

**TO:** Sydney Central City Planning Panel

**SUBJECT:** 9 Sherwood Road MERRYLANDS WEST NSW 2160

**APPLICATION No:** MOD2020/0414

<b>Application lodged</b>	9 November 2020	
<b>Applicant</b>	Estaphan Maroun, Hezlett Group Pty Limited	
<b>Owner</b>	Hezlett Group Pty Limited	
<b>Application No.</b>	MOD2020/0414	
<b>Description of Land</b>	9 Sherwood Road MERRYLANDS WEST NSW 2160, Lot 101 DP 789369 and Lot 1 DP 548919	
<b>Proposed Development</b>	Section 4.55(2) modification for alterations and additions to an approved mixed use development, including the removal of three retail tenancies, introduction of ten additional residential units (inclusive of an additional floor level above building B), reduction in parking and changes to the design of the building, including the relocation of the rooftop communal area, windows and blade walls and relocation of the substation.	
<b>Site Area</b>	3,734.4m <sup>2</sup>	
<b>Zoning</b>	B2 Local Centre	
<b>Disclosure of political donations and gifts</b>	Nil disclosure	
<b>Heritage</b>	The subject site is not heritage listed, is not located in the vicinity of any heritage items and is not located within or in the vicinity of Heritage Conservation Area.	
<b>Principal Development Standards</b>	<p><b>FSR Permissible:</b> Lot 101 – 2.4:1 Lot 1 – 2.2:1</p> <p><b>Approved:</b> Lot 101 – 2.38:1 Lot 1 – 2.14:1</p> <p><b>Proposed:</b> Lot 101 – 2.61:1 Lot 1 – 2.37:1</p>	<p><b>Height of Building Permissible:</b> Fronting Sherwood Road – 23m (Block C) Remainder of the site – 17m (Block A &amp; B)</p> <p><b>Approved:</b> Block A – 18.76m Block B – 17.48m Block C – 24.29m</p> <p><b>Proposed:</b> Block A – 18.26m (-0.5m) Block B – 18.74m (+1.26m) Block C – 23.79m (-0.5m)</p>
<b>Issues</b>	<ul style="list-style-type: none"> <li>- Whether it is substantially the same development</li> <li>- Inconsistent with an objective of the zone</li> <li>- ADG non-compliances</li> <li>- Building height exceedance</li> <li>- FSR exceedance</li> <li>- Basement design</li> <li>- Traffic and access</li> </ul>	

	<ul style="list-style-type: none"> <li>- Commercial disabled parking</li> <li>- Waste management</li> <li>- Substation location</li> <li>- Submissions</li> </ul>
--	---

**SUMMARY**

1. Modification Application No. MOD2020/0414 was received on 9 November 2020 for the Section 4.55(2) modification (as amended on 19 February 2021) for alterations and additions to an approved mixed use development, including the removal of three (3) retail tenancies, introduction of ten (10) additional residential units (inclusive of an additional floor level above building B), reduction in parking and changes to the design of the building, including the relocation of the rooftop communal area, windows and blade walls and the relocation of a substation.
2. The application was publicly notified to occupants and owners of the adjoining properties for a period of 21 days between 27 November 2020 and 18 December 2020. In response, three (3) unique submissions were received. Amended plans received on 19 February 2021 did not require renotification as the amendments made did not result in any additional amenity impacts.

3. The numerical variations are as follows:

<b>Control</b>	<b>Required</b>	<b>Approved</b>	<b>Proposed</b>	<b>% variation</b>
Building Height	17m	18.76m (Block A)	18.26m (Block A)	7.41%
		17.48m (Block B)	18.74m (Block B)	10.23%
	23m	24.29m (Block C)	23.79m (Block C)	3.43%
FSR	Lot 101 – 2.4:1	Lot 101 – 2.38:1	Lot 101 – 2.61:1	8.77%
	Lot 1 – 2.2:1	Lot 1 – 2.14:1	Lot 1 – 2.37:1	8.01%

4. The original development application DA2016/164 was determined by the Sydney West Central Planning Panel (now known as Sydney Central City Planning Panel (SCCPP)). The s.4.55(2) modification application is referred to the SCCPP as the modification proposal contravenes a development standard by more than 10%.
5. Having regard to the nature and extent of the above non-compliances, in addition to the impact on amenity of the future occupants of the subject development and the adjoining properties, the application is recommended for refusal with the reasons provided in the Draft Notice of Determination in **Attachment 1**.

## REPORT

### SUBJECT SITE AND SURROUNDING AREA

The subject land is legally described as Lot 101 in DP 789369 and Lot 1 in DP 548919, and is known as 9 Sherwood Road, Merrylands West. The land is situated on the western side of Sherwood Road, with a secondary street frontage to Coolibah Street. The site comprises two (2) land parcels each comprising regular shaped lots with a combined frontage of 47.5m to the eastern Sherwood Road boundary and 33.2m frontage to Coolibah Street secondary frontage and an overall depth of 95m. The total site area is 3,734.4m<sup>2</sup>. The site is illustrated in Figure 1 below:



**Figure 1 – Aerial view of subject site**

The subject site is currently occupied by a number of commercial buildings and at grade car parking. Safety fencing has been erected to prevent access into the site, however the existing buildings have not yet been demolished. The topography of the site creates a slope from the eastern Sherwood Road frontage to the western Coolibah Street frontage with a fall of up to 4.4m. The subject site is zoned B2 Local Centre pursuant to Holroyd Local Environmental Plan (HLEP) 2013 as shown in Figure 2 below:



**Figure 2 – Locality Plan of subject site**

The locality is characterised by a mix of existing low rise commercial buildings and zoning to the north and south, low density residential development in R2 Low Density Residential zoning to the west and high density residential development in R4 High Density Residential zoning to the east.

