

ITEM NO: 16

SUBJECT: DEVELOPMENT APPLICATION NO. X/798/2007 FOR THE USE OF THE EXISTING BUILDING FOR FUNCTIONS, GUEST HOUSE AND REFRESHMENT ROOM ON LOT 1 DP 7196, LOT 2 DP 7196 AND LOT 5 DP 655768, YABBA YABBA, 179-181 WENTWORTH STREET, BLACKHEATH.

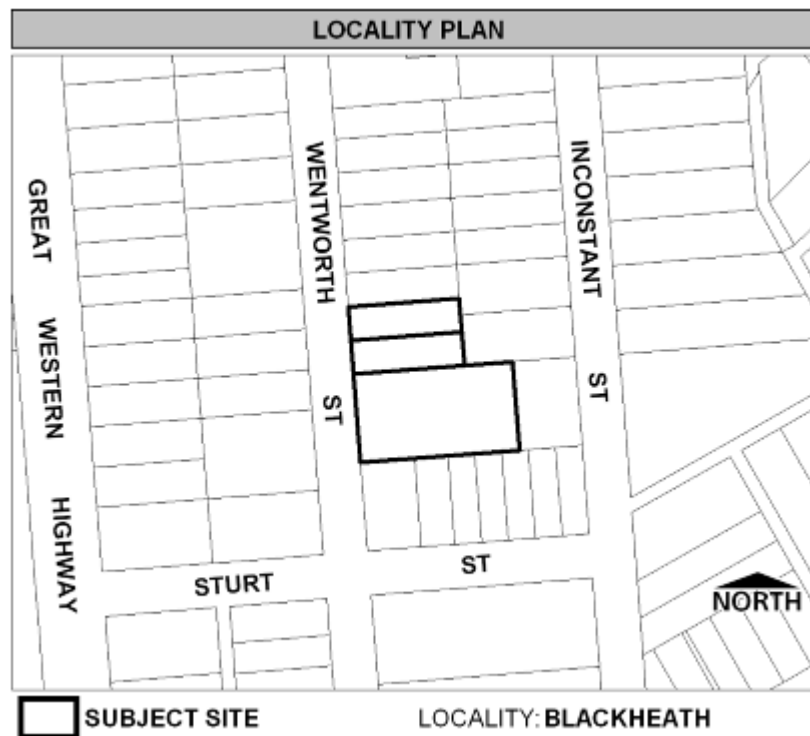
FILE NO: X/798/2007

Recommendations:

1. *That the Council endorse the Conservation Management Plan for Yabba Yabba; Wentworth Street, Blackheath, prepared by Integrated Design Associates and dated November 2007, as provided to Councillors under separate cover.*
2. *That the Conservation Management Plan be placed on file and in the Local Studies Collection of the Council's Library.*
3. *That the Development Application No. X/798/2007 for the use of the existing building for functions, guest house and refreshment room on Lot 1 DP 7196, Lot 2 DP 7196 and Lot 5 DP 655768, Yabba Yabba, 179-181 Wentworth Street, Blackheath be determined pursuant to S.80 of the Environmental Planning and Assessment Act 1979 by the granting of consent subject to conditions shown in Attachment 1 to this report.*

Report by Group Manager, Environmental and Customer Services:

Reason for report	Referred by Councillors.
Applicant	Cityscape Planning and Projects
Owner	R E D Industries Pty Limited
Application lodged	17 th August 2007
Property address	Yabba Yabba, 179-181 Wentworth Street, Blackheath



Background

Yabba Yabba is listed as a heritage item under the Council’s Local Environmental Plan 2005 and has a history of use as a guesthouse which is documented in the State Heritage Inventory form for the site. There is no historic consent for the use of the site for tourist accommodation as use of the site for this purpose predates the introduction of the Council’s planning instruments.

For at least the past ten (10) years the premises has been used primarily for domestic purposes. During this time the premises has been let out on a short term basis as a holiday let and the kitchen has been inspected by the Council. Prior to the introduction of the term ‘holiday lets’ under LEP 2005 consent was not required for the short term leasing of a dwelling and as such there was no approval required for this use.

Food premises inspections were undertaken between December 2001 and December 2005. The food inspections were instigated in 2001 by the Council’s Environmental Health Officer in response to the introduction of the National Food Safety Standards. The last inspection report identified the kitchen had not been in use for commercial purposes and the premises had been used as a private dwelling since 2005.

The Council became aware of the use of the premises for accommodation, conventions, functions and restaurant following the placement of advertisements within the Blue Mountains Gazette on 27 June 2007. The Council wrote to the owners of the property on 9 July 2007 advising that use of the premise in

this way was illegal and that Council approval was required. The owners were advised to lodge a land use application accompanied by a Conservation Management Plan, Heritage Impact Statement, Traffic Management Plan, Noise Assessment and Statement of Environmental Effects.

A land use application was lodged on 17 August 2007, however the Conservation Management Plan, Traffic Management Plan and Noise Assessment were not lodged. Final documentation was submitted to the Council for assessment on 17 March 2008.

Site description

The subject site is located at 179-181 Wentworth Street and comprises three (3) allotments having a total area of 4437m². The site is within a residential locality which is characterised by relatively large allotments with single residential dwellings sited within established landscaped settings.

