

AGENDA - LPP

Meeting:	Georges River Local Planning Panel (LPP)
Date:	Thursday, 19 July 2018
Time:	4.00pm
Venue:	Dragon Room, Georges River Civic Centre, corner MacMahon and Dora Streets, Hurstville
Panel Members:	Paul Vergotis (Chairperson) Michael Leavey (Expert Panel Member) Juliet Grant (Expert Panel Member) Erin Sellers (Community Representative)
Council Staff:	Meryl Bishop (Director Environment and Planning) Ryan Cole (Manager Development and Building) Cathy McMahon (Manager Strategic Planning) Cathy Mercer (Team Leader DA Administration)

1. On Site Inspections - 1.00pm – 3.30pm

- a) 53 Forest Road, 9 Roberts Lane and 108 Durham Hurstville
- b) 44 Harris Street Sans Souci
- c) 705 Forest Road Peakhurst
- d) 8-12 Oatley Avenue Oatley

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

- LPP026-18 44 Harris Street Sans Souci – DA2017/0345**
(Report by Development Assessment Planner)
- LPP027-18 8-12 Oatley Avenue Oatley – DA2017/0612**
(Report by Independent Assessment)
- LPP028-18 705 Forest Road Peakhurst – DA2018/0062**
(Report by Independent Assessment)
- LPP029-18 53 Forest Road, 9 Roberts Lane and 108 Durham Street Hurstville –
PP2018/0002**
(Report by Strategic Planner)

4. Confirmation of Minutes by Chair

REPORT TO GEORGES RIVER COUNCIL LPP MEETING OF THURSDAY, 19 JULY 2018

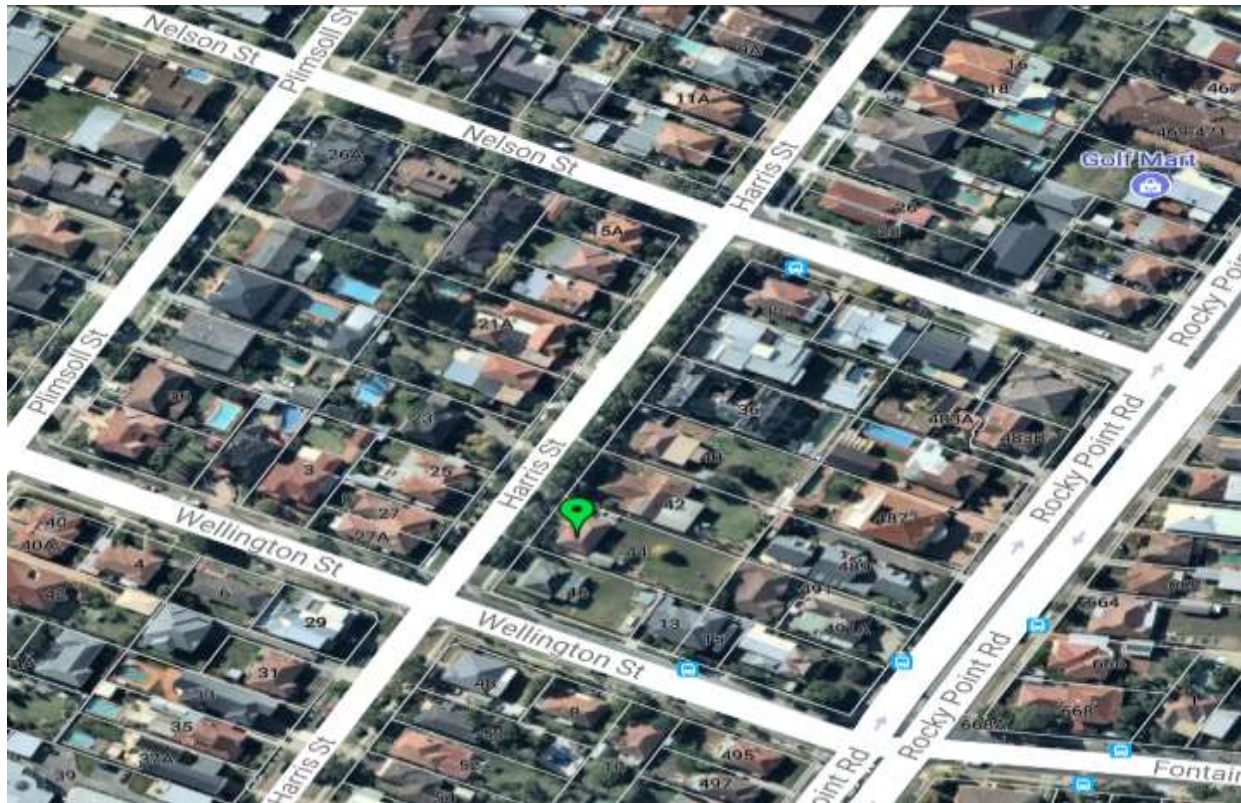
LPP Report No	LPP026-18	Development Application No	DA2017/0345
Site Address & Ward Locality	44 Harris Street Sans Souci Kogarah Bay Ward		
Proposed Development	Construction of two storey attached dual occupancy with basement parking, cabana and landscaping		
Owners	Zoran and Ourania Nikolovski		
Applicant	DA House		
Planner/Architect	DA House		
Date Of Lodgement	21/08/2017		
Submissions	One (1)		
Cost of Works	\$1,250,000.00		
Local Planning Panel Criteria	Non compliance with floor space ratio (FSR) control under Kogarah LEP 2012. The proposal exceeds the maximum FSR permitted (0.44:1) by 106.13sqm or 23.8%		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, Greater Metropolitan Regional Environmental Plan No 2 - Georges River Catchment, Kogarah Local Environmental Plan 2012, Kogarah Development Control Plan 2013		
List all documents submitted with this report for the Panel's consideration	Architectural Plans Landscape plan Statement of Environmental Effects Stormwater plans, BASIX		
Report prepared by	Development Assessment Planner		

Recommendation	THAT the application be refused in accordance with the reasons included in the report.
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Summary of matters for consideration under Section 4.15 Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	Yes
Legislative clauses requiring consent authority satisfaction 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?	Yes
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it	Yes - FSR

been attached to the assessment report?	
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (under s7.24)?	Not Applicable
Conditions Have draft conditions been provided to the applicant for comment?	No, as the recommendation is for refusal

Site Plan



Executive Summary

1. The proposal seeks approval for the demolition of existing structures, and construction of an attached dual occupancy development, stormwater system and landscaping. The dwellings contain living rooms and a guest bedroom on the ground floor. The first floor contains 4 bedrooms and a void. The basement garages, which contain one parking space for each dwelling, are accessed from a shared driveway off Harris Street. Dwelling 1 has a pool to the rear. The proposal also includes cabanas and alfresco areas in the rear yard. The external materials include a variety of materials and complementary colours.
2. The major issue of concern with this application is non-compliance with the floor space ratio (FSR) controls in Kogarah LEP (KLEP) 2012. Using the current controls under KLEP 2012, the maximum FSR for this site is 0.44:1. The latest amended plans propose a FSR of 0.54:1 (551sqm), which exceeds the maximum FSR allowed at this site by some 106.13sqm or 23.8%.
3. It is considered that the variation to the FSR control (of 23.8%) should not be supported in this case, because the proposal will result in a building that has a bulk and scale

significantly larger than the existing and desired future character of the location, and significantly larger than surrounding development.

4. In addition, Council's Drainage Engineer has advised that the proposal is not satisfactory in terms of the proposed arrangements for stormwater disposal. Although these matters could be resolved through amendments to the drainage design, such amendments have not been pursued given that the fundamental issue of FSR non-compliance has not been resolved.
5. In view of the above, the application is recommended for refusal.

Proposal

6. The proposal seeks approval for the demolition of existing structures, and construction of an attached dual occupancy development, stormwater system and landscaping.
7. The dwellings contain living rooms and a guest bedroom on the ground floor. The first floor contains 4 bedrooms and a void.
8. The basement garages, which contain one parking space for each dwelling, are accessed from a shared driveway off Harris Street. The bin storage areas are located on the basement level.
9. Dwelling 1 has a pool to the rear. The proposal also includes cabanas and alfresco areas in the rear yard.
10. The external materials include a variety of materials and complementary colours.
11. The development will require the removal of a tree located near the centre of the site and a street tree located in front of the site. A landscape plan has been submitted showing lawn areas at the front and rear of the site, paving along the outer side of the dwellings, new planting, fencing and details of the cabanas including a gym and wc.
12. The stormwater from the site will be collected into rainwater tanks and pits onsite.

Site and Locality

13. The subject site is Lot 9, Section 2, DP 975493 and known as 44 Harris Street Sans Souci, situated between Nelson Street and Wellington Street. The site currently contains a single storey fibro cottage and shed (Refer Photo 1 below). The existing driveway is located near the western corner of the site.
14. The site has an area of 1018sqm, a width of 20.115m and a depth of 50.595m. The land slopes to the rear of the site by about 4.9%. There are three (3) street trees located in front of the property and one tree near the centre of the site.



Photo 1: 44 Harris Street Sans Souci

15. The surrounding area is residential.

Background

16. The Development Application was lodged on 21 August 2017.

17. On 24 August 2017 Council requested further information in particular design changes to comply with the maximum floor space ratio requirement of 0.44:1. Other design changes and additional information requested by Council related to the following:

- Arborist report required
- Clause 4.6 request for variation regarding height non-compliance – however it was advised that Council would prefer the proposal to comply with the 9m height limit
- Height verification statement
- Quantity surveyor's report
- Floor space ratio non-compliance – particularly that the 0.6:1 FSR in the LEP maps is an error and the proposal would be required to comply with the maximum 0.44:1 as per clause 4.4A(2)
- Bulk and scale needs to be reduced as evidenced by non-compliant height and FSR
- Front setbacks
- Basement – extent of excavation
- Driveway width
- Rooftop terrace not supported and should be deleted
- Extent of outbuildings.

18. On 18 October 2017 the applicant provided amended drawings including reducing the driveway width and removing the roof terrace resulting in height compliance and reduced bulk. However, the applicant had not amended the proposal to address the FSR which is significantly non-compliant with KLEP 2012.

19. The DA was notified between 22 November 2017 to 6 December 2017. One (1) submission was received in relation to this notification process.
20. On 12 December 2017 further information was requested including FSR, excessive excavation for the basement, setbacks of the cabanas, setbacks of the first floor balconies, deletion of undercroft areas and storage area, and stormwater system to an easement or absorption system.
21. On 20 March 2018 Council advised the applicant that the Kogarah LEP was amended to correct the error regarding FSR (as previously discussed in the Summary to this report). The FSR for the site is now as per clause 4.4A(2), which is 0.44:1.
22. On 4 May 2018 amended drawings were received including a reduction of floor space in the basement. However, the FSR remains non-compliant at 0.54:1 (551m²), which exceeds the maximum allowed under 0.44:1 by some 106.13m² or 23.8%.
23. The DA was re-notified between 21 May 2018 to 4 June 2018. No further submissions were received from this re-notification process.

Zoning and Permissibility

24. The subject site is zoned R2 Low Density Residential in accordance with the Kogarah Local Environmental Plan 2012. Refer to zoning map extract below:

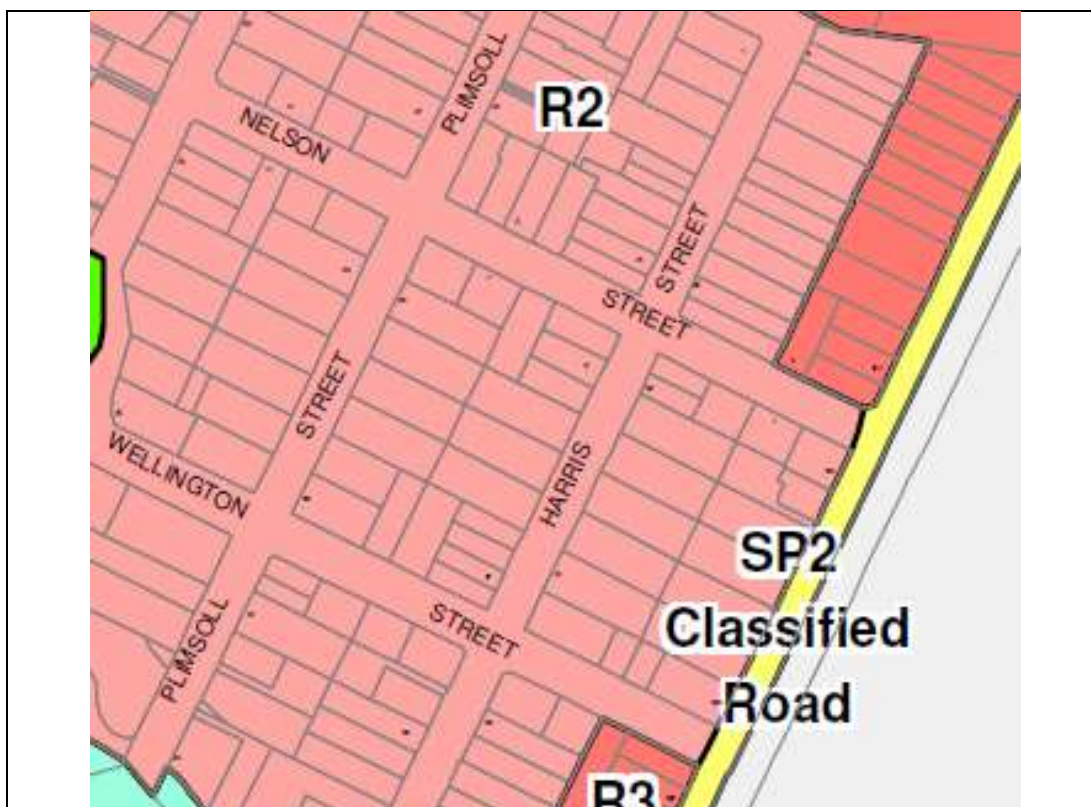


Figure 2: Zoning map extract

Applicable Planning Controls

- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017
- Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment
- Kogarah Local Environmental Plan 2012

- Kogarah Development Control Plan

Planning Assessment

25. 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

26. The subject site is subject to the Kogarah Local Environmental Plan 2012.

Part 2 – Permitted or Prohibited Development

Clause 2.1 – Land Use Zones

27. The subject site is zoned R2 – Low Density Residential and the proposal is a permissible form of development with Council's consent.

Part 4 – Principal Development Standards

Applicable LEP Clause	Standard	Proposed	Complies
4.1B Minimum Lot sizes for Dual Occupancies	650sqm	1018sqm	Yes
4.3 Height of Buildings	9m	8.2m	Yes
4.4 Floor Space Ratio	0.55:1	0.54:1 or 551sqm (applicant's calculation)	Yes
4.4A Exceptions to FSR for Residential Accommodation in R2	0.44:1 or 444.866sqm	As above, 551sqm. Exceeds by 106.13sqm or 23.8%.	No Refer discussion below

Floor Space Ratio

28. The major issue of concern with this application is non-compliance with the floor space ratio (FSR) controls in Kogarah LEP (KLEP) 2012. Using the current controls under KLEP 2012, the maximum FSR for this site is 0.44:1. The latest amended plans propose a FSR of 0.54:1 (551sqm), which exceeds the maximum FSR allowed at this site by some 106.13sqm or 23.8%.

29. The non-compliance stems from a discrepancy between the FSR prescribed in clause 4.4A(2) and the allowable FSR shown on the maps accompanying clause 4.4A(3) under KLEP 2012, at the time when the DA was lodged. Specifically:

- Clause 4.4A(2) prescribes a maximum FSR of 0.44:1 for this site;
- Clause 4.4A(3) (**previously**) stated that the maximum FSR for residential accommodation on land identified as "Area 1" on the FSR Map is not to exceed 0.6:1.

30. The major reason for this discrepancy was an error made by the Department of Planning in making the FSR maps referenced in Clause 4.4A(3) of KLEP 2012 at the time when the DA was lodged. At the time, the Map incorrectly marked the subject site as being within "Area 1". The intent was to identify a very small area (in Allawah) as "Area 1", however due to this error, most of the Residential areas under KLEP 2012 were incorrectly shown to be within "Area 1".

31. It should be noted that this error has now been corrected (with an amendment to KLEP 2012 gazetted on 2 March 2018), and now the FSR prescribed for “Area 1” no longer applies to the subject site. There is no “savings” provision relating to Clause 4.4A, and so development proposals need to comply with the current FSR which is a maximum 0.44:1 at this site. As mentioned, the proposal exceeds the maximum FSR allowed at this site by some 106.13sqm or 23.8%.
32. The applicant has been advised of this error on the FSR maps throughout the processing of this DA, and also advised that the FSR non-compliance could not be supported. Specifically, emails were sent to the applicant on 24 August 2017 and 12 December 2017; and also there was a meeting between the applicant and the (former) Manager Development & Building to discuss this issue on 17 April 2018.
33. Although the applicant has made some amendments to reduce the FSR – notably a reduction in gross floor area from 604.2m² in the original plans to 551sqm in the latest amendments – the applicant is not willing to undertake the significant reduction to FSR that would be required to ensure compliance with the FSR control.

Clause 4.6 Exception to Development Standards

34. The applicant has submitted a written request for a contravention to a development standard as per clause 4.6 of the LEP (attached). While the reasons provided are not supported, the applicant has provided justifications on environmental grounds and reasons why application of the development standard is unreasonable and unnecessary in this case, as summarised below:
 - The application was lodged on 21 August 2017 prior to the LEP was amended on 2 March 2018.
 - The proposal seeks an additional 64.8sqm or 14.5% variation in FSR (**NOTE:** this is incorrect, according to the applicant's calculations, the proposed FSR exceeds by 106.13sqm or 23.8%).
 - The proposed variation is consistent with the objectives of the floor space ratio development standard in terms of built form and amenity.
 - The proposal is consistent with the objectives of the R2 Low Density Residential Zone as it provides housing for the community.
 - The proposal is consistent with State and regional policies as it achieves a high quality outcome, does not compromise the desired future character, and is consistent with relevant policies.
 - The proposal will result in a better planning outcome; one dwelling is smaller than the other, the DA has already been revised to remove 93sqm of floor space in the basement, complies with landscaping controls, only 12sqm in the basement is included in floor space, and the proposal is a better outcome than the approved dwelling for the site.
 - The variation is justified on environmental grounds; unreasonable amenity impacts are mitigated, external landscaping and living areas are not compromised, the proposal will not significantly impact the public domain, and the proposal is consistent with the existing and desired built form of the area.
 - The proposal is in the public interest as it will provide a superior amount of amenity for future residents, without compromising the amenity or character of the surrounding area.

35. In addition the applicant has provided the following reasons as to why the development standard is considered to be unreasonable and unnecessary in this case:
- the proposal is still consistent and compatible with the character of the area,
 - the proposal does not cause any significant impact on the amenity of the site or adjoining properties,
 - the size, orientation and location of the site means that it is capable of containing more floor space to benefit the amenity of future residents,
 - the proposed FSR is the most suitable outcome in terms of built form, streetscape, amenity and viability,
 - despite the correction to the LEP, the proposed FSR is still appropriate for the abovementioned reasons.
36. However it is considered that the proposed development is not in the public interest because it is inconsistent with the objectives of the development standard for FSR, and the objectives for development within the R2 zone, which are as follows:
- *to ensure that the bulk and scale of development are compatible with the size of the lot*
 - *to promote good residential amenity*
 - *to provide for the housing needs of the community within a low density residential environment*
37. More specifically, the proposal does not meet the objectives of the development standard and the objectives of the zone for the following reasons:
- The applicant has failed to demonstrate that stormwater from the development site can be adequately managed. It is possible that the additional bulk contributes to an unacceptable amount of built upon area, and an amended stormwater design will require design changes to the built form.
 - The applicant has failed to demonstrate that the overshadowing of the property to the south is acceptable, as no elevational shadow diagrams have been provided, which means that the impact on amenity of the property to the south is unacceptable.
 - The proposed rear and front balconies are not setback 3m from the side boundaries which means that there will be an unacceptable privacy impact on adjoining properties.
 - The proposal does not comply with various requirements of the KDCP, that is ceiling height, parapet height, height of the basement above ground, and the front façade is not adequately articulated, which all contribute to excessive bulk.
 - While the proposal is for a dual occupancy development to provide for the housing needs for the community, it is considered that 4 bedrooms plus a guest bedroom in each dwelling is excessive.
38. As a general comment, it is noted that the situation regarding the FSR (ie the error in the previous LEP maps) has also affected a number of other dual occupancy proposals under KLEP 2012. However, other applicants have amended their proposal to comply (when they have been alerted of the error in the LEP maps). Therefore, this current proposal for such a significant (23.8%) non-compliance to the FSR control would be manifestly inconsistent with recent planning decisions, as well as producing a development significantly larger than envisaged under the FSR control in KLEP 2012. The development should not be supported for these reasons.

Part 5 – Miscellaneous Provisions

39. Heritage items 489 and 493 Rocky Point Road Sans Souci are located to the south east and north east of the subject site. The DA was referred to Council Heritage Advisor who stated the following:

- *There is no objection to the demolition of the Inter-War Period dwelling.*
- *The proposed development will have no impact on the setting of either heritage item located in Rocky Point Road. The primary view to these heritage items is from Rocky Point Road. The proposed development will not within the same visual catchment as the heritage items.*
- *With respect to view impacts, the former stables (Item 153) which has been adapted to a dwelling is located near the rear boundary and currently overlooks the rear of dwellings located in Harris Street. The proposed development will not change the current relationship noted above, and will not obscure any significant distant views of the area from the heritage item. There are no views to the development site from the Late Victorian dwelling located at 493 Rocky Point Road (Item 154).*

40. The proposal will have a minimal impact on these heritage items which is acceptable.

Part 6 – Additional Local Provisions

41. The application has not adequately addressed earthworks and stability as a Geotechnical Report has not been provided.

State Environmental Planning Policies

42. Compliance with the relevant State Environmental Planning Policies is discussed as follows.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

43. BASIX Certificates No. 848639S (Dwelling 1) and No. 851943S (Dwelling 2) have been issued for the proposed development as modified and the commitments required by the BASIX Certificate have been satisfied. The BASIX certificates (based on Revision A) still apply to the subject proposal as the window positions have not changed.

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

44. The development will require the removal of a tree located near the centre of the site and a street tree located in front of the site. A Landscape Plan has been submitted showing lawn areas at the front and rear of the site, paving along the outer side of the dwellings, new planting, fencing and details of the cabanas including a gym and wc.

45. The proposal was referred to Council's Tree Management Unit who advised that the removal of the 2 trees is acceptable subject to conditions including landscaping. The two other street trees must be retained and protected during construction.

Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment

46. The site is within the area affected by the Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment. The proposal, including the disposal of stormwater, is inconsistent with Council's requirements for the disposal of stormwater in the catchment.

47. The applicant was requested to provide a revised Stormwater Plan on 12 December 2017. On 4 May 2018 a revised Stormwater Plan was received by Council. The revised stormwater plan was referred to Council's Drainage Engineer who advised that further

information is required including a geotechnical report and details for the absorption system and storage. As a lack of information has been provided, the proposal cannot be supported.

Draft Environmental Planning Instruments

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

Development Control Plans

KOGARAH DEVELOPMENT CONTROL PLAN NO 2013

Part C1 KDCP 2013 – Development Compliance Table

Performance Criteria	Design Solution	Proposed
Building Scale		
Street Frontage	18m (min)	20.115m which complies
Height	7.2m underside of upper ceiling	7.9m, which does not comply, refer discussion below.
	7.8m top of parapet	8.1m, which does not comply, refer discussion below.
Maximum number of residential levels	2	2 which complies
2nd Floor Depth	60% (max) which is 30.357m for the site	27.7m which complies
Height of garage	No more than 1m aboveground	800mm – 1.1m, which does not comply, refer discussion below
Rhythm of Buildings		
Primary building façade	Maximum 40% of site primary façade	The ground floor is setback by 7m, 8.7m and 10m.
	Secondary building façade to be setback a min. 1.5m from the primary building façade	There is no setback on the first floor. While the proposal is a modern design it does not comply with the requirement of the DCP the primary front façade.
Setbacks - Dwelling 1 & 2		
• Front	Same as one or the other adjoining buildings	The front setback is generally the same as 46 Harris Street to the adjoining south of the site which is acceptable.
• Rear	15% of the average site length, or 6m, whichever is greater (7.6m for the subject site)	9.77m measured from privacy screen dwelling 1, which complies.
• Side (external wall	0.9m	1.2m which complies

height less than 3.5m) <ul style="list-style-type: none">Side (external wall height more than 3.5m)	1.2m	1.2m, including the front balcony as the elevation notes state that they are setback 1.2m from the side boundary.
Fenestration & External Materials		
Glazing to Harris Street	35% or 44.52% for the subject site	38.6sqm which complies
Other		
Deep Soil Landscaping	15% or 152.7sqm for the subject site	161.7sqm in rear yards which complies
Car parking	3m wide garages (max.) Dual occupancy: 1.5 spaces/dwelling Maximum driveway length between street boundary and primary building façade 4m	4.885m which does not comply 1 space per dwelling which does not comply, however the additional car will be able to be parked in front of garage for each dwelling. 7m which does not comply, however it complies with front setback control which is acceptable.
Basement parking	Suitable sites for basement parking: - Slope of the site more than 1:8 (12.5%) - Figure 17 maximum depth of excavation 2.2m - Ceiling to natural ground no more than 1.5m Basement storage: max. 10sqm	- Slope of the site 4.9% - Max. excavation 1.5m - Height of ceiling to natural ground 1.1m The basement is acceptable given it complies with excavation and ceiling height. Dwelling 1: 5sqm Dwelling 2: 7.5m

Height

49. The non-compliances with the DCP in terms of the height of the ceiling, parapet height, and garage contribute to bulk and amenity impacts which are not supported.

Streetscape Character and Amenity

50. The proposal will have an adverse impact on the streetscape as the bulk is excessive, and on the amenity of the adjoining properties as there will be adverse overshadowing and overlooking, as outlined in this report.

Fenestration and External Materials

51. The front façade has a range of materials including stone cladding, timber, concrete, metal and glass. The colour scheme uses a range of complementary tones. Harris Street

contains other buildings with a modern design. The design of the proposed front façade is acceptable, however the bulk of the building and garage width are not supported as outlined in this report.

Street Edge

52. The maximum height of the proposed front fence is 1.3m which complies.
53. A Landscape Plan has been provided which shows that a new tree will be planted in the front yard, shrubs will be planted along part of the front fence and on one side of the driveway, and a planter box will be located above a garage.
54. The proposal was referred to Council's Tree Management Unit who advised that the removal of the 2 trees is acceptable subject to conditions including landscaping. The two other street trees must be retained and protected during construction.

Open Space

55. The proposal includes alfresco areas which adjoin the living rooms. There are also yards and cabanas for each dwelling. Dwelling 1 also has a deck and pool.

Vehicular Parking and Access

56. The proposed driveway gradient was referred to Council's Traffic and Transport Unit who advised that it is compliant.

Privacy

57. The rear and front balconies have privacy screens, and the widths of the balconies are less than 2.5m, however they are not setback 3m from the side boundaries which does not comply.
58. The ground floor window of the meal area of Dwelling 1 faces side windows of the dwelling to the north, however there is a fence between these windows. The living room window of Dwelling 2 does not face the side windows of the dwelling to the south. The alfresco area of Dwelling 2 has a privacy screen. The deck area of Dwelling 2 also adjoins a 1.8m high fence for privacy. The first floor contains bedrooms which do not directly face windows as the properties to the north and south contain single storey dwellings.
59. The DCP states that the cumulative area of rear first floor balconies should be no greater than 40sqm. The combined area of the rear first floor balconies is 32.45sqm which complies.

Solar Access

60. The shadow diagrams show that the side windows of 46 Harris Street are overshadowed by the proposed development. No elevational shadow diagrams have been provided. The private open space of 46 Harris Street will receive adequate sunlight; however refer discussion below regarding the cabana. As a lack of information has been provided regarding overshadowing, the proposal cannot be supported.

Ancillary Structures

61. The shadow diagrams do not show the shadow from the cabanas. The total area of the cabanas is 80.61sqm which does not comply with the maximum requirement of 70sqm. The height to the ridge is 3.5m which complies, however the height to the underside of the ceiling is about 3m which does not comply with the 2.5m requirement. As there is a lack of information regarding overshadowing from the cabanas, and there are non-compliances with the area and height of the cabanas, they cannot be supported.

62. The pool is located at natural ground level. The swimming pool is located 900mm from the side property boundary, however the waterline is only about 1m instead of 1.5m and therefore cannot be supported.
63. The proposed cabanas have been setback 900mm from the site boundaries, however they are not setback from each other. The cabanas are closed on the rear and side, and open to the backyard.
64. The floor plan shows the cabanas contain a BBQ and therefore will not be used as a dwelling. The Landscape Plan shows that the cabanas contain a gym and a wc, and therefore needs to be revised.
65. The proposal includes street numbering and letter boxes on the front fence, garbage storage areas, storage areas and laundries on the basement level, and clothes lines as shown on the landscape plan.

Dual Occupancies – additional design controls

66. The DCP requires that the maximum width of the driveway is no greater than 6.7m for the subject site. The proposed width is about 5m which complies.
67. The location of the driveway is acceptable in this case give the location of the street trees which need to be retained and the location of the street parking bay. The proposed driveways also allow for the front of the site to be landscaped in front of both dwellings.

IMPACTS

Natural Environment

68. The proposed stormwater system is not supported, therefore the drainage of the site is not adequate which will have an adverse impact on the natural environment.

Built Environment

69. The proposed development would result in an adverse impact upon the built environment as the bulk is excessive.

Social and Economic Impact

70. The proposed development would result in an adverse social impact as there will be adverse overshadowing and overlooking for adjoining properties to the north and south.

Suitability of the Site

71. It is considered that the proposed development is not of a scale and design that is suitable for the site having regard to its size and shape, its topography and relationship to adjoining developments.

SUBMISSIONS

72. The proposal was notified to adjoining neighbours for a period of fourteen (14) days during which time one (1) submission was received regarding the setbacks of the cabanas. This issue has been resolved by the amended drawings (which increased the setback of the cabanas). The revised DA was re-notified and no submissions were received.

REFERRALS

Council Referrals

Drainage Engineer

73. The revised stormwater plan was referred to Council's Drainage Engineer who advised that further information is required including a geotechnical report and details for the absorption system and storage.

Tree Management

74. No objection has been raised by Council's Arborist.

Heritage Advisor

75. No objection has been raised by Council's Heritage Advisor.

Traffic

76. No objection has been raised by Council's Traffic and Transport Unit.

CONCLUSION

77. The proposal seeks approval for an attached dual occupancy, stormwater drainage and landscaping.
78. The DA (Revision A) was notified for a period of fourteen days from 13 November 2017 to 27 November 2017 and one (1) submission was received regarding the location of the cabanas.
79. The DA was revised to setback the cabanas 900mm from the side and rear boundaries of the site. The revised DA (Revision B) was notified between 21 May 2018 to 4 June 2018. No submissions were received.
80. The applicant was advised on numerous occasions that the FSR was not supported, and that the stormwater plan was not adequate.
81. It is considered that the FSR variation of 23.8% should not be supported in this case as the application has not demonstrated that there will not be an adverse impact on the environment, particularly in terms of stormwater, amenity in terms of overshadowing and privacy, and excessive bulk in terms of the cumulative non compliances with the Kogarah DCP regarding bulk and scale.
82. In view of the above, the application is recommended for refusal.

DETERMINATION AND STATEMENT OF REASONS

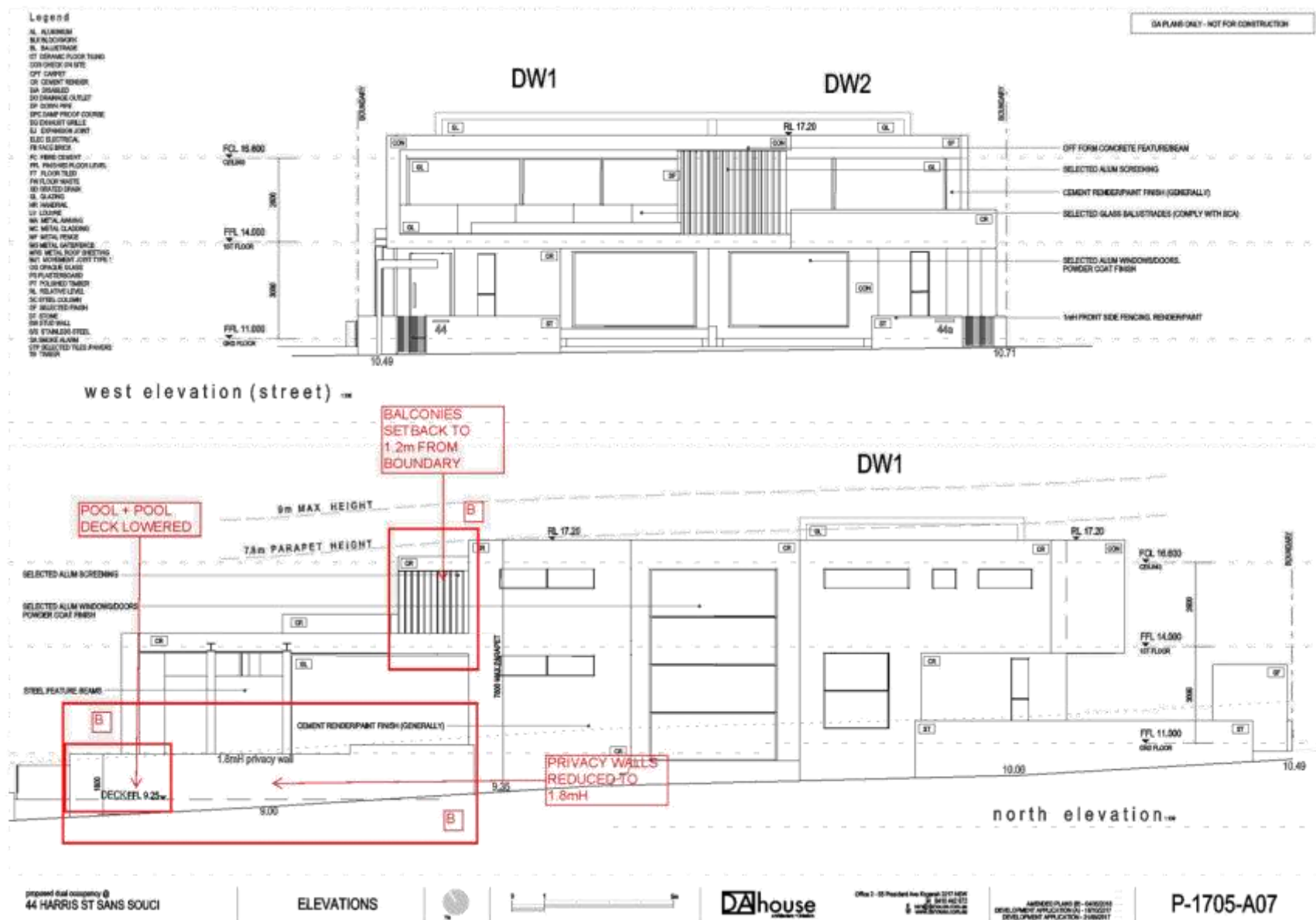
THAT pursuant to Section 4.16(1) of the Environmental Planning and Assessment Act, 1979, as amended, the Council refuses Development Application DA2017/0345 for construction of two storey attached dual occupancy with basement parking, cabana and landscaping at Lot 9, Section 2, DP 975493 and known as 44 Harris Street, Sans Souci, for the following reasons

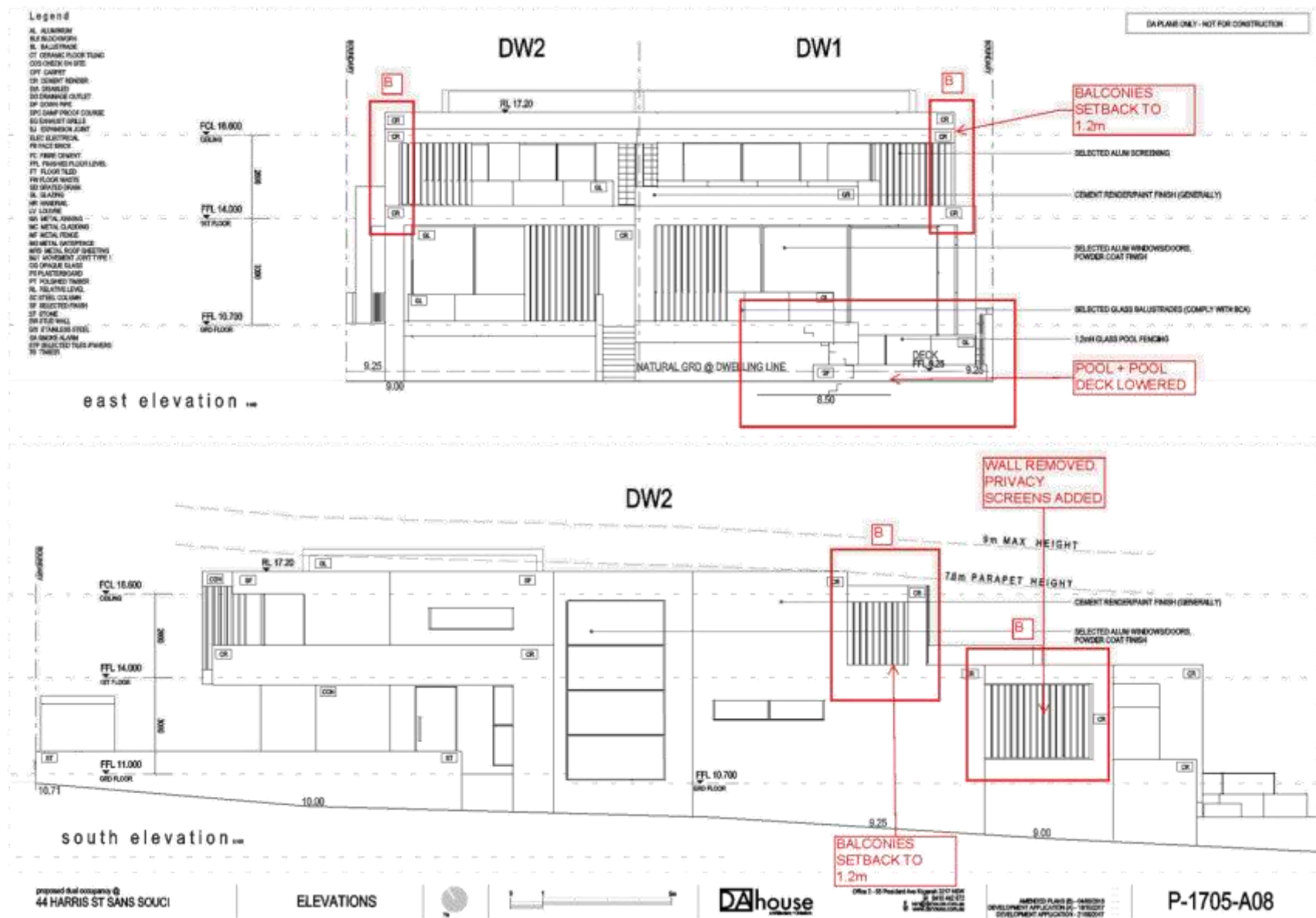
1. The proposed development does not comply with the maximum floor space ratio prescribed in Kogarah LEP 2012.
2. The proposal is inconsistent with the objectives of the applicable environmental planning instruments, being Kogarah Local Environmental Plan 2012.
3. The proposed development is not considered to be of an appropriate scale and form for the site and character of the locality.

4. The proposed development is considered to have an adverse impact on the amenity of the adjoining residential properties.
5. Insufficient information has been submitted to enable a full and detailed assessment of the application, including in relation to stormwater disposal and also shadow diagrams.
6. In consideration of the aforementioned reasons, the proposed development is not a suitable response to the site and its approval is not in the public interest.

ATTACHMENTS

- Attachment [↓](#)1 Amended Site Plan - 44 Harris St Sans Souci
Attachment [↓](#)2 Amended Elevations 1 - 44 Harris St Sans Souci
Attachment [↓](#)3 Amended Elevations 2 - 44 Harris St Sans Souci





REPORT TO GEORGES RIVER COUNCIL LPP MEETING OF THURSDAY, 19 JULY 2018

LPP Report No	LPP027-18	Development Application No	DA2017/0612
Site Address & Ward Locality	8-12 Oatley Avenue Oatley Blakehurst Ward		
Proposed Development	Alterations and additions to Oatley Hotel		
Owners	Vantar Pty Ltd		
Applicant	Vantar Pty Ltd		
Planner/Architect	Architect – Innovate Architects, Planner – Planning Ingenuity		
Date Of Lodgement	6/12/2017		
Submissions	One (1) submission received		
Cost of Works	\$2,044,638.00		
Local Planning Panel Criteria	Nature of proposed development		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment, State Environmental Planning Policy No 55 - Remediation of Land, State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, Kogarah Local Environmental Plan 2012, Kogarah Development Control Plan 2013		
List all documents submitted with this report for the Panel's consideration	Architectural Plans Comments from the NSW Police		
Report prepared by	Independent Assessment		

Recommendation	THAT the application be approved subject to the conditions included in the report
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Summary of matters for consideration under Section 4.15 Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	Yes
Legislative clauses requiring consent authority satisfaction 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?	Yes
Clause 4.6 Exceptions to development standards 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?	Not applicable
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (under s7.24)?	Not Applicable

Conditions Have draft conditions been provided to the applicant for comment?	Yes – the applicant has reviewed the conditions
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Site Plan



Executive Summary

Proposal

1. Development consent is sought for the alterations and additions to the existing Oatley Hotel. More specifically, the existing gaming room at the front of the premises will be relocated to the rear of the building and the front portion will provide a consolidated dining area. In addition to this, the works will also upgrade the accessibility of the hotel by providing a lift and new toilets. There are no proposed changes to the existing hours of operation or number of patrons.

Site and Locality

2. The site is identified as 8-12 Oatley Avenue, Oatley and consists of three (3) individual lots with a legal description of Lots 4 and 5 DP 82777 and Lot 3 DP 313455. The site is a regularly shaped square parcel of land and is located on the eastern side of Oatley Avenue and directly opposite Oatley Memorial Gardens.

The site has an area of 2134.8sqm with a frontage to Oatley Avenue of 53.64m and a northern side boundary of 40.24m.

The locality surrounding the subject site contains a mixture of low to medium density residential development and a range of commercial and retail premises, with Oatley train station located 100m west of the site.

