



# INNER WEST COUNCIL

## DEVELOPMENT ASSESSMENT REPORT

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| <b>Application No.</b>                            | DA201700070.01   |
| <b>Address</b>                                    | 27 Unwins Bridge Road, Sydenham  |
| <b>Proposal</b>                                   | Review request under Section 82A of the Environmental Planning and Assessment Act to review Determination No. 201700070, dated 17 July 2017, being a refusal of a development application to use part of the site as a vehicle hire premises and alterations to the demountable office at the front of the building and a new car park layout for the existing car repair facility |
| <b>Date of Lodgement</b>                          | 23 August 2017   |
| <b>Applicant</b>                                  | Evolving Investments Pty Ltd   |
| <b>Owner</b>                                      | Alex Nicolopoulos (Director)<br>James Sorouas (Director)   |
| <b>Number of Submissions</b>                      | 3  |
| <b>Value of works</b>                             | \$10,000   |
| <b>Reason for determination at Planning Panel</b> | A request made under Section 82A of the <i>Environmental Planning &amp; Assessment Act 1979</i> and there is no substantial change in recommendation on the matters subject of the Review.   |
| <b>Main Issues</b>                                | <ul style="list-style-type: none"> <li>• Permissibility</li> <li>• Adverse impacts to on-street parking and the efficiency and safety of the road network</li> <li>• The proposal is an inappropriate intensification of the use of the site</li> <li>• Impracticality of parking layout</li> </ul>  |
| <b>Recommendation</b>                             | Refusal  |



|                |  |            |  |
|----------------|--|------------|--|
| Subject Site:  |  | Objectors: |  |
| Notified Area: |  |            |  |

## 1. Executive Summary

This report concerns a review request under Section 82A of the Environmental Planning and Assessment Act to review Determination No. 201700070, dated 17 July 2017, being a refusal of a development application to use part of the site as a vehicle hire premises and alterations to the demountable office at the front of the building and a new car park layout for the existing car repair facility.

The review request was notified in accordance with Council's Notification Policy and 3 submissions were received.

The vehicle hire premises is currently operating without development consent on the site in conjunction with an approved car repair station. Council's Monitoring Service Section have observed a number of breaches with the conditions in the development consent that approved the car repair station (Determination No. 200400654) and have received several complaints from surrounding residents, particularly in relation to trucks and commercial vans associated with the operation of the site parking in the local streets.

The addition of a vehicle hire premises in association with the approved car repair station is an inappropriate intensification of the use of the site. The current operation of the two businesses has a significant adverse impact on the parking, traffic safety and visual amenity of the surrounding area, primarily due to trucks and commercial vehicles being parked in the surrounding streets, trucks reversing from the site onto Unwins Bridge Road, and waste being stored on Council's footpath.

It is further assessed that the use of the site as a vehicle hire premises, being a class of commercial use, is prohibited in the IN1 General Industrial land under Marrickville Local Environmental Plan 2011 (MLEP 2011).

The proposal does not satisfy the objectives and controls in Marrickville Development Control Plan 2011 (MDCP 2011) as it fails to provide adequate vehicle storage and truck parking within the site, omits disabled parking, proposes an impractical and inconvenient parking layout for two businesses and proposes inadequate landscaping.

The application is considered unsupportable and in view of the circumstances, refusal of the application is recommended.

## 2. Review Request

The applicant has requested that Council review Determination No. DA201700070, dated 17 July 2017, being a refusal of a development application to use part of the site as a vehicle hire premises and alterations to the demountable office at the front of the building and a new car park layout for the existing car repair facility.

A vehicle hire business (All Wheels) is currently operating on the site without development consent. The application seeks formal approval for the vehicle hire premises to operate concurrently on the site with the existing approved car repair station (MAS Vehicle Mechanical Repair Specialists).

The vehicle hire business specialises in the leasing of refrigerated trucks (maximum capacity 14 pallets) and commercial refrigerated vans. In accordance with the Plan of Management (PoM) accompanying the application, the applicant states that not more than 2 - 3 All Wheel vehicles are accommodated on the site (within the forecourt driveway) in any 24-hour period. Additionally, up to a maximum of 10 vehicles are stored at another site; 'Provino', at 74 Edinburgh Road, Marrickville (the off-site facility).

The proposal includes a revised stacked car park layout for the existing vehicle repair station and vehicle hire premises and seeks formal approval for a demountable office located at the front of the site to operate the service function of the vehicle hire premises.

### 3. Site Description

The site is located on the north-western side of Unwins Bridge Road, between Hogan Avenue and Bedwin Road, Sydenham. The site consists of one allotment with a total area of 1,285sqm and is legally described as Lot 101 DP1073657. The site contains an existing warehouse building which is used as a car repair station.

The adjoining property to the west at 29 Unwins Bridge Road contains a commercial building also used as a car repair station. The adjoining property to the east at 25 Unwins Bridge Road contains a commercial building with undercroft parking fronting Unwins Bridge Road.

The land to the south across Unwins Bridge Road and further west across Hogan Avenue is characterised by low density residential development, which is generally zoned as 'R2- Low Density Residential' under MLEP 2011.

### 4. Background

#### 4(a) Site history

Approval was granted by Determination No. 200400654, dated 14 December 2004, to carry out alterations and to use the existing premises as a car repair station and to erect associated signage, subject to conditions. The development consent includes the following requirements:

- The entire premises to be used as a single occupancy (condition 3);
- All vehicles associated with the use are to be accommodated within the site and not on adjoining roads (condition 4);
- No vehicle awaiting repair is to be stored in the street (condition 5);
- A minimum 12 car spaces are required on the site (condition 7);
- All vehicles are to enter and leave the property in a forward direction (condition 18);
- Provision of a landscaped strip at the front of the site (as approved in the original plans).

On 25 February 2016, Council issued a 'show cause' letter to the current proprietors of the existing car repair station business detailing a number of non-compliances with Determination No. 200400654, including the storage and servicing of vehicles of the business within surrounding residential streets and the requirement to lodge a Section 96 application to seek approval an unauthorised demountable building at the front of the site.

The applicant subsequently lodged an application under Section 96 Environmental Planning and Assessment Act, 1979 (EP&A Act) to use the demountable at the front of the site for office purposes and modify the approved parking layout.

On 28 December 2016, Council refused the modification application primarily on the grounds that it sought to introduce a new use (vehicle hire premises), which is beyond the ambit of Section 96 of the Environmental Planning & Assessment Act, 1979. The other key reasons for refusal included the inappropriate intensification of the site and the adverse amenity impacts to the surrounding area.

The applicant subsequently lodged a development application (DA201700070) to use part of the site as a vehicle hire premises in association with the existing vehicle repair station on

the site, and alterations to the demountable office at the front of the site and a new car park layout for the existing vehicle repair station.

On 17 July 2017, Council refused the development application primarily on the grounds that the proposal is an inappropriate intensification of the use of the site, compromising on street parking, traffic safety and visual amenity of the surrounding area (due to trucks and commercial vehicles being parked and serviced in the surrounding streets; trucks reversing from the site onto Unwins Bridge Road; and waste storage occurring on Council's footpath).

## 5. Assessment

The applicant has requested that Council review Determination No. 201700070 under Section 82A of the Environmental Planning and Assessment Act, 1979. The following information has been submitted with the review request in support of the proposed development attempting to address the reasons for refusal:

- A Statement addressing the reasons for refusal of Determination No. 201700070, dated 17 July 2017; and
- A Plan of Management (PoM).

It is noted that the plans submitted with the Section 82A review request have not been amended from the original plans determined under DA201700070.

Below is an assessment of the additional information provided by the applicant as part of the Section 82A review request having regard to the grounds of refusal of the original development application and additional planning issues identified during the assessment of the application:

**1. The proposal is contrary to Aim (a) of Marrickville Local Environmental Plan 2011 in that it is not an efficient use of the land as the vehicle hire premises would result in an inappropriate intensification and significant adverse amenity, parking and traffic impacts on the surrounding area.**

The property is zoned General Industrial IN1 – General Industrial under the provisions of MLEP 2011. The objectives of the IN1 - General Industrial zone are as follows:

- To provide a wide range of industrial and warehouse land uses.
- To encourage employment opportunities.
- To minimise any adverse effect of industry on other land uses.
- To support and protect industrial land for industrial uses.
- To protect industrial land in proximity to Sydney Airport and Port Botany.
- To enable a purpose built dwelling house to be used in certain circumstances as a dwelling house.

The operation of two businesses on the site; being a car repair station and a vehicle hire premises, has resulted in a number of adverse impacts to the parking and traffic movements of the surrounding locality as the site has no ability to accommodate the volumes of trucks and vans associated with the vehicle hire premises.

In Part 2.5 of the PoM accompanying the Section 82A review request, the applicant states that a maximum of 10 vehicles are to be stored off-site at 74 Edinburgh Road to offset the demand for vehicle storage on the site. This solution cannot be relied upon to offset the demand for vehicular parking and storage on the site for the following reasons:



- There is no valid consent to use 74 Edinburgh Road for the storage of vehicles associated with the operation of the vehicle hire premises proposed on the subject site;
- The use of the site at 74 Edinburgh Road for a vehicle hire premises cannot be legitimised or conditioned as part of this application; and
- 74 Edinburgh Road is zoned IN1 – General Industrial under MLEP 2011. Vehicle sale and hire premises are prohibited in the zone. This matter is further discussed later in the report.

In addition to the above, Part 2.8 of the PoM states that *“the forecourt driveway is to be kept clear for clients and suppliers to drive vehicles onto the property rather than park on the street”* and no more than 2 to 3 trucks will be stored on the site at any one time within the site. No vehicle storage spaces have been allocated on the plans. Based on the above, it is highly likely that:

- Vehicles storage will be on the driveway forecourt, impeding on the efficient access/egress of vehicles within the car parking area and compromise the safety and efficiency of Unwins Bridge Road;
- Trucks and vans will be stored in the parking area that is allocated to staff and visitors to the site; and/or
- Vehicles will continue to be stored in the surrounding road network.

While the applicant contends that the operation of the two businesses on the site is a *‘reasonable and efficient use of the land’* (page 2 of the Section 82A review statement) the current operations of the business suggest the contrary. Given the inability for vehicles to be stored within the site, commercial vehicles are being parked on the street and footpath. During a site inspection conducted in July 2017 and a more recent inspection in September 2017, there was evidence of commercial vehicles and trucks associated with the existing operations being parked in the surrounding streets (refer to **Images 1, 2, 3 and 4**).



*Image 1: Commercial vehicles and trucks associated with the existing operation parked in Unwins Bridge Road (site visit dated 7 July 2017)*



*Image 2: Commercial vehicles and trucks associated with the existing operation parked in Unwins Bridge Road (dated September 2017)*



*Image 3: Van rental parked on nearby Yelverton Street (dated September 2017)*



*Image 4: Van rental parked on the driveway forecourt (dated September 2017)*

The site is currently operating beyond its capacity and vehicles associated with the use are being parked in the surrounding streets. There is no scope to provide on-site truck parking and satisfy the staff and customer parking demand at the same time due to the existing building and site constraints. The above evidence is an indication the site is not suitable for the operation of the car repair station and vehicle hire premises as it represents an inappropriate intensification of use of the site.

Council's Development Engineer does not support the proposal due to the lack of information submitted with the application regarding the storage and ingress/egress of trucks and vans associated with the vehicle hire premises. No truck/van parking spaces have been identified on the plans for the vehicle hire premises. Concern is also raised with trucks/van movements as the reversing of trucks/vans from the site is causing unacceptable traffic hazards. Further to the above, tandem spaces which are shared between two businesses is an inefficient and impractical parking arrangement. A site inspection conducted on 7 July 2017 confirms trucks associated with the site operation are reversing onto Unwins Bridge Road (refer to **Image 5**).





*Image 5: Truck reversing from the site to Unwins Bridge Road (site visit in July 2017)*

The proposal results in an inappropriate intensification of the use of the site causing adverse amenity impacts to the surrounding residential area. The Section 82A review request does not resolve the traffic and parking impacts discussed above.

Accordingly, refusal of the application is recommended.

- 2. The proposal does not satisfy the objectives of the IN1 Industrial Zone of Marrickville Local Environmental Plan 2011 in that it has an adverse impact on the amenity of nearby residential uses and the local road network due to truck reversing movements and parking in the surrounding streets.**

This matter is discussed under reason for refusal 1 above. The adverse traffic and parking impacts have not been satisfactorily addressed as part of the Section 82A review request. The application is considered unsupportable and in view of the circumstances, refusal of the review request is recommended.

- 3. The proposal does not comply with the vehicle parking requirements in Part 2.10 of Marrickville Development Control Plan 2011 as it does not provide designated storage for vehicles awaiting repair or collection or truck parking.**

The site is located in Parking Area 2 under Part 2.10 of MDCP 2011. A total of 12 car spaces were approved as part of the vehicle repair station operations (condition 7, Determination No. 200400654) on the site in accordance with the parking requirements under former *Marrickville Development Control Plan No. 19 – Parking Strategy*.

MDCP 2011 stipulates that the calculations of the parking requirements for each of the different uses in a mixed use development should be undertaken separately.

The proposed vehicle hire premises require 1 space per 250sqm of site area for customers and staff under MDCP 2011. Based on a site area of 1,285sqm, a total of 5 car spaces would be required for the vehicle hire premises. This would result in a total requirement of 17 car parking spaces on the site for staff and customers.

The plans submitted with the Section 82A review request identifies 17 car spaces on the site in a tandem arrangement, and therefore complies with the staff and customer car parking requirements. However, as discussed in reason for refusal 1, Council's Development Engineer does not support the tandem parking layout for the two separate businesses due to the impractical and inconvenient nature of the parking arrangement.

Furthermore, Control C2, Part 2.10.5 of MDCP 2011 states that parking rates do not take into consideration areas that are used for vehicles to be worked on, waiting to be worked on or waiting to be picked up and the area to be used for those areas must be provided on the site.