The site contains a large residential dwelling, tennis courts, a covered pergola and BBQ area, sheds, garages and landscaped gardens.

The ground floor of the building contains eight (8) guest bedrooms, eight (8) bathrooms/ensuites, a sitting room, a dining room, living room, breakfast room and a kitchen.

The undercroft area is currently used as the owner's principle area of residence and contains three (3) bedrooms, four (4) bathrooms, a laundry, a kitchenette and a games/lounge room.

Proposal

It is proposed to operate the premises permanently as a guesthouse with the refreshment room and function centre operating on an occasional basis. The application initially proposed the use of the premises as a guesthouse with seven (7) guest bedrooms, communal living and dining facilities, a manager's and an owner's quarters and thirteen (13) on site car parking spaces with the potential for additional car parking to be provided within the verge area on the street adjacent to the site.

Further clarification of the owner's intentions in relation to the operation of the premises indicated the use of six (6) bedrooms as guest rooms, the owner's permanent residence on site, and the use of the site for weddings and functions on three (3) weekends every month with a maximum capacity of sixty (60) guests. The owners also advised that they wished to open the dining room on one (1) weekend per calendar month to the public with a maximum of forty (40) guests.

During the course of assessment of the application and through negotiations with the owners of the property, it was agreed that the proposal would seek approval for a maximum of forty (40)

guests at any time. The manager's quarters was identified as the guestroom most suited to adaptation to meet the requirements for accessibility, and an additional guest bedroom was identified on modified plans, bringing the total number of guest bedrooms to eight (8).

Guest rooms, communal dining and living areas are provided on the ground floor of the building. The owners will reside on site in an undercroft area of the building.

A Conservation Management Plan (CMP) was prepared in relation to the proposal. The CMP was required in order to seek approval for a non-permissible use in the Living General zone.

A copy of the plans showing the site area and proposed use of the building are provided in Attachment 2 to this Report.

Development controls

The site is zoned Living-General under the provisions of Local Environmental Plan 2005 (LEP 2005).

The site is mapped as being within a Protected Area – Period Housing Area.

The proposal is subject to compliance with Development Control Plan – Better Living DCP:

- Part C3 – Heritage Conservation;
- Part C4.4 – Health and Safety;
- Part D7 – Tourist accommodation and boarding houses;
- Part D8 – Subdivision.

The site is listed as a heritage item in Schedule 6 of LEP 2005 – BH045.

Notification

The application was advertised in the Blue Mountains Gazette for a period of 30 days between 3 October 2007 and 2 November 2007. Written notification was also sent to adjoining and nearby properties.

Twenty four (24) submissions were received at the conclusion of this notification process. Twenty two (22) letters raised objections to the proposal, fifteen (15) of which were “form” letters. There were two (2) letters in support of the proposal.

Resident issues – objections

The main issue raised related to the proposed use of the site for functions. Many of the objections stated that there was no issue with the use of the site for a guesthouse/bed and breakfast. In summary the objections to the proposal related to the following issues:

- Noise – generated by large numbers of people attending functions, amplified music and caused by guests leaving the site at night.
- Car parking – the proposal does not provide adequate on site car parking, resulting in overflow parking on surrounding streets;
- Light spillage – to adjoining residences;
- Littering – in streets from guests;
- Heritage – inappropriate use of heritage provisions.

Resident issues – support

Those letters in support generally stated that the use of the site for functions was not an issue and that the current owners were contributing to the local community.

Ten (10) additional letters of thanks and appreciation of the facilities were forwarded by the owner. Whilst noted, these letters and messages were not identified as part of the formal public consultation process.

Evaluation

The application has been assessed in accordance with Section 79C (Evaluation) of the *Environmental Planning and Assessment Act 1979*. A commentary on the assessment of the development against the 79C evaluation matters has been detailed in this report for the Council’s consideration as follows:

1. Local Environmental Plan 2005
2. Better Living Development Control Plan
3. Acoustic amenity

Discussion of issues

1. Local Environmental Plan 2005

The proposed development has been assessed against the provisions of LEP 2005 in the table below, with specific issues identified and discussed thereafter.

Clause	Standard	Proposed	Compliance
cl. 12	Principal objectives of the plan	The proposal will enhance and retain a significant heritage item and will maintain the established landscaped gardens within the large allotment. By allowing for limited use of the gardens and dining room by the public, the proposal will provide opportunities for the public to interact with the historic house and garden.	Yes
cl. 22	Living General zone - objectives	The proposal seeks approval for a non residential use that, with appropriate management, will not detract unreasonably from the amenity of surrounding residents. The proposal will retain the landscaped character of	Yes

