



City of Parramatta	
File No:	DA/776/2014/C

ADDENDUM TO ASSESSMENT REPORT Parramatta Local Planning Panel (PLPP)

Application No:	DA/776/2014/C – ADDENDUM TO ASSESSMENT REPORT
Property:	Lot 5-7 DP 27997, 125-129 Arthur Street, PARRAMATTA NSW 2150
Proposal:	<p>Section 4.55(2) Modification to DA/776/2014 for the demolition of existing buildings, tree removal and construction of a Part 4, 6 and 7 storey residential flat building comprising 64 dwellings and basement car parking.</p> <p>The modification seeks to increase the building height by 300mm, amend the layout of the basement, ground floor and first floors, changes to the unit mix, provision of a padmount substation, and amendments to services.</p>
Applicant:	Ghazi Al Ali Architect
Owner:	S & A Property Holdings Pty Ltd
Report Date:	8 July 2022
Recommendation:	Approval , subject to amended conditions of consent.
Assessment Officer:	John Martinez

1. Background

The Parramatta Local Planning Panel previously considered this modification application on **19 April 2022**. The Panel deferred the determination of the modification for the following reasons:

That the consideration of this matter be deferred for a further report.

The panel is concerned that the proposed modification will impose complicated duties upon new home owners to deal with serious and likely flood impacts. The panel finds it unusual for a building that is fully residential and believes that the use of the flood inundated areas should not be residential. The manner of shelter provided is also of concern, the panel needs to know what type of shelter needs to be provided e.g. will there be toilets, lifts, access, running water and sufficient room. In light of recent flooding in Sydney Metropolitan area and particularly in Parramatta, the Panel believes that tighter controls and much earlier identification of the duties required of home owners should be given e.g. by a covenant on title that warns prior to purchase.

The Panel believes that there should be a new suite of additional conditions addressing four matters;

- a) The manner in which future purchasers are alerted to flooding risks of the building or site*
- b) The requirements and duties of the residents and flood wardens associated with the detailed Site Emergency Response Flood Plan*
- c) The need for expenditure for ongoing monitoring and maintenance of the flood management infrastructure;*
- d) The appropriate size and furnishing of any shelter; and*

These conditions should require notification on title.

The Panel requires a supplementary report addressing these matters and may be prepared to deal with finalisation of the matter electronically.

The purpose of this addendum report is to supplement the original assessment report by addressing the relevant matters arising from the panel meeting held on 19 April 2022.

2. Application Details

The Section 4.55(2) Modification Application to DA/776/2014, a part 4, 6 and 7 storey residential flat building comprising 64 units over 2 basement levels consisting of:

- Increasing the Finished Floor Level of Level 1 from RL9.30 to RL9.33 in order to provide a Shelter in Place area above the Probably Maximum Flood level.
- Layout amendments to the basement, ground and first floor levels.
- Elevation amendments.
- Numerous condition amendments.
- Provision of additional services such as hydraulic risers, service cupboards, mechanical ducts and hydraulic booster for Construction Certificate requirements.
- Provision of flood proof doors and roller shutters along the ground floor level.
- Provision of a padmount substation for Construction Certificate requirements.

Note: For clarity, the submitted architectural plans indicate both the Finished **Slab** Level, and Finished **Floor** Level on the plans. The Finished **Floor** Level is 30mm higher than the Finished **Slab** Level. This report will reference the Finished Floor Level only. All levels are referenced to the Australia Height Datum unless otherwise specified.

3. Response to the Panel's Concerns

3.1 Concerns Regarding Original Approval

The Panel raised overall concerns to the original development application approval (DA/776/2014) with regards to the ground floor being approved for dwelling uses, and that it should be converted to non-residential uses.

The Development Application DA/776/2014 was approved by The Council at its meeting on 22 June 2015.

Council requires that habitable floor areas are located at the Flood Planning Level (1% AEP flood event + 500mm) or RL 5.67. At the time, the Council approved the ground floor with an FFL of RL 6.03 or 1%AEP + 833mm. Council does not require that habitable floor areas are located above the PMF (or RL 9.27).

The first floor was approved with an FFL of RL 9.0. A condition of consent was imposed under the original application to provide Shelter in Place at or above the PMF level of RL 9.27. The subject modification application seeks to comply with this condition by providing Shelter in Place on the first floor by raising the FFL to RL9.33 (or 60mm above PMF).