As pointed out above, in the PoM accompanying the Section 82A review request, the applicant states that a maximum of 10 vehicles are to be stored off-site at 74 Edinburgh Road to offset the demand for vehicle storage on the site and not more than 2 to 3 trucks will be stored on the site at any one time.

As previously discussed, the reliance on the off-site facility to store trucks and vans is not an acceptable solution in the absence of development consent for the off-site facility to legitimise and regulate the use.

There is currently no scope to provide truck and van parking and satisfy the staff and customer parking demand at the same time due to the existing building and site constraints and trucks and vans are highly likely to continue to be parked within car parking spaces that should be allocated to staff and visitors as well as in the surrounding road network.

The application fails to identify an area for waiting vehicles in addition to the staff and customer parking on the site and the tandem arrangement is impractical and inefficient. The proposal therefore does not comply with the parking requirements in Part 2.10 of MDCP 2011.

Accordingly, refusal of the application is recommended.

**4. The proposal does not comply with the equity of access and mobility requirements in Part 2.5 of Marrickville Development Control Plan 2011 in that it does provide accessible parking on the site.**

For industrial developments, Part 2.5 of MDCP 2011 requires a minimum of 1 accessible car parking space for every 10 car spaces or part thereof. A total of 17 car spaces are proposed on the site, which requires 2 accessible car spaces.

In Part 2.4 of the Section 82A review statement accompanying the request, it is stated that car space 17 in forecourt plan is nominated as the site's accessible space, which results in a shortfall of 1 accessible space. However, the plans accompanying the Section 82A review request do not demonstrate the provision of any accessible spaces in accordance with Australian Standard AS2890.

The Section 82A review request fails to demonstrate the provision of adequate accessible car parking on the site and the application does not properly address the equity of access and mobility requirements in MDCP 2011.

Accordingly, refusal of the application is recommended.



- 5. The proposal does not comply with the landscape requirements in Part 2.18 of Marrickville Development Control Plan 2011 as it does not provide a landscape strip along the full frontage of the site.**

Part 2.18 of MDCP 2011 requires that industrial developments provide a continuous minimum landscaped area of 3 metres wide across the entire frontage of the property, excluding driveways, where the site area exceeds 1,000sqm.

The approved site plan for the car repair station shows a landscape strip along the front boundary and part of the side boundaries. The site currently contains no landscaping and therefore is in breach with the development consent for the car repair station.

The plans submitted with the Section 82A review request include the provision of a landscape area of approximately 23sqm at the eastern end of the site between the demountable office and the north-eastern side boundary. Whilst this would result in an improvement to the existing situation, it does not satisfy the intention of the approved landscape treatment or the landscaping controls under Part 2.18 of MDCP 2011, which requires the provision of a landscape strip along the street frontage to visually soften the interface of the site with the streetscape.

The application fails to satisfy the landscaping requirements stipulated in Part 2.18 of MDCP 2011 and accordingly, refusal of the application is recommended.

- 6. The proposal does not comply with the industrial/residential interface controls in Part 6.2 of Marrickville Development Control Plan 2011 as an appropriate Plan of Management was not submitted with the application detailing the management of traffic movements and parking and other operational matters associated with use of the site for the car repair station and the vehicle hire premises.**

A PoM was submitted with the Section 82A review request. As previously discussed, the proposal is considered to be an over-intensification of the use of the site. It is assessed that the site cannot accommodate the storage or safe manoeuvring of vehicles associated with the vehicle hire business, resulting in vehicles being parked on the surrounding road network and footpath and the reversing of vehicles out of the site onto Unwins Bridge Road.

With regard to waste management, a site visit conducted during the assessment of the previous application (DA201700070) confirmed that a skip bin is stored on the footpath.



*Image 4: Skip bin stored on the footpath at the front of the premises (July 2017)*

A Recycling and Waste Management Plan (RWMP) in accordance with Council's requirements was submitted with the previous application. It states that one large mobile bin is permanently stored within the car park and moved to the front outside the building where it is collected by a private contractor once per week.

The submissions received during the assessment of the Section 82A review request reiterate the presence of waste storage on Council footpath on a nightly basis. The above waste management issues have not been addressed as part of this application.

The proposal will result in adverse impacts on the parking, safety and operations and visual amenity of the road network and Council footpath. In view of the above discussion, refusal of the application is recommended.

- 7. The proposal does not comply with the controls for car repair stations in Part 6.4 of Marrickville Development Control Plan 2011 as vehicles waiting to be serviced, repaired or collected are currently being stored on the surrounding street.**

Part 2.7 of the Section 82A review statement submitted with the application states the following in relation to the requirement that no vehicles are to be serviced, repaired or collected must stand, or otherwise be stored, on any adjoining road pursuant to Part 6.4 of MDCP 2011:

*"This requirement is reflected in the current conditions of consent for the car repair facility and PoM submitted. This provision will be complied with into the future."*

In view of the discussions provided throughout this report, it is evident that the site is unable to provide adequate space to accommodate visitor/staff parking and truck/van storage spaces for the two businesses operating on the site, resulting in vehicles being stored in the surrounding street network.

The applicant has not provided a satisfactory solution as part of this Section 82A review request and there is no evidence to suggest that trucks and vans can be stored on the site without impeding on the safety, functionality and amenity of the car park and surrounding road network. The use of an off-site facility without development consent and within a zone that prohibits vehicle hire premises is not a legitimate solution.

In view of the above discussion, approval of this application would result in the car repair station failing to comply with Condition 5 of Determination No. 200400654 in relation to the requirement to store all vehicles on the site for repair, service and collection.

It is assessed that the proposal fails to comply with Part 6.4 of MDCP 2011 as vehicles associated with the vehicle hire business are highly likely to continue utilising the surrounding street network for parking whilst vehicle movements in and out of the site will continue to compromise the traffic safety and efficiency of Unwins Bridge Road. Accordingly, refusal of the application is recommended.

**8. Insufficient information has been submitted with the application to enable a proper assessment of the parking and traffic impacts in terms of the number of trucks and vehicles associated with the vehicle hire premises.**

The applicant has provided the number of trucks and vehicles associated with the premises as discussed in reason for refusal 1 above. As previously discussed, the application fails to demonstrate the ability of the business to adequately store trucks and vans on the site without compromising the parking and traffic safety and amenity of the site and locality. In this regard, refusal of the application is recommended.

**9. Given the substantiated issues raised in the resident submissions in terms of parking in the surrounding streets and traffic hazards, approval of the application would not be in the public interest.**

The original development application was advertised in accordance with Council's Notification Policy and a total of 14 submissions were received. The matters raised in those submissions were considered in the assessment of that application, and a number of those issues were considered to be unresolved including car parking on the surrounding streets; non-compliance with the existing development consent; traffic safety with trucks reversing onto Unwins Bridge Road; and inappropriate land use intensification.

The Section 82A review request was advertised, an on-site notice displayed on the property and residents/property owners in the vicinity of the property were notified of the development in accordance with Council's Notification Policy. A total of 3 submissions were received. The submissions generally raise the same concerns as the previous development application primarily relating to adverse impacts to parking and traffic within the surrounding locality and inappropriate land use intensification.

Based on the traffic and parking issues discussed in the main body of this report, the concerns raised in the submissions are considered to be substantiated. Accordingly, refusal of the application is recommended.

**10. The existing operation of the site is currently in breach of a number of conditions in relation to vehicles being stored in the street; reversing of trucks onto the street; the site being occupied by more than one tenancy; waste management; and landscape requirements.**

As discussed in the main body of this report, the existing operation is in direct breach of the following conditions of consent under Determination No. 200400654:

- The entire premises to be used as a single occupancy (condition 3);

- All vehicles associated with the use are to be accommodated within the site and not on adjoining roads (condition 4);
- No vehicle awaiting repair is to be stored in the street (condition 5);
- All vehicles are to enter and leave the property in a forward direction (condition 18); and
- Provision of a landscaped strip at the front of the site (as approved in the original plans under Determination No. 200400654).

As discussed previously, based on visual evidence and existing site constraints, including; the lack of on-site space for vehicular storage and manoeuvring, vehicles parking in the surrounding street network and the reversing of vehicles onto Unwins Bridge Road, it is highly unlikely that the existing car repair station will be able to comply with the conditions of consent (as listed above) with the continued operation of the vehicle hire business.

In view of this, refusal of the application is recommended.

## 11. Other Reasons for Refusal

The issues discussed below are additional reasons for refusal as identified during the assessment of the Section 82A review request.

### a) Permissibility

The site is zoned IN1 General Industrial pursuant to MLEP 2011. The application seeks to legitimise a vehicle hire premises (All Wheels) to operate in conjunction with the existing car repair business (MAS) on the site. Under MLEP 2011, the definition of a “Vehicle Sales or Hire Premises” is:

*“A building or place used for the display, sale or hire of motor vehicles, caravans, boats, trailers, agricultural machinery and the like, whether or not accessories are sold or displayed there.”*

Under MLEP 2011, a vehicle sales or hire premises is a class of ‘commercial premises’ which is a prohibited form of development in the IN1 – General Industrial zone. As such, the vehicle hire premises cannot be supported under the Section 82A review request as it is a prohibited use.

In the Section 82A review statement (Part 2.1) and PoM (Part 2.1), the applicant contends that the vehicle hire premises is ancillary to the car repair business in that replacement trucks and vans are provided to customers who have vehicles being repaired with MAS.

During the assessment of the application, a review of the All Wheels website ([www.allwheelsrentals.com.au](http://www.allwheelsrentals.com.au)) confirms that All Wheels is an independent business that offers truck and van hires to any customers; not solely to customers of MAS. When viewed on 23 October 2017, the All Wheels Rentals website describes the use as *“All our vehicles are self-drive hire to both the private and business sector. We offer a personal, easy and flexible service to ensure first and foremost, we minimise disruption and help keep your business moving”*. Therefore, the statement in the PoM that suggests that All Wheels is an ancillary vehicle hire business to help provide a complete service to commercial clients is not supported.

In view of the above discussion, the proposed vehicle sales or hire premises is considered to be a prohibited use under the zoning provisions applying to the land and refusal of the Section 82A review request is recommended.

b) Signage

Part 3.4 of the PoM accompanying the application indicates the provision of directional signage for the site, affixed to the Unwins Bridge Road frontage. However, no dimensional or locational plans have been provided for the sign to enable a complete and proper assessment of the application by Council. Refusal of the application is recommended based on the lack of signage details provided with the application.

**6. Community Consultation**

The Section 82A review request was advertised, an on-site notice displayed on the property and residents/property owners in the vicinity of the property were notified of the development in accordance with Council's Notification Policy. A total of 3 submissions were received.

The following issues raised in submissions have been discussed in this report:

- Car parking constraints on the site (see discussions in reason for refusal 3);
- The trucks cannot be stored on the site and are parked on the street and surrounding footpaths (see primary discussion in reason for refusal 1);
- Trucks reverse onto the roadway, compromising the safety of the road network (see primary discussion in reason for refusal 1);
- There is no landscaping on the site (see discussions in reason for refusal 5);
- Over intensification of the use of the site (see primary discussion in reason for refusal 1);
- The use is breaching their conditions of consent under Determination No. 200400654 (see discussion in reason for refusal 10);
- The applicant leaves a large garbage receptacle on the street, obstructing the footpath (see discussions in reason for refusal 6);
- The vehicle hire business and vehicle repair business are not ancillary to each other and operate independently (see discussions in reason for refusal 11(a));
- The DA does not legitimise the use of 74 Edinburgh Road for the Vehicle Hire Business (see primary discussion in Reason for refusal 1); and
- The signage is unenforceable (see discussions under reason for refusal 11(b)).

In addition to the above issues, the submissions raised the following concerns which are discussed under the respective headings below:

Issue: Vehicles are being repaired and serviced on the road and the business litters and pollutes

Comment: Council has previously observed vehicles associated with the use being serviced on the road and issued orders to stop this practice on 25 February 2016. It is evident that the site cannot support the two uses resulting in overflow impacts onto the surrounding road network.

Issue: The tandem parking is impractical and could be a fire hazard

Comment: The issue of tandem parking has been discussed under reason for refusal 1.

Issue: The car repair station breaches the operating hours of their consent.

Comment: This issue can be investigated by Council's Monitoring Services Section.

Issue: Staff of the site stand in the middle of the road to stop traffic while vehicles enter or exit the site.

Comment: No visual evidence of the above occurrence has been obtained by Council. However, it is acknowledged that this occurrence is likely based on the observations of vehicles reversing onto Unwins Bridge Road.



Issue: There is excessive noise emanating from the site with the use of a loud speaker to page workers

Comment: Condition 11 of Determination No. 200400654 states that noise emanating from the site must not exceed the background (LA90) noise level in the absence of the noise under consideration by more than 3dB(A). This issue can be investigated by Council's Monitoring Services Section.

Issue: *"Any new development application must address the issue of approved stormwater disposal"*

Comment: The application is a review of a refusal for a DA seeking retrospective approval of a Vehicle Sale or Hire Premises and a demountable office. No substantial development works are proposed to the existing building on the site and therefore stormwater has not been considered as part of this application.

## 7 Referrals

### 7(a) Internal

The application was referred to the following internal sections/officers and issues raised in those referrals have been discussed in section 5 above.

- Development Engineer; and
- Monitoring Services Section.

## 8. Conclusion

The proposal, being a "vehicle sales or hire premises", is a prohibited form of development under the zoning provisions applying to the land. The proposal does not comply with the provisions of Marrickville Development Control Plan 2011 (MDCP 2011) in relation to vehicle storage and car parking, waste management, landscaping and managing the residential/industrial interface.

The current operation of the site has a significant adverse impact on the amenity and safety of the surrounding area, primarily due to trucks and commercial vehicles being parked in the surrounding streets and trucks reversing onto Unwins Bridge Road. The addition of a vehicle hire premises in association with the approved car repair station is an inappropriate intensification of the use of the site.

The application is considered unsupportable and in view of the circumstances, refusal of the application is recommended.