Zoning and Compliance with LEP Standards

3. The site is zoned B2 – Local Centre zone and R3 – Medium Density Residential under Kogarah Local Environmental Plan 2012 and the proposal is a permissible form of development with Council's consent within each zone respectively and will be discussed in further detail in the body of the report. The proposed development satisfies all relevant objectives contained within the LEP.

Development Control Plan

4. The proposed development generally satisfies the provisions of Kogarah Development Control Plan 2013. This is discussed in more detail in the body of this report.

Submissions

5. The application was neighbour notified for an extended period of twenty eight (28) days from 4 January 2018 where one (1) submission was received from the owner of 11A Letitia Street raising the following concern:
 - Noise impacts from light shaft to new gaming area at the rear.

Referrals

6. The internal referrals for this DA are generally supportive, subject to the imposition of appropriate conditions of consent.

The proposal has also been referred to the NSW Police, who have provided comments raising strong concerns particularly about the extension of the outdoor terrace over the gaming area roof (which is proposed on the northern/eastern side of the hotel, at the first floor level). In summary, the NSW Police consider that the current ambient noise from the existing first floor terraces are already excessive and the expansion of the terrace areas could make this worse.

The NSW Police have however recommended various conditions to preserve the amenity of the immediate neighbours, if Council decides to approve the application. Some of the recommended conditions (which relate to the overall proposal, not only the proposed enlargement of the first floor terrace) from the NSW Police include:

- Submission of a Plan of Management;
- Queue Management;
- Security (for when amplified entertainment is conducted);
- Closed Circuit Television (CCTV)
- Neighbourhood amenity signage
- Closure of external doors/windows on the western side (Oatley Ave) when amplified entertainment is conducted;
- Complaint response register;
- Removal of open alcohol (licensee to ensure that no open alcohol containers are taken off the premises).

In addition to the above conditions from the NSW Police, it is further recommended that a condition of consent be imposed to require the first floor terraces to be vacated by 10.00pm.

It is noted that the main concerns of the Police relate to the extension to the first floor terrace, and the Police generally have no objection or concerns to the other aspects of

the proposal (ie the internal re-configuration, the upgrade to the façade, or the new gaming area).

Level of Determination

7. The application is referred to the Local Planning Panel for determination due to the nature of the proposed development.

Conclusion

8. Having regard to the Heads of Consideration under Part 4.15 of the Environmental Planning and Assessment Act 1979, Development Application No. DA2017/0612 is recommended for approval subject to suitable conditions.

Report in Full

DESCRIPTION OF PROPOSAL

9. Development consent is sought for alterations and additions to an established venue, Oatley Hotel, that serves food and drinks and offers live music. There will be no proposed changes to the hours of operation or capacity of the hotel. The application seeks to upgrade the existing facilities to provide a more family orientated venue with an enlarged dining area at the front of the premises and the gaming area being moved to the rear of the venue.

A breakdown of the proposed development is provided as follows:

- Lower Ground Floor
 - Stairs relocated to cool room and storage area and lift installed.
- Ground Floor
 - Relocating the gaming room to the rear (in a purpose built room)
 - Removing the existing kitchen and raising the height of a portion of the ground floor to match existing and provide a larger consolidated dining area
 - New kitchen, modification of bathroom facilities and provision of a lift
 - New gaming area, terrace, vertical garden, privacy louvres and a 3.2m high brick fence
 - New single garage and storage loft and separate external access from the car park to the rear portion of the Hotel.
- Level 1
 - Extend outdoor terrace over gaming area.
 - Additional terrace areas at the rear.
 - Provisions of lift giving access to outdoor terrace area.

HISTORY

- 10.
- | | |
|-------------------|--|
| 6 Dec 17 | The subject DA was submitted with Council. |
| 4 Jan to 1 Feb 18 | The application was placed on neighbour notification in accordance with KDCP 2013. One (1) submission was received. |
| 27 Mar 18 | Following an initial assessment of the application, the applicant was advised of various concerns with the proposed development and further information required. In summary, these included: Certification on the level |

of amenity as a result of change in gaming area, acoustic report on the ventilation and air-conditioning, detailed plans of new kitchen layout and need to address concerns from properties at rear regarding noise impacts.

The applicant has submitted additional plans, details and information addressing these concerns, and it is this amended and additional information that is relied upon for assessment in this report. **Note:** The additional information submitted was largely to clarify and address concerns of Council without altering the design of the development. Accordingly, it was considered that re-notification of neighbours was not required in this instance.

DESCRIPTION OF THE SITE AND LOCALITY

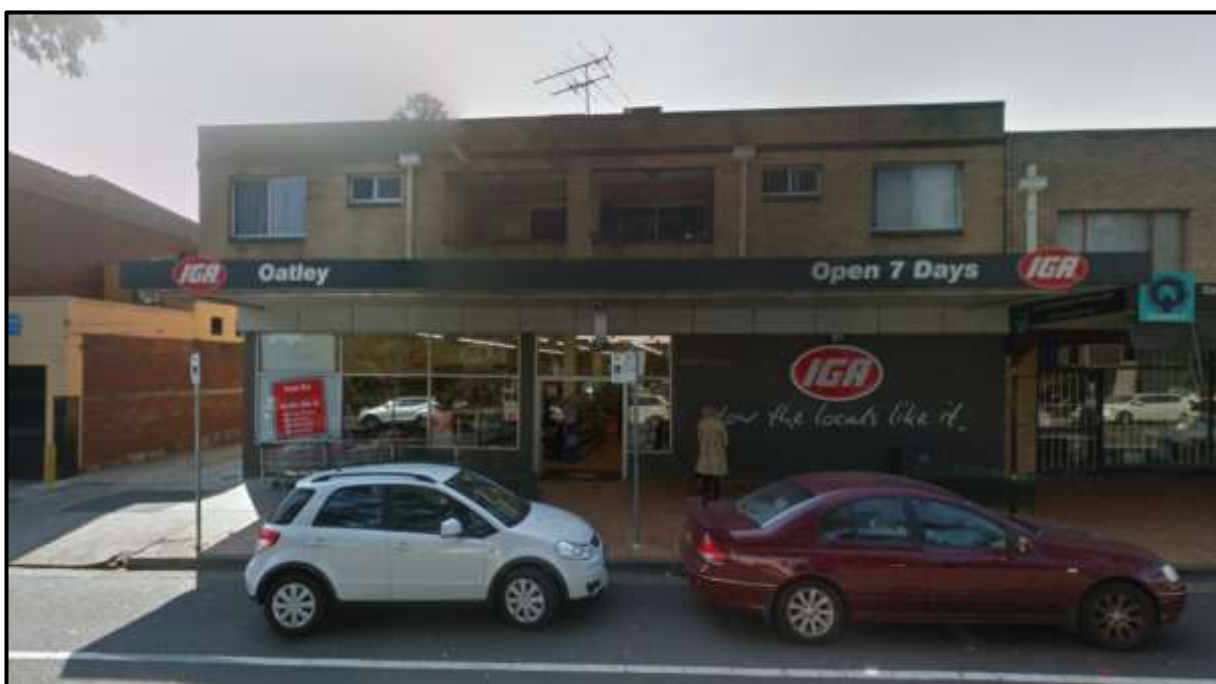
11. The site is identified as 8-12 Oatley Avenue, Oatley and consists of three (3) individual lots with a legal description of Lots 4 and 5 DP 82777 and Lot 3 DP 313455. The site is a regularly shaped square parcel of land and is located on the eastern side of Oatley Avenue and directly opposite Oatley Memorial Gardens.

The site has an area of 2134.8sqm with a frontage to Oatley Avenue of 53.64m and a northern side boundary of 40.24m.

The locality surrounding the subject site contains a mixture of low to medium density residential development and a range of commercial and retail premises, with Oatley train station located 100m west of the site.

Immediately to the south of the site is a two (2) storey building containing an IGA Supermarket and to the west is the Oatley Memorial Gardens with Oatley Train station further west. To the north of the car park area, is a three (3) level residential flat building at 6 Oatley Avenue. At the rear of the site is a three level residential flat building at 11 Letitia Street and a single storey Masonic Lodge at 11A Letitia Street.

Photos of the surrounding area are provided as follows:



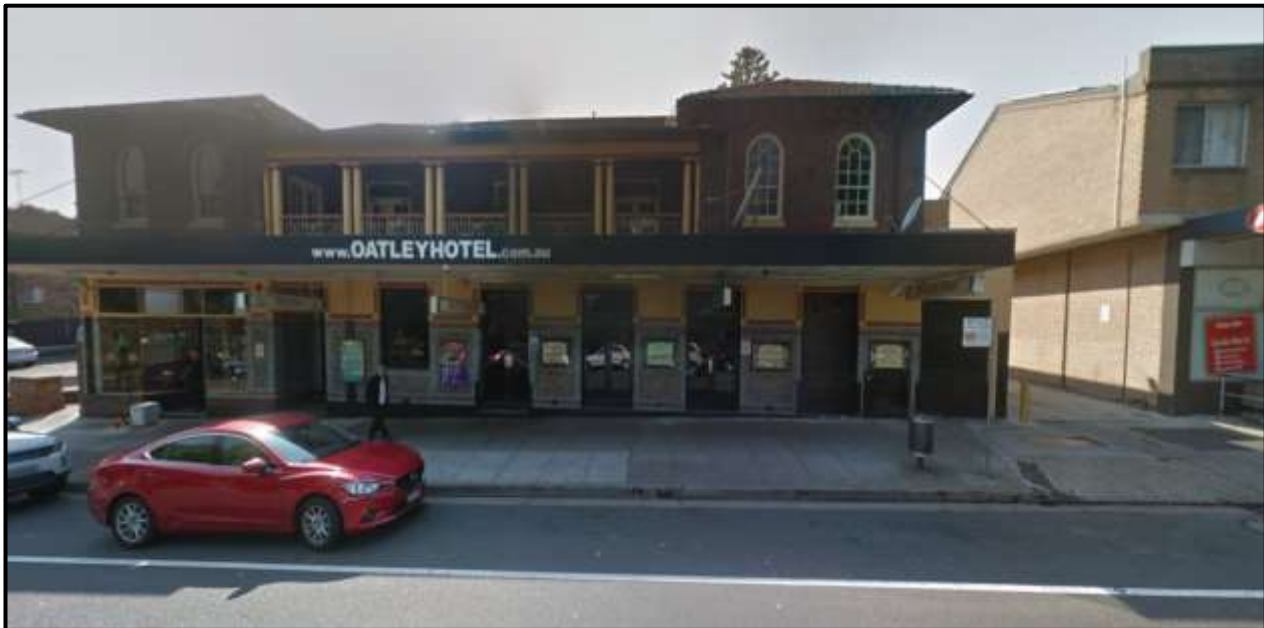
View of the IGA site to the South



View of residential development to the North



View of adjoining carpark forming part of Hotel



View of street frontage of Hotel along Oatley Avenue



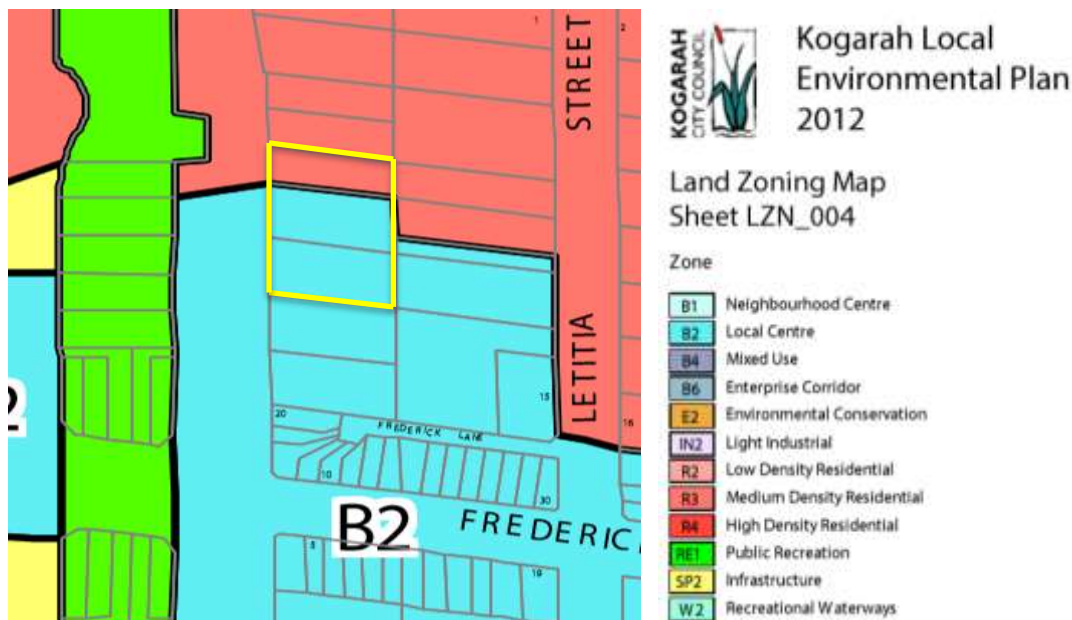
View of adjoining Masonic Lodge at rear at 11A Letitia Street



View of adjoining residential flat building at 11 Letitia St to the east of the site.

ZONING

12. The site, which comprises of three separate lots falls within two separate zones. One lot (northern lot) which only comprises of the car parking area associated with the development is zoned R3 – Medium Density Residential under Kogarah Local Environmental Plan 2012 and whilst no development works are proposed on this lot, the existing car park is a permissible form of development with Council's consent in this zone. The remaining two lots, which comprise of the hotel building, portion of the car park and outdoor terrace area is zoned B2 - Local Centre and both uses are not prohibited in the zone and as such are permissible with Council consent.



Excerpt from Zoning Map

APPLICABLE PLANNING CONTROLS

- 13.
- Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment
 - State Environmental Planning Policy No 55 - Remediation of Land
 - State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

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

PLANNING ASSESSMENT

14. 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

15. The extent to which the proposed development complies with the Kogarah Local Environmental Plan 2012 (KLEP 2012) is detailed and discussed in the table below.

Clause	Standard	Proposed	Complies
1.2 – Aims of the Plan	In accordance with Clause 1.2(2)	The development is consistent with the aims of the plan.	Yes
1.4 – Definitions	Pub	The proposed development is consistent with the definition of a "Pub"	Yes
2.3 – Zone objectives and Land Use Table	R3 – Medium Density Residential zone B2 – Local Centre Development must be permissible with consent	The car park satisfies the objectives of the R3 zone. The pub satisfies the objectives of the B2 zone The car park is a permissible use on the R3 zone land and the pub is permissible (not prohibited) in the B2 zone, with consent.	Yes
4.3 – Height of Buildings	12m as identified on Height of Buildings Map	The proposed works do not alter the existing building height which is approximately 10.5m to the ridge from natural ground and complies.	Yes
4.4 – Floor Space Ratio	R3 – 1:1 B2 – 2.5:1 (4002.5sqm for B2) As shown on Floor Space Ratio map	No development proposed on R3 zone (which is only the open car park to the north of the hotel). Proposed FSR on the B2 zone is 0.74:1 (1196.3sqm)	Yes
5.10 – Heritage Conservation	The objectives of this clause are; (i) to conserve the environmental heritage of Kogarah, (ii) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views.	The site is opposite a local heritage item (I127) – Oatley memorial gardens. The proposed alterations and additions are mainly at the rear of the premises which also includes minor façade treatment and works that are sympathetic to the style and character of the existing hotel. The proposed works do not have any impact on the heritage item or its significance.	Yes

6.2 – Earthworks	To ensure that earthworks do not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.	The application does not necessitate the need for any significant excavation works to take place.	Yes
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Environmental Planning and Assessment Regulations

Clause 92(1)(b): Demolition

16. Clause 92(1)(b) of the Environmental Planning and Assessment Regulation, 2000 (the Regulations) prescribes that the provisions of Australian Standard AS2601:2001 - The Demolition of Structures are to be taken into consideration, pursuant to Section 4.15(1A)(iv) of the Act, in the case of a development application for the demolition of a building. The application is for the alterations and additions of the existing structure and does not seek consent for demolition works and as such the provisions of this Clause are not relevant to this application.

State Environmental Planning Policies

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

State Environmental Planning Policy	Complies
Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment	Yes
State Environmental Planning Policy No 55 – Remediation of Land	Yes
State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017	Yes

Deemed State Environmental Planning Policy – Georges River Catchment

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

State Environmental Planning Policy No 55 – Remediation of Land

19. The purpose of State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55) is to ensure that land which is contaminated is identified and appropriately remediated so as to be suitable for the proposed development.

The site has long standing use as a hotel (pub) and there are no known records of contaminating activity being conducted on the site. In view of the above and having regard to the provisions of SEPP No 55, the site is considered suitable for the proposed development.

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

20. The Vegetation SEPP regulates clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent.

The Vegetation SEPP applies to clearing of:

1. Native vegetation above the Biodiversity Offset Scheme (BOS) threshold where a proponent will require an approval from the Native Vegetation Panel established under the *Local Land Services Amendment Act 2016*; and
2. Vegetation below the BOS threshold where a proponent will require a permit from Council if that vegetation is identified in the council's development control plan (DCP).

The Vegetation SEPP repeals clause 5.9 and 5.9AA of the *Standard Instrument - Principal Local Environmental Plan* with regulation of the clearing of vegetation (including native vegetation) below the BOS threshold through any applicable DCP.

The proposed development involves the removal of two trees, one being a eucalypt that is exhibiting signs of decline and the other an undesirable species. There are references in the applicable DCP to maximising tree retention in any development proposal and the issue is addressed through consideration of the proposed built form and arborist report prepared by TALC dated 5 April 2018. The proposal will incorporate additional landscape beds within the carpark site and gaming area. It is considered that this provision has been adequately addressed and is satisfactory.

Draft Environmental Planning Instruments

Draft Environment SEPP

21. The Draft Environment SEPP was exhibited from 31 October 2017 to 31 January 2018.

This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property.

Changes proposed include consolidating the following seven existing SEPPs:

- State Environmental Planning Policy No. 19 – Bushland in Urban Areas
- State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011
- State Environmental Planning Policy No. 50 – Canal Estate Development
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No.2-1997)
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Willandra Lakes Regional Environmental Plan No. 1 – World Heritage Property.

The proposal is not inconsistent with the provisions of this Draft Instrument.

Development Control Plans

22. The proposal has been assessed under the relevant sections of the Kogarah Development Control Plan 2013 (KDCP 2013).

Part B General Controls			
Controls	Required	Proposed	Comply
Part B1 –	The relevant requirements	See comments of KLEP 2012	Yes

Heritage and Heritage Conservation Areas	of Clause 5.10 of KLEP 2012 are to be addressed for any development relating to a heritage item. Where a heritage management document and/or heritage conservation management plan is required to be submitted to Council, this is to be prepared by an appropriately qualified professional.	compliance table above. The works are predominately internal and it is not considered that the proposal will require the preparation of a heritage management document or a heritage conservation plan.	Yes
Part B2- Tree Management and Greenweb	The objectives of this Part are: (a) Establish the criteria governing the removal or pruning of trees. (b) Ensure that appropriate information is submitted to Council regarding tree management.	This was discussed in detail under the State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 commentary.	Yes
Part B4 – Parking and Traffic	Development Type not listed in Table 1 – base parking requirements on RMS Guide to Traffic Generating Development.	The RMS Guide to Traffic Generating Developments recommends that “proposed developments be compared to similar developments, noting the existing supply and demand for parking in the area. As the proposal does not intend to increase the hours of operation or number of patrons, the parking provisions will remain consistent. Apart from some minor reconfiguration proposed within the parking area which itself won’t have any bearing on available numbers, the existing provisions are satisfactory and no additional parking is required.	Yes
Part B5 – Waste Management and Minimisation	Submit a Waste Management Plan with DAs involving: • demolition; • construction of a new building(s); or • change of use or alterations/additions to	Waste generation is not anticipated to change as a result of the proposed alterations and additions. As such, existing arrangements will be retained.	Yes

	existing premises (only when this would result in a change of waste generation).		
Part B6 – Water management	All developments requiring Council approval within the City of Kogarah require consideration of the Water Management Policy.	The proposed development predominately involves internal works only and no increase in impervious areas. Stormwater will be connected to the existing drainage system and appropriate conditions have been imposed by Council Engineers.	Yes
Part D – Commercial and Industrial			
D1 – 3.5 Setbacks	Rear setbacks are determined by the context including the amenity of neighbouring residential uses.	See below Section D2 - 16.4.1 for compliance	Yes
D1- 3.66 Mobility and access	New development and refurbishments are to comply with the requirements of the BCA and Australian Standards.	A BCA (now National Construction Code or NCC) Report submitted as part of the application indicates compliance.	Yes
3.7 – Vehicular Access and Parking	A minimum of 1 accessible car space required.	Can be accommodated and conditioned.	Yes
	Parking layout to ensure pedestrian safety	Separate pedestrian and vehicular access provided and carpark will comply with Australian Standards	Yes
D1 – 3.12.1 Visual and Acoustic Privacy	Utilise the site and building layout to maximise the potential for acoustic privacy by providing adequate building separation within the development and neighbouring properties.	Existing acoustic barriers will be retained and additional acoustic treatment provided as a result of the relocation of the gaming room and increase rear terrace. Acoustic Design Statement submitted and found satisfactory by Council Health Officers.	Yes – condition requiring
	Locate all noise generating equipment so as to protect the acoustic privacy of workers and adjoining residents.	Has been reviewed by Council's Health Unit and considered satisfactory.	Yes
	Retain existing, and	Only one tree being removed	Yes

	incorporate new indigenous trees, shrubs and ground cover	which has been supported by Council Tree Officer, additional landscaping proposed and three significant trees retained.	
D2 – 16.3.1 Height	Maximum number of levels for this site is 2. Maximum height to uppermost habitable part of building is 7.4m	Number of levels is not changing and is existing at 2 levels. No changes are proposed to the existing height of the building which is approximately 7.2m to the ceiling line.	Yes Yes
D2 – 16.4.1 Setbacks	For this block fronting Oatley Avenue, the rear setbacks are; Ground Floor – 6m First Floor – 9m	The rear of the site is setback 1.9m to the stairs that access the terrace and 0.6m to the landscape planter and single garage. The gaming room sits below the terrace level and not visible from the rear. There is no change to the setback of the first floor building, only the terrace and acoustic walls.	No (1) Yes

Variations to the DCP provisions

(1) Rear Setback

23. The proposal does not comply with the rear setback provisions as identified in the DCP for Block A, which is bounded by Frederick Street, Oatley Avenue and Letitia Street with particular reference to the ground floor setback requirement. Whilst the majority of the building works are to the rear, these works are associated with the gaming area and single garage which due to the slope of the site, appear as ground level when viewed from the front of the building (Oatley Avenue) and adjoining car parking area. However, when viewed from the rear, the ground floor of this portion of the building sits predominately below both the natural ground and the terrace/courtyard to which it is located adjacent to. In this regard, the gaming room, garage area and associated works at this level will not be visually apparent from the properties along the rear having no adverse impact on their amenity.

The works on the first floor, which generally present as ground level at the rear, relate to the increase of the outdoor terrace area over the new gaming room and the loft storage and workshop over the garage from the ground floor.

The following are elevational drawings to illustrate the proposed development.



Rear Elevation (west)



Elevation (South)



Side Elevation (North)

The variations to the numerical setback control are justifiable as the works at the rear of the building are reduced in bulk and scale due to the slope of the site and the existing and proposed acoustic barriers and screens along the northern boundary will mitigate any aural or visual impacts to the residential properties at the rear.

The non-compliance is supported.

SECTION 7.12 CONTRIBUTIONS

24. The proposed development requires the payment of Section 7.12 (previously Section 94A) contributions under the provisions of Council's document titled "Section 94A Contributions Plan 2017". Contributions under Section 7.12 of the Environmental Planning and Assessment Act 1979 are applicable based on the estimated cost of development which in this instance is 1% for \$200,001 or more. Section 7.12

contributions for this development equate to \$20,466.38 based on the estimated cost of development of \$2,046,380 as indicated on the applicant's DA form.

IMPACTS

Natural and Built Environment, Social and Economic Impacts

25. The proposed development is of a scale and character that is in keeping with the locality and the developments likely to be constructed within the immediate context and zoning. The proposal requires minimal excavation and will not alter the topography of the site, with the majority of works being internal. Accordingly, the proposal is not considered to have a significant impact on the natural and built environment of the locality. The proposal is unlikely to cause any unreasonable social and/or economic impacts.

Suitability of the site

26. 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.

SUBMISSIONS AND THE PUBLIC INTEREST

27. In accordance with the provisions of Council's notification requirements, the application was placed on neighbour notification for a period of twenty eight (28) days in accordance with the DCP provisions due to the Christmas/New Year period where adjoining property owners were notified in writing of the proposal and invited to comment. One (1) submission was received from 11A Letitia Street to the east, raising the following concerns.

Noise Impacts

Concern is raised about the potential noise impact emanating from the relocated gaming room at the rear and the creation of a light shaft to the new gaming room. It was requested for the applicant to provide an acoustic report to address potential noise impacts and recommend suitable attenuation measures.

Comment: Based on the concerns from the adjoining property, the applicant was requested to provide acoustic certification regarding the potential impact of noise on the subject property at the rear due to the gaming room.

The applicant submitted an "*Acoustical Design Statement for Oatley Hotel Gaming Room and Kitchen Refurbishment*" dated 8 May 2018 prepared by Koikas Acoustics Pty Ltd. This acoustic report was referred to Council's Environmental Health Officer for assessment.

Subject to compliance with the recommendation included in this report, Council's Environmental Health Officer raised no objection to the application and supported the application in terms of noise and amenity impacts from the gaming room.

The conditions proposed by the Environmental Health Officer have been included in the proposed conditions of consent as part of this report.

REFERRALS

Council Referrals

Trees

28. No objections were raised subject to conditions. Those conditions have been incorporated into the recommended conditions.

Stormwater

29. No objections were raised subject to conditions. Those conditions have been incorporated into the recommended conditions.

Health

30. Council's Environmental Health Officer raised no objection to the proposed development subject to the imposition of conditions based on the additional acoustic report that was submitted and as discussed above in detail.

External Referrals

NSW Police

32. The application was referred to the Crime Prevention Officer at Hurstville Police Station on 2 January 2018. The NSW Police have provided a detailed response in relation to the proposed development, a copy of which is attached to this report.

In summary, the NSW Police have no concerns or objection to most aspects of the proposal (ie the internal re-configuration, the upgrade to the façade, or the new gaming area) – however the Police have strong concerns regarding the expansion of the first floor terrace (over the gaming area roof). The following are the comments of the NSW Police in relation to the extension of the first floor terrace:

Police have strong concerns in relation to the construction of and expansion to the current outdoor terrace. This concern relates to the impact of noise on the amenity of the neighbourhood caused by the terrace.

It is the position of Police that the current ambient noise is already excessive and would be considered by EPA guidelines to be intrusive. By permitting an expansion to the current terrace, this would bring the outdoor usable space closer to the existing residential units at 11 Letitia Street. Police are not aware of a specific capacity in relation to the terrace and as such, an expansion of the usable space would allow more patrons to use the area which in turn would further raise the impact of noise.

To highlight the concern, Police rely on current complaint environment where over the past 12 months, Police have received noise complaints from (a resident) of Letitia Street and Mark Coure MP. Licensing Police have also attended the car park at 13 Letitia Street during Friday evening trade and observed the ambient noise to be high.

In reviewing the application in particular Acoustical Design Statement prepared by Koikas Acoustics in support of the application two relevant pieces of information support the concerns of Police.

Daytime, evening and partial night-time (up to 11pm) background noise levels are 46dB(A) as measured by Renzo Tonin and Associates (RT&A) for an acoustic assessment prepared for the site at 11A Letitia Street.

Police have no reason to doubt the determination made by Renzo Tonin and Associates and note that Kiokas Acoustics are confident in its accuracy as they

*use this background noise level to demonstrate the mechanical plant noise will be compliant ie. not more than 5dB above the Background noise levels of 46dB. **Therefore Police accept the background noise level at the boundary of the premises is 46dB.***

In comparison, although used to demonstrate compliance in regard to the noise generate by the gaming rooms, Koikas Acoustics conducted surveys to determine ambient noise levels.

On Friday 20 April 2018, two surveys were conducted at specific locations (R1, R2, R3) surrounding the premises at 10.00pm - 10.40pm, and 11.55 – 12.00 am.



Figure 1. Oatley Hotel site, surrounding residential properties and noise survey locations. Image courtesy of SixMaps

No information was provided regarding patronage at the time the survey was conducted, however on Friday 13 April 2018 – Licensing Police attended the hotel about 10.00pm. At that time, the hotel had 480 patrons which is about 48% capacity. It is the opinion of Police; this capacity is typical for an ordinary Friday in April.

Koikas Acoustics provide the following as a result of those surveys;

a summary of the measured ambient noise levels at the time of the surveys as;

- R1A: LAeq 63dB and LA10 65dB (10.00pm-10.40pm);
- R1B: LAeq 62dB and LA10 65dB (11.55pm-12.00am)
- R2: LAeq **68dB** and LA10 **71dB**
- R3: LAeq 68dB and LA10 70dB

Police are satisfied Koikas Acoustics have specialist knowledge and as such have no reason not to accept the findings provided.

That being the case, considering background noise level is accepted as 46dB, permissible levels allow 5dB above this between 7.00am and 12.00am, the above survey results appear to be significantly higher.

Coincidentally, The Oatley hotel is currently subject to a licensing condition that the LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre (31.5Hz - 8kHz inclusive) by more than 5dB between 07:00 am and 12:00 midnight at the boundary of any affected residence.

This LA10 condition is consistent with current EPA guidelines.

It is the concern of Police that an expansion of the terrace would further exacerbate the impact of residential noise amenity which appears not to comply currently.

Police believe further treatment of this aspect is required, however should the application be approved, a condition relating to noise is recommended to place the onus fairly on the premises and allow compliance / intervention.

Assessment Officer's Comment in relation to the NSW Police Comments: The comments/concerns of the NSW Police are considered to be valid and reasonable. There are a number of large terraces at the side/rear of the Hotel which enable groups of people to congregate, and the proposed additional terrace areas will increase is available area, which could impact the amenity of the immediate neighbours.

The NSW Police have recommended a number of conditions in relation to the overall alterations/additions to the Hotel, which are summarised below.

- Submission of a Plan of Management;
- Queue Management;
- Security (for when amplified entertainment is conducted);
- Closed Circuit Television (CCTV)
- Neighbourhood amenity signage
- Closure of external doors/windows on the western side (Oatley Ave) when amplified entertainment is conducted;
- Complaint response register;
- Removal of open alcohol (licencee to ensure that no open alcohol containers are taken off the premises).

In addition to the above conditions from the NSW Police, and specific to the use of the first floor terrace areas, it is further recommended that a condition of consent be imposed to require the first floor terraces to be vacated by 10.00pm.

It should be noted that this approach has been discussed with the NSW Police as part of the preparation of this report.

It is considered that subject to the imposition of appropriate conditions (as listed in the consent below), the development is acceptable for approval.

Elected Councillors Comments

33. A number of Councillors of the Georges River Council provided comments on the application at an application briefing on 9 July 2018. A summary of the key points raised are outlined as follows:

- Proposed building upgrades are reasonable,
- Noise concerns for nearby residents are raised from the proposed terrace area, appropriate noise restrictions should be applied,
- Concern is raised at the potential for increased poker machines.

Assessment Officer's Comment: Issues of concern regarding potential noise impacts from the terrace area have been discussed throughout this report, and are proposed to be resolved via conditions of consent as indicated in the draft conditions. Also, in relation to the number of gaming machines, it is confirmed under legislation, that hotels of this type are restricted to a maximum thirty (30) gaming machines. The Peakhurst Inn currently has that number of gaming machines, so therefore the proposal will not result in an increase.

CONCLUSION

34. Development consent is sought for alterations and additions to the existing Oatley Hotel, involving the relocation of the gaming area to the rear, increase the dining area at the front of the premises, construct new kitchen and increase the rear outdoor terrace area at 8-12 Oatley Avenue, Oatley.

The application has been assessed having regard to the Heads of Consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, the provisions of the relative State Environmental Planning Policies, Local Environmental Plans and Development Control Plans. The proposed development achieves an acceptable level of compliance with those requirements and does not cause any unreasonable impacts upon neighbouring properties and/or the streetscape.

The application was notified in accordance with the Development Control Plan. A total of one (1) submission was received objecting to the development. The issues raised have been addressed in this report and are not considered to warrant further plan amendment or outright refusal of the application.

The application is recommended for approval.

DETERMINATION AND STATEMENT OF REASONS

35.

Statement of Reasons

- The proposed development is considered to be an appropriate scale and form for the site and the character of the locality
- The proposed development, subject to the recommended conditions, will have no unacceptable adverse impacts upon the natural or built environments
- In consideration of the aforementioned reasons, the proposed development is a suitable and planned use of the site and its approval is in the public interest

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 DA2017/0612 for the alterations and additions to the existing development at Lots 4 and 5 DP 82777 and Lot 3

DP 313455 and known as 8-12 Oatley Avenue, Oatley, also identified as Oatley Hotel, subject to the following conditions:

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:

Description	Reference No.	Date	Revision	Prepared by
Site/Roof Plan	2512 – 01	Oct 17	A	Innovate Architects
Lower Ground and Ground Floor Plan	2512 – 02	Oct 17	A	Innovate Architects
First Floor Plan	2512 – 03	Oct 17	A	Innovate Architects
Elevations	2512 – 04	Oct 17	A	Innovate Architects
Elevations and Sections	2512 – 05	Oct 17	A	Innovate Architects
Calculations Plan	2512 – 07	Oct 17	A	Innovative Architects
Existing Ground Floor Plan	2512 – 08	Oct 17	A	Innovative Architects
Existing First Floor Plan	2512 – 09	Oct 17	A	Innovative Architects
Oatley Hotel Plan – Kitchen Layout		16.03.18	1	Ribarovski Pty Ltd
Ventilation Plans	4091-01 (Sheets 1-4)	24.03.18	1	Speedy Ventilation

2. **DEV6.4 - Signage** - A separate application shall be submitted to Council prior to the erection of any [additional] 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.

Separate Approvals Required Under Other Legislation

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. For further information, please contact Council’s Customer Service Centre on (02) 9330 6400.

Requirements of Concurrence, Integrated & Other Government Authorities

4. GOV8.12 - **Sydney Water - Tap in TM** - The approved plans must be submitted to a Sydney Water Tap in TM to determine whether the development application will affect Sydney Water’s sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately endorsed. For details please refer to ‘Plumbing, building and developing’ section of Sydney Water’s web site at www.sydneywater.com.au then see ‘Building’, or telephone 13000 TAP IN (1300 082 746). The Certifying Authority must ensure that a Tap in TM agent has appropriately stamped the plans prior to the issue of the Construction Certificate.

Prior to the Issue of a Construction Certificate

5. CC9.1 - **Fees to be paid** - The fees listed in the table below must be paid in accordance with the conditions of this consent and Council’s adopted Fees and Charges applicable at the time of payment (available at www.georgesriver.nsw.gov.au).

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

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

Council will only accept Bank Cheque or Electronic Funds Transfer (EFT) for transaction values of \$500,000 or over. Council must be contacted prior to payment to determine

correct total amount to be paid and bank account details (if applicable).

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

Fee Type	Fee
GENERAL FEES	
Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct to the Long Service Corporation. See https://portal.longservice.nsw.gov.au/bci/levy/	
Builders Damage Deposit	\$3,750.00
Inspection Fee for Refund of Damage Deposit	\$155.00
DEVELOPMENT CONTRIBUTIONS	
Georges River Council Section 94A Development Contributions Plan 2017	\$ 20,466.38

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.

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

Indexation

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

Timing of Payment

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

Further Information

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

6. **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: **\$3,750.00**

(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: **\$155.00**

(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.

7. **CC9.6 - Site Management Plan** - A Site Management Plan detailing all weather access control points, sedimentation controls, fencing, builder's site sheds office, amenities, materials storage and unloading arrangements must be submitted with the application for the Construction Certificate.

8. **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.

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

(a) All stormwater shall drain by gravity to the existing drainage system in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2015 (as amended).

10. **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.

11. **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.
12. **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.
13. **Plan of Management - Submission Requirements** - The submission of a Plan of Management in relation to the Premises. At a minimum, a Plan of Management should contain the following information:

(a) Site and locality details

- i. A description of the primary use of the premises as well as any secondary/ancillary uses (eg. retail liquor sales, public entertainment, outside trading areas, gaming areas etc). This may be in the form of a floor and/or site plan that indicates the use of all areas within the building or site;
- ii. Identification of any 'active areas' adjacent to the boundaries of the site used in association with the use of premises (eg. Outdoor seating, footway dining, queuing areas, parking etc);
- iii. A floor plan that indicates the proximity of external doors, windows and other openings to residential and other sensitive land uses. The floor plan should also indicate the proposed layout of all areas of the premises, such as internal queuing areas, seating, dining, gaming, dance floors, entertainment, lounge, etc
- iv. Details of the maximum capacity of the premises and the maximum number of patrons that will be standing and/or sitting at any one time;
- v. The location of waste storage areas;
- vi. Location of air conditioning, exhaust fan systems and security alarms;
- vii. A site context plan that provides empirical details of on-site and off-site car parking within 100 metres radius of the site, including a description of the availability of public transport in the locality during the proposed trading hours. This should also include routes to taxi ranks or possible taxi pick-up and drop-off areas.
- viii. Identification of the most commonly used pedestrian routes to and from the premises, including any safety corridors;
- ix. A summary of other late night trading premises that operate beyond 10pm within a 200 metre radius of the premises, indicating the nature of their use, their trading hours and distance from the premises.

(b) Operational details

An overview of the organisation in the form of a brief statement that provides details about the company/licensee/proprietor that includes information regarding:

- the number and type of staff (including security);

- other similar premises within the company's portfolio (if relevant);
- any Liquor Licenses for the premises;
- a description of any actions that the proprietor/licensee has taken to co-operate with NSW Police, the local community and incorporated resident groups regarding the management of the premises;
- actions taken to liaise with the local community about premises management and activities (eg. meetings, letter drops).

(c) Hours of Operation

- i. For existing premises seeking a renewal or extension of trading hours, a schedule of the current trading hours showing the range for each day. For example; this should be expressed in the following format:
 - 9am Friday to 2am Saturday
 - 9am Saturday to 2am Sunday
 - 9am Sunday to 1am Monday
 - 9am Monday to midnight Monday
 - 9am Tuesday to 11pm Tuesday
 - 9am Wednesday to 2am Thursday
- ii. A schedule of the proposed operating hours for each day of the week for all areas of the premises (eg. courtyards, rooftop, balcony, footway, gaming room etc.) showing the range of hours proposed for each day in the format above. If the nature of an area changes, for example, a dining area becomes a dance floor after the kitchen closes, then this should be noted and operational hours for the different uses detailed; and
- iii. If applicable, a schedule of proposed entertainment hours for each day of the week in the format above.

(d) Noise:

- i. The identification of all likely noise and vibration sources associated with the operation of the premises. This may include such sources as:
 - public entertainment;
 - external (outside) areas such as courtyards, rooftops, balconies etc;
 - patrons leaving and entering the premises;
 - the operation of mechanical plant and equipment;
 - waste disposal, sorting and collection of bottles etc.
- ii. A description of the existing acoustic environment during hours proposed beyond midnight (eg. from vehicular traffic, noise from surrounding premises, pedestrian noise etc.);
- iii. The identification of all noise sensitive areas of different occupancy in close proximity to the proposed use (eg. residential dwellings, etc.) and;
- iv. If applicable, a description of the nature/type of entertainment (eg. amplified or acoustic, solo or band, number of performers, pre-recorded, Disc Jockey etc);

(e) Security and safety

- i. A description of any arrangements that will be made for the provision of security staff. This is to include (but is not limited to) the following:

- recommendations from Local Licensing Police regarding appropriate security provision and a statement outlining the extent of compliance with police recommendations;
 - the number of security personnel that will be patrolling inside and outside the premises including the frequency of security patrols;
 - Identification of the physical extent of any patrolled areas outside the premises;
 - Hours that security personnel will be on duty (including the period after closing time);
 - Staff security training, weapons detection, and other security response methods.
- ii. Details of CCTV surveillance camera installation that identifies both indoor and outdoor areas monitored by cameras, and camera technical specifications (eg. recording capacity, frames per second etc.)
- iii. Details of signage that is to be erected providing advice to patrons to maintain quiet and order when leaving and entering the premises;
- iv. Detail any liaisons or outcomes of any meeting with local NSW police; and
- v. Details of any complaints associated with the operation of the premises must be recorded in a Complaints Register which includes:
- Complaint date and time;
 - Name, contact and address details of person(s) making the complaint;
 - Nature of complaint;
 - Name of staff on duty;
 - Action taken by premises to resolve the complaint;
 - Follow-up; and
 - Outcome.

(f) Management Measures

General Amenity:

- i. Details of all measures that will be taken to ensure that amenity impacts that may result from the operation of the premises are minimised. This should identify (where relevant) any measures taken to ensure that the operation of the premises will not materially affect the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil or otherwise;
- ii. Details of all actions that will be taken to respond to complaints made about the operation of the premises (including but not limited to consultations with residents, discussions with Council Officers, liaison with Police, public access to Plans of Management, review of existing Plan of Management etc.);
- iii. A waste management plan that outlines the procedures for minimising and managing waste that is generated by the premises. This should address such matters as disposal of bottles, how and when waste will be removed, details of waste management facilities, waste collection and storage areas etc;
- iv. Details of when (frequency) and how the premises will be cleaned and serviced;
- v. If the premises has gaming machines, details of where gaming areas will be located in order to not be viewable from the street (eg. away from the street frontage, not at ground level if multiple floors, appropriate screening); and how these areas will be patrolled;
- vi. A statement that addresses how the premise will impact the mix of uses in the vicinity during both day and night trading hours;

- vii. Details of methods that will increase patron awareness of public transport availability (eg. signage, availability of timetables) as well as a description of any other measures that will assist patrons in using public transport (eg. provision of a shuttle service, taxi assistance etc.); and
- viii. Details of methods that will increase patron awareness of responsible disposal of cigarette butts;
- ix. Any other measures that will be undertaken to ensure that amenity impacts that may arise from the operation of the premises are addressed.

