

**ITEM****13 - 19 Boronia Road, GREENACRE****Construction of a Coles Supermarket, Retail Shop and Liquor Outlet Including Associated Basement Carparking and Site Works****S96(2) Amendment:**

- Relocate northern wall of building 3m to north;
- 8 additional car parking spaces in basement;
- 80sq m addition to specialty shop area, including creation of one additional specialty shop tenancy;
- parapet height lowered on western elevation from RL 53.65 to RL53.45, and changes to west elevation articulation, with eaves and gutters added and diagonal downpipes deleted;
- increase size of loading dock, as a result of building expansion to northern boundary;
- removal of low-level roof above rear of basement; and
- changes to north east corner of building to delete glazing.

**FILE****DA-1149/2009/1 - East Ward****JRPP REFERENCE NO.****2010SYW076****ZONING****3(b) - Business - Other Centres****DATE OF LODGEMENT****11 October 2010****APPLICANT****Coles Group Property Development Ltd****OWNERS****Coles Group Property Developments Ltd****AUTHOR****City Planning and Environment****SUMMARY REPORT**

On 22 July 2010, The Sydney West Regional Planning Panel approved Development Application No. DA-1149/2009, which proposed the construction of a new Coles Supermarket, with one associated Retail Shop and Liquor Outlet including associated basement car parking for 190 vehicles and Site Works, and new signage. The Capital Investment Value of the works was \$16.322million.

This current application (DA-1149/2009/1) proposes the following modifications to the application previously approved by the Panel:

- Relocate northern wall of building 3m to north;
- 8 additional car parking spaces in basement;
- 80sq m addition to specialty shop area, including creation of one additional specialty shop tenancy;
- parapet height lowered on western elevation from RL 53.65 to RL53.45, and changes to west elevation articulation, with eaves and gutters added and diagonal downpipes deleted;
- increase size of loading dock, as a result of building expansion to northern boundary;
- removal of low-level roof above rear of basement; and
- changes to north east corner of building to delete glazing.

The proposed modifications are sought under section 96(2) of the Environmental Planning and Assessment Act, 1979. In accordance with the relevant provisions of the Major Developments SEPP, the Section 96(2) modification is reported to the Joint Regional Planning Panel for determination.

DA-1149/2009/1 has been assessed against *Bankstown Local Environmental Plan 2001* and *Bankstown Development Control Plan 2005* and the application is considered to satisfy all relevant development standards.

The application was advertised and notified for a period of twenty-one (21) days, from 3 to 23 November 2010. No submissions were received during this period.

### **POLICY IMPACT**

The matter being reported has no direct policy implications.

### **FINANCIAL IMPACT**

The matter being reported has no direct financial implications.

### **RECOMMENDATION**

It is recommended that the application be approved subject to the attached modified conditions (see Attachment C), including the following specific amendment to Condition 2(a) in order to address ongoing concerns regarding the design of the north eastern corner of the building:

