

2017SSH007 - 186-206 Captain Cook Drive, Kurnell

DA17/0161

ASSESSMENT REPORT APPENDICES

Appendix	A	Draft Deferred Commencement Conditions of Consent
	B	Pre-Application Discussion dated 22 December 2015
	C	Architectural Review Advisory Panel Report dated 26 April 2017
	D	List of Submissions
	E	SSDCP 2015 Compliance Table
	F	Response from Department of Environment & Energy
	G	Response from Department of Planning & Environment
	H	Response from Roads & Maritime Services
	I	Response from Department of Primary Industries
	J	Clause 4.6 Objection to Building Height
	K	Plans
		<ul style="list-style-type: none">• Architectural Drawings• Landscape Plans• Stormwater Plans• Vegetation Management Plan

DEVELOPMENT APPLICATION NO. 17/0161
DRAFT DEFERRED COMMENCEMENT CONDITIONS OF CONSENT

PART 1 - DEFERRED COMMENCEMENT CONDITIONS

To enable the submission of further information to clarify or resolve specific aspects of the proposed development this Development Consent is issued as a "Deferred Commencement" Consent under the provisions of Section 4.16(3) of the Environmental Planning and Assessment Act as amended. The Consent does not operate until the applicant satisfies the Council as to the following matters.

The required information must be submitted within 2 years of the date of issue of this development consent.

Note- Under the provisions of Clause 95A(5) of the Environmental Planning and Assessment Regulation 2000 upon submission of the required information, Council must advise in writing whether or not it is satisfied as to the relevant matters.

1. Aboriginal Cultural Heritage

The applicant shall complete the process of Aboriginal heritage assessment and consultation in accordance with the requirements of the *OEI Aboriginal Cultural Heritage for Proponents 2010* (DECCW) and demonstrate to the satisfaction of Council that the process has been resolved.

2. Stormwater Quality Improvement and Particulate Filtration

- a) The approved stormwater design shall be amended to provide linked stormwater quality improvement devices and particulate filtration between the on-grade inlet structures and the Atlantis drainage cells, infiltration ponds or surrounding pervious areas. This system must:
 - i) Ensure that all stormwater runoff from constructed impervious surfaces (including the roof) is treated and filtered for particulates prior to discharge to the proposed Atlantis drainage cells, infiltration ponds or surrounding pervious landscaped or vegetated areas.
 - ii) Be designed by a suitably qualified civil or environmental engineer with experience in stormwater quality management.
 - iii) Meets the objectives and controls in Section a. Part 6 ("Water Quality Control") of Chapter 38 of the Sutherland Shire Development Control Plan 2015.
 - iv) Must not require the installation of any device that either extends, or requires excavation, greater than 1m below natural ground level.

- b) A comprehensive Maintenance Plan shall be prepared and submitted detailing the regular cleaning, servicing and maintenance of all constructed stormwater quality improvement devices and particulate filters, drainage swale, inlet pits etc. Cleaning and maintenance of each device must occur immediately following a rainfall event or at a minimum of 3 monthly intervals (whichever occurs first). This Maintenance Plan must be integrated with the site's WHS management system to ensure that the design infiltration rate is maintained throughout the life of the development so that the development does not result in increased flood risk.

PART 2 - CONDITIONS OF CONSENT

3. Deferred Commencement Plans and Documents

The development must be undertaken substantially in accordance with the details and specifications set out on the following plans except where they are the subject of the deferred commencement condition/s:

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<i>Plan number</i>	<i>Reference</i>	<i>Prepared by</i>	<i>Date</i>
DA2.03 Revision 3	Parking Schedule	JSA Studio	Revised on 19 September 2017
DA2.05 Revision 3	Staging Diagram	JSA Studio	Revised on 26 April 2017
DA3.01 Revision 3	Site / Roof Plan	JSA Studio	Revised on 19 September 2017
DA3.02 Revision 4	Warehouse - Ground Floor Plan	JSA Studio	Revised on 26 April 2017
DA3.03 Revision 3	Warehouse - Level 1 Floor Plan	JSA Studio	Revised on 26 April 2017
DA3.04 Revision 3	Warehouse - Level 2 Floor Plan	JSA Studio	Revised on 26 April 2017
DA3.05 Revision 4	Ancillary Office - Ground Floor Plan Stage 2 Works	JSA Studio	Revised on 26 April 2017
DA3.06 Revision 4	Ancillary Office - Level 1 Floor Plan Stage 2 Works	JSA Studio	Revised on 26 April 2017
DA3.07 Revision 4	Ancillary Office - Level 2 Floor Plan Stage 2 Works	JSA Studio	Revised on 26 April 2017
DA3.08 Revision 4	Ancillary Office - Level 3 Floor Plan Stage 2 Works	JSA Studio	Revised on 26 April 2017
DA5.01 Revision 2	Warehouse - Sections	JSA Studio	Revised on 19 September 2017
DA5.02 Revision 3	Section - Ancillary Office Stage 2 Works	JSA Studio	Revised on 26 April 2017
DA6.01 Revision 3	Warehouse - North & South Elevations	JSA Studio	Revised on 19 September 2017
DA6.02 Revision 3	Warehouse - West Elevation	JSA Studio	Revised on 19 September 2017
DA6.03 Revision 3	Warehouse - East Elevation	JSA Studio	Revised on 19 September 2017
DA6.04 Revision 3	Ancillary Office - North & South Elevations Stage 2 Works	JSA Studio	Revised on 26 April 2017
C00.01 Revision H	General Notes	Engineering Studio	Revised on 25 May 2018

C01.01 Revision H	Sediment & Erosion Control Plan	Engineering Studio	Revised on 25 May 2018
C02.01 Revision H	Stormwater Drainage Plan Sheet 1	Engineering Studio	Revised on 25 May 2018
C02.02 Revision H	Stormwater Drainage Plan Sheet 2	Engineering Studio	Revised on 25 May 2018
C02.03 Revision H	Stormwater Drainage Plan Sheet 3	Engineering Studio	Revised on 25 May 2018
C02.04 Revision H	Stormwater Details Sheet	Engineering Studio	Revised on 25 May 2018
LA-01A	Landscape Plan	CAB Consulting Pty Ltd	Revised August 2018
LA-02A	Landscape Plan Detail Area A	CAB Consulting Pty Ltd	Prepared December 2016
Project No. Ambs1	Vegetation Management Plan	Narla Environmental Pty Ltd	Prepared August 2017

and any details on the application form and on any supporting information received with the application except as amended by the following conditions.

Note: The following must be submitted to Sutherland Shire Council prior to the commencement of any building or subdivision work.

- i) A Construction Certificate.
- ii) Notification of the appointment of a Principal Certifying Authority and a letter of acceptance from that Principal Certifying Authority.
- iii) Notification of the commencement of building and/or subdivision works with a minimum of 2 days' notice of such commencement.

Under Section 6.5 of the Environmental Planning and Assessment Act 1979, please note that Sutherland Shire Council must be appointed as the Principal Certifying Authority for all subdivision works.

4. Design Changes Required

A. Before Construction

The following design changes must be implemented:

- i) The flood conveyance path along and adjacent to the eastern boundary shall be widened to a clear width of 5m. This will require the eastern extremity of the eastern carpark being cantilevered over the conveyance path.
- ii) The flood conveyance path along and adjacent to the south eastern edge of the Sydney Desalination Plant Pty Ltd easement, from the most western culvert under the suspended

building to the eastern boundary shall be widened by 1m. This will result in the north western edge of the driveway being cantilevered over the conveyance path.

- iii) The development must be constructed to the ground floor finished surface levels detailed on the approved stormwater drainage design drawings.
- iv) The "potential staff parking" along the eastern boundary must be sealed and line-marked.
- v) An outdoor staff recreation shall be provided within the approved landscaped area to the west of the ancillary office building beyond the first two rows of car parking. The area shall be about 16m² in area with a minimum dimension of 3m. It must accommodate a table and chairs and provide shading in summer.

Details of these design changes must be included in documentation submitted with the application for a Construction Certificate.

5. Fire Safety Study

At least one month prior to the commencement of construction of the development (except for construction of those preliminary works that are outside the scope of hazard studies), or within such further period as Council may agree, the Applicant must prepare and submit for approval of both Council and Fire and Rescue NSW a Fire Safety Study for the development. The study:

- a) must cover the relevant aspects of the Department of Planning's *Hazardous Industry Planning Advisory Paper NO.2, 'Fire Safety Study'*;
- b) must cover the New South Wales Government's *Best Practice Guidelines for Contaminated Water Retention and Treatment Systems*;
- c) must be consistent with Fire and Rescue NSW's *Fire Safety Guideline 'Guideline for bulk storage of rubber tyres'*. If alternative design or operation is proposed, the alternatives must be demonstrated in the study to achieve an equivalent level of safety as described in the guideline; and
- d) should consider industry best practice and guidelines for storage of tyres, including:
 - i) Fire Service Guideline, Indoor Storage of New and Used Tyres (CFA Victoria, 2014);
 - ii) FM Global Data Sheet 8-3, Rubber Tyre Storage (FM Global, 2009); and
 - iii) NFPA 231 D, Standard for Storage of Rubber Tyres (NFPA, 1998).

Construction, other than of preliminary works, must not commence until approval has been given by both Council and Fire and Rescue NSW.

6. Emergency Plan

The Applicant must develop an Emergency Plan and detailed emergency procedures for the development. This plan must be prepared in accordance with the Department of Planning's Hazardous Industry Planning Advisory Paper NO.1, 'Emergency Planning'. The Emergency Plan and detailed emergency procedures must take into account the potential impacts from the Caltex Kurnell facility and must be developed in consultation with Caltex.

No later than two months prior to commencement of commissioning of the development, or within such further period as Council may agree, the Applicant must submit to Council for approval documentation describing the Emergency Plan and detailed emergency procedures. Commissioning shall not commence until approval has been given by Council.

7. Use of Office Building

Apart from the "take away food and drink booth" on the ground floor, the circular office building must at all times be used only for the purposes of office space that is ancillary to the main functions of the approved warehouse and distribution centre in the adjacent building.

8. Public Place Environmental, Damage & Performance Security Bond

A. Before Issuing of any Construction Certificate

Prior to the issue of a Construction Certificate or the commencement of any works on site, whichever occurs first, the person acting on this consent must provide security to Sutherland Shire Council against damage that may be caused to any Council property and/or the environment as a consequence of the implementation of this consent. The security may be provided by way of a deposit with Council or a bank guarantee. A non-refundable inspection/administration fee is included in the bond value.

It is the responsibility of the person acting on this consent to notify Sutherland Shire Council of any existing damage to public areas in the vicinity of the development site by the submission of a current dilapidation report supported by photographs. This information must be submitted to Council at least 2 days prior to the commencement of works.

In the event that the dilapidation report is not submitted 2 days prior to commencement and the public area sustains damage the person acting on this consent may be held liable.

Should any public property and/or the environment sustain damage as a result of the works associated with this consent, or if the works put Council's assets or the environment at risk, Council may carry out any works necessary to repair the damage and/or remove the risk. The costs incurred must be deducted from the bond.

The value of the bond is \$50,210.00.

Note: Bond amount includes a non-refundable administration fee which must be paid separately if security is provided by way of a deposit with Council or a bank guarantee.

Use of Bank Guarantee - As bond releases may occur under different timeframes only one bond amount/bond purpose is permitted on a Bank Guarantee. Multiple bonds will require multiple bank guarantees to be lodged.

B. After Occupation

A request for release of the bond may be made to Sutherland Shire Council after all works relating to this consent have been completed. Such a request must be submitted to Council on the 'Bond Release

Request Form' signed by the owner or any person entitled to act on the consent and must be accompanied by a current dilapidation report including photographs.

SECTION 94 CONTRIBUTIONS

The following dedication of land and/or monetary contributions have been levied in relation to the proposed development pursuant to Section 94 of the Environmental Planning and Assessment Act 1979.

9. S94A 2016 Plan - Sutherland Shire

A. Before Construction

Pursuant to s.80A(1) of the Environmental Planning and Assessment Act 1979, and Sutherland Shire Council Section 94A Plan 2016, a contribution of \$352,663.70 must be paid to Sutherland Shire Council towards the cost of works contained in the contribution plan. The amount to be paid is to be adjusted at the time of the actual payment, in accordance with the provisions of the Section 94A Development Contributions Plan.

The rate used to index the contribution rate and outstanding contributions is the Consumer Price Index (All Groups Index) for Sydney. Outstanding levies will be adjusted on the first of July each year in accordance with the following formula:

The formula to review a contribution rate is:

$$\text{Adjusted Contribution} = \text{Current Contribution} \times \frac{\text{Current CPI}}{\text{Previous year's CPI}}$$

Payment must be made before whichever is the first to occur:

- the issue of a construction certificate, or
- the release of the subdivision certificate/ linen plan, or
- the commencement of the use/occupation of the premises.

10. Approvals Required under Roads Act or Local Government Act

A. Before Construction

No occupation or works are to be carried out on public land (including a road or footpath) or access provided over a public reserve adjacent to the development site without approval being obtained from Sutherland Shire Council and the necessary fee paid under the Roads Act 1993 and/or the Local Government Act 1993. These approvals must be to the satisfaction of Council for the required development works and may include but are not limited to the following:

- Frontage works including construction of a driveway, footpath, etc.
- Road openings and restoration to provide services to the development.
- Work Zones and hoardings.
- Skip bins.
- Shoring / anchoring.
- Standing of cranes, concrete pumps, etc.

Note: All Plans and Permits are required to be on site, at all times and may be requested by Council officers at any time.

Note: Approval under the Roads Act or Local Government Act cannot be granted by a Principal Certifying Authority or by a Private Certifier. Failure to obtain approval may result in fines or prosecution.

11. Design and Construction of Works in Road Reserve (Council Design)

A. Design

Council has determined that the proposed development generates a need for the following works to be undertaken by the applicant in the road reserve. To this end a Detailed Frontage Works application under the Roads Act 1993 must be submitted to Sutherland Shire Council, prior to the release of the Construction Certificate. The form is available on Council's website. A fee applies for the relevant inspections, assessment, coordination, creation of design brief and the issue of permits providing consent to undertake frontage works. The design will be quoted separately by Council's Design Services unit.

This design will generally comply with the approved architectural design drawings and the current website version of Council's Public Domain Design Manual (PDDM) and Public Domain Technical Manual (PDTM) except where modified by/or addressing the following:

- i) Property alignment/ boundary levels - establish the property alignment/ boundary levels and crossing profiles.
- ii) Grades - regrade footpath verge to final design levels including topsoil, turf and all associated soft landscaping.
- iii) Vehicle Crossings - construct two vehicle crossings.
- iv) Redundant Laybacks and Crossings - remove redundant laybacks and vehicle crossings and replace with kerb and gutter (including associated road reconstruction works).
- v) Road Works - Provide upgrade on Captain Cook Drive including the construction of an acceleration lane and all associated road works for west bound vehicles leaving Sir Joseph Banks Drive.
- vi) Stormwater Connection - construct new stormwater infrastructure as required to facilitate drainage for the proposed development. This includes adjustment of the existing drainage system adjacent to the northern corner of the site and construction of a new kerb inlet pit.

- vii) Bus Stops - construct new bus shelters and stopping bays on both the eastern and western sides of Captain Cook Drive in close proximity to Sir Joseph Banks Drive. This includes associated road pavement works, kerb and gutter, line marking, median islands and signage and kerb ramps.
- viii) Footpath - install new footpath pavements along the full frontages of the site including links to the new bus stops.
- ix) Infrastructure Transitions - ensure there are adequate transitions between newly constructed and existing infrastructure as required
- x) Road Pavement - construct road pavement as required.
- xi) Kerb and Gutter - construct kerb and gutter/edge strip as required including associated road reconstruction. This includes the formalisation of the eastern end of Chisholm Road as a cul-de-sac.
- xii) Street Signage - alter existing and/or install new street signage as required.
- xiii) Trees - remove and replace street trees as required by Council.
- xiv) Undergrounding - provide replacement of existing local distribution power lines and other overhead utilities with insulated aerial bundles cables (ABC) as required.
- xv) Street Lighting - install new street lighting as required.
- xvi) Utility Services - adjust public services infrastructure as required.
- xvii) NBN - the Australian Government has issued a new policy on the provision of telecommunication infrastructure in new developments. The policy is effective from 1 March 2015. Developers are responsible for providing telecommunications infrastructure in their developments. To provide this infrastructure, developers need to contract a carrier to install and operate a telecommunications network.
 - i. NBN is the IPOLR (infrastructure provider of last resort) in developments of 100 lots or more within its fixed-line footprint and in new development where its fixed-line network is available, or the NBN rollout has been announced (www.nbnco.com.au/learn-about-the-nbn/rollout-map.html).
 - ii. If you use NBN, you will need to provide six months' notice before your network needs to be available.

Evidence of the lodgement of this application must be provided to the PCA prior to the release of the Construction Certificate

B. Before Construction

Prior to the release of the Construction Certificate property alignment levels and crossing profiles must be obtained from Sutherland Shire Council.

C. Before Occupation

Prior to the occupation of the building or the issue of an Occupation/Subdivision Certificate the following certification must be provided to Sutherland Shire Council:

- i) The supervising engineer must certify that the road frontage works were constructed in accordance with the development consent and associated approval under the Roads Act 1993 including the approved drawings and specification.

12. Site Management Plan

A. Before Commencement of Works including Demolition

An Environmental Site Management Plan must accompany the Construction Certificate. If demolition is to commence prior to the issue of a Construction Certificate the applicant must submit to Sutherland Shire Council a separate Demolition Site Management Plan. These plans must satisfy the Objectives and Controls of Sutherland Shire Development Control Plan 2015 relating to environmental site management and must incorporate the following throughout demolition and construction:

- i) Safe access to and from the site during construction and demolition.
- ii) Safety and security of the site, road and footpath area including details of proposed fencing, hoarding and lighting.
- iii) Method of loading and unloading excavation machines, building materials.
- iv) How and where, construction materials, excavated and waste materials will be stored.
- v) Methods to prevent material being tracked off the site onto surrounding roadways.
- vi) Erosion and sediment control measures.
- vii) All trees and their protection zones on and around the site identified for retention are to be protected according to Australian Standard AS 4970 - 2009 Protection of Trees on Development Sites using the methods outlined in that Standard.

B. During Works

The site management measures set out in the above plan must remain in place and be maintained throughout the period of works and until the site has been stabilised and landscaped.

13. Pre-commencement Inspection

A. Before Works

A Pre-commencement Inspection/meeting is to be convened by the Applicant on-site a minimum 5 days prior to any demolition and/or construction activity and between the hours of 8.00 am and 4.30 pm Monday to Friday. The meeting must be attended by a representative of Council's Public Domain Assets Branch, the Principal Certifying Authority, the builder/site manager of the building/civil construction company and where necessary the supervising engineer. The attendance of the owner is required when it is intended to use more than one builder/principal contractor throughout the course of construction.

The purpose of the meeting is to:

- i) Ensure safe passage for pedestrians, Work and Hoarded Zones are maintained in accordance with Council requirements.
- ii) Check the installation and adequacy of all traffic management devices.
- iii) Confirm that the supervising engineer has a copy of Council's Specification for Civil Works Associated with Subdivisions and Developments.

Note: An inspection fee must be paid to Council prior to the lodgement of the Notice of Commencement. Please refer to Sutherland Shire Council's Adopted Schedule of Fees and Charges.

