

## AGENDA - LPP

<b>Meeting:</b>	Georges River Local Planning Panel (LPP)
<b>Date:</b>	Thursday, 15 March 2018
<b>Time:</b>	4.00pm
<b>Venue:</b>	Dragon Room, Georges River Civic Centre, corner MacMahon and Dora Street Hurstville
<b>Participants:</b>	Paul Vergotis (Chairperson) Juliet Grant (Panel Member) Helen Deegan (Panel Member) Cameron Jones (Community Representative)
<b>Additional Invitees:</b>	Meryl Bishop (Director Environment and Planning) Tina Christy (Manager Development and Building) Cathy Mercer (Team Leader Administration) Monica Wernej (Admin Assistant)

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### 1. On Site Inspections - 1.00pm –3.30pm

- a) 33 Hampden Street Beverly Hills
- b) 16-18 Thurlow Street Riverwood
- c) 112-114 Blakesley Road South Hurstville
- d) 2 Belgrave Street Kogarah

### 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 LPP Deliberations in Closed Session - 6.30pm

- LPP001-18      33 Hampden Street Beverly Hills**  
(Report by Senior Development Assessment Officer)
- LPP002-18      16-18 Thurlow Street Riverwood**  
(Report by Senior Development Assessment Planner)
- LPP003-18      2 Belgrave Street Kogarah**  
(Report by Development Assessment Officer)
- LPP004-18      112-114 Blakesley Road South Hurstville**  
(Report by Senior Planner)

#### **4. Confirmation of Minutes by Chair**

# REPORT TO GEORGES RIVER COUNCIL LPP MEETING OF THURSDAY, 15 MARCH 2018

<b>LPP Report No</b>	<b>LPP001-18</b>	<b>Application No</b>	<b>DA2017/0192</b>
<b>Site Address &amp; Ward Locality</b>	33 Hampden Street Beverly Hills Hurstville Ward		
<b>Proposal</b>	Demolition of existing structures and construction of a boarding house containing 15 rooms		
<b>Report Author/s</b>	Senior Development Assessment Officer		
<b>Owners</b>	SKA Property Pty Ltd		
<b>Applicant</b>	Blu Print Designs		
<b>Zoning</b>	R3 Medium Density Residential		
<b>Date Of Lodgement</b>	23/06/2017		
<b>Submissions</b>	41		
<b>Cost of Works</b>	\$866,270.00		
<b>Reason for Referral to LPP</b>	More than 10 submissions received to the application		

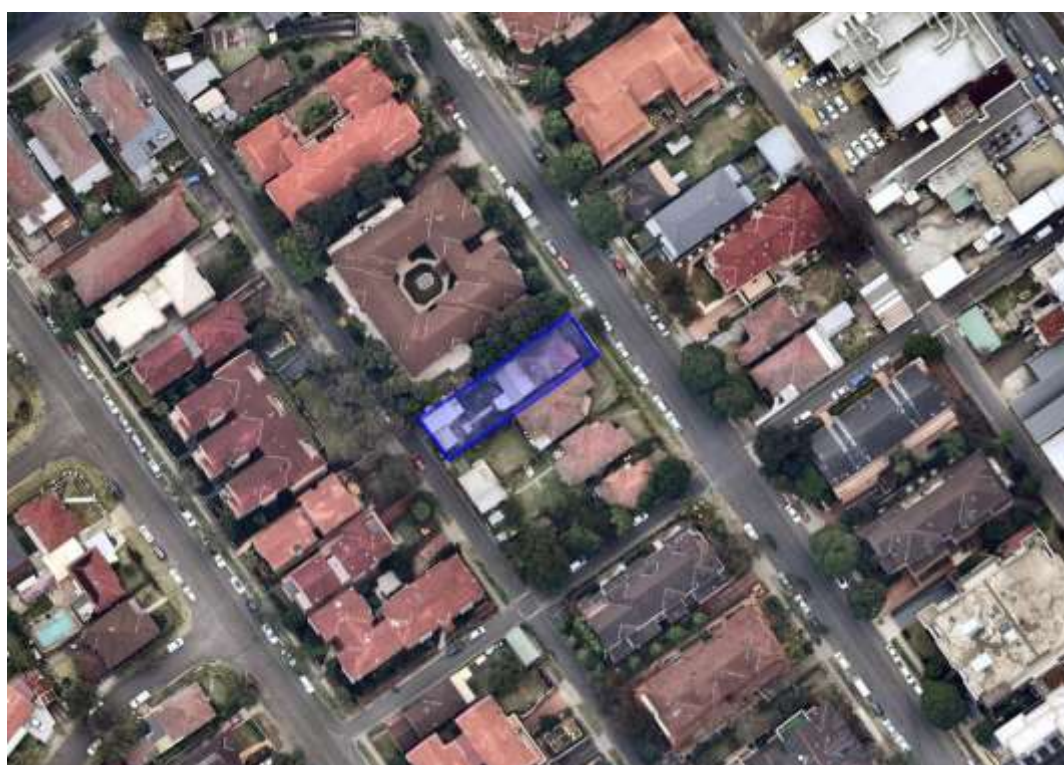
<b>Recommendation</b>	That the application be approved in accordance with the conditions included in the report.
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<b>LPP Report No</b>	<b>LPP001-18</b>	<b>Development Application No</b>	<b>DA2017/0192</b>
<b>Site Address &amp; Ward Locality</b>	33 Hampden Street Beverly Hills Hurstville Ward		
<b>Proposed Development</b>	Demolition of existing structures and construction of a three (3) storey boarding house comprising fifteen (15) rooms		
<b>Owner</b>	SKA Property Pty Ltd		
<b>Applicant</b>	Blu Print Designs		
<b>Planner/Architect</b>	Rockeman Town Planning/Blu Print Designs		
<b>Date of Lodgement</b>	23/06/2017		
<b>Submissions</b>	41		
<b>Cost of Works</b>	\$866,270.00		
<b>Local Planning Panel Criteria</b>	Reasons to be referred to the panel		
<b>List of all relevant s4.15 matters (formerly s79C(1)(a))</b>	<ul style="list-style-type: none"> <li>• State Environmental Planning Policy No 55 - Remediation of Land</li> <li>• State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>• State Environmental Planning Policy (Affordable Rental Housing) 2009</li> <li>• Hurstville Local Environmental Plan 2012</li> <li>• Hurstville Development Control Plan 1 - LGA Wide</li> </ul>		
<b>List all documents submitted with this report for the Panel's consideration</b>	Architectural plans Statement of Environmental Effects		

<b>Report prepared by</b>	Senior development Assessment Planner
<b>Recommendation</b>	THAT the application be approved in accordance with the conditions included in the report.

<b>Summary of matters for consideration under Section 4.15</b> Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	<b>Yes</b>
<b>Legislative clauses requiring consent authority satisfaction</b> Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report?	<b>Yes</b>
<b>Clause 4.6 Exceptions to development standards</b> If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	<b>Not Applicable</b>
<b>Special Infrastructure Contributions</b> Does the DA require Special Infrastructure Contributions conditions (under s7.24)?	<b>Not Applicable</b>
<b>Conditions</b> Have draft conditions been provided to the applicant for comment?	<b>No, standard conditions have been attached with minor design changes. Applicant verbally advised of this.</b>

### Site plan



## EXECUTIVE SUMMARY

- Council is in receipt of an application for the demolition of existing structures and construction of a three (3) storey boarding house comprising fifteen (15) rooms on the subject site.
- 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. The development complies with the provisions of the relevant requirements relating to boarding houses.
- The application was notified/advertised to 139 residents/owners in accordance with Council's requirements and 41 submissions were received in reply. The issues raised in the submissions include, privacy and solar access impacts, permissibility of the boarding house, traffic generation, and quality of information in development application.
- Following a detailed assessment of the proposal, Development Application No. DA2017/0192 is recommended for approval subject to the conditions of consent specified in the report.

## DESCRIPTION OF THE PROPOSAL

1. The application seeks approval for the demolition of the existing structures and construction of a three storey boarding house with 15 rooms. Specifically the proposed development will comprise the following:

### Ground Floor

- Five (5) rooms including a manager's room. These rooms have a courtyard at ground level which adjoins the northern (side) boundary
- Communal room and communal open space which adjoins the northern (side) boundary
- Three (3) car spaces (including an accessible space) and three motorbike spaces located at the rear of the site with access off lane
- One (1) accessible space located at the front of the site with access of Hampden Street
- Common landscaped open space in front setback area and pedestrian entry to the development from Hampden Street

### Level 1

- Six (6) rooms with one (1) balcony located on the front elevation (off room 11) and one (1) located on the rear elevation (off room 5)

### Level 2

- Four (4) rooms with one balcony located on the front elevation (off room 15) and one located on the rear elevation (off room 12)

## Plan of Management

2. A Plan of Management has been submitted with the application which provides directions and controls on the use and management of the boarding house. The proposed development includes an onsite manager who is responsible for the day to day management of the premises.



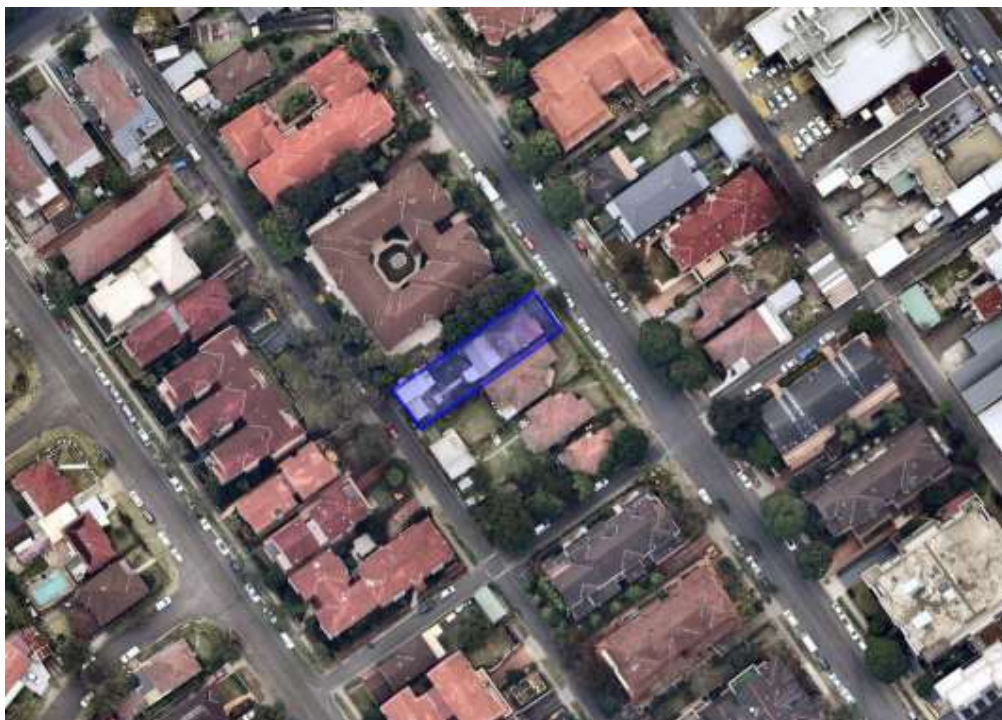
*Photomontage of proposed development*

### **DESCRIPTION OF THE SITE AND LOCALITY**

3. The subject site is located on the western side of Hampden Street, Beverly Hills and comprises two (2) narrow lots which have a combined width of 12.19m, a site area of 557.4sqm, and is relatively flat. There is one street tree located at the front of the site on Hampden Street.

Existing on the site is a single storey dwelling house and outbuildings. Adjoining the site on the north boundary is a three storey residential flat building and on the southern boundary is a single storey dwelling house. To the rear of the site is a lane. Hampden Street predominantly comprises three storey residential flat buildings and single dwelling houses that are yet to be redeveloped. The area surrounding the subject site is characterised by residential flat buildings, dwelling houses, and the commercial area of Beverly Hills which is located to the rear of the properties on the opposite side of Hampden Street.





*Site map*



*View from Hampden Street (source: SEE)*



*View of rear boundary to lane (source: SEE)*

## **ZONING**

4. 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.



## **APPLICABLE PLANNING CONTROLS**

5.
  - State Environmental Planning Policy 55 – Remediation of Land
  - State Environmental Planning Policy (Building Sustainability Index BASIX) 2004
  - State Environmental Planning Policy (Affordable Rental Housing) 2009
  - Hurstville Local Environmental Plan 2012
  - Hurstville Development Control Plan 1

## **PLANNING ASSESSMENT**

6. The site has been inspected and the proposed development has been assessed under the relevant Section 4.15(1) "Matters for Consideration" of the Environmental Planning and Assessment Act 1979.



## **Environmental Planning Instruments**

### **Local Environmental Plan**

7. The extent to which the proposal complies with the relevant standards of the Hurstville Local Environmental Plan 2012 is outlined in the table below.

<b>Clause</b>	<b>Standard</b>	<b>Proposed</b>	<b>Complies</b>
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	<i>Boarding House</i>	The proposed development meets definitions	Yes
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 permissible development with consent	Yes
2.7 - Demolition	Demolition is permissible with consent	Demolition is proposed with this application	Yes
4.3 – Height of Buildings	12m as identified on Height of Buildings Map	9.8m maximum	Yes
4.4 – Floor Space Ratio	1:1 as identified on Floor Space Ratio Map	0.75:1	Yes
5.9 – Preservation of Trees or Vegetation	Trees to be removed are specified in DCP1	There are no trees on the site. One street tree located at the front of the site will be retained.	Yes
6.7 – Essential Services	The following services that are essential for the development shall be available or that adequate arrangements must be made available when required: -Supply of water, electricity and disposal and management of sewerage  -Stormwater drainage or on-site conservation  -Suitable vehicular access	-Adequate facilities for the supply of water and for the removal of sewage available to this land  -Stormwater can drain from the site via gravity to the street.  -New driveway crossing to the site from Hampden Street and the rear lane (standard conditions for the submission of separate vehicular crossing applications and driveway design)	Yes

**Environmental Planning and Assessment Regulations 2000**

8. The proposed development satisfies the relevant matters for consideration for development under the Regulations.

**State Environmental Planning Policies**

9. Compliance with the relevant state environmental planning policies is detailed and discussed in the table below.

<b>State Environmental Planning Policy</b>	<b>Complies</b>
State Environmental Planning Policy 55 – Remediation of Land	Yes
State Environmental Planning Policy (Building Sustainability Index BASIX) 2004	Yes
State Environmental Planning Policy (Affordable Rental Housing) 2009	Yes, see assessment below

**State Environmental Planning Policy (Affordable Rental Housing) 2009**Clause 25-28 Development to which this Division applies

10. The application has been submitted as a boarding house under Division 3 of State Environmental Planning Policy (Affordable Rental Housing) 2009. The extent to which the proposed development achieves the locational and numerical standards of the State Environmental Planning Policy (Affordable Rental Housing) 2009 is discussed in the following series of tables.

<b>Clause</b>	<b>Standards</b>	<b>Proposal</b>	<b>Complies</b>
Clause 26 - Land to which Division applies for the purpose of a boarding house with consent	-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 and the proposed boarding house is permissible in the zone	Yes
Clause 27 – Development to which this Division applies	-Land must be within an accessible area(*)	The site is located less than 800m from a public entrance to a railway station (Beverly Hills)	Yes

(\*) **Accessible area** means land that is within:

- 800 metres walking distance of a public entrance to a railway station or a wharf from which a Sydney Ferries ferry service operates, or
- 400 metres walking distance of a public entrance to a light rail station or, in the case of a light rail station with no entrance, 400 metres walking distance of a platform of the light rail station, or
- 400 metres walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.

Clause 29 - Standards that cannot be used to refuse consent

11. Council cannot refuse a development application for a boarding house under the Affordable Housing SEPP for any of the following grounds:

Clause 29	Standards	Proposal	Complies
Floor Space Ratio -If Residential accommodation is permitted	If the development is on land where residential flat buildings are permitted, the existing maximum floor space ratio for any form of residential accommodation permitted on the land, plus: (i) 0.5:1, if the existing maximum floor space ratio is 2.5:1 or less  Total floor space ratio for residential (boarding house) permitted is 1:1 maximum for the R3 residential zone + 0.5:1 = 1.5:1	Boarding house = 0.75:1	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	9.8m	Yes
Landscape Area	The landscape treatment of the front setback area is compatible with the streetscape in which the building is located	Front setback area provided as common landscaped open space	Yes
Solar Access	Where the development provides for one or more communal living rooms, if at least one of those rooms receives minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter	Shadow diagrams submitted with the application show that the proposed common room will receive direct sunlight through the glazed doors for at least 3 hours between 9am and 3pm in mid-winter	Yes
Private Open Space (other than the front setback area)	If a minimum of the following is provided: (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	Common room provided which is 20sqm and common open space provided which is 20sqm for the boarding house residents. Both areas have more than 3m dimension.  A manager's room is	Yes

	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	provided. Private open space to manager is 15sqm with minimum 3m dimensions	
Parking	0.2 parking spaces provided for each boarding room (14 rooms provided) = 2.8 (3) spaces required  1 parking space for onsite manager = 1 space  Total required = 4 spaces	Provided = 3 car spaces for lodgers  1 car space for manager  Total provided = 4	Yes
Accommodation size if each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least:	(i) 12sqm in the case of a boarding room intended to be used by a single lodger, or  (ii) 16sqm in any other case	5 x single lodger rooms = 16.1sqm Manager's room (single lodger room) = 21.6sqm  10 x double lodger rooms = 21.6sqm – 25sqm	Yes

#### Clause 30 - Standards for Boarding Houses

12. 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 common room provided on ground floor which is 20sqm	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 25 square metres	All rooms comply	Yes
Maximum occupancy	(c) no boarding room will be occupied by more than 2 adult lodgers	Maximum 2 adult lodgers in 10 rooms and 1 adult lodger in 5 rooms will be subject to condition of consent	Yes
Kitchen and	(d) adequate bathroom	All rooms have kitchen	Yes



bathroom facilities	and kitchen facilities will be available within the boarding house for the use of each lodger	and bathroom	
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	24 lodgers to be accommodated, one on-site manager provided on (25 lodgers in total).	Yes
Bicycle and motor cycle space	(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 = 3 bicycle spaces and 3 motorcycle spaces required	3 bicycle spaces and 3 motorcycle spaces shown on plan	Yes

#### Clause 30A – Character of local area

13. 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. The applicant's planning consultant has submitted the following statement in reply to this requirement.

*The proposal appears as a residential flat building from the streetscape and has implemented a design that is compatible with other residential flat buildings in Hampden Street. The proposal includes balconies, increased setbacks and landscaping treatments that are compatible with other residential flat buildings in the street. A streetscape analysis has been provided as an Annexure to this Statement.*

Comment - The proposed development is considered to be compatible with the character of the local area for the following reasons:

- The subject site is located within a R3 Medium Density Residential zone which predominantly contains three storey residential flat buildings, although single storey dwelling houses are also present. In this context, the proposed development is consistent with the existing streetscape and built form. The proposed development has been designed with a landscape open space area at the front of the site and a balcony on the first and second floor front façade. This is consistent with the general design of residential flat buildings in the street and the general streetscape.
- The SEPP does not identify setback requirements for boarding houses. The proposed development has a front setback of 6m, rear setback of 7m and minimum side setback of 3m. These setbacks are consistent with the general streetscape whereby existing residential flat buildings have a similar front and rear setback. The proposed side setbacks allow for spatial separation and between the proposed development and adjoining developments and the opportunity for landscaping on the perimeter of the site.
- The development is consistent with the relevant requirements and represents a bulk and scale consistent with the planning controls.

- The proposed development results in acceptable shadow impacts on adjoining developments and has been designed to minimise privacy impacts by locating balconies primarily on the front and rear elevation. High sill windows have been provided to the majority of the south elevation which adjoins the single storey dwelling at 31 Hampden Street which reduces potential overlooking into this site. The applicant has provided a cross-section of the windows on the northern elevation of the proposed development and the windows of the residential flat building at 37 Hampden Street on the corresponding elevation which shows that the windows of the two buildings are offset and reduce any reciprocal overlooking.

### **Draft Environmental Planning Instruments**

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

### **Development Control Plans**

15. The provisions of the Hurstville Development Control Plan 1 apply to the proposed development with the relevant sections being as follows.

### ***Development Control Plan No 1 - LGA Wide – Section 3.1 Vehicle Access, Parking and Manoeuvring***

16. The extent to which the proposed development complies with the car parking provisions is outlined in the table below.

<b>Development</b>	<b>Requirements</b>	<b>Proposed</b>	<b>Complies</b>
DS1.3 General	Boarding house as per SEPP = 4 car spaces	Boarding room spaces = 4 car spaces	Yes
DS1.5 and DS1.6 Layout, Circulation, Access and Egress	To comply with the Australian Standard. Does not encourage but will consider stacked parking.	Compliance with the relevant Australian Standards can be achieved	Yes
DS1.9 and 1.10 Ramps, transitions and driveways	To comply with the Australian Standards	Compliance with the relevant Australian Standard can be achieved	Yes
DS1.16 and DS1.17 Parking for people with a disability	To comply with the Australian Standards. Provision of parking beyond the AS is encouraged.	2 car spaces provided	Yes
DS2.1 ,DS2.2 and DS2.3 Environmental Design	-Landscape plan to be prepared by qualified landscape architect illustrating means to soften the visual impact of parked cars -Significant environmental features to be retained and incorporated	Landscape plan submitted which shows landscaping on the perimeter of the site and the common landscaped open space located at the front of the site	Yes

	-Landscaping required includes planting beds 1m wide fronting a street or public place, shade trees to be provided in open parking areas, certain plant species to be avoided.		
DS2.5 and DS2.6 Drainage	Adequate drainage to be provided in accordance with Council's Drainage Code.	Drainage is acceptable	Yes
DS2.8 Streetscape	If parking area adjoins a residential property fencing and/or mounding to be included to protect the privacy of the residential property and reduce noise.	Perimeter planting provided	Yes
PC3 Safer by Design	Development to comply with the safer by design requirements included in PC3 including visibility, safety, security, pedestrians and car park layouts.	The development generally complies with the safer by design requirements and does not present additional opportunities for crime	Yes

**Development Control Plan No 1 - LGA Wide – Section 3.3 Access and Mobility**

17. The proposed development complies with the provisions of section 3.3 as follows.

<b>Section 3.3 – Places of shared accommodation including boarding houses</b>	<b>Requirements</b>	<b>Proposed</b>	<b>Complies</b>
Access requirements	Access for all persons through the principal entrance and access to any common laundry, kitchen, sanitary or other common facilities in accordance with relevant Australian Standards.	Can be provided	Yes
Adaptable housing	One accessible bedroom per five guests'/tenants' bedrooms or part thereof. All common facilities within the room where an accessible bedroom is located must also be	Four rooms are accessible which can accommodate up to eight tenants	Yes

	accessible = Accessible rooms for 5 tenants		
Accessible car spaces	1 parking space per 10 bedrooms or part thereof shall be provided in accordance with AS 2890 = 2 required	2 provided	Yes

***Development Control Plan No 1 - LGA Wide – Section 3.4 Crime Prevention through Environmental Design***

18. The extent to which the proposal complies with the requirements of this section of DCP1 is outlined in the table below.

