

# NOTICE OF LOCAL PLANNING PANEL MEETING *PUBLIC AGENDA*

A Local Planning Panel meeting will be held in PHIVE 2 Civic Place, Parramatta at 5 Parramatta Square on Tuesday, 21 November 2023 at 3:30pm.

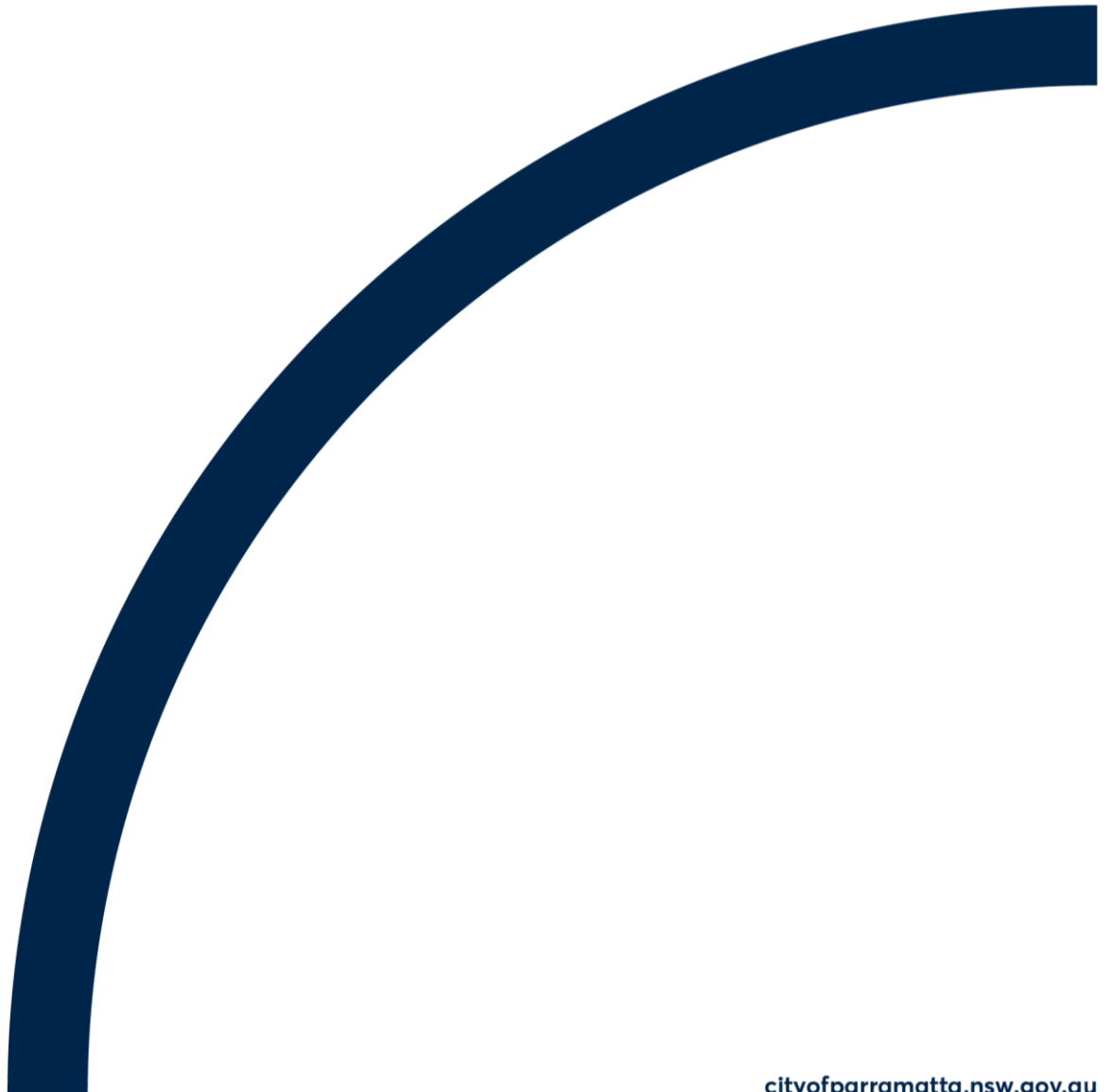
Gail Connolly  
CHIEF EXECUTIVE OFFICER





**CITY OF  
PARRAMATTA**

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	<i>The City of Parramatta Council acknowledges the Burramattagal people of The Darug Nation as the traditional owners of land in Parramatta and pays its respects to their ancient culture and to their elders, past, present and emerging.</i>	
<b>2</b>	<b>WEBCASTING ANNOUNCEMENT</b>	
	<i>This public meeting will be recorded. The recording will be archived and available on Council's website.</i>	
	<i>All care is taken to maintain your privacy; however if you are in attendance in the public gallery, you should be aware that your presence may be recorded.</i>	
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## **DEVELOPMENT APPLICATIONS**

### **21 NOVEMBER 2023**

5.1	PUBLIC MEETING: 67 Kent Street, EPPING NSW 2121 (LOT 11 DP 3908) .....	6
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**DEVELOPMENT APPLICATION**

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<b>ITEM NUMBER</b>	5.1
<b>SUBJECT</b>	PUBLIC MEETING: 67 Kent Street, EPPING NSW 2121 (LOT 11 DP 3908)
<b>DESCRIPTION</b>	Demolition of existing structures, tree removal and construction of a 60 place childcare centre with basement parking.
<b>REFERENCE</b>	DA/669/2022 - D09003094
<b>APPLICANT/S</b>	Mr D X Chen
<b>OWNERS</b>	Ms J X Lin & Mr D X Chen
<b>REPORT OF</b>	Group Manager Development and Traffic Services
<b>RECOMMENDED</b>	Approval

**DATE OF REPORT 24 OCTOBER 2023****REASON FOR REFERRAL TO LPP**

The development application is being referred to the Parramatta Local Planning Panel as more than 10 submissions were received.

**EXECUTIVE SUMMARY**

Development Application DA/669/2022 was lodged on 26 August 2022 for the 'Demolition of existing structures, tree removal and construction of a 60 place childcare centre with basement parking' on land at 67 Kent Street, Epping. Associated civil engineering, earthworks and landscaping is also proposed.

In accordance with the City of Parramatta Consolidated Notification Plan, the application was notified and advertised 6 September 2022 to 27 September 2022. In response, 11 submissions were received.

Key concerns raised in the submissions are as follows:

- Traffic and parking issues.
- Structural integrity of neighbouring properties.
- Overdevelopment of the site.
- Residential quality of life.

In accordance with the *Environmental Planning and Assessment Act 1979*, Section 9.1 – Directions by the Minister, this application is reported to the Parramatta Local Planning Panel for determination as the proposed development received more than 10 submissions.

**Section 4.15 Assessment Summary**

The application has been assessed relative to section 4.15 of the *Environmental Planning and Assessment Act 1979*, taking into consideration all relevant state and local planning controls.

The proposed use of the subject site as a Centre Based Child Care Facility is permitted with consent pursuant to the provisions of Parramatta Local Environmental Plan 2011.

The application was referred to a number of internal stakeholders, including the following:

- Development Engineer;
- Landscape Officer;
- Transport and Traffic Officer;
- Environmental Health Officer (Food);
- Environmental Health Officer (Acoustic);
- Environmental Health Officer (Waste); and
- Environmental Health Officer (Contamination).

All referrals were returned with no objections raised, subject to the imposition of conditions of consent.

The proposal is not considered to have any other impacts to the surrounding amenity of the locality. The proposed development is appropriately located and is compliant with the provisions of Parramatta LEP 2011 and Parramatta DCP 2011. The design of the building is considered to be acceptable as it is compatible with the surrounding residential nature of the locality.

Having regard to the matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*, it is recommended Development Application No. DA/669/2022 be approved.

## RECOMMENDATION

- (a) **That** the Parramatta Local Planning Panel, exercising the function of the consent authority, **approve** the development consent to DA/669/2022 for 'demolition of existing structures, tree removal and construction of a 60 place childcare centre basement parking' on land at 67 Kent Street, Epping.
- (b) **Further, that** submitters are advised of the decision.







## REASONS FOR APPROVAL

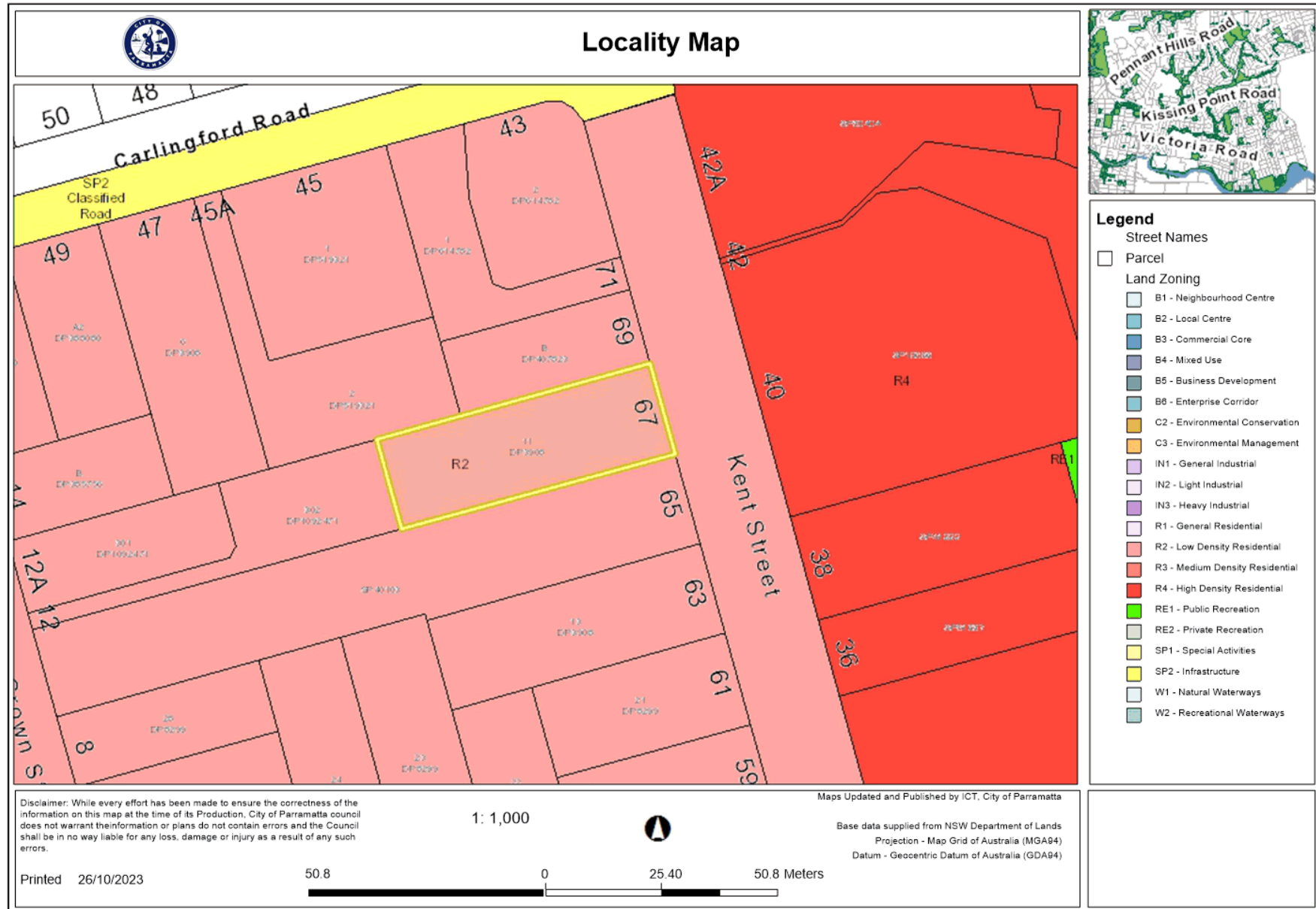
1. The development is permissible in the R2 Low Density Residential zone pursuant to Parramatta Local Environmental Plan 2011 and generally satisfies the requirements of the applicable planning framework.
2. The development will be compatible with the emerging and planned future character of the area.
3. The development will promote a land use that provides a facility to meet the day to day needs of residents.
4. The proposal provides a non-residential land use that has amenity impacts that can be appropriately managed.
5. The development is in the public interest because it is consistent with the objectives of for development in the R2 Low Density Residential zone.
6. For the reasons given above, approval of the application is in the public interest.

Darren Wan

**Senior Development Assessment Officer**

**ATTACHMENTS:**

- |   |   |   |                                  |          |
|---|---|---|----------------------------------|----------|
| 1 |  |  | Locality Map                     | 1 Page   |
| 2 |  |  | Assessment Report and Conditions | 51 Pages |
| 3 |  |  | Plans used for assessment        | 10 Pages |





<b>City of Parramatta</b>	
File No:	DA/669/2022

#### SECTION 4.15 ASSESSMENT REPORT

##### Environmental Planning & Assessment Act 1979

<b>DA No:</b>	DA/669/2022
<b>Subject Property:</b>	LOT 11 DP 3908 67 Kent Street, Epping
<b>Proposal:</b>	Demolition of existing structures, tree removal and construction of a 60 place childcare centre with basement parking.
<b>Date of receipt:</b>	26 August 2022
<b>Applicant:</b>	Mr D X Chen
<b>Owner:</b>	Ms J X Lin and Mr D X Chen
<b>Property owned by a Council employee or Councillor:</b>	The site is not known to be owned by a Council employee or Councillor
<b>Political donations/gifts disclosed:</b>	None disclosed on the application form
<b>Submissions received:</b>	Eleven (11)
<b>Conciliation Conference Held:</b>	No
<b>Recommendation:</b>	Approval
<b>Assessment Officer:</b>	Darren Wan

#### LEGISLATIVE REQUIREMENTS

<b>Relevant provisions considered under section 4.15(1)(a) of the Environmental Planning and Assessment Act 1979</b>	<ul style="list-style-type: none"> <li>• State Environmental Planning Policy (Biodiversity and Conservation) 2021</li> <li>• State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>• State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>• Parramatta Local Environmental Plan 2011 (PLEP 2011)</li> <li>• Parramatta Local Environmental Plan 2023 (PLEP 2023)</li> <li>• Parramatta Development Control Plan 2011 (PDGP 2011)</li> <li>• Parramatta Development Control Plan 2023 (PDGP 2023)</li> </ul>
<b>Zoning</b>	R2 Low Density Residential zone
<b>Bushfire Prone Land</b>	No
<b>Heritage</b>	No
<b>Heritage Conservation Area</b>	No
<b>Designated Development</b>	No
<b>Integrated Development</b>	No
<b>Clause 4.6 variation</b>	No
<b>Delegation</b>	Parramatta Local Planning Panel (PLPP) due to >10 submissions



## 1. EXECUTIVE SUMMARY

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### **Section 4.15 Assessment Summary**

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The proposed use of the subject site as a Centre Based Child Care Facility is permitted with consent pursuant to the provisions of Parramatta Local Environmental Plan 2011.

The application was referred to a number of internal stakeholders, including the following:

- Development Engineer;
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The proposal is not considered to have any other impacts to the surrounding amenity of the locality. The proposed development is appropriately located and is compliant with the provisions of Parramatta LEP 2011 and Parramatta DCP 2011. The design of the building is considered to be acceptable as it is compatible with the surrounding residential nature of the locality.

Having regard to the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, it is recommended Development Application No. DA/669/2022 be approved. The recommended conditions of consent are within **Attachment 1**.

## 2. SITE DESCRIPTION AND CONDITIONS

The subject site is known as 67 Kent Street, Epping. The current property description is Lot 11 DP 3908. The site is rectangular shaped allotment and has a slight slope from the rear boundary down to the street of approximately 2 metres over a distance of 61 metres.

The subject site has the following area and dimensions:

Area – 1,228.7 square metres

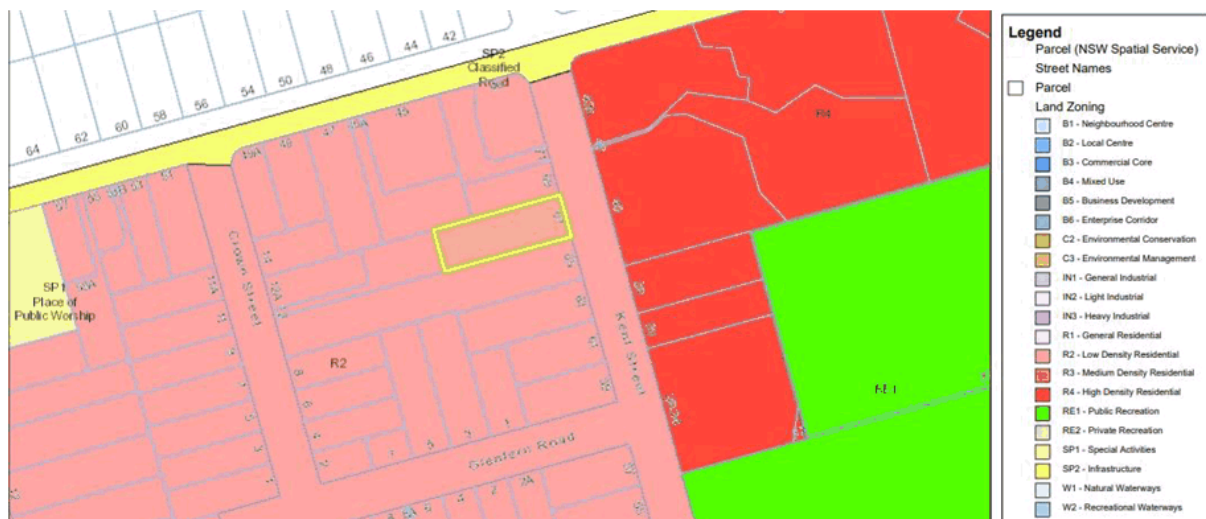
Frontage – 20.115 metres

Rear – 20.115 metres

North – 60.99 metres

South – 61 metres

The site is zoned R2 Low Density Residential. The surrounding properties to the north, south and east are also zoned R2 Low Density Residential. To the west is land zoned R4 High Density Residential.



**Figure 1:** Zoning of the subject site and surrounds



**Figure 2:** View of the subject site from Kent Street (source: Google Streetview)

The subject site currently accommodates a single storey dwelling. It is located within an established residential area characterised by single and double storey residential dwellings as well as high density uses such as a multi-dwelling development to the south, and RFB developments to the east.

### 3. THE PROPOSAL

The proposed development would be defined as a 'centre-based child care facility' which is permitted with consent within the R2 Low Density Residential zone. Specifically, the proposed works include the following:

#### Works

- Demolition.
- Tree removal.
- Construction of a two storey childcare centre comprising the following:
  - **Basement:**  
16 x car parking spaces, 4 x bicycle parking spaces, and waste room.
  - **Ground Floor:**  
Entry lobby, reception, kitchen, laundry, accessible WC, Play Room 1 – 0-2 years (40.91m<sup>2</sup>) including cot room and storage, combined junior WC, Play Room 2 – 2-3 years (85.74m<sup>2</sup>), Play Room 3 – 3-6 years (99.13m<sup>2</sup>), Outdoor Play 0-2 years (70m<sup>2</sup>) and Outdoor Play 2-6 years (391.07m<sup>2</sup>).
  - **First Floor:**  
Meeting office, staff lounge, office, storage, accessible WC.

#### Use

- Maximum capacity of 60 children with the following age breakdown:
  - 0-2 years – 10 places (minimum 3 staff required).
  - 2-3 years – 20 places (minimum 4 staff required).
  - 3-5 years – 30 places (minimum 3 staff required).
- The centre will be run by 12 staff.
- The proposed hours of operation are to be 7:00am to 6:00pm, Monday to Friday.

### 4. REFERRALS

The following section outlines the response and conditions recommended from each of the internal and external referrals in relation to the subject application.

Referral	Comment
Development Engineer	Supported, subject to conditions of consent.
Transport and Traffic Engineer	Supported, subject to conditions of consent.
Tree and Landscape	Supported, subject to conditions of consent.
Environmental Health (Food)	Supported, subject to conditions of consent.
Environmental Health (Acoustic)	Supported, subject to conditions of consent.
Environmental Health (Waste)	Supported, subject to conditions of consent.
Environmental Health (Contamination)	Supported, subject to conditions of consent.

### 5. ENVIRONMENTAL PLANNING INSTRUMENTS

#### 5.1 STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021 – CHAPTER 4 REMEDIATION OF LAND

The development application was accompanied with a Stage 1 Preliminary Site Investigation, which identified the potential for contamination of soil and groundwater within the site. Based on the recommendations provided by the PSI, the site can be made suitable for the proposed use as a Childcare Centre.

The PSI was referred to Council's Environmental Health Officer who supported the recommendations, subject to the imposition of conditions of consent. Accordingly, Clause 4.6 of the SEPP is considered to be satisfied, and the subject site is suitable for the proposed use as a centre-based child care facility.

#### 5.2 STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021 – CHAPTER 2 VEGETATION IN NON-RURAL AREAS

The State Environmental Planning Policy (Biodiversity and Conservation) 2021 applies to the site. The aims of the plan are to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and to preserve the amenity of the non-rural areas of the State through the preservation of trees and other vegetation.

Council's Landscape Officer raised no objections to the removal of 18 trees subject to appropriate conditions of consent.

It is considered that the removal of the trees on site will not have an adverse impact of the ecological, heritage, aesthetic, and cultural significance of the area. The proposed replacement planting will ensure that the development will not result in an unacceptable loss of amenity values or finite natural resources. The development as a whole will positively contribute to ensuring a sustainable urban forest canopy in the City of Parramatta.

### 5.3 STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021 – CHAPTER 2 INFRASTRUCTURE

The provisions of State Environmental Planning Policy (Transport and Infrastructure) 2021 have been considered in the assessment of the development application.

Clause	Comment
<b>Clause 2.48 – Electricity infrastructure</b>	The proposed development does not impact upon any electricity infrastructure.
<b>Clause 2.119 – Frontage to a classified road</b>	The subject site does not have frontage to a classified road.
<b>Clause 2.120 – Impact of road noise or vibration on non-road development</b>	The subject site is not directly adjacent to any roads with traffic volume greater than 20,000 vehicle trips per day.
<b>Clause 2.122 – Traffic-generating development</b>	<p>The subject site is within 60m of Carlingford Road, which is identified as a classified road. Under Schedule 3, the proposal falls under 'any other purpose' under Column 1, which requires developments with 50 or more motor vehicle trips per hour to be referred to TfNSW.</p> <p>In this instance, the proposed development will only generate 47 motor vehicle trips per hour and is not considered to be traffic generating development.</p>

### 5.4 STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021 – CHAPTER 3: EDUCATIONAL ESTABLISHMENTS AND CHILD CARE FACILITIES

DEVELOPMENT STANDARD	PROPOSED	COMPLIANCE
<b>3.22 – Concurrence of the Regulatory Authority</b> 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.	A total number of 60 children are proposed. The proposal will need a minimum unencumbered indoor and outdoor space as follows:  <b>Indoor:</b> 195m <sup>2</sup> <b>Outdoor:</b> 420m <sup>2</sup>  The proposal provides unencumbered indoor and outdoor space as follows:  <b>Indoor:</b> 225.78m <sup>2</sup> <b>Outdoor:</b> 461.18m <sup>2</sup>	Yes
<b>3.23 – Matters for Consideration by Consent Authorities</b> 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.	The proposal has been assessed against the relevant provisions of the Child Care Planning Guidelines.	Yes
<b>3.24 – Additional Matters for Consideration by Consent Authorities</b> The consent authority must consider the following matters before determining a development application for development for the purpose of a centre-based child care facility on land in Zone IN1 General Industrial or Zone IN2 Light Industrial— (a) whether the proposed development is compatible with neighbouring land uses, including its proximity to restricted premises, sex services premises or hazardous land uses, (b) whether the proposed development has the potential to restrict the operation of existing industrial land uses, (c) whether the location of the proposed development will pose a health or safety risk to children, visitors or staff.	N/A	N/A – The subject site is not located within land zoned IN1 General Industrial or IN2 Light Industrial.

<b>3.25 – Floor Space Ratio</b> Development consent must not be granted for the purposes of a centre-based child care facility in Zone R2 Low Density Residential if the floor space ratio for the building on the site of the facility exceeds 0.5:1. This section does not apply if another environmental planning instrument or a development control plan sets a maximum floor space ratio for the centre-based child care facility.	Maximum GFA: 614.35m <sup>2</sup>  Proposed GFA: 470.2m <sup>2</sup>	Yes
<b>3.26 – Non-Discretionary Development Standards</b> (a) Location (b) Indoor and Outdoor Space (c) Site Area and Site Dimensions (d) Colour of Building Materials or Shade Structures	The non-discretionary development standards subject of this clause including location, indoor and outdoor space in excess of the regulations, site area and dimensions, and building materials and finishes have been considered satisfactory during the assessment of the application.	Yes
<b>3.27 – Development Control Plans</b> 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) <u>does not apply</u> 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).	The provisions contained in PDGP2011 pertaining to this clause have not been applied when assessing the proposed development.	Yes

### Compliance with Child Care Planning Guideline 2021

The Guideline identifies issues that must be taken into consideration when assessing the proposal for a Childcare Centre. It also refers to the application of the *National Regulations for Childcare Centres*. The table below responds to each consideration raised in the Guideline. The assessment against the National Regulations is addressed in a separate table below.

Provisions	Comment	Complies
<b>Part 2 – Design Quality Principles</b>		
Principle 1 – Context	The subject site is considered an appropriate location for the proposed childcare centre for the following reasons: <ul style="list-style-type: none"> <li>• The site has adequate vehicular access via Kent Street.</li> <li>• The site is of a size and shape that provides for efficient access and circulation spaces with extensive play areas.</li> <li>• The site is within close proximity to public transport and employment and business nodes. Nearby bus services include 550 and 630, which provides connections between Macquarie Park, Epping and Blacktown.</li> <li>• The site is not a battle-axe allotment or a cul-de-sac.</li> </ul>	Yes
Principle 2 – Built Form	The design of the centre will present to the street with a two-storey built form, which is compatible with the surrounding low-density character of the locality.	Yes
Principle 3 – Adaptive Learning Spaces	The proposed childcare centre is considered to have outdoor play spaces that are well designed and achieves a high level of amenity for children and staff, resulting in buildings and associated infrastructure that are fit-for-purpose, enjoyable and easy to use.	Yes
Principles 4 – Sustainability	The design of the building is considered to be sustainable as the building form allows for cross ventilation, as well as acceptable solar access to the play areas.	Yes
Principle 5 – Landscape	The development provides adequate landscaping, including a landscape buffer between the play area and the property boundary.	Yes
Principle 6 – Amenity	The development provides appropriate and efficient indoor and outdoor learning spaces, access to sunlight, natural ventilation, outlook, storage, service areas, and accessible areas.	Yes
Principle 7 – Safety	The childcare centre is considered to have adequate evacuation procedures as there are routes from the outdoor play areas directly to the street without having to re-enter the building.	Yes

Part 3 – Matters for Consideration	
<p>3.1 Site selection and location</p> <p><i>C1 Zone Considerations</i></p> <p><i>Objective: To ensure that appropriate zone considerations are assessed when selecting a site</i></p>	<p><b>Visual and Acoustic Privacy</b></p> <p>The subject site is located within a residential zone with a detached double storey dwelling located to the north, and a multi-dwelling development located to the south.</p> <p>Due to the slope of the site, the front portion of the building is slightly filled by up to 1m. The fill is not considered to create amenity impacts as it is contained to the parts of the building fronting Kent Street. The internal and external play areas are generally at NGL and will not contribute to overlooking. The first-floor uses are largely setback from the rear and side boundaries and also will not contribute to overlooking.</p> <p>Regarding acoustic privacy, the proposal seeks a 1.8m high acoustic barrier around the perimeter of the ground floor outdoor play area and does not require any operational provisions to stagger the children play times. This is acceptable.</p> <p>An Acoustic Report was submitted with the application. This report was reviewed by Council's Environmental Health Officer, who raised no objections, subject to conditions of consent.</p> <p><b>Traffic and Parking</b></p> <p>Council's Transport and Traffic Officer has reviewed the submitted Traffic and Parking assessment and raised no objection to the development subject to the imposition of conditions of consent.</p>
<p>3.1 Site selection and location</p> <p><i>C2 Site selection</i></p> <p><i>Objective: To ensure that the site selected for a proposed childcare facility is suitable for the use.</i></p>	<p><b>Compatible uses</b></p> <p>Contextually, existing developments in the surrounding area are detached residential dwellings and dual occupancies, multi-dwelling developments and residential flat buildings. The proposed development has been designed to distinguish itself as a separate childcare use but remains compatible with the surrounding locality.</p> <p><b>Drop off areas</b></p> <p>The site provides 6 drop off spaces within the basement car park. Council's Traffic and Transport Officer reviewed the application and raised no objection to the proposal subject to the imposition of conditions of consent.</p> <p><b>Restricted Premises</b></p> <p>The site is not located in proximity to any restricted premises or places of incompatible social behaviour.</p>
<p>3.1 Site selection and location</p> <p><i>C3 Site location</i></p> <p><i>Objective: To ensure that sites for childcare facilities are appropriately located.</i></p>	<p>The site is within close proximity to public transport and employment and business nodes. Nearby bus services include 550 and 30, which provides connections between Macquarie Park, Epping and Blacktown.</p>
<p>3.1 Site selection and location</p> <p><i>C4 Avoidance of hazards</i></p> <p><i>Objective: To ensure that sites for childcare facilities do not incur risks from environmental, health or safety hazards.</i></p>	<p><b>Contamination</b></p> <p>Please refer to discussion under SEPP (Resilience and Hazards) 2021 – Chapter 4: Remediation of Land.</p>
<p>3.2 Local character, streetscape and the public domain interface</p> <p><i>C5 Compatible character and streetscape</i></p> <p><i>Objective: To ensure that a childcare facility is compatible with the local character and surrounding streetscape.</i></p>	<p><b>Design</b></p> <p>Contextually, existing developments in the surrounding area are detached residential dwellings and dual occupancies, multi-dwelling developments and residential flat buildings. The proposed development has been designed to distinguish itself as a separate childcare use but remains compatible with the surrounding locality.</p>

<p>3.2 Local character, streetscape and the public domain interface</p> <p><i>C6 Public and Private Spaces</i>  <i>C7 Multiple Entries</i>  <i>C8 Parks and open spaces</i></p> <p><i>Objective: To ensure clear delineation between the childcare facility and public spaces.</i></p>	<p><b>Play Space</b>  The childcare centre has clear delineations between the public and private domain with a single entry to the centre.</p> <p><b>Multiple Entries</b>  A pedestrian entry to the childcare facility is proposed from Kent Street. Although the pedestrian entry is adjacent to the vehicle entry, it is clearly delineated from the driveway by a planter box.</p>
<p>3.2 Local character, streetscape and the public domain interface</p> <p><i>C9 Front Fencing</i></p> <p><i>C10 Fencing on Classified Roads</i></p> <p><i>Objective: to ensure the front fences and retaining walls responds to and complement the context and character of the area and for not dominate the public domain.</i></p>	<p><b>Front fencing</b>  No front fence is proposed.</p> <p><b>Fencing on Classified Roads</b>  The site does not front a classified road.</p>
<p>3.3 Building orientation, envelope and accessibility</p> <p><i>C11 Building Layout</i></p> <p><i>Objective: To respond to the streetscape and site, while optimising solar access and opportunities for shade.</i></p>	<p><b>Solar Access</b>  The play areas have sufficient window openings including clerestory windows orientated to the north.</p> <p><b>Cut and Fill</b>  The development requires fill to the rear outdoor play area up to 950mm to create a level play space. As the rear adjoins a parking lot, this is not considered to raise any issue.</p>
<p>3.3 Building orientation, envelope and accessibility</p> <p><i>C12 Scale</i></p> <p><i>Objective: To ensure that the scale of the childcare facility is compatible with adjoining development and the impact on adjoining buildings is minimised.</i></p>	<p><b>Scale</b>  The proposed scale and building mass are compliant with the building height and floor space ratio development standards as well as with the prevailing street setback of Kent Street. In that regard the development exhibits a satisfactory scale to the streetscape.</p>
<p>3.3 Building orientation, envelope and accessibility</p> <p><i>C13 Front Setback</i>  <i>C14 Rear Setback</i></p> <p><i>Objective: To ensure that setbacks from the boundary of a child care facility are consistent with the predominant development within the immediate context.</i></p>	<p><b>Front Setback</b>  The development proposes a front setback that matches the prevailing streetscape.</p> <p><b>Rear Setback – acceptable</b>  The development exceeds the required 30% rear setback requirement and complies.</p>
<p>3.3 Building orientation, envelope and accessibility</p> <p><i>C15 Entry</i></p> <p><i>Objective: To ensure that the buildings are designed to create safe environments for all users.</i></p>	<p>Entry to the childcare centre provides for a separate pedestrian pathway and a single-entry door and a two-way vehicle entrance to the basement parking and is acceptable.</p>



<p>3.3 Building orientation, envelope and accessibility</p> <p><i>C16 Accessibility</i></p> <p><i>Objective: To ensure that childcare facilities are designed to be accessible by all potential users.</i></p>	<p><b>Accessibility</b></p> <p>The development provides an accessible visitor car space within the site. The play areas are generally level.</p>
<p>3.4 Landscaping</p> <p><i>C17 Landscaping</i> <i>C18 Car park landscaping</i></p> <p><i>Objective: To provide landscape design that contributes to the streetscape and amenity.</i></p>	<p>The proposal will have a landscaped area that addresses Kent Street and is considered acceptable.</p>
<p>3.5 Visual and Acoustic Privacy</p> <p><i>C19 Balconies</i> <i>C20 Overlooking from public space</i> <i>C21 Overlooking onto adjoining developments</i> <i>C22 Acoustic privacy</i> <i>C23 Acoustic consultant</i></p> <p><i>Objective: To protect the privacy and security of children attending the facility.</i></p> <p><i>Objective: To minimise impacts on privacy of adjoining properties.</i></p> <p><i>Objective: To minimise the impact of childcare facilities on the acoustic privacy of neighbouring residential developments</i></p>	<p><b>Overlooking from public space</b></p> <p>The play areas are oriented to the north and west and will not be subject to overlooking from a public space.</p> <p><b>Overlooking onto adjoining private space</b></p> <p>The first-floor internal play areas and administration spaces have obscured glass block windows on the south elevation and are not considered to create overlooking impacts onto neighbouring properties.</p> <p><b>Acoustic Consultant</b></p> <p>The application was accompanied by an Acoustic Report. The report was referred to Council's Environmental Health Officer who raised no objections, subject to conditions of consent.</p>
<p>3.6 Noise and air pollution</p> <p><i>C24 Noise attenuation measures from centre</i> <i>C25 Noise attenuation from external sources</i> <i>C26 Air pollution</i> <i>C27 Air quality report</i></p> <p><i>Objective: To ensure that outside noise levels on the facility are minimised to acceptable levels.</i></p> <p><i>Objective: To ensure air quality is acceptable where childcare facilities are proposed close to external sources of air pollution such as major roads and industrial development.</i></p>	<p><b>Noise attenuation measures from centre</b></p> <p>The proposal utilises a 1.8m high solid barrier around the perimeter of the outdoor play area and is considered to be acceptable.</p> <p><b>Noise attenuation from external sources</b></p> <p>The centre is not located nearby a noise source that requires attenuation of external noise sources.</p> <p><b>Air Pollution</b></p> <p>There are no nearby land uses that would necessitate an air quality report.</p>



<p>3.7 Hours of Operation</p> <p><i>C28 Hours of Operation</i> <i>C29 Mixed use Areas</i></p> <p><i>Objective: To minimise the impact of the child care facility on the amenity of neighbouring residential developments.</i></p>	<p><b>Hours of Operation</b> The proposal seeks to operate 7am – 6pm, weekdays and is acceptable.</p>
<p>3.8 Traffic, parking and pedestrian circulation</p> <p><i>C30 Carparking rates</i> <i>C31 Commercial or Industrial zones</i> <i>C32 Traffic and Parking Study</i> <i>C33 Alternate vehicular access</i> <i>C34 Cul de sac</i> <i>C35 Development design</i> <i>C36 Mixed use developments</i> <i>C37 Carparking design</i></p> <p><i>Objective: To provide parking that satisfies the needs of users and the demand generated by the centre and to minimise conflicts between pedestrians and vehicles.</i></p> <p><i>Objective: To provide vehicle access from the street in a safe environment that does not disrupt traffic flows.</i></p> <p><i>Objective: To provide a safe and connected environment for pedestrians both on and around the site.</i></p>	<p><b>Carparking rates</b> The development is required to provide 16 spaces for 60 children and complies.</p> <p><b>Carpark Design</b> The application was referred to Council's Traffic and Transport Officer raised no objection to the development subject to the imposition of conditions of consent.</p>

Part 4 – Applying the National Regulations to Development Proposals (Checklist)		
Controls	Proposed	Compliance
<b>4.1 Indoor space requirements</b>		
<p><b>Regulation 107</b> Every child being educated and cared for within a facility must have a minimum of 3.25m<sup>2</sup> of unencumbered indoor space.</p>	<p>Required – 195m<sup>2</sup> Provided – 225m<sup>2</sup></p>	Yes
<p><b>Verandas' as indoor space</b> For a veranda to be included as unencumbered indoor space, any opening must be able to be fully closed during inclement weather.</p>	<p>The application does not rely on verandas' as indoor space.</p>	N/A
<p><b>Storage</b> Storage areas including joinery units are not to be included in the calculation of indoor space.</p> <p>It is recommended that a child care facility provide:</p> <ul style="list-style-type: none"> <li>• a minimum of 0.3m<sup>3</sup> per child of external storage space</li> <li>• a minimum of 0.2m<sup>3</sup> per child of internal storage space.</li> </ul>	<p>Required External Storage – 18m<sup>3</sup> Provided External Storage – 20.1m<sup>3</sup> Required Internal Storage – 12m<sup>3</sup> Provided Internal Storage – 17.4m<sup>3</sup></p>	Yes
<b>4.2 Laundry and hygiene facilities</b>		
<p><b>Regulation 106</b> There must be laundry facilities or access to laundry facilities; or other arrangements for dealing with soiled clothing, nappies and linen</p>	<p>A laundry room is provided on the ground floor. This room is contained so as not to pose a risk to children.</p>	Yes
<b>4.3 Toilet and hygiene facilities</b>		
<p><b>Regulation 109</b></p>		Yes

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.	Satisfactory toilet and hygiene facilities have been provided for use by children attending the CCC.	
<b>4.4 Ventilation and natural light</b>		
<b>Regulation 110</b> 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.	Each room to be utilised by the children has access to an external opening to provide the required ventilation and natural light	Yes
<b>4.5 Administrative space</b>		
<b>Regulation 111</b> A service must provide adequate area or areas for the purposes of conducting the administrative functions of the service, consulting with parents of children and conducting private conversations.	The CCC is provided with a staff room, office, and a reception area.	Yes
<b>4.6 Nappy change facilities</b>		
<b>Regulation 112</b> Childcare facilities must provide for children who wear nappies, including appropriate hygienic facilities for nappy changing and bathing. All nappy changing facilities should be designed and located in an area that prevents unsupervised access by children.	As the CCC will accommodate children that wear nappies, nappy change facilities are provided in all children's bathrooms.	Yes
<b>4.7 Premises designed to facilitate supervision</b>		
<b>Regulation 115</b> 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 dignity.	Internal play areas are separated into the respective age groups to simplify supervision for staff.	Yes
<b>4.8 Emergency and evacuation procedures</b>		
<b>Regulations 97 and 168</b> 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 what those procedures must cover including: <ul style="list-style-type: none"> <li>• instructions for what must be done in the event of an emergency</li> <li>• an emergency and evacuation floor plan, a copy of which is displayed in a prominent position near each exit</li> <li>• a risk assessment to identify potential emergencies that are relevant to the service.</li> </ul>	There is one main path of evacuation for the CCC. The pathway runs along the southern side boundary and is acceptable.	Yes
<b>4.9 Outdoor space requirements</b>		
<b>Regulation 108</b> An education and care service premises must provide for every child being educated and cared for within the facility to have a minimum of 7m <sup>2</sup> of unencumbered outdoor space. If this requirement is not met, the concurrence of the regulatory authority is required under the SEPP.	Required – 420m <sup>2</sup> Provided – 461m <sup>2</sup>	Yes
<b>4.10 Natural environment</b>		
<b>Regulation 113</b> The approved provider of a centre-based service must ensure that the outdoor spaces allow children to explore and experience the natural environment. Creating a natural environment to meet this regulation includes the use of natural features such as trees, sand and natural vegetation within the outdoor space.	The development generally provides outdoor play spaces that are well integrated with the proposed building and would provide diversity in function and use, age appropriateness and amenity.	Yes
<b>4.11 Shade</b>		
<b>Regulation 114</b> The approved provider of a centre-based service must ensure that outdoor spaces include adequate shaded areas to protect children from overexposure to ultraviolet radiation from the sun.	The proposal provides for satisfactory shaded areas around the CCC. The shade structure allows for monitoring of the children from within the CCC.	Yes

	The proposal provides solar access to at least 30% of the outdoor play area.  The shaded areas are evenly distributed throughout the CCC.	
<b>4.12 Fencing</b>		
<b>Regulation 104</b> 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.  Child care facilities must also comply with the requirements for fencing and protection of outdoor play spaces that are contained in the National Construction Code.	The outdoor play area is enclosed by a minimum of 1.8m acoustic fencing.	Yes
<b>4.13 Soil Assessment</b>		
<b>Regulation 25 Education and Care Services National Regulations</b> 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.	Please refer to discussion under SEPP (Resilience and Hazards) 2021 – Chapter 4: Remediation of Land.	Yes

## 6. PARRAMATTA LOCAL ENVIRONMENTAL PLAN 2011

The relevant matters to be considered under Parramatta Local Environmental Plan 2011 for the proposed development are outlined below.

Development standard	Comment	Compliance
Height of Buildings	The subject site is prescribed a maximum building height of 9m.  The proposed building has a height of 9m.	Yes
Floor Space Ratio	The site has a prescribed maximum FSR of 0.5:1.  The proposed building has an internal gross floor area of 567m <sup>2</sup> , which equates to 0.38:1.	Yes
Development on land intended to be acquired for public purposes	The proposal is not identified on the map.	N/A
Architectural roof features	An architectural roof feature is not proposed.	N/A
Development below mean high water mark	The proposal is not for the development of land that is covered by tidal waters.	N/A
Heritage Conservation	The subject site is not identified as an item of heritage significance, nor is it located within a heritage conservation area.	N/A
Aboriginal Places of Heritage significance	The subject site is identified as having low sensitivity to Aboriginal Places of Heritage Significance. Accordingly, it is considered unlikely that the proposal would impact upon any Aboriginal Places of Heritage Significance.	Yes
Acid sulphate soils	An Acid Sulphate Soils Management Plan is not required to be prepared.	Yes
Earthworks	Council's Development Engineer raised no objection to earthworks.	Yes
Flood planning	The subject site is not identified as being within flood prone land.	N/A
Biodiversity protection	The site is not identified on this map	N/A
Water protection	The site is not identified on this map	N/A
Development on landslide risk land	The site is not identified on this map.	N/A
Affected by a Foreshore Building Line	The site is not located in the foreshore area.	N/A
Bushfire Prone Land	The site is not identified on this map.	N/A

## 7. PARRAMATTA LOCAL ENVIRONMENTAL PLAN 2023

Parramatta LEP 2023 was gazetted on 2 March 2023. Clause 1.8 of the LEP now repeals the following planning instrument which applied to the land:

- Auburn Local Environmental Plan 2010
- Holroyd Local Environmental Plan 2013
- Parramatta (former The Hills) Local Environmental Plan 2012
- Parramatta Local Environmental Plan 2011

### Clause 1.8A Savings provision relating to development applications states:

*If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.*

The current DA was lodged on 26 August 2022 and therefore shall continue to be assessed under Parramatta LEP 2011.

## 8. PARRAMATTA DEVELOPMENT CONTROL PLAN 2011

The relevant matters to be considered under Parramatta Development Control Plan 2011 or the proposed development are outlined below.

Control	Compliance
<b>Building Setbacks</b>  The child care centre shall comply with the minimum street and side setback and building envelope controls for the respective Residential zones. Side setback is to be a minimum 2m.	Yes – The subject site is zoned R2 Low Density Residential, therefore, the respective setback controls applicable are those for a dual occupancy.  <u>Front Setback – 5-9 metres or consistent with prevailing street</u> The proposed building will have a 9m setback from the front street boundary and complies with the prevailing street setback.  <u>Side Setbacks – Minimum 2m</u> The proposal will have a 2m setback to the side boundaries and complies.  <u>Rear Setback – Minimum 30% of the length of the site</u> 30% of the length of the site equates to 18.29m. The ground floor will have a setback to the rear boundary of 19.59m and complies. The first floor will have a setback to the rear boundary of 37m and complies.
<b>Access and Parking</b>  1 space/4 children  1 Accessible Space/10 car spaces  1 Bicycle/25 children	Yes – With 60 childcare places proposed, 15 total parking spaces, 1 accessible space and 2 bicycles spaces are required.  The childcare centre will be designated with 16 total spaces, with one accessible parking space, and 2 bicycle spaces, and complies.
<b>Acoustic and Visual Privacy</b>	Yes – In regard to visual privacy, the proposed development is not considered likely to create any overlooking impacts onto neighbouring properties as the childcare uses will be situated on the ground floor. The first floor will have a staff room with a window outlook toward the rear boundary and will not allow for overlooking. There are no play rooms proposed on the first floor.  In regard to acoustic privacy, an Acoustic Report was submitted with the application. This report was reviewed by Council's Environmental Health Officer, who raised no objections, subject to conditions of consent.
<b>Stormwater Drainage</b>	Council's Engineer raised no objection to the proposal, subject to the imposition of conditions of consent.
<b>Transition Areas</b>	Yes – all outdoor play spaces have a shaded area that provides an undercover transition area between the indoor and outdoor space and supports both indoor and outdoor activities.
<b>Waste Management</b>	Yes – The Waste Management Plan was reviewed by Council's environmental Health Officer, who raised no objections, subject to conditions of consent.

**9. PARRAMATTA DEVELOPMENT CONTROL PLAN 2023**

On Monday 28 August Council adopted the PDCP 2023. The new DCP will replace the five existing DCPs that apply within the Local Government Area and will serve as a primary supportive planning document to the Parramatta Local Environmental Plan 2023 for guiding development and land use decisions made by Council.

Section 1.4 of the adopted PDCP which concerns the relationship to other plans and policies is outlined below:

*If a Development Application has been lodged before the commencement of the draft DCP in relation to land to which the draft DCP applies, and the Development Application has not been finally determined before the commencement of the draft DCP, the Development Application must be determined as if the draft DCP had not commenced.*

In this instance the application was lodged 26 August 2022 and therefore is to be assessed under the Parramatta Development Control Plan 2011.

Whilst the application has been assessed under the Parramatta Development Control Plan 2011, it is noted that the proposal does not unreasonably defer from the aims and objectives of the PDCP 2023 and is considered complimentary of the expected future design and character of the area.

**10. DEVELOPMENT CONTRIBUTIONS**

As this Development Application was lodged on 26 August 2022, the City of Parramatta Council (Outside Parramatta CBD) Contributions Plan 2021 applies to the land. As such, a development contribution based on the GFA of the development is required to be paid. A standard condition of consent has been imposed requiring the contribution to be paid prior to the issue of a Construction Certificate.

**11. BONDS**

In accordance with Council's Schedule of Fees and Charges, the developer will be obliged to pay Security Bonds to ensure the protection of civil infrastructure located in the public domain adjacent to the site. A standard condition of consent has been imposed requiring the Security Bond to be paid prior to the issue of a Construction Certificate.

**12. EP&A REGULATION 2021**

Applicable Regulation considerations including demolition, fire safety, fire upgrades, compliance with the Building Code of Australia, compliance with the Home Building Act, PCA appointment, notice of commencement of works, sign on work sites, critical stage inspections and records of inspection have been addressed by appropriate consent conditions, refer to Appendix 1.

**13. THE LIKELY IMPACTS OF THE DEVELOPMENT**

The assessment demonstrates that the proposal will not have any significant adverse impacts upon any adjoining properties or the environment through compliance with the applicable planning instruments and controls. All relevant issues regarding environmental impacts of the development are discussed elsewhere in this report, including natural impacts such as tree removal, and built environment impacts such as traffic and built form. In the context of the site and the assessments provided by Council's experts, the development is considered satisfactory in terms of environmental impacts.

**14. SUITABILITY OF THE SITE**

The subject site can accommodate a development of centre-based child care facility without causing further impacts on the amenity of surrounding properties and is ideally located close to public transport links, services and facilities.

Suitable investigations and documentation have been provided to demonstrate that the site can be made suitable for the proposed development and the development is consistent with the land use planning framework for the locality.

No natural hazards or site constraints exist that are likely to have an unacceptably adverse impact on the proposed development.

Subject to the conditions provided within the recommendation to this report, the site is considered to be suitable for the proposed development.

## 15. PUBLIC CONSULTATION

In accordance with the Consolidated City of Parramatta Notification Procedures the Development Application was advertised between 6 September 2022 and 27 September 2022. In total, 11 submissions were received. Key concerns raised in the submissions are addressed below.

Issue	Response
<b>Traffic/Parking</b>	<p>The development application was accompanied with a Traffic and Parking Report in which a detailed assessment was carried out by Council's Traffic and Transport Investigations Engineer who provided the following:</p> <p>Based on the analysis and information submitted by the applicant, the proposed development is not expected to have a significant traffic impact on the surrounding road network. The proposal can be supported on traffic and parking grounds subject to the imposition of conditions of consent.</p>
<b>Amenity:</b> <ul style="list-style-type: none"> <li>– <b>Visual Privacy;</b></li> <li>– <b>Noise Impacts.</b></li> </ul>	<p>In regard to visual privacy, the proposed development is not considered likely to create any overlooking impacts onto neighbouring properties as the childcare centre keeps the play areas to the ground floor. All first-floor windows are adequately setback from the boundary and will not have provide unreasonable overlooking opportunities.</p> <p>In regard to noise impacts, the proposal utilises a 1.8m high solid barrier around the perimeter of the outdoor play area and is considered to be acceptable. Council's Environmental Health Officer raised no objections to the proposal, subject to conditions of consent.</p>
<b>Bulk and scale/over development</b>	The proposed development will have compliant building height, FSR and setbacks and is not considered to be of an incompatible scale to the surrounding streetscape.
<b>Structural integrity from basement excavation</b>	A standard condition of consent has been imposed which requires adequate dilapidation reports to be undertaken to surrounding properties to ensure that the excavation and construction works do not cause undue damage.

## 16. PUBLIC INTEREST

Subject to implementation of conditions of consent outlined in the recommendation below, no circumstances have been identified to indicate this proposal would be contrary to the public interest.

## 17. CONCLUSION

The application has been assessed relative to section 4.15 of the Environmental Planning and Assessment Act 1979, taking into consideration all relevant state and local planning controls.

Having regard to the assessment of the proposal from a merit perspective, Council officers are satisfied that the development has been appropriately designed and will provide acceptable levels of amenity for the future children of the centre. It is considered that the proposal sufficiently minimises adverse impacts on the amenity of neighbouring properties. Hence the development is consistent with the intentions of the relevant planning controls and represents a form of development contemplated by the relevant statutory and non-statutory controls applying to the land. On balance, the proposal has demonstrated a satisfactory response to the objectives and controls of the applicable planning framework.

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 and is recommended for approval subject to conditions.

**18. RECOMMENDATION**

Pursuant to Section 4.16 of the Environmental Planning and Assessment Act, 1979:

- A. **That** the Parramatta Local Planning Panel, exercising the function of the consent authority, **approve** the development consent to DA/669/2022 for '*demolition of existing structures, tree removal and construction of a 60 place childcare centre basement parking*' on land at 67 Kent Street, Epping.

**REASONS FOR APPROVAL**

1. The development is permissible in the R2 Low Density Residential zone pursuant to Parramatta Local Environmental Plan 2011 and generally satisfies the requirements of the applicable planning framework.
  2. The development will be compatible with the emerging and planned future character of the area.
  3. The development will promote a land use that provides a facility to meet the day to day needs of residents.
  4. The proposal provides a non-residential land use that has amenity impacts that can be appropriately managed.
  5. The development is in the public interest because it is consistent with the objectives of for development in the R2 Low Density Residential zone.
  6. For the reasons given above, approval of the application is in the public interest.
- B. **That** Council advise those who made a submission of the determination.

**“Appendix 1” to Section 4.15 Assessment Report - DA/669/2022****DRAFT CONDITIONS OF CONSENT**

Upon the signature of the applicable delegate, the conditions in this Appendix will form the conditions of development consent.

**Development Consent No.:** DA/669/2022  
**Property Address:** LOT 11 DP 3908  
 67 Kent Street, EPPING NSW 2121

**PART A – GENERAL CONDITIONS****PA0001 #Approved Plans & Support Documents**

1. Development must be carried out in accordance with the following approved plans and supporting documentation (stamped by Council), except where the conditions of this consent expressly require otherwise:

**Architectural Drawings (Project No. 08735)**

Drawing No.	Issue	Plan Title	Dated
DA:04	B	Site Plan	04/11/2022
DA:05	B	Basement	04/11/2022
DA:06	B	Ground Level	04/11/2022
DA:07	A	Level 1/Attic	22/06/2022
DA:08	A	Roof Level	22/06/2022
DA:09	A	E+W Elevations	22/06/2022
DA:10	A	N+S Elevations	22/06/2022
DA:11	A	Sections	22/06/2022
DA:12	A	Sections: Cut and Fill	22/06/2022
DA:17	A	Evacuation Plan	22/06/2022

**Civil Drawings/Stormwater (Project No. 210502-CW)**

Drawing No.	Issue	Plan Title	Dated
D1	C	Cover Sheet	11/07/2022
D2	C	Bulk Earthworks Plan	11/07/2022
D3	C	Driveway Profile Plan & Long Sections	11/07/2022
D4	C	Road Site Plan	11/07/2022
D5	C	Civil Works Details	11/07/2022



Landscape Drawings

Drawing No.	Issue	Plan Title	Dated
L-01	D	Landscape Concept	24/10/2022
L-02	D	3D Renders	24/10/2022

Specialist Reports

Document	Ref No.	Issue	Prepared By	Dated
Statement of Environmental Effects	22/157	3	The Planning Hub	21/06/2022
Preliminary Site Investigation	E2272-1	0	Geotechnical Consultants Australia	08/12/2021
Detailed Site Investigation	E2272-1	0	Geotechnical Consultants Australia	20/05/2022
Remedial Action Plan	E2272-1	0	Geotechnical Consultants Australia	30/05/2022
Noise Impact Assessment	210977R1	0	Rodney Stevens Acoustics	05/04/2022
Noise Management Plan	210977R2	0	Rodney Stevens Acoustics	05/04/2022
Access Report	LP_21465	1	Lindsay Perry Access	16/04/2022
Plan of Management	-	-	-	May 2022
Traffic Report	21404	-	Varga Traffic Planning	07/04/2022
Arborist Report	7649	3	Redgum Horticultural	26/07/2023

In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of consent, the condition prevails.

**Note:** An inconsistency occurs between an approved plan and supporting documentation or between an approved plan and a condition when it is not possible to comply with both at the relevant time.

**Reason:** To ensure all parties are aware of the approved plans and supporting documentation that applies to the development

**PA0003 Construction Certificate**

2. Prior to commencement of any construction works associated with the approved development (including excavation if applicable), it is mandatory to obtain a Construction Certificate. Plans, specifications and relevant documentation accompanying the Construction Certificate must include any requirements imposed by conditions of this Development Consent.

**Reason:** To ensure compliance with legislative requirements.

**PA0004 No encroachment on Council and/or Adjoining proper**

3. The development must be constructed within the confines of the property boundary. No portion of the proposed structure, including footings/slabs, gates and doors during opening and closing operations must encroach upon Council's footpath area or the boundaries of the adjacent properties.

**Reason:** To ensure no injury is caused to persons and the building is erected in accordance with the approval granted within the boundaries of the site.

**PA0011 #Demolition of Buildings**

4. Approval is granted for the demolition of all buildings and outbuildings currently on the property, subject to 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.

- (b) 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 commencing. 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). The demolition must not commence prior to the date stated in the notification.
- (c) 5 working days (i.e., Monday to Friday with the exclusion of Public Holidays) notice in writing is to be given to City of Parramatta 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.

- (d) On the first day of demolition, work is not to commence until City of Parramatta 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 Work Cover's document "Your Guide to Working with Asbestos", and demolition works must at all times comply with its requirements.
- (e) 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. 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 469 of the Work Health and Safety Regulation 2017.
- (f) Demolition must not commence until all trees required to be retained are protected in accordance with the conditions detailed under "Prior to Works Commencing" in this Consent.
- (g) 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.
- (h) Prior to the commencement of any demolition works, and where the site ceases to be occupied during works, the property owner must notify Council to discontinue the domestic waste service and to collect any garbage and recycling bins from any dwelling/ building that is to be demolished. Waste service charges will continue to be charged where this is not done. Construction and/ or demolition workers are not permitted to use Council's domestic waste service for the disposal of any waste.
- (i) Demolition works involving the removal and disposal of asbestos cement in excess of 10 square meters, must only be undertaken by contractors who hold a current WorkCover "Demolition Licence" and a current WorkCover "Class 2 (Restricted) Asbestos Licence".
- (j) Demolition works are restricted to Monday to Saturday between the hours of 7.00am to 5.00pm. No demolition works are to be undertaken on Sundays or Public Holidays.
- (k) 1.8m high Protective fencing is to be installed to prevent public access to the site.
- (l) A pedestrian and Traffic Management Plan must be submitted to the satisfaction of Council prior to commencement of demolition and/or excavation. It must include details of the:
  - (i) Proposed ingress and egress of vehicles to and from the construction site;

- (ii) Proposed protection of pedestrians adjacent to the site;
- (iii) Proposed pedestrian management whilst vehicles are entering and leaving the site.
- (m) All asbestos laden waste, including asbestos cement flat and corrugated sheets must be disposed of at a tipping facility licensed by the NSW Environment Protection Authority (EPA).
- (n) Before demolition works begin, adequate toilet facilities are to be provided.
- (o) After completion, the applicant must notify City of Parramatta within 7 days to assess the site and ensure compliance with AS2601-2001 – Demolition of Structures.
- (p) Within 14 days of completion of demolition, the applicant must submit to Council:
  - (i) An asbestos clearance certificate issued by a suitably qualified person if asbestos was removed from the site; 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. In reviewing such documentation Council will require the provision of original.
  - (iii) Payment of fees in accordance with Council's current schedule of fees and charges for inspection by Parramatta Council of the demolition site prior to commencement of any demolition works and after the completion of the demolition works.

**Reason:** To protect the amenity of the area.

**PA0013 LSL Payment Const> \$250,000**

5. Before the issue of a Construction Certificate, the applicant is to ensure that the person liable pays the Long Service Levy of 0.25% of the value of building and construction work where the cost of building is \$250,000 or more (inclusive of GST) or as calculated at the date of this consent to the Long Service Corporation or Council under section 34 of the *Building and Construction Industry Long Service Payments Act 1986* and provides proof of this payment to the Certifier.

**Note:** The Long Service Levy is to be paid directly to the **Long Service Corporation** at [www.longservice.nsw.gov.au](http://www.longservice.nsw.gov.au). For more information, please contact the Levy support team on 13 14 41.

**Reason:** To ensure that the Long Service Levy is paid.

**PA0014 #Payment of Security deposits**

6. Before the commencement of any works on the site or the issue of a construction certificate, the applicant must make all of the following payments to Council and provide written evidence of these payments to the certifier:

Bond Type	Amount
Nature Strip and Roadway:.	\$25,750

The payments will be used for the cost of:

- making good any damage caused to any council property (including street trees) as a consequence of carrying out the works to which the consent relates,
- completing any public work such as roadwork, kerbing and guttering, footway construction, stormwater drainage and environmental controls, required in connection with this consent, and
- any inspection carried out by Council in connection with the completion of public work or the making good any damage to council property.

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

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

**Note:** The bond may be paid, by EFTPOS, bank cheque, or be an unconditional bank guarantee.

Should a bank guarantee be lodged it must:

- (a) Have no expiry date;
- (b) Be forwarded directly from the issuing bank with a cover letter that refers to Development Consent DA/669/2022;
- (c) Specifically reference the items and amounts being guaranteed. If a single bank guarantee is submitted for multiple items it must be itemised.

Should it become necessary for Council to uplift the bank guarantee, notice in writing will be forwarded to the applicant fourteen days prior to such action being taken. No bank guarantee will be accepted that has been issued directly by the applicant.

A dilapidation report is required to be prepared and submitted electronically to the City of Parramatta Council ([council@cityofparramatta.nsw.gov.au](mailto:council@cityofparramatta.nsw.gov.au)) prior to any work or demolition commencing and with the payment of the bond/s.

The dilapidation report is required to document/record any existing damage to kerbs, footpaths, roads, nature strips, street trees and furniture within street frontage/s bounding the site up to and including the centre of the road.

**Reason:** To safe guard the public assets of council and to ensure that these assets are repaired/maintained in a timely manner so as not to cause any disruption or possible accidents to the public.

**PA0015 #Payment of Sec7.11 Contributions**

7. Before the issue of a construction, the applicant must pay the following contributions to Council for:

Contribution Type	Amount
Open space and outdoor recreation	\$ 2,522.12
Traffic and transport	\$ 18,253.34
Plan administration	\$ 949.28
<b>Total</b>	<b>\$ 21,724.74</b>

The total contribution payable to Council under this condition is \$21,724.74 as calculated at the date of this consent, in accordance with City of Parramatta (Outside Parramatta) CBD Contributions Plan 2021 – Amendment 1.

The total amount payable may be adjusted at the time the payment is made, in accordance with the provisions of the City of Parramatta (Outside Parramatta) CBD Contributions Plan 2021 – Amendment 1.

A copy of the development contributions plan is available for inspection at <https://www.cityofparramatta.nsw.gov.au/development/planning/development-contributions>.

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

**PANSC Non-standard - General Matters**

8. Following demolition and removal of associated wastes, an inspection of the exposed surface should be performed by a suitably qualified environmental consultant.

**Reason:** To ensure that the demolition and contamination requirements are met.

**ECA0001 Hazardous/intractable waste disposed legislation**

1. Hazardous or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of Safework NSW and the EPA, and with the provisions of:
- Work Health and Safety Act 2011;
  - NSW Protection Of the Environment Operations Act 1997 (NSW); and
  - NSW Environment Protection Authority (EPA) Waste Classification Guidelines.

**Reason:** To ensure that the land is suitable for the proposed development and any contaminating material required to be removed from the property is removed in accordance with the prescribed manner.

**ECA0004 Imported fill**

9. All fill imported onto the site shall be validated to ensure the imported fill is suitable for the proposed land use from a contamination perspective. Fill imported on to the site shall also be compatible with the existing soil characteristic for site drainage purposes.

Council may require details of appropriate validation of imported fill material to be submitted with any application for future development of the site. Hence all fill imported onto the site should be validated by either one or both of the following methods during remediation works:

- (a) Imported fill should be accompanied by documentation from the supplier which certifies that the material is not contaminated based upon analyses of the material for the known past history of the site where the material is obtained; and/or
- (b) Sampling and analysis of the fill material shall be conducted in accordance with NSW EPA (1995) Sampling Design Guidelines.

**Reason:** To ensure imported fill is of an acceptable standard.

**ECA0006 Require to notify about new contamination evidence**

10. 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.

**Reason:** To ensure that the land is suitable for its proposed use and poses no risk to the environment and human health.

**ECA0009 Contaminated waste to licensed EPA landfill**

11. Any contamination material to be removed from the site shall be disposed of to an EPA licensed landfill.

**Reason:** To comply with the statutory requirements of the Protection of the Environment Operations Act 1997.

**EPA0062 Soil and Water Management – Stockpiles**

12. Stockpiles of topsoil, sand, aggregate, soil or other material are not to be located on any drainage line or easement, natural watercourse, footpath or roadway and shall be protected with adequate sediment controls.

**Reason:** To ensure that building materials are not washed into stormwater drains.

**EPA0063 Nuisance Lighting**

13. 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 the Interim Australian Standard DR AS/NZS 4282:2018 The Control of the Obtrusive Effects of Outdoor Lighting.

**Reason:** To protect the amenity of the surrounding neighbourhood from the emission of light.

#### **EPA0068 Erosion and Sediment Control Measures**

14. Erosion and sediment control measures are to be installed in accordance with the publication 'Urban Stormwater: Soils and Construction "The Blue Book" 2004 (4th edition) prior to the commencement of any demolition, excavation or construction works upon the site. These measures are to be maintained throughout the entire works.

**Reason:** To ensure soil and water management controls are in place before site works commence.

#### **EPA0069 Erosion and Sediment Control - Run Off**

15. Works are not to result in sedimentation and or run-off from the approved works onto the adjoining properties and or public lands. The person having the benefit of this consent must ensure sediment is not tracked out from the development site.

**Reason:** To ensure no adverse impacts on neighbouring properties.

### **PART B – BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE**

**(Note:** Some conditions contained in other sections of this consent (including prior to occupation/use commencing) may need to be considered when preparing detailed drawings/specifications for the Construction Certificate.)

#### **PB0030 Infrastructure & Restoration Adm. fee for all DAs**

16. An Infrastructure and Restoration Administration Fee must be paid to Council prior to the issue of a Construction Certificate.

The fee will be in accordance with Councils adopted 'Fees and Charges' at the time of payment.

**Note:** Council's Customer Service Team can advise of the current fee and can be contacted on 9806 5524.

**Reason:** To comply with Council's adopted Fees and Charges Document and to ensure compliance with conditions of consent.

#### **PB0053 Construct. Site Management Plan**

17. Before the issue of a construction certificate, the applicant must ensure a construction site management plan is prepared before it is provided to and approved by the certifier. The plan must include the following matters:

- location and materials for protective fencing and hoardings to the perimeter on the site
- provisions for public safety



- pedestrian and vehicular site access points and construction activity zones
- details of construction traffic management, including proposed truck movements to and from the site and estimated frequency of those movements, and measures to preserve pedestrian safety in the vicinity of the site
- protective measures for on-site tree preservation (including in accordance with AS 4970-2009 Protection of trees on development sites and Council's DCP, if applicable) and trees in adjoining public domain (if applicable)
- details of any bulk earthworks to be carried out
- location of site storage areas and sheds
- equipment used to carry out all works
- a garbage container with a tight-fitting lid
- dust, noise and vibration control measures
- location of temporary toilets.

The applicant must ensure a copy of the approved construction site management plan is kept on-site at all times during construction.

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

#### **PB0055 Waste Management Plan**

18. Before the issue of a construction certificate, the applicant is to ensure that a waste management plan is prepared in accordance with the EPA's Waste Classification Guidelines and the following requirements before it is provided to and approved by the certifier:

(a) Council's Waste Management Development Control Plan

**OR**

(b) Details the following:

- the contact details of the person(s) removing the waste
- an estimate of the waste (type and quantity) and whether the waste is expected to be reused, recycled or go to landfill
- the address of the disposal location(s) where the waste is to be taken

The applicant must ensure the waste management plan is referred to in the construction site management plan and kept on-site at all times during construction.

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

#### **DB0001 Stormwater Disposal**

19. The construction certificate application shall include a final detailed stormwater drainage plan and specifications suitable for construction, prepared by a qualified and experienced stormwater drainage consultant.

The final plan shall be in accordance with the abovementioned stormwater plan and shall comply with City of Parramatta Stormwater Disposal Policy, the Basix requirements and with AS 3500. The plans shall in particular include the following.

- The overflow pipe in the overflow pit shall be upsized to a 225mm UPVC pipe
- GSP #6 and GSP 7 and perimeter walls of the basement shall be raised to ensure surface flows are directed to the pits and that emergency overflows are directed towards the OSD tank.
- The orifice size plate shall be adjusted to account for the bypass generated by the WHUD system
- A 1m wide swale shall be provided along the western boundary to capture the localized upstream catchment. The swale shall be connected to the overflow pit by passing the OSD system.

**Reason:** To ensure satisfactory stormwater disposal.

#### **DB0002 Retaining walls**

20. If no retaining walls are marked on the approved plans no approval is granted as part of this approval for the construction of any retaining wall that is greater than 600mm in height or within 900mm of any property boundary.

The provision of retaining walls along common boundary lines shall not impact on neighbouring properties. If impact upon neighbouring properties (including fences) is anticipated, then written approval from the affected neighbour shall be obtained and submitted to the certifying authority prior commencement of the works.

Structural details, certified by a practicing structural engineer, shall accompany the application for a Construction Certificate for assessment and approval by the certifying authority.

**Reason:** To minimise impact on adjoining properties.

#### **DB0003 Sydney Water Quick check**

21. A building plan approval must be obtained from Sydney Water Tap in™ to ensure that the approved development will not impact Sydney Water infrastructure.

A copy of the building plan approval receipt from Sydney Water Tap in™ must be submitted to the Principal Certifying Authority upon request prior to works commencing.

Please refer to the website <http://www.sydneywater.com.au/tapin/index.htm>, Sydney Water Tap in™, or telephone 13 20 92.

**Reason:** To ensure the requirements of Sydney Water have been complied with.

**DB0004 Dial Before you Dig Service**

22. Prior to any excavation on or near the subject site the person/s having benefit of this consent are required to contact the NSW Dial Before You Dig Service (NDBYD) on 1100 to receive written confirmation from NDBYD that the proposed excavation will not conflict with any underground utility services. The person/s having the benefit of this consent are required to forward the written confirmation from NDBYD to their Principal Certifying Authority (PCA) prior to any excavation occurring.

**Reason:** To ensure Council's assets are not damaged.

**DB0007 Basement carpark and subsurface drainage**

23. The basement stormwater pump-out system, must be designed and constructed to include the following:

- (a) A holding tank capable of storing the run-off from a 100 year ARI (average reoccurrence interval) - 2 hour duration storm event, allowing for pump failure.
- (b) A two pump system (on an alternate basis) capable of emptying the holding tank at a rate equal to the lower of:
  - (i) The permissible site discharge (PSD) rate; or
  - (ii) The rate of inflow for the one hour, 5 year ARI storm event.
- (c) An alarm system comprising of basement pump-out failure warning sign together with a flashing strobe light and siren installed at a clearly visible location at the entrance to the basement in case of pump failure.
- (d) A 100 mm freeboard to all parking spaces.
- (e) Submission of full hydraulic details and pump manufacturers specifications.
- (f) Pump out system to be connected to a stilling pit and gravity line before discharge to the street gutter.

Plans and design calculations along with certification from the designer indicating that the design complies with the above requirements are to be submitted to the satisfaction of the Principal Certifying Authority prior to issue of the Construction Certificate.

**Reason:** To ensure satisfactory storm water disposal.

**DB0012 #On Site Detention**

24. Full engineering construction details of the stormwater system, including OSD structures, pipe networks and calculations as per following points, shall be submitted for the approval of the PCA prior to release of the Construction Certificate for any work on the site.

- (a) The stormwater drainage detail design shall be prepared by a Registered Stormwater Design Engineer and shall be generally in accordance with the following Stormwater Plans approved by this

consent and with Council's Stormwater Disposal Policy, Council's Design and Development Guidelines, The Upper Parramatta River Catchment Trust On Site Detention Hand book (Third or Fourth Edition), the relevant Australian Standards and the National Construction Code.

- Stormwater drainage plan, Ref. No. 210502-SW, Revision C, drawing D3 dated 17 Aug 2022, prepared by Quantum Engineers.
- Stormwater drainage plan, Ref. No. 210502-SW, Revision C, drawing D4 dated 17 Aug 2022, prepared by Quantum Engineers.
- Stormwater drainage plan, Ref. No. 210502-SW, Revision C, drawing D5 dated 17 Aug 2022, prepared by Quantum Engineers.
- Stormwater drainage plan, Ref. No. 210502-SW, Revision C, drawing D6 dated 17 Aug 2022, prepared by Quantum Engineers.
- Stormwater drainage plan, Ref. No. 210502-SW, Revision C, drawing D7 dated 17 Aug 2022, prepared by Quantum Engineers.
- Stormwater drainage plan, Ref. No. 210502-SW, Revision C, drawing D8 dated 17 Aug 2022, prepared by Quantum Engineers.

(a) A Site Storage Requirement of 250 m<sup>3</sup>/ha and a Permissible Site Discharge of 210 L/s/ha (when using 3rd edition of UPRCT's handbook)

(b) Adequate grate(s) to be provided so the OSD tank storage area can be inspected from outside for silt and debris, and to ensure adequate cross ventilation within the tank.

(c) Certificate from registered structural engineer certifying the structural adequacy of the OSD tank structure.

**Reason:** To minimise the quantity of storm water run-off from the site, surcharge from the existing drainage system and to manage downstream flooding.

#### **DB0013 #Water treatment for stormwater**

25. Water quality treatment devices must be installed to manage surface runoff water to Kent Street to satisfy section 3.3.6.1 of Parramatta City Council Development Control Plan 2011. Details of the proposed devices and their location must accompany the application for a Construction Certificate to the satisfaction of the Certifying Authority.

**Reason:** To ensure appropriate water quality treatment measures are in place.

#### **DB0017 Construction of a standard vehicular crossing**

26. A standard vehicular crossing shall be constructed in accordance with Council's Standard Drawing numbers DS8 and DS10. Details must

accompany an application for a Construction Certificate to the satisfaction of the Certifying Authority.

A Vehicle Crossing application must be submitted to Council together with the appropriate fee as outlined in Council's adopted Fees and Charges prior to any work commencing.

**Reason:** To ensure appropriate vehicular access is provided.

**DB0021 Impact on Existing Utility Installations**

27. Where work is likely to disturb or impact upon utility installations, (e.g. power pole, telecommunications infrastructure etc.) written confirmation from the affected utility provider that they raise no objections to the proposed works must accompany an application for a Construction Certificate to the satisfaction of the Certifying Authority.

**Reason:** To ensure no unauthorised work to public utility installations and to minimise costs to Council.

**DB0022 Support for Council Rds, footpath, drainage reserv.**

28. Council property adjoining the construction site must be fully supported at all times during all demolition, excavation and construction works. Details of any required shoring, propping and anchoring devices adjoining Council property, are to be prepared by a qualified structural or geotechnical engineer. These details must accompany an application for a Construction Certificate and be to the satisfaction of the Principal Certifying Authority (PCA). A copy of these details must be forwarded to Council prior to any work being commenced.

Backfilling of excavations adjoining Council property or any void remaining at the completion of the construction between the building and Council property must be fully compacted prior to the completion of works.

**Reason:** To protect Council's infrastructure.

**DB0026 Driveway Grades**

29. The grades of the driveway, including transitions, must comply with Australian Standard 2890.1 to prevent the underside of the vehicles scraping. Where the geometric change in grade exceeds 18%, the gradients of the driveway and ramps shall be checked using the method at Appendix C in AS2890.1:2004 and adjustments will be made to accommodate suitable transition lengths. Details are to be provided with the application for a Construction Certificate.

**Reason:** To provide suitable vehicle access without disruption to pedestrian and vehicular traffic.

**DBNSC Non-standard - Prior to the issue of a CC**

30. Prior to the issue of a Construction Certificate, a certificate shall be submitted to the Certifying Authority certifying that:

The piped and roof drainage system has been designed to an Average Recurrence Interval of not less than 100 years.

**Note:** Where the City of Parramatta Council is nominated to issue a Construction Certificate for stormwater drainage, the following details will be required:

- i. Full details of the proposed stormwater drainage system should be submitted. Details should include a full calculation schedule producing hydrologic and hydraulic grade line analysis (similar to that shown in "Australian Rainfall and Runoff", published by the Institution of Engineers, Australia), catchment plan, pipe sizes, discharge points, natural and finished surface levels, invert levels etc.
- ii. A Plan showing the natural surface and finished surface and finished surface contours to AHD should be submitted. The natural surface contours should be extended into the adjoining properties. The finished surface contours should be of such an interval as to give a true representation of the proposed regarding of the site. If so desired, the finished surface contours may be presented in red ink on a single print of a site plan that shows proposed finished surface spot levels.

Reason: To ensure the roof drainage system is designed for the 1% AEP storm event

31. Prior to the issue of a Construction Certificate, Details of the proposed connection into Council pipe located in 13 Jervis St, Ermington shall be submitted to and approved by Council's Civil Infrastructure Unit.

Reason: To ensure satisfactory stormwater disposal through Councils

#### **EFB0001 Design of fit-out to comply with food safety stand**

32. Detailed plans of any food / beverage preparation facilities and waste storage areas shall be submitted to the principal certifying authority (PCA) prior to the issue of the construction certificate.

The fit-out of the food premises shall comply with:

- (a) Australian Standard AS4674-2004 - Design, Construction and Fit-out of Food Premises.
- (b) Food Safety Standards
  - Standard 3.2.2 Food Safety Practices and General Requirements
  - Standard 3.2.3 Food Premises and Equipment
- (c) The cool rooms shall be provided with safety devices to comply with G1.2 of the BCA.

- (d) No approval is granted for any remote storage area.
- (e) The business being registered with City of Parramatta (retail) or NSW Food Authority (wholesale/retail meat/manufacturer).
- (f) Comply with the requirements of Sydney Water – Trade Waste Section (grease trap).

If a Private Certifier is to be used, the final inspection shall be carried out by a suitably qualified person to ensure that food standards are met. Council's Environmental Health Officer may be engaged to carry out the required inspection for a prescribed fee.

**Note:** Copies of AS4764-2004 may be obtained from Standards Australia. Copies of the Food Standards Code may be obtained from Australia and New Zealand Food Authority.

Alternatively, you may obtain a copy of the 'Food premises design, construction and fit-out guide' from Council. This guide is based on the above standards and sets out minimum requirements to achieve compliance.

**Reason:** To ensure design of the premises meets relevant public health standards.

#### **LB0003 #Tree Retention**

33. Prior to the issue of the Construction Certificate, the Certifying Authority and Project Arborist must both be satisfied, in writing, that all proposed stormwater infrastructure is relocated outside the structural root zone of all trees to be retained within the adjoining properties.

The stormwater detailed design notes are to be amended to discuss non-destruction construction method for the installation of drainage pipes within the TPZ of trees (as numbered in the table). Pipes are to be installed using non-destructive construction method such as hydro-vac or careful hand-dig to retain all roots >30mm in diameter. Pipes are to be threaded through roots.

All design modifications within the TPZ of trees to be retained will need to be pre-approved by the Project Arborist before they are issued for Construction Certificate to ensure they have minimised the impact to the trees as per AS4970-2009 *Protection of trees on development sites*. Tree protection methodology and design changes to be added to all relevant plans and be submitted with the Construction Certificate application.

**Reason:** To ensure adequate protection of existing trees.

#### **LB0006 #Statement on specific tree protection**

34. A Methodology Statement, prepared by a suitably qualified Consulting Arborist (Australian Qualification Framework Level 5), must accompany the application for a Construction Certificate. This statement is to identify the measures to be implemented for protection of trees numbered 3, 4, 9 and

16 located within the adjoining properties during construction and the expected future health of the trees. The statement is to be structured so that each of the following stages of construction are individually addressed and supervised by the Project Arborist:

- (a) Tree protection measures inclusive of canopy, trunk and root zone to be clearly identified and discussed in accordance with AS 4970-2009 - *Protection of Trees on Development Sites*;
  - (b) Supervision of any minor excavation to be undertaken within the calculated Tree Protection Zones of the above nominated trees and/or within three (3) metres of any other existing tree equal to or greater than five (5) metres in height located on any adjoining property.
  - (c) Installation of services (i.e. using non-destructive sensitive construction method, bridging of roots, under-boring, hand-digging) and Back filling;
  - (d) Landscaping (i.e. minimise cultivation, compaction and excavation of planting within the TPZ & SRZ);
  - (e) A Tree Protection Plan to identify the specific type of tree protection measures and location required for each tree;
  - (f) Plus any other stages that the Consulting Arborist deems necessary.
- Reason:** To ensure adequate protection of existing trees.

**TB0001 #Car Parking Condition**

35. The PCA shall ascertain that any new element in the basement carpark not illustrated on the approved plans such as columns, garage doors, fire safety measures and the like do not compromise appropriate manoeuvring and that compliance is maintained with AS 2890.1, AS 2890.2 and AS 2890.6. Details are to be illustrated on plans submitted with the construction certificate application.

**Reason:** To ensure appropriate vehicular manoeuvring is provided.

**TB0002 #Bicycle parking condition**

36. Four (4) bicycle spaces/racks are to be provided on-site and used accordingly. The bicycle storage/racks are to comply with AS 2890.3-2015. Details are to be illustrated on plans submitted with the construction certificate.

**Reason:** To comply with Council's parking requirements.

**TB0003 #Parking Provision**

37. Parking spaces are to be provided in accordance with the approved plans and with AS 2890.1, AS 2890.2 and AS 2890.6. A total of 16 parking spaces is to be provided and be allocated as follows:

- a) Eight (8) parking spaces for staff parking;
- b) Eight (8) visitor parking spaces including one (1) space as accessible parking.

Details are to be illustrated on plans submitted with the construction certificate application.



**Reason:** To comply with Council's parking requirements and Australian Standards.

## **PART C – BEFORE THE COMMENCEMENT OF BUILDING WORK**

### **BC0001 Toilet facilities on site**

38. Prior to work commencing, adequate toilet facilities are to be provided on the work site.

**Reason:** To ensure adequate toilet facilities are provided.

### **PC0001 #Appointment of PCA**

39. Prior to commencement of work, the person having the benefit of the Development Consent and Construction Certificate approval must:

- (a) Appoint a Principal Certifying Authority (PCA) and notify Council in writing of the appointment (irrespective of whether Council or an accredited private certifier) within 7 days; and
- (b) Notify Council in writing a minimum of 48 hours prior to work commencing of the intended date of commencement.

The Principal Certifying Authority must determine and advise the person having the benefit of the Construction Certificate when inspections, certification and compliance certificates are required.

**Reason:** To comply with legislative requirements.

### **PC0002 Enclosure of the site**

40. The site must be enclosed by a 1.8m high security fence erected wholly within the confines of the site to prevent unauthorised access. The fence must be installed to the satisfaction of the Principal Certifying Authority prior to the commencement of any work on site.

**Reason:** To ensure public safety.

### **PC0003 Site Sign**

41. A sign must be erected in a prominent position on any site involving excavation, erection or demolition of a building in accordance with Clause 70 of the Environmental Planning and Assessment Regulations 2021 detailing:

- (a) Unauthorised entry of the work site is prohibited;
- (b) The name of the principal contractor (or person in charge of the work site), their telephone number enabling 24hour contact; and
- (c) The name, address and telephone number of the Principal Certifying Authority;
- (d) The development consent approved construction hours;
- (e) The sign must be maintained during excavation, demolition and building work, and removed when the work has been completed.
- (f) This condition does not apply where works are being carried out inside an existing building.

**Reason:** Statutory requirement.

**PC0005 Public liability insurance**

42. Public risk insurance in the amount of not less than \$20 million or such other amount as Council may require by notice) must be obtained and furnished to Council before any works authorised by this consent are conducted:
- (a) Above;
  - (b) Below; or
  - (c) On

Any public land owned or controlled by Council. The public risk insurance must be maintained for the period during which these works are being undertaken.

The public risk insurance must be satisfactory to Council and list Council as an insured and/or interested party.

A copy of the insurance policy obtained must be forwarded to Council before any of the works commence.

**Note:** Applications for hoarding permits, vehicular crossing etc. will require evidence of insurance upon lodgement of the application.

**Reason:** To ensure the community is protected from the cost of any claim for damages arising from works authorised by this consent conducted above, below or on any public land owned or controlled by Council.

**DC0002 Road Opening Permits - DA's involving drainage wrk**

43. The applicant must apply for a road-opening permit where a new pipeline is proposed to be constructed within or across Council owned land. Additional road opening permits and fees may be necessary where connections to public utilities are required (e.g. telephone, electricity, sewer, water or gas).

In addition, no drainage work can be carried out within the Council owned land without this permit being issued. A copy is required to be kept on site.

**Reason:** To protect Council's assets throughout the development process.

**DC0003 Dilapidation survey & report for private properties**

44. Prior to the commencement of any excavation works on site, the applicant must submit for approval by the Principal Certifying Authority (with an electronic copy forwarded to Council at [council@cityofparramatta.nsw.gov.au](mailto:council@cityofparramatta.nsw.gov.au)) a dilapidation report on the visible and structural condition of all neighbouring structures within the 'zone of influence' of the excavation face to a depth of twice that of the excavation.

The report must include a photographic survey of the adjoining properties detailing their physical condition, both internally and externally, including

such items as walls, ceilings, roof, structural members and other similar items. The report must be completed by a consulting structural/geotechnical engineer in accordance with the recommendation of the geotechnical report.

In the event access to adjoining allotments for the completion of a dilapidation survey is denied, the applicant must demonstrate in writing that all reasonable steps have been taken to advise the adjoining allotment owners of the benefit of this survey and details of failure to gain consent for access to the satisfaction of the Principle Certifying Authority.

**Note:** This documentation is for record keeping purposes only, and can be made available to an applicant or affected property owner should it be requested to resolve any dispute over damage to adjoining properties arising from works. It is in the applicant's and adjoining owner's interest for it to be as detailed as possible.

**Reason:** Management of records.

#### **DC0006 Erosion and Sediment Control measures**

45. Erosion and sediment control measures are to be installed in accordance with the publication 'Urban Stormwater: Soils and Construction "The Blue Book" 2004 (4th edition) prior to the commencement of any demolition, excavation or construction works upon the site. These measures are to be maintained throughout the entire works.

**Reason:** To ensure soil and water management controls are in place before site works commence.

#### **DC0007 Site Maintenance**

46. Prior to commencement of works and during construction works, the development site and any road verge immediately in front of the site must be maintained in a safe and tidy manner. In this regard the following must be undertaken:

- (a) all existing buildings are to be secured and maintained to prevent unauthorised access and vandalism
- (b) all site boundaries are to be secured and maintained to prevent unauthorised access to the site;
- (c) all general refuse and/or litter (inclusive of any uncollected mail/advertising material) is to be removed from the site on a fortnightly basis;
- (d) the site is to be maintained clear of weeds; and
- (e) all grassed areas are to be mowed on a monthly basis.

**Reason:** To ensure public safety and maintenance of the amenity of the surrounding environment.

#### **DC0008 Shoring and adequacy of adjoining property**

47. If development involves excavation that extends below the level of the base, of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the persons own expense:

- (a) Protect and support the adjoining premises from possible damage from the excavation
- (b) Where necessary, underpin the adjoining premises to prevent any such damage.

**Note:** If the person with the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to the condition not applying, this condition does not apply.

**Reason:** As prescribed under the Environmental Planning and Assessment Regulation 2000.

#### **DC0009 Special Permits**

48. Unless otherwise specifically approved in writing by Council, all works, processes, storage of materials, loading and unloading associated with the development are to occur entirely within the property boundaries. The applicant, owner or builder must apply for specific permits if the following activities are required seeking approval pursuant to Section 138 of the Roads Act 1993:

- (a) On-street mobile plant:  
E.g. Cranes, concrete pumps, cherry-pickers, etc. - restrictions apply to the hours of operation and the area where the operation will occur, etc. Separate permits are required for each occasion and each piece of equipment. It is the applicant's, owner's and builder's responsibilities to take whatever steps are necessary to ensure the use of any equipment does not violate adjoining property owner's rights.
- (b) Storage of building materials and building waste containers (skips) on Council's property.
- (c) Permits to utilise Council property for the storage of building materials and building waste containers (skips) are required for each location they are to be stored. Failure to obtain the relevant permits will result in the building materials or building waste containers (skips) being impounded. Storage of building materials and waste containers within Council's open space areas, reserves and parks is prohibited.
- (d) Kerbside restrictions - construction zones:  
The applicant's attention is drawn to the possible existing kerbside restrictions adjacent to the development. Should the applicant require alteration of existing kerbside restrictions, or the provision of a work zones, the appropriate application must be made to Council and the fee paid. Applicants should note that the alternatives of such restrictions may require referral to Council's Traffic Committee. An earlier application is suggested to avoid delays in construction programs..

The application is to be lodged with Council's Customer Service Centre.

**Reason:** Proper management of public land.

#### **DC0010 Driveway Crossing Application**

49. All works associated with the construction and/or extension of a driveway crossover/layback within Council owned land requires an application to be lodged and approved by Council.

All footpath crossings, laybacks and driveways are to be constructed according to Council's Specification for Construction or Reconstruction of Standard Footpath Crossings and in compliance with Standard Drawings DS1 (Kerbs & Laybacks); DS7 (Standard Passenger Car Clearance Profile); DS8 (Standard Vehicular Crossing); DS9 (Heavy Duty Vehicular Crossing) and DS10 (Vehicular Crossing Profiles).

The application for a driveway crossing requires the completion of the relevant application form and accompanied by plans, grades/levels and specifications. A fee in accordance with Council's adopted 'Fees and Charges' will need to be paid at the time of lodgement.

**Note 1:** This development consent is for works wholly within the property. Development consent does not imply approval of the footpath or driveway levels, materials or location within the road reserve, regardless of whether the information is shown on the development application plans.

**Note 2:** Council's Customer Service Team can advise of the current fee and can be contacted on 9806 5524

**Reason:** To provide suitable vehicular access without disruption to pedestrian and vehicular traffic.

#### **ECC0003 Hazardous material survey**

50. At least one (1) week prior to demolition, the applicant must submit to the satisfaction of the Principal Certifying Authority a hazardous materials survey of the site. Hazardous materials include (but are not limited to) asbestos materials, synthetic mineral fibre, roof dust, PCB materials and lead based paint. The report must be prepared by a suitably qualified and experienced environmental scientist and must include at least the following information:

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

**Reason:** To ensure risks associated with the demolition have been identified and addressed prior to demolition work commencing.

**LC0002 #Tree protection as per arborist report**

51. The trees identified for protection within the consent shall be protected prior to and during the demolition/construction process in accordance with the Arboricultural Impact Assessment and Tree Protection Plan prepared by Redgum Horticultural (Excluding tree 13) dated 4/11/2022 and the conditions of consent.

**Reason:** To ensure the protection of the tree(s) to be retained on the site.

**LC0004 Protective fencing**

52. Prior to the commencement of any demolition, excavation or construction works, retained trees or treed areas must be fenced with a 1.8 metre high chainwire link or welded mesh fence. The fence is to be fully supported at grade, to minimise the disturbance of existing ground conditions within the canopy Tree Protection Zone or the setback nominated on the approved landscaping plan. The fencing is to be in place for the duration of the construction works. "Tree Protection Zone" signage must be attached to the protective fencing.

**Reason:** To protect the environmental amenity of the area.

**PART D – WHILE BUILDING WORK IS BEING CARRIED OUT****PD0001 Copy of development consent**

53. A copy of this development consent together with the stamped plans, referenced documents and associated specifications is to be held on-site during the course of any works to be referred to by all contractors to ensure compliance with the approval and the associated conditions of consent.

**Reason:** To ensure compliance with this consent.

**PD0003 Dust Control**

54. Dust control measures shall be implemented during all periods of earth works, demolition, excavation and construction to minimise the dust nuisance on surrounding properties. In this regard, dust minimisation practices must be carried out in accordance with Section 126 of the Protection of the Environment Operations Act 1997.

**Reason:** To protect the amenity of the area.

**PD0004 Materials on footpath**

55. No building materials skip bins, concrete pumps, cranes, machinery, temporary traffic control, signs or vehicles associated with the construction, excavation or demolition shall be stored or placed on/in Council's footpath, nature strip, roadway, park or reserve without the prior approval being issued by Council under section 138 of the Roads Act 1993.

**Reason:** To ensure pedestrian access.

**PD0006 Hours of work and noise**

56. The principal certifier must ensure that building work, demolition or vegetation removal is only carried out between:

- 7am to 5pm on Monday to Friday
- 7am to 5pm on Saturday

The principal certifier must ensure building work, demolition or vegetation removal is not carried out on Sundays and public holidays, except where there is an emergency.

Unless otherwise approved within a construction site management plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

**Note:** Any variation to the hours of work requires Council's approval.

Council may permit an extension to the approved hours of work in extenuating or unforeseen circumstances subject to an application and approval by City of Parramatta Council (CoPC) in accordance with the 'After Hours Works for Approved Development Applications Policy' (Policy).

A copy of this Policy and associated application form is available on the CoPC website. A fee will apply to any application made in accordance with this Policy.

The matters of consideration of any extension sought would include, but not be limited to the following aspects and should be detailed in any application made:

- Nature of work to be conducted;
- Reason for after-hours completion;
- Residual effect of work (noise, traffic, parking);
- Demographic of area (residential, industrial);
- Compliance history of subject premises;
- Current hours of operation;
- Mitigating or extenuating circumstance; and
- Impact of works not being completed.

**Reason:** To protect the amenity of the surrounding area.

#### **PD0007 Complaints register**

57. The applicant must record details of all complaints received during the construction period in an up to date complaints register. The register must record, but not necessarily be limited to:

- (a) The date and time of the complaint;
- (b) The means by which the complaint was made;
- (c) Any personal details of the complainants that were provided, or if no details were provided, a note to that effect;
- (d) Nature of the complaints;

- (e) Any action(s) taken by the applicant in relation to the complaint, including any follow up contact with the complaint; and
- (f) If no action was taken by the applicant in relation to the complaint, the reason(s) why no action was taken.

The complaints register must be made available to Council and/or the Principal Certifying Authority upon request.

**Reason:** To allow the Principal Certifying Authority/Council to respond to concerns raised by the public.

#### **PD0008 Construction Noise**

58. While building work is being carried out, and where a noise and vibration management plan is approved under this consent, the applicant must ensure that any noise generated from the site is controlled in accordance with the requirements of that plan.

OR

While building work is being carried out and where no noise and vibration management plan is approved under this consent, the applicant is to ensure that any noise caused by demolition, vegetation removal or construction does not exceed an LAeq (15 min) of 5dB(A) above background noise, when measured at any lot boundary of the property where the construction is being carried out.

**Reason:** To protect the amenity of the neighbourhood.

#### **PD0010 Survey Report**

59. While building work is being carried out, a registered surveyor is to measure and mark the positions of the following and provide them to the principal certifier: -

- (a) All footings/ foundations
- (b) At other stages of construction – any marks that are required by the principal certifier

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

#### **PD0020 Building Work Compliance BCA**

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

**Reason:** To comply with the Environmental Planning & Assessment Act 1979, as amended and the Environmental Planning & Assessment Regulation 2000.

#### **PD0022 Uncover Relics/Aboriginal Object**

61. While demolition or building work is being carried out, all such works must cease immediately if a relic or Aboriginal object is unexpectedly discovered. The applicant must notify the Heritage Council of NSW in respect of a relic and notify the Secretary of the Department of Planning, Industry and Environment and the Heritage Council of NSW in respect of an Aboriginal object. Building work may recommence at a time confirmed by either the



Heritage Council of NSW or the Secretary of the Department of Planning, Industry and Environment.

In this condition:

- “relic” means any deposit, artefact, object or material evidence that:-
  - (a) relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and
  - (b) is of State or local heritage significance; and
- “Aboriginal object” means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains.

**Reason:** To ensure the protection of objects of potential significance during works.

**DD0002 #Stormwater must be connected to the kerb & gutter**

62. Stormwater must be connected to the kerb and gutter within the property frontage of 67 Kent Street, Epping.

**Reason:** To ensure satisfactory storm water disposal.

**DD0005 Erosion & sediment control measures**

63. Works are not to result in sedimentation and or run-off from the approved works onto the adjoining properties and or public lands. The person having the benefit of this consent must ensure sediment is not tracked out from the development site.

**Reason:** To ensure no adverse impacts on neighbouring properties.

**DD0006 Damage to public infrastructure**

64. Any damage to Council assets that impacts on public safety during construction is to be rectified immediately to the satisfaction of Council with all costs to be borne by the person having the benefit of the Development Consent.

**Reason:** To protect public safety.

**ECD0004 Waste data maintained**

65. A Waste Data file is to be maintained, recording building/demolition contractor's details and waste disposal receipts/dockets for any demolition or construction wastes from the site. These records must be retained and made available to Council on request.

**Reason:** To confirm waste minimisation objectives under Parramatta Development Control Plan 2011 are met.

**ECD0005 Disposal of Material at Licensed Landfill**

66. Any contamination material to be removed from the site shall be disposed of to an EPA licensed landfill.

**Reason:** To comply with the statutory requirements of the Protection of the Environment Operations Act 1997.

**EPD0001 Dust Control**

67. Dust control measures shall be implemented during all periods of earth works, demolition, excavation and construction to minimise the dust nuisance on surrounding properties. In this regard, dust minimisation practices must be carried out in accordance with Council's Guidelines for Controlling Dust from Construction Sites and Section 126 of the Protection of the Environment Operations Act 1997.

