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LOCAL DEVELOPMENT APPLICATION

Statement of Environmental Effects

Proposed Mixed Use Development

27 Oaks Street Thirlmere
(Lot 3 Section C DP 1569)

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This Report has been prepared exclusively for submission to Council as an accompaniment to a Development Application which seeks consent for a change of use of the existing dwelling to two (2) commercial premises, including partial demolition, as well as a minor extension to the rear to accommodate a café with outdoor seating, a mixed use development with basement parking, comprising six (6) ground floor retail premises and eight (8) first-floor shop top houses. The subject site is 27 Oaks Street Thirlmere.

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Executive Summary

This planning report accompanies a development application ('DA'), which seeks consent for the following:

- partial demolition of the existing dwelling (at the rear), internal alterations and a minor extension to accommodate a café (food and drink premises) with outdoor seating;
- change of use of the existing dwelling (as extended) to two (2) commercial premises (office/business premises)
- construction of a mixed use development comprising basement parking, six (6) retail premises (commercial premises) and eight (8) shop top houses (residential accommodation),
- landscaping
- construction of an extension to Penny Lane and a new car park (by way of VPA)

The DA includes an offer to enter into a Voluntary Planning Agreement ('VPA') for construction of the extension of Penny Lane, through lot 100 DP 1175654, as depicted on the '*Proposed Car Park Arrangement*' plan prepared by KPA Architects. The details of the offer are outlined in Part 3 and Part 5.5 of this report.

The application is **local development** as it does not trigger any of the thresholds or matters contained in s.4.46 *Environmental Planning & Assessment Act 1979* ('EPA Act').

The subject site is registered as Lot 3 in Section C of DP 1569 ('**subject site**') and is located at 27 Oaks Street Thirlmere. It contains a dwelling and two sheds. It has an area of approximately 1839m². The subject site is a rectangular shape with a frontage of 20m to Oaks Street.

The subject site is located in Zone B2 Local Centre ('**B2 zone**') pursuant to Wollondilly Local Environmental Plan 2011 ('**the LEP**'). Shops (retail premises); food and drink premises (retail premises), business/office premises (commercial premises) and shoptop housing (residential accommodation) are all uses which are permissible with consent in the B2 zone. Subdivision is permissible pursuant to cl.2.6(1) of the LEP and demolition is permissible pursuant to cl.2.7 of the LEP.

The site is subject to the provisions of Wollondilly DCP 2016 ('**the DCP**').

The proposal complies in all respects with the relevant requirements, standards and guidelines contained in the EPA Act, the LEP and the DCP (except for minor variations to the DCP guidelines identified in section 5.4 of this report).

The LEP maps and provisions indicate that the land is affected by a Building Height Limit of 9m. The site is also identified on the heritage maps as being within the Thirlmere Heritage Conservation Area. The site was previously affected by a reservation for acquisition for public car parking that was released by Wollondilly LEP Amendment No 23 on 7 April 2017. The site is no longer affected by any reservation

for acquisition under the LEP. The site is not specified on any other LEP maps or development standards.

The application is accompanied by a number of specialist reports and plans, which are identified in Table 1.

The proposal is considered to be of appropriate scale in the context of the location and size of the site. The development as proposed is considered to be an appropriate outcome for this site, having considered its various constraints, the objects of the Act and its LEP zone and its context and setting. The proposal is recommended for Council's support.

1. Introduction

1.1 General

This planning report accompanies a development application ('DA'), which seeks consent for the following:

- partial demolition of the rear of the existing dwelling, as well as a minor extension to accommodate a café (*food and drink premises*) with outdoor seating;
- change of use of the existing dwelling (as extended) to two (2) commercial premises (*office/business premises* and *food and drink premises*)
- construction of a mixed use development comprising basement parking, six (6) retail premises (*commercial premises*) and eight (8) shop top houses (*residential accommodation*),
- landscaping
- construction of an extension to Penny Lane (by way of VPA)

1.2 Supporting documentation

Document	Prepared By	Reference
<i>Detail survey</i>	<i>Sydney Registered Surveyors</i>	<i>3365OAKS Amendment A dated 23.9.18</i>
<i>Car park arrangement plan</i>	<i>KPA Architects</i>	<i>Dwg No CP.01 Rev A dated March 2018</i>
<i>Architectural plans</i>	<i>KPA Architects</i>	<i>Dwg No 1728 Rev C dated January 2018</i>
<i>Concept Stormwater Management Plan (CSMP)</i>	<i>Martens and Associates</i>	<i>Project No P1706294 Rev A dated 22.12.17</i>
<i>Landscape plans</i>	<i>HLS Pty Ltd</i>	<i>L 01 dated 20.12.17</i>
<i>Car parking statement</i>	<i>Hemanote Consultants Pty Ltd</i>	<i>Unreferenced dated 23.3.18</i>
<i>Salinity/geotechnical report</i>	<i>Martens and Associates</i>	<i>Project No 1706294JR01V01 dated November 2017</i>
<i>Statement of Heritage Impact</i>	<i>GBA Heritage</i>	<i>Unreferenced Issue B dated 6.2.18</i>

Document	Prepared By	Reference
Planning report	Precise Planning	1449 dated March 2018
Waste Management Plan	KPA Architects	Unreferenced dated 15 March 2018

Table 1. Supporting Documentation

1.3 Site identification

The subject site is commonly known as 27 Oaks Street Thirlmere and is legally known as Lot 3 Section C DP 1569, with an area of approximately 1839m². The subject site is a rectangular shape with a frontage of 20.1m to Oaks Street.

