

TO: Sydney Central City Planning Panel

SUBJECT: 106-128 Woodpark Road Smithfield

FILE No: 2018/332

Application lodged	17 September 2018
Applicant	Snowside Pty Ltd
Owner	Snowside Pty Ltd
Application No.	2018/332
Description of Land	106-128 Woodpark Road Smithfield, Lots 10 & 11 in DP 1007432
Proposed Development	Stage 2 construction of a two storey building comprising 14 x specialised retail premises, medical centre, and child care centre; construction of a single storey building comprising 1 x specialised retail premises and 4 x food & drink premises; construction of 3 separate single storey buildings for use as fast food outlets with 24 hour operation; signage; 594 car parking spaces; tree removal, landscaping and stormwater works
Site Area	6.747 hectares (67,470 m ²)
Zoning	B5 – Business Development
Disclosure of political donations and gifts	Nil disclosure
Heritage	Adjacent to State Heritage Item (Guildford Pipehead & associated works)
Principal Development Standards	FSR - 1:1 Height of Building – 20 m
Issues	• Public submissions (2) • Parking non-compliance • Excessive signage

SUMMARY

1. Development Application 2017/7 was approved by the SCCPP on 14 December 2017 for stage 1 concept approval for building envelopes and associated land uses, site preparation, civil works, tree removal and construction of a signalised intersection.
2. The stage 1 consent was subject to deferred commencement conditions requiring that the applicant obtain approval from Sydney Water for alterations to the existing stormwater discharge. The deferred commencement condition was satisfied and the consent became operational on 27 March 2018.
3. At this stage, no construction certificates have been issued and works approved under DA 2017/7 have not commenced.
4. The subject application was lodged on 17 September 2018 seeking consent for stage 2 works including construction of various buildings, parking for 594 vehicles, landscape works and use of all tenancies (varying hours of operation).
5. The application was publicly notified to occupants and owners of the surrounding properties for a period of 21 days from 17 October to 7 November 2018. In response, two public submissions were received.
6. The application was deferred on 21 November 2018 and additional information was submitted 21 January 2019. The application was again deferred on 7 March 2019 and additional information/amended plans submitted 5 April 2019. The additional information and amended plans submitted by the applicant to address the deferral items did not require renotification.

7. The subject site is within the vicinity of a state heritage item known as 'Guildford pipehead and associated works'. The proposed works are located at the northern end of the site (away from the heritage item) and will not have any impact on the significance or setting of the heritage item.
8. Pursuant to section 4.24 of the Environmental Planning and Assessment Act 1979, the works that are subject of this application are not inconsistent with the consent for the concept proposal. The subject development has a similar building footprint, car parking layout and number of parking spaces to the concept approved under DA 2017/7.
9. The proposal involves the following variations to the development controls, which are considered satisfactory on merit as discussed elsewhere in the report:

Control	Required	Provided	% variation
Parking	652 minimum	594	8%
Driveway setback	1 m minimum	0 m	100%
Wall signage	Max 1 per elevation	9	900%
Maximum height of acoustic fence	2 m	6.5 m	225%

10. The application is recommended for approval subject to the conditions as provided in the draft determination.
11. The proposal constitutes regionally significant development (CIV greater than \$30 million - \$35,328,236) and as such requires referral to the Sydney Central City Planning Panel for determination.

REPORT

SUBJECT SITE AND SURROUNDING AREA

The subject land comprises two allotments, being lots 10 and 11 in DP 1007432. The site is known as 106-128 Woodpark Road, Smithfield and is located on the south-western corner of the intersection of Woodpark Road and Cumberland Highway (Betts Road).

The site is generally rectangular in shape with frontage of 160.3 m to Woodpark Road (northern boundary), 400.8 m to Cumberland Highway (eastern boundary). The total site area is 67,478 m². The site falls approximately 13.5 m from the north east to the south west.

To the south of the subject site is the Liverpool-Parramatta Transitway.

There are three warehouse buildings and associated structures on the site. Consent was granted to demolish those structures under DA 2017/7. There are a number of existing trees on the site, and within the adjacent road reserve, many of which were approved for removal under DA 2017/7. The removal of additional trees is proposed under this application.

The subject site is zoned B5 – Business Development. Land to the west and south is zoned IN1 – General Industrial, and land to the east (on the opposite side of Betts Road) is zoned R2 – Low Density Residential.

Vehicular access is currently provided via one access point at the north western corner of the site. A second access point from Betts Road was approved under DA 2017/7 but is yet to be constructed.