The subject site currently benefits from vehicular access directly from both the Sherwood Road and Coolibah Street frontages. Vehicular access to the development was approved from both street frontages with the main vehicular access to the lower basement levels proposed from the Coolibah Street frontage. The site has access to the surrounding regional road network of the M4 Motorway and Great Western Highway via Merrylands Road and Cumberland Highway to the further west and north.



**Figure 1 – Street view of subject site from Sherwood Road**

## DESCRIPTION OF THE PROPOSED DEVELOPMENT

Council has received a modification application for alterations and additions to an approved mixed use development incorporating the following works:

- removal of vehicular access from Sherwood Road, to facilitate the expansion of a commercial shop along the front building façade, providing an additional commercial floor area of 160.91m<sup>2</sup>,
- removal of three (3) x retail tenancies below Block B, bin room and 24 x commercial spaces, including 2 disabled parking spaces, to be converted into four (4) x three bedroom units,
- an additional new floor level above block B (Level 6) to accommodate six (6) x 2 bedroom units,
- The total ten (10) residential units (nos. 6, 7, 8, 9, 43, 44, 45, 46, 47 and 48) within Block B comprise an area of 711.266m<sup>2</sup>,
- reduction in car parking by ten (10) commercial spaces and two (2) residential spaces,
- relocation of the communal area from Block B rooftop to Block A rooftop with additional area of 91.3m<sup>2</sup>,
- reduction to the floor to ceiling heights of Level 2 of Blocks B and C, from 3.5m to 3m,
- changes to the configuration of windows and blade walls, and
- relocation of the substation on Coolibah Street.

A comparison of the originally approved development and the proposed modified development is stipulated in the following table.

Figure 4 – Physical comparison

Feature	Originally Approved	Proposed s4.55(2)
Building Height	Block A – 18.76m Block B – 17.48m Block C – 24.29m	Block A – 18.26m (-0.5m) Block B – 17.74m (+0.26m) Block C – 23.79m (-0.5m)
Number of storeys	Building A – 5 storey (fronting Coolibah Street) Building B – part 4, part 5 storey Building C – 7 storey (fronting Sherwood Road)	Building A – 5 storey Building B – part 5, part 6 storey Building C – 7 storey
GFA	Lot 101 – 2.38:1 (1,339.88m <sup>2</sup> ) Lot 1 – 2.14:1 (6,794.5m <sup>2</sup> ) Total – 8,134.38m <sup>2</sup>	Lot 101 – 2.61:1 (1,470.33m <sup>2</sup> ) Lot 1 – 2.37:1 (7,536.226m <sup>2</sup> ) Total – 9,006.556m <sup>2</sup> Additional area: 872.176m <sup>2</sup>
Commercial tenancies	6 x retail shops, including 1 x café (fronting Sherwood Road) 1 x retail shop (fronting Coolibah Street) Total area - 417.1m <sup>2</sup>	3 x retail shops (fronting Sherwood Road) 1 x retail shop (fronting Coolibah Street) Total area - 578.01m <sup>2</sup> Additional area: 160.91m <sup>2</sup>
Unit Mix	8 x 1br unit 67 x 2 br unit 11 x 3 br unit Total – 86 units	12 x 1br unit 77 x 2 br unit 7 x 3 br unit Total – 96 units

		Additional units: 10
Vehicular access	Sherwood Road and Coolibah Street	Coolibah Street
Parking	<p>Sherwood Road: Level 2 – 24 x commercial spaces, including 2 disabled parking</p> <p>Coolibah Street: Level 1 – 30 x residential, including 4 disabled parking 18 x commercial, including 3 disabled parking 18 x visitor residential, including 2 disabled parking</p> <p>Basement – 86 x residential, including 8 disabled parking 1 x car wash bay</p> <p>Total Car Parking Spaces: Residential – 116 spaces Visitor Res – 18 spaces Inc. disabled – 14 spaces</p> <p>Commercial – 42 spaces Inc. disabled – 5 spaces</p> <p>Bicycle Parking Spaces: 54</p>	<p>Coolibah Street: Level 1 – 12 x residential, including 2 disabled parking 32 x commercial, including no disabled parking 20 x visitor residential, including 1 disabled parking</p> <p>Basement – 90 x residential, including 13 disabled parking 1 x car wash bay</p> <p>Total Car Parking Spaces: Residential – 112 spaces Visitor Res – 20 spaces Inc. disabled – 16 spaces</p> <p>Commercial – 32 spaces Inc. disabled – nil</p> <p>Bicycle Parking Spaces: 66</p>
Loading bay	Sherwood Road x 1 Coolibah Street x1	Coolibah Street x 2
Bin room	Sherwood Road Coolibah Street	Coolibah Street
Communal Open Space	Level 2 – 384.2m <sup>2</sup> Roof top – 386.2m <sup>2</sup> Total area – 770.5m <sup>2</sup>	Level 2 – 384.2m <sup>2</sup> Roof top – 447.5m <sup>2</sup> Total area – 861.8m <sup>2</sup> Additional area: 91.3m <sup>2</sup>

## HISTORY

- DA2016/164 was approved by the Sydney West Central Planning Panel on 21 December 2017 granting consent for the demolition of existing structures, consolidation of 3 lots into 1 lot, construction of a part 5/part 7 storey shop top housing development comprising 86 residential units, 6 retail tenancies with at grade and basement parking accommodating 175 car parking spaces.
- Pre-lodgement meeting (PL2020/0044) was held on 7 July 2020 for alterations and additions to the approved shop top development (DA2016/164).

## APPLICANTS SUPPORTING STATEMENT

The applicant has provided an amended Statement of Environmental Effects prepared by Think Planners dated 19 February 2021, received by Council on 19 February 2021, in support of the application.

