



Land and Environment Court New South Wales

Case Name: **Ausino Group Pty Ltd v City of Parramatta Council**

Medium Neutral Citation: [2023] NSWLEC 1283

Hearing Date(s): Conciliation Conference on 2 June 2023

Date of Orders: 08 June 2023

Date of Decision: 08 June 2023

Jurisdiction: Class 1

Before: O'Neill C

Decision: The orders of the Court are:
(1) The appeal is upheld.
(2) Development Application No. 1036/2021, as amended, for demolition of existing structures and construction of a boarding house containing sixty-seven (67) boarding rooms, over a level of basement parking, at 71-73 Thomas Street, Parramatta, is determined by the grant of consent, subject to conditions of consent at Annexure A.

Catchwords: DEVELOPMENT APPLICATION – boarding house development – conciliation conference – agreement between the parties – orders

Legislation Cited: Environmental Planning and Assessment Act 1979, ss 4.16, 8.7
Environmental Planning and Assessment Regulation 2021, s 37
Land and Environment Court Act 1979, ss 34, 39
Parramatta Local Environmental Plan 2011, cll 4.4, 4.6
Parramatta Local Environmental Plan 2023, cl 1.8A
State Environmental Planning Policy (Affordable Rental Housing) 2009, Div 3, cll 28, 29, 30, 30A
State Environmental Planning Policy (Housing) 2021
State Environmental Planning Policy (Housing) Amendment (Miscellaneous) 2022 Sch 7A, ss 1, 2

State Environmental Planning Policy (Resilience and Hazards) 2021, s 4.6

Cases Cited: Cumming v Cumberland Council (No 2) [2021]
NSWLEC 117
Four2Five Pty Ltd v Ashfield Council [2015]
NSWLEC 90
Initial Action Pty Ltd v Woollahra Municipal Council
(2018) 236 LGERA 256; [2018] NSWLEC 118
RebelMH Neutral Bay Pty Limited v North Sydney
Council [2019] NSWCA 130
Wehbe v Pittwater Council (2007) 156 LGERA 446;
[2007] NSWLEC 827

Category: Principal judgment

Parties: Ausino Group Pty Ltd (Applicant)
City of Parramatta Council (Respondent)

Representation: Counsel:
A Gough (Solicitor) (Applicant)
D Loether (Solicitor) (Respondent)

Solicitors:
Storey & Gough (Applicant)
Bartier Perry (Respondent)

File Number(s): 22/192691

Publication Restriction: No

JUDGMENT

- 1 **COMMISSIONER:** This is an appeal pursuant to the provisions of s 8.7(1) of the *Environmental Planning and Assessment Act 1979* (EPA Act) against the refusal of Development Application No. 1036/2021, as amended, for demolition of existing structures and construction of a boarding house containing sixty-seven boarding rooms, over a level of basement parking (the proposal), at 71-73 Thomas Street, Parramatta (the site), by the City of Parramatta Council (the Council).
- 2 The Court arranged a conciliation conference under s 34 of the *Land and Environment Court Act 1979* (LEC Act) between the parties, which was held on 2 June 2023. I presided over the conciliation conference. At the conciliation conference, the parties reached agreement as to the terms of a decision in the proceedings that would be acceptable to the parties.
- 3 Under s 34(3) of the LEC Act, I must dispose of the proceedings in accordance with the parties' decision if the parties' decision is a decision that the Court could have made in the proper exercise of its functions. The parties' decision involves the Court exercising the function under s 4.16 of the EPA Act to grant consent to the development application.
- 4 There are preconditions to the exercise of power to grant development consent for the proposal.

Amended Plans

- 5 The Council, as the relevant consent authority, consented to the amendment of the application on 9 May 2023, pursuant to s 37(1) of the *Environmental Planning and Assessment Regulation 2021*.
- 6 The amendments to the proposal included the following:

- (1) The removal of boarding rooms from the fifth storey and the reduction in the extent of building work upon this level. As a result the extent of non-compliance with the building height control was reduced.
 - (2) A reduction in the number of boarding rooms from 72 to 67.
 - (3) An increase in setbacks of the development to side and rear boundaries
 - (4) An increase in landscaped area
 - (5) Changes to the design of the basement parking level to facilitate lesser ramp gradients and greater aisle widths.
- 7 I accept the Council's submission that the amended proposal satisfactorily addressed the contentions raised by Council in the Statement of Facts and Contentions filed on 15 August 2022 and the reasons for refusal provided by the Parramatta Local Planning Panel.

