



**CAMPBELLTOWN  
CITY COUNCIL**

# **LOCAL PLANNING PANEL**

**25 MARCH 2020**

## MEETING NOTICE

### Campbelltown City Council Local Planning Panel

The meeting of the Campbelltown City Council Local Planning Panel will be held in Civic Centre, Campbelltown on **Wednesday, 25 March 2020 at 3.00pm.**

## MEETING AGENDA

### 1. ACKNOWLEDGEMENT OF LAND

I would like to acknowledge the Traditional Custodians, the Dharawal people, whose Lands we are now meeting on. I would like to pay my respects to the Dharawal Elders, past and present and all other Aboriginal people who are here today.

### 2. APOLOGIES

### 3. DECLARATIONS OF INTEREST

### 4. REPORTS

6

- 4.1 Demolition of existing dwelling and construction of two semi-detached dwellings and associated site works - 52 Brenda Street, Ingleburn

6

### 5. CONFIDENTIAL ITEMS

57

- 5.1 Planning Proposal at Minto

57

- 5.2 Planning Proposal Request - Campbelltown

57

## General Information

The role of the Local Planning Panel is to determine development applications and provide advice on planning proposals.

When the panel is considering a report relating to a development application, the panel will receive and consider verbal submissions from the applicant and from any person that made a written submission in regard to that development application (during the notification or exhibition period).

As required by the Minister's Local Planning Panels Direction, when considering a planning proposal, the role of the panel is to provide advice to Council. The panel is the first step in the evaluation process before Council and the State Government (through the Gateway process) to decide whether to support a formal public exhibition or consultation period on the proposal. It is possible that the proposal will be modified before or as part of the consideration by Council and/or through the Gateway process. The panel will consider verbal submissions made in relation to the matter from the applicant, if there is one, and from any other person. The panel will not consider written submissions tabled at the meeting, however they will be accepted and passed on to Council officers for consideration in their report to Council.

Any person who makes a verbal submission to the panel must identify themselves and must also accept that their presentation will include their images and sounds and will be webcast and stored on Council's website for future viewing. Any person who makes a verbal submission to the panel must also declare before their submission any political contributions or donations they have made over the last four years exceeding \$1,000 to any political party or candidate who contested the last Ordinary Election of Council.

If you would like to make a verbal submission to the panel, it is necessary to submit the "request to address – community access to meetings" form available on Council's website by midday the day prior to the meeting. The panel chair will invite the registered speakers to the table at the appropriate time in the agenda. Verbal submissions to the panel will be limited to 5 minutes each. The chairperson has the discretion to extend the period if considered appropriate. Panel members will have the opportunity to ask you questions at the end of your submission.

### **Recommendations of the Panel**

The reports are presented to the Local Planning Panel for its consideration, advice and determination if the report is for a development application.

After the panel has considered submissions made by interested parties, the panel will make recommendations to the Council if the report relates to a planning proposal and determination if the report relates to a development application. The panel's recommendations/determinations become public by 4.30 the Friday following the Local Planning Panel meeting.

### **Information**

Should you require information regarding the panel or any item listed on the agenda, please contact Council's City Development Division on 4645 4575 between 8.30am and 4.30pm.

The following report is referred to the Local Planning Panel Panel for its consideration and recommendation.

Lindy Deitz  
General Manager

## 4. REPORTS

### 4.1 Demolition of existing dwelling and construction of two semi-detached dwellings and associated site works - 52 Brenda Street, Ingleburn

#### Community Strategic Plan

Objective	Strategy
1 Outcome One: A Vibrant, Liveable City	1.8 - Enable a range of housing choices to support different lifestyles

#### Referral Criteria

This proposal is for a site that does not achieve the minimum qualifying site area standard in Clause 4.1C of the Campbelltown Local Environmental Plan 2015 and is more than 10 percent below the standard. Therefore, under Section 4.8 of the *Environmental Planning and Assessment Act, 1979* (EP&A Act) the determining authority is the Campbelltown Local Planning Panel.

#### Executive Summary

- Development Application 3372/2018/DA-M proposes the demolition of the existing dwelling and construction of two semi-detached dwellings and associated site works at 52 Brenda Street, Ingleburn.
- The site consists of two existing allotments, being Lot 17 and Lot 18 Section K DP 1703, originally registered in 1816.
- The subject site is zoned R2 – Low Density Residential under the provisions of the Campbelltown Local Environmental Plan (CLEP 2015).
- The application was notified to adjoining and surrounding properties from 16 October 2018 for 14 days. No submissions were received.
- The subject site comprises two existing Torrens titled allotments of 224.82sqm each with a total site area of 449.64sqm. Under Clause 4.1C of the CLEP 2015 semi-detached dwellings require a minimum site area of 700sqm and as such the proposal does not comply with this clause.
- The site is 250.36sqm less than the minimum qualifying site area required for semi-detached dwellings within an R2 Zone, and equates to a contravention of this clause by 35.77 percent. The proposed development however is consistent with several other developments approved in the neighborhood as the proposed development would have been consistent with the planning rules applying to the site under Campbelltown LEP 2002.
- A planning proposal has been prepared to reinstate the previous planning rules. This planning proposal has received a positive gateway determination and is expected to be publicly exhibited in the near future.

- The site is considered suitable for the proposed development and is considered to be in the public interest.
- An assessment under Section 4.15 of the EP&A Act has been undertaken and it is recommended to the panel that the application be approved subject to the attached conditions.

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## Officer's Recommendation

1. That development application 3372/2018/DA-M for the demolition of the existing dwelling and construction of two semi-detached dwellings and associated site works at 52 Brenda Street, Ingleburn, be approved, subject to the conditions detailed in attachment 1 of this report.

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## Purpose

To assist the Panel in its determination of the subject application in accordance with the provisions of the *Environmental Planning and Assessment Act 1979*.

<b>Property Description</b>	Lots 17, and 18, Section K DP 1703, 52 Brenda Street, Ingleburn
<b>Application No</b>	3372/2018/DA-M
<b>Applicant</b>	Architecture Design Studio Pty Ltd
<b>Owner</b>	Mr R and Al-Saeekh
<b>Provisions</b>	Campbelltown 2027 – Strategic Community Plan State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 Greater Metropolitan Regional Environmental Plan No. 2 - Georges River Catchment State Environmental Planning Policy 55 - Remediation of Land Campbelltown Local Environmental Plan 2015 Campbelltown (Sustainable City) Development Control Plan 2015
<b>Date Received</b>	27 September 2018

## History

No relevant site history is applicable to this application.

## Application History

- The development application was lodged on 27 September 2018 and placed on notification for a period of 14 days from 16 October 2018. No submissions were received.
- The application was deferred on 5 March 2019 for additional information relating to the land use form, clarification in the Statement of Environmental Effects,

correspondence from the service providers and plan modifications. A response from the applicant was submitted to Council on 7 November 2019.

- BASIX Certificates were updated and provided to Council on 30 January 2020.

### **The Site and Surrounding Locality**

The subject site is known as 52 Brenda Street, Ingleburn and legally defined as Lots 17 and 18 Section K DP 1703. The sites are rectangular shaped allotments with a combined total land area of 449.64sqm.

The site is located on the corner of Brenda Street and Phoenix Avenue (not formalised) and is situated within an established residential area. Existing vehicle access is provided off Brenda Street. The existing dwelling straddles both lots and fronts Brenda Street to the north-west.

Surrounding development comprises of a mix of low and medium density housing developments ranging from single and double storey detached dwellings, dual occupancies, attached dwellings and multi dwelling housing units.

The site is relatively flat with a slight cross fall towards Brenda Street, to the north-west. The existing dwelling and associated ancillary structures are all proposed to be removed under this application.

A bus stop is located along the front of the property on Brenda Street and the applicant has obtained approval from Interline Bus Services and Council to move the bus stop to the north-east clear of the proposed development, as well as, other existing developments.

### **The Proposal**

Development consent is sought for the demolition of all existing structures on site and the construction of two double storey semi-detached dwellings (one on each of the existing allotments) and associated site works at 52 Brenda Street Ingleburn. Specifically, the development proposes:

- Demolition and removal of the existing clad dwelling and all associated structures on site
- Construction of a semi-detached dwelling on Lot 17 comprising of ground floor open plan kitchen/living/dining area, laundry and attached single car garage fronting Brenda Street. First floor comprises of three bedrooms, two bathrooms (one as ensuite) and a terrace
- Construction of a semi-detached dwelling on Lot 18 comprising of ground floor open plan kitchen/living/dining area, laundry and attached single car garage fronting Brenda Street. First floor comprises of three bedrooms, two bathrooms (one as ensuite) and a terrace
- Relocation of the Bus Stop to the north-east, to be clear of the development site

- Provision of support infrastructure including stormwater drainage and utilities/services

## Report

### 1. Vision

#### Campbelltown 2027 Community Strategic Plan

Campbelltown 2027 is the Community Strategic Plan for the city of Campbelltown. The Strategic Plan addresses four key strategic outcomes that Council and other stakeholders will work to achieve over the next ten years:

- Outcome 1: A vibrant, liveable city
- Outcome 2: A respected and protected natural environment
- Outcome 3: A thriving, attractive city
- Outcome 4: A successful city

The development application has been assessed with regard to the desired outcomes and objectives identified within Campbelltown 2017-2027. The proposal is consistent with strategy 1.8 of Outcome 1 of this plan in that the development provides for a range of housing choices that would support a range of housing choices for existing and future residents in the Ingleburn area.

As such, it is considered that the proposed development is consistent with the long term vision for the Campbelltown and Macarthur Region having regard to the proposed density, site constraints and impacts on surrounding traffic environment.

### 2. Planning Provisions

The development has been assessed in accordance with the heads of consideration under Section 4.15 of the EP&A Act, and having regard to those matters the following issues have been identified for further consideration.

#### 2.1 State Environmental Planning Policy 55 – Remediation of Land (SEPP 55)

SEPP 55 requires the consent authority to consider whether the subject land of any development application is contaminated. An assessment of Clause 7 of SEPP 55 is provided in table below.

Requirement	Action	Response
<b>Clause 7(2):</b> 1. Is the development for a change of use to a sensitive land use or for residential subdivision?  Sensitive land use include residential, educational, recreational, childcare purposes or hospital.	a. Check if the DA proposes a new childcare centre, residential accommodation or residential subdivision.  b. If the DA is for a dwelling (including dual occupancies and secondary dwellings) on lots subdivided as part of a residential subdivision consent issued after 28/8/1998 then you should answer NO to this question.	No change of use proposed, the site is currently used for residential purposes/accommodation.  The subject site was subdivided prior to 1998 and has been used for residential purposes for a number of years.



<b>Clause 7(1):</b> 2. Is Council aware of any Previous investigation or orders about contamination on the land?	a. Is there any property information for any evidence of contamination information?	A search of Council's records for evidence of potentially contaminating activities was undertaken on 10 January 2019. No evidence was found of contaminating land activities having occurred on the land.
	b. Check for contamination information and planning certificates linked to the property.	A search of planning certificates linked to the property was undertaken on 10 January 2020. No evidence was found of contaminating land activities having occurred on the land.
<b>Clause 7(1)</b> 3. Do existing records held by Council show that a contaminating land activity has occurred on the land?	a. Check the approval for any potentially contaminating uses have been approved on the site.	A search of previous contaminated land uses approved on the site was undertaken on 10 January 2020. No evidence was found of approved contaminated land activities having occurred on the land.
<b>Clause 7(1)</b> 4. Has the land previously been zoned for potentially contaminating uses?	a. Check if the land is currently zoned, or was zoned under the previous LEP, Rural, Industrial or Special Purposes for a contaminating use.	The Campbelltown (Urban Area) Local Environmental Plan 2002 was the previous EPI that applied to the land and the site was previously zoned 2 (b) Residential B which did not allow for potentially contaminating uses.
<b>Clause 7(1)</b> 5. Is the land currently being used for a potentially contaminating use or is there any evidence of a potentially contaminating use on site?	a. Conduct site inspection to check for any obvious signs on the site or adjoining land of an industrial use, underground storage tanks, land filling, agriculture, chemical storage, dumping or unregulated building demolition (especially fibro material).	Based on Council's site inspection carried out on 10 January 2020, no evidence of potential contamination was found.

Based on the above assessment, the provisions of Clause 7 of SEPP 55 and the contaminated land planning guidelines have been considered and the site is considered suitable for the proposed development.

## 2.2 Greater Metropolitan Regional Environmental Plan No. 2 - Georges River Catchment (GMREP)

The development site is located within the Georges River Catchment, therefore the provisions of the GMREP apply to the subject application.

The general aims and objectives of this GMREP are as follows:

- (a) To maintain and improve the water quality and river flows of the Georges River and its tributaries and ensure that development is managed in a manner that is in keeping with the national, State, regional and local significance of the Catchment.
- (b) To protect and enhance the environmental quality of the Catchment for the benefit of all users through the management and use of the resources in the Catchment in an

ecologically sustainable manner.

