

IDAP REPORT

Property:	145-151 Arthur Street HOMEBUSH WEST Lot 100 DP 1035650 DA2022.96
Proposal:	Use of units 5 and 6 for the purposes of a Place of Public Worship (1st floor only)
Applicant:	G Nyasulu
Owner:	Dexus Funds Management Limited
Date of lodgement:	26 May 2022
Notification period:	30 May 2022 - 20 June 2022
Submissions received:	Nil
Assessment officer:	L Gibson
Estimated cost of works:	\$0.00
Zoning:	IN1-General Industrial - SLEP 2012
Heritage:	No
Flood affected:	No
Is a Clause 4.6 Variation Proposed:	No
RECOMMENDATION OF OFFICER:	REFUSAL



Figure 1: Aerial view of subject site outlines in yellow (tenancies 5 and 6 outlined in red) and surrounding context

EXECUTIVE SUMMARY

Proposal

Development consent is being sought for the use of units 5 and 6 for the purposes of a Place of Public Worship (1st floor only).

Site and Locality

The site is identified as 145-151 Arthur Street HOMEBUSH WEST and has a legal description of Lot: 100 DP: 1035650. The site is identified as units 5 and 6 within the Dexu Business Park situated within an established industrial precinct with vehicular access via Arthur Street.

The locality surrounding the subject site is predominantly comprised of industrial warehousing with the railway located immediately south of the site. Centenary Drive is located east of the site.

Strathfield Local Environmental Plan

The site is zoned IN1-General Industrial under the provisions of Strathfield LEP 2012 and the proposal is a permissible form of development with Council's consent. The proposal satisfies all relevant objectives contained within the LEP.

Development Control Plan

The proposed development generally satisfies the provisions of Strathfield Consolidated DCP 2005. This is discussed in more detail in the body of the report.

Notification

The application was notified in accordance with Council's Community Participation Plan from (30 May 2022 - 20 June 2022), where no submissions were received.

Issues

- Insufficient information.

Conclusion

Having regards to the heads of consideration under Section 4.15 of the *Environmental Planning & Assessment Act 1979*, Development Application 2022/96 is recommended for refusal subject to the attached reasons of refusal.

REPORT IN FULL

Proposal

Council has received an application for the Use of units 5 and 6 for the purposes of a Place of Public Worship (1st floor only). More specifically, the proposal includes;

Hours of Operation

- Times of worship: 7:30PM – 11:00PM (Friday); and 10:00AM – 3:00PM (Sunday)
- Office Times: 9:30AM – 2:30PM (Friday)

Employees

- Insufficient information provided.

Patron Numbers

- Approximately 150 people

Off-street Car Parking

- 10 undercover off-street parking spaces are allocated to the units (5 allocated to each unit) located directly beneath the tenancies at the ground floor.
- The business park provides a total of 400 off-street parking spaces.

Figure 2 is an excerpt from Page 5 of the submitted Statement of Environmental Effects which provides a basic understanding of the original layout of the subject site (Units 5 and 6).

