

RELEVANT INFORMATION FOR COUNCIL

FILE: D/2017/469 **DATE:** 19 February 2018
TO: Lord Mayor and Councillors
FROM: Graham Jahn, Director City Planning, Development and Transport
SUBJECT: Information Relevant To Item 9.5 – Development Application: 9 Doody Street, Alexandria - At Council - 19 February 2018

Alternative Recommendation

It is resolved that consent be granted to Development Application No. D/2017/469, subject to the conditions as detailed in Attachment A to the subject report to the Planning and Development Committee on 12 February 2018, amended as follows (with additions shown in **bold, italics** and deletions shown in ~~strikethrough~~):

(2) DESIGN MODIFICATIONS

The design of the building must be modified as follows:

- (a) The Hydrant Diesel Pump (Identified as HDP on the ground floor and southern elevation plans) is to be relocated, redesign and/or removed so that it does not rely on an adjacent site for serviceability and use.
- (b) ***The location and design of the garbage storage area and associated collection area shall be redesigned so that the development may be serviced from within the boundaries of the site.***
- (c) ***The “Fire Hydrant Booster New” illustrated on the ground floor plan in the north western corner shall be relocated so that it is wholly within the boundaries of 9 Doody Street.***
- (d) ***The plans shall be amended to delete the annotation along the western boundary of the site which states “Retain Ex. Bamboo Screen”.***

The modifications are to be submitted to and approved by Council’s Area Planning Manager prior to the issue of any Construction Certificate.

(13) ALLOCATION OF CAR PARKING

The number of car parking spaces to be provided for the development shall not exceed the table below. Details confirming the parking numbers shall be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

Car Parking Type	Number
Office/Commercial and business Staff/Employee parking In 2 x 11 each mechanical stacker system	22
Accessible office and business parking	1
Visitor parking	1
Subtotal	24
Motorcycle parking	2
Service vehicle /delivery/courier spaces Australian Standard B99 vehicle space	1
Total	27

The car parking numbers listed in the table above relate to spaces located on 9 Doody Street only.

No consent is given or implied to the use of visitor or car parking spaces indicated on the architectural plans that are located on adjacent properties as part of this development consent.

(84) EASEMENT FOR PUBLIC ACCESS

Prior to the issue of any Occupation Certificate for the development, the owner of the site is to enter into a Deed of Agreement with Council to create an Easement for Public Access (and associated Positive Covenant). The Easement (and associated Positive Covenant) is to be over the existing Right of Carriageway (which was created by the registration of Deposited Plan 1119470). The Easement is to be of variable width between 2.89m and 3m wide and within the western boundary of the site extending from the southern alignment of Doody Street to the southern boundary of the site. ***It shall enable the passage of pedestrians, cyclists and other means apart from motorised vehicles.*** The Easement is to be created at a future date when required by Council, and is to be appurtenant to Council in terms granting rights for public access to Council's satisfaction.

In addition, Council will have the right to Caveat the interest created under the Deed of Agreement.the addition of the following new condition, Condition (2A):

(2A) RETENTION OF SIDE GATE

The existing gate along the western edge of the site servicing the driveway for the benefit of both 9 Doody Street and the site at the rear, 32 Ralph Street be retained.

Prior to the issue of any Construction Certificate, amended plans shall be submitted to, and approved by, Council's Area Planning Manager, to illustrate the retention of this gate.

Any future alteration or removal of this gate will require the consent of all owners of the gate.

Background

Development Application No. D/2017/469 for the site at 9 Doody Street, Alexandria was considered by the Planning and Development Committee at its meeting on 12 February 2018.

At this meeting, it was requested by Councillors that:

- additional information be prepared to address matters raised by the adjacent property land owner at 32 Ralph Street, Alexandria. Those matters and a response by City staff are detailed below;
- the Planner contact the land owner of 32 Ralph Street, Alexandria to discuss the Development Application and the concerns raised in their correspondence, dated 12 February 2018; and
- further clarification on why land is not required to be dedicated as part of the Liveable Green Network.

