

AGENDA - IHAP

Meeting:	Georges River Independent Hearing Assessment Panel (IHAP)
Date:	Thursday, 16 November 2017
Time:	4.00pm
Venue:	Council Chambers, Georges River Civic Centre, Hurstville
Participants:	Adam Seton (Chairperson) Gabrielle Morrish (Panel Member) Juliet Grant (Panel Member) Paul Vergotis (Community Representative)
Additional Invitees:	Meryl Bishop (Director Environment and Planning) Tina Christy (Manager Development and Building) Cathy Mercer (Team Leader Administration) Monica Wernej (Admin Assistant)

1. On Site Inspections - 2.00pm –3.30pm

- a) 18 Gover Street Peakhurst
- b) 731 Princes Highway Blakehurst

Break - 3.30pm

2. Public Meeting – Consideration of Items 4.00pm–6.00pm

Public Meeting Session Closed - 6.00pm
(Break – Light Supper served to Panel Members)

3. Reports and IHAP Deliberations in Closed Session - 6.30pm

Item:	DA No:	Address:	Description:
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3.1	DA2017/0204	18 Gover Street Peakhurst	Demolition of existing structures and construction of a four (4) storey boarding house development comprising 27 rooms and basement parking
3.2	MOD2107/0084	731 Princes Highway Blakehurst	Section 96 modification to approved dwelling - additional level and internal and external alterations

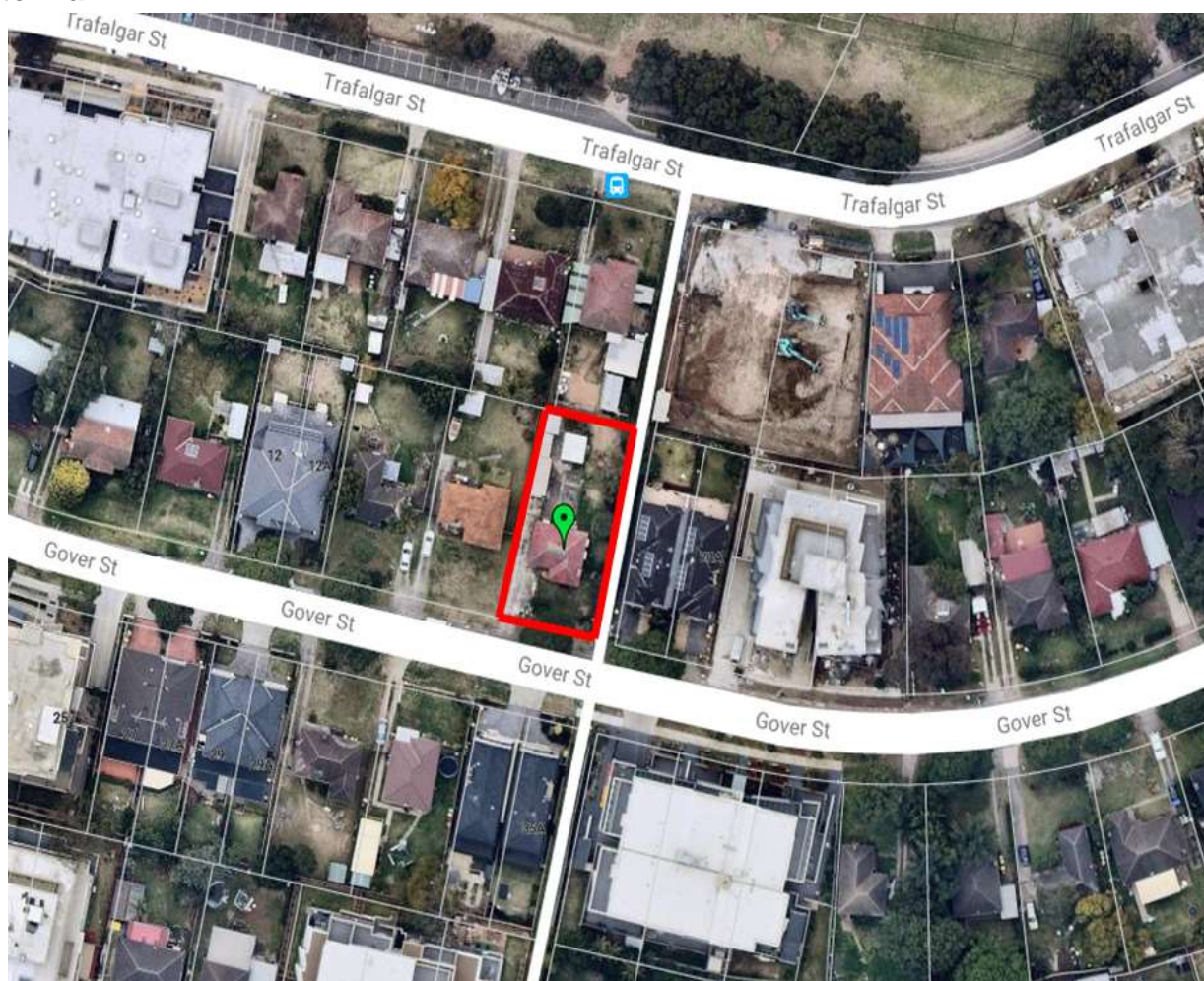
4. Confirmation of Minutes by Chair

REPORT TO GEORGES RIVER COUNCIL IHAP MEETING OF THURSDAY, 16 NOVEMBER 2017

IHAP Report No	3.1	Application No	DA2017/0204
Site Address & Ward Locality	18 Gover Street Peakhurst Peakhurst Ward		
Proposal	Demolition of existing structures and construction of a four (4) storey boarding house development comprising 27 rooms and basement parking		
Report Author/s	Senior Development Assessment Planner		
Owners	Grove 888 Pty Ltd		
Applicant	Design LInk Australia Pty Ltd		
Zoning	Zone R3 - Medium Density Residential		
Date Of Lodgement	30/06/2017		
Submissions	Sixteen (16) submissions and a petition containing 71 signatures		
Cost of Works	\$2,380,700.00		
Reason for Referral to IHAP	Number of submission received		

Recommendation	That the application be approved in accordance with the conditions included in the report.
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Site Plan



EXECUTIVE SUMMARY

Proposal

1. Development consent is sought for demolition of the existing structures and construction of new four (4) storey boarding house development comprising twenty seven (27) rooms and basement parking. The twenty seven (27) rooms are comprised of one (1) manager's room, nineteen (19) single lodger rooms and seven (7) double lodger rooms. The total capacity is therefore thirty three (33) lodgers plus one (1) boarding house manager.

Site and Locality

2. The subject site is legally described as Lot 156 in Deposited Plan 36317 and commonly known as 18 Gover Street, Peakhurst. The site is located on the northern side of Gover Street, between Trafalgar Street to the west and Pearce Avenue to the east. The site has a frontage to Gover Street of 17m and a total site area of 624.25sqm. The site currently accommodates an existing single storey dwelling with outbuildings at the rear.

The locality surrounding the subject site is residential and is undergoing a transition from one (1) and two (2) storey dwellings and dual occupancy development to three (3) and four (4) storey residential flat buildings.

Zoning and Compliance with LEP Standards

3. The site is zoned R3 – Medium Density Residential under Hurstville Local Environmental Plan 2012 and the proposal is a permissible form of development with Council's consent. The proposed development satisfies all relevant objectives contained within the LEP and is consistent with the requirements of State Environmental Planning Policy (Affordable Rental Housing) 2009.



Excerpt from Zoning Map

Development Control Plan (DCP)

4. The proposed development satisfies the objectives of the applicable DCP and complements the existing streetscape character. However, the proposal does not comply with Council's controls for:
 - Number of accessible car parking spaces

Submissions

5. Sixteen (16) submissions plus a petition containing seventy one (71) signatures were received raising the following concerns:
- Anti-social behaviour;
 - Safety;
 - Likelihood of the boarding house to attract low socioeconomic and transient people which is undesirable;
 - Loss of amenity to the local area;
 - Traffic and parking;
 - Garbage collection;
 - Increased risk of crime;
 - Devaluation of neighbouring properties;
 - Lack of background and criminal checks;
 - Loss of privacy;
 - Proximity to schools, parks and public pool;
 - Developer profits being placed before community wellbeing; and
 - Proposal represents a drain on public resources.

Level of Determination

6. The application is referred to the IHAP for determination in view of the number of submissions received.

Conclusion

7. Having regard to the Heads of Consideration under Section 79C(1) of the Environmental Planning and Assessment Act 1979 and following a detailed assessment of the proposal Development Application DA2017/0204 should be approved subject to suitable conditions.

REPORT IN FULL

PROPOSAL

8. Development consent is sought for demolition of the existing structures and construction of new four (4) storey boarding house development comprising twenty seven (27) rooms and basement parking. The twenty seven (27) rooms are comprised of one (1) manager's room, nineteen (19) single lodger rooms and seven (7) double lodger rooms. The total capacity is therefore thirty three (33) lodgers plus one (1) boarding house manager.

A further description of the proposed development is provided as follows:

Basement B2 Plan

- Five (5) car parking spaces;
- Car wash bay;
- Six (6) motorcycle spaces; and
- Bicycle parking.

Basement B1 Plan

- Seven (7) car parking spaces including one (1) accessible space; and
- Garbage room.

Ground Floor Plan

- Four (4) x single lodger rooms;
- One (1) x double lodger room;
- Communal living area (indoor and outdoor); and
- New landscaping around the perimeter of the site.

First Floor Plan

- Five (5) x single lodger rooms; and
- Three (3) x double lodger rooms.

Second Floor Plan

- Five (5) x single lodger rooms; and
- Three (3) x double lodger rooms.

Third Floor Plan

- Five (5) x single lodger rooms

THE SITE AND LOCALITY

9. The subject site is legally described as Lot 156 in Deposited Plan 36317 and commonly known as 18 Gover Street, Peakhurst. The site is located on the northern side of Gover Street, between Trafalgar Street to the west and Pearce Avenue to the east. The site has a frontage to Gover Street of 17m and a total site area of 624.25sqm. The site currently accommodates an existing single storey dwelling with outbuildings at the rear. There is a large street tree growing at the front of the site.

Immediately adjoining the subject site to the east is a walkway connecting Gover Street to Trafalgar Street and on the other side of the walkway is a two (2) storey attached dual occupancy. Adjoining the site to the west is a single storey dwelling. The locality surrounding the subject site is residential and is undergoing a transition from one (1) and two (2) storey dwellings and dual occupancy development to three (3) and four (4) storey residential flat buildings.



The subject site as viewed from Gover Street

BACKGROUND

10.

- 20 October 2016 – A Pre DA for a four (4) storey boarding house on the subject site was submitted to Council.
- 30 June 2017 – DA2017/0204 was submitted to Council.
- 10 July 2017 - Application was notified and advertised in accordance with the DCP. Sixteen (16) submissions plus a petition containing seventy one (71) signatures were received.
- 9 August 2017 - Request for additional information sent to applicant. Issues raised related to the size of the fourth storey and associated building height breach, insufficient sized communal rooms, accessible rooms and details of building finishes along the western elevation.
- 25 August 2017 – Amended plans were submitted. Various changes were made which included deletion of a double lodger boarding room at the front of the fourth storey, enlarged indoor communal living room, internal reconfigurations and changes to the lift design.
- 24 October 2017 – Further amended plans and other supporting information was submitted to address concerns raised with respect to flooding and hydraulic design.

HURSTVILLE LOCAL ENVIRONMENTAL PLAN 2012

11. The extent to which the proposed development complies with the Hurstville Local Environmental Plan 2012 (HLEP 2012) is detailed and discussed in the table below.

Clause	Standard	Proposed	Complies
1.2 – Aims of the Plan	In accordance with Clause 1.2(2)	The development is consistent with the aims of the plan.	Yes
1.4 – Definitions	Boarding House	The proposed development is consistent with the definition of	Yes

		<i>boarding house.</i>	
2.3 – Zone objectives and Land Use Table	Meets objectives of R3 – Medium Density Residential zone Development must be permissible with consent	Development meets objectives. Is a permissible form of development with consent?	Yes
4.3 – Height of Buildings	12m as identified on Height of Buildings Map	11.5m	Yes
4.4 – Floor Space Ratio	1:1 as identified on Floor Space Ratio map Additional 0.5:1 applies under SEPP (Affordable Rental Housing) 2009	1.23:1	Yes
6.7 – Essential Services	The following services that are essential for the development or that adequate arrangement must be made available when required: -Supply of water, electricity and disposal and management of sewerage -Stormwater drainage or onsite conservation -Suitable vehicular access	Adequate facilities for the supply of water and for the removal of sewerage available on this land. Stormwater management is addressed via conditions. Suitable vehicular access is available from Gover Street.	Yes Yes Yes

STATE POLICIES

12. Compliance with the relevant state environmental planning policies is detailed below.

STATE ENVIRONMENTAL PLANNING POLICY (AFFORDABLE RENTAL HOUSING) 2009**13. Division 3 Boarding Houses****Clauses 25-28 Development to which this Division applies**

Clause	Standards	Proposal	Complies
26 – Land to which Division applies for the purpose of a boarding house with consent	<ul style="list-style-type: none"> • R1 General Residential • R2 Low Density Residential • R3 Medium Density Residential • R4 High Density Residential • B1 Neighbourhood Centre • B2 Local Centre • B4 Mixed Use 	Site is zoned R3 Medium Density Residential	Yes

Clause 27 Development to which Division applies

Not applicable

Clause 29 – Standards that cannot be used to refuse consent

Council cannot refuse a development application for a boarding house under the ARHSEPP 2009 on any of the following grounds.

Clause 29	Standards	Proposal	Complies
Floor Space Ratio	If the density and scale of the buildings as a FSR is not more than the existing maximum FSR for any form of residential accommodation permitted (1.5:1 inclusive of additional permitted 0.5:1)	1.23:1	Yes
Height	If the building height is not more than the maximum height permitted under another EPI for any building on the land: Max 12m HLEP 2012	11.5m	Yes
Landscaped Area	If the landscape treatment of the front setback area is compatible with the streetscape in which the building is located	Landscaped front setback area is consistent with the character of the streetscape	Yes
Solar Access	Where the development provides for one or more communal living rooms, if at least one of those rooms receives a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter	3 hours of direct sunlight is achieved.	Yes
Private Open Space	If at least the following private open space areas are provided (other than the front setback area): (i) one area of at least 20sqm with a minimum dimension of 3m is provided for the use of the lodgers, (ii) if accommodation is provided on site for a boarding house manager—one area of at least 8sqm with a minimum dimension of 2.5m is provided adjacent to that accommodation.	Complies Complies	Yes
Accommodation size	0.4 parking spaces provided for each boarding room Not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site	11 spaces provided 1 space provided	Yes

A consent authority must not consent to development for boarding houses unless it is satisfied of each of the following.

Clause 30	Standards	Proposal	Complies
Communal living	(a) If a boarding house has 5 or more boarding rooms, at least one communal living room will be provided	One communal room provided at the rear of the ground floor	Yes
Size of boarding rooms	(b) No boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25sq	Complies	Yes
Maximum occupancy	(c) No boarding room will be occupied by more than 2 adult lodgers	Complies – condition imposed	Yes
Kitchen and bathroom facilities	(d) Adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger	All rooms have kitchen and bathroom facilities	Yes
Boarding house manager	(e) If the boarding house has capacity to accommodate 20 or more lodgers, a boarding room or on site dwelling will be provided for a boarding house manager	Boarding house manager provided	Yes
Bicycle and motor cycle spaces	(h) At least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms	6 motorcycle spaces and 6 bicycle storage spaces provided	Yes

Clause 30A – Character of the local area

14. Clause 30A states that Council cannot grant consent to a boarding house unless it has taken into consideration whether the design of the development is compatible with the character of the local area.

Case law has held that the test in Clause 30A is “one of compatibility not sameness” (Gow v Warringah Council [2013] NSWLEC 1093. Compatibility is widely accepted to mean “capable of existing together in harmony” (Project Venture Developments v Pittwater Council [2005] NSWLEC 1029). It has also been held that in assessing ‘compatibility’ both the existing and future character of the local area needs to be taken into account (Sales Search Pty Ltd v The Hills Shire Council [2013] NSWLEC 1052 and Redevelop Projects Pty Ltd v Parramatta City Council [2013] NSWLEC 1029).

In Redevelop Projects Pty Ltd v Parramatta City Council [2013] NSWLEC 1029, Commissioner Morris concluded that the ‘local area’ includes both sides of the street and the ‘visual catchment’ as the minimum area to be considered in determining compatibility.

With regard to the subject site, the ‘local area’ is taken to include both side of Gover Street between Trafalgar Street and Pearce Avenue. Throughout Gover Street there are a mixture of single and two storey dwellings, attached dual occupancies and multi level residential flat buildings.

Although the building will appear larger than some of the undeveloped buildings in its surroundings, the character of an area is not only defined by what is physically existing in the area, but also what is permitted under the planning controls which apply at the time. It is noted that all of the properties in Gover Street are within the R3 Medium Density Residential zone, have an FSR of 1:1 and maximum allowable building height of 12m in accordance with the LEP. Whilst the proposed FSR is greater than 1:1, the building is compliant with the building height development standard and the scale of the development is comparable and congruous with the recently constructed and/or under construction RFB's within Gover Street, images of which are shown below.





The applicant has undertaken a character test within the submitted Statement of Environmental Effects. The conclusions drawn in those comments are concurred with.

Deemed State Environmental Planning Policy – Georges River Catchment

15. All stormwater from the proposed development can be treated in accordance with Council's Water Management Policy and would satisfy the relevant provisions of the Deemed State Environmental Planning Policy – Georges River Catchment.

DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

16. There are no draft planning instruments that are applicable to this site.

DEVELOPMENT CONTROL PLANS (DCP)

17. The proposal has been assessed under the relevant sections of Development Control Plan No 1 (Amendment No 5) as follows.

DEVELOPMENT CONTROL PLAN NO 1 – LGA WIDE – SECTION 3.1 VEHICLE ACCESS, PARKING AND MANOEUVRING

18. The car parking rates set out within the ARHSEPP 2009 supersede the DCP requirements. The application was accompanied by a Traffic report which confirms that the design of the basement is capable of complying with the relevant Australian Standards. In any case, Council's standard condition requiring the development to comply with AS 2890.1 has been incorporated into the recommendation.

