- (d) Any use of Council property shall require appropriate approvals and demonstration of liability insurances prior to such work commencing.
- (e) Failure to provide complete and detailed information may result in delays. It is recommended that your Construction and Traffic Management Plan be lodged with Council as early as possible.
- (f) Dependent on the circumstances of the site, Council may request additional information to that detailed above.
- (g) Subject to an application for the occupation of public roadway or footway (Section 138, Local Govt. Act 1993), and Covered by a \$20M public liability insurance policy, with the policy noting Council as an interested party.

### Required Submissions to Certifying Authority

- 34. If the development likely to disturb or impact upon telecommunications infrastructure, written confirmation from the service provider that they have agreed to the proposed works must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate or any works commencing, whichever occurs first.
- 35. The arrangements and costs associated with any adjustment to telecommunications infrastructure shall be borne in full by the applicant/developer.
- 36. Retaining walls greater than 1.0m above finished ground level or other approved methods necessary to prevent the movement of excavated or filled ground, together with associated stormwater drainage measures, shall be designed by an appropriately qualified person. Details are to be included with any Construction Certificate application.
- 37. Structural engineer's details prepared and certified by a practising qualified structural engineer of all reinforced concrete and structural members shall be submitted to the Principal Certifying Authority for assessment prior to the issue of a construction certificate.
- 38. All plans (architectural, landscape and engineering) are to correspond with each other. Details are to be provided to the Principal Certifying Authority prior to issue of any Construction Certificate.

### Fencing

39. Any fencing forward of the building line to the Garfield Street frontage is to have a maximum height of 1.5 m, and be at least 50% transparent above 1m. Details demonstrating compliance with this condition are to be submitted to the certifying authority for approval prior to the issue of a construction certificate.



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### **Construction Management Plan**

40. A Construction Management Plan (CMP) prepared by a suitably qualified consultant shall be prepared to address issues such as traffic control, noise, dust, etc., during construction. All measures works/methods/procedures/control measures/recommendations made within the Construction Management Plan shall be implemented accordingly.

### Fire Safety Upgrading & Essential Services

The Construction Certificate is to include a schedule specifying all of the essential fire or other safety measures that are required for the building or premises to ensure the safety of persons in the building in the event of fire.

### Accessibility

- 42. Prior to the issue of a Construction Certificate, plans must be submitted to the Principal Certifying Authority, indicating that the new development has been designed to comply with Adaptable Housing requirements as per AS4299-1995 *Adaptable Housing*. In this regard, units A101, A201 and A301 shall be nominated as adaptable units.
- 43. Prior to the issue of a Construction Certificate, plans must be submitted to the Principal Certifying Authority, indicating that the new development has been designed to comply with the requirements of the Disability (Access to Premises Building) Standards 2010.

### **Acoustic Measures**

- 44. Prior to the issue of a construction certificate, an acoustic report is to be prepared by an appropriately qualified acoustic consultant having the technical eligibility criteria required for membership of the Association of Australian Acoustical Consultants (AAAC) and/or grade membership of the Australian Acoustical Society (MAAS). The report should also consider noise emissions from the development including but not limited to proposed mechanical plant (air conditioners, automatic roller doors, ventilation plant for the underground car park). The report is to be prepared in accordance with the NSW Environment Protection Authority Industrial Noise Policy.
- 45. Plans and/or specifications indicating how compliance with the recommendations of acoustic report prepared by Acoustic Logic, project number 20180544.1, dated 22 May 2018 are to be submitted to the Principal Certifying Authority

### Traffic Management

- 46. Any required adjustment to utility services, trees, signs and other street furniture requires approval of the appropriate authority shall be undertaken by the applicant. All cost associated with the proposed works shall be borne from the applicant and at no cost to Council.
- 47. Any works requiring closure of any road or footway closure will require submission of a Council's Temporary Road Closure application form and payment of fees.
- 48. Signs and line marking plans for the car parking area (e.g. parking spaces, internal arrows, Give-way signs, pedestrian crossing/walkways etc.) shall be prepared prior to the issue of Construction Certificate and to be in accordance with AS 2890.1-2004, AS 2890.6-2009 and the endorsed plans.



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### Salinity

49. The site has been identified as having a potential salinity hazard. To prevent moisture/salinity from entering the built structure, appropriate construction methods are to be incorporated for all dwellings/buildings.

Details of proposed methods of construction are to be detailed in the engineering plans and submitted to the PCA.

**Note:** Further information for building in a saline environment is available in the following documents:

- "Building in Saline Environment" prepared by DIPNR 2003.
- Water Sensitive Urban Design in the Sydney Regions "Practice Note 12: Urban Salinity"
- Wagga Wagga City Council's "Urban Salinity Action" October 1999
- "Guide to Residential Slabs and Footings in Saline Environments" prepared by Cement Concrete and Aggregates Australia, May 2005

### **Sydney Water**

50. A building plan approval must be obtained from Sydney Water Tap In[™] to ensure the development will not affect any sewer, water or stormwater mains or easements.

A copy of the building plan approval receipt from Sydney Water must be submitted to the certifying authority, prior to the issue of a construction certificate.

Please go to sydneywater.com.au/tapin to apply.

### **Light Fixtures**

A plan showing the location of light fixtures throughout the development shall be submitted to the Principal Certifying Authority for approval prior to the issue of a construction certificate. Light spillage shall comply with AS 4282-1997.

### Residential Flat Development Residential Waste Storage Area

- 52. The waste storage area shall be roofed, screened from public view and provided with:-
  - Openings, 5% of the floor area and recessed into the walls, positioned to provide cross floor ventilation OR mechanical ventilation to Council's satisfaction;
  - An adequate water supply provided by a hose cock and hose (hot water for commercial premises)
  - The floor shall be made of an impervious surface, drained to sewer in accordance with Sydney Water requirements and include a dry arrestor pit with a removable basket.

Plans and specifications for the storage room shall be submitted with the application for the Construction Certificate.

