

# COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	PPSSCC-392
<b>DA Number</b>	<b>DA/737/2022</b> PAN-248715
<b>LGA</b>	City of Parramatta Council
<b>Proposed Development</b>	Demolition of existing structures and construction of a mixed-use development over two levels of basement parking. The development comprises of retail premises, business/office premises; neighbourhood shops, a pub and a childcare centre with associated landscaping, drainage works and signage. The application is Nominated Integrated development pursuant to the Water Management Act 2000.
<b>Street Address</b>	32-48 Silverwater Road and 1-17 Grey Street, SILVERWATER Lot 1 DP 90071 Lot 1 and 2 DP 1110059 Lot 5, 6 and 7 DP 89550 Lot 8, 9, 10, 11, 14, 15, 16 and 17 DP 979426 Lot 13 DP 75209 Lot 12 DP 76894 Lot 7 DP 77341
<b>Applicant Owner</b>	CK Design Pty Ltd Sonsari Pty Ltd
<b>Date of Lodgement</b>	16 September 2022
<b>Number of Submissions</b>	N/A
<b>Recommendation</b>	Refusal
<b>Regional Development Criteria</b>	General Development >\$30 million
<b>List of All Relevant s4.15 Matters</b>	<ul style="list-style-type: none"> <li>• Environmental Planning and Assessment (EP&amp;A) Act 1979</li> <li>• EP&amp;A Regulations 2021</li> <li>• State Environmental Planning Policy (Transport and Infrastructure) 2007</li> <li>• State Environmental Planning Policy (State Regional Development) 2011</li> <li>• State Environmental Planning Policy (Biodiversity and Conservation) 2021</li> <li>• SEPP (Planning Systems) 2021</li> <li>• State Environmental Planning Policy (Resilience and Hazards) (2021)</li> <li>• Auburn Local Environmental Plan 2010</li> <li>• Auburn Development Control Plan 2010</li> </ul>
<b>List of Relevant Documents</b>	<ul style="list-style-type: none"> <li>• Attachment A – Council's Legal Advice - FSR</li> <li>• Attachment B – Without Prejudice Draft Conditions</li> </ul>
<b>Report Prepared By</b>	Denise Fernandez - Senior Development Assessment Officer
<b>Report Date</b>	Addendum Report prepared 25 July 2023

## 1. Background

The City of Parramatta received an application for a development on the site known as 32-48 Silverwater Road and 1-17 Grey Street, Silverwater. The proposed development is for the demolition of existing structures and construction of a mixed-use development over two levels of basement parking. The development also comprises of retail premises, business/office premises; neighbourhood shops, a pub and a childcare centre with associated landscaping, drainage works and signage.

Upon review of the application, Council provided an assessment report to the SCCPP on 9 May 2023. The report recommended refusal of the development application. The reasons for refusal were with regards to the submission of insufficient information. A determination Panel meeting was held on 18 May 2023, between the Panel, Council and the Applicant's Team to discuss the recommendation.

On 29 May 2023, Council received the Deferral Notice from SCCPP providing the following reason for the deferral.

*The panel agreed to defer the determination of the application until responses to the matters outlined in Council's requests for information and the non-compliances identified in Council's assessment report are provided by the applicant and assessed by Council. The applicant undertook to submit its legal advice in relation to the calculation of gross floor area on the site and the panel requests that Council provides the panel with its own legal advice in response. The outcome of this advice will be a key determinative matter.*

*The panel considers that this large, amalgamated site provides an opportunity for an appropriately designed mixed use development. On that basis, the panel has agreed to defer the application to provide the applicant with the short supplementary period it has requested (4 weeks), to address the currently unresolved matters in order to demonstrate to the Panel whether the proposal represents an appropriate outcome in the context of the applicable controls and detailed design.*

*The panel expects revised information referred to above to be submitted to Council within 4 weeks from the date of this deferral record. If all revised information from the applicant is not provided within 4 weeks, the panel may move to determine the DA based on the information available at the time.*

*Council is requested to update its assessment report for submission to the Panel within 2 weeks of the deadline receipt of the revised information from the applicant. Council's supplementary assessment report should respond to the material and the matters raised above. When this report has been received, the panel will determine the matter electronically.*

*The panel observes that responses from Transport for NSW and the Office of Water have not been received and requests that the parties use their best endeavours to obtain the relevant responses within the timeframe set for determination.*

*The decision to defer the matter was unanimous.*

With regards to the submission deadline for the additional to be submitted by the applicant to NSW Planning Portal, that date was 26 June 2023.

It is noted that a Council and Applicant briefing meeting was organised by the SCCPP Secretariat on 6 July 2023 to provide the Panel with an update on the progress of the application. At the time of the meeting, Council informed Panel that the additional information was currently being reviewed by internal officers. With regards to WaterNSW, Council had received their General Terms of Approval and raised no further issues with the proposal. A representative from Department of Planning and Environment's PDU also provided an update on the outstanding referral with Transport for NSW.

Subsequently a Record of Briefing was issued to Council on the 13 and 14 of July 2023. It notes that:

- *Council is to inform the applicant of issues arising from the review of additional information by 21 July 2023;*
- *A supplementary report is to be lodged by the Panel by 31 July 2023, highlighting any unresolved jurisdictional matters, including in relation to TfNSW concurrence, FSR and contamination.*
- *Regardless of the recommendation, provide a without prejudice draft conditions should the Panel be minded to grant consent. These draft conditions should address the jurisdictional matters as well as non-jurisdictional matters including design excellence and air quality.*

The assessment of the additional information and amended plans was finalised and Council sent the applicant a letter with its concerns regarding the amended information. The letter was sent on 20 July.

In accordance with the Briefing recommendations from the Panel, a without prejudice draft condition has been prepared. See Attachment B.

## **2. Outstanding Issues**

### **Floor Space Ratio**

Council acknowledges the amendments to the proposal to further open the roof form to address Council's concerns regarding the excessive floor area contributed by the inclusion of corridors. Upon review of the amended plans, it appears that the amendments to the roof form only benefit the second storey, with regards to excluding the corridors. The issues with the corridors on the lower levels are considered for the most part, enclosed for the purposes of gross floor area by virtue of the corridors on the upper floors. Accordingly, Council's concern that the proposal breaches the maximum FSR of 2:1 for the site remains.

It is noted that Council has also received external legal advice with regards to the interpretation of Clause 4.4, 2(c) of the Auburn LEP 2010. Council's Legal advice was provided upon review of the legal advice provided by the applicant. With regards to the interpretation of the clause, Council's legal advice states:

*....in the absence of any specific case law on this subclause (or a similarly worded one), our approach relies on general principles of statutory interpretation, and*

*consideration of similarly worded clauses. In our view, there is nothing inherent in the wording of (2C) that suggests an intention to create additional floor space on top of the base FSR and is most similar to clauses which impose an alternative FSR where certain criteria are met.*

*For example, ALEP subclause 4.4(2E) explicitly establishes that bonus FSR of 0.3:1 (on top of base FSR) applies for certain non-residential use in mixed use development;*

*(2E) For development on land in Zone B4 Mixed Use, as shown edged blue on the Floor Space Ratio Map—*

- (a) the floor space ratio for the part of the buildings used for non-residential purposes is not to be less than 0.4:1, and*
- (b) despite subclause (2), the maximum floor space ratio may exceed the floor space ratio shown on the map for the land by 0.3:1 if the floor space ratio for the part of the buildings used for non-residential purposes is not less than 0.6:1.*

*Had it been intended that 4.4(2C) would create a bonus FSR of 2:1 for office space and hotels on top of the base FSR of 1:1 shown on the map, presumably the drafters of the ALEP would have adopted a similar wording to 4.4(2E).*

*In our view, the most sensible interpretation of the clause is that subclause 4.4(2C) imposes an overall cap on FSR of 2:1 (where the development includes a component as office premises or hotel or motel accommodation). Where, as it the case with this proposal, there is a mixed use development with a variety of proposed uses only some which attract incentive FSR allowance, then the approach to calculating maximum FSR would be:*

Control	Component of development	Maximum FSR
Base FSR	<ul style="list-style-type: none"> <li>neighbourhood shops</li> <li>business premises</li> <li>food and drink premises</li> </ul>	Other uses must not exceed 1:1
	<ul style="list-style-type: none"> <li>pub (unless a registered club)</li> <li>centre-based childcare centre</li> </ul> Referred to as "other uses"	
2C(a)	<ul style="list-style-type: none"> <li>specialist retail</li> <li>the "pub" (if it is a registered club)</li> </ul> Referred to as "specialised uses"	Other uses + specialised uses must not exceed 1.5:1, and "other uses" must still comply with base FSR (ie be 1:1 or less.)
2C(b)	<ul style="list-style-type: none"> <li>office premises</li> </ul>	Other uses + specialised uses + office premises must not exceed 2:1, and: <ul style="list-style-type: none"> <li>"other uses" + "specialised uses" must still comply with 2C(a) (ie be 1.5:1 in total or less), and</li> <li>"other uses" must still comply with Base FSR (ie be 1:1 in total or less).</li> </ul>

Accordingly, the following calculations provided by Council are:

Lower Ground Floor	4950m <sup>2</sup>
Mezzanine	215m <sup>2</sup>
Ground Floor	5471m <sup>2</sup>
First Floor	5806m <sup>2</sup>
Second Floor	4724m <sup>2</sup>
Total GFA	21,166m <sup>2</sup>

Site Area	7550.08m <sup>2</sup>
Max FSR permitted (2:1)	15,100.16m <sup>2</sup>
Variation	6065.84m <sup>2</sup> (or 40%)
Proposed FSR	2.8:1

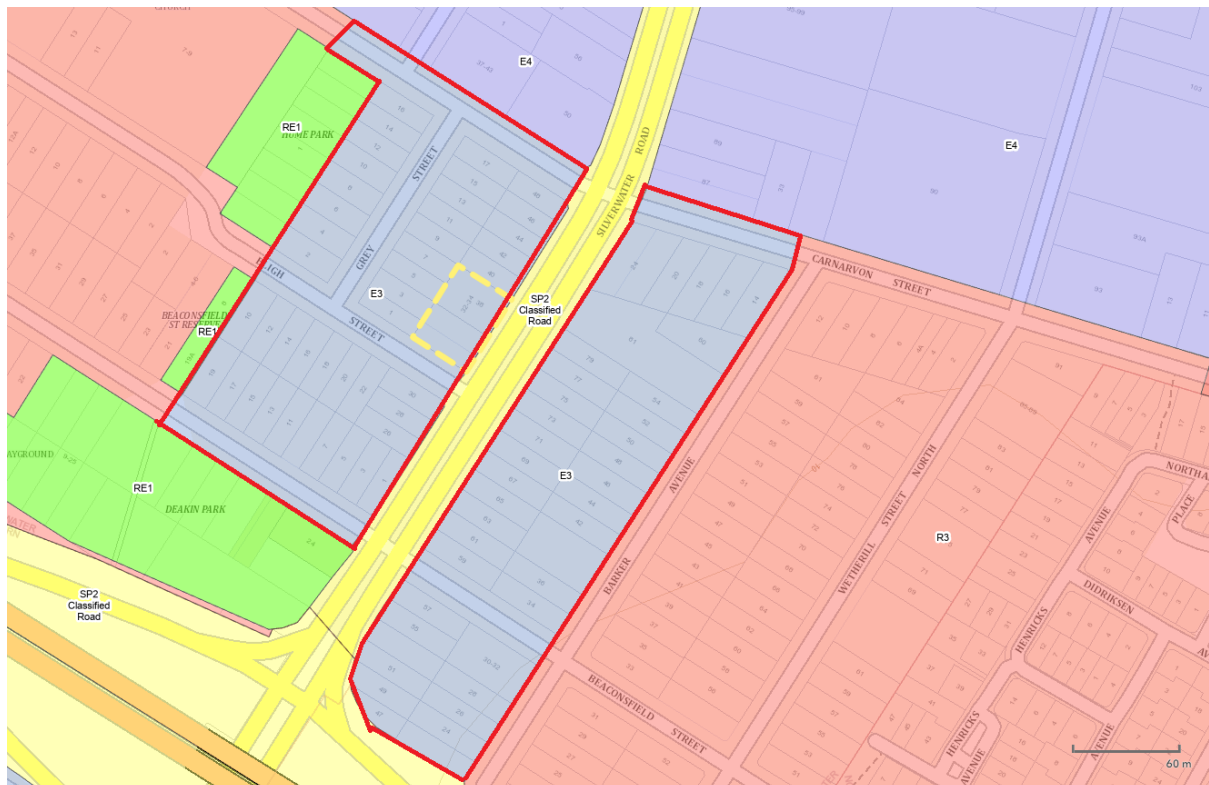
Gross Floor Area breakdown by use.

Pub (Not a registered club)	1299m <sup>2</sup>
Specialist Retail	6688m <sup>2</sup>
Food and Drink	1008m <sup>2</sup>
Neighbourhood Shop	86m <sup>2</sup>
Business Premises	2805m <sup>2</sup>
Office Premises	2042m <sup>2</sup>
Childcare Centre	825m <sup>2</sup>

Maximum FSR breakdown per Council's legal advice.

Base FSR – Max. 1:1. Must not exceed GFA of 7550.98m <sup>2</sup>	1.6:1 / 12,436m <sup>2</sup> (incl. corridors, amenities)
2C(a) – Max. 1.5:1. Must not exceed GFA of 3775.04 (+ Base FSR)	2.53:1 / 19124m <sup>2</sup>
2C(a) – Max. 2:1. Must not exceed GFA of 3775.04 (+ Base FSR + 2C(a))	2.8:1 / 21166m <sup>2</sup>

It is noted that Clause 4.4 2C(a) and (b) only apply to a portion of Silverwater Road as outlined in the diagram below (areas outlined in red).



To date, there have been no applications that use the provisions of Clause 4.4 2C(a) and (b).

## **Contamination**

Council is in receipt of a Phase 2 Detailed Site Investigation. Upon review of the Phase 2, the investigation found that there is contaminated groundwater present at the southern boundary where groundwater flow direction indicates a contaminated groundwater plume moving offsite in a west direction (within proximity to the location of the Childcare Centre). The report recommended that there be further investigations of the offsite contamination as the presence of chlorinated hydrocarbon impacted groundwater beyond the site is unknown.

Further, chlorinated solvent results of the former dry cleaner's area are reported at concentrations that may trigger a need to notify the NSW EPA under Section 60 of the CLM Act (1997). The report recommends that the buildings of the former dry cleaners remain vacant at this stage.

The Phase 2 Report was reviewed by Council's Environmental Health Officer (EHO) who raised concern that the report did not appear to provide any reasoning as to why the presence of the childcare centre did not cause the Health Investigation level to be increased from Level D to Level A. Accordingly, Council's EHO requires further information to clarify the appropriate Health Investigation Level considering that the site's proposed occupancy of a sensitive use (i.e., the Childcare Centre).

## **Air Quality**

An Air Quality Report was submitted and consequently reviewed by Council's EHO. Upon review of the report, Council's EHO requires additional information consisting of a further air quality report based on a 1-month air quality monitoring program using a low-cost sensor at the proposed development site to measure the existing air pollutant concentrations (PM10, PM2.5) to ensure impacts from the neighbouring industrial areas and road network are below the relevant criteria. The report is to consider any mitigating effects of the proposed development such as building facade, landscaping, and the elevated location of the childcare centre.

The request for additional testing is considered appropriate given its location within proximity to industrial uses and Silverwater Road.

## **Design Excellence**

Due to time constraints, the amended plans were reviewed by Council's Urban Design Excellence Team, rather than Council's Design Excellence Advisory Team (DEAP). In response to the amended plans, it was considered that it did not sufficiently address the issues raised by DEAP.

## **Public Domain**

Council's Urban Design – Public Domain provided comments with regards to the amended information. Upon review, it was considered that the non-compliant front setbacks, the lack of landscaping and the lack of public domain drawings in accordance with the Parramatta Public Domain Guidelines did not warrant support of the amended plans.

## **Universal Access**

Council's Universal Accessibility Officer reviewed the amended proposal however, issues with insufficient accessibility facilities on the ground floor, childcare centre and within common areas remain a concern.

## **Traffic**

Council's Traffic Engineer has reviewed the amended proposal and maintains that the shortfall in parking spaces for the development, pedestrian movements, the location of the driveway (which remain unchanged) in the amended plans despite the submission of a queuing analysis, and the proposed upgrades to the Silverwater Road and Carnarvon Street intersection and turning restrictions into the intersection of Grey Street and Carnarvon Street remain a concern.

## **Transport for NSW**

At the time of writing this report, Council has not received concurrence from TfNSW.

### **3. Council's Recommendation**

Council's concerns with the development remains. The proposal does not comply with the calculation of Gross Floor Area and maximum FSR for the site. The development also exceeds the FSR allowance as stated in Clause 4.4, subclause 2C(a) and 2C(b). Further, the proposal as amended also does not comply with the building envelopment controls applicable to the site and is therefore a bulk and scale that is unsuitable for the subject site.

There are significant concerns with relation to the existing contamination conditions of the site and that additional information is required for review and assessment prior to the finalisation of the current application.

Given the above, despite the attempts to provide a submission to Council to address concerns, insufficient information has been received to enable the assessment of the application. As such, Council recommends that the application be refused.

A supplementary assessment of the relevant policies is contained in Section 4 of this report.

### **4. Addendum to Section 4.15 Assessment**

The following table indicates the sections within the original Assessment Report (Appendix 1) and if any changes to its assessment are to be undertaken due to the submission of amended information.

#### **Proposal**

No change to the details of the proposal being the consolidation of existing lots, site works, tree removal, excavation works, provision of new civil engineering and utility services, construction of a part 3/4 storey mixed use development (comprising specialist retail, neighbourhood shops, food and drink premises, business premises, office premises, 2 storey pub and a childcare centre for 102 children), on-site parking for 423 vehicles, landscaping and signage zones.

#### **Permissibility**

The site is subject to a B6 Enterprise Corridor pursuant to ALEP 2010.

The uses contained within the proposed mixed use development are permissible in the B6 zone.

It is noted that under PLEP 2023, the site is zoned E3 Productivity Support. However, as the current DA was lodged on 16 September 2022, this application shall be assessed under Auburn Local Environmental Plan 2010.

### Public Notification

The amended plans were not re-advertised. The amended plans are not deemed to result in a greater or more serious impact. Therefore, in accordance with the *Consolidated Notifications Requirements*, the amended plans did not require re-advertising.

### Referrals

Given the outstanding matters raised by Council's internal referrals, the amended proposal cannot be supported.

**Table 1 – Referrals**

External Referrals	
TfNSW	To date, Council has not received concurrence from TfNSW pursuant to Clause 2.118 and Clause 2.22 of SEPP (Transport and Infrastructure) 2021 as such, the proposal as amended cannot be supported.
WaterNSW	The proposal requires concurrence from WaterNSW pursuant to Section 90(2) of the Water Management Act 2000 for water supply works. WaterNSW has issued its General Terms of Approval (GTA's) dated 5 July.
Internal Referrals	
Urban Design Excellence Team	<p>The amended proposal is not considered to achieve design excellence as the following concerns remain:</p> <p>The proposal presents as a logical layout response to the context however the development is not clearly organised and legible over the different levels. As noted in DEAP 2 "<i>The diagrams have not been translated into a legible structure</i>".</p> <p>The proposal has not addressed many of the issues noted in the DEAP report . These are:</p> <ul style="list-style-type: none"> <li>○ 2, no legible structure that allows the distribution of various uses and programmed spaces;</li> <li>○ 3, a complicated and confused roof design ;</li> <li>○ 5, the lack of consistency in the gallery and void spaces ;</li> <li>○ 6, the cramped entries;</li> <li>○ 8, the lack of generosity of corridors;</li> <li>○ 9, the relationship of the childcare to the circulation ;</li> <li>○ 10, the circulation is extended but it is mean and does not relate well to the gallery layout;</li> <li>○ 11, the 'wings' on the proposal have not been removed. They breach the setback but they also make the development visually dominant from the street;</li> <li>○ 14, the height breach;</li> <li>○ 17, the co-located driveways .</li> </ul> <ul style="list-style-type: none"> <li>• There is no clear legible structure to the proposal</li> <li>• The circulation spaces are cluttered. Noted 6 in DEAP report</li> <li>• The lifts and vertical circulation points are organised differently on every floor. Some have very tight access spaces.</li> <li>• The voids are not logically related to the levels, each other and the planting. They cause impediments to movement and confuse legibility. Within the space of 45 metres there are 3 voids of different shapes and surrounded by walkways of different widths.</li> <li>• The 3 voids on Level 2 extend to lower ground approximately 4 levels or 16.4metres. These proportions of height to width do not enable clear viewing between levels and it is not clear how they relate to the planting at each level.</li> <li>• One central void spanning the central area would be more successful at this scale of development.</li> </ul>