DEVELOPMENT CONTROL PLAN NO 1 – LGA WIDE – SECTION 3.3 ACCESS AND MOBILITY

19. The development has been assessed against the key requirements of Section 3.3 as provided below.

Places of Shared Accommodation	Standard	Proposal	Complies

Adaptable dwellings	1 accessible room per 5 guests/tenants bedrooms or part thereof – 6 required	6 adaptable boarding rooms provided	Yes
Access requirements	Access in accordance with AS1428 for all persons through the principal entrance of the building and to common areas	Access is provided to all floors of the new building via a lift. Disabled chair lift is provided within the corridors where there is a change in level.	Yes
Accessible car space	1 parking space per 10 rooms or part thereof – 3 required	2 spaces - A condition of consent has been included to ensure compliance is achieved	Yes- subject to condition

DEVELOPMENT CONTROL PLAN NO 1 – LGA WIDE – SECTION 3.4 CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

20. The proposal has been considered in accordance with the relevant provisions. The proposal allows opportunities for passive and casual surveillance to and from the street. The Plan of Management provided forms part of the recommended development consent and covers acceptable behaviour of boarders and visitors in relation to the site.

DEVELOPMENT CONTROL PLAN NO 1 – LGA WIDE – SECTION 3.5 LANDSCAPING

21. A detailed Landscape Plan was submitted with the application. The landscape design incorporates soft landscaping throughout the site where conceivably possible. The overall extent of landscaping proposed as well as the species selection is acceptable and satisfies the DCP provisions.

DEVELOPMENT CONTROL PLAN NO 1 – LGA WIDE – SECTION 3.7 STORMWATER

22. The development proposed drainage methods are acceptable. Conditions have been included in the recommendation.

DEVELOPMENT CONTROL PLAN NO 1 – LGA WIDE – SECTION 4 – SPECIFIC CONTROLS FOR RESIDENTIAL DEVELOPMENT

23. Council's DCP does not contain any specific controls for boarding house development. Nevertheless, a merit assessment of the key controls found in this part of the DCP has been undertaken. The following comments are made.

Building setbacks

Front

The proposed development is setback 6m from the front boundary, consistent with the setback requirement for residential flat buildings in the R3 Medium Density zone.

Rear

The proposed development is setback 6 metres from the rear boundary. This setback provides sufficient separation from the adjoining site at the rear which fronts Trafalgar Street. Further, this setback enables soft landscaping, tree planting and passive recreational opportunities for future users.

Side

The proposed development is setback 3-4.9m from the eastern side boundary and 3–5m from the western side boundary. The setbacks proposed are considered to be reasonable. The following comments are made:

- To the east, the site adjoins a public footpath that is approximately 3.7m wide which effectively increases the building separation from the adjoining residential allotment at 20 Gover Street;
- The window openings on the western façade are proposed to have external aluminium louvres to reduce overlooking opportunities and protect the rooms from afternoon western sun penetration;
- The setbacks proposed do not lead to any unreasonable amenity impacts for adjoining properties and do not preclude the reasonable re-development of those site; and
- The applicant has provided evidence of attempts made to acquire the adjoining site to the west of 14-16 Gover Street, ie so as to provide a single development across a larger amalgamated site. The site at 14-16 Gover Street is owned by the NSW Government Land and Housing Corporation who has advised that after a review of the site they do not wish to sell the land.

External appearance

The external presentation of the building contains a mix of rendered finish of two different colours, face brick, weatherboards and powder coated aluminium louvres. Such materials are considered to be contemporary and are reflective of the style of new medium density development being built in this locality.

Overshadowing

Shadow diagrams were submitted with the application. These drawings reveal that the additional overshadowing generated by the development would not cause any unreasonable loss of residential amenity for nearby properties. The additional overshadowing caused by the development on 21 June is predominately cast over: roofs and front setback areas of adjoining dwellings, the front setback area of the development itself and the public domain in the form of Gover Street.

No further concerns are raised in this regard.

Visual and Acoustic Privacy

The visual and acoustic privacy outcomes within the development and in relation to the adjoining properties are generally well resolved. The following comments are noted:

- The windows proposed on the front (south) elevation would generally overlook the front setback area and the street;
- Window openings on the western (side) elevation are proposed to have external aluminium louvres to minimise privacy impacts caused by overlooking;
- Window openings on the north (rear) and east (side) elevations are sufficiently separated from adjoining properties to the north and east; and
- The submitted Plan of Management contains restrictions and guidelines to minimise noise generation at the boarding house.

Other Planning comment(s)

Boarding Room amenity

It is acknowledged that the amenity afforded to rooms 03 and 04 on the ground floor is not of a high level. This is because the only windows in these rooms are west facing

directly adjacent to the vehicular access driveway. However, these rooms, being two (2) out of twenty seven (27) are representative of only 7% of the entire development.

Lift design

The extent of lift overrun shown on the architectural drawings is shown to be minimal. The applicant has submitted details of the manufacturer's specifications to demonstrate that this is achievable.

Plan of Management

The application was accompanied by a Plan of Management which addresses, but is not necessarily limited to:

- Establishing a monitoring system;
- House Rules;
- Rules and Responsibilities of the on-site Manager; and
- Provisions to address any operational management issues.

The submitted Plan of Management is satisfactory and assists to ensure that the premises' operates in a manner which maintains a high level of amenity for the surrounding properties and the boarding house residents.

DEVELOPMENT CONTROL PLAN NO 1 – LGA WIDE – APPENDIX 1 – SECTION 7 WASTE MANAGEMENT

24. A Waste Management Plan has been submitted with the application which is acceptable. Further, the submitted architectural drawings show a garbage area within the basement levels.

DEVELOPMENT CONTROL PLAN NO 1 – LGA WIDE – APPENDIX 1 – SECTION 8 ENERGY EFFICIENCY

25. The development will be captured by Section J of the BCA concerning energy efficiency.

DEVELOPMENT CONTROL PLAN NO 1 – LGA WIDE – APPENDIX 1 – SECTION 9 PRESERVATION OF TREES AND VEGETATION

26. The proposed development includes the removal of an existing 6m high tree growing in the rear yard adjacent to the eastern side boundary. No concerns are raised with the proposed removal of this tree given that the landscape plan proposes the planting of twelve (12) new trees with mature heights that range between 5m and 8m. Conditions are recommended for the protection of the existing street tree growing at the front of the site.

Section 94A Contributions

27. The proposed development requires the payment of \$23,807.00 of Section 94A contributions under the provisions of the Georges River Section 94A Plan based on the determined cost of works of \$2,380,700.00.

Prescribed Matters

28. Not applicable.

Environmental, Social and Economic Impacts

29. The proposed development is of a scale and character that is in keeping with other dwellings being constructed in the locality. Accordingly, the proposal is not considered to have a significant impact on the natural and built environment of the locality.

Suitability of the site

30. It is considered that the proposed development is of a scale and design that is suitable for the site having regard to its size and shape, its topography, vegetation and relationship to adjoining developments.

Sixteen (16) submissions plus a petition containing seventy one (71) signatures were received raising the following concerns:

- Anti-social behaviour;
- Safety;
- Likelihood of the boarding house to attract low socioeconomic and transient people which is undesirable;
- Loss of amenity to the local area;
- Traffic and parking;
- Garbage collection;
- Increased risk of crime;
- Devaluation of neighbouring properties;
- Lack of background and criminal checks;
- Loss of privacy;
- Proximity to schools, parks and public pool;
- Developer profits being placed before community wellbeing;
- Proposal represents a drain on public resources.

Submissions

31. In accordance with the provisions of Council's notification requirements, the application was placed on neighbour notification for a period of fourteen (14) days where adjoining property owners were notified in writing of the proposal and invited to comment. There were a total of sixteen (16) submissions plus a petition containing seventy one (71) signatures received raising the following concerns.

1. Anti-social behaviour, safety and increased risk of crime

Comment: A Plan of Management which will be imposed as a condition of consent has been submitted with the application which outlines acceptable behaviour for boarders and visitors so as to limit the likelihood of anti-social behaviour. Further, the Plan of Management creates a complaints mechanism. The development is acceptable in this respect subject to on-going compliance with the Plan of Management.

Further, the development provides an on-site boarding house manager and the design of the development is generally consistent with CPTED principles.

2. Traffic and Parking

Comment: The development provides a compliant amount of on-site car parking consistent with the ARHSEPP requirements. In addition, the development would not generate any unreasonable impacts upon the local road network.

3. Loss of amenity to the area and privacy loss

Comment: The proposed development is unlikely to result in any unreasonable loss of amenity and/or privacy for reasons discussed throughout this report.

4. Likelihood of the boarding house to attract low socioeconomic and transient people which is undesirable

Comment: This matter is not a planning consideration.

5. Likelihood of the boarding house to attract low socioeconomic and transient people which is undesirable;
Lack of background and criminal checks; and
Developer profits being placed before community wellbeing

Comment: These matters are not planning considerations pertinent to the assessment of the subject application.

6. Proposal represents a drain on public resources

Comment: The proposed development is privately funded on private property. In addition, the development is subject to section 94 contributions which would go towards public infrastructure.

7. Proximity to schools, parks and public pool

Comment: This matter is not a planning consideration pertinent to the assessment of the subject application.

8. Garbage collection

Comment: The design of the development includes a dedicated garbage room on the basement B1 plan which is capable of accommodating a sufficient number of bins for the development. These bins will be presented kerbside for collection.

9. Property devaluation

Comment: There is no evidence that the development, if approved would affect property values in the area. The boarding house is a use permitted in the R3 zone and is a residential use.

Public Interest

32. The proposed development is of a scale and character that does not conflict with the public interest.

Consultation – Internal and External Referrals

33. Internal Referrals

Development Engineer

Council's Development Engineer has reviewed the amended plans and flooding and hydraulic details and recommends conditions to address these matters. Those conditions have been incorporated into the recommendation.

Environmental Health and Building Surveyor

No objections were raised subject to conditions of consent.

Conclusion

34. Development consent is sought for demolition of the existing structures and construction of new four (4) storey boarding house development comprising twenty seven (27) rooms and basement parking at 18 Gover Street, Peakhurst.

The application has been assessed having regard to the Heads of Consideration under Section 79C of the Environmental Planning and Assessment Act 1979, the provisions of the relative State Environmental Planning Policies, Local Environmental Plans and Development Control Plans. The proposed development achieves an acceptable level of compliance with those requirements and does not cause any unreasonable impacts upon neighbouring properties and/or the streetscape.

The application was notified and advertised in accordance with Development Control Plan No 1 – LGA Wide. A total of sixteen (16) submissions plus a petition containing seventy one (71) signatures were received objecting to the development. The issues raised have been addressed in this report and are not considered to warrant further plan amendment or outright refusal of the application.

The application is recommended for approval.

Recommendation

35. THAT pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act 1979, as amended, the Council grants development consent to Development Application DA2017/0204 for demolition of the existing structures and construction of a four (4) storey boarding house development comprising 27 rooms and basement parking on Lot 156 in DP 36317, known as 18 Gover Street, Peakhurst, subject to the attached conditions.

Schedule A – Site Specific Conditions

GENERAL CONDITIONS

These conditions have been imposed to ensure that the development is carried out in accordance with the approved plans and to ensure that the appropriate fees and bonds are paid in relation to the development.

1. **Approved Plans** - The development must be implemented in accordance with the approved plans and supporting documentation listed below which have been endorsed by Council's approved stamp, except where marked up on the plans and/or amended by conditions of this consent:

Description	Reference No.	Date	Revision	Prepared by
Site Plan	DA-01	21.10.17	H	Designlink
Demolition Plan & Sediment Control Plan	DA-02	17.08.17	G	Designlink
Basement B1&2	DA-03	17.8.17	G	Designlink
Ground and First Floor Plan	DA-04	21.10.17	H	Designlink
Second and Third Floor Plan	DA-05	21.10.17	H	Designlink
Roof Plan	DA-06	21.10.17	I	Designlink
Elevations	DA-07	21.10.17	I	Designlink
Section AA	DA-08	21.10.17	I	Designlink
Materials Finishes Schedule	-	17.8.17	G	Designlink

Landscape Concept Plan	17 106 DA 1	12.6.17	A	Vision Dynamics
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SEPARATE APPROVALS UNDER OTHER LEGISLATION

These conditions have been imposed to ensure that the applicant is aware of any separate approvals required under other legislation, for example: approvals required under the Local Government Act 1993 or the Roads Act 1993.

2. **APR7.2 - Section 138 Roads Act 1993 and Section 68 Local Government Act 1993 -**
Unless otherwise specified by a condition of this consent, this Development Consent does not give any approval to undertake works on public infrastructure.

Separate approval is required under Section 138 of the Roads Act 1993 and/or Section 68 of the Local Government Act 1993 for any of the following activities carried out in, on or over a public road (including the footpath) listed below.

An application is required to be lodged and approved prior to the commencement of any of the following works or activities;

- (a) Placing or storing materials or equipment;
- (b) Placing or storing waste containers or skip bins;
- (c) Erecting a structure or carrying out work
- (d) Swinging or hoisting goods over any part of a public road by means of a lift, crane or the like;
- (e) Pumping concrete from a public road;
- (f) Pumping water from the site into the public road;
- (g) Constructing a vehicular crossing or footpath;
- (h) Establishing a “works zone”;
- (i) Digging up or disturbing the surface of a public road (e.g. Opening the road for the purpose of connections to utility providers);
- (j) Stormwater & ancillary works in the road reserve; and
- (k) Stormwater & ancillary to public infrastructure on private land
- (l) If any excavation is to be supported by the use of below ground (cable) anchors that are constructed under Council’s roadways/footways.

These separate activity approvals must be obtained and evidence of the approval provided to the Certifying Authority prior to the issue of the Construction Certificate.

The relevant Application Forms for these activities can be downloaded from Council’s website www.georgesriver.nsw.gov.au. For further information, please contact Council’s Customer Service Centre on (02) 9330 6222.

3. **APR7.3 - Vehicular Crossing - Minor Development** - Constructing a vehicular crossing and/or footpath requires a separate approval under Section 138 of the Roads Act 1993 prior to the commencement of those works.

To apply for approval, complete the Driveway Crossing on Council Road Reserve Application Form which can be downloaded from Georges River Council's Website at www.georgesriver.nsw.gov.au. Lodge the application form, together with the associated fees at Council's Customer Service Centre, during business hours. Refer to Section P1 and P2, in Council's adopted Fees and Charges for the administrative and inspection charges associated with Vehicular Crossing applications.

An approval for a new or modified vehicular crossing will contain the approved access and/or alignment levels which will be required to construct the crossing and/or footpath. Once approved, all work shall be carried out in accordance with Council's specifications applicable at the time, prior to the issue of an Occupation Certificate.

4. **APR7.5 - Road Opening Permit** - A Road Opening Permit must be obtained from Council, in the case of local or regional roads, or from the RMS, in the case of State roads, for every opening of a public road reserve to access services including sewer, stormwater drains, water mains, gas mains, and telecommunications before the commencement of work in the road.

5. **APR7.8 - Below ground anchors - Information to be submitted with S68 Application under LGA 1993 and S138 Application under Roads Act 1993** - In the event that the excavation associated with the basement carpark is to be supported by the use of below ground (cable) anchors that are constructed under Council's roadways/footways, an application must be lodged with Council under Section 68 of the Local Government Act 1993 and the Roads Act 1993 for approval, prior to commencement of those works. The following details must be submitted.

(a) That cable anchors will be stressed released when the building extends above ground level to the satisfaction of Council.

(b) The applicant has indemnified Council from all public liability claims arising from the proposed works, and provide adequate insurance cover to the satisfaction of council.

(c) Documentary evidence of such insurance cover to the value of \$20 million.

(d) The applicant must register a non-terminating bank guarantee in favour of Council for the amount of.

The guarantee will be released when the cables are stress released. In this regard it will be necessary for a certificate to be submitted to Council from a structural engineer at that time verifying that the cables have been stress released.

(e) That in the event of any works taking place on Council's roadways/footways adjoining the property while the anchors are still stressed, all costs associated with overcoming the difficulties caused by the presence of the 'live' anchors will be borne by the applicant.

6. **DEV7.6 - Replacement of Stormwater Pipeline in Pedestrian Reserve**

(i) Council's stormwater drainage system between the Gover Street road reserve and Trafalgar Street road reserve is to be replaced by a combination of kerb inlet pits and

pipeline with all costs borne by the developer.

The new system is to be capable of intercepting and conveying underground, sufficient upstream catchment runoff to reduce the overland flow hazard level at the front of the building, and at the side entrance door of the proposed boarding house to $0.4\text{m}^2/\text{s}$.

The pipeline is to be designed so that flow is limited to a velocity of 4m/s on the basis of the pipe 'running full' and have sufficient capacity to convey stormwater runoff from the impervious area on the subject development site.

Blockage allowance in the grated kerb inlet pits in Gover Street is to be 100% of the grates, therefore acknowledged pit inlet capacity is to be limited to that for the kerb inlets.

(ii) The stormwater drainage design and an *Amended Overland Flow Report* with full calculations is to be submitted for the consideration of and approval by Council's Manager Development and Building prior to the issue of the Construction Certificate.

(iii) A separate application under Section 138 of the Roads Act is required to be approved by Council for such works prior to the issue of the Construction Certificate.

REQUIREMENTS OF OTHER GOVERNMENT AGENCIES

These conditions have been imposed by other NSW Government agencies either through their role as referral bodies, concurrence authorities or by issuing General Terms of Approval under the Integrated provisions of the Environmental Planning and Assessment Act 1979.

7. GOV8.13 - **Notice of Requirements for a Section 73 Certificate** - A Notice of Requirements of what will eventually be required when issuing 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 Co-ordinator. Please refer to the 'Plumbing, building and developing' section of the web site www.sydneywater.com.au then refer to 'Providers' under 'Developing' 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 Co-ordinator, 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 Notice of requirements must be submitted prior to the commencement of work. A Section 73 Compliance Certificate will be required at the completion of development in accordance with further conditions.

8. GOV8.14 - **Section 73 Compliance Certificate** - A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be submitted to the PCA prior to the issue of the Occupation/Subdivision Certificate.

PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

These conditions either require modification to the development proposal or further investigation/information prior to the issue of the Construction Certificate to ensure that there is no adverse impact.

9. CC9.1 - **Fees to be paid** - The fees listed in the table below must be paid in accordance

with the conditions of this consent and Council's adopted Fees and Charges applicable at the time of payment (available at www.georgesriver.nsw.gov.au).