Noise:

- i. Details of all on-site and off-site noise and vibration attenuation measures;
- ii. A statement outlining the premises' compliance with all relevant noise and vibration standards, guidelines and legislation (eg. Australian Standards, *Protection of the Environment (Operations Act) 1997*, EPA Industrial Noise Guidelines, etc.);
- iii. Details of all actions that will be taken to ensure that the operation of the premises will not give rise to any 'offensive noise' as defined under the *Protection of the Environment Operation Act 1997*;
- iv. Details of how management will address complaints relating to noise, and any noise control strategies that will be implemented to minimise the potential for complaints (eg. liaison with neighbours and local police, maintaining a complaint register etc);
- v. Details of any measures that will be taken to minimise noise from outdoor areas such as rooftops, courtyards, balconies or designated smoking areas etc; and
- vi. Details of any noise limiting devices to be installed.

Security and Safety:

- i. Measures that will be taken by security personnel to ensure that the behaviour of staff and patrons when entering or leaving the premises will minimise disturbance to the neighbourhood.
- ii. Any provisions that will be made to increase security in times where higher than average patronage is expected (eg. during public entertainment, peak periods on weekends, New Years Eve, , during special events and functions etc.);
- iii. Liaison that will be undertaken with other licensees or operators of late trading premises in the locality/area to improve security at night;
- iv. Detail procedures and provisions that will be implemented to improve premises security. At a minimum this should include:
 - emergency procedures;
 - crowd control;
 - search procedures;
 - maintenance of an incident register;
 - monitoring of patron behaviour;
 - monitoring of numbers of patrons within the premises;
 - recording of complaints and reporting of incidents to Police;
 - dress codes;
 - staff security training;
 - distinctive security attire;
 - availability of cloak rooms;
 - internal and external security patrols;
 - measures to prevent glass being carried from the premises by

- patrons;
- measures to ensure safe capacities (eg. electronic counting of
- patrons, occupancy limits, signage); and
- actions to be taken during 'wind down' periods prior to closing time.

v. If queuing outside the premises is to occur, a description of any measures that will be taken to ensure that queuing is controlled in a manner that will not adversely impact the amenity of the neighbourhood and that the footpath will not be unreasonably impeded. This description may address such matters as:

- A description of how and how often security guards will monitor queues (e.g. security guards will monitor queues every 10 minutes to identify inappropriate behaviour before patrons enter);
- the use of temporary ropes and bollards;
- maximum queue numbers;
- actions taken to minimise loitering; and
- actions ensuring the fast and efficient movement of a queue; and

vi. Methods employed to implement harm minimisation and the responsible service of alcohol (RSA) requirements such as:

- employee training and awareness regarding RSA and harm minimisation;
- approaches that will be used to manage intoxicated and/or disorderly persons;
- promotion of non-alcoholic beverages and provision of free water;
- display of the premises' house policy;
- assisting patrons in accessing safe transportation from the premises (eg. arranging taxis, public transport timetable information);
- encouraging responsible drinking;
- number of RSA marshalls employed for each shift and details on how they will monitor RSA; and
- actions taken to discourage drug use and to manage drug related incidents.

vii. Detail emergency and evacuation procedures in accordance with the relevant Australian Standard and provide details of staff training in those procedures.

14. **Plan of Management - Compliance** - The premises are to be operated at all times in accordance with the approved Plan of Management as may be varied from time to time after consultation with the Local Area Commander of NSW Police Force.

A copy of the Plan of Management is to be kept on the premises and made available for inspection on the request of a police officer, council officer, or liquor and gaming NSW inspector.

15. **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.

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

Tree Species	Location of Tree / Tree No.	Tree Protection Zone (metres)
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<i>Araucaria heterophylla</i>	South east corner of courtyard	7.2 metres
<i>Eucalypt Spp</i>	South east corner of courtyard	6.0 metres
<i>Melia azedarach</i>	South east corner of courtyard	3.6 metres

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.

17. **CC9.89 - Tree Removal & Replacement - Tree removal**

Permission is granted for the removal of the following trees:

Tree species	Number of trees	Location
<i>Ligustrum lucidum</i>	1	Close to eastern boundary fence line, opposite steps, back courtyard
<i>Pittosporum undulatum</i>	1	Close to eastern boundary fence line, opposite steps, back courtyard

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.

During Construction

18. **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.
19. **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.

20. 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.
21. 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.

Prior to the issue of the Occupation Certificate

22. OCC12.10 - **Major Development** - Internal driveways and parking spaces are to be adequately paved with concrete or bitumen, or interlocking pavers to provide a dust-free surface. All car parking spaces are to be line marked in accordance with AS1742, 'Australian Standard Manual of Uniform Traffic Control Devices' and the relevant guidelines published by the RMS.
23. 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 *"Acoustical Design Statement for Oatley Hotel Gaming Room and Kitchen Refurbishment dated 8 May 2018 File reference: 3404R20180424asOatleyHotel_V2.docx prepared by Koikas Acoustics Pty Ltd"*.

Operational Conditions (On-Going)

24. 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).
25. ONG14.14 - **Final Acoustic Report - Verification of Noise report** - Within three months from the first use (after this permit has been issued) of the Oatley Hotel at 8-12 Oatley Ave Oatley, an acoustic assessment is to be carried out by an appropriately qualified acoustic consultant, in accordance with the EPA's Noise Policy for Industry (2017) 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 *"Acoustical Design Statement for Oatley Hotel Gaming Room and Kitchen Refurbishment dated 8 May 2018 File reference: 3404R20180424asOatleyHotel_V2.docx prepared by Koikas Acoustics Pty Ltd"* 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 (as amended) or compliance with the Noise Level conditions forming part of this permit.
26. 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.

27. **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.
28. **ONG14.28 - 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.
29. **ONG14.60 - Operation of Exhaust Fans** - All kitchen supply and exhaust fans must not operate between 2300 hours and 0700 hours, or 0800 hours on Sundays and Gazetted Public Holidays.
30. **ONG14.62 - Loading & Unloading of vehicles** - All loading and unloading of vehicles in relation to the use of the premises shall take place wholly within a dedicated loading dock/area.
31. **ONG14.63 - Entering & Exiting of vehicles** - All vehicles shall enter and exit the premises in a forward direction.
32. **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.
33. **ONG - First Floor Terrace Areas - Hours of Operation** - To minimise acoustic impact on adjoining properties, the first floor terrace areas (both existing and proposed) shall be vacated by all patrons daily between the hours of 10pm and 10am the following day.
34. **ONG - Queue Management** - Licensed, uniformed security guards are to monitor and ensure that patrons awaiting entry to the licensed premises form a queue and the queue is positioned to not impeded the free flow of pedestrians.
35. **ONG - Security** - At times when amplified entertainment is conducted, two (2) uniformed

security guards are to continually patrol the vicinity of the licensed premises to encourage patrons to move on. Such patrols are to continue until the last patron has left the licensed premises AND vicinity of the licensed premises.

36. ONG - Closed Circuit Television -

- 1) The licensee must maintain a closed-circuit television (CCTV) system on the premises in accordance with the following requirements;
 - a. the system must record continuously from opening time until one hour after the premises is required to close or in the case of premises that is not required to cease trading, continuously at all times
 - b. recordings must be in a digital format and at a minimum of ten frames per second (10 fps)
 - c. any recorded image must specify the time and date of the recorded image
 - d. the systems cameras must cover the following areas;
 - i. all entry and exit points on the premises
 - ii. the footpath immediately adjacent to the premises and
 - iii. all publicly accessible areas (other than toilets) within the premises.
 - 2) The licensee must also;
 - a. keep all recordings made by the CCTV system for at least 30 days
 - b. ensure that the CCTV system is accessible at all times the system is required to operate by at least one person able to access and fully operate the system including downloading and producing recordings of CCTV footage and
 - c. provide any recordings made by the system to a police officer of authorised officer within 24 hours of any request by a police officer or authorised officer
- 37. ONG - Neighbourhood Amenity Signage -** Signage is to be erected in a prominent position near the main exit of the premises reminding patrons to leave quietly.
- 38. ONG - LA₁₀ Noise Condition -** The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any octave band centre frequency (31.5Hz - 8kHz inclusive) by more than 5dB between 7.00am and 12.00 midnight at the boundary of an affected residence.
- The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any octave band centre frequency (31.5Hz - 8kHz inclusive) between 12.00 midnight and 7.00am at the boundary of any affected residence.
- 39. ONG - Live Entertainment -** At all times when amplified entertainment is conducted, the licensee must ensure that all external doors and windows on the western side (Oatley Avenue) are closed.
- 40. ONG - Complaint Response -** In the event of a complaint being received by the licensee from a neighbouring resident with respect to a disturbance to the quiet and good order of the neighbourhood, the licensee must notify Council of the complaint for inclusion on the complaints register within 48 hours. It remains the responsibility of the licensee to respond appropriately to complaints.
- 41. ONG - Prohibition of Removal of Open Alcohol -** The licensee must ensure no open alcohol containers are taken off the premises.

42. **OPER15.1 - Requirement for a Construction Certificate** - The erection of a building must not commence until a Construction Certificate has been issued.
43. **OPER15.2 - Appointment of a PCA** - The erection of a building must not commence until the applicant has:

(a) appointed a 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, the applicant must:

(c) 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

(d) notify the PCA of the details of any such appointment; and

(e) 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 PCA for your development.

44. **OPER15.3 - Notification Requirements of PCA** - No later than two 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 applicant of the critical stage inspections and other inspections that are to be carried out with respect to the building work.

45. **OPER15.4 - Notice of Commencement** - The applicant must give at least two 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.

46. **OPER15.9 - 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 PCA appointed for the building work can issue the Occupation Certificate.

An Occupation Certificate Application Form is attached for your convenience.

Prescribed Conditions

47. **PRE16.2 - 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.

48. **PRE16.3 - 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 PCA and the Principal Contractor.
49. **PRE16.5 - Clause 98C - Entertainment Venues** - Schedule 3A of the Environmental Planning and Assessment Regulation 2000 outlines the prescribed conditions which apply to Entertainment Venues.
50. **PRE16.6 - Clause 98D - Erection of sign for maximum number of persons** - This prescribed condition applies to entertainment venues, function centres, pubs, registered clubs and restaurants. This condition requires the erection of a sign which states the maximum number of persons (as specified in the consent) that are permitted in the building.
51. **PRE16.8 - Clause 98E - Site Excavation** - Excavation of the site is to extend only to that area required for building works depicted upon the approved plans. All excess excavated material shall be removed from the site.

All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.

All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

If the soil conditions require it, retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil shall be provided and adequate provision shall be made for drainage.

END CONDITIONS

NOTES/ADVICES

52. **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.

53. **Appeal Rights** - Part 8 (Reviews and appeals) 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.
54. **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 4.53 of the Environmental Planning and Assessment Act 1979 as amended.

55. 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
56. 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.

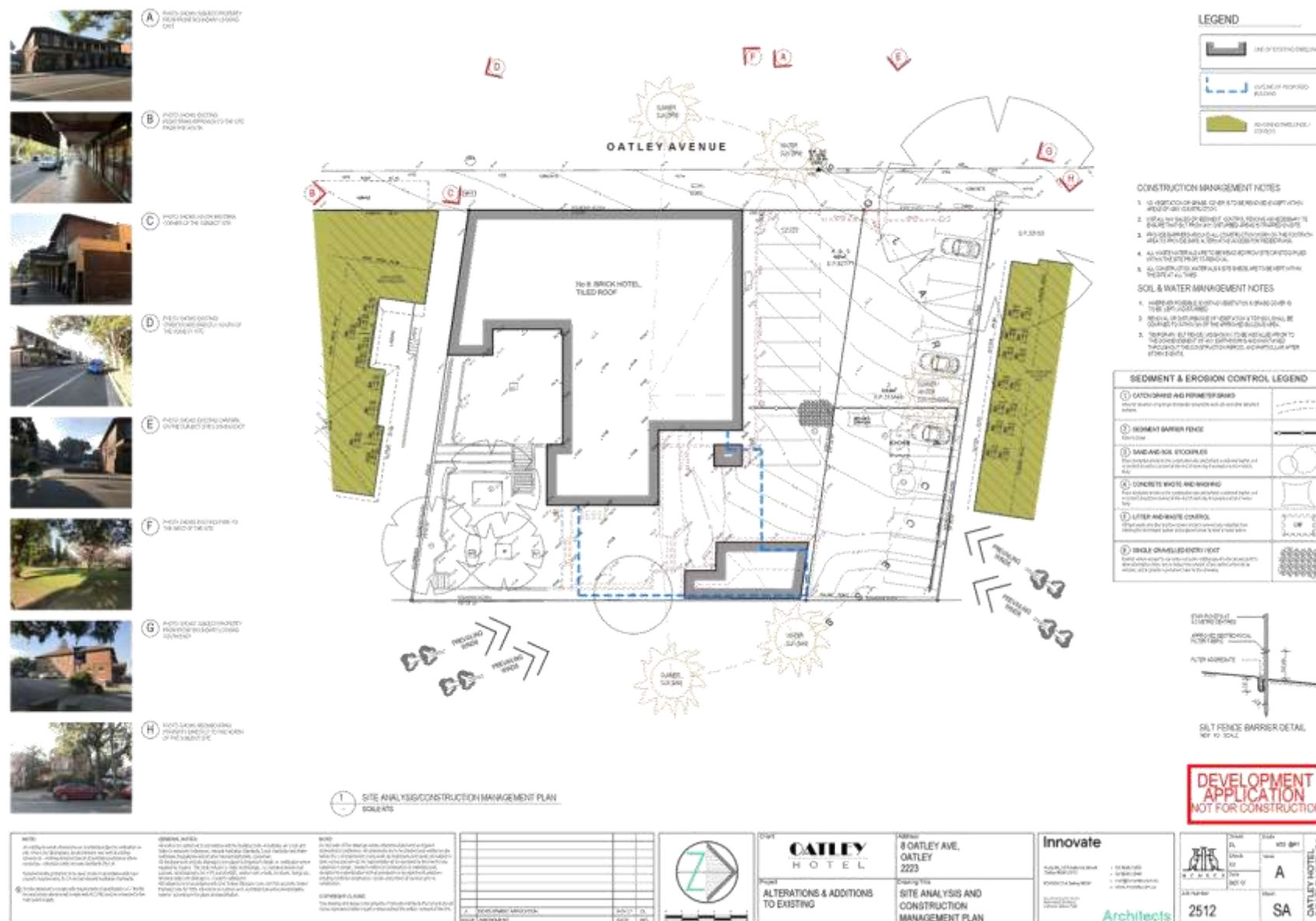
57. ADV17.3 - **Disability Discrimination Act** - This application has been assessed in accordance with the Environmental Planning and Assessment Act 1979. No guarantee is given that the proposal complies with the Disability Discrimination Act 1992. The applicant is responsible to ensure compliance with 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.
58. 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.

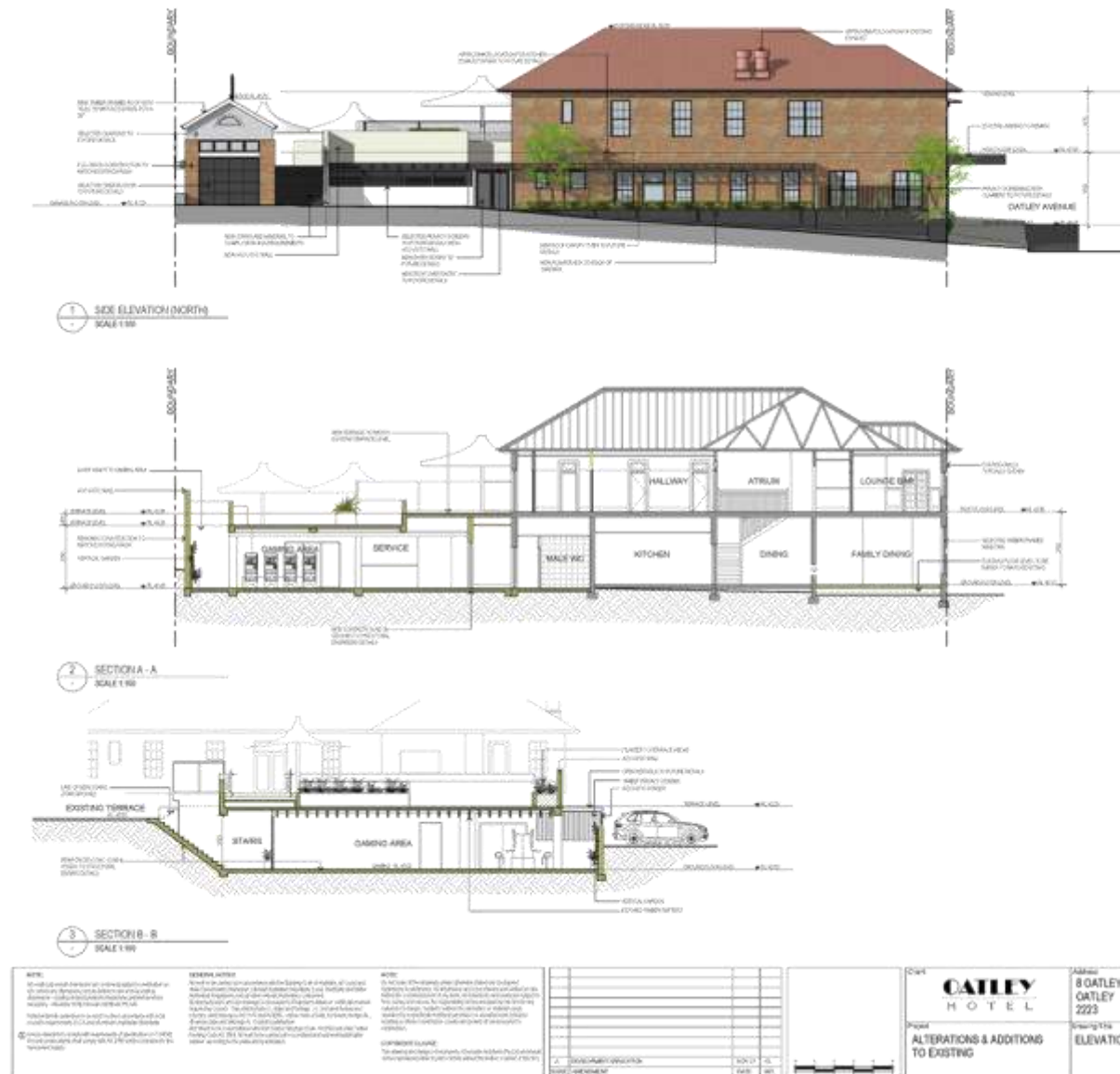
A demolition licence and/or a high risk work license may be required from SafeWork NSW (see www.SafeWork.nsw.gov.au).

If you need more information, please contact the Development Assessment Planner, below on 9330-6400 between 9.00am -11.00am business days.

ATTACHMENTS

- Attachment [↓](#)1 Site Analysis - 8-12 Oatley Avenue Oatley
- Attachment [↓](#)2 Elevations and Sections - 8-12 Oatley Avenue Oatley
- Attachment [↓](#)3 Elevations - 8-12 Oatley Avenue Oatley
- Attachment [↓](#)4 NSW Police Comments - 8-12 Oatley Avenue Oatley









NSW Police Force
St George Police Area Command

Tuesday 19 June 2018

Team Leader Development Assessment

Attn: Chris Young
Georges River Council
Civic Centre McMahon Street
Hurstville NSW 2220

Referral of Development Application for consideration

Development Application No: DA2017/0612
Property Address: 8-12 Oatley Avenue, Oatley
Legal Description: Lot 3 DP 313445
Proposed Development: Internal alterations and additions to Oatley Hotel (no change in trading hours and number of patrons)

Dear Chris,

Thank you for the opportunity to comment on this application. The application has been assessed by the St George Police Area Command Licensing unit and following submission prepared for consideration of Council.

BACKGROUND

The Oatley Hotel is located at 8 Oatley Avenue Oatley. The hotel has liquor – hotel licence number LIQH400104332, which commenced in 1953.



A – Oatley Hotel, **B** – Oatley RSL, **C** – Skeeta & Jacks — CBD boundary

St George Police Area Command Hurstville Police Station, 36-38 Ormonde Parade Hurstville

Licensing Unit – Phone: 9375 8560 | Email: stglic@police.nsw.gov.au

DEVELOPMENT APPLICATION – Police Submission 2

The hotel neighbour's medium density residential areas on the southern and eastern boundary.

The premises is authorised to trade;
5.00am – 12.00am Monday to Saturday and
10.00am -12.00am Sunday.

There are 13 licensed premises within the Oatley Village. These premises comprise; 6 On-premises, 3 Packaged, 1 Hotel, 1 Club, 1 Small bar.

Escalating Licensing Operational Response Model (ELORM) for the period March 2018 to May 2018 for the suburb of Oatley is LOW.

The Oatley Hotel also has a total risk rating of LOW.

COMMENT

1. Reconfigure of internal layout¹

Police have no concerns or objection to the carrying out of internal building modifications including consolidation of the family dining, construction of a new kitchen, modification of and addition to bathroom facilities and the provisions of a lift.

Due to the increased potential of alcohol related and violent crime that is present in licensed premises, and to supplement natural surveillance within the premises, Police recommend the inclusion of technical / mechanical surveillance in particular, closed-circuit television. The benefits of CCTV include; deterring opportunistic crime, providing staff the ability to monitor higher risk / isolated areas and providing evidence to assist in the identification of offenders.

2. Upgrade to the existing ground floor façade²

Police have no objections to the external building changes to the existing ground floor front street (Oatley Avenue) façade.

At present, when queuing is required, a queue is formed on the western footpath against the wall and south of the entrance door.

While the photographic montage is nominated as *for illustrative purpose only*, should the proposed windows facing the street be of a type that open partially or completely, Police have concerns the open windows have the potential for;

- interaction between admitted patrons consuming meals and queuing patrons
- admitted patrons passing alcohol drinks out to queuing patrons
- egress of noise to the neighbourhood
- unauthorised entry through window

¹ Statement of Environmental Effect Ref 0148/17 section 3.1.2 Ground floor

² Statement of Environmental Effect Ref 0148/17 section 3.1.4 External Building changes

DEVELOPMENT APPLICATION – Police Submission 3

To address these concerns, Police recommend the closure of the windows while amplified entertainment is conducted and or when queuing is necessary.

3. Construction of purpose built room adjoining the north-eastern portion of the building to accommodate the gaming area.³

Police have no concerns or objections to the construction of a purpose-built gaming area based substantially on information provided in the acoustical design statement prepared by Koikas Acoustics.

Police note that the proposed relocation of the room would position it in close proximity to existing neighbouring residential areas in Letitia Street. It is proposed the purpose-built room will include roof void areas which will allow egress of noise.

It is the finding of the acoustical design statement that worst-case scenario predicts the impact of on residential noise amenity are;

- LA10 40dB on the upper floor level of 6 Oatley Avenue
- LA10 42dB on the upper floor level of 11 Letitia Street
- LA10 46-47dB on the upper floor levels of 11A Letitia Street (future building)⁴

Assuming these predictions to be accurate, the relocated gaming room should have no greater overall impact on residential noise amenity than is currently the case.

4. Extension of the outdoor terrace over the gaming area roof⁵

Police have strong concerns in relation to the construction of and expansion to the current outdoor terrace. This concern relates to the impact of noise on the amenity of the neighbourhood caused by the terrace.

It is the position of Police that the current ambient noise is already excessive and would be considered by EPA guidelines to be intrusive. By permitting an expansion to the current terrace, this would bring the outdoor usable space closer to the existing residential units at 11 Letitia Street. Police are not aware of a specific capacity in relation to the terrace and as such, an expansion of the usable space would allow more patrons to use the area which in turn would further raise the impact of noise.

To highlight the concern, Police rely on current complaint environment where over the past 12 months, Police have received noise complaints from Mr Campbell of Letitia Street and Mark Coure MP. Licensing Police have also attended the car park at 13 Letitia Street during Friday evening trade and observed the ambient noise to be high.

In reviewing the application in particular Acoustical Design Statement prepared by Koikas Acoustics in support of the application two relevant pieces of information support the concerns of Police.

³ Statement of Environmental Effect Ref 0148/17 section 3.1.2 Ground floor

⁴ Acoustical Design Statement Ref 3404R2018042asOatleyHotel_v2

⁵ Statement of Environmental Effect Ref 0148/17 section 3.1.3 Level 1

DEVELOPMENT APPLICATION – Police Submission 4

Daytime, evening and partial night-time (up to 11pm) background noise levels are 46dB(A) as measured by Renzo Tonin and Associates (RT&A) for an acoustic assessment prepared for the site at 11A Letitia Street.⁶

Police have no reason to doubt the determination made by Renzo Tonin and Associates and note that Koikas Acoustics are confident in its accuracy as they use this background noise level to demonstrate the mechanical plant noise will be compliant ie. not more than 5dB above the Background noise levels of 46dB. **Therefore Police accept the background noise level at the boundary of the premises is 46dB**

In comparison, although used to demonstrate compliance in regard to the noise generate by the gaming rooms, Koikas Acoustics conducted surveys to determine ambient noise levels.

On Friday 20 April 2018, two surveys were conducted at specific locations (R1, R2, R3) surrounding the premises at 10.00pm - 10.40pm, and 11.55 – 12.00 am.



Figure 1. Oatley Hotel site, surrounding residential properties and noise survey locations. Image/courtesy of SixMaps

No information was provided regarding patronage at the time the survey was conducted, however on Friday 13 April 2018 – Licensing Police attended the hotel about 10.00pm. At that time, the hotel had 480 patrons which is about 48% capacity. It is the opinion of Police; this capacity is typical for an ordinary Friday in April.⁷

Koikas Acoustics provide the following as a result of those surveys;

a summary of the measured ambient noise levels at the time of the surveys as;

- R1A: LAeq 63dB and LA10 65dB (10.00pm-10.40pm)
- R1B: LAeq 62dB and LA10 65dB (11.55pm-12.00am)
- R2: LAeq 68dB and LA10 71dB

⁶ Acoustical Design Statement Ref 3404R2018042asOatleyHotel_v2

⁷ E 67549850 – Licensed Premises Over Audit – 13/08/2018 22.00hrs.

DEVELOPMENT APPLICATION – Police Submission 5

- *R3: LAeq 68dB and LA10 70dB*

Police are satisfied Koikas Acoustics have specialist knowledge and as such have no reason not to accept the findings provided.

That being the case, considering background noise level is accepted as 46dB, permissible levels allow 5dB above this between 7.00am and 12.00am, the above survey results appear to be significantly higher.

Coincidentally, The Oatley hotel is currently subject to a licensing condition that *the LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre (31.5Hz - 8kHz inclusive) by more than 5dB between 07:00 am and 12:00 midnight at the boundary of any affected residence.*⁸

This LA10 condition is consistent with current EPA guidelines.

It is the concern of Police that an expansion of the terrace would further exacerbate the impact of residential noise amenity which appears not to comply currently.

Police believe further treatment of this aspect is required, however should the application be approved, a condition relating to noise is recommended to place the onus fairly on the premises and allow compliance / intervention.

POLICE RECOMMENDED CONDITIONS

General Management Conditions

Plan of Management

- The premises are to be operated at all times in accordance with the Plan of Management date [insert date] as may be varied from time to time after consultation with the Local Area Commander of NSW Police Force.
- A copy of the Plan of Management is to be kept on the premises and made available for inspection on the request of a police officer, council officer, or liquor and gaming NSW inspector.

Security Conditions

Queue Management

- Licensed, uniformed security guards are to monitor and ensure that patrons awaiting entry to the licensed premises form a queue and the queue is positioned to not impeded the free flow of pedestrians.

⁸ Liquor license for LIQH400104332 – Oatley Hotel

DEVELOPMENT APPLICATION – Police Submission 6

Security

- At times when amplified entertainment is conducted, two (2) uniformed security guards are to continually patrol the vicinity of the licensed premises to encourage patrons to move on. Such patrols are to continue until the last patron has left the licensed premises AND vicinity of the licensed premises.

Closed Circuit Television

- 1) The licensee must maintain a closed-circuit television (CCTV) system on the premises in accordance with the following requirements;
 - a. the system must record continuously from opening time until one hour after the premises is required to close or in the case of premises that is not required to cease trading, continuously at all times
 - b. recordings must be in a digital format and at a minimum of ten frames per second (10 fps)
 - c. any recorded image must specify the time and date of the recorded image
 - d. the systems cameras must cover the following areas;
 - i. all entry and exit points on the premises
 - ii. the footpath immediately adjacent to the premises and
 - iii. all publicly accessible areas (other than toilets) within the premises.
- 2) The licensee must also;
 - a. keep all recordings made by the CCTV system for at least 30 days
 - b. ensure that the CCTV system is accessible at all times the system is required to operate by at least one person able to access and fully operate the system including downloading and producing recordings of CCTV footage and
 - c. provide any recordings made by the system to a police officer of authorised officer within 24 hours of any request by a police officer or authorised officer

Disturbance Conditions

Neighbourhood amenity signage

- Signage is to be erected in a prominent position near the main exit of the premises reminding patrons to leave quietly.

LA10 Noise condition

- The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any octave band centre frequency (31.5Hz – 8kHz inclusive) by more than 5dB between 7.00am and 12.00 midnight at the boundary of an affected residence.
- The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any octave band centre frequency (31.5Hz – 8kHz inclusive) between 12.00 midnight and 7.00am at the boundary of any affected residence.

DEVELOPMENT APPLICATION – Police Submission 7

Live Entertainment

- At all times when amplified entertainment is conducted, the licensee must ensure that all external doors and windows on the western side (Oatley Avenue) are closed.

Complaint Response

- In the event of a complaint being received by the licensee from a neighbouring resident with respect to a disturbance to the quiet and good order of the neighbourhood, the licensee must notify Council of the complaint for inclusion on the complaints register within 48 hours. It remains the responsibility of the licensee to respond appropriately to complaints.

RSA Conditions

Removal of open alcohol

- The licensee must ensure no open alcohol containers are taken off the premises.

CONCLUSION

The New South Wales Police Force have a vital interest in ensuring the safety of members of the community and their property. By using the recommendations contained in this submission, any person who does so acknowledges that:

1. It is not possible to make areas evaluated by the NSW Police Force absolutely safe for members of the community or their property
2. It is based upon the information provided to the NSW Police Force at the time the evaluation was made,
3. The evaluation is a confidential document and is for use by the consent authority or organizations referred to on page 1 only,
4. The contents of this evaluation are not to be copied or circulated otherwise than for the purposes of the consent authority or organization referred to on page 1.

The NSW Police Force hopes that by using the recommendations contained in this document, criminal activity will be reduced and the safety of members of the community and their property will be increased. However, it does not guarantee that all risks have been identified, or that the area evaluated will be free from criminal activity if its recommendations are followed.

We would like to thank you for the opportunity of inspecting the plans for this development and should you require further information on the subjects mentioned within this report feel free to contact Sergeant Daniel Moylan, Licensing Supervisor, St George Police Area Command, Phone 9375 8560.

DEVELOPMENT APPLICATION – Police Submission 8

Yours sincerely,

Julian Griffiths
Superintendent
St George Police Area Command

Annexures

1. Architects plans
 - a. Page 1 and 2 – Current layout
 - b. Page 3, 4 and 5 – Proposed layout
 - c. Photographic Montage
2. Acoustical Design Statement - Koikas Acoustics Pty Ltd
3. Statement of Environmental Effects - Vantar Pty Ltd

REPORT TO GEORGES RIVER COUNCIL LPP MEETING OF THURSDAY, 19 JULY 2018

LPP Report No	LPP028-18	Development Application No	DA2018/0062
Site Address & Ward Locality	705 Forest Road Peakhurst Peakhurst Ward		
Proposed Development	Alterations and additions to existing bottle shop, hotel, accommodation and car parking - Peakhurst Inn		
Owners	JDA Peakhurst Hotel Investments Pty Ltd		
Applicant	JDA Peakhurst Hotel Investments Pty Ltd		
Planner/Architect	Architect – Bergstrom Architects, Planner – Design Collaborative Pty Ltd		
Date Of Lodgement	23/02/2018		
Submissions	One (1) submission received		
Cost of Works	\$10,246,998.00		
Local Planning Panel Criteria	Sensitive Development; Licenced Premises		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	State Environmental Planning Policy No.64 – Advertising & Signage, State Environmental Planning Policy No 55 - Remediation of Land, State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, State Environmental Planning Policy (Infrastructure) 2007, Hurstville Local Environmental Plan 2012, Hurstville Development Control Plan No 1		
List all documents submitted with this report for the Panel's consideration	Architectural Plans Plan of Operational Management St George Police Area Command Response/Conditions		
Report prepared by	Independent Assessment		

Recommendation	THAT the application be approved subject to conditions included in the report.
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Summary of matters for consideration under Section 4.15 Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	Yes
Legislative clauses requiring consent authority satisfaction 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?	Yes
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development	Not Applicable

standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (under s7.24)?	Not Applicable
Conditions Have draft conditions been provided to the applicant for comment?	Yes

Site Photo



Subject site



Executive Summary

Proposal

1. The proposal seeks consent for the alterations, additions and the refurbishment of an existing three storey pub, resurfacing of the rear carpark and associated landscape works, new signage and an increase of operating hours of gaming room to 5:00am, with a maximum capacity of 60 patrons between 3am-5am, within a defined area.

The proposal consists of substantial alterations and additions to each of the levels of the existing pub, which are summarised as follows:

- Lower ground floor level – proposed to be expanded to provide additional floor space that includes keg rooms, garbage areas, toilets and storage. Total gross floor area at this level is proposed to be 498sqm.
- Ground floor level – proposed to be expanded to provide additional floor space for beer gardens, bistro areas (indoor and outdoor bistros), enclosed courtyards, function

terraces, kitchen areas and alfresco gaming area. The total gross floor area at this level is proposed to be 1477sqm.

- First floor level – minor additions proposed at this level for additional accommodation foyer, communications room and balustrades. Total gross floor area at this level is proposed to be 460sqm.

Site and Locality

2. The site is identified as 705 Forest Road, Peakhurst with a legal description of Lot 103 DP 1109257. The site is a rectangular shaped parcel of land and is located on the south eastern side of Forest Road.

The site has an area of 5776sqm with a frontage to Forest Road of 40.215m. Respective boundary lengths to the north east and south west of 144.91m and 144.88m are presented.

The locality surrounding the subject site contains a mixture of light industrial warehouses and factory units and a range of commercial and retail premises.

Zoning and Compliance with LEP Standards

3. The front portion of the site falls within the B1-Neighbourhood Centre zone with the rear portion of the site being located in the IN2 – Light Industrial zone under Hurstville Local Environmental Plan 2012. The existing development falls under the parent classification as a “*commercial premises*” which is prohibited in both the B1 and IN2 zones. The development relies on “*existing use rights*” of the Environmental Planning & Assessment Act 1979.

Submissions

4. The application was neighbour notified and advertised for a period of fourteen (14) days from 14 March 2018 where one (1) submission was received raising the following concerns:
 - Concerns over an additional substation (visual impact);
 - additional traffic movements over the right of way (connecting the site with Durkin Place to the south).

These concerns do not warrant refusal of the application as discussed in the body of this report.

Level of Determination

5. The application is referred to the Local Planning Panel for determination as the development is identified as ‘Sensitive Development’ associated with the expansion of a licenced premises which will require an amended / new liquor licence for the additional floor area.

Conclusion

6. Having regard to the Heads of Consideration under Part 4.15 of the Environmental Planning and Assessment Act 1979, Development Application No. DA2018/0062 is recommended for approval subject to suitable conditions.

Report in Full

DESCRIPTION OF PROPOSAL

7. The proposal seeks consent for the alterations, additions and the refurbishment of an existing three storey pub, resurfacing of the rear carpark and associated landscape works, new signage and an increase of operating hours of gaming room to 5:00am, with a maximum capacity of 60 patrons between 3am-5am, within a defined area.

A breakdown of the proposed development is provided as follows:

- Lower Ground Floor
 - Internal alterations to create new keg room, garbage room, staff change rooms, customer amenities and back of house facilities.
 - New loading bay zone, and
 - New accessible entries via two lifts and stairs to bistro and gaming room.
 - Total gross floor area 498sqm at this level.
- Ground Floor
 - Demolition, expansion, reconfiguration and refurbishment of internal areas
 - Expansion of the beer garden to the northwest boundary of the TAB and addition of an operable roof
 - Conversion of front female toilets to an office
 - Consolidation of TAB and front bar into a combined TAB and sports lounge
 - Conversion of existing smoking terrace and snooker area on the south western side into an alfresco gaming room
 - Expansion of the southern corner to include new kitchen and function terrace with dedicated bar
 - Addition of kids play area on the north western side adjacent to the new centralized indoor and outdoor bistro areas
 - Conversion and expansion of rear eastern portion into a landscaped tiered courtyard, server bar, small stage for entertainers and permanent roofing above
 - New aluminium timber cladding to external façade of the existing porte-cochere; and
 - Installation of four new LCD wall signs and two new business signs to the Forest Road façade.
 - Total gross floor area 1477sqm at this level.
- Level 1
 - Removal of communal amenities, kitchen and laundry
 - Addition of new stairwell access, lift and communication room; and
 - Reconfiguration and refurbishment of bedrooms with the addition of ensuites.
 - Total gross floor area at this level to be 460m²

HISTORY

8. The hotel was established in 1960, with its liquor licence granted on 16 November 1959.

DA 354/91 was granted consent at a Council meeting on 24 June 1992 and later modified on 14 October 1992 for an advertising structure and extensions to the drive-through bottle shop.

DA 143/91 was granted a modified consent by Council on 3 November 1993 for the Peakhurst Inn's "Lounge and Club bars" to operate permanent trading hours between

10am and 3am (the following day) on Monday to Saturday and 10am to 10pm on Sundays.

DA 199/92 issued on 26 June 1992 allowed for the inclusion of the TAB in the public bar area.

DA 2005/0284 was granted consent on 6 December 2006 for the construction of a beer garden, covered bar area, garbage room and reconfiguration of parking. The use of the beer garden was restricted to 12 midnight.

There was a pre-lodgement meeting held with Council officers on 19 September 2017, with written comments provided to the proponent on 4 October 2017. Generally, these comments were favourable and requested the proponent to address matters regarding zoning/existing use rights, car parking, tourist and visitor component, site access/egress from Durkin Place, tree removal and also matters to be included in the DA documentation such as the Statement of Environmental Effects.

Application lodged with Council on 23 February 2018.

Application placed on notification and advertised for a period of two weeks from 14 March to 30 March 2018 where one (1) submission was received.

This report has been prepared on the architectural plans and associated detail submitted with Council on 23 February 2018.

DESCRIPTION OF THE SITE AND LOCALITY

9. The site is identified as 705 Forest Road, Peakhurst with a legal description of Lot 103 DP 1109257. The site is a rectangular shaped parcel of land and is located on the south eastern side of Forest Road.

The site has an area of 5776sqm with a frontage to Forest Road of 40.215m. Respective boundary lengths to the north east and south west of 144.91m and 144.88m are presented.

Currently the site is occupied by the Peakhurst Inn Hotel, which comprises of a drive through bottle shop, a pub and dining area and tourist and visitor accommodation (11 rooms).

Vehicular access to the site is off Forest Road, which services the drive-thru bottle shop and carpark. A secondary access to the carpark is also made available off Durkin Place located to the rear of the site.

The locality surrounding the subject site contains a mixture of light industrial warehouse, factory units and a range of commercial and retail premises.

Immediately to the north east of the site is a retail premises, comprising of a number of shops/supermarket and bitumen car park. To the south west, an industrial development comprising of an indoor sports centre while to the rear, industrial developments located off Durkin Place.

Across Forest Road, to the north west, is a small neighbourhood commercial/retail centre and residential properties. The following is a selection of photos to illustrate the surrounding area.



View towards retail premises adjoining the site to the north east, as viewed from Forest Road



View towards industrial development adjoining the site to the south west, as viewed from Forest Road



View towards the front of the subject site, as viewed from Forest Road in a southerly direction



View towards the front of the subject site, as viewed from Forest Road in an easterly direction

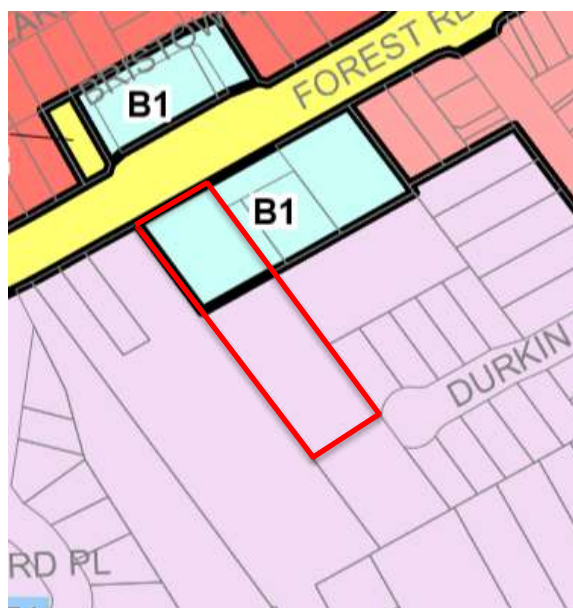


View towards the secondary site access, as viewed from Durkin Place

ZONING

10. The site is one parcel of land, however falls within two different zones under the Hurstville Local Environmental Plan 2012.

The front portion of the site falls within the B1-Neighbourhood Centre zone with the rear portion of the site being located in the IN2 – Light Industrial zone under Hurstville Local Environmental Plan 2012.



**Hurstville Local
Environmental
Plan 2012**

Land Zoning Map
- Sheet LZN_005

Zone

B1	Neighbourhood Centre
B2	Local Centre
B3	Commercial Core
B4	Mixed Use
E1	National Parks and Nature Reserves
IN2	Light Industrial
R2	Low Density Residential
R3	Medium Density Residential
RE1	Public Recreation
RE2	Private Recreation
SP2	Infrastructure
W2	Recreational Waterways

Excerpt from Zoning Map. Source: HLEP 2012

The existing development falls under the definition of a “*pub*” which is a type of “*food and drink premises*” as defined in HLEP 2012. A food and drink premises is a type of “*retail premises*” which is further defined as a type of “*commercial premises*”.

A “commercial premises” is identified as a prohibited use in both the B1-Neighbourhood Centre and the IN2-Light Industrial Zone.

The existing “pub” relies on existing use rights, which will be discussed in further detail below.

APPLICABLE PLANNING CONTROLS

- 11.

