



SUPPLEMENTARY REPORT

Application No.	MOD/2023/0225
Address	18-28 Faversham Street MARRICKVILLE NSW 2204
Proposal	Section 4.55(2) modification to approved light industrial and commercial building.
Date of Lodgement	26 July 2023
Applicant	The Trustee for TR Faversham Developments Unit Trust
Owner	TR Faversham Developments Pty Limited
Number of Submissions	Nil
Value of works	\$26,965,925.00
Reason for determination at Planning Panel	Variations exceed 10%
Main Issues	Height of building variation
Recommendation (amended)	Approved with Conditions
Attachment A	Recommended conditions of consent

SUMMARY

This report responds to a submission by the applicant regarding the recommended conditions of consent prepared for Item 1 on the Inner West Local Planning Panel agenda on 19 December 2023.

1. Background

An assessment report has been published in preparation for the Inner West Local Planning Panel meeting on 19 December 2023. The applicant has reviewed the report and identified a missing condition from the recommendation.

2. Assessment

Under Part 2.10 of the MDCP 2011, the assessment report details the changes in parking rates and recommends *“that car parking condition be modified to reflect the change in car parking rates.”* However, the amended car parking condition (condition 6) has accidentally been omitted from the recommended conditions of consent.

In this regard, condition 6 is amended and included to read as follows:

6. Car Parking

The development must provide and maintain within the site:

- a. **4543** car parking spaces must be paved and line marked;
- b. 1 car parking spaces, for persons with a disability must be provided and marked as disabled car parking spaces;
- c. 3 off-street motorcycle parking spaces must be provided, paved, line marked and maintained at all times;
- d. 43 Bicycle storage capacity within the site;
- e. 1 Loading dock.

3. Conclusion and Recommendation

Suitable conditions have been included in revised draft conditions of consent which correct the issue identified in the original assessment report prepared for the Panel.

It is recommended that the Panel consider the recommended amended condition of consent to be included in the determination and approve MOD/2023/0225 under Section 4.55(2) of the Environmental Planning and Assessment Act 1979 to modify the light industrial and commercial building at 18-28 Faversham Street MARRICKVILLE subject to the conditions attached at Appendix A to this report.

Attachment A – Amended recommended conditions of consent

A. Modify the following Conditions to read as follows:

1. Documents related to the consent

The development must be carried out in accordance with plans and documents listed below:

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by
DA_101 Revision D-E	Basement Floor Plan	15/08/2022 01/06/2023	Place Studio
DA_101 Revision D-F	Ground Floor Plan	15/08/2022 13/10/2023	Place Studio
DA_102 Revision D-E	First Floor Plan	15/08/2022 01/06/2023	Place Studio
DA_103 Revision D-E	First Floor Mezzanine Plan	15/08/2022 01/06/2023	Place Studio
DA_104 Revision D-E	Second Floor Plan	15/08/2022 01/06/2023	Place Studio
DA_105 Revision D-E	Second Floor Mezzanine Plan	15/08/2022 01/06/2023	Place Studio
DA_106 Revision D-E	Third Floor Plan	15/08/2022 01/06/2023	Place Studio
DA_107 Revision D-F	Third Floor Mezzanine Plan	15/08/2022 13/10/2023	Place Studio
DA_108 Revision D-E	Roof Plan	15/08/2022 01/06/2023	Place Studio
DA_200 Revision B C	East Elevation	30/06/2022 01/06/2023	Place Studio
DA_201 Revision C D	West Elevation	15/08/2022 01/06/2023	Place Studio
DA_202 Revision B C	South Elevation	30/06/2022 01/06/2023	Place Studio
DA_203 Revision C D	North Elevation	15/08/2022 01/06/2023	Place Studio