Payments must be made prior to the issue of the Construction Certificate or prior to the commencement of work (if there is no associated Construction Certificate).

Please contact council prior to the payment of S94 Contributions to determine whether the amounts have been indexed from that indicated below in this consent and the form of payment that will be accepted by Council.

Council will only accept Bank Cheque or Electronic Funds Transfer (EFT) for transaction values of \$500,000 or over. Council must be contacted prior to payment to determine correct total amount to be paid and bank account details (if applicable).

A summary of the fees to be paid are listed below:

Fee Type	Fee
GENERAL FEES	
Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct to the Long Service Corporation. See https://portal.longservice.nsw.gov.au/bci/levy/	\$7142.10
Builders Damage Deposit	\$1,900.00
Inspection Fee for Refund of Damage Deposit	\$150.00
DEVELOPMENT CONTRIBUTIONS	
Georges River Council Section 94A Development Contributions Plan 2017	\$23,807.00

General Fees

The fees and charges above are subject to change and are as set out in the version of Council's Schedule of Fees and Charges or as required by other Government Authorities, applicable at the time of payment.

Development Contributions

A Section 94A contribution has been levied on the subject development pursuant to the Georges River Council Section 94A Contributions Plan.

Indexation

The above contributions will be adjusted at the time of payment to reflect changes in the cost of delivering public amenities and public services, in accordance with the indices provided by the relevant Section 94 Development Contributions Plan.

Timing of Payment

The contribution must be paid and receipted by Council prior to the release of the Construction Certificate.

Further Information

A copy of the *all current Development Contributions Plans* may be inspected or a copy purchased at Council's offices (Georges River Civic Centre, MacMahon Street, Hurstville and Kogarah Library and Service Centre, Kogarah Town Square, Belgrave Street, Kogarah) or viewed on Council's website www.georgesriver.nsw.gov.au.

10. CC9.13 - **Low reflectivity roof** - Roofing materials must be low glare and reflectivity.

Details of finished external materials including colours and texture must be provided to the Certifying Authority.

11. **CC9.15 - Development Assessment - Design Changes** - The following design changes are required and are to be incorporated into the plans to be lodged with the Construction Certificate application.

(a) The submitted concept hydraulic plan shall be amended to refer to the replacement of the existing 900mm diameter pipeline system in the pedestrian reserve, beside the eastern property boundary, prior to connection of the stormwater drainage system from the proposed development directly in front of the eastern boundary of the subject development site.

These design changes are to be incorporated into the Detailed Hydraulic Plans submitted for approval with the Construction Certificate Application.

These design changes are to be incorporated into the Detailed Hydraulic Plans submitted for approval with the Construction Certificate Application.

12. **CC9.31 - Accessible Car Parking** - The design of the basement car parking shall be modified so as to provide three (3) accessible car parking spaces. The spaces must be designed in accordance with the relevant Australian Standard(s). The car wash bay may be removed to accommodate this design change, if required. Details demonstrating compliance with this condition must be submitted to the Certifying Authority's satisfaction prior to the issue of the Construction Certificate.

13. **CC9.32 - Erosion & Sedimentation Control** - Erosion and sediment controls must be provided to ensure:

(a) Compliance with the approved Erosion & Sediment Control Plan

(b) Removal or disturbance of vegetation and top soil is confined to within 3m of the approved building area (no trees to be removed without approval)

(c) All clean water runoff is diverted around cleared or exposed areas

(d) Silt fences, stabilised entry/exit points or other devices are installed to prevent sediment from entering drainage systems or waterways

(e) All erosion and sediment controls are fully maintained for the duration of demolition, excavation and/or development works

(f) Controls are put into place to prevent tracking of sediment by vehicles onto adjoining roadway

(g) All disturbed areas are rendered erosion-resistant by turfing, mulching, paving or similar

(h) Compliance with Managing Urban Stormwater - Soils and Construction (Blue Book) produced by Landcom 2004.

These measures are to be implemented prior to the commencement of work (including demolition and excavation) and must remain until works are completed and all exposed

surfaces are landscaped/sealed.

14. **CC9.33 - Pre-Construction Dilapidation Report - Private Land** - A professional engineer specialising in structural or geotechnical engineering shall prepare a Pre-Construction Dilapidation Report detailing the current structural condition of adjoining premises including but not limited to:

(a) All neighbouring buildings likely to be affected by the excavation as determined by the consulting engineer.

The report shall be prepared at the expense of the applicant and submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

A copy of the pre-construction dilapidation report is to be provided to the adjoining properties (subject of the dilapidation report), a minimum of 5 working days prior to the commencement of work. Evidence confirming that a copy of the pre-construction dilapidation report was delivered to the adjoining properties must be provided to the PCA.

Should the owners of properties (or their agents) refuse access to carry out inspections, after being given reasonable written notice, this shall be reported to Council to obtain Council's agreement to complete the report without access. Reasonable notice is a request for access in no sooner than 14 days between 8.00am-6.00pm.

15. **CC9.34 - Stormwater System** - The submitted stormwater plan has been assessed as a concept plan only. Final detailed plans of the drainage system, prepared by a professional engineer specialising in hydraulic engineering, shall be submitted for approval with the Construction Certificate.

(a) All stormwater shall drain by gravity to the upper level of Council's stormwater main located in the pedestrian reserve directly beside the eastern property boundary of the subject development site in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2015 (as amended).

(b) Stormwater drainage plans including pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits prepared by a professional engineer who specialises in Hydraulic Engineering in accordance with the Australian Institute of Engineers Australian Rainfall and Runoff (1987) and Council's Stormwater Drainage Guidelines, shall accompany the application for the Construction Certificate.

Stormwater Systems with Basement

(c) The underground basement car park must pump to and all other stormwater must drain by gravity to:

- i. the upper level of Council's stormwater pipeline located in the pedestrian reserve beside the eastern boundary of the development site The design of the proposed drainage system must be prepared by a professional engineer who specialises in hydraulic engineering and be submitted for approval with the Construction Certificate application.

Protection of basement from inundation of stormwater waters

(d) A crest is to be provided in the driveway, and driveway ramp retaining walls constructed to levels that provide protection of the underground basement from the inundation of surface waters in a 1:100yr ARI storm event.

Evidence from a professional engineer who specialises in hydraulic engineering that this design requirement has been adhered to shall be submitted with the Construction Certificate application.

16. **CC9.35 - On Site Detention** - The submitted stormwater plan has been assessed as a concept plan only. Final detailed plans of the drainage system, prepared by a professional engineer specialising in hydraulic engineering, shall be submitted for approval with the Construction Certificate.

An on-site detention (OSD) facility designed by a professional engineer who specialises in Hydraulic Engineering must be designed, approved and installed. The design must include the computations of the inlet and outlet hydrographs and stage/storage relationships of the proposed OSD using the following design parameters:

- (a) peak flow rates from the site are to be restricted to a permissible site discharge (PSD) equivalent to the discharge when assuming the site contained a single dwelling, garage, lawn and garden,
- (b) at Annual Recurrence Intervals of 2 years and 100 years.

Refer to Flow Controls in Council's Draft/Adopted Stormwater Drainage Policy.

The OSD facility shall be designed to meet all legislated safety requirements and childproof safety fencing around the facility must be provided where the OSD facility is open or above ground when the design peak storage depth is greater than 300mm. A durable metal plate or similar sign is to be placed at the OSD facility and must bear the words:

"BEWARE: This is an on-site detention basin/tank for rainwater which could overflow during heavy storms."

Full details shall accompany the application for the Construction Certificate

17. **CC9.36 - Detailed Stormwater Drainage Design** - The submitted stormwater plan has been assessed as a concept plan only. A detailed drainage design supported by a catchment area plan and drainage calculations (including a Hydraulic Grade Line Analysis) must be submitted with the Construction Certificate application.
18. **CC9.39 - Compliance with Flood Study** - The development shall be designed to conform to the recommendations and conclusions of the submitted flood study *18 Gover Street Peakhurst Proposed Boarding House Overland Flow Report-Revision B October 2017* prepared by *Ryeco Consulting Engineers* except as otherwise directed in this consent document.

This shall include, but not be limited to, any recommendations for the following:

- (a) Minimum floor levels
- (b) Fencing
- (c) Site regrading
- (d) Overland flow path construction
- (e) Protection of the basement from inundation of surface waters.

Evidence from professional engineer that specialises in hydraulic engineering that all design requirements have been adhered to shall be submitted with the Construction Certificate application.

19. **CC9.4 - Damage Deposit - Minor Works** - In order to insure against damage to Council property the following is required:

(a) Pay Council, before the issue of the Construction Certificate, a damage deposit for the cost of making good any damage caused to any Council property as a result of the development: **\$21,012.00**

(b) Pay Council, before the issue of the Construction Certificate, a non-refundable inspection fee to enable assessment of any damage and repairs where required: **\$300.00**

(c) Submit to Council, before the commencement of work, a photographic record of the condition of the Council nature strip, footpath and driveway crossing, or any area likely to be affected by the proposal.

At the completion of work Council will inspect the public works, and the damage deposit will be refunded in full upon completion of work where no damage occurs. Otherwise the amount will be either forfeited or partly refunded according to the amount of damage.

20. **CC9.40 - Support for Easement Pipes** -

(a) All footings within 2.0 metres of the drainage easement shall be designed in such a manner that they are supported by foundations set at a minimum of 300mm below pipe invert levels or founded on sound rock.

(b) Alternatively, the footings of the building or any structure shall be designed not to affect the zone of influence taken from the invert of any pipe.

(c) The walls of any dwelling, pool or structure adjoining the easement shall be designed to withstand all forces should the easement be excavated to existing pipe invert levels.

(d) No building or other structure must be placed over the drainage easement or stormwater system or within the zone of influence taken from the invert of any pipe.

Evidence from an appropriately qualified person that this design requirement has been met shall accompany the application for the Construction Certificate.

21. **CC9.42 - Pump-Out System Design for Stormwater Disposal** - The design of the pump-out system for storm water disposal will be permitted for drainage of basement areas only, and must be designed in accordance with the following criteria:

- (a) The pump system shall consist of two pumps, connected in parallel, with each pump being capable of emptying the holding tank at the rate equal to the rate of inflow for the one-hour duration storm. The holding tank shall be capable of holding one hour's runoff from a one-hour duration storm of the 1 in 20 year storm;
- (b) The pump system shall be regularly maintained and serviced, every six (6) months; and

Details and certification of compliance from a professional engineer specialising in civil engineering shall be provided for approval with the Construction Certificate application.

22. **CC9.43 - Stormwater Drainage Plan Details** - Stormwater drainage plans including pipe

sizes, type, grade, length, invert levels, dimensions and types of drainage pits prepared by a professional engineering specialising in hydraulic engineering shall be submitted with the Construction Certificate application.

These plans shall be prepared in accordance with the Australian Institute of Engineers Australian Rainfall and Runoff (1987) and Council's

23. **CC9.47 - Fire Safety Measures** - Prior to the issue of a construction certificate a list of the essential fire safety measures that are to be provided in relation to the land and any building on the land as a consequence of the building work must accompany an application for a construction certificate, which is required to be submitted to either Council or a PCA. Such list must also specify the minimum standard of performance for each essential fire safety measure included in the list. The Council or PCA will then issue a Fire Safety Schedule for the building.
24. **CC9.48 - Structural details** - Engineer's details prepared by a practising Structural Engineer being used to construct all reinforced concrete work, structural beams, columns and other structural members. The details are to be submitted to the Principal Certifying Authority for approval prior to construction of the specified works.

A copy shall be forwarded to Council where Council is not the PCA.

25. **CC9.53 - Commonwealth Disability (Access to Premises) Standard** - The Commonwealth Disability (Access to Premises - Buildings) Standards 2010 (the Premises Standards) applies to all applications (i.e. Construction Certificate). This requires any new building, part of a building and the affected part of the existing building to comply with the Premises Standards, the Building Code of Australia and AS 1428.
26. **CC9.54 - Geotechnical report** - Geotechnical Reports: The applicant must submit a Geotechnical Report, prepared by a professional engineer specialising in geotechnical engineering who holds the relevant Certificate of accreditation as required under the Building Professionals Act 2005 in relation to dilapidation reports, all site works and construction. This is to be submitted before the issue of the Construction Certificate and is to include:

(a) Investigations certifying the stability of the site and specifying the design constraints to be placed on the foundation, any earthworks/stabilization works and any excavations.

(b) Dilapidation Reports on the adjoining properties including, but not limited to (address) and (address) prior to any excavation of site works. The Dilapidation Report is to include assessments on, but not limited to, the dwellings at those addresses and any external paths, grounds etc. This must be submitted to the PCA and the adjoining residents as part of the application for the Construction Certificate. Adjoining residents are to be provided with the report five (5) working days prior to any works on the site.

(c) On-site guidance by a vibration specialist during the early part of excavation.

(d) Measures to minimise vibration damage and loss of support to other buildings. Where possible any excavation into rock is to be carried out with tools such as rock saws which reduce vibration to adjoining buildings and associated structures. Where a hydraulic hammer is to be used within 30 metres of any building (other than a path or a fence) the report shall detail the maximum size of hammer to be used and provide all reasonable recommendations to manage impacts.

(e) Sides of the excavation are to be pierced prior to any excavation occurring to reinforce the walls of the excavation to prevent any subsidence to the required setbacks and neighbouring sites.

27. **CC9.6 - Site Management Plan** - A Site Management Plan must be submitted with the application for a Construction Certificate, and include the following:

- (a) location of protective site fencing;
- (b) location of site storage areas/sheds/equipment;
- (c) location of building materials for construction, e.g. stockpiles
- (d) provisions for public safety;
- (e) dust control measures;
- (f) method used to provide site access location and materials used;
- (g) details of methods of disposal of demolition materials;
- (h) method used to provide protective measures for tree preservation;
- (i) provisions for temporary sanitary facilities;
- (j) location and size of waste containers/skip bins;
- (k) details of proposed sediment and erosion control measures;
- (l) method used to provide construction noise and vibration management;
- (m) construction and demolition traffic management details.

The site management measures are to be implemented prior to the commencement of any works including demolition and excavation. The site management measures are to be maintained throughout the works, to maintain reasonable levels of public health, safety and amenity. A copy of the Site Management Plan must be kept on site and is to be made available upon request.

28. **CC9.61 - Traffic Management - Compliance with AS2890** - All driveways, access ramps, vehicular crossings and car parking spaces shall be designed and constructed in accordance with the current version of Australian Standards, AS 2890.1 (for car parking facilities) and AS 2890.2 (for commercial vehicle facilities).

29. **CC9.69 - Car Wash Bays** - Plans and specifications of the car washing system which has been approved by Sydney Water must be submitted with the application for the Construction Certificate.

All car washing bays shall be contained within a roofed and bunded car wash bay with pre-treatment approved by Sydney Water. The water from the car wash bay must be graded to a drainage point and connected to sewer.

If alternative water management and disposal options are proposed (i.e. where water is recycled, minimised or reused on the site), detailed plans and specifications of the water recycling system must be submitted with the application for the Construction Certificate for approval.

30. **CC9.78 - Waste Management Plan** - A Waste Management Plan incorporating all requirements in respect of the provision of waste storage facilities, removal of all materials from the site that are the result of site clearing, extraction, and, or demolition works and the designated Waste Management Facility shall be submitted to the Certifying Authority prior to the issue of any Construction Certificate.

31. **CC9.84 - Landscape Plans** - All landscape works shall be carried out in accordance with

the approved landscape plans. The landscaping shall be maintained in accordance with the approved plans in perpetuity.

32. CC9.87 - Tree Protection and Retention -

(a) The street tree at the front of the site is to be retained shall be protected and maintained during demolition, excavation and construction of the site.

(b) The tree protection measures must be undertaken in accordance AS4970 -2009 Protection of trees on development sites.

(c) Details of the tree protection measures to be implemented must be provided with the application for a Construction Certificate by a suitably qualified Arborist (AQF Level 5 or above in Arboriculture).

(d) The Arborist must be present on-site during the stages of construction when works are being undertaken that could impact on the tree canopy or root zone within the tree protection zone to implement the tree protection measures as required.

(e) Unless otherwise specified in AS 4970-2009, a protective fence consisting of 1.8 metres high, fully supported chainmesh fence shall be erected around the base of the tree. The distance of the fence from the base of each tree is to be in accordance with the TPZ listed in the table above. A layer of organic mulch 100 millimetres thick shall be placed over the protected area and no soil or fill should be placed within the protection area.

(f) No services shall be installed within the TPZ of the tree unless approved by Council. This fence shall be kept in place during demolition, construction and also have a sign displaying 'Tree Protection Zone' attached to the fence and must also include the name and contact details of the Project Arborist.

Excavation works near tree to be retained

(g) Excavations around the trees to be retained on site or the adjoining properties shall be supervised by the Project Arborist to ensure that the root system will not adversely be affected.

(h) Where the Tree Protection Zone (TPZ) of trees on site or adjoining sites become compromised by any excavation works, the Project arborist shall be consulted to establish the position of any major roots and determine the necessary measures to protect these roots. The recommendations of the Arborist shall be submitted to Council prior to any further demolition or construction works taking place.

(i) Tree Protection Zone around the trees to be retained are not to have soil level changes or services installed in this area. Any structures proposed to be built in this area of the trees are to utilise pier and beam or cantilevered slab construction.

Details satisfying this condition shall be shown on the Construction Certificate plans.

PRIOR TO THE COMMENCEMENT OF WORK (INCLUDING DEMOLITION AND EXCAVATION)

These conditions have been imposed to ensure that all pre-commencement matters are dealt with and finalised prior to the commencement of work.

33. **PREC10.1 - Demolition & Asbestos** - The demolition work shall comply with the provisions of Australian Standard AS2601:2001 - Demolition of Structures, NSW Work Health & Safety Act 2011 and the NSW Work Health & Safety Regulation 2011. The work plans required by AS2601:2001 shall be accompanied by a written statement by a suitably qualified person that the proposals contained in the work plan comply with the safety requirements of the Standard. The work plans and the safety statement shall be submitted to the PCA prior to the commencement of works.

For demolition work which involves the removal of asbestos, the asbestos removal work must be carried out by a licensed asbestos removalist who is licensed to carry out the work in accordance with the NSW Work Health & Safety Act 2011 and the NSW Work Health & Safety Regulation 2011 unless specified in the Act and/or Regulation that a license is not required.