Planning framework

- 8 The site has historically been used for residential purposes (namely for single use dwellings) and there is no indication of contamination upon the property. The subject property would continue to be used for residential purposes following the grant of consent. I accept the Council's submission and I am satisfied that the site is suitable for the development, pursuant to s 4.6 of State Environmental Planning Policy (Resilience and Hazards) 2021.
- 9 The site is zoned R4 High Density Residential pursuant to the Parramatta Local Environmental Plan 2011 (LEP 2011) (cl 1.8A of the Parramatta Local Environmental Plan 2023) and the proposal is permissible with consent. The objectives of the zone, to which regard must be had, are:
- To provide for the housing needs of the community within a high density residential environment.
 - To provide a variety of housing types within a high density residential environment.

- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
 - To provide for high density residential development close to open space, major transport nodes, services and employment opportunities.
 - To provide opportunities for people to carry out a reasonable range of activities from their homes if the activities will not adversely affect the amenity of the neighbourhood.
- 10 The proposal has a building height of 14.48m in contravention of the applicable height of buildings development standard for the site of 12m.
 - 11 On 26 March 2021, State Environmental Planning Policy (Housing) 2021 commenced, repealing State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH). On 18 March 2022, State Environmental Planning Policy (Housing) Amendment (Miscellaneous) 2022 commenced and amended the savings and transitional provisions within (SEPP ARH). Sections 1 and 2 in Sch 7A apply to save SEPP ARH.
 - 12 Division 3 of SEPP ARH applies to the proposal and pursuant to cl 28, the proposal is permissible with development consent.
 - 13 I accept the Council's submission that the proposal complies with the floor space ratio (cl 29(1) of SEPP ARH and cl 4.4 of LEP 2011) and the standards under cl 30 of SEPP ARH.
 - 14 Pursuant to cl 30A of SEPP ARH, the consent authority, or the Court exercising the functions of the consent authority, must consider whether the design of the development is compatible with the character of the local area. The amended proposal has the appearance of a modestly scaled residential flat building and its design is compatible with the character of the local area. The proposed development has a suitable building form and height that is consistent with the context and scale of other development in the locality providing a good transition from development to the north to higher density development to the south.

Contravention of the height of buildings development standard

- 15 The proposal has a maximum height above existing ground level of 14.48m to the lift overrun. The height of buildings development standard for the site is 12m.
- 16 The applicant provided a written request seeking to justify the contravention of the height of buildings development standard, prepared by Chapman Planning, dated 11 April 2023 and filed on 5 May 2023.
- 17 Clause 4.6(4) of LEP 2011 establishes preconditions that must be satisfied before a consent authority or the Court exercising the functions of a consent authority can exercise the power to grant development consent (*Initial Action Pty Ltd v Woollahra Municipal Council* (2018) 236 LGERA 256; [2018] NSWLEC 118 at [13] ("*Initial Action*"). The consent authority must form two positive opinions of satisfaction under cl 4.6(4)(a). As these preconditions are expressed in terms of the opinion or satisfaction of a decision-maker, they are a "jurisdictional fact of a special kind", because the formation of the opinion of satisfaction enlivens the power of the consent authority to grant development consent (*Initial Action* at [14]). The consent authority, or the Court on appeal, must be satisfied that the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6(3) and that the proposed development will be in the public interest because it is consistent with the objectives of the contravened development standard and the zone, at cl 4.6(4), as follows:

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

- (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Secretary has been obtained.

- 18 On appeal, the Court has the power under cl 4.6(2) to grant consent to development that contravenes a development standard without obtaining or assuming the concurrence of the Secretary of the Department of Planning and Environment, pursuant to s 39(6) LEC Act, but should still consider the matters in cl 4.6(5) of LEP 2011 (*Initial Action* at [29]).

The applicant's written request to contravene the height of buildings development standard

- 19 The first opinion of satisfaction required by cl 4.6(4)(a)(i) is that the applicant's written request seeking to justify the contravention of a development standard has adequately addressed the matters required to be demonstrated by cl 4.6(3) (see *Initial Action* at [15]), as follows:

(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

- 20 The applicant bears the onus to demonstrate that the matters in cl 4.6(3) have been adequately addressed by the written request in order to enable the Court, exercising the functions of the consent authority, to form the requisite opinion of satisfaction (*Initial Action* at [25]). The consent authority has to be satisfied that the applicant's written request has in fact demonstrated those matters required to be demonstrated by cl 4.6(3) and not simply that the applicant has addressed those matters (*RebelMH Neutral Bay Pty Ltd v North Sydney Council* [2019] NSWCA 130 at [4]).

