

## AGENDA - LPP

<b>Meeting:</b>	Georges River Local Planning Panel (LPP)
<b>Date:</b>	Thursday, 15 November 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>	Adam Seton (Chairperson) John Brockhoff (Expert Panel Member) Michael Leavey (Expert Panel Member) George Vardas (Community Representative)
<b>Council Staff:</b>	Meryl Bishop (Director Environment and Planning) Ryan Cole (Manager Development and Building) Nicole Askew (Coordinator Development Assessment) Cathy Mercer (PA to Manager Development Assessment) Monica Wernej (DA Admin Assistant)

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### **1. On Site Inspections - 2.00pm –3.30pm**

- a) 198-200 Princes Highway Kogarah Bay
- b) 51 Elwin Street Peakhurst

### **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

**LPP052-18      198-200 Princes Highway Kogarah Bay – DA2017/0655**  
(Report by Senior Development Assessment Planner)

**LPP053-18      51 Elwin Street Peakhurst – DA2018/0143**  
(Report by Development Assessment Officer)

### 4. Confirmation of Minutes by Chair

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# REPORT TO GEORGES RIVER COUNCIL


## LPP MEETING OF THURSDAY, 15 NOVEMBER 2018

LPP052-18

<b>LPP Report No</b>	<b>LPP052-18</b>	<b>Development Application No</b>	<b>DA2017/0655</b>
<b>Site Address &amp; Ward Locality</b>	198-200 Princes Highway Kogarah Bay Kogarah Bay Ward		
<b>Proposed Development</b>	Demolition of existing structures and the construction of a 6 storey residential flat building containing 22 apartments, basement car parking for 40 vehicles and associated landscaping and site works		
<b>Owners</b>	Mr and Mrs Maggos and Mr and Mrs Ping		
<b>Applicant</b>	Shinecorp Kogarah		
<b>Planner/Architect</b>	Planner – Rod Logan Architect – Geoform and Charles Tang Design		
<b>Date Of Lodgement</b>	22/12/2017		
<b>Submissions</b>	Two (2) submissions received		
<b>Cost of Works</b>	\$6,334,536		
<b>Local Planning Panel Criteria</b>	Residential Flat Building subject to State Environmental Planning Policy 65		
<b>List of all relevant s.4.15 matters (formerly s79C(1)(a))</b>	State Environmental Planning Policy No.55 – Remediation of Land, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, Greater Metropolitan Regional Environmental Plan No 2 - Georges River Catchment, State Environmental Planning Policy (Infrastructure) 2007, State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, Draft Environment State Environmental Planning Policy Kogarah Local Environmental Plan 2012, and Kogarah Development Control Plan 2013		
<b>List all documents submitted with this report for the Panel's consideration</b>	Amended Architectural Plans Statement of Environmental Effects Arboricultural Assessment Acoustic Assessment Report		
<b>Report prepared by</b>	Senior Development Assessment Planner		

<b>Recommendation</b>	That the application be approved in accordance with the conditions included in the report.
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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>Yes - Clause 4.6 request to vary the Height control (Clause 4.3 of the KLEP)</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 some minor design changes</b>
<b>Site Plan</b>  <p>Courtesy: Google Maps</p>	

## Executive Summary

1. The development application (DA) seeks consent for the demolition of all existing structures on the subject site, and the construction of a six (6) storey residential flat building comprising of twenty two (22) residential apartments, two levels of basement car parking containing forty (40) car spaces and associated landscaping and site works, at 198-200 Princes Highway, Kogarah.
2. The application was received by Council on 22 December 2016. The proposal was amended and renotified in response to the comments of the Design Review Panel.
3. The application exceeds the overall height control of 21m by 1.6m (8% variation). The main building's roofline and parapet sits below the statutory height limit by over 1m however the lift overrun and WC at the roof level exceed the control towards the centre of the building. The Applicant has submitted a Clause 4.6 variation statement to justify the non-compliance. In this case the variation is considered to be minor, will not be visible from the street or immediate surrounds and will not create any adverse amenity impacts. Further detailed analysis regarding the non-compliance is addressed within this report.
4. The proposal was referred to the Design Review Panel (DRP). The Panel provided an "in principle" support of the proposal, subject to some modifications to the scheme specifically at

the front. These modifications related to the treatment of fencing, balconies and front courtyards to address noise and acoustic impacts and to potentially create winter gardens. In March 2018 the Applicant amended the scheme to address design concerns and also outstanding issues relating to the drainage and stormwater disposal.

5. The changes included the following;

- Relocation of the OSD tanks further from the south-western boundary and landscaping these elements.
- Redesigning the main entry to create a larger and more formal access point.
- Setting the basement car parking area back by 1m to allow for some deep soil area at the front and catering for larger mature trees (refer to Section A-A).
- Redesigning the front courtyard areas at ground floor level.

6. 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 and is considered satisfactory and worthy of support.

## Report in Full

### DESCRIPTION OF THE PROPOSAL

7. The DA seeks consent for the demolition of all existing structures on the subject site, and the construction of a six (6) storey residential flat building comprising of twenty two (22) residential apartments (2 x 1 bedroom, 18 x 2 bedroom and 2 x 3 bedroom apartments), two (2) levels of basement car parking containing forty (40) car parking spaces and the inclusion of a rooftop communal area.

8. Further details of the proposal are as follows:

#### Demolition

The proposal involves the demolition of all existing structures being two (2) single storey brick cottages at 198 and 200 Princes Highway and all associated ancillary structures and outbuildings.

There are a number of mature trees and shrubs at 198 Princes Highway and most will be removed as they are located within or adjacent to the building footprint.

#### Basement Level 1

- 19 car parking spaces including 5 visitor spaces and 1 accessible space with one of the visitor spaces doubling as a small loading bay
- Garbage room
- Bike racks servicing a total of 5 bicycles
- Lift access and 2 x staircases
- 9 Storage cubicles
- Plant rooms

#### Basement Level 2

- 21 car parking spaces including 2 accessible spaces
- Bike racks servicing 5 bicycles
- Lift access and 2 x staircases
- 13 storage cubicles

- Plant room

#### Ground Floor

- 4 x 2 bedroom apartments including front and rear terraces
- Main foyer/lobby
- OSD tanks
- Driveway entry

#### Levels 1, 2, 3

- 4 x 2 bedroom apartments with associated balconies
- Main foyer and area for services

#### Level 4

- 2 x 1 bedroom apartments with associated balconies
- 2 x 2 bedroom apartments with associated balconies
- Main foyer and area for services

#### Level 5

- 2 x 3 bedroom apartments
- Main foyer and area for services

#### Rooftop Level

- Area of communal open space
- General amenities and bbqs
- Includes a pergola feature
- Lift and stair access provided to this level

#### Landscaping

The proposal includes a deep soil area to the rear of the site that has a minimum of 3m dimensions and comprises of a consistent area of some 92sqm. There is also another deep soil area along the north eastern boundary with a width of over 3m in width and an area of some 100sqm. The total deep soil area amounts to 192sqm.

The principal communal open space area for the development will be located on the roof top with an area also designated at the rear at ground floor level. The roof top terrace incorporates outdoor furniture and raised planter beds along its periphery to limit the trafficable area. This space is centralised within the roof form and setback 2.2m from the front parapet, 1m from the rear and between 1-1.4m along the north-eastern side of the roof and 1-2m from the edge of the south western side from the parapet.

**Figure 2: Photomontage of the front of the proposed residential flat building**

*Courtesy: Geoform Architects*

## HISTORY

9. There is no previous development history pertaining to either site.
10. There has been a change to the planning controls and regime in this precinct. The New City Plan proposed an amendment to the Kogarah LEP 2012 to rezone sites along the Illawarra Railway Line and major arterial roads to cater for additional housing demand.
11. In line with the strategic direction above, Amendment No.2 (New City Plan) was gazetted in May 2017 and rezoned the Site and surrounds from R2 – Residential to R3 – Medium Density Residential. In line with the change in zoning the site now has a maximum FSR of 2:1 and a 21m height limit.

## DESCRIPTION OF THE SITE AND LOCALITY

12. The subject site comprises of two (2) allotments - 198 Princes Highway and 200 Princes Highway. Both lots are almost identical in size and configuration. 198 Princes Highway is known as Lot 4 in DP1963. The site has a frontage of 15.24m to Princes Highway, depth of 34.75m and total site area of 529.5sqm. Existing on site is a single storey brick and tile dwelling house with a metal shed at the rear and a detached garage and associated outbuilding along the eastern boundary. The site contains some larger mature trees and palms at the rear.
13. 200 Princes Highway is known as Lot 5 in DP1963. The site has a frontage of 15.24m to Princes Highway, depth of 34.75m and a total site area of 529.5sqm. Existing on site is a single storey brick and tile dwelling house and includes a large, rendered single storey outbuilding at the rear and a smaller structure noted as a “cabana” on the survey plan. It also includes a carport located along the western side of the dwelling.
14. The proposed development relies on the amalgamation of the two (2) sites and the combined area and dimensions of the subject site are as follows:

Site Area	1,059sqm
Frontage to Princes Highway	30.48m
Rear boundary	30.48m

Side eastern/western boundaries	34.75m
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15. The subject site is located on the southern side of Princes Highway between Lacey Street to the east and Park Road to the west. The site has a slight fall from the street frontage to the rear, of some 2%.
16. Immediately to the north is a low scale retail shopping strip with most properties comprising of commercial properties and offices (ie Real Estate Agent, Accountancy Practice, Lingerie Outlet, Dominos Pizza and Carlton Lighting shop), further north are lower scale residential properties and residences. To the south of the site is a lower scale residential area comprising of dwelling houses of varying forms and types.
17. To the east and west of the site are predominantly lower scale residential properties.
18. The site is accessible, some 16km from the CBD and within close proximity to other local services and amenities including St George Leagues Club, Kogarah Oval, Beverley Park Golf Club, Carss Park, Harold Fraser Oval and Kogarah Bay, Rockdale Plaza and Westfield at Hurstville.

#### **APPLICABLE PLANNING CONTROLS**

- 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
- Draft Environment State Environmental Planning Policy
- Kogarah Local Environmental Plan 2012
- Kogarah Development Control Plan 2013
- Apartment Design Guide

#### **Environmental Planning Instruments**

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

#### **Zoning**

19. The subject site is zoned Zone R3 Medium Density Residential under the provisions of the Kogarah Local Environmental Plan 2012 (KLEP2012). Refer to zoning map below. The proposed development is defined as a Residential Flat Building which is a permissible use in the zone.

**Figure 3: Zoning map extract from the KLEP2012 (Map Extract 007)**  
**Site outlined in red**



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20. The objectives of the R3 Medium Density Residential zone are as follows:
- *To provide for the housing needs of the community within a medium density residential environment.*
  - *To provide a variety of housing types within a medium density residential environment.*
  - *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposal has been designed to satisfy the objectives of the zone.

The extent to which the proposal complies with the relevant standards of Kogarah Local Environmental Plan 2012 (KLEP2012) is outlined in the table below.

Clause	Standard	Proposed	Complies
Part 2 – Permitted or Prohibited Development	R3 Medium Density Residential Zone	The proposal is defined as a Residential Flat Building (RFB) which is a permissible use within the zone	Yes
2.1 Objectives	Objectives of the Zone	Consistent with zone objectives	Yes – see comments above
4.1A Minimum lot sizes for Residential Flat Buildings	Clause 4.1A requires a minimum site area of 1,000sqm for the purpose of RFB's in the R3 zone.	The total site area is 1,059sqm	Yes
4.3 – Height of Buildings	21m as identified on Height of Buildings Map	The building is generally within the height limit however the lift overrun and amenities on the roof top exceed the height control by 1.6m (8% variation).	No – see below Clause 4.6 Statement has been

		At its maximum, the structures on the roof reach a height of 22.6m.	submitted
4.4 – Floor Space Ratio	2:1 as identified on Floor Space Ratio Map Total GFA required = 2,118sqm	The proposed FSR is 1.79:1 Total GFA = 1,902.8sqm	Yes
4.5 – Calculation of floor space ratio and site area	FSR and site area calculated in accordance with Cl.4.5	The GFA calculations provided by the Applicant have been verified and are considered satisfactory	Yes
5.10 – Heritage Conservation	The objectives of this clause are; (i) to conserve the environmental heritage of Kogarah, (ii) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views.	The site is not located within a Heritage Conservation Area and there are no Heritage Items within the immediate vicinity of the site	Yes
6.2 Earthworks	To ensure that earthworks do not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land	The proposed earthworks are considered acceptable having regard to the provisions of this clause as the works are not likely to have a detrimental impact on environmental functions and processes, neighbouring properties.  As a precaution a condition will be included to ensure a dilapidation report will be required to be prepared for immediately adjoining properties.	Yes
6.5 Airspace Operations	The consent authority must not grant development consent to development that is a controlled activity within the meaning of Division 4 of Part 12 of the <i>Airports</i>	The height of the proposed development is below the Obstacle Limitation Surface (OLS). The maximum height of RL44.30 applies to the development. If the height exceeds RL51.00 the application would need to be referred to Sydney Airports for	Yes

	Act 1996 of the Commonwealth unless the applicant has obtained approval for the controlled activity under regulations made for the purposes of that Division.	their consideration.	
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#### Clause 4.6 Exceptions to development standards

21. The proposed development seeks a variation to the development standard relating to height (Clause 4.3). The LEP identifies a maximum height of 21m whereas the proposed development will have a maximum height of 22.6m. A variation to the height can be considered under Clause 4.6 – Exceptions to Development Standards of the LEP. The non-compliance exceeds the control by some 8%. The non-compliance is considered to be acceptable in this case as the area where the variation is located will not be visible from the public domain and will not cause any adverse amenity impacts to adjoining properties. A detailed discussion regarding justification of the non-compliance in respect to Clause 4.6 is provided below.
22. Clause 4.6 of the LEP permits a consent authority to grant development consent for development that would contravene a development standard where the consent authority is satisfied that:
- cl4.6(4)(a)(i): a written request from the applicant adequately demonstrates that compliance with the development standard is unreasonable or unnecessary (cl4.6(3)(a)), and that there are sufficient environmental planning grounds to justify the contravention (cl4.6(3)(b)), and
  - cl4.6(4)(a)(ii): the proposed development will be in the public interest because it is consistent with the objectives of the development standard and the objectives for development within the relevant zone.

The objectives of Clause 4.6 are;

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

23. The applicant has provided a formal written Clause 4.6 request dated 21 December 2017, a synopsis of the justification is outlined below:

*“This submission is seeking a variation of the maximum height control as specified in Clause 4.3 of KLEP 2012 and has been prepared having regard to the decision by Chief Justice Preston in *Wehbe v Pittwater Council* (2007) NSW LEC 827 (*Wehbe*) and the principles outlined in the latest authorities on Clause 4.6, contained in the following judgements:*

- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248 (*‘Four2Five No 3’*)
- *Moskovitch v Waverley Council* [2016] NSWLEC 1015.....

In summary, the principles arising from the above matters are:

- a) *That the relevant objectives are those stated in the controls not unidentified underlying objectives;*
- b) *The environmental planning grounds relied upon need not necessarily be particular to the circumstances of the proposed development and/or the site; the relevant question is whether the decision maker is reasonably satisfied on appropriate grounds; and*
- c) *Five methods of establishing that compliance is unreasonable or unnecessary are identified by Preston J in Wehbe and these remain relevant and, even though cl 4.6(a)(ii) already encompasses a requirement that the development be consistent with the objectives of the standard and for development in the zone, that matter remains relevant (but not exclusively so) as grounds that may satisfy the test in cl 4.6(4)(a)(i) in relation to matters referred to in cl 4.6(3)(a).*

*Earlier, in Micaul Holdings Pty Limited v Randwick City Council [2015] NSWLEC 7 Biscoe J noted that the consent authority's obligation is to be satisfied that the applicant's clause 4.6 submission has adequately addressed that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and there are sufficient environmental planning grounds to justify contravening the standard. He held that: "the Commissioner did not have to be satisfied directly that compliance with each development standard is unreasonable or unnecessary in the circumstances of the case, but only indirectly by being satisfied that the applicant's written request has adequately addressed the matter in subclause (3)(a) that compliance with each development standard is unreasonable or unnecessary."*

*In summary, it can be concluded from the recent decisions in regard to the exercise of the powers available to a consent authority under clause 4.6 that, firstly, there is a broad discretion under clause 4.6(4) as to the degree of satisfaction required by that clause with the reasons for the variation being either specifically particular to the development site or as broad as circumstances that might apply to a number of sites.*

*In Wehbe v Pittwater Council [2007] NSW LEC 827, Chief Justice Preston identified five examples of situations in which compliance with a development standard might be shown as unreasonable or unnecessary.*

*The five ways outlined in Wehbe include consideration of the following:*

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

*The relevant objectives of the zone are to:*

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*

*It is considered that the development is of a type and nature that satisfies the objectives of the zone as;*

- *The development is of a form and scale that will provide for the housing needs of the community in a manner that is consistent with the medium density housing*

zoning of the land and anticipated building form for the locality, having regard to the height and floor space ratio provisions that apply; and

- The locality is capable of supporting increased population within its catchment area and the proposed development provides for a range of unit types and sizes.

The objectives for the height of buildings development standard is as follows:

- *To establish a maximum height for buildings.*
- *To minimise the impact of overshadowing, visual impact and loss of privacy on adjoining properties and open space areas.*
- *To provide appropriate scale intensity of development through height controls.*

*Despite the non-compliance, the scale and form of the building is consistent with the intended redevelopment potential of the land and the desired future character of the locality.*

- *The proposed building largely complies with the statutory height limit, with the exception of a small portion of the stairwell and lift overrun centrally located within the building, providing access to the rooftop communal open space. However, due to the position and orientation, the additional height of the stairs and lift overrun above the 21m standard will not cause any greater overshadowing or a loss of sky exposure to the adjoining properties or surrounding public domain. Further, the non-compliance height does not contribute to an unreasonable visual impact or loss of privacy to adjoining properties.*
- *As noted above, despite the non-compliance, the scale and intensity of the building is consistent with the intended potential of the land and the desired future character of the locality.*
- *The variation in height is to a maximum point of 1.6m or 7.6% which is considered minor.*

*The following graphics clearly demonstrate the nature of the height breach, the overall extent of the roof elements that project above the permitted height plane and show that the potential for possible impact on the adjoining sites is limited.*

**Figure 4: Northern view of the areas exceeding the height on the roof level.**



**Figure 5: Western view of the areas exceeding the height on the roof level.**



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

*Comment: The purpose of the standard is still considered to be relevant to the development however 100% compliance with the standard in this circumstance is not considered necessary or reasonable. Despite the building height not complying with the standard a reasonably scaled and appropriate development of the site can be achieved that is consistent with the scale and character of anticipated future redevelopment in the immediate locality. The variation sought does not detract from the ability of the standard to be enforced on other development that may arise in the locality and therefore does not undermine the purpose of the standard.*

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

Comment: The underlying purpose of the standard is to facilitate appropriately scaled residential flat development in a balanced manner within a locality that allows for adequate protection of amenity of adjoining lands. It is therefore considered unreasonable to require 100% compliance with the standard as the variation is acceptable based on merit. The objectives of the standards, as outlined above, will still be achieved despite the variation and it would not defeat the purposes of the standard.

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

Comment: Council has not generally abandoned this development standard by granting significant variations that would derogate from and undermine the objective of the development standard. However, having regard to the minor variation that is sought with this particular proposal and satisfaction of the objectives, it is considered that compliance with the standard would be unnecessary and unreasonable in this instance.

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

Comment: The current use and character of the land is for residential purposes and intensification of the use of the site for that purpose, at a higher density, is appropriate and can be readily facilitated, including consistency with the potential for balanced additional growth in housing in the locality. To frustrate reasonable development of this site by compelling compliance with the development standard, under such a circumstance, is considered unreasonable and inappropriate.

In summary, it is considered that there are sufficient environmental planning grounds to justify contravening the height of buildings control standard for residential flat building in this particular instance on the basis that: -

- Despite a portion of the stairwell and lift overrun exceeding the height of buildings principal development standard, the remainder of the building sits within and well below the 21m height limit, with a height of 18.3m. As such, the overall bulk and scale of the building is considered to be acceptable in terms of its scale and built form and the relationship of the building to the adjoining residential development.
- The additional height of the stairwell and lift overrun does not constitute an additional storey and maintains a building of a scale and form that is appropriate for the location, providing visual interest and a varied building profile, and
- Despite the increased height of the stairwell and lift overrun above the statutory height limit, the proposed development will not have an unreasonable impact on adjoining sites in terms of overshadowing, loss of privacy and views."