**Reason:** To protect the amenity of the area.

**LD0004 Material storage and trees**

68. No materials (including waste and soil), equipment or goods of any type are to be stored, kept or placed within 5m of the trunk of a tree or within the Tree Protection Zone (TPZ) of any tree whichever is greater. All activities involving soil level changes, excavation, all types of cleaning, and refuelling are prohibited within the TPZ.

**Reason:** To ensure the protection of the tree(s) to be retained on the site.

**LD0006 #Excavation to be supervised by arborist**

69. Any excavation within the stated tree protection area of trees located within the adjoining properties is to be supervised by an Australian Qualifications Framework (AQF) Level 3 Consulting Arborist.

All works within this zone is to be carried out using non-destructive construction method such as hydrovac (on the lowest setting) or careful hand-dig to retain all roots >30mm in diameter.

Once the work is completed a written summary detailing the works undertaken is to be forwarded to the Certifying Authority and to state if works were carried out in accordance with the Conditions of Consent and AS4970 *Protection of Trees on the Development sites*.

**Reason:** To provided adequate protection of trees.

**LD0009 Planting Requirements**

70. All trees planted as required by the approved landscape plan are to be a minimum 45 litre container size. All shrubs planted as part of the approved landscape plan are to have a minimum 200mm container size.

**Reason:** To ensure appropriate landscaping.

**LD0011 Tree Removal**

71. Tree removal within the site and road reserve shall be undertaken in accordance with the arboricultural impact assessment prepared by Redgum Horticultural dated 4 November, 2022.

**Reason:** To facilitate development.

**LD0013 Removal of trees by an arborist**

72. All approved tree removal must be supervised by an Australian Qualification Framework (AQF) Level 3 Arborist and undertaken in accordance with the Code of Practice for Amenity Tree Industry 1998.

**Reason:** To ensure tree works are carried out safely.

**TD0001 Road Occupancy Permit**

73. Occupation of any part of the footpath or road at or above (carrying out work, storage of building materials and the like) during construction of the development shall require a Road Occupancy Permit from Council. The applicant is to be required to submit an application for a Road Occupancy Permit through Council's Traffic and Transport Services, prior to carrying out the construction/restoration works.

**Reason:** To ensure proper management of Council assets.

**TD0002 Oversize vehicles using local roads**

74. Oversize vehicles using local roads require approval from the National Heavy Vehicle Regulator (NHVR). The applicant is required to submit an application for an Oversize Vehicle Access Permit through NHVR's portal ([www.nhvr.gov.au/about-us/nhvr-portal](http://www.nhvr.gov.au/about-us/nhvr-portal)) prior to driving through local roads within the City of Parramatta LGA.

**Reason:** To ensure maintenance of Council's assets.

## **PART E – BEFORE THE ISSUE OF AN OCCUPATION CERTIFICATE**

**BE0001 Record of inspections carried out**

75. In accordance with Clause 162B of the Environmental Planning and Assessment Regulation 2000, the Principal Certifying Authority responsible for the critical stage inspections must make a record of each inspection as soon as practicable after it has been carried out. The record must include:
- (a) The development application and Construction Certificate number as registered;
  - (b) The address of the property at which the inspection was carried out;
  - (c) The type of inspection;
  - (d) The date on which it was carried out;
  - (e) The name and accreditation number of the certifying authority by whom the inspection was carried out; and
  - (f) Whether or not the inspection was satisfactory in the opinion of the certifying authority who carried it out.

**Reason:** To comply with statutory requirements.

**PE0001 Occupation Certificate**

76. Occupation or use of the building or part is not permitted until an Occupation Certificate has been issued in accordance with Section 6.9 of the Environmental Planning and Assessment Act 1979.

**Reason:** To comply with legislative requirements of the Environmental Planning and Assessment Act 1979.

#### **DE0003 Work-as-Executed Plan**

77. Works-As-Executed stormwater plans are to address the following:

- (a) A WAE survey shall be conducted and plans prepared showing the 'as built' of the complete on-site detention system including (but not limited to) discharge point into Council system, storage tank (including all critical elements), all pipes and pits connected to the OSD system, overland flow swale and surface levels that control surface flows to the OSD system and by design bypassing the OSD system.
- (b) The Work-As-Executed plans are prepared on the copies of the approved drainage plans issued with the Construction Certificate with the variations marked in red ink.
- (c) The Work-As-Executed plans have been prepared by a registered surveyor certifying the accuracy of dimensions, levels, storage volumes, etc.
- (d) The as built On-Site Detention (OSD) storage volumes are to be presented in a tabular form (depth verses volume table
- (e) OSD Works-As-Executed dimensions form (refer to UPRCT Handbook).
- (f) Certificate of Hydraulic Compliance from a qualified drainage / hydraulic engineer (refer to UPRCT Handbook). The certificate must only be provided after conducting a satisfactory final inspection. The final inspection shall include the application of all the ancillary components of the system including but not limited to: step-irons, orifice plate, trash screen with appropriate wall attachment, hinged lockable grates, confined space sign, functioning return lap valve and relief drains within DCP sump etc.
- (g) Certificate of Structural compliance of the OSD tank shall reference the structural elements including floor slab/foundations, walls and cover slab from a qualified structural engineer

The above is to be submitted to the Principal Certifying Authority prior to the issue of an occupation certificate and a copy is to accompany the Occupation Certificate when lodged with Council.

**Reason:** To ensure works comply with approved plans and adequate information is available for Council to update the Upper Parramatta River Catchment Trust.

#### **DE0005 OSD Positive Covenant/Restriction**

78. Prior to the issue of an Occupation Certificate a Positive Covenant and Restriction on the Use of Land under Section 88E of the Conveyancing Act

1919 must be created, burdening the owner with the requirement to maintain the on-site stormwater detention and WSUD facilities on the lot.

The terms of the 88E Instruments are to be generally in accordance with Council's "standard terms" available in Council's website, under Development Forms.

Where a Title exists, the Positive Covenant and Restriction on the Use of Land is to be created through via an application to the NSW Land Registry Services using forms 13PC and 13RPA. Accompanying this form is the requirement for a plan to scale showing the relative location of the On-Site Detention and WSUD facility, including its relationship to the building footprint.

Registered title documents showing the covenants and restrictions must be submitted to and approved by the Principal Certifying Authority prior to Occupation or use of on-site.

Electronic colour photographs in jpg format of the on-site detention facility shall accompany the application for the Positive Covenant and the Restriction on the Use of the Land. These photos shall include such elements as the orifice plate, trash screen, step irons, weir, sump and bench on the floor of the DCP, return pipe and flap valve, wide angle view of the storage area or multiple photos, grates closed from above, grates open showing the edges to the opening and under frame packing with mortar or concrete, all pipe entries to the DCP and confined space warning signs at each entry point. The photos must be well labelled and must differentiate between multiple tanks. Additional photos may be requested if required.

**Reason:** To ensure maintenance of on-site detention facilities.

#### **DE0018 Reinstatement of laybacks etc**

79. All redundant lay-backs and vehicular crossings must be reinstated to conventional kerb and gutter, foot-paving or grassed verge in accordance with Council's Standard Plan No. DS1. The reinstatement must be completed prior to the issue of an Occupation Certificate. All costs must be borne by the applicant.

**Reason:** To provide satisfactory drainage.

#### **DENSC Non-standard - Prior to issue of Occ/Sub Cert.**

80. Prior to the issue of any Occupation Certificate, the Principal Certifying Authority shall ensure that:
- a. Signage consistent with Appendix N of the UPRCT OSD Handbook (4<sup>th</sup> edition) is provided to each OSD tank including:
    - i. Confined spaces sign,
    - ii. OSD (identification) sign,

- b. No water is ponding in the tank beyond the reduced sump at the orifice plate.

**Reason:** To ensure the OSD tanks are constructed in accordance with the requirements of AS3500 and the UPRCT OSD Handbook.

**EAE0001 #All works/methods/procedures/control measures**

81. Prior to the issue of an occupation certificate (Interim or Final), written certification from a suitably qualified person(s) shall be submitted to the Principal Certifying Authority and City of Parramatta Council, stating that all works/methods/procedures/control measures approved by Council in the following report have been completed:

a) *Childcare Acoustic Report prepared by Rodney Stevens Acoustics; Ref: 210977R1 Rev0 dated 5 April 2022 and Noise Management Plan Ref: 210977R2; dated: 26/05/2022*

**Reason:** To demonstrate compliance with submitted reports.

**EFE0002 Notification of food business – Council**

82. Prior to an Occupation Certificate being issued, Council must be notified that the premises is to be used for the preparation of food for sale so that the premises can be registered on Council's food premises licensing database.

**Reason:** Compliance with the requirements of the Food Act.

**EFE0003 Certify mechanical ventilation installation**

83. Adequate ventilation to work areas and other occupied enclosures shall be provided in accordance with the requirements of the Building Code of Australia. Where any system of mechanical ventilation is installed, certification that the system functions in accordance with Australian Standard AS/NZS 1668.2.2012 is to be provided to the certifying authority prior to occupation of the premises.

**Reason:** To comply with the Building Code of Australia and the relevant Australian Standard.

**EFE0004 Certify fitout complies with food safety standards**

84. Certification to be provided to the principal certifying authority (PCA), prior to occupation, that the fit-out of the food premises has been completed in accordance with plans complying with food safety standards prescribed under the Food Act 2003, and the requirements of Australian Standard AS 4674 - 2004.

It is incumbent on the PCA to determine the competency of the person providing this certification, based on that person's qualifications, experience and currency of practice.

**Reason:** To ensure construction and fit-out of the premises meets relevant public health standards.

**LE0002 Cert.Auth.Arrange Qualified LandscapeArch.(multi)**

85. A qualified Landscape Architect/Designer must certify that the completed works are in accordance with the approved landscape plan. All landscape works must be completed prior to the issue of an Occupation Certificate.  
**Reason:** To ensure restoration of environmental amenity.

## **PART F – OCCUPATION AND ONGOING USE**

### **PFFNSC Non-standard - The Use of the Site**

86. The approved Child Care Centre is to have a maximum capacity of 60 children in total and operate in accordance with the stamped Plan of Management.  
**Reason:** To ensure compliance with the assessed operation of the child care centre.

### **PF0004 External Plant/Air-conditioning noise levels**

87. Any external plant/air-conditioning system must not exceed a noise level of 5dBA above the background noise level when measured at the boundaries of the property.  
**Reason:** To minimise noise impact of mechanical equipment.

### **PF0017 Goods not to be displayed outside premises**

88. No goods are to be stored/displayed outside the walls of the building.  
**Reason:** To ensure visual amenity.

### **PF0025 #Operating hours**

89. The days and hours of operation are restricted to:

Day	Time
Monday	7:00am – 6:00pm
Tuesday	7:00am – 6:00pm
Wednesday	7:00am – 6:00pm
Thursday	7:00am – 6:00pm
Friday	7:00am – 6:00pm
Saturday	Closed
Sunday	Closed
Public Holidays	Closed

**Reason:** To minimise the impact on the amenity of the area.

### **PF0049 Graffiti Management**

90. The owner/manager of the site/business is responsible for the removal of all graffiti from the building/structures/signage and/or fencing within 48 hours of its application.  
**Reason:** To ensure the removal of graffiti.

### **PF0054 Release of Securities/Bonds**

91. When Council receives an occupation certificate from the principal certifier, the applicant may lodge an application to release the securities held in accordance with City of Parramatta Schedule of Fees and Charges 2023/2024.

Council may use part, or all of the securities held to complete the works to its satisfaction if the works do not meet Council's requirements.

**Note:** A written application to Council's Civil Assets Team is required for the release of a bond and must quote the following:

- (a) Council's Development Application number; and
- (b) Site address.

**Note:** Council's Civil Assets Team will take up to 21 days from receipt of the request to provide the written advice.

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

**EAF0001 Use is not to cause offensive noise or vibration**

92. The use of the premises not giving rise to:

- (a) transmission of unacceptable vibration to any place of different occupancy,
- (b) a sound pressure level measured at any point on the boundary of any affected residential premises that exceeds the background noise level by more than 5 dB(A). The source noise level shall be assessed as an LAeq,15 min and adjusted in accordance with Environment Protection Authority (EPA) guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations, and temporal content as described in the NSW Environmental Planning & Assessment Act 1979: Noise Policy for Industry 2017 and the Protection of the Environment Operations Act 1997.

**Reason:** To prevent loss of amenity to the area.

**EAF0004 No 'offensive noise'**

93. Noise and vibration from the use and operation of any plant and equipment and/or building services associated with the premises shall not give rise to 'offensive noise' as defined by the Protection of the Environment Operations Act 1997.

**Reason:** To reduce noise levels.

**EAF0007 Noise from mechanical equipment**

94. The proposed use of the premises and the operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997.

**Reason:** To protect the amenity of the area.

**EAF0008 Noise to street**

95. There are to be no external speakers at the premises.



**Reason:** To prevent loss of amenity to the area.

**EFF0001 Food premises**

96. The operation of the premises is to comply with the relevant provisions of the Food Act 2003, Food Regulation 2015 and the Australia New Zealand Food Authority Food Standards Code.

**Reason:** To ensure operation of the premises complies with the relevant legislation and standards.

**EFF0003 Remove putrescible waste at sufficient frequency**

97. All putrescible waste shall be removed from the site with sufficient frequency to avoid nuisance from pests and odours.

**Reason:** To ensure provision of adequate waste disposal arrangements.

**EFF0004 Use is not to cause air impurities**

98. The operation of the premises is not to give rise to emissions of air impurities in contravention of the Protection of the Environment Operations Act 1997. Air emissions from the premises must not cause a nuisance from odours, nor be hazardous to human health or the environment.

**Reason:** To prevent loss of amenity to the area.

**TF0003 #Roller Shutter Door Opening Hours**

99. If a roller shutter door is to be provided at the driveway entry and exit from Kent Street, it is to be opened at all times during the centre's operating hours from 7am to 6pm Monday to Friday.

**Reason:** To comply with Council requirements.

**LNOTE1 Tree Removal on the adjoining property**

**ADVISORY NOTES**

The following information is provided for your assistance to ensure compliance with the *Environmental Planning and Assessment Act 1979* Environmental Planning and Assessment Regulation 2000, other relevant legislation and Council's policies and specifications. This information does not form part of the conditions of development consent pursuant to Section 80A of the Act.

- A tree application has been submitted and approved for the removal of Tree 13 – *Eucalyptus nicholii* (Narrow-leaved Peppermint) on the neighbouring property at 65 Kent Street, EPPING (TA/492/2023) to facilitate the basement excavation. To ensure continued safety to persons and property, it is recommended that these tree works are completed prior to the issue of the Construction Certificate. Excavation on the subject site prior to the tree's removal may destabilise the tree and cause the tree to fail.

**Date:** 23 October 2023

**Responsible Officer:** Darren Wan





zhinar architects

KENT STREET



1 Basement  
Scale 1:100 @ A1



NO.	REVISION	DATE	BY	APP.
1	ISSUED FOR DEVELOPMENT APPLICATION	20/07/2021	AM	AM
2	ISSUED FOR DEVELOPMENT APPLICATION	20/07/2021	AM	AM

PROJECT PARTIALS	REFERENCE
1. Project Description	
2. Project Location	
3. Project Context	
4. Project Objectives	
5. Project Constraints	
6. Project Risks	
7. Project Management	



Development Application  
Original DA:  
Zhinar Architects Pty Ltd

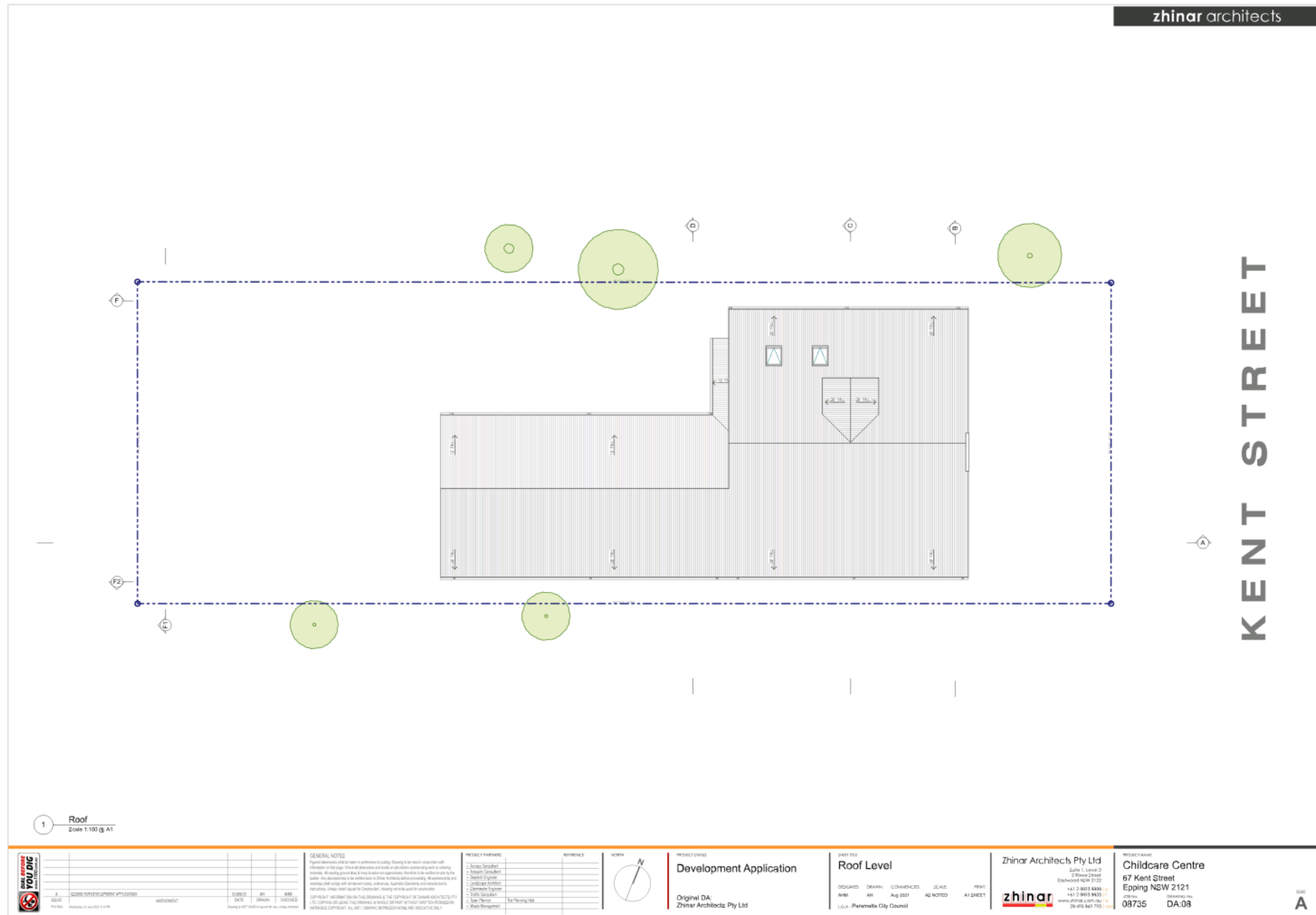
Basement  
DESIGNED: 20/07/2021  
DRAWN: AM  
CHECKED: AM  
DATE: Aug 2021  
SCALE: AS NOTED  
PROJECT: A1 SHEET

Zhinar Architects Pty Ltd  
Zhinar  
20/07/2021

Childcare Centre  
67 Kent Street  
Epping NSW 2121  
08735 DA-05



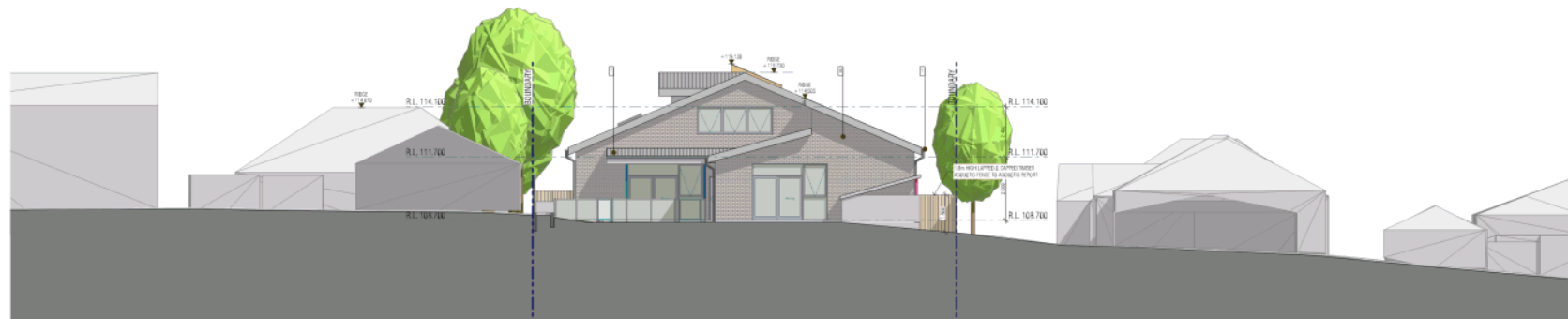




zhinar architects



1 East Elevation  
Scale 1:100 @ A1



2 West Elevation  
Scale 1:100 @ A1

\*3D Surrounding Site Model From Parramatta City Council

## MATERIALS LEGEND

DISCLAIMER - COLOURS MAY VARY FROM THE ORIGINAL BRICK-CUT COLOURS NEED TO BE CONFIRMED BEFORE PAINTING.

1 Powdercoating 1  
Rust/Grey/Downpipe  
Colour/Durux Markant  
"O.Z.A"

2 Paint Render 1  
External Wall - Light  
Durux - Whisper White "O.Z.A"

3 Powdercoating  
Window & Door Frames  
Durux Durux Zinc Matt Durux  
"O.Z.A"

4 Face Brick  
External Wall  
Austriac - Mineral Concrete  
"O.Z.A"

5 Feature Windows  
Clear & Coloured Glass  
"O.Z.A"

6 Paint Render 2  
External Wall  
Durux - Soft Stone "O.Z.A"



NO.	DESCRIPTION	DATE	BY	FOR
1	SCHEMATIC DEVELOPMENT APPLICATION			
2	DEVELOPMENT APPLICATION			

GENERAL NOTES:  
1. All development and construction is to be in accordance with the latest version of the relevant legislation and standards.  
2. All construction is to be in accordance with the latest version of the relevant legislation and standards.  
3. All construction is to be in accordance with the latest version of the relevant legislation and standards.  
4. All construction is to be in accordance with the latest version of the relevant legislation and standards.  
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9. All construction is to be in accordance with the latest version of the relevant legislation and standards.  
10. All construction is to be in accordance with the latest version of the relevant legislation and standards.

NO.	DESCRIPTION	DATE	BY	FOR
1	SCHEMATIC DEVELOPMENT APPLICATION			
2	DEVELOPMENT APPLICATION			

DEVELOPMENT APPLICATION  
Original DA:  
Zhinar Architects Pty Ltd

DEVELOPMENT APPLICATION  
Original DA:  
Zhinar Architects Pty Ltd

DEVELOPMENT APPLICATION  
Original DA:  
Zhinar Architects Pty Ltd

DEVELOPMENT APPLICATION  
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Zhinar Architects Pty Ltd

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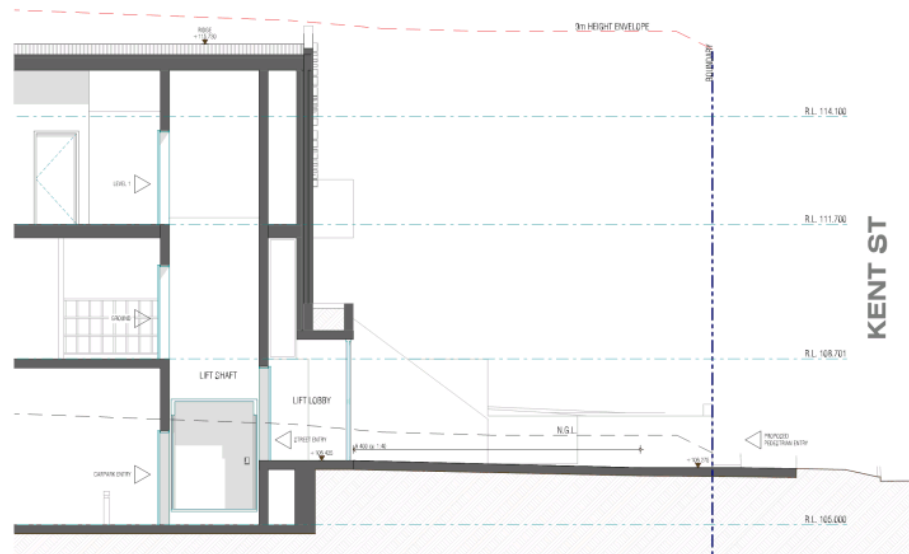
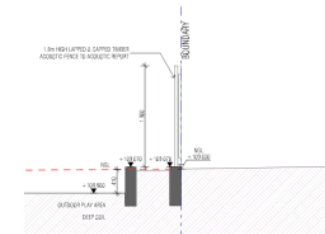
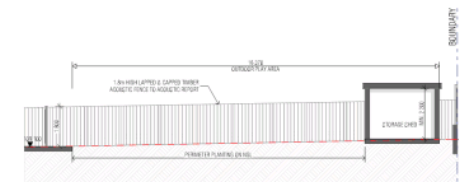
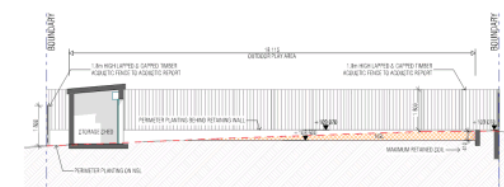
A







zhinar architects

1 Lift Entry Detail  
Scale 1:502 Outdoor Play Retaining - North  
Scale 1:1005 Max Playarea Retaining  
Scale 1:404 Outdoor Play Retaining - South  
Scale 1:1003 Outdoor Play Retaining - West  
Scale 1:100

NO.	REVISION	DATE	BY	CHKD
1	ISSUED FOR DEVELOPMENT APPLICATION	20/08/2021	DA	DA
2	REVISION	20/08/2021	DA	DA

**GENERAL NOTES:**  
 1. All dimensions are in millimetres unless otherwise stated.  
 2. All dimensions are to the face of the wall unless otherwise stated.  
 3. All dimensions are to the face of the wall unless otherwise stated.  
 4. All dimensions are to the face of the wall unless otherwise stated.  
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1	ISSUED FOR DEVELOPMENT APPLICATION	20/08/2021	DA	DA
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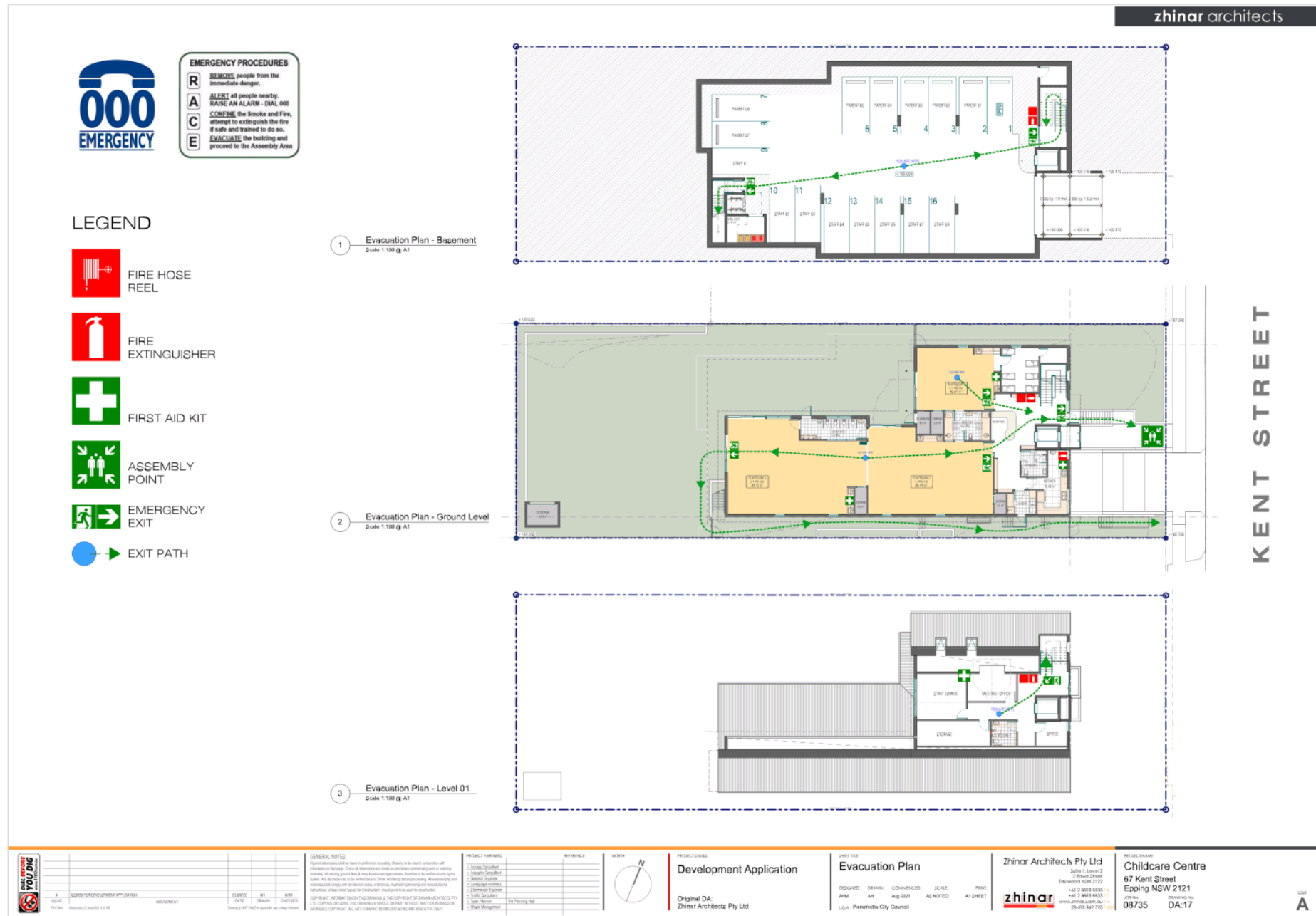
**GENERAL NOTES:**  
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**DEVELOPMENT APPLICATION**

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<b>ITEM NUMBER</b>	5.2
<b>SUBJECT</b>	PUBLIC MEETING: 68 Kirby St, RYDALMERE NSW 2116 (LOT 1 DP 27956)
<b>DESCRIPTION</b>	Demolition, tree removal and construction of a two storey, 66 place childcare centre with basement parking for 16 vehicles.
<b>REFERENCE</b>	DA/295/2023 - D09153830
<b>APPLICANT/S</b>	ArtMade Architects
<b>OWNERS</b>	Rydalmere Group Pty Ltd
<b>REPORT OF</b>	Group Manager Development and Traffic Services
<b>RECOMMENDED</b>	Refusal

**DATE OF REPORT 2 NOVEMBER 2023****REASON FOR REFERRAL TO LPP**

The application involves a contentious development, receiving 28 out of 29 unique submissions by way of objection.

**EXECUTIVE SUMMARY**

Development application DA/295/2023 was lodged on 27 May 2023 seeking approval for the demolition of existing structures, tree removal, construction of a three-storey, 66-place centre-based child care facility at 68 Kirby Street, Rydalmere.

The site is zoned R2 Low Density Residential. The immediate locality is predominantly zoned R2 Low Density Residential with pockets of RE1 Public Recreation and E4 General Industrial. A waterway zoned W1 Natural Waterways and conservation area zoned C2 Environmental Conservation lining up the edges of the waterway are located less than 100m to the west.

The proposed development, being a centre-based child care facility, is permitted with consent in the zone.

The application was notified in accordance with Council's Consolidated Notification Requirements from 6 June 2023 to 27 June 2023. Council received 29 submissions, 28 of these submissions are objection to the proposal and one in support. Key concerns raised in the submissions are as follows:

- Traffic and parking
- Safety – Accident Prone Corner
- Noise
- Scale – Overdevelopment
- Out of Character
- Concern regarding property values
- Staffing of the proposed centre
- Services
- Non-compliance with CCC Guidelines etc

On 21 June, an additional information request letter was issued to the applicant, raising the following concerns:

- Unencumbered outdoor play area deficiency
- Non-compliance with the Design Quality Principles
- Non-compliance with matters for consideration under Part 3 of the Child Care Planning Guideline, specifically – C5, C13 and C14
- Non-compliance with the Parramatta LEP 2023 FSR development standard
- Accessibility
- Stormwater, including Water Sensitive Urban Design
- Traffic
- Noise

On 4 September 2023, the proponent commenced Class 1 proceedings in the Land and Environment Court against the deemed refusal of the application. Nonetheless, a review of the submitted plans and documentation was undertaken. The assessment of the submitted plans and documents is detailed in the assessment section of this report.

#### **Section 4.15 Assessment Summary**

The application has been assessed relative to Section 4.15 of the *Environmental Planning and Assessment Act 1979*, taking into consideration all relevant State and local planning controls.

The proposed development is recommended for refusal. The proposed development has failed to satisfy relevant State and local development standards and controls, including the Child Care Planning Guideline. The assessment of the application against the relevant standards and controls are demonstrated in the assessment section of the report.

#### **RECOMMENDATION**

- (a) **That** the Parramatta Local Planning Panel, exercising the functions of Council under Section 4.16 of the *Environmental Planning and Assessment Act 1979*, **REFUSE** development consent for the reasons stipulated below and in Section 21 Recommendation of the assessment report.
- (b) **Further, that** submitters are advised of the decision.

#### **REASONS FOR REFUSAL**

- a) Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposal fails to satisfy Section 3.23 of the SEPP as it does not comply with the relevant provisions in the *Child Care Planning Guideline*, dated October 2021, as follows:
- i. Design Principle 1 – Context
  - ii. Design Principle 2 – Built-Form
  - iii. Design Principle 3 – Adaptive Learning Spaces
  - iv. Design Principle 4 – Sustainability
  - v. Design Principle 6 – Amenity
  - vi. Design Principle 7 – Safety

- vii. Consideration C1 – Amenity
- viii. Consideration C2 – Site Suitability
- ix. Consideration C5 – Local Character and Streetscape
- x. Consideration C11 – Amenity Impacts
- xi. Consideration C12 – Scale
- xii. Consideration C13 – Front Setback (including Secondary Front Setback)
- xiii. Consideration C14 – Side and Rear Setbacks
- xiv. Consideration C15 – Secure Access Points
- xv. Consideration C16 – Accessibility
- xvi. Consideration C21 – Visual Privacy
- xvii. Consideration C22 – Acoustic Privacy
- xviii. Consideration C23 – Acoustic Report
- xix. Consideration C30 – Car Parking Rate
- xx. Consideration C32 – Traffic Report
- xxi. Consideration C35 – Safety and Connectivity
- xxii. Consideration C37 – Car Parking Design

b) Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed development fails to satisfy the relevant provisions of the LEP, as follows:

- i. Clause 1.2.(2)(k) – that the proposal involves a structure that is not appropriate and not complementary to the low density residential character of the area
- ii. Clause 2.3(2) – that the proposal adversely impacts the neighbouring properties with the elevated outdoor play area 2 and full-height windows of indoor play area, raising visual privacy concerns; has a built-form that is not consistent with the low density residential setting of the locality and traffic implications with the inadequate vehicular access in the parking area and the parking shortfall.
- iii. Clause 6.2 – that the proposal involves unreasonable 1m fill at the north-western corner of the indoor play area 3, outside the footprint of the basement that would impact the future use and redevelopment of the land as the fill would be the future existing ground level of the land. The fill also promotes overlooking and contributes to the bulk of the development.

c) Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the proposed development does not meet compliance and/or consist of insufficient information to determine its compliance to the following sections of the *Parramatta Development Control Plan 2011*, as follows:

- i. Part 2.4.2 – Water Management – inadequate stormwater management system proposed
- ii. Part 2.4.6 – Development on Sloping Land – earthworks proposed, in particular, the fill of 1m at the north-western corner of the facility has not been minimised and that the design has failed to consider the topography of the land
- iii. Part 2.4.8 – Public Domain – the proposal has failed to give regard to the proposed development's interface with the public domain
- iv. Part 3.2.1 – Building Form and Massing – the proposed development's three-storey building and non-compliant rear and

secondary street front setbacks present unacceptable bulk and scale that is not consistent with the existing and desired future character of the locality













- v. Part 3.2.2. – Building Façade and Articulation - the proposed façade, in particular the secondary street front, presents an appearance of a multi-dwelling housing development (townhouse) with the vertical feature walls that provide an illusion of having at least three separate tenancies
  - vi. Part 3.2.3 – Roof Design – the proposed roof does not allow for an effective transition of roof forms with the roof forms of neighbouring properties
  - vii. Part 3.2.5 – Streetscape – the proposal has failed to be designed with regard to the character of the low density residential setting of the area and that the non-compliant secondary street front setback is not consistent with the established streetscape
  - viii. Part 3.2.6 – Fences – the proposed balustrades on the outdoor play areas fronting the secondary street that act as the boundary fence will have a height that is more than 1.8m
  - ix. Part 3.3.3. – Visual and Acoustic Privacy – the levels of the outdoor play area 2 and indoor play area 3, raised by at least 1m off the ground, present unreasonable visual privacy concerns onto the western and northern neighbours; the proposed acoustic privacy measures are not acceptable, in particular the clear acoustic fencing on the western edge of the outdoor play area, encouraging overlooking
  - x. Part 3.3.6 – Water Sensitive Urban Design – that the proposal has failed to satisfy Council's stormwater management system controls with inadequate design
  - xi. Part 3.3.7 – Waste Management – that the proposal has failed to satisfy Council's waste management requirements due to the inadequate manoeuvring and driveway grade for service vehicles
  - xii. Part 3.4.2 – Access for People with Disabilities – that the proposal has failed to address accessibility within the facility with inadequate documentation
  - xiii. Part 3.4.4 – Safety and Security – that the proposed pedestrian access points off Acacia Street do not have connected pedestrian pathway within Council verge
  - xiv. Part 3.6.2 – Parking and Vehicular Access – that the proposal has failed to provide adequate car parking within the site
- b. Pursuant to Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*, the proposal will have adverse impacts on to the natural and built environment with the excessive built-form, non-compliant rear and secondary street front setbacks
- c. Pursuant to Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*, the proposal will have adverse social impacts due to the following:
- i. Inadequate parking spaces on the site that would have traffic implications
  - ii. Visual privacy concerns to the western and northern neighbours due to the elevated outdoor play area 2 and indoor play area 3



- d. Pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*, the site is not considered suitable for the proposed development due to the following:
- i. As the proposed number of children to be given care in the facility drives the requirement to have a lower ground level that protrudes by at least 1m off the ground, consequently raising the levels of outdoor play area 2 and indoor play area 3
  - ii. The location of the site and the secondary street being a cul-de-sac does not allow vehicle parking shortfall and that surrounding road networks are not able to accommodate on-street parking
- e. Pursuant to Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*, the proposal is not in the public interest due to the following:
- i. The non-compliance with the relevant provisions in the SEPP (Transport & Infrastructure) 2021, referencing the *Child Care Planning Guideline*, Parramatta LEP 2023 and Parramatta DCP 2011, demonstrates that the proposed development is not in the public interest
  - ii. The proposal does not satisfy the objectives of the zone and the *Child Care Planning Guideline*, referenced in the SEPP (Transport & Infrastructure) 2021
  - iii. The proposal received 28 objections from the community

Patrick Santos  
**Senior Development Assessment Officer**

#### **ATTACHMENTS:**

1	 	Assessment Report	46 Pages
2	 	Locality Map	1 Page
3	 	Plans used during assessment	24 Pages
4	 	Internal plans used during assessment	4 Pages
5	 	Site Photos	23 Pages
6	 	Overlaid Plans - Basement X Ground Floor X Survey	1 Page

#### **REFERENCE MATERIAL**



<b>City of Parramatta</b>	
File No:	DA/295/2023

#### SECTION 4.15 ASSESSMENT REPORT Environmental Planning & Assessment Act 1979

<b>DA No:</b>	DA/295/2023
<b>Subject Property:</b>	68 Kirby St, Rydalmere Lot 1 DP 27956
<b>Proposal:</b>	Demolition, tree removal and construction of a three-storey, 66 place childcare centre with basement parking for 16 vehicles
<b>Date of receipt:</b>	27 May 2023
<b>Applicant:</b>	ArtMade Architects
<b>Owner:</b>	Rydalmere Group Pty Ltd
<b>Property owned by a Council employee or Councillor:</b>	The site is not known to be owned by a Council employee or Councillor
<b>Political donations/gifts disclosed:</b>	None disclosed on the application form
<b>Submissions received:</b>	29
<b>Recommendation:</b>	<b>REFUSAL</b>
<b>Assessment Officer:</b>	Patrick Santos

#### Legislative Requirements

<b>Relevant provisions considered under section 4.15(1)(a) of the Environmental Planning and Assessment Act 1979</b>	<ul style="list-style-type: none"> <li>• State Environmental Planning Policy (Biodiversity and Conservation) 2021</li> <li>• State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>• State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>• Parramatta Local Environmental Plan 2023 (PLEP 2023)</li> <li>• Parramatta Development Control Plan 2011 (PDCP 2011)</li> </ul>
<b>Zoning</b>	R2 Low Density Residential
<b>Bushfire Prone Land</b>	No
<b>Heritage</b>	No
<b>Heritage Conservation Area</b>	No
<b>Designated Development</b>	No
<b>Integrated Development</b>	No
<b>Clause 4.6 variation</b>	No
<b>Delegated Authority</b>	<b>Parramatta Local Planning Panel (PLPP)</b> – application is a contentious development under the Local Planning Panels Direction, dated 30 June 2020, and received 29 submissions.

#### 1. Executive Summary

Development application DA/295/2023 was lodged on 27 May 2023 seeking approval for the demolition of existing structures, tree removal, construction of a three-storey, 66-place centre-based child care facility at 68 Kirby Street, Rydalmere.

The site is zoned R2 Low Density Residential. The immediate locality is predominantly zoned R2 Low Density Residential with pockets of RE1 Public Recreation and E4 General Industrial. A waterway zoned W1 Natural Waterways and conservation area zoned C2 Environmental Conservation lining up the edges of the waterway are located less than 100m to the west.

The proposed development, being a centre-based child care facility, is permitted with consent in the zone.

The application was notified in accordance with Council's Consolidated Notification Requirements from 6 June 2023 to 27 June 2023. Council received 29 submissions, 28 of these submissions are objection to the proposal and one in support. Key concerns raised in the submissions are as follows:

- Traffic and parking
- Safety – Accident Prone Corner
- Noise
- Scale – Overdevelopment
- Out of Character
- Concern regarding property values
- Staffing of the proposed centre
- Services
- Non-compliance with CCC Guidelines etc

On 21 June, an additional information request letter was issued to the applicant, raising the following concerns:

- Unencumbered outdoor play area deficiency
- Non-compliance with the Design Quality Principles
- Non-compliance with matters for consideration under Part 3 of the Child Care Planning Guideline, specifically – C5, C13 and C14
- Non-compliance with the Parramatta LEP 2023 FSR development standard
- Accessibility
- Stormwater, including Water Sensitive Urban Design
- Traffic
- Noise

On 4 September 2023, the proponent commenced Class 1 proceedings in the Land and Environment Court against the deemed refusal of the application. Nonetheless, a review of the submitted plans and documentation was undertaken. The assessment of the submitted plans and documents is detailed in the assessment section of this report.

#### Section 4.15 Assessment Summary

The application has been assessed relative to Section 4.15 of the *Environmental Planning and Assessment Act 1979*, taking into consideration all relevant State and local planning controls.

The proposed development is recommended for refusal. The proposed development has failed to satisfy relevant State and local development standards and controls, including the Child Care Planning Guideline. The assessment of the application against the relevant standards and controls are demonstrated in the assessment section of the report.

## 2. Site Description and Conditions

The subject site is legally described as Lot 1 DP 27956 and commonly known as 68 Kirby Street, Rydalmere.

The lot currently comprises a single-storey dwelling house with a vehicular access off the cul-de-sac secondary street, Acacia Street, to an attached garage. The topography of the land falls to the rear with a 3m cross-fall.

The site is a corner block with a primary frontage width of 21m facing Kirby Street and secondary frontage width of 39.6m fronting Acacia Street, side boundary depth of 45.7m, and a total area of 1,213m<sup>2</sup>.

The immediate locality is similarly zoned (R2 Low Density Residential) as the subject site, predominantly characterised by low density residential developments, comprising mostly of single to double-storey dwelling houses.



Figure 1: Locality map of the subject site (outlined in red) and the immediate locality (source: Council's GIS).



Figure 2: Aerial imagery of the subject site (outlined in red) and the immediate locality (source: Council's GIS).





**Figure 3.** Zoning map of the subject site (outlined in yellow) and the immediate locality (source: Council's GIS).



**Figure 4.** FSR map of the subject site (outlined in yellow) and the immediate locality (source: Council's GIS).



**Figure 5.** Height of buildings map of the subject site (outlined in yellow) and the immediate locality (source: Council's GIS).



**Figure 6.** Frontage of the existing dwelling on the subject site fronting the secondary street – Acacia Street.





**Figure 7.** Eastern end of the subject site, showing the intersection of Acacia Street and Kirby Street.



**Figure 8.** Secondary front of the subject site showing the fenced off western end of the property comprising of its private open space and rear yard.



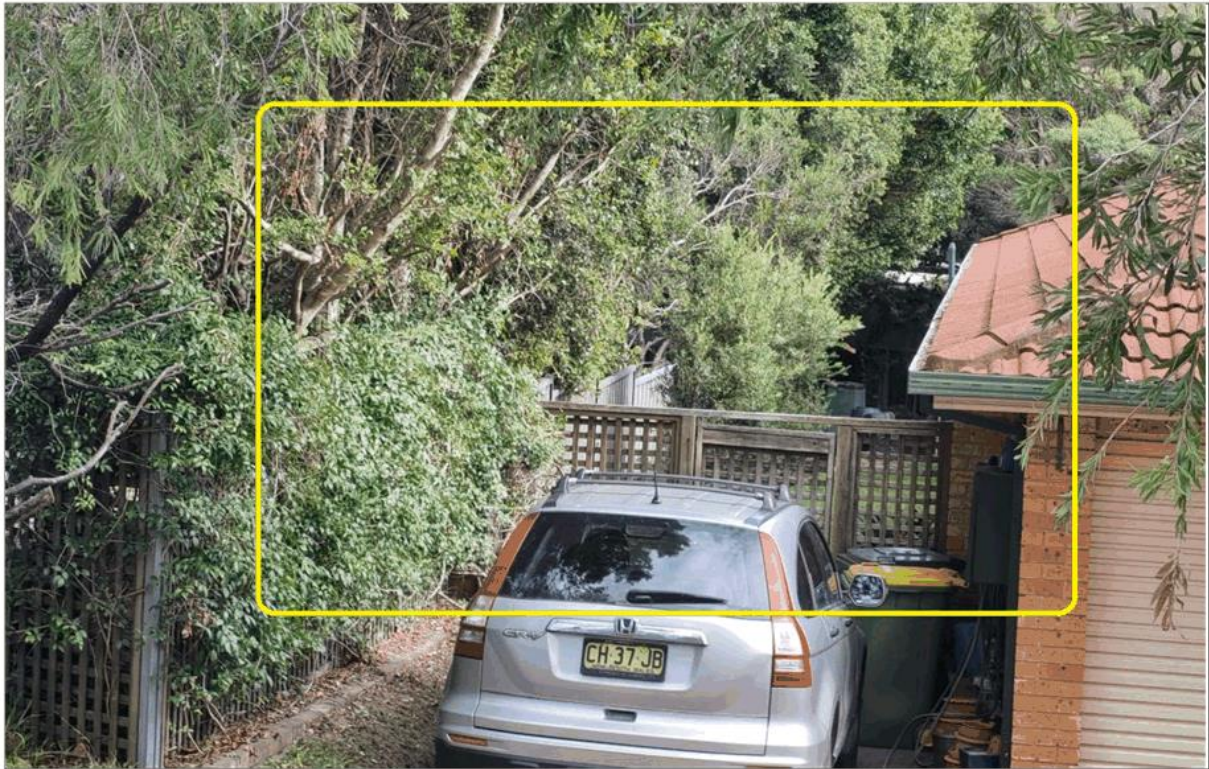


**Figure 9.** Image of the primary street frontage of the subject site, taken from across Kirby Street.



**Figure 10.** Image taken, across the road, in front of the subject site, with an outlook to the intersection of Kirby Street and Acacia Street





**Figure 11.** Image taken in front of the northern neighbour – 70 Kirby St, showing the back area and the common boundary fence.



**Figure 12.** Image of the interface between the subject site and the western neighbour (rear) along Acacia Street.





**Figure 13.** Northern outlook of the back yard of the subject site.





**Figure 14.** Back yard of the subject site, showing the rear elevation of the existing dwelling.



**Figure 15.** Southern outlook of the back yard of the subject site.



**Figure 16.** Image of the backyard of the subject site (foreground) with the neighbouring dwelling to west in the background



### 3. Relevant Site History

Council's records show no relevant existing approvals relating to the site and the application.

### 4. The Proposal

The application was lodged on 27 May 2023, seeking approval for the demolition, tree removal and construction of a 66-place, three-storey child care centre, with basement parking for 16 vehicles.

The proposal is comprised of the following:

#### Lower Ground Floor

- 16 parking spaces, including 10 staff parking and 6 visitor's parking
- Laundry room
- Bin storage room
- Pump and tank room

#### Ground Floor

- Reception area with lobby
- Office
- Accessible bathroom
- Indoor play areas 1, 2 and 3, each with own changing and sanitary facility
- Outdoor play areas 1 and 2

#### First Floor

- Staff room
- Kitchen
- Accessible bathroom
- Indoor play areas 4, 5 and 6

The centre is serviced on all three levels by a lift.

Pedestrian access is off Acacia Street and vehicular access is off Kirby Street, leading to the lower ground floor.



Figure 17. Concept imagery of the proposed development (source: ArtMade Architects).

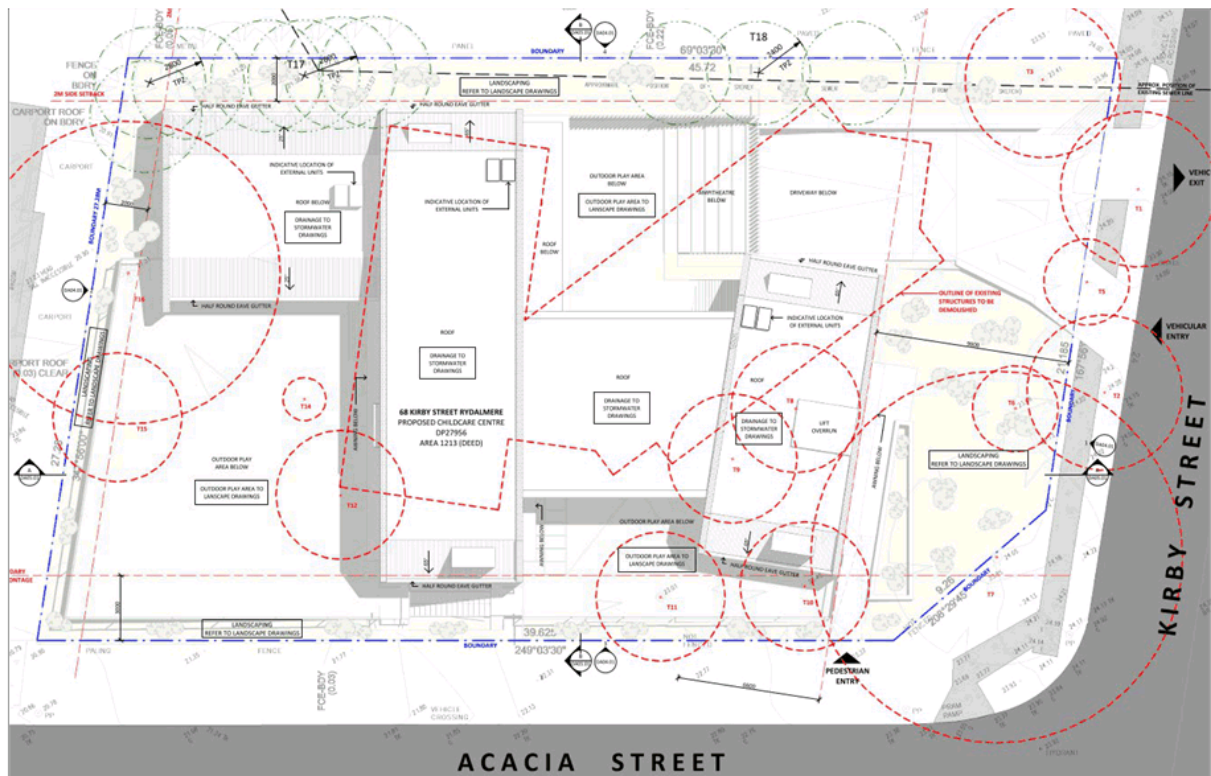


Figure 18. Site and demolition plan of the proposed development (source: ArtMade Architects).



Figure 19. Eastern elevation (primary frontage) of the proposed development (source: ArtMade Architects).

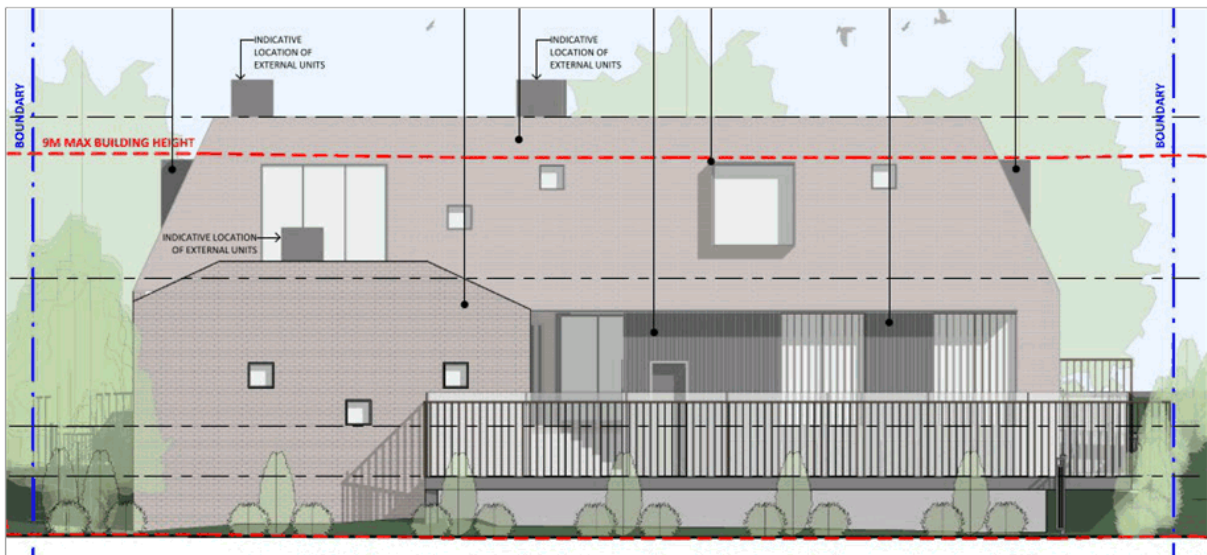


Figure 20. Western elevation (rear) of the proposed development, blue vertical hatched line indicates boundaries (source: ArtMade Architects).



Figure 21. Southern elevation (secondary street frontage) of the proposed development, blue vertical hatched line indicates boundaries (source: ArtMade Architects).

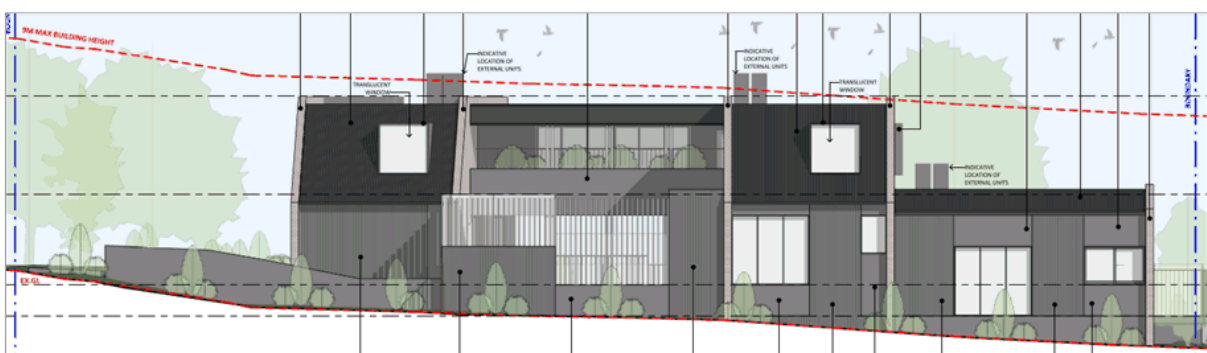
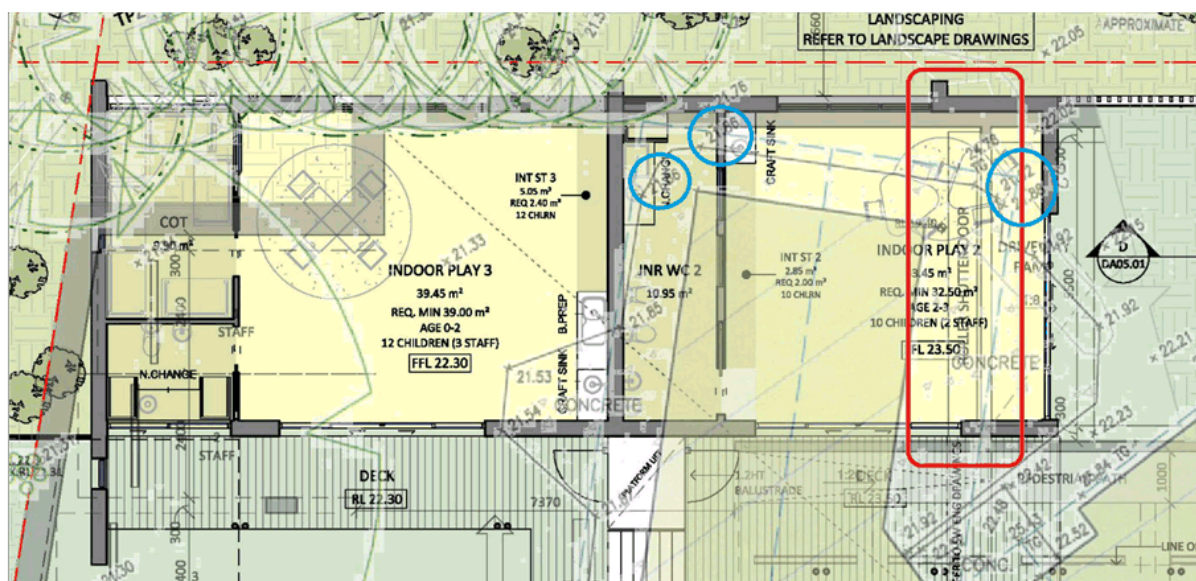


Figure 22. Northern elevation of the proposed development, blue vertical hatched line indicates boundaries (source: ArtMade Architects)

Note: The application was publicly notified as a two-storey development with a basement level. The deemed basement does not satisfy the definition of a basement in the LEP, as follows:

**basement** means the space of a building where the floor level of that space is predominantly below ground level (existing) and where the floor level of the storey immediately above is less than 1 metre above ground level (existing)





**Figure 23.** Extract of the overlaid basement, ground and survey plans. Outlined in red is the shutter door of the basement and the in blue are the spot levels indicating basement protrusion of more than 1m – approximately 1.6m above EGL.

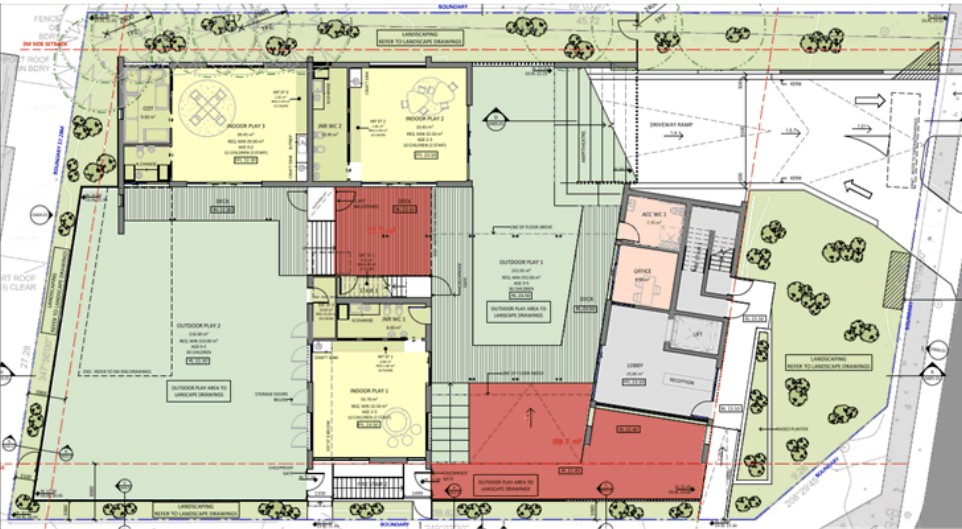
Figure 23 above demonstrates that the basement protrudes by more than 1m and is not a basement. As such, it is another storey that constitutes the development as a three-storey child care centre.

## 5. Relevant Application History

Date	Comment
27 May 2023	The subject development application was lodged.
6 June 2023	The application was put on neighbour notification until 27 June 2023. Council received 29 submissions during this period.
21 June 2023	Council's Planner carried out a site visit.  On the same day, an additional information request letter was issued to the applicant, raising the following concerns: <ul style="list-style-type: none"> <li>• Unencumbered outdoor play area deficiency</li> <li>• Non-compliance with the Design Quality Principles</li> <li>• Non-compliance with matters for consideration under Part 3 of the Child Care Planning Guideline, specifically – C5, C13 and C14</li> <li>• Non-compliance with the Parramatta LEP 2023 FSR development standard</li> <li>• Accessibility</li> <li>• Stormwater, including Water Sensitive Urban Design</li> <li>• Traffic</li> <li>• Noise.</li> </ul>
21 June 2023	The application was referred to the Department of Education under Section 3.22 of the SEPP (Transport & Infrastructure) 2021 relating to the outdoor unencumbered outdoor play area.
14 August 2023	Council officer followed up with the applicant regarding the additional information.
18 August 2023	The Applicant responded that they do not wish to provide the additional information and would want the application to be determined as how it is currently before Council.
1 September 2023	Department of Education provided their response. This is discussed in the referrals section of this report.
4 September 2023	The proponent commenced Class 1 proceedings in the Land and Environment Court against the deemed refusal of the application.

## 6. Referrals

The following section outlines the response and conditions recommended from each of the internal and external referrals in relation to the subject application.

Referral	Comment
<p><b>Department of Education</b></p>	<p>The application was referred to the Department of Education under Section 3.22 of the SEPP (Transport &amp; Infrastructure) 2021. Council's calculation of the unencumbered outdoor play area resulted in an outdoor space that is not adequate for the number of children proposed.</p> <p>For completeness of the above, Council raised that some parts of the outdoor play area are not considered by Council as outdoor play area, in particular the following shaded areas in red in Figure 24 below. These areas are considered a thoroughfare providing access between two outdoor play areas (1 and 2) and the lower play area on the southern side of outdoor play area 1 - an area that is unusable for its recommended purpose due to difference in level (1.1m).</p>  <p><b>Figure 24.</b> Extract of the ground floor plan provided to the Department of Education with the areas highlighted in red identified by Council to be not unencumbered outdoor play areas (source: ArtMade Architects).</p> <p>The Department of Education provided a response on 1 September 2023 with the following comments:</p> <p><i>"Following a review of the development application and information provided by you in the concurrence checklist on 10 August 2023, it has been determined that this request for concurrence is not in relation to a development for a childcare service subject to Section 22 of the SEPP (Section 3.22), therefore concurrence is not required in this instance."</i></p> <p><i>"Service approval, any relevant waivers and the number of children allowed will be determined on the final fit out and completion of the space."</i></p> <p><i>"Once the service is complete, any service approval application submitted to the Department will consider the application in line with the requirements of the Children (Education and Care Services) National Law and the Education and Care Services National Regulations."</i></p> <p>Taking into above the comments from the Department of Education, concurrence under Section 3.22 of the SEPP (Transport &amp; Infrastructure) 2021 from the Department of Education is not required.</p>
<p><b>Endeavour Energy</b></p>	<p>The application was referred to Endeavour Energy under Section 2.48 of the SEPP (Transport &amp; Infrastructure) 2021. Endeavour Energy raised no objections to the proposal. Were the application recommended for approval the recommended conditions would have been imposed on the consent.</p>



<b>Development Engineer</b>	<p>The application was referred to Council's Development Engineer, who requested additional information and provided the following comments:</p> <p><i>"The proposed location of the OSD tank within the habitable area is not in line with Council's Stormwater Guidelines and is therefore not supported. In this regard, the OSD tank shall be located outside the building footprint."</i></p> <p><i>"The proposed OSD tank sections and layout is not in-line with the Upper Parramatta Catchment Trust handbook requirements."</i></p> <p><i>"The OSD tank access grates shall not be proposed within the proposed play area."</i></p> <p><i>"Additional surface pits shall be proposed to ensure the site surface drainage can be captured and drained to the OSD."</i></p> <p><i>"The submitted information has not incorporated a MUSIC model demonstrating compliance with the Water Management controls listed in Section 3 of Council's DCP."</i></p> <p><i>"A separate cut and fill plan."</i></p> <p><i>"All retaining walls that form part of this development shall be shown across all plans."</i></p> <p><i>"All retaining wall details including top of wall, bottom of wall, wall type, cross-section for all wall types."</i></p> <p><i>"The retaining walls shall be designed to ensure that natural flows from adjoining properties are not impeded or diverted."</i></p> <p>The above-mentioned concerns were raised in an additional information request letter issued on 21 June 2023. On 18 August 2023, the applicant advised that they will not be providing a response and requested that the application be determined as is.</p>
<b>Traffic and Transport</b>	<p>The application was referred to Council's Traffic Engineer, who requested additional information and provided the following comments:</p> <p><i>"...there is a 1 space parking shortfall."</i></p> <p><i>"...a reduction in parking can be considered if there is on-street parking available at the frontage of the development site and that the proposal will not result in an adverse traffic impact. However, the DCP also notes that on-street parking within a cul-de-sac will not be considered in any justification for reducing the parking rate."</i></p> <p><i>"It is noted that Kirby Street is a collector road with marked BB lines at the site frontage. This results in the road having approximately 4.7m wide travel lanes which is generally not sufficient to allow vehicles to legally park on-street."</i></p> <p><i>"Acacia Street is a narrow cul-de-sac with a width of approximately 7.1m. On-street parking in this street associated with the development will restrict two-way traffic flow and therefore, cannot be considered."</i></p> <p><i>"Given this, any proposed childcare centre on this site must meet all its parking requirements within the site and no shortfall of parking spaces can be accepted."</i></p> <p><i>"The manoeuvring for spaces 13, 14, 15 and 16 are unacceptable as they involve unreasonably complex and long reversing out movements that compromises the safety of the car park and is not in accordance with C35..."</i></p>

	<p><i>"The proposed area for the waste collection vehicle to collect garbage is unacceptable and will pose an unreasonable risk to the safety of children being picked up and dropped off within the basement car park."</i></p> <p><i>"Although waste collection is to occur between 10am and 2pm, this assumes that unforeseen circumstances will not occur that could potentially delay garbage collection. Furthermore, it is possible that on some occasions, children will be picked up or dropped off during the off-peak periods and therefore, risk a conflict with the waste collection vehicle."</i></p> <p><i>"Accordingly, provisions for waste collection vehicles must be kept completely separate to visitor parking areas."</i></p> <p><i>"It is noted that as the driveway is proposed to be shared with garbage collection vehicles, compliance with AS 2890.2-2018 is also required."</i></p> <p><i>"The proposal for the median island in Kirby Street is not supported as it is not believed that it will achieve the desired effect. Given the driveway is located just north of Acacia Street, it is foreseeable that motorists will instead turn into this street and perform a U-turn as opposed to travelling to the roundabout. Accordingly, this right turning traffic will have the same impact on disrupting traffic flow in Kirby Street as not having the median island."</i></p> <p><i>"The inclusion of the median island may also encourage parents coming from the north of the development site to instead park on the street. As noted previously, Kirby Street has lane widths of 4.7m which is generally not wide enough for on-street parking, but some motorists may still park believing they have left a wide enough gap for through traffic. This behaviour may result in obstructing two-way continuous flow in Kirby Street."</i></p> <p>The above-mentioned concerns were raised in an additional information request letter issued on 21 June 2023. On 18 August 2023, the applicant advised that they will not be providing a response and requested that the application be determined as is.</p>
<b>Environmental Health – Waste</b>	<p>The application was referred to Council's Environmental Health Officer who raised no objections on waste grounds. Were the application recommended for approval the recommended conditions would have been imposed on the consent.</p>
<b>Environmental Health – Food Premises</b>	<p>The application was referred to Council's Environmental Health Officer who provided the following comments:</p> <p><i>"The plans needs to show waste basket for kitchen and the waste storage area. The kitchen needs to show location of the kitchen exhaust hood and canopy. The dedicated hand wash basin and the wash up sink needs to be labelled on the floor plans and the location of grease trap and trade waste must be labelled."</i></p> <p>Council is satisfied that the above-mentioned concerns can be addressed by way of imposition of conditions.</p>
<b>Environmental Health – Acoustic</b>	<p>The application was referred to Council's Environmental Health Officer who provided the following comments:</p> <p><i>"At this stage mechanical ventilation hasn't been selected yet for the proposal, for example ducted or split system or exhaust/supply fans for basement carparking. Also, non-compliance with noise criteria in Table 10."</i></p>

	<p><i>“...Environmental Health Acoustic referral is required as the mechanical plant has not been selected for the proposed childcare centre. This needs to be labelled on the floor and kitchen plans.”</i></p> <p>Council is satisfied that the above-mentioned concerns raised by Council's EHO can be addressed by way of imposition of conditions.</p>
<b>Accessibility</b>	<p>The application was referred to Council's Accessibility Officer who provided the following comments:</p> <p><i>“A platform lift has been proposed to address the 1200mm difference in levels between the indoor play areas 2 and outdoor play area 2 and indoor play 3. The platform lift poses a risk for the evacuation of the 0-2 year old's from indoor play area 3. Note: A low rise platform lift cannot be used as it can only service a height no greater than 1000mm the height of 1200mm.”</i></p> <p><i>“The proposed amphitheatre has no provisions for persons using a mobility device and no stairs providing access to the upper tiers.”</i></p> <p><i>“There are not outdoor play areas provided on the first floor level thus access to the ground floor level play areas is via stair 3. A second handrail at a lower suitable height would provide safer traverse for the children between the two levels as shown in AS1428.2 figures 5 and 6.”</i></p> <p><i>“Low level thresholds should be provided at all doors accessing outdoor areas.”</i></p> <p><i>“Equipment and furniture within the common areas including the reception, lobby and play areas will require universally accessible and inclusive features, suitably for a person with a mobility and other impairments as per BCA table D3.1”</i></p> <p>The above concerns raised by Council's Accessibility Officer were relayed to the applicant via the additional information request letter issued on 21 June 2023. On 18 August 2023, the applicant advised that they will not be providing a response and requested that the application be determined as is.</p>
<b>Social &amp; Cultural</b>	<p>The application was referred to Council's Project Officer – Social/Cultural who raised the following concerns:</p> <p><i>“The delivery of a split-level childcare centre is not supported due to implications for safety and access to natural play elements. It is recommended that the ground floor where the entrance is located, be used for indoor and outdoor play spaces. The first floor is recommended to be used for administrative and storage purposes only.”</i></p> <p><i>“Limited consideration has been given to the layout design and access to indoor and outdoor play spaces.”</i></p> <p><i>“Locating indoor and outdoor play spaces on the ground and first floors increases safety risks in the case of an emergency evacuation and does not support effective supervisions.”</i></p> <p><i>“No direct access to outdoor play areas for children aged 3-5 years old is offered.”</i></p> <p><i>“The use of the landscaping area next to the vehicular entry is unclear.”</i></p> <p><i>“There are insufficient parking spots on site and potential traffic impacts.”</i></p>

	<p>Council's Social/Cultural Project Officer concluded her comments with recommended conditions of consent. However, the application is recommended for refusal and as such, these conditions will not be imposed.</p> <p>The concerns raised by Council's Project Officer were considered in the assessment against relevant provisions in the Child Care Planning Guideline, LEP and DCP. This is detailed in the assessment section of this report.</p>
<b>Landscaping</b>	The application was referred to Council's Landscape Officer who raised no objections to the proposal subject to the imposition of recommended conditions of consent.

## PLANNING ASSESSMENT

### 7. Environmental Planning Instruments

#### 7.1 Overview

The instruments applicable to this application are:

- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- Parramatta Local Environmental Plan 2023 (PLEP 2023)
- Parramatta Development Control Plan 2011 (PDCP 2011).

Compliance with these instruments is addressed below.

#### 7.2 STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021

##### Chapter 2: Vegetation in Non-Rural Areas

The State Environmental Planning Policy (Biodiversity and Conservation) 2021 applies to the site. The aims of the plan are to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and to preserve the amenity of the non-rural areas of the State through the preservation of trees and other vegetation.

Council's Landscape Tree Management Officer raised no objections to the proposal subject to appropriate conditions of consent.

It is considered that the proposed development will not have an adverse impact on the ecological, heritage, aesthetic and cultural significance of the biodiversity in the area.

##### Chapter 6: Water Catchments

The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SEPP. The aims of the Plan are to establish a balance between promoting a prosperous working harbour, maintaining a healthy and sustainable waterway environment and promoting recreational access to the foreshore and waterways by establishing planning principles and controls for the catchment as a whole.

Given the nature of the project and the location of the site, there are no specific controls that directly apply to this proposal, and any matters of general relevance (erosion control, etc) are able to be managed by conditions of consent, if the application was recommended for approval.

#### 7.3 STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

##### Chapter 4 Remediation of Land

The site is not identified in Council's records as being contaminated. A site inspection reveals the site does not have an obvious history of a previous land use that may have caused contamination and there is no specific evidence that indicates the site is contaminated.

Therefore, in accordance with Section 4.6 of the SEPP, the land is suitable for the proposed development.

#### 7.4 STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021

##### Chapter 2 Infrastructure

###### Clause 2.48 – Development Likely to Affect an Electricity Transmission or Distribution Network

The application was referred to Endeavour Energy under Section 2.48 of the SEPP, as the site and the development are within 5m of an exposed overhead electricity power line. Endeavour Energy provided response and raised no objections to the development subject to the recommended conditions of consent.

###### Clause 2.119 – Frontage to a Classified Road

The application is not subject to Clause 2.119 of the SEPP as the site does not have frontage to a classified road.

###### Clause 2.120 – Impact of Road Noise or Vibration on Non-Road Development

The application is not subject to Clause 2.120 of the SEPP as the site does not adjoin or is not adjacent a road corridor that has an annual average daily traffic volume of more than 20,000 vehicles.

##### Chapter 3 Educational Establishments and Child Care Facilities

Standards and Provisions	Compliance
<b>Part 3.3 Early Education and Care Facilities – Specific Development Controls</b>	
<b>s3.22 Centre-based child care facility – concurrence of Regulatory Authority required for certain development</b>	<b>N/A</b>  As earlier discussed, the application was referred to the Department of Education under this section of the SEPP. The Department has responded that concurrence was not required despite the concerns Council raised of having some outdoor areas not considered to be part of the unencumbered outdoor play area. For completeness, Council had provided a marked-up plan to the Department of what it considers and excludes as outdoor play area. The Department has maintained its view that concurrence is not required.
<b>s3.23 Centre-based child care facility – matters for consideration by consent authorities</b>	See the assessment against relevant provisions of the <i>Child Care Planning Guideline</i> .
<b>s3.24 Centre-based child care facility in Zone IN1 or IN2</b>	<b>N/A</b> The subject is not zoned as IN1 General Industrial or IN1 Light Industrial.
<b>s3.25 Centre-based child care facility – floor space ratio</b>	<b>N/A</b>  In accordance with Subsection (2) of this section in the SEPP – the PLEP 2023 provides a maximum allowable FSR on the site. This is discussed in the LEP assessment section of this report.
<b>s3.26 Centre based childcare facility – non-discretionary development standard</b>	<b>Yes</b>  <b>Required:</b> Indoor unencumbered space = 214.5m <sup>2</sup> Outdoor unencumbered space = 462m <sup>2</sup>  <b>Proposed:</b> Indoor unencumbered space = 220.7m <sup>2</sup> Outdoor unencumbered space = 462.7m <sup>2</sup>

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	<p>Paragraphs (a), (c) and (d) are noted and considered in the assessment of this application.</p> <p>It is noted that the calculation of the above indoor and outdoor unencumbered play spaces had taken into consideration the comments from the Department of Education, detailed in the referral section of this report. The Department has concluded that concurrence is not required under Section 3.22 of the SEPP.</p> <p>This section of the SEPP, Section 3.26(2)(b)(i), is a non-discretionary development standard that prevents Council from refusing an application if the development complies with a matter that is considered as such.</p> <p>It is noted that the non-discretionary standard under Section 3.26(2)(b)(i) of the SEPP states that –</p> <p><i>(b) indoor or outdoor space</i></p> <p><i>i. for development to which regulation 107 (indoor unencumbered space requirements) or 108 (outdoor unencumbered space requirements) of the Education and Care Services National Regulations (<b>“the Regulation”</b>) applies – the unencumbered area of indoor and <b>the unencumbered area of outdoor space for the development complies with the requirements of those regulations</b></i></p> <p>It is also noted that the provision in the SEPP does not require Council to be satisfied but requires that the Regulation be satisfied.</p> <p>Section 108 of the Regulation stipulates how to calculate outdoor play area and that the approved provider must satisfy this. It is important to note that the regulatory authority that would need to be satisfied under the Regulation is the Department of Education. As such, the lack of objection and the rendering of the Department of Education that there is no insufficient outdoor play area in the proposal as flagged by Council in its concurrence referral denotes that the Department of Education has no concerns with the proposed outdoor play area.</p> <p>Since the provision in the SEPP (Section 3.26) indicates that it is a non-discretionary standard, Council is not entitled to take those standards into further consideration in determining the development application and that Council cannot refuse the application on this basis.</p>
<p><b>3.27 Centre-based child care facility – development control plans</b></p>	<p><b>Noted</b></p> <p>DCP provisions relating to the following do not apply:</p> <ul style="list-style-type: none"> <li>• Reference to ages, age ratios, groupings, numbers or the like, of children</li> <li>• Operational or management plans or arrangements (including hours of operation)</li> <li>• Demonstrated need or demand for child care services</li> <li>• Proximity of facility to other early education and care facilities</li> <li>• Any matter relating to development for the purpose of a centre-based child care facility contained in – <ul style="list-style-type: none"> <li>○ Design principles in Part 2 of the CCP, or</li> <li>○ 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)</li> </ul> </li> </ul>

## Design Quality Principles

Design Quality Principles		
Principles	Requirements	Proposal
<b>1 Context</b>	<p>Good design responds and contributes to its context, including the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</p> <p>Well-designed child care facilities respond to and enhance the qualities and identity of the area including adjacent sites, streetscapes and neighbourhood.</p> <p>Well-designed child care facilities take advantage of its context by optimising access by walking and public 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.</p>	<p><b>No</b></p> <p>The proposal does not give regard to the context of the area with a built-form that is excessive and does not cater to the development intended to be carried out.</p> <p>The proposal does not give regard to the topography of the site and also the topography of the locality, resulting in amenity impacts to neighbouring properties and the locality.</p> <p>The proposal has failed to consider the low density residential character of the locality with a built-form that is considered excessive, built almost up to the rear and secondary street front boundary.</p>
<b>2 Built form</b>	<p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the surrounding area.</p> <p>Good design 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. Good design also uses a variety of materials, colours and textures.</p> <p>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p> <p>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.</p>	<p><b>No</b></p> <p>The proposed built-form raises concern in relation to achieving consistency with the existing and desired future character of the area.</p> <p>The built-form is excessive and seen as an elongated building that presents a harsh presentation in relation to the secondary street front.</p> <p>The design of the building, especially when viewed on the secondary street, manifests a townhouse appearance with the vertical feature walls providing an illusion of having at least three separate tenancies or occupancies.</p>
<b>3 Adaptive learning spaces</b>	<p>Good facility design delivers high quality learning spaces and achieves a high level of amenity for children and staff, resulting in buildings and associated infrastructure that are fit-for-purpose, enjoyable and easy to use. This is achieved through site layout, building design, and learning spaces' fit-out.</p> <p>Good design achieves a mix of inclusive learning spaces to cater for all children and different modes of learning. This includes appropriately designed physical spaces offering a variety of settings, technology and opportunities for interaction.</p>	<p><b>No</b></p> <p>The proposal involves a layout and spaces that are not ideal for the operation of a child care centre. In particular, the first floor indoor play areas do not have a connected outdoor play area to allow smooth transition from indoor to outdoor play. This type of layout potentially presents undesirable operational challenges where educators and children would need to navigate through the narrow corridors of the facility to go down to the outdoor play areas, and vice versa.</p>
<b>4 Sustainability</b>	<p>Sustainable design combines positive environmental, social and economic outcomes.</p> <p>This includes use of natural cross ventilation, sunlight and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and re-use of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.</p> <p>Well-designed facilities are durable and embed resource efficiency into building and site design,</p>	<p><b>No</b></p> <p>The proposed acoustic attenuation measure of closing the windows of some rooms is contrary to this design principle.</p> <p>The acoustic report recommended that particular windows of indoor play areas must remain closed for the duration of the use of the rooms. However, to some indoor play rooms, this would mean closing all of the windows (indoor play area areas 1 and 4)</p>


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	resulting in less energy and water consumption, less generation of waste and air emissions and reduced operational costs.	or leaving just one window/door openable that is not sufficient for natural ventilation (indoor play area 2).
<b>5 Landscape</b>	<p>Landscape and buildings should operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</p> <p>Well-designed landscapes make outdoor spaces assets for learning. This includes designing for diversity in function and use, age-appropriateness and amenity.</p> <p>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.</p>	<p><b>Yes</b></p> <p>The application was referred to Council's Landscape Management Officer who raised no objections to the proposed landscaping.</p>
<b>6 Amenity</b>	<p>Good design positively influences internal and external amenity for children, staff and neighbours. Achieving good amenity contributes to positive learning environments and the well-being of children and staff.</p> <p>Good amenity combines appropriate and efficient indoor and outdoor learning spaces, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, service areas and ease of access for all age groups and degrees of mobility.</p> <p>Well-designed child care facilities provide comfortable, diverse and attractive spaces to learn, play and socialise.</p>	<p><b>No</b></p> <p>The proposal will result in undesirable amenity impacts on to the neighbouring properties and the locality.</p> <p>The proposed level of the outdoor play area 2 and the indoor play area 3, coupled with the clear acoustic fencing on the western edge of the outdoor play area raises visual privacy concerns to the western and northern neighbours.</p> <p>The shortfall in parking spaces, coupled with the secondary street being a cul-de-sac that cannot be relied upon for street parking or a justification for parking shortfall, presents adverse traffic impact that cannot be supported.</p> <p>The proposed development's built-form is considered harsh for the western neighbour and the members of the public who would see the building from Acacia Street, with the non-compliant secondary street and rear setbacks.</p>
<b>7 Safety</b>	<p>Well-designed child care facilities optimise the use of the built and natural environment for learning and play, while utilising equipment, vegetation and landscaping that has a low health and safety risk, and can be checked and maintained efficiently and appropriately.</p> <p>Good child care facility design balances safety and security with the need to create a welcoming and accessible environment. It provides for quality public and private spaces that are inviting, clearly defined and allow controlled access for members of the community. Well-designed child care facilities incorporate passive surveillance and Crime Prevention Through Environmental Design (CPTED).</p> <p>Well designed vehicular parking and access minimise traffic safety risks on children and staff</p>	<p><b>No</b></p> <p>The lower portion of indoor play area 1 has a hidden section that could potentially raise safety concerns as a child could be covered by a protruding wall.</p> <p>There are safety concerns for the movement of the children from the three indoor play areas on the upper-most level that would be using the stairs to go to the lower outdoor play areas. As lift is not envisaged to be an option for surveillance issues, using the stairs adds a layer of safety concerns as this would entail several children going down or up of the stairs in one time.</p> <p>Council's Traffic Engineer raised safety concerns in the parking area with inadequate manoeuvring space and driveway grades for service vehicles and car parking spaces.</p>



		Lastly, the proposal to time drop-off and pick-up times to be outside the waste collection time range is not realistic and not achievable. Logistically, it would not be ideal to not allow a parent to drop-off or pick-up their child during the waste collection period, especially in an event of emergency.
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## Child Care Planning Guidelines

Considerations and Requirements	Compliance/Discussion
<b>Part 3 – Matters for consideration</b>	
<b>3.1 Site selection and location</b>	
<p><b>C1</b> For proposed developments in or adjacent to a residential zone, particularly if that zone is for low density residential uses consider:</p> <ul style="list-style-type: none"> <li>the acoustic and privacy impacts of the proposed development on the residential properties</li> <li>the setbacks and siting of buildings within the residential context</li> <li>visual amenity impacts (e.g. additional building bulk and overshadowing, local character)</li> <li>traffic and parking impacts of the proposal on residential amenity and road safety</li> </ul>	<p><b>No</b></p> <p>The proposal involves acoustic attenuation measures that are considered unacceptable in a low density residential setting.</p> <p>The rear-setback-non-compliant elevated outdoor play area 2 is identified to have a 2m acoustic fencing on its western edge. This 2m acoustic fencing cannot be translucent as proposed in sheet DA05.01, Sections and External Finishes (see Section G-G), as it will present potential visual privacy concerns to the western neighbour – overlooking onto habitable rooms despite the carport and private open space at the rear.</p> <p>Contributing to the visual privacy concerns and inadequacy of regard to the low density residential context is the non-compliance with the rear setback requirements of Council. This is detailed in the assessment against C14 of the Guideline.</p> <p>The proposal is considered bulky and not in keeping with the low density residential character of the locality. The inability to have a clear acoustic fencing due to potential visual privacy concerns exacerbates its bulkiness and scale when viewed from neighbouring properties.</p> <p>As per Council's Traffic Engineer's comments</p>  <p><b>Figure 25.</b> Front of the dwelling of the western neighbour showing a window that can be overlooked into by the outdoor play area 2.</p>

	 <p><b>Figure 26.</b> Eastern elevation of the western neighbour showing windows that can be overlooked into by the outdoor play area 2.</p>  <p><b>Figure 27.</b> Outlook from the subject site's rear yard on to the private open space of the western neighbour.</p>
<p><b>C2</b> When selecting a site, ensure that:</p> <ul style="list-style-type: none"> <li>• The location and surrounding uses are compatible with the proposed development or use;</li> <li>• The site is environmentally safe including risks such as flooding, land slip, bushfires, coastal hazards;</li> <li>• There are no potential environmental contaminants on the land, in the building or the general proximity, and whether hazardous materials remediation is needed;</li> <li>• The characteristics of the site are suitable for the scale and type of development proposed having regard to: <ul style="list-style-type: none"> <li>○ size of street frontage, lot configuration, dimensions and overall size;</li> <li>○ number of shared boundaries with residential properties; and</li> <li>○ the development will not have adverse environmental impacts on the surrounding area, particularly in sensitive environmental or cultural areas;</li> </ul> </li> <li>• There are suitable drop off and pick up areas, and off and on street parking;</li> </ul>	<p><b>No</b></p> <p>The proposed development has no adequate off and on-street parking. As per the comments from the Traffic Engineer, discussed in the referrals section of this report, the proposal has 1x parking space shortage and could not rely on on-street parking due to the following:</p> <ul style="list-style-type: none"> <li>• Secondary street fronting a cul-de-sac</li> <li>• Proposed median island</li> </ul> <p>The proposal is not considered adequate for the site as the site's topography, taking into consideration the nature of the proposal especially the number of children proposed that drives the built-form and would result in an unencumbered outdoor play area that will always be needed to be elevated due to the basement.</p> <p>Lastly, the proposed acoustic fencing, in particular along the western edge of the outdoor play area 2, will result to adverse amenity impact on to the neighbouring property and the locality. As previously mentioned, the acoustic fencing cannot be translucent as it will raise visual privacy concerns and as a result, this will result in a blank 2m high wall that is raised by at least 1m off the ground, setback 1m from the common boundary with the western neighbour.</p>


<ul style="list-style-type: none"> <li>The type of adjoining road (for example classified, arterial, local road, cul-de-sac) is appropriate and safe for the proposed use;</li> <li>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.</li> </ul>	
<p><b>C3</b> A child care facility should be located:</p> <ul style="list-style-type: none"> <li>Near compatible social uses such as schools and other educational establishments, parks and other public open space, community facilities, places of public worship;</li> <li>Near or within employment areas, town centres, business centres, shops;</li> <li>With access to public transport including rail, buses, ferries; and</li> <li>In areas with pedestrian connectivity to the local community, businesses, shops, services and the like.</li> </ul>	<p><b>Yes</b></p> <p>The site is within 200m of the Upjohn Park which is adjacent to expansive properties zoned E4 General Industrial – an employment area.</p> <p>Public transport, a bus service, is available along Kirby Street.</p>
<p><b>C4</b> A child care facility should be located to avoid risks to children, staff or visitors and adverse environmental conditions arising from:</p> <ul style="list-style-type: none"> <li>Proximity to: <ul style="list-style-type: none"> <li>heavy or hazardous industry, waste transfer depots or landfill sites;</li> <li>LPG tanks or service stations;</li> <li>water cooling and water warming systems;</li> <li>odour (and other air pollutant) generating uses and sources or sites which, due to prevailing land use zoning, may in future accommodate noise or odour generating uses;</li> <li>extractive industries, intensive agriculture, agricultural spraying activities; and</li> </ul> </li> <li>Any other identified environmental hazard or risk relevant to the site and/ or existing buildings within the site.</li> </ul>	<p><b>Yes</b></p> <p>The site is not identified to be within any environmental hazard or risk-laden land.</p> <p>The nearby industrial area is comprised of an office and warehouse developments.</p>
<p><b>3.2 Local character, streetscape and the public domain interface</b></p>	
<p><b>C5</b> The proposed development should:</p> <ul style="list-style-type: none"> <li>Contribute to the local area by being designed in character with the locality and existing streetscape;</li> <li>Reflect the predominant form of surrounding land uses, particularly in low density residential areas</li> <li>Recognise predominant streetscape qualities, such as building form, scale, materials and colours;</li> <li>Include design and architectural treatments that respond to and integrate with the existing streetscape;</li> <li>Use landscaping to positively contribute to the streetscape and neighbouring amenity; and</li> </ul>	<p><b>No</b></p> <p>The built-form of the proposed development is not considered in keeping with the low density residential setting of the area. The proposal does not satisfy the setback requirements of a dwelling house, as referenced in the Guideline.</p> <p>The requirement to have a 2m acoustic fencing that cannot be translucent due to privacy reasons and setback 1m off a common boundary with a residential property, is not acceptable. The reliance on this unacceptable acoustic barrier to mitigate the acoustic impacts demonstrate that the site is not suitable for the intensity proposed.</p>

<ul style="list-style-type: none"> <li>Integrate car parking into the building and site landscaping design in residential areas.</li> </ul>	
<p><b>C6</b> Create a threshold with a clear transition between public and private realms, including:</p> <ul style="list-style-type: none"> <li>Fencing to ensure safety for children entering and leaving the facility;</li> <li>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; and</li> <li>Integrating existing and proposed landscaping with fencing.</li> </ul>	<p><b>Yes</b></p> <p>Fencing is proposed along the perimeter of the outdoor play areas and the indoor spaces provide outlook on to the street, allowing for passive surveillance.</p>
<p><b>3.3 Building orientation, envelope and design</b></p>	
<p><b>C11</b> Orient a development on a site and design the building layout to:</p> <ul style="list-style-type: none"> <li>Ensure visual privacy and minimise potential noise and overlooking impacts on neighbours by: <ul style="list-style-type: none"> <li>Facing doors and windows away from private open space, living rooms and bedrooms in adjoining residential properties;</li> <li>Placing play equipment away from common boundaries with residential properties;</li> <li>Locating outdoor play areas away from residential dwellings and other sensitive uses;</li> </ul> </li> <li>Optimise solar access to internal and external play areas;</li> <li>Avoid overshadowing of adjoining residential properties;</li> <li>Minimise cut and fill;</li> <li>Ensure buildings along the street frontage define the street by facing it; and</li> <li>Ensure that where a child care facility is located above ground level, outdoor play areas are protected from wind and other climatic conditions.</li> </ul>	<p><b>No</b></p> <p>Visual privacy is a significant concern with the proposal. As previously mentioned, the outdoor play area 2 is not supported as it encourages overlooking onto the western neighbour's habitable rooms and private open space. Indoor play area 3 would have unobstructed view of the private open space of the northern neighbour. Indoor play area 2 has the full-height window having almost the same sill level as the windows on the southern elevation of the northern neighbour at 23.5m AHD (FFL) and 23.66m AHD, respectively.</p>
<p><b>C12</b> The following matters may be considered to minimise the impacts of the proposal on local character:</p> <ul style="list-style-type: none"> <li>Building height should be consistent with other buildings in the locality;</li> <li>Building height should respond to the scale and character of the street;</li> <li>Setbacks should allow for adequate privacy for neighbours and children at the proposed child care facility;</li> <li>Setbacks should provide adequate access for building maintenance; and</li> <li>Setbacks to the street should be consistent with the existing character.</li> </ul>	<p><b>No</b></p> <p>The non-compliant rear setback contributes significantly to adverse amenity impact on to the western neighbour and presents undesirable street presentation that is not consistent with the character of the locality.</p>
<p><b>C13</b> Where there are no prevailing setback controls minimum setback to a classified road should be 10m. On the road frontages where there are existing buildings within 50m, the setback should be the average of the two closest buildings. Where are no buildings within 50m, the same setback is required for the predominant adjoining land use.</p>	<p><b>No</b></p> <p>The primary street setback proposed of 9m is acceptable as it is consistent with Council's DCP and within the average of street setbacks of the properties within the 50m from the site.</p>

	<p>The secondary street setback proposed is 1m, measured from the face of the outdoor play area 2.</p> <p>Setback is defined both in the LEP and the DCP as:</p> <p><b>Building line or setback</b> means the horizontal distance between the property boundary or other stated boundary (measured at 90 degrees from the boundary) and –</p> <ul style="list-style-type: none"> <li>(a) A building wall, or</li> <li>(b) The outside face of any balcony, deck or the like, or</li> <li>(c) The supporting posts of a carport or a verandah roof,</li> </ul> <p>Whichever distance is the shortest.</p> <p>As such, the secondary street setback is not acceptable.</p>
<p><b>C14</b> On land in a residential zone, side and rear boundary setbacks should observe the prevailing setbacks required for a dwelling house.</p>	<p><b>No</b></p> <p><b>Required:</b> Side: 2m Rear: 30% of the site length (13.7m)</p> <p><b>Proposed:</b> Side: 2.7m Rear: 1.1m</p> <p>The rear setback is calculated off the face of the outdoor play area 2 which is setback by only 1.1m from the rear boundary. Council's DCP demonstrates how a rear setback should be calculated on a corner block in Figure 3.1.3.2 of Part 3.1 of PDCP 2011, as shown below.</p>  <p><b>Figure 28.</b> Image shown on Figure 3.1.3.2 of the PDCP 2011 (source: Council's PDCP 2011)</p> <p>The proposed rear setback presents a 92% variation from Council's requirement of 30% of the site length (13.7m), which is not acceptable.</p>
<p><b>C15</b> Entry to the facility should be limited to one secure point which is:</p> <ul style="list-style-type: none"> <li>• located to allow ease of access, particularly for pedestrians</li> <li>• directly accessible from the street where possible</li> </ul>	<p><b>No</b></p> <p>The proposal involves two pedestrian accesses from Acacia Street. One of the access goes through the outdoor play areas which is not permitted under this consideration in the Guideline.</p>

<ul style="list-style-type: none"> <li>• directly visible from the street frontage</li> <li>• easily monitored through natural or camera surveillance</li> <li>• not accessed through an outdoor play area.</li> <li>• in a mixed-use development, clearly defined and separate from entrances to other uses in the building.</li> </ul>	
<p><b>C16</b> Accessible design can be achieved by:</p> <ul style="list-style-type: none"> <li>• Providing accessibility to and within the building in accordance with all relevant legislation;</li> <li>• 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;</li> <li>• 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; and</li> <li>• Minimising ramping by ensuring building entries and ground floors are well located relative to the level of the footpath.</li> </ul> <p>NOTE: The <i>National Construction Code</i>, the <i>Discrimination Disability Act 1992</i> and the <i>Disability (Access to Premises – Buildings) Standards 2010</i> set out the requirements for access to buildings for people with disabilities.</p>	<p><b>No</b></p> <p>The application was referred to Council's Accessibility Officer who requested additional information that was relayed to the applicant on 21 June 2023. On 18 August 2023, the applicant advised that they will not be providing a response and requested that the application be determined as is. As such, the matters specified under this consideration is not satisfied.</p>
<b>3.4 Landscaping</b>	
<p><b>C17</b> Appropriate planting should be provided along the boundary integrated with fencing. Screen planting should not be included in calculations of unencumbered outdoor space.</p> <p>Use the existing landscape where feasible to provide a high quality landscaped area by:</p> <ul style="list-style-type: none"> <li>• Reflecting and reinforcing the local context; and</li> <li>• Incorporating natural features of the site, such as trees, rocky outcrops and vegetation communities into landscaping.</li> </ul>	<p><b>Yes</b></p> <p>The application was referred to Council's Landscape Officer who offered no objections to the proposal.</p>
<b>3.5 Visual and acoustic privacy</b>	
<p><b>C21</b> Minimise direct overlooking of main internal living areas and private open spaces in adjoining developments through:</p> <ul style="list-style-type: none"> <li>• appropriate site and building layout</li> <li>• suitable location of pathways, windows and doors</li> <li>• landscape design and screening</li> </ul>	<p><b>No</b></p> <p>As previously discussed, the proposal raises visual privacy concerns to adjoining residential properties.</p> <p>The acoustic fencing on the western edge of the outdoor play area 2 cannot be translucent due to visual privacy concerns, potentially overlooking onto the habitable rooms and private open space of the western neighbour. This acoustic fencing must be solid or opaque. However, having an opaque or solid acoustic fencing raises concerns about the bulk and scale of the development when viewed from the neighbour's property.</p> <p>The reliance on the unsupportable 2m high acoustic fencing on the western edge of the outdoor play area 2 demonstrates the site's unsuitability with the proposed facility.</p>



	<p>To demonstrate the impact of the proposed development, Figure 29 shows the concept 3D imagery provided by the applicant with the outdoor play area 2 and the western neighbour. What is not shown in Figure 29 are the habitable windows on the eastern elevation of the neighbouring dwelling.</p>  <p><b>Figure 29.</b> 3D imagery of the proposal showing the elevated outdoor play area 2 (right) and the western neighbour (left) (source: ArtMade Architects).</p>
<p><b>C22</b> A new development, or development that includes alterations to more than 50 per cent of the existing floor area, and is located adjacent to residential accommodation should:</p> <ul style="list-style-type: none"> <li>• 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</li> <li>• 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.</li> </ul>	<p><b>No</b></p> <p>See comment in C21 above. The proposed acoustic fencing is not supportable.</p>
<p><b>C23</b> A suitably qualified acoustic professional should prepare an acoustic report which will cover the following matters:</p> <ul style="list-style-type: none"> <li>• identify an appropriate noise level for a child care facility located in residential and other zones</li> <li>• determine an appropriate background noise level for outdoor play areas during times they are proposed to be in use</li> <li>• determine the appropriate height of any acoustic fence to enable the noise criteria to be met</li> </ul>	<p><b>No</b></p> <p>While an acoustic report was submitted as part of the application, the acoustic attenuation measures proposed are not supportable. This is detailed in previous discussions relating to acoustic privacy.</p>
<p><b>3.7 Hours of operation</b></p>	
<p><b>C28</b> 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.</p>	<p><b>Yes</b></p> <p>The proposal is for the operation of the child care centre between 7am to 6pm, Monday to Friday and closed on weekends.</p>
<p><b>3.8 Traffic, parking, and pedestrian circulation</b></p>	
<p><b>C30</b> 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.</p>	<p><b>No (6% variation)</b></p> <p>Proposed: 16 spaces</p> <p>A shortfall in parking spaces is not supported. Cul-de-sac location is not considered a justification for reducing a car</p>

<p>The Parramatta DCP 2011 specifies a parking rate of: <i>1 space per 4 children &amp; 1 accessible space in every 10 spaces.</i></p> <p>The parking required for the proposal based on the above is 16.75 (17) spaces with the inclusion of 2 accessible spaces.</p>	<p>parking rate. Kirby St does not have adequate width to accommodate street parking being a collector road.</p>
<p><b>C32</b> 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:</p> <ul style="list-style-type: none"> <li>• The amenity of the surrounding area will not be affected; and</li> <li>• There will be no impacts on the safe operation of the surrounding road network.</li> </ul>	<p><b>No</b></p> <p>Council's Traffic &amp; Transport Investigations Engineer raised concerns relating to the traffic report. These concerns were raised in an additional information request letter issued on 21 June 2023. On 18 August 2023, the applicant has expressed no interest in addressing the raised concerns and requested that the application be determined as is</p>
<p><b>C35</b> <i>The following design solutions may be incorporated into a development to help provide a safe pedestrian environment:</i></p> <ul style="list-style-type: none"> <li>• <i>Separate pedestrian access from the car park to the facility;</i></li> <li>• <i>Defined pedestrian crossings included within large car parking areas;</i></li> <li>• <i>Separate pedestrian and vehicle entries from the street for parents, children and visitors;</i></li> <li>• <i>Pedestrian paths that enable two prams to pass each other;</i></li> <li>• <i>Delivery and loading areas located away from the main pedestrian access to the building and in clearly designated, separate facilities;</i></li> <li>• <i>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; and</i></li> <li>• <i>Vehicles can enter and leave the site in a forward direction.</i></li> <li>• <i>clear sightlines are maintained for drivers to child pedestrians, particularly at crossing locations.</i></li> </ul>	<p><b>No</b></p> <p>Council's Traffic &amp; Transport Investigations Engineer raised concerns about the manoeuvring of the proposed parking spaces – in particular, 13, 14, 15 and 16.</p> <p>Issue of safety also arises in relation with the waste collection, drop off and pick up times as per the Plan of Management.</p> <p>Pick up and drop off, operationally, cannot be restricted during particular times. As such, in the event of waste collection during the proposed 10am to 2pm timeframe, it would not be feasible to not allow drop off or pick up during this waste collection period and this raises safety concerns.</p> <p>The proposed driveway does not consider the waste collection vehicles, resulting in a non-compliant driveway grade. As per Council's Traffic &amp; Transport Investigations Engineer –</p> <p><i>"It is noted that as the driveway is proposed to be shared with garbage collection vehicles, compliance with AS 2890.2-2018 is also required. In this regard, the standards state in Clause 4.3.1 that the maximum gradient for forward movements shall not exceed 1:6.5 (15.4%) for forward movements. However, the maximum gradient of the access driveway is 1:4 (25%) which is not considered acceptable."</i></p>
<p><b>C37</b> Car parking design should:</p> <ul style="list-style-type: none"> <li>• Include a child safe fence to separate car parking areas from the building entrance and play areas;</li> <li>• Provide clearly marked accessible parking as close as possible to the primary entrance to the building in accordance with appropriate Australian Standards; and</li> <li>• Include wheelchair and pram accessible parking.</li> </ul>	<p><b>No</b></p> <p>Design changes to the proposed car parking are required.</p>
<p><b>Part 4 – Applying the National Regulations to development proposals</b></p>	
<p><b>4.1 Indoor space requirements</b></p>	



<b>Regulation 107 Education and Care Services National Regulations</b> Every child being educated and cared for within a facility must have a minimum of 3.25m <sup>2</sup> of unencumbered indoor space.  Required storage: Outdoor = 19.8m <sup>3</sup> Indoor = 13.2m <sup>3</sup>	<b>Yes</b>  <b>Required:</b> Indoor unencumbered space = 214.5m <sup>2</sup>  <b>Proposed:</b> Indoor unencumbered space = 220.7m <sup>2</sup>  <b>No</b>  <b>Proposed Storage:</b> Outdoor: 10.5m <sup>3</sup> Indoor: 27.8m <sup>3</sup>
<b>4.2 Laundry and hygiene facilities</b>	
<b>Regulation 106 Education and Care Services National Regulations</b> 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.	<b>No</b>  The plans do not clearly demonstrate that the proposal will have adequate laundry facility. For completeness, no shown dedicated storage for soiled items in the laundry.
<b>4.3 Toilet and hygiene facilities</b>	
<b>Regulation 109 Education and Care Services National Regulations</b> 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 <i>National Construction Code</i> .	<b>Yes</b>  Council is satisfied that this requirement of the regulations could be achieved should the application be for approval. However, this is not the case as the application is recommended for refusal.
<b>4.4 Ventilation and natural light</b>	
<b>Regulation 110 Education and Care Services National Regulations</b> 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 ventilation and minimum ceiling height requirements of the <i>National Construction Code</i> . Ceiling height requirements may be affected by the capacity of the facility.	<b>No</b>  The proposal does not promote natural ventilation to occur. The acoustic report recommended that particular windows must remain closed for the duration of the use of the rooms. However, to some indoor play rooms, this would mean closing all of the windows (indoor play area areas 1 and 4) or leaving just one window/door openable that is not sufficient for natural ventilation (indoor play area 2).
<b>4.5 Administrative space</b>	
<b>Regulation 111 Education and Care Services National Regulations</b> A service must provide adequate area or areas for the purposes of conducting the administrative functions of the service, consulting with parents of children and conducting private conversations.	<b>Yes</b>  The proposal involves adequate administrative spaces.
<b>4.6 Nappy change facilities</b>	
<b>Regulation 112 Education and Care Services National Regulations</b> Child care facilities must provide for children who wear nappies, including appropriate hygienic	<b>Yes</b>  Council is satisfied that this requirement of the regulations could be achieved should the application be for approval.

facilities for 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 with the requirements for nappy changing and bathing facilities that are contained in the <i>National Construction Code</i> .	However, this is not the case as the application is recommended for refusal.
<b>4.7 Premises designed to facilitate supervision</b>	
<b>Regulation 115 Education and Care Services National Regulations</b> 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 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> .	<b>No</b> Council is not satisfied that the proposal involves a layout that allows supervision to occur between indoor and outdoor play areas. The lower part of the outdoor play area 1, adjacent to the secondary street, is not considered to have adequate layout to enable adequate surveillance of children. A wall is situated within the lower part of the play area that could unsatisfactorily restrict observation of a child playing behind the wall by the educator.
<b>4.8 Emergency and evacuation procedures</b>	
<b>Regulations 97 and 168 Education and Care Services National Regulations</b> 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 what those procedures must cover including: <ul style="list-style-type: none"> <li>• Instructions for what must be done in the event of an emergency;</li> <li>• An emergency and evacuation floor plan, a copy of which is displayed in a prominent position near each exit; and</li> <li>• A risk assessment to identify potential emergencies that are relevant to the service.</li> </ul>	<b>Yes</b> Council is satisfied that this requirement of the regulations could be achieved should the application be for approval. However, this is not the case as the application is recommended for refusal. Further to the above, it is expected that the proponent is to undertake a risk assessment analysis, to the satisfaction of the Department of Education before a licence can be granted.
<b>4.9 Outdoor space requirements</b>	
<b>Regulation 108 Education and Care Services National Regulations</b> An education and care service premises must provide for every child being educated and cared for within the facility to have a minimum of 7.0m <sup>2</sup> of unencumbered outdoor space. Unencumbered outdoor space excludes any of the following: <ul style="list-style-type: none"> <li>• Pathway or thoroughfare, except where used by children as part of the education and care program;</li> <li>• Car parking area;</li> <li>• Storage shed or other storage area;</li> <li>• Laundry; and</li> <li>• Other space that is not suitable for children.</li> </ul> Calculating unencumbered space for outdoor areas should not include areas of dense hedges or plantings along boundaries which are designed for landscaping purposes and not for children's play (refer to Figures 9 and 10).	<b>Yes</b> Unencumbered outdoor play area is considered adequate.
<b>4.10 Natural environment</b>	

<b>Regulation 113 Education and Care Services National Regulations</b> The approved provider of a centre-based service must ensure that the outdoor spaces allow children to explore and experience the natural environment.	<b>Yes</b> It is expected that the prior to any issue of licence that the proponent will be required to achieve compliance with this consideration to the satisfaction of the Department of Education.
<b>4.11 Shade</b>	
<b>Regulation 114 Education and Care Services National Regulations</b> The approved provider of a centre-based service must ensure that outdoor spaces include adequate shaded areas to protect children from overexposure to ultraviolet radiation from the sun.	<b>No</b> The proposed design does not adequately demonstrate compliance with this requirement of the Regulation.
<b>4.12 Fencing</b>	
<b>Regulation 104 Education and Care Services National Regulations</b> 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. 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> .	<b>No</b> It is expected that the proponent is to undertake a risk assessment analysis, to the satisfaction of the Department of Education before a licence can be granted
<b>4.13 Soil assessment</b>	
<b>Regulation 25 Education and Care Services National Regulations</b> 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: <ul style="list-style-type: none"> <li>• A soil assessment for the site of the proposed education and care service premises;</li> <li>• 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; and</li> <li>• 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.</li> </ul>	<b>N/A</b> The site has not been identified to be contaminated and does not require a preliminary site investigation to be undertaken under the provisions of SEPP (Resilience and Hazards) 2021.