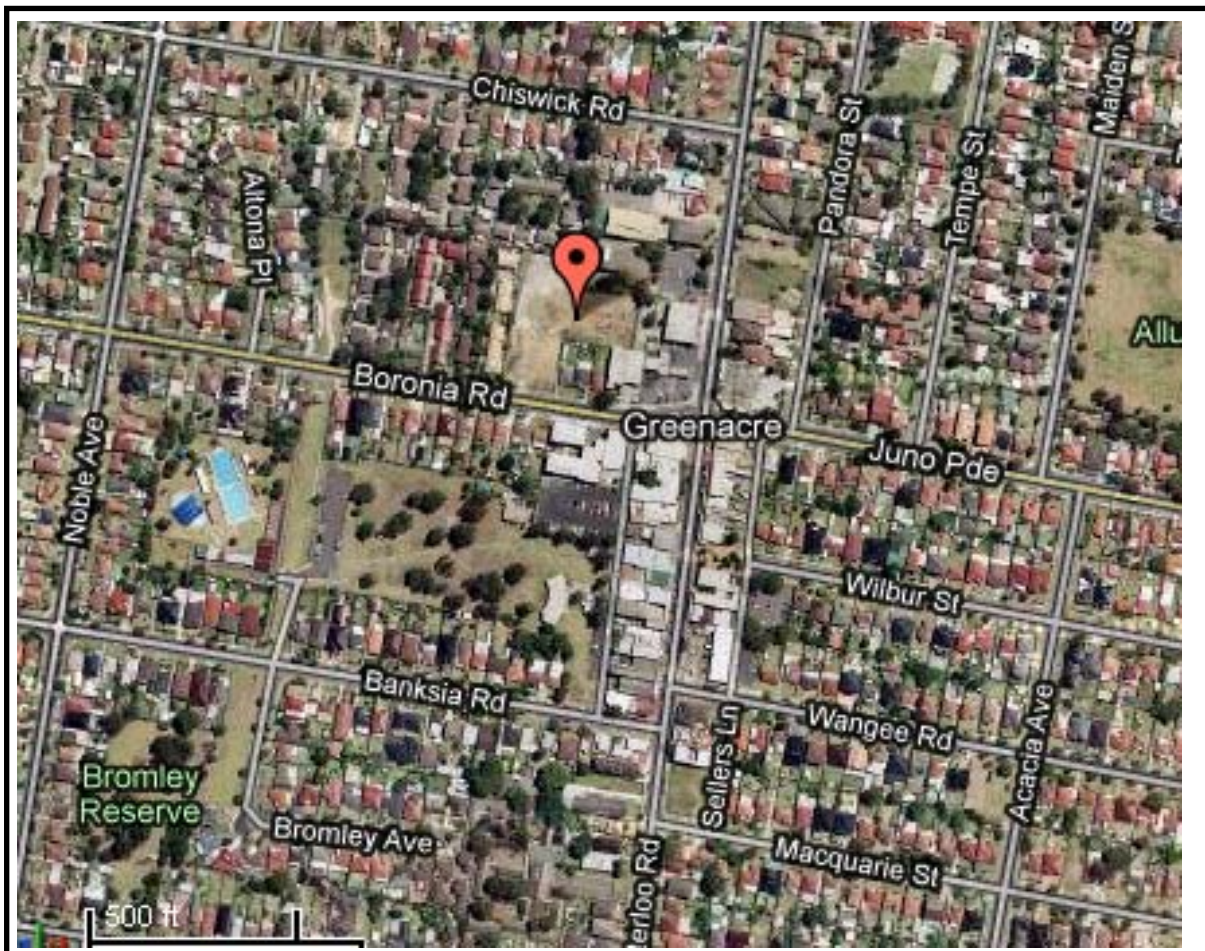
- a) Amended plans are to be submitted which provide for the deletion of the *external courtyard* at the north-eastern corner of the proposed development and the external appearance of the development in the area of the *external courtyard* access point on the northern and eastern elevations is to match the remainder of the northern and eastern facades. *In particular, no signage is permitted in this location, and the colours, articulation and finishes of the wall panels in this location shall all be consistent, with no "feature" colours incorporated.*

## **ATTACHMENTS**

- A - Assessment Report
- B - Locality Plan
- C - Amended Conditions of Consent
- D - Basement Plan (as amended)
- E - Ground Floor Plan (as amended)
- F - Roof Plan (as amended)
- G - Elevations & Sections (as amended)

**DA-1149/2009/1 ASSESSMENT REPORT****SITE & LOCALITY DESCRIPTION**

The subject site is known as 13 - 19 Boronia Road, Greenacre. The site is currently zoned 3(b) - Business - Other Centres, and is currently vacant. The site is located on the northern side of Boronia Rd, between Altona Place and Waterloo Road, on the western fringe of the Greenacre town centre, and has residential properties located to the west and the north of the site, as well as opposite the western end of the site on the southern side of Boronia Rd. Land to the east of the site contains a two storey commercial building, with the Greenacre town centre located further east. Also to the north and fronting Waterloo Road is the Council owned land occupied by Greenacre Senior Citizens Centre. Small scale commercial buildings are located opposite the eastern end of the site on the southern side of Boronia Rd.

**PROPOSED DEVELOPMENT**

This application is submitted under the provisions of section 96(2) of the *Environmental Planning and Assessment Act, 1979*. The application seeks to amend Determination Notice No. DA-1149/2009, and involves the following modifications:

- Relocate northern wall of building 3m to north;
- 8 additional car parking spaces in basement;
- 80sq m addition to specialty shop area, including creation of one additional specialty shop tenancy;
- parapet height lowered on western elevation from RL 53.65 to RL53.45, and changes to west elevation articulation, with eaves and gutters added and diagonal downpipes deleted;
- increase size of loading dock, as a result of building expansion to northern boundary;
- removal of low-level roof above rear of basement; and
- changes to north east corner of building to delete glazing.