## 9. Recommendation

A. That Council as the consent authority pursuant to Section 82A of the Environmental Planning and Assessment Act, 1979 confirm the original determination of **refusal** for Development Application No. 201700070 for the following reasons:

1. The use of the site for vehicle hire or sales premises, being a class of commercial premises, is prohibited in the IN1 General Industrial zone in accordance with the Land Use Table in Clause 2.3 of Marrickville Local Environmental Plan 2011.
2. The proposal is contrary to Aim (a) of Marrickville Local Environmental Plan 2011 in that it is not an efficient use of the land as the vehicle hire premises would

result in an inappropriate intensification and significant adverse amenity, parking and traffic impacts on the surrounding area.

3. The proposal does not satisfy the objectives of the IN1 Industrial Zone of Marrickville Local Environmental Plan 2011 in that it has an adverse impact on the amenity of nearby residential uses and the local road network due to truck reversing movements and parking in the surrounding streets.
4. The proposal does not comply with the vehicle parking requirements in Part 2.10 of Marrickville Development Control Plan 2011 as it does not provide designated storage for vehicles awaiting repair or collection or truck parking.
5. The proposal does not comply with the equity of access and mobility requirements in Part 2.5 of Marrickville Development Control Plan 2011 in that it does not provide accessible parking on the site.
6. The proposal does not comply with the landscape requirements in Part 2.18 of Marrickville Development Control Plan 2011 as it does not provide a landscape strip along the full frontage of the site.
7. The proposal does not comply with the controls for car repair stations in Part 6.4 of Marrickville Development Control Plan 2011 as vehicles waiting to be serviced, repaired or collected are currently being stored on the surrounding street.
8. Insufficient information has been submitted with the application in accordance with Section 79C of the Environmental Planning and Assessment Act 1979, to enable a proper assessment of the parking and traffic impacts in terms of the access/egress of trucks and vehicles associated with the vehicle hire premises and proposed signage.
9. Given the substantiated issues raised in the resident submissions in terms of parking in the surrounding streets and traffic hazards, approval of the application would not be in the public interest.
10. The existing operation of the site is currently in breach of a number of conditions under Determination No. 200400654 in relation to vehicles being stored in the street; the site being occupied by more than one tenancy; waste management; and landscape requirements.

- B. THAT** those persons who lodged submissions in respect to the proposal be advised of the Council's determination of the application.

## Attachment A - Conditions in the circumstance the application is approved

### GENERAL

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

| Plan and Issue No. | Plan Name   | Date Issued      | Prepared by                      | Date Submitted   |
|--------------------|---|------------------|----------------------------------|------------------|
| A01-A              | Proposed Parking Layout                               | January 2017     | Sioutas                          | 23 August 2017   |
| 63SD-C             | 6M x 3M Sales Display Suite                           | 15 May 2015      | A & A Portable Buildings Pty Ltd | 23 August 2017   |
| -                  | Building Code of Australia (BCA) Capability Statement | 16 February 2017 | Blackett Maguire+Goldsmith       | 22 February 2017 |
| -                  | Plan of Management                                    | 22 August 2017   | BBC Consulting Planners          | 23 August 2017   |

and details submitted to Council on 23 August 2017 with the Section 82A Review request as amended by the following conditions.

- The car repair station continuing to operate in accordance with the terms and conditions of Determination No. 200400654, dated 14 December 2004, as amended by the following conditions.
- No injury must be caused to the amenity of the neighbourhood by the emission of noise, smoke, smell, vibration, gases, vapours, odours, dust, particular matter, or other impurities which are a nuisance or injurious or dangerous or prejudicial to health, the exposure to view of any unsightly matter or otherwise.
- The use of the premises, including any plant and equipment, must not give rise to:
  - transmission of unacceptable vibration to any place of different occupancy;
  - a sound pressure level at any affected premises that exceeds the background (LA90) noise level in the absence of the noise under consideration by more than 5dB(A). The source noise level must be assessed as an LAeq,15min and adjusted in accordance with Environment Protection Authority guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content as described in the NSW Environment Protection Authority's Environmental Noise Control Manual and Industrial Noise Policy 2000 and The Protection of the Environment Operations Act 1997 (NSW).
- No vehicles associated with the vehicle hire premises are to be stored in the street.
- 17 off-street car parking spaces for staff and customers must be provided and maintained at all times in accordance with the standards contained within Part 2.10 of Marrickville Development Control Plan 2011 – Parking for staff and customers.
- No storage of goods, equipment or waste bins external to any building on the site being permitted.
- No signs or goods must be displayed for sale or stored on the footpath in front of the premises at any time without the prior approval of Council.
- All loading and unloading in connection with the use must be carried out wholly within the property, during the approved hours of operation and in such a manner so as to not cause an inconvenience to the public.

10. The operation of the premises complying at all times with the Plan of Management. The Plan of Management is not to be amended without the prior written approval of the Council. If there is any inconsistency between the Plan of Management and the conditions of this consent, the conditions of consent shall prevail to the extent of that inconsistency.
11. A separate application must be submitted to, and approved by, Council prior to the erection of any advertisements or advertising structures, or for any existing advertisements or advertising structures without appropriate approvals.
12. All vehicles must enter and exit the site in a forward direction.
13. The hours of operation of the Vehicle Hire Premises must be restricted to between the hours of 8.00am to 6.00pm Mondays to Fridays, and 8.00am to 1.00pm Saturdays, with no work being carried out on Sundays or Public Holidays.
14. All building work must be carried out in accordance with the provisions of the National Construction Code (Building Code of Australia).

#### **BEFORE COMMENCING DEMOLITION, EXCAVATION AND/OR BUILDING WORK**

For the purpose of interpreting this consent, a Principal Certifying Authority (PCA) means a principal certifying authority appointed under Section 109E(1) of the Environmental Planning and Assessment Act 1979. Pursuant to Section 109E(3) of the Act, the PCA is principally responsible for ensuring that the works are carried out in accordance with the approved plans, conditions of consent and the provisions of the National Construction Code (Building Code of Australia).

15. No work must commence until:
  - a) A PCA has been appointed. Where an Accredited Certifier is the appointed, Council must be notified within 2 days of the appointment; and
  - b) A minimum of 2 days written notice given to Council of the intention to commence work.
16. A Construction Certificate must be obtained before commencing building work. Building work means any physical activity involved in the construction of a building. This definition includes the installation of fire safety measures.
17. Sanitary facilities must be provided at or in the vicinity of the work site in accordance with the WorkCover Authority of NSW, Code of Practice 'Amenities for Construction'. Each toilet must be connected to the sewer, septic or portable chemical toilet before work commences.  
  
Facilities must be located so that they will not cause a nuisance.
18. All demolition work must:
  - a) Be carried out in accordance with the requirements of Australian Standard AS 2601 'The demolition of structures' and the Occupational Health and Safety Act and Regulations; and
  - b) Where asbestos is to be removed it must be done in accordance with the requirements of the WorkCover Authority of NSW and disposed of in accordance with requirements of the Department of Environment, Climate Change and Water.
19. Where any loading, unloading or construction is to occur from a public place, Council's Infrastructure Services Division must be contacted to determine if any permits or traffic management plans are required to be obtained from Council before work commences.

20. The site must be enclosed with suitable fencing to prohibit unauthorised access. The fencing must be erected as a barrier between the public place and any neighbouring property, before work commences.
- Enquiries for site fencing and hoardings in a public place, including the need for Council approval, can be made by contacting Council's Infrastructure Services Division.
21. A rigid and durable sign must be erected in a prominent position on the site, before work commences. The sign must be maintained at all times until all work has been completed. The sign must include:
- a) The name, address and telephone number of the PCA;
  - b) A telephone number on which Principal Contractor (if any) can be contacted outside working hours; and
  - c) A statement advising: 'Unauthorised Entry To The Work Site Is Prohibited'.
22. Where it is proposed to carry out works in public roads or Council controlled lands, a road opening permit must be obtained from Council before the carrying out of any works in public roads or Council controlled lands. Restorations must be in accordance with Marrickville Council's Restorations Code. Failure to obtain a road opening permit for any such works will incur an additional charge for unauthorised openings in the amount as provided for in Council's adopted fees and charges.

#### **BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE**

**For the purpose of interpreting this consent the Certifying Authority (Council or an Accredited Certifier) is that person appointed to issue the Construction Certificate.**

23. Before the issue of a Construction Certificate the owner or builder must sign a written undertaking that they are responsible for the full cost of repairs to footpath, kerb and gutter, or other Council property damaged as a result of construction of the proposed development. Council may utilise part or all of any Building Security Deposit (B.S.D.) or recover in any court of competent jurisdiction, any costs to Council for such repairs.
24. Before the issue of a Construction Certificate an amended plan must be submitted to the Certifying Authority's satisfaction indicating the existing building upgraded to comply with the provisions of the National Construction Code (Building Code of Australia) in relation to the matters listed in the Building Code of Australia (BCA) Capability Statement (dated 16 February 2017, completed by Blackett Maguire+Goldsmith).

#### **SITE WORKS**

25. All excavation, demolition, construction, and deliveries to the site necessary for the carrying out of the development, must be restricted to between 7.00am to 5.30pm Mondays to Saturdays, excluding Public Holidays. Notwithstanding the above no work must be carried out on any Saturday that falls adjacent to a Public Holiday.
26. The area surrounding the building work must be reinstated to Council's satisfaction upon completion of the work.
27. The placing of any materials on Council's footpath or roadway is prohibited, without the consent of Council. The placement of waste storage containers in a public place requires Council approval and must comply with Council's Policy - 'Placement of Waste Storage Containers in a Public Place'. Enquiries are to be made with Council's Infrastructure Services Division.
28. All demolition work must be carried out in accordance with the following:



- a) compliance with the requirements of Australian Standard AS 2601 'The demolition of structures' with specific reference to health and safety of the public, health and safety of the site personnel, protection of adjoining buildings and protection of the immediate environment;
  - b) all works involving the demolition, removal, transport and disposal of asbestos cement must be carried out in accordance with the 'Worksafe Code of Practice for Removal of Asbestos' and the requirements of the WorkCover Authority of NSW and the Department of Environment, Climate Change and Water;
  - c) all building materials arising from the demolition must be disposed of in an approved manner in accordance with Part 2.21 of Marrickville Development Control Plan 2011 – Site Facilities and Waste Management and any applicable requirements of the Department of Environment, Climate Change and Water;
  - d) sanitary drainage, stormwater drainage, water, electricity and telecommunications must be disconnected in accordance with the requirements of the responsible authorities;
  - e) the generation of dust and noise on the site must be controlled;
  - f) the site must be secured to prohibit unauthorised entry;
  - g) suitable provision must be made to clean the wheels and bodies of all vehicles leaving the site to prevent the tracking of debris and soil onto the public way;
  - h) all trucks and vehicles associated with the demolition, including those delivering to or removing material from the site, must only having access to the site during work hours nominated by Council and all loads must be covered;
  - i) all vehicles taking materials from the site must be loaded wholly within the property unless otherwise permitted by Council;
  - j) no waste collection skips, spoil, excavation or demolition material from the site must be deposited on the public road, footpath, public place or Council owned property without the approval of Council; and
  - k) the person acting on this consent must ensure that all contractors and sub-contractors associated with the demolition are fully aware of these requirements.
29. The works must be inspected at critical stages of construction, by the PCA or if the PCA agrees, by another certifying authority. The last inspection can only be carried out by the PCA. The critical stages of construction are:
- a) At the commencement of the building work;
  - b) For Class 2, 3 and 4 buildings, prior to covering waterproofing in any wet areas (a minimum of 10% of wet areas within a building);
  - c) Prior to covering any stormwater drainage connections, and after the building work has been completed and prior to any occupation certificate being issued in relation to the building; and
  - d) After the building work has been completed and prior to any Occupation Certificate being issued in relation to the building.

You are advised to liaise with your PCA to establish if any additional inspections are required.

30. All roof and surface stormwater from the site any catchment external to the site that presently drains to it, must be collected in a system of pits and pipelines/channels and major storm event surface flow paths and being discharged to a Council controlled stormwater drainage system in accordance with the requirements of Marrickville Council Stormwater and On Site Detention Code.

#### **BEFORE OCCUPATION OF THE BUILDING**

31. You must obtain an Occupation Certificate from your PCA before you occupy or use the building. The PCA must notify the Council of the determination of the Occupation Certificate and forward the following documents to Council within 2 days of the date of the Certificate being determined:

- a) A copy of the determination;
- b) Copies of any documents that were lodged with the Occupation Certificate application;
- c) A copy of Occupation Certificate, if it was issued;
- d) A copy of the record of all critical stage inspections and any other inspection required by the PCA;
- e) A copy of any missed inspections; and
- f) A copy of any compliance certificate and any other documentary evidence relied upon in issuing the Occupation Certificate.

32. Occupation of the building must not be permitted until such time as:

- a) All preconditions to the issue of an Occupation Certificate specified in this development consent have been met;
- b) The building owner obtains a Final Fire Safety Certificate certifying that the fire safety measures have been installed in the building and perform to the performance standards listed in the Fire Safety Schedule; and
- c) An Occupation Certificate has been issued.

