

30 June 2023

The General Manager  
Cumberland City Council  
16 Memorial Avenue  
Merrylands NSW 2160

Dear Sir/Madam,

**Submission in regards to DA2023/0130 Development Application  
109A Church Street, Lidcombe**

*“Demolition of existing buildings and construction and operation of an organic waste transfer station. Integrated Development - Section 43(b) of Protection of the Environment Operations Act 1997. The proposal is Designated Development under the provisions of the Environmental Planning and Assessment Regulation 2021.*

**1. Introduction**

\_\_\_\_\_ has been engaged by \_\_\_\_\_, the property owners of 109 Church Street, Lidcombe (“No. 109”) to review of DA2023/0130 at 109A Church Street, Lidcombe (“No. 109A”) and prepare a submission on their behalf. No. 109 lies to the east of the development site, and contains a commercial office structure, warehouse building and large hardstand areas.



**Figure 1 – Site Locality Map (NearMaps, 2023)**



**Figure 2** – Development site viewed from 109 Church Street (from the east)

This submission will consider the key applicable Cumberland Local Environmental Plan 2021 development standards, Cumberland Development Control Plan 2021 planning controls and State Environmental Planning Policy (SEPP) provisions.

The current building at 109 Church Street contains modest commercial/industrial structures covering a small percentage of the site – an underdeveloped site considering the permissible uses and maximum building envelope permitted under local and state planning instruments.

The property is located in the land use zone E4 General Industrial, in which at least the following uses are currently permitted:

*Centre-based child care facilities; Depots; Food and drink premises; Freight transport facilities; Garden centres; General industries; Goods repair and reuse premises; Hardware and building supplies; Industrial retail outlets; Industrial training facilities; Kiosks; Landscaping material supplies; Light industries; Liquid fuel depots; Local distribution premises; Markets; Neighbourhood shops; Oyster aquaculture; Plant nurseries; Rural supplies; School-based child care; Take away food and drink premises; Tank-based aquaculture; Timber yards; Warehouse or distribution centres.*

A maximum floor space ratio of 1:1 and no maximum building height would apply. Development may be able to be built to the side and rear boundaries, subject to detailed design.

As such, it is reasonable to assume that 109 Church Street would be capable of featuring a multi-storey development subject to the detailed design, which could be used as a child care facility, market, or take away food and drink premises – currently permitted uses that may be highly frequented by both employees and members of the community, including children.

Therefore, this submission will consider impacts by DA2023/0130 on such future likely uses at 109 Church Street which must be considered, alongside impacts on the current industrial business operating on site.

The industrial proposal at 109A Church Street under DA2023/0130 raises considerable concerns regarding stormwater management, visual bulk and local character, odour and noise, and planning control non-compliances. Consequently, it will pose an unacceptable impact on the amenity of 109 Church Street and on the character of the locality.

## **2. Stormwater Drainage and Management**

At present the current structures on site at 109A Church Street are likely to be contributing to adverse stormwater overflow onto 109 Church Street, shown in figure 3. As hard surface is being increased and minimal eastern setbacks are proposed under DA2023/0130, there is concern that stormwater impacts on 109 Church Street will be exacerbated. 109A Church Street features a higher topography than its neighbour at 109, resulting in stormwater travelling towards the east with gravity.

An increase in deep soil and lawn between the two sites can mitigate stormwater overflow.



**Figure 3 – Water overflow onto 109 assumed to be from 109A at present**

### **3. Visual Bulk and Local Character**

The large 12m shed structure along the eastern site boundary under DA2023/0130 is expected to be visually obtrusive for anyone viewing the site from the east. This includes users of 109 Church Street and members of the public who can view the development property when walking along Church Street. Extending right to the boundary shared by both properties, the impact of the proposed shed on No. 109 is exacerbated.

Such large site coverage is uncharacteristic of the immediate surrounds, where most hardstand areas are exposed/open which allows the surrounding landscaping to visually dominate and act as a visual buffer between blocks. The proposal is therefore expected to have an adverse impact on the established local character of the area.

### **4. Odour and Noise**

There is concern that the proposed operation at such close distance to 109 Church Street will produce unpleasant odour and noise for current and future users of the neighbouring site. Vehicle movements and machinery are a concern from an acoustic perspective, and the storage and processing of waste product are expected to cause odour concerns. These odours and noise may negatively impact a future permissible land use (such as a childcare centre or market) which the general public may attend including sensitive users such as children.



It is noted that two wet scrubber odour control units are proposed to be installed to mitigate odour, however, the success of these scrubbers is solely reliant on a functioning mechanical system. In the event of a system fault, the close proximity of FOGO stockpile storage to 109 Church Street is a concern.

A greater setback with lawn landscaping between the two sites would assist to reduce odour and noise impacts, and should be applied along the eastern boundary of No. 109A.

