

**ELECTRONIC REPORT TO THE GEORGES RIVER LOCAL PLANNING PANEL
FOR THE MEETING TO BE HELD ON 23 FEBRUARY 2022 FOLLOWING
DEFERRAL FROM MEETING OF PANEL ON 15 JULY 2021 AND 19 NOVEMBER
2021**

LPP Report		Development Application No.	DA2021/0078
Site Address and Ward	165 Penshurst Street, Beverly Hills Mortdale Ward		
Proposed Development	Alterations and additions to an industrial building and use of the premises as a self-storage facility		
Owners	ME Property Holdings Pty Ltd		
Applicant	Turnbull Planning International		
Planner/Architect	Turnbull Planning International / Graeme Scott Architect		
Date of Lodgement	5 March 2021		
Submissions	The application was not renotified following the meeting of 19 November 2021 (11 submissions received originally).		
Cost of Works	\$930,000.00		
Local Planning Panel Criteria	The application is referred to the Local Planning Panel for determination as more than 10 unique submissions were received objecting to this application.		
List of all relevant s4.15 matters	State Environmental Planning Policy No.55 – Remediation of Land, State Environmental Planning Policy (Infrastructure) 2007, Draft Environmental State Environmental Planning Policy, Draft State Environmental Planning Policy – Remediation of Land, Georges River Local Environmental Plan 2021, Hurstville Local Environmental Plan 2012, Hurstville Development Control Plan No. 1		
List all documents submitted with this report for the Panel's consideration	Electronic LPP Report from 19 November 2021 LPP Minutes from 19 November 2021 Detail and Level Survey Hydraulic Capacity Report Stormwater Design Certificate Proposed Stormwater Plans		
Report prepared by	Senior Development Assessment Planner		
Recommendation	That the application be refused for the reasons in this report.		

<p>Summary of matters for consideration under Section 4.15 Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?</p>	Yes
<p>Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed and relevant recommendations summarised, in the Executive Summary of the assessment report?</p>	Yes
<p>Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?</p>	Clause 4.3 Height of buildings
<p>Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (under s7.24)?</p>	Not applicable
<p>Conditions Have draft conditions been provided to the applicant for comment?</p>	No – the application is recommended for refusal

EXECUTIVE SUMMARY

This report has been prepared following the deferral of the subject application (DA2021/0078) by the Local Planning Panel (the Panel) at its electronic meeting on 19 November 2021. The Development Application the subject of the deferral proposes alterations and additions to an industrial building and use as a self-storage facility on land known as 165 Penshurst Street, Beverly Hills.

The application was originally considered by the Panel on 15 July 2021. The Panel resolved to defer consideration of the application to allow the applicant to submit additional information including confirmation the proposal meets Clause 7 of SEPP 55 - Remediation of Land, a car parking management plan, amended stormwater management plans, a schedule of materials and finishes, a Waste Management Plan and exterior lighting details.

The Panel met electronically on 19 November 2021 to consider the additional information requested and submitted, and resolved to defer consideration of the application to allow the applicant to submit the following within 60 days:

1. Stormwater management information to demonstrate that the system can adequately and legally cater for the stormwater from the proposed works being discharged to the existing stormwater system or to the street. This should include:

- i. Submit details of the easement's pipe existing condition based on the use of a CCTV investigation serviceability and structural conditions and a survey plan prepared by a registered surveyor showing the existing pipe location, size, cover from ground surface, depth and its extent within the*

easement outside the property leading to its connection to downstream public drainage systems.

- ii. Provide proof of capacity of the existing pipe: a detailed longitudinal section of the existing drainage pipe within the easement showing surface levels, invert levels, grade, any public utility services shall be submitted with engineering calculations demonstrating adequate capacity of the pipe to cater for the developed property runoff (including hydraulic grade line analysis) which shall be prepared by a consulting drainage engineer and submitted for approval to Council's Development Engineer.*
- iii. A certificate is to be provided from the drainage design engineer stating that the drainage pipe within the rear inter allotment easement is fit for purpose and shall be able to drain and cater for developed design runoff from the subject property without adverse and nuisance impact to all neighbouring properties burdened by the easement.*

On 31 January 2022 the applicant submitted the following information:

- Detail and Level Survey of 165 Penshurst Street, Beverly Hills
- Hydraulic Capacity Report
- Stormwater Design Certificate
- Proposed Stormwater Plans

Council's Senior Development Engineer has reviewed the amended stormwater plans and certification submitted and advised the plans do not demonstrate that the proposed works can adequately or lawfully be discharged to the existing system or to the street in accordance with the Georges River Stormwater Management Policy.