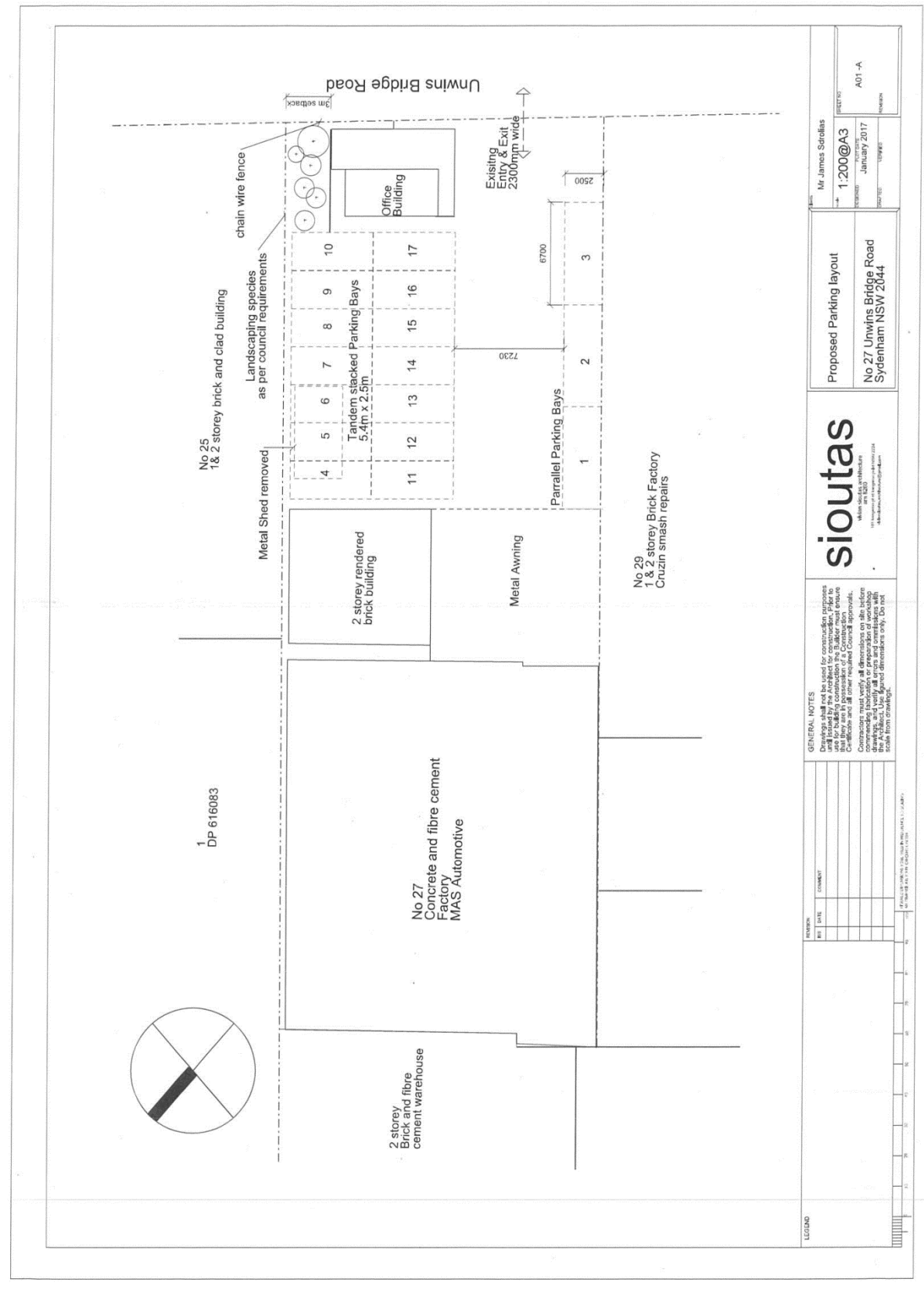
33. The owner of the premises, as soon as practicable after the Final Fire Safety Certificate is issued, must:

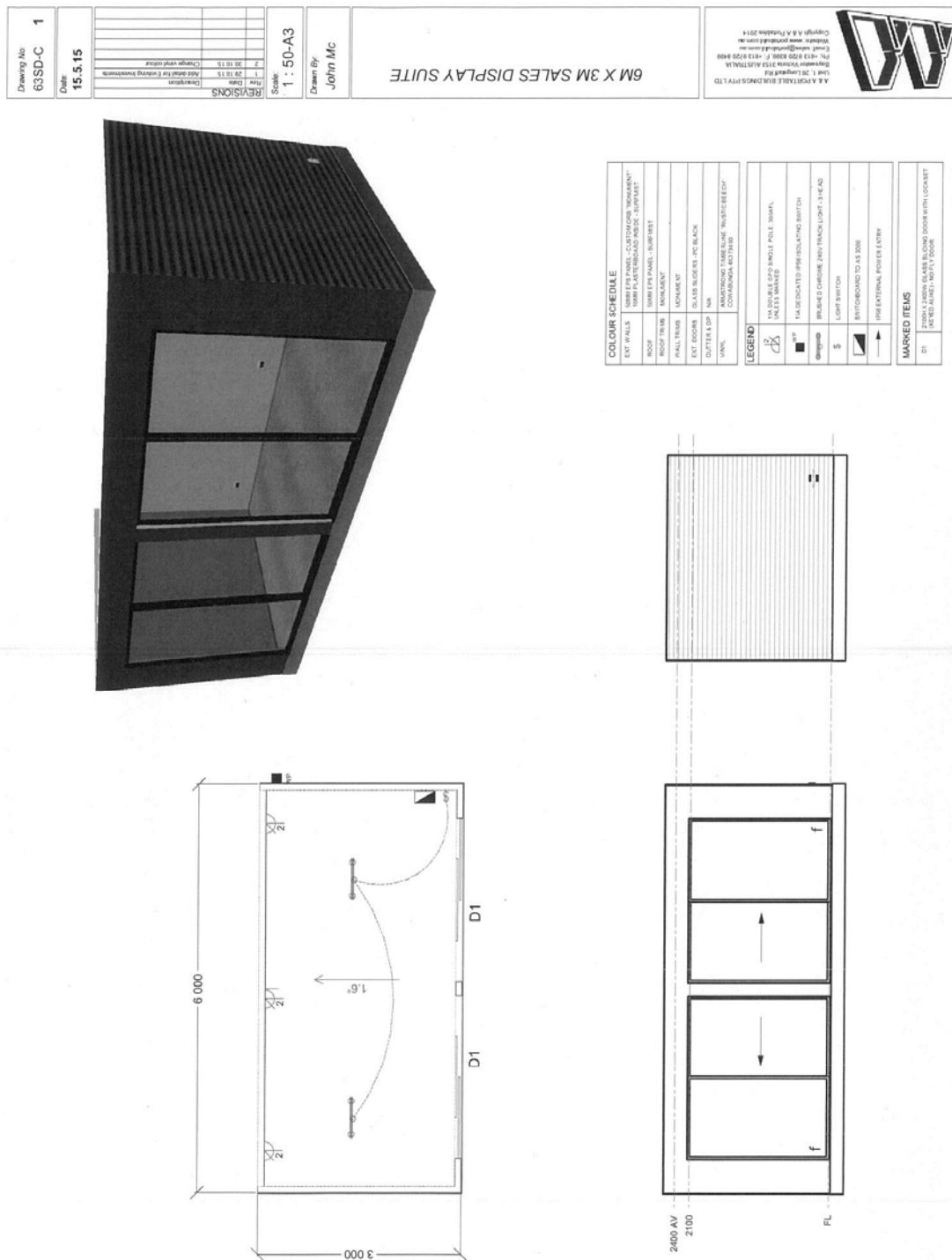
- a) Forward a copy of the Final Safety Certificate and the current Fire Safety Schedule to the Commissioner of Fire and Rescue New South Wales and the Council; and
- b) Display a copy of the Final Safety Certificate and Fire Safety Schedule in a prominent position in the building (i.e. adjacent the entry or any fire indicator panel).

Every 12 months after the Final Fire Safety Certificate is issued the owner must obtain an Annual Fire Safety Certificate for each of the Fire Safety Measures listed in the Schedule. The Annual Fire Safety Certificate must be forwarded to the Commissioner and the Council and displayed in a prominent position in the building.

34. All works required to be carried out in connection with drainage, crossings, alterations to kerb and guttering, footpaths and roads resulting from the development must be completed before the issue of an Occupation Certificate. Works must be in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications".

Attachment B - Plans of proposed development





## Attachment C – Plan of Management



# PLAN OF MANAGEMENT PLAN

**FOR 27 UNWINS BRIDGE ROAD, SYDENHAM**

**FOR USE AS A CAR REPAIR FACILITY AND  
ANCILLARY VEHICLE HIRE OFFICE**

**Development Consents  
The car repair facility DA 2004/654  
The ancillary vehicle hire office DA 2017/070 (tbc)  
22 August 2017**

**Prepared by**  
BBC Consulting Planners and  
MAS Vehicle Mechanical Repair Specialists





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- Appendix 1 The car repair station consent DA 2004/654  
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## 1. PURPOSE

The purpose of this Plan of Management (PoM) is to establish performance criteria for various aspects of the operations of the existing car repair facility and its ancillary vehicle hire office having regard to the relevant matters under the Environmental Planning and Assessment Act, 1979.

This PoM provides a management document for the site to implement the development consents granted by Marrickville Council, those being and provided with this document: -

- **Appendix 1** The car repair station DA 2004/654; and
- **Appendix 2** The ancillary vehicle hire office DA 2017/070 (tbc).

These consents relate to the existing operations of the car repair facility at 27 Unwins Bridge Road, Sydenham (the site). Illustrative figures are attached showing the location and configuration of the site.

Particular emphasis has been placed on performance criteria regarding, compliance with conditions of consent, storage of vehicles, the arrival and departure of customers from the site to maintain the quiet and good order of the neighbourhood and security and waste management.

### 1.1 Objectives of Plan of Management

The objectives of this PoM for the existing car repair facility and its ancillary vehicle hire office are to provide: -

- (a) a convenient management tool for the management of the site for the operators of the site and Council;
- (b) to manage vehicle storage and movement in accordance with the consent;
- (c) minimising the impact of noise from the premises to adjoining properties;
- (d) waste minimisation, storage and collection procedures;
- (e) staffing arrangements including the number of staff to be employed;
- (f) the maintenance and cleanliness of the premises; and
- (g) On-site security.



## **2. Operational Details**

### **2.1 The uses**

The site is to be used as a mechanical workshop (the existing car repair facility) with an ancillary vehicle hire business to help provide a complete service to commercial clients. The vehicle rental business provides refrigerated trucks to commercial customers only.

Current development consents for each use are provided at within the appendices.

### **2.2 The car repair business**

MAS Vehicle Mechanical Repair Specialists (the car repairer) are a business that was established over 30 years ago in the local area. MAS service and repair local and Sydney wide business and private vehicles incl. passenger and commercial vehicles.

### **2.3 The car hire business**

All Wheels Rentals (the vehicle hire business) was established due to the need for our clients to access a replacement vehicle when their vehicle is in for repair. All Wheels vehicles are parked off site and delivered to clients when their vehicles for service and repair is provided for service. All Wheels vehicles are serviced and maintained by MAS.

All Wheels operates a small administrative office from the site within a demountable office in the forecourt area of the site.

### **2.4 Staff**

The maximum staff required for each use are: -

- The car repair business - 8; and
- The vehicle hire business - 2 staff.

Total 10 staff.

### **2.5 Deliveries and loading/unloading**

The forecourt driveway is to be kept clear for clients and suppliers to drive vehicles onto the property rather than park on the street.

A sign will be erected to direct clients to not park on the neighbouring streets. The MAS website will also state that all vehicles must be parked within the premises.

Up to a maximum of 10 vehicles are stored at a secure site at 'Provino' 74 Edinburgh Road, Marrickville (the off-site facility). This site is large (27,520sqm) and occupied by a food distributor who has excess parking that is rented to MAS and All Wheels for storage of vehicles only (no work takes place on this site). The arrangement is purely a subletting of car spaces and the site is in an exclusively industrial precinct nearby.

### **2.6 Security**

CCTV 24hr monitoring with back to base alarm is active over the entire premises. A security fence to keep all vehicles and the property secure is installed. The demountable has its own alarm and CCTV system and premium grade electric shutters that seal off the building entirely.



## 2.7 Customers

Customers wait in a designated air-conditioned reception area within the main building.

Customer deliver their cars.

MAS also delivers and picks up vehicles.

All Wheels pick up and delivers all its vehicles. All Wheels customers do not visit the site. All customers of All Wheel general deal with the office via the phone/email only.

The site is nearby to Sydenham Rail Station.

Customers picking-up vehicles arrive by public transport or Taxi/Uber.

All vehicles to be picked-up and delivered are parked on site on a temporary basis only.

## 2.8 Transport facilities

The forecourt area provides a car parking area and line marking to provide for 17 parking spaces – see **Appendix 3**.

The work shop allows for up to 20 vehicles to be worked on and stored.

Up to 5 vehicles can be temporarily stored in the site's forecourt driveway for up to 24 hours before they are allocated space within the forecourt parking, work shop area or off-site facility. All cars in the forecourt driveway are monitored by CCTV and the workshop controller and the keys are left a secure locked key cabinet to allow for coordinated movement as required.

At the off-site storage facility, up to 10 vehicles are stored. This facility allows for the storage road worthy vehicles only. Keys for these vehicles are stored in a secure key cabinet and vehicles monitored and controlled by the workshop controller. Road worthy vehicles, being worked on, are periodically moved between this facility and the site.

All Wheel hire vehicles are stored at the off-site facility and on a demand basis moved to the site. No more than 2-3 All Wheel vehicles are accommodated on the site in any 24-hour period.



### 3. Plan of Management Requirements and Procedures

#### 3.1 Occupancy

The premises are to comprise the car repair and hire facilities as provided for in the attached development consents only.

#### 3.2 Hours of operation

Both uses will operate within their approved trading hours as provided for within their development consents.

#### 3.3 Conditions of consent

Both uses will operate in compliance with their development consents. The workshop controller shall keep hard copies of each consent on-site and periodically review operations to ensure compliance.

Compliance with conditions of consent will be a standing agenda item at all workshop meetings.

#### 3.4 Signage

Signage proposed as per each consent.

Signage to be provided directing customers to part on-site only, in this regards an additional sign is to be affixed to the Unwins Bridge Road frontage of the site providing for the following text: -

***"MAS Repair Operational Instructions***

***Please ensure that if you are a MAS customer your vehicle is parked temporarily in the forecourt driveway or marked forecourt area parking. On arrival please contact the Workshop Coordinator in the main office (not the demountable) to ensure your vehicle is correctly parked.***

***Incident reporting/feedback please call 02 9557 5810"***

The MAS website is also being updated to advise customer of parking protocols.

#### 3.5 Amenity of neighbourhood

On the above site, a 24-hour contact number will be displayed (i.e. phone 02 9557 5810 – the work shop No. that is after hours diverted to a business owner).

#### 3.6 Noise

The following noise emission criteria are adopted for the premises.