24. Clause 4.6(4)(a) of the KLEP 2012 states that:

*Development consent must not be granted for development that contravenes a development standard unless:*

*(b) the concurrence of the Secretary has been obtained.*

*Concurrence of the Director – General may be assumed by the determining authority.*

The request for a variation to the floor space ratio development standard in the circumstances of the case is supported for the following reasons:

- The proposed variation satisfies the intentions and objectives of the R3 zone as the proposed RFB will *“provide for the housing needs of the community within a medium density environment”*. The subject site is located within an area designated by two residential blocks (bounded by the Princes Highway, Park Road, John Street and Stubbs Street) which are zoned R3.
- The building is within an area that has been identified to include more medium density development and the proposed building envelope and footprint represents the general desired future character for development in this precinct.
- The majority of the building is below the maximum building height of 21m with the topmost parapet having a height of 18.3m. The building is also below the maximum FSR of 2:1 allowed for the site.
- The proposed area of communal open space and the stairs and lift that provides access to this area could be removed and the building will then be a fully compliant with the height control however the provision of a communal roof top area is a popular facility that is common on most RFB's and encouraged by the ADG as it utilises this area and makes it a physically functional space especially if it is well designed. Its inclusion in the overall design of the proposal is more beneficial than its removal.
- The areas of non-compliance pertain to a small section of the lift overrun and the uppermost section of the staircase and associated amenities. When broken up the non-compliance of the staircase is some 225mm-429mm. The difference relates to the slight fall in the land to the rear. The non-compliance of the staircase at the highest point achieves a 2% variation. The lift overrun exceeds the control by 1.6m which comprises of a 7.6% non-compliance. Both structures are centrally located and setback some 4m from the front of the building which equates to a setback of over 9m to the front boundary. At the rear the ambulant toilet and staircase is setback over 4m from the front of the building and the overall setback from the rear boundary will be approximately 13m. The lift is setback further. From the side boundaries the structures are setback over 9m which is considered to be an adequate degree of separation which will reduce the visibility of these structures as they will be centrally located.
- The proposed areas of non-compliance satisfy the objectives of the development standard (Height Control) in particular, *“to minimise the impact of overshadowing, visual impact and loss of privacy on adjoining properties and open space areas”*. The structures will not be visible from the public domain and will not adversely affect any areas of public open space. In respect to overlooking, the separation distance from the structures exceeds the minimum requirements of the ADG and as these structures are non-habitable they will not be intensively utilised as they are only for access and circulation. The roof terrace is also an open area and its overall use will be limited as inclement weather will restrict its utilisation.
- In terms of overshadowing the additional height will cast a small shadow that would be contained within the building footprint so it would not affect any immediately adjoining properties. The overshadowing created by the development complies with the minimum requirements stipulated by the KDCP and the ADG.
- The provision of the roof top terrace with associated structures will not establish an undesirable precedent and its use and functionality is more beneficial in achieving

high quality design, amenity and planning outcomes and will not adversely affect the amenity of immediately adjoining properties and the general locality.

It is for these reasons the Clause 4.6 Variation is supported and the non-compliance is not considered to be unreasonable or unnecessary in this case.

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

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

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

26. The site is within the area affected by the Greater Metropolitan Regional Environmental Plan No 2 — Georges River Catchment. The objectives of the Plan are;

- (a) to maintain and improve the water quality and river flows of the Georges River and its tributaries and ensure that development is managed in a manner that is in keeping with the national, State, regional and local significance of the Catchment,*
- (b) to protect and enhance the environmental quality of the Catchment for the benefit of all users through the management and use of the resources in the Catchment in an ecologically sustainable manner,*
- (c) to ensure consistency with local environmental plans and also in the delivery of the principles of ecologically sustainable development in the assessment of development within the Catchment where there is potential to impact adversely on groundwater and on the water quality and river flows within the Georges River or its tributaries,*
- (d) to establish a consistent and coordinated approach to environmental planning and assessment for land along the Georges River and its tributaries and to promote integrated catchment management policies and programs in the planning and management of the Catchment,*
- (e) (Repealed)*
- (f) to provide a mechanism that assists in achieving the water quality objectives and river flow objectives agreed under the Water Reform Package*

27. The application is accompanied by a detailed Stormwater Management Plan prepared by Van Der Meer Consultants. For stormwater to be gravity fed to the closest street (John Street to the rear) an easement for stormwater drainage across the rear properties would be required. The Applicant has informed Council that they have attempted to negotiate an easement however have been unsuccessful in achieving an outcome. As an alternative the Stormwater Engineer has designed a scheme based on the provision of On Site Detention via a series of tanks so that stormwater may be discharged to the Princes Highway.

28. The method of stormwater detention has been referred to Council's Engineering Section. No objection has been raised in respect to the management and disposal of stormwater subject to the imposition of conditions if consent is granted.

### **STATE ENVIRONMENTAL PLANNING POLICIES**

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

29. The aim of the Policy is to facilitate the effective delivery of infrastructure across the State.

30. Subdivision 2 relates to development that is in or adjacent to road corridors and road reservations. Princes Highway is a Classified Road and in accordance with Clause 101 (development with frontage to a Classified Road) of the SEPP (Infrastructure)

concurrence from the Roads and Maritime Services Authority (RMS) is required. The application was referred to RMS and they did not raise any objection to the proposed development subject to the imposition of conditions.

31. Of importance when considering the proposal is that new development does not compromise the effective and ongoing operation and function of the Princes Highway (classified road) and to ensure the design of the development provides for safe access to and from the site. The application was accompanied by a traffic assessment prepared by Terraffic Traffic Consultants who considered the potential traffic generated by the development and its impact on Princes Highway and the adjoining regional road (Park Road). In terms of traffic generation the report states that;

*“An indication of the traffic generation potential of the proposed development is provided by reference to the RMS publication Guide to Traffic Generating Developments, Section 3 - Landuse Traffic Generation (October 2002). The RMS Guidelines are based on extensive surveys of a wide range of land uses and nominate the following traffic generation rates for medium density residential developments:*

<i>Smaller units and flats (up to 2 bedrooms)</i>	<i>0.4-0.5 trips per dwelling</i>
<i>Larger units and town houses (up to 3 bedrooms)</i>	<i>0.5-0.65 trips per dwelling</i>

*Application of the above traffic generation rates to the development proposal yields a traffic generation potential of approximately 11vtph during peak periods as follows:*

***Morning Peak Period***

*20 x 1 and 2 bedroom units @ 0.5vtph per dwelling 10vtph (2 in / 8 out)*

*2 x 3 bedroom units @ 0.65vtph per dwelling 1vtph (0 in / 1 out)*

***Total 11vtph (2 in / 9 out)***

***Evening Peak Period***

*20 x 1 and 2 bedroom units @ 0.5vtph per dwelling 10vtph (8 in / 2 out)*

*2 x 3 bedroom units @ 0.65vtph per dwelling 1vtph (1 in / 0 out)*

***Total 11vtph (9 in / 2 out)***

*The traffic generation of the proposed development should be discounted by the traffic generating potential of the existing dwellings on the site. Based on the RMS traffic generation rate of 1vtph for a dwelling house, the existing site development would generate in the order of 2vtph during peak periods. To that end, the proposal would generate 9 additional trips during peak periods as follows:*

*Proposed Development 11vtph*

*Existing Development 2vtph*

***Additional Traffic 9vtph”***

32. The additional traffic generation is considered to be minor and will not have an adverse impact on the existing road network. All vehicles will exit the site in a forward direction which satisfies Council's controls. The driveway width and design provides for adequate sight distances when entering and leaving the site.

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

33. Contamination and remediation to be considered in determining development application
- (1) A consent authority must not consent to the carrying out of any development on land unless:

- (a) *it has considered whether the land is contaminated, and*
  - (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
  - (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*
- (2) *Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.*
- (3) *The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.*
- (4) *The land concerned is:*
- (a) *land that is within an investigation area,*
  - (b) *land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,*
  - (c) *to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital-land:*
    - (i) *in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and*
    - (ii) *on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).*

34. A review of the site history indicates that the site has been used for residential purposes for extended periods of time, and such uses and/or development are not typically associated with activities that would result in the contamination of the site.

35. A Geotechnical report accompanies the application which was prepared by Morrow Geotechnics Pty Ltd. The investigation conducted on the site catered for four (4) boreholes across the site. The depth of the boreholes was around 10m. The areas comprised of fill and soil however from the investigations it does not seem to indicate that any contaminants are present. From the study the fill looks to comprise of gravel and silty sand.

36. As a result of the site review and physical inspections conducted these did not identify any evidence of contamination and the Site is therefore suitable for the proposed residential development.

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

37. BASIX Certificate No. 891709M\_02 dated 21 December 2017 has been issued for the proposed development and the development meets the provisions and minimum requirements of BASIX in terms of water, thermal comfort and energy efficiency.

The amended plans did not alter the internal arrangement and layout of the units nor does it affect the original density proposed, as such the original BASIX certificate is still relevant to the amended design.

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

38. The objectives of the SEPP are to protect the biodiversity values of trees and other vegetation in non-rural areas and preserve the amenity of non-rural areas through the preservation of trees and other vegetation. This policy is applicable pursuant to Clause 5(1) of the SEPP as the site is within both Georges River Council and the R3 Medium Density Residential zone.
39. Pursuant to Clause 8(1) of the SEPP, clearing does not require authority under the policy as it is a type of clearing that is authorised under Section 60O of the Local Land Services Act 2013 (specifically, that associated with a development consent issued under Part 4 of the Environmental Planning and Assessment Act 1979).

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

40. State Environmental Planning Policy No.65 – Design Quality of Residential Flat Buildings (SEPP 65) was gazetted on 26 July 2002 and applies to the assessment of DAs for residential flat developments of three or more storeys in height and containing at least four dwellings. Amendment 3 to SEPP 65 commenced on 17 July 2015 and implemented various changes including the introduction of the Apartment Design Guide (ADG) to replace the Residential Flat Design Code. Given the nature of the development proposed, SEPP 65 applies.

Clause 28(2) of SEPP65 requires that the consent authority take into consideration the following as part of the determination of DAs to which SEPP 65 applies:

- a) the advice (if any) obtained from the design review panel, and*
- b) the design quality of the development when evaluated in accordance with the design quality principles, and*
- c) the Apartment Design Guide.*

41. The application was referred to the Design Review Panel (DRP) at a meeting held on 1 February 2018 having regard to each of the nine (9) Design Quality Principles. The DRP was satisfied with the overall design “in principle” however raised a series of issues regarding the design of the scheme and suggested changes. The table below summarises the issues raised by the Panel in relation to the 9 design principles (in italics). In response the Applicant amended the design to address the issues (changes highlighted in bold).
42. In addition to satisfying the 9 design principles, the proposal generally satisfies the Apartment Design Guidelines in respect to the design quality of the building and its apartments. The tables below provide a comprehensive assessment against the principles, objectives and controls of SEPP 65 and the ADG.

#### Application of SEPP 65

<b>Clause</b>	<b>Standard</b>	<b>Proposal</b>	<b>Complies</b>
3 - Definitions	Complies with definition of “Residential Apartment Development” (RAD)	Complies with definition	Yes

4 - Application of Policy	Development involves the erection of a new RFB, substantial redevelopment or refurbishment of a RFB or conversion of an existing building into a RFB. The definition of an RFB in the SEPP includes mixed use developments.	Erection of an RFB which satisfies the SEPP's definition of this residential land use.	Yes
50 – Development Applications	Design verification statement provided by qualified designer Registered Architect Name and Registration No.	Design Verification Statement provided by Registered Architect Mr John Dimopoulos (Registration No 7062)	Yes

### Part 2 Design Quality Principles under the SEPP

<b>SEPP 65 – Design Quality of Residential Flat Buildings</b>	<b>DRP Comment</b>	<b>Amended Design</b>
<p><b>Context and Neighbouring Character</b> Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</p> <p>Responding to context involves identifying the desirable elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.</p> <p>Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</p>	<p><i>The site is located along a very busy national highway. However, the design of the front section of the building does not appear to address issues of traffic noise and air quality. It is therefore recommended that amendments are made to the front garden landscaping, balustrades, and even replacing the balconies with acoustically rated winter gardens.</i></p> <p><i>There are a number of very large trees at the rear of the site including four Canary Island Date Palms.</i></p>	<p>The front ground floor terraces have changed shape and the Applicant has introduced some larger trees at the front of the site to assist with better screening and providing some additional acoustic protection.</p> <p>The basement level has been setback 1m from the front to allow for deep soil planting at the front.</p>

<p><b>Built Form and Scale</b></p> <p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</p> <p>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</p> <p>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p>	<p><i>The form is generated by required setbacks which produce a cubic form. This is consistent with what is liable to be the form of future development all around it. Due to the adjacent traffic noise, it is recommended that street facing balconies are replaced with winter gardens. Given the acoustic impacts on the site, the Panel would support NOT including street facing winter gardens in the GFA calculations.</i></p> <p><i>The basement design provides a 4m setback on the rear boundary, a 3m setback to the north and no setback to the front. Given the hostile character of the Princes Highway, the basement car park should be modified to allow for large trees along the frontage. It is therefore recommended that the two additional car parking spaces be removed and a setback set down in the basement slab provided (minimum 1m depth).</i></p> <p><i>It is recommended that some improvement be made to the front entry to emphasize the arrival process.</i></p>	<p>No changes are proposed to the front of the development in terms of addressing the DRPs request to create winter gardens and enclose balconies. This would add undue physical and visual bulk to the building as well as additional floor space. A solid front fence will provide attenuation and act as an acoustic barrier for these spaces making them private and functional.</p> <p>The basement level 1 has been reduced in height at the front to allow for an additional 1m of deep soil planting above at the ground floor level. This satisfies the DRP request.</p> <p>The removal of 2 car spaces as requested by the Panel is not considered necessary as 4 larger trees can be planted at the front of the site in accordance with the Panel's request.</p> <p>The front entry hasn't been modified substantially only the shape and size of the front terraces to Unit G03 and G01 have been reduced to open up the main entry. This is considered an improvement and acceptable.</p>
<p><b>Density</b></p> <p>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</p>	<p><i>Acceptable</i></p>	<p>Noted.</p>

Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.		
<b>Sustainability</b> Good design combines positive environmental, social and economic outcomes.  Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.	<i>The proposal appears to comply with solar access and natural ventilation requirements subject to capacity to open windows in such a high traffic environment.</i>	No change to the original scheme
<b>Landscape</b> Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.  Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy,	<i>Following recommendations were made:</i>  <i>1.Reconfiguration of the front built form and landscape zone to create consolidated planters (through basement setbacks or set down with new tree planting). This tree planting could contribute to the streetscape amenity and generally should be over 10m high. Reduce expanse of paving at the entry.</i>  <i>2.Delete paved areas along G03 adjacent to the driveway and replace with planters.</i>  <i>3.Integrate taller trees in</i>	The design has been modified to create a larger deep soil area at the front and the provision of larger trees at the front has been integrated. Four (4) Tristaniopsis 'Luscious' are proposed at the front of the Site. These will have a height of 12m at maturity and a 5m spread.  No change proposed.  The design has been

<p>habitat values and preserving green networks.</p> <p>Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.</p>	<p><i>deep soil zones, greater than 10m high.</i></p> <p><i>4.Reconfiguration of the car park/fire stair access to provide short distance to the street. Refer to BCA requirements.</i></p> <p><i>5.Reconsider communal area on ground floor level as it will be heavily shaded and may present privacy issues for adjacent residents.</i></p> <p><i>6.On the proposed roof top communal terrace, relocate the toilet and consolidate into the stairwell/lift core delete unnecessary skylight to create consolidated terrace spaces and reduce awkward leftover spaces.</i></p> <p><i>7.Remove stepping stones in gravel and provide a more robust surface finish. Provide sheltered lift lobby, BBQ facilities, and small children's play spaces.</i></p> <p><i>8.Redesign the roof terrace with: Enclosed room at lift/stair arrival point which includes amenities (WC, sink,</i></p>	<p>modified to create a larger deep soil area at the front and the provision of larger trees at the front has been integrated. Four (4) Tristaniopsis 'Luscious' are proposed at the front of the Site. These will have a height of 12m at maturity and a 5m spread.</p> <p>The rear communal open space includes 2 rough barked apple trees that reach an overall height of 20m.</p> <p>The gravel and stepping stones have been removed and replaced with paving and some additional fixed seating and bbqs have been incorporated in accordance with the DRP recommendations.</p> <p>A separate amenities room is included. A small area has been enclosed mainly glass to be a light structure. A condition will require that</p>
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	<p><i>storage etc) to service the roof-garden.</i></p> <p><i>Re-arrangement or removal of skylights to improve access and circulation.</i></p> <p><i>Roof edge planting to provide safety and visual privacy.</i></p>	<p>the area between the lift and staircase be covered but the remaining roofed area be open so there are no additional structures on the roof.</p> <p>On the roof the one large central skylight has been removed and the smaller skylight has been relocated closer to the front to provide additional light through to the main lobby below. Its location will not affect the useability of this space.</p> <p>More planter boxes have been included along the periphery of the roof terrace which delineates spaces more clearly.</p>
<p><b>Amenity</b> Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being.</p> <p>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.</p>	<p><i>See note above regarding entry amenity.</i></p> <p><i>See note above regarding winter gardens.</i></p> <p><i>Realign storage cupboards within entries to units G01 and G03 to allow a clear passage. Dining space clashes with kitchen space in units 102 – 302.</i></p> <p><i>Units 401 and 404 lack entries and have poor access to bedroom 1.</i></p> <p><i>Second bedroom in units 401 and 403 cannot rely on high windows for primary source of light; redesign to comply with the ADG. See notes above regarding communal roof terrace.</i></p>	<p>Noted and amended to an acceptable level.</p> <p>Winter gardens have not been integrated into the design as noted above.</p> <p>Storage cupboards have been removed in G01, G03 and separate storage cupboards have been created in 102, 202 and 302 to improve entry access to these units.</p> <p>No change.</p> <p>No change - considered acceptable as B1 for Units 4.01 and 4.04 has a second smaller window facing north and B2 in units 4.01 and 4.04 are standard sized as shown on the elevation.</p>
<p><b>Safety</b> Good design optimises safety</p>	<p><i>Carpark egress potentially non-compliant. Refer to</i></p>	<p>The design is intended to create a safe and secure</p>

<p>and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose.</p> <p>Opportunities to maximise passive surveillance of public and communal areas promote safety.</p> <p>A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.</p>	<p><i>comments under “landscape”.</i></p>	<p>environment that encourages natural surveillance around the development. The development relies on some higher fencing along the Princes Highway frontage to provide some acoustic protection.</p>
<p><b>Housing Diversity and Social Interaction</b></p> <p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</p> <p>Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</p> <p>Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</p>	<p><i>See note above regarding communal terrace.</i></p>	<p>Changes have been incorporated to address the DRP in respect to the design of the communal rooftop terrace.</p> <p>Appropriate mix of apartments has been provided;</p> <ul style="list-style-type: none"> <li>2 x 1 bedroom units (9%)</li> <li>18 x 2 bedroom units (92%)</li> <li>2 x 3 bedroom units (9%)</li> </ul> <p>3 apartments are adaptable</p>
<p><b>Aesthetics</b></p> <p>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.</p>	<p><i>See above regarding winter gardens and substantial trees to the street frontage.</i></p>	<p>The development has not been amended to include winter gardens as requested by the DRP. The Applicant has stated that they have not included this design change for the following reasons;</p> <ul style="list-style-type: none"> <li>- Will add undue visual bulk</li> </ul>

The visual appearance of a well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.		<ul style="list-style-type: none"> <li>- Add to the floor space which would then become non-compliant and this would not be supported by Council.</li> <li>- The front fence being solid will provide an adequate acoustic buffer</li> </ul>
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Having regard to the above, it is considered the advice provided by the DRP has generally been adopted by the applicant in the amendments to the drawings. Most refinements have been made to the design as requested by the DRP however the proposed winter gardens have not been incorporated into the design. The Applicant's justification in not providing these features is considered satisfactory (as detailed above).

The Apartment Design Guide (ADG) provides planning and design standards for apartments across NSW. It provides design criteria to achieve the nine design quality principles identified in SEPP 65.

As outlined earlier, Clause 28 of SEPP65 requires the consent authority to take into consideration the provisions of the ADG.