- State Environmental Planning Policy No 64 – Advertising & Signage
- State Environmental Planning Policy No 55 - Remediation of Land
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017
- State Environmental Planning Policy (Infrastructure) 2007
- Hurstville Local Environmental Plan 2012
- Hurstville Development Control Plan No.1

PLANNING ASSESSMENT

12. 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

Environmental Planning & Assessment Act 1979 - Division 4.11 Existing Uses

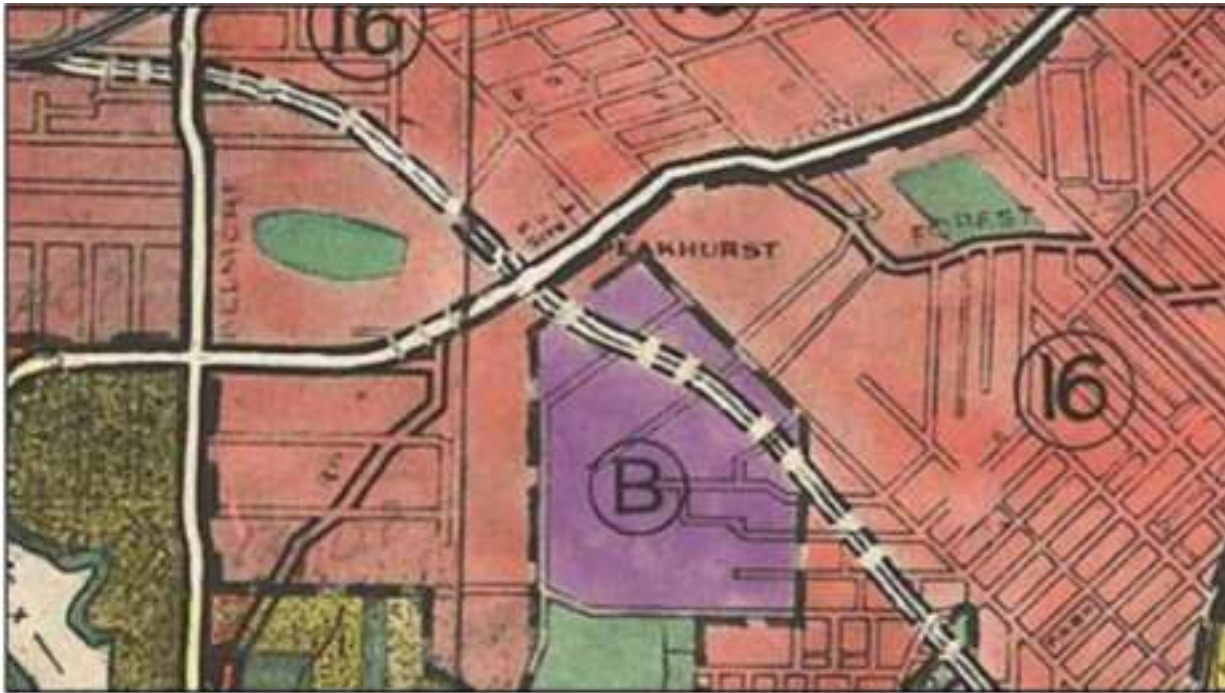
13. The existing development being a "Hotel" is more accurately classified as a "*pub*" which is a type of "*food and drink premises*" as defined in HLEP 2012. A food and drink premises is a type of "*retail premises*" which is further defined as a type of "*commercial premises*".

A "commercial premises" is identified as a prohibited use in both the B1-Neighbourhood Centre and the IN2-Light Industrial Zone.

The Statement of Environmental Effects submitted with the application has provided a detailed history of the site to establish the provisions of existing use rights in accordance with s4.65 of the EPA Act, where the land use was lawfully granted a planning approval but became prohibited under a later planning instrument. A detailed summary is provided below:

The hotel was established in 1960 with a liquor licence granted on 16 November 1959. At this time the applicable planning control was the "*County of Cumberland Planning Scheme 1952*". Under this scheme, the site was located within a Living Areas Zone and the hotel was defined as a "shop".

The use of the premises as a "*shop*" was a permissible form of development under the CCP Scheme. The following is an extract of the County of Cumberland Planning (CCP) Scheme Map, showing the zoning of the property under that instrument.



Excerpt from the CCP Scheme Map

Under the Hurstville Planning Scheme Ordinance 1980, the “General Business Zone” and “Light Industrial Zone” were created which prohibited the use of a “pub” in these zones.

In this regard, it has been established that the “*pub*” was in existence and operational in its current form, and approved prior to the adoption of the Hurstville Planning Scheme Ordinance which then prohibited its use.

The “pub” is therefore considered to be an existing use and benefits from the rights under Division 4.11 – Existing Uses of the EPA Act 1979.

Clause 4.76 of the Environmental Planning and Assessment Act – Regulations respecting existing use rights states that;

- (1) *The regulations may make provisions for or with respect to existing use and, in particular, for or with respect to:*
 - (a) *the carrying out of alterations or extensions to or the rebuilding or a building or work being used for an existing use, and*
 - (b) *the change of an existing use to another use, and*
 - (c) *the enlargement or expansion or intensification of an existing use.*

It is clear from the discussions above that under the provisions of 1(a) and 1(b), the alterations and extensions to the building and the enlargement and intensification of the use are permissible.

Under Part 5 of the EPA Regulations 2000 – Existing Use, Clause 42 states that development consent is required for the enlargement, expansion or intensification of an existing use. It must be for the existing use and no other use, and it must be carried out on the land on which the existing use was carried out immediately before the relevant date.

The proposal satisfies the provisions of Clause 42 of the EPA Regulations as the expansion of the use is only related to the existing use, with no other uses proposed and is to be carried out on the land, which has had previous planning approval for this use.

Clause 43 of the EPA Regulations requires development consent for the alterations or extensions of buildings and works. The alterations and extensions must be for the existing use of the building or work and for no other use, and must be erected or carried out on the land on which the existing use was carried out immediately before the relevant date.

Similarly to the discussions above under Clause 42, the proposal satisfies the provisions of Clause 43 as the building works are only related to the existing use, with no other uses proposed and are to be carried out on the land, which has had previous planning approval for this use.

HURSTVILLE LOCAL ENVIRONMENTAL PLAN (HLEP) 2012

14. As the use of the land has been defined as an “*existing land use*”, provisions of an LEP and its objectives and development standards do not apply under the provisions of S.4.65 of the Act. However, the standards and objectives are considered below as a comparative guide.

Clause	Standard	Proposed	Complies
1.2 – Aims of the Plan	In accordance with Clause 1.2(2)	The development meets the relevant aims of the LEP.	Yes
1.4 – Definitions	“Pub”	The proposed development is consistent with the definition of a “ <i>Pub</i> ”	Yes
2.3 – Zone objectives and Land Use Table	B1-to provide a range of small scale retail, business and community uses that serve the needs of the people IN2-to encourage employment opportunities and to support the viability of centres enable other land uses that provide facilities or services to meet the day to day needs of workers in the area	The application maintains and upgrades an established food and drink retail premises that caters for the needs of the people living and working in the surrounding neighbourhood. That application meets the intent of the relative objectives of the zone in that it is upgrading and expanding an established “pub” which provides employment opportunities and services the day to day needs of workers without adversely affecting the amenity of adjoining land uses.	Yes
4.3 – Height of Buildings	B1 Zone - 9m IN2 Zone 10m As identified on Height of Buildings Map	Max. building height in B1 zone – 8.6m Max. building height in IN2 zone – 9.6m	Yes
4.4 – Floor Space Ratio	B1 zone – 1.5:1 IN2 zone – 1:1 As shown on Floor Space Ratio map	Proposed FSR for entire development is 0.43:1, which is well below that permissible for the site.	Yes
5.10 – Heritage	The objectives of this clause are;	St Mary & St Joseph Coptic Orthodox Church at 800 Forest	Yes

Conservation	(i) to conserve the environmental heritage of Hurstville, (ii) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,	Road is listed as a heritage item of local significance (I98). The proposed alterations and additions are mainly at the rear of the premises, with minor façade/signage treatment. The works are sympathetic to the style and character of the existing hotel and do not have any impact on the heritage item or its significance.	
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As stated, whilst the LEP development standards and objectives are not applicable, it is evident from the above table, the proposal is in keeping with the size and scale of development that would be anticipated on the site.

Environmental Planning and Assessment Regulations

Clause 92(1)(b): Demolition

15. Clause 92(1)(b) of the Environmental Planning and Assessment Regulation, 2000 (the Regulations) prescribes that the provisions of Australian Standard AS2601:2001 - The Demolition of Structures are to be taken into consideration, pursuant to Section 4.15(1A)(iv) of the Act, in the case of a development application for the demolition of a building. The application is for the alterations and additions of the existing structure and does not seek consent for demolition works. In this regard, the provisions of this Clause are not relevant to the application.

State Environmental Planning Policies

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

State Environmental Planning Policy	Complies
State Environmental Planning Policy No.64 – Advertising and Signage	Yes
State Environmental Planning Policy No 55 - Remediation of Land	Yes
State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017	Yes
State Environmental Planning Policy (Infrastructure) 2007	Yes

STATE ENVIRONMENTAL PLANNING POLICY NO.64 – ADVERTISING AND SIGNAGE

17. Under the provisions of Clause 8 of the above SEPP, consent cannot be granted unless the signage meets the aims of the policy and the assessment criteria of Schedule 1.

The proposed signage is considered to satisfy the aims of the SEPP in that it is compatible with the desired amenity and visual character of the commercial area. The signage is of an appropriate scale and design that effectively identifies the name of the business occupying the building from multiple angles. The proposed signage is a modern design that incorporates high quality materials and a clean finish to complement the upgraded building.

In regards to Schedule 1 – Assessment Criteria, the proposal satisfies the following criteria;

1. *Character of the Area* – Whilst there is no established theme in the surrounding area, the proposed signage is considered to be consistent with the desired future character of the commercial area.

2. *Special Areas* – The signage does not detract from the amenity or visual quality of the locality or any special areas in the vicinity.

3. *Views and Vistas* – The signage does not obscure or impact upon any views or vistas. The signage is to be wall mounted and does not project above the roof line of the building.

4. *Streetscape, setting or landscape* – The signage is considered to be of an appropriate scale, portion and form for the streetscape. The design is modern and contributes to the streetscape and replaces outdated signage.

5. *Site and building* – The signage is considered to be compatible with the scale, proportion and characteristics of the building and site on which the signage is to be located. The signage is incorporated into the design features of the building.

6. *Associated devices and logos with advertisements and advertising structures* – Internal lighting and logos are proposed on the signage

7. *Illumination* – The illumination will not result in an unacceptable glare and will assist in identifying the venue in the evening. It will not result in a safety threat or detract from the amenity of any residences and can be adjusted if required. The illumination will be switched off at closing times of the Hotel.

8. *Safety* – It is not anticipated that the signage will result in any safety issues for road traffic, pedestrians or cyclists and would not obscure any sightlines.

Overall, it is considered that the proposed signage satisfies the aims and objectives of Clause 8 and the assessment criteria of Schedule 1 and can be supported in its current form.

STATE ENVIRONMENTAL PLANNING POLICY NO 55 - REMEDIATION OF LAND

18. The purpose of State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55) is to ensure that land which is contaminated is identified and appropriately remediated so as to be suitable for the proposed development.

The site has long standing use as a hotel (pub) and there are no known records of contaminating activity being conducted on the site. In view of the above, the limited works that are proposed and having regard to the provisions of SEPP No 55, the site is considered suitable for the proposed development.

STATE ENVIRONMENTAL PLANNING POLICY (VEGETATION IN NON-RURAL AREAS) 2017

19. The Vegetation SEPP regulates clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent.

The Vegetation SEPP applies to clearing of:

1. Native vegetation above the Biodiversity Offset Scheme (BOS) threshold where a proponent will require an approval from the Native Vegetation Panel established under the Local Land Services Amendment Act 2016; and

2. Vegetation below the BOS threshold where a proponent will require a permit from Council if that vegetation is identified in the council's development control plan (DCP)

The Vegetation SEPP repeals clause 5.9 and 5.9AA of the Standard Instrument - Principal Local Environmental Plan with regulation of the clearing of vegetation (including native vegetation) below the BOS threshold through any applicable DCP.

In support of the application, landscape plans and specifications, drawn by Arcadia Landscape Architecture and an Arboricultural Impact Assessment Report, prepared by Jacksons Nature Works dated 18th December have been submitted.

Following consideration of the submitted documentation the tree/s to be retained and protected are listed in the table below.

Tree Species	Location of Tree / Tree No.	Tree Protection Zone (metres)
Eucalyptus grandis x 3	707 Forest Rd Peakhurst	9.0 metres radially from centre of trunks
Corymbia citriodora	703 Forest Rd Peakhurst	9.0 metres radially from centre of trunk

Whilst permission is proposed to be granted for the removal of the following trees:

Tree Species	Number of trees	Location
Ficus superba	1	North eastern side boundary
Araucaria cunninghamiana	1	North eastern side boundary
Syagrus romanzoffiana	1	Garden fronting forest Rd
Lophostemon confertus	10	Western fence line

Furthermore, the applicant has proposed the planting of an additional 27 trees and four (4) x *Elaeocarpus reticulatus* all at 200 litre on the development site.

As a result of the above and the recommended conditions associated with tree protection it is considered that this provision has been adequately addressed and is satisfactory.

STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007

20. Clause 101 of the SEPP applies to new developments with a frontage to a classified road. This proposal relates to the "*alterations and additions*" to an "*existing use*". The provisions in Clause 101 therefore do not apply, as this proposal is not "new development" with a frontage to a classified road. Having regard to Clause 104 of the SEPP, Clause (1) (b) refers to an enlargement or extension of existing premises, being an alteration or addition of the relevant size or capacity as specified in Column 1 of the Table to Schedule 3. The relevant size for a "*commercial premises*" with access to a classified road is 2,500sqm in area.

The redevelopment involves the expansion of the existing hotel to accommodate additional commercial floor area and the reconfiguration of the existing internal layout, to provide 2,021sqm of floor area for the pub component, with total gross floor area of the entire development (including accommodation rooms etc) of 2435sqm that falls below the

2,500sqm threshold. In this regard, the provisions of Clause 104 of the SEPP are not relevant.

Draft Environmental Planning Instruments

21. There are no Draft Environmental Planning Instruments applicable to this site.

Development Control Plans

Hurstville Development Control Plan No 1 - LGA Wide

22. The proposal has been assessed under the provisions of the Hurstville Development Control Plan No 1, where relevant, to the proposed application for alterations, additions and refurbishment of the hotel, extension of trading hours and signage and are discussed below.

Part 3.0 General Planning Considerations			
Controls	Required	Proposed	Comply
3.1 – Vehicle access, parking and manoeuvring	Pub – 1 space/50sqm GFA $2021/50 = 40.4$ say 41 spaces	62 spaces proposed	Yes
	Tourist Acc. = 1space /5 rooms $11/5 = 2.2$ say 3 spaces	3 spaces proposed	Yes
	Total car parking requirement = 44 spaces	Total = 65 spaces, proposed in an at-grade parking area at the rear of the site.	Yes
3.3 – Access and mobility	1 car spaces per 10 rooms $11/10 = 1.1$ say 2 spaces 1 car space for pub Total Accessible Spaces = 3 1 accessible room/5 rooms 3 accessible rooms required	3 accessible car spaces provided. 3 accessible rooms provided An access report prepared by PTC Consultants accompanies this application.	Yes
3.4 – Crime Prevention Through Environmental Design (CPTED)	To enhance safety by reducing opportunities for crime to occur. To improve observation of public and private spaces. To optimise the use of public spaces and facilities by the community. To promote the design of safe, accessible and well maintained building and spaces.	The proposal incorporates good CPTED principles. The application was reviewed by NSW Police and subject to imposition of conditions found the application to be acceptable and able to support the proposal. The recommended conditions have been incorporated in the conditions of consent.	Yes
Part 5.0 – Controls for Specific Non-Residential Development Types			
5.1 – Extended	Contribute to the vibrancy and economic	See discussion below	Yes

Trading Hours	competitiveness of Hurstville's business areas. Have minimal adverse amenity impacts of residential uses. Protect the safety of the community.		
5.5 - Signage	Provide a consistent approach to the design and siting of signage by encouraging coordinated signs of high quality design and materials.	See discussion below	Yes

Discussion relating to DCP provision 5.1 – Extended Trading Hours

23. The proposal seeks approval to extend the trading hours on Monday to Saturday from 3:00am to 5:00 and limit this trading to a “*defined area*” within the gaming room and TAB area. It is proposed to also limit the number of patrons to sixty (60) persons during this extended trading period.

In accordance with the provisions of 5.1 of the DCP, the applicant has submitted a detailed description of the activity, its potential to impact on adjoining properties and locality and how these impacts will be mitigated. These provisions are incorporated into a detailed Plan of Management that was submitted with the application will be incorporated as part of any consent issued.

The application was reviewed by Council's Environmental Health Officer who raised no concerns with the extended trading hours and supported the application, subject to the imposition of standard conditions of consent, which have been included as part of the conditions.

Reference is also made to DA 143/91, where a modified consent was granted on 3 November 1993 for the premises to operate permanent trading hours between 10am to 3am Monday to Saturday and 10am to 10pm on Sunday. This consent also permitted the “*Saloon Bar*” to operate until 5am from Monday to Saturday and to twelve 12am midnight on Sunday for a twelve (12) month trial period. Extensions of the twelve (12) month trial period were granted by Council on a number of occasions on 12 October 1994, 18 October 1995 and 9 April 1997. No approval was granted for the permanent operation of these extended hours.

The NSW Police, in their response to Council, did not raise any comments or objections to the increased trading hours, and in their recommended conditions, amended the approved trading hours to 10am to 5am on Friday to Saturday, and not Monday to Saturday as sought by the applicant. They did not restrict the extended hours to the “*defined area*” or to the number of patrons, but conditioned compliance with the Plan of Management which included these restrictions.

Considering the immediate context of the site and the predominant “*business*” and “*industrial*” zonings that surrounds it, the potential impact on adjoining residents is minimal.

Whilst both the Plan of Management and SOEE have identified any potential impacts and detailed measures to mitigate these impacts, there will always remain uncertainty of the actual impact.

One of the ways to overcome this uncertainty is through the imposition of a reviewable condition under the provisions of s4.17 (10B) of the EPA Act 1979 – *Review of extended hours of operation and number of persons permitted*. This provision states that a development consent that is granted subject to a reviewable condition may be granted subject to a further condition that the consent authority may review at any time or at intervals specified by the consent and that the reviewable condition may be changed on any such review.

This provision provides an incentive for the applicant/operator in that they will be able to maintain their extended trading hours provided they comply with their Plan of Management and do not impact on the amenity and safety of local residents.

It also allows Council, should either the applicant not comply with their Plan of Management or Council receive a number of warranted complaints or disturbances during this trading period, that they can review the condition and either allow it to remain, modify it or remove it.

A decision by a consent authority to change a reviewable condition on a review is taken to be a determination of a development consent for the purposes of the EPA Act.

Considering that no submissions were received specifically objecting to the extended hours by adjoining properties during the notification period, Council Officers or to a certain extent by the Police, it is not proposed to impose a regular time interval for review but more should the need arise only.

A reviewable condition to this effect has been included in the conditions of consent.

Discussion relating to DCP provision 5.5 – Signage

24. The proposal satisfies the relevant controls of 5.5 of the DCP with respect to the signage, except Control DS1.5, which limits signage to one per building elevation. The application proposes six signs to the front elevation of the hotel.



Front Elevation of Hotel depicting proposed signage, as viewed from Forest Road



Excerpt of signage details lodged as part of the architectural plan set.

The primary elevation of the premises contains multiple and staggered façade elevations with signage orientated in a number of directions. The level of signage to the primary façade is considered acceptable taking into account the number of existing signs on the premises, immediate location, the orientation, content and large 40m wide lot frontage. The proposed signage is considered to be a considerable improvement to the current signage strategy currently provided.

In addition to the above a detailed assessment against the aims, objectives and assessment criteria of Schedule 1 of SEPP 64, found the proposed signage to be acceptable in its location and context.

The non-compliance is supported.

SECTION 7.12 CONTRIBUTIONS

25. The proposed development requires the payment of Section 7.12 (previously Section 94A) contributions under the provisions of Council's document titled "Section 94A Contributions Plan 2017". Contributions under Section 7.12 of the EP&A Act 1979 are applicable based on the estimated cost of development which in this instance is 1% for \$200,001 or more. Section 7.12 contributions for this development equate to \$102,469.98 based on the estimated cost of development of \$10,246,998 as indicated on the applicant's DA form.

IMPACTS

Natural and Built Environment, Social and Economic Impacts

26. The proposed development is of a scale and character that is in keeping with the locality and the developments likely to be constructed within the immediate context and zoning. The proposal requires minimal excavation and will not alter the topography of the site, with the majority of works being internal or above ground.

Traffic

27. A Traffic Impact Assessment prepared by PTC Traffic Consultants accompanies this development application which does not anticipate any adverse impacts on the local

traffic and parking conditions. On-site parking is in excess of the DCP requirements which has been discussed earlier in this report.

In regards to traffic generation, the proposed development is to increase the pub/dining area GFA to 2,021sqm while maintaining the eleven (11) accommodation rooms.

In this regard, the Traffic Impact Assessment prepared by PTC has provided a detailed discussion in relation to what the anticipated traffic generation impacts would be. This is summarised in table form below.

Component	Period	Vehicle Trip Rates	GFA/Units	Proposed Trips
Pub / Dining	PM Peak	5 / 100m ²	2,021m ²	101 (101.05)
Accommodation	PM Peak	0.4 / unit	11 units	5 (4.4)
Total	PM Peak			106

This assessment concluded that the proposed development could generate 106 vehicle movements in the PM peak. This equates to a potential increase in traffic generation by 39 movements in the PM peak period, which equates to approximately 1 additional movement every 1.5 minutes.

It was determined that this increase in traffic activity is such that intersection modelling would not show any notable difference in the results and at that level, the change in the pre- and post- development traffic scenarios would be similar to the daily variation in the traffic volumes.

It was concluded that the proposed development is unlikely to cause any notable impact upon the operation of overall road network.

This Traffic Assessment provided the following concluding summary:

“The assessment indicated that the proposed development could generate a minor increase in traffic volumes when assessed against the existing traffic generation. However, it has been concluded that this potential increase in traffic movements is unlikely to generate any significant traffic related impacts to the local road network and existing traffic conditions.

Parking provision requirements were determined through the Hurstville DCP and it has been determined that the provided spaces meet the requirements of the proposed development.

Site access, parking and service areas have been assessed and found to be compliant with the relevant standards (AS2890.1 AS2890.2 & AS2890.6) or have been assessed on a performance basis and meet the intent of these standards.

In light of the above, it is concluded that the proposed development is highly unlikely to results in any impacts to existing local parking and traffic conditions, and that the car park design satisfies the relevant Australian Standards”.

In addition to the above, the development application has been referred to Council's Traffic Engineers, and their comments are discussed in the Referrals section of this report below.

Overall, it is considered based on the applicant's Traffic assessment and review by Council's Traffic Engineers, that the development is satisfactory in terms of Traffic and Parking assessment.

Noise

28. An Acoustic report prepared by Resonate acoustics accompanies this application. This report predicts noise emissions from the Hotel will comply with the relevant noise criteria at the boundary of the nearest receiver before and after midnight, subject to the recommendations in the Acoustic Report which have been incorporated in the Operational Plan of Management.

This report was forwarded to Council's Environmental Health Unit for review who raised no objection to the details, conclusions or recommendations of this report subject to the imposition of relevant conditions.

Accordingly, the proposal is not considered to have a significant impact on the natural and built environment of the locality. The proposal is unlikely to cause any unreasonable social and/or economic impacts.

Suitability of the site

29. The site has operated as a Pub/Hotel for an extended period of time and it is considered that the proposed development (alterations and additions) are of a scale and design that are suitable for the site having regard to its size and shape, its topography, vegetation and relationship to adjoining developments.

SUBMISSIONS AND THE PUBLIC INTEREST

30. In accordance with the provisions of Council's notification requirements, the application was placed on neighbour notification and advertised for a period of fourteen (14) days in accordance with the DCP provisions, where adjoining property owners were notified in writing of the proposal and invited to comment. A total of one (1) submission was received raising the following concerns.

Substation

Concern over an additional substation. Submission from the adjoining owner at 11 Durkin Place raises concerns about the location of a substation, in particular that the proposed substation in proximity to an existing substation in 11 Durkin Place could create health issues for occupants of 11 Durkin Place.

Comment: The development proposes a new substation near the rear boundary (adjoining the submitter's property), as shown on the site plan and landscape plan submitted with the DA. In terms of location, the substation would be located a considerable distance (over 12m) from the nearest building. Substations are a common feature of urban development, often located in footpath areas or within the front setback of many types of development.

In relation to concerns about health issues such as electromagnetic radiation, advice from the Australian Government's Australian Radiation Protection and Nuclear Safety Agency website (www.arpsa.gov.au): states that "*there is no established evidence that electric and magnetic fields at any distance from a substation/transformer cause health effects. At more than about 5-10 m away, the typical electric and magnetic fields from substations and transformers are indistinguishable from normal background levels in the home.*" Accordingly, given the location of the proposed substation, it is not considered

that the submitter's concern regarding potential health issues from the substation are not valid.

Traffic

Additional traffic using the right of way at the rear to access the car parking area.

Comment: The traffic impact has been considered and assessed as part of the Traffic Impact Assessment prepared by PTC Consultants as discussed previously in this report. This report concludes that the development could generate a minor increase in traffic which is unlikely to result in any traffic related impacts on the local road network or to existing traffic conditions.

The parking provisions were found to comply with Council's DCP provisions and the access, layout and design were assessed and found to be compliant with the relevant Australian Standards.

In relation to potential concerns about the use of the right of way for additional traffic from the development, the applicant has supplied documentation (including title searches, copies of the applicable Deposited Plans etc) confirming that the subject site legally benefits from the right of way access that enables them to provide vehicle access to/from the car park of this development via Durkin Place.

Accordingly, given that there are no adverse issues regarding legal entitlement (to use the right of way) or actual traffic impacts, it is considered that the submitter's concern regarding the use of the right of way are not valid.

REFERRALS

Council Referrals

Trees

31. No objections were raised to the removal of the trees identified and proposed landscaping subject to the conditions nominated. Those conditions have been incorporated into the recommended conditions.

Engineering

32. No objections were raised to the subject application in relation to traffic and stormwater subject to the imposition of standard conditions as nominated. Those conditions have been incorporated into the recommended conditions.

Health

33. Council's Environmental Health Officer raised no objection to the proposed development in relation to noise emissions, hours of operation and food preparation and waste, subject to the imposition of standard conditions as nominated and compliance with the recommendations of the acoustic report and Plan of Management. These conditions and requirements have been incorporated into the recommended conditions.

Waste Officer

34. The following comments have been received, which indicates that the development is satisfactory in terms of waste disposal:

I have reviewed the subject application and plans. The allocation of bins is correct for the amount of waste to be generated. The plans show adequate room to house waste and recycling collection bins.

Due to some restrictions in service this service may require a private contractor to complete the collection.

Building Surveyor

35. Council's Building Surveyor has reviewed the documentation submitted with the DA and advised that the proposal is satisfactory in terms of the National Construction Code (formerly Building Code of Australia). Applicable conditions are imposed as indicated in the Recommendation below.

External Referrals

NSW Police

36. The application was referred to the Crime Prevention Officer at Hurstville Police Station on 12 March 2018.

The St George Police Area command had no objection to the applications, however, made the following comment:

“Over the past 12 months, the Peakhurst Inn Hotel has maintained a risk level of LOW. That level is based on a number of factors including reported alcohol related crime, violence, property damage and theft. That being said, the Peakhurst Inn is a late trading licensed premises and as such is considered to have a higher potential for alcohol related harm.

It is the recommendation of Police that the following conditions be given strong consideration to ensure the impact on the community and crime environment are minimised.”

A copy of the Police response and recommended conditions has been included in the annexure to the report. All recommended conditions as appropriate and relevant will be incorporated into the proposed conditions of consent.

Elected Councillors Comments

37. A number of Councillors of the Georges River Council provided comments on the application. A summary of the key points raised are outlined as follows:

- Noted the location of the hotel is in an industrial area away from residential development
- The proposed signage in the context of the site
- Proposed additional landscape works to the car park are good
- Concern is raised at the potential for increased poker machines

Assessment Officer's comment: The applicant has been contacted in relation to the concerns regarding potential increase in the number of poker (gaming) machines. It is confirmed under legislation, that Hotels of this type are restricted to a maximum thirty (30) gaming machines. The Peakhurst Inn currently has that number of gaming machines, so therefore the proposal will not result in an increase.

CONCLUSION

38. Development consent is sought for alterations and additions to the existing Peakhurst Inn Hotel, involving the refurbishment of an existing three storey pub, resurfacing of the rear car park and associated landscape works, new signage and an increase of operating hours of the gaming room to 5:00am, with a maximum capacity of 60 patrons between 3am-5am, within a defined area

The application has been assessed having regard to the Heads of Consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, the provisions of the relative State Environmental Planning Policies, Local Environmental Plans and Development Control Plans. The proposed development achieves an acceptable level of compliance with those requirements and does not cause any unreasonable impacts upon neighbouring properties and/or the streetscape.

The application was notified in accordance with the Development Control Plan. One (1) submission was received objecting to the development. The issues raised have been addressed in this report and are not considered to warrant further plan amendment or refusal of the application.

The application is recommended for approval.

DETERMINATION AND STATEMENT OF REASONS

39.

Statement of Reasons

- The proposed development is considered to be an appropriate scale and form for the site and the character of the locality
- The proposed development, subject to the recommended conditions, will have no unacceptable adverse impacts upon the natural or built environments
- In consideration of the aforementioned reasons, the proposed development is a suitable and planned use of the site and its approval is in the public interest

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 DA2018/0062 for the alterations and additions to the existing development at Lot 103, DP 1109257 and known as 705 Forest Road, Peakhurst, which is also identified as Peakhurst Inn Hotel, subject to the following conditions:

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:

Description	Reference No.	Date	Revision	Prepared by
Coversheet & Site Analysis	DA-001	23.02.18	C	Bergstrom Architects
Site Plan	DA-002	23.02.18	C	Bergstrom Architects
Lower Ground Floor Plan	DA-100	23.02.18	C	Bergstrom Architects
Ground Floor Plan	DA-101	23.02.18	C	Bergstrom

				Architects
First Floor Plan	DA-102	23.02.18	C	Bergstrom Architects
Roof Plan	DA-200	23.02.18	C	Bergstrom Architects
Overall Elevations	DA-500	23.02.18	C	Bergstrom Architects
Elevations	DA-510	23.02.18	C	Bergstrom Architects
Elevations & Sections Bottle shop	DA-511	23.02.18	C	Bergstrom Architects
Streetscape & External Finishes	DA-520	23.02.18	C	Bergstrom Architects
Sections Courtyard & Bistro	DA-600	23.02.18	C	Bergstrom Architects
Stormwater Plans	2017 H0169 SWDA 1.1, 1.2, 1.3 and 1.4	Jan 2018	P2	Partridge Hydraulic Services
Landscape Plans	17-512 sheets 101, 102, 103, 104, 201 and 501	Jan 2018	E	Arcadia Landscape Architects

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 (e.g. Opening the road for the purpose of connections to utility providers);
- (j) Stormwater & ancillary works in the road reserve; and
- (k) Stormwater & ancillary to public infrastructure on private land
- (l) If any excavation is to be supported by the use of below ground (cable) anchors that are constructed under Council’s roadways/footways.

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

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

Requirements of Concurrence, Integrated & Other Government Authorities

5. **GOV8.11 - Trade Waste Agreements** - A Trade Waste Agreement with Sydney Water may be required. Details of any work required to comply with the agreement must be detailed on the plans lodged with the Construction Certificate. If no trade waste agreement or grease trap is required, a letter from Sydney Water to this effect must be submitted with the application for the Construction Certificate.
6. **GOV8.12 - Sydney Water – Tap inTM** - The approved plans must be submitted to a Sydney Water Tap inTM to determine whether the development application will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately endorsed. For details please refer to 'Plumbing, building and developing' section of Sydney Water's web site at www.sydneywater.com.au then see 'Building', or telephone 13000 TAP IN (1300 082 746). The Certifying Authority must ensure that a Tap inTM agent has appropriately stamped the plans prior to the issue of the Construction Certificate.

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).

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

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

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

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

Fee Type	Fee
GENERAL FEES	
Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct to the Long Service Corporation. See https://portal.longservice.nsw.gov.au/bci/levy/	
Builders Damage Deposit	\$3,750.00
Inspection Fee for Refund of Damage Deposit	\$155.00
DEVELOPMENT CONTRIBUTIONS	
Georges River Council Section 94A Development Contributions Plan 2017	\$102,000.00

General Fees

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

Development Contributions

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.

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

Indexation

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

Timing of Payment

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

Further Information

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

8. **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: **\$3,750.00**

(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: **\$155.00**

(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.

9. **CC9.6 - Site Management Plan** - A Site Management Plan detailing all weather access control points, sedimentation controls, fencing, builder's site sheds office, amenities, materials storage and unloading arrangements must be submitted with the application for the Construction Certificate.

10. **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.

11. **CC9.34 - Stormwater System** - The submitted stormwater plan has been assessed as a concept plan only. Final detailed plans of the drainage system, prepared by a

professional engineer specialising in hydraulic engineering, shall be submitted for approval with the Construction Certificate.

(a) All stormwater shall drain by gravity to the existing drainage system in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2015 (as amended).

12. **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.
13. **CC9.48 - Structural Details** - Engineer's details prepared by a practising Structural Engineer for the construction of all works, structural beams, columns, footings & other structural members. The details are to be submitted to the Accredited Certifying Authority for approval prior to construction of the specified works.

A copy shall be forwarded to Council where Council is not the PCA.
14. **CC9.51 - Engineer's Certificate** - A certificate from a professional Engineer specialising in structural engineering certifying the structural adequacy of the existing structure, to support the removal and all proposed additional superimposed loads shall be submitted to the Accredited Certifying Authority prior to the issue of the Construction Certificate.
15. **CC9.52 - Access for Persons with a Disability** - Access and sanitary facilities for persons with disabilities must be provided in the building to all proposed pathways and renovated areas and of the premises in accordance with the Building Code of Australia, Premises Standards and AS 1428.1. Details must be submitted with the Construction Certificate Application.
16. **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.
17. **CC9.57 - Alternative means of compliance with the BCA - Clause 94 EP&A Regulation 2000** Pursuant to Clause 94 of the [Environmental Planning and Assessment Regulation 2000](#), the existing buildings must be brought into **total** conformity with the Building Code of Australia. In this regard, construction plans that demonstrate compliance with the Building Code of Australia must be submitted to the Certifying Authority with the Construction Certificate application for approval.

Alternatively, if it is found that full compliance cannot be achieved due to the age and/or construction of the existing building, and to achieve full compliance will involve major and costly structural alterations having to be carried out to the existing building, a fire assessment report, to determine an alternative and/or partial compliance with the BCA, must be prepared by an appropriately qualified and accredited fire safety engineer, justifying the non-compliances and detailing an alternative method of compliance with the Building Code of Australia. The report must also detail the measures contained in the building to protect persons using the building, to facilitate their egress in the event of fire

as well as protection of fire brigade personnel during firefighting operations, and measures to restrict the spread of fire from the building to other buildings nearby.

18. **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 Peakhurst Inn Planning Stage Acoustic Report prepared by Resonate Acoustic and dated 21 February 2018.

Recommendations from the said report includes the provision of additional acoustic report to demonstrate 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 Noise Policy for Industries.

19. **CC9.76 - Food Premises** - The following information shall be provided and shown on the Construction Certificate Plans:

(a) Plans and Specifications

Details of the construction and fit out of food premises must be submitted to Council's Environmental Health Officer. The plans and specifications must demonstrate compliance with the:

- i. Food Act 2003 (as amended)
 - ii. Food Regulation 2015 (as amended)
 - iii. Food Standards Code as published by Food Standards Australia
 - iv. New Zealand and Australian Standard AS4674:2004 Design, Construction and fit out of food premises (as amended)
 - v. Sydney Water - trade Waste Section.
- Environmental Health Officers' must advise in writing that the plans and specification are considered satisfactory prior to the issue of any Construction Certificate.

(b) Waste Facility

Details of the construction and fit out of the waste facility of the food premises must be submitted to Council's Waste Services Team for approval. Such details must demonstrate compliance with the Food Act 2003 (as amended), Food Regulation 20105 (as amended); the Food Standards Code as published by Food Standards Australia and New Zealand and Australian Standard AS 4674:2004 Design, construction and fit out of food premises (as amended.) and must be:

- i. provided with a hose tap connected to the water supply;
- ii. paved with impervious floor materials;
- iii. coved at the intersection of the floor and the walls;

- iv. graded and drained to a waste disposal system in accordance with the requirements of the relevant regulatory authority (Sydney Water);
- v. adequately ventilated (mechanically or naturally) so that odour emissions do not cause offensive odour as defined by the Protection of the Environment Operations Act 1997;
- vi. Must be large enough to accommodate the bins required.

Council's Environmental Health Officers' must advise in writing that the plans and specification are considered satisfactory prior to the issue of any Construction Certificate.

20. **CC9.84 - Landscape Plans** - All landscape works shall be carried out in accordance with the approved landscape plans and specifications, drawn by Arcadia Landscape Architecture, reference numbers – 102, 103, 501, 104, 201. The landscaping shall be maintained in accordance with the approved plans in perpetuity, subject to the following –
- Four (4) new *Elaeocarpus reticulatus* at 200 litre shall be added to the southern boundary fence line, within the carpark. They shall be used to replace the *Lophostemon confertus* that are to be removed.

General Landscape Requirements

- a) The proposed plant species, **pot/ bag size** and quantities of plants shall be in accordance with the proposed plant schedule upon the landscape plan. If plant species, pot/ bag size and quantities cannot be sourced, Council shall be contacted for alternatives.
21. **CC9.86 - Compliance with submitted Arborist Report** - The recommendations outlined in the Arborist's Report titled Arboricultural Impact Assessment Report, prepared by Jacksons Nature Works dated 18th December 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*.

The tree/s to be retained and protected are listed in the table below.

Tree Species	Location of Tree / Tree No.	Tree Protection Zone (metres)
<i>Eucalyptus grandis</i> x 3	707 Forest Rd Peakhurst	9.0 metres radially from centre of trunks
<i>Corymbia citriodora</i>	703 Forest Rd Peakhurst	9.0 metres radially from centre of trunk

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

Tree Species	Location of Tree / Tree No.	Tree Protection Zone (metres)
<i>Eucalyptus grandis</i> x 3	707 Forest Rd Peakhurst	9.0 metres radially from centre of trunks
<i>Corymbia citriodora</i>	703 Forest Rd Peakhurst	9.0 metres radially from centre

		of trunk
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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 before 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 Protection of trees on development sites*, 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) The Tree Protection Zone of each tree, to be protected, shall be watered thoroughly, regularly to minimise the effects of construction works.
- (g) 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 – DO NOT ENTER' attached to the fence and must also include the name and contact details of the Project Arborist.

Excavation works near tree to be retained

- (h) 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.
- (i) 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.
- (j) 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 –

- (k) To preserve the retained tree, *Corymbia citriodora*, upon 703 Forest Rd and the three (3) *Eucalyptus grandis* upon 707 Forest Rd, the footings of the proposed buildings and driveway, shall be isolated pier and beam construction within a nine (9) metre radius of the trunk. The piers shall be dug with an AQF Level 5 Consulting Arborist to oversee 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.

Removal or pruning of any other tree (that would require consent of Council) on the site is not approved. All pruning must be undertaken by a qualified Arborist in accordance with AS4373 -2007 *Pruning of Amenity Trees* and Amenity Tree Industry, Code of Practice (SafeWork NSW August 1998).

23. CC9.89 - Tree Removal & Replacement - Tree removal

Permission is granted for the removal of the following trees:

Tree Species	Number of trees	Location
<i>Ficus superba</i>	1	North eastern side boundary
<i>Araucaria cunninghamiana</i>	1	North eastern side boundary
<i>Syagrus romanzoffiana</i>	1	Garden fronting forest Rd
<i>Lophostemon confertus</i>	10	Western fence line

General Tree Removal Requirements

- 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).
- No trees are to be removed on the site or neighbouring properties without the prior written approval of Council.
- Council shall be appointed to remove and plant 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 within subject site

The following replacement trees are to be planted prior to the issue of either an Occupation Certificate or Subdivision Certificate (whichever is first).

Tree Species	Number of trees	Location	Pot Size
<i>As per landscape plan, 27 trees and four (4) x <i>Elaeocarpus reticulatus</i> all at 200 litre. All landscape plants and trees shall be sourced from an accredited Nursery grower</i>			
<i>https://www.ngina.com.au</i>			

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.

Prior to the Commencement of Work (Including Demolition & Excavation)

- 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.

25. **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.

26. **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.

27. **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 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.

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

(g) 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.

During Construction

28. **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.

29. **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.

30. **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.

31. **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.

32. **CON11.18 - Structural Certificate during Construction-** The proposed building must be constructed in accordance with details designed and certified by the practising qualified structural engineer. All structural works associated with the foundations, piers, footings and slabs for the proposed building must be inspected and structurally certified for compliance by an independent practising geotechnical and structural engineer. In addition a Compliance or Structural Certificate, to the effect that the building works have been carried in accordance with the structural design, must be submitted to the Accredited Certifying Authority prior issue of the Occupation Certificate.

Prior to the issue of the Occupation Certificate

33. **OCC12.6 - Completion of Landscape Works** - All landscape works must be completed before the issue of the Final Occupation Certificate in accordance with approved landscape plans and specifications, drawn by Arcadia Landscape Architecture, reference numbers - 102, 103, 501, 104, 201 and additional trees to be planted, four (4) *Elaeocarpus reticulatus*.
34. **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.
35. **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.

36. **OCC12.57 - Hours of Operation** - The approved hours of operation are as follows;

Monday to Saturday: 10:00am to 3:00am (the following day)
Sunday: 10:00am to 10:00pm

A sign, stating the above is to be erected in a prominent position near the principal entry to the premises in accordance with Clause 98D of the EPA Regulations 2000.

37. **OCC12.34 - Fire Safety Certificate before Occupation or Use** - In accordance with Clause 153 of the Environmental Planning and Assessment Regulation 2000, on completion of building works and prior to the issue of an Occupation Certificate, the owner must cause the issue of a Final Fire Safety Certificate in accordance with Clause 170 of the aforesaid Regulation. The Fire Safety Certificate must be in the form or to the effect of Clause 174 of the Environmental Planning and Assessment Regulation, 2000. In addition, in relation to each essential fire or other safety measure implemented in the building or on the land on which the building is situated, such a Certificate is to state:

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

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

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

38. **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.
39. **OCC12.37 - Maximum number of persons** - Pursuant to clause 98D of the [Environmental Planning & Assessment Regulation 2000](#), a sign must be displayed in a prominent position in the building stating that the maximum number of patronage that are permitted in the building must not exceed **1200**.