The applicant has not undertaken investigations to confirm or establish the depth or location of the pipe within the easement, nor the capacity of the pipe, invert levels or grade, to ensure the design of the OSD can adequately service the proposed development.

The application is recommended for refusal for the reasons discussed in this report.

REPORT IN FULL

A. BACKGROUND

At its meeting of 15 July 2021, the Georges River Local Planning Panel considered the subject application and resolved the following:

Deferral

Pursuant to Section 4.16(1) of the Environmental Planning and Assessment Act 1979, as amended, Development Application No. DA2021/0078 for the alterations and additions to an industrial building and use of the premises as a self-storage facility at 165 Penshurst Street,

Beverly Hills, be **deferred** and invites the applicant to submit the following:

1. *Written confirmation from a suitably qualified and experienced Land Contamination consultant that the proposed development meets the requirements of Clause 7 of State Environmental Planning Policy 55 – Contamination of Land in that the use and works are suitable for the site in its existing condition as identified in the Preliminary Site Investigation.*
2. *A Car Parking Management Plan for the 7 parking spaces shown on the plan outlining how and by who these spaces will be available to for use throughout the hours of operation, including distinction between staff, service vehicles, and visitors/customers to the site.*
3. *A schedule of materials and finishes and photomontage of the proposed building, particularly the façade facing Penshurst Street and the adjoining public access way.*
4. *Stormwater management information to demonstrate that the system to cater for the proposed works can be adequately and lawfully be discharged to the existing stormwater system or to the street in accordance Council’s Stormwater Management System adequately.*
5. *A Waste Management Plan prepared by a suitably qualified professional in accordance with Appendix 1 of the Hurstville Development Control Plan No. 1.*
6. *That amended plans to show lighting on the building adjacent to the public access way to maintain casual surveillance and safety. Any lighting proposed should not spill on any adjacent residential uses.*

The matter is to be referred back to the same Panel for electronic determination within 60 days.

At the electronic meeting held on 19 November 2021 the Panel considered the additional information requested and submitted, and resolved the following:

Deferral

The Panel determined to defer Development Application No. DA2021/0078 for the alterations and additions to an industrial building and use of the premises as a selfstorage facility at 165 Penshurst Street, Beverly Hills, and invites the applicant to submit the following;

1. *Stormwater management information to demonstrate that the system can adequately and legally cater for the stormwater from the proposed works*

being discharged to the existing stormwater system or to the street. This should include:

- i. Submit details of the easement's pipe existing condition based on the use of a CCTV investigation serviceability and structural conditions and a survey plan prepared by a registered surveyor showing the existing pipe location, size, cover from ground surface, depth and its extent within the easement outside the property leading to its connection to downstream public drainage systems.*
- ii. Provide proof of capacity of the existing pipe: a detailed longitudinal section of the existing drainage pipe within the easement showing surface levels, invert levels, grade, any public utility services shall be submitted with engineering calculations demonstrating adequate capacity of the pipe to cater for the developed property runoff (including hydraulic grade line analysis) which shall be prepared by a consulting drainage engineer and submitted for approval to Council's Development Engineer.*
- iii. A certificate is to be provided from the drainage design engineer stating that the drainage pipe within the rear inter allotment easement is fit for purpose and shall be able to drain and cater for developed design runoff from the subject property without adverse and nuisance impact to all neighbouring properties burdened by the easement.*

The matter is to be referred back to the same Panel for electronic determination within 60 days.

B. AMENDED PLANS AND REPORTS

On 31 January 2022 the applicant submitted the following information:

- Detail and Level Survey of 165 Penshurst Street, Beverly Hills
- Hydraulic Capacity Report
- Stormwater Design Certificate
- Proposed Stormwater Plans

Council's Senior Development Engineer has reviewed the amended stormwater plans and certification submitted and advised the plans do not demonstrate that the proposed works can adequately or lawfully be discharged to the existing system or to the street in accordance with the Georges River Stormwater Management Policy.

