

AGENDA - LPP

Meeting:	Georges River Local Planning Panel (LPP)
Date:	Monday, 03 December 2018
Time:	4.00pm
Venue:	Georges River Civic Theatre, corner MacMahon and Dora Streets, Hurstville
Panel Members:	Adam Seton (Chairperson) Michael Leavey (Expert Panel Member) John Brockhoff (Expert Panel Member) Erin Sellers (Community Representative)
Council Staff:	Meryl Bishop (Director Environment and Planning) Ryan Cole (Manager Development and Building) Nicole Askew (Coordinator Development Assessment) Monica Wernej (Admin Assistant)

1. On Site Inspections - 1.00pm –3.30pm

- a) 367 Princes Highway Carlton
- b) 37 Woronora Parade Oatley
- c) 65-67 Lawrence Street Peakhurst
- d) 345 Belmore Road Riverwood

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

- LPP054-18 37 Woronora Parade Oatley – DA2018/0293**
(Report by Development Assessment Planner)
- LPP055-18 65-67 Lawrence Street Peakhurst – DA2016/0224**
(Report by Senior Development Assessment Planner)
- LPP056-18 367 Princes Highway Carlton – MOD2018/0096**
(Report by Development Assessment Planner)
- LPP057-18 345 Belmore Road Riverwood – DA2016/0343**
(Report by Senior Development Assessment Planner)

4. Confirmation of Minutes

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

LPP Report No	LPP054-18	Development Application No	DA2018/0293
Site Address & Ward Locality	37 Woronora Parade Oatley Mortdale Ward		
Proposed Development	Proposed Torrens Title subdivision of one (1) lot into two (2) lots, partial demolition of a Heritage listed residential dwelling (Heritage Item No. 188), demolition of outbuilding and infilling of an inground swimming pool		
Owners	G Vella		
Applicant	G Vella		
Planner/Architect	Ludvik and Associates Pty Ltd		
Date Of Lodgement	18/07/2018		
Submissions	Five (5) submissions		
Cost of Works	\$6050.00		
Local Planning Panel Criteria	Development involving the demolition of a Heritage Item		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment, State Environmental Planning Policy No 55 – Remediation of Land, Hurstville Local Environmental Plan 2012, Hurstville Development Control Plan		
List all documents submitted with this report for the Panel's consideration	Architectural Plan Heritage Impact Statement		
Report prepared by	Development Assessment Planner		