Response to matters raised by adjacent property owner of No. 32 Ralph Street

- ***A proposed hydrant booster in the north western corner of the ground floor is located on adjacent land, not 9 Doody Street and is not lawful.***

Comment: It is agreed that the siting of the hydrant booster is outside the boundaries of the site of 9 Doody Street, and no land owner's consent was provided for the location of the hydrant booster on the adjacent property. A design modification condition has been recommended for imposition to relocate the booster wholly within the boundaries of the site at 9 Doody Street.

- ***A Diesel pump located at the rear requires a 1m service area over the adjacent site, 32 Ralph Street. No land owner's consent has been granted from 32 Ralph Street making, this unlawful.***

Comment: A design modification condition has been recommended to require the relocation of the diesel pump so that the structure does not encroach on the neighbouring property and the use of the adjacent property is not required for servicing.

- ***Bin collection is proposed over the adjacent site, 32 Ralph Street, The easement over 32 Ralph Street benefitting 9 Doody Street does not allow for bin storage, only right of carriageway. Land owner's consent from 32 Ralph Street is therefore required to make this application lawful.***

Comment: A design modification condition has been recommended to require the redesign the bin collection area so that collection occurs wholly within the site at 9 Doody Street and not within the boundaries of 32 Ralph Street.

- ***The front gate located on the western side of the building servicing both 9 Doody Street and 32 Ralph Street is not shown on the plans and therefore indicated for removal. This gate sits over 32 Ralph Street and 9 Doody Street. Owner's consent is required for the removal of this gate.***

Comment: A new condition has been recommended to require the retention of the gate on the vehicular access unless permission is sought from all owners of the gate for its removal or alteration.

- ***Council has no right to impose a condition requiring an easement for public access be made over 9 Doody Street, as 32 Ralph Street benefits from a right of carriageway easement over the same portion of land.***

Comment: Easements are able to be created in conjunction with others. The provision of one easement over a portion of land does not exclude the registration of another, so long as the terms of both easements can be met. The condition is to be retained on the application in order to deliver the intent of the Liveable Green Network in the future.

- ***Visitor car parking spaces are identified on the adjacent site, 32 Ralph Street. No permission is granted from this land owner for works to that property.***

Comment: One on-site visitor space is provided within the development; this is located on the western side of the car park adjacent to the car stacker.

It is agreed that the architectural plans do illustrate visitor parking spaces to the south of the car stacker in the subject development. These spaces are located on the adjacent property at No. 32 Ralph Street and do not form part of the subject application. Their inclusion on the plan is indicative only to illustrate context of the adjacent development.

Condition (13) (Allocation of car parking) has been amended to include a notation that no car parking on adjacent properties is approved as part of this development application. All car parking numbers to be provided as part of this development, as listed in Condition (13), are located wholly within the car park on the site.

- ***Landscaping along the western side of the ground floor plan is indicated as 'retained'. This is irrelevant, as the applicant has no authority to alter landscaping not on their land.***

Comment: The indication that the bamboo is to be retained is indicative only. A condition has been recommended to remove this annotation.

- ***Vehicle swept paths show that service vehicles will stray onto adjacent land in order to pass through the site. They have no permission to do so.***

Comment: Further swept path analysis has been submitted by the applicant to demonstrate that a service vehicle can service the site and remain wholly within either the subject site or within the boundaries of adjacent sites that are burdened by an easement for access. A copy of the further swept path analysis is provided at Attachment A.

Communication between Planner and adjacent property owner

As requested by Councillors, Council's Planner contacted the adjacent property owner of 32 Ralph Street on 15 February 2018. This communication occurred in the form of a telephone conversation. The content of the above dot points and the recommended outcome was discussed.

During this conversation, it was requested that Council give consideration to amending the current requirements of Condition (84) (Easement for Public Access) to prohibit motor vehicles passing through as a means of public access in the future.