14. Supervising Engineer

A. Before Construction

The applicant must engage an Accredited Certifier in civil engineering works or a Chartered Civil Engineer to supervise construction of any:

- i) Road frontage works.
- ii) Construction / installation of stormwater drainage and associated infrastructure.
- iii) Rainwater harvesting and reuse.
- iv) All other works that form part of a subdivision.

The PCA must be informed of the supervising engineer's name and contact details, in writing, prior to the commencement of any construction works.

B. During Construction

The engineer must supervise the works as listed above to ensure compliance with:

- i) All relevant conditions of development consent.
- ii) Any Consent issued under the Roads Act for this development.

C. Before Occupation

The supervising engineer must certify the works required in A. above were undertaken and completed in accordance with the requirements of this Development Consent and to their satisfaction.

15. Internal Driveway, Parking and Manoeuvring

A. Design

The internal driveway profile, parking and manoeuvring areas must be designed in accordance with the approved architectural plans except where modified by the following:

- i) Align with Access and Alignment levels issued by Council's Public Domain Unit.
- ii) The internal driveway and car parking area must be paved or concreted and must be finished in materials other than plain or exposed aggregate concrete.

- iii) Comply with AS2890.1:2004 in relation to the design of vehicular access, parking and general manoeuvring for the B85 vehicle.
- iv) The maximum longitudinal grade of the driveway must not exceed 12.5%.
- v) All "one way" traffic aisles in the car parking area must be clearly identified by signposting and pavement marking.
- vi) The ingress and egress crossing must be clearly identified by signage.
- vii) The proposed loading and delivery area must be clearly defined with suitable signposting and pavement markings.
- viii) The car park must be line marked.
- ix) Comply with AS2890.2:2002 in relation to the design of vehicular access, parking and general manoeuvring for the AV vehicle.
- x) The perimeter / edge of the driveway, vehicle manoeuvring apron and parking areas must be provide with a crash barrier.

B. Construction

Certification from an appropriately qualified engineer to the effect that the design requirements of "A" above have been met must accompany the Construction Certificate.

C. Occupation

Prior to the occupation of the development or the issue of any occupation certificate a suitably qualified engineer must certify that the works required in "A" above were undertaken and completed to their satisfaction and in accordance with the requirements of this Development Consent. This certification must be provided to the PCA and a copy also provided to Council.

D. On-going

The approved parking must be used exclusively for car parking as approved for the life of the development.

16. Public Utilities

This condition is imposed to facilitate the provision of services to the development and reduce conflicts between services and lot boundaries, buildings or associated facilities.

A. Before Construction

Suitable arrangements must be made with all relevant utility service providers to ensure the development is appropriately serviced by electricity, gas, telecommunications (including NBN) and the like, and any necessary underground conduits are provided. The Australian Government has issued a new policy on the provision of telecommunications infrastructure in new development. This policy is effective from 1 March 2015. Developers are responsible for providing telecommunications infrastructure in their developments. To provide this infrastructure, developers need to contract a carrier to install and operate a telecommunications network. NBN is the IPOLR (infrastructure provider of last resort). NBN require 6 months' notice in order to make the network available.

A copy of the agreements/contracts with the utility providers must form part of the supporting construction certificate documentation.

B. Before Occupation/Subdivision

Prior to issue of any Occupation/Subdivision certificate, certification must be provided from each utility service provider/approved agent to the effect that each lot has been serviced to their satisfaction.

Prior to the issue of any Occupation/Subdivision certificate, evidence satisfactory to the Certifying Authority that arrangements have been made for:

- i) The installation of fibre-ready facilities (conduits and pits) to all individual lots and/or premises/dwelling to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Certification from each carrier/provider must be provided to the PCA that they are satisfied that the fibre ready facilities are fit for purpose.
- ii) The provision of fixed-line telecommunications infrastructure (cables) in the fibre-ready facilities to all individual lots and/or premises/dwellings must be installed and certification from the carrier/provider must be provided to the PCA stating that the infrastructure has been provided and to their satisfaction.
- iii) Installation of gas and/or electricity must be constructed/installed by the utility service provider/approved agent to each allotment. Certification must be provided from each provider/agent stating that all allotments have been serviced to their satisfaction.
- iv) WAE drawings must be prepared by a registered surveyor detailing location and depth of conduits/pits and connection points/ties within allotments. A copy of the WAE drawings must form part of any Occupation/Subdivision certificate documentation.

Note: Should these requirements result in any significant change to the approved design an application must be made to modify the consent under s.4.55 of the Environmental Planning and Assessment Act.

17. Endorsement of Plan of Consolidation

A. Construction

Prior to the issue of any Construction Certificate a Plan of Subdivision for the Consolidation of Lot 1 in Deposited Plan No.652964 and Lot 1 in Deposited Plan No.402485, must be registered with NSW Land and Property Information.

18. Stormwater Drainage

A. Design

The stormwater drainage, rainwater harvesting and rainwater reuse systems shall accordance with the approved stormwater drainage design drawings, Flood and Stormwater Impact Assessment Revision 1 of May 2018 and Australian Standard AS3500.3:2003, except where modified by the following;

- i) Layout of the drainage system showing the alignment of all pipelines, rainwater tanks and associated structures, including finished surface levels,

- ii) Three shallow bio-retention ponds shall be created along the Chisholm Road frontage within the front setback and planted in accordance with the approved Landscape Plan and Vegetation Management Plan. One must be located between the proposed driveways, another must be located between the eastern driveway and the truck waiting area, and the third must be in the south-eastern corner of the site between the truck waiting area and the eastern boundary. These three areas are shown as landscape areas on the approved architectural design drawings. These ponds shall:
- Drain via pipelines to the street kerb and gutter under the footpath verge in Chisholm Road.
 - These pipelines shall be hot dipped galvanised steel rectangular hollow sections, 150mm by 75mm by 4mm, placed on a grade of 0.5% and at 90 degrees to the alignment of the street kerb.
 - Any two pipelines within the footpath verge connecting to the street kerb shall be 6m apart.
 - The three ponds shall be interconnected via high level pipelines placed on a grade of 0.5% and a minimum diameter of 250mm Ø.
 - Increase the volumetric capacity of these ponds by regrading the side slopes to 1 vertical to 2 horizontal. The maximum vertical depth of the excavation shall be 0.5m.
- iii) In close proximity to the north eastern corner delete the proposed 825mm Ø.
- iv) In close proximity to the north eastern corner detail / show the existing stormwater drainage infrastructure, being; pits No.41134, No.76849, No.76846, No.76845, No.76840 and No.76847 and associated pipelines (indicated as Council drainage infrastructure on Shire Maps). Remove those structures located within the footprint of the development. The pipeline between pit No.76840 and No.76849 shall be replaced with an 825mm Ø.
- v) Create a long narrow trapezoidal channel adjacent and along the eastern boundary. The channel shape to be; 3m wide across the base, 0.5m deep, minimum length 95m and with side slope of 1 vertical to 2 horizontal or where abutting walls the side slope can be vertical. This channel must drain to existing pit No.76840. The southern end of this channel will integrate with the required pond mentioned in above sub-item (ii).
- Note:** The “Vegetation Management Plan, 186-206 Captain Cook Drive, Kurnell” by Narla Environmental, August 2017 specifies the revegetation required for this channel and is described as ‘Zone 5 - Revegetation Corridor’.
- vi) The volumetric increase in the three ponds plus the required trapezoidal channel may be removed from the equivalent volume of the Atlantis™ cells.
- vii) The five pipelines and associated pits in the front setback to Chisholm Road and east of the proposed western vehicle crossing shall be redirected to drain to the three required ponds.
- viii) The required culverts than enable stormwater flow from Chisholm Road to Captain Cook Drive via the void under the suspended buildings, must be detailed.
- ix) The flood conveyance path along and adjacent to the eastern boundary shall be widened to a clear width of 5m, this will result in the eastern extremity of the eastern carpark being cantilevered.
- x) The flood conveyance path along and adjacent to the south eastern edge of the Sydney Desalination Plant Pty Ltd easement, from the most western culvert under the suspended building to the eastern boundary shall be widened by 1m. This will result in the north western edge of the driveway being cantilevered.

- xi) The rainwater harvesting system shall accord with the following;
- At least 730m² of roof area shall be capture and directed to rainwater tanks.
 - The total minimum volume of the rainwater tanks shall be 300m³, with the overflows connected to one or more of the aforementioned three shallow ponds within the site along the Chisholm Road frontage (sub-item (ii)).
 - Install an automatic irrigation system to water all landscaped areas, including all wet lands and areas surrounding the wet lands.
 - Ensure suitable proofing for the prevention of mosquito breeding.

B. Before Release of a Construction Certificate

- i) Certification from an Accredited Certifier in Civil Engineering or a Chartered Civil Engineer, to the effect that the stormwater drainage system design was prepared having regard to the conditions of Development Consent and to their satisfaction, shall accompany the application for the Construction Certificate.
- ii) Certification from Catchment Simulation Solutions, to the effect that the stormwater drainage design prepared for the Construction Certificate was prepared having regard to their document “Flood and Stormwater Impact Assessment Revision 1 of May 2018”, shall accompany the application for the Construction Certificate.
- iii) Provide evidence that the stormwater drainage design drawings prepared for the Construction Certificate has been viewed by Sydney Desalination Plant Pty Ltd that with regards to the existing pits and pipelines in close proximity to the north eastern corner of the property, the proposed stormwater drainage system and flood mitigation works will not adversely affect the operation of the desalination plant.

C. Before Occupation of the Development

- i) A Works-As-Executed drawing (WAED) of the stormwater drainage system shall be prepared by a Registered Surveyor. This drawing must detail the alignment of pipelines, pits, rainwater tanks, Atlantis™ cells, stormwater treatment devices, contours of the excavated ponds, trapezoidal channel and the detention facilities. An original or a colour copy shall be submitted to Sutherland Shire Council.
- ii) The Supervising Engineer must certify the WAED of the stormwater drainage system that the stormwater drainage works were constructed to their satisfaction and in accordance with the Development Consent. Prior to the occupation or use of the building the Applicant / Owner shall submit to Council a copy of the aforementioned letter of certification.
- iii) The appropriately qualified Civil Engineer must certify the stormwater drainage system was constructed to their satisfaction and in accordance with the Development Consent and document “Flood and Stormwater Impact Assessment Revision 1 of May 2018”. Prior to the occupation or use of the building the Applicant / Owner shall submit to Council a copy of the aforementioned letter of certification.

D. Ongoing

- i) The operation of all devices or appliances installed within the development approved by this consent as required by conditions pertinent to rainwater harvesting and rainwater reuse must be maintained in good operating order at all times.
- ii) The stormwater detention facilities shall be:
 - Kept clean and free from silt, rubbish and debris.
 - Be maintained so that it functions in a safe and efficient manner.
 - Not be altered without prior consent in writing of the Council.
- iii) Maintenance and renewal of all stormwater treatment devices is to be documented in a maintenance and renewal plan to be prepared by a suitably qualified civil or environmental engineer with experience in stormwater quality management.

Note 1: Upon submission of the Works-As-Executed drawing for the stormwater drainage system a notation will be added to the section 149(5) certificate advising future owners that their property is burdened by a stormwater detention facility.

Note 2: Upon submission of the Works-As-Executed drawing for the stormwater drainage system a notation will be added to the section 149(5) certificate advising future owners that their property is burdened by a stormwater treatment devices.

Note 3: Investigate Pits No.76842, No.76841 and associated 300mm Ø as I believe these structures are part of the Desalination Plant Infrastructure.

19. Flood Requirements

A. Design

- i) All building materials must be flood resistant, or flood compatible to a height of 3.75m±20mmAHD.
- ii) All internal electrical switches, power points or similar utilities liable to flood damage must be set at a minimum of level of 3.75m±20mmAHD.
- iii) Prepare a "Flood Emergency Response Plan" that accords with Chapter 40 of SSDCP2015, detail flood levels, building floor levels, evacuation strategy and shelter in place strategy. This Plan must be reviewed and updated every five years.

B. Before Release of a Construction Certificate

- i) Certification from an Accredited Certifier in Civil / Structural Engineering or a Chartered Civil / Structural Engineer experience in floodplain risk management, to the effect that the building materials and structural design were prepared having regard to the conditions of development consent and to their satisfaction, shall accompany the application for the Construction Certificate.
- ii) Certification from an Accredited Certifier in Civil / Structural Engineering or a Chartered Civil / Structural Engineer experience in floodplain risk management, to the effect that the "Flood Emergency Response Plan" was prepared having regard to the conditions of development consent and to their satisfaction, shall accompany the application for the Construction Certificate.

C. Before Occupation of the Development

Certification from an Accredited Certifier in Civil / Structural Engineering or a Chartered Civil / Structural Engineer experience in floodplain risk management, to the effect that the development was constructed in accordance with section "A" of this condition and to their satisfaction.

D. Ongoing

- i) The development must be managed in accordance with the "Flood Emergency Response Plan".
- ii) The "Flood Emergency Response Plan" must be provided to all occupants of the development detailing flood levels, building floor levels, evacuation strategy if necessary and shelter in place strategy.

20. Landscaping Works

A. Design

The landscaping works to 'Detail Area A' must be designed in accordance with the approved Landscape Plan, Drawing No. LA-01A, prepared by CAB Consulting dated December 2016; except where modified by the following:

- i) Tree Protection Zones (TPZ) / the location of tree protective fencing must be shown on plan for all existing trees and/or natural site features to be retained and protected.
- ii) Landscaped areas shown on 'Detail Area A' of the approved landscape plan must be provided with a water-efficient irrigation system and taps at 25m centres, connected to a pump and the rainwater tank or mains, to enable effective landscape maintenance.
- iii) To improve coverage and reduce weeds and maintenance, planting densities in all planting areas shown within 'Detail Area A' of the approved landscape plan must achieve a minimum of 4 plants per square metre.
- iv) As the subject site is identified as being within a Greenweb Support area, all new tree plantings must be indigenous species and 80% of understorey plants must be indigenous species. All indigenous species must be selected from Sutherland Shire Council's 'Native Plant Selector' available on Council's website (www.sutherlandshire.nsw.gov.au and search for Native Plant Selector).
- v) Any fencing built within a front or side setback or the boundary of a public reserve is to have maximum height 1.8m, be open form and finished in black to ensure it is visually recessive.
- vi) All landscaped areas are to be separated from hard paved areas by a dwarf wall or kerb to minimise damage caused by vehicles.

The applicant must engage a suitably qualified Landscape Designer or Landscape Architect to oversee any design changes to the approved Landscape Plan and amendments required above. Details of these design changes must be included in the documentation submitted with the application for a Construction Certificate.

Notes:

A Landscape Designer is a person eligible for membership of the Australian Landscape Designers and Managers and a Landscape Architect is a person eligible for membership of the Australian Institute of Landscape Architects as a Registered Landscape Architect.

If demolition works to occur prior to the Construction Certificate being issued, tree protection measures must be installed prior to commencement of demolition.

B. Prior to Occupation/Occupation Certificate

The landscape works must be completed in accordance with the approved Landscape Plan and amendments required by 'A' above. A Final Landscape Inspection must be carried out and a certificate issued by Council's landscape officer prior to occupation or the issue of an Occupation Certificate. This certificate is required to ensure that all tree protection measures, landscaping works, replacement tree planting and the deep soil percentage requirements have been carried out in accordance with 'A' above and other conditions within this consent, and that all new indigenous plants on the site and within the road reserve are the correct species.

To arrange a Final Landscape Inspection please phone 9710-0333 a minimum of 48 hours prior to the required inspection date. An inspection fee will be charged in accordance with the current schedule of rates listed on Council's website. Any secondary inspections will incur a reinspection fee.

C. Ongoing

All landscaping works required by 'A' above must be maintained for 12 months following the final landscape inspection date. Trees required by this condition must be maintained and protected until they are covered by Council's Controls for Preservation of Trees and Bushland Vegetation (SSCDCP 2015 Chapter 38).

Any plants found faulty, damaged, diseased or dead shall be replaced with the same species in the same sized container within one month with all costs borne by the owner.

Note: If difficulty is experienced sourcing suitable indigenous plants from other suppliers, plants grown from locally provenance seed may be available from:

Sutherland Shire Council Nursery
345 The Boulevard, Gympie
Ph: 02 9524 5672

21. Tree Removal on Private and Council Land

A. During Works

The removal of the following trees is approved:

- i) Trees within the approved building and parking footprint.
- ii) Any declared noxious plant. The applicant is to ensure that all noxious plants are properly identified and controlled/removed.
- iii) Any tree species exempted by the Sutherland Shire Local Environmental Plan 2015.

All other vegetation that would require approval to be removed must be protected.

Note: Clearing of vegetation must be undertaken in accordance with section 3.4.1 of the “Vegetation Management Plan, 186-206 Captain Cook Drive, Kurnell” by Narla Environmental, August 2017.

22. Tree Retention and Protection

The following condition applies to all trees on the subject site, trees on the adjoining sites (which are potentially affected by the development works), as well as trees on the adjoining Council land that are not approved for removal.

A. Before Works

Prior to the commencement of any demolition, excavation or construction works on site the applicant must engage a suitably qualified and experienced Supervising Consulting Arborist to oversee the measures for the protection of existing trees as listed below.

Note: A Consulting Arborist is a person with a current membership of the Institute of Australian Consulting Arboriculturalists (IACA) or alternatively a person who has obtained an Australian Qualifications Framework AQF Level 5 in Arboriculture.

All trees not approved for removal must be protected by the following measures:

- i) Protective fencing, constructed of a minimum 1.8m high chain wire mesh supported by robust posts, must be installed in accordance with **section 3.4.1 of the “Vegetation Management Plan, 186-206 Captain Cook Drive, Kurnell” by Narla Environmental, August 2017.**

Signage must be erected on the fence with the following words clearly displayed “TREE PROTECTION ZONE, DO NOT ENTER”.

- ii) No development or associated activity is permitted within the fenced tree protection zone for the duration of works subject to this consent. This includes vehicular or pedestrian access, sheds,

washout areas, excavations, backfilling, installation of services (including stormwater), removal of top soil, stockpiling of soil or building materials.

- iii) Where site access/egress is required over the roots of trees identified for retention and protection, provide hardwood rumble boards over a 200mm thick layer of wood chip.
- iv) Where it is impossible to install protection fencing to the full extent of the specified Tree Protection Zone trunk/branch batten protection boards are to be installed as per 4.5.2 of Australian Standard (AS4970-2009) - Protection of Trees on Development Sites.

B. During Works

- i) The tree protection measures detailed in 'A' above must be maintained during construction.
- ii) The supervising Consulting Arborist must be present during any approved hand excavation or under boring works within the Tree Protection Zone (TPZ) of any tree identified for retention and protection and have the authority to direct works to ensure the trees long term preservation.
- iii) The supervising Consulting Arborist must strictly supervise that there is no disturbance or severing of roots greater than 50mm diameter and to cleanly cut those roots between 10-50mm in diameter.
- iv) If the tree/s identified for retention in 'A' above are damaged or destabilised during construction then works must cease and Council's Tree Assessment Officer (ph. 9710 0333) must be contacted to assess the tree/s and recommend action to be taken.
- v) Ensure each hold point outlined below within the Tree Protection Schedule is signed off and dated progressively by the Consulting Arborist throughout the various development stages, including preconstruction, construction and post construction. Photographic evidence must also be provided.

