

## AGENDA - LPP

<b>Meeting:</b>	Georges River Local Planning Panel (LPP)
<b>Date:</b>	Monday, 3 September 2018
<b>Time:</b>	4.00pm
<b>Venue:</b>	Dragon Room, Georges River Civic Centre, corner MacMahon and Dora Streets, Hurstville
<b>Panel Members:</b>	Sue Francis (Chairperson) Michael Leavey (Expert Panel Member) Juliet Grant (Expert Panel Member) George Vardas (Community Representative)
<b>Council Staff:</b>	Meryl Bishop (Director Environmental and Planning) Ryan Cole (Manager Development and Building) Nicole Askew (Coordinator Development Assessment) Cathy Mercer (Team Leader DA Administration) Monica Wernej (DA Admin Assistant)

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

- a) 266 Belmore Road Riverwood
- b) 37 Gungah Bay Road Oatley
- c) 5A Algernon Street Oatley
- d) 74-78 Carwar Avenue Carss Park
- e) 621-635 Princes Highway Blakehurst

**Break - 3.30pm**

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

**Public Meeting Session Closed - 6.00pm**

**(Break – Light Supper served to Panel Members)**

**3. Reports and LPP Deliberations in Closed Session - 6.30pm**

- LPP033-18      266 Belmore Road Riverwood – DA2017/0418**  
(Report by Development Assessment Planner)
- LPP034-18      37 Gungah Bay Road Oatley – MOD2018/0089**  
(Report by Independent Assessment)
- LPP035-18      5A Algernon Street Oatley – DA2017/0573**  
(Report by Independent Assessment)
- LPP036-18      74-78 Carwar Avenue Carss Park – DA2017/0256**  
(Report by Development Assessment Planner)
- LPP037-18      621-635 Princes Highway Blakehurst – MOD2017/0166**  
(Report by Independent Assessment)

**4. Confirmation of Minutes by Chair**

# REPORT TO GEORGES RIVER COUNCIL

## LPP MEETING OF MONDAY, 03 SEPTEMBER 2018

<b>LPP Report No</b>	<b>LPP033-18</b>	<b>Development Application No</b>	<b>DA2017/0418</b>
<b>Site Address &amp; Ward Locality</b>	266 Belmore Road Riverwood Peakhurst Ward		
<b>Proposed Development</b>	Construction of a fixed shade structure within and upon Council's footpath		
<b>Owners</b>	Georges River Council		
<b>Applicant</b>	Omar El Masri		
<b>Planner/Architect</b>	Ahmed Jadid (Architect)		
<b>Date Of Lodgement</b>	19/09/2017		
<b>Submissions</b>	No submissions		
<b>Cost of Works</b>	\$10,000.00		
<b>Local Planning Panel Criteria</b>	Georges River Council is the Land Owner		
<b>List of all relevant s.4.15 matters (formerly s79C(1)(a))</b>	State Environmental Planning Policy No 55 - Remediation Of Land; Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment; Hurstville Local Environmental Plan 2012; Hurstville Development Control Plan No 1 2018		
<b>List all documents submitted with this report for the Panel's consideration</b>	Architectural Plans Statement of Environmental Effects		
<b>Report prepared by</b>	Development Assessment Planner		

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

**Conditions**

Have draft conditions been provided to the applicant for comment?

**No, standard conditions have not been attached**

**Site Plan**

**Figure 1.** Aerial View- 266 Belmore Rd Riverwood (Source: Nearmap 2018, photo date 17 July 2018)

**Executive Summary****Proposal**

1. The application seeks approval for the construction of a semi-enclosed fixed shade structure enclosed with a weatherproof barrier on and within the Council footpath. The structure is to covered additional outdoor seating area (10 tables, 16 chairs) for the existing commercial premise at 266 Belmore Road Riverwood.

**Site and Locality**

2. The subject site is identified as Lot 16, DP 16391, 266 Belmore Rd Riverwood, is a rectangular shaped allotment having a primary street frontage to Belmore Road, and rear access via an unnamed service lane.

Located on the site is a two storey building. The subject premise is occupied by Valley Door Café. The tenancy has a 5.9m wide frontage to Belmore Road, which is its primary entry. The footpath measures 7.90m from the shop's entrance to the street kerb and gutter of Belmore Road. A Council street tree is located on the footpath adjacent to the subject tenancy. The proposal does not seek the removal of the street tree.

Adjoining the site are one and two storey buildings primarily used as retail and commercial premises. The site is in close proximity to residential lots located to the east.

### Zoning and Permissibility

3. The subject site is zoned B2 – Local Centre and being identified as a “Commercial premises” the proposal being an awning over an outdoor area is a permissible form of development with consent.

### Submissions

4. The proposal did not require notification as per Council’s notification policy. No submissions were received by Council regarding the proposal.

### Conclusion

5. The application seeks approval for the construction of a fixed shade structure which is proposed to be semi-enclosed with a weatherproof barrier within and upon Council footpath.

The proposal has been assessed against the relevant environmental regulations, planning instruments and Development Control Plans and is considered to be an inappropriate development form on Council land and is not supported and recommended for refusal for the reasons.

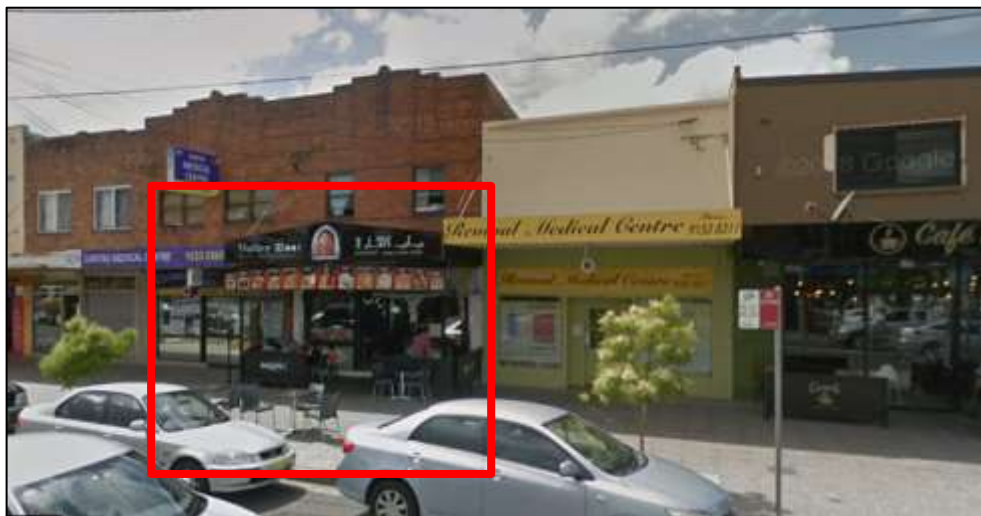
## Report in Full

### Proposal

6. The application seeks approval for the construction of a semi-enclosed fixed shade structure enclosed with a weatherproof barrier on and within the Council footpath. The structure is to covered additional outdoor seating area (10 tables, 16 chairs) for the existing commercial premise at 266 Belmore Road Riverwood.

### The Site and Locality

7. The subject site is identified as Lot 16, DP 16391, 266 Belmore Rd Riverwood, is a rectangular shaped allotment having a primary street frontage to Belmore Road, and rear access via an unnamed service lane.



**Figure 2.** Elevation with the area of the proposed work within the confines of the red outline.

Source: Google Maps 2018

Located on the site is a two storey building. The subject premise is occupied by Valley Door Café. The tenancy has a 5.9m wide frontage to Belmore Road, which is its primary entry. The footpath measures 7.90m from the shop’s entrance to the street kerb and

gutter of Belmore Road. A Council street tree is located on the footpath adjacent to the subject tenancy. The proposal does not seek the removal of the street tree.

Adjoining the site are one and two storey buildings primarily used as retail and commercial premises. The site is in close proximity to residential lots located to the east.

### Background

8. The subject DA (DA2017/0418) has been lodged on 19 September 2017.

### PLANNING ASSESSMENT

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

### Environmental Planning Instruments

#### Hurstville Local Environmental Plan 2012

10. The subject site is zoned B2 – Local Centre and being identified as a "Commercial premises" the proposal being an awning over an outdoor area is a permissible form of development with consent. The relevant clauses of the Local Environmental Plan which apply to the proposed development are detailed below:

Applicable LEP Clause	Standard	Proposed	Complies
<b>5.10</b> Heritage conservations	The objectives of this clause are as follows:  (a) to conserve the environmental heritage of Hurstville, (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views, (c) to conserve archaeological sites, (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.	Development has not been identified as a heritage item or located within a heritage conservation area as per HLEP 2012.	Yes
<b>6.6</b> Active street frontages	(1) The objective of this clause is to promote uses that attract pedestrian traffic along certain ground floor street frontages in Zone B2 Local Centre, Zone B3 Commercial Core and Zone B4 Mixed Use.	The proposed awning over an outdoor dining area supports a café which facilitates and attracts pedestrian movement.	Yes

### State Environmental Planning Policies

11. Compliance with the relevant state environmental planning policies is detailed in the table below.

<b>STATE ENVIRONMENTAL PLANNING POLICY</b>	<b>Complies</b>
State Environmental Planning Policy No 55 - Remediation Of Land	Yes
Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment	Yes
State Environmental Planning Policy (Building Sustainability Index BASIX) 2004	N/A

### **Draft Environmental Planning Instruments**

12. 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.

### **Hurstville Development Control Plan 2018**

13. The proposed development is subject to the provisions of Hurstville Development Control Plan No. 1 (Amendment No. 6) 2018. The relevant clauses of the Development Control Plan which apply to the proposed development are detailed below.

<b>Applicable DCP Control</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Complies</b>
<b>6.2 Riverwood</b> (Section 6 - Controls for Specific Sites and Localities)  Part B – Belmore Road and Mixed Use Development Controls	DS15.1. The requirements for footpath restaurants and cafes are contained in Council's Public Spaces Local Approvals Policy (Activities on Public Land-Roads and Footpaths) which can be found in Appendix 2	Outdoor dining application (APP2017/0220) lodged with Council and approved.	<b>No, refer to comment (1)</b>

#### (1) Outdoor dining

The development application has been lodged for the construction of a permanent fixed structure on over and within Council's land being a cover over proposed outdoor dining within the footpath area of Belmore Road Riverwood. However, for outdoor dining

applications requiring the erection of permanent or semi-permanent structures on the public footway, a development approval from Council must be obtained under Section 125 of the Roads Act.

Under Schedule 1 of the Environmental Planning and Assessment Regulation 2000,

- (i) *if the applicant is not the owner of the land, a statement signed by the owner of the land to the effect that the owner consents to the making of the application.*

As the application is located on Council land (footpath), owners consent from Council is required prior to the commencement of any works. Council has granted authority to lodge a Development Application.

It is noted that APP2017/0220 for outdoor dining has expired on 5 of July 2018.

## **IMPACTS**

### ***Natural Environment***

14. The proposed development has minimal impacts on the natural environment.

### ***Built Environment***

15. The proposed development is likely to have an adverse impact on the built environment in that it is not consistent with the predominant character of the street and footpath along Belmore Road.

The application proposes a semi enclosed fixed structure on the footpath to be used for outdoor dining purposes. No other fixed structures are located on Council's footpath within the locality.

A structure of this scale and form is considered to be inconsistent with the immediate streetscape character.

### ***Social Impact***

16. The proposed development is likely to have an adverse impact on the pedestrian activity along the footpath adjacent to Belmore Road as well as those that are alighting from their vehicles whereby they would need to navigate the structures' within the public domain.

It is noted that a pedestrian study has not been conducted with regard to the potential impacts that could arise as a result of the proposed structure.

### ***Economic Impact***

17. The proposed development has potential economic impacts relating to the maintenance and upkeep of the public domain given the development will be on public land.

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

18. The proposal is not suitable for the site as it introduces a new scale and form of development within the public domain which will be out of character in the current streetscape.

## **SUBMISSIONS AND THE PUBLIC INTEREST**

19. The proposal did not require notification as per Council's notification policy. No submissions were received by Council regarding the proposal.



## REFERRALS

### Council Referrals

#### Premium Facilities and Properties Team

20. Council's Premium Facilities and Properties Team have provided owners consent for this application.

#### External Referrals

21. No external referrals were required for this application.

## CONCLUSION

22. The application seeks approval for the construction of a fixed shade structure which is proposed to be semi-enclosed with a weatherproof barrier within and upon Council footpath.

The proposal has been assessed against the relevant environmental regulations, planning instruments and Development Control Plans and is considered to be an inappropriate development form on Council land and is not supported and recommended for refusal for the reasons.

## DETERMINATION

23. That pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act, 1979, as amended, that the Local Planning Panel (Panel), the determining authority of the application under the Local Planning Panels Direction - Development Applications dated 23 February 2018, that the Panel refuse development consent to Development Application DA2017/0418 for the construction of a fixed shade structure within and upon Council's footpath at Lot 16, DP16391 and known as 266 Belmore Road, Riverwood, to the following reasons:

1. Pursuant to Section 4.15 (1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is likely to have an adverse impact on the following aspects of the environment:
  - (a) Social impacts – An adverse impact would result from the proposed development on the pedestrian activity of the locality and adjoining commercial/retail premises;
  - (b) Social impacts - The application will result in an adverse streetscape presentation due to the bulk and scale of the development; and
  - (c) The application is not in the public interest.

## ATTACHMENTS

Attachment [1](#) Site plan and layout - 266 Belmore Road Riverwood

# REPORT TO GEORGES RIVER COUNCIL

## LPP MEETING OF MONDAY, 03 SEPTEMBER 2018

<b>LPP Report No</b>	<b>LPP034-18</b>	<b>Development Application No</b>	<b>MOD2018/0089</b>
<b>Site Address &amp; Ward Locality</b>	37 Gungah Bay Road Oatley Peakhurst Ward		
<b>Proposed Development</b>	Section 4.55(1A) Modification application - Siting the approved dwelling a further 0.62m to the south		
<b>Owners</b>	Mrs J Wang and Mr B Zhou		
<b>Applicant</b>	Mrs J Wang		
<b>Planner/Architect</b>	Green Tree Designs		
<b>Date Of Lodgement</b>	6/07/2018		
<b>Submissions</b>	Nil		
<b>Cost of Works</b>	Nil for the modification		
<b>Local Planning Panel Criteria</b>	Applicant is Council Staff Member		
<b>List of all relevant s.4.15 matters (formerly s79C(1)(a))</b>	Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, Hurstville Local Environmental Plan 2012		
<b>List all documents submitted with this report for the Panel's consideration</b>	Architectural Plans		
<b>Report prepared by</b>	Independent Assessment		

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

Have draft conditions been provided to the applicant for comment?

**No, standard conditions have been attached with no design changes**

### Site Plan



### Executive Summary

#### Proposal

1. Council is in receipt of a Section 4.55 Modification Application for siting the approved dwelling a further 0.62m to the south.

#### Site and Locality

2. The subject site is legally described as Lot 451 DP 850836 and is known as 37 Gungah Bay Road, Oatley. The property is located on the eastern side of Gungah Bay Road, between Acacia Street and Linda Avenue Oatley.

The dimensions of the site are approximately 20.115m (width including the right of carriageway) x 27.62m (depth), with a total area of 555.8sqm, which accommodates an existing single storey fibro dwelling.

The property is affected by a 1m wide drainage easement and 3.5m wide right of carriageway (ROC) and easement for services which extends along the northern side of the allotment.

The immediate locality consists of a mix of detached dwelling houses in a predominantly low density residential setting.

#### Zoning and Permissibility

3. The site is zoned R2 - Low Density Residential under the provisions of Hurstville Local Environmental Plan 2012 (HLEP 2012). The approved development and the modified form remains a residential dwelling with attached secondary dwelling which are both permissible with development consent and satisfy the zone objectives.

**Submissions**

4. No objections were received in relation to the proposed application.

**Conclusion**

5. Following a detailed assessment of the modification, it is considered that Section 4.55 Modification Application No MOD2018/0089 is recommended for approval subject to updated conditions of consent.

**Report in Full****Proposal**

6. Council is in receipt of a Section 4.55 Modification Application for siting the approved dwelling a further 0.62m to the south. The proposed works are specifically detailed below:

The subject allotment is affected by a right of carriageway, located adjacent to the side northern boundary. The approved dwelling was sited 3.5m as annotated on the plans measured from the northern boundary to the external façade of the two storey dwelling.

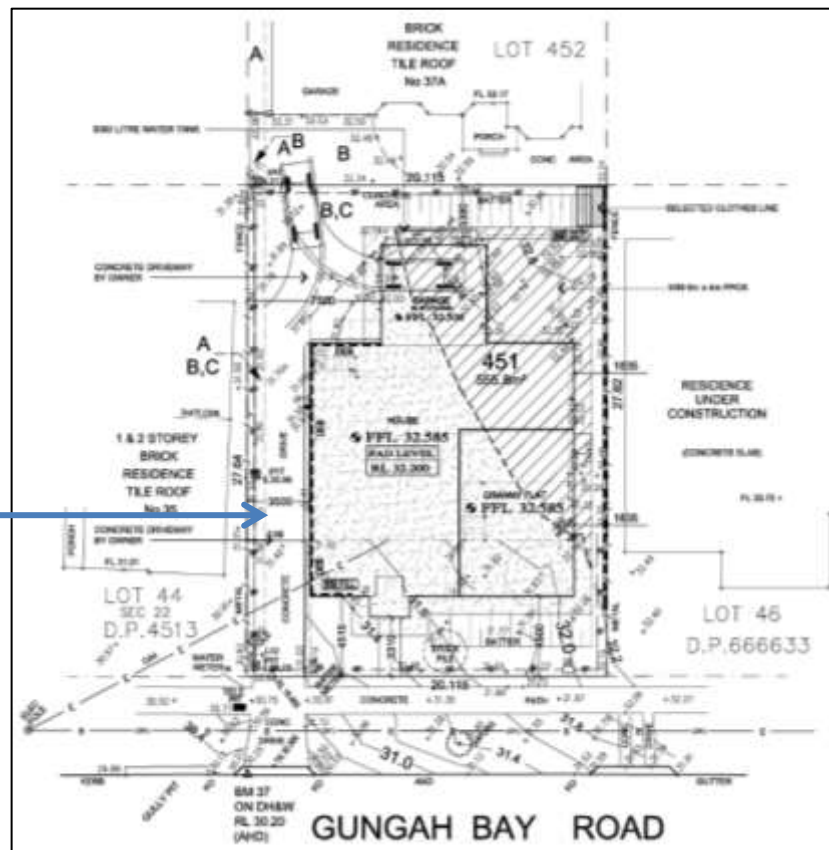
For the purposes of construction, no scaffolding is permitted to be located within over or upon the right of carriageway which would restrict access to those benefiting from the right of carriageway.

The following modification application seeks consent to relocate the approved dwelling 0.62m further to the south, which will facilitate the placement of scaffolding within the northern setback of the site to facilitate construction of the development without impacting the right of carriageway.

No other changes are proposed.

Figure 2.

Approved

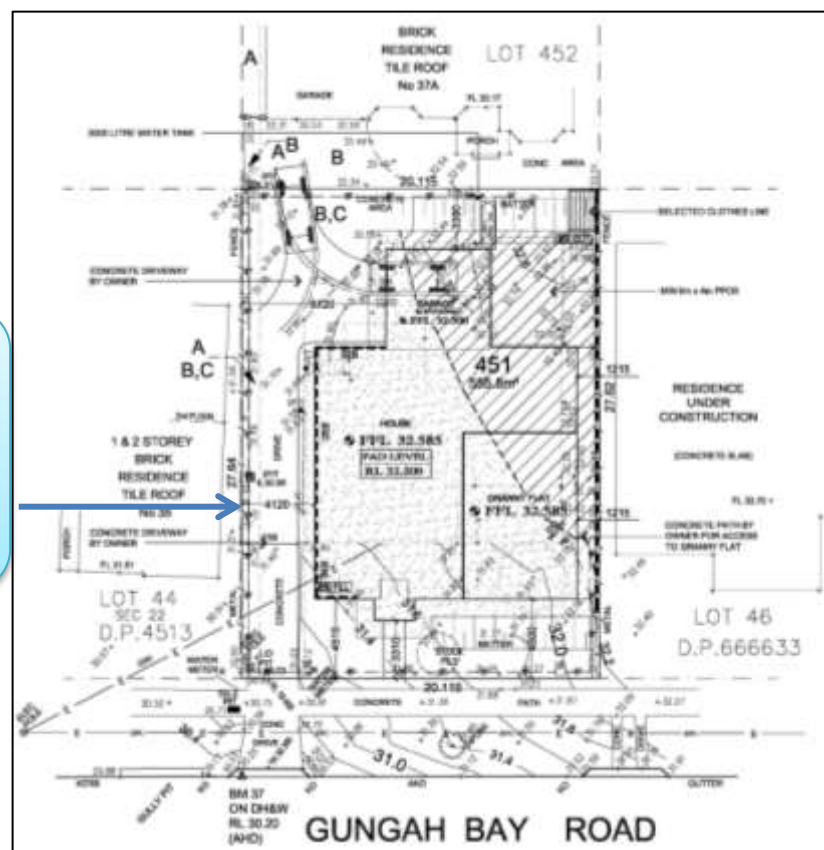
site plan - 3.5m  
northern side

Approved site plan showing the 3.5m setback from the northern boundary

Figure 3.

Proposed  
Modification

site plan - 4.12m



Proposed setback of 4.12m from the northern boundary

## The Site and Locality



7. The subject site is legally described as Lot 451 DP 850836 and is known as 37 Gungah Bay Road, Oatley. The property is located on the eastern side of Gungah Bay Road, between Acacia Street and Linda Avenue Oatley.

The dimensions of the site are approximately 20.115m (width including the right of carriageway) x 27.62m (depth), with a total area of 555.8sqm, which accommodates an existing single storey fibro dwelling.

The property is affected by a 1m wide drainage easement and 3.5m wide right of carriageway (ROC) and easement for services which extends along the northern side of the allotment.

The immediate locality consists of a mix of detached dwelling houses in a predominantly low density residential setting.



Streetscape view - 37 Gungah Bay Road, Oatley (Source: Google Maps 2018)

## Background

8. The applicant is an officer of Georges River Council. Development Application DA2017/0419 was assessed externally by Creative Planning Solutions (CPS) (Report by Independent Assessment) and presented to Local Planning Panel (LPP) formerly known as the Independent Hearing and Assessment Panel (IHAP), due to probity.

The Local Planning Panel, on the 26 April 2018 approved the application subject to the following:

### Determination

#### Approval

*The Georges River Council LPP as the delegate of the Georges River Council determines Development Application No. 2017/0419 for the demolition of existing structures and the construction of a two storey dwelling with an attached single storey secondary dwelling at 37 Gungah Bay Road, Oatley, by granting consent to the application subject to the conditions recommended in the report submitted to the LPP meeting of 26 April 2018 as amended by the following new condition:*

*7A. Prior to the issue of a Construction Certificate the approved plans are to be amended to:*

- a) *Show the proposed separate pedestrian access to the secondary dwelling along the southern side boundary; and*
- b) *To include materials and finishes to the following first floor walls:*
  - (i) *Western wall to the master bedroom; and*
  - (ii) *Southern wall to the sitting room, stairs and bathroom; to break up the expanse of blank walls. If windows are proposed, the windows on the western elevation are to match the western windows of the secondary dwelling, and any window on the southern elevation to the bathroom is to be a high level window, with a minimum lower sill height of 1.5m.*

#### **Section 4.55 Assessment**

9. This application has been made pursuant to Section 4.55(1A) of the Environmental Planning and Assessment Act 1979 to modify Development Consent DA2018/0089 dated 6 July 2018. Section 4.55(1A) of the Environmental Planning and Assessment Act 1979 enables the consent authority to modify a development consent upon application by the applicant or any person entitled to act on the consent, provided that the consent authority:

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

Officer Comment: The modification proposes relocating the dwelling a further 0.62m to the south to enable development to be undertaken without impacting the right of carriageway.

The relocation of the approved dwelling 0.62m further to the south will enable construction to be undertaken within the confines of the allotment without any construction materials being on over or within the right of carriageway. The proposed development is of minimal environmental impact.

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

Officer Comment: The proposed development as modified retains the residential use and is substantially the same development for which consent was originally granted.

***3. Has consulted with the relevant Minister, public authority or approval body with respect to a condition imposed on the consent or general terms of approval.***

Officer Comment: Not Applicable

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

Officer Comment: The application was subject to neighbour notification in accordance with the provisions of Hurstville Development Control Plan 2012. No submissions were received.

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

Officer Comment: No submissions received.

### **State Environmental Planning Policies**

#### **GREATER METROPOLITAN REGIONAL ENVIRONMENTAL PLAN NO 2 – GEORGES RIVER CATCHMENT (DEEMED SEPP)**

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

#### **STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX: BASIX) 2004**

11. A BASIX Certificate is required to be lodged for any development application in NSW for a new home or for any alteration and addition of \$50,000 or more to an existing home.

A revised BASIX Certificate was submitted with the amendment given the relocation of the built form. The revised BASIX Certificate is referenced as 912132M\_2, prepared by Outsource Ideas dated 16 August 2018.

#### **STATE ENVIRONMENTAL PLANNING POLICY NO 55 - REMEDIATION OF LAND (SEPP 55)**

12. SEPP 55 aims to promote the remediation of contaminated land in order to reduce the risk of harm to human health or any other aspect of the environment. Clause 7 requires contamination and remediation to be considered in determining a development application. The consent authority must not consent to the carrying out of development on land unless it has considered whether or not the land is contaminated.

The site has a history of residential uses and as such, site contamination is not suspected. In this regard, no further assessment is warranted with regards to site contamination.

#### **HURSTVILLE LOCAL ENVIRONMENTAL PLAN**

13. The allotment is subject to the provisions of the Hurstville Local Environmental Plan 2012 (HLEP 2012).

### **Part 2 – Permitted or Prohibited Development**

#### **Clause 2.1 – Land Use Zones**

14. The site is zoned R2 - Low Density Residential under the provisions of Hurstville Local Environmental Plan 2012 (HLEP 2012). The approved development and the modified form remains a residential dwelling with attached secondary dwelling which are both permissible with development consent and satisfy the zone objectives.

### **Part 4 – Principal Development Standards**

<b>Applicable KLEP Clause</b>	<b>Development Standards</b>	<b>Development Proposal</b>	<b>Complies</b>
<b>4.3</b> Height of Buildings	9m	As approved (7.75m)	No changes proposed
<b>4.4</b> Floor Space Ratio	0.6:1	As approved (0.57:1)	No changes proposed
<b>5.4(9)</b> Secondary	Floor area not to exceed the	As approved	No changes



<b>Applicable KLEP Clause</b>	<b>Development Standards</b>	<b>Development Proposal</b>	<b>Complies</b>
dwelling floor space	greater of 60sqm or 10% of total floor area of principal dwelling whichever is greater	(52.0sqm)	proposed

## **DEVELOPMENT CONTROL PLAN**

15. The proposed development is subject to the provisions of the Hurstville Development Control Plan No.1 2012 (HDCP 2012). There are no modifications proposed that result in an amendment to the calculations undertaken with respect to the HDCP 2012 compliance table except for the following component:

### Setbacks

The development as approved has a northern side boundary setback of 3.5m and a southern side boundary setback of 1.8m.

The development cannot be constructed in the current location without construction scaffolding being installed on, over or within the right of carriageway. This will result in the right of carriageway being obstructed during the construction. As a result the application is seeking to ameliorate this issue by the relocation of the development a further 0.62m from the northern side boundary, resulting in a setback of 4.12m, which will result in a southern side boundary setback of 1.215m as opposed to the approved setback of 1.835m.

The proposed side setbacks exceed the 900mm setback nominated in Clause 4.4.3 of the HDCP. As a result the application is considered to be acceptable and worthy of support.

## **Impacts**

### ***Natural Environment***

16. The proposed modification is not considered to have an unsatisfactory impact in terms of the Natural Environment.

### ***Built Environment***

17. The proposed modification is considered acceptable in terms of impacts on the built environment.

### ***Social and Economic Impact***

18. The proposal is considered acceptable in terms of social and economic impacts.

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

19. The site presents a number of constraints including existing vegetation and the need for appropriate stormwater disposal. The applicant's DA submission has not adequately addressed these issues, and therefore it is considered that the site is not suitable for the development as currently proposed in this DA.

### **Submissions**

20. No objections were received in relation to the proposed application.

### **Public Interest**

21. The proposed development is of a scale and character that is not contrary to the public interest.

**CONCLUSION**

22. The application has been assessed having regard to Section 4.55 of the Environmental Planning and Assessment Act 1979, and the provisions of the Hurstville Local Environmental Plan 2012.

Following a detailed assessment of the modification sought to relocate the development 0.62m further from the northern boundary, it is considered that Section 4.55 Modification Application No MOD2018/0089 is worthy of support subject to updated conditions of consent.

**DETERMINATION AND STATEMENT OF REASONS**

23. 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; and
  - 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.
24. Pursuant to the provisions of Section 4.55 of the Environmental Planning and Assessment Act, as amended, development consent DA2017/0419 granted on 26 April 2018 for the demolition of existing structures and the construction of a two storey dwelling with an attached single storey secondary dwelling on Lot 451 DP 850836 and known as 37 Gungah Bay Road, Oatley, is amended in the following manner:

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

**Consent Operation** - This consent operates from the date the original consent was determined, ie 26 April 2018, except as qualified by Section 93 of the Act.

This development consent will lapse unless acted upon within five (5) years from the date of the original endorsement, except as qualified by Section 8.15 of the Environmental Planning and Assessment Act 1979.

**Right of Review** – If you are dissatisfied with this decision, you may apply for a Review of a Determination under Section 8.9 of the Environmental Planning and Assessment Act 1979. A request for review and the decision by Council of that request must be made within twenty-eight (28) days from the date of this Notice of Determination and be accompanied by the relevant fee in accordance with Environmental Planning and Assessment Regulations 2000 Clause 123I. You must ensure that an application for review of determination gives Council a reasonable period in which to review its decision having regard to the relevant issues and complexity of the application.

**Right of Appeal** – Appeal to the Land and Environment Court within six (6) months after the date on which you receive this Notice of Determination, under Section 8.9 of the Environmental Planning and Assessment Act 1979.

**Schedule A – Site Specific Conditions**

## GENERAL CONDITIONS

The conditions that follow this Section A of the Notice of Determination are general conditions which are imposed to ensure that the development is carried out in accordance with the development consent.