		the locality. The application does not propose any external building works, but seeks approval for the use of an existing building.	
cl. 32	Land Use Matrix	<p>The proposal seeks approval for the use of the existing building for tourist accommodation; including the use of the building as guesthouse accommodation, restaurant facilities and for functions.</p> <p>Tourist accommodation is not permitted within the Living-General zone. The proposal relies on Clause 77 (Conservation incentives) for permissibility, which permits non-conforming uses in a zone where that use complies with the requirements of that clause. Full discussion on this matter is detailed following this table.</p>	Yes
cl.53	Retention and management of vegetation	The proposal does not involve the removal of any vegetation on site. The grounds are managed by a gardener and existing landscape features are maintained. The Conservation Management Plan (CMP) refers to elements within the garden that should continue to be maintained and managed. Consideration should be given to the provision of an acoustically engineered fence along the southern boundary. This may result in the removal of some vegetation in this locality. It is recommended that plans for the fence be provided to the Council for approval prior to the issue of a Construction Certificate.	Yes
cl. 60 (3)	Consideration of character and landscape	The proposal involves some minor external works for the provision of car parking and it is recommended that a solid fence be provided along the southern wall. These works are considered minor and will not detract from the existing character of the locality. These measures will seek to address issues of noise and will not detract from the amenity of the site.	Yes
cl. 61	Protected Area – period Housing Area	The site is located within a Period Housing Area. The proposed use will maintain existing forms and layout of buildings and will maintain the building’s contribution to the streetscape.	Yes

Div. 4	Heritage Conservation	<p>The site is a heritage item listed in Schedule 6 of LEP 2005.</p> <p>The proposal is applying for a prohibited use in the zone under the provisions of Clause 77 - Conservation incentives.</p> <p>The applicant has submitted a Conservation Management Plan (CMP) to support the proposal for a non conforming use.</p> <p>A detailed discussion of heritage issues is provided following this table.</p>	Yes
cl.78	Consideration of bush fire protection	<p>The site is not mapped as bush fire prone. As such this clause is not applicable.</p>	N/A
cl. 94	General provision of services	<p>The subject site is serviced by electricity, water and sewerage.</p> <p>There are no additional toilets proposed.</p> <p>It is recommended to impose a condition of consent requiring the provision of a Section 73 certificate in accordance with legislative requirements.</p>	Yes
cl. 98	Access to land from a public road	<p>The site is accessed via a loose gravel drive.</p> <p>The CMP states that upgrading of access and car parking facilities may impact on the heritage significance of the site. The Council's development engineer has reviewed the plans and is satisfied that the existing driveway and on site car parking facilities are adequate for the proposed use.</p>	Yes
cl. 99	Car parking provision	<p>The site currently provides 13 on site car parking spaces and the potential to provide an additional 24 vehicles in the road reserve fronting the subject site.</p> <p>The proposal generates a demand for 22 on site car parking spaces. It is considered that the site is capable of meeting car parking demand for the proposed use, as augmented by on street parking during peak times.</p> <p>This matter will be discussed in greater detail following this table.</p>	Yes
cl. 107	Access to public buildings and public land	<p>The proposal will result in a building intended for use by the general public and must therefore comply with the requirements of Australian</p>	Yes

		<p>Standards <i>AS1428.1-2001, Design for access and mobility.</i></p> <p>As the building was constructed circa 1888, there is some difficulty in achieving full compliance; however access is available to the guesthouse via the deck and dining area of the ground floor.</p> <p>The applicants have provided plans showing modifications to one of the guest bedrooms to achieve compliance with AS1428.1-2001. A condition of consent requiring full compliance will be imposed.</p> <p>The proposal includes the provision of a new car parking space on site which is fully accessible and which accesses, via a continuous path of travel, the dining room and accessible guestroom.</p> <p>It is recommended that a condition of consent be imposed requiring the submission to the Council of an access and mobility statement prior to the issue of a construction certificate, confirming compliance with the requirements of AS1428.1.</p>	
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Clause 77 Conservation incentives

Clause 77 permits a heritage item to be used for a purpose otherwise not permitted in a zone, provided that:

- a) the retention of the heritage item depends on the granting of consent; and
- b) the proposed use is in accordance with a conservation management plan which has been endorsed by the Council; and
- c) the granting of consent to the proposed use would ensure that all necessary conservation work identified in the conservation management plan is carried out; and
- d) the proposed use would not adversely affect the heritage significance of the heritage item or its setting; and
- e) the proposed use would not unreasonably affect the amenity of the surrounding area.

Yabba Yabba is listed as one of Blackheath’s earliest guesthouses. It has had almost continuous use as a guesthouse since its construction in 1888 until the early 1970s. There is documented evidence of its availability as a guesthouse from 1903 until 1972 and it is understood that the premises were available as a ‘holiday let’ from 1987 until 2005. This history of use for tourism purposes is significant in the consideration of the current application.

The application is accompanied by a Conservation Management Plan (CMP). The CMP supports the use of Yabba Yabba for tourism accommodation and states that: *“The future of*

Yabba Yabba is dependant on an ongoing and viable use that will preserve intact the remains of the guest house and garden, and provide for its ongoing conservation.”

The CMP supports the proposal to use the building for tourist accommodation on the following grounds:

- Use of building and property as designed and as historically used (heritage benefit);
- Improved public access to the property through occasional restaurant and Devonshire tea use (heritage benefit).

The CMP also recommends that the use be regulated to ensure environmental benefit and economic benefits are balanced.

