

SUMMARY

PROPERTY:	17-35 Parramatta Road & 5 Powell Street, Homebush Lot 81 in DP 870786 & Lot 3 in DP 1002876
DA NO.:	2014/035/02
APPLICATION TYPE:	Section 96(2) Application
REPORT BY:	Sophie Olsen – Senior Planning Officer
RECOMMENDATION:	APPROVAL
SUBMISSIONS:	One (1) submission was received
ZONING:	B4 Mixed Use
DATE APPLICATION LODGED:	11 March 2015
APPLICANT:	Al Maha Pty Ltd
OWNER:	Al Maha Pty Ltd

INTRODUCTION

Approval is sought to reconfigure the layout of the approved basement levels 1, 2 and 3 and to construct a fourth level of basement comprising an additional (71) parking spaces.

In total, the proposal will provide (111) surplus parking spaces in addition to Council's DCP requirements under DCP 20 – Parramatta Road Corridor. It is relevant to note that the parking rates contained in Council's DCP provides a "minimum" control rather than a maximum or absolute, which enables the provision of additional parking within mixed use and residential development.

The additional parking spaces will be contained within a fourth level of basement parking and therefore will have no impact on the overall appearance of the development from the public domain and will not result in non-compliances with the development standards applicable to the site under the provisions of the Strathfield Local Environmental Plan (SLEP) 2012. The provision of additional basement car parking is encouraged as on-street parking near the site is restricted due to no-stopping zones and a clearway/slip lane along Parramatta Road.

DESCRIPTION OF THE SITE AND LOCALITY

The subject site is located on the north eastern corner of Parramatta Road and Powell Street in Homebush. The subject site comprises one (1) allotment on the corner of Parramatta Road and Powell Street (Lot 81 in DP 870786) and one (1) allotment with a frontage to Powell Street and shared northern boundary with the M4 Motorway (Lot 3 in DP1002876).

A single storey commercial structure with hardstand parking area was previously present on the site however has recently been demolished. The site has the following area and dimensions:

Site Area (approx.): 6,257m²

Dimensions (approx.): 99m (Parramatta Rd) x 94m (Powell St)

The surrounding streetscape presents a precinct which is undergoing transition from light industrial and commercial uses primarily characterised by car sale yards and mechanical workshops, to medium to high density residential development with some ground floor commercial/retail uses.

An aerial photograph of the site is provided below, however it is noted that structures within the site have since been demolished.



Figure 1: Aerial photograph of the subject site



Figure 2: Photograph of the subject site and surrounding development looking south east from Powell Street

PROPOSAL

The application seeks Council approval to reconfigure the layout of basement levels 1, 2 and 3 and to construct a fourth level of basement comprising an additional (71) parking spaces.

As previously approved, parking was distributed as follows:

- A total of (344) parking spaces across three (3) levels of basement distributed as follows:

Commercial	(50)
Residents	(191)
Resident Accessible	(33)
Visitors (residential)	(45)
Unallocated	(25)

The proposal, as modified, comprises:

- A total of (416) parking spaces across four (4) levels of basement distributed as follows:

Commercial	(50)
Residential	(253)
Residential Accessible	(43)
Visitors	(56)
Visitors Accessible	(2)
Unallocated	(12)

A section of the proposal is provided below followed by a rendered image of the approved development.