<b>Section 3.4</b>	<b>Requirements</b>	<b>Proposed</b>	<b>Complies</b>
PC1 Site and building layout	a. ensures that the way in which the site, and the buildings within the site, are laid out enhance security and feelings of safety. b. ensures that private and public spaces are clearly delineated c. ensures that the design of the development allows for natural surveillance to and from the street and between individual dwellings or commercial units within the site d. provides entries that are clearly visible and avoid confusion e. avoids blind corners in pathways, stairwells, hallways and car parks f. provides natural surveillance for communal and public areas g. ensures that design for natural surveillance also provides for a suitable streetscape appearance h. where permitted, provides appropriate mixed uses within buildings to increase opportunities for natural surveillance, while protecting amenity i. locates public services (ATMs, telephones, help points, bicycle storage etc) in areas of high activity j. designs car parks to allow for natural surveillance and ensure clear sight lines, ease of access	The development complies with these requirements and has been amended from that originally submitted to provide fencing adjoining the lane and appropriate separation between the entrances to the building and the side boundary with landscaping.	Yes



	and safety at the entrance and within the car park		
PC2 Lighting	<p>a. enhances the amenity and safety of a site after dark by increasing opportunities for casual surveillance, deterring unauthorised access and reducing feelings of fear and vulnerability of legitimate site user</p> <p>b. enhances the amenity and safety of a site after dark by increasing opportunities for casual surveillance, deterring unauthorised access and reducing feelings of fear and vulnerability of legitimate site users</p> <p>c. is provided to enable natural surveillance, particularly in entrances/exits, service areas, pathways and car parks</p> <p>d. be clearly identifies all exist and entries after dark</p> <p>e. ensures service areas such as garbage areas and loading bays are well lit</p> <p>f. is designed so it doesn't produce areas of glare and shadow</p>	The development provides appropriate lighting and will be reinforced through conditions of consent.	Yes
PC3 Landscaping	<p>a. does not reduce the security of a site</p> <p>b. where used to delineate private space, is used in a way which enhances safety</p> <p>c. does not obstruct casual surveillance and allows intruders to hide</p> <p>d. uses vegetation as barriers to deter unauthorised access</p> <p>e. avoids large trees/shrubs and buildings works that could enable an intruder to gain access</p>	The landscaping to the site is located on the ground level and common open space and will be appropriately landscaped. The landscape plan has been prepared by a landscape architect.	Yes
PC4 Fencing	<p>a. does not restrict casual surveillance between the site and the street due to its height, location and design</p> <p>b. where on the front boundary, should be designed to maximise opportunities for casual surveillance between the site</p>	The development complies with these requirements	Yes

	and the street and minimise opportunities for concealment		
PC5 Security and operational management	a. ensures an appropriate level of security is achieved b. provides an appropriate level of security for individual buildings and communal areas to reduce opportunity for unauthorised access c. ensures individual dwellings are equipped with appropriate security devices d. ensures an appropriate level of security is achieved in communal areas e. provides adequate security to commercial premises with extended hours of operation	Sufficient level of security provided, including fencing to car spaces off lane to be provided.  Plan of management has also been submitted which identifies management of the boarding house and operational procedures.	Yes
PC6 Building Identification	a. ensures buildings are clearly identified by street number to prevent unintended access and to assist persons trying to find the address b. ensures that parking areas are clearly identified by signage to prevent unintended access and to assist persons trying to find their car c. ensures that signage is clearly visible, easy to read and simple to understand	These requirements can be satisfied through conditions of consent	Yes
PC7 Building ownership	a. designed to promote a sense of site ownership and to encourage responsibility in making sure the site is well looked after and cared for b. designed to promotes pride and sense of place and ownership and reduce illegitimate use/entry.	Entry area, fencing and driveway indicate ownership	Yes
PC8 Building Materials	a. minimise opportunities for criminal damage and can be easily maintained b. reduce the opportunity for intruder access c. minimise opportunities for vandalism d. are regularly maintained and include swift removal of graffiti to enhance 'cared for' image	Proposed building materials are appropriate in terms of crime prevention.	Yes
PC9 Building Maintenance	a. creates the impression that the site is well looked after and	Conditions of consent can require	Yes

	well cared for b. uses materials that reduce the opportunity for vandalism.	the long term maintenance of the building.	
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***Development Control Plan No 1- LGA Wide – Section 3.5 Landscaping***

19. There are no trees on the site. One street tree located at the front of the site will be retained and protected. The application is accompanied by a landscape plan prepared by a qualified landscape architect that shows the proposed landscaping to the site. The proposed landscaping includes screen planting to the side boundaries and a common area at the front of the site.

***Development Control Plan No 1 - LGA Wide – Section 3.7 Stormwater***

20. The development can drain to the street via gravity. Appropriate conditions of consent can be attached to any consent granted.

***Development Control Plan No 1 - LGA Wide - Appendix 1 - Section 7 Waste Management***

21. A Waste Management Plan has been submitted with the application which is acceptable. Any consent granted will be subject to conditions of consent requiring the provision of appropriate waste facilities for the ongoing use of the development.

***Development Control Plan No 1 - LGA Wide - Appendix 1 - Section 8 Energy Efficiency***

22. The application is accompanied by a BASIX Certificate which identifies that the development meets the target scores.

In terms of overshadowing, shadow diagrams submitted with the application show that the proposed development will result in additional overshadowing to the adjoining dwelling house at 31 Hampden Street however the lounge room window will not be affected by the shadow between 9am and 12noon on June 21 and approximately half of the principal private open space will receive sunlight between 9am and 12noon on June 21 which is consistent with the provisions of DCP1.

***Development Control Plan No 1 - LGA Wide - Appendix 1 - Section 9 Preservation of Trees and Vegetation***

23. This has been discussed in the report above under the heading *Section 3.5 Landscaping*.

***Development Control Plan No 1 - LGA Wide – Appendix 1 – Section 10 - Building Heights and Indicative Storeys***

24. DCP1 identifies that where the height limit is 12m the indicative maximum storeys of the development is three (3) storeys. The proposed development is three (3) storeys.

**SECTION 94A CONTRIBUTIONS**

25. The Georges River Council Section 94A Contributions Plan 2017 states at clause 4.7.1 that *the Minister for Planning has directed that section 94 levies will not be imposed on the following development:*

...  
(c) *for the sole purpose of providing affordable housing,*

The proposed development falls under the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009 and will solely provide affordable housing. As such contributions are not payable.

**IMPACTS**

***Natural Environment***

26. The proposed development is unlikely to have an adverse impact on the natural environment. The existing street tree will be retained and new landscaping will be introduced to the site, including planting to the front and side setback areas. The landscaping is to be maintained at all times and will constitute a requirements of the Plan of Management.

***Built Environment***

27. The proposed development has a floor space ratio and height below the maximum requirements and is therefore of a scale and built form that is consistent with the planning requirements relating to boarding houses. Accordingly, the proposal is not considered to have an adverse impact on the built environment.

***Social Impact***

28. The proposed development will provide low rental accommodation in the form of a boarding house in accordance with the State Government requirements. The boarding house will include fifteen (15) self-contained rooms which provide reasonably priced accommodation as an additional housing option to the existing residential apartments and houses available in the area.

***Economic Impact***

29. The proposed development is unlikely to have an adverse economic impact as the development provides an alternative form of accommodation which is permissible in the zone and is complies with the relevant requirements.

***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. The operation of the boarding house will be governed by the Plan of Management which will be required to be enforced by the onsite manager. The Plan of Management is reinforced through a condition of development consent.

**SUBMISSIONS AND THE PUBLIC INTEREST**

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 139 adjoining property owners/occupiers were notified in writing of the proposal and invited to comment. There were a total of 41 submissions received. The issues raised in the submissions are summarised below with a response provided by the applicant's planning consultant and the Development Assessment Officer (DAO).





Map showing location of submitters

### **Privacy**

#### **32. Privacy issues to adjoining neighbouring properties**

##### Applicant's comment

*The proposed development includes 3m setbacks from each side boundary and includes windows of low-trafficable spaces along the side elevations to alleviate any privacy or overlooking issues on to adjoining properties. The private open space for the ground floor accessible units is located on the ground floor along the northern elevation. The purpose behind the ground floor design was to provide opportunity for rooms to have court yard spaces for lodgers without impacting the adjoining neighbours. The position of the courtyard space allows for the increased setback along the northern boundary to be utilised for increased landscaping and private space on the lot.*

*The proposed design allows for a 6m setback from the proposed building facade northern elevation to the southern elevation of the adjoining residential flat building creating an adequate window setback from habitable rooms for three storey developments. The window placement, design and location of private open space are not considered to have a privacy impact on adjoining units. The residential flat building has existing balconies facing the side boundary that has been screened with a high mature landscaping buffer.*

##### DAO comment

The proposed development is unlikely to result in privacy impacts. The development contains high sill windows to the majority of the south elevation which adjoins the single storey dwelling at 31 Hampden Street. This reduces potential overlooking into this site. The applicant has provided a cross-section of the windows on the northern elevation of the proposed development and the windows of the residential flat building at 37 Hampden Street on the corresponding elevation which shows that the windows of the two buildings are offset and reduce any reciprocal overlooking.

The development contains three entry doors to the building which give access to maximum two rooms per floor. The walkway to these doors has been setback 3m from the side boundary. A 2 wide landscaped area is provided adjoining this area which will provide screening and a buffer between the doors and the side boundary.

### **Social issues**

33. Social issues regarding the type of people that will live in low cost, short term accommodation (age/gender) and public safety issues. The boarding house will attract such as alcoholics, drug users, domestic violence and paedophiles, increase crime rates such as robberies and have strangers walking through the street. The proposed boarding house is a type of development that is out of character in the local area

#### Applicant's comment

*The application is for a boarding house that is a form of accommodation for families or workers on low to moderate incomes wanting to live closer to their employment. The proposal is not for public housing or displaced people. The application provides studio style accommodation within a boarding house that allows people to access local services and be within close proximity to public transport. The application nor the design of the building have a direct correlation with the age, gender or characteristics of individuals wanting to live in the building. Boarding houses have no direct correlation to increased crime rates.*

*The subject site is zoned R3 Medium Density Residential like all other properties within Hampden Street. The objectives of the zone are:*

#### **1 Objectives of zone**

- To provide for the housing needs of the community within a medium density residential environment.*
- To provide a variety of housing types within a medium density residential environment.*
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- To ensure that a high level of residential amenity is achieved and maintained.*
- To provide for a range of home business activities, where such activities are not likely to adversely affect the surrounding residential amenity.*

#### **2 Permitted without consent**

*Home occupations*

#### **3 Permitted with consent**

*Animal boarding or training establishments; Attached dwellings; Bed and breakfast accommodation; Boarding houses; Building identification signs; Business identification signs; Car parks; Child care centres; Community facilities; Dual occupancies; Dwelling houses; Environmental protection works; Exhibition homes; Exhibition villages; Flood mitigation works; Group homes; Home-based child care; Home businesses; Home industries; Multi dwelling housing; Neighbourhood shops; Places of public worship; Recreation areas; Recreation facilities (indoor); Residential flat buildings; Respite day care centres; Roads; Secondary dwellings; Semi-detached dwellings; Seniors housing; Shop top housing; Water recycling facilities; Water reticulation systems*

#### **4 Prohibited**

*Any development not specified in item 2 or 3*

*The proposed boarding house is a permissible form of the development within the zone and achieves the objectives of the zone by providing housing needs for the community in*

*a medium density environment by providing a consistent building structure three (3) levels high like other buildings in the street whilst maintaining a quality built form and residential amenity that respects the existing and desired neighbourhood character of Hampden Street.*

*Furthermore, not only does the proposal satisfy the objectives of the zone it provides a variety of residential accommodation that maintains a consistent built form, scale and character of surrounding development including height, setbacks, front fencing, roof style and the location and proportion of private open space.*

#### DAO comment

The proposed development is a permissible form of development under the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP2009) and the boarding house will provide a form of low cost accommodation. There are no boarding houses in the vicinity of the subject site and it is understandable that residents and owners have questions and concerns about the proposed development. Notwithstanding this, the proposed development complies with the relevant requirements identified in the ARHSEPP2009 and the applicant has amended the plans originally submitted to address issues raised about privacy and to provide a better and more secure car park layout. The operation of the boarding house is subject to the approved Plan of Management which will be managed by the onsite manager. This will ensure the orderly and functioning management of the boarding house.

#### **Overshadowing**

34. Reduction in sunlight to adjoining unit development especially ground floor units. No shadow diagrams have been provided to show the solar access impact to 31 Hampden Street

#### Applicant's comment

*The proposed development does not pose additional solar access impacts on to the ground floor units of the adjoining residential flat building. Due to the orientation of the site an inevitable additional shadow is cast on to the southern property during the winter solstice but does not impact the northern property due to the sites orientation (see shadow diagrams within amended architectural plans). The building also maintains a 3m setback from the northern boundary creating a cumulative 6m setback from the boarding house façade to the residential flat building façade alleviating any impacts of bulk and scale on to the residential flat building.*

*The amended architectural plans provide shadow diagrams and elevations to show the solar access impact of the proposal on to the adjoining single storey dwelling at No.31 Hampden Street. The windows along the boundary service a bedroom, kitchen and laundry. The living area, sun room and dining room are located on the opposite side of the dwelling and are not impacted by solar access. Considering the sites orientation the existing dwelling currently has an overshadowing impact on to that elevation during the winter solstice and any increase in height would inevitably add an increase in shadow. Therefore the proposed building design maintains a three metre setback from the boundary and does not propose to enclose an internal corridor that may further increase the bulk and shadow impact on to the kitchen window. Instead the design maintains a simple awning structure with security access along the boundary and includes a 1.8m wide landscaping buffer to screen any potential noise and overlooking impact.*

#### DAO comment

Shadow diagrams (on plans and elevation) submitted with the application show that the proposed development will result in additional overshadowing to the adjoining dwelling house at 31 Hampden Street however the lounge room window will not be overshadowed between 9am and 12noon on 21 June and approximately half of the principal private open space will receive sunlight between 9am and 12noon on 21 June which is consistent with the provisions of DCP1.

### **Value in property**

35. Boarding house will reduce the value of properties in the area. Will there be financial compensation to surrounding residents as the type of development will devalue the surrounding properties and affect Council rates?

#### Applicant's comment

*The proposed boarding house is a form of accommodation for people on low to moderate incomes (up to \$80,000p.a) or workers wanting to live close to their employment. The proposed boarding house is not a type of public housing development for displaced persons or people in need of housing commission. The boarding house is similar to a residential unit development except it provides smaller room sizes and reduced parking rates, similar to studio apartments. For example, if a one bedroom 50m2 residential unit with one car parking space in Hampden Street were to be rented at market rate of \$450 per week, the boarding house room would be rented at a reduced market rate due to its smaller room size and reduced parking ratio on site. The boarding house development has been designed to be self-contained however does provide shared facilities such as a common room as it is a requirement of the ARH2009.*

*The proposed boarding house is not considered to devalue other properties in the street or local area as it is a type of permissible development within the R3 Medium Density zone and encouraged and incentivised by the State Government to allow the private sector to provide infill developments in accessible areas. Council rates are determined by property value. Property value is predominately determined by the highest and best use of the land, physical attributes of the site such as topography and climate, accessibility to economic uses such as retail activities, accessibility to transport corridors, neighbourhood amenities such as parks and schools and demand and supply factors due to population growth in the area. The proposed boarding house will have a negligible impact on adjoining property land values. Furthermore land valuation is not a factor of consideration during the planning assessment process and is not a consideration under Section 79C Environmental Planning and Assessment Act 1979.*

#### DAO comment

The proposed development is permissible in the zone and will provide a form of low cost accommodation. The likelihood of adjoining property prices being reduced as a result of the boarding house cannot be supported or refuted as it is not a consideration that can be made under the Environmental Planning and Assessment Act.

### **Character of area**

36. The boarding house is a form of public housing and not suited for Beverly Hills. The proposed development is a hostel and is out of character in the local area. Are boarding house units for short or long term stay? Is the development a mental health facility of nursing home?

#### Applicant's comment

*The proposed boarding house is not a form of public housing. The boarding house is a type of development that provides accommodation for people at a reduced market rate*

*due to the size of the room and reduced parking ratio on site to allow people and families to live closer to their places of employment. The subject site is located within close proximity to local services and transport.*

*The proposed development is not a hostel it is a boarding house. The definition of a boarding house is;*

*“A boarding house provides a form of low cost rental accommodation for a wide range of tenants including singles, retirees, students and young couples.*

*The term ‘boarding house’ used in the AHSEPP relates to a building that:*

- Is wholly or partly let in lodgings;*
- Provides lodgers with a principal place of residence for three months or more;*
- May have shared facilities, such as a communal living room, bathroom, kitchen or laundry;*
- Has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers;*

*But does not include backpackers’ accommodation, group homes, serviced apartments, seniors housing or hotel or motel accommodation.*

*The AHSEPP encourages both the traditional form of boarding houses, being those with shared facilities as well as new generation boarding houses, being those that are buildings with self-contained rooms” (NSW Planning and Infrastructure Fact Sheet, May 2011).*

*Boarding houses provides lodgers with a principal place of residence for a minimum of three months. Each lodger is required to sign a lease for a minimum of three months.*

#### DAO comment

A boarding house is not a form of public housing, but rather low cost accommodation in the form of self-contained rooms which are reasonably priced for single people and couples. The provision and operation of the boarding house is governed by the provisions of the ARHSEPP2009. The ARH2009 identifies that the boarding house has to be located within an “accessible area” in terms of its proximity to public transport due to its reduced requirements for on-site car parking and to maintain accessibility and affordability. The subject site is located within an “accessible area” due to its proximity to the Beverly Hills railway station and access to buses.

#### **Traffic**

37. The proposal lacks adequate number of parking spaces for the number of rooms/tenants provided and will cause on-street parking congestion, traffic congestion and overcrowding. Are the length of the car spaces long enough to fit a car? No traffic report has been provided

#### Applicant’s comment

*The ARHSEPP 2009 dictates the parking rate to be provided on site for a boarding house development. The rate of parking to be provided under Clause 29 Standards that cannot be used to refuse consent (e) is 0.2 spaces per boarding room and an additional parking space for the boarding house manager.*

*The proposed building design has been amended to have 15 boarding rooms and therefore requiring 4 spaces. The proposed development provides 4 parking spaces including the car space forward of the building line and 3 motorbike spaces. Considering the amended proposed development complies with the requirements of the legislation*

*the proposed development is considered to have adequate parking spaces for the development. It should be added that a boarding house is required to be within an accessible area to promote the use of public transport, hence the reduced parking requirement.*

*Traffic congestion in the local area exists due to the type of development and development density within the local area. Like many other areas in Sydney with medium to high density development, traffic congestion and on-street parking is an on-going problem but is a result of the cumulative impact of developments not one particular development and the proposed development is of such small scale in comparison to the rest of the developments in the street. The proposed development is permissible within the zone and complies with parking requirements listed within the ARHSEPP 2009 and is not considered to further impede on traffic congestion in the locality.*

*The proposed car spaces, including the accessible car spaces have been designed according to Australian Standards and provide adequate car parking space, accessibility and manoeuvrability.*

*Due to the small scale of the development a traffic report was not required for the development. The proposed development complies with the required parking ratio on site.*

#### DAO comment

The proposed development provides onsite car parking in accordance with the provisions of the ARHSEPP2009 which includes 4 car spaces, 3 motorbike spaces, and 6 bicycle spaces. The car parking spaces and motorbike spaces have been redesigned from that originally submitted so that they are located behind a security fence located across the rear lane boundary, and so that the motorbike spaces are not located directly adjoining the side boundary of 31 Hampden Street.

The application has been examined by Council's Traffic Engineer who has advised that the proposed development is generally compliant with the Australian Standards. Conditions of consent should be imposed on any consent granted which require the accessible space adjoining the rear lane to comply with the Australian Standards, and the manager's space being identified on the plans. In terms of traffic generation, he has advised that the net vehicle increase of parking on the property will be two, which in terms of traffic generation is negligible and unlikely to result in adverse impacts to the road network.

### **Parking**

38. Delivery vehicles will have to double park due to on-street parking congestion

#### Applicant's comment

*The ARHSEPP2009 legislation does not require a dedicated parking space for delivery vehicles and therefore has not been included in the parking ratio provided on site. Furthermore, the proposed boarding rooms are small in nature and are self-contained reducing the need for tenants to have large furniture trucks or the like within the street.*

#### DAO comment

The ARHSEPP2009 does not require a loading/unloading area on the site. Due to the restricted size of the rooms, it is unlikely that there will be large pieces of furniture and the like being used which reduces the requirement for large loading/unloading vehicles.