DA_300 Revision B C	Section 1	30/06/2022 01/06/2023	Place Studio
DA_301 Revision B C	Section 2	30/06/2022 01/06/2023	Place Studio
DA_302 Revision B C	Section 3	30/06/2022 01/06/2023	Place Studio
DA_310 Revision A B	Overall Facade Sections	24/06/2022 01/06/2023	Place Studio
DA_311 Revision A B	Facade Section Callout	24/06/2022 01/06/2023	Place Studio
Issue C D	Ground Landscape Plan	17/11/2021 21/12/2022	Turf Design Studio
Issue C D	Level 1 -2 Landscape	17/11/2021 21/12/2022	Turf Design Studio
Issue C D	Level 3 Landscape	17/11/2021 21/12/2022	Turf Design Studio
Issue C D	Materials Palette Planting Palette	17/11/2021 21/12/2022	Turf Design Studio
L-DA-11 Issue D	Planting plan – roof level	21/12/2022	Turf Design Studio
L-DA-12 Issue D	Planting palette	21/12/2022	Turf Design Studio
L-DA-13 Issue D	Typical details	21/12/2022	Turf Design Studio
L-DA-14 Issue D	Landscape Schedule and Specifications	21/12/2022	Turf Design Studio
E24098.SITEB.E01_Rev0	Preliminary Site Investigation	11/11/2021	EI Australia
E2761-3	Remediation Action Plan	February 2022	Foundation Earth Sciences
	Letter from Foundation Earth Sciences	25/8/2022	Ben Buckley
E24098.SITEB.G01	Preliminary Geotechnical Report	11/10/2021	EI Australia

S2021329 Issue 0	Da Report for ESD Services	10/11/2021	EMF Griffiths
	Plan of Management	November 2021	The Planning Studio
TM208-01F02 (r1)	Acoustic Assessment for Development Application	15/11/2021	Renzo Tonin & Associates
TM208-03F01 Acoustics for 4.55 (r0)	Acoustic comments for s4.55	13/02/2023	Renzo Tonin & Associates
3369 Revision E	Operational Waste Management Plan	11/11/21	Elephants Foot

As amended by the conditions of consent.

(Amended – 19/12/2023 – MOD/2023/0225)

2. Design Change

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans demonstrating the following:

- a. Each light industrial tenancy to **store their bins within ventilated units and have access to a washdown area. have a waste room with an area of at least 3m² and being capable of containing at least a 1x 660L MGB (waste) 1x 240L MGB (recycling). The waste rooms must comply with the requirements of Appendix 4 of the part 2.21 of MDCP 2011.**
- b. A door is to be provided to the specialised retail tenancy to the corridor to the waste room and loading dock

(Amended – 19/12/2023 – MOD/2023/0225)

6. Car Parking

The development must provide and maintain within the site:

- f. **4543** car parking spaces must be paved and line marked;
- g. 1 car parking spaces, for persons with a disability must be provided and marked as disabled car parking spaces;
- h. 3 off-street motorcycle parking spaces must be provided, paved, line marked and maintained at all times;
- i. 43 Bicycle storage capacity within the site;
- j. 1 Loading dock.

(Amended – 19/12/2023 – MOD/2023/0225)

11. Tree Protection

No trees on public property (footpaths, roads, reserves etc.) are to be removed or damaged during works unless specifically approved in this consent or marked on the approved plans for removal.

Prescribed trees protected by Council's Management Controls on the subject property and/or any vegetation on surrounding properties must not be damaged or removed during works unless specific approval has been provided under this consent.

Any public tree within five (5) metres of the development must be protected in accordance with Council's *Development Fact Sheet—Trees on Development Sites*.

No activities, storage or disposal of materials taking place beneath the canopy of any tree (including trees on neighbouring sites) protected under Council's Tree Management Controls at any time.