## **CONTACT WITH RELEVANT PARTIES**

---

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

## **INTERNAL REFERRALS**

---

### *Development Engineer*

The development application was referred to Council's Traffic Engineer for comment who has advised that the development proposal is not satisfactory and therefore cannot be supported due to decreased functionality and non-compliances of the basement car parking and loading bay with respect to access, safety, internal layout, driveways and aisles affecting manoeuvring. In this regard, the proposal is not supported, and parking and traffic matters raised form part of the reasons for refusal contained within the draft notice of determination.

### *Environment and Health*

The development application was referred to Council's Environment and Health Officer for comment who has advised that the development proposal is not satisfactory and therefore cannot be supported. The proposed modification application has not been accompanied by an amended acoustic report. In this regard, the proposal is not supported for insufficient detail regarding the acoustic assessment, which forms part of the reasons for refusal contained within the draft notice of determination.

### *Waste Management*

The development application was referred to Council's Waste Management Officer for comment who has advised that the development proposal is not satisfactory. Additional bins and a garbage chute connection to the level below have not been provided for the extra units proposed on Level 6 in Block B. In this regard, the proposal is not supported, and waste management matters raised form part of the reasons for refusal contained within the draft notice of determination.

## **EXTERNAL REFERRALS**

---

### *Endeavour Energy*

The development application was referred to Endeavour Energy pursuant to Clause 45 of State Environmental Planning Policy (Infrastructure) 2007 for comment who have advised that the proposed substation relocation is not satisfactory, as its location will encroach on the fire restriction zone of the building above it. Such matters raised form part of the reasons for refusal contained within the draft notice of determination.

## **PLANNING COMMENTS**

---

**Section 4.55(2):**

Requirement	Comments
<p>Council is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and</p>	<p>The development as proposed to be modified is not considered substantially the same as the original consent.</p> <p>Refer to detailed discussion below.</p>
<p>Council has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and</p>	<p>No Minister, public authority or other approval body was required to be consulted regarding the proposed modification.</p>
<p>Council has notified the application in accordance with:</p> <ul style="list-style-type: none"> <li>(i) the regulations, if the regulations so require, or</li> <li>(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and</li> </ul>	<p>See discussion on “Public Notification” in this report.</p>
<p>Council has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.</p>	<p>See discussion on “Public Notification” in this report.</p>
<p>Relevant matters referred to in Section 4.15(1) of the act have been taken into consideration.</p>	<p>The provisions of the applicable EPIs are discussed elsewhere in this report.</p> <p>The provisions of HDCP 2013 are discussed elsewhere in this report.</p> <p>The application is not subject to any planning agreement.</p> <p>S123BA(2) of the <i>Environmental Planning and Assessment Regulations 2000</i> (EP&amp;A Reg) stipulates that while Council is responsible for</p>



	<p>the assessment, determination of the application will be made by the Sydney Central City Planning Panel (SCCPP). The subject section 4.55(2) modification application is therefore referred to the SCCPP as the consent authority, given the extent of the proposed departure from the development standard.</p> <p>There is no coastal zone management plan applying to the land.</p> <p>The likely impacts of the proposal are considered unsatisfactory.</p> <p>The site is considered to be unsuitable for the development as proposed to be modified.</p> <p>Submissions received as a result of the notification have been addressed below.</p> <p>Proposed modification is contrary to the public interest and the likely environmental impacts of the development as modified are not considered acceptable.</p>
<p>Council has considered the reasons given by the consent authority for the grant of the consent that is sought to be modified.</p>	<p>Refer to discussion below regarding consideration of the reasons given by the consent authority for the grant of the consent that is sought to be modified.</p>

**Substantially the Same Development**

There are two (2) separate legal tests that apply to a s.4.55 modification application that must be considered, prior to the consent authority determining the application.

Firstly, the proposal can only be regarded a modification if it involves “alteration without radical transformation” (*Sydney City Council v Ilenace Pty Ltd [1984]*). As addressed later in the report, the development as proposed to be modified would not result in alteration without radical transformation and it is not considered as substantially the same as the currently approved development.

Secondly, the following tests, derived from *Moto Projects (No 2) Pty Ltd v North Sydney Council [1999]*, are required to be considered to determine whether “the development is substantially the same development for which the consent was originally granted”. Refer to the relevant test and accompanying planner’s discussion below:

1. *the comparison must be a finding that the modified development is “essentially or materially” the same as the (currently) approved development.*

**Planner’s comments:** The proposed development is not considered to be essentially or materially the same as the (currently) approved development. The removal of access from Sherwood Road will result in sole reliance of Coolibah Street for vehicular access. The changes proposed will not result in the minor transformation of the original development,

as the original access to the principal commercial tenancies, contributing to the shop top housing development, had provided clear separation between the residential and commercial uses while minimising the land use impacts on Coolibah Street that services a lower residential density zone. The removal of the approved Sherwood Road vehicular parking and access, and the additional residential units and floor level on Block B will alter the configuration of the spatial planning of the approved development by:

- increasing the bulk and scale of the middle building,
- reducing amenity for the new units, intensifying car park and loading area use on the Coolibah Street interface,
- limiting access particularly for disabled people to the commercial tenancies facing Sherwood Road; and
- result in inadequate waste management provision for the overall development.

2. *the comparative task does not merely involve a comparison of the physical features or components of the development as currently approved and modified. Rather, the comparison involves an appreciation, qualitative, as well as quantitative, of the development being compared in its proper context (including the circumstances in which the development consent was granted).*

***Planner's comments:*** Refer to Figure 4 above for a qualitative and quantitative comparison of the originally approved development with the proposed modification. Appreciable amendments proposed on the street level by the removal of Sherwood Road vehicular parking and access, and the additional residential floor area and level on Block B indicate radical qualitative transformation. Notwithstanding the quantitative aspects of the development remain almost identical, the consequential effect is the incoherent access to the Sherwood Road commercial premises from the new car parking location and the intensification of the Coolibah Street access.