Hold Point	Task	Responsibility	Certification	Timing of Inspection	Sign/ Date
1.	Indicate clearly with spray paint trees approval for removal only	Principal Contractor	Supervising Arborist	Prior to demolition and site establishment	
2.	Establishment of tree protection fencing	Principal Contractor	Supervising Arborist	Prior to demolition and site establishment	
3.	Supervise all excavation works proposed within the TPZ	Principal Contractor	Supervising Arborist	As required prior to the works proceeding adjacent to the tree	

4.	Inspection of trees by Project Arborist	Principal Contractor	Supervising Arborist	Bi-monthly during construction period	
5.	Final inspection of trees by project Arborist	Principal Contractor	Supervising Arborist	Prior to issue of interim/final Occupation Certificate	

C. Before Occupation

Prior to the issue of an Occupation Certificate the Supervising Arborist's signed and dated checkpoint list and photographic evidence must be provided to both the Private Certifying Authority and Council's Landscape Officer at the time of the final landscape inspection.

23. Storage and Handling of Chemicals

A. Ongoing

All chemicals must be stored and handled in accordance with, but not limited to, the requirements of the following:

- i) Work Health and Safety Act 2011 and Work Health and Safety Regulation 2011.
- ii) Australian Standard 1940:2004 - The Storage and Handling of Flammable and Combustible Liquids.
- iii) Australian Standard 4452:1997- The Storage and Handling of Toxic Substances.
- iv) Protection of the Environment Operations Act 1997
- v) NSW EPA Storing and Handling Liquids, Environment Protection Training Manual, 2007

24. Supervising Ecologist

A. Before Commencement

The applicant must engage an appropriately qualified, experienced and certified Ecologist to supervise the implementation of works required under the Vegetation Management Plan and relevant plans.

Note: The appropriately qualified and experienced Ecologist must be certified by one of the following certification schemes or demonstrate an equivalent standard acceptable to Sutherland Shire Council, Manager Environmental Science.

- Environment Institute of Australia & New Zealand (EIANZ) 'Certified Environmental Practitioner (CEnvP) Scheme.
- Ecological Consultants Association (NSW) Certification Scheme.

B. Before Works and issue of any Construction Certificate

The applicant must provide clear evidence of the appointment of the appropriately Supervising Ecologist to the satisfaction of Sutherland Shire Council, Manager Environmental Science, prior to the commencement of any works and the issue of any construction certificate.

C. During Works

The Ecologist must supervise all aspects of vegetation management works and ensure compliance with the Vegetation Management Plan and relevant plans, including, but not limited to:

- “Vegetation Management Plan, 186-206 Captain Cook Drive, Kurnell” by Narla Environmental, August 2017.
- Landscape Plan, Drawing No. LA-01A, by CAB Consulting P/L, amended August 2018.

25. Vegetation Management Plan (VMP)

A. Design

The “Vegetation Management Plan, 186-206 Captain Cook Drive, Kurnell” by Narla Environmental, August 2017 must be amended by an appropriately qualified, experienced and certified ecologist.

The species and planting densities provided for “Zone 5 - Revegetation Corridor” in “Table 4. Kurnell Dune Forest Community Revegetation Species List (AMBS 2017) and Defined Densities” must be amended as follows:

Canopy Species - planting density 1/7 m²

Banksia integrifolia

Casuarina glauca

Cupaniopsis anacardioides

Glochidion ferdinandi

Acemema smithii

Mid-Storey Species - planting density 1/m²

Acacia miadenii

Homalanthus populifolius

Myrsine variabilis

Acacia longifolia subsp. *longifolia*

Acacia longifolia subsp. *sophorae*

Banksia ericifolia

Brenynia oblongifolia

Clerodendrum tomentosum

Leptospermum laevigatum

Leucopogon parviflorus

Maclura cochinchinensis

Melaleuca nodosa

Myoporum acuminatum

Notelaea longifolia

Pittosporum revolutum

Groundcover Species - planting density 3/m²

Actinotus helianthin
Commelina cyanea
Desmodium varians
Dichondra repens
Entolasia marginate
Lomandra longifolia
Opismenus imbecillis
Cayratia clematidea
Ckmatia aristata subsp. glycinoides
Eustrephus latifolius
Geitonoplesium cymosum
Hibbertia scandens
Marsdenia rostrata
Parsonsia straminea
Sarcopetalum harveyanum
Smilax glyciophylla

B. Before Commencement and issue of Construction Certificate.

The following actions within "Vegetation Management Plan, 186-206 Captain Cook Drive, Kurnell" by Narla Environmental, August 2017; as amended: are to be finalised to the satisfaction of Sutherland Shire Council, Manager Environmental Science prior to the issue of any Construction Certificate:

i) Delineation of Construction Area

- a. Mark line of proposed fencing and install fencing providing a buffering strip of at least 3m between fence and construction.
- b. Arborist to determine and establish Tree Protection Zone (TPZ) within vegetation to be retained.

ii) Delineation of Vegetation Management Zones

- a. Surveyor to mark boundary of management zones under supervision of Supervising Ecologist.

iii) Support native regeneration

- a. Removal of metal debris placed on site by tornado.
- b. Relocation of woody debris.

C. During Works

The vegetation management measures specified within in the "Vegetation Management Plan, 186-206 Captain Cook Drive, Kurnell" by Narla Environmental, August 2017, as amended, and delineated in 'Figure:3 Site Map and Vegetation Management Zones' must be implemented under the supervision of the appropriately qualified, experienced and certified Ecologist.

D. Ongoing

Ongoing monitoring and management measures required by the VMP must be undertaken under the supervision of the appropriately qualified, experienced and certified Ecologist.

Copies of all monitoring and progress reports are to be submitted to as per the formal monitoring and reporting requirements provided in the VMP, to the satisfaction of Sutherland Shire Council, Manager Environmental Science.

26. Potential Contaminated Land - Unexpected Finds

A. During Works

If unexpected soil and/or groundwater contamination is encountered during any works; all work must cease and the situation must be promptly evaluated by an appropriately qualified and experienced environmental consultant. The contaminated soil and/or groundwater must then be managed under the supervision of the environmental consultant, in accordance with relevant NSW Environment Protection Authority (EPA) guidelines.

Note: The environmental consultant must be certified by one of the following certification schemes, or demonstrate an equivalent standard acceptable to Sutherland Shire Council, Manager Environmental Science:

- EIANZ 'Certified Environmental Practitioner - Site Contamination' scheme (CEnvP SC).
- Soil Science Australia 'Certified Professional Soil Scientist - Contaminated Site Assessment & Management' scheme (SSA CPSS CSAM).

B. Prior to recommencement of works

If unexpected contaminated soil or groundwater is treated and/or managed onsite; the supervising environmental consultant must verify that the situation was appropriately managed in accordance with relevant NSW EPA guidelines.

The verification documentation must be provided to the satisfaction of the Principal Certifying Authority (PCA) and Sutherland Shire Council, Manager Environmental Science, prior to the recommencement of any works.

27. Management of Acid Sulfate Soils and Groundwater

A. During Works

- i) Onsite excavation must not extend beyond 1m below the natural ground level.
- ii) If acid sulfate soils are encountered during works; the situation is to be promptly evaluated by an appropriately qualified and experienced environmental consultant. The acid sulfate soils must then be treated and/or managed under the supervision of the environmental consultant in accordance with the requirements of the NSW Acid Sulfate Soil Manual (ASSMAC 1998).

Note: An appropriately qualified and experienced environmental consultant must be certified by one of the following certification schemes, or demonstrate an equivalent standard:

- 'Certified Environmental Practitioner' (CEnvP) - by Certified Environmental Practitioner (EIANZ).
 - 'Certified Professional Soil Scientist' (CPSS CSAM) by Soil Science Australia (SSA)
- iii) If groundwater is intercepted during excavation and requires discharge to Council's stormwater drainage system; the water must have a pH of between 6.5 and 8, and must not exceed a suspended sediment concentration of 50mg/L.

The discharge of groundwater to Council's stormwater drainage system must also be undertaken in accordance with, but not limited to

- a. Sutherland Shire Council's "Environmental Specification - Environmental Site Management 2007".
- b. Sutherland Shire Council's "Environmental Specification - Stormwater Management 2009".
- c. Australian and New Zealand Guidelines for Fresh and Marine Water Quality 2000.

B. Prior to Occupation

If unexpected acid sulfate soils are treated and/or managed onsite; the appropriately qualified environmental consultant must certify that the acid sulfate soils were appropriately managed in accordance with the requirements of the NSW Acid Sulfate Soil Manual (ASSMAC 1998).

This certification must be provided to the satisfaction of the Principal Certifying Authority (PCA) and copied to Sutherland Shire Council, Manager Environmental Science, prior to the issue of any occupation certificate.

28. Management of Site Soil / Fill Material

A. During Works

i) Disposal of site soils

Any soils to be excavated and disposed of from the site must be analysed and classified by an appropriately qualified and experienced environmental consultant, in accordance with relevant NSW EPA guidelines including the *"Waste Classification Guidelines" 2014*, prior to off-site disposal.

Excavated material is to be transported to an appropriately licensed waste facility by an EPA licensed waste contractor in accordance with relevant NSW EPA guidelines.

ii) Reused soils

Any existing soils excavated to be reused on the site must be assessed by an appropriately qualified, skilled and experienced environmental consultant in accordance with the National Environment Protection (Assessment of Site Contamination) Measure 1999 (amended 2013) and any relevant

guidelines approved under the Contaminated Lands Management Act 1997 and demonstrated to be suitable for the intended land use, prior to reuse.

Any soils not suitable for the intended land use must be removed from site and disposed of in accordance with i) above.

iii) Importation of fill material

Any fill material that is imported onto the site must comprise Virgin Excavated Natural Material (VENM), Excavated Natural Material (ENM) or other suitable material in accordance with the relevant Resource Recovery Exemption issued under the *Protection of the Environment Operations (Waste) Regulation 2014*.

Note: An appropriately qualified, skilled and experienced environmental consultant shall be certified by one of the following certification schemes; or equivalent:

- Environment Institute of Australia & New Zealand (EIANZ) 'Certified Environmental Practitioner (CENvP) Scheme'.
- Soil Science Australia (SSA) 'Certified Professional Soil Scientist (CPSS) Scheme'.
- Site Contamination Practitioners Australia (SCPA).

29. Storage or Processing of Waste Tyres Prohibited

A. Ongoing

The storage or processing of waste tyres (as defined under the *Protection of the Environment Operations Act 1997* and *Protection of the Environment Operations (Waste) Regulation 2014*) is prohibited.

Note: Waste tyres means used, rejected, unwanted tyres, including casings, seconds, shredded tyres or tyre pieces.

30. Cleanliness and Maintenance of Food Preparation and Storage Areas

To ensure that adequate provision is made for the cleanliness and maintenance of all food preparation and storage areas:

A. Design

The food preparation and storage area/s must be designed in accordance with;

- i) Food Act 2003.
- ii) Food Regulation 2010.
- iii) Food Safety Standards 3.1.1, 3.2.2 and 3.2.3.
- iv) AS 4674 - 2004 (Design, construction and fit-out of food premises).
- v) Sydney Water Corporation - Trade Waste Section.
- vi) Protection of the Environment Operations (Clean Air) Regulation, 2002.
- vii) AS 1668 Part 1- 1998.
- viii) AS 1668 Part 2 - 1991.

B. Before Construction

Details of compliance with the above must form part of the documentation accompanying the application for a Construction Certificate.

C. Before Occupation

- i) Prior to issue of an Occupation Certificate, certification must be provided from a suitably qualified person that all work in connection with the occupation or use of the premises for the preparation, display and storage of food has been carried out in accordance with the terms of the development consent.
- ii) Occupation of the premises must not occur until a registration application has been submitted to Council's Environment and Health Regulation Department for the food business.

31. Waste Management

To ensure the proper waste management is undertaken:

A. Design

All waste storage areas / rooms shown on the approved architectural plans must have a smooth impervious floor that is graded to a floor waste. A tap and hose must be provided to facilitate regular cleaning of the bins and all waste water must be discharged to the sewer in accordance with the requirements of Sydney Water. Garbage bins must be designed to prevent the escape of any liquid leachate and must be fitted with a lid to prevent the entry of vermin.

B. Before Construction

Details of compliance with 'A' above must form part of the documentation accompanying the applications for a Construction Certificate.

C. Before Occupation

The works must be completed prior to the issue of any Occupation Certificate.

D. Ongoing

All waste must be stored wholly within the approved waste storage areas within the buildings. No waste may be stored outside the buildings. Any bins put out to the street for collection must be put out the day before pick-up at the earliest and returned to the waste storage areas as soon as possible after pick-up. Ensure a licensed contractor is used to dispose of all hazardous waste items & that waste tracking receipts are kept for all hazardous waste items.

32. External Lighting - (Amenity)

To ensure that any lighting on the site does not cause a nuisance to neighbours or motorists on nearby roads:

A. Design

All lighting must be designed in accordance with Australian Standard AS4282 - Control of the Obtrusive Effects of Outdoor Lighting.

B. Ongoing

All lighting must be operated and maintained in accordance with the Standard above.

33. Noise Control - Design of Plant and Equipment (General Use)

To minimise the impact of noise from the development, all sound producing plant, equipment, machinery, mechanical ventilation system or refrigeration systems:

A. Design

All plant and equipment must be designed and / or located so that the noise emitted does not exceed an LAeq sound pressure level of 5dB above the ambient background level when measured at the most affected point on or within any residential property boundary.

Note: The method of measurement of sound must be carried out in accordance with Australian Standard 1055.1.

B. Before Occupation

Certification must be provided by a qualified acoustic engineer that all work associated with the installation of the acoustic measures has been carried out in accordance with 'A' above.

C. Ongoing

All plant and equipment must be operated and maintained in accordance with 'A' above.

34. Building Ventilation

To ensure adequate ventilation for the building:

A. Design

The building mechanical and / or natural ventilation systems must be designed, in accordance with the provisions of:

- i) The Building Code of Australia;
- ii) AS 1668 Part 1 - 1998;
- iii) AS 1668 Part 2 - 1991;
- iv) The Public Health Act - 2010;
- v) The Public Health Regulation 2012;
- vi) AS 3666.1 - 2002;
- vii) AS 3666.2 - 2002; and
- viii) AS 3666.3 - 2000.

B. Before Construction

Details of compliance with the above must form part of the documentation accompanying the application for a Construction Certificate.

C. Before Occupation

- i) Certification must be provided by a qualified mechanical ventilation engineer that the installation of the ventilation system has been carried out in accordance with 'A' above.
- ii) Occupation of the premises must not occur until a registration application has been submitted to Council's Environment and Health Regulation Department for any cooling tower / warm water system

D. Ongoing

The ventilation system must be operated and maintained in accordance with 'A' above.

35. Noise Mitigation Measures

A. Ongoing

The ongoing use of the business shall comply with the recommendations outlined in section 5.3 of "*DA Acoustic Assessment, Tempe Tyres Warehouse with Ancillary Office & Staff Amenities, 186-206 Captain Cook Drive, Kurnell*" prepared by Acoustic Logic, 20 December 2016 as follows:

- i) Loading docks along the northern facade of the development must not be used between the hours of 10pm to 7am, 7 days a week. All roller doors along this facade must remain closed at all times during this period.
- ii) The exit roller door along the northern facade of the staging area cannot be used between the hours of 10pm - 7am, 7 days a week. All vehicles accessing the staging area during this time period (10pm-7am) must depart via the entry roller door along the southern facade.
- iii) Heavy vehicles must not be left to idle during any loading / unloading operations or whilst waiting.

36. Certification Requirement of Levels

A. During Construction

At the following stages of construction:

- i) Prior to the placement of concrete of the ground floor (both buildings), circulation roadways and car parking bays;
- ii) Upon completion of the roof frame

A registered surveyor must provide the Principal Certifying Authority with Certification that the stage of structure complies with the development consent with respect to the finished floor and surface levels.

B. Before Occupation

The certification referred to above must form part of the application for an Occupation Certificate.

37. Sydney Water Requirements & Section 73 Compliance Certificate

A. Before Any Works

Prior to the commencement of any works on site, including demolition or excavation, the plans approved as part of the Construction Certificate must also be approved by Sydney Water. This allows Sydney Water to determine if sewer, water or stormwater mains or easements will be affected by any part of your development. Customers will receive an approval receipt which must be included in the Construction Certificate documentation.

Please refer to the web site www.sydneywater.com.au.

B. Before Occupation / Subdivision Certificate

Prior to the issue of an Occupation Certificate or a Subdivision Certificate a Compliance Certificate under Section 73 of the Sydney Water Act, 1994, must be submitted to Council by the Principal Certifying Authority. Sydney Water may require the construction of works and/or the payment of developer charges. This assessment will determine the availability of water and sewer services, which may require extension, adjustment or connection to the mains.

Sydney Water Advice on Compliance Certificates:

Sydney Water will assess the development and if required will issue a Notice of Requirements letter detailing all requirements that must be met. Applications can be made either directly to Sydney Water or through a Sydney Water accredited Water Servicing Coordinator. Please make early contact with the Coordinator, since building of water / sewer extensions can be time-consuming and may impact on other services as well as building, driveway or landscaping design.

Go to www.sydneywater.com.au/section73 or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.

38. Dial Before You Dig

A. Before Construction

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (this is the law in NSW).

It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

39. Noise Control and Permitted Hours for Building and Demolition Work

A. During Works

To minimise the noise impact on the surrounding environment:

- i) The LAeq sound pressure level measured over a period of 15 minutes when the construction or demolition site is in operation, must not exceed the ambient background level (LA90 15min) by more than 10dB(A) when measured at the nearest affected premises.
- ii) All building and demolition work must be carried out only between the hours of 7.00am and 6.00pm Monday to Friday inclusive, 8.00am and 3.00pm Saturdays. No work must be carried out on Sundays and Public Holidays.

On 50 occasions, only for the purpose of pouring large floor or roof slabs, work may be carried out on the site from 7.00am to 8pm Monday to Friday, excluding Public Holidays on a week day.

In order to activate the extended hours of operation both Council and affected neighbours must be notified a minimum of 48 hours prior to commencement. Affected neighbours include those in the immediate vicinity, adjacent or adjoining the development site. Notification must be by way of written advice including:

- Date/s the extended hours will be utilised.
- The purpose of the extended hours - pouring large slab.
- Address of the development works / site.
- Contact name and number of appropriate site officer (supervisor or manager) for enquiries.

Notification to Council must include a copy of the letter and a map or list identifying those affected neighbours who have been notified.

40. Toilet Facilities

A. During Works

Toilet facilities must be available or provided at the work site at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site before works begin and must be maintained until the works are completed.

Each toilet must:

- i) be a standard flushing toilet connected to a public sewer, or
- ii) have an on-site effluent disposal system approved under the Local Government Act 1993, or
- iii) be a temporary chemical closet approved under the Local Government Act 1993.

41. Containment of Fill

A. Design

Fill must not extend beyond the perimeter of the building / driveway / carpark area. (The use of a dropped edge beam is a method of complying with this condition.)

B. Before Construction

Details of the finished levels around the perimeter of the building must accompany the application for a Construction Certificate.

42. Street Numbering and Provision of Letter Box Facilities

A. Before Occupation

- i) Street numbers must be clearly displayed.
- ii) Suitable letterbox facilities must be provided in accordance with Australia Post specifications.
- iii) The development must have the following street address format: No. 5 Chisholm Road, Kurnell.