~~The trees identified below are to be retained and protected in accordance with the conditions of consent or approved Tree Protection Plan throughout the development (note: tree numbers must correspond with approved Tree Protection Plan if conditioned):~~

Botanical/Common Name	Location
4 x <i>Fraxinus griffithii</i> (Evergreen Ash)	Public footpath

~~Details of the trees must be included on all Construction Certificate plans and shall be annotated in the following way:~~

~~a. Green for trees to be retained;~~

(Amended – 19/12/2023 – MOD/2023/0225)

33. Tree Planting in the Public Domain

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a Public Domain/Street Tree Planting Plan, prepared in liaison with a Consulting Arborist, and evidence that the works on the Road Reserve have been approved by Council under Section 138 of the *Roads Act 1993* incorporating the following requirements:

- a. New crossovers, paving and kerbs must not have a detrimental impact on street trees;
- b. ~~One (1)~~ **Four (4)** new trees shall be located within ~~the existing crossover to be demolished Faversham Street~~. The species of trees selected shall be ***Fraxinus griffithii* (Evergreen Ash); *Corymbia eximia* (Yellow Bloodwood) or *Corymbia maculata* (Spotted Gum);**
- c. ~~The tree is to be planted in the middle of the first and third trees, from south~~ **The trees must be equally spaced where possible. A full analysis of any constraints**

must be undertaken by the Landscape Architect preparing the street tree planting plan and must consider driveway setbacks, pits, light poles etc when locating the trees. Setbacks to all constraints must be shown on the plans;

- d. All planting stock size shall be minimum ~~100~~ **200** litres;
- e. The planting stock shall comply with AS 2303—*Tree Stock for Landscape Use*;
- f. The new trees shall be planted by a qualified horticulturist or arborist, with a minimum qualification of Certificate 3 in Horticulture or Arboriculture. **The plans must be annotated with this requirement;**
- g. New tree pits dimensions 1m x 3m and staking detail shall be in accordance with Detail 6 on page 133 of the *Marrickville Street Tree Master Plan 2014* (available online) **and must be included on the street tree planting plan;**
- h. Groundcovers/**grasses** should be proposed **within the pits (sufficient to create a mass planting within 12 months), with no planting within 1m of the tree trunks).** Please see page 18 of 2.18 Landscaping and Open Spaces of Marrickville DCP 2011 for possible species selection.

(Amended – 19/12/2023 – MOD/2023/0225)

75. Hours of Operation

- a. The hours of operation of the specialised retail and food and drink premises must not exceed the following:

Day	Hours
Monday to Saturday	6:00am - 10:00pm
Sundays and Public Holidays	7:00am - 9:00pm

- b. The hours of operation of the light industrial tenancies **and storage units on levels 1-2** must not exceed the following:

Day	Hours
Monday to Saturday	6:00am - 10:00pm
Sundays and Public Holidays	7:00am - 7:00 pm

(Amended – 19/12/2023 – MOD/2023/0225)

- B. Add the following Conditions to read as follows:

4A. Section 7.11 Contribution

In accordance with section 7.11 of the Environmental Planning and Assessment Act 1979 and the Inner West Local Infrastructure Contribution Plan 2023 (the Plan), the following monetary contributions shall be paid to Council to cater for the increased demand for local infrastructure resulting from the development:

Contribution Category	Amount
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Open Space & Recreation	\$13,124.00
Transport	\$34,513.00
Plan Administration	\$1,694.00
Drainage	\$9,041.00
TOTAL	\$58,372.00

At the time of payment, the contributions payable will be adjusted for inflation in accordance with indexation provisions in the Plan in the following manner:

- **$C_{\text{payment}} = C_{\text{consent}} \times (CPI_{\text{payment}} \div CPI_{\text{consent}})$**
- **Where:**
- **C_{payment} = is the contribution at time of payment**
- **C_{consent} = is the contribution at the time of consent, as shown above**
- **CPI_{consent} = is the Consumer Price Index (All Groups Index) for Sydney at the date the contribution amount above was calculated being 135.8 for the October 2023 quarter.**
- **CPI_{payment} = is the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics that applies at the time of payment**

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

The monetary contributions must be paid to Council (i) if the development is for subdivision – prior to the issue of the subdivision certificate, or (ii) if the development is for building work – prior to the issue of the first construction certificate, or (iii) if the development involves both subdivision and building work – prior to issue of the subdivision certificate or first construction certificate, whichever occurs first, or (iv) if the development does not require a construction certificate or subdivision certificate – prior to the works commencing.