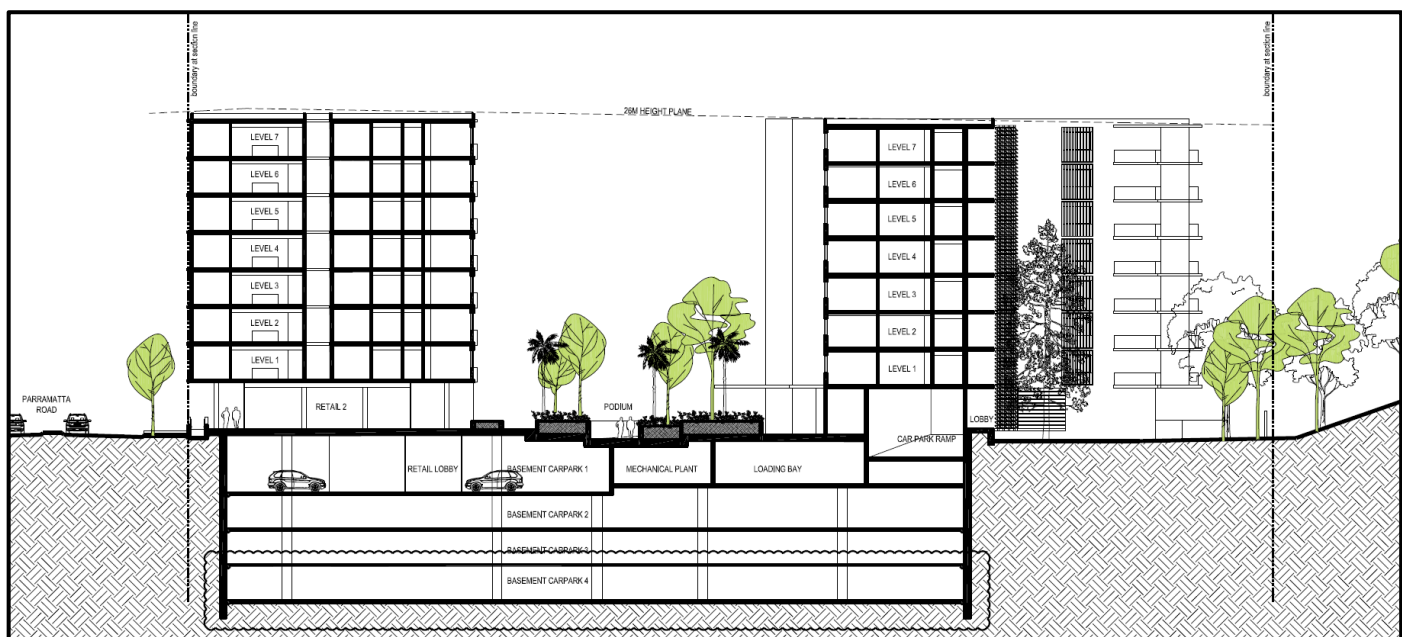


Figure 3: Section of the proposed development



Figure 4: Parramatta Road frontage of the approved development as viewed from the south-east



Figure 5: View to the approved development from the eastern adjoining future park.

BACKGROUND

The following background is relevant to the subject proposal:

- | | |
|-------------------|--|
| 12 September 2014 | An application for the demolition of existing structures and construction of two (2) x eight (8) storey mixed use buildings comprising a total of (221) residential units, five (5) x ground floor commercial tenancies, basement car parking and landscaping works was granted a Deferred Commencement consent by the Sydney East JRPP on 12 September 2014 (2015SYE035). |
| 10 November 2014 | Council released the consent for the above application following the satisfaction of Deferred Commencement matters and receipt of confirmation from Sydney Trains (Rail Corp) regarding the extinguishing of an easement. |
| 11 March 2015 | The subject Section 96(2) Application was lodged with Council. |
| 13 March 2015 | A separate application (DA2015/020) for the construction of one (1) additional level to the northern building and three (3) additional levels to the southern building comprising a total of (61) additional units. This application has a Capital Investment Value of \$11,977,651 and accordingly, Council is the consent authority. |
| 20 May 2015 | Clarification as to the distribution of car parking spaces within the subject application was sought. |
| 1 June 2015 | Amended plans were received. |
| 11 June 2015 | Further clarification and amended plans were sought. |

STATUTORY CONSIDERATIONS

Section 96 of the Environmental Planning and Assessment Act 1979

(2) Other modifications.

A consent authority may modify the consent if:

- (a) It is satisfied that the development to which the consent (as modified) relates is substantially the same development as the development for which consent was originally granted, before that consent was modified (if at all), and
- (b) It has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed on the consent as a requirement of a concurrence or in accordance with the General Terms of Approval and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and
- (c) It has notified the application in accordance with:
 - (i) The regulations, if the regulations so require, or

- (ii) A development control plan, if the consent authority is a Council that has made a Development Control Plan that requires the notification or advertising of applications for modification of a development consent, and
- (d) It has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.

Comment: With regard to sub-clause (a), the proposed development (as modified) is substantially the same development as the development for which consent was originally granted in that the reconfiguration of approved basement parking and addition of a further level of basement parking will not impact the approved bulk, height and scale of the development as viewed from the public domain.

With regard to sub-clause (b), the proposed development was referred to the NSW Office of Water as the parent application was Integrated Development under the Water Management Act 2000. General Terms of Approval were received on 15 April 2015.