### **Design Verification Statement**

53. In accordance with Environmental Planning and Assessment Regulation 2000 and State Environmental Planning Policy (SEPP) 65 - Design Quality of Residential Flat Development, the subject development must be undertaken or directed by a "qualified



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designer" (i.e., a "registered architect" under the Architects Act). In this regard, a design verification statement shall be submitted to the Principal Certifying Authority (PCA). The PCA shall ensure that the statement prepared by the qualified designer provides the following:-

- (i) A valid and current chartered architect's certificate number (as issued by the Board of Architects of NSW);
- (ii) That the qualified designer has designed or directed the design of the subject development;
- (iii) That the plans and specifications lodged with the Construction Certificate achieve or improve the design quality of the development for which the subject development consent was granted, having regard to the design principles set out in Part 2 SEPP 65
- **N.B.** The design verification statement must provide an explanation of the design in terms of the design quality principles set out in Part 2 of SEPP 65.

### **Erosion and Sedimentation Controls**

- 54. Erosion and sedimentation controls must be provided to ensure:
  - (a) Compliance with any approved Soil and Water Management Plan
  - (b) Removal or disturbance of vegetation and top soil is confined to within 3m of the approved building area (no trees to be removed without approval)
  - (c) All uncontaminated run-off is diverted around cleared or disturbed areas
  - (d) Silt fences or other devices are installed to prevent sediment and other debris escaping from the cleared or disturbed areas into drainage systems or waterways
  - (e) All erosion and sediment controls are fully maintained for the duration of demolition/ development works
  - (f) Controls are put into place to prevent tracking of sediment by vehicles onto adjoining roadways
  - (g) All disturbed areas are rendered erosion-resistant by turfing, mulching, paving or similar
  - (h) All water pumped or otherwise removed from excavations or basement areas is filtered to achieve suspended solids/non filterable residue levels complying with the Australian Water Quality guidelines for Fresh and Marine Waters
  - (i) Pumped or overland flows of water are discharged so as not to cause, permit or allow erosion before the commencement of work (and until issue of the occupation certificate).

Details of the proposed soil erosion and sedimentation controls to be implemented on site must be submitted with the Construction Certificate Application. Under no circumstances may any works commence prior to these details being approved by the Accredited Certifier and the controls being in place on the site

### Residential Storage

- 55. Storage areas for each unit shall be provided at the following rates:-
  - 1 bedroom units 6m³
  - 2 bedroom units 8m³
  - 3 bedroom units 10m³



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A minimum of 50% of the storage area shall be provided within the unit.

Detail is to be submitted to the Principal Certifying Authority, prior to the issue of a Construction Certificate.

### **External Walls and Cladding Flammability**

- 56. The external walls of the building including attachments must comply with the relevant requirements of the National Construction Code (NCC). Prior to the issue of an Occupation Certificate, the Certifying Authority and Principal Certifying Authority must:
  - (a) Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the relevant requirements of the NCC; and
  - (b) Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built.



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### PRIOR TO WORKS / DEMOLITION COMMENCING

The following conditions are to be complied with prior to demolition / any works commencing on the site:

### Appointment of Principal Certifying Authority and Notification of Commencement of Work

- 57. The person having the benefit of the development consent, not the principal contractor (builder), must:
  - a) Appoint a Principal Certifying Authority in accordance with section 6.6 of the Act.
  - b) Have the Principal Certifying Authority complete the 'Accredited Certifier Details' on the approved form provided by Council for this purpose.
  - c) Notify Council of the appointment of the Principal Certifying Authority and of the intention to commence building work, such notification is to be given to Council at least two (2) working days prior to the proposed commencement date, and be on the approved form provided by Council for this purpose.

If nominated, Council can provide this service for you and act as the Principal Certifying Authority.

N.B. The Principal Certifying Authority must also notify the person having the benefit of the Development Consent of any mandatory critical stage inspections and other inspections that are to be carried out in respect of the building work such notification must comply with Clause 103A of the Regulations.

### Notification of Principal Contractor (Builder)/Owner-Builder

- 58. The person having the benefit of the Development Consent must:-
  - (a) Notify the Principal Certifying Authority that the person will carry out the work as an owner-builder, if that is the case;

OR

- (b) Appoint a Principal Contractor for the building work (who must be the holder of a contractor licence if any residential building work is involved), and notify the Principal Contractor of any mandatory critical stage inspections and other inspections that are to be carried out in respect of the building work.
- (c) Notify the Principal Certifying Authority of any such appointment.

Where Council is the Principal Certifying Authority, such notification is to be on the approved form provided by Council for this purpose, an original of which is attached to this Development Consent.

### Required Submissions to Council or the Principal Certifying Authority

59. To facilitate a complete assessment and enable the Certifying Authority to check compliance on site, truss validation and design, details certified by a qualified practicing



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structural engineer shall be submitted to Council or the Principal Certifying Authority for examination and approval. Details shall include:

- a) job address and builder's name
- b) design wind velocity
- c) terrain category
- d) truss spacing
- e) roof pitch
- f) material of roof
- g) roof batten/purlin spacing
- h) material of ceiling
- i) job number

### Photographic Record of Council Property - Damage Deposit

60. The applicant shall submit to Council, for the purposes of the damage deposit bond lodged to cover making good any damage caused to the property of Council, a full and satisfactory photographic record of the condition of Council's property (i.e., road pavement, kerb and guttering, footway, stormwater drainage, etc.) adjacent to the subject site. The purpose of the photographic record is to establish any pre-existing damage to Council's property to ensure that you are not liable for any re-instatement works associated with that damage. However, if in the opinion of Council, the existing damage has worsened or any new damage is caused during the course of construction, the Council may require either part or full re-instatement.

**Note:** Failure to provide a full and satisfactory photographic record described above, is likely to render the applicant liable to rectify all damages unless satisfactory proof can be provided that the damage was pre-existing.

### **Notification to Relevant Public Authority**

61. The applicant shall ensure that relevant public utility authorities are made aware of the potential salinity problems that have been identified onsite, such that their services are designed to take into consideration the effects the saline soils may have on their installations.