In general, the premises are to be operated in accordance with the: -

1. EPA Industrial Noise Policy;
2. Protection of Environmental Operation Act Regulation; and





3. All relevant conditions of development consent.

### **3.7 Staff**

The premises complies with NSW WH&S guidelines and the Incident Book is available to Council or the police at all reasonable times and within 7 days of receipt of a written request from the Council or the police to do so.

The manager shall record in the Incident Book, in addition to the matters noted above, any complaints made directly to the management or staff, by residents or business people, about the operations or the customer behaviour.

### **3.8 Deliveries and waste removal**

The following private waste contract are in place and will be maintained.

- Chlorocheck drains and cleans out our grease pits every 6 weeks, certification is provided;
- Suez empties skip daily; and
- Batteries and metal waste are collected upon request by Bonza Waste Management.

### **3.9 Amendments to this plan**

If, in circumstances where experience shows that it is reasonable or desirable to modify any provision of this plan for the better management of the hotel, that modification shall be made to the plan only with the consent of Council, which consent shall not unreasonably be withheld.



### 3.10 Evacuation plan

An Evacuation Plan is in place, the assembly point for all staff will be the park on the corner of Unwins Bridge Road and George Street – see diagram below.

#### MAS and All Wheels Assembly Point



A site warden is appointed and trained to ensure that all current staff are aware of evacuation and general WH&S procedures.

### 3.11 Staff training

On commencement, all staff will be trained in terms of the following, but not limited to: -

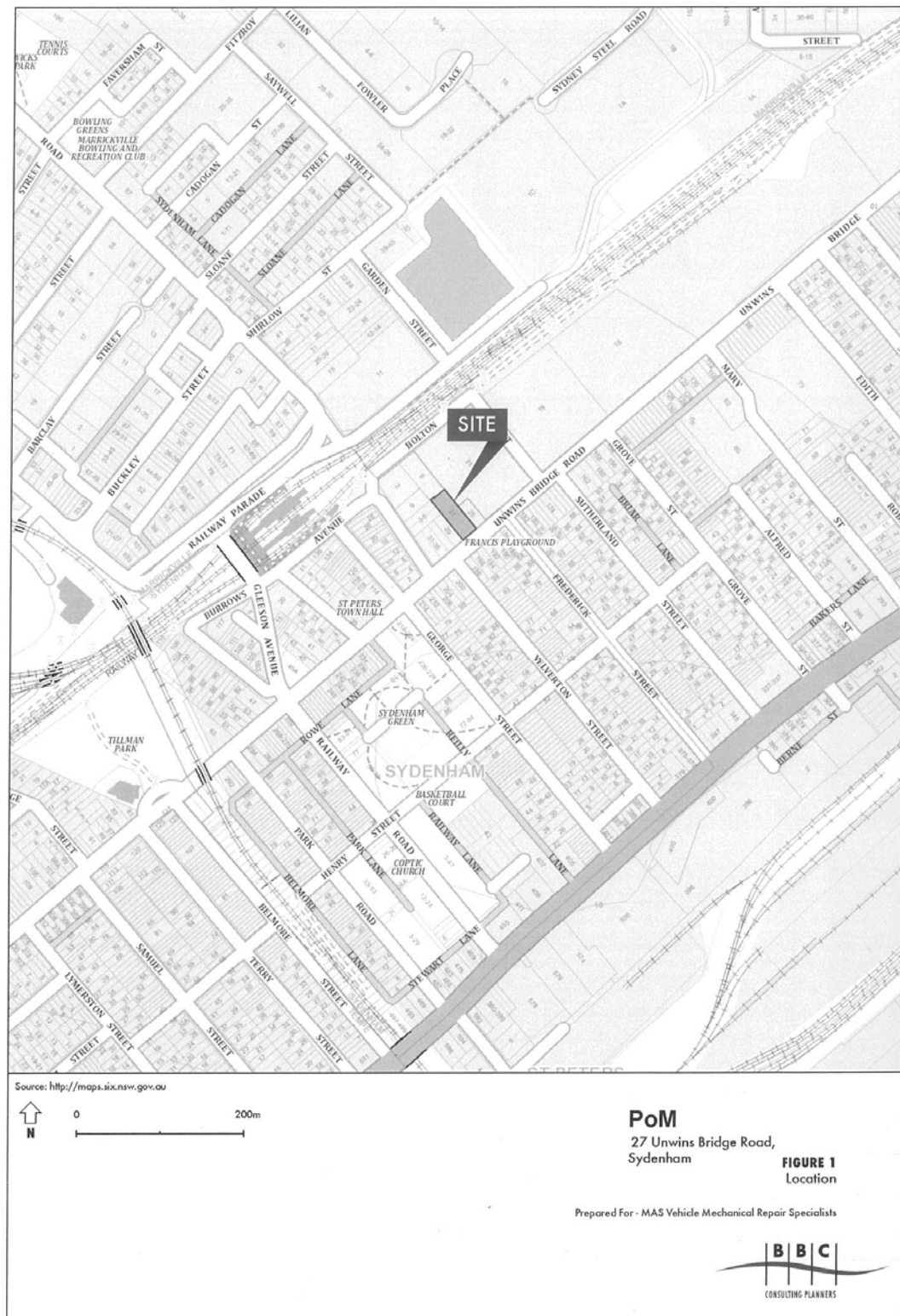
- Operational procedures for the site and its ancillary uses e.g. trading hours and limitations on use and car parking restrictions;
- Fire safety and evacuation procedures;
- Security procedures;
- Compliant management and incident reporting;
- Waste management; and
- The site warden will also be trained on evacuation procedures, WH&S coordinator and a First Aid Certificate.

Staff are to be uniformed and identifiable to the general public.



## **FIGURES**

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Source: NearMap 2016

**PoM**

27 Unwins Bridge Road,  
Sydenham

**FIGURE 3A**

Aerial Photo - Detail

Prepared For - MAS Vehicle Mechanical Repair Specialists





Source: NearMap 2016

**PoM**

27 Unwins Bridge Road,  
Sydenham

**FIGURE 3B**  
Aerial Photo - Wider Area

Prepared For - MAS Vehicle Mechanical Repair Specialists





## **APPENDICES 1**

**The car repair facility DA 2004/654**

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DA200400654 AF

14 December, 2004

**DETERMINATION NO 200400654**

Evolving Investments  
69 Sydenham Road  
MARRICKVILLE NSW 2204

Dear Sir/Madam

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 ("THE ACT")  
NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION**

Pursuant to Section 81 of the Act, notice is hereby given of the determination by the Council of **Development Application No 200400654** to carry out alterations and to use the existing premises as a car repair station and to erect associated signage relating to property situated at:

**27 UNWINS BRIDGE ROAD, SYDENHAM**

**Building Code of Australia Building Classification: 8**

In determining this application, the Council considered all matters listed under Section 79C of the Act that were relevant to the Development Application.

The Development Application was determined on 14 December, 2004 by the granting of **CONSENT** subject to the following conditions:

**GENERAL**

1. The development being carried out substantially in accordance with the Plan and details submitted to the Council on 19 October 2004 with the application for development consent and as amended by the following conditions.

Reason: To confirm the details of the application as submitted by the applicant.

2. No retailing being carried out from the premises.

Reason: To ensure no retailing is carried out from the premises.

3. The entire premises being used as a single occupancy for the use approved in this development consent with the first floor office area being used exclusively in association with the approved use and not being sublet or used for any other purpose.

Reason: To ensure that the premises are used as a single occupancy.

4. All vehicles associated with the use being accommodated wholly within the property and not being parked on the adjoining roads or footpaths.

Reason: To ensure that the use does not interfere with traffic and pedestrian movements in the area.

5. No vehicle awaiting repair being stored in the street and no vehicle undergoing repair while standing in the street.  
Reason: To ensure that the use does not interfere with traffic and pedestrian movements in the area.
6. No accident damaged vehicles being stored on the site and no tow truck vehicles or operations being carried out from the premises.  
Reason: To ensure that the use does not interfere with traffic and pedestrian movements in the area.
7. A minimum of twelve (12) off-street car parking spaces being provided, paved, linemarked and maintained at all times in accordance with the standards contained within Marrickville Development Control Plan No.19 -Parking Strategy.  
Reason: To ensure practical off-street car parking is available for the use of the premises.
8. No injury being caused to the amenity of the neighbourhood by the emission of noise, smoke, smell, vibration, gases, vapours, odours, dust, particular matter, or other impurities which are a nuisance or injurious or dangerous or prejudicial to health, the exposure to view of any unsightly matter or otherwise.  
Reason: To ensure the operation of the premises does not affect the amenity of the neighbourhood.
9. Waste oil, solvent and liquid containers being stored in a covered and bunded area, in accordance with the Environment Protection Authority's 'Environmental Guidelines for the Storage of Bulk Liquids', pending removal by waste contractors.  
Reason: To provide for correct storage of wastes.
10. Garbage and trade waste being stored in a location approved by the Council and being disposed of in an approved manner. All liquid wastes, other than stormwater being discharged to the sewer in accordance with the requirements of the Sydney Water Corporation. In this regard, satisfactory arrangements for the disposal of trade wastes should be made with the Water Corporation prior to occupation.  
Reason: To ensure the proper disposal of garbage and trade waste.
11. The use of the premises not giving rise to:
- transmission of unacceptable vibration to any place of different occupancy;
  - a sound pressure level at any affected premises that exceeds the background (LA90) noise level in the absence of the noise under consideration by more than 3dB(A). The source noise level shall be assessed as an LAeq,15min and adjusted in accordance with Environment Protection Authority guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content as described in the NSW Environment Protection Authority's Environmental Noise Control Manual and Industrial Noise Policy 2000 and The Protection of the Environment Operations Act 1997 (NSW).
- NOTE: Marrickville Council has adopted a 3dB(A) goal in order to prevent background noise creep and the 5dB(A) criteria as outlined in the above mentioned references are not to be used.
- Reason: To prevent loss of amenity to the area.



12. The signs being erected substantially in accordance with the plan and details submitted to Council on 19 October 2004 with the application for development consent as amended by the following conditions.  
Reason: To confirm the details of the application as submitted by the applicant.
13. The proposed advertising structure and associated advertisement being properly and safely maintained at all times.  
Reason: To ensure that the proposed advertising structure and advertisement do not have any detrimental effect upon the amenity of the area or endanger the safety of the public.
14. The sign not being illuminated between the hours of 10.00 pm to 7.00 am on the following day.  
Reason: To ensure that the sign does not interfere with the amenity of the surrounding neighbourhood.
15. No storage of goods or equipment external to any building on the site being permitted.  
Reason: To ensure the premises are kept in a neat and tidy manner.
16. No signs or goods to be displayed for sale or stored on the footpath in front of the premises at any time without the prior approval of Council.  
Reason: To prevent the public footpath from being obstructed.
- ↺ 17. All loading and unloading in connection with the use being carried out wholly within the property and the use being carried out in such a manner as not to cause inconvenience to the public.  
Reason: To ensure loading and unloading operations do not interfere with traffic and pedestrian movements in the area.
- ↺ 18. All vehicles associated with the use, including delivery and service vehicles, entering and leaving the property in a forward direction.  
Reason: To ensure that the use does not interfere with traffic and pedestrian movements in the area.
19. Not more than 8 persons being employed in respect of the use without the prior approval of Council.  
Reason: To confirm the details of employees as submitted with the application.
- ↺ 20. The hours of operation being restricted to between the hours of 8.00 am to 6.00 pm Mondays to Fridays, and 8.00 am to 1.00pm Saturdays, with no work being carried out on Sundays or Public Holidays.  
Reason: To ensure that the operation of the premises does not interfere with the amenity of the locality.
21. All machinery being installed in accordance with the manufacturer's specifications and being maintained at all times if in use.  
Reason: To ensure that such machines are properly installed and maintained so as to prevent noise generation, vibration and any other disturbances to adjoining premises.
22. The developer liaising with the Sydney Water Corporation, the Energy Australia, AGL and Telstra concerning the provision of water and sewerage, electricity, natural gas and telephones respectively to the property.  
Reason: To ensure that the development is adequately serviced.

23. All building work must be carried out in accordance with the provisions of the Building Code of Australia.  
Reason: To ensure the work is carried out to an acceptable standard and in accordance with the Building Code of Australia.
24. A road opening permit shall be obtained for all works carried out in public roads or Council controlled lands. Restorations shall be in accordance with Marrickville Council's Restorations Code. Failure to obtain a road opening permit will incur an additional charge for unauthorised openings in the amount of \$1,321.30, as provided for in Council's adopted fees and charges.  
Reason: To ensure that all restoration works are in accordance with Council's code.

#### **BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE**

25. Before the issue of the Construction Certificate, amended plans and details being submitted to Council showing all of the proposed signs and advertising structures being located on the existing advertising structure on the site.  
Reason: To ensure that the proposed signs are in keeping with the amenity of the area and the Code for the Control of Advertising Structures and Advertisements.
26. Detailed landscape plans being submitted for the approval of the Director, Technical Services before the issue of the Construction Certificate. The plans shall include the following details:
- (i) Existing and proposed contour lines and levels.
  - (ii) Landscape treatments such as fences, retaining walls, paving, lawn, planting, outdoor furnishings, edging details etc.
  - (iii) Planting schedule detailing location, container sizes and botanical names of all trees, shrubs, ground covers, etc.
  - (iv) All existing site, street and other close proximity trees shall be accurately located on the site/landscape plan and shall be identified as being either retained, trimmed, transplanted or removed.
  - (v) Areas of cut and fill.
  - (vi) Proposed irrigation systems and water outlets.
- Reason: To ensure that trees and shrubs are planted in sufficient numbers and scale to enhance the appearance of the development.
27. All operations being conducted within the workshop/s, the floor of which shall be graded to an internal drainage point connected to the sewer in accordance with the requirements of the Sydney Water Corporation and a copy of their approval shall be provided to Council's satisfaction before the issue of the Construction Certificate.  
Reason: To ensure that all operations are carried out exclusively from an appropriately drained covered workshop.
28. Before the issue of the Construction Certificate the owner or builder shall sign a written undertaking that they shall be responsible for the full cost of repairs to footpath, kerb and gutter, or other Council property damaged as a result of construction of the proposed development. Council may utilise part or all of any Building Security Deposit (B.S.D.) or recover in any court of competent jurisdiction, any costs to Council for such repairs.  
Reason: To ensure that all damages arising from the building works are repaired at no cost to Council.