Based on the intent of the Liveable Green Network as an extension to the City's pedestrian and cycling network, no objection is raised to providing further clarity in this condition on the extent of public access.

An amendment to Condition (84) has been included in the alternative recommendation, above.

Liveable Green Network

As part of the consideration of the application by the Committee, further clarification was requested from staff on why an easement was the proposed recommendation rather than a land dedication to facilitate public access for the Liveable Green Network.

Section 5.8.3.3 of the Sydney DCP 2012 specifies that new developments are to be setback to facilitate the Liveable Green Network, and are “*generally required to be dedicated to Council*”.

In this instance, dedication was not the preferred approach for achieving the future liveable green network at this time, as the setback area is under 2 different land ownerships and is burdened by an easement for the right of carriageway for vehicular access.

Furthermore, due to the existing constraints over this land at the current time and due to the existing lack of connectivity of this land with the remainder of the liveable green network, it is not beneficial to Council to seek dedication of this partial piece of the network at this time.

As drafted, Condition (84) (Easement for Public Access) requires the developer of the site to enter into a Deed of Agreement with Council to create an easement for public access at a future date when required by Council. This creates certainty at the time of determination that the intent of the liveable green network can be achieved in the future, and allows the current operation and access of the site and No. 32 Ralph Street to remain in place without hindrance.

Prepared by: Jarrad Sheather, Planner

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Attachments **A – Swept path analysis of service vehicle**

Approved

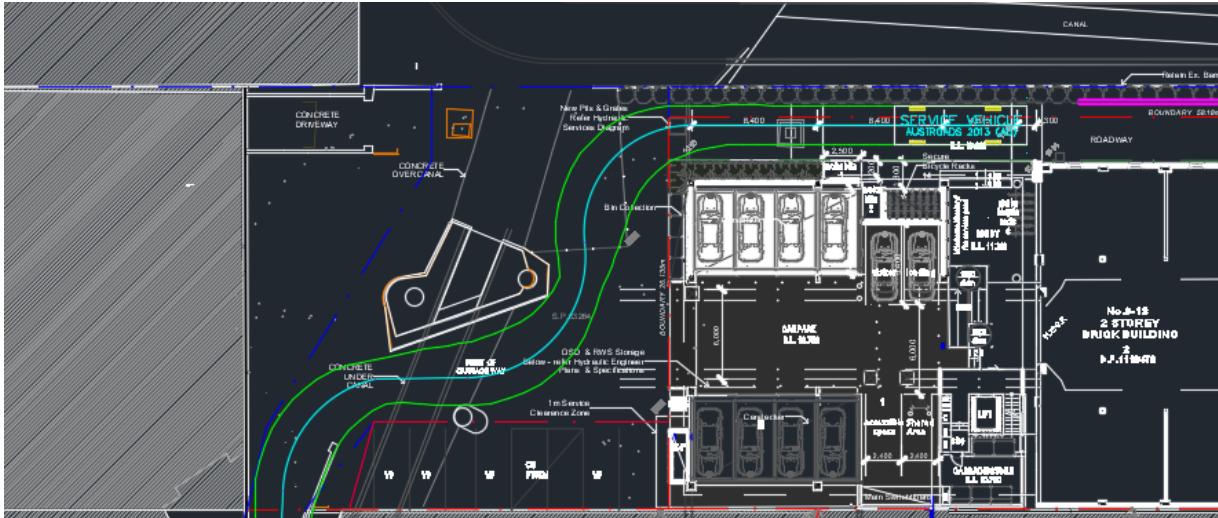


**Graham Jahn AM, Director of City Planning,
Development and Transport**

ATTACHMENT A

**SWEPT PATH ANALYSIS OF
SERVICE VEHICLE**

9 DOODY STREET ALEXANDRIA



The above is a swept path analysis for a service vehicle passing through the rear of the site. It's evidence that a vehicle can pass through the rear of the site without relying on a neighbour's property where no easement is in place.

The blue line indicates the extent of the easement over 32 Ralph Street, the green lines indicate the extent of the service vehicle.