## 5. Structural Impact

The nil eastern side and rear setback proposed under DA2023/0130 may cause structural damage to current and future structures at 109 Church Street. A retaining wall is currently located between the properties, on the side of No. 109. The retaining wall was designed for the current site conditions, not to withstand impact from a large structure as proposed now or by other substantial structures at No. 109A in the future.

An increased eastern setback can protect the structural stability and integrity of works at 109 Church Street.

## 6. Against the Public Interest, and LEP and DCP Non-compliances

The CLEP and CDCP are considered to be contemporary documents. As part of the planning policy process, changes to the LEP and DCP are placed on public exhibition prior to finalisation and gazettal, in order to ensure that the documents reflect the local communities sentiments. Therefore, any non-compliance with the LEP and DCP can be considered to be **directly against the public interest**.

As such, the proposal under DA2023/0130 in its current form is not in the public interest, and cannot reasonably be supported as the “public interest” is a key consideration that consent authorities such as Council must consider under Clause 4.15(1) of the *Environmental Planning and Assessment Act 1979*.

DA2023/0130 exhibits major non-compliance with the objectives and controls of the LEP and DCP, as per the below tables. In its current form, the proposal can therefore not be supported as it does not contain planning merit.

### 6.1 Cumberland Local Environmental Plan 2021

Key Control	Comment
<u>Land Use Zone</u> <b>Zone E4 General Industrial</b> contains the following objectives:	DA2023/0130 is <b>inconsistent</b> with objectives c, e and f because of the substantial scale of the proposed

<ul style="list-style-type: none"> <li>a) To provide a range of industrial, warehouse, logistics and related land uses.</li> <li>b) To ensure the efficient and viable use of land for industrial uses.</li> <li>c) To minimise any adverse effect of industry on other land uses.</li> <li>d) To encourage employment opportunities.</li> <li>e) To enable limited non-industrial land uses that provide facilities and services to meet the needs of businesses and workers.</li> <li>f) To ensure that development is of a height and scale that achieves the desired future character of the neighbourhood.</li> </ul>	<p>structures, and the likely odour and noise impacts of the operation.</p> <p>This portion of Church Street is not characterised by buildings which cover most of the site, boundary to boundary.</p>
<p><u>Clause 4.3 Height of Buildings</u> This clause contains the following objectives:</p> <ul style="list-style-type: none"> <li>a) to establish a maximum height of buildings to enable appropriate development density,</li> <li>b) to ensure that the height of buildings is compatible with the character of the locality,</li> <li>c) to minimise the visual impact of development,</li> <li>d) (d) to ensure sufficient solar access and privacy for neighbouring properties.</li> </ul>	<p>The visual bulk impact and local character issues caused by the development are <b>inconsistent</b> with the objectives of Cl 4.3.</p>
<p><u>Clause 4.4A Floor Space Ratio – Area 1</u> A maximum FSR of 1:1 applies for this, with the following objectives:</p> <ul style="list-style-type: none"> <li>a) to establish a maximum floor space ratio to enable appropriate development density,</li> <li>b) to ensure that development intensity reflects its locality.</li> </ul>	<p>The visual bulk impact and local character issues caused by the development are <b>inconsistent</b> with the objectives of Cl 4.4.</p> <p>Whilst a numerically compliant FSR is currently proposed, the scale of development is more aligned with a much greater gross floor area.</p>
<p><u>Clause 6.7 Stormwater Management</u> This clause requires development to:</p> <ul style="list-style-type: none"> <li>(a) to minimise the impacts of urban stormwater on properties, native vegetation and receiving waters,</li> </ul>	<p>The high floor to ceiling heights proposed in the warehouse can accommodate future mezzanine levels which would contribute to FSR and possibly result in an exceedance.</p> <p>DA2023/0130 is <b>inconsistent</b> with the applicable objectives of this clause as there is concern that inadequate stormwater solutions are proposed,</p>

(b) to avoid adverse impacts on soils and land stability, (c) to protect the environmental values of water identified for urban waterways in the Sydney Harbour and Parramatta River and Georges River catchments.	continuing or exacerbating the current inadequate stormwater management.
<b>Clause 6.12 Urban Heat</b> This clause requires development to: (a) reduce and remove urban heating from the environment, and (b) protect community health and wellbeing.	DA2023/0130 is <b>inconsistent</b> with the applicable objectives of this clause due to the large extent of non-permeable surface proposed. Improved deep soil or other permeable surface along boundaries will assist to reduce urban heat and minimise health and wellbeing impacts on No. 109.