## 8. PARRAMATTA LOCAL ENVIRONMENTAL PLAN 2023

The relevant matters considered under the PLEP 2023 for the proposed development are outlined below:

### Clause 1.2 Aims of Plan

- (1) *This Plan aims to make local environmental planning provisions for land in the City of Parramatta in accordance with the relevant standard environmental planning instrument under section 3.20 of the Act.*
- (2) *The particular aims of this Plan are as follows—*
  - (aa) *to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*

- (a) to protect and enhance the identity, diversity and viability of Parramatta City Centre and recognise its role in the Central River City of the Six Cities Region,
- (b) to create an integrated, balanced and sustainable environment that contributes to environmental, economic, social and physical wellbeing,
- (c) to identify, conserve and promote the City of Parramatta's natural and cultural heritage,
- (d) to protect and enhance the natural environment, including urban tree canopy cover and areas of remnant bushland,
- (e) to ensure development occurs in a way that protects, conserves and enhances natural resources, including waterways, riparian land, surface and groundwater quality and flows and dependent ecosystems,
- (f) to encourage ecologically sustainable development,
- (g) to minimise risk to the community in areas subject to environmental hazards, particularly flooding and bushfire, by restricting development in sensitive areas,
- (h) to improve public access along waterways if the access does not adversely impact the natural value of the waterways,
- (i) to improve public access to, and within, the City of Parramatta and facilitate the use of public transport, walking and cycling,
- (j) to encourage a range of development to meet the needs of existing and future residents, workers and visitors,
- (k) to enhance the amenity and characteristics of established residential areas,
- (l) to retain the predominant role of industrial areas,
- (m) to ensure development does not detract from the economic viability of commercial centres,
- (n) to ensure development does not detract from the operation of local or regional road systems.

It is considered that the development does not satisfactorily meet the aims of the LEP. The proposal involves a structure that has a design and built-form that is not appropriate and is not complementary to the low density residential character of the area.

#### Clause 2.3 Zone objectives and Land Use Table

The site is zoned R2 Low Density Residential. The aims and objectives for the R2 zone in Clause 2.3 – Zone Objectives are as follows:

- 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 maintain the low density residential character of the area.
- To ensure non-residential land uses are carried out in a way that minimises impacts on the amenity of a low density residential environment.
- To provide a range of community facilities that serve the needs of people who live in, work in and visit the area.
- To protect and enhance tree canopy, existing vegetation and other natural features.

The proposal does not satisfy the objectives of the zone. The proposal significantly impacts the neighbouring properties with the elevated outdoor play area 2 and full-height windows of indoor play area 3, encouraging overlooking on to the neighbouring properties' habitable rooms and private open spaces.

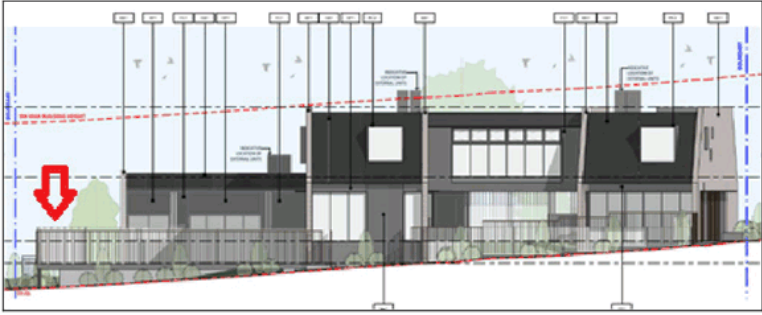
Standards and Provisions	Compliance
<b>Part 4 Principal development standards</b>	
<b>Cl. 4.3 Height of buildings</b> Allowable: 9m	<b>Yes</b>  <b>Proposed:</b> 8.95m
<b>Cl. 4.4 Floor space ratio</b> Allowable: 0.5:1 (606.5m <sup>2</sup> )	<b>Yes</b>  <b>Proposed:</b> 0.38:1 (457.05m <sup>2</sup> )
<b>Cl. 4.6 Exceptions to Development Standards</b>	N/A for this application

Part 5 Miscellaneous provisions	
Cl. 5.10 Heritage conservation	N/A for this application
Cl. 5.11 Bush fire hazard reduction	N/A for this application
Cl. 5.21 Flood Planning	N/A for this application
Part 6 Additional local provisions	
Cl. 6. 1 Acid sulfate soils	<p>N/A for this application</p> <p>The site has been identified as within the Class 5 Acid Sulfate Soil map.</p> <p>The proposal does not involve any excavation below 5m that is within 500m from other Acid Sulfate Soil classifications. As such, a consent under this clause is not required.</p>
Cl. 6. 2 Earthworks	<p><b>No</b></p> <p>The proposal involves a fill of 1m at the north-western corner of the Indoor Play Area 3, outside the footprint of the basement. The fill would essentially negatively affect the future use and redevelopment of the land as the fill of 1m above the existing ground level, setback by 2m from the rear boundary, would allow future developments on the site to capitalise on what would be the future existing ground level. The raised level alone would allow extensive and unobstructed view of the neighbouring residential properties' private open space.</p> <p>Notwithstanding the above, this could potentially impact the height of the future development in an event of redevelopment of the property. This is envisaged to result in a towering building that would not be consistent with the low density character of the area.</p>
Cl. 6. 3 Biodiversity	N/A for this application
Cl. 6. 4 Riparian land and waterways	N/A for this application
Cl. 6. 5 Stormwater management	<p><b>No</b></p> <p>As per the referral section of this report, Council's Development Engineer has requested additional information to be provided to Council in order to ensure that the stormwater management proposed for the development is adequate and compliant with Council's requirements.</p> <p>The concerns raised by Council's Development Engineer were relayed through the additional information request letter issued on 21 June 2023. On 18 August 2023, the applicant has expressed no interest in addressing the raised concerns and requested that the application be determined as is.</p> <p>The inadequate information and the proposed stormwater system do not satisfy this provision of the LEP.</p>
Cl. 6. 6 Foreshore area	N/A for this application
Cl. 6. 7 Essential services	N/A for this application
Cl. 6. 8 Landslide risk	N/A for this application

## 9. The Parramatta Development Control Plan 2011

Development Control	Comment
Part 2 Site Planning	
2.4.1 Views and Vistas	<p><b>N/A</b></p> <p>The site is not identified as containing significant views.</p>
2.4.2 Water Management	<b>No</b>

	Refer to assessment under PLEP 2023.
2.4.3 Soil Management	<b>Yes</b>  Adequate sediment and erosion control measures are proposed as part of this development as are supporting conditions.
2.4.4 Land Contamination	<b>Yes</b>  Refer to assessment under State Environmental Planning Policy (Resilience and Hazards) 2021.
2.4.5 Air Quality	<b>N/A</b>  The proposed development will not result in a development that causes pollution that would impact the air quality.
2.4.6 Development on Sloping Land	<b>No</b>  The proposed development has not minimised the earthworks and as a result, presents an inappropriately bulky appearance when viewed from the western neighbour's property (the lower side).  The proposed cutting and filling result in adverse amenity impacts on to the neighbouring properties. The design of the basement, including the vehicular access point, renders a basement level that protrudes by more than 1m. This raises visual privacy concerns to neighbouring properties with potential direct outlook onto the habitable spaces and private open space of the western neighbour and the northern neighbour from the outdoor play area 2 and indoor play area 3, respectively, of the facility.
2.4.7 Biodiversity	<b>N/A</b>  The site is not identified to contain indigenous vegetation and naturally occurring soils.
2.4.8 Public Domain	<b>No</b>  The proposal has failed to give regard to the proposed development's interface with the public domain and how patrons and employees will have adequate transition from the facility to the public space. For example, all pedestrian access points
<b>Part 3 Development Principles</b>	
3.1.3: Building Height Required: 9m	See assessment under the PLEP 2023
3.1.3 Floor Space Ratio	See assessment under the PLEP 2023
3.1.3: Minimum Site Frontage Required: 15m	<b>N/A</b>  Section 3.26(2)(c) of the SEPP (Transport and Infrastructure) 2021 stipulates that a development for the purpose of a child care centre may be located on a site of any size and have any length of street frontage or any allotment depth.
3.13: Front Setback Required: 5 – 9m	See assessment of the Guideline under SEPP (Transport and Infrastructure) 2021
3.13: Side Setback Required: 0.9m	See assessment of the Guideline under SEPP (Transport and Infrastructure) 2021
3.13: Rear Setback Required: 30% (13.7m)	See assessment of the Guideline under SEPP (Transport and Infrastructure) 2021
3.1.3: Landscaped Area 40% of the site (485.2m <sup>2</sup> )	<b>N/A</b>  Council's DCP does not contain numeric requirements for the purpose of landscaping of a child care facility. Further to this, the application was referred to Council's Landscape Management Officer who raised no objections to the proposal.  Additional landscaping controls are detailed in the assessment under Part 5 Other Provisions of the PDCP 2011.

3.1.3: Deep Soil 30% of the site (363.9m <sup>2</sup> )	<p>N/A</p> <p>Council's DCP does not contain numeric requirements for the purpose of deep soil of a child care facility. Further to this, the application was referred to Council's Landscape Management Officer who raised no objections to the proposal.</p>
3.2.1 Building Form and Massing	<p><b>No</b></p> <p>The proposal presents unacceptable bulk and scale. The proposal is a 3-storey development that does not satisfy the acceptable design outcome for a low-density residential setting.</p> <p>As previously discussed, the rear setback does not satisfy Council's DCP with 1.1m and 2m rear setbacks proposed for the outdoor play area 2 and external wall of indoor play area 3, respectively. With the unsupportable clear acoustic fencing on the western edge of the outdoor play area 2, this, including the external wall of the indoor play area 3, would result in an undesirable bulky appearance from the western neighbour's perspective.</p> <p>In addition to the above, due to the protrusion of the lower ground floor and the raised outdoor play area with balustrades, the development appears bulky from the secondary street with a built-form that extends almost the entire length of the site, in front of the low density residential setback.</p>
3.2.2 Building Façade and Articulation	<p><b>No</b></p> <p>The proposed façade is not consistent with the low density residential setting of the area. The façade proposed presents an appearance of a townhouse development, especially with the vertical walls creating an illusion of having at least three separate tenancies or occupancies. Coupled with the non-compliant rear setback of the elevated outdoor play area 2 (marked with red arrow in Figure 30), the proposal is an overdevelopment of the site.</p>  <p><b>Figure 30.</b> Extract of the southern elevation fronting Acacia St (secondary street) (source: ArtMade Architects)</p>
3.2.3 Roof Design	<p><b>No</b></p> <p>The proposal's roof design does not allow for effective transition of roof forms with the neighbouring properties, reflecting the development's incompatibility with the area.</p> <p>The proposed roof form is of an unusual roof design that appears in some parts an attic and a flat roof in others. This type of modulation in roof styles do not reflect the existing and desired future character of this locality.</p>
3.2.5 Streetscape	<p><b>No</b></p>

	In addition to the concerns raised in 3.2.2 Building Façade and Articulation and 3.2.3 Roof Design above, the proposal does not have adequate landscaping within the secondary street front. The proposed 1m secondary street setback due to the required outdoor play area for the number of children, reflects the site's unsuitability for the proposal.
3.2.6 Fences	<b>No</b>  The proposed balustrades for the outdoor play areas act as the boundary fencing. However, these balustrades, due to the level of the outdoor play areas, in particular outdoor play area 2, have a height that is more than 1.8m – more than what Council permits on a street frontage.
3.3.3 Visual and Acoustic Privacy	<b>No</b>  See discussion in Considerations C1, C2, C11, C21, C22 and C23 of the Child Care Planning Guideline under the SEPP (Transport and Infrastructure) 2021 section above, relating to visual and acoustic privacy concerns.
3.3.4 Acoustic Amenity	<b>N/A</b>  The site does not adjoin or is not in close proximity to a major noise source – i.e., rail corridors, highways, extractive industries, etc.
3.3.5 Solar Access and Cross Ventilation	See assessment under 4.4 Solar Access and Natural Ventilation of Part 4 of the Child Care Planning Guideline in the SEPP (Transport & Infrastructure) 2021 section
3.3.6 Water Sensitive Urban Design	<b>No</b>  Council's Development Engineer raised concerns relating to the inadequate stormwater management system proposed. The matters raised by Council's engineer were relayed in an additional information request letter issued on 21 June 2023. On 18 August 2023, the applicant has expressed no interest in addressing the raised concerns and requested that the application be determined as is
3.3.7 Waste Management	<b>No</b>  While Council's Environmental Health Officer – Waste raised no objections to the proposal, Council's Traffic Engineer raised concerns about the waste collecting vehicle and the adequacy of the proposed basement level and driveway to enable the waste collecting vehicle to safely navigate through the car park without endangering the safety of the children.
3.4.2 Access for People with Disabilities	<b>No</b>  See referral section under Accessibility.
3.4.4 Safety and Security	<b>No</b>  The proposed pedestrian access points are all off Acacia Street. Acacia Street does not have pedestrian pathways that connect to the proposed pedestrian access points of the facility.
3.6.2 Parking and Vehicular Access	<b>No</b>  See assessment of C30 of the Guideline in the SEPP (Transport & Infrastructure) 2021.

## 10. Development Contributions

In accordance with the City of Parramatta (Outside CBD) Development Contributions Plan 2021, a Section 7.11 Development Contribution is applicable and would be required to be paid. However, since the application is recommended for refusal, the contributions will not be levied.

## 12. Bonds



Should the application be supported, relevant bonds and payments are to be levied. However, the application is recommended for refusal.

### 13. EP&A Regulation 2021

Applicable Regulation considerations would have been addressed by appropriate consent conditions, should the application be recommended for approval.

### 14. The likely impacts of the development

The proposed development poses unacceptable impacts that are considered, when supported, would cause irreparable impacts to the locality – to its character and the day-to-day lives of people living in the area. The proposal does not satisfy the secondary street and rear setback requirements of Council that reflects the scale of the development, being built almost up to the western and southern boundaries.

The protrusion of the lower ground level that accommodates the vehicular parking spaces creates issues for visual privacy as it forces the outdoor play area and indoor play areas to be raised at a certain level. This results in viewing platforms that would encourage overlooking onto neighbouring properties' habitable rooms and private open spaces.

The shortfall of one parking space on the site is not to be overlooked as it is essential for the site to accommodate adequate parking for the number of children proposed to be given care in the facility. Taking into consideration the site being a corner block, the secondary street being a cul-de-sac and the primary street's width, a variation of the parking control cannot be permitted. The width of the primary street (Kirby Street) disallows the possibility of having on-street parking as the median strip will result in a space, for when vehicles are stopped on the shoulder, that is not sufficient and could potentially endanger the lives of people.

### 15. Suitability of the Site

The subject site is not suitable for the proposed development. The impacts associated with the design and intensity of the proposed use demonstrates that the site is not sufficient to accommodate the facility. The topography of the land renders it difficult for the proposal to comply with the considerations in the Child Care Planning Guideline and Council's controls, as detailed in the assessment section of this report.

The protrusion of the basement level reflects the constraints of the site topography to accommodate a proposal of the scale and intensity proposed. The proposed development's number of places influences the required car parking on the site, which impacts the lower ground level size. This effectively pushes out of the ground the outdoor play area 2 and indoor play area 3 as the lower ground level is required to be of a particular size to accommodate the parking spaces.

With the outdoor play area 2 and indoor play area 3 required to be elevated, visual privacy concerns arise as a result. The proposal relies on a 2m acoustic fencing on the western edge of the outdoor play area 2 that Council is not able to support due to visual privacy concerns. Further, to this, changing the acoustic fencing to a solid form is also not acceptable as this is envisaged to result in amenity impacts on to the western neighbour.

Concerns were raised relating to parking and impact to traffic to the immediate road networks. The site is not able to capitalise on street parking as the secondary street is a cul-de-sac and the primary street, taking into consideration the proposed median strip, is not wide enough to enable on-street stopping of vehicles.

The proposal's dependency on an unsupportable acoustic attenuation measure and the surrounding road network render the proposal is not suitable for the site.


### 16. Public Consultation

In accordance with the City of Parramatta's Consolidated Notification Requirements, the Development Application was notified from 6 June 2023 to 27 June 2023. Council received 29 submissions during this period.

Out of the 29 submissions received, 28 are opposed to the proposal and one is supportive of the child care facility development.

Key concerns raised in the submissions are addressed below.

Issues	Response
<b>Traffic &amp; Parking</b>	<p>Concerns were raised regarding the impact of the proposal to the traffic in the area, the insufficient parking and that people will commonly use the cul-de-sac as the primary street to use. The application was reviewed by Council's Traffic &amp; Transport Investigations Engineer who has given comments, detailed in the referral section of this report, relating to the same issues raised by the members of the public.</p> <p>Council's DCP clearly states that a cul-de-sac cannot be relied upon for any shortfall in parking. Further, the introduction of a new median strip on Kirby Street would disable the public from using this road to park on the shoulders and drop-off or pick-up children. Council's Traffic &amp; Transport Investigations Engineer added that the width does not meet the Australian Standards and that it could obstruct the two-way continuous flow of the road and worse - endanger the lives of the public that would assume there would be enough width to park a car and open the doors.</p> <p>For clarity, the comments relating to the median strip from the Traffic &amp; Transport Investigations Engineer are repeated below:</p> <p><i>"It is noted that Kirby Street is a collector road with marked BB lines at the site frontage. This results in the road having approximately 4.7m wide travel lanes which is generally not sufficient to allow vehicles to legally park on-street".</i></p> <p><i>"The inclusion of the median island may also encourage parents coming from the north of the development site to instead park on the street. As noted previously, Kirby Street has lane widths of 4.7m which is generally not wide enough for on-street parking, but some motorists may still park believing they have left a wide enough gap for through traffic. This behaviour may result in obstructing two-way continuous flow in Kirby Street."</i></p> <p>As indicated previously, the concerns raised by the Traffic &amp; Transport Investigations Engineer were relayed to the applicant via an additional information request letter. The applicant declined to provide the information to Council and requested for Council to determine the application as is.</p>
<b>Safety – Accident Prone Corner</b>	<p>Concerns were raised regarding the site's ability to safely accommodate a child care centre. It was noted that the site has been involved in numerous accidents with photos and newspaper article clips provided to Council.</p> <p>Despite the above, it is noted that Council's records show that one non-casualty accident had been reported to Council.</p>

	 <p><b>Figure 31.</b> Locality map of the subject site (outlined in red) and the immediate locality, showing the reported accident (marked with location icon).</p> <p>Accidents are a serious consideration. It is acknowledged that Council's Traffic Department had been involved in the past in investigating the curve and slope of the street. Council's records show one reported accident in 2017. The same department of Council had reviewed the application and raised no accident-related concerns. Despite this, issues about the inadequate parking and potential traffic implications to the surrounding road networks were raised.</p>
<p><b>Noise</b></p>	<p>Concerns were raised regarding the potential impact of the child care centre relating to the acoustic privacy of the locality and the neighbouring properties.</p> <p>In addition to the concerns raised by Council's Environmental Health Officer – Acoustic, detailed in the referral section of this report, it is noted that the proposed acoustic attenuation measures are not acceptable. The western edge of the elevated outdoor play area 2 with a length of 17m, parallel of the rear boundary, setback by only 1.1m, is currently proposed with a 2m clear acoustic fencing with another layer of 1.8m metal slat fence behind the clear acoustic fencing. As discussed previously, the clear acoustic fencing raises visual privacy concerns as this will allow unobstructed view of the western neighbour's windows to habitable rooms and private open space – as shown in Figures 25 to 27.</p> <p>As discussed, a foreseeable solution of having a solid acoustic fencing on this edge of the outdoor play area 2 would not be supported as this will result to unacceptable bulk and amenity impact on to the western neighbour. Having this solution would result in a solid wall appearance with a height of 3.4m above the existing ground (RL20.9 existing ground level at boundary + RL22.3 for the outdoor play area 2 + 2m acoustic fencing).</p>
<p><b>Scale – Overdevelopment</b></p>	<p>A concern was raised regarding the scale of the development and that it is an overdevelopment of the site.</p> <p>Council agrees with this sentiment. As discussed previously, the proposal extends almost the whole length of the site with a non-compliant rear setback, presenting a 92% variation. Contributing to this non-compliance is the protruding lower ground level comprising of vehicle parking, forcing the outdoor play area to be elevated rather than at-grade.</p>

	In addition to the above, in relation to the protrusion of the basement, the proposed lower ground level, actually proposed as a basement does not satisfy the definition of a basement as per the LEP and as such, is defined as another storey. As a result, as described in the proposal description section of this report, the proposed facility is a three-storey building.
<b>Character</b>	<p>Concerns were raised relating to the development's design and that it would be out of character in the locality.</p> <p>As discussed elsewhere in this report, it is considered that Council views the development the same as is it an excessive development for the area. The number of storeys proposed are not consistent with the low density setting of the area. The built coverage is almost the entire length and width of the site, not complying with the rear and secondary street setbacks.</p>
<b>Property Values</b>	Concerns were raised relating to the impact of the proposal to the values of the property nearby. However, note that this matter is not a planning consideration that will be given weight in the assessment of the application.
<b>Staffing</b>	<p>Concerns were raised relating to the number of staff of the facility. In particular, in relation to the evacuation management in an event of an incident that would require evacuation.</p> <p>It is noted that a Plan of Management was prepared for the development application. And that it is anticipated, when the application is supported, that a risk management will be undertaken before receiving a licence to operate from the Department of Education. However, the application is recommended for refusal and this will not eventuate.</p>
<b>Stormwater System</b>	Concerns were raised in relation to the stormwater system proposed and whether this could accommodate the child care facility. It is noted that Council's Development Engineer had requested for additional information relating to the proposed stormwater system. The applicant advised that they will not be providing any amended plans or supporting documentation to Council. As such, the application is recommended for refusal.

## 17. Public interest

The proposed development's non-compliance with the design principles and considerations of the Child Care Planning Guideline and relevant development standards and controls of Council, as detailed in the assessment section of the report, adequately demonstrates that the proposal is not in the public interest.

Further to the above, it is noted that the proposal does not satisfy the objectives of the R2 Low Density Residential zone and the objectives of the primary planning document relevant to the proposal – the Child Care Planning Guideline. The objectives dissatisfied by the proposal are as follows:

Zone R2 objectives under the PLEP 2023:

- *To maintain the low density residential character of the area*
- *To ensure non-residential land uses are carried out in a way that minimises impacts on the amenity of a low density residential environment*

Child Care Planning Guideline objectives:

- *Promote high quality planning and design of child care facilities in accordance with the physical requirements of the National Regulations*
- *Ensure that child care facilities are compatible with the existing streetscape, context and neighbouring land uses*
- *Minimise any adverse impacts of development on adjoining properties and the neighbourhood, including the natural and built environment*

The above information, together with the 28 objections received, render the proposed development is not in the public interest.

## 18. Conclusion

The application has been assessed relative to section 4.15 of the Environmental Planning and Assessment Act 1979, taking into consideration all relevant state and local planning controls and the proposal is recommended for refusal. The proposed development of centre-based child care facility at 68 Kirby Street, Rydalmere will result in significant adverse impacts on to the amenity of the locality and the neighbouring properties.

The proposal does not give regard to the low density residential setting of the locality. It raises visual privacy concerns for neighbouring properties to the west and north. The parking shortfall cannot be accepted due to the site's location, in particular, the secondary street being a cul-de-sac. The built-form is not supportable with a three-storey structure that is not in keeping with the low density residential character of the area and non-compliant rear and secondary street front setbacks.

## 21. Recommendation

Pursuant to Section 4.16 of the Environmental Planning and Assessment Act, 1979:

- A. **That the Parramatta Local Planning Panel**, exercising the functions of Council under section 4.16 of the Environmental Planning and Assessment Act 1979, REFUSE development consent for for the following reasons:
- a. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposal fails to satisfy Section 3.23 of the SEPP as it does not comply with the relevant provisions in the *Child Care Planning Guideline*, dated October 2021, as follows:
    - i. Design Principle 1 – Context
    - ii. Design Principle 2 – Built-Form
    - iii. Design Principle 3 – Adaptive Learning Spaces
    - iv. Design Principle 4 – Sustainability
    - v. Design Principle 6 – Amenity
    - vi. Design Principle 7 – Safety
    - vii. Consideration C1 – Amenity
    - viii. Consideration C2 – Site Suitability
    - ix. Consideration C5 – Local Character and Streetscape
    - x. Consideration C11 – Amenity Impacts
    - xi. Consideration C12 – Scale
    - xii. Consideration C13 – Front Setback (including Secondary Front Setback)
    - xiii. Consideration C14 – Side and Rear Setbacks
    - xiv. Consideration C15 – Secure Access Points
    - xv. Consideration C16 – Accessibility
    - xvi. Consideration C21 – Visual Privacy
    - xvii. Consideration C22 – Acoustic Privacy
    - xviii. Consideration C23 – Acoustic Report
    - xix. Consideration C30 – Car Parking Rate
    - xx. Consideration C32 – Traffic Report
    - xxi. Consideration C35 – Safety and Connectivity
    - xxii. Consideration C37 – Car Parking Design
  - b. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed development fails to satisfy the relevant provisions of the LEP, as follows:
    - i. Clause 1.2.(2)(k) – that the proposal involves a structure that is not appropriate and not complementary to the low density residential character of the area
    - ii. Clause 2.3(2) – that the proposal adversely impacts the neighbouring properties with the elevated outdoor play area 2 and full-height windows of indoor play area, raising visual privacy concerns; has

- a built-form that is not consistent with the low density residential setting of the locality and traffic implications with the inadequate vehicular access in the parking area and the parking shortfall.
- iii. Clause 6.2 – that the proposal involves unreasonable 1m fill at the north-western corner of the indoor play area 3, outside the footprint of the basement that would impact the future use and redevelopment of the land as the fill would be the future existing ground level of the land. The fill also promotes overlooking and contributes to the bulk of the development.
- c. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the proposed development does not meet compliance and/or consist of insufficient information to determine its compliance to the following sections of the *Parramatta Development Control Plan 2011*, as follows:
    - i. Part 2.4.2 – Water Management – inadequate stormwater management system proposed
    - ii. Part 2.4.6 – Development on Sloping Land – earthworks proposed, in particular, the fill of 1m at the north-western corner of the facility has not been minimised and that the design has failed to consider the topography of the land
    - iii. Part 2.4.8 – Public Domain – the proposal has failed to give regard to the proposed development's interface with the public domain
    - iv. Part 3.2.1 – Building Form and Massing – the proposed development's three-storey building and non-compliant rear and secondary street front setbacks present unacceptable bulk and scale that is not consistent with the existing and desired future character of the locality
    - v. Part 3.2.2. – Building Façade and Articulation - the proposed façade, in particular the secondary street front, presents an appearance of a multi-dwelling housing development (townhouse) with the vertical feature walls that provide an illusion of having at least three separate tenancies
    - vi. Part 3.2.3 – Roof Design – the proposed roof does not allow for an effective transition of roof forms with the roof forms of neighbouring properties
    - vii. Part 3.2.5 – Streetscape – the proposal has failed to be designed with regard to the character of the low density residential setting of the area and that the non-compliant secondary street front setback is not consistent with the established streetscape
    - viii. Part 3.2.6 – Fences – the proposed balustrades on the outdoor play areas fronting the secondary street that act as the boundary fence will have a height that is more than 1.8m
    - ix. Part 3.3.3. – Visual and Acoustic Privacy – the levels of the outdoor play area 2 and indoor play area 3, raised by at least 1m off the ground, present unreasonable visual privacy concerns onto the western and northern neighbours; the proposed acoustic privacy measures are not acceptable, in particular the clear acoustic fencing on the western edge of the outdoor play area, encouraging overlooking
    - x. Part 3.3.6 – Water Sensitive Urban Design – that the proposal has failed to satisfy Council's stormwater management system controls with inadequate design
    - xi. Part 3.3.7 – Waste Management – that the proposal has failed to satisfy Council's waste management requirements due to the inadequate manoeuvring and driveway grade for service vehicles
    - xii. Part 3.4.2 – Access for People with Disabilities – that the proposal has failed to address accessibility within the facility with inadequate documentation
    - xiii. Part 3.4.4 – Safety and Security – that the proposed pedestrian access points off Acacia Street do not have connected pedestrian pathway within Council verge
    - xiv. Part 3.6.2 – Parking and Vehicular Access – that the proposal has failed to provide adequate car parking within the site
  - d. Pursuant to Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*, the proposal will have adverse impacts on to the natural and built environment with the excessive built-form, non-compliant rear and secondary street front setbacks
  - e. Pursuant to Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*, the proposal will have adverse social impacts due to the following:
    - i. Inadequate parking spaces on the site that would have traffic implications
    - ii. Visual privacy concerns to the western and northern neighbours due to the elevated outdoor play area 2 and indoor play area 3
  - f. Pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*, the site is not considered suitable for the proposed development due to the following:

- i. As the proposed number of children to be given care in the facility drives the requirement to have a lower ground level that protrudes by at least 1m off the ground, consequently raising the levels of outdoor play area 2 and indoor play area 3
    - ii. The location of the site and the secondary street being a cul-de-sac does not allow vehicle parking shortfall and that surrounding road networks are not able to accommodate on-street parking
  - g. Pursuant to Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*, the proposal is not in the public interest due to the following:
    - i. The non-compliance with the relevant provisions in the SEPP (Transport & Infrastructure) 2021, referencing the *Child Care Planning Guideline*, Parramatta LEP 2023 and Parramatta DCP 2011, demonstrates that the proposed development is not in the public interest
    - ii. The proposal does not satisfy the objectives of the zone and the *Child Care Planning Guideline*, referenced in the SEPP (Transport & Infrastructure) 2021
    - iii. The proposal received 28 objections from the community
- B. **That** Council advise those who made a submission of the determination.









**68 KIRBY STREET  
RYDALMERE, NSW 2116**

**CHILDCARE CENTRE  
DEVELOPMENT APPLICATION**

ARCHITECTURAL DRAWING LIST - DA				
Sheet Number	Sheet Name	Current Revision	Current Revision Date	
DA02.00	COVER PAGE	A	21.04.21	
DA02.01	SITE PLAN / DEMOLITION		21.04.21	
DA03.01	BASEMENT PLAN	A	21.04.21	
DA03.02	GROUND FLOOR PLAN	A	21.04.21	
DA03.03	FIRST FLOOR PLAN	A	21.04.21	
DA03.04	CALCULATIONS & TYP DETAILS	A	21.04.21	
DA04.01	EXTERNAL ELEVATIONS	A	21.04.21	
DA05.01	SECTIONS & EXTERNAL FINISHES	A	21.04.21	
DA06.02	SHADOW DIAGRAMS	A	21.04.21	
DA06.03	VIEW FROM SUN & OUTDOOR PLAY AREA SOLAR/SHADE CALC	A	21.04.21	

A	31.09.13	SALED FOR DEVELOPMENT APPLICATION
TYPE	DATE	DESCRIPTION
<b>(BROADCASTER CONTRIBUTION)</b>		
PLANNED		PLANNING REGULARITY
TRAFFIC		STREETVIEW TRAFFIC
SW		GREENWAY
ACQUISITION		DAF DESIGN
LANDSCAPE		MURIEL WILSON
ARREST		HORTICULTURAL MANAGEMENT SERVICES
JOINT / SILENCE		ROADSIDE
POL		ROADSIDE
ACCESS		DRAGON
ARREST		HORTICULTURAL MANAGEMENT SERVICES

NOTES:

- NOTES**
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CLIENT

RYDALMERE GROUP PTY LTD

## ARCHITECT



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## PROJECT

CHILD CARE CENTRE

## PROJECT ADDRESS

68 KIRBY STREET, RYDALMERE 2116

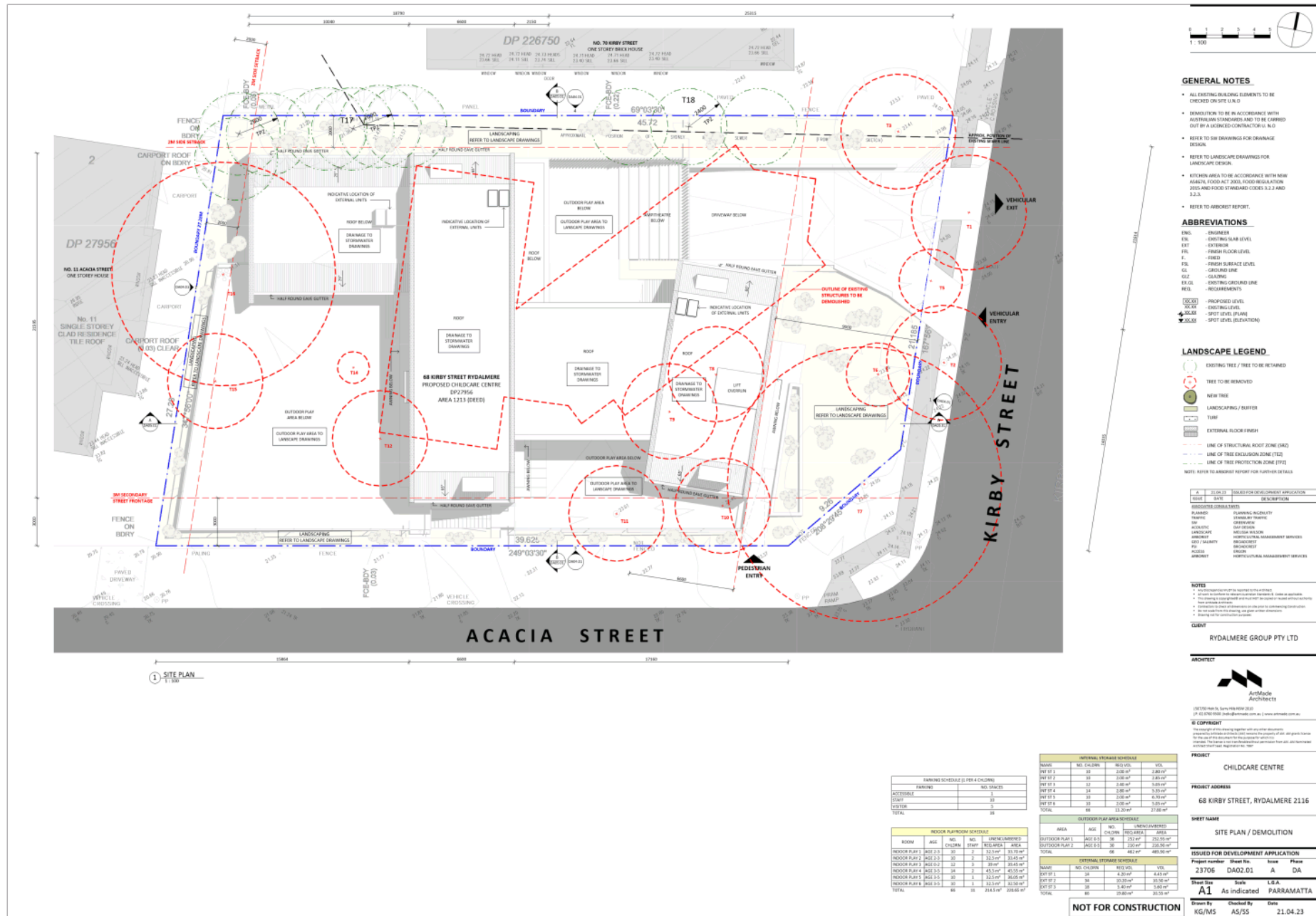
**SHEET NAME**

COVER PAGE

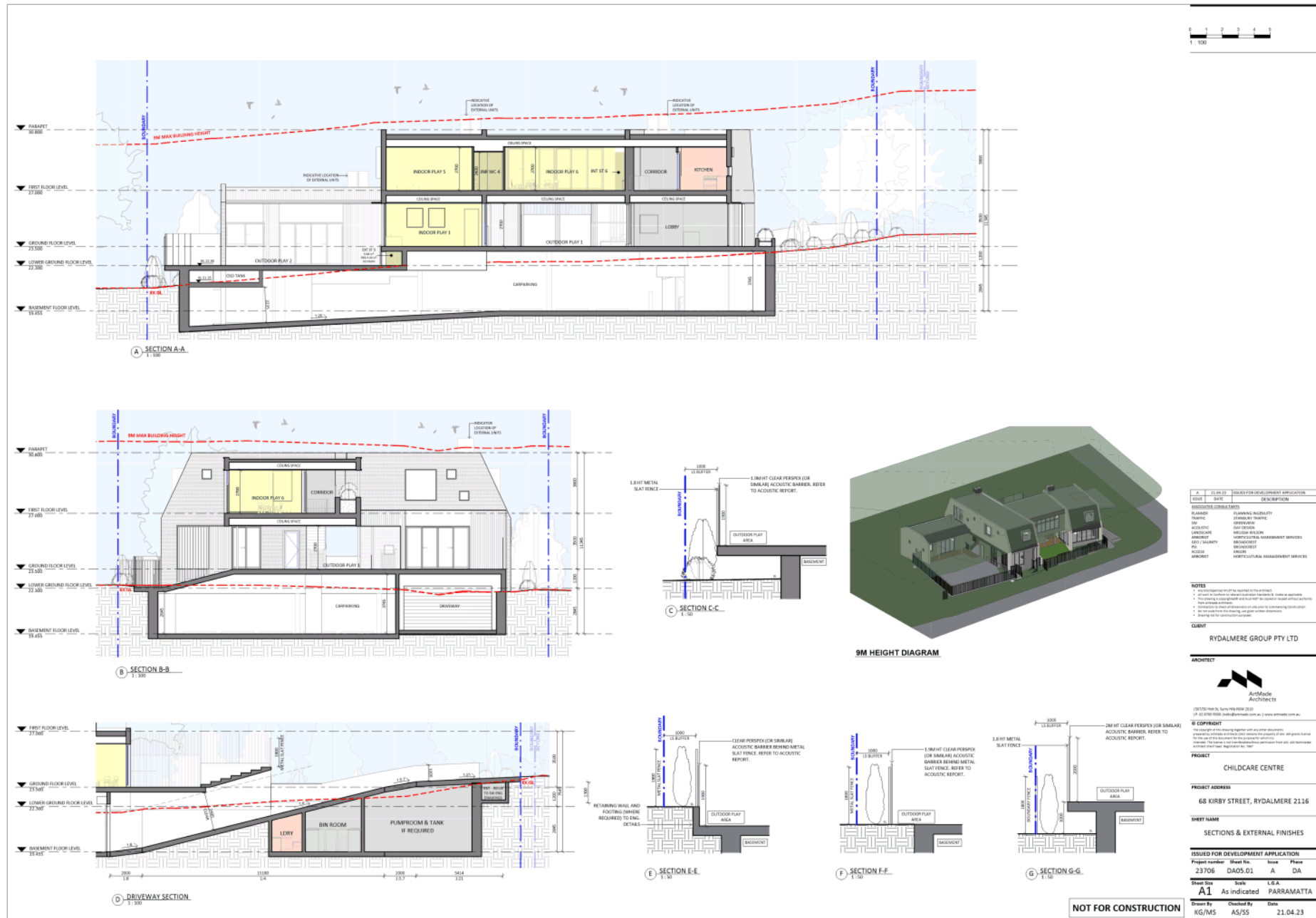
ISSUED FOR DEVELOPMENT APPLICATION

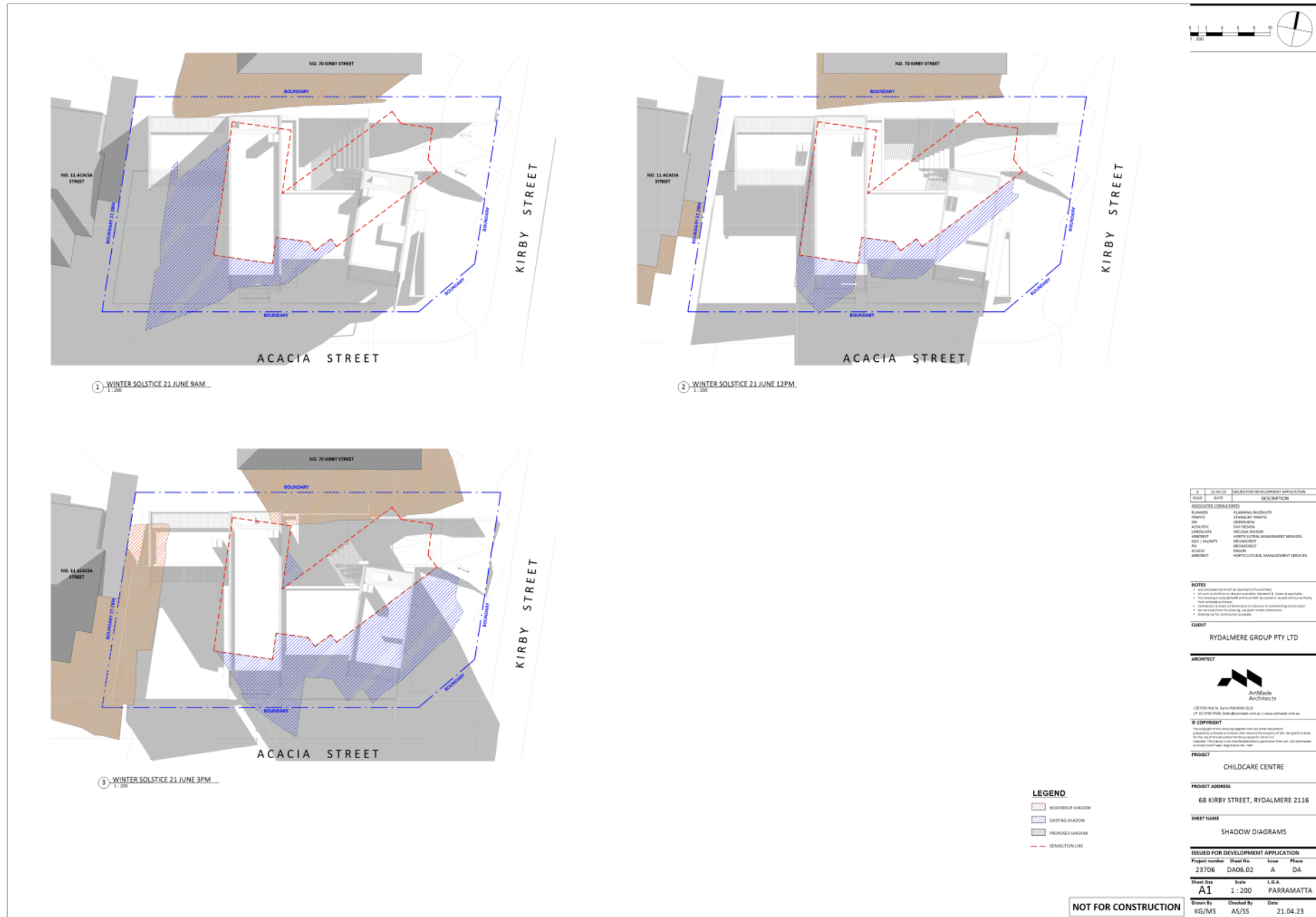
Project number	Sheet No.	Issue	Phase
23706	DA00.00	A	DA
Sheet Size	Scale	L.G.A.	
A1		PARRAMATTA	
Drawn By	Checked By	Date	
KG/MS	AS/SS	21.04.23	

**NOT FOR CONSTRUCTION**













	OUTDOOR PLAY AREA: SOLAR ACCESS	
	COVERED OUTDOOR PLAY AREA	
	MIN. REQ. OUTDOOR PLAY AREA	=462.2M <sup>2</sup>
	MIN. REQ. SOLAR TO OUTDOOR PLAY AREA	=138.66M <sup>2</sup> (30%)
	WINTER SOLSTICE 12PM	=1559M <sup>2</sup> (42%)
	WINTER SOLSTICE 3PM	=148.13M <sup>2</sup> (32%)
	COVERED OUTDOOR PLAY AREA	=138.66M <sup>2</sup> (30%)

Drawn By	Checked By	Date
KG/MS	AS/SS	21.04.23

**NOT FOR CONSTRUCTION**



# CIVIL DESIGN

## FOR PROPOSED DEVELOPMENT AT

### 68 Kirby Street, Rydalmere, NSW

#### GENERAL INSTRUCTIONS

1. THIS SOIL AND WATER MANAGEMENT PLAN IS TO BE READ IN CONJUNCTION WITH OTHER ENGINEERING PLANS RELATING TO THIS DEVELOPMENT.
2. CONTRACTORS WILL ENSURE THAT ALL SOIL AND WATER MANAGEMENT ARE UNDERSTOOD AS INDICATED BY THIS SPECIFICATION AND CONSTRUCTED FOLLOWING THE GUIDELINES OF NARRATING URBAN STORMWATER RISKS AND CONSTRUCTION DEPT OF HOUSING, 2016 (BLUE BOOK).
3. ALL SUBCONTRACTORS WILL BE RESPONSIBLE FOR THEIR RESPONSIBILITIES IN RESPECTING THE POTENTIAL FOR SOIL EROSION AND POLLUTION TO DOWNSTREAM AREAS.
4. THESE PLANS SHALL BE READ IN CONJUNCTION WITH OTHER RELEVANT CONSENT PLANS, SPECIFICATIONS, CONDITIONS OF DEVELOPMENT COVENANTS AND ANY OTHER RELEVANT REQUIREMENTS, WHERE DISCREPANCIES ARE NOTED, THE CONTRACTOR SHALL BE RESPONSIBLE FOR RESOLVING THEM.
5. WHERE THESE PLANS ARE NOTED FOR DEVELOPMENT, APPLICATIONS FOR CONSTRUCTION CERTIFICATE NOT USED FOR CONSTRUCTION PURPOSES ONLY.

#### LAND DISTURBANCE INSTRUCTIONS

1. DISTURBANCE TO NO MORE THAN 10 METRES FROM THE METRES FROM THE EDGE OF ANY EXISTENTIAL ENGINEERING ACTIVITY ARE TO BE LIMITED TO A MAXIMUM WIDTH OF 10 METRES. THE SITE MANAGER WILL DETERMINE AND MARK THE LOCATION OF THESE ZONES ON SITE. ALL SITE WORKERS WILL CLEARLY MARK THESE BOUNDARIES THAT WHERE APPROPRIATE ARE IDENTIFIED WITH BARBED FENCING (EMPLOYEE) AND SEDIMENT FENCING (DOWNLOADER) OR SIMILAR MATERIALS.
2. ACCESS AREAS ARE TO BE LIMITED TO A MAXIMUM WIDTH OF 10 METRES. THE SITE MANAGER WILL DETERMINE AND MARK THE LOCATION OF THESE ZONES ON SITE. ALL SITE WORKERS WILL CLEARLY MARK THESE BOUNDARIES THAT WHERE APPROPRIATE ARE IDENTIFIED WITH BARBED FENCING (EMPLOYEE) AND SEDIMENT FENCING (DOWNLOADER) OR SIMILAR MATERIALS.
3. ENTRY TO LANES NOT REQUIRED FOR CONSTRUCTION OR ACCESS IS PROHIBITED EXCEPT FOR ESSENTIAL TRAFFIC OF PLANT GROWTH.
4. WORK ARE TO PROCEED IN THE FOLLOWING SEQUENCE:
  - A. INSTALL ALL BARBER AND SEDIMENT FENCING WHERE SHOWN ON THE PLAN.
  - B. CONSTRUCT THE STABLE RAMP ACCESS.
  - C. CONSTRUCT DRAINAGE CHANNELS AS REQUIRED.
  - D. INSTALL AND GRAVEL INLETS FOR ANY ADJACENT KERB.
  - E. INSTALL GEOTEXTILE INLET PITS WITHIN ANY ADJACENT KERB.
  - F. CLEAN SITE AND STONE AND STOKES FOR RELOCATION.
  - G. EXCAVATE INLET PITS.
  - H. LANDSCAPE ALL ESSENTIAL CONSTRUCTION WORKS ENSURING THAT ROOF AND PAVED AREA STORMWATER PREVENTER ARE CONNECTED TO PERMANENT DRAINAGE AS SOON AS PRACTICABLE.
  - I. GRASS LOT AREAS TO FINAL GRADES AND APPLY PERMANENT STABILISATION LANDSCAPING WITHIN 30 DAYS OF COMPLETION OF CONSTRUCTION WORKS.
  - J. REPAIR TEMPORARY EROSION CONTROL MEASURES AFTER THE PERMANENT LANDSCAPING HAS BEEN COMPLETED.
  - K. INSURE THAT ALL SLOPE LENGTHS ARE NOT GREATER THAN 1:1 WHERE PRACTICABLE. SLOPE LENGTHS ARE DETERMINED BY SLOPE FENCING AND CATCHMENT FENCING.
  - L. ON COMPLETION OF MAJOR WORKS LEAVE DISTURBED LANDS WITH A SCARPED SURFACE TO INCREASE WATER INFILTRATION AND ASSIST WITH KETING TOSOL LATER.

#### SITE MAINTENANCE INSTRUCTIONS

- A. THE SITE SUPERINTENDENT WILL INSPECT THE SITE AT LEAST WEEKLY AND AT THE CONCLUSION OF EVERY STORM EVENT TO:
  - i. ENSURE THAT DRAINAGE OUTFALLS AND TO EFFECT ANY NECESSARY REPAIRS.
  - ii. REMOVE SPILLED SAND OR OTHER MATERIALS FROM HAZARDOUS AREAS, INCLUDING LANES CLOSER THAN 1 METRE FROM AREAS OF LAND CONCENTRATED OR HIGH VELOCITY FLOWS.
  - iii. EXISTING WATERWAYS AND PAVED AREAS.
  - iv. REMOVE TRAPPED SEDIMENT WHENEVER THE DESIGN CAPACITY OF THAT STRUCTURE HAS BEEN EXCEEDED.
  - v. REMOVE REINFORCEMENT LAMINATE WHENEVER NECESSARY TO ENSURE THE EROSION HAZARD AND NOT TO INFLUENCE UPGRADING OR REPAIR AS NECESSARY.
  - vi. CONSTRUCT ADDITIONAL EROSION AND/OR SEDIMENT CONTROL WORKS AS NECESSARY TO ENSURE THE DESIGN CAPACITY OF THE DESIRED PROTECTION IS GIVEN TO DOWNSTREAM AREAS AND WATERWAYS, MAINTAINING CHANGES TO THE PLAN WHERE IT PROVIDES INADEQUATE PROTECTION OR IS SUBJECT TO CHANGES IN CONDITIONS ON THE WORK SITE OR ELSEWHERE IN THE CATCHMENT.
  - vii. MAINTAIN EROSION AND SEDIMENT CONTROL STRUCTURES IN A FULLY FUNCTIONAL CONDITION UNTIL ALL LANDWORK ACTIVITIES ARE COMPLETED AND THE SITE IS REHABILITATED.

- A. THE SITE SUPERINTENDENT WILL KEEP A LOGBOOK MAKING ENTRIES AT LEAST WEEKLY IMMEDIATELY BEFORE FORECAST RAIN AND AFTER RAINFALL. ENTRIES WILL INCLUDE:
  - i. THE VOLUME AND INTENSITY OF ANY RAINFALL EVENTS.
  - ii. THE CONDITION OF ANY SOIL AND WATER MANAGEMENT WORKS.
  - iii. THE CONDITION OF VEGETATION AND ANY NEED TO REGRASS.
  - iv. THE NEED FOR EROSION PREVENTION STRATEGIES.
  - v. ANY REMEDIAL WORKING TO BE UNDERTAKEN.

1. THE LOGBOOK WILL BE KEPT ON SITE AND MADE AVAILABLE TO ANY AUTHORIZED PERSON UPON REQUEST. IT WILL BE GIVEN TO THE PROJECT MANAGER AT THE CONCLUSION OF THE WORKS.
2. THESE ARE INHERENT RISKS WITH CONSTRUCTING, MAINTAINING, OPERATING, DEMOLISHING, DRAINAGE AND EROSION. THE NOTE THIS DESIGNER'S THOUGHTS OF RISK AS FAR AS IS REASONABLY PRACTICABLE RISKS HAVE BEEN EVALUATED OR UNMITIGATED THROUGH THE DESIGN PROCESS. HAZARD CONTROLS MUST STILL BE IMPLEMENTED BY THE CONTRACTOR, OWNER OR OPERATOR TO MINIMIZE THE RISK OF INJURY, DAMAGE OR ASSESSMENT OF NOT IDENTIFY ANY UNIQUE RISKS ASSOCIATED WITH THE DESIGN.

#### SEDIMENT CONTROL INSTRUCTIONS

1. SEDIMENT FENCES WILL BE INSTALLED AS SHOWN ON THE PLAN AND BE MAINTAINED AT THE DISCRETION OF THE SITE SUPERINTENDENT TO REMAIN AS NEAR AS POSSIBLE TO THEIR SOURCE.
2. SEDIMENT FENCES WILL NOT HAVE CATCHMENT AREAS EXCEEDING 100 SQUARE METRES AND HAVE A STORAGE DEPTH OF AT LEAST 1.5 METRES.
3. SEDIMENT REMOVED FROM ANY TRAPPING DEVICES WILL BE RELOCATED WHERE IT DOES NOT POLLUTE TO DOWNSTREAM LANDS AND WATERWAYS CANNOT OCCUR.
4. STOCKPILES ARE NOT TO BE LOCATED WITHIN METRES OF HAZARDOUS AREAS INCLUDING AREAS OF HIGH VELOCITY FLOWS SUCH AS WATERWAYS, PAVED AREAS AND DRAINWAYS.
5. MATERIALS WILL BE PROTECTED FROM EROSION BY THE PERMANENT DRAINAGE SYSTEM UNLESS THE CATCHMENT AREA HAS BEEN PROBABLY LARGELY AND/OR CONSIDERABLE AREA HAS BEEN TREATED BY AN APPROVED DEVICE.
6. TEMPORARY SEDIMENT TRAPS WILL REMAIN IN PLACE UNTIL AFTER THE LANES THEY ARE PROTECTING ARE COMPLETELY REHABILITATED.
7. ACCESS TO SITES SHOULD BE ESTABLISHED TO REDUCE THE LIKELIHOOD OF VEHICLES TRACKING SOIL MATERIALS ONTO PUBLIC ROADS AND ENSURE ALL WEATHER ENTRY POINTS.

#### SOIL EROSION CONTROL INSTRUCTIONS

1. EARTH BATTERS WILL BE CONSTRUCTED WITH A LOW A GRADIENT AS PRACTICABLE BUT NO STEEPER, UNLESS OTHERWISE NOTED. THAT:
  - 2:1 (V) WHERE SLOPE LENGTH LESS THAN 10 METRES.
  - 3:1 (V) WHERE SLOPE LENGTH BETWEEN 10 AND 20 METRES.
  - 4:1 (V) WHERE SLOPE LENGTH GREATER THAN 20 METRES.
2. ALL WATERWAYS, DRAINAGE, SPILLWAYS AND THEIR OUTLETS WILL BE CONSTRUCTED TO BE STABLE IN AT LEAST THE 1:50 YEAR ARI OF CONCENTRATION FLOOD EVENT.
3. WATERWAYS AND OTHER AREAS SUBJECT TO CONCENTRATED FLOODS AFTER CONSTRUCTION ARE TO HAVE A MINIMUM GROUND COVER C FACTOR OF 0.15 (15% GROUND COVER) WITHIN 10 WORKING DAYS FROM COMPLETION OF CONSTRUCTION. FLOW OF NARRATING URBAN STORMWATER RISKS AND CONSTRUCTION DEPT OF HOUSING, 2016 (BLUE BOOK) AND VEGETATION TRAFFIC WILL BE PROHIBITED IN THESE AREAS.
4. STOCKPILES OF MATERIALS ARE TO HAVE A MINIMUM GROUND COVER C FACTOR OF 0.15 (15% GROUND COVER) WITHIN 10 WORKING DAYS FROM COMPLETION OF CONSTRUCTION.
5. ALL LANES, INCLUDING WATERWAYS AND STOCKPILES, DURING CONSTRUCTION ARE TO HAVE A MINIMUM GROUND COVER C FACTOR OF 0.15 (15% GROUND COVER) WITHIN 10 WORKING DAYS FROM COMPLETION OF CONSTRUCTION. FLOW OF NARRATING URBAN STORMWATER RISKS AND CONSTRUCTION DEPT OF HOUSING, 2016 (BLUE BOOK) AND VEGETATION TRAFFIC WILL BE PROHIBITED IN THESE AREAS.
6. FOR AREAS OF BUILT UP LAND, THE FOLLOWING GROUND COVER PLANT SPECIES FOR TEMPORARY COVER, JANUARY BELLET OF BUILT UP LAND AND 2:1 (V) SLOPES.
7. PERMANENT REHABILITATION OF LANDS AFTER CONSTRUCTION WILL BE WITHIN A GROUND COVER C FACTOR OF 0.15 (15% GROUND COVER) WITHIN 30 DAYS OF COMPLETION OF CONSTRUCTION WORKS. REVEALED PLANTS ARE TO BE PLANTED REGULARLY UNTIL AN EFFECTIVE COVER IS ESTABLISHED AND PLANTS ARE GROWING VIGOROUSLY. FOLLOW-UP SEED AND FERTILIZER WILL BE APPLIED AS NECESSARY.
8. REVEGETATION SHOULD BE AIDED AT RE-ESTABLISHING NATURAL SPECIES, NATURAL SURFACE SOILS SHOULD BE RE-APPLIED AND NON-PERSISTENT ANNUAL COVER CROPS SHOULD BE USED.

#### WASTE CONTROL INSTRUCTIONS

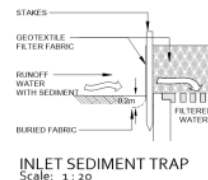
1. ACCEPTABLE WASTE WILL BE PROVIDED FOR ANY CONCRETE AND METAL DEBRIS, PLASTER, ACID WASHING, LIGHTWEIGHT WASTE MATERIALS AND LITTER. CLEARANCE SERVICES WILL BE PROVIDED AT LEAST WEEKLY DISPOSAL OF WASTE WILL BE IN A MANNER APPROVED BY THE SITE SUPERINTENDENT.
2. ALL POSSIBLE POLLUTANT MATERIALS ARE TO BE STORED WELL CLEAR OF ANY FLOOD, DRAINAGE, PAVED, OR PAVING AREAS.
3. ALL STORED POLLUTANT MATERIALS ARE TO BE STORED IN A DESIGNATED AREA AND TO BE STORED IN A DESIGNATED AREA UNDER COVER.
4. ALL SITE STAFF AND SUB-CONTRACTORS ARE TO BE INFORMED OF THESE OBLIGATIONS TO USE WASTE CONTROL FACILITIES PROVIDED.
5. ANY OF WORKING ACTIVITIES ARE TO BE CLOSERLY MONITORED TO ENSURE THAT WATER IS NOT POLLUTED BY SEDIMENT, TOXIC MATERIALS OR INTERFERING PRODUCTS.
6. PROVIDE DESIGNATED VEHICULAR WASHDOWN AND MAINTENANCE AREAS WITHIN AREAS TO BE CONSIDERED BARRIERS.

#### PROCEDURE FOR DE-WATERING

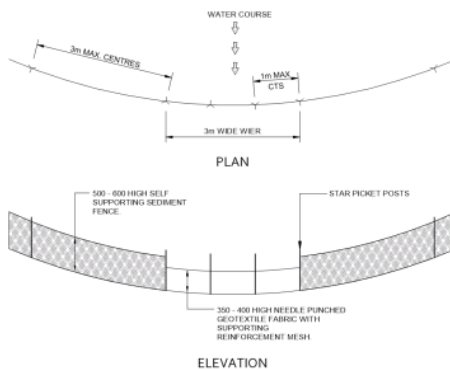
1. ENSURE PERMISSION FOR DE-WATERING IS RECEIVED FROM AUTHORITIES BEFORE PUMPING OUT.
2. AN ON-SITE TREATMENT PROCESS (DRAWING) TO THE DRAINAGE DURING CONSTRUCTION WILL BE CONTAINED ON-SITE AND RELOCATED ONLY WHEN IT IS NOT IN A RISK OF POLLUTING SOILS ARE LESS THAN 500m, TURBIDITY LESS THAN 100 NTU, SOLIDS GREATER LESS THAN 50mg/L AND BIOLOGICAL OXYGEN DEMAND (BOD) LESS THAN 50mg/L FOR STORMS LESS THAN 1 IN 1 YEAR EVENTS.
3. METHODS OF SAMPLING AND ANALYSIS OF WATER QUALITY WILL BE IN ACCORDANCE WITH THE APPLICABLE METHODS LISTED IN THE EPA PUBLISHED APPROVED METHODS FOR THE SAMPLING ANALYSIS OF WATER POLLUTANTS AND SOIL POLLUTANTS. RELEVANT LABORATORY ANALYSIS REQUIREMENTS INDICATED BY IN SITU TESTING APPROPRIATE SAMPLE BOTTLES AND PRESERVATION WILL BE USED AS REQUIRED FOR THE SAMPLING METHODS OBTAINED FROM APPLICABLE PARTS OF NSW 1 AND NSW 2. ONLY VIALS THAT MEET THE REQUIREMENTS PRACTICAL BY A DATA RECOVERED LABORATORY CERTIFIED TO PROVIDE THE APPLICABLE ANALYSIS.
4. AN EXCAVATION TO TOP SOIL PROCESSES, ANY WATER COLLECTED AT THE BOTTOM OF EXCAVATIONS WILL BE OVERFLOW TO A TEMPORARY SEDIMENTATION BASIN OR SETTLEMENT TANK. THE WATER CONTAINING ONLY SEDIMENTS, IT WILL BE FILTERED AND PUMPED TO ITS DESTINATION BEFORE THE CAN BE REUSED IN MOST CASES LESS THAN 500m, TOTAL SUSPENDED SOLIDS (TSS) LESS THAN 500mg/L, BIOLOGICAL OXYGEN DEMAND (BOD) LESS THAN 50mg/L, AND A LIQUID WASTE COMPANY MAY BE REQUIRED TO COLLECT AND TREAT CONTAMINATED WATER FOR DISPOSAL AT A LICENSED TREATMENT FACILITY.

THE BUILDER AND EXCAVATION CONTRACTOR ARE TO ENSURE ANY WATER DISCHARGED INTO COUNCIL STORMWATER SYSTEM FROM THE EXCAVATED PORTIONS OF THE SITE COMPLY WITH THE RELEVANT ENVIRONMENTAL CRITERIA AND APPROPRIATE CONTROL METHODS SHALL BE ADOPTED. THE PROPOSED CONTROL METHODS ARE STRICTLY TO COMPLY WITH THE ANZECC 2000 GUIDELINES.

WHERE WORK INVOLVES EXCAVATION OR STOCKPILING OF RAW OR LOOSE MATERIALS, EROSION AND SEDIMENT CONTROL DEVICES SHALL BE PROVIDED WHOLLY WITHIN THE SITE WHILST WORK IS BEING CARRIED OUT IN ORDER TO PREVENT SEDIMENT AND SILT FROM SITE WORKS BEING CONVEYED BY STORMWATER INTO COUNCIL'S STORMWATER SYSTEM, NATURAL WATER COURSES, BUSHLANDS, AND NEIGHBORING PROPERTIES. IN THIS REGARD, ALL STORMWATER DISCHARGE FROM THE SITE SHALL MEET THE REQUIREMENTS OF THE PROTECT OF ENVIRONMENT OPERATIONS ACT 1987 AND THE DEPARTMENT OF ENVIRONMENT, CLIMATE CHANGE AND WATER GUARANTEES. THE CONTROL DEVICES ARE TO BE MAINTAINED IN A SERVICEABLE CONDITION AT ALL TIMES.



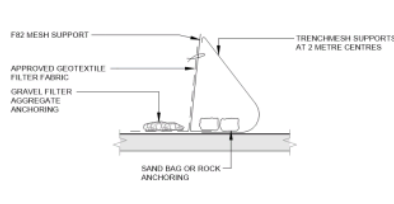
INLET SEDIMENT TRAP  
Scale: 1:20



SEDIMENT SILT FENCE  
Scale: 1:20

#### ESM SEDIMENT FENCE WEIR

Scale: 1:20



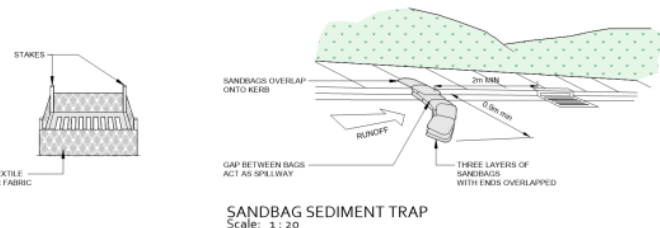
ESM SEDIMENT FENCE WEIR  
Scale: 1:20

#### SILT FENCE BARRIER DETAIL

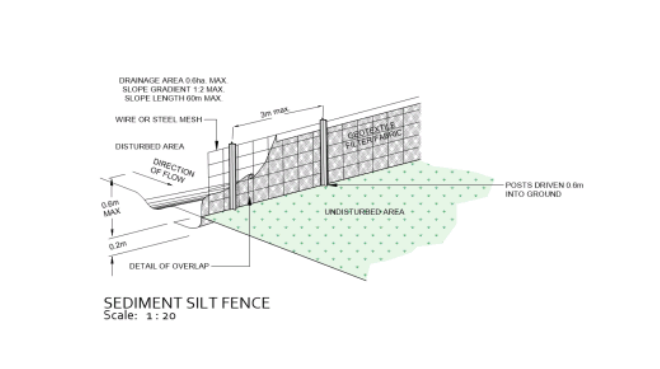
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SILT FENCE BARRIER DETAIL  
Scale: 1:20



SANDBAG SEDIMENT TRAP  
Scale: 1:20



TEMPORARY CONSTRUCTION EXIT  
Scale: 1:20

PROPOSED DEVELOPMENT			
68 Kirby Street, Rydalmere, NSW			
RYDALMERE GROUP PTY LTD			
REV	DATE	BY	DESCRIPTION
2	21.04.2023	JPS	ISSUED FOR APPROVAL
1	19.04.2023	JPS	ISSUED FOR COORDINATION

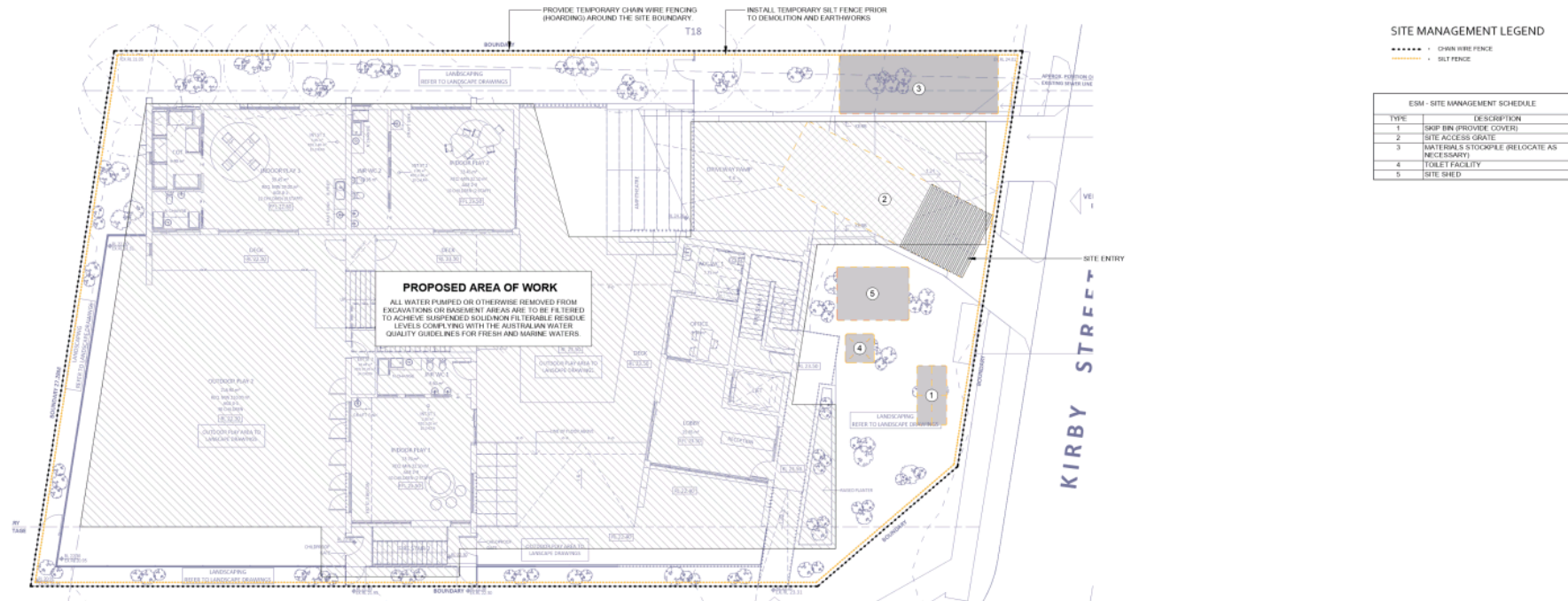


DESIGN RC	DRAWN JPS	CHECKED AMK	SIZE: A1	SCALE: As indicated
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#### CIVIL DESIGN

#### NOTES & LEGENDS





PROPOSED DEVELOPMENT				
68 Kirby Street, Rydalmer, NSW				
RYDALMER GROUP PTY LTD				
REV	DATE	BY	DESCRIPTION	
2	21.04.2023	JPS	ISSUED FOR APPROVAL	
1	19.04.2023	JPS	ISSUED FOR COORDINATION	



CIVIL DESIGN

ENVIRONMENTAL SITE MANAGEMENT PLAN



PROJECT

**68 KIRBY STREET, RYDALMERE**

## LANDSCAPE ARCHITECTURAL DRAWING LIST

DWG NO.	SHEET NAME	SCALE	ISSUE	REV. DATE
LS00	LANDSCAPE   COVER PAGE (THIS PAGE)	NTS@A3	C	19.04.23
LS01	LANDSCAPE   SITE PLAN	1:100@A3	C	19.04.23
LS02	LANDSCAPE   GROUND FLOOR	1:100@A3	C	19.04.23
LS03	LANDSCAPE   SECTION A	1:200@A3	C	19.04.23
LS04	LANDSCAPE   MOOD BOARD	NTS@A3	C	19.04.23
LS05	LANDSCAPE   PLANT SPECIES   GROUND FLOOR	NTS@A3	C	19.04.23
LS06	LANDSCAPE   NOTES	NTS@A3	C	19.04.23
LS07	LANDSCAPE   TYPICAL DETAILS	1:20@A3	C	19.04.23

MWLA

PROJECT NUMBER

**2313**

CLIENT

**RYDALMERE GROUP PTY LTD**

ISSUE

**FOR DA SUBMISSION**

DATE

**19.04.23**

NOMINATED LANDSCAPE ARCHITECT

**MELISSA WILSON**

MELISSA WILSON LANDSCAPE ARCHITECTS

0416 112 862

LEVEL 4 | 15 FOSTER STREET SURRY HILLS, 2010 NSW  
PO BOX DARLIGHURST NSW 1300[www.melissawilson.com.au](http://www.melissawilson.com.au)





Tree Species	Common Name	Age	Size	Health	Condition	Retention	Removal	Notes
T1	Acacia	10	10m	Good	Good	Yes	No	
T2	Acacia	10	10m	Good	Good	Yes	No	
T3	Acacia	10	10m	Good	Good	Yes	No	
T4	Acacia	10	10m	Good	Good	Yes	No	
T5	Acacia	10	10m	Good	Good	Yes	No	
T6	Acacia	10	10m	Good	Good	Yes	No	
T7	Acacia	10	10m	Good	Good	Yes	No	
T8	Acacia	10	10m	Good	Good	Yes	No	
T9	Acacia	10	10m	Good	Good	Yes	No	
T10	Acacia	10	10m	Good	Good	Yes	No	
T11	Acacia	10	10m	Good	Good	Yes	No	
T12	Acacia	10	10m	Good	Good	Yes	No	
T13	Acacia	10	10m	Good	Good	Yes	No	
T14	Acacia	10	10m	Good	Good	Yes	No	
T15	Acacia	10	10m	Good	Good	Yes	No	
T16	Acacia	10	10m	Good	Good	Yes	No	
T17	Acacia	10	10m	Good	Good	Yes	No	
T18	Acacia	10	10m	Good	Good	Yes	No	
T19	Acacia	10	10m	Good	Good	Yes	No	
T20	Acacia	10	10m	Good	Good	Yes	No	

**MELISSA WILSON**  
LANDSCAPE ARCHITECTS  
0416 112 862 | Level 4 | 15 Foster Street  
Surry Hills, 2010 NSW  
PO BOX 1320 Darlinghurst, NSW 1300  
www.melissawilson.com.au  
NOMINATED LANDSCAPE ARCHITECT MELISSA WILSON

ISSUE  
A  
B  
C

AMENDMENT  
CONCEPT  
UPDATED CONCEPT  
FOR DA SUBMISSION

DATE  
06.04.23  
13.04.23  
19.04.23

SCALE: 1:200 @ A3  
DRAWN: MW  
CLIENT: RYDALMERE GROUP PTY LTD  
PROJECT NUMBER: 2313

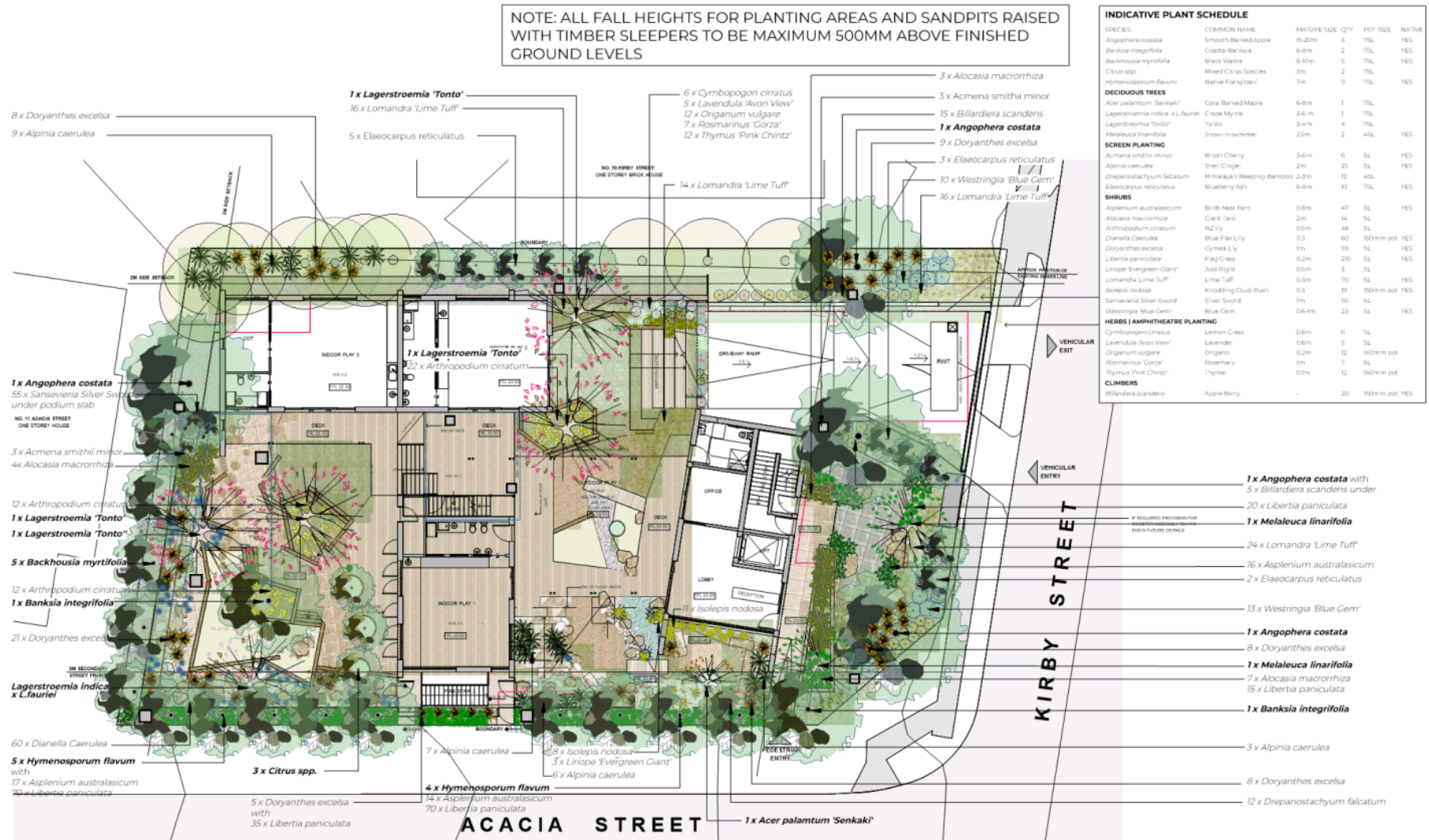
DRAWING TITLE  
LANDSCAPE | SITE PLAN  
PROJECT  
68 KIRBY STREET, RYDALMERE

DWG NO.  
**LS01**  
ISSUE  
**C**

NOTES  
REFER TO DETAIL SURVEY  
FOR SITE IDENTIFICATION  
BOUNDARY INFORMATION &  
LEVELS  
ALL LEVELS AND  
DIMENSIONS TO BE  
CONFIRMED ON SITE. IF ANY  
DISCREPANCIES OCCUR  
PLEASE NOTIFY THE  
LANDSCAPE ARCHITECT



NOT FOR  
CONSTRUCTION







2 PLANT SPECIES | FIRST FLOOR  
1:NTS@A3





**MELISSA WILSON**  
LANDSCAPE ARCHITECTS  
0416 112 862 | Level 4 | 15 Foster Street,  
Surry Hills, 2010 NSW  
PO BOX 1320 Darlinghurst, NSW 1300  
www.melissawilson.com.au  
NOMINATED LANDSCAPE ARCHITECT | MELISSA WILSON

ISSUE	AMENDMENT
A	CONCEPT
B	UPDATED CONCEPT
C	FOR DA SUBMISSION

DATE
06.04.23
13.04.23
19.04.23

SCALE: 1:200 @ A3
DRAWN: MW
CLIENT: RYDALMERE GROUP PTY LTD
PROJECT NUMBER: 2313

DRAWING TITLE
LANDSCAPE   SECTION A
PROJECT
68 KIRBY STREET, RYDALMERE

DWG NO.
LS03
ISSUE
C

NOTES
REFER TO DETAIL SURVEY FOR SITE IDENTIFICATION, BOUNDARY INFORMATION & LEVELS.
ALL LEVELS AND DIMENSIONS TO BE CONFIRMED ON SITE. IF ANY DISCREPANCIES OCCUR, PLEASE NOTIFY THE LANDSCAPE ARCHITECT

NOT FOR CONSTRUCTION



ISSUE	AMENDMENT
A	CONCEPT
B	UPDATED CONCEPT
C	FOR DA SUBMISSION

DATE	SCALE: NTS@A3
06.04.23	
13.04.23	DRAWN: MW
19.04.23	
	CLIENT: RYDALMERE GROUP PTY LTD
	PROJECT NUMBER: 233

DRAWING TITLE
LANDSCAPE   MOOD BOARD
PROJECT
68 KIRBY STREET, RYDALMERE

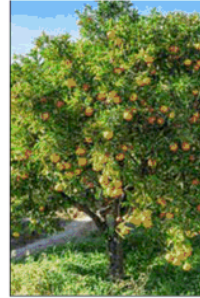
DWG NO.
LS04
ISSUE
C

NOTES:  
REFER TO DETAIL SURVEY  
FOR SITE IDENTIFICATION,  
BOUNDARY INFORMATION &  
LEVELS.  
ALL LEVELS AND  
DIMENSIONS TO BE  
CONFIRMED ON SITE. IF ANY  
DISCREPANCIES OCCUR,  
PLEASE NOTIFY THE  
LANDSCAPE ARCHITECT

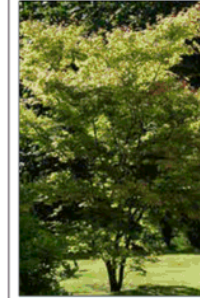
NOT FOR  
CONSTRUCTION



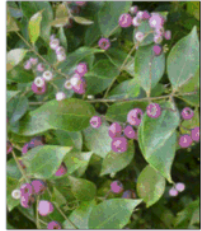
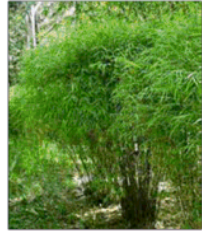
## TREES

*Angophora costata**Banksia integrifolia**Backhousia myrtifolia**Citrus spp.**Citrus spp.**Hymenosporum flavum*

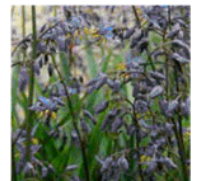
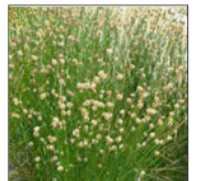
## DECIDUOUS TREES

*Acer palmatum 'Senkaki'**Lagerstroemia indica x L.fauriei*

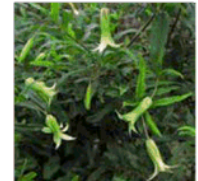
## SCREEN PLANTING

*Acmena smithii minor**Alpinia caerulea**Drepanostachyum falcatum**Elaeocarpus reticulatus**Syzygium 'Cascade'*

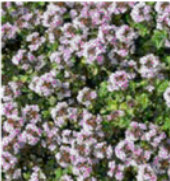
## SHRUBS | GRASSES

*Asplenium australasicum**Melaleuca linariifolia**Lagerstroemia 'Tonto'**Alocasia macrorrhiza**Alpinia nutans**Arthrodium cirratum**Blechnum 'Silver Lady'**Dianella caerulea**Doryanthes excelsa**Isolepis nodosa**Libertia paniculata**Liriope 'Evergreen Giant'*

## GROUNDCOVERS

*Lomandra 'Lime Tuff'**Sansevieria stuckyi**Westringia 'Blue Gem'**Billardiera scandens*

## HERBS

*Cymbopogon citratus**Lavendula 'Avonview'**Origanum vulgare**Rosmarinus 'Gorzi'**Thymus spp.*



## LANDSCAPE NOTES

## ON SLAB PLANTER DRAINAGE

## Location

Note that all waterproofing of slabs and location of drainage outlets is to the project engineers specification.

## DRAINAGE CELL:

350mm x 350mm x 30mm drainage cell as supplied by Atlantis Water Management or approved equal. Lay according to manufacturer's instructions. Drainage cell to be fully wrapped in geotextile fabric as specified.

## GEOTEXTILE FABRIC:

Geotextile as recommended appropriate by Atlantis Water Management or similar and approved. Wrapped and taped to manufacturer's instructions.

## Sources/ contacts:

Atlantis Water Management

Phone: 9419 6000

## SAND BLINDING LAYER:

Coarse washed river sand laid to a depth of 50mm as detailed.

## MEMBRANE PROTECTION BOARD

Provide 5mm FC sheeting or similar and approved securely affixed to all vertical faces of the membrane in a manner that will not damage the integrity of the membrane. Note hold point requirements.

## TOPSOIL

## Source / Type:

Imported topsoil type A: Light weight planter box mix, Benedict's SmartMix No. 4. Product code RN133. As supplied by Benedict Sand and gravel or approved equivalent.

Imported topsoil type B: Light weight subsoil mix, Benedict's SmartMix No. 5. Product code BO133. As supplied by Benedict Sand and Gravel or approved equivalent.

## PLANTING BEDS ON SLAB

Clean out any loose cement and other material likely to be harmful to plant growth. Install Drainage cell as specified and to manufacturers instructions. Seal edge of geotextile fabric to planter box wall. Provide membrane protection board to sides of planter and secure with liquid nails or similar method that will not damage the waterproof membrane. Note hold point requirement. Provide sand blinding layer as specified in clause 3.3. Install topsoil in 150mm layers and consolidate as specified below.

## TOPSOIL CONSOLIDATION

Compact lightly and uniformly in 150mm layers. Compact topsoil mix with a single pass of a 50 kg hand drawn tennis court roller or similar means to a compacted depth of 150mm. Lightly water with a fine mist spray each layer, prior to installing the following layer. Avoid differential subsidence and excess compaction and produce a finished topsoil surface which has the following characteristics:

Finished to 30mm above design levels to allow for consolidation.