- (c) To ensure consistency with local environmental plans and also in the delivery of the principles of ecologically sustainable development in the assessment of development within the Catchment where there is potential to impact adversely on groundwater and on the water quality and river flows within the Georges River or its tributaries.
- (d) To establish a consistent and coordinated approach to environmental planning and assessment for land along the Georges River and its tributaries and to promote integrated catchment management policies and programs in the planning and management of the Catchment.
- (e) (Repealed)
- (f) To provide a mechanism that assists in achieving the water quality objectives and river flow objectives agreed under the Water Reform Package.

The proposal does not conflict with any of the relevant provisions of the GMREP and is considered acceptable In this regard.

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

The aim of this Policy is to ensure consistency in the implementation of the BASIX scheme throughout the State and an application for development consent in relation to certain kinds of residential development must be accompanied by a list of commitments by the applicant as to the manner in which the development will be carried out.

A BASIX Certificate has been provided for each of the proposed dwellings and the relevant commitments made on the architectural plans. Therefore, the proposal is considered acceptable in this regard.

### **2.4 Campbelltown Local Environmental Plan 2015 (CLEP 2015)**

The subject site is zoned R2 Low Density Residential under the provisions of CLEP 2015. This DA proposes the demolition of the existing dwelling and associated structures and construction of two semi-detached dwellings, all of which are permissible with consent within an R2 zone.

Semi-detached dwelling means:

A dwelling that is on its own lot of land and is attached to only one other dwelling.

The subject site comprises of two, existing, Torrens titled allotments and each lot proposes a dwelling that is attached to only one other dwelling.

### **R2 Low Density Residential Zone**

The objectives of the R2 zone are:

- to provide for the housing needs of the community within a low density residential environment
- to enable other land uses that provide facilities or services to meet the day to day

- needs of residents
- to enable development for purposes other than residential only if that development is compatible with the character of the living area and is of a domestic scale
- to minimise overshadowing and ensure a desired level of solar access to all properties
- to facilitate diverse and sustainable means of access and movement

In the subject context, the proposed development is considered to be consistent with the relevant objectives.

#### **Clause 4.1C Minimum Qualifying site area and lot size for certain residential and centre-based child care facility development in residential zones.**

Clause 4.1C(2) states that development consent may be granted to development for a semi-detached dwelling on land in an R2 zone, if the area of the lot is equal to or greater than 700sqm.

The subject site contains two existing Torrens titled allotments each with an area of 224.82sqm. The combined site area is 449.64sqm and therefore the development does not comply with this clause.

A written variation request under Clause 4.6 of the CLEP 2015 has been provided to address the non-compliance with this development standard (see discussion below on Clause 4.6).

#### **Clause 4.3 Height of Building**

Clause 4.3 provides that the height of a building on any land is not to exceed the maximum height shown for the land on the Height of Building Map. The Height of Building Map identifies a maximum height of 9m. The proposal complies with the maximum building height prescribed for the site, with a proposed maximum height of 7.032m.

#### **Clause 4.3A Height restrictions for certain residential accommodation**

Clause 4.3A requires a dwelling that forms part of semi-detached dwellings must not be higher than two storeys. Both dwellings proposed under this application are not greater than two storeys.

#### **Clause 4.4 Floor Space Ratio**

Clause 4.4(2) prescribes 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. The Floor Space Ratio Map identifies the maximum floor space ratio for a building on the subject site is 0.60:1.

Dwellings 1 and 2 propose a gross floor area of 133.22sqm (which includes ground and first floor, whilst excluding the void and garage) and equates to an FSR of 0.59:1. The proposed development complies with the floor space ratio prescribed for the site.

#### **Clause 4.6 Exceptions to Development Standards**

Clause 4.6 of CLEP 2015 provides that development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument, where certain matters are met.

The objectives of Clause 4.6 are to:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances

The above clause provides a degree of flexibility in the application of certain development standards where sufficient justification has been provided satisfying the provisions of Clause 4.6 and where the consent authority is satisfied of certain prescribed matters.

The development application is seeking a departure from Clause 4.1C minimum qualifying site area and lot size for certain residential development in residential zones of the CLEP 2015.

The subject site contains two existing Torrens titled allotments each with an area of 224.82sqm and a combined site area is 449.64sqm. This falls short of the minimum qualifying site area of 700sqm for a semi-detached dwelling in Clause 4.1C.

**Clause 4.6 (3) requires:**

- 3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
  - (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
  - (b) That there are sufficient environmental planning grounds to justify contravening the development standard.

**Comment:**

A written variation request has been submitted and seeks to justify the contravention of the development standard.

The written request provides commentary claiming compliance with the development standard is unreasonable or unnecessary in the circumstances of this case.

It is considered that the written request has demonstrated sufficient environmental planning grounds to justify contravening the development standards.

**Clause 4.6 (4) requires:**

- 4) Development consent must not be granted for development that contravenes a development standard unless:
  - (a) the consent authority is satisfied that:
    - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
- (b) the concurrence of the Secretary has been obtained

**Comment:**

In reviewing the written request in accordance with Clause 4.6 (4) of the CLEP 2015, it is considered that it has adequately justified that compliance with the development standard is unreasonable or unnecessary.

The written response has identified the objectives of the development standard and has clearly demonstrated that those objectives have been achieved, where relevant.

Clause 4(a)(ii) requires development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Objectives of Clause 4.1C are as follows:

- (a) to achieve planned residential densities in certain zones
- (b) to achieve satisfactory environmental and infrastructure outcomes
- (c) to minimise any adverse impact of development on residential amenity
- (d) to minimise land use conflicts

The proposal is consistent with all the objectives of 4.1C.

It is noted that other requests to approve applications on similar sized allotments at Ingleburn have been supported by Council and by the Local Planning Panel.

It is considered that the written request adequately addresses the matters required to be demonstrated by subclause (3) of Clause 4.6. The proposal is in the public interest because the development is consistent with the objectives of Clause 4.1C and the R2 Low Density Residential Zone. It is recommended that the Campbelltown Local Planning Panel support the request under Clause 4.6 of the Campbelltown LEP 2015.

**Clause 7.1 Earthworks**

Clause 7.1 requires the consent authority to consider whether the proposed works will have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land. Minor earthworks are proposed and those works are not considered to have a detrimental impact on adjoining properties. Should the application be supported, conditions of consent are recommended to ensure compliance with this clause is achieved.

## Clause 7.2 Flood Planning

Clause 7.10 applies to land at or below the flood planning level. The subject site is identified as a flood control lot with respect to the 1 percent AEP flood. The application was internally referred to Council's engineers for comment and the proposed FFL is satisfactory. Should the application be supported, conditions of consent are recommended to ensure compliance with this clause is achieved.

## Clause 7.10 Essential Services

Development consent must not be granted to development unless the consent authority is satisfied services that are essential for the development are available or that adequate arrangements have been made to make them available when required.

The site is located within an established residential area with essential services readily available to the site. Should the application be supported, conditions of consent are recommended to ensure compliance with this clause is achieved.

## 2.5 Campbelltown (Sustainable City) Development Control Plan (SCDCP 2015)

The Campbelltown (Sustainable City) Development Control Plan 2015 (SCDCP 2015) is to be considered and read in conjunction with the CLEP 2015. The SCDCP 2015 is broken down into several volumes and parts which relate to specific localities and various developments. Volume 1 relates to development controls for all types of development and Part 2 of this volume applies to all types of residential development.

The following table details an assessment of the proposal in accordance with the relevant requirements of the SCDCP 2015.

Part	Requirement	Proposed	Compliance
<b>2.2 Site Analysis</b>	A Site Analysis Plan shall be lodged with the development application.	A site analysis plan was provided with the development application.	Yes
<b>2.4.1 Rain Water Tanks</b>	In addition to satisfying BASIX, residential development is encouraged to provide a rain water tank for new buildings. Above ground water tanks shall be located behind the primary or secondary building line	Each dwelling proposes a 1500L above ground RWT to be located behind the primary building line.	Yes
<b>2.4.3 Natural Ventilation</b>	a) The design of new buildings shall be encouraged to maximise opportunities for cross flow ventilation, where practical, thus minimising the need for air conditioning.	The design of the dwellings, where practical, encourages cross flow ventilation, with the placement of windows and sliding doors.	Yes
<b>2.4.5 Basix</b>	BASIX Certificate to be provided in accordance with State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.	Compliant BASIX certificates have been submitted.	Yes
<b>2.5 Landscaping</b>	A landscape concept plan is required to be submitted with a development application for Semi-detached dwelling.	Landscape plan has been submitted as part of this application.	Yes

	Landscape design shall enhance the visual character of the development and complement the design/use of spaces within and adjacent to the site.	The proposed landscaping strategy proposes minimal landscaping with respect to the intensification of the site. It is not considered that the proposed landscaping will enhance the visual character of the development. Should the application be approved, a condition of consent has been recommended for a revised landscape plan to be submitted to Council in accordance with this Part prior to the issue of CC.	Yes, via condition.
	Landscaping shall maximise the use of locally indigenous and other drought tolerant native plants and avoid the use of invasive species.	A condition of consent has been recommended for a revised landscape plan to be submitted to Council in accordance with this Part prior to the issue of CC.	Yes, via condition.
<b>2.7 Erosion and Sediment Control</b>	An Erosion and Sediment Control Plan (ESCP) shall be prepared and submitted with a development application proposing construction and/or activities involving the disturbance of the land surface.	ESCP submitted with development application. A condition of consent has been recommended requiring the installation of erosion and sediment control measures prior to the commencement of works.	Yes
<b>2.8 Cut, Fill and Floor Levels</b>	A Cut and Fill Management Plan (CFMP) shall be submitted with a development application where the development incorporates cut and/or fill operations.	Minimal fill proposed to facilitate construction.	Yes
	Max 1m cut and Max 1m fill	Less than 300mm fill proposed.	Yes
	All fill shall be Virgin Excavated Natural Material (VENM).	A condition of development consent can be applied	Yes, via condition.
<b>2.9 Demolition</b>	A development application involving demolition shall be considered having regard to the following information: i) a detailed work plan prepared by a suitably qualified person, in accordance with AS2601-2001- The Demolition of Structures (as amended); ii) details of the licensed demolition contractor engaged to carry out the work (including name, address and building licence number); iii) a hazardous materials report that lists details of methods to prevent air, noise and water pollution and the escape of hazardous substances into the public domain;	Demonstration of compliance with these provisions prior to any demolition commencing is recommended as a condition of development consent.	Yes, via condition.

	iv) details of any asbestos or other hazardous substances to be removed from the site and/or damaged during demolition; and v) a dilapidation report where any demolition work is to be undertaken within the zone of influence of any other structure.		
<b>2.10.3 Stormwater Drainage</b>	a) A stormwater Drainage Concept Plan shall be prepared by a suitably qualified person, and submitted with all development applications, involving construction (except for internal alterations/fitouts), demonstrating to Council how the stormwater will be collected and discharged from the site.	Concept stormwater plan has been submitted in support of the development application, with discharge to kerb outlets in Brenda Street. The proposal is generally consistent with Council's requirements and a condition is recommended to ensure compliance.	Yes
<b>2.12 Retaining Walls</b>	a) Any retaining wall that is not complying or exempt development as specified in the E&CDC shall be designed by a suitably qualified person.	No retaining walls proposed under this DA. A condition of consent is recommended to ensure future retaining walls, (where required) are to form a separate development application.	Yes
<b>2.15 Waste Management</b>	a) A detailed Waste Management Plan (WMP) shall accompany development applications for certain types of development/land uses, as detailed in Table 2.15.1 and for any other development that in the opinion of Council a WMP is required.	WMP submitted with development application is satisfactory.	Yes
<b>2.16 Provision of Services</b>	Ensure that development is provided with adequate water and power supply.	The site is currently serviced and essential services are available to the site. A condition is recommended to ensure all services are appropriately connected prior to OC.	Yes



An assessment of Volume 1, Part 3 low and medium density residential development and ancillary residential structures of the CSCDCP 2015 is provided below.