**Waste**

39. The type of residents and development will increase litter and illegal dumping of waste in the street. The site will have rubbish issues if there is no on-site manager. Who will manage rubbish bins and waste management on site?

Applicant's comment

*The proposed boarding room has a bin storage area within the rear of the site and will be subject to the same garbage requirements as other residential properties in the street. The boarding house development is not considered to attract or increase illegal dumping of rubbish along the street or within the locality. An on-site boarding house manager will be employed on site and will ensure the boarding house adheres to the boarding house Plan of Management.*

*Each boarding room lodger is responsible for disposing of their own rubbish from their room into the bins provided on site in the dedicated bin area. The boarding house manager is responsible for taking out the rubbish from the common open space in to the bins provided on site. It is also the responsibility of the manager to take out the bins to the kerb side for rubbish collection on the required day set by the garbage contractor. The boarding house manager will also be responsible for ensuring that lodgers maintain the premises to keep it clean and tidy at all times. Should a lodger not comply with the rules and plan of management of the boarding house the owner will be notified and the lodger will be evicted.*

DAO comment

A waste management plan has been submitted with the application which is consistent with the provisions of DCP1. The proposed development provides waste facilities at the rear of the site in a dedicated area which will be serviced by Council similar to other residential uses in the street. The building will contain an on-site manager who is responsible for the day-to-day management of the premises and the administration of the Plan of Management.

**Need for Boarding House**

40. There are no colleges or institutions nearby to warrant the need for a boarding house in the area

Applicant's comment

*The ARHSEPP 2009 requires that boarding houses be located within accessible areas which is defined as:*

**"accessible area"** means land that is within:

- (a) 800 metres walking distance of a public entrance to a railway station or a wharf from which a Sydney Ferries ferry service operates, or*
- (b) 400 metres walking distance of a public entrance to a light rail station or, in the case of a light rail station with no entrance, 400 metres walking distance of a platform of the light rail station, or*
- (c) 400 metres walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990 ) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday".*

*The site is located within 350m walking distance from the entrance of Beverly Hills train station. Although a boarding house is typically known as a place of residence for students on or near a university or college campus, the modern form of a boarding*



*house, as proposed, is to allow for workers, students or families to live near or within an accessible transport mode to their employment.*

DAO comment

The ARHSEPP2009 does not specifically require the boarding house to be located in the vicinity of particular land uses other than it being within an “accessible area”. The subject site is within an “accessible area” as detailed in the report.

**Over population**

41. The Beverly Hills area is already densely populated and the proposal will attract overcrowding in the street

Applicant's comment

*The proposed development has been amended to allow 15 rooms within one building. The proposed development in comparison to other residential flat buildings in the street is smaller in scale and nature to other buildings in Hampden Street. As discussed above, the issue of overcrowding in an area is due to the density and number of buildings within a street and overall locality and the proposed boarding house is not considered to increase the level of overcrowding within the street. The subject site, like other sites in Hampden Street, is zoned R3 Medium Density and has a permissible height of 12m and a maximum floor space ratio of 1:1. The proposed development has been designed to have a height limit of 10m and FSR of 0.7:1 to reduce an overdevelopment of the land and the impacts of the development on the surrounding locality.*

DAO comment

The proposed development is permissible in the zone and has a floor space ratio of 0.75:1 which is below the maximum 1.5:1 permitted. As such the development is of an intensity that is consistent with the relevant requirements and is not an overdevelopment of the site.

**Pre-DA**

42. The Statement of Environmental Effects states a Pre-DA was held however no details or records of the pre-da meeting were detailed

Applicant's comment

*A pre-DA meeting was conducted on 7 December 2016 at Hurstville City Council between Rockeman Town Planning, Blu Print Designs and council officers. The pre-DA discussed issues of privacy, solar access, façade treatment and setbacks. The proposal has been amended in accordance with the pre-DA discussion.*

DAO comment

Council offers a preDA service to potential applicants and for the purposes of providing general comments and feedback on proposed developments prior to a development application being lodged. The details of preDA's provide comments and guidance for an applicant and are not publicly available as they do not form part of the development assessment process once a development application is lodged.

**Proximity to side boundaries**

43. Building appears too close to the side boundaries and all the activities are focused on the side boundaries with the rear of the building being too high impacting existing properties.

Applicant's comment

*The proposed building design incorporates building setbacks that are consistent and compatible with predominant patterns of building and garden along Hampden Street. The proposed development includes a 3m setback along both side boundaries and centralises the building to alleviate impacts on adjoining neighbours. The southern boundary includes a 1.8m wide landscaping buffer and privacy screens splayed at a 45 degree angle to reduce noise and privacy on to the single storey dwelling as people pass through the pedestrian walkway to enter their rooms. The ground floor rooms have private open space which considering the number of people to occupy each room would be low in foot traffic along the northern boundary. The private open space is screened by existing high mature vegetation along the boundary which alleviates the impacts of the existing residential flat building on to the boarding house.*

#### DAO comment

The proposed development has a height and floor space ratio which is below the maximum requirements. The development has side setbacks of minimum 3m which will contain screen planting. The applicant has amended the plans from that originally submitted to relocate the parking of cars and motorbikes along the rear boundary adjoining the lane and away from the side boundaries. The front of the site will have common landscaped area which is consistent with residential developments in the street. The car space located at the front of the site has also been assessed in terms of its impact on the streetscape and found to be acceptable as it is consistent with other car spaces located at the front of the site for sites with a similar width. Landscaping has also been introduced between this car space and the side boundary to provide additional softening around the car space.

### **Rooms**

44. Will the proposed 17 rooms be single or double occupancy?

#### Applicant's comment

*The proposal has been amended to consolidate rooms on the top floor by removing the partition wall to enable a maximum of 15 boarding rooms. The proposed rooms will allow 10 double lodger rooms and 5 single lodger rooms.*

#### DAO comment

The proposed development will include 10 rooms for double occupancy and 5 rooms for single occupancy as detailed in the report.

### **Number of vehicles**

45. How can the development guarantee the occupants will only have five motor vehicles?

#### Applicant's comment

*The development has been designed to adhere to the parking requirements of the ARHSEPP2009. The design of the building and number of rooms proposed require 3 parking spaces and 4 motorbike spaces. As discussed above, the purpose of the reduced parking ratio on site in comparison to typical residential flat buildings is that the development is located within an 'accessible area' to public transport and is within walking distance to a B2 Local Centre. It is envisaged that the lodger to live at the boarding house will not need a motor vehicle due to the close proximity to bus services and the entrance to Beverly Hills train station.*

#### DAO comment

The ARHSEPP2009 determines the number of car spaces to be provided on site and identifies that Council cannot refuse development consent to an application that

complies with the requirements. As such, where a development provides onsite parking in accordance with the requirements, it has to be accepted as being sufficient in accordance with the provisions of the ARHSEPP2009.

### ***Details in information provided***

46. The Statement of Environmental Effects quotes that the building is a Class 1b but it's a Class 3 building. The Statement of Environmental Effects quotes the building to 3 elements which it doesn't have. The BASIX quotes the site to be within Canterbury Council

#### Applicant's comment

*The application incorrectly detailed that the boarding house would be classified as a Class 1B building, the application should be assessed as a Class 3 building and relevant building conditions relating to the construction of the building under the National Construction Code will be provided by Council and assessed by the relevant certifying authority.*

*The Statement of Environmental Effects states "The proposed boarding house includes 17 self-contained boarding rooms within a 3 component, 3 level building. Each building component includes six rooms, inclusive of the communal space, accessed from a secure entrance along the southern pedestrian path to an internal staircase to separate dormer style room entry" on page 10 of the report. The three components referred to are the three modules of the buildings floor plan separated by each internal staircase. The BASIX certificate has been amended to detail the correct local government area the site is situated within Georges River Council.*

#### DAO comment

There were some anomalies in the Statement of Environment Effects and BASIX Certificate which have been corrected with the submission of an amended BASIX Certificate and clarification of information. The classification of the building does not affect the assessment of the application and the building will be required to comply with the Building Code of Australia, should it be constructed.

### ***Stormwater***

47. A stormwater plan was not provided

#### Applicant's comment

*A stormwater plan has been provided as an annexure to the original application.*

#### DAO comment

A drainage plan has been submitted and examined by Council's Development Engineer who has advised that the development can drain to the street or lane via gravity and subject to conditions of consent being attached to any consent granted.

### ***Social Impact***

48. Social Impact Statement has not been provided

#### Applicant's comment

*A Social Impact Assessment was not provided as it is not a requirement under the ARHSEPP2009 legislation, Hurstville LEP 2012 or the Hurstville DCP 2012. A social impact assessment aims to assess the likely positive and negative consequences of a development on the local area. As discussed above the proposal is for self-contained boarding rooms that are similar in nature to other rented residential units in the street*

*that can have long or short term occupants depending on their lease agreement and are not considered to impact the functionality, character or form of Hampden Street. Social impact Assessments are usually conducted for larger development types.*

DAO comment

A Social Impact Assessment is not required to be submitted with the application, but rather a Plan of Management. This has been submitted and it details the operation of and procedures for the boarding house which will be used by the onsite manager in the day-to-day running of the boarding house.

**Trees**

49. The survey report has not marked all the trees on site and an arborist report has not been provided to detail whether the development will impact trees of adjoining properties

Applicant's comment

*The submitted survey plan has detailed the trees that are of significant growth within the property or along the street that are potentially impacted by the property. The survey plan has not included details of small shrubs and flower plants on the survey plan but detailed them as pervious landscaping. The survey plan has not included boundary trees in which the branches overhang the subject site. The proposed building envelope is set 3m from each side boundary and therefore excavation for footings is not likely to impact the tree root systems of boundary trees. However Council can impose tree protection conditions to ensure any boundary trees are not impacted through construction. All works within the 3m from the boundary will be based along natural ground level. The proposal aims to retain the street tree in front of the property.*

DAO comment

The survey plan shows the street tree located at the front of the site which will be retained and protected during any construction. The trees located within 37 Hampden Street adjoining the northern boundary are unlikely to be affected by the development as there is no excavation proposed other than for piers and footings which will be 3m from the boundary. The area within the subject site which adjoins the trees will be the courtyard area of the ground floor rooms which will be located on the existing ground level. Conditions of consent will be imposed to any consent granted which require the retention of the adjoining trees and their root zone.

**Heavy traffic during construction**

50. The construction of the development will create heavy traffic in the street

Applicant's comment

*Like any other development in Hampden Street there will be an increase in traffic congestion throughout the street during the construction process, however the subject site has the benefit of the rear laneway to ease congestion from only one access point. The construction of the building will also be subject to Council conditions and restrictions in terms of times of day for the construction and delivery of materials. The construction process will be overseen by a project manager and Certifier to ensure the construction process has minimal impacts on to adjoining properties and neighbours.*

DAO comment

It is likely that there will be an increase in noise and vehicle movements in the street as a result of construction, similar to any other sites where construction takes place. The applicant is required to comply with conditions of consent which restrict the construction

hours. Should the applicant not comply, Council can take legal action to address the non-compliance.

### **Site frontage**

51. The frontage is not wide enough for a three (3) storey development/it is not consistent with the frontages of other unit developments in the street. The boarding house units are out of character with the current larger units sizes

#### Applicant's comment

*A boarding house under ARHSEPP2009 does not have a requirement for a minimum site frontage. Other three storey developments in the street are residential flat buildings and have detailed requirements within the relevant DCPs such as a minimum site width of 24m. The proposal is not for a residential flat building but has been designed to be as consistent as possible with the height, setbacks and the character of the locality taking in to consideration the frontage and lot size. It should also be noted that the proposed development will not isolate any sites impeding future development potential.*

*A boarding room is assessed under the ARHSEPP2009 and residential flat buildings are assessed under the Hurstville DCP and Apartment Design Guide. The proposed rooms are not strata titled nor sold individually and do not have the same design requirements. The size of the boarding rooms are limited to the controls of the ARHSEPP 2009. The controls stipulate that boarding house rooms should not exceed 25sqm and minimum room sizes for single lodgers are 12sqm and double lodgers 16sqm.*

#### DAO comment

The ARHSEPP2009 identifies the maximum height and floor space ratio of the development and does not require a minimum frontage for the site. The proposed development has a height and floor space ratio below the maximum requirements. The development is not defined as a residential flat building which is required to have minimum site frontage/width. The ARHSEPP2009 identifies the minimum and maximum floor area of a boarding room depending on its capacity for one or two tenants. The proposed rooms comply with these requirements as detailed in the report.

### **Neighbour notification**

52. Lack of neighbour notification by Council

#### Applicant's comment

*Neighbour notification and the period of neighbour notification is a responsibility of Georges River Council during the assessment process*

#### DAO comment

The development application was publicly notified in accordance with the requirements of DCP1.

## **REFERRALS**

### Council Referrals:

#### **Development Engineer**

53. Council's Development Engineer has raised no objection subject to conditions of consent being attached to any consent granted.

#### **Traffic Engineer**

54. Council's Traffic Engineer has examined the application and has raised no objection to the development subject to conditions of consent requiring the car spaces to comply with the Australian Standards.

#### External Referrals:

55. No external referrals were required for this application.

### **CONCLUSION**

56. 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 application seeks permission for the demolition of the existing building and construction of a three storey boarding house comprising 15 rooms (including manager's room). The development has been assessed against the requirements of the relevant planning instruments and development control plans and complies. The submissions received to the application have been addressed in the report and through amended plans. Following detailed assessment it is considered that Development Application No DA2017/0192 should be approved subject to conditions.

### **DETERMINATION AND STATEMENT OF REASONS**

57. THAT pursuant to Section 4.16(1) of the Environmental Planning and Assessment Act, 1979, as amended, the Council, grants development consent to Development Application DA2017/0192 for the demolition of the existing structures and construction of a three storey boarding house with 15 rooms (including manager's room on Lots 142 and 143 DP 3315 and known as 33 Hampden Street Beverly Hills, subject to the following conditions of consent:

The reasons for this recommendation are:

- The proposed development complies with the requirements of the relevant environmental planning instruments and development control plan
- The applicant has amended the proposal from that originally submitted to address issues relating to privacy and car parking to provide a better outcome for adjoining developments and the functioning of the site.

### **CONDITIONS**

#### **Section A Development Details**

1. **DEV6.1 - 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:

Reference No	Description	Date	Revision	Prepared by
DA01	Site analysis and roof plan	17 Oct 17	C	Blu Print Designs
DA02	Demolition plan	17 Oct 17	C	Blu Print Designs
DA03	Ground floor plan	17 Oct 17	C	Blu Print Designs
DA04	Level 1 floor plan	17 Oct 17	C	Blu Print Designs
DA05	Level 2 floor plan	17 Oct 17	C	Blu Print Designs
DA06	Elevations	17 Oct 17	C	Blu Print Designs
DA07	Section C	17 Oct 17	C	Blu Print Designs

DA08	Front fence elevation and Section A and B	17 Oct 17	C	Blu Print Designs
-	Materials Sample Board	Received 23 Jun 17	-	Blu Print Designs
-	Photomontage	Received 23 Jun 17	-	Blu Print Designs
-	Plan of Management	1 Nov 11	-	-
-	Waste management plan	26 May 17		Blu Print Designs
3260 Hampden	Detail Survey	15 July 16	A	Sydney Registered Surveyors
DG1265	Drainage concept plan and details	7 June 17	-	KD Stormwater Pty Ltd

## Section B Separate Approvals Required Under Other Legislation

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 (eg Opening the road for the purpose of connections to utility providers);
- (j) Stormwater and ancillary works in the road reserve;



- (k) Stormwater and ancillary to public infrastructure on private land; and
- (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](http://www.georgesriver.nsw.gov.au). For further information, please contact Council's Customer Service Centre on (02) 9330 6400.

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](http://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.

## **Section C Requirements of Concurrence, Integrated & Other Government Authorities**

5. **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](http://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.

6. 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.

## Section D Prior to the Issue of a Construction Certificate

7. 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](http://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 Section 94 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
<b>GENERAL FEES</b>	
Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct to the Long Service Corporation. See <a href="https://portal.longservice.nsw.gov.au/bci/levy/">https://portal.longservice.nsw.gov.au/bci/levy/</a>	
Builders Damage Deposit	\$1,900.00
Inspection Fee for Refund of Damage Deposit	\$150.00
Driveway and Restoration Works Design Inspection Fee (Multi-unit Development)	\$TBA

### 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.

8. CC9.12 - **Required design changes** - The following changes are required to be made and shown on the Construction Certificate plans:

Window Privacy	The sill height of the window/s located on the southern elevation of Level 1 and Level 2 are to be a minimum height of 1.5m above floor level, or alternatively, the window/s is/are to be fixed and provided with translucent, obscured, frosted or sandblasted glazing below 1.5m above floor level
Landscape Plan	A landscape plan prepared by a qualified landscape architect is to be prepared for the approved development. the landscape plan is to show the details specified in condition 12 of this development consent
Accessible rooms	An accessible bedroom is to be provided for five guests'/tenants' in accordance with the relevant requirements and the provisions of

	Hurstville Development Control Plan 1. All common facilities within the room where an accessible bedroom is located must also be accessible
Balconies	The balustrade to the balconies is to be amended to be translucent glazing (not clear).

9. **CC9.44 - Driveway Construction Plan Details** - Detailed engineering plans for the driveway shall be submitted with the Construction Certificate application for approval that show:
- (a) Longitudinal and cross sections, gradients, access onto the proposed lots, type of construction materials designed in accordance with Council's Subdivision standards and AS/NZS2890.1-2004.
  - (b) Suitable underground provision for the supply of all relevant services to the proposed lots (proposed position of pipes and conduits).
  - (c) The full length of the driveway designed with a minimum 150mm thick reinforced concrete and minimum of 2.7m wide pavement/kerb face to kerb face width, and a non-slip surface.
10. **CC9.52 - Access for Persons with a Disability** - for persons with disabilities must be provided to the premises/building in accordance with the requirements of the Premises Standards, the Building Code of Australia, and AS 1428.1. Details must be submitted with the Construction Certificate Application for approval.
11. **CC9.79 - Waste Storage - Residential Developments** - The plans shall include details of the waste storage area. The waste storage area shall not be visible from the street. The waste storage area shall be located within the lot/building in accordance with the approved plans.

The waste storage area shall be large enough to accommodate the required number of bins for the development and located in an area to suitably facilitate servicing on waste collection day.

The path to the bin room is to be at least 1.0 metres wide and kept clear and unobstructed at all times.

### **Residential Waste**

The development will require the provision of the following waste and recycling facilities:

- (a) Domestic Waste - 1 x 120 litre mobile bins per unit/dwelling. Usually provided as a 240 litre or 660 litre bin using this ratio.
- (b) Domestic Recycling - 1 x 240 litre mobile bin per 3 units/dwellings.
- (c) Green Waste - 1 to 2 x 240 litre mobile bins per unit block.

OR for Residential Flat Buildings and Mixed Use Developments only

Larger 1,100 litre mobile bins may be used as an alternative, but an equivalent amount of space will need to be provided. It is noted that the applicant intends to provide x 1100

litre mobile bins for domestic waste and x 1100 litre mobile bins for domestic recycling. These are considered to be adequate provided they are serviced in accordance with Council's current servicing requirements.

12. **CC9.83 - Landscape Plan** - A detailed landscape plan, drawn to scale, by a qualified landscape architect or landscape designer, must be submitted prior to the issue of the Construction Certificate. The plan must include:
  - (a) Location of existing and proposed structures, services and existing trees;
  - (b) Details of earthworks including mounding and retaining walls and planter boxes;
  - (c) Location of proposed plants and a plant schedule showing the plant symbol, botanical name/ common name; quantity; pot size/; and mature height x width.
  - (d) Details of planting procedure and maintenance;
  - (e) Landscape specification;
  - (f) Details of drainage and watering systems;
  - (g) Details of garden edging and turf; and
  - (h) Any required fencing, retaining walls and other structures not shown on other approved architectural and engineering plans.
13. **CC9.85 - Tree Removal prohibited** - This consent does not approve the removal or pruning (branches or roots) of any trees on the subject property, Council's public footway, public reserves or on neighbouring properties.
14. **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.

15. **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: **\$1,900.00**

(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: **\$150.00**

(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.

16. 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.

17. 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).

18. 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.

19. 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.

20. **CC9.87 - Tree Protection and Retention** - The following trees shall be retained and protected:

<b>Tree Species</b>	<b>Location of Tree / Tree No</b>	<b>Tree Protection Zone (metres)</b>
Street tree	Street tree located at the front of the site	3m minimum
Adjoining the northern boundary	The trees located within 37 Hampden Street adjoining the northern boundary of the site	3m minimum to the tree trunk and no interference with the root zone of these trees

Details of the trees to be retained must be included on the Construction Certificate plans.

### **General Tree Protection Measures**

- (a) All trees 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.

### **Pier and Beams**

- (j) To preserve the as marked on prepared by dated, the footings of the proposed shall be isolated pier and beam construction within a metre radius of the trunk. The piers shall be hand dug and located such that no roots of a diameter greater than 50mm are severed or injured in the process of any site works during the construction period. The beam shall be located on or above the existing soil levels.

Details of this construction method shall be shown on the Construction Certificate plans.

- 21. CC9.9 - **BASIX Commitments** - All energy efficiency measures as detailed in the BASIX Certificate No. 826360M\_02, dated 5 December 2017 must be implemented on the plans lodged with the application for the Construction Certificate.
- 22. 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).
- 23. 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 Council's kerb and gutter directly in front of the development site or to the rear lane in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2015 (as amended).

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.

- 24. 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.

## **Section E Prior to the Commencement of Work (Including Demolition & Excavation)**

25. **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](http://www.SafeWork.nsw.gov.au).

26. **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.
27. **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.

28. **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.