Flood Event	Flood Level (AHD)	Ground Floor FFL (AHD)	First Floor FFL (AHD)	Difference
1% AEP	RL 5.17	RL 6.03	-	+ 833mm
PMF	RL 9.27	-	RL 9.33	+ 60mm

The proposed modification is seeking to comply with a condition of consent imposed by Council at the time of the original approval. The Panel's suggestion to convert the ground floor units to non-residential uses is beyond the scope of the amendments sought.

The Parramatta Development Control Plan 2011, Council's Floodplain Risk Management Policy, Department of Infrastructure, Planning and Natural Resources Floodplain Development Manual, and the Planning Circular PS 21-006 Considering flooding in land use planning: guidance and statutory requirements do not have any requirements to have residential dwellings to be sited higher than the Flood Planning Level (1% AEP + 500mm). As a result, the original Development Application was approved with ground floor level dwellings which are positioned a further 330mm above the Flood Planning Level.

The Shelter in Place required by Condition 26(c) is located within a common property area and would be subject to duties required to ensure ongoing monitoring and maintenance of flood management infrastructure.

3.2 Shelter in Place/Flood Refuge Area

The Panel raised concern with respect to the size of the Shelter in Place on the first floor and whether appropriate facilities were provided for occupants in the event of a flood which would inundate the ground floor units.

As detailed above, the proposed Shelter in Place would have a Finished Floor Level of RL 9.33, above the PMF.

The Applicant's Flood Emergency Detailed Response Plan (FEDRP) assessed the size of the shelter based on 2m² per person, estimating approximately 20-22 residents who would be directly impacted as a result of the inundation of the ground floor units.

Council accepts the applicant's calculation of 2m² per person. Based on the *Australian Bureau of Statistics 2019-2020 Housing Occupancy and Costs* data, the average occupancy rate for a dwelling is 2.6 persons. Therefore, Council would reasonably assume that approximately 29 persons (11 units x 2.6) would use the Shelter in Place facilities in a flood event.

Level 1 could provide 62m² of refuge for the ground floor and basement level residents/visitors comprising corridors and 'refuge area' located in the middle. Level 1 provides adequate facilities with access to water, bathroom and first aid.

Council's Senior Catchment Engineer considered the facilities provided and found it to be generally acceptable to use the corridors as an extension of the Shelter in Place area.

3.3 Additional Conditions Request

The Panel requested Council to provide additional conditions relating to covenant warning future purchasers of flood inundation, the specific requirements and duties of residents and flood wardens, the ongoing monitoring and maintenance of flood management infrastructure, and the appropriate sizing and furnishing of any shelter. Council's responses to the Panel's concerns are addressed below:

3.3.1 *The manner in which future purchasers are alerted to flooding risks of the building or site*

Council sought advice whether a condition could be imposed which requires a covenant registered on title to give notice of flood inundation:

A covenant which simply gives notice of a flood risk cannot be registered on title. The Real Property Act 1900 and the Conveyancing Act 1919 govern what can be registered on the title of real property in NSW. Relevantly, as far as covenants are concerned, those acts state the specific types and requirements of covenants that can be registered. Neither the Real Property Act, nor the Conveyancing Act allow the registration of a covenant which only notifies a person of a flood risk. Any attempt to register a covenant that only notifies of a risk will probably be rejected at lodgement. Even if a covenant is registered, that covenant will be able to be removed as it is registered improperly.

Whilst a covenant cannot be legitimately registered to give notice of flood risk, Council's Senior Catchment and Development Engineer had advised that registering the Applicant's *Emergency Flood Detailed Response Plan* as a positive covenant on title may achieve the Panel's request by indirectly altering future purchasers of the flooding risks associated with the site.

Condition No. 86 is recommended to be amended to ensure that the Emergency Flood Detailed Response Plan is registered as a positive covenant prior to the issue of any Occupation Certificate.

Council also recommends the following condition to be imposed:

Prior to the issue of any Occupation Certificate, a clear warning notice is to be erected and maintained at all points of entry to the building (including basement levels) advising that the site and building is subject to flooding and that caution should be observed at times of heavy or prolonged rainfall events. Such notice is to also provide advice regarding the availability of further detail in English and graphic, in respect of possible flooding, refuge areas and include appropriate telephone numbers for the Flood Warden and emergency services. The signs are to be of material that can withstand severe flooding.