## **SECTION 96(2) ASSESSMENT**

The proposed modifications have been assessed pursuant to section 96 of the *Environmental Planning and Assessment Act, 1979*.

**(a) *the development as modified is substantially the same development as the development for which the consent was originally granted***

The proposed modifications, as described above, are considered to maintain a development that remains substantially the same as that approved under the original Development Application.

**(b) *the application has been notified in accordance with the regulations or a development control plan***

The application has been advertised and notified for a period of twenty-one (21) days, from 3 to 23 November 2010, in accordance with the notification requirements of Part D1 of BDCP 2005.

**(c) *Council has consulted with the relevant Minister, public authority or approval body***

Consultation with the minister, public authority or approval body is not required for this application.

**(d) *any submissions made concerning the proposed modification***

No submissions were made in relation to the proposed amendments.

## **SECTION 79C ASSESSMENT**

The proposed modifications have been assessed pursuant to section 79C of the *Environmental Planning and Assessment Act, 1979*.

### **Environmental planning instruments [section 79C(1)(a)(i)]**

State Environmental Planning Policy (Infrastructure) 2007

The original application was traffic generating development in accordance with State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP). Clause 104 of the Infrastructure SEPP does not require referral of the proposed modification to the Roads and Traffic Authority for consideration. Regardless, the minor increases in floor area (0.66:1 to 0.68:1) and car parking spaces (up from 190 to 198 spaces) are not considered to be of significant impact, and these modifications are considered to be acceptable.

*Bankstown Local Environmental Plan 2001*

The following clauses of the Bankstown Local Environmental Plan 2001 (BLEP 2001) were taken into consideration:

Clause 2 Objectives of this Plan  
Clause 11 Development which is allowed or prohibited within a zone  
Clause 17 General environmental considerations  
Clause 19 Ecologically sustainable development  
Clause 20 Trees  
Clause 23 Development adjacent to residential zones  
Clause 25 Outdoor advertising  
Clause 30 Floor space ratios  
Clause 32 Access for people with disabilities  
Clause 48 Objectives of the Business zones  
Clause 50 Restrictions on certain development

An assessment of the Development Application revealed that the proposal complies with the matters raised in each of the above clauses of *Bankstown Local Environmental Plan 2001*.

Of particular relevance in the assessment of this development application is Clause 23, which states that in determining a development application that relates to land in a commercial zone adjoining land in Zone 2 (a) or 2 (b), the consent authority must take into consideration the following relevant matters:

- (a) *whether any proposed building is compatible with the height, scale, siting and character of existing residential development within the adjoining residential zone,*
- (b) *whether any goods, plant, equipment and other material used in carrying out the proposed development will be stored or suitably screened from residential development,*
- (c) *whether the proposed development will maintain reasonable solar access to residential development between the hours of 9 am and 3 pm during the winter solstice,*
- (d) *whether noise generation from fixed sources or motor vehicles associated with the proposed development will be effectively insulated or otherwise minimised,*

- (e) *whether the proposed development will otherwise cause nuisance to residents, by way of hours of operation, traffic movement, parking, headlight glare, security lighting, fumes, gases, smoke, dust or odours, or the like,*

The proposed modifications have been assessed against these requirements, given that residentially zoned land is located immediately to the north and west of the site.

An amended acoustic report has been submitted, which indicates that the proposed changes to the roof of the basement car park in the north-western corner of the site will not result in an unacceptable level of impact onto adjoining residential development.

Changes in the north western corner of the development, with setbacks reduced to the northern boundary are not considered to result in any unacceptable impacts on residentially zoned properties to the north and west of the site. There will be no significant appreciable visual impact as a result of moving the wall 3m closer to the northern boundary. Minor changes to the western elevation, in terms of reduced parapet height and removal of external downpipes, do not result in any additional unacceptable impacts on adjoining residential properties to the west. As a result of the proposed modifications, the height of the proposal remains compliant with the provisions of Council's DCP and the general design, siting and bulk of the development is considered to remain appropriate.

It is considered that the proposed modifications do not raise any additional matters of concern when assessed against the provisions of Clause 23 of the LEP.

