

## Sydney Eastern City Planning Panel Supplementary Report

<b>Panel Reference</b>	DA2017SCL059
<b>DA Number</b>	DA201600434.01
<b>LGA</b>	Inner West Council
<b>Proposed Development</b>	Application to modify Determination No. DA201600434 under Section 4.55(2) of the Environmental Planning and Assessment Act to modify Determination No. 201600434 dated 18 August 2017, to reduce the extent of public domain works required by Condition 64 and to delete Conditions 79, 121 and 124 requiring the carrying out of drainage works to Council's stormwater system, undergrounding powerlines and repair of road pavement in Lilydale Street.
<b>Street Address</b>	182-186 Livingstone Road & 313-319 Marrickville Road, Marrickville
<b>Applicant/Owner</b>	Mirvac Projects Pty Limited / Inner West Council
<b>Date of Modification Application lodgement</b>	25 September 2017
<b>List all documents submitted with this report for the Panel's consideration</b>	<ul style="list-style-type: none"> <li>Amended recommended conditions of consent</li> </ul>
<b>Report prepared by</b>	SJB Planning, Consultant Town Planners for Inner West Council
<b>Supplementary Report date</b>	02 March 2018

### 1. Purpose of the Supplementary Report

The purpose of this report is to inform the Sydney Eastern City Planning Panel of proposed changes to the recommended conditions of consent for DA201600434.01.

Since the issue of the Assessment Report to the Panel on 23 February 2018, the recommended draft conditions of consent were forwarded to the applicant (Mirvac).

The applicant has subsequently reviewed the recommended conditions of consent and requested various changes. The applicant has also tabled a Dilapidation Report prepared by Tyrells Property Inspections Pty Limited, dated 25 August 2016, which demonstrates the condition of Lilydale Street prior to any of the approved civil works commencing.

Council's Development Engineer has reviewed the requested changes, the Dilapidation Report and also carried out an inspection of the site on 28 February 2018.

It is considered that the proposed changes by the applicant are reasonable and have merit, apart from one change which seeks to allow a Section 7.11 credit (previously Section 94) for works the required under Condition 79(b) of the consent.

Specifically, the applicant requested an amendment to Condition 79(b) to include the following sentence at the end of that condition:

*“A s94 credit may be claimed by Mirvac for this portion of the work;”*

As set out in the Assessment Report, it is considered reasonable to require the works to the 2 existing grated pits in Hospital Lane in response to the intensification of use by pedestrians of Hospital Lane that will occur as a direct result of the approved development. As such it is considered that the works should not attract a credit to the required Section 7.11 contributions.

In summary, the proposed amendments to the recommended conditions will have the effect of providing additional clarity to the extent of works required within the respective conditions, if only marginally, and for this reason they are supported except for the proposed change to Condition 79(b).

This Supplementary Report sets out a summary of the proposed changes to the recommended conditions of consent and amends the recommendation to allow for the adoption of the conditions.

## **2. Summary of Changes to the Recommended Conditions of Consent**

The following is a summary of the proposed changes to the recommended conditions of consent.

- Amend Condition 64(b)(i) by including flexibility to the location of the 4 required street trees to be planted in Marrickville Road in order to avoid conflict with the existing inground services.
- Amend Condition 64(b)(h) to reflect that Council's Development Engineer has inspected, and confirmed the condition of, the existing sandstone kerb and gutter on 28 February 2018.
- Amend Condition 79(a) to ensure it is clear, that it is the lintel of the kerb inlet at Council's existing pit in Livingstone Road (adjacent to 172 Livingstone Road) which is to be enlarged and replaced.
- Amend Condition 121 to include wording that clarifies that it is only the light poles on the site side (northern side) of Marrickville Road that are required to be replaced.
- Amend Condition 124 to include reference to the submitted Dilapidation Report prepared by Tyrells dated 25 August 2016 which demonstrates the condition of Lilydale Street prior to any works commencing. Additionally, the changes to Condition 124 seek to reflect that the road pavement in Lilydale Street has been recently restored since the installation of utility services associated with the development (undertaken in accordance with Development Consents for civil works). The condition continues to include the requirement for rectification of the road subject to the occurrence of any further damage caused by the applicant and or developer during construction of the development.

