

**WITHOUT PREJUDICE DRAFT MODIFIED CONDITIONS – MOD/2021/0376 – 750**  
**PRINCES HIGHWAY TEMPE**

**(Note: These conditions are the same as recommended to the SECPP in Council's Assessment Report considered by the Panel on 31 March 2022)**

A. Modify the following Condition/s to read as follows:

1. The development must be carried out in accordance with plans and details listed below:

<b>Plan and Issue No.</b>	<b>Plan Name</b>	<b>Date Issued</b>	<b>Prepared by</b>	<b>Date Submitted</b>
<b>030-H</b>	<b>Site Plan</b>	<b>29 May 2018</b>	<b>John R Brogan &amp; Associates</b>	<b>26 September 2018</b>
031-F	Site Plan - Undercroft Parking Level	29 May 2018	John R Brogan & Associates	26 September 2018
032-F	Site Plan— Warehouse Level 1	29 May 2018	John R Brogan & Associates	26 September 2018
033-F	Site Plan— Warehouse Level 3	29 May 2018	John R Brogan & Associates	26 September 2018
100-G	Floor Plan - Undercroft Parking Level	29 May 2018	John R Brogan & Associates	26 September 2018
101-H	Floor Plan— Warehouse Level 1	29 May 2018	John R Brogan & Associates	26 September 2018
102-H	Floor Plan— Warehouse Level 2	31 August 2018	John R Brogan & Associates	26 September 2018
110-G	Roof Plan	29 May 2018	John R Brogan & Associates	26 September 2018
120-D	Sections	21 March 2017	John R Brogan & Associates	26 September 2018
<b>130-E</b>	<b>Elevations</b>	<b>11 December 2017</b>	<b>John R Brogan &amp; Associates</b>	<b>26 September 2018</b>
115-D	Existing Building Detail	11 December 2017	John R Brogan & Associates	26 September 2018
116-D	Existing Building Detail	11 December 2017	John R Brogan & Associates	26 September 2018
117-C	Existing Building Detail	11 December 2017	John R Brogan & Associates	26 September 2018
118-C	Existing Building Detail	11 December 2017	John R Brogan & Associates	26 September 2018
140-B	Concept Sections	11 December 2017	John R Brogan & Associates	26 September 2018
141-B	Detail Sections	11 December 2017	John R Brogan & Associates	26 September 2018

143 A	Footpath Detail Section 1	11 December 2017	John R Brogan & Associates	26 September 2018
144 A	Footpath Detail Section 2	11 December 2017	John R Brogan & Associates	26 September 2018
145 A	Footpath Detail	11 December 2017	John R Brogan & Associates	26 September 2018
2212LP - 01 K	Landscape Plan	29 May 2018	John Lock & Associates	26 September 2018
2212LP - 02 I	Landscape Elevations	7 December 2017	John Lock & Associates	26 September 2018
2212LP - 03 H	Landscape Details	27 March 2017	John Lock & Associates	26 September 2018
27926KGrpt	Preliminary Environmental Site Assessment	26 November 2014	Environmental Investigation Services	21 April 2017
27926Vrpt	Preliminary Geotechnical Investigation	2 December 2014	JK Geotechnics	21 April 2017
C108568 : J129853	Hazardous Materials Risk Assessment	November 2014	Greencap	21 April 2017
312288 Rev. 01	Energy Efficiency Report	7 April 2017	KPMG	21 April 2017
14377 Rev. B	Development Application Noise Assessment	April 2017	Wilkinson Murray	21 April 2017

and details submitted to Council on 21 April 2017, 13 October 2017, 11 December 2017, 14 May 2018, 31 August 2018, 26 September 2018 and 24 May 2019 with the application for development consent and as amended by the details submitted to Council as part of Part A of this determination and as amended by the plans and details listed below:

<b>031-G</b>	<b>Site Plan – Undercroft Parking Level</b>	<b>28 February 2020</b>	<b>John R Brogan &amp; Associates</b>	<b>8 September 2020</b>
<b>032-G</b>	<b>Site Plan – Warehouse Level 4</b>	<b>28 February 2020</b>	<b>John R Brogan &amp; Associates</b>	<b>8 September 2020</b>
<b>033-G</b>	<b>Site Plan – Warehouse Level 3</b>	<b>28 February 2020</b>	<b>John R Brogan &amp; Associates</b>	<b>8 September 2020</b>
<b>100-H</b>	<b>Floor Plan – Undercroft Parking Level</b>	<b>28 February 2020</b>	<b>John R Brogan &amp; Associates</b>	<b>8 September 2020</b>
<b>101-J</b>	<b>Floor Plan – Warehouse Level 4</b>	<b>28 February 2020</b>	<b>John R Brogan &amp; Associates</b>	<b>8 September 2020</b>
<b>102-J</b>	<b>Floor Plan – Warehouse Level 2</b>	<b>28 February 2020</b>	<b>John R Brogan &amp; Associates</b>	<b>8 September 2020</b>

<b>140 H</b>	<b>Roof Plan</b>	<b>28 February 2020</b>	<b>John R Brogan &amp; Associates</b>	<b>8 September 2020</b>
115 E	Existing Building Detail	28 February 2020	John R Brogan & Associates	8 September 2020
116E	Existing Building Detail	28 February 2020	John R Brogan & Associates	8 September 2020
117 D	Existing Building Detail	28 February 2020	John R Brogan & Associates	8 September 2020
118 D	Existing Building Detail	28 February 2020	John R Brogan & Associates	8 September 2020
<b>120 E</b>	<b>Sections</b>	<b>28 February 2020</b>	<b>John R Brogan &amp; Associates</b>	<b>8 September 2020</b>
<b>140 G</b>	<b>Concept Sections</b>	<b>28 February 2020</b>	<b>John R Brogan &amp; Associates</b>	<b>8 September 2020</b>
<b>141 C</b>	<b>Detail Sections</b>	<b>28 February 2020</b>	<b>John R Brogan &amp; Associates</b>	<b>8 September 2020</b>

and details submitted to Council on 8 April 2020 and 8 September 2020 with the application under Section 4.55 (1A) of the Environmental Planning and Assessment Act, 1979 ~~and as amended by the following conditions plans and details listed below:~~

<b>030 J</b>	<b>Site Plan</b>	<b>09.07.2021</b>	<b>John R Brogan &amp; Associates</b>	<b>10.09.2021</b>
<b>031 H</b>	<b>Site Plan - Undercroft Parking Level</b>	<b>09.07.2021</b>	<b>John R Brogan &amp; Associates</b>	<b>10.09.2021</b>
<b>032 H</b>	<b>Site Plan – Warehouse Level 1</b>	<b>09.07.2021</b>	<b>John R Brogan &amp; Associates</b>	<b>10.09.2021</b>
<b>033 H</b>	<b>Site Plan – Warehouse Level 2</b>	<b>09.07.2021</b>	<b>John R Brogan &amp; Associates</b>	<b>10.09.2021</b>
<b>100 J</b>	<b>Floor Plan - Undercroft Parking Level</b>	<b>09.07.2021</b>	<b>John R Brogan &amp; Associates</b>	<b>10.09.2021</b>
<b>101 K</b>	<b>Floor Plan – Warehouse Level 1</b>	<b>09.07.2021</b>	<b>John R Brogan &amp; Associates</b>	<b>10.09.2021</b>
<b>102 K</b>	<b>Floor Plan – Warehouse Level 2</b>	<b>09.07.2021</b>	<b>John R Brogan &amp; Associates</b>	<b>10.09.2021</b>
<b>110 J</b>	<b>Roof Plan</b>	<b>09.07.2021</b>	<b>John R Brogan &amp; Associates</b>	<b>10.09.2021</b>

<b>120 F</b>	<b>Sections</b>	<b>09.07.2021</b>	<b>John R Brogan &amp; Associates</b>	<b>10.09.2021</b>
<b>130 F</b>	<b>Elevations</b>	<b>09.07.2021</b>	<b>John R Brogan &amp; Associates</b>	<b>10.09.2021</b>
<b>140 D</b>	<b>Concept Sections</b>	<b>09.07.2021</b>	<b>John R Brogan &amp; Associates</b>	<b>10.09.2021</b>
<b>141 D</b>	<b>Detail Sections</b>	<b>09.07.2021</b>	<b>John R Brogan &amp; Associates</b>	<b>10.09.2021</b>
<b>P4533 Version 005</b>	<b>Tempe South LATM Study (excluding appendices)</b>	<b>06.07.2021</b>	<b>Bitzios Consulting</b>	<b>-</b>