3. *"one should not fall into the trap" of stating that because the development was for a certain use and that as amended it will be for precisely the same use, it is substantially the same development.*

***Planner's comments:*** Despite the development maintaining similar use of commercial and residential in the modified scheme, the proposal as modified is not considered substantially the same as the currently approved development. Shop top housing is permitted with consent in the B2 – Local Centre land zone which applies to the land. However, the proposal, as modified, does not meet one of the objectives of the zone in that it does not permit residential development that is complementary to, and well-integrated with, the commercial uses, particularly the addition of 4 units infill on Level 2 replacing the approved 3 retail shops, a bin room and associated commercial car parking spaces within Sherwood Road frontage.

4. *the comparative task involves more than a comparison of the physical features or components of the development as currently approved and modified.*

***Planner's comments:*** Refer to Figure 4 above for a comparison of the originally approved development against the proposed modification. The proposed modification will result in additional floor area for both commercial and residential components. However, the proposed development as modified will not perform as a better planning outcome. The carpark facing Coolibah Street will not maintain the safety of its users and result in more onerous wayfinding for commercial/residential visitors and users, as adequate vehicular and commercial accesses have not been provided. The floor level and subsequent

additional residential units in Block B will increase the bulk and scale of the central building, reduce the amenity for the new units in terms of solar access and acoustic privacy, and provide inadequate waste management for the overall development. In this instance, it had not been satisfied that the development, as proposed to be modified, would be substantially the same as the currently approved development.

5. *a numeric or quantitative evaluation of the modification when compared to the original consent that is absent of any qualitative assessment will be "legally flawed" (Moto Projects at [52]).*"

**Planner's comments:** Qualitative assessment is not absent in the quantitative evaluation of the comparative task of the modification when compared to the original consent, as stated in the assessment above.

### **S4.55(3) Assessment**

The reasons given by the consent authority for the grant of the consent that is sought to be modified are replicated as follows.

#### **REASONS FOR THE DECISION**

1. The Panel has considered the Applicant's request to vary the development standard contained in Clause 4.3 Height of Buildings of Holroyd LEP 2013 and considers that:
  - i. the applicant's submissions adequately address the matters required under cl.4.6;
  - ii. the development remains consistent with the objectives of the standard and the objectives of the zone;
  - iii. there are sufficient environmental planning grounds to justify the variation; and
  - iv. compliance with the standard is unreasonable and unnecessary in the circumstances of this case as the proposed variations are acceptable from a streetscape perspective, will not generate unacceptable impacts on adjoining or nearby properties and will not result in development inconsistent in form and scale with that planned for the locality. Additionally, in respect of Blocks A and B, the variations will provide for a better planning outcome through the provision of additional communal open space for residents of those Blocks.

For the above reasons, the Panel is satisfied that the variation from the LEP development standard is in the public interest.

2. The proposed development will add to the supply and choice of housing within the Sydney Central City Planning District and the Cumberland local government area in a location with good access to services and amenities.
3. The proposed development adequately satisfies the relevant State and Regional Environmental Planning Policies including SEPP 55 - Remediation of Land, SEPP (Infrastructure) 2007, SEPP (BASIX) 2004, Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 and SEPP 65- Design Quality Residential Apartment Development and its associated Apartment Design Guide.
4. The proposal adequately satisfies the applicable provisions and objectives of Holroyd LEP 2013 and Holroyd DCP 2013.
5. The proposed development is considered to be of appropriate scale and form, adequately consistent with the planned character of the locality in which it is placed.
6. The proposed development, subject to the conditions imposed, will have no unacceptable adverse impacts on the natural or built environments including the local ecology, the amenity of adjacent and nearby premises and the operation of the local road system.
7. In consideration of conclusions 1-6 above the Panel considers the proposed development is a suitable use of the site and approval of the proposal is in the public interest.

The above reasons have been considered and Council is not satisfied that the proposed modification is consistent with the original reasons, given the additional exceedance in building height and FSR proposed, and that the proposal, as modified, does not now meet an objective of the zone that permits residential development complementary to, and well-integrated with, commercial uses. Furthermore, the modified scheme has not resulted in improved amenity for the intended occupants.

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

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

Development of a type that is listed in Schedule 4A of the Environmental Planning and Assessment Act, 1979 is defined as 'regional development' within the meaning of SEPP (State and Regional Development) 2011 at the time when the development consent was granted by the Sydney West Central Planning Panel. While Council is responsible for the assessment, determination of the application will be made by the Sydney Central City Planning Panel. The subject section 4.55(2) modification application is therefore referred to the Panel as the consent authority given the departure from the development standard.

##### **(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 original development application. Council is satisfied that the site is suitable or can be made suitable to

accommodate the approved shop top housing development. The proposed modifications have no bearing on the original SEPP 55 matters for consideration, as assessed under approved DA2016/164.

**(c) Statement Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development (SEPP 65)**

SEPP 65 applies to the development as the building is 3 storeys or more, and contains more than 4 dwellings. A design statement addressing the design quality principles prescribed by SEPP 65 was prepared by the project architect dated 28 October 2020. Integral to SEPP 65 is the Apartment Design Guide (ADG), which sets benchmarks for the appearance, acceptable impacts and residential amenity of the development.

A comprehensive assessment against SEPP 65 and the ADG is contained in **Attachment 7**. The proposal involves the following new non compliances with the ADG controls.