All demolition work including the removal of asbestos, shall be undertaken in accordance with the Demolition Code of Practice (NSW Work Cover July 2015)

Note: Copies of the Act, Regulation and Code of Practice can be downloaded free of charge from the SafeWork NSW website: www.SafeWork.nsw.gov.au.

34. **PREC10.10 - Dial before your dig** - The applicant shall contact “Dial Before You Dig on 1100” to obtain a Service Diagram prior to the issuing of the Construction Certificate. The sequence number obtained from “Dial Before You Dig” shall be forwarded to Council’s Engineers for their records.
35. **PREC10.11 - Dilapidation Report on Public Land - Major Development Only** - Prior to the commencement of works (including demolition and excavation), a dilapidation report must be prepared for the Council infrastructure adjoining the development site, including:

The report must include the following:

- (a) Photographs showing the existing condition of the road pavement fronting the site,
- (b) Photographs showing the existing condition of the kerb and gutter fronting the site,
- (c) Photographs showing the existing condition of the footpath pavement fronting the site,
- (d) Photographs showing the existing condition of any retaining walls within the footway or road, and
- (e) Closed circuit television/video inspection (in DVD format) of public stormwater drainage systems fronting, adjoining or within the site, and
- (f) The full name and signature of the structural engineer.
- (g) The Dilapidation Report must be prepared by a qualified structural engineer. The report must be provided to the PCA and a copy provided to the Council.

The Dilapidation Report must be prepared by a professional engineer. The report must be provided to the PCA and a copy provided to the Council.

The report is to be supplied in electronic format in Word or PDF. Photographs are to be in

colour, digital and date stamped.

Note: Council will use this report to determine whether to refund the damage deposit after the completion of works.

36. **PREC10.12 - Existing drainage easement, drainage reserve or stormwater drainage system benefiting Council** - Council drainage easement(s) drainage reserve(s) or stormwater system either pass through or are adjacent to the site. No building or other structure must be placed over the drainage easement or stormwater system or within the zone of influence taken from the invert of any pipe.

The applicant must determine the exact location, size and level details of the potentially affected stormwater drainage systems and without causing any damage to the public system ensure its protection. The owner, principal contractor or owner builder must not obstruct or otherwise remove, disconnect or render inoperable the Stormwater Drainage System.

Works such as fences must not obstruct the natural stormwater flowpath or alter the flowpath in such a way as to direct or concentrate stormwater on to neighbouring properties.

Where the relocation or reconstruction of Council's drainage system is approved then all work carried out on Council's assets will revert to the ownership, care, control or management of Council. Therefore, upon handover to Council, the asset must comply with Council's Construction of drainage and associated works specification.

The applicant must meet all costs associated with such works.

Note: This condition does not set aside the need to obtain relevant approvals under the Roads Act 1993 or Local Government Act 1993 for works within Roads and other public places.

37. **PREC10.14 - Registered Surveyors Report - During Development Work** - A report must be submitted to the PCA at each of the following applicable stages of construction:

(a) Set out before commencing excavation.

(b) Floor slabs or foundation wall, before formwork or commencing brickwork.

(c) Completion of Foundation Walls - Before any construction of flooring, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans.

(d) Completion of Floor Slab Formwork - Before pouring of concrete/walls construction, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans. In multi-storey buildings a further survey must be provided at each subsequent storey.

(e) Completion of any Roof Framing - Before roof covered detailing eaves/gutter setback from boundaries.

(f) Completion of all Work - Detailing the location of the structure (including eaves/gutters) relative to adjacent boundaries and its height relative to the datum shown

on the approved plans. A final Check Survey must indicate the reduced level of the main ridge.

Work must not proceed beyond each stage until the PCA is satisfied that the height and location of the building is proceeding in accordance with the approved plans.

38. **PREC10.15 - Utility Arrangements** - Arrangements are to be made with utility authorities in respect to the services supplied by those authorities to the development. The cost associated with the provision or adjustment of services within the road and footway areas is to be at the applicant's expense.

39. **PREC10.2 - Demolition Notification Requirements** - The following notification requirements apply to this consent:

(a) The developer /builder must notify adjoining residents five (5) working days prior to demolition. Such notification is to be a clearly written note giving the date demolition will commence, contact details of the developer/builder, licensed asbestos demolisher and the appropriate regulatory authority. Notification is to be placed in the letterbox of every premises (including every residential flat or unit, if any) either side and immediately at the rear of the demolition site.

(b) Five (5) working days prior to demolition, the developer/builder is to provide written notification to Council advising of the demolition date, details of the SafeWork licensed asbestos demolisher and the list of residents advised of the demolition.

(c) On demolition sites where buildings to be demolished contain asbestos, a standard commercially manufactured sign containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm is to be erected in a prominent visible position (from street frontage) on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos material has been removed from the site to an approved waste facility.

40. **PREC10.3 - Demolition work involving asbestos removal** - Work involving bonded asbestos removal work (of an area of more than 10 square metres) or friable asbestos removal work must be undertaken by a person who carries on a business of such removal work in accordance with a licence under clause 458 of the Work Health and Safety Regulation 2011.

DURING WORK

These conditions have been imposed to ensure that there is minimal impact on the adjoining development and surrounding locality during the construction phase of the development.

41. **CON11.1 - Site sign - Soil & Erosion Control Measures** - Prior to the commencement of works (including demolition and excavation), a durable site sign, issued by Council in conjunction with this consent, must be erected in a prominent location on site. The site sign warns of the penalties which apply to pollution, storing materials on road or footpath and breaches of the conditions relating to erosion and sediment controls. The sign must remain in a prominent location on site up until the completion of all site and building works.

42. **CON11.11 Physical connection of Stormwater to site** - No work is permitted to proceed above the ground floor slab level of the building until there is physical connection of the approved stormwater drainage system from the land the subject of this

consent to Council's stormwater pipeline in the pedestrian reserve beside the eastern property boundary of the subject development site.

43. **CON11.12 - Cost of work to be borne by the applicant** - The applicant shall bear the cost of all works associated with the construction of the development that occurs on Council property. Care must be taken to protect Council's roads, including the made footway, kerbs, etc., and, where plant and vehicles enter the site, the footway shall be protected against damage by deep-sectioned timber members laid crosswise, held together by hoop iron straps and chamfered at their ends. This construction shall be maintained in a state of good repair and condition throughout the course of construction.
44. **CON11.13 - Obstruction of Road or Footpath** - The use of the road or footpath for the storage of any building materials, waste materials, temporary toilets, waste or skip bins, or any other matter is not permitted unless separately approved by Council under Section 138 of the Roads Act 1993 and/or under Section 68 of the Local Government Act 1993. Penalty infringement Notices may be issued for any offences and severe penalties apply.
45. **CON11.2 - Hours of construction for demolition and building work** - Any work activity or activity associated with the development consent that requires the use of any tools (including hand tools) or any power operated plant and machinery that creates noise on or adjacent to the site shall not be performed, or permitted to be performed, except between the hours of 7.00 am to 5.00 pm, Monday to Saturday inclusive. No work or ancillary activity is permitted on Sundays, or Public Holidays.

Note: A penalty infringement notice may be issued for any offence.

46. **CON11.21 - Waste Management Facility** - All materials removed from the site as a result of demolition, site clearing, site preparation and, or excavation shall be disposed of at a suitable Waste Management Facility. No vegetation, article, building material, waste or the like shall be ignited or burnt.

Copies of all receipts for the disposal, or processing of all such materials shall be submitted to the PCA and Council, where Council is not the Principal Certifying Authority.

PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

These conditions have been imposed to ensure that all works have been completed in accordance with the Development Consent prior to the issue of the Occupation Certificate.

47. **OCC12.17 - Restriction to User and Positive Covenant for On-Site Detention Facility** - A Restriction on Use of the Land and Positive Covenant shall be created and registered on the title of the property, which places the responsibility for the maintenance of the on-site stormwater management system on the owners of the land. The terms of the instrument are to be in accordance with Council's standard terms and restrictions which are as follows;

Restrictions on Use of Land

The registered proprietor shall not make or permit or suffer the making of any alterations to any on-site stormwater management system which is, or shall be, constructed on the lot(s) burdened without the prior consent in writing of Georges River Council. The expression "on-site stormwater management system" shall include all ancillary gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins and surfaces designed to manage stormwater quantity or quality including the temporary detention or permanent

retention of stormwater storages. Any on-site stormwater management system constructed on the lot(s) burdened is hereafter referred to as “the system”.

Name of Authority having the power to release, vary or modify the Restriction referred to is Georges River Council.

Positive Covenants

1. The registered proprietor of the lot(s) hereby burdened will in respect of the system:

a) keep the system clean and free from silt, rubbish and debris

b) maintain and repair at the sole expense of the registered proprietors the whole of the system so that it functions in a safe and efficient manner

c) permit the Council or its authorised agents from time to time and upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the land for the compliance with the requirements of this covenant

d) comply with the terms of any written notice issued by the Council in respect of the requirements of this covenant within the time stated in the notice.

2. Pursuant to Section 88F(3) of the Conveyancing Act 1919 the Council shall have the following additional powers:

a) in the event that the registered proprietor fails to comply with the terms of any written notice issued by the Council as set out above the Council or its authorised agents may enter the land with all necessary materials and equipment and carry out any work which the Council in its discretion considers reasonable to comply with the said notice referred to in part 1(d) above

b) the Council may recover from the registered proprietor in a Court of competent jurisdiction:

i. any expense reasonably incurred by it in exercising its powers under subparagraph (i) hereof. Such expense shall include reasonable wages for the Council's employees engaged in effecting the work referred to in (i) above, supervising and administering the said work together with costs, reasonably estimated by the Council, for the use of materials, machinery, tools and equipment in conjunction with the said work.

ii. legal costs on an indemnity basis for issue of the said notices and recovery of the said costs and expenses together with the costs and expenses of registration of a covenant charge pursuant to section 88F of the Act or providing any certificate required pursuant to section 88G of the Act or obtaining any injunction pursuant to section 88H of the Act. Name of Authority having the power to release vary or modify the Positive Covenant referred to is Georges River Council.

48. **OCC12.18 - Maintenance Schedule - On-site Stormwater Management** - A Maintenance Schedule for the proposed on-site stormwater management measures is to be prepared and submitted to Council. The Maintenance Schedule shall outline the required maintenance works, how and when these will be done and who will be carrying

out these maintenance works.

49. OCC12.19 - **Works as Executed and Certification of Stormwater works** - Prior to the issue of an Occupation Certificate, the PCA must ensure that the stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards. A works-as-executed drainage plan and certification must be forwarded to the PCA and Council, from a professional engineer specialising in hydraulic engineering.

This Plan and Certification shall confirm that the design and construction of the stormwater drainage system satisfies the conditions of development consent and the Construction Certificate stormwater design details approved by the PCA.

The works-as-executed drainage plan must be prepared by a professional engineer specialising in hydraulic engineering in conjunction with a Registered Surveyor and must include the following details (as applicable):

- (a) The location of any detention basin/s with finished surface levels;
- (b) Finished site contours at 0.2 metre intervals (if applicable)
- (c) Volume of storage available in any detention areas;
- (d) The location, diameter, gradient and material (i.e. PVC, RC etc.) of all stormwater pipes;
- (e) The orifice size/s (if applicable);
- (f) Details of any pumping systems installed (including wet well volumes) (if applicable).

50. CC12.20 - **Development Engineering - Restriction on use of land for overland flow** - An additional Restriction of Use of the Land is to be created using Section 88E of the Conveyancing Act 1919 over the subject property on which this development is to be carried out. This Restriction shall ensure that the stormwater overland flow-path, as determined by an Overland Flow Analysis commissioned by Council or as required from the Applicant, be maintained free from obstructions at all times and shall be worded as follows:

In relation to the stormwater overland flow path identified in Proposed Boarding House Overland Flow Report Revision B – October 2017 by Ryeco Consulting Engineers, for Development Application DA2017/0204, the following Restrictions on The Use of The Land will apply”:

- (a) Property boundary fencing is not to obstruct the free flow of surface waters across the overland flow path in any way.*
- (b) no building structures, walls, fences, trees, shrubs, grass or other vegetation shall be erected or planted within the site of the **overland flow path and/or easement to drain water** (where existing or proposed on site), except with the approval of Council.*
- (c) The existing natural ground levels of the site shall not be raised or lowered or retaining walls constructed unless specified detailed plans are first submitted to and*

approved by Council.

(d) The overland flow path must be kept clear of obstructions at all times and maintained to the satisfaction of Council.

This Restriction shall benefit Georges River Council and Georges River Council is to be nominated as the Authority to release, vary or modify this Restriction. This Restriction on Use of Land shall be registered on the title of the land, prior to the issue of Any Occupation Certificate for the development (Interim or Final Occupation Certificate).

Documentary evidence of the registration of this Restriction on title is to be supplied to the Principal Certifying Authority when application for an occupation certificate is made.

51. **OCC12.27 - Vehicular crossing - Minor development** - The vehicular crossing and/or footpath works shall be constructed by a private contractor at the expense of the applicant, in accordance with the Vehicular Crossing Approval issued by Council's Engineering Services Division and in accordance with Council's Specification for Vehicular Crossings and Associated Works and the issued.

Any existing vehicular crossing and/or laybacks which are redundant must be removed. The kerb and gutter, any other footpath and turf areas shall be restored at the expense of the applicant and in accordance with Council's Specification for Vehicular Crossings and Associated Works.

NOTE: No stencilled or coloured concrete may be used outside the boundary of the property.

The work must be completed before the issue of an Occupation Certificate.

52. **OCC12.32 - Stormwater drainage works - Works As Executed** - Prior to the issue of the Occupation Certificate, storm water drainage works are to be certified by a professional engineer specialising in hydraulic engineering, with Works-As-Executed drawings supplied to Council detailing:

- (a) Compliance with conditions of development consent relating to stormwater;
- (b) The structural adequacy of the On-Site Detention system (OSD);
- (c) That the works have been constructed in accordance with the approved design and will provide the detention storage volume and attenuation in accordance with the submitted calculations;
- (d) Pipe invert levels and surface levels to Australian Height Datum;
- (e) Contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.

Council's Assets and Infrastructure section must advise in writing that they are satisfied with the Works-As-Executed prior to the issue of an Occupation Certificate.

53. **OCC12.33 - Flood Prone Land - Survey of levels** - A registered surveyor shall verify the levels of the design runoff overland flow path and finished floor levels to Australian Height Datum. The surveyor is also to verify that the flow paths and finished floor levels have been built to the design levels, dimensions and surface finishes as specified in the approved plans.
54. **OCC12.34 - Fire Safety Certificate before Occupation or Use** - In accordance with

Clause 153 of the Environmental Planning and Assessment Regulation 2000, on completion of building works and prior to the issue of an Occupation Certificate, the owner must cause the issue of a Final Fire Safety Certificate in accordance with Clause 170 of the aforesaid Regulation. The Fire Safety Certificate must be in the form or to the effect of Clause 174 of the Environmental Planning and Assessment Regulation, 2000. In addition, in relation to each essential fire or other safety measure implemented in the building or on the land on which the building is situated, such a Certificate is to state:

(a) That the measure has been assessed by a person (chosen by the owner of the building) who is properly qualified to do so.

(b) That as at the date of the assessment the measure was found to be capable of functioning at a standard not less than that required by the attached Schedule.

A copy of the certificate is to be given by the applicant to the Commissioner of Fire & Rescue NSW and a further copy is to be displayed in a frame and fixed to a wall inside the building's main entrance.

55. **OCC12.6 - Completion of Landscape Works** - All landscape works must be completed before the issue of the Final Occupation Certificate.

ONGOING CONDITIONS

These conditions have been imposed to ensure that the use or operation of the development does not adversely impact on the amenity of the neighbourhood or environment.

56. **ONG14.12 - Noise Control** - The use of the premises must not give rise to the transmission of offensive noise to any place of different occupancy. Offensive noise is defined in the Protection of the Environment Operations Act 1997 (as amended).
57. **ONG14.27 - Amenity of the neighbourhood** - The implementation of this development shall not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, dust, waste water, waste products, grit, oil or other harmful products.
58. **ONG14.29 - Activities and storage of goods outside buildings** - There shall be no activities including storing or depositing of any goods or maintenance to any machinery external to the building with the exception of waste receptacles.
59. **ONG14.8 - Boarding House Operation** - The following restrictions apply to the approved development:
- (a) The development approved under this consent constitutes a 'Boarding House' as defined under State Environmental Planning Policy (Affordable Rental Housing) 2009 and shall not be used for the purposes of permanent residential accommodation nor hotel, motel, serviced apartments, private hotel, tourist accommodation or the like.
- (b) Not more than one (1) lodger shall occupy boarding rooms numbers 2, 3, 4, 5, 7, 8, 9, 12, 13, 15, 16, 17, 20, 21, 22, 23, 24, 25 and 26 which are to contain no more than one (1) bed.
- (c) Not more than two (2) lodgers shall occupy boarding rooms numbers 1, 6, 10, 11, 14, 18 and 19 which is to contain no more than two (2) beds.

(d) The total number of lodgers residing in the boarding house at any one time shall not exceed thirty three (33) lodgers (exclusive of the manager).

(e) The lodgers must be subject to an occupancy agreement for a term of no less than three (3) months.

(f) The boarding house must always be operated and managed in accordance with the provisions contained within the Plan of Management sent to Council on 18 September 2017.

(g) The use and operation of the premises must comply with the requirements of Schedule 2 (Standards for Places of Shared Accommodation) of the Local Government (General) Regulation, 2005 under the Local Government Act 1993, the Public Health Act, 2010 and Regulations thereunder.

(h) The operation of the Boarding House shall be in accordance with the Boarding Houses Act 2012 at all times. This includes the registration of the Boarding House, as required by the Act.

Subdivision of the boarding house is not permitted in accordance with the provisions of the State Environmental Planning Policy (Affordable Rental Housing) 2009.

ADVICE

This advice has been included to provide additional information and where available direct the applicant to additional sources of information based on the development type.

60. **ADV17.11 - Energy Efficiency Provisions** - Should Council be appointed as the PCA, a report prepared and endorsed by an Energy Efficiency Engineer or other suitably qualified person must be submitted, detailing the measures that must be implemented in the building to comply with Section J of the BCA. The proposed measures and feature of the building that facilitate the efficient use of energy must be identified and detailed on the architectural plans. At completion of the building and before the issue of an Occupation Certificate, a certificate certifying that the building has been erected to comply with the energy efficiency provisions must be submitted to the PCA.