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

Description	Reference No.	Date	Revision	Prepared by
Site Plan	Dwg No. 03	05.07.18	F	Green Tree Designs
Elevations 1 & 2	Dwg No. 09	05.07.18	F	Green Tree Designs
Elevations 3 & 4	Dwg No. 10	05.07.18	F	Green Tree Designs
Ground Floor Plan	Dwg No. 07	05.07.18	F	Green Tree Designs
First Floor Plan	Dwg No. 08	05.07.18	F	Green Tree Designs
Schedule of External Finishes	201714	17.09.18	-	-

**(This condition is modified as part of MOD2018/0089 (DA2017/0419))**

2. **Fencing** - Fencing does not form part of this application. Consent for any fencing should be pursued separately from this application.
3. **Right of Carriageway** - This consent does not authorise any buildings, structures or other elements within the existing right of carriageway described in Deposited Plan 850836 (such as the proposed fill and batter slope) as shown on the site plan referred to in Condition 1.

## SEPARATE APPROVALS UNDER OTHER LEGISLATION

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

4. **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](http://www.georgesriver.nsw.gov.au). For further information, please contact Council’s Customer Service Centre on (02) 9330 6222.

5. **Vehicular Crossing - Minor Development** - Constructing a vehicular crossing and/or footpath requires a separate approval under Section 138 of the [Roads Act 1993](#) prior to the commencement of those works.

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

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

## REQUIREMENTS OF OTHER GOVERNMENT AGENCIES

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

6. **Sydney Water – Tap in <sup>TM</sup>** - The approved plans must be submitted to a Sydney Water Tap in <sup>TM</sup> 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](http://www.sydneywater.com.au) then see ‘Building’, or telephone 13000 TAP IN (1300 082 746). The Certifying Authority must ensure that a Tap in <sup>TM</sup> agent has appropriately stamped the plans prior to the issue of the Construction Certificate.

## PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

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

7. **Fees to be paid** - The fees listed in the table below must be paid in accordance with the conditions of this consent and Council's adopted Fees and Charges applicable at the time of payment (available at [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au)).

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

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

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

Fee Type	Fee
<b>GENERAL FEES</b>	
Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct to the Long Service Corporation. See <a href="https://portal.longservice.nsw.gov.au/bci/levy/">https://portal.longservice.nsw.gov.au/bci/levy/</a>	
Builders Damage Deposit	\$1,900.00
Inspection Fee for Refund of Damage Deposit	\$550.00

### 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.

- 7A. Prior to the issue of a Construction Certificate the approved plans are to be amended to:
- (a) Show the proposed separate pedestrian access to the secondary dwelling along the southern side boundary; and
  - (b) To include materials and finishes to the following first floor walls:
    - (i) Western wall to the master bedroom; and
    - (ii) Southern wall to the sitting room, stairs and bathroom;

to break up the expanse of blank walls. If windows are proposed, the windows on the western elevation are to match the western windows of the secondary dwelling, and any window on the southern elevation to the bathroom is to be a high level window, with a minimum lower sill height of 1.5m.

8. **Damage Deposit – Minor Works** - In order to insure against damage to Council property the following is required:
- (a) Pay Council, before the issue of the Construction Certificate, a damage deposit for the cost of making good any damage caused to any Council property as a result of the development: **\$1,900.00**
  - (b) Pay Council, before the issue of the Construction Certificate, a non-refundable inspection fee to enable assessment of any damage and repairs where required: **\$550.00**

- (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. **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. **BASIX Commitments** - All energy efficiency measures as detailed in the BASIX Certificate No. **912132M\_2** must be implemented on the plans lodged with the application for the Construction Certificate.

**(This condition is modified as part of MOD2018/0089 (DA2017/0419))**

11. **Low reflectivity roof** - Roofing materials must be low glare and reflectivity. Details of finished external materials including colours and texture must be provided to the Certifying Authority.
12. **Stormwater System** - The submitted stormwater plan has been assessed as a concept plan only. Final detailed plans of the drainage system, prepared by a professional engineer specialising in hydraulic engineering, shall be submitted for approval with the Construction Certificate.
  - (a) All stormwater shall drain by gravity to Council's kerb and gutter directly in front of the development site in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2015 (as amended).
  - (b) All overflows of roof waters from any rainwater tank shall drain by gravity to Council's kerb and gutter directly in front of the development site in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2015 (as amended).
  - (c) All other impervious surface water runoff such as driveways and footpaths shall drain by gravity to Council's kerb and gutter directly in front of the development site.
13. **Stormwater Drainage Plan Details** - Stormwater drainage plans including pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits prepared by a professional engineering specialising in hydraulic engineering shall be submitted with the Construction Certificate application.
 

These plans shall be prepared in accordance with the Australian Institute of Engineers Australian Rainfall and Runoff (1987) and Council's Stormwater Drainage Policy
14. **Driveway Construction Plan Details** - Detailed engineering plans for the driveway shall be submitted with the Construction Certificate application for approval that show:
  - (a) Longitudinal and cross sections, gradients, access onto the proposed lots, type of construction materials designed in accordance with Council's Subdivision standards and AS/NZS2890.1-2004.
  - (b) Suitable underground provision for the supply of all relevant services to the proposed lots (proposed position of pipes and conduits).

(c) The full length of the driveway designed with a minimum 150mm thick reinforced concrete and minimum of 2.7m wide pavement/kerb face to kerb face width, and a non-slip surface.

15. **Structural details** - Engineer's details prepared by a practising Structural Engineer being used to construct all reinforced concrete work, structural beams, columns & 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.

16. **Engineer's Certificate** - A certificate from a professional Engineer specialising in structural engineering certifying the structural adequacy of the existing structure, to support all proposed additional superimposed loads shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate.
17. **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.
18. **Waste Management Plan** - A Waste Management Plan incorporating all requirements in respect of the provision of waste storage facilities, removal of all materials from the site that are the result of site clearing, extraction, and, or demolition works and the designated Waste Management Facility shall be submitted to the Certifying Authority prior to the issue of any Construction Certificate.
19. **Waste Storage - Residential and Mixed Use Developments** - The plans shall include details of the waste storage area. The waste storage area shall not be visible from the street. The waste storage area shall be located within the lot/building in accordance with the approved plans.
20. **Landscape Plans** - All landscape works shall be carried out in accordance with the approved landscape plans. The landscaping shall be maintained in accordance with the approved plans in perpetuity.
21. **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.

#### **PRIOR TO THE COMMENCEMENT OF WORK (INCLUDING DEMOLITION & EXCAVATION)**

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

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



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

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

**Note:** Copies of the Act, Regulation and Code of Practice can be downloaded free of charge from the SafeWork NSW website: [www.SafeWork.nsw.gov.au](http://www.SafeWork.nsw.gov.au).

23. **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.
24. **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](#).
25. **Dial before your dig** - The applicant shall contact “Dial Before You Dig on 1100” to obtain a Service Diagram prior to the issuing of the Construction Certificate. The sequence number obtained from “Dial Before You Dig” shall be forwarded to Council’s Engineers for their records.
26. **Existing drainage easement, drainage reserve or stormwater drainage system benefiting Council** - Council drainage easement(s) drainage reserve(s) or stormwater system either pass through or are adjacent to the site. No building or other structure must be placed over the drainage easement or stormwater system or within the zone of influence taken from the invert of any pipe.

The applicant must determine the exact location, size and level details of the potentially affected stormwater drainage systems and without causing any damage to the public system ensure its protection. The owner, principal contractor or owner builder must not



obstruct or otherwise remove, disconnect or render inoperable the Stormwater Drainage System.

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

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

The applicant must meet all costs associated with such works.

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

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

- (a) Set out before commencing excavation.
- (b) Floor slabs or foundation wall, before formwork or commencing brickwork.
- (c) Completion of Foundation Walls - Before any construction of flooring, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans.
- (d) Completion of Floor Slab Formwork - Before pouring of concrete/walls construction, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans. In multi-storey buildings a further survey must be provided at each subsequent storey.
- (e) Completion of any Roof Framing - Before roof covered detailing eaves/gutter setback from boundaries.
- (f) Completion of all Work - Detailing the location of the structure (including eaves/gutters) relative to adjacent boundaries and its height relative to the datum shown on the approved plans. A final Check Survey must indicate the reduced level of the main ridge.

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

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

## **DURING CONSTRUCTION**

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

29. **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.

30. **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.

31. **Ground levels and retaining walls** - The ground levels of the site shall not be excavated, raised or filled, or retaining walls constructed on the allotment boundary, except where indicated on approved plans or approved by Council.
32. **Physical connection of Stormwater to site** - No work is permitted to proceed above the ground floor slab level of the building until there is physical connection of the approved stormwater drainage system from the land the subject of this consent to Council's stormwater pipeline in Gungah Bay Road.
33. **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.
34. **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.
35. **Waste Management Facility** - All materials removed from the site as a result of demolition, site clearing, site preparation and, or excavation shall be disposed of at a suitable Waste Management Facility. No vegetation, article, building material, waste or the like shall be ignited or burnt.

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

#### **PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE**

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

36. **BASIX Certificate** - All energy efficiency measures as detailed in the approved BASIX Certificate in the plans approved with the Development Consent must be implemented before issue of any Occupation Certificate.

37. **BASIX Compliance Certificate** - A Compliance Certificate must be provided to the PCA regarding the implementation of all energy efficiency measures as detailed in the approved BASIX Certificate before any Occupation Certificate is issued.
38. **Completion of Landscape Works** - All landscape works must be completed before the issue of the Final Occupation Certificate.
39. **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.
40. **Demolition** - The dwelling house must be demolished prior to the issue of the Occupation Certificate.

### ONGOING CONDITIONS

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

41. **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,

### ADVICE

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

42. **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.

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

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

The interest rate applied to bonds is set at Council's business banking facility rate as at 1 July each year. Council will accept a bank guarantee in lieu of a deposit.

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

44. **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.
45. **Site Safety Fencing** - Site fencing must be erected in accordance with SafeWork Guidelines, to exclude public access to the site throughout the demolition and/or construction work, except in the case of alterations to an occupied dwelling. The fencing must be erected before the commencement of any work and maintained throughout any demolition and construction work.

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

### **Schedule B - Prescribed Conditions**

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

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

46. **BASIX Commitments** - This Clause requires the fulfilment of all BASIX Commitments as detailed in the BASIX Certificate to which the development relates.
47. **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. **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. **Home Building Act 1989** - If the development involves residential building work under the [Home Building Act 1989](#), no work is permitted to commence unless certain details are provided in writing to Council. The name and licence/permit number of the Principal Contractor or Owner Builder and the name of the Insurer by which work is insured under Part 6 of the [Home Building Act 1989](#).

## Schedule C – Operational & Statutory Conditions

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

50. **Requirement for a Construction Certificate** - The erection of a building must not commence until a Construction Certificate has been issued.
51. **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.

52. **Notification of Critical Stage Inspections** - 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.

53. **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.

54. **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](#).
55. **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.

56. **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.

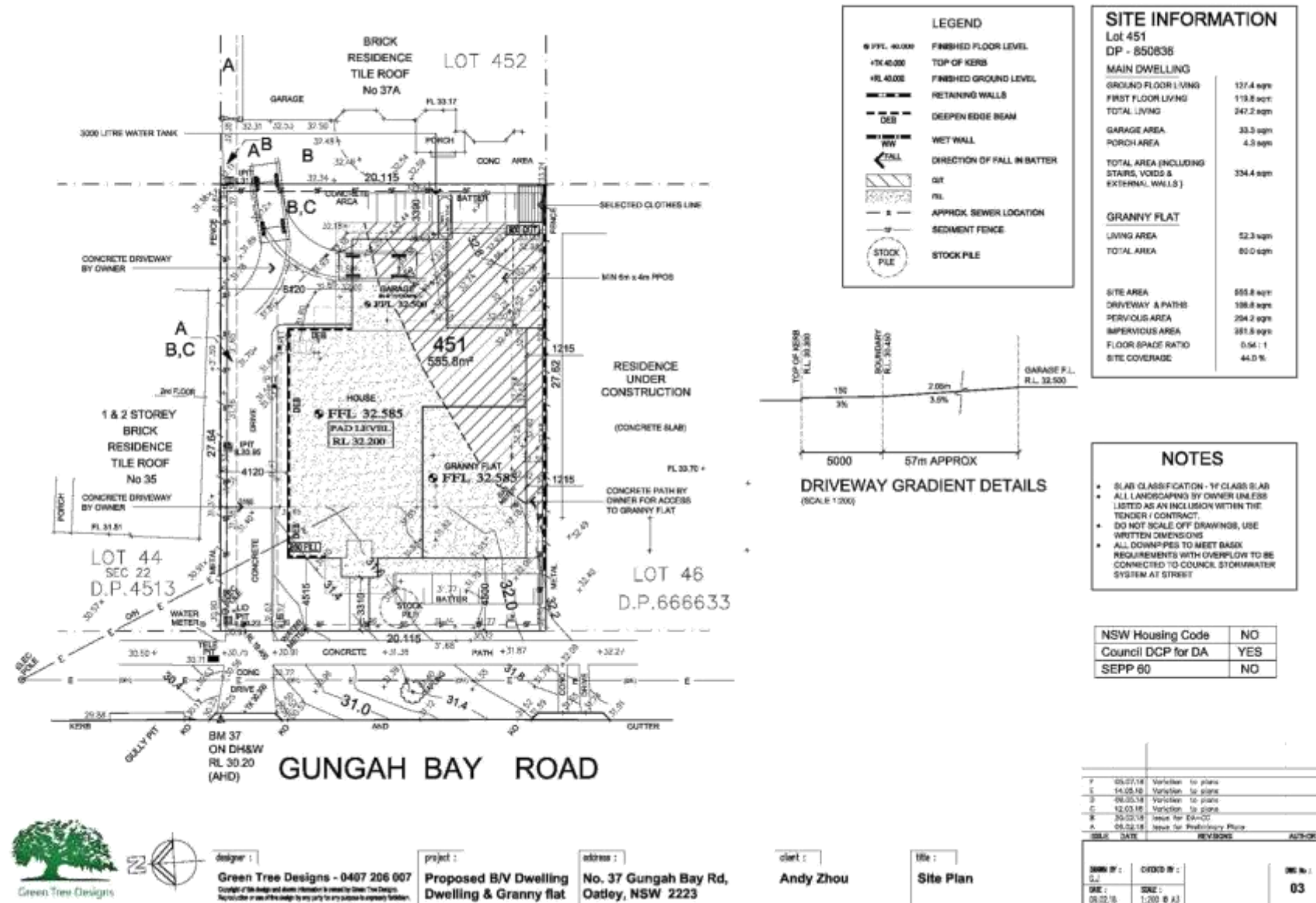
An **Occupation Certificate** Application Form is attached for your convenience.

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

## ATTACHMENTS

- Attachment [↓](#) 1 Site Plan - 37 Gungah Bay Road Oatley  
Attachment [↓](#) 2 Elevation 1 and 2 - 37 Gungah Bay Road Oatley  
Attachment [↓](#) 3 Elevation 3 and 4 - 37 Gungah Bay Road Oatley  
Attachment [↓](#) 4 Shadow Diagram - 37 Gungah Bay Road Oatley





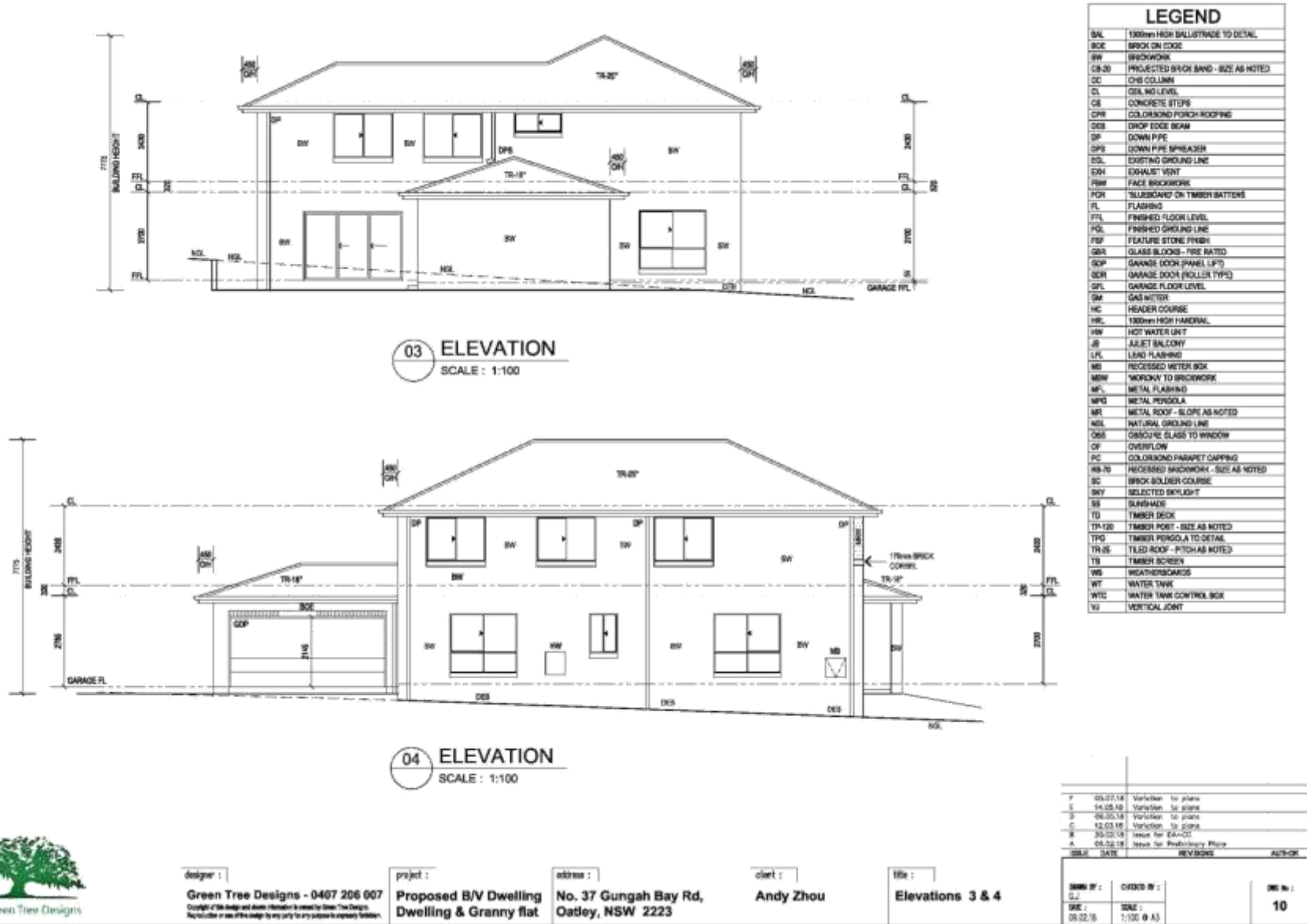


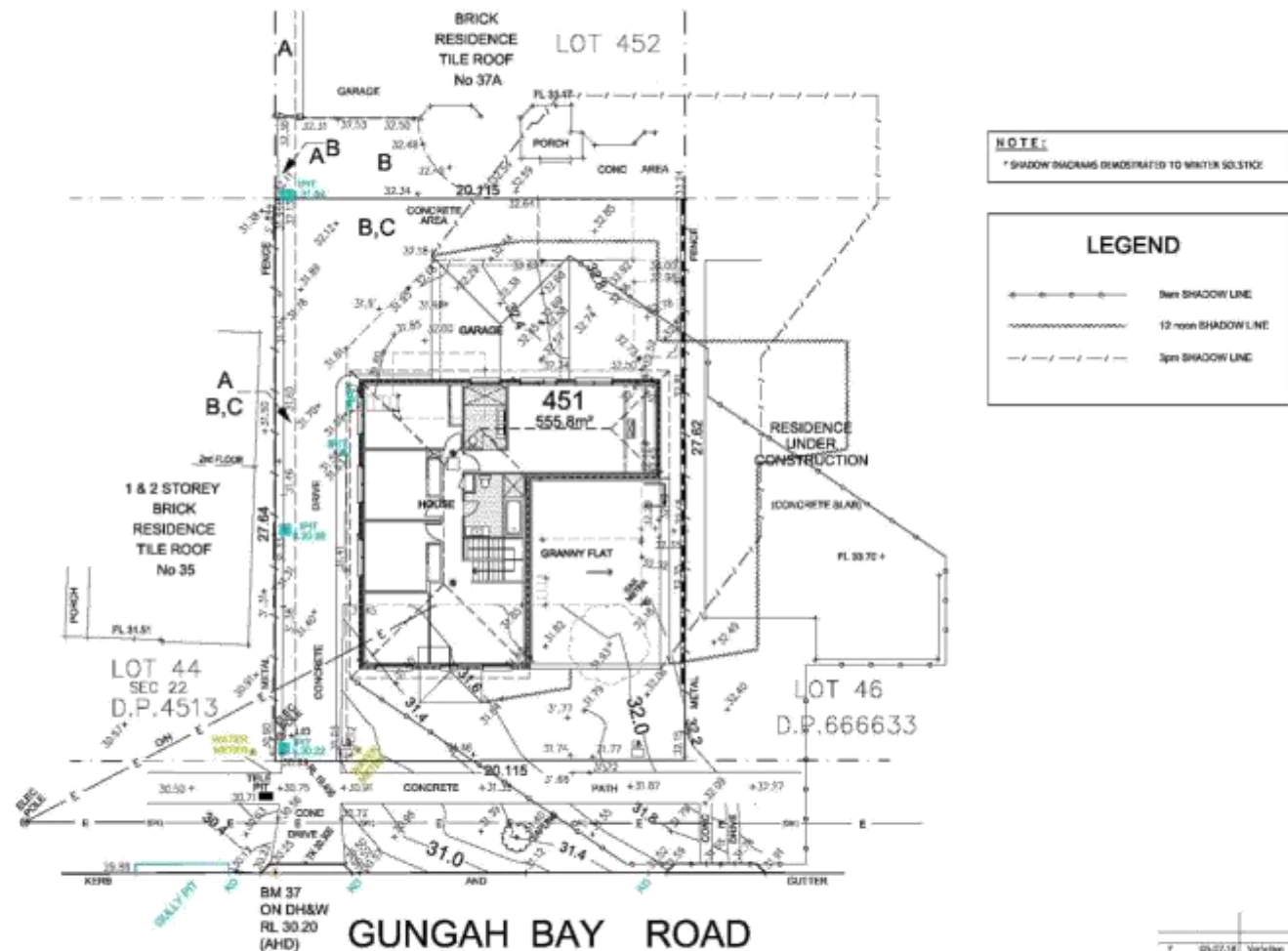
Elevations 1 &amp; 2

F	06-07-16	Variation	to plane
E	14-05-16	Variation	to plane
D	06-05-16	Variation	to plane
C	12-03-16	Variation	to plane
B	20-02-16	Issue for EA-CC	
A	08-12-15	Issue for Pathology Phase	

ISSUE	DATE	REVISED	AUTHOR
ISSUED BY :	02	09	
DATE :	08-02-16	SCALE :	1:1000 @ A3







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project :  
**Proposed B/V Dwelling  
Dwelling & Granny flat**

address :  
**No. 37 Gungah Bay Rd,  
Oatley, NSW 2223**

client :  
**Andy Zhou**

title :  
**Shadow Diagrams**

DATE	REVISIONS	AUTHOR
05.07.18	Version 1 to plans	
14.08.18	Version 2 to plans	
06.09.18	Version 3 to plans	
12.09.18	Version 4 to plans	
20.09.18	Issue for EDC/CC	
06.10.18	Issue for Preliminary Phase	
06.10.18	Issue for Preliminary Phase	
DATE	REVISIONS	AUTHOR
DATE OF:	DATE OF:	DATE OF:
06.10.18	1:200 @ A3	05

**REPORT TO GEORGES RIVER COUNCIL  
LPP MEETING OF MONDAY, 03 SEPTEMBER 2018**

<b>LPP Report No</b>	<b>LPP035-18</b>	<b>Development Application No</b>	<b>DA2017/0573</b>
<b>Site Address &amp; Ward Locality</b>	5A Algernon Street Oatley Blakehurst Ward		
<b>Proposed Development</b>	Demolition of existing structures and construction of an attached dual occupancy including a swimming pool and modified front fence		
<b>Owners</b>	J Kowald and D G Killaed		
<b>Applicant</b>	M Cubed Design		
<b>Planner/Architect</b>	M Cubed Design		
<b>Date Of Lodgement</b>	22/11/2017		
<b>Submissions</b>	Thirteen (13) submissions		
<b>Cost of Works</b>	\$950,455		
<b>Local Planning Panel Criteria</b>	>10 submissions		
<b>List of all relevant s.4.15 matters (formerly s79C(1)(a))</b>	Environmental Planning and Assessment Regulations 2000, Greater Metropolitan Regional Environmental Plan No 2 - Georges River Catchment, State Environmental Planning Policy No 55 - Remediation of Land, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, Kogarah Local Environmental Plan 2012, Kogarah Development Control Plan 2013		
<b>List all documents submitted with this report for the Panel's consideration</b>	Architectural plans Landscape plan Statement of Environmental Effects		
<b>Report prepared by</b>	Independent Assessment and Team Leader Development Assessment		

<b>Recommendation</b>	That the application be approved in accordance with the conditions included in the report.
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<b>Summary of matters for consideration under Section 4.15</b> Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	<b>Yes</b>
<b>Legislative clauses requiring consent authority satisfaction</b> Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report?	<b>Yes</b>
<b>Clause 4.6 Exceptions to development standards</b>	

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	<b>Not Applicable</b>
<b>Special Infrastructure Contributions</b> Does the DA require Special Infrastructure Contributions conditions (under s7.24)?	<b>Not Applicable</b>
<b>Conditions</b> Have draft conditions been provided to the applicant for comment?	<b>No, standard conditions have been attached and design changes</b>

### Site Plan



## Executive Summary

### Proposal

1. The development proposes demolition works and the erection of an attached dual occupancy including a swimming pool.

### Site and Locality

2. The subject site is located on the northern side of Algernon Street, located between Clifton and Phipps Streets. The site is a regular shaped allotment with frontage of 20.115m and side boundaries of 50.31m for a site area of 1012sqm.

### Zoning and Permissibility

3. The property is zoned R2 Low Density Residential under Kogarah LEP 2012. The proposal is permissible with Council's consent.

### Submissions



4. The proposal has been notified to neighbours in accordance with Kogarah DCP 2013, and thirteen (13) submissions have been received. These are discussed in the body of the report.

### Conclusion

5. The proposal is recommended for approval subject to conditions of consent.

### Report in Full

### DESCRIPTION OF THE PROPOSAL

6. Council is in receipt of a development application (DA2017/0573) for demolition of existing structures and construction of an attached dual occupancy including a swimming pool and modified front fence at property 5A Algernon Street, Oatley.

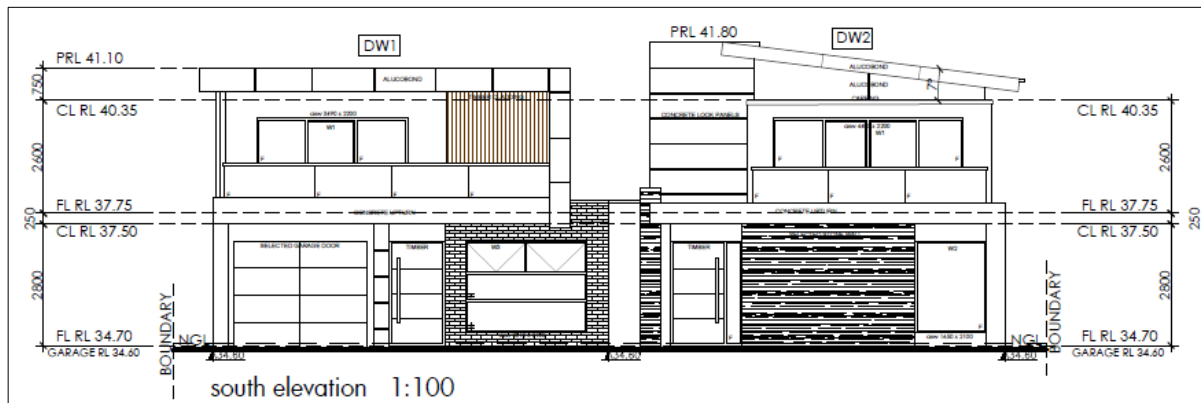
The proposed dual occupancy is configured such that both dwellings are located side by side and attached by way of a small length of common wall at ground floor level with both addressing Algernon Street.



**Figure 1: Site Plan of Proposal (Revised)**

The dwellings comprise two (2) floor levels. The ground floor levels of both dwellings include combined kitchen/dining/living areas, separate lounge and study rooms, together with covered rear terraces and garages. The larger of the dwellings (eastern side) includes a double garage. The smaller of the dwellings (the western side) includes a single garage and an east facing side courtyard. The first floor levels of both dwellings include four (4) bedrooms, bathroom facilities and front and rear balconies.

The proposed building is of contemporary architectural design featuring mainly rendered and painted external walls, minor elements of external timber, metal and stone cladding and shallow pitched steel roofing including some minor parapet elements at the front and rear of the dwellings.



**Figure 2: Front Elevation of Proposal (Revised)**

The garages and entries of both dwellings will be accessible via a common driveway and footpath crossing located adjacent to the south western corner of the site.

The new swimming pool is located in the rear yard of the smaller of the dwellings (western dwelling), immediately adjacent to the covered rear terrace. This swimming pool is sited substantially below ground level and setback from the site boundaries. The existing semi inground swimming pool located in the rear yard of the eastern dwelling is existing and is proposed to be retained.

The existing cement rendered masonry fence located adjacent to the front boundary is to be modified to facilitate the widened driveway access will be up to 1m in height at its western extremity.

Stormwater runoff from the roofs of the dwellings is to be directed to a series of above ground rainwater tanks and then to a detention tank located below the common driveway, which discharges to an outlet in the street kerb and gutter fronting the site. Stormwater runoff from the driveway surfaces is to be directed to the street.

The front setback and rear yards of the dwellings are to be landscaped by way of a mixture of tree, shrub and groundcover planting including two (2) Kentia Palm trees, a Tuckeroo tree and a Water Gum tree to be located adjacent to the street frontage.

## DESCRIPTION OF THE SITE AND LOCALITY

7. The site is located off the northern side of Algernon Street between Clifton and Phipps Streets. It is a rectangular shaped lot having front and rear boundaries of 20.115m, side boundaries of 50.31m and an overall area of 1012sqm. It is presently occupied by a one (1) and two (2) storey cement rendered brick and weatherboard house with tiled roof, and rear extension with a skillion metal roof. A semi inground swimming pool is located in the rear yard.