In addition the sign must also display the following restrictions on the use of the specified scheduled areas, not exceed the following capacities as specified below:

Scheduled areas of building	
Approved Capacity/Patronage	
Front Terrace	106 patrons
Gaming rooms	122 patrons
Rear Courtyard	264 patrons
Bistro Lounge/ outdoor bistro	162 patrons
Function Terrace	250 patron
Evenly distributed all other areas	296 patrons
Total	1200 Persons

The manager on duty shall ensure that the approved capacity as scheduled above is not exceeded and checked by either ticket sale, counting machine, invitation schedule or other approved method. On request by an authorized officer such as the Council, Police or Fire Brigade, the duty manager shall provide evidence of the number of person's occupying each scheduled area

40. **OCC12.41 - Acoustic Compliance - General Operation of Premises** - The proposed use of the premises and the operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 (as amended) and Regulations.

A suitably qualified person shall certify that the operation of the plant equipment shall not give rise to 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.

Certification must be submitted to the PCA prior to the issue of any Occupation Certificate.

41. **OCC12.54 - Food Premises - Inspection & Registration** - Prior to the issue of any Occupation Certificate or occupation or use of any food premises:

(a) An inspection of the fit out of the Food Premises must be arranged with Council's Environmental Health Officer;

(b) A satisfactory final inspection must have been undertaken by Council's Environmental Health Officer; and

(c) The Food Premises must notify and register its business details with Georges River Council as required under section 100 of the Food Act 2003.

Operational Conditions (Ongoing)

42. **ONG14.3 - Variable Hours of operation** - The hours of operation are approved as follows:

- a) The core hours of operation of the premises shall be limited to;
10:00am to 3:00am (following day) – Monday to Saturday
10:00am to 10:00pm - Sunday
- b) Notwithstanding (a) above, the use may operate with extended hours of operation between 3:00am and 5:00am, Monday to Saturday. The extended hours of operation may be reviewed by Council at any time, subject to the operator of the premises being given twenty one (21) days written notice that a review of the extended hours of operation will take place. In that time the operator may submit to Council any information they wish to be considered in support of the extended hours of operation.
- c) Any review of the extended hours of operation in (b) above by Council will be based on, among other things, the performance of the operator in relation to the compliance with the development consent conditions, the Plan of Management, any substantiated complaints received and any views expressed during public consultation or from other stakeholders including the Police.
- d) Following a review, Council may allow the use to continue to operate for the hours specified in (b) above, require the use to revert to the core hours of operation specified in (a) above or otherwise modify the condition as considered appropriate.
- e) The extended hours of operation are for the gaming room and part of the adjoining TAB area as defined in the Plan of Management and capped at a maximum number of 60 patrons.
- f) The purpose of the reviewable condition is to allow ongoing assessment of the hours of operation in relation to neighbourhood amenity, public safety and operational performance and allow management to demonstrate successful practices in relation to the above.

43. **ONG14.5 - Maintenance of Landscaping** - All trees and plants 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 turfed areas.

44. 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).
45. 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 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, titled and dated 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 (as amended).
46. 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.

47. 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.
48. ONG14.28 - **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.
49. ONG14.42 - **Food Premises - Adequate waste receptacles (Restaurants, takeaway/cafe)** - Appropriate waste and recycling containers must be provided for waste generation rates of 0.3 to 0.6 square metres per 100 meals, plus up to 0.15 cubic metres of beverage containers per 100 meals. All waste and recycling containers shall be stored in the approved waste storage area that is large enough to store the required number of bins and must be adequately serviced by waste collection vehicles.
50. ONG14.45 - **Food premises - maintenance of food premises** - The food premises must be maintained in accordance with the Food Act 2003 (as amended), Food Regulation 2015 (as amended); the Food Standards Code as published by Food Standards Australia & New Zealand and Australian Standard AS 4674-2004: Construction and fit out of food premises (as amended).
51. ONG14.46 - **Food premises - Garbage Odour** - A waste contractor shall be engaged to remove all waste from the garbage storage area on a regular basis so that no overflow of rubbish will occur. Practical measures are also to be taken to ensure that odour emission from the garbage storage area does not cause offensive odour as defined under the provision of the Protection of the Environment Operations Act, 1997 (as amended).

52. **ONG14.47 - Food premises - Storage of waste -used cooking oil** - Used oil shall be contained in a leak proof container and stored in a covered and bunded area prior to off-site disposal. Copies of receipts for the disposal of used cooking oil shall be kept on-site and made available to Council Officers upon request.
53. **ONG14.48 - Outdoor Gaming/Smoking Area - Smoke Free Compliance** - The subject development consent issued by Council does not imply or otherwise verify compliance with the Smoke-Free Environment Act 2000 and/or the Smoke-Free Environment Regulation 2016. The applicant and/or owner of the premises should seek their own legal advice as to compliance with Act and/or Regulation if proprietors of the premises intend allowing smoking in any area of the premises, including that area subject of this consent.
54. **ONG14.54 - Licensed Premises - Noise Levels (7.00am to 12midnight)** - The LA10 noise level emitted from the premises, measured between the hours of 7am and 12 midnight, is not to exceed the background noise level in any octave band frequency (centred on 31.5Hz to 8 kHz inclusive) by more than 5 dB, when measured at the boundary of any adjoining residence.
55. **ONG14.55 - Licensed Premises - Noise Levels (12 midnight to 7.00am)** - The LA10 noise level emitted from the premises, measured between the hours of midnight and 7am, is not to exceed the background noise level in any octave band frequency (centred on 31.5Hz to 8 kHz inclusive), when measured at the boundary of any adjoining residence.
56. **ONG14.62 - Loading & Unloading of vehicles** - All loading and unloading of vehicles in relation to the use of the premises shall take place wholly within a dedicated loading dock/area.
57. **ONG14.63 - Entering & Exiting of vehicles** - All vehicles shall enter and exit the premises in a forward direction.
58. **ONG12.61 - Plan of Management** - The premises is to operate in accordance with the Plan of Management prepared by Design Collaborative Pty Ltd Reference No. 170929.8P dated February 2018 and submitted with Development Application DA2018/0062 except where as amended by any condition of consent.
59. **ONG14.64 - Sale of Liquor** - The sale and supply of liquor on the licensed premises must be in accordance with the terms and conditions of the approved liquor license issued by Liquor and Gaming NSW in respect to the premises.
60. **ONG14.65 - Notice to Patrons** - A clearly visible sign must be permanently erected adjacent to the entry/exit doors of the premises indicating that patrons are to leave in an orderly fashion and must leave the vicinity of the premises in a manner that does not disturb the quiet and good order of the neighbourhood.
61. **ONG14.71 - Complaint Response** - In the event of a complaint being received by the licensee from a neighbouring resident with respect to a disturbance to the quiet and good order of the neighbourhood, the licensee must notify Council of the complaint for inclusion on the complaints register within 48 hours. It remains the responsibility of the licensee to respond appropriately to complaints.
62. **ONG - Incidents - Recording and Notification** - The manager/licensee must ensure that all incidents involving staff members (including security personnel) are recorded in

the incident register maintained on site, including incidents involving physical contact between staff and patrons, physical restraint of patrons and/or the ejection of patrons from the premises. Access to the Incident Register must be made available for viewing on the request of Council Officers, Police Officers and/or Liquor and Gaming Authorised Officers.

63. **ONG - Copies of Consents and Management Plans** - A full copy of all current development consents (including approved plans) for the operation of the premises, any Registers required and any required Plan of Management must be kept on the premises and made available immediately upon request of Council Officers, Police Officers and/or Liquor and Gaming Authorised Officers.
64. **ONG - CCTV** - A closed-circuit television system must be maintained on the premises in accordance with the following requirements;
- (a) the system must record continuously from opening time until one hour after the premises are required to close,
 - (b) recordings must be in digital format and at a minimum of 10 frames per second,
 - (c) any recorded image must specify the time and date of the recorded image,
 - (d) the system's camera must cover the following areas:
 - (i) all entry and exit points on the premises
 - (ii) all publicly accessible areas (other than toilets) on the premises including main entrance area driveway and Taxi area on Forest Road.

The licensee/manager to which this condition applies, must:

- (a) keep all recordings made by the CCTV system for at least 30 days, and
 - (b) ensure the system is accessible by at least one member of staff at all times it is in operation, and
 - (c) provided any recordings made by the system to Council Officers, Police Officers and/or Liquor and Gaming Authorised Officers within 24 hours of any request by Council Officers, Police Officers and/or Liquor and Gaming Authorised Officers to provide such recordings.
65. **ONG - Crime Scene Preservation** - The licensee must ensure that immediately after the licensee or a staff member becomes aware of an incident on the premises involving an act of violence causing an injury to a person on the premises, the following is adhered to:
- (a) the licensee and/or staff take all practical steps to preserve and keep intact the area where the act of violence occurred, retain all material and implements associated with the act of violence in accordance with the Crime Scene Preservation Guidelines issued by the NSW Police, and
 - (b) the licensee and/or staff make direct and personal contact with the Police Area Commander or his/her delegate and advise the Commander or delegate of the incident, and
 - (c) the licensee and/or staff comply with any directions given by the Commander or delegate to preserve or keep intact the area where the violence occurred.

In this condition “*staff*” means any person employed by or acting on behalf of the licensee of the premises, and includes any person who is employed to carry on activities as a crowd controller or bouncer on or about the premises.

66. **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.

Operational Requirements Under the Environmental Planning & Assessment Act 1979

67. **OPER15.1 - Requirement for a Construction Certificate** - The erection of a building must not commence until a Construction Certificate has been issued.
68. **OPER15.2 - Appointment of a PCA** - The erection of a building must not commence until the applicant has:

- (a) appointed a 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, the applicant must:

- (c) 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
- (d) notify the PCA of the details of any such appointment; and
- (e) 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 PCA for your development.

69. **OPER15.3 - Notification Requirements of PCA** - No later than two 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 applicant of the critical stage inspections and other inspections that are to be carried out with respect to the building work.
70. **OPER15.4 - Notice of Commencement** - The applicant must give at least two 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.

71. OPER15.7 - **Critical Stage Inspections** - The last critical stage inspection must be undertaken by the PCA. 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.
72. OPER15.8 - **Notice to be given prior to critical stage inspections** - The principal contractor for a building site, or the owner-builder, must notify the PCA at least 48 hours before each required inspection needs to be carried out.

Where Georges River Council has been appointed as the PCA, 48 hours notice in writing, or alternatively 24 hours notice by facsimile or telephone, must be given when specified work requiring inspection has been completed.

73. OPER15.9 - **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 PCA appointed for the building work can issue the Occupation Certificate.

An Occupation Certificate Application Form is attached for your convenience.

Prescribed Conditions

74. PRE16.2 - **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.
75. PRE16.3 - **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 PCA and the Principal Contractor.
76. PRE16.5 - **Clause 98C - Entertainment Venues** - Schedule 3A of the Environmental Planning and Assessment Regulation 2000 outlines the prescribed conditions which apply to Entertainment Venues.
77. PRE16.6 - **Clause 98D - Erection of sign for maximum number of persons** - This prescribed condition applies to entertainment venues, function centres, pubs, registered clubs and restaurants. This condition requires the erection of a sign which states the maximum number of persons (as specified in the consent) that are permitted in the building.
78. PRE16.8 - **Clause 98E - Site Excavation** - Excavation of the site is to extend only to that area required for building works depicted upon the approved plans. All excess excavated material shall be removed from the site.

All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.

All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

If the soil conditions require it, retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil shall be provided and adequate provision shall be made for drainage.

END CONDITIONS

NOTES/ADVICES

79. **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.

80. **Appeal Rights** - Part 8 (Reviews and appeals) 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.
81. **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 4.53 of the Environmental Planning and Assessment Act 1979 as amended.
82. **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
83. **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.

84. **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.

85. **ADV17.7 - Council as PCA - Deemed to Satisfy Provisions of BCA** - Should the Council be appointed as the PCA in determining the Construction Certificate, the building must comply with all the applicable deemed to satisfy provision of the BCA. However, if an alternative fire solution is proposed it must comply with the performance requirements of the BCA, in which case, the alternative solution, prepared by an appropriately qualified fire consultant, accredited and having specialist qualifications in fire engineering, must justifying the non-compliances with a detailed report, suitable evidence and expert judgement. Council will also require if deemed necessary, for the alternative solution to undergo an independent peer review by either the CSIRO or other accredited organisation. In these circumstances, the applicant must pay all costs for the independent review.
86. **ADV17.10 - Council as PCA** - Compliance with the BCA- Should the Council be appointed as the Principal Certifying Authority, 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) The fire upgrade works required to comply with condition CC9.57, Clause 94 of the Environmental Planning and Assessment Regulation 2000.
 - b) Exit travel distance, number of exit and egress to comply with the BCA.
 - c) Sound transmission and insulation details to to comply with the BCA.
 - d) Mechanical ventilation details of any required system to be installed to the assembly building and to kitchen exhaust system and, to the residential bathroom, laundry and kitchen.
 - e) Natural light and ventilation to habitable rooms.
 - f) Fire-fighting services and equipment including hydrant systems, hose reels, mechanical air handling system, portable fire extinguishers, emergency lights, exit signs, smoke hazard management and warning systems, etc.
 - g) Energy efficiency report demonstrating compliance with the BCA.
 - h) Basix report and CC plans demonstrating compliance.
 - i) Fire resistance levels of all building elements including walls, floors, columns, doors and windows openings, etc.
 - j) A certified Fire Engineered Building Report prepared by an accredited fire engineer, where an alternative solution is proposed to be implemented in the building.
 - k) Compliance with the Health and Amenity requirements of the BCA.
 - l) The non-compliances in the existing building and the works necessary for compliance with the BCA must be detailed on the construction plans

In this regard, detailed construction plans and specifications that demonstrate compliance with the above requirements of the BCA must be submitted to the Principal Certifying Authority with the Construction Certificate Application. 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.

In the event that full compliance with the BCA cannot be achieved and the services of a fire engineer are obtained to determine an alternative method of compliance with the BCA, such report must be submitted to and endorsed by the Principal Certifying Authority prior to issue of the Construction Certificate.

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

Energy efficiency provisions relate only to new building work, fabric and measures. Existing building fabric and measures may not be upgraded.

88. **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).

89. **ADV17.18 - Food Premises** - Information on Australian Standards can be obtained from www.standards.com.au.

Guidelines and Food Safety Standards may be obtained by contacting the Food Standards Australia New Zealand Authority at foodstandards.gov.au or the NSW Food Authority on 1300 552 406, email: contact@foodauthority.nsw.gov.au or by visiting the website www.foodauthority.nsw.gov.au.

Notification of Food Business under Section 100 of the Food Act 2003 requires the proprietor of a food business to give written notice, in the approved form, before conducting a food business. Penalties apply for failure to comply.

90. **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/nlg.htm>) and the Industrial Noise Guidelines (<http://www.environment.nsw.gov.au/noise/industrial.htm>) publish by the Department of Environment and Conservation. Other state government authorities also regulate the Protection of the Environment Operations Act 1997.

Useful links relating to Noise:

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

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

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

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

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

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

91. ADV17.20 - **Acoustical Engineer Contacts & Reference Material** - Further information including lists of Acoustic Engineers can be obtained from:

(a) Australian Acoustical Society-professional society of noise-related professionals (www.acoustics.asn.au)

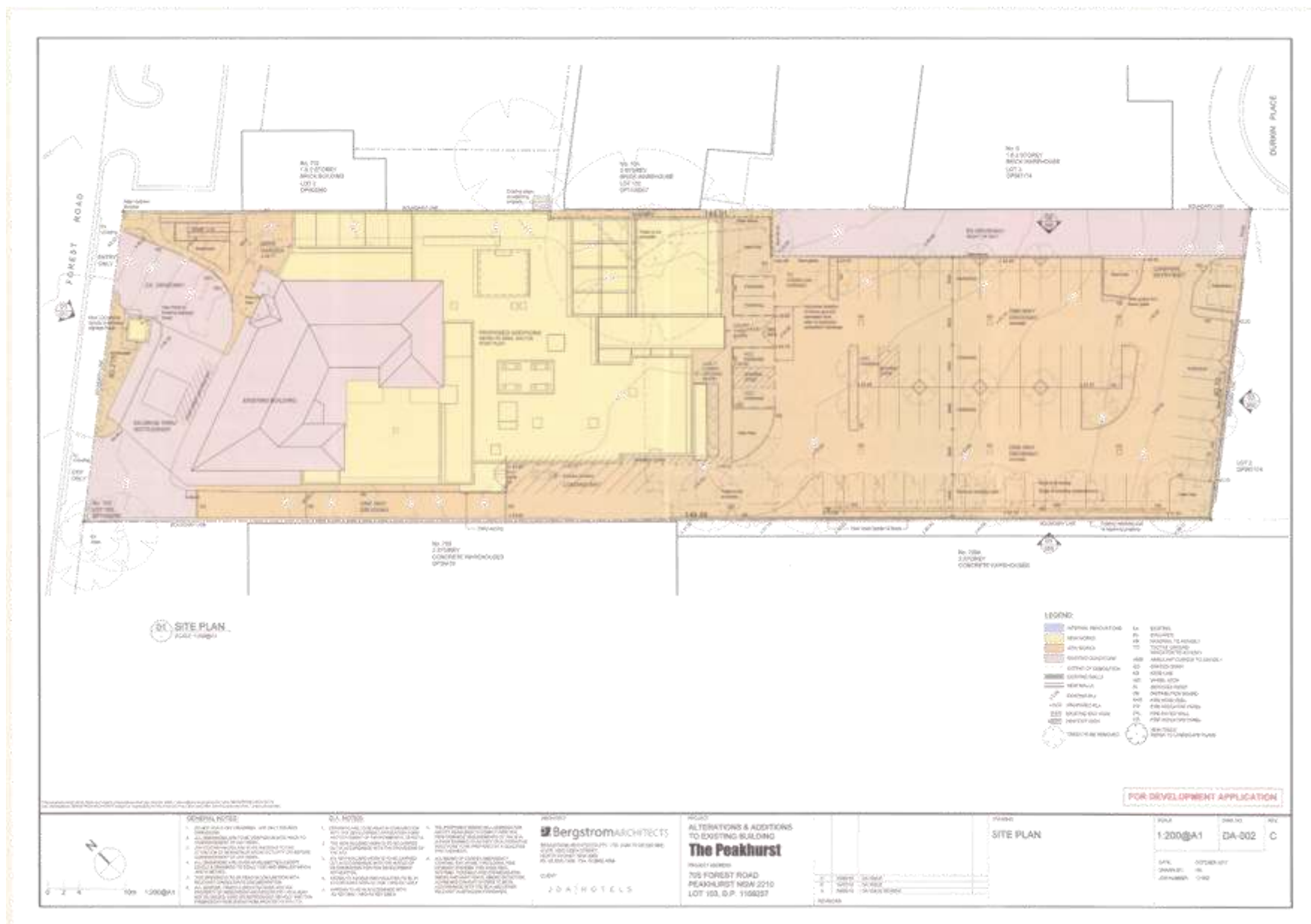
(b) Association of Australian Acoustical Consultants-professional society of noise related professionals (www.aaac.org.au)

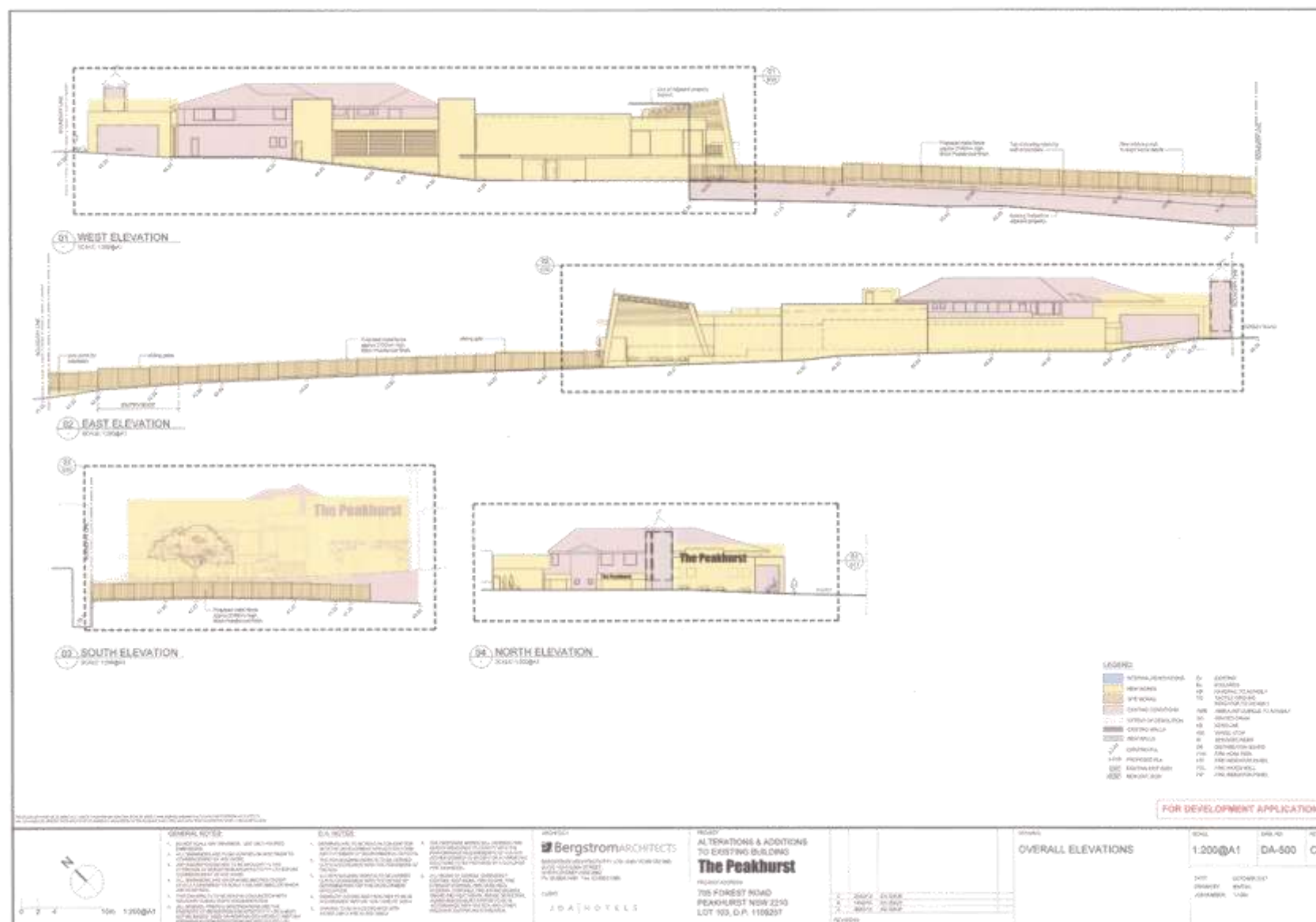
(c) NSW Industrial Noise Policy - Office of Environment & Heritage (www.environment.nsw.gov.au)

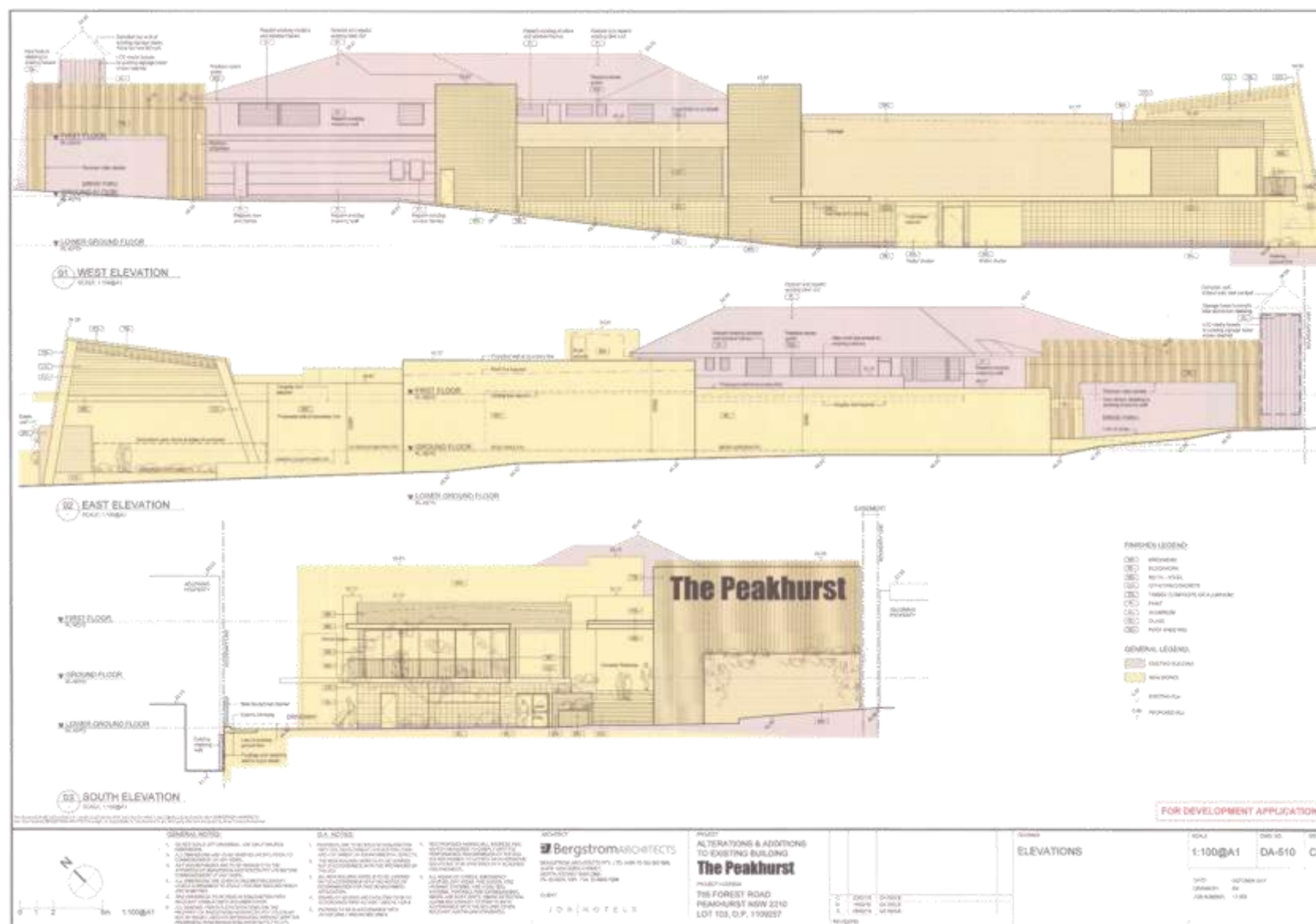
If you need more information, please contact the Development Assessment Planner, below on 9330-6400 between 9.00am -11.00am business days.

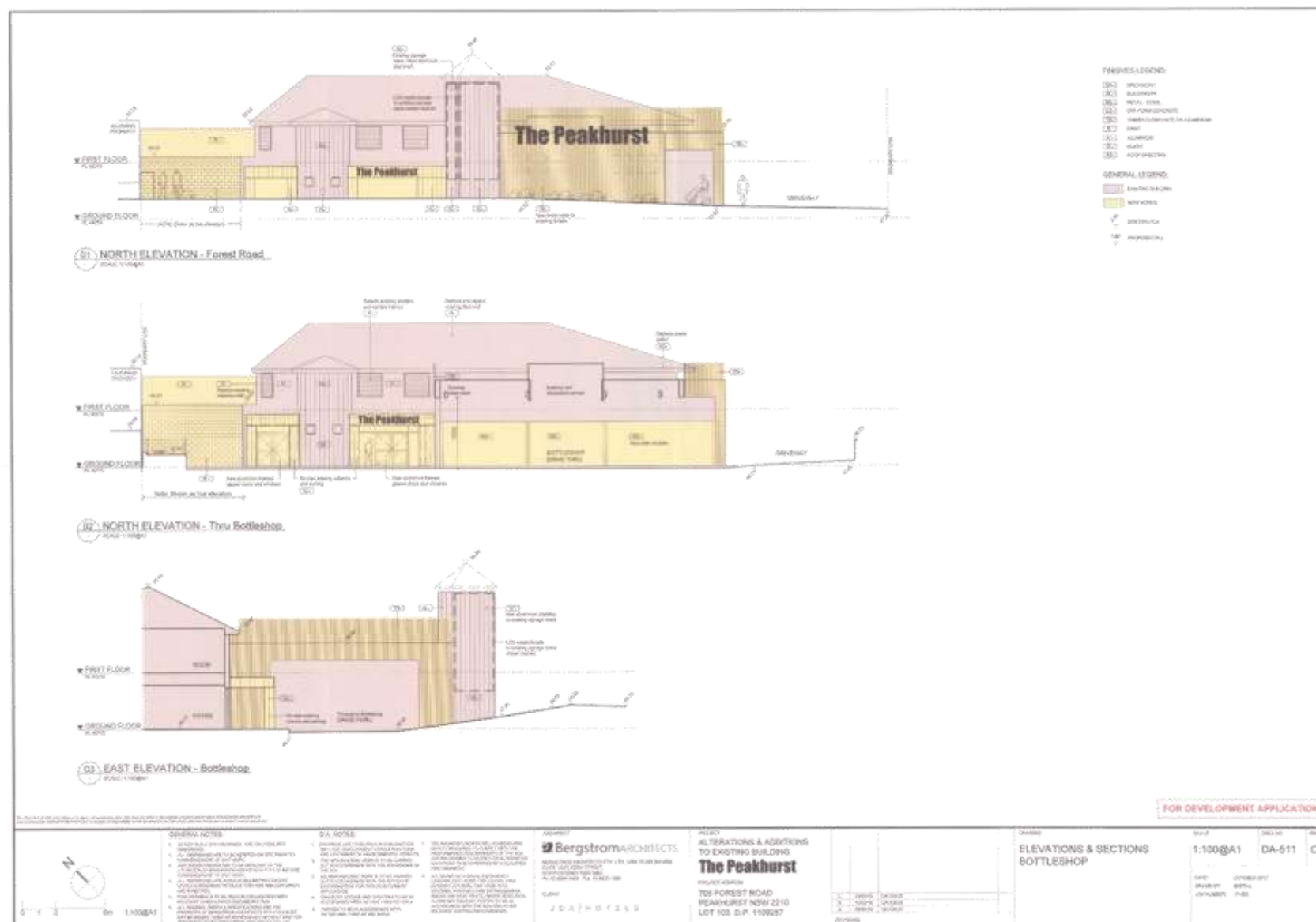
ATTACHMENTS

- Attachment [↓](#)1 Site Plan - 705 Forest Rd Peakhurst
- Attachment [↓](#)2 Overall Elevations - 705 Forest Rd Peakhurst
- Attachment [↓](#)3 Elevations - 705 Forest Rd Peakhurst
- Attachment [↓](#)4 Elevations and Sections Bottleshop - 705 Forest Rd Peakhurst
- Attachment [↓](#)5 Streetscape and External Finishes - 705 Forest Rd Peakhurst
- Attachment [↓](#)6 Plan of Management - 705 Forest Rd Peakhurst
- Attachment [↓](#)7 NSW Police Comments - Peakhurst Inn - 705 Forest Road











01 NORTH ELEVATION PERSPECTIVE VIEW - FOREST ROAD



02 SOUTH ELEVATION PERSPECTIVE VIEW - CARPARK



001 LIGHT PINK



002 LIGHT PINK



003 LIGHT BROWN



004 BLACK METAL RAILING
005 BLACK METAL RAILING



006 LIGHT BROWN



007 DARK BROWN



008 LIGHT BROWN



009 LIGHT BROWN

03 MATERIAL FINISHES

FOR DEVELOPMENT APPLICATION

<p>GENERAL NOTES:</p> <ol style="list-style-type: none"> 1. All work shall be in accordance with the relevant Australian Standards. 2. All work shall be in accordance with the relevant Australian Standards. 3. All work shall be in accordance with the relevant Australian Standards. 4. All work shall be in accordance with the relevant Australian Standards. 5. All work shall be in accordance with the relevant Australian Standards. 6. All work shall be in accordance with the relevant Australian Standards. 7. All work shall be in accordance with the relevant Australian Standards. 8. All work shall be in accordance with the relevant Australian Standards. 9. All work shall be in accordance with the relevant Australian Standards. 10. All work shall be in accordance with the relevant Australian Standards. 	<p>Q & A NOTES:</p> <ol style="list-style-type: none"> 1. The proposed works shall be in accordance with the relevant Australian Standards. 2. The proposed works shall be in accordance with the relevant Australian Standards. 3. The proposed works shall be in accordance with the relevant Australian Standards. 4. The proposed works shall be in accordance with the relevant Australian Standards. 5. The proposed works shall be in accordance with the relevant Australian Standards. 6. The proposed works shall be in accordance with the relevant Australian Standards. 7. The proposed works shall be in accordance with the relevant Australian Standards. 8. The proposed works shall be in accordance with the relevant Australian Standards. 9. The proposed works shall be in accordance with the relevant Australian Standards. 10. The proposed works shall be in accordance with the relevant Australian Standards. 	<p>CLIENT: Bergstrom Architects 705 FOREST ROAD PEAKHURST NSW 2210 LOT 105, D.P. 1100257</p>	<p>DESIGNER: Bergstrom Architects 705 FOREST ROAD PEAKHURST NSW 2210 LOT 105, D.P. 1100257</p>	<p>PROJECT: ALTERATIONS & ADDITIONS TO EXISTING BUILDING The Peakhurst</p>	<p>STREETScape AND EXTERNAL FINISHES</p>	<p>SCALE: 1:100 @ A1</p> <p>DATE: 19 JUL 2018</p> <p>BY: JDA/HMS</p> <p>CHKD BY: JDA/HMS</p> <p>APP'D BY: JDA/HMS</p>
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PLAN OF MANAGEMENT

FOR THE PEAKHURST INN

LOCATED AT 705 FOREST ROAD PEAKHURST

FEBRUARY 2018
Ref: 170929.8P

Suite 304/105 Pitt St Sydney NSW 2000 Ph: (02) 9262 3200 Fax: (02) 9262 3601

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CONTENTS

1.0	INTRODUCTION	4
2.0	OPERATIONAL DETAILS	5
2.1	THE HOTEL	5
2.2	THE POLICE AND THE COMMUNITY	5
2.3	HOURS OF OPERATION / USE OF PREMISES	6
3.0	MANAGEMENT MEASURES	7
3.1	GENERAL AMENITY	7
3.2	COMPLAINTS AND THE INCIDENT REGISTER	7
3.3	NOISE CONTROLS AND CRITERIA	9
3.4	DISABLED ACCESS	9
3.5	SIGNAGE	9
3.6	WASTE MANAGEMENT AND DELIVERIES	10
4.0	RESPONSIBLE SERVICE OF ALCOHOL	10
4.1	WHAT IS THE LAW?	10
4.2	HARM MINIMISATION MEASURES	11
4.3	HIGH RISK DRINKS	12
4.4	MONITORING LIQUOR CONSUMPTION AND PATRON BEHAVIOUR	13
5.0	SECURITY MEASURES	14
5.1	SECURITY STAFF	14
5.2	GENERAL MEASURES	15
5.3	CLOSED CIRCUIT TELEVISION (CCTV)	16
5.4	FOOTPATH AND ENTRY MANAGEMENT	17
6.0	RESPONDING TO INCIDENTS	18
6.1	NOTIFY POLICE	18
6.2	CRIME SCENE PRESERVATION GUIDELINES	18
7.0	OTHER RELEVANT MATTERS	19
7.1	DRUGS AND DRINK SPIKING	19
7.2	FIRE SAFETY AND ESSENTIAL SERVICES	20
7.3	AMENDMENT TO THIS PLAN	20

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ATTACHMENTS

- Appendix A – Secretary of the Department of Justice's Prevention of Intoxication on Licensed Premises Guidelines
- Appendix B – Identification of Intoxication Guidelines issued by the Department of Justice
- Appendix C – Promotion of Liquor Guidelines issued by the Department of Justice
- Appendix D – Liquor Licence LIQH400104642
- Appendix E – Development Consent [D/2018/XXXX] issued by Georges River Council [date]

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1.0 INTRODUCTION

- 1) The purpose of this Plan of Management (*the Plan*) is to establish performance criteria for the various aspects of the operation of the Peakhurst Inn (*the Hotel*), having regard to the relevant matters under the *Environmental Planning and Assessment Act 1979* and the *Liquor Act 2007* and any relevant Regulation under that legislation.
- 2) It also establishes performance criteria to demonstrate compliance with the Prevention of Intoxication on Licensed Premises Guidelines, dated March 2015 issued by the Secretary of the Department of Justice (*the Secretary's Guidelines – Appendix A*).
- 3) All staff involved with the sale or supply of liquor or security, shall receive instruction and training on the contents of this Plan, including the Secretary's Guidelines, the Intoxication Identification Guidelines (**Appendix B**) and the Liquor Promotion Guidelines (**Appendix C**) and how the Guidelines are to be complied with during day-to-day tasks.
- 4) Copies of the liquor licence (**Appendix D**) and development consent (**Appendix E**) will also be kept on site and produced upon a request by Police or Council Officers.
- 5) All staff involved with the sale or supply of liquor or security are to sign a register stating they have been made familiar with this Plan and its Guidelines and received instruction on how this Plan is to be enforced. That register is to be kept with this Plan.
- 6) This Plan and its attachments are also subject to legislative change to reflect the *Liquor Act 2007* and *Liquor Regulation 2008*. Where publications of the Liquor and Gaming NSW (Liquor & Gaming NSW) are revised or withdrawn from its website or where legislative changes occur from time to time, the Plan is to be taken to reflect those changes and those changes may be made to the Plan without further approvals or consultation with the Police or Council.
- 7) The provisions of this Plan must be adhered to at all times during the execution of the duty of all members of staff and security. Disregarding the provisions of this Plan may lead to on-the-spot dismissal.

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- 8) Reference in this Plan to the Duty Manager is a reference to the most senior Hotel management person on duty, unless the role of Duty Manager has been delegated by the Licensee.
- 9) Reference in this Plan to the Security Manager is a reference to the most senior Hotel security person on duty, unless the role of Security Manager has been delegated by the Duty Manager.
- 10) An obligation or responsibility under this Plan assigned to a Duty or Security Manager may be undertaken by another member of staff, as delegated by the relevant manager.

2.0 OPERATIONAL DETAILS

2.1 THE HOTEL

- 11) The Hotel is located at 705 Forest Road Peakhurst and is accessible from the front and rear via Forest Road and Durkin Place, respectively.
- 12) The Hotel comprises three (3) main components:
 - Drive-through bottle shop at the front of the site;
 - Main public bar, alfresco gaming room, bistro, function room and front and rear terrace; and
 - First floor accommodation comprising of 11 rooms with ensuites.
- 13) A rear car park comprising 65 car bays accessible via Forest Road and Durkin Place.
- 14) Public buses service both Forest Road and Boundary Road. The bus stop located directly outside the Hotel on Forest Road provides access to Parramatta, Bankstown and Hurstville.

2.2 THE POLICE AND THE COMMUNITY

- 15) The Licensee is a member of the Hurstville Liquor Accord and will continue to maintain that membership.
- 16) The management team for the Hotel will meet amongst themselves and as required with the Commander or his delegate of the relevant NSW Police Local Area Command. Matters that will be discussed will range from the management of

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upcoming events, any recent incidents and where improvements could be made with respect to security and management procedures. Management procedures and this Plan are to be reviewed at those meetings to address on-going matters as they arise and to ensure contingency plans are in place.

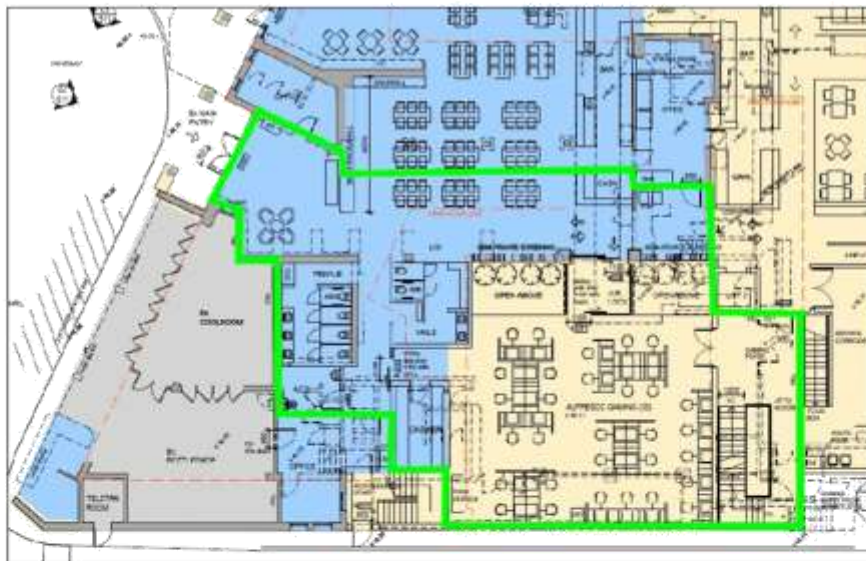
- 17) This Plan incorporates a community complaint section to deal with any complaints as to noise or the behaviour of patrons or staff.

2.3 HOURS OF OPERATION / USE OF PREMISES

2.3.1 The Hotel

- 18) The trading hours of the Hotel are 10am to 3am the following day Monday to Saturday and 10am to midnight, Sunday.

- a) Notwithstanding the above, the Gaming Room (as defined below) will operate between 10am and 5am the following day Monday to Saturday.
- b) The maximum capacity of the Hotel between 3am and 5am is 60 patrons.



- 19) Packaged liquor may be sold for consumption off the premises between 10am and 11pm Monday to Saturday and 10am to 10pm Sunday.

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20) Minors in the company of a responsible adult¹ are permitted within all parts of the Hotel except the gaming room.

21) The capacity of the Hotel is 1200 persons.

22) The maximum capacity of the Front Terrace after midnight is 106 patrons.

Note: This figure may change following post-operational acoustic testing to ensure compliance with the relevant noise criteria.

2.3.2 Accommodation

23) Guests staying at the Hotel accommodation will have 24 hour swipe card access via the south-western external stairwell.

24) Hotel accommodation guests are subject to a maximum stay of 3 months.