Energy efficiency provisions relate only to new building work or the installation of new measure. Existing building fabric and measures may not be upgraded.

61. **ADV17.13 - Site Safety Fencing** - Site fencing must be erected in accordance with SafeWork Guidelines, to exclude public access to the site throughout the demolition and/or construction work, except in the case of alterations to an occupied dwelling. The fencing must be erected before the commencement of any work and maintained throughout any demolition and construction work.

A demolition licence and/or a high risk work license may be required from SafeWork NSW (see www.SafeWork.nsw.gov.au).

62. **ADV17.19 - Noise - Noise related conditions** - Council will generally enforce noise related conditions in accordance with the Noise Guide for Local Government (<http://www.environment.nsw.gov.au/noise/nlgq.htm>) and the Industrial Noise Guidelines (<http://www.environment.nsw.gov.au/noise/industrial.htm>) publish by the Department of Environment and Conservation. Other state government authorities also regulate the

Protection of the Environment Operations Act 1997.

Useful links relating to Noise:

(a) Community Justice Centres - free mediation service provided by the NSW Government (www.cjc.nsw.gov.au).

(b) Department of Environment and Conservation NSW, Noise Policy Section web page (www.environment.nsw.gov.au/noise).

(c) New South Wales Government Legislation home page for access to all NSW legislation, including the Protection of the Environment Operations Act 1997 and the Protection of the Environment Noise Control Regulation 2000 (www.legislation.nsw.gov.au).

(d) Australian Acoustical Society - professional society of noise-related professionals (www.acoustics.asn.au/index.php).

(e) Association of Australian Acoustical Consultants - professional society of noise related professionals (www.aaac.org.au).

(f) Department of Gaming and Racing - (www.dgr.nsw.gov.au).

63. **ADV17.2 - Long Service Levy** - The Long Service Corporation administers a scheme which provides a portable long service benefit for eligible workers in the building and construction industry in NSW. All benefits and requirements are determined by the Building and Construction Industry Long Service Payments Act 1986. More information about the scheme and the levy amount you are required to pay to satisfy a condition of your consent can be found at <http://www.longservice.nsw.gov.au>.

The required Long Service Levy payment can be direct to the Long Service Corporation via their web site <https://online.longservice.nsw.gov.au/bci/levy>. Payments can only be processed on-line for the full levy owing and where the value of work is between \$25,000 and \$6,000,000. Payments will be accepted for amounts up to \$21,000, using either MasterCard or Visa.

64. **ADV17.3 - Disability Discrimination Act** - This application has been assessed in accordance with the Environmental Planning and Assessment Act 1979. No guarantee is given that the proposal complies with the Disability Discrimination Act 1992. The applicant is responsible to ensure compliance with this and other anti-discrimination legislation. The Disability Discrimination Act 1992 covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which refers to AS1428.1-Design for Access and Mobility.

65. **ADV17.5 - Security deposit administration & compliance fee** - Under Section 97 (5) of the Local Government Act 1993, a security deposit (or part) if repaid to the person who provided it is to be repaid with any interest accrued on the deposit (or part) as a consequence of its investment.

Council must cover administration and other costs incurred in the investment of these monies. The current charge is \$50.00 plus 2% of the bond amount per annum.

The interest rate applied to bonds is set at Council's business banking facility rate as at 1

July each year. Council will accept a bank guarantee in lieu of a deposit.

All interest earned on security deposits will be used to offset the Security Deposit Administration and Compliance fee. Where interest earned on a deposit is not sufficient to meet the fee, it will be accepted in full satisfaction of the fee.

66. **ADV17.6 - Stormwater & Ancillary Works - Applications under Section 138 Roads Act and/or Section 68 Local Government Act 1993** - To apply for approval under Section 138 of the Roads Act 1993:

(a) Complete the Driveway Crossing on Council Road Reserve Application Form which can be downloaded from Georges River Council's Website at www.georgesriver.nsw.gov.au.

(b) In the Application Form, quote the Development Consent No. (eg. 2012/DA) and reference this condition number (e.g. Condition 23)

(c) Lodge the application form, together with the associated fees at Council's Customer Service Centre, during business hours. Refer to Council's adopted Fees and Charges for the administrative and inspection charges associated with Vehicular Crossing applications.

An approval for a new or modified vehicular crossing will contain the approved access and/or alignment levels which will be required to construct the crossing and/or footpath. Once approved, all work shall be carried out by a private contractor in accordance with Council's specifications prior to the issue of an Occupation Certificate.

The developer must meet all costs of the extension, relocation or reconstruction of any part of Council's drainage system (including design drawings and easements) required to carry out the approved development.

The preparation of all engineering drawings (site layout plans, cross sections, longitudinal sections, elevation views together with a hydraulic grade analysis) and specifications for the new storm water drainage system to be arranged by the applicant. The design plans must be lodged and approved by Council prior to the issue of a Construction Certificate.

NOTE: A minimum of four weeks should be allowed for assessment.

67. **ADV17.7 - Council as PCA - Deemed to Satisfy Provisions of BCA** - Should the Council be appointed as the PCA in determining the Construction Certificate, the building must comply with all the applicable deemed to satisfy provision of the BCA. However, if an alternative fire solution is proposed it must comply with the performance requirements of the BCA, in which case, the alternative solution, prepared by an appropriately qualified fire consultant, accredited and having specialist qualifications in fire engineering, must justifying the non-compliances with a detailed report, suitable evidence and expert judgement. Council will also require if deemed necessary, for the alternative solution to undergo an independent peer review by either the CSIRO or other accredited organisation. In these circumstances, the applicant must pay all costs for the independent review.
68. **ADV17.8 - Access for persons with disabilities** - Should the Council be appointed as the PCA, an Access report prepared by an Accredited Access Consultant may be required to be submitted with the Construction Certificate Application, detailing the

existing level of compliance in the building with the above requirements, and to provide details of proposed upgrading work necessary to bring the building into conformity with the Premises Standards and the BCA. All recommendations of the accredited access consultant must be incorporated in the plans to be submitted with the Construction Certificate application.

Schedule B – Prescribed Conditions

Prescribed conditions are those which are mandated under Division 8A of the *Environmental Planning and Assessment Regulation 2000* and given weight by Section 80A (11) of the Environmental Planning and Assessment Act 1979.

Detailed below is a **summary** of all the prescribed conditions which apply to development in New South Wales. Please refer to the full details of the prescribed conditions as in force, at www.legislation.nsw.gov.au.

It is the responsibility of the beneficiary of this consent to determine which prescribed conditions apply.

69. **PRES1001 - Clause 97A – BASIX Commitments** - This Clause requires the fulfilment of all BASIX Commitments as detailed in the BASIX Certificate to which the development relates.
70. **PRES1002 - Clause 98 – Building Code of Australia & Home Building Act 1989** - Requires all building work to be carried out in accordance with the Building Code of Australia. In the case of residential building work to which the Home Building Act 1989 relates, there is a requirement for a contract of insurance to be in force before any work commences.
71. **PRES1003 - Clause 98A – Erection of Signs** - Requires the erection of signs on site and outlines the details which are to be included on the sign. The sign must be displayed in a prominent position on site and include the name and contact details of the Principal Certifying Authority and the Principal Contractor.
72. **PRES1004 - Clause 98B – Home Building Act 1989** - If the development involves residential building work under the Home Building Act 1989, no work is permitted to commence unless certain details are provided in writing to Council. The name and licence/permit number of the Principal Contractor or Owner Builder and the name of the Insurer by which work is insured under Part 6 of the Home Building Act 1989.
73. **PRES1007 - Clause 98E – Protection & support of adjoining premises** - If the development involves excavation that extends below the level of the base of the footings of a building on adjoining land, this prescribed condition requires the person who benefits from the development consent to protect and support the adjoining premises and where necessary underpin the adjoining premises to prevent any damage.

Schedule C – Operational & Statutory Conditions

These conditions comprise the operational and statutory conditions which must be satisfied under the Environmental Planning and Assessment Act 1979 and the Environmental Planning & Assessment Regulation 2000. Please refer to the full details of the Act and Regulations as in force, at www.legislation.nsw.gov.au.

It is the responsibility of the beneficiary of this consent to determine which operational and statutory conditions apply.

74. **OPER1001 - Requirement for a Construction Certificate** - The erection of a building must not commence until a Construction Certificate has been issued by the consent authority, the Council (if the Council is not the consent authority) or an accredited certifier.

An application form for a **Construction Certificate** is attached for your convenience.

75. **OPER1002 - Appointment of a Principal Certifying Authority** - The erection of a building must not commence until the beneficiary of the development consent has:

- (a) appointed a Principal Certifying Authority (PCA) for the building work; and
- (b) if relevant, advised the PCA that the work will be undertaken as an Owner-Builder.

If the work is not going to be undertaken by an Owner-Builder, then the beneficiary of the consent must:

- (a) appoint a Principal Contractor to undertake the building work. If residential building work (within the meaning of the Home Building Act 1989) is to be undertaken, the Principal Contractor must be a holder of a contractor licence; and
- (b) notify the PCA of the details of any such appointment; and
- (c) notify the Principal Contractor of any critical stage inspections or other inspections that are required to be carried out in respect of the building work.

76. **OPER1003 - Notification of Critical Stage Inspections** - No later than two (2) days before the building work commences, the PCA must notify:

- (a) the consent authority and the Council (if not the consent authority) of his or her appointment; and
- (b) the beneficiary of the development consent of the critical stage inspections and other inspections that are to be carried out with respect to the building work.

77. **OPER1004 - Notice of Commencement** - The beneficiary of the development consent must give at least two (2) days notice to the Council and the PCA of their intention to commence the erection of a building.

78. **OPER1007 - Critical Stage Inspections** - The last critical stage inspection must be undertaken by the Principal Certifying Authority. The critical stage inspections required to be carried out vary according to Building Class under the Building Code of Australia and are listed in Clause 162A of the Environmental Planning and Assessment Regulation 2000.

79. **OPER1008 - Notice to be given prior to critical stage inspections** - The principal contractor for a building site, or the owner-builder, must notify the principal certifying authority at least 48 hours before each required inspection needs to be carried out.

Where Georges River Council has been appointed PCA, forty eight (48) hours notice in writing, or alternatively twenty four (24) hours notice by facsimile or telephone, must be given to when specified work requiring inspection has been completed.

80. **OPER1009 - Occupation Certificate** - A person must not commence occupation or use

of the whole or any part of a new building unless an Occupation Certificate has been issued in relation to the building or part.

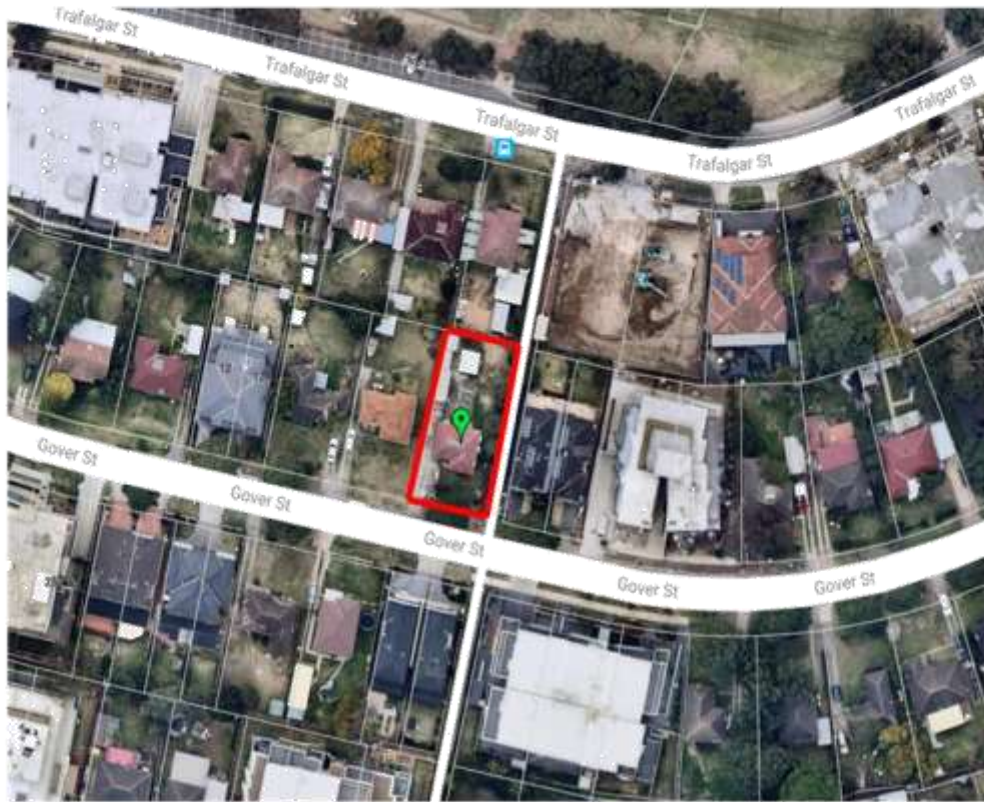
Only the Principal Certifying Authority appointed for the building work can issue the Occupation Certificate.

If you need more information, please contact the Senior Development Assessment Officer, below on 9330-6400 during normal office hours.

ATTACHMENTS

Attachment [View1](#) Site Plan - 18 Gover Street Peakhurst

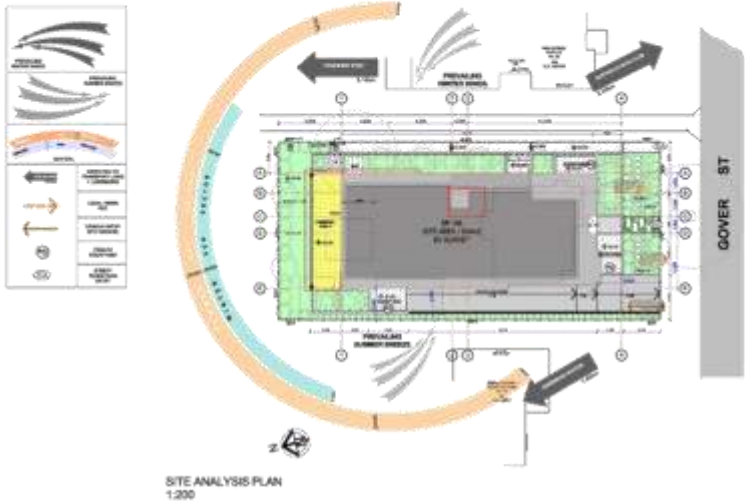
Attachment [View2](#) Architecturals - Shadows - 18 Gover Street



Proposed Boarding House Development
18 Gover St, Peakhurst NSW 2210
D.P 156



DA	DRAWING TITLE	SCALE	REV.
00	Cover Page & Site Analysis Plan	1:100	G
01	Site Plan	1:100	H
02	Demolition Plan	1:100	G
03	Basement B1 & B2 Plan	1:100	G
04	Ground Floor & First Floor Plan	1:100	H
05	Second & Third Floor Plan	1:100	H
06	Roof Plan	1:100	I
07	Elevations	1:100	J
08	Sections	1:100	I
09	Shadow Diagrams	NTS	G
10	Sun Study Diagrams	NTS	G



SUBJECT SITE AT 18 GOVER STREET



NORTH-EAST STREET VIEW



NORTH-WEST STREET VIEW



PERSPECTIVE - STREET VIEW @ EYE LEVEL
NTS

DATE	DESCRIPTION	NOTES	REVISIONS	PROJECT	DESIGNER	COVER SHEET	SCALE
20.06.17	ISSUE FOR CONSULTANTS		1. - Interim meeting to building 18, internal amenity and external layout as per Council letter dated 30/06/2017.	BOARDING HOUSE DEVELOPMENT	DESIGN LINK AUSTRALIA PTY LTD	DA-00	
26.06.17	ISSUE FOR DEVELOPMENT APPLICATION			DESIGNER	DESIGN LINK AUSTRALIA PTY LTD		
12.06.17	ADDITIONAL INFORMATION TO - DA2017020			DRAWN BY	AM		
				CHECKED BY			





DATE	DESCRIPTION	STATUS	REVISIONS	PROJECT	BOARDSHOUSE DEVELOPMENT	DRAWING TITLE	SCALE	 <p>DESIGNLINK © 2015 DESIGNLINK</p>
2016-07-15	ISSUE FOR CONSULTANTS	J	14-10-15	REVISED FOR DA	1. Amend details relating to building 10, external security and internal finishes as per Council order dated 2016-07-17.	ELEVATIONS	1:100 (A)	
2016-07-15	ISSUE FOR DEVELOPMENT APPLICATION				2. Levels adjusted to match revised flood report.	DA-07		
17-08-17	ADDITIONAL INFORMATION TO - DASHEN							
2016-10-17	REVISED FOR DA							