### Fencing of Sites

62. Fencing of sites is required to prevent public access when the site is unoccupied and building works are not in progress. In this regard the MINIMUM acceptable standard of fencing to the site is properly constructed chain wire fencing 1.8m high, clad internally with Hessian or Geotextile fabric. All openings are to be provided with gates, such gates are not at any time to swing out from the site or obstruct the footpath or roadway.

### Signs to be Erected on Sites

- 63. A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
  - (a) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
  - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours and at any time for business purposes, and



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(c) stating that unauthorised entry to the work site is prohibited.

The sign must be rigid and durable and be read easily by anyone in any public road or other public place adjacent to the site.

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

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

**Note**: Principal Certifying Authorities and Principal Contractors must also ensure that signs required by this clause are erected and maintained (clause 227A of the Regulations currently imposes a maximum penalty of \$1,100).

### **Prohibited Signage**

64. Advertising, Real Estate Agents, Architects, Designers, site suppliers and any other signage not mentioned in the conditions, is not to be placed or displayed on the site, such that the signage is visible from any public place. Offenders may be prosecuted.

### **Protection of Public Places**

65. A hoarding or fence must be erected between the work site and any public place, if the work involved in the erection or demolition of the building; is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the enclosure of a public place.

If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.

The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

### **Site Control Measures**

66. Suitable erosion and sediment control measures shall be provided at all vehicular entry/exit points and all other measures required with and/or shown on plans accompanying the Construction Certificate, to control soil erosion and sedimentation, are to be in place prior to the commencement of construction works. Such controls are to be provided in accordance with Holroyd's "Erosion & Sediment Control Policy."

**Note:** On-the-spot fines may be issued by council where measures are absent or inadequate.

### Footpaving, Kerbing and Guttering

- 67. Protection must be provided for Council footpaving, kerbing and guttering. Wooden mats must also be provided at all entrances where the site fronts paved footpaths.
- 68. Finished street levels shall not be assumed. The owner or builder must make application to Council's Engineering Services Department for street levels.



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## Support for Neighbouring Buildings

- 69. If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land (including a public road and any other public place), the person causing the excavation to be made:
  - a) must preserve and protect the building from damage, and
  - b) if necessary, must underpin and support the building in an approved manner, and
  - c) must, at least seven (7) days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars to the owner of the building being erected or demolished.

The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land. (In this clause, *allotment of land* includes a public road and any other public place).

70. A dilapidation report of adjoining properties/allotments and details of the proposed excavation works in excess of 2m or within the zone of influence of neighbouring building foundations and required underpinning and supportive measures shall be submitted to the Principal Certifying Authority. Any required underpinning and supportive measures shall be designed by a practising structural engineer and details shall be submitted to the Principal Certifying Authority for approval prior to construction works commencing.

## **Toilet Facilities**

- 71. Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

  Each toilet provided:
  - a) Must be a standard flushing toilet, and
  - b) Must be connected:
    - To a public sewer,
    - ii) If connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or
    - iii) If connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.
    - iv) The position of the toilet on the site shall be determined by Council's Building Surveyor and/or Sydney Water.

## Residential Building Work - Insurance

- 72. Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the Principal Certifying Authority for the development to which the work relates (where not Cumberland Council) has given Cumberland Council written notice of the following information:-
  - (a) in the case of work for which a Principal Contractor is required to be appointed:
    - (i) the name and licence number of the Principal Contractor, and
    - (ii) the name of the insurer by which the work is insured under Part 6 of that Act,
  - (b) in the case of work to be done by an owner-builder:



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- the name of the owner-builder, and
- (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

The notification is to be on the approved form provided by Council for this purpose, an original of which is attached to this Development Consent.

#### Roadworks

- 73. The applicant is to submit to Council an application for a road opening permit when the drainage connection into Council's system is within the road reserve. In this regard the applicant shall pay Council the applicable fees and charges prior to the commencement of works. Additional road opening permits and fees may be necessary where there are connections to public utility services (e.g. telephone, electricity, sewer, water or gas) required within the road reserve.
- 74. The applicant to arrange with the relevant public utility authority the alteration or removal of any affected services in connection with the development. Any such work being carried out at the applicant's cost.

#### Works within Council's Reserve

- 75. All works within the Council reserve shall be completed within three (3) weeks of the date of commencement. Council's Development Engineer shall be advised prior to the commencement of works.
- 76. Submission to Council of a Certificate of Currency of the contractor's Workers' Compensation Policy prior to the commencement of works.
- 77. All construction works shall be in accordance with the WorkCover safety requirements. Submission of insurance documentation demonstrating a minimum Public Liability cover of \$20,000,000 is to be submitted prior to commencement of works. Cumberland Council shall be named on the Certificate of Currency as an interested party.

## Property/Street Number

78. Council is the authority responsible for the allocation of all official property addresses. For ease of identification of your new development, it is important that the allocated property numbers are used and displayed prominently. It is requested that you contact Council as soon as possible before construction is commenced to discuss proposed addressing for your development.

Please email your site plan to <a href="mailto:council@cumberland.nsw.gov.au">council@cumberland.nsw.gov.au</a> or contact Council's Rates Section by phone on 8757 9675.



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#### **DURING CONSTRUCTION**

The following conditions are applicable during construction:-

### **Endorsed Plans & Specifications**

79. A copy of the endorsed stamped plans and specifications, together with a copy of the Development Consent, Construction Certificate and approved Traffic Management Plan are to be retained on site at all times.

# Hours of Work & Display of Council Supplied Sign

For the purpose of preserving the amenity of neighbouring occupations building work including the delivery of materials to and from the site is to be restricted to the hours of 7.00am to 6.00pm Mondays to Fridays and 8.00am to 4.00pm Saturdays. Work on the site on Sundays and Public Holidays is prohibited. Note: Demolition work is not permitted on weekends or Public Holidays - refer to specific demolition condition for approved hours.

The yellow "Hours of Building Work" sign (supplied by Council with the approval), is to be displayed in a prominent position at the front of the site for the duration of the work.