### 3. Amended Recommendation

The provisions of Section 4.55(2) and the heads of consideration under Section 4.15 of the *Environmental Planning and Assessment Act, 1979*, as are of relevance to the application, have been taken into consideration in the assessment of this application. The application is considered suitable for approval subject to the imposition of appropriate conditions.

It is recommended that:

**A. THAT** the application under Section 4.55(2) of the Environmental Planning and Assessment Act 1979 to modify Determination No. 201600434 dated 18 August 2017 be **APPROVED** and a modified Determination be issued with the Determination being modified in the following manner:

(i) That Condition 64 be amended to read:

*“64. In order to provide satisfactory vehicular and pedestrian access, landscaping and improvements to the public domain adjacent to the site, the following works shall be undertaken at no cost to Council:*

*(a) The public domain along all frontages of the site inclusive of footpath, kerb, street trees, landscaping etc shall be reconstructed and upgraded in accordance with the Street Tree Masterplan and the Marrickville Public Domain Design Guide.*

*(b) A Street Tree Planting/Landscape Plan outlining street tree planting details must be submitted to the Council’s Urban Forest Manager’s satisfaction before the issue of a Construction Certificate for the Landscape works for the Community Hub, with all works completed prior to the issue of the Occupation Certificate. The Street Tree Planting/Landscape Plan shall include the following:*

*i) 4 x new trees to be provided on Marrickville Road to replace the existing trees on this frontage. The tree species shall be Liriodendron tulipifera at a minimum container size of 400L and planted in accordance with Detail 5 of the Marrickville Street Tree Master Plan. A consistent spacing of seven (7) metres shall be applied where possible however, this may need to be adjusted so as to avoid conflict with the existing inground services. The first of the four street trees shall be setback a minimum of 7m from Livingstone Road kerb line where possible however, this may need to be adjusted so as to avoid conflict with the existing inground services.*

*ii) 7 x new trees to be provided on Livingstone Road to replace the existing 6 street trees in Livingstone Road approved for removal. The tree species shall be Lophostemon confertus at a minimum container size of 400L and planted in accordance with Detail 9 of the Marrickville Street Tree Master Plan. A consistent spacing of ten (10) metres shall be applied.*

*iii) Dimensions for tree pits and details of a vault style structural soil to allow for a total soil volume of at least 20m<sup>3</sup> for each tree to demonstrate that adequate soil volume is be provided for all trees.*

- (c) *The new street trees shall be planted by a qualified horticulturist or arborist, with a minimum qualification of Certificate 3 and the planting stock shall comply with Australian Standard Tree stock for landscape use AS 2303—2015.*
- (d) *The new street trees shall be maintained in a healthy and vigorous condition during an establishment period of 12 months. If any tree dies or is removed during the establishment period it shall be replaced with the same species tree in accordance with these conditions at the expense of the applicant.*
- (e) *Upon completion of planting the street trees, the applicant shall arrange an inspection by Council's Public Tree Coordinator (call 8595 2432) to approve the installation. If trees are unsatisfactory and not in accordance with these conditions they will be rejected and replaced at the expense of the applicant.*
- (f) *The footpath in Marrickville Road must be constructed in accordance with the Village Palette (P1-A1). The Village Palette footpath treatment shall extend for 6m into Lilydale Street and to the vehicular crossing in Livingstone Road. The remainder of the footpaths in Livingstone Road and in Lilydale Street shall be constructed as concrete footpaths in accordance with the Local Palette footpath treatment and all landscaping unless otherwise approved by this consent shall be maintained.*
- (g) *The construction of heavy duty vehicular crossings to all vehicular access locations and removal of all redundant vehicular crossings to the site.*
- (h) *New 150mm high sandstone kerb on Marrickville Road and for missing or damaged section in Livingstone Road and Lilydale Street. The existing sandstone kerb and gutter in Livingstone Road and Lilydale Street where it is in good condition shall be maintained and protected. An inspection by Council's Development Engineer, to identify the condition of the existing sandstone kerb and gutter, was undertaken on 28 February 2018. The existing condition of the kerb and gutter was determined as follows:*
  - *Lilydale Street – generally good condition. Minor chips/cracks which are created by the applicant and or developer during the construction works are to be rectified by the applicant and or developer.*
  - *Livingstone Rd – generally good condition. Concrete sections of kerb along immediate frontage to be replaced with sandstone kerb and portion of kerb between the existing bus stop and the corner of Marrickville Road and Livingstone Road to be reset and realigned.*