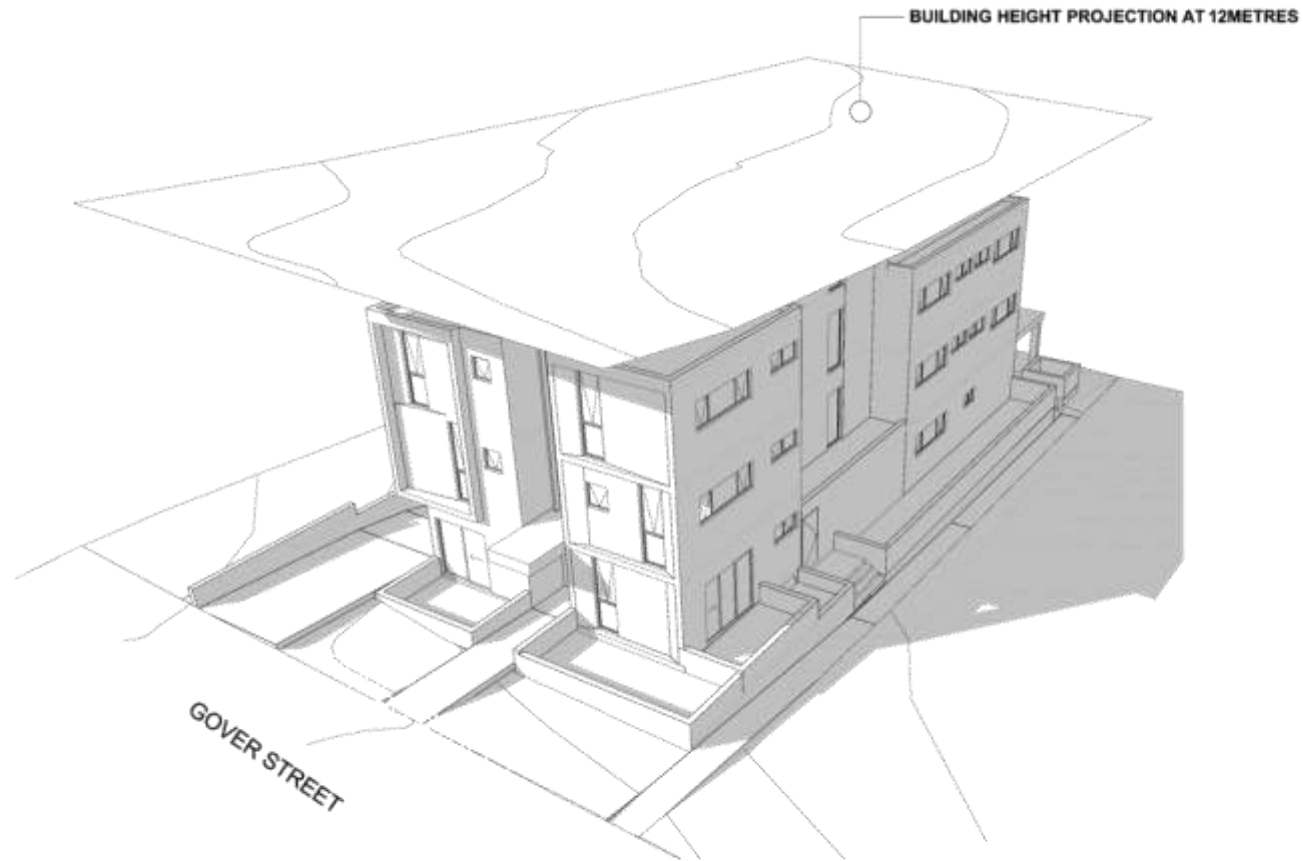


Schedule of External Colours & Finishes

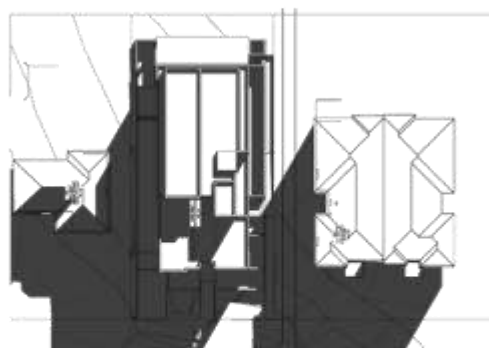
18 GOVER STREET, PEAKHURST



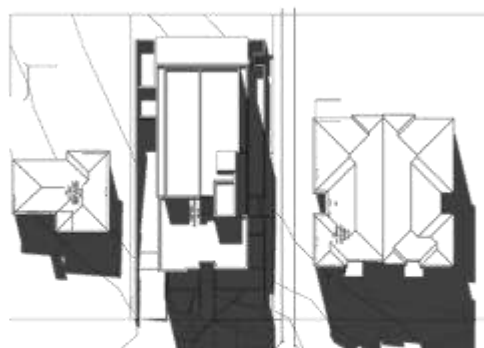
REF.	TYPE	DESCRIPTION	FINISH	MANUFACTURER	IMAGE
PF-1	EXTERNAL WALL	RENDER PAINTED FINISH	WHISPER WHITE	"DULUX" or EQUIVALENT	
PF-2	EXTERNAL WALL	RENDER PAINTED FINISH	HOGS BRISTLE	"DULUX" or EQUIVALENT	
FB-1	EXTERNAL WALL	FACE BRICK FINISH	"BORRALL BLUE" OR SIMILAR	"AUSTRAL BRICKS"	
CL-1	EXTERNAL WALL	WEATHERBOARD FINISH	OR SIMILAR	"OWNER TO SUPPLY"	
	EXTERNAL WALL	POWDER COAT FINISH	OR SIMILAR	"JAN LOLLIES" or EQUIVALENT	



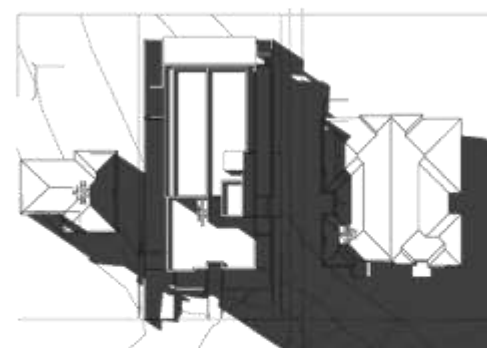
DATE	DESCRIPTION	NOTES	REVISIONS	PROJECT CLIENT	SKETCHES/ROOF DEVELOPMENT	PROJECT TITLE	SCALE
A	20.10.17	ISSUE FOR DA	1. - Assestment meeting in building 16, altered easterly and western breeches by 60 percent when added 30000000.	STATUS	PHL GROUP	DESIGNED FOR A BUILDING HEIGHT PROJECTION	
				DESIGNER	DESIGNED FOR A BUILDING HEIGHT PROJECTION		
				DRAWN BY	DESIGNED FOR A BUILDING HEIGHT PROJECTION		
				CHECKED BY	DESIGNED FOR A BUILDING HEIGHT PROJECTION		



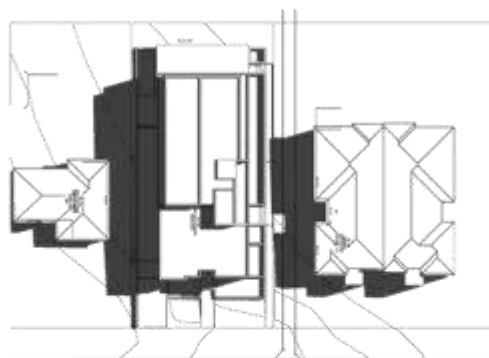
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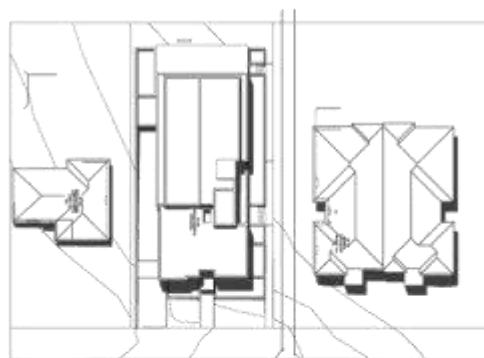
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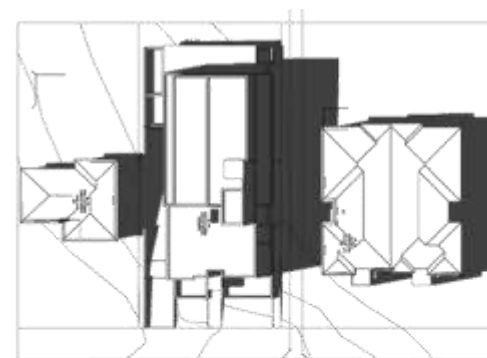
03 SHADOW DIAGRAM - JUNE 21 - 3PM
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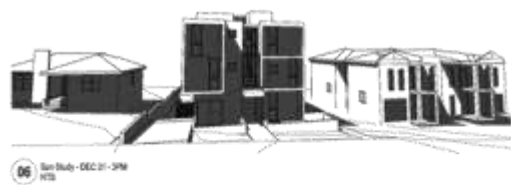
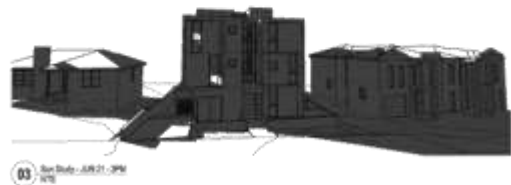
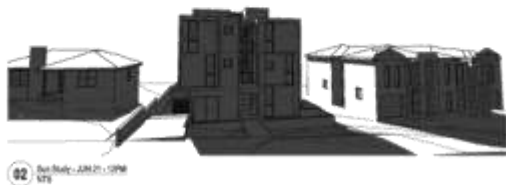
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05 SHADOW DIAGRAM - DEC 21 - 12PM
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06 SHADOW DIAGRAM—DEC 21—3PM
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E F G	ISSUE DATE	DESCRIPTION	NOTES	REVISIONS	PROJECT	BOONARDS HOUSE DEVELOPMENT	DRAWING TITLE	SCALE	 1 DESIGNLINE ARCHITECTS PTY LTD 1/100 BUNNELL STREET, SYDNEY NSW 2017 P 61 9550 8888 FAX 61 9550 8889 E info@designline.com.au W www.designline.com.au
	20-06-17	ISSUE FOR CONSULTANTS		1. - Assessment relating to building 10, internal security and external features of the Council order dated 06/06/2017.	CLIENT	MR. GUNAW	Sun Shadow Diagram 10-06-2017 DA-09		
	20-06-17	ISSUE FOR DEVELOPMENT APPLICATION	"These drawings and specifications are intended for use by the applicant only and are not to be used for any other purpose without the written consent of the architect."	DESIGNER	DESIGN LINE ARCHITECT				
	17-06-17	ADDITIONAL INFORMATION TO DA-05/17-01	"These drawings and specifications are intended for use by the applicant only and are not to be used for any other purpose without the written consent of the architect."	DESIGNER	DESIGN LINE ARCHITECT				



DATE	DATE	DESCRIPTION	NOTES	REVISIONS	PROJECT	CLIENT	PROJECT TITLE	SCALE
20.06.17	20.06.17	ISSUE FOR CONSULTANTS		1. Interim meeting to building 16, internal amenity and external layout as per Council letter dated 06/06/2017.	BOARDWELL HOUSE DEVELOPMENT	WEL GROUP		
26.06.17	26.06.17	ISSUE FOR DEVELOPMENT APPLICATION	The design development is intended to be a final design and the design is intended to be a final design and the design is intended to be a final design.		STATUS	DESIGN DEVELOPMENT	Sun Study Diagram	
12.06.17	12.06.17	ADDITIONAL INFORMATION TO - DA02/17020	Physical dimensions and site conditions are being verified at this time.		DESIGNER	DESIGN LINK AUSTRALIA PTY. LTD.	DA-10	
					DRAWN BY	RL		
					CHECKED BY	AM		

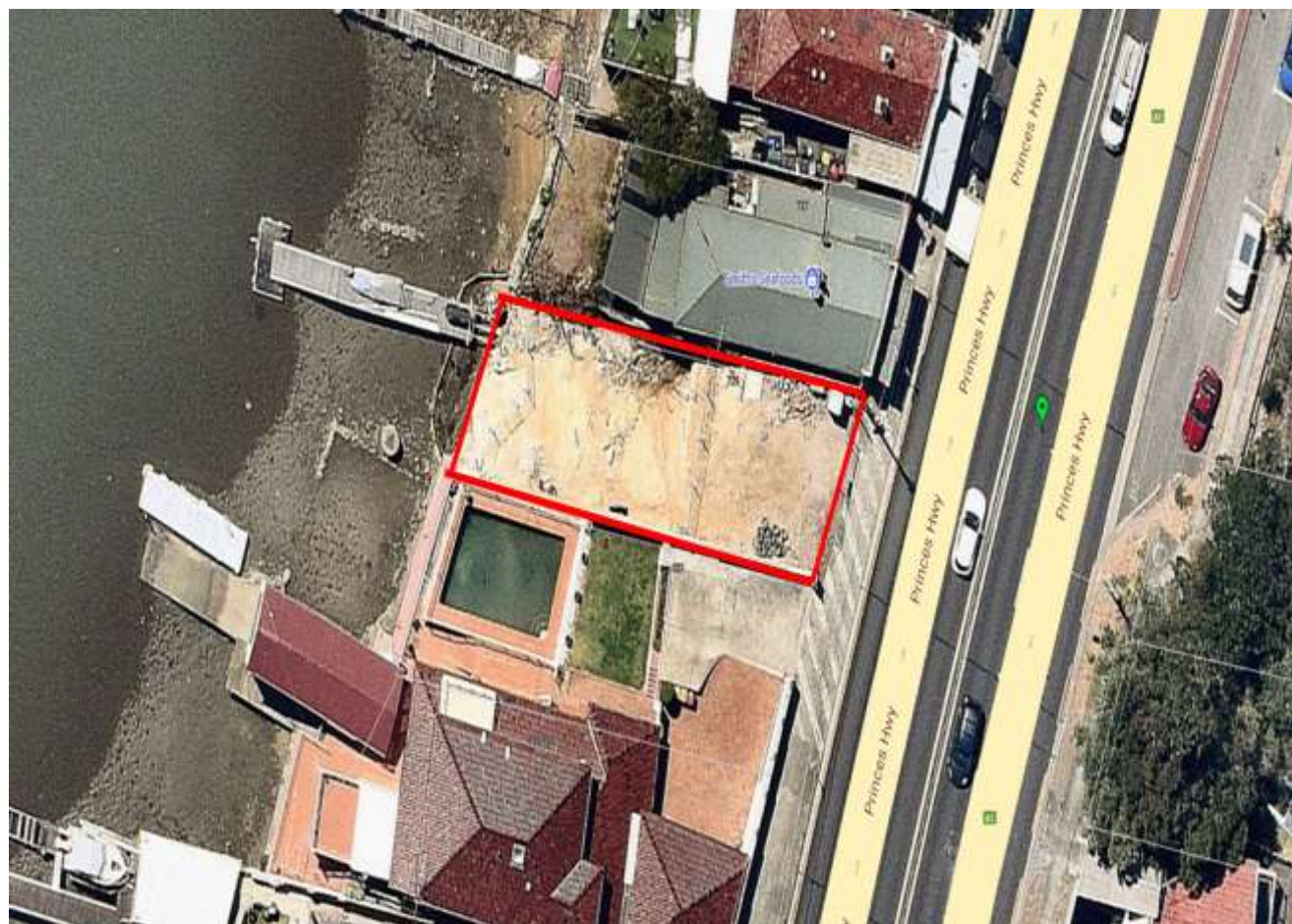
REPORT TO GEORGES RIVER COUNCIL

IHAP MEETING OF THURSDAY, 16 NOVEMBER 2017

IHAP Report No	3.2	Application No	MOD2107/0084
Site Address & Ward Locality	731 Princes Highway Blakehurst Blakehurst Ward		
Proposal	Section 96 modification to approved dwelling - additional level and internal and external alterations		
Report Author/s	Senior Development Assessment Planner		
Owners	Damien Rowlands		
Applicant	Damien Rowlands C/- Red Blue Architecture and Design		
Zoning	Zone R3 - Medium Density Residential		
Date Of Lodgement	30/06/2017		
Submissions	One (1) submission		
Cost of Works	N/A		
Reason for Referral to IHAP	Unresolved objection		

Recommendation	That the application be approved in accordance with the conditions included in the report.
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Site Plan



EXECUTIVE SUMMARY

Proposal

1. Council granted development consent to Development Application No. 274/2011 for demolition of the existing dwelling and construction of a new dwelling and cabana on 15 February 2012. That consent is now sought to be modified under Section 96(2) of the Environmental Planning and Assessment Act 1979 to create an additional level and undertake various internal and external alterations.

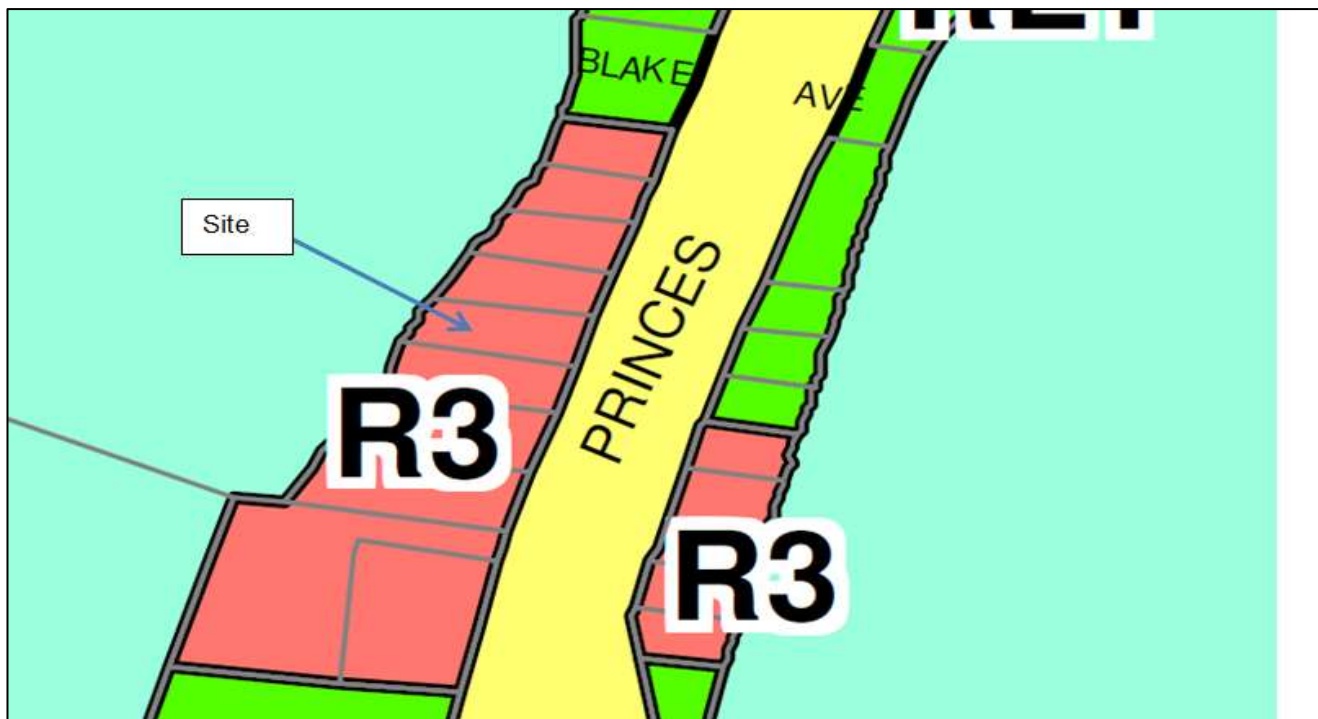
Site and Locality

2. The subject site is known as Lot 26 DP 6944 731 Princes Highway, Blakehurst. The site is a waterfront allotment on Shipwrights Bay and has a slope from the front of the site (RL7.26) towards the waterway (RL2.23). It has a frontage to Princes Highway of 10.06m and a total site area of 297.3sqm.