Furthermore, it is noted that Floor Space Ratio increases from 0.66:1 to 0.68:1 as a result of the proposed modifications, which remains compliant with the maximum permissible floor space ratio of 1:1 under Clause 30(2) of the BLEP 2001.

**Draft environmental planning instruments [section 79C(1)(a)(ii)]**

There are no draft environmental planning instruments applicable to the proposed development.

**Development control plans [section 79C(1)(a)(iii)]**

The following table provides a summary of the development application against the controls contained in Part D4 - Commercial Zones, of the *Bankstown Development Control Plan 2005*.

STANDARD	APPROVED	PROPOSED	BDGP 2005 Part D4		LEP 2001 COMPLIANCE
			REQUIRED	COMPLIANCE	
Frontage	76.8 metres	<b>No change</b>	6 metres	Yes	N/A
Height	3 storeys	<b>No change</b>	3 storeys	Yes	N/A
Front setback	<ul style="list-style-type: none"> <li>1.5m basement</li> <li>6m ground floor entry, 5m loading dock</li> <li>23.5m to</li> </ul>	<b>No change</b>	<ul style="list-style-type: none"> <li>Nil for basement, ground and first floors</li> </ul>	Yes	N/A

STANDARD	APPROVED	PROPOSED	BDCP 2005 Part D4		LEP 2001 COMPLIANCE
			REQUIRED	COMPLIANCE	
	roof plant				
Side and Rear setback	4.2m basement (N and W, 0m to E) 3-5.35m ground floor (N and W, 0m to E)	<b>3.0-4.2m basement (W and NW, 0m to N and E)</b>  <b>5.35m W</b> <b>9.105m NW</b> <b>4.22m NE</b> <b>0.1m N and E</b>	Nil for basement, ground and first floors	<b>Yes- remains compliant</b>	N/A
Floor space ratio	0.66:1	<b>0.68:1</b>	1:1	<b>Yes - Remains compliant</b>	Yes
Car parking	190 spaces. In this instance, the RTA and Council's Traffic Engineer are satisfied with the 190 spaces proposed.	<b>198 spaces - consistent with RTA guidelines</b>	For development's greater than or equal to 4000m <sup>2</sup> gross floor area, a parking study is required.	<b>Yes - Remains compliant</b>	N/A
Facade design	<ul style="list-style-type: none"> <li>• Glazed entry and shop fronts.</li> <li>• Articulated front wall.</li> <li>• Colour applied to concrete walls</li> </ul>	<b>Minor changes to colours, some change to elements along W elevation. Considered minor and acceptable</b>	<ul style="list-style-type: none"> <li>• Minimise blank walls</li> <li>• Expansive use of glass</li> </ul>	<b>Yes - remains compliant</b>	N/A
Signage	34.5m <sup>2</sup> of signage	<b>No change to signage area</b>	Maximum 1.2m <sup>2</sup> per 1.5 metres of frontage (56.32m <sup>2</sup> )	Yes	N/A

Ass a result of the proposed modifications, the development is still considered to satisfy all relevant provisions of Part D4 of the BDCP 2005.

### **Planning agreements [section 79C(1)(a)(iia)]**

There are no planning agreements applicable to the proposed development.

### **The regulations [section 79C(1)(a)(iv)]**

The proposed development is not inconsistent with the relevant provisions of the Environmental Planning and Assessment Regulation, 2000.

### **The likely impacts of the development [section 79C(1)(b)]**

An assessment of the likely impacts of the proposed development has revealed the following issues that require particular attention, in relation to the proposed modifications:

### **Commercial/Residential Interface**



The development has boundaries with residential properties along part of the northern boundary and along the full length of the western boundary. No issue is raised with the proposed modifications along the western elevation, including the lowering by 200mm of the parapet height (from RL 53.65 to RL53.45) and changes to the articulation provided in this elevation, with eaves and gutters added and the approved diagonal downpipes deleted. This amended treatment is considered to remain consistent with the treatment of the other elevations, and is not considered to result in an unsatisfactory outcome at the commercial/residential interface. The continued incorporation of different colours and materials, as well as a variation in the appearance of architectural elements and the use of blade fenestration, is considered to ensure that the presentation of the development to the northern and western boundaries is appropriate.