The CMP notes that threats to the future of Yabba Yabba include potential future subdivision of the site which would result in the loss of the landscaped grounds which have historic significance. The property has an area of 4437m², and in the Living General zone the minimum lot area is 720m². This could potentially result in the subdivision of the lot into a maximum of 6 notional allotments. Currently the site is made up of 3 separate lots which could be separately sold without consent of the Council.

The Council has an opportunity with this application to require consolidation of the three allotments and hence ensure the ongoing preservation of the gardens associated with Yabba Yabba. Should the Council be of a mind to approve the proposal, it is recommended that consolidation of the allotments be a condition of consent.

The CMP argues that restriction of usage that does not allow for public interaction with Yabba Yabba will mean that the opportunity for the heritage of the site to be promoted as part of income generation will be lost to the owners. As a consequence, alternative avenues for recouping the substantial costs incurred from maintaining Yabba Yabba would be sought, including subdivision.

Additional threats to the historic significance of Yabba Yabba include the potential need to provide car parking on site at levels required by the Council's Better Living Development Control Plan. The matter of traffic and car parking is discussed further in this report. However it is acknowledged that the removal of important landscape elements from the site for the purposes of providing car parking for peak use periods would be inappropriate.

The introduction of restaurant and tea room uses for the general public on an occasional basis is a new concept for the site. Historically 'fine cuisine' was offered to the guests of Yabba Yabba. It is noted that in the past the maximum number of guests attending the site was as high as 60 people. In the recent past, caterers have provided meals to guests of Yabba Yabba. It is argued in the application and the CMP that opening up the building to the broader public will assist by contributing to the upkeep of the premises via generating additional revenue, and will provide an opportunity for the local community to enjoy the facilities of Yabba Yabba, thus providing general public appreciation of the heritage values of Yabba Yabba.

Clause 99 – Car Parking

Many of the submissions received identified car parking as a major issue and expressed concern that there was inadequate car parking available on site and that cars would subsequently park in surrounding streets, causing inconvenience to neighbouring properties. It was also noted that cars generated noise when leaving functions late at night.

These concerns are acknowledged. The subject site has a large frontage and provides a significant proportion of the car parking required for the proposal on site. It is considered that with restrictions on the numbers of guests attending functions and limitations placed on hours of operation, adequate car parking can be provided on site or within the verge immediately fronting the site thereby reducing impacts on surrounding neighbours.

The Better Living DCP generates the following requirements for car parking.

- Dining room (80m²) - DCP requires 1 space per 15m² = 12 spaces;
- Guestrooms (8 bedrooms) - DCP requires 1 space per guestroom, plus 2 spaces per 3 employees (maximum 3 employees) = 10 spaces;
- Place of assembly (functions) – DCP requires 1 space per 4 seats or 1 space per 10m² whichever is the greater. (Maximum 40 seats) = 10 spaces.

The dining room will not be open to the public during functions and therefore is not required to be counted separately. The car parking numbers required for the dining room use will accommodate demands for function use. A condition of consent will be imposed to ensure that functions are held separately to public use of the dining room.

In total, the Better Living DCP requires the provision of 22 car parking spaces on site. The applicant's Traffic Management Plan proposes the provision of 37 car parking spaces with 13 on site and 24 within the verge area fronting the site. It is considered excessive to construct 24 car parking spaces within the front verge area as this use of the verge is likely to detract from the landscaped character of the neighbourhood.

It is recommended that 11 additional car parking spaces be constructed within the verge area fronting the site. This will result in the proposal complying with the number of car parking spaces required under the Better Living DCP, and will compensate for the loss of 2 existing informal car parking spaces available within the verge area fronting the site. The method of construction will be conditioned to ensure that there is no adverse impact on the heritage significance of the property. A sealed car parking area in this location will ensure the effectiveness of the parking area over time and will reduce off site impacts from erosion and sedimentation from a gravel finish. In addition a sealed car parking area within the verge will reduce noise from cars leaving the site.

It is noted that the Traffic Management Plan nominates that there will be a maximum of 60 patrons on site. This number was corrected by the owners of the property and it has been reinforced that a maximum of 40 guests will be on site at any one time. A condition of consent will reiterate this maximum.

2. Better Living Development Control Plan

The Better Living Development Control Plan (BLDCP) provides a number of development standards that are intended to supplement the approach of LEP 2005. An assessment of the application was undertaken in relation to the development standards provided in the DCP for heritage conservation, health and safety and tourist accommodation and subdivision (consolidation). Other matters addressed within the DCP have already been fully assessed in relation to the LEP. The following table addresses the substantive provisions in the BLDCP applicable to the proposal, unless already addressed in Section 1 of this report.

Clause	Standard	Proposed/Planning Comment
	<p>7.10 General Amenity</p> <p>Acoustic amenity Acoustic treatments are to be incorporated where necessary and practicable to minimise disturbance to any residents of adjoining dwellings.</p>	<p>The site has the capacity to accommodate waste services. A condition of consent is recommended to provide for these services.</p> <p>A condition of consent is recommended to ensure lighting is not directly visible from a habitable room of an adjoining dwelling.</p> <p>This matter will be discussed in detail further in this report.</p>
D8 Subdivision	Consolidation	<p>The proposal provides an opportunity to require the consolidation of all titles onto the one property. It is recommended that a condition of consent be imposed requiring the consolidation of all lots onto one title with documentary evidence of the consolidation provided prior to the issue of a construction certificate. It is noted that the CMP recommends consolidation of all lots. Consolidating the site will ensure the landscaped setting of the heritage item is maintained and this is considered to be an important element of the significance of the site.</p>

3. Acoustic amenity

The proposed use of the site for functions such as weddings, with a maximum capacity of 40 people has the potential to impact upon the amenity of adjoining residents, particularly along the southern boundary where the deck and podium are located adjacent to the dining area. These matters were raised consistently within objections received to the proposal.