Zoning and Compliance with LEP Standards

3. The site is zoned R3 – Medium Density Residential under Kogarah Local Environmental Plan 2012 and the proposal is a permissible form of development with Council's consent. The proposed development satisfies all relevant controls contained within the LEP with the exception of the Foreshore Building Line requirement. That variation is acceptable on merit for reasons discussed within the report.

The planning controls applicable to the site have changed since the original approval was granted. In this regard, the zoning has changed from Residential 2(a) –Low Density to R3 – Medium Density Residential, the FSR has been increased from 0.55:1 to 2:1 and the height has been increased from 7.8m (maximum parapet height) to 21m.



Excerpt from Zoning Map

Development Control Plan

4. The proposed development satisfies the objectives of Kogarah Development Control Plan 2013. However, the proposal does not comply with Councils controls for:
 - Side setbacks*

** Condition imposed to ensure consistency with original approval*

Submissions

5. One (1) submission was received raising the following concern:

- The proposed development is not substantially the same and cannot be approved as a modification under section 96

Level of Determination

6. The application is referred to the IHAP for determination due to unresolved submissions.

Conclusion

7. Having regard to the Heads of Consideration under Section 79C(1) of the Environmental Planning and Assessment Act 1979 and following a detailed assessment of the proposal Modification Application No MOD2017/0084 should be approved subject to suitable conditions.

REPORT IN FULL

PROPOSAL

8. Council granted development consent to Development Application No. 274/2011 for demolition of the existing dwelling and construction of a new dwelling and cabana on 15 February 2012.

The current application made under Section 96(2) of the Environmental Planning and Assessment Act 1979 involves a number of amendments to the approved development.

The modifications sought include, but are not necessarily limited to:

Lower Ground Level

- New level proposed which is proposed to contain two bedrooms, 2 bathrooms, robe and hall space;
- The approved stairs at the western end of the lower ground floor level (that serviced the ground floor) have been deleted; and
- Adjust the finished floor level of the cabana 100mm from RL2.5 to RL2.6.

Ground Floor Level

- New vehicle turntable at the front of the site;
- Finished floor level increased from RL5 to RL6 due to inclusion of new lower ground level;
- Finished floor level of the entry increased 890mm from RL6.6 to RL 7.49;
- Reduction in the size of the western terrace, creating additional gross floor area;
- New privacy screen along the northern elevation of the rear terrace;
- Relocation of the laundry/WC; and
- Side setback reduced from 900mm to 840mm.

First Floor Level

- Reduction in the width of the western balcony from 4.45m to 3.35m, subsequently creating a larger rumpus room;
- Minor reconfiguration of windows along the northern and southern elevations; and
- Change to the finished floor level from RL8 to RL9.3.

Second Floor Level

- Deletion of void area;
- Reduction in the width of the western balcony from 3.97m to 3m, subsequently creating a larger bedroom and ensuite;
- Deletion of windows on the northern elevation; and
- Change to the finished floor level from RL11 to RL12.6.

Roof Form

- Alteration to the roof form, including new high level windows to improve the amenity of the second floor level bedroom.

Further to the above, the building is proposed to be shifted 300mm to the west to accommodate the new vehicle turntable at the front of the site.

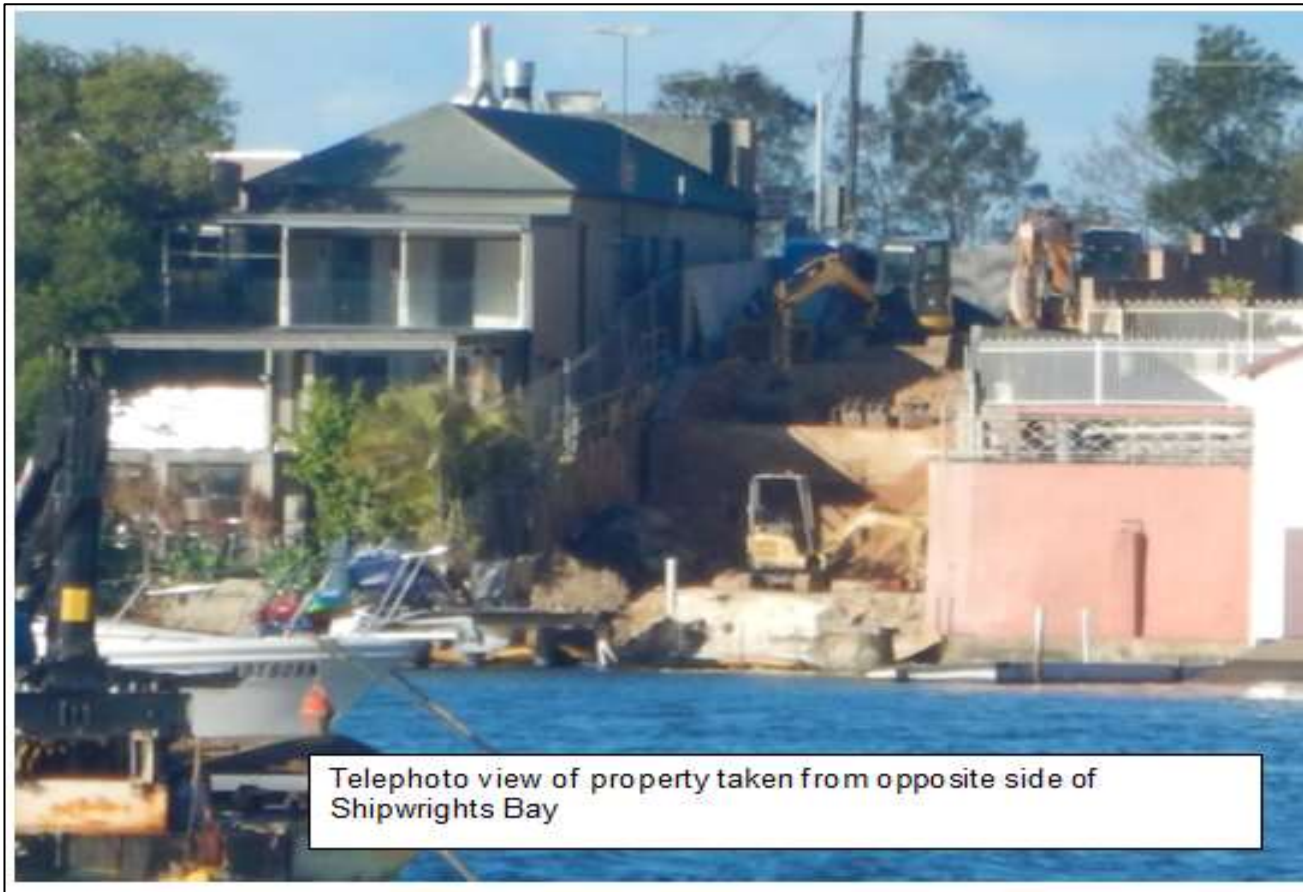
The proposed modifications would result in an overall increase to the building height by approximately 2.25m at the worst point. The excavation works to facilitate the new lower ground floor level have already been undertaken, as such, the applicant is seeking Council's retrospective approval for this aspect of the proposal.

It is noted that during the assessment of the application the applicant submitted amended plans seeking to expand the scope of the section 96 modifications to include works which have eroded the rock face above and below the mean high water mark as well as an extension of the approved sea wall within the site's boundaries. These amendments did not form part of the application that was placed on neighbour notification and as such, are not considered as part of the assessment of the subject application. These works would be required to be the subject of a new application to Council.

THE SITE AND LOCALITY

9. The subject site is known as Lot 26 DP 6944 731 Princes Highway, Blakehurst. The site is a waterfront allotment on Shipwrights Bay and has a slope from the front of the site towards the waterway. It has a frontage to Princes Highway of 10.06m and a total site area of 297.3sqm. The site is currently a construction site, the previous improvements have been removed and excavation works have been undertaken.

Adjoining the site to the immediate north are retail premises that face Princes Highway. Immediately adjoining to the south is a two (2) storey dwelling at 733-735 Princes Highway. Other surrounding development is generally comprised of multi-level dwellings being a mixture of ages and architectural styles.



BACKGROUND

10. A history of the current application is provided as follows:

- Development Application No. 274/2011 for demolition of the existing dwelling and construction of a new dwelling and cabana was approved by Council on 15 February 2012.
- A construction certificate was issued by a private certifier on 1 February 2017.
- A Stop Work Order was issued to the owner of the property by Council on 29 June 2017, primarily as a result of excavation works that had been undertaken contrary to the approved plans. This matter is independent of the subject modification application and is being investigated separately by Council.
- The subject section 96 application was submitted on 30 June 2017 (MOD2017/0084).
- The application was placed on exhibition between 21/08/2017 until 04/09/2017. One (1) submission was received.
- The applicant submitted further amended plans on 29/08/2017 to include works undertaken to the rock face at the western end of the site and an extension to the approved sea wall.
- At the request of Council Officers, the applicant submitted a detailed planning submission regarding the 'substantially the same' section 96 test.
- The applicant submitted updated architectural drawings on 6/10/2017 to show the location of the Foreshore Building Line on the site.

SECTION 96 CONSIDERATIONS

11. Section 96(2) of the Environmental Planning and Assessment Act 1979 enables the consent authority to modify a development consent upon application being sought by the applicant or any person entitled to act on the consent, provided that the consent authority:

1. Is satisfied that the proposed modification is of minimal environmental impact

Comment: The modifications proposed will result in minimal environmental impact for reasons discussed throughout this report.

2. Is satisfied the proposed development as modified is substantially the same development for which consent was originally granted

Comment: The proposed development as modified would represent substantially the same development for which consent was originally granted. A qualitative and quantitative comparison between the development as modified and the development as originally approved has been undertaken. The physical features of the changes as well as the environmental impacts of the changes have been considered. The following comments are made in this respect:

Quantitative assessment

- The proposed development before and after modification would retain the same use, that being a single dwelling;
- The same number of levels at street frontage and the same number of car parking spaces are provided;
- The overall height of the building is proposed to be increased by approximately 2.25m and is well within the maximum allowable height limit of 21m;
- The FSR is proposed to be increased from approximately 0.56:1 to 0.8:1. This represents an additional 69m², 61m² of which is accommodated within the new lower ground floor level that sits generally within the approved building envelope/footprint; and
- The increase in excavation is contained entirely within the approved building footprint – refer to section comparison drawings below.

Qualitative assessment

The key physical difference between the approved development and the proposed development is its external presentation. The proposed modifications will result in an increase in the overall height of the building due to the inclusion of the lower ground floor level, increase in floor to floor heights and inclusion of a new skillion roof form on the uppermost level. The external building envelope however remains consistent with the approved development and the changes to the external presentation of the building do not generate any unreasonable amenity impacts with respect to view loss, privacy loss or overshadowing. Further, the presentation of the building as viewed from the waterway would not be significantly altered.

In view of the above, it is considered that the modified development is essentially and materially the same as the approved development. A comparison of the approved and proposed section and elevation drawings is shown below for reference.



Image 1: Approved section



Image 2: Proposed section

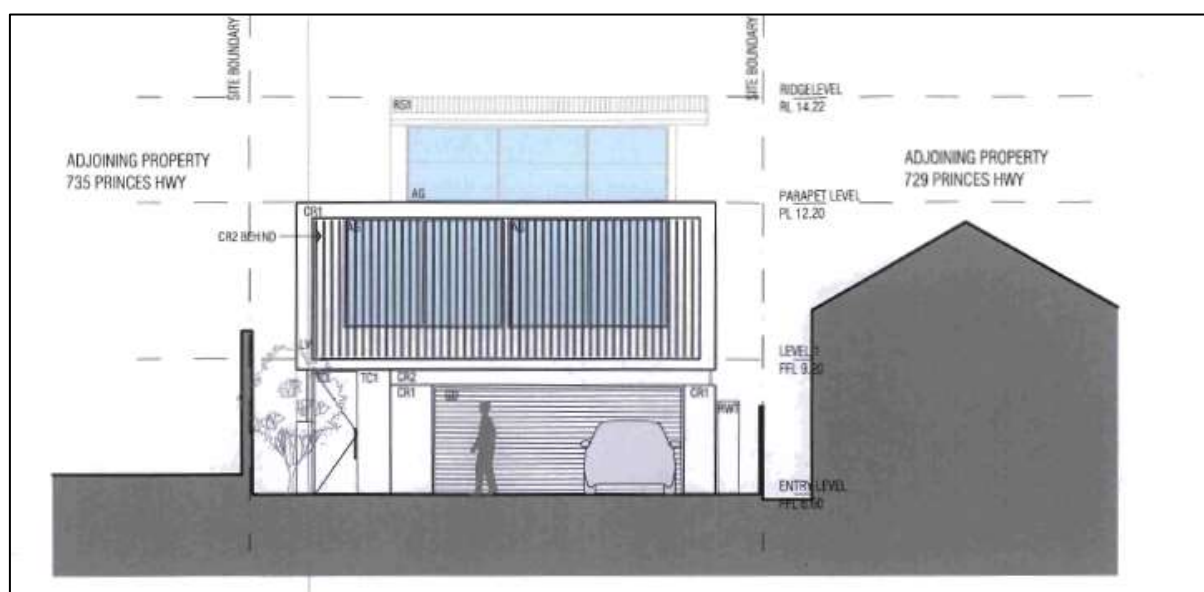


Image 3: Approved East (street) elevation

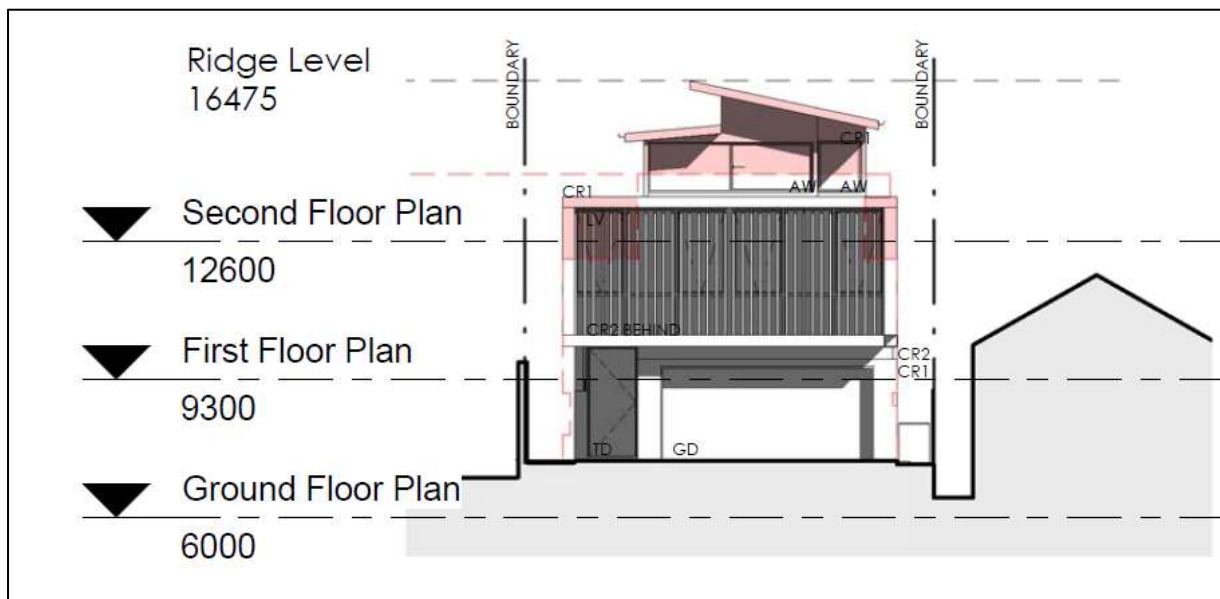


Image 4: Proposed East (street) elevation



Image 5: Approved west elevation

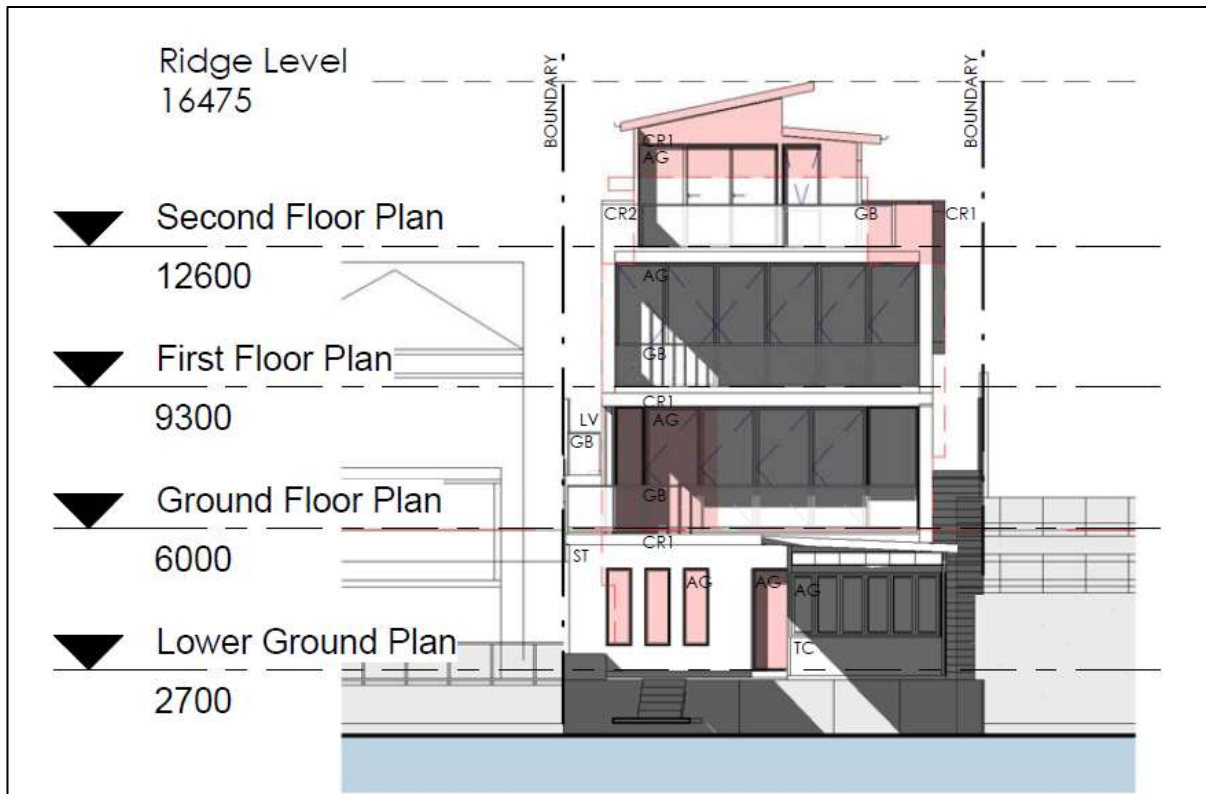


Image 6: Proposed west elevation

3. **Has advertised and or notified the application in accordance with the regulations or a development control plan**

Comment: The application was notified to neighbours in accordance with the public notification provisions of KDCP 2013.