Where adjacent to residential development, and despite the reduced setbacks proposed to the northern (3.0m instead of 4.2m to ground floor and 9.105m instead of 12m to upper floor) boundaries of the site, the setback to the western boundary remains the same (5.35m), it is considered that the impact of the development at the commercial/residential interface is appropriate.

#### Reduced Setback to Northern Boundary

The proposed modification to remove the 3m setback to part of the northern boundary adjacent to the Greenacre Senior Citizens Centre is not considered likely to result in any unacceptable impacts. Clause 4.11 (b) of Part D4 of the BDCP 2005 allows the minimum setback of blank wall to the side and rear boundaries of an allotment to be a nil setback for the basement ground and first floor levels. In this case the plans show a setback of 100mm.

However, it is noted that clause 4.10 of Part D4 of the BDCP 2005 allows for the consent authority to increase the minimum setbacks to side and rear boundaries to comply with clause 23 of the BLEP 2001.

As noted under the Bankstown Local Environmental Plan 2001 assessment above, the reduced setbacks to the northern boundary are not considered to result in any unacceptable impacts on residentially-zoned properties to the north and west of the site. As a result of the proposed modifications, the height of the proposal remains compliant with the provisions of Council's DCP and the general design, siting and bulk of the development is considered to remain appropriate.

The only part of clause 23 of the BLEP 2001 of relevance in this instance is subclause (a), which reads as follows:

- (a) *whether any proposed building is compatible with the height, scale, siting and character of existing residential development within the adjoining residential zone,*

The reduced northern setback does not change the height or character of the building already approved. The siting of the building has changed, with the 3m setback now reduced to 100mm (virtually 0m), but when viewed from the adjoining residentially-zoned site (ie the Senior Citizens Centre), this impact of this reduced

setback will have very little comparative impact. The impact on the siting and scale of the proposed building, as a result of the proposed modification, is not considered significant enough to warrant refusal of this aspect of the proposal. The proposed building, as modified, is considered to remain compatible with the height, scale, siting and character of existing residential development within the adjoining residential zone.

### Noise Impacts

An amended acoustic report has been submitted with the amendment application, which states that the proposed new modifications to the approved development are not expected to have an adverse impact to the neighbours from an acoustic point of view. The original application was accompanied by an acoustic report addressing noise impacts related to mechanical plant and also use of the car park and loading dock. The findings of the acoustic report indicate that provided certain acoustic measures are implemented, the development will be able to meet the relevant criteria specified in relevant legislation, particularly the Industrial Noise Policy, in relation to acoustic impacts on residential receivers.

As such, the amended acoustic report indicates that the proposed changes to the roof of the basement car park in the north-western corner of the site will not result in an unacceptable level of impact onto adjoining residential development. As previously approved, noise impacts from the car park will be addressed through the introduction of a 2.0m acoustic barrier around the northern and western edges of the car park. The amended acoustic report predicts that noise associated with the car park, as amended, will still be appropriately ameliorated at residential receivers as a result of the installation of this acoustic barrier.

### North-Eastern Corner Design

The original development proposal included the provision of a foyer in the north-eastern corner of the proposed development, adjacent to the northern property boundary, which incorporated doors to an external area, and which included changes to the facade and incorporates signage (see illustration attached).

Adjoining the site to the north is the Greenacre Community Centre and its associated car park. Under the original proposal, the plans showed a "pedestrian right of way" across the Greenacre Community Centre, leading to an "entry airlock" in this location. No right of way exists over the adjoining site to the north, and the development plans were then amended to remove reference to such. However, the "entry airlock" was amended to a "foyer", with the external appearance remaining generally the same as the original entry point. Concern was raised in the original assessment report that in designing this part of the development in this way, this still presented as an entry point, and customers may mistakenly park in and/or walk through the Greenacre Community Centre, under the misapprehension that an entry point exists to the Coles development.



*Photomontage of original proposal for north-eastern corner of proposed Coles development*

A condition (No. 2a) was imposed on the development consent, requiring this part of the site to be redesigned so as to more appropriately match the proposed facade of the eastern and northern elevations, and remove the possibility that this location may be misconstrued as an entry point, and encourage customers to illegally access the Community Centre Site for the purposes of accessing the proposed development.