The intention of this condition would enable future purchasers inspecting the properties to be visually advised of the flooding risks of the building and site.

In addition to the above, any prospective purchaser should undertake due diligence and apply for a Section 10.7 Planning Certificate (previously Section 149) which would identify the site as flood prone.

Subject to the above additional and amended conditions, Council is satisfied that prospective purchasers would be made aware of the flood affectation of the site.

3.3.2 The requirements and duties of the residents and flood wardens associated with the detailed Site Emergency Response Flood Plan

The Applicant's *Emergency Flood Detailed Response Plan* is recommended to be imposed as a positive covenant on title. The detailed response plan details the evacuation procedures in place for residents and visitors within the basement and ground level floor plans to evacuate at the Level 1 flood refuge area.

Council is satisfied that the Panel's concern with respect to this matter are addressed.

3.3.3 The need for expenditure for ongoing monitoring and maintenance of the flood management infrastructure

Council cannot prescribe the expenditure requirements for the flood management infrastructure and that it will be to the discretion of the Owners Corporation.

The Shelter in Place and any flood management facilities should be maintained through regular maintenance schedules enforced either through Strata Management or building owner where the building is not strata subdivided.

3.3.4 The appropriate size and furnishing of any shelter

As detailed in Section 3.2 above, Council is satisfied that the size of the Shelter in Place on Level 1 is appropriately sized for the potential occupancy rate of the ground floor units i.e. the provision of 2m² per occupant, inclusive of the communal hallways, is appropriate.

The identified Shelter in Place includes benches, an accessible bathroom, and first aid facilities.

A condition of consent is recommended that the following additional facilities are provided:

- In addition to the accessible bathroom, a sink and tap connected to a potable water supply;
- A fridge for the storage of medicines requiring refrigeration; and
- At least one collapsible cot or bassinet for children.

4. On-Site Detention System

As per of the proposed modification, the application seeks the relocation and redesign of the approved on-site detention system.

Council's assessment of the amended system indicates that it would operate under a 'drown orifice' scenario in the 5% and 1% AEP Flood event, thereby not adequately discharging stormwater to Council's stormwater system.

Conditions of consent are recommended that, prior to the issue of a Construction Certificate, amended stormwater plans are prepared and submitted to Council for assessment and must include, but not limited to, the following:

- Amended OSD Calculations must be submitted demonstrating the system is appropriately sized for the site conditions;
- The OSD must not be located under any habitable rooms within the building;
- All grates must be clear of obstructions; and
- The OSD must be a free-standing structure and must not form any structural part of the building.

5. Recommendations

With consideration of the matters discussed above, Council recommends that the Panel approve the subject Section 4.55 Modification Application (DA/776/2014/C) subject to the revised conditions of consent within Appendix 1 of this addendum assessment report.

Specifically, the following conditions are modified or inserted in ***bold italic*** as a result of this addendum report:

- 24A. *The building must include a flood warning alarm system activated by a float valve. Details must be provided with the Construction Certificate plans and documentation to the satisfaction of the Certifying Authority. All fire doors & flood-proof roller shutters and doors are to be connected to the flood warning system.***

Reason: To ensure the flood warning system is installed.

Amendment Note: Condition No. 24A inserted in DA/776/2014/C.

27. No construction works shall start on the stormwater system until the detailed final storm water plans have been approved by ***Council and*** the Certifying Authority. Prior to the approval of stormwater drainage plans, ***Council and*** the person issuing the Construction Certificate shall ensure that:

- The final stormwater plans are, ~~*in general, consistent stormwater management plans Drawings (OSD Plans, Dwg No. 80215019-DA-010, Rev 3, and OSD & WSUD Details, Dwg No. 80215019-DA-020, Rev 3, Dated 26/11/2014, Dated 26/11/2014, prepared by Cardno)*~~ ***to be consistent with the approved stormwater plans in Condition No. 1 of this development consent.***

Note 1: The Council approved Stormwater Plans are for DA approval in concept only and shall not be used for construction purposes as the construction plan (drawing).