43. Car Parking Areas

A. Ongoing

To ensure that the car parking area satisfies the demands of the development, all parking (including the "potential staff parking" along the eastern boundary) must be made available on an unrestricted basis and free of charge at all times for employees' vehicles

44. Industrial Activities Outside the Building

A. Ongoing

To protect the amenity of the surrounding environment there must be no industrial activities, storage (including of tyres) or depositing of any goods or maintenance to any machinery conducted external to the building. All tyres must be kept inside the warehouse building at all times except when being temporarily loaded and unloaded into delivery vehicles.

45. Loading and Unloading

To preserve the amenity and ensure the safety of the public:

A. Ongoing

All loading and unloading of vehicles must be carried out within the site and not from the public roadway. All service/delivery vehicles must enter and leave the site in a forward direction.

46. Maximum Number of Staff

A. Ongoing

The facility must operate in accordance with the following maximum number of staff during the specified areas / facilities during the specified times:

- a) Warehouse building: Maximum 20 staff during the day shift (7am to 6pm) and 7 staff during the night shift (6pm to 7am).
- b) Ancillary office building: Maximum 60 staff in the office building including the take away food and drink booth.

47. Hours of Operation - Ancillary Office Building

A. Ongoing

The ancillary office building (including the take away food and drink booth on the ground floor) must operate only between the hours of 7am and 6pm on weekdays. It shall not be operated on weekends.

END OF CONDITIONS



Administration Centre
4-20 Eton Street, Sutherland
NSW 2232 Australia

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Sutherland NSW 1499
Australia

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Office Hours
8.30am to 4.30pm
Monday to Friday

Martin Southwell - 9710 0250
File Ref: PAD15/0125

22 December 2015



Lomford Projects
673 Forest Rd
BEXLEY NSW 2207

Dear Sir/Madam

Pre-Application Discussion No. PAD15/0125
Proposal: Industrial Development and Subdivision
Property: 186-206 Captain Cook Drive, Kurnell

Council refers to the Pre-Application Discussion (PAD) held on 9 November 2015 regarding the above development proposal. Carine Elias (Team Leader), Martin Southwell (Environmental Assessment Officer), James Gogoll (Engineer), Leanne Mariana (Environmental Scientist) attended the meeting on behalf of Council. Millad Rouhana (Lomford Engineers) and Sam Taleb attended on behalf of the proponent.

The purpose of this letter is to provide a summary of the issues discussed at the meeting and provide information that will assist you should you proceed with preparing a development application (DA). Council cannot provide you with certainty on the determination of the proposal until a DA has been lodged and assessed.

Your DA will need to be supported by a Statement of Environmental Effects addressing all relevant Environmental Planning Instruments, and the detailed planning controls contained in Council's Draft Development Control Plan.

The Site and Proposal:

The site is known as 186-206 Captain Cook Drive and consists of 2 allotments. The site has 3 road frontages, being Captain Cook Drive, Sir Joseph Banks Drive and Chisholm Road. The site is directly adjoined by the Caltex refinery. The area is characterised by industrial developments. The internationally listed Towra Point Nature Reserve Ramsar site is located to the west of the site on the opposite side of Captain Cook Drive.

The site is presently unused but was previously occupied by the AGL Hydrocarbon Extraction Plant, which occupied the south-eastern corner of the site. About 60% of the site is remnant vegetation. The site is burdened by an easement that runs adjacent to its north-western boundary. This easement contains a pipeline from the Sydney Desalination Plant.

The proposal is to undertake clearing on the site and construct a warehouse and distribution centre. The centre would comprise 10 separate warehouse units, with parking for 300 cars and ancillary office space at the southern end of the site. Access is proposed through a single driveway off Chisholm Road.

The property is within Zone IN3 Heavy Industrial under the provisions of Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015). The proposed development, being a *warehouse and distribution centre*, is a permissible form of development within this zone with consent from Council. Please note that no retail sales are permitted from a warehouse and distribution centre.

SSLEP 2015 indicates that the site is mapped as being affected by Acid Sulphate Soils Class 3, potentially contaminated, terrestrial biodiversity, groundwater vulnerability, high Aboriginal sensitivity and located near an AHIMS mapped Aboriginal site. These specific characteristics of the site will need to be taken into consideration when preparing your DA.

Comments on the Proposal:

The following comments are provided in respect to the concept plans presented for consideration at the meeting.

1. Draft Sutherland Shire Development Control Plan 2015 (DSSDCP 2015)

The proposal appears to be generally compliant with the building setback requirements within Chapter 29 of the DSSDCP 2015. These are a 20m setback from Captain Cook Drive, a primary frontage setback of 9m and a secondary setback of 3m. Please note that wall articulation is required.

The DSSDCP 2015 requires the use of solar panels on the roof (pitched roofs should be provided to achieve this). Office space should also achieve daylight access.

A 3m landscaped strip along the front boundary should be provided. A waste storage area must be provided in accordance with DSSDCP 2015 and any known hazardous waste must be addressed in the DA.

2. Drainage

A full drainage design prepared by an appropriately qualified engineer is to be provided with any development application lodged. The drainage design must incorporate On-Site Detention and stormwater treatment. Historically, other developments in close proximity to the site have provided a 20m wide treatment/detention / infiltration corridor.

Please contact Council's Guy Amos Stormwater Management Branch Manager to ascertain what nearby infrastructure is available in order to drain the site, and to confirm the latest flood levels for the site (if affected by revised levels).

3. Vehicle Access and Parking

The proposal constitutes Traffic Generating Development and therefore any DA for the proposal will be referred to Roads and Maritime Services (RMS) for comment.

A Traffic and Parking Impact Assessment Report will need to be submitted with any DA and must address traffic generation caused by the subdivision, including impacts on nearby intersections. If no future tenants are in mind, assumptions shall be made, noting that there is a large potential range for different tenancies / uses of the site.

As Chisholm Road is not an approved B Double route, swept path diagrams must be submitted with any DA and must show that B Double vehicles can safely navigate the intersections of Captain Cook Drive / Sir Joseph Banks Drive and Sir Joseph Banks Drive / Chisholm Road. Internal swept path diagrams within the site must also be submitted demonstrating that B Doubles can manoeuvre into, out of and within the site. Comment from a Traffic Engineer is also requested in relation to the length of the acceleration lane in Captain Cook Drive (turning left out of Sir Joseph Banks Drive).

All vehicle parking and loading docks must be designed in accordance with AS2890.1, AS2890.2 and AS2890.6, based on a B99 vehicle for access ways and B85 for parking bays. The DSSDCP 2015 requires car parking provision at a rate of 1 space per 300m² of Gross Floor Area (GFA). Any additional parking is included as GFA.

A Detailed Frontage Design Application should be submitted to Council prior to lodging a DA for the proposal, to ascertain Council's Civil Assets department's expectations for the public domain adjoining the site.

4. Environmentally Sensitive Land – Terrestrial Biodiversity and Threatened Species

The site is mapped as Environmentally Sensitive Land (Terrestrial Biodiversity) under Clause 6.5 of SSLEP 2015. The objective of this Clause is to protect native flora and fauna.

The existing vegetation at the southwest corner of the site has been classified by the NSW Office of Environment and Heritage as being "Coastal Sand Littoral Forest" which is listed as an Endangered Ecological Community under the NSW Threatened Species Conservation Act 1995.

Council's mapping system has also identified the vegetation in the south-eastern corner of the site as "Coastal Sand Littoral Forest", while the vegetation at the northern corner of the site has been identified as "Coastal Sand Tea-Tree Banksia Scrub."

Therefore, in accordance with the requirements of Chapter 38 'Natural Resource Management' of DSSDCP 2015, development proposals for this site will require an Ecological Assessment (also known as a Flora and Fauna Assessment) to be submitted with the development application. This assessment must also include an "Assessment of Significance" in accordance with the Threatened Species Conservation Act 1995.

This Ecological Assessment should be prepared by an appropriately qualified, experienced and licensed environmental consultant that is a member of the Ecological Consultants Association (NSW) or equivalent association.

5. Greenweb

Greenweb is Sutherland Shire Council's biodiversity strategy which aims to conserve and enhance Sutherland Shire's bushland and biodiversity. The site is mapped as "Greenweb Support". Therefore, in accordance with the requirements of Chapter 38 'Natural Resource Management' of DSSDCP 2015, Greenweb areas are to be landscaped with species indigenous to the Sutherland Shire. Trees and landscaping should be provided in form and configuration that maintains and enhances the core habitat and vegetated linkages.

Indigenous tree species must be selected from Council's Native Plant Selector available on Council's website. The native plant selector is a tool that recommends plants suitable for Sutherland Shire's ecosystems based on the locality.

6. Aboriginal Places of Heritage Significance

The site is identified on Council's mapping system as being of high Aboriginal heritage sensitivity and is therefore affected by Clause 5.10 of SSLEP 2015. The site is also located near an AHIMS mapped Aboriginal site. Therefore, any DA must include the findings of an investigation of the site that has been undertaken to identify whether it is affected by any Aboriginal objects or Aboriginal places of heritage significance. The investigation and accompanying report must be undertaken by an appropriately qualified heritage consultant.

7. Proximity to Refinery

The site is located within 500m of the Caltex Refinery and therefore the DA must be referred to the Department of Planning, in accordance with the Kurnell Peninsula Land Use Study 2007.

8. Environmentally Sensitive Land – Groundwater Vulnerability

The site is mapped as Environmentally Sensitive Land (Groundwater Vulnerability) under Clause 6.6 of SSLEP 2015. The objective of this Clause is to protect vulnerable groundwater resources from depletion and contamination as a result of the development.

As discussed at the PAD meeting, it was indicated to Council that a Geotechnical Investigation would be prepared to support a further development application. This investigation must therefore address the objectives and requirements of the 'Groundwater Vulnerability' Clause of the LEP. Please note that Council may be required to refer a development application for this site to the NSW Department of Primary Industries (NSW Office of Water) for the assessment of potential groundwater impacts.

9. Acid Sulfate Soils

This property is located in an area identified as Class 3 Acid Sulfate Soils on the Acid Sulfate Soil Risk Maps, in accordance with Clause 6.1 of the Sutherland Shire Local Environment Plan 2015.

Therefore, an Acid Sulfate Soil assessment must be undertaken in accordance with the requirements of the NSW Acid Sulfate Soil Manual (ASSMAC 1998), by an appropriately qualified and experienced environmental consultant.

If acid sulfate soils are identified, then an Acid Sulfate Soil Management Plan must also be prepared and submitted with the Assessment to Sutherland Shire Council.

Note: An appropriately qualified, skilled and experienced environmental consultant should be certified under the following certification schemes; or equivalent:

- Environment Institute of Australia & New Zealand (EIANZ) 'Certified Environmental Practitioner (CEnvP) Scheme
- Soil Science Australia (SSA) 'Certified Professional Soil Scientist (CPSS) scheme
- Site Contamination Practitioners Australia (SCPA)

10. Potential Contaminated Land

The land is listed in Sutherland Shire Council's Contaminated Land Register and a recent report provided to Council indicated that the land was suitable for commercial / industrial use – however, this determination relates only to the area of the site that was decommissioned in early 2015.

In accordance with the requirements of State Environmental Planning Policy No. 55 – 'Remediation of Land (SEPP 55)', and Chapter 39 'Environmental Risk' of DSSDCP2015, Council must consider whether the land is contaminated and be satisfied that the site will be suitable for the proposed development.

Therefore, in order for Council to appropriately assess contaminated land matters for the land in its entirety, a Detailed Site Contamination Investigation (which includes soil and groundwater sampling) is required to be prepared and submitted to Council. The investigation and reporting is to be undertaken by an appropriately qualified and experienced environmental consultant in accordance with relevant NSW EPA Guidelines including, but not limited to, "Guidelines for Consultants Reporting on Contaminated Sites 2011". The investigation must also meet the requirements of the National Environment Protection Measure – Assessment of Site Contamination 2013 (NEPM 2013).

The Detailed Site Contamination Investigation report must include an assessment of the suitability of the site for the proposed commercial / industrial use and also indicate any further investigation or remedial measures that may be required. Please be aware that dependant on the outcome of the Detailed Site Contamination Investigation, a Remedial Action Plan (RAP) and subsequent validation of the land may also be required.

Importantly, Council may also request that a NSW EPA Accredited Site Auditor is engaged to review the contaminated land information that is submitted to Council. If this is the case, the applicant must adhere to any conditions or recommendations made by the site auditor, if required.

Note: An appropriately qualified, skilled and experienced environmental consultant should be certified under the following certification schemes; or equivalent:

- Environment Institute of Australia & New Zealand (EIANZ) 'Certified Environmental Practitioner (CEnvP) Scheme
- Site Contamination Practitioners Australia (SCPA)

11. Utilities and Infrastructure

You are advised to make enquiry early with the various infrastructure and utility providers to ensure relevant considerations for the provision of services have been taken into account early in the building design. Urban infrastructure and utilities are reaching, or have reached maximum capacity in some localities. Electricity substations are required on occasion to ensure sufficient power to buildings and to meet flow requirements for sprinkler systems; NSW Fire have required substantial water tanks in other instances. Infrastructure to support these requirements will not be approved in the front boundary set back, or at the expense of landscaping or parking requirements.

Conclusion:

The proposal involves the construction for a large industrial warehouse and distribution centre. The site has a considerable number of environmental affectations that must be investigated further by appropriately qualified persons prior to the submission of a DA. The outcome of any DA for the proposal submitted under this Pre-Application Discussion will hinge upon the findings of those investigations. Similarly, the proposal will need to be referred to the RMS, Department of Planning and possibly NSW Office of Water for review and comment as detailed above.

It is important to note that the information provided in this letter is based on the planning instruments applicable at the time of writing. You should make yourself aware of any subsequent changes to legislation or local planning controls before lodging your development application.

For detailed information about how to prepare and lodge a development application, please refer to the "Development" section of Council's website. On the web page a "DA Guide" is available and an online tool called "Development Enquirer" which searches the applicable planning instruments for the planning controls relevant to your site and development.

Please make an appointment with Council's Development Enquiry Officers on 9710 0520 when you are prepared to lodge your application. Requests for appointments can also be made via Council's website.

Please contact Council if you believe any of the above information to be incorrect or if you need clarification of the advice provided. Your initial point of contact should be Martin Southwell (9710 0250) as this is Council's Environmental Assessment Officer who will most likely be responsible for the assessment of your DA.

Yours faithfully



Mark Adamson
Manager – Projects and Development Assessment

Architectural Review Advisory Panel

Proposal: Construction of a warehouse for storage and distribution of tyres and an ancillary office building which includes food and drink premises and amenities

Property: 186-206 Captain Cook Drive KURNELL NSW 2231

Applicant: Taleb Property Pty Ltd

File Number: DA17/0161

The following is the report of the Architectural Review Advisory Panel Meeting held on Thursday, 30 March 2017 at the Administration Centre, Sutherland Shire Council, Eton Street, Sutherland. The report documents the Panel's consideration of the proposed development described above.

"3. DA17/0161 – Construction of a warehouse for storage and distribution of tyres and an ancillary office building which includes food and drink premises and amenities at 186-206 Captain Cook Drive Kurnell"

Council's David Jarvis, Carine Elias, Jai Reid and Stevie Medcalf outlined the proposal for the Panel, including providing details of Council's relevant codes and policies

Mr Kim Jones, Mr Shane Youssef, Mr Sam Taleb and Mr Garth Hsu addressed the Panel regarding the aims of the proposal and the constraints of the site.

Description of the Site and Proposal

Pre DA or DA: Development Application

File No:- DA17/0161

Proposal:- Construction of a warehouse for storage and distribution of tyres and an ancillary office building which includes food and drink premises and amenities

Project Address:- 186-206 Captain Cook Drive Kurnell

Zoning:- IN3 Heavy Industrial

Applicant:- Sam Taleb (Taleb Property Pty Ltd)

Meeting Date:- 30 March 2017

PAD:- Yes (PAD15/0125)

ARAP Pre-DA:- No

Responsible Officer/Team Leader:- Jai Reid/ Carine Elias

Consent Authority: Sydney South Planning Panel

Key Controls

Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015).

Sutherland Shire Council Draft Development Control Plan 2015 (SSDDCP 2015)

Applicant's Submission

The Panel notes that the proposal has previously been reviewed by Council at the Pre-DA stage, but not by ARAP

PRINCIPLE 1 – CONTEXT AND NEIGHBOURHOOD CHARACTER

The triangular shaped site is located at 186-206 Captain Cook Drive and extends across an area of some 58,800m².

The site is bounded on all sides by road frontages including Captain Cook Drive, Sir Joseph Banks Drive, Chisholm Road and a road providing access to the adjacent Caltex Refinery.

Contextually, the site has high environmental sensitivity. To the North and North-West, it adjoins an internationally designated RAMSAR site, the *Towra Point Nature Reserve*. The site also contains remnants of the endangered ecological community (EEC) 'Kurnell Dune Forest', mostly confined to the south-west corner bounded by Chisholm Road and Sir Joseph Banks Drive, which is an endangered ecological species under the NSW Threatened Species Conservation Act. The remainder of the vegetation is heavily weed infested and has been damaged by a tornado that passed across the Kurnell Peninsula in 2015. There are however two threatened plant species on the site: *Callistemon linearifolius*, most likely planted, and *Syzygium paniculatum*, located in the EEC near Chisholm Road. There are two small man-made wetlands, potential habitats for the Green and Golden Bell Frog, currently supporting sedges and rushes, *Gahnia spp* and *Phragmites*.

The site is within a highly significant Aboriginal heritage area and is considered to be archaeologically sensitive. On the basis of the registered archaeological sites in the area and a review of previous archaeological investigations, shell midden sites are the most likely site type to remain within the site, given the sandy deposit, distance to Botany Bay and the ocean, and these may be associated with artefacts and burials.

The site is also characterised by surrounding industry, including the Caltex Oil Refinery which is undergoing change to a major import terminal. A section of the site was previously an AGL Hydrocarbon extraction plant which has resulted in some soil contamination and remnant buildings existing on site.

There is a major easement adjacent to the NW boundary containing a pipeline from the Sydney Desalination Plant.

The layout of the substantial warehouse complex and distinctive office building has taken into account the sensitive landscape components.

The development proposal provides for a 20m landscape zone along Captain Cook Drive frontage which will, given the already mounded landform, result in a significant screening of both the warehouse complex and the office building.

It is proposed to develop the project in three stages. The first stage provides for around half of the proposed warehouse complex which would be extended northward in Stage 2 to complete the total warehouse complex. Stage 3 will involve the construction of the office building.

Although the applicant considered '*a site in its raw form*' in '*a hostile environment*', the site has the potential to celebrate its outstanding natural and cultural heritage.

PRINCIPLE 2 – SCALE AND BUILT FORM

The warehouse complex is irregularly shaped to address the triangular nature of the site and to provide for servicing and access to a series of loading docks. The warehouse consists of a total of 6 bays, 18m wide, which vary in length from 130m up to 226m. In anticipation of climate change, the ground level of the warehouse is built up by 2m.

The proposed warehouse building heights are in the order of 15m but will vary slightly to reflect the existing ground conditions. The scale of the warehouse complex is compatible with the scale and mass of the adjacent Caltex Refinery complex.

The proposed 4 storey office building is circular in shape with an internal circular atrium enclosing a central garden with glazed roof above, rising to a height of approximately 15m above existing ground level. The Panel was advised that it has been designed to provide a range of facilities for staff associated with the warehouse functions (20 for Stage 1 – total 40 for Stage 2), office staff (60), as well as visitors. The form of the office building, together with the selected cladding, simulates a tyre-like appearance.