In relation to sub-clauses (c) and (d), the Application is a Section 96(2) Application and has been notified for a period of (30) days in accordance with Part L of the Strathfield Consolidated Development Control Plan 2005 and the Integrated Development provisions of Section 118 of the Environmental Planning and Assessment Regulation 2000.

One (1) submission was received during the public exhibition of the subject application and has been considered within this report in accordance with the requirements of Section 79C(e) of the Environmental Planning and Assessment Act 1979.

The application has been assessed pursuant to the heads of consideration of Section 79C of the Environmental Planning and Assessment Act and the relevant matters described in Sub-section (1)(a), (b), (c), (d) and (e) of Section 79C have been considered within this report.

(a) (i) Environmental Planning Instruments:

The following Environmental Planning Instrument's (EPI's) are applicable to the assessment of the subject application:

- Strathfield Local Environmental Plan 2012;
- Strathfield Development Contributions Plan 2010-2030;
- Strathfield Development Control Plan 20 – Parramatta Road Corridor; and
- Part I – Off Street Parking of the Strathfield Consolidated DCP 2005.

An assessment of the proposal against the relevant provisions of each of these EPI's is provided below.

Strathfield Local Environmental Plan 2012

The site is zoned B4 Mixed Use under the Strathfield Local Environmental Plan (SLEP), 2012 wherein development for the purposes of a mixed use development is permissible with Council consent.

The parent application is consistent with the objectives of the Mixed Use zone which seeks to provide a mixture of compatible land uses and residential development within close proximity of transport nodes. The provision of additional parking within the site will ensure the proposal continues to meet the objectives of the zone and service the parking requirements of future residents and visitors to the site.

The proposed modifications relate to the basement levels of the development and will not alter the appearance of the development as viewed from the public domain. Therefore the proposal will remain consistent with the maximum permitted building height and floor space ratio contained in Clauses 4.3A and 4.4A respectively of the SLEP 2012.

The subject site is identified as having Class 5 soils and is located within 800m of Class 2 and 3 soils, located west and north-west of the site. The parent application was deemed Integrated Development under the Water Management Act due to the extraction of ground water which will be required to de-water the basement. As the modified proposal comprises excavation for an additional fourth level of basement car parking, the application was forwarded to the NSW Office of Water for consideration.

The NSW Office of Water have confirmed that the modified application is acceptable and have provided General Terms of Approval on 21 April 2015. In this respect the proposal has satisfied the requirements of Clause 6.1 of the SLEP, 2012 and the Integrated Development requirements of the Water Management Act 2000.

Overall, the proposed development has been assessed to satisfy the relevant development standards and Clauses of the SLEP, 2012.

Section 94 Contributions

The Section 94 Contributions which were applicable to the parent application remain relevant for the proposed development as the proposal does not alter the unit configuration of the previous approval.

(ii) Draft Environmental Planning Instruments:

There are no Draft Environmental Planning Instruments applicable to the subject site.

(iii) Development Control Plans:

DCP 20 – Parramatta Road Corridor

Section	Development Control	Required	Proposed	Compliance
2.12	Vehicle Access and Car Parking: <u>Residential</u>	Car parking to be provided on the following basis: Up to 2 bed – 1 space (207) spaces required 3 bed - 1.5 spaces required (21) spaces required Visitor – 1 space per 5 units (44.2) spaces required Total (271) Provide bicycle parking	Basement parking for (296) resident vehicles (58) visitor parking Total (354) (32) bicycle spaces	Yes, (83) additional spaces. Yes.
	<u>Retail</u> (GFA under 500m ²)	1 per 50m ² Total 1,123m ² GFA (22) spaces required	 (50) spaces	Yes, (28) additional spaces.

(iiiia) Planning Agreements (or draft agreements):

The proposed development is not subject to a planning agreement pursuant to Section 93F of the Environmental Planning and Assessment Act 1979.

(iv) Matters Prescribed by the Regulations

Clause 92 of the Environmental Planning and Assessment Regulation requires Council to take into consideration the provisions of the Government Coastal Policy and the relevant Australian Standard for the demolition of buildings in the determination of a development application.

Having regard to these prescribed matters, the proposed development is not located on land subject to the Government Coastal Policy as determined by Clause 92 (1) (a) (i) and does not involve the demolition of a building for the purposes of Australian Standard (AS) 2601 – 1991: The Demolition of Structures.