1.4 Zone and permissibility

The subject site is located in Zone B2 Local Centre ('**B2 zone**') pursuant to the LEP. All the various components of the proposed development are permissible with consent in this zone.

1.5 Planning considerations

Consideration	Response
What zone is the land contained within?	B2 Local Centre
Is the proposal compliant with the aims of the LEP and does it have regard to the objectives of the zone?	YES
Is the proposal compliant with the provisions of the DCP?	YES (except for 3 minor variations as set out in section 5.4 of this report)
Is the land subject to restrictions for bushfire, flood, land slip or other natural hazards?	No
Is there any evidence to suggest the land may be contaminated?	No
Is the land contained in a Proclaimed Mine Subsidence District?	No
Is there a minimum lot size under an EPI?	No
Does the site contain a heritage item or is the site in a heritage conservation area or is there a heritage item in the vicinity of the site?	Thirlmere HCA
Is the land burdened by an environmental constraint identified in an EPI?	No

Consideration	Response
<i>What is the relevant REP if any?</i>	SREP 20 Hawkesbury Nepean River
<i>Is there any vegetation on the site that is part of an Endangered Ecological Community?</i>	No

Table 2. Planning Considerations

1.6 Staging

The development is not proposed to be staged.

2. Site Analysis (existing site)

Characteristic	Analysis
Property description	27 Oaks Street Thirlmere Lot 3 Section C DP 1569
Location	Thirlmere Town Centre, Northern Side of Oaks Street.
Shape and Dimensions	Rectangular, 20.1m (w) and 91.4m (d)
Orientation	South Facing
Access	The development will rely on access from an extended Penny Lane.
Contours and levels	Generally flat, slight rear fall.
Existing vegetation	No significant vegetation
Existing improvements	Dwelling house and 2 sheds. The existing detached dwelling is located at the southern (Oaks Street) end of the rectangular-shaped property, with a large, undeveloped portion at the rear. The dwelling is single storey, detached and painted brickwork. The SHI describes the dwelling as a late nineteenth century workers cottage with corrugated iron hipped roof and timber front verandah.
Significant views to/from the site	The site looks out onto Thirlmere Public School
Stormwater	The development will drain to Oaks Street, although the land itself has a slight fall to the rear
Electricity	Available
Water	Available
Sewerage	Available
Existing overshadowing	No significant overshadowing issues
Fences, boundaries, easements	Timber paling fence and zero lot line to adjacent commercial development to the east.
Natural features	None
Adjacent and opposite buildings /development	Dwellings to the north and north west Public School to the south Commercial to the west and east
Significant noise sources	None
Bushfire risk	Not mapped
Site contamination	Low Risk
Soil salinity	Salinity resistant construction is proposed

Table 3. Site analysis

3. Proposed Development

Existing dwelling

The following works are proposed for the existing dwelling:

- Existing front verandah to be retained and made good;
- Entry hall and all rooms except existing bathroom and kitchen, existing fireplaces, doors, skirting, architraves + ceilings to be retained;
- Existing kitchen and bathroom to be stripped out and made good to match the other rooms;
- Rear wing of the house to be partially demolished as indicated on plans; make good existing roof; new external walls to be rendered; new external doors of café to be timber framed with 500mm wide awning roof over; modify internal layout for new food and drink premises + amenities and all finishes to be replaced.

This application seeks consent for a change of use of the existing dwelling (as extended) for two (2) *commercial premises (office/business premises and food and drink premises)*.

New Building

The proposed new building, located behind the existing building, is generally two (2) storeys in height, plus a basement level for car parking. It comprises six (6) ground floor shops (retail premises) at ground level and eight (8) shop top houses on the first floor level. The basement parking level is proposed to be accessed from the extension of Penny Lane through Lot 100 DP 1175654 (by way of VPA, see details below and section 5.5 of this report)).

Basement level

The basement level proposes 8 resident car spaces and 2 visitor spaces, 8 storage areas for the residential units, 7 bicycle parking racks, storage for the commercial/retail tenancies, residential garbage room, electrical switch room and lift/stair access. This level is accessed by a concrete ramp from the proposed extension of Penny Lane on the eastern side of the subject site.

Ground floor

The ground floor comprises the partial demolition and extension of the existing dwelling, including some internal renovations, landscaping and an outdoor eating area. This building will comprise *commercial premises* and a *food and drink premises*. The ground floor of the new building at the rear comprises 6 *retail premises*, toilets, lift and stair access and the driveway leading to the basement level. This level includes a covered arcade area along the eastern boundary. The ground floor may be accessed from Oaks Street or from the Penny Lane car park.

First floor

The first floor comprises eight (8) shoptop houses, accessed via lift and/or two separate stairwells. All shoptop houses are 2 bedroom and 2 bathroom. This level includes balconies for each unit and planter box landscaping.

Strata Subdivision

The development will be strata subdivided following the issuing of development consent. An application for *Complying Development Certificate* will be lodged, pursuant to Part 6, SEPP (Exempt and Complying Development Codes) 2008.