The proposal accommodates associated parking and includes a circulation road around the warehouse for large articulated trucks.

PRINCIPLE 3 – DENSITY

The Council Officer advice indicates that the total development complies with the maximum FSR of 1:1.

PRINCIPLE 4 – SUSTAINABILITY

While not shown on the DA drawings, the supporting SEE indicates that the following sustainability measures will be put in place with the warehouse complex:

- Provision for 15,000m² of photovoltaic solar panels.
- Clerestory east-facing skylight windows.
- Natural ventilation via ground level aluminium louvres.
- Light coloured wall and roof sheeting.

The Drainage plan shows rain water tanks for stages 1, 2, 3, with bio retention basins established for each catchment.

PRINCIPLE 5 – LANDSCAPE

Because of the high environmental sensitivity of the site, a number of site specific environmental gestures should be confirmed:

- The support of Greenweb 100% indigenous plant species.
- A 20m wide buffer along Captain Cook Drive, as an uninterrupted eastern site boundary, to be mounded and planted with Banksia and Tea-tree coastal forest/scrub.
- Protection and rehabilitation of Kurnell Dune Forest EEC including the removal of all weed species by accepted bush management techniques.
- Establishing a 15m vegetated buffer of Banksia Forest along the northern edge of the EEC.
- Protection and rehabilitation of the 2 existing ponds near Chisholm Road.

Given the remoteness of the site, the enclosed atrium will provide an attractive working space, however, it is suggested that the planting design celebrate Australian plants. To this end, it is suggested replacing:

- *Raphisexcelsa* with *Caryotaalbertii* (Fishtail Palm).
- *Bismarckianobilis* with *Dicksoniaantartica*.
- the 2 inner *Howeaforsteriana* with *Livistoniasaustralis*.
- *Lomandraspp* with ferns - *Blechnumcartilagineum*, *Aspleniumaustralasicum*, *Cheilanthesseiberi*.

Further to this, it is suggested that the provision of an outdoor space for staff, integrated with the natural environment and acting as a foil and alternative to the internal and air conditioned space of the atrium, would be a welcome addition to the proposal.

Other issues to note:

- Entries Stage 1: The entry/exit will continue to be from Chisholm Road. Protective fencing should be placed around the 2 retained vegetation areas.
- Truck Parking: The area for tree planting, *Eucalyptus botryoides*, across the S-W corner needs protective fencing to prevent truck damage.
- East Boundary: The 2m planting bed with *Casuarina glauca* and *Syzygiumpaniculatum* needs protective fencing.
- Entry Stage 2/3: *Angophora costata* will provide a distinctive entry in contrast to Kurnell Banksia scrub.

PRINCIPLE 6 – AMENITY

The total complex will be visually screened from Captain Cook Drive by substantive landscape. Access to the complex will be via Sir Joseph Banks Drive to the office building and Chisholm Road to the warehouse complex.

The Panel was advised that a highly automated approach had been considered (with particular reference to a Finnish example) for the warehouse complex, but had been set aside given concern on the part of the Applicant to retain the significant existing workforce rather than progress to full warehouse automation. It was noted that Bay 6 still had the provision to allow for a sophisticated automated picking system should the need arise.

Two floor levels will be constructed within the warehouse complex, consisting of slotted steel floor panels which will allow light and ventilation to permeate the lower warehouse spaces. Light to the warehouse is provided via the east-facing skylights.

The Panel is generally supportive of the design approach to the office building, conceived of as a social space as well as an office. A 24hr facility arranged in 3 shifts, it includes a take-away food outlet, gym, games room, prayer room, lounge areas, kitchen, and staff accommodation for shift workers and truck drivers. Many staff are transported to and from the site by bus.

The Panel was advised that the internal atrium space would be a fully airconditioned area. The roof structure associated with the atrium has yet to be resolved and there is a need to carefully consider the integration of landscape, solar access and air conditioning requirements.

The Panel suggests that the applicant could consider ways of encouraging staff and visitors to understand the particular environmental and cultural heritage of the site and its surrounds. The provision of an outdoor area for staff as recommended above (Principle 5 - Landscape) would facilitate this. This could be established near the Ancillary Offices, possibly in the revegetated south-eastern corner. Given the high environmental quality of the context, it could include a small viewing platform to see the Towra Point Reserve.

Other initiatives that could be considered in this regard:

- Colourful posters explaining the environment of the area in the busses.
- Sensitively labelled plants in the enclosed garden.
- Unobtrusive signage at the carpark near the EEC explaining its significance.
- An environmental blog on the Tempe Tyres website.

PRINCIPLE 7 – SAFETY

The Panel supports the principal separate truck entry and exit from the warehouse complex. The one-way road system to service the Stage 2 component of the warehouse is supported although the Panel questions the relationship between potential visitor parking, truck access and parking associated with the office building to the western edge of the warehouse complex.

The Panel was advised that a substantial part of the proposed parking (total 270 spaces) reflected a Council code requirement. The Applicant indicated the total complex would involve a workforce of 80 people in Stage 1 and 100 people following completion of the Stage 2 warehouse.

The variation in numbers is dependent on completion of Stages 1 and 2 of the warehouse complex (20 and 40 respectively), while the office workforce figure remains constant at 60.

The Panel suggests that a review be undertaken to provide for an unencumbered truck traffic access along the western edge of the warehouse complex to enable the one-way access system to effectively operate without compromising the safety of visitor parking for the office.

The Panel notes that the office complex would be separately accessed from Sir Joseph Banks Drive and was provided with substantial parking areas.

PRINCIPLE 8 – HOUSING DIVERSITY AND SOCIAL INTERACTION

Not applicable.

PRINCIPLE 9 – AESTHETICS

The Panel is supportive of the design of the warehouse complex and, in this context, the somewhat literal expression of the office building. There are, however, a number of aspects that should be further considered in the design of the office building:

- A review and refinement of the articulation of the structure of the building should be undertaken. Currently the structural columns, which are a strong echo of the pure form of the building, are treated carelessly in their location and in their relationship to other built elements. More clarity and consistency in the expression of the structure should be aimed for. This should include a re-consideration of the distortion of the structure for the ground floor entry, which compromises flexibility as well as the consistency of the structural geometry on the floors above.
- The Panel feels that the WC and Amenities elements compromise the atrium space and would be better located in the perimeter space surrounding the atrium. Consideration could be given to providing some open platforms within the atrium space serving as lounge or meeting spaces.
- Consideration should also be given to consolidating the print server rooms with other enclosed functions.

RECOMMENDATIONS

The Panel is supportive of the application in principle, subject to the following:-

- A review and refinement of the articulation of the structure of the office building.
- A satisfactory resolution and integration of various aspects relating to the atrium of the office building - its roof detailing, solar access and shading, landscape and air conditioning.
- A review of the office facility locations, including print server room and potential integration of the amenities within the circular form thus maximising the value of the atrium space.

-
- A review of office and warehouse parking demands and the reinforcement of an independent one-way access system for trucks servicing the warehouse complex.
 - Incorporation of an outdoor space with appropriate amenity for the staff.
 - The carrying out of environmental recommendations to minimise impacts on flora and fauna as follows:
 - Protection and management of the EEC and threatened plant species with a 15m vegetated buffer zone of Banksia Forest between the construction footprint and the EEC.
 - Protection and enhancement of the two man made wetlands along Chisolm Road.
 - Revegetation of existing disturbed and cleared areas within the site and along Captain Cook Drive with Banksia Forest and Kurnell Dune Forest.
 - Undertaking of erosion and sediment control measures to avoid indirect impacts on retained vegetation.
 - Treatment of all stormwater and runoff from the development on-site according to the Drainage Plan.”

Harry Levine
ARAP Chairman

26 April 2017

List of Public Submissions

Address	Date of Letter/s	Issues
26A Prince Charles Parade, Kurnell	11 March 2017	1,2,3
Submission	13 March 2017	2,5,6
35 Torres Street, Kurnell, 2231	16 March 2017	1,2,4,5,
58 Prince Charles Parade, Kurnell	16 March 2017	2,3,7
79 Captain Cook Drive, Kurnell	18 March 2017	2,6,9
53 Captain Cook Drive, Kurnell + 1 other	20 March 2017 20 March 2017	1,2,3,4,5,6,8,9
Submission	20 March 2017	2,3
1 Torres Street, Kurnell	22 March 2017	1,2,3,4,5
64 Tasman Street, Kurnell	23 March 2017	1,2,4,6
9 Dampier Street, Kurnell	23 March 2017	1, 2,
106 Bridges Street, Kurnell	23 March 2017	1,2,3,4,6,8,9
15/196-198 The Boulevarde, Miranda	13 April 2017	6
230 Prince Charles Parade, Kurnell	5 April 2017	2
Submission	23 March 2017	10

Issue 1: Suitability of the location for a warehouse and distribution centre

Comment: The proposal is well suited to the IN3 Heavy Industrial zone and the quantity of truck movements has been assessed by Council's engineers as acceptable in the local road network. Potential hazards given its proximity to the Caltex facility have been considered by both Council and NSW Planning and Environment.

Issue 2: Impact of trucks on local traffic and safety

Comment: Traffic modelling detailed within the Traffic and Parking Assessment Report submitted with the DA was assessed by Council's traffic engineer. The modelling demonstrates that the local road network is capable of acceptably accommodating the proposal. Refer to Section 10.2 of this report for further details.

Issue 3: Road Capacity of Captain Cook Drive

Comment: Refer to Issue 2 above.

Issue 4: Potential obstruction of Captain Cook Drive

Concern has been raised that should a vehicular accident occur, Captain Cook Drive would be closed to traffic.

Comment: Captain Cook Drive is currently used by residents, industries, businesses and tourists in a wide range of vehicles including heavy vehicles. The development poses no significantly greater risk of accidents occurring than what exists currently.

Issue 5: Potential danger to local residents from fumes and flames in the event of a fire

Comment: As recommended by the NSW Department of Planning and Environment, a condition has been imposed that requires the applicant to prepare a Fire Safety Study for approval of both Council and Fire and Rescue NSW. Amongst other requirements, the study must cover relevant aspects of the Department of Planning's *Hazardous Industry Planning Advisory Paper No.2 "Fire Safety Study"* and be consistent with Fire and Rescue NSW's *Fire Safety Guideline "Guideline for Bulk Storage of Rubber Tyres"*. The proposal has also been assessed against relevant legislation including *State Environmental Planning Policy No. 33 – Hazardous and Offensive Development*.

Issue 6: Aesthetics of the 'tyre' office building, which is out of character with the area and offensive to historical significance of Kurnell and the landing place of Captain Cook

Comment: The proposal has been considered by the Architectural Review Panel, an independent expert panel of architects. The Panel supported the aesthetics of both the office building and the main warehouse, suggesting only minor amendments to enhance the functionality of the building which have been adopted. Furthermore, existing vegetation along both Captain Cook Drive and Sir Joseph Banks Drive will partially conceal the building from view by Kurnell traffic.

Issue 7: Potential adverse impacts to existing trees along Captain Cook Drive

Comment: The proposal will retain the majority of existing trees along the Captain Cook Drive frontage including threatened species.

Issue 8: Questionable potential for local employment

Comment: The residential address of future employees is not a relevant matter for consideration under 79C of the Environmental Planning and Assessment Act 1979, nor is any statement made by the applicant to the media on the subject.

Issue 9: Potential competition of food and drink premises with local businesses, caused by the proposed take away food and drink booth located in the ancillary office building

Comment: The take away food and drink booth is 23m² in size and is expected to primarily cater to staff on site and to truck drivers making deliveries to and from the site. Regardless, commercial competition is not a matter for consideration under 79C of the Environmental Planning and Assessment Act 1979. The economic impacts of this small premises are unlikely to be significant.

Issue 10: All potential impacts to the SDP pipeline must be considered and addressed appropriately by the development design and conditions of consent

Comment: Refer to Section 10.12 of this report.



Notification of
REFERRAL DECISION – not controlled action

Tempe Tyres Warehouse Project, Captain Cook Drive, Kurnell, NSW (EPBC 2017/8068)

This decision is made under Section 75 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

Proposed action

person proposing to take the action Taleb Property Pty Ltd
ACN 137 273 566

proposed action To demolish existing structures, and construct and operate a warehouse, offices and take-away food venue at 186- 206 Captain Cook Drive, Kurnell, New South Wales.

[See EPBC Act referral 2017/8068].

Referral decision

status of proposed action The proposed action is not a controlled action.

Person authorised to make decision

name and position Dane Roberts
Acting Assistant Secretary
Assessments (ACT, NSW) & Waste Branch

signature

date of decision 17 November 2017



Planning &
Environment



Martin Southwell
Major Development Assessment (Coast Team)
Sutherland Shire Council
Locked Bag 17
Sutherland NSW 1499

Contact: Nicholas Hon
Your ref: (02) 9274 6344
E-mail: nicholas.hon@planning.nsw.gov.au

Dear Mr Southwell

Development Application No. DA17/0161 – Tempe Tyres at 186-206 Captain Cook Drive, Kurnell

I refer to your e-mail dated 15 December 2017 requesting the Department's comments following a review of the Applicant's response (6 April 2017) to the Department's submission (23 March 2017) on the above development application.

The Department has reviewed the proposal in light of the findings and recommendations of the *2007 Kurnell Peninsula Land Use Safety Study*.

It is noted that the proposed development is located within 500 m from the Caltex Kurnell facility boundary. As such, the proposed development is within the consultation area specified in recommendation 4.2.4.2 of the study.

Following a review of the Applicant's response, along with the Statement of Environmental Effects (2 February 2017), it is considered that the assessment has generally considered the hazards and safeguards relevant to the bulk storage of rubber tyres, and the location of the proposed development in the vicinity of the Caltex Kurnell facility.

If approval is granted by Council for this proposed development, it is recommended that the conditions in **Attachment A** be included as part of the consent.

Should you have any further queries, please contact Nicholas Hon on the above details.

Yours sincerely

Chris Ritchie
Director
Industry Assessments

19/12/17

Department of Planning and Environment
320 Pitt Street Sydney 2000 | GPO Box 39 Sydney 2001 | planning.nsw.gov.au

ATTACHMENT A

Hazards

1. At least one month prior to the commencement of construction of the development (except for construction of those preliminary works that are outside the scope of hazard studies), or within such further period as Council may agree, the Applicant must prepare and submit for approval of both Council and Fire and Rescue NSW a Fire Safety Study for the development. The study:
 - a) must cover the relevant aspects of the Department of Planning's *Hazardous Industry Planning Advisory Paper No. 2, 'Fire Safety Study'*;
 - b) must cover the New South Wales Government's *Best Practice Guidelines for Contaminated Water Retention and Treatment Systems*;
 - c) must be consistent with Fire and Rescue NSW's *Fire Safety Guideline 'Guideline for bulk storage of rubber tyres'*. If alternative design or operation is proposed, the alternatives must be demonstrated in the study to achieve an equivalent level of safety as described in the guideline; and
 - d) should consider industry best practice and guidelines for storage of tyres, including:
 - i. Fire Service Guideline, Indoor Storage of New and Used Tyres (CFA Victoria, 2014);
 - ii. FM Global Data Sheet 8-3, Rubber Tyre Storage (FM Global, 2009); and
 - iii. NFPA 231D, Standard for Storage of Rubber Tyres (NFPA, 1998).

Construction, other than of preliminary works, must not commence until approval has been given by both Council and Fire and Rescue NSW.

2. The Applicant must develop an Emergency Plan and detailed emergency procedures for the development. This plan must be prepared in accordance with the Department of Planning's *Hazardous Industry Planning Advisory Paper No. 1, 'Emergency Planning'*.

The Emergency Plan and detailed emergency procedures must take into account the potential impacts from the Caltex Kurnell facility and must be developed in consultation with Caltex.

No later than two months prior to commencement of commissioning of the development, or within such further period as Council may agree, the Applicant must submit to Council for approval documentation describing the Emergency Plan and detailed emergency procedures. Commissioning shall not commence until approval has been given by Council.



29 March 2017

Our Reference: SYD17/00319
Council Ref: DA17/0161

The General Manager
Sutherland Shire Council
Locked Bag 17
Sutherland NSW 1499

Attention: Martin Southwell

Dear Sir/Madam,

**PROPOSED WAREHOUSE AND DISTRIBUTION FACILITY FOR TYRES
186-206 CAPTAIN COOK DRIVE, KURNELL**

Reference is made to Council's letter dated 6 March 2017, regarding the abovementioned Application which was referred to Roads and Maritime Services (Roads and Maritime) for comment in accordance with the *State Environmental Planning Policy (Infrastructure) 2007*.

Roads and Maritime has reviewed the submitted application and notes that this section of Captain Cook Drive is a regional road under the care and control of Council. Therefore Roads and Maritime raises no objections to the proposed development.

Should you have any further inquiries in relation to this matter, please do not hesitate to contact Hans Pilly Mootanah on telephone 8849 2076 or by email at development.sydney@rms.nsw.gov.au

Yours sincerely,

Aleks Tancevski
Senior Land Use Planner
Network and South Precinct

Roads and Maritime Services

27-31 Argyle Street, Parramatta NSW 2150 |
PO BOX 973 Parramatta NSW 2150 |

www.rms.nsw.gov.au | 13 22 13

Martin Southwell

From: Lesley Diver <lesley.diver@dpi.nsw.gov.au>
Sent: Tuesday, 16 October 2018 3:21 PM
To: Martin Southwell
Subject: Re: Email 1 - Tempe Tyres warehouse (186-206 Captain Cook Dr, Kurnell)
Attachments: image008.jpg; image009.png; image010.jpg; image011.png; image012.png; image013.png; image014.png; image015.png; image016.png

Dear Martin

thank you for referring this development to DPI, Fisheries for review under Section 56 of the *Marine Estate Management Act 2014* for development on land in the locality of an aquatic reserve. This site is in the locality of Towra Point Aquatic Reserve.

The critical issue for Towra Point Aquatic Reserve for this proposal is the quality and quantity of the water that leaves the site either through stormwater or groundwater. There should be no reduction in water quality and if possible an improvement in the quality of the water leaving the site. There should be no significant changes to the quantity of water leaving the site as the downstream vegetation communities will be reliant on the current flow regimes.

In particular, there should be no possibility of water contaminated with chemicals from new tyres being able to enter the stormwater or groundwater. Any water inside the facility should be discarded into the sewerage system and not into stormwater systems. In addition, any new or damaged/discarded tyres should not be left outside so that rainwater can dilute the chemicals in the tyres which then flows into stormwater and/or groundwater.

Best practice stormwater and sediment controls are essential prior to any vegetation clearing or construction works. These need to be checked by Sutherland Shire Council at the beginning of and during the works as we have had a number of construction sites next to Towra Point Aquatic Reserve that have failed to install any sediment and erosion controls prior to works commencing and/or failed to maintain the controls.

If you have any further questions, please contact me by phone or email - my details listed below.

regards
 Lesley

Lesley Diver
 Senior Project Officer | Marine Parks & Aquatic Reserves
 NSW Department of Primary Industries | Fisheries NSW
 84 Crown Street | PO Box 5106 | Wollongong | NSW 2520
 T: 02 4222 8339 | M: 0419 594 346
 E: lesley.diver@dpi.nsw.gov.au
 W: www.dpi.nsw.gov.au | www.mpa.nsw.gov.au
 Conserve, Share, Provide



Request to Vary a Development Standard

Clause 4.6 of the SSLEP 2015 allows Council to grant consent for development even though the development contravenes a development standard imposed by the LEP. The clause aims to provide an appropriate degree of flexibility in applying certain development standards to achieve better outcomes for and from development.