Part	Requirement	Proposed	Compliance
<b>3.4 General Requirements for all Types of Residential Development</b>			
<b>3.4.1.1 Streetscape</b>	a) Building design (including facade treatment, massing, roof design and entrance features), setbacks and landscaping shall complement the scale of development, and the desired future character of the residential neighbourhoods.	Several of the properties within the surrounding streets have been redeveloped or are in the process of being redeveloped and the character of the street is currently a mix of older single storey dwellings and newer dwellings and medium density development. The dwellings are of a design and scale that is common in the neighbourhood.	Yes
	b) Development on corner sites shall incorporate facade treatments that address both street frontages and achieve positive articulation in building design. Landscaping shall be used to reduce the impact of any privacy fencing.	Lot 17, is capable of being considered a corner allotment if Phoenix Avenue is extended and formalised, that being said, the design provides façade treatments that address both street frontages.	Yes
	c) The built form shall relate to the natural landform and setting.	Minimal cut and fill is proposed.	Yes
	d) On-site parking areas shall be designed and sited to reduce the visual prominence of garage doors and external parking spaces as viewed from the street or other public place.	On-site parking in the form of a single attached garage is proposed, for each dwelling. The garages are setback more than 8m and are behind the primary building line.	Yes
	e) Garage doors facing a public street shall not be wider than 50 percent of the width of the building's facade fronting the street (refer to Figures 3.4.1.1).	The garage doors are greater than 50% of the width of the building's façade. Given that the lots are existing narrow lots on which semi-detached dwellings are permissible, a variation from this requirement is considered appropriate and is consistent with similar approvals granted in the area	NO - Justified
	f) No carports or garages (or like structures) shall be located within 6 metres of the primary street boundary, for additional requirements of setbacks for the various types of residential development refer to section	The proposed garages are setback more than 8m from the primary street boundary.	Yes

	3.5,3.6 and 3.7 of this part of the plan.		
	g) No bathroom, ensuite, toilet or laundry windows shall face the primary street of an allotment.	No bathroom, ensuite, toilet or laundry windows front the primary street.	Yes
	h) Multi dwellings and dual occupancies shall satisfy the following architectural requirements: i) incorporation of variations in roof heights and wall planes to avoid long unbroken ridge lines ii) incorporation of façade shifts and articulation, varied materials and colours in order to avoid duplication of the same building elements iii) provision of windows and active space in the building ends, to provide additional security and visual interest	This DA proposes two semi-detached dwellings and technically this control does not apply, however the proposed built form is similar in nature to a dual occupancy development and the provision of this control has been considered and the semi-detached dwellings have been adequately articulated.	Yes
	i) All windows facing the street (primary and secondary) must have a balanced architectural design.	Proposed windows to the primary and secondary streets are architecturally balanced.	Yes
<b>3.4.1.2 Building Height</b>	a) The height of development shall not result in any significant loss of amenity (including loss of solar access and visual and acoustic privacy) to adjacent properties and public places.	The proposed development is not believed to result in the loss of amenity to any adjacent properties.	Yes
<b>3.4.2 Car Parking and Access</b>	a) The minimum dimensions of any required parking space shall be 2.5 metres x 5.5 metres. If the car parking space adjoins a vertical edge which is 100mm or higher, the minimum width of the car parking space shall be 2.7metres.	Each dwelling proposes a single attached garage to service each dwelling.	Yes
	b) The minimum internal dimension of an enclosed garage shall be 3 metres x 6 metres.	Both of the attached garages are 3m x 6m.	Yes
	c) Transitional grades shall comply with AS2890.1 (as amended) Parking Facilities - Off-Street Car Parking.	The proposed garages are consistent with AS2890. A condition of development consent is recommended that ensures compliance with this control.	Yes, via condition.
	d) The maximum garage floor levels (above or below) for a garage setback 6 metres from the front property boundary shall be in accordance with the requirements contained under Council's Engineering Guide for Development, (Appendix K - Standard Drawings No. SD-R08	A condition of development consent is recommended that ensures compliance with this control.	Yes, via condition.

	and SD-R09), which is available at Council's website at <a href="http://www.campbeltown.nsw.gov.au">www.campbeltown.nsw.gov.au</a> .		
	f) Driveways shall be located a minimum distance of 6 metres from the tangent point of any un-signalised intersection (refer to Figure 3.4.2.1).	The proposed development provides driveways that are not within 6m of an existing tangent point.	Yes
	g) The minimum width of the driveway at the street kerb shall be: i) 2.5 metres where the driveway provides access for one dwelling;	The proposed development provides driveways that are 3m wide when measured at the kerb.	Yes
	i) Driveways shall be designed and located perpendicular to the road (Figure 3.4.2.2).	Proposed driveways are located perpendicular to the Brenda Street.	Yes
	j) Plain concrete driveways including crossover and layback shall not be permitted. Details of driveway colours and patterns shall be submitted with the development application.	A condition of development consent is recommended that ensures compliance with this control.	Yes, via condition.
	k) Internal driveways and vehicle access shall be provided with sufficient widths to ensure easy access to and from designated car parking areas/garages.	The proposed development provides separate driveways that facilitate easy access to and from the attached garages.	Yes
<b>3.4.3.2 Visual Privacy</b>	a) No window of a habitable room or balcony shall directly face a window of another habitable room, balcony or private open space of another dwelling located within 6 metres of the proposed window or balcony unless appropriately screened (refer to Figure 3.4.3.1).	The proposed development provides highlight windows to habitable rooms and screens to balconies.	Yes
	b) Notwithstanding Clause 3.4.3.2a) any window of a living room located on an upper level shall:  be offset by 2m to limit views between windows and balconies; or have a sill height 1.7 metres above the floor level; or be splayed to avoid direct views between windows; or have fixed translucent glazing in any part of the window within 1.7 metres of the floor level.	The upper level windows along the sites south-western side boundary achieve a minimum sill height of 1.7m.	Yes
	c) Notwithstanding 3.4.3.2a), a balcony will be considered where the private open space area of any adjacent dwelling is screened from view.	The proposed balconies have been provided with appropriate screening to protect the adjoining private open space. A condition of development	Yes

		consent is recommended that ensures compliance with this control.	
	d) No wall of a proposed building shall be permitted to be constructed on the boundary for that portion of the boundary that is directly adjacent to an existing required private open space area on the adjoining allotment.	The proposed development does not facilitate walls on the property boundary that adjoins private open space of the adjoining allotment.	Yes
<b>3.4.4 Solar Access</b>	a) Living areas shall generally have a northerly orientation.	The living areas, where possible, have a northerly orientation.	Yes
	b) A minimum 20sqm fixed area of the required private open space shall receive three (3) hours of continuous direct solar access on 21 June, between 9.00am and 3.00pm, when measured at ground level.	A minimum 20sqm fixed area of POS for each dwelling receives at least 3 hours solar access.	Yes
	c) Development shall have appropriate regard to the impact on solar access to useable private open space and living areas, solar collectors and clothes drying areas of adjoining residential development.	Shadow diagrams have been provided which demonstrate that the proposed development does not adversely impact the POS areas of adjoining residential development.	Yes
	d) Building siting shall take into consideration the range of factors that impact on solar access including slope of land, vegetation and existing building and other structures.	The dwellings have been sited having regard to the topography of the site and existing vegetation.	Yes
<b>3.5.1 Fencing</b>	b) Residential fencing along the rear and side boundaries shall be: located behind the primary street building line; a maximum 2.1 metres in height (excluding retaining walls); and a maximum 1.8 metres in height, if adjoining a secondary street	The proposal includes fencing which is located behind primary street building line and will be a maximum of 1.8m high. A condition of consent is recommended to ensure fencing is consistent with this control.	Yes
	d) Fencing on corner allotments shall not obstruct the sight distance of traffic entering or within an intersection or roundabout	The proposed development is not an existing corner allotment. The design would not obstruct the sight lines should Phoenix Avenue be formalised.	Yes
	f) Details for fencing shall be submitted with the development application.	Fencing details submitted are satisfactory. A condition of consent is recommended to ensure fencing is consistent with this control.	Yes

<b>3.6.4 Semi-detached Dwellings - Zones R2 &amp; R3</b>			
<b>3.6.4.1 General Requirements</b>	a) Semi-Detached Dwelling shall only be permitted on an allotment having; i) a minimum width of 7.5 metres measured between the extended property side boundaries, or in the case of a corner allotment, the secondary street boundaries where they intersect with the kerb line.	The Torrens titled allotments are already in existence, with a width of 6.705m.	NO, however see b) below.
	b) Despite Clause 3.6.4.1 a) above, semidetached dwellings shall be permitted on an allotment having a minimum width less than 7.5 metres where each individual lot existed prior to the commencement of the CLEP.	The existing lots were in existence prior to the commencement date of the CLEP.	Yes
<b>3.6.4.2 Setbacks</b>	a) Semi-detached dwellings shall be setback a minimum of: i) 5.5 metres from the primary street boundary for the semi-detached dwellings;	The proposed dwellings are setback >6m from the primary street boundary.	Yes
	ii) 6.0 metres from the primary street boundary for the garage or the undercover parking space;	The attached garages are setback >8m from the primary street boundary.	Yes
	iii) 3 metres from the secondary street boundary	The dwelling proposed on Lot 17 proposes a minimum of 0.9, from Phoenix Avenue. It is noted that Phoenix Avenue is not a formalised road nor is there any indication that it will be formalised. The non-compliance only extends for the length of the attached garage and then the building steps in to between 1.6m and 1.8m, creating good articulation. The proposal is consistent with the recent approvals on the other corners of Phoenix Avenue, namely 50 and 51 Brenda Street.	No, justified.
	iv) 5.5 metres from the secondary street boundary for the garage or the undercover parking space, where the garage is accessed directly from the secondary street;	N/A	N/A
	v) 0.9 metres from any side boundary, for the part of the building that is not attached to the other dwelling; and	The minimum setback for non-attached walls is 0.906m from the side boundary.	Yes
	vi) 3 metres from the rear	The minimum, rear setback	Yes

	boundary for any part of the building that is up to 4.5 metres in height from ground level (existing); and	for ground level is 5m for both dwellings.	
	vii) 8 metres from the rear boundary for any part of the building that is higher than 4.5 metres from ground level (existing) (refer to Figure 3.6.4.1).	The minimum, rear setback for the first storey is 8m for both dwellings.	Yes
	b) Each dwelling shall have a minimum of 0.9m unobstructed side access that is free from air conditioning units, rainwater tanks hot water systems, or any other structure that may block access to the rear of the dwelling.	Both dwellings are provided with a minimum unobstructed path of 0.906m.	Yes
	c) For the purpose of 3.7.2.4 a) above, the direct access from the rear to the front of the dwelling shall have a minimum width of 0.9 metres and shall not be obstructed by hot water systems, air conditioning units, gardens or anything that results in the obstruction of the access way.	Both dwellings are provided with a minimum unobstructed path of 0.906m.	Yes
<b>3.6.4.3 Car parking rates</b>	a) each dwelling that is part of a semidetached dwelling development shall be provided with of minimum of one single garage	Attached single garages are proposed for each dwelling.	Yes
	b) Despite Clause 3.6.4.3 a) above and Clause 3.6.4.2.a)ii) , where an individual allotment is in existence before the gazettal date of the CLEP and has a width less than 7.5 metres, standard garages shall not be permitted on the primary street frontage unless the garage component is recessed by at least 2 metres from the main building line.	The attached single garages are recessed 2m, from the primary building line.	Yes
	c) For the purpose of Clause 3.6.4.3 b) above, covered car parking spaces fronting the primary street shall only be provided in a non-obtrusive open type design so as not to detract from the street facade of the development.	The attached single garages are of non-obstructive in design. Although not being 'open' the design is visually recessive and is consistent with the existing and future streetscapes.	No, justified.
<b>3.6.4.4 Private Open Space</b>	a) Each dwelling that is part of a semi-detached dwelling shall be provided with an area of private open space that:  i) is located behind the primary building setback;	Both dwellings are provided with POS behind the primary building setback.	Yes

	ii) has a minimum area of 60sqm;	Both dwellings are provided with >60sqm of POS.	Yes
	iii) has a minimum width of 3 metres;	Both dwelling's POS have a minimum width >3m.	Yes
	iv) includes a minimum levelled area of (5x5)sqm;	Both dwelling's POS have a minimum leveled area >(5x5)sqm	Yes
	v) has a minimum unfragmented area of 40sqm;	Both dwelling's POS have an unfragmented area of 40sqm.	Yes
	vi) has an internal living room directly accessible to the outdoor private open space areas; and	Both dwelling's POS is directly accessible from an internal living area.	Yes
	vii) Satisfies solar access requirements contained in section 3.4.4.	Both dwelling's POS satisfy the solar access requirements of section 3.4.4.	Yes
<b>3.6.4.5 Presentation to Public Streets</b>	a) Where a development involves the construction of an additional dwelling to create a semi-detached dwelling, the existing dwelling (where it is proposed to be retained) shall be renovated to match the colour, material, texture and architectural style of the proposed building so as to create a harmonious development.	Semi-detached dwellings are proposed as new construction.	Yes
<b>3.6.4.6 Landscaping and Deep Soil Planting</b>	a) A development application for semi-detached dwellings shall include a detailed landscape plan prepared by a suitably qualified person.	A landscape plan has been provided in support of the application, however, as detailed above, a condition is recommended that a new plan be submitted by suitably qualified landscape architect that addresses the provisions of section 2.5 as well as the Campbelltown Native Gardening Guide.	Yes, via condition.
	b) A semi-detached dwelling shall satisfy the following provisions relating to deep soil planting: no more than 30% of the area forward of any building line shall be surfaced with impervious materials; and	More than 30 per cent of the area forward of the building lines is surfaced with impervious material, i.e. the driveway. Given the existing narrow frontages of the lots, a variation from this control is considered acceptable.	No justified.
	ii) a minimum of 20% of the total site area shall be available for deep soil planting.	The proposed development results in greater than 20% of the total site being available for deep soil planting.	Yes
<b>3.6.4.7 Waste Bins Requirements</b>	a) Space shall be allocated behind the primary and secondary building lines and out	Waste bins are proposed to be located within the side setbacks behind	Yes

	of public view to store the following for each dwelling: a 140 litre bin; and two 240 litre bins.	primary building lines. These areas will not be visible from the public domain.	
<b>3.6.4.8 Site Services</b>	a) The location, design and construction of utility services shall satisfy requirements of the relevant servicing authority and Council.	Conditions of consent have been recommended to ensure the design and construction of any required utility services satisfies the requirements of the servicing authority and Council.	Yes, via conditions.
	b) Adequate provision shall be made available for all essential services (i.e water, sewerage, electricity, gas, telephone, and internet and stormwater drainage).	The site is readily serviced by essential services. Conditions of consent have been recommended to ensure that adequate provision is made for all essential services, prior to the issue of an Occupation Certificate.	Yes, via conditions.
	c) All site services shall be placed underground.	No aboveground services have been proposed.	Yes
	d) All communication dishes, antennae and the like shall be located to minimise visual prominence.	A condition of development consent has been recommended.	Yes, via conditions.