- 21 The common ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary are summarised by Preston CJ in *Wehbe v Pittwater Council* (2007) 156 LGERA 446; [2007] NSWLEC 827 at [42]-[51] ("*Wehbe*") and repeated in *Initial Action* [17]-[21]:

- (1) The objectives of the development standard are achieved notwithstanding non-compliance with the standard;

- (a) the underlying objective or purpose of the development standard is not relevant to the development, so that compliance is unnecessary;
- (b) the underlying objective or purpose would be defeated or thwarted if compliance was required, so that compliance is unreasonable;
- (c) the development standard has been abandoned by the council;
- (d) the zoning of the site was unreasonable or inappropriate so that the development standard was also unreasonable or unnecessary (note this is a limited way of establishing that compliance is not necessary as it is not a way to effect general planning changes as an alternative to strategic planning powers).

- 22 The five ways to demonstrate compliance is unreasonable/unnecessary are not exhaustive, and it may be sufficient to establish only one way (*Initial Action* [22]).
- 23 The applicant's written request justifies the contravention of the height of buildings development standard on the bases that compliance is unreasonable or unnecessary because the proposal has been designed to conform to the topography of the site, including the additional Gross Floor Area (GFA) afforded by the incentive provisions of SEPP ARH. The proposal presents to Thomas Street as a three-storey building, consistent with the planning controls contained in LEP 2011.
- 24 The grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature, and environmental planning grounds is a phrase of wide generality (*Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 at [26]) as they refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects of the Act (*Initial Action* at [23]). The environmental planning grounds relied upon must

be sufficient to justify contravening the development standard and the focus is on the aspect of the development that contravenes the development standard, not the development as a whole (*Initial Action* at [24] and *Cumming v Cumberland Council* (No 2) [2021] NSWLEC 117 at [78]). Therefore, the environmental planning grounds advanced in the written request must justify the contravention of the development standard and not simply promote the benefits of carrying out the development as a whole (*Initial Action* at [24]).

- 25 I am satisfied, pursuant to cl 4.6(4)(a)(i), that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3). I am satisfied that justifying the aspect of the development that contravenes the development standard as a means to accommodating the addition GFA afforded by SEPP ARH for the proposal in a building envelope that is broadly consistent with the context and the planning controls can be properly described as an environmental planning ground within the meaning identified by his Honour in *Initial Action* at [23].

Whether the proposal is in the public interest because it is consistent with the objectives of the contravened development standard and the zone

- 26 The second opinion of satisfaction in cl 4.6(4)(a)(ii) is that the proposed development will be in the public interest because it is consistent with the objectives of the development standard that is contravened and the zone objectives. The consent authority must be satisfied that the development is in the public interest because it is consistent with these objectives, not simply that the development is in the public interest (*Initial Action* at [27]). The consent authority must be directly satisfied about the matters in cl 4.6(4)(a)(ii) (*Initial Action* at [26]).
- 27 I accept and adopt the reasons presented in the written request demonstrating that the proposal is consistent with the zone and development standard objectives in LEP 2011. For those reasons, I am satisfied that the proposal is consistent with the zone and development standard objectives.

Conclusion

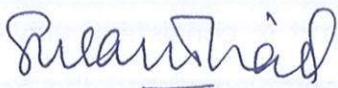
- 28 I have considered the submissions made by the Council in the Statement of Jurisdictional Issues filed with the Court on 1 June 2023 and I am satisfied, on the basis of the evidence before me, that the agreement of the parties is a decision that the Court could have made in the proper exercise of its functions.

Orders

- 29 The orders of the Court are:

- (1) The appeal is upheld.
- (2) Development Application No. 1036/2021, as amended, for demolition of existing structures and construction of a boarding house containing sixty-seven (67) boarding rooms, over a level of basement parking, at 71-73 Thomas Street, Parramatta, is determined by the grant of consent, subject to conditions of consent at Annexure A.

I certify that this and the preceding 7 pages are a true copy of my reasons for judgment.



.....

Susan O'Neill

Commissioner of the Court

Annexure A**DETERMINATION OF DEVELOPMENT APPLICATION BY GRANT OF
CONSENT****Development Application No:** DA/1036/2021**Development:** demolition of existing structures and construction of a boarding house containing sixty-seven (67) boarding rooms, over a level of basement parking**Site:** 71-73 Thomas Street, Parramatta

The above development application has been determined by the granting of consent subject to the conditions specified in this consent.

Date of determination: 08 June 2023**Date from which consent takes effect:** Date of determination.**TERMINOLOGY**

In this consent:

- (a) Any reference to a Construction, Compliance, Occupation or Subdivision Certificate is a reference to such a certificate as defined in the *Environmental Planning and Assessment Act 1979*.
- (b) Any reference to the "applicant" means a reference to the applicant for development consent or any person who may be carrying out development from time to time pursuant to this consent.
- (c) Any reference to the "site", means the land known as 71-73 Thomas Street, Parramatta.

