

WILLOWTREE PLANNING



28 January 2022

REF: WTJ22-028

Strathfield Council
PO Box 120
Strathfield NSW 2135

**STRATHFIELD COUNCIL
RECEIVED**

S8.2 DA2021.52

DATE 3 February 2022

Attention: Henry Wong – Chief Executive Officer

RE: SECTION 8.2 REVIEW OF DETERMINATION – DA2021.52

PROPERTY AT: 2-34 DAVIDSON STREET, GREENACRE (LOT 1 DP 1022436)

Dear Henry,

1.0 INTRODUCTION

Reference is made in relation to Development Application (DA) – **DA2021.52** – lodged with Strathfield Council 26 March 2021 for the Site identified as 2-34 Davidson Street, Greenacre (the Site). The DA sought Development Consent for the demolition to part of existing structures, site preparation works, construction of three (3) new warehouses and ancillary offices and operational use of proposed warehouses.

DA2021.52 was refused by the Strathfield Local Planning Panel (SLPP) on 2 December 2021. Accordingly, a Review of Determination is sought pursuant to Section 8.2 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) on behalf of the registered owner, AGIT Investments Pty Ltd (the Proponent).

One (1) request for additional information letter (dated 11 May 2021) was issued to the Proponent by Council raising the following key matters for consideration:

- Signage;
- Inconsistency in building height with respect to Clause 4.3 of the *Strathfield Local Environmental Plan 2012* (SLEP2012);
- Insufficient justifications pertaining to environmental planning grounds pursuant to Clause 4.6(3)(b);
- Tree removal;
- Hours of operation – 24/7 basis sought;
- Discrepancy in truck movements and acoustic modelling;
- Traffic and parking; and
- Streetscape – proposed acoustic barrier along the Davidson Street frontage.

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In response to the abovementioned matters raised by Council, the Proponent provided additional and amended documentation which was submitted to Council (via the Planning Portal) on 16 September 2021.

Council were satisfied with some of the additional information pertaining to signage and traffic impacts; however, rather than issuing a further request for additional information, Council confirmed with the Proponent they would be drafting their assessment report to be issued to the SLPP in order to make a determination.

Noting the significant Capital Investment Value (CIV) associated with the proposal and the subsequent employment generation that would be accrued as a result of a favourable determination, the proponent was keen to continue working with Council to achieve an outcome; however, no further opportunity was provided.

It is evident that every effort was made by the Proponent throughout the assessment process to procure information requested by Council (noting significant delays incurred due to COVID-19 and interim delay from Council due to an Arborist not being appointed / employed to take on the project).

2.0 NOTICE OF DETERMINATION – DA2021.52

DA2021.52 was refused by the Strathfield Local Planning Panel (SLPP) on 2 December 2021. **Table 1** outlined below includes a formal response in relation to each of the matters raised by Council as grounds for refusal.

In accordance with this Section 8.2 Review, the proposed design has been amended as follows to address Council's concerns, improving the built form and landscaping across the Site:

- Entryway has been reverted to the existing arrangement to maintain landscaping across the Site.
- Car parking at the front of the existing office has been adjusted to maintain landscaping and facilitate new truck path.
- Landscaping to the front of Warehouse 1 expansion has been adjusted to increase landscape retention, and the ramp between Warehouse 1 and Warehouse 2 width has decreased with additional parking included
- Secure hardstand at front of Warehouse 2A has been adjusted to increase landscape retention.
- Warehouse 2 dock adjusted to resolve revised loading areas.
- Landscape corridor at N/E increased to retain trees, and the adjoining wall adjusted accordingly.
- Roof of Warehouse 1 adjusted to single pitch towards Davidson Street, with the height lowered to 12 m complying with the maximum building height permitted on-site.
- Roof of Warehouse 2 adjusted to single pitch towards rail line, with the height lowered to 12 m complying with the maximum building height permitted on-site. Indicative plant has noted above the awning.
- Office 2B envelope has been adjusted
- Total GFA adjusted and car parking totals adjusted to be consistent with the amended GFA.
- Warehouse 1 extension recessed dock deleted.
- Warehouse 1 extension office layout reconfigured.
- OSD reconfiguration to maintain landscaping and address the rail authority points of conjecture.
- Chainmesh front fence to be replaced with reduced to 1.8m in accordance with DCP.



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- Confirmation of 4 mm clear perspex backing to palisade fence to complement the existing embankment for noise attenuation.
- The Site is to maintain the proposed truck circulation; however, the access path / road adjoining the rail corridor has been reduced in width to maintain landscaping.