### 6.2 Cumberland Development Control Plan 2021

Key Control	Comment
Water cycle management	Large shed and hardstand areas results in minimal open space and landscaping. Greater deep soil should be implemented.
Car parking and access	Separate access for trucks and small vehicles is proposed, with larger vehicles exiting the site along a driveway adjoining No. 109. This will cause visual, odour and noise impacts for 109.
Setbacks: No numerical minimum side setbacks are generally required for this site, however, a setback is required to screen buildings from: <ul style="list-style-type: none"> <li>• public places;</li> <li>• adjoining residential properties;</li> <li>• other sensitive land uses;</li> <li>• where rear access is required;</li> </ul> and <ul style="list-style-type: none"> <li>• where land adjoins the M4 Motorway.</li> </ul> <b>In such circumstances, a 4.5m landscape setback is required.</b>	<p>A <b>non-compliant</b> nil eastern setback to 109 Church Street is proposed.</p> <p>A 4.5m minimum landscaped lawn side setback should be applied along the eastern boundary to provide visual relief for users of No. 109 and members of the public walking along Church Street who can easily see this elevation from the footpath.</p> <p>Such a distance will also assist with structural, stormwater, noise and odour impacts for No. 109.</p>
Articulation: Development is required to avoid long blank walls of warehouse units, by providing articulation to the façade or division of massing, especially on street frontages.	The eastern elevation is currently unarticulated and bulky. It will benefit from applying physical separation from No. 109 for visual relief.

## 7. Recommendations

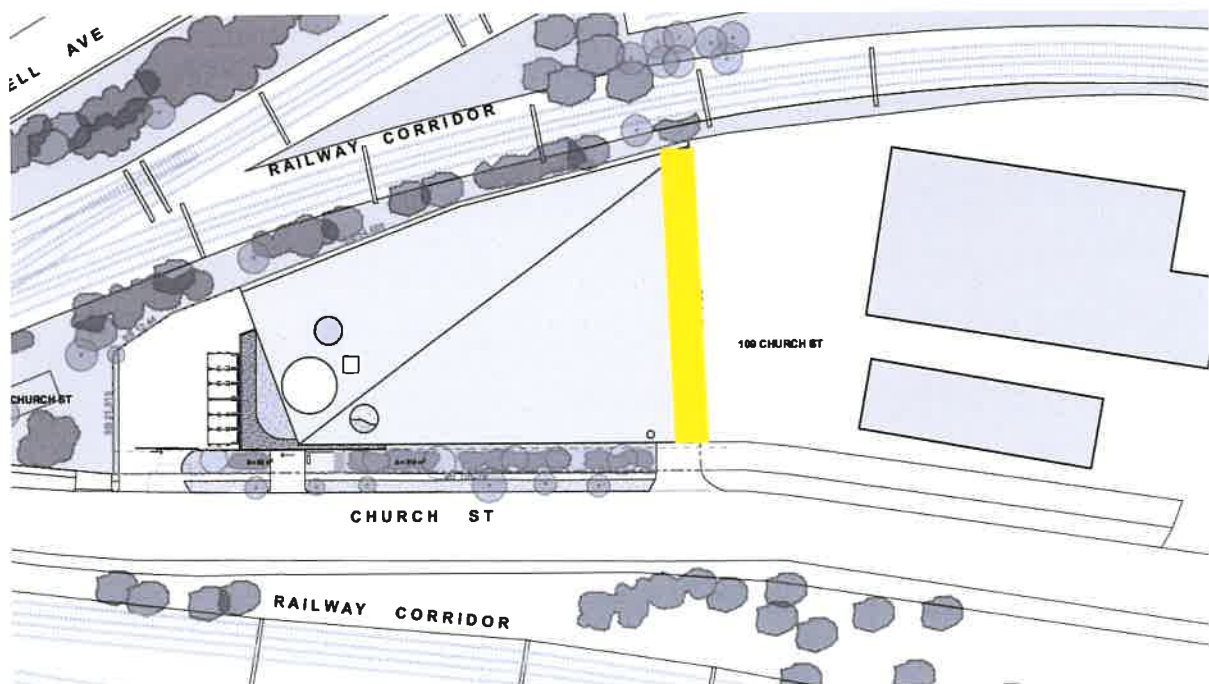
A more skilful design by way of reconfiguration and compliance with planning controls can allow both the development site and 109 Church Street to retain and/or improve their amenity respectively.

A 4.5m minimum landscaped side setback with lawn should be applied along the eastern boundary as per figure 4 to:

- Provide visual relief for users of No. 109 and members of the public walking along Church Street who can easily see this elevation from the footpath.
- Reduce the likelihood of new works at 109A causing structural issues for the retaining wall and boundary of 109 Church Street.
- Assist with stormwater drainage management, minimising adverse overflow impacts on 109 Church Street.
- Reduce noise and odour impacts for 109 Church Street.

No trees or hedges should be planted within the setback as these may pose structural damage to the retaining wall and future structures at 109 Church Street.

These recommendations mitigate concerns raised within this letter and allows for reasonable works at 109A Church Street whilst protecting the amenity of the current and future uses at 109 Church Street.



**Figure 4** – Recommended 4.5m wide deep soil lawn location



## **8. Conclusion**

We have strong concerns about the proposed development under DA2023/0130 and believe it cannot be supported in its current form. The development will have an adverse impact on the current and future amenity of 109 Church Street. A development of this configuration cannot be supported on this site. It is therefore requested that the proposed development in its current form be revised. Any future development on the site should ensure compatibility with the local area and address the issues raised in this submission.

Kind regards,