#### Site Control

- 81. All soil erosion measures required in accordance with the approved sediment and erosion control plan and any other relevant conditions of this Consent are to be put in place prior to commencement of construction works are to be maintained during the entire construction period until disturbed areas are restored by turfing, paving or revegetation. This includes the provision of turf laid on the nature strip adjacent to the kerb.
- 82. Builder's refuse disposal and storage facilities are to be provided on the development site for the duration of construction works and all rubbish shall be removed from the site upon completion of the project.
- 83. Stockpiles of sand, soil and other material shall be stored clear of any drainage line or easement, tree protection zone, water bodies, footpath, kerb or road surface and shall have erosion and sediment control measures in place to prevent the movement of such materials onto the aforementioned areas and adjoining land.

## Noise & Vibration

- 84. The construction of the development and preparation of the site, including operation of vehicles, must be conducted so as to avoid unreasonable noise or vibration and cause no interference to adjoining or nearby occupations. Special precautions must be taken to avoid nuisance in neighbouring residential areas, particularly from machinery, vehicles, warning sirens, public address systems and the like.
- 85. In the event of a noise or vibration problem arising, the person in charge of the premises must, when instructed by Cumberland Council or the Accredited Certifier, cease work and carry out an acoustical survey and/or investigation by an appropriate acoustical engineer or consultant and submit the results to Council. The person in charge of the site must implement any or all of the recommendations of the consultant and any additional



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requirements of Council. Any requirements of Council in this regard must be complied with immediately

## **Waste Management Plan**

- 86. The approved Waste Management Plan must be implemented and complied with during all stages of works on site.
- 87. Within seven (7) days of completion of construction/building works, the applicant shall submit a signed statement to Council or the Principal Certifying Authority verifying that demolition work and recycling of materials was undertaken in compliance with the Waste Management Plan. The Principal Certifying Authority shall submit a copy of the statement to Council.

In reviewing such documentation Council will require the provision of actual weighbridge receipts for the recycling/disposal of all materials.

Compliance with Critical Stage Inspections and other Inspections nominated by the Principal Certifying Authority

- 88. Section 6.5 of the Act requires certain specific inspections (prescribed by clause 162A of the Regulations) and known as 'Critical Stage Inspections' to be carried out for building work. Prior to permitting commencement of the work your Principal Certifying Authority is required to give notice of these inspections pursuant to clause 103A of the Regulations.
  - **N.B.** An Occupation Certificate cannot be issued and the building may not be able to be used or occupied where any mandatory critical stage inspections or other inspections required by the Principal Certifying Authority are not carried out.

Where Council is nominated as Principal Certifying Authority, notification of all inspections required is provided with the Construction Certificate approval.

### Construction

89. The building and external walls are not to proceed past ground floor formwork/reinforcing steel level until such time as the Principal Certifying Authority has been supplied with a check survey report prepared by a registered surveyor certifying that the floor levels and external wall locations to be constructed, comply with the approved plans, finished floor levels (FFL)s and setbacks to boundary/ies. The slab shall not be poured, nor works continue, until the Principal Certifying Authority has advised the builder/developer that the floor level and external wall setback details shown on the submitted survey are satisfactory.

In the event that Council is not the Principal Certifying Authority, a copy of the survey shall be provided to Council within three (3) working days.

On placement of the concrete, works again shall not continue until the Principal Certifying Authority has issued a Certificate stating that the Condition of approval has been complied with and that the slab has been poured at the approved levels.

#### Salinity

90. The building and external walls are not to proceed past ground floor formwork/reinforcing steel level until such time as the Principal Certifying Authority has confirmed that all



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required construction measures addressing salinity, as required by this Consent and its accompanying Construction Certificate have been carried out.

## Landscaping/Site Works

- 91. All turfed areas shall be finished level with adjoining surfaces and also fall evenly to approved points of drainage discharge.
- 92. New 1.8m high lapped and capped timber paling or Colorbond fences (colour to be sympathetic with the development) determined in consultation with adjoining property owner(s), are to be erected along and within all side and rear boundaries and between courtyards at full cost to the developer, such fencing to be constructed on or within the property boundary. In situations where the boundary fence is proposed on top of a retaining wall, the height of the fence shall not exceed a maximum of 2.4m as measured from the lower adjacent ground level. A Statutory Declaration or other documentary evidence of such consultation is to be submitted to the Principal Certifying Authority.
- 93. All fencing forward of the building line to Garfield Street is to have a maximum height of 1.5 m and be at least 50% transparent above 1 m.
- 94. A single master T.V. antenna is to be installed to service the proposed building and provision made for connection to each dwelling therein.

#### **Tree Protection**

- 95. The applicant shall accept all responsibility for the accuracy of the information provided to Council for assessment. If any tree/s are not shown on the endorsed plan or are required to be retained/transplanted and protected but are threatened by demolition/construction work through unforeseen construction requirements or plan inaccuracy, all site and building works so affected are to cease until the matter is resolved to the satisfaction of Council. Council's Environmental and Planning Services Department is to be notified immediately upon such a problem being encountered.
- 96. Branches of trees to be retained/transplanted within 1m of the approved building, may be pruned by an Arborist qualified to at least Australian Qualification Framework (AQF) Certificate Level 3 in accordance with Australian Standard AS4373-1996 'Pruning of Amenity Trees' to enable demolition/construction works to occur.

**Note:** Any other pruning works not authorised by this Consent are subject to the approval of an application for General Tree Works activities.

# **Acoustic Management**

97. The recommendations for attenuation measures as outlined in the acoustic report was prepared by Acoustic Logic, project number 20180544.1, dated 22 May 2018 are required to be incorporated into the design/construction of the proposed development.

# Car Park Mechanical Ventilation

98. The car park and waste storage room are to be mechanically ventilated in accordance with the Building Code of Australia, AS1668 and other relevant legislation and standards to adequately remove the Volatile Organic Compounds (VOCs) and other noxious odours.



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## Works within Council's Reserve

99. All works within the Council reserve shall be suitably fenced to prevent public access to the work site during construction of the stormwater drainage.