29. The person acting on this consent shall provide security in a manner satisfactory to the Director Technical Services in the amount of \$3254.00 before the issue of the Construction Certificate as surety for the proper completion of the footpath and/or vehicular crossing works required as a result of this development.

Reason: To provide security for the proper completion of the footpath and/or vehicular crossing works.

#### **BEFORE COMMENCING WORKS**

30. You must not commence building work until:

- (a) a Construction Certificate has been issued by Council or an accredited certifier; and
- (b) the person having benefit of the development (the Applicant) has appointed a Principal Certifying Authority (PCA), and where Council is not the PCA, notify Council of the appointment of the PCA; and
- (c) you have given written notice to Council of your intention to commence building work in accordance with this Consent at least two (2) days before commencing the work.

Notification required by (b) and (c) above can be made by completing the attached form and returning it to Council's Development and Environmental Services Division.

Reason: To comply with the provisions of the Environmental Planning and Assessment Act.

31. The approved plans **must** be submitted to the Customer Centre of any office of Sydney Water before the commencement of any work, including excavation activity associated with the development, to ensure that the proposed work meets the requirements of Sydney Water in relationship to:
- (a) sewers;
  - (b) watermains;
  - (c) stormwater channels; and
  - (d) development requirements where applicable.

Failure to submit these plans before commencing work may result in the demolition of the structure at the builder's expense should it be found that the work does not comply with the requirements of Sydney Water.

Reason: To ensure the location of Sydney Water's main sewer lines have been established before building work commences.

**CONSTRUCTION AND SITE WORKS**

32. All demolition, construction and associated work necessary for the carrying out of the development being restricted to between the hours of 7.00 am to 5.30 pm Mondays to Saturdays, excluding Public Holidays. All trucks and vehicles associated with the construction, including those delivering to or removing material from the site, only having access to the site during the hours referred to in this condition. All construction vehicles bringing materials to and from the site being loaded and unloaded wholly within the property. No waste collection skips, spoil, excavation or demolition material from the site or building materials associated with the construction of the development being deposited on the public road, footpath, public place or Council owned property without Council's approval, having first been obtained. The developer being responsible to ensure that all contractors associated with the development are fully aware of these requirements.

Reason: To minimise the effect of the development during the construction period on the amenity of the surrounding neighbourhood.

33. The area surrounding the building work being reinstated to Council's satisfaction upon completion of the work.

Reason: To ensure that the area surrounding the building work is satisfactorily reinstated.

34. Soil and water management controls must be provided on the site and comply with the following:

- (a) Council's warning sign for soil and water management must be displayed at the most prominent point on the site nearest to the construction area, visible to both the street and site workers. The warning signs must be displayed throughout the duration of construction/site works (Warning signs are available from Council);  
Note: Warning signs only need to be erected where a Soil and Water Management Plan has been submitted to and approved by Council;
- (b) the capacity and effectiveness of erosion and sediment control devices being maintained at all times;
- (c) a copy of the Soil and Water Management Plan (where required to be prepared) must be kept on-site at all times and made available to Council Officers on request;
- (d) stockpiles are not permitted to be stored on Council property (including nature strip) unless prior approval from Council has been granted;
- (e) stockpiles of topsoil, sand, aggregate, spoil or other material being stored clear of any drainage line or drainage easement, natural watercourse, kerb or road surface;
- (f) drains, gutters, roadways and accessways must be maintained free of sediment;
- (g) building operations such as brickcutting, washing tools or paintbrushes, and mixing mortar must not be carried out on the roadway or public footway. Building operations must be carried out in such a way as to prevent the discharge of materials into the stormwater drainage system;
- (h) before the removal of sediment controls and within 14 days of completion, all disturbed areas must be stabilised against erosion. Methods for erosion control are detailed in the 'Urban Erosion and Sediment Control' Handbook, published by the NSW Department of Conservation and Land Management (CALM), % 9895 7390; and
- (i) stormwater from roof areas must be collected and drained via a downpipe to a stormwater disposal system immediately after completion of the roof area.

Reason: To protect the environment from soil erosion and sedimentation.

35. The placing of any building/demolition materials on Council's footpath or roadway is prohibited and under no circumstances must building operations be carried out on the footpath or roadway without the consent of Council.

The placement of waste storage containers in a public place also requires Council approval and must comply with Council's Local Policy – 'Placement of Waste Storage Containers in a Public Place'. Enquiries can be made through Council's Waste Services Section on % 9335 2222.

Reason: To ensure the public ways are not obstructed and the placement of waste storage containers in a public place are not dangerous to the public.

36. An additional fire exit being provided adjacent the southern corner of the building. The exit should be a minimum of 3 metres from the common boundary.

Reason: To ensure a 9 meter separation is provided between fire exits.

37. The owner of the premises, as soon as practicable after the *final fire safety certificate* is issued, must:

- (a) forward a copy of the statement (together with a copy of the current *fire safety schedule*) to the Commissioner of the New South Wales Fire Brigades; and
- (b) display a copy of the *final safety certificate and fire safety schedule*, in a prominent position in the building.

Reason: To ensure compliance with the relevant provisions of the Environmental Planning and Assessment Act and Regulations.

38. The owner of the premises must:

- (a) submit to Council an *annual fire safety statement* every twelve (12) months after the *final fire safety certificate* is issued, for each of the *fire safety measures* listed in the *fire safety schedule*; and
- (b) as soon as practicable after the *annual fire safety statement* is issued, the owner of the building must:
  - (i) forward a copy of the statement (together with a copy of the current *fire safety schedule*) to the Commissioner of the New South Wales Fire Brigades; and
  - (ii) display a copy of the *final safety certificate and fire safety schedule* in a prominent position in the building.

The *annual fire safety statement* must verify that the *fire safety measures* are maintained to a standard no less than that specified in the *fire safety schedule*. Alternatively, in the case of an essential fire safety measures not listed in the *fire safety schedule*, are maintained to a standard not less than that, to which the *fire safety measure* was originally designed and implemented.

Reason: To ensure maintenance of the *essential fire safety measures*.

39. All roof and surface stormwater from the site any catchment external to the site that presently drains to it, shall be collected in a system of pits and pipelines/channels and major storm event surface flow paths and being discharged to a Council controlled stormwater drainage system in accordance with the requirements of Marrickville Council Stormwater and On Site Detention Code. The maximum discharge allowable to Council's street gutter is 25 litres/second.

Reason: To provide for adequate site drainage.



**BEFORE OCCUPATION OF THE BUILDING**

40. Occupation of the building must not be permitted until such time as:

- (a) the building has been completed in accordance with the development consent and the construction certificate;
- (b) the building owner submits to Council a *final fire safety certificate* from a properly qualified person certifying that the *fire safety measures* listed below have been installed in the building and perform to the specified standards listed; and
- (c) an *occupation certificate* has been issued.

**FIRE SAFETY MEASURES**

|    | FIRE SAFETY MEASURE         | STANDARD OF PERFORMANCE   |                                |
|----|-----------------------------|---|--------------------------------|
|    |                             | AUSTRALIAN STANDARD   | BCA CLAUSE                     |
|    | Directional exit signs      |   | E4.6                           |
| 5  | Emergency lighting          | AS/NZS 2293.1-1998  | E4.2                           |
| 8  | Exit signs                  | AS/NZS 2293.1-1998  | E4.6, E4.8                     |
| 11 | Fire doors                  | AS/NZS 1905.1 (fire resistant doorsets)-1997<br>AS/NZS 19.05.2 ( fire resistant roller shutters) - 1989 | Clause 2 of Specification C3.4 |
| 12 | Fire hydrant systems        | AS 2419.1-1994 and amdt 1, 1996   | E1.3                           |
| 18 | Hose reel systems           | AS 2441-1988  | E1.4                           |
| 22 | Portable fire extinguishers | AS-2444-2001  | E1.6                           |

Reason: To ensure compliance with the relevant provisions of the Environmental Planning and Assessment Act and Regulations.

41. Occupation of the building must not be permitted until such time as:

- (a) the building has been completed in accordance with the development consent and the construction certificate;
- (b) the building owner submits to Council a *final fire safety certificate* from a properly qualified person, certifying that the *fire safety measures* have been installed in the building and perform to the performance standards listed in the Schedule;

Reason: To ensure compliance with the provisions of the Environmental Planning and Assessment Act and Regulations.

42. All works required to be carried out in connection with drainage, crossings, alterations to kerb and guttering, footpaths and roads resulting from the development shall be completed before occupation of the site. Works shall be in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications".

Reason: To ensure applicant completes all required work.

43. The existing damaged heavy duty vehicle crossings shall be reconstructed, in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications". The crossings shall be reconstructed at the vehicular access locations and at no cost to Council, prior to the issue of the Occupation Certificate.

Reason: To allow vehicular access across the footpath and/or improve the existing vehicular access.

44. The existing concrete footpath in Unwins Bridge Road shall be reconstructed as a half width concrete footpath and nature strip (soft leaf buffalo) in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2 - "Roadworks Specifications", at no cost to Council and before the issue of the Occupation Certificate.

Reason: To provide suitable means of public and pedestrian access to the development and to ensure that the amenity of the area is in keeping with the standard of the development.

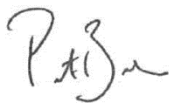
This consent is effective and operates from 14 December, 2004. The consent will lapse unless the proposed development is commenced in accordance with Section 95 of the Act.

Under Section 82A of the Act you may, within twelve (12) months of receipt of this notice, request Council to review this determination.

Under Section 97 of the Act you may, within twelve (12) months of receipt of this notice, appeal to the Land and Environment Court if you are dissatisfied with the Council's determination.

All conditions imposed by the Council must be observed. Breach of a condition is a breach of the Act and may also constitute an offence.

Yours faithfully



Peter Barber  
Manager Approvals

Enquiries: Mr J Williams on 9335.2256

Ref: **D1** Trim No. 55379.04

DA200400654 AF

14 December, 2004

Evolving Investments  
69 Sydenham Road  
MARRICKVILLE NSW 2204

Dear Sir/Madam

**27 UNWINS BRIDGE ROAD, SYDENHAM**

Council has considered your application to carry out alterations and to use the existing premises as a car repair station and to erect associated signage, on the above property and a copy of Council's determination is **attached** for your information.

In dealing with the application, Council resolved inter alia:

**THAT** the applicant be advised that:-

- (i) The Disability Discrimination Act 1992 (Commonwealth) and the Anti-Discrimination Act 1977 (NSW) impose obligations on persons relating to disability discrimination. Council's determination of the application does not relieve persons who have obligations under those Acts of the necessity to comply with those Acts.
- (ii) It is not a condition of this development consent that works required to be carried out on Council property, must be undertaken by Council itself. Council's Public Works Business Unit is however, able to provide a competitive quotation for these works. To obtain a quotation, please contact Council's Assistant Development Engineer during normal business hours on 9335 2223.

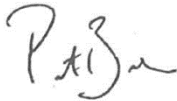
If you propose to have the vehicular crossing and or footpath works constructed by your own contractor, you or your contractor **must** complete an application for 'Construction of a Vehicular Crossing & Civil Works' form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, **before commencement of works**.

- (iii) A complete Building Code of Australia assessment of the application has not been carried out.

Your urgent attention to this matter is requested.

If you wish to discuss the matter please contact Mr J Williams on 9335-2256 from Council's Development and Environmental Services Division.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Peter Barber'.

Peter Barber  
**Manager Approvals**

**Encl.**

Ref: **D110** Trim No. 55379.04



## **APPENDIX 2**

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**The ancillary vehicle hire office DA 2017/070 (tbc)**



## APPENDIX 3

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### Site Plan





**Attachment D - Section 82(A) Review Statement**

22 August 2017

PSB\16-068

The General Manager  
Marrickville Council  
Administrative Centre  
2-14 Fisher Street  
Petersham NSW 2049

Dear Sir,

**RE: 27 UNWINS BRIDGE ROAD, SYDENHAM  
MAS VEHICLE MECHANICAL REPAIR SPECIALISTS  
SECTION 82A REVIEW DEVELOPMENT APPLICATION NO. DA201700070**

**1. BACKGROUND**

Please find attached a Section 82A Review application in respect to the above premises. The application is for the use and retention of an existing demountable office installed in the forecourt of the existing building and a new car parking layout to the forecourt area.

In this regard, we rely on the material submitted with the Development Application No. DA201700070 as determined on the 17 July 2017.

The following additional information is provided: -

- a Plan of Management (PoM);
- conversion of parking space 17 in Proposed Parking Layout plan prepared by Sioutas Architecture to an accessible space; and
- the review of the reasons of refusal provided in this correspondence.

The PoM is to establish performance criteria for various aspects of the operations of the existing car repair facility and its ancillary vehicle hire office having regard to the relevant matters under the Environmental Planning and Assessment Act, 1979.

This correspondence also addresses the reasons of refusal in the Notice of Determination of DA201700070.

A set of illustrative figures is attached hereto that provides details of the site's configuration, context and planning controls.

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L2 - 55 MOUNTAIN STREET BROADWAY ~ PO BOX 438 BROADWAY NSW 2007 ~ TELEPHONE [02] 9211 4099 FAX [02] 9211 2740  
EMAIL: [bbc.administration@bbcplanners.com.au](mailto:bbc.administration@bbcplanners.com.au) ~ WEB SITE: [www.bbcplanners.com.au](http://www.bbcplanners.com.au)

ABN 24 061 868 942

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## 2. REASONS OF REFUSAL IN THE NOTICE OF DETERMINATION OF DA201700070

Below is a review of the reasons of refusal of Development Application No. DA201700070 as provided in the Notice of Determination dated 17 July 2017.