Works

The proposal involves, and this application seeks consent for, the following physical works, subject to the issuing of Construction Certificates where required:

- Partial demolition of existing dwelling at the rear
- Addition to rear of existing dwelling
- Establishment of landscaping and outdoor eating area
- Site preparation for the new building
- Excavation for underground car park
- Construction of the building
- Establishment of landscaping
- Civil works within the adjoining lot 100 DP 1175654

Land Use

Proposed land uses are as follows:

Existing building (as altered)

Commercial premises (office premises or business premises) and food and drink premises

New building

- Basement level – car parking, storage, garbage room
- Ground floor – six (6) *retail premises*
- First floor – eight (8) *residential accommodation (shop top houses)*

Development data

Element	Detail	Response (sqm)
Site area		1,839
GFA	Basement	0

Element	Detail	Response (sqm)
	Ground floor house (as altered)	152
	Ground floor new building	693
	Level 1	659
TOTAL		1,504

Table 4. Development summary

Element	Detail	Response (sqm)
Ground floor	Existing house – commercial	93
	Existing house – Café incl new store	59
	New building – retail	658
Level 1	Residential units	8 x 2 bedroom

Table 5. Accommodation summary

Planning agreement – Car Park Construction on adjoining land

This application includes an offer to enter into a Voluntary Planning Agreement ('VPA') for construction of the extension of Penny Lane, through lot 100 DP 1175654, as depicted on the 'Proposed Car Park Arrangement' prepared by KPA Architects. Lot 100 DP 1175654 is owned by Wollondilly Council and has been identified for use as a car park for many years.

The development proposes to accommodate its onsite parking requirement for the shop top houses with basement parking (8 car spaces + 2 visitor spaces + 7 bicycle spaces). The commercial component of the development will generate an onsite parking requirement for 26 spaces + 1 loading bay.

The preliminary car park arrangement shown on the plan by KPA Architects shows a potential total of 65 car spaces + 1 loading bay. The offer associated with this application is that the whole of the car park will be constructed on Lot 100 DP 1175654, resulting in a net surplus of 39 car spaces.

It is noted that the land in question has been identified for car parking for decades, yet funding has not been made available for its construction. Whilst it is acknowledged that the development site obtains a benefit from this arrangement, the 'public benefit' is that the whole car park will be constructed without the need for any public funding.

Further, the use of the car park for parking for this development is logical as it is more customers to the retail component of the development are unlikely to utilise basement parking and more likely to seek on street parking. By constructing the whole of the car park as is proposed, not only does the public benefit

from additional net 39 spaces being provided in the commercial heart of Thirlmere, but if the car park is not constructed as proposed and future customers attempt to utilise on street parking in Oaks Street, the demand for parking would significantly outstrip supply.

The details of the offer from the proponent are outlined in Part 5.5 of this report.

4. Impacts and Mitigation

Noise Impacts

No unmanageable noise impacts are anticipated, either by the proposed development or by adjoining and nearby developments. In terms of the interaction between the *commercial premises* and the *shop top housing*, this type of development has functioned satisfactorily for many years and no issues are anticipated.

Traffic Impacts

The site is located within the commercial precinct established by the LEP. The road network in this precinct has adequate capacity to accommodate this development. The development is not of a scale that would have regional impacts on road infrastructure. The offer to construct the car park on the adjoining Council-owned land will result in a positive public benefit and will relieve parking pressure on Oaks Street, particularly during peak periods.

Visual Impacts

The visual impact of the proposal is considered to be consistent with the future surrounding development and the future character of Thirlmere's commercial area as it continues to develop and modernise. Nevertheless, significant design consideration has been given to the retention of the existing building on the site and ensuring the new building is complementary to the heritage conservation area. In this regard,

Economic Impacts

The redevelopment of the site will contribute positively to the local economy. The proposal will provide construction jobs throughout the course of the building works and the establishment of additional commercial floor space in Thirlmere will make a contribution to the local economic as desired by the LEP. The presence of shop top housing will also contribute to the activation of the commercial centre.

Social Impacts

The proposed development will have a positive social impact in the area by contributing to housing choice in the area and be increasing the commercial space available to the Thirlmere community.

Stormwater

Stormwater is proposed to be managed generally in accordance with the Concept Stormwater Management Plan ('CSMP') prepared by Martens and Associates. The CSMP shows stormwater from the new building being directed to a 46kL OSD/stormfilter tank, from which it is conveyed to the kerb in Oaks Street in a controlled manner.

The aforementioned tank acts as an OSD structure and also a water quality structure, as detailed in the CSMP.

4.7 Cumulative Impacts

The main cumulative impacts are economic impacts that should be encouraged.

4.8 Heritage

The site is located within Thirlmere Heritage Conservation Area. A Statement of Heritage Impact ('SHI') heritage assessment has been undertaken by GBA Heritage. The SHI provides an assessment of impact, as well as evaluating the design of the proposed development. The SHI concludes that the proposal will have an acceptable heritage impact.

The SHI notes that *"based on our understanding of the character and significance of the Thirlmere Conservation Area, we consider the subject site to be **contributory** as it provides a good example of a late nineteenth century workers cottage"* (p.9).

Section 5.2 of the SHO notes the following aspects of the proposal respect or enhance the heritage significance of the item or conservation area for the following reasons:

- Retention of the bulk of subject cottage (presenting to Oaks Street);
- Major development is limited to the rear of the site and in areas of the subject building which have already been modified or are later additions that do not contribute to its significance and which are not readily visible from the streetscape;
- Retains logical layout of rooms and internal spaces within the front (southern) portion of the subject building;
- Retention of a well-landscaped setback from Oaks Street;
- Physical separation between the rear of subject building and new mixed-use development;
- Incorporation of characteristic scale and materials for the conservation area including brick and corrugated metal; and
- No significant views to or from the heritage items or conservation area would be obstructed by the proposed works.