#### Part 3 and Part 4 – Consideration of Residential Flat Design Code Design Controls

Clause	Standard	Proposal	Complies
Objective 3D-1	<p>1. Communal open space has a minimum area equal to 25% of the site.</p> <p>-Where it cannot be provided on ground level it should be provided on a podium or roof</p> <p>-Where developments are unable to achieve the design criteria, such as on small lots, sites within business zones, or in a dense urban area, they should:</p> <ul style="list-style-type: none"> <li>• provide communal spaces elsewhere such as a landscaped roof top terrace or a common room</li> <li>• provide larger balconies or increased private open space for apartments</li> <li>• demonstrate good proximity to public open space and facilities and/or</li> </ul>	<p>The proposal provides 3 distinct areas of common open space,</p> <ol style="list-style-type: none"> <li>1. Along the north-eastern side which has an area of 3m x 34m = 102sqm</li> <li>2. Rear area 3m by 30.4m = 91.2</li> <li>3. Rooftop area amounts to approx. 120sqm.</li> </ol> <p>Total = 313sqm (30% of the Site)</p> <p>Every apartment includes a sizable and compliant balcony/terrace. Many balconies/terraces exceed the minimum requirements of the SEPP.</p> <p>The Site is located within close proximity to parks including Leighton Park and within walking distance to Harold Fraser Reserve and</p>	Yes

	<p>provide contributions to public open space</p> <p>2. Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter)</p>	<p>Beverley Park Golf Course.</p> <p>The roof top area of common open space and the large strip of landscaped area along the north eastern side at the ground floor level receives in excess of 2hours of solar access during the day midwinter.</p>	
Objective 3E-1	<p>1. Deep soil zones are to meet the following minimum requirements:</p> <p>Where the site is less than 650sqm-1500sqm = 3m min dimension</p> <p>Min deep soil area of 7% (74sqm)</p>	<p>The proposal provides for a total exceeding 193sqm.</p> <p>This amounts to 18% with a minimum dimension of 3m.</p> <p>5 new coastal banksias are proposed to be planted along the north eastern boundary and these trees reach a max height of 9m with a 5m spread.</p> <p>2 Lilly Pilly's are proposed along the southern side (rear boundary) which achieve an overall height of 12m with a 6m spread. There are two mature existing trees (Canary Island Date Palms) that will be retained to further assist with screening the development when viewed from the rear.</p> <p>The deep soil area at the front and the provision of larger trees at the front has been integrated. Four (4) Tristaniopsis 'Luscious' are proposed at the front of the site. These will have a height of 12m at maturity and a 5m spread.</p>	Yes

Objective 3F-1	<p>Separation between windows and balconies is provided to ensure visual privacy is achieved.</p> <p>Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <p>Up to 12m (4 storeys) Habitable - 6m Non-habitable – 3m</p> <p>Up to 25m (5-8 storeys) Habitable – 9m Non-habitable – 4.5m</p>	<p>The balconies at upper levels are appropriately screened with privacy elements and blade walls etc.</p> <p>6m-7.8m along the south western and side (Ground floor – Fifth Floor)</p> <p>Level 5 and 6 = 6m-7.1m (Fifth level should have a setback of 9m to habitable areas and 4.5m to non-habitable spaces).</p> <p>Level 5 and 6 separation distances are reduced as this floor comprises of 2 apartments and the rear living areas are setback from the sides by some 8.77m. This is only for a section which comprises of the balcony. Setting the fifth level in to comply with the 9m side setback would adversely affect the internal amenity of the two apartments and given the central location of the lift and stairs this complicates the layout. Reducing the existing apartments to 2 x 1 bedroom apartments could be achieved but given the location it is better to have larger, spacious apartments at the upper levels.</p>	<p>Yes</p> <p>Yes</p> <p>No</p> <p>The DRP Panel did not raise an issue with this variation and considered the overall design and built form to be satisfactory. There will be no overlooking.</p> <p><b>Refer to note (1) below</b></p>
Objective 3G-1	<p>Building entries and pedestrian access connects to and addresses the public domain</p> <p>Multiple entries (including communal building entries and individual ground floor</p>	<p>The development has a main central entry way through to the lift core. There is also a secondary access provided along the north-eastern of the Site at ground floor level which provides direct access to the communal areas of open space.</p>	<p>Yes</p>

	entries) should be provided to activate the street edge		
Objective 3H-1	Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes	<p>The development caters for a driveway along the south-western side of the site. The driveway entry is recessed behind the front building line and is 7m wide tapering down to 3m after some 6m which allows for a car to wait if there is any conflict with movements entering or exiting the Site. This is a safe and appropriate design feature.</p> <p>The proposal was referred to RMS for comment as the Princes Highway is a classified road. RMS raised no objections to the proposed arrangement subject to the imposition of conditions.</p>	Yes
Objective 3J-1	<p>For development in the following locations:</p> <ul style="list-style-type: none"> <li>- On sites that are within 800m of a railway station or light rail stop in the Sydney Metropolitan Area;</li> <li>- The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant Council, whichever is less</li> </ul>	<p>These provisions are not applicable as the proposal is not within 800m of a railway station or light rail stop.</p> <p>As such Council's car parking provisions contained in the DCP are relevant.</p>	Yes

Objective 4A-1	<p>Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area</p> <p>Daylight access is maximised where sunlight is limited.</p>	77% of units (a total of 16 units) receive a minimum of 2 hours of solar access between 9am to 3pm in mid-winter.	Yes
Objective 4B-3	<p>At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building.</p> <p>Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line</p> <p>The building should include dual aspect apartments, cross through apartments and corner apartments and limit apartment depths</p>	100% of apartments are cross ventilated as they are corner apartments.	Yes
Objective 4C-1	<p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <p>If located in mixed use areas = 3.3m for ground and first floor to promote future flexibility of use. Habitable rooms = 2.7m Non-habitable rooms = 2.4m</p>	<p>The minimum floor to ceiling height at all levels is 2.7m</p> <p>Despite the floor to floor heights being lower than the 3.1m specified by the ADG the 3.05m heights are acceptable and can cater for a 350mm slab allowing for floor to ceiling heights of 2.7m to be achieved.</p>	Yes
Objective 4D-1	<p>Apartments are required to have the following minimum internal areas:</p> <p>1 bedroom = 50sqm 2 bedroom = 70sqm 3 bedroom = 90sqm</p> <p>The minimum internal</p>	<p>Every apartment complies with the minimum internal area requirements.</p> <p>1 bedroom apartments have min internal areas of approximately 60sqm</p> <p>2 bedroom apartments have</p>	Yes

	<p>areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5sqm each</p> <p>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms</p>	<p>minimum internal areas of 76sqm</p> <p>3 bedroom apartments have internal areas of 115sqm.</p> <p>All internal spaces and rooms have natural ventilation via windows.</p>	
Objective 4D-2	<p>Habitable room depths are limited to a maximum of 2.5 x the ceiling height</p> <p>In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window</p>	<p>Complies and addressed as part of the design. Furniture layouts are provided.</p> <p>The rear of kitchens are located within 8m distance from a window.</p>	Yes
	<p>Master bedrooms have a minimum area of 10sqm and other bedrooms 9sqm (excluding wardrobe space)</p> <p>Bedrooms have a minimum dimension of 3m (excluding wardrobe space)</p> <p>3. Living rooms or combined living/dining rooms have a minimum width of:</p> <p>-3.6m for studio and 1 bedroom - 4m for 2 and 3 bedroom apartments</p> <p>The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts</p>	<p>Complies with minimum room sizes. Master bedrooms have a minimum area of 10sqm whilst all other rooms have areas of 9.6sqm.</p> <p>Bedrooms have a minimum dimension of 3m – complies</p> <p>All living areas have a minimum width of 4m</p> <p>No cross-over or double loaded apartments are proposed.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p>

Objective 4E-1	<p>All apartments are required to have primary balconies as follows:</p> <ul style="list-style-type: none"> <li>-1 bedroom = 8sqm/2m depth</li> <li>-2 bedroom = 10sqm/2m depth</li> <li>-3+ bedroom = 12sqm/2.4m</li> </ul> <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m</p> <p>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</p>	<p>All balcony areas comply with the minimum requirements of the ADG. Many exceed the minimum requirements especially for the 2 bedroom apartments.</p> <p>All balconies have a minimum depth of 2m.</p> <p>The four (4) ground floor apartments have terraces with a minimum area of 24sqm which is well in excess of the minimum requirements.</p>	Yes
Objective 4F-1	The maximum number of apartments off a circulation core on a single level is eight	<p>Maximum 4 units on each level (ground to fourth floor level).</p> <p>2 units are located on the fifth level.</p>	Yes
Objective 4G-1	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <ul style="list-style-type: none"> <li>-1 bedroom = 6m<sup>3</sup></li> <li>-2 bedroom – 8m<sup>3</sup></li> <li>3 bedroom – 10m<sup>3</sup></li> </ul>	<p>All units have storage areas that comply with the requirements. Independent storage areas for each apartment are provided in the basement parking area and additional storage cupboards are provided within each apartment.</p> <p>The apartments are generous in size and include internal laundries and linen cupboards.</p>	Yes
Objective 4M	<p>Facades should be well resolved with an appropriate scale and proportion to the streetscape and human scale.</p>	<p>The design of the façade is interesting, modern and articulated. The design of the main entries, commercial components and residential levels are differentiated by differing architectural treatments defining the uses.</p>	Yes

		The building is of a high architectural and design quality and includes a number of visually attractive architectural elements and features that enhance the overall appearance of the development when viewed from the street and public domain.	
Objective 4N	Roof treatments are integrated into the building design and positively respond to the street. Opportunities to use roof space for residential accommodation and open space are maximised. Incorporates sustainability features.	The roof design is well considered and integrated with design of the development. The communal roof terrace is a centralised private space that has been well designed.	Yes
Objective 4O	Landscape design is viable and sustainable, contributes to the streetscape and amenity	Landscape design is appropriate and provides suitable communal and private open space areas and the planting of canopy trees.	Yes
Objective 4P	Planting on structures – appropriate soil profiles are provided, plant growth is optimised with appropriate selection and maintenance, contributes to the quality and amenity of communal and public open spaces	There is minimal reliance on the provision of planter boxes at upper levels of the development as it is difficult to maintain these features and the reliance is on the occupant. The development does allow for substantial areas of deep soil planting around the periphery of the site which will permit the planting of mature trees and plants which will screen the lower levels of the building and create attractive areas of landscaping around the building.	Yes
Objective 4Q	Universal design – design of apartments allow for flexible housing, adaptable designs, accommodate a range of lifestyle needs	Design of apartments allows for use by different lifestyles. Internal layouts vary and provide flexible layouts. 3 adaptable units are also catered for within the development.	Yes
Objective	Adaptive reuse as	N/A	N/A

4R	apartment of existing buildings - new additions are contemporary and complementary, provide residential amenity while not precluding future adaptive reuse.		
Objective 4U	Development incorporates passive environmental design, passive solar design to optimise heat storage in winter and reduce heat transfer in summer, natural ventilation minimises need for mechanical ventilation	Development incorporates BASIX commitments in the design to provide appropriate energy efficiency features.	Yes
Objective 4V	Water management and conservation – potable water use is minimised, stormwater is treated on site before being discharged, flood management systems are integrated into site design	Development incorporates an appropriately detailed stormwater and drainage design which incorporates an onsite detention tanks (OSD). The proposed method of stormwater and drainage management has been referred to Council's Engineers and they have considered the design to be acceptable and complies with Council's controls.	Yes
Objective 4W	Waste management – storage facilities are appropriately designed, domestic waste is minimised by convenient source separation and recycling	Waste facilities are provided which are accessible to all residents. The waste management and disposal design has been assessed by Council's Coordinator Environmental Sustainability and the design is considered acceptable.	Yes
Objective 4X	Building maintenance – building design provides protection from weathering, enables ease of maintenance, material selection reduces ongoing maintenance cost	Design incorporates a mix of external finishes that require minimal maintenance such as face brick and pre-fabricated coloured panels. Materials and finishes have been carefully considered to minimise longer term costs relating to long term maintenance. Materials proposed are considered to be robust and appropriate for this location.	Yes

### (1) Separation Distances

43. The building fails to comply with the minimum 9m side separation distances at the fifth and sixth level as required by the ADG. The building has been designed to be modulated and articulated at every level; however the fifth level wall is stepped with the setback being 6m in the central portion of the building along both side boundaries. There are no walls adjoining along this side so there is no potential for overlooking. In addition support of this variation is not considered to be result in an inability for the adjoining allotments to redevelop into the future.

The rear living areas are setback 9m from the side boundaries which is compliant and the balconies include louvered screens which are angled so as to reduce any potential for overlooking. The front portion of the building at this level is setback 7.1m however the wall also excludes any openings. The design intends on addressing the objectives of the provision, by limiting and reducing any amenity impacts particularly in relation to privacy and overshadowing. The Applicant has provided their justification of the non-compliance and has stated that;

*“The setback provisions tabled in Objective 3 F1 of the ADG relate to issues of visual privacy. This project has responded to the particular building site depth and width, generally presenting within the precinct on a compliant site area over 1000sqm, by proposing a reduced density of development (FSR proposed is 1.72:1 where 2:1 permitted) whilst still requiring, in part, a reduced side boundary setback. The design has utilised the Objectives and Design Guidance provisions of the ADG to minimise possible adverse impacts on adjoining sites. Despite a numerical non-compliance with the Design Criteria it is accepted practice that the use of highlight windows and blank walls can address the underlying objective of ensuring visual privacy between developments. In this case the side setbacks above the fourth floor provide those solutions to address the visual privacy objective. The original design was amended to revise the windows at B2 for Units 4.02 and 4.03, on recommendation from the Design Review Panel, to incorporate a full size window with the sill height set at 1.5m. The remaining windows in those elevations provide highlight windows at a 1.9m sill height.*

*The Design Review Panel is charged with providing an assessment of the scheme against the SEPP 65 principles and ADG compliance. The Panel, in their assessment of this proposal, have accepted the proposed setbacks and the design solution, despite non-compliance with the Design Criteria standard. It should also be noted that, in accordance with Planning Circular 17-001, the ADG is not intended to be, and should not be applied as, a set of strict development standards. On that basis the proposed setbacks are considered acceptable under the circumstances of this case.”*

The justification and design resolution of the building in respect to this provision is considered to be satisfactory.

As demonstrated within the ADG compliance table, the proposal is generally satisfactory and compliant in its current form when considered against the relevant objectives, design criteria and design guidance for residential flat buildings.

## **DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS**

### **Draft Environment SEPP**

44. 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.

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

### Development Control Plans


#### KOGARAH DEVELOPMENT CONTROL PLAN NO 2013 (KDCP)

Part B General Controls		
Control	Standard	Complies
B1 Heritage Items and Heritage Conservation Areas	The subject site is not recognised as a Heritage Item or located within a Heritage Conservation Area.	N/A
B2 – Tree Preservation and Greenweb	<p>Development approval is required to ringbark, remove, cut down or destroy any tree that has a height greater than 3.5m or branch spread exceeding 3m in diameter.</p> <p>Must not be within a Green Web habitat.</p>	<p>The proposal involves the removal of a number of trees and the retention of two large Date Palms that are located at the rear and a reduced TPZ will apply but these species will survive this reduced area.</p> <p>The arborist report which accompanies the application specified that <i>“at the time of inspection all trees appeared healthy and relatively free of insect predation or disease with the exception of one tree (Lemon Tree) which was dead.....Most trees were generally of smaller dimensions with the Date palms being the larger landscape elements two of which located adjacent to the rear boundary are proposed for retention. All remaining trees are</i></p>

		<p><i>positioned within or directly adjacent to the proposed changes to the land and are not retainable with the design in its current format.” It was also noted in the report that “The Australian Standard AS4970-2009 “Protection of Trees on Development Sites has been used as a guide and point of reference for retention of Trees 3 and 4 being palm species which can accommodate a reduced TPZ setbacks due to their modified adventitious root system”. The updated landscape plans prepared by Ground Ink include a number of larger replacement trees to be included at the front and rear of the Site. These include 2 x Rough Barked Apple Trees (rear), 5 x Eumundi Quandong (along the north east and 4 x Tristaniopsis Laurina (to be planted at the front) which all exceed 10m in height at maturity. The new trees over compensate for the loss of 8 trees (5 mature, larger species).</i></p>
B3 – Developments near busy roads and rail corridors	Acoustic assessments for noise sensitive developments as defined in clauses 87 and 102 of the Infrastructure SEPP may be required if located in the vicinity of a rail corridor or busy roads.	<p>Princes Highway is a classified road. An acoustic report was prepared given the location of this proposal. The acoustic report suggests a series of measures that will improve noise attenuation within the apartments and includes double glazing, better insulation and other construction methods that will buffer the development from the</p>

		surrounds. A condition will ensure compliance with these recommendations.
B4 – Parking and Traffic	<p>1 bedroom unit = 1 space/unit  2 bedroom unit = 1.5 spaces/unit  3 bedroom unit = 2 spaces/unit  1 visitor space/5 units or part there of, and  1 designated car wash bay which may also be a visitor space.</p> <p>Bicycle parking 1 space per 3 dwellings plus 1 space per 10 for visitors so 7 resident bike racks are required and 2 visitor bike parking  Total = 9 bike parking spaces required</p> <p>Internal car park layouts, space dimensions, ramp grades, access driveways, internal circulation aisles and service vehicle areas shall be designed in accordance with the requirements set out in AS 2890.1 (2004) and AS 2890.2 (2002) for off street parking and commercial vehicles.</p>	<p><b>Required</b>  2 x 1 bedroom units = 2 spaces  18 x 2 bedroom units = 27 spaces  2 x 3 bedroom units = 4 spaces  5 visitor spaces  1 x car wash</p> <p>Total required 38 spaces</p> <p><b>Proposed</b>  B2 Plan = 21 spaces (including two accessible spaces) 2 spaces are also tandem (spaces 39 and 40)  B1 Plan = 19 spaces including 5 visitor spaces, 1 accessible space and a visitor space that doubles as a loading dock.</p> <p>Total = 40 car spaces  Numerically compliant</p> <p>A condition will require the provision of a car wash bay. Visitor space No.18 is well located and should become the designated car wash bay.</p> <p>10 bicycle spaces have been provided which complies.</p> <p>The parking layout and arrangement satisfies Council's requirements and Australian Standards. The application was also referred to RMS and they are satisfied with the traffic generated by the development subject to the imposition of</p>

		conditions.
B5 – Waste Management	Submit a Waste Management Plan (WMP).	<p>The application was accompanied by a WMP which was assessed by Council's Coordinator of Environmental Sustainability. No objection was raised in respect to the design of the garbage and waste disposal area.</p> <p>The building includes a designated waste room on B1 which has capacity for 14 bins; however more bins could be accommodated within this space.</p>
B6 – Water Management	<p>Detention storage is to be provided that is equal to or greater than the specified Site Storage Requirements (SSR). Rainwater tank installed to meet BASIX water conservation requirements will be given credit for SSR purpose.</p> <p>Drainage easements servicing stormwater pipes and/or overland runoff from catchments upstream of the development site are to be managed according with Council's guidelines.</p> <p>Discharge of stormwater runoff from a development site is to be undertaken in accordance with the design practice note, Site Drainage and Flood Management regarding direct discharge to kerb, discharge to a Council owned stormwater conduit, discharge to natural areas, discharge through private property and discharge within the development site.</p>	<p>The subject site is not located within Flood Prone land.</p> <p>The application was referred to Council's Engineers who assessed the proposed stormwater and drainage arrangement and are satisfied with the design and layout.</p>
B7 – Environmental Management	Provisions relating to the siting and orientation of the building, use and promotion of sustainable building materials and standard provisions established for non-residential development.	The application is accompanied by a BASIX certificate which confirms compliance with the minimum requirements of the SEPP (thermal comfort and water usage).
<b>Part C2 – Medium Density Housing</b>		
Site Isolation and amalgamation	A number of sites have been highlighted in the KDCP that will require	The subject site is not subject to the

	amalgamation to avoid site isolation.	<p>amalgamation plan however two sites are being amalgamated to create an integrated development.</p> <p>The amalgamation does not isolate any site; there are 3 independent Sites to the north east before the junction with Lacey Street and over 5 independent sites to the south west before the junction with Park Road.</p>
Precinct Controls	A number of sites have been highlighted as “precincts” within subsection 2 of the DCP.	The site is not located within any of the precincts highlighted in Subsection 2.
Multi-dwelling Housing	Special requirements outlined for 3 designated precincts.	The subject site is not located within either of the highlighted precincts.
Minimum site and density requirements	<p>Stipulates a minimum frontage width of 20m and a minimum of 2.1sqm per sqm of per dwelling. Refer to map below</p> 	<p>The subject site is located within the area designated as yellow in Appendix 4 of the KDCP. The site has a minimum frontage width of 30.48m to Princes Highway which complies.</p> <p>This map designates the site as permitting “multi-dwelling housing” not “residential flat buildings” which is designated green. This is an outdated control and does not reflect the recent LEP amendment relating to zoning and FSR changes for this precinct that were adopted in 2017.</p> <p>The proposal does not need to adopt these provisions as they are no longer relevant given they are superseded by the new KLEP controls which permits RFB’s in the R3 zone.</p>

Height and building envelope	<p>Building envelopes have been established for development in the R3 zone. In respect to RFB's the DCP stipulates an overall height of 14m (to the ridgeline) for 4 storeys and a maximum wall height of 12m.</p> <p>Min floor to ceiling height of 2.7m</p> <p>Rooftop terraces are prohibited unless they are directly linked to penthouse units.</p>	<p>These controls do not reflect the KLEP changes which permit a max height of 21m. The DCP has not been amended to reflect the LEP amendments in relation to this site.</p> <p>Complies - all levels have a minimum floor to ceiling height of 2.7m</p> <p>Rooftop terraces are permitted and encouraged by SEPP 65 especially if it provides for communal open space. The space is centralised and communal in nature and will not adversely affect adjoining properties.</p>
Building setbacks	<p>Front setback - 75% of the width of the building must be setback a min 5m with the remaining 25% setback 7m</p> <p>Side and rear setbacks – 3m plus one-quarter the amount that the wall exceeds 3m.</p>	<p>The building is consistently setback 5m from Princes Highway for 100% of the frontage. The building will be setback further than both immediately adjoining dwelling houses.</p> <p>Acceptable design response but <b>refer to Note (2) below for further discussion.</b></p> <p>The building is setback 6m from both side boundaries which complies with the minimum side setback requirement of SEPP 65 which overrides the DCP provisions. The rear setback is also 6m but increases to 9m at level 5.</p>
Site Coverage	RFB's max 45% site coverage which amounts to 477sqm	44% site coverage building footprint and driveway access amounts to 463sqm which whilst not numerically compliant with this control satisfies the ADG.