As part of the Statement of Environmental Effects (SEE) originally submitted to accompany the development application a Request to Vary a Development Standard was provided. The original Request to Vary a Development Standard related to the exceedance of the maximum height limit by part of the warehouse building. This height limit exceedance remains as part of the amended development proposal.

However, as part of the amendments to the development proposal arising from the Flooding and Stormwater Impact Assessment, the ancillary office building will also now exceed the maximum height limit development standard. As such, the Request to Vary a Development Standard has been updated to include both the warehouse building exceedance and the ancillary office exceedance that are part of the development as it is now proposed.

1 Development Standard to be Varied

Clause 4.3 of the *Sutherland Shire Local Environmental Plan 2015* (SSLEP 2015) specifies a maximum height limit for the site of 16m above natural ground level.

The warehouse building component of this application proposes to minimally exceed the 16m maximum height limit applying to the site (illustrated at **Figure 1**) by a variable amount but less than 1.6m for the roofline of some of the warehouse bays. **Figure 3** shows the building height limit plane in red for the warehouse building, with the grey elements indicating the parts of the warehouse where the roof is above the height plane.

In addition, the ancillary office building component of this application proposes to minimally exceed the 16m maximum height limit applying to the site (illustrated at **Figure 2**) by less than 1m for the roofline of entire building.

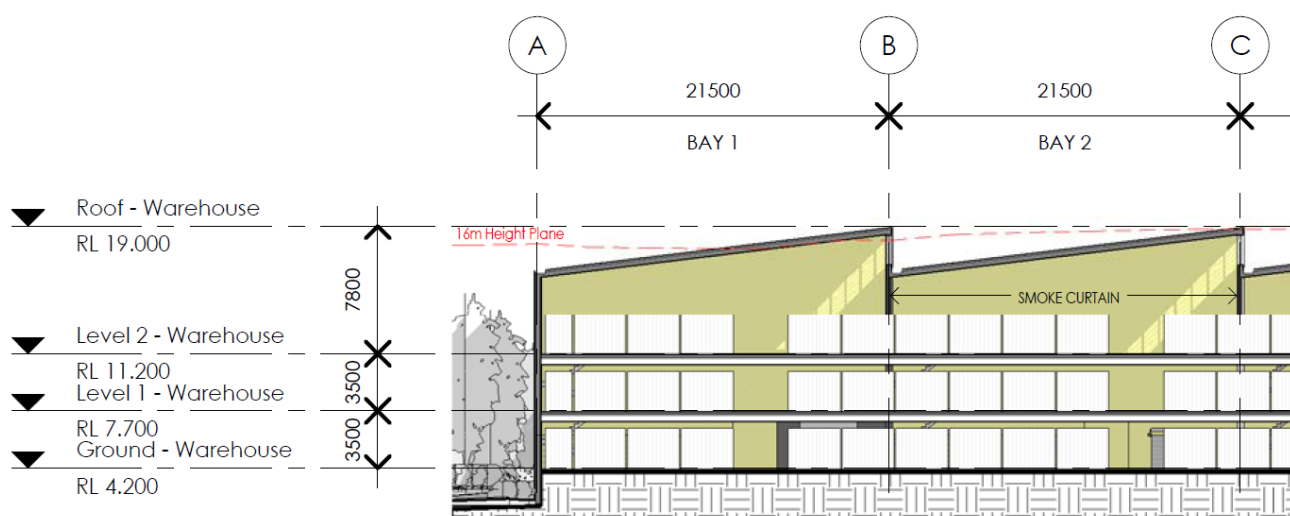


Figure 1 – The proposed exception to the height control for the warehouse (section)



Figure 2 – The proposed exception to the height control for the ancillary office (section)

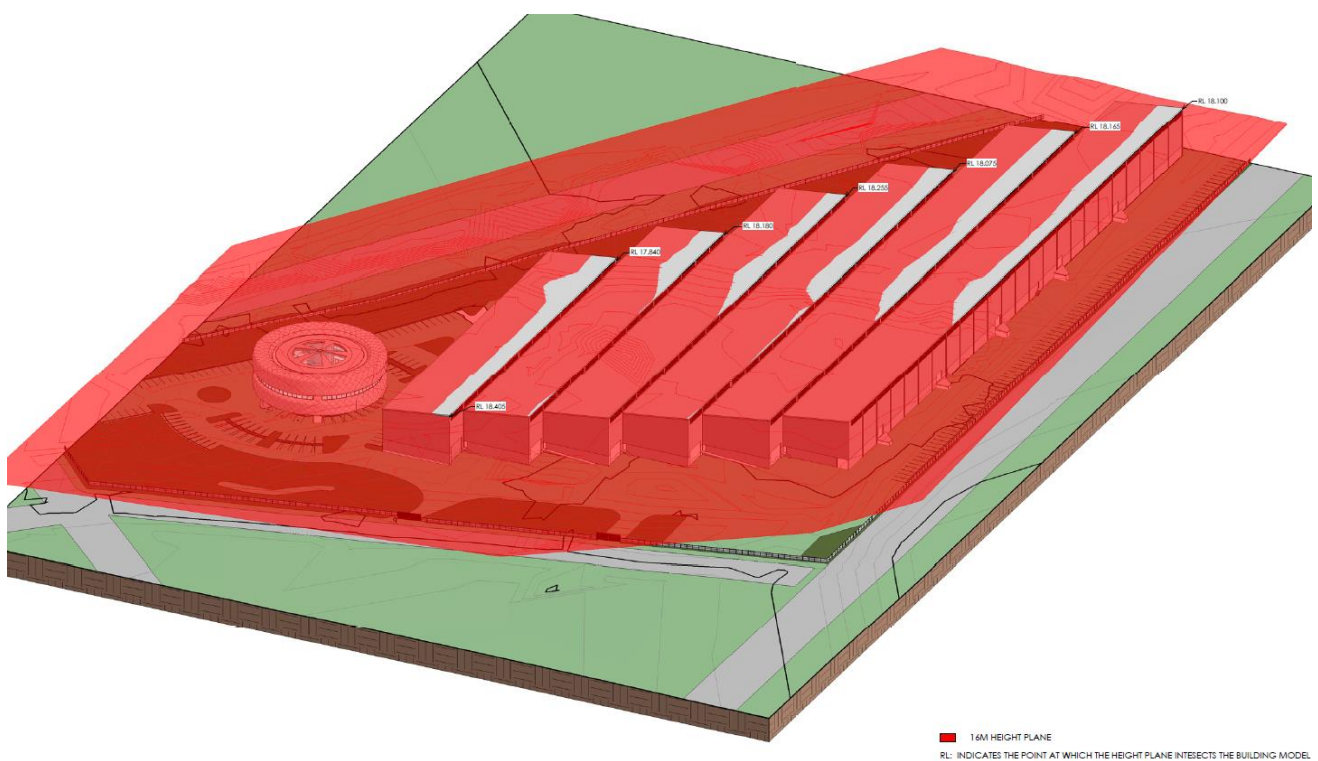


Figure 3 – The proposed exception to the height control for the warehouse only (height plane)

1.1 Warehouse Building

The exceedance of the warehouse building arises predominantly due to the variability in the natural ground level, and in particular the location of depressions in the existing ground level around Bay 1 of the warehouse and in the northern part of the site.

The exceedance is limited to the higher edge of the sawtooth roof line of the warehouse. As can be seen in **Figure 3**, the exceedance occurs for the entire length of Bay 1, but is limited only the northern parts of Bays 2-6 where the existing ground level is depressed.

The greatest exceedance is almost 1.6m located at the southern part of Bay 1. For Bays 2-6 the height limit exceedance is less than 1m. It should be noted that the top edge of the sawtooth roof line is RL19m for each warehouse bay, and the variation in the height limit exceedance for each warehouse bay is a function of the variability in the natural ground level across the site.

1.2 Ancillary Office Building

The exceedance of the ancillary office building arises predominantly due to the requirement to raise the floor level of the building to comply with the flood protection control of 1% AEP flood level + 0.5m. The site survey indicates that the existing ground level at the location of the proposed ancillary office building varies from RL2.1m to RL2.4m. The top of the roof of the proposed ancillary office building is at RL18.9m, resulting in exceedance of the height limit standard by between 0.5m to 0.8m.

2 Justification for Contravention of the Development Standard

2.1 Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case

In the decision of *Wehbe v Pittwater Council* [2007] NSW LEC 827, which provides case law relating to SEPP 1 Objections, Chief Justice Preston expressed the view that there are five different ways in which a variation to a development standard might be shown as unreasonable or unnecessary. Of particular relevance in this instance is that a development standard might be shown as unreasonable or unnecessary if 'the objectives of the standard are achieved notwithstanding non-compliance with the standard'.

Warehouse Building

The warehouse building requires smoke exhaust in accordance with Clause E2.2a and Table E2.2a of the Building Code of Australia. Given the warehouse is a large and isolated building however, the proposal does not seek to provide a mechanical smoke hazard management system on the grounds of constructability and practicality. Rather, consent is sought for louvres in the vertical face of the sawtooth roof which will facilitate natural ventilation in the event of a fire.

In order to facilitate the provision of such a system, smoke reservoirs are required at the valleys of the sawtooth roof. These reservoirs will be established by the installation of fixed smoke curtains. The warehouse elevation of RL19m has been specifically designed in response to the recommendations outlined within the Fire Engineering Statement of Design Intent (attached at Appendix F of the originally submitted SEE) in order to ensure the reservoirs are suitably sized and that adequate ventilation can be achieved via the louvres.

Ancillary Office Building

A 16m height limit is normally more than sufficient to provide for a 4-storey commercial building. However, given the low elevation of the existing ground level, the floor level of the ancillary office building has been raised in order to ensure the flood protection requirements set out in the Sutherland Development Control Plan 2015 (DCP) are met. The ancillary office building will provide a unique high-quality design and development outcome that will strengthen and enhance the character of the Kurnell industrial area, and was supported by Council's Architectural Design Review Panel. The building will provide exceptional amenities and facilities for staff and visitors, including an internal atrium

which will provide a high amenity wintergarden style space that will receive natural light and provide a safe, secure and pleasant social place within the building.

Assessment Against Zone Objectives

The objectives of the IN3 Heavy Industrial zone and clause 4.3 of the SSLEP 2015 are set out below in **Table 1**, along with an assessment of the proposed development against the provisions to demonstrate that the proposed development is consistent with the zone objectives, and that the variation to the height control will still result in a development that achieves the objectives of the maximum building height development standard.

Table 1 – Assessment against relevant SSLEP 2015 provisions

Objective	Assessment of Amended Proposal
<p><i>IN3 Heavy Industrial zone objectives:</i></p> <ul style="list-style-type: none"> - <i>To provide suitable areas for those industries that need to be separated from other land uses.</i> - <i>To encourage employment opportunities.</i> - <i>To minimise any adverse effect of heavy industry on other land uses.</i> - <i>To support and protect industrial land for industrial uses.</i> 	<p>The proposal is for a warehouse and ancillary office that will undertake 24-hour warehouse storage and logistics activities.</p> <p>The proposed development will employ up to 80 people.</p> <p>The proposal has been designed to minimise impacts to Kurnell Village and will not result in any adverse effects on the village. In particular, the proposed buildings will not result in adverse visual impacts on the residents of the village or obstruct significant view corridors.</p> <p>The proposal has been amended to avoid significant impacts to surrounding industrial lands and nearby infrastructure to ensure existing flood impacts are not exacerbated.</p> <p>The proposal constitutes industrial development that is suitable for industrial land.</p>
<p>(a) <i>to ensure that the scale of buildings:</i></p> <ul style="list-style-type: none"> (i) <i>is compatible with adjoining development, and</i> (ii) <i>is consistent with the desired scale and character of the street and locality in which the buildings are located or the desired future scale and character, and</i> (iii) <i>complements any natural landscape setting of the buildings,</i> 	<p>Warehouse Building</p> <p>The proposed warehouse building predominantly sits within or below the maximum building height limit of 16m. The exceedance is marginal at less than 10% of the building height, and only effects the upper edge of the sawtooth roofline of the warehouse.</p> <p>The building will not appear higher than the 16m height limit, as the exceedance only arises because of a minor localised depression in the existing ground level under part of the warehouse building.</p> <p>Ancillary Office Building</p> <p>The proposed ancillary office building will result in a marginal exceedance less than 5% of the building height. At RL18.9m the ancillary office building will be lower than the the highest point of the associated warehouse building (at RL19m) so will present a consistent building height across the site.</p> <p>Conclusion</p> <p>There are a number of industrial buildings in the vicinity of the site that are of a similar scale to the proposed buildings – in particular:</p> <ul style="list-style-type: none"> - The nearby Kurnell Zone Substation is approximately 15m in height. - Sydney Desalination Plant contains buildings up to 18m in height. - Caltex refinery contains structures over 16m in height. <p>The proposed warehouse will therefore be consistent with the bulk, scale and height of the Kurnell industrial area. Further, the proposed buildings will be largely screened by existing vegetation to be retained along Captain Cook Drive frontage.</p>

Objective	Assessment of Amended Proposal
<i>(b) to allow reasonable daylight access to all buildings and the public domain,</i>	The proposed new ancillary office building has been designed to provide excellent natural daylight outcomes for the occupants, incorporating a large internal atrium that will provide a high degree of natural light throughout the building, including at the high amenity wintergarden space on the ground floor.
<i>(c) to minimise the impacts of new buildings on adjoining or nearby properties from loss of views, loss of privacy, overshadowing or visual intrusion,</i>	<p>Due to the location of the site adjacent to the Caltex refinery and within the Kurnell industrial area, the proposed development does not impact on sensitive views, privacy, overshadowing or visual intrusion from nearby properties or sensitive land uses.</p> <p>Shadow diagrams prepared by JSA Studio show that shadows do not leave the development site between 9am and 3pm on the equinox and the summer solstice, and only marginally leave the site during the winter solstice during that time period around 3pm when the shadows marginally encroach onto the adjoining Caltex property. This part of the Caltex site is used as a tank farm, and does not contain habitable buildings or private open space.</p>
<i>(d) to ensure that the visual impact of buildings is minimised when viewed from adjoining properties, the street, waterways and public reserves,</i>	The height of the proposed buildings is consistent with surrounding industrial buildings. Due to the significant vegetation along the Captain Cook frontage that will be retained as much as possible, the buildings will be largely screened from views by drivers along this corridor. The vegetation will also screen views from Kurnell Village and Quibray Bay.
<i>(e) to ensure, where possible, that the height of non-residential buildings in residential zones is compatible with the scale of residential buildings in those zones,</i>	NA (the site is not located in a residential zone).
<i>(f) to achieve transitions in building scale from higher intensity employment and retail centres to surrounding residential areas.</i>	NA (the site is not located in a transitional area near a centre).

2.2 There are sufficient environmental planning grounds to justify contravening the development standard

The proposed minor exceedances of the height control will not result in any significant impacts to views, privacy or overshadowing to any third-party property or the public domain. The buildings will be largely screened by existing vegetation to be retained where possible along Captain Cook Drive frontage, and are consistent with existing surrounding buildings throughout the Kurnell industrial area.

The benefits of allowing the proposed minor exceedance of the height control for the warehouse building is that it will enable a non-mechanically ventilated fire strategy to be implemented for the warehouse building. Reducing initial capital expenditure, and reducing ongoing maintenance requirements. Implementing a non-mechanically ventilated system will also result in lower overall demand for materials and electricity.

The benefits of allowing the proposed minor exceedance of the height control for the ancillary office building is that it will enable a 4-storey ancillary office building to be located on the site, providing the opportunity for the unique high quality architectural design and literal interpretation of the facility to be achieved, as supported by Council's Architectural Review Advisory Panel. The proposed ancillary office building meets the 4-storey intent for the site normally achievable within a 16m height limit, and complies with the maximum floor space ratio established at the site, whilst also minimising the environmental impacts of the development and achieving the parking and flood protection requirements on what is a complex and highly constrained site.

Strict compliance of the maximum height limit standard would result in a less efficient development outcome, undermining the objectives of the IN3 Heavy Industrial zone to provide for heavy industrial development and associated employment outcomes.

3 Secretary's Concurrence

The Secretary of the Department of Planning and Environment is required to give concurrence to any variation of a development standard pursuant to clause 4.6(5) of SSLEP 2015. The following section provides a response to those matters sets out in clause 4.6(5) which must be considered by the Secretary in considering whether to grant concurrence.

Whether contravention of the development standard raises any matter of significance for State or regional environmental planning.

The marginal exceedances of the height limit do not raise any matters of State or regional planning significance. The buildings provide for land uses that are consistent with the strategic intent for the site, and do not adversely impact on any surrounding properties or land uses. The buildings are consistent in bulk, scale and height to existing buildings within the Kurnell industrial precinct, and it is considered unlikely that the exceedances will be noticeable even to the closest receptors.

The public benefit of maintaining the development standard.

There would be minimal public benefit in enforcing the development standard in this instance as it would force the proponent into a less efficient development outcome, or in the case of the warehouse a fire strategy that relied on mechanical ventilation. In either case, enforcing the development standard would result in increased costs associated with operating the facility and less sustainable outcomes in terms of the efficient use of land and natural resources.

Any other matters required to be taken into consideration by the Secretary before granting concurrence.

There are no other matters considered to be relevant in the granting of concurrence.

4 Summary

This Request to Vary a Development Standard demonstrates that Council can be satisfied that:

- That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case because compliance with the standard would result in increased costs associated with operating the facility and less sustainable outcomes in terms of the use of land and natural resources.
- There are sufficient environmental planning grounds to justify contravening the development standard for the warehouse as the exceedance of the height limit is marginal (less than 10%), it only affects a small part of the building roofline, it will result in a development that is consistent with existing surrounding development, and will not result in any visual intrusion, loss of views, loss of privacy, or overshadowing impacts.
- There are sufficient environmental planning grounds to justify contravening the development standard for the ancillary office building as the exceedance of the height limit is marginal (less than 5%), it will result in a development that is consistent in its bulk, scale and height with existing surrounding development, and will not result in any visual intrusion, loss of views, loss of privacy, or overshadowing impacts.

It is therefore requested that Council grant development consent for the proposed development even though it contravenes the maximum building height development standard in SSLEP 2015.