Many of the submissions objected to the use of the premises for functions and not to the guesthouse component of the proposal. The previous use of the guesthouse as a holiday let created adverse impacts on surrounding residents. This was primarily as a result of large numbers of non residents hiring out the premises with no restrictions on use and no on-site management overseeing events. The current application provides an opportunity to better control the use of the site through the imposition of conditions of consent and as a consequence of the presence of owners residing on site and controlling events.

There is particular concern raised within the submissions in relation to the use of amplified music and PA systems on the podium and deck area adjacent to the dining room. This area is elevated and overlooks adjoining properties to the south. This area is the closest to adjoining

residential properties and is the location where the most amount of conflict between non residential and residential uses is likely to occur. Concern was also raised in relation to the use of unamplified musical instruments.

In response to the concerns raised within the submissions the applicant was requested to undertake a noise impact assessment of a function at the site. The applicants engaged the services of Noise and Sound Services and a noise survey was done on the 22 December 2007. The findings of this survey were provided to Council on the 8 February 2008.

The Noise Report identifies that indoor noise levels do not exceed the noise goals established by the Department of Environment and Conservation (NSW). However the outdoor noise levels do exceed this standard when a small loudspeaker system for amplifying speeches was used. General outdoor levels of normal speech are expected to meet the noise goals. In addition it was determined that the movement of 2 cars would also meet the noise goal level. The matter of more than 2 cars leaving or entering the site was not addressed.

The Noise Report recommended that the use of amplified music or speech should be avoided in outdoor areas, and that 'good management procedures' be implemented and reviewed in order to ensure noise goals are maintained for persons using the outdoor area. This matter will be addressed as conditions of consent.

The Noise Report went on to state that if in the event that complaints from nearby residents be received, further mitigation measures to reduce noise levels should be considered. The report states that these further measures could include constructing a solid fence or wall along the southern boundary to prevent line of sight between patrons using the outdoor areas and neighbouring residential premises, and/or restricting the hours of use of the outdoor areas.

Given that complaints have been received in relation to noise from events held at Yabba Yabba and considering the content of the majority of submissions it is recommended that the further measures identified within the noise report form the basis of conditions of consent.

It is considered reasonable to require the installation of an acoustically engineered fence along the southern boundary to protect the amenity of adjoining residents as a condition of consent. It is recommended that a condition be imposed to ensure the provision of such a fence at the owner's expense. Details of the style and design of the fence are to be submitted to the Council for approval prior to construction in order to ensure the fence is sympathetic to the heritage significance of the site. With regard to the unamplified musical instruments it is considered that a limitation of the use of these instruments will mitigate the impacts.

In addition to the installation of an acoustically engineered fence along the southern boundary it is recommended that management of the use be carefully conditioned, in the following ways:

Limitation on number and size of functions: Limiting the number of functions to 3 weekends per month will provide some respite for surrounding residents. The maximum capacity for any function or event is recommended to be limited to 40 people. It should be noted that the owner has advised that in most months of the year, there will be less than this number of events. It is further recommended that the owners maintain a log book of all functions and events that may be viewed by Council officers when requested.

Hours of operation: It is proposed to limit the hours of operation to 10pm on Friday and Saturday nights and 4pm on Sundays.

Limitation of numbers of guests: A condition limiting the numbers of guests attending the site at any time to 40 is recommended to control the impacts of the operation of the guesthouse.

Conclusion

It is recognised that there is significant objection from surrounding residents to the proposed use of the site for functions. However, these concerns may be addressed through imposing appropriate conditions on the use. Yabba Yabba is a relatively large property which has the capacity to host the proposed maximum number of 40 guests. Provided that the conditions of consent are complied with, and the owners exercise appropriate management of the site, it is considered that the use will have limited impacts on the surrounding residential areas.

The benefits of approving the proposed use outweigh any potential impacts and will provide the community with greater access to a valuable local heritage item. The proposed use will also provide opportunities for income generation which will contribute to the upkeep and maintenance of the property.

Given the recommendations of the CMP, it is considered that the proposal is feasible on the site, provided that the numbers of guests are limited and the uses for non resident guests are restricted to weekend usage. It is considered appropriate to maintain tourist accommodation at Yabba Yabba, thereby preserving the historic use and viability of the site whilst managing the impacts of the use on surrounding residents. Allowing for some limited public use of the facility will also provide a broad heritage benefit to the community.