(v) Any Coastal Zone Management Plan:

The NSW Government projects sea levels to rise by 40cm in 2050 and by 90cm in 2100 above the relative mean sea level in 1990. These planning benchmarks are to be considered in the assessment of development applications through the applicable coastal zone management plan or alternatively the provisions of the *NSW Coastal Planning Guideline: Adapting to Sea Level Rise*.

The proposed development is located on a site that is not subject to flooding attributed to either Powell's Creek or Cook's River and is therefore not required to be considered under the provisions of the *NSW Coastal Planning Guideline: Adapting to Sea Level Rise*.

(b) Likely Impacts:

The proposed development involves reconfiguration of the previously approved three (3) level basement car park and excavation for a further fourth level of basement car parking. The fourth level of basement parking results in an additional (71) car parking spaces which are allocated to residents, in excess of the minimum requirements of Council's DCP.

As previously discussed, Council's car parking requirements in DCP 20 – Parramatta Road Corridor are intended as minimum rates, rather than absolute or maximum rates. The associated objectives of DCP 20 as they relate to off-street parking seek to ensure adequate parking is provided for residents and visitors in a discrete location which is integrated into the overall appearance of the development.

By providing surplus parking within an additional level of basement, the proposed development will have no impact on the visual appearance of the development whilst reducing residential and visitor demand for on-street parking within streets surrounding the subject site, particularly noting the approximately 30m long no-stopping zone on the corner of Powell Street and Parramatta Road and the slip lane and clearway along the Parramatta Road frontage of the site.

The proposed additional excavation and extraction of groundwater which may result from the proposed development has been forwarded to the NSW Office of Water for review as the parent consent was Integrated Development under the Water Management Act 2000. No objection was raised in relation to the environmental impacts of the additional excavation.

Overall the proposal is acceptable and the additional parking spaces will reduce demand for on-street parking within the area.

(c) Suitability of the Site:

The proposed development, as modified, remains consistent with the strategic intent of Council's controls and the bulk, height and scale sought by Council's LEP. The modifications will provide car parking spaces in addition to the minimum requirements of Council's DCP and will be likely to reduce demand for on-street parking once the development is completed and occupied.

As previously discussed, the potential environmental impacts of the additional excavation and extraction of groundwater have been considered acceptable by the NSW Office of Water.

Accordingly, the development, as modified, is suitable for the site.

(d) Submissions:

The application and plans were notified in accordance with Part L of the Strathfield Consolidated DCP 2005 from 24 March 2015 to 24 April 2015 in accordance with the requirements of Part L of the Strathfield DCP 2005 and the provisions of Section 118 of the Environmental Planning and Assessment Regulation 2000 and one (1) submission was received resubmitting a previous objection which was lodged when the parent application was notified.

The concerns raised in the submission are outlined and discussed below.

1. Impact on Local Traffic

The density of the proposed development is consistent with the density permitted on the subject site under the provisions of Council's Local Environmental Plan. Council recently completed a Traffic and Mobility Study of the Parramatta Road Corridor which proposes a number of measures to ease traffic congestion in the local area. Council is currently considering options which will aid in the management of local traffic as the Parramatta Road area transitions to the high density mixed use nature sought by current planning controls.

2. Impact on existing local services, schools and transport infrastructure

The provision of local services, schools and transport will be modified as residential densities within the area increase as a result of increased demand. The provision of local services, schools and transportation are not a relevant matter for consideration by Council in relation to the subject Section 96 Application.

(e) Public Interest:

The public interest is effectively served by the proposed development which will provide additional residential density within close proximity of established bus routes along Parramatta Road and Homebush Railway Station.

The proposed additional car parking spaces which are in surplus of Council's minimum requirements will reduce potential demand for on-street parking which may result from the development.

The development is appropriate for the site and its approval would not be contrary to the public interest.

INTEGRATED DEVELOPMENT

The proposed development was forwarded to the NSW Office of Water pursuant to the Integrated Development provisions, of Clause 91 of the Environmental Planning and Assessment Act, 1979 as the previously proposed three (3) levels of basement car parking required the extraction of ground water.

Accordingly the proposal was forwarded to the NSW Office of Water and General Terms of Approval were received from the NSW Office of Water on 15 April 2015. These conditions are consistent with those imposed on the parent application and are not required to be modified under the subject Section 96.

REFERRALS

External Referrals

NSW Roads and Maritime Services (RMS)

The proposed development was forwarded to the RMS for comment in accordance with the provisions of the SEPP (Infrastructure) 2007, following previous consultation with RMS under the parent consent.