*Figure 5 – ADG Compliance Table*

<b>3H</b>	<b>Vehicle Access</b>	
3H-1	Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.	Deletion of Sherwood Road results in vehicle access point that is not designed and located to achieve safety, minimise conflicts between pedestrians and vehicles. In this regard, the above non-compliance is considered unacceptable and has been included as a reason for refusal in the draft notice of determination.
<b>3J</b>	<b>Car Parking</b>	
3J-3	Car park design and access is safe and secure.	The reconfiguration of Level 1 car parking area is not satisfactory as it will not maintain safety and provide adequate separation between commercial and residential uses. In this regard, the above non-compliance is considered unacceptable and has been included as a reason for refusal in the draft notice of determination.
<b>4A</b>	<b>Solar and Daylight Access</b>	
	A maximum of 15% of units in a building receive no direct sunlight between 9 am & 3 pm at mid-winter.	The development, as modified, proposes 35/96 units (36.45%), while the original application was approved for 29/86 units (34%) that would receive no solar access. The development was already approved with non-compliant numbers of units not receiving the solar access. However, 5 out of the 10 additional units (nos. 8, 9, 46, 47 and 48) proposed under the subject modification application will not receive direct solar access. Residential amenity of the development has not been maintained in this regard.  In this regard, the above non-compliance is

		considered unacceptable and has been included as a reason for refusal in the draft notice of determination.										
<b>4C</b>	<b>Ceiling Heights</b>											
4C-1	If located in mixed used areas – 3.3m for first floor level to promote future flexibility of uses.	Floor to ceiling height of Block B and C (Level 2) first floor level is to be reduced to 3m. The intent of the ADG control to promote future flexibility of uses for the first floor level will not be achieved with the floor to ceiling height reduction.										
<b>4D</b>	<b>Apartment Size and Layout</b>											
4D-1	<p>Apartments are required to have the following minimum internal areas:</p> <table border="1" data-bbox="354 763 721 913"> <thead> <tr> <th>Apartment type</th> <th>Minimum internal area</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>35m<sup>2</sup></td> </tr> <tr> <td>1 bedroom</td> <td>50m<sup>2</sup></td> </tr> <tr> <td>2 bedroom</td> <td>70m<sup>2</sup></td> </tr> <tr> <td>3 bedroom</td> <td>90m<sup>2</sup></td> </tr> </tbody> </table> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m<sup>2</sup> each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m<sup>2</sup> each.</p>	Apartment type	Minimum internal area	Studio	35m <sup>2</sup>	1 bedroom	50m <sup>2</sup>	2 bedroom	70m <sup>2</sup>	3 bedroom	90m <sup>2</sup>	All apartments were originally approved with compliant apartment sizes. However, under the subject modification application, unit 7 for 3 bedrooms and 2 bathrooms has a maximum area of 90m <sup>2</sup> , which is a shortfall of 5m <sup>2</sup> . Units 10 and 21 with area of 75.1m <sup>2</sup> are proposed for 2 bedrooms, enclosed study and 2 bathrooms. The enclosure of the study area would allow the room to be used as a separate bedroom. Should consent be granted, conditions could be imposed to delete the enclosure of the study room of units 10 and 21 and the extra bathroom of unit 7.
Apartment type	Minimum internal area											
Studio	35m <sup>2</sup>											
1 bedroom	50m <sup>2</sup>											
2 bedroom	70m <sup>2</sup>											
3 bedroom	90m <sup>2</sup>											
<b>4E</b>	<b>Private Open Space and Balconies</b>											
4E-1	For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m <sup>2</sup> and a minimum depth of 3m.	Unit 7 proposes POS area of 9.5m <sup>2</sup> whereas an area of 15m <sup>2</sup> is required. Should consent be granted, conditions would be imposed to provide minimum POS directly accessible from living room with area of 15m <sup>2</sup> . Unit 6 proposes 2 x POS that are accessed from living room and bedroom with area of 12.7m <sup>2</sup> each. Should consent be granted, conditions would be imposed to provide POS directly accessible from living room with minimum area of 15m <sup>2</sup> .										
<b>4F</b>	<b>Common Circulation and Spaces</b>											
4F-2	Direct and legible access should be provided between vertical circulation points and apartment entries by minimising corridor or gallery length to give	The additional six (6) x 2 bedroom units proposed on Block B Level 6 will rely on access to the existing lift core located on Block A via the communal open space to access these units. Appropriate weather protection has not been provided for this level to access the additional units proposed on										

	short, straight, clear sight lines.	Block B Level 6. Furthermore, this is considered a poor design outcome for the building.  In this regard, the above non-compliance is considered unacceptable and has been included as a reason for refusal in the draft notice of determination.
<b>4H</b>	<b>Acoustic and Privacy</b>	
4H-1 & 2	Noise transfer is minimised through the siting of buildings and building layout.  Noise impacts are mitigated within apartments through layout and acoustic treatments.	A revised acoustic assessment report has not been submitted with the subject modification application.  In this regard, the above non-compliance is considered unacceptable and has been included as a reason for refusal in the draft notice of determination.
<b>4J</b>	<b>Noise and Pollution</b>	
4J-1 & 2	In noisy or hostile environments the impacts of external noise and pollution are minimised through the careful siting and layout of buildings.  Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission.	A revised acoustic assessment report has not been submitted with the subject modification application.  In this regard, the above non-compliance is considered unacceptable and has been included as a reason for refusal in the draft notice of determination.
<b>4S</b>	<b>Mixed Use</b>	
4S-1 & 2	Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement.  Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents.	The removal of vehicular access on Sherwood Road, initially approved to service the commercial development facing Sherwood Road, will result in potential conflict between accesses to the driveway between the residential and commercial components within Level 1 parking area. To access commercial premises on Sherwood Road by car, the customer must first access Level 1 parking area from Coolibah Street and then proceed towards north east to the public lift to plaza past the residential boom gate and a loading bay. There are no separate pathway and no disabled car parking proposed within this area. Proposed access for pedestrian

		and customer to the commercial premises on Sherwood Road is not considered acceptable.  In this regard, the above non-compliance is considered unacceptable and has been included as a reason for refusal in the draft notice of determination.
<b>4W</b>	<b>Waste Management</b>	
4W-1	Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents.	Waste storage facilities proposed are not satisfactory as additional bins and garbage chute have not been provided for the extra units proposed at Block B on Level 6.  In this regard, the above non-compliance is considered unacceptable and has been included as a reason for refusal in the draft notice of determination.