## 2.6 Developer Contributions

Section 7.12 development contributions are applicable to the proposed development. Should the application be approved, a condition of development consent is recommended.

## 3. Planning Assessment

### 3.1 Impacts on the natural and built environment

Section 4.15(1)(b) of the EP&A Act requires Council to assess the development's potential impacts on the natural and built environment, as well as potential social and economic impacts.

The key matters for consideration when considering the development's potential impact on the natural and built environment are as follows:

- Demolition and construction
- Solar access
- Built form

#### Demolition and Construction

The demolition and construction phases of the development have the potential to generate short term environmental impacts through the generation of dust, noise and vibration. Conditions of consent have been recommended to manage the demolition works, including the installation of erosion and sediment control measures prior to works commencing on site.



## **Solar Access**

The shadow diagrams submitted with the development application demonstrate that due to the orientation of the lots and the design of the dwellings, the development does not have any unreasonable impacts on the solar amenity of the adjacent lots or on the useable private open space of the development.

## **Built Form**

The design of the dwellings provides visual articulation through variations in roof form, the use of porches on the front facade and variations in the use of colours and materials. The dwelling designs are consistent with existing redeveloped lots along Brenda Street, whilst also not offending the existing established streetscape. The streetscape is currently in the process of transitioning to a more contemporary urban area through the gradual redevelopment of sites.

### **3.2 Social, economic and environmental impacts**

Section 4.15 (1)(b) of the EP&A Act requires the consent authority to assess the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.

Having regard to social and economic impacts generated by the development, the semi-detached dwellings are contributing to the provision of affordable housing within the Ingleburn locality, to meet the housing needs of the local community. The demolition and construction phases of the development will have minor flow on economic benefits for the locality, through the generation of employment.

### **3.3 Site Suitability**

Section 4.15(1)(c) of the EP&A Act requires the consent authority to assess the suitability of the site for the proposed development.

The semi-detached dwellings are permissible with consent in the R2 land use zone and are consistent with the objectives of the zone. The site comprises two existing allotments which are readily capable of accommodating the development and is considered suitable for the development.

The development is similar in nature, scale and appearance to those that have been approved and constructed nearby over several years.

## **4. Public Participation**

Section 4.15(1)(d) of the EP&A Act requires Council to consider submissions. The development application was notified to adjoining properties from 16 October 2018 for a period of 14 days. No submissions were received.

## **5. Conclusion**

The development application for the demolition of the existing dwelling and construction of two semi-detached dwellings and associated site works at 52 Brenda Street, Ingleburn, has been assessed against the relevant matters for consideration within the relevant environmental planning legislation and Council's development controls.

The development's impacts on the natural and built environment are considered to be minimal, subject to management of potential issues during the demolition and construction phases, including noise and dust. Further, the dwelling design is consistent with existing redeveloped lots along Brenda Street, whilst also not offending the existing established streetscape of character of the area.

The development is similar in nature, scale and appearance to those that have been approved and constructed nearby over several years and the site is therefore considered suitable for the development.

With due reference to the matters for consideration under Section 4.15(1) of the EP&A Act and the issues raised throughout the report, it is considered that the proposed development is generally consistent with the relevant planning legislation and policies and is therefore recommended for approval subject to the conditions detailed in attachment 1.

### **Attachments**

1. Recommended Conditions of Consent (contained within this report)
2. Existing Site and Demolition Plan (contained within this report)
3. Site Plan (contained within this report)
4. Elevations Plan (contained within this report)
5. Shadow Diagrams 9.00am and 12pm (contained within this report)
6. Shadow Diagram 3pm (contained within this report)
7. Variation Request (contained within this report)
8. Ground Floor Plan - for confidentiality reasons (distributed under separate cover)
9. First Floor Plan - for confidentiality reasons (distributed under separate cover)

### **Reporting Officer**

Executive Manager Urban Centres

**3372/2018/DA-M****Recommended Conditions of Consent****GENERAL CONDITIONS**

The following conditions have been applied to ensure that the use of the land and/or building is carried out in such a manner that is consistent with the aims and objectives of the planning instrument affecting the land.

For the purpose of these conditions, the term 'applicant' means any person who has the authority to act on or benefit of the development consent.

**1. Approved Development**

The development shall be carried out in accordance with the approved plans and documents listed in the table below, and all associated documentation supporting this consent, except as modified in red by Council and / or any conditions within.

<b>Plan/ Document No.</b>	<b>Version/ Revision</b>	<b>Prepared by</b>	<b>Date</b>
Demolition and Existing Site Plan (A-006)	E	Architecture Design Studio	30/01/2020
Site Plan (A-009)	E	Architecture Design Studio	30/01/2020
Ground Floor Plan (A-010)	E	Architecture Design Studio	30/01/2020
First Floor Plan (A-011)	E	Architecture Design Studio	30/01/2020
Elevations Plan (A-020)	A	Architecture Design Studio	31/10/2019
Section 01 A-030	E	Architecture Design Studio	30/01/2020

**2. Amended Plans**

The development is to incorporate the following amendments and the amended plans are to be submitted to the Principal Certifying Authority, for approval, prior to the issuing of a Construction Certificate:

- A Landscape Plan prepared by a Landscape Architect, in accordance with Part 2.5 and Part 3.6.4.6 of the Campbelltown (Sustainable City) Development Control Plan 2015 and the Campbelltown Native Gardening Guide.

**3. Building Code of Australia**

All building work must be carried out in accordance with the provisions of the *Building Code of Australia*. In this clause, a reference to the *Building Code of Australia* is a reference to that Code as in force on the date the application for the relevant construction certificate is made.

**4. Contract of Insurance (residential building work)**

In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

This clause does not apply:

- a. To the extent to which an exemption is in force under Clause 187 or 188 of the Environmental Planning and Assessment Regulation 2000, subject to the terms of any condition or requirement referred to in Clause 187(6) or 188(4) of that regulation, or
- b. To the erection of a temporary building.

#### **5. Notification of Home Building Act 1989 Requirements**

Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being Council) has given Council written notice of the following information:

- a. In the case of work for which a principal contractor is required to be appointed:
  - i. The name and licence number of the principal contractor, and
  - ii. The name of the insurer by which the work is insured under Part 6 of that Act.
- b. In the case of work to be done by an owner-builder:
  - i. The name of the owner-builder, and
  - ii. If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being Council) has given Council written notification of the updated information.

#### **6. Landscaping**

The provision and maintenance of landscaping shall be in accordance with the approved landscape plan including the engagement of a suitably qualified landscape consultant/contractor for landscaping works. The landscape design shall incorporate a significant portion of native, low water demand plants consistent with BASIX requirements and the Campbelltown Native Gardening Guide.

#### **7. External Finishes**

The external finishes shall be in accordance with the approved plans and the schedule of finishes submitted with this application. Any proposed alterations to these finishes are considered to be a modification to the development consent and require separate approval by Council.

#### **8. Fencing**

A 1.8 metre high fence shall be erected on the site's side and rear boundaries behind the front building alignment and between each required courtyard at the sole cost of the developer. 'Colorbond' style metal fences that face a public space are not permitted.

#### **9. Retaining Walls**

Any retaining walls outside the provisions of State Environmental Planning Policy (Exempt and Complying Development Codes), require separate development approval.

**10. Switchboards/Utilities/Air Conditioning Units**

Switchboards, air conditioning units, garbage storage areas and storage for other utilities shall not be attached to the front elevations of the building or side elevations that can be seen from a public place.

**11. Rubbish/Recycling Bin Storage**

The rubbish and recycling bins shall not be stored within vehicle parking, vehicle manoeuvring areas or landscaped areas.

The bin(s) shall only be stored behind the building line and not in view from the public domain.

**12. Driveway**

The gradients of driveways and manoeuvring areas shall be designed in accordance with *Australian Standard AS 2890.1 and AS 2890.2 (as amended)*.

Driveways shall be constructed using decorative paving materials such as pattern stencilled concrete, coloured stamped concrete or paving bricks. The finishes of the paving surfaces are to be non-slip and plain concrete is not acceptable.

**13. Deliveries**

Vehicles servicing the site shall comply with the following requirements:

- a. All vehicular entries and exits shall be made in a forward direction.
- b. All vehicles awaiting loading, unloading or servicing shall be parked on site and not on adjacent or nearby public roads.
- c. All deliveries to the premises shall be made to the loading bay/s provided.

A traffic sign shall be placed adjacent to the driveway at the entrance of the property advising drivers of the above information. Should the sign be damaged or removed, it shall be replaced within 48 hours.

**14. Engineering Design Works**

The design of all engineering works shall be carried out in accordance with the requirements set out in *Council's 'Engineering Design Guide for Development'* (as amended) and the applicable development control plan.

**15. Rain Water Tank(s)**

Rain water tank/s shall be installed on site for the collection and storage of stormwater for irrigation and reuse purposes (eg the flushing of toilets), in accordance with the approved plans.

**16. Construction Certificate**

Prior to the commencement of any works that require a construction certificate:

- a. the applicant shall obtain a construction certificate for the particular works;
- b. the applicant shall appoint a principal certifying authority; and
- c. the private certifying authority shall notify Council of their appointment no less than two days prior to the commencement of any works.

**PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

The following conditions of consent must be complied with prior to the issue of a construction certificate by either Campbelltown City Council or an accredited certifier. All necessary information to comply with the following conditions of consent must be submitted with the application for a construction certificate.

**17. Bus Stop Relocation**

Prior to Council or an accredited certifier issuing a construction certificate, the bus stop shall be relocated in accordance with the requirements of Interline Bus Services and Campbelltown City Council.

**18. Demolition of Existing Dwelling**

Prior to Council or an accredited certifier issuing a construction certificate, the existing dwelling on the property shall be demolished and all materials removed from the site.

**19. Utility Servicing Provisions**

Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall obtain a letter from both the relevant electricity authority and the relevant telecommunications authority stating that satisfactory arrangements have been made to service the proposed development.

*Note: The applicant should also contact the relevant water servicing authority to determine whether the development will affect the authorities water or sewer infrastructure.*

**20. Waste Management Plan**

Prior to Council or an accredited certifier issuing a construction certificate, the relevant provisions of Council's *Waste Management Plan* is to be completed to the satisfaction of Council.

**21. Geotechnical Report**

Prior to Council or an accredited certifier issuing a construction certificate, where proposed excavation and/or filling exceed 900mm in depth, or where the subject site is identified as being filled land, a geotechnical report prepared by a NATA registered laboratory shall be submitted which indicates that the land will not be subject to subsidence, slip, slope failure or erosion.

**22. Soil and Water Management Plan**

Prior to Council or an accredited certifier issuing a construction certificate, a detailed soil and water management plan shall be submitted for approval.

**23. Classification of Residential Lots (Development with dwelling construction)**

Prior to the principal certifying authority issuing a construction certificate for any dwellings approved under this consent, all proposed residential lots are to be individually classified in accordance with guidelines contained in the Australian Standard *AS 2870-1996 Residential Slabs and Footings (as amended)*.

All slabs and footings shall be designed in accordance with the relevant site classifications and recommendations resulting from a geotechnical investigation of the site. The designing structural engineer shall certify that the design of all slabs and footings is in accordance with the geotechnical investigation and soil classification for the site.

**24. Stormwater Management Plan**

Prior to Council or an accredited certifier issuing a construction certificate, a plan indicating all engineering details and calculations relevant to the site regrading and the collection and disposal of stormwater from the site, building/s and adjacent catchment, shall be submitted for approval.