**Figure 3:** *Subject site as viewed from the street*

The site falls away gently from the front boundary to the rear boundary by approximately 2670mm (or 5.31% grading). There are several trees on the site inclusive of two (2) *Eucalyptus pilularis* trees, two (2) *Corymbia gummifera*, one (1) *Angophora Costata*, one (1) *Pittosporum undulatum*, one (1) *Acacia Elata*, and one (1) *Eucalyptus Robusta* tree located at the nature strip in front of the site. There are two (2) *Eucalyptus scoparia* located within the site at south western boundary (front left hand corner). In addition, there are seven (7) other species located in the northern end (rear yard) of the subject site, being one (1) *Glochidion ferdinandi*, two (2) *Washingtonia robusta*, one (1) *Angophora Costata*, one (1) *Brachychiton discolour*, one (1) *Macadamia tetraphylla*, and one (1) *Lagunaria Patersonia* tree.

Immediately to the east, west and north and across the road to the south are detached dwelling houses. The wider locality is characterised by low density housing comprising mainly of detached dwelling houses.

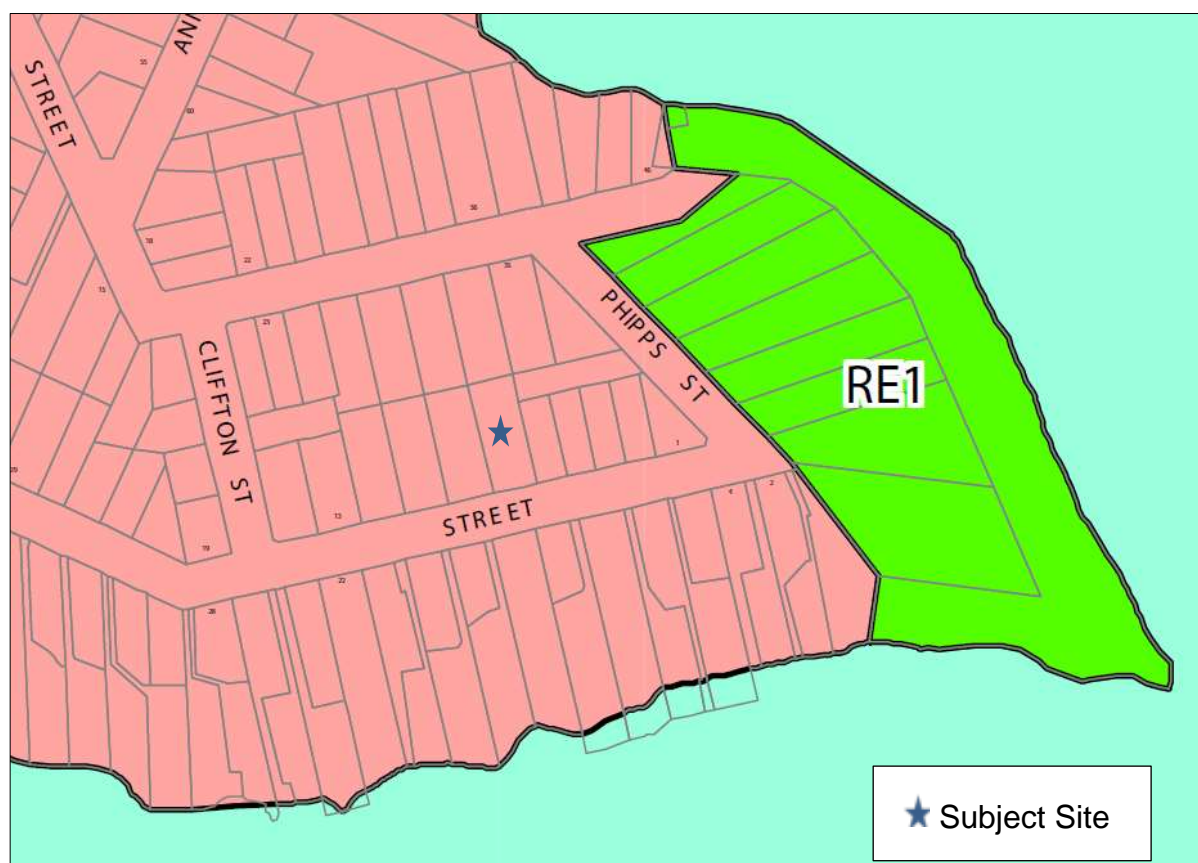




**Figure 4:** Aerial photo of site (outlined by orange colour) and surrounds

## ZONING

8. The site is zoned R2 Low Density Residential in accordance with the Kogarah Local Environmental Plan 2012 (refer to zoning map extract below).



**Figure 5:** Zoning map extract (Source: NSW Legislation website)



**APPLICABLE PLANNING CONTROLS**

9. The following environmental planning instruments and development control plans are relevant to the site and proposal:

- Greater Metropolitan Regional Environmental Plan No. 2 (Georges River Catchment)
- State Environmental Planning Policy No. 55 - Remediation of Land
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017
- Kogarah Local Environmental Plan 2012
- Kogarah Development Control Plan 2013

**PLANNING ASSESSMENT**

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

**Environmental Planning Instruments****Kogarah Local Environmental Plans**

11. The provisions of the Kogarah Local Environmental Plan 2012 are of relevance to the proposal. A comparison of the proposal against key provisions in the Local Environmental Plan is tabled as follows.

Clause	Provision	Proposed	Complies
2.3 Zone objectives and Land Use Table	The site is within the R2 Low Density Residential zone. Development for the purpose of a 'dual occupancy' may be carried out only with development consent.	The proposal is defined as a 'dual occupancy'.	Yes
	The relevant objective of the zone is to provide for the housing needs of the community within a low density residential environment.	The proposal is not inconsistent with the zone objectives.	Yes
2.7 Demolition requires development consent	Development consent is required for demolition of the buildings.	The current application includes the demolition of existing structures; the swimming pool on site is to be retained.	Yes
4.1B Minimum lot size for dual occupancies	650sqm (min)	1012sqm	Yes
4.1C Minimum subdivision lot size for dual occupancies	Development consent may be granted for the subdivision of the land, but only if there is a dual occupancy on the land	The plans include the subdivision of the land, but there is no existing lawfully erected dual occupancy on the land.	No – a condition of consent is imposed to the effect

	that was lawfully erected and the lot size for each resulting lot will be at least 300sqm.		that the subdivision of the land is excluded from the approval
4.3 Height of buildings	9m (max)	8.2m	Yes
4.4A Exceptions to floor space ratio for residential accommodation in Zone R2	0.439:1 FSR or 444.3sqm GFA (max)	0.318:1 FSR or 321.95sqm GFA	Yes

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

12. The requirements of Australian Standard 'AS 2601-1991: The Demolition of Structures' are of relevance to the application as the proposal includes demolition of existing structures, the swimming pool is to be retained. The requirements of this standard including the management of asbestos containing materials will be readily addressed by the imposition of suitable conditions of consent.

### **State Environmental Planning Policies**

13. Compliance with the relevant state environmental planning policies is detailed and discussed below.

#### Greater Metropolitan Regional Environmental Plan No 2 - Georges River Catchment

14. All stormwater from the proposal will be treated in accordance with Council's Water Management Policy and satisfy the relevant provisions of the above state policy.

#### State Environmental Planning Policy No 55 - Remediation of Land

15. Having regard to the residential zoning of the site and the types of uses permissible within the zone, it is considered unlikely that the land is contaminated. Based on council's records, the site has not been used for any potentially contaminating activities and hence it is unlikely that the land is contaminated.

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

16. A BASIX Certificate has been issued for the proposal and the commitments required by this certificate have been satisfied. The Basix certificate will need to be updated to incorporate the new changes proposed.

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

17. The objectives of this instrument have been met, namely:

*The aims of this Policy are:*

- (a) *to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and*
- (b) *to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.*

through the redesign of the proposal to retain various trees on the site whilst facilitating development.

### Draft Environmental Planning Instruments

18. 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

19. The provisions of the Kogarah Development Control Plan 2013 are of relevance to the proposal. A comparison of the proposal against the controls in the development control plan is tabled as follows.

Control	Requirement	Proposed	Complies
Building Height			
- Upper Ceiling	7.2m (max)	6.3m	Yes
- Roof (Parapet)	7.8m (max)	8.1m - Dwelling 1	No (see below)
- Roof (Ridgetop)	9m (max)	8.2m - Dwelling 2	Yes
Number of Levels	2 (max)	2	Yes
Second Level Depth	60% (max)	68.95% - Dwelling 1 59% - Dwelling 2	No (see below) Yes
Setbacks			
-Front	5.5m	5.51m	Yes
-Rear	7.6m (min)	9.77m	Yes
Side (East)	1.2m (min)	0.9m-1.2m+	Yes (see below)
Side (West)	1.2m (min)	0.9m-1.2m+	Yes (see below)
Glazing to Front Facade	35% (max)	<35%	Yes
Deep Soil Landscaping	15% (min)	26.26% (265.8sqm)	Yes
Balconies/Terraces per Dwelling			
- Total Area	40sqm (max)	25.3sqm/22.45sqm	Yes
- Setback	3m (min)	3.2m	Yes
- Depth	2.5m (max)	2.3m/2.3m	Yes
Car Parking	3 spaces (min)	3 garage spaces (Dwelling 1 has only 1 car space)	No

Note: The setback and depth controls for balconies/terraces (referred to in the above table) only apply to side and rear balconies and not front balconies.

The following comments are made with respect to the proposal satisfying the objectives and controls contained within the Development Control Plan.

The proposal will benefit from the eastern dwelling being relocated towards Algernon Street to have a front setback of 4.0m to the garage southern wall:

- Significant reduction of overshadowing to the immediate western neighbour;
- Increased articulation to the façade, thus contributing to the reduction of the bulk and scale of the development;
- Unobstructed on-site parking space to the western dwelling in front of the respective balcony; and
- Increased setback to the tree species to be retained at the rear eastern end of the site, as recommended by council's Tree Management Officer.

It is noted that the nature strip in front of the subject site occupies an angle (and street narrowing) on the south east, thus eliminating the potential on-street parking in front of the site. The effort to maintain on-site parking will be achievable with the increased articulation between the dwellings.

The alternative has been discussed with Council's Tree Management Officer, and the following has been recommended:

*Subject species, Eucalyptus Pilularis, referenced on the arboricultural assessment as 'T3', may be impacted from this dwelling, but by moving the dwelling 1.5m closer to the front, therefore is 7.5m to T3 and this encroachment is as a percentage – 5.94 % incursion into the TPZ of T3, to which is a MINOR incursion in accordance with AS4970-2009, Protection of trees on development sites.*

- *To add, the front fence shall not be constructed from strip concrete footings. This front fence can only be of "post and rail" type construction; whereas hand dug piers/ holes shall be dug in the location for posts and away from roots from trees to be protected.*
- *Tree protection measures (fencing, mulch and signage) shall be installed before ANY works to this site and shall be encompassing the entire front council verge and to approximately 1m from the side of the NE garage and nominated TPZ upon Conditions set out.*
- *Any excavations along the side of the NE garage/footings shall be supervised by the engaged AQF Level 5 project Arborist for this site.*

Further to this, the alternative method of construction for the front fence shall be that the existing fence may be removed by hand tools only, no machinery, and at the supervision of the consultant arborist to determine the health of the surrounding roots. If the footing structure of the existing fence is inadequate, the front fence must be constructed with 'post and rail' type construction.

As a result it is recommended that the applicant reduce the front setback to 4.5m for the eastern dwelling, and retain the front setback of the western dwelling. The above protection measures, together with the protection and retention of the Glochidion Ferdinandi (noted as 'T11' on the arboricultural assessment).

### Building Scale and Height

20. The overall building height is within the permissible height controls and therefore is deemed compliant.

### Floor Space

21. The external walls are sufficiently articulated to reduce the visual bulk and scale and the overall floor space ratio of the development is compliant.

### Rhythm of Built Elements in the Streetscape

22. The proposal is located in a street that is typified by a variety of built forms including more recent construction utilising contemporary design approaches. There is little consistency in terms of the rhythm of built elements. Strict application of the primary and secondary building façade controls is unnecessary in the circumstances. Notwithstanding, the front facade of the dual occupancy is sufficiently articulated to reduce its visual bulk when viewed from the public domain.

### Building Setbacks

23. The proposal generally complies with the side setback requirements, and the front and rear setback requirements (a condition has been imposed to relocate the eastern dwelling toward Algernon Street to have a front setback of 4.0m to the garage to facilitate the retention of the tree in the rear yard which will assist in the functionality and serviceability of the car parking for the western dwelling). The protrusion of the two dwellings in the rear yard does not comply, however it is deemed acceptable given the environmental factors.

### Fenestration and External Materials

24. The proposed materials and colours are not inconsistent with the streetscape.

### Open Space

25. The proposal readily complies with the deep soil landscaped area control. The rear private open spaces are adjacent to and accessible from the main living areas of the dwellings. The private open spaces are of a high quality given their generous dimensions and leafy open outlooks.

### Vehicular access, Parking and Circulation

26. The proposal provides three (3) covered parking spaces, and shared manoeuvrability. This is generally consistent with the relevant controls, being a minimum of three (3) car spaces for the overall development, with the amended street setback (conditioned) the functionality for the western dwelling will be workable and compliant.

### Privacy

27. The rear balconies have a side setback in excess of 3m to the immediate neighbours. The rear yard and private open space for each dwelling does not obstruct any neighbouring properties, however the alfresco area has the potential to result in some impact onto the allotment adjoining, as a result a privacy screen is to be erected on the eastern elevation having a minimum height above the finished floor level of 1.7m.

### Solar Access

28. The building is orientated and achieves good levels of solar access to its main living areas and rear private open space. The proposal results in no excessive overshadowing to the western and eastern neighbours, providing sunlight in the morning for the eastern

neighbour and sunlight in the afternoon for the western dwelling. The impact of overshadowing to the immediate neighbours is considered acceptable.

### Views and View Sharing

29. The dual occupancy will not result in any unreasonable adverse impacts in terms of view loss having regard to its siting and design and the prevailing topography of the immediate locality. The proposal is generally consistent with the planning controls relating to floor space ratio and building height and appropriately setback from the street frontage. Reasonable view sharing is achieved in the circumstances.

### Additional Design Requirements for Attached Dual Occupancies

30. The relevant controls are outlined and addressed as follows.

- *Minimum site requirements for dual occupancies*

Dwelling Type	Minimum Frontage	Minimum Site Area	Note
Dual occupancies (attached)	18m	850sqm	The minimum site area requirements for dual occupancies are contained in Clause 4.1A of Kogarah LEP 2012.

Comment: The site of the proposal has a frontage of 20.115m and an area of 1012sqm and complies.

- *Each dwelling within an attached dual occupancy development should either be side by side or one dwelling above the other. It is not acceptable to have one dwelling behind the other.*

Comment: The dual occupancy is designed to be side by side and complies.

- *One dual occupancy dwelling must not intrude into the rear yard further than 5m beyond the other.*

Comment: The western dwelling intends to protrude in excess of 5m into the rear yard of the eastern dwelling. This proposal, whilst non-compliant, is deemed satisfactory given the site constraints and environmental factors.

- *Attached dual occupancies should take account of the building form and roof lines of adjoining dwellings, where a pattern is established by a group of adjoining houses.*

Comment: There is little consistency in terms of the built form of existing dwellings in the immediate locality of the site. The proposal's individual architectural expression is acceptable.

- *No more than one third of the width of the frontage of a property should be used for driveways and access ways.*

Comment: The extent of the site frontage used for driveways and access ways is less than one third satisfying this control.

- *Access to garaging and additional parking spaces for dual occupancy dwellings should not result in large expanses of paved surfaces to the front of the building.*

Comment: The layout has been modified to respond to the environmental factors of the site, including the singular footpath crossing on the south western end of the site.

- *Garages for each dwelling within an attached dual occupancy development must be single fronted only. However, garages that provide for tandem parking may be acceptable.*

Comment: The garage for the eastern dwelling is double-fronted and contrary to this control. Notwithstanding, as this garage is not facing the street directly, it does not unduly dominate the front façade of the building when viewed from the street. The double garage will be screened from view to some extent by the existing trees within the road reserve immediately adjoining the site. The garaging arrangements are acceptable in the circumstances.

- *Where existing dwellings in a streetscape are on one side of a block and have a side driveway, this pattern should also be observed by the design of the attached dual occupancy.*

Comment: The garage for the eastern dwelling contributes in the compliance of this proposal, given that it faces the western boundary.

- *Attached dual occupancies should not have central garages or driveways.*

Comment: The garages and associated driveway are not centralised in keeping with this control.

### Swimming Pools

The proposed swimming pool associated with western dwelling satisfies the relevant objectives. The existing swimming pool on site is being retained and will be associated with the eastern dwelling.

Comment: The proposal is considered to be acceptable.

### Front Fences

31. The front fence shall not be constructed from strip concrete footings. This front fence can only be of “post and rail” type construction; whereas hand dug piers/holes can be dug in the location for posts and away from the roots of the trees to ensure the tree protection.

An alternative method of construction for the front fence shall be that the existing fence may be removed by hand tools only, no machinery, and at the supervision of the consultant arborist to determine the health of the surrounding roots. If the footing structure of the existing fence is inadequate, the front fence must be constructed with ‘post and rail’ type construction.

## **IMPACTS**

### ***Natural Environment***

32. The proposed development would not result in any adverse impacts upon the natural environment for reasons discussed throughout the repo and the retention of trees.



Importantly, the grove trees within the road reserve immediately adjoining the site are being retained.

### ***Built Environment***

33. The proposed development would not result in any adverse impacts upon the built environment for reasons discussed throughout the report.

### ***Social Impact***

34. The proposed development would not result in any adverse social impacts within the locality.

### ***Economic Impact***

35. The proposed development would not result in any adverse economic impacts within the locality.

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

36. The proposal is of a scale and design that is suitable for the site having regard to its size and shape, topography, vegetation and relationship to adjoining developments.

## **SUBMISSIONS AND THE PUBLIC INTEREST**

37. The application was publicly notified on two (2) separate occasions in accordance with the provisions of the development control plan. In response to the initial public notification of the application, seven (7) submissions were received. In response to the most recent public notification of the application, five (5) submissions were received. The submissions received are summarised and addressed as follows.

### **Stormwater**

Stormwater runoff from subject site to the rear.

Comment: This development proposes to drain the roofs of each of the dwellings to drain to a rainwater tank with both dwellings connecting to an onsite detention system within the driveway which discharges the overflow into the street gutter network in Algernon Street Oatley, which meets with the requirements of the Kogarah Development Control Plan.

### **Retaining wall**

Is there a retaining wall to the rear of the property to prevent water flow?

Comment: The application is not proposing to install a retaining wall along the rear boundary. The stormwater is being discharged via rainwater tanks and an onsite detention system within the driveway which discharges the overflow into the street gutter network in Algernon Street Oatley, which meets with the requirements of the Kogarah Development Control Plan.

### **Bulk and scale**

Bulk and scale and impact on the streetscape/not consistent with the traditional streetscape.

Comment: This application seeks to demolish the exiting traditional single dwelling and construct an attached two (2) storey dual occupancy. The contemporary nature of the dwelling seeks a skillion roof design behind a parapet roof form. The materials and finishes are predominately rendered with decorative face brickwork with concrete/cladding columns. The finishes whilst contemporary are not considered to result in an adverse impact on the streetscape as it is a modern design with supporting modern finishes. The application is considered to be acceptable.

### Traffic and car parking impacts

Comment: The application is seeking to construct two (2) dwelling on the site. The eastern dwelling is seeking to accommodate a double garage, and the western dwelling contains a single dwelling with a car space within the driveway. The on grade car space was considered to be compromised due to the turning circle into the double garage. As a result the application is recommending the eastern dwelling be relocated closer to Algernon Street which assists with the car parking space and will retain Tree 3 in the rear of the site. The application is considered acceptable.

### Loss of trees

Comment: The development will result in tree removal; the application has been redesigned to relocate the eastern dwelling toward Algernon Street to have a 4.0m setback to preserve the significant trees on the site. The application has been reviewed by Council's Tree and Landscape Officer who supports the application in its amended form.

### Loss of privacy

Comment: The application seeks to construct two (2) dwelling on the site with a separating wall through the centre. The upper level of both dwellings contains bedrooms and supporting service rooms, there are no entertaining spaces at the level. As a result there is no adverse impact onto the adjoining allotments.

There are alfresco areas to the ground floor of each dwelling and upper level balconies which have incorporated screens to reduce the impact onto the adjoining allotments. This is considered to address the visual impacts from the proposed development onto neighbouring allotments.

### Fencing

Fencing materials and height.

Comment: There is 1.8m fencing proposed to the perimeter of the site and dividing the subject dwellings. The application will be conditioned that this be lapped and capped. This is fencing is considered to be acceptable.

The front fencing is a maximum if 1m in height which is proposed to be rendered masonry. If the existing footing is insufficient to accommodate the proposed fence, new strip footings are not supported as they will result in the undermining of the tree roots, as a result the fencing to be erected will be a post and rail fence. This has been conditioned.

### Impact on private outdoor areas

Comment: The applicant has included screening to entertaining areas and upper balconies which limits the visual impact onto the adjoining allotments. The application is considered to be acceptable in this regard as no adverse privacy or overlooking impacts are envisaged.

### Impact on property values

Comment: Property values are not a matter for consideration under the provisions of the Environmental Planning and Assessment Act 1979.

### Overshadowing

Comment: The allotment is oriented north south. The proposed built form will result in some overshadowing onto the western neighbour in the morning and the eastern neighbour in the afternoon. The shadowing impact of the development is considered not to be adverse on the allotments adjoining.

The eastern dwelling will be relocated closer to Algernon Street to assist with the retention of Tree 3 and the manoeuvring of vehicles within the front setback associated with the western dwelling which will improve the solar access to the eastern property. The application is considered to be acceptable in the regard.

## REFERRALS

### Council Referrals

#### Stormwater Engineer

38. Council's Stormwater Engineer has undertaken a review of the proposal and advised that the proposal complies with Council's stormwater controls in Kogarah DCP 2013. Appropriate conditions of consent have been provided which are included in the recommended conditions below.

#### Tree Management Officer

39. Council's Tree and Landscape Officer has reviewed the plans and documentation and undertaken a site inspection, recommendations as to tree protection zones have been recommended which have resulted in the need to relocate the dwelling. This has been included in the recommended conditions below.

## CONCLUSION

40. The application is for demolition of existing structures and construction of an attached dual occupancy including a swimming pool and modified front fence. The application has been assessed having regard to the State Instruments, Council's Local Environmental Plan, Development Control Plan, the environmental nature of the site and the concerns raised by the neighbours. The application is considered to have merit with respect the development proposed and the design changes conditioned will result in the retention of vegetation in the rear and an improved outlook to the eastern neighbours. The application is recommended for support subject to the conditions referenced below.

## DETERMINATION AND STATEMENT OF REASONS

### 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; and
- 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)(a) of the Environmental Planning and Assessment Act, 1979, as amended, the Council grants development consent to Development Application DA2017/0573 for the demolition of existing structures and construction of an attached dual

occupancy including a swimming pool and modified front fence at Lot 28 DP4868 and known as 5A Algernon Street, Oatley, subject to the following conditions of consent.

## Section A Development Details

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

Description	Drawing No.	Dated	Revision	Prepared by
Site/Roof Plan	2/17	19/04/2018	-	M Cubed Design
Ground Floor Plan	3/17	19/04/2018	-	M Cubed Design
First Floor Plan	4/17	19/04/2018	-	M Cubed Design
Elevations	7/17 8/17	19/04/2018	-	M Cubed Design
Sections & Streetscape	9/17 15/17	19/04/2018	-	M Cubed Design
External Finishes	-	01/11/2017	1/11/17	M Cubed Design
Demolition Plan	11/17	01/11/2017	1/11/17	M Cubed Design
BASIX Certificate	875422S	02/11/2017	02/11/17	M Cubed Design
BASIX Certificate	875434S	02/11/2017	02/11/17	M Cubed Design

## Section B Separate Approvals Required Under Other Legislation

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

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

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

- (a) Placing or storing materials or equipment;
- (b) Placing or storing waste containers or skip bins;
- (c) Erecting a structure or carrying out work
- (d) Swinging or hoisting goods over any part of a public road by means of a lift, crane or the like;
- (e) Pumping concrete from a public road;
- (f) Pumping water from the site into the public road;

- (g) Constructing a vehicular crossing or footpath;
- (h) Establishing a “works zone”;
- (i) Digging up or disturbing the surface of a public road (eg Opening the road for the purpose of connections to utility providers);
- (j) Stormwater and ancillary works in the road reserve;
- (k) Stormwater and ancillary to public infrastructure on private land; and
- (l) If any excavation is to be supported by the use of below ground (cable) anchors that are constructed under Council’s roadways/footways.

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

The relevant Application Forms for these activities can be downloaded from Council’s website [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au). For further information, please contact Council’s Customer Service Centre on (02) 9330 6400.

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

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

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

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

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

5. **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](http://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.

6. **Notice of Requirements for a Section 73 Certificate** - A Notice of Requirements of what will eventually be required when issuing a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the 'Plumbing, building and developing' section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) then refer to 'Providers' under 'Developing' or telephone 13 20 92 for assistance.

Following application, a 'Notice of Requirements' will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, as it can take some time to build water/sewer pipes and this may impact on other services and building, driveway or landscape design.

The Notice of requirements must be submitted prior to the commencement of work. A Section 73 Compliance Certificate will be required at the completion of development in accordance with further conditions.

7. **Section 73 Compliance Certificate** - A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be submitted to the PCA prior to the issue of the Occupation Certificate.

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

8. **Fees to be paid** - The fees listed in the table below must be paid in accordance with the conditions of this consent and Council's adopted Fees and Charges applicable at the time of payment (available at [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au)).

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

Please contact Council prior to the payment of Section 7.11 Contributions to determine whether the amounts have been indexed from that indicated below in this consent and the form of payment that will be accepted by Council.

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

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

<b>Fee Type</b>	<b>Fee</b>
<b>GENERAL FEES</b>	
Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct to the Long Service Corporation. See <a href="https://portal.longservice.nsw.gov.au/bci/levy/">https://portal.longservice.nsw.gov.au/bci/levy/</a>	
Builders Damage Deposit	\$1,900.00
Inspection Fee for Refund of Damage Deposit	\$155.00
<b>DEVELOPMENT CONTRIBUTIONS</b>	
Kogarah Section 94 Development Contributions Plan No.1 - Roads and Traffic Management - Residential	\$1,468.02

Kogarah Section 94 Development Contributions Plan No.5 - Open Space 2007	\$29,154.62
Kogarah Section 94 Development Contributions Plan No.9 - Kogarah Libraries - Buildings	\$756.54
Kogarah Section 94 Development Contributions Plan No.9 - Kogarah Libraries - Books	\$539.40

### General Fees

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

### Development Contributions

The Section 7.11 contribution is imposed to ensure that the development makes adequate provision for the demand it generates for public amenities and public services within the area.

#### Indexation

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

#### Timing of Payment

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

#### Further Information

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

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

(a) Pay Council, before the issue of the Construction Certificate, a damage deposit for the cost of making good any damage caused to any Council property as a result of the development: **\$1,900.00**

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

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

11. **BASIX Commitments** - All energy efficiency measures as detailed in the BASIX Certificate must be implemented on the plans lodged with the application for the Construction Certificate.

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

- a) Building Setbacks - Except where otherwise dimensioned on the approved plans, the dual occupancy building is to be setback from the boundaries as follows:
  - i) The eastern dwelling is to be relocated towards Algernon Street to have street setback of 4.0m from the front allotment boundary;
  - ii) The south western corner of the building at Dwelling 1 is to be a minimum distance of 13.69m from the front boundary;
  - iii) The south eastern side wall adjacent to the garage of Dwelling 2 is to be a minimum distance of 0.9m from the adjacent side boundary; and
  - iv) The south western side wall adjacent to the garage of Dwelling 1 is to be a minimum distance of 0.9m from the adjacent side boundary.
- b) Eastern Window to Dwelling 2 adjacent to first floor hallway (W18 on plan) is to be provided with obscured, frosted or sandblasted glazing.
- c) The 1.8m high fencing nominated on the plans is to be lapped and capped timber.

The above details are to be indicated on the plans accompanying any construction certificate for the development.

- d) Referring to Stormwater Concept Plan dated 23 April 2018. Issue A and prepared by KD Stormwater Pty Ltd, design changes are required and shown on the Construction Certificate plans.
  - i) Considering a driveway area grated box drainage shall designed and connected to the proposed silt arrestor pit.
  - ii) Rainwater tank details including water supply distribution configurations.

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

- (a) Compliance with the approved Erosion & Sediment Control Plan
- (b) Removal or disturbance of vegetation and top soil is confined to within 3m of the approved building area (no trees to be removed without approval)
- (c) All clean water runoff is diverted around cleared or exposed areas
- (d) Silt fences, stabilised entry/exit points or other devices are installed to prevent sediment from entering drainage systems or waterways

- (e) All erosion and sediment controls are fully maintained for the duration of demolition, excavation and/or development works
- (f) Controls are put into place to prevent tracking of sediment by vehicles onto adjoining roadway
- (g) All disturbed areas are rendered erosion-resistant by turfing, mulching, paving or similar
- (h) Compliance with Managing Urban Stormwater - Soils and Construction (Blue Book) produced by Landcom 2004.

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

14. **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 roof waters and all overflows from any rainwater tank shall drain to Council's kerb and gutter directly in front of the development site by a suitably designed charged and gravity system.

The design of this proposed drainage system must be prepared by a professional engineer who specialises in hydraulic engineering and be submitted for approval with the Construction Certificate application.

- b) Stormwater drainage plans including pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits prepared by a professional engineer who specialises in Hydraulic Engineering in accordance with the Australian Institute of Engineers Australian Rainfall and Runoff (2005 or 2016) and Council's Stormwater Drainage Guidelines, shall accompany the application for the Construction Certificate.

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

An on-site detention (OSD) facility designed by a professional engineer who specialises in Hydraulic Engineering must be designed, approved and installed.

Full details shall accompany the application for the Construction Certificate.

16. **Stormwater Drainage Plan Details** – Stormwater drainage plans including pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits prepared by a professional engineering specialising in hydraulic engineering shall be submitted with the Construction Certificate application.

These plans shall be prepared in accordance with the Australian Institute of Engineers Australian Rainfall and Runoff (2005 or 2016) and Council's Water Management Policy

(Kogarah Council), August 2006.

17. **Driveway Construction Plan Details** – Detailed engineering plans for the driveway shall be submitted with the Construction Certificate application for approval that show:
- (a) Longitudinal and cross sections, gradients, access onto the proposed lots, type of construction materials designed in accordance with Council's Subdivision standards and AS/NZS2890.1-2004.
  - (b) Suitable underground provision for the supply of all relevant services to the proposed lots (proposed position of pipes and conduits).
  - (c) The full length of the driveway designed with a minimum 150mm thick reinforced concrete and minimum of 2.7m wide pavement/kerb face to kerb face width, and a non-slip surface.