General Matters

The conditions of consent are as follows:

1. The development is to be carried out in accordance with the following plans as well as the documentation listed below, except where amended by other conditions of this consent and/or any plan annotations:

Architectural Drawings

Drawing/Plan No.	Issue	Plan Title	Dated
DA001	C	Notes & Legends & Basix Commitments	11.01.23
DA002	C	Notes & Legends	11.01.23

Drawing/Plan No.	Issue	Plan Title	Dated
DA102	C	Site Plan	11.01.23
DA111	C1	Design Floor Plan: Basement	11.04.23
DA112	C1	Design Floor Plan: Ground	11.04.23
DA113	C1	Design Floor Plan: Level 01	11.04.23
DA114	C1	Design Floor Plan: Level 02	11.04.23
DA115	C1	Design Floor Plan: Level 03	11.04.23
DA116	C1	Design Floor Plan: Level 04	11.04.23
DA117	C1	Design Roof Plan	11.04.23
DA201	C1	Building Floor Plan: Basement	11.04.23
DA202	C1	Building Floor Plan: Ground	11.04.23
DA203	C1	Building Floor Plan: Level 01	11.04.23
DA204	C1	Building Floor Plan: Level 2	11.04.23
DA205	C1	Building Floor Plan: Level 03	11.04.23
DA206	C1	Building Floor Plan: Level 04	11.04.23
DA207	C1	Roof Plan	11.04.23
DA300	C	Thomas Street Elevations	11.01.23
DA301	C	Pemberton Street Elevations	11.01.23

Drawing/Plan No.	Issue	Plan Title	Dated
DA302	C	Site Elevation – South	11.01.23
DA303	C	Site Elevation – West	11.01.23
DA311	C	North & South Elevations	11.01.23
DA312	C	East & West Elevations	11.01.23
DA313	C	Street Wall Elevations	11.01.23
DA401	C	Long Section: Site	11.01.23
DA402	C	Cross Section: Site	11.01.23
DA411	C	Sections	11.01.23
DA412	C	Sections	11.01.23
DA413	C	Sections	11.01.23
DA601	C	Accessible Room G10-118-218 Detailed Layout Plan	11.01.23
DA603	C	Accessible ENS: Typical Detailed Plan	11.01.23
DA604	C	Accessibility Details	11.01.23
DA605	C	Bin Storage Area: Detailed Layout Plan	11.01.23
DA701	C	Window Schedule	11.01.23
DA702	C	Door Schedule	11.01.23
DA703	C	Door Schedule	11.01.23
DA704	C	Door Schedule	11.01.23

Drawing/Plan No.	Issue	Plan Title	Dated
DA705	C	Fitting & Equipment Schedule	11.01.23

Civil Drawings/Stormwater

Drawing/Plan No.	Issue	Plan Title	Dated
2021409 H01	8	Hydraulic Details	26.4.2023
2021409 H02	8	Hydraulic Details	26.4.2023
2021406 H03	8	Hydraulic Details	26.4.2023
2021406 H04	8	Hydraulic Details	26.4.2023
20214036 H05	8	Hydraulic Details	26.4.2023
20214036 H06	8	Hydraulic Details	26.4.2023

Landscape Drawings

Drawing/Plan No.	Issue	Plan Title	Dated
DA121	C	Pemberton Street Level – Landscape Plan Overall	11.01.23
DA122	C	Pemberton Street Level – Landscape Plan – Zone A	11.01.23
DA123	C	Pemberton Street Level – Landscape Plan – Zone B	11.01.23
DA124	C	Pemberton Street Level – Landscape Plan – Zone C	11.01.23
DA125	C	Pemberton Street Level – Landscape Plan – Zone D	11.01.23
DA126	C	Thomas Street Level – Front Landscape Plan Overall	11.01.23

DA127	C	Thomas Street Level – Zone A – Front Landscape Plan	11.01.23
DA128	C	Thomas Street Level – Zone B – Front Landscape Plan	11.01.23
DA129	C	Rooftop Courtyard Landscape Plan – Level 4	11.01.23
DA1210	C	Level 4 Terrace Landscape Plan	11.01.23
DA1211	C	Landscape Planting Schedule and Details	11.01.23
DA1212	C	Material Schedule	11.01.23
DA1213	C	Landscape Notes	25.10.22

Specialist Reports

Document	Ref No.	Issue	Prepared By	Dated
Statement of Environmental Effects			Chapman Planning	13 October 2021
Access report			Design Right Consulting	6 October 2021
Acoustic report	2021-409		Acoustic Noise & Vibration Solution P/L	5 October 2021
Arboricultural Impact Assessment			Abnoba Arbor Arboricultural Services	16 September 2021
Geotechnical Report	GF1404-Br		GeoFirst Pty Ltd	25 November 2022
Geotechnical Report	GF1404-A		GeoFirst Pty Ltd	17 May 2022
National Construction Code Report			Design Right Consulting	6 October 2021
Acid Sulphate Soil	2048A		Pacific	29 September