In terms of the various elements proposed:

Major/minor partial demolition

Major demolition works will be limited to the rear of the subject building, namely the eastern wing. This wing has been identified as a later addition to the building and does not contribute to its significance as an example of a late nineteenth century workers cottage. As a result, demolition will have no impact on the legibility of the original building envelope and the principal building form will be conserved.

The proposed demolition of the rear garden shed would have no adverse heritage impact as it is a relatively contemporary structure that is not visible from the streetscape and does not contribute to the significance of the subject building as a late nineteenth century workers cottage.

Change of Use

GBA Heritage has been working in collaboration with the architect throughout the design development stage in order to reach a solution that sympathetically responds to heritage significance.

The site is located within the Thirlmere Urban Conservation Area and contributes positively to its character and significance as a good example of a late nineteenth century workers cottage.

It is proposed that the subject building be converted from residential to commercial with more contemporary residential apartments being located in the new development towards the rear of the site.

As discussed, the subject building is not a listed heritage item, however it is located within a conservation area. Therefore from a heritage perspective the proposed change of use should be considered in the context of the conservation area and its impact on the contribution which the building makes to it. In this context the proposed change of use would have little impact on the significance of the conservation area. Its operation as a commercial building would not interfere with its legibility as a late nineteenth century workers cottage and its contribution to the Oaks Street streetscape.

New development

The subject site is located within the boundaries of the Thirlmere Conservation Area and is not located immediately adjacent to any individually listed heritage item. The closest heritage item to the site is Thirlmere Public School and Residence and it is physically and visually separated from it by the Oaks Street roadway. Similarly, the other heritage item located in the vicinity, Kungla supermarket sign is separated from the site by intervening development and Carlton Street. As such, there will be no adverse impact on the established heritage significance of these items.

No significant views to and from the heritage items in the vicinity of the site have been identified. Although the proposed development will be seen in some views from the listed items, there will be no adverse impact resulting from the minor changes to the urban context.

New development is sited to the rear of the subject building and is considerate in terms of scale. The physical setback between the existing and the new aids in ensuring that the new does not dominate the old with its slightly larger scale. Courtyard space will assist the transition from existing to proposed new and create additional separation between the buildings. Ensuring that the new development does not overwhelm the subject building. Additionally the stepped rear building façade will provide a transition between the old and new elements on the site.

The new development is obviously contemporary, however, will be in keeping with the general scale and materiality of the Oaks Street streetscape and is, therefore, considered sympathetic to the heritage items in the vicinity. The new development respects the predominant one-two storey scale of the conservation area and makes reference to the subject building through the use of a hipped roof form and the utilisation of brick and corrugated metal roof.

New landscape works and features

GBA Heritage has been working in collaboration with the architect throughout the design development stage in order to reach a solution that sympathetically responds to the existing landscape and the historic dwelling.

The main landscaping evident within the site is located along the southern streetfront elevation and this would be retained. The realignment of the fence closer to the footpath would not have a detrimental impact on the existing front setback of the subject building from the street.

The proposed landscaping would complement the symmetrical nature of the garden and the picket fence would be maintained which is in keeping with the Thirlmere Urban Conservation Area. The proposed works would also retain the subject building within a landscaped setting.

Conclusions

- 27 Oaks Street Thirlmere is **not** listed as an item of heritage significance in any statutory instrument.
- It is located within the Thirlmere Urban Conservation Area and is in the vicinity of the listed heritage items at 10 Oaks Street (Thirlmere Public School and Residence) and 30 Oaks Street (Kungla supermarket sign).
- The proposal would not interfere with the legibility of the subject building as a good example of a late nineteenth century workers cottage.
- The proposed scale and materiality of the new residential development would be in keeping with the general character of the area and is considered sympathetic to the heritage items in the vicinity and the conservation area.
- Views to the heritage items in the vicinity and the conservation area would not be obstructed by the proposed development.
- The significance of the subject building, and its ability to contribute to the streetscape and the Thirlmere Urban Conservation Area, will be retained.
- The proposed development will have no physical impact on the heritage items in the vicinity of the site.
- The proposed development does not generate any adverse impact, as existing views and the setting of the heritage items in the vicinity are retained.

Recommendations

Council should have no hesitation, from a heritage perspective, in approving the application.

5. Statutory controls

5.1 **Environmental Planning and Assessment Act 1979**

This Act provides, amongst other things, the legal framework for the assessment of development applications in NSW.

Objects of the Act

The objects of this Act are:

- (a) *To encourage:-*
 - (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment;*
 - (ii) *the promotion and coordination of the orderly and economic use and development of land;*
 - (iii) *the protection, provision and coordination of communication and utility services;*
 - (iv) *the provision of land for public purposes;*
 - (v) *the provision and coordination of community services and facilities, and*
 - (vi) *ecologically sustainable development, and*
 - (vii) *the provision and maintenance of affordable housing, and*
- (b) *To promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and*
- (c) *To provide increased opportunity for public involvement and participation in environmental planning and assessment.*

Comment: This proposal is either consistent with, or else does not hinder the attainment of, the relevant objects of the Act.

Section 4.15 Evaluation

Section 4.15 of the *EPA Act* outlines matters for consideration in the evaluation and assessment of any development application.