	<ul style="list-style-type: none"> <li>• The proposal breaches the height plane as noted at 14 in the DEAP report. I consider this to be less of an issue than breaching to street setbacks with the dominant wing forms over multiple levels. The exception to this is the wing at ground for the pub corner as noted by DEAP at 11.</li> <li>• The dual driveways impacts the retail at lower ground</li> <li>• The perspectives indicate that the glazing comes to ground rather than a solid base that edges the external paving.</li> <li>• The same drawing is nominated site plan and roof plan. It appears to be a roof plan.</li> <li>• There are too many issues that have been identified in the DEAP report that have not been addressed. The proposal requires a reduction in floor space and a clear legible structure.</li> </ul> <p><b>General Comments on Amended Plans</b></p> <ul style="list-style-type: none"> <li>• Walls, columns and voids are not aligned. These make the general public spaces unclear and the overall <ul style="list-style-type: none"> <li>◦ Eg The walls on the entrance spaces from Bligh Street do not align at lower ground . Do not align at ground and do not align between the lower ground and ground .</li> <li>◦ Eg The walls on the entrance spaces from Carnarvon Street do not align at ground</li> </ul> </li> <li>• The extent of all upper levels are not shown dotted over the lower levels.</li> <li>• It is not clear why there are separate A/C units on the front of the retail outlets. These should be incorporated in the retail spaces or designed within the elevations of the shops. Planter boxes in front of these should be removed.</li> <li>• The A/C units located on the corners of the retail outlets that have two frontages should be relocated away from the corners. These negatively impact sightlines and as these corners are the most visible they are ideal for display.</li> <li>• The retail on Bligh Street behind the WCs has very limited frontage on the lower ground and ground floor</li> <li>• Many of the planters confuse the spaces and there is no logical organisation of them over the different levels</li> <li>• There is a combination of curved corners and orthogonal corners that show no consistency Eg the lift lobby Level 1 is curved and all other lobby corners are orthogonal ; the upper level on the Grey Street elevation is curved but other entrances are orthogonal .</li> <li>• Sightlines are blocked by planters , A/C units are on corners of retail, planters are placed in front of A/C units, toilets are in dominant places and tables/ public furniture are wrongly scaled</li> </ul> <p><b>Basement 1 Floor Plan .</b></p> <ul style="list-style-type: none"> <li>• The walls containing the soil are to be full height masonry construction. The trunks of the trees are not to be visible in the basement . This is not deep soil as noted . Deep soil is soil that is on ground. The containers are to be checked by council landscape team to ensure that each container will enable healthy growth for two trees. I am assuming that the containers are located in the basement so that the trees are level with the lower ground floor.</li> </ul> <p><b>Lower Ground Floor.</b></p> <ul style="list-style-type: none"> <li>• The planters are not organised in a simple pattern. They confuse the spaces rather than delineating the spaces. The planters should be logically organised to form a legible pattern, define spaces through which people have sight lines and can move easily.</li> <li>• The 6 trees are presumably flush with the floor, but the central tree is in a raised planter.</li> <li>• The central tree blocks sight lines and is located where there would be maximum congestion.it should be removed</li> <li>• The entrance to the retail outlet on the north / east corner beside the driveways is difficult to access for a pedestrian because of the angle and the column</li> </ul> <p><b>Ground Floor</b></p> <ul style="list-style-type: none"> <li>• The six trees are not centrally within the void</li> <li>• The disabled access to the pub relies on a platform lift. Council does not accept these.</li> </ul>
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	<ul style="list-style-type: none"> <li>• It is not clear how far the ground level extends over the basement driveway and what the interface is</li> <li>• The tables and chairs appear to be at the wrong scale</li> <li>• The planters on the Silverwater Road entrance block the corners of the retail</li> <li>• There is an under-croft space on Grey Street ground floor. The level above this does not relate to the plan of the ground floor.</li> </ul> <p><b>Level 1</b></p> <ul style="list-style-type: none"> <li>• There are 4 voids in Level 1 over the ground floor. These do not relate one to another</li> <li>• There are 3 voids in Level 2. These voids extend to lower ground approximately 4 levels or 16.4metres.</li> <li>• The 4th void on Level 1 has no void above and relates poorly to the space below</li> <li>• The void over the escalators would work</li> <li>• It is questionable however if the other voids which have small footprints would create successful spaces or whether people would be looking down on the tops of trees given that the voids require high balustrades.</li> <li>• It may be better to have one void as an extension of the escalator void along the central space.</li> </ul> <p><b>Level 2</b></p> <ul style="list-style-type: none"> <li>• The circulation around the childcare is reduced and does not align with the lower levels as noted in item 5 of the DEAP report further confusing the spatial organisation</li> </ul> <p><b>Roof</b></p> <ul style="list-style-type: none"> <li>• The roof design with voids, panels of glazing, changes in levels and skylights of different shapes signifies the confused character of the proposal</li> </ul> <p><b>External Fenestration</b></p> <ul style="list-style-type: none"> <li>• There is a large amount of glazing. This is questioned in environmental terms. Also the glazing at the lower levels comes to the pavement without a masonry upstand.</li> </ul>
<b>Urban Design (Public Domain)</b>	<p>Council's Urban Designer (Public Domain) have reviewed the amended proposal and raised the following concerns:</p> <ul style="list-style-type: none"> <li>• The non-compliant street setbacks are not supported.</li> <li>• The development has not demonstrated that it provides the minimum 15% soft soil landscaping in accordance with the Auburn DCP.</li> <li>• The proximity of the basement entrance driveway and loading is not supported as it is not the best pedestrian outcome.</li> <li>• Provisions should be made to allow for additional street trees.</li> <li>• Existing overhead power lines is to be located below ground.</li> <li>• A Public Domain Alignment package has not been provided in accordance with the Parramatta Public Domain Guidelines.</li> </ul>
<b>Accessibility Officer</b>	<p>Council's Accessibility Officer has reviewed the amended proposal and raised the following concerns:</p> <ol style="list-style-type: none"> <li>1. No accessible facility has been provided in the Ground Floor Carnarvon Street retail sanitary facilities. An Accessible adult change facility has been provided however an adult change facility is an additional facility and does not replace an accessible sanitary facility.</li> <li>2. The sanitary facility towards the end of the eastern corridor within the childcare centre is required to be accessible</li> <li>3. Low level thresholds should be provided at all doors accessing outdoor areas.</li> <li>4. The Abutment of differing surfaces shall have a smooth transition. Design transition shall be 0 mm. Construction tolerances shall be as follows: <ol style="list-style-type: none"> <li>(a) 0 ±3 mm vertical.</li> <li>(b) 0 ±5 mm, provided the edges have a bevelled or rounded edge to reduce the likelihood of tripping. AS1428.1.7.2.</li> </ol> </li> <li>5. Equipment and furniture within the common areas will require accessible and inclusive features suitable for a person with a mobility and other impairments. Note: AS1428.2 provides guidance on accessible furniture including, reach ranges and varying heights of tables and seats with back and arm rests.</li> </ol>

<p><b>Traffic</b></p>	<p>Council's Traffic Engineer reviewed the amended plans and Traffic Report and raised the following concerns:</p> <ul style="list-style-type: none"> <li>• The proposed rate of 1 space per 17m<sup>2</sup> for the Licenced Premises cannot be accepted and the development is still considered to have a 150-space shortfall.</li> <li>• The proposed location of the driveway has not been changed however, the applicant has performed a queueing analysis.</li> <li>• The assumptions made for the analysis are not considered acceptable as it fails to consider the following: <ul style="list-style-type: none"> <li>• Traffic may be arriving into the car park in packs due to the signals at Silverwater Road.</li> <li>• There will be higher pedestrian activity due to active frontages along Grey Street and the pedestrian entry from this location. Accordingly, the queue analysis should consider the anticipated volume of pedestrians along the footpath and reconsider the appropriate wait times for vehicles.</li> </ul> </li> </ul> <p>Accordingly, this contention remains, and the development cannot be supported on traffic grounds unless the location of the driveway is revised such that it is as far away from the intersections as possible. Alternatively, a left turn slip lane in Carnarvon Street at Grey Street can be explored.</p> <ul style="list-style-type: none"> <li>• The proposed extension of the southbound right turn lane at the intersection of Silverwater Road and Carnarvon Street is supported. However, this matter, and other proposed upgrades to the intersection is to be considered and approved by TfNSW as well as Council as Silverwater Road is a classified road. As this matter is still in discussions (with TfNSW), a consent to this development must not be issued until an outcome of the discussion is known and a VPA to provide the third lane on the approach side of Carnarvon Street eastbound and/or any other mitigating works is reached.</li> <li>• The revised traffic report suggest that a roundabout could be installed at the intersection of Carnarvon Street and Vore Street. The proposed roundabout at this location is unlikely to achieve the desired outcome as it is still a significant distance away and motorists are more likely to perform illegal turns at Stanley Street and or Churchill Street</li> </ul> <p>Accordingly, the proposed development still cannot be supported on traffic grounds.</p> <p>However, it is considered that there may be a set of treatments that could be installed along Carnarvon Street to mitigate the Traffic concerns. It is recommended that the Applicant engage in discussions with Council's Traffic Services to develop suitable concept plans.</p> <ul style="list-style-type: none"> <li>• It is to be noted that the proposed development is likely to generate pedestrian movements to and from the site. Accordingly, the traffic report must take pedestrian desire lines into consideration and propose any pedestrian facilities within the surrounding road network to promote and ensure safe active transport to and from the site.</li> </ul>
<p><b>Environmental (Contamination)</b></p> <p><b>Health</b></p>	<p>Council's Environmental Health Officer (Contamination) reviewed the Phase 2 Detailed Investigation Report and raised the following concerns:</p> <ul style="list-style-type: none"> <li>• The southern portion of the site is contaminated due to the previous use as dry-cleaning business and indicates that there is a potential health risk to human and/or ecological health.</li> <li>• The southern portion of the site contains soil contaminants, vapour risks and a groundwater plume of dry-cleaning chemicals (PCE) and chlorinated hydrocarbons. The plume may have moved off-site under Bligh Street (within proximity to the proposed Childcare Centre).</li> <li>• The chlorinated solvent results of the former dry-cleaner's area are reported at concentrations that may trigger a need to notify the NSW EPA under Section 60 of the CLM Act (1997).</li> <li>• The consultant notes that, "...If the layout of the currently proposed building is altered to include residential indoor areas or other sensitive uses, then results</li> </ul>

	<p><i>from the Phase 2 must be compared against appropriate land use setting criteria for assessing health risks to residential site users from contaminated soil, soil vapour and groundwater”.</i></p> <p>However, the proposed development will contain a sensitive use (Childcare Centre). Sullivan’s report does not appear to provide reasoning as to why the presence of the proposed childcare centre did not cause the Health Investigation level to be increased from level D to level A.</p> <p><b>Recommendation</b></p> <p>That further information is requested to clarify the appropriate Health Investigation Level considering the site’s proposed occupancy of a sensitive use- childcare centre.</p> <p>The information is to be provided by a person with experience and qualifications in assessing contaminated sites.</p>
<b>Environmental Health (Air Quality)</b>	<p>Council’s Environmental Health Officer reviewed the Air Quality Report and requested that the following information be submitted to better inform the assessment of the development and the suitability of the proposed childcare centre in its location.</p> <ul style="list-style-type: none"> <li>• A further <b>air quality report</b> based on a 1 month air quality monitoring program using a low-cost sensor at the proposed development site to measure the existing air pollutant concentrations (PM10, PM2.5) to ensure impacts from the neighbouring industrial areas and road network are below the relevant criteria. The report is to consider any mitigating effects of the proposed development such as building facade, landscaping and the elevated location of the childcare centre.</li> </ul>
<b>Environmental Health (Waste)</b>	<p>Council’s Environmental Health (Waste) Officer has reviewed the additional information with regards to the waste management of the development. Upon review, Council’s EH Officer raised no further objections to the development subject to conditions of consent.</p>
<b>Landscape</b>	<p>Council’s Landscape Officer has reviewed the additional information with regards to the landscaping arrangements for the development. Upon review, Council’s Landscape Officer raised no further objections to the development subject to conditions of consent.</p>
<b>Development Engineer</b>	<p>Council’s Development Engineer has reviewed the additional information with regards to the landscaping arrangements for the development. Upon review, Council’s Development Engineer raised no further objections to the development subject to conditions of consent.</p>

### **Integrated Development**

A water supply work approval under the Water Management Act 2000 is required to be obtained. **Water NSW** has issued its GTA’s (IDAS11493000) dated 5 July 2023.

The development as amended is satisfactory in this regard.

### **SEPP (BIODIVERSITY AND CONSERVATION) 2021**

#### Chapter 2 - Vegetation in non-rural areas

Council’s Landscape Officer raised no objections to the removal of 8 trees subject to appropriate conditions of consent.

It is considered that the removal of 8 trees on site will not have an adverse impact of the ecological, heritage, and cultural significance of the area.

The development as amended is satisfactory in this regard.

### **SEPP (INDUSTRY AND EMPLOYMENT) 2021**

#### Chapter 3 - Advertising and signage

The assessment against this Chapter of the SEPP and Schedule 5 of the SEPP has not changed.

Due to the issues with the development design and built form, Council cannot support the proposal.

## **SEPP (RESILIENCE AND HAZARDS) 2021**

### Chapter 4 - Remediation of Land

A Phase 2 Detailed Site Investigation has been submitted. Concern is raised that the report has identified the presence of a contaminated groundwater at the southern site boundary and that the groundwater flow is moving off site in a south-western direction. It is noted that the childcare centre has a frontage to Bligh Street which is the southern boundary of the site.

Further, the portion of the site that previously contained a dry-cleaning use was identified as containing chlorinated solvents that were concentrations that may trigger notification to the NSW EPA under Section 60 of the CLM Act (1997).

Concern is raised that the Report refer to the results of the Phase 2 being compared against appropriate land use setting criteria when sensitive land uses are incorporated in the development. This has not occurred despite the inclusion of the childcare centre.

The Report was reviewed by Council's EHO and upon review, they require additional information to clarify the appropriate health investigation level considering that the development contains a childcare centre.

Council cannot determine if the proposal is suitable on the subject site (with regards to the childcare centre) as insufficient information has been received.

## **SEPP (TRANSPORT AND INFRASTRUCTURE) 2021**

### Chapter 2 - Infrastructure

See table below (Table 2).

### Chapter 3 - Educational Establishments and Childcare Facilities

Despite the amendments to the proposal, the application is not considered to be satisfactory with regards to the provisions of Chapter 3 of the SEPP and therefore, cannot be supported.

See tables below (Table 2 and Table 3).

**Table 2 – SEPP (Transport and Infrastructure 2021)**

<b>SEPP Section</b>	<b>Comment</b>
<b>Chapter 2 - Infrastructure</b>	
Development likely to affect electricity transmission or distribution networks	The site is located within proximity to electricity transmission lines as well as providing two new substations to service the development. Council has not referred the current application the relevant energy provider as its built form is not supported and is not appropriate for the site.
Development Adjacent to Rail Corridors	Not applicable. The site does not adjoin or is adjacent to a rail corridor.
Frontage to a Classified Road	The site has a frontage to Silverwater Road. The application was referred to Transport for NSW. To date, Council has not received concurrence from TfNSW.

Traffic Generating Development	The development is identified as traffic generating development and therefore was referred to TfNSW. As stated above, concurrence from TfNSW has not been issued and therefore, the amended proposal cannot be supported.
<b>Chapter 3 - Educational Establishments and Childcare Facilities</b>	
Centre based childcare facility – concurrence of Regulatory Authority required for certain development	Applicable. The proposal as amended departs from the minimum required outdoor play areas required under Regulation 108. The application does not seek concurrence with the Regulatory Authority for this departure. As such, the proposal cannot be supported.
Centre based childcare facility in Zone IN1 or IN2	Not applicable. The subject site is zoned B6 Enterprise Corridor.
Floor Space Ratio	Not applicable. The subject site is not zoned R2 Low Density Residential where a maximum 0.5:1 FSR would be applicable.
Non-discretionary development standards	<p><u>Location</u> – The site is not within proximity to another childcare centre.</p> <p><u>Indoor Space</u> – The proposal complies with the requirements under Regulation 107 of the Childcare Planning Guidelines and proposes indoor unencumbered space of 360m<sup>2</sup>.</p> <p><u>Outdoor Space</u> – The proposal requires a minimum 714m<sup>2</sup> of outdoor unencumbered space for 102 children under Regulation 108 of the Guidelines. The amended proposal provides 682m<sup>2</sup> as the amended plans have not excluded the door swing area from its calculations.</p> <p><u>Site Area and Dimensions</u> – The site is of a satisfactory size and shape.</p> <p><u>Colour of building and materials</u> – The proposed building materials and colours are satisfactory.</p>

**Table 3 – Childcare Planning Guidelines 2021**

Considerations and Requirements	Compliance/Discussion
<b>Part 3 – Matters for consideration</b>	
<b>3.1 Site selection and location</b>	
<p><b>C1</b> For proposed developments in or adjacent to a residential zone, consider:</p> <ul style="list-style-type: none"> <li>the acoustic and privacy impacts of the proposed development on the residential properties</li> <li>the setbacks and siting of buildings within the residential context</li> <li>traffic and parking impacts of the proposal on residential amenity.</li> </ul>	<p><b>No</b></p> <p>Council's previous concerns regarding the built form of the overall development remains. As amended the amended development is of a built form that is a scale and design that is out of character for the site and its immediate locality. The development remains largely 3 storeys with non-compliant street setbacks, exacerbating development scale particularly when the site is located amongst existing 1 storey residential developments in proximity. The lack of compliance with street setbacks continues to demonstrate a lack of regard to the quality of the public domain and streetscape presentation.</p> <p>Council's Urban Design Excellence Team has reviewed the amended plans and notes that DEAP's concerns regarding the childcare centre as having a lack of spatial clarity, legibility, and architectural integrity have not been satisfactorily addressed in the amended design.</p> <p>Council's Traffic Engineer has reviewed the proposal and overall does not support the application as it does not provide the required number of parking spaces, the inappropriate location</p>

	<p>of the driveway and the amount of additional traffic generated by the development is of a safety concern.</p> <p>Accordingly, despite the amendments, the amended proposal cannot be considered for approval.</p>
<p><b>C2</b> When selecting a site, ensure that:</p> <ul style="list-style-type: none"> <li>• the location and surrounding uses are compatible with the proposed development or use</li> <li>• the site is environmentally safe including risks such as flooding, land slip, bushfires, coastal hazards</li> <li>• there are no potential environmental contaminants on the land, in the building or the general proximity, and whether hazardous materials remediation is needed</li> <li>• the characteristics of the site are suitable for the scale and type of development proposed having regard to: <ul style="list-style-type: none"> <li>- size of street frontage, lot configuration, dimensions and overall size</li> <li>- number of shared boundaries with residential properties</li> <li>- the development will not have adverse environmental impacts on the surrounding area, particularly in sensitive environmental or cultural areas</li> </ul> </li> <li>• where the proposal is to occupy or retrofit an existing premises, the interior and exterior spaces are suitable for the proposed use</li> <li>• there are suitable drop off and pick up areas, and off and on street parking</li> <li>• the type of adjoining road (for example classified, arterial, local road, cul-de-sac) is appropriate and safe for the proposed use</li> <li>• it is not located closely to incompatible social activities and uses such as restricted premises, injecting rooms, drug clinics and the like, premises licensed for alcohol or gambling such as hotels, clubs, cellar door premises and sex services premises.</li> </ul>	<p><b>No</b></p> <p>The amended application has submitted a Phase 2 which determined that the site contains contaminated groundwater. Concern is also raised with regards to the quantity of site contamination due to the previous use of a portion of the site as a dry-cleaning business. Council's EHO further raises concerns that the Report has not considered the Childcare Centre within the development in its assessment as it did not result in the Health Investigation Level to be increased from Level D to Level A.</p> <p>It is considered that the amended plans do not in this instance reduce the excessive density and scale of the development and continuous to result in various amenity impacts within and external to the site. The changes have not addressed the lack of spatial clarity within the childcare centre nor is it likely to accommodate peak drop off/pick times within the lobby area.</p> <p>Drop off and pick up are located within the Level 2 Basement. Council's Traffic Engineer notes that the overall development, which includes the operations of the childcare centre will generate additional traffic that cannot be safely supported by the current design of the proposal. In this regard, the proposed childcare centre cannot be supported.</p>
<p><b>C3</b> A child care facility should be located:</p> <ul style="list-style-type: none"> <li>• near compatible social uses such as schools and other educational establishments, parks and other public open space, community facilities, places of public worship</li> <li>• near or within employment areas, town centres, business centres, shops</li> <li>• with access to public transport including rail, buses, ferries</li> <li>• in areas with pedestrian connectivity to the local community, businesses, shops, services and the like.</li> </ul>	<p>No Change to previous response as location of the child care centre remains the same.</p>
<p><b>C4</b> A child care facility should be located to avoid risks to children, staff or visitors and adverse environmental conditions arising from:</p> <ul style="list-style-type: none"> <li>• proximity to: <ul style="list-style-type: none"> <li>- heavy or hazardous industry, waste transfer depots or landfill sites</li> <li>- LPG tanks or service stations</li> <li>- water cooling and water warming systems</li> </ul> </li> </ul>	<p><b>No</b></p> <p>A Phase 2 and an Air Quality Report has been submitted. However, the Phase 2 identified the site as containing contaminated groundwater and excessive amounts of contamination in areas of the site due to a previous dry-cleaning use. Given this, concern is raised that the report does not appear to have considered the presence of the CCC within the development as it did not raise its Health Investigation Level from Level D to Level A for sensitive uses (such as residential</p>

<ul style="list-style-type: none"> <li>- odour (and other air pollutant) generating uses and sources or sites which, due to prevailing land use zoning, may in future accommodate noise or odour generating uses</li> <li>- extractive industries, intensive agriculture, agricultural spraying activities</li> <li>• any other identified environmental hazard or risk relevant to the site and/ or existing buildings within the site.</li> </ul>	<p>uses and childcare centres). Council's EHO has requested that this issue be further clarified. As this information for clarification has not been submitted, Council cannot support the proposal as amended.</p> <p>Upon review of the Air Quality Report, Council's EHO has requested that a 1-month air quality monitoring program be provided to measure the existing air pollutant concentrations to ensure impacts from the residential areas and road network are below the relevant criteria. This information has not been submitted to Council and therefore the proposal cannot be supported.</p>
<b>3.2 Local character, streetscape and the public domain interface</b>	
<p><b>C5</b> The proposed development should:</p> <ul style="list-style-type: none"> <li>• contribute to the local area by being designed in character with the locality and existing streetscape</li> <li>• reflect the predominant form of surrounding land uses, particularly in low density residential areas</li> <li>• recognise predominant streetscape qualities, such as building form, scale, materials and colours</li> <li>• include design and architectural treatments that respond to and integrate with the existing streetscape</li> <li>• use landscaping to positively contribute to the streetscape and neighbouring amenity</li> <li>• integrate car parking into the building and site landscaping design in residential areas.</li> </ul>	<p><b>No</b></p> <p>The development as amended, remains a bulk and scale that is unsuitable for its location. The proposal is the first development of this scale in the immediate locality. It also exceeds the maximum FSR and height for the site which is not justified given the ample site area. This also does not provide an appropriate transition to the R3 zones within proximity to the site. In this regard, such a development will result in an undesirable development precedent in this locality.</p> <p>The amended development does not provide the minimum deep soil areas required for a site of this size and therefore lacks any relationship with the streetscape and neighbouring amenity. The development has not provided a compliant street setback and in this instance reduces the opportunities for an appreciable public domain scheme that relates positively to the presentation on the streetscape.</p> <p>The development also maintains a vehicle access and parking that has not been adequately coordinated.</p> <p>For these reasons, Council cannot support the application.</p>
<p><b>C6</b> Create a threshold with a clear transition between public and private realms, including:</p> <ul style="list-style-type: none"> <li>• fencing to ensure safety for children entering and leaving the facility</li> <li>• windows facing from the facility towards the public domain to provide passive surveillance to the street as a safety measure and connection between the facility and the community</li> <li>• integrating existing and proposed landscaping with fencing.</li> </ul>	<p><b>Yes</b></p> <p>The amended plans are as per Council's assessment of the original report.</p>
<p><b>C7</b> On sites with multiple buildings and/or entries, pedestrian entries and spaces associated with the childcare facility should be differentiated to improve legibility for visitors and children by changes in materials, plant species and colours.</p>	<p><b>Yes</b></p> <p>The amended plans are as per Council's assessment of the original report.</p>
<p><b>C8</b> Where development adjoins public parks, open space or bushland, the facility should provide an appealing streetscape frontage by adopting some of the following design solutions:</p> <ul style="list-style-type: none"> <li>• clearly defined street access, pedestrian paths and building entries</li> </ul>	<p><b>N/A</b></p> <p>The site does not adjoin a public park, open spaces or bushland.</p>