Investigation			Environmental	2021
Traffic & parking Impact Assessment	2021-409 TPIA	3	ANA Civil P/L	28 November 2022
Social Impact Assessment Covering Commentary			Chapman Planning Pty Ltd	13 October 2021
Boarding House Plan of Management			Chapman Planning Pty Ltd	13 October 2021
External Finishes Schedule			Unauthored	Undated
Operational Waste Management Plan		B	EF Consulting	12 October 2021
Waste Management Plan			Unauthored	13 October 2021

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. Trees to be retained are:

Tree No.	Name	Common Name	Location	Tree Protection Zone (m)
1	<i>Melaleuca quinquenervia</i>	Broad-leaved Paperbark	Nature strip – 69 Thomas St	As per AIA report
2	<i>Unidentified species</i>	Unknown	Nature strip – 71 Thomas St	As per AIA report

Reason: To protect significant trees which contribute to the landscape character of the area.

3. 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.

4. 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. Approval is granted for the demolition of # (all buildings and outbuildings) currently on the property, subject to compliance with the following: -

- (i) 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.

- (ii) 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.
- (iii) 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.
- (iv) 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.
- (v) 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.
- (vi) 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.
- (vii) 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.

- (viii) 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.
- (ix) 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".
- (x) Demolition is to be completed within 5 weeks of commencement.
- (xi) 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.
- (xii) 1.8m high Protective fencing is to be installed to prevent public access to the site.
- (xiii) 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.
- (xiv) 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).
- (xv) Before demolition works begin, adequate toilet facilities are to be provided.
- (xvi) 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.
- (xvii) 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.

6. 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. For more information, please contact the Levy support team on 13 14 41.

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

7. 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:

- (a) 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,
- (b) completing any public work such as roadwork, kerbing and guttering, footway construction, stormwater drainage and environmental controls, required in connection with this consent, and
- (c) 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/1036/2021
- 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) 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.

8. 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.

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.)

9. Service ducts, plumbing installations and plant servicing the development must be concealed within the building to keep external walls free from service installations. Details are to be included within the plans and documentation accompanying the Construction Certificate to the satisfaction of the Certifying Authority.

Reason: To ensure the quality built form of the development.

10. A single master TV antenna not exceeding a height of 3.0m above the finished roof level must be installed on each building to service the development. A connection is to be provided internally to each dwelling/unit within the development.

Details of these connections are to be annotated on the plans and documentation accompanying the Construction Certificate to the satisfaction of the Certifying Authority.

Reason: To protect the visual amenity of the area.

11. A monetary contribution comprising \$103, 996.17 is payable to City of Parramatta Council in accordance with Section 7.12 of the Environmental Planning and Assessment Act 1979 and the *Parramatta Section 94A Development Contributions Plan (Amendment No. 5)*. Payment must be by EFTPOS, bank cheque or credit card only.

The contribution is to be paid to Council prior to the issue of a construction certificate.

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.

Parramatta Section 94A Development Contributions Plan (Amendment No. 5) 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.

12. 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.

13. A noise management plan must be prepared in accordance with the NSW Department of Environment, Climate Change and Water 'Interim Noise Construction Guidelines 2009' and accompany the application for a Construction Certificate. The Certifying Authority must be satisfied the Construction Noise Management Plan will minimise noise impacts on the community during the construction of the development.

The Construction Noise Management Plan must include:

- (a) Identification of nearby residences and other sensitive land uses.
- (b) Assessment of expected noise impacts.
- (c) Detailed examination of feasible and reasonable work practices that will be implemented to minimise noise impacts.
- (d) Community Consultation and the methods that will be implemented for the whole project to liaise with affected community members to advise on and respond to noise related complaints and disputes.

Reason: To prevent loss of amenity to the area.

14. Documentary evidence to the satisfaction of the Certifying Authority is to accompany the application for a Construction Certificate confirming satisfactory arrangements have been made with the energy provider for the provision of electricity supply to the development.

If a substation is required of the energy provider, it must be located internally within a building/s.

Substations are not permitted within the front setback of the site or within the street elevation of the building; unless such a location has been outlined and approved on the Council stamped Development Application plans. Substations are not permitted within Council's road reserve.

Reason: To ensure adequate electricity supply to the development and to ensure appropriate streetscape amenity.

15. The development must incorporate 3 adaptable dwellings. Plans submitted with the Construction Certificate must illustrate that the required adaptable dwellings have been designed in accordance with the requirements of AS 4299-1995 for a class C Adaptable House.

Reason: To ensure the required adaptable dwellings are appropriately designed.

16. 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.

17. 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 cause damage to neighbouring properties. If damage to 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.

18. 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.

19. 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.