Floor levels of all buildings shall be a minimum of 150mm above the adjacent finished site levels and stormwater plan shall be generally in accordance with submitted stormwater concept plan drawing number "52BREN-HYD-1" Rev B dated 22.10.2018 by Allied Consultants and make provision for following:

- Existing sag kerb inlet pit to be converted into butterfly grate pit with structural certification for the condition of the existing pit
- Construct a new kerb inlet pit with 2.4m EKI at least 1m away from the driveway
- New kerb inlet pit shall be connected with the existing stormwater pit with new stormwater pipe
- Existing electric powerpole shall be at least 1m away from the new driveway

All proposals shall comply with the requirements detailed in Council's *Engineering Design Guide for Development (as amended)*.

**25. Dilapidation Report**

Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall submit a dilapidation report for all buildings in the vicinity of the subject works and for any other infrastructure that may be affected by the works on the subject site.

**26. Alignment of New Works**

Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall liaise with Council and the adjoining land owners regarding the alignment and construction of new roads.

**27. Work on Public Land**

Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall obtain written approval from Council for any proposed work on public land. Inspection of this work shall be undertaken by Council at the applicants expense and a compliance certificate, approving the works, shall be obtained from Council prior to the principal certifying authority issuing an occupation certificate.

**28. Section 7.12 Contributions****Contribution**

The developer must make a monetary contribution to Campbelltown City Council in the amount of **\$4,622.36** for the purposes of the Local Infrastructure identified in the Campbelltown City Council Section 94A Development Contributions Plan 2007.

**Indexation**

The monetary contribution is based on a proposed cost of carrying out the development of \$450,000. This value is based on the cost at lodgment of \$450,000 provided in Sept 2018 and subsequently indexed to \$462,236.84 using CPI to the December quarter 2019. This cost (and consequently the monetary contribution) must be indexed between the date of this Consent and the date of payment in accordance with the following formula:

Indexed development cost (\$) =	$\$C_0 \times \text{Current CPI}$
	Base CPI

Where:

$\$C_0$  is the current estimated cost of construction of \$462,236.84

Current CPI is the Consumer Price Index (All Groups Index) for Sydney as published by the Australian Bureau of Statistics at the time of the quarter immediately prior to the date of payment

Base CPI is the Consumer Price Index (All Groups Index) for Sydney as published by the Australian Bureau of Statistics for December 2019 – being 117.1.

Note: The contribution payable will not be less than the contribution specified in this Consent.

#### **Time for payment**

The contribution must be paid prior to the release of the construction certificate for any works authorising construction above the floor level of the ground floor - *For development not involving subdivision, but where a construction certificate is required*

Deferred payments of contributions may be accepted if the applicant meets the Council's requirements set out in the contributions plan.

#### **Works in kind agreement**

This condition does not need to be complied with to the extent specified, if a works in kind agreement is entered into between the developer and the Council.

### **29. Telecommunications Infrastructure**

- a. If the development is likely to disturb or impact upon telecommunications infrastructure, written confirmation from the service provider that they have agreed to proposed works must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate or any works commencing, whichever occurs first; and
- b. The arrangements and costs associated with any adjustment to telecommunications infrastructure shall be borne in full by the applicant/developer.

### **30. Sydney Water**

Prior to Council or an accredited certifier issuing a construction certificate, the approved plans must be submitted to Sydney Water via the Sydney Water Tap In service, to determine whether the development will affect any Sydney Water wastewater and water mains, stormwater drains and/or easements, and if any requirements need to be met.

An approval receipt will be issued if the building plans have been approved. The approval receipt shall be submitted to the Principal Certifying Authority prior to issue of a construction certificate.

The Sydney Water Tap In service can be accessed at [www.sydneywater.com.au](http://www.sydneywater.com.au).

### **31. Civil Works under S138 Roads Act**

Prior to Council or an accredited certifier issuing any construction certificate, a S138 Roads Act application, including payment of plan assessment and inspection fees shall be lodged with Campbelltown City Council for construction of stormwater drainage system, vehicle crossings in Brenda Street frontage.

Detailed engineering plans for the proposed works including stormwater works and vehicular crossings in Brenda Street frontage shall be submitted to Council for approval. All works shall be carried out in accordance with Roads Act approval including the stamped approved plans and Council specifications.



**PRIOR TO THE COMMENCEMENT OF ANY WORKS**

The following conditions of consent have been imposed to ensure that the administration and amenities relating to the proposed development comply with all relevant requirements. These conditions are to be complied with prior to the commencement of any works on site.

**32. Demolition Works**

Demolition works shall be carried out in accordance with the following:

- a. Prior to the commencement of any works on the land, a detailed demolition work plan designed in accordance with Clause 1.7.3 of Australian Standard AS 2601-2001 – The Demolition of Structures, prepared by a suitably qualified person with suitable expertise or experience, shall be submitted to and approved by Council and shall include the identification of any hazardous materials, method of demolition, precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.
- b. Prior to commencement of any works on the land, the demolition Contractor(s) licence details must be provided to Council.
- c. The handling or removal of any asbestos product from the building/site must be carried out by a NSW Work Cover licensed contractor irrespective of the size or nature of the works. Under no circumstances shall any asbestos on site be handled or removed by a non-licensed person. The licensed contractor shall carry out all works in accordance with NSW Work Cover requirements.
- d. An appropriate fence preventing public access to the site shall be erected for the duration of demolition works
- e. Immediately prior to the commencement of the demolition or handling of any building or structure that contains asbestos, the applicant shall request that the principal certifying authority attend the site to ensure that all appropriate safety measures are in place. The applicant shall also notify the occupants of the adjoining premises and Workcover NSW prior to the commencement of any works.

**33. Erosion and Sediment Control**

Prior to the commencement of any works on the land, adequate/approved erosion and sediment control measures shall be fully installed/implemented.

**34. Erection of Construction Sign**

Prior to the commencement of any works on the land, a sign/s must be erected in a prominent position on the site:

- a. Showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours
- b. Stating that unauthorised entry to the work site is prohibited
- c. Pollution warning sign promoting the protection of waterways (issued by Council with the development consent)
- d. Stating the approved construction hours in which all works can occur
- e. Showing the name, address and telephone number of the principal certifying authority for the work.

Any such sign/s is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

**35. Toilet on Construction Site**

Prior to the commencement of any works on the land, toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part thereof. Each toilet provided must be a standard flushing toilet and be connected to:

- a. A public sewer, or
- b. If connection to a public sewer is not practicable, to an accredited sewage management facility approved by Council, or
- c. If connection to a public sewer or an accredited sewage management facility is not practicable, to some other management facility approved by Council.

**36. Trade Waste**

Prior to the commencement of any works on the land, a trade waste facility shall be provided on-site to store all waste pending disposal. The facility shall be screened, regularly cleaned and accessible to collection vehicles.

**37. Vehicular Access during Construction**

Prior to the commencement of any works on the land, a single vehicle/plant access to the site shall be provided, to minimise ground disturbance and prevent the transportation of soil onto any public road system. Single sized aggregate, 40mm or larger placed 150mm deep, extending from the kerb and gutter to the property boundary, shall be provided as a minimum requirement.

**38. Public Property**

Prior to the commencement of any works on site, the applicant shall advise Council of any damage to property which is controlled by Council which adjoins the site, including kerbs, gutters, footpaths, and the like. Failure to identify existing damage may result in all damage detected after completion of the development being repaired at the applicant's expense.

**39. Hoarding / Fence**

Prior to the commencement of any works, a hoarding or fence must be erected between the work site and a public place if the work involved in the development is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or if the building involves the enclosure of a public place in accordance with *Work Cover* requirements.

The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

A separate land use application under Section 68 of the Local Government Act 1993 shall be submitted to and approved by Council prior to the erection of any hoarding on public land.

**40. Fencing**

An appropriate fence preventing public access to the site shall be erected for the duration of construction works.

**41. Geotechnical Reference**

Prior to the commencement of any works, a certificate prepared by the designing structural engineer certifying that the design is in accordance with the geotechnical investigation of the site shall be submitted to the PCA. The designing structural engineer shall also nominate a site classification in accordance with *AS2870 – Residential Slabs and Footings*.

**42. Unexpected Finds Protocol**

The applicant shall prepare and implement an 'unexpected finds protocol' with respect to dealing with unexpected finds that pose a contamination risk or potential Aboriginal or European heritage significance risk.

**DEVELOPMENT REQUIREMENTS DURING CONSTRUCTION**

The following conditions of consent have been imposed to ensure that the administration and amenities relating to the proposed development comply with all relevant requirements. These conditions are to be complied with during the construction of the development on site.

**43. Construction Work Hours**

All work on site shall only occur between the following hours:

Monday to Friday	7.00am to 6.00pm
Saturday	8.00am to 5.00pm
Sunday and public holidays	No Work.

**44. Erosion and Sediment Control**

Erosion and sediment control measures shall be provided and maintained throughout the construction period, in accordance with the requirements of the manual – *Soils and Construction (2004) (Bluebook)*, the approved plans, Council specifications and to the satisfaction of the principal certifying authority. The erosion and sedimentation control devices shall remain in place until the site has been stabilised and revegetated.

**Note: On the spot penalties up to \$8,000 will be issued for any non-compliance with this requirement without any further notification or warning.**

**45. Work Zones**

All loading, unloading and other activities undertaken during construction shall be accommodated on the development site.

Where it is not practical to load, unload or undertake specific activities on the site during construction, the provision of a 'Work Zone' external to the site may be approved by Council following an application being submitted to Council's Traffic Unit outlining the proposal for the work zone. The application is required to be made prior to the commencement of any works and is to include a suitable 'Traffic / Pedestrian Management and Control Plan' for the area of the work zone that will be affected. All costs of approved traffic / pedestrian control measures, including relevant fees, shall be borne by the applicant.

**46. Protection of Existing Trees**

During construction, no trees are to be cut down, lopped, destroyed or removed without the separate written approval of Council unless those trees are within three metres of the footprint of a building that has been approved by Council.

All trees that are to be retained are to be protected by fencing, firmly staked within the drip line/ canopy of the tree and maintained during the duration of the works. The area within the

fencing must not be used for stockpiling of any material, nor for vehicle or pedestrian convenience.

All useable trees and shrubs shall be salvaged for re-use, either in log form, or as woodchip mulch for erosion control or garden beds or site rehabilitation. Non-salvable materials such as roots and stumps shall be disposed of to a waste management centre or other approved form.

**47. Fill Contamination**

Any landfill used on the site is to be validated in accordance with the *Environment Protection Authority's* guidelines for consultants reporting on contaminated sites. The validation report shall state in an end statement that the fill material is suitable for the proposed use on the land.

**48. Dust Nuisance**

Measures shall be implemented to minimise wind erosion and dust nuisance in accordance with the requirements of the manual – *'Soils and Construction (2004) (Bluebook)*. Construction areas shall be treated/ regularly watered to the satisfaction of the principal certifying authority.

**49. Excess Material**

All excess material is to be removed from the site. The spreading of excess material or stockpiling on site will not be permitted without prior written consent from Council.

**50. Public Safety**

Any works undertaken in a public place are to be maintained in a safe condition at all times in accordance with Australian Standard AS 1742.3. Council may at any time and without prior notification make safe any such works that are considered to be unsafe and recover all reasonable costs incurred, from the applicant.

**51. Compliance with Council Specification**

All design and construction work shall be in accordance with:

- a. Council's *Specification for Construction of Subdivisional Road and Drainage Works (as amended)*;
- b. Council's *Engineering Design Guide for Development (as amended)*;
- c. Council's *Campbelltown (Sustainable City) DCP (as amended)*;
- d. *Soils and Construction (2004) (Bluebook)*; and
- e. Relevant Australian Standards and State Government publications.

**52. Footpath Kerb and Gutter**

The applicant shall re-construct all damaged bays of concrete path paving and kerb & gutter, adjacent to the site, in Brenda Street frontage. Areas not concreted shall be re-graded, topsoiled and turfed. All works shall be in accordance with the requirements detailed in Council's *Specification for Construction of Subdivisional Road and Drainage Works (as amended)* and *Engineering Design Guide for Development (as amended)*.

**53. Residential Driveway and Layback Crossing**

The applicant shall provide a reinforced concrete footpath crossing and layback at the entrance to the property, in accordance with Council's *Residential Vehicle Crossing Specification* and *Engineering Design Guide for Development (as amended)*.

A separate application for this work, which will be subject to a crossing inspection fee and inspections by Council, must be lodged with Council prior to pouring the concrete. Where necessary, conduits shall be provided under the footpath crossing, in accordance with the relevant service authority's requirements.

**54. Associated Works**

The applicant shall undertake any works external to the development, that are made necessary by the development, including additional road and drainage works or any other civil works directed by Council, to make a smooth junction with existing work.

**55. Redundant Laybacks**

All redundant laybacks shall be reinstated as conventional kerb and gutter, in accordance with the requirements detailed in Council's *Specification for Construction of Subdivisional Road and Drainage Works (as amended)* and *Engineering Design Guide for Development (as amended)*.

**56. Completion of Construction Works**

Unless otherwise specified in this consent, all construction works associated with the approved development shall be completed within 12 months of the date of the notice of the intention to commence construction works under Section 81A of the Act.