## Inspection of On Site Detention Works

- 100. The stormwater drainage works are to be inspected during construction, by the Council or by a suitably qualified Civil Engineer. Documentary evidence of compliance with Council's specifications shall be obtained prior to proceeding to the subsequent stages of construction, encompassing not less than the following key stages:
  - (a) Initial inspection to discuss concept and site conditions/constraints prior to commencement of construction of the detention basin/tank.
  - (b) Prior to landscaping of detention basin or pouring of the roof of the detention tank.
  - After completion of storage but prior to installation of fittings (e.g. orifice plates, screens, flap valves etc.)
  - (d) Final Inspection

Council's standard inspection fee will apply to each of the above set inspection key stages. Additional inspection fees will apply for additional inspections required to be undertaken by Council.

## Road Works and Footpaving

- 101. Pedestrian access, including disabled and pram access, is to be maintained as per Australian Standard AS1742.3 "Part 3 Traffic Control Devices for Works on Roads".
- 102. All advisory and regulatory sign posting (for example parking restriction signage, pedestrian crossing signs, warning signs) are to remain in place during construction.

## **Underground Cabling**

103. All communications cabling shall be installed underground as per relevant authority requirements (including broadband and Category 5).

# **Underground Power Connection**

104. Where electricity reticulation cannot be obtained directly from the street, power connection is to be underground. No intermediate power pole is permitted.

## Alarms

- 105. The developer/builder shall not install any audible intruder alarms within the units. If the building is to be provided with a burglar alarm system, this shall incorporate back to base monitoring such that residents can connect thereto from each individual unit.
- 106. A warning system shall be provided to alert occupants of the building that a basement stormwater pump out failure has occurred, which could cause flooding. As a minimum, the system shall include:
  - a flashing light with warning sign at each pedestrian and vehicular entrance into the basement from outside the building; and



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 a warning system, such as an audible alarm with flashing light and warning sign installed within a common area or areas of the building, such as the ground floor lobby.

Note: Any audible alarms shall be installed within the building.

## **Basement Parking**

- 107. A convex mirror is to be provided so that drivers can see up the driveway from within the basement.
- 108. An intercom device is to be located:
  - i) on the driver's side wall near the security shutter to the basement car park, so that visitors can access the visitor car parking spaces; and
  - ii) within the basement foyer so that disabled persons can contact any unit if the lift is not working.

## **Vehicle Cleansing**

109. Concrete trucks and trucks used for the transportation of building materials shall not traffic soil, cement or similar materials onto the road. Hosing down of vehicle tyres shall be conducted in a suitable off-street area where wash water is prevented from entering the stormwater system or adjoining property.

## Importation of Fill

110. All imported fill shall be validated in accordance with Council's Contaminated Land Policy to ensure that it is suitable for the proposed land use from a contamination perspective.

# Additional Information during Demolition/Construction

111. Any new information which comes to light during demolition or construction works which has the potential to alter previous conclusions about site contamination shall be notified to Council immediately.



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## PRIOR TO ISSUE OF FINAL OCCUPATION CERTIFICATE

The following conditions are to be complied with prior to the issue of a final occupation certificate:-

### Certificates/Documentary Evidence

- 112. A final clearance is to be obtained from Integral Energy if such clearance has not previously been issued.
- 113. A Section 73 compliance certificate under the Sydney Water Act 1994 must be obtained from Sydney Water.

Application can be made either directly to Sydney Water or through a Sydney Water accredited Water Servicing Coordinator.

Go to sydneywater.com.au/section73 or call 1300 082 746 to learn more about applying through an authorised Water Servicing Coordinator or Sydney Water.

Following application, Sydney Water may issue a Notice of Requirements letter detailing all requirements that must be met prior to the issue of the section 73 certificate.

The section 73 compliance certificate must be submitted to the Principal Certifying Authority prior to the issue of a final occupation certificate.

114. A Structural Engineer's certificate from the supervising structural engineer responsible for the design shall be submitted to the Principal Certifying Authority and shall state that all foundation works/reinforced concrete/structural members have been carried out/erected in accordance with the Engineer's requirements and the relevant SAA Codes.

**Note:** Any such certificate is to set forth the extent to which the engineer has relied on relevant specifications, rules, codes of practice or publications in respect of the construction.

115. An Accredited Certifier shall submit to the Principal Certifying Authority a signed checklist as per Appendix A of AS4299-1995 confirming that units A101, A201 and A301 have achieved the desired level of adaptability (i.e. "Adaptable House Class A or B").

# Landscaping/Tree Protection

- 116. Certification is to be provided to the Principal Certifying Authority (PCA), from the designer of the landscape proposal, that all tree planting/landscape works have been carried out in accordance with the endorsed plan. If Council is the PCA, the certification is to be submitted to Council prior to or at the final landscape inspection. If Council is not the PCA, a copy of the certification is to be provided to Council with the Occupation Certificate.
- 117. Certification is to be provided to the Principal Certifying Authority (PCA) from a suitably qualified and licensed contractor that the specified planter boxes have been waterproofed and drained in accordance with the requirements of the current relevant Australian Standards, any relevant authority regulations and current best work practices. If Council is not the PCA a copy of the certification is to be provided to Council with the Occupation Certificate.



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- 118. Certification is to be provided to the Principal Certifying Authority from a suitably qualified and licensed contractor that the specified fully automated commercial grade irrigation system has been designed and installed to all common planted areas in accordance with the requirements of the current relevant Australian Standards, any relevant authority regulations and current best work practices. If Council is not the PCA, a copy of the certification is to be provided to Council with the Occupation Certificate.
- 119. Boundary and courtyard fences must be erected and finished in a professional manner.

## Tree Planting

120. 2 x Tristaniopsis laurina 'luscious' are to be planted in the footpath area of Garfield Street. The trees are to come from minimum 100 litre containers and be planted, so as not to affect existing services, in accordance with the relevant standards.