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Table 1: Response to Refusal		
No.	Council Refusal Items	Response
1.	The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the Environmental Planning and Assessment Act and fails to meet the objectives for the Maximum Building Height under Clause 4.3(1)(a) of the Strathfield Local Environmental Plan 2012. The proposal will set an undesirable precedent in facilitating and encouraging incompatible built forms that breach the maximum height provision. The clause 4.6 variation relating to the height development standard is not supported and is not well founded.	The amended Architectural Plans submitted as part of this Section 8.2 Review (refer to Appendix 2) demonstrate the proposal will not exceed the maximum 12 m height limit applying to the Site. All built form proposed has been designed and amended to comply with the 12 m Development Standard applicable to the Site pursuant to Clause 4.3 of the SLEP2012.
2.	The proposed development cannot be supported as insufficient information has been provided to allow a full and thorough assessment to be completed.	As part of this Section 8.2 Review, all refusal items have been satisfactorily considered and appropriately responded to. It is considered that the proposal in its amended state is worthy of support by the Strathfield Local Planning Panel.
3.	The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979. Insufficient information has been provided to demonstrate if the proposed development will comply with the provisions of the State Environmental Planning Policy (Infrastructure) 2007 with regard to: <ul style="list-style-type: none"> ▪ Impacts of stormwater; and ▪ Excavation exceeding 2m within 25m of railway tracks. 	<p>Sufficient information has been provided and reference is made to the concept stormwater management and siteworks plan & Water Sensitive Urban Strategy report prepared by Sparks and Partners. This demonstrates compliance with the <i>State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)</i> with regards to the 'impacts of stormwater. An existing drainage connection pipe for the Site located in the western boundary away from the railway corridor, is to be used in conjunction with an On-site Stormwater Detention (OSD) system to ensure there are no impacts to the existing stormwater network, runoff regime and railway corridor.</p> <p>There are two (2) minor areas within the development that exceed 2.0 m in depth of excavation and are within 25.0 m of the railway corridor. Further details of these areas are located within the Engineering Drawings (refer to Appendix 5).</p>

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4.	The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as it fails to comply with the provisions of the State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017.	The proposal is considered generally capable of compliance with respect to State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP). Whilst the proposal proposes the removal of 43 existing trees on-site, the proposed development includes provision for a comprehensive and complementary landscaping strategy that will enhance the overall landscaping aesthetic of the Site, thereby remaining consistent with the Vegetation SEPP.
5.	The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as it fails to meet the aims of the Strathfield Local Environmental Plan 2012 to promote the spatially appropriate use of land that is compatible with the adjacent residential development.	<p>The proposed development is positioned on land that is designated for industrial-related purposes, and thus would ensure that support is met for the desired outlay, as well as the wider locality. Consideration has also been given to surrounding land uses, for which the proposed development is further complemented by existing industrial developments along the southern boundary (including further industrial development in close proximity to the Site).</p> <p>The Subject Site is located within the Strathfield Local Government Area (LGA), forming part of an extension to closely indirectly linked surrounding industrial development, comprising an IN1 General Industrial zoning characteristic. There is the notable R3 zoned land adjoining the Site, which is surrounded by IN1 General Industrial land uses. Accordingly, the Site context may be described as part of an employment-generating industrial-precinct as such, which the proposed warehouse and distribution centres would positively contribute to. Given the existing industrial character of the Site's surrounds, no such land use conflict is expected to occur, due to separation distances; acoustic amenity screening; and increased landscaping (deep-soil planting) provisions proposed across the Site.</p> <p>Accordingly, the built form proposed integrates a high quality and conducive architectural design treatment that offers articulation in potentially impact viewpoints; complies with the 12 m maximum building height; and is coupled by an aesthetically pleasing architectural landscaped design that will significantly screen the proposed built form upon trees attaining their maturity. Furthermore, acoustic amenity impacts are anticipated to comply with the relevant noise emission criteria further supporting the proposal's compatibility with the Site.</p> <p>Therefore, in accordance with the permissibility of the land use and the minimal environmental and amenity impacts on adjoining receivers, the proposed development is considered to promote the spatially appropriate use of the land by means of redeveloping an industrial site for ongoing employment-generating purposes, whilst being completely cognisant of the Site's surrounding receivers, for which there will minimal impacts. Where there is the potential for impacts to</p>