Smooth and free from stones or lumps of soil.

Graded to drain freely, without ponding, to catchment points.

Graded evenly into adjoining ground surfaces.

Ready for planting.

## SETTLEMENT PERIOD

Allow the topsoil in planter boxes to settle for one week prior to planting. Top up any settlement as required to meet design levels.

## Topsoil depth

Typically spread topsoil to the depths as indicated on drawings

## Surplus topsoil

General: Spread surplus topsoil on designated areas on site, if any; otherwise, dispose off site.

## PLANTING BEDS ON GRADE

## SUBSOIL

Excavate to bring the subsoil to a minimum of 300mm below finished design levels, to allow for infilling with topsoil mix. Break up the soil to a further depth of 100mm.

Remove all building rubble, waste oil, cement and other material harmful to plant growth from planting beds prior to placement of topsoil.

Cultivate to a minimum depth of 100 mm over areas to be planted or grassed. Do not disturb services or tree roots; if necessary, cultivate these areas by hand. During cultivation, thoroughly mix in materials required to be incorporated into the subsoil. Remove stones exceeding 25 mm, clods of earth exceeding 50 mm, and weeds, rubbish or other deleterious material brought to the surface during cultivation. Trim the surface to the required design levels after cultivation.

Confirm that the planting beds are free draining, if not install sub-soil drainage lines and connect to stormwater system

Apply additives after ripping or cultivation and incorporate into the upper 100 mm layer of the subsoil.

## TOPSOIL

Where possible use site topsoil and compost mixed at a rate of 4 soil:1 compost, thoroughly mixed before placement. If imported soil is required soil shall be same or similar to Benedict's Sand and Gravel *Organic Garden mix M13* for garden bed areas or *Turf Underlay mix* for turf areas

Spread the topsoil on the prepared subsoil and grade evenly, making the necessary allowances so that required finished levels and contours are achieved after light compaction

Compact lightly and uniformly in 150 mm layers. Avoid differential subsidence and excess compaction and produce a finished topsoil surface which is ready for planting.

Spread topsoil to the following typical depths:

Planting beds: 300 mm

Grass areas: 100 mm.

## COMPOST

Well rotted vegetative material or animal manure, or other approved material, free from harmful chemicals, grass and weed growth, and with a neutral pH value.

## PLANTING

Trees: Excavate a plant hole to twice the diameter of the root ball and at least 100mm deeper than the root ball. Break up the base of the hole to a further depth of 100mm, and loosen the compacted sides of the hole.

Shrubs/groundcovers: Excavate a hole big enough for the plant plus 100 mm all round.

Provide plants which have large healthy root systems, with no evidence of root curl, restriction or damage are vigorous, well established, free from disease and pests, of good form consistent with the species or variety, and are hardened off, not soft or forced, and suitable for planting in the natural climatic conditions prevailing at the site.

Trees: Provide trees which, unless required to be multi-stemmed, have a single leading shoot.

Label at least one plant of each species or variety in a batch using a durable, readable tag.

Do not plant in unsuitable weather conditions such as extreme heat, cold, wind or rain. In other than sandy soils, suspend excavation when the soil is wet, or during frost periods.

When the hole is of the correct size, remove the plant from the container with minimum disturbance to the root ball. Ensure that the root ball is moist and place in the final position, in the hole and plumb, with the top soil level of the plant root ball level with the finished surface of the surrounding soil, or 75 mm below paving level to allow placement of mulch.

Backfill with topsoil mixture. Lightly tamp and water to eliminate air pockets. Ensure that topsoil is not placed over the top of the rootball, so that the plant stem is the same height as in the container.

Thoroughly water plants before planting and immediately after planting.

In planting beds and individual plantings, place slow release fertiliser pellets around plants at the time of planting at the rate recommended by the manufacturer.

## MULCH

All garden bed areas are to be mulched to 50mm depth with same or similar to *Forest Blend* as supplied by Benedict Sand and Gravel.

Provide mulch which is free of deleterious and extraneous matter such as stones, soil, weeds and sticks.

Place mulch clear of plant stems, and rake to an even surface flush with the surrounding finished levels.

## IRRIGATION

Design, supply and install an automatic irrigation system that will deliver evenly, sufficient water to the trees, shrubs, groundcovers, turf and other planting on the site to maintain healthy growth continuously throughout the year.

The contractor shall be responsible for establishing the numbers and locations of emitters, spray heads, solenoid valves, filters etc required to provide a satisfactory performance of the system. Spray heads shall be directed away from seating, walls, paving, paths and steps.

Provide an automatic irrigation system with drippers/ microsprays to all garden beds. Ensure the pipework is installed in the least visible position possible. The detailed layout of all irrigation is to be approved prior to installation.

Drippers: Drippers shall deliver 2.3 litres per hour, at 400mm spacing or to base of individual plants as required and should be pressure compacted drippers.

Spray heads: To meet requirements of trees and lawn areas.

Valves: Richdel or similar approved 24 volt solenoid valves to be installed in Brookes or approved equal valve boxes. Top of box to be installed flush with finished soil level and covered with mulch layer.

Controller: Richdel or similar approved with numbers of stations required to isolate each area. Contractor is to allow for Controller in lockable metal cabinet in a location to the direction of the Architect. Power outlet for the operation of this unit to be supplied by others.

Pipework: Class HDPE pipe with pressure rating PN12.5 to be used for main lines. Copper pipework under paving and through masonry is to be installed. Drip lines will be LDPE laid on the surface of the soil under the mulch layer.

Cabling: 24 volt cabling to be enclosed in conduit in all areas. All wire must be installed in an unbroken length from the controller to the solenoid valve. All wires to be multi-strand multicore and manufactured to AS 1125 and have polyethylene protective coating. All wire connectors must be waterproof. Cable to be minimum 1.0m2.

Rain sensor: A "mini click" or similar or approved device to be supplied and installed to the approval of the superintendent. This unit is to be set to turn the system off after 3mm of rain has occurred.

The irrigation contractor shall check and monitor the system performance; once per month throughout the planting establishment period. The contractor shall provide the client with a recommended watering schedule for summer and winter that includes the dates to change the operation.

## MAINTENANCE/ ESTABLISHMENT

Throughout the planting establishment period (12 weeks), carry out maintenance work including, watering, mowing, weeding, rubbish removal, fertilising, pest and disease control, reseeding, returfing, staking and tying, replanting, cultivating, pruning, hedge clipping, aerating, reinstatement of mulch, renovating, top dressing, and keeping the site neat and tidy. Continue to replace failed, damaged or stolen plants. Ongoing maintenance of landscape works is to be undertaken by the tendered landscape contractor engaged by the building management such that the landscape is maintained throughout the life of the building in accordance with the above requirements.



**MELISSA WILSON**  
LANDSCAPE ARCHITECTS

0416 112 862 | Level 4 | 15 Foster Street,  
Surry Hills, 2010 NSW

PO BOX 1320 Darlinghurst, NSW 1300  
[www.melissawilson.com.au](http://www.melissawilson.com.au)

NOMINATED LANDSCAPE ARCHITECT | MELISSA WILSON

ISSUE	AMENDMENT	DATE
A	CONCEPT	06.04.23
B	UPDATED CONCEPT	13.04.23
C	FOR DA SUBMISSION	19.04.23

SCALE: NTS@A3

DRAWN: MW

CLIENT: RYDALMERE GROUP PTY LTD

PROJECT NUMBER: 2313

DRAWING TITLE

LANDSCAPE | NOTES

PROJECT

68 KIRBY STREET, RYDALMERE

DWG NO.

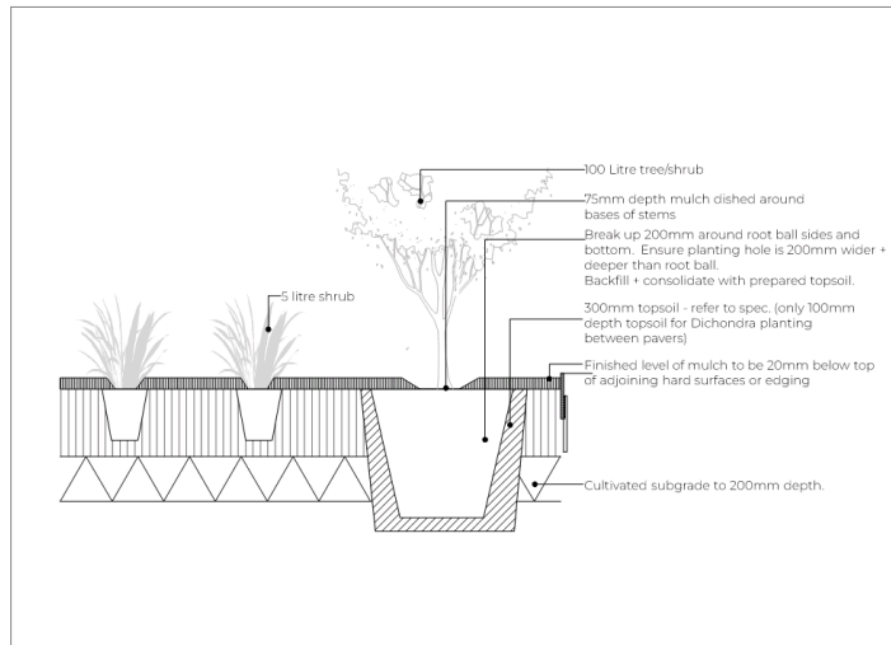
LS06

ISSUE

C

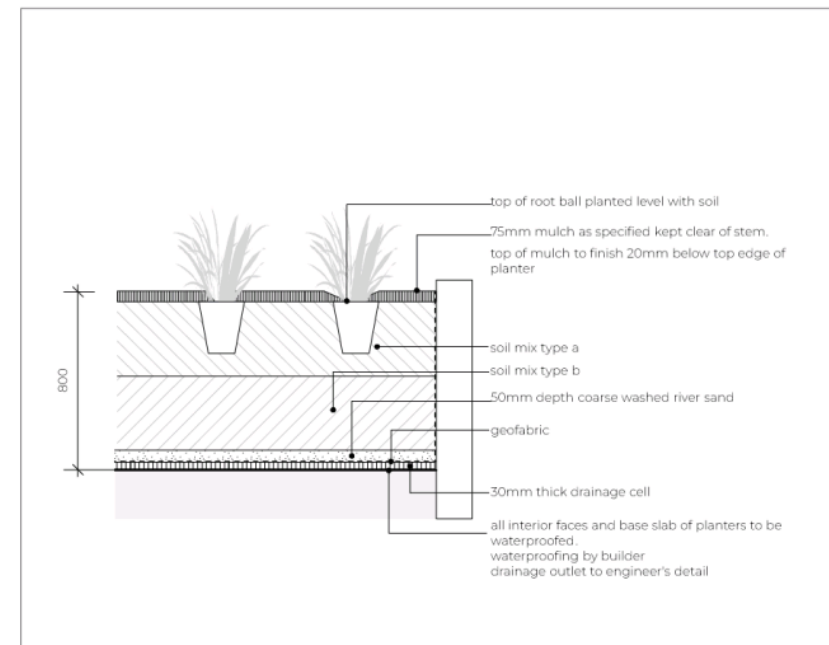
NOTES  
REFER TO DETAIL SURVEY  
FOR SITE IDENTIFICATION  
BOUNDARY INFORMATION &  
LEVELS  
ALL LEVELS AND  
DIMENSIONS TO BE  
CONFIRMED ON SITE. IF ANY  
DISCREPANCIES OCCUR  
PLEASE NOTIFY THE  
LANDSCAPE ARCHITECT

NOT FOR  
CONSTRUCTION



1

MASS PLANTING ON GRADE  
1:20@A3

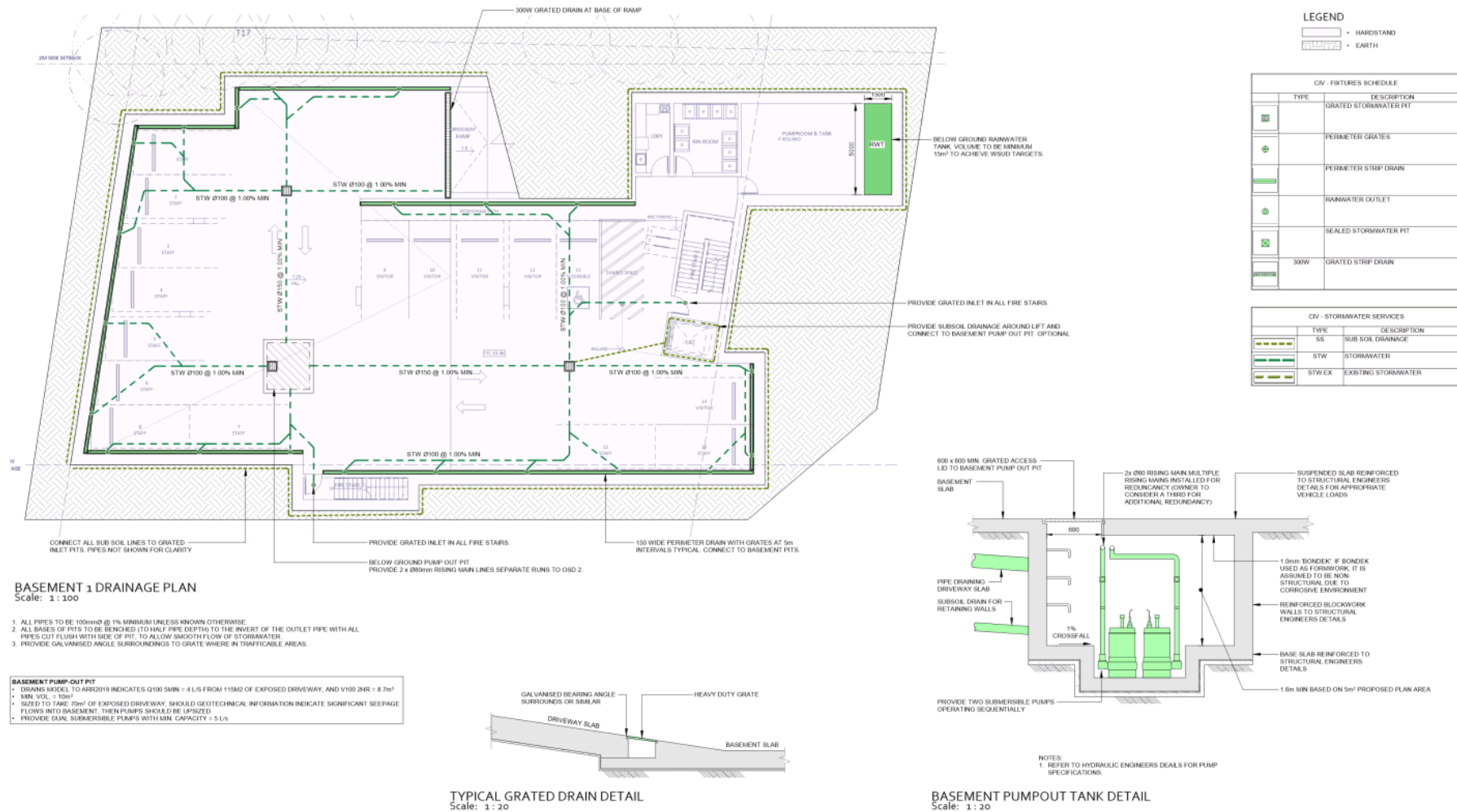


2

MASS PLANTING ON SLAB  
1:20@A3







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4	21.04.2023	JPS	ISSUED FOR APPROVAL
3	19.04.2023	JPS	ISSUED FOR COORDINATION
2	14.04.2023	JPS	ISSUED FOR COORDINATION
1	11.04.2023	JPS	ISSUED FOR APPROVAL

PROPOSED DEVELOPMENT  
68 Kirby Street, Rydalmere, NSW  
RYDALMERE GROUP PTY LTD



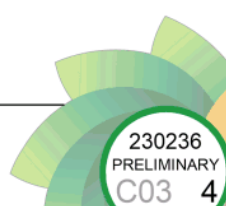
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DRAWN: JPS  
CHECKED: AMK  
SIZE: A1  
SCALE: As indicated

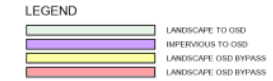
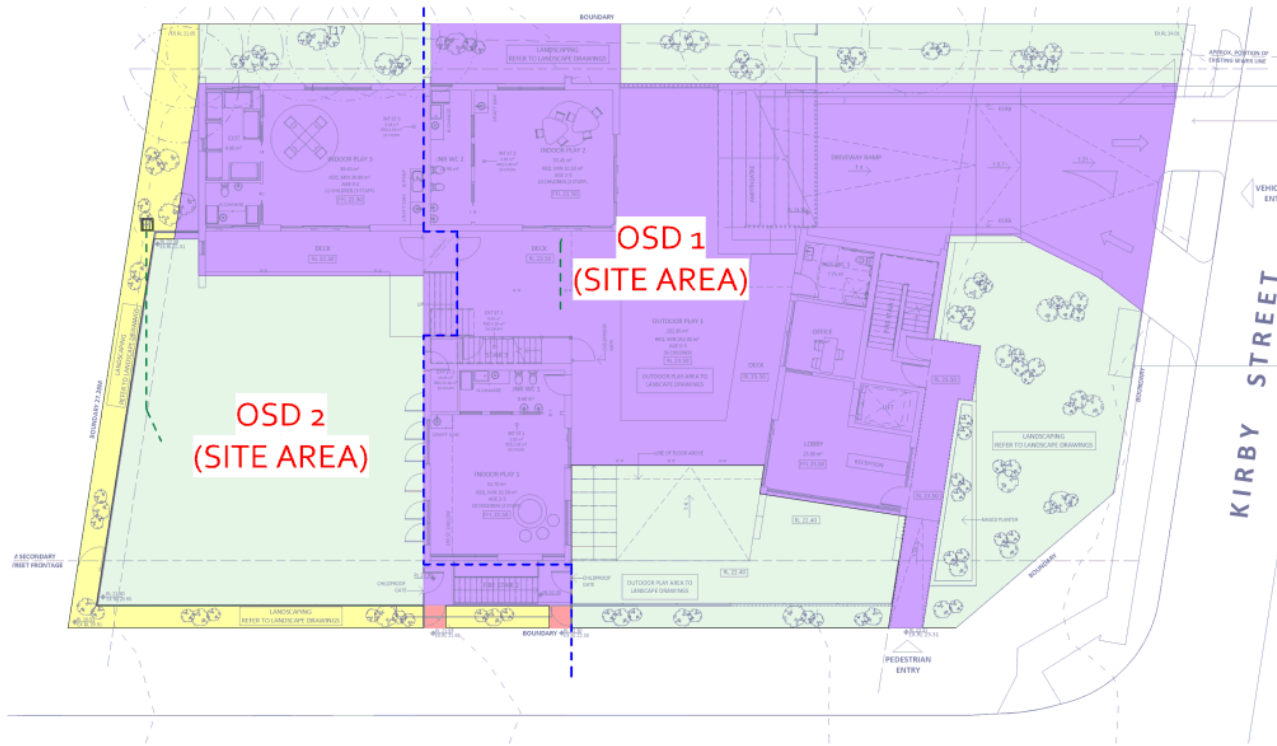


CIVIL DESIGN

BASEMENT 1 DRAINAGE PLAN

230236  
PRELIMINARY  
C02 4





OSD CATCHMENT PLAN  
Scale: 1:100

TOTAL SITE AREA = 1213m<sup>2</sup>

**OSD 1- SITE AREA BREAKDOWN:**

- TOTAL AREA = 722m<sup>2</sup>
- LANDSCAPE TO OSD = 176.2m<sup>2</sup>
- IMPERVIOUS TO OSD = 521m<sup>2</sup>
- LANDSCAPE OSD BYPASS = 24.8m<sup>2</sup>

**OSD 2- SITE AREA BREAKDOWN:**

- TOTAL AREA = 491m<sup>2</sup>
- LANDSCAPE TO OSD = 330.8m<sup>2</sup>
- IMPERVIOUS TO OSD = 85.3m<sup>2</sup>
- LANDSCAPE OSD BYPASS = 63.9m<sup>2</sup>
- IMPERVIOUS OSD BYPASS = 20m<sup>2</sup>

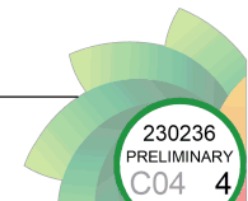
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2	14.04.2023	JPS	ISSUED FOR COORDINATION
1	11.04.2023	JPS	ISSUED FOR APPROVAL

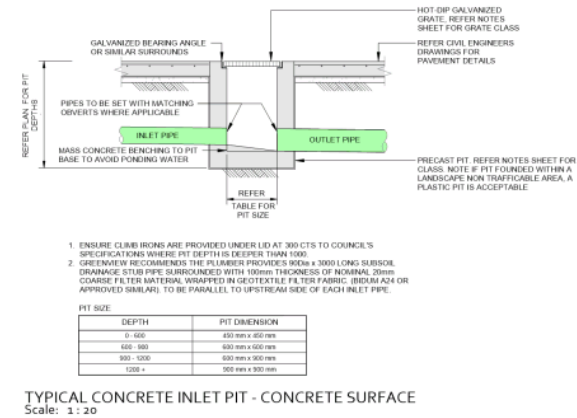
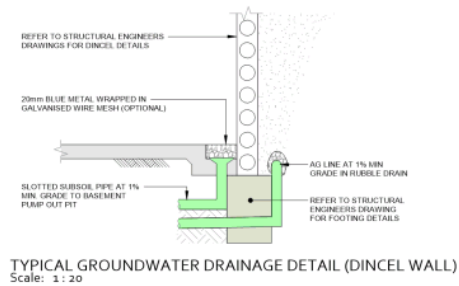
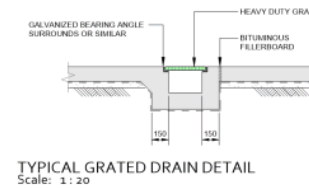
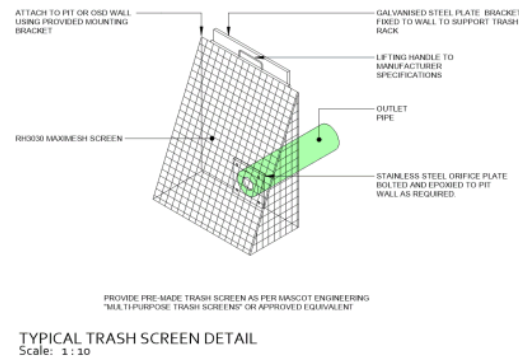
PROPOSED DEVELOPMENT  
68 Kirby Street, Rydalmere, NSW  
RYDALMERE GROUP PTY LTD



CIVIL DESIGN

OSD CATCHMENT PLAN





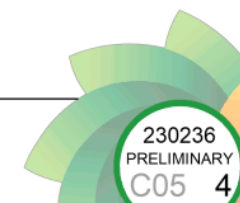
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68 Kirby Street, Rydalmere, NSW				
RYDALMERE GROUP PTY LTD				
REV	DATE	BY	DESCRIPTION	
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3	19.04.2023	JPS	ISSUED FOR COORDINATION	
2	14.04.2023	JPS	ISSUED FOR COORDINATION	
1	11.04.2023	JPS	ISSUED FOR APPROVAL	



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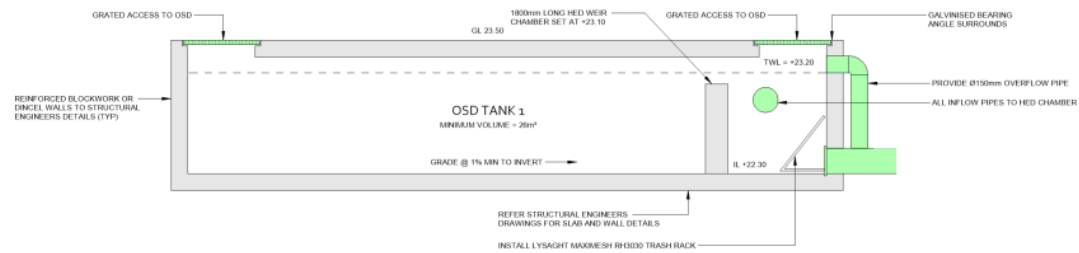
CIVIL DESIGN

SITE STORMWATER DETAILS SHEET 1





1 OSD SECTION 1  
Scale: 1 : 20



2 OSD SECTION 2  
Scale: 1 : 20

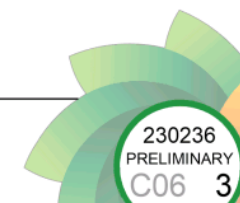
PROPOSED DEVELOPMENT			
68 Kirby Street, Rydalmere, NSW			
RYDALMERE GROUP PTY LTD			
REV	DATE	BY	DESCRIPTION
3	21.04.2023	JPS	ISSUED FOR APPROVAL
2	19.04.2023	JPS	ISSUED FOR COORDINATION
1	14.04.2023	JPS	ISSUED FOR COORDINATION



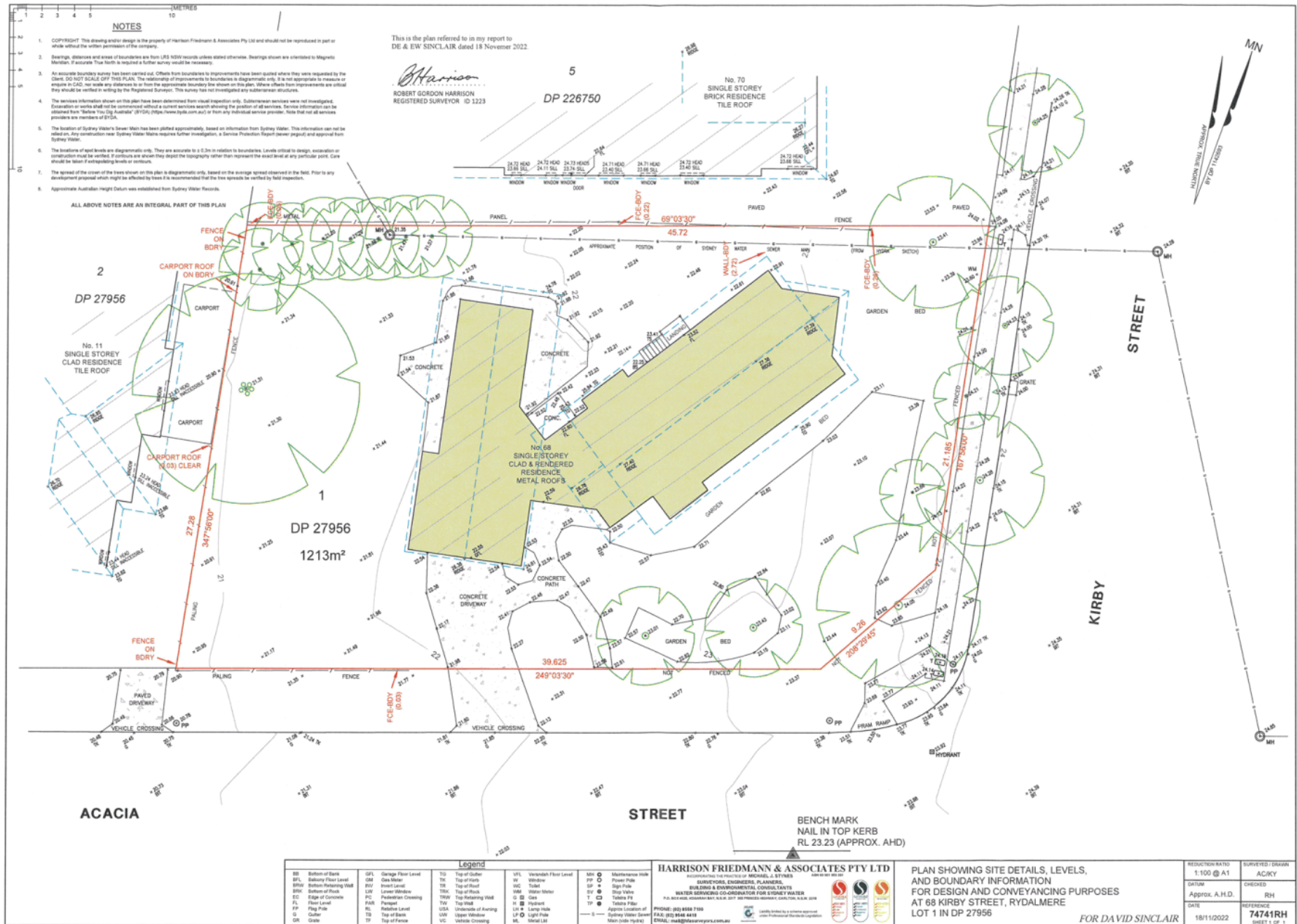
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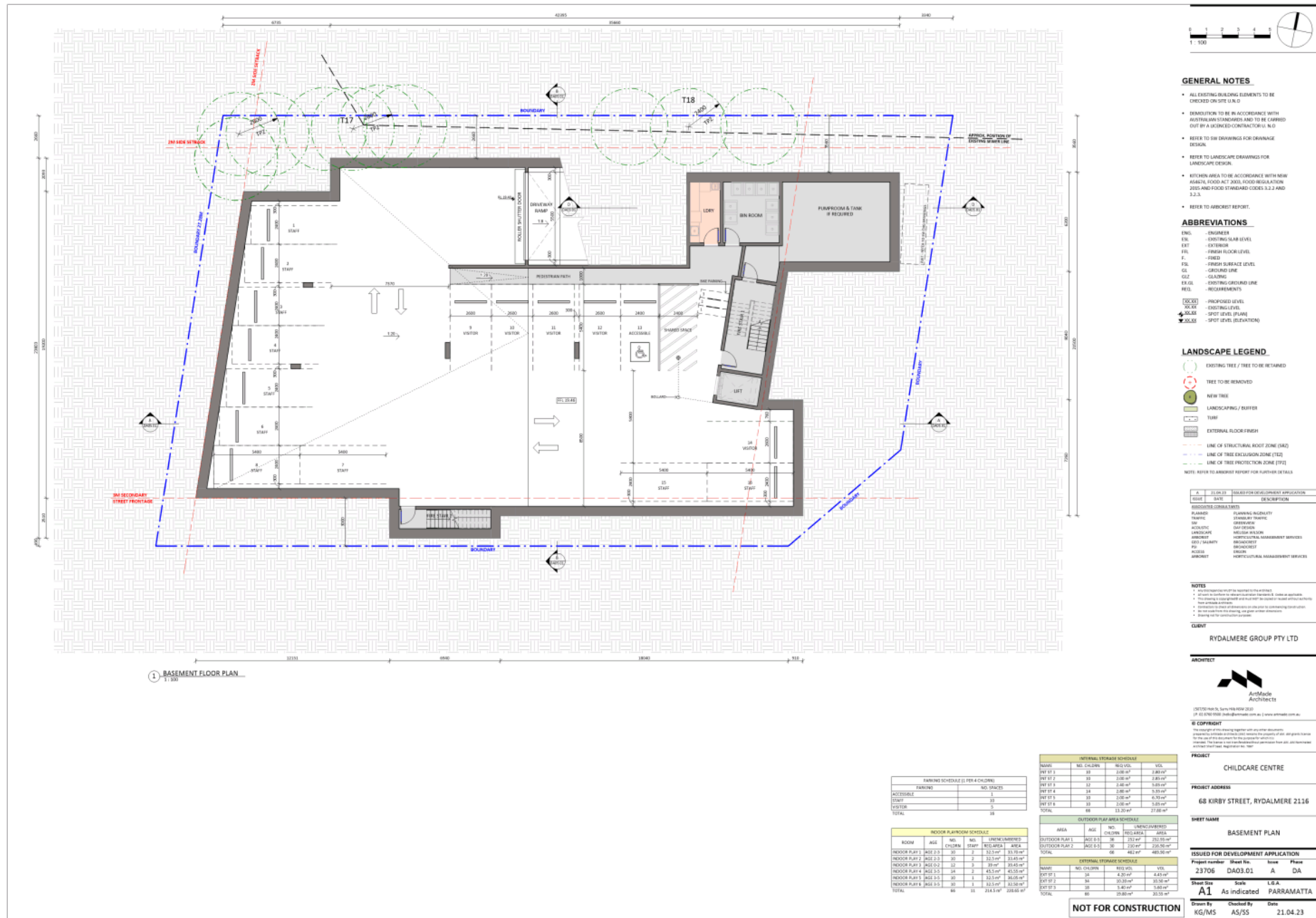
CIVIL DESIGN

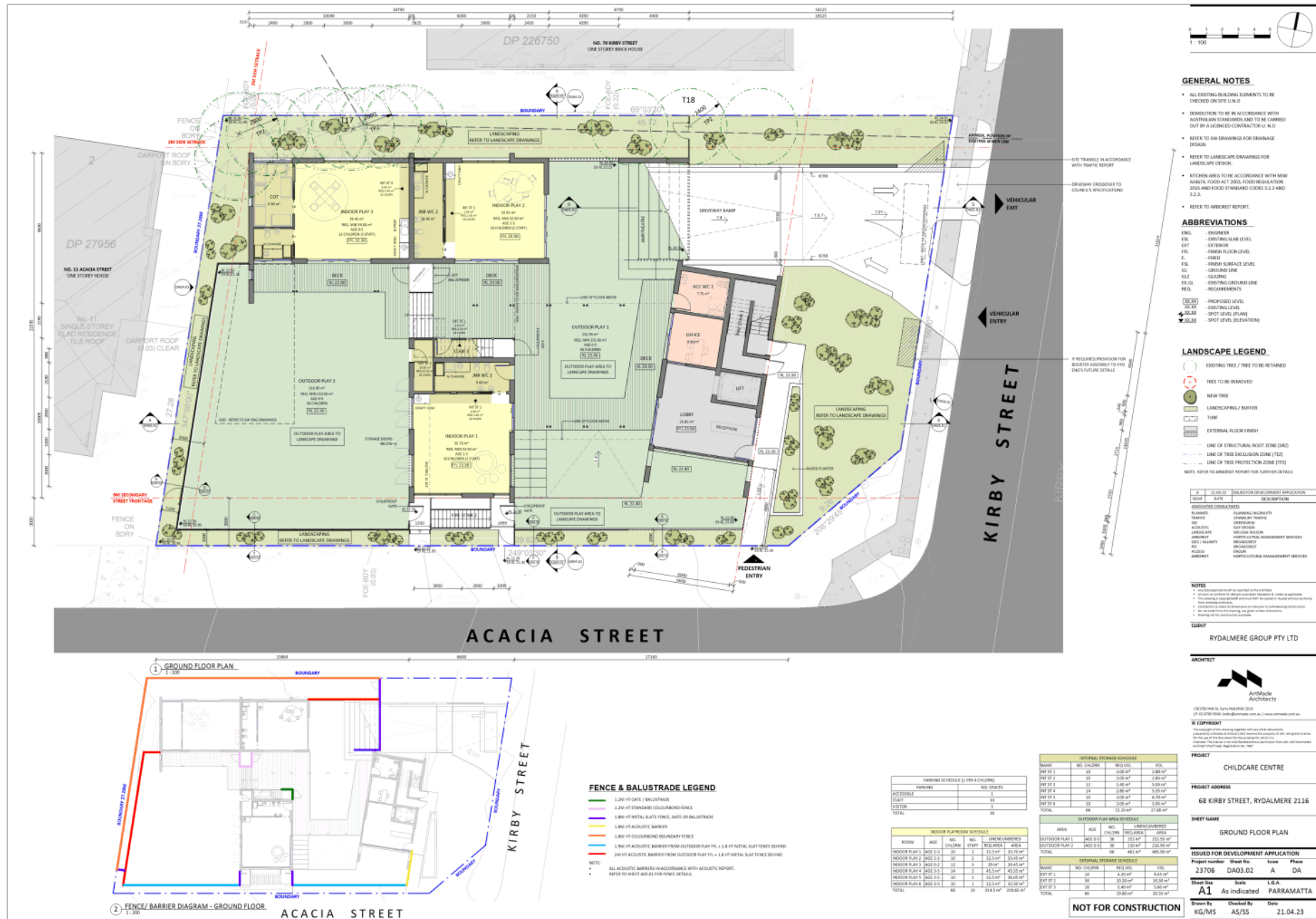
SITE STORMWATER DETAILS SHEET 2









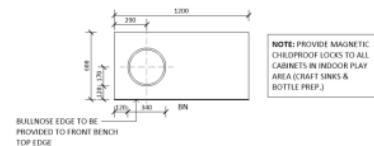




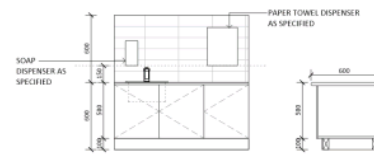




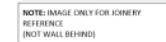
1 GFA - BASEMENT  
1:200



**TYPICAL CRAFT SINK - PLAN VIEW**



**TYPICAL CRAFT SINK - ELEVATION VIEW**



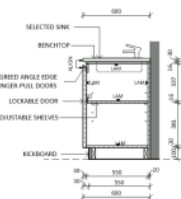
3 GFA - FIRST FLOOR  
1:200

DCP - GRA (SITE AREA 1213MP)		
PERMITTED AREA		MIN FSR
808.50 m <sup>2</sup>		0.5

PROPOSED - GRA		
Name	Area	FSR
SP 1	231.33 m <sup>2</sup>	0.198529
SP 1	44.25 m <sup>2</sup>	0.316482
SP 2	53.05 m <sup>2</sup>	0.043099
SP 3	189.45 m <sup>2</sup>	0.091216

TYP CRAFT SINK & B. PREP (900MM HT) - ELEVATION



TYP CRAFT SINK & B. PREP (900MM HT) - SECTION

NOT FOR CONSTRUCTION

A	11.04.23	ISSUED FOR DEVELOPMENT APPLICATION
FILE	DATE	DESCRIPTION
<b>(BIOCOVER CONSULTANTS)</b>		
PLANNED		PLANNING INGENUITY
TRAFFIC		STANDARDY TRAFFIC
SW		GREENVIEW
ACOUSTIC		DAF DESIGN
LANDSCAPE		MELISSA WILSON
ARBORIST		HORTICULTURAL MANAGEMENT SERVICES
GEO / MATERIAL		BRADACREST
PS		BRADACREST
ACCESS		BRUEN
ARBORIST		HORTICULTURAL MANAGEMENT SERVICES

## NOTES

- ### NOTES
- Any discrepancies must be reported to the Architect.
  - All work to conform to relevant Australian Standards & Codes as applicable.
  - This drawing is copyright © and will NOT be copied or used without authority from Ambika Architects.
  - Contractor to check all dimensions on site prior to commencing construction.
  - Do not scale from this drawing, use given written dimensions.
  - Drawing not for construction purposes.

CLIENT  
RYDALMERE GROUP PTY LTD

## ARCHITECT



[SET/50-Hot 50, Suris High ROW 2020  
P. 02 8760-9558 (julia@animade.com.au) | www.animade.com.au]

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## PROJECT

CHILD CARE CENTRE

## PROJECT ADDRESS

68 KIRBY STREET, RYDALMERE 2116

**SHEET NAME**

### CALCULATIONS & TYP DETAILS

ISSUED FOR DEVELOPMENT APPLICATION

Project number	Sheet No.	Issue	Phase
23706	DA03.04	A	DA
Sheet Size	Scale	L.G.A.	
A1	As indicated	PARRAMATTA	
Drawn By	Checked By	Date	
KG/MS	AS/SS	21.04.23	



DA #: DA/295/2023  
Address: 68 Kirby St, Rydalmere  
Date taken: 21/06/2023  
Planner: Patrick Santos





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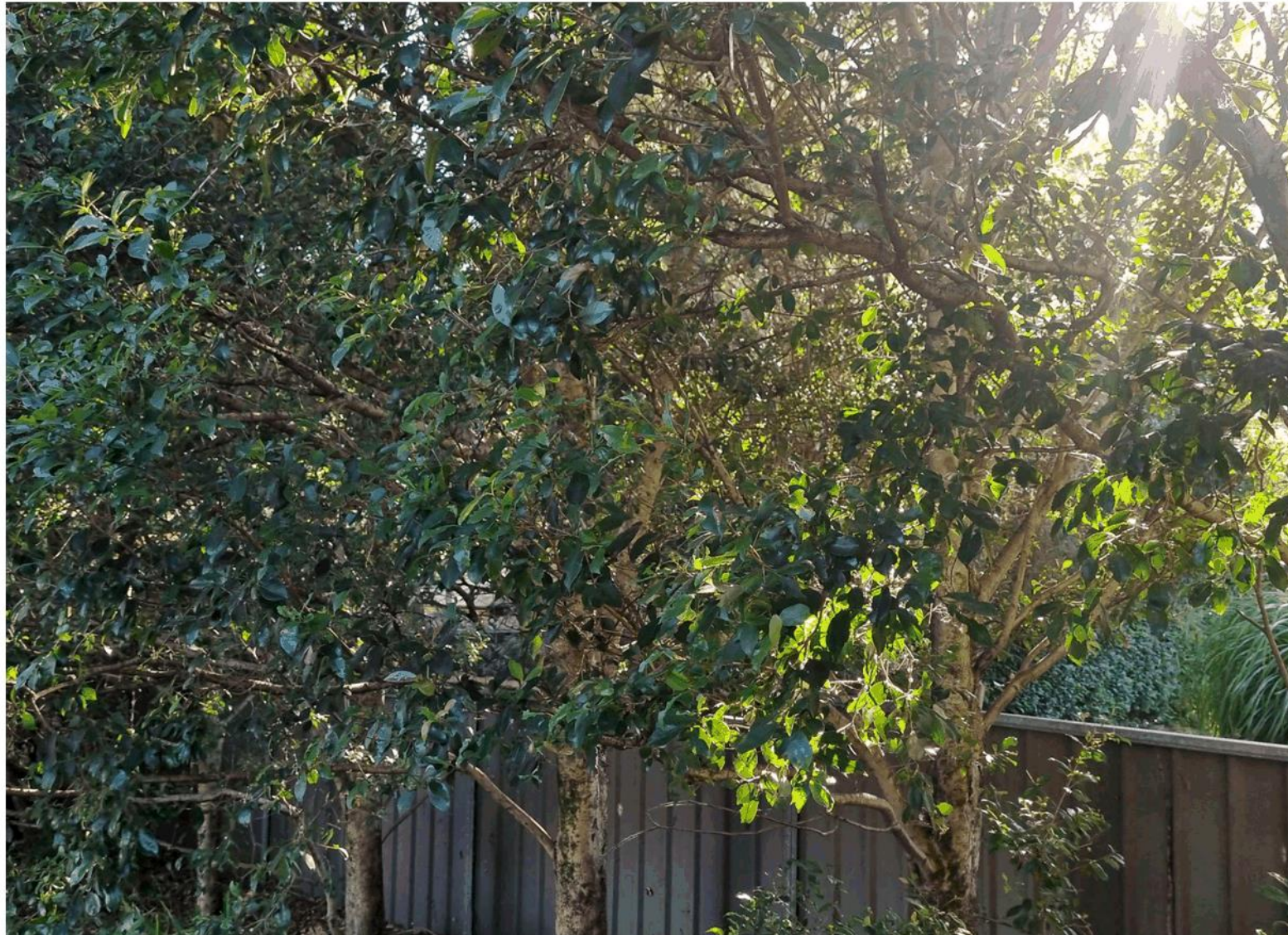


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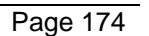




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Address: 68 Kirby St, Rydalmere  
Date taken: 21/06/2023  
Planner: Patrick Santos







**DEVELOPMENT APPLICATION**

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<b>ITEM NUMBER</b>	5.3
<b>SUBJECT</b>	PUBLIC MEETING: 23 King Street, DUNDAS NSW 2117 (LOT 1094 DP 36696)
<b>DESCRIPTION</b>	Demolition of existing structures, tree removal and construction of a 2 storey 44 place centre based childcare centre with 11 spaces of at grade parking.
<b>REFERENCE</b>	DA/834/2022 - D09164185
<b>APPLICANT/S</b>	ArtMade Architects
<b>OWNERS</b>	F&M Investment Australia Pty Ltd and Wei Cheng Investment Pty Ltd

**REPORT OF** Group Manager Development and Traffic Services

**RECOMMENDED** Deferred Commencement Approval

**DATE OF REPORT** 18 OCTOBER 2023

**REASON FOR REFERRAL TO LPP**

This development application is being referred to Parramatta Local Planning Panel because it has 21 submissions.

**EXECUTIVE SUMMARY**

Council provided the original assessment report to the Parramatta Local Planning Panel, which was considered at the public meeting of 17 August 2023.

The application proposed demolition of existing structures, tree removal and construction of a 2 storey 44 place centre based childcare centre with 11 spaces of at grade parking, on land at 23 King Street, Dundas Valley.

The application was originally recommended for deferred commencement approval as it was considered that the proposal satisfied the relevant matters for consideration under s4.15 of the *Environmental Planning and Assessment Act 1979*.

At the Parramatta Local Planning Panel meeting, the Panel deferred the determination of the application for the following reasons:

- *The Panel is not yet satisfied with the adequacy of the traffic safety assessment within the vicinity of the childcare centre.*
- *The Panel is especially concerned about the close proximity to the public school rear access/carriageway from King Street. The Panel heard from local residents, who stated that this access is used by both pedestrians and vehicles and sometimes is used two-way. On occasion vehicles have been witnessed reversing out onto King Street. At that point, it appears to reverse onto a marked crossing which the locals explained was used by school children and parents and therefore likely to be used by childcare attendees as well.*

- *Therefore an additional report addressing the context of likely morning and afternoon traffic when the childcare is in use taking into account traffic into both the school and its various Out of School Hours Care is requested.*
- *The Panel is also concerned at the impact of overshadowing of number 21 King Street and requires further assessment of the shadow in accordance with Parramatta Development Control Panel 2011.*

The purpose of this report is to supplement the original assessment by addressing the above matters raised by the Panel.

Following the deferral, the applicant has provided the following plans and documents at the request of PLPP:

- An updated Survey Plan.
- Updated Shadow Diagram and Solar Calculation.
- Supplementary Traffic Statement.

The updated documentation did not necessitate any design changes to the proposal as originally presented to PLPP.

The assessment undertaken determines that the submitted supplementary plans and documentation adequately address the Panel's concerns and that the revised proposal can still be supported by way of a recommendation of deferred commencement approval, subject to the imposition of the conditions of consent attached to this report.

## RECOMMENDATION

- (a) **That** the Parramatta Local Planning Panel, exercising the function of the consent authority, provide a **deferred commencement approval** to development consent to DA/834/2022 for 'demolition of existing structures, tree removal and construction of a 2 storey 44 place centre based childcare centre with 11 spaces of at grade parking' on land at 23 King Street, Dundas Valley.
- (b) **Further, that** submitters are advised of the decision.

## REASONS FOR APPROVAL







1. The development is permissible in the R2 Low Density Residential zone pursuant to Parramatta Local Environmental Plan 2011 and generally satisfies the requirements of the applicable planning framework.
2. The development will be compatible with the emerging and planned future character of the area.
3. The development will promote a land use that provides a facility to meet the day to day needs of residents.
4. The proposal provides a non-residential land use that has amenity impacts that can be appropriately managed.
5. The development is in the public interest because it is consistent with the objectives of for development in the R2 Low Density Residential zone.
6. For the reasons given above, approval of the application is in the public interest.



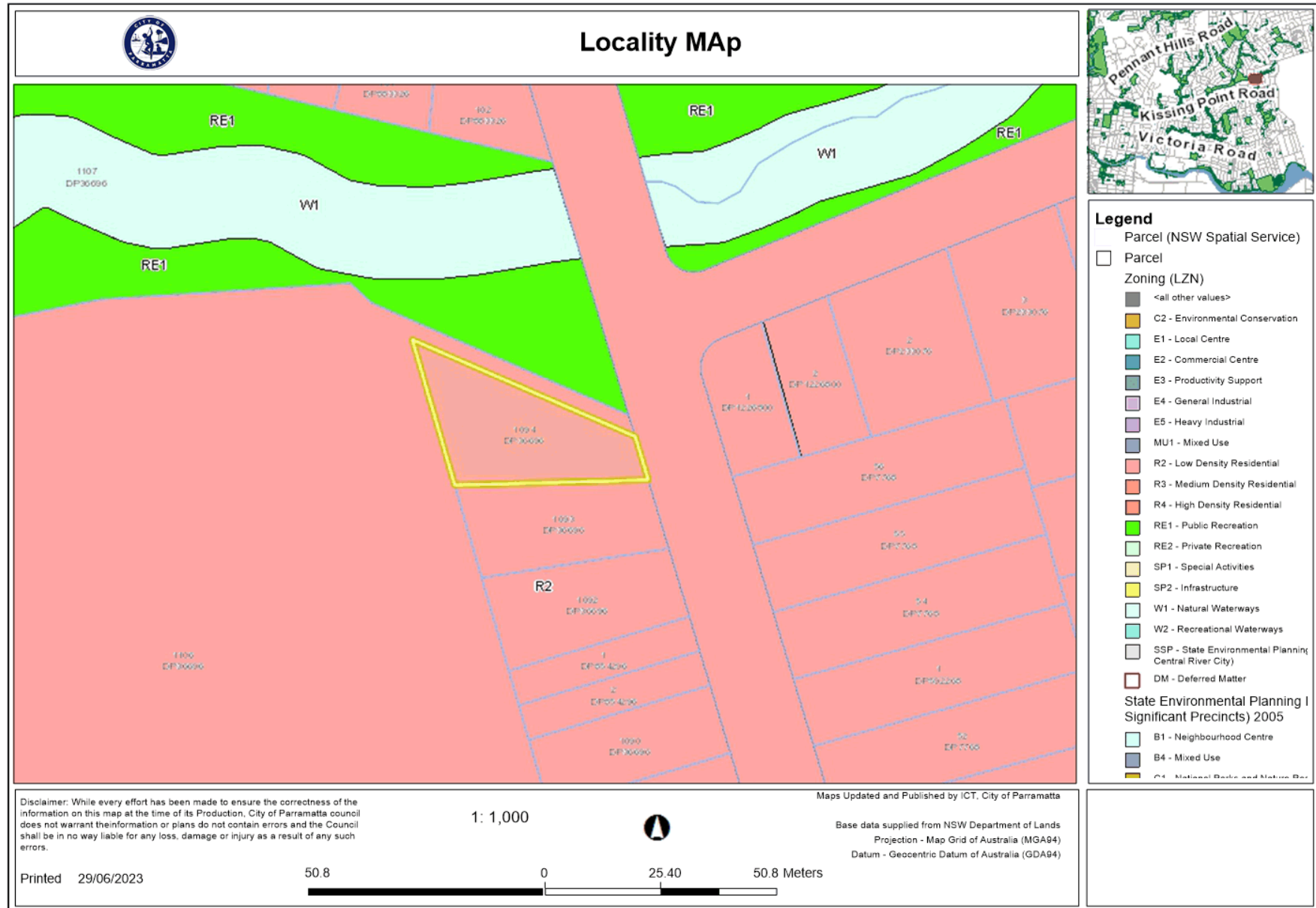
Darren Wan

**Senior Development Assessment Officer**

**ATTACHMENTS:**

1		Locality Map	1 Page
2		Assessment Report and Conditions	48 Pages
3		Architectural Plans used for assessment	5 Pages
4		Addendum Report	3 Pages
5		Supplementary Traffic statement	15 Pages
6		Updated Shadow Diagrams & Solar Calculations	2 Pages

**REFERENCE MATERIAL**





<b>City of Parramatta</b>	
File No:	DA/834/2022

## SECTION 4.15 ASSESSMENT REPORT

### Environmental Planning & Assessment Act 1979

<b>DA No:</b>	DA/834/2022
<b>Subject Property:</b>	LOT 1094 DP 36696, 23 King Street, DUNDAS VALLEY NSW 2117
<b>Proposal:</b>	Demolition of existing structures, tree removal and construction of a 2 storey 44 place centre based childcare centre with 11 spaces of at grade parking.
<b>Date of receipt:</b>	24 October 2022
<b>Applicant:</b>	ArtMade Architects
<b>Owner:</b>	F & M Investment Australia Pty Ltd and Wei Cheng Investment Pty Ltd
<b>Property owned by a Council employee or Councillor:</b>	The site is not known to be owned by a Council employee or Councillor
<b>Political donations/gifts disclosed:</b>	None disclosed on the application form
<b>Submissions received:</b>	21
<b>Conciliation Conference Held:</b>	No
<b>Recommendation:</b>	Deferred Commencement Approval
<b>Assessment Officer:</b>	Darren Wan

### LEGISLATIVE REQUIREMENTS

<b>Relevant provisions considered under section 4.15(1)(a) of the Environmental Planning and Assessment Act 1979</b>	<ul style="list-style-type: none"> <li>• State Environmental Planning Policy (Biodiversity and Conservation) 2021</li> <li>• State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>• State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>• Parramatta Local Environmental Plan 2011 (PLEP 2011)</li> <li>• Parramatta Development Control Plan 2011 (PDCP 2011)</li> </ul>
<b>Zoning</b>	R2 Low Density Residential zone
<b>Bushfire Prone Land</b>	No
<b>Heritage</b>	No
<b>Heritage Conservation Area</b>	No
<b>Designated Development</b>	No
<b>Integrated Development</b>	No
<b>Clause 4.6 variation</b>	No
<b>Delegation</b>	<b>Parramatta Local Planning Panel (PLPP)</b> due to >10 submissions



**1. EXECUTIVE SUMMARY**

Development Application DA/834/2022 was lodged on 24 October 2022 for the 'demolition of existing structures, tree removal and construction of a 2 storey 44 place centre based childcare centre with 11 spaces of at grade parking' on land at 23 King Street, Dundas Valley. Associated civil engineering, earthworks and landscaping is also proposed.

In accordance with the City of Parramatta Consolidated Notification Plan, the application was notified and advertised 1 November 2022 to 22 November 2022. In response, 21 submissions were received.

Key concerns raised in the submissions are as follows:

- Traffic and parking issues.
- The proposal is not consistent with the character of the Low-Density Zone and the surrounding area.
- The proposed tree removal.
- The proposed stormwater easement.
- Visual and Acoustic privacy impacts.
- The commercial nature of the development and the future use of the site if the centre fails.
- Unacceptable bulk and scale impacts for neighbouring properties.
- Unacceptable streetscape impacts.

In accordance with the Environmental Planning and Assessment Act 1979, Section 9.1 – Directions by the Minister, this application is reported to the Parramatta Local Planning Panel for determination as the proposed development received more than 10 submissions.

**Section 4.15 Assessment Summary**

The application has been assessed relative to section 4.15 of the Environmental Planning and Assessment Act 1979, taking into consideration all relevant state and local planning controls.

The proposed use of the subject site as a Centre Based Child Care Facility is permitted with consent pursuant to the provisions of Parramatta Local Environmental Plan 2011.

The application was referred to a number of internal stakeholders, including the following:

- Development Engineer;
- Landscape Officer;
- Transport and Traffic Officer;
- Environmental Health Officer (food);
- Environmental Health Officer (acoustic);
- Environmental Health Officer (waste); and
- Environmental Health Officer (contamination).

All referrals were returned with no objections raised, subject to the imposition of conditions of consent.

The proposal is not considered to have any other impacts to the surrounding amenity of the locality. The proposed development is appropriately located and is generally compliant with the provisions of Parramatta LEP 2011. Some variations to the DCP are sought, which relates to side and rear setbacks due to the irregular shape of the lot. The design of the building is considered to be acceptable as it orientates the play areas toward the north where there are no residential receptors.

Having regard to the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, it is recommended Development Application No. DA/834/2022 be approved. The recommended conditions of consent are within **Attachment 1**.

## 2. SITE DESCRIPTION AND CONDITIONS

The subject site is known as 23 King Street, Dundas Valley. The current property description is Lot 1094 DP 36696. The site is an irregularly shaped allotment and has a slight slope from the eastern street boundary toward the rear north-western corner of the site of approximately 2 metres over a distance of 53 metres.

The subject site has the following area and dimensions:

Area – 877.9 square metres

Frontage – 9.755 metres

Rear – 32.92 metres

North – 53.465 metres

South – 42.585 metres

The site is zoned R2 Low Density Residential. The surrounding properties to the west, south and east are also zoned R2 Low Density Residential. To the north is land zoned RE1 Public Recreation and W1 Natural Waterways.



**Figure 1:** Zoning of the subject site and surrounds

The subject site currently accommodates a single storey dwelling. It is located within an established residential area characterised by single and double storey residential dwellings as well as dual occupancy developments. Adjoining the subject site to the west is Yates Avenue Public School. Adjoining the subject site to the north is a private pathway owned by the school, which provides access to King Street. On the northern side of the path, there is a public reserve known as Iona Creek Reserve. Adjoining the subject site to the south is a single storey dwelling.



**Figure 2:** View of the subject site and aforementioned private pathway owned by the school as seen from King Street

### 3. THE PROPOSAL

The proposed development would be defined as a 'centre-based child care facility' which is permitted with consent within the R2 Low Density Residential zone. Specifically, the proposed works include the following:

#### Works

- Demolition;
- Tree removal; and
- Construction of a two (2) storey childcare centre comprising the following:
  - **Ground Floor:**  
At-grade parking for 11 vehicles, ramp from street level to lobby, office, lift, disabled bathroom, indoor play area 0-2 years (28m<sup>2</sup>), indoor play area 2-3 years (37m<sup>2</sup>), junior bathroom, outdoor play area 0-2 years (60m<sup>2</sup>), outdoor play area 2-5 years (117m<sup>2</sup>).
  - **First Floor:**  
Staff room, disabled bathroom, kitchen, laundry, indoor play areas 3-5 years (89m<sup>2</sup>), junior bathroom, balcony containing outdoor play area (153m<sup>2</sup>).

#### Use

- Maximum capacity of 44 children with the following age breakdown:
  - 0-2 years – 8 places (minimum 2 staff required)
  - 2-3 years – 10 places (minimum 2 staff required)
  - 3-5 years – 26 places (minimum 3 staff required)
- The centre will be run by 7 staff
- The proposed hours of operation are to be 7:00am to 6:00pm, Monday to Friday.

### 4. REFERRALS

The following section outlines the response and conditions recommended from each of the internal and external referrals in relation to the subject application.

Referral	Comment
Development Engineer	Supported, subject to conditions of consent.
Transport and Traffic Engineer	Supported, subject to conditions of consent.
Tree and Landscape	Supported, subject to conditions of consent.
Environmental Health (Food)	Supported, subject to conditions of consent.
Environmental Health (Acoustic)	Supported, subject to conditions of consent.
Environmental Health (Waste)	Supported, subject to conditions of consent.
Environmental Health (Contamination)	Supported, subject to conditions of consent.

### 5. ENVIRONMENTAL PLANNING INSTRUMENTS

#### 5.1 STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021 – CHAPTER 4 REMEDiation OF LAND

- ☒ A site inspection reveals the site does not have an obvious history of a previous land use that may have caused contamination;
- ☒ Historic aerial photographs were used to investigate the history of uses on the site;
- ☒ A search of Council records did not include any reference to contamination on site or uses on the site that may have caused contamination;
- ☒ A search of public authority databases did not include the property as contaminated;
- ☒ The Statement of Environmental Effects states that the property is not contaminated.

The development application was accompanied with a Stage 1 Site Investigation Report, which did not identify any contamination or potential contamination. The report was referred to Council's Environmental Health Officer who raised no objection to the development, subject to the imposition of conditions of consent.

Accordingly, Clause 4.6 of the SEPP is considered to be satisfied, and the subject site is suitable for the proposed use as a centre-based child care facility.



## 5.2 STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021 – CHAPTER 2 VEGETATION IN NON-RURAL AREAS

The State Environmental Planning Policy (Biodiversity and Conservation) 2021 applies to the site. The aims of the plan are to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and to preserve the amenity of the non-rural areas of the State through the preservation of trees and other vegetation.

Council's Landscape Officer raised no objections to the removal of thirteen (13) trees subject to appropriate conditions of consent.

It is considered that the removal of the trees on site will not have an adverse impact of the ecological, heritage, aesthetic, and cultural significance of the area. The proposed replacement planting will ensure that the development will not result in an unacceptable loss of amenity values or finite natural resources. The development as a whole will positively contribute to ensuring a sustainable urban forest canopy in the City of Parramatta.

## 5.3 STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021 – CHAPTER 2 INFRASTRUCTURE

The provisions of State Environmental Planning Policy (Transport and Infrastructure) 2021 have been considered in the assessment of the development application.

Clause	Comment
<b>Clause 2.48 – Electricity infrastructure</b>	The proposed development does not impact upon any electricity infrastructure.
<b>Clause 2.118 – Frontage to a classified road</b>	The subject site does not have frontage to a classified road.
<b>Clause 2.119 – Impact of road noise or vibration on non-road development</b>	The subject site is not located within close proximity to a classified road.

## 5.4 STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021 – CHAPTER 3: EDUCATIONAL ESTABLISHMENTS AND CHILD CARE FACILITIES

DEVELOPMENT STANDARD	PROPOSED	COMPLIANCE
<b>3.22 – Concurrence of the Regulatory Authority</b> 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.	A total number of 44 children are proposed. The proposal will need a minimum unencumbered indoor and outdoor space as follows:  <b>Indoor:</b> 143m <sup>2</sup> <b>Outdoor:</b> 308m <sup>2</sup>  The proposal provides unencumbered indoor and outdoor space as follows:  <b>Indoor:</b> 154m <sup>2</sup> <b>Outdoor:</b> 330m <sup>2</sup>	Yes
<b>3.23 – Matters for Consideration by Consent Authorities</b> 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.	The proposal has been assessed against the relevant provisions of the Child Care Planning Guidelines.	Yes
<b>3.24 – Additional Matters for Consideration by Consent Authorities</b> The consent authority must consider the following matters before determining a development application for development for the purpose of a centre-based child care facility on land in Zone IN1 General Industrial or Zone IN2 Light Industrial— (a) whether the proposed development is compatible with neighbouring land uses, including its proximity to restricted premises, sex services premises or hazardous land uses, (b) whether the proposed development has the potential to restrict the operation of existing industrial land uses, (c) whether the location of the proposed development will pose a health or safety risk to children, visitors or staff.	N/A	N/A – The subject site is not located within land zoned IN1 General Industrial or IN2 Light Industrial.

<b>3.25 – Floor Space Ratio</b> Development consent must not be granted for the purposes of a centre-based child care facility in Zone R2 Low Density Residential if the floor space ratio for the building on the site of the facility exceeds 0.5:1. This section does not apply if another environmental planning instrument or a development control plan sets a maximum floor space ratio for the centre-based child care facility.	Maximum GFA: 438.95m <sup>2</sup>  Proposed GFA: 354m <sup>2</sup>	Yes
<b>3.26 – Non-Discretionary Development Standards</b> (a) Location (b) Indoor and Outdoor Space (c) Site Area and Site Dimensions (d) Colour of Building Materials or Shade Structures	The non-discretionary development standards subject of this clause including location, indoor and outdoor space in excess of the regulations, site area and dimensions, and building materials and finishes have been considered satisfactory during the assessment of the application.	Yes
<b>3.27 – Development Control Plans</b> 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) <u>does not apply</u> 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).	The provisions contained in PDGP2011 pertaining to this clause have not been applied when assessing the proposed development.	Yes

### Compliance with Child Care Planning Guideline 2021

The Guideline identifies issues that must be taken into consideration when assessing the proposal for a Childcare Centre. It also refers to the application of the *National Regulations for Childcare Centres*. The table below responds to each consideration raised in the Guideline. The assessment against the National Regulations is addressed in a separate table below.

Provisions	Comment	Complies
<b>Part 2 – Design Quality Principles</b>		
Principle 1 – Context	The subject site is considered an appropriate location for the proposed childcare centre for the following reasons: <ul style="list-style-type: none"> <li>• The site has adequate vehicular access via King Street.</li> <li>• The site is of a size and shape that provides for efficient access and circulation spaces with extensive play areas.</li> <li>• The site is within close proximity to public transport and employment and business nodes. Nearby bus services include 513 and 545, which provides connections between Parramatta and West Ryde.</li> <li>• The site is not a battle-axe allotment or a cul-de-sac.</li> </ul>	Yes
Principle 2 – Built Form	The design of the centre will present to the street with a two-storey built form, which is compatible with the surrounding low-density character of the locality.	Yes
Principle 3 – Adaptive Learning Spaces	The proposed childcare centre is considered to have outdoor play spaces that are well designed and achieves a high level of amenity for children and staff, resulting in buildings and associated infrastructure that are fit-for-purpose, enjoyable and easy to use.	Yes
Principles 4 – Sustainability	The design of the building is considered to be sustainable as the building form allows for cross ventilation, as well as acceptable solar access to the play areas.	Yes
Principle 5 – Landscape	The development provides adequate landscaping, including a landscape buffer between the play area and the property boundary.	Yes
Principle 6 – Amenity	The development provides appropriate and efficient indoor and outdoor learning spaces, access to sunlight, natural ventilation, outlook, storage, service areas, and accessible areas.	Yes
Principle 7 – Safety	The childcare centre is considered to have adequate evacuation procedures as there are routes from the outdoor play areas directly to the street without having to re-enter the building.	Yes

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Part 3 – Matters for Consideration	
<p>3.1 Site selection and location</p> <p><i>C1 Zone Considerations</i></p> <p><i>Objective: To ensure that appropriate zone considerations are assessed when selecting a site</i></p>	<p><b>Visual and Acoustic Privacy</b></p> <p>The subject site is located within a residential zone with detached single and double storey dwellings surrounding the site to the east and west.</p> <p>Due to the slope of the site, the outdoor play area to the rear is slightly filled by up to 950mm. The fill is not considered to create amenity impacts as the site backs onto the staff carpark for the school. The first-floor internal play area has obscured glass blocks on the southern side elevation and will not contribute to overlooking. The outdoor play area is oriented to the north and faces a reserve.</p> <p>Regarding acoustic privacy, the proposal seeks a 1.8m high acoustic barrier around the perimeter of the ground floor outdoor play area and a 1.5m high acoustic barrier around the first-floor outdoor play area. This is acceptable.</p> <p>An Acoustic Report was submitted with the application. This report was reviewed by Council's Environmental Health Officer, who raised no objections, subject to conditions of consent.</p> <p><b>Traffic and Parking</b></p> <p>Council's Traffic Engineer has reviewed the submitted Traffic and Parking assessment and raised no objection to the development subject to the imposition of conditions of consent.</p>
<p>3.1 Site selection and location</p> <p><i>C2 Site selection</i></p> <p><i>Objective: To ensure that the site selected for a proposed childcare facility is suitable for the use.</i></p>	<p><b>Compatible uses</b></p> <p>Contextually, existing developments in the surrounding area are detached residential dwellings and dual occupancies. The proposed development has been designed to distinguish itself as a separate childcare use but remains compatible with the surrounding locality.</p> <p><b>Drop off areas</b></p> <p>The site provides 5 drop off spaces within the at-grade car park. Council's Traffic and Transport Officer reviewed the application and raised no objection to the proposal subject to the imposition of conditions of consent.</p> <p><b>Restricted Premises</b></p> <p>The site is not located in proximity to any restricted premises or places of incompatible social behaviour.</p>
<p>3.1 Site selection and location</p> <p><i>C3 Site location</i></p> <p><i>Objective: To ensure that sites for childcare facilities are appropriately located.</i></p>	<p>The site is within close proximity to public transport and employment and business nodes. Nearby bus services include 513 and 545, which provides connections between Parramatta and West Ryde.</p>
<p>3.1 Site selection and location</p> <p><i>C4 Avoidance of hazards</i></p> <p><i>Objective: To ensure that sites for childcare facilities do not incur risks from environmental, health or safety hazards.</i></p>	<p><b>Contamination</b></p> <p>Please refer to discussion under SEPP (Resilience and Hazards) 2021 – Chapter 4: Remediation of Land.</p>
<p>3.2 Local character, streetscape and the public domain interface</p> <p><i>C5 Compatible character and streetscape</i></p> <p><i>Objective: To ensure that a childcare facility is compatible with the local character and surrounding streetscape.</i></p>	<p><b>Design</b></p> <p>Contextually, existing developments in the surrounding area are detached residential dwellings and dual occupancies. The proposed development has been designed to distinguish itself as a separate childcare use, but it is considered that some amendments can be made to improve compatibility.</p>



<p>3.2 Local character, streetscape and the public domain interface</p> <p><i>C6 Public and Private Spaces</i>  <i>C7 Multiple Entries</i>  <i>C8 Parks and open spaces</i></p> <p><i>Objective: To ensure clear delineation between the childcare facility and public spaces.</i></p>	<p><b>Play Space</b>  The childcare centre has clear delineations between the public and private domain with a single entry to the centre.</p> <p><b>Multiple Entries</b>  A pedestrian entry to the childcare facility is proposed from King Street. Although the pedestrian entry is adjacent to the vehicle entry, it is clearly delineated from the driveway through a change in materials and colours.</p>
<p>3.2 Local character, streetscape and the public domain interface</p> <p><i>C9 Front Fencing</i></p> <p><i>C10 Fencing on Classified Roads</i></p> <p><i>Objective: to ensure the front fences and retaining walls responds to and complement the context and character of the area and for not dominate the public domain.</i></p>	<p><b>Front fencing</b>  No front fence is proposed.</p> <p><b>Fencing on Classified Roads</b>  The site does not front a classified road.</p>
<p>3.3 Building orientation, envelope and accessibility</p> <p><i>C11 Building Layout</i></p> <p><i>Objective: To respond to the streetscape and site, while optimising solar access and opportunities for shade.</i></p>	<p><b>Solar Access</b>  The play areas are oriented to the north and west and will receive adequate solar access.</p> <p><b>Cut and Fill</b>  The development requires fill to the rear outdoor play area up to 950mm to create a level play space. As the rear adjoins a parking lot, this is not considered to raise any issue.</p>
<p>3.3 Building orientation, envelope and accessibility</p> <p><i>C12 Scale</i></p> <p><i>Objective: To ensure that the scale of the childcare facility is compatible with adjoining development and the impact on adjoining buildings is minimised.</i></p>	<p><b>Scale</b>  The proposed scale and building mass are compliant with the building height and floor space ratio development standards as well as with the prevailing street setback of King Street. In that regard the development exhibits a satisfactory scale to the streetscape.</p>
<p>3.3 Building orientation, envelope and accessibility</p> <p><i>C13 Front Setback</i>  <i>C14 Rear Setback</i></p> <p><i>Objective: To ensure that setbacks from the boundary of a child care facility are consistent with the predominant development within the immediate context.</i></p>	<p><b>Front Setback</b>  The development proposes a front setback in excess of the prevailing streetscape to accommodate the at-grade carpark and is acceptable.</p> <p><b>Rear Setback – acceptable</b>  The development will extend into the 30% site length rear setback requirement. However, this is considered to be acceptable due to the increased front setback and the fact that the north and west boundaries adjoin non-residential uses. This limits the amount of impact of the non-compliant rear setback.</p>
<p>3.3 Building orientation, envelope and accessibility</p> <p><i>C15 Entry</i></p> <p><i>Objective: To ensure that the buildings are designed to create safe environments for all users.</i></p>	<p>Entry to the childcare centre provides for a separate pedestrian pathway and a single-entry door and a two-way vehicle entrance to the at-grade parking and is acceptable.</p>

<p>3.3 Building orientation, envelope and accessibility</p> <p><i>C16 Accessibility</i></p> <p><i>Objective: To ensure that childcare facilities are designed to be accessible by all potential users.</i></p>	<p><b>Accessibility</b></p> <p>The development provides an accessible visitor car space within the site. The play areas are also accessible.</p>
<p>3.4 Landscaping</p> <p><i>C17 Landscaping</i> <i>C18 Car park landscaping</i></p> <p><i>Objective: To provide landscape design that contributes to the streetscape and amenity.</i></p>	<p>The proposal will have a landscaped area that addresses King Street and is considered acceptable.</p>
<p>3.5 Visual and Acoustic Privacy</p> <p><i>C19 Balconies</i> <i>C20 Overlooking from public space</i> <i>C21 Overlooking onto adjoining developments</i> <i>C22 Acoustic privacy</i> <i>C23 Acoustic consultant</i></p> <p><i>Objective: To protect the privacy and security of children attending the facility.</i></p> <p><i>Objective: To minimise impacts on privacy of adjoining properties.</i></p> <p><i>Objective: To minimise the impact of childcare facilities on the acoustic privacy of neighbouring residential developments</i></p>	<p><b>Overlooking from public space</b></p> <p>The play areas are oriented to the north and west and will not be subject to overlooking from a public space.</p> <p><b>Overlooking onto adjoining private space</b></p> <p>The first-floor internal play areas and administration spaces have obscured glass block windows on the south elevation and are not considered to create overlooking impacts onto neighbouring properties.</p> <p><b>Acoustic Consultant</b></p> <p>The application was accompanied by an Acoustic Report. The report was referred to Council's Environmental Health Officer who raised no objections, subject to conditions of consent.</p>
<p>3.6 Noise and air pollution</p> <p><i>C24 Noise attenuation measures from centre</i> <i>C25 Noise attenuation from external sources</i> <i>C26 Air pollution</i> <i>C27 Air quality report</i></p> <p><i>Objective: To ensure that outside noise levels on the facility are minimised to acceptable levels.</i></p> <p><i>Objective: To ensure air quality is acceptable where childcare facilities are proposed close to external sources of air pollution such as major roads and industrial development.</i></p>	<p><b>Noise attenuation measures from centre</b></p> <p>The proposal utilises a 1.8m high solid barrier around the perimeter of the outdoor play area and is considered to be acceptable.</p> <p><b>Noise attenuation from external sources</b></p> <p>The centre is not located nearby a noise source that requires attenuation of external noise sources.</p> <p><b>Air Pollution</b></p> <p>There are no nearby land uses that would necessitate an air quality report.</p>

<p>3.7 Hours of Operation</p> <p><i>C28 Hours of Operation</i> <i>C29 Mixed use Areas</i></p> <p><i>Objective: To minimise the impact of the child care facility on the amenity of neighbouring residential developments.</i></p>	<p><b>Hours of Operation</b> The proposal seeks to operate 7am – 6pm, weekdays and is acceptable.</p>
<p>3.8 Traffic, parking and pedestrian circulation</p> <p><i>C30 Carparking rates</i> <i>C31 Commercial or Industrial zones</i> <i>C32 Traffic and Parking Study</i> <i>C33 Alternate vehicular access</i> <i>C34 Cul de sac</i> <i>C35 Development design</i> <i>C36 Mixed use developments</i> <i>C37 Carparking design</i></p> <p><i>Objective: To provide parking that satisfies the needs of users and the demand generated by the centre and to minimise conflicts between pedestrians and vehicles.</i></p> <p><i>Objective: To provide vehicle access from the street in a safe environment that does not disrupt traffic flows.</i></p> <p><i>Objective: To provide a safe and connected environment for pedestrians both on and around the site.</i></p>	<p><b>Carparking rates</b> The development is required to provide 11 spaces for 44 children and complies.</p> <p><b>Carpark Design</b> The application was referred to Council's Traffic and Transport Officer raised no objection to the development subject to the imposition of conditions of consent.</p>

Part 4 – Applying the National Regulations to Development Proposals (Checklist)		
Controls	Proposed	Compliance
<b>4.1 Indoor space requirements</b>		
<p><b>Regulation 107</b> Every child being educated and cared for within a facility must have a minimum of 3.25m<sup>2</sup> of unencumbered indoor space.</p>	<p>Required – 143m<sup>2</sup> Provided – 154m<sup>2</sup></p>	Yes
<p><b>Verandas' as indoor space</b> For a veranda to be included as unencumbered indoor space, any opening must be able to be fully closed during inclement weather.</p>	<p>The application does not rely on verandas' as indoor space.</p>	N/A
<p><b>Storage</b> Storage areas including joinery units are not to be included in the calculation of indoor space.</p> <p>It is recommended that a child care facility provide:</p> <ul style="list-style-type: none"> <li>• a minimum of 0.3m<sup>3</sup> per child of external storage space</li> <li>• a minimum of 0.2m<sup>3</sup> per child of internal storage space.</li> </ul>	<p>Required External Storage – 13.2m<sup>3</sup> Provided External Storage – 14.58m<sup>3</sup></p> <p>It is unclear where the storage areas are located on the west elevation plan given the presentation of ground level.</p> <p>Required Internal Storage – 8.8m<sup>3</sup> Provided Internal Storage – 27m<sup>3</sup></p>	Yes



<b>4.2 Laundry and hygiene facilities</b>		
<b>Regulation 106</b> There must be laundry facilities or access to laundry facilities; or other arrangements for dealing with soiled clothing, nappies and linen	A laundry room is provided on the first floor. This room is contained so as not to pose a risk to children.	Yes
<b>4.3 Toilet and hygiene facilities</b>		
<b>Regulation 109</b> 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.	Satisfactory toilet and hygiene facilities have been provided for use by children attending the CCC.	Yes
<b>4.4 Ventilation and natural light</b>		
<b>Regulation 110</b> 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.	Each room to be utilised by the children has access to an external opening to provide the required ventilation and natural light	Yes
<b>4.5 Administrative space</b>		
<b>Regulation 111</b> A service must provide adequate area or areas for the purposes of conducting the administrative functions of the service, consulting with parents of children and conducting private conversations.	The CCC is provided with a staff room, office, and a reception area.	Yes
<b>4.6 Nappy change facilities</b>		
<b>Regulation 112</b> Childcare facilities must provide for children who wear nappies, including appropriate hygienic facilities for nappy changing and bathing. All nappy changing facilities should be designed and located in an area that prevents unsupervised access by children.	As the CCC will accommodate children that wear nappies, nappy change facilities are provided in all children's bathrooms.	Yes
<b>4.7 Premises designed to facilitate supervision</b>		
<b>Regulation 115</b> 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 dignity.	Internal play areas are separated into the respective age groups to simplify supervision for staff.	Yes
<b>4.8 Emergency and evacuation procedures</b>		
<b>Regulations 97 and 168</b> 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 what those procedures must cover including: <ul style="list-style-type: none"> <li>• instructions for what must be done in the event of an emergency</li> <li>• an emergency and evacuation floor plan, a copy of which is displayed in a prominent position near each exit</li> <li>• a risk assessment to identify potential emergencies that are relevant to the service.</li> </ul>	There is one main path of evacuation for the CCC. The pathway runs along the northern side boundary and is acceptable.	Yes
<b>4.9 Outdoor space requirements</b>		
<b>Regulation 108</b> An education and care service premises must provide for every child being educated and cared for within the facility to have a minimum of 7m <sup>2</sup> of unencumbered outdoor space. If this requirement is not met, the concurrence of the regulatory authority is required under the SEPP.	Required – 308m <sup>2</sup> Provided – 330m <sup>2</sup>	Yes
<b>4.10 Natural environment</b>		
<b>Regulation 113</b> The approved provider of a centre-based service must ensure that the outdoor spaces allow children to explore and experience the natural environment. Creating a natural environment to meet this regulation includes the use of natural features such as trees, sand and natural vegetation within the outdoor space.	The development generally provides outdoor play spaces that are well integrated with the proposed building and would provide diversity in function and use, age appropriateness and amenity.	Yes

<b>4.11 Shade</b>		
<b>Regulation 114</b> The approved provider of a centre-based service must ensure that outdoor spaces include adequate shaded areas to protect children from overexposure to ultraviolet radiation from the sun.	<p>The proposal provides for satisfactory shaded areas around the CCC. The shade structure allows for monitoring of the children from within the CCC.</p> <p>The proposal provides solar access to at least 30% of the outdoor play area.</p> <p>The shaded areas are evenly distributed throughout the CCC.</p>	Yes
<b>4.12 Fencing</b>		
<b>Regulation 104</b> 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.  Child care facilities must also comply with the requirements for fencing and protection of outdoor play spaces that are contained in the National Construction Code.	The outdoor play area is enclosed by a minimum of 1.8m acoustic fencing.	Yes
<b>4.13 Soil Assessment</b>		
<b>Regulation 25 Education and Care Services National Regulations</b> 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.	Please refer to discussion under SEPP (Resilience and Hazards) 2021 – Chapter 4: Remediation of Land.	Yes

## 6. PARRAMATTA LOCAL ENVIRONMENTAL PLAN 2011

The relevant matters to be considered under Parramatta Local Environmental Plan 2011 for the proposed development are outlined below.

Development standard	Comment	Compliance
Height of Buildings	The subject site is prescribed a maximum building height of 9m.	Yes
	The proposed building has a height of 9m.	
Floor Space Ratio	The site has a prescribed maximum FSR of 0.5:1.	Yes
	The proposed building has an internal gross floor area of 354m <sup>2</sup> , which equates to 0.4:1.	
Development on land intended to be acquired for public purposes	The proposal is not identified on the map.	N/A
Architectural roof features	An architectural roof feature is not proposed.	N/A
Development below mean high water mark	The proposal is not for the development of land that is covered by tidal waters.	N/A
Heritage Conservation	The subject site is not identified as an item of heritage significance, nor is it located within a heritage conservation area.	N/A
Aboriginal Places of Heritage significance	The subject site is identified as having low sensitivity to Aboriginal Places of Heritage Significance. Accordingly, it is considered unlikely that the proposal would impact upon any Aboriginal Places of Heritage Significance.	Yes
Acid sulphate soils	An Acid Sulphate Soils Management Plan is not required to be prepared.	Yes
Earthworks	Council's Development Engineer raised no objection to earthworks.	Yes
Flood planning	The subject site is not identified as being within flood prone land.	N/A
Biodiversity protection	The site is not identified on this map	N/A
Water protection	The site is not identified on this map	N/A
Development on landslide risk land	The site is not identified on this map.	N/A
Affected by a Foreshore Building Line	The site is not located in the foreshore area.	N/A
Bushfire Prone Land	The site is not identified on this map.	N/A

## 7. PARRAMATTA LOCAL ENVIRONMENTAL PLAN 2023

Parramatta LEP 2023 was gazetted on 2 March 2023. Clause 1.8 of the LEP now repeals the following planning instrument which applied to the land:

- Auburn Local Environmental Plan 2010
- Holroyd Local Environmental Plan 2013
- Parramatta (former The Hills) Local Environmental Plan 2012
- Parramatta Local Environmental Plan 2011

### Clause 1.8A Savings provision relating to development applications states:

*If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.*

The current DA was lodged on 24 October 2022 and therefore shall continue to be assessed under Parramatta LEP 2011.

## 8. PARRAMATTA DEVELOPMENT CONTROL PLAN 2011

The relevant matters to be considered under Parramatta Development Control Plan 2011 or the proposed development are outlined below.

Control	Compliance
<b>Building Setbacks</b>  The child care centre shall comply with the minimum street and side setback and building envelope controls for the respective Residential zones. Side setback is to be a minimum 2m.	Yes – The subject site is zoned R2 Low Density Residential, therefore, the respective setback controls applicable are those for a dual occupancy.  <u>Front Setback – 5-9 metres or consistent with prevailing street</u> The proposed building will have a 9.2m setback from the front street boundary and complies.  <u>Side Setbacks – Minimum 2m</u> The proposal will have a 2m setback to the side boundaries and complies.  <u>Rear Setback – Minimum 30% of the length of the site</u> No, but acceptable – 30% of the length of the site equates to 12.7m. The ground floor will have a setback to the rear boundary of 4.6m and does not comply. The first floor will have a setback to the rear boundary of 6m and does not comply. The non-compliance is considered to be acceptable for the following reasons: <ul style="list-style-type: none"> <li>• The irregular nature of the subject site prevents a fully compliant building envelope to be constructed.</li> <li>• The adjoining land uses to the west and north are non-residential.</li> <li>• The first-floor uses are mainly oriented to the north. Where there are openings that face the southern side setback, they either have high windowsills or are obscured glass.</li> <li>• The built form still allows for sufficient solar access to the rear POS of the dwelling to the south.</li> </ul>
<b>Access and Parking</b>  1 space/4 children  1 Accessible Space/10 car spaces  1 Bicycle/25 children	Yes – With 44 childcare places proposed, 11 total parking spaces, 1 accessible space and 2 bicycles spaces are required.  The childcare centre will be designated with 11 total spaces, with one accessible parking space, and 2 bicycle spaces, and complies.
<b>Acoustic and Visual Privacy</b>	Yes – In regard to visual privacy, the proposed development is not considered likely to create any overlooking impacts onto neighbouring properties as the childcare uses will mainly face the western boundary or the northern boundary which are non-residential uses. The first floor will have a staff room with a window outlook toward the southern side boundary, however this window will have a high sill height and will not allow for overlooking. The first-floor indoor playroom will also have windows facing the southern side boundary but will comprise obscure glass bricks.  In regard to acoustic privacy, an Acoustic Report was submitted with the application. This report was reviewed by Council's Environmental Health Officer, who raised no objections, subject to conditions of consent.



<b>Stormwater Drainage</b>	Council's Engineer has imposed a deferred commencement condition requiring the registration of an easement to accommodate the stormwater discharge from the development.
<b>Transition Areas</b>	Yes – all outdoor play spaces have a shaded area that provides an undercover transition area between the indoor and outdoor space and supports both indoor and outdoor activities.
<b>Waste Management</b>	Yes – The Waste Management Plan was reviewed by Council's environmental Health Officer, who raised no objections, subject to conditions of consent.

## 9. DEVELOPMENT CONTRIBUTIONS

As this Development Application was lodged on 24 October 2022, the City of Parramatta Council (Outside Parramatta CBD) Contributions Plan 2021 applies to the land. As such, a development contribution based on the GFA of the development is required to be paid. A standard condition of consent has been imposed requiring the contribution to be paid prior to the issue of a Construction Certificate.

## 10. BONDS

In accordance with Council's Schedule of Fees and Charges, the developer will be obliged to pay Security Bonds to ensure the protection of civil infrastructure located in the public domain adjacent to the site. A standard condition of consent has been imposed requiring the Security Bond to be paid prior to the issue of a Construction Certificate.

## 11. EP&A REGULATION 2021

Applicable Regulation considerations including demolition, fire safety, fire upgrades, compliance with the Building Code of Australia, compliance with the Home Building Act, PCA appointment, notice of commencement of works, sign on work sites, critical stage inspections and records of inspection have been addressed by appropriate consent conditions, refer to Appendix 1.

## 12. THE LIKELY IMPACTS OF THE DEVELOPMENT

The assessment demonstrates that the proposal will not have any significant adverse impacts upon any adjoining properties or the environment through compliance with the applicable planning instruments and controls. All relevant issues regarding environmental impacts of the development are discussed elsewhere in this report, including natural impacts such as tree removal, and built environment impacts such as traffic and built form. In the context of the site and the assessments provided by Council's experts, the development is considered satisfactory in terms of environmental impacts.

## 13. SUITABILITY OF THE SITE

The subject site can accommodate a development of centre-based child care facility without causing further impacts on the amenity of surrounding properties and is ideally located close to public transport links, services and facilities.

Suitable investigations and documentation have been provided to demonstrate that the site can be made suitable for the proposed development and the development is consistent with the land use planning framework for the locality.

No natural hazards or site constraints exist that are likely to have an unacceptably adverse impact on the proposed development.

Subject to the conditions provided within the recommendation to this report, the site is considered to be suitable for the proposed development.

**14. PUBLIC CONSULTATION**

In accordance with the Consolidated City of Parramatta Notification Procedures the Development Application was advertised between 1 November 2022 and 22 November 2022. In total, 21 submissions were received. Key concerns raised in the submissions are addressed below.

Issue	Response
<b>Traffic/Parking/ /Driveway Sightlines</b>	<p>Concerns raised in the submissions comprise the following:</p> <ul style="list-style-type: none"> <li>• Concerns with swept paths at the corner of the street outside 6 Ulandi Place;</li> <li>• Removal of on-street parking;</li> <li>• Accuracy of Traffic Modelling;</li> <li>• Safety and delays at the intersection of King Street/Dobson Crescent;</li> <li>• Increase in overall traffic;</li> <li>• Concerns with car park layout;</li> <li>• Increased pedestrian movements on King Street and exacerbation of school pickup; and</li> <li>• Concerns with site servicing.</li> </ul> <p>The application was reviewed by Council's Traffic Management Officer. In conclusion, the Officer advised that:</p> <p><i>"The estimated traffic generation of the proposal is in the order of 36 and 31 trips in the morning and evening peak hours, respectively. Transport for New south Wales (TNSW) defines a vehicle trip as a one-way vehicular movement from one point to another excluding the return journey. Accordingly, the estimated trips will be in the order of 18 in and 18 out in the morning peak hour and 16 in and 15 out in the evening peak hour. This traffic generation on average equates to 1 car either approaching or departing the centre every 1 minutes and 43 seconds in the morning and 1 car either approaching or departing every 1 minutes and 56 seconds in the evening. This minor increase in traffic flow will not have any unacceptable impacts upon the operation of King Street or the surrounding road network".</i></p> <p>Accordingly, they raised no objections to the proposal, subject to conditions of consent</p>
<b>Tree Removal</b>	<p>Concerns were raised in regard to the removal of trees to facilitate the development. The application was referred to Council's Landscape Officer who raised no issue with the tree removal subject to the imposition of conditions of consent, including replacement tree planting.</p>
<b>Stormwater</b>	<p>Concerns were raised regarding the requirement of a drainage easement through the school. Council and the NSW Department of Education have been in discussions regarding the stormwater easement. A deferred commencement condition has been provided to require the easement be registered prior to the issue of an operative consent.</p>
<b>Amenity:</b> <ul style="list-style-type: none"> <li>– Visual Privacy;</li> <li>– Noise Impacts.</li> </ul>	<p>In regard to visual privacy, the proposed development is not considered likely to create any overlooking impacts onto neighbouring properties as the childcare centre orientates its play areas toward the rear and northern boundaries. All elevated windows that face the southern boundary are obscured glass blocks.</p> <p>In regard to noise impacts, the proposal utilises a 1.8m high solid barrier around the perimeter of the outdoor play area and is considered to be acceptable. Council's Environmental Health Officer raised no objections to the proposal, subject to conditions of consent.</p>
<b>Proposal is Prohibited in the R2 Zone/this will lead to future commercial uses within the zone</b>	<p>Concerns were raised regarding the commercial nature of the development within a residential zone, as well as the possibility of other unauthorised commercial uses being used on the site in the future if the childcare centre fails.</p> <p>The development is defined as a Centre-Based Child Care Facility and is a permitted use within the R2 Low Density Residential zone under Parramatta LEP 2011.</p> <p>As the site is not being rezoned under this proposal, any future uses would also be required to be permitted with consent within the R2 Low Density Residential zone under Parramatta LEP 2011 and would be subject to a merit assessment.</p>

<b>Local Need/over supply of Child Care Centres</b>	Concern has been raised in regard to the local need of a child care centre on the subject site as there are many other child care centres within close proximity of the subject site.  Whilst it is acknowledged that there are existing centres located nearby, the proposed use is permitted with consent within the R2 zone. In accordance with Clause 3.27(c) of SEPP (Transport and Infrastructure) 2021, there is no requirement for the proposed use to be located any distance from these existing centres.
<b>Overshadowing/Shade structure overhead boundaries</b>	By virtue of the east-west orientation of the site the proposal is not considered to have any solar impacts on neighbouring properties.  The proposal will have a compliant building height, FSR and side setback. The private open space for the neighbouring property to the south will continue to receive adequate solar access during the winter solstice, from 12 noon onwards.
<b>Not notified to entire street</b>	The application was notified in accordance with Council's Consolidated Notification Procedures, which included an advertising sign being placed at the front of the site.
<b>Bulk and scale</b>	The proposed development will have compliant building height, FSR and side setbacks and is not considered to be of an incompatible scale to the surrounding streetscape.

## 15. PUBLIC INTEREST

Subject to implementation of conditions of consent outlined in the recommendation below, no circumstances have been identified to indicate this proposal would be contrary to the public interest.

## 16. CONCLUSION

The application has been assessed relative to section 4.15 of the Environmental Planning and Assessment Act 1979, taking into consideration all relevant state and local planning controls.

Having regard to the assessment of the proposal from a merit perspective, Council officers are satisfied that the development has been appropriately designed and will provide acceptable levels of amenity for the future children of the centre. It is considered that the proposal sufficiently minimises adverse impacts on the amenity of neighbouring properties. Hence the development is consistent with the intentions of the relevant planning controls and represents a form of development contemplated by the relevant statutory and non-statutory controls applying to the land. On balance, the proposal has demonstrated a satisfactory response to the objectives and controls of the applicable planning framework.

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 and is recommended for approval subject to conditions.

## 17. RECOMMENDATION

Pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act, 1979:

- A. **That** the Parramatta Local Planning Panel, exercising the function of the consent authority, provide a **deferred commencement approval** to development consent to DA/834/2022 for *'demolition of existing structures, tree removal and construction of a 2 storey 44 place centre based childcare centre with 11 spaces of at grade parking'* on land at 23 King Street, Dundas Valley.

### REASONS FOR APPROVAL

1. The development is permissible in the R2 Low Density Residential zone pursuant to Parramatta Local Environmental Plan 2011 and generally satisfies the requirements of the applicable planning framework.
  2. The development will be compatible with the emerging and planned future character of the area.
  3. The development will promote a land use that provides a facility to meet the day to day needs of residents.
  4. The proposal provides a non-residential land use that has amenity impacts that can be appropriately managed.
  5. The development is in the public interest because it is consistent with the objectives of for development in the R2 Low Density Residential zone.
  6. For the reasons given above, approval of the application is in the public interest.
- B. **That** Council advise those who made a submission of the determination.

**“Appendix 1” to Section 4.15 Assessment Report - DA/834/2022****DRAFT DEFERRED COMMENCEMENT CONDITIONS**

Upon the signature of the applicable delegate the deferred commencement conditions in this Appendix will form the conditions of development consent.

**Development Consent No.:** DA/834/2022

**Property Address:** LOT 1094 DP 36696  
23 King Street, DUNDAS VALLEY NSW  
2117

**Schedule 1:****DAA0002 #Interallotment Drainage Easement**

- A. Pursuant to the provisions of Section 4.16(3) of the Environmental Planning and Assessment Act, 1979, the development application be granted a Deferred Commencement Consent subject to the completion of the following:

Submission to Council of suitable documentary evidence issued by the NSW Land Registry Services confirming the creation of an easement to drain water 1.5 metres wide over a downstream property benefiting the subject lot known as 23 King Street and burdening the downstream property known as lot 1106 DP36696 has been registered with the NSW Land and Property Information Service.

The above requirement(s) must be satisfied within 24 months of this determination or the consent will lapse.

**Advisory Note:** Easements through Council properties (or Crown land managed by Council) can take up to 12 months to finalise.

Upon compliance with the above requirements, a full Consent will be issued subject to the following conditions:

**Advisory Note:**

**Requesting Operational Consent:** Once logged into the NSW Planning Portal, locate and open the development application with the deferred commencement in your Active work – Select “Request Operational Consent” from the Actions dropdown Menu – Enter the details of the Request – Upload your documents and categorise the file type before clicking attach – Click on the submit button

If you need more information, or experience any issues, you will need to liaise directly with ServiceNSW. To contact ServiceNSW, please phone 1300 305 695 or email [info@service.nsw.gov.au](mailto:info@service.nsw.gov.au).



**Schedule 2:****PART A – GENERAL CONDITIONS****PA0001 #Approved Plans & Support Doc(DIEP Mandatory Cond)**

1. Development must be carried out in accordance with the following approved plans and supporting documentation (stamped by Council), except where the conditions of this consent expressly require otherwise:

**Architectural Drawings (Project No. 20584)**

Drawing No.	Issue	Plan Title	Dated
A02.01	B	Site Plan/Demolition	01.02.2023
A03.01	C	Ground Floor Plan	21.06.2023
A03.02	C	First Floor Plan	21.06.2023
A04.01	C	External Elevations	21.06.2023
A05.01	C	Section and External Finishes	21.06.2023

**Civil Drawings (Project No. A22100)**

Drawing No.	Issue	Plan Title	Dated
Cover	J	General Notes	24.02.2023
SW01	J	Sediment and Erosion Control Plan	24.02.2023
SW02	J	Ground Floor Drainage Plan	24.02.2023
SW03	J	Level 1 Drainage Plan	24.02.2023
SW04	J	Roof Drainage Plan	24.02.2023
SW05	J	Stormwater Section and Details	24.02.2023
SW06	J	Stormwater Section and Details 2	24.02.2023
SW07	J	Music Modelling	24.02.2023
SW08	J	Catchment Plans and Details	24.02.2023

**Landscape Drawings (Project No. 2004)**

Drawing No.	Issue	Plan Title	Dated
Sht-02	F	Site Plan	08.02.2023
Sht-03	F	Ground Floor Landscape Plan	08.02.2023
Sht-04	F	Ground Floor Detail Plan	08.02.2023

Sht-05	F	Ground Floor Detail Plan 2	08.02.2023
Sht-06	F	Ground Floor Detail Plan 3	08.02.2023
Sht-07	F	Ground Floor Planting Plan	08.02.2023
Sht-08	F	First Floor Landscape Plan	08.02.2023
Sht-09	F	First Floor Planting Plan	08.02.2023
Sht-10	F	Section Elevations	08.02.2023
Sht-12	F	Palette, Notes & Details	08.02.2023

### Specialist Reports

Document	Ref No.	Issue	Prepared By	Dated
Statement of Environmental Effects	-	-	Think Planners	13.10.2022
Waste Management Plan	-	-	Artmade architects	15.01.2020
Contamination Report	CA/19/148-4001	1	NG Child & Associates	13.01.2020
Acoustic Report	6896-1.1R	1	Day Design	29.01.2020
Arborist Report	-	-	Horticultural Management Services	08.12.2019
Access Report	P19257	1	BCA Vision	11.12.2019
Traffic Report	22.23.015	-	Traffic Solutions	14.10.2022
Operational Plan of Management	-	-	Chapman Planning	24.01.2020

In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of consent, the condition prevails.

