

Responses to Proposed Consent Conditions

Sydney South Planning Panel Meeting Tuesday 12 November 2019 @ 12.00pm	
Panel reference	PPSSH-1
DA Number	DA2018/0473
LGA	Georges River Council
Address	77-79 Trafalgar Street, Peakhurst
Proposed development	Demolition works, lot consolidation and construction of a three storey residential flat building comprising of 15 units, basement carpark and landscaping works
Council recommendation	Approval subject to conditions

The below responses are based on a preliminary review of the Draft Conditions received from Georges River Council.

Before final conditions are adopted, LAHC would appreciate a copy of the Draft Conditions from Council in Word format to facilitate suggested amendments in 'track change' format.

No	Keywords	LAHC's Response	DA Ref. / Condition
1	Principal Certifying Authority (construction) (demolition)	Not agreed. Pursuant to S.109R of the Act, the Land & Housing Corporation, as a Crown authority, is authorised to certify its own building works as complying with the state's building laws (ie the Building Code of Australia) and is therefore not required to appoint a principal certifying authority. There are no provisions in the Act for the appointment of principal certifying authorities in respect of demolition.	6, 10, 16, 18, 33, 41, 45, 54, 55, 57, 60, 62, 69, 71
2	Construction Certificate	Not agreed. Pursuant to 6.28 (previous S.109R) of the Act, the Land & Housing Corporation, as a Crown authority, is authorised to certify its own building works as complying with the state's building laws (ie the Building Code of Australia) and is therefore exempt from the need to obtain a construction certificate or appoint a principal certifying authority. All references to Construction Certificate should be deleted and/or changed to 'prior to construction', 'prior to commencement of work', 'prepared in consultation with Council', or otherwise refer to 'to the Certifying Authority', as appropriate. Delete 'Section D Prior to the issue of a Construction Certificate'. Replace with 'Section E Prior to Commencement of Work'.	6, 7, 8, 10, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 26, 27, 28, 30, 32, 33, 35, 38, 44, 60, 62
3	Occupation Certificate	Not agreed. Pursuant to S.109M(2)(d) of the Act, the Land & Housing Corporation, as a Crown authority, is not required to obtain occupation certificates. Deletion of references to Occupation Certificate is requested. Change to 'prior to occupation' or refer to 'Certifying Authority', as appropriate.	55, 57, 61, 62, 63, 64, 65, 67, 69, 70, 71

No	Keywords	LAHC's Response	DA Ref. / Condition
4	Arborist report	Arboricultural Impact Assessment Report should include both reports dated 6/11/18 and 11/10/18.	1, 37
5	Relocation of power pole	Delete as Condition 24 is duplicate of Condition 19. Conditions thereafter need to be re-numbered.	19, 24
6	BASIX	Condition is missing a number – assign as 'Condition 27'. Delete 'application for Construction Certificate'.	No Condition # (between Condition 27 & 28)
7	Required design changes – visitor / car wash bay	<p>Visitor/car wash bay not agreed.</p> <p><u>Reasons:</u></p> <p><u>Safety & security / CPTED:</u></p> <ul style="list-style-type: none"> LAHC does not generally provide for visitors parking in its developments due to safety and security (access) issues. The management of access and safety monitoring would be onerous for a single visitor space. The safety and security risks are exacerbated by the basement location of the car park. <p><u>Misuse:</u></p> <ul style="list-style-type: none"> From experience, LAHC considers that by providing carwash facilities (i.e. tap) to the visitors' car space will encourage the misuse of water and the tap may be vandalised. <p><u>Availability of kerbside parking:</u></p> <ul style="list-style-type: none"> There are no parking restrictions on either side of the 3 x street frontages bordering the site. Current parking provision satisfies DCP objectives, in particular, "<i>caters for the needs of the residents and visitors</i>", as kerbside parking is able to cater to visitors. <p><u>Traffic report</u> supports proposed parking provision:</p> <ul style="list-style-type: none"> 2 out of 3 existing driveways will be closed off (thereby freeing up space for kerbside parking). The site has 3 street frontages and can accommodate 15 kerbside parking spaces. Car ownership by LAHC tenants tend to be lower than the general community. <p><u>Council's assessment report:</u></p> <ul style="list-style-type: none"> Although ARH SEPP not applicable, parking provision complies with ARH SEPP (non-accessible) rates and is consistent with social housing provision (as per Council report). <p>Potential concession is to allocate 1 space for service or maintenance vehicle parking.</p> <p>Change to:</p> <p>a) One car space is to be nominated as a visitor space / car wash bay maintenance / service vehicle space</p>	28

No	Keywords	LAHC's Response	DA Ref. / Condition
8	Further approval from Council	This amendment removes the need to obtain the further approval of Council and thereby recognises the Land & Housing Corporation's position as a Crown authority, in accordance with Department of Planning (formerly Planning NSW) Circular D6 – Crown Development Applications and Conditions of Consent. Delete all requirements for approval from Council.	16, 20, 30, 54
9	Stormwater and Drainage Plans	Not agreed. It is understood that the stormwater and drainage plan has been assessed as part of the subject development application and, as such, separate approval is not required. Delete requirement for 'approval with the Construction Certificate'.	30, 64
10	Section 94 (s7.11) payment	Agreed, subject to the replacement of 'Construction Commencing' with 'occupation of the development'. Contributions are not warranted until residents occupy the development and create the demand for services/facilities.	20
11	Removal, handling or transporting of asbestos	Not Agreed. Removal, handling and transporting of asbestos is regulated by the Work Health and Safety Act 2011, administered by the Workcover Authority and by which the Land & Housing Corporation is bound, regardless of conditions of consent.	41, 43
12	Disposal of asbestos	Not Agreed. Disposal of asbestos is regulated by the Protection of the Environment (Operations) Act 1997, administered by the Office of Environment & Heritage and by which the Land & Housing Corporation is bound, regardless of conditions of consent.	41, 43
13	Approval for works in the road reserve (under S.138 Roads Act)	Not agreed. Clause 5 of Schedule 2 of the savings, transitional and other provisions of the Roads Act 1993 provides that a Public Authority, such as the Land & Housing Corporation, does not require consent from a Road Authority to exercise its functions in respect of an unclassified road that is not a Crown road. Deletion of this proposed condition is therefore requested. Suggested wording to replace this condition is as follows: <i>"All proposed works within the public road and footway shall be designed and constructed to Council's standards and specifications and a copy of the details plans submitted to Council prior to work commencing. The applicant/developer shall arrange for necessary inspections by Council whilst the work is in progress or after completion of the works".</i> As a Road Opening, Occupancy Licence or Work Zone Permit is an approval issued under S.138 of the Roads Act it is requested that this advisory note be deleted .	4, 5 Notes/Advice s 14

No	Keywords	LAHC's Response	DA Ref. / Condition
14	Consent valid for less than FIVE years	Please amend to five years. The Land & Housing Corporation is not aware of any reason the consent should be valid for less than the five years permitted by S.95 of the Act. Given the uncertainty of the timing of funding, it is necessary to maintain this flexibility of commencement to help ensure the undertaking of this project.	Notes/Advice s 3