**(d) State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)**

The provisions of the ISEPP 2007 have been considered in the assessment of the development application.

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

The subject development is located immediately adjacent to an electricity substation. As such, the Consent Authority is required to give written notice to an electricity supply authority. The modification application was referred to Endeavour Energy for comment who raised issues regarding the encroachment of the new substation location on the fire restriction zone of the building above it. This matter has been included as part of the reasons for refusal contained within the draft notice of determination.

*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 original application has been referred to the RMS and no additional referral is required, as the modification application includes the removal of vehicular access to a classified road.

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

No tree removal is proposed under the subject modification application.

**(f) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004**

BASIX Certificate 722281M\_04 dated issued on 29 October 2020 prepared by ESD Synergy Pty Ltd has been submitted with Council and is considered to be satisfactory.



### Regional Environmental Plans

The proposed development is affected by the following Regional Environmental Plans:

#### **(a) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005**

The subject site is identified as being located within the area affected by the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. The proposed development raises no issues as no impact on the catchment is envisaged.

(Note: - the subject site is not identified in the relevant map as 'land within the 'Foreshores and Waterways Area' or 'Wetland Protection zone', is not a 'Strategic Foreshore Site' and does not contain any heritage items. Hence the majority of the SREP is not directly relevant to the proposed development).

### Local Environmental Plans

#### **Holroyd Local Environmental Plan (HLEP) 2013**

The provisions of the Holroyd LEP 2013 are applicable to the development proposal. It is noted that the development fails to achieve compliance with the key statutory requirements of the Holroyd LEP 2013 and an objective of the B2 – Local Centre zone.

#### **(a) Objectives of the zone:**

- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.
- To encourage employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- *To permit residential development that is complementary to, and well-integrated with, commercial uses.*

#### **(b) Permissibility:-**

The proposal is defined as 'shop top housing' (one or more dwellings located above ground floor retail premises or business premises) under the provisions of Holroyd LEP 2013. Shop top housing is permitted with consent in the B2 – Local Centre land zone which applies to the land.

The applicant has submitted a legal advice to support the permissibility and "shop top housing" characterisation of the proposed development" that is contained in **Attachment 3**.

The proposal, as modified, however does not meet an objective of the zone in that it does not permit residential development that is complementary to, and well-integrated with, the commercial uses, particularly the addition of 4 units infill on Level 2 replacing the approved 3 retail shops, a bin room and associated commercial car parking spaces within Sherwood Road frontage. The changes proposed will result in disjointed access to Sherwood Road commercial premises particularly for disabled persons, increase the bulk and scale of the central building, reduce amenity for the new units in terms of solar access and acoustic privacy, and inadequate waste management for the overall development.

In this regard, the proposal as modified does not meet the objectives of the zone and this has been included as a reason of refusal in the draft notice of determination.

The relevant matters to be considered under Holroyd LEP 2013 and the applicable clauses for the proposed development are summarised below. A comprehensive LEP assessment is contained in **Attachment 8**.

*Figure 6 – Holroyd LEP 2013 Compliance Table*

DEVELOPMENT STANDARD	COMPLIANCE	DISCUSSION
<p>4.3 Height of Buildings Max Fronting Sherwood Road – 23m (Block C) Remainder of the site – 17m (Block A &amp; B)</p>	<p>No</p>	<p><b>Approved:</b> Block A – 18.76m Block B – 17.48m Block C – 24.29m</p> <p><b>Proposed:</b> Block A – 18.26m Variation: 1.26m/7.41% Block B – 18.74m Variation: 1.74m/10.23% Block C – 23.79m Variation: 0.79m/3.43%</p> <p>The subject modification reduces the overall building heights of Blocks A and C. However, as an additional floor on Level 6 is proposed on Block B, the proposal results in further height exceedance of 1.74m for the lift overrun and 0.65m within the habitable floor areas.</p> <p>The development, as modified, has not adequately demonstrated the additional variation to the building height would allow for the residential development that is complementary to, and well-integrated with the commercial uses on the site.</p> <p>In this regard, the above variation to the development standard is considered unacceptable and included as a reason for refusal in the draft notice of determination.</p>
<p>4.4 Floor Space Ratio Max Lot 101 – 2.4:1 (site area: 563.2m<sup>2</sup>)</p>	<p>No</p>	<p><b>Approved:</b> Lot 101 – 2.38:1 Lot 1 – 2.14:1</p>

<p>Lot 1 – 2.2:1 (site area: 3,171.4m<sup>2</sup>)</p>		<p><b>Proposed:</b>                  Lot 101 – 2.61:1, or GFA 1470.33m<sup>2</sup>                  Variation: 118.65m<sup>2</sup>/8.77%                  Lot 1 – 2.37:1, or GFA 7,536.226m<sup>2</sup> (in accordance with the assessment officer’s calculation accounting for GFA that is not included by the applicant, e.g., residential lobby, above ground bin room, public toilets and hallway)                  Variation: 559.146m<sup>2</sup>/8.01%</p> <p>The development as modified has not adequately demonstrated the additional variation to the building height would allow for the residential development that is complementary to, and well-integrated with the commercial uses on the site.</p> <p>In this regard, the above variation to the development standard is considered unacceptable and included as a reason for refusal in the draft notice of determination.</p>
<p>4.6 Exceptions to development standards</p>	<p>No</p>	<p>Whilst a Clause 4.6 variation request is not required for a s4.55 modification application, the Applicant has submitted written requests to further vary the development standard for height of buildings and FSR.</p> <p>Council is not satisfied that the Applicant’s written request for the additional building height and FSR will contribute to a better planning outcome for the approved mixed use development on the site.</p> <p>Council is not satisfied that the proposed development will be in the public interest as it is inconsistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, see attached written request from the applicant.</p>

**The provisions of any proposed instrument that is or has been the subject (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.