It is the professional responsibility of the principal certifying authority to ensure that the monetary contributions have been paid to Council in accordance with the above timeframes.

Please contact any of Council's customer service centres at council@innerwest.nsw.gov.au or 9392 5000 to request an invoice confirming the indexed contribution amount payable. Please allow a minimum of 2 business days for the invoice to be issued.

Once the invoice is obtained, payment may be made via (i) BPAY (preferred), (ii) credit card / debit card (AMEX, Mastercard and Visa only; log on to www.innerwest.nsw.gov.au/invoice; please note that a fee of 0.75 per cent applies to credit cards), (iii) in person (at any of Council's customer service centres), or (iv) by mail (make cheque payable to 'Inner West Council' with a copy of your remittance to PO Box 14 Petersham NSW 2049).

The invoice will be valid for 3 months. If the contribution is not paid by this time, please contact Council's customer service centres to obtain an updated invoice. The contribution amount will be adjusted to reflect the latest value of the Consumer Price Index (All Groups Index) for Sydney.

(Added – 19/12/2023 – MOD/2023/0225)

8A Works to Trees

Approval is given for the following works to be undertaken to trees on the site after the issuing of a Construction Certificate:

Tree/location	Approved works
4 x <i>Fraxinus griffithii</i> (Evergreen Ash) - street trees in Faversham Street	Removal

The removal of any street tree approved by Council must include complete stump removal (to a minimum depth of 400mm) and the temporary reinstatement of levels so that no trip or fall hazards exist until suitable replanting occurs. These works must be completed immediately following the tree/s removal.

Removal or pruning of any other tree (that would require consent of Council) on the site is not approved and shall be retained and protected in accordance with Council's Development Fact Sheet—Trees on Development Sites.

(Added – 19/12/2023 – MOD/2023/0225)

52A Planting of Street Trees

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with written evidence from Council that the tree planting in Faversham Street has been completed in accordance with the approved street tree planting plan.

The trees and tree pits must be inspected by Council's Tree Assessment Officer before and after planting.

The street trees must be maintained for a minimum period of twelve months commencing on the planting date. Maintenance includes, but is not limited to, watering, weeding, removal of rubbish from tree base, pruning and fertilising and pest and disease control.

- a. At the completion of the 12 month maintenance period written approval must be obtained from Council's Coordinator Private Trees that the trees are healthy.**
- b. If the street tree/s require replacement due to maintenance deficiencies during the 12 month maintenance period, the 12 month maintenance period will commence again from the date of the planting of the replacement tree (up to three (3) occurrences).**

(Added – 19/12/2023 – MOD/2023/0225)

20A. Substation

The substation ventilation openings, including substation duct openings and louvered panels, must be separated from building air intake and exhaust openings, natural ventilation openings and boundaries of adjacent allotments, by separation distances which meet the requirements of all relevant authorities, building regulations, BCA and Australian Standards including AS 1668.2: The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings.

In addition to above, Ausgrid requires the substation ventilation openings, including duct openings and louvered panels, to be separated from building ventilation system air intake and exhaust openings, including those on buildings on adjacent allotments, by not less than 6 metres.

Any portion of a building other than a BCA class 10a structure constructed from non combustible materials, which is not sheltered by a non-ignitable blast-resisting barrier and is within 3 metres in any direction from the housing of a kiosk substation, is required to have a Fire Resistance Level (FRL) of not less than 120/120/120. Openable or fixed windows or glass blockwork or similar, irrespective of their fire rating, are not permitted within 3 metres in any direction from the housing of a kiosk substation, unless they are sheltered by a nonignitable blast resisting barrier. The development must comply with both the Reference Levels and the precautionary requirements of the ICNIRP Guidelines for Limiting Exposure to Time-varying Electric and Magnetic Fields (1 HZ – 100 kHz) (ICNIRP 2010).