Figure 1 – Zoning map of subject site

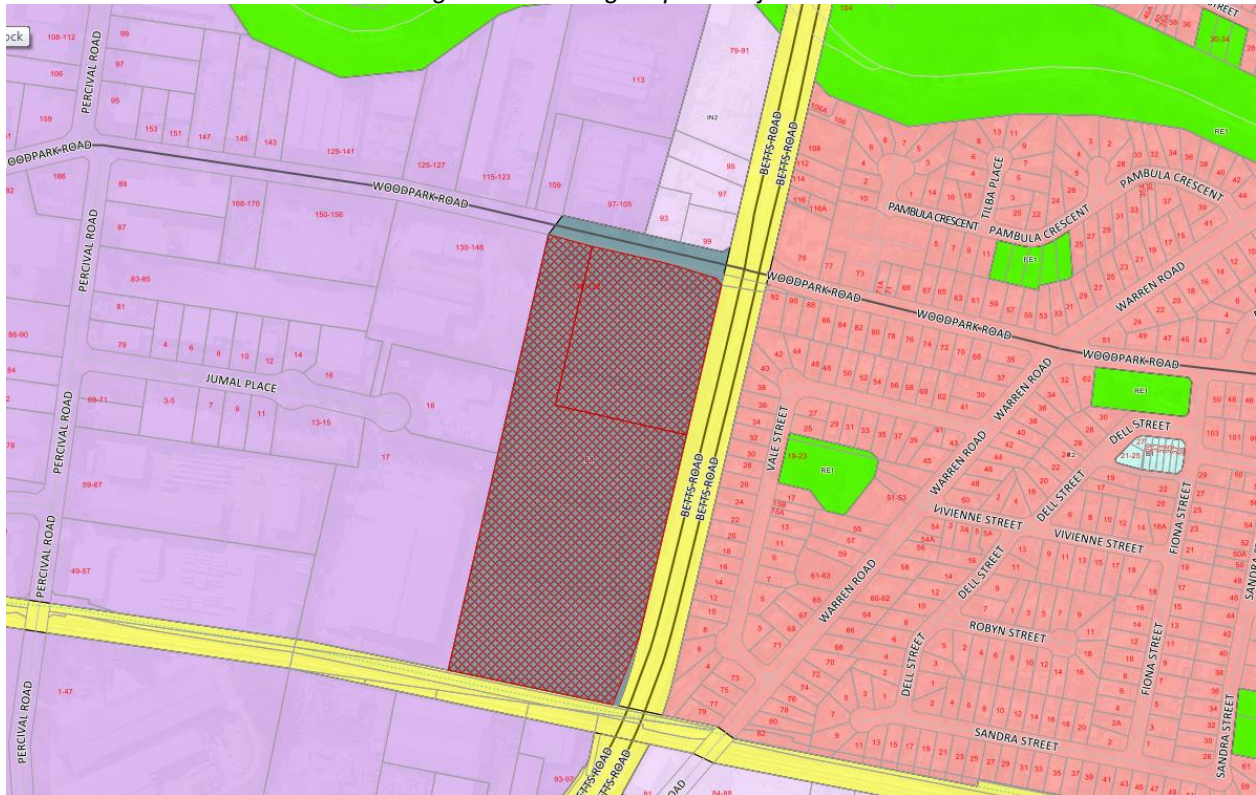


Figure 2 – Aerial view of subject site



Figure 3 – Street view of subject site from Woodpark Road



DESCRIPTION OF THE PROPOSED DEVELOPMENT

The proposal is for the following:

- Construction of a two-storey building, consisting of various sized tenancies for use as specialised retail premises (bulky goods), medical centre and centre-based child care facility.
- Construction of a single storey building for use as 4 x food and drink premises, and 1 x specialised retail premises.
- Construction of 3 x fast food pad sites.
- Parking for 594 vehicles
- Parking for 113 bicycles
- Tree removal and landscaping works
- Use of the proposed buildings as specialised retail premises, food and drink premises, and a medical centre operating 10 am to 6 pm, seven days a week
- Use of the fast food tenancies 24 hours a day, seven days a week (with fit out works subject to separate approval)
- Use of the child care centre (with maximum of 130 children) 7 am to 7 pm Monday to Friday.
- Signage including 3 x 15 m high pylon signs and 3 x 6 m 'paddle pop' signs.

HISTORY

Date	Action
14 December 2017	DA 2017/7 approved by SCCPP
17 September 2018	DA 2018/332 (subject application) lodged with Council
10 October 2018	DA 2018/332 referred to internal and external bodies for comment
17 October to 7 November 2018	DA 2018/332 notified to surrounding properties. Two submissions were received as a result of the notification.
21 November 2018	Application deferred seeking additional information regarding the proposed child care centre and clarification regarding the scope of the application
21 January 2019	Additional information and amended plans received to address the deferral items
7 March 2019	Application deferred due to issues with the design of the child care centre, tree removal, signage, and car parking non-compliance.
5 April 2019	Additional information/amended plans received from the applicant.
2 May 2019	Application deferred due to issues with the child care centre, tree removal

30 May 2019	Additional information/amended plans received from the applicant. The amended plans/additional information did not require renotification.
23 July 2019	DA 2018/332 reported to SCCPP for determination

APPLICANT'S SUPPORTING STATEMENT

A Statement of Environmental Effects prepared by Urbis, dated 13 September 2018 was submitted in support of the application. Additional correspondence from Urbis dated 21 January 2019, 4 April 2019 and 30 May 2019 was submitted in support of the amended application.

CONTACT WITH RELEVANT PARTIES

The assessing officer has undertaken an inspection of the subject site and has been in regular contact with the applicant throughout the assessment process.

INTERNAL REFERRALS

Development Engineer

The application was referred to Council's Development Engineer for comment. The response received 1 March 2019 indicates that the proposed stormwater management system and flood protection works comply with HDCP 2013 and Council's On-site Stormwater Detention Policy. Conditions as recommended by the Engineer are included in the draft determination at **attachment 6**.

Traffic Engineer

The application was referred to Council's Traffic Engineer for comment. The response received 17 April 2019 indicates that the proposal is satisfactory subject to conditions. The Engineer advised that the shortfall in on-site parking can be supported in the circumstances for the following reasons:

- Justification provided through the submitted traffic and parking study undertaken by the applicant for similar site / uses.
- Any over flow parking will not impact on residents' amenity as the site is located within industrial area.
- The offset of parking spaces between childcare centre and bulky good uses (i.e. peak parking demand for childcare is on weekday and peak parking demand for bulky good is on weekend).
- Dual trip use from staff and customers.

Environmental Health

The development application was referred to Council's Environmental Health Officer for comment. The responses received on 22 October 2018 and 26 February 2019 indicate that the proposal is satisfactory subject to conditions. The EHU review had consideration for compliance with the Food Act and Food Standards Code, acoustic impacts of the adjacent road on the child care centre.

Landscape and Tree Management Officer

The development application was referred to Council's Landscape and Tree Management Officer for comment. Comments received regarding the original application indicate that the retention of trees 1 and 36 should be investigated and amended plans/ revised arborist report submitted to Council.

The applicant confirmed in their response to the deferral letter that they seek to remove trees 1 and 36. Additional information and amended landscape plans were provided to support the tree removal. Council's Landscape and Tree Management Officer has indicated that the proposal is satisfactory subject to conditions.

Heritage Advisor

The development application was referred to Council's Heritage Advisor as it is within the vicinity of a local heritage item (pipehead water supply canal and associated works). The response received on 16 October

2018 indicates that the proposed development is satisfactory and will have minimal impact on the setting and maintenance of the interpretation and significance of the pipehead water supply canal.