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

- (a) A holding tank capable of storing stormwater 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.

The system is not to be used to store or discharge groundwater to Council's stormwater drainage system.

Reason: To ensure satisfactory storm water disposal.

21. 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.
 - o Concept stormwater drainage plans, Job No. 2021409, Revision 8, dated 26 April 2023, prepared by ANA Civil.
 - (b) A Site Storage Requirement of 235 m³/ha and a Permissible Site Discharge of 208 L/s/ha (when using 3rd edition of UPRCT's handbook).
 - (c) The detention storage is to be redesigned so that it is wholly located in the vicinity of OSD tank 1 with the building front setback to Pemberton Street and not within the basement driveway ramp.
 - (d) Any tailwater effects from the Jellyfish Filter are to be considered in the OSD calculations and adjustments made as necessary.
 - (e) 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.
 - (f) Certificate from registered structural engineer certifying the structural adequacy of the OSD tank structure.
 - (g) No groundwater is to be discharged to Council's stormwater drainage system.
- Reason:** To minimise the quantity of storm water run-off from the site, surcharge from the existing drainage system and to manage downstream flooding.

22. Water quality treatment devices must be installed to manage stormwater runoff quality to Council's drainage system to satisfy section 3.3.6.1 of Parramatta City Council Development Control Plan 2011.

Details of the proposed devices and their location must be consistent with the concept stormwater drainage plans, Job No. 2021409, Revision 8, dated 26 April 2023, prepared by ANA Civil, and accompany the application for a Construction Certificate to the satisfaction of the Certifying Authority.

Design certificates from both the engineer and the device manufacturer is also to be included in the Construction Certificate application certifying that the system has been designed in accordance with the manufacturer specifications and will meet Council's pollution reduction targets.

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

23. Where shoring will be located on or will support Council property, engineering details of the shoring are to be prepared by an appropriately qualified and practising structural engineer. These details are to include the proposed shoring devices, the extent of encroachment and the method of removal and de-stressing of the shoring elements. These details shall accompany the application for a Construction Certificate. A copy of

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

38. 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.

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.

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.

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.

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.

43. Prior to the commencement of work, a registered surveyor is to undertake a set out survey to identify the location of all footings, slabs, posts and walls adjacent to a boundary. This is to ensure the development when complete, will be constructed wholly within the confines of the subject allotment. This set out survey showing the location of the development relative to the boundaries of the site, is to be forwarded to the Principal Certifying Authority prior to pouring of any footings or slabs and/or the construction of any walls/posts.

Reason: To ensure that the building is erected in accordance with the approval granted and within the boundaries of the site.

44. 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.

45. Oversize vehicles using local roads require approval from the National Heavy Vehicle Regulator (NHVR). The applicant is to be required to submit an application for an Oversize Vehicle Access Permit through NHVR's portal (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.

46. The applicant is to be required to notify Council when the existing dwelling has been demolished prior to carrying out the construction/restoration works to allow Council to remove the property from the Resident Parking Scheme that applies in this area.

Reason: To ensure proper management of on street parking.

47. 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.

48. 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) 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.

49. 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:

- No ground settlement or movement is to be induced which is sufficient enough to cause an adverse impact to adjoining property and/or infrastructure.
- 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.
- 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.
- 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.
- Appropriate support and retention systems are to be recommended and suitable designs prepared to allow the proposed development to comply with these design principles.
- 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.

50. Details of the proposed extension of Council's road drainage system in Pemberton Street shall be submitted for Council's Catchment Management Unit approval prior to commencement of any work.

Reason: To ensure adequate stormwater infrastructure is provided.

51. 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.

52. 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.

53. 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.

54. 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:

- 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.
- Storage of building materials and building waste containers (skips) on Council's property.
- 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.

- 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.

55. 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.

PART D – WHILE BUILDING WORK IS BEING CARRIED OUT

56. No trees on public property (footpaths, roads, reserves, etc.) are permitted to be removed, pruned or damaged during construction including the installation of fences, hoardings or other temporary works, unless approved in this consent.

Reason: Protection of existing environmental infrastructure and community assets.

57. No materials (including waste and soil), equipment, structures or goods of any type are to be stored, kept or placed within 5m of the trunk of a tree or within the drip line of any tree.

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

58. Trees to be removed are:

As per Arboricultural Impact Statement, dated 16/09/202 - Trees 3-13.

Reason: To facilitate development.

59. 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.

60. 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:

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

Reason: To protect the amenity of the surrounding area.

61. 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.

62. 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) prior to driving through local roads within the City of Parramatta LGA.

Reason: To ensure maintenance of Council's assets.