Open Space	<p>Ground floor courtyards min 35sqm in area per dwelling with min dimension 3m</p> <p>Balconies with min area 12sqm and min dimension of 3m</p> <p>Common open space – 30sqm per dwelling which requires a total area of 660sqm of common open space</p>	<p>Front courtyards have areas of approx. 24sqm. Rear courtyards have areas of 18sqm. No but complies with the ADG provisions which require ground floor courtyards to have min areas of 15sqm.</p> <p>Balcony sizes vary from 8sqm and 10sqm and this complies with the ADG.</p> <p>The proposal provides 3 distinct areas of common open space,</p> <ol style="list-style-type: none"> <li>1 Along the north eastern side which is an area of 3m by 34m = 102sqm</li> <li>2. Rear area 3m by 30.4m = 91.2</li> <li>3. Rooftop area amounts to approx. 120sqm.</li> </ol> <p>Total = 313sqm (30% of the site)</p> <p>Does not comply with DCP provisions but satisfies the ADG minimum requirements for deep soil and communal open space areas.</p>
Car Parking	<p>Numerical compliance in accordance with B4 of the DCP</p> <p>Minimise driveways off main roads</p> <p>Parking spaces to have min dimensions 2.6m by 5.5m</p> <p>Provision of a car wash bay</p>	<p>Complies see explanation above</p> <p>One point of access from Princes Highway</p> <p>Car parking spaces and general arrangement and layout is compliant</p> <p>Conditioned to comply</p>
Solar Access	<p>Where the neighbouring properties are affected by overshadowing, at least 50% of the neighbouring existing primary private open space or windows to main living areas must receive a minimum of 3 hours sunlight between 9am–3pm on the winter solstice (21 June).</p>	<p>Refer to shadow diagrams below.</p> <p>Proposal complies with the minimum requirements as all immediately neighbouring</p>

		properties receive a minimum of 3 hours of solar access throughout the day in midwinter.
Views and view sharing	Development shall provide for the reasonable sharing of views.	The proposal will not adversely affect or impact on any existing views or outlook from adjoining properties.
Adaptable and Accessible Housing	A minimum of 3 adaptable units are required to be provided if the development exceeds 21 apartments (up to 30 apartments).	3 adaptable apartments have been catered for as part of the design in accordance with the DCP.

## (2) Front Setback

46. The DCP control seeks to create a staggered front building alignment and provide diversity and variety in the built form. A standard 5m setback is required for 75% of the width and the remaining 25% of the building frontage setback 7m.
47. The proposed building is setback 5m consistently at the front. Given the location of the building this is an acceptable design outcome as the building is articulated at the upper levels at some points greater than 5m. The building also adopts a variety of materials and finishes that will break up the bulk and mass. The building will sit behind the existing adjoining residences and given that a business zone is located across the road where these buildings have a nil front setback a consistent 5m setback is reasonable. The Applicant provided further justification for this variation and stated;

*“This precinct is only recently rezoned for this intensity of development and no detailed DCP provisions have been developed that would have regard to the local context and likely future streetscape along Princes Hwy in this locality. The precinct is immediately adjacent to a commercial centre that provides a built form with nil front building setback to the Highway frontage, which is anticipated to be reinforced through any redevelopment in that precinct. A B6 commercial zone, also along this stretch of the Highway to the north, will also provide a more urban built form and streetscape with reduced setback to the Highway. Also, the sites immediately adjacent to the north (Nos 192-196) present a lot pattern that projects into the street alignment of the precinct and could result in a built form that may also project into any established setback in the precinct.*

*In detail the design of the front facade is highly articulated with balcony recesses above ground level satisfying the intent of the control. The ground level setback is also effectively screened by forecourt fencing and landscaping. Despite the setback variation the design responds to the objective of the standard and presents a well-articulated facade to the Highway frontage”.*

## IMPACTS

### Natural Environment

48. The proposed development is unlikely to result in adverse impacts on to the natural environment.
49. The proposal includes a generous amount of deep soil areas along the north eastern side of the site and rear where the Applicant intends on planting larger trees which can grow to a maximum 9-12m in height at maturity. The landscaping elements would assist in screening

the first few levels of the building. The landscape plan also shows more formal planting along the front of the site to emphasis the entry of the development.

### **Built Environment**

50. The proposed development is unlikely to result in adverse impacts to the built environment. The proposed development complies with the relevant requirements except in the height of the lift overrun and a small portion of the staircase structure. This variation is discussed in the report and is supported as it is unlikely to result in adverse impacts to adjoining developments and the streetscape.
51. In terms of overshadowing, the proposal does not affect Princes Highway or 196 Princes Highway as the roadway and adjoining property are located to the north and north east. At the rear of the property is 1 and 3 John Street. The rear yards of these properties will not be affected by the development from 9am until 12noon as such they receive a minimum of 3 hours of solar access in accordance with the KDCP provisions.

**Figure 6: Proposed shadow diagrams mid-winter**



52. Also it should be noted that a Development Application for the redevelopment of 5-9 John Street (at the rear) has been the subject to a Court Appeal and a Section 34 Agreement was recently reached. This development comprises of a 7 storey RFB development (refer to Figure 8 below for the photomontage of the approved development). A similar development for 1-3 John Street at the rear is also the subject of a Court Appeal that is currently part of ongoing Section 34 Conferencing (refer to Figure 7 below).
53. The agreed bulk, form and scale at 5-9 John Street has established a precedent for future development within this precinct. The bulk, form and massing of the proposal is considered to be generally consistent with this approval.

**Figure 7: Original front elevation as proposed at 1-3 John Street (currently the subject of a Court Appeal and Section 34 Conferencing).**



**Figure 8: Proposed front elevation of 5-9 John Street (as approved)**



LPP052-18

54. From the applications that have been lodged with Council and the Court decision it is evident that this is a desirable location with the precinct slowly undergoing change and evolution into a medium density area.

#### ***Social Impact***

55. The proposed development has no apparent adverse social impact.

#### ***Economic Impact***

56. The proposed development will have no apparent adverse economic impact.

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

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

### **SUBMISSIONS AND THE PUBLIC INTEREST**

58. The application was notified/advertised to resident/owners in accordance with Council's requirements. The notification regarding the original scheme did not generate any submissions.
59. The amended proposal was notified and two (2) submissions were received. These submissions and the issues they raised are summarised below.

#### Increase in traffic

60. Officer comment: The increase in density that is proposed will generate more traffic however the degree of traffic generation and vehicular movements into and out of the site is reasonable and has been addressed in more detail in this report.
61. In summary, traffic generated by the development creates 11 vehicular movements in the morning peak (9 vehicles out and 2 vehicles in) and the same generation in the evening peak. This projected generation needs to exclude the existing traffic movements generated by the two dwelling houses on site which creates 2 vehicular movements in the morning and evening. Nine (9) movements during the peak periods is considered to be relatively minor. Also traffic movements are directly onto Princes Highway and therefore unlikely this

development will create any direct adverse impacts on adjoining residential streets like John Street.

62. The application was referred to RMS for comment as the development is fronting a classified road. RMS did not raise any objections to the proposal subject to the imposition of conditions.

Incongruous appearance of the building and will establish an undesirable precedent

63. Officer comment: It is agreed that the building at this stage will be the first six (6) storey building within this immediate block facing Princes Highway. Initially it will look strange and out of character with the adjoining lower scale residential dwelling houses however the proposal depicts the “desired future” character for development in this precinct which is reflected by the new planning controls.

64. It should be noted that as previously mentioned in this report, there are two larger scale developments to the rear of the property that have appeals before the Court. 1-3 John Street has reached a Section 34 Agreement for the construction of a six (6) storey RFB in a similar form. The proposal at 5-9 John Street is currently the subject of an Appeal.

Overdevelopment of the site

65. Officer comment: The proposal is within the maximum floor space ratio which dictates the bulk, scale and to some degree the form of development. The density is within the limits permitted for the site.

Increase social issues

66. Officer comment: The submission raises concerns regarding the potential social issues that could result from large scale developments such as overcrowding, mismanagement of rubbish disposal and noise.

67. The development is of a medium density scale and the layout and design of the building has considered these issues to create a secure and generally well designed built form. The building is planned to be of a high quality with spacious and attractive apartments and it would be unlikely that the type and form of this building will create any adverse social impacts.

68. The building is located on a busy arterial road so it is unlikely residents will loiter around the streets and the management of rubbish disposal will be managed to ensure it satisfies Council’s requirements. The development includes formal garbage storage areas which will limit the potential for bins to be displaced.

Exceeds the building height

69. Officer comment: The proposal does exceed the maximum building height of 21m however the exceedance in the height is considered to be minor and will not be visible from the public domain. The main roof and associated parapet is located below the 21m limit. A small section of the staircase structure and lift overrun exceed the height control. A detailed discussion regarding the variation has been undertaken as part of this assessment against the provisions of Clause 4.6 of the KLEP and in this case the variation is considered to be acceptable and a reasonable planning outcome.

Overshadowing

70. Officer comment: The development will shadow the properties to the south however, the shadowing will still allow a minimum of 3 hours of solar access to immediately adjoining properties (to habitable spaces and areas of private open space).

Rooftop communal open space will create privacy and acoustic impacts

71. Officer comment: The communal area of open space is located on the roof in a centralised position. It is setback from the roof parapet and it is unlikely that at this level overlooking to immediately adjoining properties is possible. District views and general outlook will be able to be captured from the upper level rather than overlook habitable areas and areas of open space of immediately adjoining properties. In addition, a condition will restrict the hours that the roof terrace can be utilised and a Plan of Management (POM) will need to be prepared for its ongoing use.
72. A condition will require the structures on the roof to be minimised and the pergola be reduced in size and only provide cover over the path between the stair and lift.

Floor to ceiling heights below the ADG requirement

73. Officer comment: The floor to ceiling heights within the building are proposed to be a minimum of 2.7m which complies with the ADG requirements for residential units. The floor to floor heights are shown at 3.50m which are below the 3.1m required by the ADG however it has been proven on other buildings that a slab of 350mm can be achieved and a floor to ceiling height of 2.7m can be maintained.

Poor design resolution creating adverse amenity impacts in terms of encouraging overlooking

74. Officer comment: The building has been designed to ensure window positions are off set and will not encourage overlooking. Mechanisms such as privacy screens, blade walls and highlight windows have been integrated into the design to minimise this impact. Balconies have been appropriately screened.

Out of character with the streetscape

75. Officer comment: This issue has been discussed in detail above, as stated although this development may be the first along the Princes Highway frontage, there is a recently approved six (6) storey development at the rear at 1-3 John Street which is similar in scale and form. A precedent has therefore already been established for a medium density development within this precinct.

**REFERRALS****Council Referrals**Senior Building Officer (Major Projects)

76. The application was referred to Council's Building Section for comment. The proposal was considered against the provisions of the EP&A Act Regulation and with the Building Code of Australia. The proposal is considered to be satisfactory subject to the implementation of conditions if approval is granted.

Development Engineer

77. The original application was referred to Council's Engineers for comments. In respect to drainage and stormwater, Council's Engineer stated that *"even though there is no issue with the OSD and stormwater system to drain by gravity to the street, engineering conditions can be provided, the following issues need confirmation;*
- *The difference in levels (RL23.68 – existing GL22.0 = 1.68m) behind the OSD tank along the rear boundary is 1.68m.*
  - *The drainage plan shows an OSD tank with a top soil layer (23.68-23.28) = 0.4m which is contradicting the landscaping plan showing an OSD basin with 5 new trees (Banksia Integrifolia) planted within the basin."*

78. The Applicant was formally requested to consider consolidating the two tanks into one, move the OSD tank/s closer to the building and away from the side or rear boundary as this currently restricts the potential for adequate boundary planting. Also it was requested that the height of the tank not exceed 300mm above the ground level.
79. Amended plans were submitted in April 2018, these plans addressed the drainage and stormwater issues and Council's Engineers are now satisfied with the design subject to the imposition of conditions if the application will be approved.

#### Traffic Engineer

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

#### Environmental Health Officer

81. Council's Environmental Health Officer has raised no objection subject to conditions of consent being attached to any consent granted.

#### Landscape Officer

82. There are 12 trees existing on the site that will be affected by the development. The application was accompanied by an Arboricultural Assessment prepared by TALC (Tree and Landscape Consultants) which considered the importance and significance of each tree species. Two larger Date Palms which are located towards the rear boundary and designated as T3 and T4 are to be retained. The report notes that *"A deep soil area is provided at the rear of the property between the basement cut and boundary to cater for the trees retention subject to the following protection measures being introduced as part of the development"*. The remaining trees *"are positioned within or directly adjacent to the proposed changes to the land and are not retainable within the design in its current format. The Australian Standard AS4970-2009 "Protection of Trees on Development Sites has been used as a guide and point of reference for retention of trees 3 and 4 being palm species which can accommodate a reduced TPZ setbacks due to their modified adventitious root system"*.
83. Council's Landscape Officer considered the proposal and removal/retention of trees as acceptable subject to the imposition of standard conditions.

#### External Referrals

##### Roads and Maritime Services (RMS)

84. The application was referred to RMS in accordance with Clause 104 of State Environmental Planning Policy (Infrastructure) 2007 and Section 138 of the Roads Act, 1993 as the Princes Highway is a classified State Road and falls within the jurisdiction of RMS.
85. RMS reviewed the proposal and provided formal concurrence on 9 March 2018 subject to the imposition of a series of conditions if consent is to be granted.

#### **CONCLUSION**

86. The development seeks approval for the demolition of existing structures and construction of a six storey mixed use development with basement parking. 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 and is consistent with those requirements except in the height of the development relating to the lift overrun and associated structures to the communal open space areas on the roof. The submission received to the application has been addressed in the report and through amended plans. Following detailed assessment it is considered that Development Application No DA2017/0655 should be approved subject to conditions.

## DETERMINATION AND STATEMENT OF REASONS

### 87. Statement of Reasons

- The proposed development complies with the requirements of the relevant environmental planning instruments and development control plan except in the height of the development which is considered acceptable having regard to the justification provided in the report above.
- The applicant has amended the proposal from that originally submitted to address issues raised by the Design Review Panel and Council officers to provide a better outcome for adjoining developments and the design of the development.
- The proposed development is considered to be an appropriate scale and form for the site and the character of the locality. Subject to the implementation of the recommended conditions, the development will have no unacceptable adverse impacts upon the natural or built environment.
- 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.

88. THAT pursuant to Section 4.16 (3) of the Environmental Planning and Assessment Act 1979, as amended, the Council grants development consent to Development Application DA2017/0655 for the demolition of existing structures and the construction of a 6 storey residential flat building containing 22 apartments, basement car parking for 40 vehicles and associated landscaping and site works at Lot 4 and 5 DP 1963 and known as 198-200 Princes Highway, Kogarah, in accordance with the conditions below:

### Section A Development Details

1. **Approved Plans and design** - 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
Cover Sheet	DA0.01	16/04/18	A	Geoform Architects and Charles Tang Design
Site Analysis	DA0.02	16/04/18	A	Geoform Architects and Charles Tang Design
Basement 02 Floor Plan	DA1.01	16/04/18	A	Geoform Architects and Charles Tang Design
Basement 01 Floor Plan	DA1.02	16/04/18	A	Geoform Architects and Charles Tang Design
Ground Floor Plan	DA1.03	16/04/18	A	Geoform Architects and Charles Tang Design

Level 01 Floor Plan	DA1.04	16/04/18	A	Geoform Architects and Charles Tang Design
Level 02 Floor Plan	DA1.05	16/04/18	A	Geoform Architects and Charles Tang Design
Level 03 Floor Plan	DA1.06	16/04/18	A	Geoform Architects and Charles Tang Design
Level 04 Floor Plan	DA1.07	16/04/18	A	Geoform Architects and Charles Tang Design
Level 05 Floor Plan	DA1.08	16/04/18	A	Geoform Architects and Charles Tang Design
Roof Plan	DA1.09	16/04/18	A	Geoform Architects and Charles Tang Design
South-west/North-east Elevation	DA2.01	16/04/18	A	Geoform Architects and Charles Tang Design
North-west/South-east Elevation	DA2.02	16/04/18	A	Geoform Architects and Charles Tang Design
Sections AA	DA3.01	16/04/18	A	Geoform Architects and Charles Tang Design
GFA Calculations	DA7.04	16/04/18	A	Geoform Architects and Charles Tang Design
Solar Access June 21	DA4.01	16/04/18	A	Geoform Architects and Charles Tang Design
Solar Access September 21	DA4.03	16/04/18	A	Geoform Architects and Charles Tang Design
Deep Soil Zone	DA7.05	16/04/18	A	Geoform Architects and Charles Tang Design
Natural Ventilation and Solar Access	DA7.03	16/04/18	A	Geoform Architects and Charles Tang Design
Typical Floor Plan	DA7.02	16/04/18	A	Geoform Architects and Charles Tang Design
Typical Unit Layout	DA7.01	16/04/18	A	Geoform Architects and Charles Tang Design
External materials schedule	DA6.02	16/04/18	A	Geoform Architects and Charles Tang Design
Adaptable Unit layout	DA5.01	16/04/18	A	Geoform Architects and Charles Tang Design
Building Height Plane	DA4.04		A	
Adaptable Housing Audit	N/A	21/12/17	N/A	Building Innovation Australia
Arboricultural Assessment Report prepared by dated	N/A	19/12/17	N/A	TALC
BASIX Report No.891709M_02	-	21/12/17	-	
BCA & Access Report	N/A	20/12/17	N/A	Building Innovations Australia

Geotechnical Report	N/A	15 Dec 17	N/A	Morrow
Statement of Environmental Effects	-	21 December 2017	-	Rod Logan Planning
Thermal Assessment	-	19/12/17	-	Michael Young
Traffic and Parking Assessment	-	21/12/17	-	Terraffic
Waste Management Plan	-	-	-	Charles Tang and Geoform

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2. The pergola structure on the roof shall be scaled back and reduced in size so that it does not extend beyond the rear alignment of the lift, staircase and be aligned with the rear of the Ambulant Toilet. The intent of the pergola is to provide cover over a small portion of the roof and not extend beyond the main fixed structures (stair, amenities and lift). Amended details are to accompany the Construction Certificate plans and documents.

## Section B Fees and Contributions

3. **Fees and contributions to be paid** - Fees referred to in this consent 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).

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.

4. **Damage Deposit - Major Works** - In order to insure against damage to Council property the following is required:
  - (i) 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: **\$37,673.28**.
  - (ii) Pay Council, before the issue of the Construction Certificate, a non-refundable inspection fee (for two inspections) to enable assessment of any damage and repairs where required: **\$371.00**.