Waste Management

The development application was referred to Council's Waste Management Officer for comment who recommended that the application be deferred.

Additional information submitted by the applicant resolved those concerns and the proposed waste management arrangements are now considered satisfactory with regard to the objectives and controls under HDCP 2013. A condition to provide for secure storage of the bin lifter, cardboard bailer and bin moving equipment is included in the draft determination as recommended by the Waste Management Officer.

Children's Services

The application was referred to Council's Children's Services department for comment. Some concerns were raised regarding compliance with indoor and outdoor unencumbered area requirements, toilet and nappy change facilities, provision of storage and craft sinks within indoor play areas, and staff amenity (space for leaving personal items and taking breaks). The amended plans addressed the majority of these issues, and the remainder can be resolved by condition. See comments later in this report regarding compliance with the Child Care Planning Guideline.

EXTERNAL REFERRALS

Endeavour Energy

The application was referred to Endeavour Energy for comment pursuant to clause 45 of the SEPP Infrastructure. The response received on 13 March 2019 indicates that Endeavour Energy has no objections to the proposal. The correspondence from Endeavour Energy is included as an endorsed document at condition 2 of the draft determination.

RMS

The application was referred to RMS for concurrence under clause 104 of the SEPP Infrastructure. The response received 6 November 2018 indicates that the proposal is satisfactory subject to conditions. The RMS correspondence is included as an endorsed document at condition 2 of the draft determination.

NSW Police

The application was referred to NSW Police for comment. The response received 5 November 2018 indicates that the proposal is satisfactory subject to conditions. The Police recommendations have been considered in the drafting of the draft determination.

Sydney Water

The application was referred to Sydney Water for comment due to the proximity of the site to Sydney Water assets. The response received 11 January 2019 indicates that the proposal is satisfactory subject to conditions. The Sydney Water correspondence is included as an endorsed document at condition 2 of the draft determination.

PLANNING COMMENTS

The development as proposed under this application is not inconsistent with the consent for the concept proposal (DA 2017/7).

The provisions of any Environmental Planning Instruments (EP&A Act s4.15 (1)(a)(i))

The proposed development is affected by the following Environmental Planning Instruments:

(a) State Environmental Planning Policy (State and Regional Development) 2011

Development of a type that is listed in Schedule 7 of SEPP (State and Regional Development) 2011 is defined as 'regionally significant development'. Such applications require a referral to a Sydney District Panel for determination as constituted by Part 3 of Schedule 2 under the Environmental Planning and Assessment Act 1979. The proposed development constitutes 'regionally significant development' as it has a Capital Investment Value (CIV) of \$35,328,236 which exceeds the \$30 million threshold. While Council is responsible for the assessment of the DA, determination of the application will be made by the Sydney Central City Planning Panel.

(b) State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)

Clause 7 of SEPP 55 requires Council to be satisfied that the site is suitable or can be made suitable to accommodate the proposed development. The matters listed within Clause 7 have been considered in the assessment of the development application.

Matter for consideration	Yes	No
Does the application involve re-development of the site or a change of land use?	☒	☐
Is the development going to be used for a sensitive land use (e.g. residential, educational, recreational, childcare or hospital)?	☒	☐
Does information available to you indicate that an activity listed below has ever been approved, or occurred at the site? acid/alkali plant and formulation, agricultural/horticultural activities, airports, asbestos production and disposal, chemicals manufacture and formulation, defence works, drum re-conditioning works, dry cleaning establishments, electrical manufacturing (transformers), electroplating and heat treatment premises, engine works, explosive industry, gas works, iron and steel works, landfill sites, metal treatment, mining and extractive industries, oil production and storage, paint formulation and manufacture, pesticide manufacture and formulation, power stations, railway yards, scrap yards, service stations, sheep and cattle dips, smelting and refining, tanning and associated trades, waste storage and treatment, wood preservation	☐	☒
Is the site listed on Council's Contaminated land database?	☐	☒
Is the site subject to EPA clean-up order or other EPA restrictions?	☐	☒
Has the site been the subject of known pollution incidents or illegal dumping?	☐	☒
Does the site adjoin any contaminated land/previously contaminated land?	☐	☒
Has the appropriate level of investigation been carried out in respect of contamination matters for Council to be satisfied that the site is suitable to accommodate the proposed development or can be made suitable to accommodate the proposed development?	☒	☐
Details of contamination investigations carried out at the site: Testing carried out for DA 2017/7 indicated that there were contaminants at the site and a potential underground storage tank. A condition was imposed (condition 69) on DA 2017/7 requiring that a remediation/validation report be submitted to Council prior to the issue of a construction certificate. A condition is also recommended to be imposed to require that a validation report be submitted prior to the issue of any construction certificate for the subject application. Subject to compliance with these conditions, and the recommendations of the Douglas Partners report endorsed under DA 2017/7, Council is satisfied that the site will be suitable for the proposed land uses.		

(c) State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)

The relevant provisions of the ISEPP 2007 have been considered in the assessment of the development application as detailed below.

Clause 45 - Development likely to affect an electricity transmission or distribution network

The subject site contains an existing padmount substation that is proposed to be relocated as part of the subject development.

The application was referred to Endeavour Energy for comment pursuant to clause 45 of the SEPP. The response received indicated that the proposal is satisfactory subject to conditions.

Clause 101 – Frontage to classified road

The application is subject to clause 101 of the ISEPP as the site has frontage to a classified road. The existing vehicular access to the site is located on Woodpark Road and the proposed access point off Betts Road (Cumberland Highway) was approved under DA 2017/7. Most of the proposed uses are not sensitive to traffic noise or vehicle emissions, and the child care centre component of the development is set back as far as practicable from the frontage to Cumberland Highway.

Clause 102 – Impact of road noise or vibration on non-road development

The application is subject to clause 102 of the ISEPP as the annual average daily traffic volume of Betts Road is greater than 20,000 vehicles and the proposal includes a centre-based child care facility.