29. **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.
- (c) Floor slabs or foundation wall, before formwork or commencing brickwork.
- (d) 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.
- (e) 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.
- (f) Completion of any Pool Formwork - Before concreting of pool shell, detailing the location of the pool relative to the adjacent boundaries and its height relative to the datum shown on the approved plans.
- (g) Completion of any Roof Framing - Before roof covered detailing eaves/gutter setback from boundaries.
- (h) 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.

30. **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.

## **Section F During Construction**

31. **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.
32. **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.
33. **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.
34. **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.

35. **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.

36. **CON11.24 - Excavation works near tree to be retained** - Excavation around the tree/s to be retained on site or the adjoining properties shall be supervised by a Project Arborist to ensure that the root system will not be adversely affected.

Where the Tree Protection Zone 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.

37. **CON11.3 - Ground levels and retaining walls** - The ground levels of the site shall not be excavated, raised or filled, or retaining walls constructed on the allotment boundary, except where indicated on approved plans or approved by Council.

## **Section G Prior to the issue of the Occupation Certificate**

38. **CC12.24 - Consolidation of Site** - The site shall be consolidated into one allotment and by a Plan of Consolidation being prepared by a Registered Surveyor. This Plan shall be registered at the NSW Land and Property Information prior to the issue of a final occupation certificate.
39. **OCC12.26 - Requirements prior to the issue of the Occupation Certificate** - The following shall be completed and or submitted to the PCA prior to the issue of the Occupation Certificate:
- (a) All the stormwater/drainage works shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
  - (b) The internal driveway construction works, together with the provision for all services (conduits and pipes laid) shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
  - (c) Construct any new vehicle crossings required.
  - (d) Replace all redundant vehicle crossing laybacks with kerb and guttering, and replace redundant concrete with turf.
  - (e) A Section 73 (Sydney Water) Compliance Certificate for the Subdivision shall be issued and submitted to the PCA prior to the issue of the Occupation Certificate.
  - (f) Work as Executed Plans prepared by a Chartered Professional Engineer or a Registered Surveyor when all the site engineering works are complete shall be submitted to the PCA prior to the issue of the Occupation Certificate.
40. **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.*

41. **OCC12.35 - Slip Resistance** - At completion of work an in-situ (on-site) test, in wet and

dry conditions, must be carried out on the pedestrian floor surfaces used in the foyers, public corridors/hallways, stairs and ramps as well as the floor surfaces in wet rooms in any commercial/retail/residential units to ascertain the actual slip resistance of such surfaces taking into consideration the effects of grout, the gradients of the surface and changes from one material to another. The in-situ test must be carried out in accordance with AS/NZS 4663:2002. Proof of compliance must be submitted with the application for the Occupation Certificate for approval.

42. **OCC12.43 - Noise Domestic Air conditioner and Heat pump water heaters (less than 450mm from boundary)** - Prior to the issue of any Occupation Certificate, a report prepared by a professional acoustic engineer must be submitted to the PCA to certify that the design and construction of the air conditioner / heat pump water heaters shall not produce a sound level exceeding 5 dB(A) above the ambient background level at the closest neighbouring boundary between the hours of 8:00am and 10:00pm on Saturdays, Sundays and Public Holidays and between the hours of 7:00am and 10:00pm on any other day. Outside the specified hours, the sound level output for the running of air conditioner shall not exceed the ambient background noise level.
43. **OCC12.59 - Electricity Supply** - Evidence shall be provided demonstrating that the development has been connected to the Ausgrid, if required.
44. **OCC12.8 - Allocation of car parking spaces** - Car parking associated with the development is to be allocated as follows:
- (a) Residential rooms: Three (3) car spaces (including two (2) accessible car spaces), three (3) motorbike spaces, and minimum three (3) bicycle spaces
  - (b) On site manager: One (1) car space to be identified on the plans and marked on the car space.
45. **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.

46. **OCC12.4 - BASIX Certificate** - All energy efficiency measures as detailed in the approved BASIX Certificate in the plans approved with the Development Consent, must be implemented before issue of any Occupation Certificate.
47. **OCC12.5 - BASIX Compliance Certificate** - A Compliance Certificate must be provided to the PCA regarding the implementation of all energy efficiency measures as detailed in the approved BASIX Certificate before any Occupation Certificate is issued.

48. **OCC12.9 - Driveways and parking spaces - Minor Development** - Internal driveways and parking spaces are to be adequately paved with concrete or bitumen, or interlocking pavers to provide a dust-free surface.
49. **OCC12.6 - Completion of Landscape Works** - All landscape works must be completed before the issue of the Final Occupation Certificate.

## **Section H Operational Conditions (Ongoing)**

50. **ONG14.26 - Lighting - General Nuisance** - Any lighting on the site shall be designed so as not to cause a nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill or glare.

Flashing, moving or intermittent lights or signs are prohibited.

51. **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 lodger shall occupy 5 of the boarding rooms which are to contain no more than one bed.
- (c) Not more than two lodgers shall occupy 10 of the boarding rooms which are to contain no more than two beds.
- (d) The total number of lodgers residing in the boarding house at any one time shall not exceed 25 lodgers (including one on-site manager).
- (e) The lodgers must be subject to an occupancy agreement for a term of no less than three months.
- (f) The boarding house must always be operated and managed in accordance with the provisions contained within the Plan of Management, prepared by Blu Print Designs and dated 9 November 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.



52. **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.
53. **ONG14.5 - Maintenance of Landscaping** - All trees and plants forming part of the landscaping must be maintained for the life of the development. Maintenance includes watering, weeding, removal of rubbish from tree bases, fertilizing, pest and disease control, replacement of dead or dying plants and any other operations required to maintain healthy trees, plants and turfed areas.

## **Section I Operational Requirements Under the Environmental Planning & Assessment Act 1979**

54. **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.

55. **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.

An **Information Pack** is attached for your convenience should you wish to appoint Georges River Council as the Principal Certifying Authority for your development.

56. **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.
57. **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.

A **Notice of Commencement Form** is attached for your convenience.

58. 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.
59. 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.

60. 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.

An **Occupation Certificate** Application Form is attached for your convenience.

## **Section J Prescribed Conditions**

61. 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.
62. 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.
63. 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.
64. 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.
65. 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.

## END CONDITIONS

### NOTES/ADVICES

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66. **Review of Determination** - Section 8.2 of the Environmental Planning and Assessment Act confers on an applicant who is dissatisfied with the determination of the application the right to lodge an application with Council for a review of such determination. Any such review must however be completed within 6 months from its determination. Should a review be contemplated sufficient time should be allowed for Council to undertake public notification and other processes involved in the review of the determination.

Note: review provisions do not apply to Complying Development, Designated Development, State Significant Development, Integrated Development or any application determined by the Sydney South Planning Panel or the Land & Environment Court.

67. **Appeal Rights** - Division 8 (Appeals and Related matters) Part 4 of the Environmental Planning and Assessment Act 1979 confers on an applicant who is dissatisfied with the determination of the application a right of appeal to the Land and Environment Court of New South Wales.

68. **Lapsing of Consent** - This consent will lapse unless the development is physically commenced within 5 years from the Date of Operation of this consent, in accordance with Section 95 of the Environmental Planning and Assessment Act 1979 as amended.

69. **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](http://www.SafeWork.nsw.gov.au)).

70. **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.

71. **ADV17.28 - Sydney Water Section 73 Certificates** - The Section 73 Certificate must be a separate certificate that relates specifically to this development consent. For example, if the development consent relates to the subdivision of the land, a Section 73 Certificate for the construction of the building that is subject to a different development consent will not suffice.

72. ADV17.29 - **Electricity Supply** - This development may need a connection to the Ausgrid network which may require the network to be extended or its capacity augmented. You are advised to contact Ausgrid on 13 13 65 or [www.ausgrid.com.au](http://www.ausgrid.com.au) (Business and Commercial Services) for further details and information on lodging your application to connect to the network.
73. 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](http://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.

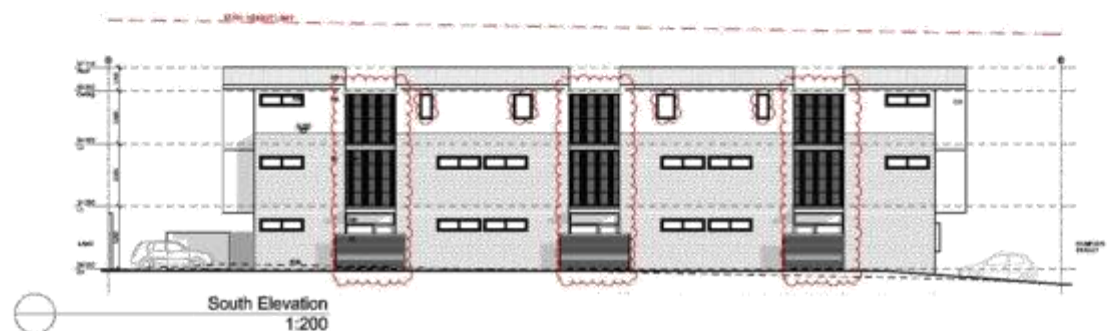
The preparation of all engineering drawings (site layout plans, cross sections, longitudinal sections, elevation views together with a hydraulic grade analysis) and specifications for the new storm water drainage system to be arranged by the applicant. The design plans must be lodged and approved by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

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

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

## ATTACHMENTS

- Attachment [↓](#)1 Site and ground floor plan - 33 Hampden St Beverly Hills
- Attachment [↓](#)2 Elevations - 33 Hampden St Beverly Hills
- Attachment [↓](#)3 Shadow diagrams - 21 June - 33 Hampden St Beverly Hills



AD - ALUMINUM ROOF SHEETING	AW - ALUMINUM WINDOW	FW - FRAMED WINDOW	FS - FRAMED GLASS BALUSTRADE	SD - SINK DETECTION
TE - TERRAZZO ROOF TILE	TD - TIMBER CLADDING	AL - ALUMINUM LOUNGE	DF - FRAMED GLASS BALUSTRADE	HW - NEW WINDOW
CT - CONCRETE ROOF TILE	TW - TIMBER WINDOW	TD - TIMBER DOOR	AD - ALUMINUM CLADDING	ND - NEW DOOR
PC - PERFORATED BRICKWORK	AD - ALUMINUM DOOR	AB - ALUMINUM BALUSTRADE		
CH - CHIMNEY BRICKWORK	DB - GLASS BLOCKS	SB - STEEL BALUSTRADE		

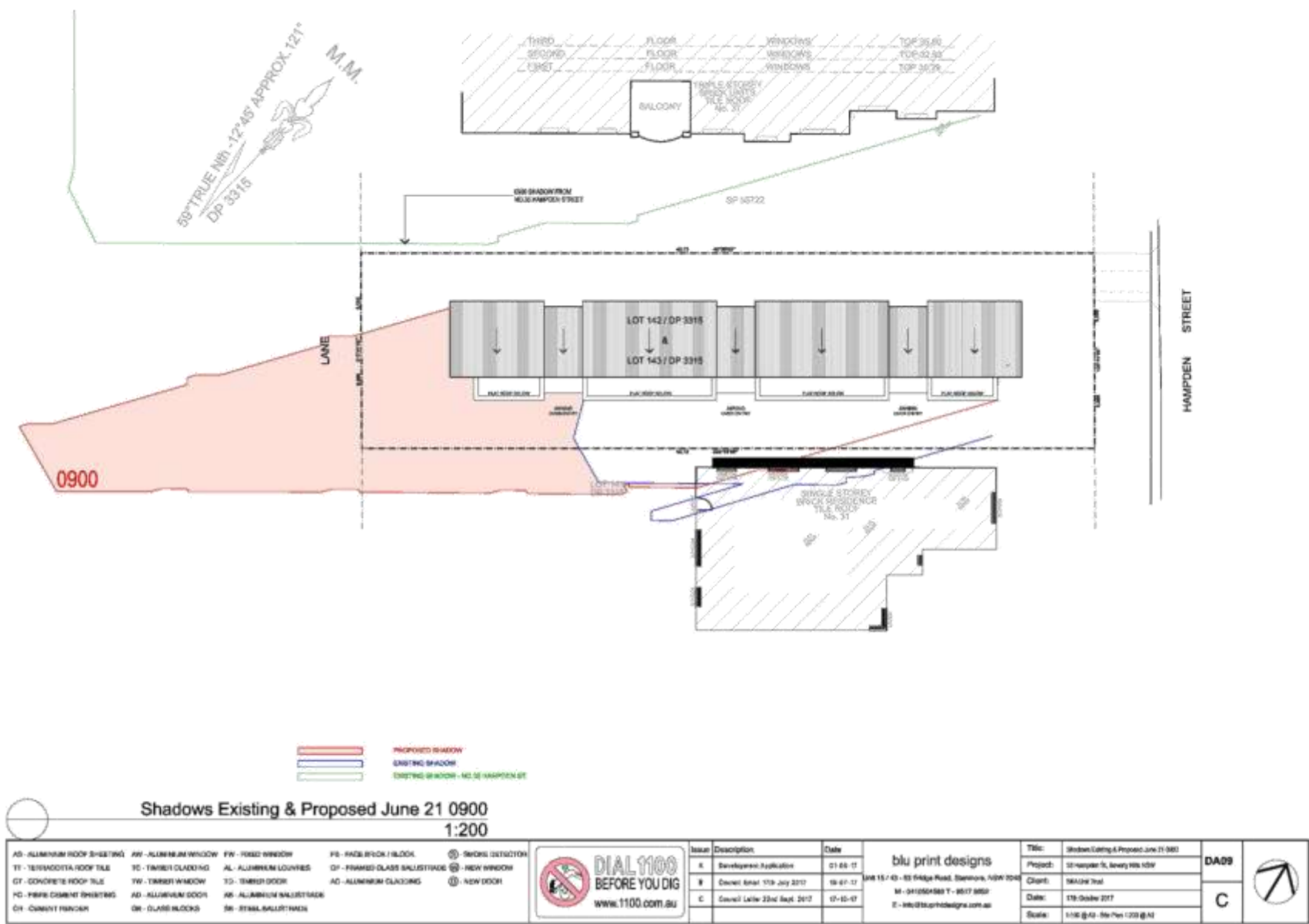


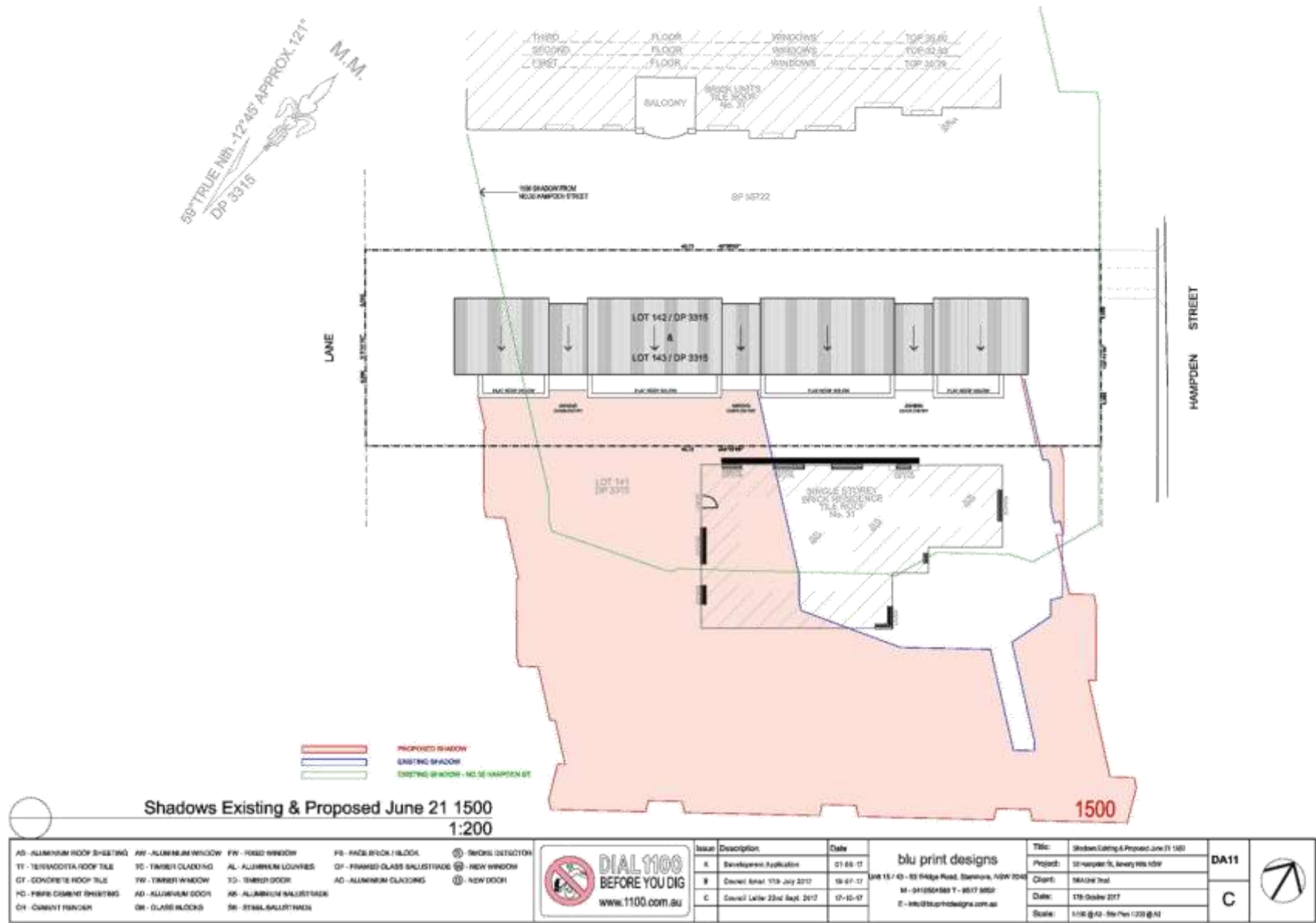
Issue	Description	Date
1	Development Application	21.03.17
2	Council Grant 17th July 2017	19.07.17
3	Council Letter 22nd Sept. 2017	17.10.17

**blu print designs**  
108/15/43 - 83 Ridge Road, Stanmore, NSW 2054  
M - 0410504583 T - 0217 8650  
E - info@bluprintdesigns.com.au

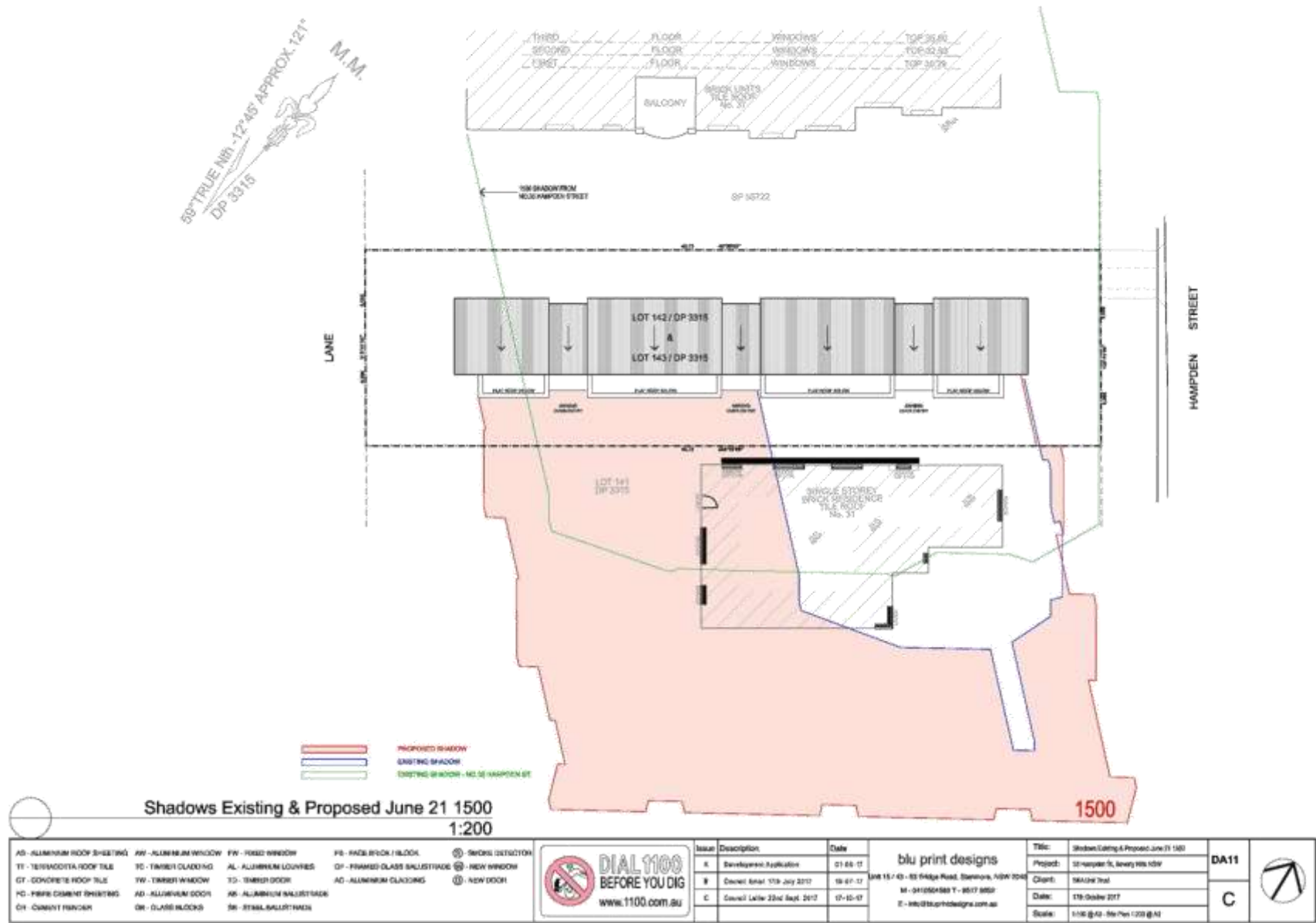
Title:	North, South, East & West Elevations
Project:	33 Hampden St, Beverly Hills NSW
Client:	Stavros Prod
Date:	17th October 2017
Scale:	1:100 @ A2 - See Plan 1:200 @ A2

DA06
C











# REPORT TO GEORGES RIVER COUNCIL LPP MEETING OF THURSDAY, 15 MARCH 2018

<b>LPP Report No</b>	<b>LPP002-18</b>	<b>Application No</b>	<b>DA2017/0265</b>
<b>Site Address &amp; Ward Locality</b>	16-18 Thurlow Street Riverwood Peakhurst Ward		
<b>Proposal</b>	Demolition of existing structures and construction of a new multi dwelling housing development including Strata subdivision (SEPP Affordable Rental Housing 2009)		
<b>Report Author/s</b>	Senior Development Assessment Planner		
<b>Owners</b>	G B and M Prideaux		
<b>Applicant</b>	Benson McCormack Architecture		
<b>Zoning</b>	Zone R2 - Medium Density Residential		
<b>Date Of Lodgement</b>	21/07/2017		
<b>Submissions</b>	Three (3)		
<b>Cost of Works</b>	\$4,721,064.00		
<b>Reason for Referral to LPP</b>	The application was deferred at the 31 January 2018 IHAP meeting		

<b>Recommendation</b>	That the application be granted deferred commencement approval in accordance with the conditions included in the report.
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<b>LPP Report No</b>	<b>LPP002-18</b>	<b>Development Application No</b>	<b>DA2017/0265</b>
<b>Site Address &amp; Ward Locality</b>	16-18 Thurlow Street, Riverwood Peakhurst Ward		
<b>Proposed Development</b>	Demolition of existing structures and construction of a new multi dwelling housing development including strata subdivision (SEPP Affordable Rental Housing) 2009		
<b>Owner</b>	Mr G B Prideaux, M Prideaux		
<b>Applicant</b>	Benson McCormack Architecture		
<b>Planner/Architect</b>	Rod Logan Planning/ Benson McCormack Architecture		
<b>Date of Lodgement</b>	21 July 2017		
<b>Submissions</b>	Three (3) – original DA		
<b>Cost of Works</b>	\$4,721,064.00		
<b>Local Planning Panel Criteria</b>	The application was deferred at the 31 January 2018 IHAP meeting		
<b>List of all relevant s4.15 matters (formerly s79C(1)(a))</b>	<ul style="list-style-type: none"> <li>• Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment</li> <li>• State Environmental Planning Policy No 55 - Remediation of Land</li> <li>• State Environmental Planning Policy (Affordable Rental Housing) 2009</li> <li>• State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>• Hurstville Local Environmental Plan 2012</li> <li>• Hurstville Development Control Plan No 1 - LGA Wide</li> </ul>		
<b>List all documents</b>	Architectural plans and previous assessment report		

<b>submitted with this report for the Panel's consideration</b>	
<b>Report prepared by</b>	Senior Development Assessment Officer
<b>Recommendation</b>	THAT the application be granted deferred commencement approval in accordance with the conditions included in the report.