63. Stormwater must be connected to Council's piped road drainage system in Pemberton Street.
Reason: To ensure satisfactory storm water disposal.
64. A 200mm wide grated drain, incorporating a heavy duty removable galvanised grate is to be located within the site at the intersection of the driveway and Council's footway to collect all surface water flowing down the driveway. The drainage line from the grated drain shall be connected to the street system, either separately or via the main site outlet.
Reason: Stormwater control.
65. 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.
66. 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.
67. A footpath is to be constructed in accordance with Council Standard Drawing DS3 in front of the site within the road reserve. Details of the proposed footpath works shall be submitted to and approved by Council's Civil Asset Team prior to commencement of footpath works. All costs are to be borne by the applicant.
Reason: To provide pedestrian passage.
68. 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.
69. 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.
70. 4. 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.

71. 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.

PART E – BEFORE THE ISSUE OF AN OCCUPATION CERTIFICATE

72. 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.

73. 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.

74. 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.

75. A street number is to be placed on the site in a readily visible location from a public place prior to the issue of an Occupation Certificate. The numbers are to have a minimum height of 75mm.

Reason: To ensure a visible house number is provided.

76. Under Section 75 of the Environmental Planning & Assessment Regulation 2021, it is a condition of this development consent that all design measures identified in the BASIX Certificate No. 1242412M_02, will be complied with prior to occupation.

Reason: To comply with legislative requirements of section 75 of the Environmental Planning & Assessment Regulation 2021.

77. Certification must be provided prior to the issue of an occupation certificate that the required adaptable dwelling(s) have achieved a class C design in accordance with the requirements of AS 4299 -1995.

Reason: To ensure the requirements of DCP 2011 have been met.

78. Before the issue of an occupation certificate, a suitably qualified engineer must prepare a post-construction dilapidation report, to the satisfaction of the principal certifier, detailing whether:

- (a) after comparing the pre-construction dilapidation report to the postconstruction dilapidation report required under this condition, there has been any structural damage to any adjoining buildings; and
- (b) where there has been structural damage to any adjoining buildings, that it is a result of the building work approved under this development consent.

Before the issue of an occupation certificate, the principal certifier is to provide a copy of the post-construction dilapidation report to Council (where Council is not the principal certifier) and to the relevant adjoining property owner(s).

Reason: To identify damage to adjoining properties resulting from building work on the development site

79. Proof of completion of footpath construction work shall be submitted to the satisfaction of Council prior to release of the Occupation Certificate.

Reason: To provide pedestrian passage.

80. 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.

81. 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 sensitive urban design (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.

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 (OSD) and water sensitive urban design (WSUD) system.

A compliance certificate and signed maintenance contract for the stormwater water quality improvement devices is also to be submitted with the application.

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.

82. 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 then the "e-developer" icon or telephone 13 20 92.

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

83. All individual parcels of land holding a separate title within the development site must be consolidated into one lot. A plan of consolidation must be registered with the Land and Property Information Division of the NSW Land Registry Services, prior to an Occupation Certificate being issued.

Reason: To comply with the Conveyancing Act 1919.

84. 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.

85. 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.

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

Acoustic Noise and Vibrations P/L Titled: Noise Impact Assessment for Proposed Boarding House at 71-73 Thomas Street Parramatta; Project number 2021-409; dated 05.10.2021

Reason: To demonstrate compliance with submitted reports.

PART F – OCCUPATION AND ONGOING USE

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.

88. 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.

89. If a roller shutter door is to be provided at the driveway entry and exit from Pemberton Street, it is to be operated via remote control. A security access card reader cannot be installed for this development as it will impede access to the carpark and not comply with Clause Nos. 3.3(b) of AS 2890.1-2004.

Reason: To comply with Australian Standards.

90. 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: Environmental Noise Control Manual, Industrial Noise Policy 2000 and the Protection of the Environment Operations Act 1997.

Reason: To prevent loss of amenity to the area.

91. 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.

92. The use and occupation of the premises shall be in accordance with Local Government (General) Regulation 2021, Schedule 2 Part 1- Standards for Places of Shared Accommodation.

Reason: to ensure that the premises are maintained in a safe and healthy condition.

93. The use and occupation of the premises shall be in accordance with the Plan of Management dated April 2022 (Council reference D08517495).

Reason: To protect health and amenity.

94. The operation of the boarding house is to be in accordance with the approved Plan of Management at all times. Any variation to the Plan of Management may only be made with the written consent of Council.

Reason: To ensure the boarding house operates in accordance with the assessed Plan of Management.

95. The premises shall be used as a boarding house as defined in Section 516(1A) of the Local Government Act 1993, being a building wholly or partly let as lodging in which each letting provides an occupant with a principal place of residence.

Reason: To ensure the boarding house is operating appropriately.

96. The applicant and any subsequent operator must comply with all provisions of the Boarding Houses Act 2012.

Reason: To ensure the boarding house is operating appropriately.