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Attachment 1 - Conditions of Development Consent

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| Confirmation of relevant plans | 1. To confirm and clarify the terms of consent, the development shall be carried out in accordance with the plans prepared by AbCad Design and Drafting numbered 070802 Version 2, Sheets 3 of 3 dated 2/08/07 and comply with the recommendations of the Conservation Management Plan prepared by Integrated Design Associates and dated November 2007 and accompanying supportive documentation, except as otherwise provided or modified by the conditions of this consent. |
| Period of development consent | 2. Physical commencement of construction is required within a two year period from the date of this consent. Should this not occur, the development consent will lapse. |
| Period for compliance with this consent | 3. a) Construction of the acoustic fence along the southern boundary of the site as stipulated by Condition 13 and the construction of all car parking areas internal and external to the site are required prior to the operation of the premises for the purposes of functions or events, or for the public use of the dining room.

b) All other works required by this consent must be completed prior to the use of the site as a guesthouse. |
| Building Code of Australia | 4. All new building work is to comply with the requirements of the Building Code of Australia. |
| Construction certificate (building) | 5. A construction certificate is required prior to the commencement of any site or building works. This certificate can be issued either by Council as the consent authority or by an accredited certifier. |
| Accessibility and adaptability design statement | 6. To ensure appropriate access and facilities are provided, a statement is required from a suitably qualified Access and Mobility Specialist, certifying that the development complies with the following: <ul style="list-style-type: none"> • The accessible quarters as shown on the approved plans in terms of Australian Standard 1428 <p>This statement is to form part of the Construction Certificate documentation.</p> |

- Consolidation of lots** 7. Lots 1 and 2 of DP 7196 and Lot 5 of DP 655768 are to be consolidated into one (1) allotment. Proof of consolidation of all lots is to be provided to Council prior to the issue of the Construction Certificate.
- Log Book** 8. A log book detailing all bookings for the guesthouse, dining room and for all events and functions must be kept up to date and on site at all times, and must be made available for inspection upon request by a Council officer.
- Operation of guesthouse** 9. To ensure the operation of the guesthouse has limited impact on surrounding residential properties:
- + The premises have to be operated by permanent residents on the site.
 - + The guest accommodation shall be available for short term paid accommodation only.
 - + No cooking facilities are to be provided to the rooms.
- Carparking - guesthouse** 10. In accordance with Council's *Better Living Development Control Plan* off-street parking is to be made available for the residents' vehicle and one space per guest room. Guest vehicles must leave the site in a forward direction.
- Management of the premises** 11. a) Any use of the premises for functions or events or for any public use of the dining room is not permitted to occur any more frequently than three (3) weekends of every calendar month.
- b) With consideration to a) above, the hours of operation for the use of the premises for functions or events or for any public use of the dining room is limited to the following times:
- Friday : 11am – 10pm
Saturday: 11am – 10pm
Sunday: 11am – 4pm
- Finishing times must incorporate clean up times. Congregation of guests in outdoor areas within the site is to cease by 8.30 pm.
- c) The maximum number of guests permitted on site at any time is forty (40), inclusive of guest rooms and for functions and public use of the dining room.

- Noise**
- 12 To ensure the noise from Yabba Yabba Guesthouse does not result in objectionable noise to any affected residence, the following measures apply:
- a) No amplification of music or speeches is permitted in the outdoor areas at any time.
 - b) Up to three unamplified musical instruments can be provided for a wedding march.
 - c) Any music provided indoors shall be provided via an in house sound system. There shall be no additional amplifiers used for the provision of music or public address announcements. Prior to commencement of the use, an acoustic engineer is to preset the music amplification equipment so that the noise at the nearest boundary complies with noise levels set by (d) below.
 - d) The LAeq noise level emitted from the development including activities associated with the use of the premises as a guesthouse and during functions, is not to exceed the background noise level (LA90) in any Octave Band Centre Frequency (31.5 Hz – 8k Hz inclusive) by more than 5 dB at the boundary of any affected residence.
- Construction of noise attenuation fence**
- 13 In order to minimise noise impacts on adjoining neighbours a noise attenuation fence is to be constructed along the length of the southern boundary. The fence is to be designed by an acoustic engineer. The fence design must minimise any loss of landscaping along the southern boundary and must incorporate materials and designs that are sympathetic to the heritage building and the heritage significance of the site.
- The design of the fence is to be submitted to Council for approval prior to the issue of a Construction Certificate.
- The fence is to be constructed at the expense of the owner of Yabba Yabba.
- Kitchen fitout**
- 14
- a) The fit out of the food premises shall comply with the requirements of *Australian Standard 4674.2004 Design, Construction and Fit-Out of Food Premises* and the *Food Safety Standard 3.2.3*.
 - b) Flooring and walls of the Kitchen need to comply with *AS 4674.2004 Design, Construction and Fit-Out of Food Premises*

(*Table 3.1 & 3.2* Suitability of floor & wall finishes Australian Standard S4674). The intersection of floors with walls and plinths shall meet the coving requirements as given in *Figure 3.1* in Australian Standard 4674.