**and details submitted to Council on 10 September 2021 and 22 February 2022 with the application under Section 4.55 (2) of the Environmental Planning and Assessment Act, 1979 and as amended by the following conditions.**

**(Amended – XX XX 2022 – MOD/2021/0376)**

5. A total of **424 397** car parking spaces being provided, paved and maintained at all times in accordance with the standards contained within Part 2.10 of Marrickville Development Control Plan 2011 – Parking. The parking spaces must include the following allocations:
- 4 double-length car and trailer spaces;
  - 10 accessible car parking space; and
  - 4 car share spaces.

Reason: To ensure practical off-street car parking is available for the use of the premises.

**(Amended – XX XX 2022 – MOD/2021/0376)**

27. The applicant must meet the cost of implementing any future resident parking scheme in Smith Street, Tempe **required by the Tempe South LATM Study – Final Report prepared by Bitzios Consulting dated 6 July 2021 and any LATM review required by Condition 112(b). subject to Traffic Committee approval.**

Reason: To confirm the terms of approval.

**(Amended – XX XX 2022 – MOD/2021/0376)**

48. Before the lodgement of any Construction Certificate, amended plans and details must be submitted to and approved by Council's Heritage Advisor indicating the following:

- ~~The painting of the RC panel wall on the western elevation (fronting the Princes Highway above the retained brick portion of the building) and the RC panel wall on the southern elevation that sits vertically above the retained brick portion of the building being amended to an off-white colour, and the colour scheme of the flush wall signage being amended accordingly. A specific colour swatch must be provided to Council's satisfaction;~~

- b) All cabling and conduit supplying power to the sign installed on the heritage listed warehouse façade being completely concealed and must not involve intervention in or damage to the façade; and
- c) Methodology for the installation of the signage on the heritage listed warehouse façade can be carried out in a reversible manner without damage to the façade.

Reason: To ensure the integrity of the heritage item.

(Amended – XX XX 2022 – MOD/2021/0376)

49. A contribution of \$682,553.18 has been assessed as the contribution for the development under Section 7.11 of the Environmental Planning and Assessment Act 1979 and Marrickville Section 94/94A Contributions Plan 2014 (a copy of which may be inspected at the offices of the Council).

The Section 7.11 contribution referred to above is indexed quarterly in accordance with Marrickville Section 94/94A Contributions Plan 2014.

The Section 7.11 contribution (as adjusted) must be paid to the Council **in cash or by unendorsed bank cheque (from an Australian Bank only) or EFTPOS (Debit only) or credit card\*** before the issue of a ~~Construction Certificate~~ Occupation Certificate. Under Marrickville Section 94/94A Contributions Plan 2014 payment of Section 7.11 contributions **CANNOT** be made by Personal Cheque or Company Cheque.

\*NB A 1% credit card transaction fee applies to all credit card transactions.

**NOTE:** Under Marrickville Section 94/94A Contributions Plan 2014, the proposed cost of carrying out development is adjusted quarterly at time of payment of the levy in line with the *Consumer Price Index: All Groups Index Number for Sydney* provided by the Australian Bureau of Statistics.

Reason: To ensure that the approved development makes a contribution towards the provision, extension or augmentation of public amenities and public services in the area.

(Amended – XX XX 2022 – MOD/2021/0376)

54. The person acting on this consent shall seek approval from the State Transit Authority (STA) for the proposed relocation of the bus stop and shelter. The applicant must liaise with Council's bus shelter service provider to organise the relocation at no cost to Council. The shelter shall be located ~~adjacent to the site and within the property boundaries (with provision of a suitable easement)~~ so as to maintain a 2.5m clear footpath along the Princes Highway **with provision of a suitable easement (on the property) to achieve the required clearance.** A plan of the proposed bus shelter relocation with signposting alterations shall be submitted to the RMS and Council for approval before the issue of a Construction Certificate.