97. The owner and/or their representative such as an agent are not permitted to advertise or organise for short term or share accommodation in the building.

Reason: To ensure the development operates as a boarding house.

98. The lodgers must be subject to an occupancy agreement for a term of at least three months

Reason: To ensure the development operates as a boarding house.

99. The accommodation of the building must be used as a boarding house as defined in the Parramatta Council LEP 2011 and DCP 2011, and not for the purposes of a hotel, motel, serviced apartment, private hotel, tourist accommodation or the like.

Reason: To ensure the development operates as a boarding house.

100. The boarding house is not to exceed 86 tenants, plus 1 onsite manager at any one time.

Reason: To ensure amenity for tenants.

101. The development must be registered as a General Boarding House or Assisted Boarding House (as applicable) under the Boarding House Act 2012 with NSW Department of Fair Trading within 28 days of the issue of the Occupation Certificate as required by the Act and proof of registration submitted to Council.

Reason: To comply with the Boarding House Act 2012.

102. The boarding house owner must lodge an Annual Return (which sets out any changes to the registration details) within 28 days of the 12-month anniversary of the date of their initial registration, and notify Fair Trading NSW within 28 days of the cessation of the premises being used as a boarding house. A copy of this information to be provided to Council.

Reason: To ensure the boarding house operates appropriately.

103. The applicant must complete a standard form occupancy agreement for general boarding houses under the Boarding Houses Act 2012 for each new occupant of the boarding house prior to the commencement of their tenancy.

Reason: To comply with the Boarding Houses Act 2012.

104. All residents in the Boarding House are to sign a lease or licence agreeing to comply with the House Rules, with the length of the lease to be determined by the management on the explicit understanding that accommodation is not to be provided on a temporary basis to persons on recreational pursuits. The length of lease or licensing agreement shall be no less than a term of three months.

Reason: To ensure that appropriate records are kept and to ensure that the use of the premises remains as a boarding house.

105. Each occupant of the boarding house shall be presented with a set of house rules approved by the certifying authority.

Reason: To ensure that the amenity of the surrounding area and for boarding house residents is maintained.

106. A copy of the House Rules shall be placed in prominent locations on the site, including in all communal areas, behind doors in bedrooms and upon the rear façade of the building, in order to familiarise residents of the boarding house with acceptable activities.

Reason: To ensure that residents of the boarding house are familiar with the local house rules.

107. Any variation to the on-site management is to be carried out with prior approval from Council by way of a formal application to amend the Conditions of Consent.

Reason: To ensure the development operates in accordance with the approved consent.

108. The proponent shall also ensure that each room is provided with the following basic facilities:

- a) Mirror;
- b) Table & chair;

- c) Small bar fridge;
- d) A night light or other approved illumination device for each bed;
- e) Waste container;
- f) An approved latching device on the door;
- g) Curtains, blind or similar privacy device;
- h) A bed; and
- i) A microwave.

Reason: to ensure tenant amenity.

109. If contaminated sharps are generated, non-reusable sharps containers shall be provided in accordance with relevant Australian standards for disposal. Final disposal must be undertaken by licensed contaminated waste contractors, with a copy of contract to be provided to Council.

Reason: To ensure waste is properly disposed of.

110. The individual rooms and common areas are to be maintained in a clean and tidy state and individual's rubbish is to be placed in the appropriate receptacles.

Reason: to ensure proper management of the premises.

111. No fire, candles or naked flames are permitted within individual rooms – this includes smoking.

Reason: To ensure fire safety.

112. No strata subdivision of the Boarding House is permitted.

Reason: To ensure the boarding house operates in accordance with the definition of a boarding house under Parramatta Local Environmental Plan 2011.

113. Operation and use of the Boarding House should be undertaken in accordance with Schedule 2 [Standards Enforceable by Orders] of the Local Government (General) Regulation 2005. Council will conduct routine annual inspections in order to ensure compliance with the requirements of the Schedule and Council staff will report in writing on the results of the inspection by the Council Officer. A fee is payable for this service under Section 608 of the Local Government Act 1993.

Reason: To ensure the boarding house is operating appropriately.

114. Occupants of the boarding house are not eligible to obtain a resident car parking permit.

Reason: to maintain on-street parking along Prince Street.

115. Communal spaces are to be maintained to be high quality, and suitable for relaxation, hosting and social gathering.

Reason: to ensure high quality communal areas.

116. No live music or live entertainment shall be provided within the premises.

Reason: To protect the amenity of the surround neighbourhood.

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

Reason: To prevent loss of amenity to the area.

118. When Council receives an occupation certificate from the principal certifier, the applicant may lodge an application to Council to release the securities held.

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.

"END OF CONDITIONS"