5. **Long Service Levy** - A Long Service Levy shall be paid in respect to this development. Details are provided below;
- 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.
6. **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.

The Section 7.11 contribution has been levied on the subject development pursuant to the Kogarah Section 94 Contributions Plans as follows (based on 43 units with credit for five existing dwellings):

Contribution Plan	Description	Section 94 contributions assessed (\$)	No. of existing lots (credit) (\$)	Section 94 contributions payable (\$)
Plan No. 1	Road and traffic management - residential	4,697.73	629.16	4,068.57
Plan No. 5	Open Space - 2006	246,403.48	29,154.62	217,248.86
Plan No. 9	Kogarah libraries - buildings component	5,417.70	707.72	4,709.98
Plan No. 9	Kogarah libraries - books component	3,619.20	504.60	3,114.60
<b>Total Section 94 Contributions Currently Payable</b>				<b>229,142.01</b>

#### 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. The above rates only are current to **1 February 2019**.

#### 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).

## **Section C Separate Approvals Required Under Other Legislation**

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

Separate approval is required under Section 138 of the Roads Act 1993 and/or Section 68 of the Local Government Act 1993 for any of the following activities carried out in, on or over a public road (including the footpath) listed below. An application is required to be lodged and approved prior to the commencement of any of the following works or activities:

- (i) Placing or storing materials or equipment;
- (ii) Placing or storing waste containers or skip bins;
- (iii) Erecting a structure or carrying out work;
- (iv) Swinging or hoisting goods over any part of a public road by means of a lift, crane or the like;
- (v) Pumping concrete from a public road;
- (vi) Pumping water from the site into the public road;
- (vii) Constructing a vehicular crossing or footpath;
- (viii) Establishing a "works zone";
- (ix) Digging up or disturbing the surface of a public road (eg Opening the road for the purpose of connections to utility providers);
- (x) Stormwater and ancillary works in the road reserve;
- (xi) Stormwater and ancillary to public infrastructure on private land.

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 Certifier 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.

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

The following details must be submitted:

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

- (ii) The applicant has indemnified council from all public liability claims arising from the proposed works, and provide adequate insurance cover to the satisfaction of Council.
  - (iii) Documentary evidence of such insurance cover to the value of \$20 million;
  - (iv) The applicant must register a non-terminating bank guarantee in favour of Council. An amount will be determined when the application is lodged;
  - (v) The guarantee will be released when the cables are stress released. In this regard it will be necessary for a certificate to be submitted to Council from a structural engineer at that time verifying that the cables have been stress released.
  - (vi) In the event of any works taking place on Council's roadways/footways adjoining the property while the anchors are still stressed, all costs associated with overcoming the difficulties caused by the presence of the 'live' anchors will be borne by the applicant.
8. **Road Opening Permit** - A Road Opening Permit must be obtained from Council 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 D Requirements of other Government Authorities**

9. **Sydney Water – Tap in™** - The approved plans must be submitted to a Sydney Water Tap in™ 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™ agent has appropriately stamped the plans prior to the issue of the Construction Certificate.
10. **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.

11. **Section 73 Compliance Certificate** - A Section 73 Compliance Certificate under the

Sydney Water Act 1994 must be submitted to the Principal Certifier prior to the issue of the Occupation Certificate.

12. **Electricity Supply** - An application is required to be made to Ausgrid for a network connection. This may require the network to be extended or its capacity augmented. Evidence of this application being lodged with Ausgrid is required to be provided to the Certifying Authority prior to the issue of a Construction Certificate. For further details, you are advised to contact Ausgrid on 13 13 65 or [www.ausgrid.com.au](http://www.ausgrid.com.au) (Business and Commercial Services).

13. **Roads and Maritime** - The following RMS requirements are to be met;

- I. The subject property is affected by a road proposal as shown by the grey colour on the attached Aerial – 'X'. This area should be identified on any plan of development.
- II. All buildings and structures (other than pedestrian footpath awnings), together with any improvements integral to the future use of the site are wholly within the freehold property (unlimited in height or depth) along the Princes Highway boundary.
- III. The layout of the proposed basement car park area associated with the subject development should be in accordance with AS 2890.1 -2004 and AS2890.6 2009.
- IV. Sight distances from the proposed vehicular crossings to vehicles on Princes Highway are to be in accordance with Austroads 'Guide to Traffic Engineering Practice, Part 5 Intersections at Grade, Section 6.2 – Sight Distance and AS 2890. Vegetation and proposed landscaping must not hinder sight lines to and from the vehicular crossings to pedestrians, cyclists, and general traffic.
- V. All vehicles are to enter and exit the site in a forward direction and are to be wholly contained on site before being required to stop.
- VI. Bicycle parking associated with the subject development should be in accordance with AS 2890.3 (Bicycle Parking Facilities). Consideration should also be given to providing end-of trip facilities within the commercial development to support and encourage active transport to the subject development.
- VII. 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.

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 Email [Suppiah.Thillai@rms.nsw.gov.au](mailto:Suppiah.Thillai@rms.nsw.gov.au).

- VIII. 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.

- IX. 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. The report and any enquiries should be forwarded to:

Project Engineer, External Works  
Sydney Asset Management  
Roads and Maritime Services  
PO Box 973 Parramatta CBD 2124.  
Telephone 8849 2114

As 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.

- X. A Construction Pedestrian Traffic Management Plan (CPTMP) detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council for approval prior to the issue of a Construction Certificate.
- XI. Construction works zone will not be permitted on Princes Highway.
- XII. 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.

## **Section E Prior To Demolition And Prior to Commencement of Work On Site Including Excavation**

14. **Tree Removal & Replacement** - The following trees shall be retained and protected:

<b>Tree Species</b>	<b>Location of Tree / Tree No.</b>	<b>Tree Protection Zone (metres)</b>
<i>Phoenix canariensis</i> x 2	Both palms located at back south fence of 198 Princes Hwy	6m

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

Permission is granted for the removal of the trees specified in the Landscape Plans prepared by Ground Ink (refer to ConditionNo.1).

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

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

Council shall be appointed to remove 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.

This consent does not approve the removal or pruning (branches or roots) of any trees on Council's public footway, public reserves or on neighbouring properties.

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

***Trees species, quantities, pot/ bag size as per landscape plans and specifications LDA – 01 to LDA-03, provided by Ground Ink Landscape Architects.***

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).

16. **Tree Protection Measures** - The tree/s to be protected are listed in the table below;

Tree Species	Location of Tree / Tree No.	Tree Protection Zone (metres)
<i>Phoenix canariensis</i> x 2	Both palms located at back south fence of 198 Princes Hwy	6m

Trees noted as T3 and T4 (in accordance with (a) above) on the Landscape Plan street are to be retained shall be protected and during demolition, excavation and construction of the site.

Four (4) x "Tristaniopsis 'Luscious' are to be planted at the front of the site.

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

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

This fence shall be kept in place during demolition, construction and also have a sign displaying 'Tree Protection Zone' attached to the fence and must also include the name and contact details of the Project Arborist.

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.

17. **Tree removal** - Permission is granted for the removal of the following trees:

Tree species	Number of trees	Location
T1 – <i>Citrus</i> spp	1	Back yard of 198 Princes Hwy
T2 – <i>Laurus nobilis</i>	1	Back fence of 198 Princes Hwy
T5 – <i>Dicksonia antartica</i>	1	Side eastern boundary fence of 198 Princes Hwy
T6 – <i>Phoenix canariensis</i>	1	Side eastern boundary fence of 198 Princes Hwy
T7 – <i>Phoenix canariensis</i>	1	Side eastern boundary fence of 198 Princes Hwy
T8 – <i>Robinia psuedoacacia</i>	1	Front eastern side fence of 198 Princes Hwy
T9 - <i>Robinia psuedoacacia</i>	1	Front eastern side fence of 198 Princes Hwy
T10 – <i>Dicksonia antartica</i>	1	Front of existing dwelling, 198 Princes Hwy
T11 – <i>Ficus benamina</i>	1	Front of existing dwelling, 198 Princes Hwy
T12 – <i>Dypsis decaryi</i>	1	Middle of backyard of 200 Princes Hwy

18. **Compliance with submitted Arborist Report** - The recommendations outlined in the Arborist's Report titled Arboricultural Assessment Report prepared by TALC Consultants dated 19 December, must be implemented throughout the relevant stages of construction. Details of tree protection measures to be implemented must be detailed and lodged with the Construction Certificate application for approval and shall be in accordance with Section 4 - *Australian Standard AS 4970-2009: Protection of trees on development sites*.
19. **Pier and Beams** - To preserve the two *Phoenix canariensis* Palms, T3 and T4 as marked on the landscape Plan prepared by Ground Ink, Landscape Architects, the footings of the proposed back, south structures/ retaining walls shall be isolated pier and beam construction within a five (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).

20. **Traffic, Parking and Driveways** - The gradient for the first 6m of the basement ramp should not exceed 5%. Plan DA1.03 prepared by Geoform, are showing that only the first 5m are 1 in 20. This will need to be changed as per AS2890.1 :2004 section 3.3 Gradient of Access driveways.

All shared zone area marked for disabled parking need to have the bollards installed as per the AS2890.6

21. **Dilapidation Report on Public Land** - Prior to the commencement of works (including

demolition and excavation), a dilapidation report must be prepared for the Council infrastructure adjoining the development site. The report must include the following:

- a) Photographs showing the existing condition of the road pavement fronting the site
- b) Photographs showing the existing condition of the kerb and gutter fronting the site
- c) Photographs showing the existing condition of the footpath pavement fronting the site
- d) Photographs showing the existing condition of any retaining walls within the footway or road,
- e) Closed circuit television/video inspection (in DVD format) of public stormwater drainage systems fronting, adjoining or within the site, and
- f) The full name and signature of the structural engineer.

The Dilapidation Report must be prepared by a qualified structural engineer. The report must be provided to the Certifier and a copy provided to the Council.

The report is to be supplied in electronic format in Word or PDF. Photographs are to be in colour, digital and date stamped.

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

22. **Pre-Construction Dilapidation Report – Private Land** - A professional engineer specialising in structural or geotechnical engineering shall prepare a Pre-Construction Dilapidation Report detailing the current structural condition of adjoining the **four** adjoining properties.
23. **Demolition and 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 Principal Certifier 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).

24. **Demolition Notification Requirements** - 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.

- (i) 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.
- (ii) 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.

25. **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.
26. **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.
27. **Erosion and Sedimentation Control** - Erosion and sediment controls must be provided to in accordance with the approved Site Management Plan.

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

All clean water run-off is diverted around cleared or exposed areas.

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

Controls are put into place to prevent tracking of sediment by vehicles onto adjoining roadway. Compliance with [Managing Urban Stormwater – Soils and Construction \(Blue Book\) produced by Landcom 2004](#) is to be met.

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.

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

29. **Dial before you 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.

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

30. **Provision of a Car Wash Bay** - A visitor space must be designated as a car wash bay. The car wash bay must:

- (i) have clearly visible signs which indicate that no degreasing or mechanical work is to be undertaken in the bay;
- (ii) have a fixed basket trap for floor waste; and
- (iii) includes a 1000 litre general purpose pit.

Details of the disposal of trade waste water are to be indicated on the Construction Certificate drawings. Three options exist for the disposal of trade wastewater from residential car wash bays. They are:

- (i) removal off-site by an authorised liquid waste disposal contractor;
- (ii) reuse of treated wastewater for car washing or irrigation on landscaped areas. An appropriate method should be used to treat grease, oil and silt before reuse or irrigation; or
- (iii) discharge to the sewer via appropriate pre-treatment. If the car wash bay discharges into the sewer, a Permission to Discharge Trade Wastewater issued by Sydney Water must be obtained prior to approval of the development.
- (iv) If the carwash bay is not discharged into the sewer, applicants must provide Council with details and evidence of how wastewater will be removed (eg removal by an authorised liquid waste disposal contractor).
- (v) Plans and specifications of the car washing system which has been approved by Sydney Water must be submitted with the application for the Construction Certificate.
- (vi) All car washing bays shall be contained within a roofed and bunded car wash bay with pre-treatment approved by Sydney Water. The water from the car wash bay must be graded to a drainage point and connected to sewer.
- (vii) If alternative water management and disposal options are proposed (i.e. where water is recycled, minimised or reused on the site), detailed plans and specifications of the water recycling system must be submitted with the application for the Construction Certificate for approval.

31. **Amendments to the Landscape Plan** - The submitted Landscape Plan shall be amended as follows:

- a) The front of the site shall include 4 x “*Tristaniopsis ‘Luscious’*”. The plan only notes 3 of these trees are to be planted at the front of the Site.

- b) Planter boxes shall continue along the entire periphery of the roof terrace.
  - c) Planter boxes shall have a minimum depth of 900mm and minimum width of 900mm.
32. **Use of Rooftop open space** - A Plan of Management (POM) for use of rooftop open space must be submitted for approval of Council. The POM must outline the:
- (i) hours of use of the rooftop deck which shall be restricted from 8am until 10pm;
  - (ii) maximum number of users at any one time;
  - (iii) provisions for no amplified music to be played;
  - (iv) and identify other measures to ensure that the amenity of persons within the development and in nearby existing and future development is maintained.
  - (v) The approved POM shall be incorporated into the Owners Corporation by-laws in any future Strata subdivision and a sign in the front entry of the building shall be included to ensure the use of this space is monitored and understood by all occupants.
33. **Road Noise attenuation** - The site is affected by noise from the Princes Highway. The construction certificate plans shall show that the development has been designed in accordance with the measures of acoustic attenuation to meet the internal noise levels specified in Clause 102 of [State Environmental Planning Policy \(Infrastructure\) 2007](#), as recommended in the Noise Impact Assessment prepared by Acoustic Logic, dated 14 December 2017.
34. **Site Management Plan - Major Development** - A Site Management Plan must be submitted with the application for a Construction Certificate, and include the following:
- (i) location of protective site fencing;
  - (ii) location of site storage areas/sheds/equipment;
  - (iii) location of building materials for construction, e.g. stockpiles;
  - (iv) provisions for public safety;
  - (v) dust control measures;
  - (vi) method used to provide site access location and materials used;
  - (vii) details of methods of disposal of demolition materials;
  - (viii) method used to provide protective measures for tree preservation;
  - (ix) provisions for temporary sanitary facilities;
  - (x) location and size of waste containers/skip bins;
  - (xi) details of proposed sediment and erosion control measures;
  - (xii) method used to provide construction noise and vibration management;
  - (xiii) construction and demolition traffic management details.

The site management measures are to be implemented prior to the commencement of any works including demolition and excavation. The site management measures are to be maintained throughout the works, to maintain reasonable levels of public health, safety and amenity.

A copy of the Site Management Plan must be kept on site and is to be made available upon request.

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

- (i) Construct a 1.5m wide footpath for the full length of the frontage of the site in Princes Highway in accordance with Council's Specifications applying at the time construction approval is sought.
- (ii) The thickness and design of the driveway shall be in accordance with Council's Specifications applying at the time construction approval is sought.
- (iii) Any existing vehicular crossing and/or laybacks which are redundant must be removed. The kerb and gutter, any other footpath and turf areas shall be restored at the expense of the applicant. The work shall be carried out in accordance with Council's specification, applying at the time construction approval is sought.

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

36. **Driveway Construction Plan Details** - Detailed engineering plans for the driveway shall be submitted with the Construction Certificate application that shows:

- 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); and
- 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.

37. **General Tree Protection Measures** - The following tree protection measures shall be adhered to;

- (a) All trees to be retained shall be protected BEFORE and maintained during demolition, excavation and construction of the site.
- (b) The tree protection measures must be undertaken in accordance AS4970 -2009 Protection of trees on development sites.
- (c) Details of the tree protection measures to be implemented must be provided with the application for a Construction Certificate by a suitably qualified Arborist (AQF Level 5 or above in Arboriculture).
- (d) The Arborist must be present on-site during the stages of construction when works are being undertaken that could impact on the tree canopy or root zone within the tree protection zone to implement the tree protection measures as required.
- (e) Unless otherwise specified in AS 4970-2009, a protective fence consisting of 1.8 metres high, fully supported chainmesh fence shall be erected around the base of

the tree. The distance of the fence from the base of each tree is to be in accordance with the TPZ listed in the table above. A layer of organic mulch 100 millimetres thick shall be placed over the protected area and no soil or fill should be placed within the protection area.

- (f) The Tree Protection Zone of each tree, to be protected, shall be watered thoroughly, regularly to minimise the effects of construction works.
- (g) No services shall be installed within the TPZ of the tree unless approved by Council. This fence shall be kept in place during demolition, construction and also have a sign displaying 'Tree Protection Zone – DO NOT ENTER' attached to the fence and must also include the name and contact details of the Project Arborist.

38. **Excavation works near tree/s to be retained** - 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.

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.

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.

39. **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.

All stormwater shall drain by gravity to Council's kerb and gutter in the street as indicated on the approved drainage plan in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2015 (as amended).

Prior to the commencement of works, the PCA/builder shall ensure that the stormwater discharge pipe across the footpath shall be RHS at an angle and is laid with minimum disturbance at a minimum 1% grade to the kerb and gutter in the street and is made in good working condition.

There shall be no damage to the adjoining driveway crossing. All damages are to be rectified to its original condition at the cost of the applicant.

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

40. **Stormwater Systems with Basement** - The underground basement car park must pump

to and all other stormwater must drain by gravity to the drainage system within the site via a silt trap pit.

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

41. **Protection of basement from inundation of stormwater waters** - The protection of the underground basement shall be protected from possible inundation by surface waters from the street.

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

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

- (i) peak flow rates from the site are to be restricted to a permissible site discharge (PSD) equivalent to the discharge when assuming the site contained a single dwelling, garage, lawn and garden;
- (ii) at Annual Recurrence Intervals of 2 years and 100 years;
- (iii) discharge by gravity to the street stormwater system; and
- (iv) ensure the provision of an overland flow bypassing the orifice plate to the street.
- (v) The design and structural adequacy of the OSD tank system shall be certified by a practicing drainage engineer to the satisfaction of the certifier.

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

- (i) The pump system shall consist of two pumps, connected in parallel, with each pump being capable of emptying the holding tank at the rate equal to the rate of inflow for the one-hour duration storm. The holding tank shall be capable of holding one hour's runoff from a one-hour duration storm of the 1 in 20 year storm;
- (ii) The pump system shall be regularly maintained and serviced, every six (6) months; and
- (iii) Any drainage disposal to the street gutter from a pump system must have a stilling sump provided at the property line, connected to the street gutter by a suitable gravity line.
- (iv) Details and certification of compliance from a professional engineer specialising in civil engineering shall be provided for approval with the Construction Certificate application.

44. **Driveway Construction Plan Details** - Detailed engineering plans for the driveway shall be submitted with the Construction Certificate application for approval that show:
- a) Longitudinal and cross sections, gradients, access onto the proposed lots, type of construction materials designed in accordance with Council's Subdivision standards and AS/NZS2890.1-2004.
  - b) Suitable underground provision for the supply of all relevant services to the proposed lots (proposed position of pipes and conduits).
  - c) A longitudinal driveway sections are to be prepared by a qualified civil/traffic engineer and be submitted for to and approved by the Certifying Authority. These profiles are to be at 1:100 scale along both edges of the proposed driveway, starting from the centreline of the frontage street carriageway to the proposed basement floor level.
  - d) The civil/traffic engineer shall provide specific written certification on the plans that:
    - (i) Vehicular access can be obtained using grades of 25% (1 in 4) maximum; and
    - (ii) All changes in grade (transitions) comply with Australian Standard 2890.1 (2004) – “Off-street car parking” to prevent the scraping of the underside of the vehicles.

45. **Council Property Shoring** - Prior to the issue of the Construction Certificate, plans and specifications prepared by a professional engineer specialising in practising structural engineering must detail how Council's property shall be supported at all times.

Where any shoring is to be supporting, or located on Council's property, certified structural engineering drawings detailing; the extent of the encroachment, the type of shoring and the method of removal, shall be included on the plans. Where the shoring cannot be removed, the plans must detail that the shoring will be cut to 150mm below footpath level and the gap between the shoring and any building shall be filled with a 5MPa lean concrete mix.

46. **Geotechnical requirements during construction** - The recommendations of the Geotechnical Report *Geotechnical Investigation for Leonard Street Pty Limited* dated December 2017 prepared by STS GeoEnvironmental shall be complied with during construction, including:
- (iii) to ensure that buildings or other developments on adjacent properties are not damaged when excavating rock, limiting vibration to 10mm/sec, with vibration monitoring; or using the excavation methods shown in Table 5.1 on page 5;
  - (iv) adopting the other recommendations in each paragraph on pages 5, 6 and 7 in Section 5.2;
  - (v) adopting recommendations for foundation design in Section 5.3.