18. **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 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.

19. **Traffic Management – Compliance with AS2890** – All driveways, access ramps, vehicular crossings and car parking spaces shall be designed and constructed in accordance with the current version of Australian Standards, AS 2890.1 (for car parking facilities) and AS 2890.2 (for commercial vehicle facilities).
20. **Waste Management Plan** - A Waste Management Plan incorporating all requirements in respect of the provision of waste storage facilities, removal of all materials from the site that are the result of site clearing, extraction, and, or demolition works and the designated Waste Management Facility shall be submitted to the Certifying Authority prior to the issue of any Construction Certificate.
21. **Landscape Plan** - All landscape works shall be carried out in accordance with the approved landscape plans and specifications, drawn by Outliers Design Studio, reference numbers - LA - 001. The landscaping shall be maintained in accordance with the approved plans in perpetuity.
22. **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.
  - b) Landscaping soil used within the front garden beds and lawn areas shall be in accordance with Australian Native Landscapes – “Low 'P' Mix™”
  - c) No fertilisers shall be used within the front garden beds and front lawn areas.
23. **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 Outliers Design Studio, reference numbers – LA – 001 and 1.1a, b and c above.
24. **Compliance with submitted Arborist Report** - The recommendations outlined in the

Arborist's Report titled Arboricultural Impact Assessment prepared by Jacksons Nature Works, dated 1st November, **has been overturned** and the trees below shall be retained. 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*.

Any excavations along the side of the NE garage / footings shall be supervised by the engaged AQF Level 5 project Arborist for this site

25. The trees to be retained and protected are listed in the table below.

<b>Tree Species</b>	<b>Location of Tree / Tree No.</b>	<b>Tree Protection Zone (metres)</b>
<i>T1 – Angophora costata</i>	<i>Front council verge</i>	5.7m
<i>T2 – Eucalyptus pilularis</i>	<i>Front Council verge</i>	6.4m
<i>T3 – Eucalyptus pilularis</i>	<i>Front Council verge</i>	9.6m
<i>T5 – Corymbia gummifera</i>	<i>Front Council verge</i>	4.0m
<i>T6 – Corymbia gummifera</i>	<i>Front Council verge</i>	5.3m
<i>T7 – Acacia elata</i>	<i>Front Council verge</i>	4.2m
<i>T8 – Eucalyptus robusta</i>	<i>Front Council verge</i>	4.8m
<i>T11 – Glochidion ferdinandi</i>	<i>Back yard of site</i>	6.0m
<i>T15 – Brachychiton discolor</i>	<i>Boundary fence line backyard</i>	10.8m
<i>T16 – Macadamia tetraphylla</i>	<i>Backyard fence line</i>	5.8m
<i>T17 – Lagunaria patersonia</i>	<i>Backyard fence line</i>	2.8m

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

26. **General Tree Protection Measures.**

- All trees to be retained shall be protected before and maintained during demolition, excavation and construction of the site.
- The entire Council verge shall have tree protection fencing installed around its entirety
- The tree protection measures must be undertaken in accordance AS4970 -2009 Protection of trees on development sites.
- 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).
- 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.
- 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.
- The Tree Protection Zone of each tree, to be protected, shall be watered thoroughly, regularly to minimise the effects of construction works.
- 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.

## 27. Excavation works near tree to be retained.

- a) 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.
- b) 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.
- c) 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.
- d) The front fence shall not be constructed from strip concrete footings. This front fence can only be of "post and rail" type construction, whereas hand dug piers/ holes shall be dug in the location for posts and away from roots from trees to be protected.
- e) Tree protection measures (fencing, mulch and signage) shall be installed before ANY works to this site and shall be encompassing the entire front council verge and to approximately 1 metre from the side of the NE garage and nominated TPZ upon Conditions set out by council.

## 28. Pier and Beams

- a) To preserve the T11, *Glochidion ferdinandi* the footings of the proposed alfresco and steps, shall be isolated pier and beam construction within a 5 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.

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).

## 29. Tree Removal & Replacement

### (a) Tree removal

Permission is granted for the removal of the following trees

Tree Species	Number of trees	Location
T4- <i>Pittosporum undulatum</i>	1	Front Council verge
T9 & T10 – <i>Eucalyptus scoparia</i>	2	Front boundary line
T12 – <i>Washingtonia robusta</i>	1	Backyard of site
T13 – <i>Angophora costata</i>	1	Backyard of site

<i>T14 – Washingtonia robusta</i>	1	Backyard of site
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**(b) General Tree Removal Requirements**

- i) 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).
- ii) No trees are to be removed on the site or neighbouring properties without the prior written approval of Council.
- iii) 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.

**(c) Street Tree Replacement by Council**

<b>Fee Type – Tree removal on public land</b>	<b>Amount</b>
Administration Fee for Tree Removal	\$154.50
Replacement Tree Fee (per Tree)	\$185.40
Cost of tree removal	To be determined
Cost of Stump Grinding	To be determined

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

**30. Allocation of street addresses.**

<b>Dwelling description on plans</b>	<b>Current Lot/DP</b>	<b>New Primary Addresses</b>
DW2	Lot 28 Sec 36 DP 4868	<b>5A Algernon Street, Oatley NSW 2223</b>
DW1	Lot 28 Sec 36 DP 4868	<b>5B Algernon Street, Oatley NSW 2223</b>

**31. Swimming Pools - Use and Maintenance - The following apply to the construction:**

- (a) no ground level may be raised or filled except where shown specifically on the approved plans;
- (b) all pool/spa waste water is to be discharged to the sewer according to the requirements of Sydney Water;
- (c) the swimming pool must not be used for commercial or professional purposes;
- (d) drain paved areas to the landscaped areas or a suitable lawful drainage system; and
- (e) arrange any external pool/spa lighting to minimise glare nuisance to adjoining owners.

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

32. **Dial before your dig** - The applicant shall contact “Dial Before You Dig on 1100” to obtain a Service Diagram prior to the issuing of the Construction Certificate. The sequence number obtained from “Dial Before You Dig” shall be forwarded to Council’s Engineers for their records.
33. **Demolition & Asbestos** - The demolition work shall comply with the provisions of Australian Standard AS2601:2001 - Demolition of Structures, NSW Work Health & Safety Act 2011 and the NSW Work Health & Safety Regulation 2011. The work plans required by AS2601:2001 shall be accompanied by a written statement by a suitably qualified person that the proposals contained in the work plan comply with the safety requirements of the Standard. The work plans and the safety statement shall be submitted to the PCA prior to the commencement of works.

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

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

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

34. **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.
35. **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.
36. **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.

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

## **Section F During Construction**

38. **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.
39. **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.

40. **Physical connection of Stormwater to site** - No work is permitted to proceed above the ground floor slab level of the building until there is physical connection of the approved stormwater drainage system from the land the subject of this consent to Council's kerb and gutter system.
41. **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.
42. **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.
43. **Swimming Pools - Filling with water** - The pool/spa shall not be filled until the safety fences have been completed in accordance with the approved plans and specifications and inspected by the PCA.
44. **Waste Management Facility** - All materials removed from the site as a result of demolition, site clearing, site preparation and, or excavation shall be disposed of at a suitable Waste Management Facility. No vegetation, article, building material, waste or the like shall be ignited or burnt.
- Copies of all receipts for the disposal, or processing of all such materials shall be submitted to the PCA and Council, where Council is not the Principal Certifying Authority.
45. **Ground levels and retaining walls** - The ground levels of the site shall not be excavated, raised or filled, or retaining walls constructed on the allotment boundary, except where indicated on approved plans or approved by Council.
46. **Tree removal on private land** – The trees identified as 'to be removed/pruned' on the approved plans or by conditions of this consent shall be removed in accordance with AS4373 -2007 and the *Amenity Tree Industry Code of Practice (SafeWork NSW, August 1998)*

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

47. **Requirements prior to the issue of the Occupation Certificate** - The following shall be completed and or submitted to the PCA prior to the issue of the Occupation Certificate:
- All the stormwater/drainage works shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
  - The internal driveway construction works, together with the provision for all services (conduits and pipes laid) shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
  - Construct any new vehicle crossings required.
  - Replace all redundant vehicle crossing laybacks with kerb and guttering, and replace

redundant concrete with turf.

- e) A Section 73 (Sydney Water) Compliance Certificate for the Subdivision shall be issued and submitted to the PCA prior to the issue of the Occupation Certificate.
- f) Work as Executed Plans prepared by a Chartered Professional Engineer or a Registered Surveyor when all the site engineering works are complete shall be submitted to the PCA prior to the issue of the Occupation Certificate.
- g) The construction of the driveway crossing shall be completed in accordance with the conditions and specifications of the Section 68 Activity Approval.

48. **Stormwater drainage works - Works As Executed** – Prior to the issue of the Occupation Certificate, storm water drainage works are to be certified by a professional engineer specialising in hydraulic engineering, with Works-As-Executed drawings (prepared by a registered surveyor) supplied to Council detailing:

- (a) Compliance with conditions of development consent relating to stormwater;
- (b) The structural adequacy of the On-Site Detention system (OSD);
- (c) That the works have been constructed in accordance with the approved design and will provide the detention storage volume and attenuation in accordance with the submitted calculations; and
- (d) Pipes invert levels and surface levels to Australian Height Datum.

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

### **Restrictions on Use of Land**

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

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

### **Positive Covenants**

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

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

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

*c) permit the Council or its authorised agents from time to time and upon giving reasonable notice (but at any time and without notice in the case of an*

*emergency) to enter and inspect the land for the compliance with the requirements of this covenant*

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

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

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

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

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

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

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

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

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

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

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

52. **BASIX Certificate** - All energy efficiency measures as detailed in the approved BASIX Certificate in the plans approved with the Development Consent, must be implemented before issue of any Occupation Certificate.
53. **BASIX Compliance Certificate** - A Compliance Certificate must be provided to the PCA regarding the implementation of all energy efficiency measures as detailed in the approved BASIX Certificate before any Occupation Certificate is issued.
54. **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.
55. **Completion of Landscape Works** - All landscape works must be completed before the issue of the Final Occupation Certificate.

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

56. **Swimming Pools - Resuscitation Notice** - An expired air resuscitation warning notice complying with the Swimming Pools Act 1992 must be affixed in a prominent position adjacent to the pool.
57. **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.
58. **Outdoor Lighting** - To avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads, outdoor lighting must comply with AS 4282-1997: Control of the obtrusive effects of outdoor lighting.
59. **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.
60. **Subdivision** - No approval is granted to any form of subdivision for this development.

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

61. **Requirement for a Construction Certificate** - The erection of a building must not commence until a Construction Certificate has been issued.
62. **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.

63. **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.

64. **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.

65. **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.

66. **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.

67. **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.

## **Section J Prescribed Conditions**

68. **BASIX Commitments** - This Clause requires the fulfilment of all BASIX Commitments as detailed in the BASIX Certificate to which the development relates.

69. **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.

70. **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.
71. **Home Building Act 1989** - If the development involves residential building work under the Home Building Act 1989, no work is permitted to commence unless certain details are provided in writing to Council. The name and licence/permit number of the Principal Contractor or Owner Builder and the name of the Insurer by which work is insured under Part 6 of the Home Building Act 1989.
72. **Protection & support of adjoining premises** - If the development involves excavation that extends below the level of the base of the footings of a building on adjoining land, this prescribed condition requires the person who benefits from the development consent to protect and support the adjoining premises and where necessary underpin the adjoining premises to prevent any damage.
73. **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

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74. **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.

75. **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.

76. **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.
77. **Torrens Title Subdivision of a Dual Occupancy Development** - A separate development application is required to be lodged with Council for the Torrens Title Subdivision of a Dual Occupancy. Development consent for Torrens Title Subdivision cannot be granted until after the final Occupation Certificate has been issued for the Dual Occupancy Development.
78. **Site Safety Fencing** - Site fencing must be erected in accordance with SafeWork Guidelines, to exclude public access to the site throughout the demolition and/or construction work, except in the case of alterations to an occupied dwelling. The fencing must be erected before the commencement of any work and maintained throughout any demolition and construction work.

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

79. **Register your Swimming Pool** - All swimming pools in NSW are required to be registered. Fines apply for pools that are not registered. To register please visit: [swimmingpoolregister.nsw.gov.au](http://swimmingpoolregister.nsw.gov.au).
80. **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.

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

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

The interest rate applied to bonds is set at Council's business banking facility rate as at 1 July each year. Council will accept a bank guarantee in lieu of a deposit.

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

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

the Roads Act 1993:

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

(b) In the Application Form, quote the Development Consent No. (eg. DA2018/0148) and reference this condition number (e.g. Condition 23)

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

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

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

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

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

83. **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.

If you need any more information, please contact the undersigned on 9330 6400 between 9.00am - 11.00am business days.

## ATTACHMENTS

- Attachment [1](#) Site and Context Analysis - 5A Algernon Street Oatley  
Attachment [2](#) North and West Elevation - 5A Algernon Street Oatley  
Attachment [3](#) West and East Elevation - 5A Algernon Street Oatley  
Attachment [4](#) South and East Elevation - 5A Algernon Street Oatley

Attachment [↓](#) 5 Shadows - March - September 21st - 5A Algernon Street Oatley

Attachment [↓](#) 6 Shadows - June 21st - 5A Algernon Street Oatley



### SITE & CONTEXT ANALYSIS



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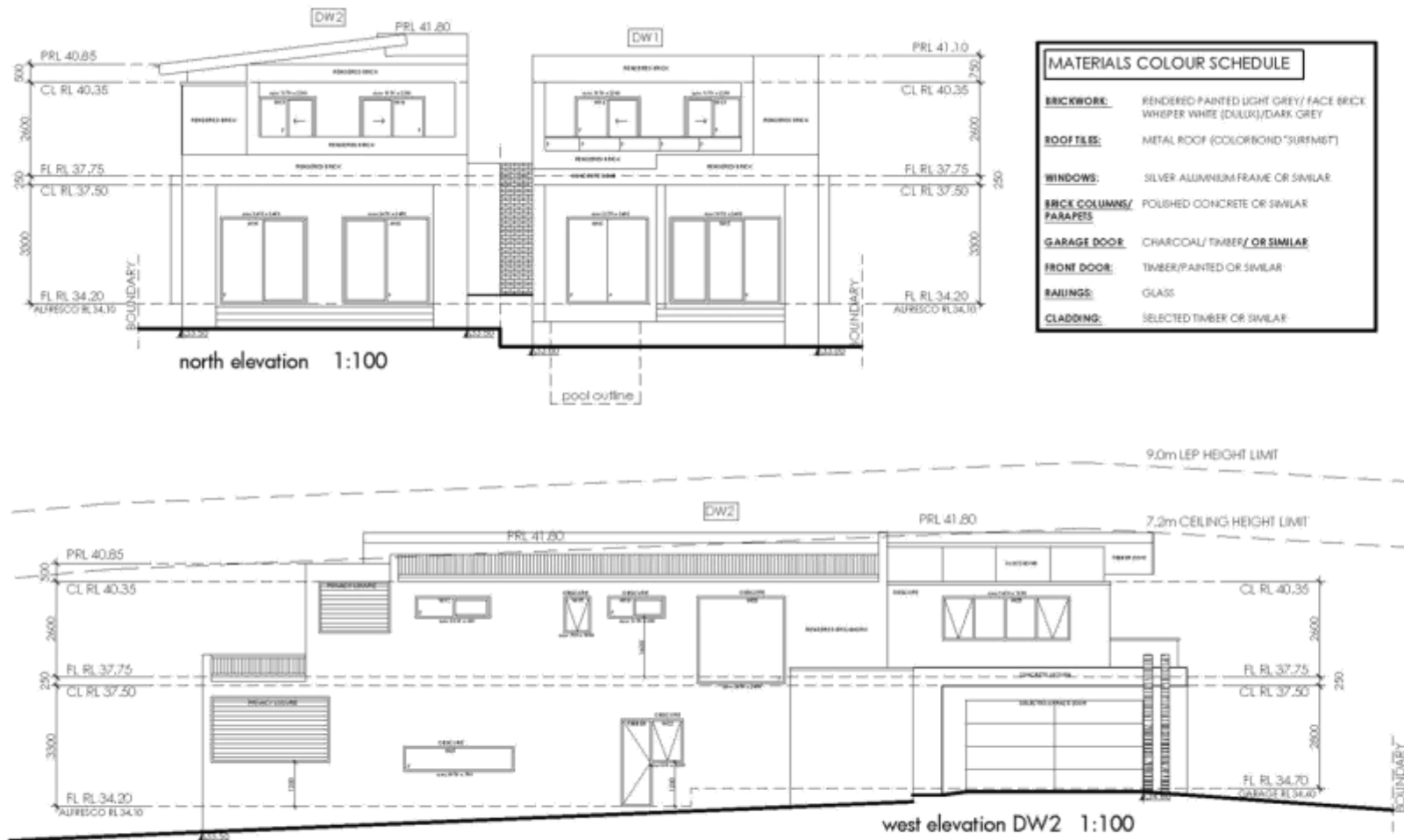
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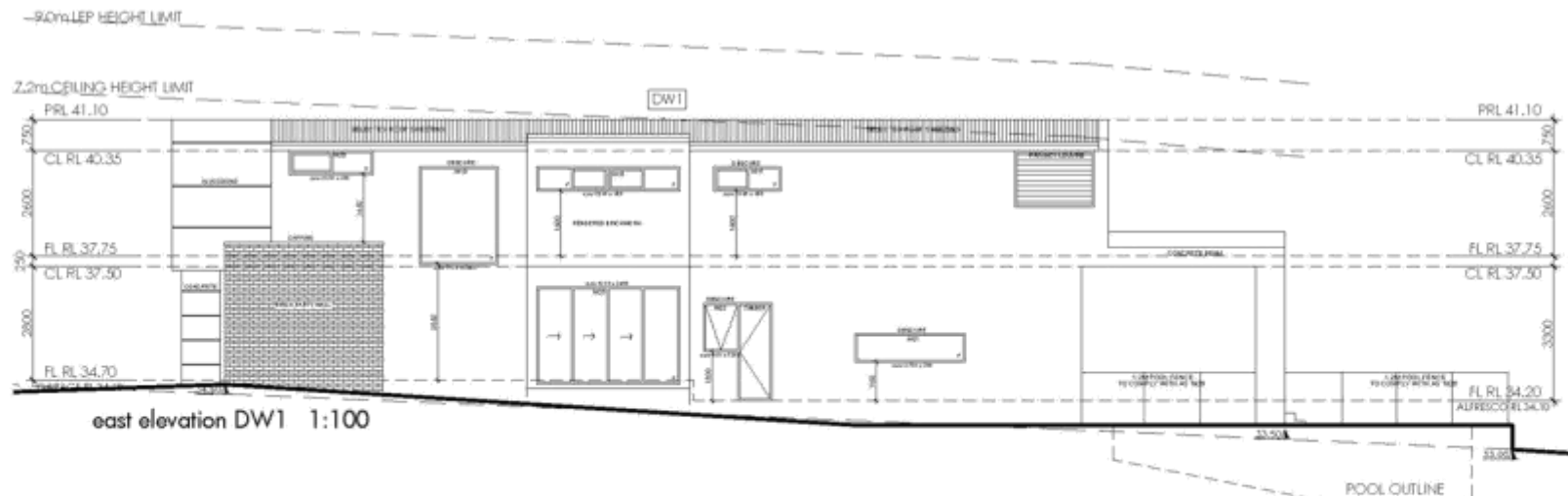
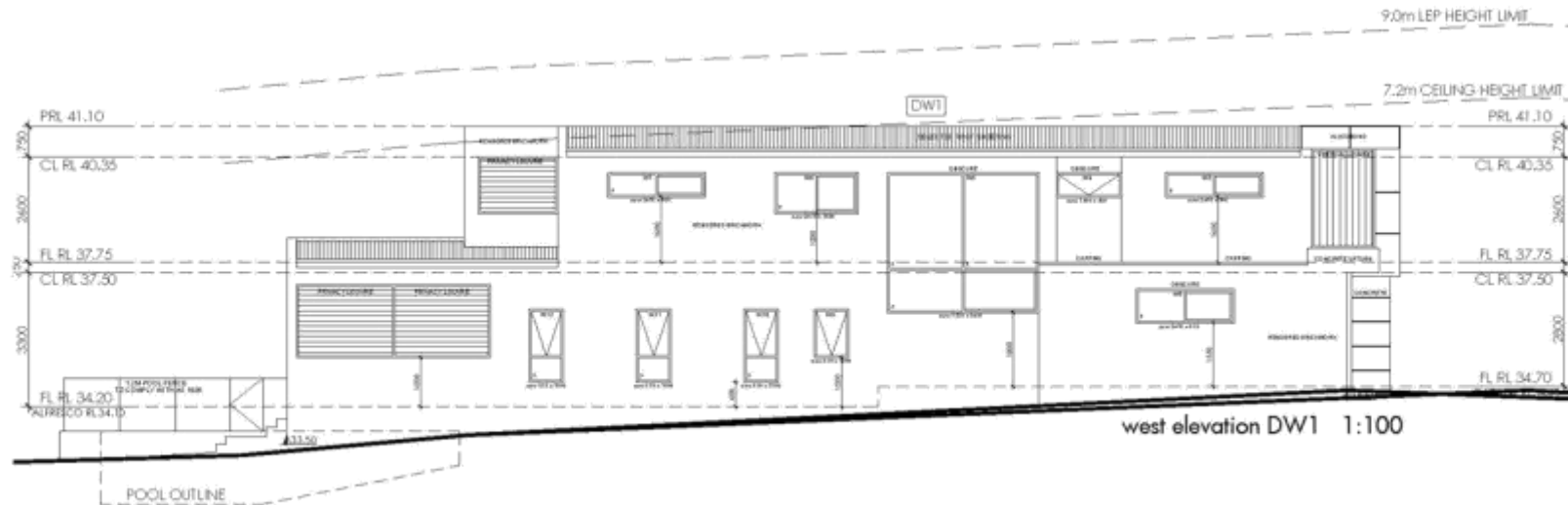
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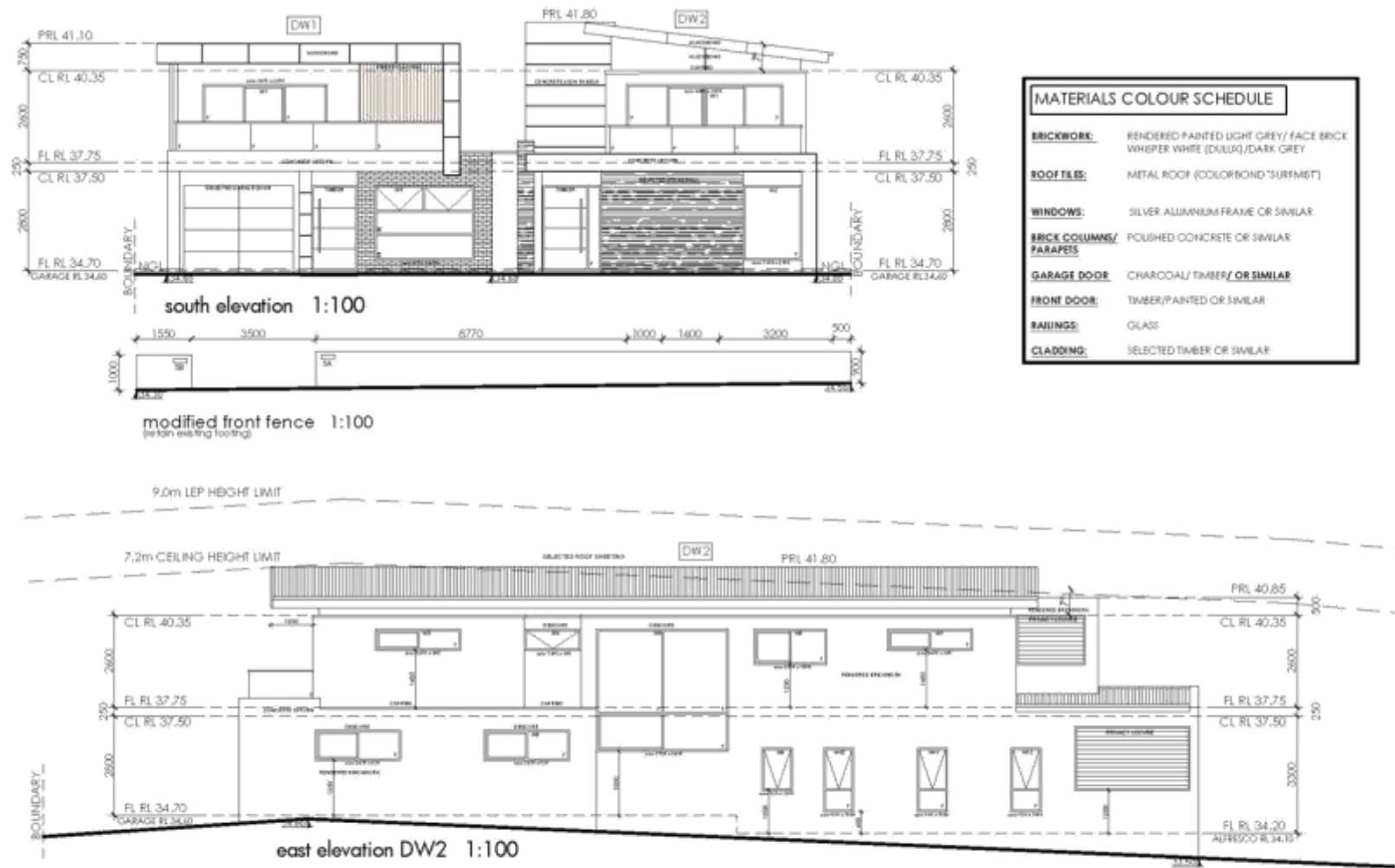
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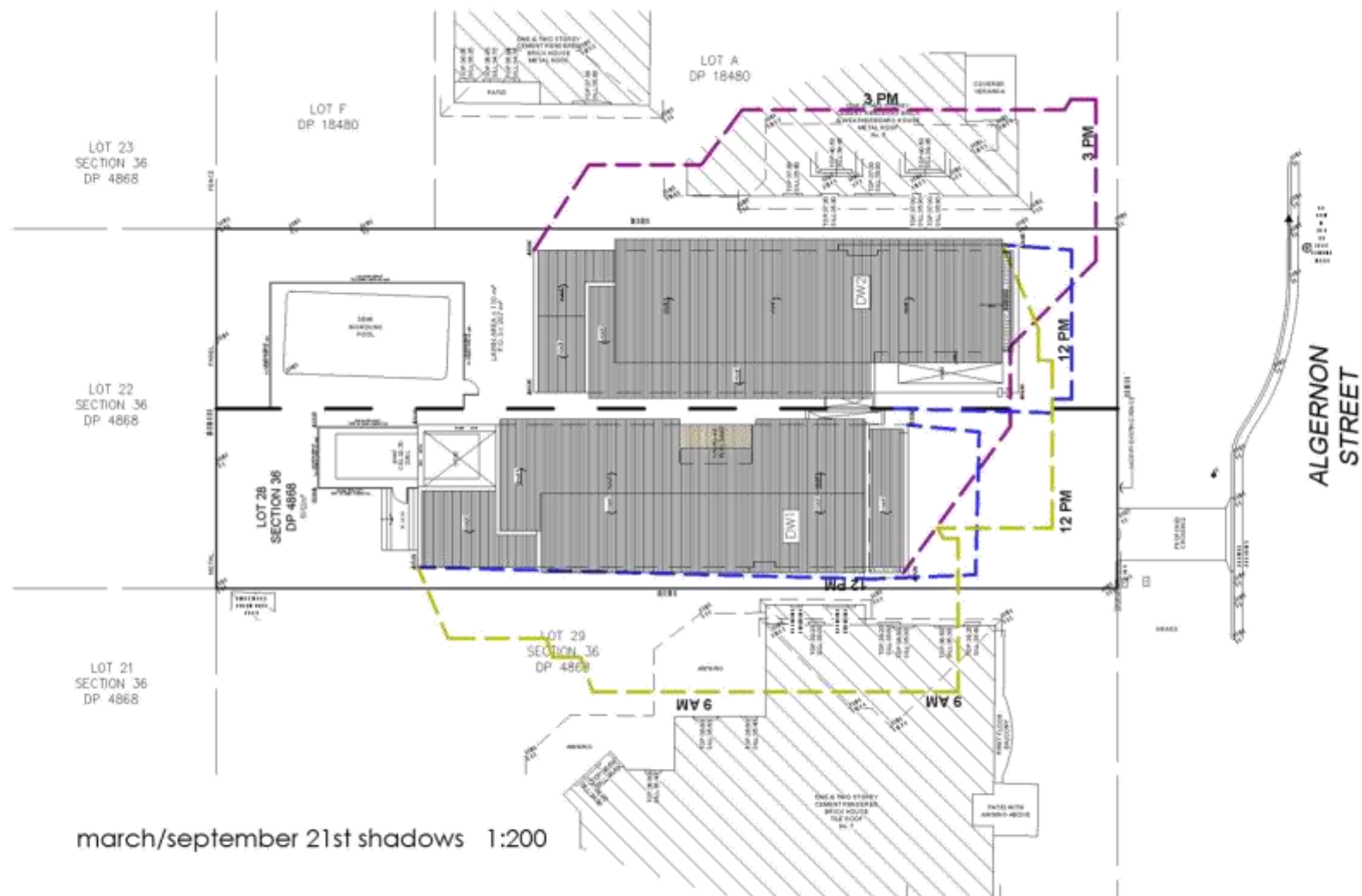
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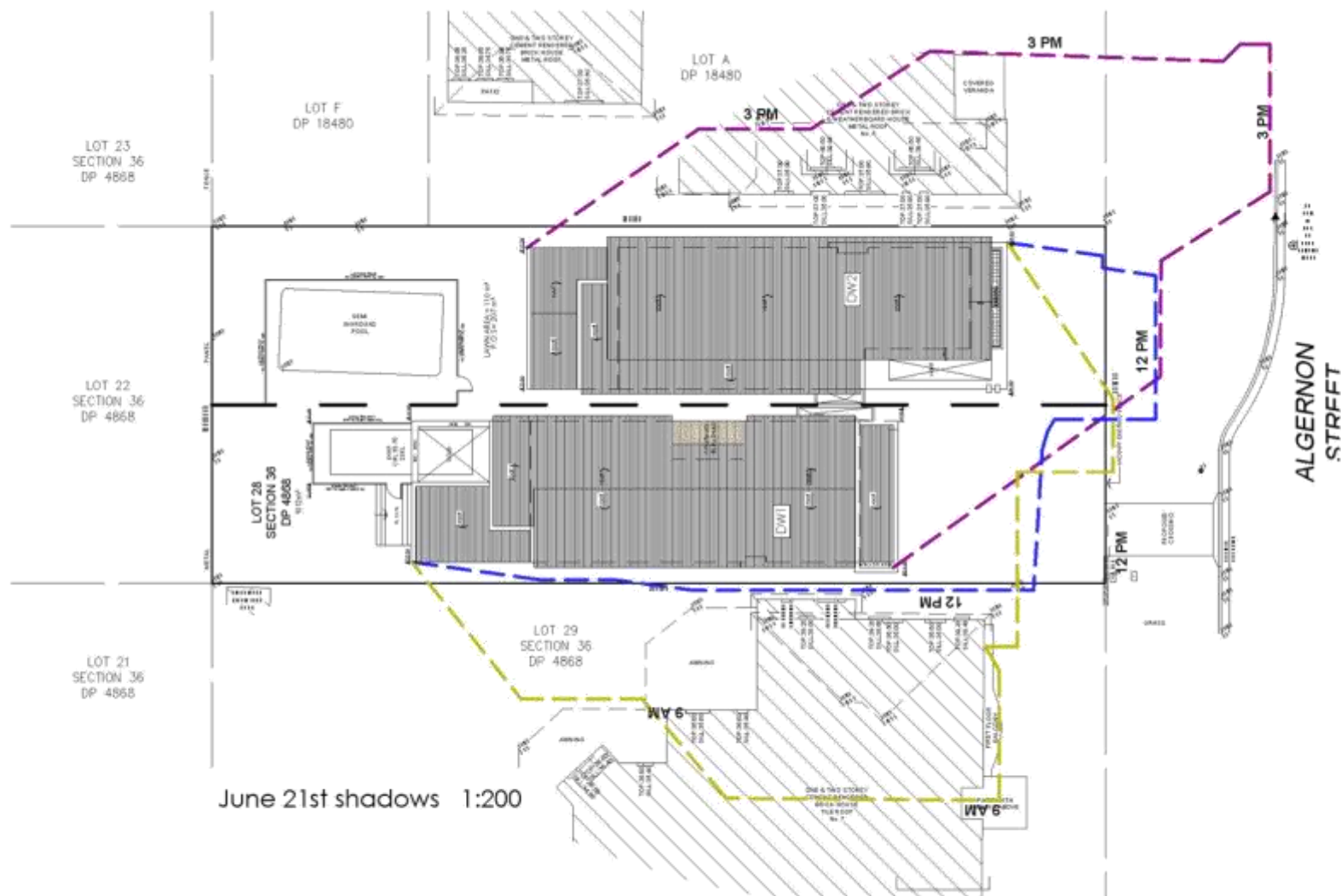