## Parking/Driveway

- 121. All dwellings/units and associated car parking spaces shall be numbered on site in accordance with numbering on the endorsed plans. These numbers shall also be consistent with any strata plan for the completed development.
- 122. All residents and visitors parking spaces shall be signposted, line-marked and wheel stops installed in accordance with the endorsed signs and line marking plans and Australian Standards (i.e. AS2890.1-2004 and 2890.6-2009).
- 123. Directional arrows for internal circulation shall be prominently displayed on the pavement on approaches to, and within, the car park area.
- 124. All parking spaces, aisles, and internal roadway dimensions shall be in accordance with Australian Standard 2890.1.2004 and 2890.6.2009.
- 125. The entry/exit to the basement car park shall be indicated with appropriate signage and line-marking to avoid conflict.
- 126. Vehicular access to Garfield Street through the approved development site at 27 Garfield Street, Wentworthville shall be constructed generally in accordance with drawing DA-02 issue D.

# Fire Safety

127. Submission to Council of a Final Fire Safety Certificate pursuant to Clause 170 of the Environmental Planning and Assessment Regulation 2000 in respect of each essential fire or other safety measure listed on the Fire Safety Schedule attached to the Construction Certificate.

### NOTE:

- Such Certificate shall state, pursuant to Clause 80E in relation to each essential fire safety measure mentioned in the certificate:-
  - that the service has been assessed by a properly qualified person (chosen by the owner of the building); and
  - that the service was found to be, when assessed, capable of performing to at least the standard required by the current fire safety schedule for the building for which the certificate is issued.



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- 2. The person who carries out the assessment must inspect and verify the performance of each fire safety measure being assessed, and must test the operation of each new item of equipment installed in the building premises that is included in the current fire safety schedules for the building.
- 3. The assessment must have been carried out within the three (3) months prior to the date on which the final fire safety certificate is issued.

# External Walls and Cladding Flammability

- 128. The external walls of the building including attachments must comply with the relevant requirements of the National Construction Code (NCC). Prior to the issue of an Occupation Certificate, the Certifying Authority and Principal Certifying Authority must:
  - (b) Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the relevant requirements of the NCC; and
  - (b) Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built.

## Onsite Stormwater Detention, Certifications and Covenants

- 129. A copy of the as approved stormwater drainage and On Site Detention plan showing work as executed details shall be submitted to Council. The work as executed plan shall be in accordance with Council's standards and specifications for stormwater drainage and on-site stormwater detention.
- 130. A certificate of compliance in accordance with Council's standards and specifications for stormwater drainage and On Site Detention system shall be issued to the Principal Certifying Authority by a suitably qualified Civil Engineer.
- 131. A certificate of compliance for the pump out drainage system of the basement level shall be issued to the Principal Certifying Authority by the pump installers stating that the pump out system has been installed to operate in accordance with the Council requirements and approved drawings.
- 132. Documents giving effect to the creation of a Positive Covenant and Restriction on Use over the as constructed On-site Stormwater Detention System shall be submitted to the authority benefited for approval prior to lodging with the Land and Property Information NSW. The wording of the terms of the Positive Covenant and Restriction on Use shall be in accordance with Council's standards and specifications for stormwater drainage and on-site stormwater detention. The documents shall be approved by the benefiting authority for registration with Land and Property Information NSW.

Note: Prior to release of the documents creating the Restriction on Use and Positive Covenant, the benefiting authority shall be satisfied that the as-constructed On Site Detention is in accordance with the approved drawings and Council requirements.

The Positive Covenant and Restriction on Use documents shall be registered with the Land and Property Information NSW within six (6) months from the date of release by the benefiting authority.



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133. A maintenance schedule for the stormwater and On-Site Detention system including a sketch plan of the components forming the sites stormwater and On-Site Detention system shall be submitted. The maintenance schedule shall be prepared by a qualified hydraulic engineer and shall be in accordance with the Upper Parramatta River Catchment Trust requirements.

#### Certification

134. The On-site Stormwater Detention design summary calculation sheet using the Works-as-Executed levels shall be provided to Council.

# **OSD Requirements**

- 135. An On-site Stormwater Detention plate shall be installed within the detention basin. The plate shall be located in or near the Discharge Control Unit to alert future owners of their obligations to maintain the facility and its restrictions. The wording and plate shall be in accordance with Council's standard requirements.
- 136. The applicant shall provide a standard OSD sign within the aboveground basin area in accordance with Clause 7.1 (i) of the Council's OSD policy.

#### **Road Works**

- 137. Any works requiring levels within the road reserve will require the submission of Council's Vehicle Crossing application form.
- 138. The construction or reconstruction of concrete footpath paving 1.5m wide and associated works along all areas of the site fronting Garfield and Emert Streets. These works shall be carried out by a licensed construction contractor at the applicant's expense and shall be in accordance with Council's standard drawing SD-8100 and issued level sheets.
- 139. The applicant shall arrange the removal of any damaged footpath and/or kerb, and reconstruction of such Council owned concrete works along all areas of the site fronting Garfield Street & Emert Street (Cumberland Highway), as directed by Councils engineer. These works shall be carried out by a licensed construction contractor at the applicant's cost and shall be in accordance with Council's standard drawing SD-8100 and issued level sheets.
- 140. The reconstruction of kerb and gutter and associated works along all areas of the site fronting Garfield Street. These works shall be carried out by a licensed construction contractor at the applicant's expense and shall be in accordance with Council's standard drawing SD-8100 and issued level sheets.
- 141. Removal of all redundant vehicular crossings and laybacks along the full road frontage and replacement with kerb and gutter. These works shall be carried out by a licensed construction contractor at the applicant's expense and shall be in accordance with Council's standard drawing number SD-8100.
- 142. A certificate of compliance for the construction of footpath paving, kerb and guttering and roadworks shall be obtained from Council and be submitted to the Principal Certifying Authority.



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143. The applicant shall obtain a letter from the downstream property owner upon completion of the stormwater connection into Council's pipe system stating that the restoration of her property is satisfactory.

#### **House/Street Number**

144. A house/street number must be displayed on all newly developed properties in accordance with Council's "Policy on the Display of House Numbers".