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		be generated, appropriate mitigation measures have been proposed to ensure the proposal is capable of complying with relevant threshold criteria as well as adhering to limitations of the potential to impact on visual and acoustic amenity.
6.	The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as it fails to meet the aims of the Strathfield Local Environmental Plan 2012 to identify and protect environmental and cultural heritage. The proposal to remove a significant street tree goes against Council's recommendations for street tree retention and protection.	Where tree removal is proposed, the proposed development does not trigger the thresholds under the <i>Biodiversity Act 2016</i> with respect to biodiversity offset requirements and /or serious and irreversible impacts. Accordingly, the proposed development includes tree removal across relevant portions of the Site to facilitate the future built form outcomes, which includes a comprehensive landscaping strategy around the Site that will improve and enhance the landscaping characteristics across the Site. The Landscape Plans prepared by Site Design + Studios (refer to Appendix 3) includes provision for an aesthetically pleasing architectural-landscape design that integrates with the Site in its industrial context, whilst providing visual amenity and screening along the Davidson Street frontage, which creates a welcoming and complementary visual separation with respect to the Site and the adjoining residential development to the west of the Site. Accordingly, the proposed development is considered to protect, preserve and improve the Site's environmental parameters, through increased landscaping and modernised stormwater solutions that will integrate recycling methods to support irrigation across the Site. Ongoing construction and operational environmental management plans will ensure the site's environmental performance is positive and no adverse environmental impacts will occur across the Site and on adjoining site's. This includes satisfactory acoustic amenity, for which the Noise Impact Assessment prepared by Acoustic Logic (refer to Appendix 6) confirms the proposal is compliant with respect to the noise emission criteria governed by the NSW EPA's <i>Noise Policy for Industry</i> document. The proposal is considered to satisfy Subclause 1.2(2)(f) of the SLEP2012.
7.	The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as it fails to satisfy the objectives of the IN1 General Industrial zone. Specifically, the proposal fails to minimise adverse effect of industry on other land uses.	The proposed development is positioned on land that is designated for industrial-related purposes, and thus would ensure that support is met for the desired outlay, as well as the wider locality. Consideration has also been given to surrounding land uses, for which the proposed development is further complemented by existing industrial developments along the southern boundary (including further industrial development in close proximity to the Site). The northern and eastern boundaries are surrounded by infrastructure, whilst the western interface comprises a small pocket of medium density residential land that is completely surrounded by existing industrial development. There are no undesirable impacts anticipated to occur on surrounding land uses. Notwithstanding, future built form is expected to incorporate and implement any mitigation measures proposed, as well as any project-specific measures required to be implemented to minimise any adverse