The relevant guidelines have been considered in the assessment of the application. Subject to compliance with the draft consent conditions, and the recommendations of the acoustic report, the proposal will comply with the relevant noise criteria.

Clause 104 – Traffic generating developments

The proposal constitutes traffic generating development as set out at Schedule 3 in that there is more than 10,000 m² of commercial floor area, and more than 200 car spaces, with access to a classified road.

The application was referred to RMS for comment. See details of their response under 'external referrals' above.

The site is considered accessible and will enable efficient movement of freight to and from the site. The co-location of multiple land uses will also allow for users of the facility to minimise the need for car travel by carrying out multiple tasks/errands in one trip.

The proposal does not raise any traffic safety or road congestion concerns and adequate on-site parking is proposed to cater for the expected demand generated by the proposed development.

(d) State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

The proposal does not exceed the biodiversity offsets scheme threshold for clearing of vegetation. See further comments under HDCP 2013 regarding tree removal.

(e) State Environmental Planning Policy No 64—Advertising and Signage

The proposal includes a number of signs identified by the applicant as 'tenant' and 'lifestyle' signage

- 3 x 15 m high pylon signs
- 3 x 6 m high 'paddle pop' signs
- 29 x wall signs.

Most of the signs are for business identification purposes, and a condition is included to reinforce this in the draft notice of determination. The applicant has also identified a number of signs as 'lifestyle graphics', which are not considered appropriate for the external elevations of the development. A condition is included in the draft determination to require that no 'lifestyle' signage be visible from the public domain.

Part 3 of the SEPP does not apply to building or business identification signage. As such, only Part 2 and Schedule 1 are applicable to the proposal.

Subject to compliance with the recommended conditions of consent, the proposed development will satisfy the Schedule 1 assessment criteria. A detailed assessment is provided at **attachment 3**.

The proposed signage is also consistent with the aims and objectives of SEPP 64, and the objectives of Part F of HDCP 2013.

Further comments are provided below regarding compliance with the advertising and signage controls under Part F of HDCP 2013.

(f) State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017

Part 3 of the SEPP details specific development controls for early education and care facilities. These controls are addressed in the following table:

Requirement	Comment
22 Centre-based child care facility – concurrence of Regulatory Authority required for certain development This clause applies to development for the purpose of a centre-based child care facility if: (a) the floor area of the building or place does not comply with regulation 107 (indoor unencumbered space requirements) of the <i>Education and Care Services National Regulations</i>, or (b) the outdoor space requirements for the building or place do not comply with regulation 108 (outdoor unencumbered space requirements) of those Regulations. (2) The consent authority must not grant development consent to development to which this clause applies except with the concurrence of the Regulatory Authority. (3) The consent authority must, within 7 days of receiving a development application for development to which this clause applies: (a) forward a copy of the development application to the Regulatory Authority, and (b) notify the Regulatory Authority in writing of the basis on which the Authority's concurrence is required and of the date it received the development application.	The proposal complies with the indoor and outdoor unencumbered space requirements. Accordingly, concurrence from the Regulatory Authority is not required.
23 Centre-based child care facility—matters for consideration by consent authorities Before determining a development application for development for the purpose of a centre-based child care facility, the consent authority must take into consideration any applicable provisions of the <i>Child Care Planning Guideline</i> , in relation to the proposed development.	Provisions of the Child Care Planning Guideline have been considered in the assessment. The proposal complies, or is capable of complying with all relevant provisions. A detailed compliance table is provided at attachment 1 .
Centre-based child care facility in Zone IN1 or IN2—additional matters for consideration by consent authorities	N/A, the subject site is zoned B5 – Business Development.
25 Centre-based child care facility—non-discretionary development standards (a) location—the development may be located at any distance from an existing or proposed early education and care facility, (b) indoor or outdoor space (i) for development to which regulation 107 (indoor unencumbered space requirements) or 108 (outdoor unencumbered space requirements) of the <i>Education and Care Services National Regulations</i> applies—the	(a) Noted (b) The figured dimensions on the plans indicate compliance with indoor and outdoor unencumbered space requirements. (c) noted (d) noted

unencumbered area of indoor space and the unencumbered area of outdoor space for the development complies with the requirements of those regulations, or (ii) for development to which clause 28 (unencumbered indoor space and useable outdoor play space) of the <i>Children (Education and Care Services) Supplementary Provisions Regulation 2012</i> applies—the development complies with the indoor space requirements or the useable outdoor play space requirements in that clause, (c) site area and site dimensions—the development may be located on a site of any size and have any length of street frontage or any allotment depth, (d) colour of building materials or shade structures—the development may be of any colour or colour scheme unless it is a State or local heritage item or in a heritage conservation area.	
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(a) Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment

None of the proposed uses are listed in the planning control table. Accordingly, only the planning principles listed at Part 2 are applicable to the development. A detailed compliance table is provided at **attachment 2**.

(g) Holroyd Local Environmental Plan 2013

The proposal consists of the following land uses which are all permitted with consent in the B5 – Business Development zone that applies to the subject site.

centre-based child care facility – (a) a building or place used for the education and care of children that provides any one or more of the following:

- (i) long day care,
- (ii) occasional child care,
- (iii) out-of-school-hours care (including vacation care),
- (iv) preschool care, or
- (b) an approved family day care venue (within the meaning of the *Children (Education and Care Services) National Law (NSW)*),

medical centre – means premises that are used for the purpose of providing health services (including preventative care, diagnosis, medical or surgical treatment, counselling or alternative therapies) to out-patients only, where such services are principally provided by health care professionals. It may include the ancillary provision of other health services.

specialised retail premises – means a building or place the principal purpose of which is the sale, hire or display of goods that are of a size, weight or quantity, that requires:

- (a) a large area for handling, display or storage, or
- (b) direct vehicular access to the site of the building or place by members of the public for the purpose of loading or unloading such goods into or from their vehicles after purchase or hire, but does not include a building or place used for the sale of foodstuffs or clothing unless their sale is ancillary to the sale, hire or display of other goods referred to in this definition.

food and drink premises - means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following:

- (a) a restaurant or cafe,
- (b) take away food and drink premises,
- (c) a pub,
- (d) a small bar.