(1) Matters for consideration—general

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

- (a) *the provisions of:*

- (i) any environmental planning instrument, and
 - (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and
 - (iii) any development control plan, and
 - (iiia) any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and
 - (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph, and
 - (v) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979 that apply to the land to which the development application relates.
- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,
- (c) the suitability of the site for the development,
- (d) any submissions made in accordance with this Act or the regulations,
- (e) the public interest.

The following table summarises the relevant matters as pertaining to this application. Relevant matters are considered in part 5 of this report.

Provision of Section 4.15	Considerations		Relevance
<i>Environmental Planning Instruments</i>			
	<i>State Environmental Planning Policies (SEPP)</i>	<i>SEPP 55 – Remediation of Land SEPP (BASIX)</i>	<i>Assessed below</i>
	<i>Deemed State Environmental Planning Policies (DSEPP)</i>	<i>SREP 20 – Hawkesbury Nepean River</i>	<i>Assessed below</i>
	<i>Local Environmental Plans (LEP)</i>	<i>Wollondilly Local Environmental Plan 2011</i>	<i>Assessed below</i>
<i>Provisions of Relevant Draft Environmental Planning Instruments</i>		<i>None relevant</i>	<i>No response required</i>
<i>Provisions of Relevant Development Control Plans (DCP)</i>		<i>Wollondilly Development Control Plan 2016</i>	<i>Assessed below</i>
<i>Planning Agreements</i>		<i>Offer in relation to construction of the extension of Penny Lane</i>	<i>Refer to Part 3 and Part 5.5 of this report</i>
<i>Relevant Provisions of the Regulations</i>		<i>The proposal is capable of compliance with any relevant provisions within the EP & A Regulations.</i>	<i>No response required</i>
<i>Impacts of the development</i>		<i>Detailed assessment in this report</i>	<i>Assessed below</i>

Provision of Section 4.15	Considerations		Relevance
<i>Suitability of the site</i>		<i>Detailed assessment in this report</i>	<i>Assessed below</i>
<i>Submissions</i>		<i>A matter for Council's consideration</i>	<i>No response required at this stage</i>
<i>Public Interest</i>		<i>Detailed assessment in this report</i>	<i>Assessed below</i>

Table 6. Relevant matters pertaining to S79C EPA Act

5.2 The provisions of any environmental planning instrument

State Environmental Planning Policy No. 55 – Remediation of Land

The site appears to have been used for a dwelling for an extended period and there is no evidence to suggest that it has been used for a contaminating purpose. No further investigation is considered necessary.

Sydney Regional Environmental Plan No. 20 – Hawkesbury Nepean River

The *general planning considerations* (cl.5) and *specific planning policies and recommended strategies* (cl.6) have been considered in the design of this proposal. In particular:

- (1) Total Catchment Management – Each unit will be connected to a reticulated sewerage system.
- (3) Water Quality – Stormwater from the development can be managed by disposal to the street system.
- (4) Water Quantity – Stormwater from the development can be managed by disposal to the street system.
- (9) Urban Development – No pollution sources of particular concern have been identified in this development.

Wollondilly Local Environmental Plan 2011 (The LEP)

A.1 Aims / objectives of the Plan

The particular aims of the LEP are as follows:-

- (a) *to provide for the management of natural resources and the protection of the natural landscape character,*
- (b) *to protect, conserve and enhance the built, landscape and Aboriginal cultural heritage,*
- (c) *to protect water quality in land that is situated within water supply catchments,*

- (d) to encourage development that provides for an integrated transport and infrastructure system and adequate facilities and service provision for future growth,
- (e) to recognise, manage and protect rural resource lands for sustainable agriculture and extractive industry practices,
- (f) to maintain the separation between towns and villages to retain their unique character and rural and natural settings.

The proposal is generally consistent with, or else does not hinder the attainment of, the relevant aims of the Plan.

A.2 Zone and zone objectives

The development is consistent with the objectives of the zone as summarised below:

B2 Local Centre

Objective	Response
To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.	<i>The proposal will result in an additional retail/business space in Thirlmere and is consistent with this objective.</i>
To encourage employment opportunities in accessible locations.	<i>The location of the zone is considered to be accessible in this regard and the site has access to Oaks Street which is the main road through Thirlmere.</i>
To maximise public transport patronage and encourage walking and cycling.	<i>The provision of housing so close to the commercial area and the sports field and public school is consistent with this objective.</i>
To provide for appropriate residential development in the form of shop top housing to support the vitality of the local area.	<i>The application provides for shop top housing as desired by this objective.</i>

Table 7. Objectives of B2 Local Centre

A.3 Land Use permissibility

Each element of the proposed development is a nominate permissible use being defined as Commercial Premises and Shop Top Housing.

A.4 Other Relevant Clauses

Clause 4.3 – Height of Buildings

The LEP map specifies a maximum building height of 9m. The development complies with this standard, with the exception of the lift overrun, which is permitted pursuant to cl.5.6(2) of the LEP.

Clause 5.6 – Architectural Roof Features

The lift overrun exceeds the 9 metre maximum building height shown on the Height of Buildings map. This is permissible with consent, pursuant to cl.5.6(2) of the LEP.

Clause 5.10 – Heritage Conservation

The development requires development consent under subclause 2 of this provision. We note the discretion for Council to require a heritage assessment under subclause 5 and have elected to provide a Statement of Heritage Impact ('SHI') based on advice from Council it is required for this type of application.

We note the contents of the SHI have been discussed in detail in section 4.8 of this report.