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		<p>impacts from occurring on nearby residential (R3 Medium Density Residential) and infrastructure (SP2 Infrastructure) receivers.</p> <p>The Subject Site is located within the Strathfield Local Government Area (LGA), forming part of an extension to closely indirectly linked surrounding industrial development, comprising an IN1 General Industrial zoning characteristic. There is the notable R3 zoned land adjoining the Site, which is surrounded by IN1 General Industrial land uses. Accordingly, the Site context may be described as part of an employment-generating industrial-precinct as such, which the proposed warehouse and distribution centres would positively contribute to. Given the existing industrial character of the Site's surrounds, no such land use conflict is expected to occur, due to separation distances; acoustic amenity screening; and increased landscaping (deep-soil planting) provisions proposed across the Site.</p> <p>There are a range of land uses which surround the Site, all of which have been given due consideration in the design of the proposed development. Of particular relevance, the following land uses are noted within the vicinity of the Site:</p> <ul style="list-style-type: none">▪ North & East – To the north and east of the Site, existing railway infrastructure traverses the Site. Satisfactory engineering solutions have been proposed for the Site which would not impact upon existing railway infrastructure assets.▪ South – To the south of the Site, there is an existing industrial development, which supports the proposal to redevelop the Site for a further industrial development that would complement the employment-generating nature of the proposal. Appropriate mitigation measures would be implemented to ensure an orderly and sequential development is achieved allowing existing / adjoining operations to continue to be undertaken without being impacted by the subject proposal.▪ West – West of the Subject Site comprises existing residential land uses, whereby the Site will be appropriately screened (both visually and acoustically) and mitigated to prevent any adverse impacts occurring on nearby receiver locations. Further west includes surrounding industrial development that supports the ongoing use and nature of the proposed for the purposes of industrial-related and employment-generating development in a zone designated for such purposes.
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		<p>In accordance with the zone objective, the proposal has considered all potential environmental and amenity impacts (including visual amenity, traffic generation and noise) whereby nearby receivers have the potential to be impacts. These parameters are considered with respect to industry and other land uses below:</p> <p><u>Visual Amenity:</u></p> <p>The potential visual impacts with respect to views from Davidson Street from residential dwellings will be mitigated with a large turf verge along the Davidson Street frontage creating distance from the built form of the development a landscape setback in which tall native canopy trees, screening shrubs and groundcover species are to be planted. Following maturity, these planted buffers will provide a dense screen to help soften and screen the proposal.</p> <p>The proposed development includes provision for substantial landscape planting to offset the potential for visual impacts in the form of a 4 m landscape setback which includes dense tree and shrub planting. This planting strategy will be most effective after 10-years with respect to the visual receptors encompassing direct views toward the Site. Despite potential visual impacts for these receiver locations, the proposed development will be significantly screened at ground level assisting in further screen protection via means of increased landscaping. For context, the proposal includes enhanced deep-soil landscaping provisions as opposed to the existing setting which comprises a dilapidated and scattered schedule of trees. Accordingly, the proposal will enhance the streetscape character through revitalisation of a rundown landscaping setback via implementation of a conducive array of species that complements the streetscape and screens potential visual impacts arising from the built form. It is considered that the amended design (complying with the 12 m height limit) will improve against any potential for visual amenity impacts with respect to residents and passersby traversing Davidson Street.</p> <p>It is considered that the proposed development responds suitably to the surrounding context. Proposed materials, design innovation, architectural articulation and deep-soil landscaping, enhances and remodels the visual amenity of the Site. Accordingly, the proposed architectural design treatment and landscaping approach would further reduce any conflicts with adjoining landowners and limit visual obtrusiveness occurring with regard to passersby.</p> <p><u>Traffic:</u></p>
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		<p>The Traffic Impact Assessment prepared by Transport and Traffic Planning Associates and submitted with DA2021.52 confirms that the proposed development will not cause any adverse traffic implications; the proposed parking provision will be satisfactory; and the vehicular access and internal circulation arrangements will be satisfactory. Accordingly, the proposal as amended under this Section 8.2 Review will continue to be supportable with respect to traffic and parking planning grounds.</p> <p><u>Noise:</u></p> <p>Noise impacts would be managed accordingly throughout both the construction and operational phases of development, by virtue of implementing a series of recommendations and mitigation measures in order to comply with the industry and residential noise emission criteria as a result of the proposal. Reasonable and feasible mitigation measures have been proposed, including the installation of acoustic screening along the Davidson Street frontage (screened by proposed landscaping), to ensure any worst-case noise impacts can be appropriately mitigated in accordance with complying with the <i>Noise Policy for Industry</i> noise criteria established by the NSW EPA. All potential noise impacts (including the potential for 24/7 operational use) on adjoining receivers are carefully analysed and considered within the qualitative and quantitative Noise Impact Assessment prepared by Acoustic Logic (refer to Appendix 6).</p>
8.	<p>The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as it fails to meeting the objectives for the Maximum Building Height under Clause 4.3(1)(a) of the Strathfield Local Environmental Plan 2012. The proposal will set an undesirable precedence in facilitating and encouraging incompatible built forms that breach the maximum height provision.</p>	<p>The amended Architectural Plans submitted as part of this Section 8.2 Review (refer to Appendix 2) demonstrate the proposal will not exceed the maximum 12 m height limit applying to the Site. All built form proposed has been designed and amended to comply with the 12 m Development Standard applicable to the Site pursuant to Clause 4.3 of the SLEP2012.</p>
9.	<p>The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979. Insufficient information has been provided to demonstrate if the proposed development will comply with Clause 5.21</p>	<p>The proposed development is compliant with Clause 5.21 (Flooding) of Council's SLEP2012 as the development will have no impact on the existing local flooding within the area. A Review of available Strathfield Council flood studies has concluded that the proposed development is not within a flood affected area. The development includes an OSD facility that will reduce the quantity of stormwater runoff discharging from the Site which will ensure there are no impacts on the surrounding flooding regime.</p>