Based on the information provided, the proposed uses would satisfy the relevant LEP definitions. The mix of uses also satisfies the objectives of the B5 zone, as listed below:

- *To enable a mix of business and warehouse uses, and specialised retail premises that require a large floor area, in locations that are close to, and that support the viability of, centres.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.*

The proposed development complies with all applicable development standards. A comprehensive HLEP 2013 compliance table is provided at **attachment 4**.

The provisions of any proposed instrument that is or has been the subject of public consultation (EP&A Act s4.15 (1)(a)(ii))

(a) Draft State Environmental Planning Policy (Environment)

The draft SEPP relates to the protection and management of our natural environment with the aim of simplifying the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property. The changes proposed include consolidating the following seven existing SEPPs:

- State Environmental Planning Policy No. 19 – Bushland in Urban Areas
- State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011
- State Environmental Planning Policy No. 50 – Canal Estate Development
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No.2-1997)
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Willandra Lakes Regional Environmental Plan No. 1 – World Heritage Property.

The draft policy will repeal the above existing SEPPs and certain provisions will be transferred directly to the new SEPP, amended and transferred, or repealed due to overlaps with other areas of the NSW planning system.

Changes are also proposed to the Standard Instrument – Principal Local Environmental Plan. Some provisions of the existing policies will be transferred to new Section 117 Local Planning Directions where appropriate.

The provisions of any Development Control Plans (EP&A Act s4.15 (1)(a)(iii))

a) Holroyd Development Control Plan 2013

The provisions of parts A, C, I & F apply to the proposed development. The DCP non-compliances are detailed in the following table.

No.	Requirement	Comment	Yes	No	N/A
PART A – GENERAL CONTROLS					
3.	Car Parking				
3.1	Child care centre 1 space per 4 kids	130/4 = 32.5 (33) required 33 proposed	☐	☒	☐
	Medical centre 1 space per 25 m ² (+ accessible spaces at the discretion of Council)	1330 / 25 = 53.2 (54)			
	Specialised retail (bulky goods) 1 per 50 m ² , or	20,004 (excluding loading areas) / 50			

	1 per 2 employees	= 400.08			
	<u>Food and drink premises</u>	1314/8			
	1 per 8 m ²	=164.25 (165)			
		Total spaces required = 652 Total spaces provided = 594 The proposal involves a shortfall of 58 spaces which was assessed as satisfactory by Council's Traffic Engineer as discussed elsewhere in this report. The concept approved under DA 2017/7 included 1,264 car parking spaces across the whole site. A condition is included in the draft determination to require a minimum of 670 spaces to be provided at stage 3.			
3.5	Driveways shall be set back a minimum of 1 m from the side boundary	The driveway is directly adjacent to the western side boundary. No setback provided. This is consistent with the concept approval.	☐	☒	☐
4.	Tree and Landscape Works				
4.1	All trees and vegetation over a height of 3.6 metres are protected	There are a number of trees that were approved to be removed under the stage 1 application. This application involves the removal of an additional 25 trees. These trees are located along the northern and western boundaries of the site, including six trees located on RMS land. The applicant's arborist has confirmed that these additional trees cannot be removed, given the extent of the proposed stormwater works, and owner's consent for the tree removal has been obtained from RMS. A condition is included in the draft determination to provide appropriate replacement trees in an amended landscape design.	☐	☒	☐
4.2	Development works including existing trees and landscaping				
	Development shall not impact trees on public land	Trees on RMS land proposed to be removed. Owner's consent from RMS has been provided and the applicant's arborist report supports the removal of these trees due to impacts from the stormwater works.	☐	☒	☐
PART C – COMMERCIAL, SHOP TOP HOUSING AND MIXED USE DEVELOPMENT CONTROLS					
5.2	Signage				
	Protect the visual quality and the amenity of the streetscape.	The number and size of the proposed signs is considered excessive. Conditions included in the draft determination to require deletion of one pylon sign and three 'paddle pop' signs, and reduction in size of proposed wall signs.	☐	☒	☐
	Do not locate signage to	Signs cover windows – condition to be	☐	☒	☐

	obscure important architectural features.	imposed requiring that window signs cover a maximum of 30% of any window.			
	The size of signs shall not dominate or obscure the architecture of the buildings.	The size of the signs dominates the buildings.	☐	☒	☐
5.3	Hours of Operation				
	B5 – Business Development zone 6 am to 12 am	The majority of the proposed uses comply with this control. However, the fast food outlets are proposed to operate 24 hours a day, 7 days a week. A comprehensive noise impact assessment was provided with the stage 1 application, and a letter of support from the acoustic consultant was provided with the subject application. The acoustic consultant's letter confirms that assumptions from the earlier assessment were revised and confirmed following review of the stage 2 plans, and that the proposal will comply with the applicable noise criteria, subject to implementation of the recommendations of the earlier report. The letter confirms that 24 hour trading for the fast food tenancies was assessed, and will meet the relevant noise criteria for the nearby residential receivers. The applicant's acoustic assessment was reviewed by Council's Environmental Health Unit and found to be satisfactory subject to standard conditions.	☐	☒	☐
	For hours extending outside of 6.00 am-10.00 pm, applicants must demonstrate that noise, amenity and light impacts and crime prevention factors have been considered and addressed, through the submission of the following reports for assessment: - Acoustic report - Social Impact Statement - CPTED Report - Plan of Management	The fast food outlets are proposed to operate 24 hours a day, 7 days a week. All other uses comply with DCP hours of operation. Subject to compliance with the draft conditions, Council is satisfied that the proposed development will have acceptable impacts in the locality. Standard conditions are included in the draft determination to ensure appropriate management of noise, odour and lighting impacts.	☐	☒	☐
PART F – ADVERTISING AND SIGNAGE					
1.	General signage controls				
	All signs must: be compatible with the scale, proportion and other characteristics of the site and/or building on which they are to be located;	The proposed signs are not compatible with the scale and proportions of the site and buildings. Subject to compliance with the	☒	☐	☐