NTS - Source: Image from SIXMAPS.com

ARCHITECTURAL DRAWINGS

DA0.01	Cover Sheet	5
DA2.01	Site Analysis	3
DA2.02	Area Plan	2
DA2.03	Parking Schedule	3
DA2.05	Staging Diagram	3
DA3.01	Site / Roof Plan	3
DA3.02	Warehouse - Ground Floor Plan	4
DA3.03	Warehouse - Level 1 Floor Plan	3
DA3.04	Warehouse - Level 2 Floor Plan	3
DA3.05	Ancillary Office - Ground Floor Plan	4
DA3.06	Ancillary Office - Level 1 Floor Plan	4
DA3.07	Ancillary Office - Level 2 Floor Plan	4
DA3.08	Ancillary Office - Level 3 Floor Plan	4
DA5.01	Warehouse - Sections	2
DA5.02	Section - Ancillary Office	3
DA6.01	Warehouse - North & South Elevations	3
DA6.02	Warehouse - West Elevation	3
DA6.03	Warehouse - East Elevation	3
DA6.04	Ancillary Office - North & South Elevations	3
DA7.01	Shadow Diagrams	2
DA7.02	Shadow Diagrams	2
DA7.03	3D Perspective	2
DA7.04	3D Perspective	2
DA7.05	3D Perspective	2

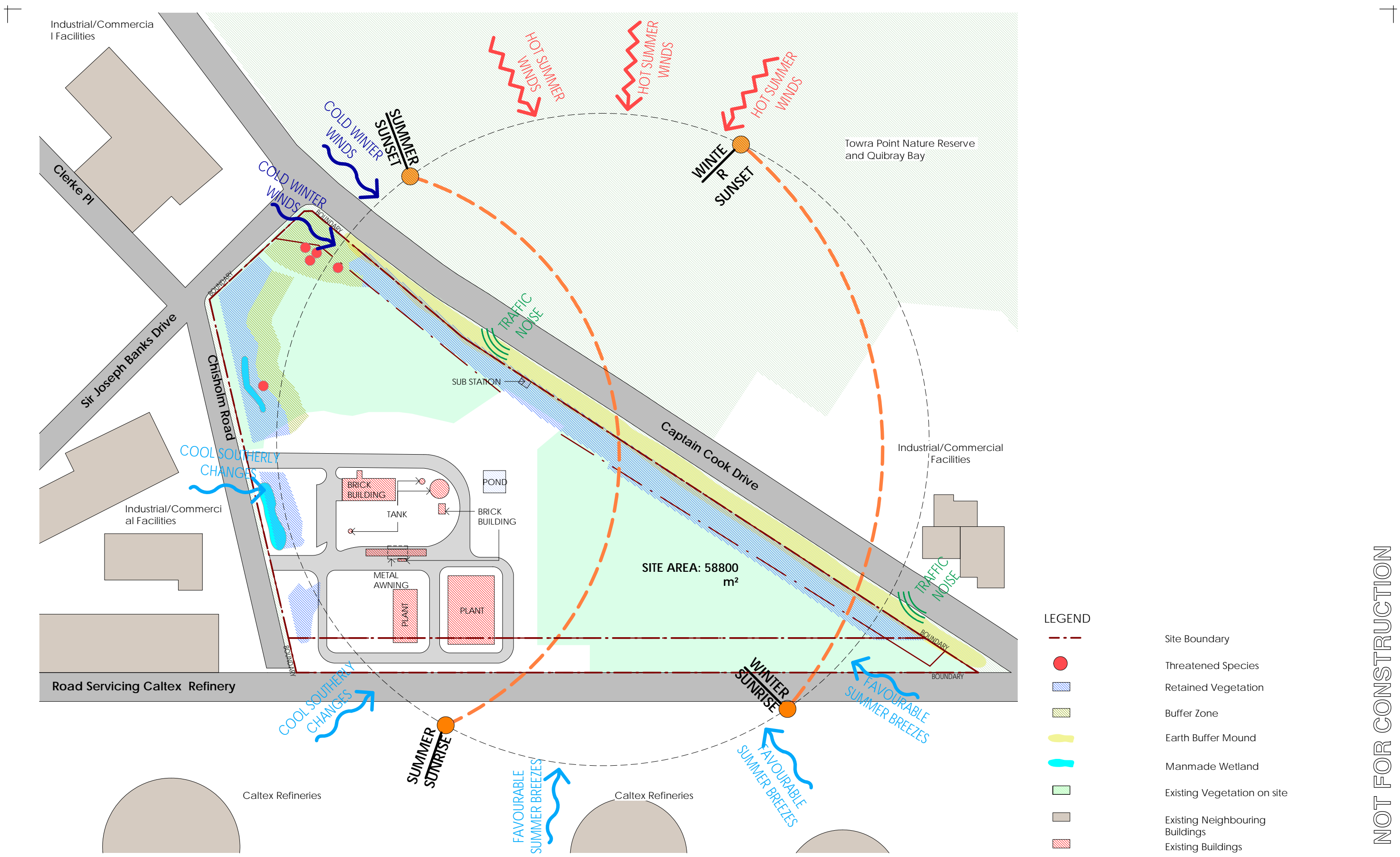
Taleb Property Pty. Ltd.

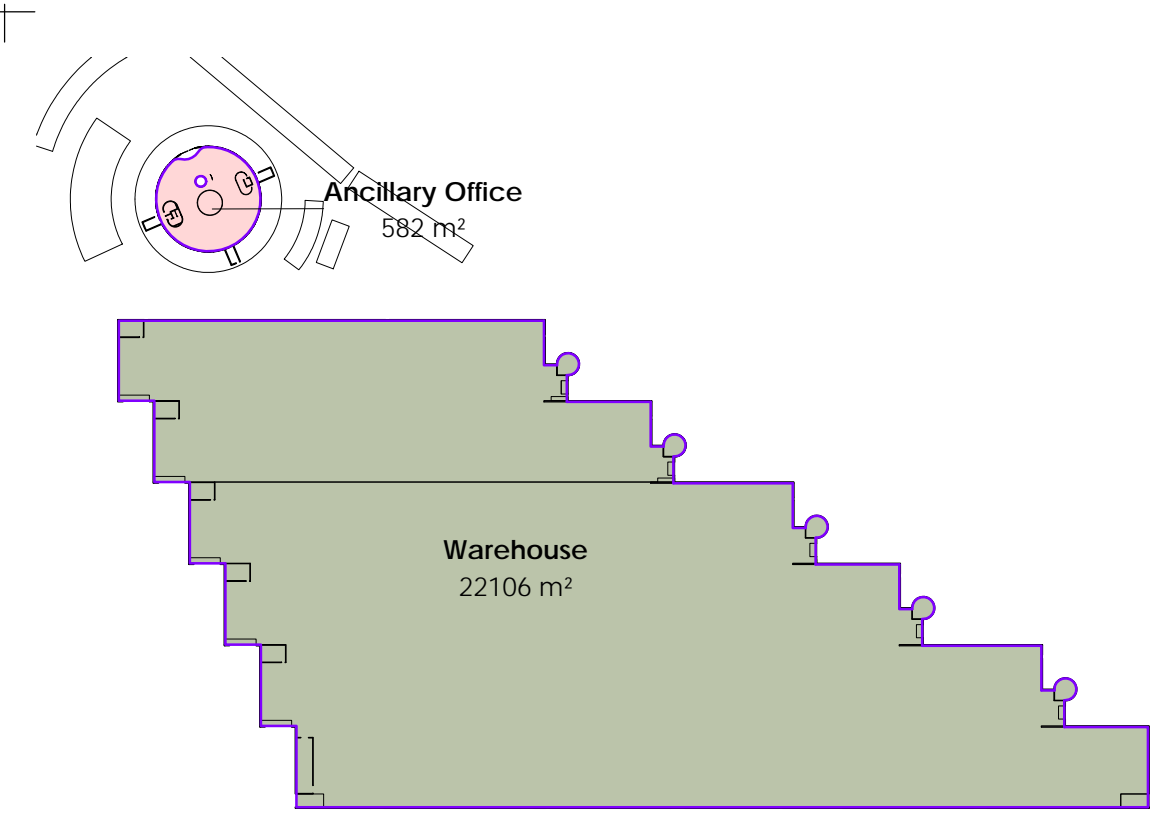
186-206 Captain Cook Drive Kurnell

Tempe Tyres Warehouse with Ancillary Office & Staff Amenities

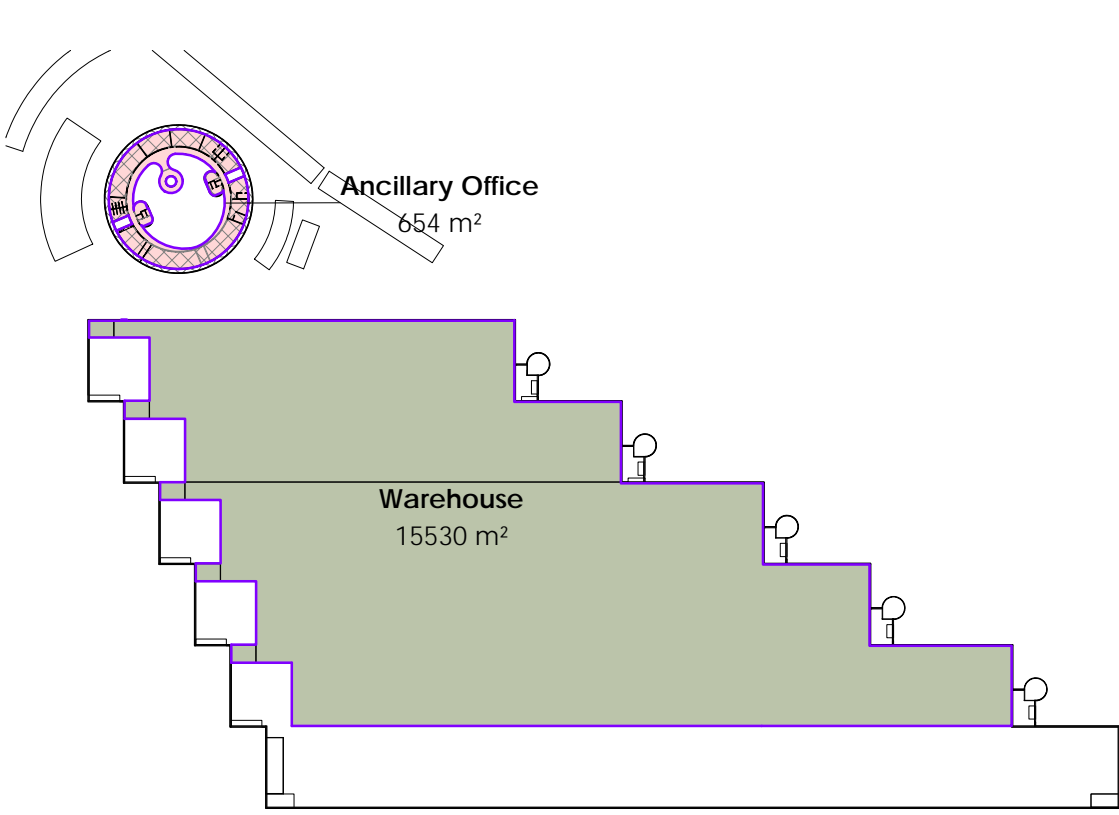
Issue for consultant coordination

26.04.17

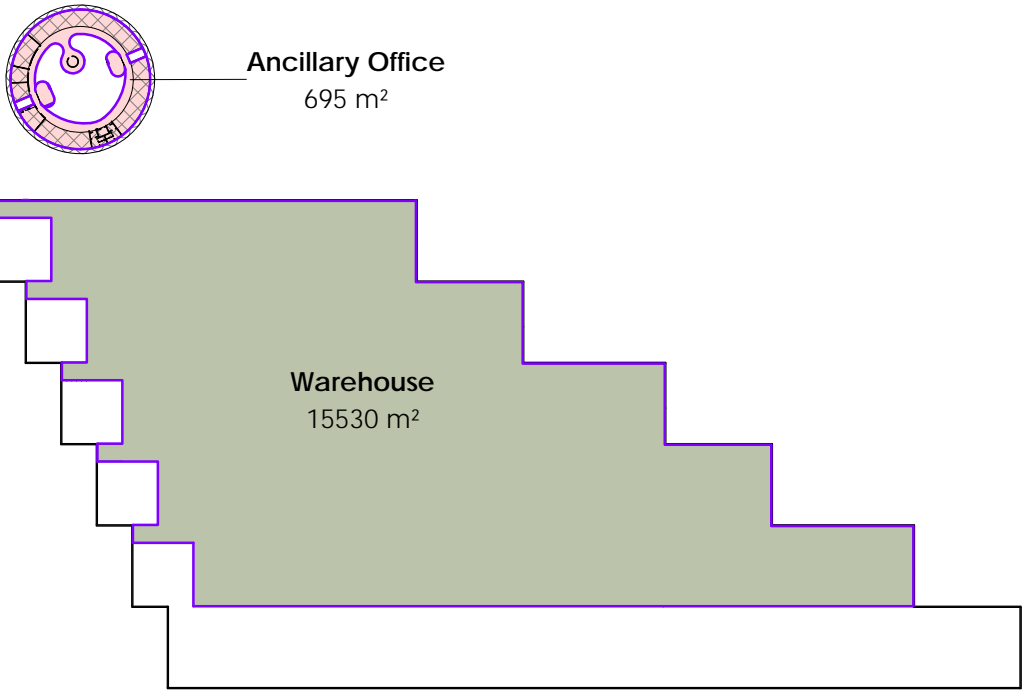




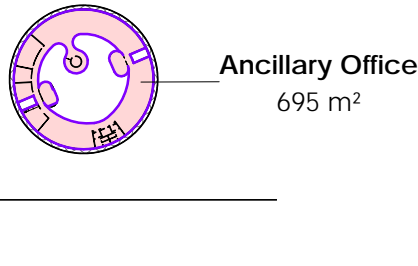
Ground Level



Level 1



Level 2



Level 3

SITE

Site Area:	58800 m²	
	Allowable	Proposed
Allowable GFA:	58800 m²	55792 m²
FSR:	1 : 1	0.95 : 1

AREA SCHEDULE (GFA)

Level	Area
Ancillary Office	
Level 3	695 m²
Level 2	695 m²
Level 1	654 m²
Ground Level	582 m²
Warehouse	
Ground Level	22106 m²
Level 1	15530 m²
Level 2	15530 m²
Total GFA	55792 m²

Rev.	Revision Description	Chk.	Date
A	DA Final Draft		17.11.16
1	DA Issue		13.12.16
2	Revised DA Issue		19.09.17

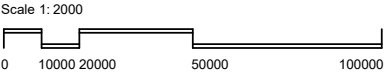
Project
Tempe Tyres Warehouse with Ancillary Office & Staff Amenities
186-206 Captain Cook Drive Kumell
For
Taleb Property Pty. Ltd.



J S A S T U D I O
Suite 2 Level 1
505 Balmain Rd
Lillyfield NSW
PO Box 483
Rozelle NSW 2039
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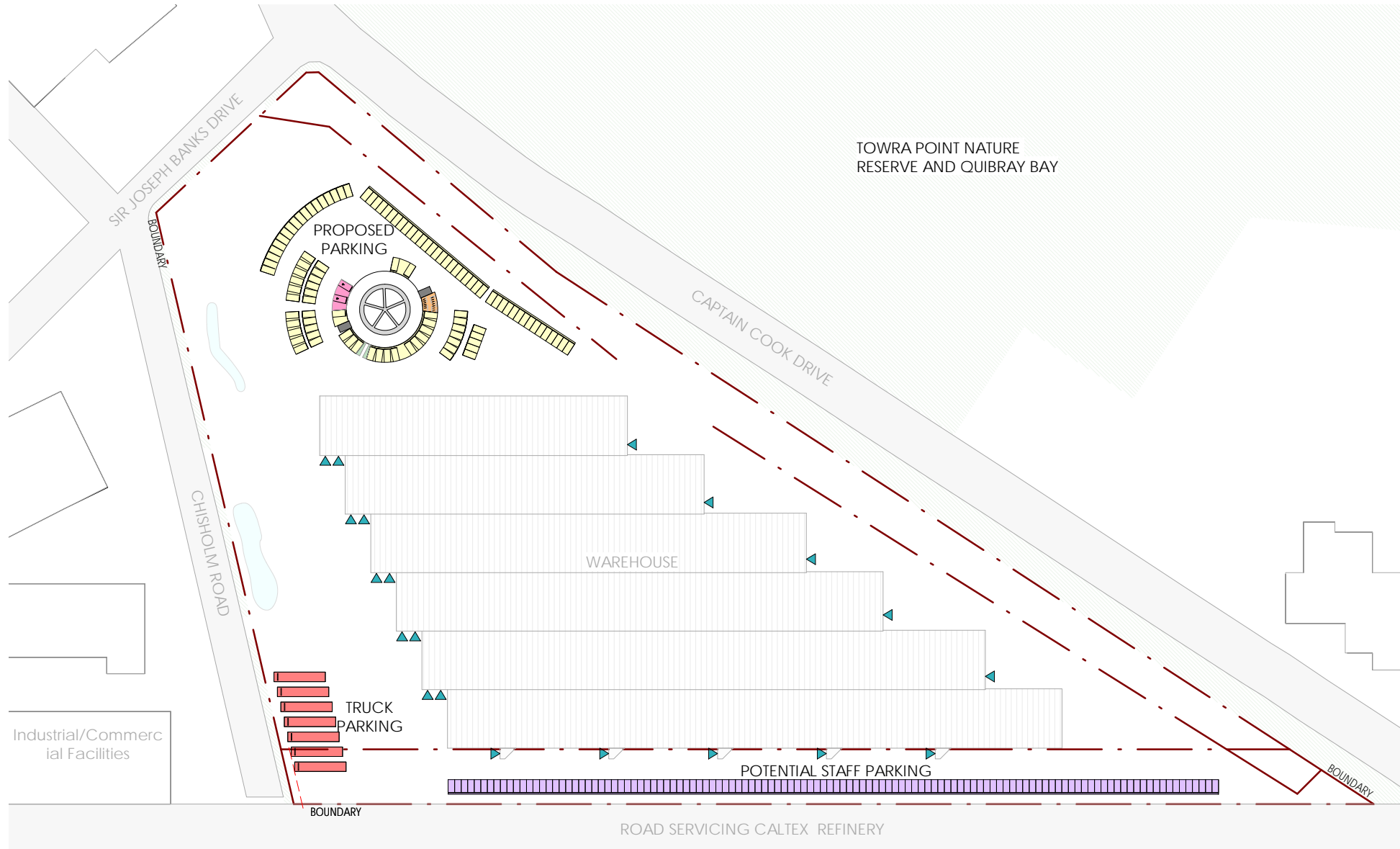


Title
Area Plan



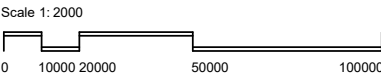
Scales 1 : 2000 @ A3	Drawn JSA
Project No. 160701	Checked Checker
Drawing No. DA2.02	Approved Approver
Plot Date: 26/04/2018 9:06:02 AM	Revision 2

NOT FOR CONSTRUCTION



PARKING SCHEDULE

PROPOSED PARKING	107 SPACES
POTENTIAL PARKING	118 SPACES
ACCESSIBLE PARKING	2 SPACES
BICYCLE PARKING	25 SPACES
ARTICULATED VEHICLE PARKING	7 SPACES
DOCK LOCATIONS	20 SPACES



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TO BE READ IN CONJUNCTION WITH ALL OTHER DOCUMENTS.
NEW ARCHITECTS REGISTRATION BOARD REGISTERED ARCHITECTS.

SPP (Sydney South) Report Appendices (2017SSH0007)

Rev.	Revision Description	Chk.	Date
A	DA Final Draft		17.11.16
1	DA Issue		13.12.16
2	Issue for Coordination		23.08.17
3	Revised DA Issue		19.09.17

Project
**Tempe Tyres Warehouse with Ancillary Office
& Staff Amenities**
186-206 Captain Cook Drive Kurnell
For
Taleb Property Pty. Ltd.



