

Item Number:	1
Application Number:	DA-470/2022/A
Approved Development Approved by Land & Environment Court (LEC No: 2022/299477 - 19 April 2023)	Subdivision of Lot 22 approved under DA-1166/2015, into a Torrens Title subdivision of 21 residential lots, construction of twelve (12) dwellings (in 6 semi-detached built forms), and one (1) residue super-lot set aside for future development, site remediation, dam demolition and de-watering, construction of roads, tree removal and associated civil works, over two (2) stages
Proposed Development:	<p>Modification to Development Consent DA-470/2022/A under Section 4.56 of the Environmental Planning and Assessment Act 1979, to amend the subdivision layout and remove 1 residential lot resulting in 20 residential lots and 1 residue lot and to remove to construct 12 dwellings that were approved originally.</p> <p>Stage 1: Torrens title subdivision to create 17 residential lots and two residue lots, being proposed Lot 18 for a temporary OSD basin and temporary turning head to be further subdivided into 3 residential lots in Stage 2, and one residue Superlot (proposed Lot 19) that will be subject of a future development consent, site remediation, dam de-watering and demolition, construction of roads, tree removal and associated civil works.</p> <p>Stage 2: Decommissioning and rehabilitation of temporary OSD and temporary turning head and Torrens title subdivision of proposed lot 18 to create 3 residential lots.</p>
Property Address	140 Sixth Avenue, Austral
Legal Description:	Lot 22 DP 1286912
Applicant:	UPG 245 Pty Ltd
Land Owner:	UPG 245 Pty Ltd
Cost of Works:	\$0
Recommendation:	Approved, subject to modified conditions of consent
Assessing Officer:	Pradip Adhikari

EXECUTIVE SUMMARY

A panel meeting via MS Teams was held on 27 August 2024 prior to the electronic determination of DA-470/2022/A with further amendments to conditions of consent discussed. This is an addendum report has been prepared as follows:

- 1) Description on Notice of Determination (NOD) and incorrect reference to OSD Lot.

Council Comments: Lot 16 now referenced correctly as Lot 18.

- 2) Condition 5A and linkage to condition 107.

Council Comments: Condition 5A and 107 have been further amended as follows to reflect the discussion:

Added condition

- 5A. *Lot 19 shall not be developed until such time Browns Road is constructed on the adjoining site to the east, and any such development of Lot 19 must incorporate land to the east of Browns Road in Lot 1077 DP 2475. Resultant lots must include direct access from Browns Road. The requirements of this condition must be the subject of a restriction on the use of land under section 88b of the Conveyancing Act 1919. A further related condition of consent has been imposed to require the registration of a restriction as to user within the terms of this consent.*

Restriction as to User and Positive Covenant

107. *The final plan of subdivision must be supported by an 88B Instrument. This instrument must burden Lot 19 with a restriction such that the lot shall not be developed until such time Browns Road is constructed on the adjoining site to the east, and that any such development shall result in compliance with the minimum density requirements as required by Appendix 4, Clause 4.1B Residential density of the State Environmental Planning Policy (Precincts—Western Parkland City) 2021 or any superseding density requirement imposed under a subsequent Environmental Planning Instrument.*

- 3) Removal of Conditions which relate to the construction of dwellings (Dwellings no longer proposed under the subject modification application).

Council Comment: Conditions 15, 16, 60 and 83 are deleted as no dwellings are proposed.

- 4) Confirm plan reference details on conditions 30 are correct

Council Comment: Plan reference on conditions 30 has been amended and is now correct.

- 5) Condition 107 of original NOD may require amending to reflect the appropriate dwelling density for the residue lot.

Council Comment: Condition 107 has been further amended as follows to appropriately safeguard compliance with the minimum density requirements:

Restriction as to User and Positive Covenant

107. The final plan of subdivision must be supported by an 88B Instrument. This instrument must burden Lot 19 with a restriction such that the lot shall not be developed until such time Browns Road is constructed on the adjoining site to the east, and that any such development shall result in compliance with the minimum density requirements as required by Appendix 4, Clause 4.1B Residential density of the State Environmental Planning Policy (Precincts—Western Parkland City) 2021 or any superseding density requirement imposed under a subsequent Environmental Planning Instrument.

CONCLUSION AND RECOMMENDATION

The subject Modification Application DA-470/2022/A related to 140 Sixth Avenue, Austral is recommended for approval, subject to conditions as amended.

ATTACHMENTS

1. Modified Conditions of Consent