For further details on fire segregation requirements refer to Ausgrid's Network Standard 141. Existing Ausgrid easements, leases and/or right of ways must be maintained at all times to ensure 24 hour access. No temporary or permanent alterations to this property tenure can occur without written approval from Ausgrid.

For further details refer to Ausgrid's Network Standard 143.

(Added – 19/12/2023 – MOD/2023/0225)

20B. Underground Cables

Special care is to be taken to ensure that driveways and any other construction activities within the footpath area do not interfere with the existing cables in the footpath. Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed. Hence it is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area.

Safework Australia – Excavation Code of Practice, and Ausgrid's Network Standard NS156 outlines the minimum requirements for working around Ausgrid's underground cables.

(Added – 19/12/2023 – MOD/2023/0225)

20C. Supply of Electricity

A nominated electrical consultant/contractor is to provide a preliminary enquiry to Ausgrid to obtain advice for the connection of the proposed development to the adjacent electricity network infrastructure. An assessment will be carried out based on the enquiry which may include whether or not: - The existing network can support the expected electrical load of the development - A substation may be required on-site, either a pad mount kiosk or chamber style and; - site conditions or other issues that may impact on the method of supply.

Please direct the developer to Ausgrid's website, www.ausgrid.com.au about how to connect to Ausgrid's network.

(Added – 19/12/2023 – MOD/2023/0225)

- c. Delete the following Conditions:

~~8. Standard Street Tree Protection~~

~~Prior to the commencement of any work, the Certifying Authority must be provided with details of the methods of protection of all street trees adjacent to the site during demolition and construction.~~

(Deleted – 19/12/2023 – MOD/2023/0225)

~~34. Site Hoarding to Minimise Impact on Street Trees~~

~~If applicable, prior to the issue of a Construction Certificate, the Certifying Authority must be provided with details certified by a suitably qualified Arborist demonstrating that site hoarding to be install along the public footpath is designed and installed requiring no pruning for 4 x *Fraxinus griffithii* (Evergreen Ash) street trees.~~

(Deleted – 19/12/2023 – MOD/2023/0225)

~~45. Tree Protection~~

~~To protect the following trees, trunk and branch protection must be installed prior to any works commencing in accordance with the approved *Tree Protection Plan* and/or with Council's *Development Fact Sheet – Trees on Development Sites*:~~

Botanical/Common Name/Location
4 x <i>Fraxinus griffithii</i> (Evergreen Ash)

(Deleted – 19/12/2023 – MOD/2023/0225)

46. Limited Root Pruning

No tree roots of 30mm or greater in diameter located within the specified radius of the trunks of the following tree/s must be severed or injured in the process of any works during the construction period:

Botanical/Common Name	Radius in metres
4 x <i>Fraxinus griffithii</i> (Evergreen Ash) – Public footpath	2m

All excavation within the specified radius of the trunks must be hand dug to a depth of one (1) metre under direct supervision of the Project Arborist and then by mechanical means as agreed by the Project Arborist. If tree roots less than 30mm diameter are required to be severed for the purposes of constructing the approved works, they must be cut cleanly using a sharp and *fit for purpose tool*. The pruning must be undertaken by a practicing Arborist.

(Deleted – 19/12/2023 – MOD/2023/0225)

47. Inspections by Project Arborist

The trees to be retained must be inspected, monitored and treated by the Project Arborist during and after completion of development works to ensure their long-term survival. Regular inspections and documentation from the Project Arborist to the Certifying Authority are required at the following times or phases of work:

Time of Inspection	Key stage/ Hold point
Prior to commencement of works	<ul style="list-style-type: none">• Inspection and sign off installation of tree protection measures.
During Works	<ul style="list-style-type: none">• Supervise all site preparation and demolition works within the TPZ;• Supervise hoarding installation;• Supervise all excavation, trenching works, landscaping works and tree/planting replenishment within the TPZ;• Supervise all tree work.

(Deleted – 19/12/2023 – MOD/2023/0225)