Scale: A3 / 1:200  
 Date: 1st November, 2017

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**13/17**



June 21st shadows 1:200



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Author: mounzer mortada	m. 0405 125 350
Client: Georges River Council	e. info@mcubed.com.au
Project: 5A Algernon Street, OATLEY	w. mcubed.com.au

**REPORT TO GEORGES RIVER COUNCIL  
LPP MEETING OF MONDAY, 03 SEPTEMBER 2018**

<b>LPP Report No</b>	<b>LPP036-18</b>	<b>Development Application No</b>	<b>DA2017/0256</b>
<b>Site Address &amp; Ward Locality</b>	74-78 Carwar Avenue Carss Park Blakehurst Ward		
<b>Proposed Development</b>	Minor works including a new retractable awning and paving, increase in seating and trading hours to existing cafe within Carss Park (Carss Park Cafe and Grill)		
<b>Owners</b>	Georges River Council		
<b>Applicant</b>	Peter Szamek		
<b>Planner/Architect</b>	Andrew Robinson Planning Services and Complete		
<b>Date Of Lodgement</b>	23/08/2017		
<b>Submissions</b>	Three (3) submissions		
<b>Cost of Works</b>	\$150,000.00		
<b>Local Planning Panel Criteria</b>	Development on Council Owned Land		
<b>List of all relevant s.4.15 matters (formerly s79C(1)(a))</b>	<ul style="list-style-type: none"> <li>Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment</li> <li>Kogarah Local Environmental Plan 2012</li> </ul>		
<b>List all documents submitted with this report for the Panel's consideration</b>	Architectural Plans		
<b>Report prepared by</b>	Development Assessment Planner		

<b>Recommendation</b>	THAT the application be approved in accordance with the conditions included in the report.
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<b>Summary of matters for consideration under Section 4.15</b> Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	<b>Yes</b>
<b>Legislative clauses requiring consent authority satisfaction</b> Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report?	<b>Yes</b>
<b>Clause 4.6 Exceptions to development standards</b> If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	<b>Not Applicable</b>



<b>Special Infrastructure Contributions</b> Does the DA require Special Infrastructure Contributions conditions (under s7.24)?	<b>Not Applicable</b>
<b>Conditions</b> Have draft conditions been provided to the applicant for comment?	<b>No, standard conditions have been attached with no design changes</b>

### Site Plan



### Executive Summary

#### Proposal

1. Development consent is sought for the construction of a retractable awning over the existing outdoor terrace area, paving of a 9sqm within the outdoor terrace, increase in seating from 80 to 120 patrons and increase in approved trading hours from the approved 6.30am to 10.00pm Monday to Sunday inclusive to 6.30am to 11.00pm on Fridays and Saturdays.

#### Site and Locality

2. The subject site identified as Lot 376 in DP 1118749 and is known as Carss Park Cafe and Grill. The site is centrally located within Carss Bush Park in Carss Park, adjacent to the waters of Kogarah Bay. Carss Bush Park is bounded by Todd Park to the west, residential properties in Miowera Street, part Bunyala Street, part Gnarbo and Allawah Avenues Carwar Avenue and Carlton Crescent to the north, Kogarah Bay and Carss Park Flats to the east and residential properties in Church, Brockwell Place, Torrens and Beach Streets to the south.

Carss Park offers various services and recreational activities including the Carss Park Cafe, Kogarah War Memorial Olympic Swimming Pool, sports field, playground areas and various other amenities.

### **Zoning and Permissibility**

3. The subject site is zoned RE1 – Public Recreation in accordance with the Kogarah Local Environmental Plan 2012.

### **Submissions**

4. The proposal was notified to adjoining neighbours for a period of fourteen (14) days during which time three (3) submissions were received, one (1) in support and two (2) objections.

### **Conclusion**

5. The proposed development generally complies with the planning controls and objectives within Kogarah Local Environmental Plan 2012 and Carss Bush Park & Todd Park Plan of Management 2004. In view of the above, the application is recommended for approval subject to conditions included in the report.

### **Report in Full**

### **Proposal**

6. Development consent is sought for the construction of a retractable awning over the existing outdoor terrace area, paving of a 9sqm area within the outdoor terrace, increase in seating from 80 to 120 patrons and increase in approved trading hours from the approved 6.30am to 10.00pm Monday to Sunday inclusive to 6.30am to 11.00pm on Fridays and Saturdays.

The proposed awning measures at 16.5m wide, 7m deep and 3.5m high and will be divided into four (4) sections, with each section having metal guide tracks on either side which will secure the awning when extended over the paved terrace area. The awning will comprise the following specifications as per the supplier:

*Coated fabric for textile architecture.*

*Fabric consisting of a 100 % polyester backing coated on both sides with fire-retarded polyvinyl chloride and with a varnish made of polymethyl metacrylate and polyvinyl chloride.*

*Overall nominal weight per unit area: 694 g/sqm.*

*Nominal weight per unit area of the backing: 194 g/sqm. Colour: white.*

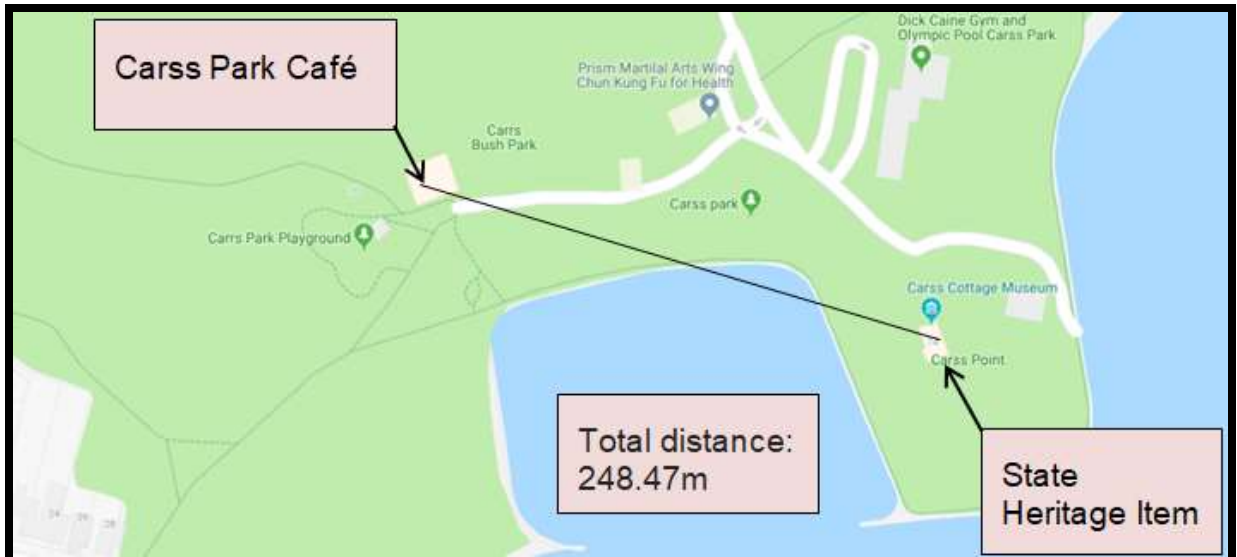
The proposal seeks approval to accommodate the additional patrons by proposing an additional 9sqm of paved area within the existing front setback of the café, where the existing terrace is located. Historically, a tree was located within the unpaved area, which has subsequently been removed by Council. The area will be paved using pavers to match the existing aesthetics of the site.

### **The Site and Locality**

7. The subject site identified as Lot: 376 in DP: 1118749 and is known as Carss Park Cafe and Grill. The site is centrally located within Carss Bush Park in Carss Park, adjacent to the waters of Kogarah Bay. Carss Bush Park is bounded by Todd Park to the west, residential properties in Miowera Street, part Bunyala Street, part Gnarbo and Allawah Avenues Carwar Avenue and Carlton Crescent to the north, Kogarah Bay and Carss

Park Flats to the east and residential properties in Church, Brockwell Place, Torrens and Beach Streets to the south.

Carss Park offers various services and recreational activities including the Carss Park Café, Kogarah War Memorial Olympic Swimming Pool, sports field, playground areas and various other amenities.



**Aerial Photo – Subject Site, 74-78 Carwar Avenue, Carss Park (Source: Nearmaps 2018)**



**Carss Park Café and Grill**

## Background

8. The subject DA (DA2017/0256) was lodged on 20 July 2017.

## PLANNING ASSESSMENT



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

## Environmental Planning Instruments

### Local Environmental Plan

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

Clause	Standard	Proposed	Complies
Part 2 – Permitted or Prohibited Development	RE1 Public Recreation	The proposal is defined as kiosk. Kiosks are permissible within the zone.	Yes
	Objectives of the Zone	The proposal achieves the objectives of the zone.	Yes
4.3 – Height of Buildings	No maximum applicable height as identified on Height of Buildings Map	3.5m	Yes
4.4 – Floor Space Ratio	No maximum applicable FSR as identified on Floor Space Ratio Map	NA – no additional FSR proposed	Yes
5.10 – Heritage Conservation	To conserve the environmental heritage of Kogarah, To conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views, To conserve archaeological sites, To conserve Aboriginal objects and Aboriginal places of heritage significance	<p>The subject site (Carss Bush Park) has been identified as a heritage item of local significance under Schedule 5 Environmental Heritage in the KELP 2012 Heritage Map.</p> <p>In addition, the allotment contains a State Significant Heritage Item – Carss Cottage, which is located over 200m away from the Carss Park Café Site, which is illustrated in <i>Figure 2 above</i>. The application was referred to the Office of Environment and Heritage in which a response was received detailing this cottage is not within the curtilage of the State Item and is therefore not Integrated.</p> <p>The application was also reviewed by Council's Heritage Advisor where the application has been supported given the</p>	Yes (1)

		<p>distance from the item and that the development will not impact upon the heritage nature of the site or the cottage.</p> <p>The application is supported by Council's Heritage Advisor.</p> <p>See additional comments below.</p>	
6.1 – Acid sulfate soils	<p>Works within 500m of adjacent class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.</p>	<p>The site has the following Acid Sulfate Soil constraints:</p> <ul style="list-style-type: none"> <li>- Class 2</li> <li>- Class 3</li> <li>- Class 5</li> </ul> <p>The allotment does not propose any cut and fill works, as per the submitted Section Plan with the Development Application.</p> <p>As such there are no requirements to investigate the acid sulphate soils.</p>	Yes
6.7 – Essential Services	<p>The following services that are essential for the development shall be available or that adequate arrangements must be made available when required:</p> <p>* Supply of water, electricity and disposal and management of sewerage</p> <p>*Stormwater drainage or on-site conservation</p> <p>*Suitable vehicular access</p>	<p>Essential services are available to the development.</p> <p>Suitable vehicular access is available to the site.</p>	Yes

### (1) Heritage

Carss Park Cafe and Grill is located within the boundaries of Carss Bush Park. Carss Bush Park is identified as an item of environmental heritage in the Kogarah Local Environmental Plan 2012 identified as Item 31. Carss Bush Park comprises of a number of buildings, one of these being Carss Cottage, which is listed on the State Heritage List.

The subject site is not located within the visual catchment of the State Heritage Listed Carss Cottage therefore; the proposal has been assessed in relation to its impact on the heritage significance of Carss Bush Park. The proposed works involve minor alterations to the Cafe structure, which contributes to the social significance of Carss Bush Park. The proposed minor additions would be limited to a small area of the cafe including the skillion shaped retractable awning to match the skillion roof of the existing building and minor paving located on the existing ground floor terrace of the cafe.

The proposed works have been assessed against the objectives of Clause 5.10 of Kogarah LEP 2012, and will have no adverse impacts on the environmental heritage of Carss Park. This included referral to Council's Heritage Advisor, who has advised that the proposal is acceptable from a heritage point of view.

The proposed awning is an extension to an existing awning that provides shelter for the existing community centre's deck along the north and west edges. The awning will remain within the existing building's footprint therefore; will not appear excessively bulky when viewed from Carwar Avenue and Carlton Crescent.

The proposed works will not affect the heritage significance of Carss Bush Park, adjoining roads, public land or waterways and are therefore supported.

#### **Referral to Office of Environment and Heritage**

11. The recreational allotment in Carss Park contains a State Significant Heritage item, identified as 'Carss Cottage'.

The application was referred to the Office of Environment and Heritage on 15 June 2018.

Council has received written correspondence in relation to the proposed application, with the Office of Environmental and Heritage deeming the proposed work is not integrated as the works are not proposed within the curtilage of the State Item.

#### **State Environmental Planning Policies**

12. Compliance with the relevant State Environmental Planning Policies is detailed below.

#### **Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment**

13. 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 consistent with Council's requirements for the disposal of stormwater in the catchment.

#### **State Environmental Planning Policy No 55 – Remediation of Land**

14. The subject site is zoned RE1 public recreation and has a history of public recreation use therefore, it is considered unlikely that the land is contaminated.

#### **Draft Environmental Planning Instruments**

15. 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**

16. There are no controls that relate to this form of development in Kogarah Development Control Plan 2013.

### **Carss Bush Park & Todd Park Plan of Management 2004**

17. The subject kiosk has been identified as a facility that could offer community benefit in the Carss Bush Park and Todd Park Plan of Management 2004. General performance measures have been included in the document which include limiting the hours of operation to 6.30am to 10.00pm, maximum patronage limited to 80 persons and prohibit any structural extension to the existing footprint of the kiosk. These strategies and objectives were included as a guide to assist Council with converting the original Kiosk to a licensed Restaurant/ Kiosk subsequent to the termination of the previous lease in 2001. The plan of management indicates that the strategies and objectives are as listed unless expressly permitted by development consent.

The proposed awning measures at 16.5m wide, 7m deep and 3.5m high. The proposed retractable awning does not constitute a permanent structure as it will be located outside the cafe, providing shade over the outdoor seating area therefore, it will not have any adverse impacts on the surrounding existing natural and built environment. The awning is supported subject to conditions of consent.

The proposal to increase in patron capacity and trading hours has been assessed and in this regard is supported due to the following reasons:

- The subject site is currently already operating as a cafe;
- The site is located within Carss Bush Park, which is not immediately adjacent to residential development;
- The subject site can accommodate an increase in seating for patronage without the need for further development;
- Carss Park Life Saving Hall is approved to trade until 11.00pm for private events; and
- An increase in car parking spaces is not required to accommodate the increase in patrons.

Notwithstanding the above, it is recommended that the increase in patrons from 80 persons to 120 persons and increase in trading hours from 6.00pm – 10.00pm to 6.00pm – 11.00pm on Friday and Saturday be granted for a trial period of twelve (12) months. The trial period will allow for Council to monitor the performance of the Cafe and Grill to ensure that compliance with all conditions is maintained.

### **IMPACTS**

**Natural Environment**

18. The site is surrounded by dense vegetation with large trees and other natural features. The proposal does not seek to remove any trees or other form of vegetation within the existing surrounds.

**Built Environment**

19. The proposed development would not result in any adverse impacts upon the built environment for reasons discussed throughout the report.

**Social and Economic Impact**

20. The proposed development would not result in any adverse social and/or economic impacts within the locality.

**Suitability of the Site**

21. 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 and relationship to adjoining developments.

**SUBMISSIONS AND THE PUBLIC INTEREST**

22. The proposal was notified to adjoining neighbours for a period of fourteen (14) days during which time three (3) submissions were received, one (1) in support and two (2) objections.

NB: Two individual submissions received a further submission was received from Kogarah Bay Progress Association Inc which did not reference any particular surrounding residential properties.

The submissions raised the following issues.

***Increase in patron capacity***

Comment: The increase in patrons will not have an adverse effect on the surrounding natural and built environments. As noted previously in this report, the café building is located a significant distance (over 100m) from the nearest residential property, and so it is considered that the increased patron capacity would have minimal amenity or noise impacts. The premise is trading as a Cafe with existing patron activity subject to the approved capacity. The proposed patron increase will be trialled for a period of twelve (12) months, which will allow any potential impacts from the proposal to be monitored.

***Extension of trading hours***

Comment: The increase in trading hours is permissible subject to consent from Council. The proposed increase in trading hours is for one additional hour on Fridays and Saturdays, from the approved 10.00pm to 11.00pm. The proposal does not seek to change the use from its existing operation as a cafe and grill therefore, the proposed increase in trading hours is unlikely to have adverse effects on the surrounding natural and built environment however this is subject to a trial period of twelve months.

It is also noted that Carss Bush Park contains another building the Carss Park Life Saving Club building that is available for hire until 11pm, and is used regularly for parties and gatherings. While it is considered that the use of the subject building (as a café open every Friday/Saturday night) is slightly different to a club building used more

infrequently on a hire basis, the extended hours of operation of the café until 11pm would be consistent with the use of the Life Saving Club building.

***Excess noise created as a result of increased patronage and extension of trading hours***

Comment: Conditions of consent regarding noise control have been included to ensure that the premise complies with noise requirements. Noise level controls have been specified in the conditions in order to limit the noise emitted from the premises between 7.00am and 11pm.

## **REFERRALS**

### **Council Referrals**

#### Heritage Advisor

23. The proposal is supported by Council's heritage advisor subject to standard conditions. Council's Heritage advisor requested that a schedule of materials and finishes should be submitted prior to the issue of construction certificate.

## **CONCLUSION**

24. The proposal seeks approval for a retractable awning, new paving, and increase in seating and trading hours to the existing Carss Park Cafe & Grill.

The application was notified for a period of fourteen days and three submissions were lodged. One submission was in support of the proposal while the remaining two raised concerns regarding the proposed increase in patrons, trading hours and potential noise impacts as a result of the proposal. The proposed development generally complies with the planning controls and objectives within Kogarah Local Environmental Plan 2012 and Carss Bush Park & Todd Park Plan of Management 2004.

In view of the above, the application is recommended for approval subject to conditions included in the report.

## **DETERMINATION AND STATEMENT OF REASONS**

### 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 DA2017/0256 for the construction of retractable awning, new paving, increase in seating and trading hours to the existing Cars Park Cafe and Grill at 74-78 Carwar Avenue, Carss Park, subject to the following conditions of consent:

## **CONDITIONS**

## Schedule A – Site Specific Conditions

### GENERAL CONDITIONS

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

1. **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
Proposed canopy - Conceptual Site Plan	Dwg No. 2	29/05/2015	Rev 3	Complete Urban
Proposed canopy - Sections	Dwg No. 3	29/05/2015	Rev 3	Complete Urban

### PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

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

2. **Building Works To Comply With BCA - Heritage Buildings Or Buildings Within Conservation Area** - Any building works required to ensure compliance with the BCA or new building standards not specified in the submitted/approved plan must not damage existing fabric and building features. If such upgrading works will potentially impact on existing fabric and features, details of the works must be submitted and approved by Council's Heritage Advisor prior to issue of a Construction Certificate.
3. **External Colour Scheme (Other Buildings)** - The external colour scheme is to be sympathetic to the architectural style and period of the building and/or Heritage Conservation Area. A schedule of colours is to be submitted to and approved by Council's Heritage Advisor prior to the issue of the Construction Certificate.
4. **General Heritage** -
  - (a) The proposed works are to be carried out in a manner that minimises demolition, alterations and new penetrations/fixings to the significant fabric of the existing building.
  - (b) The fabric and features to be retained by the proposal must be properly protected during the process of demolition and construction.
  - (c) All conservation and adaptation works are to be in accordance with the Articles of the Australian ICOMOS Burra Charter 1999.
  - (d) New services are to be surface mounted rather than chased-in to existing walls to minimise impact on heritage fabric.
  - (e) Appropriately qualified tradespersons (as appropriate) are to be commissioned who are skilled in traditional building and engineering trades to carry out the proposed



scope of works.

5. **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.
6. **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.
7. **Fees to be paid** - The fees listed in the table below must be paid in accordance with the conditions of this consent and Council's adopted Fees and Charges applicable at the time of payment (available at [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au)).

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

Please contact Council prior to the payment of Section 7.11 Contributions to determine whether the amounts have been indexed from that indicated below in this consent and the form of payment that will be accepted by Council.

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

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

Fee Type	Fee
<b>GENERAL FEES</b>	
Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct to the Long Service Corporation. See <a href="https://portal.longservice.nsw.gov.au/bci/levy/">https://portal.longservice.nsw.gov.au/bci/levy/</a>	
Builders Damage Deposit	\$1,900.00
Inspection fee for refund of damage deposit	\$155.00
<b>DEVELOPMENT CONTRIBUTIONS</b>	
Georges River Council Section 94A Development Contributions Plan 2017	\$700.00

### 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 7.11 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 7.12 contribution has been levied on the subject development pursuant to the Georges River Council Section 94A Contributions Plan.

### Indexation

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

### Timing of Payment

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

### Further Information

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

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

- (a) Pay Council, before the issue of the Construction Certificate, a damage deposit for the cost of making good any damage caused to any Council property as a result of the development: **\$1,900.00**
- (b) Pay Council, before the issue of the Construction Certificate, a non-refundable inspection fee to enable assessment of any damage and repairs where required: **\$150.00**

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

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

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

### ONGOING CONDITIONS

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

11. **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).

12. **Hours of operation** - The approved hours of operation shall be restricted to the following:

(a) The extended hours of operation are: 6.30am to 11.00pm on Fridays and Saturdays

The use may operate over the extended hours of operation for a trial period of twelve (12) months from the date of the Occupation Certificate (where one is issued) or the date at which the use commences operation where no Occupation Certificate is required to be issued.

Should the applicant intend to continue operating over the extended hours of operation, the consent is to be modified by an application under Section 4.55 of the Environmental Planning and Assessment Act 1979. The assessment of this application will be based on the operation of the use over the nominated trial period.

Where a Section 4.55 application is not received before the trial period ends, the hours of operation will revert back to the standard hours of operation 6.30am to 10.00pm Fridays and Saturdays.

13. **Outdoor Lighting** - To avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads, outdoor lighting must comply with AS 4282-1997: Control of the obtrusive effects of outdoor lighting.

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

Flashing, moving or intermittent lights or signs are prohibited.

15. **Activities and storage of goods outside buildings** - There shall be no activities including storing or depositing of any goods or maintenance to any machinery external to the building with the exception of waste receptacles.
16. **Variable Maximum Patron Capacity** -
- (a) The maximum patron capacity within the premises shall be limited to 80 persons at any time.
  - (b) Notwithstanding (a) above, the use may operate with a maximum patron capacity of 120 persons. This maximum patron capacity 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 maximum patron capacity will take place. In that time the operator may submit to Council any information they wish to be considered in support of the maximum patron capacity.
  - (c) Any review of the maximum patron capacity 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, 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 with a maximum patron capacity as specified in (b) above, require the use to revert to the maximum patron capacity specified in (a) above or otherwise modify the condition as considered appropriate.
  - (e) The purpose of the reviewable condition is to allow ongoing assessment of the maximum patron capacity in relation to neighbourhood amenity, public safety and operational performance and allow management to demonstrate successful practices in relation to the above.
17. **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.
18. **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.

### **Schedule B – Prescribed Conditions**

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

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

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

19. **Clause 98A – Erection of Signs** - Requires the erection of signs on site and outlines the details which are to be included on the sign. The sign must be displayed in a prominent position on site and include the name and contact details of the Principal Certifying Authority and the Principal Contractor.
20. **Clause 98C- Entertainment Venues** - Schedule 3A of the Environmental Planning and Assessment Act 1979 outlines the prescribed conditions which apply to Entertainment Venues.
21. **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.
22. **Clause 98E – Protection & support of adjoining premises** - If the development involves excavation that extends below the level of the base of the footings of a building on adjoining land, this prescribed condition requires the person who benefits from the development consent to protect and support the adjoining premises and where necessary underpin the adjoining premises to prevent any damage.

### **Schedule C – Operational & Statutory Conditions**

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

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

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

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

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

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

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

- (a) appoint a Principal Contractor to undertake the building work. If residential building work (within the meaning of the Home Building Act 1989) is to be undertaken, the Principal Contractor must be a holder of a contractor licence; and
- (b) notify the PCA of the details of any such appointment; and

- (c) notify the Principal Contractor of any critical stage inspections or other inspections that are required to be carried out in respect of the building work.

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

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

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

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

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

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

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

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

29. **Occupation Certificate** - A person must not commence occupation or use of the whole or any part of a new building unless an Occupation Certificate has been issued in relation to the building or part.