- c) Premises shall be provided with facilities for disposing of mop water and similar liquid waste. These facilities shall be either
 - (i) a cleaners sink,
 - (ii) floor waste or,
 - (iii) other similar facility,
 connected to drainage that is not intended for use to prepare food, wash any equipment or wash hand / face / arms.
- d) The mechanical ventilation (exhaust hood) shall comply with BCA requirements and Australian Standard 1668. Details of compliance to be provided prior to construction certificate.
- e) All shelving, cupboards and benches must comply with *Australian Standard 4674.2004 Design, Construction and Fit-Out of Food Premises*. Approved materials are outlined in Table 4.4 of Australian Standard 4674. Sealed wood is not permissible to be used in food contact areas that are cleaned frequently using water.

Food safety inspection 15 Council must be contacted at least 48 hours prior to the opening of the premises so that a final inspection can be undertaken.

Food Safety Advice 16 To comply with Clause 4 of Food Safety Standard 3.2.2, NSW Health should be notified of details of the food business. You are referred to the website where this may be done cost free www.foodnotify.nsw.gov.au

To comply with Clause 3 of Food Safety Standard 3.2.2, a food business must ensure that persons undertaking of supervising food handling operations have appropriate skill and knowledge of food hygiene and safety matters.

Information relating to food businesses may be obtained on Council's website www.bmcc.nsw.gov.au

- Garbage Disposal area** 17 Designated garbage and recycling storage area shall be provided in accordance with AS 4674 – 2004. The construction requirements of the garbage area under AS 4674 require a covered area with a tap and drained to sewer. (See Section 2.4 Garbage and Recyclable Materials AS4674-2004).
- Lighting** 18 To protect the amenity of the local area, any outdoor lighting of the deck area and gardens is to be positioned, directed and shielded so that it does not cause nuisance to adjoining and nearby properties.
- Sydney Water Section 73 Certificate** 19 A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.
- Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au then refer to “Water Servicing Coordinator” under “Developing Your Land” or telephone 13 20 92 for assistance.
- Following application a “Notice of Requirements” will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, as it can take some time to build water/sewer pipes and this may impact on other services and building, driveway or landscape design.
- The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to issue of an Occupation/Subdivision Certificate.
- Fire Safety** 20 In accordance with Clause 94 of the *Environmental Planning and Assessment Regulation 2000*, the following works will apply to the existing building:
- a) Line the underside of exposed timber floors separating the lower ground and the ground floor levels with one layer of 16 mm fire grade plasterboard (e.g. the area above the TV room and the storage space beside the laundry on the lower ground floor).
 - b) Smoke separate the lower ground floor from the ground floor. Details on the proposed method of construction are to be submitted to Council for approval prior to the commencement of work.

- c) Line the inside rebated portions of the main entrance doors to sole occupancy units on the ground floor with one layer of 13 mm fire grade plasterboard.
- d) All main entrance doors to sole occupancy units on the ground floor are to be fitted with suitable self closing devices.
- e) All fanlights above doors leading to sole occupancy units are sealed in the closed position and lined on the inside with 4 mm toughened glass. These can be fitted with suitable timber mouldings.
- f) A suitable evacuation procedure is to be developed for the building. The procedure is to adopt the RACE Principle and staff are to receive adequate training. A detail of the procedure is to be submitted to Council for approval prior to the training of staff. For your information, RACE relates to the following:
 - R Rescue or Remove people in immediate danger
 - A Alarm others
 - C Contain the fire to the room or space of origin
 - E Extinguish if safe to do so or Evacuate
- g) All exit doors from the building are to be opened by a single-handed lever action device that can be opened without recourse to a key from the side facing a person seeking egress from the building.
- h) Remove the trip hazard in the timber flooring leading from the hallway to the dining room.
- i) The building is to be serviced by fire hose reels so that no point on the floor of each level in the building is beyond the nozzle end of a fully extended 36 metre hose (Note:- the hose reel may be located externally). A detail on the proposed location of the hose reel is to be submitted to Council for approval prior to installation.
- j) A complete system of fire and smoke alarms complying with the requirements of AS1670 is to be installed within the building. A detail of the proposed system, including the proposed method of monitoring, is to be submitted to Council for approval prior to the commencement

of work.

- k) A complete system of emergency lighting and illuminated exit signs is to be installed throughout the building. A detail of the system is to be submitted to Council for approval prior to the commencement of works.
- l) Submit a certificate from a suitably qualified electrician indicating the existing electrical wiring system has been inspected and is certified as being adequate, safe and fit for purpose.
- m) Submit a certificate from a suitably qualified gas fitter indicating the existing gas installation has been inspected and is certified as being adequate, safe and fit for purpose.

Site management

- 21 To safeguard the local amenity, reduce noise nuisance and to prevent environmental pollution during the construction period:
 - a) Site and building works (including the delivery of materials to and from the property) shall be carried out Monday to Friday between 7am-6pm and on Saturdays between 8am-3pm. Alteration to these hours may be possible for safety reasons but only on the approval of Council.
 - b) Stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage path or easement, natural watercourse, footpath, kerb or road surface and shall have measures in place to prevent the movement of such material off site.
 - c) Building operations such as brickcutting, washing tools, concreting and bricklaying shall be undertaken on the building block. The pollutants from these building operations shall be contained on site.
 - d) Builders waste must not be burnt or buried on site. All waste (including felled trees) must be contained and removed to a Waste Disposal Depot.