The applicant has not established the level of the easement pipe and has assumed a level for the purposes of designing the OSD tank and stormwater management of the site.

The following table outlines the requests of the Panel and what has been submitted by the applicant. More detailed discussion follows the table.

Requested Information	Submitted Information	Comment
<p>1. Stormwater management information to demonstrate that the system can adequately and legally cater for the stormwater from the proposed works being discharged to the existing stormwater system or to the street. This should include:</p>		
<p>i. Submit details of the easement's pipe existing condition based on the use of a CCTV investigation serviceability and structural conditions and a survey plan prepared by a registered surveyor showing the existing pipe location, size, cover from ground surface, depth and its extent within the easement outside the property leading to its connection to downstream public drainage systems.</p>	<p>CCTV investigation was not undertaken.</p> <p>A survey plan was submitted however it provides only a site survey, not pipe depth details.</p>	<p>The required information has not been submitted.</p>
<p>ii. Provide proof of capacity of the existing pipe:</p> <p>a detailed longitudinal section of the existing drainage pipe within the easement showing surface levels, invert levels, grade, any public utility services shall be submitted with engineering calculations demonstrating adequate capacity of the pipe to cater for the developed property runoff (including hydraulic grade line analysis) which shall be prepared by a consulting drainage engineer and</p>	<p>A longitudinal section has not been provided.</p>	<p>The required information has not been submitted.</p>

Requested Information	Submitted Information	Comment
<i>submitted for approval to Council's Development Engineer.</i>		
<p><i>iii. a certificate is to be provided from the drainage design engineer stating that the drainage pipe within the rear inter allotment easement is fit for purpose and shall be able to drain and cater for developed design runoff from the subject property without adverse and nuisance impact to all neighbouring properties burdened by the easement.</i></p>	<p>The Stormwater Design Certificate submitted does not confirm the pipe within the easement is fit for purpose.</p> <p>The certificate states that:</p> <p><i>The stormwater drainage has been designed to discharge into the existing drainage system comprising of an inter-allotment pipe. The inter-allotment pipe at the south-western corner of the site burdens the downstream property (DP 732309) and registered on the relevant lot titles.</i></p> <p><i>The inter-allotment pipe is to be inspected during construction to confirm adequacy. This office is to be contacted so that an inspection of the excavated drainage elements can occur. Further camera testing may be required to confirm the adequacy of the inter-allotment pipe.</i></p>	<p>Adequacy of the existing pipe has not been confirmed. Refer to discussion following this table.</p>

The Hydraulic Capacity Report was prepared based on architectural plans, stormwater plans, a survey plan and plumbing inspections. Key points from the report include:

1. The existing point of connection to the network was not identified;
2. The depth of the easement pipe at the boundary was not determined;
3. Access to the site to undertake works required to investigate the depth of the pipe was not granted as the site is tenanted and currently used for industrial purposes;

4. Access to private properties would require owners consent to carry out investigations;
5. Assumptions were made in relation to drainage sub-catchment areas, surface levels of stormwater pits and invert pipe levels within the drainage system and the location of the stormwater system.

Council's Senior Development Engineer provides the following comments on the information submitted:

“ Subsequent to my review of latest stormwater drainage plans, it is found that LPP requested key design information regarding CCTV investigation report and survey plan have not been submitted. Hence, please find comments below to be considered in addressing site discharge issues from this development.