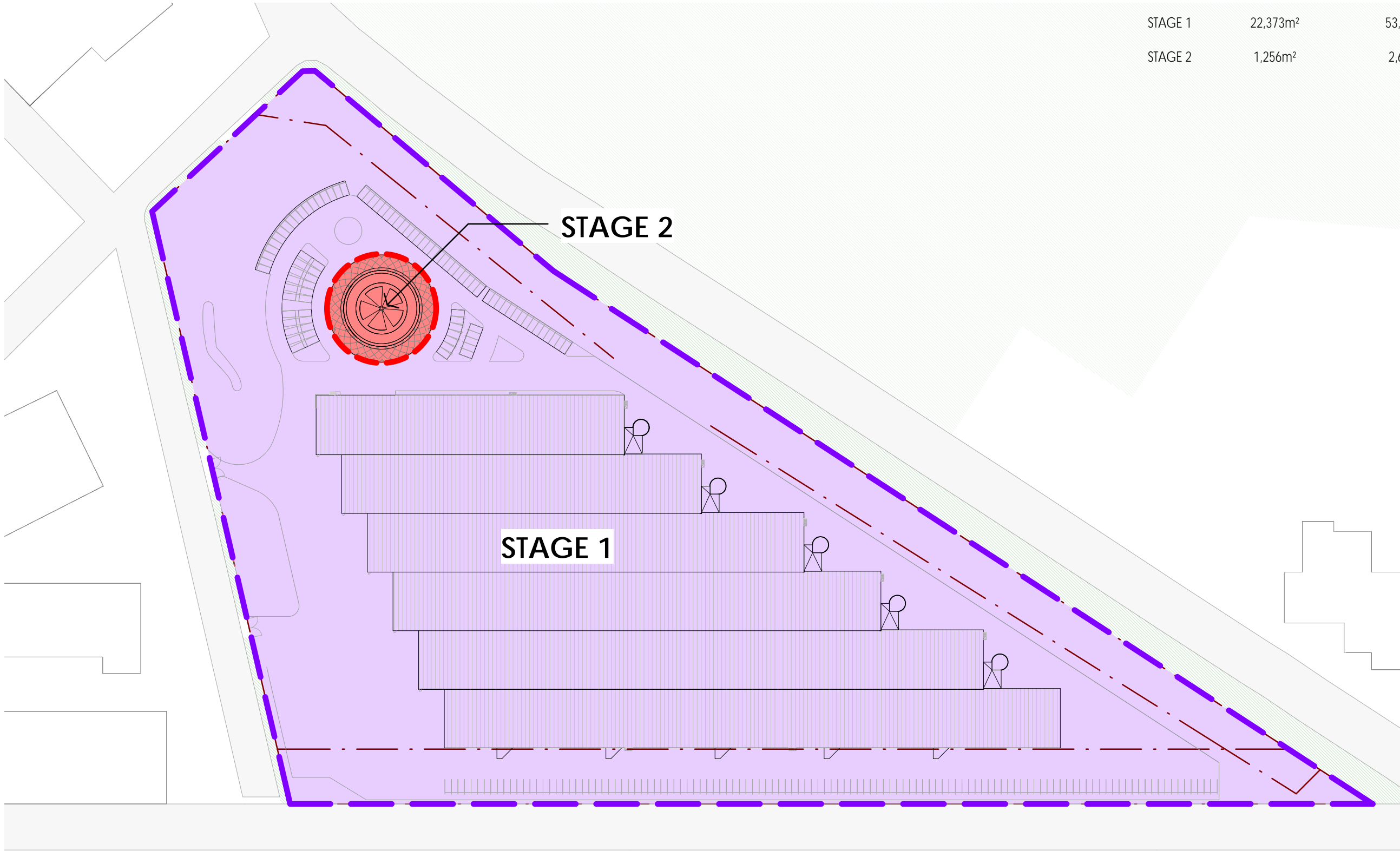
JSA STUDIO
Suite 2 Level 1
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Lillyfield NSW
PO Box 483
Rozelle NSW 2039
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Title
Parking Schedule

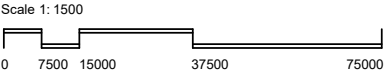
Scales 1 : 2000 @ A3	Drawn KHH
Project No. 160701	Checked Checker
Drawing No. DA2.03	Approved Approver
Plot Date: 26/04/2018 9:06:17 AM	Revision 3

NOT FOR CONSTRUCTION



	BUILDING FOOTPRINT	PROPOSED GFA	PROPOSED FSR
STAGE 1	22,373m ²	53,166m ²	0.9 : 1
STAGE 2	1,256m ²	2,626m ²	0.04 : 1

NOT FOR CONSTRUCTION



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NSW ARCHITECTS REGISTRATION BOARD REGISTERED ARCHITECTS.

Rev.	Revision Description	Chk.	Date
1	DA Issue		13.12.16
2	Revised DA Issue		19.09.17
3	Issue for consultant coordination		26.04.17

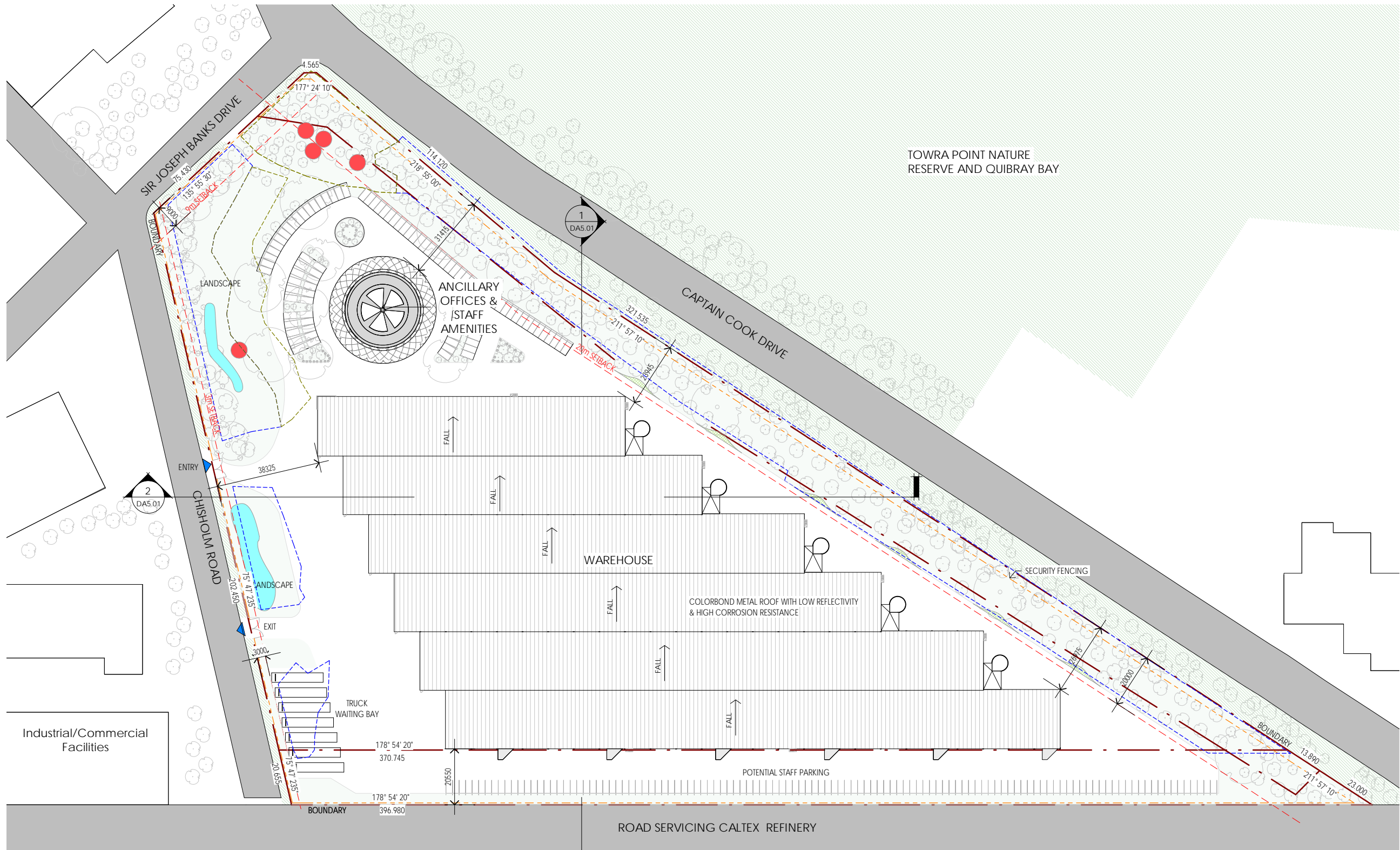
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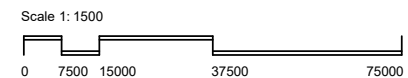


Title
Staging Diagram

Scales As indicated @ A3	Drawn JSA
Project No. 160701	Checked Checker
Drawing No. DA2.05	Approved Approver
Plot Date: 26/04/2018 9:06:39 AM	Revision 3



- BUFFER ZONE
- RETAINED VEGETATION
- SECURITY FENCE
- THREATENED SPECIES



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NSW ARCHITECTS REGISTRATION BOARD REGISTERED ARCHITECTS.

Rev.	Revision Description	Chk.	Date
A	Issued for Information		08.11.16
B	DA Final Draft		17.11.16
1	DA Issue		13.12.16
2	Revised DA Issue		16.02.17
3	Revised DA Issue		19.09.17

Project

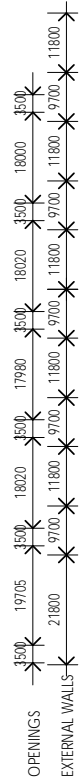
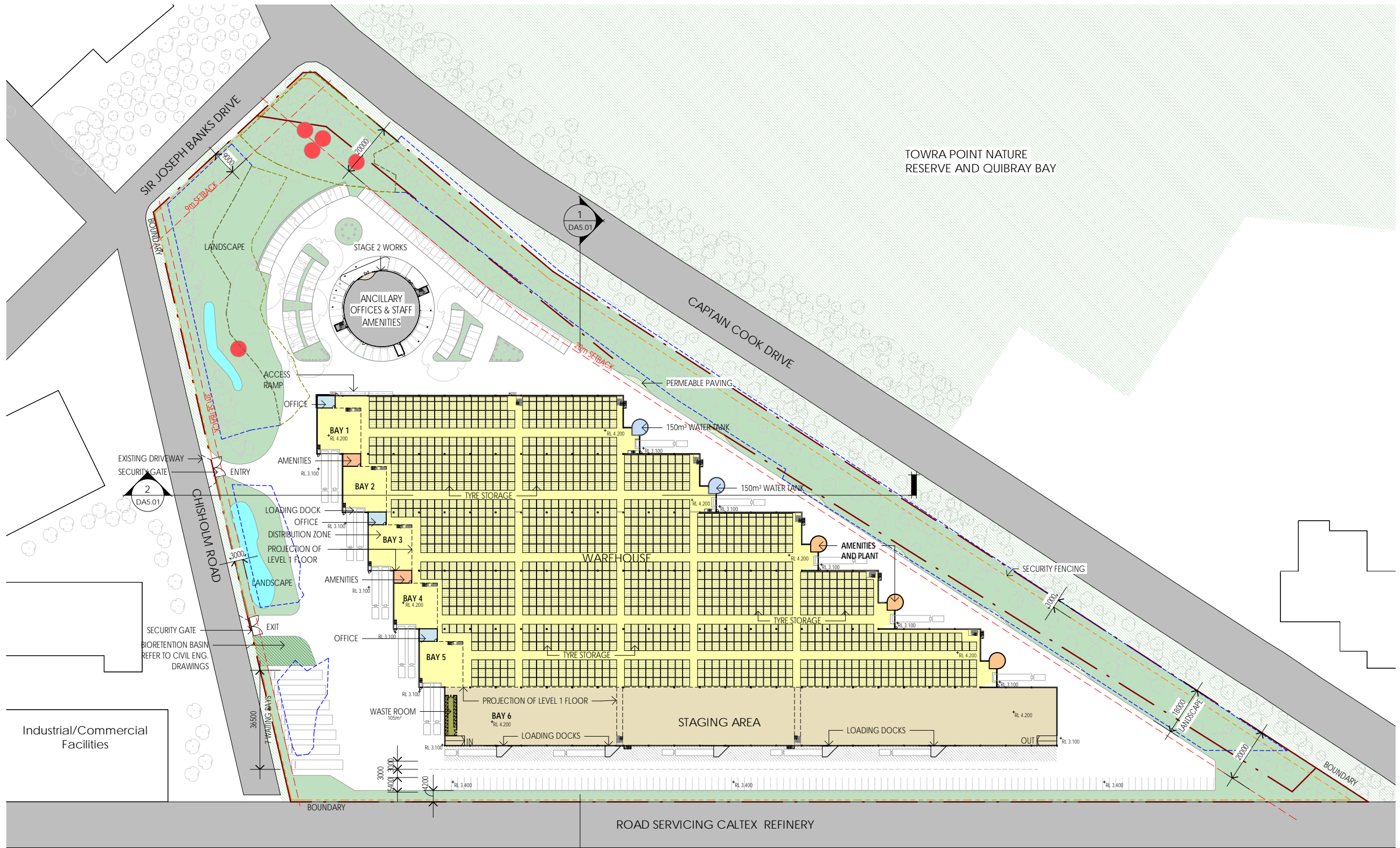
Tempe Tyres Warehouse with Ancillary Office
& Staff Amenities
186-206 Captain Cook Drive Kurnell
For
Taleb Property Pty. Ltd.

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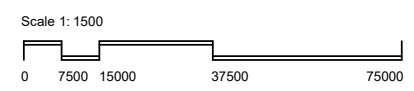
Title
Site / Roof Plan

Scales As indicated @ A3	Drawn KHH
Project No. 160701	Checked Checker
Drawing No. DA3.01	Approved Approver
Plot Date: 26/04/2018 9:07:08 AM	Revision 3

Page 66 of 136



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Rev.	Revision Description	Chk.	Date
A	Issued for Information		08.11.16
B	DA Final Draft		17.11.16
C	Issue for Information		07.12.16
D	Issue for Information		12.12.16
1	DA Issue		13.12.16
2	Issue for Coordination		23.08.17
3	Revised DA Issue		19.09.17
4	Issue for Consultant coordination		26.04.17

Project
Tempe Tyres Warehouse with Ancillary Office & Staff Amenities
186-206 Captain Cook Drive Kumell
For
Taleb Property Pty. Ltd.

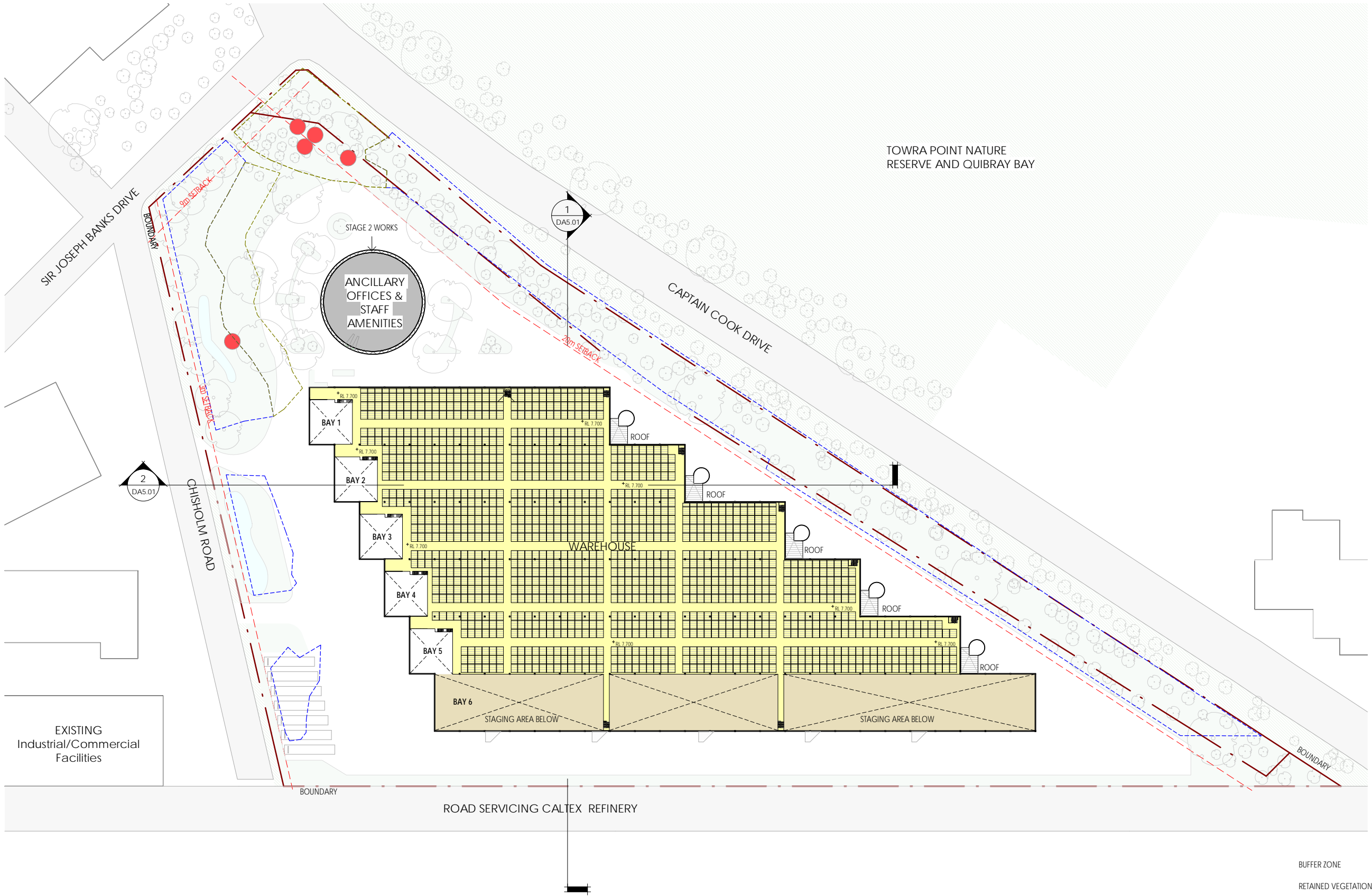


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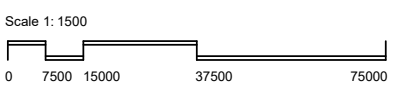


Title
Warehouse - Ground Floor Plan

Scales As indicated @ A3	Drawn KHH
Project No. 160701	Checked Checker
Drawing No. DA3.02	Approved Approver
Plot Date: 26/04/2018 9:07:55 AM	Revision 4



- BUFFER ZONE
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NEW ARCHITECTS REGISTRATION BOARD REGISTERED ARCHITECTS.

Rev.	Revision Description	Chk.	Date
A	Issued for Information		08.11.16
B	DA Final Draft		17.11.16
1	DA Issue		13.12.16
2	Revised DA Issue		19.09.17
3	Issue for consultant coordination		26.04.17

Project
Tempe Tyres Warehouse with Ancillary Office & Staff Amenities
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For
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Title
Warehouse - Level 1 Floor Plan

Scales As indicated @ A3	Drawn KHH
Project No. 160701	Checked Checker
Drawing No. DA3.03	Approved Approver
Plot Date: 26/04/2018 9:08:21 AM	Revision 3



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Rev.	Revision Description	Chk.	Date
A	Issued for Information		08.11.16
B	DA Final Draft		17.11.16
1	DA Issue		13.12.16
2	Revised DA Issue		19.09.17
3	Issue for consultant coordination		26.04.17

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Title
Warehouse - Level 2 Floor Plan

Scales As indicated @ A3	Drawn KHH
Project No. 160701	Checked Checker
Drawing No. DA3.04	Approved Approver
Plot Date: 26/04/2018 9:10:12 AM	Revision 3