The RMS provided concurrence for the proposal and indicated that previous conditions of consent remain applicable.

Sydney Trains

The proposed development was forwarded to Sydney Trains for concurrence as an easement for railway purposes adjoins the northern boundary of the site.

Sydney Trains provided concurrence for the proposal and indicated that their previous conditions of consent still apply.

Internal Referrals

The application was forwarded to Council's Traffic Engineer for comment who was concerned that the additional (surplus) car parking spaces may be used for commercial purposes or as a paid parking facility.

The conditions of consent relating to the allocation of parking spaces is to be modified to designate the additional (71) parking spaces to the residential portion of the development.

A further condition is also recommended to clarify that parking spaces should be made freely available to residents, customers and visitors to the site. In the event that the future owner/s of the site wish to utilise the surplus parking spaces for commercial purposes, a further application will be required under separate cover.

CONCLUSION

The proposed modifications are entirely contained below ground and will have no impact on the overall appearance of the development from the public domain. The provision of additional car parking is encouraged in order to minimise demand for on-street parking within nearby streets particularly considering that parking is prohibited along the Parramatta Road frontage of the site which contains a no-stopping area, slip lane and clearway.

The proposed surplus parking spaces have been considered by RMS in accordance with the traffic generating provisions of the Infrastructure SEPP and no objection was raised. Similarly, the environmental impact of the proposed additional excavation and associated extraction of ground water has been considered by the NSW Office of Water and no objection was raised.

The proposed development is satisfactory having regard to the relevant statutory provisions and is therefore recommended for approval.

RECOMMENDATION

That DA2014/035/02 to reconfigure the layout of approved basement levels 1, 2 and 3 and to construct a fourth level of basement comprising an additional (71) parking spaces at 17-35 Parramatta Road and 5 Powell Street, Homebush, be APPROVED subject to the following conditions:

CONDITIONS OF CONSENT

Under PART B- Other Conditions

Condition 1 shall be modified to read as follows:

1. The development shall be completed in accordance with the approved plans and documents listed below, prior to the building being used or occupied, and subject to any amendments “in red” and any variation as required by conditions of this consent:

Basement Level 4 Plan Drawing No. DA001B Issue F Job No. OMA1309 prepared by Squillace Architects received by Council on 12 June 2015

Basement Level 3 Plan Drawing No. DA001A Issue N Job No. OMA1309 prepared by Squillace Architects received by Council on 12 June 2015

Basement Level 2 Plan Drawing No. DA001 Issue R Job No. OMA1309 prepared by Squillace Architects received by Council on 12 June 2015

Basement Level 1 Plan Drawing No. DA002 Issue R Job No. OMA1309 prepared by Squillace Architects received by Council on 12 June 2015.

Ground Floor Plan Drawing No. DA003 Issue N Job No. OMA1309 prepared by Squillace Architects received by Council on 4 November 2014.

First Floor & Podium Plan Drawing No. DA004 Issue N Job No. OMA1309 prepared by Squillace Architects received by Council on 4 November 2014.

Level 2-7 Floor Plan Drawing No. DA005 Issue N Job No. OMA1309 prepared by Squillace Architects received by Council on 4 November 2014.

Roof Floor Plan Drawing No. DA009 Issue G Job No. OMA1309 prepared by Squillace Architects received by Council on 4 November 2014.

Elevations Plan Drawing No. DA150 Issue G Job No. OMA1309 prepared by Squillace Architects received by Council on 4 November 2014

Elevations Plan Drawing No. DA151 Issue E Job No. OMA1309 prepared by Squillace Architects received by Council on 4 November 2014.

Section A-A & B-B Drawing No. DA160 Issue S1 Job No. OMA1309 prepared by Squillace Architects received by Council on 4 November 2014.

Section C-C Plan Drawing No. DA161 Issue S1 Job No. OMA1309 prepared by Squillace Architects received by Council on 4 November 2014.

Site and demolition plan Drawing No. DA011 Issue E Job No. OMA1309 prepared by Squillace Architects received by Council on 4 November 2014.

Storage diagrams and adaptable units plan Drawing No. DA330 Issue A Job No. OMA1309 prepared by Squillace Architects received by Council on 4 November 2014.

Tree Removal and Retention Plan Drawing No. LA02 Issue B Job No. 14-004S prepared by Taylor Brammer Landscape Architects received by Council on 13 June 2014.

Landscape Plan Drawing No. LA03 Issue B Job No. 14-004S prepared by Taylor Brammer Landscape Architects received by Council on 13 June 2014.