3.0 MANAGEMENT MEASURES

3.1 GENERAL AMENITY

25) Staff shall intervene to provide corrective advice to any patron on the premises or immediate vicinity that is behaving in a manner that is likely to disturb the amenity of nearby residents or businesses. Any patron whose behaviour is extreme or repeatedly objectionable may be refused service, asked to leave and barred for a period determined by the Licensee.

26) The Hotel the Duty Manager shall ensure that the entry points and immediate vicinity of the Hotel are kept clean with all waste removed.

3.2 COMPLAINTS AND THE INCIDENT REGISTER

27) The Duty Manager shall ensure that details of the following incidents that occur after midnight Monday to Saturday or after 10pm Sunday are recorded in the Hotel's Incident Register:

- a) Any incident involving violence or anti-social behaviour occurring on the Hotel;

¹ *Responsible adult* is defined in the *Liquor Act 2007* as an adult who is:

- (a) a parent, step-parent or guardian of the minor, or
- (b) the minor's spouse or de facto partner, or
- (c) for the time being standing in as the parent of the minor.

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- b) Any incident of which the Duty Manager is aware, that involves violence or anti-social behaviour occurring in the immediate vicinity of the Hotel and that involves a person who has recently left, or been refused admission to, the Hotel;
 - c) Any incident that results in a person being turned out of, or refused entry to, the Hotel under Section 77 of Liquor Act 2007; viz:
 - i) for being intoxicated, violent, quarrelsome or disorderly;
 - ii) whose presence on the licensed premises renders the Licensee liable to a penalty under the Liquor Act, e.g., unaccompanied minors;
 - iii) who uses, or has in his or her possession, while in the Hotel any substance suspected of being a prohibited plant or prohibited drug.
 - d) Any incident that results in a patron of the Hotel requiring medical assistance;
 - e) Any incident that occurred either on the Hotel or in the immediate vicinity, which involved the committing of a crime or required the intervention of security; and
- 28) A separate Incident Register shall be maintained for any complaints made directly to the management or staff of the Hotel by local residents or business people, about the operation of the Hotel or the behaviour of its patrons.
- 29) The Licensee shall make the Incident Registers available to any NSW Police Officer or L&G NSW Special Inspector on request. NSW Police and L&G NSW Special Inspectors must be permitted to make copies.
- 30) The Incident Registers are to be reviewed regularly by the Licensee to ensure that complaints, where possible, are being dealt with appropriately.
- 31) The following details of complaints made to the Hotel are to be recorded in the Management Diary:
- a) Date and time of the incident that led to the complaint;
 - b) The name of the member of staff on duty taking the complaint;
 - c) Nature of the complaint;
 - d) Address and contact details of the complainant;
 - e) Any actions proposed to deal with the complaint; and
 - f) The actions taken and the time and date when that was reported to the complainant.

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3.3 NOISE CONTROLS AND CRITERIA

- 32) Noise likely to result from the operation of the Hotel, includes vocal noise from patrons as well as any amplified music. Any noise complaints need to be recorded as directed in this Plan and brought to the attention of management.
- 33) All mechanical ventilation is to be maintained in accordance with relevant standards.
- 34) Bi-fold doors and windows to the Sports Lounge and Function Room are to be closed at midnight, including the front door to the Sports Lounge.

3.4 DISABLED ACCESS

- 35) The access points shall remain unobstructed at all times that the Hotel is in operation to allow for disabled access.

3.5 SIGNAGE

- 36) The Licensee shall be responsible to ensure signage is erected and maintained in a clear and prominent position adjacent to all points of egress, requesting that patrons depart the Hotel in a manner respectful of the surrounding area, or wording to that effect.
- 37) The Licensee shall be responsible to ensure all signage required under the *Liquor Act 2007* and the Regulation, is displayed and maintained in a prominent position, in accordance with those legislative requirements, including:
- a) Signage at the entrance stating the licence name, type of licence number and the name of the Licensee.
 - b) Signage at any bar area stating: IT IS AGAINST THE LAW TO SELL OR SUPPLY ALCOHOL TO, OR TO OBTAIN ALCOHOL ON BEHALF OF, A PERSON UNDER THE AGE OF 18 YEARS.
 - c) Signage at any bar area stating: PERSONS UNDER THE AGE OF 18 YEARS MUST BE WITH A RESPONSIBLE ADULT IN THIS AREA BY LAW.
- 38) The Licensee shall be responsible to ensure signage is erected at the entrance and in the Hotel available from the L&G NSW explaining the "Failure to Quit" provisions of the *Liquor Act 2007*.

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39) Signage notifying patrons that CCTV is used on premises must be located at the entrance to the Hotel.

40) Signs must be located within the Hotel advising patrons of the nearby residences and seeking quiet and orderly ingress and egress from the premises.

3.6 WASTE MANAGEMENT AND DELIVERIES

41) All waste shall be stored in the waste storage area and ready for removal.

42) Adequate bins are to be provided in smoking areas outside the Hotel for patrons to properly dispose of cigarette butts.

43) Deliveries and waste removal is to take place in the Loading Dock Zone between 8.00am and 1pm on weekends and between 8am and 5pm on weekdays.

4.0 RESPONSIBLE SERVICE OF ALCOHOL

44) All provisions with this Section 4.0 'Responsible Service of Alcohol' are subject to change at the discretion of Licensee, following legislative change or changes to the liquor licence. **If any of the following operational restrictions are amended, removed or withdrawn from the Liquor Act, Liquor Regulation 2008 or Guidelines from the Department of Justice or at the discretion of the Licensee, they will no longer be required to be observed and may be taken to have been amended or deleted (as the case may be) from this Plan of Management without the need for consultation or approval from any statutory authority.**

4.1 WHAT IS THE LAW?

45) It is unlawful to sell or supply liquor to a person who is intoxicated on licensed premises.

46) It is unlawful to permit intoxication on licensed premises.

47) A person is considered to be intoxicated if:

- a) The person's speech, balance, co-ordination or behaviour is noticeably affected, and
- b) It is reasonable in the circumstances to believe that the affected speech, balance, co-ordination or behaviour is the result of the consumption of liquor.

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48) L&G NSW has issued Guidelines to assist in the identification of intoxicated persons which are provided at **Appendix B**. Bring to the attention of the Duty Manager any person considered to be in, or approaching, a state of intoxication.

4.2 HARM MINIMISATION MEASURES

49) The licence attached to the Hotel shall be exercised – at all times – in accordance with the provisions of the Liquor Act and Regulation and the Hotel Licence (**Appendix D**);

The following operational policies for the Responsible Service of Alcohol shall apply:-

- a) All staff involved in the sale and supply of liquor or security, shall have first completed an approved course in the Responsible Service of Alcohol.
- b) All staff are required to have their RSA Competency Card readily available at all times when working. Failure to produce an RSA Competency Card at the request of Police or Inspector is an offence under the Liquor Act with a maximum penalty of \$550 for any staff member that fails to produce.
- c) The Licensee shall not permit the Hotel to engage in any liquor promotion that is likely to promote irresponsible service of liquor (see **Appendix C**).
- d) Alcohol shall not be served to any person who is intoxicated.
- e) Any person who is intoxicated shall be denied entry to the Hotel.
- f) All staff and security are responsible to ensure that intoxication or any indecent, violent or quarrelsome conduct by patrons in the Hotel is brought to the attention of the Duty Manager. Any person causing such a disturbance shall be refused service and asked to leave the Hotel. Any patron whose behaviour is either extreme or repeatedly objectionable may be barred from entering the Hotel for a period determined by the Licensee.
- g) Production of photographic identification will be required where age is an issue. The only acceptable proofs of age identification shall be:
 - i) Australian State or other Government issued photo identification card, such as a driver's or riders licence or proof of age card; or
 - ii) Current passport; or
 - iii) Keypass Identity Card issued by Australia Post
- h) Security Officers shall check identification to verify its authenticity, including:

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- i) Evidence of tampering including scratches to modify the date of birth or attempts to peel the identification apart;
- ii) A clear laminate cover to modify the date of birth;
- iii) That the person providing the identification is the person to which the identification belongs.
- i) If a minor is found attempting to intentionally mislead staff via falsified documents in order to gain entry to the Hotel, their identification is to be confiscated and the Duty Manager is to determine whether the minor is to be held and handed over to the NSW Police Service.
- j) Low alcohol beer and non-alcoholic beverages shall be available at all times.
- k) Free drinking water shall be available at all times from all bars.
- l) Light meals shall be available on request whenever liquor is available for consumption in the Hotel. Signage and/or menus shall be provided to notify patrons of their reasonable expectations of available food.
- m) Staff are not permitted to consume alcohol whilst on duty in the Hotel.
- n) Signage and promotion of non-alcoholic and low strength alcohol beverage options is to be provided at the point of purchase of alcohol beverages.
- o) Signage is to be provided throughout the Hotel noting that free drinking water is available at all bars.

4.3 HIGH RISK DRINKS

50) The following drinks are not sold or supplied between midnight and 5am:

- a) any drink (commonly referred to as a 'shot', a 'shooter' or a 'bomb') that is designed to be consumed rapidly,
- b) any ready to drink beverage with an alcohol by volume content of more than 5%, and
- c) any drink prepared on the premises that contains more than 30 ml of spirits or liqueur, other than a cocktail that contains spirits or liqueur (or both) mixed with other ingredients and that is not designed to be consumed rapidly.

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4.4 MONITORING LIQUOR CONSUMPTION AND PATRON BEHAVIOUR

51) The Hotel must operate under the direct supervision of the Licensee or appropriately experienced management staff.

52) Whenever the Hotel is operating, the following RSA monitoring obligations will be undertaken:

- a) All staff and security are expected during the carrying out of their duties to conduct RSA monitoring. Staff are required to monitor all patrons for their levels of intoxication, consumption patterns and secondary supply having regard to how many drinks patrons have consumed and for how long patrons have been in the Hotel.
- b) The Duty Manager will undertake a compliance role for monitoring, among other things, compliance with Part 4 of this Plan.

53) The duties and responsibilities of any staff designated specifically as a RSA Marshal include:

- a) Providing visual support to bar staff who must also enforce the responsible service of alcohol;
- b) Monitor patron behaviour and consumption levels taking note of any person who may be consuming alcohol in a risky pattern;
- c) Monitor signs of and levels of intoxication;
- d) Monitor secondary supply and shielding of patrons who may be intoxicated;
- e) Take action by engaging with patrons, encouraging them to drink responsibly by slowing down or by offering alternatives such as free drinking water BEFORE they become intoxicated; and
- f) Engage security and management where necessary.

54) To ensure that an RSA Marshal carries out their duties diligently the person undertaking that duty must not:

- a) Be involved in the sale and supply of liquor, i.e. working behind the bar at the same time; or
- b) Undertake security duties such as removing patrons or controlling access points to the Hotel.

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55) If a patron is identified by staff or security as consuming liquor in a manner that is likely to result in intoxication or is considered to be showing signs of approaching intoxication, intervention from staff is required to provide advice to the patron. That advice should be as follows:

- a) That further risky consumption or further consumption may lead to intoxication. If the person is considered to be intoxicated, he/she will immediately be asked to leave the premises. If that occurs, they will be required to move 50 metres from the Hotel and not be permitted re-entry to that area or the Hotel for 24 hours.
- b) The patron should be offered and encouraged to consume non-alcoholic beverages such as water or soft-drinks and food.
- c) If the patron is in a group, his/her friends should be advised that the patron needs to moderate their alcohol intake.

56) If a patron is identified by staff or security as showing signs of intoxication the following steps must be taken:

- a) Any requests for further service of liquor must be refused;
- b) Intervene to prevent the patron from consuming alcohol;
- c) The patron is to be requested to leave the premises;
- d) If the person refuses to leave the premises, the Police are to be contacted or sought to be contacted to assist with the removal of the patron from the premises; and
- e) The event must be recorded in the Incident Register.

5.0 SECURITY MEASURES

5.1 SECURITY STAFF

57) On Friday and Saturday nights from 11pm, security is to be deployed at a rate of one (1) licensed uniformed security person for each 100 patrons at the premises.

58) One (1) licensed uniformed security person is to patrol the outside boundary of the licensed premises, including the rear carpark, every 30 minutes from 11pm Friday and Saturday nights until close.

59) On Monday to Thursday, at least one (1) security guard is to be provided from 11pm until close of the Hotel.

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60) The responsibilities of any security person shall be nominated by the Duty Manager and/or Security Manager, prior to the start of the shift. Security shall also monitor the activity of patrons and persons in the vicinity of the Hotel and act as required, within the scope of their powers in a public place.

61) Additional security may be provided at the discretion of management for functions or days with expected higher numbers of patrons in consultation with the Police.

5.2 GENERAL MEASURES

62) The Security Manager shall require all security personnel employed at the Hotel to:

- a) Be licensed under the *Security Industry Act 1997* (or the equivalent Act applicable at the time).
- b) Be dressed in readily identifiable uniform so that they may be highly visible to patrons and displaying identification as a security officer.
- c) Fill in a time sheet (with start and finish times) which is to be initialled by the Duty Manager. Access to the sign on sheet shall be provided to NSW Police on request.
- d) Report to the Security Manager and Duty Manager to obtain a briefing on any specific duties to be addressed before commencing duty.
- e) Ensure that persons entering the Hotel are suitably attired in accordance with the Hotel's dress code, which shall require patrons, at least, to be neatly dressed in casual wear, with footwear and to be clean.
- f) Prevent any person, detected as intoxicated, entering the Hotel and bring to notice of the Duty Manager, any person in the Hotel who might be considered to be in, or approaching, a state of intoxication.
- g) Prevent patrons removing glasses, open cans, bottles or alcohol from the Hotel.
- h) Prevent patrons entering the Hotel with alcoholic drinks.
- i) Monitor patron behaviour in, and in the vicinity of, the Hotel until all patrons have left, taking all practical steps to ensure the quiet and orderly departure of patrons.
- j) Co-operate with the Police and any other private security personnel operating in the vicinity of the Hotel.

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- k) In the event of an incident, clearly identify themselves as security belonging to the Hotel and attempt to rectify the problem.
 - l) Continually apply a "Hands Off Policy". Patrons are only to be asked to leave at the direction of management and forced removal from the Hotel must only occur at the direction of the Duty Manager and with reasonable force only. Immediate hands on action may still be used in self-defence or in the defence of another patron or member of staff.
 - m) Make a written note with details of any incidents in the Hotel's Incident Register, as required by this Plan of Management. The details should be immediately entered in the Incident Register or, where it is not practical to do this, written in a notebook and copied into the Incident Register as soon as practicable.
- 63) Between midnight and 5am, staff or security are to actively engage patrons as they enter the Hotel to determine if they may be intoxicated. Patrons are to be engaged through conversation and asking of at least one question, such as how their night is, where they have been, what their plans are for the evening, asking for their identification and monitoring their response and behaviour having regard to the Identification of Intoxication Guidelines (**Appendix B**).

5.3 CLOSED CIRCUIT TELEVISION (CCTV)

- 64) The Licensee shall maintain a CCTV system that meets the following minimum requirements:
- a) be in digital format and record at a minimum of six frames a second;
 - b) commence at the opening of the Hotel and operate continuously until at least half an hour after closure; and
 - c) The correct time, date and camera identification must be automatically embedded on all recordings and be able to be read when the image is played back on a different system without interfering with the view of the target area.
- 65) Recordings shall be retained for a period of 30 days before being reused or destroyed. The Licensee shall ensure that no person is able to delete or alter any recordings within the 30 day period.
- 66) Copies of footage are to be provided to Police upon request or where it is not possible to do so, within 72 hours of that request.

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67) Prior to the commencement of trade each day, the Duty Manager shall check the CCTV system to ensure the equipment is in full operating order. If, during the daily check or at any other time, it is discovered that the equipment is not in full operating order, the Duty Manager must take all reasonable steps to repair the system as soon as practicable.

5.4 FOOTPATH AND ENTRY MANAGEMENT

68) During peak periods entry may be by queue however patrons are to be permitted entry into the Hotel as quickly as possible to avoid congregation surrounding the entry. Queuing will assist in ensuring that all patrons are vetted for intoxication and age verification prior to entry, as well as to ensure that the maximum capacity of the Hotel is not exceeded.

69) The Security Manager is to ensure that patrons queuing to enter are to be checked that they meet the Hotel's dress code, and as follows:

- a) **Groups:** Entry may be denied to groups of males if they are perceived to be potentially aggressive or violent.
- b) **Young patrons:** Young patrons are to be denied entry even if is suspected they, or a member of their group, is under age.
- c) **Attitude:** Any person who is rude, aggressive, violent, quarrelsome, difficult or perceived to have a negative attitude is to be denied entry.
- d) **Clothing:** Patrons are required to be neat and tidy wearing casual clothes and footwear as a minimum. No person wearing any clothing, jewellery or accessories indicating association with any gang, including colours, patches, abbreviations, etc., including 1%, or 1%er insignia are to be permitted entry.

70) If possible, and at the discretion of the Security Manager, prior to making it to the front of the queue patrons not meeting the above requirements are to be instructed to leave the queue.

71) Persons who have been refused entry or turned out of the Hotel for being intoxicated, violent, quarrelsome or disorderly and who continue to loiter at the front of the Hotel are to be reminded that the Police will be called if they refuse to move 50 metres from the Hotel; at which time they may be issued with a fine for \$550.

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6.0 RESPONDING TO INCIDENTS

6.1 NOTIFY POLICE

72) Immediately after the Duty Manager becomes aware of an incident involving an act of violence causing injury to a person in the Hotel requiring immediate professional medical assistance the Duty Manager must:

- a) Provide or arrange for any required first aid;
- b) Immediately contact '000' or the Local Area Commander or his/her delegate and advise them of the incident;
- c) Comply with any directions given by the Commander or delegate to preserve or keep intact the area where the violence occurred.

6.2 CRIME SCENE PRESERVATION GUIDELINES

73) Unless directed otherwise by the Local Area Commander or his/her delegate upon notification, the following crime scene preservation guidelines must be observed:

- a) Determine the crime scene and remove all persons from the area. Take all practical steps to preserve and keep intact the area where the act of violence occurred. Cordon off the area utilising bar stools, tables or tape. Consider closing off the area completely for such areas such as toilets, hallways or bars. Remember there may be multiple crime scenes.
- b) Do not allow any persons to enter this area;
- c) DO NOT CLEAN UP ANY CRIME SCENE. You may be destroying vital evidence;
- d) Remember some evidence may not be visible to the naked eye such as blood, semen, skin cells, saliva, hair or fingerprints;
- e) Do not move any items that may have been involved in an offence unless absolutely necessary. Use gloves to stop transference of your DNA or fingerprints;
- f) Notify Police if any items have been moved or removed from the crime scene. Items may include bottles, glasses, pool cues, clothing, furniture, weapons or cigarette butts;
- g) Make notes in relation to the incident. Time, date, location, description of offender(s), vehicle(s) involved, weapons used, last known direction of offender(s), any movement of items involved in the incident;

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- h) Secure any CCTV footage and the security sign on sheets;
- i) Obtain any details of witnesses and try to keep all witnesses separated so as to maintain the integrity of their evidence. Try to persuade witnesses from leaving the Hotel before Police arrive;
- j) Hand this information to Police on arrival; and
- k) Be prepared to make a statement to Police regarding the incident.

74) Interfering with evidence may constitute an offence, leaving you liable to prosecution or disciplinary action, and/or may result in the closure of the Hotel.

75) Details of the incident are to be recorded in the Hotel's Incident Register.

7.0 OTHER RELEVANT MATTERS

7.1 DRUGS AND DRINK SPIKING

76) If any person is caught dealing, purchasing or consuming drugs within the Hotel, the person (or persons) are to be requested to leave immediately and the Duty Manager informed. This is their first and only warning. If the same person is caught again, then the person (or persons) are to be banned for a period determined by the Licensee and the Police notified.

77) The incident is to be recorded in the Incident Register.

78) Drink spiking is often difficult to detect. Below are some things to look out for and what to do:

- a) Any occurrences of a person (or persons) escorting out an obviously affected and lone person. Ask questions and engage in conversation with the person escorting the affected patron away, asking for their name, where they are heading to, etc – contact the Duty Manager about any person who goes to length to remain anonymous.
- b) An affected person may need medical attention, so ask them. If they are not capable of making that decision – then arrange that medical attention.
- c) Any affected person will need to get to a safe place, which may be theirs or a friends place. Ensure people who are showing signs of intoxication are looked after by their friends and not leave them in the company of the person who may have spiked their drink.

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- d) Contact the Police and thoroughly document the incident in the Hotel's Incident Register.
- e) Remember the most common drug used for drink spiking is alcohol. Be aware of strange drink orders such as beer and a nip of vodka, double shots in short glasses, etc.

7.2 FIRE SAFETY AND ESSENTIAL SERVICES

- 79) The Licensee shall ensure that all essential services installed at the Hotel are certified annually and shall ensure that they remain in good working order at all times.
- 80) In the event of any malfunctioning of any essential service the Duty Manager shall ensure that it is rectified as quickly as soon as possible.
- 81) The Licensee shall ensure that lists of the telephone numbers of all relevant emergency agencies shall be kept in the office.
- 82) All managers and other permanent staff shall be made aware of fire safety requirements and the procedures to be followed in the event of an emergency at the Hotel.

7.3 AMENDMENT TO THIS PLAN

- 83) If, in circumstances where better management or improved amenity outcomes can be achieved by amendments to this Plan such amendments can be made, following consultation with both the Police and Council who shall agree to those changes in writing and be provided with a copy of any modified Plan.
- 84) This Plan and its attachments are also subject to legislative changes to the Liquor Act, 2007 and Liquor Regulation 2008. Where publications of the Department of Justice are revised or withdrawn from its website or where legislative changes occur from time to time, the Plan is to be taken to reflect those changes and those changes may be made to the Plan without consultation with or approval of the Police or Council.
- 85) Part 4 of this Plan is for compliance with the Secretary's Prevention of Intoxication Guidelines, Responsible Service of Alcohol requirements of the Liquor Act and liquor licence conditions and is for internal purposes only. Provisions of this plan required to meet the relevant sections of the Liquor Act will be varied from time to time to reflect industry best practice, or to reflect published changes to the

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Secretary's Guidelines, legislation or the liquor licence and may be varied or abandoned at the discretion of the Licensee without consultation with the Police or Council.

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Peakhurst Inn

APPENDIX A – PREVENTION OF INTOXICATION ON LICENSED PREMISES GUIDELINES

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APPENDIX B – IDENTIFICATION OF INTOXICATION GUIDELINES

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APPENDIX C – PROMOTION OF LIQUOR GUIDELINES

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APPENDIX D – LIQUOR LICENCE

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Peakhurst Inn

APPENDIX E – DEVELOPMENT CONSENT

NSW POLICE FORCE



Licensing Unit St George Police Area Command

36-38 Ormonde Parade
Hurstville, NSW, 2220
Telephone: 02 9375 8560
Facsimile: 02 9375 8017

Sunday 22 April 2018
Attention: Georges River Council

Development Application number DA2018/0062 - Peakhurst Inn Hotel, 705 Forest Road Peakhurst;

Good morning Patrick,

In relation to the above development application St George Police Area Command have no objection to this application however wish to make the following comments;

Over the past twelve months, the Peakhurst Inn Hotel has maintained a risk level of LOW. That level is based on a number of factors including reported alcohol related crime, violence, property damage and theft. That being said, the Peakhurst Inn is a late trading licensed premises and as such is considered to have a higher potential for alcohol related harm.

It is the recommendation of Police that the following conditions be given strong consideration to ensure the impact on the community and crime environment are minimised.

1). Plan of Management

Police request that the premises operate in accordance with the plan of management prepared by Design Collaborative Pty Limited Planning and Development Consultants dated February 2018.

2). Sale of Liquor

The sale and supply of liquor on the licensed premises must be in accordance with the terms and conditions of the approved liquor licence issued by Liquor and Gaming NSW in respect to the premises.

3). Maximum Capacity

The total number of patrons on the premises at any time must not exceed 1200 patrons.

Inclusive of that figure, the following restriction on the use of a specific area applise;

- a) Front terrace: 106 people
- b) Gaming room: 122 people
- c) Rear courtyard: 264 people
- d) Bistro lounge/ outdoor bistro: 162 people
- e) Function terrace: 250 people

4). Notice to Patrons

A clearly visible sign must be permanently erected immediately adjacent to the entry / exit doors of the premises indicating that patrons are to leave in an orderly fashion and must leave the vicinity of the premises in a manner that does not disturb the quiet and good order of the neighbourhood.

5). Complaint Response

In the event of a complaint being received by the licensee from a neighbouring resident with respect

to a disturbance to the quiet and good order of the neighbourhood, the licensee must notify Council of the complaint for inclusion on the complaints register within 48 hours. It remains the responsibility of the licensee to respond appropriately to complaints.

6). Incidents – Recording and Notification

The manager/licensee must ensure that all incidents involving staff members (including security personnel) are recorded in the incident register maintained on site, including incidents involving physical contact between staff and patrons, physical restraint of patrons and/or the ejection of patrons from the premises. Access to the Incident Register must be made available for viewing on the request of Council Officers, Police Officers and/or Liquor and Gaming Authorised Officers.

7). Capacity and Patron Signage

Signage (in lettering not less than 15mm in height on a contrasting background) is to be erected in a prominent position near the principal entry to the premises in accordance with Clause 98D of the EPA Regulation 2000.

The signage must state the following:

Approved hours of operation

Monday to Thursday: 10am to 3am

Friday to Saturday: 10am to 5am

Sunday: 10am to 10pm

Approved patron capacity

1200 patrons

The signage required by this condition is to be erected prior to the commencement of operations..

8). Copies of Consents and Management Plans

A full copy of all current development consents (including approved plans) for the operation of the premises, any Registers required and any required Plan of Management must be kept on the premises and made available for inspection immediately upon request by Council Officers, Police Officers and/or Liquor and Gaming Authorised Officers.

9). CCTV

A closed-circuit television system must be maintained on the premises in accordance with the following requirements:

- (a) the system must record continuously from opening time until one hour after the premises are required to close,
- (b) recordings must be in digital format and at a minimum of 10 frames per second,
- (c) any recorded image must specify the time and date of the recorded image,
- (d) the system's cameras must cover the following areas:

- (i) all entry and exit points on the premises,
- (ii) all publicly accessible areas (other than toilets) on the premises including Main entrance area driveway and taxi area on Forest Road.

The licensee/manager to which this clause applies must:

- (a) keep all recordings made by the CCTV system for at least 30 days, and
- (b) ensure that the system is accessible by at least one member of staff at all times it is in operation, and
- (c) provide any recordings made by the system to Council Officers, Police Officers and/or Liquor and Gaming Authorised Officers within 24 hours of any request by Council Officers, Police Officers and/or Liquor and Gaming Authorised Officers to provide such recordings.

10). Crime Scene Preservation

The licensee must ensure that immediately after the licensee or a staff member becomes aware of an incident on the premises involving an act of violence causing an injury to a person on the premises,

the following is adhered to:

- (a) the licensee and/or staff take all practical steps to preserve and keep intact the area where the act of violence occurred, retain all material and implements associated with the act of violence in accordance with the Crime Scene Preservation Guidelines issued by the NSW Police, and
- (b) the licensee and/or staff make direct and personal contact with the Police Area Commander or his/her delegate and advise the Commander or delegate of the incident, and
- (c) the licensee and/or staff comply with any directions given by the Commander or delegate to preserve or keep intact the area where the violence occurred.

In this condition:

- (a) "staff", means any person employed by or acting on behalf of the licensee of the premises, and includes any person who is employed to carry on activities as a crowd controller or bouncer on or about the premises..

REPORT TO GEORGES RIVER COUNCIL LPP MEETING OF THURSDAY, 19 JULY 2018

LPP Report No	LPP029-18	Development Application No	PP2018/0002
Site Address & Ward Locality	53 Forest Road, 9 Roberts Lane and 108 Durham Street, Hurstville Hurstville Ward		
Proposed Development	Planning Proposal to amend the Land Reservation Acquisition Map of the Hurstville Local Environmental Plan 2012 to include a 3 metre wide local road widening along the Roberts Lane boundary of the properties at 53 Forest Road, 9 Roberts Lane and 108 Durham Street, Hurstville.		
Owners	Mrs K Giacchi, Mrs J Kordic & Mr I Kordic, Bagi Pty Ltd		
Applicant	Georges River Council		
Planner/Architect	N/A		
Date Of Lodgement	N/A		
Submissions	N/A		
Cost of Works	N/A		
Local Planning Panel Criteria	Direction from the Minister for Planning under Section 9.1 of the Environmental Planning and Assessment Act 1979 and the Charter of the Georges River Council Local Planning Panel 2018 both specify that the Planning Proposal is to be referred to the Local Planning Panel before it is forwarded for Gateway Determination (approval).		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	Planning Proposal – N/A		
List all documents submitted with this report for the Panel's consideration	Attachment 1 - Report to the Environment and Planning Committee dated 12 June 2018 Attachment 2 – Council Resolution dated 25 June 2018 Attachment 3 – Planning Proposal		
Report prepared by	Strategic Planner		

Recommendation	<ol style="list-style-type: none"> 1. THAT the Georges River LPP recommends to Council that the Planning Proposal to amend the Land Reservation Acquisition Map of the <i>Hurstville Local Environmental Plan 2012</i> to include a 3m wide local road widening along the Roberts Lane boundary of the properties at 53 Forest Road, 9 Roberts Lane and 108 Durham Street, Hurstville be forwarded to the delegate of the Greater Sydney Commission for a Gateway Determination under Section 3.34 of the <i>Environmental Planning and Assessment Act 1979</i>. 2. THAT the Planning Proposal be placed on formal public exhibition concurrently with the Landmark Square Planning Proposal (PP2015/0001) and in accordance with the conditions of any Gateway Determination issued by the Department of Planning and Environment.
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3. THAT a report to Council be prepared by Council staff to advise of the LPP recommendations.

Figure 1 – Aerial Map of Subject Sites in Relation to the Landmark Square Precinct



Executive Summary

1. At its meeting on 25 June 2018, Georges River Council endorsed the preparation of a Planning Proposal to amend the Land Reservation Acquisition (“LRA”) Map of the *Hurstville Local Environmental Plan 2012* (“HLEP 2012”) to include a 3m wide local road widening along the Roberts Lane boundary of the properties at 53 Forest Road, 9 Roberts Lane and 108 Durham Street, Hurstville. Refer to **Attachment 1** for a copy of the full report.
2. This Planning Proposal (PP2018/0002) has been prepared to accompany the existing Planning Proposal (PP2015/0001) to rezone and amend planning controls for the Landmark Square Precinct at 53-75 Forest Road, 108-126 Durham Street and 9 Roberts Lane, Hurstville, which received a Gateway Determination on 19 October 2017.
3. The Landmark Square Planning Proposal (PP2015/0001) explicitly nominates that a 3m wide strip of land along the Roberts Lane boundary of the Precinct is to be dedicated for the purpose of road widening to enable two-way traffic access and medium rigid vehicles (“MRV”) access on Roberts Lane (e.g. waste collection and delivery vehicles).

2. This Planning Proposal (PP2018/0002) has been prepared to accompany the existing Planning Proposal (PP2015/0001) to rezone and amend planning controls for the Landmark Square Precinct at 53-75 Forest Road, 108-126 Durham Street and 9 Roberts Lane, Hurstville, which received a Gateway Determination on 19 October 2017.

3. The Landmark Square Planning Proposal (PP2015/0001) explicitly nominates that a 3m wide strip of land along the Roberts Lane boundary of the Precinct is to be dedicated for the purpose of road widening to enable two-way traffic access and medium rigid vehicles (“MRV”) access on Roberts Lane (e.g. waste collection and delivery vehicles).

4. The 3m road widening would enable Roberts Lane to be increased to a 9m wide public road which could accommodate an approx. 2m wide pedestrian footpath with street planting on the western side of the Lane and a minimum 6m wide two-way carriageway.
5. It is anticipated that the road widening will occur when a future development application is lodged seeking consent for the redevelopment of 53 Forest Road, 108 Durham Street and/or 9 Roberts Lane. When acquisition is required, negotiation between Council and the property owner will be conducted in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991*.
6. It should be noted that the remaining allotment in the Precinct which has a frontage to Roberts Lane is located at 61-65 Forest Road. This allotment is one of the eight allotments affected by the Voluntary Planning Agreement (“VPA”) Offer associated with the Landmark Square Planning Proposal which identifies a 3m wide strip of land adjoining Roberts Lane is to be dedicated at no cost to Council.
7. Accordingly, road widening at 61-65 Forest Road will be carried out as per the conditions of the VPA and will not be affected by this Planning Proposal to amend the LRA Map and Clause 5.1 (Relevant Acquisition Authority) of the *HLEP 2012*.
8. This report requests that the Local Planning Panel (“LPP”) support the Planning Proposal (refer to **Attachment 3**) for a 3m local road widening at 53 Forest Road, 9 Roberts Lane and 108 Durham Street, Hurstville to enable two-way vehicle access, access for service vehicles such as delivery and waste collection trucks, and the provision of a continuous pedestrian footpath with street planting on Roberts Lane. Refer to **Figure 2** below for the location of the proposed LRA and the VPA road widenings.

Figure 2 – Location of Land Reservation Acquisition and VPA Road Widening



1 BACKGROUND

9. The original request to prepare a Planning Proposal (PP2015/0001) for the site bounded by Forest Road, Durham Street and Roberts Lane, Hurstville (now known as Landmark Square) was originally submitted by Dickson Rothschild on behalf of One Capital Pty Ltd / Prime Hurstville Pty Ltd (“the applicant”) on 16 June 2015. Refer to **Figure 1** for the location of Landmark Square as outlined in red.
10. The Landmark Square Planning Proposal was subsequently amended a number of times with variations to the requested height, FSR, quantum of retail / commercial and number of residential apartments. However, none of the revisions proposed an amendment to the LRA Map of the *HLEP 2012* for the purpose of local road widening despite the intention of the Planning Proposal to enable two-way vehicle access.
11. The detailed chronology of events in relation to the Landmark Square Planning Proposal was previously reported to the Georges River Independent Hearing and Assessment Panel (“IHAP”) on 20 July 2017 and subsequently to Council at its meeting dated 7 August 2017.
12. At its meeting dated 20 July 2017, IHAP recommended that the Planning Panel be deferred so that:
 - a) *A provision is included for affordable housing to be incorporated in any development on the site equivalent to not less than 5% of the gross floor area of the development.*
 - b) *A revised urban design analysis is undertaken to assess the inter-relationship between the proposed height and floor space ratio, considering provision of ground level communal open space, street setbacks, road widening as well as compliance with all aspects of the Apartment Design Guide.*
 - c) *Provisions are developed that require amalgamation in order to develop to the maximum heights and floor space ratios as outlined in the proposal.*
13. At its meeting dated 7 August 2017 (Item CCL146-17), Council considered the Planning Proposal in light of the IHAP recommendations but the Planning Proposal request was supported to be forwarded for Gateway Determination. Council resolved:
 - (1) *That Council acknowledge the recommendations of the Georges River IHAP in relation to the “Hurstville East” Planning Proposal for the provision of affordable housing, detailed urban design analysis and site amalgamation.*
 - (2) *That Council support forwarding to the delegate of the Greater Sydney Commission a request for a Gateway Determination under Section 56 of the Environmental Planning and Assessment Act 1979 for the “Hurstville East” Planning Proposal to amend Hurstville Local Environmental Plan 2012 in respect of land known as 53-75 Forest Road, 108-126 Durham Street and 9 Roberts Lane, Hurstville:*
 - a. *To change the land use zoning from IN2 Light Industrial and part R2 Low Density Residential to B4 Mixed Use;*
 - b. *To amend the Floor Space Ratio Map to increase the FSR from 0.6 (R2) and 1:1 (IN2) to 2:1 along Roberts Lane and up to 3.5:1 for the remainder of the site (including a minimum commercial FSR of 0.5:1);*
 - c. *To amend the Height of Buildings Map to increase the maximum building height from 9m (R2) and 10m (IN2) to a range of heights of 12m along Roberts Lane and to 21m, 28m, 30m, 40m and 65m for the remainder of the site;*
 - d. *To amend the Active Street Frontages Map to apply an active street frontage along Forest Road and Durham Street frontages of the site; and*

e. To provide a Hotel incentive 0.5:1 for the hotel accommodation land uses for that portion of the site on the corner of Forest Road and Durham Street.

(3) (a) That Council delegate the General Manager to negotiate with the proponent on the provisions of the affordable housing on the site in association with the uplift proposed in the “Hurstville East” Planning Proposal, prior to the issue of the Gateway Determination by the Greater Sydney Commission.

(b) Should negotiations referred to in (a) above not be finalised prior to the issue of the Gateway Determination, a further report be submitted to Council outlining progress to date and providing options for satisfactory completion of the matter.

(4) That if a Gateway Determination is issued by the Greater Sydney Commission or its delegate under Section 56 of the Environmental Planning and Assessment Act 1979 that the Planning Proposal should proceed, then prior to community consultation, the following shall be undertaken:

(i) The proponent shall prepare a revised urban design analysis that assesses the inter-relationship between the proposed height and floor space ratio and considering provision of ground level communal open space, street setbacks, road widening and compliance with all aspects of the Apartment Design Guide; and

(ii) Site amalgamation provisions are developed in order to ensure superior development outcome based on the maximum floor space ratios and heights; and

(iii) A suitable mechanism for the delivery of affordable housing on the site be agreed.

(5) That if it is determined by the Greater Sydney Commission or its delegate under Section 56 of the Environmental Planning and Assessment Act 1979 that the Planning Proposal should proceed, Council prepare an amendment to the Hurstville DCP to run concurrently with an amendment to the Hurstville Local Environmental Plan 2012, which reflects the revised urban design analysis for future development of the site including the inter-relationship between the proposed height and floor space ratio, amount and location of ground level open space, landscaped setbacks, deep soil areas, site access, road widening, through site links and site amalgamation requirements. The DCP shall be prepared at the proponents cost.

(6) That all land owners the subject of the Planning Proposal to amend Hurstville Local Environmental Plan 2012 (“Hurstville LEP 2012”) be notified of Council’s resolution.

(7) That the General Manager place the Planning Proposal on formal public exhibition subject to the satisfactory completion of the requirements of the recommendations 3 to 5 and in accordance with the conditions of any Gateway Determination issued by the Department of Planning and Environment.

14. In accordance with the Council resolution, the Landmark Square Planning Proposal was forwarded to the Department of Planning and Environment (“DPE”) on 5 September 2017 and Council received a Gateway Determination (approval) to exhibit the Planning Proposal on 19 October 2017.

15. Since receipt of the Gateway Determination, the applicant has explored an alternative concept scheme which addresses the request for the preparation of a revised urban design analysis as per Council resolution (4)(i) above. The alternative scheme provides increased articulation in the overall maximum building envelope, an additional pedestrian through-site link, reconfiguration of the proposed heights, and clarification of the bonus FSR application for the purpose of hotel accommodation at the corner of Forest Road and Durham Street to be calculated based on the total site area of the Precinct (i.e. 0.5:1 of the total area of Zone B4 Mixed Use land bounded by Forest Road, Durham Street and Roberts Lane, Hurstville).

16. The revised Landmark Square Planning Proposal is solely informed by an amended Urban Design Report and does not seek to alter the proposed density on the site or the intent of the existing Planning Proposal. As such, no amendments have been made in relation to the provision of a 3m wide local road widening along the Precinct's Roberts Lane boundary.
17. The revised Planning Proposal seeking an Alteration to the Gateway Determination from the DPE was considered by the LPP at its meeting dated 21 June 2018 where it was generally supported and was considered by Council's Environment and Planning Committee at its meeting dated 9 July 2018.
18. It should be noted that matters relating to the provision of affordable housing were reported to Council's Environment and Planning Committee at its meeting dated 12 June 2018 and subsequently considered by Council at its meeting on 25 June 2018. Council resolved to rescind the previous Council resolution (3)(a), (3)(b) and (4)(iii) as above due to the absence of *SEPP No 70—Affordable Housing (Revised Schemes)* and an *Affordable Housing Policy* for Council or any substantive provisions in the *HLEP 2012* requiring the provision of affordable housing. However, the provision of affordable rental housing should be considered in the context of the *South District Plan* for future planning proposals following the preparation of Council's affordable housing policy. Refer to **Attachment 2** for Council's resolution (Item ENV013-18).

2 SITE DESCRIPTION

2.1 Overview of the Site

19. The subject Planning Proposal relates to three (3) individual lots within the triangular-shaped Landmark Square Precinct bounded by Forest Road to the north, Durham Street to the south and Roberts Lane to the east:
 - 53 Forest Road, Hurstville (Lot A DP372835);
 - 108 Durham Street, Hurstville (Lot D DP391801); and
 - 9 Roberts Lane, Hurstville (Lot 1 DP172819).
20. The subject sites are located at the eastern edge of the Landmark Square Precinct immediately adjacent to Roberts Lane (refer **Figure 1** above). The allotment at 53 Forest Road is isolated from 108 Durham Street and 9 Roberts Lane by the allotment located at 61-65 Forest Road (refer **Figure 3** below).
21. 61-65 Forest Road is not included within this Planning Proposal as the allotment is subject to land dedication for the purpose of road widening under a VPA in association with the Planning Proposal (PP2015/0001) for the Landmark Square Precinct at 53-75 Forest Road, 108-126 Durham Street and 9 Roberts Lane, Hurstville.

Figure 3 – Subject Sites at 53 Forest Road, 108 Durham Street and 9 Roberts Lane



22. The Landmark Square Precinct currently accommodates a range of industrial and residential uses including a self-storage facility, automotive services and sales, community uses (Hurstville Scout Hall), funeral home, two storey residential flat building and single dwelling houses.
23. The existing buildings and land uses on the subject site at 53 Forest Road, 108 Durham Street and 9 Roberts Lane are described below in **Table 1**:

Table 1 – Existing Buildings and Uses on the Subject Sites

Address	Lot / DP	Existing Buildings
53 Forest Road	Lot A DP372835	Two storey residential building 'Baldovan' containing four individual dwellings in a manor house typology.
108 Durham Street	Lot D DP391801	Half of a freestanding residential dwelling house as the existing dwelling house is located on two allotments – Lot C & D of DP391801 (known as 108-110 Durham Street).
9 Roberts Lane	Lot 1 DP172819	Warehouse-style buildings for an automotive electrical and air conditioning service with car parking.

2.2 Surrounding Land

24. The Landmark Square Precinct is located on the eastern extent of the Hurstville City Centre, bound by Forest Road to the west, Durham Street to the south and Roberts Lane to the east. There is a concentration of smaller industrial / retail businesses and a number of

educational facilities situated along the northern side of Forest Road between Durham and Lily Street in this eastern bookend region of the Hurstville City Centre.