Clause 7.1 – Essential Services

The land has access to reticulated sewerage, water mains and aerial electricity supply.

5.3 Relevant Draft Environmental Planning Instruments

We are not aware of any draft local environmental plans that would impact on this proposal.

5.4 Relevant Development Control Plans

[Wollondilly Development Control Plan 2016 \(The DCP\)](#)

Volumes 1, 3, 4 and 5 of the DCP are relevant to this proposal.

VOLUME 1 – General

PART 2 – Requirements for all developments

DCP reference	Response
<i>Part 2 – General Considerations</i>	
<i>Human Safety</i>	<i>The application has been designed with due regard to human safety and no unreasonably risk to human safety is anticipated to result from this development.</i>
<i>Road Network</i>	<i>The site is located within the commercial precinct established by the LEP. The road network in this precinct has adequate capacity to accommodate this development.</i>

DCP reference	Response
Mine Subsidence	The site is not within a mine subsidence district.
Wastewater	The site has access to town sewer.
Drinking Water Catchments	The site is not within a drinking waters catchment.
Part 5 – Colonial Heritage	
General Controls	The development has been designed with due regard to the matters listed in this clause as detailed in the SHI prepared by GBA Heritage.
Signage	The building will provide integrated signage locations as required.
Demolition (partial)	The proposal is to demolish a section from the rear of the existing dwelling. The section to be demolished has been determined to be a later addition to the dwelling and of low historical importance. The partial demolition needs to be considered in the broader context of the overall outcome of the development.
Subdivision	The future strata subdivision (by CDC) is not inconsistent with the established pattern for development in the commercial centre.
Building Colours	<p>Existing dwelling: Roof – Corrugated zincalume metal Walls – existing painted brickwork and new rendered walls (painted Dulux Pearl Ash) Windows and doors – existing and new timber framed windows and doors (painted Dulux white)</p> <p>Café store: Roof – Colorbond metal roof (Wallaby) Walls – Vertical timber cladding (stained black)</p> <p>New building: Roof – Corrugated colorbond metal roof (Wallaby) Walls – Face brick (Bowral blue) Walls – Rendered masonry (painted Dulux Linnet) Windows and doors – Anodised aluminium framed windows and doors (Silver anodised)</p> <p><u>Request for variation</u> Whilst the colours chosen are not those shown on Figure 3, it is noted that there are very few buildings using this colour palette (perhaps the railway station). The colours contained in Figure 3 are very strong, bright colours, whereas the nominated colours identified above are softer and less visually dominating. It is important with a building such as is proposed to use colours that do not dominate the streetscape.</p> <p>The nominated colours still generally follow the pattern of creams (or lighter colours) for the walls.</p>

DCP reference	Response
	<p><i>It is noted that provisions of a DCP exist to provide guidance only and are not statutory requirements (s.3.42(1) EPA Act). Whilst the colours contained in Figure 3 were considered, the nominated colour scheme provides a superior outcome.</i></p> <p><i>Notwithstanding the proposed variation to the guideline, the proposal still achieves the objectives outlined in Part 5.1</i></p> <p><i>It is requested that Council vary the guideline contained in Volume 1, Part 5.5.1 WDCP 2016 to permit the nominated colours.</i></p>
Roof Materials	<i>Metal sheet is proposed generally in accordance with the DCP.</i>
Roof Drainage	<i>This development is for a boundary to boundary commercial development and so there is no opportunity for exposed drainage on this sides of the development. The front awning will be provided with exposed drainage as required by this control.</i>
Window and Door Framing	<p><i>The commercial window and door frames will be metal frames with a size approximating timber as required by these controls. The front windows for the shop top housing are proposed to be metal framed, which is not consistent with this provision.</i></p> <p><u>Request for variation</u></p> <p><i>The windows for the shop top housing component are proposed to be metal framed, rather than timber framed. The new building has been designed as a contemporary building, which is respectful to the original building at the front of the site. The design of the new building, including window types, has been assessed by GBA Heritage. The SoHI states, in section 5.2, Consideration of the Guidelines of the NSW Heritage Division, that the new development adjacent to a heritage item is sympathetic to the heritage items in the vicinity and respectful to the conservation area.</i></p> <p><i>It is noted that provisions of a DCP exist to provide guidance only and are not statutory requirements (s.3.42(1) EPA Act). Whilst timber-framed windows were considered, the nominated aluminium-frames was considered appropriate in the circumstance.</i></p> <p><i>Notwithstanding the proposed variation to the guideline, the proposal still achieves the objectives outlined in Part 5.1</i></p> <p><i>It is requested that Council vary the guideline contained in Volume 1, Part 5.5.5 and Part 5.5.6 WDCP 2016 to permit the nominated window frames.</i></p>
Windows	<i>The existing front windows for the dwelling are timber framed.</i>
Verandahs	<i>The verandahs are not proposed to be enclosed.</i>
Car Parking	<i>Car parking for the commercial component will be located on the adjoining land owned by Council, subject to Council's acceptance of the offer contained in this report. This car park is behind the building line and effectively provides rear lane access to the building.</i>
Landscaping	<i>Landscaping has been prepared in accordance with these controls as far as it relates to the development.</i>