The subject application includes changes along the northern boundary of the site, relocating the northern wall which was approved at a setback of 3.0m, to a setback of 100mm. As part of the additional floor area created by this change, an additional tenancy space has been created, which sits adjacent to the "foyer" opening in the north eastern corner of the building.

The subject application also includes some modifications to the external appearance of the north east corner of the development, in an attempt to address the requirements of Condition 2(a). The glazed screens on the northern boundary have been replaced by 2.0m high panel walls similar to the full height panels that make up the remainder of the northern, eastern and western elevations, however the access to this external area remains from within the building, and the signage and different-coloured panels also remain. It is these elements which are considered likely to create the misapprehension of an entry point existing in this location, and as such, it is considered appropriate to amend Condition 2(a) so as to ensure appropriate changes are made.



*Photomontage of amended proposal for north-eastern corner of proposed Coles development*

As previously noted in the original assessment report, should a time come in future when legal access is obtained over the adjoining site to the north, a Section 96 Amendment could be considered to reinstate the proposed entry in the north-eastern corner of the development. This is considered a more appropriate solution than incorporating the entry point at this stage, on the possibility that legal access may be granted over the adjoining site.

#### **Suitability of the site [section 79C(1)(c)]**

Despite the proposed modifications, the site is considered to remain suitable for the development.

#### **Submissions [section 79C(1)(a)(d)]**

The application was advertised and notified for a period of twenty-one (21) days, from 3 to 23 November 2010. No submissions were received during this period.

#### **The public interest [section 79C(1)(a)(e)]**

The proposed modifications are not considered to contravene the public interest.

### **CONCLUSION**

The proposed modifications have been assessed in accordance with the provisions of section 96 and section 79C of the *Environmental Planning and Assessment Act 1979*, and in accordance with the *Bankstown Local Environmental Plan 2001* and *Bankstown Development Control Plan 2005*.

The proposed modifications are considered to be consistent with the relevant objectives and standards. The overall development, as modified, is considered to remain compliant with all relevant development standards, and is considered to remain consistent with the previous assessment of the original development application in terms of the modified development's impact on the locality.

## ATTACHMENT C

### Amended Conditions of Consent

(Note: Amendments in *italics*)

- 2) Development shall take place in accordance with Development Application No. DA-1149/2009, submitted by Wales & Associates Pty Ltd, accompanied by Drawing No. DA02 Rev B dated 1-7-10, DA04 Rev D dated 27-5-10, DA05 Rev C dated 1-4-10, DA06 Rev B dated 1-4-10, and DA07 Rev D, dated 1-4-10, prepared by Christiansen O'Brien and affixed with Council's approval stamp, and the Statement of Environmental Effects prepared by Wales & Associates Pty Ltd, Job No.:355-2009 dated November 2009, *unless altered, amended or superseded by the Section 96(2) Amendment Application No. DA-1149/2009/1, lodged with Council on 11 October 2010, accompanied by Drawing No. DA04 Rev E dated 08-10-10, DA05 Rev D dated 08-10-10, DA06 Rev C dated 08-10-10, and DA07 Rev E, dated 08-10-10, prepared by Christiansen O'Brien and affixed with Council's approval stamp, except where otherwise altered by the specific amendments listed hereunder and/or except where amended by the conditions contained in this approval.*

The development plans shall be amended as follows:

- a) Amended plans are to be submitted which provide for the deletion of the *external courtyard* at the north-eastern corner of the proposed development and the external appearance of the development in the area of the *external courtyard* access point on the northern and eastern elevations is to match the remainder of the northern and eastern facades. *In particular, no signage is permitted in this location, and the colours, articulation and finishes of the wall panels in this location shall all be consistent, with no "feature" colours incorporated.*
  - b) *The overall internal north-south dimension shown on amended plan Drawing No. DA05 Rev D dated 08-10-10 shall be amended to read 74365mm*
- 78) One hundred and ninety-eight (198) off street car spaces being provided in accordance with the submitted plans. This shall comprise:
- 198 business / commercial spaces
  - Provision for car parking spaces shall be provided for people with mobility impairment in accordance with AS 2890.1. All car parking spaces shall be allocated and marked according to these requirements.
- 86) Car parking spaces for 198 vehicles shall be provided in marked spaces in the manner generally shown on the approved site plan. The car parking spaces, driveways and manoeuvring areas are to be used for employees and visitors vehicles only and not for the storage of new or used materials, finished goods or commercial vehicles.