	- respect important features of the site and/or building; - not reduce safety for road vehicles, cyclists or pedestrians by obscuring sightlines.	recommended conditions, the proposal will not affect road safety.			
	With regard to streetscape and local visual character, the proposed sign must: - Be compatible with the existing or desired future character of the locality - Not detract from the amenity or visual quality of any environmentally sensitive area - Have a scale, proportion and form that is appropriate for the streetscape setting or landscape - Contribute to the visual interest of the streetscape, setting or landscape - Not protrude above buildings, structures or tree canopies in the area	The proposed wall signs are considered to be out of proportion to the buildings on which they are to be installed. Condition included in the draft determination to require reduction in the size of the wall signs to comply with the maximum 10% control as detailed above. The proposed pylon signs will protrude above the buildings and tree canopies in the area. The sign at the corner of Woodpark Road and Betts Road is recommended to be deleted as it is the most visually obtrusive of the proposed pylon signs. Approval of this sign would ensure that there are at least two pylon signs visible from all approaches to the site which is not necessary. The remaining two pylon signs are considered to adequately identify the location of the centre and are better placed to assist motorists in finding the site, as they are adjacent to the vehicular entry points.	☐	☒	☐
3.	Signs in Business Zones				
	Total signage per street frontage must not exceed one top hamper, one fascia, one wall sign or projecting wall sign and one under awning sign.	There are multiple signs visible from both street frontages. Given the length of the street frontages and the number of tenancies proposed, a non-compliance with this control is considered acceptable. However, the total number of signs proposed is considered excessive as discussed above.	☐	☒	☐
	Wall signs, including painted wall signs, must not exceed one per street frontage	It is considered appropriate to have more than one sign per frontage in this instance as the proposed development includes multiple tenancies. Each tenancy will need to be able to adequately identify itself to prospective customers. It is also considered appropriate to exercise flexibility in the application of the control as the frontages of this site to Woodpark Road and Betts Road are 160.3 m and 400.8 m respectively. Part C of the DCP allows for a minimum frontage of 20 m in the B5 zone. However, the total size and number of signs proposed is excessive. This is to be addressed by condition as detailed above.	☐	☒	☐
	Window signs are to be limited to 30% of the area of the window and are permitted on ground floor windows only	Window signs are to be reduced in size to maximum 30% of any window. Condition imposed to address this issue.	☐	☒	☐

7.	Sign specifications				
	<i>Pole and Pylon Signs, and Flag Poles</i> A pole or pylon sign must: - not project over the boundary of the premises; - where illuminated, include a timer to be fitted to extinguish illumination between certain hours at Council's discretion; - not have a sign panel underside less than 2.6 metres above ground but more than 0.9 metres above ground; - have a height and dimensions having regard to - the character of the surrounding area, - the amenity of surrounding land uses, - the landscape quality of the area, - driver safety and - the circumstances of the case; - not have a pole exceeding 12 metres in height, when	The proposal includes 3 x 15 metre high pylon signs - adjacent to the Woodpark Road entrance, - at the corner of Betts Rd and Woodpark Road, and - adjacent to the Betts Road entrance, A condition is included in the draft determination to require deletion of the pylon sign at the corner of Woodpark Road and Betts Road. The two remaining pylon signs will be more than adequate to identify the location of the development, and its major tenants. The sign is significantly higher than the proposed buildings, and all proposed vegetation. It would dominate the skyline from all angles, thus detracting from the visual amenity of the area. The other two signs will have less impact on the streetscape given their locations. These signs will also assist motorist in identifying the vehicular access points for the site. There are also 3 x 6 m high 'paddle pop' signs within the Betts Road setback, in front of the fast food outlets. A condition is included in the draft determination to require the deletion of these signs as they are considered to be disproportionately high in relation to the adjacent buildings, and unnecessary for business identification purposes. The paddle pop signs would also partially obscure, and be obscured by, the pylon sign at the Betts Road access point. - The proposed pylon signs are located within the boundaries of the subject site. - It is not considered necessary to require the illuminated signs to be extinguished in this case. - Proposal complies. - The height and dimensions are appropriate having regard to the matters listed at (e) - There is no pole with a height of 12 m or more proposed. - The signs are 6 m and 15 m high 3 x 15 m high pylon sign and 3 x 6 m high paddle pop signs proposed. Conditions included in the draft determination to require deletion of one pylon sign and all 3 paddle pop signs. - Appropriate conditions are included in the draft determination to ensure that the signs are constructed in accordance with the relevant standards.	☒	☐	☐

	measured from natural ground level adjacent to the base of the pole to the underside of the sign; g) not exceed 15 metres in height to the highest point of the sign; h) not exceed one (1) sign per site; i) be securely fixed and stable; and j) be maintained in a structurally adequate and safe condition at all times.	j) Appropriate conditions are included in the draft determination to ensure that the signs are maintained in accordance with the relevant standards.			
	<i>Wall Advertisements and Painted Wall Signs</i> Wall advertisements and painted wall signs must: a) be limited to one (1) wall advertisement per building elevation; b) be integrated with the design of the building on which it is to be displayed; c) not exceed the following areas – i) 20% of the above ground elevation, where the building has an above ground elevation of 100 m² or less, or ii) 20 m², where the building has an above ground elevation of more than 100 m² but less than 200 m², or iii) 10% of the above ground elevation, where the building has an above ground elevation of 200 m² or more; d) not protrude more than 300 mm from the wall, unless occupational health and safety standards require a greater protrusion; and e) not protrude above the parapet or eaves; and f) does not extend over a window or other opening; and g) does not obscure significant architectural elements of the building; and h) not be located on the same building elevation as a building identification sign or business identification sign.	There are a total of: • 9 wall signs on the western elevation • 5 wall signs on the eastern elevation • 9 wall signs on the southern elevation • 6 wall signs on the northern elevation It is considered reasonable that the development include multiple wall signs on each elevation due to the size of the proposed buildings, and the number of tenancies within the development and the length of the street frontages. However, the plans show that, all elevations have wall signs which exceed 10% of the elevation. As proposed, the signage is incompatible with the scale and proportions of the buildings. A condition is included in the draft determination to require compliance with the maximum 10% control. The amended plans show that proposed signs do not protrude above the parapet. Condition included in the draft determination to require that signage does not obscure any significant architectural elements of the buildings. Condition included in draft determination to require that signs do not cover window openings	☐	☒	☐
PART I – CHILDCARE CENTRES					
1	Size and Density				
C3	If the proposed child care	The proposed child care centre is located	☐	☒	☐