<b>Summary of matters for consideration under Section 4.15</b> Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	<b>Yes</b>
<b>Legislative clauses requiring consent authority satisfaction</b> Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report?	<b>Yes</b>
<b>Clause 4.6 Exceptions to development standards</b> If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	<b>Not Applicable</b>
<b>Special Infrastructure Contributions</b> Does the DA require Special Infrastructure Contributions conditions (under s7.24)?	<b>Not Applicable</b>
<b>Conditions</b> Have draft conditions been provided to the applicant for comment?	<b>No, standard conditions have been attached</b>

### Site Plan



### Executive Summary

- At its meeting on 31 January 2018 the Independent Hearing and Assessment Panel (IHAP) considered DA2017/0265 which is an application for the demolition of the existing structures and construction of a new multi dwelling housing development. The application was made in accordance with the provisions contained within SEPP (Affordable Rental

Housing) 2009. The application was subsequently deferred by the Panel for design changes.

The changes made by the applicant in the amended plan submission are supported, with the exception of the additional bedrooms added in for the dwellings at the rear of the site. Suitable conditions of consent have been incorporated into the recommendation removing those newly added bedrooms.

The application is recommended for deferred commencement approval.

## Report in Full

### BACKGROUND

2. At its meeting on 31 January 2018 the Independent Hearing and Assessment Panel (IHAP) considered the subject development application. The following was resolved:

*“The Georges River Council IHAP as the delegate of the Georges River Council defers determination of Development Application No. DA2017/0265 for the demolition of existing structures and construction of a new multi-dwelling housing development including strata subdivision (SEPP Affordable Rental Housing 2009) at 16-18 Thurlow Street, Riverwood, and invites the applicant to submit the following for consideration by the IHAP:*

- 1. To achieve a reasonable amenity to the occupants of the rear bedrooms in units 9-12 inclusive, without compromising the privacy of the adjacent development, amended plans are to demonstrate appropriate rear setback to accommodate two storey structure in addition to achieve an appropriate fenestration (window) treatment (suggested rear setback in the order of 9m).*
- 2. To facilitate the amenity of the upstairs bedrooms and light to the ground floor living spaces, provide a minimum separation of 5m between the building forms within the site.*
- 3. To enhance the visual outlook of the streetscape, relocate the fire egress stairs adjacent to the eastern front boundary to be within the site, whilst complying with the National Construction Code.*
- 4. To improve the amenity to all residents and to increase landscaping along the side boundary, relocate the garbage area to the basement.”*

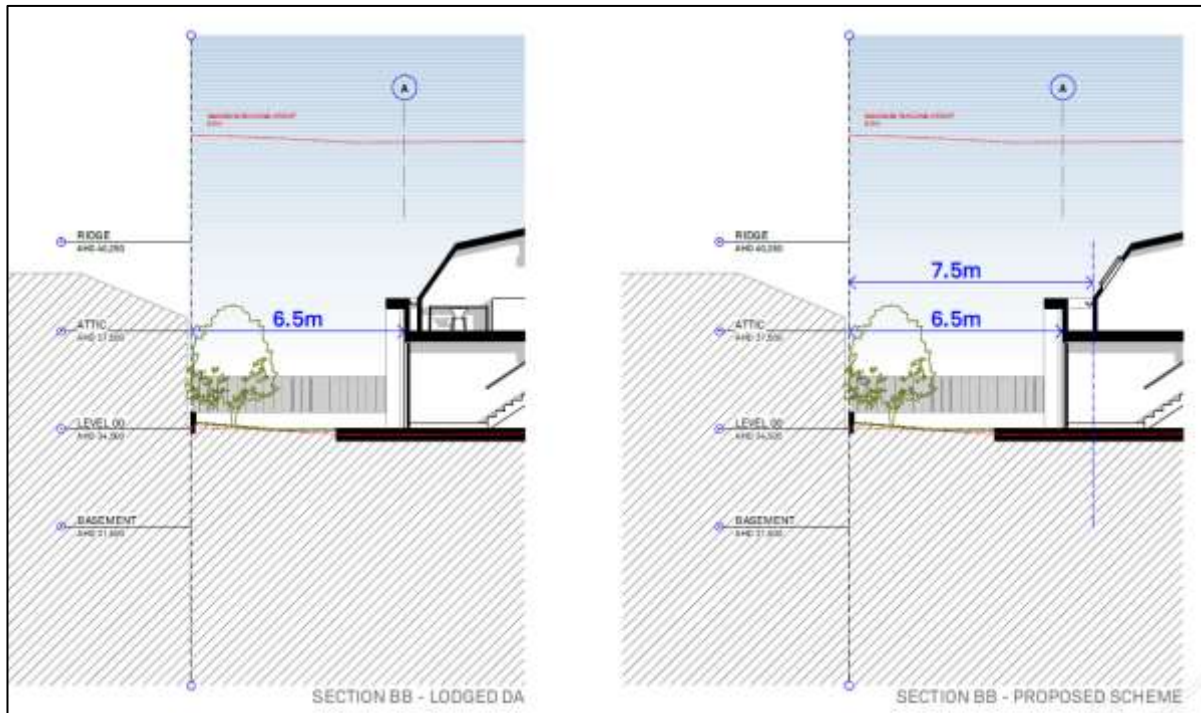
### AMENDED PLANS

3. The applicant has submitted amended plans to address the deferral reasons nominated by the IHAP. These are discussed below.

- 1. To achieve a reasonable amenity to the occupants of the rear bedrooms in units 9-12 inclusive, without compromising the privacy of the adjacent development, amended plans are to demonstrate appropriate rear setback to accommodate two storey structure in addition to achieve an appropriate fenestration (window) treatment (suggested rear setback in the order of 9m).*

Comment: Whilst the amended plans seek to retain the ‘folded’ style roof at the rear, the amended design now incorporates additional windows along the rear southern roof. This style of window is consistent with the windows proposed for the bedrooms on Level 02 Plan in relation to dwellings 1, 2 and 3 at the front (northern) end of the site.

The upper floor has been setback an additional metre, increasing from 6.5m to 7.5m, thereby providing an improved interface at the rear. A comparison of the original DA and the amended DA is shown below for reference.



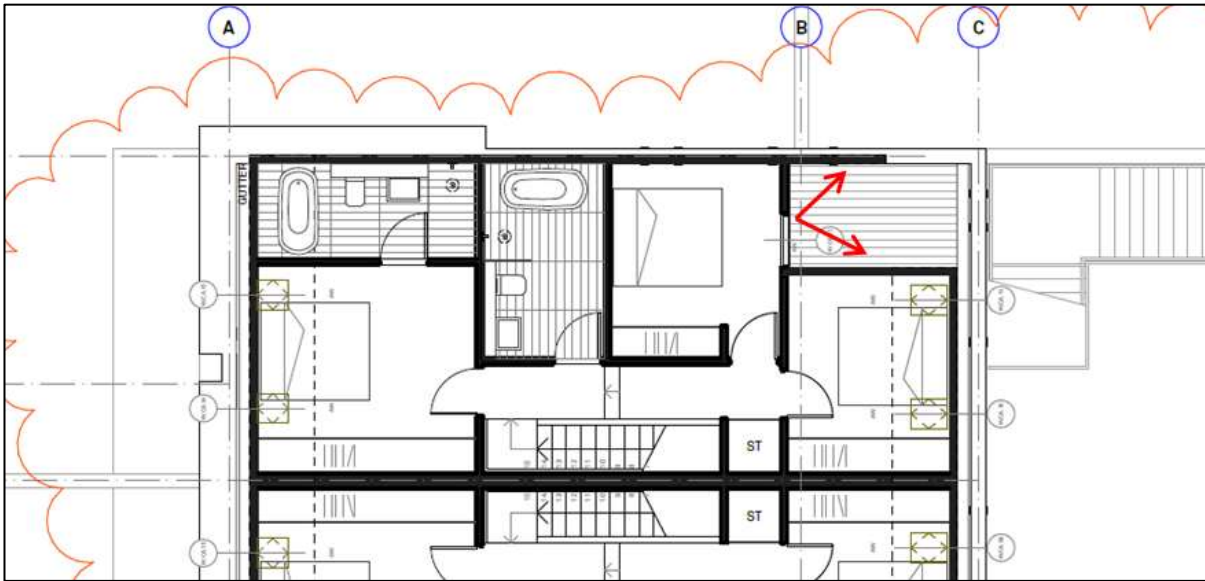
**Image 1: Comparison of lodged DA and proposed scheme**

The amenity afforded to the rear southern bedrooms on the first floor of dwellings 8, 9, 10 and 11 is considered to be acceptable. The new windows proposed along the southern roof plane are openable and the applicant has submitted technical details pertaining to the windows operation to demonstrate this. Further, the north facing clerestory style windows are retained.

2. *To facilitate the amenity of the upstairs bedrooms and light to the ground floor living spaces, provide a minimum separation of 5m between the building forms within the site.*

Comment: The amended plans now provide a 5m separation between the building forms. However, in doing so, the applicant has added in an additional (3<sup>rd</sup>) bedroom for dwellings 8, 9, 10 and 11 which were previously two (2) bedroom dwellings. This is not supported for the following reasons:

- The additional bedrooms compromise the amenity and outlook afforded to the bedrooms in the middle of the floor plate because of the blank wall created immediately adjacent to the window. This is counterintuitive to the IHAP's reason for deferral which sought to facilitate amenity to these rooms and improve their outlook. See plan extract below.



**Image 2: Outlook form bedroom window – dwelling 8. Front, northern-most bedroom to be removed.**

- The additional bedrooms results in added building mass along the side elevations as the length of the dwellings have been subsequently increased, noting that the amended scheme has a greater amount of gross floor area than the previous one despite the deletion of one (1) dwelling. This modification would be likely to warrant re-notification of the development application.

In view of the above, the deferred commencement condition has been expanded to include deletion of the additional (northern-most) bedrooms which have been added in for dwellings 8 to 11. The internal separation distance to the adjacent building would be increased accordingly, further enhancing the built form outcomes. The proposed development is supported, subject to compliance with this condition.

3. *To enhance the visual outlook of the streetscape, relocate the fire egress stairs adjacent to the eastern front boundary to be within the site, whilst complying with the National Construction Code.*

Comment: The fire egress stairs adjacent to the eastern front boundary have been re-located to the western side of the site in a mid-block location which significantly reduces their visibility from the streetscape. No further concerns are raised in this regard.

4. *To improve the amenity to all residents and to increase landscaping along the side boundary, relocate the garbage area to the basement.*

Comment: The garbage area has been re-located into the basement. No further concerns are raised in this regard.

#### Concluding Remarks

The amended modified development has been assessed against the requirements of State Environmental Planning Policy (Affordable Rental Housing) 2009, Hurstville Local Environmental Plan 2012 and Hurstville Development Control Plan 1 and is generally acceptable in respect of those requirements, subject to the recommended conditions of consent.

The amended proposal is not considered to generate unreasonable environmental, social and/or economic impacts upon the locality. Further, the 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.

The recommended conditions of consent have been updated, where relevant, to ensure that they accurately reflect the amended development as well as the assessment made in this report.

## **SECTION 94 CONTRIBUTIONS**

3. The proposed development requires payment of \$159,697.67 of Section 94 contributions based on the provisions of Hurstville Section 94 Contributions Plan. It is noted that the applicable Section 94 contributions have been re-calculated to reflect the modified development which has resulted in the deletion of one dwelling.

## **NEIGHBOUR NOTIFICATION**

4. As noted in the main body of the report, the additional bedrooms added in create larger dwellings with further mass presented along the side elevations towards the neighbouring properties. This modification would be likely to warrant re-notification of the development application. However, the recommended deferred commencement condition would overcome this by way of deleting the bedrooms in question and Council is satisfied that the resultant development would not require re-notification.

## **CONCLUSION**

5. Development consent is sought for demolition of the existing structures and construction of a new multi dwelling housing development including strata subdivision (SEPP Affordable Rental Housing 2009).

The amended 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 is recommended for deferred commencement approval.

## **RECOMMENDATION**

6. THAT pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, as amended, the Council grants deferred commencement consent to Development Application DA2017/0265 for demolition of the existing structures and construction of a new multi dwelling housing development at 16-18 Thurlow Street Riverwood, subject to the attached conditions.

**The Development Application described above has been determined by the granting of a Deferred Commencement Consent subject to the conditions specified in this notice.**



This Development Application is a Deferred Commencement Consent under Section 4.16(3) of the Environmental Planning and Assessment Act (as amended) 1979. Strict compliance is required with **all conditions appearing in Schedule 1** within **twelve (12) months from the Determination Date of this consent**. Upon confirmation in writing from Georges River Council that the Schedule 1 Conditions have been satisfied, the consent shall commence to operate as a Development Consent for a period of five (5) years from the **Determination Date of this consent**.

### **Schedule 1**

- A. A Detailed Site Investigation is required to be undertaken and submitted to Council in accordance with the recommendations in the Preliminary Site Investigation, prepared by Benviron Group, dated May 2017. Should remediation works be required, a Remedial Action Plan must accompany the Detailed Site Investigation.
- B. Amended plans being submitted to Council's satisfaction to delete the third, northern-most bedrooms on the Level 01 Plan for dwellings 8, 9, 10 and 11. The internal separation distance to the adjacent building to the north shall be increased accordingly.

Documentary evidence as requested or the above information must be submitted within 12 months of the granting of this deferred commencement consent. Commencement of the approval cannot commence until written approval of the submitted information has been given by Council.

Subject to A and B above being satisfied, a development consent be issued subject to the following conditions:

### **Schedule 2**

**DEVELOPMENT CONSENT** is granted to the Development Application described above, subject to the conditions in Schedules A, B and C.

**Consent Operation** - This consent operates from the date of endorsement set out in this notice and will lapse five (5) years after that date, unless development has commenced within that time, pursuant to the provisions of the Sections 4.53 of the Act.

**Right of Review** – If you are dissatisfied with this decision, you may request a review of the determination under Division 8.2 of the Environmental Planning and Assessment Act 1979. A request for review and the decision by Council of that request must be made within six (6) months of the date of this Notice of Determination and be accompanied by the relevant fee. You must ensure that an application for review of determination gives Council a reasonable period in which to review its decision having regard to the relevant issues and complexity of the application.

**Right of Appeal** – Alternatively, Division 8.3 of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the NSW Land and Environment Court within six (6) months of the endorsement date on this notice.

## **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
Basement Plan	A-0101	Feb 18	C	Benson McCormack Architecture
Demolition and Excavation Plan	A-0007 & A-0008	Jun 17	A	Benson McCormack Architecture
Level 00 (Ground) Plan	A-0102	Feb 18	C	Benson McCormack Architecture
Level 01 Plan	A-0103	Feb 18	C	Benson McCormack Architecture
Level 02 Plan	A-0104	Feb 18	C	Benson McCormack Architecture
North Elevation	A-0201	Feb 18	C	Benson McCormack Architecture
South Elevation	A-0202	Feb 18	C	Benson McCormack Architecture
East Elevation	A-0203	Feb 18	C	Benson McCormack Architecture
West Elevation	A-0204	Feb 18	C	Benson McCormack Architecture
Section AA	A-0221	Feb 18	C	Benson McCormack Architecture
Section BB	A-0222	Feb 18	C	Benson McCormack Architecture
Section CC	A-0223	Feb 18	C	Benson McCormack Architecture
Schedule of Colours and Finishes	A-1307	Jun 17	A	Benson McCormack Architecture
Window and Door Schedule	A-1001, A-1002, A-1003, A-1104 and A-1105	Jun 17	A	Benson McCormack Architecture
Landscape Plans	L-01, L-02 and L-03	19 Feb 18	C	Site Design + Studios

**NOTE:** This consent does not provide any approval for Strata subdivision.

### 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. **APR7.4 - Vehicular Crossing - Major Development** - The following vehicular crossing and road frontage works will be required to facilitate access to and from the proposed development site:

(a) Construct a metre wide footpath for the full length of the frontage of the site in accordance with Council's Specifications applying at the time construction approval is sought.

(b) The thickness and design of the driveway shall be in accordance with Council's Specifications applying at the time construction approval is sought.

(c) 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. The work shall be carried out in accordance with Council's specification, applying at the time construction approval is sought.

Constructing a vehicular crossing and/or footpath requires separate approval under Section 138 of the Roads Act 1993, prior to the commencement of those works.

3. **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 (eg Opening the road for the purpose of connections to utility providers);

(j) Stormwater and ancillary works in the road reserve;

(k) Stormwater and ancillary to public infrastructure on private land; and

(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](http://www.georgesriver.nsw.gov.au). For further information, please contact Council's Customer Service Centre on (02) 9330 6400.

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.

### 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.

5. **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](http://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.

6. **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.

7. **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

(c) Any drainage disposal to the street gutter from a pump system must have a stilling sump provided at the property line, connected to the street gutter by a suitable gravity line.

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

8. **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.
9. **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.
10. **CC9.62 - Construction Traffic Management Plan [Large Developments only]** - A Construction Traffic Management Plan detailing:
  - (a) construction vehicle routes;
  - (b) anticipated number of trucks per day;
  - (c) hours of construction;
  - (d) Access arrangements; and
  - (e) Proposed traffic measures to minimise impacts of construction vehiclesmust be submitted for the approval of Council's Engineers. Council's Engineers must specify in writing that they are satisfied with the Traffic Management Plan prior to the issue of the Construction Certificate.
11. **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.

12. **CC9.86 - Compliance with submitted Arborist Report** - The recommendations outlined in the Arborist's Report titled prepared by dated must be implemented throughout the relevant stages of construction. Details of tree protection measures to be implemented must be detailed and lodged with the Construction Certificate application for approval and shall be in accordance with Section 4 - Australian Standard AS 4970-2009: Protection of trees on development sites.
13. **CC9.87 - Tree Protection and Retention** - The following trees shall be retained and protected:

<b>Tree Species</b>	<b>Location of Tree / Tree No.</b>	<b>Tree Protection Zone (metres)</b>
Callistemon viminalis	Street Tree T1	2.0m
Camellia sasanqua	Within the site T11	3.1m
Litchi chinensis	Adjoining site at the rear T41	2.0m
Erythrina x sykesii	Rear yard T20	-
Nandina domestica	Rear yard T21	-
Acacia decurrens	Rear yard T14	3.8m

Details of the trees to be retained must be included on the Construction Certificate plans.

### **General Tree Protection Measures**

(a) All trees 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.

14. **CC9.89 - Tree Removal & Replacement - Tree removal** - Permission is granted for the removal of the following trees as referenced in the submitted Arborist report:

- (a) Remove the following Exempt trees on site: Trees 2, 3, 7, 8, 9, 10, 13, 16, 17, 18, 19, 22, 23, 24, 25, 26, 28, 29, 30, 31, 32, 35, 37, 38 and 40;
- (b) Remove the following trees on site: Trees 4, 5, 6, 12, 15, 27, 33, 34 and 39;
- (c) Remove tree 36 at the front of the adjoining property at 20 Thurlow Street.