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	(Flooding) of the Strathfield Local Environmental Plan 2012.	
10.	The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979. Insufficient information has been provided to demonstrate if the proposed development will comply with the provision of the Clause 6.2 (Earthworks) of the Strathfield Local Environmental Plan 2012.	Proposed earthworks within the development will be compliant with Clause 6.2 (Earthworks) of the SLEP2012.
11.	The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 as it fails to comply with the controls of 2.10.1.8 (Landscaping – Setbacks) of Part D of the Strathfield Consolidated Development Control Plan 2005. The proposal does not provide continuous deep soil landscape buffer zones along common boundaries.	Whilst the proposal includes provision for a 4 m landscape setback (instead of the desired 10 m setback), the landscape design (as provided in Appendix 2 & 3) includes provision for a comprehensive and aesthetically pleasing architectural landscape design. Coupled with deep-soil landscaping surrounding the Site, the landscape setting will provide suitable buffers between the built form and surrounding sites, include enhanced landscape screening along the Davidson Street frontage which is considered to significantly mitigate any potential visual amenity impacts from occurring across the Site.
12.	The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 as it fails to comply with the controls of 2.10.2 (Fencing) of Part D of the Strathfield Consolidated Development Control Plan 2005. The proposed 3 metre sound barrier wall adjoining Davidson Street will result in inappropriate visual impacts to the existing streetscape.	Noise impacts would be managed accordingly throughout both the construction and operational phases of development, by virtue of implementing a series of recommendations and mitigation measures in order to comply with the industry and residential noise emission criteria as a result of the proposal. Reasonable and feasible mitigation measures have been proposed, including the installation of acoustic screening along the Davidson Street frontage (screened by proposed landscaping), to ensure any worst-case noise impacts can be appropriately mitigated in accordance with complying with the <i>Noise Policy for Industry</i> noise criteria established by the NSW EPA. All potential noise impacts (including the potential for 24/7 operational use) on adjoining receivers are carefully analysed and considered within the qualitative and quantitative Noise Impact Assessment prepared by Acoustic Logic (refer to Appendix 6).
13.	The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 as it fails to comply with the controls of 2.12 (Site Drainage and Water Management) of Part D of the Strathfield Consolidated Development Control Plan 2005. Insufficient information has been provided to	Sparks and Partners have prepared detailed concept stormwater drainage and siteworks plans, a Water Sensitive Urban Design Strategy report and MUSIC and DRAINS modelling to demonstrate compliance with the controls under section 2.12 of Council's DCP Part D. It is viewed that these documents and models provide significant information to ensure a complete assessment by Council can be undertaken (refer to Appendix 5).



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	complete a full and thorough assessment of the stormwater management plan.	
14.	The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 as it fails to comply with the controls of 2.14.2 (Noise) of Part D of the Strathfield Consolidated Development Control Plan 2005. The proposed hours of operation are not appropriate in the immediate context and will impact on the existing residential buildings directly west of the site.	Noise impacts would be managed accordingly throughout both the construction and operational phases of development, by virtue of implementing a series of recommendations and mitigation measures in order to comply with the industry and residential noise emission criteria as a result of the proposal. Reasonable and feasible mitigation measures have been proposed, including the installation of acoustic screening along the Davidson Street frontage (screened by proposed landscaping), to ensure any worst-case noise impacts can be appropriately mitigated in accordance with complying with the <i>Noise Policy for Industry</i> noise criteria established by the NSW EPA. All potential noise impacts (including the potential for 24/7 operational use) on adjoining receivers are carefully analysed and considered within the qualitative and quantitative Noise Impact Assessment prepared by Acoustic Logic (refer to Appendix 6).
15.	The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 as it fails to comply with the controls of 2.3 (Landscaping and Fencing) of the Strathfield Consolidated Development Control Plan No. 14. The proposed development seeks to significantly reduce landscaped area across the site resulting in deficient deep soil area along the site boundary and street frontage.	As mentioned above, whilst the proposal includes provision for a 4 m landscape setback (instead of the desired 10 m setback), the landscape design (as provided in Appendix 2 & 3) includes provision for a comprehensive and aesthetically pleasing architectural landscape design. Coupled with deep-soil landscaping surrounding the Site, the landscape setting will provide suitable buffers between the built form and surrounding sites, include enhanced landscape screening along the Davidson Street frontage which is considered to significantly mitigate any potential visual amenity impacts from occurring across the Site.
16.	The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 as it fails to comply with the controls of 2.4 (Streetscape) of the Strathfield Consolidated Development Control Plan No. 14. The proposed four (4) metre wide landscaped buffer is a significant variation to the required 10 m to be provided adjacent to the eastern alignment of Davidson Street and will reduce screening and increase visual impacts of the development to the existing streetscape.	As above.
17.	The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 as it fails to comply with the	Sparks and Partners have prepared detailed concept stormwater drainage and siteworks plans, a Water Sensitive Urban Design Strategy report, MUSIC and DRIANS modelling to demonstrate compliance with the controls under Section 2.7.2 of Council's DCP No.14.