## **Design Verification Statement**

- 145. In accordance with Environmental Planning and Assessment Regulation 2000 and State Environmental Planning Policy (SEPP) 65 "Design Quality of Residential Flat Development", the subject development must be undertaken or directed by a "qualified designer" (i.e., a "registered architect" under the Architects Act). In this regard, a design verification statement shall be submitted to the Principal Certifying Authority (PCA) assessing the development, upon completion of all works subject of this consent and its accompanying construction certificate. The PCA shall ensure that the statement prepared by the qualified designer provides the following:-
  - (i) A valid and current chartered architect's certificate number (as issued by the Board of Architects of NSW);
  - (ii) That the completed development achieves the design quality of the development as shown in the plans and specifications submitted and approved with the Construction Certificate, having regard to the design quality principles set out in Part 2 SEPP 65.

## Lighting

146. Adequate lighting shall be provided within the development (i.e. pedestrian access ways, common areas and communal open space, car parking areas and all entries) and shall comply with AS 1680.0:2009.

## **Noise Compliance Report**

147. A noise compliance report shall be submitted to Council prior to the issuing of the Occupation Certificate. The report shall state that the noise reduction measures detailed within the report prepared by Acoustic Logic, project number 20180544.1, dated 22 May 2018have been implemented, and confirm that the noise emissions from the premises complies with Council's noise criteria specified in this consent.

## General

148. Documentary evidence and/or certificate of compliance must be submitted to Council to show that all works have been completed in accordance with this Development Consent and its accompanying Construction Certificate.



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#### CONDITIONS RELATING TO USE

The following conditions are applicable to the use of the development:-

# Safety & Amenity

149. Where an intruder alarm is installed on the premises it shall be fitted with a timing device in accordance with the requirements of the Protection of the Environment Operations Act 1997.

# **Traffic and Parking**

- 150. At least 24 car parking spaces numbered and line marked in accordance with the endorsed plan, are to be made available at all times for residents and visitors' vehicles only in conjunction with the occupation of the building/premises.
- 151. All vehicles shall enter and leave the site in a forward direction, via the existing right of way over 27 Garfield Street Wentworthville (lot 1, DP 1241459).

#### Refuse & Trade Waste

152. Waste storage bins must be covered at all times to prevent entry of stormwater or dispersal by wind and must be sealed to prevent leakage.

## Maintenance of Waste Storage Area

- 153. All waste and recycling containers shall be stored in the designated waste storage area. The owners corporation shall be responsible for movement of the waste and recycling containers to the footpath at Garfield Street for weekly collections, and the return of waste and recycling containers to the waste storage area. The owners corporation shall clean the waste storage area, dry arrestor pit and waste collection containers.
- 154. In the event of Council receiving complaints regarding excessive odour from the garbage bay area, the person(s) in control of the premises shall at their own cost arrange for an environmental investigation to be carried out (by a suitably qualified person) and submit a report to Council specifying the proposed methods for the control of odour emanating from the garbage bay area.

## **Car Park Mechanical Ventilation**

155. The car park and waste storage room mechanical ventilation shall be operated and maintained to ensure that it complies with the Building Code of Australia, AS1668 and other relevant legislation and standards to adequately remove the Volatile Organic Compounds (VOCs) and other noxious odours.

## Alarms

156. Where audible intruder alarms are installed in the units by residents, they shall be fitted with a timing device in accordance with the requirements of the Protection of the Environment Operations Act 1997.



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## **Emergency Procedures**

157. The owner of a building to which an essential fire safety measure is applicable must not fail to maintain each essential fire safety measure in the building premises to a standard not less than that specified in the Fire Safety Schedule.

#### Noise

- 158. The operation of all plant and equipment shall not give rise to an equivalent continuous (LA_{eq}) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background L_{Aeq} level (in the absence of the noise under consideration).
- 159. In the event of Council receiving complaints regarding excessive noise, the person(s) in control of the premises shall at their own cost arrange for an acoustic investigation to be carried out (by a suitably qualified person) and submit a report to Council specifying the proposed methods for the control of noise emanating from the premises.
- 160. Noise and vibration from the use of the air conditioning system (if any installed) shall not exceed the background level by more than 5dB(A) and shall not be audible in any premises of a different occupancy between 10:00pm and 7:00am on weekdays and 10:00pm and 8:00am on weekends and public holidays.
- 161. Noise and vibration from the use of the (mechanical exhaust ventilation) system shall not exceed the background level by more than 5dB(A) and shall not be audible in any premises of a different occupancy between 10.00pm and 7.00am on weekdays and 10.00pm and 8.00am on weekends and public holidays.

#### **Mechanical Ventilation**

162. Any discharge to the atmosphere from the subject development shall not result in any odour or other air impurity being detected outside the boundaries of the property.

#### Lighting

163. Any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby roads, and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with AS4282-1997 Control of the obtrusive effects of outdoor lighting.

# Waste Services Requirement

- 164. The waste bins for the proposed development shall be as follows:
  - Residential garbage 11 x 240l garbage bins serviced weekly
  - Residential recycling 7 x 240l recycle bins serviced fortnightly.

#### General

165. All privacy measures shall be maintained for the life of the development.



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#### **ADVISORY NOTES**

#### Other Necessary Approvals

- A. The applicant's attention is drawn to the need to obtain Council's separate approval for any ancillary activity not approved by this consent, including:
  - (a) Works, including the pruning or removal of any tree(s) not authorised in the preceding conditions or on the approved plans. Council's Tree Preservation Order protects trees by definition taller than 3.5m or having a trunk circumference exceeding 500mm measured one metre above ground level. If in doubt contact Council's Tree Management Officer.
  - (b) Any fencing located forward of the proposed building and exceeding the limitations specified in State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.
  - (c) The erection of any advertising sign, not being exempt from the need to obtain approval.
  - (d) The installation of any furnace, kilns, steam boiler, chemical plant, sand blast, spray painting booth or the like.
- B. Section 8.7 of the Act provides that an applicant who is dissatisfied with the Council's determination of the Development Application may appeal to the Land and Environment Court within 6 months of the date of determination, or as otherwise prescribed.
- C. Section 8.2 of the Act provides that an applicant may request, within 6 months of the date of determination of the Development Application, that the Council review its determination (this does not apply to designated development). A fee is required for this review.
  - It should also be noted that an application under Section 8.2 of the Act cannot be reviewed/determined after 6 months of the date of determination. Therefore, the submission of a Section 8.2 application must allow sufficient time for Council to complete its review within the prescribed time frame, including the statutory requirement for public notification.
- D. The applicant and Owner are advised that the Commonwealth Disability Discrimination Act 1992 may apply to this particular proposal. Approval of this application does not imply or confer compliance with this Act. Applicants and owners should satisfy themselves as to compliance and make their own enquiries to the Australian Human Rights Commission. Attention is also drawn to the provisions of Parts 2, 3 and 4 of Australian Standard 1428 -Design for Access and Mobility.
- E. A Construction Certificate shall be obtained in accordance with Section 6.7 of the Act, prior to the commencement of any work on site. Council can provide this service for you.
- F. An Occupation Certificate is to be issued by the Principal Certifying Authority prior to the occupation of the building.