In the event that construction works are not continually ongoing, the applicant shall appropriately screen the construction site from public view with architectural devices and landscaping to Council's written satisfaction.

**PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE**

The following conditions of consent must be complied with prior to the issue of an occupation certificate by either Campbelltown City Council or an accredited principal certifying authority. All necessary information to comply with the following conditions of consent must be submitted with the application for an occupation certificate.

**57. Section 73 Certificate**

Prior to the principal certifying authority issuing an occupation certificate (or subdivision certificate, whichever shall occur first), a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Early application for the certificate is suggested as this can also impact on other services and building, driveway or landscape design.

Application must be made through an authorised Water Servicing Coordinator.

For help either visit [www.sydneywater.com.au](http://www.sydneywater.com.au) > Building and developing > Developing your Land > Water Servicing Coordinator or telephone 13 20 92.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to the issue of an occupation certificate.

**58. Structural Engineering Certificate**

Prior to the principal certifying authority issuing an occupation certificate, the submission of a certificate from a practising structural engineer certifying that the building has been erected in compliance with the approved structural drawings and relevant SAA Codes and is structurally adequate.

**59. Completion of External Works Onsite**

Prior to the principal certifying authority issuing an occupation certificate, all external works, repairs and renovations detailed in the schedule of treatment/finishes, landscaping, driveways, fencing and retaining walls to be completed to the satisfaction of the principal certifying authority.

**60. Splay Corner (Residential)**

Prior to the principal certifying authority issuing an occupation certificate, the applicant shall dedicate 4m x 4m splay corners in the property boundaries of all lots located adjacent to road intersections, at no cost to Council.

**61. Final Inspection – Works as Executed Plans**

Prior to the principal certifying authority issuing an occupation certificate, the applicant shall submit to Council a copy of a work as executed plan, certified by a qualified surveyor, which has been prepared in accordance with the requirements detailed in Council's *Specification for Construction of Subdivisional Road and Drainage Works (as amended)* and *Engineering Design Guide for Development (as amended)*.

**62. Restoration of Public Roads**

Prior to the principal certifying authority issuing an occupation certificate, any restoration of the public road pavement required as a result of the development, shall be carried out by Council and all costs shall be paid by the applicant.

**63. Public Utilities**

Prior to the principal certifying authority issuing an occupation certificate, any adjustments to public utilities required as a result of the development, shall be completed to the satisfaction of the relevant authority and at the applicant's expense.

**64. Lot Numbers**

Prior to the principal certifying authority issuing an occupation certificate, all house numbers shall be stencilled onto the kerb at appropriate locations with black letters/numbers 75mm high on a white background using an approved pavement marking paint.

For all new additional lots created, please contact Council's Land Information Unit on 4645 4465 to ensure the correct house number is stencilled.

**65. Compliance Certificate**

All the works on public area in relation to the development shall be completed as per the Council approved plans. A compliance certificate, approving the works, shall be obtained from Council prior to the principal certifying authority issuing an occupation certificate.

**66. Council Fees and Charges**

Prior to the principal certifying authority issuing an occupation certificate, the applicant shall ensure that all applicable Council fees and charges associated with the development have been paid in full. Written confirmation will be provided to the applicant following Council's final inspection and satisfactory clearance of the public area adjacent the site.

**ADVISORY NOTES**

The following information is provided for your assistance to ensure compliance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, other relevant Council Policy/s and other relevant requirements. This information does not form part of the conditions of development consent pursuant to Section 4.17 of the Act.

**Advice 1. Environmental Planning and Assessment Act 1979 Requirements**

The Environmental Planning and Assessment Act 1979 requires you to:

- a. Obtain a construction certificate prior to the commencement of any works. Enquiries regarding the issue of a construction certificate can be made to Council's Customer Service Centre on 4645 4000.
- b. Nominate a principal certifying authority and notify Council of that appointment prior to the commencement of any works.
- c. Give Council at least two days notice prior to the commencement of any works.
- d. Have mandatory inspections of nominated stages of the construction inspected.
- e. Obtain an occupation certificate before occupying any building or commencing the use of the land.

**Advice 2. Tree Preservation Order**

To ensure the maintenance and protection of the existing natural environment, you are not permitted to ringbark, cut down, top, lop, remove, wilfully injure or destroy a tree outside three metres of the building envelope unless you have obtained prior written consent from Council. Fines may be imposed if you choose to contravene Council's Tree Preservation Order.

A tree is defined as a perennial plant with self supporting stems that are more than three metres or has a trunk diameter more than 150mm measured one metre above ground level, and excludes any tree declared under the Noxious Weeds Act (NSW).

**Advice 3. Smoke Alarms**

From 1 May 2006 all NSW residents must have at least one working smoke alarm installed on each level of their home. This includes owner occupier, rental properties, relocatable homes and any other residential building where people sleep.

The installation of smoke alarms is required to be carried out in accordance with AS 3786. The licensed electrical contractor is required to submit to the Principal Certifying Authority a certificate certifying compliance with AS 3000 and AS 3786.

**Advice 4. Covenants**

The land upon which the subject building is to be constructed may be affected by restrictive covenants. Council issues this approval without enquiry as to whether any restrictive covenant affecting the land would be breached by the construction of the building, the subject of this permit. Persons to whom this permit is issued must rely on their own enquiries as to whether or not the building breaches any such covenant.

**Advice 5. Inspections – Civil Works**

Where Council is nominated as the principal certifying authority for civil works, the following stages of construction shall be inspected by Council.

- a. EROSION AND SEDIMENT CONTROL –
  - i. Direction/confirmation of required measures.
  - i. After installation and prior to commencement of earthworks.
  - ii. As necessary until completion of work.
- a. STORMWATER PIPES – Laid, jointed and prior to backfill.
- b. VEHICLE CROSSINGS AND LAYBACKS – Prior to pouring concrete.
- c. FINAL INSPECTION – All outstanding work.

**Advice 6. Inspection within Public Areas**

All works within public areas are required to be inspected at all stages of construction and approved by Council prior to the principal certifying authority releasing the Occupation Certificate.

**Advice 7. Adjustment to Public Utilities**

Adjustment to any public utilities necessitated by the development is required to be completed prior to the occupation of the premises and in accordance with the requirements of the relevant Authority. Any costs associated with these adjustments are to be borne by the applicant.

**Advice 8. Salinity**

Please note that Campbelltown is an area of known salinity potential. As such any salinity issues should be addressed as part of the construction certificate application. Further information regarding salinity management is available within *Campbelltown (Sustainable City) DCP - Volumes 1 and 3 (as amended)*.

**Advice 9. Asbestos Warning**

Should asbestos or asbestos products be encountered during construction or demolition works you are advised to seek advice and information prior to disturbing the material. It is recommended that a contractor holding an asbestos-handling permit (issued by Work Cover NSW), be engaged to manage the proper disposal and handling of the material. Further information regarding the safe handling and removal of asbestos can be found at:

[www.environment.nsw.gov.au](http://www.environment.nsw.gov.au)  
[www.nsw.gov.au/fibro](http://www.nsw.gov.au/fibro)  
[www.adfa.org.au](http://www.adfa.org.au)  
[www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au)

Alternatively, call Work Cover Asbestos and Demolition Team on 8260 5885.

**Advice 10. Rain Water Tank**

It is recommended that water collected within any rainwater tank as part of the development be limited to non-potable uses. NSW Health recommends that the use of rainwater tanks for drinking purposes not occur where a reticulated potable water supply is available.

**Advice 11. Dial before you Dig**

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before you dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must



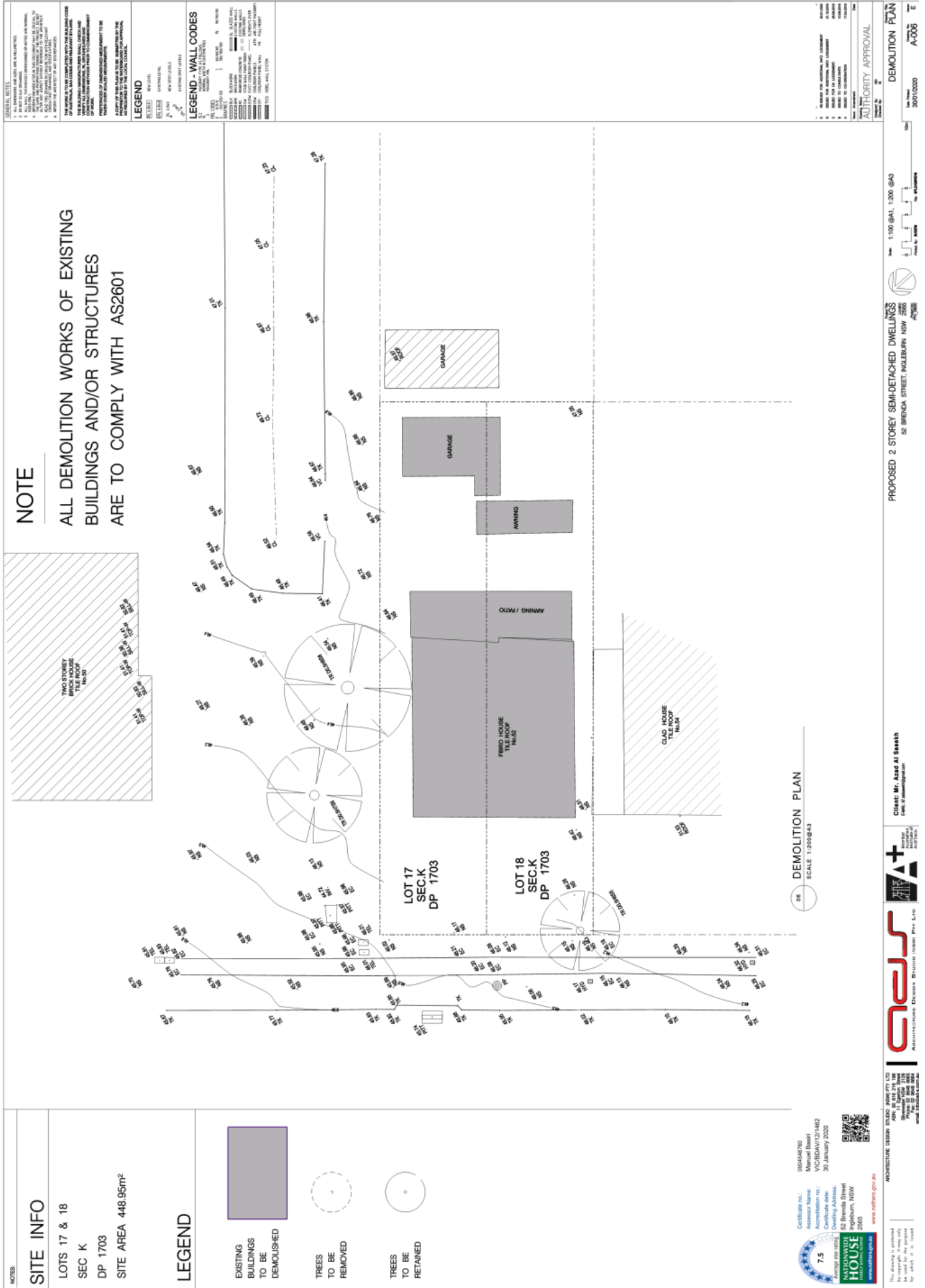
be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

**Advice 12. Telecommunications Act 1997 (Commonwealth)**

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any persons interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution.

Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on phone number 1800 810 443.