Construction methods must ensure that nuisance from vibration does not occur, which as noted in page 5 of the Geotechnical Report may occur at levels below the threshold for building damage. Vibration monitoring in this regard may be required and on-site guidance by a vibration specialist during the early part of excavation.

As the submitted Geotechnical Report is based on the findings of three boreholes only (due to limited site access) and data has been extrapolated across the site, should actual site conditions differ from those inferred, an updated Geotechnical Report, prepared by a professional engineer specialising in geotechnical engineering who holds the relevant Certificate of accreditation as required under the Building Professionals Act 2005 in relation to dilapidation reports, all site works and construction is to be submitted before the issue of the Construction Certificate.

47. **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).
48. **Construction Traffic Management Plan** - A Construction Traffic Management Plan shall be submitted detailing the following:
  - (vi) construction vehicle routes;
  - (vii) anticipated number of trucks per day;
  - (viii) hours of construction;
  - (ix) access arrangements
  - (x) proposed traffic measures to minimise impacts of construction vehicles must be submitted for the approval of Council's Engineers.
  - (xi) Compliance with AS2890
  - (xii) Council's Engineers must specify in writing that they are satisfied with the Traffic Management Plan prior to the issue of the Construction Certificate.
49. **Fire Safety Measures** - Prior to the issue of a construction certificate a list of the essential fire safety measures that are to be provided in relation to the land and any building on the land as a consequence of the building work must accompany an application for a construction certificate, which is required to be submitted to either the Council or a private Certifier. Such list must also specify the minimum standard of performance for each essential fire safety measure included in the list. The Certifier will then issue a Fire Safety Schedule for the building.
50. **Access for Persons with a Disability and Adaptable Housing** - Access for persons with disabilities and adaptable housing must be provided to the premises/building in accordance with the requirements of AS4299-1995, the Building Code of Australia, and AS 1428.1 where relevant. The requirements and amendments indicated in Access Report prepared by Vista Access Architects Revision B are to be complied with and are to be shown on the construction certificate drawings.
51. **SEPP 65 Design Verification Statement** - A design verification statement, prepared by the qualified designer, shall be submitted to the Certifier verifying that the plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles set out under Schedule 1 of State Environmental Planning Policy No 65 -Design Quality of Residential Flat Development.
52. **BASIX Commitments** - All energy efficiency measures as detailed in the BASIX Certificate No. 8891709M\_02 dated 21 December 2017 must be implemented on the plans lodged with the application for the Construction Certificate.
53. **Design Quality Excellence** - In order to ensure the design quality excellence of the

development is retained:

- a) The design architect is to have direct involvement in the design documentation, contract documentation and construct stages of the project.
- b) The design architect is to have full access to the site and is to be authorised by the applicant to respond directly to the consent authority where information or clarification is required in the resolution of the design issues throughout the life of the project.
- c) Evidence of the design architect's commission is to be provided to the Council prior to release of the Construction Certificate.
- d) The design architect of the project is not to be changed without prior notice and approval of the Council.

54. **Waste Storage** - The number of bins required for this property is 11 X 240L garbage bins and 12 X240L recycling bins. Bins will be collected once a week and need to be taken to the Princes Highway for collection.

The waste room will contain the following to minimise odours, deter vermin, protect surrounding areas, and make it a user-friendly and safe area:

- i) floor to be sealed;
- ii) walls and floor surface is flat and even;
- iii) all walls painted with light colour and washable paint;
- iv) equipment electric outlets to be installed 1700mm above floor levels;
- v) is mechanically exhausted as required by AS 1668.2;
- vi) must be well lit (sensor lighting recommended); a light switch is installed at height of 1.6m;
- vii) an optional automatic odour and pest control system may be installed to eliminate all pest types and assist with odour reduction;
- viii) all personnel doors are hinged and self-closing; and
- ix) conform to the Building Code of Australia, Australian Standards and local laws; and childproofing and public/operator safety shall be assessed and ensure that the bin movements should be with ease of access.
- x) Occupational Health and Safety issues such as slippery floors in waste rooms and the weight of the waste and recycling receptacles will need to be monitored.
- xi) Cleaners will monitor the bin storage area and all spills will be attended to immediately by cleaners.

55. **Structural details** - Engineer's details prepared by a practising Structural Engineer being used to construct all reinforced concrete work, structural beams, columns and other structural members. The details are to be submitted to the Certifier for approval prior to construction of the specified works. A copy shall be forwarded to Council where Council is not the Certifier.

## **Section G Prior to Construction**

56. **Dilapidation Report on Public Land – Major Development Only** - Prior to the commencement of works (including demolition and excavation), a dilapidation report must be prepared for the Council infrastructure adjoining the development site:

The report must include the following:

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

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

The report is to be supplied in electronic format in Word or PDF. Photographs are to be in colour, digital and date stamped.

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

57. **Site Stormwater Discharge Pipe across the Footpath** - The site stormwater discharge pipe shall be RHS type connected to the existing kerb and gutter in the street through an outlet from a boundary pit within the subject site. The Principal Certifying Authority shall engage a registered surveyor to ensure that the proposed stormwater connection into Council's stormwater system in the street is satisfactory in location and grade to drain the site by gravity and to the satisfaction of Council's Asset engineer prior to the commencement of works:

- Prior to the commencement of works, the registered surveyor shall ensure to the PCA that the stormwater discharge pipe across the footpath shall be RHS at an angle and is laid with minimum disturbance at a minimum 1% grade to the kerb and gutter in the street and is made in good working condition. Stormwater discharge pipe across the footpath shall not connect against the flow in the street.
- A longitudinal section of the site stormwater discharge pipe across the footpath reserve shall be prepared showing the public utility services particularly those may encroach the above proposed stormwater pipe.
- The RHS galvanised pipe must have a minimum of 50mm of cover along its length through the road reserve. A detailed section of the connection through the road reserve is to be prepared and shown on the drainage plan prior to the commencement of works.
- There shall be no damage to the adjoining driveway crossings. All damages within the footpath road reserve are to be rectified to its original condition at the cost of the applicant.

## Section H During Construction

58. **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 Princes Highway.

59. **Hazardous or Intractable Waste – Removal and Disposal** - Hazardous or intractable waste arising from the demolition or construction process shall be removed and disposed of in accordance with the requirements of SafeWork NSW and the NSW Environment Protection Authority and with the provision of:
- Work Health and Safety Act 2011 (NSW) (as amended);
  - Work Health and Safety Regulation 2011 (as amended);
  - Protection Of the Environment Operations Act 1997 (NSW) (as amended); and
  - Protection of the Environment Operations (Waste) Regulation 2014 (as amended)
60. **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.
61. **No 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.
62. **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.

63. **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 Principal Certifier, and Council, where Council is not the Principal Certifier.
64. **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.
65. **Registered Surveyors Report - During Development Work** - A report must be submitted to the Principal Certifier at each of the following applicable stages of construction:
- (i) Set out before commencing excavation;

- (ii) Floor slabs or foundation wall, before formwork or commencing brickwork;
- (iii) 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;
- (iv) 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;
- (v) Completion of any Roof Framing - Before roof covered detailing eaves/gutter setback from boundaries;
- (vi) 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 Principal Certifier is satisfied that the height and location of the building is proceeding in accordance with the approved plans.

## **Section I Prior to the Issue of the Occupation Certificate**

66. **Acoustic Certification** - Prior to the issue of any Occupation Certificate, a report prepared by a suitably qualified acoustic consultant must be submitted to the PCA certifying that the construction has incorporated the recommendations in the DA Acoustic Report titled 198-200 Princes Highway, Kogarah Bay – Noise Impact Assessment prepared by Acoustic Logic and dated 14 December 2017.
67. **Acoustic Compliance – General Operation of Premises** - The proposed use of the premises and the operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the [Protection of the Environment Operations Act 1997](#) (as amended) and [Regulations](#).

A suitably qualified person shall certify that the operation of the plant equipment shall not give rise to sound pressure level at any affected premises that exceeds the background LA90, 15 min noise level, measured in the absence of the noise sources under consideration by more than 5dB. The source noise level shall be assessed as an LAeq, 15 min in accordance with the [NSW Environment Protection Authority's "NSW industrial Noise Policy"](#).

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

68. **Completion of Landscape Works** - All landscape works must be completed before the issue of the Final Occupation Certificate in accordance with landscape plans, drawn by Zenith Landscape Design L01- L03 dated 4/9/2018 (as amended by Condition 26) in its entirety.
69. **Post Construction Dilapidation report – Private Land** - At the completion of the

construction works, a suitably qualified person is to be engaged to prepare a post-construction dilapidation report. This report is to ascertain whether the construction works associated with the subject development created any structural damage to the five adjoining premises.

The report is to be prepared at the expense of the applicant and submitted to the Principal Certifier prior to the issue of the Occupation Certificate. In ascertaining whether adverse structural damaged has occurred to the adjoining premises, the Principal Certifier, must compare the post-construction dilapidation report with the pre-construction dilapidation report required by conditions in this consent.

Evidence confirming that a copy of the post-construction dilapidation report was delivered to the adjoining properties subject of the dilapidation report must be provided to the Principal Certifier prior to the issue of any Occupation Certificate.

70. **Traffic Control Devices** - The internal road network, pedestrian facilities and parking facilities (including visitor parking and employee parking) shall be designated and line marked in accordance with Australian Standard - AS1742, Manual of Uniform Traffic Control Devices.

If an exit from car park utilises a pedestrian footpath, then a warning system such as flashing light and/or 'alarm sound' must be installed on the subject property to alert pedestrians of vehicles exiting the car park. The Alarm System must be designed and installed in accordance with AS2890.1 -2004.

71. **SEPP 65 Design Verification Statement** - The Principal Certifier must not issue an Occupation Certificate to authorise a person to commence occupation of the residential flat development unless design verification from a qualified designer, being a statement in which the qualified designer verifies that the residential flat 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 principles set out in Part 2 (Schedule 1) of State Environmental Planning Policy No 65 Design Quality of Residential Apartment Development.
72. **Car parking areas - Major Development** - Internal driveways and parking spaces are to be adequately paved with concrete or bitumen, or interlocking pavers to provide a dust-free surface. All car parking spaces are to be line marked in accordance with AS1742, 'Australian Standard Manual of Uniform Traffic Control Devices' and the relevant guidelines published by the RMS.
73. **Consolidation of Site** - The site shall be consolidated into one allotment and by a Plan of Consolidation being prepared by a Registered Surveyor. This Plan shall be registered at the NSW Land and Property Information prior to the issue of an occupation certificate.
74. **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:

- a) **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.*

**b) Positive Covenants**

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

- i) keep the system clean and free from silt, rubbish and debris*
- ii) 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*
- iii) 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*
- iv) 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.*

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

*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 b) (iii) above.*

*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 (c) hereof. Such expense shall include reasonable wages for the Council’s employees engaged in effecting the work referred to in (c) 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.*

75. **Maintenance Schedule for 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.
76. **Works as Executed and certification of stormwater works** - Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that the stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards. A works-as-executed drainage plan and certification must be forwarded to the Principal Certifier and Council, from a professional engineer specialising in hydraulic engineering.

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

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

- (i) The location of any detention basin/s with finished surface levels;
  - (ii) Finished site contours at 0.2 metre intervals (if applicable);
  - (iii) Volume of storage available in any detention areas;
  - (iv) The location, diameter, gradient and material (i.e. PVC, RC etc.) of all stormwater pipes;
  - (v) The orifice size/s (if applicable);
  - (vi) Details of any infiltration/absorption systems; and (if applicable);
  - (v) Details of any pumping systems installed (including wet well volumes) (if applicable).
77. **Requirements prior to the issue of the Occupation Certificate** - The following shall be completed and or submitted to the Principal Certifier prior to the issue of the Occupation Certificate:
- a) All the stormwater/drainage works shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
  - b) The internal driveway construction works, together with the provision for all services (conduits and pipes laid) shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
  - c) Construct any new vehicle crossings required.
  - d) Replace all redundant vehicle crossing laybacks with kerb and guttering, and replace redundant concrete with turf.
  - e) 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 Principal certifier prior to the issue of the Occupation Certificate.

- f) The construction of the new footpath shall be completed in accordance with the conditions and specifications of the Section 68 Activity Approval

78. **Completion of major road related works** - Council's Engineering Services Section must advise in writing that the works have been completed to their satisfaction prior to the issue of the Occupation Certificate.

The damage deposit paid to Council will not be released until the works have been completed to Council's satisfaction.

79. **Dilapidation Report on Public Land** - Upon completion of works, a follow up dilapidation report must be prepared or the items of Council infrastructure adjoining the development site. The dilapidation report must be prepared by a professional engineer specialising in structural engineering, and include:

- (i) Photographs showing the condition of the road pavement fronting the site;
- (ii) Photographs showing the condition of the kerb and gutter fronting the site;
- (iii) Photographs showing the condition of the footway including footpath pavement fronting the site;
- (iv) Photographs showing the condition of retaining walls within the footway or road;
- (v) Closed circuit television/video inspection (in DVD format) of public stormwater drainage systems fronting, adjoining or within the site, and
- (vi) The full name and signature of the professional engineer.

The report must be provided to the Principal Certifier and a copy provided to the Council. The reports are to be supplied in electronic format in Word or PDF. Photographs are to be in colour, digital and date stamped.

Note: Council will use this report to determine whether or not to refund the damage deposit.

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

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

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

81. **Fire Safety Certificate before Occupation or Use** - In accordance with Clause 153 of the *Environmental Planning and Assessment Regulation 2000*, on completion of building works and prior to the issue of an Occupation Certificate, the owner must cause the issue of a Final Fire Safety Certificate in accordance with Clause 170 of the aforesaid

Regulation. The Fire Safety Certificate must be in the form or to the effect of Clause 174 of the Environmental Planning and Assessment Regulation, 2000. In addition, in relation to each essential fire or other safety measure implemented in the building or on the land on which the building is situated, such a Certificate is to state that:

- (i) the measure has been assessed by a person (chosen by the owner of the building) who is properly qualified to do so; and
- (ii) as at the date of the assessment the measure was found to be capable of functioning at a standard not less than that required by the Schedule.

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

82. **Completion of Landscape Works** - All landscape works must be completed before the issue of the Final Occupation Certificate in accordance with plans drawn by Ground Ink, Landscape Architects, drawing number LDA – 01 to LDA-03.
83. **Allocation of car parking spaces** - Car parking associated with the development is to be allocated as follows and shall be reflected on the strata plan:
  - a) Residential dwellings: at least one car space per unit, total 33 spaces including three spaces for persons with a disability allocated to the adaptable units.
  - b) Residential visitors: 5 residential visitor spaces (including a car wash bay and loading bay).
  - c) A minimum of 3 accessible spaces.
  - d) Motorbike parking catering for a minimum of 2 motorbikes
84. **Structural Certificate During Construction** - The proposed building must be constructed in accordance with details designed and certified by the practising qualified structural engineer. All structural works associated with the foundations, piers, footings and slabs for the proposed building must be inspected and structurally certified for compliance by an independent practising geotechnical and structural engineer. In addition a Compliance or Structural Certificate, to the effect that the building works have been carried in accordance with the structural design, must be submitted to the Principal Certifying Authority at each stage of Construction or prior issue of the Occupation Certificate.
85. **Structural Certificates** - The proposed structure must be constructed in accordance with details designed and certified by the practising qualified structural engineer. In addition, Compliance or Structural Certificates, to the effect that the building works have been carried in accordance with the structural design, must be submitted to the Principal Certifying Authority prior issue of the Occupation Certificate.
86. **Council as PCA** - Should the Council be appointed as the Principal Certifying Authority, the Construction Certificate Application must be accompanied by the following details, with plans prepared and certified by an appropriately qualified person demonstrating compliance with the BCA:
  - Mechanical ventilation to bathroom, laundry and basement areas not afforded natural ventilation.
  - Provision of natural light to all habitable areas.

- Fire-fighting services and equipment including hydrant and booster assembly systems, sprinkler and valve room systems, hose reels, portable fire extinguishers, smoke hazard management systems and sound & warning systems.
- Emergency lighting and exit signs throughout, including terrace areas, lobby and basement areas.
- Construction of all fire (smoke) doors including warning and operational signage to required exit and exit door areas.
- Egress, travel distance and the discharge from an exit including the swing of exit doors.
- The protection of openings including spandrel separation.
- Fire compartmentation and fire wall separation details including all stairway, lift and service shaft areas.
- Protection of openings including paths of travel from fire isolated exists
- Re-entry facilities from fire isolated exit stairways.
- Sound transmission and insulation details.
- Window schedule is to include the protection of openable windows.

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

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

87. **Energy Efficiency Provisions** - Should Council be appointed as the Principal Certifying Authority, a report prepared and endorsed by an Energy Efficiency Engineer or other suitably qualified person must be submitted, detailing the measures that must be implemented in the building to comply with Section J of the BCA. The proposed measures and feature of the building that facilitate the efficient use of energy must be identified and detailed on the architectural plans. At completion of the building and before the issue of an Occupation Certificate, a certificate certifying that the building has been erected to comply with the energy efficiency provisions must be submitted to the Principal Certifying Authority.
88. **Building - Structural Engineers Details - Supporting excavations and adjoining land** - Prior to the commencement of work in connection with the excavation of the site associated with the basement car park, structural engineer's details relating to the method of supporting the excavation must be submitted.
89. **Building – Hoarding Application** - Prior to demolition of the buildings on the site or the commencement of work above ground level a separate application for the erection of an A class (fence type) or a B class hoarding or C type scaffold, in accordance with the requirements of Work Cover Authority of NSW, must be erected along that portion of the footway/road reserve, where the building is within 3.0 metres of the street boundary. An application for this work under Section 68 of the Local Government Act 1993 and the Roads Act 1993 must be submitted for approval to Council.

The following information is to be submitted with a Hoarding Application under s68 of the Local Government Act and s138 of the Roads Act 1993:

- (a) A site and location plan of the hoarding with detailed elevation, dimensions, setbacks, heights, entry and exit points to/from the site, vehicle access points, location of public utilities, electrical overhead wire protection, site management plan and builders sheds location; and
  - (b) Hoarding plan and details that are certified by an appropriately qualified engineer; and
  - (c) The payment to Council of a footpath occupancy fee based on the area of footpath to be occupied and Council's Schedule of Fees and Charges (available on our website) before the commencement of work; and
  - (d) A Public Risk Insurance Policy with a minimum cover of \$10 million in relation to the occupation of and works within Council's road reserve, for the full duration of the proposed works, must be obtained a copy provided to Council. The Policy is to note Council as an interested party; and
  - (e) The application must be endorsement by the Roads & Maritime Services (RMS) as the hoarding is located within 100m of an intersection with traffic lights. For assistance you should contact the DA unit at RMS and speak to Hans on 88492076. Or email [hans.pilly.mootanah@rms.nsw.gov.au](mailto:hans.pilly.mootanah@rms.nsw.gov.au) to obtain concurrence for the hoarding structure.
90. **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.
91. **Completion of Major Works** - Prior to the issue of a Final Occupation Certificate, the following works must be completed at the applicant's expense to the satisfaction of Council's Engineering Services section:
- (a) If applicable stormwater pipes, pits and connections to public stormwater systems within the road related area;
  - (b) Driveways and vehicular crossings within the road related area;
  - (c) Removal of redundant driveways and vehicular crossings;
  - (d) New footpaths within the road related area;
  - (e) Relocation of existing power/light pole if applicable
  - (f) Relocation/provision of street signs
  - (g) New footway verges, where a grass verge exists, the balance of the area between the footpath and the kerb or site boundary over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of turf predominant within the street.
  - (h) New or reinstated kerb and guttering within the road related area and new or reinstated road surface pavement within the road where it is applicable.

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

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

92. **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). This includes the use of the rooftop open space.