Plans on site

- 22 A copy of the stamped and approved plans, and Conservation Management Plan and development consent and the construction certificate are to be on the site at all times.

- Protection of vegetation**
- 23 To preserve the natural site features and limit site disturbance existing vegetation must be protected by suitable guards / barriers to prevent damage as a result of the construction phase. This consent does not approve the removal of any trees. Separate consent is required for any tree removal on site.
- Compliance with standards**
- 24 All external engineering works required by this development are to be in accordance with Council's Specification for Engineering Work for Subdivisions and Development, Part 1—Design and Part 2—Construction (Development Control Plan No. 31), Australian Rainfall and Runoff 1987 and other relevant Australian Standards. The design and construction is to include any additional works to make the construction effective.
- Works in Council's roads**
- 25 The following engineering works shall be constructed by the applicant at the applicant's expense:
- a. The provision of 11 car spaces/parking bays generally north of the existing driveway access as determined by engineering design.
The construction shall include/address, but not be limited to , the following:
 - i. Parking Bays are to be a minimum 2.5m wide X 5.4m long
 - ii. The construction shall be a sealed pavement construction in a coloured textured surface, in harmony with the surrounding environment.
 - iii. The bays are to drain to the existing V – drain.
 - iv. The existing V – drain is to be replaced with a 900mm wide concrete dish drain over the full width of parking bays. The surrounds of the bays are to be 150mm concrete edge strips.
 - v. The maintenance of the existing established trees.
 - vi. The provision of a pedestrian link from behind the vehicles to the main entrance.
 - b. The existing driveway is to be reconstructed in a coloured, textured surfaced pavement in keeping with internal driveway and shall include concrete edge strips and concrete dish drain surrounds as in (a) above.

Detailed engineering plans prepared by a qualified person and endorsed by a chartered civil engineer with NPER registration shall be submitted to and approved by Council prior to the issue of the Construction Certificate.

Approval of the engineering designs by Council is subject to the payment of the prescribed Engineering Development Fees, the amount of which will be advised at the time of lodgement.

Parking Bay Construction

- 26 Parking bays will be constructed of 150mm thick compacted roadbase material with wheel stops provided to the development frontage.
Circular pavement delineators are to be nailed into the compacted running surface to provide suitable vehicle spacing.

Sedimentation and erosion control

- 27 The applicant shall engage a qualified person to prepare a sediment and erosion control plan in accordance with the principles outlined in the ‘Managing Urban Stormwater Soils and Construction’ (Volume 1), dated March 2004 by Landcom NSW.

The applicant shall ensure sedimentation and erosion control measures are installed prior to commencement of construction and that these measures are also maintained at all times during construction in accordance with the plan.

Standard Construction in Council’s roads

- 28 Where works are carried out on Council or public lands (ie. roads, parks etc.) by or on behalf of the applicant, the following conditions shall be satisfied:

- a. Before work commences in Council’s roads, plans and specifications prepared by a suitably qualified person are to be submitted to and approved by Council under the Roads Act 1993.

Approval of the engineering designs by Council is subject to the payment of the prescribed Engineering Development Fees at the time of lodgement. All works in Council’s road are to be at no cost to Council.

- b. An on site meeting is to be arranged with Council’s Supervising Engineer prior to the commencement of any work in Council’s road for the purpose of a pre-construction meeting. Council’s inspection fee is to be paid prior to the meeting.

- c. The person or company carrying out the works will be required to carry public liability insurance to the value of \$10 million. The policy shall indemnify Council from all claims arising from the execution of the works. Proof of the policy is to be provided to Council's Development Engineer at the pre-construction meeting.
- d. The person or company carrying out the works shall submit to Council reference demonstrating experience in the type of work proposed to be undertaken. The person or company shall obtain approval from Council to carry out the works prior to works commencing.
- e. The applicant will be required to pay for inspections in accordance with Council's fees and charges. The specific stages of inspection required will be advised at the pre-construction meeting.
- f. Prior to issue of the Construction Certificate, a Traffic Management Plan prepared by a chartered civil engineer is to be submitted to Council for approval. The Traffic Management Plan is to address but not be limited to the following: loss of on street parking, construction vehicle travel routes, safety of the public, materials storage and handing, deliveries and construction traffic and parking.
A minimum of seven (7) days notice shall be given to residents if access by residents will be affected. A copy of the letter to residents and a list of addresses notified shall be submitted to Council for approval.
- g. Safety devices such as signs, barricades, barriers, warning lights, etc. shall be placed where works affect Council roads and shall be in accordance with Australian Standard No. 1742—Manual of Uniform Traffic Control Devices and Roads and Traffic Authority Manual—Traffic Control at Work Sites 1998. Details prepared by a qualified person shall be submitted to Council for its approval with the Traffic Management Plan Report.
The contractor shall submit to Council the names of proposed traffic controllers with a signed declaration that they are appropriately trained in the duties of traffic controllers and

- + To protect the visual amenity of the neighbourhood and the city, an application for advertising sign/s must be made to and approved by Council prior to its erection. The advertising sign must be in accordance with Council's *Outdoor Advertising Policy*. An application form, fee advice and a copy of the policy are available from Council's Katoomba or Springwood offices.