### **General Tree Removal Requirements**

(a) All tree removal shall be carried out by a certified Tree Surgeon/Arborist to ensure that removal is undertaken in a safe manner and complies with the AS 4373-2007 - Pruning of Amenity Trees and Tree Works Industry Code of Practice (Work Cover NSW 1.8.98).

(b) No trees are to be removed on the site or neighbouring properties without the prior written approval of Council.

(c) Council shall be appointed to remove all tree/s on public land. All costs associated with the removal of the tree/s and the planting of replacement trees shall be met by the applicant. Fees and charges outlined in the table below are subject to change and are set out in the current version of Council's 'Schedule of Fees and Charges', applicable at the time of payment.

### **Tree Replacement**

The following replacement trees are to be planted prior to the issue of either an Occupation Certificate or Subdivision Certificate (whichever is first). All replacement trees must be replanted a minimum of 3m away from any driveway, building or structure.

Replacement Tree Species	Number of	Location	Pot Size
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	<b>trees</b>		
Applicant to select species from Recommended species for landscaping within Appendix 1 of Hurstville DCP 1	1	In the front yard of 20 Thurlow Street	75L

A copy of the Hurstville City Council's Tree Removal and Pruning Guidelines and Kogarah City Council, Street Tree Management Strategy and Masterplan, can be downloaded from Council's website [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au).

15. **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](http://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 Section 94 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:

<b>Fee Type</b>	<b>Fee</b>
<b>GENERAL FEES</b>	
Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct to the Long Service Corporation. See <a href="https://portal.longservice.nsw.gov.au/bci/levy/">https://portal.longservice.nsw.gov.au/bci/levy/</a>	
Builders Damage Deposit	\$1,900.00
Inspection Fee for Refund of Damage Deposit	\$150.00
<b>DEVELOPMENT CONTRIBUTIONS</b>	
Hurstville Section 94 Development Contributions Plan 2012 - Residential (Community Facilities)	\$19,787.27
Hurstville Section 94 Development Contributions Plan 2012 - Residential (Open Space, Recreation, Public Domain)	\$139,910.40

### 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

The Section 94 contribution is imposed to ensure that the development makes adequate provision for the demand it generates for public amenities and public services within the area.

### 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](http://www.georgesriver.nsw.gov.au).

16. 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.
17. 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.

18. 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) 14 and 20 Thurlow Street; and
- (b) 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.

19. **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 Council's kerb and gutter directly in front of the development site in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2015 (as amended).

#### **Stormwater Systems with Basement**

- (b) The underground basement car park must pump to and all other stormwater must drain by gravity to:
  - i. the street gutter.
  - ii. the existing drainage system.
  - iii. the easement to drain water.
  - iv. the upper level of the new kerb inlet pit required to be constructed directly in front 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.

20. **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.

21. **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: **\$1,900.00**

(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: **\$150.00**

(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.

22. **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.

23. **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.

24. **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.

25. **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).

26. **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.

27. **CC9.84 - Landscape Plans** - All landscape works shall be carried out in accordance with the approved landscape plans. The approved landscape plans shall be updated to ensure they are consistent with the approved architectural drawings. The landscaping shall be maintained in accordance with the approved plans in perpetuity. The approved landscape plans shall be updated to ensure they are consistent with the approved architectural drawings.
28. **CC9.9 - BASIX Commitments** - All energy efficiency measures as detailed in the BASIX Certificate No. 830980M\_02 must be implemented on the plans lodged with the application for the Construction Certificate.

### **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.

29. **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](http://www.SafeWork.nsw.gov.au).

30. **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.

31. **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.

32. **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.

33. **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.

34. **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.

## **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.

35. **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.

36. **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.
37. **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.
38. **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.
39. **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.

40. **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.

#### **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.

41. **CC12.24 - Consolidation of Site** - The site shall be consolidated into one allotment and by a Plan of Consolidation being prepared by a Registered Surveyor. This Plan shall be registered at the NSW Land and Property Information prior to the issue of a final occupation certificate.
42. **OCC12.26 - Requirements prior to the issue of the Occupation Certificate** - The

following shall be completed and or submitted to the PCA prior to the issue of the Occupation Certificate:

(a) All the stormwater/drainage works shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.

(b) The internal driveway construction works, together with the provision for all services (conduits and pipes laid) shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.

(c) Construct any new vehicle crossings required.

(d) Replace all redundant vehicle crossing laybacks with kerb and guttering, and replace redundant concrete with turf.

(e) A Section 73 (Sydney Water) Compliance Certificate for the Subdivision shall be issued and submitted to the PCA prior to the issue of the Occupation Certificate.

(f) Work as Executed Plans prepared by a Chartered Professional Engineer or a Registered Surveyor when all the site engineering works are complete shall be submitted to the PCA prior to the issue of the Occupation Certificate.

43. **OCC12.28 - Vehicular crossing & Frontage work - Major development** - The following road frontage works shall be constructed in accordance with Council's Specification for Vehicular Crossings and Associated Works together with the Vehicular Crossing Approval issued by Council's Engineering Services Division:

(a) Construct a footpath for the full length of the frontage of the site in accordance with Council's Specifications for footpaths.

(b) Construct the vehicular crossing in accordance with Council's Specifications for vehicular crossings.

(c) Construct a new 150mm high concrete kerb with 450mm wide gutter for the full frontage(s) of the site in accordance with Council's Specifications for kerb and guttering.

(d) 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.

A private contractor shall carry out the above work, at the expense of the applicant and in accordance with Council's Specification for Vehicular Crossings and Associated Works.

The driveway and road frontage works are to be completed before the issue of the Occupation Certificate.

44. **OCC12.29 - Completion of Major Works** - Prior to the issue of a Final Occupation Certificate, the following works must be completed at the applicant's expense to the satisfaction of Council's Engineering Services section:

(a) Stormwater pipes, pits and connections to public stormwater systems within the road

related area;

- (b) Driveways and vehicular crossings within the road related area;
- (c) Removal of redundant driveways and vehicular crossings; and
- (d) New footpaths within the road related area.

Council's Engineering Services Section must advise in writing that the works have been completed to their satisfaction prior to the issue of the Occupation Certificate. [Note: The damage deposit paid to Council will not be released until the works have been completed to Council's satisfaction.

45. **OCC12.3 - Restriction on use of land - Clause 17(1) SEPP (Affordable Rental Housing) - Infill Affordable Housing** - For ten (10) years from the date of the issue of the Occupation Certificate:

- (a) The dwellings proposed to be used for the purposes of affordable housing, identified on the approved plans as Units 4, 5 and 7 will be used for the purpose of affordable housing, and
- (b) All accommodation that is used for affordable housing will be managed by a registered community housing provider.

A Restriction of Use of the Land is to be created using Section 88E of the Conveyancing Act 1919 over the subject property. This Restriction shall ensure that the requirements of Clause 17(1) of State Environmental Planning Policy (Affordable Rental Housing) 2009 are met and shall be worded as follows:

For a continuous period of ten (10) years from the date of issue of any occupation certificate (being an Interim or Final Occupation Certificate) the following Restrictions on the Use of the Land will apply:

- (i) The dwellings proposed to be used for the purposes of affordable housing, identified on the approved plans as Units 4, 5 and 7 will be used for the purpose of affordable housing, and
- (ii) All accommodation that is used for affordable housing will be managed by a registered community housing provider.

This Restriction shall benefit Council and 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. Documentary evidence of the registration of this Restriction on title is to be supplied to the PCA (and Council where it is not the PCA) with the application for any Occupation Certificate.

46. **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.*

47. 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.
48. 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 infiltration/absorption systems; and (if applicable);
  - (g) Details of any pumping systems installed (including wet well volumes) (if applicable).
49. OCC12.4 - **BASIX Certificate** - All energy efficiency measures as detailed in the approved BASIX Certificate in the plans approved with the Development Consent, must be implemented before issue of any Occupation Certificate.
  50. OCC12.5 - **BASIX Compliance Certificate** - A Compliance Certificate must be provided to the PCA regarding the implementation of all energy efficiency measures as detailed in the approved BASIX Certificate before any Occupation Certificate is issued.
  51. OCC12.6 - **Completion of Landscape Works** - All landscape works (including the green wall) 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.

52. **ONG14.26 - Lighting - General Nuisance** - Any lighting on the site shall be designed so as not to cause a nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill or glare.

Flashing, moving or intermittent lights or signs are prohibited.

53. **ONG14.67 - Annual Fire Safety Statement** - The owner of the building premises must ensure the Council is given an annual fire safety statement in relation to each essential fire safety measure implemented in the building. The annual fire safety statement must be given:

(a) Within 12 months after the date on which the fire safety certificate was received.

(b) Subsequent annual fire safety statements are to be given within 12 months after the last such statement was given.

(c) An annual fire safety statement is to be given in or to the effect of Clause 181 of the Environmental Planning and Assessment Regulation 2000.

(d) A copy of the statement is to be given to the Commissioner of Fire & Rescue NSW, and a further copy is to be prominently displayed in the building.

54. **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.

55. **ONG14.5 - Maintenance of Landscaping** - All tree, plants and the green wall forming part of the landscaping must be maintained. Maintenance includes watering, weeding, removal of rubbish from tree bases, fertilizing, pest and disease control, replacement of dead or dying plants and any other operations required to maintain healthy trees, plants and turf areas.

## 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.

56. **ADV17.1 - Access to NSW Legislations (Acts, Regulations and Planning Instruments)** - NSW legislation can be accessed free of charge at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au).

57. **ADV17.12 - Compliance with Access, Mobility and AS4299** - Adaptable Housing - Should the Council be appointment as the PCA, the Construction Certificate Application must be accompanied by detailed working plans and a report or a Certificate of Compliance from an Accredited Access Consultant certifying that the building design and access to the adaptable units complies with Council's DCP and AS 4299 Adaptable

Housing.

58. 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/nglg.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](http://www.cjc.nsw.gov.au)).
  - (b) Department of Environment and Conservation NSW, Noise Policy Section web page ([www.environment.nsw.gov.au/noise](http://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](http://www.legislation.nsw.gov.au)).
  - (d) Australian Acoustical Society - professional society of noise-related professionals ([www.acoustics.asn.au/index.php](http://www.acoustics.asn.au/index.php)).
  - (e) Association of Australian Acoustical Consultants - professional society of noise related professionals ([www.aaac.org.au](http://www.aaac.org.au)).
  - (f) Department of Gaming and Racing - ([www.dgr.nsw.gov.au](http://www.dgr.nsw.gov.au)).
59. ADV17.28 - **Sydney Water Section 73 Certificates** - The Section 73 Certificate must be a separate certificate that relates specifically to this development consent. For example, if the development consent relates to the subdivision of the land, a Section 73 Certificate for the construction of the building that is subject to a different development consent will not suffice.
60. 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.
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](http://www.SafeWork.nsw.gov.au)).

62. **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.

63. **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](http://www.georgesriver.nsw.gov.au).

(b) In the Application Form, quote the Development Consent No. (eg. DA2017/\*\*\*\*) 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.

64. **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.

### **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 4.17 (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](http://www.legislation.nsw.gov.au).

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

65. **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.
66. **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.
67. **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.
68. **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.
69. **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](http://www.legislation.nsw.gov.au).

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

70. **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.

71. **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.

72. **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.

73. **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.

A **Notice of Commencement Form** is attached for your convenience.

74. **OPER1005 - Subdivision Work – Construction Certificate & Appointment of Principal Certifying Authority** - Subdivision work in accordance with a development consent cannot commence until:

- (a) A Construction Certificate has been issued by the consent authority, the council (if not the consent authority) or an accredited certifier; and
- (b) The beneficiary of the consent has appointed a Principal Certifying Authority for the subdivision work.

No later than two (2) days before the subdivision 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 subdivision work.

75. **OPER1006 - Subdivision work – 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 subdivision works.
76. **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.
77. **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.

78. **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 Planner, below on 9330-6400 during normal office hours.

## ATTACHMENTS

Attachment [↓](#) 1 Elevations - 16-18 Thurlow St Riverwood





**NOTES**  
This drawing is based upon the conditions of the site and is not to be used for any other purpose without the written consent of the architect.  
DO NOT SCALE DRAWINGS.

REV	DATE	ISSUE
A	JUN 17	GEORGES RIVER COUNCIL / DA
B	OCT 17	GEORGES RIVER COUNCIL / DA ADD INFO
C	FEB 18	GEORGES RIVER COUNCIL / DA REV

**CLIENT**  
TOPAZ Group  
31 / 344 Marley Rd  
PO Box 303  
Mogelang NSW 2214

**PROJECT DETAILS**  
16 - 18 TH  
16-18 Thurlow St  
Riverwood NSW 2210

**PROJECT NORTH**  
N

**SCALE**  
1:100 @ A3

**PROJECT NO.**  
1720A

**DRAWING NO.**  
A-0201

**DRAWING**  
NORTH ELEVATION

DEVELOPMENT APPLICATION

**ARCHITECT**  
BENSON  
McCORMACK  
ARCHITECTURE

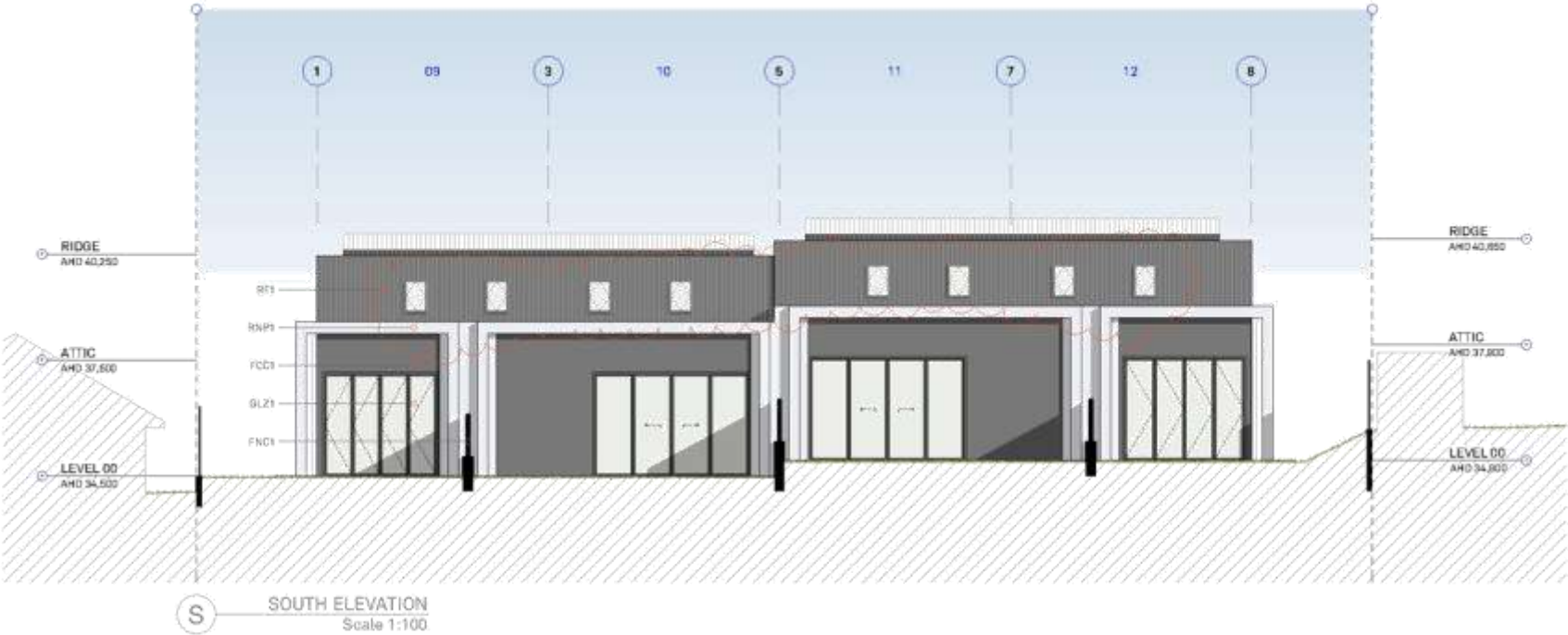
**DATE**  
17/02/18

**PROJECT NO.**  
1720A

**DRAWING NO.**  
A-0201

**DRAWING**  
NORTH ELEVATION





NOTES

This drawing is based upon the conditions of the development application. It is not to be used for any other purpose without the written consent of Benson McCormack Architects.

DO NOT SCALE DRAWINGS.

REV

A

B

C

DATE

JUN 17

OCT 17

FEB 18

ISSUE

GEORGES RIVER COUNCIL / DA

GEORGES RIVER COUNCIL / DA ADD INFO

GEORGES RIVER COUNCIL / DA RE

CLIENT

TOPAZ Group

31 / 344 Hurlway Rd

PO Box 303

Riverwood NSW 2214

PROJECT DETAILS

16 - 18 TH

16-18 Thurlow St

Riverwood NSW 2214

PROJECT NORTH

SCALE

1:100 @ A3

PROJECT NO.

1720A

DRAWING NO.

A-0202

DRAWING

SOUTH ELEVATION

ISSUE

C

ARCHITECT

P 1 4 01 2 0010 0277

F 1 4 01 2 0010 0277

STUDIO 5, 105 BALMAIN RD

CANFIELD NSW 2040

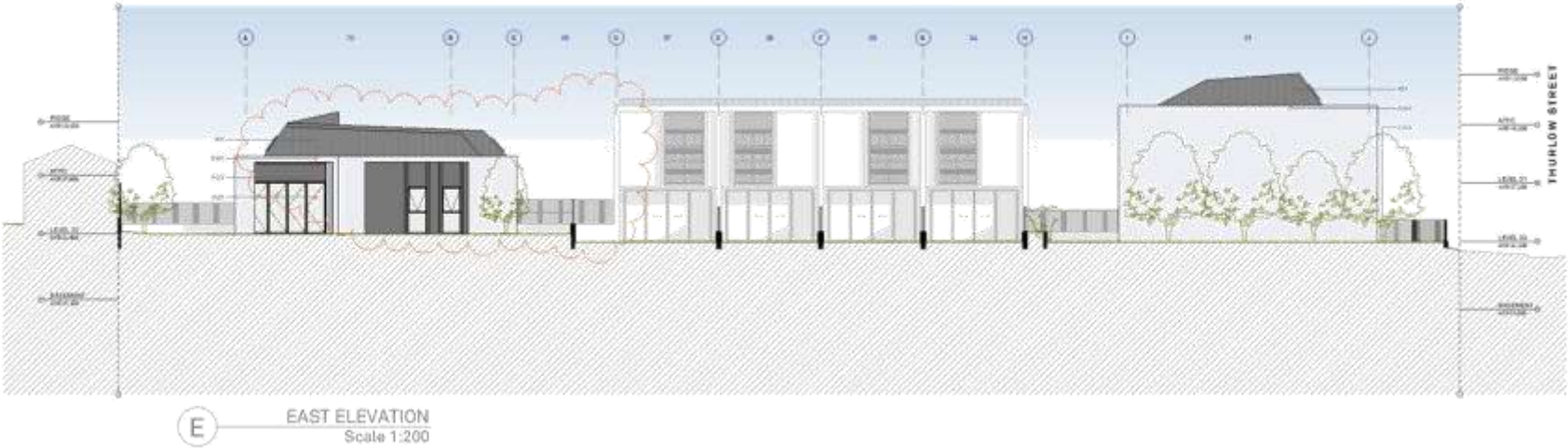
ARCHITECTS INC. N.S.W.

DEVELOPMENT APPLICATION

BENSON

McCORMACK

ARCHITECTURE



**NOTES**  
This drawing is based upon the conditions of the development application and is not to be used for any other purpose without the written consent of the architect.  
DO NOT SCALE DRAWINGS.