	centre is to be located in a building consisting of more than one level, the child care centre component must be located on the ground floor of the buildings with office and storage space permitted on the upper level.	on the upper level of the development. However, the centre itself is all on one level. Accordingly, there are no safety concerns with the proposed design.			
C7	Child care centres should not be located having frontage to any road, which in the opinion of Council, is unsuitable for the establishment of a child care centre having regard to:- (a) prevailing traffic conditions; (b) pedestrian and traffic safety; and (c) the likely impact of development on the flow of traffic on the surrounding street system.	The Cumberland Highway and Woodpark Road are generally considered unsuitable locations for a child care centre. However, given the nature of the proposed development and the location of the child care centre within the complex, it is considered that there is no safety risk associated with the proposed child care centre.	☐	☒	☐
	Child care centres should not be located having frontage to an arterial or sub-arterial road (as identified in HDCP 2013).	See comment above.	☐	☒	☐
	The roads identified in Appendix 2 are also considered by Council to be generally unsuitable for the establishment of child care centres.	See comment above.	☐	☒	☐
4	Indoor Spaces				
C1	In addition to the requirements under the relevant legislation, the design of indoor floor spaces within child care centres shall take into account the following factors: a) Clear and unobstructed lines of site to all areas within the child care centre shall be provided at all times; b) Where achievable, windows of indoor play areas are to be located with a northern orientation and should receive at least three hours of sunlight between the hours of 9am and 3pm on June 21; c) For locations where a northern orientation for indoor play areas is not achievable, they should be located where they will receive a minimum of 3 hours of sunlight, where possible;	The 2-3 year old room and 4-5 year old room have access to direct sunlight from east and west facing windows. However, these are fixed windows that will not assist with natural ventilation. The 0-2 year old room and 3-4 year old room will receive very limited direct sunlight from the proposed 'skytubes' as shown on the amended plans. The proposed floor to ceiling height within the child care centre is 3 m, and the indoor play rooms are up to 20 m deep. This equates to 6.6 x the ceiling height, where the child care planning guideline (section	☐	☒	☐

		4.4) recommends a maximum room depth of 2.5 x the ceiling height. There is an opportunity to provide north facing, operable clerestory windows that would ensure access to direct sunlight and natural ventilation for all play rooms. A condition is included in the draft determination to address this issue. A condition is also imposed to require a revised acoustic assessment to ensure that the centre will continue to satisfy the relevant acoustic requirements.			
7	Fencing				
	Acoustic fences should not be higher than 2m. If a fence higher than 2m is unavoidable it must be contained within the development site with a 1.8m traditional lapped and capped boundary fence and the remaining height to be of thick, transparent perspex to ensure any views are maintained.	Acoustic fences are higher than 2 m as measured from the finished floor level of the outdoor play area. Satisfactory in this instance as there are no impacts on adjoining properties.	☐	☒	☐

A comprehensive DCP compliance table is provided at **attachment 5**.

The provisions of any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4 (EP&A Act s4.15(1)(a)(iia))

There is no planning agreement or draft planning agreement associated with the subject application.

The provisions of the Regulations (EP&A Act s4.15 (1)(a)(iv))

The Regulations do not prescribe any relevant matters for consideration.

The Likely Environmental, Social or Economic Impacts (EP&A Act s4.15 (1)(b))

The likely impacts of the proposed development in the locality have been assessed and are considered satisfactory.

The suitability of the site for the development (EP&A Act s4.15 (1)(c))

The subject site is considered suitable for the proposed development, given its location, topography, and dimensions.

Submissions made in accordance with the Act or Regulation (EP&A Act s4.15 (1)(d))

Advertised (newspaper) ☒ Mail ☒ Sign ☒ Not Required ☐

In accordance with Council's Notification requirements contained within Part E of HDCP 2013, the proposal was publicly notified for a period of 21 days from 17 October to 7 November 2018. As a result of the notification, 2 public submissions were received. The issues raised in the public submissions are addressed in the following table:

Concern	Response
Increase in noise impact to residents of Vale Street as a result of proposed signalised intersection.	The signalised intersection and other road works were approved under the stage 1 application (DA 2017/7). The subject application does not propose any new road works or

	modifications to the approved intersection works.
Acoustic report did not assess the nearest residential receiver	The issue of the location of the noise logger was addressed during the assessment of DA 2017/7 as follows: <i>“The noise logger was placed within the rear yard of 30 Vale Street which is approximately in the middle of the nearest residential receivers (some 75m north of the proposed traffic signals). Concern was raised by a resident that the location of the noise logger should be closer to the proposed traffic signals for a more accurate reading.</i> <i>The acoustic report provided the site conditions and measurement location, and detailed that the noise survey was conducted in accordance with the NSW Industrial Noise Policy (INP), Road Noise Policy (RNP) and AS1055.1 “Acoustics – Description and measurement of environmental noise Part 1: General Procedures.”</i> <i>Council’s Environmental Health Officer has reviewed this concern and advised that that whilst there may be a difference in a background level (L90) obtained at the site selected by the Acoustic Consultant compared to the objector’s property, the significance of any difference in values would not be such that the difference would invalidate the submitted Acoustic Report for the reasons:</i> <i>• the overwhelming source of noise constituting the background is traffic moving along the Cumberland Highway;</i> <i>• this traffic is linear (similar distance to the carriageway) to both the site selected by the consultant and the objector’s property;</i> <i>• existing traffic numbers (of vehicles) passing both positions is the same (there are no opportunities for vehicles to enter or leave the traffic flow between the 2 positions);</i> <i>• the height of the sound barrier wall is only slightly different - the objectors sound barrier wall height (when viewed from Cumberland Hwy side) is only some ½ panel or about 450mm lower in height compared to the selected site’s barrier wall height - a wall that is roughly stepped to follow the landform and averages some 4.5 m high along its length.</i> <i>In this regard, Council has reviewed the Noise Impact Assessment report and noise survey results and has agreed with the methodology and conclusions of this report, which details that the development once completed is expected to comply with the criteria determined in accordance with the INP and RNP.”</i>
Public meeting on 21 st December 2017 promise was made that new applications would include noise assessment	Detailed acoustic assessment including unattended noise monitoring in the locality, was carried out as part of the stage 1 application. The subject application is considered to be consistent with the concept approval in terms of • the scale of the development, • number of projected vehicle movements, location of vehicular access points and parking areas, • mix of land uses. Accordingly, no further detailed acoustic assessment was