Reason: To confirm the terms of approval.

(Amended – XX XX 2022 – MOD/2021/0376)

112. **LATM scheme delivery**

- a) The LATM works described in **Condition 1 and as amended by Condition 1A** ~~Condition 68A~~ of this Determination being implemented to the satisfaction of

~~Inner West Local Traffic Committee~~ **the Director Infrastructure** prior to the issue of an Occupation Certificate and are to be carried out by the applicant at the applicant's expense.

- b) After a period of 12 months from the issue of an Occupation Certificate, the applicant is to fund a review (**undertaken by Council**) of the LATM measures implemented as part of Part a) of this condition. Any implemented LATM devices that are deemed not to be required are to be removed by the applicant at the applicant's expense and to the satisfaction of Inner West Local Traffic Committee. In addition any new LATM measures deemed necessary shall also be constructed by the applicant and at the applicant's expense.
- c) All works required to be carried out on public land as part of Parts a) and b) of this condition are to be carried out by the applicant at the applicant's expense with an appropriate Deed and bond being entered into with Council prior to the issue of an Occupation Certificate.

Reason: To confirm the terms of approval.

(Amended – XX XX 2022 – MOD/2021/0376)

B. Add the following Condition/s to read as follows:

1A. ***The Tempe South LATM Study – Final Report by Bitzios Consulting dated 6 July 2021 referenced in Condition 1 being amended in the following manner:***

- a) ***Part 13.5 of the report being amended to state the following adopted treatment for Union Street – Shared zone, with contrasting pavement threshold and 'soft' road closure comprising of a no entry to Union Street from Smith Street and a left and right turn only onto Princes Highway from Smith Street.***
- b) ***To include an option for the following traffic mitigation measures in Union Street as a secondary option if approval from Transport for NSW cannot be obtained for the adopted treatment for Union Street referenced in Part a) above:***
- ***At grade contrasting pavement entrance treatment***
  - ***installation of mountable kerbs***
  - ***marked parking bays on both sides of the road be installed in Union Street between Princes Highway and Edwin Street.***
  - ***A 40km/h speed limit zone be established in Union Street subject to approval from Transport for NSW***

Reason: ***To ensure that the LATM provides a suitable option for traffic measures in Union Street should the preferred option not be supported by Transport for NSW.***

(Added – XX XX 2022 – MOD/2021/0376)

1B. ***Prior to the issue of a Construction Certificate the architectural plans must be updated to clearly annotate the use of the detached building on the north eastern corner of site as storage used in association with the approved use***

Reason: ***To clarify the proposal to use the detached building as storage.***

(Added – XX XX 2022 – MOD/2021/0376)

1C. ***The detached building at the rear of the site (north eastern corner) must be used for storage in association with the approved use on the site only and must not be***

*adapted for any other use or any purpose not associated with the approved use on the site.*

**Reason:** *To ensure the detached building is used for storage only and will not result in any intensification of the approved use.*

(Added – XX XX 2022 – MOD/2021/0376)

C. Delete the following Condition/s:

**~~68A. LATM study requirements~~**

- ~~a) Prior to the issue of any Construction Certificate, the applicant shall submit to the satisfaction of Inner West Local Traffic Committee a full comprehensive Local Area Traffic Management study. The study is to be funded by the applicant and undertaken by Council.~~
- ~~b) The LATM assessment shall identify appropriate measures to be implemented to mitigate the impacts associated with the proposed development on the local (and arterial) road network. A key objective is to limit the effects on local area residents by influencing development traffic approach and departure routes. Local street traffic volume environmental capacities should be retained in peak periods and across a typical day. The following streets shall be considered: Smith, Barden, Fanning, Wentworth, Hart, Station, South, Holbeach, Union and Foreman Streets.~~
- ~~c) The LATM study must be finalized and approved by the Traffic Committee before the issue of any Construction Certificate.~~

~~**Reason:** To confirm the terms of approval.~~

(Deleted – XX XX 2022 – MOD/2021/0376)