### G. DEMOLITION

- (a) Demolition is to be carried out in accordance with AS2601-2001, Demolition of Structures
- (b) Demolition is to be carried out in such a way and with such control measures as are necessary to prevent the occurrence of any dust, noise, runoff or other nuisance.
- (c) All sediment/soil is to be prevented from entering Council's stormwater drainage system.



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- (d) The public footpath and roadway is to be protected against damage as a result of demolition activities and is to be kept clean and free of all soil and other materials.
- (e) On completion of demolition the site is to be left in a clean and tidy condition.
- (f) Cumberland Council has a Tree Management Order which applies to the entire local government area. No ring-barking, cutting down, topping, lopping, removing, injuring or wilful destruction of any tree or trees exceeding 3.5m in height and 3m in branch spread shall take place without the prior written consent of Cumberland Council.
- (g) There shall be no burning of any waste.
- (h) Demolition material can be recycled saving the environment and also tipping costs. For more information, contact the Environment Protection Authority's Recycling hotline on 9325 5555.
- (i) Public roads shall be kept clean and free of any materials which may fall from vehicles or plant to ensure safety and amenity of the area.

#### H. BANK GUARANTEES

Bank guarantees will be accepted from list of banks which have at least an "A" rating from Standard and Poors and at least an "A2" or "Prime-1" standard from Moodys Investor Services.

To enable the bank guarantee to be enforceable during an entire project with consideration for delays, the guarantee must not contain a facility expiry date.

To get to Standard and Poors <a href="www.standardpoors.com">www.standardpoors.com</a> then from Ratings Action choose Ratings Lists. Then click on Financial Institutions followed by clicking on Financial Institutions Counterparty Ratings List. Go to "Banks" and download to Australian Banks.

To get to Moodys <u>www.moodys.com</u> then look up Ratings and then Banking and then Bank Ratings list. It will take you to Bank Credit Research page. Look at the table of contents and choose Global Bank Ratings by Country. Look up Australian Banks.

## SMOKE DETECTORS

A system of self-contained smoke alarms complying with the requirements of AS3786-1993, Smoke Alarms or listed in the Scientific Services Laboratory Register of Accredited Products being installed in the dwelling, connected to the mains power supply and provided with a standby power supply. Alarms are to be positioned on the ceiling and setback a minimum distance of 300mm from any wall. Alarms are to be placed in the vicinity of each area containing bedrooms with a minimum of one (1) alarm required for each storey of the dwelling.

## J. TERMITE PROTECTION

Structural members are to be protected from attacked by subterranean termites in accordance with the requirements of AS3660.1-2000 Protection of building from subterranean termites and a durable notice must be affixed within the metre box indicating the type of protection, its date of installation, life expectancy of any chemical barrier used, and system maintenance and inspection requirements. A certificate of compliance of the approved system must be submitted to Council or the Principal Certifying Authority on completion of the system installation. With respect to chemical protection, a pipe system shall be installed beneath the slabs plastic membrane to allow re-application of the chemical border.



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#### K. WET AREAS

Wet areas in the dwelling are to be waterproofed in accordance with AS3740 Waterproofing of wet areas within residential buildings.

Where Council is the Principal Certifying Authority for the works, the submission of evidence of suitability for the waterproofing product used will be required at the wet area inspection stage. The evidence of suitability is to be in the form of:-

A current Certificate of Accreditation for the product.

#### AND

 A certificate from the person responsible for the installation of the product advising that the product was applied in accordance with the relevant manufacturers specifications.

**Note:** Any copy of documentary evidence submitted, must be a complete copy of the original report or document.

## L. SARKING

To reduce the risk of injury during works to the roof, sarking with fall arresting ability is to be provided to the underside of the roof. Manufacturer's specifications for the sarking is to be submitted to Council prior to its installation.

## M. CONSTRUCTION/OCCUPATION CERTIFICATE FEES

An administration fee per certificate (in accordance with Council's adopted fees and charges) is payable to Council on lodgement of Construction and Occupation Certificates from Principal Certifying Authorities.

## N. SOUND TRANSMISSION AND INSULATION

To ensure the amenity of occupants in multi-residential development (Class 2 and 3 buildings and Class 9c Aged Care buildings), separating walls must be constructed in accordance with Part F5 of the Building Code of Australia.

### O. GLAZING CERTIFICATION

A certificate shall be submitted to the Principal Certifying Authority stating that safety glazing has been used in the building in accordance with AS1288 - "Glass in Buildings - Selection and Installation".

# P. DIAL BEFORE YOU DIG

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at <a href="www.1100.com.au">www.1100.com.au</a> or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility



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to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

# Q. TELECOMMUNICATIONS ACT 1997 (COMMONWEALTH)

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution.

Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact Telstra's Network Integrity Team on Phone Number 1800 8104 43.

## R. DIVIDING FENCES

Please be advised that arrangements concerning existing or proposed fences between properties are a civil matter determined by the involved parties under the <u>Dividing Fences</u> <u>Act</u>. You are therefore required to consult with the owners of neighbouring properties if fences are to be removed or constructed.

The Dividing Fences Act is administered by the Department of Lands.

Yours faithfully

Jai Shankar

TEAM LEADER - DEVELOPMENT ADVISORY SERVICES