**END OF CONDITIONS**



**NOTES:**

**SITE INFO**  
 LOTS 17 & 18  
 SEC K  
 DP 1703  
 SITE AREA 448.95m<sup>2</sup>

**LEGEND - WALL CODES**  
 1. EXTERIOR WALL  
 2. INTERIOR WALL  
 3. CURTAIN WALL  
 4. GLAZED WALL  
 5. GLAZED WALL WITH OPERABLE WINDOW  
 6. GLAZED WALL WITH FIXED WINDOW  
 7. GLAZED WALL WITH FIXED WINDOW AND OPERABLE WINDOW  
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**NOTES:**

1. ALL DIMENSIONS ARE IN METERS UNLESS OTHERWISE SPECIFIED.
2. THE PROPOSED DWELLING IS TO BE CONSTRUCTED IN ACCORDANCE WITH THE LOCAL COUNCIL'S DEVELOPMENT PLAN (DP) AND THE LOCAL COUNCIL'S DEVELOPMENT INSTRUMENT (DI).
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**PROPOSED 2 STOREY SEMI-DETACHED DWELLINGS**  
 52 BRENDA STREET INGLEBURN NSW 2565

**SITE PLAN**  
 SCALE 1:200 @ A4  
 DATE 30/01/2020  
 DRAWN BY A009

**ARCHITECTURE DESIGN STUDIO**  
 ARCHITECTURE DESIGN STUDIO (NSW) PTY LTD  
 11/150-11/151 BRENDA STREET  
 INGLEBURN NSW 2565  
 PH: 02 9396 9999  
 WWW.ARCHITECTUREDESIGNSTUDIO.COM

**CLIENT:** Mr. Andrii Stetsko  
 11/150-11/151 BRENDA STREET  
 INGLEBURN NSW 2565

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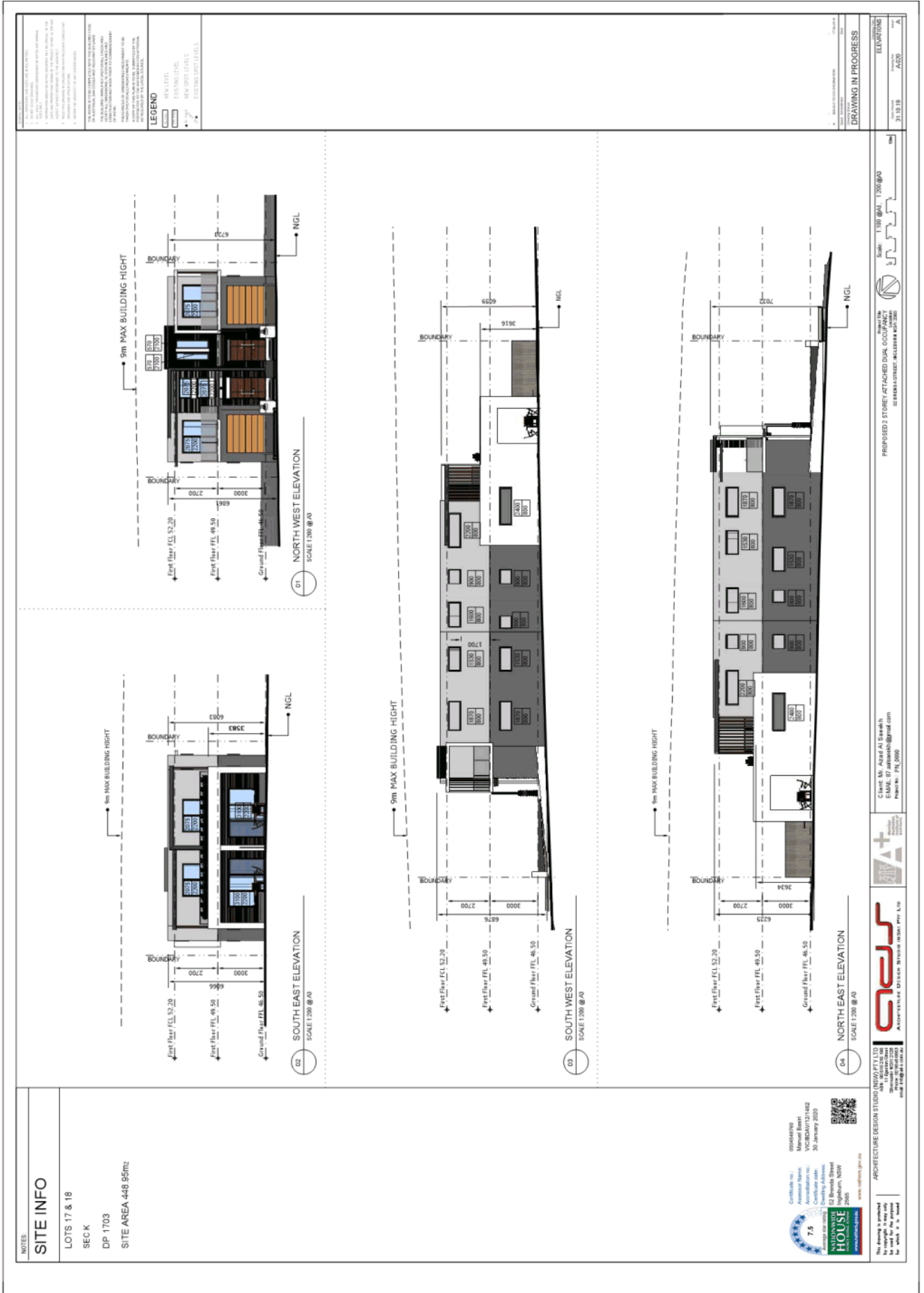
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<p><b>NOTES:</b></p> <p><b>SITE INFO</b></p> <p>LOTS 17 &amp; 18 SEC K DP 1703 SITE AREA 448.95m<sup>2</sup></p>		<p><b>LEGEND</b></p> <p>NEW LEVEL EXISTING LEVEL EXISTING DEPT LEVELS</p> <p><b>03</b> JUNE SHADOWS 03:00pm SCALE: 1:200 @ A3</p> <p><b>04</b> SEPTEMBER SHADOWS 09:00am SCALE: 1:200 @ A3</p>
<p>1. THIS DRAWING IS TO BE USED FOR THE PURPOSES OF THE LOCAL PLANNING PANEL MEETING ONLY.</p> <p>2. THIS DRAWING IS NOT TO BE USED FOR ANY OTHER PURPOSES WITHOUT THE WRITTEN CONSENT OF THE ARCHITECTURE DESIGN STUDIO (ADS).</p> <p>3. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.</p> <p>4. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.</p> <p>5. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.</p> <p>6. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.</p> <p>7. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.</p> <p>8. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.</p> <p>9. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.</p> <p>10. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.</p>	<p>11. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.</p> <p>12. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.</p> <p>13. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.</p> <p>14. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.</p> <p>15. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.</p> <p>16. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.</p> <p>17. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.</p> <p>18. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.</p> <p>19. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.</p> <p>20. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.</p>	<p><b>03</b> JUNE SHADOWS 03:00pm SCALE: 1:200 @ A3</p> <p><b>04</b> SEPTEMBER SHADOWS 09:00am SCALE: 1:200 @ A3</p>
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## Clause 4.6 Exceptions to Development Standards

### Clause 4.1C Minimum qualifying site area and lot size for certain residential and centre-based child care facility development in residential zones - *Campbelltown Local Environmental Plan 2015*

#### Proposed semi-detached dwellings - No. 52 Brenda Street, Ingleburn

##### 1.0 Introduction

This Clause 4.6 Exceptions to Development Standards request has been prepared by Andrew Robinson Planning Services Pty Ltd (ARPS) on behalf of Mr Azad Al Saeekh to accompany a development application for proposed semi-detached dwellings at No. 52 Brenda Street, Ingleburn.

The Clause 4.6 Exceptions to Development Standards request relates to the minimum lot size for semi-detached dwellings in the R2 Low Density Residential zone development standard prescribed under subclause 4.1C(2) of *Campbelltown Local Environmental Plan 2015*. Subclause 4.1C(2) states:

- (2) *Development consent may be granted to development for a purpose specified in the table to this clause on land in a zone listed beside the purpose, if the area of the lot is equal to or greater than the area specified in Column 3 of the table.*

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<i>Semi-detached dwelling</i>	<i>Zone R2 Low Density Residential</i>	<i>700 square metres</i>

The land known as No. 52 Brenda Street comprises two x 224.82m<sup>2</sup> allotments, which equate to a total site area of 449.64m<sup>2</sup>. As defined in the dictionary that forms part of *Campbelltown Local Environmental Plan 2015*, semi-detached dwelling means a dwelling that is on its own lot of land and is attached to only one other dwelling. As such, in accordance with the table in Clause 4.1C, each lot on which a dwelling is to be located is required to have a minimum site area of 700m<sup>2</sup>. Therefore, each lot falls 475.18m<sup>2</sup> below the minimum required site area of 700m<sup>2</sup> for semi-detached dwellings in the R2 Low Density Residential zone. This site area represents a variation of 67.88% below the 700m<sup>2</sup> standard.

##### 2.0 The Effect of Clause 4.6 Exceptions to Development Standards

Clause 4.6 of *Campbelltown Local Environmental Plan 2015* states (in part):

- (1) *The objectives of this clause are as follows:*
- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
  - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

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- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating -*
- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
  - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
- (a) *the consent authority is satisfied that:*
    - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
    - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
  - (b) *the concurrence of the Secretary has been obtained.*
- (5) *In deciding whether to grant concurrence, the Secretary must consider:*
- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
  - (b) *the public benefit of maintaining the development standard, and*
  - (c) *any other matters required to be taken into consideration by the Secretary before granting concurrence.*

This request has been prepared having regard to the latest authority on Clause 4.6, contained in the following guideline judgements:

- *Winten Property Group Limited v North Sydney Council* [2001] NSWLEC 46
- *Wehbe v Pittwater Council* [2007] NSWLEC 827
- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 ('Four2Five No 1')
- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 ('Four2Five No 2')
- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248 ('Four2Five No 3')

In summary, the principles arising from the above matters are:

- (i) That the relevant objectives are those stated in the controls not unidentified underlying objectives at [57] in Four2Five No. 1;
- (ii) That the environmental planning grounds must be particular to the circumstances of the proposed development and/or the site at [60] in Four2Five No. 1; and
- (iii) The five methods of establishing that compliance is unreasonable or unnecessary identified by Preston J in *Wehbe* remain relevant. However, in order to satisfy the unreasonable and unnecessary test in Clause 4.6(3)(a), you need something more than way 1 in *Wehbe*, because that test is now encompassed in Clause 4.6(4)(a)(ii) where consistency with the objectives of the standard is a mandatory precondition.



In relation to (iii) above, Method 1 in *Wehbe* requires an applicant to demonstrate that the objectives of the relevant development standard will be achieved, despite the non-compliance with the numerical standard.

However, as a result of *Four2Five*, it is now necessary to demonstrate something *more* than simply achieving the objective of the standard. In this regard, a proposed development that contravenes the development standard, but as a result, achieves the objective of the development standard to a greater degree than a development that complied with the standard, would suffice.

### 3.0 Justification for Variation

#### *What is the context of the variation?*

No. 52 Brenda Street is a rectangular shaped site, having a frontage of 13.41m to Brenda Street, a secondary street frontage of 33.53m to Phoenix Avenue (part of which is unformed). As described earlier, the site comprises two (2) x 224.82m<sup>2</sup> allotments (Lots 17 & 18, Section K, DP 1703), which equate to a total site area of 449.64m<sup>2</sup>. The site is currently occupied by a single storey dwelling house with a detached garage at the rear of the site, facing Phoenix Avenue.

As can be seen in **Figure 1** below, the existing subdivision pattern predominantly comprises narrow width allotments (approx. 6.705m wide) where several dwellings have been built across two (2) allotments. In the majority of cases, the allotments have not been consolidated, so that many of these residential properties comprise two (2) allotments. While some properties appear to have been consolidated, others have been redeveloped with semi-detached dwellings, where Torrens Title subdivision along the party wall is already in existence. Nearby examples include semi-detached dwellings at Nos. 50 & 50A Brenda Street, Nos. 46 & 46A Brenda Street, Nos. 49 & 49A Beford Street, Nos. 52 & 52A Carinda Street and Nos. 24 & 24A Euroka Street. In other examples, Nos. 41, 41A & 41B Carinda Street & Nos. 58A, 58B & 58C Belford Street have been redeveloped with attached dwellings in the form of a 'triplex', making use of the existing subdivision pattern. There are also a number of other similar properties within a 100m radius of the site that have been redeveloped. As such, the built form in the locality demonstrates several examples of dwellings on narrow frontages and a streetscape rhythm and character of narrow width dwellings and multiple driveways.

**Figure 1:** Extract from *Six Maps* showing the existing subdivision pattern in the locality.



Source: [maps.six.nsw.gov.au](http://maps.six.nsw.gov.au)

Accordingly, it is considered that despite the reduced site area, the proposed dual occupancy will be of a form, scale and appearance that is compatible with the existing and anticipated future character, presenting an attractive facade to Brenda Street and making a positive contribution to the streetscape character and urban form and scale.

***Strict Compliance is unreasonable or unnecessary in the circumstances of the case.***

As described earlier, the area of each lot is 475.18m<sup>2</sup> less than the statutory minimum and represents a variation of 67.88% below the 700m<sup>2</sup> development standard for each lot. In numerical terms this represents a relatively significant variation to the principal development standard. Notwithstanding, as demonstrated in the NSW LEC decisions in *Micaul Holdings Pty Limited v Randwick City Council* and *Moskovich v Waverley Council* there should be no artificial conservatism about the use of Clause 4.6 based on the numerical extent of the variation being sought, given that the purpose of Clause 4.6 is to allow flexibility and to achieve better outcomes for a site by allowing developments to exceed development standards where there are justifiable circumstances.