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	controls of 2.7.2 (Stormwater Drainage) of the Strathfield Consolidated Development Control Plan No. 14. Insufficient information has been provided to complete a full and thorough assessment of the stormwater management plan.	It is viewed that these documents and models provide significant information to ensure a complete assessment by council can be undertaken.
18.	The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 as it fails to comply with the controls of Clause 2.10 (Impact on Surrounding Residential Development) of the Strathfield Consolidated Development Control Plan No. 14. It is considered the proposed hours of operation will be a nuisance to residents of surrounding residential properties by way of hours of operation, traffic movement, parking, headlight glare, security lighting and the like.	Noise impacts would be managed accordingly throughout both the construction and operational phases of development, by virtue of implementing a series of recommendations and mitigation measures in order to comply with the industry and residential noise emission criteria as a result of the proposal. Reasonable and feasible mitigation measures have been proposed, including the installation of acoustic screening along the Davidson Street frontage (screened by proposed landscaping), to ensure any worst-case noise impacts can be appropriately mitigated in accordance with complying with the <i>Noise Policy for Industry</i> noise criteria established by the NSW EPA. All potential noise impacts (including the potential for 24/7 operational use) on adjoining receivers are carefully analysed and considered within the qualitative and quantitative Noise Impact Assessment prepared by Acoustic Logic (refer to Appendix 6).
19.	The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 as it fails to meet the aims of Part N (Water Sensitive Urban Design) of the Strathfield Consolidated Development Control Plan 2005. Insufficient information has been provided to complete a full and thorough assessment of stormwater management on the site.	Sparks and Partners have prepared detailed concept stormwater drainage and siteworks plans, a Water Sensitive Urban Design Strategy report, MUSIC and DRIANS modelling to demonstrate compliance with the design controls of Council's DCP Part N. (Water Sensitive Urban Design). The MUSIC model has been prepared to demonstrate the Site achieves Council's pollution reduction targets. It is viewed that these documents and model provide significant information to ensure a complete assessment by Council can be undertaken (refer to Appendix 5).
20.	The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 as it fails to meet the aims of Part O (Tree Management) of the Strathfield Consolidated Development Control Plan 2005. The proposed removal of 92 trees is not supported.	Where tree removal is proposed, the proposed development does not trigger the thresholds under the <i>Biodiversity Act 2016</i> with respect to biodiversity offset requirements and /or serious and irreversible impacts. Accordingly, the proposed development includes tree removal across relevant portions of the Site to facilitate the future built form outcomes, which includes a comprehensive landscaping strategy around the Site that will improve and enhance the landscaping characteristics across the Site. The Landscape Plans prepared by Site Design + Studios (refer to Appendix 3) includes provision for an aesthetically pleasing architectural-landscape design that integrates with the Site in its industrial context, whilst providing visual amenity and screening along the Davidson Street frontage, which creates a welcoming and complementary visual separation with respect to the Site and the adjoining residential development to the west of the Site.



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21.	The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(b) of the Environmental Planning and Assessment Act 1979 as it will result in unacceptable adverse impacts in terms of built form, streetscape and tree preservation.	Reference should be made in relation item #7 above whereby the proposed development is not considered to result in any adverse impacts with respect to built form (amended design now complies with the 12 m height limit); streetscape (landscaping provision includes enhanced deep-soil landscaping); and tree preservation (landscaping strategy caters for enhanced and dense landscaping across the Site).
22.	The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(c) of the Environmental Planning and Assessment Act 1979 as it fails to demonstrate that the subject site is suitable for the proposed built form including significant earthworks and clearing of vegetation. The proposal is considered an overdevelopment of the site.	<p>The proposed development comprises only 50% site coverage with respect to built form proposed. Coupled with ancillary components such as hardstand, car parking and landscaping, the proposal is not at all considered to be overdevelopment of the Site. Rather, the proposal represents a development that is wholly permissible within the IN1 General Industrial zone; complies with the relevant Development Standards and provisions of the SLEP2012; generally adheres to the SDCP2005 and site-specific DCP (excluding the concession sought on the landscaping setback); and will continue to provide ongoing employment-generating opportunities for a site and location zoned for such designated purposes. Accordingly, the proposed development is considered orderly in nature and would not be deemed overdevelopment of the site.</p> <p>Whilst earthworks and clearing of vegetation are proposed, the earthworks will facilitate the building pads for built form; allow the stormwater management strategy to be appropriately implemented; and where vegetation is proposed to be removed, the landscaping setbacks surrounding the Site are proposed to be revitalised by the complementary and aesthetically pleasing landscaping strategy that will improve the visual amenity across the Site, providing a natural screening mechanism for surrounding sites, whilst seeking to help reduce the potential impacts imposed by the Urban Heat Island Effect.</p> <p>Accordingly, the proposed development is not considered to constitute overdevelopment in any such way, rather maximises the built form available to be explored, whilst being cognisant of the Site's surrounds and future operational requirements of the tenants involved.</p>
23.	The landscape plan is unacceptable in terms of proposed species because it includes potential weed species and is not optimal in terms of proposed species in a region that supports or supported Turpentine / Ironbark Forest in the Sydney Basin.	The Landscape Plans have been amended by Site Design + Studios which includes a complementary and aesthetically pleasing landscaping strategy that is worthy of support. This includes significant deep-soil landscaping, including species of trees, plants, shrubs, and grasses that are receptive to industrial-developments and the micro-climate they are positioned within. The Landscape Plans are located within Appendix 3 .
24.	The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(e) of the Environmental Planning and	As a result of the revised documentation (including plans and consultant reports) provided in the supporting annexures, it is considered that all statutory and non-statutory planning instruments and policies have been considered and