- The proposed On-Site Detention (OSD) System has been designed and certified by a suitably qualified Hydraulic Engineer, in accordance with the Upper Parramatta River Catchment Trust "On-Site Detention Handbook".
- The design achieves, when using the Flood detention method (3rd edition of Upper Parramatta River Catchment Trust's (UPRCT's), handbook), as shown on the approved stormwater plan.
- Detailed Stormwater plans with cross sectional details of OSD storage areas; pits etc., OSD Detailed Design Submission (**Form B9**) and OSD Detailed Calculation Summary Sheets are submitted and are acceptable.
- A calculation table showing the available storage volume with the pyramid volume and prismatic volume calculation method has been provided.
- Changes and/or alterations to the approved design are not permitted. Any changes, other than that are of minor nature (such as minor relocation of pits and pipes), or the changes that affect the landscaping require prior approval from the council.
- All Grates proposed for the OSD Tanks shall be 900mmX900mm and other sized will not be accepted by Council. Adequate access is provided to the storage basin for cleaning.
- At least 20% of the OSD tanks' surface area would be required to be grated at a maximum of 4m spacing generally in order for the Tanks can be readily inspected from the surface for silt and debris and the tanks are well ventilated and will not cause the accumulation of noxious odours.
- When applicable, OSD tank shall have clear headroom of 2.2m available for the basement car park underneath those tanks.
- Amended OSD calculations must be submitted demonstrating the system is appropriately sized for the site conditions.***
- The OSD tank must be a free-standing structure and must not form any structural part of the building.***
- The OSD tank must not be located under any habitable rooms (can be located under balconies).***

xiii. ***All grates must be clear of obstructions and/or any overhang.***

It is the responsibility of the Certifying Authority and/or the person issuing the Construction Certificate to ensure that the detailed plans all in accordance with the Council approved stormwater plan.

Upon completion of the construction of stormwater system the Certifying Authority shall ensure that upon completion of the construction works, the stormwater system have been inspected and certified by a Qualified Practising Engineer to the satisfaction of the principal certifying authority. A copy of the certificate shall be forwarded to council for its record.

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

Amendment Note: *Condition No. 27 amended in DA/776/2014/C.*

83. Works-As-Executed ***plans for stormwater management system and all flood protection measures are to be prepared and plans*** shall be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate, certifying that the stormwater drainage system has been constructed and completed in accordance with the approved stormwater plans. The person issuing the Occupation Certificate shall ensure that the following documentation is completed and submitted:
- The Work-As-Executed plans are prepared on the copies of the approved drainage plans issued with the Construction Certificate and variations are marked in red ink.
 - The Work-As-Executed plans have been prepared by a registered surveyor certifying the accuracy of dimensions, levels, storage volumes, etc.
 - As built On-Site Detention (OSD) storage volume calculated in tabular form (depth verses volume table).
 - OSD Works-As-Executed dimensions form (refer to UPRCT Handbook).
 - Certificate of Hydraulic Compliance from a qualified drainage / hydraulic engineer (refer to UPRCT Handbook).
 - Approved verses installed Drainage Design (OSD) Calculation Sheet.
 - The original Work-As-Executed plans and all documents mentioned above have been submitted to Council's Development Services Unit.
 - ***Certificate of Compliance regarding flood protection measures required by the consent from a qualified flooding engineer.***
 - ***Confirmation of provision of required volume of flood storage, protective 'pool type' fencing and screening and compliance with all required floor and driveway levels for flood protection.***

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

Amendment Note: *Condition No. 83 amended in DA/776/2014/C.*

86. Prior to issue of the Occupation Certificate, the Certifying Authority shall ensure that Flood Warning Systems and Flood Evacuation Measures are all implemented on site, as per the Council's approved "**Site Emergency Response Flood Plan**" under this DA consent. This shall also include the Flood Warning Systems & Response Systems and Evacuation Strategy and Procedures whilst displaying of the laminated Evacuation Plan at a prominent location within the building and all other prominent locations around the building, for the residents/visitors to be aware of the potential flooding of the basement, in the event of major flooding. The Site Emergency Response Flood Plan shall also include the Strata Manager and the people nominated as part of the flood warden group (members of the Body Corporate) to monitor the drainage system of the property in the basement as well as pay attention to the weather reports during heavy rainfalls. A Certificate of Compliance for the satisfactory implementation of the flood related basement evacuation strategy, from the Consulting Civil Engineer shall be submitted to the Certifying Authority and Council, prior to the issue of the Occupation Certificate. A copy of the above Compliance Certificate shall be attached to the Occupation Certificate, when forwarded to Council for record.