DCP reference	Response
<i>Adaptive reuse</i>	<i>The SHI provides a convincing argument that the proposed development requires minimal alterations to significant fabric and building elements and have minimal impact on the heritage significance of the item. The internal changes proposed are not visible from a public street. The proposed use of the dwelling for commercial premises maintains the understanding of the building's original use by retaining its original configuration</i>
6.5 – Thirlmere HCA	<i>A skillion awning over the road verge cannot be provided in this instance as the original dwelling, which is set back from the street, is being retained.</i>
Part 7 – Aboriginal Heritage	<i>We have no knowledge of any significant site in the vicinity.</i>
Part 11 – Landscaping	<i>The landscaping complies with these requirements.</i>

Table 8. Vol. 1 WDCP 2016

VOLUME 4 – Residential

Controls

Controls	Specific Considerations	Response
2.1 Alterations and additions	<i>Assess as a single application</i>	<i>Noted</i>
2.7 Driveways	<i>Sealed or all weather gravel</i>	<i>The driveways are proposed to be sealed.</i>
2.9 Land use conflict	<i>Potential for land use conflict between residential use and adjoining commercial uses</i>	<i>The shop top housing is satisfactory in relation to likely land use conflict impacts as future occupants will be living over commercial development in buildings designed for that context. Further, in relation to the existing adjoining commercial uses, the uses are not of a type that would generate excessive noise.</i>
2.10 Stormwater	<i>Discharge location</i>	<i>The stormwater is collected in an OSD tank, then directed to the street drainage system in a controlled manner</i>
	<i>No impacts</i>	<i>The proposal will not contribute to any localised ponding, nuisance flooding on adjoining properties or impacts to overland flow or natural drainage paths</i>
	<i>Compliance with Council's Engineering Design Specifications</i>	<i>Refer to CSMP</i>
3.21 Shop top housing	<i>First floor</i>	<i>The shop top housing is located wholly above commercial development on the ground level.</i>

Controls	Specific Considerations	Response
	Front façade windows	The front facing unit has a window from a habitable room looking out onto the street.
	Frontage appearance	The front face is not mirror reversed or repeated because the ground floor is asymmetric.
	Accessible Dwellings	This development is for less than 10 units and therefore an accessible dwelling is not required.
	Footprint	The development does not exceed the footprint of the ground floor commercial development.
	Public Open Space	The site is less than 400 metres from an eligible public open space, being the Thirlmere Sportsground.
	Private Open Space	Each dwelling is provided with a verandah with an area exceeding 8m ² and a minimum width of 2.5m.
	Car Parking	The shop top housing component of the development requires 10 parking spaces (8 for occupants and 2 visitor spaces). These spaces are provided in the basement parking.
	Solar access	Refer to shadow diagrams by architect
	Overlooking	The proposal will not result in unreasonable overlooking. On the western side (at shop top housing level) there is a walkway to provide access for the dwellings. This effectively creates a setback to bedrooms and therefore occupied infrequently. Overlooking is therefore unlikely. On the eastern side, each dwelling has a balcony, which will also be used infrequently. In any case, the outlook is generally over the land which is proposed to be developed for the car park.
	Waste Management	A bin storage area is provided in the basement area.

Table 9. Controls – Volume 4, WDCP 2011

VOLUME 5 – Commercial and Community

Controls

Controls	Specific Considerations	Response
2.1 Sustainability	Old Growth Timber	It is not proposed to use old growth timber.
	Ground Water	A portion of the front of the site will be landscaped to accommodate groundwater infiltration.
	Water Tanks	The development proposes a total of 1504sqm GFA, although some of this area is existing. Nevertheless, at 1504sqm, the requirements would equate to a minimum tank volume of 14 kL. The CSMP proposes an OSD system with a 46kL volume. This storage can be made available for cleaning and watering.

Controls	Specific Considerations	Response
	Water Fittings	Complying water saving fittings are proposed for the development.
	Recycled Water	No recycled water is available to the site.
	Photovoltaic Panels	The new GFA area is approximately 1376sqm. A photovoltaic system is proposed and details will be provided to Council prior to the issuing of the development consent.
2.2 Setbacks	Boundary Setbacks	The application is boundary to boundary in accordance with this provision.
2.3 Building Design	Public Open Space	The development will not significantly overshadow Thirlmere Public School as shown in the accompanying shadow diagrams.
	Colorbond on elevations	No colorbond is proposed on any façade.
	Quality of external finish	The external finishes are of a high standard as required by this control.
	Entry Point Visibility	The entry points are clearly visible on the front façade.
	Façade appearance	The façade is satisfactory with regard to its presentation to Oaks Street, particularly considering the original building is being retained.
	Active Frontage	84% (16.8m out of 20m) of the front façade is an active frontage.
	CPTED	The shop and dwelling allow for passive surveillance of the street and there are no lanes or other entrapment areas in the development.
	Disabilities access to public footpath	The development will comply with this requirement.
	Physical separation of basement car parks	All non-parking uses in lower level of the development are separated from the parking by walls.
	Amenity for residential uses	The development has been designed to ensure a high level of amenity for future residents of the shop top housing. The proposed shop is unlikely to significantly impact of the amenity of nearby housing.
	Fittings and utilities on frontage	Drainage will be separate as required by the heritage provisions relating to the site. We understand that the heritage provisions prevail over this provision in accordance with Clause 1.4 of Volume 1 of this DCP. All other services are integrated into the building as required.
	External lighting	There will be no upward directed external lighting.
	Visibility of servicing infrastructure	<p>None of the items identified in this control will be visible from a publicly accessible location, with the exception of a small part of the lift over-run.</p> <p><u>Request for variation</u></p> <p>The lift over-run can be partially seen from Oaks Street to the west of the property. However, it cannot be seen from the front boundary of No.27 or east of the property along Oaks Street because it is obscured by either the existing house on the property or the roof of the new building or adjacent buildings. The lift over-run is also obscured by the new roof in the view from Penny Lane. In consideration of the development as a whole, this is considered satisfactory.</p>