4. **Has considered any submissions made concerning the proposed modification**

Comment: One (1) submission was received which is considered in this report.

SECTION 79C ASSESSMENT

12. The following is an assessment of the application with regard to Section 79C of the Environmental Planning and Assessment Act 1979.

(a)(i) The provisions of any environmental planning instrument

Kogarah Local Environmental Plan 2012

13. The planning controls applicable to the site have changed since the original approval was granted. In this regard, the zoning has changed from Residential 2(a) –Low Density to R3 – Medium Density Residential, the FSR has been increased from 0.55:1 to 2:1 and the height has been increased from 7.8m (maximum allowable parapet height) to 21m.

The proposed modifications are assessed against the relevant KLEP 2012 requirements below.

Clause 2.1 – Land Use Zones

14. The subject site is zoned R3- Medium Density Residential and the development the subject of the proposed modification is a permissible form of development with Council's consent. The development as modified would not be inconsistent with the objectives of the zone in that it provides housing stock in the locality.

Clause 4.3 – Height of buildings

15. The subject site has a maximum allowable building height of 21m as shown on the Height of Buildings Map that accompanies KLEP 2012. The approved development had a maximum height of approximately 9.2m. The modified development has a maximum height of approximately 11.5m, which complies with the building height development standard within KLEP 2012.

Whilst the proposed modifications will result in a 4 storey building, it would be well within the scale of the buildings anticipated by the planning controls on the surrounding allotments.

Clause 4.4 – Floor Space Ratio

16. The subject site has a maximum allowable FSR of 2:1 as shown on the Floor Space Ratio Map that accompanies KLEP 2012. The approved development had an FSR of approximately 0.56:1. The modified development has a maximum FSR of approximately 0.8:1, which complies with the floor space ratio development standard within KLEP 2012. The modified development would result in an additional 69m² of gross floor area, 61m² of which is accommodated within the new lower ground floor level that sits within the approved building envelope/footprint.

Clause 5.10 – Heritage Conservation

17. The subject site is not listed as a heritage item in Schedule 5, is not within a Heritage Conservation Area, nor are there any heritage items located nearby.

Clause 6.1 – Acid Sulfate Soils

18. The subject site is identified on the Acid Sulfate Soil Map as being located within Class 5 (100m buffer zone). The proposal involves excavation (that has already been undertaken) works to reach the FFL of the new lower ground floor level. This cut is however into existing rock. Accordingly, an Acid Sulfate Soils Report is not considered necessary.

Clause 6.2 – Earthworks

19. The proposal involves substantial excavation at the rear of the site to reach the FFL for the new lower ground floor level. These excavation works have already been undertaken. The extent of excavation is shown in blue below:



Image 7: Extent of excavation highlighted in blue

For abundant caution, the wording of some of the conditions of consent are recommended to be modified to ensure that any further earthworks do not have a detrimental impact on the environment and/or neighbouring uses in accordance with the stated objectives of cl 6.2 within KLEP 2012.

It is noted that correspondence has been received from an adjoining property owner raising concerns with additional excavation works that have been undertaken contrary to the development consent and associated property damage as a result of these works. This matter is being investigated separately by Council.

During the assessment of the application the applicant submitted amended plans seeking to expand the scope of the section 96 modifications to include works which have eroded the rock face above and below the mean high water mark. These amendments did not form part of the application that was placed on neighbour notification and as such, are not considered as part of the assessment of the subject application. These works would be required to be the subject of a new application to Council.

Clause 6.3 – Flood Planning

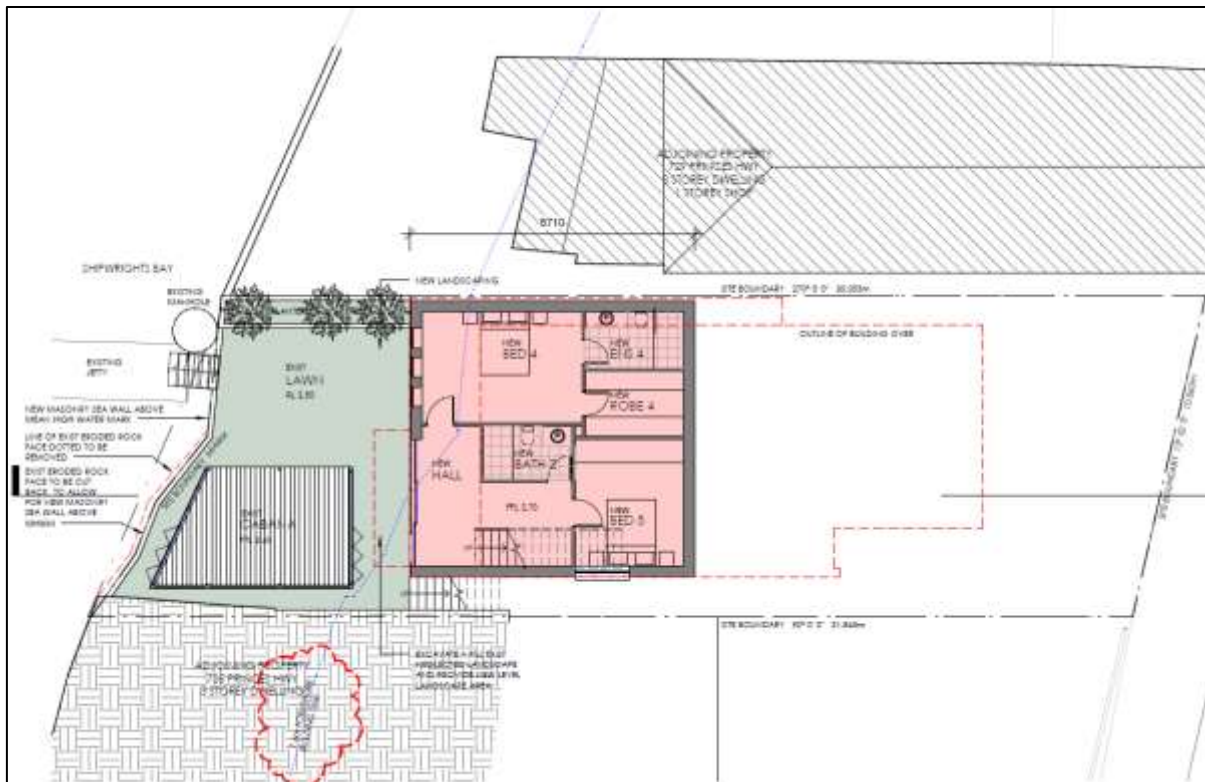
20. The subject site has not been identified as a flood planning area on the Flood Planning Maps.

Clause 6.4 – Limited development on foreshore area

21. The site is subject to a 7.6m FBL. The approved development encroaches into the FBL and the proposed modified development would further increase the extent of that encroachment primarily as a result of:

- The inclusion of the new lower ground floor level; and
- The shifting of the dwelling 300mm in a westerly direction to accommodate the new vehicle turntable.

The applicant has submitted drawings to depict the location of the FBL in relation to the modified development. Based on those drawings it is evident that the extent of the further encroachment is marginal and as such does not impact on natural foreshore processes or affect the significance and amenity of the area.



For completeness, the modified development has been considered against the requirements of cl 6.4(3) as follows:

- (a) the development will contribute to achieving the objectives for the zone in which the land is located

The proposed modified development would not be inconsistent with the relevant objectives of the R3 – Medium Density zone in that it would provide housing stock.

- (b) the appearance of any proposed structure, from both the waterway and adjacent foreshore areas, will be compatible with the surrounding area

Existing building structures within the FBL are common in the stretch of dwellings from No.723 to 737. The rear of the dwellings at No.723, 725, 729 and dwelling plus swimming pool at 735 all appear to be positioned well within the FBL. As a result of this, the proposed building elements below the FBL will not be out of character with existing structures on nearby properties and the proposal will not lead to any additional, adverse impacts upon the appearance of the waterway as a result of the minor additional encroachment.

Whilst it is acknowledged that the dwellings on the surrounding allotments are generally 1 to 3 storeys in scale and the proposed modified development is 4 storeys, the relevant planning controls permit development up to 21m in height. As such, the development would not be inconsistent with the desired future character of the area and its likely future appearance from the waterway.

- (c) the development will not cause environmental harm such as:
- (i) pollution or siltation of the waterway, or

- (ii) an adverse effect on surrounding uses, marine habitat, wetland areas, fauna and flora habitats, or*
- (iii) an adverse effect on drainage patterns*

The new building elements proposed that encroach on the FBL would not cause any adverse environmental impacts as listed in this clause.

- (d) the development will not cause congestion or generate conflict between people using open space areas or the waterway*

The modified development would not cause any such congestion or conflicts.

- (e) opportunities to provide continuous public access along the foreshore and to the waterway will not be compromised*

The modified development would not encroach on waterway access.

- (f) any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land on which the development is to be carried out and of surrounding land will be maintained*

The proposed works do not unduly alter any significant aspects of the land.

- (g) in the case of development for the alteration or rebuilding of an existing building wholly or partly in the foreshore area, the alteration or rebuilding will not have an adverse impact on the amenity or aesthetic appearance of the foreshore*

The proposal does not involve the alteration or rebuilding of an existing building.

- (h) sea level rise or change of flooding patterns as a result of climate change has been considered.*

These matters have been considered. The proposal is acceptable in this respect.

State Environmental Planning Policy (Infrastructure) 2007

- 22. The subject site is located adjacent to a road corridor (Princes Highway) which has an annual average daily traffic volume of more than 40 000 vehicles. As such, clause 102 concerning the impact of road noise or vibration on non-road development is required to be considered. Condition 28 in the consent addresses this requirement. This condition is not proposed to be altered.

Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment

- 23. All stormwater from the proposed development can be treated in accordance with Council's Water Management Policy and would satisfy the relevant provisions of this state policy.

(a)(ii) The provisions of any exhibited draft environmental planning instrument

- 24. There are no draft planning instruments that are applicable to this site.

(a)(iii) The provisions of any development control plan

Kogarah Development Control Plan 2013

25. The proposed development is subject to the provisions of the Kogarah Development Control Plan 2013 (KDCP2013). The following comments are made in respect of these controls, as of relevance to the modifications proposed:

Building Scale and Height

26.

- The proposed building height and floor space ratio complies with the relevant development standards in the LEP;
- The modified development would result in a four (4) level dwelling, contrary to the DCP guideline which states that the maximum number of levels is three (3) under circumstances where the slope of the site exceeds 1:8 (12.5%). However, it is evident that the medium density zoning which applies to the land, the 21m height limit and 2:1 FSR effectively contemplates multi storey development that is likely to be significantly larger than 4 levels. In any case, the external bulk and scale of the modified development is not considered to be significantly increased when compared to the original approved development. Refer to images 1 – 6 in this report for reference.

Although the dwellings on the surrounding allotments are generally 1 to 3 storeys in scale and the proposed modified development is 4 storeys, the relevant planning controls permit development up to 21m in height. As such, the development would not be inconsistent with the desired future character of the area which is expected to transition to a density far greater than the existing built form.

Rhythm of the Built Elements in the Streetscape

27. The presentation of the front (east) façade of the dwelling remains generally consistent with the approved development, albeit with of a skillion roof which presents a more modulated form and improves the internal amenity to the bedroom on the uppermost level.

It is noted that an annotation on the *Ground Floor Plan, Drawing DA0202* indicates an 840mm side setback to the northern side boundary. The approved plans provide a 900mm setback. This modification was not explicitly applied for in the submitted s96 and in any case, compliance with the 900mm requirement is not considered to be unreasonable. Accordingly, a condition of consent has been incorporated into the recommendation stating that a 900mm northern side setback must be provided.

Fenestration and External Materials

28. The selection of external materials and finishes for the new building elements would be generally consistent with that of the approved development, are high quality and are therefore acceptable.

Street edge

29. The proposed modifications do not alter the design of the development where it relates to the street edge.

Open Space

30. A total area of approximately 77sqm or 25% of the site area is provided as deep soil landscaping, complying with the minimum requirement of 15%.

Privacy

31. The proposed modifications do not result in any adverse privacy impacts. The following points are noted:

- The rear (western) balcony on the ground floor has been reduced in size and a privacy screen has been provided along the northern elevation to minimise overlooking towards adjacent properties;
- The rear (western) balcony on the first floor has been reduced in size;
- The new window openings on the lower ground floor along the western elevation are orientated towards the water and therefore are unlikely to cause any unreasonable privacy impacts for adjoining properties;
- Approved windows along the northern elevation on the second floor level have been deleted; and
- A window opening on the northern elevation on the first floor level has been reduced in size.

Solar Access

32. The proposed modifications involve an increase to the overall building height. The application was not accompanied by updated shadow diagrams. However, this component of the development has been assessed by Council Officers and it is anticipated that the additional overshadowing would not be significant enough to cause an unreasonable loss of solar access for adjoining properties, having regard to the extent of the additional height proposed and the orientation of the site and the adjoining dwellings.

Vehicular access, parking and circulation

33. The proposed modifications include the installation of a new vehicle turntable in the front setback area. This would enable vehicles to safely exit the site in a forward direction. This outcome is supported, particularly in the circumstances of this site because it is located on a classified road (Princes Highway).

Views and view sharing

34. The proposed modifications do not cause any adverse view loss impacts.

Foreshore Locality Controls

35. The subject site is located within the *Blakehurst South – Shipwrights Bay to Pleasant Way* locality. The proposal has been considered against this aspect of the DCP and is considered to be acceptable with respect to those controls, in particular the requirements of Part 5.9 concerning land based development. As outlined throughout this report, it is acknowledged that the dwellings on the surrounding allotments are generally one (1) to three (3) storeys in scale and the proposed modified development is four (4) storeys. However, the relevant planning controls in this area permit development up to 21m in height at a density of 2:1. As such, the development would not be inconsistent with the desired future character of the area and its likely future appearance from the waterway.

(a)(iv) Any matters prescribed by the regulations that apply to the land to which the development application relates

36. Not applicable.

(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

37. The proposal is not considered to have a significant impact on the natural and built environment of the locality subject to on-going compliance with the conditions of consent.

(c) The suitability of the site for the development

38. It is considered that the proposed development as modified is of a scale and design that is suitable for the site having regard to its size and shape, its topography and vegetation.

(d) Any submissions made in accordance with this Act or the regulations

39. In accordance with the public notification provisions of KDCP 2013, the application was placed on neighbour notification for a period of fourteen (14) days and adjoining property owners were notified in writing of the proposed modification and invited to comment. One submission was received raising the following concerns:

1. The proposed development is not substantially the same and cannot be approved as a modification under section 96

Comments: This matter has been discussed in the main body of the report and it is concluded that the proposal is substantially the same as that originally approved.

Additional remarks: It is noted that correspondence has been received from an adjoining property owner raising concerns with additional excavation works that have been undertaken contrary to the development consent and associated property damage as a result of these works. This matter is being investigated separately by Council.

(e) The public interest

40. The proposed development as modified is of a scale and character that does not conflict with the public interest.

Conclusion

41. The application has been assessed having regard to the provisions of Sections 96 and 79C of the Environmental Planning and Assessment Act 1979 and the provisions of KLEP 2012 and KDCP 2013. Having regard to the above, it is considered that the modifications would result in a development that is substantially the same as that originally approved and would not have any unreasonable impacts on the amenity of adjoining properties and/or the streetscape. Accordingly, the proposed modifications can be supported.

Recommendation

42. THAT pursuant to Section 96(2) of the Environmental Planning and Assessment Act 1979, as amended, the Council, grants approval to the proposed modifications to Development Consent No. 274/2011, dated 15 February 2012, for demolition of existing dwelling and construction of new dwelling and cabana at 731 Princes Highway, Blakehurst subject to the development consent being modified as attached:

1. Conditions 1 and 5 being amended to read -

(1) Approved Plans of Consent

The development must be implemented in accordance with the approved plans, specifications and details listed below and any supporting information submitted with the Development Application except as amended by any conditions attached to the Development Consent:

- (i) Architectural Plans by Red Blue, drawing numbers DA0201, 0202, 0203, 0204, 0501, 0502, 0503, 0600, except as amended by:

Architectural Plans by Red Blue, drawing numbers DA0200, DA0201, DA0202, DA0203, DA0204, DA0501, DA0502, DA0503 and DA0600, Rev B dated 15/6/2017.

- (ii) Landscape Plans prepared by Sala Design Group, dated 13/1/2012, LA-00B(1), LA-00A(2), LA-00C(1) and LA00D(1).

- (iii) Stormwater Plans prepared by Red Blue, drawing no. DA2100.

(5) Geotechnical Report

Excavation of the site is to extend only to that area required for building works depicted upon the approved plans. All excess excavated material shall be removed from the site. In this regard, all excavated waste materials shall be disposed of at an approved Waste Depot.

No rock breaking or other machinery for the excavation, drilling, cutting or removal of rock shall be used on the site prior to the acceptance by the principal certifying authority of the following documentation:

- (i) A report by a geotechnical engineer detailing the measures recommended in undertaking the works so as to prevent damage to any adjoining or nearby buildings.
- (ii) The type and size of machinery proposed.
- (iii) The routes of all trucks to convey material to and from the site.

Any additional excavation works required as a result of the design changes approved through section 96 must adhere to the requirements of this condition.

2. An additional condition added in as follows -

(1A) Side setback

The external wall of the dwelling on the ground floor plan and first floor plan shall be setback 900mm from the northern side boundary. Details demonstrating compliance with this requirement shall be submitted to the Certifying Authority's satisfaction.

ATTACHMENTS

Attachment [View1](#) Site Plan - 731 Princes Highway Blakehurst

Attachment [View2](#) Architecturals - 731 Princes Highway Blakehurst