**Note:** An inconsistency occurs between an approved plan and supporting documentation or between an approved plan and a condition when it is not possible to comply with both at the relevant time.

**Reason:** To ensure all parties are aware of the approved plans and supporting documentation that applies to the development

### **PA0003 Construction Certificate**

2. Prior to commencement of any construction works associated with the approved development (including excavation if applicable), it is mandatory to obtain a Construction Certificate. Plans, specifications and relevant documentation accompanying the Construction Certificate must include any requirements imposed by conditions of this Development Consent.

**Reason:** To ensure compliance with legislative requirements.

**PA0004 No encroachment on Council and/or Adjoining proper**

3. The development must be constructed within the confines of the property boundary. No portion of the proposed structure, including footings/slabs, gates and doors during opening and closing operations must encroach upon Council's footpath area or the boundaries of the adjacent properties.
- Reason:** To ensure no injury is caused to persons and the building is erected in accordance with the approval granted within the boundaries of the site.

**PA0011 #Demolition of Buildings**

4. Approval is granted for the demolition of # (all buildings and outbuildings) currently on the property, subject to 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.
  - (b) 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 commencing. 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). The demolition must not commence prior to the date stated in the notification.
  - (c) 5 working days (i.e., Monday to Friday with the exclusion of Public Holidays) notice in writing is to be given to City of Parramatta 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.
  - (d) On the first day of demolition, work is not to commence until City of Parramatta 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 Work Cover's document "Your Guide to Working with Asbestos", and demolition works must at all times comply with its requirements.
  - (e) 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. 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 469 of the Work Health and Safety Regulation 2017.

- (f) Demolition must not commence until all trees required to be retained are protected in accordance with the conditions detailed under "Prior to Works Commencing" in this Consent.
- (g) 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.
- (h) Prior to the commencement of any demolition works, and where the site ceases to be occupied during works, the property owner must notify Council to discontinue the domestic waste service and to collect any garbage and recycling bins from any dwelling/ building that is to be demolished. Waste service charges will continue to be charged where this is not done. Construction and/ or demolition workers are not permitted to use Council's domestic waste service for the disposal of any waste.
- (i) Demolition works involving the removal and disposal of asbestos cement in excess of 10 square meters, must only be undertaken by contractors who hold a current WorkCover "Demolition Licence" and a current WorkCover "Class 2 (Restricted) Asbestos Licence".
- (j) Demolition is to be completed within 5 days of commencement.
- (k) Demolition works are restricted to Monday to Friday between the hours of 7.00am to 5.00pm. No demolition works are to be undertaken on Saturdays, Sundays or Public Holidays.
- (l) 1.8m high Protective fencing is to be installed to prevent public access to the site.
- (m) A pedestrian and Traffic Management Plan must be submitted to the satisfaction of Council prior to commencement of demolition and/or excavation. It must include details of the:
  - (i) Proposed ingress and egress of vehicles to and from the construction site;
  - (ii) Proposed protection of pedestrians adjacent to the site;
  - (iii) Proposed pedestrian management whilst vehicles are entering and leaving the site.
- (n) All asbestos laden waste, including asbestos cement flat and corrugated sheets must be disposed of at a tipping facility licensed by the NSW Environment Protection Authority (EPA).
- (o) Before demolition works begin, adequate toilet facilities are to be provided.
- (p) After completion, the applicant must notify City of Parramatta within 7 days to assess the site and ensure compliance with AS2601-2001 – Demolition of Structures.
- (q) Within 14 days of completion of demolition, the applicant must submit to Council:
  - (i) An asbestos clearance certificate issued by a suitably qualified person if asbestos was removed from the site; 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. In reviewing such documentation Council will require the provision of original.
- (iii) Payment of fees in accordance with Council's current schedule of fees and charges for inspection by Parramatta Council of the demolition site prior to commencement of any demolition works and after the completion of the demolition works.

**Reason:** To protect the amenity of the area.

**PA0013 LSL Payment Const> \$250,000 (DIEP Mandatory Cond)**

5. Before the issue of a Construction Certificate, the applicant is to ensure that the person liable pays the Long Service Levy of 0.25% of the value of building and construction work where the cost of building is \$250,000 or more (inclusive of GST) or as calculated at the date of this consent to the Long Service Corporation or Council under section 34 of the *Building and Construction Industry Long Service Payments Act 1986* and provides proof of this payment to the Certifier.

**Note:** The Long Service Levy is to be paid directly to the **Long Service Corporation** at [www.longservice.nsw.gov.au](http://www.longservice.nsw.gov.au). For more information, please contact the Levy support team on 13 14 41.

**Reason:** To ensure that the Long Service Levy is paid.

**PA0014 #Payment of Security deposits(DIEP Mandatory Cond)**

6. Before the commencement of any works on the site or the issue of a construction certificate, the applicant must make all of the following payments to Council and provide written evidence of these payments to the certifier:

Bond Type	Amount
Nature Strip and Roadway:	\$25,750

The payments will be used for the cost of:

- making good any damage caused to any council property (including street trees) as a consequence of carrying out the works to which the consent relates,
- completing any public work such as roadwork, kerbing and guttering, footway construction, stormwater drainage and environmental controls, required in connection with this consent, and
- any inspection carried out by Council in connection with the completion of public work or the making good any damage to council property.

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

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

**Note:** The bond may be paid, by EFTPOS, bank cheque, or be an unconditional bank guarantee.

Should a bank guarantee be lodged it must:

- (a) Have no expiry date;
- (b) Be forwarded directly from the issuing bank with a cover letter that refers to Development Consent DA/834/2022
- (c) Specifically reference the items and amounts being guaranteed. If a single bank guarantee is submitted for multiple items it must be itemised.

Should it become necessary for Council to uplift the bank guarantee, notice in writing will be forwarded to the applicant fourteen days prior to such action being taken. No bank guarantee will be accepted that has been issued directly by the applicant.

A dilapidation report is required to be prepared and submitted electronically to the City of Parramatta Council ([council@cityofparramatta.nsw.gov.au](mailto:council@cityofparramatta.nsw.gov.au)) prior to any work or demolition commencing and with the payment of the bond/s.

The dilapidation report is required to document/record any existing damage to kerbs, footpaths, roads, nature strips, street trees and furniture within street frontage/s bounding the site up to and including the centre of the road.

**Reason:** To safe guard the public assets of council and to ensure that these assets are repaired/maintained in a timely manner so as not to cause any disruption or possible accidents to the public.

**PA0015 #Payment of Sec7.11 Contrib. (DIEP Mandatory Cond)**

7. Before the issue of a construction certificate, the applicant must pay the following contributions to Council for:

Contribution Type	Amount
Traffic and transport	\$ 9,837.94
Plan administration	\$ 511.64
<b>Total</b>	<b>\$ 10,349.58</b>

The total contribution payable to Council under this condition is \$10,349.58 as calculated at the date of this consent, in accordance with City of Parramatta (Outside CBD) Contributions Plan 2021 (Amendment 1).

The total amount payable may be adjusted at the time the payment is made, in accordance with the provisions of the City of Parramatta (Outside CBD) Contributions Plan 2021 (Amendment 1).

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

**ECA0001 Hazardous/intractable waste disposed legislation**

8. Hazardous or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of Safework NSW and the EPA, and with the provisions of:
- a) Work Health and Safety Act 2011;
  - b) NSW Protection Of the Environment Operations Act 1997 (NSW); and
  - c) NSW Environment Protection Authority (EPA) Waste Classification Guidelines.

**Reason:** To ensure that the land is suitable for the proposed development and any contaminating material required to be removed from the property is removed in accordance with the prescribed manner.

**ECA0006 Require to notify about new contamination evidence**

9. 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.

**Reason:** To ensure that the land is suitable for its proposed use and poses no risk to the environment and human health.

**ECA0009 Contaminated waste to licensed EPA landfill**

10. Any contamination material to be removed from the site shall be disposed of to an EPA licensed landfill.

**Reason:** To comply with the statutory requirements of the Protection of the Environment Operations Act 1997.

**EFA0001 Requirement for Trade Waste Agreement**

11. A trade waste agreement shall be obtained from Sydney Water prior to the discharge of trade wastewater to the sewer system. Trade wastewater is defined as 'discharge water containing any substance produced through industrial or commercial activities or operation on the premises'. Separator systems are to be bunded and where systems are placed outside, they are to be roofed to ensure that no rainwater can enter the bund.

**Reason:** To ensure proper disposal of waste water.

**EPA0068 Erosion and Sediment Control Measures**

12. Erosion and sediment control measures are to be installed in accordance with the publication 'Urban Stormwater: Soils and Construction "The Blue Book" 2004 (4th edition) prior to the commencement of any demolition, excavation or construction works upon the site. These measures are to be maintained throughout the entire works.

**Reason:** To ensure soil and water management controls are in place before site works commence.

**EPA0069 Erosion and Sediment Control - Run Off**

13. Works are not to result in sedimentation and or run-off from the approved works onto the adjoining properties and or public lands. The person having the benefit of this consent must ensure sediment is not tracked out from the development site.

**Reason:** To ensure no adverse impacts on neighbouring properties.

**EWA0002 Amenity of waste storage areas (general)**

14. All waste storage areas/rooms are to comply with the City of Parramatta Waste Management Guidelines for New Developments. No waste materials are to be stored outside the building or any approved waste storage area at any time.

**Reason:** To ensure waste is adequately separated and managed in mixed use developments.

**PART B – BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE**

**(Note:** Some conditions contained in other sections of this consent (including prior to occupation/use commencing) may need to be considered when preparing detailed drawings/specifications for the Construction Certificate.)

**PB0030 Infrastructure & Restoration Adm. fee for all DAs**

15. An Infrastructure and Restoration Administration Fee must be paid to Council prior to the issue of a Construction Certificate.  
The fee will be in accordance with Councils adopted 'Fees and Charges' at the time of payment.

**Note:** Council's Customer Service Team can advise of the current fee and can be contacted on 9806 5524.

**Reason:** To comply with Council's adopted Fees and Charges Document and to ensure compliance with conditions of consent.

**PB0053 Construct. Site Manage. Plan (DIEP Mandatory Cond)**

16. Before the issue of a construction certificate, the applicant must ensure a construction site management plan is prepared before it is provided to and approved by the certifier. The plan must include the following matters:
- location and materials for protective fencing and hoardings to the perimeter on the site
  - provisions for public safety
  - pedestrian and vehicular site access points and construction activity zones
  - details of construction traffic management, including proposed truck movements to and from the site and estimated frequency of those



- movements, and measures to preserve pedestrian safety in the vicinity of the site
- protective measures for on-site tree preservation (including in accordance with AS 4970-2009 Protection of trees on development sites and Council's DCP, if applicable) and trees in adjoining public domain (if applicable)
- details of any bulk earthworks to be carried out
- location of site storage areas and sheds
- equipment used to carry out all works
- a garbage container with a tight-fitting lid
- dust, noise and vibration control measures
- location of temporary toilets.

The applicant must ensure a copy of the approved construction site management plan is kept on-site at all times during construction.

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

**PB0055 Waste Management Plan (DIEP Mandatory Cond)**

17. Before the issue of a construction certificate, the applicant is to ensure that a waste management plan is prepared in accordance with the EPA's Waste Classification Guidelines and the following requirements before it is provided to and approved by the certifier:

(a) Council's Waste Management Development Control Plan

**OR**

(b) Details the following:

- the contact details of the person(s) removing the waste
- an estimate of the waste (type and quantity) and whether the waste is expected to be reused, recycled or go to landfill
- the address of the disposal location(s) where the waste is to be taken

The applicant must ensure the waste management plan is referred to in the construction site management plan and kept on-site at all times during construction.

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

**DB0001 Stormwater Disposal**

18. All roof water and surface water is to be connected to an operable drainage system. Details are to be shown on the plans and documentation accompanying the application for a Construction Certificate.

**Reason:** To ensure satisfactory stormwater disposal.

**DB0002 Retaining walls**

19. If no retaining walls are marked on the approved plans no approval is granted as part of this approval for the construction of any retaining wall

that is greater than 600mm in height or within 900mm of any property boundary.

The provision of retaining walls along common boundary lines shall not impact on neighbouring properties. If impact upon neighbouring properties (including fences) is anticipated, then written approval from the affected neighbour shall be obtained and submitted to the certifying authority prior commencement of the works.

Structural details, certified by a practicing structural engineer, shall accompany the application for a Construction Certificate for assessment and approval by the certifying authority.

**Reason:** To minimise impact on adjoining properties.

**DB0003 Sydney Water Quick check**

20. A building plan approval must be obtained from Sydney Water Tap in™ to ensure that the approved development will not impact Sydney Water infrastructure.

A copy of the building plan approval receipt from Sydney Water Tap in™ must be submitted to the Principal Certifying Authority upon request prior to works commencing.

Please refer to the website <http://www.sydneywater.com.au/tapin/index.htm>, Sydney Water Tap in™, or telephone 13 20 92.

**Reason:** To ensure the requirements of Sydney Water have been complied with.

**DB0004 Dial Before you Dig Service**

21. Prior to any excavation on or near the subject site the person/s having benefit of this consent are required to contact the NSW Dial Before You Dig Service (NDBYD) on 1100 to receive written confirmation from NDBYD that the proposed excavation will not conflict with any underground utility services. The person/s having the benefit of this consent are required to forward the written confirmation from NDBYD to their Principal Certifying Authority (PCA) prior to any excavation occurring.

**Reason:** To ensure Council's assets are not damaged.

**DB0012 #On Site Detention**

22. Full engineering construction details of the stormwater system, including OSD structures, pipe networks and calculations as per following points, shall be submitted for the approval of the PCA prior to release of the Construction Certificate for any work on the site.

- (a) The stormwater drainage detail design shall be prepared by a Registered Stormwater Design Engineer and shall be generally in accordance with the following Stormwater Plans approved by this consent and with Council's Stormwater Disposal Policy, Council's Design and Development Guidelines, The Upper Parramatta River

Catchment Trust On Site Detention Hand book (Third or Fourth Edition), the relevant Australian Standards and the National Construction Code.

- (i) ***“Stormwater Management Plan”, prepared by Alpha Engineering, project number A22100, issue J, dated 24 Feb 2023***
- (b) A Site Storage Requirement of 330 m<sup>3</sup>/ha and a Permissible Site Discharge of 130 L/s/ha (when using 3rd edition of UPRCT's handbook)
- (c) Adequate grate(s) to be provided so the OSD tank storage area can be inspected from outside for silt and debris, and to ensure adequate cross ventilation within the tank.
- (d) Certificate from registered structural engineer certifying the structural adequacy of the OSD tank structure.

**Reason:** To minimise the quantity of storm water run-off from the site, surcharge from the existing drainage system and to manage downstream flooding.

#### **DB0013 #Water treatment for stormwater**

23. Water quality treatment devices must be installed to manage surface runoff water to King Street to satisfy section 3.3.6.1 of Parramatta City Council Development Control Plan 2011. Details of the proposed devices and their location and certification from the manufacturer/Installer must accompany the application for a Construction Certificate to the satisfaction of the Certifying Authority.

**Reason:** To ensure appropriate water quality treatment measures are in place.

#### **DB0017A Construction of a heavy duty vehicular crossing**

24. A heavy duty vehicular crossing shall be constructed in accordance with Council's Standard Drawing numbers DS9 and DS10. Details must accompany an application for a Construction Certificate to the satisfaction of the Certifying Authority.

A Vehicle Crossing application must be submitted to Council together with the appropriate fee as outlined in Council's adopted Fees and Charges prior to any work commencing.

**Reason:** To ensure appropriate vehicular access is provided.

#### **DB0021 Impact on Existing Utility Installations**

25. Where work is likely to disturb or impact upon utility installations, (e.g. power pole, telecommunications infrastructure etc.) written confirmation from the affected utility provider that they raise no objections to the proposed works must accompany an application for a Construction Certificate to the satisfaction of the Certifying Authority.

**Reason:** To ensure no unauthorised work to public utility installations and to minimise costs to Council.

**EAB0002 Noise impact on child-care centres**

26. Prior to the issue of a Construction Certificate, written certification from a suitably qualified person(s) shall be submitted to the Principal Certifying Authority and City of Parramatta Council, stating that appropriate design and construction materials are to be utilised within the development to ensure compliance with the following noise criteria specified for managing the noise impact on child-care centres from rail corridors and/or busy roads:

a) In any area: 40dB(A) at any time.

**Reason:** Compliance with relevant noise amenity criteria in Infrastructure SEPP.

**EAB0003 Noise Management Plan - Construction Sites**

27. A noise management plan must be submitted to Council for approval prior to any work commencing and complied with during any construction works. The plan must be prepared by a suitably qualified person who possesses qualifications to render them eligible for membership with the Australian Acoustic Society, Institution of Engineers Australia or the Australian Association of Acoustic Consultants.

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

- a) Identify sensitive locations near the site;
- b) Identify potential impacts (i.e. exceedance of the goals at the identified locations);
- c) Mitigation measures to control noise from the site, the noise reduction likely and the feasibility and reasonableness of these measures;
- d) Selection criteria for plant and equipment;
- e) Community consultation;
- f) Details of work schedules for all construction phases;
- g) Selection of traffic routes to minimise residential noise intrusion;
- h) Schedule of plant and equipment use and maintenance programs;
- i) Noise monitoring techniques and method of reporting results;
- j) The methodology to be employed for handling and investigating any complaints should they arise;
- k) Site induction details for employees and contractors; and
- l) A declaration of available technologies and the reason for the selection of the preferred technology from a noise generating perspective should be included.

**Reason:** To maintain appropriate amenity to nearby occupants.

**EAB0001 Design of fit-out to comply with food safety stand**

28. Detailed plans of any food / beverage preparation facilities and waste storage areas shall be submitted to the principal certifying authority (PCA) prior to the issue of the construction certificate.

The fit-out of the food premises shall comply with:



- (a) Australian Standard AS4674-2004 - Design, Construction and Fit-out of Food Premises.
- (b) Food Safety Standards
  - Standard 3.2.2 Food Safety Practices and General Requirements
  - Standard 3.2.3 Food Premises and Equipment
- (c) The cool rooms shall be provided with safety devices to comply with G1.2 of the BCA.
- (d) No approval is granted for any remote storage area.
- (e) The business being registered with City of Parramatta (retail) or NSW Food Authority (wholesale/retail meat/manufacturer).
- (f) Comply with the requirements of Sydney Water – Trade Waste Section (grease trap).

If a Private Certifier is to be used, the final inspection shall be carried out by a suitably qualified person to ensure that food standards are met. Council's Environmental Health Officer may be engaged to carry out the required inspection for a prescribed fee.

**Note:** Copies of AS4764-2004 may be obtained from Standards Australia. Copies of the Food Standards Code may be obtained from Australia and New Zealand Food Authority.

Alternatively, you may obtain a copy of the 'Food premises design, construction and fit-out guide' from Council. This guide is based on the above standards and sets out minimum requirements to achieve compliance.

**Reason:** To ensure design of the premises meets relevant public health standards.

#### **EWB0002 Management of Construction and/or Demolition Waste**

29. Waste materials must be appropriately stored and secured within a designated waste area onsite at all times, prior to reuse or being sent offsite. This includes waste materials such as paper and containers which must not litter the site or leave the site onto neighbouring public or private property. Receipts of all waste/recycling tipping must be retained and produced in a legible form to any authorised officer of the Council who asks to see them.

**Reason:** To provide for the appropriate collection/ recycling of waste from the proposal whilst minimising the impact of the development upon adjoining residents.

#### **LB0004 #Landscaping Plan**

30. The Stormwater Plan must be amended prior to the issuing of the Construction Certificate. The amended plan must be consistent with all approved plans together with any additional criteria required by the Development Consent to the satisfaction of the Certifying Authority addressing the following requirements:

- (a) That the location of any proposed drainage lines/associated pits or easement takes into consideration appropriate distances from

boundaries and proposed landscaped areas – recommended distance 2.0 metres.

**Reason:** To ensure proposed stormwater infrastructure is appropriately distanced from landscaped areas.

#### **LF0001 Landscape maintenance**

31. All landscape works shall be maintained for a minimum period of two (2) years following the issue of a Final Occupation Certificate, in accordance with the approved landscape plan and conditions.

**Reason:** To ensure restoration of environmental amenity.

#### **TB0001 #Car Parking Condition**

32. The PCA shall ascertain that any new element in the at-grade carpark not illustrated on the approved plans such as columns, garage doors, fire safety measures and the like do not compromise appropriate manoeuvring and that compliance is maintained with AS 2890.1, AS 2890.2 and AS 2890.6. Details are to be illustrated on plans submitted with the construction certificate application.

**Reason:** To ensure appropriate vehicular manoeuvring is provided.

#### **TB0002 #Bicycle parking condition**

33. Two (2) bicycle spaces/racks are to be provided on-site and used accordingly. The bicycle storage/racks are to comply with AS 2890.3-2015. Details are to be illustrated on plans submitted with the construction certificate.

**Reason:** To comply with Council's parking requirements.

#### **TB0003 #Parking Provision**

34. Parking spaces are to be provided in accordance with the approved plans and with AS 2890.1, AS 2890.2 and AS 2890.6. A total of 11 parking spaces is to be provided and be allocated as follows:

- a) Six (6) spaces for staff parking;
- b) Five (5) parking spaces for visitors/parents including one (1) space as accessible parking.

Tandem car spaces are to be allocated to staff parking. Details are to be illustrated on plans submitted with the construction certificate application.

**Reason:** To comply with Council's parking requirements and Australian Standards.

### **PART C – BEFORE THE COMMENCEMENT OF BUILDING WORK**

#### **BC0001 Toilet facilities on site**

35. Prior to work commencing, adequate toilet facilities are to be provided on the work site.

**Reason:** To ensure adequate toilet facilities are provided.

#### **PC0001 #Appointment of PCA**

36. Prior to commencement of work, the person having the benefit of the Development Consent and Construction Certificate approval must:

- (a) Appoint a Principal Certifying Authority (PCA) and notify Council in writing of the appointment (irrespective of whether Council or an accredited private certifier) within 7 days; and
- (b) Notify Council in writing a minimum of 48 hours prior to work commencing of the intended date of commencement.

The Principal Certifying Authority must determine and advise the person having the benefit of the Construction Certificate when inspections, certification and compliance certificates are required.

**Reason:** To comply with legislative requirements.

**PC0002 Enclosure of the site**

37. The site must be enclosed by a 1.8m high security fence erected wholly within the confines of the site to prevent unauthorised access. The fence must be installed to the satisfaction of the Principal Certifying Authority prior to the commencement of any work on site.

**Reason:** To ensure public safety.

**PC0003 Site Sign**

38. A sign must be erected in a prominent position on any site involving excavation, erection or demolition of a building in accordance with Clause 70 of the Environmental Planning and Assessment Regulations 2021 detailing:

- (a) Unauthorised entry of the work site is prohibited;
- (b) The name of the principal contractor (or person in charge of the work site), their telephone number enabling 24hour contact; and
- (c) The name, address and telephone number of the Principal Certifying Authority;
- (d) The development consent approved construction hours;
- (e) The sign must be maintained during excavation, demolition and building work, and removed when the work has been completed.
- (f) This condition does not apply where works are being carried out inside an existing building.

**Reason:** Statutory requirement.

**PC0005 Public liability insurance**

39. Public risk insurance in the amount of not less than \$20 million or such other amount as Council may require by notice) must be obtained and furnished to Council before any works authorised by this consent are conducted:

- (a) Above;
- (b) Below; or
- (c) On

Any public land owned or controlled by Council. The public risk insurance must be maintained for the period during which these works are being undertaken.

The public risk insurance must be satisfactory to Council and list Council as an insured and/or interested party.

A copy of the insurance policy obtained must be forwarded to Council before any of the works commence.

**Note:** Applications for hoarding permits, vehicular crossing etc. will require evidence of insurance upon lodgement of the application.

**Reason:** To ensure the community is protected from the cost of any claim for damages arising from works authorised by this consent conducted above, below or on any public land owned or controlled by Council.

#### **DC0002 Road Opening Permits - DA's involving drainage wrk**

40. The applicant must apply for a road-opening permit **where a new pipeline is proposed to be constructed within or across Council owned land**. Additional road opening permits and fees may be necessary where connections to public utilities are required (e.g. telephone, electricity, sewer, water or gas).

In addition, no drainage work can be carried out within the Council owned land without this permit being issued. A copy is required to be kept on site.

**Reason:** To protect Council's assets throughout the development process.

#### **DC0006 Erosion and Sediment Control measures**

41. Erosion and sediment control measures are to be installed in accordance with the publication 'Urban Stormwater: Soils and Construction "The Blue Book" 2004 (4th edition) prior to the commencement of any demolition, excavation or construction works upon the site. These measures are to be maintained throughout the entire works.

**Reason:** To ensure soil and water management controls are in place before site works commence.

#### **DC0007 Site Maintenance**

42. Prior to commencement of works and during construction works, the development site and any road verge immediately in front of the site must be maintained in a safe and tidy manner. In this regard the following must be undertaken:

- (a) all existing buildings are to be secured and maintained to prevent unauthorised access and vandalism
- (b) all site boundaries are to be secured and maintained to prevent unauthorised access to the site;
- (c) all general refuse and/or litter (inclusive of any uncollected mail/advertising material) is to be removed from the site on a fortnightly basis;
- (d) the site is to be maintained clear of weeds; and
- (e) all grassed areas are to be mowed on a monthly basis.

**Reason:** To ensure public safety and maintenance of the amenity of the surrounding environment.



**DC0009 Special Permits**

43. Unless otherwise specifically approved in writing by Council, all works, processes, storage of materials, loading and unloading associated with the development are to occur entirely within the property boundaries. The applicant, owner or builder must apply for specific permits if the following activities are required seeking approval pursuant to Section 138 of the Roads Act 1993:

- (a) On-street mobile plant:  
E.g. Cranes, concrete pumps, cherry-pickers, etc. - restrictions apply to the hours of operation and the area where the operation will occur, etc. Separate permits are required for each occasion and each piece of equipment. It is the applicant's, owner's and builder's responsibilities to take whatever steps are necessary to ensure the use of any equipment does not violate adjoining property owner's rights.
- (b) Storage of building materials and building waste containers (skips) on Council's property.
- (c) Permits to utilise Council property for the storage of building materials and building waste containers (skips) are required for each location they are to be stored. Failure to obtain the relevant permits will result in the building materials or building waste containers (skips) being impounded. Storage of building materials and waste containers within Council's open space areas, reserves and parks is prohibited.
- (d) Kerbside restrictions - construction zones:  
The applicant's attention is drawn to the possible existing kerbside restrictions adjacent to the development. Should the applicant require alteration of existing kerbside restrictions, or the provision of a work zones, the appropriate application must be made to Council and the fee paid. Applicants should note that the alternatives of such restrictions may require referral to Council's Traffic Committee. An earlier application is suggested to avoid delays in construction programs..

The application is to be lodged with Council's Customer Service Centre.

**Reason:** Proper management of public land.

**DC0010 Driveway Crossing Application**

44. All works associated with the construction and/or extension of a driveway crossover/layback within Council owned land requires an application to be lodged and approved by Council.

All footpath crossings, laybacks and driveways are to be constructed according to Council's Specification for Construction or Reconstruction of Standard Footpath Crossings and in compliance with Standard Drawings DS1 (Kerbs & Laybacks); DS7 (Standard Passenger Car Clearance Profile); DS8 (Standard Vehicular Crossing); DS9 (Heavy Duty Vehicular Crossing) and DS10 (Vehicular Crossing Profiles).

The application for a driveway crossing requires the completion of the relevant application form and accompanied by plans, grades/levels and specifications. A fee in accordance with Councils adopted 'Fees and Charges' will need to be paid at the time of lodgement.

**Note 1:** This development consent is for works wholly within the property. Development consent does not imply approval of the footpath or driveway levels, materials or location within the road reserve, regardless of whether the information is shown on the development application plans.

**Note 2:** Council's Customer Service Team can advise of the current fee and can be contacted on 9806 5524

**Reason:** To provide suitable vehicular access without disruption to pedestrian and vehicular traffic.

#### **ECC0002 Asbestos - signage**

45. On demolition sites where buildings are known to contain friable or non-friable asbestos material, standard warning signs containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm are to be erected in a prominent position on site visible from the street kerb. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos material has been removed from the site. Advice on the availability of these signs can be obtained by contacting the Safework NSW hotline or their website [www.safework.nsw.gov.au](http://www.safework.nsw.gov.au).

**Reason:** To comply with the requirements of Safework NSW.

#### **ECC0003 Hazardous material survey**

46. At least one (1) week prior to demolition, the applicant must submit to the satisfaction of the Principal Certifying Authority a hazardous materials survey of the site. Hazardous materials include (but are not limited to) asbestos materials, synthetic mineral fibre, roof dust, PCB materials and lead based paint. The report must be prepared by a suitably qualified and experienced environmental scientist and must include at least the following information:

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

**Reason:** To ensure risks associated with the demolition have been identified and addressed prior to demolition work commencing.

#### **EFC0001 Food premises DA/CC plans to satisfy requirements**

47. The design and construction of any food / beverage preparation facilities and waste storage areas associated with this activity shall satisfy the requirements of food safety standards prescribed under the Food Act 2003, as well as Australian Standard AS 4674 - 2004: 'Design, Construction and Fit-out of Food Premises'. Final design drawings for these areas are to be submitted to the principal certifying authority prior to commencement of work.

**Reason:** To ensure design of the premises meets relevant public health standards.

#### **PART D – WHILE BUILDING WORK IS BEING CARRIED OUT**

##### **PD0001 Copy of development consent**

48. A copy of this development consent together with the stamped plans, referenced documents and associated specifications is to be held on-site during the course of any works to be referred to by all contractors to ensure compliance with the approval and the associated conditions of consent.

**Reason:** To ensure compliance with this consent.

##### **PD0003 Dust Control**

49. Dust control measures shall be implemented during all periods of earth works, demolition, excavation and construction to minimise the dust nuisance on surrounding properties. In this regard, dust minimisation practices must be carried out in accordance with Section 126 of the Protection of the Environment Operations Act 1997.

**Reason:** To protect the amenity of the area.

##### **PD0004 Materials on footpath**

- B. No building materials skip bins, concrete pumps, cranes, machinery, temporary traffic control, signs or vehicles associated with the construction, excavation or demolition shall be stored or placed on/in Council's footpath, nature strip, roadway, park or reserve without the prior approval being issued by Council under section 138 of the Roads Act 1993.

**Reason:** To ensure pedestrian access.

##### **PD0006 Hours of work and noise (DPIE Mandatory Condition)**

50. The principal certifier must ensure that building work, demolition or vegetation removal is only carried out between:

- 7am to 5pm on Monday to Friday
- 8am to 5pm on Saturday

The principal certifier must ensure building work, demolition or vegetation removal is not carried out on Sundays and public holidays, except where there is an emergency.

Unless otherwise approved within a construction site management plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

**Note:** Any variation to the hours of work requires Council's approval.

Council may permit an extension to the approved hours of work in extenuating or unforeseen circumstances subject to an application and approval by City of Parramatta Council (CoPC) in accordance with the 'After Hours Works for Approved Development Applications Policy' (Policy).

A copy of this Policy and associated application form is available on the CoPC website. A fee will apply to any application made in accordance with this Policy.

The matters of consideration of any extension sought would include, but not be limited to the following aspects and should be detailed in any application made:

- Nature of work to be conducted;
- Reason for after-hours completion;
- Residual effect of work (noise, traffic, parking);
- Demographic of area (residential, industrial);
- Compliance history of subject premises;
- Current hours of operation;
- Mitigating or extenuating circumstance; and
- Impact of works not being completed.

**Reason:** To protect the amenity of the surrounding area.

#### **PD0007 Complaints register**

51. The applicant must record details of all complaints received during the construction period in an up to date complaints register. The register must record, but not necessarily be limited to:

- (a) The date and time of the complaint;
- (b) The means by which the complaint was made;
- (c) Any personal details of the complainants that were provided, or if no details were provided, a note to that effect;
- (d) Nature of the complaints;
- (e) Any action(s) taken by the applicant in relation to the complaint, including any follow up contact with the complainant; and
- (f) If no action was taken by the applicant in relation to the complaint, the reason(s) why no action was taken.

The complaints register must be made available to Council and/or the Principal Certifying Authority upon request.

**Reason:** To allow the Principal Certifying Authority/Council to respond to concerns raised by the public.

#### **PD0008 Construction Noise (DPIE Mandatory Cond)**



52. While building work is being carried out, and where a noise and vibration management plan is approved under this consent, the applicant must ensure that any noise generated from the site is controlled in accordance with the requirements of that plan.

OR

While building work is being carried out and where no noise and vibration management plan is approved under this consent, the applicant is to ensure that any noise caused by demolition, vegetation removal or construction does not exceed an LAeq (15 min) of 5dB(A) above background noise, when measured at any lot boundary of the property where the construction is being carried out.

**Reason:** To protect the amenity of the neighbourhood.

**PD0010 Survey Report**

53. While building work is being carried out, a registered surveyor is to measure and mark the positions of the following and provide them to the principal certifier: -

- (a) All footings/ foundations
- (b) At other stages of construction – any marks that are required by the principal certifier

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

**PD0020 Building Work Compliance BCA (DIEP Mandatory Cond)**

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

**Reason:** To comply with the Environmental Planning & Assessment Act 1979, as amended and the Environmental Planning & Assessment Regulation 2000.

**PD0022 Uncover Relics/Aboriginal Obj(DPIE Mandatory Cond)**

55. While demolition or building work is being carried out, all such works must cease immediately if a relic or Aboriginal object is unexpectedly discovered. The applicant must notify the Heritage Council of NSW in respect of a relic and notify the Secretary of the Department of Planning, Industry and Environment and the Heritage Council of NSW in respect of an Aboriginal object. Building work may recommence at a time confirmed by either the Heritage Council of NSW or the Secretary of the Department of Planning, Industry and Environment.

In this condition:

- “relic” means any deposit, artefact, object or material evidence that:-
  - (a) relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and
  - (b) is of State or local heritage significance; and
- “Aboriginal object” means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that

area by persons of non-Aboriginal extraction and includes Aboriginal remains.

**Reason:** To ensure the protection of objects of potential significance during works.

**DD0005 Erosion & sediment control measures**

56. Works are not to result in sedimentation and or run-off from the approved works onto the adjoining properties and or public lands. The person having the benefit of this consent must ensure sediment is not tracked out from the development site.

**Reason:** To ensure no adverse impacts on neighbouring properties.

**DD0006 Damage to public infrastructure**

57. Any damage to Council assets that impacts on public safety during construction is to be rectified immediately to the satisfaction of Council with all costs to be borne by the person having the benefit of the Development Consent.

**Reason:** To protect public safety.

**DD0010 Vehicle egress signs**

58. Appropriate signage must be erected at the vehicle egress points to compel all vehicles to stop before proceeding onto the public way.

**Reason:** To ensure pedestrian safety.

**ECD0002 Asbestos records disposal& licensed waste facility**

59. Where demolition of asbestos containing materials is undertaken, the contractor must submit to the Principal Certifying Authority, copies of all receipts issued by the EPA licensed waste facility for friable or non-friable asbestos waste as evidence of proof of proper disposal within 7 days of the issue of the receipts.

**Reason:** To ensure appropriate disposal of asbestos materials.

**ECD0003 Asbestos handled& disposed of by licensed facility**

60. All friable and non-friable asbestos-containing waste material on-site shall be handled and disposed off-site at an EPA licensed waste facility by an EPA licensed contractor in accordance with the requirements of the Protection of the Environment Operations (Waste) Regulation 2014 and the NSW Environment Protection Authority (EPA) Waste Classification Guidelines and any other regulatory instrument as amended.

**Reason:** To ensure appropriate disposal of asbestos materials.

**EPD0001 Dust Control**

61. Dust control measures shall be implemented during all periods of earth works, demolition, excavation and construction to minimise the dust nuisance on surrounding properties. In this regard, dust minimisation practices must be carried out in accordance with Council's Guidelines for Controlling Dust from Construction Sites and Section 126 of the Protection of the Environment Operations Act 1997.

**Reason:** To protect the amenity of the area.

**EWD0003 Waste data file maintained**

62. A Waste Data file is to be maintained, recording building/demolition contractor's details and waste disposal receipts/dockets for any demolition or construction wastes from the site. These records must be retained and made available to Council on request.

**Reason:** To confirm waste minimisation objectives under Parramatta Development Control Plan 2011 are met.

**EWD0004 Hazardous/intractable waste disposed of in accor.**

63. Hazardous or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of Safework NSW and the EPA, and with the provisions of:
- (a) Work Health and Safety Act 2011;
  - (b) NSW Protection of the Environment Operations Act 1997 (NSW); and
  - (c) NSW Department of Environment and Climate Change Environmental Guidelines; NSW EPA Waste Classification Guidelines.

**Reason:** To ensure that the land is suitable for the proposed development and any contaminating material required to be removed from the property is removed in accordance with the prescribed manner.

**LD0009 Planting Requirements**

64. All trees planted as required by the approved landscape plan are to be a minimum 45 litre container size. All shrubs planted as part of the approved landscape plan are to have a minimum 200mm container size.

**Reason:** To ensure appropriate landscaping.

**LD0011 Tree Removal**

65. The following trees are approved to be removed to facilitate the development: **refer to the submitted Arborist Report prepared by Horticultural Management Services dated 8 December 2019 for tree No's & locations: Tree No's 1 - 13**

**Reason:** To facilitate development.

**LD0012 Trees with adequate root volume**

66. All trees/shrubs planted within the site must be of an adequate root volume and maturity so as not to require staking or mechanical support unless in a wind-prone area. Planting must be carried out in accordance with the approved Landscape Plan and conditions of consent.

**Reason:** To ensure the trees/shrubs planted within the site are able to reach their required potential.

**LD0013 Removal of trees by an arborist**

67. All approved tree removal must be supervised by an Australian Qualification Framework (AQF) Level 3 Arborist and undertaken in accordance with the Code of Practice for Amenity Tree Industry 1998.

**Reason:** To ensure tree works are carried out safely.

**TD0001 Road Occupancy Permit**

68. Occupation of any part of the footpath or road at or above (carrying out work, storage of building materials and the like) during construction of the development shall require a Road Occupancy Permit from Council. The applicant is to be required to submit an application for a Road Occupancy Permit through Council's Traffic and Transport Services, prior to carrying out the construction/restoration works.

**Reason:** To ensure proper management of Council assets.

**TD0002 Oversize vehicles using local roads**

69. Oversize vehicles using local roads require approval from the National Heavy Vehicle Regulator (NHVR). The applicant is required to submit an application for an Oversize Vehicle Access Permit through NHVR's portal ([www.nhvr.gov.au/about-us/nhvr-portal](http://www.nhvr.gov.au/about-us/nhvr-portal)) prior to driving through local roads within the City of Parramatta LGA.

**Reason:** To ensure maintenance of Council's assets.

**PART E – BEFORE THE ISSUE OF AN OCCUPATION CERTIFICATE****BE0001 Record of inspections carried out**

70. In accordance with Clause 162B of the Environmental Planning and Assessment Regulation 2000, the Principal Certifying Authority responsible for the critical stage inspections must make a record of each inspection as soon as practicable after it has been carried out. The record must include:

- (a) The development application and Construction Certificate number as registered;
- (b) The address of the property at which the inspection was carried out;
- (c) The type of inspection;
- (d) The date on which it was carried out;
- (e) The name and accreditation number of the certifying authority by whom the inspection was carried out; and
- (f) Whether or not the inspection was satisfactory in the opinion of the certifying authority who carried it out.

**Reason:** To comply with statutory requirements.

**PE0001 Occupation Certificate**

71. Occupation or use of the building or part is not permitted until an Occupation Certificate has been issued in accordance with Section 6.9 of the Environmental Planning and Assessment Act 1979.

**Reason:** To comply with legislative requirements of the Environmental Planning and Assessment Act 1979.

**DE0003 Work-as-Executed Plan (DPIE Condition)**

72. Works-As-Executed stormwater plans are to address the following:
- (a) A WAE survey shall be conducted and plans prepared showing the 'as built' of the complete on-site detention system including (but not limited to) discharge point into Council system, storage tank (including all critical elements), all pipes and pits connected to the



OSD system, overland flow swale and surface levels that control surface flows to the OSD system and by design bypassing the OSD system.

- (b) The Work-As-Executed plans are prepared on the copies of the approved drainage plans issued with the Construction Certificate with the variations marked in red ink.
- (c) The Work-As-Executed plans have been prepared by a registered surveyor certifying the accuracy of dimensions, levels, storage volumes, etc.
- (d) The as built On-Site Detention (OSD) storage volumes are to be presented in a tabular form (depth verses volume table
- (e) OSD Works-As-Executed dimensions form (refer to UPRCT Handbook).
- (f) Certificate of Hydraulic Compliance from a qualified drainage / hydraulic engineer (refer to UPRCT Handbook). The certificate must only be provided after conducting a satisfactory final inspection. The final inspection shall include the application of all the ancillary components of the system including but not limited to: step-irons, orifice plate, trash screen with appropriate wall attachment, hinged lockable grates, confined space sign, functioning return lap valve and relief drains within DCP sump etc.
- (g) Certificate of Structural compliance of the OSD tank shall reference the structural elements including floor slab/foundations, walls and cover slab from a qualified structural engineer

The above is to be submitted to the Principal Certifying Authority prior to the issue of an occupation certificate and a copy is to accompany the Occupation Certificate when lodged with Council.

**Reason:** To ensure works comply with approved plans and adequate information is available for Council to update the Upper Parramatta River Catchment Trust.

**DE0005 OSD Positive Covenant/Restriction**

73. Prior to the issue of an Occupation Certificate a Positive Covenant and Restriction on the Use of Land under Section 88E of the Conveyancing Act 1919 must be created, burdening the owner with the requirement to maintain the on-site stormwater detention facilities on the lot.

The terms of the 88E Instruments are to be generally in accordance with Council's "standard terms" available in Council's website, under Development Forms.

Council's standard application form shall be lodged, accompanied by the required documents and plans, only after the completion, final inspection and certification of the on-site detention system.

The Positive Covenant and Restriction on the Use of Land is to be created through an application to NSW Land Registry Services using forms 13PC and 13RPA.

Registered title documents showing the covenants and restrictions must be submitted to and approved by the Principal Certifying Authority prior to Occupation of the site.

Electronic colour photographs in jpg format of the on-site detention facility shall accompany the application for the Positive Covenant and the Restriction on the Use of the Land. These photos shall include such elements as the orifice plate, trash screen, step irons, weir, sump and bench on the floor of the DCP, return pipe and flap valve, wide angle view of the storage area or multiple photos, grates closed from above, grates open showing the edges to the opening and under frame packing with mortar or concrete, all pipe entries to the DCP and confined space warning signs at each entry point. The photos must be well labelled and must differentiate between multiple tanks. Additional photos may be requested if required.

**Reason:** To ensure maintenance of on-site detention facilities.

**DE0006 Section 73 Certificate**

74. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained prior to the issue of any Occupation Certificate. The 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](http://www.sydneywater.com.au) then the "e-developer" icon or telephone 13 20 92.

**Reason:** To ensure the requirements of Sydney Water have been complied with.

**DE0015 Driveway Crossover**

75. Prior to the issue of any Occupation Certificate, an application is required to be obtained from Council for any new, reconstructed or extended sections of driveway crossings between the property boundary and road alignment.

All footpath crossings, laybacks and driveways are to be constructed according to Council's Specification for Construction or Reconstruction of Standard Footpath Crossings and in compliance with Standard Drawings DS1 (Kerbs & Laybacks); DS7 (Standard Passenger Car Clearance Profile); DS8 (Standard Vehicular Crossing); DS9 (Heavy Duty Vehicular Crossing) and DS10 (Vehicular Crossing Profiles).

The application for a driveway crossing requires the completion of the relevant application form and be accompanied by detailed plans showing, grades/levels and specifications that demonstrate compliance with Council's standards, without conflict with all internal finished surface levels. The detailed plan must be submitted to Council's Civil Assets Team for approval prior to commencement of the driveway crossing works. A fee in accordance with Council's adopted 'Fees and Charges' will need to be paid at the time of lodgement.

**Note 1:** This development consent is for works wholly within the property. Development consent does not imply approval of the footpath or driveway levels, materials or location within the road reserve, regardless of whether the information is shown on the development application plans.

**Note 2:** Council's Customer Service Team can advise of the current fee and can be contacted on 9806 5524.

**Reason:** Pedestrian and Vehicle safety.

**DE0018 Reinstatement of laybacks etc**

76. All redundant lay-backs and vehicular crossings must be reinstated to conventional kerb and gutter, foot-paving or grassed verge in accordance with Council's Standard Plan No. DS1. The reinstatement must be completed prior to the issue of an Occupation Certificate. All costs must be borne by the applicant.

**Reason:** To provide satisfactory drainage.

**EAE0001 #All works/methods/procedures/control measures**

77. Prior to the issue of an occupation certificate (Interim or Final), written certification from a suitably qualified person(s) shall be submitted to the Principal Certifying Authority and City of Parramatta Council, stating that all works/methods/procedures/control measures approved by Council in the following report have been completed:

- a. Acoustic Report No. (6896-1.1R), dated (29/1/20), prepared by (Day Design PTY LTD)

**Reason:** To demonstrate compliance with submitted reports.

**EFE0002 Notification of food business – Council**

78. Prior to an Occupation Certificate being issued, Council must be notified that the premises is to be used for the preparation of food for sale so that the premises can be registered on Council's food premises licensing database.

**Reason:** Compliance with the requirements of the Food Act.

**EFE0003 Certify mechanical ventilation installation**

79. Adequate ventilation to work areas and other occupied enclosures shall be provided in accordance with the requirements of the Building Code of Australia. Where any system of mechanical ventilation is installed, certification that the system functions in accordance with Australian Standard AS/NZS 1668.2.2012 is to be provided to the certifying authority prior to occupation of the premises.

**Reason:** To comply with the Building Code of Australia and the relevant Australian Standard.

**EFE0004 Certify fitout complies with food safety standards**

80. Certification to be provided to the principal certifying authority (PCA), prior to occupation, that the fit-out of the food premises has been completed in accordance with plans complying with food safety standards prescribed

under the Food Act 2003, and the requirements of Australian Standard AS 4674 - 2004.

It is incumbent on the PCA to determine the competency of the person providing this certification, based on that person's qualifications, experience and currency of practice.

**Reason:** To ensure construction and fit-out of the premises meets relevant public health standards.

#### **EWE0002 Details of commercial contract for collection**

81. Prior to issue of the occupation certificate, the applicant shall enter into a commercial contract for the collection of trade wastes and recyclable materials arising from business operations on site. A copy of all waste contracts and receipts shall be kept on site and made available to Council officers on request.

**Reason:** To comply with the Requirements of the Protection of the Environment Operations Act 1997 and Regulations.

#### **LE0002 Cert.Auth.Arrange Qualified LandscapeArch.(multi)**

82. A qualified Landscape Architect/Designer must certify that the completed works are in accordance with the approved landscape plan. All landscape works must be completed prior to the issue of an Occupation Certificate.

**Reason:** To ensure restoration of environmental amenity.

### **PART F – OCCUPATION AND ONGOING USE**

#### **PF0004 External Plant/Air-conditioning noise levels**

83. Any external plant/air-conditioning system must not exceed a noise level of 5dBA above the background noise level when measured at the boundaries of the property.

**Reason:** To minimise noise impact of mechanical equipment.

#### **PF0017 Goods not to be displayed outside premises**

84. No goods are to be stored/displayed outside the walls of the building.

**Reason:** To ensure visual amenity.

#### **PF0025 #Operating hours**

85. The days and hours of operation are restricted to:

Day	Time
Monday	7:00am – 6:00pm
Tuesday	7:00am – 6:00pm
Wednesday	7:00am – 6:00pm
Thursday	7:00am – 6:00pm
Friday	7:00am – 6:00pm
Saturday	Closed
Sunday	Closed
Public Holidays	Closed

**Reason:** To minimise the impact on the amenity of the area.



**PF0049 Graffiti Management**

86. The owner/manager of the site/business is responsible for the removal of all graffiti from the building/structures/signage and/or fencing within 48 hours of its application.

**Reason:** To ensure the removal of graffiti.

**PF0054 Release of Securities/Bonds (DIEP Mandatory Cond)**

87. When Council receives an occupation certificate from the principal certifier, the applicant may lodge an application to release the securities held in accordance with **City of Parramatta Fees and Charges Schedule 2022/2023**.

Council may use part, or all of the securities held to complete the works to its satisfaction if the works do not meet Council's requirements.

**Note:** A written application to Council's Civil Assets Team is required for the release of a bond and must quote the following:

- (a) Council's Development Application number; and
- (b) Site address.

**Note:** Council's Civil Assets Team will take up to 21 days from receipt of the request to provide the written advice.

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

**EAF0001 Use is not to cause offensive noise or vibration**

88. The use of the premises not giving rise to:
- (a) transmission of unacceptable vibration to any place of different occupancy,
  - (b) a sound pressure level measured at any point on the boundary of any affected residential premises that exceeds the background noise level by more than 5 dB(A). The source noise level shall be assessed as an LAeq,15 min and adjusted in accordance with Environment Protection Authority (EPA) guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations, and temporal content as described in the NSW Environmental Planning & Assessment Act 1979: Noise Policy for Industry 2017 and the Protection of the Environment Operations Act 1997.

**Reason:** To prevent loss of amenity to the area.

**EAF0004 No 'offensive noise'**

89. Noise and vibration from the use and operation of any plant and equipment and/or building services associated with the premises shall not give rise to 'offensive noise' as defined by the Protection of the Environment Operations Act 1997.

**Reason:** To reduce noise levels.

**EAF0007 Noise from mechanical equipment**

90. The proposed use of the premises and the operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997.

**Reason:** To protect the amenity of the area.

**EAF0009 Use of Premises**

91. The use of the premises not giving rise to:

- (a) transmission of unacceptable vibration to any place of different occupancy;
- (b) a sound pressure level at any affected premises that exceeds the background (LA90) noise level in the absence of the noise under consideration by more than 5dB(A). The source noise level shall be assessed as an LAeq,15min and adjusted in accordance with Environment Protection Authority guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content.

**Reason:** To prevent loss of amenity to the area.

**EFF0001 Food premises**

92. The operation of the premises is to comply with the relevant provisions of the Food Act 2003, Food Regulation 2015 and the Australia New Zealand Food Authority Food Standards Code.

**Reason:** To ensure operation of the premises complies with the relevant legislation and standards.

**EWF0003 Remove putrescible waste at sufficient frequency**

93. All putrescible waste shall be removed from the site with sufficient frequency to avoid nuisance from pests and odours.

**Reason:** To ensure provision of adequate waste disposal arrangements.

**EWF0006 Storage of bins between collection periods**

94. Between collection periods, all waste/recyclable materials generated on site must be kept in enclosed bins with securely fitting lids so the contents are not able to leak or overflow. Bins must be stored in the designated waste/recycling storage room(s) or area(s) between collection periods.

**Reason:** To ensure waste is adequately stored within the premises.

**EWF0008 Ongoing Management of Wastes (general)**

95. All waste generated onsite must be removed at regular intervals and no less frequent than once weekly for garbage and once fortnightly for recycling. The collection of waste and recycling must not cause nuisance or interfere with the amenity of the surrounding area. Garbage and recycling must not be placed on public property for collection without the formal approval of Council. Waste collection vehicles servicing the development onsite must enter and exit a property in a forward direction.

**Reason:** To ensure that waste does not accumulate onsite.

**EWF0010 Compliance with Servicing Requirements**

96. All waste servicing instructions from Council must be complied with at all times. This includes any directives regarding the presentation of bins to a designated collection point and the maintenance of waste storage areas.

**Reason:** To ensure the safety and effectiveness of ongoing waste collection services.

**TF0003      #Roller Shutter Door Opening Hours**

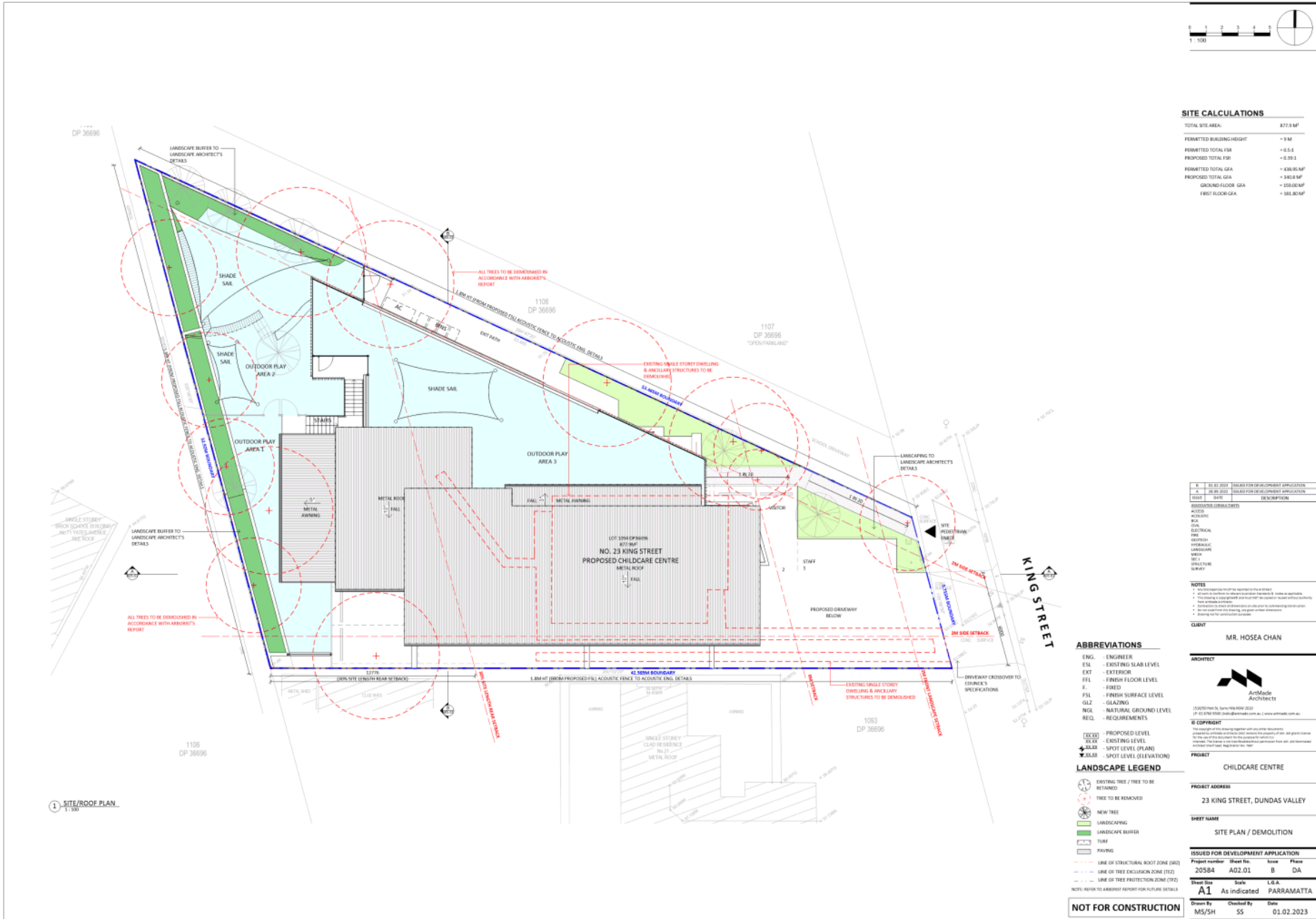
97. If a roller shutter door is to be provided at the driveway entry and exit from King Street, it is to be opened at all times during the centre's operating hours from 7am to 6pm Monday to Friday.

**Reason:** To comply with Council requirements.

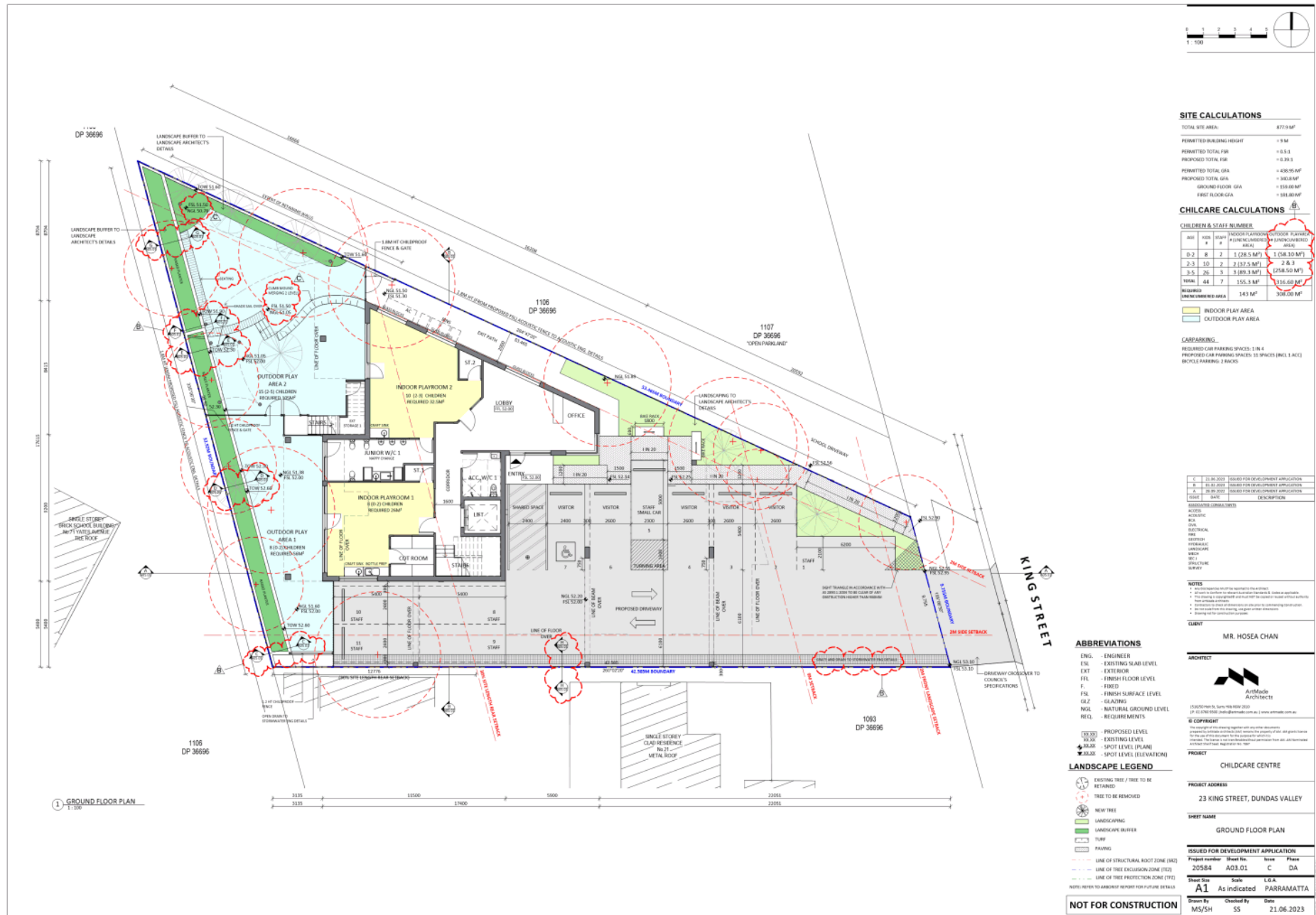
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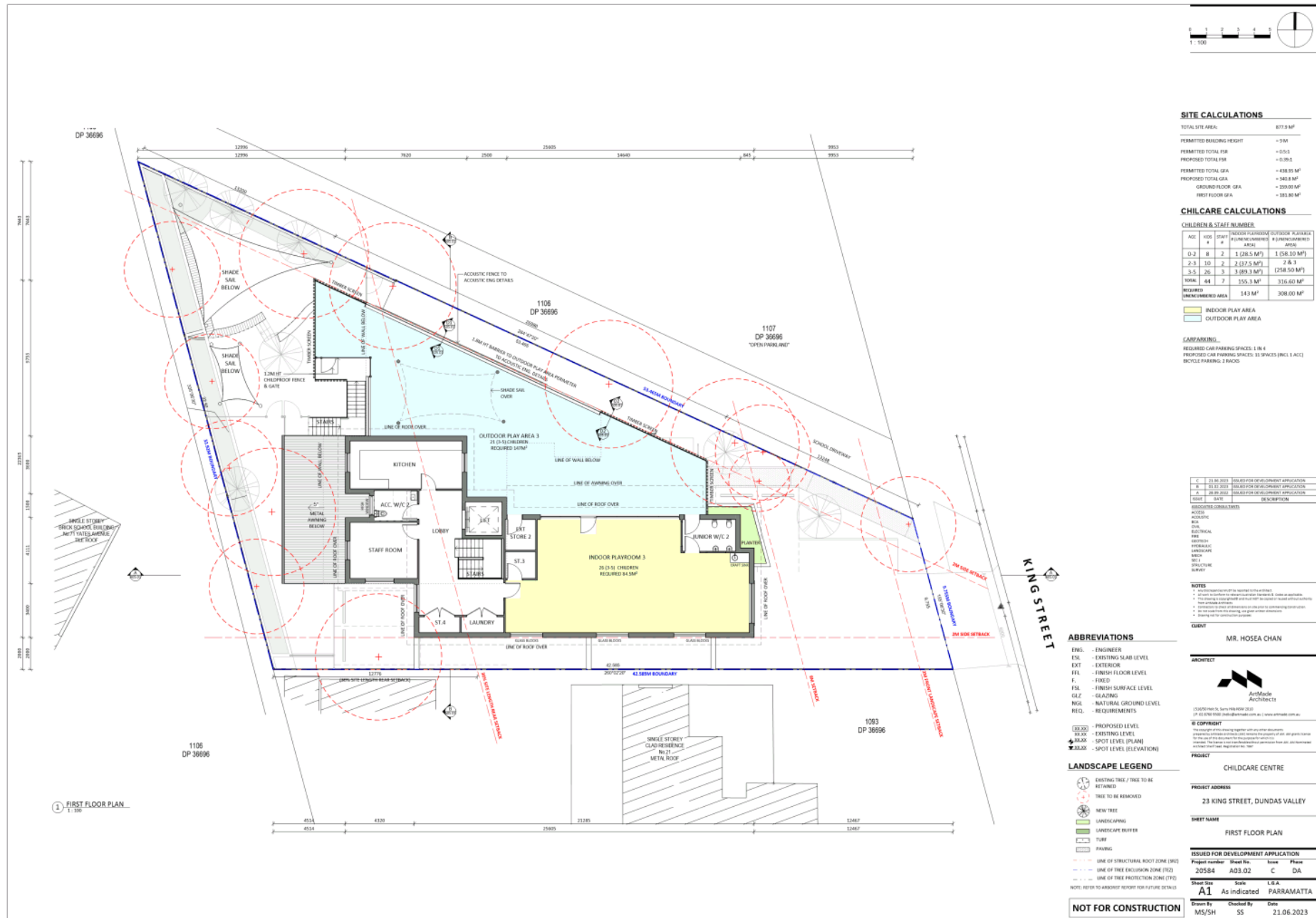
**Date:** 22 June 2023

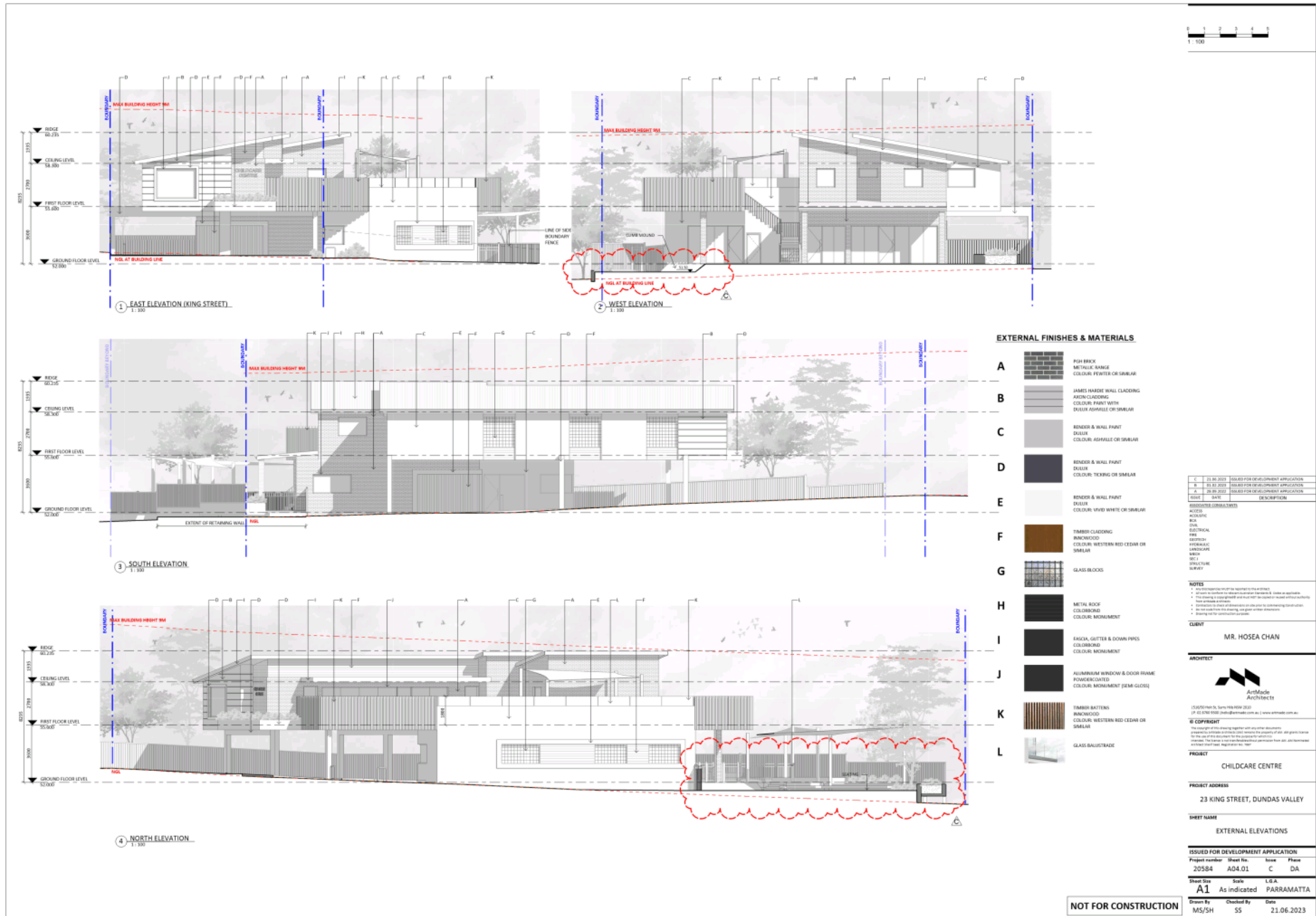
**Responsible Officer:** Darren Wan

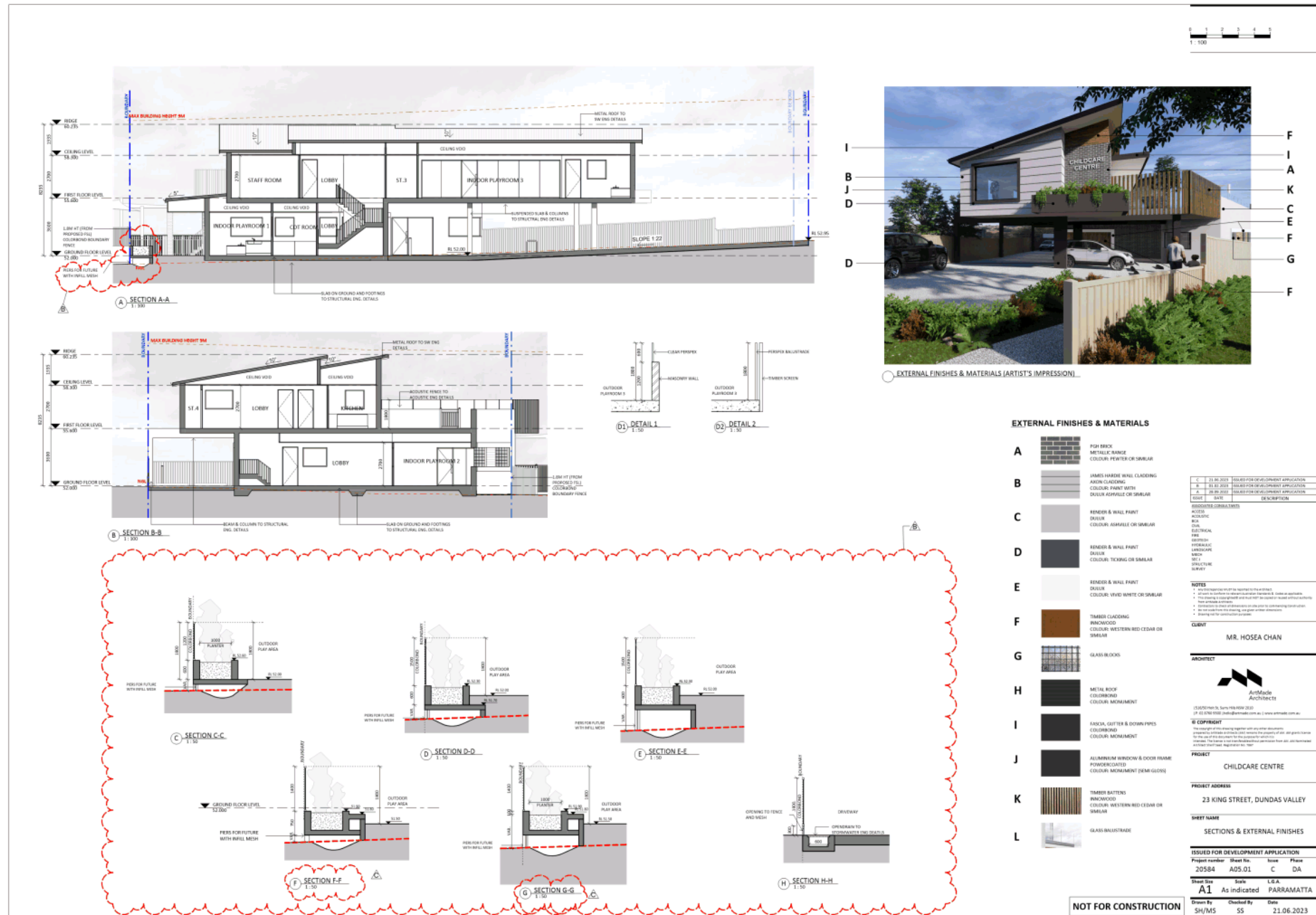














## ADDENDUM REPORT FOR PARRAMATTA LOCAL PLANNING PANEL

DA No.	DA/834/2022
Date	October 2023
LGA	Parramatta
Proposed development	Demolition of existing structures, tree removal and construction of a 2 storey 44 place centre based childcare centre with 11 spaces of at grade parking.
Street address	23 King Street, Dundas Valley NSW 2117
Property Description	Lot 1094 DP 36696
Applicant	ArtMade Architects
Owner	F & M Investment Australia Pty Ltd and Wei Cheng Investment Pty Ltd
Recommendation	Approval, subject to conditions
Report by	Darren Wan Executive Planner

### 1. BACKGROUND

Council provided the original assessment report to the Parramatta Local Planning Panel, which was considered at the public meeting of 17 August 2023.

The application proposes demolition of existing structures, tree removal and construction of a 2 storey 44 place centre based childcare centre with 11 spaces of at grade parking, on land at 23 King Street, Dundas Valley.

The application was originally recommended for deferred commencement approval as it was considered that the proposal satisfied the relevant matters for consideration under s4.15 of the Environmental Planning and Assessment Act 1979.

At the Parramatta Local Planning Panel meeting, the Panel deferred the determination of the application for the following reasons:

- *The Panel is not yet satisfied with the adequacy of the traffic safety assessment within the vicinity of the childcare centre.*
- *The Panel is especially concerned about the close proximity to the public school rear access/carriageway from King Street. The Panel heard from local residents, who stated that this access is used by both pedestrians and vehicles and sometimes is used two-way. On occasion vehicles have been witnessed reversing out onto King Street. At that point, it appears to reverse onto a marked crossing which the locals explained was used by school children and parents and therefore likely to be used by childcare attendees as well.*
- *Therefore, an additional report addressing the context of likely morning and afternoon traffic when the childcare is in use taking into account traffic into both the school and its various Out of School Hours Care is requested.*
- *The Panel is also concerned at the impact of overshadowing of number 21 King Street and requires further assessment of the shadow in accordance with Parramatta Development Control Panel 2011.*

The purpose of this report is to supplement the original assessment by addressing the above matters raised by the Panel.

Following the deferral, the applicant has provided the following plans and documents at the request of PLPP:

- An updated Survey Plan.
- Updated Shadow Diagram and Solar Calculation.
- Supplementary Traffic Statement.

The updated documentation did not necessitate any design changes to the proposal as originally presented to PLPP.

The assessment undertaken within this report determines that the submitted supplementary plans and documentation adequately address the Panel's concerns and that the revised proposal can still be supported by way of a recommendation of deferred commencement approval, subject to the imposition of the conditions of consent attached to this report.

## 2. SECTION 4.15 ASSESSMENT OF REVISED PLANS AND DOCUMENTATION

### THE PROPOSAL

The proposal considered by PLPP on 17 August 2023 comprised the following:

#### Works

- Demolition.
- Tree removal.
- Construction of a two (2) storey childcare centre comprising the following:
  - **Ground Floor:**  
At-grade parking for 11 vehicles, ramp from street level to lobby, office, lift, disabled bathroom, indoor play area 0-2 years (28m<sup>2</sup>), indoor play area 2-3 years (37m<sup>2</sup>), junior bathroom, outdoor play area 0-2 years (60m<sup>2</sup>), outdoor play area 2-5 years (117m<sup>2</sup>).
  - **First Floor:**  
Staff room, disabled bathroom, kitchen, laundry, indoor play areas 3-5 years (89m<sup>2</sup>), junior bathroom, balcony containing outdoor play area (153m<sup>2</sup>).

#### Use

- Maximum capacity of 44 children with the following age breakdown:
  - 0-2 years – 8 places (minimum 2 staff required)
  - 2-3 years – 10 places (minimum 2 staff required)
  - 3-5 years – 26 places (minimum 3 staff required)
- The centre will be run by 7 staff.
- The proposed hours of operation are to be 7:00am to 6:00pm, Monday to Friday.

In lieu of completely re-assessing the proposal in its entirety, only the Overshadowing and Traffic impacts have been assessed in this Addendum Report. Other matters are considered to maintain the same merit assessment outcome as originally presented to PLPP.

## 3. CONCERNS RAISED BY PLPP

### 3.1 TRAFFIC

The supplementary traffic documentation has been assessed by Council's Traffic and Transport Investigations Engineer. In response, the following comments were made:

*It is understood that the residents and the LPP Panel members have concerns regarding the back entrance to the school which is currently shared by vehicles and pedestrians. However, this is considered satisfactory for the following reasons:*

1. *The back entrance to the school is narrow with space for only one vehicle. This also gives a very clear impression of a private space that is not open to the general public for parking. This is further emphasised by there being no clear line of sight to the actual parking spaces within this car park. Accordingly, the school carpark will not give an appearance of being an alternative to parents.*
2. *The carpark is located 60m plus from the front pedestrian entrance to the car park. Accordingly, it will be more convenient for parents to park in the actual childcare centre car park or on the street.*
3. *Generally, the school peaks and the childcare peaks are different with the childcare AM peak occurring earlier and the PM peak occurring later. This is reflected in the supplementary Traffic statement.*

*For these reasons, it is not foreseen that parents will use the back entrance to the school and therefore, the proposed childcare centre will not increase potential conflict between pedestrians and traffic in this laneway.*

*It should be noted that from a Traffic Perspective, having a childcare centre located close to a school can have benefits such as the fact that some parents dropping children off at the childcare centre may already have children at the school. This essentially means that traffic generation is reduced somewhere else within the network as both drop offs can be performed as a single trip rather than 2 trips.*

*Accordingly, the proposed development can be supported on Traffic grounds.*

### 3.2 OVERSHADOWING

The overshadowing impacts of the development have been reassessed. New documentation provided by the applicant includes updated shadow diagrams, as well as sun perspectives.

The updated documentation shows that the neighbouring property to the south continues to maintain direct sunlight to at least 50% of private open space between 10am to 3pm.

The dwelling to the south will have a north facing highlight window that will be impacted by the development. However, this is a result of site orientation as any compliant building envelope on the subject site would impact this window.

It is of note that the proposed development complies with the building height and floor space ratio provisions of Parramatta LEP. It also provides a 2m setback to the southern side boundary and complies with the requirements for Childcare Centres. Whilst the development will extend into the required rear setback, the documentation shows that the rear private open space of the neighbour to the south continues to receive 5 hours of direct sunlight during the winter solstice.

Accordingly, the proposed development can be supported in this respect as the overshadowing impact is within that anticipated by the Development Control Plan controls.

#### 4. REFERRALS

Internal Referrals	Comment
Traffic and Transport	Supported, no change to conditions originally imposed.
External Referrals	Comments
No external referrals required.	

#### 5. SUMMARY AND CONCLUSION

The applicant has provided supplementary documentation to address the deferral reasons provided by the Panel on 17 August 2023.

The supplementary documentation was assessed by Council Officers and is considered to satisfactorily address the concerns raised by the Panel and residents.

In that regard, the development is able to be supported, and the initial recommendation for deferred commencement approval is retained.

#### 6. OFFICER RECOMMENDATION

Pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act, 1979:

- A. **That** the Parramatta Local Planning Panel, exercising the function of the consent authority, provide a **deferred commencement approval** to development consent to DA/834/2022 for *'demolition of existing structures, tree removal and construction of a 2 storey 44 place centre based childcare centre with 11 spaces of at grade parking'* on land at 23 King Street, Dundas Valley.

#### REASONS FOR APPROVAL

- The development is permissible in the R2 Low Density Residential zone pursuant to Parramatta Local Environmental Plan 2011 and generally satisfies the requirements of the applicable planning framework.
  - The development will be compatible with the emerging and planned future character of the area.
  - The development will promote a land use that provides a facility to meet the day to day needs of residents.
  - The proposal provides a non-residential land use that has amenity impacts that can be appropriately managed.
  - The development is in the public interest because it is consistent with the objectives of for development in the R2 Low Density Residential zone.
  - For the reasons given above, approval of the application is in the public interest.
- B. **That** Council advise those who made a submission of the determination.



## TRAFFIC SOLUTIONS PTY LTD

Reference No : 19.20.037  
26 September 2023

The General Manager  
Parramatta City Council  
PO Box 32  
Parramatta NSW 2124

Dear Sir,

### **Supplementary Traffic Assessment Proposed Child Care Centre, 23 King Street, Dundas Valley**

Traffic Solutions Pty Ltd has been engaged by the applicant to provide Council with the additional information requested at the Parramatta Local Planning Panel held on Tuesday, 18 July 2023.

The Panels determination that this assessment is provided for is:

The Panel is not yet satisfied with the adequacy of the traffic safety assessment within the vicinity of the childcare centre.

The Panel is especially concerned about the close proximity to the public school rear access/carriageway from King Street. The Panel heard from local residents, who stated that this access is used by both pedestrians and vehicles and sometimes is used two-way. On occasion vehicles have been witnessed reversing out onto King Street. At that point, it appears to reverse onto a marked crossing which the locals explained was used by school children and parents and therefore likely to be used by childcare attendees as well.

Therefore an additional report addressing the context of likely morning and afternoon traffic when the childcare is in use taking into account traffic into both the school and its various Out of School Hours Care is requested.

The Panel is also concerned at the impact of overshadowing of number 21 King Street and requires further assessment of the shadow in accordance with Parramatta Development Control Panel 2021.

Data on the traffic movements along King Street as well as into and out of the Yates Public School driveway plus pedestrian movements across the existing raised pedestrian crossing have been collected as part of this assessment by surveys undertaken by R.O.A.R. Data Pty Ltd on behalf of this firm from 7.00am – 9.00am and 3.00pm – 6.00pm on Thursday, 7 September 2023. Conditions on this day were described as fine with no unusual circumstances encountered.

The weekday peak hour for vehicles travelling along King Street in the morning and evening was found to be between 8.00am – 9.00am and 5.00pm – 6.00pm respectively. Detailed results of the survey are attached. The recorded peak hour flows in King Street at this time are as follows:

---

Traffic Solutions Pty Ltd, PO Box 9161, Bathurst NSW 2795  
M: 0417 262 057 • Email: [craig@trafficsolutions.com.au](mailto:craig@trafficsolutions.com.au)  
ABN 63 074 165 263



Direction of traffic flow along King Street	AM Peak Hour 8.00am – 9.00 am	PM Peak Hour 5.00pm – 6.00pm
Northbound	172	121
Southbound	197	115
<b>Total</b>	<b>369</b>	<b>236</b>

The peak hour flows along the school driveway were recorded as:

Direction of traffic flow along School driveway	AM Peak Hour 7.30am – 8.00 am	PM Peak Hour 5.00pm – 6.00pm
Eastbound	18	15
Westbound	7	14
<b>Total</b>	<b>25</b>	<b>29</b>

As can be seen the peak hour for the driveway is different to the King Street peaks. It should be noted that the school sign in the driveway states that “Entry via Yates Avenue”, however this is being ignored. It does not help that there is a sign in Yates Avenue states “Out of School Hours centre (OOSH), Entry via King Street”. It appears that the King Street vehicle driveway is for entering vehicles only during school hours and Yates Avenue is entry and exit at all times. Then after school hours when children are being picked up or dropped off to/from the OOSH that the school closes all the gates accessing the school from Yates Avenue. This is reflected in the results.

The peak hour for pedestrians crossing King Street at the raised pedestrian crossing are as follows:

Direction of pedestrians	AM Peak Hour 8.00am – 9.00 am	PM Peak Hour 3.00pm – 4.00pm
Eastbound	3	1
Westbound	15	11
<b>Total</b>	<b>16</b>	<b>12</b>

These numbers are considered low. The peaks are as expected corresponding with the opening and closing of the school.

As stated in the report by this firm for the development application, The estimated traffic generation of the proposal is in the order of 35 and 31 trips in the morning and evening peak hours respectively. The RMS defines a vehicle trip as a one-way vehicular movement from one point to another excluding the return journey. Accordingly, the estimated trips will be in the order of 18 in and 17 out in the morning peak hour and 16 in and 15 out in the evening peak hour.

This traffic generation on average equates to 1 car either approaching or departing the centre every 1 minute and 43 seconds in the morning and 1 car either approaching or departing every 1 minute and 56 seconds in the evening. This minor increase in traffic flow will not have any unacceptable impacts upon the operation of King Street or the surrounding road network.

Despite the low volumes the Pedestrian crossing has been modelled using SIDRA intersection 6.0 plus, a software program developed for the purpose of analysing signalised, roundabout, sign controlled intersections and pedestrian crossings, the effect of the estimated traffic generation of this development on King Street has been assessed.

A comparison of intersection performance between the existing and projected traffic demands during the morning and evening peak hours upon the intersection of King Street with the marked crossing has been modelled. Tabled below are the results of the intersection modelling and a copy of the SIDRA summary output file is attached for Council's information.

Intersection Operational Indicators	King Street with the marked crossing - Sign Control Intersection			
	Existing		Proposed	
	AM	PM	AM	PM
Level of Service	N/a	N/a	N/a	N/a
Degree of Saturation	0.221	0.157	0.235	0.158
Total Average Delay(sec/veh)	2.2s	3.1s	2.3s	3.2s

The results of the SIDRA analysis reveal:

- The Level of Service at the intersection of King Street with the marked crossing will not change with the estimated additional traffic generation of the proposed development.
- The additional traffic demand on the intersection of King Street with the marked crossing as a consequence of the proposed development will only alter the Degree of Saturation and Total Average Delays minutely.

## CONCLUSIONS AND RECOMMENDATION

The preceding assessment has revealed the following:

- The proposal has a potential net increase in estimated peak hour traffic flows in the order of 35 and 31 vehicle trips in the morning and evening peak hours respectively, which will not have any unacceptable impacts upon King Street or the surrounding road network.
- As is not the responsibility of this development to resolve Yates Public School existing vehicle access concerns raised by residents at the Planning Pannel meeting, it is recommended that Council raise this concern with the School Principal or Department of Education.

Should you require any additional information or clarification of the contents of this letter please contact me on the numbers provided.

Yours sincerely

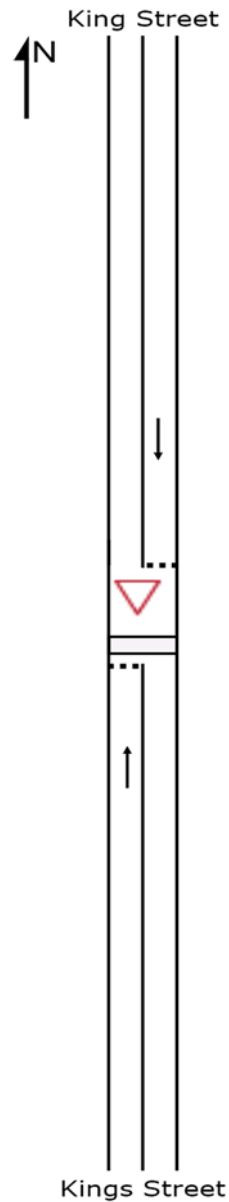
A handwritten signature in black ink, appearing to read 'C. Hazell'.

Craig Hazell  
Director

**SITE LAYOUT**

▽ Site: Existing AM peak

Unsignalised pedestrian (Zebra) crossing across two-way road  
Giveaway / Yield (Two-Way)



Created: Tuesday, 26 September 2023 3:11:37 PM  
SIDRA INTERSECTION 6.0.24.4877

Project: T:\2022\2023\015\Sidra\King Street.sip6  
8000870, 6016543, TRAFFIC SOLUTIONS PTY LTD, PLUS / 1PC

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INTERSEC**



## INPUT VOLUMES

Vehicles and pedestrians per 60 minutes

▽ Site: Existing AM peak

Unsignalised pedestrian (Zebra) crossing across two-way road  
Giveway / Yield (Two-Way)

Volume Display Method: Separate

Volumes are shown for Movement Class(es): Light Vehicles and Heavy Vehicles

Total Intersection Volumes (veh)

All Movement Classes: 373

Light Vehicles (LV): 369

Heavy Vehicles (HV): 4

Pedestrians: 12



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SIDRA INTERSECTION 6.0.24.4877

Project: T:\2022\2023\015\Sidra\King Street.sip6  
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## INPUT VOLUMES

Vehicles and pedestrians per 60 minutes

▽ Site: Existing PM peak

Unsignalised pedestrian (Zebra) crossing across two-way road  
Giveway / Yield (Two-Way)

Volume Display Method: Separate

Volumes are shown for Movement Class(es): Light Vehicles and Heavy Vehicles

Total Intersection Volumes (veh)

All Movement Classes: 238

Light Vehicles (LV): 234

Heavy Vehicles (HV): 4

Pedestrians: 9



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SIDRA INTERSECTION 6.0.24.4877

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## MOVEMENT SUMMARY

▽ **Site: Existing AM peak**

Unsignalised pedestrian (Zebra) crossing across two-way road  
Giveaway / Yield (Two-Way)

### Movement Performance - Vehicles

Mov ID	ODMov	Demand Flows		Deg. Satn	Average Delay	Level of Service	95% Back of Queue		Prop. Queued	Effective Stop Rate	Average Speed
		Total	HV				Vehicles	Distance			
		veh/h	%				v/c	sec			
South: Kings Street											
2	T1	182	0.6	0.191	2.2	LOS A	0.8	5.8	0.08	0.35	39.1
Approach		182	0.6	0.191	2.2	LOS A	0.8	5.8	0.08	0.35	39.1
North: King Street											
8	T1	211	1.5	0.221	2.2	LOS A	1.0	7.0	0.08	0.35	39.1
Approach		211	1.5	0.221	2.2	LOS A	1.0	7.0	0.08	0.35	39.1
All Vehicles		393	1.1	0.221	2.2	NA	1.0	7.0	0.08	0.35	39.1

Level of Service (LOS) Method: Delay (RTA NSW).

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: Akcelik M1.

HV (%) values are calculated for All Movement Classes of All Heavy Vehicle Model Designation.