In addition, the Site Emergency Response Flood Plan is to be registered as a positive covenant on the title of the property prior to the issue of an Occupation Certificate.

Reason: To ensure the property owners / occupants are aware of the procedure in the event of flooding.

Amendment Note: *Condition No. 86 amended in DA/776/2014/C.*

- 86A. ***Prior to the issue of any Occupation Certificate, the Principal Certifying Authority shall ensure that the flood refuge area has access to a common and accessible bathroom, first aid, emergency flood supply kits (radio and/or other communicative devices, flashlights etc), a sink and tap connected to a potable water supply (not from bathroom), a fridge for the storage of medicines requiring refrigeration, and at least one collapsible cot or bassinet for children.***

Reason: To ensure adequate facilities are provided during flood events.

Amendment Note: Condition No. 86A inserted in DA/776/2014/C.

- 86B.** Prior to the issue of any Occupation Certificate, a clear warning notice is to be erected and maintained at all points of entry to the building (including basement levels) advising that the site and building is subject to flooding and that caution should be observed at times of heavy or prolonged rainfall events. Such notice is to also provide advice regarding the availability of further detail in English and graphic, in respect of possible flooding, refuge areas and and include appropriate telephone numbers for the Flood Warden and emergency services. The signs are to be of material that can withstand severe flooding.

Reason: To ensure the property owners/occupants are aware of the procedure in the event of flooding.

Amendment Note: Condition No. 86B inserted in DA/776/2014/C.

- 86C.** To ensure that residents are appropriately aware of the flood risks on site, the following are to be installed on the site prior to the release of any Occupation Certificate from the development:

- Flood gauges are to be provided measuring the depth of the floodwaters. Two are to be provided per building street frontage within the front setbacks in close proximity to all lobby/corridor entrances/exit.
- Provide 1 x 225mm approx. diameter stainless steel tube, capped, bolted to a suitable flood proof concrete base clearly marked with the 1% AEP / 1 in 100 year flood level located centrally in open space area at the rear of the site. This is to be designed to withstand floodwaters and vandalism.

These measures are to be installed to the satisfaction of the Principal Certifying Authority with appropriate documentary and photographic evidence of installation to be provided to Council for record keeping purposes.

Reason: To ensure that residents are aware of the flood conditions of the site and have sufficient infrastructure to understand the depth of floodwater around the site during flood events.

Amendment Note: Condition No. 86C inserted in DA/776/2014/C.

- 102.** 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.

Amendment Note: Condition No. 102 inserted in DA/776/2014/C.

- 103.** The area below the building must remain unobstructed at all times and not be used for storage or enclosed to allow the free flow of floodwaters.

Reason: To ensure the flow of water.

Amendment Note: Condition No. 103 inserted in DA/776/2014/C.

Council's amended recommendations are as follows:

- (a) **That** the Parramatta Local Planning Panel exercising the functions of Council as the consent authority, modify development consent DA/776/2014 on land at 125-129 Arthur Street, Parramatta, for a period of five (5) years from the date on the **original** Notice of Determination, subject to the following modifications:

1. Amend Condition Nos. 1, 23, 27, 33, 35, 80, 83 & 86 to reflect the updated plans and documents.
2. Insert Condition No. 24A, 86A, 86B, 86C, 102 & 103 for emergency flood procedures.
3. Delete Condition No. 90 as it is a duplication of Condition No. 88.
4. All other conditions of DA/776/2014 remain unchanged.

- (b) **That** the Parramatta Local Planning Panel approve the proposal notwithstanding the non-compliance with the building height control in Clause 4.3 Height of buildings of the Parramatta Local Environmental Plan 2011 as there are sufficient environmental grounds to justify the variation.

Reasons for Approval:

1. The proposed modification is substantially the same development which has been approved.
2. The proposed modification is permissible within the B4 Mixed Use zone and results in a development which is suitable for the context of the site and locality.

3. The proposed modification to increase the height is supported in order to provide an adequate flood refuge area due to the significant flood constraints on site.
4. The proposed modification results in reasonable impacts to adjoining and surrounding properties, is suitable for the site, and is in the public interest.