**(b) Draft Cumberland Local Environmental Plan (Draft CLEP)**

The Draft Cumberland Local Environmental Plan (Draft CLEP) has been prepared by Cumberland City Council to provide a single planning framework for the future planning of Cumberland City. The changes proposed seek to harmonise and repeal the three existing LEPs currently applicable to the Cumberland local government area, those being:

- Holroyd Local Environmental Plan 2013,
- Parramatta Local Environmental Plan 2011, and
- Auburn Local Environmental Plan 2010.

The relevant planning controls for the subject site, as contained within the Holroyd LEP 2013, are not proposed to change under the Draft CLEP.

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

The Holroyd DCP 2013 provides guidance for the design and operation of development to achieve the aims and objectives of the Holroyd LEP 2013.

A comprehensive assessment and compliance table is contained in **Attachment 9**.

The following table highlights new non-compliances with the DCP, which relate primarily to access, manoeuvring and layout of basement and car parking spaces, parking for disabled,

waste management, acoustic assessment, pedestrian access, substation location and building height as follows:

Figure 7 – Holroyd DCP 2013 Compliance Table

No.	Clause	Comment	Yes	No	N/A
<b>PART A – GENERAL CONTROLS</b>					
<b>3.3 &amp; 3.5</b>	<b>Car Parking, Dimensions &amp; Gradient &amp; Access, Manoeuvring &amp; Layout</b>				
	<p>Council’s Traffic Engineer has assessed the submitted plans and documentation and advised the proposal is not satisfactory due to the following reasons.</p> <ul style="list-style-type: none"> <li>- Residential visitor parking spaces shall be separated from commercial parking spaces and loading bay area. However, the loading bay 2 has been proposed within Residential visitor car parking zone.</li> <li>- The curved ramp between level 1 and basement level have not been designed in accordance with Section 2.5.2 in AS2890.1.</li> <li>- The grade of the curved ramp shall be measured along the inside edge in accordance with section 2.5.3 (c) in AS2890.1:2004. Superelevation of the curved ramp shall be 5% max in accordance with AS2890.1:2004.</li> <li>- A separator or median have not been provided on whole curved ramp where the radius to the outer kerb (dimension Ro on Figure 2.7(b) in AS2890.1:2004) is less than 15m. It was estimated that radius to the outer kerb in the proposed curve ramp is around 11m.</li> <li>- Inside (Ci) and Outside, Co on the curved ramp shall be minimum 0.3m and 0.5m for clearance to obstruction respectively in accordance with Figure 2.9 in AS890.1:2004.</li> <li>- The swept path analysis is not satisfactory. In this regard,               <ul style="list-style-type: none"> <li>a. Swept path analysis have not demonstrated that one vehicle can pass another vehicle smoothly without any obstructions in accordance with AS2890.1:2004</li> <li>b. A clearance of 300mm shall be added to both sides of the turning path. Manoeuvring clearance shall not encroach any structures including kerbs on curved ramp.</li> <li>c. Safety issues associated with delays and congestion have not been taken into account for manoeuvring on curved ramp and circulation roadways.</li> <li>d. V1, V16 and R12 parking spaces are situated in critical locations relative to the boom gates. Boom gates shall be placed at least 1.0m away from these parking spaces. In addition, swept path analysis shall show that B85 vehicles can enter or depart the parking spaces in a forward direction without encroaching on required parking spaces, boom gate and structures.</li> </ul> </li> </ul> <p>The proposed basement arrangement has not demonstrated proper vehicles manoeuvring to allow for sufficient passing. Safety issues associated with delays and congestion have</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

No.	Clause	Comment	Yes	No	N/A
	not been taken into account for manoeuvring on curved ramp and circulation roadways. Loading bay 2 location proposed adjoining to the pedestrian access to commercial lift and within the residential visitor car parking zone is not considered appropriate in maintaining safety of pedestrians accessing the commercial premises fronting Sherwood Road. The location of loading bay will result in conflict between commercial and residential pedestrian and vehicles.  In view of the above non-compliances, the proposal is not supported and recommended for refusal.				
<b>3.6</b>	<b>Parking for Disabled</b>				
	No commercial car parking spaces for disabled persons are proposed in the modification application. Under the original application, 5 spaces were approved.		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>9</b>	<b>External Road Noise &amp; Vibration</b>				
	Amended acoustic report for the proposed modification works has not been provided for Council to carry out a proper assessment of the acoustic impact of the development. Hence the proposal is recommended for refusal.		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>11.3</b>	<b>Residential Land Use Waste Management</b>				
	Additional bins and garbage chute have not been provided for the extra units proposed at Block B on Level 6. In this regard, the proposal is not supported, and waste management matters raised form part of the reasons for refusal contained within the draft notice of determination.		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>12</b>	<b>Services</b>				
	The proposed substation relocation is not satisfactory as its location will encroach the fire restriction zone of the building above it. Such matters raised form part of the reasons for refusal contained within the draft notice of determination.		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>PART C – COMMERCIAL, SHOP TOP HOUSING AND MIXED USE CONTROLS</b>					
<b>2.2</b>	<b>Pedestrian Access</b>				
	Direct access shall be provided from the car park to all residential and commercial units.	The removal of vehicular access on Sherwood Road initially approved to service the commercial development facing Sherwood Road will result in potential conflict between accesses to the driveway between the residential and commercial components within Level 1 parking area. To access commercial premises on Sherwood Road by car,	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