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

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

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

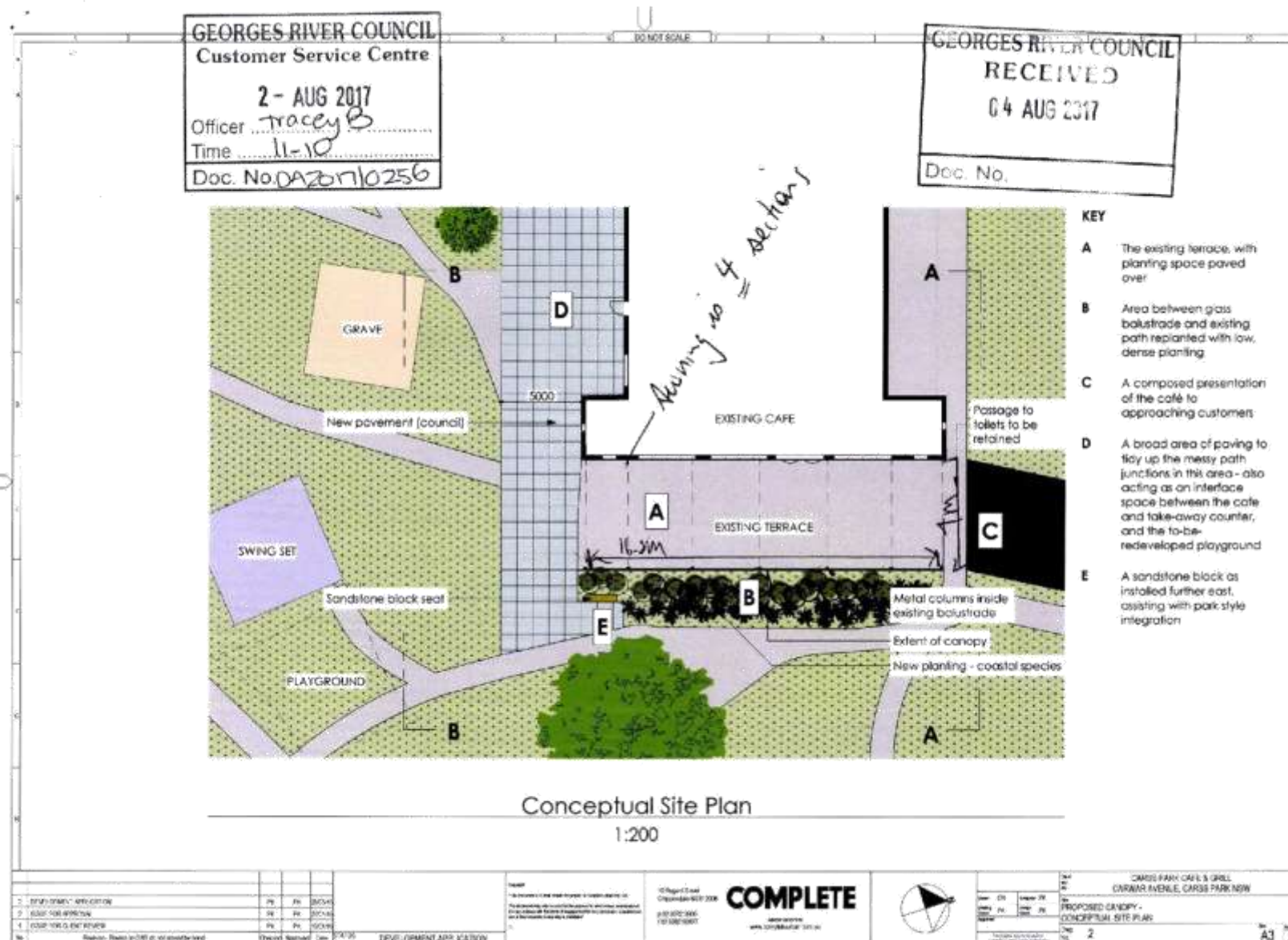
## ATTACHMENTS

Attachment [↓](#)1 Existing Site Plan - 74-78 Carwar Avenue Carss Park

Attachment [↓](#)2 Site Plan - 74-78 Carwar Avenue Carss Park







# REPORT TO GEORGES RIVER COUNCIL

## LPP MEETING OF MONDAY, 03 SEPTEMBER 2018

<b>LPP Report No</b>	<b>LPP037-18</b>	<b>Development Application No</b>	<b>MOD2017/0166</b>
<b>Site Address &amp; Ward Locality</b>	621-635 Princes Highway Blakehurst Blakehurst Ward		
<b>Proposed Development</b>	Modification application - Internal and external modifications to the existing approved mixed use development including an additional residential level		
<b>Owners</b>	Mr G Katsenos, Ms K Katsenos, Mr N Katsenos and Ms A Katsenos		
<b>Applicant</b>	Blakehurst Investments No 1 Pty Ltd		
<b>Planner/Architect</b>	Stephen Kerr of City Plan Services and Level 33 Architectural Division		
<b>Date Of Lodgement</b>	2/11/2017		
<b>Submissions</b>	Nil		
<b>Cost of Works</b>	\$19,569,739.00		
<b>Local Planning Panel Criteria</b>	Reasons to be referred to the panel as the application being subject to State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development is referenced in Schedule 1, 4(b) of the Local Planning Panels Direction - Development Applications dated 23 February 2018 as required to be determined by the Local Planning Panel.		
<b>List of all relevant s.4.15 matters (formerly s79C(1)(a))</b>	Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment, State Environmental Planning Policy (Infrastructure) 2007, State Environmental Planning Policy No 55 - Remediation of Land , State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, Kogarah Local Environmental Plan 2012, Kogarah Development Control Plan 2013		
<b>List all documents submitted with this report for the Panel's consideration</b>	Architectural plans, Landscape plans, Revised acoustic report, Draft Stratum plan, High Voltage Power Clearance Certificate, Revised BASIX		
<b>Report prepared by</b>	Independent Assessment		

<b>Recommendation</b>	THAT the application be approved in accordance with the conditions included in the report.
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<b>Summary of matters for consideration under Section 4.15</b> Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	<b>Yes</b>
<b>Legislative clauses requiring consent authority satisfaction</b> Have relevant clauses in all applicable environmental	<b>Yes</b>

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

### Site Plan



## EXECUTIVE SUMMARY

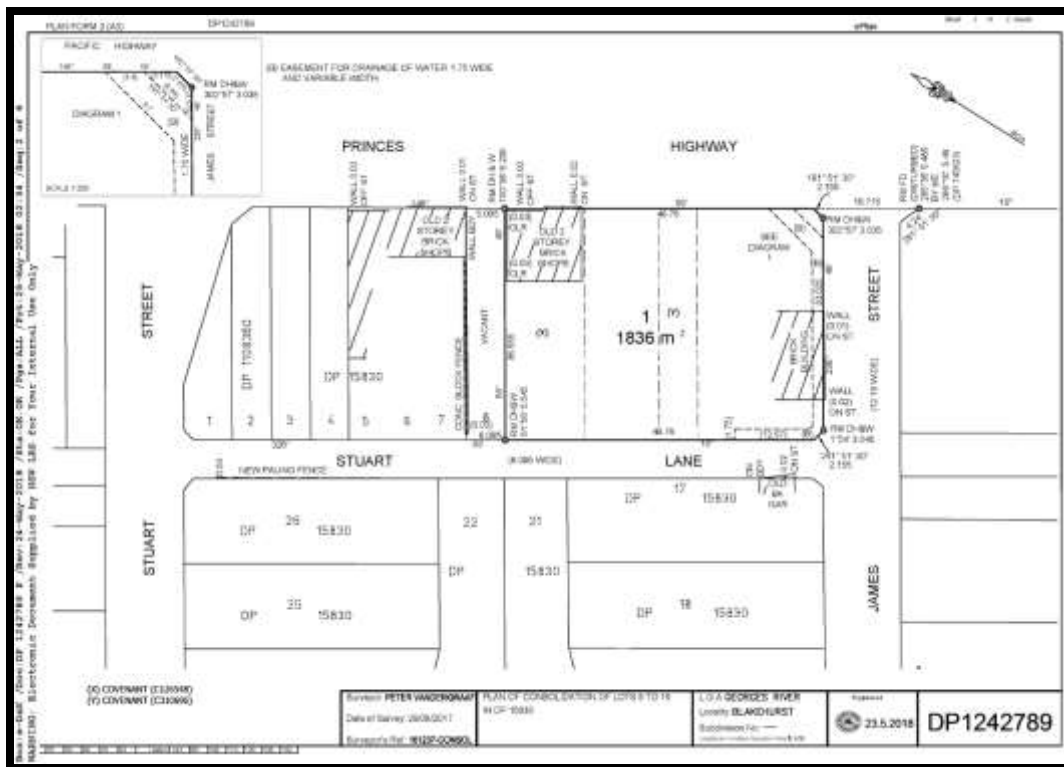
### Proposal

1. This proposal as modified seeks to alter the layout of the approved mixed-use development approved under Development Application DA2016/157. The modifications proposed primarily relate to the provision of an additional floor level, relocation of the communal open space to the rooftop, a revised apartment and car parking mix and stratum subdivision.

### Site and Locality

2. This application relates to land at 621-635 Princes Highway, Blakehurst ("the site") which is legally described as Lot1 DP1242789 registered 23 May 2018.

The site is located on the western side of Princes Highway. The site has three (3) street frontages, being Princes Highway to the east, James Street to the south and Stuart Lane to the west. The site has an area of 1,836sqm and frontages of 48.76m to Princes Highway with a splay to the James Street intersection of 2.155m, 33.505m to James Street with a 2.155m splay to the James Street and Stuart Lane intersection and 48.76m to Stuart Lane.



### Zoning and Compliance with LEP Standards

3. The site is zoned B2 –Local Centre Zone under Kogarah Local Environmental Plan 2012 (LEP) and the proposed modifications are permissible with Council's consent. The proposal satisfies all relevant objectives contained within the LEP.

### Development Control Plan

4. The Kogarah Development Control Plan 2013 ("KDCP") provides detailed provisions to guide development to achieve the objectives of the KLEP, providing detailed controls and objectives for residential development. The proposed modifications do not seek substantial departures from KDCP where relevant.

### Submissions

5. The application was neighbour notified three (3) times during the assessment of the application with the most recent notification being from 20 July 2018 to 3 August 2018. No submissions were received during any of the notification periods of the application.

### Level of Determination

6. The application is referred to the Local Planning Panel for determination as the proposal relates to modifications of an approved development that is subject to the provisions of State Environmental Planning Policy No 65 – Design Quality of Residential Flat



Development as outlined in Schedule 1, 4(b) of the Local Planning Panels Direction - Development Applications dated 23 February 2018.

## DESCRIPTION OF THE PROPOSAL

7. This modified proposal seeks to alter the layout of the approved mixed use development approved under Development Application DA2016/157 dated 11 May 2017. The modifications proposed primarily relates to the provision of an additional floor level, relocation of the communal open space to the rooftop, a revised apartment and car parking mix and stratum subdivision.

The modification will result in an increase of three (3) residential apartments, providing a total of forty six (46) residential apartments within the building and the provision of one hundred and fifteen (115) spaces within the basement parking levels in lieu of the approved one hundred and eight (108) spaces.

A written summary followed up by a floor plan detail comparison if provided below:

**Basement 3:** Basement ramp modified and car park exhaust added including the layout of the infrastructure and parking spaces.

**Basement 2:** Basement ramp modified and car park exhaust added including the layout of the infrastructure and parking spaces.

**Basement 1:** Basement ramp modified and car park exhaust added including the layout of the infrastructure and parking spaces. Deep soil added to the James Street and Princes Highway intersection.

**Ground floor plan:** Three (3) ambulant toilets added to the childcare centre one (1) with shower. The fire stairs have been reconfigured and a new egress point added from the childcare centre. Carpark exhaust included together with the relocation of the substation and a new fire booster cupboard included. The gradient to the basement has been amended together with an additional egress stair onto Stuart Lane. Deep soil landscaping has been provided to the Princes Highway and James Street intersection.

**Level 1 plan:** Car park exhaust added; a new hydraulic cupboard has been included, a new Perspex roof is included over the child care play area to provide light to penetrate. Acoustic attenuation included over the children's play area. The green wall has been included on the plans along Stuart Lane, a roof over the substation has also been provided.

**Level 2/3 plan:** Car park exhaust added along with a hydraulic cupboard.

**Level 4 plan:** The unit layouts of apartments 4.1 through to and including 4.8 which front the Princes Highway have been amended from two (2) storey apartments to single level apartments. Three (3) units have been deleted from this level and replaced by non-trafficable roofing.

**Level 5 plan (referenced on the approved plans as the roof terrace area):** The unit layouts of apartments 5.1 through to and including 5.7 which front the Princes Highway have been amended from two (2) storey apartments to single level apartments. The communal open space has been relocated from this level to the level above.

**Roof plan:** A new common open space area has been provided that includes an enclosed barbeque room. An access ramp has been provided for accessible access to the grass area while a new stormwater tank has also been included. Additional planting has been proposed. The central gas hot water plant is also located at this level.

## HISTORY

8.
  - Development Consent No. DA2016/157 for the demolition of the existing building and construction of a six storey mixed use development incorporating five levels of residential apartments, three levels of basement car park and a child care centre was approved on 11 May 2017.
  - This 4.55(2) application was submitted with Council on 2 November 2017 and was neighbour notified three (3) times with the most recent being from 20 July 2018 to 3 August 2018 where nil submissions were received.
  - The proposal was reviewed by the Design Review Panel during their meeting held on 7 June 2018 where a number of design recommendations were made.
  - In response to the recommendations, the architectural and landscape details were amended and resubmitted to Council on 6 July 2018
  - This report has been prepared on the architectural plans and details submitted with Council on 6 July 2018.

Design element	Approved under DA157/2016	Proposed	Control	Complies
Gross floor area	4,580sqm	4,593sqm (FSR 2.5:1)	4,593.5sqm (FSR 2.5:1)	Yes
Height	18.735m (RL25.800) (6 storeys)	22m (RL30.70) (7 storeys)	21m	No (Lift Overrun only)
Number of units and mix	43 units: 1B: 11 units 2B: 22 units 3B: 10 units	46 units: 1 Bed - 16 units 2 Bed - 23 units 3 Bed - 7 units	N/A	Yes
Car parking	108 Spaces	115 spaces	95 spaces	Yes
Communal open space	561.5sqm	744sqm (40%)	459sqm (25%)	Yes
Deep soil	128.6sqm (7%)	101sqm (5.5%)	128.6sqm (7%)	No

## DESCRIPTION OF THE SITE AND LOCALITY

9. This application relates to land at 621 - 635 Princes Highway, Blakehurst ("the site") which is legally described as Lot1 DP1242789 registered 23 May 2018.

The site is located on the western side of Princes Highway. The site has three (3) street frontages, being Princes Highway to the east, James Street to the south and Stuart Lane to the west. The site has an area of 1,836sqm and frontages of 48.76m to Princes Highway with a splay to the James Street intersection of 2.155m, 33.505m to James Street with a 2.155m splay to the James Street and Stuart Lane intersection and 48.76m to Stuart Lane.

The allotment is rectangular and has a cross- fall of approximately 2.5m, running generally from west to east towards the intersection of Princes Highway and James Street. The development site is located within the Blakehurst neighbourhood centre and walking distance to bus stops with regular services to Miranda, Cronulla and Hurstville.

The site is surrounded by older style commercial buildings and low density residential development. The surrounding context, will over time, transform as a result of the recent amendments to the planning controls applicable to both the subject and neighbouring sites.

The site photographs below detail the nature of both the subject site and existing surrounding precinct.



**Subject site as viewed along the Princes Highway frontage**



**Subject site as viewed along Stuart Lane**





**Eastern boundary of neighbouring dwellings fronting James and Vaughan Street**



**View towards the Princes Highway/James Street intersection**



View towards neighbouring shop-top housing development across James Street

## Statutory Considerations

### ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

10. An assessment of the application has been undertaken pursuant to the provisions of the *Environmental Planning and Assessment Act 1979*.

**S4.55 (2)** - States that a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to an in accordance with the regulations, modify the consent if:

*a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*

Comment: During the proceedings of *Tipalea Watson Pty Ltd v Ku-ring-gai Council* (NSWLEC 253) 2003 "substantially the same development" had the meaning of "essential characteristics" of the approved development. In addition, during the Court proceedings of *Moto Projects (No. 2) Pty Ltd v North Sydney Council* (1999) 106 LGERA 298, Bignold, J held that: -

*"The requisite factual finding obviously requires a comparison between the development, as currently approved, and the development as proposed to be modified. The result of the comparison must be a finding that the modified development is "essentially or materially" the same as the (current) approved development."*

The proposed modifications to not result in a change to the nature of the development while the overall scale and character of the development and its overall impact to both the streetscape and surrounding development remains consistent with that originally approved.

The proposed modifications do not vary the essential features of the approved development and do not substantially alter the approved built form or use of the site. Overall, the built form as approved under Development Consent No. DA157/2016 remains substantially the same as the approved development. Other matters such as the setbacks, general layout and access remain largely consistent with the approved design.

*b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*

No conditions were originally imposed by either the Consent Authority, relevant Minister, Public Authority or Approval Body. In this case, further consultation is not warranted.

*(c) it has notified the application in accordance with:*  
*(i) the regulations, if the regulations so require, or*  
*(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

The proposed modifications were neighbour notified on three (3) separate occasions with the most recent being from 20 July 2018 to 3 August 2018 where no submissions were received.

*d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

No submissions were received during the notification period from 20 July 2018 to 3 August 2018 of the amended and most relevant architectural plans and details.

**S4.55 (3)** – States that in determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.5(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

Comment: An assessment of the application has been carried out under the provisions of Section 4.15(c) of the Environmental Planning and Assessment Act, 1979. The matters of relevance to this application have been considered. The following is an assessment of the proposed development under the provisions of Section 4.15(1) of the Environmental and Planning Assessment Act

#### **S4.15 (1) – Matters for Consideration - General**

#### **S4.15 (1)(a)(i) - Provisions of Environmental Planning Instruments**

#### **APPLICABLE PLANNING CONTROLS**

11. The following Environmental Planning Instruments are relevant to this application:

- Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment
- State Environmental Planning Policy No 55 - Remediation of Land
- State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017
- State Environmental Planning Policy (Building Sustainability Index: Basix) 2004
- Kogarah Local Environmental Plan 2012
- Kogarah Development Control Plan 2013

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

#### **Deemed State Environmental Planning Policy – Georges River Catchment**

12. All stormwater from the proposed development will continue to 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 (Building Sustainability Index: BASIX) 2004**

13. The applicant has submitted a revised BASIX Certificate for the proposal as modified. The Certificate number is **to be inserted**. The commitments made result in reductions in energy and water consumption within the development.

#### **State Environmental Planning Policy No 55 - Remediation of Land**

14. 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.

Any issues related to land contamination on the site was addressed during the assessment of DA2016/157. A summary of remediation and validation works was prepared by EI Australia dated 19 February 2018. This summary concluded that after demolition and remediation works were completed, all fill soils had been removed from the site including the previously identified hotspots in accordance with the Remediation Action Plan (RAP) prepared by EI (2017) titled "*Remediation Action Plan, 621-635 Princes Highway, Blakehurst, NSW*". (Report Ref. E23011.E06\_Rev0, dated 21 December, 2017).

In this instance, the proposed modifications do not warrant further investigation works with regard to land contamination.

#### **State Environmental Planning Policy (Infrastructure) 2007**

15. Part 3 of the Policy provides development controls for various land uses and activities. Division 17 addresses the consideration of RMS and, specifically, Subdivision 2 applies to development in or adjacent to road corridors and road reservations. Specifically: -
- Clause 102 applies noise criteria to residential development adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 40,000 vehicles (based on the traffic volume data published on the website of the RMS) and that the consent authority considers is likely to be adversely affected by road noise or vibration; and

- Clause 104 identifies traffic generating development which must be referred to the Road and Traffic authority. The development will not result in more than 200 motor vehicles with access to "any road", and therefore is not required to be referred to the RMS under 104 of the ISEPP as "traffic generating development".

In this regard, the additional traffic generated by the increase of three (3) residential apartments, providing a total of forty-six (46) residential apartments within the building and the provision of one hundred and fifteen (115) spaces within the basement parking levels in lieu of the approved one hundred and eight (108) spaces, will not have any noticeable or unacceptable effect on the road network serving the site in terms of road network capacity or traffic-related environmental effect.

In the circumstances, it can be concluded that the proposed development has no unacceptable traffic implications."

The Princes Highway, however, does have an annual average daily traffic volume of more than 40,000 vehicles and therefore the noise criteria prescribed for residential development under Clause 102 apply. The proposal is accompanied by a revised Environmental Noise Impact Assessment prepared by Renzo Tonin & Associates dated 20 July 2018. This report concludes that elements of the building need to provide attenuation from the noise generated from the Princes Highway and the Rail corridor. This can be addressed as part of the construction certificate plans and documentation.

Clause 45 of SEPP Infrastructure requires the Consent Authority to consider any DA for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists);
- immediately adjacent to an electricity substation;
- within 5m of an overhead power line; or
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5m of an overhead electricity power line.

The proposal is not within or immediately adjacent to any of the above electricity infrastructure and does not include a proposal for a swimming pool. As such the application is not required to be referred to the electricity supply authority. In this regard, the subject application is considered to satisfy the provisions of Clause 45 SEPP Infrastructure.

The existing approval confirmed the development was outside of the 5m which was confirmed by an authorized energy consultant. This proposed has been accompanied by a letter from AAPE Pty Ltd dated 21 August 2018 which is an authorized electrical consultant confirming the development does not come within 5m of the high voltage power lines.

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

16. 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 does not involve the removal of any significant trees or vegetation. In this regard, 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 the proposed landscaping works that are to be undertaken on site. This issue is addressed in more detail in the accompanying Landscape Plan prepared by Taylor Brammer.

### **State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development**

17. The proposed modifications were reviewed by the Design Review Panel during their meeting held on 7 June 2018. The comments recommendations made by the Panel and the respective plan amendments made to the proposal are detailed below.

#### Principle 1 – Context and Neighbourhood Character

Panel Comment: No

Officer Comment: The proposal as modified relates satisfactorily to the desired future character of the area. The proposed modifications are therefore appropriate in this regard.

#### Principle 2 – Built Form and Scale

Panel Comment: The creation of a roof top communal open space has resulted in the lift overruns that exceed the 21m height control. The Panel does not believe this is an issue because the elements are small and located in the centre of the building where they will not be easily seen, or cause any adverse amenity impacts.

The ground floor plan and cross section need to be properly coordinated to show the right gradients of the vehicle entry ramp.

Officer Comment: The gradients of the vehicle entry ramp have been amended in order to allow for compliant slopes and ease of access. This is detailed within correspondence provided by Terraffic Pty Ltd reference number 16053 dated 10 April 2018 which confirms compliance with the conditions of consent and the relevant Australian Standards.

The proposed modifications are minor in overall form, consistent with the scale of existing and emerging contextual development and are generally consistent with the desired future character of the area. The proposal as modified is satisfactory in regards to this principle.

### Principle 3 - Density

#### Panel Comment: Complies

Officer Comment: The development satisfies the requirement and the additional roof top barbecue area has been included in the GFA calculations.

### Principle 4 – Sustainability

Panel Comment: The issue of environmental sustainability was raised and there was some lack of clarity as to the intentions for rain water recycling. It is strongly recommended that for a development of such a large scale, and with a large roof top available, initiatives relating to rain water recycling for irrigation and other uses such as toilet flushing should be included.

The deep soil has been reduced however it was unclear from the discussion with the applicant the extent of the reduction. It is of concern that this site has limited deep soil already and is relying on a small corner of deep soil under upper level cantilevers which would significantly compromise tree planting. Tree planting on deep soil is critical to improve local micro climate, provide shade and other environmental services.

When a stormwater recycling tank is provided, it must not be within the deep soil zone.

Officer Comment: A Stormwater Recycling Tank has been provided on the roof terrace proposed to be used for the irrigation of landscaping. The total amount of deep soil provided is 101sqm which is 5.5% of the site area. The proposal dedicates a 1.75m wide stormwater easement that was initially dedicated as an area of deep soil. The provision of this easement is in direct response to the requirements made by Council's hydraulic engineer.

While the extent of deep soil landscaping provided is being marginally reduced, the 101m<sup>2</sup> of area being provided is still a substantial increase to what was provided to the site prior to redevelopment. The extent of deep soil provided will still allow for the planting of a number of substantial tree species as depicted in the amended landscaping plan prepared by Taylor Brammer. The proposal as modified is satisfactory in this regard.

### Principle 5- Landscape

Panel Comment: The architectural drawings seem to contradict the roof top landscape plan that was tabled. The following changes should be made to the roof top space:

- Delete plastic lawn and replace with planting and soil;
- Provide a good proportion of planting area to paved area. This should minimise expansive hard surfaces and heat retention. The priority should be on providing soft landscaping that can provide shade, withstand high winds and provide adequate screening between roof top gathering spaces;
- Provide adequate planted screening around perimeter to deal with strong wind conditions;
- Provide irrigation;
- Provide a fully enclosed space for gatherings in inclement weather equipped with kitchenette.;



- Locate 2 bbqs accessed from each of the lifts and under shelter;
- Larger tree species be provided in roof top podium space - species should be greater than 6m height and roof slab should be designed to accommodate soil loads.

Officer Comment: The landscape plan prepared by Taylor Brammer has since been amended to be reflective of the architectural plans. This plan now depicts the provision of natural lawn in lieu of acrylic lawn while a ramped area has also been provided to allow for ease of access to this area. A stormwater irrigation tank has been introduced to the roof while an enclosed barbecue space with kitchenette has been added this has been included in the GFA calculations. The proposal as modified is satisfactory in this regard.

#### Principal 6 - Amenity

Panel Comment: Refer to comments under 'Landscape'.

Officer Comment: The green wall originally approved along the Stuart Lane elevation has been reinstated while additional sanitary facilities have been added to the childcare component of the development in accordance with regulations.

#### Principal 7- Safety

Panel Comment: No additional comment

Officer Comment: Residential apartments, Childcare Centre, communal open space and car parking areas will be accessible via a secure electronic system. Common areas are proposed to be appropriately lit with clearly defined pathways. The proposal as modified is satisfactory in regards to the requirements of this principle.

#### Principal 8 – Housing Diversity and Social Interaction

Panel Comment: See comments under landscaping

Officer Comment: The design of the proposal as modified provides for varied housing choice for a variety of household types. The reconfiguration of the top is designed to provide appropriate communal facilities at rooftop level with various spaces including bbq and kitchenette facilities, which will encourage and provide opportunities for social interaction between future occupants.

#### Principal 9 – Aesthetics

Panel Comment: No further comment

Officer Comment: The proposal as modified does not seek to substantially alter the previously approved palette of colours and materials on site. As modified, the development will continue to provide visual interest when viewed from the public domain.

### **APARTMENT DESIGN GUIDE**

18. The proposal has been assessed against the Apartment Design Guide (ADG). The proposed development is considered to have performed adequately in respect to the objectives and design criteria contained within the ADG. The relevant issues are discussed below:

<b>Design Criteria</b>	<b>Required</b>	<b>Proposed</b>	<b>Complies</b>
Min. Internal Area (unit size)	1 bedroom - 50sqm 2 bedroom - 70sqm 3 bedroom - 90sqm	All apartments meet or exceed the minimum area requirements.	Yes
Private Open Space and Balconies	1 bedroom - 8sqm and a 2m depth. 2 bedroom - 10sqm and a 2m depth. 3 + bedroom - 12sqm and 2.4m depth. For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15sqm and a minimum depth of 3m.	All units provide private open space and balconies that generally comply with the minimum area and width requirements.	Yes
Min. Communal Open Space	25% of site area (459sqm)	40% or 744sqm	Yes
Deep Soil Landscape	7% (128.6sqm)	5.5% (101sqm)	No, however the available deep soil landscaping is considered to meet the objectives of the controls.
Building Separation	<p>Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <p>Up to 12 m (4 storeys)</p> <ul style="list-style-type: none"> <li>• 6m - habitable and balconies and;</li> <li>• 3m - Non Habitable</li> </ul> <p>Up to 25m (5-8 storeys)</p> <ul style="list-style-type: none"> <li>• 9m - habitable and balconies and;</li> <li>• 4.5m - Non Habitable</li> </ul> <p>Over 25m (9+ storeys)</p> <ul style="list-style-type: none"> <li>• 12m - habitable and</li> </ul>	<p>The modifications result in a change to the level of separation provide on the fourth floor which has resulted in the deletion of three units. A minimum separation distance of 9m is provided from the south-western face of units 4.4 and 4.5 to the boundary along Stuart Lane. This portion of the building is further separated by Stuart Lane from the nearest neighbouring property boundaries located along both James and Vaughan Streets.</p> <p>On the fifth floor, identical</p>	

	balconies and; • 6m - Non Habitable  Separation distances between buildings on the same site should combine required building separations depending on the type of room.	setbacks are proposed to Stuart Lane as those observed on the fourth floor below.  The proposed roof terrace level observes setbacks that range from 9m to 18.636m from Stuart Lane. Again, this level is further separated from the nearest neighbouring properties fronting James and Vaughan Streets by Stuart Lane.  In summary, the proposed modifications result in levels of building separation that are consistent with or exceed the minimum requirements outlined within the ADG.	
Solar Access	Minimum 70% of units	39 of 46 Units or 86%	Yes
Cross Ventilation	Minimum 60% of units	29 of 46 Units or 62%	Yes

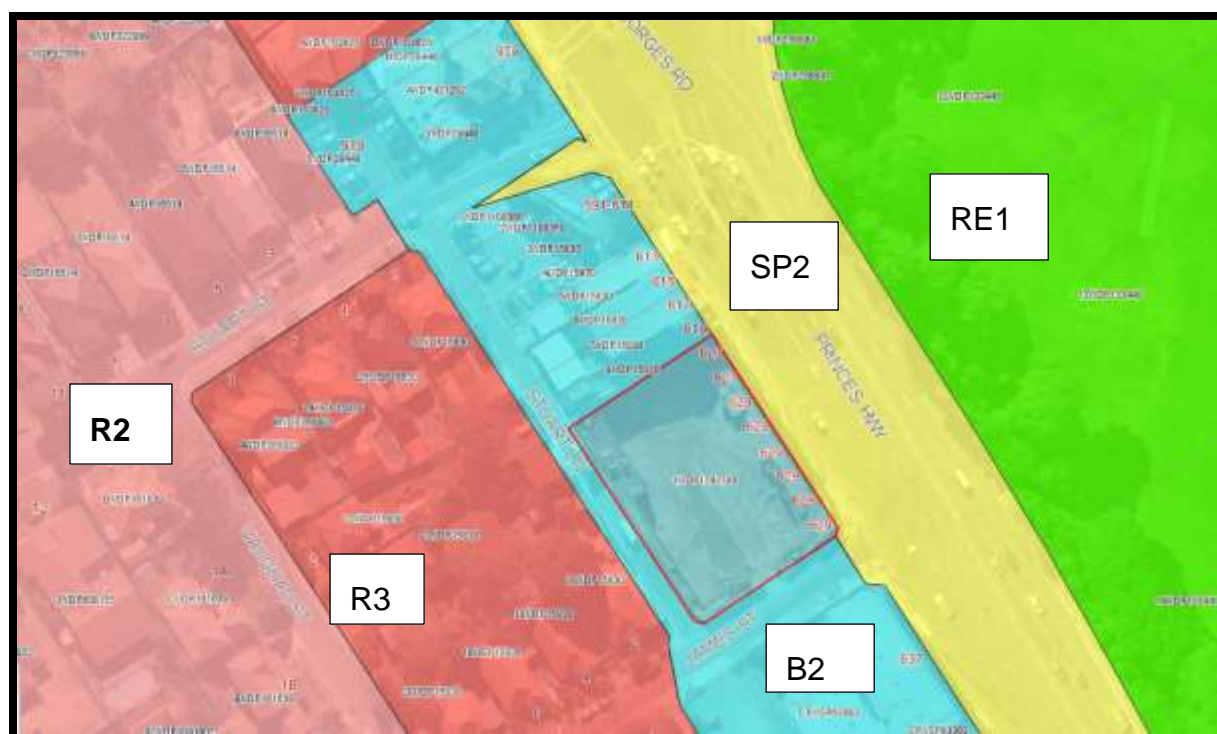
## PLANNING ASSESSMENT

19. 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

### ZONING

20. The site is zoned B2 –Local Centre Zone under Kogarah Local Environmental Plan 2012 and the proposal is a permissible form of development with Council's consent.



### Kogarah Local Environmental Plan

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

Clause	Standard	Proposed	Complies
2.3 – Zone objectives and Land Use Table	Meets objectives of B2 – Local Centre zone  Development must be permissible with consent	The proposed modifications are to an approved mixed use development which is permissible with consent.	Yes
4.3 – Height of Buildings	21m as identified on Height of Buildings Map	22m to the top of the lift overrun	No – See discussion below
4.4 – Floor Space Ratio	2.5:1 as identified on Floor Space Ratio map	2.5:1 or 4,590sqm	Yes
Clause 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 proposed modifications do not necessitate the need for any additional earthworks beyond that approved.	Yes

#### 4.3 Height of Buildings

A maximum height of 22m (top of the lift overrun) is proposed that is marginally in excess of the 21m height limit permitted for the site (refer to architectural extract below).



Section through plans showing the height non-compliance.

In accordance with *Gann & Anor v Sutherland Shire Council* [2008], the Land & Environment Court found that a development application can be modified even where this would result in the breach of development standards. Furthermore, it was the Court's view that no objection pursuant to Clause 4.6 of Standard template LEPs was required to be lodged, however that the consent authority was still required to take the relevant matters referred to in Section 79C (now 4.15) in accordance with the requirements of Section 96(3) (now 4.55) of the EP&A Act.

The applicant has addressed the relevant requirements in the documentation submitted to Council, with rationale provided to justify the proposed additional height.

The applicant, as part of the submission has requested that the variation be supported as the proposed variation to the maximum height is acceptable as the variation solely relates to the lift motor rooms. These spaces are located centrally within the development so as not to cause any increased environmental impacts on amenity or visual intrusion. The variation has further detailed lift access to the roof facilitates equitable access for all to the substantial communal open space area and supporting amenities.

Following a review of the application, it is considered the height variation as proposed is acceptable for the following reasons:

- a) Whilst the proposal as modified exceeds the maximum height permitted on the subject site, the variation is minimal and the resulting bulk, scale, mass and form of the development will remain entirely consistent with the future desired character of the area as envisaged by the relevant controls.
- b) The proposal as modified continues to satisfy the relevant objectives of the height standard.
- d) The proposal as modified is consistent with the objectives of the B2 - Local Centre Zone.