	considered necessary for the subject application. A statement from the acoustic consultant was submitted with the subject application confirming that there were no significant changes to the design between stage 1 and stage 2. The statement confirms that the conclusions of the stage 1 acoustic assessment are equally applicable to the stage 2 application, and the development will comply with the applicable noise criteria.
Inadequacy of the existing acoustic wall along the Cumberland Highway.	The acoustic wall along the (eastern) side of the Cumberland Highway is an existing structure that is not affected by the proposed development.
Deterioration of air quality due to the large volume of vehicles stopping, starting and idling in close proximity to existing residences.	The proposed development is permitted with consent on the site, and satisfies the relevant zone objectives. Whilst there will be some increase in traffic in the locality as a result of the development, this was assessed as satisfactory at the concept stage. The traffic report submitted with the subject application indicates that stage 2 would generate 730-1100 vehicles per hour in the peak times. The vehicular access and car parking areas have been designed in accordance with Australian Standards, and will allow for efficient movement of vehicles throughout the site. The traffic report also indicates that the road works approved under the stage 1 application (including the new signalised intersection) will improve the operation of the Cumberland Highway/Woodpark Road intersection, reducing delays along the highway. The health hazard assessment submitted by the applicant indicates that the indicative background levels of carbon monoxide, nitrogen dioxide, airborne particulate matter, and benzene in the vicinity of the subject site are substantially lower than relevant NSW OEH air quality standards. The report concludes that the site is suitable for a child care centre, which is a particularly sensitive land use.
Removal of 98 existing mature trees and thinning in total of 69 other trees	The stage 1 consent included the removal of 69 existing trees on the subject site, and within the adjacent road reserve. The arboricultural assessment carried out for stage 1 did not consider the impact of sewer, water, or electricity supply works required to service the development. A new arboricultural assessment was carried out for the stage 2 application. That assessment determined that the impact of proposed stormwater drainage works would necessitate the removal of an additional 27 trees, some of which are located on RMS land. At the time of carrying out the arboricultural assessment for DA 2017/7, details of the stormwater works were not known and as such it was thought at the time that those trees could be retained. The additional tree removal was assessed in accordance with the relevant Standards by the project arborist. Council's Landscape and Tree Management Officer reviewed the arboricultural assessment provided by the applicant and has indicated that the tree removal is satisfactory subject to conditions.
Incorrect claim in acoustic report that the objector's property does not have a direct line of sight to the development and/or Cumberland Highway.	The acoustic report dated 17 November 2016 indicated that the existing residential properties on Vale Street are located behind an acoustic wall that is approximately 4 m high. Whilst the height of the acoustic wall is more like 2-3 m high in some places, the

	report accurately identified that the existing dwellings do not have a direct line of sight to the Highway or to the development site. Regardless, the acoustic assessment was based on quantitative assessment of the difference between current noise levels and projected levels as a result of the proposed development.
Submitted drawings do not show a footpath along either the Woodpark Road or Cumberland Highway frontages. Footpaths were required to be provided when the property at 140-148 Woodpark Road was developed.	Footpaths (1.2 m wide) and cycleways are shown on the plans, along the full extent of both frontages. Conditions were also imposed on the consent for DA 2017/7 (the concept approval) requiring the construction of the footpaths in accordance with the relevant Australian Standards, as well as Council and RMS requirements.

The public interest (EP&A Act s4.15(1)(e))

In view of the foregoing analysis it is considered that the development, if carried out subject to the conditions set out in the draft determination, will not be contrary to the public interest.

SECTION 7.11 (FORMERLY S94) CONTRIBUTION TOWARDS PROVISION OR IMPROVEMENT OF AMENITIES OR SERVICES

The proposal does not attract payment of any development contributions.

DISCLOSURE OF POLITICAL DONATIONS AND GIFTS

The application and notification process did not result in any disclosure of Political Donations or Gifts.

CONCLUSION

The development application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979*. The likely impacts of the development in the locality have been assessed and are considered satisfactory.

The proposal is consistent with the objectives of HLEP 2013 and the B5 – Business Development zone, and complies with all relevant development standards. The proposal involves a limited number of DCP non-compliances, which are considered satisfactory on merit as discussed in detail above.

The proposed development is considered satisfactory in terms of its built form and streetscape impact, stormwater management, vehicular access and car parking.

The proposal is generally consistent with the building footprint and mix of land uses approved under DA 2017/7.

RECOMMENDATION

1. That DA 2018/332 for stage 2 construction of a two storey building comprising 14 x specialised retail premises, medical centre, and child care centre; construction of a single storey building comprising 1 x specialised retail premises and 4 x food & drink premises; construction of 3 separate single storey buildings for use as fast food outlets with 24 hour operation; signage; 594 car parking spaces; tree removal, landscaping and stormwater works on land at 106-128 Woodpark Road Smithfield be approved subject to the conditions provided in the draft determination.
2. Persons who have lodged a submission in respect to the application be notified of the determination of the application.

ATTACHMENTS

1. Child Care Planning Guideline compliance table
2. GMREP compliance table
3. SEPP 64 compliance table
4. HLEP 2013 compliance table
5. HDCP 2013 compliance table
6. Draft Notice of Determination
7. Architectural plans
8. Redacted public submissions