1. *The site is quite large (2826m²) and proposed site outflow is 38.4 litres/sec. The site outflow is currently proposed to discharge to an existing inter allotment drainage pipe at the rear.*
2. *It is essential that the proposed site drainage system must be able to discharge satisfactorily to a legal point of discharge and for this site the discharge point is an inter allotment drainage at the rear of the property. Earlier, DA submitted plans did not provide any easement and its drainage pipe detail information for assessment.*
3. *Subsequently LPP sought demonstration and evidence by utilising CCTV investigation and surveyed plan that the existing easement stormwater system can satisfactorily accommodate the stormwater drainage from the site. The existing easement drainage pipe detail will confirm the ability and adequacy of the pipe to convey site drainage without causing nuisance on to adjoining properties. The pipe detail will also confirm that the site drainage discharge can be possible hydraulically and without easement pipe size and levels information, the drainage design cannot be simple be achieved as water always goes downhill.*
4. *With the latest submission, the applicant has not been able to submit CCTV serviceability and structural conditions and pipe surveyed levels with detail information prepared by a registered surveyor. Hence the site drainage design systems cannot be demonstrated and confirmed that it will be fully functional with rear inter allotment drainage system leading to a public drainage system and without causing any potential future drainage issues for Council and adjoining property owners.*
5. *As an alternate option for site discharge, a direct connection into existing Peshurst Street underground pipe system could be investigated for satisfactory legal point of discharge.*

In addition to this report, the Panel has been provided with correspondence between the Council officer and the applicant following the deferral of the DA by the Panel in November 2021, in which the applicant claims the works undertaken by the applicant

over December 2021/January 2022 (as requested by the Panel in November 2021) could have been avoided had council requested details of the pipe in the easement 12 months ago.

In this regard, Council's Team Leader – Development Advisory Services met with the applicant in a Pre Lodgement meeting on 9 December 2019 and advised the applicant in writing on 10 February 2020:

a) Disposal of Stormwater

The DA is to be accompanied by a report prepared by a qualified practising Hydraulic Engineer confirming that the existing drainage system has been thoroughly investigated and is fully functional. Further, the report is to advise on the sizing of the Page 6 of 7 existing underground drainage system with regard to Council's current stormwater design policy.

b) On Site Detention

On Site Detention is to be provided for the site in accordance with the guidelines contained in Council's Hurstville Development Control Plan 2013 No. 1, Appendix 2, Section 1, Drainage and On Site Detention (OSD) Policy. A minimum of 80% of the site is to drain through the OSD system.

A hydraulic report was not submitted with the DA and the design of the onsite detention system fails to meet the requirements of the OSD Policy. Had the applicant prepared the required information and undertaken the necessary investigations into the easement pipe prior to lodgement, as advised in the Pre Lodgement letter of February 2020, and rather than assumed levels being used, the stormwater management plan would have been designed to comply with the policy as all necessary information would have been acquired prior to the design being finalised.

C. CONCLUSION

The additional information submitted by the applicant in response to the reasons for deferral by the Georges River Local Planning Panel have been addressed in this report.

The applicant has not undertaken the required investigations to confirm the level of the easement pipe and instead made assumptions to inform the design of the stormwater management system.

Council's Senior Development Engineer has reviewed the amended stormwater plans and certification submitted and advised the plans do not demonstrate that the proposed works can adequately or lawfully be discharged to the existing system or to the street in accordance with the Georges River Stormwater Management Policy.

The applicant has not undertaken investigations to confirm or establish the depth or location of the pipe within the easement, nor the capacity of the pipe, invert levels or grade, to ensure the design of the OSD can adequately service the proposed development.

The assessment of the information concludes that the proposal cannot be supported as the required information has not been submitted to confirm the adequacy of the existing pipe that currently drains the site.

D. DETERMINATION AND STATEMENT OF REASONS

Statement of Reasons

The reason for this recommendation is the application fails to demonstrate compliance with stormwater and drainage controls. The plans and supporting information submitted with the application do not demonstrate that the proposed works can adequately or lawfully be discharged to the existing system or to the street in accordance with the Georges River Stormwater Management Policy.

Determination

1. THAT pursuant to Section 4.16(1) of the Environmental Planning and Assessment Act 1979 (as amended), Georges River Local Planning Panel refuse development consent to Development Application DA2021/0078 for alterations and additions to an industrial building and use of the premises as a self-storage facility at Lot A in DP335941 known as 165 Penshurst Street, Beverly Hills, for the following reasons:
 1. The proposed development does not comply with the Chapter 3.7 - Stormwater of Hurstville Development Control Plan No. 1. The plans and information submitted with the application do not demonstrate that the proposed works can adequately or lawfully be discharged to the existing system or to the street in accordance with the Georges River Stormwater Management Policy.
 2. The proposal is unsatisfactory having regard to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 as the proposed stormwater system fails to adequately drain the development.