REV	DATE	ISSUE
A	JUN 17	GEORGES RIVER COUNCIL / DA
B	OCT 17	GEORGES RIVER COUNCIL / DA ADD INFO
C	FEB 18	GEORGES RIVER COUNCIL / DA REV

**CLIENT**  
TOPAZ Group  
21 / 244 Hurlway Rd  
PO Box 303  
Riverwood NSW 2214

**PROJECT DETAILS**  
16 - 18 TH  
16-18 Thurlow St  
Riverwood NSW 2214

**PROJECT NORTH**  
N

**SCALE**  
1:200 @ A3

**PROJECT NO.**  
1720A

**DRAWING NO.**  
A-0203

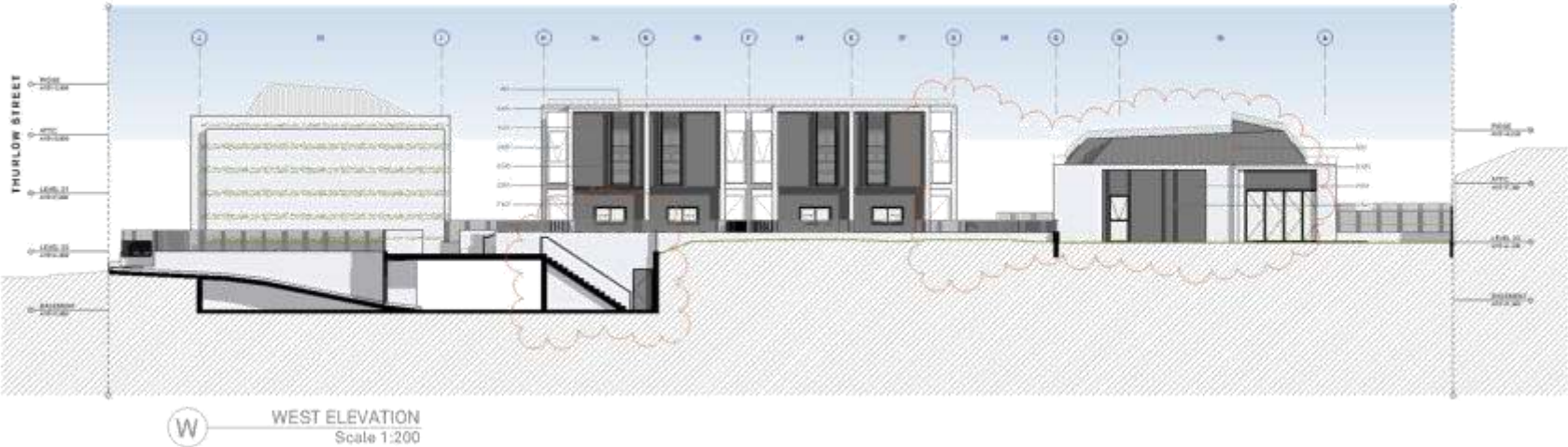
**DRAWING**  
EAST ELEVATION

DEVELOPMENT APPLICATION

**ISSUE**  
C

**ARCHITECT**  
P 1 4 01 2 0018 0277  
F 1 4 01 2 0018 0277  
STUDIO 5, 105 BALMAIN RD  
BALMAIN NSW 2046  
ARCHITECTURE 10/10/18

**BENSON  
McCORMACK  
ARCHITECTURE**



NOTES				REV	DATE	ISSUE	CLIENT	PROJECT DETAIL		PROJECT NORTH	SCALE	PROJECT NO.	DRAWING NO.	DRAWING	16018	ARCHITECT
This drawing is based upon the conditions of the development application and is not to be used for any other purpose without the written consent of Benson McCormack Architects.				A		JUN 17	GEORGES RIVER COUNCIL / DA	TOPAZ Group			1:200 @ A3	1720A	A-0204	WEST ELEVATION	C	BENSON McCORMACK ARCHITECTURE
				B		OCT 17	GEORGES RIVER COUNCIL / DA ADD INFO	16 - 18 TH								
				C		FEB 18	GEORGES RIVER COUNCIL / DA REV	16-18 Thurlow St Riverwood NSW 2210								
DO NOT SCALE DRAWINGS.							Map of NSW 2014									

# REPORT TO GEORGES RIVER COUNCIL LPP MEETING OF THURSDAY, 15 MARCH 2018

<b>LPP Report No</b>	<b>LPP003-18</b>	<b>Application No</b>	<b>DA2017/0366</b>
<b>Site Address &amp; Ward Locality</b>	2 Belgrave Street Kogarah Kogarah Bay Ward		
<b>Proposal</b>	Change of use and fit-out to a recreation facility (indoor) - gym		
<b>Report Author/s</b>	Development Assessment Officer		
<b>Owners</b>	Georges River Council		
<b>Applicant</b>	The Town Planner		
<b>Zoning</b>	Zone B4 Mixed Use		
<b>Date Of Lodgement</b>	25/08/2017		
<b>Submissions</b>	Nil		
<b>Cost of Works</b>	\$47,741.10		
<b>Reason for Referral to LPP</b>	Council owned property		

<b>Recommendation</b>	THAT the application be approved in accordance with the conditions included in the report.
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<b>LPP Report No</b>	LPP003-18	<b>Development Application No</b>	DA2017/0366
<b>Site Address &amp; Ward Locality</b>	2 Belgrave Street Kogarah Kogarah Bay Ward		
<b>Proposed Development</b>	Change of Use and fit-out to recreation facility (indoor)		
<b>Owner</b>	Georges River Council		
<b>Applicant</b>	The Town Planner		
<b>Planner/ Architect</b>	Planner – The Town Planner		
<b>Date of Lodgement</b>	25/08/2017		
<b>Submissions</b>	Nil		
<b>Cost of Works</b>	\$47 741.10		
<b>Local Planning Panel Criteria</b>	Subject site is owned by Georges River Council		
<b>List of all relevant s4.15 matters (formerly s79C(1)(a))</b>	<ul style="list-style-type: none"> <li>State Environmental Planning Policy No 64 - Advertising and Signage</li> <li>Kogarah Local Environmental Plan 2012</li> <li>Kogarah Development Control Plan 2013</li> </ul>		
<b>List all documents submitted with this report for the Panel's consideration</b>	LPP report Site Plan Floor Plan		
<b>Report prepared by</b>	Development Assessment Officer		
<b>Recommendation</b>	THAT the application be approved in accordance with the conditions included in the report.		
<b>Summary of matters for consideration under Section 4.15</b> Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment			<b>Yes</b>



report?	
<b>Legislative clauses requiring consent authority satisfaction</b> Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report?	<b>Yes</b>
<b>Clause 4.6 Exceptions to development standards</b> If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	<b>Not Applicable</b>
<b>Special Infrastructure Contributions</b> Does the DA require Special Infrastructure Contributions conditions (under s7.24)?	<b>Not Applicable</b>
<b>Conditions</b> Have draft conditions been provided to the applicant for comment?	<b>No</b>

## Site Plan



## EXECUTIVE SUMMARY

1. The application proposes the fit out and use of the lower ground floor of the former Kogarah Council Building as a recreation facility (indoor) – gym with associated advertising signage.

The proposal does not satisfy the requirements for advertising signage under the Kogarah DCP No 1. This variation will be conditioned to comply by excluding any reference to signage in the consent notice. Any future signage can be installed in accordance with the signage exemption requirements under SEPP (Exempt and Complying Development Codes) 2008 or as part of a future development application.

Equitable disabled sanitary facilities are not provided for the proposal. Adequate space exists within the existing floor area for a disabled toilet and this will be conditioned to be provided.

The proposal will be recommended for approval with conditions relating to signage and disabled sanitary facility provision.

## **DESCRIPTION OF THE PROPOSAL**

2. The application proposes the fit out and use of the lower ground floor of the former Kogarah Council Building as a recreation facility (indoor) – gym. Advertising signage is also proposed in the form of an awning fascia sign, an above awning sign and door/window signage.

The proposal is for a gym that will comprise personal training and small group classes with up to 27 people attending these sessions. Four staff will be in attendance and four car parking spaces are available for the use. The use is to operate Monday to Friday 5.30am to 8.30pm and Saturday 7.30am to 10.30am. Nominated peak hours of usage are identified by the applicant as 6am – 9am and 5pm to 8pm.

## **HISTORY**

3.

28 Aug 17	Development application lodged
31 Aug 17	Development application acknowledged
	Internal referrals sent to Environmental Health and Building Surveyor (EHBS) and Environmental Health Officer (EHO) for comment
8 Sep 17	Council's EHO provides written advice seeking an Acoustic Report in relation to the proposal
16 Nov 17	Acoustic report provided
17 Nov 17	EHO advice and conditions provided
28 Nov 17	Advice and conditions received from Council's Senior Building Surveyor
19 Jan 18	Further advice received from Council's Senior Building Surveyor in relation to the provision of accessible sanitary facilities.

## **DESCRIPTION OF THE SITE AND LOCALITY**

4. The site is identified as Lots 46, 47 and 48, Section F, DP 1397 and is known as 2 Belgrave Street, Kogarah. The tenancy is located on the ground floor of the existing four (4) storey building.



**Site Photograph – 2 Belgrave Street Kogarah**

The site is located on the north eastern side of Belgrave Street which forms the primary frontage. A secondary frontage is provided to Post Office Lane on the north western side of the site and the rear of the site adjoins Wicks Lane.

Pedestrian access is provided to the site from Belgrave Street via stairs (no disabled access is provided from this street frontage), or at grade from Wicks Lane to the front door of the premises via the ground floor car parking area.

The site is in a B4 Zone in an area that is characterised by a mixture of retail, commercial, residential and health service facilities. The DCP summarises the character of the Belgrave Street precinct as follows:

“It is a civic street, containing public buildings such as the community and information centre, Council Chambers, The Town Square, library, church and the St George Hospital.”

Kogarah railway station is approximately 150m to the north west of the site.





### Photograph detailing the site location (bordered in red)

#### ZONING

5. The subject site is zoned B4 – Mixed Use and recreation facilities (indoor) are a permissible form of development with Council's consent. The proposal satisfies the objectives of the zone.



Figure 1 – Kogarah LEP Zoning Map identifying the site (bordered in red)

#### APPLICABLE PLANNING CONTROLS

- 6.
- Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment
  - State Environmental Planning Policy 64 Advertising and Signage
  - Kogarah Local Environmental Plan 2012
  - Kogarah Development Control Plan 2013

#### PLANNING ASSESSMENT

7. The site has been inspected and the proposed development has been assessed under the relevant Section 4.15(1) "Matters for Consideration" of the Environmental Planning and Assessment Act 1979.

#### Environmental Planning Instruments

##### Local Environmental Plan

8. The extent to which the proposal complies with the relevant standards of Local Environmental Plan is outlined in the table below (example only).

Clause	Standard	Proposed	Complies
--------	----------	----------	----------



<b>5.10 Heritage Conservation</b>	Consider the heritage significance of any heritage items	The subject site is not listed as a heritage item in Schedule 5 and is not within a Heritage Conservation Area. The Kogarah Courthouse adjoins the site to the north-east (rear) of the site. The Kogarah Courthouse is identified as a heritage item under the LEP. The proposal will not impact on the heritage significance of this rear neighbour as the use will not be visible from this rear neighbour.	Yes
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## Environmental Planning and Assessment Regulations 2000

- **Clause 93 EP& A Regulation 2000** - Pursuant to Clause 93 of the Environmental Planning and Assessment Regulation 2000, the existing building must be brought into partial conformity with the Building Code of Australia in respect to the provisions of:
  - (a) Access and egress from the building - Section D.
  - (b) Fire safety services and equipment - Section E.

## State Environmental Planning Policies

### State Environmental Planning Policy No 64 – Advertising and Signage

9. The signage proposed as part of this application is not in accordance with the aims and objectives of the SEPP. The signage is not compatible with the desired amenity and visual character of the area, nor is the signage suitably located on the building.

Details of the shortcomings in the design and location of the proposed signage are included below in the signage assessment under the Kogarah DCP 2013.

The signage design is not supported and a condition of consent will be included to not include signage as part of this approval.

## Draft Environmental Planning Instruments

10. No Draft Environmental Planning instruments affect the proposed development.

## Development Control Plans

11. The proposed development is subject to the provisions of the Kogarah DCP 2013. The following comments are made with respect to the proposal satisfying the objectives and controls contained within the DCP.

## Development Control Plan - Compliance Table

12. The following table outlines the proposals compliance with the primary controls contained within the applicable Development Control Plan.

Performance Criteria	DCP Provisions	Proposal	Compliance/Comment
<b>2.4.2 Desired Future Character</b>			
<b>Land Uses</b>	Encourage civil, medical, retail and residential activities within the precinct	Indoor recreation facility (gym)	This use is compatible with the desired land uses in the area.
<b>3.9 Parking requirements</b>			
For commercial/retail development and other land uses	1 space per 40sqm for any floor space at ground level = 3spaces	4 spaces	(1) Yes
<b>4.11 Safety and Security</b>			
Increase perception of safety, maximise opportunities for overlooking of public spaces, contribute to lively, busy and active streets	Avoid blank walls facing streets and other public spaces	Signage obstructs all view from within the tenancy to the adjacent public space	(2) No – condition of consent will require appropriate redesign of advertising and glazing treatment on the front façade to allow for views from the proposal to the adjoining public space
<b>4.12 Outdoor Advertising</b>			
Ensure that signage does not detract from the character of the town centre	Compliments the desired future character of the area	No	(3) No – the application proposes signage and frontage treatment that entirely obscures the glazed frontage negating any view of the adjacent public open space. The signage proposed does not relate to the building façade, architectural design lines of the building or building character and requires significant amendment prior to any consideration for approval.
Ensure the opportunity for appropriate and equitable signage for the town centre	Considers urban design and traffic/pedestrian safety	No	
	Enhance the character of the building and not detract from the architectural style/features of the building	No	
	Scale and location of signage relates to the building and surrounds	No	Conditions of consent will require the redesign of signage to be in accordance with

	including the public domain		the requirements of this section of the DCP or to be in accordance with the exempt development requirements of SEPP (Exempt and Complying Development Codes) 2008.
	Relates to architectural design lines on the building façade	No	
	Conveys advertisers message while reducing visual complexity of the streetscape	Yes	
	Signage wording relates to the use of the premises	Yes	
	The painting of entire building facades and/or walls or their coverage with cladding and other materials to act as a large billboard type sign is prohibited	No	
	Following signs are not permitted – fin signs, projecting wall signs, above awning signs, flashing neon signs and billboards	No	

### (1) Vehicular access, Parking and Circulation

13. The DCP does not specifically identify indoor recreation facilities when referring to car parking requirements. Car parking for “Other uses” is specified to be provided at the rate of 1 space per 40sqm of gross floor area. This would equate to three (3) car parking spaces for the use.

However an assessment under the RMS Guide to Traffic Generating Developments suggests that three (3) car parking spaces per 100sqm of gross floor area should be provided for gyms.

Council's Traffic Engineer has specified that the minimum acceptable number of car parking spaces for the proposed use would be no less than four (4) parking spaces. The applicant has demonstrated that four (4) spaces are available to lease for the proposal. As such a condition of consent will require that the provision for four (4) parking spaces is available for the use.

## **(2) Safety and Security**

14. The proposed signage and opaque glazing treatment on the front doors and windows will totally obscure any view into the adjacent public space. This is a poor outcome for casual surveillance and public safety and is not supported. A condition of consent will require that the front doors and windows are a minimum of 50% transparent so as to allow view of the adjacent public space.

## **(3) Outdoor Advertising**

15. The design of the proposed signage both above and below the awning is not in accordance with the requirements of the DCP as follows:

- (1) Awning Fascia Sign – The awning fascia sign extends in excess of 1m above the 300mm fascia. This sign must be limited to the 300mm fascia height.
- (2) Wall mounted light box above the awning – Above awning signs are not permitted under the DCP and this sign will require deletion.
- (3) Front glazed wall and window signage – The entire existing glazed frontage including all sliding doors and fixed windows are to be covered by signage and colours which are not permitted under the DCP.

In order that the signage is provided in accordance with the future envisioned character of the area, the following condition is recommended:

No approval is expressed or implied for any signage at the site. A separate application shall be submitted to Council prior to the erection of any signage unless the proposed signage is 'exempt development' under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 or any other applicable environmental planning instrument.

## **IMPACTS**

### ***Natural Environment***

16. The proposal is unlikely to result in any unreasonable impact on the natural environment.

### ***Built Environment***

17. The proposed signage does not respond appropriately to the existing built environment in terms of the location and size of proposed signage. A condition of consent deleting any reference to signage in the consent will negate this issue.

### ***Social Impact***

18. The proposal is unlikely to result in any unreasonable social impact. A plan of management has been lodged in support of the application detailing how the proposal will operate so as not to result in any amenity impacts to adjoining neighbours.

### ***Economic Impact***

19. The proposal is unlikely to result in any unreasonable economic impact.

### ***Suitability of the Site***

20. The site is suitable for the proposed usage. The site is not suitable for the signage proposed, however a condition of consent to delete reference to any signage as part of the proposal will negate this issue.

## **SUBMISSIONS AND THE PUBLIC INTEREST**

21. The proposal was not required to be neighbour notified.

## **REFERRALS**

### **Council Referrals**

#### **Council's Environmental Health Officer**

22. Council's EHO has indicated that the proposal is satisfactory subject to conditions of consent relating to noise, lighting, neighbourhood amenity, ongoing use and food sales.

#### **Council's Senior Environmental Health and Building Surveyor**

23. Council's Senior Environmental Health and Building Surveyor has indicated that the proposal is satisfactory subject to conditions, including conditions relating to disabled sanitary provision and fire safety upgrades.

#### **Traffic Engineer**

24. Council's Traffic Engineer has indicated that the proposal is satisfactory subject to the provision of four (4) car parking spaces.

### **External**

25. External referrals were not required.

## **CONCLUSION**

26. 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 signage component of the proposal does not satisfy the requirements of SEPP 64 Advertising and Signage or the Kogarah DCP 2013. A condition of consent to delete any reference to signage forming part of the consent will be included to overcome this issue. Any future proposed signage can be provided in accordance with the exemption requirements for signage under the SEPP (Exempt and Complying Development Codes) 2008 or as part of a future development application.

On this basis it is considered that Development Application No DA2017/0366 should be approved subject to the conditions included below.

## **DETERMINATION AND STATEMENT OF REASONS**

27. THAT pursuant to Section 4.16(1) of the Environmental Planning and Assessment Act, 1979, as amended, the Council grants development consent to Development Application

DA2017/0366 for the change of use and fit-out to a recreation facility (indoor) - gym at Lots 46- 48, Section F, DP 1397 and is known as 2 Belgrave Street, Kogarah, subject to the following conditions of consent:

The reasons for this recommendation are the proposal satisfies the requirements of the relevant planning controls, with the exception of signage, which will not be included as part of the consent.

## 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. **DEV6.1 - 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 Ground and Mezzanine Level Plan	DA01	15 August 2017	-	-
Ground Floor Plan Mezzanine Plan	DA03	15 August 2017	-	-

2. **DEV6.4 - Signage** - No approval is expressed or implied for any signage at the site. A separate application shall be submitted to Council prior to the erection of any signage unless the proposed signage is 'exempt development' under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 or any other applicable environmental planning instrument.

#### 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.

3. **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.
4. **CC9.52 - Access for Persons with a Disability** - Access and sanitary facilities for persons with disabilities must be provided to proposed premises in accordance with the

Building Code of Australia, the Premises Standards and AS 1428. Details must be submitted with the Construction Certificate Application for approval.

5. **CC9.58 - Partial conformity with the BCA - Clause 93 and 94 EP& A Regulation 2000** - Pursuant to Clause [93 AND/OR 94] of the Environmental Planning and Assessment Regulation 2000, the existing building must be brought into partial conformity with the Building Code of Australia in respect to the provisions of:

(a) Access and egress from the building - Section D.

(b) Fire safety services and equipment - Section E.

In this regard, detailed construction plans and specifications that demonstrate compliance with the above requirements of the BCA must be submitted to the Certifying Authority with the Construction Certificate application for approval. Should there be any non-compliance, an alternative method of fire protection and structural capacity must be submitted, with all supporting documents prepared by a suitably qualified person.

**Note:** *Notwithstanding the above, the change of use of the building from (Class 5) Office to (Class 9b) Gymnasium requires compliance with the Building Code of Australia. Details of which must be submitted with the Construction Certificate Application.*

6. **CC9.68 - Acoustic Requirements - Compliance with submitted Acoustic Report** - The Construction Certificate plans shall demonstrate compliance with the Acoustic Report submitted and approved by Council, titled “*Environmental Noise Impact Assessment Proposed F45 Training Facility 2 Belgrave Street, Kogarah*” by DK Acoustics Pty Ltd (Ref: 171013) dated 16 November 2017.

An Acoustic Report shall be prepared by a suitably qualified acoustic consultant demonstrating that the operation of the premises and plant equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background LA90, 15 min noise level, measured in the absence of the noise sources under consideration by more than 5dB. The source noise level shall be assessed as an LAeq, 15 min in accordance with the NSW Environment Protection Authority’s NSW Industrial Noise Policy.

7. **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](http://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).

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

Fee Type	Fee
<b>GENERAL FEES</b>	
Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct to the Long Service Corporation. See <a href="https://portal.longservice.nsw.gov.au/bci/levy/">https://portal.longservice.nsw.gov.au/bci/levy/</a>	
Builders Damage Deposit	\$1,900.00
Inspection Fee for Refund of Damage Deposit	\$150.00

## 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.

8. **CC9.12 - Required design changes** - The following changes are required to be made and shown on the Construction Certificate plans:

Frontage treatment	The glazed frontage treatment is to be at least 50% transparent and allow view from the premises to the street and allow view from the street to the premises.
Parking	The site plan is to be amended to demonstrate the provision of 4 on-site car parking spaces with at-grade access to the front door of the premises.

## 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.

9. **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 or the change of use 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.

10. **OCC12.40 - Acoustic Compliance** - Prior to the issue of any Occupation Certificate, a report prepared by a suitably qualified acoustic consultant must be submitted to the PCA certifying that the construction has incorporated the recommendations in the DA Acoustic Report titled "*Environmental Noise Impact Assessment Proposed F45 Training Facility 2 Belgrave Street, Kogarah*" by *DK Acoustics Pty Ltd* (Ref: 171013) dated 16 November 2017.

## 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.



11. **ONG14.11 - Car Parking provision** - A minimum of four (4) car parking spaces are to be available on site for the proposed use. These car parking spaces are to be made available to both customers and staff.
12. **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).
13. **ONG14.14 - Final Acoustic Report - Verification of Noise report** - Within three months from the issue of an Occupation Certificate, an acoustic assessment is to be carried out by an appropriately qualified acoustic consultant, in accordance with the [EPA's Industrial Noise Policy www.epa.nsw.gov.au/resources/noise/ind\\_noise.pdf](http://www.epa.nsw.gov.au/resources/noise/ind_noise.pdf) and submitted to Council for consideration. This report should include but not be limited to, details verifying that the noise control measures as recommended in the acoustic report (submitted by Day Design Pty Ltd, titled "*Environmental Noise Impact Assessment Proposed F45 Training Facility 2 Belgrave Street, Kogarah*" by DK Acoustics Pty Ltd (Ref: 171013) dated 16 November 2017) are effective in attenuating noise to an acceptable noise level and that the use is not calculated to give rise to 'offensive noise' as defined under the provision of the [Protection of the Environment Operation Act 1997 www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au) (as amended).
14. **ONG14.26 - Lighting - General Nuisance** - Any lighting on the site shall be designed so as not to cause a nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill or glare.  
  