An important finding in *Micaul Holdings Pty Limited* was that while the judgement did not directly overturn the *Four2Five v Ashfield* decision, the Chief Judge indicated that one of the obligations of a consent authority is to be satisfied that the applicant's written request has adequately addressed the matters in Clause 4.6(3), namely.....*that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case.....and that there are sufficient environmental planning grounds to justify contravening the development standard.*

In this particular instance, it is considered that compliance with the development standard is unreasonable and unnecessary and that there is sufficient environmental planning merit to justify the proposed non-compliance, as described below:

- Objective (a) of Clause 4.1C specifically relates to planned residential densities (i.e. the population to be accommodated on the site having regard to its size), not streetscape appearance and character or the potential to alter the predominant subdivision pattern;
- The proposed scale and massing of the development is consistent with the existing and desired future character of the locality and the proposed landscape character is consistent with the established landscaped character in the locality;
- The proposed development does not seek to exceed the allowable floor space ratio so as to achieve an overall density beyond the environmental capacity of the site. As such, there is no tangible nexus between the minimum lot size variation and the overall land use intensity;
- The non-compliance will not result in any adverse impacts on the adjoining land uses with respect to loss of privacy, inappropriate scale, or loss of solar access etc; and
- The proposal will retain the existing subdivision pattern and the resulting development will be consistent with the established built form and character in the locality, having regard to the numerous examples of similar redeveloped sites in the surrounding area.

In consideration of the above, Council's attention is also drawn to the Department of Planning and Environment's publication "*Varying development standards: A Guide*" (August 2011), which outlines the matters that must be considered when varying a development standard.

The Guide has essentially adopted the 5 point test for consideration set out by the Land & Environment Court in *Wehbe v Pittwater Council (2001) NSW LEC 827*, specifically that there are five different ways in which compliance with a development standard can be considered unreasonable or unnecessary, namely:

- *the objectives of the standard are achieved notwithstanding non-compliance with the standard;*

**Comment:** As discussed in the table below, the proposal is considered to be consistent with the objectives of the minimum lot size for semi-detached dwellings in the R2 Low Density Residential zone principal development standard, notwithstanding the numerical variation.

- *the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*

**Comment:** The objectives of the minimum lot sizes for semi-detached dwellings in the R2 Low Density Residential zone development standard remain relevant and the proposal is consistent with, or at least is not antipathetic to these objectives, notwithstanding the numerical variation.

- *the underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*

**Comment:** The proposal is consistent with the objectives of the minimum lot size for semi-detached dwellings in the R2 Low Density Residential zone development standard, notwithstanding the numerical variation, and requiring compliance would not defeat the purpose of the standard.

- *the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*

**Comment:** Having regard to the examples of other similar semi-detached dwelling developments in the vicinity of the site, it appears that the development standard has been abandoned by Council through its actions in granting consent for other similar development that also depart from the development standard. Further, in granting consent to semi-detached dwelling developments on other nearby site of a similar size, this is indicative that Council is satisfied that the proposed residential densities that will be achieved on allotments of less than 700m<sup>2</sup> will not be contrary to the planned residential densities for the locality.

- *the zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

**Comment:** The proposed semi-detached dwellings are a permissible land use and the zoning of the site is considered to be appropriate in this location and in the context of the surrounding land uses and built form.

In light of the above, it has been demonstrated that the first and fourth tests under the Wehbe method have been met, such that the requirement to strictly adhere to the numerical development standard for a minimum lot size for semi-detached dwellings in the R2 Low Density Residential zone is considered to be unreasonable and unnecessary in this instance.

***There are sufficient environmental planning grounds to justify contravening the development standard.***

Based on the discussion above, it is considered that there are sufficient environmental planning grounds to justify contravening the development standard. Key environmental planning grounds to support the variation include:

- Despite each lot being less than the required minimum lot size, the overall bulk and scale of the semi-detached dwellings that will be achieved is considered to be acceptable in terms of its scale and built form and the relationship of the development to the existing adjoining and surrounding residential development;
- The proposed development does not seek to exceed the allowable floor space ratio so as to achieve an overall density beyond the environmental capacity of the site. As such, there is no tangible nexus between the minimum lot size variation and the overall land use intensity;
- The non-compliance will not result in any adverse impacts on the adjoining land uses with respect to loss of privacy, inappropriate scale, or loss of solar access etc; and
- Having regard to the prevailing subdivision pattern and the examples of existing semi-detached dwellings and attached dwellings ('triplexes'), a precedent has been established and

the redevelopment of this site for semi-detached dwellings is considered to be an appropriate solution, having regard to this prevailing subdivision pattern.

***The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.***

The Table below demonstrates that the proposed development will be in the public interest because it will be consistent with both the objectives for the minimum lot size for semi-detached dwellings in the R2 Low Density Residential zone principal development standard objective and the R2 Low Density Residential zone objectives of the LEP.

LEP Clause	Objective	Proposal
<b>Clause 4.1C</b>  <b>Minimum lot sizes for dual occupancy in the R2 Low Density Residential zone</b>	a) <i>To achieve planned residential density in certain zones.</i>	Despite the non-compliance to the minimum site area, the site has the environmental / physical capacity to support the proposed increase in population density.
	b) <i>To achieve satisfactory environmental and infrastructure outcomes.</i>	Despite the lot size being less than the required minimum, the proposed semi-detached dwellings will not have an unacceptable environmental impact or create an undue burden on local infrastructure or utility services.
	c) <i>To minimise any adverse impact of development on residential amenity.</i>	The proposed semi-detached dwellings are of a similar form, scale and density to many of the surrounding developments and will not create any unacceptable impacts to the existing residential amenity, particularly with regard to solar access and overshadowing, natural ventilation, views, or visual and acoustic privacy.
	d) <i>To minimise land use conflicts.</i>	The proposal will not result in any land use conflicts and the continued residential use of the site (albeit in a slightly more dense form) will remain consistent with the low density residential land use character of the locality.
<b>R2 Low Density Residential</b>  <b>Zoning Objectives</b>	<i>To provide for the housing needs of the community within a low density residential environment.</i>	The proposed semi-detached dwellings will provide additional residential accommodation and housing choice in an established residential neighbourhood, in a location with good access to public transport, shops, facilities and recreational opportunities.
	<i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i>	Noted. The proposed residential land use provides residential accommodation that is located in proximity to shops and facilities that will meet the day to day needs of residents of the proposed development.
	<i>To enable development for purposes other than residential only if that development is compatible with the character of the living area and is of a</i>	As noted above, the proposed semi-detached dwellings will replace the existing dwelling house with new and modern residential accommodation in the form of a new semi-detached dwelling on each existing lot, in a low

	<i>domestic scale.</i>	density residential form compatible with the emerging and desired future character of the locality.
	<i>To minimise overshadowing and ensure a desired level of solar access to all properties.</i>	The proposed semi-detached dwellings will not result in an unacceptable degree of overshadowing or loss of solar access to the adjoining properties.
	<i>To facilitate diverse and sustainable means of access and movement.</i>	While the development provides for on-site parking, there are opportunities for public transport (there is a bus stop directly outside the site in Brenda Street) and opportunities for alternate sustainable transport including walking and cycling to nearby shops and services.

#### 4.0 Non-compliance does not hinder the attainment of the Objects of the Environmental Planning and Assessment Act 1979

The Wehbe decision identifies that in assessing a variation to a development standard, consideration must be given to Objects (a)(i) and (a)(ii) in Section 5 of the *Environmental Planning and Assessment Act 1979* is necessary. These are:

- (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
- (ii) *the promotion and co-ordination of the orderly and economic use and development of land.*

The proposed variation to the minimum lot size for semi-detached dwellings in the R2 Low Density Residential zone development standard will not contravene either of these Objects. The proper management of the existing urban environment in order to achieve better social and community outcomes, as well as the orderly and economic use and development of land, will be realised through the provision of high quality residential accommodation in a location with good access to public transport options and in proximity to shops, services and recreational facilities and educational establishments.

#### 5.0 Secretary's Concurrence

Clause 4.6(4)(b) requires the concurrence of the Secretary to be obtained prior to granting consent to a development that contravenes a development standard. In accordance with the Planning Circular (PS 18-003) issued on 21 February 2018, as the proposal contravenes a numerical standard by more than 10%, Campbelltown City Council cannot assume the Secretary's concurrence in this instance. Accordingly, the application will need to be considered by the Campbelltown Local Planning Panel.

Notwithstanding, provided below is a discussion on the matters under subclause 4.6(5) that the Secretary must consider in deciding whether to grant concurrence:

- ***Whether contravention of the development standard raises any matter of significance for State or regional environmental planning.***

The variation to the minimum lot size for semi-detached dwellings in the R2 Low Density Residential zone principal development standard under *Campbelltown Local Environmental Plan 2015* will not give rise to any environmental planning matter which could be deemed to have either State or Regional significance. The variation to the development standard being sought will not have any effects outside

the immediate area of the site.

➤ ***The public benefit of maintaining the development standard.***

No substantive public benefit would be realised by maintaining the development standard. Despite each lot that comprises the site not meeting the required minimum area of 700m<sup>2</sup>, the public benefit would be compromised due to the proposed density, given approval has been given to other semi-detached dwelling developments on nearby allotment of similar dimensions and there is an established character of semi-detached dwellings and attached dwellings on narrow frontages in the surrounding area. Requiring strict compliance with the minimum 700m<sup>2</sup> site area for each lot in this instance would result in a built form that would be inconsistent with the established character.

➤ ***Any other matters required to be taken into consideration by the Secretary before granting concurrence.***

Despite not achieving the statutory minimum lot size, the proposed redevelopment of the site will facilitate the orderly and economic redevelopment of the site for the purposes of semi-detached dwellings that will positively contribute to the achievement of the objectives of *Campbelltown Local Environmental Plan 2015*.

## 6.0 Conclusion

Based on the discussion provided above, it can be concluded that:

- strict compliance with the minimum lot size for semi-detached dwellings in the R2 Low Density Residential zone principal development standard under *Campbelltown Local Environmental Plan 2015* is unreasonable or unnecessary in the circumstances of the case where:
  - despite each lot being less than the required minimum lot size, the overall bulk and scale of the building that will be achieved is considered to be acceptable in terms of its scale and built form and the relationship of the building to the adjoining and surrounding residential development;
  - Having regard to the prevailing subdivision pattern and the examples of existing semi-detached dwellings and attached dwellings, a precedent has been established and the redevelopment of this site for semi-detached dwellings is considered to be an appropriate design / urban form solution, having regard to this prevailing subdivision pattern;
  - the non-compliance will not result in any adverse impacts on the adjoining land uses with respect to loss of privacy, overshadowing or loss of solar access, inappropriate scale etc;
  - the proposed development does not seek to exceed the allowable floor space ratio so as to achieve an overall density beyond the environmental capacity of the site. As such, there is no tangible nexus between the height variation and the overall land use intensity; and
  - the proposed design solution is considered to represent an appropriate development outcome for the site, displaying a high quality design, whilst ensuring that a high standard of amenity for future residents will be achieved.
- there are sufficient environmental planning grounds having regard to the Court matters *Four2Five v Ashfield Council* and *Wehbe v Pittwater Council* to justify the contravention to the development standard as the objectives of the minimum lot size for semi-detached dwellings in the R2 Low Density Residential zone development standard are still met, despite the non-compliance;
- the semi-detached dwellings have been designed to a high quality and the amenity for future

residents will be to a high standard;

- the non-compliance does not directly result in any adverse environmental impacts in terms of the development being out of context with the existing or anticipated bulk and scale of development in the locality;
- the proposal will provide additional high quality housing choice in keeping with the existing and anticipated future character of the area; and
- the scale and nature of the non-compliance does not give rise to any matter of State or Regional significance, nor does it adversely affect the public interest.

Having regard to the circumstances of this case where:

- the overall style, scale and built form of the development is commensurate with the existing and likely future 'built environment' and desired character of the area;
- the proposal is consistent with the aims and objectives of *Campbelltown Local Environmental Plan 2015* and
- the proposal is generally consistent with the objects of the *Environmental Planning & Assessment Act 1979*, in particular, the orderly and economic use and development of land and ecologically sustainable development,

it is submitted that this Clause 4.6 Exceptions to Development Standards request is well founded. As such, strict compliance with the minimum lot size for semi-detached dwellings in Zone R2 Low Density Residential principal development standard prescribed in Clause 4.1C of *Campbelltown Local Environmental Plan 2015* is unreasonable and unnecessary having regard to the circumstances of the case. Accordingly, having regard to the assessment and justification contained in this Clause 4.6 Exceptions to Development Standards submission, it is requested that Council support the proposed variation and the development in its proposed form.

Dated: 6 November 2019

**Andrew Robinson Planning Services Pty Ltd**

Andrew Robinson MPlA  
Director

## **5. CONFIDENTIAL ITEMS**

### **5.1 Planning Proposal at Minto**

#### **Reason for Confidentiality**

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(f) of the *Local Government Act 1993*, which permits the meeting to be closed to the public for business relating to the following: -

details of systems and/or arrangements that have been implemented to protect council, councillors, staff and Council property.

### **5.2 Planning Proposal Request - Campbelltown**

#### **Reason for Confidentiality**

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(f) of the *Local Government Act 1993*, which permits the meeting to be closed to the public for business relating to the following: -

details of systems and/or arrangements that have been implemented to protect council, councillors, staff and Council property.