No.	Clause	Comment	Yes	No	N/A
		<p>the customer must first access Level 1 parking area from Coolibah Street and then proceed towards north east through the boom gates, residential and residential visitor car spaces and loading bay area to reach the public lift. There are no separate pathway and no disabled car parking proposed within this area. Proposed access from the car parking area for pedestrian and customer to the commercial premises on Sherwood Road is not considered acceptable.</p> <p>In this regard, the above non-compliance is considered unacceptable and included as a reason for refusal in the draft notice of determination.</p>			
<b>PART N – TRANSITWAY STATION PRECINCT CONTROLS</b>					
<b>3. Sherwood Transitway Station Precinct</b>					
<b>3.3</b>	<b>Building Height</b>				
	<p>The maximum building storey limits are detailed in Figure 21.</p>	<p>Where a four storey development is permitted for Block B was approved as a five storey building and the proposed modification will add another level, resulting in a six storey development.</p> <p>In this regard, the above non-compliance is considered unacceptable and included as a reason for refusal in the draft notice of determination.</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**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 draft planning agreement associated with the subject Development Application.

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

S123BA(2) of the EP&A Reg stipulates that while Council is responsible for the assessment, determination of the application will be made by the Sydney Central City Planning Panel. The subject section 4.55(2) modification application is therefore referred to the Panel as the consent authority given the departure from the development standard.

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

Due to the adverse impact on access, traffic, parking, safety and amenity of the future occupants and the adjoining properties, the proposal would have an unacceptable adverse impact upon the existing and future built environment.

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

The subject site and locality are not known to be affected by any natural hazards or other site constraints likely to have a significant adverse impact on the proposed development. However for the reasons articulated in the report, the development as modified is not suitable in the context of the site and surrounding locality.

**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 the Holroyd DCP 2013, the proposal was publicly notified for a period of 21 days between 27 November 2020 and 18 December 2020. The notification period generated three (3) submissions in respect of the proposal with nil disclosing a political donation or gift. The issues raised in the public submissions are summarised and commented on as follows:

**Figure 8 – Submissions summary table**

Issue	Planner’s Comment
Overshadowing from the additional height	The overall development, with the exception of Building B, has been reduced by 0.5m. Shadow diagrams submitted with the application indicate that the impact from the proposed development will not deviate from the original approval. Despite of this, the proposal is not supported, and it is recommended for refusal.
Exceedance in FSR results in dominating bulk and scale and is increasing density and counterproductive with reduction of parking	The additional bulk and scale proposed are not supported by Council. The reduction in car parking spaces nonetheless still meet the required numbers of spaces under ADG and Holroyd DCP 2013. Despite of this, the proposal is not supported, and it is recommended for refusal.
Traffic congestion increased by the development will create issues, including overcrowding, traffic flow and access, road safety and on street parking	Council’s Development Engineer has assessed the traffic impacts of the development and they are deemed to be unsatisfactory. The proposed basement arrangement has not demonstrated proper vehicles manoeuvring to allow for



	sufficient passing. Safety issues associated with delays and congestion have not been taken into account for manoeuvring on curved ramp and circulation roadways. The location of loading bay will result in conflict between commercial and residential pedestrian and vehicles.
Increase noise and reduced privacy from roof terrace	Amended acoustic assessment report has not been submitted with the application and it is included as part of the reason for refusal.
Illegal dumping of rubbish	This concern is not a matter of consideration under s4.15 of the Act. Should any illegal dumping occur within the locality, matters should be reported to Council's Compliance section for investigation and action.

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

In view of the foregoing analysis it is considered that the development as proposed would be contrary to the public interest.

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

Contribution in accordance with the Holroyd s94 Contributions Plan and pursuant to Section 7.11 of the EP&A Act is not required to be amended as the proposed development as modified is recommended for refusal.

### **DISCLOSURE OF POLITICAL DONATIONS AND GIFTS**

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

### **CONCLUSION**

Having regard to the relevant matters of consideration under Section 4.15 and 4.55 of the *Environmental Planning and Assessment Act 1979*, it is considered that the development as modified is unacceptable for the reasons outlined in this report. It is recommended that the modification application be refused.

### **RECOMMENDATION**

- 1. That Modification Application No. MOD2020/0414 for Section 4.55(2) modification for alterations and additions to an approved mixed use development, including the removal of three retail tenancies, introduction of ten additional residential units (inclusive of an additional floor level above building B), reduction in parking and changes to the design of the building, including the relocation of the rooftop communal area, windows and blade walls and relocation of the substation on land at 9 Sherwood Road MERRYLANDS WEST NSW 2160 be refused for the reasons listed in the attached schedule.**

2. **Persons whom have lodged a submission in respect to the application be notified of the determination of the application.**

### **ATTACHMENTS**

1. Draft Notice of Determination
2. Architectural Plans
3. Legal Advice [**confidential – not for publication**]
4. SEE and Clause 4.6 Variation
5. Approved Plans DA2016/164/1
6. SWCPP Reasons of Approval
7. Appendix A – SEPP 65 Compliance Table
8. Appendix B – Holroyd LEP 2013 Compliance Table
9. Appendix C – Holroyd DCP 2013 Compliance Table
10. Redacted Submissions