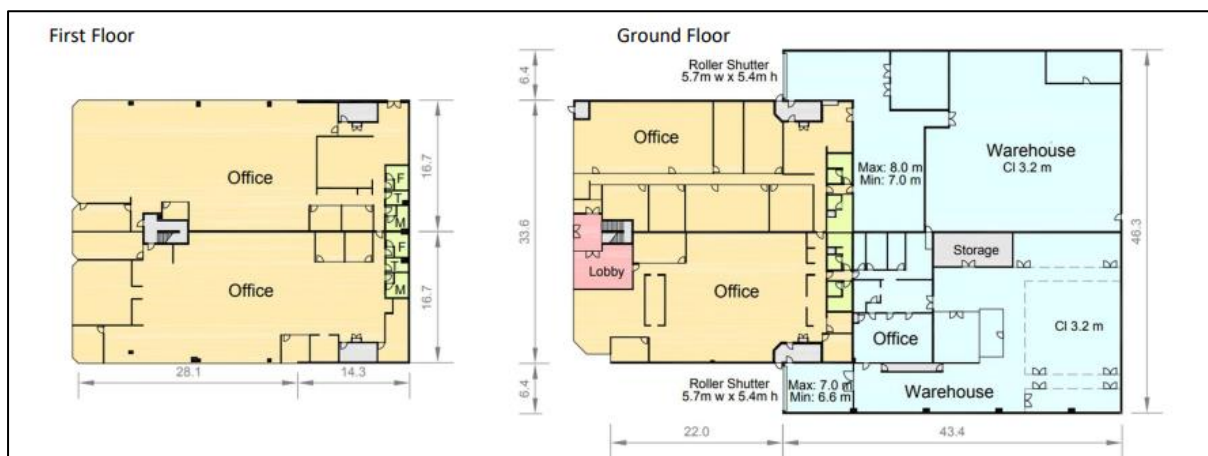


Figure 2: Layout of Units 5 and 6

The Site and Locality

The site is identified as 145-151 Arthur Street HOMEBUSH WEST and has a legal description of Lot: 100 DP: 1035650. The site as a whole provides a total site area of 32,000m². The site is identified as units 5 and 6 within the Dexu Business Park situated within an established industrial precinct with vehicular access via Arthur Street. The business park is comprised of 9 units on the site. The subject units are located in the far north-eastern corner of the site with the proposed works being contained to the first floor of the units only. The locality surrounding

the subject site is predominantly comprised of industrial warehousing with the railway located immediately south of the site. Centenary Drive is located east of the site.

Figures 3-5 are images of the subject site and surrounding Business Park within which the site is located.



Figure 3: Subject Tenancies 5 and 6



Figure 4: Business Park with centralised at-grade parking.



Figure 5: Front entrance to Units 5 and 6

Background

26 May 2022	The subject application was lodged with Council.
30 May 2022 - 20 June 2022	The subject application was put on public exhibition until 20 June 2022. No submissions were received by Council during this period.
28 June 2022	A Site inspection was carried out by the assessing officer.
20 July 2022	A Request for Additional Information Letter was issued to the Applicant raising concern for the following matters: <ul style="list-style-type: none"> • Additional information by way of dimensions plans; • Waste Management Plan; • Plan of Management; • BCA Capability Report; and • Structural Engineer Report.
31 August 2022	Additional information by way of a Waste Management Plan and a letter from a practising Engineer concerning the partition wall.

Referrals – Internal and External

Building

The application was referred to Council's Building Surveyor whom provided the following comments:

"The proposal will require a change of classification of the building under the provisions of Vol 1 of the Building Code of Australia,

Clause 62 of the EPA Regulation requires that council

- considers whether the fire protection and structural capacity of the building will be appropriate to the building's proposed use, and

- not grant consent to the change of building use unless the consent authority is satisfied that the building complies, or will, when the development is completed, comply, with the Category 1 fire safety provisions that are applicable to the building's proposed use

I recommend that prior to the issue of any development consent to change the use/classification of the building, that the applicant demonstrates (by way of a BCA capability report) that the proposed use of the building is capable of complying with the provisions of the current version of the BCA.

The report is required to be prepared by an appropriately qualified building surveyor. If performance solutions form part of the proposal to achieve compliance, the report is required to be reviewed and accepted by council's Building Surveyor (myself) or a person of my equivalent prior any approval being issued.

I also recommend that as the upper levels of the units are to be utilised for the area of worship that the building be assessed by a structural engineer for live and dead load compliance to ensure that the building is capable of supporting the additional imposed loading of up to 150 persons."

Whilst additional documentation was prepared and submitted to Council following the issuing of the Request for Additional Information Letter, Council's Building Surveyor still raises concern that insufficient information has been provided to satisfy their original comments. Council's Building Surveyor remains unsupportive of the application based on the lack of information submitted to Council.

Section 4.15 Assessment – EP&A Act 1979

The following is an assessment of the application with regard to Section 4.15 (1) of the Environmental Planning and Assessment Act 1979.

(1) Matters for consideration – general

In determining an application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

- (a) the provision of:**
- (i) any environmental planning instrument,**

STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

Chapter 4 – Remediation of land

Chapter 4 applies to the land and pursuant to Section 4.15 is a relevant consideration.

A review of the available history for the site gives no indication that the land associated with this development is contaminated. There were no historic uses that would trigger further site investigations.

The objectives outlined within Chapter 4 of the SEPP are considered to be satisfied.

Strathfield Local Environmental Plan

The development site is subject to the Strathfield Local Environmental Plan 2012

Part 2 – Permitted or Prohibited Development

Clause 2.1 – Land Use Zones

The subject site is zoned IN1-General Industrial and the proposal is a permissible form of development with Council's consent.

Part 4 – Principal Development Standards

There are no provisions under Part 4 which relate to this application.

Part 5 – Miscellaneous Provisions

There are no provisions under Part 4 which relate to this application.