- e) The proposal as modified does not result in significant adverse environmental planning impacts upon adjoining or nearby properties in terms of overshadowing, aural and visual privacy, solar access, natural ventilation and views & vistas.
- f) The proposal as modified provides a high quality built form that will provide a positive contribution to the emerging character of the locality.

In this regard, the modifications sought as part of this application are considered to result in orderly development of this site and seeking numeric compliance will not result in any benefits to the public domain or surrounding development. This minor breach does not result in the loss of development potential to any adjoining allotment. Compliance with the height standard is deemed unreasonable and unnecessary and flexibility should be applied, given the circumstances of this individual case.

### **Stratum Subdivision**

22. The parent application did not include Stratum Subdivision, as a result this has not be included in the modification assessment. The Stratum Subdivision will need to be considered in the future as a separate application. A condition will be included to this effect.

### **Section 4.15(1)(a)(ii) – Provisions of any Draft EPI's**

#### **Draft Environment SEPP**

23. 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.

### **Section 4.15(1)(a)(iii) – Provisions of any Development Control Plan**

The following Development Control Plan is relevant to this application.

#### **Kogarah Development Control Plan 2013**

24. The Kogarah Development Control Plan 2013 ("KDCP") provides detailed provisions to guide development to achieve the objectives of the KLEP, providing detailed controls and objectives for residential development. In this instance, the controls outlined in Part D1: Development in Business B1 and B2 Zones and Part D2: Commercial Locality Guides are at odds with KLEP 2012 standards applicable to the site. The proposed modifications do not result in any further departure from the DCP controls over what was already supported as part of the original development approval for the site. In this regard, the proposal as modified is satisfactory.

**Section 4.15(1)(a)(iv) – Provisions of regulations**

25. The provisions of the Regulations relating to demolition have been considered in the assessment of the original development application. In accordance with clauses 115(3) & (3A) of the EP&A Regulations, the Section 96 modification was accompanied by a 'design verification statement' confirming that the design as modified was directed by a registered architect and that it complies with the design quality principles. All relevant provisions of the Regulations have been considered in the assessment of this proposal as modified.

**Section 4.15(1)(a)(b) – Likely Impacts of Development**

26. The modifications result in some additional overshadowing to the neighbouring properties as detailed in the shadow diagram located post this discussion. This diagram provides a comparative analysis detailing the extent of shadowing incurred by the neighbouring properties as part of the original DA approval, in relation to what is anticipated to result from the proposed modifications.

In summary, the additional shadows will result in the following additional impact:

- 637-643 Princes Highway, Blakehurst: Two retail windows are affected by the additional shadow at 3pm, 21 September;
- 6 James Street, Blakehurst: Part of the rear yard and driveway are affected by the additional shadow at 9am, 21 June; and,
- 4 Vaughan Street, Blakehurst: A small part of the rear yard is affected by the additional shadow at 9am, 21 September.

The shadow diagrams demonstrate that any additional shadows cast as a result of the proposed modifications will have a minor impact on surrounding properties and acceptable levels of solar access area provided.

**Traffic**

27. The application has redesigned the basement access, car parking design and maneuverability, the amended proposal has been accompanied by correspondence prepared by Terraflow Pty Ltd reference number 16053 dated 10 April 2018 which certifies the revised design is compliant with the relevant Australian Standards and Council controls.

**Section 4.15(1)(a)(c) – Suitability of the Site**

28. There are no known major physical constraints, environmental impacts, natural hazards or exceptional circumstances that would hinder the suitability of the site for the proposed development.

**Section 4.15(1)(d) – Public Submissions**

29. The proposal as modified has been notified in accordance with the provisions of Kogarah DCP, no submissions were received.

**Section 4.15(1)(e) – Public interest**

30. The proposal as modified has been assessed against the relevant planning policies applying to the site having regard to the objectives of the controls. As demonstrated in the assessment of the application, there are sufficient environmental planning grounds in which to warrant support of increase to the height standard for the lift overruns. The proposal as modified does not create unreasonable impacts on surrounding properties and is consistent with the future desired character of the area. The proposal as modified is in the public interest.



## REFERRALS

### Council Referrals

31.

#### Stormwater

The applicant has confirmed the drainage design for the application has not been altered, with the exception of the additional 2000 litre rainwater tank to the roof level. No referral was considered necessary.

#### Traffic

The application has redesigned the basement access, car parking design and maneuverability, the amended proposal has been accompanied by correspondence prepared by Terraflow Pty Ltd reference number 16053 dated 10 April 2018 which certifies the revised design is compliant with the relevant Australian Standards and Council controls, no referral to the traffic engineers was considered necessary.

#### Waste

Council's Waste Officer has reviewed the application and notes that a minimum of 4 by 660 litre bin are required for a twice weekly residential collection. And a recycling bin is to be provided in the bin rooms for levels 4 through to 6. A condition will be incorporated to this effect.

### External Referrals

32. No external referrals were required to be provided, the applicant provided details confirming the development does not come within 5m of the high voltage lines which is consistent the approval issued. The documentation was provided by AAPE Pty Ltd dated 21 August 2018.

## CONCLUSION

33. 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 relevant State Environmental Planning Policies, Local Environmental Plans and Development Control Plans. The application seeks approval for modifications to the provision of an additional floor level, relocation of the communal open space to the rooftop, a revised apartment and car parking mix and stratum subdivision.

The application has been considered having regard to the State Environmental Planning Instruments, the Local Environmental Plan and the Development control plan applicable to the site. The application has adequately addressed the assessment criteria and where not numerically compliant has demonstrated the objectives of the controls have been achieved. The application is considered worthy of support subject to updated plans and conditions being referenced as outlined below.

## DETERMINATION AND STATEMENT OF REASONS

### 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; and
- 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 Modification Number DA2017/0166 associated with 621 - 635 Princes Highway, Blakehurst which is legally described as Lot1 DP1242789 to amend the approval for demolition of the existing building and the construction of a six storey mixed use development incorporating five levels of residential apartments, three levels of basement carpark and a child care centre by the provision of an additional floor level, relocation of the communal open space to the rooftop, a revised apartment and car parking mix, amendments to facilitate fire services and access to and within the basement subject to the following conditions of consent:

## CONDITIONS

### SPECIFIC DEVELOPMENT CONDITIONS

#### SECTION A - General Conditions

The conditions that follow in this Section A of the Notice of Determination are general conditions which are imposed to ensure that the development is carried out in accordance with the development consent.

#### (1) Approved Plans of Consent

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

Description	Drawing No.	Date	Issue/Revision	Prepared by
Cover Sheet	S96 000	2 July 2018	N	Level 33 Architectural Division
Site Analysis/Site Plan and Roof Plan	S96 001	19 June 2018	M	Level 33 Architectural Division
Demolition Plan	S96 002	19 June 2018	M	Level 33 Architectural Division
Basement Plan B3	S96 100	19 June 2018	M	Level 33 Architectural Division
Basement Plan B2	S96 101	19 June 2018	M	Level 33 Architectural Division
Basement Plan B1	S96 102	19 June 2018	M	Level 33 Architectural Division
Ground Floor Plan	S96 103	19 June 2018	M	Level 33 Architectural Division
Level 1 Floor Plan	S96 104	2 July 2018	N	Level 33 Architectural Division
Level 2 Floor Plan	S96 105	19 June 2018	M	Level 33 Architectural Division
Level 3 Floor Plan	S96 106	19 June 2018	M	Level 33 Architectural Division
Level 4 Floor Plan	S96 107	2 July 2018	N	Level 33 Architectural Division
Level 5 Floor Plan	S96 108	19 June 2018	M	Level 33 Architectural Division
Roof Terrace Plan	S96 109	19 June 2018	M	Level 33 Architectural Division

Roof Plan	S96 110	19 June 2018	M	Level 33 Architectural Division
James Street Elevation	S96 200	2 July 2018	N	Level 33 Architectural Division
Princes Highway Elevation	S96 201	19 June 2018	M	Level 33 Architectural Division
North West Elevation	S96 202	19 June 2018	M	Level 33 Architectural Division
Stuart Lane Elevation	S96 203	2 July 2018	N	Level 33 Architectural Division
Section 01	S96 300	19 June 2018	M	Level 33 Architectural Division
Section 02	S96 301	19 June 2018	M	Level 33 Architectural Division
Section 03	S96 302	19 June 2018	M	Level 33 Architectural Division
Waste Management Plan	S96 850	19 June 2018	M	Level 33 Architectural Division
Materials and Finishes	S96 950	19 June 2018	M	Level 33 Architectural Division
Cover Sheet	LA00	2 July 2018	J	Taylor Brammer Landscape Architects Pty Ltd
Ground Floor Landscape Plan	LA01	18 June 2018	I	Taylor Brammer Landscape Architects Pty Ltd
Level 1 to 5 Landscape Plan	LA02	2 July 2018	I	Taylor Brammer Landscape Architects Pty Ltd
Roof Garden Landscape Concept Plan	LA03	18 June 2018	K	Taylor Brammer Landscape Architects Pty Ltd
Landscape Details	LA04	19 September 2017	E	Taylor Brammer Landscape Architects Pty Ltd
Landscape Details	LA05	19 September 2017	D	Taylor Brammer Landscape Architects Pty Ltd
Landscape Details	LA06	2 July 2018	H	Taylor Brammer Landscape Architects Pty Ltd
Landscape Details	LA07	19 September 2017	B	Taylor Brammer Landscape Architects Pty Ltd
Revised Acoustic Report	TJ175-01F02	20 July 2018	-	Renzo Tonin and Associates
Electrical Clearance Letter	-	21 August 2018	-	AAPE Pty Ltd
Traffic Engineering Letter	16053	10 April 2018	-	Terraffic Pty Ltd
Stormwater plans	D1 to D7 D	6 March 2017	D	EZE Hydraulic Engineers Drawing

Proposed Drainage Diversion Design	TD1(D), TD2(C), TD3(D) and TD4(D)	-	-	EZE Hydraulic Engineers
Plan of Easement for Drainage	-	-	161237	Greg Ireton Gibson

**Note** - No approval is granted to the Stratum Subdivision, this will need to be considered as a separate application.

**(This condition is modified as part of MOD2017/0166 (DA157/2016))**

## **SECTION B – Prior to the Issue of a Construction Certificate or Demolition**

### **Conditions**

The conditions that follow in this Section B of the Notice of Determination relate to the payment of fees, amendments being made to the proposal, further investigation being undertaken or the preparation of documentation that must be complied with prior to the issue of a Construction Certificate or Demolition.

**Note:** A copy of the Construction Certificate shall be forwarded to Council prior to commencement of construction where Council is not the certifier who issued the Construction Certificate.

### **(2) Asset & Building Fees**

Payment of the following amounts as detailed below:

- \*Builders Long Service Levy of \$56,582.00
- Inspection Fee of \$ 1,530.00
- Security Deposit Stormwater Asset \$25,000.00
- Asset Inspection Fee of \$ 110.00
- Sign Installation \$ 650.00

\*Note: The Builders Long Service Levy quoted is based on the market value of the proposed building works and the Levy Rate applicable at the time of assessing the Development Application and may be subject to change prior to payment.

### **(3) Restoration Deposit**

A deposit of \$45,100.00 shall be lodged with Council to ensure the construction of the following works to be completed at the applicant's expense:

- Construction of a new concrete kerb and gutter and footpath across the full street frontage in Stuart Lane.
- Construction of a new concrete footpath from the back of the kerb to the boundary across the full street frontage in Stuart Lane, James Street and Princes Highway.
- All associated road pavement restorations. These works are to be in accordance with plans and specifications to be issued by Council.

### **(4) Section 94 Index**

Section 94 Contributions are to be paid as detailed below in the following condition, and until paid all contributions will be indexed four (4) times a year (on the following dates) to allow for the cost increases: 31 January, 30 April, 31 July and 31 October.

### **(5) Section 94 Contributions**

As at the date of Development Consent the following contributions have been levied on the subject development under Section 94 of the Environmental Planning and Assessment Act, 1979 and the nominated Section 94 Contributions Plans:

No.1 – Roads and Traffic Management – Residential \$ 838.04  
No.5 – Open Space 2007 \$373,747.87  
No.9 – Kogarah Libraries – Buildings \$ 8,470.34  
No.9 – Kogarah Libraries – Books \$ 6,039.00  
TOTAL \$389,095.47

Any of the above Section 94 Contributions Plans may be inspected at the Georges River Council Customer Service Centres.

**Revised Section 94 calculations are to be inserted.**

**(This condition is modified as part of MOD2017/0166 (DA157/2016))**

#### **(6) Dilapidation Report**

Prior to issue of any construction certificate or commencement of any demolition or earth works on site, the applicant shall submit, for acceptance by the Principal Certifying Authority (PCA), with a copy forwarded to Council where Council is not the PCA, a full dilapidation report on the visible and structural condition of the following properties;

(i) All neighbouring buildings likely to be affected by the excavation as determined by the consulting engineer. The report must be completed by a suitably qualified consulting structural/geotechnical engineer as determined necessary by that professional based on the excavations for the proposal, the subsoil conditions and any recommendations of a geotechnical report for the site. The report shall have regard to protecting the applicant from spurious claims for structural damage and shall be verified by all stakeholders as far as practicable.”

Reports relating to properties that refuse access to carry out inspections to complete the dilapidation report, after being given reasonable written notice to request access (at least 14 days) at a reasonable time (8.00am-6.00pm), are not to hold up the release of the Construction Certificate.

#### **(7) Soil and Water Management**

A Soil and Water Management Control Plan, incorporating contour levels and prepared in accordance with Environmental Site Management Policy shall be submitted to Council detailing all measures to control soil erosion and sedimentation runoff from the site during excavation and construction activities.

#### **(8) SEPP No 65 Certification**

A design verification statement from a qualified designer shall be submitted that verifying that the plans and specifications achieve the design quality of the development for which consent was granted having regard to the design quality principles of State Environmental Planning Policy No. 65.

#### **(9) Adaptable Housing Compliance**

The nominated adaptable units shall comply with the adaptable housing provisions of AS4299 – Adaptable Housing and AS1498 – Access and Mobility (Parts 1 and 2). The Adaptable Housing checklist and circulation diagram demonstrating compliance shall be submitted.

**(10) Ausgrid Sub Station**

The applicant is to confer with Ausgrid to determine if an electricity distribution substation is required. If so, shall be incorporated within the Construction Certificate and it will be necessary for the final film survey plan to be endorsed with an area having dimensions 5m x 4m over the location of the proposed electricity distribution substation to be dedicated to Council as public roadway, or as otherwise agreed with Ausgrid. Ausgrid's requirements are to be met prior to release of the occupation certificate.

**(11) Clearances to Overhead Mains**

If any part of the proposed structure, within 5m of a street frontage, is higher than 3m above footway level, the applicant is to confer with Ausgrid to determine if satisfactory clearances to any existing overhead mains will be affected. If so, the applicant is to make arrangements with Ausgrid for any necessary modification to the electrical network in question.

These works to be at the applicant's expense and Ausgrid's requirements are to be met prior to actual construction commencing on site or as agreed with Ausgrid.

**(12) Sydney Water (DA Only)**

The approved plans must be processed through Sydney Water to determine whether the development will affect any Sydney Water asset's (sewer and water mains, stormwater drains and/or easements) and if any further requirements need to be met. An approval receipt will be issued by Sydney Water which is to be submitted to Council or the Principal Certifying Authority. Please refer to the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) for;

- Sydney Water Tap in – see Plumbing, building and developing and then Sydney Water Tap in; and
- Building over/adjacent to a Sydney Water Asset - see Plumbing, building and developing, building then Building Approvals or telephone 13 20 92.

**(13) Driveways**

The design boundary level on the southern edge of the driveway shall be RL8.54.

The design boundary level on the northern edge of the driveway shall be RL 8.22.

The driveway grades from the street boundary to the basement slab shall comply with the requirements of "AS/NZS 2890.1:2004 - Off Street Car Parking". In accordance with "AS/NZS 2890.1:2004 - Off Street Car Parking, Section 3.3(a)", the first 6m into the property from the James Street boundary shall be at a maximum grade of 1:20.

**(14) Parking restriction sign**

The applicant shall pay a fee of \$650.00 to cover the costs for Council to install parking restriction signage in Stuart Lane, subject to approval from the Local Traffic Committee. (see Bonds and Deposits)

**(15) Design Plans/Hydraulic**

Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to Roads and Maritime for approval, prior to the commencement of any works.

Details should be forwarded to:

The Sydney Asset Management  
Roads and Maritime Services  
PO Box 973 Parramatta CBD 2124.

**(16) Plan checking fee**

A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued. With regard to the Civil Works requirement please contact the Roads and Maritime Project Engineer, External Works Ph: 8849 2114 or Fax: 8849 2766.

**(17) Site investigation**

A preliminary site contamination investigation is to be undertaken in order to determine if any contaminants are present on either surface or subsurface levels of the site. If contaminants are identified, a detailed investigation is to be carried out and forwarded to Council for review.

**(18) Concept Plans**

The submitted stormwater plans, Job No. 14009 Drawings D1-D7 Revision D by Eze Hydraulic Engineers dated 6 March 2017 have been assessed and approved as a concept plan only. No detailed assessment of the design has been undertaken. A Detailed Stormwater Plan and supporting information of the proposed on-site stormwater management system is to be submitted. The required details in this Plan and the relevant checklist are presented in the document 'Water Management Policy. Kogarah Council. August 2006' The design parameters and the general concept of the proposed on-site stormwater management system are to be the same as documented in the approved Concept Stormwater Plan for the proposed development. Any conceptual variations to the stormwater design will require written approval from Council and will require to be justified and supported by appropriate details, calculations and information to allow for proper assessment.

The Detailed Stormwater Plan is to address the following issue(s):

- An oil/silt separator sized to the catchment area must be specified on the Detailed Stormwater Plan and located downstream of the proposed basement car parks and prior to discharge to Councils stormwater system.
- The design is to include design measures to minimise the potential for surcharge of the Council stormwater system into the sites drainage system.

**(19) Stormwater Asset**

Protection of the new and existing Council stormwater assets during construction will be the responsibility of the applicant. Sufficient asset protection measures must be undertaken by the applicant during construction. A Security Bond of \$25,000 will be required to be lodged prior to the issue of a Construction Certificate.

**(19A) Waste**

The plans are to demonstrate that a minimum of 4 by 660 litre bins are to be provided for the residential component of the application to facilitate a twice week pickup.

A recycling bin is to be provided within the waste rooms of levels 4 through to 6.

**(This condition is modified as part of MOD2017/0166 (DA157/2016))**

**SECTION C – Prior to Commencement of Construction Conditions**

The conditions that follow in this Section C of the Notice of Determination are specific to the proposed development and must be complied with prior to the commencement of construction on the site.

**(20) Geotechnical Report**

Excavation of the site is to extend only to that area required for building works depicted upon the approved plans. All excess excavated material shall be removed from the site. In this



regard, all excavated waste materials shall be disposed of at an approved Waste Depot. No rock breaking or other machinery for the excavation, drilling, cutting or removal of rock shall be used on the site prior to the acceptance by the principal certifying authority of the following documentation:

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

#### **(21) Certification of Detailed Plan**

The detailed stormwater plan is to be certified by a Chartered Professional Engineer. A statement, that the stormwater system has been designed in accordance with Council's Water Management Policy and satisfies the provisions and objectives of that policy, must be included in the Stormwater Detailed Plan.

#### **(22) On-Site Detention**

A 49.5m<sup>3</sup> On-Site Detention system with a Maximum Site Discharge of 32.2 Litres per Second is to be provided in accordance with the Stormwater Concept Plan and associated Design Assessment Report. The overflow is to be directed to the site drainage system.

#### **(23) Certification by Mechanical Engineer**

To ensure that adequate provision is made for ventilation of the building, mechanical and /or natural ventilation shall be provided. These systems shall be designed in accordance with the provisions of:-

- a) The Building Code of Australia;
- b) Australian Standard AS 1668 Part 1 - 1998;
- c) Australian Standard AS 1668 Part 2 - 2002;
- d) The Public Health Act 2010;
- e) The Public Health Regulation 2012;
- f) Australian Standard 3666.1 - 2002;
- g) Australian Standard 3666.2 - 2002;
- h) Australian Standard 3666.3 - 2000.

Details of all mechanical and /or natural ventilation systems, along with specific certification, provided by an appropriately qualified person, verifying compliance with the abovementioned requirements.

#### **(24) Structural Engineer's Details**

Engineer's details prepared by a practising Structural Engineer being used to construct all reinforced concrete work, structural beams, columns & other structural members. The details are to be submitted to the Principal Certifying Authority for approval prior to construction of the specified works.

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

#### **(25) Protection of Site – Hoarding**

A hoarding or fence must be erected between the work site and the public place if:

- the work involved in the erection or demolition of a building is likely to cause obstruction or inconvenience to pedestrian or vehicular traffic in a public place; or
- if it involves the enclosure of a public place. If necessary an awning is to be erected which is sufficient to prevent any substance from or in connection with the work from falling into a public

place. Any such hoarding, fence or awning is to be removed when the work has been completed. If the work site is likely to be hazardous to persons in a public place, it must be kept lit between sunset and sunrise.

## **(26) Ground Anchors**

Should the proposed development require the installation of ground anchors to a road reserve the following must be complied with:

- The appropriate Roads Act 1993 approvals shall be obtained.
- The anchoring is to be de-stressed once no longer required.
- The work is to be clear of all services contained within the public roadway and the required dial before you dig investigations are to be undertaken in relation to any services that may be in the proposed anchor locations.
- Public liability insurances being held by the builder/ developer with a copy being submitted to Council.
- A works-as-executed plan showing the exact location of all anchoring points being submitted to Council upon their installation. It is to be noted that if anchoring into adjacent private properties is required any such approval would need to be obtained from the owners of this property.

## **(27) Driveway**

In respect to vehicular access to the proposed development the gutter crossing and driveway are to be reconstructed between the kerb and street alignment to Council's specifications. In this regard a separate driveway application is to be lodged with Council for works outside the property boundary. Furthermore the design boundary level is to be received from Council prior to construction of the internal driveway.

## **(28) Council Infrastructure Inspection**

Prior to the commencement of any works an authorised representative of the applicant is to organise and attend a meeting on site with Council's Infrastructure Compliance Co-ordinator to discuss protection of Council's infrastructure. To organise this meeting contact Council's Customer Service Centre on 9330 6400.

## **(29) Public Liability Insurance**

All nominated contractors / applicants carrying out driveway and/or restoration works on Council property must carry public liability insurance with a minimum cover of twenty million dollars (\$20,000,000.00). In this regard, prior to commencement of works, the principal contractor is to lodge an "Application for the Construction of Work by Private Contractor" to Council, which includes submitting evidence of their current insurance. The principal contractor must ensure that sub-contractors are also adequately insured.

## **(30) Soil Erosion Controls**

Prior to commencement of any site works, erosion and sediment controls are to be installed in accordance with Environmental Site Management Policy and any approved Soil & Water Management Plan and shall incorporate:

- Measures to prevent sediment and other debris escaping from the cleared or disturbed areas into drainage systems or waterways;
- Controls to prevent tracking of sand, soil, aggregates, etc, by vehicles onto adjoining roadways.

## **(31) Excavation**

The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001.

The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by Roads and Maritime.

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) days notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

### **(32) Construction vehicles**

All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on Princes Highway.

### **(33) Road Occupancy licence**

A Road Occupancy Licence should be obtained from Transport Management Centre for any works that may impact on traffic flows on Princes Highway during construction activities.

### **(34) Footing, Piers and Loadbearing structures**

Footings, piers and any other load bearing structures in the vicinity of the Council stormwater system are to be located so that all loads are transferred below the zone of influence of the stormwater asset or to bed rock. All load bearing structures must be located outside of the proposed drainage easement (B) in favour of Council as defined on the Plan of Proposed Easement for Drainage Surveyors Reference 161237 submitted to Council on the 10th March 2017. The footing schedule must be documented on the Detailed Structural Plans and certification to this effect shall be provided by an accredited certifier.

### **(35) Stormwater Trunk Design**

The submitted Stormwater Trunk Drainage Diversion Design Plans, Job No. 14009 Drawings TD1-4 Revision D by Eze Hydraulic Engineers dated 6 March 2017 have been assessed and approved as a concept plan only. No detailed assessment of the design has been undertaken. A Detailed Stormwater Plan will need to be lodged and receive written approval from Council's Stormwater Section. The Detailed stormwater Plan is to address the following issues:

- i) The diversion plan is to be amended so that all notes and details are clearly legible.
- ii) The pipe trench details are to be amended to be in accordance with Council's requirements. Contact Council's Stormwater section for these requirements.
- iii) A three metre long subsoil drain wrapped in filter fabric sock is to be installed adjacent to the base of the inlet pipes. The subsoil drain is to be laid upstream of each new junction pit and are to be connected for discharge into the junction pits.
- iv) The Stormwater Detailed Plan is to be accompanied with a statement by a qualified Hydraulic Engineer that the proposed deviation has been designed to provide Council's stormwater system with no loss in Hydraulic Capacity.
- v) All junction pits are to be amended to have solid non-slip access covers.

### **(36) Road and Maritime Services**

The applicant is required to gain approval from the Roads and Maritime Services with regard to the modifications to the stormwater discharge into their system. This approval and all related plans and correspondence are to be forwarded to Council.

**(37) Reconstruction Works**

The reconstruction works on Council's stormwater system is to be carried out by a qualified plumber, drainer or civil construction company with a minimum limit of twenty million dollar public and product liability insurance. In this regard, qualification details of the person / company carrying out these works along with a certificate of currency for the product and public liability insurance are to be submitted to Council's Stormwater Section before commencement.

Prior to the works commencing the contractor who will be carrying out the works is required to organise and attend an onsite meeting with a representative of Council's Stormwater section. Contact phone number (02) 9330 6400.

**(38) Inspections**

All Inspections of Council's Stormwater system deviation will be required to be undertaken by Council's Stormwater Section. Inspections will be required at the following points in construction:

- a) Preparation of sub-base prior to the laying of the pipes.
- b) Completion of laying of new Reinforced Concrete pipes and any associated concrete form work.
- c) Completion of backfilling of trenches.
- d) Prior to casting or installation of pits.
- e) Completion of excavation and demolition of existing redundant sections of Council's stormwater pipes.
- f) Any additional inspections as specified by Council. The applicant is responsible for the organisation of all inspections and is to give a minimum of 24 hours notice for each.

**(39) Scheduling of Works**

The contractor carrying out the deviation of Council's stormwater system is provide detail of the scheduling of works to show that Council's drainage network and it's capacity shall be maintained at all times during construction. Site management and staging of the works will be the responsibility of the applicant, and must address all risks involved with working on a live asset. Sufficient water quality and sediment control must be maintained during construction.

**(40) Product details of access lids and surrounds**

Product details of the access lids and surrounds proposed for the new junction pits along the diversion of Council's stormwater system are to be submitted for approval by Council. The lids are to a minimum load class rating 'D' in accordance with both AS3996 : 2006 - Australian Standard Load Classifications and the Water Services Association of Australia (WSAA) Specification WSA PS-290. The lids shall also be certified as suitable with respect to slip resistance for a pedestrian area.

**SECTION D – Construction and Operational Conditions**

The conditions that follow in this Section D of the Notice of Determination are imposed to ensure the development is constructed and operates having regard to relevant legislation and does not unreasonably impact on the amenity of the locality or environment during the construction phase or the operation of the use.

**(41) Inspections -Multi Unit**

The following lists of inspections are the **MANDATORY CRITICAL STAGE INSPECTIONS** that **MUST** be carried out by the Principal Certifying Authority (PCA).

- (a) at the commencement of building works

- (b) prior to covering waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within a building, and
- (c) prior to covering any stormwater drainage connections, and
- (d) after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

Certificates from your engineer or subcontractor are **NOT** acceptable in the first instance for the above inspections. Failure to have your PCA carry out these inspections could result in a delay or refusal to issue an Occupation Certificate.

In addition to the above, it is recommended that the following inspections be carried out for the subject development;

- . Erosion Control
- . Earthworks/Excavation
- . Building setout
- . Concrete reinforcement
- . Timber and/or steel framework
- . Mechanical/Hydraulic work
- . Driveways
- . Landscaping
- . External Finishes

#### **(42) Storage of materials on Public Road**

All building materials or waste containers must be stored within the confines of the site. The storage of such building materials, waste containers or equipment associated with the project upon the public roadway, including the pedestrian footway or unpaved verge, is prohibited.

#### **(43) Use of Crane on Public Road**

Prior approval must be obtained from Council a minimum of 24 hours before the use on any site of a crane, hoist or similar machinery that will be used to transfer materials across Council's footpath. This includes cranes that are situated on roadways, footpaths and road reserves.

Any application for approval must be accompanied by the following information:-

- Site sketch indicating the proposed location of the crane, pedestrian controls and traffic controls;
- A copy of current public liability insurance with minimum cover of twenty million dollars (\$20,000,000) indemnifying Council in the event of an incident;
- A copy of an RMS accredited traffic control plan;
- Proof that the local area command of the NSW Police have been advised of the proposal.

The use of a crane, hoist or similar machinery on any site without prior approval is prohibited.

#### **(44) Building Height - Surveyors Certificate**

The proposed building is not to be erected at a height greater than that indicated on the approved plan. A certificate from a Registered Surveyor verifying the correct Reduced Level of the ground floor slab and boundary clearances shall be submitted prior to inspection of the steel reinforcement.

#### **(45) Excavation of Site**

Excavation of the site is to extend only to that area required for building works depicted upon the approved plans. All excess excavated material shall be removed from the site. In this

regard, all excavated waste materials shall be disposed of at an approved Waste Depot (details are available from Council).

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.

**(46) Stormwater to Kerb**

Any stormwater connections to the kerb and gutter are to be in accordance with Council's *'Specification for Construction by Private Contractors'*.

**(47) Redundant Driveway**

All existing vehicular crossings adjacent to the subject premises that have become redundant shall be removed and the footway and kerb and gutter reinstated at the developer/applicants expense.

**(48) Work within Road Reserve**

A Development Consent or any related Construction Certificate does not allow for the erection of a structure or to carry out work in, on or over a public road. Should a structure or work be required a separate approval under S138 of the Road Act 1993 must be granted by Council prior to the commencement of any works within the road reserve. Applications may be made at Council's Customer Service Centre.

**(49) Damage within Road Reserve & Council Assets**

The owner shall bear the cost of restoring any footpath, roadway and any other Council assets damaged due to works at, near or associated with the site. This may include works by Public Utility Authorities in the course of providing services to the site.