<ul style="list-style-type: none"> <li>• low fences and planting which delineate communal/ private open space from adjoining public open space</li> <li>• minimal use of blank walls and high fences.</li> </ul>	
<p><b>C9</b> Front fences and walls within the front setback should be constructed of visually permeable materials and treatments.</p> <p><b>C10</b> High solid acoustic fencing may be used when shielding the facility from noise on classified roads. The walls should be setback from the property boundary with screen landscaping of a similar height between the wall and the boundary.</p>	<p><b>N/A</b></p> <p>The proposal does not seek approval for a front fence.</p>
<p><b>3.3 Building orientation, envelope and design</b></p>	
<p><b>C11</b> Orient a development on a site and design the building layout to:</p> <ul style="list-style-type: none"> <li>• ensure visual privacy and minimise potential noise and overlooking impacts on neighbours by:</li> </ul> <ul style="list-style-type: none"> <li>- facing doors and windows away from private open space, living rooms and bedrooms in adjoining residential properties</li> <li>- placing play equipment away from common boundaries with residential properties</li> <li>- locating outdoor play areas away from residential dwellings and other sensitive uses</li> <li>• optimise solar access to internal and external play areas</li> <li>• avoid overshadowing of adjoining residential properties</li> <li>• minimise cut and fill</li> <li>• ensure buildings along the street frontage define the street by facing it</li> <li>• ensure that where a child care facility is located above ground level, outdoor play areas are protected from wind and other climatic conditions.</li> </ul>	<p><b>No</b></p> <p>As discussed, the scale of the development given the breaches in height and FSR is not supported. Further, street setback encroachments are not considered to be satisfactory, resulting in a building envelope and footprint that is not envisaged on the site.</p> <p>The amended design of the childcare centre in particular lacks spatial and circulation quality which impacts on the overall legibility and architectural integrity of the facility.</p> <p>The location of the outdoor play areas which address Grey Street adequately buffers the residential premises from visual, and overshadowing impacts particularly given the ample separation between the two uses.</p> <p>The plans indicate that a full height glass screen is provided as a noise attenuating measure on the Grey Street corner as well as the Bligh Street frontage of the facility.</p> <p>The submitted Wind Report states that a windbreak feature is required for the full perimeter of the outdoor play area.</p>
<p><b>C12</b> The following matters may be considered to minimise the impacts of the proposal on local character:</p> <ul style="list-style-type: none"> <li>• building height should be consistent with other buildings in the locality</li> <li>• building height should respond to the scale and character of the street</li> <li>• setbacks should allow for adequate privacy for neighbours and children at the proposed child care facility</li> <li>• setbacks should provide adequate access for building maintenance</li> <li>• setbacks to the street should be consistent with the existing character.</li> </ul>	<p><b>No</b></p> <p>The built form which the childcare centre is a part of remains to exceed the maximum height and FSR for the site. In this regard, the proposal has not contemplated an appropriate development that responds to the scale and character of the street.</p> <p>It is noted that the street setbacks of the development are inconsistent with the requirements under Auburn DCP which adversely impacts the public domain as well as the streetscape presentation.</p> <p>Accordingly, the application cannot be supported.</p>
<p><b>C13</b> Where there are no prevailing setback controls minimum setback to a classified road should be 10 metres. On other road frontages where there are existing buildings within 50 metres, the setback should be the average of the two closest buildings. Where there are no buildings within 50 metres, the same setback is required for the predominant adjoining land use.</p>	<p><b>No</b></p> <p>Auburn DCP 2010 requires that development within this site be provided with a 3m setback along Bligh Street which this amended development does not comply with.</p>

<p><b>C14</b> On land in a residential zone, side and rear boundary setbacks should observe the prevailing setbacks required for a dwelling house.</p>	<p><b>N/A</b></p> <p>The site is not zoned residential.</p>
<p><b>C15</b> The built form of the development should contribute to the character of the local area, including how it:</p> <ul style="list-style-type: none"> <li>• respects and responds to its physical context such as adjacent built form, neighbourhood character, streetscape quality and heritage</li> <li>• contributes to the identity of the place</li> <li>• retains and reinforces existing built form and vegetation where significant</li> <li>• considers heritage within the local neighbourhood including identified heritage items and conservation areas</li> <li>• responds to its natural environment including local landscape setting and climate</li> <li>• contributes to the identity of place.</li> </ul>	<p>Yes</p> <p>The development as amended has provided a landscape setting for the childcare centre that responds to the local setting and contributes to the identity of the place.</p>
<p><b>C16</b> Entry to the facility should be limited to one secure point which is:</p> <ol style="list-style-type: none"> <li>1 Located to allow ease of access, particularly for pedestrians;</li> <li>2 Directly accessible from the street where possible;</li> <li>3 Directly visible from the street frontage;</li> <li>4 Easily monitored through natural or camera surveillance;</li> <li>5 Not accessed through an outdoor play area; and</li> <li>6 In a mixed-use development, clearly defined and separate from entrances to other uses in the building.</li> </ol>	<p>Yes</p> <p>The amended plans are as per Council's assessment of the original report.</p>
<p><b>C17</b> Accessible design can be achieved by:</p> <ol style="list-style-type: none"> <li>1 Providing accessibility to and within the building in accordance with all relevant legislation;</li> <li>2 Linking all key areas of the site by level or ramped pathways that are accessible to prams and wheelchairs, including between all car parking areas and the main building entry;</li> <li>3 Providing a continuous path of travel to and within the building, including access between the street entry and car parking and main building entrance. Platform lifts should be avoided where possible; and</li> <li>4 Minimising ramping by ensuring building entries and ground floors are well located relative to the level of the footpath.</li> </ol> <p>NOTE: The <i>National Construction Code</i>, the <i>Discrimination Disability Act 1992</i> and the <i>Disability (Access to Premises – Buildings) Standards 2010</i> set out the requirements for access to buildings for people with disabilities.</p>	<p><b>No</b></p> <p>Council's Universal Access and Design Officer has reviewed the proposal and upon review, does not support the development in its current form. Accordingly, the proposal cannot be supported.</p>
<p><b>3.4 Landscaping</b></p>	
<p><b>C18</b> Appropriate planting should be provided along the boundary integrated with fencing. Screen planting should not be included in</p>	<p><b>No</b></p>

<p>calculations of unencumbered outdoor space. Use the existing landscape where feasible to provide a high quality landscaped area by:</p> <ul style="list-style-type: none"> <li>• reflecting and reinforcing the local context</li> <li>• incorporating natural features of the site, such as trees, rocky outcrops and vegetation communities into landscaping.</li> </ul> <p><b>C19</b> Incorporate car parking into the landscape design of the site by:</p> <ul style="list-style-type: none"> <li>• planting shade trees in large car parking areas to create a cool outdoor environment and reduce summer heat radiating into buildings</li> <li>• taking into account streetscape, local character and context when siting car parking areas within the front setback</li> <li>• using low level landscaping to soften and screen parking areas.</li> </ul>	<p>Amended plans have provided doors that swing out to the outdoor play areas. The areas where the door swing out have not been excluded in the calculation of outdoor play areas. As such, the amount of outdoor play areas does not meet the minimum required for 102 children. Therefore, as insufficient outdoor play areas have been provided, the proposal landscaping as it relates to the childcare centre is unsatisfactory.</p>
<b>3.5 Visual and acoustic privacy</b>	
<b>C20</b> Open balconies in mixed use developments should not overlook facilities nor overhang outdoor play spaces.	<p><b>N/A</b></p> <p>The childcare centre whilst located within a mixed-use development, does not contain a residential component.</p>
<p><b>C21</b> Minimise direct overlooking of indoor rooms and outdoor play spaces from public areas through:</p> <ol style="list-style-type: none"> <li>1 Appropriate site and building layout;</li> <li>2 Suitably locating pathways, windows and doors; and</li> <li>3 Permanent screening and landscape design.</li> </ol>	<p>Yes</p> <p>The amended plans are as per Council's assessment of the original report.</p>
<p><b>C22</b> Minimise direct overlooking of main internal living areas and private open spaces in adjoining developments through:</p> <ol style="list-style-type: none"> <li>1 Appropriate site and building layout;</li> <li>2 Suitable location of pathways, windows and doors; and</li> <li>3 Landscape design and screening.</li> </ol>	<p>Yes</p> <p>The amended plans are as per Council's assessment of the original report.</p>
<p><b>C23</b> A new development, or development that includes alterations to more than 50 per cent of the existing floor area, and is located adjacent to residential accommodation should:</p> <ol style="list-style-type: none"> <li>1 Provide an acoustic fence along any boundary where the adjoining property contains a residential use. (An acoustic fence is one that is a solid, gap free fence); and</li> <li>2 Ensure that mechanical plant or equipment is screened by solid, gap free material and constructed to reduce noise levels e.g. acoustic fence, building, or enclosure.</li> </ol>	<p>Yes</p> <p>The plans indicate that a full height glass screen is provided as a noise attenuating measure on the Grey Street corner as well as the Bligh Street frontage of the facility.</p>
<p><b>C24</b> A suitably qualified acoustic professional should prepare an acoustic report which will cover the following matters:</p> <ol style="list-style-type: none"> <li>1 Identify an appropriate noise level for a child care facility located in residential and other zones;</li> </ol>	<p>Yes</p> <p>Council's Health (Acoustic) Officer has reviewed the proposal and the Acoustic Report submitted with the application and raised no objections based on the requirements of C24.</p>

<p>2 Determine an appropriate background noise level for outdoor play areas during times they are proposed to be in use; and</p> <p>3 Determine the appropriate height of any acoustic fence to enable the noise criteria to be met.</p>	
<b>3.6 Noise and air pollution</b>	
<p><b>C25</b> Adopt design solutions to minimise the impacts of noise, such as:</p> <ul style="list-style-type: none"> <li>• creating physical separation between buildings and the noise source</li> <li>• orienting the facility perpendicular to the noise source and where possible buffered by other uses</li> <li>• using landscaping to reduce the perception of noise</li> <li>• limiting the number and size of openings facing noise sources</li> <li>• using double or acoustic glazing, acoustic louvres or enclosed balconies (wintergardens)</li> <li>• using materials with mass and/or sound insulation or absorption properties, such as solid balcony balustrades, external screens and soffits</li> <li>• locating cot rooms, sleeping areas and play areas away from external noise sources.</li> </ul> <p><b>C26</b> An acoustic report should identify appropriate noise levels for sleeping areas and other non play areas and examine impacts and noise attenuation measures where a child care facility is proposed in any of the following locations:</p> <ul style="list-style-type: none"> <li>• on industrial zoned land</li> <li>• where the ANEF contour is between 20 and 25, consistent with AS 2021 – 2000</li> <li>• along a railway or mass transit corridor, as defined by State Environmental Planning Policy (Infrastructure) 2007</li> <li>• on a major or busy road</li> <li>• other land that is impacted by substantial external noise.</li> </ul>	<p>Yes</p> <p>The amended plans are as per Council's assessment of the original report.</p>
<p><b>C27</b> Locate child care facilities on sites which avoid or minimise the potential impact of external sources of air pollution such as major roads and industrial development.</p> <p><b>C28</b> A suitably qualified air quality professional should prepare an air quality assessment report to demonstrate that proposed child care facilities close to major roads or industrial developments can meet air quality standards in accordance with relevant legislation and guidelines. The air quality assessment report should evaluate design considerations to minimise air pollution such as:</p> <ul style="list-style-type: none"> <li>• creating an appropriate separation distance between the facility and the pollution source.</li> </ul> <p>The location of play areas, sleeping areas and</p>	<p><b>No</b></p> <p>The overall development has a frontage to Silverwater Road and is located opposite industrial uses on Carnarvon Street.</p> <p>See comments under <b>C4</b> of this table.</p>

<p>outdoor areas should be as far as practicable from the major source of air pollution</p> <ul style="list-style-type: none"> <li>• using landscaping to act as a filter for air pollution generated by traffic and industry. Landscaping has the added benefit of improving aesthetics and minimising visual intrusion from an adjacent roadway</li> <li>• incorporating ventilation design into the design of the facility.</li> </ul>	
<b>3.7 Hours of operation</b>	
<b>C29</b> Hours of operation within areas where the predominant land use is residential should be confined to the core hours of 7.00am to 7.00pm weekdays. The hours of operation of the proposed child care facility may be extended if it adjoins or is adjacent to non-residential land uses.	<p><b>No</b></p> <p>The development proposes operating hours of Monday to Friday 6:45am to 7pm. The development is also opposite residential premises on Blight Street.</p>
<b>C30</b> Within mixed use areas or predominantly commercial areas, the hours of operation for each child care facility should be assessed with respect to its compatibility with adjoining and co-located land uses.	<p><b>No</b></p> <p>The childcare facility is to be located within a mixed-use development where it is also within proximity to residential and industrial uses. The proposed operating hours is varied by 15mins in the morning coincides and results in contribution to peak traffic within the locality.</p>
<b>3.8 Traffic, parking and pedestrian circulation</b>	
<b>C31</b> Off street car parking should be provided at the rates for child care facilities specified in a Development Control Plan that applies to the land.	<p><b>No</b></p> <p>As previously discussed, the modified development does not meet the minimum car parking requirements. Further, the current proposal generates traffic that has not been satisfactorily addressed and considered within the current development. As such, both Council's Traffic Engineer and TfNSW have not been able to support the application in its amended form.</p>
<b>C32</b> In commercial or industrial zones and mixed use developments, on street parking may only be considered where there are no conflicts with adjoining uses, that is, no high levels of vehicle movement or potential conflicts with trucks and large vehicles.	<p><b>N/A</b></p> <p>On-street parking has not been nominated for consideration for the proposed childcare centre.</p>
<p><b>C33</b> A Traffic and Parking Study should be prepared to support the proposal to quantify potential impacts on the surrounding land uses and demonstrate how impacts on amenity will be minimised. The study should also address any proposed variations to parking rates and demonstrate that:</p> <ol style="list-style-type: none"> <li>1 The amenity of the surrounding area will not be affected; and</li> <li>2 There will be no impacts on the safe operation of the surrounding road network.</li> </ol>	<p><b>No</b></p> <p>Council's Traffic Engineer has requested amended information. Further, TfNSW has not issued its concurrence with regards to the amended proposal. Accordingly, a final assessment of the traffic impacts of the development could not be completed. As such, the proposal cannot be considered for approval.</p>
<p><b>C37</b> Mixed use developments should include:</p> <ol style="list-style-type: none"> <li>1 Driveway access, manoeuvring areas and parking areas for the facility that are separate to parking and manoeuvring areas used by trucks;</li> <li>2 Drop off and pick up zones that are exclusively available for use during the facility's operating hours with spaces clearly marked accordingly, close to the main entrance and preferably at the same floor level. Alternatively, direct access should avoid crossing driveways or manoeuvring</li> </ol>	<p><b>No</b></p> <p>The driveway access to the basement of the development is located within proximity of the corner of Carnarvon Street and Grey Street. Concern is raised that the additional traffic generated by the development will result in queuing on Grey Street to access the site. Whilst a Queuing analysis has been submitted, it has failed to consider, cars arriving in packs due to the signals at Silverwater Road and the higher pedestrian activity which has not been considered given the wait times required to allow them to move along the footpath safely.</p>

<p>areas used by vehicles accessing other parts of the site; and</p> <p>3 Parking that is separate from other uses, located and grouped together and conveniently located near the entrance or access point to the facility.</p>	<p>Further, that the proposed left in/left out restriction at the intersection of Grey Street and Carnarvon Street will encourage risky behaviour by undertaking a U-Turn at the intersection of Carnarvon Street and Churchill Street instead of using the roundabout on the intersection of Carnarvon Street and Stubbs Street.</p> <p>A review of the basement Level 2 plan indicate that drop off and pick up zones are provided for the exclusive use of the facility and is clearly marked and located close to the entrance.</p> <p>The parking allocated for the childcare centre is located and grouped together near the access point to the facility in Basement Level 2.</p>
<b>Part 4 – Applying the National Regulations to development proposals</b>	
<b>4.1 Indoor space requirements</b>	
<p><b>Regulation 107 Education and Care Services National Regulations</b></p> <p>Every child being educated and cared for within a facility must have a minimum of 3.25m<sup>2</sup> of unencumbered indoor space.</p>	<p><b>Yes</b></p> <p>Required – 331.5m<sup>2</sup>. Proposed – 360m<sup>2</sup>.</p>
<p><b>Verandahs as indoor space</b></p> <p>For a verandah to be included as unencumbered indoor space, any opening must be able to be fully closed during inclement weather. It can only be counted once and therefore cannot be counted as outdoor space as well as indoor space (refer to Figure 1).</p> <p><b>Storage</b></p> <p>Storage areas including joinery units are not to be included in the calculation of indoor space. To achieve a functional unencumbered area free of clutter, storage areas must be considered when designing and calculating the spatial requirements of the facility. It is recommended that a child care facility provide:</p> <p>1 A minimum of 0.3m<sup>3</sup> per child of external storage space; and</p> <p>2 A minimum of 0.2m<sup>3</sup> per child of internal storage space.</p> <p>Storage of items such as prams, bikes and scooters should be located adjacent to the building entrance.</p>	<p><b>N/A</b></p> <p>A verandah is proposed however it is allocated as an outdoor play area.</p> <p><b>Yes</b></p> <p>Required External storage – 30.6m<sup>3</sup> Internal storage – 20.4m<sup>3</sup></p> <p>Provided External storage – 66m<sup>3</sup> Internal storage – 38.5m<sup>3</sup></p> <p><b>Yes</b></p> <p>A pram storage area has been provided.</p>
<b>4.2 Laundry and hygiene facilities</b>	
<p><b>Regulation 106 Education and Care Services National Regulations</b></p> <p>There must be laundry facilities or access to laundry facilities; or other arrangements for dealing with soiled clothing, nappies and linen, including hygienic facilities for storage prior to their disposal or laundering. The laundry and hygienic facilities must be located and maintained in a way that does not pose a risk to children.</p>	<p><b>Yes</b></p> <p>A laundry facility is provided.</p>
<b>4.3 Toilet and hygiene facilities</b>	
<p><b>Regulation 109 Education and Care Services National Regulations</b></p> <p>A service must ensure that adequate, developmentally, and age-appropriate toilet, washing and drying facilities are provided for use by children being educated and cared for by the service; and the location and design of the toilet, washing and drying facilities enable</p>	<p><b>Yes</b></p> <p>Detailed Elevation/section plans of the toilet and hygiene facilities have been provided and is considered to be satisfactory with regards to compliance with this section/Regulation.</p>

safe use and convenient access by the children. Child care facilities must comply with the requirements for sanitary facilities that are contained in the <i>National Construction Code</i> .	
<b>4.4 Ventilation and natural light</b>	
<b>Regulation 110 Education and Care Services National Regulations</b> Services must be well ventilated, have adequate natural light, and be maintained at a temperature that ensures the safety and wellbeing of children. Child care facilities must comply with the light and ventilation and minimum ceiling height requirements of the <i>National Construction Code</i> . Ceiling height requirements may be affected by the capacity of the facility.	<b>No</b>  It has not been demonstrated that the childcare facility will receive sufficient solar access and ventilation, particularly as the overall development is of a bulk and scale that is not envisaged in this location.
<b>4.5 Administrative space</b>	
<b>Regulation 111 Education and Care Services National Regulations</b> A service must provide adequate area or areas for the purposes of conducting the administrative functions of the service, consulting with parents of children and conducting private conversations.	<b>Yes</b>  A meeting room is provided within the facility for the purposes of conducting the administrative functions of the service and consultations.
<b>4.6 Nappy change facilities</b>	
<b>Regulation 112 Education and Care Services National Regulations</b> Child care facilities must provide for children who wear nappies, including appropriate hygienic facilities for nappy changing and bathing. All nappy changing facilities should be designed and located in an area that prevents unsupervised access by children. Child care facilities must also comply with the requirements for nappy changing and bathing facilities that are contained in the <i>National Construction Code</i> .	<b>Yes</b>  A nappy change facility has been provided.
<b>4.7 Premises designed to facilitate supervision</b>	
<b>Regulation 115 Education and Care Services National Regulations</b> A centre-based service must ensure that the rooms and facilities within the premises (including toilets, nappy change facilities, indoor and outdoor activity rooms and play spaces) are designed to facilitate supervision of children at all times, having regard to the need to maintain their rights and dignity. Child care facilities must also comply with any requirements regarding the ability to facilitate supervision that are contained in the <i>National Construction Code</i> .	<b>Yes</b>  Details demonstrating compliance to the design guidance of Section 4.6 of the guidelines has been provided and is satisfactory with regards to this section/Regulation.
<b>4.8 Emergency and evacuation procedures</b>	
<b>Regulations 97 and 168 Education and Care Services National Regulations</b> Regulation 168 sets out the list of procedures that a care service must have, including procedures for emergency and evacuation. Regulation 97 sets out the detail for what those procedures must cover including:  1 Instructions for what must be done in the event of an emergency; 2 An emergency and evacuation floor plan, a copy of which is displayed in a prominent position near each exit; and	<b>Yes</b>  An emergency evacuation plan has been submitted with the application.

3 A risk assessment to identify potential emergencies that are relevant to the service.	
<b>4.9 Outdoor space requirements</b>	
<p><b>Regulation 108 Education and Care Services National Regulations</b></p> <p>An education and care service premises must provide for every child being educated and cared for within the facility to have a minimum of 7.0m<sup>2</sup> of unencumbered outdoor space.</p> <p>Unencumbered outdoor space excludes any of the following:</p> <ol style="list-style-type: none"> <li>1 Pathway or thoroughfare, except where used by children as part of the education and care program;</li> <li>2 Car parking area;</li> <li>3 Storage shed or other storage area;</li> <li>4 Laundry; and</li> <li>5 Other space that is not suitable for children.</li> </ol> <p>Calculating unencumbered space for outdoor areas should not include areas of dense hedges or plantings along boundaries which are designed for landscaping purposes and not for children's play (refer to Figures 9 and 10).</p>	<p><b>No</b></p> <p>Required – 714m<sup>2</sup> Proposed – 682m<sup>2</sup></p> <p>As the minimum outdoor play areas have not been provided, the proposal cannot be considered for support.</p>
<b>4.10 Natural environment</b>	
<p><b>Regulation 113 Education and Care Services National Regulations</b></p> <p>The approved provider of a centre-based service must ensure that the outdoor spaces allow children to explore and experience the natural environment.</p>	<p><b>No</b></p> <p>See comment under <b>C18</b>.</p>
<b>4.11 Shade</b>	
<p><b>Regulation 114 Education and Care Services National Regulations</b></p> <p>The approved provider of a centre-based service must ensure that outdoor spaces include adequate shaded areas to protect children from overexposure to ultraviolet radiation from the sun.</p>	<p><b>Yes</b></p> <p>The roof is extended over the outdoor play area.</p>
<b>4.12 Fencing</b>	
<p><b>Regulation 104 Education and Care Services National Regulations</b></p> <p>Any outdoor space used by children must be enclosed by a fence or barrier that is of a height and design that children preschool age or under cannot go through, over or under it. Child care facilities must also comply with the requirements for fencing and protection of outdoor play spaces that are contained in the <i>National Construction Code</i>.</p>	<p><b>Yes</b></p> <p>A full glass height screen is located along the building edge and behind that a 1.2m high planters.</p>
<b>4.13 Soil assessment</b>	
<p><b>Regulation 25 Education and Care Services National Regulations</b></p> <p>Subclause (d) of regulation 25 requires an assessment of soil at a proposed site, and in some cases, sites already in use for such purposes as part of an application for service approval. With every service application one of the following is required:</p> <ol style="list-style-type: none"> <li>1 A soil assessment for the site of the proposed education and care service premises;</li> </ol>	<p><b>No</b></p> <p>See discussion under <b>C2</b> of the Guidelines.</p>



<p>2 If a soil assessment for the site of the proposed child care facility has previously been undertaken, a statement to that effect specifying when the soil assessment was undertaken; and</p> <p>A statement made by the applicant that states, to the best of the applicant's knowledge, the site history does not indicate that the site is likely to be contaminated in a way that poses an unacceptable risk to the health of children.</p>	
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### **Parramatta LEP 2023**

In accordance with Clause 1.8A – Savings Provisions of PLEP 2023, as the current DA was lodged on prior to 2 March 2023, it shall be assessed under Auburn Local Environmental Plan 2010.

It is noted that under PLEP 2023 the site is zoned E3 Productivity Support. Further, that there are no provisions that permit additional FSR on the sites zoned E3 Productivity Support when certain uses are proposed. As such, any development on the subject site is restricted to a maximum FSR of 1:1 under PLEP 2023.

### **Auburn LEP 2010**

#### Clause 4.3 - Height

The amended plans do not change the proposed height of the development. The development is maintained at 4 storeys / 15.68m to roof and 16.88m to lift overrun. A Clause 4.6 variation was submitted with the proposal. Given this, the assessment of the variation against the provisions of Clause 4.6 of Auburn LEP 2010 remains unchanged.

To reiterate, Council maintains that the applicant's request to vary the height should not be supported for the following reasons.