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	<p>Assessment Act 1979. The proposed development is not in the public interest as it fails to meet the provisions, objectives and development standards under the State Environmental Planning Policy (Infrastructure) 2007 and State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017; Strathfield Local Environmental Plan 2012 and the Strathfield Consolidated Development Control Plan 2005; and will have unacceptable adverse impacts.</p>	<p>appropriately addressed; thereby, allowing the proposal to be considered acceptable pursuant to Section 4.15(1)(e) of the EP&A Act.</p>
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3.0 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

This Application supports a review of **DA2021.52** under Sections 8.2 and 8.3 of the EP&A Act, given that Strathfield Council refused the Application, as outlined in **Tables 2** and **3** below.

Table 2: Section 8.2 of the EP&A Act	
Subsection	Proposed Development Response
(1) The following determinations or decisions of a consent authority under Part 4 are subject to review under this Division: (a) the determination of an application for development consent by a council, by a local planning panel, by a Sydney district or regional planning panel or by any person acting as delegate of the Minister (other than the Independent Planning Commission or the Planning Secretary),	Development Application DA2021.52 is subject to review under this division as it was determined under Part 4 of the EP&A Act by the Strathfield Local Planning Panel.
(b) the determination of an application for the modification of a development consent by a council, by a local planning panel, by a Sydney district or regional planning panel or by any person acting as delegate of the Minister (other than the Independent Planning Commission or the Planning Secretary),	Development Application DA2021.52 did not seek approval for the modification of a Development Consent.
(c) the decision of a council to reject and not determine an application for development consent.	Development Application DA2021.52 was determined by way of refusal on 2 December 2021.
(2) However, a determination or decision in connection with an application relating to the following is not subject to review under this Division: (a) a complying development certificate, (b) designated development,	Development Application DA2021.52 was not for the purposes of a Complying Development Certificate (CDC). Development Application DA2021.52 is not considered to be Designated Development.
(c) Crown development (referred to in Division 4.6).	Development Application DA2021.52 is not considered to be Crown Development.
(3) A determination or decision reviewed under this Division is not subject to further review under this Division.	Noted.

Table 3: Section 8.3 of the EP&A Act	
Subsection	Proposed Development Response
(1) An applicant for development consent may request a consent authority to review a determination or decision made by the consent authority. The consent authority is to review the determination or decision if duly requested to do so under this Division.	The Proponent requests to have the Strathfield Local Planning Panel's (SLPP) refusal of DA2021.52 reviewed.
(2) A determination or decision cannot be reviewed under this Division:	Section 8.10(1) of the EP&A Act provides that an appeal under Division 8.3 of the EP&A Act may be made only within six months after the date