Processed: Sunday, 17 September 2023 11:40:19 AM

SIDRA INTERSECTION 6.0.24.4877

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## MOVEMENT SUMMARY

▽ **Site: Existing AM peak**

Unsignalised pedestrian (Zebra) crossing across two-way road  
Giveaway / Yield (Two-Way)

### Movement Performance - Vehicles

Mov ID	ODMov	Demand Flows		Deg. Satn	Average Delay	Level of Service	95% Back of Queue		Prop. Queued	Effective Stop Rate	Average Speed
		Total	HV				Vehicles	Distance			
		veh/h	%				v/c	sec			
South: Kings Street											
2	T1	182	0.6	0.191	2.2	LOS A	0.8	5.8	0.08	0.35	39.1
Approach		182	0.6	0.191	2.2	LOS A	0.8	5.8	0.08	0.35	39.1
North: King Street											
8	T1	211	1.5	0.221	2.2	LOS A	1.0	7.0	0.08	0.35	39.1
Approach		211	1.5	0.221	2.2	LOS A	1.0	7.0	0.08	0.35	39.1
All Vehicles		393	1.1	0.221	2.2	NA	1.0	7.0	0.08	0.35	39.1

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Project: T:\20222023\015\Sidra\King Street.sip6

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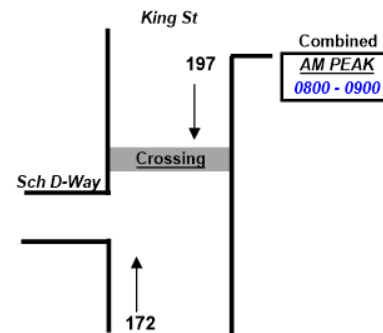
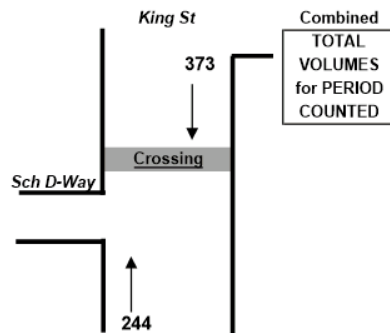


**R.O.A.R. DATA**  
 Reliable, Original & Authentic Results  
 Mob.0418-239019

Client : Traffic Solution Pty Ltd  
 Job No/Name : 7899 DUNDAS VALLEY King St Crossing  
 Day/Date : Thursday / 7th September 2023

**AM**  
**King St**

<b>Lights</b>				<b>Lights</b>				<b>Heavies</b>				<b>Heavies</b>				<b>Combined</b>			
<b>King St</b>				<b>King St</b>				<b>King St</b>				<b>King St</b>				<b>King St</b>			
Time Per	NTH-B	STH-B	TOT	Peak Per	NTH-B	STH-B	TOT	Time Per	NTH-B	STH-B	TOT	Peak Per	NTH-B	STH-B	TOT	Time Per	NTH-B	STH-B	TOT
0700 - 0715	24	37	61	0700 - 0800	71	174	245	0700 - 0715	1	1	2	0700 - 0800	1	2	3	0700 - 0715	25	38	63
0715 - 0730	12	35	47	0715 - 0815	81	186	267	0715 - 0730	0	0	0	0715 - 0815	0	1	1	0715 - 0730	12	35	47
0730 - 0745	16	56	72	0730 - 0830	109	206	315	0730 - 0745	0	1	1	0730 - 0830	1	1	2	0730 - 0745	16	57	73
0745 - 0800	19	46	65	0745 - 0845	140	191	331	0745 - 0800	0	0	0	0745 - 0845	3	1	4	0745 - 0800	19	46	65
0800 - 0815	34	49	83	<b>0800 - 0900</b>	169	196	365	0800 - 0815	0	0	0	<b>0800 - 0900</b>	3	1	4	0800 - 0815	34	49	83
0815 - 0830	40	55	95					0815 - 0830	1	0	1					0815 - 0830	41	55	96
0830 - 0845	47	41	88					0830 - 0845	2	1	3					0830 - 0845	49	42	91
0845 - 0900	48	51	99					0845 - 0900	0	0	0					0845 - 0900	48	51	99
Period End	240	370	610	PEAK HR	169	196	365	Period End	4	3	7	PEAK HR	3	1	4	Period End	244	373	617



<b>Combined</b>			
<b>King St</b>			
Peak Per	NTH-B	STH-B	TOT
0700 - 0800	72	176	248
0715 - 0815	81	187	268
0730 - 0830	110	207	317
0745 - 0845	143	192	335
<b>0800 - 0900</b>	172	197	369
PEAK HR	172	197	369

**R.O.A.R. DATA**

Reliable, Original &amp; Authentic Results

Mob.0418-239019

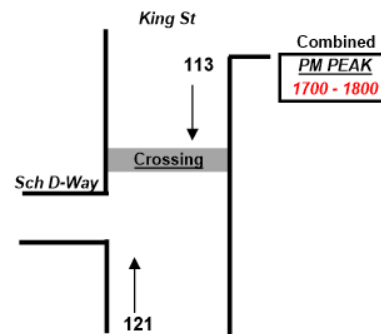
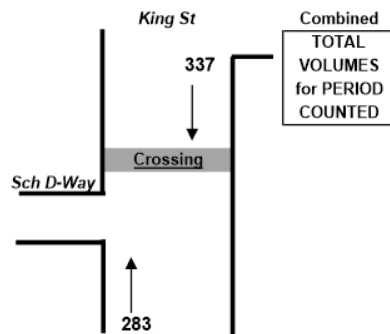
**PM****King St**

Client : Traffic Solution Pty Ltd

Job No/Name : 7899 DUNDAS VALLEY King St Crossing

Day/Date : Thursday / 7th September 2023

<b>Lights</b>				<b>Lights</b>				<b>Heavies</b>				<b>Heavies</b>				<b>Combined</b>			
<b>King St</b>				<b>King St</b>				<b>King St</b>				<b>King St</b>				<b>King St</b>			
Time Per	NTH-B	STH-B	TOT	Peak Per	NTH-B	STH-B	TOT	Time Per	NTH-B	STH-B	TOT	Peak Per	NTH-B	STH-B	TOT	Time Per	NTH-B	STH-B	TOT
1500 - 1515	23	25	48	1500 - 1600	84	104	188	1500 - 1515	0	0	0	1500 - 1600	0	0	0	1500 - 1515	23	25	48
1515 - 1530	25	24	49	1515 - 1615	85	107	192	1515 - 1530	0	0	0	1515 - 1615	0	0	0	1515 - 1530	25	24	49
1530 - 1545	16	29	45	1530 - 1630	83	114	197	1530 - 1545	0	0	0	1530 - 1630	0	0	0	1530 - 1545	16	29	45
1545 - 1600	20	26	46	1545 - 1645	79	110	189	1545 - 1600	0	0	0	1545 - 1645	0	1	1	1545 - 1600	20	26	46
1600 - 1615	24	28	52	1600 - 1700	78	119	197	1600 - 1615	0	0	0	1600 - 1700	0	1	1	1600 - 1615	24	28	52
1615 - 1630	23	31	54	1615 - 1715	76	116	192	1615 - 1630	0	0	0	1615 - 1715	0	1	1	1615 - 1630	23	31	54
1630 - 1645	12	25	37	1630 - 1730	77	124	201	1630 - 1645	0	1	1	1630 - 1730	0	1	1	1630 - 1645	12	26	38
1645 - 1700	19	35	54	1645 - 1745	106	127	233	1645 - 1700	0	0	0	1645 - 1745	0	0	0	1645 - 1700	19	35	54
1700 - 1715	22	25	47	1700 - 1800	121	113	234	1700 - 1715	0	0	0	1700 - 1800	0	0	0	1700 - 1715	22	25	47
1715 - 1730	24	39	63					1715 - 1730	0	0	0					1715 - 1730	24	39	63
1730 - 1745	41	28	69					1730 - 1745	0	0	0					1730 - 1745	41	28	69
1745 - 1800	34	21	55					1745 - 1800	0	0	0					1745 - 1800	34	21	55
Period End	283	336	619	PEAK HR	121	113	234	Period End	0	1	1	PEAK HR	0	0	0	Period End	283	337	620



<b>Combined</b>			
<b>King St</b>			
Peak Per	NTH-B	STH-B	TOT
1500 - 1600	84	104	188
1515 - 1615	85	107	192
1530 - 1630	83	114	197
1545 - 1645	79	111	190
1600 - 1700	78	120	198
1615 - 1715	76	117	193
1630 - 1730	77	125	202
1645 - 1745	106	127	233
1700 - 1800	121	113	234
PEAK HR	121	113	234

**R.O.A.R. DATA***Reliable, Original & Authentic Results*

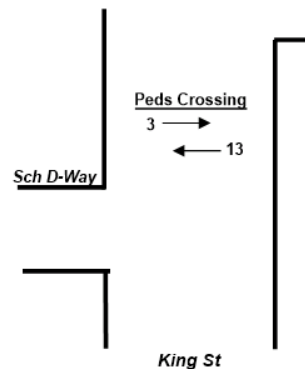
Mob.0418-239019

Client : Traffic Solution Pty Ltd  
 Job No/Name : 7899 DUNDAS VALLEY King St Crossing  
 Day/Date : Thursday / 7th September 2023

Peds	CROSSING						TOTAL
	EASTBOUND			WESTBOUND			
	King St						
	Sch Age & Under	Aged & Mobility	Others	Sch Age & Under	Aged & Mobility	Others	
Time Period							
0700 - 0715	0	0	0	0	0	1	1
0715 - 0730	0	0	1	0	0	0	1
0730 - 0745	0	0	1	0	0	0	1
0745 - 0800	0	0	0	0	0	1	1
0800 - 0815	0	0	0	3	0	1	4
0815 - 0830	0	0	0	1	0	0	1
0830 - 0845	0	0	0	2	0	0	2
0845 - 0900	0	0	1	3	0	1	5
Period End	0	0	3	9	0	4	16

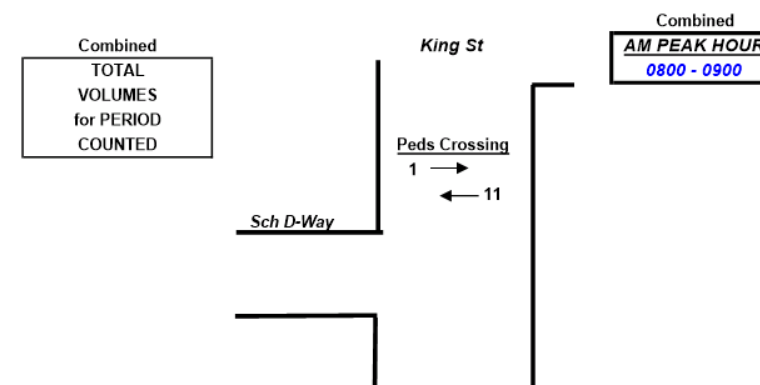
PEDS Combined			
Time Per	CROSSING		TOT
	EAST-B	WEST-B	
0700 - 0715	0	1	1
0715 - 0730	1	0	1
0730 - 0745	1	0	1
0745 - 0800	0	1	1
0800 - 0815	0	4	4
0815 - 0830	0	1	1
0830 - 0845	0	2	2
0845 - 0900	1	4	5
Period End	3	13	16

PEDS Combined			
Peak Per	CROSSING		TOT
	EAST-B	WEST-B	
0700 - 0800	2	2	4
0715 - 0815	2	5	7
0730 - 0830	1	6	7
0745 - 0845	0	8	8
0800 - 0900	1	11	12
PEAK HR	1	11	12



Peds	CROSSING						TOTAL
	EASTBOUND			WESTBOUND			
	King St						
	Sch Age & Under	Aged & Mobility	Others	Sch Age & Under	Aged & Mobility	Others	
0700 - 0800	0	0	2	0	0	2	4
0715 - 0815	0	0	2	3	0	2	7
0730 - 0830	0	0	1	4	0	2	7
0745 - 0845	0	0	0	6	0	2	8
0800 - 0900	0	0	1	9	0	2	12

PEAK HR	0	0	1	9	0	2	12
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**R.O.A.R. DATA**

Reliable, Original &amp; Authentic Results

Mob.0418-239019

Client : Traffic Solution Pty Ltd  
 Job No/Name : 7899 DUNDAS VALLEY King St Crossing  
 Day/Date : Thursday / 7th September 2023

Peds	CROSSING							
	EASTBOUND			WESTBOUND			TOTAL	
	King St							
	Sch Age & Under	Aged & Mobility	Others	Sch Age & Under	Aged & Mobility	Others		
Time Period	Sch Age & Under	Aged & Mobility	Others	Sch Age & Under	Aged & Mobility	Others		TOTAL
1500 - 1515	3	0	1	0	0	1	5	
1515 - 1530	0	0	0	0	0	0	0	
1530 - 1545	1	0	3	0	0	0	4	
1545 - 1600	0	0	0	0	0	0	0	
1600 - 1615	0	0	0	0	0	0	0	
1615 - 1630	0	0	0	0	0	0	0	
1630 - 1645	0	0	0	0	0	0	0	
1645 - 1700	0	0	0	0	0	0	0	
1700 - 1715	0	0	0	0	0	0	0	
1715 - 1730	0	0	0	0	0	0	0	
1730 - 1745	1	0	0	0	0	0	1	
1745 - 1800	0	0	0	0	0	0	0	
Period End	5	0	4	0	0	1	10	

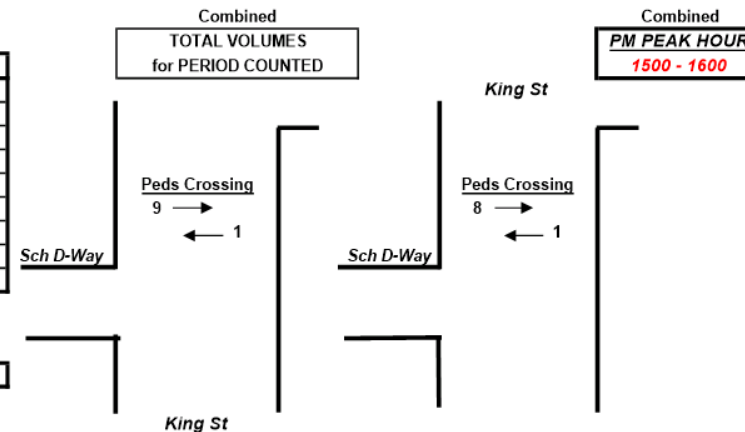
Peds	CROSSING						
	EASTBOUND			WESTBOUND			TOTAL
	King St						
	Sch Age & Under	Aged & Mobility	Others	Sch Age & Under	Aged & Mobility	Others	
Peak Period	Sch Age & Under	Aged & Mobility	Others	Sch Age & Under	Aged & Mobility	Others	
1500 - 1600	4	0	4	0	0	1	9
1515 - 1615	1	0	3	0	0	0	4
1530 - 1630	1	0	3	0	0	0	4
1545 - 1645	0	0	0	0	0	0	0
1600 - 1700	0	0	0	0	0	0	0
1615 - 1715	0	0	0	0	0	0	0
1630 - 1730	0	0	0	0	0	0	0
1645 - 1745	1	0	0	0	0	0	1
1700 - 1800	1	0	0	0	0	0	1

PEAK HR							
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PEDS Combined	CROSSING		
	EAST-B	WEST-B	TOT
Time Per			
1500 - 1515	4	1	5
1515 - 1530	0	0	0
1530 - 1545	4	0	4
1545 - 1600	0	0	0
1600 - 1615	0	0	0
1615 - 1630	0	0	0
1630 - 1645	0	0	0
1645 - 1700	0	0	0
1700 - 1715	0	0	0
1715 - 1730	0	0	0
1730 - 1745	1	0	1
1745 - 1800	0	0	0
Period End	9	1	10

PEDS Combined	CROSSING		
	EAST-B	WEST-B	TOT
Peak Per			
1500 - 1600	8	1	9
1515 - 1615	4	0	4
1530 - 1630	4	0	4
1545 - 1645	0	0	0
1600 - 1700	0	0	0
1615 - 1715	0	0	0
1630 - 1730	0	0	0
1645 - 1745	1	0	1
1700 - 1800	1	0	1

PEAK HR	8	1	9
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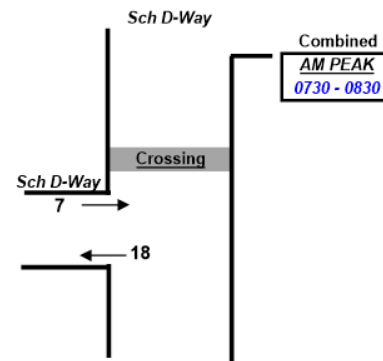
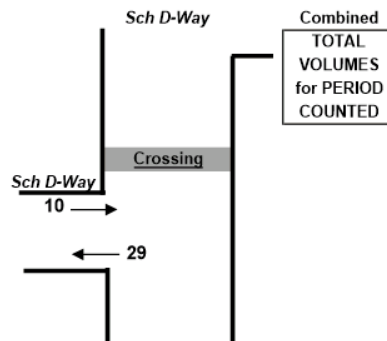
**R.O.A.R. DATA**  
 Reliable, Original & Authentic Results  
 Mob.0418-239019

AM

School Driveway

Client : Traffic Solution Pty Ltd  
 Job No/Name : 7899 DUNDAS VALLEY King St Crossing  
 Day/Date : Thursday / 7th September 2023

Lights				Lights				Heavies				Heavies				Combined			
Sch D-Way				Sch D-Way				Sch D-Way				Sch D-Way				Sch D-Way			
Time Per	IN	OUT	TOT	Peak Per	IN	OUT	TOT	Time Per	IN	OUT	TOT	Time Per	IN	OUT	TOT	Time Per	IN	OUT	TOT
0700 - 0715	3	1	4	0700 - 0800	13	7	20	0700 - 0715	0	0	0	0700 - 0800	0	0	0	0700 - 0715	3	1	4
0715 - 0730	3	2	5	0715 - 0815	15	9	24	0715 - 0730	0	0	0	0715 - 0815	0	0	0	0715 - 0730	3	2	5
0730 - 0745	2	2	4	0730 - 0830	18	7	25	0730 - 0745	0	0	0	0730 - 0830	0	0	0	0730 - 0745	2	2	4
0745 - 0800	5	2	7	0745 - 0845	19	5	24	0745 - 0800	0	0	0	0745 - 0845	0	0	0	0745 - 0800	5	2	7
0800 - 0815	5	3	8	0800 - 0900	16	3	19	0800 - 0815	0	0	0	0800 - 0900	0	0	0	0800 - 0815	5	3	8
0815 - 0830	6	0	6					0815 - 0830	0	0	0					0815 - 0830	6	0	6
0830 - 0845	3	0	3					0830 - 0845	0	0	0					0830 - 0845	3	0	3
0845 - 0900	2	0	2					0845 - 0900	0	0	0					0845 - 0900	2	0	2
Period End	29	10	39	PEAK HR	18	7	25	Period End	0	0	0	PEAK HR	0	0	0	Period End	29	10	39



Combined			
Peak Per	IN	OUT	TOT
0700 - 0800	13	7	20
0715 - 0815	15	9	24
0730 - 0830	18	7	25
0745 - 0845	19	5	24
0800 - 0900	16	3	19
PEAK HR	18	7	25

**R.O.A.R. DATA**

Reliable, Original &amp; Authentic Results

Mob.0418-239019

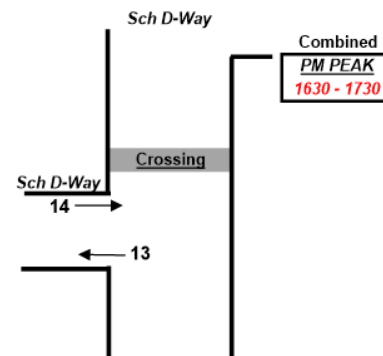
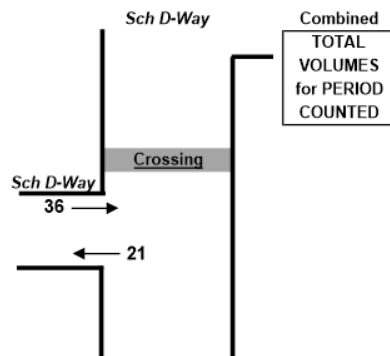
**PM****School Driveway**

Client : Traffic Solution Pty Ltd

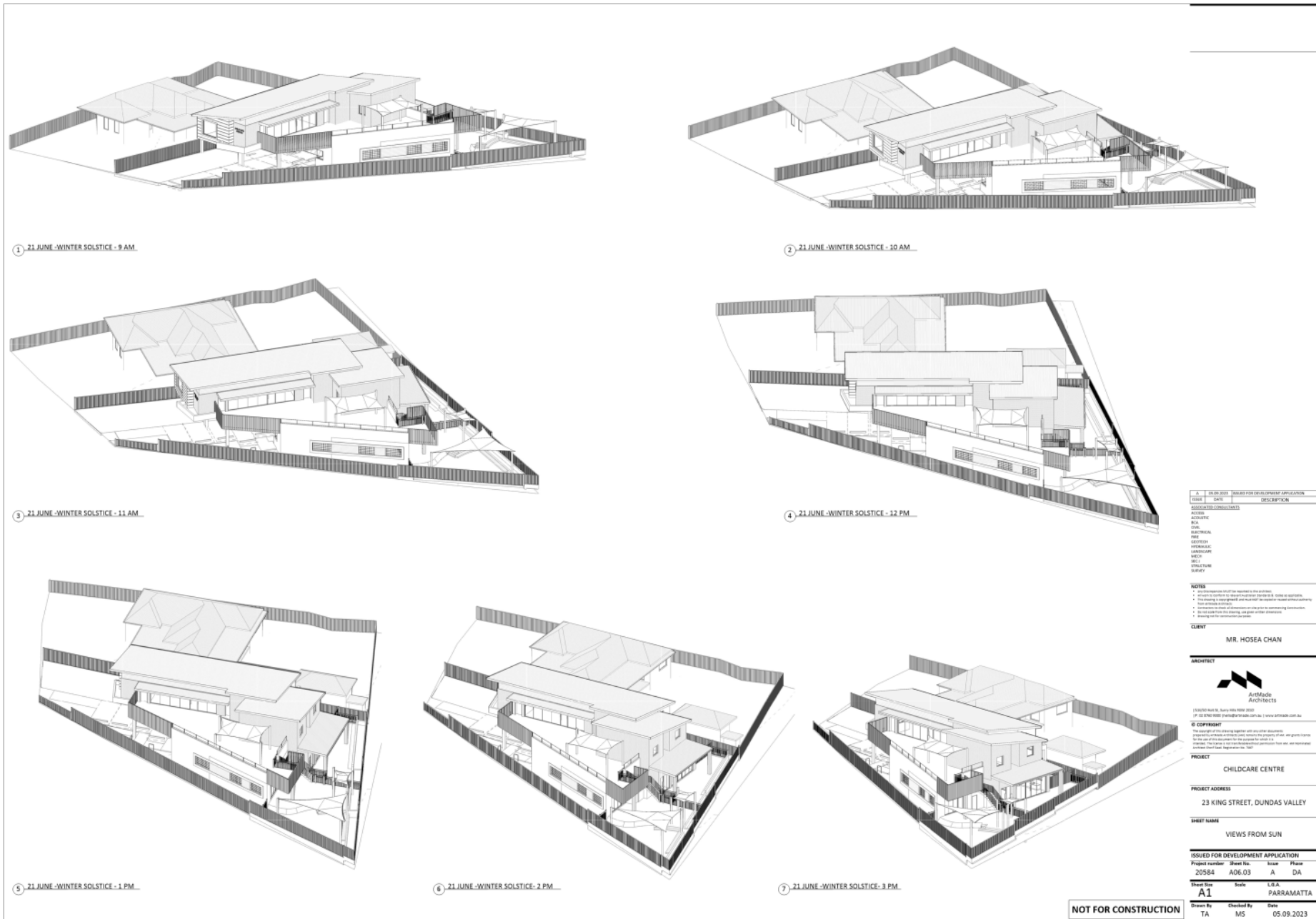
Job No/Name : 7899 DUNDAS VALLEY King St Crossing

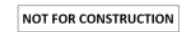
Day/Date : Thursday / 7th September 2023

<b>Lights</b>				<b>Lights</b>				<b>Heavies</b>				<b>Heavies</b>				<b>Combined</b>			
Sch D-Way				Sch D-Way				Sch D-Way				Sch D-Way				Sch D-Way			
Time Per	IN	OUT	TOT	Peak Per	IN	OUT	TOT	Time Per	IN	OUT	TOT	Peak Per	IN	OUT	TOT	Time Per	IN	OUT	TOT
1500 - 1515	0	1	1	1500 - 1600	3	16	19	1500 - 1515	0	0	0	1500 - 1600	0	0	0	1500 - 1515	0	1	1
1515 - 1530	2	7	9	1515 - 1615	3	15	18	1515 - 1530	0	0	0	1515 - 1615	0	0	0	1515 - 1530	2	7	9
1530 - 1545	0	4	4	1530 - 1630	5	9	14	1530 - 1545	0	0	0	1530 - 1630	0	0	0	1530 - 1545	0	4	4
1545 - 1600	1	4	5	1545 - 1645	9	7	16	1545 - 1600	0	0	0	1545 - 1645	0	0	0	1545 - 1600	1	4	5
1600 - 1615	0	0	0	1600 - 1700	11	8	19	1600 - 1615	0	0	0	1600 - 1700	0	0	0	1600 - 1615	0	0	0
1615 - 1630	4	1	5	1615 - 1715	13	13	26	1615 - 1630	0	0	0	1615 - 1715	0	0	0	1615 - 1630	4	1	5
1630 - 1645	4	2	6	1630 - 1730	13	14	27	1630 - 1645	0	0	0	1630 - 1730	0	0	0	1630 - 1645	4	2	6
1645 - 1700	3	5	8	1645 - 1745	10	15	25	1645 - 1700	0	0	0	1645 - 1745	0	0	0	1645 - 1700	3	5	8
1700 - 1715	2	5	7	1700 - 1800	7	12	19	1700 - 1715	0	0	0	1700 - 1800	0	0	0	1700 - 1715	2	5	7
1715 - 1730	4	2	6					1715 - 1730	0	0	0					1715 - 1730	4	2	6
1730 - 1745	1	3	4					1730 - 1745	0	0	0					1730 - 1745	1	3	4
1745 - 1800	0	2	2					1745 - 1800	0	0	0					1745 - 1800	0	2	2
Period End	21	36	57	PEAK HR	13	14	27	Period End	0	0	0	PEAK HR	0	0	0	Period End	21	36	57



<b>Combined</b>			
Peak Per	IN	OUT	TOT
1500 - 1600	3	16	19
1515 - 1615	3	15	18
1530 - 1630	5	9	14
1545 - 1645	9	7	16
1600 - 1700	11	8	19
1615 - 1715	13	13	26
1630 - 1730	13	14	27
1645 - 1745	10	15	25
1700 - 1800	7	12	19
PEAK HR	13	14	27







## DEVELOPMENT APPLICATION

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<b>ITEM NUMBER</b>	5.4
<b>SUBJECT</b>	OUTSIDE PUBLIC MEETING: 150 - 152 Briens Road, NORTHMEAD NSW 2152 (Lot 11 DP 1160038)
<b>DESCRIPTION</b>	Construction and use of multi-unit industrial warehouse and ancillary offices, storage premises, carparking & signage. The application is Nominated Integrated Development under the Water Management Act 2000.
<b>REFERENCE</b>	DA/19/2023 - D09179630
<b>APPLICANT/S</b>	Hannas Contrcting Services Pty Ltd
<b>OWNERS</b>	Briens River Pty Ltd
<b>REPORT OF</b>	Group Manager Development and Traffic Services
<b>RECOMMENDED</b>	Approval

**DATE OF REPORT 24 OCTOBER 2023**

### REASON FOR REFERRAL TO LPP

This application is referred to the Parramatta Local Planning Panel as the application seeks to vary a development standard by more than 10%.

### EXECUTIVE SUMMARY

This is a summary of the full assessment of the application, the Section 4.15 Assessment Report, **Attachment 1**.

### The Site

The site is known as 150-152 Briens Road, Northmead and is legally described as Lot 111 in Deposited Plan 1160038. The site is irregular in shape, having a frontage of 103.9 metres to Briens Road, and a frontage of 84.4 metres to Mons Road, having a total area of 6,490m<sup>2</sup>.

Vehicular access to the site is currently obtained from Briens Road. The site is currently vacant. There is a substation along the Briens Road frontage. It is located within an established industrial area characterised by various industrial uses. The Westmead Hospital Precinct is located to the south across Toongabbie Creek.

### The Proposal

Consent is sought for the following:

- Construction and use of a new two storey plus basement warehouse building comprising:
  - Basement parking and storage premises
  - Seventeen (17) ground floor industrial warehouse units with mezzanine office spaces and associated parking; and
  - Seventeen (17) first floor industrial warehouse units with mezzanine office spaces and associated car parking
- Associated infrastructure services.

- Associated vehicular access from Briens Road and car parking for 59 vehicles: and
- Tree removal, landscaping, perimeter fencing, and signage.

### **Notification**

In accordance with the requirements contained within Appendix 1 of Council's Community Engagement Strategy, owners and occupiers of adjoining and surrounding properties were given notice of the application between 24 January and 22 February 2023. As a result of the notification period, no submissions were received.

### **Assessment**

The site is zoned IN1 General Industrial with pockets of the site zoned SP2 Infrastructure. The proposed development is contained within the areas zoned IN1 General Industrial. The proposed development is defined as "warehouse" and is permitted on the site with consent.

The application was assessed against the relevant environmental planning instruments, including *SEPP (Resilience and Hazards) 2021*, *SEPP (Biodiversity and Conservation) 2021*, *SEPP (Transport and Infrastructure) 2021*, *SEPP (Industry and Employment) 2021*, *SEPP BASIX and Paramatta LEP 2011*, as well as *Paramatta DCP 2011*.

### ***Key Issues***

The topography of the site falls towards the reserve to the rear. To accommodate an appropriate building platform and for a transition throughout the built form, the development seeks to vary the maximum height applicable to the site by 2.59m or a departure of 21.5%. The impacts of the variation are discussed in the attached assessment report and is acceptable, having regard to the objectives of the standard and the zoning of the site.

Similarly, due to storage areas in the basement where it is located more than 1.1m above Natural Ground Level, a departure to the maximum Floor Space Ratio for the site is sought. The variation is a 2.5% departure to the standard and is considered minor in this regard. Given the minor nature of the departure, impacts on bulk and scale, density, presentation on the streetscape and potential traffic generation is negligible.

As a result, the proposal is compatible with the character of the local area or the envisaged character of the precinct.

The application was referred to Transport for NSW as the site has a frontage to a classified road. TfNSW reviewed the proposal and raised no objections, subject to conditions of consent. The application was also reviewed by WaterNSW and upon review noted that no further investigations were required.

After consideration of the development against the relevant statutory and policy provisions, the proposal is suitable for the site and is in the public interest.





**RECOMMENDATION**

- (a) **That** the Parramatta Local Planning Panel, exercising the function of Council pursuant to Section 4.16 of the *Environmental Planning and Assessment Act 1979*, **grant consent via a deferred commencement to** DA/19/2023 subject to the conditions of consent in Attachment 2.

Denise Fernandez

**Senior Development Assessment Officer**

**ATTACHMENTS:**

- |   |   |                                |          |
|---|---|--------------------------------|----------|
| 1 |  | Section 4.15 Assessment Report | 72 Pages |
| 2 |  | Draft Conditions of Consent    | 34 Pages |
| 3 |  | Locality Plan                  | 1 Page   |
| 4 |  | Plans used in Assessment       | 20 Pages |

**REFERENCE MATERIAL**



City of Parramatta

File No: DA/19/2023

## SECTION 4.15 ASSESSMENT REPORT

### Environmental Planning & Assessment Act 1979

<b>DA No:</b>	DA/19/2023
<b>Subject Property:</b>	Lot 111 DP 1160038 150-152 Briens Road, NORTHMEAD NSW 2152
<b>Proposal:</b>	Construction and use of multi-unit industrial warehouse and ancillary offices, storage premises, carparking and signage. The application is Nominated Integrated Development under the Water Management Act 2000.
<b>Date of receipt:</b>	13 January 2022
<b>Applicant:</b>	Hannas Contracting Services Pty Ltd
<b>Owner:</b>	Briens River Pty Ltd
<b>Property owned by a Council employee or Councillor:</b>	The site is not known to be owned by a Council employee or Councillor
<b>Political donations/gifts disclosed:</b>	None disclosed on the application form
<b>Submissions received:</b>	None
<b>Recommendation:</b>	<b>Deferred Commencement approval subject to conditions</b>
<b>Assessment Officer:</b>	Denise Fernandez

#### Legislative Requirements

<b>Relevant provisions considered under section 4.15(1)(a) of the Environmental Planning and Assessment Act 1979</b>	<ul style="list-style-type: none"> <li>• Water Management Act 2000</li> <li>• Biodiversity Conservation Act 2016</li> <li>• Protection of the Environment Operations Act 1997</li> <li>• State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>• State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>• State Environmental Planning Policy (Biodiversity and Conservation) 2021</li> <li>• State Environmental Planning Policy (Industry and Employment) 2021</li> <li>• Parramatta Local Environmental Plan 2011</li> <li>• Parramatta Development Control Plan 2011</li> </ul>
<b>Zoning</b>	IN1 General Industrial and SP2 Special Infrastructure
<b>Bushfire Prone Land</b>	No
<b>Heritage</b>	No
<b>Heritage Conservation Area</b>	No
<b>Designated Development</b>	No
<b>Integrated Development</b>	Yes – Pursuant to the Water Management Act 2000
<b>Clause 4.6 variation</b>	Yes – Application seeks a variation Clause 4.3 – Height and Clause 4.4 – FSR of PLEP 2011
<b>Delegation</b>	<b>Parramatta Local Planning Panel (application seeks variation to a development standard &lt;10%).</b>

#### 1. Executive Summary

This report considers the construction of and use of a multi-unit industrial warehouse and ancillary offices, storage premises, carparking and associated signage.



The subject site is zoned IN1 General Industrial. The local context includes various development and use types including similar warehouse developments, industrial uses, mixed use developments and reserves.

The topography of the site falls towards the reserve to the rear. To accommodate an appropriate building platform and for a transition throughout the built form, the development seeks to vary the maximum height applicable to the site by 2.59m or a departure of 21.5%. The impacts of the variation are discussed elsewhere in the report and is acceptable, having regard to the objectives of the standard and the zoning of the site.

Similarly, due to storage areas in the basement where it is located more than 1.1m above Natural Ground Level, a departure to the maximum Floor Space Ratio for the site is sought. The variation is a 2.5% departure to the standard and is considered minor in this regard. Given the minor nature of the departure, impacts on bulk and scale, density, presentation on the streetscape and potential traffic generation is negligible.

The application was advertised for a 30 day period and in response, no submissions were received.

The application was also reviewed by internal and external referrals. These referrals considered the proposal satisfactory, subject to conditions of consent.

Assessment of the application against the relevant planning framework and consideration of matters by Council's technical departments has not identified any fundamental issues of concern. The application is therefore satisfactory when evaluated against Section 4.15 of the Environmental Planning and Assessment Act 1979.

This report recommends that the Panel:

- Approve the application, subject to modifications to the conditions of consent.

## 2. Site Description and Conditions

The site is known as 150-152 Briens Road, Northmead and is legally described as Lot 111 in Deposited Plan 1160038. The site is irregular in shape, having a frontage of 103.9 metres to Briens Road, and a frontage of 84.4 metres to Mons Road, having a total area of 6,490m<sup>2</sup>.

Vehicular access to the site is currently obtained from Briens Road. The site is currently vacant and used for car parking. There is a substation along the Briens Road frontage. It is located within an established industrial area characterised by various industrial uses. The Westmead Hospital Precinct is located to the south across Toongabbie Creek.

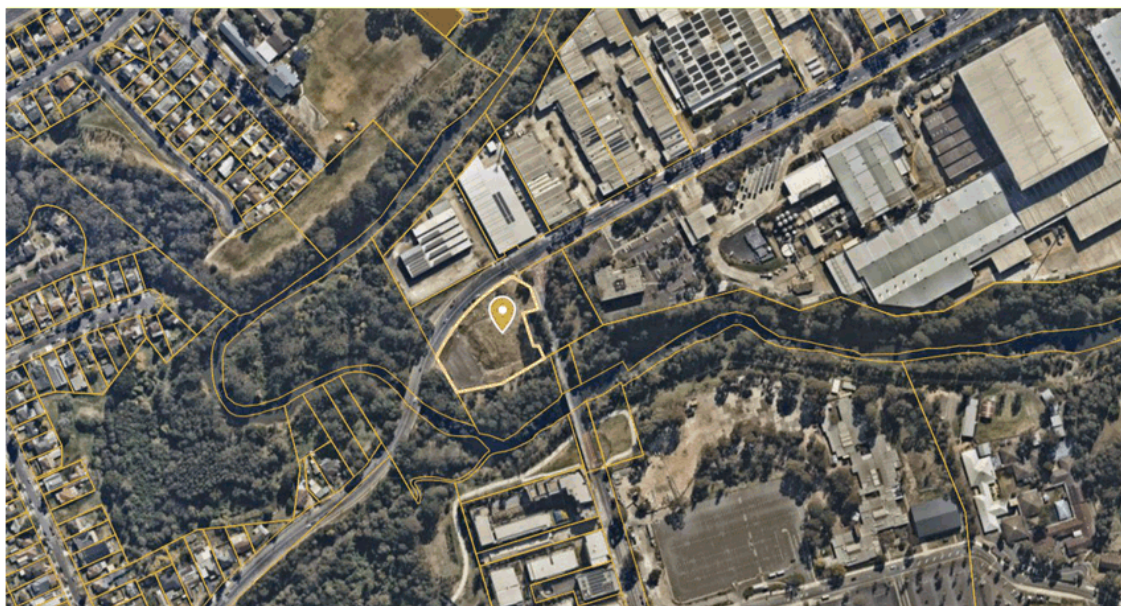
The site is approximately 2km north-west of the Parramatta CBD. The site is within proximity to existing transport infrastructure routes including bus and rail networks.

The subject site has the following area and dimensions:

Area – 6,490m<sup>2</sup>;  
North – 103.9m;  
South – 89.12m;  
East – 67.085m; and  
West – 37.29m.

The site is primarily zoned IN1 General Industrial under the provisions of PLEP 2011. Small portions of the site to the norther-eastern and north-western corners are zoned SP2 Infrastructure. It is noted that the proposed development is located wholly within the part of the site zoned IN1 General Industrial.

To clarify the location of the application site and specifically that of the subject site, refer to the aerial image in **Figure 1** below.



**Figure 1:** Aerial view of the subject site and surrounds. Subject site outlined in yellow. Source: Nearmap: August 2023.

## 2.1 Relevant Site History

Date	Comment
2 March 2021	<p>DA/738/2019 approved the bulk earthworks, removal of eight (8) trees, construction and operation of an at-grade, controlled public car park for 183 vehicles including associated boomgates, business identification signage, public domain works operating 24 hours, 7 days a week on the subject site. The application was determined under delegation.</p> <p>It is noted that an operative consent has been issued and that the matters under Schedule 1 has not been met. However, evidence from the site inspection and aerial photos suggest that the site has been used for the purposes of a car park. The Statement of Environmental Effects also states that the site whilst vacant, had previously been used as a car park.</p>

## 3. The Proposal

Development Application 19/2023 was lodged on 13 January 2023 for the Construction and use of multi-unit industrial warehouse and ancillary offices, storage premises, carparking and signage. Specifically, the application seeks approval for:

- Construction and use of a new two storey plus basement warehouse building comprising:
  - Basement parking and storage premises
  - Seventeen (17) ground floor industrial warehouse units with mezzanine office spaces and associated parking; and
  - Seventeen (17) first floor industrial warehouse units with mezzanine office spaces and associated car parking
- Associated infrastructure services.
- Associated vehicular access from Briens Road and car parking for 59 vehicles; and
- Tree removal, landscaping, perimeter fencing, and signage.



Figure 2: Photomontage. Source: nettletontribe

#### 4. Permissibility

##### Parramatta Local Environmental Plan 2011

The application was lodged on 13 January 2023 which was prior to the gazettal of the PLEP 2023 on 2 March 2023. As such, the application is made pursuant to the provisions of PLEP 2011.

The site is zoned IN1 General Industrial with pockets of the site zoned SP2 Infrastructure. The sites to the north and east are also predominantly zoned IN1 General Industrial and is intersected by areas zoned as SP2 Infrastructure. The sites to the south and west are zoned RE1 Recreational. The site is also within proximity to sites zoned SP2 Health Services, B4 Mixed Use Zones and R2 Low Density Residential. See Zoning Map below.

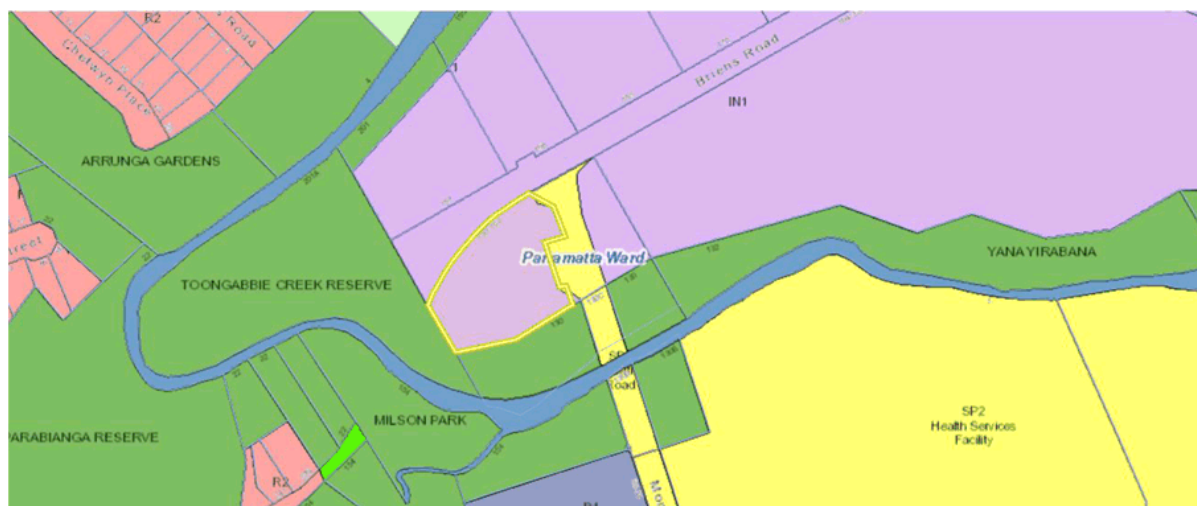


Figure 3: Zoning Map. Subject site outlined in yellow. Source: (GISOnline)

The proposed development is defined as the following under PLEP 2011:

**warehouse or distribution centre** means a building or place used mainly or exclusively for storing or handling items (whether goods or materials) pending their sale, but from which no retail sales are made.

The warehouse is permissible with consent within the IN1 General Industrial zoning applying to the land.

As noted previously, the proposed development is located wholly within the areas of the subject site zoned IN1 General Industrial. No works are proposed on the parts of the site zoned SP2 Infrastructure.

## 5. Relevant Application History

Date	Comment
13 January 2023	DA/19/2023 was lodged with Council
24 January to 22 February 2023	30 day advertising / notification of the application.
2 March 2023	Council sends correspondence to the applicant requesting amended information including an amended landscape plan, stormwater plans, public domain plans and architectural plans.
15 March 2023	Council sends correspondence with regards to a further request for amended information regarding the on-site stormwater management.
3 May 2023	Additional information received
10 May 2023	Council sends correspondence with regards to a request for additional information regarding the concerns from WaterNSW.
17 May 2023	Council sends correspondence with regards to a request for amended information regarding an amended Arborist Report.
2 June 2023	Response to WaterNSW provided
9 August 2023	Additional / Amended information received
26 September 2023	Council sends correspondence with regards to a request for amended information regarding amended stormwater plans.
16 October 2023	Additional information submitted.

## 6. Referrals

Referral	Comment
Universal Access	No objections, subject to conditions of consent.
Open Space	No objections, subject to conditions of consent.
Urban Design	No objections, subject to conditions of consent.
Traffic	No objections, subject to conditions of consent.
Landscaping	No objections, subject to conditions of consent.



<b>Property</b>	No objections, subject to conditions of consent.
<b>Contamination</b>	No objections, subject to conditions of consent.
<b>Acoustic</b>	No objections, subject to conditions of consent.
<b>Waste</b>	No objections, subject to conditions of consent.
<b>Engineering</b>	No objections, subject to conditions of consent.
<b>Sydney Water</b>	Supported, subject to conditions of consent.
<b>Transport for NSW (TfNSW)</b>	Supported, subject to conditions of consent.
<b>WaterNSW</b>	<p>No objections. It is noted that WaterNSW provided the following comments with regards to the proposal.</p> <p><i>WaterNSW has reviewed the information submitted with the application for the construction and use of multi-unit industrial warehouse and ancillary offices, and storage premises, carparking &amp; signage and considers that for the purposes of the Water Management Act 2000, no further investigation is required by WaterNSW.</i></p> <p><i>If groundwater is encountered during the development and requires removal, the proponent should contact WaterNSW immediately and apply for a dewatering water supply work approval. Failure to do so may result in NRAR taking compliance action under the Water Management Act 2000.</i></p> <p><i>As part of this application, they may need to provide a Dewatering Management Plan, Authority to Discharge groundwater as well as an updated Geotechnical Report that states volume of water to be taken, time frame of dewatering and basement construction (if relevant).</i></p> <p>Given the above, General Terms of Approval were not issued.</p>

## PLANNING ASSESSMENT

### 7. Environmental Planning Instruments

#### 7.1 Overview

The instruments applicable to this application are:

- Water Management Act 2000
- Biodiversity Conservation Act 2016
- Protection of the Environment Operations Act 1997
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Industry and Employment) 2021
- Parramatta Local Environmental Plan 2011
- Parramatta Development Control Plan 2011

Compliance with these instruments is addressed below.

#### 7.2 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 – INTEGRATED DEVELOPMENT

The application was lodged as Nominated Integrated Development under the provisions of the EPA Act. However, as previously mentioned upon review of the proposal, Water NSW confirmed that no further investigations were required. Accordingly, no General Terms of Approval were issued.

#### 7.3 BIODIVERSITY CONSERVATION ACT 2016

Three (3) threatened fauna species (Southern Myotis, Large Bent-winged Bat and Eastern False Pipistrelle) and one (2) river-flat Eucalypt Forest on Coastal Floodplains were recorded within the development footprint. Pursuant to Clause 7.7 of the BC Act, as vegetation removal forms part of the application, it is to be accompanied by an Ecological Assessment Report (EAR).

The EAR submitted with the application, contained a Test of Significance in accordance with Clause 7.3 of the Act. The test of significance concluded that the proposal will not have a significant impact on any threatened species, populations, or ecological community. Accordingly, a Species Impact Statement is not required for the proposal nor biodiversity offsetting.

#### **7.4 PROTECTION OF THE ENVIRONMENT OPERATIONS ACT 1997 (POEO Act)**

The objectives of the Act are to protect, restore and enhance the quality of the environment having regard to the need to maintain ecologically sustainable development. The application is subject to the provisions of the Act as the development consists of:

*“an industrial, agricultural or commercial activity or an activity of any other nature whatever (including the keeping of a substance or an animal)”*

Despite being a type of industrial activity, the proposed development for the purposes of warehousing is not listed as an activity of Schedule 1 of the POEO Act that would require an Environmental Protection License.

#### **7.5 STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021 – CHAPTER 2 VEGETATION IN NON-RURAL AREAS**

The State Environmental Planning Policy (Biodiversity and Conservation) 2021 applies to the site. The aims of the plan are to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and to preserve the amenity of the non-rural areas of the State through the preservation of trees and other vegetation.

Council's Consultant Landscape Architect reviewed the application and assessed a total of seventy-nine (79) trees as part of the proposed development. Twelve (12) of these trees are recommended for removal. Upon review, Council's Landscape Architect raised no objections to its removal subject to appropriate conditions of consent.

It is considered that the removal of twelve (12) trees on site will not have an adverse impact of the ecological, heritage, aesthetic and cultural significance of the area. The proposed replacement planting will ensure that the development will not result in an unacceptable loss of amenity values or finite natural resources.

#### **7.6 STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021 – CHAPTER 10 SYDNEY HARBOUR CATCHMENT**

The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SEPP. The aims of the Plan are to establish a balance between promoting a prosperous working harbour, maintaining a healthy and sustainable waterway environment and promoting recreational access to the foreshore and waterways by establishing planning principles and controls for the catchment as a whole.

Given the nature of the project and the location of the site, there are no specific controls that directly apply to this proposal, and any matters of general relevance (erosion control, etc) could have been managed by conditions of consent.

#### **7.7 STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021 – CHAPTER 4 REMEDIATION OF LAND**

The requirements of State Environmental Planning Policy (Resilience and Hazards) 2021 apply to the subject site. In accordance with Chapter 4 of the SEPP, Council must consider if the land is contaminated, if it is contaminated, is it suitable for the proposed use and if it is not suitable, can it be remediated to a standard such that it will be made suitable for the proposed use.

The site is not identified in Council's records as being contaminated. A site inspection reveals that the site is currently vacant. Notwithstanding, an Additional Site Investigation was prepared and submitted with the application. Upon investigation of the site and review of the relevant material, EIAustralia concluded:

- *No noticeable (i.e., visible or olfactory) signs of contamination, including potential asbestos containing materials (ACM), were observed during the inspection of the ground surface at the site.*
- *No evidences of the presence of underground petroleum storage systems (UPSS), underground storage tanks (UST) or above-ground storage tanks (AST) were noted on site*
- *Contaminant concentrations in representative soil samples were found to be below the adopted human health criteria applicable to commercial / industrial land use settings.*

- Contaminant concentrations in groundwater were generally compliant with the adopted investigation levels (GILs)
- Based on the findings ...the site can be made suitable for the potential future site development, provided the recommendations detailed in Section 10 are implemented.

The recommendations of the Report being:

- A data gap closure investigation, inclusive of one additional groundwater monitoring round to confirm groundwater quality and flow direction
- A waste management plan should be prepared, to classify of waste material and surplus material including potential virgin excavated natural material (VENM) to be removed from the site, in accordance with the NSW EPA (2014) Waste Classification Guidelines, Protection of the Environment Operations Act 1997, and Work Health and Safety Regulation 2017;
- Any soil/fill material imported onto the site should be assessed. Imported soil must be classified as virgin excavated natural material (VENM) or have a classification certificate indicating it is suitable for the proposed land use;
- An unexpected finds protocol following site demolition and during site excavation to ensure any potential contamination sources (such as soil staining and odour, buried asbestos or underground storage tanks) are identified and managed in accordance with NSW EPA legislation and guidelines;
- Based on the findings to be obtained from the data gap investigations, a Remediation Action Plan (RAP) might be required.

Council's Environmental Health Officer (EHO) reviewed the ASI in concert with the application and upon review raised no objections to the proposal, subject to conditions of consent.

#### **7.8 STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021 – CHAPTER 2 INFRASTRUCTURE**

The relevant matters to be considered under Chapter 2 of the SEPP for the proposed development are outlined below.

Chapter 2	Comment
<b>Clause 2.45 – electricity infrastructure</b>	The proposal does not require the provision of a new substation. An existing substation is located along the Briens Road frontage.
<b>Clause 2.48 - Development likely to affect an electricity transmission or distribution network</b>	N/A. The subject site is not within proximity to electricity infrastructure or substation.
<b>Clause 2.100 – Development in or adjacent to rail corridors</b>	N/A. The subject site does not adjoin a rail corridor.
<b>Clause 2.119 – frontage to a classified road</b>	Yes. The subject site does not have frontage to a classified road (Mons Road). With respect to the provisions of this clause: <ul style="list-style-type: none"> <li>- Vehicular access is proposed via Briens Road to alleviate any traffic impacts on the classified road.</li> <li>- The proposed development does not result in the emission of smoke or dust. The proposed development is to be used for the purposes of warehousing only.</li> <li>- The proposed development for the purposes of warehousing is not of a sensitive nature that would be adversely impacted by traffic noise or vehicle emissions because of the proximity of the classified road.</li> </ul>
<b>Clause 2.120 – Impact of road noise or vibration on non-road development</b>	N/A. This clause does not apply to the application as it is for the purposes of warehousing only.
<b>Clause 2.122 – Traffic Generating Development</b>	Yes. The meets the following criteria of Schedule 3 for referral to Transport for NSW (TfNSW). <p><i>Industry – 5000m<sup>2</sup> in site area or gross floor area with site access ...to a road that connects to a classified road (if access within 90m of connection, measured along alignment of connecting road).</i></p> <p>It is noted that Mons Road to the east of the site is approximately within 90m of the vehicle access to the site located on Briens Road. Upon review of the application, TfNSW raised no objections to the proposal and issued its conditions of consent.</p>

#### 7.9 STATE ENVIRONMENTAL PLANNING POLICY (INDUSTRY AND EMPLOYMENT) 2021 – CHAPTER 3 ADVERTISING AND SIGNAGE

SEPP Section	Comment
<b>Chapter 3 Advertising and signage</b>	The application seeks approval to construct various signage throughout the site. The type, location and details of the signs are as follows:



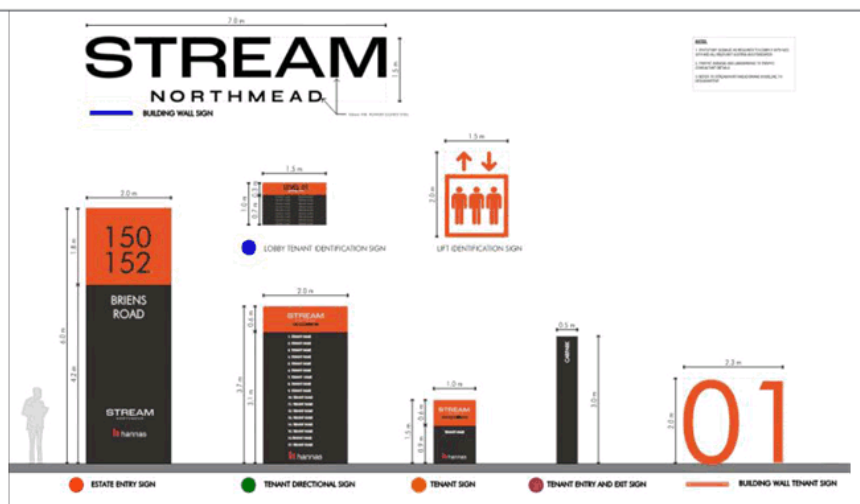


Figure 4: Signage details. Source: (nettleton tribe architects)



Figure 5: Signage locations. Source: (nettleton tribe architects)

See the below table for an assessment of the proposed signage zones against the criteria of the SEPP (Industry and Employment) 2021.

### 7.9.1 SCHEDULE 5 – ASSESSMENT CRITERIA

Considerations and Requirements	Compliance/Discussion
<b>1 Character of the Area</b>	
Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	The design of the signs is modest and compatible with the existing and desired future character of the area.
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	Whilst there is no theme for outdoor advertising in the locality, the design of the signs is modest and is compatible with the locality.
<b>2 Special Areas</b>	
Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas,	The proposed signs do not detract from the amenity or visual quality of any environmentally sensitive areas, in particular the bushlands associated with the Toongabbie Creek Reserve.

waterways, rural landscapes or residential areas?	
<b>3 Views and Vistas</b>	
Does the proposal obscure or compromise important views?	The proposal does not obscure or compromise important views.
Does the proposal dominate the skyline and reduce the quality of vistas?	The proposal does not dominate the skyline or reduce the quality of vistas.
Does the proposal respect the viewing rights of other advertisers?	The proposal respects the viewing rights of other advertisers.
<b>4 Streetscape, setting or landscape</b>	
Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The proposed signs are of a scale and form that is appropriate for the streetscape and setting.
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The proposal contributes to the visual interest of the setting and streetscape.
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The proposal does not reduce clutter by simplifying existing advertising.
Does the proposal screen unsightliness?	The proposed signs do not screen unsightliness.
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The proposed signs do not protrude above buildings, tree canopies in the area or locality.
Does the proposal require ongoing vegetation management?	The proposed signs do not require ongoing vegetation management.
<b>5 Site and building</b>	
Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	The proposal is compatible with the scale, proportions and characteristics of the site.
Does the proposal respect important features of the site or building, or both?	The proposal respects important features of the site and building.
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The proposed signs show innovation in its relationship to the site and building.
<b>6 Associated devices and logos with advertisement and advertising structures</b>	
Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	The proposal provides details of its structure, frame and platform.
<b>8 Safety</b>	
Would the proposal reduce the safety for any public road?	The signs do not reduce safety for any public road.
Would the proposal reduce the safety for pedestrians or bicyclists?	The signs do not reduce safety for pedestrians and cyclists.
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The signs do not reduce safety for children by obscuring sightlines from public areas.

## 8. Parramatta Local Environmental Plan

### 8.1 Parramatta Local Environmental Plan 2023

In accordance with Clause 1.8A – Savings Provisions of PLEP 2023, as the current DA was lodged on prior to 2 March 2023, it shall be assessed under Parramatta Local Environmental Plan 2011.

It is noted that under PLEP 2023 the site is zoned E4 General Industrial.

### 8.2 Parramatta Local Environmental Plan 2011

The relevant matters considered under the PLEP 2011 for the proposed development are outlined below:

#### Clause 1.2 Aims of the Plan

2) The particular aims of this Plan are as follows—

- (a) to encourage a range of development, including housing, employment and recreation, that accommodates the needs of the existing and future residents, workers and visitors of Parramatta,
- (b) to foster environmental, economic, social and physical wellbeing so that Parramatta develops as an integrated, balanced and sustainable city,
- (c) to identify, conserve and promote Parramatta's natural and cultural heritage as the framework for its identity, prosperity, liveability and social development,
- (d) to improve public access to the city and facilitate the maximum use of improved public transport, together with walking and cycling,
- (e) to minimise risk to the community in areas subject to environmental hazards, particularly flooding and bushfire, by restricting development in sensitive areas,
- (f) to protect and enhance the natural environment, including areas of remnant bushland in Parramatta, by incorporating principles of ecologically sustainable development into land use controls,
- (g) to improve public access along waterways where natural values will not be diminished,
- (h) to enhance the amenity and characteristics of established residential areas,
- (i) to retain the predominant role of Parramatta's industrial areas,
- (j) to ensure that development does not detract from the economic viability of Parramatta's commercial centres,
- (k) to ensure that development does not detract from the operation of local or regional road systems,
- (l) to ensure development occurs in a manner that protects, conserves and enhances natural resources, including waterways, riparian land, surface and groundwater quality and flows and dependant ecosystems.

It is considered that the development satisfactorily meets the aims of the plan. In particular, the proposal encourages a range of development, including employment that accommodates the needs of the existing and future residents, workers and visitors of Parramatta. As such, the proposal is recommended for approval.

#### Clause 2.3 Zone objectives and Land Use Table

The aims and objectives for the IN1 zone in Clause 2.3 – Zone Objectives are as follows:

- To provide a wide range of industrial and warehouse land uses.
- To encourage employment opportunities.
- To minimise any adverse effect of industry on other land uses.
- To support and protect industrial land for industrial uses.
- To facilitate a range of non-industrial land uses that serve the needs of workers and visitors.

The proposal is consistent with these objectives and is therefore considered for approval, subject to conditions of consent.

Standards and Provisions	Compliance
<b>Part 4 Principal development standards</b>	
<b>Cl. 4.3 Height of buildings</b> Allowable: Max. 12m	<b>No. Clause 4.6 variation submitted.</b> Proposed: 14.59m (21.5% variation)
<b>Cl. 4.4 Floor space ratio</b> Allowable: 1:1 (max. 6490m <sup>2</sup> )	<b>No. Clause 4.6 variation submitted.</b> Proposed: 6657m <sup>2</sup> (2.5% variation)
<b>Part 5 Miscellaneous provisions</b>	
<b>Cl. 5.1 Relevant Acquisition Authority</b>	The subject site is not subject to land reservation acquisition.
<b>Cl. 5.3 Development near zone boundaries</b>	The site immediately to the east is zoned SP2 Infrastructure and RE1 Public Recreation. However, the application does not seek approval for development under this provision.
<b>Cl. 5.4 Controls relating to miscellaneous permissible uses</b>	These provisions do not apply to the development proposal.
<b>Cl. 5.6 Architectural roof features</b>	An architectural roof feature is not proposed.
<b>Cl. 5.7 Development below mean high water mark</b>	The proposal is not for the development of land that is covered by tidal waters.
<b>Cl. 5.10 Heritage conservation</b>	Yes. The site is not a heritage item or located within a Heritage Conservation Area. However, the site is located in the vicinity of a local heritage item (I36 –

	Arrunga Reserve) under Schedule 5 of LEP 2011. Given the distance between the subject site and the heritage item, it does not in this instance detract from the heritage characteristics of this item.
<b>Cl. 5.11 Bush Fire hazard reduction</b>	The site is not identified as bush fire prone.
<b>Cl. 5.21 Flood Planning</b>	The subject site is identified as flood prone. Council's Development Engineer has reviewed the proposal with regards to the provisions of this clause. The development is considered to provide a built form that is compatible with the flood function and behaviour of the land.
<b>Part 6 Additional local provisions</b>	
<b>Cl. 6.1 Acid sulfate soils</b>	Yes, the site is identified as containing Class 5 Acid Sulfate Soil. An Acid Sulphate Soils Management Plan is not required to be prepared in this instance.
<b>Cl. 6.2 Earthworks</b>	Council's Development Engineer has reviewed the application and considers that the proposed earthworks are satisfactory.
<b>Cl. 6.4 Biodiversity protection</b>	The site is not identified on this map.
<b>Cl. 6.5 Water Protection</b>	The site is not identified on this map.
<b>Cl. 6.6 Landslide risk</b>	The site is not identified on this map.
<b>Cl. 6.7 Foreshore Building Line</b>	The subject site does not have frontage to a foreshore.
<b>Cl. 6.12 Design Excellence</b>	The subject site is not identified as requiring the exhibition of Design Excellence.

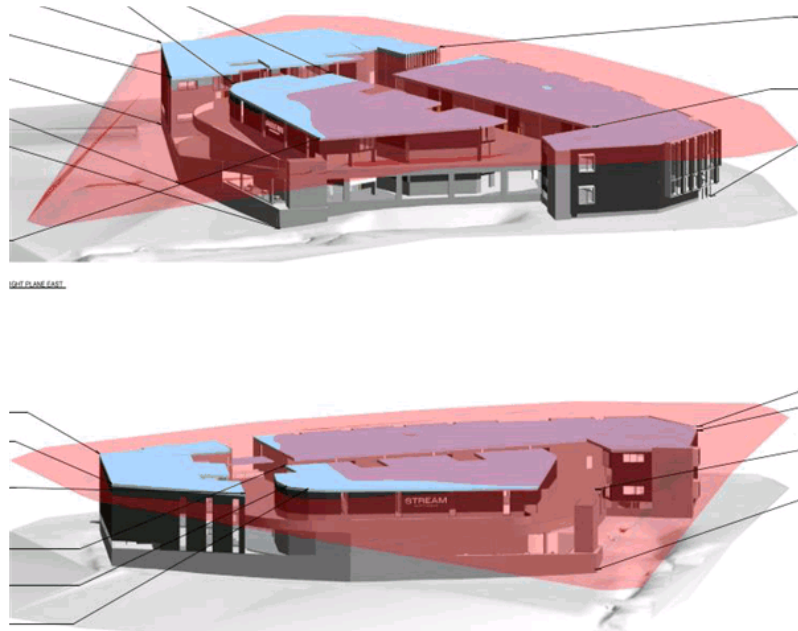
#### 8.1 Clause 4.6 Variation Assessment – Height and FSR

The proposal seeks approval for variations to the following development standards.

<b>Clause</b>	Clause 4.3 – Height
<b>Standard</b>	12m
<b>Proposal</b>	14.59m
<b>Variation</b>	2.59m variation or 21.5%

<b>Clause</b>	Clause 4.4 – Floor Space Ratio (FSR)
<b>Standard</b>	1:1 (6490m <sup>2</sup> )
<b>Proposal</b>	6657m <sup>2</sup>
<b>Variation</b>	167m <sup>2</sup> variation or 2.5%





**Figure 6:** Height Plane Perspectives. Areas coloured blue are above the maximum height. Source: (nettleton tribe architects)

Clause 4.6 allows Council to provide an appropriate degree of flexibility in applying certain development standards, where flexibility would achieve better outcomes.

#### **Clause 4.6(1) – Objectives of Clause 4.6**

The objectives of clause 4.6 are considered as follows:

- “(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,  
(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances”*

#### **Clause 4.6(2) – Operation of Clause 4.6**

The operation of clause 4.6 is not limited by the terms of Clause 4.6(8) of LEP 2023, or otherwise by any other instrument.

#### **Clause 4.6(3) – The Applicant’s written request 4.6**

Clause 4.6(3) requires that the applicant provide a written request seeking to justify contravention of the development standard. The request must demonstrate that:

- “(a) compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and  
(b) there are sufficient environmental planning grounds to justify contravening the development standard.”*

The applicant has submitted a written request justifying the variation to the Height and FSR. The applicant justification as follows (**The full request is included in Attachment A and B**):

#### **Height**

- *The Proposal is consistent with the existing and desired future character of the Site and locality and the surrounding area in that it provides for a scale of development that when viewed from the streetscape and surrounding properties is not dominant in terms of bulk, scale, extent of hardstand or interface with the streetscape. It is argued that the Proposal provides a development outcome that, in replacing the existing underutilised vacant Site, improves the character of the area.*

- The presentation of the Proposal to the public domain is now generally compliant with the maximum height development standard. Therefore, the Proposal is considered to provide an overall bulk and scale to Briens Road and the public domain that is consistent with the desired future character for the area as expressed by the key development controls applicable to the Site.
- The maximum variation to the development standard of 14.59 metres is located at the rear (south) of the Site due to the natural topography of the Site. The Site falls some 2.2 metres from north to south and given the nature of the use it is not practicable to step the building to follow that fall. Notwithstanding, this part of the Site is not readily visible from any road frontage of the Site and does not contribute to the streetscape presentation of the building.
- It is noted that the Proposal and the exceedance does not result in any additional or unacceptable impact on other land uses by way of visual impact, disruption of views, loss of privacy, loss of solar access, traffic impact or loss of on-street parking capacity of the like, and the Proposal is not readily visible from any residential-zoned land or other sensitive receiver. Therefore, the Proposal does not result in any unreasonable impacts on adjoining development.
- The proposed height variation will retain compatibility with surrounding development and continue to support a wide range of industrial and warehouse land uses in the locality, consistent with the objectives of the IN1 General Industrial zone.

#### **FSR**

- The Proposal results in a variation of 167sqm or 2.5% which is negligible in respect of the entire scheme.
- It is noted that the portion of the Proposal that provides additional GFA to exceed the FSR development standard, being the basement level, is not visible from any public place and does not add any additional bulk to the Proposal.
- A reduction in the scale of the development to reduce the Proposal to a compliant FSR would involve removing the basement level hence reducing the GFA. This change would not be readily visible from the public domain and would not result in an improved streetscape presentation. Therefore, complying with the standard would have no material benefit on the streetscape presentation.
- While compliance may be achieved by reducing the GFA of the Proposal, this is considered to undermine the functionality of the building; and the operational requirements the end-users will be unable to be facilitated. The Proposal seeks to provide a variety of tenancy spaces and configurations to suit the need of a spectrum of future industrial tenants. Furthermore, all required car parking for the industrial warehouse units can be accommodated on the ground and first floor levels, therefore the basement is not required for car parking.
- It is noted that the Proposal and the exceedance does not result in any additional or unacceptable impact on other land uses, and the Proposal is not readily visible from any residential-zoned land or other sensitive receiver. The Proposal does not result in any unreasonable impacts on adjoining development in respect of overshadowing, visual bulk, privacy or other amenity impacts due to the island nature of the Site.
- The proposed FSR variation will retain compatibility with surrounding development and continue to support a wide range of industrial and warehouse land uses in the locality, consistent with the objectives of the IN1 General Industrial zone.

#### **Clause 4.6(4) – Consent Authority Consideration of Proposed Variation**

Clause 4.6(4) outlines that development consent must not be granted for development that contravenes a development standard unless:

- “a) the consent authority is satisfied that:
- i) the applicant’s written request has adequately addressed the matters required to be demonstrated by subclause (3), and
  - ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
- b) the concurrence of the Secretary has been obtained.”

#### **Unreasonable and Unnecessary**

Case law in the NSW Land & Environment Court has considered circumstances in which an exception to a development standard may be well founded. In the case of *Wehbe v Pittwater Council* [2007] NSWLEC 827 the presiding Chief Judge

outlined the following five (5) circumstances:

1. *The objectives of the development standard are achieved notwithstanding non-compliance with the standard.*

The written request contends that the development is consistent with the standard and zone objectives.

### **Height**

The objectives of Clause 4.3 – Height and Council's comments in response to the proposal are as follows.

<b>Clause 4.3 Height Objectives</b>	<b>Council Officer Assessment</b>
(a) to nominate heights that will provide a transition in built form and land use intensity within the area covered by this Plan,	The proposed variation to the height occurs to the rear and western portions of the development to allow a built form that transitions with the topography of the site which falls towards the adjoining reserve to the south and south-west. In this instance, it is considered that objective (a) is met despite the variation to the standard.
(b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,	The maximum variation of 2.59m which occurs to the rear of the development does not in this instance: <ul style="list-style-type: none"> <li>- result in any visual impacts. Most of the height exceedances is located towards the rear where it cannot be seen at a street level and south-west where the built form is obscured by the reserve and is of ample distance from neighbouring development. The portion of the development that exceeds the height that is located to the front of the building is minor and is imperceptible when viewed from the street.</li> <li>- The subject site is not identified as containing significant views per Appendix 2 of PDCP 2011.</li> <li>- The subject site is located ample distance from any residential development and therefore any variations to the height is unlikely to result in any loss of privacy.</li> <li>- Similarly, due to the ample distance to the closest development, it is unlikely that any variation to the height will result in any loss of solar access. Further, any additional overshadowing to the reserve to the south is acceptable given that the development was amended to increase the rear setback to allow an appropriate buffer to the reserve and improve solar access outcomes.</li> </ul>
(c) to require the height of future buildings to have regard to heritage sites and their settings,	The site is not identified as heritage. The site does not adjoin any sites identified as heritage under Schedule 5 of PLEP 2011. The site is not located within a heritage conservation area. It is noted that the site is located within proximity to Arrunga Reserve which is heritage listed. However, it is of ample distance from the development. As such, it is unlikely that the development will adversely impact this item and its setting.
(d) to ensure the preservation of historic views,	As previously noted, the site is not identified as containing significant views which includes historic views and vistas.
(e) to reinforce and respect the existing character and scale of low density residential areas,	The subject site is not zoned R2 Low Density Residential nor is it located within proximity to sites identified as R2 Low Density Residential.
(f) to maintain satisfactory sky exposure and daylight to existing buildings within commercial centres, to the sides and rear of tower forms and to key areas of the public domain, including parks, streets and lanes.	The subject site is not located within a commercial zone. It is noted however, that the reserves to the south and south east retain acceptable solar access during the winter solstice despite the variation to the standard.

### **FSR**

The objectives of Clause 4.4 – Floor Space Ratio (FSR) and Council's comments in response to the proposal are as follows.

<b>Clause 4.4 FSR Objectives</b>	<b>Council Officer Assessment</b>
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(a) to regulate density of development and generation of vehicular and pedestrian traffic,	The departure to the FSR standard represents only a 2.5% variation and is a result of floor area located within the basement. Nevertheless, the departure is minor and, in this instance, does not result in overdevelopment. It is noted that both Council's Traffic Engineer as well as TfNSW raised no objections to the vehicular and/or pedestrian traffic generation because of the proposal, subject to conditions of consent.
(b) to provide a transition in built form and land use intensity within the area covered by this Plan,	As previously noted, the departure to the standard is minor at 2.5%. Further, the floor area that exceeds the maximum standard is in the basement where it does not contribute to the built form. The departure to the FSR standard is also considered appropriate in this instance given that the subject site is located of ample distance from the closest development and is mostly obscured by the reserves to the south and east. Accordingly, the proposal is of an appropriate density and land use within the context of the site and locality.
(c) to require the bulk and scale of future buildings to have regard to heritage sites and their settings,	The subject site is located within proximity to Arrunga Reserve which is a heritage listed site. However, given its distance, it is unlikely that the development will adversely impact this item and its setting.
(d) to reinforce and respect the existing character and scale of low density residential areas.	The subject site is not zoned R2 Low Density Residential nor is it located within proximity to sites identified as R2 Low Density Residential.

2. *The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.*

The applicant does not suggest that the purpose of either the FSR or Height standard is not relevant to the development.

3. *The underlying objectives or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable.*

The written requests for the variations to the standards do not suggest that the purpose of this standard would be thwarted if compliance was required, but rather the objectives are achieved despite the breach to the development standards.

4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.*

The applicant does not challenge the FSR standard has been abandoned.

The applicant has however, provided examples of previously approved developments within proximity to the site that have been departed from the maximum height. The Coca Cola site at 104 – 108 Briens Road was approved with a height variation of 20 metres and was determined by the Department of Planning, Industry and Environment under the former Part 3A of the EP&A Act 1979. A recently approved addition within the Coca Cola site was also approved with a 9.41m departure to the height standard. Whilst this was determined and approved by the Parramatta Local Planning Panel, this most recent departure does not exceed the overall maximum height of 32m Coca Cola automated warehouse approved by the Department.

The 7- storey mixed use development located at 32 – 34 Mons Road, Westmead was approved under PLEP 2001 with applicable height and density controls located within a wider Masterplan for the area which the development complied with. As such, Council has not in this instance consider the development standard to be abandoned or destroyed by Council's actions in granting consents departing from the standard.

5. *The zoning of particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in that case would also be unreasonable or unnecessary.*

The written requests do not challenge that the IN1 zoning is unreasonable or inappropriate or that the

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standards for that IN1 zoning is also unreasonable or unnecessary.

#### Sufficient Environmental Planning Grounds

The decision in the Land & Environment Court case of *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90, suggests that 'sufficient environmental planning grounds' for a Clause 4.6 variation is more onerous than compliance with zone and standard objectives. The Commissioner in the case also established that the additional grounds had to be particular to the circumstances of the proposed development, and not merely grounds that would apply to any similar development. Furthermore, the decision in the Land and Environment Court case of *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 established that the focus must be on the aspect of the development that contravenes the development standard, not the development as a whole.

The written request in this instance demonstrate sufficient environmental planning grounds for the Clause 4.6 variation to the **Height**, for the following reasons:

- The maximum height variation of 2.59m occurs to the rear of the development where it is obscured from the street and by the reserves to the south and west of the site. The variation in this instance is due to the sloping topography of the site to the south as it falls towards the reserve. The departure to the height allows for a transition in height from the front to the rear without compromising the building platform and design of the built form.
- Despite the variation to the height, it is unlikely to result in any adverse amenity impacts to adjoining developments given its location and its ample distance from other developments. As previously noted, the site is also obscured by the reserves to the south and west of the site and any variations to the height will be indiscernible from view from these properties.
- Irrespective of the variation to the height, it does not in this instance create an unreasonable loss of solar access, to the reserve to the south. The development has been amended to increase its setback to this area which has improved any solar access impacts to the reserve. Large tree canopies are also located within the reserves so that any development on the subject site is unlikely to have significant solar access impacts to these areas.
- The development provides appropriate setbacks, landscaping and achieve good design so that the variation to the height does not in this instance, detract from these outcomes. As a result, the bulk of the development is consistent and sympathetic with the existing and desired future development for the locality.
- Whilst a portion of the built form within the front exceeds the maximum height, this exceedance is minor when viewed within the context of the site and the size of the development and as a result, does not impact on the presentation of the built form on the streetscape when viewed at a pedestrian level.

Similarly, the written request in this instance demonstrates sufficient environmental planning grounds for the Clause 4.6 variation to the **FSR**, for the following reasons:

- The variation is a 2.5% departure to the standard and is minor in this instance. The variation is a result of floor area located within the basement. In this regard, the additional floor area does not unreasonably result in a bulky development. It also does not contribute to unreasonable density in the location or result in an overdevelopment of the site.
- The development applies generally compliant building setbacks, articulation, landscaping and good urban design so that a minor departure to the FSR as proposed is not visible within the streetscape or neighbouring developments.
- The minor departure to the FSR does not result in unreasonable vehicular or pedestrian traffic that would otherwise be expected for similar developments within this location. Council's Traffic Engineer and TfNSW does not object to the proposal with regards to traffic, subject to conditions of consent.
- The minor variation to the FSR does not result in unreasonable overshadowing of adjoining development or to the reserve, loss of amenity to neighbouring developments or loss of views.

#### Public Interest

Clause 4.6(4)(a)(ii) requires that the consent authority be satisfied that the development is in the public interest because it is consistent with the relevant zone objectives. The objectives of the IN1 General Industrial zone and planners' assessment are provided below:

IN1 Zone Objectives	Comment
---------------------	---------

<ul style="list-style-type: none"> <li>To provide a wide range of industrial and warehouse land uses.</li> </ul>	The proposed development is for the purposes of warehousing.
<ul style="list-style-type: none"> <li>To encourage employment opportunities.</li> </ul>	The proposed development for the purposes of warehousing will generate employment opportunities through staffing and operational requirements.
<ul style="list-style-type: none"> <li>To minimise any adverse effect of industry on other land uses.</li> </ul>	The proposal has been designed to ensure that the development does not result in any significant adverse impacts on industry and other land uses. It is also noted that the subject site is located of ample distance from other developments within proximity to the site. The site is bounded by reserves to the south and west and a classified road to the east.
<ul style="list-style-type: none"> <li>To support and protect industrial land for industrial uses.</li> </ul>	The proposed development for the purposes of warehousing contributes to the protection of industrial land for industrial use.
<ul style="list-style-type: none"> <li>To facilitate a range of non-industrial land uses that serve the needs of workers and visitors.</li> </ul>	The proposed use of the development as a warehouse is an industrial use.

#### Concurrence

Assumed concurrence is provided to local planning panels (such as the PLPP) as per NSW Department of Planning Circular 'Variations to development standards' Ref: PS 20-002 dated 5 May 2020. There is no limit to the level of non-compliance for which concurrence can be assumed.

#### a) Conclusion

In summary, it is considered that the applicant's request to vary the maximum height and FSR **should** be supported for the following reasons:

- The proposal is consistent with the objectives of the IN1 General Industrial zone and as it is a development that has been designed to relate and be sympathetic to the site conditions, existing and future developments, and the locality.
- There are sufficient environmental planning grounds to justify the departure, in particular compliance with the objectives and controls of Parramatta DCP 2011.

The proposal is in the public interest and is consistent with the zone objectives. In this regard, the departures to the height and FSR standards are supported.

### 9. The Parramatta Development Control Plan 2011

A consideration of the relevant sections of the PDCP 2011 is provided below.

Development Control	Comment	Comply
<b>Part 2 Site Planning</b>		
2.4.1 Views and Vistas	The site is not identified as containing significant views.	Yes
2.4.2 Water Management		
2.4.2.1 Flooding	The site is identified as being flood prone. Council's Catchment and Development Engineer has reviewed the application and considers the proposal to be satisfactory subject to conditions of consent.	Yes
2.4.2.2 Protection of Waterways	While the proposed development does not directly adjoin a waterway, it is within proximity to a waterway (Toongabbie Creek). There is an existing buffer comprising Toongabbie Creek Reserve between the site and the waterway. No changes are proposed to the buffer area under the subject application.	Yes
2.4.2.3 Protection of Groundwater	Appropriate measures are proposed. Council's Catchment and Development Engineer has reviewed the application and considers the proposal satisfactory.	Yes

	The application was also referred to WaterNSW. In response, it was advised that no further investigation by WaterNSW was required and provided / issued Council and the applicant advisory notes if groundwater is encountered during works.	
2.4.3 Soil Management	An Erosion and Sediment Control Plan was submitted with the Development Application. Relevant conditions of consent are included to ensure that the proposal will not result in adverse sedimentation impacts.	Yes
2.4.4 Land Contamination	Refer to Section 7.7 of this report for a detailed discussion.	Yes
2.4.5 Air Quality	The proposed development is for the purposes of warehousing which is unlikely to result in the emission of atmospheric pollutants. Relevant conditions of consent are included to ensure that the development does not give rise to unacceptable air quality impacts during the demolition and construction stages.	Yes
2.4.6 Development on Sloping Land	While bulk earthworks are proposed to accommodate the basement, appropriate cut and fill are proposed and minimised where possible. The development has been designed in concert with the topography and has provided an adequate building platform.	Yes
2.4.7 Biodiversity	Council's Consultant Landscape Architect raised no objections to the removal of twelve (12) trees subject to appropriate conditions of consent.  It is considered that the removal of twelve (12) trees on site will not have an adverse impact of the ecological, heritage, aesthetic and cultural significance of the area.	Yes
2.4.7.2 Development on land abutting the E2 Environmental Protection Zone and W1 Natural Waterways Zone	The site does not adjoin land zoned E2 or W1.	N/A
2.4.8 Public Domain	The proposal provides adequate passive surveillance to Briens Road. Public access to the public domain is retained and the development has been designed to address elements of the public domain where possible.  A 1.5m wide pedestrian footpath is proposed along the Briens Road street frontage. Council's Urban Designer has reviewed the proposal with respect to the public domain and raised no objections, subject to conditions of consent.	Yes
<b>Part 3 Development Principles</b>		
3.2.1 Building Form and Massing	Despite the variation to the maximum height and FSR for the site, the development has been designed to minimise the impacts of these variations to neighbouring development and to the adjoining reserves whilst delivering a built form with good design outcomes that also presents well on the streetscape.  Accordingly, the building form and mass is compatible with the character and spatial characteristics of the locality.	Yes
3.2.2 Building Façade and Articulation	The proposal incorporates adequate articulation, materials, and fenestrations in the composition of the facades which assist in breaking up the visual scale and bulk of the development and the perception of building mass.	Yes
3.2.3 Roof Design	The roof design is consistent with the roof patterns of the existing developments in the area and is not that dissimilar to other warehouse developments located in an industrial setting.	Yes
3.2.5 Streetscape	The proposed development is compatible with the existing and future character of the locality.  The presentation of the development on Briens Road and Mons Road are acceptable and is consistent with the form of development	Yes

	expected in this location. Despite the variations to the height and FSR, the development has been designed to reduce adverse impacts on the streetscape through general compliance with setbacks and landscaping. In this regard, the proposal is considered to positively contribute to the streetscape.	
3.2.6 Fences	A front fence is not proposed.	N/A
3.1.3: Building Height Maximum: 12m	See Section 8.1 of this report for further discussion.	<b>No, but acceptable</b>
3.1.3 Floor Space Ratio	See Section 8.1 of this report for further discussion.	<b>No, but acceptable</b>
3.1.3: Front Setback Control: Correspond to Predominant Building Line	Proposed: 4.5m to Briens Road and 3m to Mons Road	Yes
3.1.3: Side Setback Control: Nil where there are no impact on streetscape or amenity of adjoining development	Proposed: 2m from the basement and 1.8m from ground floor. As noted elsewhere in the report, the proposed setbacks do not in this instance result in adverse impacts on the streetscape and due to location of the site, the proposed setbacks do not impact on any adjoining development.	Yes
3.1.3: Rear Setback Control: Dependent on impact on amenity of adjoining development	Provided: 4m The rear setback has been amended to reduce impacts on the reserve to the south of the site.	Yes
3.1.3: Landscaped Area Min. 10% of the site and 2.5m dimension	Proposed: 685m <sup>2</sup> (10.5%)	Yes
3.3.3 Visual and Acoustic Privacy	The proposal is unlikely to result in adverse visual or acoustic privacy impacts as the site is not located in the proximity of any residential zoned land.	Yes
3.3.5 Solar Access and Cross Ventilation	The proposal does not result in adverse solar access or cross ventilation impacts.	Yes
3.3.6 Water Sensitive Urban Design	Council's Catchment and Development Engineer has reviewed the application and considers the proposed WSUD measures appropriate.	Yes
3.3.6.1 Stormwater Drainage	Council's Catchment and Development Engineer has reviewed the application and considers the proposed stormwater drainage measures appropriate.	Yes
3.3.6.2 Water Efficiency	Council's Catchment and Development Engineer has reviewed the application and considers the proposed water efficiency measures appropriate.	Yes
3.3.6.3 Grey Water	Council's Catchment and Development Engineer has reviewed the application and considers the proposed grey water measures appropriate.	Yes
3.3.7 Waste Management	Council's Waste Officer reviewed the proposal and upon review, raised no objections to the development, subject to conditions of consent.	Yes
3.4 Social Amenity		
3.4.1 Culture and Public Art	An arts plan is not required as the application is not located within: - A local town centre - Land zoned B2 Local Centre or B4 Mixed Use	N/A
3.4.2 Access for People with Disabilities	The application was submitted with an Accessibility Report which was reviewed by Council's Universal Access Officer. Upon review, Council's Universal Access Officer raised no objections with the proposal subject to conditions of consent.	Yes
3.4.3 Amenities in Buildings Available to the Public	The proposal is not a public building.	N/A



3.4.4 Safety and Security	Passive surveillance from within the development is provided. All warehouse units with an address to a frontage are provided with windows to allow surveillance of public areas.	Yes
3.5 Heritage	The site is not a heritage item or located within a Heritage Conservation Area. The site is located in the vicinity of a local heritage item (I36) under Schedule 5 of LEP 2011. The proposal does not detract from the heritage characteristics of this item.	Yes
3.5.2 Archaeology	The site is identified as having potential for local archaeological heritage significance. A condition will be placed on the consent requiring the consent holder to approach the NSW State Heritage Office prior to any works, including bulk earthworks, to satisfy any archaeological requirements for the site.	Yes
3.5.3 Aboriginal Cultural Heritage	The site is identified as having low aboriginal heritage significance. The proposal is unlikely to impact upon any items of aboriginal cultural heritage.	Yes
3.6 Movement and Circulation		
3.6.1 Sustainable Transport	Car share spaces are not required to be provided for the development as the site is not located within 800m of a railway station or within 400m of a frequently serviced bus stop.	N/A
3.6.2 Parking and Vehicular Access	<p>PDOP 2011 does not contain parking rates for warehouses or storage units. RMS parking rates for warehouses and self-storage facilities were utilised for the purposes of car parking calculation in this instance.</p> <p>RMS Guide to Traffic Generating Developments - Warehouses</p> <ul style="list-style-type: none"> <li>1 space per 300m<sup>2</sup> of GFA = 1 x (6,181m<sup>2</sup> warehouses and the associated ancillary offices ÷ 300) = 20.6 (21)</li> </ul> <p>Storage units:</p> <ul style="list-style-type: none"> <li>6 space for storage leaseable area up to 3,000m<sup>2</sup> (based on the Self-Storage Facility Traffic &amp; Parking Study prepared by Aurecon as indicated in the submitted Traffic Impact Assessment report) = 6 (as the total storage GFA is 2,141m<sup>2</sup>)</li> </ul> <p>The development proposes 59 parking spaces.</p>	Yes
3.6.3 Accessibility and Connectivity	A 1.5m pedestrian footpath is to be provided across the Brines Road frontage. The development will retain the pedestrian link along Mons Road. Public and private areas are clearly delineated.	Yes
3.7.2 Site Consolidation and Development on Isolated Sites	The proposal does not result in the isolation of any adjoining properties.	N/A
<b>Part 4 Special Precincts</b>		
4.3.4 Westmead	The subject site is identified as being within the Westmead Strategic Precinct. Notwithstanding, the controls relate to the WSU site and development located within proximity to the Sydney West Metro Link. No controls apply to the subject site.	N/A

## 10. Development Contributions

As this Development Application was lodged on 13 January 2023, the City of Parramatta (Outside of Parramatta) CBD Contributions Plan 2021 applies to the land. A standard condition of consent is to be imposed requiring the contribution to be paid prior to the issue of a Construction Certificate.

## 11. Bonds

Pursuant to Council's Schedule of Fees and Charges, the developer will be obliged to pay Security Bonds to ensure the

protection of civil infrastructure located in the public domain adjacent to the site. A standard condition is to be imposed on the consent requiring the Security Bond to be paid prior to the issue of a Construction Certificate.

#### 12. EP&A Regulation 2021

Applicable Regulation considerations including demolition, fire safety, fire upgrades, compliance with the Building Code of Australia, compliance with the Home Building Act, PCA appointment, notice of commencement of works, sign on work sites, critical stage inspections and records of inspection is to be addressed by appropriate consent conditions.

#### 13. The likely impacts of the development

The assessment demonstrates that the proposal will not have any significant adverse impact upon any adjoining properties and the environment through non-compliance with the applicable planning instruments and controls. All relevant issues regarding environmental impacts of the development are discussed elsewhere in this report, including built environment impacts such as built form. In the context of the site and the assessments provided by Council's experts, the development is considered satisfactory in terms of environmental impacts and can be considered for support.

#### 14. Suitability of the Site

The proposed development for the purposes of warehousing and storage is suitable on the subject site. Despite the variations to the height and FSR, the impacts of these departures are imperceptible. The development results in an acceptable design outcome.

The accessibility of the site, traffic and on-site stormwater management have been adequately addressed to ensure that it does result in adverse impact on the proposed development.

For the above reasons and those stated throughout this report, the site is considered to be suitable for the proposed development.

#### 15. Public Consultation

The application was notified and advertised in accordance with the City of Parramatta Consolidated Notification Procedure.

The advertisement ran for a 30-day period between 24 January and 22 February 2023. In response to the notification period, no submissions were received.

#### Amended Plans Yes.

Summary of amendments (if applicable)

- Amended Arborist Report;
- Amended Civil Engineering Drawings;
- Amended Traffic Report;
- Amended Landscape Plan;
- Amended Ecological Assessment;
- Amended Watercourse Assessment; and
- Revised Architectural Plans

In accordance with Council's notification procedures, the application did not require re-notification as the amended application is considered to be substantially the same development and does not result in a greater environmental impact.

#### 16. Public interest

For reasons discussed throughout this report, the proposal would not be contrary to the public interest.

#### 17. Conclusion

The application has been assessed relative to section 4.15 of the Environmental Planning and Assessment Act 1979, taking into consideration all relevant state and local planning controls.

Having regard to the assessment of the proposal from a merit perspective, Council officers are satisfied that the development has been appropriately designed and will provide acceptable levels of amenity for future users. It is considered that the proposal sufficiently minimises adverse impacts on the amenity of neighbouring properties. Hence the development, is consistent with the intentions of the relevant planning controls and represents a form of development contemplated by the relevant statutory and non-statutory controls applying to the land. The proposal has demonstrated a satisfactory response to the objectives and controls of the applicable planning framework.

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 and is recommended for a deferred commencement approval subject to conditions of consent.

## 18. Recommendation

Pursuant to Section 4.16 of the Environmental Planning and Assessment Act, 1979:

- A. **That**, the Parramatta Local Planning Panel support the variation to Clause 4.3 of Parramatta Local Environmental Plan under the provisions of Clause 4.16 for the following reasons:
- B. **That** the Parramatta Local Planning Panel, exercising the function of the consent authority, grant **deferred commencement development consent** to DA/19/2023 for the construction and use of multi-unit industrial warehouse and ancillary offices, storage premises, carparking & signage for the following reasons:
- a. The development is permissible in the IN1 General Industrial zone pursuant to the Parramatta Local Environmental Plan 2011 and satisfies the requirements of all applicable planning standards controls.
  - b. The development will protect the natural environment.
  - c. The development will not adversely impact on the visual character of the area.
  - d. For the reasons given above, approval of the application is in the public interest.
- C. **That** the Parramatta Local Planning Panel, approve the Clause 4.6 variation to the Height for the following reasons:
- a. The departure representing a variation of 21.5% from the standard is reasonable and allows for a transition of height that is sympathetic with the existing topography whilst providing good urban design and an appropriate building platform.
  - b. The departure does not result in adverse amenity impacts to adjoining developments and to the reserve.
  - c. Despite the departure the development remains generally consistent with the controls and provisions of DCP 2011.
  - d. The variation to the height does not result in unreasonable perception of bulk and scale.
- D. **That** the Parramatta Local Planning Panel, approve the Clause 4.6 variation to the FSR for the following reasons:
- a. The variation is a 2.5% departure to the standard and is minor in this instance and is a result of floor area located within the basement which does not unreasonably result in a bulky development.
  - b. The development remains generally compliant with building setbacks, articulation, landscaping and good urban design so that any exceedance in FSR is negligible on the streetscape and neighbouring developments.
  - c. The minor departure to the FSR does not result in unreasonable vehicular or pedestrian traffic that would otherwise be expected for similar developments within this location.
  - d. The minor variation to the FSR does not result in unreasonable overshadowing of adjoining development or to the reserve, loss of amenity to neighbouring developments or loss of views.

# Attachment A

## Applicant Clause 4.6 Variation - Height

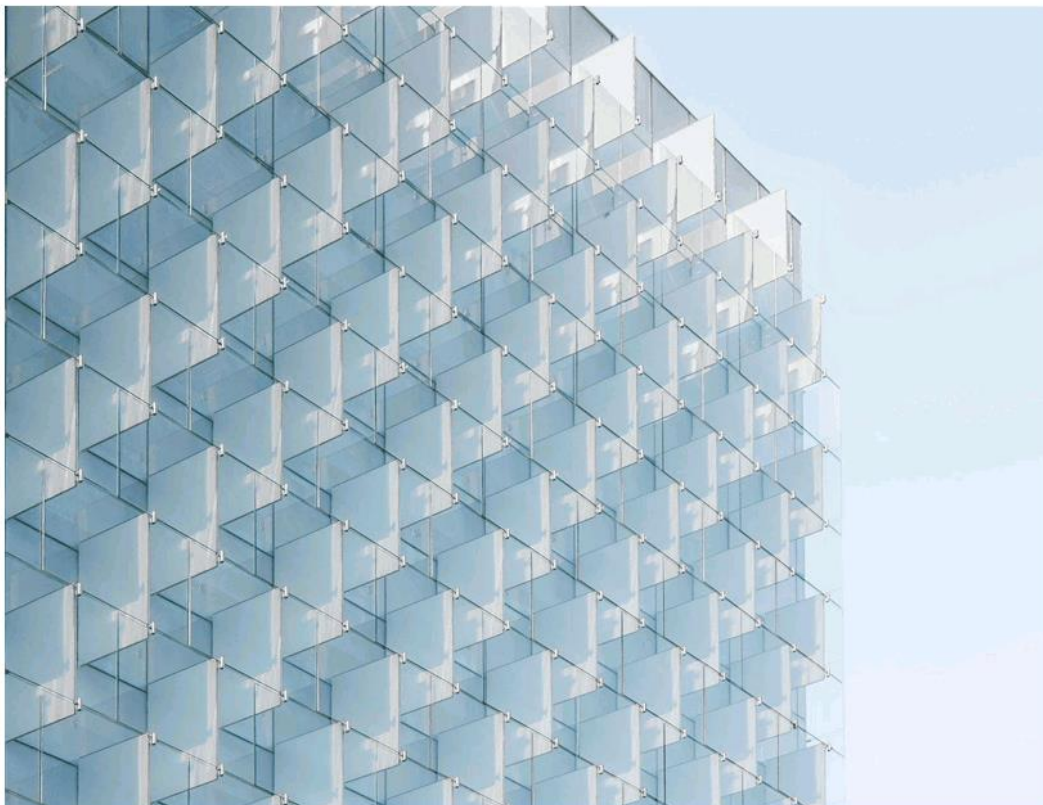


# WILLOWTREE PLANNING



1 November 2023

Ref: WTJ22-523  
Contact: Asher Richardson



## CLAUSE 4.6 VARIATION REQUEST HEIGHT OF BUILDINGS

**CONSTRUCTION AND USE OF MULTI-UNIT INDUSTRIAL  
WAREHOUSE AND ANCILLARY OFFICES, STORAGE PREMISES,  
CARPARKING & SIGNAGE**

**150-152 Briens Road, Northmead**  
(Lot 111 DP 1160038)

Prepared by Willowtree Planning Pty Ltd  
on behalf of Hannas Group

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**Clause 4.6 Variation Request**

Construction and use of multi-unit industrial warehouse and ancillary offices, storage premises, carparking and signage  
150-152 Briens Road, Northmead



*In the spirit of reconciliation and recognition, Willowtree Planning acknowledges the Traditional Owners of this Country throughout Australia and their continuing and ongoing connections to land, waters and community. We show our respect to Elders – past and present. We acknowledge that we stand on this Country which was and always will be recognised as Aboriginal Land. We acknowledge the Traditional Owners of the Lands in this Local Government Area, belonging to the local Aboriginal People, where this proposal is located upon.*

DOCUMENT CONTROL TABLE			
Document Reference:	WTJ22-523 Northmead		
Contact	Asher Richardson		
Version and Date	Prepared by	Checked by	Approved by
Version No. 1 – 20/12/22	Asher Richardson Senior Town Planner	Andrew Cowan Director	Andrew Cowan Director
Version No. 2 – 26/04/23	Asher Richardson Senior Town Planner	Andrew Cowan Director	Andrew Cowan Director
			

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**Clause 4.6 Variation Request**

Construction and use of multi-unit industrial warehouse and ancillary offices, storage premises, carparking and signage  
150-152 Briens Road, Northmead

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**Clause 4.6 Variation Request**

Construction and use of multi-unit industrial warehouse and ancillary offices, storage premises, carparking and signage  
150-152 Briens Road, Northmead

**PART A PRELIMINARY****1.1 INTRODUCTION**

This Clause 4.6 variation request (Variation Request) has been prepared in support of a Development Application (DA) for a multi-unit industrial warehouse and ancillary offices, storage premises, carparking and signage at 150-152 Briens Road, Northmead (the Site).

The Site is zoned Zone IN1 General Industrial pursuant to *Parramatta Local Environmental Plan 2011* (PLEP 2011) and is located within the City of Parramatta Local Government Area (LGA). The Proposal is permissible with consent within the IN1 zone and is considered contextually appropriate. The Proposal is generally consistent with the objectives and provisions of PLEP 2011, with the exception of Clause 4.3 - height of buildings, for which this Variation Request is sought, pursuant to Clause 4.6 - Exceptions to development standards of PLEP 2011.

The Proposal involves the construction and use of a multi-unit warehouse and ancillary offices, and storage premises. The Proposal comprises of the following key components:

- Construction and use of a new two storey plus basement industrial warehouse building comprising
  - Basement parking and storage premises
  - Seventeen (17) ground floor industrial warehouse units with mezzanine office spaces and associated parking; and
  - Seventeen (17) first floor industrial warehouse units with mezzanine office spaces and associated car parking
- Associated infrastructure services
- Associated vehicular access from Briens Road and car parking for 67 vehicles; and
- Provision for tree removal, landscaping, perimeter fencing, and signage throughout.

This Variation Request has been prepared in accordance with the objectives contained within Clause 4.6 and the relevant development standard prescribed under PLEP 2011. It considers various planning controls, strategic planning objectives and existing characteristics of the Site, and concludes that the Proposal, despite the non-compliance, is the best means of achieving the objectives of encouraging orderly development of the Site under the *Environmental Planning and Assessment Act 1979* (EP&A Act).



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**Clause 4.6 Variation Request**

Construction and use of multi-unit industrial warehouse and ancillary offices, storage premises, carparking and signage  
150-152 Briens Road, Northmead

**1.2 RATIONALE FOR VARIATION FROM DEVELOPMENT STANDARDS**

This Variation Request has been submitted to assess the proposed variation from Clause 4.3 of PLEP 2011 and has been prepared in accordance with the requirements of Clause 4.6 of PLEP 2011 which includes the following objectives:

- (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.

Under the provisions of Clause 4.3 of PLEP 2011, the land is subject to a maximum height of buildings development standard of 12m. The Proposal entails the following key components identified in **TABLE 1** below.

<b>TABLE 1: DEVELOPMENT COMPONENTS</b>	
<b>Project element</b>	<b>Proposed</b>
Site Area	6,490sqm
Proposed maximum building height	14.59m
Proposed variation	2.59m or 21.5%

The Proposal principally involves the construction of a new warehouse development on the Site. The Proposal has a maximum building height of 12m. The Proposal therefore exceeds the development standard by 2.59m or 21.5%.

The proposed distribution of the built form and massing of the building across the Site is the result of existing topography of the Site as well as detailed analysis of the context of the Site and its surrounds with a desire to deliver a positive architectural outcome. The proposed design outcome is a significant improvement from the existing vacant Site as it is considered to be more aligned with the desired character of the immediate locality.

The particular circumstances of the Site and the Proposal warrant an appropriate degree of flexibility in the application of the development standard to achieve the best outcome for the Site.

**1.3 DEVELOPMENT STANDARD VARIATION**

Under the provisions of Clause 4.3 of PLEP 2011, the Site is subject to a maximum height of buildings control of 12m. The proposed height of buildings for the Site is outlined in **TABLE 2** below.

<b>TABLE 2: CLAUSE 4.3 OF PLEP 2011 VARIATION SUMMARY</b>		
<b>PLEP 2011 Clause</b>	<b>PLEP 2011 Development Standard</b>	<b>Proposed development</b>
Clause 4.3 - Height of buildings	Maximum Height: 12m	Proposed Height: 14.59m

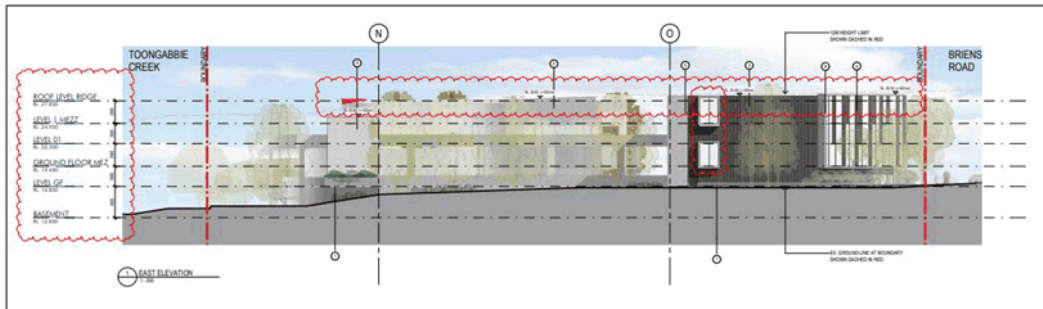


**Clause 4.6 Variation Request**

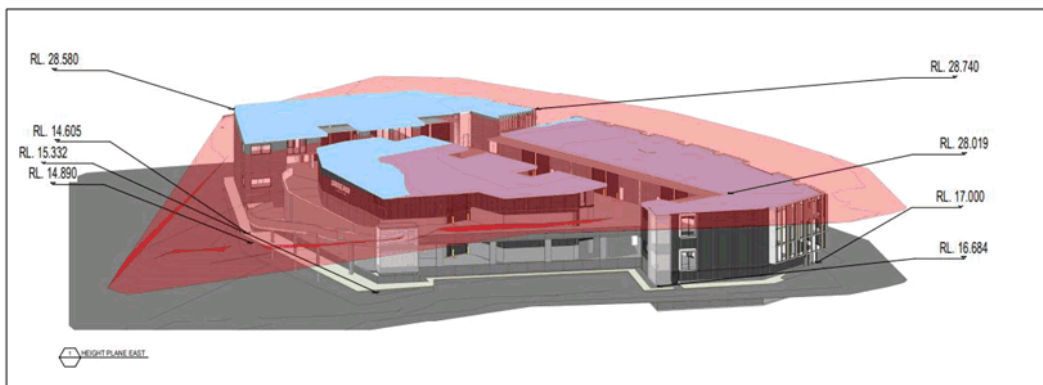
Construction and use of multi-unit industrial warehouse and ancillary offices, storage premises, carparking and signage  
150-152 Briens Road, Northmead



**Figure 1** and **Figure 2** below show the variation to the building height standard which, given the slop of the land, is inevitable. The area highlighted red in **Figure 1** shows the extent of the variation and how the variation increases with the fall of the land towards the rear. The presentation of the Proposal to Briens Road is now generally compliant with the maximum height development standard. Therefore, the Proposal is considered to provide an overall bulk and scale to Briens Road and the public domain that is consistent with the desired future character for the area as expressed by the key development controls applicable to the Site.