**(50) Public Utility & Telecommunication Assets**

The owner shall bear the cost of any relocation or modification required to any Public Utility Authority assets including telecommunication lines & cables and restoring any footpath, roadway and any other Council assets damaged due to works at, near or associated with the site.

**(51) Garbage Room**

The proposed garbage room being provided with the following:-

- a) A smooth concrete floor graded and drained to a floor waste connected to the sewer of the Water Board.
- b) The walls being cement rendered with the intersection of the walls and floor being coved to a radius of not less than 25mm.
- c) The door being close fitting to prevent the access of rats and mice.
- d) A cold water hose cock being provided for the cleaning of containers and the room itself.
- e) Ventilation being provided by means of direct connection to the outside air to the satisfaction of Council.
- f) A sign, minimum size 600mm x 600mm, directing residents not to place recyclables in garbage carts and encouraging residents to recycle. Details of an acceptable wording for the sign are available from Council.

**(52) Hours of Construction**

Construction may only be carried out between 7.00 am and 5.00 pm on Monday to Saturday and no construction is to be carried out at any time on a Sunday or a public holiday.

**(53) Restriction on Hours of Excavation (other than single residential dwelling)**

Despite the general hours of construction above,

- a) The hours where rock breaking, cutting, hammering and drilling occur shall be limited to 9:00am – 4:00pm on weekdays only.
- b) A noise management plan for the above works, prepared by a suitably qualified acoustical practitioner in accordance with the Interim Noise Construction Guidelines prepared by the Department of Environment & Climate Change NSW, must be submitted to Council prior to commencement of any excavation works.

**(54) Provision of Amenities**

Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site or as specified by Workcover requirements.

- each toilet provided must be a standard flushing toilet and must be connected:
- to a public sewer; or
- if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council; or
- if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.

The provision of toilet facilities must be completed before any other work is commenced.

**(55) Letter Boxes**

Suitable letter box facilities (including Owner's Corporation in the case of strata units) shall be provided in accordance with Australia Post specifications.

**(56) Car Wash**

To ensure that waste water is treated in an acceptable manner the car wash bay shall be designed and constructed to ensure that waste water is discharged to the sewer in accordance with the requirements of Sydney Water. Evidence of a permit issued by Sydney Water shall be submitted.

**(57) Basix Certificate Details – DA Only**

Construction of building works given Development Consent must be carried out in accordance with BASIX certificate **details to be inserted** and all required commitments must be satisfied.

**(This condition is modified as part of MOD2017/0166 (DA157/2016))**

**(58) Air Conditioning / Offensive Noise**

Air conditioning plant and equipment shall be installed and operated so as to not create an offensive noise as defined under the Protection of the Environment Operations Act 1997 and Protection of the Environment Operations (Noise Control) Regulation 2008.

**(59) Building Finishes**

The building finishes are to be constructed in accordance with the perspective submitted with the Development Application.



**(60) Allocation of Car Parking Spaces**

A minimum of 115 off street car parking spaces shall be constructed, drained, marked and maintained at all times in accordance with the approved plans.

These spaces shall be allocated as follows:

- a) 83 are to be allocated to the residential units.
- b) 12 are to be allocated as visitor parking spaces.
- c) 20 are to be allocated to the Childcare Centre.

**(This condition is modified as part of MOD2017/0166 (DA157/2016))**

**(61) Residential Car Parking Spaces**

A minimum of one (1) unrestricted car parking space shall be allocated to each residential unit. Where a three (3) or more bedroom residential unit is provided within the development it is to be allocated two parking spaces in the first instance.

**(62) Commercial/Retail Parking Spaces**

The required commercial/retail car parking spaces shall be allocated evenly amongst the commercial/retail units based on the gross floor area of each unit.

**(63) Visitor Parking**

A directional sign shall be provided at the front of the site indicating the availability of visitor and/or customer parking on site. Those visitor and/or customer spaces shall be marked or signposted.

**(64) Works Zone**

The installation of a "Works Zone" for the site will require the approval from the Traffic Advisory Committee. As a result, the applicant shall provide a formal request to Council's Traffic Section with the duration and exact location of the required Works Zone" at least 6 weeks prior to its required installation date. All costs associated with the installation of a "Works Zone" will be at the applicant's expense.

**(65) Road Closure**

A Road Closure Application form and associated documents shall be submitted to Council for approval at least 5 business days prior to any proposed lane usage for concrete pours, cranes or other activities involved in the demolition, excavation and construction on the site.

**(66) Roof and surface water**

All roof water and surface water from paved or concreted areas are to be disposed of in accordance with the Stormwater Plan by means of a sealed pipeline constructed in accordance with AS/NZS 3500.3:2015. The line must pass through a silt arrestor pit.

**(67) Softfall details**

Details nominated as softfall shall comply to the Australian and New Zealand Standard AS/NZS 4422: 1996 /Amdt 1-1999 Playground surfacing –Specifications, requirements and test methods (especially in areas of modular play areas). All other play equipment or structures to be installed within the childcare centre shall comply with AS 4685:2014 Parts 1-6. A playground compliance certificate shall be issued to Council at the completion of the project.

**(68) New Pavements**

All new pavements shall comply with AS/NZS 4586:2004 for low slip resistance classification for new pedestrian surface materials.

**(69) Planter Box**

All planters box waterproofing on slab shall be certified by a qualified waterproofing technician.

**(70) Noise & Vibration**

To minimise the impact of noise the proposed development constructed in accordance with the recommendations of the acoustic report reference TJ175-01F02 & TJ175-01F03, prepared by Renzo Tonin & Associates, titled “Acoustic Assessment for Development Application” & “child care centre acoustic assessment” and submitted as a part of the development application.

**(71) Acoustic Validation Report**

A report prepared by suitably qualified Acoustic Consultant shall be submitted to the Principal Certifying Authority (PCA). This report needs to certify that the development complies with the requirements of State Environmental Planning Policy (Infrastructure) 2007, conditions of development consent and recommendations of acoustic reports reference TJ175-01F02 & TJ175-01F03, prepared by Renzo Tonin & Associates and the supporting report TJ175-01F02 dated 20 July 2018 prepared by Renzo Tonin and Associates. The validation report shall include post construction validation test results.

**(This condition is modified as part of MOD2017/0166 (DA157/2016))**

**(72) No Offensive Noise**

To minimise the noise impact on the surrounding environment, the use of the premises, building services, equipment, machinery and ancillary fittings shall not give rise to “offensive noise” as defined under the provisions of the *Protection of the Environment Operations Act 1997*.

**(73) Delivery Hours**

No deliveries, loading or unloading associated with the premises are to take place between the hours of 10pm and 7am on any day.

**(74) Parking Availability Sign**

A parking availability sign related to the childcare centre is to be provided along the entrance to the Childcare centre carpark along James Street. This sign is to be suitable located as to not result in any adverse impacts to neighbouring properties.

**(75) Glazing**

The ground floor glazed areas along the Princes Highway and James Street elevations are to remain unobstructed and unmodified at all times.

**SECTION E – Prior to Occupation or Subdivision Certificate Conditions**

The conditions that follow in this Section E of the Notice of Determination relate to conditions that ensure that the development is completed in accordance with the requirements of the Development Consent prior to the issue of either an Occupation Certificate or a Subdivision Certificate.

**(76) Adaptable Housing Certification**

Certification shall be provided by a person suitably accredited by the Association of Consultants in Access Australia, verifying that the development has been constructed in accordance with the requirements of AS4299 - *Adaptable Housing* and AS1428 - *Design for Access and Mobility* and in accordance with the report and checklist submitted with the Construction Certificate.

**(77) SEPP No 65 Certification**

A design verification statement from a qualified designer shall be submitted verifying that the development achieves the design quality of the development as shown in the plans and

specifications in respect of which the construction certificate was issued, having regard to the design quality principals of State Environmental Planning Policy No. 65.

### **(78) Completion of Landscaping**

Certification shall be provided from a suitably qualified and experienced Landscape Designer or Landscape Architect. This Certification shall verify that the landscape works have been completed in accordance with the approved detailed landscape plan and relevant conditions of this consent.

Note: A Landscape Designer is a person eligible for membership of the Australian Institute of Landscape Designers and Managers and a Landscape Architect is a person eligible for membership of the Australian Institute of Landscape Architects as a Registered Landscape Architect.

### **(79) Consolidation of Lots**

The lots covered by this development consent shall be consolidated into one lot and proof of registration of the consolidation shall be submitted to Council.

### **(80) Section 73 Compliance Certificate**

A Section 73 Compliance Certificate under the Sydney Water Act, 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Coordinator.

Please refer to the Building Developing and Plumbing section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) then refer to “Water Servicing Coordinator” under “Developing Your Land” or telephone 13 20 92 for assistance.

Following application a “Notice of Requirements” will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water / sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to the Principal Certifying Authority.

### **(81) Stormwater Compliance Certificate**

A Stormwater Compliance Certificate is to be obtained for the constructed on-site stormwater management systems in conjunction with the works-as-executed drawings and the final inspection. This Certificate is to be signed by an accredited hydraulic engineer (preferably be the original design consultant) and submitted to the Principal Certifying Authority. Copy of the standard Stormwater Compliance Certificate is shown in Council’s Water Management Policy.

If the proposed works involve Council owned stormwater infrastructure (or infrastructure to be owned by Council), then the applicant should organise inspection with Council and pay Council the appropriate inspection fee.

Inspection is to be carried out at the following specified stages:

- Prior to backfilling of pipelines trenches.
- Prior to backfilling of drainage connection to pipeline or channels.
- Prior to casting pits and other concrete structures including kerb and gutter, aprons, pathways, vehicular crossings, dish crossings and pathway steps.

### **(82) Positive Covenant**

A Restriction on Use of the land and Positive Covenant shall be created and registered on the title of the property, which places the responsibility for the maintenance of the on-site stormwater management system on the owner of the land. The terms of the instrument are to be generally in accordance with the Council's standard terms and conditions for Restriction on Use of the land and Positive Covenant shown in Council's Water Management Policy.

**(83) Maintenance Schedule**

A Maintenance Schedule for the proposed on-site stormwater management measures is to be prepared and submitted. The Maintenance Schedule shall outline the required maintenance works, how and when these will be done and who will be carrying out these maintenance works.

**(84) Fire Safety Schedule**

Certain items of equipment or forms of construction shall be nominated as "fire safety measures" within the building. Upon completion of works, and before occupation of the building, each of the fire safety measures is required to be certified by an appropriately competent person (chosen by the owner of the building). The certificate is to state that the measure was inspected and found to be designed, installed and capable of operating to a standard not less than that required by the relevant regulations.

Further, it is the responsibility of the owner of the building that each fire safety measure is again inspected and certified as to its condition every twelve (12) months following the submission to Council of the original certification.

**(85) BASIX Completion Receipt**

In accordance with clause 154C of the Environmental Planning and Assessment Regulation 2000, prior to issuing a final occupation certificate the certifying authority must apply to the Director-General for a BASIX completion receipt.

**(86) Works as Executed**

A Works As Executed plan of Council's Stormwater system deviation as constructed including all levels will be required to be submitted and received written approval from Council.

**(87) Drainage easement**

A drainage easement of variable width is to be granted in favour of Council over the newly constructed Council owned drainage pipeline within the lot(s) subject to this development consent. The easement shall be in accordance with the proposed easement (B) as defined on the Plan of Proposed Easement for Drainage Surveyors Reference 161237 submitted to Council on the 10th March 2017. Any proposal to modify the alignment and extent of this easement will require approval by Council's stormwater section. All costs including surveying and legal costs are to be borne by the applicant.

**(88) Dilapidation Report**

A Dilapidation Report will be required prior to the release of the Security Deposit to ensure the new asset has not failed during the works on site. The dilapidation report is to include CCTV footage of the full extent of the Council stormwater asset within the property and is to include the inspection and notation of all visible defects and joints along the asset. The report is to be carried out upon completion of all construction works. The Security Bond may be released after the completion of the final inspection for the stormwater pipe replacement and written approval from Council that the report has met these requirements.

**(89) Certification of Food Premises**

To ensure that adequate provision is made for the cleanliness and maintenance of all food preparation areas all building work in connection with the occupation or use of the premises

intended for the preparation and storage of food shall be designed and implemented in accordance with the requirements of:-

- a) Food Act 2003;
- b) Food Regulation 2010;
- c) Food Safety Standards 3.1.1, 3.2.2 and 3.2.3;
- d) Australian Standard AS 4674 – 2004 (*Design, construction and fit-out of food premises*);
- e) Sydney Water Corporation;
- f) Australian Standard AS 1668 Part 1 – 1991;
- g) Australian Standard AS 1668 Part 2 – 1991;
- h) The Building Code of Australia.

Certification to this effect shall be provided by an appropriately qualified person.

### **(90) Food Business Registration**

Prior to the issue of the Interim/Final Occupation Certificate the proprietor of a food business must notify the Georges River Council. Notification form is available on Council website at <http://www.georgesriver.nsw.gov.au/Services/Food-Businesses/Notifications>

### **SECTION F – Prescribed Conditions**

The following are prescribed conditions of development consent pursuant to s.80A(11) of the Environmental Planning and Assessment Act 1979 and cl.98 of the Environmental Planning and Assessment Regulation 2000.

### **(91) Compliance with the Building Code of Australia**

The development must be carried out in accordance with the provisions of the Building Code of Australia.

### **(92) Insurance Requirements under Home Building Act 1989**

The builder or person who does the residential building work must comply with the applicable requirements of Part 6 of the Home Building Act, 1989. This means that a contract of insurance must be in force in accordance with Part 6 of that Act before any building work authorised to be carried out by the consent commences.

It is the responsibility of the builder or person who is to do the work to satisfy Council that they have complied with the applicable requirements of Part 6 of the Home Building Act, 1989.

If Council is the Principal Certifying Authority it will not carry out any inspections until a copy of the insurance certificate is received.

### **(93) Erection of Signs**

A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
- (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (c) stating that unauthorised entry to the work site is prohibited.

The sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

**(94) Notification of Home Building Act 1989 Requirements**

Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:

- (a) in the case of work for which a principal contractor is required to be appointed:
  - (i) the name and licence number of the principal contractor, and
  - (ii) the name of the insurer by which the work is insured under Part 6 of that Act,
- (b) in the case of work to be done by an owner-builder:
  - (i) the name of the owner-builder, and
  - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified above becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

**(95) Shoring and Adequacy of Adjoining Property**

If the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- (a) protect and support the adjoining premises from possible damage from the excavation, and
- (b) where necessary, underpin the adjoining premises to prevent any such damage.

The above condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

**(96) Council Notification of Construction**

The erection of a building which is the subject of a Development Consent must not be commenced until:

- a) Detailed plans and specifications of the building have been endorsed with a construction certificate by Council or an accredited certifier.
- b) the person having the benefit of the development consent has:
  - appointed a Principal Certifying Authority (PCA), and
  - notified Council (if Council is not the PCA) *in writing* of the appointment, and
  - given at least 2 days notice to Council of their intention to commence the erection of the building. The notice may be in writing or by phone.

**SECTION G – Demolition Conditions**

The following conditions are imposed to ensure the demolition associated with the proposed development is carried out having regard to relevant legislation and does not unreasonably impact on the amenity of the locality or environment.

**(97) Demolition Conditions-Asbestos**

- (a) Demolition of buildings where asbestos is determined to be present should only occur 7am – 5pm Monday to Saturdays, and must not occur on Sundays or Public Holidays, to ensure that the persons carrying out the work have access to WorkCover professionals if required.

(b) All asbestos removal shall be undertaken in accordance with the requirements of WorkCover's 'How to Safely Remove Asbestos' Code of Practice and Council's Asbestos Policy.

(c) Written notice must be provided to Georges River Council five (5) working days (excluding public holidays) prior to commencement of any works.

Written notice is to include the following details:

- Date the demolition will commence
- Name, address, contact details (including after hours) and licence number of the demolisher and asbestos removalist (if different). Work must not commence prior to the nominated demolition date.

**Note:** it is the responsibility of the persons undertaking demolition work to obtain the relevant WorkCover licences and permits.

(d) The owner is to notify all owners and occupiers of premises on either side, opposite and at the rear of the development site five (5) working days prior to demolition. Such notification is to be clearly written on A4 size paper stating the date the demolition will commence and is to be placed in the letterbox of every premises (including every residential flat or unit, if any). The demolition must not commence prior to the date and time stated in the notification.

(e) A demolition or asbestos removal contractor licensed under the *Work Health and Safety Regulations 2011* must undertake removal of more than 10m<sup>2</sup> of bonded asbestos (or otherwise specified by WorkCover or relevant legislation).

Removal of friable asbestos material must only be undertaken by a contractor that holds a current AS1 Friable Asbestos Removal Licence.

(f) Demolition sites that involve the removal of asbestos must display 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 on the site to the satisfaction of Council's officers. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos has been removed from the site to an approved waste facility.

(g) All asbestos waste must be stored, transported and disposed of in compliance with the Protection of the Environment Operations (Waste) Regulation 2005. All receipts detailing method and location of disposal must be submitted to Council as evidence of correct disposal.

(h) A Clearance Certificate or Statement, prepared by a suitably qualified occupational hygienist must be provided to Council upon completion of demolition and asbestos related works, which confirms that the relevant legislative requirements in relation to safe removal and disposal have been satisfied.

(i) A Work Cover Licensed Demolisher is to be engaged to carry out any demolition works using mechanical equipment where the structure is over 4 metres in height or to carry out any manual demolition works on a structure over 10 metres in height.

(j) The provision of temporary fences and footpath crossing pads prior to commencement of demolition operations. Further, no waste materials or bins are to be placed on Council's roadways or footpaths.



- (k) No waste materials are to be burnt on site.
- (l) No trees as defined by Council's Tree Preservation Order being removed or damaged on the site without the prior written approval of Council.
- (m) Compliance with the provisions of Australian Standard AS 2601-1991: "The Demolition of Structures", which requires notification of demolition to be submitted at least seven (7) days prior to demolition to the NSW Workcover Authority.
- (n) Effective erosion and sediment control measures are to be undertaken during the course of demolition and building works in accordance with Council's 'Environmental Site Management Policy'. Failure to implement appropriate measures may result in a \$750 Penalty Infringement Notice (individual) and/or \$1,500 (corporation) being issued and/or the incurring of a maximum penalty of \$250,000 (corporation) or \$120,000 (individual) through the Land and Environment Court.
- (o) Appropriate measures are to be implemented on site to control dust and other air borne matter and demolition material is to be stored and stacked in a manner so as to minimise the risk of damage or nuisance to neighbouring properties.
- (p) Council being notified upon completion of the demolition works so that an inspection can be made of the roadway and footpath.
- (q) All non-recyclable demolition material being disposed of at an approved waste disposal depot. Details as to the method and location of disposal of demolition materials (weight dockets, receipts, etc.) should be kept as evidence of approved method of disposal.
- (r) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
  - (a) showing the name, address and telephone number of the principal certifying authority for the work, and
  - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (c) stating that unauthorised entry to the work site is prohibited.

The sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed

## **END CONDITIONS**

### **Advisory Notes**

#### **(i) Worksite Safety**

It is usually the owner/applicant's responsibility to ensure that the development site is a safe working environment. This may be by the engagement of an appropriately competent principal contractor. There are various legislative and WorkCover requirements with respect to maintaining a safe work-site. Details of these requirements and legislation, as well as, guidance and advisory material, can be found on the WorkCover Website [www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au).

**(ii) Worksite Safety Scaffolding**

Council is committed to worksite safety and requiring that all scaffolding is installed by competent and qualified professionals with the relative appropriate standards. The applicable Australian Standards for the scaffolding is AS/NZS1576 in respect of the design of the scaffolding and AS/NZS4576 with respect to the erection of the scaffolding. Also, you should ensure that those erecting scaffolding are appropriately qualified and have the appropriate qualifications to erect scaffolding. For further information regarding this please see [www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au).

**(iii) Kid Safe NSW**

Kidsafe NSW has produced Safer Homes for Children Design and Construction Guidelines for builders, renovators and home owners. The guidelines identify common hazards for children and recommended practical design applications to improve child safety for all areas of the home. Free copies of the Guidelines are available from Council's Customer Service Centre, or contact Kidsafe on (02) 9845 0890 or their website <http://www.kidsafensw.org/homesafety/index.htm> for more information.

**(iv) Dial Before You Dig**

Underground pipes and cables may exist in the area. In your own interest and for safety, telephone 1100 before excavation or erection of structures. Information on the location of underground pipes and cables can also be obtained by fax on 1300 652 077 or through the following website [www.dialbeforeyoudig.com.au](http://www.dialbeforeyoudig.com.au).

**(v) Disability Discrimination Act**

This authorisation does not imply that the proposal complies with *Disability Discrimination Act 1992*. The Proponent 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 references AS 1428.1 – Design for Access and Mobility. AS1428 Parts 2, 3 & 4 provides the most comprehensive technical guidance under *The Disability Discrimination Act 1992*.

**(vi) Demolition Waste**

Sorting your construction and demolition waste will save you money. For pricing and disposal options for sorted loads of tiles, bricks, timber concrete or asphalt call Waste Service NSW on 1300 651 116.

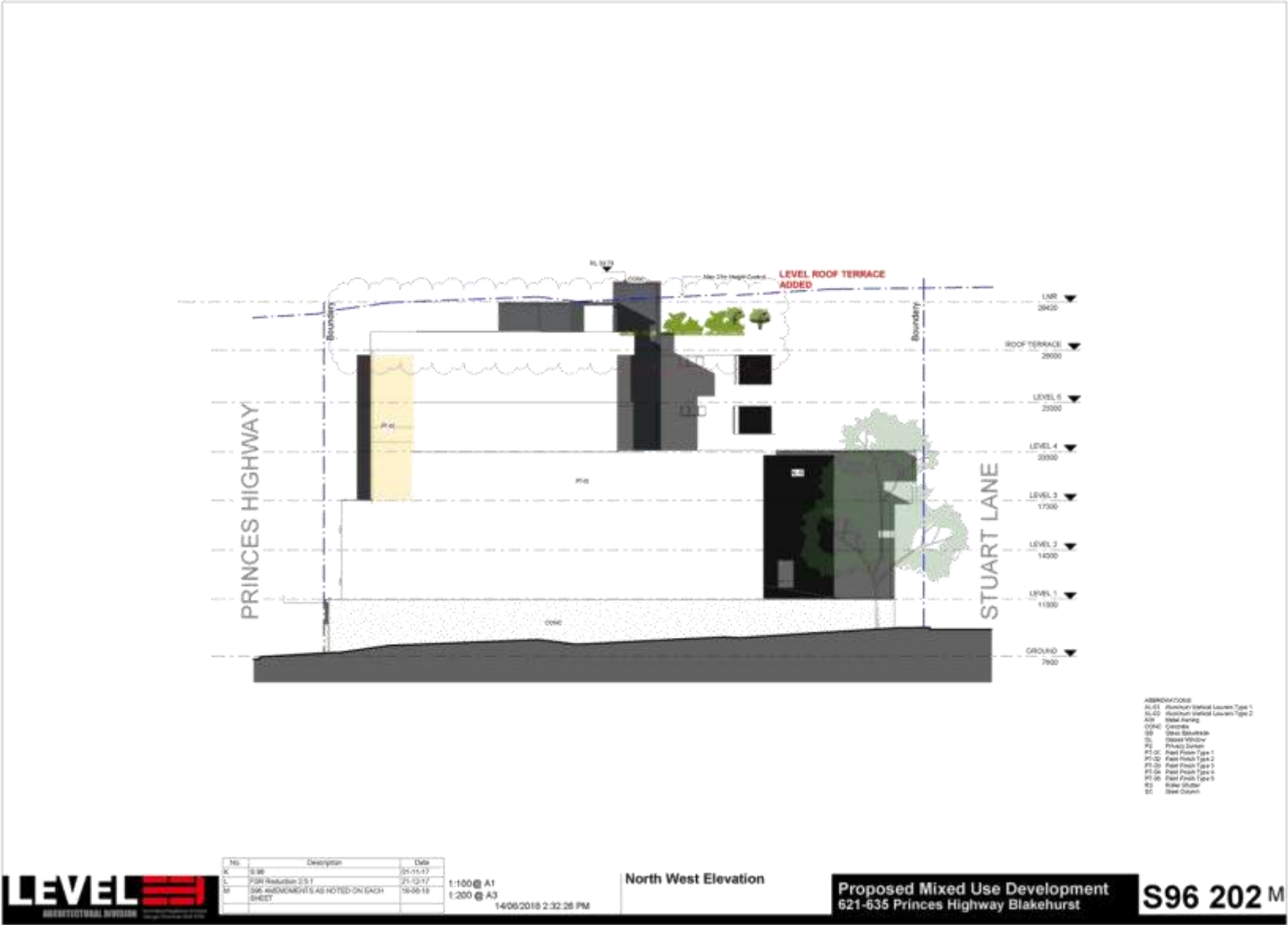
**(vii) Property Address**

Property addresses shall be allocated by Council in accordance with the Addressing Standard AS/NZS 4819:2011.

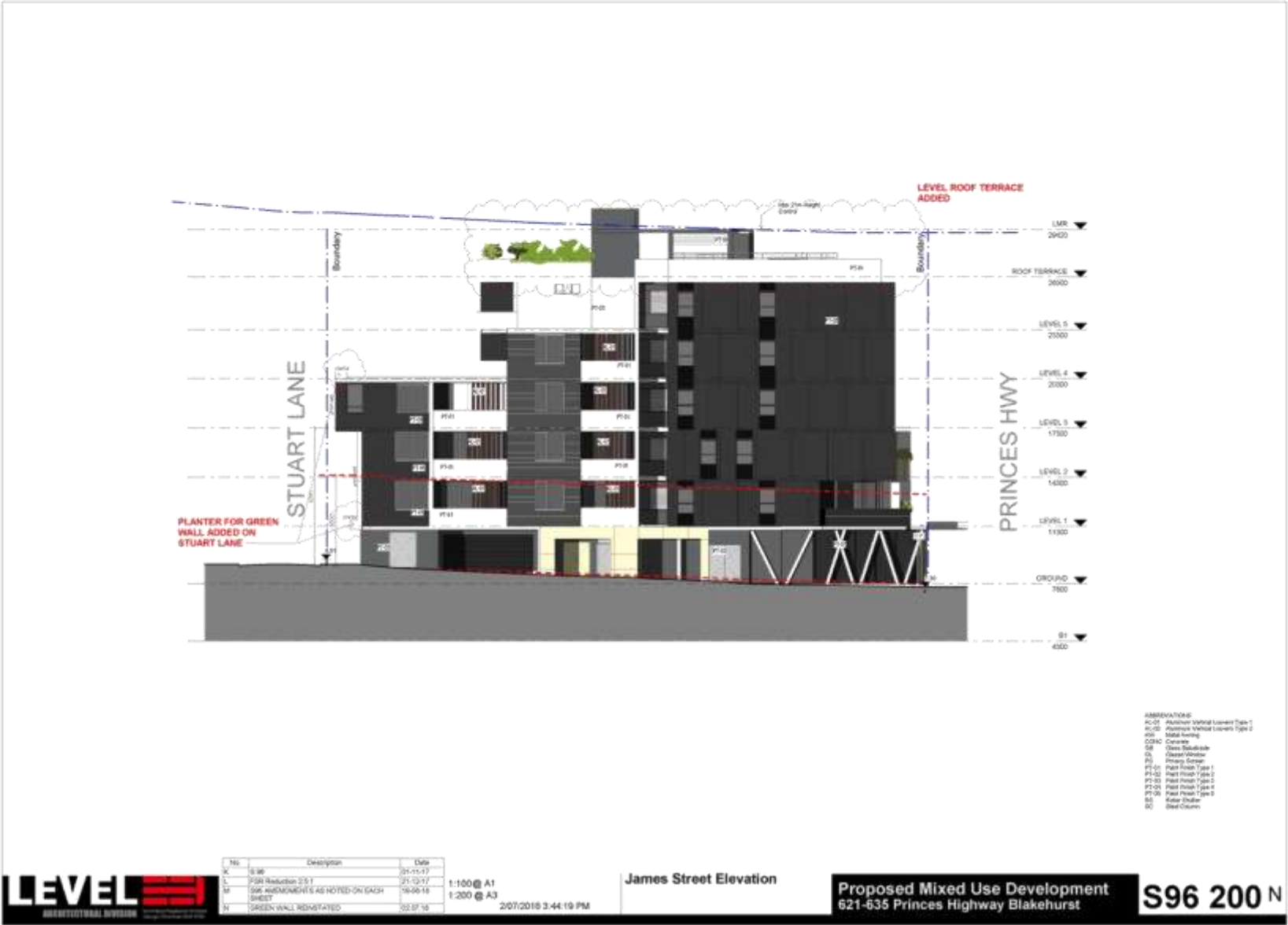
**ATTACHMENTS**

- Attachment [↓](#)1 Princes Highway Elevation - 621-635 Princes Highway Blakehurst
- Attachment [↓](#)2 North West Elevation - 621-635 Princes Highway Blakehurst
- Attachment [↓](#)3 Stuart Lane Elevation - 621-635 Princes Highway Blakehurst
- Attachment [↓](#)4 James Street Elevation - 621-635 Princes Highway Blakehurst
- Attachment [↓](#)5 Material Finishes - 621-635 Princes Highway Blakehurst













**10**  
**AL-02**  
Aluminum Vertical Louvers  
Finish: Universal Anodisers  
Satin Charcoal Powder  
coated



**9**  
**AL-01**  
Aluminum Vertical Louvers  
Timber Colour



**8**  
**GLAZED WINDOW**  
Shop Front Finish: Universal  
Anodisers  
Satin Charcoal Powder  
Coated



**7**  
**GLASS BALUSTRADE**  
Frameless Glazed Balustrade  
Clear Float Glass or Similar.





**1**  
**PT-01**  
Dulux Paint Finish:  
Vivid White or Similar



**2**  
**PT-02**  
VITRACORE G2  
Aluminium cladding colour  
bronze metallic



**3**  
**PT-03**  
Dulux Domino or Similar



**4**  
**PT-04**  
Wood Cherry Paint or Similar



**5**  
**PT-05**  
Charcoal Paint or Similar



**6**  
**CONC**  
Precast Concrete  
Natural finish



**11**  
**RS**  
Roller shutter



NO	Description	Date
1	CONCEPT DESIGN	15-03-17
2	SCHEMATIC DESIGN	21-11-17
3	PRELIMINARY DESIGN	21-11-17
4	FINAL DESIGN	19-06-18

**Material Finishes Schedule**

1:100 @ A1  
1:200 @ A3

14/06/2018 3:28:27 PM

**Proposed Mixed Use Development**  
 621-635 Princes Highway Blakehurst

**S96 950 M**