93. **Compliance with POM for use of rooftop open space** - The approved POM for use of the rooftop open space shall be enforced by the Owners Corporation.
94. **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.
95. **Entering & Exiting of vehicles** - All vehicles shall enter and exit the premises in a forward direction.
96. **Annual Fire Safety Statement** - The owner of the building premises must ensure the Council is given an annual fire safety statement in relation to each essential fire safety measure implemented in the building. The annual fire safety statement must be given:
- a) Within 12 months after the date on which the fire safety certificate was received.
  - b) Subsequent annual fire safety statements are to be given within 12 months after the last such statement was given.
  - c) An annual fire safety statement is to be given in or to the effect of Clause 181 of the Environmental Planning and Assessment Regulation 2000.
  - d) A copy of the statement is to be given to the Commissioner of Fire & Rescue NSW, and a further copy is to be prominently displayed in the building.
97. **Responsibility of Owners Corporation** - The Owners Corporation shall be responsible for presenting all approved waste and recycling receptacles for collection, and returning all receptacles to the Main Waste Collection Room, as soon as practicable after they have been serviced.
- The Owners Corporation shall also be responsible for maintaining all equipment, systems, facilities and storage areas used in conjunction with the provision of waste management services in accordance with all applicable regulatory requirements, relevant health and environmental standards, and to the satisfaction of Council.
98. **Maintenance of Landscaping** - All trees and plants forming part of the approved landscaping must be maintained in perpetuity. Maintenance includes watering, weeding, removal of rubbish from tree bases, fertilizing, pest and disease control, replacement of dead or dying plants and any other operations required to maintain healthy trees, plants and turf areas.
99. **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.
100. **Waste facilities** - Occupational Health and Safety issues such as slippery floors in waste rooms and the weight of the waste and recycling receptacles will need to be monitored. Cleaners must monitor the bin storage area and all spills need to be attended to immediately by cleaners.

## **Section K Operational Requirements Under The Environmental Planning & Assessment Act 1979**

101. **Requirement for a Construction Certificate** - The erection of a building must not commence until a Construction Certificate has been issued.
102. **Appointment of a Principal Certifier** - The erection of a building must not commence until the applicant has:
- i) appointed a Principal Certifier for the building work; and
  - ii) if relevant, advised the Principal Certifier that the work will be undertaken as an Owner -Builder.
- b) If the work is not going to be undertaken by an Owner - Builder, the applicant must:
- i) 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
  - ii) notify the Principal Certifier of the details of any such appointment; and
  - iii) 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.
103. **Notification Requirements of Principal Certifier** - No later than two days before the building work commences, the Principal Certifier 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.
104. **Notice of Commencement** - The applicant must give at least two days notice to the Council and the Principal Certifier of their intention to commence the erection of a building.
105. **Critical Stage Inspections** - The last critical stage inspection must be undertaken by the Principal Certifier. 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.
106. **Notice to be given prior to critical stage inspections** - The principal contractor for a building site, or the owner-builder, must notify the Principal Certifier at least 48 hours before each required inspection needs to be carried out. Where Georges River Council has been appointed as the Principal Certifier, 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.
107. **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 Certifier appointed for the building work can issue

the Occupation Certificate.

## Section J Prescribed Conditions

108. **Clause 97A - BASIX Commitments** - This Clause requires the fulfilment of all BASIX Commitments as detailed in the BASIX Certificate to which the development relates.
109. **Clause 98 – Building Code of Australia & Home Building Act 1989** - Requires all building work to be carried out in accordance with the Building Code of Australia. In the case of residential building work to which the Home Building Act 1989 relates, there is a requirement for a contract of insurance to be in force before any work commences.
110. **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 Certifier and the Principal Contractor.
111. **Clause 98B – Home Building Act 1989** - If the development involves residential building work under the Home Building Act 1989, no work is permitted to commence unless certain details are provided in writing to Council. The name and licence/permit number of the Principal Contractor or Owner Builder and the name of the Insurer by which work is insured under Part 6 of the Home Building Act 1989.
112. **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.
113. **Clause 98E - Site Excavation** - Excavation of the site is to extend only to that area required for building works depicted upon the approved plans. All excess excavated material shall be removed from the site.

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

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

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

## END CONDITIONS

## NOTES/ADVICES

114. **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.

115. **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.
116. **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.
117. **Disability Discrimination Act** - This application has been assessed in accordance with the Environmental Planning and Assessment Act 1979. No guarantee is given that the proposal complies with the Disability Discrimination Act 1992. The applicant is responsible to ensure compliance with this and other anti-discrimination legislation. The Disability Discrimination Act 1992 covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which refers to AS1428.1-Design for Access and Mobility.
118. **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.
  - a) 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.
  - b) 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.
  - c) 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.
119. **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:
  - (i) 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)
  - (ii) In the Application Form, quote the Development Consent No. (eg. 2017/DA/\*\*\*\*)
  - (iii) 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 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.

120. **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)).

## ATTACHMENTS

- Attachment [↓](#) 1  Site Plan - 198 - 200 Princes Highway Kogarah Bay
- Attachment [↓](#) 2  Landscape plans - 198-200 Princes Highway Kogarah Bay
- Attachment [↓](#) 3  Elevation Plan - 198-200 Princes Highway Kogarah Bay

198-200 PRINCES HIGHWAY  
KOGARAH BAY, NSW 2217

LANDSCAPE DA DOCUMENTATION

Prepared by:

GROUND iNK

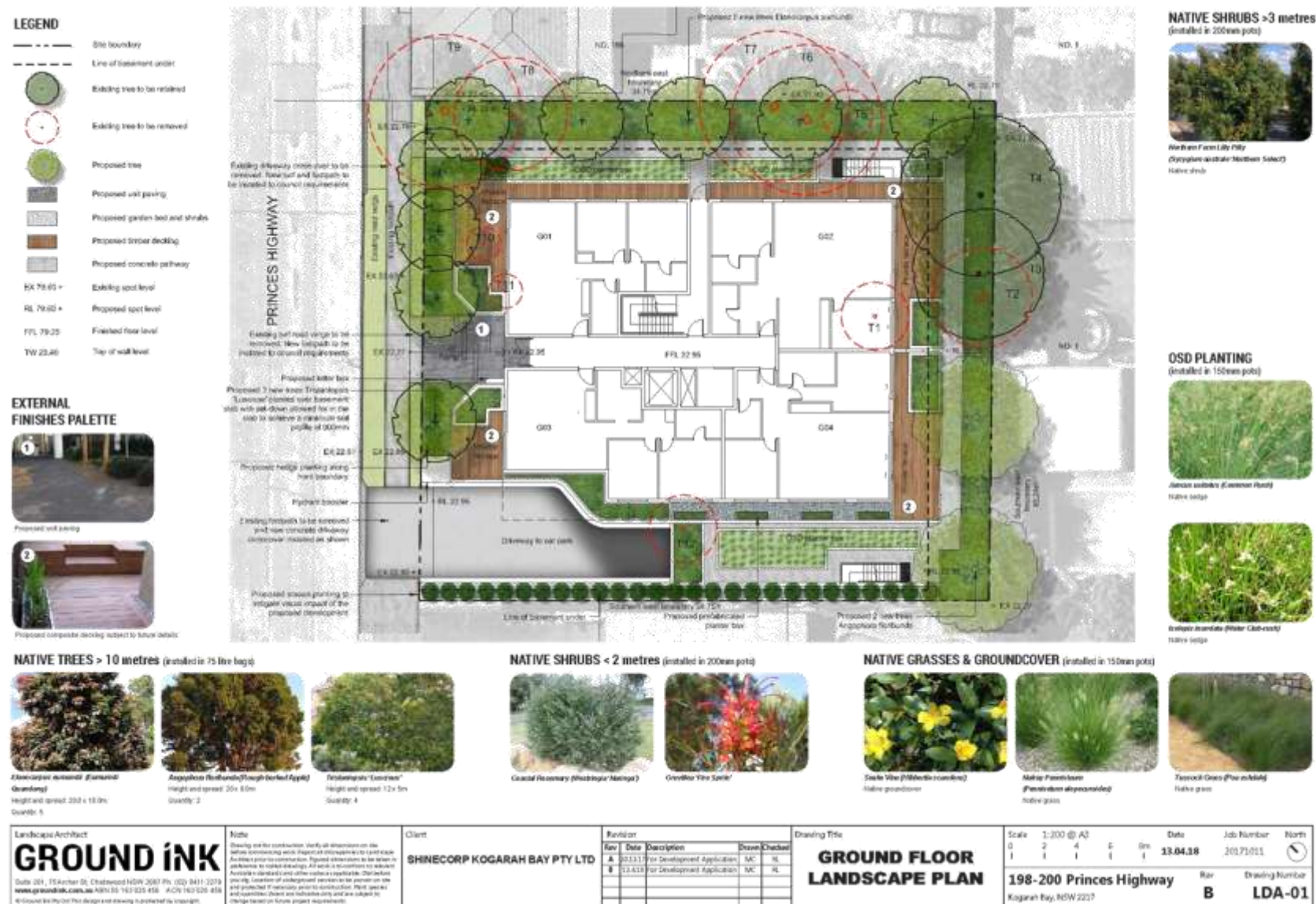
LANDSCAPE ARCHITECTS

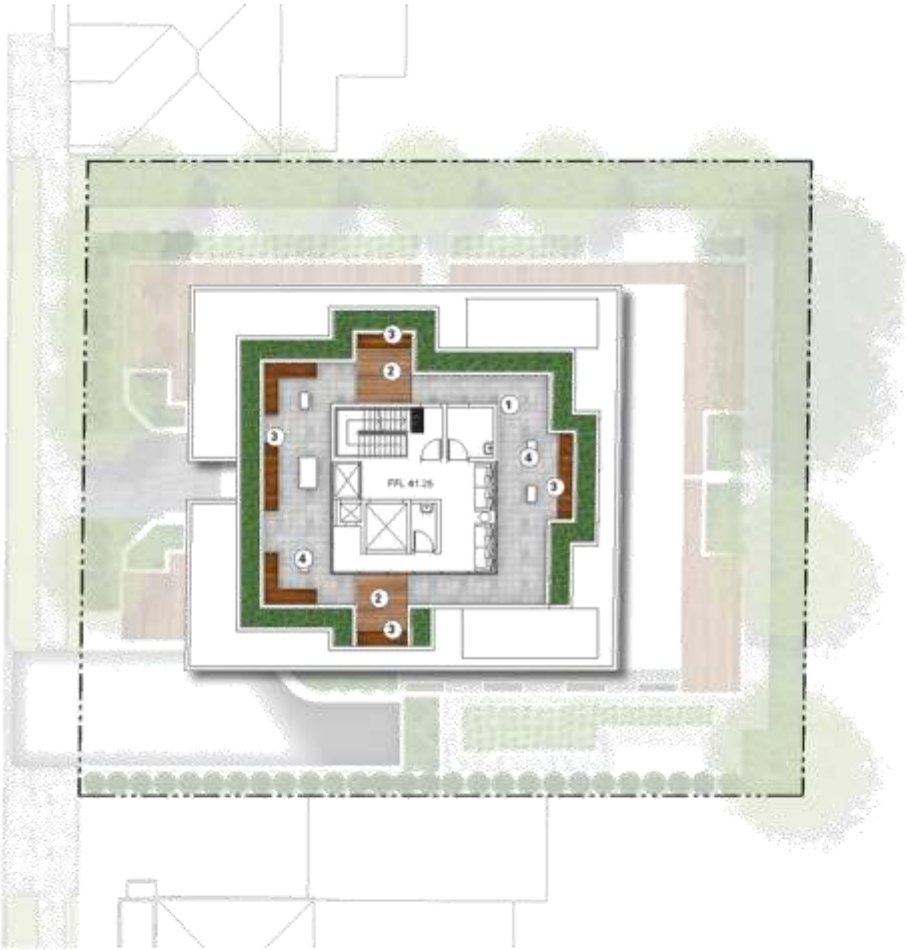
Prepared for:

SHINECORP KOGARAH BAY PTY LTD

DRAWING REGISTER

DRAWING NUMBER	DRAWING NAME	SCALE / SIZE
LDA-01	GROUND FLOOR LANDSCAPE PLAN	1:200 @ A3
LDA-02	ROOF GARDEN LANDSCAPE PLAN	1:200 @ A3
LDA-03	LANDSCAPE DETAILS	1:20 @ A3





EXTERNAL FINISHES PALETTE



Proposed unit paving



Proposed composite decking (subject to future details)



Plaster box with seating



Custom brick feature

SHRUBS < 2 metres (installed in 200mm pots)



Shrubs (Phoradendron nerioides)  
Exotic groundcover



Shrubs (Scaevola taccada)  
Native shrub

GROUNDCOVERS < 1 metre (installed in 150mm pots)



Groundcover (Poa annua)  
Native grass



Groundcover (Scaevola taccada)  
Native groundcover



Groundcover (Scaevola taccada)  
Exotic groundcover



Groundcover (Scaevola taccada)  
Native shrub

Landscape Architect  
**GROUND iNK**  
Suite 201, 15 Archer St, Chateau NSW 2067 Ph: (02) 8411 3273  
www.groundink.com.au ABN 55 163 625 456 ACN 163 625 456  
We reserve the right for this design and drawing to be subject to change.

Note  
Drawing not for construction. Verify all dimensions on site before commencing work. Report all discrepancies to the architect as soon as possible. All work is to be done in accordance with the relevant standards and specifications. All work is to be done in accordance with the relevant standards and specifications. All work is to be done in accordance with the relevant standards and specifications.

Client  
**SHINECORP KOGARAH BAY PTY LTD**

Rev	Date	Description	Drawn	Checked
A	10/11/17	For Development Application	NA	HL
B	12/11/17	For Development Application	NA	HL

Drawing Title  
**ROOF GARDEN  
LANDSCAPE PLAN**

Scale	1:200 @ A3	Date	13.04.18	Job Number	20171011	North	North
1	1	1	1	1	1	1	1
198-200 Princes Highway		Rev	B	Drawing Number	LDA-02		
Kogarah Bay, NSW 2227							

**DETAIL**

FENCE TO FUTURE DETAILS

PLANTER WALL

SOIL HORIZON A

DRIP IRRIGATION LINE

SOIL HORIZON B

WASHED COURSE SAND LAYER

DRAINAGE CELL WRAPPED IN GEO-FABRIC

SCREED TO ENSURE FALL TO DRAINAGE OUTLETS

DRAINAGE TO STORMWATER SYSTEM

PLANT SPECIES REFER TO PLANS & SCHEDULE

DRAINAGE INSPECTION UPSTAND WITH SCREW CAP FOR CLEARING ACCESS

75mm MULCH

TURF UNDERLAY AS SPECIFIED

SOIL HORIZON B

WATERPROOF MEMBRANE SLAB AND WATERPROOFING TO ENGINEER'S DETAILS

Pellets shall be in the form intended to uniformly release plant food elements for a period of approximately nine months equal to Shrinley KCH® pellets, analysis 0.3:1.8:2.9 or similar approved. KCH® pellets shall be placed at the time of planting to the base of the plant, 50mm minimum from the root ball at a rate of two pellets per 300mm of top growth to a maximum of 8 pellets per tree. Generally check for signs of nutrient deficiencies (yellowing of leaves, failure to thrive), and adjust fertiliser regime to suit. Fertiliser should be applied at the beginning and the end of the (summer) growing season.

Landscaps Architect	Note	Client	Revision	Drawing Title	Scale	Date	Job Number	North
<b>GROUND iNK</b>  Suite 301, 15 Escher St, Chadwell NSW 2067 Ph: (02) 8411 1279 www.groundink.com.au NSW 163 923 456 ACN 140 522 456 GROUND iNK Pty Ltd is a company limited by guarantee	Drawing for the construction. Verify all dimensions on site when commencing work. Report all discrepancies to the Landscaps Architect prior to construction. Reported discrepancies are to remain in accordance to original drawings. All work is to conform to relevant Australian standards and other relevant to construction. Check before you dig. Location of underground services to be protected on site and protected if necessary prior to construction. Plant species and quantities listed are indicative only and are subject to change based on future project developments.	SHINECORP KOGARAH BAY PTY LTD	Rev	Date	Description	Drawn	Checked	<b>LANDSCAPE DETAILS</b>
			A	20/11/17	For Development Application	MAC	RL	
			B	19/12/18	For Development Application	MAC	RL	
						1:20 @ A3		
						0 0.2 0.4 0.6 0.8m	13.04.18	203/11011
							</	



# DEVELOPMENT APPLICATION

NO.	DATE	REVISION
1	20/08/2018	Initial Design
2	20/08/2018	Revised Design
3	20/08/2018	Revised Design
4	20/08/2018	Revised Design
5	20/08/2018	Revised Design
6	20/08/2018	Revised Design
7	20/08/2018	Revised Design
8	20/08/2018	Revised Design
9	20/08/2018	Revised Design
10	20/08/2018	Revised Design

# STREET ELEVATION PLAN

Geoform Architecture Interiors

DA3.02 A



198-200 Princes Highway, Kogarah Bay

**REPORT TO GEORGES RIVER COUNCIL  
LPP MEETING OF THURSDAY, 15 NOVEMBER 2018**

<b>LPP Report No</b>	<b>LPP053-18</b>	<b>Development Application No</b>	<b>DA2018/0143</b>
<b>Site Address &amp; Ward Locality</b>	51 Elwin Street Peakhurst Peakhurst Ward		
<b>Proposed Development</b>	Proposed Torrens Title subdivision of an existing allotment into two new lots, including the use of the Right Of Carriageway and associated easement for drainage and services over the adjoining land known as 53 and 55		
<b>Owners</b>	Arthur and Brenda Burgess		
<b>Applicant</b>	EP&A SOlutions (Ramez Guirguis)		
<b>Planner/Architect</b>	Ramez Guirguis		
<b>Date Of Lodgement</b>	13/04/2018		
<b>Submissions</b>	Nil		
<b>Cost of Works</b>	\$88,000.00		
<b>Local Planning Panel Criteria</b>	Application is being referred as it has been lodged by a member of Council Staff		
<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, State Environmental Planning Policy (Infrastructure) 2007, State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, Draft Environment State Environmental Planning Policy Hurstville Local Environmental Plan 2012, Hurstville Development Control Plan No 1 - LGA Wide		
<b>List all documents submitted with this report for the Panel's consideration</b>	Subdivision Plan, Statement of Environmental Effects		
<b>Report prepared by</b>	Development Assessment Officer		

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<b>Recommendation</b>	THAT the application be approved as a deferred commencement determination 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>Yes - name the variations</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>Yes – the applicant has reviewed the conditions</b> <b>No, standard conditions have been attached with no design changes</b>

### Site Plan



### Executive Summary

#### Proposal

1. The proposal involves the Torrens title subdivision of an existing allotment at 51 Elwin Street Peakhurst into two new allotments. Driveway access to the proposed battle axe lot is via a future right of way to be created over the adjoining southern neighbour at 53 and 55 Elwin Street Peakhurst which will also accommodate easements for drainage and services.
2. The subdivision will involve the demolition of the existing shed and the provision of a passing bay. Provision of the passing bay will require some excavation and construction of a retaining wall.

#### Site and Locality

3. Elwin Street is characterised by predominately single dwelling houses on battle axe allotments on the western side of the street, and single dwelling houses on the eastern side

of the street. 51 Elwin Street is the last allotment south of Hymen Street that has not been subdivided.

4. A two storey dwelling house, swimming pool and outbuildings are located on the site. Only the existing shed will need to be demolished to facility the proposed vehicle passing bay. The site has a fall to the street.

### **Zoning and Permissibility**

5. The site is zoned R2 Low Density Residential and subdivision is a permitted with consent in the zone.

### **Submissions**

6. The application was not required to be publicly notified in accordance with Clause 2.2.3.1 of Hurstville Development Control Plan No 1 - LGA Wide.

### **Conclusion**

7. The proposed Torrens title subdivision complies in full with the requirements of the Hurstville LEP 2012 and the Hurstville Development Control Plan No 1 - LGA Wide. The application has been recommended to be determined as a deferred commencement, in order to ensure that the right of carriageway and easements for drainage and services relied on to service the proposed lot at the rear are registered prior to the consent being activated.
8. The proposal has been referred to the Georges River Local Planning Panel on the basis the application is a current employee of Council.

### **Report in Full**

### **DESCRIPTION OF THE PROPOSAL**

9. Development consent is sought for the Torrens Title Subdivision of 51 Elwin Street Peakhurst. There is an existing two storey dwelling house, swimming pool and outbuildings located on site, the existing detached shed will require demolition to accommodate the proposed passing bay. The incorporation of the passing bay will require some excavation and construction of a retaining wall.
10. The subdivision will result in a street facing allotment, identified as proposed Lot 200 which will have a frontage of 17.28m and an area of 702.8sqm (including the passing bay). The vehicle passing bay is located on the southern side of this site, which will, in combination with the proposed right of way within 53 and 55 Elwin Street will facilitate vehicle access to proposed lot 201. Provision of the passing bay will require the demolition of the existing shed within 51 Elwin Street. The resultant site area, excluding the area of the passing bay is 695.72sqm.
11. The proposed rear allotment, identified as proposed Lot 201 will comprise an area of 563.12sqm and will have a width of 17.28m. This site will be accessed via a proposed right of way over the adjoining land known as 53 and 55 Elwin Street. Drainage and services will also be provided over this neighbouring allotment within the Right of Way.