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<p>(a) after the period within which any appeal may be made to the Court has expired if no appeal was made, or</p> <p>(b) after the Court has disposed of an appeal against the determination or decision.</p>	<p>the decision appealed against is notified or registered on the NSW Planning Portal, or after the date of deemed refusal under Section 8.11.</p> <p>Fife Capital therefore has six months from 2 December 2021 within to which request a review of DA2021.52.</p>
<p>(3) In requesting a review, the applicant may amend the proposed development the subject of the original application for development consent or for modification of development consent. The consent authority may review the matter having regard to the amended development, but only if it is satisfied that it is substantially the same development.</p>	<p>This request for a review of determination has resubmitted the revised documentation previously issued to Council (including the Strathfield Local Planning Panel), as it is considered the reasons for refusal raised by Council have been addressed in the enclosed documentation. Accordingly, the proposal has been amended accordingly to satisfy all refusal items.</p>
<p>(4) The review of a determination or decision made by a delegate of a council is to be conducted:</p> <p>(a) by the council (unless the determination or decision may be made only by a local planning panel or delegate of the council), or</p> <p>(b) by another delegate of the council who is not subordinate to the delegate who made the determination or decision.</p>	<p>As DA2021.52 was refused by the SLPP, the SLPP will conduct the review of its decision pertaining to the refusal of DA2021.52.</p>
<p>(5) The review of a determination or decision made by a local planning panel is also to be conducted by the panel.</p>	<p>As DA2021.52 was refused by the SLPP, the SLPP will conduct the review of its decision pertaining to the refusal of DA2021.52.</p>
<p>(6) The review of a determination or decision made by a council is to be conducted by the council and not by a delegate of the council.</p>	<p>As DA2021.52 was refused by the SLPP, the SLPP will conduct the review of its decision pertaining to the refusal of DA2021.52.</p>
<p>(7) The review of a determination or decision made by a Sydney district or regional planning panel is also to be conducted by the panel.</p>	<p>As DA2021.52 was refused by the SLPP, the SLPP will conduct the review of its decision pertaining to the refusal of DA2021.52.</p>
<p>(8) The review of a determination or decision made by the Independent Planning Commission is also to be conducted by the Commission.</p>	<p>As DA2021.52 was refused by the SLPP, the SLPP will conduct the review of its decision pertaining to the refusal of DA2021.52.</p>
<p>(9) The review of a determination or decision made by a delegate of the Minister (other than the Independent Planning Commission) is to be conducted by the Independent Planning Commission or by another delegate of the Minister who is not subordinate to the delegate who made the determination or decision.</p>	<p>As DA2021.52 was refused by the SLPP, the SLPP will conduct the review of its decision pertaining to the refusal of DA2021.52.</p>

4.0 SUMMARY AND CONCLUSION

As outlined in **Table 1** above (which includes the response to refusal items), it is considered reasonable to conclude that sufficient and accurate information has been provided for the Site at 2-34 Davidson Street, Greenacre with respect to the amended plans and documents to warrant a favourable determination of **DA2021.52** pursuant to Section 8.2 of the EP&A Act.



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In summary, it is requested that Council review its decision and the information provided within this Application and provide a favourable determination for the following reasons:

1. The grounds for refusal have been adequately addressed as follows:
 - a. The revised proposal is consistent with the aims of the *Strathfield Local Environmental Plan 2012*.
 - b. The revised proposal is consistent with the objectives of the IN1 General Industrial zone.
 - c. The proposed development is compliant with respect to the applicable Development Standards pursuant to the *Strathfield Local Environmental Plan 2012*.
 - d. The proposed development is consistent with the aims and objectives of all relevant local and miscellaneous provisions bestowed under the *Strathfield Local Environmental Plan 2012*.
 - e. The proposal is generally consistent with the *Strathfield Consolidated Development Control Plan 2005* and *DCP 14 Davidson Street Greenacre*.
 - Where concessions have been sought, reasonable and feasible mitigation measures and conducive design solutions have been proposed in order to present a supportable built form outcome; enhance landscaping; and protect all amenity areas from a visual and acoustical perspective.
2. The proposal is permissible with Development Consent within the IN1 General Industrial zone and is considered to be appropriate within the context of the Site and surrounding area.
3. The proposal represents a suitable and appropriate redevelopment / improvement to the existing industrial development on-site.
4. Overall, the proposal will not cause any adverse environmental or amenity impacts on-site and on adjoining sites, including residential development toward the south of Davidson Street.

In light of the above (including the additional information provided), it is requested that the Strathfield Local Planning Panel approve **DA2021.52** as proposed under this Application.

Should you require any further information, please do not hesitate to contact the undersigned.

Your sincerely,



Chris Wilson
Managing Director
Willowtree Planning Pty Ltd



Annexures:

Appendix 1 – Survey Plan

Appendix 2 – Architectural Plans

Appendix 3 – Landscape Plans

Appendix 4 – Arborist Report

Appendix 5 – Civil Engineering Drawings and Letter of Support

Appendix 6 – Noise Impact Assessment

Appendix 7 – Waste Management Plan Letter of Support