- The amended proposal is not consistent with the objectives of the height development standard, as it is not compatible with the bulk, scale and character of the existing and future surrounding development, nor does it enable appropriate development density.
- There are not sufficient environmental planning grounds to justify the departure, in particular the objectives and controls of Auburn DCP 2010.

#### Clause 4.4 - FSR

Council has received external legal advice with regards to the calculation and application of the maximum FSR for the site. As stated elsewhere in this report, the legal advice (Attachment A) states that the FSR should not be stacked and that the highest FSR for the site as nominated in Clause 4.4, subclause 2C is also to be the maximum FSR for the site – this being 2:1.

Further, given the mixture of uses proposed, some of these uses attract incentive FSR allowance and is interpreted as follows:

Control	Component of development	Maximum FSR
Base FSR	<ul style="list-style-type: none"> <li>neighbourhood shops</li> <li>business premises</li> <li>food and drink premises</li> </ul>	Other uses must not exceed 1:1
	<ul style="list-style-type: none"> <li>pub (unless a registered club)</li> <li>centre-based childcare centre</li> </ul> Referred to as "other uses"	
2C(a)	<ul style="list-style-type: none"> <li>specialist retail</li> <li>the "pub" (if it is a registered club)</li> </ul> Referred to as "specialised uses"	Other uses + specialised uses must not exceed 1.5:1, and "other uses" must still comply with base FSR (ie be 1:1 or less.)
2C(b)	<ul style="list-style-type: none"> <li>office premises</li> </ul>	Other uses + specialised uses + office premises must not exceed 2:1, and: <ul style="list-style-type: none"> <li>"other uses" + "specialised uses" must still comply with 2C(a) (ie be 1.5:1 in total or less), and</li> <li>"other uses" must still comply with Base FSR (ie be 1:1 in total or less).</li> </ul>

The Gross Floor Area of the development is calculated as follows:

Level	GFA
LG	4,950m <sup>2</sup>
Mezzanine	215m <sup>2</sup>
Ground	5471m <sup>2</sup>
First	5,806m <sup>2</sup>
Second	4,724m <sup>2</sup>
<b>Total GFA</b>	<b>21,166m<sup>2</sup></b>
Site Area	7,550.08m <sup>2</sup>
<b>Max FSR</b>	<b>15,100.16m<sup>2</sup> as per Council's Legal Advice</b>
<b>Variation</b>	<b>6065.84m<sup>2</sup> (40%)</b>
<b>FSR</b>	<b>2.8:1</b>

**GFA per Clause 4.4, subclause 2C(a) and 2C(b)**

Pub (Not a Registered Club) = 1299m<sup>2</sup>

Specialist Retail = 6688m<sup>2</sup>

Food and Drink = 1008m<sup>2</sup>

Neighbourhood Shop = 86m<sup>2</sup>

Business = 2805m<sup>2</sup>

Office = 2042m<sup>2</sup>

CCC = 825m<sup>2</sup>

As per Clause 4.4, the following also applies:

FSR as per LEP	Max GFA	Proposed GFA for this portion	Proposed FSR
Base FSR <b>1:1</b>	must not exceed: 7,550.08m <sup>2</sup>	12,436m <sup>2</sup>	1.6:1
2C(a) which includes 0.5:1 bonus for certain uses = <b>1.5:1</b>	must not exceed: 3,775.04m <sup>2</sup>	6,688m <sup>2</sup> or total of 19124m <sup>2</sup> (incl base uses/corridors etc)	2.53:1
2C(b) which includes another 0.5:1 bonus for certain uses = <b>2.0:1</b>	must not exceed: 3,775.04m <sup>2</sup>	2,042m <sup>2</sup> or total of 21,166m <sup>2</sup> (incl base uses, specialist uses)	2.8:1

As previously mentioned, whilst the roof has been amended to increase the number of 'open' areas, this does not continue to all the levels as some levels are covered by virtue of the floor above. Therefore, corridor areas where it is covered by the floor above was included in the calculation of GFA. Accordingly, Council's previous statements contained in the original assessment remains unchanged with regards to the calculation of corridors.

Further, Council's Urban Design Excellence Team upon review of the changes to the roof design notes that it appears confusing and that it does not contribute to the character.

It is also noted that storage areas on the lower ground floor were included in Council's calculation of GFA as these areas are not located within a 'basement' as the lower ground floor in this location protrudes above NGL by more than 1m.

The applicant has not submitted a Clause 4.6 to support the variation to the maximum provisions under Clause 4.4 – FSR. However, given the significant departure of 40% to the maximum FSR of the development, any variations to this extent cannot be considered for support.

#### Clause 6.2 - Earthworks

Additional information submitted to allow Council's Development Engineer to assess the provisions of this clause. Upon review, Council's Development Engineer raised no further objections to the proposal as amended on the grounds of earthworks, subject to conditions of consent.

#### **Auburn DCP 2010**

See compliance table (Table 4) below.

Table 4 – Auburn DCP 2010 Assessment

Section 4.1 – Auburn DCP 2010	<p><b><u>2.0 Built Form</u></b></p> <p>The amended plans were reviewed by Council's Urban Design Excellence Team. Upon review, concerns were raised with regards to logical internal planning, confusing design arrangements particularly with regards to the internal voids, the significant amount of glazing and a lack of clear structure. Given this, the amended proposal is considered to lack a legible and well-presented built form. Further, the proposal significant departs from the FSR for the site and is therefore not a built form and scale envisaged on the site.</p> <p>No changes were made to comply with the street setbacks or to amend the design of the corners which contain floor area, exacerbating the mass to these areas upon presentation to the street.</p> <p>The development maintains a built form that is part 3 storeys and 4 storeys. As such, the proposal is not considered to be consistent with the existing character of the locality.</p> <p>Accordingly, the proposal as amended cannot be supported.</p> <p><b><u>3.0 Streetscape and Urban Character</u></b></p>	<b>Not compliant.</b>
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Childcare Centres	Front Setbacks – No changes are proposed under the amended application.	<b>Not compliant.</b>
	<b><u>4.0 Landscaping</u></b> Min 15% of the site = 1132.51m <sup>2</sup> Provided = 593m <sup>2</sup> (7%)	<b>Not compliant.</b>
	It is noted that whilst a deep soil zone area is nominated along the Silverwater Road frontage on the Lower Ground Floor plan, this same area on the Ground Floor plan appears to be concreted/tiled as it meets the public domain. Accordingly, only the areas with landscaping on the ground floor was included in the calculation of landscaping.	
	Council's Urban Designer do not support the amended proposal in its modified form as insufficient information has been submitted with regards to the provision of satisfactory public domain alignment drawings.	
	<b><u>5.0 Access and Car Parking</u></b> 418 parking spaces are provided.	<b>Not compliant.</b>
	The proposed development has 150 parking shortfall.	
	<u>Service Areas</u> Council's Environmental Health Officer (Waste) has reviewed the proposal and upon review of the additional information, raised no further objections with regards to waste management, subject to conditions of consent.	Complies
	<b><u>6.0 Stormwater Drainage</u></b> Council's Development Engineer has reviewed the amended plans and upon review raised no further objections, subject to conditions of consent. The proposal complies in this regard.	Complies
	<b><u>7.0 Energy Efficiency and Water Conservation</u></b> DEAP and Council's Urban Design Excellence Team has noted the significant portions of the amended development which proposes glazing and that this is not considered to contribute to an energy efficient design.	<b>Not compliant.</b>
	<b><u>8.0 Operational Conditions</u></b> <u>Hours of Operation</u> The development is not for an industrial use. Notwithstanding, the traffic impacts of a result of the scale of the development remains a challenge for the proposal as vehicle access, vehicle queuing and insufficient amelioration measures on the local traffic network from the additional traffic generation has not been satisfactorily addressed.	<b>Not compliant.</b>
	<b><u>2.0 Design</u></b> Council's Urban Design Excellence Team notes that the amended plans continue to present with circulation issues which does not align over lower levels as recommended by DEAP's original recommendations, which further confuses spatial organisation.	<b>Not compliant.</b>
	<b><u>3.0 Indoor Areas and facilities</u></b> Transition areas have not been indicated on the plans.	<b>Not compliant.</b>

<b>Advertising and Signage</b>	<p><b>2.0 Advertising and Signage Controls</b></p> <p>The assessment against this Chapter 3 of the SEPP (Industry and Employment) 2021 and Schedule 5 of the SEPP has not changed. Due to the issues with the development design and built form, Council cannot support the proposal.</p>	<b>Not compliant.</b>
<b>Stormwater and Drainage</b>	<p>Council's Development Engineer has reviewed the additional information submitted and upon review raised not further objections subject to conditions of consent. The development has provided appropriate stormwater disposal with regards to Council's drainage system. The development also provides adequate erosion and sediment control measures.</p>	Complies
<b>Parking and Loading</b>	<p>Parking rates for the development are calculated as follows:</p> <p><b>Pub</b></p> <ul style="list-style-type: none"> <li>1 space per 3.5m<sup>2</sup> of licensed floor area = <math>1 \times (788\text{m}^2 \text{ pub area} \div 3.5) = 225.1</math> (226)</li> </ul> <p><b>Business and Office Premises</b></p> <ul style="list-style-type: none"> <li>1 space per 40m<sup>2</sup> GFA = <math>1 \times (4,832\text{m}^2 \text{ business and office area} \div 40) = 120.8</math> (121)</li> </ul> <p><b>Retail Premises</b></p> <ul style="list-style-type: none"> <li>1 space per 40m<sup>2</sup> GFA = <math>1 \times (6,793\text{m}^2 \text{ specialised retail and neighbourhood shop area} \div 40) = 169.2</math> (170)</li> </ul> <p><b>Restaurant</b></p> <ul style="list-style-type: none"> <li>1 space per 40m<sup>2</sup> GFA = <math>1 \times (997\text{m}^2 \text{ food and drink premises area} \div 40) = 24.9</math> (25)</li> </ul> <p><b>Child Care Centre</b></p> <p><i>1 space per 35m<sup>2</sup> or 1 space per four (4) children whichever is the greater</i></p> <ul style="list-style-type: none"> <li>1 space per four (4) children = <math>1 \times (102 \text{ children} \div 4) = 25.5</math> (26)</li> </ul> <p><b>Total = 568 spaces</b></p> <p>The development has a shortfall of 150 spaces. And on this basis, cannot be supported.</p>	<b>Not compliant.</b>

### Likely Impacts

As outlined in this supplementary report, the applicant has not demonstrated that the impacts of the proposal will be acceptable.

### Site Suitability

As stated throughout this supplementary report, the amended design of the development is unsuitable for the site. The development maintains a bulk and scale that is incompatible with the streetscape.

Investigations and documentations have been provided which have not adequately demonstrated that the site can be made suitable for the proposed development and is therefore inconsistent with the land use planning framework for the locality.

The overall design scheme, its ability to provide adequate landscaping and maintain an appropriate public domain and its traffic impacts on the local road network have not been adequately addressed to ensure that it does result in adverse impact on the locality.

For the above reasons and those stated throughout this report, the site is not considered to be suitable for the proposed development.

### **Public Interest**

The amended plans were not re-advertised. The amended plans are not deemed to result in a greater or more serious impact. Therefore, in accordance with the *Consolidated Notifications Requirements*, the amended plans did not require re-advertising.

### **Conclusion**

For the reasons outlined in this supplementary report, the proposal as amended is not considered to satisfy the relevant considerations under s4.15 of the *Environmental Planning and Assessment Act 1979*. As such, refusal is recommended for the reasons outlined in the section below.

### **Reasons for Determination**

Having regard to the assessment within this report, the proposal is unsuitable and is to be refused for the following reasons:

- The proposal does not facilitate the orderly implementation of the objects of the *Environmental Planning and Assessment Act 1979* and the aims and objectives of Auburn Local Environmental Plan 2010.
- The proposal whilst permissible within B6 Enterprise Corridor zone does not comply with the provisions against Section 4.15 of the *Environmental Planning and Assessment Act 1979*;
- The development has not demonstrated its compatibility with the existing development within the locality; and
- Sufficient information has not been provided to demonstrate that the application is in the public interest.

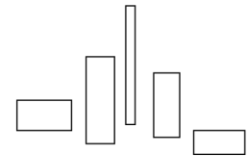
### **Recommendation**

- A. **That** the Sydney Central City Planning Panel, as the consent authority, **Refuse Consent** to Development Application No. DA/737/2022 for demolition of existing structures and construction of a mixed-use development over two levels of basement parking with the development comprising of specialty retail premises, business/office premises; neighbourhood shops, a pub and a childcare centre with associated landscaping, drainage works and signage for the following reasons:
1. **Transport for NSW** - The proposal does not exhibit a satisfactory proposal in that it fails to provide information required to assess Clause 2.119 – Frontage to a Classified Road and Clause 2.122 – Traffic Generating Development of State Environmental Planning Policy (Transport and Infrastructure) – Chapter 2 Infrastructure and as required by Transport for NSW.
  2. **Height** – The clause 4.6 variation request to vary the height standard in clause 4.3 of the Auburn Local Environmental Plan 2010 is not considered to be well founded because the proposal has not demonstrated that there are sufficient environmental planning grounds to vary the standard and the proposal is not in the public interest as it does not adequately satisfy the zone objectives.
  3. **FSR** – The development does not comply with the maximum FSR for the site pursuant to clause 4.4 of the Auburn Local Environmental Plan 2010. The application also did not submit a Clause 4.6 variation to justify the departure to the standard.

4. **SEPP (TRANSPORT AND INFRASTRUCTURE) 2021** - The application is not satisfactory for the purposes of section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 in that insufficient information has been provided to demonstrate compliance with the requirements of State Environmental Planning Policy (Transport and Infrastructure) 2021.
  5. **SEPP (RESILIENCE AND HAZARDS) 2021** - The application is not satisfactory for the purposes of section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 in that insufficient information has been provided to demonstrate compliance with the requirements of State Environmental Planning Policy (Resilience and Hazards) 2021.
  6. **SEPP (INDUSTRY AND EMPLOYMENT) 2021** - The application is not satisfactory for the purposes of section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 in that insufficient information has been provided to demonstrate compliance with the requirements of State Environmental Planning Policy (Industry and Employment) 2021.
  7. **Child Care Centre** - The application is not satisfactory for the purposes of section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 in that the proposal does not meet the matters for consideration in relation site selection and location, local character, streetscape, public domain interface, building envelope and design, noise and air pollution, traffic and car parking, pedestrian circulation, ventilation and natural light, outdoor space, natural environment, and soil assessment as nominated in Section 3.23 of State Environmental Planning Policy (Transport and Infrastructure) via the Child Care Planning Guidelines.
  8. **Auburn DCP 2010**- The application is not satisfactory for the purposes of section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 in that the proposal does not demonstrate consistency with the principles, objectives and controls of Industrial Development Controls, Parking and Loading, Childcare Centre Controls and Advertising and Signage Controls of The Auburn DCP 2010 in relation to:
    - a) The application is not consistent with the urban design principles for development within the B6 Enterprise Corridor zone on Silverwater Road.
    - b) The provision of transition areas and the lack of indication that this area and purpose has been provided.
    - c) The proposed signage zones are inconsistent with the requirements of State Environmental Planning Policy (Industry and Employment) 2021.
    - d) The proposal has a shortfall of 150 parking spaces and has not considered pedestrian movements and its impacts on vehicle queuing, safe vehicle turning and upgrades to the Silverwater Road and Carnarvon Street intersection.
- B. That submitters be notified of the decision (per the original report).

## **ATTACHMENT A – Council’s Legal Advice – FSR**





4 July 2023

Ms Christine Treadgold  
City of Parramatta  
PO Box 32  
PARRAMATTA NSW 2124

**BY EMAIL** ctreadgold@cityofparramatta.nsw.gov.au

Dear Madam,

**ADVICE RE INTERPRETATION AND APPLICATION OF CLAUSE 4.4(2C) OF THE AUBURN LEP 2010  
32-48 SILVERWATER ROAD AND 1-17 GREY STREET, SILVERWATER**

**Our ref RMC:KMG:230445**

**Your ref Denise Fernandez**

We refer to your request for advice on the interpretation of clause 4.4(2C) of the *Auburn Local Environmental Plan 2010* (now repealed) concerning calculation of Floor Space Ratio.

In summary, we agree with Council's interpretation of the clause as imposing an overall maximum of 2:1 FSR, rather than allowing a proponent to cumulate FSR allowances for mixed use developments.

**Relevant Clause**

Clause 4.4 of the *Auburn Local Environmental Plan 2010* (**ALEP**) provided the following relevant provisions:

**4.4 Floor space ratio**

(1) *The objectives of this clause are as follows—*

(a) *to establish a maximum floor space ratio to enable appropriate development density to be achieved, and*

(b) *to ensure that development intensity reflects its locality.*

(2) *The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.*

...

(2C) *Despite subclause (2), the maximum floor space ratio for the following development on land in Zone B6 Enterprise Corridor within the Silverwater Road Precinct, as shown edged light purple on the Floor Space Ratio Map, is as follows—*

(a) *1.5:1 for specialised retail premises, entertainment facilities, function centres and registered clubs, and*

(b) *2:1 for office premises and hotel or motel accommodation.*

The clause appears to have been included in the ALEP to establish new enterprise corridors on Parramatta Road and Silverwater Road which would allow existing industrial uses, while also encouraging new types of businesses including specialty retail and office buildings. The zoning and FSR controls for the Silverwater Road

Precinct reflected studies commissioned by the Council including the Auburn Employment Lands Study 2008 (Hill PDA), and Auburn Employment Lands Strategy June 2015 (AEC Group).

The 2015 Strategy for example included commentary on the existing planning controls for employment lands including the Silverwater Rd precinct, recommending to retain the current FSR controls and zoning described in the following way: "Currently zoned B6 Enterprise Corridor, permissible FSRs range from 1:1, 1.5:1 and 2:1 subject to use." From this comment, it appears that the intention/understanding of the control was to establish an alternative, greater, FSR allowance where development was for particular uses, rather than intending to create bonus FSR on top of the base FSR.

### Comparison to incentive FSR clauses in other LEPs

Unhelpfully, the interpretation of sub-clause 4.4(2C) does not appear to have been judicially considered. Nor does not appear the Court has considered incentive FSR clauses using similar phraseology.

In our view, sub-clause 4.4(2C) is comparable to the clause applied in *ARTZ 2 Design Pty Ltd v Ku-ring-gai Council* [2015] NSWLEC 1381 (**ARTZ 2**)

*(1) The objectives of this clause are as follows:*

*(a) to ensure that development density is appropriate for the scale of the different centres within Ku-ring-gai,*

*(b) to enable development with a built form and density compatible with the size of the land to be developed, its environmental constraints and its contextual relationship,*

*(c) to ensure that development density provides a balanced mix of uses in buildings in the business zones.*

*(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.*

.....

*(2E) Despite subclause (2), the maximum floor space ratio for development on land identified as "Area 5" on the Floor Space Ratio Map with a site area within the range specified in Column 1 of the table to this subclause must not exceed the ratio specified opposite in Column 2 of the table.*

<b>Column 1</b>	<b>Column 2</b>
Less than 1,800 square metres	0.8:1
1,800 square metres or more but less than 2,400 square metres	1.0:1

At 11, Commissioner Tuor noted "The site is within an area identified on the Floor Space Ratio Map with a maximum FSR of 1.3:1 and as "Area 5". As the site has an

*area of 1890.9sqm, the maximum FSR permissible under cl 4.4(2E) is 1.0:1. The FSR of the proposal is 1.3:1 and the applicant has submitted a written request under cl 4.6 of the LEP that seeks to justify the contravention of the standard."* Applying a consistent approach, subclause 4.4(2C) would mean that development for the use as office premises (say) would mean the new maximum FSR of 2:1 applies to the development on that land.

Conversely, sub-clause 4.4(2C) might be differentiated from the clause considered in *GGD Danks Street Pty Ltd v Council of the City of Sydney* [2015] NSWLEC 1521 where the bonus clauses was phrased as "*is eligible for an amount of **additional floor space** (community infrastructure floor space) equivalent to that which may be achieved by applying the floor space ratio specified in the relevant paragraph to the building, but only if the development of the land includes development for the purposes of...*", where it is clear that development for a specific use would result in an additional floor space allowance on top of the base FSR. Subclause 4.4(2C) does not include any words such as "additional" or "on top of" or "in addition to" or "plus" that would signal an additional floor space allowance, rather than signalling an alternative standard for the site.

### **Advice provided by proponent**

We note that the proponent has provided to Council advice from Andrew Pickles SC on interpretation of sub-clause 2C. We respectfully disagree with the conclusions drawn in that advice. Without responding to each paragraph individually, we note:

- We do not consider the commentary on the meaning of the word "despite" progresses one way or another whether the remaining of the clause should be interpreted as cumulative or in alternative to the base FSR. The phrase "despite subclause (2)" simply means that sub-clause 4.4(2C) operates in a way that would override the base FSR clause. This would be the case irrespective of whether that sub-clause imposed an alternative or a cumulative control.
- We do not agree with the proposed approach to interpretation that, on the basis that the height and FSR should work together, that a maximum FSR of 2:1 combined with a height control of 14m, would mean that no development would ever reach the full height control, and as such, the only logical conclusion is that a maximum total FSR of 4.5:1 was intended (ie 1:1+1.5:1+2:1). We note that there is no inherent right for a proponent to achieve the maximum development footprint permitted by the relevant development standard. It would for example be open for a proponent to seek consent for a 14m tall office building which complied with the 2:1 control and included a large landscaping or public space component on the remainder of the site. It would also be a rather perverse interpretation of the controls if only mixed use development gained full advantage of a supposed

4.5:1 control, but a standalone hotel (which may be incompatible with being a mixed use development) would only achieve 2:1.

- We note that the advice refers to Council having apparently interpreted the clause as cumulative in other similar DAs. We are not aware of whether this is accurate or not. If Council has been incorrectly applying the controls, this may make those approvals susceptible to judicial review, and may also make it easier for a proponent to justify a cl 4.6 request to exceed FSR controls on the basis that the Council has already abandoned the development standard.

### **Interpretation of subclause 4.4(2C)**

As noted above, in the absence of any specific case law on this subclause (or a similarly worded one), our approach relies on general principles of statutory interpretation, and consideration of similarly worded clauses. In our view, there is nothing inherent in the wording of (2C) that suggests an intention to create additional floor space on top of the base FSR, and is most similar to clauses which impose an alternative FSR where certain criteria are met.

For example, ALEP subclause 4.4(2E) explicitly establishes that bonus FSR of 0.3:1 (on top of base FSR) applies for certain non-residential use in mixed use development;

*(2E) For development on land in Zone B4 Mixed Use, as shown edged blue on the Floor Space Ratio Map—*

*(a) the floor space ratio for the part of the buildings used for non-residential purposes is not to be less than 0.4:1, and*

*(b) despite subclause (2), the maximum floor space ratio may exceed the floor space ratio shown on the map for the land by 0.3:1 if the floor space ratio for the part of the buildings used for non-residential purposes is not less than 0.6:1.*

Had it been intended that 4.4(2C) would create a bonus FSR of 2:1 for office space and hotels on top of the base FSR of 1:1 shown on the map, presumably the drafters of the ALEP would have adopted a similar wording to 4.4(2E).