### **HISTORY**

12. A history of the proposal is provided as follows:

- 9 November 2017 – The current development application (the subject of this report) was submitted to Council.

- 17 April 2017 – The applicant was formally advised of deficiencies in the application to enable its full and proper assessment, namely the absence of site details of all Lots affected by the proposed subdivision, right of carriageway and easements for services.
- 21 August 2018 – Further written request for plans and information forward to the applicant. The relocation of the passing bay was also required to bring this into compliance with the relevant Australian Standard (AS2890.1).
- 21 October 2018 – Amended subdivision plan detailing requested changes submitted to Council.

## DESCRIPTION OF THE SITE AND LOCALITY

13. The subject site is legally described as Lot 2 in Deposited Plan 587544 and is commonly known as 51 Elwin Street, Peakhurst. The site has an area of 1265.92sqm and a frontage of 17.28m.
14. The subject site is located on the western side of Elwin Street, to the south of Hymen Street. A two storey dwelling house, swimming pool and shed are located on the property. The allotment has a fall to the street (east) and a fall to the south.
15. All immediately adjoining neighbouring properties comprise single dwelling houses. The wider locality is characterised predominantly by dwelling houses with some multi-dwelling housing evident at the southern extremity of Elwin Street.



*An aerial photograph of the subject site*

## ZONING

16. The site, outlined in red below is zoned as R2 Low Density Residential under the Hurstville Local Environmental Plan 2012.

*Extract from Zoning Map below*



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### APPLICABLE PLANNING CONTROLS

- State Environmental Planning Policy No.55 – Remediation of Land
- Greater Metropolitan Regional Environmental Plan No 2 - Georges River Catchment
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017
- Draft Environment State Environmental Planning Policy
- Hurstville Local Environmental Plan 2012
- Hurstville Development Control Plan No 1 - LGA Wide

### PLANNING ASSESSMENT

17. 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, a review of the planning controls applicable to the site are outlined below.

### Environmental Planning Instruments

#### Hurstville Local Environmental Plan 2012

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

#### Clause 2.1 – Land Use Zones

19. The site is zoned as R2 Low Density Residential. The proposal is consistent with the zone objectives in that it provides for the future housing needs of the community by creating an additional allotment suitable for low density residential development with appropriate residential amenity.

HLEP 2012 Clause	Control	Plan	Complies
2.6 Subdivision	Consent required	Consent sought	Yes
4.1 Minimum Allotment Size	550sqm	563.12sqm and 695.72sqm	Yes
4.4 Floor Space Ratio	0.6:1	0.41:1	Yes

#### Clause 6.1 – Acid Sulfate Soils

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

**Environmental Planning and Assessment Regulations 2000**

21. The proposal is in accordance with the regulations.

**State Environmental Planning Policies**

- State Environmental Planning Policy No.55 – Remediation of Land - the site has a history of residential uses, contamination is not envisaged.
- Greater Metropolitan Regional Environmental Plan No 2 - Georges River Catchment – appropriate consideration has been given to stormwater disposal.
- State Environmental Planning Policy (Infrastructure) 2007 – considered as part of the assessment and relevant conditions for servicing imposed.
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 – no vegetation is proposed to be removed.
- Draft Environment State Environmental Planning Policy – this development is consistent with the requirements of this Policy.

**Draft Environmental Planning Instruments****Draft Environment SEPP**

22. 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**

23. Hurstville Development Control Plan No 1 - LGA Wide applies to the subject site. Section 3.2 of the DCP sets out controls for the subdivision of land. The table below demonstrates compliance with the relevant development standards under this section of the DCP.

<b>Development Standard/ Performance criteria</b>	<b>Control</b>	<b>Plan</b>	<b>Complies</b>
DS1.1 Conforms with required lot size and shape	15m frontage and 550sqm	17.28m frontage and 563.12sqm minimum site area Proposed Lot 200 695.72m <sup>2</sup> Proposed Lot 201 563.12m <sup>2</sup> - excluding the access handle.	Yes

DS1.2 Access Handle	Excluded from allotment area	Access handle is part of the neighbouring allotment and the passing bay is excluded from the area of both proposed Lot 200 and proposed Lot 201. The passing bay is within the site boundaries of proposed Lot 200.	Yes
DS1.6 Allotment Width	New allotments for dwelling houses are to have a minimum width of 15m	17.28m minimum width for both proposed Lot 200 and proposed Lot 201.	Yes
DS 1.9 Drainage Easement width	Satisfy minimum width requirements for service and drainage provision	The provision of a 1m drainage easement is appropriate for draining of the sites. This easement width is also required by a condition of consent.	Yes
DS1.12 Indicative footprints	Demonstrate how landscaping, setback, vehicular access etc can be achieved on the site	Indicative footprint demonstrates a compliant dwelling can be accommodated on the proposed lot.	Yes
DS2.4 Driveways	Constructed in accordance with AS 2890.1	The plan assessed as part of this report demonstrates the passing bay and vehicular access satisfies the criterion outlined AS1428.1.	Yes
DS2.5 Driveways and Parking	In accordance with Section 3.1.2.1 for parking provision under the DCP.	Both sites have suitable access and parking for a minimum of 2 vehicles, and the use of the ROC will not impact on the use of the driveway or parking provision of the neighbouring allotments.	Yes
D2.6 Driveway width	Capable of accommodating service and emergency vehicles with provision of passing bays where servicing three or more	Access handle is a minimum of 3.54m wide with the provision of a passing bay 28.8m from the Elwin Street boundary.	Yes, subject to the registration of the ROW which is the deferred condition recommended

	allotments		
DS3.1 Utilities	Access to essential services is available to the site	The proposed easement/ROW demonstrates appropriate access to utility services. Provision of services within the proposed easement will require trenching in the existing driveway.	Yes pending appropriate registration of the easement for services as per deferred condition of consent
DS3.2 Services	Utilities to be provided underground	Utilities are provided underground by way of the proposed easement for services	Yes
DS3.3 Bin Storage	Adequate space provided for bin storage in an accessible location	Provided	Yes
PC4 Drainage	Gravity drainage via a piped system to a location approved by Council in accordance with Council requirements	Drainage via a piped gravity system to the kerb and gutter in Elwin Street can be achieved. This application is seeking an easement for the infrastructure to be accommodated.	Yes pending appropriate registration of the easement to drain water as per deferred condition of consent.

24. The proposal requires the retention of the existing dwelling house, swimming pool and associated paving (the passing bay will be located in the area of the existing shed) on proposed Lot 200. This will result in the minimum landscaping provision for the site falling short of the minimum required 25% for allotments within the foreshore scenic protection area. Condition 4(c) of the recommended consent conditions below, requires the removal of 9.35m<sup>2</sup> of paving from the rear yard and reinstatement of this area with turf or soft landscaping. This will bring the dwelling house on proposed Lot 200 into full compliance with the DCP.

### Section 7.11 Contributions/Levies

25. The following contribution rates are applicable to the proposal:

Contribution	Rate
Community Facilities	\$2,478.00
Open Space	\$17,522.00
Total	\$20,000.00

### Delegation

26. The applicant is a current employee; however this application was lodged with Council prior to the officer's appointment. On this basis consideration of the application by the Panel is sought as Council has not delegation to determine this application.

### IMPACTS

**Environmental, Social and Economic Impacts**

27. The proposal will not result in any unreasonable or adverse impacts in this respect.

**Suitability of the site**

28. The proposals design is suitable for the site having regard to its size and shape, its topography, vegetation and relationship to adjoining developments.

**SUBMISSIONS AND THE PUBLIC INTEREST**

29. The application was not required to be publicly notified in accordance with Clause 2.2.3.1 of Hurstville Development Control Plan No 1 - LGA Wide.

**REFERRALS**Tree Management Officer

30. Council's Tree Management Officer has indicated that landscaping details must be provided prior to the issue of a construction certificate.

Traffic Engineer

31. Council's Traffic Engineer advised that a passing bay is required every 30m, and that the vehicles are to leave the site in a forward direction.

**CONCLUSION**

32. The development seeks approval for Torrens Title subdivision of 51 Elwin Street into two new lots, the demolition of the existing shed and the retention of the existing two storey dwelling house and swimming pool. The proposal will include the use of a Right Of Carriageway and associated easement for drainage and services to be created over the adjoining land known as 53 and 55 Elwin Street Peakhurst. 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 and is consistent with those requirements. Following detailed assessment it is considered that Development Application No DA2018/0143 should be approved as a deferred commencement determination to register the right of carriageway criteria and easement for drainage and services together with standard conditions of consent.

**DETERMINATION AND STATEMENT OF REASONS****33. Statement of Reasons**

- The proposed development complies with the requirements of the relevant environmental planning instruments and development control plan.
- The applicant has amended the proposal from that originally submitted to address issues raised relating to the functionality and serviceability of the access way and passing bay.
- The proposed development is considered to be appropriate for the site and the character of the locality. Subject to the implementation of the recommended conditions, the development will have no unacceptable adverse impacts upon the natural or built environment.
- 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.

### 34. Determination

THAT pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act, 1979, as amended, the Council, grants deferred commencement development consent to Development Application DA2018/0143 for Torrens Title subdivision into two new lots, the demolition of the existing shed and the retention of the existing two storey dwelling house and swimming pool, construction of a passing bay and associated retaining wall on Lot 2 DP 587544 and known as 51 Elwin Street Peakhurst, subject to the attached conditions:

#### Section A Deferred Commencement

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

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

- A. A right of carriageway for pedestrian and vehicular access together with an easement for services are to be obtained from the adjoining allotment at 53 Elwin (Lot A DP 362196) and 55 Elwin Street (Lot B DP 362196) Peakhurst.
- B. The passing bay is to be shown as a part of the right of carriageway and is to benefit 53 Elwin Street (Lot A DP 362196) and 55 Elwin Street (Lot B DP 362196).

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

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

#### Section B Development Details

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 plan of subdivision	51ELWIN-01-REV B	10.10.18	REVB	EPA Solutions

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

2. **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.

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

Fee Type	Fee
<b>GENERAL FEES</b>	
Subdivision Certificate	\$436.00
88B Instrument	\$494.00
<b>DEVELOPMENT CONTRIBUTIONS</b>	
Hurstville Section 7.11 Development Contributions Plan 2012 - Residential (Community Facilities)	\$ 2,478.00
Hurstville Section 7.11 Development Contributions Plan 2012 - Residential (Open Space, Recreation, Public Domain)	\$ 17,522.00

### 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 subdivision 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).

## Section D Separate Approvals Required Under Other Legislation

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

Separate approval is required under *Section 138 of the Roads Act 1993* and/or *Section 68 of the Local Government Act 1993* for any of the following activities carried out in, on or over a public road (including the footpath) listed below. An application is required to be lodged and approved prior to the commencement of any of the following works or activities:

- (i) Placing or storing materials or equipment;
- (ii) Placing or storing waste containers or skip bins;
- (iii) Erecting a structure or carrying out work;
- (iv) Swinging or hoisting goods over any part of a public road by means of a lift, crane or the like;
- (v) Pumping concrete from a public road;
- (vi) Pumping water from the site into the public road;
- (vii) Constructing a vehicular crossing or footpath;
- (viii) Establishing a “works zone”;
- (ix) Digging up or disturbing the surface of a public road (eg Opening the road for the purpose of connections to utility providers);
- (x) Stormwater and ancillary works in the road reserve;
- (xi) Stormwater and ancillary to public infrastructure on private land.

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 Certifier prior to the issue of the Construction Certificate.

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

4. **Road Opening Permit** - A Road Opening Permit must be obtained from Council for every opening of a public road reserve to access services including sewer, stormwater drains, water mains, gas mains, and telecommunications before the commencement of work in the road.
5. **Sydney Water – Tap in™** - The approved plans must be submitted to a Sydney Water Tap in™ 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™ agent has appropriately stamped the plans prior to the issue of the Construction Certificate.
6. **Notice of Requirements for a Section 73 Certificate**
- a) 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.

- b) 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.
- c) 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 Principal Certifier prior to the issue of the Occupation Certificate.

8. **Electricity Supply** - An application is required to be made to Ausgrid for a network connection. This may require the network to be extended or its capacity augmented. Evidence of this application being lodged with Ausgrid is required to be provided to the Certifying Authority prior to the issue of a Construction Certificate. For further details, you are advised to contact Ausgrid on 13 13 65 or [www.ausgrid.com.au](http://www.ausgrid.com.au) (Business and Commercial Services).

9. **Demolition and 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 Principal Certifier 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).

10. **Demolition Notification Requirements** - 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.

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.

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.

11. **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.
12. **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.
13. **Erosion and Sedimentation Control**
  - i. Erosion and sediment controls must be provided to in accordance with the approved Site Management Plan.
  - ii. Removal or disturbance of vegetation and top soil is confined to within 3 m of the approved building area (no trees to be removed without approval). All disturbed areas are rendered erosion-resistant by turfing, mulching, paving or similar.
  - iii. All clean water run-off is diverted around cleared or exposed areas.
  - iv. Silt fences, stabilised entry/exit points or other devices are installed to prevent sediment from entering drainage systems or waterways.
  - v. Controls are put into place to prevent tracking of sediment by vehicles onto adjoining roadway. Compliance with [Managing Urban Stormwater – Soils and Construction \(Blue Book\) produced by Landcom 2004](#) is to be met.
  - vi. 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. **Site sign – Soil and 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.
15. **Dial before you 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.

16. **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.

## **Section E Prior to Construction**

17. **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.
18. **No 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.
19. **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.

## **Section F Prior to the Issue of the Subdivision Certificate**

20. **The subdivision certificate will not be issued prior to payment of Section 7.11 Development Contributions in accordance with this consent.**
21. **Site works to be completed prior to issue of Subdivision Certificate** - The following works shall be completed prior to the issue of the Subdivision Certificate:
- (a) Southern boundary fencing and landscaped elements within the area identified for the passing bay.
  - (b) Demolition of the rear shed that is located over the proposed allotment boundary.
  - (c) 9.35sqm of paving in the rear yard of Proposed Lot 200 identified as 51 Elwin Street is to be demolished and reinstated with turf or soft landscaping to bring this allotment into compliance with the minimum required landscaping provision for the site.
  - (d) All the stormwater/drainage works shall be completed in accordance with the approved Construction Certificate plans.

- (e) 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.
- (f) Construct the new concrete vehicle crossing in accordance with Council engineering requirements.
- (g) Replace all redundant vehicle crossing laybacks with kerb and guttering, and redundant concrete with turf.
- (h) A Final Occupation Certificate shall be obtained from the PCA upon completion of the construction works required by the approved Construction Certificate.
- (i) Sydney Water's Section 73 Compliance Certificate.

22. **Subdivision - Land Information - Allocation of street addresses** - In order to comply with *AS/NZS 4819:2011 Rural and Urban Addressing*, the *NSW Addressing User Manual (AUM)* and Georges River Council's requirements, the street addresses for the subject development must be allocated as follows:

Dwelling description on plans	Current Lot/DP	New Primary Addresses
Proposed Lot 200	Lot 2 DP 587544	<b>51 Elwin Street, Peakhurst NSW 2210</b>
Proposed Lot 201	Lot 2 DP 587544	<b>51B Elwin Street, Peakhurst NSW 2210</b>

Details indicating compliance with this condition but be shown on the plans lodged with any Subdivision Certificate.

- (a) The street number of the development must be displayed in a prominent location at the primary frontage of the site.
- (b) Separate letterboxes for each unit must be provided with permanent numbers for each letterbox. The letterboxes must be located within an easily accessible area within the primary frontage of the development.

The abovementioned works must be completed before the issue of any Subdivision Certificate.

23. **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.
24. **Subdivision - Requirements for Application of a Subdivision Certificate** - To enable registration of the plan of subdivision at NSW Land and Property Information (Land Title) Office, the person acting on the consent must apply for a Subdivision Certificate pursuant to section 6.15 of the Environmental Planning and Assessment Act 1979.

To enable the determination of the application for a Subdivision Certificate by Hurstville City Council, the applicant must submit the following:

- (a) Application for Subdivision Certificate form completed with payment of fees current at lodgement.
- (b) Three (3) copies of the final plan of subdivision prepared by a Registered Surveyor.
- (c) The Original Deposited Plan Administration Sheet(s) plus one (1) copy.
- (d) The Original of any relevant 88B instrument plus one (1) copy.
- (e) A copy of the Interim or Final Occupation Certificate for the dwellings obtained from the Principal Certifying Authority.
- (f) Certification from the Registered Surveyor that all services (including but not limited to stormwater drainage, gas, electricity, telephone cable) as constructed or to be constructed are/will be contained within each lot or within the necessary easements to accommodate such services.
- (g) A Section 73 (Sydney Water) Compliance Certificate for the Subdivision.

Please Note: The section 73 Certificate required must be a separate certificate for this development consent. Any other Section 73 Certificates (e.g. for the construction of the building only) cannot be accepted to approve the Subdivision Certificate.

25. **Final Subdivision Plan Requirements** - A final Subdivision Plan shall be prepared by a Registered Surveyor and include (but not be limited to) the following:

- (a) Required Easements

The following easements shall be created by Section 88B of the Conveyancing Act 1919 on the Final Subdivision Plan.

- i. Any necessary Easements to Drain Water, (minimum 1m wide).
- ii. Any necessary Easements for Services (minimum 300mm wide).
- iii. Any necessary Easements for overhanging roof structures.

## **Section G Operational Requirements Under the Environmental Planning and Assessment Act 1979**

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

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

No later than two (2) days before the subdivision work commences, the PCA must notify:

- (a) The consent authority and the council (if not the consent authority) of his or her appointment; and

- (b) The beneficiary of the development consent of the critical stage inspections and other inspections that are to be carried out with respect to the subdivision work.

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

27. **Subdivision work – Notice of Commencement** - The beneficiary of the development consent must give at least two (2) days notice to the Council and the PCA of their intention to commence the subdivision works.

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

## Section H Prescribed Conditions

28. **Clause 97A – BASIX Commitments** - This Clause requires the fulfilment of all BASIX Commitments as detailed in the BASIX Certificate to which the development relates.
29. **Clause 98 – Building Code of Australia & Home Building Act 1989** - Requires all building work to be carried out in accordance with the Building Code of Australia. In the case of residential building work to which the Home Building Act 1989 relates, there is a requirement for a contract of insurance to be in force before any work commences.
30. **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.
31. **Clause 98B – Home Building Act 1989** - If the development involves residential building work under the Home Building Act 1989, no work is permitted to commence unless certain details are provided in writing to Council. The name and licence/permit number of the Principal Contractor or Owner Builder and the name of the Insurer by which work is insured under Part 6 of the Home Building Act 1989.
32. **Clause 98E – Protection & support of adjoining premises** - If the development involves excavation that extends below the level of the base of the footings of a building on adjoining land, this prescribed condition requires the person who benefits from the development consent to protect and support the adjoining premises and where necessary underpin the adjoining premises to prevent any damage.

## END OF CONDITIONS

## NOTES/ADVICES

33. **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.

34. **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.
35. **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
36. **Torrens Title Subdivisions** -
- (a) The Section 73 Certificate required must be a separate certificate for this development consent. Any other Section 73 Certificates (e.g. for the construction of the building) cannot be accepted to approve the Subdivision Certificate.
  - (b) A Subdivision Certificate cannot be issued unless all relevant conditions of the development consent that are to be satisfied prior to the issue of the Subdivision Certificate have been complied with.
  - (c) Council will check the consent conditions on the relevant subdivision consent. Failure to submit the required information will delay endorsement of the plan of subdivision.
  - (d) Plans of subdivision, Administration Sheets, 88B Instruments and copies must not be folded.
  - (e) All Subdivision Plans, Deposited Plan Administration Sheets and Section 88B Instruments shall be submitted to Council enclosed in a protective cardboard tube (to prevent damage during transfer).
  - (f) A Subdivision Certificate cannot be issued unless all relevant conditions of the development consent that are to be satisfied prior to the issue of the Subdivision Certificate have been complied with.
37. **Subdivision - Fees to be paid to Council** - The following fees shall be paid to Council prior to the issue of the Subdivision Certificate:
- a. All Section 94 Contribution Fees payable to Council as per Conditions of Development Consent No. DA2018/0143 (this consent) shall be paid prior to the issue of the Subdivision Certificate.
  - b. All Relevant Subdivision Certificate Application Fees plus any 88B Checking Fee shall be paid prior to the issue of the Subdivision Certificate.

## ATTACHMENTS

Attachment [↓](#) 1  Subdivision plan - 51 Elwin St Peakhurst