25. Roberts Lane currently functions as a one-way (southbound) narrow laneway approximately 3.6m wide for vehicle access with a total width measuring approximately 6m between the property boundaries on either side of the lane. Roberts Lane is a public road managed by Council.
26. The primary interfaces of the Landmark Square Precinct are described below in **Table 2**. The surrounding context is shown below in **Figures 4 to 8**.

Table 2 – Surrounding Land Uses

Aspect	Land Uses
North	A number of educational facilities are located to the north of the site along Forest Road including Hurstville Public School, Georges River College – Hurstville Boys Campus, Bethany College and Sydney Technical High School. There are also sites along Forest Road zoned B2 Local Centre which have recently been redeveloped with shops on the ground floor and generally 2 levels of residential apartments above.
East	R2 Low Density Residential area characterised by 1-2 storey dwelling houses, with the rear yards of properties along Lily Street backing onto Roberts Lane.
South	On the opposite side of Durham Street is a large development known as East Quarter which includes a number of mixed use buildings up to 19 storeys in height. The large open space area of Kempt Field (approx. 3 hectares) is also located opposite the site to the south and provides a direct pedestrian connection through the park to the Allawah Railway Station.
West	On the other side of Forest Road is an area of land zoned B2 Local Centre with a range of commercial uses. Residential land on Wright Street and Hudson Street is a mix of 1-2 storey dwelling houses and 3 storey residential flat buildings.

Figure 4 – View of rear boundary of Lily Street properties from Roberts Lane



Figure 5 – View of Kempt Field and the East Quarter development on the opposite side of Durham Street to the south of the site



Figure 6 – View to the north of the site on the opposite side of Forest Road at the intersection with Wright Street



Figure 7 – View along Forest Road of Hurstville Public School



Figure 8 – View of mixed use development along the southern side of Forest Road

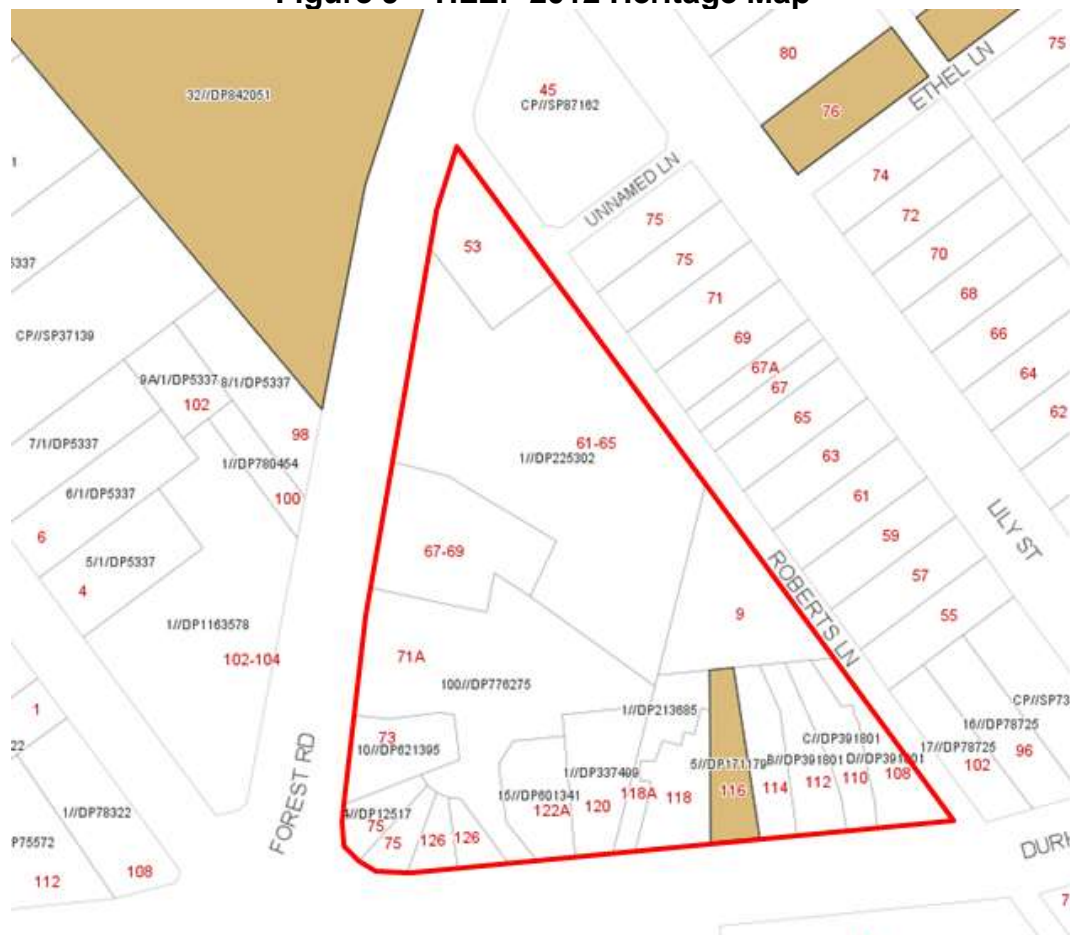


3 PLANNING STRATEGIES, POLICIES AND CONTROLS

3.1 Existing Planning Controls

27. The *HLEP 2012* applies to the subject sites which are located in the Landmark Square Precinct. There is no existing land reservation acquisition proposed at or surrounding the Precinct.
28. The Precinct contains one (1) local heritage item, the Hurstville Scout Hall (Item I26) at 116 Durham Street under the *HLEP 2012*, refer to **Figure 9** below. Clause 5.10 Heritage conservation of the *HLEP 2012* is applicable to the site.
29. Heritage items located in the vicinity of the Precinct include the following: Item I36 – 76 Lily Street, Hurstville (Californian bungalow) and Item I28 – Hurstville Public School – 80 Forest Road, Hurstville.

Figure 9 – HLEP 2012 Heritage Map



4 PLANNING PROPOSAL REQUEST

4.1 Background

30. The request to prepare a Planning Proposal (PP2015/0001) for the Landmark Square Precinct bound by Forest Road, Durham Street and Roberts Lane was originally submitted by Dickson Rothschild on 16 June 2015 on behalf of One Capital Pty Ltd (now Prime Hurstville Pty Ltd); refer to location plan in **Figure 1** above.
31. As discussed above in **Section 1**, at its meeting dated 20 July 2017, the Georges River IHAP considered a report on the Planning Proposal (PP2015/0001) for the Landmark Square Precinct at 53-75 Forest Road, 108-126 Durham Street and 9 Roberts Lane, Hurstville.
32. In the IHAP report, Council officers recommended that all owners of the Precinct be notified by Council in writing of the Planning Proposal and the proposed DCP requirements of road widening and through-site links.
33. The Landmark Square Planning Proposal, which received a Gateway Determination from the DPE, is accompanied by various documentation including an Urban Design Report prepared by Dickson Rothschild and a Traffic and Transport Impact Assessment prepared by Mott MacDonald.
34. Since receipt of the Gateway Determination on 19 October 2017, the applicant has submitted a revised Planning Proposal for Landmark Square which seeks to retain the originally proposed development density but refine the building envelope through an amended Urban Design Report prepared by UrbanPossible.
35. The revised Planning Proposal seeking an Alteration to the Gateway Determination from the DPE was considered by the LPP at its meeting dated 21 June 2018 where it was generally supported and was considered by Council's Environment and Planning Committee at its meeting dated 9 July 2018.
36. A 3m wide strip of land along the Roberts Lane boundary of the Precinct has been explicitly nominated by both the original and amended Urban Design Reports (refer **Figures 10 and 11** below) and the Traffic Impact Assessment to be dedicated for the purpose of road widening to enable two-way traffic access and MRV access on Roberts Lane (e.g. waste collection and delivery vehicles).
37. The amended Urban Design Report includes a revised architectural concept scheme which illustrates the uplift sought by the Planning Proposal through an envelope massing master plan. The indicative massing plan is illustrated in **Figures 10 and 11** below where a 3m wide strip of land adjacent to the Roberts Lane boundary has been left undeveloped.

Figure 10 – Envelope Massing Master Plan from Original Urban Design Report

Figure 11 – Envelope Massing Master Plan from Amended Urban Design Report

4.2 Reason for Planning Proposal

38. As evident in **Figure 11** above, the proposed maximum building envelope features a 3m setback from the existing Roberts Lane boundary. This 3m setback is intended to be free of any built structures for the purpose of road widening for Roberts Lane.
39. The Traffic Impact Assessment proposes 2, two-way vehicle access points with one on Durham Street and another on Roberts Lane (refer **Figure 12** below) with the intention of consolidating access points to offer safe and efficient access to and from the surrounding road network.

Figure 12 – Proposed Vehicle Access Points

40. Roberts Lane currently functions as a one-way (southbound) narrow laneway approximately 3.6m wide for vehicle access with a total width measuring approximately 6m between the property boundaries on either side of the lane.
41. Under Section 3.14(1)(c) of the *Environmental Planning and Assessment Act 1979* ("EP&A Act"), an environmental planning instrument may make provisions to reserve land for the purpose of a public place within the meaning of the *Local Government Act 1993*.
42. Roberts Lane is a public road, which is defined by the *Local Government Act 1993* as a type of public place. The proposed land reservation acquisition intends to designate land for the purpose of widening an existing public road.
43. The 3m road widening would enable Roberts Lane to be increased to a 9m wide public road which could accommodate a pedestrian footpath of approx. 2m on the western side of the Lane and a minimum 6m wide two-way carriageway.
44. To enable two-way vehicle access on Roberts Lane, the Traffic Impact Assessment states that the proposal includes a 3m wide strip of land along Roberts Lane for the purpose of road widening. The traffic modelling utilised by the Traffic Impact Assessment is based on the condition that Roberts Lane is widened by 3m.
45. Furthermore, land dedication for the purpose of local road widening is also included in the VPA Offer associated with the Planning Proposal which identifies a 3m wide strip of land adjoining Roberts Lane to be dedicated at no cost to Council.

46. However, due to the fragmented ownership of the various allotments within the Landmark Square Precinct, the VPA can only be made with the applicant (Prime Hurstville Pty Ltd) of the Planning Proposal who is currently in possession of eight lots legally described as Lot 1 in DP 225302, Lot 100 & 101 in DP 776275, Lot 1, 2, 3 & 4 in DP 12517, and Lot 10 in DP621395; known as 61-75 Forest Road and 126 Durham Street, Hurstville.
47. For this reason, the 3m local road widening of Roberts Lane as part of the VPA can only be applied to a segment of Roberts Lane which is under the possession of the applicant (i.e. 61-65 Forest Road) as identified in **Figure 13** below.

Figure 13 – Extent of Road Widening under VPA Offer



48. Due to the absence of a VPA and other statutory means to implement the widening of Roberts Lane along the entire length of the Landmark Square Precinct boundary, Council at its meeting dated 25 June 2018 resolved to prepare a Planning Proposal to amend the LRA Map of the *HLEP 2012* to include a 3m wide local road widening at the Roberts Lane boundary of 53 Forest Road, 108 Durham Street and 9 Roberts Lane.
49. A consistent 3m road widening will enable two-way vehicle access, access for service vehicles such as delivery and waste collection trucks, and the provision of a continuous pedestrian footpath with street planting on Roberts Lane. Refer to **Figure 2** above for the extent of the proposed road widening in relation to the Precinct.

4.3 Summary of Planning Proposal

50. At its meeting on 25 June 2018, Georges River Council endorsed the preparation of a Planning Proposal to amend the Land Reservation Acquisition Map of the *Hurstville Local Environmental Plan 2012* to include a 3m wide local road widening along the Roberts Lane boundary of the properties at 53 Forest Road, 9 Roberts Lane and 108 Durham Street, Hurstville. Refer to Council resolution in **Attachment 2**.
51. This is a separate Planning Proposal (refer to **Attachment 3**) intended to accompany the Planning Proposal (PP2015/0001) to rezone and amend planning controls for the Landmark Square Precinct at 53-75 Forest Road, 108-126 Durham Street and 9 Roberts Lane, Hurstville.
52. This Planning Proposal seeks to:
- Amend the **Land Reservation Acquisition Map** (Sheet LRA_008) to include a 3m wide local road widening along the Roberts Lane boundary (refer **Figure 14** below); and
 - Amend **Clause 5.1 Relevant acquisition authority** to nominate Council to acquire the land for local road widening as follows:

Clause 5.1 Relevant acquisition authority

Type of land shown on Map
 Zone B4 Mixed Use and marked
 “Local road widening”

Authority of the State
 Council

Figure 14 – Proposed Land Reservation Acquisition Map (HLEP 2012)



5 ASSESSMENT OF THE PLANNING PROPOSAL

5.1 Strategic Planning Context

53. Consideration of the Planning Proposal request in relation to the *Greater Sydney Region Plan (A Metropolis of Three Cities)* and the *South District Plan* is provided below.

Greater Sydney Region Plan (A Metropolis of Three Cities)

54. The *Greater Sydney Region Plan* was finalised and released by the Greater Sydney Commission in March 2018 and establishes the aspirations for the region over the next 40 years. The Region Plan is framed around 10 directions relating to infrastructure and collaboration, liveability, productivity and sustainability.
55. The Planning Proposal is considered to be consistent with the following Directions and Objectives of the *Greater Sydney Region Plan*:
56. **Direction 1:** *A city supported by infrastructure*
Objective 3: Infrastructure adapts to meet future needs

The Landmark Square Planning Proposal seeks to deliver a large-scale mixed use development comprising of over 14,000sqm of employment generating floor space and approx. 450 new residential apartments. The supporting Traffic and Transport Impact Assessment submitted by the applicant nominates Roberts Lane to accommodate one of the two-way vehicle access points.

This Planning Proposal intends to widen an existing laneway to enable two-way traffic access and medium rigid vehicles (“MRV”) access on Roberts Lane (e.g. waste collection and delivery vehicles).

57. **Direction 6:** *A well-connected city*
Objective 14: *A Metropolis of Three Cities* – integrated land use and transport creates walkable and 30-minute cities

The 3m road widening would enable Roberts Lane to be increased to a 9m wide public road which could accommodate a pedestrian footpath of approx. 2m on the western side of the Lane and a minimum 6m wide two-way carriageway. The provision of a dedicated pedestrian footpath would greatly enhance the pedestrian safety of Roberts Lane and provide an appropriate route for surrounding residents to access Kempt Field to the south and Allawah Railway Station beyond.

58. **Direction 8:** *A city in its landscape*
Objective 30: Urban tree canopy cover is increased

In addition to the provision of a pedestrian footpath, the road widening will also enable the provision of street trees to enhance the amenity and microclimate of Roberts Lane.

South District Plan

59. The *South District Plan* was finalised and released by the Greater Sydney Commission in March 2018. The District Plan is a guide for implementing *A Metropolis of Three Cities* at the district level and proposes a 20-year vision by setting out aspirations and proposals for the South District.

60. The Planning Proposal is considered to be consistent with the following Planning Priorities of the *South District Plan*:

Direction	Planning Priorities relevant to the Planning Proposal
A city supported by infrastructure	Planning Priority S1: Planning for a city supported by infrastructure
A well connected city	Planning Priority S12: Delivering integrated land use and transport planning and a 30-minute city
A city in its landscape	Planning Priority S15: Increasing urban tree canopy cover and delivering Green Grid connections

5.2 Council's Local Strategic Plans

61. Consideration of the Planning Proposal in relation to Council's *Hurstville Transport Management and Accessibility Plan (TMAP, 2013)* is provided below.
62. During the development of planning controls for the Hurstville City Centre, Council was required to develop a *Transport Management and Accessibility Plan* ("TMAP") in response to the amount of floor space (1,141,000sqm) contained in the draft *City Centre LEP (Amendment No.3)*, the potential accessibility and infrastructure implications and inconsistency with S9.1 Direction 3.4 Integrating Land Use and Transport.
63. The purpose of the TMAP was to recommend the amount of additional GFA which can be accommodated in the Hurstville City Centre with consideration to potential accessibility and infrastructure implications.
64. The Hurstville City Centre TMAP is currently under review. The modelling and assessment undertaken as part of the review will consider the development potential (residential, retail, commercial and hotel floor space) in relation to the Landmark Square Precinct. The proposed widening of Roberts Lane will also be considered in the TMAP review.

5.3 State and Regional Statutory Framework

65. The Planning Proposal is consistent with the following relevant *State Environmental Planning Policies* (SEPPs) as assessed below:

State Environmental Planning Policy No. 55 – Remediation of Land

66. *SEPP 55* aims to promote the remediation of contaminated land for the purpose of reducing risk and harm to human health or any other aspects of the environment.
67. The Detailed Site Investigation submitted by the applicant to accompany the Landmark Square Planning Proposal concludes that the Precinct is not currently considered suitable for future residential with gardens / accessible soil land use from a contamination perspective but can be made suitable for the proposed residential with gardens / accessible soil land use following the implementation of a Remediation Action Plan, which will be developed in accordance with the relevant regulatory requirements to address the identified contamination issues.

5.4 S9.1 Ministerial Directions

68. Ministerial Directions under Section 9.1 (formerly S117) of the *EP&A Act* set out a range of matters to be considered when preparing an amendment to a Local Environmental Plan.
69. The Planning Proposal is considered to be consistent with all relevant Ministerial Directions as assessed in **Table 3** below:

Table 3 – Consistency with S9.1 Ministerial Directions

S9.1 Direction	Assessment
1.1 Business and Industrial Zones	The Planning Proposal affects two parcels of land which are currently zoned IN2 Light Industrial and proposed to be rezoned to B4 Mixed Use under the Planning Proposal (PP2015/0001) for the Landmark Square Precinct. This Planning Proposal only involves the inclusion of land on the LRA Map. The proposal does not seek to alter the applicable zoning boundaries, zone and development controls and accordingly is considered to be consistent with this Direction.
3.1 Residential Zones	The Planning Proposal affects one parcel of land which is currently zoned R2 Low Density Residential and proposed to be rezoned under the Planning Proposal (PP2015/0001) to B4 Mixed Use which permits shop top housing. The addition of this land to the LRA Map is consistent with this Direction as the 3m wide road widening will ensure new housing has appropriate vehicle access and pedestrian safety.
3.4 Integrating Land Use and Transport	The Planning Proposal intends to ensure a consistent 3m wide road widening is carried out so that a continuous pedestrian footpath may be provided. This is consistent with this Direction as the provision of a new footpath significantly improves pedestrian access to Kempt Field and Allawah Railway Station, which are within 400m walking distance from the site.
7.1 Implementation of A Plan for Growing Sydney	<i>A Plan for Growing Sydney</i> has been replaced by the Greater Sydney Commission's <i>Greater Sydney Region Plan (A Metropolis of Three Cities)</i> . The

	Planning Proposal is consistent with the Objectives of <i>A Metropolis of Three Cities</i> , as assessed in Section 5.1 above.
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6 VOLUNTARY PLANNING AGREEMENT

70. A Voluntary Planning Agreement (“VPA”) is a mechanism which allows for negotiation and agreement between planning authorities and developers to extract public benefits from the planning process and ensure that development produces targeted public benefits over and above measures to address the impact of development on the public domain.
71. The subject Planning Proposal is a Council-initiated amendment to the LRA Map of the *HLEP 2012* and no development uplift is proposed. As such, Council’s VPA Policy is not applicable to the Planning Proposal.
72. However, it is to be noted that the Landmark Square Planning Proposal (PP2015/0001) is accompanied by a VPA. Council considered a report on the Heads of Agreement (“HoA”) to enter into a VPA at its meeting of 7 August 2017 (CCL147-17). The HoA outlines the terms of the VPA, which delivers additional public benefits over and above the usual Section 7.11 contributions (formerly Section 94) applicable to the development.
73. The VPA offer applies to the eight lots owned by the applicant, Prime Hurstville Pty Ltd, at 61-75 Forest Road and 126 Durham Street, Hurstville. The following public benefits are identified by the HoA accepted by Council at its meeting on 7 August 2017:
- a) *A monetary contribution of \$7,375,878 (indexed). The monetary amount is to be paid in stages as follows:*
 - i) *\$1 million within 30 days of HLEP 2012 Amendment;*
 - ii) *\$1 million immediately prior to the issue of a notice of determination granting the first Development Consent for the Developer’s Land; and*
 - iii) *The remainder prior to the issue of any Construction Certificate for the Development on the Developer’s Land.*
 - b) *The construction and dedication at no cost to Council of a 3m wide strip of land adjoining the Developer’s Land and Robert’s Lane prior to the issue of the first subdivision certificate or the issue of the first occupation certificate for building C as referred to in the Planning Proposal. The widened Robert’s Lane shall be constructed in accordance with Council’s standards and requirements. The estimated value of the land being dedicated and the road widening works totals \$514,122.*
 - c) *An easement that benefits Council which will enable public access through the site.*
74. As detailed above in **Section 4.2**, the 3m wide road widening at the Roberts Lane boundary of 61-65 Forest Road will be executed in accordance with the VPA.

7 SUMMARY OF ASSESSMENT / CONCLUSION

75. In summary, this Planning Proposal seeks to amend the Land Reservation Acquisition Map of the *Hurstville Local Environmental Plan 2012* to include a 3m wide local road widening along the Roberts Lane boundary of the properties at 53 Forest Road, 9 Roberts Lane and 108 Durham Street, Hurstville.
76. It is recommended that the LPP support the Planning Proposal for the following reasons:

- a. A consistent 3m wide road widening on Roberts Lane will enable two-way vehicle access and access for service vehicles such as delivery and waste collection trucks;
- b. Vehicle access to and from the Landmark Square Precinct will be provided on Roberts Lane and Durham Street, thereby reducing congestion on Forest Road; and
- c. The proposed road widening will significantly enhance the pedestrian amenity and safety on Roberts Lane by providing a continuous pedestrian footpath with street planting.

8 COMMUNITY CONSULTATION

77. Should the Planning Proposal be supported it will be forwarded to the delegate of the Greater Sydney Commission requesting a Gateway Determination.
78. If a Gateway Determination (Approval) is issued, and subject to its conditions, it is anticipated that the Planning Proposal will be exhibited for a period of 28 days in accordance with the provisions of the *Environmental Planning and Assessment Act 1979* and *Regulation 2000* and any requirements of the Gateway Determination.
79. Given that this Planning Proposal has been prepared as a separate but supplementary amendment to the *HLEP 2012*, it will be publicly exhibited concurrently with the Landmark Square Planning Proposal (PP2015/0001) and the associated VPA and amendments to *Hurstville DCP No. 2* for the Landmark Square Precinct.
80. Exhibition material, including explanatory information, land to which the Planning Proposal applies, description of the objectives and intended outcomes, copy of the Planning Proposal and relevant maps will be available for viewing during the exhibition period on Council's website and hard copies available at Council offices and libraries.
81. Notification of the public exhibition will be through:
 - Newspaper advertisement in The Leader
 - Exhibition notice on Council's website
 - Notices in Council offices and libraries
 - Letters to State and Commonwealth Government agencies identified in the Gateway Determination (if required)
 - Letters to affected landowners of 53 Forest Road, 108 Durham Street and 9 Roberts Lane
 - Letters to adjoining landowners (if required, in accordance with Council's Notification Procedures)
82. The anticipated project timeline for completion of the Planning Proposal is shown below:

Task	Anticipated Timeframe
Report to Georges River LPP on Planning Proposal	19 July 2018 (this report)
Report to Environment and Planning Committee on Planning Proposal	13 August 2018
Report to Council on Planning Proposal	27 August 2018
Anticipated commencement date (date of Gateway Determination)	September 2018
Timeframe for government agency consultation (pre and post exhibition as required by	November 2018

Gateway Determination)	
Commencement and completion dates for community consultation period	December 2018-February 2019 (concurrent public exhibition with the Landmark Square Planning Proposal PP2015/0001, DCP and VPA)
Dates for public hearing (if required)	N/A
Timeframe for consideration of submissions	February-March 2019
Report to Council on community consultation and finalisation	March 2019
Submission to the DPE to finalise the LEP	April 2019
Anticipated date for notification	May 2019

83. It is noted that the project timeline will be assessed by the DPE and may be amended by the Gateway Determination.

9 NEXT STEPS

84. The Planning Proposal will be considered at a future Georges River Council Environment and Planning Committee meeting for consideration, including the LPP recommendations. The minutes of the Environment and Planning Committee meeting will subsequently be considered at a future Georges River Council meeting (“the relevant planning authority”).
85. If the Planning Proposal is endorsed by Council it will be forwarded to the delegate of the Greater Sydney Commission for a Gateway Determination under Section 3.34 of the *Environmental Planning and Assessment Act 1979*.

File Reference

15/793 - D18/89912

ATTACHMENTS

- Attachment [1](#) Report to the Environment and Planning Committee dated 12 June 2018
- Attachment [2](#) Council Meeting Resolution - 25 June 2018
- Attachment [3](#) Planning Proposal

1. Committee Reports

Item: ENV013-18 Planning Proposal for Landmark Square Precinct at 53-75 Forest Road 108-126 Durham Street and 9 Roberts Lane Hurstville

Author: Strategic Planner

Directorate: Environment and Planning

Matter Type: Committee Reports

Recommendation:

- (a) That Council rescind the Council resolution CCL146-17 (3) and (4)(iii) dated 7 August 2017 in relation to the provision of affordable housing at 53-75 Forest Road, 108-126 Durham Street and 9 Roberts Lane, Hurstville (PP2015/0001) due to the absence of an *Affordable Housing Policy* and any substantive provisions in the *Hurstville Local Environmental Plan 2012* requiring affordable housing.
- (b) That Council endorse the preparation of a Planning Proposal to amend the Land Reservation Acquisition Map of the *Hurstville Local Environmental Plan 2012* to include a 3 metre wide local road widening along the Roberts Lane boundary of the properties at 53 Forest Road, 9 Roberts Lane and 108 Durham Street, Hurstville.
- (c) That all owners of the properties at 53 Forest Road, 9 Roberts Lane and 108 Durham Street, Hurstville be notified by Council, in writing, of the proposed Planning Proposal to amend the Land Reservation Acquisition Map of the *Hurstville Local Environmental Plan 2012* to include a 3 metre wide local road widening along the Roberts Lane boundary.

Executive Summary

1. At its meeting on 7 August 2017 (Item CCL146-17), Council endorsed that the Planning Proposal (PP2015/0001) for the Landmark Square Precinct at 53-75 Forest Road, 108-126 Durham Street and 9 Roberts Lane, Hurstville be forwarded to the Department of Planning and Environment for a Gateway Determination to amend the *Hurstville Local Environmental Plan 2012* ("HLEP 2012") as follows:
 - a) Rezone the land from IN2 Light Industrial and part R2 Low Density Residential to B4 Mixed Use;
 - b) Amend the Floor Space Ratio Map to increase the FSR from 0.6 (R2) and 1:1 (IN2) to 2:1 along Roberts Lane and up to 3.5:1 for the remainder of the site (including a minimum commercial FSR of 0.5:1);
 - c) Amend the Height of Buildings Map to increase the maximum building height from 9m (R2) and 10m (IN2) to a range of heights of 12m along Roberts Lane and to 21m, 28m, 30m, 40m and 65m for the remainder of the site;
 - d) To amend the Active Street Frontages Map to apply an active street frontage along Forest Road and Durham Street frontages of the site; and
 - e) To provide a bonus FSR of 0.5:1 for hotel accommodation land uses at the portion of the site located on the corner of Forest Road and Durham Street.
2. At this meeting, Council delegated the General Manager to negotiate the provision of affordable housing on the site.

3. This report provides an outline of the progress to date regarding the negotiation to provide affordable housing in accordance with Council's resolution (CCL146-17) and recommends that affordable housing requirements be removed from the Landmark Square Precinct in light of the legal advice obtained by Council due to the absence of *State Environmental Planning Policy No 70—Affordable Housing (Revised Schemes)* and a draft *Affordable Housing Policy* for Georges River Council or any substantive provisions in the *HLEP 2012* requiring the provision of affordable housing.
4. This report also seeks Council's endorsement for the preparation of a separate Planning Proposal that amends the *HLEP 2012* in relation to the three (3) properties located at the eastern side of the Landmark Square Precinct (i.e. 53 Forest Road, 108 Durham Street and 9 Roberts Lane) to:
 - a) Amend the Land Reservation Acquisition Map to include a 3m wide local road widening along the Roberts Lane boundary (refer Figure 6); and
 - b) Amend Clause 5.1 Relevant acquisition authority to nominate Council to acquire land for the public purpose of local road widening.
5. It is anticipated that the road widening will occur when a future development application is lodged seeking consent for the redevelopment of 53 Forest Road, 108 Durham Street and/or 9 Roberts Lane. When acquisition is required, negotiation between Council and the property owner will be conducted in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991*.
6. It should be noted that the remaining allotment in the Precinct which has a frontage to Roberts Lane is located at street address 61-65 Forest Road. This allotment is one of the eight allotments affected by the Voluntary Planning Agreement ("VPA") Offer associated with the Planning Proposal which identifies a 3 metre wide strip of land adjoining Roberts Lane to be dedicated at no cost to Council.
7. Road widening at 61-65 Forest Road will be carried out as per the conditions of the VPA and will not be affected by the proposed amendments to the Land Reservation Acquisition Map and Clause 5.1 of the *HLEP 2012*.
8. Refer to the following Figure 1 for the location of the land reservation acquisition (highlighted in yellow) and the location of the VPA road widening offer (highlighted in blue).

Figure 1 – Location of Land Reservation Acquisition and VPA Road Widening



Background

9. The request to prepare a Planning Proposal (PP2015/0001) for the Landmark Square Precinct bound by Forest Road, Durham Street and Roberts Lane was originally submitted by Dickson Rothschild ("the applicant") on 16 June 2015 on behalf of One Capital Pty Ltd (now Prime Hurstville Pty Ltd); refer to location plan in Figure 2.

Figure 2 – Location Plan of Landmark Square Precinct



10. The Planning Proposal was subsequently amended a number of times with variations to the requested height, FSR, quantum of retail / commercial and number of residential apartments. The detailed chronology of events was previously reported to Council at its meeting dated 7 August 2017 (Item CCL146-17).
11. The applicant's latest revised Planning Proposal and associated documentation was lodged on 9 June 2017 and was referred to Council's Independent Hearing and Assessment Panel ("IHAP") at its meeting dated 20 July 2017. IHAP recommended that the Planning Panel be deferred so that:
 - a) A provision is included for affordable housing to be incorporated in any development on the site equivalent to not less than 5% of the gross floor area of the development.
 - b) A revised urban design analysis is undertaken to assess the inter-relationship between the proposed height and floor space ratio, considering provision of ground level communal open space, street setbacks, road widening as well as compliance with all aspects of the Apartment Design Guide.
 - c) Provisions are developed that require amalgamation in order to develop to the maximum heights and floor space ratios as outlined in the proposal.
12. At its meeting dated 7 August 2017 (Item CCL146-17), Council considered the Planning Proposal in light of the IHAP recommendations but the Planning Proposal request was supported to be forwarded for Gateway Determination. Council resolved:
 - (1) That Council acknowledge the recommendations of the Georges River IHAP in relation to the "Hurstville East" Planning Proposal for the provision of affordable housing, detailed urban design analysis and site amalgamation.

- (2) That Council support forwarding to the delegate of the Greater Sydney Commission a request for a Gateway Determination under section 56 of the Environmental Planning and Assessment Act 1979 for the "Hurstville East" Planning Proposal to amend Hurstville Local Environmental Plan 2012 in respect of land known as 53-75 Forest Road, 108-126 Durham Street and 9 Roberts Lane, Hurstville:
 - a. Rezone the land use zoning from IN2 Light Industrial and part R2 Low Density Residential to B4 Mixed Use;
 - b. Amend the Floor Space Ratio Map to increase the FSR from 0.6 (R2) and 1:1 (IN2) to 2:1 along Roberts Lane and up to 3.5:1 for the remainder of the site (including a minimum commercial FSR of 0.5:1);
 - c. Amend the Height of Buildings Map to increase the maximum building height from 9m (R2) and 10m (IN2) to a range of heights of 12m along Roberts Lane and to 21m, 28m, 30m, 40m and 65m for the remainder of the site;
 - d. To amend the Active Street Frontages Map to apply an active street frontage along Forest Road and Durham Street frontages of the site; and
 - e. To provide a bonus FSR of 0.5:1 for hotel accommodation land uses at the portion of the site located on the corner of Forest Road and Durham Street.
- (3) (a) That Council delegate the General Manager to negotiate with the proponent on the provisions of the affordable housing on the site in association with the uplift proposed in the "Hurstville East" Planning Proposal, prior to the issue of the Gateway Determination by the Greater Sydney Commission.
 (b) Should negotiations referred to in (a) above not be finalised prior to the issue of the Gateway Determination, a further report be submitted to Council outlining progress to date and providing options for satisfactory completion of the matter.
- (4) That if a Gateway Determination is issued by the Greater Sydney Commission or its delegate under Section 56 of the Environmental Planning and Assessment Act 1979 that the Planning Proposal should proceed, then prior to community consultation, the following shall be undertaken:
 - (i) The proponent shall prepare a revised urban design analysis that assesses the inter-relationship between the proposed height and floor space ratio and considering provision of ground level communal open space, street setbacks, road widening and compliance with all aspects of the Apartment Design Guide; and
 - (ii) Site amalgamation provisions are developed in order to ensure superior development outcome based on the maximum floor space ratios and heights; and
 - (iii) A suitable mechanism for the delivery of affordable housing on the site be agreed.
- (5) That if it is determined by the Greater Sydney Commission or its delegate under Section 56 of the Environmental Planning and Assessment Act 1979 that the Planning Proposal should proceed, Council prepare an amendment to the Hurstville DCP to run concurrently with an amendment to the Hurstville Local Environmental Plan 2012, which reflects the revised urban design analysis for future development of the site including the inter-relationship between the proposed height and floor space ratio, amount and location of ground level open space, landscaped setbacks, deep soil areas, site access, road widening, through site links and site amalgamation requirements. The DCP shall be prepared at the proponents cost.
- (6) That all land owners the subject of the Planning Proposal to amend Hurstville Local Environmental Plan 2012 ("Hurstville LEP 2012") be notified of Council's resolution.
- (7) That the General Manager place the Planning Proposal on formal public exhibition subject to the satisfactory completion of the requirements of the recommendations 3 to 5 and in accordance with the conditions of any Gateway Determination issued by the Department of Planning and Environment.

13. In accordance with the Council resolution, the Planning Proposal was forwarded to the Department of Planning and Environment ("DPE") on 5 September 2017 and Council received a Gateway Determination (approval) to exhibit the Planning Proposal on 19 October 2017. Refer to Attachment 1 for the Gateway Determination.
14. The Planning Proposal and Gateway conditions do not propose any amendments pertaining to the provision of affordable housing or land reservation acquisition for the purpose of local road widening.
15. The Planning Proposal is accompanied by a Voluntary Planning Agreement ("VPA"). Council considered a report on the Heads of Agreement ("HoA") to enter into a VPA at its meeting of 7 August 2017 (CCL147-17). The HoA outlines the terms of the VPA, which delivers additional public benefits over and above the usual Section 7.11 contributions (former Section 94) applicable to the development.
16. The VPA applies to the eight lots owned by the proponent, Prime Hurstville Pty Ltd, at street address 61-75 Forest Road and 126 Durham Street, Hurstville. The following public benefits are identified by the HoA accepted by Council at its meeting on 7 August 2017:
 - a) *A monetary contribution of \$7,375,878 (indexed). The monetary amount is to be paid in stages as follows:*
 - i) *\$1 million within 30 days of HLEP 2012 Amendment;*
 - ii) *\$1 million immediately prior to the issue of a notice of Determination granting the first Development Consent for the Developer's Land; and*
 - iii) *The remainder prior to the issue of any Construction Certificate for the Development on the Developer's Land.*
 - b) *The construction and dedication at no cost to Council of a 3m wide strip of land adjoining the Developer's Land and Robert's Lane prior to the issue of the first subdivision certificate or the issue of the first occupation certificate for building C as referred to in the Planning Proposal. The widened Robert's Lane shall be constructed in accordance with the Council's standards and requirements. The estimated value of the land being dedicated and the road widening works totals \$514,122.*
 - c) *An easement that benefits Council which will enable public access through the site.*

Councillor Workshop

17. A Councillor workshop outlining the Planning Proposal, the VPA and the draft DCP amendment for the Landmark Square Precinct at 53-75 Forest Road, 108-126 Durham Street and 9 Roberts Lane, Hurstville was held on 9 April 2018.
18. The following two issues were raised at the workshop in relation to the previous Council resolution at its meeting dated 7 August 2017 and the approved Planning Proposal:
 - a) The inability to enforce the delivery of affordable housing on the site; and
 - b) The absence of a road widening amendment to the *HLEP 2012* in the Planning Proposal despite the intent to enable two-way traffic on Roberts Lane.
19. The following sections of this report detail the proposed recommendations to resolve these two critical issues.

Removal of Requirement for Affordable Housing

20. As noted above in resolution (3), Council at its meeting dated 7 August 2017 resolved to delegate the General Manager to negotiate with the proponent on the provision of affordable housing in the Landmark Square Precinct in association with the uplift proposed in the Planning Proposal, prior to the issue of the Gateway Determination.

21. The Gateway Determination was issued by the DPE on 19 October 2017 (refer Attachment 1). Negotiations regarding the provision of affordable housing were not finalised before the Gateway Determination was issued.
22. Through post-Gateway discussions between Council staff and the applicant, it was agreed that the site specific DCP which accompanies the Planning Proposal would be the most appropriate mechanism for the delivery of affordable housing on the site as affordable housing should be provided as part of any future development application.
23. However, the legal advice obtained by Council (as summarised in the following paragraphs) indicates that if Council is to introduce affordable housing on the site by way of a DCP; that provision would be liable to be declared invalid by a court and severed from the DCP.
24. The principal purpose of a DCP is to provide guidance on the achievement of any environmental planning instrument. Therefore, a DCP can be made in relation to both the aims of the relevant LEP, in this case being *HLEP 2012*, and any State Environmental Planning Policy. This is stipulated by Section 3.42(1) of the *Environmental Planning & Assessment Act 1979* ("EP&A Act") as below:

3.42 Purpose and status of development control plans;
(1) The principal purpose of a development control plan is to provide guidance on the following matters to the persons proposing to carry out development to which this Part applies and to the consent authority for any such development:
 - (a) giving effect to the aims of any environmental planning instrument that applies to the development,*
 - (b) facilitating development that is permissible under any such instrument,*
 - (c) achieving the objectives of land zones under any such instrument.*
25. Section 3.42(1) of the *EP&A Act* also stipulates that the provisions of a DCP are not statutory requirements; therefore cannot be legally enforced:

"The provisions of a development control plan made for that purpose are not statutory requirements."
26. In light of the above, a DCP requirement cannot be made in relation to the provision of affordable housing on the site due to the absence of any substantive provisions in the *HLEP 2012* requiring the provision of affordable housing.
27. Furthermore, based on previous advice provided by the Department of Planning and Environment, Council currently does not have an affordable housing policy and therefore is unable to demonstrate that there is a need for affordable housing in the LGA. For this reason, the *State Environmental Planning Policy No 70—Affordable Housing (Revised Schemes)* does not apply to the Georges River LGA and Council cannot require the provision of affordable housing or levy contributions for affordable housing.
28. It should be noted that Council has applied a consistent approach in the assessment of all incoming Planning Proposals. The provision of affordable housing has not been requested in any other Planning Proposal to date due to the absence of any substantive provisions in the *HLEP 2012*.
29. For the above reasons, it is recommended that affordable housing requirements be removed from the site specific DCP and Planning Proposal for the Landmark Square

Precinct, and that the previous Council resolution pertaining to the provision of affordable housing on the site be rescinded as per this report's recommendation above. This is based on the reasoning that Council currently does not have any affordable housing policy in place and the provision of affordable housing cannot be legally enforced.

Addition of Road Widening to Roberts Lane

30. At its meeting dated 20 July 2017, the Georges River Independent Hearing and Assessment Panel ("IHAP") considered a report on the Planning Proposal (PP2015/0001) for the Landmark Square Precinct at 53-75 Forest Road, 108-126 Durham Street and 9 Roberts Lane, Hurstville.
31. In the IHAP report, Council officers recommended that all owners of the Precinct be notified by Council in writing of the Planning Proposal and the proposed DCP requirements of road widening and through-site links.
32. The Planning Proposal (PP2015/0001) for Landmark Square which was forwarded to the DPE for Gateway Determination is accompanied by various documentation including an Urban Design Report prepared by Dickson Rothschild (refer Attachment 2) and a Traffic and Transport Impact Assessment prepared by Mott MacDonald (refer Attachment 3).
33. A 3 metre wide strip of land along the Roberts Lane boundary of the Precinct has been explicitly nominated by both the Urban Design Report and the Traffic Impact Assessment to be dedicated for the purpose of road widening to enable two-way traffic access and medium rigid vehicles ("MRV") access on Roberts Lane e.g. waste collection and delivery vehicles.
34. The Urban Design Report includes an architectural concept scheme which illustrates the uplift sought by the Planning Proposal through an envelope massing master plan (refer Figure 3 following). The indicative ground floor plan is illustrated in Figure 4.