**Figure 1. East Elevation showing extent of variation highlighted red** (Source: WTP, 2022)



**Figure 2. Height plan analysis showing extent of variation** (Source: Nettleton Tribe Architects, 2022)



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**Clause 4.6 Variation Request**

Construction and use of multi-unit industrial warehouse and ancillary offices, storage premises, carparking and signage  
150-152 Briens Road, Northmead

**PART B THRESHOLDS THAT MUST BE MET****2.1 INTERPRETING CLAUSE 4.6**

Clause 4.6 of PLEP 2011 facilitates exceptions to strict compliance with development standards in certain circumstances. Clause 4.6(3) states (our emphasis added):

*Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered **a written request** from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

- (a) that **compliance with the development standard is unreasonable or unnecessary** in the circumstances of the case, and*
- (b) that there are **sufficient environmental planning grounds to justify contravening** the development standard.*

In addition, Clause 4.6(4) states that (our emphasis added):

*Development consent must not be granted for development that contravenes a development standard unless:*

- (a) **the consent authority is satisfied** that:*
  - (i) **the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and***
  - (ii) **the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and***
- (b) **the concurrence of the Secretary** has been obtained.*

Further to the above, Clause 4.6(5) states the following (our emphasis added):

*In deciding whether to grant concurrence, the Planning Secretary must consider—*

- (a) whether contravention of the development standard raises **any matter of significance for State or regional environmental planning**, and*
- (b) **the public benefit of maintaining the development standard**, and*
- (c) **any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.***

Accordingly, a successful Clause 4.6 variation must satisfy three limbs explained below:

**First Limb – cl 4.6(4)(a)(i)**

Clause 4.6(4)(a)(i) provides that the consent authority must be satisfied that the applicant's written request seeking to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by Clause 4.6(3). These are as follows:

- a. that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (Cl 4.6(3)(a)); and



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- b. that there are sufficient environmental planning grounds to justify contravening the development standard (CI 4.6(3)(b)). To this end the environmental planning grounds advanced in the written request must justify the contravention, not simply promote the benefits of carrying out the development as a whole: *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248 at [15].

In the decision of *Rebel MH v North Sydney Council* [2019] NSWCA 130 (**Rebel**) Payne JA held (our emphasis added):

*"Although it was unnecessary finally to decide the correct construction of cl 4.6(4) in Al Maha, I agree with the construction advanced in that case by Basten JA, with whom Leeming JA agreed, at [21]-[24]. **Properly construed, a consent authority has to be satisfied that an applicant's written request has in fact demonstrated the matters required to be demonstrated by cl 4.6(3).** Clause 4.6(3) requires the consent authority to have "considered" the written request and identifies the necessary evaluative elements to be satisfied. To comply with subcl (3), the request must demonstrate that compliance with the development standard is "unreasonable or unnecessary" and that "there are sufficient environmental planning grounds to justify" the contravention. It would give no work to subcl 4.6(4) simply to require the consent authority to be satisfied that an argument addressing the matters required to be addressed under subcl (3) has been advanced."*

Accordingly, the consent authority must be satisfied that this Variation Request demonstrates that both compliance is unreasonable or unnecessary in the circumstances of the case and sufficient environmental planning grounds exist to justify the breach of the height of buildings control by the Proposal.

The matters identified in the First Limb are addressed in **Sections 4.3, Section 4.4** and **Section 4.5** of this Variation Request.

Second Limb – clause 4.6(4)(a)(ii)

Clause 4.6(4)(a)(ii) provides that the consent authority must be satisfied that the Proposal will be in the public interest because it is consistent with:

- a) the objectives of the particular development standard; and
- b) the objectives for development within the zone in which the development is proposed to be carried out.

The matters identified in the Second Limb addressed in **Sections 4.1** and **Section 4.2** of this Variation Request.

Third Limb – clause 4.6(4)(b)

Clause 4.6(4)(b) requires that concurrence of the Secretary of the NSW Department of Planning, Industry and Environment has been obtained. Clause 4.6(5) outlines the matters to be considered by the Planning Secretary in deciding whether to grant concurrence.

The matters identified in the Third Limb are addressed in **Section 4.6** and **Section 4.7** of this Variation Request.





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**PART C STANDARDS BEING OBJECTED TO****3.1 OVERVIEW**

The Site is zoned IN1 General Industrial and is subject to the underling objectives of the development standard.

**3.2 CLAUSE 4.3 – HEIGHT OF BUILDINGS UNDER PLEP 2011**

Clause 4.3 of PELP 2011 identifies the following objectives:

- (1) *The objectives of this clause are as follows—*
- (a) *to nominate heights that will provide a transition in built form and land use intensity within the area covered by this Plan,*
  - (b) *to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,*
  - (c) *to require the height of future buildings to have regard to heritage sites and their settings*
  - (d) *to ensure the preservation of historic views,*
  - (e) *to reinforce and respect the existing character and scale of low density residential areas,*
  - (f) *to maintain satisfactory sky exposure and daylight to existing buildings within commercial centres, to the sides and rear of tower forms and to key areas of the public domain, including parks, streets and lanes.*

Pursuant to Clause 4.6, the proposal seeks exception to the maximum permissible height of buildings control of 12m.

For clarity, building height is defined under the Dictionary accompanying PLEP 2011 as:

***Building height (or height of building) means—***

- (a) *in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or*
- (b) *in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,*

*including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.*



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**PART D PROPOSED VARIATION TO STANDARDS IN CLAUSE 4.3 of PLEP 2011**

Clause 4.6(4)(a)(ii) requires that a request to vary a development standard must establish that the Proposal will be in the public interest because it is consistent with the objectives of the development standard and the zone. *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 at 27

Importantly, the word consistent has been interpreted as 'compatible' or 'capable of existing in harmony'. *Kingsland Developments Australia Pty Ltd City of Parramatta Council* [2018] NSWLEC 1241 at 20.

**4.1 OBJECTIVES OF THE STANDARD**

A key determinant of the appropriateness of a Clause 4.6 Variation to a development standard is the proposal's compliance with the underlying objectives and purpose of that development standard.

Clause 4.3 of PLEP 2011 sets out specific objectives. Those objectives under PLEP 2011 are responded to in **TABLE 3** below.


TABLE 3: CONSISTENCY WITH THE CLAUSE 4.3 OBJECTIVES	
Objective	Response
(a) to nominate heights that will provide a transition in built form and land use intensity within the area covered by this Plan,	<p>The height of the Proposal reflects the locality and provides an appropriate transition in built form and land use intensity within the area.</p> <p>The Proposal is compatible with the surrounding area and adjoining similar industrial developments. The Proposal has been configured with respect to the surrounding industrial and warehouse properties and the existing and desired character of the area through a sophisticated and modern warehouse development.</p> <p>The proposed building bulk and scale would not cause any undesirable visual impact, view obstruction, privacy intrusion or loss of solar access owing to the provision of adequate setbacks, building separation and deep-soil landscaping</p> <p>It is considered that the Proposal will result in an improvement to the existing Site and contribute positively to the Northmead industrial precinct. The Proposal will create visual interest and positive aesthetics which will contribute to the streetscape.</p> <p>Further to this, the Proposal delivers a high-quality urban design outcome through the façade articulation. Whilst it is acknowledged that the Proposal would result in maximum height above that permitted on the Site, this is typical of the urban industrial setting and seeks to provide a development</p>



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**TABLE 3: CONSISTENCY WITH THE CLAUSE 4.3 OBJECTIVES**

Objective	Response
	<p>that responds to the topography and context in which the Site is located.</p> <p>As illustrated in <b>Figure 3</b> below, the Proposal is located in an area with a height of buildings standard of 12m to the south, north and east.</p>  <p><b>Figure 3. Height of Buildings Map</b> (NSW Legislation, 2022)</p> <p>Notwithstanding this, ground-truthing at the Site notes that there are a number of larger warehouse developments located to the east of the Site along Briens Road, and large mixed-use developments to the south along Mons Road that exceed the 12m standard. The below examples provide some context to the built form within the immediate area.</p> <ul style="list-style-type: none"> <li>At 104-128 Briens Road to the east of the Site, the Coca-Cola Site contains a number of large warehouse and silo buildings. The silo building approved under Determination No. DA/454/2020 has a height of <b>21.4 metres</b> (to RL 36.6 as shown on approved plans) and was approved with a Clause 4.6 variation request.</li> <li>Another single storey warehouse on the Coca Cola Site has a height of <b>31 metres</b> (to RL 46.8 as shown on survey).</li> </ul>



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**TABLE 3: CONSISTENCY WITH THE CLAUSE 4.3 OBJECTIVES**

Objective	Response
	<ul style="list-style-type: none"> <li>To the south of the Site fronting Mons Road, a number of large mixed-use developments range in height from <b>15 metres</b> (5 storeys) to <b>21 metres</b> (7 storeys at 32-34 Mons Road).</li> </ul> <p>The Proposal has a maximum building height of 14.59 metres in the south-western corner of the Site and given the topography, drops down to 12m at the Briens Road frontage, being that frontage of the Site most visible from the public domain.</p> <p>Given the 9.5 metre height limit for the low density residential zoned land to the west and north-west of the Site, and the existing 15 to 21 metre developments to the south, and 21 to 31 metre developments to the east, the proposed 14.59m high Proposal presents an appropriate transition in built form within the area.</p>
<i>(b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,</i>	<p>The Proposal does not result in any impact on existing development in the vicinity of the Site by way of visual impact, disruption of view, loss of privacy and loss of solar access.</p> <p>The Proposal is adjoined to the north and east by similar-scaled industrial development and given the buffer provided by Briens Road and Mons Road, the Site will not impact on the existing developments to the north, east and west by way of visual impact, disruption of view, loss of privacy and loss of solar access.</p> <p>The nearest residential properties are located 100m to the south of the Site fronting Mons Road and 150m to the south-west of the Site fronting Briens Road. The Site is sufficiently distanced from those sensitive receivers so as to not create any negative impact on the amenity enjoyed by those occupants.</p>
<i>(c) to require future buildings to have regard to heritage sites and their settings</i>	The Site is not located near any heritage sites. Therefore, this objective is not applicable to the Site.
<i>(d) to ensure the preservation of historic views,</i>	The Site is not located near any historic views. Therefore, this objective is not applicable to the Site.
<i>(e) to reinforce and respect the existing character and scale of low density residential areas,</i>	The Site is not located in a low density residential area and the nearest low density residential area is located approximately 150m to the south west of the Site on the other side of





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**TABLE 3: CONSISTENCY WITH THE CLAUSE 4.3 OBJECTIVES**

Objective	Response
	Toongabbie Creek. Notwithstanding, the Proposal will not negatively impact on the character and scale of those low density residential areas.
(f) <i>to maintain satisfactory sky exposure and daylight to existing buildings within commercial centres, to the sides and rear of tower forms and to key areas of the public domain, including parks, streets and lanes.</i>	The Site is not located near any commercial centres. Therefore, this objective is not applicable to the Site.

The Site is zoned IN1 General Industrial pursuant to PLEP 2011. Therefore, consideration has been given to the zone objectives in **TABLE 4** below:

**TABLE 4: CONSISTENCY WITH THE IN1 GENERAL INDUSTRIAL ZONE OBJECTIVES**

Objective	Response
<i>To provide a wide range of industrial, warehouse land uses.</i>	The Proposal involves the construction of flexible industrial tenancies that are capable of providing a range of light industrial, warehouse, storage and related land uses. The use of the Site is permitted with consent under the zoning.
<i>To encourage employment opportunities</i>	<p>The Proposal will provide significant employment opportunities to the immediate community and wider locality within the Parramatta LGA during the construction and operational phases of the development, as well as contribute to viable economic return to the local and regional economies. The redevelopment of what is currently an underutilised site and construction of new industrial development will provide greater flexibility in the tenancy offerings at the Site and encourage a variety of land uses to support the locality, whilst providing an improved aesthetic on the Site.</p> <p>The exceedance is also consistent with this objective. The variation effectively provides for additional GFA to support a variety of tenancy sizes and configurations on the Site and, in doing so, encourages employment opportunities.</p>
<i>To minimise any adverse effect of industry on other land uses.</i>	<p>The Proposal and the exceedance does not result in any additional or unacceptable impact on other land uses.</p> <p>The Proposal is not readily visible from any residential-zoned land or other sensitive receiver and therefore does not result in any unreasonable bulk and scale impacts.</p>



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TABLE 4: CONSISTENCY WITH THE INI GENERAL INDUSTRIAL ZONE OBJECTIVES	
Objective	Response
	<p>In addition, the nature of operations associated with future tenancies would have no direct adverse impact on any surrounding land uses given:</p> <ul style="list-style-type: none"> <li>▪ Sufficient parking is provided on Site.</li> <li>▪ The road network would continue to operate a satisfactory level of service in the AM and PM peak periods.</li> <li>▪ Noise and air impacts would comply with EPA requirements.</li> <li>▪ The bulk and scale of the development would not overshadow or adversely affect amenity of surrounding industrial properties.</li> <li>▪ The development provides onsite stormwater management outcomes which would not adversely affect other surrounding land uses.</li> <li>▪ The extent of landscaping proposed provides a visual buffer to ameliorate the appearance of the building when viewed from other properties.</li> <li>▪ All development will be wholly contained within the Site and will not interfere with the operation of surrounding land uses.</li> </ul>
<i>To facilitate a range of non-industrial land uses that serve the needs of workers and visitors.</i>	It is understood that "other land uses" relates to other permissible uses in the zone that are not industrial in nature, such as take away food and drink premises. The Proposal is not inconsistent with this objective.

In light of the above, the Proposal, including the exceedance, is consistent with three of the zone objectives and neutral with respect to one.

#### 4.2 ESTABLISHING IF THE DEVELOPMENT STANDARD IS UNREASONABLE OR UNNECESSARY

Subclause 4.6(3)(a) and the judgement in *Four2Five Pty Ltd v Ashfield Council* (refer to **Section 2.1**) emphasise the need for the proponent to demonstrate how the relevant development standard is unreasonable or unnecessary in the circumstances.

In view of the unique circumstances of the Site and absence of any discernible impact to the public domain, strict compliance with Clause 4.3 of PLEP 2011 is considered to be both unnecessary and unreasonable.

The case of *Wehbe v Pittwater Council* [2007] NSWLEC 827 sets out five ways in which numerical compliance with a development standard might be considered unreasonable or unnecessary as follows:

- The objectives of the standard are achieved notwithstanding the non-compliance with the standard
- The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary



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- The underlying objective or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable
- The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; and/or
- The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

Set out above is a detailed assessment against the objectives of the development standard and adopted the first test in *Wehbe* to establish that compliance is unreasonable or unnecessary because the objectives of the height of buildings standard are satisfied notwithstanding the variation.

We have set out above a detailed assessment against the objectives of the development standard and adopted the first test and fourth test in *Wehbe*. The first and fourth tests are used herein to establish that compliance is unreasonable or unnecessary because the objectives of the height development standard are satisfied notwithstanding the variation, and the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard.

- The Proposal is consistent with the existing and desired future character of the Site and locality and the surrounding area in that it provides for a scale of development that when viewed from the streetscape and surrounding properties is not dominant in terms of bulk, scale, extent of hardstand or interface with the streetscape. It is argued that the Proposal provides a development outcome that, in replacing the existing underutilised vacant Site, improves the character of the area.
- It is considered that the height of buildings development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard. The below examples provide some context to the built form within the immediate area and provide examples of variations to the height of buildings development standard approved by Council. These examples share the 12m height development standard applicable to the Site, and are located on adjoining sites in immediate proximity to the Site:
  - At 104-128 Briens Road to the east of the Site, the Coca-Cola Site contains a number of large warehouse and silo buildings. The silo building approved under Determination No. DA/454/2020 has a height of **21.4 metres** (to RL 36.6 as shown on approved plans) and was approved with a Clause 4.6 variation request by Council (see **Figure 4** below).
  - Another single storey warehouse on the Coca Cola Site has a height of **31 metres** (to RL 46.8 as shown on survey) (see **Figure 5** below).
  - To the south of the Site fronting Mons Road, a number of large mixed-use developments range in height from **15 metres** (5 storeys) to **21 metres** (7 storeys at 32-34 Mons Road) (see **Figure 6** below).
  - A review of City of Parramatta Council's Development Application Variations Register indicates a number of Sites within close proximity to the Site that exceed the 12m height standard and were approved by Council, notwithstanding the variation.



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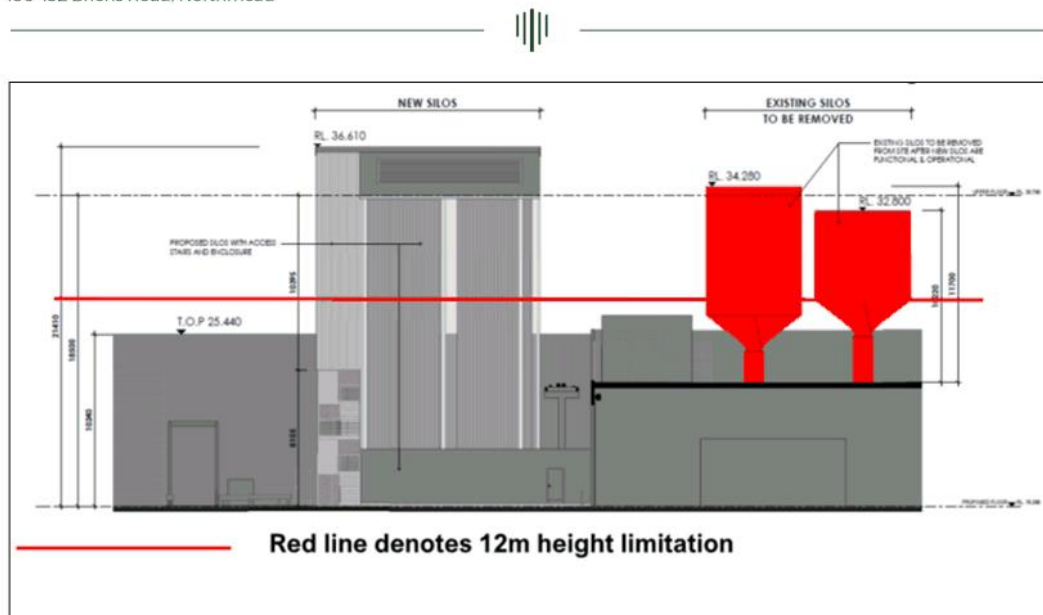


Figure 4. 21.4 metre high silos approved under Determination No. DA/454/2020 at 104-108 Briens Road



Figure 5. 31 metre high warehouse building at 104-108 Briens Road (Source: Google, 2022)



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**Figure 6. 21 metre high (7 storeys) mixed-use development at 32-34 Mons Road** (Source: Google, 2022)

- The presentation of the Proposal to the public domain is now generally compliant with the maximum height development standard. Therefore, the Proposal is considered to provide an overall bulk and scale to Briens Road and the public domain that is consistent with the desired future character for the area as expressed by the key development controls applicable to the Site.
- The maximum variation to the development standard of 14.59 metres is located at the rear (south) of the Site due to the natural topography of the Site. The Site falls some 2.2 metres from north to south and given the nature of the use it is not practicable to step the building to follow that fall. Notwithstanding, this part of the Site is not readily visible from any road frontage of the Site and does not contribute to the streetscape presentation of the building.
- It is noted that the Proposal and the exceedance does not result in any additional or unacceptable impact on other land uses by way of visual impact, disruption of views, loss of privacy, loss of solar access, traffic impact or loss of on-street parking capacity of the like, and the Proposal is not readily visible from any residential-zoned land or other sensitive receiver. Therefore, the Proposal does not result in any unreasonable impacts on adjoining development.



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In view of the circumstances of the Proposal, strict compliance with clause 4.3 of PLEP 2011 is considered to be both unnecessary and unreasonable. The Proposal does not conflict with the intent of Clause 4.3 of PLEP 2011 as demonstrated above and satisfies its objectives, notwithstanding the proposed numerical variation.

The proposed height variation will retain compatibility with surrounding development and continue to support a wide range of industrial and warehouse land uses in the locality, consistent with the objectives of the IN1 General Industrial zone.

The abovementioned justifications are considered valid, and in this instance the Clause 4.6 Variation is considered to be acceptable. The Proposal represents a more efficient use of the Site. The objectives of the relevant clause and IN1 General Industrial zone would be upheld as a result of the Proposal.

#### **4.3 SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS TO JUSTIFY CONTRAVENING THE DEVELOPMENT STANDARD**

The Variation Request is considered well founded because, notwithstanding the proposed non-compliance with the maximum permitted building height:

- The proposed building height variation is consistent with the underlying objective or purpose of the standard as demonstrated in **Section 4.1**.
- The proposed building height variation is consistent with the objectives of the IN1 General Industrial zone as described in **Section 4.2**.
- Compliance with the standard would be unreasonable and unnecessary for the reasons outlined in **Section 4.3**.
- The additional building height beyond the 12m prescribed under Clause 4.3 does not cause any impact on existing development in the vicinity of the Site by way of visual impact, disruption of view, loss of privacy and loss of solar access.
- The Proposal provides compliant setbacks to boundaries and landscaping zones that provide separation and screening of the built form. The proposed landscaped building setback of 4.5 metres across the entire Briens Road frontage of the Site and ameliorates the visual impacts associated with the new built form.
- The Proposal ultimately seeks to facilitate construction and operation of a new industrial development. The proposed internal building height is considered a key attribute in creating an internal building environment that would ensure the delivery of industrial warehouse facilities required to support the operations of the future tenants involved and thereby enabling the productive use of the Site.
- The Proposal has been architecturally designed to provide a materiality and form that sets a desirable precedent for future development and ensures that the visual impact of the building integrates with the surrounding environment.



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- The proposed volumetric outcome is representative of market needs and demands for modernised industrial warehouse and industrial facilities to ensure that products can be stored internal to the building and minimises external exposure.
- The Proposal has been architecturally designed to provide a materiality and form that sets a desirable precedent for future development and ensures that the visual impact of the building integrates with the surrounding environment.
- It is demonstrated that subject to the implementation of the design recommendations, the proposed building footprint would have no adverse or non-compliant acoustic outcomes on any nearby residential, industrial or commercial receivers during daytime, evening or night-time periods.
- The Proposal would remain compatible with Industrial land uses in light of the above.
- Compliance with the remaining development standards applicable to the site is achieved. There would be no measurable environmental or amenity benefits in maintaining the standard nor would this support the provision of warehouse and other light industrial uses which caters to the operational needs of the end users and the market needs of the industry.

For the reasons outlined above, it is considered that the variation to the height of buildings control under Clause 4.3 is appropriate and can be clearly justified having regard to the matters listed within clause 4.6(3)(b) under PLEP 2011.

**4.4 PUBLIC INTEREST**

Clause 4.6(4)(a)(ii) requires the proposal to 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.

**Section 4.3** and **Section 4.4** above demonstrate how the Proposal 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 *Lane Cove Council v Orca Partners Management Pty Ltd (No 2)* [2015] NSWLEC 52, Sheahan J referred to the question of public interest with respect to planning matters as a consideration of whether the public advantages of the proposed development outweigh the public disadvantages of the proposed development.

The Proposal provides the following public benefits:

- Maintains the prevailing character of the area;
- Supports industrial uses within the IN1 General Industrial zone; and
- Facilitates modern and efficient industrial warehouse tenancy spaces.

There are no identifiable public disadvantages which will result from the Proposal in terms of amenity impacts on adjoining uses and streetscape or environmental impacts on the locality. The Proposal is therefore considered to be in the public interest.



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**4.5 MATTERS OF STATE AND REGIONAL SIGNIFICANCE**

The non-compliance with Clause 4.3 of PLEP 2011 does not give rise to any matters of significance for the State or regional environmental planning. The non-compliance does also not conflict with any State Environmental Planning Policies or Ministerial Directives under section 9.1 of the EP&A Act.

Planning Circular PS 20-002, dated 5 May 2020, prescribes that all consent authorities may assume concurrence of the Secretary of the Department of Planning and Environment where it is required under Clause 4.6 of a Local Environmental Plan, unless the development contravenes a numerical development standard by more than 10%. The Proposal contravenes the height of buildings development standard by more than 10% and therefore the concurrence of the Secretary is not assumed.

**4.6 PUBLIC BENEFIT IN MAINTAINING THE STANDARD**

Strict compliance with Clause 4.3 of PLEP 2011 will result in:

- Undermine the functionality of the development and hinder the efficient use of the development which is an employment-generating development in the City of Parramatta LGA.
- Not meet the operational requirements of modern industrial development. This is evident in the height of buildings controls prescribed by the environmental planning instruments in other LGAs where there is no height of buildings limit prescribed for industrial zoned land, acknowledging the low-impact siting of industrial lands.

Further to the above, in the event the development standard was maintained, the resulting benefits to the adjoining properties and wider public would be nominal. It is noted that strict compliance with clause 4.3 would inhibit the development from operating at its full capacity, by not facilitating the operational requirements of the end users, which would ultimately impact on the future industrial and warehouse land uses on the Site. As such, it has been demonstrated that the additional building height is reasonable and necessary for the proposed warehouse development, which will support industrial land uses in the City of Parramatta LGA.

Accordingly, there is no genuine or identifiable public benefit in maintaining this strict building height control in the context of the Proposal.

**4.7 OBJECTIVES OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979**

All planning determinations made under the EP&A Act are required to be made with regard to the objects of the Act in accordance with section 1.3 of the EP&A Act. **TABLE 5** below assesses the Proposal against the objects of the EP&A Act.

TABLE 5: EP&A ACT OBJECTIVES	
Objective	Response
<i>(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and</i>	The Proposal is considered to be in the public interest as it would contribute towards meeting the demand for increased employment opportunities





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conservation of the State's natural and other resources,	and promote the economic welfare of the Parramatta LGA, as identified in <i>A Metropolis of Three Cities</i> . Additionally, the Proposal would be of social benefit as it would provide employment-generating opportunities for the immediate locality.
(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,	<p>The Proposal promotes the principles of ecologically sustainable development (ESD) by achieving reductions in potable water import by capturing rainwater on Site and reusing this for non-potable uses, achieves pollution reduction targets, and employs OSD for the control of stormwater discharge from the Site</p> <p>Measures such as erosion and sediment control, and planting of native vegetation will further contribute to ESD.</p>
(c) to promote the orderly and economic use and development of land,	<p>The Proposal revitalises a Site that is underutilised and unable to accommodate employment densities envisaged under the IN1 zone.</p> <p>The provision of the built form proposed achieves a balanced outcome with respect to achieving the floor space density required for the Site to successfully operate whilst ensuring acceptable environmental impacts in terms of:</p> <ul style="list-style-type: none"> <li>▪ visual amenity</li> <li>▪ noise</li> <li>▪ traffic generation</li> <li>▪ stormwater management</li> </ul> <p>The Proposal therefore accords with this objective.</p>
(d) to promote the delivery and maintenance of affordable housing,	The Proposal will not negatively impact the delivery and maintenance of affordable housing.
(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,	<p>The Proposal would not create the risk of serious or irreversible damage to the environment.</p> <p>Ultimately, the Proposal would not create any threats of serious or irreversible environmental damage which would require further scientific study to fully ascertain.</p> <p>The Proposal would not impact on the conservation of biological diversity or the ecological integrity of the locality.</p>



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<i>(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),</i>	The Proposal is not located nearby any item of heritage significance.
<i>(g) to promote good design and amenity of the built environment,</i>	<p>The Proposal promotes good design and amenity of the built environment by providing an outcome that achieves a balanced landscaped setting on the site that integrates with the contemporary yet highly functional building to accommodate a range of uses.</p> <p>The Proposal sets a desirable precedent through materiality, modulation, suitable setbacks, landscaping and provision of suitable onsite car parking.</p>
<i>(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,</i>	The Proposal can be constructed and maintained without health and safety risks to future tenants.
<i>(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,</i>	The Proposal is considered to be local development, for which the Consent Authority will be City of Parramatta Council.
<i>(j) to provide increased opportunity for community participation in environmental planning and assessment.</i>	The DA is subject to the relevant public notification requirements.



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**4.8 SUMMARY**

For the reasons outlined above, it is considered that the variation to Clause 4.3 of PLEP 2011 is well-founded and appropriate in the circumstances. Furthermore, the Variation Request is considered to be well-founded for the following reasons as outlined in Clause 4.6 of PLEP 2011 and relevant case law:

- Compliance with the development standard is unreasonable and unnecessary in the circumstances (refer to **Section 4.3** as part of the First Limb satisfied);
- There are sufficient environmental planning grounds to justify contravening the development standard (refer to **Section 4** as part of the First Limb satisfied);
- The Proposal is 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* (refer to **Section 4.5** as part of the Second Limb satisfied);
- The Proposal is consistent with the objectives of the particular standard and the objectives of the standard are achieved notwithstanding the non-compliance with the standard (refer to **Section 4.1** as part of the Second Limb satisfied);
- The Proposal is consistent with the objectives for development within the zone and long term strategic intentions to provide employment generating land use (refer to **Section 4.2** as part of the Second Limb satisfied);
- The Proposal does not give rise to any matter of significance for the State or regional environmental planning and is consistent with the visions and objectives of the relevant strategic plans (refer to **Section 4.6** as part of the Third Limb satisfied);
- The public benefit in maintaining strict compliance with the development standard would be negligible (refer to **Section 4.7** as part of the Third Limb satisfied); and
- The Proposal is consistent with the objectives of the *Environmental Planning and Assessment Act 1979* (refer to **Section 8**).

Overall, it is considered that the variation to the height of buildings development standard is appropriate and is justified having regard to the matters listed within Clause 4.6 of PLEP 2011.



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**PART E CONCLUSION**

For the reasons outlined above, it is requested that Council support the Variation Request, which seeks approval for non-compliance with Clause 4.3 of PLEP 2011 for the following reasons:

- Compliance with the development standard is unreasonable and unnecessary in the circumstances of the case;
- There are sufficient environmental planning grounds to justify contravening the development standards;
- The Proposal will capitalise on the Site's full planning potential;
- The Proposal satisfies the objectives of the IN1 General Industrial zone and Clause 4.3 of PLEP 2011; and
- There is no public benefit in maintaining strict compliance with the standards.

Council should be satisfied that the Variation Request has addressed and meets the requirements of Clause 4.6 of PLEP 2012 and should be favourably considered by Council.



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# Attachment B

## Applicant

## Clause 4.6

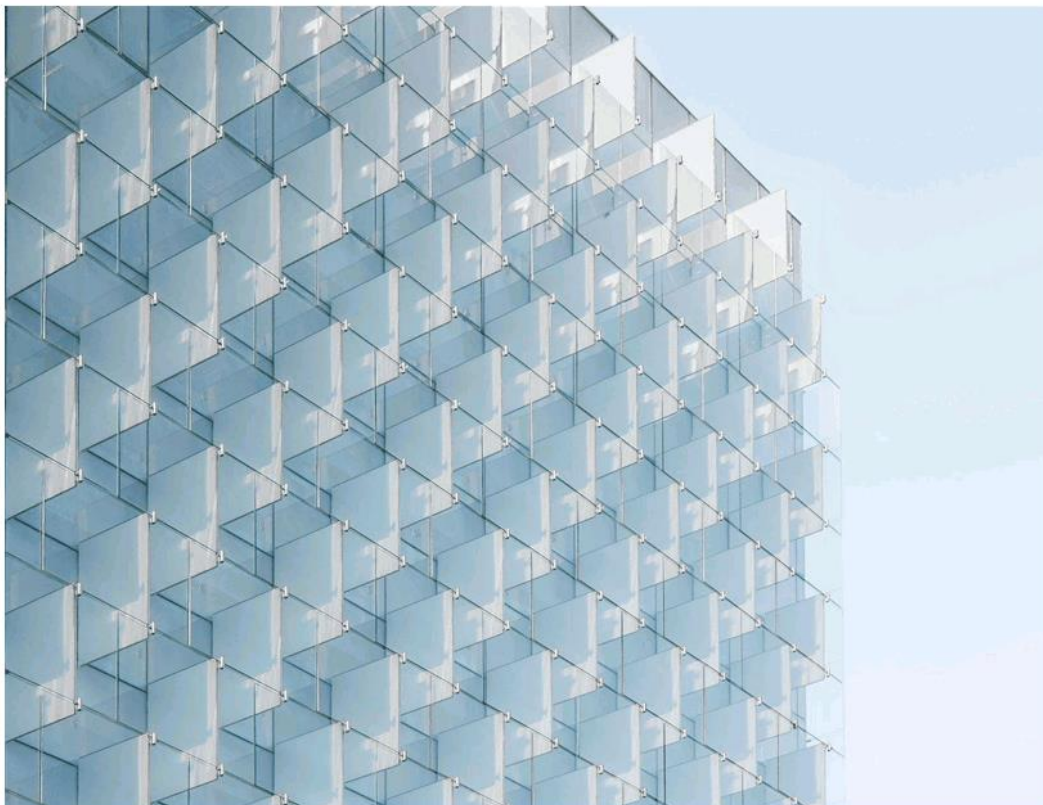
## Variation - FSR

# WILLOWTREE PLANNING



9 August 2023

Ref: WTJ22-523  
Contact: Asher Richardson



## CLAUSE 4.6 VARIATION REQUEST FLOOR SPACE RATIO (FSR)

**CONSTRUCTION AND USE OF MULTI-UNIT INDUSTRIAL WAREHOUSE  
AND ANCILLARY OFFICES, STORAGE PREMISES, CARPARKING &  
SIGNAGE**

**150-152 BRIENS ROAD, NORTHMEAD**  
(Lot 111 DP 1160038)

Prepared by Willowtree Planning Pty Ltd  
on behalf of Hannas Group

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**Clause 4.6 Variation Request**

and storage premises, carparking & signage  
150-152 Briens Road, Northmead (Lot 111 DP 1160038)



*In the spirit of reconciliation and recognition, Willowtree Planning acknowledges the Traditional Owners of this Country throughout Australia and their continuing and ongoing connections to land, waters and community. We show our respect to Elders – past and present. We acknowledge that we stand on this Country which was and always will be recognised as Aboriginal Land. We acknowledge the Traditional Owners of the Lands in this Local Government Area, belonging to the local Aboriginal People, where this proposal is located upon.*

DOCUMENT CONTROL TABLE			
Document Reference:	WTJ22-523 Northmead		
Contact	Asher Richardson		
Version and Date	Prepared by	Checked by	Approved by
Version No. 1 – 20/12/22	Asher Richardson Senior Town Planner	Andrew Cowan Director	Andrew Cowan Director
Version No. 2 – 26/04/23	Asher Richardson Senior Town Planner	Andrew Cowan Director	Andrew Cowan Director
Version No. 3 – 03/08/23	Asher Richardson Associate	Andrew Cowan Director	Andrew Cowan Director
			

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**PART A PRELIMINARY****1.1 INTRODUCTION**

This Clause 4.6 variation request (Variation Request) has been prepared in support of a Development Application (DA) for a multi-unit industrial warehouse and ancillary offices, storage premises, carparking and signage at 150-152 Briens Road, Northmead (the Site).

The Site is zoned Zone IN1 General Industrial pursuant to *Parramatta Local Environmental Plan 2011* (PLEP 2011) and is located within the City of Parramatta Local Government Area (LGA). The Proposal is permissible with consent within the IN1 zone and is considered contextually appropriate. The Proposal is generally consistent with the objectives and provisions of PLEP 2011, with the exception of Clause 4.4 – Floor Space Ratio (FSR), for which this Variation Request is sought, pursuant to Clause 4.6 – Exceptions to development standards of PLEP 2011.

The Proposal involves the construction and use of a multi-unit warehouse and ancillary offices, and storage premises. The Proposal comprises of the following key components:

- Construction and use of a new two storey plus basement industrial warehouse building comprising
  - Basement parking and storage premises
  - Seventeen (17) ground floor industrial warehouse units with mezzanine office spaces and associated parking; and
  - Seventeen (17) first floor industrial warehouse units with mezzanine office spaces and associated car parking
- Associated infrastructure services
- Associated vehicular access from Briens Road and car parking for 67 vehicles; and
- Provision for tree removal, landscaping, perimeter fencing, and signage throughout.

This Variation Request has been prepared in accordance with the objectives contained within Clause 4.6 and the relevant development standard prescribed under PLEP 2011. It considers various planning controls, strategic planning objectives and existing characteristics of the Site, and concludes that the Proposal, despite the non-compliance, is the best means of achieving the objectives of encouraging orderly development of the Site under the *Environmental Planning and Assessment Act 1979* (EP&A Act).



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**1.2 RATIONALE FOR VARIATION FROM DEVELOPMENT STANDARDS**

This Variation Request has been submitted to assess the proposed variation from Clause 4.4 of PLEP 2011 and has been prepared in accordance with the requirements of Clause 4.6 of PLEP 2011 which includes the following objectives:

- (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.

Under the provisions of Clause 4.4 of PLEP 2011, the land is subject to a maximum FSR development standard of 1:1. The Proposal entails the following key components identified in **TABLE 1** below.

<b>TABLE 1: DEVELOPMENT COMPONENTS</b>	
<b>Project element</b>	<b>Proposed</b>
Site Area	6,490sqm
Proposed Warehouse GFA (including offices and Lobby)	6,181sqm
Proposed storage GFA (not technically basement)	476sqm
Total proposed GFA	6,657sqm

The Proposal principally involves the construction of a new warehouse development on the Site. The Proposal has a gross floor area (GFA) of 6,657sqm on the 6,490sqm Site, resulting in an FSR of 1.02:1. The Proposal therefore exceeds the development standard by 167sqm or 2.5%

The Proposal seeks to take advantage of the unique characteristics of the Site to provide basement self-storage as part of the development. The minor variation to FSR development standard of 167sqm (2.5%) can be entirely attributed to the small portion of storage in the basement level that is not technically consistent with the definition of a basement, given the steep topography of the Site. Excluding the 476sqm of storage in the basement level that technically constitutes GFA, the Proposal would be compliant with the FSR development standard. The overall variation to the FSR standard is 167sqm which is entirely located below ground floor level and does not result in bulk that is visible from the public domain.

The particular circumstances of the Site and the Proposal warrant an appropriate degree of flexibility in the application of the development standard to achieve the best outcome for the Site.



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**1.3 DEVELOPMENT STANDARD VARIATION**

Under the provisions of Clause 4.4 of PLEP 2011, the Site is subject to a maximum FSR control of 1:1. The proposed FSR for the Site is outlined in **TABLE 2** below.

<b>TABLE 2: CLAUSE 4.4 OF PLEP 2011 VARIATION SUMMARY</b>	
<b>PLEP 2011 Clause</b>	<b>PLEP 2011 Development Standard</b>
Clause 4.4 – Floor Space Ratio	Maximum FSR 1:1
Site area	6,490sqm
Proposed gross floor area (GFA)	6,657sqm
Proposed FSR	1.02:1
Proposed FSR variation	167sqm or 2.5%

**PART B THRESHOLDS THAT MUST BE MET****2.1 INTERPRETING CLAUSE 4.6**

Clause 4.6 of PLEP 2011 facilitates exceptions to strict compliance with development standards in certain circumstances. Clause 4.6(3) states (our emphasis added):

*Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered **a written request** from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

- (a) that **compliance with the development standard is unreasonable or unnecessary** in the circumstances of the case, and*
- (b) that there are **sufficient environmental planning grounds to justify contravening** the development standard.*

In addition, Clause 4.6(4) states that (our emphasis added):

*Development consent must not be granted for development that contravenes a development standard unless:*

- (a) **the consent authority is satisfied** that:*
  - (i) **the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and***
  - (ii) **the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and***
- (b) **the concurrence of the Secretary** has been obtained.*

Further to the above, Clause 4.6(5) states the following (our emphasis added):



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*In deciding whether to grant concurrence, the Planning Secretary must consider—*

- (a) whether contravention of the development standard raises **any matter of significance for State or regional environmental planning**, and*
- (b) the **public benefit of maintaining the development standard**, and*
- (c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.*

Accordingly, a successful Clause 4.6 variation must satisfy three limbs explained below:

First Limb – cl 4.6(4)(a)(i)

Clause 4.6(4)(a)(i) provides that the consent authority must be satisfied that the applicant's written request seeking to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by Clause 4.6(3).

These are as follows:

- a. that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (Cl 4.6(3)(a)); and
- b. that there are sufficient environmental planning grounds to justify contravening the development standard (Cl 4.6(3)(b)). To this end the environmental planning grounds advanced in the written request must justify the contravention, not simply promote the benefits of carrying out the development as a whole: *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248 at [15].

In the decision of *Rebel MH v North Sydney Council* [2019] NSWCA 130 (**Rebel**) Payne JA held (our emphasis added):

*"Although it was unnecessary finally to decide the correct construction of cl 4.6(4) in Al Maha, I agree with the construction advanced in that case by Basten JA, with whom Leeming JA agreed, at [21]-[24]. **Properly construed, a consent authority has to be satisfied that an applicant's written request has in fact demonstrated the matters required to be demonstrated by cl 4.6(3).** Clause 4.6(3) requires the consent authority to have "considered" the written request and identifies the necessary evaluative elements to be satisfied. To comply with subcl (3), the request must demonstrate that compliance with the development standard is "unreasonable or unnecessary" and that "there are sufficient environmental planning grounds to justify" the contravention. It would give no work to subcl 4.6(4) simply to require the consent authority to be satisfied that an argument addressing the matters required to be addressed under subcl (3) has been advanced."*

Accordingly, the consent authority must be satisfied that this Variation Request demonstrates that both compliance is unreasonable or unnecessary in the circumstances of the case and sufficient environmental planning grounds exist to justify the breach of the FSR control by the Proposal.

The matters identified in the First Limb are addressed in **Sections 4.3, Section 4.4** and **Section 4.5** of this Variation Request.

Second Limb – clause 4.6(4)(a)(ii)



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Clause 4.6(4)(a)(ii) provides that the consent authority must be satisfied that the Proposal will be in the public interest because it is consistent with:

- a) the objectives of the particular development standard; and
- b) the objectives for development within the zone in which the development is proposed to be carried out.

The matters identified in the Second Limb addressed in **Sections 4.1** and **Section 4.2** of this Variation Request.

Third Limb – clause 4.6(4)(b)

Clause 4.6(4)(b) requires that concurrence of the Secretary of the NSW Department of Planning, Industry and Environment has been obtained.

Clause 4.6(5) outlines the matters to be considered by the Planning Secretary in deciding whether to grant concurrence.

The matters identified in the Third Limb are addressed in **Section 4.6** and **Section 4.7** of this Variation Request.



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**PART C STANDARDS BEING OBJECTED TO****3.1 OVERVIEW**

The Site is zoned IN1 General Industrial and is subject to the underling objectives of the development standard.

**3.2 CLAUSE 4.4 – FSR UNDER PLEP 2011**

Clause 4.4 of PELP 2011 identifies the following objectives:

- (1) *The objectives of this clause are as follows—*
- (a) *to regulate density of development and generation of vehicular and pedestrian traffic,*
  - (b) *to provide a transition in built form and land use intensity within the area covered by this Plan,*
  - (c) *to require the bulk and scale of future buildings to have regard to heritage sites and their settings,*
  - (d) *to reinforce and respect the existing character and scale of low density residential areas.*

Pursuant to Clause 4.6, the proposal seeks exception to the maximum permissible FSR control of 1:1.

For clarity FSR is defined under Clause 4.5 of the PLEP 2011 as:

- (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 to the site area.*
- (3) **Site area** *In determining the site area of proposed development for the purpose of applying a floor space ratio, the **site area** 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.*



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**PART D PROPOSED VARIATION TO STANDARDS IN CLAUSE 4.4 of PLEP 2011**

Clause 4.6(4)(a)(ii) requires that a request to vary a development standard must establish that the Proposal will be in the public interest because it is consistent with the objectives of the development standard and the zone. *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 at 27

Importantly, the word consistent has been interpreted as 'compatible' or 'capable of existing in harmony'. *Kingsland Developments Australia Pty Ltd City of Parramatta Council* [2018] NSWLEC 1241 at 20.

**4.1 OBJECTIVES OF THE STANDARD**

A key determinant of the appropriateness of a Clause 4.6 Variation to a development standard is the proposal's compliance with the underlying objectives and purpose of that development standard.

Clause 4.4 of PLEP 2011 sets out specific objectives. Those objectives under PLEP 2011 are responded to in **TABLE 3** below.

TABLE 3: CONSISTENCY WITH THE CLAUSE 4.4 OBJECTIVES	
Objective	Response
(a) to regulate density of development and generation of vehicular and pedestrian traffic	<p>The application of clause 4.4 is not limited to the IN1 zone. Clause 4.4 applies to all land that is shown coloured on the Floor Space Ratio Map. The land coloured on the floor space ratio map is subject to many different zonings. In these circumstances it is clear that objective (a) is explanatory of the central purpose of the floor space ratio development standard (<i>Baron Corporation Pty Limited v Council of the City of Sydney</i> [2019] NSWLEC 61 at [49]). In the IN1 zone in the locality of the Site, an FSR of 1:1 has been set as the maximum FSR that a development may have to enable appropriate density of development, and regulate generation of vehicular and pedestrian traffic</p> <p>The density of the Proposal is appropriate for the capacity of the locality in terms of infrastructure and services. The exceedance in floor space (in this case, due to the basement storage premises) does not give rise to any impacts on the locality.</p> <p>The additional floor space above the 1:1 prescribed under Clause 4.4 does not cause any traffic or parking issues on the surrounding road network as it creates negligible additional traffic or truck movements. The traffic analysis for the Proposal indicates that the Proposal can operate at a satisfactory level of service in both the AM and PM peak periods.</p> <p>The Proposal makes adequate provision for onsite car parking to support the floor space proposed. The additional FSR beyond the 1:1</p>



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**TABLE 3: CONSISTENCY WITH THE CLAUSE 4.4 OBJECTIVES**

Objective	Response
	<p>generates the provision of 1 additional car parking space that is allocated to the storage premises. This spaces is accommodated on Site, thus negating reliance on any on-street car parking to support the land uses. There are no issues with the sewage or stormwater drainage, nor the provision of facilities and services.</p> <p>In light of the above, the Proposal achieves objective (a) of the FSR development standard.</p>
<i>(b) to provide a transition in built form and land use intensity within the area covered by this Plan,</i>	<p>The density of the Proposal reflects the locality and provides an appropriate transition in land use intensity and scale within the area.</p> <p>The Proposal is compatible with the surrounding area and adjoining similar industrial developments. The Proposal has been configured with respect to the surrounding industrial and warehouse properties and the existing and desired character of the area through a sophisticated and modern warehouse development.</p> <p>The proposed building bulk and scale would not cause any undesirable visual impact, view obstruction, privacy intrusion or loss of solar access owing to the provision of adequate setbacks, building separation and deep-soil landscaping</p> <p>It is considered that the Proposal will result in an improvement to the existing Site and contribute positively to the Northmead industrial precinct. The Proposal will create visual interest and positive aesthetics which will contribute to the streetscape. Further to this, the Proposal delivers a high-quality urban design outcome through the façade articulation. Whilst it is acknowledged that the Proposal would result in maximum height above that permitted on the Site, this is typical of the urban industrial setting and seeks to provide a development that responds to the topography and context in which the Site is located.</p> <p>It is noted that a number of larger warehouse developments are located to the east of the Site along Briens Road, and large mixed-use developments to the south along Mons Road.</p> <ul style="list-style-type: none"> <li>At 104-128 Briens Road to the east of the Site, the Coca-Cola Site contains a number of large warehouse and silo buildings. The silo building approved under Determination No. DA/454/2020 has a height of 21.4 metres and was approved with a Clause 4.6 variation request. Another single storey</li> </ul>

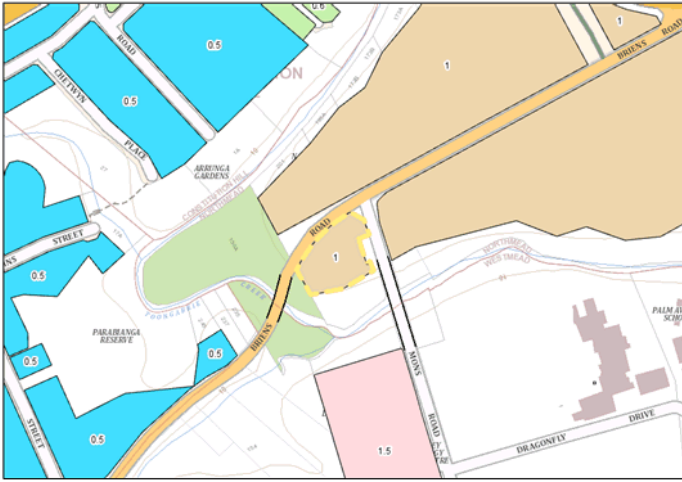




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**TABLE 3: CONSISTENCY WITH THE CLAUSE 4.4 OBJECTIVES**

Objective	Response
	<p>warehouse on the site has a height of 31 metres (to RL 46.8 as shown on survey).</p> <ul style="list-style-type: none"> <li>To the south of the Site fronting Mons Road, a number of large mixed-use developments range in height from 15 metres (4 storeys) to 21 metres (7 storeys at 32-34 Mons Road).</li> </ul> <p>Given the 9.5 metre height limit for the low density residential zoned land to the west and north-west of the Site, the proposed 14.59m high Proposal presents an appropriate transition in built form within the area.</p> <p>As illustrated in <b>Figure 1</b> below, the Proposal is located between higher density mixed use development to the south with an FSR of 1.5:1, sites with a similar density to the north and west of 1:1, and lower density development to west and further to the north ranging from 0.8:1 and 0.5:1. The Proposal, with an FSR of 1.02:1, provides an appropriate transition in land use intensity from the developments to the surrounding developments.</p>  <p><b>Figure 1. Floor Space Ratio Map</b> (NSW Legislation, 2022)</p>
(c) to require the bulk and scale of future buildings to have regard to heritage sites and their settings,	The Proposal is not located in close proximity to any heritage item or area of heritage conservation and therefore this objective is not relevant to the Proposal.



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**TABLE 3: CONSISTENCY WITH THE CLAUSE 4.4 OBJECTIVES**

Objective	Response
<i>(d) to reinforce and respect the existing character and scale of low density residential areas</i>	The Site is not located within a low density residential area nor will it be visible from any low density residential zoned land. Therefore, this objective is not relevant to the Proposal.

**4.2 OBJECTIVES OF THE ZONE**

The Site is zoned IN1 General Industrial pursuant to PLEP 2011. Therefore, consideration has been given to the zone objectives in **TABLE 4** below:

**TABLE 4: CONSISTENCY WITH THE IN1 GENERAL INDUSTRIAL ZONE OBJECTIVES**

Objective	Response
<i>To provide a wide range of industrial, warehouse land uses.</i>	The Proposal involves the construction of flexible industrial tenancies that are capable of providing a range of light industrial, warehouse, storage and related land uses. The use of the Site is permitted with consent under the zoning.
<i>To encourage employment opportunities</i>	<p>The Proposal will provide significant employment opportunities to the immediate community and wider locality within the Parramatta LGA during the construction and operational phases of the development, as well as contribute to viable economic return to the local and regional economies. The redevelopment of what is currently an underutilised site and construction of new industrial development will provide greater flexibility in the tenancy offerings at the Site and encourage a variety of land uses to support the locality, whilst providing an improved aesthetic on the Site.</p> <p>The exceedance is also consistent with this objective. The variation effectively provides for additional GFA to support a variety of tenancy sizes and configurations on the Site and, in doing so, encourages employment opportunities.</p>
<i>To minimise any adverse effect of industry on other land uses.</i>	<p>The Proposal and the exceedance does not result in any additional or unacceptable impact on other land uses.</p> <p>The Proposal is not readily visible from any residential-zoned land or other sensitive receiver and therefore does not result in any unreasonable bulk and scale impacts.</p> <p>In addition, the nature of operations associated with future tenancies would have no direct adverse impact on any surrounding land uses given:</p> <ul style="list-style-type: none"> <li>▪ Sufficient parking is provided on Site.</li> </ul>



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TABLE 4: CONSISTENCY WITH THE INI GENERAL INDUSTRIAL ZONE OBJECTIVES	
Objective	Response
	<ul style="list-style-type: none"> <li>▪ The road network would continue to operate a satisfactory level of service in the AM and PM peak periods.</li> <li>▪ Noise and air impacts would comply with EPA requirements.</li> <li>▪ The bulk and scale of the development would not overshadow or adversely affect amenity of surrounding industrial properties.</li> <li>▪ The development provides onsite stormwater management outcomes which would not adversely affect other surrounding land uses.</li> <li>▪ The extent of landscaping proposed provides a visual buffer to ameliorate the appearance of the building when viewed from other properties.</li> <li>▪ All development will be wholly contained within the Site and will not interfere with the operation of surrounding land uses.</li> </ul>
<i>To facilitate a range of non-industrial land uses that serve the needs of workers and visitors.</i>	It is understood that "other land uses" relates to other permissible uses in the zone that are not industrial in nature, such as take away food and drink premises. The Proposal is not inconsistent with this objective.

In light of the above, the Proposal, including the exceedance, is consistent with three of the zone objectives and neutral with respect to one.

#### 4.3 ESTABLISHING IF THE DEVELOPMENT STANDARD IS UNREASONABLE OR UNNECESSARY

Subclause 4.6(3)(a) and the judgement in *Four2Five Pty Ltd v Ashfield Council* (refer to **Section 2.1**) emphasise the need for the proponent to demonstrate how the relevant development standard is unreasonable or unnecessary in the circumstances.

In view of the unique circumstances of the Site and absence of any discernible impact to the public domain, strict compliance with Clause 4.4 of PLEP 2011 is considered to be both unnecessary and unreasonable.

The case of *Wehbe v Pittwater Council* [2007] NSWLEC 827 sets out five ways in which numerical compliance with a development standard might be considered unreasonable or unnecessary as follows:

- Establish that compliance with the development standard is **unreasonable or unnecessary** because **the objectives of the standard are achieved notwithstanding the non-compliance with the standard**
- The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary
- The underlying objective or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable



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- The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; and/or
- The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

Above is a detailed assessment against the objectives of the development standard and adopted the first test in *Wehbe* to establish that compliance is unreasonable or unnecessary because the objectives of the FSR standard are satisfied notwithstanding the variation.

- The Proposal is consistent with the existing and desired future character of the Site and locality and the surrounding area in that it provides for a scale of development that when viewed from the streetscape and surrounding properties is not dominant in terms of bulk, scale, extent of hardstand or interface with the streetscape. It is argued that the Proposal provides a development outcome that, in replacing the existing underutilised vacant Site, improves the character of the area.
- The Proposal results in a variation of 167sqm or 2.5% which is negligible in respect of the entire scheme.
- It is noted that the portion of the Proposal that provides additional GFA to exceed the FSR development standard, being the basement level, is not visible from any public place and does not add any additional bulk to the Proposal.
- A reduction in the scale of the development to reduce the Proposal to a compliant FSR would involve removing the basement level hence reducing the GFA. This change would not be readily visible from the public domain and would not result in an improved streetscape presentation. Therefore, complying with the standard would have no material benefit on the streetscape presentation.
- While compliance may be achieved by reducing the GFA of the Proposal, this is considered to undermine the functionality of the building; and the operational requirements the end-users will be unable to be facilitated. The Proposal seeks to provide a variety of tenancy spaces and configurations to suit the need of a spectrum of future industrial tenants. Furthermore, all required car parking for the industrial warehouse units can be accommodated on the ground and first floor levels, therefore the basement is not required for car parking.
- It is noted that the Proposal and the exceedance does not result in any additional or unacceptable impact on other land uses, and the Proposal is not readily visible from any residential-zoned land or other sensitive receiver. The Proposal does not result in any unreasonable impacts on adjoining development in respect of overshadowing, visual bulk, privacy or other amenity impacts due to the island nature of the Site.

In view of the circumstances of the Proposal, strict compliance with clause 4.4 of PLEP 2011 is considered to be both unnecessary and unreasonable. The Proposal does not conflict with the intent of Clause 4.4 of PLEP 2011 as demonstrated above and satisfies its objectives, notwithstanding the proposed numerical variation.



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The proposed FSR variation will retain compatibility with surrounding development and continue to support a wide range of industrial and warehouse land uses in the locality, consistent with the objectives of the IN1 General Industrial zone.

The abovementioned justifications are considered valid, and in this instance the Clause 4.6 Variation is considered to be acceptable. The Proposal represents a more efficient use of the Site. The objectives of the relevant clause and IN1 General Industrial zone would be upheld as a result of the Proposal.

#### **4.4 SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS TO JUSTIFY CONTRAVENING THE DEVELOPMENT STANDARD**

The Variation Request is considered well founded because, notwithstanding the proposed non-compliance with the maximum permitted FSR:

- The proposed FSR variation is consistent with the underlying objective or purpose of the standard as demonstrated in **Section 4.1**.
- The proposed FSR variation is consistent with the objectives of the IN1 General Industrial zone as described in **Section 4.2**.
- Compliance with the standard would be unreasonable and unnecessary for the reasons outlined in **Section 4.3**.
- The additional floor space above the 1:1 prescribed under Clause 4.4 does not cause any network or capacity issues on the surrounding road network. Traffic analysis for the Proposal indicates that the effect of additional density caused by the additional warehouse floor area does not cause any discernible impact on the locality by way of traffic.
- Further to the above, the Proposal makes adequate provision for onsite car parking to support the floor space proposed, thus negating reliance on external car parking to support the land uses. The Proposal in this respect contains all operations within the Site boundaries and allows sufficient area so as to not adversely affect any land external to the Site. In this regard, the effect of additional density caused by the additional warehouse floor area does not cause any discernible impact on the locality by way of parking pressure. The additional car parking spaces triggered by the additional floor space is negligible and is accommodated on Site.
- The Proposal provides compliant setbacks to boundaries and landscaping zones that provide separation and screening of the built form. The proposed landscaped building setback of 4.5 metres across the entire Briens Road frontage of the Site and ameliorates the visual impacts associated with the new built form.
- The Proposal ultimately seeks to facilitate construction and operation of a new industrial development. The proposed FSR is considered a key attribute in creating an internal building environment that would ensure the delivery of industrial warehouse facilities required to support the operations of the future tenants involved and thereby enabling the productive use of the Site.



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- The proposed volumetric outcome is representative of market needs and demands for modernised industrial warehouse and industrial facilities to ensure that products can be stored internal to the building and minimises external exposure.
- The additional FSR would facilitate the proposal for warehousing, light industry and related purposes which specifically suit the needs of the future tenants and maximise the operational efficiencies of the premise.
- The Proposal provides suitable stormwater management outcomes in accordance with PLEP 2011 and PDCP 2011 ensuring that provision is made for all necessary stormwater infrastructure.
- The Proposal has been architecturally designed to provide a materiality and form that sets a desirable precedent for future development and ensures that the visual impact of the building integrates with the surrounding environment.
- There would be no impacts on any sensitive receptors due to the proposal in relation to solar access, privacy or visual bulk
- It is demonstrated that subject to the implementation of the design recommendations, the proposed building footprint would have no adverse or non-compliant acoustic outcomes on any nearby residential, industrial or commercial receivers during daytime, evening or night-time periods.
- The Proposal would remain compatible with Industrial land uses in light of the above.
- Compliance with the remaining development standards applicable to the site is achieved. There would be no measurable environmental or amenity benefits in maintaining the standard nor would this support the provision of warehouse and other light industrial uses which caters to the operational needs of the end users and the market needs of the industry.

For the reasons outlined above, it is considered that the variation to the FSR control under Clause 4.4 is appropriate and can be clearly justified having regard to the matters listed within clause 4.6(3)(b) under PLEP 2011.

**4.5 PUBLIC INTEREST**

Clause 4.6(4)(a)(ii) requires the proposal to 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.

**Section 4.3** and **Section 4.4** above demonstrate how the Proposal 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 *Lane Cove Council v Orca Partners Management Pty Ltd (No 2)* [2015] NSWLEC 52, Sheahan J referred to the question of public interest with respect to planning matters as a consideration of whether the public advantages of the proposed development outweigh the public disadvantages of the proposed



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development.

The Proposal provides the following public benefits:

- Maintains the prevailing character of the area;
- Supports industrial uses within the IN1 General Industrial zone; and
- Facilitates modern and efficient industrial warehouse tenancy spaces.

There are no identifiable public disadvantages which will result from the Proposal in terms of amenity impacts on adjoining uses and streetscape or environmental impacts on the locality.

The Proposal is therefore considered to be in the public interest.

**4.6 MATTERS OF STATE AND REGIONAL SIGNIFICANCE**

The non-compliance with Clause 4.4 of PLEP 2011 does not give rise to any matters of significance for the State or regional environmental planning. The non-compliance does also not conflict with any State Environmental Planning Policies or Ministerial Directives under section 9.1 of the EP&A Act.

Planning Circular PS 20-002, dated 5 May 2020, prescribes that all consent authorities may assume concurrence of the Secretary of the Department of Planning and Environment where it is required under Clause 4.6 of a Local Environmental Plan, unless the development contravenes a numerical development standard by more than 10%. The Proposal does not contravene the FSR development standard by more than 10% and therefore the concurrence of the Secretary is assumed.

**4.7 PUBLIC BENEFIT IN MAINTAINING THE STANDARD**

Strict compliance with Clause 4.4 of PLEP 2011 will result in:

- Reduce employment opportunities as strict compliance with the 1:1 FSR limit will undermine the functionality of the development and hinder the efficient use of the floor space of the building which is an employment-generating development in the City of Parramatta LGA
- Not meet the operational requirements of modern industrial development. This is evident in the FSR controls prescribed by the environmental planning instruments in other LGAs where there is no FSR limit prescribed for industrial zoned land.

Further to the above, in the event the development standard was maintained, the resulting benefits to the adjoining properties and wider public would be nominal. It is noted that strict compliance with clause 4.4 would inhibit the development from operating at its full capacity, by not facilitating the operational requirements of the end users, which would ultimately impact on the future industrial and warehouse land uses on the Site. As such, it has been demonstrated that the additional FSR is reasonable and necessary for the proposed warehouse development, which will support industrial land uses in the City of Parramatta LGA.

Accordingly, there is no genuine or identifiable public benefit in maintaining this strict FSR control in the context of the Proposal.



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**4.8 OBJECTIVES OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979**

All planning determinations made under the EP&A Act are required to be made with regard to the objects of the Act in accordance with section 1.3 of the EP&A Act. **TABLE 5** below assesses the Proposal against the objects of the EP&A Act.

<b>TABLE 5: EP&amp;A ACT OBJECTIVES</b>	
Objective	Response
<i>(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,</i>	The Proposal is considered to be in the public interest as it would contribute towards meeting the demand for increased employment opportunities and promote the economic welfare of the Parramatta LGA, as identified in <i>A Metropolis of Three Cities</i> , and the <i>Western District Plan</i> . Additionally, the Proposal would be of social benefit as it would provide employment-generating opportunities for the immediate locality.
<i>(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,</i>	The Proposal promotes the principles of ecologically sustainable development (ESD) by achieving reductions in potable water import by capturing rainwater on Site and reusing this for non-potable uses, achieves pollution reduction targets, and employs OSD for the control of stormwater discharge from the Site.  Measures such as erosion and sediment control, and planting of native vegetation will further contribute to ESD.
<i>(c) to promote the orderly and economic use and development of land,</i>	The Proposal revitalises a Site that is underutilised and unable to accommodate employment densities envisaged under the IN1 zone.  The provision of the built form proposed achieves a balanced outcome with respect to achieving the floor space density required for the Site to successfully operate whilst ensuring acceptable environmental impacts in terms of: <ul style="list-style-type: none"> <li>▪ visual amenity</li> <li>▪ noise</li> <li>▪ traffic generation</li> <li>▪ stormwater management</li> </ul> The Proposal therefore accords with this objective.
<i>(d) to promote the delivery and maintenance of affordable housing,</i>	The Proposal will not negatively impact the delivery and maintenance of affordable housing.





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<i>(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,</i>	<p>The Proposal would not create the risk of serious or irreversible damage to the environment.</p> <p>Ultimately, the Proposal would not create any threats of serious or irreversible environmental damage which would require further scientific study to fully ascertain.</p> <p>The Proposal would not impact on the conservation of biological diversity or the ecological integrity of the locality.</p>
<i>(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),</i>	The Proposal is not located nearby any item of heritage significance.
<i>(g) to promote good design and amenity of the built environment,</i>	<p>The Proposal promotes good design and amenity of the built environment by providing an outcome that achieves a balanced landscaped setting on the site that integrates with the contemporary yet highly functional building to accommodate a range of uses.</p> <p>The Proposal sets a desirable precedent through materiality, modulation, suitable setbacks, landscaping and provision of suitable onsite car parking.</p>
<i>(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,</i>	The Proposal can be constructed and maintained without health and safety risks to future tenants.
<i>(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,</i>	The Proposal is considered to be local development, for which the Consent Authority will be City of Parramatta Council.
<i>(j) to provide increased opportunity for community participation in environmental planning and assessment.</i>	The DA is subject to the relevant public notification requirements.



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**4.9 SUMMARY**

For the reasons outlined above, it is considered that the variation to Clause 4.4 of PLEP 2011 is well-founded and appropriate in the circumstances. Furthermore, the Variation Request is considered to be well-founded for the following reasons as outlined in Clause 4.6 of PLEP 2011 and relevant case law:

- Compliance with the development standard is unreasonable and unnecessary in the circumstances (refer to **Section 4.3** as part of the First Limb satisfied);
- There are sufficient environmental planning grounds to justify contravening the development standard (refer to **Section 4** as part of the First Limb satisfied);
- The Proposal is 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* (refer to **Section 4.5** as part of the Second Limb satisfied);
- The Proposal is consistent with the objectives of the particular standard and the objectives of the standard are achieved notwithstanding the non-compliance with the standard (refer to **Section 4.1** as part of the Second Limb satisfied);
- The Proposal is consistent with the objectives for development within the zone and long term strategic intentions to provide employment generating land use (refer to **Section 4.2** as part of the Second Limb satisfied);
- The Proposal does not give rise to any matter of significance for the State or regional environmental planning and is consistent with the visions and objectives of the relevant strategic plans (refer to **Section 4.6** as part of the Third Limb satisfied);
- The public benefit in maintaining strict compliance with the development standard would be negligible (refer to **Section 4.7** as part of the Third Limb satisfied); and
- The Proposal is consistent with the objectives of the *Environmental Planning and Assessment Act 1979* (refer to **Section 8**).

Overall, it is considered that the variation to the FSR development standard is appropriate and is justified having regard to the matters listed within Clause 4.6 of PLEP 2011.



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**PART E CONCLUSION**

For the reasons outlined above, it is requested that Council support the Variation Request, which seeks approval for non-compliance with Clause 4.4 of PLEP 2011 for the following reasons:

- Compliance with the development standard is unreasonable and unnecessary in the circumstances of the case;
- There are sufficient environmental planning grounds to justify contravening the development standards;
- The Proposal will capitalise on the Site's full planning potential;
- The Proposal satisfies the objectives of the IN1 General Industrial zone and Clause 4.4 of PLEP 2011; and
- There is no public benefit in maintaining strict compliance with the standards.

Council should be satisfied that the Variation Request has addressed and meets the requirements of Clause 4.6 of PLEP 2011 and should be favourably considered by Council.



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**DRAFT CONDITIONS OF CONSENT**

**Development Consent No.:** DA/19/2023  
**Property Address:** Lot 111 DP 1160038  
 150-152 Briens Road, NORTHMEAD NSW 2152

**SCHEDULE 1 – Deferred Commencement**

Pursuant to the provisions of Section 80(3) of the Environmental Planning and Assessment Act, 1979, the development application be granted a Deferred Commencement Consent subject to the completion of the following:

1. Submission to Council of suitable documentary evidence issued by the Department of Lands confirming the creation of an easement to drain water 2.0 metres wide over a downstream property or properties benefiting the subject lot known as Lot 111 DP1160038 and burdening the downstream property known as Lot 1 DP1081289 has been registered with the NSW Land Registry Services.

**Advisory Note:** Easements through Council properties (or Crown land managed by Council) can take up to 12 months to finalise.

2. Submission to Council of amended stormwater plans demonstrating that the headwall outlet has been designed in accordance with NSW Office of Water 'Guidelines for Outlet Structures' and Councils 'Stormwater Outlet Natural Waterway Standard Detail' by addressing the following:
  - a) The headwall and outfall are to be integrated into the channel bank (rather than sitting above the channel) to limit the surface flow component of the stormwater discharge within the channel. Some reconstruction and stabilisation of the channel upstream and downstream of the connection point may be required.
  - b) The pipe and headwall are to be directed downstream consistent with the path of flow at a shallow angle to minimise potential hydraulic losses and erosion potential.
  - c) The headwall is to incorporate stacked sandstone boulders, flow velocity reduction and filtration controls (i.e. rip-rap bedded boulders and native sedges / rushes) to ensure a natural and stable transition from a constructed drainage system to a natural flow regime and to minimise potential erosion and scouring impacts from high flows.
  - d) Overlay of proposed easement location consistent with draft easement plan,
  - e) Existing and proposed channel and outlet invert levels,
  - f) Longitudinal section of pipe within easement including invert and surface levels,
  - g) Details of existing channel construction and extent of works required to stabilise outlet and channel within vicinity of outlet and downstream as necessary,
  - h) Details of proposed channel connection taking into account the pipe outlet to be integrated into channel bank,

Note: The design must be site specific and is not to include a generic drawing.

This condition must be satisfied prior to the easement registration to ensure that the alignment and extent of the proposed drainage easement is consistent with the stormwater drainage design.

**Reason:** To ensure protection of riparian vegetation and waterways.

3. Submission to Council of amended stormwater drainage plans which include the provision of on-site stormwater detention (OSD) to non-flood affected areas of the site sized to a



Site Storage Requirement of 470 m<sup>3</sup>/ha and a Permissible Site Discharge of 80 L/s/ha (when using 3rd edition of the UPRCT OSD Handbook) OR The Site Reference Discharge (Lower Storage), SRDL of 40L/s/ha, Site Storage Requirement (Lower Storage) SSRL of 300m<sup>3</sup>/ha, Site Reference Discharge (Upper Storage), SRDU of 150 l/s/ha, Site Storage Requirement (Total) SSRT of 455m<sup>3</sup>/ha (when using the Extended/Flood detention method - 4th edition of the UPRCT OSD Handbook).

Otherwise, submission to Council of a report prepared by a suitably qualified and experienced chartered professional engineer in accordance with Appendix A of the UPRCT OSD Handbook, using a calibrated hydrologic model comparable to the existing UPRCT catchment model, assuming development and/or redevelopment of a significant portion of the principal catchment containing the subject site, considering a range of storm durations and frequencies for all flood events, in particular the 1.5 year ARI and the 100 year ARI (1% AEP) storm event; and show that the flood peak discharges at all downstream locations are not increased with the non-imposition of OSD as part of this development.

**Reason:** To minimise the quantity of storm water run-off from the site, surcharge from the existing drainage system and to manage downstream flooding.

4. Amended Flood Management Plan and architectural plans must show compliance with the following prior release of operative consent:
  - i. The basement must be protected from the ingress of floodwater by passive measures at least up to the flood planning level. These measures are likely to include provision of a driveway crest at or above the flood planning level with associated wing / or bund walls to this level to prevent floodwaters flowing into the basement.
  - ii. The basement must be protected from the ingress of floodwater via the driveway up to the Probable Maximum Flood level. These measures are likely to include provision of a self-triggering and self-powered flood gate at or near the driveway crest that reaches the level of the PMF, together with corresponding wing wall bunds etc. to the same PMF level.
  - iii. The basement must be protected from the ingress of floodwater via stairwells and other openings up to the Probable Maximum Flood level. These measures are likely to include a combination of a self-closing flood doors, flood gates and bund walls.
  - iv. Provision of flood-free escape stairs from the basement up to a place of refuge within the building above the PMF level with adequate facilities for users during and after a flood.
  - v. Provision of adequate car parking for the disabled and an escape path that can be followed to safety.
  - vi. Submission of a comprehensive Flood Emergency Response Plan incorporating all of the above.

Designs must include adequate ventilation of the basement carpark during the PMF event. For example, the inlet/outlet vents of ventilation shafts are to be located well above the PMF level. To increase opportunities for evacuation of disabled and frail people, accessible car parking spaces are to be located as high as possible in the basement carpark.

Details demonstrating compliance must be submitted to, and approved by, the Council's Manager DTSU prior to the release of any operative consent.

**Reason:** To ensure the building is adequately protected from the risk of flood.

5. *Public Domain Alignment Drawings* showing existing and proposed levels for roads, kerb and gutter, street tree planting and the footway. The drawings should clearly show positive drainage away from the building and interfaces of the public domain and new building entries via a series of engineering cross and long sections, along with a preliminary public domain plan showing proposed general layout of elements, services and finishes. All drawings to be prepared in accordance with the requirements outlined in Chapter 2 of the Public Domain Guidelines (ref: <https://www.cityofparramatta.nsw.gov.au/business-development/public-domain-guidelines>). Plans are to be submitted to Council for review and approval by Council's Urban Design Team.
6. *Landscape drawings* for internal site areas showing all proposed boundary treatments, street tree planting and compliant open space areas. Plans are to be submitted to Council for review and approval by Council's Urban Design Team.

The above requirement(s) must be satisfied within 24 months of this determination or the consent will lapse.

Upon compliance with the above requirements, a full Consent will be issued subject to the following conditions:

## **SCHEDULE 2**

### **PART A - GENERAL CONDITIONS**

1. Development must be carried out in accordance with the following approved plans and supporting documentation (stamped by Council), except where the conditions of this consent expressly require otherwise:

Architectural Drawings: 12679 by NettleonTribe

Drawing/Plan No.	Issue	Plan Title	Dated
DA101	D	Site Plan	3 August 2023
DA102	B	Demolition Plan	12 April 2023
DA111	G	Basement Floor Plan	4 August 2023
DA112	K	Ground Floor Plan	4 August 2023
DA113	D	Ground Floor Mezzanine Plan	28 July 2023
DA114	D	Level 1 Floor Plan	28 July 2023
DA115	D	Level 1 Mezzanine Plan	28 July 2023
DA116	C	Roof Plan	21 July 2023
DA201	D	Building Elevations Sheet 1	28 July 2023
DA202	D	Building Elevations Sheet 2	28 July 2023
DA301	C	Building Sections	21 July 2023
DA911	C	Signage Plan	21 July 2023
DA921	A	Signage Details	13 December 2022
22Q77_DA_BE01	01	Bulk Earthworks Plan by Henry and Hymas	8 August 2023

Drawing/Plan No.	Issue	Plan Title	Dated
22Q77_DA_BE02	01	Bulk Earthworks Sections by Henry and Hymas	8 August 2023

Landscape Drawings: SS22 – 5068 by Site Image

Drawing/Plan No.	Issue	Plan Title	Dated
101	E	Landscape Plan	24 April 2023
102	C	Landscape Plan Level 1	5 April 2023
201	B	Landscape Public Domain Plan	24 April 2023
501	C	Landscape Details	12 April 2023
502	B	Landscape Plant Schedule	5 April 2023
701	D	Tree Canopy Plans	24 April 2023

Specialist Reports

Document	Ref No.	Issue	Prepared By	Dated
Operational Waste Management Plan	4535	D	Elephants Foot Consulting	14 December 2022
Construction and Demolition Waste Management Plan	N/A	C	Elephants Foot Consulting	5 December 2022
BCA Report	116859	R01	Jensen Hughes	13 December 2022
Access Assessment Report	116859	R01	Jensen Hughes	13 December 2022
Acoustic Report	20221249.2/0812A/R1/BJ1		Acoustic Logic	8 December 2022
Construction Noise and Vibration Management	20221249.1/2410A/R0/BJ0		Acoustic Logic	24 October 2022
Geotechnical Report	E24701.G03_Rev2	2	EI Australia	9 December 2022
Additional Site Investigation	E24701.E03_Rev1	1	EI Australia	25 November 2022
Section J Report	116859-NCC19 Section J / JV3-r1/ro	N/A	BCA Energy	19 December 2023
Groundwater Monitoring Report	E24701.G11.01	N/A	EI Australia	28 September 2023

TfNSW Response	19.251r04v03	N/A	Traffix	18 August 2023
Traffic Impact Assessment	19.251r03v11	N/A	Traffix	April 2023
Flood Impact Assessment	N/A	A	J.Wyndham Prince	31 July 2023
Ecological Assessment Report	21HANG03	N/A	Travers Bushfire Ecology and	24 April 2023
Watercourse Assessment Report	21HANG03W	N/A	Travers Bushfire Ecology and	24 April 2023
Arborist Report	230413_150-152 Briens_AIA_R6	6	Urban Arbor	13 April 2023
Sydney Water Attachment 1	N/A	N/A	Sydney Water	13 February 2023

In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of consent, the condition prevails.

Note: An inconsistency occurs between an approved plan and supporting documentation or between an approved plan and a condition when it is not possible to comply with both at the relevant time.

**Reason:** To ensure all parties are aware of the approved plans and supporting documentation that applies to the development

2. Prior to commencement of any construction works associated with the approved development (including excavation if applicable), it is mandatory to obtain a Construction Certificate. Plans, specifications and relevant documentation accompanying the Construction Certificate must include any requirements imposed by conditions of this Development Consent.

**Reason:** To ensure compliance with legislative requirements.

3. The development must be constructed within the confines of the property boundary. No portion of the proposed structure, including footings/slabs, gates and doors during opening and closing operations must encroach upon Council's footpath area or the boundaries of the adjacent properties.

**Reason:** To ensure no injury is caused to persons and the building is erected in accordance with the approval granted within the boundaries of the site.

4. Before the issue of a Construction Certificate, the applicant is to ensure that the person liable pays the Long Service Levy of 0.25% of the value of building and construction work where the cost of building is \$250,000 or more (inclusive of GST) or as calculated at the date of this consent to the Long Service Corporation or Council under section 34 of the *Building and Construction Industry Long Service Payments Act 1986* and provides proof of this payment to the Certifier.

Note: The Long Service Levy is to be paid directly to the Long Service Corporation at [www.longservice.nsw.gov.au](http://www.longservice.nsw.gov.au). For more information, please contact the Levy support team on 13 14 41.

**Reason:** To ensure that the Long Service Levy is paid.

5. Following issuing of any operative consent for the site physical commencement must occur in accordance with the requirements of Section 95(4) of the Environmental Planning



and Assessment Act within 5 years of the date of the issue of the deferred commencement consent. In this regard should physical commencement not occur by <insert date 5 years from issue of deferred consent> the consent will lapse.

6. Before the commencement of any works on the site or the issue of a construction certificate, the applicant must make all of the following payments to Council and provide written evidence of these payments to the certifier:

Bond Type	Amount
Nature Strip and Roadway: x 2	\$51,500

The payments will be used for the cost of:

- making good any damage caused to any council property (including street trees) as a consequence of carrying out the works to which the consent relates,
- completing any public work such as roadwork, kerbing and guttering, footway construction, stormwater drainage and environmental controls, required in connection with this consent, and
- any inspection carried out by Council in connection with the completion of public work or the making good any damage to council property.

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

Note: The bond may be paid, by EFTPOS, bank cheque, or be an unconditional bank guarantee.

Should a bank guarantee be lodged it must:

- Have no expiry date;
- Be forwarded directly from the issuing bank with a cover letter that refers to Development Consent DA 19/2023
- Specifically reference the items and amounts being guaranteed. If a single bank guarantee is submitted for multiple items it must be itemised.

Should it become necessary for Council to uplift the bank guarantee, notice in writing will be forwarded to the applicant fourteen days prior to such action being taken. No bank guarantee will be accepted that has been issued directly by the applicant.

A dilapidation report is required to be prepared and submitted electronically to the City of Parramatta Council (council@cityofparramatta.nsw.gov.au) prior to any work or demolition commencing and with the payment of the bond/s.

The dilapidation report is required to document/record any existing damage to kerbs, footpaths, roads, nature strips, street trees and furniture within street frontage/s bounding the site up to and including the centre of the road.

7. No materials, vehicles, refuse skips and the like are to be placed or stored in the adjoining or adjacent public reserve.

**Reason:** To ensure public safety and protect the amenity of public land.

8. No trees on public property (footpaths, roads, reserves etc.) are to be removed or damaged during construction including for the erection of any fences, hoardings or other temporary works, unless approved in this consent.

**Reason:** To ensure adequate protection of existing environmental assets and to maintain public amenity.

9. No works or vehicular access are permitted within the adjoining Council reserve during works without the prior written consent of Council.

**Reason:** To ensure public safety and protect the amenity of public land.

10. All stormwater headwall outlets into **the watercourse** are to be constructed in accordance with Department of Planning and Environment 'Guidelines for Outlet Structures' and Councils 'Stormwater Outlet Natural Waterway Standard Detail'. They are to be directed downstream and incorporate stacked sandstone boulders, flow velocity reduction and filtration controls (i.e. bedded boulders and native sedges / rushes) to minimise potential erosion and scouring impacts from high flows and ensure a natural and stable transition from a constructed drainage system to a natural flow regime.

**Reason:** To ensure protection of riparian vegetation and waterways.

11. Separate waste processing and storage facilities are to be provided for residential and commercial tenants in mixed use developments. These facilities should be designed and located so that they cannot be accessed by the public, and are accessible by a private waste contractor for collection. A caretaker is to be appointed by the managing body to be responsible for the management of all waste facilities.

**Reason:** To ensure waste is adequately separated and managed in mixed use developments.

12. All waste storage rooms/areas are to be fully screened from public view and are to be located clear of all landscaped areas, driveways, turning areas, truck standing areas and car parking spaces. No materials, waste matter or products are to be stored outside the building or any approved waste storage area at any time.

**Reason:** To maintain the amenity of the area.

13. The following is to be undertaken per the recommendations of Transport for NSW:

1. The car/truck exit driveway shall be restricted to left-out only by installing signs and line markings.
2. The post-development stormwater discharge from the subject site into the TfNSW drainage system must not exceed the pre-development discharge. Should the post-development stormwater discharge exceed pre-development discharge, please submit detailed design plans and hydraulic calculations including the following, detailing any changes to the TfNSW stormwater drainage system to TfNSW via [development.sydney@transport.nsw.gov.au](mailto:development.sydney@transport.nsw.gov.au) for approval, prior to the commencement of any works:
  - Details of the pre and post-discharge; and
  - Details of the anticipated storm water discharge - in l/s- for the 1 in 5, 10, 20, and 100 storm events (to be shown in table form on the drawing). Please note a plan checking fee will be payable and a performance bond may be required before TfNSW approval is issued.
3. The developer is to submit design drawings and documents relating to the excavation of the site and support structures to TfNSW for assessment, in accordance with Technical Direction GTD2012/001. The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by TfNSW. Please send all documentation to [development.sydney@development.nsw.gov.au](mailto:development.sydney@development.nsw.gov.au)

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

4. The site front Mons Road on the north-eastern boundary of the site and Mons Road is a classified transitway. Access is denied across this boundary.
5. Any public domain works within the vicinity of the signalised intersection on Mons Road and Briens Road may require modification to the existing Traffic Control Signal plan. The Traffic Control Signal (TCS) plans shall be drawn by a suitably qualified person and endorsed by a suitably qualified practitioner. The submitted design shall be in accordance with Austroads Guide to Road Design in association with relevant TfNSW supplements (available on [www.transport.nsw.gov.au](http://www.transport.nsw.gov.au)). The certified copies of the TCS design and civil design plans shall be submitted to TfNSW for consideration and approval prior to the release of a Construction Certificate and commencement of road works. Please send all documentation to [development.sydney@transport.nsw.gov.au](mailto:development.sydney@transport.nsw.gov.au). TfNSW fees for administration, plan checking, civil works inspections and project management shall be paid by the developer prior to the commencement of works. The developer may be required to enter into a Works Authorisation Deed (WAD) for the abovementioned public domain works.
6. The swept path of the longest vehicle entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement, noting kerbside parking on Briens Road may restrict vehicular sightlines to incoming eastbound traffic in the northern lane.
7. A construction zone will not be permitted on Mons Road.
8. The developer shall be responsible for all public utility adjustment/relocation works and as necessitated by the above work and as required by the various public utility authorities and/or their agents. 9. A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on Mons Road during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>

**Reason:** To satisfy TfNSW requirements

#### **PART B – BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE**

(Note: Some conditions contained in other sections of this consent (including prior to occupation/use commencing) may need to be considered when preparing detailed drawings/specifications for the Construction Certificate.)

14. An Infrastructure and Restoration Administration Fee must be paid to Council prior to the issue of a Construction Certificate.  
The fee will be in accordance with Councils adopted 'Fees and Charges' at the time of payment.

**Note:** Council's Customer Service Team can advise of the current fee and can be contacted on 9806 5524.

**Reason:** To comply with Council's adopted Fees and Charges Document and to ensure compliance with conditions of consent.

15. A monetary contribution comprising **\$368,110.82** is payable to City of Parramatta Council in accordance with Section 7.11 of the Environmental Planning and Assessment Act 1979 and the *City of Parramatta (Outside CBD) Development Contributions Plan 2021 Amendment 1*. Payment must be made by direct bank transfer or credit/debit card only. Payment can be made by contacting Council's Customer Contact Centre on 1300 617 058.

Contribution Type	Amount
Open space and outdoor recreation	\$ 148,213.41
Traffic and transport	\$ 209,026.99
Plan administration	\$ 10,870.42
<b>Total</b>	<b>\$368,110.82</b>

#### Timing of payment

The contribution is to be paid to Council prior to Construction Certificate. Deferred payments of contributions will not be accepted, and requests for payment by multiple instalments will not be granted.

The contribution levy is subject to indexation on a quarterly basis in accordance with movements in the Consumer Price Index (All Groups Index) for Sydney issued by the Australian Statistician. At the time of payment, the contribution levy may have been the subject of indexation.

The *City of Parramatta (Outside CBD) Development Contributions Plan 2021 Amendment 1* can be viewed on Council's website at: <https://www.cityofparramatta.nsw.gov.au/business-development/planning/development-contributions>

**Reason:** To comply with legislative requirements and to provide for the increased demand for public amenities and services resulting from the development.

16. The PCA shall ascertain that any new element in the carpark not illustrated on the approved plans such as columns, garage doors, fire safety measures and the like do not compromise appropriate manoeuvring and that compliance is maintained with AS 2890.1, AS 2890.2 and AS 2890.6. Details are to be illustrated on plans submitted with the construction certificate application.

**Reason:** To ensure appropriate vehicular manoeuvring is provided.

17. 45 bicycle spaces/racks are to be provided on-site and used accordingly. The bicycle storage/racks are to comply with AS 2890.3-2015. Details are to be illustrated on plans submitted with the construction certificate.

**Reason:** To comply with Council's parking requirements.

18. Parking spaces are to be provided in accordance with the approved plans and with AS 2890.1, AS 2890.2 and AS 2890.6. A total of 61 parking spaces is to be provided and be allocated as follows:



- a) 55 parking spaces for warehouses;
- b) Six (6) parking spaces for storage units including one (1) space as accessible parking.

Details are to be illustrated on plans submitted with the construction certificate application.

**Reason:** To comply with Council's parking requirements and Australian Standards.

19. A splay extending 2m from the driveway edge along the front boundary and 2.5m from the boundary along the driveway in accordance with Figure 3.3 of AS2890.1 shall be provided to give clear sight lines of pedestrians from vehicles exiting the site. This shall be illustrated on plans submitted with the construction certificate and not be compromised by the landscaping, signage fences, walls or display materials.

**Reason:** To comply with Australian Standards and ensure pedestrian safety.

20. Prior to the issue of the Construction Certificate, the Project Arborist and Certifying Authority must be satisfied the installation of drainage pipes within the Tree Protection Zones (TPZ) of trees 7, 8, 43, 50 are to be installed using non-destructive construction method such as hydro-vac or careful hand-dig to retain all roots over 30mm in diameter. Pipes are to be treaded through roots. Notes and Tree Protection Zones to be added to the plans (refer to the Arboricultural Impact Assessment Report by Urban Arbor 230413\_150-152 Briens\_AIA\_R6 dated 13.04.23) for TPZ radius's.

In addition to the above, the design and construction of the swale must demonstrate only mounding of additional soil fill above natural ground level is to be used to create the overland flow path within the TPZ of trees numbered 53 - 78. No edging, excavation, compaction or regrading is to occur within the TPZ radius's as per the table. Note, all additional soil fill is to be pulled back by a minimum 200mm from the base of the tree trunk.

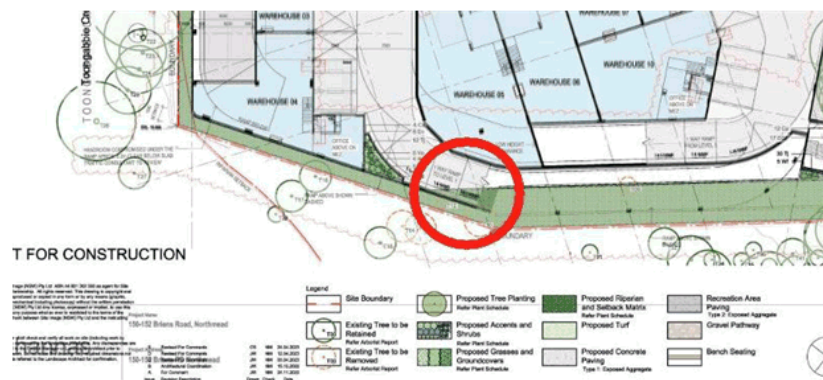
In addition, prior to the issue of the Construction Certificate, the Certifying Authority and Project Arborist must be satisfied the design of the (gravel) footpath, within the Tree Protection Zone (TPZ) of trees numbered 53 – 78 must demonstrate it is to be built above the natural grade to avoid severing roots. No compaction to the subbase is to occur. The design must demonstrate no edging, excavation, or regrading is to occur within the existing natural ground of the TPZ of these trees.

All designs for these construction works will need to be pre-approved and done in consultation with the Project Arborist before they are issued for Construction Certificate to ensure they have minimised the impact to the tree roots within the Tree Protection Zone (TPZ) to below 10% encroachment as per the AS4970-2009 *Protection of trees on development sites*. Once all adequate design amendments have been made, plans submitted with the Construction Certificate application must reflect the above requirements.

**Reason:** To ensure adequate protection of existing trees.

21. The final Landscape Plan must be consistent with plans SS22-5068 rev B dated 24.04.2023 prepared by Site Image together with any additional criteria required by the Development Consent to the satisfaction of the Certifying Authority addressing the following requirements:

- (a) The landscape planting area to the southern setback to be amended to align with the architectural plans as circled below. The planting quantities to be adjusted accordingly.



- (b) Minimum 3no. additional native trees to be added to the rear eastern corner. Suitable species include (but are not limited to) the following:
  - *Angophora floribunda* (rough-barked apple)
  - *Melaleuca styphelioides* (prickly-leaved tea tree)
  - *Casuarina cunninghamiana* (river oak)
  - *Backhousia myrtifolia* (grey myrtle)
- (c) Street tree species to be added as *Tristanopsis laurina* (Water Gum) in minimum 100L containers.
- (d) Tree species diversity along the front setback to be modified to include a variety of species, such as those listed above.
- (e) The location of all proposed overhead and underground service lines to be shown as per Henry & Hymas to ensure plans are coordinated.

**Reason:** To ensure restoration of environmental amenity.

- 22. All landscape works shall be maintained for a minimum period of one (1) year following the issue of a Final Occupation Certificate, in accordance with the approved landscape plan and conditions.

**Reason:** To ensure restoration of environmental amenity.

- 23. Prior to the issue of Construction Certificate, a Tree Protection Management Plan (TPMP), prepared by a suitably qualified Consulting Arborist (Australian Qualification Framework Level 5), must accompany the application for a Construction Certificate. This TPMP is to identify specific tree protection measures to be implemented for the trees located adjacent to the site during demolition and construction and the expected future health of the trees. The TPMP must discuss the specific non-destructive construction method to minimise the impact and encroachment and discuss the specific protection measures required throughout the demolition and construction works. It should cover all stages of the works and cover any works to be supervised by the Project Arborist including:

- A tree protection plan to identify the tree protection type and location required for each tree inclusive of canopy, trunk and tree root protection in accordance with AS 4970-2009 - *Protection of Trees on Development Sites*;
- Supervision of any excavation to be undertaken within the calculated Tree Protection Zones of the trees to be retained and protected
- Discuss any services to be installed within the TPZ of trees must be carried out using non-destructive construction techniques (i.e. bridging of roots);
- Construction of any structure which requires a footing;
- Landscaping (i.e. minimise cultivation, excavation planting techniques within the TPZ & SRZ);

**Reason:** To ensure adequate protection of existing trees.

24. Plans and documents submitted must include the following with an application for a Construction Certificate:
- (a) Construction details are to be provided by a suitably qualified structural engineer showing substrate depth, drainage, waterproofing for all planting on structures, including planting over on-site detention tanks, raised planters and rooftop gardens. All raised planting boxes must be retained to a minimum height of 600mm.
  - (b) Soil volume, soil depth and soil area must meet the prescribed standards in "Apartment Design Guide – tools for improving the design of residential apartment development" (NSW Department of Planning and Environment, 2015).
  - (c) A specification ('Fit-for-purpose' performance description) for soil type and a maintenance schedule specified by a suitably qualified Soil Scientist, to ensure sufficient nutrient and water availability is achieved.

**Reason:** To ensure the creation of functional gardens.

25. Prior to the issue of a Construction Certificate, a Construction Environmental Management Plan (CEMP) for stormwater works within the Council bushland reserve must be prepared by a suitably qualified person and submitted to the Principal Certifying Authority for approval. The CEMP must include (but not be limited to) the following:
- a. Safe methods of access to and from the Council's reserve during stormwater easement works;
  - b. Method of loading and unloading excavation machinery and construction materials;
  - c. Storage location and details of construction materials, excavated soil and other waste materials;
  - d. Methods to prevent materials being tracked into the surrounding bushland;
  - e. Erosion and sediment control measures;
  - f. Tree protection measures consistent with conditions of this development consent and AS 4970 - 2009; and
  - g. A statement confirming that the environmental management measures set out in the CEMP would remain in place and be maintained for the duration of easement works and until disturbed areas have been stabilised/revegetated with indigenous species, such as *Lomandra longifolia*, *Juncus usitatus*, *Ficinia nodosa* and *Carex appressa*.

**Reason:** To ensure protection of public land.

26. All roof water and surface water is to be connected to an operable drainage system. Details are to be shown on the plans and documentation accompanying the application for a Construction Certificate.

**Reason:** To ensure satisfactory stormwater disposal.

27. If no retaining walls are marked on the approved plans no approval is granted as part of this approval for the construction of any retaining wall that is greater than 600mm in height or within 900mm of any property boundary.

The provision of retaining walls along common boundary lines shall not impact on neighbouring properties. If impact upon neighbouring properties (including fences) is anticipated, then written approval from the affected neighbour shall be obtained and submitted to the certifying authority prior commencement of the works.

Structural details, certified by a practicing structural engineer, shall accompany the application for a Construction Certificate for assessment and approval by the certifying authority.

**Reason:** To minimise impact on adjoining properties.

28. A building plan approval must be obtained from Sydney Water Tap in™ to ensure that the approved development will not impact Sydney Water infrastructure.

A copy of the building plan approval receipt from Sydney Water Tap in™ must be submitted to the Principal Certifying Authority upon request prior to works commencing.

Please refer to the website <http://www.sydneywater.com.au/tapin/index.htm>, Sydney Water Tap in™, or telephone 13 20 92.

**Reason:** To ensure the requirements of Sydney Water have been complied with.

29. Prior to any excavation on or near the subject site the person/s having benefit of this consent are required to contact the NSW Dial Before You Dig Service (NDBYD) on 1100 to receive written confirmation from NDBYD that the proposed excavation will not conflict with any underground utility services. The person/s having the benefit of this consent are required to forward the written confirmation from NDBYD to their Principal Certifying Authority (PCA) prior to any excavation occurring.

**Reason:** To ensure Council's assets are not damaged.

30. The building must be designed and certified by a registered structural engineer to ensure the building does not fail due to floodwater forces, debris and buoyancy effects from flooding in events up to the 1 in 100 year level plus 500mm freeboard.

**Reason:** To ensure the structure can withstand flooding impacts.

31. The building must include a flood warning alarm system activated by a float valve. Details must be provided to the satisfaction of the Certifying Authority prior to issue of the Construction Certificate.

**Reason:** To ensure the flood warning system is installed.

32. Full engineering construction details of the stormwater system, including OSD structures, pipe networks and calculations as per following points, shall be submitted for the approval of the PCA prior to release of the Construction Certificate for any work on the site.

- (a) The stormwater drainage detail design shall be prepared by a Registered Stormwater Design Engineer and shall be generally in accordance with Council's Stormwater Disposal Policy, Council's Design and Development Guidelines, The Upper Parramatta River Catchment Trust On Site Detention Hand book (Third or Fourth Edition), the relevant Australian Standards and the National Construction Code.
- (b) A Site Storage Requirement of 470 m<sup>3</sup>/ha and a Permissible Site Discharge of 80 L/s/ha (when using 3rd edition of UPRCT's handbook) OR The Site Reference Discharge (Lower Storage), SRDL of 40L/s/ha, Site Storage Requirement (Lower Storage) SSRL of 300m<sup>3</sup>/ha, Site Reference Discharge (Upper Storage), SRDU of 150 l/s/ha, Site Storage Requirement (Total) SSRT of 455m<sup>3</sup>/ha (when using the Extended/Flood detention method - 4th edition of UPRCT's handbook unless Council has been satisfied with report prepared by a suitably qualified and experienced chartered professional engineer has been submitted to Council using a calibrated hydrologic model acceptable to the Trust, assume development and/or redevelopment of a significant portion of the principal catchment containing the



subject site, consider a range of storm durations and frequencies for all flood events, in particular the 1.5 year ARI and the 100 year ARI (1% AEP) storm event; and show that the flood peak discharges at all downstream locations are not increased and written confirmation from Council is supplied with the plans to this effect.