*Full detailed construction plans and specifications shall be submitted to Council for approval under Section 138 of the Roads Act 1993 before the issue of a Construction Certificate for the Landscape works for the Community Hub with all works completed prior to the issue the Occupation Certificate.*

Reason: *To ensure the public domain is upgraded to a level that is safe and suitable to accommodate the increased intensity of use resulting from the development, to ensure adequate replacement street trees are provided and to respond to and be consistent with the public and community infrastructure works being undertaken at the site."*

(ii) That Condition 79 be amended to read:

*"79 In order to reduce the incidence of flooding at the adjacent low points in Livingstone Road and Hospital Lane the following drainage works shall be undertaken to Council's stormwater system adjacent to the site:*

- (a) The kerb inlet (lintel) at Council's existing pit in Livingstone Road (adjacent to 172 Livingstone Road) shall be increased to 3m (internal dimension). For the avoidance of doubt, only the lintel is to be replaced.*
- (b) The 2 existing grated pits in Hospital Lane shall be adjusted to include kerb inlets (lintels, minimum 1.2m internal);*
- (c) Detailed construction plans shall be submitted for the approval of Council before the issue of a Construction Certificate for the Landscape works. No road or drainage works shall commence until approved plans and specifications have been issued for construction by Council under Section 138 of the Roads Act.*

Reason: *To the reduce flooding at the adjacent low points in Livingstone Road and Hospital Lane and to ensure that the risk of flooding is to a suitable level of flood protection appropriate to the intensification of use resulting from the development.*

(iii) That Condition 121 be amended to read:

*"121 The existing street lighting and overhead cabling adjacent to the site shall be upgraded as follows at no cost to Council:*

- i. The existing overhead power cables adjacent to the Livingstone Road frontage must be relocated underground;*
- ii. The existing overhead power cables adjacent to the Lilydale Street site frontage shall be converted to Aerial Bundled Cabling; and*
- iii. The existing overhead power cables adjacent to the Marrickville Road site frontage are to be relocated underground and the light poles along the immediate Marrickville Road frontage (site side only), shall be replaced by new steel standard poles to match the existing steel light poles in the Marrickville Road shopping centre.*

*The street lighting, referred to in part iii above, shall be designed in accordance with Australian Standard AS1158-Road Lighting and the Network Standards of Ausgrid. Plans shall be submitted to and approved by Council before submission to Ausgrid for implementation.*

Reason: *To ensure appropriate lighting is provided to create a safe environment, to protect the amenity of the surrounding neighbourhood and the*

*development from adverse light spill, to enhance the heritage streetscape and to minimise conflict with vegetation.”*

(iv) That Condition 124 be amended to read:

*“124 The road pavement in Lilydale Street (full road width) damaged by the installation of utility services related to the development (or otherwise resulting from the development works as determined by reference to the Dilapidation Report prepared by Tyrells Property Inspections Pty Limited, dated 25 August 2016, Report No.97398) shall be restored before the issue of the final Occupation Certificate using a 40mm Mill and Fill treatment. As at 28 February 2018, this work has been completed. Any further utility services installed after 28 February 2018 must comply with this requirement.*

*All failed section of the road pavement (which has failed due to the construction works as determined by reference to Dilapidation Report prepared by Tyrells Property Inspections Pty Limited, dated 25 August 2016) shall be boxed out and replaced with deep lift asphalt before the Mill and Fill treatment is undertaken. As at 28 February 2018, this work has been completed. Any damage to the road pavement caused by the applicant and or the developer (after 28 February 2018) during the construction of the development must be rectified in accordance with this requirement.*

*Reason:* *To provide suitable means of public road vehicle access to the development, to make the road safe for all users post the undertaking of works within the road reserve resulting from the development, and to ensure that the amenity of the area is in keeping with the standard of the development.”*