Controls	Specific Considerations	Response
		<p>It is noted that provisions of a DCP exist to provide guidance only and are not statutory requirements (s.3.42(1) EPA Act). A lift must have an overrun and it was considered by the designer to be the best location.</p> <p>Notwithstanding the proposed variation to the guideline, the proposal still achieves the objectives outlined in Part 2.3</p> <p>It is requested that Council vary the guideline contained in Volume 5, Part 2.3 WDCP 2016 to permit the nominated window frames.</p>
	Parent rooms	The common bathroom in the communal open space has a change table as required.
2.4 Open Space	Open Space	This proposal does not exceed the trigger values identified in control 1.
2.5 Outdoor eating and seating	Pedestrian movement	N/A as the outdoor seating is not located on the footpath
	Lighting	Noted, is capable of compliance
	Heating	Noted, is capable of compliance
2.6 Landscaping	Landscaping	Refer to landscape plans. The proposal complies with, or is capable of compliance with, the relevant controls.
2.8 Public Realm	Compliance with policies	Noted, capable of compliance
2.9 Access and Traffic	Separate access for service and delivery vehicles	<p>A loading zone is proposed within the Council owned car park.</p> <p>The proposal will access from a parking area and there is no opportunity to provide separate access for delivery vehicles in this unique situation. The only opportunity to provide separate access for delivery vehicles would be to access from Oaks Street. This would be inconsistent with the objective of Volume 1 of the DCP in relation to heritage controls and would also prevent compliance with the requirement for 75% of the front façade to be active. Consequently, we submit that this control should derogate to the Heritage Provisions in Volume 1 and the active frontage requirement in this volume and no variation is required.</p> <p>A delivery space is proposed in the Council parking area in this regard. The developer proposes a bicycle rack within Council's new parking area as part of the civil works for this development.</p> <p>The proposal is beneath the other thresholds in this section.</p>
	Bicycle racks	7 spaces provided in compliance with the control
2.10 Parking	Garage door requirements	The proposed garage door is compliant with these requirements.
	Manoeuvring	Adequate manoeuvring area is provided.
	2.5 spaces for 100m ² of GFA	New commercial 715.2sqm, requiring 18 spaces (rounded up), with an addition 8 spaces for the café and one loading bay. The 26 spaces and loading bay are proposed to be constructed on the adjoining land owned by Council, as previously outlined.

Controls	Specific Considerations	Response
2.11 Waste Management		Suitable waste management areas are provided as required by these controls.
2.12 Stormwater		Stormwater will be reticulated to an extended Penny Lane for disposal in the drainage system.

Table 10. Controls – Volume 5, WDCP 2011

5.5 Planning Agreements

The proponent's offer, as an integral component of this application, is as follows:

- 1) To voluntarily enter into a Planning Agreement ('VPA') with Wollondilly Council;
- 2) To construct, subject to endorsement by Council, the car park, footpath and landscaping on Lot 100 DP 1175654, more or less as shown on the plan titled "*Proposed Car Park Arrangement*", dated March 2018 (dwg no 1728/CP.01 Rev A) by KPA Architects.
- 3) The VPA will address the mandatory requirements of the *Environmental Planning & Assessment Act 1979 (EPA Act)*;
- 4) The VPA will contain a dispute resolution clause;
- 5) The proponent accepts that there will be no offset for future developer contributions, payable under s7.11 or s7.12 of the EPA Act, unless a component of the usual levy applicable requires a contribution for provision of car parking;
- 6) The proponent agrees to pay Council's reasonable costs in reviewing and establishing the VPA, but does not offer to pay for Council seeking advice that it considers arises as a consequence of the VPA;
- 7) The proponent agrees that the existence of the VPA will be registered on the title to Lot 3 Section C DP 1569 until such time as the car park and associated infrastructure is constructed.
- 8) The proponent agrees that the redevelopment of Lot 3 Section C DP 1569 will not be occupied until such time as the car park construction is complete
- 9) This offer is subject to an appropriate Planning Agreement being entered into by the proponent and Wollondilly Council.

The offer contained in this letter is made pursuant to S7.7(3)(a) EPA Act.

5.6 Regulations

There are no relevant provisions within the Environmental Planning and Assessment Regulations, 2000 which impact on this proposal.

5.7 Impact of the Development

Potential impacts and mitigation measures (where necessary) are discussed in section 4 of this report.

5.8 Suitability of the site

It is considered that the land is suitable for the proposed development as outlined in section 2 of this report and having regard to the findings of the heritage assessment report.

5.9 Submissions

Public submissions will be a matter for consideration by Council. We can provide comment on any particular issues that are raised in this process.

5.10 Public Interest

It is considered that the proposal is in the public interest. It proposes a mixed use development that is compliant with the LEP, with minimal impact to the natural or built environment and placing minimal increased demands on public infrastructure.

6. Conclusion

On merit it is considered that this application be approved subject to conditions. On balance it is considered that this application seeks consent to a reasonable proposal. It is requested that Council officers exercise delegated authority to approve this development.

PRECISE PLANNING

March 2018-03-28