- (c) The piped drainage system shall be designed with capacity for the 1% AEP design storm event.
- (d) Adequate grate(s) to be provided so the OSD tank storage area can be inspected from outside for silt and debris, and to ensure adequate cross ventilation within the tank.
- (e) The OSD tank shall include a provision for any surcharge of the OSD tank to be directed to a surface flow path through the site and towards the point of discharge.
- (f) Where possible, overflows of the piped drainage system shall be directed to the OSD storage with surface flowpaths.
- (g) Certificate from registered structural engineer certifying the structural adequacy of the OSD tank structure.

**Reason:** To minimise the quantity of storm water run-off from the site, surcharge from the existing drainage system and to manage downstream flooding.

33. The Stormwater treatment should be installed to achieve the requirements of the section 3.3.6.1 of Parramatta City Council Development Control Plan 2011 and generally approved as per the DA-approved stormwater drainage plan and the manufacturer's specifications and instructions to manage the quality of stormwater discharged from the site. Details of the proposed devices, their location and manufacturer's certification must accompany the application for a Construction Certificate to the satisfaction of the Certifying Authority. In this regard:

- a. Stormwater filter and other WSUD elements must be installed to manage surface runoff water quality as per the approved plans.
- b. The number and type of proposed water quality devices and Stormfilter cartridges are not to be reduced, nor replaced with an alternate manufacturer's product without the written approval from Council.
- c. Stormwater Treatment Measures for the proposed development shall be designed in accordance with the requirements of the devices manufacturer design guidelines. Details are to be included with the plans and specifications accompanying any Construction Certificate.
- d. A Maintenance Schedule must be provided for the stormwater treatment measures, including the rainwater tank, in accordance with the requirements of the manufacturer. The designer of the stormwater treatment measures must prepare the Maintenance Schedule and this schedule must show the designer's name, signature and date on it.
- e. The Water Management Strategy must demonstrate that all peak stormwater flows leaving the site for any given storm event are less than or equal to all pre-development stormwater flows for such storms up to the 1% AEP event. The Water Management Strategy must demonstrate overall discharge reduction by 10% from pre-development levels

Details of the proposed devices and Maintenance Schedule must accompany the application for a Construction Certificate to the satisfaction of the Certifying Authority.

**Reason:** To ensure appropriate water quality treatment measures are in place.

34. Where work is likely to disturb or impact upon utility installations, (e.g. power pole, telecommunications infrastructure etc.) written confirmation from the affected utility provider that they raise no objections to the proposed works must accompany an application for a Construction Certificate to the satisfaction of the Certifying Authority.

**Reason:** To ensure no unauthorised work to public utility installations and to minimise costs to Council.

35. Council property adjoining the construction site must be fully supported at all times during all demolition, excavation and construction works. Details of any required shoring, propping and anchoring devices adjoining Council property, are to be prepared by a qualified structural or geotechnical engineer. These details must accompany an application for a Construction Certificate and be to the satisfaction of the Principal Certifying Authority (PCA). A copy of these details must be forwarded to Council prior to any work being commenced.

Backfilling of excavations adjoining Council property or any void remaining at the completion of the construction between the building and Council property must be fully compacted prior to the completion of works.

**Reason:** To protect Council's infrastructure.

36. The grades of the driveway, including transitions, must comply with Australian Standard 2890.1 to prevent the underside of the vehicles scraping. Where the geometric change in grade exceeds 18%, the gradients of the driveway and ramps shall be checked using the method at Appendix C in AS2890.1:2004 and adjustments will be made to accommodate suitable transition lengths. Details are to be provided with the application for a Construction Certificate.

**Reason:** To provide suitable vehicle access without disruption to pedestrian and vehicular traffic.

37. A heavy duty vehicular crossing shall be constructed in accordance with Council's Standard Drawing numbers DS9 and DS10. Details must accompany an application for a Construction Certificate to the satisfaction of the Certifying Authority.

A Vehicle Crossing application must be submitted to Council together with the appropriate fee as outlined in Council's adopted Fees and Charges prior to any work commencing.

**Reason:** To ensure appropriate vehicular access is provided.

38. All basements shall be constructed with 'tanked' (waterproof) construction methods to ensure groundwater does not penetrate the basements and basement walls and floor slabs do not fail as a result of hydrostatic loading. Pumped or drained basements are not supported. Council will not accept discharge of groundwater post-construction into Council's stormwater system or the Parramatta River. Council may accept discharge of treated groundwater into Council's drainage system during construction only if this is subject to a Construction Environmental Management Plan satisfactory to Council. Details are to be submitted for the approval of the Group Manager DTSU prior to release of any Construction Certificate.

The landowner shall manage groundwater inflows and outflows during construction and thereafter in perpetuity, including monitoring, to ensure all of Council and NSW Government requirements are satisfied and that there are no adverse effects on the environment and public health, including water table levels, surface and groundwater flow regimes, contamination and pollution, flooding and water quality and structural stability.

Note Council does not permit long term discharge of groundwater to Council's stormwater system.

**Reason:** Groundwater risk management .

39. Prior to the commencement of any work, including bulk earthworks and construction works the applicant/developer is to approach the NSW State Heritage Office to satisfy any archaeological requirements for the site. This may include a preliminary archaeological assessment or a request for an exemption permit.

A copy of the written correspondence from the Heritage Office confirming that their requirements have been satisfied shall be provided to Council and the Principal Certifying Authority prior to the issue of the construction certificate.

To ensure that the requirements of the Heritage Office are met and any European archaeological items are

40. Prior to the issue of a Construction Certificate, a Construction Environmental Management Plan (CEMP) for stormwater works within the Council bushland reserve must be prepared by a suitably qualified person and submitted to Council for approval by the Parks and Open Space or Natural Areas delegate. The CEMP must include (but not be limited to) the following:

- a) Safe methods of access to and from the Council's reserve during stormwater easement works;
- b) Method of loading and unloading excavation machinery and construction materials;
- c) Storage location and details of construction materials, excavated soil and other waste materials;
- d) Methods to prevent materials being tracked into the surrounding bushland;
- e) Erosion and sediment control measures;
- f) Tree protection measures consistent with conditions of this development consent; and
- g) A statement confirming that the environmental management measures set out in the CEMP would remain in place and be maintained for the duration of easement works and until disturbed areas have been stabilised/revegetated with indigenous species in consultation with Council's Parks and Open Space or Natural Areas delegate.

**Reason:** \_To ensure protection of Council's reserve during construction.

41. Prior to the issue of a construction certificate a further report including accompanying plans shall be submitted to the satisfaction of the Principal Certifying Authority that provides details of the private contractor that will be engaged to collect domestic waste from the site. If Council is not the principal certifying authority a copy of this report and accompanying plans is required to be provided to Council. This report shall identify the frequency of collection and provide details of how waste products including paper, aluminium cans, bottles etc, will be re-cycled. Waste collection from the site shall occur in accordance with the details contained within this report.

**Reason:** To provide for the appropriate collection/ recycling of waste from the proposal whilst minimising the impact of the development upon adjoining residents.

42. Separate waste bins are to be provided on site for recyclable waste.

**Reason:** To provide for the appropriate collection/ recycling of waste from the proposal whilst minimising the impact of the development upon adjoining residents.

43. A noise management plan must be submitted to Council for approval prior to any work commencing and complied with during any construction works. The plan must be prepared by a suitably qualified person, who possesses qualifications to render them eligible for membership of the Australian Acoustic Society, Institution of Engineers Australia or the Australian Association of Acoustic Consultants.

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

- (a) Confirmation of the level of community engagement that has, is and will be undertaken with the Building Managers/occupiers of the main adjoining noise sensitive properties likely to be most affected by site works and the operation of plant/machinery particularly during the demolition and excavation phases..
- (b) Confirmation of noise, vibration and dust monitoring methodology that is to be undertaken during the main stages of work at neighbouring noise sensitive properties during the main stages of work at neighbouring noise sensitive
- (c) What course of action will be taken following receipt of a complaint concerning site noise, dust and vibration?
- (d) Details of any noise mitigation measures that have been outlined by an acoustic engineer or otherwise that will be deployed on site to reduce noise impacts on the occupiers of neighbouring properties to a minimum.
- (e) What plant and equipment is to be used on the site, the level of sound mitigation measures to be undertaken in each case and the criteria adopted in their selection taking into account the likely noise impacts on the occupiers of neighbouring properties and other less intrusive technologies available.

**Reason:** To maintain appropriate amenity to nearby occupants

#### **PART C – BEFORE THE COMMENCEMENT OF BUILDING WORK**

44. Prior to commencement of work, the person having the benefit of the Development Consent and Construction Certificate approval must:

- (a) Appoint a Principal Certifying Authority (PCA) and notify Council in writing of the appointment (irrespective of whether Council or an accredited private certifier) within 7 days; and
- (b) Notify Council in writing a minimum of 48 hours prior to work commencing of the intended date of commencement.

The Principal Certifying Authority must determine and advise the person having the benefit of the Construction Certificate when inspections, certification and compliance certificates are required.

**Reason:** To comply with legislative requirements.

45. The site must be enclosed by a 1.8m high security fence erected wholly within the confines of the site to prevent unauthorised access. The fence must be installed to the satisfaction of the Principal Certifying Authority prior to the commencement of any work on site.

**Reason:** To ensure public safety.

46. A sign must be erected in a prominent position on any site involving excavation, erection or demolition of a building in accordance with Clause 70 of the Environmental Planning and Assessment Regulations 2021 detailing:

- (a) Unauthorised entry of the work site is prohibited;
- (b) The name of the principal contractor (or person in charge of the work site), their telephone number enabling 24hour contact; and
- (c) The name, address and telephone number of the Principal Certifying Authority;
- (d) The development consent approved construction hours;
- (e) The sign must be maintained during excavation, demolition and building work, and removed when the work has been completed.



- (f) This condition does not apply where works are being carried out inside an existing building.

**Reason:** Statutory requirement.

47. Prior to work commencing, adequate toilet facilities are to be provided on the work site.

**Reason:** To ensure adequate toilet facilities are provided.

48. Public risk insurance in the amount of not less than \$20 million or such other amount as Council may require by notice) must be obtained and furnished to Council before any works authorised by this consent are conducted:

- (a) Above;
- (b) Below; or
- (c) On

Any public land owned or controlled by Council. The public risk insurance must be maintained for the period during which these works are being undertaken.

The public risk insurance must be satisfactory to Council and list Council as an insured and/or interested party.

A copy of the insurance policy obtained must be forwarded to Council before any of the works commence.

**Note:** Applications for hoarding permits, vehicular crossing etc. will require evidence of insurance upon lodgement of the application.

**Reason:** To ensure the community is protected from the cost of any claim for damages arising from works authorised by this consent conducted above, below or on any public land owned or controlled by Council.

49. Prior to the commencement of any demolition, excavation or construction works, tree protection measures shall be installed in accordance with the Australian Qualifications Framework (AQF) Level 5 arborist recommendations as outlined in report No. Arboricultural Impact Assessment, prepared by Urban Arbor, dated 13.04.2023, reference 230413\_150-152 Briens\_AIA\_R6 and all relevant conditions of this consent.

**Reason:** To ensure the protection of the existing trees on the site.

49. Consent from Council must be obtained prior to any pruning works being undertaken on any tree on site, or any trees located in adjoining properties.

All approved pruning works must be supervised by an Australian Qualifications Framework (AQF) Level 3 certified Arborist. This includes the pruning of any roots that are 30mm in diameter or larger.

**Reason:** To ensure the protection of the tree(s) to be retained.

50. Tree protection measures are to be installed prior to works commencing on site and are to be maintained throughout the demolition and construction works, under the supervision of an Australian Qualifications Framework (AQF) Level 5 Arborist in accordance with AS4970 - "Protection of Trees on Development Sites". Confirmation to be forwarded to the Certifying Authority to state tree protection measures were retained in place in accordance with the Conditions of Consent (unless prior approval from the Project Arborist was provided).

**Reason:** To ensure trees are protected during construction.

51. The mitigation measures outlined in the ecological report prepared by Travers Bushfire and Ecology, dated 30 November 2022 must be implemented prior to and during the construction process in accordance with the report.

**Reason:** To ensure biodiversity impacts are appropriately managed and mitigated.

52. Prior to the commencement of any works on site, the applicant must submit a Construction and Traffic Management Plan to the satisfaction of the Principle Certifying Authority. The following matters must be specifically addressed in the Plan:

- (a) Construction Management Plan for the Site. A plan view of the entire site and frontage roadways indicating:
  - (i) Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways,
  - (ii) Turning areas within the site for construction and spoil removal vehicles, allowing a forward entry and egress for all construction vehicles on the site,
  - (iii) The locations of proposed Work Zones in the egress frontage roadways,
  - (iv) Location of any proposed crane standing areas,
  - (v) A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries,
  - (vi) Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected,
  - (vii) The provisions of an on-site parking area for employees, tradesperson and construction vehicles as far as possible.
  - (viii) A detailed description and route map of the proposed route for vehicles involved in spoil removal, material delivery and machine floatage and a copy of this route is to be made available to all contractors.
  - (ix) A detailed description of locations that will be used for layover for trucks waiting to access the construction site.
- (b) Written concurrence from Council's Traffic and Transport Services in relation to installation of a proposed 'Works Zone' restriction in the egress frontage roadways of the development site.

Application fees and kerbside charges for 6 months (minimum) are to be paid in advance in accordance with the Council's Fees and Charges. The 'Works Zone' restriction is to be installed by Council once the applicant notifies Council in writing of the commencement date (subject to approval through Parramatta Traffic Committee processes). Unused fees for kerbside charges are to be refunded once a written request to remove the restriction is received by Council.

- (c) Traffic Control Plan(s) for the site:
  - (i) All traffic control devices installed in the road reserve shall be in accordance with the NSW Transport Roads and Maritime Services publication 'Traffic Control Worksite Manual' and be 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) Approval shall be obtained from City of Parramatta Council for any temporary road closures or crane use from public property.
- (d) Where applicable, the plan must address the following:
  - (i) Evidence of Roads and Maritime Services concurrence where construction access is provided directly or within 20 m of an Arterial Road,
  - (ii) A schedule of site inductions shall be held on regular occasions and as determined necessary to ensure all new employees are aware of the construction management obligations.
  - (iii) Minimising construction related traffic movements during school peak periods.

The Construction and Traffic Management Plan shall be prepared by a suitably qualified and experienced traffic consultant and be certified by this person as being in accordance

with the requirements of the abovementioned documents and the requirements of this condition.

**Reason:** To ensure that appropriate measures have been considered during all phases of the construction process in a manner that maintains the environmental amenity and ensures the ongoing safety and protection of people.

53. The applicant must apply for a road-opening permit where a new pipeline is proposed to be constructed within or across Council owned land. Additional road opening permits and fees may be necessary where connections to public utilities are required (e.g. telephone, electricity, sewer, water or gas).

In addition, no drainage work can be carried out within the Council owned land without this permit being issued. A copy is required to be kept on site.

**Reason:** To protect Council's assets throughout the development process.

54. Prior to the commencement of any excavation works on site, the applicant must submit for approval by the Principal Certifying Authority (with an electronic copy forwarded to Council at [council@cityofparramatta.nsw.gov.au](mailto:council@cityofparramatta.nsw.gov.au)) a dilapidation report on the visible and structural condition of all neighbouring structures within the 'zone of influence' of the excavation face to a depth of twice that of the excavation.

The report must include a photographic survey of the adjoining properties detailing their physical condition, both internally and externally, including such items as walls, ceilings, roof, structural members and other similar items. The report must be completed by a consulting structural/geotechnical engineer in accordance with the recommendation of the geotechnical report.

In the event access to adjoining allotments for the completion of a dilapidation survey is denied, the applicant must demonstrate in writing that all reasonable steps have been taken to advise the adjoining allotment owners of the benefit of this survey and details of failure to gain consent for access to the satisfaction of the Principle Certifying Authority.

**Note:** This documentation is for record keeping purposes only, and can be made available to an applicant or affected property owner should it be requested to resolve any dispute over damage to adjoining properties arising from works. It is in the applicant's and adjoining owner's interest for it to be as detailed as possible.

**Reason:** Management of records.

55. Prior to the commencement of any excavation works on site the applicant must submit, for approval by the Principal Certifying Authority (PCA), a geotechnical/civil engineering report which addresses (but is not limited to) the following:
- (a) The type and extent of substrata formations. A minimum of 4 representative bore hole logs which are to provide a full description of all material from the ground surface to a minimum of 1.0m below the finished basement floor level. The report is to include the location and description of any anomalies encountered in the profile, and the surface and depth of the bore hole logs shall be to Australian Height Datum.
  - (b) Having regard to the findings of the bore hole testing, details of the appropriate method of excavation/shoring together with the proximity to adjacent property and structures can be ascertained. As a result potential vibration caused by the method of excavation and how it will impact on nearby footings/foundations must be established together with methods to ameliorate any impact.
  - (c) The proposed methods for temporary and permanent support required by the extent of excavation can be established.
  - (d) The impact on groundwater levels in relation to the basement structure.

- (e) The drawdown effects if any on adjacent properties (including the road reserve), resulting from the basement excavation will have on groundwater together with the appropriate construction methods to be utilised in controlling groundwater.

Where it is considered there is potential for the excavation to create a "dam" for natural groundwater flows, a groundwater drainage system must be designed to transfer groundwater through or under the proposed development. This design is to ensure there is no change in the range of the natural groundwater level fluctuations. Where an impediment to the natural flow path of groundwater results, artificial drains such as perimeter drains and through drainage may be utilised.

- (f) The recommendations resulting from the investigations are to demonstrate the works can be satisfactorily implemented. An implementation program is to be prepared along with a suitable monitoring program (where required) including control levels for vibration, shoring support, ground level and groundwater level movements during construction.

The implementation program is to nominate suitable hold points for the various stages of the works in order verify the design intent before certification can be issued and before proceeding with subsequent stages.

The geotechnical report must be prepared by a suitably qualified consulting geotechnical/hydrogeological engineer with demonstrated experience in such investigations and reporting. It is the responsibility of the engaged geotechnical specialist to undertake the appropriate investigations, reporting and specialist recommendations to ensure a reasonable level of protection to adjacent properties and structures both during and after construction. The report must contain site specific geotechnical recommendations and must specify the necessary hold/inspection points by relevant professionals as appropriate. The design principles for the geotechnical report are as follows:

- (i) No ground settlement or movement is to be induced which is sufficient enough to cause an adverse impact to adjoining property and/or infrastructure.
- (ii) No changes to the ground water level are to occur as a result of the development that is sufficient enough to cause an adverse impact to the surrounding property and infrastructure.
- (iii) No changes to the ground water level are to occur during the construction of the development that is sufficient enough to cause an adverse impact to the surrounding property and infrastructure.
- (iv) Vibration is to be minimised or eliminated to ensure no adverse impact on the surrounding property and infrastructure occurs, as a result of the construction of the development.
- (v) Appropriate support and retention systems are to be recommended and suitable designs prepared to allow the proposed development to comply with these design principles.
- (vi) An adverse impact can be assumed to be crack damage which would be classified as Category 2 or greater damage according to the classification given in Table CI of AS 2870 - 1996.

**Reason:** To ensure the ongoing safety and protection of property.

56. Details of the proposed connection to the existing open channel shall be submitted to and approved by Council's Catchment Management Unit approval prior to commencement of any work.

**Reason:** To ensure adequate stormwater infrastructure is provided.



57. Erosion and sediment control measures are to be installed in accordance with the publication 'Urban Stormwater: Soils and Construction "The Blue Book" 2004 (4th edition) prior to the commencement of any demolition, excavation or construction works upon the site. These measures are to be maintained throughout the entire works.

**Reason:** To ensure soil and water management controls are in place before site works commence.

58. Prior to commencement of works and during construction works, the development site and any road verge immediately in front of the site must be maintained in a safe and tidy manner. In this regard the following must be undertaken:

- (a) all existing buildings are to be secured and maintained to prevent unauthorised access and vandalism
- (b) all site boundaries are to be secured and maintained to prevent unauthorised access to the site;
- (c) all general refuse and/or litter (inclusive of any uncollected mail/advertising material) is to be removed from the site on a fortnightly basis;
- (d) the site is to be maintained clear of weeds; and
- (e) all grassed areas are to be mowed on a monthly basis.

**Reason:** To ensure public safety and maintenance of the amenity of the surrounding environment.

59. All works associated with the construction and/or extension of a driveway crossover/layback within Council owned land requires an application to be lodged and approved by Council.

All footpath crossings, laybacks and driveways are to be constructed according to Council's Specification for Construction or Reconstruction of Standard Footpath Crossings and in compliance with Standard Drawings DS1 (Kerbs & Laybacks); DS7 (Standard Passenger Car Clearance Profile); DS8 (Standard Vehicular Crossing); DS9 (Heavy Duty Vehicular Crossing) and DS10 (Vehicular Crossing Profiles).

The application for a driveway crossing requires the completion of the relevant application form and accompanied by plans, grades/levels and specifications. A fee in accordance with Council's adopted 'Fees and Charges' will need to be paid at the time of lodgement.

Note 1: This development consent is for works wholly within the property. Development consent does not imply approval of the footpath or driveway levels, materials or location within the road reserve, regardless of whether the information is shown on the development application plans.

Note 2: Council's Customer Service Team can advise of the current fee and can be contacted on 9806 5524

**Reason:** To provide suitable vehicular access without disruption to pedestrian and vehicular traffic.

60. A Construction Environmental Management System and Plan (CEMP) shall be submitted to, and approved by, Council's DTSU Manager prior to work.

The CEMP must be prepared in accordance with ISO14001:2015 and the Department of Infrastructure, Planning and Natural Resources (2004) 'Guidelines for the Preparation of Environmental Management Plans' and submitted to the relevant authorities at least 4 weeks prior to the commencement of construction.

This plan should cover demolition, soil and water management and site maintenance and any associated groundwater, flooding and overland stormwater flow management. It must address any possible pollution risks, and how they will be managed. It must incorporate updated erosion and sediment control plans/ stormwater plan showing how rainwater and groundwater captured within the site will be treated to satisfactory water quality standards, monitored and discharged. The plan and management system must be implemented throughout the work.

**Reason:** Environment protection.

61. A noise management plan must be submitted to Council for approval prior to any work commencing and complied with during any construction works. The plan must be prepared by a suitably qualified person, who possesses qualifications to render them eligible for membership of the Australian Acoustic Society, Institution of Engineers Australia or the Australian Association of Acoustic Consultants.

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

- (a) Identify sensitive locations near the site;
- (b) Identify potential impacts (i.e. exceedance of the goals at the identified locations);
- (c) Mitigation measures to control noise from the site, the noise reduction likely and the feasibility and reasonableness of these measures;
- (d) Selection criteria for plant and equipment;
- (e) Community consultation;
- (f) Details of work schedules for all construction phases;
- (g) Selection of traffic routes to minimise residential noise intrusion;
- (h) Schedule of plant and equipment use and maintenance programs;
- (i) Noise monitoring techniques and method of reporting results;
- (j) The methodology to be employed for handling and investigating any complaints should they arise;
- (k) Site induction details for employees and contractors; and
- (l) A declaration of available technologies and the reason for the selection of the preferred technology from a noise generating perspective should be included.

**Reason:** To maintain appropriate amenity to nearby occupants.

#### **PART D – WHILE BUILDING WORK IS BEING CARRIED OUT**

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

**Reason:** To comply with the Environmental Planning & Assessment Act 1979, as amended and the Environmental Planning & Assessment Regulation 2000.

63. A copy of this development consent together with the stamped plans, referenced documents and associated specifications is to be held on-site during the course of any works to be referred to by all contractors to ensure compliance with the approval and the associated conditions of consent.

**Reason:** To ensure compliance with this consent.

64. Dust control measures shall be implemented during all periods of earth works, demolition, excavation and construction to minimise the dust nuisance on surrounding properties. In this regard, dust minimisation practices must be carried out in accordance with Section 126 of the Protection of the Environment Operations Act 1997.

**Reason:** To protect the amenity of the area.

65. No building materials skip bins, concrete pumps, cranes, machinery, temporary traffic control, signs or vehicles associated with the construction, excavation or demolition shall be stored or placed on/in Council's footpath, nature strip, roadway, park or reserve without the prior approval being issued by Council under section 138 of the Roads Act 1993.

**Reason:** To ensure pedestrian access.

66. The principal certifier must ensure that building work, demolition or vegetation removal is only carried out between:

- 7am to 5pm on Monday to Friday
- 7am to 5pm on Saturday

The principal certifier must ensure building work, demolition or vegetation removal is not carried out on Sundays and public holidays, except where there is an emergency.

Unless otherwise approved within a construction site management plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

Note: Any variation to the hours of work requires Council's approval.

Council may permit an extension to the approved hours of work in extenuating or unforeseen circumstances subject to an application and approval by City of Parramatta Council (CoPC) in accordance with the 'After Hours Works for Approved Development Applications Policy' (Policy).

A copy of this Policy and associated application form is available on the CoPC website. A fee will apply to any application made in accordance with this Policy.

The matters of consideration of any extension sought would include, but not be limited to the following aspects and should be detailed in any application made:

- Nature of work to be conducted;
- Reason for after-hours completion;
- Residual effect of work (noise, traffic, parking);
- Demographic of area (residential, industrial);
- Compliance history of subject premises;
- Current hours of operation;
- Mitigating or extenuating circumstance; and
- Impact of works not being completed.

**Reason:** To protect the amenity of the surrounding area.

67. The applicant must record details of all complaints received during the construction period in an up to date complaints register. The register must record, but not necessarily be limited to:
- (a) The date and time of the complaint;
  - (b) The means by which the complaint was made;
  - (c) Any personal details of the complainants that were provided, or if no details were provided, a note to that effect;
  - (d) Nature of the complaints;
  - (e) Any action(s) taken by the applicant in relation to the complaint, including any follow up contact with the complainant; and
  - (f) If no action was taken by the applicant in relation to the complaint, the reason(s) why no action was taken.

The complaints register must be made available to Council and/or the Principal Certifying Authority upon request.

**Reason:** To allow the Principal Certifying Authority/Council to respond to concerns raised by the public.

68. While building work is being carried out, and where a noise and vibration management plan is approved under this consent, the applicant must ensure that any noise generated from the site is controlled in accordance with the requirements of that plan.
- OR

While building work is being carried out and where no noise and vibration management plan is approved under this consent, the applicant is to ensure that any noise caused by demolition, vegetation removal or construction does not exceed an LAeq (15 min) of 5dB(A) above background noise, when measured at any lot boundary of the property where the construction is being carried out.

**Reason:** To protect the amenity of the neighbourhood.

69. While building work is being carried out, a registered surveyor is to measure and mark the positions of the following and provide them to the principal certifier: -

(a) All footings/ foundations

(b) At other stages of construction – any marks that are required by the principal certifier

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

70. Occupation of any part of the footpath or road at or above (carrying out work, storage of building materials and the like) during construction of the development shall require a Road Occupancy Permit from Council. The applicant is to be required to submit an application for a Road Occupancy Permit through Council's Traffic and Transport Services, prior to carrying out the construction/restoration works.

**Reason:** To ensure proper management of Council assets.

71. Oversize vehicles using local roads require approval from the National Heavy Vehicle Regulator (NHVR). The applicant is required to submit an application for an Oversize Vehicle Access Permit through NHVR's portal ([www.nhvr.gov.au/about-us/nhvr-portal](http://www.nhvr.gov.au/about-us/nhvr-portal)) prior to driving through local roads within the City of Parramatta LGA.

**Reason:** To ensure maintenance of Council's assets.

72. No materials (including waste and soil), equipment or goods of any type are to be stored, kept or placed within 5m of the trunk of a tree or within the Tree Protection Zone (TPZ) of any tree. All activities involving soil level changes, excavation, cleaning, and refuelling are prohibited within the TPZ. Some activities may be authorised if required but must be approved in writing prior by the Project Arborist. Any additional mulching or irrigation required should be done at the discretion of the Project Arborist. Any agreed works must be written up as a report summary by the Project Arborist and submitted to the Certifying Authority.

**Reason:** To ensure the protection of the trees to be retained on the site.

73. All excavation within the TPZ of trees numbered 7, 8, 16, 21, 43, 50, and 52 to 78 located adjacent to the site as numbered within the Arboricultural Impact Assessment report by Urban Arbor 230413\_150-152 Briend\_AIA\_R6 dated 13.04.23, is to be supervised by an Australian Qualifications Framework (AQF) Level 5 Project arborist. If during excavation the Arborist identifies remedial work is necessary, it is to be supervised by this Arborist.

Once the work is completed a written report detailing the remedial work undertaken is to be forwarded to the Principal Certifying Authority.

**Reason:** To provide adequate protection of trees.

74. Trees to be removed are:

Tree No.	Species	Common Name	Location
6	<i>Casuarina glauca</i>	Swamp Oak	Northern side boundary

Note: trees 1, 2, 3, 4, 5, 10, 11, 12, 13, 14 (total 11) have already been approved for removal under DA/738/2019.

**Reason:** To facilitate development.

75. All trees/shrubs planted within the site must be of an adequate root volume and maturity so as not to require staking or mechanical support unless in a wind-prone area. Planting must be carried out in accordance with the approved Landscape Plan and conditions of consent.

**Reason:** To ensure the trees/shrubs planted within the site are able to reach their required potential.

76. All approved tree removal must be supervised by an Australian Qualification Framework (AQF) Level 3 Arborist and undertaken in accordance with the Code of Practice for Amenity Tree Industry 1998.

**Reason:** To ensure tree works are carried out safely.

77. All machinery is to be cleaned of soil and debris before entering the site to prevent the spread of weed and fungal pathogens such as Cinnamon Fungus (*Phytophthora cinnamomi*) and Chytrid Fungus (*Batrachochytrium dendrobatidis*).

**Reason:** To ensure protection of bushland and minimise the impacts of the development.

78. The proponent shall prepare an unexpected finds procedure for asbestos management that shall be implemented during the excavation of the trench into Council's Reserve. Should construction of an easement into a Council Reserve uncover asbestos containing material, all works in the vicinity are to cease immediately and the affected area shall be barricaded off to provide an exclusion zone. Council shall be notified and a NSW Safework licenced asbestos removalist must be engaged to handle, transport and dispose of the asbestos containing material to an EPA licensed landfill. An accredited Safe Work NSW Licenced Asbestos Assessor (Occupational hygienist) shall be engaged to supervise, validate and issue a clearance certificate for the removal of asbestos contaminated materials from the work site. All asbestos containing material removal shall be undertaken in accordance with Code of Practice How to Safely Remove Asbestos (SafeWork NSW December 2022) and Code of Practice How to Manage and Control Asbestos in the Workplace (SafeWork NSW December 2022). A clearance certificate and all waste dockets for the removal of asbestos containing material shall be forwarded to the principal certifying authority and Council before issue of the occupation certificate.

The 1800 Asbestos Hotline (1800 272 378) has been established to provide free advice and guidance on asbestos-related issues and is a central point of contact for all asbestos enquiries in NSW.

**Reason:** To ensure protection of workers and restoration of Council land.

79. Any excavation works to install the easement/stormwater infrastructure within the Tree Protection Zone (AS 4970:2009) of trees within the public reserve are to be undertaken by hand or other approved methodology under the supervision of the Project Arborist (AQF level 5). No roots greater than 30mm diameter are to be severed without prior approval from the Project Arborist. Any smaller roots that are required to be severed are to be cleanly cut using a sterilised hand saw or secateurs.

**Reason:** To ensure protection of trees and minimise the impacts of the development.

80. Works are not to result in sedimentation and or run-off from the approved works onto the adjoining properties and or public lands. The person having the benefit of this consent must ensure sediment is not tracked out from the development site.

**Reason:** To ensure no adverse impacts on neighbouring properties.

81. Any damage to Council assets that impacts on public safety during construction is to be rectified immediately to the satisfaction of Council with all costs to be borne by the person having the benefit of the Development Consent.

**Reason:** To protect public safety.

82. In the event that material is identified at the subject site as contaminated as defined in the Managing Land Contamination Planning Guidelines dated 1998 and prepared by the Department of Urban Affairs and Planning, the soil must be tested by a person with suitable expertise, to ensure the soil contaminant levels are below acceptable health criteria for residential areas. Any soil investigation must be carried out in accordance with the NSW Environment Protection Authority's Guidelines for Consultants Reporting on Contaminated Sites, the NSW Department of Environment and Conservation Guidelines



for the Assessment and Management of Groundwater Contamination 2007, and the provisions of the Contaminated Land Management Act 1997 and Regulation 2013.

**Reason:** To ensure that the provisions set out in Clause 4.6 of State Environmental Planning Policy (Resilience and Hazards) 2021 have been met and the use of the land poses no risk to the environment and human health.

83. No vehicle access is permitted from the premises into the adjoining bushland reserve.  
**Reason:** To ensure protection of the bushland reserve and manage the impacts of the development.
84. The applicant must not enter or undertake any work within any adjoining public parks or reserves without the prior written consent of Council.  
**Reason:** Protection of existing public infrastructure and land and to ensure public safety and proper management of public land.
85. While building work is being carried out, the principal certifier must be satisfied all soil removed from or imported to the site is managed in accordance with the following requirements:
- (a) All excavated material removed from the site must be classified in accordance with the EPA's Waste Classification Guidelines before it is disposed of at an approved waste management facility and the classification, and the volume of material removed must be reported to the principal certifier.
  - (b) All fill material imported to the site must be Virgin Excavated Natural Material as defined in Schedule 1 of the Protection of the Environment Operations Act 1997 or a material identified as being subject to a resource recovery exemption by the NSW EPA
- Reason:** To ensure soil removed from the site is appropriately disposed of and soil imported to the site is safe for future occupants.
86. Hazardous or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of SafeWork NSW and the EPA, and with the provisions of:
- (a) Work Health and Safety Act 2011
  - (b) NSW Protection Of the Environment Operations Act 1997 (NSW) and
  - (c) NSW Department of Environment and Climate Change Environmental Guidelines; NSW EPA Waste Classification Guidelines
- Reason:** To ensure that the land is suitable for the proposed development and any contaminating material required to be removed from the property is removed in accordance with the prescribed manner.
87. Liquid and solid wastes generated on the site shall be collected, transported and disposed of in accordance with the Protection of the Environment Operations (Waste) Regulation 2005 and in accordance with DECC the Environmental Guidelines Assessment, Classification and Management of Liquid and Non-Liquid Wastes (1999). NSW EPA Waste Classification Guidelines  
**Reason:** To prevent pollution of the environment.
88. Liquid and solid wastes generated on site shall be collected, transported and disposed of in accordance with the Protection of the Environment Operations (Waste) Regulation 2014 and in accordance with the Environment Protection Authority's Waste Tracking Guidelines as described in the Environmental Guidelines Assessment, Classification and

Management of Liquid and Non-Liquid Wastes (1999). NSW EPA Waste Classification Guidelines

**Reason:** To prevent pollution of the environment.

89. Any contamination material to be removed from the site shall be disposed of to an EPA licensed landfill.

**Reason:** To comply with the statutory requirements of the Protection of the Environment Operations Act 1997

90. Site water discharged must not exceed suspended solid concentrations of 50 parts per million, and must be analysed for pH and any contaminants of concern identified during the preliminary or detailed site investigation, prior to discharge to the stormwater system. The analytical results must comply with relevant Environmental Protection Authority and Australian & New Zealand Guidelines for Fresh & Marine Water Quality Other options for the disposal of excavation pump-out water include disposal to sewer with prior approval from Sydney Water, or off-site disposal by a liquid waste transporter for treatment/disposal to an appropriate waste treatment/processing facility.

**Reason:** To prevent pollution of waterways.

91. Any site excavation areas must be kept free of accumulated water at all times. Water that accumulates within an excavation must be removed and disposed of in a manner that does not result in: the pollution of waters, nuisance to neighbouring properties, or damage/potential damage to neighbouring land and/or property. A de-watering plan is required to be included and submitted to Council for review prior to issue of a Construction Certificate.

**Reason:** To protect against subsidence, erosion and other nuisances.

#### **PART E – BEFORE THE ISSUE OF AN OCCUPATION CERTIFICATE**

92. Occupation or use of the building or part is not permitted until an Occupation Certificate has been issued in accordance with Section 6.9 of the Environmental Planning and Assessment Act 1979.

**Reason:** To comply with legislative requirements of the Environmental Planning and Assessment Act 1979.

93. In accordance with Clause 162B of the Environmental Planning and Assessment Regulation 2000, the Principal Certifying Authority responsible for the critical stage inspections must make a record of each inspection as soon as practicable after it has been carried out. The record must include:

- (a) The development application and Construction Certificate number as registered;
- (b) The address of the property at which the inspection was carried out;
- (c) The type of inspection;
- (d) The date on which it was carried out;
- (e) The name and accreditation number of the certifying authority by whom the inspection was carried out; and
- (f) Whether or not the inspection was satisfactory in the opinion of the certifying authority who carried it out.

**Reason:** To comply with statutory requirements.

94. A qualified Landscape Architect/Designer must certify that the completed works are in accordance with the approved landscape plan. All landscape works must be completed prior to the issue of an Occupation Certificate.

**Reason:** To ensure restoration of environmental amenity.

95. Public reserve areas disturbed during easement excavation works must be rehabilitated through revegetation with indigenous plant species, such as *Lomandra longifolia*, *Juncus usitatus*, *Ficinia nodosa* and *Carex appressa*, and mulching to the satisfaction of Council's Natural Resources Manager or delegate.  
**Reason:** To ensure adequate restoration of Council land.
96. Prior to issue of an Occupation Certificate, the applicant is to submit documentation to the satisfaction of Council's Manager of Natural Areas or delegate demonstrating that the stormwater outlet has been constructed in accordance with Council's 'Stormwater Outlet Natural Waterway Standard Detail' and consent conditions.  
**Reason:** To ensure adequate standards of construction and minimise the impacts on riparian vegetation and waterways.
97. Works-As-Executed stormwater plans are to address the following:
- (a) A WAE survey shall be conducted and plans prepared showing the 'as built' of the complete on-site detention system including (but not restricted to) discharge point, storage tank (including all critical elements), all pipes and pits connected to the OSD system, overland flow swale and surface levels that control surface flows to the OSD system and by design bypassing the OSD system.
  - (b) The survey shall confirm a) that all retaining walls including foundations are wholly within the site boundary, b) that the swales have been constructed as per the approved plans, c) that the relevant boundary fences have been raised to allow overland flow to drain unobstructed though to the swale.
  - (c) The Work-As-Executed plans are prepared on the copies of the approved drainage plans issued with the Construction Certificate with the variations marked in red ink.
  - (d) The Work-As-Executed plans have been prepared by a registered surveyor certifying the accuracy of dimensions, levels, storage volumes, etc.
  - (e) The as built On-Site Detention (OSD) storage volumes are to be presented in a tabular form (depth verses volume table
  - (f) OSD Works-As-Executed dimensions form (refer to UPRCT Handbook).
  - (g) Certificate of Hydraulic Compliance from a qualified drainage / hydraulic engineer (refer to UPRCT Handbook). The certificate must only be provided after conducting a satisfactory final inspection. The final inspection shall include the application of all the ancillary components of the system including but not limited to: step-irons, orifice plate, trash screen with appropriate wall attachment, hinged grates, confined space sign, functioning return lap valve and relief drains within DCP sump etc.
  - (h) Certificate of Structural compliance of the OSD tank shall reference the structural elements including floor slab/foundations, walls and cover slab from a qualified structural engineer
  - (i) The WAX plan shall include the full length of the downstream drainage easement and the trunk drainage system.
  - (j) Photographic evidence of the connection point to the existing pit.
  - (k) Details WAX plan of the flood risk management implementation for the development, to show compliance with the approved flood risk management report.
- The above is to be submitted to the Principal Certifying Authority prior to the issue of an occupation certificate and a copy is to accompany the Occupation Certificate when lodged with Council.  
**Reason:** To ensure works comply with approved plans and adequate information is available for Council to update the Upper Parramatta River Catchment Trust.
98. Prior to the issue of the Occupation Certificate, the applicant must create a restriction on use and positive covenant on the title of the subject property.

- The restriction on use and positive covenant is to be created over all land below the 1% AEP flood level identified in the flood enquiry, FL/49/2019, dated 29 May 2019, issued by City of Parramatta Council and Flood report prepared by J.Wyndham Prince, issue A, dated 31/07/2023.
- Preventing the placement of any structures, walls, fences, fill or other items which may impede the % AEP flood, within the identified zone and prevent interference with and create an ongoing obligation for the maintenance of any flood risk mitigation measures.
- City of Parramatta Council is to be the Authority whose consent is required to release, vary or modify the restriction.

**Reason:** To protect the environment.

99. Prior to the issue of an Occupation Certificate a Positive Covenant and Restriction on the Use of Land under Section 88E of the Conveyancing Act 1919 must be created, burdening the owner with the requirement to maintain the on-site stormwater detention (OSD) and water quality treatment (WSUD) facilities on the lot.

The terms of the 88E Instruments are to be generally in accordance with Council's "standard terms" available in Council's website, under Development Forms.

Where a Title exists, the Positive Covenant and Restriction on the Use of Land is to be created through via an application to the Land Titles Office using forms 13PC and 13RPA. Accompanying this form is the requirement for a plan to scale showing the relative location of the On-Site Detention facility, including its relationship to the building footprint.

Registered title documents showing the covenants and restrictions must be submitted to and approved by the Principal Certifying Authority prior to Occupation or use of on-site.

Electronic colour photographs in jpg format of the on-site detention facility shall accompany the application for the Positive Covenant and the Restriction on the Use of the Land. These photos shall include such elements as the orifice plate, trash screen, step irons, weir, sump and bench on the floor of the DCP, return pipe and flap valve, wide angle view of the storage area or multiple photos, grates closed from above, grates open showing the edges to the opening and under frame packing with mortar or concrete, all pipe entries to the DCP and confined space warning signs at each entry point. The photos must be well labelled and must differentiate between multiple tanks. Additional photos may be requested if required.

**Reason:** To ensure maintenance of on-site detention facilities

100. An evacuation report and procedure shall be prepared by an appropriate consulting engineer. This report is to demonstrate how the occupants of the development will egress the site in the early stages of a storm event, together with how they will seek refuge in a peak stormwater event (i.e. first floor of the building etc.). The report shall be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate. A copy of the report shall be attached to the Occupation Certificate when forwarded to Council.

**Reason:** To make property owners/residents aware of the procedure in the case of flood.

101. Prior to the issue of any Occupation Certificate, an application is required to be obtained from Council for any new, reconstructed or extended sections of driveway crossings between the property boundary and road alignment.

All footpath crossings, laybacks and driveways are to be constructed according to Council's Specification for Construction or Reconstruction of Standard Footpath Crossings

and in compliance with Standard Drawings DS1 (Kerbs & Laybacks); DS7 (Standard Passenger Car Clearance Profile); DS8 (Standard Vehicular Crossing); DS9 (Heavy Duty Vehicular Crossing) and DS10 (Vehicular Crossing Profiles).

The application for a driveway crossing requires the completion of the relevant application form and be accompanied by detailed plans showing, grades/levels and specifications that demonstrate compliance with Council's standards, without conflict with all internal finished surface levels. The detailed plan must be submitted to Council's Civil Assets Team for approval prior to commencement of the driveway crossing works. A fee in accordance with Councils adopted 'Fees and Charges' will need to be paid at the time of lodgement.

**Note 1:** This development consent is for works wholly within the property. Development consent does not imply approval of the footpath or driveway levels, materials or location within the road reserve, regardless of whether the information is shown on the development application plans.

**Note 2:** Council's Customer Service Team can advise of the current fee and can be contacted on 9806 5524.

**Reason:** Pedestrian and Vehicle safety.

102. All redundant lay-backs and vehicular crossings must be reinstated to conventional kerb and gutter, foot-paving or grassed verge in accordance with Council's Standard Plan No. DS1. The reinstatement must be completed prior to the issue of an Occupation Certificate. All costs must be borne by the applicant.

**Reason:** To provide satisfactory drainage.

103. Prior to the issue of an Occupation Certificate a Positive Covenant on the Use of Land under Section 88E of the Conveyancing Act 1919 must be created, burdening the owner with the requirement to maintain the pump out system on the lot.

The terms of the 88E Instruments are to be generally in accordance with Council's "standard terms" available in Council's website, under Development Forms.

Where a Title exists, the Positive Covenant and Restriction on the Use of Land is to be created through via an application to the Land Titles Office using forms 13PC. Accompanying this form is the requirement for a plan to scale showing the relative location of the pump out system, including its relationship to the building footprint.

Registered title documents showing the covenant must be submitted to and approved by the Principal Certifying Authority prior to Occupation or use of site.

**Reason:** To ensure compliance

104. Prior to the issue of the Occupation Certificate, the applicant must create a restriction on use on the title of the subject property and form part of the strata that no valuables are to be stored on the basement level.

Where a Restriction on the Use of Land is to be created through via an application to the Land Titles Office using forms 13RPA. Accompanying this form is the requirement for a plan to scale showing the location of the basement level.

Registered title documents showing the covenant must be submitted to and approved by the Principal Certifying Authority prior to Occupation or use of site.

**Reason:** To ensure compliance



105. Prior to the issue of the Occupation Certificate, the applicant must create a restriction on use on the title of the subject property and form part of the strata that no valuables are to be stored on the basement level.

Where a Restriction on the Use of Land is to be created through via an application to the Land Titles Office using forms 13RPA. Accompanying this form is the requirement for a plan to scale showing the location of the basement level.

Registered title documents showing the covenant must be submitted to and approved by the Principal Certifying Authority prior to Occupation or use of site.

**Reason:** To ensure compliance

106. In accordance with Clause 63 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, the Principal Certifying Authority responsible for the critical stage inspections must make a record of each inspection as soon as practicable after it has been carried out.

The record must include:

- (a) The development application and Construction Certificate number as registered;
- (b) The address of the property at which the inspection was carried out;
- (c) The type of inspection;
- (d) The date on which it was carried out;
- (e) The name and accreditation number of the certifying authority by whom the inspection was carried out; and
- (f) Whether or not the inspection was satisfactory in the opinion of the certifying authority who carried it out.

**Reason:** To comply with statutory requirements.

107. Prior to issue of the occupation certificate, the applicant shall enter into a commercial contract for the collection of trade wastes and recyclable materials arising from business operations on site. A copy of all-waste contracts and receipts shall be kept on site and made available to Council officers on request.

**Reason:** To comply with the Requirements of the Protection of the Environment Operations Act 1997 and Regulations.

108. Prior to the issue of an occupation certificate (Interim or Final) written certification from a suitably qualified person(s) shall be submitted to the Principal Certifying Authority and City of Parramatta Council, stating that all works/methods/procedures/control measures approved by Council in the Acoustic Report referenced in Condition 1 of this consent.

**Reason:** To demonstrate compliance with submitted reports.

#### **PART F – OCCUPATION AND ONGOING USE**

109. No goods are to be stored/displayed outside the walls of the building.

**Reason:** To ensure visual amenity.

110. When Council receives an occupation certificate from the principal certifier, the applicant may lodge an application to release the securities held in accordance with the relevant policy.

Council may use part, or all of the securities held to complete the works to its satisfaction if the works do not meet Council's requirements.

**Note:** A written application to Council's Civil Assets Team is required for the release of a bond and must quote the following:

- (a) Council's Development Application number; and
- (b) Site address.

**Note:** Council's Civil Assets Team will take up to 21 days from receipt of the request to provide the written advice.

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

111. The owner/manager of the site/business is responsible for the removal of all graffiti from the building/structures/signage and/or fencing within 48 hours of its application.

**Reason:** To ensure the removal of graffiti.

112. The days and hours of operation are restricted to:

Day	Time
Monday	9am to 9am (24 Hours)
Tuesday	9am to 9am (24 Hours)
Wednesday	9am to 9am (24 Hours)
Thursday	9am to 9am (24 Hours)
Friday	9am to 9am (24 Hours)
Saturday	9am to 9am (24 Hours)
Sunday	9am to 9am (24 Hours)
Public Holidays	N/A

**Reason:** To minimise the impact on the amenity of the area.

113. Roller shutters are not to be placed over any external door or window of the premises. Any security grill is to be located on the inside of the glass shop front and must be an open grille able to be seen through.

**Reason:** To provide an appropriate streetscape appearance.

114. Any external plant/air-conditioning system must not exceed a noise level of 5dBA above the background noise level when measured at the boundaries of the property.

**Reason:** To minimise noise impact of mechanical equipment.

115. The property owner/body corporate is to ensure the warning system is in good working order, through regular testing and maintenance.

**Reason:** To ensure the integrity of the flood warning system.

116. The specific industrial use or occupation of the premises must be the subject of further development approval for such use or occupation.

To ensure development consent is obtained prior to that use commencing.

117. The signage and/or lighting associated with this consent are not permitted to be flashing and/or moving.

**Reason:** To maintain amenity for adjoining properties.

118. To reduce the risk of pollution to natural water courses all hazardous waste materials are to be stored, used and disposed in accordance with plans and approved documentation as referenced in Condition 1.

**Reason:** To ensure that any liquid spills can be contained on site and prevent the contamination of stormwater drains.

119. All waste storage areas are to be maintained in a clean and tidy condition at all times.

**Reason:** To ensure the ongoing management of waste storage areas.

120. Between collection periods, all waste/recyclable materials generated on site must be kept in enclosed bins with securely fitting lids so the contents are not able to leak or overflow. Bins must be stored in the designated waste/recycling storage room(s) or area(s) between collection periods.

**Reason:** To ensure waste is adequately stored within the premises.

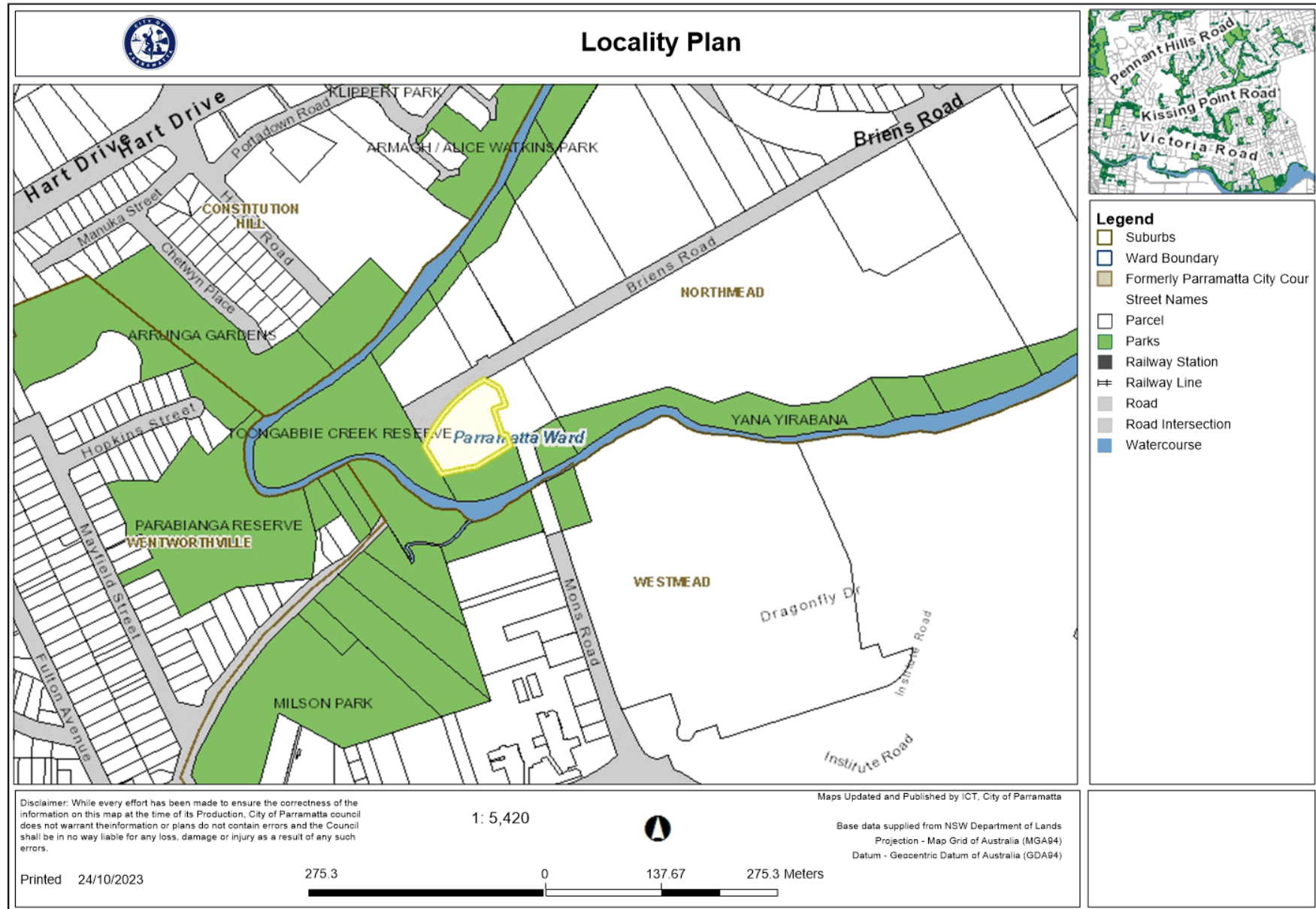
121. Trade waste water shall be disposed of in accordance with the permit requirements of Sydney Water Corporation Ltd, Wastewater Source Control Branch.

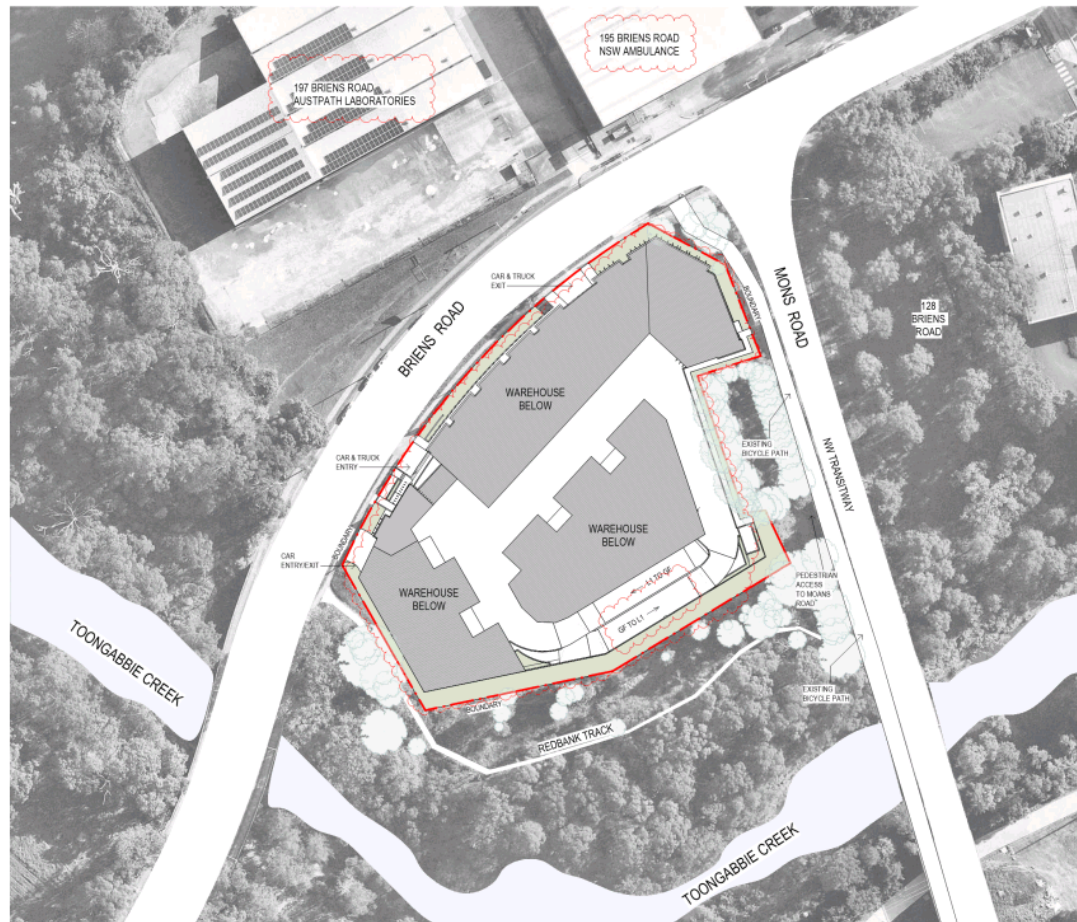
**Reason:** To ensure compliance with Sydney Water's requirements and protect the environment.

122. The use of the premises not giving rise to:

- (a) transmission of unacceptable vibration to any place of different occupancy,
- (b) a sound pressure level measured at any point on the boundary of any affected residential premises that exceeds the background noise level by more than 5 dB(A). The source noise level shall be assessed as an LAeq,15 min and adjusted in accordance with Environment Protection Authority (EPA) guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations, and temporal content as described in the NSW Environmental Planning & Assessment Act 1979: Noise Policy for Industry 2017 and the Protection of the Environment Operations Act 1997.

**Reason:** To prevent loss of amenity to the area.





DEVELOPMENT SUMMARY	
TOTAL SITE AREA	6,490 m <sup>2</sup>
FSR	1 : 1.02
TOTAL GROSS FLOOR AREA	6,657 m <sup>2</sup>
TOTAL LANDSCAPE SITE COVERAGE	12% (783m <sup>2</sup> )

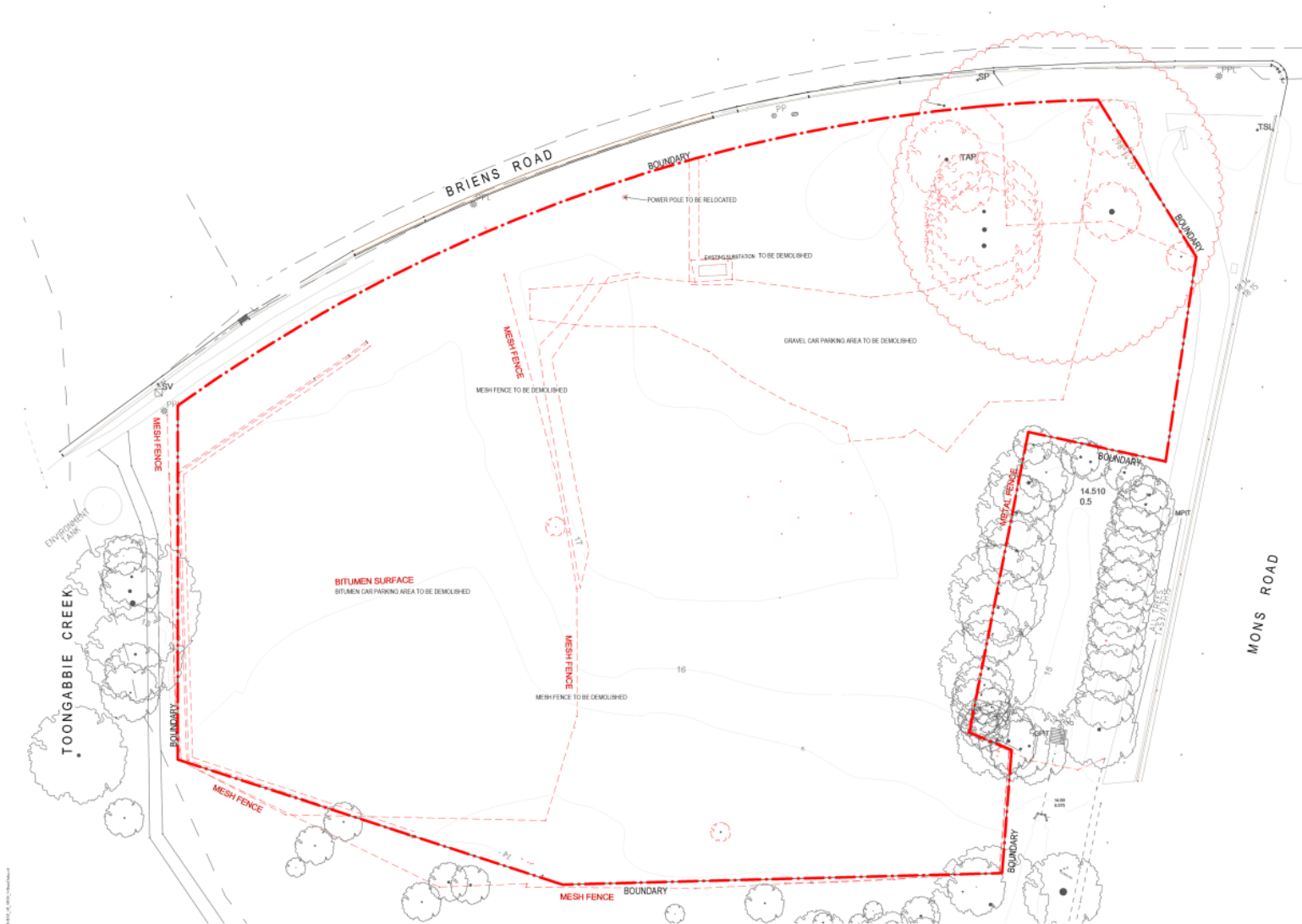
TOTAL WAREHOUSE GFA	LEVEL 0F	1895 m <sup>2</sup>
TOTAL WAREHOUSE GFA	LEVEL 01	2302 m <sup>2</sup>
TOTAL STORAGE GFA	BASEMENT	476 m <sup>2</sup>
TOTAL OFFICE GFA	GROUND FLOOR MEZ	940 m <sup>2</sup>
TOTAL OFFICE GFA	LEVEL 1 MEZZ	1005 m <sup>2</sup>
LOBBY	LEVEL 0F	19 m <sup>2</sup>
LOBBY	LEVEL 01	20 m <sup>2</sup>
TOTAL BUILDING GFA		6657 m <sup>2</sup>

CAR PARKING	
BASEMENT CAR PARKING	6
GROUND FLOOR CAR PARKING	26
LEVEL 01 CAR PARKING	27
TOTAL CAR PARKING PROVIDED (INC. SELF STORAGE)	59

NOTES:

1. GROSS LETTABLE AREA (GLA) AS DEFINED BY PROPERTY COUNCIL AUSTRALIA- METHOD OF MEASUREMENT 2008
2. GROSS FLOOR AREA (GFA) AS DEFINED BY PARRAMATTA LOCAL ENVIRONMENTAL PLAN 2008
3. MAX FUR 1:1 AS DICTATED BY PARRAMATTA LEP 2011
4. CAR PARKING PROVISION BASED ON TRAFFIC ENGINEERS REPORT





DEMOLITION PLAN LEGEND	
<span style="color: red;">---</span>	PROPERTY BOUNDARY
<span style="color: red;">---</span>	ELEMENTS TO BE DEMOLISHED

REFERENCED SURVEY WORKS	
TITLE:	4289DT01
DRAWING REVISION:	G1
PREPARED BY:	STRATASURV
DATE:	19/03, 01 & 22/04/2020

NOTE	
1. REFER TO LANDSCAPE ARCHITECTS DEMOLITION PLAN AND ARBORISTS REPORT FOR VEGETATION TO BE DEMOLISHED	
2. ALL EXISTING STRUCTURES AND INGROUND SERVICES LOCATED ON SITE TO BE DEMOLISHED UNLESS OTHERWISE NOTED	
3. DEMOLITION OR AMENDMENT TO SERVICES AND FEATURES SET WITHIN COUNCIL LAND ARE SUBJECT TO COUNCIL APPROVAL	

Client  
**hannas**

Project Name  
150-152 Briens Road, Northmead  
  
Project Address  
150-152 Briens RD Northmead

Drawing Title:  
**DEMOLITION PLAN**  
  
Date:  
12/04/2023  
  
Drawing Number:  
12679\_DA102  
  
Sheet Size:  
A1  
  
Scale:  
1:500  
  
Issue:  
B

**nettleontribe**









Client

**hannas**

Project Name  
150-152 Briens Road, Northmead

Project Address  
150-152 Briens RD Northmead

Drawing Title  
GROUND FLOOR MEZZ PLAN

Date: 28/07/2023 Sheet Size: A1 Scale: 1:200  
Drawing Number: 12679\_DA113 Issue: D

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Client

**hannas**

Project Name  
150-152 Briens Road, Northmead

Project Address  
150-152 Briens RD Northmead

Drawing Title  
LEVEL 1 FLOOR PLAN

Date:  
28/07/2023

Sheet Size:  
A1

Scale:  
1:200

Drawing Number:  
12679\_DA114

Issue:  
D

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Client



Project Name  
150-152 Briens Road, Northmead

Project Address  
150-152 Briens RD Northmead

Drawing Title  
LEVEL 1 MEZZ PLAN

Date: 28/07/2023 Sheet Size: A1 Scale: 1:200  
Drawing Number: 12679\_DA115 Issue: D

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Client



Project Name  
150-152 Briens Road, Northmead

Project Address  
150-152 Briens RD Northmead

Drawing Title  
ROOF PLAN

Date:  
21/07/2023

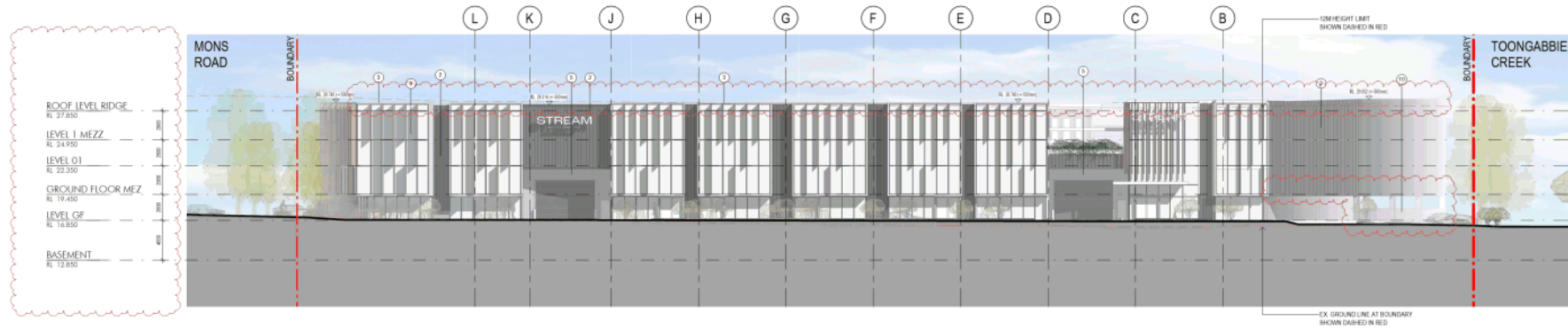
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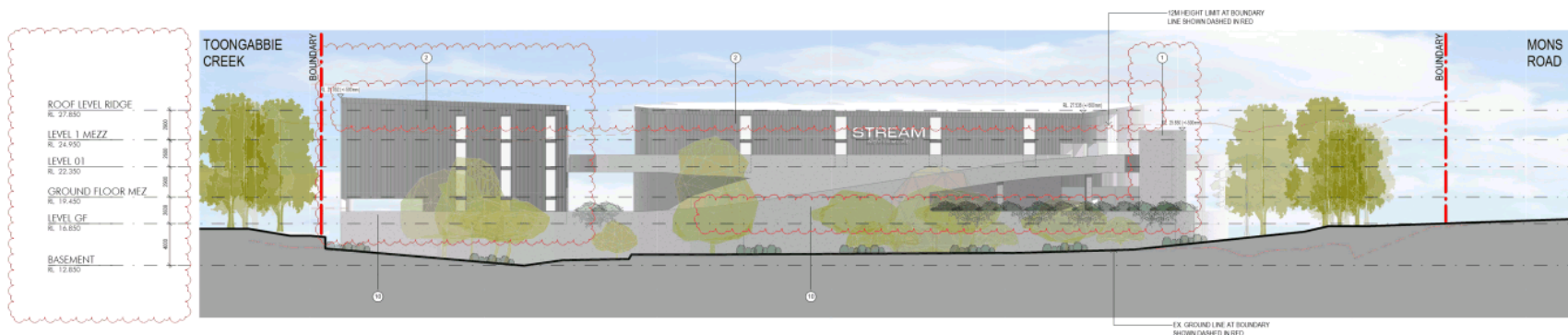
Drawing Number:  
12679 DA116

Issue:  
C

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1 NORTH ELEVATION  
1:200



2 SOUTH ELEVATION  
1:200

EXTERNAL FINISHES

1. PRECAST CONCRETE	3. CONCRETE LOOK OFC - CHIMNEY CLADDING	5. PERFORATED MESH SCREEN - GALVANISED	7. OPC / COLOURBACK GLASS	9. GLASS BRICK	11. LONGLINE METAL SHEETING - COLOURBOND WINGSPRAY
2. LONGLINE METAL SHEETING - COLOURBOND MONUMENT	4. VERTICAL LOUVERS - TIMBER LOOK	6. DOWNPIPE, REVEALS, FLASHING & CAPINGS - COLOURBOND MONUMENT	8. CLEAR GLASS	10. INSITU CONCRETE	

Client

**hannas**

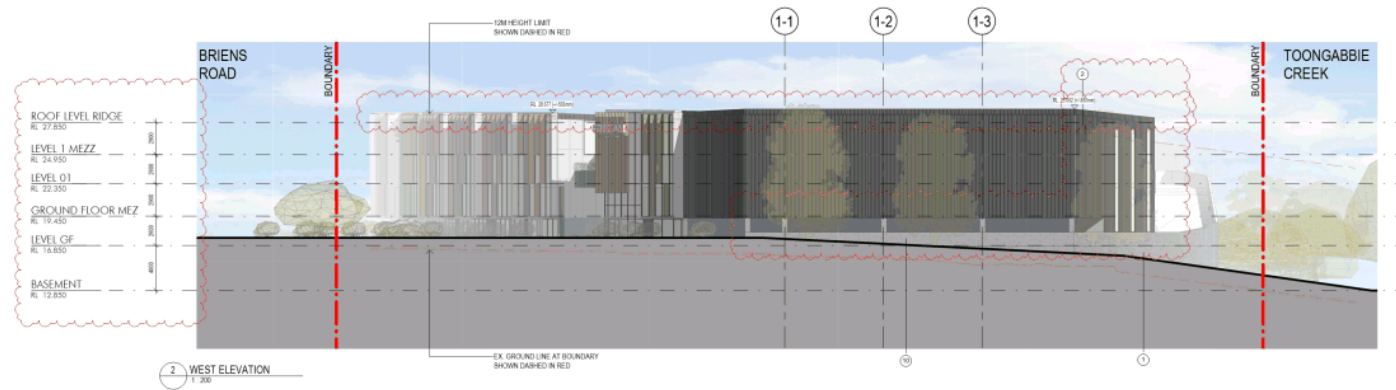
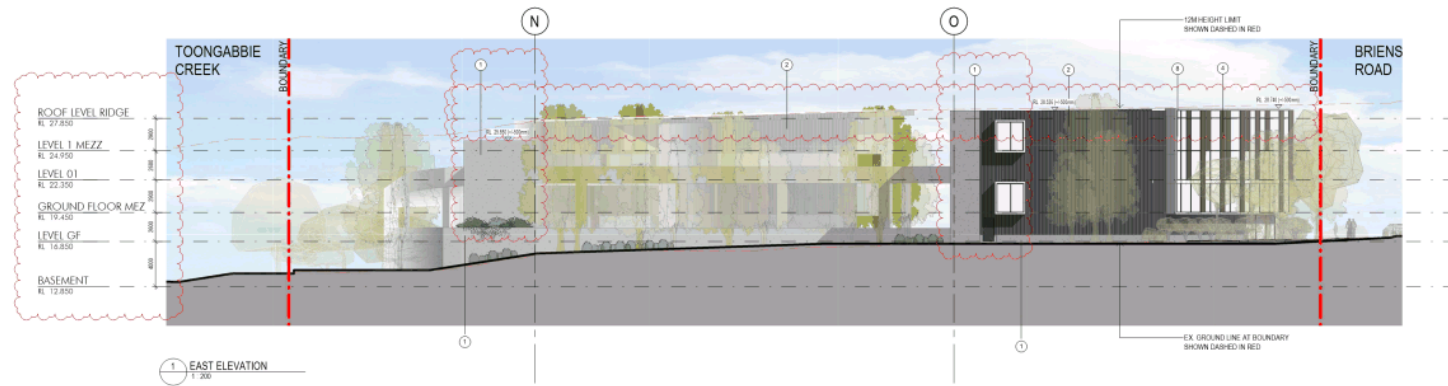
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150-152 Briens Road, Northmead

Project Address  
150-152 Briens RD Northmead

Drawing Title  
BUILDING ELEVATIONS SHEET 1

Date: 28/07/2023 Sheet Size: A1 Scale: 1:200  
Drawing Number: 12679\_DA201 Issue: D

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EXTERNAL FINISHES

- |  |                                      |  |                           |                     |   |
|--|--------------------------------------|--|---------------------------|---------------------|---|
| 1. PRECAST CONCRETE                              | 3. CONCRETE LOOK GPC - GEMMET QUARRY | 5. PERFORATED MESH SCREEN - GALVANNEED                         | 7. GPC / COLOURBACK GLASS | 9. GLASS BRICK      | 11. LONGLINE METAL SHEETING - COLOURBOND WINGSPIRIT |
| 2. LONGLINE METAL SHEETING - COLOURBOND MONUMENT | 4. VERTICAL LOUVERS - TIMBER LOOK    | 6. DOWNPIPS, REVEALS, FLASHING & CAPPING - COLOURBOND MONUMENT | 8. CLEAR GLASS            | 10. INSITU CONCRETE |   |

Client

**hannas**

Project Name  
150-152 Briens Road, Northmead

Project Address  
150-152 Briens RD Northmead

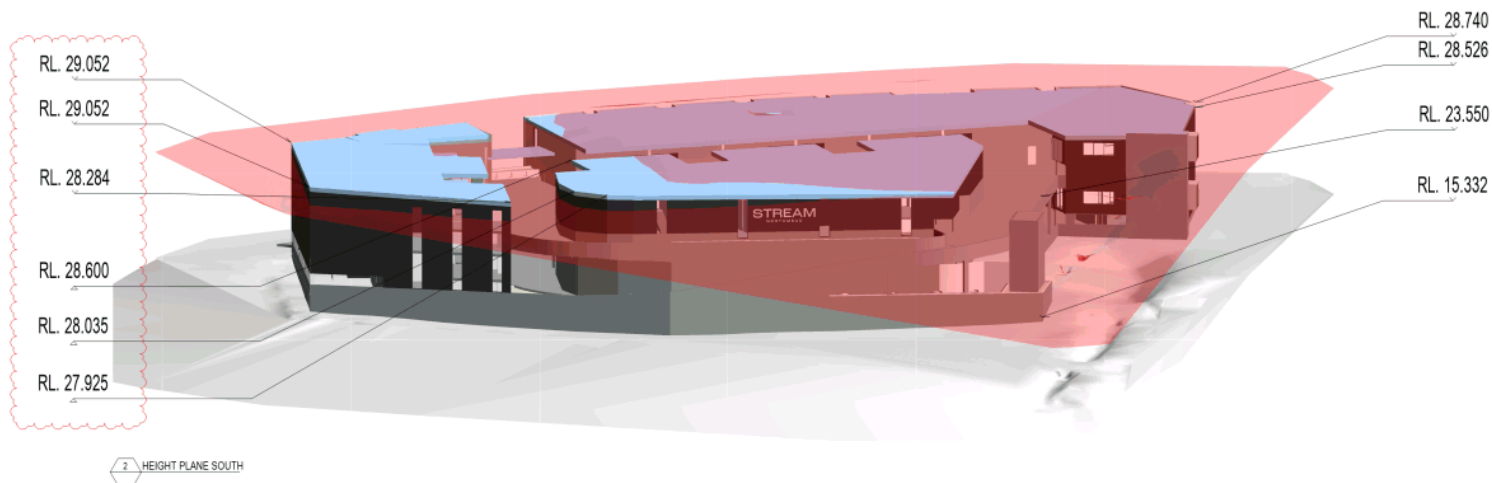
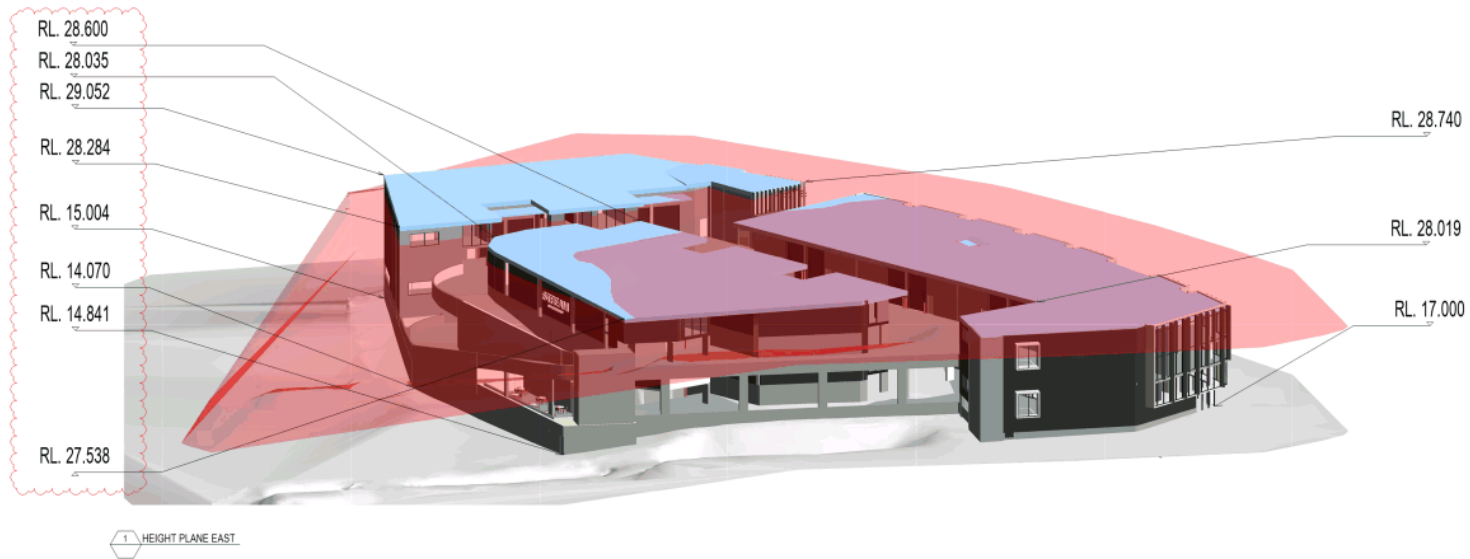
Drawing Title  
BUILDING ELEVATIONS SHEET 2

Date: 28/07/2023  
Drawing Number: 12679\_DA202

Sheet Size: A1  
Issue: D

Scale: 1:200

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Client

**hannas**

Project Name  
150-152 Briens Road, Northmead

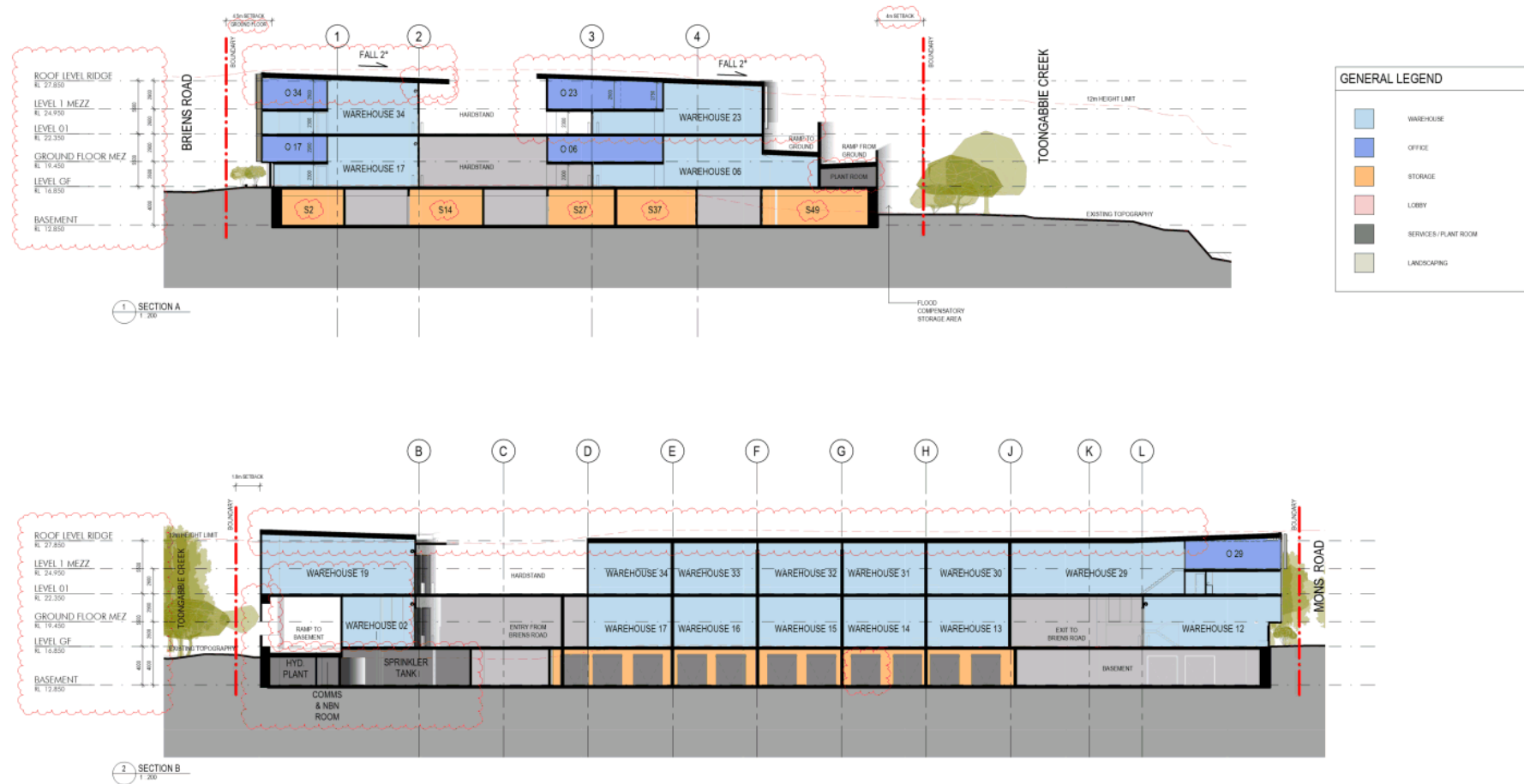
Project Address  
150-152 Briens RD Northmead

Drawing Title  
HEIGHT PLANE PERSPECTIVES

Date: 28/07/2023 Sheet Size: A1 Scale: 1:250  
Drawing Number: 12679\_DA251 Issue: C

**nettleontribe**





150-152 BRIENS RD NORTHMEAD - 150-152 BRIENS RD NORTHMEAD - 150-152 BRIENS RD NORTHMEAD

Client

**hannas**

Project Name  
150-152 Briens Road, Northmead

Project Address  
150-152 Briens RD Northmead

Drawing Title  
BUILDING SECTIONS

Date: 21/07/2023  
Drawing Number: 12679\_DA301

Sheet Size: A1  
Issue: C

Scale: 1:200

**nettleontribe**



Client



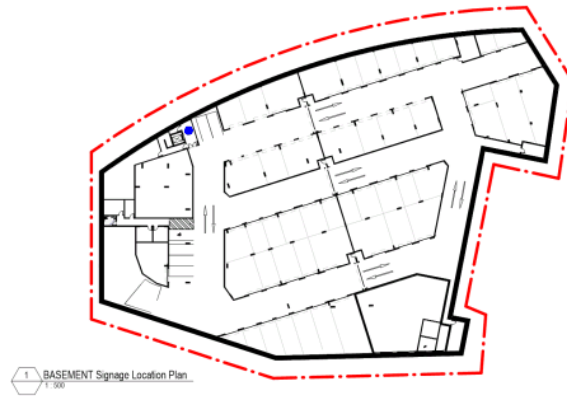
Project Name  
150-152 Briens Road, Northmead

Project Address  
150-152 Briens RD Northmead

Drawing Title  
PERSPECTIVES

Date	Sheet Size	Scale
06/04/2023	A1	NTS
Drawing Number	Issue	
12679_DA901	B	

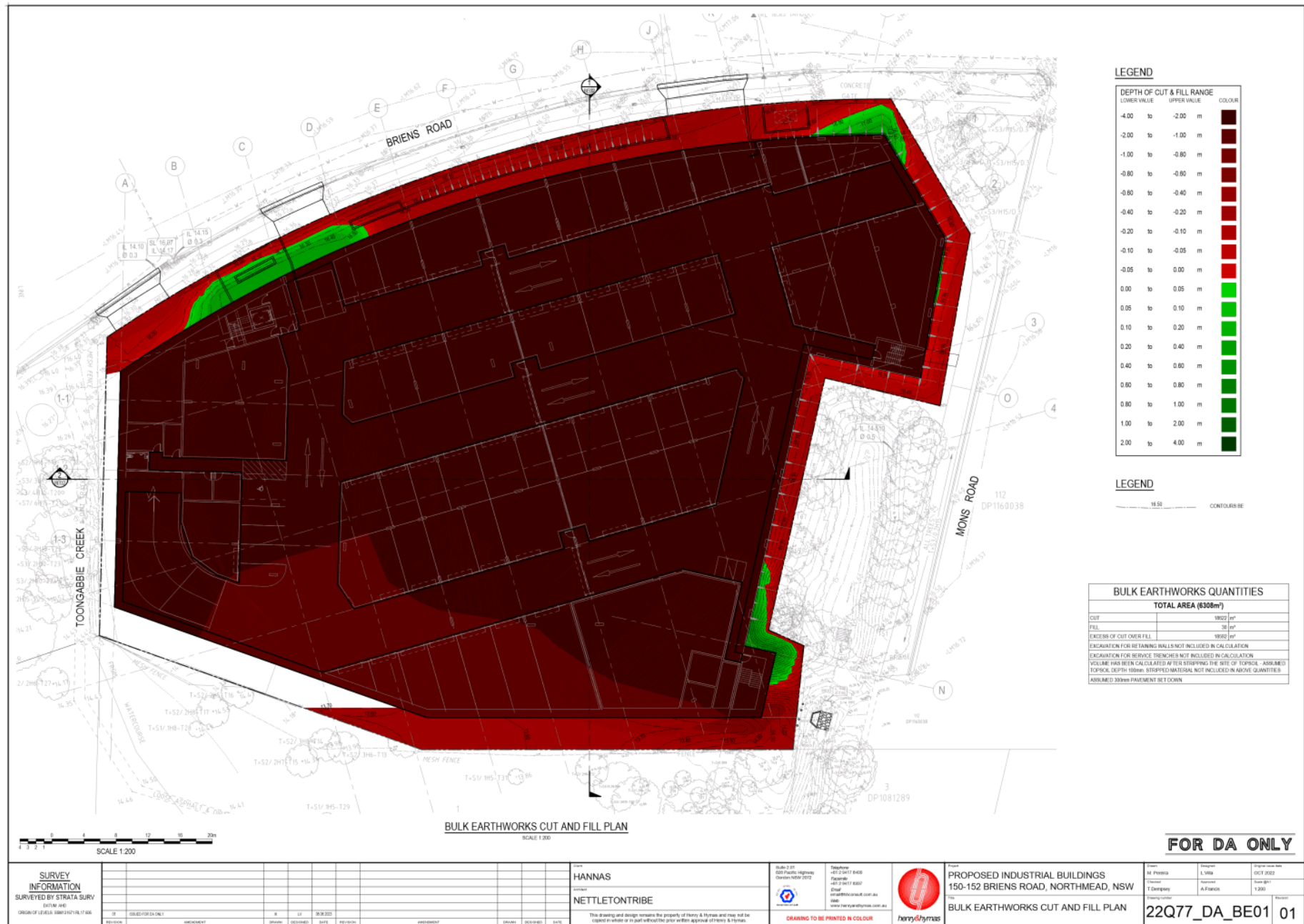
nettletontribe



SIGNAGE LEGEND	
	ESTATE ENTRY SIGN
	TENANT DIRECTIONAL SIGN
	TENANT SIGN
	ESTATE ENTRY & EXIT SIGN
	TENANT IDENTIFICATION SIGN
	BUILDING WALL SIGN
	BUILDING WALL TENANT SIGN
<b>NOTES:</b>	
1. STATUTORY SIGNAGE AS REQUIRED TO COMPLY WITH NCC 2019 AND ALL RELEVANT AUSTRALIAN STANDARDS	
2. TRAFFIC SIGNAGE AND IN MARKINGS TO TRAFFIC CONSULTANT DETAILS	
3. REFER TO STREAM/NORTHMEI BRAND GUIDELINE TO DESIGN INTENT	
4. ALL STORAGE UNITS ON BASEMENT TO HAVE INDIVIDUAL RESERVE	









# Briens Road Northmead

150-152 Briens Road, Northmead

## Landscape Development Application

Drawing Schedule

Drawing Number	Drawing Title	Scale
000	Landscape Coversheet	N/A
101	Landscape Plan - Ground	1:200
102	Landscape Plan - Level 1	1:200
501	Landscape Details	As Shown
502	Landscape Details	As Shown
701	Tree Canopy Plans	As Shown
702	Existing Tree Plan	1:200



Site Plan | 1:400

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The contractor shall check and verify all work on site including work by others before commencing the landscape installation. Any discrepancies are to be reported to the Project Manager or Landscape Architect prior to commencing work. Should there be any change, any required dimensions not shown shall be referred to the Landscape Architect for confirmation.

Legend

H	Architectural Consultation	JW	N/A	04.08.2020
G	Revised For Comments	CS	N/A	08.02.2020
F	Revised For Comments	CS	N/A	24.04.2020
E	Revised For Comments	JW	N/A	12.04.2020
D	Revised For Comments	JW	N/A	05.04.2020
C	Tree Retention Plan Added	CS	N/A	20.12.2020
B	Architectural Consultation	JW	N/A	15.12.2020
A	For Comment	JW	N/A	24.11.2020
Issue	Revision Description	Drawn	Check	Date

SITE IMAGE



Level 1, 3/5 Bapfield Street  
Northmead NSW 2150  
Australia  
Tel: (01) 2-8102 5680  
Fax: (01) 2-8686 2677  
www.siteimage.com.au

Client

Hannas

Project

Briens Road Northmead  
150-152 Briens Road, Northmead

Drawing Name

Coversheet

PRELIMINARY

Scale  
Job Number  
SS22-5068

Drawing Number

Issue  
000 H





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The contractor shall check and verify all work on site including work by others before commencing the landscape installation. Any discrepancies are to be reported to the Project Manager or Landscape Architect prior to commencing work. Do not scale this drawing. Any required dimensions not shown shall be referred to the Landscape Architect for confirmation.

Issue	Revision Description	Drawn	Check	Date
D	Revised For Comments	CS	NM	26.08.2023
C	Revised For Comments	JM	NM	05.04.2023
B	Architectural Coordination	JM	NM	15.12.2022
A	For Comment	JM	NM	24.11.2022

**Legend**

- Site Boundary
- Existing Tree to be Retained
- Existing Tree to be Removed

**Proposed Tree Planting**  
Refer Plant Schedule

**Proposed Accents and Shrubs**  
Refer Plant Schedule

**Proposed Grasses and Groundcovers**  
Refer Plant Schedule

**Proposed Riparian and Setback Matrix**  
Refer Plant Schedule

**Proposed Turf**

**Proposed Concrete Paving**

**Recreation Area Paving**

**Gravel Pathway**

**Bench Seating**

**SITE IMAGE**  
Landscape Architects  
Level 1, 3/5 Baple Street  
Northmead, NSW 2151  
Australia  
Tel: (01) 2-8102 5680  
Fax: (01) 2-8688 2677  
www.siteimage.com.au

**Client**  
Hannas

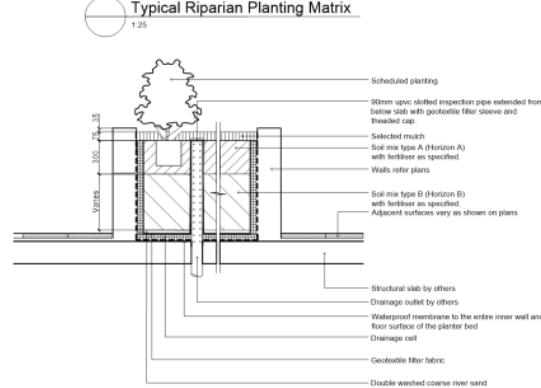
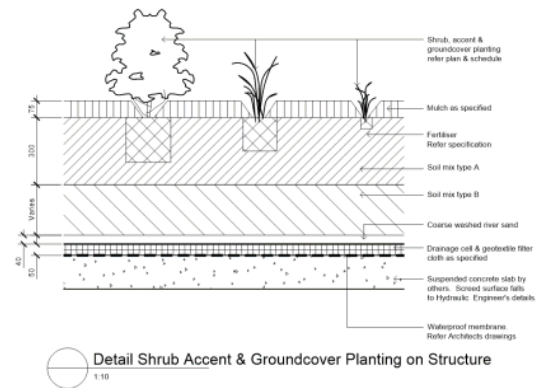
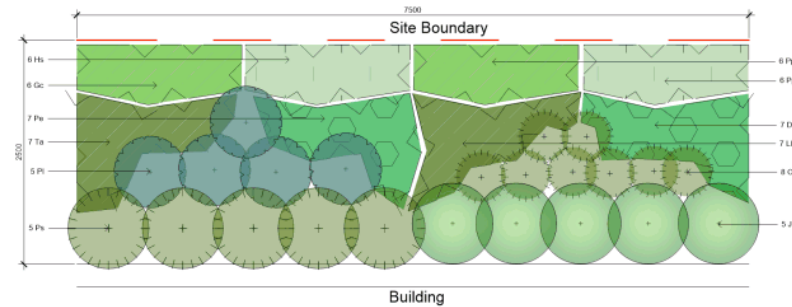
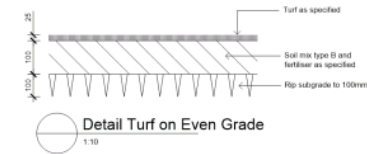
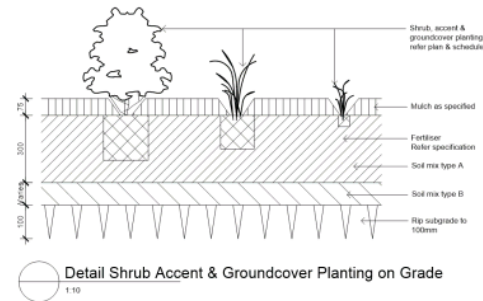
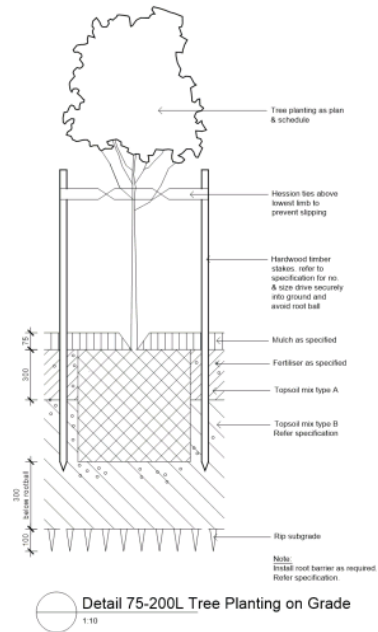
**Project**  
Briens Road Northmead  
150-152 Briens Road, Northmead

**Drawing Name**  
Landscape Plan  
Level 1

PRELIMINARY

Scale: 1:200 @ A1  
Job Number:  
SS22-5068

Drawing Number:  
102 D



NOT FOR CONSTRUCTION

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The contractor shall check and verify all work on site including work by others before commencing the landscape installation. Any discrepancies are to be reported to the Project Manager or Landscape Architect prior to commencing work. Should there be any change, any required dimensions not shown shall be referred to the Landscape Architect for confirmation.

A1

Issue	Revision Description	Drawn	Check	Date
D	Revised For Comments	CS	NH	28.08.2023
C	Revised For Comments	JH	NH	12.04.2023
B	Revised For Comments	JH	NH	05.04.2023
A	For Comment	JH	NH	24.11.2022

Legend

Client  
Hannas

Project  
Briens Road Northmead  
150-152 Briens Road, Northmead

Drawing Name  
Landscape Details

PRELIMINARY

Scale  
Job Number  
SS22-5068

Drawing Number  
Issue  
501 D