Figure 3 – Proposed Envelope Massing Master Plan

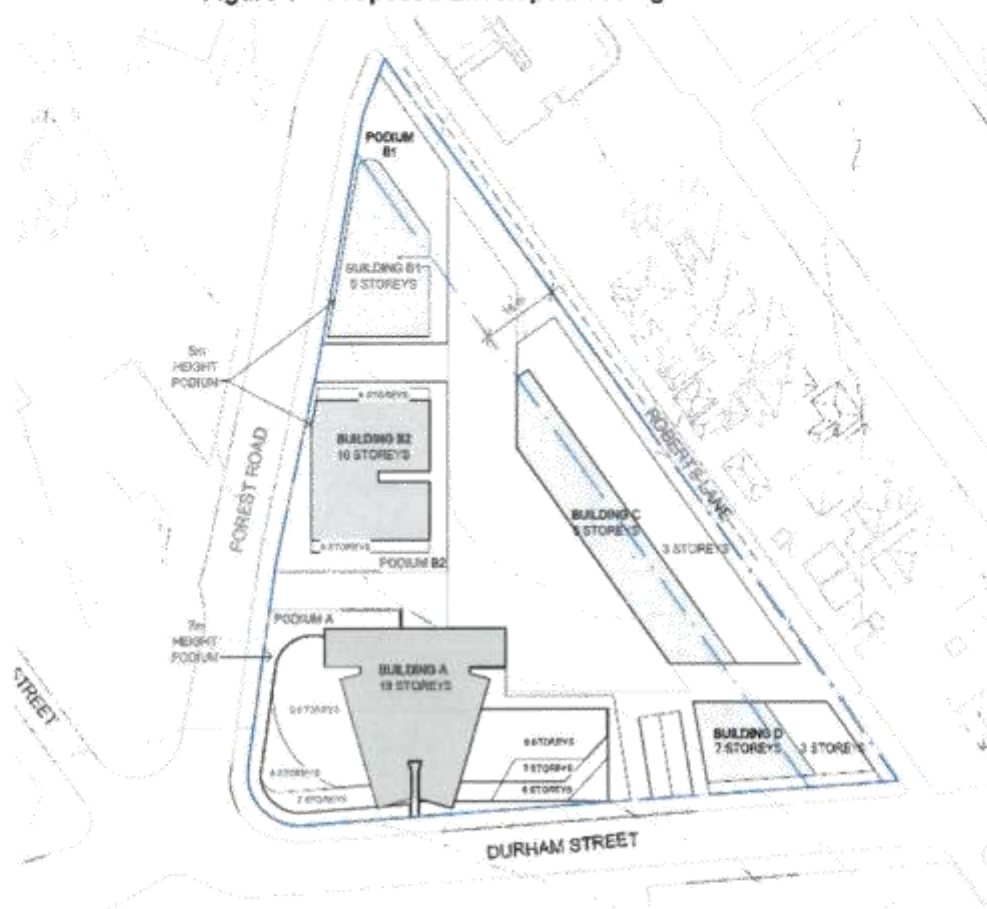


Figure 4 – Indicative Ground Floor Plan



35. As evident in Figures 3 and 4 above, the proposed maximum building envelope features a 3m setback from the existing Roberts Lane boundary. This 3 metre setback is intended to be free of any built structures for the purpose of road widening for Roberts Lane.
36. The Traffic Impact Assessment proposes 2, two-way vehicle access points with one on Durham Street and another on Roberts Lane (refer Figure 5) with the intention of consolidating access points to offer safe and efficient access to and from the surrounding road network.

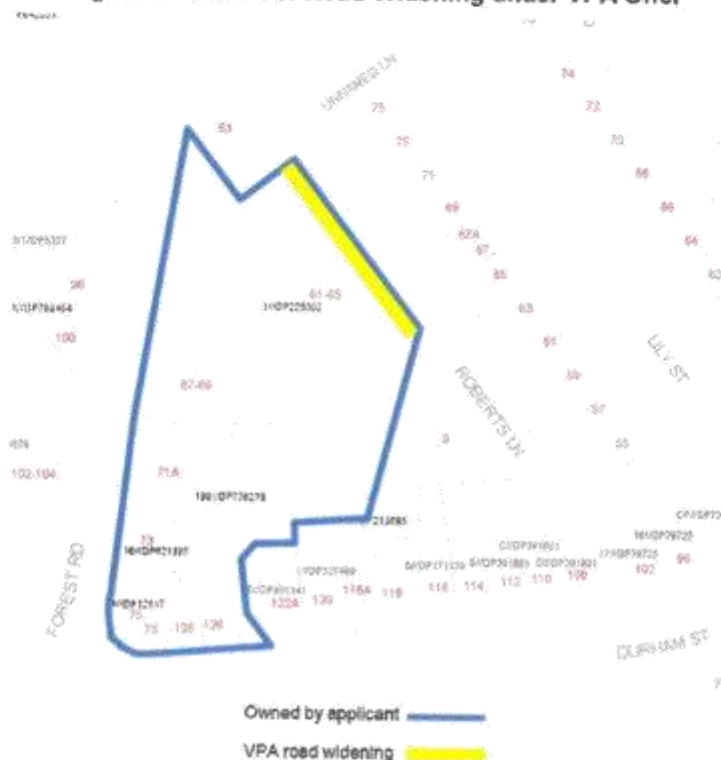
Figure 5 – Proposed Vehicle Access Points



37. Roberts Lane currently functions as a one-way (southbound) narrow laneway approximately 3.6 metres wide for vehicle access and a total width measuring approximately 6 metres between the property boundaries on either side of the lane.
38. The 3 metre road widening would enable Roberts Lane to be increased to a 9 metre wide public road which could accommodate a 2 metre wide pedestrian footpath on the western side of the Lane and a minimum 6 metre wide two-way carriageway.
39. To enable two-way vehicle access on Roberts Lane, the Traffic Impact Assessment states that the proposal includes a 3 metre wide strip of land along Roberts Lane for the purpose of road widening. The traffic modelling utilised by the Traffic Impact Assessment is based on the condition that Roberts Lane is widened by 3 metres.
40. Furthermore, land dedication for the purpose of local road widening is also included in the Voluntary Planning Agreement ("VPA") Offer associated with the Planning Proposal which identifies a 3 metre wide strip of land adjoining Roberts Lane to be dedicated at no cost to Council, refer to a detailed breakdown of the VPA above.
41. However, due to the fragmented ownership of the various allotments within the Landmark Square Precinct, the VPA can only be made with the proponent of the Planning Proposal who is currently in possession of eight lots legally described as Lot 1 in DP 225302; Lot 100 & 101 in DP 776275; Lot 1, 2, 3 & 4 in DP 12517; and Lot 10 in DP621395, known as 61-75 Forest Road and 126 Durham Street, Hurstville.

42. For this reason, the 3 metre local road widening of Roberts Lane as part of the VPA can only be applied to a segment of Roberts Lane which is under the possession of the proponent as identified in Figure 6.

Figure 6 – Extent of Road Widening under VPA Offer



43. Due to the absence of a VPA and other statutory means to implement the widening of Roberts Lane along the length of the Landmark Square Precinct, it is recommended that a separate Planning Proposal be prepared by Council to amend the Land Reservation Acquisition Map of the *HLEP 2012* to include a 3 metre wide local road widening at the Roberts Lane boundary of 53 Forest Road, 108 Durham Street and 9 Roberts Lane.
44. A consistent 3 metre road widening will enable two-way vehicle access, access for service vehicles such as delivery and waste collection trucks and the provision of a continuous pedestrian footpath with street planting on Roberts Lane. Refer to Figure 1 for the extent of the proposed road widening in relation to the Precinct.

Land Reservation Acquisition amendment to the *HLEP 2012*

45. This report is seeking Council's endorsement for the preparation of a Planning Proposal that amends the *HLEP 2012* in relation to the three properties located at the eastern boundary of the Landmark Square Precinct (i.e. 53 Forest Road, 108 Durham Street and 9 Roberts Lane) to:
- Amend the Land Reservation Acquisition Map to include a 3 metre wide local road widening along the Roberts Lane boundary; and
 - Amend Clause 5.1 Relevant acquisition authority to nominate Council to acquire the land for local road widening.

46. The road widening Planning Proposal will be prepared as a separate but supplementary Planning Proposal to be publicly exhibited and gazetted concurrently with the Landmark Square Precinct Planning Proposal (PP2015/0001) subject to Council endorsement and Gateway Determination.
47. Under Section 3.14(1)(c) of the *EP&A Act*, an environmental planning instrument may make provisions to reserve land for the purpose of a public place within the meaning of the *Local Government Act 1993*.
48. Roberts Lane is a public road, which is defined by the *Local Government Act 1993* as a type of public place. The proposed land reservation acquisition intends to designate land for the purpose of widening an existing public road.
49. The local road widening will consist of a 3 metre wide strip along Roberts Lane and will affect the properties located at 53 Forest Road, 108 Durham Street and 9 Roberts Lane. Refer to Figure 7 below for the proposed location of the land reservation acquisition in relation to the Landmark Square Precinct.

Figure 7 – 3m Wide Land Reservation Acquisition for Local Road Widening



50. Clause 5.1 of the *HLEP 2012* will apply to the local road widening of Roberts Lane. In accordance with this clause, the 3 metre wide strip of land is required to be acquired under Division 3 of Part 2 of the *Land Acquisition (Just Terms Compensation) Act 1991*.
51. It is anticipated that the road widening will occur when a future development application is lodged seeking consent for the redevelopment of 53 Forest Road, 108 Durham Street

and/or 9 Roberts Lane. When acquisition is required, negotiation between Council and the property owner will be conducted in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991*.

52. Road widening at 61-65 Forest Road will be carried out as per the conditions of the VPA and will not be affected by the proposed amendments to the Land Reservation Acquisition Map and Clause 5.1 of the *HLEP 2012*.

Next Steps

53. If endorsed, all owners within the Landmark Square Precinct at 53-75 Forest Road, 108-126 Durham Street and 9 Roberts Lane will be notified by Council in writing that the requirement to deliver affordable housing in association with the development uplift is to be removed from the Precinct.
54. If endorsed, owners of 53 Forest Road, 108 Durham Street and 9 Roberts Lane will be notified by Council in writing that a separate Planning Proposal will be prepared by Council to amend the Land Reservation Acquisition Map of the *Hurstville Local Environmental Plan 2012* to include a 3 metre wide local road widening along the Roberts Lane boundary affecting their property.
55. The road widening Planning Proposal will be prepared in accordance with Section 3.33 of the *EP&A Act* and the DPE's guidelines titled, "*A guide to preparing local environmental plans*" and "*A guide to preparing planning proposals*".
56. The road widening Planning Proposal will be forwarded to the Georges River Local Planning Panel ("LPP") in accordance with the Direction from the Minister for Planning under Section 9.1 of the *EP&A Act* and the *Charter of the Georges River Council Local Planning Panel 2018*.
57. The recommendations of the LPP will be presented at a future Environment and Planning Committee along with a report seeking endorsement to forward the road widening Planning Proposal to the DPE to request a Gateway Determination (approval).

Financial Implications

58. No budget impact for this report.

Community Engagement

59. Consultation will be conducted as detailed in this report subject to Council's endorsement.

File Reference

15/793 - D18/89874

ATTACHMENTS

- Attachment 1 Gateway Determination and Conditions for Planning Proposal PP2015/0001 issued by DPE dated 19 October 2017 - *published in separate document*
- Attachment 2 Urban Design Report prepared by Dickson Rothschild - *published in separate document*
- Attachment 3 Traffic and Transport Impact Assessment prepared by Mott MacDonald - *published in separate document*

The Mayor, Cllr Greene stated that there has been great advances in the area of music therapy and that Council does support the program and has previously provided grant funds to the Band.

Councillor Hindi - advised that he attended the Biaggio Signorelli Asbestos Foundation dinner that was held 3 weeks ago at Doltone House. The event was very well attended by over 2000 people and also almost \$1million was raised for asbestos sufferers, and that the Biaggio Signorelli Asbestos Foundation sends its thanks to Council for supporting their event.

Councillor Tegg - advised he was withdrawing his Notice of Motion: 'NM049-18, Proposed Change of Name for Georges River Local Planning Panel'.

Councillor Konjarski - advised he was withdrawing his Notice of Motion: 'NM053-18 Proposed Change in Name for the Local Government Area' but challenged the Councillors to consider donating the increase in their allowance to a charity.

Minutes of previous meetings

COUNCIL MEETING - 28 MAY 2018

Resolved: Councillor Badalati and Councillor Elmir

That the Minutes of the Council Meeting held on 28 May 2018, be adopted.

Record of Voting:

For the Motion: Unanimous

Committee Reports

CCL027-18 Report of the Environment and Planning Committee - Meeting held on 12 June 2018

Resolved: Councillor Katris and Councillor Kastanias

That the recommendations for items ENV013-18 to ENV016-18 (excluding ENV014), be adopted as follows:

ENV013-18 Planning Proposal for Landmark Square Precinct at 53-75 Forest Road 108-126 Durham Street and 9 Roberts Lane Hurstville

- (a) That Council not proceed with those aspects of Council resolution CCL146-17 (3) and (4)(iii) dated 7 August 2017 in relation to the provision of affordable housing at 53-75 Forest Road, 108-126 Durham Street and 9 Roberts Lane, Hurstville (PP2015/0001) due to the absence of an *Affordable Housing Policy* and any substantive provisions in the *Hurstville Local Environmental Plan 2012* requiring affordable housing.
- (b) That Council endorse the preparation of a Planning Proposal to amend the Land Reservation Acquisition Map of the *Hurstville Local Environmental Plan 2012* to include a 3 metre wide local road widening along the Roberts Lane boundary of the properties at 53 Forest Road, 9 Roberts Lane and 108 Durham Street, Hurstville.
- (c) That all owners of the properties at 53 Forest Road, 9 Roberts Lane and 108 Durham Street, Hurstville be notified by Council, in writing, of the proposed Planning Proposal to amend the Land Reservation Acquisition Map of the *Hurstville Local Environmental Plan 2012* to include a 3 metre wide local road widening along the Roberts Lane boundary.



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Ref No: D18/150485

Planning Proposal

Amendment to Land Reservation Acquisition Map

PP2018/0002

53 Forest Road, 108 Durham Street and 9 Roberts Lane, Hurstville

Accompaniment to Planning Proposal (Department Ref: PP_2017_GRIVE_005_00) to rezone and amend planning controls for land at 53-75 Forest Road, 108-126 Durham Street and 9 Roberts Lane, Hurstville (Landmark Square Precinct)

July 2018

Georges River Civic Centre: Corner MacMahon and Dora Streets, Hurstville
Kogarah Library and Service Centre: Kogarah Town Square, Belgrave Street, Kogarah
Phone: 9330 6400 | Email: mail@georgesriver.nsw.gov.au | Postal address: PO Box 205, Hurstville NSW 1481



Language Assistance 语言援助 مساعدة لغوية Помощь со языком 131 450

Table of Contents

1.	Introduction.....	3
	Background	3
	Subject Site	5
	Surrounding Land	7
	Existing Planning Controls.....	10
2.	The Planning Proposal	12
	Part 1: Objectives or Intended Outcomes	13
	Part 2: Explanation of the Provisions	14
	Part 3: Justification	15
	Part 4: Mapping	23
	Part 5: Community Consultation	24
	Part 6: Project Timeline	25
3.	Conclusion	26

1. Introduction

Georges River Council considered a Planning Proposal (PP2018/0002) at its meeting on 25 June 2018 and resolved to support the amendment to the *Hurstville Local Environmental Plan 2012* ("HLEP 2012") in relation to 53 Forest Road, 108 Durham Street and 9 Roberts Lane to:

- a) Amend the **Land Reservation Acquisition Map** to include a 3m wide local road widening along the Roberts Lane boundary; and
- b) Amend **Clause 5.1 Relevant acquisition authority** to nominate Council as the relevant acquisition authority to acquire the land for local road widening.

The purpose of the Planning Proposal is to enable two-way vehicle access, access for service vehicles such as delivery and waste collection trucks, and the provision of a continuous pedestrian footpath with street planting on Roberts Lane.

This is a separate Planning Proposal intended to accompany the Planning Proposal (Department Ref: PP_2017_GRIVE_005_00) to rezone and amend planning controls for land at 53-75 Forest Road, 108-126 Durham Street and 9 Roberts Lane, Hurstville.

Background

The request to prepare a Planning Proposal (PP2015/0001, Department Ref: PP_2017_GRIVE_005_00) to rezone and amend planning controls for the Landmark Square Precinct bound by Forest Road, Durham Street and Roberts Lane was originally submitted by Dickson Rothschild on 16 June 2015 on behalf of One Capital Pty Ltd (now Prime Hurstville Pty Ltd); refer to location plan in **Figure 1** below.

The Landmark Square Planning Proposal, which received a Gateway Determination on 19 October 2017, is accompanied by various documentation including an Urban Design Report prepared by Dickson Rothschild and a Traffic and Transport Impact Assessment prepared by Mott MacDonald.

Since receipt of the Gateway Determination, the applicant has submitted a revised Planning Proposal for Landmark Square which seeks to retain the originally proposed development density but refine the building envelope through an amended Urban Design Report prepared by UrbanPossible.

The revised Planning Proposal seeking an Alteration to the Gateway Determination from the Department of Planning and Environment (DPE) was considered by the LPP at its meeting dated 21 June 2018 where it was generally supported and was considered by Council's Environment and Planning Committee at its meeting dated 9 July 2018.

A 3m wide strip of land along the Roberts Lane boundary of the Precinct has been explicitly nominated by both the original and amended Urban Design Reports and the Traffic Impact

Assessment to be dedicated for the purpose of road widening to enable two-way traffic access and MRV access on Roberts Lane (e.g. waste collection and delivery vehicles).

However, none of the revisions proposed an amendment to the Land Reservation Acquisition Map of the *HLEP 2012* for the purpose of local road widening despite the intention of the Planning Proposal to enable two-way vehicle access. Accordingly, this Planning Proposal has been prepared to amend the Land Reservation Acquisition Map to include a 3m wide local road widening at 53 Forest Road, 108 Durham Street and 9 Roberts Lane along the Roberts Lane boundary.

It should be noted that the remaining allotment in the Precinct which has a frontage to Roberts Lane is located at 61-65 Forest Road. This allotment is one of the eight allotments affected by the Voluntary Planning Agreement ("VPA") Offer associated with the Landmark Square Planning Proposal (PP2015/0001) which identifies a 3m wide strip of land adjoining Roberts Lane is to be dedicated at no cost to Council.

Subject Site

The Planning Proposal relates to three (3) individual lots within the triangular-shaped Landmark Square Precinct (formerly known as Hurstville East) bound by Forest Road to the north, Durham Street to the south and Roberts Lane to the east:

- 53 Forest Road, Hurstville (Lot A DP372835);
- 108 Durham Street, Hurstville (Lot D DP391801); and
- 9 Roberts Lane, Hurstville (Lot 1 DP172819).

The subject sites are located at the eastern edge of the Landmark Square Precinct immediately adjacent to Roberts Lane (refer **Figure 1** and **Figure 2** below). The allotment at 53 Forest Road is isolated from 108 Durham Street and 9 Roberts Lane by the allotment located at 61-65 Forest Road.

61-65 Forest Road is not included within this Planning Proposal as the allotment is subject to land dedication for the purpose of road widening under a Voluntary Planning Agreement in association with the Planning Proposal (PP2015/0001) for the Landmark Square Precinct at 53-75 Forest Road, 108-126 Durham Street and 9 Roberts Lane, Hurstville.

Figure 1 – Aerial of the Landmark Square Precinct



Figure 2 – Subject Sites at 53 Forest Road, 108 Durham Street and 9 Roberts Lane



The Landmark Square Precinct currently accommodates a range of industrial and residential uses including a self-storage facility, automotive services and sales, community uses (Hurstville Scout Hall), funeral home, two storey residential flat building and single dwelling houses.

The existing buildings and land uses on the subject site at 53 Forest Road, 108 Durham Street and 9 Roberts Lane are described below in **Table 1**:

Table 1 – Existing Buildings and Uses on the Subject Sites

Address	Lot / DP	Existing Buildings
53 Forest Road	Lot A DP372835	Two storey residential building 'Baldovan' containing four individual dwellings in a manor house typology.
108 Durham Street	Lot D DP391801	Half of a freestanding residential dwelling house as the existing dwelling house is located on two allotments – Lot C & D of DP391801 (known as 108-110 Durham Street).
9 Roberts Lane	Lot 1 DP172819	Warehouse-style buildings for an automotive electrical and air conditioning service with car parking.

Surrounding Land

The Landmark Square Precinct is located on the eastern extent of the Hurstville City Centre, bounded by Forest Road to the west, Durham Street to the south and Roberts Lane to the east. There is a concentration of smaller industrial / retail businesses and a number of educational facilities situated along the northern side of Forest Road between Durham and Lily Street in this eastern bookend region of the Hurstville City Centre.

Roberts Lane currently functions as a one-way (southbound) narrow laneway approximately 3.6m wide for vehicle access with a total width measuring approximately 6m between the property boundaries on either side of the lane. Roberts Lane is a public road managed by Council.

The primary interfaces of the Landmark Square Precinct are described below in **Table 2**. The surrounding context is shown below in **Figures 3 to 7**.

Table 2 – Surrounding Land Uses

Aspect	Land Uses
North	A number of educational facilities are located to the north of the site along Forest Road including Hurstville Public School, Georges River College – Hurstville Boys Campus, Bethany College and Sydney Technical High School. There are also sites along Forest Road zoned B2 Local Centre which have recently been redeveloped with shops on the ground floor and generally 2 levels of residential apartments above.
East	R2 Low Density Residential area characterised by 1-2 storey dwelling houses, with the rear yards of properties along Lily Street backing onto Roberts Lane.
South	On the opposite side of Durham Street is a large development known as East Quarter which includes a number of mixed use buildings up to 19 storeys in height. The large open space area of Kempt Field (approx. 3 hectares) is also located opposite the site to the south and provides a direct pedestrian connection through the park to the Allawah Railway Station.
West	On the other side of Forest Road is an area of land zoned B2 Local Centre with a range of commercial uses. Residential land on Wright Street and Hudson Street is a mix of 1-2 storey dwelling houses and 3 storey residential flat buildings.

Figure 3 – View of rear boundary of Lily Street properties from Roberts Lane



Figure 4 – View of Kempt Field and the East Quarter development on the opposite side of Durham Street to the south of the site



Figure 5 – View to the north of the site on the opposite side of Forest Road at the intersection with Wright Street



Figure 6 – View along Forest Road of Hurstville Public School



Figure 7 - View of mixed use development along the southern side of Forest Road



Existing Planning Controls

The *HLEP 2012* applies to the subject sites which are located in the Landmark Square Precinct. There is no existing land reservation acquisition proposed at or surrounding the Precinct.

Landmark Square Planning Proposal (Department Ref: PP_2017_GRIVE_005_00)

The Landmark Square Planning Proposal, which received a Gateway Determination from the DPE on 19 October 2017, is accompanied by various studies including an Urban Design Report and a Traffic and Transport Impact Assessment.

A 3m wide strip of land along the Roberts Lane boundary of the Precinct has been explicitly nominated by both the original and amended Urban Design Reports and the Traffic Impact Assessment to be dedicated for the purpose of road widening to enable two-way traffic access and MRV access on Roberts Lane (e.g. waste collection and delivery vehicles).

The Traffic Impact Assessment proposes 2, two-way vehicle access points with one on Durham Street and another on Roberts Lane (refer **Figure 8** below) with the intention of consolidating access points to offer safe and efficient access to and from the surrounding road network. The traffic modelling utilised by the Traffic Impact Assessment is based on the condition that Roberts Lane is widened by 3m.

Figure 8 – Proposed Vehicle Access Points



Georges River Council Policy on Planning Agreements

A Voluntary Planning Agreement ("VPA") is a mechanism which allows for negotiation and agreement between planning authorities and developers to extract public benefits from the planning process and ensure that development produces targeted public benefits over and above measures to address the impact of development on the public domain.

The subject Planning Proposal is a Council-initiated amendment to the Land Reservation Acquisition Map of the *HLEP 2012* and no development uplift is proposed. As such, Council's VPA Policy is not applicable to the Planning Proposal.

However, it is to be noted that the Landmark Square Planning Proposal (PP2015/0001) is accompanied by a VPA. Council considered a report on the Heads of Agreement ("HoA") to enter into a VPA at its meeting of 7 August 2017 (CCL147-17). The HoA outlines the terms of the VPA, which delivers additional public benefits over and above the usual Section 7.11 contributions (formerly Section 94) applicable to the development.

The VPA Offer applies to the eight lots owned by the applicant, Prime Hurstville Pty Ltd, at 61-75 Forest Road and 126 Durham Street, Hurstville. The following public benefits are identified by the HoA accepted by Council at its meeting on 7 August 2017:

- a) A monetary contribution of \$7,375,878 (indexed). The monetary amount is to be paid in stages as follows:
 - i) \$1 million within 30 days of Hurstville LEP 2012 Amendment,
 - ii) \$1 million immediately prior to the issue of a notice of determination granting the first Development Consent for the Developer's Land,
 - iii) The remainder prior to the issue of any Construction Certificate for the Development on the Developer's Land.
- b) The construction and dedication at no cost to Council of a 3m wide strip of land adjoining the Developer's Land and Robert's Lane prior to the issue of the first subdivision certificate or the issue of the first occupation certificate for building C as referred to in the Planning Proposal. The widened Robert's Lane shall be constructed in accordance with Council's standards and requirements. The estimated value of the land being dedicated and the road widening works totals \$514,122.
- c) An easement that benefits Council which will enable public access through the site.

Accordingly, the 3m wide road widening at the Roberts Lane boundary of 61-65 Forest Road will be executed in accordance with the VPA.

2. The Planning Proposal

The Planning Proposal has been assessed under the relevant sections of the *Environmental Planning and Assessment Act 1979* and *Regulation 2000* and the following advisory documents prepared by the Department of Planning and Environment:

- "A guide to preparing planning proposals" (August, 2016); and
- "A guide to preparing local environmental plans" (August, 2016).

The assessment includes a review of the strategic planning framework and a site-specific assessment as listed below:

- *Hurstville Local Environmental Plan 2012*;
- State Environmental Planning Policies;
- Ministerial Section 9.1 Directions;
- Environmental, Social and Economic Impacts; and
- Services and Infrastructure.

Section 3.33 of the *Environmental Planning & Assessment Act 1979* outlines that a planning proposal must explain the intended effect and the justification for making the proposed instrument and must include the following components:

- Part 1: A statement of the objectives and intended outcomes of the proposed instrument;
- Part 2: An explanation of the provisions that are to be included in the proposed instrument;
- Part 3: The justification for those objectives, outcomes and the process for their implementation (including whether the proposed instrument will comply with relevant directions under Section 9.1);
- Part 4: Maps, where relevant, to identify the intent of the planning proposal and the area to which it applies; and
- Part 5: Details of community consultation that is to be undertaken before consideration is given to the making of the proposed instrument.

Parts 1 – 5 below address the information requirements for planning proposals.

Part 1: Objectives or Intended Outcomes

The objective of the Planning Proposal is to enable two-way vehicle access, access for service vehicles such as delivery and waste collection trucks, and the provision of a continuous pedestrian footpath with street planting on Roberts Lane to support the future redevelopment of the Landmark Square Precinct.

The intended outcome of the Planning Proposal is to provide a consistent 3m wide local road widening along the Roberts Lane boundary of the properties at 53 Forest Road, 9 Roberts Lane and 108 Durham Street, Hurstville through an amendment to the Land Reservation Acquisition ("LRA") Map of the *Hurstville Local Environmental Plan 2012* ("HLEP 2012").

Part 2: Explanation of the Provisions

The proposed intended outcome (refer Part 1) will be achieved by amending the *HLEP 2012* as follows:

- Amend the **Land Reservation Acquisition Map** (Sheet LRA_008) to include a 3 metre wide local road widening along the Roberts Lane boundary (refer **Figure 9** below); and
- Amend **Clause 5.1 Relevant acquisition authority** to nominate Council to acquire the land for local road widening as follows:

Clause 5.1 Relevant acquisition authority

Subclause (2)

Type of land shown on Map

Zone B4 Mixed Use and marked "Local road widening"

Authority of the State

Council

Figure 9 – Proposed Land Reservation Acquisition Map (HLEP 2012)



Part 3: Justification

Section A – Need for the planning proposal

Q1. Is the planning proposal a result of any strategic study or report?

No, the Planning Proposal is not a direct result of any strategic study or report. However, the Planning Proposal has been prepared to accompany the existing Landmark Square Planning Proposal at 53-75 Forest Road, 108-126 Durham Street and 9 Roberts Lane, Hurstville, which received a Gateway Determination on 19 October 2017.

The Landmark Square Planning Proposal is supported by various studies including an Urban Design Report and a Traffic and Transport Impact Assessment. A 3m wide strip of land along the Roberts Lane boundary of the Precinct has been explicitly nominated by both the original and amended Urban Design Reports and the Traffic Impact Assessment to be dedicated for the purpose of road widening to enable two-way traffic access and MRV access on Roberts Lane. However, the Landmark Square Planning Proposal does not propose an amendment to HLEP 2012 to provide a 3m wide local road widening along the Precinct's Roberts Lane boundary.

Due to the absence of a VPA and other statutory means to implement the widening of Roberts Lane along the entire length of the Landmark Square Precinct boundary, Council at its meeting dated 25 June 2018 resolved to prepare a Planning Proposal to amend the LRA Map of the HLEP 2012 to include a 3m wide local road widening at the Roberts Lane boundary of 53 Forest Road, 108 Durham Street and 9 Roberts Lane.

Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The Planning Proposal is the best means of achieving the objectives and intended outcome of providing a consistent 3m wide road widening along the Roberts Lane boundary of the Landmark Square Precinct. The 3m road widening would enable Roberts Lane to be increased to a 9 metre wide public road which could accommodate a 2m wide pedestrian footpath on the western side of the Lane and a minimum 6m wide two-way carriageway.

Although land dedication for the purpose of local road widening is included in the VPA offer associated with the Landmark Square Planning Proposal, the fragmented ownership of the various allotments within the Precinct restricts the application of the VPA to only the eight lots owned by the proponent, legally described as Lot 1 in DP 225302, Lot 100 & 101 in DP 776275, Lot 1, 2, 3 & 4 in DP 12517, and Lot 10 in DP621395; known as 61-75 Forest Road and 126 Durham Street, Hurstville.

For this reason, the 3m local road widening of Roberts Lane as part of the VPA can only be applied to a segment of Roberts Lane which is under the possession of the applicant (i.e. 61-65 Forest Road) as identified in **Figure 10** below.

Q3. Is the planning proposal consistent with the objectives and actions of the applicable regional, sub-regional or district plan or strategy (including any exhibited draft plans or strategies)?

Greater Sydney Region Plan (A Metropolis of Three Cities)

The *Greater Sydney Region Plan* was finalised and released by the Greater Sydney Commission in March 2018 and establishes the aspirations for the region over the next 40 years. The Region Plan is framed around 10 Directions relating to infrastructure and collaboration, liveability, productivity and sustainability.

The Planning Proposal is considered to be consistent with the following Directions and Objectives of the *Greater Sydney Region Plan*:

Direction 1: A city supported by infrastructure
Objective 3: Infrastructure adapts to meet future needs

The Landmark Square Planning Proposal seeks to deliver a large-scale mixed use development comprising of over 14,000sqm of employment generating floor space and approx. 450 new residential apartments. The supporting Traffic and Transport Impact Assessment submitted by the applicant nominates Roberts Lane to accommodate one of the two-way vehicle access points.

This Planning Proposal intends to widen an existing laneway to enable two-way traffic access and medium rigid vehicles ("MRV") access on Roberts Lane (e.g. waste collection and delivery vehicles).

Direction 6: *A well-connected city*

Objective 14: *A Metropolis of Three Cities* – integrated land use and transport creates walkable and 30-minute cities

The 3m road widening would enable Roberts Lane to be increased to a 9m wide public road which could accommodate a pedestrian footpath of approx. 2m on the western side of the Lane and a minimum 6m wide two-way carriageway. The provision of a dedicated pedestrian footpath would greatly enhance the pedestrian safety of Roberts Lane and provide an appropriate route for surrounding residents to access Kempt Field to the south and Allawah Railway Station beyond.

Direction 8: *A city in its landscape*

Objective 30: Urban tree canopy cover is increased

In addition to the provision of a pedestrian footpath, the road widening will also enable the provision of street trees to enhance the amenity and microclimate of Roberts Lane.

South District Plan

The *South District Plan* was finalised and released by the Greater Sydney Commission in March 2018. The District Plan is a guide for implementing *A Metropolis of Three Cities* at the district level and proposes a 20-year vision by setting out aspirations and proposals for the South District.

The Planning Proposal is considered to be consistent with the following Planning Priorities of the *South District Plan*:

Direction	Planning Priorities relevant to the Planning Proposal
A city supported by infrastructure	Planning Priority S1: Planning for a city supported by infrastructure
A well connected city	Planning Priority S12: Delivering integrated land use and transport planning and a 30-minute city
A city in its landscape	Planning Priority S15: Increasing urban tree canopy cover and delivering Green Grid connections

Assessment Criteria:

a) Does the proposal have **strategic merit**? Is it:

- *Consistent with the relevant district plan within the Greater Sydney Region, or corridor/precinct plans applying to the site, including any draft regional, district or corridor/precinct plans released for public comment; or*

As detailed above in Q3, the Planning Proposal is consistent with the *Greater Sydney Region Plan* and the *South District Plan*.

- *Consistent with a relevant local council strategy that has been endorsed by the Department; or*

There is no relevant local council strategy applying to the site that has been endorsed by the Department. As considered below in Q4, the Planning Proposal is not inconsistent with the *Transport Management and Accessibility Plan (TMAP, 2013)*.

- *Responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have not been recognised by existing planning controls.*

There has been no change in circumstances, such as investment in new infrastructure or changing demographic trends in the Hurstville City Centre since the preparation of the planning controls introduced in the *HLEP 2012*.

However, this Planning Proposal intends to accompany the Landmark Square Planning Proposal so that adequate vehicle and pedestrian access and safety are provided to support the proposed mixed use development.

b) Does the proposal have **site-specific merit**, having regard to the following:

- *The natural environment (including known significant environmental values, resources or hazards), and*

The site is within the existing urban area of the Hurstville City Centre and does not have any known significant environmental values, resources or hazards.

The site is occupied by a range of industrial and commercial land uses; the assessment of the site in relation to land contamination has been undertaken by the proponent and is considered below in relation to *State Environmental Planning Policy No.55 – Remediation of Contaminated Land*.

- *The existing uses, approved uses, and likely future uses of land in the vicinity of the proposal, and*

Roberts Lane currently functions as a one-way (southbound) narrow laneway approximately 3.6m wide for vehicle access with a total width measuring approximately 6m between the property boundaries on either side of the lane.

Under Section 3.14(1)(c) of the *Environmental Planning and Assessment Act 1979*, an environmental planning instrument may make provisions to reserve land for the purpose of a public place within the meaning of the *Local Government Act 1993*. Roberts Lane is a public road, which is defined by the *Local Government Act 1993* as a type of public place. The proposed land reservation acquisition intends to designate land for the purpose of widening an existing public road.

The proposed road widening will enable Roberts Lane to be increased to a 9m wide public road which could accommodate a pedestrian footpath of approx. 2m on the western side of the Lane and a minimum 6m wide two-way carriageway to support the future large-scale mixed use development at the Landmark Square Precinct comprising of over 14,000sqm of employment generating floor space and approx. 450 new residential apartments.

- *The services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision.*

The Planning Proposal will not generate any additional demands on existing services and infrastructure. On the contrary, the proposed road widening is intended to provide pedestrian and two-way vehicle access.

Q4. Is the planning proposal consistent with a council's local strategy or other local strategic plan?

Consideration of the Planning Proposal in relation to Council's *Hurstville Transport Management and Accessibility Plan (TMAP, 2013)* is provided below.

During the development of planning controls for the Hurstville City Centre, Council was required to develop a *Transport Management and Accessibility Plan* ("TMAP") in response to the amount of floor space (1,141,000sqm) contained in the draft *City Centre LEP (Amendment No.3)*, the potential accessibility and infrastructure implications and inconsistency with S9.1 Direction 3.4 Integrating Land Use and Transport. The purpose of the TMAP was to recommend the amount of additional GFA which can be accommodated in the Hurstville City Centre with consideration to potential accessibility and infrastructure implications.

The Hurstville City Centre TMAP is currently under review. The modelling and assessment undertaken as part of the review will consider the development potential (residential, retail, commercial and hotel floor space) in relation to the Landmark Square Precinct. The proposed widening of Roberts Lane will also be considered in the TMAP review.

Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

The full assessment of the Planning Proposal against all the State Environmental Planning Policies ("SEPPs") is provided in **Attachment 3**. Consideration of the SEPPs relevant to the Planning Proposal is provided below:

State Environmental Planning Policy No. 55 – Remediation of Land

SEPP 55 aims to promote the remediation of contaminated land for the purpose of reducing risk and harm to human health or any other aspects of the environment.

The Detailed Site Investigation submitted by the applicant to accompany the Landmark Square Planning Proposal concludes that the Precinct is not currently considered suitable for future residential with gardens / accessible soil land use from a contamination perspective but can be made suitable for the proposed residential with gardens / accessible soil land use following the implementation of a Remediation Action Plan, which will be developed in accordance with the relevant regulatory requirements to address the identified contamination issues.

Q6. Is the planning proposal consistent with applicable Ministerial Directions (S9.1 directions)?

Yes. A checklist of the Planning Proposal's consistency with the full set of Section 9.1 Ministerial Directions is included in **Attachment 3**. The Directions that are relevant to the Planning Proposal are considered in **Table 3** below.

Table 3 – Consistency with S9.1 Ministerial Directions

S9.1 Direction	Assessment
1.1 Business and Industrial Zones	The Planning Proposal affects two parcels of land which are currently zoned IN2 Light Industrial and proposed to be rezoned to B4 Mixed Use under the Planning Proposal (PP2015/0001) for the Landmark Square Precinct. This Planning Proposal only involves the inclusion of land on the LRA Map. The proposal does not seek to alter the applicable zoning boundaries, zone and development controls and accordingly is considered to be consistent with this Direction.
3.1 Residential Zones	The Planning Proposal affects one parcel of land which is currently zoned R2 Low Density Residential and proposed to be rezoned under the Planning Proposal (PP2015/0001) to B4 Mixed Use which permits shop top housing. The addition of this land to the LRA Map is consistent with this Direction as the 3m wide road widening will ensure new housing has appropriate vehicle access and pedestrian safety.

3.4 Integrating Land Use and Transport	The Planning Proposal intends to ensure a consistent 3m wide road widening is carried out so that a continuous pedestrian footpath may be provided. This is consistent with this Direction as the provision of a new footpath significantly improves pedestrian access to Kempt Field and Allawah Railway Station, which are within 400m walking distance from the site.
7.1 Implementation of A Plan for Growing Sydney	A <i>Plan for Growing Sydney</i> has been replaced by the Greater Sydney Commission's <i>Greater Sydney Region Plan (A Metropolis of Three Cities)</i> . The Planning Proposal is consistent with the Objectives of <i>A Metropolis of Three Cities</i> , as assessed above.

Section C – Environmental, social and economic impact

Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The site is located within the established Hurstville City Centre and there is no likelihood that critical habitats or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal.

Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

As discussed above in relation to *SEPP No.55 – Remediation of Land*, the Preliminary Site Investigation report and the Detailed Site Investigation report commissioned by the proponent of the Landmark Square Planning Proposal identifies land contamination on the site.

Future redevelopment of the Landmark Square Precinct will require the implementation of a Remediation Action Plan, which will be developed in accordance with the relevant regulatory requirements to address the identified contamination issues.

The proposed road widening of Roberts Lane is not anticipated to generate additional environmental effects.

Q9. Has the planning proposal adequately addressed any social and economic effects?

No negative social or economic effects are anticipated from the proposed amendments.

Section D – State and Commonwealth interests

Q10. Is there adequate public infrastructure for the planning proposal?

The proposal will not require any additional public infrastructure. Conversely, the Planning Proposal aims to provide a 3m road widening along Roberts Lane to accommodate a pedestrian footpath and two-way carriageway.

Q11. What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway Determination?

State and Commonwealth public authorities will be consulted following the outcomes, and in line with any recommendations, of the Gateway Determination.

Part 4: Mapping

The maps included in **Attachment 2** have been prepared, consistent with the "Standard Technical Requirements for LEP Maps" and identify the site and the proposed development standards including:

Hurstville Local Environmental Plan 2012

- Land Reservation Acquisition Map - Sheet LRA_008

Part 5: Community Consultation

It is anticipated that the Planning Proposal will be exhibited for a minimum period of twenty eight (28) days in accordance with the provisions of the *Environmental Planning and Assessment Act 1979* and *Regulation 2000* and any requirements of the Gateway Determination.

Exhibition material, including explanatory information, land to which the Planning Proposal applies, description of the objectives and intended outcomes, copy of the Planning Proposal and relevant maps will be available for viewing during the exhibition period on Council's website and hard copies available at Council offices and libraries.

Notification of the public exhibition will be through:

- Newspaper advertisement in The Leader
- Exhibition notice on Council's website
- Notices in Council offices and libraries
- Letters to State and Commonwealth Government agencies identified in the Gateway Determination (if required)
- Letters to affected landowners of 53 Forest Road, 108 Durham Street and 9 Roberts Lane
- Letters to adjoining landowners (if required, in accordance with Council's Notification Procedures)

Part 6: Project Timeline

The anticipated project timeline for completion of the Planning Proposal is shown below:

Task	Anticipated Timeframe
Council endorsed the preparation of Planning Proposal	25 June 2018
Referral to the Local Planning Panel	19 July 2018
Report to Environment and Planning Committee on Planning Proposal	13 August 2018
Report to Council on Planning Proposal	27 August 2018
Anticipated commencement date (date of Gateway Determination)	September 2018
Anticipated timeframe for the completion of required technical information	October 2018
Timeframe for government agency consultation (pre and post exhibition as required by Gateway Determination)	November 2018
Commencement and completion dates for public exhibition period	December 2018-February 2019 (concurrent public exhibition with the Landmark Square Planning Proposal PP2015/0001, DCP and VPA)
Dates for public hearing (if required)	N/A
Timeframe for consideration of submissions	February-March 2019
Timeframe for the consideration by Council of a proposal post exhibition	March 2019
Date of submission to the Department to finalise the LEP	April 2019

It is noted that the anticipated project timeline may be amended by the Gateway Determination.

3. Conclusion

In summary, this Planning Proposal seeks to amend the Land Reservation Acquisition Map of the *Hurstville Local Environmental Plan 2012* to include a 3m wide local road widening along the Roberts Lane boundary of the properties at 53 Forest Road, 9 Roberts Lane and 108 Durham Street, Hurstville.

A consistent 3m road widening on Roberts Lane will enable two-way vehicle access, access for service vehicles such as delivery and waste collection trucks, and the provision of a continuous pedestrian footpath with street planting on Roberts Lane.

It is anticipated that the road widening will occur when a future development application is lodged seeking consent for the redevelopment of 53 Forest Road, 108 Durham Street and/or 9 Roberts Lane. When acquisition is required, negotiations between Council and the property owner will be conducted in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991*.

Road widening at 61-65 Forest Road will be carried out as per the conditions of the VPA for the Planning Proposal (PP2015/0001) for the Landmark Square Precinct at 53-75 Forest Road, 108-126 Durham Street and 9 Roberts Lane, Hurstville and will not be affected by the proposed amendments to the Land Reservation Acquisition Map and Clause 5.1 of the *HLEP 2012*.

For the reasons outlined above, Council requests the Minister to issue a Gateway Determination for this Planning Proposal.

Attachments

The relevant Attachments to the Planning Proposal are attached or included in the report.

The separate Attachments will be included in the Planning Proposal placed on public exhibition.