In our view, the most sensible interpretation of the clause is that subclause 4.4(2C) imposes an overall cap on FSR of 2:1 (where the development includes a component as office premises or hotel or motel accommodation). Where, as it the case with this proposal, there is a mixed use development with a variety of proposed uses only some which attract incentive FSR allowance, then the approach to calculating maximum FSR would be:

<b>Control</b>	<b>Component of development</b>	<b>Maximum FSR</b>
Base FSR	<ul style="list-style-type: none"><li>▪ neighbourhood shops</li><li>▪ business premises</li><li>▪ food and drink premises</li></ul>	Other uses must not exceed 1:1

	<ul style="list-style-type: none"> <li>pub (unless a registered club)</li> <li>centre-based childcare centre</li> </ul> Referred to as "other uses"	
2C(a)	<ul style="list-style-type: none"> <li>specialist retail</li> <li>the "pub" (if it is a registered club)</li> </ul> Referred to as "specialised uses"	Other uses + specialised uses must not exceed 1.5:1, and "other uses" must still comply with base FSR (ie be 1:1 or less.)
2C(b)	<ul style="list-style-type: none"> <li>office premises</li> </ul>	Other uses + specialised uses + office premises must not exceed 2:1, and: <ul style="list-style-type: none"> <li>"other uses" + "specialised uses" must still comply with 2C(a) (ie be 1.5:1 in total or less), and</li> <li>"other uses" must still comply with Base FSR (ie be 1:1 in total or less).</li> </ul>

### Approval pathway for FSR sought by proponent

It is open to the proponent to seek a cl 4.6 variation in relation to the FSR controls, and to put forward arguments that the requirements of cl 4.6 are satisfied in relation to this proposal. Assuming the required grounds were made out, this would provide a pathway for Council to approve the exceedance to the FSR controls sought by the proponent.

Yours faithfully



Roslyn McCulloch  
Partner  
Accredited Specialist Local Government and Planning Law

Yours faithfully



Kristyn Glanville  
Associate

## **ATTACHMENT B – Without Prejudice Draft Conditions of Consent**

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## **DRAFT DEFERRED COMMENCEMENT CONDITIONS**

**Development Consent No.:** DA/737/2022

**Property Address:** 32-48 Silverwater Road and 1-17 Grey Street, SILVERWATER

### **Schedule 1:**

#### **Deferred Commencement**

1. Pursuant to the provisions of Section 80(3) of the Environmental Planning and Assessment Act, 1979, the development application be granted a Deferred Commencement Consent subject to the completion of the following:

- a.) An auditor accredited under the Contaminated Land Management Act 1997 issues a Site Audit Statement to Council;
- b.) Council approves the remediation works and site validation;
- c.) Council issues a statement that the site is suitable for the proposed use.

**Reason:** To ensure that the land is suitable for its proposed use and poses no risk to the environment and human health.

2. Submission to Council for review and approval clarifying the appropriate Health Investigation Level that considers the sites proposed occupancy of a sensitive land use being the childcare centre. This information is to be prepared by a qualified person with experience in assessing contaminated sites.

**Reason:** To demonstrate the suitability of the site for the purposes of a childcare centre

3. Submission to Council for review and approval of a further air quality air report based on a 1 month air quality monitoring program using a low-cost sensor at the proposed development site to measure the existing air pollutant concentrations (PM10, PM2.5) to ensure impacts from the neighbouring industrial areas and road network are below the relevant criteria. The report is to consider any mitigating effects of the proposed development such as building facade, landscaping and the elevated location of the childcare centre.

**Reason:** To demonstrate the suitability of the site for the purposes of a childcare centre

**Advisory Note:**

**Requesting Operational Consent:** Once logged into the NSW Planning Portal, locate and open the development application with the deferred commencement in your Active work – Select “Request Operational Consent” from the Actions dropdown Menu – Enter the details of the Request – Upload your documents and categorise the file type before clicking attach – Click on the submit button

If you need more information, or experience any issues, you will need to liaise directly with ServiceNSW. To contact ServiceNSW, please phone 1300 305 695 or email [info@service.nsw.gov.au](mailto:info@service.nsw.gov.au).

**Schedule 2:****PART A – GENERAL CONDITIONS**

1. Development must be carried out in accordance with the following approved plans and supporting documentation (stamped by Council), except where the conditions of this consent expressly require otherwise:

**Architectural Drawings. Project No. 20014-07**

Drawing/Plan No.	Issue	Plan Title	Dated
A1-04	D	Demolition Plan	22 June 2023
A1-08	D	Site Plan	22 June 2023
A1-09	D	Basement 2 Floor Plan	22 June 2023
A1-10	D	Basement 1 Floor Plan	22 June 2023
A1-11	D	Lower Ground Floor Plan	22 June 2023
A1-12	D	Ground Floor Plan	22 June 2023
A1-13	D	Level 1	22 June 2023
A1-14	D	Level 2	22 June 2023
A1-15	D	Roof Plan	22 June 2023
A1-16	D	Elevations (East and North)	22 June 2023
A1-17	D	Elevations (West and South)	22 June 2023
A1-18	D	Sections (1 and 2)	22 June 2023
A1-19	D	Sections (3 and 4)	22 June 2023
A1-20	D	Sections (5 and 6)	22 June 2023
A1-21	D	Façade Details (1, 2 and 3)	22 June 2023



Drawing/Plan No.	Issue	Plan Title	Dated
A1-22	D	Façade Details (4, 5 and 6)	22 June 2023
A1-23	D	Façade Details (7)	22 June 2023
A1-27	D	Cut and Fill Plan	22 June 2023
A1-28	D	Schedule of Finishes	22 June 2023
A1-29	D	Schedule of Finishes (2)	22 June 2023
A1-30	D	Tenancy Schedule	22 June 2023
A1-44	D	Access Plan	22 June 2023
A1-45	D	Signage Zones	22 June 2023
A1-46	D	Draft Public Domain Plan	22 June 2023
A1-47	D	Childcare Toilet Details	22 June 2023
A1-48	D	Childcare Toilet Details (2)	22 June 2023
A1-49	D	Childcare Toilet Details (3)	22 June 2023
A1-50	D	Wall and Planter Details	22 June 2023
<b>Plans. Job No. 18102.4</b>			
CCTV-B2	A	CCTV Plan – B2	22 March 2022
CCTV-B1	A	CCTV Plan – B1	22 March 2022
CCTV-LGF	A	CCTV Plan - Lower Ground Floor	22 March 2022
CCTV-GF	A	CCTV Plan - Ground Floor	22 March 2022
CCTV- Level 1	A	CCTV Plan – Level 1	22 March 2022
CCTV- Level 2	A	CCTV Plan – Level 2	22 March 2022
AC-B2	A	Access Plan – Basement 2	22 March 2022
AC-B1	A	Access Plan – Basement 1	22 March 2022
AC-LGF	A	Access Plan – Lower Ground Floor	22 March 2022
AC-GF	A	Access Plan – Ground Floor	22 March 2022
AC-L1	A	Access Plan – Level 1	22 March 2022
AC-L2	A	Access Plan – Level 2	22 March 2022

Civil Drawings/Stormwater. Job No. 20958.

Drawing/Plan No.	Issue	Plan Title	Dated
C00.01	D	General Notes	23 June 2023
C01.01	D	Roof Drainage Sediment & Erosion Control Plan	23 June 2023
C01.02	D	Sediment & Erosion Control Details Sheet	23 June 2023
C02.02	D	Lower Ground Drainage Layout Plan	23 June 2023

Drawing/Plan No.	Issue	Plan Title	Dated
C03.02	D	Basement 1 Drainage Layout Plan	23 June 2023
C04.02	D	Basement 2 Drainage Layout Plan	23 June 2023
C04.02	D	Stormwater Details Sheet	23 June 2023
C10.01	C	Public Domain Plans – General Notes	23 June 2023
C11.01	C	Public Domain Plans – Layout Plan	23 June 2023
C11.02	C	TOK Longitudinal Section (1 of 3)	23 June 2023
C11.03	C	TOK Longitudinal Section (2 of 3)	23 June 2023
C11.04	C	TOK Longitudinal Section (3 of 3)	23 June 2023
C11.05	C	Boundary Longitudinal Section (1 of 3)	23 June 2023
C11.06	C	Boundary Longitudinal Section (2 of 3)	23 June 2023
C11.07	C	Boundary Longitudinal Section (3 of 3)	23 June 2023
C11.08	C	Public Domain Cross Sections (1 of 6)	23 June 2023
C11.09	C	Public Domain Cross Sections (2 of 6)	23 June 2023
C11.10	C	Public Domain Cross Sections (3 of 6)	23 June 2023
C11.11	C	Public Domain Cross Sections (4 of 6)	23 June 2023
C11.12	C	Public Domain Cross Sections (5 of 6)	23 June 2023
C11.13	C	Public Domain Cross Sections (6 of 6)	23 June 2023

Landscape Drawings. Job No. 21/2244.

Drawing/Plan No.	Issue	Plan Title	Dated
1 of 10	G	Lower Ground Floor Plan	19 June 2023
2 of 10	G	Ground Floor Plan	19 June 2023
3 of 10	G	Level 1	19 June 2023
4 of 10	G	Level 2	19 June 2023
5 of 10	G	Childcare Centre	19 June 2023

6 of 10	G	Details and Notes	19 June 2023
7 of 10	G	Planting Plan	19 June 2023
8 of 10	G	East and North Elevation	19 June 2023
9 of 10	G	West and South Elevation	19 June 2023

### Specialist Reports

Document	Ref No.	Issue	Prepared By	Dated
Air Quality Assessment	610.30643-R02	V1.2	SLR	June 2023
Plan of Management	N/A	N/A	N/A	27 July 2023
CCC Evacuation Plan	N/A	N/A	N/A	19 July 2023
Section J Report	N/A	A	Outsource Ideas P/L	25 May 2022
Detailed Phase 2 Contamination Investigation	SES_617	N/A	Sullivan Environmental Sciences	22 June 2023
Waste Management Plan	N/A	N/A	N/A	16 June 2023
Energy Efficiency and Ecologically Sustainable Design Report	610.30643-R01	V1.0	SLR	June 2023
Geotechnical Investigation Report	13090-GR-1-1-REVA	0	Alliance Geotechnical & Environmental Solutions	31 January 2021
Stormwater Management Report	20958-001-R	A	Engineering Studio	April 2022
Environmental Wind Study	610.30643-R01	V1.0	SLR	May 2022
CPTED Report	22.003	B	The Design Partnership	11 April 2022
BCA Report	P220_488-2 (BCA) NH	N/A	Design Confidence	3 June 2022
Arborist Report	N/A	V3	Horticultural Management Services	5 May 2022
Acoustic Assessment – Pub	52.5482.R3:MSC	N/A	The Acoustic Group	17 May 2022
Acoustic Assessment – Mixed Use Development	52.5482.R1:MSC	N/A	The Acoustic Group	10 May 2022

Acoustic Assessment – Childcare Centre	52.5482.R2:MSC	N/A	The Acoustic Group	10 May 2022
Access Design Report	P220_488-2 (ACCESS) NH	N/A	Design Confidence	3 June 2022
DEAP Recommendations Meeting 27 October 2022	N/A	N/A	DEAP	14 November 2022

In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of consent, the condition prevails.

**Note:** An inconsistency occurs between an approved plan and supporting documentation or between an approved plan and a condition when it is not possible to comply with both at the relevant time.

**Reason:** To ensure all parties are aware of the approved plans and supporting documentation that applies to the development

15. The development is to comply with the General Terms of Approval issued by Water NSW, reference number IDAS1149300 dated 5 July 2023.

**Reason:** Per the requirements of Water NSW

16. The development is to comply with the Recommendations contained in the ***Detailed Phase 2 Contamination Investigation*** prepared by Sullivan Environmental Sciences Ref No. SES\_617 dated 22 June 2023 and as amended by the results from the works undertaken to comply with Schedule 1, Item 1 and 2 of this consent.

**Reason:** To ensure that the site is made suitable for the mixed-use development.

17. Prior to commencement of any construction works associated with the approved development (including excavation if applicable), it is mandatory to obtain a Construction Certificate. Plans, specifications and relevant documentation accompanying the Construction Certificate must include any requirements imposed by conditions of this Development Consent.

**Reason:** To ensure compliance with legislative requirements.

18. The development must be constructed within the confines of the property boundary. No portion of the proposed structure, including footings/slabs, gates and doors during opening and closing operations must encroach upon Council's footpath area or the boundaries of the adjacent properties.

**Reason:** To ensure no injury is caused to persons and the building is erected in accordance with the approval granted within the boundaries of the site.

19. Approval is granted for the demolition of all buildings currently on the property, subject to compliance with the following: -

- (a) Demolition is to be carried out in accordance with the applicable provisions of Australian Standard AS2601-2001 - Demolition of Structures.

**Note:** Developers are reminded that WorkCover requires that all plant and equipment used in demolition work must comply with the relevant Australian Standards and manufacturer specifications.

- (b) The developer is to notify owners and occupiers of premises on either side, opposite and at the rear of the development site 5 working days prior to demolition commencing. Such notification is to be a clearly written on A4 size paper giving the date demolition will commence and is to be placed in the letterbox of every premises (including every residential flat or unit, if any). The demolition must not commence prior to the date stated in the notification.
- (c) 5 working days (i.e., Monday to Friday with the exclusion of Public Holidays) notice in writing is to be given to City of Parramatta for inspection of the site prior to the commencement of works. Such written notice is to include the date when demolition will commence and details of the name, address, business hours, contact telephone number and licence number of the demolisher. Works are not to commence prior to Council's inspection and works must also not commence prior to the commencement date nominated in the written notice.
- (d) On the first day of demolition, work is not to commence until City of Parramatta has inspected the site. Should the building to be demolished be found to be wholly or partly clad with asbestos cement, approval to commence demolition will not be given until Council is satisfied that all measures are in place so as to comply with Work Cover's document "Your Guide to Working with Asbestos", and demolition works must at all times comply with its requirements.
- (e) On demolition sites where buildings to be demolished contain asbestos cement, a standard commercially manufactured sign containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm is to be erected in a prominent visible position on the site to the satisfaction of Council's officers. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site to an approved waste facility. This condition is imposed for the purpose of worker and public safety and to ensure compliance with Clause 469 of the Work Health and Safety Regulation 2017.
- (f) Demolition must not commence until all trees required to be retained are protected in accordance with the conditions detailed under "Prior to Works Commencing" in this Consent.
- (g) All previously connected services are to be appropriately disconnected as part of the demolition works. The applicant is obliged to consult with the various service authorities regarding their requirements for the disconnection of services.

- (h) Prior to the commencement of any demolition works, and where the site ceases to be occupied during works, the property owner must notify Council to discontinue the domestic waste service and to collect any garbage and recycling bins from any dwelling/ building that is to be demolished. Waste service charges will continue to be charged where this is not done. Construction and/ or demolition workers are not permitted to use Council's domestic waste service for the disposal of any waste.
- (i) Demolition works involving the removal and disposal of asbestos cement in excess of 10 square meters, must only be undertaken by contractors who hold a current WorkCover "Demolition Licence" and a current WorkCover "Class 2 (Restricted) Asbestos Licence".
- (j) Demolition is to be completed within 5 days of commencement.
- (k) Demolition works are restricted to Monday to Saturday between the hours of 7.00am to 5.00pm. No demolition works are to be undertaken on Sundays or Public Holidays.
- (l) 1.8m high Protective fencing is to be installed to prevent public access to the site.
- (m) A pedestrian and Traffic Management Plan must be submitted to the satisfaction of Council prior to commencement of demolition and/or excavation. It must include details of the:
  - (i) Proposed ingress and egress of vehicles to and from the construction site;
  - (ii) Proposed protection of pedestrians adjacent to the site;
  - (iii) Proposed pedestrian management whilst vehicles are entering and leaving the site.
- (n) All asbestos laden waste, including asbestos cement flat and corrugated sheets must be disposed of at a tipping facility licensed by the NSW Environment Protection Authority (EPA).
- (o) Before demolition works begin, adequate toilet facilities are to be provided.
- (p) After completion, the applicant must notify City of Parramatta within 7 days to assess the site and ensure compliance with AS2601-2001 – Demolition of Structures.
- (q) Within 14 days of completion of demolition, the applicant must submit to Council:
  - (i) An asbestos clearance certificate issued by a suitably qualified person if asbestos was removed from the site; and
  - (ii) A signed statement verifying that demolition work and the recycling of materials was undertaken in accordance with the Waste Management Plan approved with this consent. In reviewing such documentation Council will require the provision of original.
  - (iii) Payment of fees in accordance with Council's current schedule of fees and charges for inspection by Parramatta Council of the demolition site prior to commencement of any demolition works and after the completion of the demolition works.

**Reason:** To protect the amenity of the area.

20. Before the issue of a Construction Certificate, the applicant is to ensure that the person liable pays the Long Service Levy of 0.25% of the value of

building and construction work where the cost of building is \$250,000 or more (inclusive of GST) or as calculated at the date of this consent to the Long Service Corporation or Council under section 34 of the *Building and Construction Industry Long Service Payments Act 1986* and provides proof of this payment to the Certifier.

**Note:** The Long Service Levy is to be paid directly to the **Long Service Corporation** at [www.longservice.nsw.gov.au](http://www.longservice.nsw.gov.au). For more information, please contact the Levy support team on 13 14 41.

**Reason:** To ensure that the Long Service Levy is paid.

21. Before the commencement of any works on the site or the issue of a construction certificate, the applicant must make all of the following payments to Council and provide written evidence of these payments to the certifier:

Bond Type	Amount
<b>Hoarding:</b>	\$25,320
<b>Nature Strip and Roadway:</b>	\$20,600
<b>Street Trees:</b>	\$21,690

The payments will be used for the cost of:

- making good any damage caused to any council property (including street trees) as a consequence of carrying out the works to which the consent relates,
- completing any public work such as roadwork, kerbing and guttering, footway construction, stormwater drainage and environmental controls, required in connection with this consent, and
- any inspection carried out by Council in connection with the completion of public work or the making good any damage to council property.

**Note:** The inspection fee includes Council's fees and charges and includes the Public Road and Footpath Infrastructure Inspection Fee (under the Roads Act 1993). The amount payable must be in accordance with council's fees and charges at the payment date.

**Reason:** To ensure any damage to public infrastructure is rectified and public works can be completed.

**Note:** The bond may be paid, by EFTPOS, bank cheque, or be an unconditional bank guarantee.

Should a bank guarantee be lodged it must:

- (a) Have no expiry date;
- (b) Be forwarded directly from the issuing bank with a cover letter that refers to Development Consent DA 737/2022;
- (c) Specifically reference the items and amounts being guaranteed. If a single bank guarantee is submitted for multiple items it must be itemised.

Should it become necessary for Council to uplift the bank guarantee, notice in writing will be forwarded to the applicant fourteen days prior to such action being taken. No bank guarantee will be accepted that has been issued directly by the applicant.

A dilapidation report is required to be prepared and submitted electronically to the City of Parramatta Council ([council@cityofparramatta.nsw.gov.au](mailto:council@cityofparramatta.nsw.gov.au)) prior to any work or demolition commencing and with the payment of the bond/s.

The dilapidation report is required to document/record any existing damage to kerbs, footpaths, roads, nature strips, street trees and furniture within street frontage/s bounding the site up to and including the centre of the road.

**Reason:** To safe guard the public assets of council and to ensure that these assets are repaired/maintained in a timely manner so as not to cause any disruption or possible accidents to the public.

22. A trade waste agreement shall be obtained from Sydney Water prior to the discharge of trade wastewater to the sewer system. Trade wastewater is defined as 'discharge water containing any substance produced through industrial or commercial activities or operation on the premises'. Separator systems are to be bunded and where systems are placed outside, they are to be roofed to ensure that no rainwater can enter the bund.

**Reason:** To ensure proper disposal of waste water.

10. A waste storage room is to be provided on the premises and shall be constructed to comply with all the relevant provisions of Council's Development Control Plan (DCP) including:

- (a) The size being large enough to accommodate all waste generated on the premises, with allowances for the separation of waste types and bulky materials;
- (b) The floor being graded and drained to an approved drainage outlet connected to the sewer and having a smooth, even surface, coved at all intersections with walls;
- (c) The walls being cement rendered to a smooth, even surface and coved at all intersections;
- (d) Cold water being provided in the room with the outlet located 1.5m above floor level to avoid damage and a hose fitted with a nozzle being connected to the outlet;
- (e) The room shall be adequately ventilated (either natural or mechanical) in accordance with the Building Code of Australia.

**Reason:** To ensure provision of adequate waste storage arrangements.

11. All mechanical air intakes servicing the childcare centre indoor areas are to be located as far away as practicable from Silverwater Road. If practicable, consider partially (or completely) enclosing the outdoor play area with stackable glass sliding doors (or similar). This will enable



enclosing the entire facility when there is increased risk of air quality impacts (such as peak traffic times).

**Reason:** To ensure air quality is suitable for the users of the childcare centre.

12. An air quality management plan be implemented at the childcare facility that involves the ongoing review of real-time ambient air quality data published by the Department of Planning and Environment using data from the Chullora monitoring station and a response matrix depending on the data. e.g. Poor air quality- no outdoor play.

**Reason:** To ensure air quality is suitable for the users of the childcare centre.

13. Following demolition activities, the soil must be tested by a person with suitable expertise, to ensure the soil contaminant levels are below acceptable health criteria for residential areas. The soil investigation shall be carried out in accordance with the NSW Environment Protection Authority's Guidelines for Consultants Reporting on Contaminated Sites and the NSW Department of Environment and Conservation Guidelines for the Assessment and Management of Groundwater Contamination 2007.

A site audit statement shall be issued at the completion of the investigation by an approved NSW Environment Protection Authority Auditor in accordance with the NSW Environment Protection Authority's Guidelines for the NSW Site Auditor Scheme.

**Reason:** To ensure that the land is suitable for its proposed sensitive use and poses no risk to the environment and human health.

14. Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination shall be notified to the Council and the principal certifying authority immediately.

**Reason:** To ensure that the land is suitable for its proposed use and poses no risk to the environment and human health.

15. Groundwater shall be analysed for pH and any contaminants of concern identified during the preliminary or detailed site investigation, prior to discharge to the stormwater system. The analytical results must comply with relevant NSW EPA water quality standards and Australian and New Zealand Guidelines for Fresh and Marine Water Quality.

Other options for the disposal of groundwater include disposal to sewer with prior approval from Sydney Water or off-site disposal by a liquid waste transporter for treatment/disposal to an appropriate waste treatment/processing facility.

**Reason:** To ensure that contaminated groundwater does not impact upon waterways.

16. All remediation works shall be carried out in accordance with clauses 4.14 and 4.15 of State Environmental Planning Policy (Resilience and Hazards) 2021.

**Reason:** To comply with the statutory requirements of State Environmental Planning Policy (Resilience and Hazards) 2021.

## **PART B – BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE**

**(Note:** Some conditions contained in other sections of this consent (including prior to occupation/use commencing) may need to be considered when preparing detailed drawings/specifications for the Construction Certificate.)

17. Prior to the issue of a Construction Certificate, amended plans are to be prepared and submitted to Council for review and approval, that illustrates the provision of a total of 568 vehicle spaces to be designated in the following way:

<b>Use</b>	<b>No of Parking Spaces</b>
Pub	226 spaces
Business and Office Premises	121 spaces
Retail Premises	170 spaces
Restaurant	25 spaces
Childcare Centre	26 spaces

**Reason:** To ensure adequate parking for the development.

18. The PCA shall ascertain that any new element in the basement carpark not illustrated on the approved plans such as columns, garage doors, fire safety measures and the like do not compromise appropriate manoeuvring and that compliance is maintained with AS 2890.1, AS 2890.2 and AS 2890.6. Details are to be illustrated on plans submitted with the construction certificate application.

**Reason:** To ensure appropriate vehicular manoeuvring is provided.

19. Amended plans and a Traffic Report (prepared by a qualified expert) are to be submitted to Council for review and approval prior to the issue of a Construction Certificate that demonstrates road treatments to be installed along Carnarvon Street to mitigate traffic impacts.