### 2.1 Reason 1

***The proposal is contrary to Aim (a) of Marrickville Local Environmental Plan 2011 in that it is not an efficient use of the land as the vehicle hire premises would result in an inappropriate intensification and significant adverse amenity, parking and traffic impacts on the surrounding area.***

The cited Marrickville Local Environmental Plan 2011 (the LEP) objective is provided below (our **emphasis** added).

#### "1.2 Aims of Plan

(1) This Plan aims to make local environmental planning provisions for land in that part of Inner West local government area to which this Plan applies (in this Plan referred to as Marrickville) in accordance with the relevant standard environmental planning instrument under section 33A of the Act.

(2) The particular aims of this Plan are as follows:

**(a) to support the efficient use of land, vitalisation of centres, integration of transport and land use and an appropriate mix of uses,"**

The site is in an IN1 General Industrial zone adjacent to Sydenham rail station. The proposal seeks to provide additional parking (12 to 17 car spaces), better coordination (i.e. a PoM) and an ancillary use to the approved car repair facility. The proposal directly satisfies objective 1.2(a) of the LEP, as it is a reasonable and efficient use of industrial land to co-locate 2 ancillary industrial uses. The co-location of these 2 uses provides for better coordination and management of those uses. A car repair facility and an ancillary vehicle hire office are an appropriate mix of land uses in this instance.

### 2.2 Reason 2

***The proposal does not satisfy the objectives of the IN1 Industrial Zone of Marrickville Local Environmental Plan 2011 in that it has an adverse impact on the amenity of nearby residential uses and the local road network due to truck reversing movements and parking in the surrounding streets.***

The IN1 zone objectives are: -

"Zone IN1 General Industrial

#### 1 Objectives of zone

- To provide a wide range of industrial and warehouse land uses.



- *To encourage employment opportunities.*
- *To minimise any adverse effect of industry on other land uses.*
- *To support and protect industrial land for industrial uses.*
- *To protect industrial land in proximity to Sydney Airport and Port Botany.*
- *To enable a purpose built dwelling house to be used in certain circumstances as a dwelling house."*

The protection of the amenity of nearby residential uses and the local road network due to truck reversing movements and parking in the surrounding streets are not specified objectives of the IN1 Industrial zone. The IN1 zone is in fact the highest intensity industrial zone in the LEP and car repair and hire facilities are the type of uses envisaged for this zoning. It is not reasonable to infer that such industrial uses cannot reasonably use the local road system and have some impact on adjoining land uses from the zone objectives.

The impacts of vehicles will be moderated by the revised forecourt parking proposed and PoM provided. The impacts of the proposal on nearby land uses are as envisaged by the zoning.

It is an unreasonable proposition to give too much environmental weight to the impact of vehicle movements in a land use zone where the purpose of the zone is to allow for such uses. Cars need to be repaired somewhere and IN1 zoned land is the appropriate place for that activity to take place.

### 2.3 Reason 3

***The proposal does not comply with the vehicle parking requirements in Part 2.10 of Marrickville Development Control Plan 2011 as it does not provide designated storage for vehicles awaiting repair or collection or truck parking.***

The existing use has a car parking credit for 12 spaces under conditions of consent for DA 2004/654 (see condition 7).

The application provides for an addition of 18sqm of office floor space to be used for vehicle hire administration. The provision rate in the Marrickville Development Control Plan 2011 (the DCP) is 1 space per 40sqm of new gross floor area (GFA) for such floor space.

The proposal provides for an increase in on-site parking from 12 to 17 spaces (5 additional spaces).

Under the DCP provisions, given the actual additional GFA provided, less than ½ a car space is required.



The proposal provides for a net increase of 5 on-site parking spaces that is more than the DCP car parking provision rate requires.

#### 2.4 Reason 4

***The proposal does not comply with the equity of access and mobility requirements in Part 2.5 of Marrickville Development Control Plan 2011 in that it does provide accessible parking on the site.***

The relevant DCP provision is: -

*"In a car parking area containing 10 or more spaces, one accessible space, designed in accordance with relevant Australian Standards, must be provided for every 10 parking spaces or part thereof."*

In the submitted forecourt plan parking space<sup>17</sup> is nominated as the site's accessible space and will be marked accordingly. The applicant invites and will accept a condition in this respect.

#### 2.5 Reasons 5

***The proposal does not comply with the landscape requirements in Part 2.18 of Marrickville Development Control Plan 2011 as it does not provide a landscape strip along the full frontage of the site.***

The relevant provision in the DCP at clause 2.18.11.8 is provided below.

"C28 Landscaped area

*i. A continuous minimum landscaped area 1.5m wide across the entire frontage of the property, excluding driveways, must be provided. This width must be increased to 2 metres where the site exceeds 600m<sup>2</sup> and to 3 metres when the site exceeds 1,000m<sup>2</sup>"*

This provision applies to entire site redevelopment and is for a small addition to an approved and built building. However, the proposal does provide for a net increase in site landscaping from none to a 23sqm around the frontage of the site. The proposal meets the objectives of this control and provides for a net improvement in the landscape quality of the site.

The refusal of the application for this reason provides for adverse landscape impacts on the site, as the landscape status quo of the site is maintained. This grounds for refusal is unreasonable.



## 2.6 Reason 6

*The proposal does not comply with the industrial/residential interface controls in Part 6.2 of Marrickville Development Control Plan 2011 as an appropriate Plan of Management was not submitted with the application detailing the management of traffic movements and parking and other operational matters associated with use of the site for the car repair station and the vehicle hire premises.*

A PoM for the site is provided with this Section 82A Review application.

## 2.7 Reason 7

*The proposal does not comply with the controls for car repair stations in Part 6.4 of Marrickville Development Control Plan 2011 as vehicles waiting to be serviced, repaired or collected are currently being stored on the surrounding street.*

The relevant DCP control is: -

*"C64 No vehicles waiting to be serviced, repaired or collected must stand, or otherwise be stored, on any adjoining road."*

This requirement is reflected in the current conditions of consent for the car repair facility and PoM submitted. This provision will be complied with into the future.

## 2.8 Reason 8

*Insufficient information has been submitted with the application to enable a proper assessment of the parking and traffic impacts in terms of the number of trucks and vehicles associated with the vehicle hire premises.*

Additional information has been provided by way of this correspondence and a PoM to enable the proper assessment of the parking impacts of the proposal.

In terms of perspective, we remind Council that the applicant is for an 18sqm ancillary office space within an approved use on IN1 Industrial land. The proposed land use is well under the only density control for the site, that being the floor space ratio control (see **Figure 4B**). A certain amount of 'business' and activity is the purpose of this zone.



## 2.9 Reason 9

***Given the substantiated issues raised in the resident submissions in terms of parking in the surrounding streets and traffic hazards, approval of the application would not be in the public interest.***

It is noted that the site is zoned IN1 General Industrial and the LEP does not include buffer provisions that warrant curtailing this use because of adjoining residential development. Indeed, the adjoining residences are separated from the premises by the road carriageway of Unwins Bridge Road (which is well trafficked), not identified as special or sensitive in any way (e.g. a heritage listing) and located in a 30 to 35 ANEF contour area.

The adjoining residential area is next door to a major industrial zone, on a busy road, not special or sensitive and blighted by aircraft noise. (Traffic volumes on Unwins Bridge Road are also likely to increase with new road works such as WestConnex.) Too much weight is given to the issues raised by adjoining residents in this instance and it is not reasonable to refuse an application that is essentially implementing the purpose of its zoning on this basis.

## 2.10 Reasons 10

***The existing operation of the site is currently in breach of a number of conditions in relation to vehicles being stored in the street; reversing of trucks onto the street; the site being occupied by more than one tenancy; waste management; and landscape requirements.***

The owners of the car repair facility dispute the level of non-compliance claimed by Council officers. For example, there are numerous other industrial uses near the site that also use the adjoining road system.

Also, over the last year a concerted effort has been made to regularise operations and comply with current conditions of consent. Indeed, the existing operation has grown and changed and that is the very purpose of the current application to provide for better on-site facilities and processes (e.g. the PoM) that will allow for the improved operation of the premises.

It is unreasonable to refuse an application made to improve a site's operation based on alleged non-compliances and to expect a use to operate as proposed nearly 15 years ago and under the same conditions of consent. The Environmental Planning and Assessment Act (the Act) provides for review and modification processes for this reason – to allow an approved land use to evolve.





### 3. CONSIDERATION OF RELEVANT PROVISIONS OF SECTION 82A

#### 3.1 Relevant Provisions

Section 82A of Act states: -

***"82A Review of determination***

- (1) *If the consent authority is a council, an applicant may request the council to review a determination of the applicant's application, other than:*
  - (a) *a determination to issue or refuse to issue a complying development certificate, or*
  - (b) *a determination in respect of designated development, or*
  - (c) *a determination in respect of integrated development, or*
  - (d) *a determination made by the council under Division 4 in respect of an application by the Crown.*
- (2) *A council must, on a request made in accordance with this section, conduct a review.*
  - (2A) *A determination cannot be reviewed:*
    - (a) *after the time limited for the making of an appeal under section 97 expires, if no such appeal is made against the determination, or*
    - (b) *after an appeal under section 97 against the determination is disposed of by the Court, if such an appeal is made against the determination.*
- (3) *(Repealed)*
- (3A) *In requesting a review, the applicant may make amendments to the development described in the original application, subject to subsection (4) (c).*
- (4) *The council may review the determination if:*
  - (a) *it has notified the request for review in accordance with:*
    - (i) *the regulations, if the regulations so require, or*
    - (ii) *development control plan, if the council has made a development control plan that requires the notification or advertising of requests for the review of its determinations, and*
  - (b) *it has considered any submissions made concerning the request for review within any period prescribed by the regulations or provided by the development control plan, as the case may be, and*
  - (c) *in the event that the applicant has made amendments to the development described in the original application, the consent authority is satisfied that the development, as amended, is substantially the same development as the development described in the original application.*
- (4A) *As a consequence of its review, the council may confirm or change the determination.*



- (5) *(Repealed)*
- (6) *If the council reviews the determination, the review must be made by:*
- (a) *if the determination was made by a delegate of the council—the council or another delegate of the council who is not subordinate to the delegate who made the determination, or*
  - (b) *if the determination was made by the council—the council.*
- (7)–(9) *(Repealed)*
- (10) *If on a review the council grants development consent, or varies the conditions of a development consent, the council is entitled, with the consent of the applicant and without prejudice to costs, to have an appeal made under section 97 in respect of its determination withdrawn at any time prior to the determination of that appeal.*
- (11) *(Repealed)*
- (12) *This section does not apply where a regional panel or a local planning panel exercises a council's functions as the consent authority."*

In accordance with Section 82A (2) the application is lodged in the required time – within 6 months of determination. \*

The purpose of this Section 82A Review is to gain a consent to allow for the ongoing operation of the premises. If Council officers determines the application as supportable subject to conditions of consent, no objection is raised to the Review being determined under delegation subject to some review conditions of consent prior.

If Council officers do not support the proposal, it is requested that the Review is determined by the Inner West Planning Panel or a meeting of Council pursuant to Section 82A (6).

#### 4. SUMMARY

The proposal is to move and alter an existing demountable building to be used as a hire vehicle office, provide a 23sqm landscape area to the side and front of this site and rationalise the existing forecourt parking area by providing 17 vehicular parking spaces (an increase of 5 spaces from the 12 currently required to be provided). The Section 82A Review further provides for a PoM for the site and nominates an accessible car space on site.

The proposed use and works are permissible in the site's IN1 General Industrial zone and compliant with the relevant planning controls. Indeed, the proposal provides for various planning benefits, that are: -

- The collocation of an ancillary use on the site that improves the industrial amenity of the site and its locality.
- An increase in on-site parking capacity on the site from 12 to 17 spaces.
- A beautification and improvement in the environmental performance of the site via the addition of a 23sqm landscape area to the street frontage of a site where currently no on-site landscaping is provided to this site.
- A PoM for the site's ongoing operation.



- An opportunity to provide further conditions of consent that can manage an existing industrial use.

The proposal warrants consent under Section 82A and 79C of the Environmental Planning and Assessment Act 1979.

Please do not hesitate to contact either myself on 9211 4009 or Gina Nicolopoulos of MAS Vehicle Mechanical Repair Specialists on 9557 5810 if any clarification is required.

Yours faithfully,

**BBC Consulting Planners**

A handwritten signature in black ink that reads 'Philip Bull'. The signature is written in a cursive, flowing style.