Part 6 – Additional Local Provisions

Acid Sulfate Soils

The subject site is identified as having Class 5 Acid Sulfate Soils but is not located within 500m of a Class 1, 2 3 or 4 soils. Therefore, Development Consent under the provisions of this section is not required and as such an Acid Sulfate Soils Management Plan is not required.

Earthworks

The proposal does not include any earthworks. The proposal is for internal fitout works only.

Essential Services

Clause 6.4 of the SLEP 2012 requires consideration to be given to the adequacy of essential services available to the subject site. The subject site is located within a well serviced area and features existing water and electricity connection and access to Council's stormwater drainage system. As such, the subject site is considered to be adequately serviced for the purposes of the proposed development

It is considered that the proposed development satisfies the aims, objectives and development standards, where relevant, of the Strathfield LEP 2012.

- (ii) ***any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority, and***

There are no draft planning instruments that are applicable to this site.

- (iii) ***any development control plan,***

The proposed development is subject to the provisions of the Strathfield Consolidated Development Control Plan 2005. The following comments are made with respect to the proposal satisfying the objectives and controls contained within the DCP.

Part I – ‘Off Street Parking’ of the Strathfield Consolidated Development Control Plan (DCP) 2005

Section	Development Control	Required	Proposed	Compliance
3.9	Places of Public Worship	1 space per 6 seats; or 1/6 the capacity, whichever provides the greater number of spaces. Capacity of 150 people 25 spaces required.	Eighty (80) spaces provided.	Yes

The parking plan submitted within the Statement of Environmental Effects, indicates that 90 parking spaces have been allocated to Units 5 and 6 within the business park inclusive of the 10 spaces provided directly in front of the subject tenancy to the ground floor (refer to Figure 6 below). The proposal however, has provided insufficient information relating to the staffing numbers required for the use of the site as well as information relating to the use of the remaining areas of units 5 and 6 (ground floor areas). Page 10 of the submitted Statement of Environmental Effects suggests that during office hours, 5 parking spaces will be provided however only 1-2 spaces would be required.



Figure 6: Indicative Parking Plan

It is acknowledged that based on the proposed congregation of 150 people requiring use of 25 parking spaces, that the remaining 65 spaces allocated to Units 5 and 6 are likely to sufficiently accommodate the needs of the units including staff required for the proposed use. It is further acknowledged that the hours of worship sought as part of the proposal being Fridays from 7:30PM and Sundays at 10AM will be outside usual business hours compared to other tenancies in the business park which would provide increased availability for off-street parking for worshippers.

The off-street parking numbers appear to be sufficient with traffic and parking unlikely to adversely impact the operations and amenity of surrounding tenancy owners.

Part H – ‘Waste Management’ of the Strathfield Consolidated Development Control Plan (DCP) 2005

The proposal was accompanied by a waste management plan which provides insufficient detail regarding the ongoing operation of waste from the site. No detail is provided in relation to the waste which is likely to be generated by the staff in addition to the congregation of worshippers.

(iv) Any matters prescribed by the regulations, that apply to the land to which the development application relates,

The requirements of Australian Standard AS2601–1991: *The Demolition of Structures* is relevant to the determination of a development application for the demolition of a building.

The proposed development does not involve the demolition of a building. Should this application be approved, appropriate conditions of consent may be imposed to ensure compliance with the requirements of the above standard.

(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,

Acoustic Matters

The closest residential receiver is located approximately 160m east of the site on the opposite side of Centenary Drive. It is unlikely that the proposal would result in unacceptable noise impacts which would adversely impact on surrounding residents. Accordingly, an Acoustic Assessment was not required to be submitted and is not a reason for refusal.

Plan of Management

A Plan of Management was requested to be prepared and submitted to Council during the assessment process detailing the following items:

- Details of the proposed hours of operation (including staff office hours);
- Staff and attendees of the premise;
- Traffic and parking arrangements;
- Noise minimisation measures;
- Measures to minimise congregation of attendees;
- Procedure for special festivals/prayer days
- Garbage collection;
- Access of emergency services;
- Community relations; and
- Complaint management.

A Plan of Management was not submitted during the assessment process. Without such information, Council is unable to ascertain how the Place of Worship will function on an ongoing basis and how impacts can be minimised so as not to result in adverse impacts to adjoining tenancy owners and operators.

Insufficient Information

It was further requested that dimensioned plans clearly showing the sizes of rooms within the premises as well as details showing the demolition of the party wall be clearly marked. It was also requested that details showing which areas were proposed to be utilised for the purposes of a Place of Public Worship and which areas were proposed to be utilised solely for office purposes. This information has not been submitted during the assessment process and thus an informed assessment is unable to be conducted to warrant a recommendation for approval.