**Reason:** To ensure appropriate vehicular manoeuvring is provided

20. An Amended Traffic Report is to be submitted to Council for review and approval the pedestrian movements likely to generate by the development. The Report should include pedestrian desire lines into consideration and propose any pedestrian facilities within the surrounding road network to promote and ensure safe active transport to and from the site.

**Reason:** To assist in the assessment of the application with regards to pedestrian movement and safety.

21. Amended plans are to be submitted to Council for review and approval prior to the issue of a Construction Certificate illustrating that the relocation of the driveway away from the intersections. If this is not possible, Council will also review alternatives.  
**Reason:** To ensure adequate and safe access and exit for users of the development.
22. Prior to the issue of a Construction Certificate, amended plans are to be prepared and submitted to Council for review and approval that demonstrates general compliance with the recommendations from the Design Excellence Advisory Panel (DEAP) - correspondence issued by Council on 14 November 2022.  
**Reason:** To achieve good urban design.
23. Prior to the issue of the Construction Certificate, a Public Domain Alignment Drawing package of drawings showing the below listed amendments including co-ordinated civil and landscape architectural drawings resolving all levels and showing proposed indicative public domain treatments in accordance with the requirements outlined in the Parramatta Public Domain Guidelines is to be prepared and submitted to Council for review and approval.
- 4.5m street setbacks to all street frontages. No circulation corridors are to be located within this space. Deep soil planting is to be provided within the street setback.
  - Compliance with the Public Domain Guidelines 2017, Public Footpath – Table 3.1 – Footway Width Recommendations which requires a minimum planting zone of 1.5m. The footpath is to be retained to allow for the minimum planting zone.
  - A single vehicle crossing servicing both the parking and deliveries is to be incorporated. In addition, the loading bay is to be designed to avoid overhang onto the public footway. The loading bay to be accessed from the parking lot.
  - Additional street trees should be added at 8 m c/c. The species selected must large tree able to provide shade and amenity to the public.
  - The overhead wires along the Grey Street frontage are to be located underground as a minimum to permit large canopy street trees along this street.
  - The Basement entrance driveway and Loading Dock positioned next to each other in proximity is to be redesigned as it is not a good pedestrian outcome. Further the loading area is to be designed to allow the vehicle to enter and leave the site in a forward direction Driveways – maximum preferred width is 6m
  - The complete public domain around the development, at all street frontages, must be rebuilt which includes but is not limited to –
    - public footpath,
    - kerb and gutter,
    - verge with trees

- driveways as required

**Reason:** To achieve good urban design.

24. Prior to the issue of a Construction Certificate, amended plans are to be prepared and submitted to Council for review and approval that illustrates the following:
- Ensure Compliance with the Design Confidence access report.
  - No accessible facility has been provided in the Ground Floor Carnarvon Street retail sanitary facilities. An Accessible adult change facility has been provided however an adult change facility is an additional facility and does not replace an accessible sanitary facility.
  - The sanitary facility towards the end of the eastern corridor within the childcare centre is required to be accessible
  - Low level thresholds should be provided at all doors accessing outdoor areas.
  - The Abutment of differing surfaces shall have a smooth transition. Design transition shall be 0 mm. Construction tolerances shall be as follows:
    - 0 ±3 mm vertical.
    - 0 ±5 mm, provided the edges have a bevelled or rounded edge to reduce the likelihood of tripping. AS1428.1.7.2.
  - Equipment and furniture within the common areas will require accessible and inclusive features suitable for a person with a mobility and other impairments.

Note: AS1428.2 provides guidance on accessible furniture including, reach ranges and varying heights of tables and seats with back and arm rests.

**Reason:** To achieve compliance with the relevant Australian standards.

25. A monetary contribution comprising **\$994,748.08** is payable to City of Parramatta Council in accordance with Section 7.11 of the Environmental Planning and Assessment Act 1979 and the *City of Parramatta (Outside CBD) Development Contributions Plan 2021 Amendment 1*. Payment must be made by direct bank transfer or credit/debit card only. Payment can be made by contacting Council's Customer Contact Centre on 1300 617 058.

Contribution Type	Amount
Open space and outdoor recreation	\$ 400,517.98
Traffic and transport	\$ 564,854.89
Plan administration	\$ 29,375.21
<b>Total</b>	<b>\$ 994,748.08</b>

The contribution is to be paid to Council prior to the issue of the construction certification. Deferred payments of contributions will not be

accepted, and requests for payment by multiple instalments will not be granted.

The contribution levy is subject to indexation on a quarterly basis in accordance with movements in the Consumer Price Index (All Groups Index) for Sydney issued by the Australian Statistician. At the time of payment, the contribution levy may have been the subject of indexation.

The *City of Parramatta (Outside CBD) Development Contributions Plan 2021 Amendment 1* can be viewed on Council's website at: <https://www.cityofparramatta.nsw.gov.au/business-development/planning/development-contributions>

**Reason:** To comply with legislative requirements and to provide for the increased demand for public amenities and services resulting from the development

26. Before the issue of a construction certificate, the applicant must ensure a construction site management plan is prepared before it is provided to and approved by the certifier. The plan must include the following matters:
- location and materials for protective fencing and hoardings to the perimeter on the site
  - provisions for public safety
  - pedestrian and vehicular site access points and construction activity zones
  - details of construction traffic management, including proposed truck movements to and from the site and estimated frequency of those movements, and measures to preserve pedestrian safety in the vicinity of the site
  - protective measures for on-site tree preservation (including in accordance with AS 4970-2009 Protection of trees on development sites and Council's DCP, if applicable) and trees in adjoining public domain (if applicable)
  - details of any bulk earthworks to be carried out
  - location of site storage areas and sheds
  - equipment used to carry out all works
  - a garbage container with a tight-fitting lid
  - dust, noise and vibration control measures
  - location of temporary toilets.

The applicant must ensure a copy of the approved construction site management plan is kept on-site at all times during construction.

**Reason:** To require details of measures that will protect the public, and the surrounding environment, during site works and construction.

27. An Infrastructure and Restoration Administration Fee must be paid to Council prior to the issue of a Construction Certificate.  
The fee will be in accordance with Council's adopted 'Fees and Charges' at the time of payment.

**Note:** Council's Customer Service Team can advise of the current fee and can be contacted on 9806 5524.

**Reason:** To comply with Council's adopted Fees and Charges Document and to ensure compliance with conditions of consent.

28. Service ducts, plumbing installations and plant servicing the development must be concealed within the building to keep external walls free from service installations. Details are to be included within the plans and documentation accompanying the Construction Certificate to the satisfaction of the Certifying Authority.

**Reason:** To ensure the quality built form of the development.

29. A noise management plan must be prepared in accordance with the NSW Department of Environment, Climate Change and Water 'Interim Noise Construction Guidelines 2009' and accompany the application for a Construction Certificate. The Certifying Authority must be satisfied the Construction Noise Management Plan will minimise noise impacts on the community during the construction of the development.

The Construction Noise Management Plan must include:

- (a) Identification of nearby residences and other sensitive land uses.
- (b) Assessment of expected noise impacts.
- (c) Detailed examination of feasible and reasonable work practices that will be implemented to minimise noise impacts.
- (d) Community Consultation and the methods that will be implemented for the whole project to liaise with affected community members to advise on and respond to noise related complaints and disputes.

**Reason:** To prevent loss of amenity to the area.

30. Documentary evidence to the satisfaction of the Certifying Authority is to accompany the application for a Construction Certificate confirming satisfactory arrangements have been made with the energy provider for the provision of electricity supply to the development.

If a substation is required of the energy provider, it must be located internally within a building/s.

Substations are not permitted within the front setback of the site or within the street elevation of the building; unless such a location has been outlined and approved on the Council stamped Development Application plans. Substations are not permitted within Council's road reserve.

**Reason:** To ensure adequate electricity supply to the development and to ensure appropriate streetscape amenity.

31. The proposed landscape documentation is required to be updated to include construction details showing substrate depth, drainage, waterproofing for ground floor and roof top planter boxes and is to form part of the application for a Construction Certificate.

**Reason:** To ensure the creation of functional gardens.

32. The final Landscape Plan must be consistent with the plans dated 19/6/2023, prepared by Paul Scrivener Landscape Issue G together with any additional criteria required by the Development Consent to the satisfaction of the Certifying Authority addressing the following requirements:

- (a) The planting schedule shall be updated to correct inconsistencies between the planting plan and schedule.
- (b) Planting quantities shall be included in the plant schedule.
- (c) Planting plans shall be updated to ensure all proposed garden beds and planter boxes has nominated species and quantities suitable to the location.
- (d) All landscape plans are to be prepared by a professionally qualified Landscape Architect (or Landscape Designer if alteration, granny flat or single dwelling).

**Reason:** To ensure restoration of environmental amenity.

28. A Methodology Statement, prepared by a suitably qualified Consulting Arborist (Australian Qualification Framework Level 5), must accompany the application for a Construction Certificate. This statement is to identify the measures to be implemented for protection of trees located within the road reserve during construction and the expected future health of the trees. The statement is to be structured so that each of the following stages of construction are individually addressed and supervised by the Project Arborist:

- (a) Tree protection measures inclusive of canopy, trunk and root zone to be clearly identified and discussed in accordance with AS 4970-2009 - *Protection of Trees on Development Sites*;
- (b) Supervision of any minor excavation to be undertaken within the calculated Tree Protection Zones of the above nominated trees and/or within three (3) metres of any other existing tree equal to or greater than five (5) metres in height located on any adjoining property.
- (c) Installation of services (i.e. using non-destructive sensitive construction method, bridging of roots, under-boring, hand-digging) and Back filling;
- (d) Landscaping (i.e. minimise cultivation, compaction and excavation of planting within the TPZ & SRZ);
- (e) A Tree Protection Plan to identify the specific type of tree protection measures and location required for each tree;
- (f) Plus any other stages that the Consulting Arborist deems necessary.

**Reason:** To ensure adequate protection of existing trees.

29. All landscape works shall be maintained for a minimum period of one (1) year following the issue of a Final Occupation Certificate, in accordance with the approved landscape plan and conditions.

**Reason:** To ensure restoration of environmental amenity.

30. Prior to the issue of a Construction Certificate, written certification from a suitably qualified person(s) shall be submitted to the Principal Certifying Authority and City of Parramatta Council, stating that appropriate design and construction materials are to be utilised within the development to ensure compliance with the following noise criteria specified for managing the noise impact on **residential buildings** from rail corridors and/or busy roads:
- (a) In any bedroom in the building: 35dB(A) between 10pm – 7am;
  - (b) Anywhere else in the building (other than a garage, hallway, kitchen or bathroom) 40dB(A) at any time.
- Reason:** Compliance with relevant noise amenity criteria in Infrastructure SEPP.
31. Prior to the issue of a Construction Certificate, written certification from a suitably qualified person(s) shall be submitted to the Principal Certifying Authority and City of Parramatta Council, stating that appropriate design and construction materials are to be utilised within the development to ensure compliance with the following noise criteria specified for managing the noise impact on child-care centres from rail corridors and/or busy roads:
- (a) In any area: 40dB(A) at any time.
- Reason:** Compliance with relevant noise amenity criteria in Infrastructure SEPP.
32. A noise management plan must be submitted to Council for approval prior to any work commencing and complied with during any construction works. The plan must be prepared by a suitably qualified person who possesses qualifications to render them eligible for membership with the Australian Acoustic Society, Institution of Engineers Australia or the Australian Association of Acoustic Consultants.

The plan must include, but not be limited to, the following:

- a) Identify sensitive locations near the site;
- b) Identify potential impacts (i.e. exceedance of the goals at the identified locations);
- c) Mitigation measures to control noise from the site, the noise reduction likely and the feasibility and reasonableness of these measures;
- d) Selection criteria for plant and equipment;
- e) Community consultation;
- f) Details of work schedules for all construction phases;
- g) Selection of traffic routes to minimise residential noise intrusion;
- h) Schedule of plant and equipment use and maintenance programs;
- i) Noise monitoring techniques and method of reporting results;
- j) The methodology to be employed for handling and investigating any complaints should they arise;
- k) Site induction details for employees and contractors; and
- l) A declaration of available technologies and the reason for the selection of the preferred technology from a noise generating perspective should be included.



**Reason:** To maintain appropriate amenity to nearby occupants.

33. Detailed plans of any food / beverage preparation facilities and waste storage areas shall be submitted to the principal certifying authority (PCA) prior to the issue of the construction certificate.

The fit-out of the food premises shall comply with:

- (a) Australian Standard AS4674-2004 - Design, Construction and Fit-out of Food Premises.
- (b) Food Safety Standards
  - Standard 3.2.2 Food Safety Practices and General Requirements
  - Standard 3.2.3 Food Premises and Equipment
- (c) The cool rooms shall be provided with safety devices to comply with G1.2 of the BCA.
- (d) No approval is granted for any remote storage area.
- (e) The business being registered with City of Parramatta (retail) or NSW Food Authority (wholesale/retail meat/manufacturer).
- (f) Comply with the requirements of Sydney Water – Trade Waste Section (grease trap).

If a Private Certifier is to be used, the final inspection shall be carried out by a suitably qualified person to ensure that food standards are met. Council's Environmental Health Officer may be engaged to carry out the required inspection for a prescribed fee.

**Note:** Copies of AS4764-2004 may be obtained from Standards Australia. Copies of the Food Standards Code may be obtained from Australia and New Zealand Food Authority. Alternatively, you may obtain a copy of the 'Food premises design, construction and fit-out guide' from Council. This guide is based on the above standards and sets out minimum requirements to achieve compliance.

**Reason:** To ensure design of the premises meets relevant public health standards.

34. All plant and equipment (including but not limited to air conditioning equipment) is to be located within the basement or other areas within the building and is not to be located on the roof. Details demonstrating compliance are to be submitted with the Construction Certificate application.

**Reason:** Minimise impact on surrounding properties, improve visual appearance and amenity for locality.

35. Access and services for people with disabilities shall be provided to the 'affected part' of the building in accordance with the requirements of the Access to Premises Standard 2010 and the National Construction Code 2013. Detailed plans, documentation and specification must accompany

the application for a Construction Certification to the satisfaction of the Certifying Authority.

**Reason:** To ensure the provision of equitable and dignified access for all people in accordance with disability discrimination legislation and relevant Australian Standards.

36. Before the issue of a construction certificate, a suitably qualified engineer must prepare a dilapidation report detailing the structural condition of adjoining buildings, structures or works, and public land, to the satisfaction of the certifier. If the engineer is denied access to any adjoining properties to prepare the dilapidation report, the report must be based on a survey of what can be observed externally and demonstrate, in writing, to the certifier's satisfaction that all reasonable steps were taken to obtain access to the adjoining properties.

**Reason:** To establish and document the structural condition of adjoining properties and public land for comparison as building work progresses and is completed.

37. All roof water and surface water is to be connected to an operable drainage system. Details are to be shown on the plans and documentation accompanying the application for a Construction Certificate.

**Reason:** To ensure satisfactory stormwater disposal.

38. A building plan approval must be obtained from Sydney Water Tap in™ to ensure that the approved development will not impact Sydney Water infrastructure.

A copy of the building plan approval receipt from Sydney Water Tap in™ must be submitted to the Principal Certifying Authority upon request prior to works commencing.

Please refer to the website <http://www.sydneywater.com.au/tapin/index.htm>, Sydney Water Tap in™, or telephone 13 20 92.

**Reason:** To ensure the requirements of Sydney Water have been complied with.

39. Prior to any excavation on or near the subject site the person/s having benefit of this consent are required to contact the NSW Dial Before You Dig Service (NDBYD) on 1100 to receive written confirmation from NDBYD that the proposed excavation will not conflict with any underground utility services. The person/s having the benefit of this consent are required to forward the written confirmation from NDBYD to their Principal Certifying Authority (PCA) prior to any excavation occurring.

**Reason:** To ensure Council's assets are not damaged.

40. The basement stormwater pump-out system, must be designed and constructed to include the following:

- (a) A holding tank capable of storing the run-off from a 100 year ARI (average reoccurrence interval) - 2 hour duration storm event, allowing for pump failure.
- (b) A two pump system (on an alternate basis) capable of emptying the holding tank at a rate equal to the lower of:
  - (i) The permissible site discharge (PSD) rate; or
  - (ii) The rate of inflow for the one hour, 5 year ARI storm event.
- (c) An alarm system comprising of basement pump-out failure warning sign together with a flashing strobe light and siren installed at a clearly visible location at the entrance to the basement in case of pump failure.
- (d) A 100 mm freeboard to all parking spaces.
- (e) Submission of full hydraulic details and pump manufacturers specifications.
- (f) Pump out system to be connected to a stilling pit and gravity line before discharge to the street gutter.

**No Groundwater shall drain to the basement stormwater pump-out system.**

Plans and design calculations along with certification from the designer indicating that the design complies with the above requirements are to be submitted to the satisfaction of the Principal Certifying Authority prior to issue of the Construction Certificate.

**Reason:** To ensure satisfactory storm water disposal.

- 41. Oil Separator device must be installed to treat surface runoff water to the basement pump-out system to satisfy section 2.4 D2 of Auburn Development Control Plan 2010 Stormwater Section. Rainwater tanks or a water reuse device shall be incorporated into the stormwater drainage system with a minimum storage size of 10,000 litres (for site area greater than 1500m<sup>2</sup>). Details of the proposed devices and their location must accompany the application for a Construction Certificate to the satisfaction of the Certifying Authority.

**Reason:** To ensure appropriate water quality treatment measures are in place.

- 42. Where shoring will be located on or will support Council property, engineering details of the shoring are to be prepared by an appropriately qualified and practising structural engineer. These details are to include the proposed shoring devices, the extent of encroachment and the method of removal and de-stressing of the shoring elements. These details shall accompany the application for a Construction Certificate. A copy of this documentation must be provided to Council for record purposes. All recommendations made by the qualified practising structural engineer must be complied with.

**Reason:** To ensure the protection of existing public infrastructure and adjoining properties.

43. A heavy duty vehicular crossing shall be constructed in accordance with Council's Standard Drawing numbers DS9 and DS10. Details must accompany an application for a Construction Certificate to the satisfaction of the Certifying Authority.

A Vehicle Crossing application must be submitted to Council together with the appropriate fee as outlined in Council's adopted Fees and Charges prior to any work commencing.

**Reason:** To ensure appropriate vehicular access is provided.

44. All mechanical exhaust ventilation from the car park is to be ventilated away from the property boundaries of the adjoining dwellings, and in accordance with the provisions of AS1668.1 - 2015 – 'The use of ventilation and air conditioning in buildings' – 'Fire and smoke control in multi-compartmented buildings'. Details showing compliance are to accompany an application for a Construction Certificate.

**Reason:** To preserve community health and ensure compliance with acceptable standards.

45. Accessible car-parking spaces must be provided as part of the total car-parking requirements. These spaces and access to these spaces must comply with AS2890.6 - 'Parking facilities' - 'Off-street parking for people with disabilities and AS1428.1 - 'Design for access and mobility' - General requirements for access - New building work' 2001 and 2009 and AS1428.4 - 'Design for access and mobility' - 'Tactile ground surface indicators for orientation of people with vision impairment' - 'Means to assist the orientation of people with vision impairment - Tactile ground surface indicators' 1992 and 2009.

Details are to accompany an application for a Construction Certificate to the satisfaction of the Certifying Authority.

**Reason:** To ensure equity of access and appropriate facilities are available for people with disabilities in accordance with Federal legislation.

46. Where a security roller shutter or boom gate prevents access to visitor carparking, an intercom system is required to be installed to enable visitor access to the car parking area. Details of the system and where it is to be located is to accompany an application for a Construction Certificate to the satisfaction of the Certifying Authority.

**Reason:** To ensure visitor carparking is accessible.

47. Where work is likely to disturb or impact upon utility installations, (e.g. power pole, telecommunications infrastructure etc.) written confirmation from the affected utility provider that they raise no objections to the proposed works must accompany an application for a Construction Certificate to the satisfaction of the Certifying Authority.

**Reason:** To ensure no unauthorised work to public utility installations and to minimise costs to Council.

48. Council property adjoining the construction site must be fully supported at all times during all demolition, excavation and construction works. Details of any required shoring, propping and anchoring devices adjoining Council property, are to be prepared by a qualified structural or geotechnical engineer. These details must accompany an application for a Construction Certificate and be to the satisfaction of the Principal Certifying Authority (PCA). A copy of these details must be forwarded to Council prior to any work being commenced.

Backfilling of excavations adjoining Council property or any void remaining at the completion of the construction between the building and Council property must be fully compacted prior to the completion of works.

**Reason:** To protect Council's infrastructure.

49. The grades of the driveway, including transitions, must comply with Australian Standard 2890.1 to prevent the underside of the vehicles scraping. Where the geometric change in grade exceeds 18%, the gradients of the driveway and ramps shall be checked using the method at Appendix C in AS2890.1:2004 and adjustments will be made to accommodate suitable transition lengths. Details are to be provided with the application for a Construction Certificate.

**Reason:** To provide suitable vehicle access without disruption to pedestrian and vehicular traffic.

50. The perimeter walls and floor of the basement shall be constructed using a "Tanked Construction" method, to prevent any flood and groundwaters seeping through the basement walls and floor base. This must be provided using a diaphragm wall and membrane or other approved form of construction and not through permanent draining of the basement structure.

The landowner shall manage groundwater inflows and outflows during construction and thereafter in perpetuity, including monitoring, to ensure all of the requirements of the Water NSW/DPI Water are satisfied and that there are no adverse effects on the environment and public health, including water table levels, surface and groundwater flow regimes, contamination and pollution, flooding and water quality and structural stability.

Inherent in providing tanked construction is the need to convey groundwater from the upstream side of a building basement to the downstream side of the building basement, thereby maintaining the natural groundwater balance. This is typically achieved with piping and/or porous media around and beneath the building basement. In some cases, pipes may be constructed across the inside of the basement to achieve flow transfer.

The basement shoring walls and base slab must be waterproof and able to withstand the considerable pressure of the water behind the wall and slab (hydrostatic loading).

The revised plans to add notes with regards to the Tanked structure requirements. Details demonstrated compliance are to be submitted to the satisfaction of the Principal Certifying Authority prior to release of relevant Construction Certificate.

**Reason:** Protection of the environment and public health.

51. Stormwater is to be discharged directly to Council's underground road drainage system in Grey Street. In this regard, an investigation of the system's capacity and any required upgrade works downstream of the development to support the direct connection shall be carried out to Council's satisfaction and details be included in the Stormwater Management Plans submitted with the construction Certificate application.

**Reason:** to ensure satisfactory stormwater drainage

## **PART C – BEFORE THE COMMENCEMENT OF BUILDING WORK**

52. Prior to commencement of work, the person having the benefit of the Development Consent and Construction Certificate approval must:

- (a) Appoint a Principal Certifying Authority (PCA) and notify Council in writing of the appointment (irrespective of whether Council or an accredited private certifier) within 7 days; and
- (b) Notify Council in writing a minimum of 48 hours prior to work commencing of the intended date of commencement.

The Principal Certifying Authority must determine and advise the person having the benefit of the Construction Certificate when inspections, certification and compliance certificates are required.

**Reason:** To comply with legislative requirements.

53. The site must be enclosed by a 1.8m high security fence erected wholly within the confines of the site to prevent unauthorised access. The fence must be installed to the satisfaction of the Principal Certifying Authority prior to the commencement of any work on site.