Flashing, moving or intermittent lights or signs are prohibited.
15. **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.
16. **ONG14.60 - Restricted Use** - Only food sold in the original manufacturer's packaging is allowed to be offered for sale. Sale of food is defined under section 5 of the Food Act 2003.
17. **ONG14.67 - Annual Fire Safety Statement** - The owner of the building premises must ensure the Council is given an annual fire safety statement in relation to each essential fire safety measure implemented in the building. The annual fire safety statement must be given:
  - (a) Within 12 months after the date on which the fire safety certificate was received.
  - (b) Subsequent annual fire safety statements are to be given within 12 months after the last such statement was given.
  - (c) An annual fire safety statement is to be given in or to the effect of Clause 181 of the Environmental Planning and Assessment Regulation 2000.
  - (d) A copy of the statement is to be given to the Commissioner of Fire & Rescue NSW, and a further copy is to be prominently displayed in the building.
18. **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.

### 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.

19. **ADV17.10 - Council as PCA - Compliance with the BCA** - Should the Council be appointed as the PCA, the Construction Certificate Application must be accompanied by the following details, with plans prepared and certified by an appropriately qualified person demonstrating compliance with the BCA:
- a) Access and egress from the building - Section D.
  - b) Fire safety services and equipment - Section E.
  - c) Access and sanitary facilities for persons with disabilities- Section F.

### 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 4.17 (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](http://www.legislation.nsw.gov.au).

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

20. **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.
21. **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](http://www.legislation.nsw.gov.au).

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

22. **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.

23. **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.

An **Information Pack** is attached for your convenience should you wish to appoint Georges River Council as the Principal Certifying Authority for your development.

24. **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.

25. **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.

A **Notice of Commencement Form** is attached for your convenience.

26. **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.

27. **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.

28. 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.

An **Occupation Certificate** Application Form is attached for your convenience.

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

## ATTACHMENTS

Attachment [↓](#) 1 Site Photo - 2 Belgrave Street Kogarah

Attachment [↓](#) 2 Site Plan and Floor Plan - 2 Belgrave Street Kogarah







<b>Plan Name</b>	Site and Location Plan
<b>Plan Number</b>	DA01
<b>Project</b>	Ground, 2 Belgrave Street, Kogarah
<b>Date</b>	15 August 2017

# REPORT TO GEORGES RIVER COUNCIL LPP MEETING OF THURSDAY, 15 MARCH 2018

<b>LPP Report No</b>	<b>LPP004-18</b>	<b>Application No</b>	<b>DA2017/0550</b>
<b>Site Address &amp; Ward Locality</b>	112-114 Blakesley Road South Hurstville Kogarah Bay Ward		
<b>Proposal</b>	Boundary Adjustment		
<b>Report Author/s</b>	Senior Planner		
<b>Owners</b>	A, M & J Mohamad		
<b>Applicant</b>	Cornerstone Design		
<b>Zoning</b>	R2 Low Density Residential		
<b>Date Of Lodgement</b>	9/11/2017		
<b>Submissions</b>	Not applicable		
<b>Cost of Works</b>	Nil		
<b>Reason for Referral to LPP</b>	The application includes a variation (>10%) to the minimum subdivision lot size development standard prescribed in Clause 4.1 of Kogarah Local Environmental Plan 2012		

<b>Recommendation</b>	That the application be refused for the reasons included in the report.
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<b>LPP Report No</b>	<b>LPP004-18</b>	<b>Development Application No</b>	<b>DA2017/0550</b>
<b>Site Address &amp; Ward Locality</b>	112-114 Blakesley Road, South Hurstville Blakehurst Ward		
<b>Proposed Development</b>	Boundary Adjustment		
<b>Owner</b>	A, M & J Mohamad		
<b>Applicant</b>	Cornerstone Design		
<b>Planner/Architect</b>	GNA Planning		
<b>Date of Lodgement</b>	9 November 2017		
<b>Submissions</b>	N/A		
<b>Cost of Works</b>	Nil		
<b>Local Planning Panel Criteria</b>	The application includes a variation (>10%) to the minimum subdivision lot size development standard prescribed in clause 4.1 of Kogarah Local Environmental Plan 2012.		
<b>List of all relevant s4.15 matters (formerly s79C(1)(a))</b>	<ul style="list-style-type: none"> <li>• Kogarah Local Environmental Plan 2012</li> <li>• Kogarah Development Control Plan 2013</li> </ul>		
<b>List all documents submitted with this report for the Panel's consideration</b>	Statement of Environmental Effects Clause 4.6 Variation Request Boundary Realignment Plan		
<b>Report prepared by</b>	Senior Development Assessment Officer		
<b>Recommendation</b>	THAT the application be refused for the reasons included in this report		

<b>Summary of matters for consideration under Section 4.15</b> Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	<b>Yes</b>
<b>Legislative clauses requiring consent authority satisfaction</b> Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report?	<b>Yes</b>
<b>Clause 4.6 Exceptions to development standards</b> If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	<b>Yes - clause 4.1 minimum subdivision lot size</b>
<b>Special Infrastructure Contributions</b> Does the DA require Special Infrastructure Contributions conditions (under s7.24)?	<b>Not Applicable</b>
<b>Conditions</b> Have draft conditions been provided to the applicant for comment?	<b>Not Applicable</b>

### Site Plan



### Executive Summary Proposal

1. Development consent is sought for the subdivision (by way of a boundary adjustment) of the two (2) lots comprising properties 112 and 114 Blakesley Road, South Hurstville.
2. The common boundary between the lots is to be relocated by a distance of 135mm such that the larger of the lots will be 13.85m in width and 650sqm in area, making it compliant



with the relevant lot size standard in the event of its future development for dual occupancy. The smaller lot will be 9.925m in width and 465.9sqm in area.

### Site and Locality

3. The subject site comprises of two (2) properties, legally described as Lot B in Deposited Plan 315352 and Lot 243 in Deposited Plan 1999 and commonly known as 112 and 114 Blakesley Road, South Hurstville respectively. These properties have areas of 643.8sqm and 472.2sqm respectively and lot widths of 13.715m and 10.06m respectively.
4. The subject properties are located off the south eastern side of Blakesley Road, between King Georges Road and Woniora Road. Each property is occupied by a modest single storey dwelling of older housing stock. The landform of the site falls gently in an easterly direction. It is devoid of any major tree canopy, apart from some small trees in its western corner adjacent to the street frontage.
5. Immediately to the south west, north east and south east and across the road to the north west are dwelling houses. The wider locality is characterised predominantly by dwelling houses and the occasional small-scale villa home/townhouse complex.

### Zoning and Permissibility

6. The site is zoned as R2 Low Density Residential under Kogarah Local Environmental Plan 2012. The proposal is permissible with consent and not inconsistent with the objectives of the residential zone.
7. However, the proposal does not comply with the minimum subdivision lot size standard as prescribed in clause 4.1 and is inconsistent with the objectives of this standard. Further, the applicant's written request seeking to justify the contravention of the above development standard is not adequate in terms of demonstrating that the threshold tests in clause 4.6 are satisfied.



*Extract from Zoning Map*

### Development Control Plan

8. Kogarah Development Control Plan 2013 applies to the subject site. There are no objectives or controls therein that relate specifically to subdivision of land.

### **Submissions**

9. The application was not required to be publicly notified in accordance with the development control plan.

### **Level of Determination**

10. The application is referred to the LPP for determination in view of the variation sought to the minimum subdivision lot size development standard as prescribed in clause 4.1 of Kogarah Local Environmental Plan 2012 and its extent being greater than 10%.

### **Conclusion**

11. Having regard to the heads of consideration under Section 4.15(1) of the Environmental Planning and Assessment Act 1979 and following a detailed assessment of the proposal, Development Application No. 2017/0550 should be refused as it does not comply with the development standard and objectives for minimum subdivision lot size as prescribed in Clause 4.1 of Kogarah Local Environmental Plan 2012 and is not in the public interest and is likely to set an undesirable precedent.

### **Report in Full**

#### **DESCRIPTION OF THE PROPOSAL**

12. Development consent is sought for the subdivision (by way of a boundary adjustment) of the two (2) lots comprising properties 112 and 114 Blakesley Road, South Hurstville.
13. The common boundary between the lots is to be relocated by a distance of 135mm such that the larger of the lots will be 13.85m in width and 650sqm in area, making it compliant with the relevant lot size standard in the event of its future development for dual occupancy. The smaller lot will be 9.925m in width and 465.9sqm in area.

#### **HISTORY**

14. A history of the proposal is provided as follows:
  - 7 August 2017 – A development application (DA No. 94/2017) for demolition of the existing dwellings, a boundary adjustment and construction of an attached dual occupancy and dwelling house on the respective new lots was refused by Council on the grounds that it did not comply with the development standard and objectives of clause 4.1 relating to minimum subdivision lot size as prescribed in Kogarah Local Environmental Plan 2012 and the side boundary setback and car parking provisions as prescribed in Kogarah Development Control Plan 2012 and was likely to have adverse impacts on the immediate locality in terms of visual bulk, daylight access and natural ventilation.
  - 9 November 2017 – The current development application (the subject of this report) was submitted to Council.
  - 14 November 2017 – The applicant was formally advised of deficiencies in the application to enable its full and proper assessment, namely the absence of a written

request for the proposed variation to the minimum subdivision lot size development standard as prescribed in clause 4.1 of Kogarah Local Environmental Plan 2012.

- 15 November 2017 – The above requested information was submitted to Council.
- 12 February 2018 – The applicant was formally advised of Council's position and to withdraw the application. In response, the applicant requested that the application be referred to the LPP for determination.

## **DESCRIPTION OF THE SITE AND LOCALITY**

15. The subject site comprises of two (2) properties, legally described as Lot B in Deposited Plan 315352 and Lot 243 in Deposited Plan 1999 and commonly known as 112 and 114 Blakesley Road, South Hurstville respectively. These properties have areas of 643.8sqm and 472.2sqm respectively and lot widths of 13.715m and 10.06m respectively.
16. The subject properties are located off the south eastern side of Blakesley Road, between King Georges Road and Woniora Road. Each property is occupied by a modest single storey dwelling of older housing stock. The landform of the site falls gently in an easterly direction. It is devoid of any major tree canopy, apart from some small trees in its western corner adjacent to the street frontage.
17. Immediately to the south west, north east and south east and across the road to the northwest are dwelling houses. The wider locality is characterised predominantly by dwelling houses and the occasional small-scale villa home/townhouse complex.



*The subject site as viewed from Blakesley Road*

## **ZONING**

18. The site is zoned as R2 Low Density Residential under Kogarah Local Environmental Plan 2012.



*Extract from Zoning Map*

### **APPLICABLE PLANNING CONTROLS**

- Kogarah Local Environmental Plan 2012
- Kogarah Development Control Plan 2013

### **PLANNING ASSESSMENT**

The site has been inspected and the proposed development has been assessed under the relevant Section 4.15(1) "Matters for Consideration" of the Environmental Planning and Assessment Act 1979.

### **Environmental Planning Instruments**

#### **Kogarah Local Environmental Plan 2012**

19. Kogarah Local Environmental Plan 2012 applies to the subject site. The provisions of this local environmental plan are addressed as follows.

#### **Clause 2.1 – Land Use Zones**

20. The site is zoned as R2 Low Density Residential. The proposal is not inconsistent with the zone objectives.

#### **Clause 2.6 – Subdivision – Consent Requirements**

21. This clause allows the subdivision of the land with development consent.

#### **Clause 4.1 – Minimum Subdivision Lot Size**

22. A minimum lot size of 550sqm is prescribed for subdivision of the site. The common boundary between the two (2) lots comprising the site is to be relocated by a distance of 135mm, such that the smaller of the lots is reduced in width from 10.06m to 9.925m and reduced in area from 472.2sqm to 465.9sqm. As a result, the smaller of the lots will be



deficient in area by 15.3% when compared to the prescribed minimum 550sqm lot size. The smaller of the lots is currently deficient in area by a slightly lesser proportion of 14.1%.

#### Clause 5.10 – Heritage Conservation

The site is not listed as a heritage item in schedule 5 or located in a heritage conservation area, nor are there any heritage items located nearby.

#### Clause 6.1 – Acid Sulfate Soils

The site is not identified as any particular class of acid sulfate soils (ASS) on the ASS map.

#### Clause 6.3 – Flood Planning

The site is identified as being within a flood planning area (FPA) on the FPA map. Council's development assessment team engineers have reviewed the proposal and raise no issues in this respect.

#### **Clause 4.6 Variations**

23. The applicant has lodged a written request that seeks to justify the contravention of the minimum subdivision lot size development standard.
24. The critical elements of the applicant's written request are reproduced as follows:

##### **Clause 4.6(3)**

*In accordance with the provisions of this clause, it is considered that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.*

*Land and Environment Court cases dealing with applications to vary development standards resulted in the Court setting out a 'five part test' for consent authorities to consider when assessing an application to vary a standard and to determine whether the objection to the development standard is well founded and compliance is unreasonable or unnecessary. Below is an assessment of the matters in the 'five part test'.*

##### **Five Part Test**

1. *The objectives of the standard are achieved notwithstanding non-compliance with the standard.*

##### Comment

*The Objectives of Clause 4.1 for the minimum lot size development standard are as follows:*

- (a) To promote the efficient use of land*
- (b) To ensure that subdivision does not prevent the orderly development of land*
- (c) To require adequate street frontages and dimensions for standard and battle-axe lots*
- (d) To ensure that the intensity of development is appropriate to the lands environmental capability.*

*Notwithstanding the proposed shortfall in the site area, the proposed development is consistent with the objectives for minimum lot size. The reduction in site area of 6.3sqm*

*or 135mm site width will not be evident from the street, and the proposed development will be consistent with the size of many adjoining sites, particularly those on the opposite side of Blakesley Road.*

*The proposal demonstrates that despite the shortfall in site area, the site can readily accommodate the existing dwelling and comply with all DCP controls and the future development of the land is still achievable and will be able to accommodate a dwelling of high quality design with good levels of amenity. The proposal will promote the efficient use of land by allowing a dual occupancy on the adjoining lot and will ensure that the subdivision does not prevent and will in fact promote the orderly development of land.*

*Notwithstanding the reduced lot size for subdivision, the proposal achieves an appropriate site dimension and width which meets all other density controls for the R2 zone in relation to floor space ratio, building height and setbacks for the existing dwelling and any future dwelling can meet these controls. The subdivision will result in a lot that is capable of being consistent with the existing and future desired character of the neighbourhood.*

- 2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is not necessary.*

*Comment*

*The purpose of the standard is still considered to be relevant to the development however 100% compliance with the standard in this circumstance is not considered necessary or reasonable as the variation sought is so minor as not to undermine the underlying objective.*

- 3. The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.*

*Comment*

*The underlying purpose of the standard is to promote the efficient use of land in a balanced manner within a locality on appropriately scaled existing residential allotments. Compliance with the standard would therefore frustrate provisions of additional housing choice in the locality despite the lot size and dimensions being capable of supporting an appropriately scaled and designed development. 100% compliance is therefore considered unreasonable as the variation is acceptable based on merit. The objectives of the standards, as outlined above, will still be achieved despite the variations.*

- 4. The development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.*

*Comment*

*Council has not abandoned this development standard by granting significant variations that would derogate from and undermine the objective of the development standard. Having regard to the very minor variation that is sought with this proposal, being approximately 1.2% to the existing site area or 15.3% to the development standard, it is considered that compliance with the standard would be unnecessary and unreasonable in this instance.*

5. *The compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.*

*Comment*

*The current use and character of the land is of a low density residential nature and the ongoing use for residential purposes is appropriate and can be readily facilitated, including consistency with the potential for balanced additional growth in housing in the locality through the provision of additional dwellings through the potential dual occupancy development on the adjoining site which will be of an appropriate scale.*

*To frustrate reasonable development of this site and that adjoining at No.112 Blakesley Rd by compelling compliance with the development standard is considered unreasonable and inappropriate.*

*In summary it is considered that there are sufficient environmental planning grounds to justify contravening the minimum lot size development in this particular instance.*

25. Upon review, it is considered that the written request does not adequately demonstrate that compliance with the minimum subdivision lot size development standard is unreasonable and unnecessary in the circumstances of the case and there are sufficient environmental planning grounds to justify contravening the standard.
26. Contrary to the applicant's assertions, it is considered that the proposal is not consistent with the objectives of the minimum subdivision lot size standard. The proposed subdivision does not promote the efficient use of the land and moreover prevents its orderly development. This position is elaborated upon below.
27. Whilst it is accepted that the proposed smaller lot can accommodate the existing dwelling, there is little certainty in the information submitted that it can accommodate a new dwelling of a size and character anticipated for the neighbourhood whilst at the same time avoiding unreasonable impacts on neighbourhood amenity. No detailed information (such as concept drawings of likely future built forms) has been submitted to support the argument that the proposed smaller lot can readily accommodate a reasonable sized contemporary dwelling, notwithstanding its substantially deficient size and constrained width.
28. Contrary to the applicant's assertions, it is considered that the objectives of the minimum subdivision lot size standard would not be defeated or thwarted if compliance was required. A proposed subdivision that complied with the minimum lot size standard would result in both lots being of more practical dimensions and more readily capable of accommodating new dwelling houses of the size and character anticipated for the locality. This would further the objectives of the standard by promoting the efficient use of the land and ensuring that the orderly development of the land is not prevented. Further, there is no shortage of suitably sized land in the immediate locality of the site that could accommodate dual occupancy development and thus contribute to housing choice.
29. It is also considered that the proposal will not be in the public interest because it is not consistent with the objectives of the minimum subdivision lot size development standard and is likely to set an undesirable precedent.
30. The objectives of the particular standard are as follows:
  - (a) *to promote the efficient use of land,*

- (b) to ensure that subdivision does not prevent the orderly development of land,
- (c) to require adequate street frontages and dimensions for standard and battle-axe lots,
- (d) to ensure that the intensity of development is appropriate to the land's environmental capability.

31. The proposed subdivision does not promote the efficient use of the land and moreover prevents its orderly development, by virtue of the enlargement of the area/dimensions of the larger lot at the expense of the area/dimensions of the already substantially deficient smaller lot. Further, the smaller lot will be inconsistent with the prevailing subdivision pattern, in that it will be smaller and narrower than any other Torrens title lot nearby in the surrounding street including those older lots that were created when the original estate was established in the late 1800's. For the purposes of comparison, those lots across the road from the site encompassing 71-85 Blakesley Road are the same size and width as the existing lot encompassing 114 Blakesley Road (refer to map below).



*Existing Subdivision Pattern in the Vicinity of the Site*

32. The proposed subdivision does not achieve a better outcome in environmental planning terms. A proposed subdivision that complied with the minimum subdivision lot size standard would result in both lots being of more practical dimensions and more readily capable of accommodating new dwelling houses of the size and character anticipated for the locality.

### **Environmental Planning and Assessment Regulations 2000**

33. Not applicable.



**State Environmental Planning Policies**

34. Not applicable.

**Draft Environmental Planning Instruments**

35. There are no exhibited draft environmental planning instruments applicable to this site.

**Development Control Plans**

36. Kogarah Development Control Plan 2013 applies to the subject site. There are no objectives or controls therein that relate specifically to subdivision of land.

**Section 7.11/7.12 Contributions/Levies**

37. Not applicable.

**IMPACTS**

The focus of this section is to ensure that the Panel have a full understanding of the development and its impacts to allow a determination.

**Environmental, Social and Economic Impacts**

The proposal will not result in any unreasonable or adverse impacts in these respects.

**Suitability of the site**

38. The site is not subject to any major environmental or man-made constraints, apart from a potential flood hazard risk. No issues are raised by council's development assessment team engineers in this respect.

**SUBMISSIONS AND THE PUBLIC INTEREST**

39. The application was not required to be publicly notified in accordance with the development control plan.

40. The proposal is not in the public interest and is likely to set an undesirable precedent. The smaller of the existing lots is already substantially deficient in size when compared to the prescribed minimum subdivision lot size and will become even smaller, to the extent that it will be smaller than any other Torrens title lot nearby in the surrounding street.

**REFERRALS**

41. Development Engineer – Council's Development Engineer has reviewed the proposal and the relevant flood planning controls and raises no issues subject to the imposition of suitable conditions of consent in the event of its approval.

**CONCLUSION**

42. Development consent is sought for the subdivision (by way of a boundary adjustment) of the two (2) lots comprising properties 112 and 114 Blakesley Road, South Hurstville.

43. The site is zoned as R2 Low Density Residential under Kogarah Local Environmental Plan 2012. The proposal is permissible with consent and not inconsistent with the objectives of the residential zone. However, the proposal does not comply with the minimum subdivision lot size standard as prescribed in clause 4.1 and is inconsistent with the objectives of this standard. Further, the applicant's written request seeking to justify the contravention of the above development standard is not adequate in terms of demonstrating that the threshold tests in clause 4.6 are satisfied.

44. Following a detailed assessment of the proposal and having regard to the relevant heads of consideration under Section 4.15(1) of the Environmental Planning and Assessment Act, it is concluded that the application is not acceptable on its merits and should be refused as it does not comply with the development standard and objectives for minimum subdivision lot size as prescribed in Clause 4.1 of Kogarah Local Environmental Plan 2012 and is not in the public interest and is likely to set an undesirable precedent.

### **DETERMINATION AND STATEMENT OF REASONS**

THAT pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act 1979, as amended, the Council refuses development consent to Development Application DA2017/0550 for the boundary adjustment on Lot B in Deposited Plan 315352 and Lot 243 in Deposited Plan 1999 known as 112 and 114 Blakesley Road, South Hurstville, for the following reasons:

1. **Refusal Reason - Environmental Planning Instrument** – Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the relevant environmental planning instruments, in terms of the development standard and objectives for minimum subdivision lot size as prescribed in Clause 4.1 of Kogarah Local Environmental Plan 2012.
2. **Refusal Reason - Public interest** – Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not considered to be in the public interest and is likely to set an undesirable precedent.

### **ATTACHMENTS**

Attachment [1](#) Boundary Realignment - 112-114 Blakesley Rd South Hurstville