**Philip Bull**  
**Associate Director**  
**Email** philip.bull@bbcplanners.com.au



## FIGURES

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Source: NearMap 2016

**APPLICATION**  
27 Unwins Bridge Road, Sydenham

**FIGURE 3A**  
Aerial Photo - Detail

Prepared For - MAS Vehicle Mechanical Repair Specialists







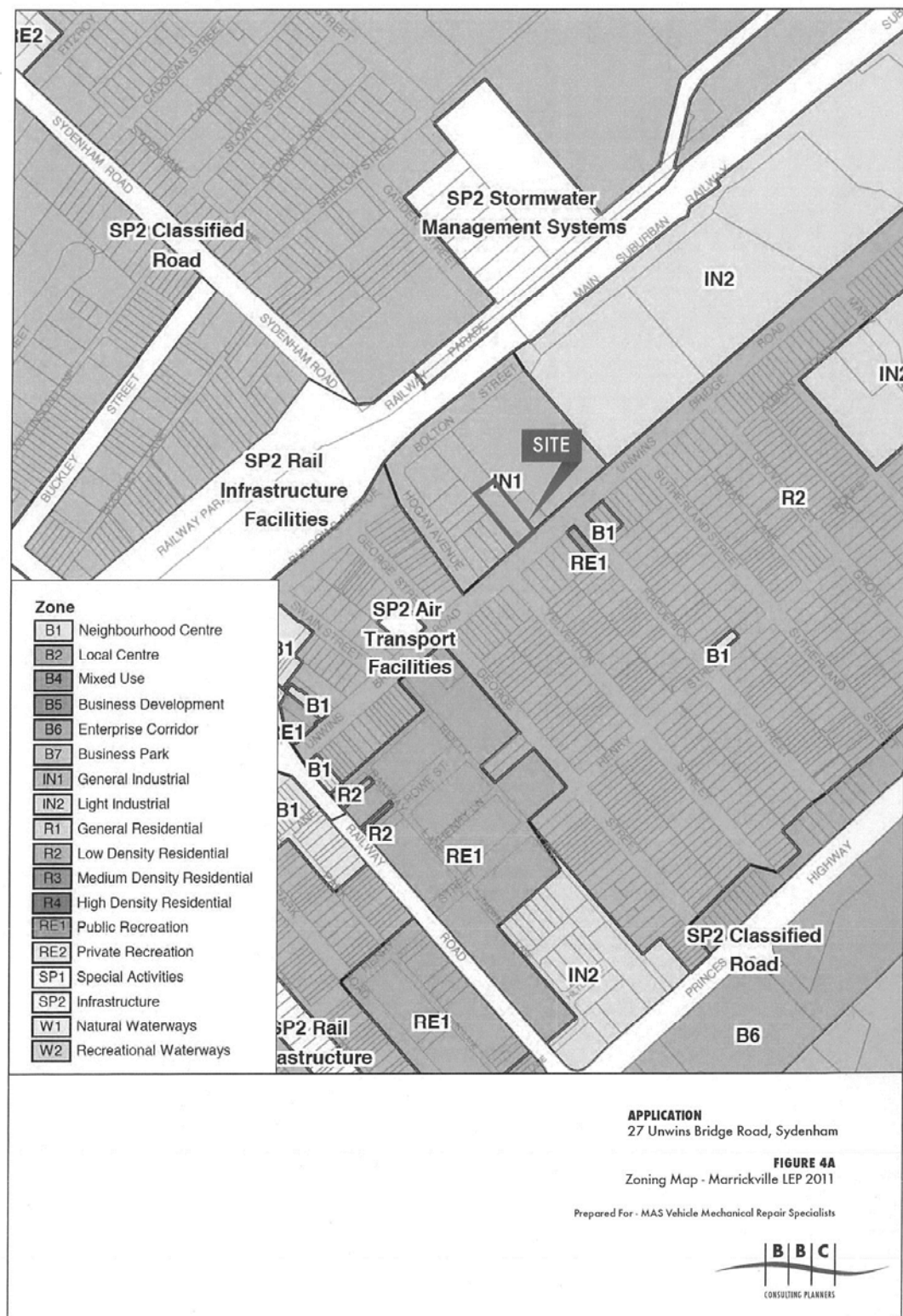
Source: NearMap 2016

**APPLICATION**  
27 Unwins Bridge Road, Sydenham

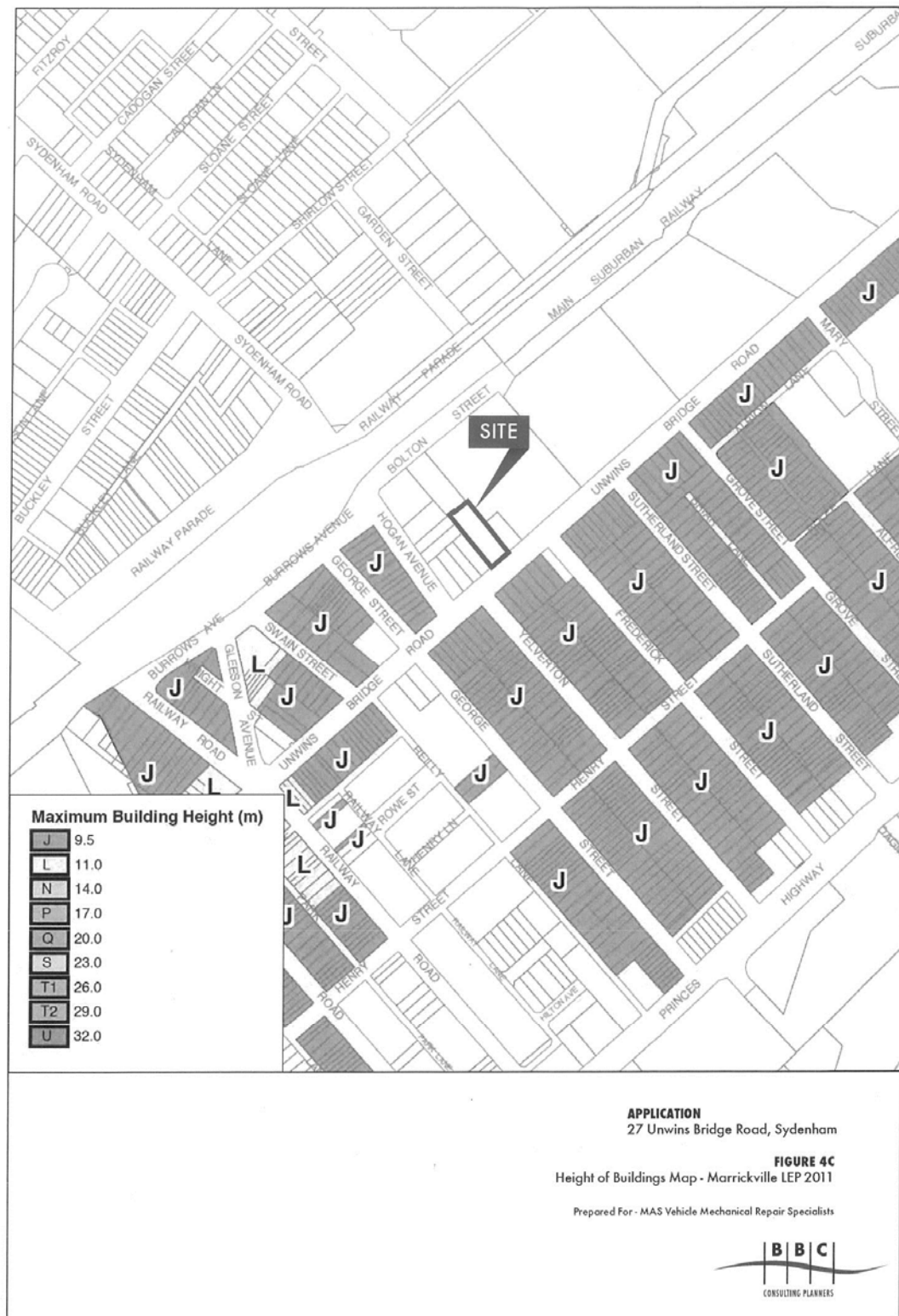
**FIGURE 3B**  
Aerial Photo - Wider Area

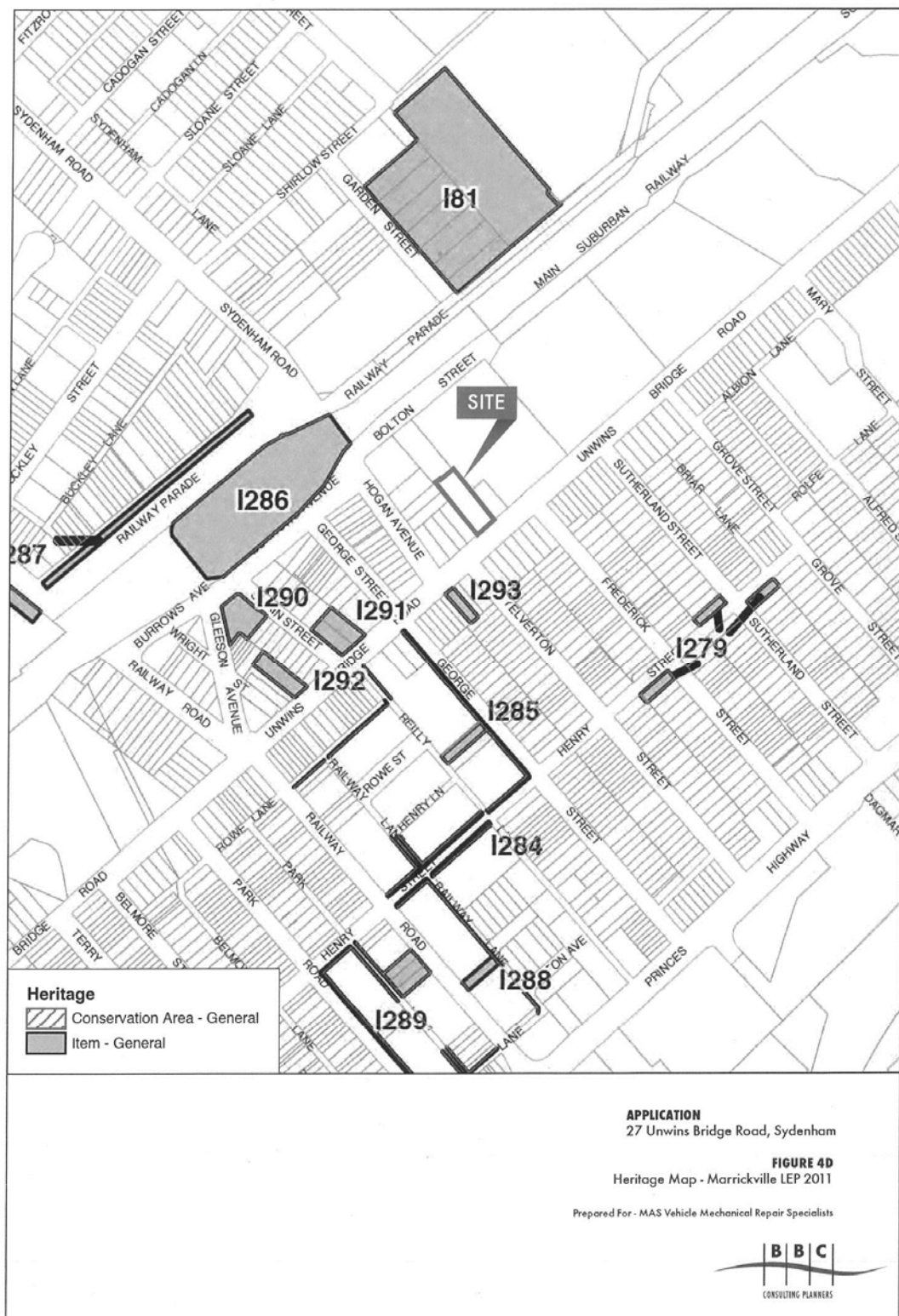
Prepared For - MAS Vehicle Mechanical Repair Specialists



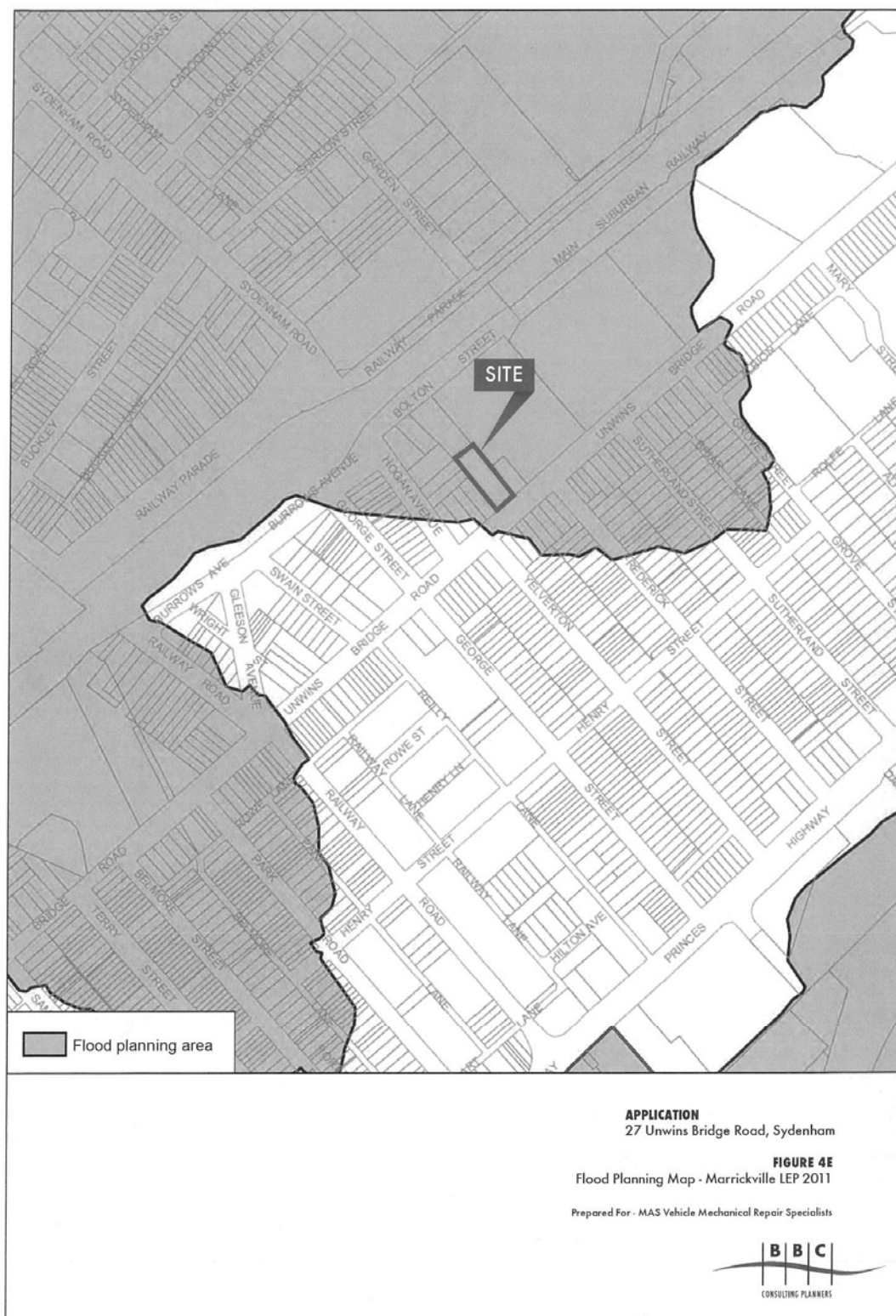
















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