**Reason:** To ensure public safety.

54. A sign must be erected in a prominent position on any site involving excavation, erection or demolition of a building in accordance with Clause 70 of the Environmental Planning and Assessment Regulations 2021 detailing:

- (a) Unauthorised entry of the work site is prohibited;
- (b) The name of the principal contractor (or person in charge of the work site), their telephone number enabling 24hour contact; and
- (c) The name, address and telephone number of the Principal Certifying Authority;
- (d) The development consent approved construction hours;
- (e) The sign must be maintained during excavation, demolition and building work, and removed when the work has been completed.

(f) This condition does not apply where works are being carried out inside an existing building.

**Reason:** Statutory requirement.

55. Prior to work commencing, adequate toilet facilities are to be provided on the work site.

**Reason:** To ensure adequate toilet facilities are provided.

56. Public risk insurance in the amount of not less than \$20 million or such other amount as Council may require by notice) must be obtained and furnished to Council before any works authorised by this consent are conducted:

- (a) Above;
- (b) Below; or
- (c) On

Any public land owned or controlled by Council. The public risk insurance must be maintained for the period during which these works are being undertaken.

The public risk insurance must be satisfactory to Council and list Council as an insured and/or interested party.

A copy of the insurance policy obtained must be forwarded to Council before any of the works commence.

**Note:** Applications for hoarding permits, vehicular crossing etc. will require evidence of insurance upon lodgement of the application.

**Reason:** To ensure the community is protected from the cost of any claim for damages arising from works authorised by this consent conducted above, below or on any public land owned or controlled by Council.

57. Prior to the commencement of work, a registered surveyor is to undertake a set out survey to identify the location of all footings, slabs, posts and walls adjacent to a boundary. This is to ensure the development when complete, will be constructed wholly within the confines of the subject allotment. This set out survey showing the location of the development relative to the boundaries of the site, is to be forwarded to the Principal Certifying Authority prior to pouring of any footings or slabs and/or the construction of any walls/posts.

**Reason:** To ensure that the building is erected in accordance with the approval granted and within the boundaries of the site.

58. Prior to the commencement of work, a registered surveyor is to undertake a set out survey to identify the location of all footings, slabs, posts and walls adjacent to a boundary. This is to ensure the development when complete, will be constructed wholly within the confines of the subject allotment. This set out survey showing the location of the development relative to the boundaries of the site, is to be forwarded to the Principal Certifying Authority prior to pouring of any footings or slabs and/or the construction of any walls/posts.

**Reason:** To ensure that the building is erected in accordance with the approval granted and within the boundaries of the site.

59. Consent from Council must be obtained prior to any pruning works being undertaken on any tree on site, or any trees located in adjoining properties.

All approved pruning works must be supervised by an Australian Qualifications Framework (AQF) Level 3 certified Arborist. This includes the pruning of any roots that are 30mm in diameter or larger.

**Reason:** To ensure the protection of the tree(s) to be retained.

60. Tree protection measures are to be installed prior to works commencing on site and are to be maintained throughout the demolition and construction works, under the supervision of an Australian Qualifications Framework (AQF) Level 5 Consulting Arborist in accordance with AS4970:2009 - "*Protection of Trees on Development Sites*". Written confirmation by the Project Arborist to be forwarded to the Certifying Authority to state tree protection measures were retained and in place, in accordance with the Conditions of Consent (unless prior approval from the Project Arborist was provided).

**Reason:** To ensure tree(s) are adequately protected throughout the construction phase.

61. The design and construction of any food / beverage preparation facilities and waste storage areas associated with this activity shall satisfy the requirements of food safety standards prescribed under the Food Act 2003, as well as Australian Standard AS 4674 - 2004: 'Design, Construction and Fit-out of Food Premises'. Final design drawings for these areas are to be submitted to the principal certifying authority prior to commencement of work.

**Reason:** To ensure design of the premises meets relevant public health standards.

62. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water. The proponent is advised to make an early application for the certificate, as there may be water and wastewater pipes to be built that can take some time. This can also impact on other services and buildings, driveways or landscape designs. Applications must be made through an authorised Water Servicing Coordinator. For help either visit [www.sydneywater.com.au](http://www.sydneywater.com.au) > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.

**Reason:** Per Sydney Water requirements.

63. The approved plans must be submitted to the Sydney Water Tap in™ online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.



The Tap in™ service provides 24/7 access to a range of services, including:

- building plan approvals
- connection and disconnection approvals
- diagrams
- trade waste approvals
- pressure information
- water meter installations
- pressure boosting and pump approvals
- changes to an existing service or asset, e.g. relocating or moving an asset.

Sydney Water's Tap in™ online service is available at: <https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

**Reason:** Per Sydney Water requirements.

64. Sydney Water will need to undertake a detailed review of building plans:
1. That affect or are likely to affect any of the following:
    - Wastewater pipes larger than 300mm in size
    - Pressure wastewater pipes
    - Drinking water or recycled water pipes
    - Our property boundary
    - An easement in our favour
    - Stormwater infrastructure within 10m of the property boundary.
  2. Where the building plan includes:
    - Construction of a retaining wall over, or within the zone of influence of our assets
    - Excavation of a basement or building over, or adjacent to, one of our assets
    - Dewatering – removing water from solid material or soil.

The detailed review is to ensure that:

- our assets will not be damaged during, or because of the construction of the development
- we can access our assets for operation and maintenance
- your building will be protected if we need to work on our assets in the future.

The developer will be required to pay Sydney Water for the costs associated with the detailed review.

Sydney Water recommends developers apply for Building Plan approval early as in some instances the initial assessment will identify that an Out of Scope Building Plan Approval will be required.

**Reason:** Per Sydney Water requirements.

65. Certain tree species placed in close proximity to Sydney Water's underground assets have the potential to inflict damage through invasive root penetration and soil destabilisation. Sydney Water requires that all proposed or removed trees and vegetation included within the proposal adhere to the specifications and requirements within Section 46 of the Sydney Water Act (1994) and Diagram 5 – Planting Trees within our Technical guidelines – Building over and adjacent to pipe assets. Please note these guidelines include more examples of potential activities impacting our assets which may also apply to your development.

If any tree planting proposed breaches our policy, Sydney Water may need to issue an order to remove every tree breaching the act, or directly remove every tree breaching the Act and bill the developer or Council for their removal

**Reason:** Per Sydney Water requirements.

66. If this development is going to generate trade wastewater, the property owner must submit an application requesting permission to discharge trade wastewater to Sydney Water's sewerage system. You must obtain Sydney Water approval for this permit before any business activities can commence. It is illegal to discharge Trade Wastewater into the Sydney Water sewerage system without permission.

The permit application should be emailed to Sydney Water's Business Customer Services at [businesscustomers@sydneywater.com.au](mailto:businesscustomers@sydneywater.com.au)

A Boundary Trap is required for all developments that discharge trade wastewater where arrestors and special units are installed for trade wastewater pre-treatment.

If the property development is for Industrial operations, the wastewater may discharge into a sewerage area that is subject to wastewater reuse. Find out from Business Customer Services if this is applicable to your development.

**Reason:** Per Sydney Water requirements.

67. Backflow is when there is unintentional flow of water in the wrong direction from a potentially polluted source into the drinking water supply.

All properties connected to Sydney Water's supply must install a testable Backflow Prevention Containment Device appropriate to the property's hazard rating. Property with a high or medium hazard rating must have the backflow prevention containment device tested annually. Properties identified as having a low hazard rating must install a non-testable device, as a minimum.

Separate hydrant and sprinkler fire services on non-residential properties, require the installation of a testable double check detector assembly. The device is to be located at the boundary of the property.

Before you install a backflow prevention device:

1. Get your hydraulic consultant or plumber to check the available water pressure versus the property's required pressure and flow requirements.
2. Conduct a site assessment to confirm the hazard rating of the property and its services. Contact PIAS at NSW Fair Trading on 1300 889 099.

For installation you will need to engage a licensed plumber with backflow accreditation who can be found on the Sydney Water website: <https://www.sydneywater.com.au/plumbing-building-developing/plumbing/backflow-prevention.htm>

**Reason:** Per Sydney Water requirements.

68. Water is our most precious resource and every customer can play a role in its conservation. By working together with Sydney Water, business customers are able to reduce their water consumption. This will help your business save money, improve productivity and protect the environment. Some water efficiency measures that can be easily implemented in your business are:

- Install water efficiency fixtures to help increase your water efficiency, refer to WELS (Water Efficiency Labelling and Standards (WELS) Scheme, <http://www.waterrating.gov.au/>
- Consider installing rainwater tanks to capture rainwater runoff, and reusing it, where cost effective. Refer to <https://www.sydneywater.com.au/your-business/managing-your-water-use/water-efficiency-tips.html>
- Install water-monitoring devices on your meter to identify water usage patterns and leaks.
- Develop a water efficiency plan for your business. It is cheaper to install water efficiency appliances while you are developing than retrofitting them later

**Reason:** Per Sydney Water requirements.

69. Under Sydney Water's customer contract Sydney Water aims to provide Business Customers with a continuous supply of clean water at a minimum pressure of 15meters head at the main tap. This is equivalent to 146.8kpa or 21.29psi to meet reasonable business usage needs.

Sometimes Sydney Water may need to interrupt, postpone or limit the supply of water services to your property for maintenance or other reasons. These interruptions can be planned or unplanned.

Water supply is critical to some businesses and Sydney Water will treat vulnerable customers, such as hospitals, as a high priority.

Have you thought about a contingency plan for your business? Your Business Customer Representative will help you to develop a plan that is

tailored to your business and minimises productivity losses in the event of a water service disruption. For further information please visit the Sydney Water website at: <https://www.sydneywater.com.au/your-business/managing-trade-wastewater/commercial-trade-wastewater.html> or contact Business Customer Services on 1300 985 227 or [businesscustomers@sydneywater.com.au](mailto:businesscustomers@sydneywater.com.au)

**Reason:** Per Sydney Water requirements.

70. Prior to the commencement of any works in the Public Domain or on any asset that will be handed over to Council to maintain, the consent holder must arrange for a schedule of inspections to be carried out by Council's Civil Infrastructure Unit.

The required Council inspections include (but are not necessarily limited to) the following where applicable and apply to all **Council** and **privately certified** projects.

- (a) Commencement of public domain works including tree protection measures installed and set out of tree pits;
- (b) Subgrade and formwork inspection following excavation for footings, drainage and pavements, tree pits showing root barriers, structural soil cell, sub-surface drainage and irrigation system as required;
- (c) Installation of required underground conduits;
- (d) Blinding layer / concrete slab base completion and initial (indicative) setout of pavers, street fixtures and fittings as applicable to ensure compliance with the requirements of the **public domain** guidelines;
- (e) Delivery of street trees to site. Trees shall be installed within 24hrs of delivery;
- (f) Final defects inspection after all work has been completed to view paving sealant, tactile surface indicators, service lids, nature strip/vegetation/**street trees** and location of fixtures and fittings

**NOTE:** Additional daily inspections by Council officers may occur to view progressive paving set out and construction depending on the project size and type.

### Defects

Any defects raised by Council officers during the above construction and defects period inspections will be notified in writing. Defects may include incorrect location of elements, unsatisfactory construction techniques or finishes, or any other non-compliances with the approved plans and specifications or the public domain guidelines.

All defects raised by Council's officer during the construction period or defects liability period need to be rectified prior to and signed off at the final defects inspection by Council's officer in order to achieve Occupation Certification. This applies to both Council and privately certified projects.

In addition, **all** construction works for stormwater systems to be handed over to Council must:

- (a) **prior to issue of a construction certificate** have a full set of plans stamped and approved by Council's Service Manager Civil Infrastructure.
- (b) be inspected by Council's Catchment Management team in line with the schedule of inspections agreed to with Council **prior to any works commencing**

Inspection of the works will be required (but not necessarily limited to) on the following stages:

- (a) construction of the stormwater pipe prior to backfilling of trench
- (b) construction of formwork to any drainage pits(s) prior to placement of concrete.
- (c) construction of any formwork to concrete pavement, footpath, driveway, kerb & gutter etc. and prior to placement of concrete.
- (d) The stormwater drainage work is to comply with all other Special Notes – Conditions of Approval on Council stamped and approved drawings.

**Note:** Inspections for all public domain and/or stormwater works must be booked **at least 24 hours** in advance by calling Council's Civil Infrastructure Unit on 9806 8250.

**Reason:** To protect Council Assets.

- 71. No part of a tower crane is to extend, operate or otherwise encroach the airspace of any adjoining properties at any time, including outside construction work hours, unless an agreement to do so has been reached between the developer and any relevant property owner/s, including any Strata body. Such agreement must be in place prior to installation of any component of the tower crane.

**Reason:** To preserve the amenity of adjoining property and ensure consistency with the requirements of Council's Hoarding and Tower Crane Policy 233.

- 72. Prior to the commencement of any works on site, the applicant must submit a Construction and Traffic Management Plan to the satisfaction of the Principle Certifying Authority. The following matters must be specifically addressed in the Plan:

- (a) Construction Management Plan for the Site. A plan view of the entire site and frontage roadways indicating:
  - (i) Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways,
  - (ii) Turning areas within the site for construction and spoil removal vehicles, allowing a forward entry and egress for all construction vehicles on the site,
  - (iii) The locations of proposed Work Zones in the egress frontage roadways,
  - (iv) Location of any proposed crane standing areas,

- (v) A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries,
  - (vi) Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected,
  - (vii) The provisions of an on-site parking area for employees, tradesperson and construction vehicles as far as possible.
  - (viii) A detailed description and route map of the proposed route for vehicles involved in spoil removal, material delivery and machine floatage and a copy of this route is to be made available to all contractors.
  - (ix) A detailed description of locations that will be used for layover for trucks waiting to access the construction site.
- (b) Written concurrence from Council's Traffic and Transport Services in relation to installation of a proposed 'Works Zone' restriction in the egress frontage roadways of the development site.

Application fees and kerbside charges for 6 months (minimum) are to be paid in advance in accordance with the Council's Fees and Charges. The 'Works Zone' restriction is to be installed by Council once the applicant notifies Council in writing of the commencement date (subject to approval through Parramatta Traffic Committee processes). Unused fees for kerbside charges are to be refunded once a written request to remove the restriction is received by Council.

- (c) Traffic Control Plan(s) for the site:
- (i) All traffic control devices installed in the road reserve shall be in accordance with the NSW Transport Roads and Maritime Services publication 'Traffic Control Worksite Manual' and be designed by a person licensed to do so (minimum RMS 'red card' qualification) The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each,
  - (ii) Approval shall be obtained from City of Parramatta Council for any temporary road closures or crane use from public property.
- (d) Where applicable, the plan must address the following:
- (i) Evidence of Roads and Maritime Services concurrence where construction access is provided directly or within 20 m of an Arterial Road,
  - (ii) A schedule of site inductions shall be held on regular occasions and as determined necessary to ensure all new employees are aware of the construction management obligations.
  - (iii) Minimising construction related traffic movements during school peak periods.

The Construction and Traffic Management Plan shall be prepared by a suitably qualified and experienced traffic consultant and be certified by this person as being in accordance with the requirements of the abovementioned documents and the requirements of this condition.

**Reason:** To ensure that appropriate measures have been considered during all phases of the construction process in a manner that maintains the environmental amenity and ensures the ongoing safety and protection of people.

73. The applicant must apply for a road-opening permit where a new pipeline is proposed to be constructed within or across Council owned land. Additional road opening permits and fees may be necessary where connections to public utilities are required (e.g. telephone, electricity, sewer, water or gas).

In addition, no drainage work can be carried out within the Council owned land without this permit being issued. A copy is required to be kept on site.

**Reason:** To protect Council's assets throughout the development process.

74. Prior to the commencement of any excavation works on site, the applicant must submit for approval by the Principal Certifying Authority (with an electronic copy forwarded to Council at [council@cityofparramatta.nsw.gov.au](mailto:council@cityofparramatta.nsw.gov.au)) a dilapidation report on the visible and structural condition of all neighbouring structures within the 'zone of influence' of the excavation face to a depth of twice that of the excavation.

The report must include a photographic survey of the adjoining properties detailing their physical condition, both internally and externally, including such items as walls, ceilings, roof, structural members and other similar items. The report must be completed by a consulting structural/geotechnical engineer in accordance with the recommendation of the geotechnical report.

In the event that access to adjoining allotments for the completion of a dilapidation survey is denied, the applicant must demonstrate in writing that all reasonable steps have been taken to advise the adjoining allotment owners of the benefit of this survey and details of failure to gain consent for access to the satisfaction of the Principle Certifying Authority.

**Note:** This documentation is for record keeping purposes only, and can be made available to an applicant or affected property owner should it be requested to resolve any dispute over damage to adjoining properties arising from works. It is in the applicant's and adjoining owner's interest for it to be as detailed as possible.

**Reason:** Management of records.

75. Prior to the commencement of any excavation works on site the applicant must submit, for approval by the Principal Certifying Authority (PCA), a

geotechnical/civil engineering report which addresses (but is not limited to) the following:

- (a) The type and extent of substrata formations. A minimum of 4 representative bore hole logs which are to provide a full description of all material from the ground surface to a minimum of 1.0m below the finished basement floor level. The report is to include the location and description of any anomalies encountered in the profile, and the surface and depth of the bore hole logs shall be to Australian Height Datum.
- (b) Having regard to the findings of the bore hole testing, details of the appropriate method of excavation/shoring together with the proximity to adjacent property and structures can be ascertained. As a result potential vibration caused by the method of excavation and how it will impact on nearby footings/foundations must be established together with methods to ameliorate any impact.
- (c) The proposed methods for temporary and permanent support required by the extent of excavation can be established.
- (d) The impact on groundwater levels in relation to the basement structure.
- (e) The drawdown effects if any on adjacent properties (including the road reserve), resulting from the basement excavation will have on groundwater together with the appropriate construction methods to be utilised in controlling groundwater.

Where it is considered there is potential for the excavation to create a "dam" for natural groundwater flows, a groundwater drainage system must be designed to transfer groundwater through or under the proposed development. This design is to ensure there is no change in the range of the natural groundwater level fluctuations. Where an impediment to the natural flow path of groundwater results, artificial drains such as perimeter drains and through drainage may be utilised.

- (f) The recommendations resulting from the investigations are to demonstrate the works can be satisfactorily implemented. An implementation program is to be prepared along with a suitable monitoring program (where required) including control levels for vibration, shoring support, ground level and groundwater level movements during construction.

The implementation program is to nominate suitable hold points for the various stages of the works in order verify the design intent before certification can be issued and before proceeding with subsequent stages.

The geotechnical report must be prepared by a suitably qualified consulting geotechnical/hydrogeological engineer with demonstrated experience in such investigations and reporting. It is the responsibility of the engaged geotechnical specialist to undertake the appropriate investigations, reporting and specialist



recommendations to ensure a reasonable level of protection to adjacent properties and structures both during and after construction. The report must contain site specific geotechnical recommendations and must specify the necessary hold/inspection points by relevant professionals as appropriate. The design principles for the geotechnical report are as follows:

- (i) No ground settlement or movement is to be induced which is sufficient enough to cause an adverse impact to adjoining property and/or infrastructure.
- (ii) No changes to the ground water level are to occur as a result of the development that is sufficient enough to cause an adverse impact to the surrounding property and infrastructure.
- (iii) No changes to the ground water level are to occur during the construction of the development that is sufficient enough to cause an adverse impact to the surrounding property and infrastructure.
- (iv) Vibration is to be minimised or eliminated to ensure no adverse impact on the surrounding property and infrastructure occurs, as a result of the construction of the development.
- (v) Appropriate support and retention systems are to be recommended and suitable designs prepared to allow the proposed development to comply with these design principles.
- (vi) An adverse impact can be assumed to be crack damage which would be classified as Category 2 or greater damage according to the classification given in Table C1 of AS 2870 - 1996.

**Reason:** To ensure the ongoing safety and protection of property.

76. Details of any required upgrades of Councils Stormwater System shall be submitted for Council's City Works Unit approval prior to commencement of any work.

**Reason:** To ensure adequate stormwater infrastructure is provided.

77. Erosion and sediment control measures are to be installed in accordance with the publication 'Urban Stormwater: Soils and Construction "The Blue Book" 2004 (4th edition) prior to the commencement of any demolition, excavation or construction works upon the site. These measures are to be maintained throughout the entire works.

**Reason:** To ensure soil and water management controls are in place before site works commence.

78. Prior to commencement of works and during construction works, the development site and any road verge immediately in front of the site must be maintained in a safe and tidy manner. In this regard the following must be undertaken:

- (a) all existing buildings are to be secured and maintained to prevent unauthorised access and vandalism
- (b) all site boundaries are to be secured and maintained to prevent unauthorised access to the site;

- (c) all general refuse and/or litter (inclusive of any uncollected mail/advertising material) is to be removed from the site on a fortnightly basis;
- (d) the site is to be maintained clear of weeds; and
- (e) all grassed areas are to be mowed on a monthly basis.

**Reason:** To ensure public safety and maintenance of the amenity of the surrounding environment.

79. If development involves excavation that extends below the level of the base, of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the persons own expense:

- (a) Protect and support the adjoining premises from possible damage from the excavation
- (b) Where necessary, underpin the adjoining premises to prevent any such damage.

**Note:** If the person with the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to the condition not applying, this condition does not apply.

**Reason:** As prescribed under the Environmental Planning and Assessment Regulation 2000.

80. Unless otherwise specifically approved in writing by Council, all works, processes, storage of materials, loading and unloading associated with the development are to occur entirely within the property boundaries. The applicant, owner or builder must apply for specific permits if the following activities are required seeking approval pursuant to Section 138 of the Roads Act 1993:

- (a) On-street mobile plant:  
E.g. Cranes, concrete pumps, cherry-pickers, etc. - restrictions apply to the hours of operation and the area where the operation will occur, etc. Separate permits are required for each occasion and each piece of equipment. It is the applicant's, owner's and builder's responsibilities to take whatever steps are necessary to ensure the use of any equipment does not violate adjoining property owner's rights.
- (b) Storage of building materials and building waste containers (skips) on Council's property.
- (c) Permits to utilise Council property for the storage of building materials and building waste containers (skips) are required for each location they are to be stored. Failure to obtain the relevant permits will result in the building materials or building waste containers (skips) being impounded. Storage of building materials and waste containers within Council's open space areas, reserves and parks is prohibited.
- (d) Kerbside restrictions - construction zones:  
The applicant's attention is drawn to the possible existing kerbside restrictions adjacent to the development. Should the applicant require alteration of existing kerbside restrictions, or the provision of

a work zones, the appropriate application must be made to Council and the fee paid. Applicants should note that the alternatives of such restrictions may require referral to Council's Traffic Committee. An earlier application is suggested to avoid delays in construction programs..

The application is to be lodged with Council's Customer Service Centre.

**Reason:** Proper management of public land.

81. All works associated with the construction and/or extension of a driveway crossover/layback within Council owned land requires an application to be lodged and approved by Council.

All footpath crossings, laybacks and driveways are to be constructed according to Council's Specification for Construction or Reconstruction of Standard Footpath Crossings and in compliance with Standard Drawings DS1 (Kerbs & Laybacks); DS7 (Standard Passenger Car Clearance Profile); DS8 (Standard Vehicular Crossing); DS9 (Heavy Duty Vehicular Crossing) and DS10 (Vehicular Crossing Profiles).

The application for a driveway crossing requires the completion of the relevant application form and accompanied by plans, grades/levels and specifications. A fee in accordance with Councils adopted 'Fees and Charges' will need to be paid at the time of lodgement.

**Note 1:** This development consent is for works wholly within the property. Development consent does not imply approval of the footpath or driveway levels, materials or location within the road reserve, regardless of whether the information is shown on the development application plans.