Based on the lack of information provided as part of the application, the likely impacts are unable to be demonstrated and a fair assessment against the matters for consideration are unable to be undertaken. Accordingly, the application is not supported in this regard.

(c) *the suitability of the site for the development,*

Based on the lack of information (including failure to submit a detailed and scaled floor plan of the proposal) it cannot be fairly demonstrated that the proposal is suitable for the site. Accordingly, the application is not supported in this regard.

(d) *any submissions made in accordance with this Act or the regulations,*

In accordance with the provisions of Councils Community Participation Plan, the application was placed on neighbour notification for a period of fourteen (14) days where adjoining property owners were notified in writing of the proposal and invited to comment. No submissions were received during this time.

(e) *the public interest.*

The proposal fails to satisfy that the proposed use of the building is capable of complying with the provisions of the current version of the Building Code of Australia. It is therefore unable to be confirmed as to whether the site is appropriate for the proposed use and that the site achieves the safety and access standards required for the site.

Based on the lack of information provided as part of the application it is unable to be demonstrated that the proposal does not conflict with the public interest. Accordingly, the application is not supported in this regard.

Local Infrastructure Contributions

Section 7.13 of the EP&A Act 1979 relates to the collection of monetary contributions from applicants for use in developing key local infrastructure. This section prescribes in part as follows:

A consent authority may impose a condition under section 7.11 or 7.12 only if it is of a kind allowed by, and is determined in accordance with, a contributions plan (subject to any direction of the Minister under this Division).

STRATHFIELD INDIRECT SECTION 7.12 CONTRIBUTIONS PLAN

Section 7.12 Contributions are not applicable to the proposed development in accordance with the Strathfield Indirect Development Contributions Plan as the cost of works is nil.

Conclusion

The application has been assessed having regard to the Heads of Consideration under Section 4.15 (1) of the *Environmental Planning and Assessment Act 1979*, the provisions of the SLEP 2012 and SCDP 2005.

Following detailed assessment it is considered that Development Application No. 2022/96 should be refused for the reasons attached.



Signed:

**L Gibson
Senior Planner**

Date: 13 September 2022

- ☒ I confirm that I have determined the abovementioned development application with the delegations assigned to my position; and
- ☒ I have reviewed the details of this development application and I also certify that Section 7.12 Contributions are not applicable to this development.

Report and recommendations have been peer reviewed by;



Signed:

P Santos
Senior Planner

Date: 19 September 2022

REFUSAL REASONS

Under Section 4.16(1)(b) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act' 1979'), this consent is REFUSED for the following reasons:

1. Refusal Reason – Environmental Planning Instrument

Pursuant to Section 4.15 (1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed development does not comply with the relevant environmental planning instruments in terms of the following:

- a) The proposal does not satisfy the Clause 1.2(2)(b) aims of the Strathfield Local Environmental Plan 2012 which seek to promote the efficient and spatially appropriate use of land, the sustainable revitalisation of centres, the improved integration of transport and land use, and an appropriate mix of uses by regulating land use and development. Based on the lack of information submitted with the application, the application is unable to satisfy this aim.

2. Refusal Reason – Impacts on the Environment

Pursuant to Section 4.15 (1)(b) of the *Environmental Planning and Assessment Act 1979*, the proposed development is likely to have an adverse impact on the following aspects of the environment:

- a) The proposal presents a lack of information to enable a fair and accurate assessment against the likely impacts the proposal may inflict on the site and surrounding tenancies. Accordingly, the application cannot be supported in this regard.

3. Refusal Reason – Suitability of Site

Pursuant to Section 4.15 (1)(c) of the *Environmental Planning and Assessment Act 1979*, the site is not considered suitable for the proposed development for the following reasons:

- a) Based on the lack of information provided as part of the application it cannot be fairly demonstrated that the proposal is suitable for the site. Accordingly, the application cannot be supported in this regard.

4. Refusal Reason – Public Interest

Pursuant to Section 4.15 (1)(e) of the *Environmental Planning and Assessment Act 1979*, the proposed development is not considered to be in the public interest due to the following reasons:

- a) The proposal fails to satisfy that the proposed use of the building is capable of complying with the provisions of the current version of the Building Code of Australia. It is therefore unable to be confirmed as to whether the site is appropriate for the proposed use and that the site achieves the safety and access standards required for the site.