Hardworks, Levels and Soil Depths Plan Drawing No. LA04 Issue B Job No. 14-004S prepared by Taylor Brammer Landscape Architects received by Council on 13 June 2014.

Planting Plan Drawing No. LA05 Issue B Job No. 14-004S prepared by Taylor Brammer Landscape Architects received by Council on 13 June 2014.

Planting Plans – First Floor, Level 2, Roof Drawing No. LA05-1 Issue A Job No. 14-004S prepared by Taylor Brammer Landscape Architects received by Council on 13 June 2014.

Illustrative Sections Drawing No. LA06 Issue B Job No. 14-004S prepared by Taylor Brammer Landscape Architects received by Council on 19 June 2014.

Social Green Amenity Factor Calculations Drawing No. LA07 to LA10 Issue B Job No. 14-004S prepared by Taylor Brammer Landscape Architects received by Council on 13 June 2014.

Landscape Details Drawing No. LA11 Issue B Job No. 14-004S prepared by Taylor Brammer Landscape Architects received by Council on 13 June 2014.

Materials and Finishes Colour Scheme Schedule prepared by Squillace Architects received by Council on 28 February 2014.

Preliminary Site Investigation Phase One Report dated 27 February 2014 prepared by Aargus Australia P/L received by Council on 28 February 2014 and associated Addendum report dated 26 June 2014 prepared by Aargus Australia P/L received by Council on 26 June 2014.

BASIX Certificate No. 530599M_02, 530692M_02 and 530750M_02 dated 12 June 2014 received by Council on 13 June 2014.

NatHERS Certificate No. 1006397093 dated 12 June 2014 prepared by Association of Building Sustainability Assessors received by Council on 13 June 2014.

Stormwater Concept Plans prepared by Acor Consultants Pty Ltd Project No. SY130538 Drawings No. C1.01, 02, 03 Issue A & C2.01 Issue P1 dated February 2014 received by Council on 28 February 2014.

BCA Assessment Report dated 24 February 2014 prepared by Blackett Maguire & Goldsmith received by Council on 28 February 2014.

Waste Management Plan prepared by The MACK Group dated 24 February 2014 received by Council on 28 February 2014;

Acoustic Report prepared by Acouras Consultancy dated 26 February 2014 received by Council on 28 February 2014.

Access report prepared by Morris Goding Access Consultants dated 26 February 2014 received by Council on 28 February 2014.

Preliminary Fire Engineering Statement prepared by RAW Fire dated 24 February 2014 received by Council on 28 February 2014.

Geotechnical Report prepared by Asset Geotechnical dated 27 February 2014 received by Council on 28 February 2014.

Arboricultural Assessment Report prepared by Redgum Horticultural dated 26 February 2014, received by Council on 28 February 2014.

Condition 5 shall be modified to read as follows:

5. The proposed development may be constructed in two (2) stages in accordance with a staged Construction Certificate and the following:
 - (a) **Stage 1** comprising the construction of four (4) levels of basement parking, completion of On-Site Detention System, Stormwater Connection and installation of Water Sensitive Urban Design components and the construction of Building A comprising two (2) commercial tenancies, (29) x 1 bedroom units and (66) x 2 bedroom units and the mass planting of trees adjacent to the northern boundary of the site and the at-grade central courtyard, and
 - (b) **Stage 2** comprising the completion of Buildings B and C comprising four (4) commercial tenancies, (42) x 1 bedroom, (70) x 2 bedroom units and (14) x 3 bedroom units.
 - (c) Neither of the two (2) stages of the development shall be occupied or used until the development has been completed in accordance with the conditions of this consent for that particular stage, construction has been completed in accordance with the Construction Certificate and an Occupation Certificate issued by the Principal Certifying Authority.

Condition 19 shall be modified to read as follows:

19. A total of (416) off-street parking spaces, hardpaved, linemarked, labelled and drained, shall be provided in accordance with the approved plans and distributed as follows:

Commercial	(50)
Residential	(253)
Residential Accessible	(43)
Visitors	(56)
Visitors Accessible	(2)
<u>Unallocated</u>	<u>(12)</u>
Total	(416)

These spaces shall only be used for the parking of motorcycles, sedans, utilities, vans and similar vehicles up to two (2) tonne capacity and shall be made freely available to residents, customers and visitors to the site. All car parking spaces shall be allocated to the residential or commercial units within the development.