**Note 2:** Council's Customer Service Team can advise of the current fee and can be contacted on 9806 5524

**Reason:** To provide suitable vehicular access without disruption to pedestrian and vehicular traffic.

## **PART D – WHILE BUILDING WORK IS BEING CARRED OUT**

82. All building work must be carried out in accordance with the current provisions of the Building Code of Australia (National Construction Code).

**Reason:** To comply with the Environmental Planning & Assessment Act 1979, as amended and the Environmental Planning & Assessment Regulation 2000.

83. The principal certifier must ensure that building work, demolition or vegetation removal is only carried out between:

- **7am to 5pm on Monday to Friday**
- **7am to 5pm on Saturday**

The principal certifier must ensure building work, demolition or vegetation removal is not carried out on Sundays and public holidays, except where there is an emergency.

Unless otherwise approved within a construction site management plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

**Note:** Any variation to the hours of work requires Council's approval.

Council may permit an extension to the approved hours of work in extenuating or unforeseen circumstances subject to an application and approval by City of Parramatta Council (CoPC) in accordance with the 'After Hours Works for Approved Development Applications Policy' (Policy).

A copy of this Policy and associated application form is available on the CoPC website. A fee will apply to any application made in accordance with this Policy.

The matters of consideration of any extension sought would include, but not be limited to the following aspects and should be detailed in any application made:

- Nature of work to be conducted;
- Reason for after-hours completion;
- Residual effect of work (noise, traffic, parking);
- Demographic of area (residential, industrial);
- Compliance history of subject premises;
- Current hours of operation;
- Mitigating or extenuating circumstance; and
- Impact of works not being completed.

**Reason:** To protect the amenity of the surrounding area.

84. Occupation of any part of the footpath or road at or above (carrying out work, storage of building materials and the like) during construction of the development shall require a Road Occupancy Permit from Council. The applicant is to be required to submit an application for a Road Occupancy Permit through Council's Traffic and Transport Services, prior to carrying out the construction/restoration works.

**Reason:** To ensure proper management of Council assets.

85. Oversize vehicles using local roads require approval from the National Heavy Vehicle Regulator (NHVR). The applicant is required to submit an application for an Oversize Vehicle Access Permit through NHVR's portal ([www.nhvr.gov.au/about-us/nhvr-portal](http://www.nhvr.gov.au/about-us/nhvr-portal)) prior to driving through local roads within the City of Parramatta LGA.

**Reason:** To ensure maintenance of Council's assets.

86. No trees on public property (footpaths, roads, reserves, etc.) are permitted to be removed, pruned or damaged during construction including the installation of fences, hoardings or other temporary works, unless approved in this consent.

**Reason:** Protection of existing environmental infrastructure and community assets.

87. Trees to be removed are:

Tree No.	Species	Common Name	Location
1	<i>Citharexylum spinosum</i>	Fiddlewood	Refer to arborist report
10	<i>Callistemon viminalis</i>	Weeping Bottlebrush	Refer to arborist report
12	<i>Cupressocyparis x leylandii</i>	Leyland Cypress	Refer to arborist report
13	<i>Corymbia citriodora</i>	Lemon-scented Gum	Refer to arborist report
14	<i>Schefflera actinophylla</i>	Umbrella Tree	Refer to arborist report
15	<i>Archontophoenix cunninghamiana</i>	Bangalow Palm	Refer to arborist report
16	<i>Archontophoenix cunninghamiana</i>	Bangalow Palm	Refer to arborist report
17	<i>Ficus benjamina</i>	Weeping Fig	Refer to arborist report

**Reason:** To facilitate development.

88. All approved tree removal must be supervised by an Australian Qualification Framework (AQF) Level 3 Arborist and undertaken in accordance with the Code of Practice for Amenity Tree Industry 1998.

**Reason:** To ensure tree works are carried out safely.

89. Where demolition of asbestos containing materials is undertaken, the contractor must submit to the Principal Certifying Authority, copies of all receipts issued by the EPA licensed waste facility for friable or non-friable asbestos waste as evidence of proof of proper disposal within 7 days of the issue of the receipts.

**Reason:** To ensure appropriate disposal of asbestos materials.

90. All friable and non-friable asbestos-containing waste material on-site shall be handled and disposed off-site at an EPA licensed waste facility by an EPA licensed contractor in accordance with the requirements of the Protection of the Environment Operations (Waste) Regulation 2014 and the Waste Classification Guidelines – Part 1 Classifying Waste (EPA 2014) and any other regulatory instrument as amended.

**Reason:** To ensure appropriate disposal of asbestos materials.

91. A Waste Data file is to be maintained, recording building/demolition contractor's details and waste disposal receipts/dockets for any demolition or construction wastes from the site. These records must be retained and made available to Council on request.

**Reason:** To confirm waste minimisation objectives under Parramatta Development Control Plan 2011 are met.

92. Hazardous or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of Safework NSW and the EPA, and with the provisions of:
- (a) Work Health and Safety Act 2011;
  - (b) NSW Protection Of the Environment Operations Act 1997 (NSW); and
  - (c) NSW Department of Environment and Climate Change Environmental Guidelines; NSW EPA Waste Classification Guidelines.
- Reason:** To ensure that the land is suitable for the proposed development and any contaminating material required to be removed from the property is removed in accordance with the prescribed manner.
93. Any contamination material to be removed from the site shall be disposed of to an EPA licensed landfill.
- Reason:** To comply with the statutory requirements of the Protection of the Environment Operations Act 1997.
94. Site water discharged must not exceed suspended solid concentrations of 50 parts per million, and must be analysed for pH and any contaminants of concern identified during the preliminary or detailed site investigation, prior to discharge to the stormwater system. The analytical results must comply with relevant Environmental Protection Authority and Australian & New Zealand Guidelines for Fresh & Marine Water Quality. Other options for the disposal of excavation pump-out water include disposal to sewer with prior approval from Sydney Water, or off-site disposal by a liquid waste transporter for treatment/disposal to an appropriate waste treatment/processing facility.
- Reason:** To prevent pollution of waterways.
95. Any site excavation areas must be kept free of accumulated water at all times. Water that accumulates within an excavation must be removed and disposed of in a manner that does not result in: the pollution of waters, nuisance to neighbouring properties, or damage/potential damage to neighbouring land and/or property. A de-watering plan is required to be included and submitted to Council for review prior to issue of a Construction Certificate.
- Reason:** To protect against subsidence, erosion and other nuisances.
96. While building work is being carried out, the principal certifier must be satisfied all soil removed from or imported to the site is managed in accordance with the following requirements:
- (a) All excavated material removed from the site must be classified in accordance with the EPA's Waste Classification Guidelines before it is disposed of at an approved waste management facility and the classification, and the volume of material removed must be reported to the principal certifier.

- (b) All fill material imported to the site must be Virgin Excavated Natural Material as defined in Schedule 1 of the Protection of the Environment Operations Act 1997 or a material identified as being subject to a resource recovery exemption by the NSW EPA.

**Reason:** To ensure soil removed from the site is appropriately disposed of and soil imported to the site is safe for future occupants.

97. In the event that material is identified at the subject site as contaminated as defined in the Managing Land Contamination Planning Guidelines dated 1998 and prepared by the Department of Urban Affairs and Planning, the soil must be tested by a person with suitable expertise, to ensure the soil contaminant levels are below acceptable health criteria for residential areas. Any soil investigation must be carried out in accordance with the NSW Environment Protection Authority's Guidelines for Consultants Reporting on Contaminated Sites, the NSW Department of Environment and Conservation Guidelines for the Assessment and Management of Groundwater Contamination 2007, and the provisions of the Contaminated Land Management Act 1997 and Regulation 2013.

**Reason:** To ensure that the provisions set out in Clause 4.6 of State Environmental Planning Policy (Resilience and Hazards) 2021 have been met and the use of the land poses no risk to the environment and human health.

98. While building work is being carried out, the applicant must pay any costs incurred as a result of the approved removal, relocation or reconstruction of infrastructure (including ramps, footpaths, kerb and gutter, light poles, kerb inlet pits, service provider pits, street trees or any other infrastructure in the street footpath area).

**Reason:** To ensure payment of approved changes to public infrastructure.

99. Works are not to result in sedimentation and or run-off from the approved works onto the adjoining properties and or public lands. The person having the benefit of this consent must ensure sediment is not tracked out from the development site.

**Reason:** To ensure no adverse impacts on neighbouring properties.

100. Any damage to Council assets that impacts on public safety during construction is to be rectified immediately to the satisfaction of Council with all costs to be borne by the person having the benefit of the Development Consent.

**Reason:** To protect public safety.

101. Car parking area and internal accessways must be constructed, marked and signposted in accordance with AS2890.1 –2004 'Off Street Car Parking Facilities' prior to an Occupation Certificate being issued.

**Reason:** To ensure appropriate car parking.

102. Appropriate signage must be erected at the vehicle egress points to compel all vehicles to stop before proceeding onto the public way.  
**Reason:** To ensure pedestrian safety.

## **PART E – BEFORE THE ISSUE OF AN OCCUPATION CERTIFICATE**

103. Occupation or use of the building or part is not permitted until an Occupation Certificate has been issued in accordance with Section 6.9 of the Environmental Planning and Assessment Act 1979.

**Reason:** To comply with legislative requirements of the Environmental Planning and Assessment Act 1979.

104. In accordance with Clause 162B of the Environmental Planning and Assessment Regulation 2000, the Principal Certifying Authority responsible for the critical stage inspections must make a record of each inspection as soon as practicable after it has been carried out. The record must include:

- (a) The development application and Construction Certificate number as registered;
- (b) The address of the property at which the inspection was carried out;
- (c) The type of inspection;
- (d) The date on which it was carried out;
- (e) The name and accreditation number of the certifying authority by whom the inspection was carried out; and
- (f) Whether or not the inspection was satisfactory in the opinion of the certifying authority who carried it out.

**Reason:** To comply with statutory requirements.

105. A street number is to be placed on the site in a readily visible location from a public place prior to the issue of an Occupation Certificate. The numbers are to have a minimum height of 75mm.

**Reason:** To ensure a visible house number is provided.

106. Before the issue of the relevant occupation certificate, the principal certifier must ensure any adjustment or augmentation of any public utility services including gas, water, sewer, electricity, street lighting and telecommunications, required as a result of the development, is completed to the satisfaction of the relevant authority.

Before the issue of the occupation certificate, the certifier must request written confirmation from the relevant authority that the relevant services have been completed.

**Reason:** To ensure required changes to public utility services are completed, in accordance with the relevant agency requirements, before occupation

107. Before the issue of an occupation certificate, a suitably qualified engineer must prepare a post-construction dilapidation report, to the satisfaction of the principal certifier, detailing whether:

- (a) after comparing the pre-construction dilapidation report to the postconstruction dilapidation report required under this



- condition, there has been any structural damage to any adjoining buildings; and
- (b) where there has been structural damage to any adjoining buildings, that it is a result of the building work approved under this development consent.

Before the issue of an occupation certificate, the principal certifier is to provide a copy of the post-construction dilapidation report to Council (where Council is not the principal certifier) and to the relevant adjoining property owner(s).

**Reason:** To identify damage to adjoining properties resulting from building work on the development site

108. A qualified Landscape Architect/Designer must certify that the completed works are in accordance with the approved landscape plan. All landscape works must be completed prior to the issue of an Occupation Certificate.

**Reason:** To ensure restoration of environmental amenity.

109. Prior to the issue of an occupational certificate (Interim or Final), written certification from a suitably qualified person(s) shall be submitted to the Principal Certifying Authority and City of Parramatta Council, stating that all works/methods/procedures/control measures approved by Council in the following report has been completed:

- (a) Acoustic Reports Nos. (52.5482.R1,2&3\*), dated (10 & 17 May 2022\*), prepared by (The Acoustic Group\*).

**Reason:** To demonstrate compliance with submitted reports.

110. Prior to an Occupation Certificate being issued, Council must be notified that the premises is to be used for the preparation or manufacture of food for sale so that the premises can be registered on Council's food premises licensing database.

**Reason:** Compliance with the requirements of the Food Act.

111. Adequate ventilation to work areas and other occupied enclosures shall be provided in accordance with the requirements of the Building Code of Australia. Where any system of mechanical ventilation is installed, certification that the system functions in accordance with Australian Standard AS/NZS 1668.2.2012 is to be provided to the certifying authority prior to occupation of the premises.

**Reason:** To comply with the Building Code of Australia and the relevant Australian Standard.

112. Certification to be provided to the principal certifying authority (PCA), prior to occupation, that the fit-out of the food premises has been completed in accordance with plans complying with food safety standards prescribed under the Food Act 2003, and the requirements of Australian Standard AS 4674 - 2004.

It is incumbent on the PCA to determine the competency of the person providing this certification, based on that person's qualifications, experience and currency of practice.

**Reason:** To ensure construction and fit-out of the premises meets relevant public health standards.

113. Adequate ventilation to the waste storage room shall be provided in accordance with the requirements of the Building Code of Australia. Certification that the system functions in accordance with Australian Standard AS 1668 is to be provided to the certifying authority prior to occupation of the premises.

**Reason:** To ensure compliance with BCA requirements.

114. Before the issue of an occupation certificate, the applicant must ensure any public infrastructure damaged as a result of the carrying out of building works (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concreting vehicles) is fully repaired to the written satisfaction of Council, and at no cost to Council.

**Note:** If the council is not satisfied, the whole or part of the bond submitted will be used to cover the rectification work.

**Reason:** To ensure any damage to public infrastructure is rectified

115. Before the issue of an occupation certificate, a registered surveyor must submit documentation to the principal certifier which demonstrates that:
- (a) no existing survey mark(s) have been removed, damaged, destroyed, obliterated or defaced, or
  - (b) the applicant has re-established any survey mark(s) that were damaged, destroyed, obliterated or defaced in accordance with the Surveyor General's Direction No. 11 – Preservation of Survey Infrastructure.

**Reason:** To protect the State's survey infrastructure

116. Before the issue of an occupation certificate, the principal certifier must ensure all refuse, spoil and material unsuitable for use on-site is removed from the site and disposed of in accordance with the approved waste management plan. Written evidence of the removal must be supplied to the satisfaction of the principal certifier.

Before the issue of a partial occupation certificate, the applicant must ensure the temporary storage of any waste is carried out in accordance with the approved waste management plan to the principal certifier's satisfaction.

**Reason:** To ensure waste material is appropriately disposed or satisfactorily stored

117. Before the issue of an occupation certificate, the principal certifier must be satisfied that all landscape and tree-works, including pruning in accordance with AS 4373-2007 Pruning of amenity trees and the removal

of all noxious weed species, have been completed in accordance with the approved plans and any relevant conditions of this consent.

**Reason:** To ensure the approved landscaping works have been completed before occupation, in accordance with the approved landscaping plan(s)

118. All individual parcels of land holding a separate title within the development site must be consolidated into one lot. A plan of consolidation must be registered with the Land and Property Information Division of the NSW Land Registry Services, prior to an Occupation Certificate being issued.

**Reason:** To comply with the Conveyancing Act 1919.

119. All redundant lay-backs and vehicular crossings must be reinstated to conventional kerb and gutter, foot-paving or grassed verge in accordance with Council's Standard Plan No. DS1. The reinstatement must be completed prior to the issue of an Occupation Certificate. All costs must be borne by the applicant.

**Reason:** To provide satisfactory drainage.

## **PART F – OCCUPATION AND ONGOING USE**

120. When Council receives an occupation certificate from the principal certifier, the applicant may lodge an application to release the securities held in accordance with the relevant policies.

Council may use part, or all of the securities held to complete the works to its satisfaction if the works do not meet Council's requirements.

**Note:** A written application to Council's Civil Assets Team is required for the release of a bond and must quote the following:  
(a) Council's Development Application number; and  
(b) Site address.

**Note:** Council's Civil Assets Team will take up to 21 days from receipt of the request to provide the written advice.

**Reason:** To allow release of securities and authorise Council to use the security deposit to complete works to its satisfaction.

121. Any external plant/air-conditioning system must not exceed a noise level of 5dBA above the background noise level when measured at the boundaries of the property.

**Reason:** To minimise noise impact of mechanical equipment.

122. The owner/manager of the site/business is responsible for the removal of all graffiti from the building/structures/signage and/or fencing within 48 hours of its application.

**Reason:** To ensure the removal of graffiti.

123. The proposed use of the premises and the operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997.

**Reason:** To protect the amenity of the area.

124. The use of the premises not giving rise to:

- (a) transmission of unacceptable vibration to any place of different occupancy,
- (b) a sound pressure level measured at any point on the boundary of any affected residential premises that exceeds the background noise level by more than 5 dB(A). The source noise level shall be assessed as an LAeq,15 min and adjusted in accordance with Environment Protection Authority (EPA) guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations, and temporal content as described in the NSW Environmental Planning & Assessment Act 1979: Noise Policy for Industry 2017 and the Protection of the Environment Operations Act 1997.

**Reason:** To prevent loss of amenity to the area.

125. The proprietors of the venue (pub use) shall be responsible at all times for the orderly dispersal of patrons from the venue.

**Reason:** To protect the amenity of the surrounding neighbourhood.

126. Noise and vibration from the use and operation of any plant and equipment and/or building services associated with the premises shall not give rise to 'offensive noise' as defined by the Protection of the Environment Operations Act 1997.

**Reason:** To reduce noise levels.

127. Security personnel licensed under the Security Industry Act 1997 shall be engaged by the licensee to patrol the area to ensure that patrons do not cause nuisance, or annoyance to the quiet and good order of the neighbourhood.

**Reason:** To protect the amenity of the area.

128. Signs must be placed in clearly visible positions within the hotel requesting patrons upon leaving the premises to do so quickly and quietly, having regard to maintaining the amenity of the area.

The management/licensee must ensure that the behaviour of patrons entering and leaving the premises does not detrimentally affect the amenity of the neighbourhood. In this regard, the management/licensee must be responsible for the control of noise and litter generated by patrons of the premises and must ensure that patrons leave the vicinity of the premises in an orderly manner to the satisfaction of Council. If so directed by Council, the management/licensee is to employ private security staff to ensure that this condition is complied with.

**Reason:** To prevent loss of amenity to the area.

129. There are to be no external speakers at the premises.

**Reason:** To prevent loss of amenity to the area.

130. The LA10\* noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency

(31.5Hz–8kHz inclusive) by more than 5dB between 7:00 am and 12:00 midnight at the boundary of any affected residence. The LA10\* noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz–8kHz inclusive) between 12:00 midnight and 7:00 am at the boundary of any affected residence. Notwithstanding compliance with the above, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 12:00 midnight and 7:00 am.

**Reason:** To protect the amenity of the area.

131. The operation of the premises is not to give rise to emissions of air impurities in contravention of the Protection of the Environment Operations Act 1997. Air emissions from the premises must not cause a nuisance from odours, nor be hazardous to human health or the environment.

**Reason:** To prevent loss of amenity to the area.

132. The following conditions are to be always complied with to ensure the safety and security of visitors and users to the development:

- a) That the development be managed in accordance with the Plan of Management submitted with this application;
- b) The recommendations (pages 38 to 39 and in sections 7 to 10, pages 28 to 35) of the Crime Prevention Through Environmental Design be included in the development;
- c) The pub must submit their own development application prior to commencing any operations, and when doing so, submit their own Plan of Management for review;
- d) Trading hours for the pub be limited to 10am to midnight daily unless otherwise approved in a separate development application. Any after midnight trading should be subject to a trial period to gauge the impact on the amenity of the neighbourhood;
- e) Each mailbox must be located in a secure area of the building (not accessible to the public) and be fitted with an individualised non-master key lock, alternatively, individual electronic access provided;
- f) Implement a CCTV system to provide 24/7 surveillance of all building entry and exit points (including car park entry and exit), mail box area, as well as car park areas, footpaths and publicly accessible areas;
  - i. The CCTV system operated by the complex should comply with Australian Standard AS/NZS 62676.1.2:2020. Images should be retained for a minimum of 30 days before deletion;
- g) In relation to the proposed pub, implement a CCTV system to provide surveillance of all entrances and exits on a 24/7 basis, and service and gaming areas, from at least one hour prior to opening until at least one hour after the last patron has left the premises; in addition, the system is to continuously record and store images for a minimum of 30 days, and that such footage is to be made available to Police,

Officers of Liquor and Gaming NSW (or succeeding government bodies with similar regulatory responsibilities), or City of Parramatta Council officers upon written request;

- h) Activities in or at the hotel while it is open for trade shall not result in LA10 noise level being emitted the background noise level in any octave band from 31.5Hz to 8000Hz centre frequencies inclusive by more than 5dB at the boundary of the nearest affected residential property;
- i) Any licensed premises, pub, restaurant or other, must be an active member of the local Liquor Accord (Flemington /Auburn). An active member is defined as being a financial member and attending 75% or more of the accord meetings.

**Reason:** To ensure the safety and security of visitors and users of the development.

133. Trade waste water shall be disposed of in accordance with the permit requirements of Sydney Water Corporation Ltd, Wastewater Source Control Branch.

**Reason:** To ensure compliance with Sydney Water's requirements and protect the environment.

134. Between collection periods, all waste/recyclable materials generated on site must be kept in enclosed bins with securely fitting lids so the contents are not able to leak or overflow. Bins must be stored in the designated waste/recycling storage room(s) or area(s) between collection periods.

**Reason:** To ensure waste is adequately stored within the premises.

135. All waste generated onsite must be removed at regular intervals and no less frequent than once weekly for garbage and once fortnightly for recycling. The collection of waste and recycling must not cause nuisance or interfere with the amenity of the surrounding area. Garbage and recycling must not be placed on public property for collection without the formal approval of Council. Waste collection vehicles servicing the development onsite must enter and exit a property in a forward direction.

**Reason:** To ensure that waste does not accumulate onsite.

136. Signage to encourage correct recycling and reduce contamination is required within shared waste rooms / bin storage areas. Standard signage is available through Council.

**Reason:** To encourage proper waste and recycling practices onsite.

137. No advertisement/signage shall be erected on or in conjunction with the development without prior consent.

**Reason:** To comply with legislative controls.

138. No goods are to be stored/displayed outside the walls of the building.

**Reason:** To ensure visual amenity.

139. The days and hours of operation are restricted to:

Day	Time
<b>Childcare Centre</b>	
Monday to Friday	6:45am to 7pm
Saturday and Sunday	None
Public Holidays	None
<b>Office Premises</b>	
Monday to Sunday	10am to 7pm
Public Holidays	10am to 7pm
<b>Business Premises</b>	
Monday to Sunday	10am to 7pm
Public Holidays	10am to 7pm
<b>Food and Drink Premises</b>	
Monday to Sunday	10am to 7pm
Public Holidays	10am to 7pm
<b>Neighbourhood Shop</b>	
Monday to Sunday	10am to 11pm
Public Holidays	10am to 7pm
<b>Specialised Retail Premises</b>	
Monday to Sunday	10am to 7pm
Public Holidays	10am to 7pm
<b>Pub</b>	
Monday to Sunday	10am to 12midnight
Public Holidays	10am to 12midnight

**Reason:** To minimise the impact on the amenity of the area.

140. The provision of gaming is not permitted on the premises prior to approval being obtained from the Office of Liquor Gaming and Racing. Such consent must be submitted to Council prior to occupation of the premises.

**Reason:** To protect the amenity of the area.

141. During occupation and ongoing use of the building, the applicant must provide an annual fire safety statement to Council and the Commissioner of Fire and Rescue NSW in accordance with clause 88 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

**Reason:** To ensure annual checks on fire safety measures

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**Date:** 24 July 2023  
**Responsible Officer:** Denise Fernandez