LPP054-18

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

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



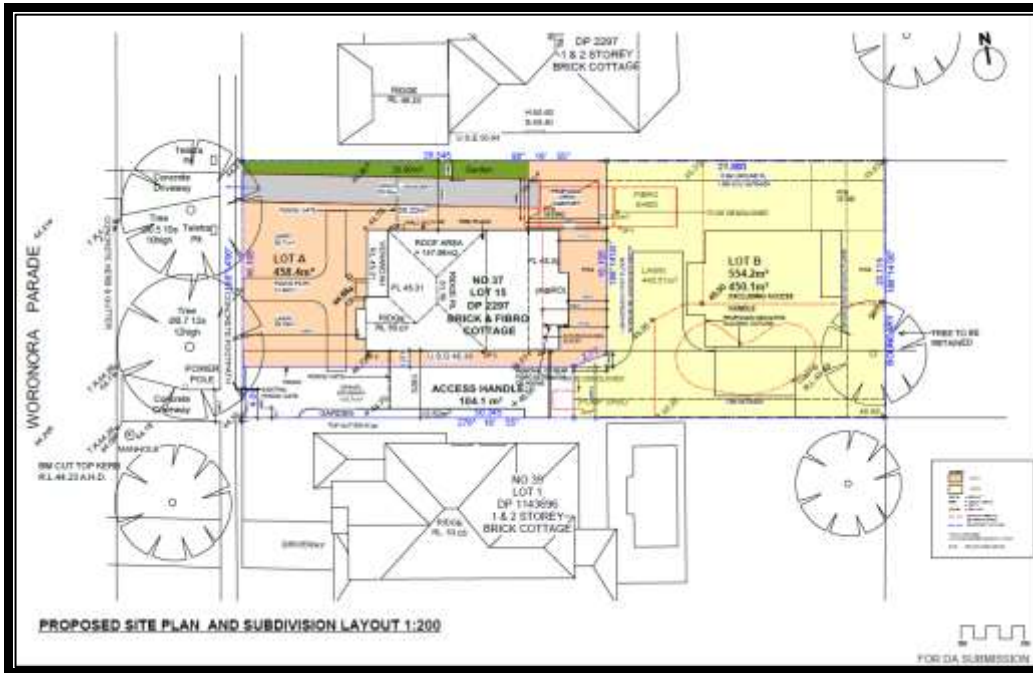
Executive Summary

Proposal

1. Council is in receipt of a Development Application (DA2018/293) seeking consent for proposed Torrens title subdivision of one (1) lot into two (2) lots, partial demolition of a Heritage listed residential dwelling (Heritage Item No. 188), demolition of outbuildings and infilling of an inground swimming pool at 37 Woronora Parade Oatley.

Site and Locality

2. The subject site is a rectangular shaped allotment located on the eastern side of Woronora Parade between Acacia Street to the north and Wonoona Parade West to the south. The allotment is regular in shape, with a 20.115m frontage to Woronora Parade with 50.345m side boundaries and a rear dimension of 20.115m having a total site area of 1,012sqm.



Proposed Site Plan and Subdivision Plan – 37 Woronora Parade, Oatley

An existing single storey cottage is located to the front half of the site and is listed and identified under Schedule 5 (Environmental Heritage) of the Hurstville Local Environmental Plan 2012 (HLEP) as a brick and fibro cottage labelled ‘Federation House’ and known as Item Number 188 of the HLEP 2012.



Photo of the dwelling from the Statement of Heritage Impact

Zoning and Permissibility

- 3. The subject site is zoned R2 – Low Density Residential under the provisions of the Hurstville Local Environmental Plan 2012 (HLEP, 2012). Under Clause 4.1 of the HLEP,

2012 the minimum lot size for subdivision 450sqm, which is permitted with consent in the Zone, the proposed subdivision is permissible as the allotment has a site area of 1,012sqm.

Lot A - 458.4sqm; and

Lot B - 554.2sqm (450.1sqm excluding the access handle which is 104.1sqm).

In addition, Clause 3A of the HLEP, 2012 states “*if a lot is a battle-axe lot or other lot with an access handle, the area of the access handle and any right of carriageway is not to be included in calculating the lot size*”.



Figure 2: Zoning Map – R2 - subject allotment outlined in red – 37 Woronora Parade, Oatley

Submissions

4. The proposed development was notified to the immediate surrounding residents from the 10 August 2018 to the 24 August 2018. During the notification period a total of five (5) submissions were received by Council, objecting to the proposed development.

Conclusion

5. The proposed development complies with the planning controls and objectives of the Hurstville Local Environmental Plan 2012. The proposed development does not seek any variations to the provisions of the Hurstville Local Environmental Plan (2012) and the Hurstville Development Control (HDCCP).

Council’s Heritage Officer has reviewed the application and raises no concerns to the proposal from a Heritage perspective.

In view of the above, the application is recommended for approval following a merit based assessment subject to the conditions contained in this report.

Report in Full Proposal

6. Council is in receipt of a Development Application (DA2018/293) seeking consent for the Torrens title subdivision of one (1) lot into two (2) lots, partial demolition of a Heritage listed residential dwelling (Heritage Item No. 188), demolition of outbuildings and infilling of an inground swimming pool. The proposed works specifically include the following:

Demolition

- Infilling of an inground swimming pool;
- Demolition of pump shed;
- Demolition of a clad garage and fibro shed; and
- Partial demolition of the existing fibro extension of the cottage.

Existing House (Heritage Item)

- Partial demolition of existing fibro extension; and
- Proposed amendments to the internal layout of the existing dwelling following the removal of rear addition, the floor plate at the rear will be reworked to accommodate a kitchen, laundry, bathroom and WC. The rear elevation will be bricked up and a rear opening provided to be consistent with the finishes of the dwelling.

Subdivision

- The existing brick and fibro cottage (Heritage Item) will be retained on Proposed Lot A.
- Proposed Lot B will have the benefit of the access handle. Given the Heritage nature of the site the applicant was required to demonstrate to Council's Heritage Consultant that a compliant and sympathetic dwelling house be accommodate on the rear lot, together with undercover parking and the ability to add an attic extension to the existing dwelling to future proof the development potential of the dwelling. The applicant provided this detail, which has been reviewed and supported by the Heritage Consultant. These works are not sought as part of this application.

Site and Locality

7. The subject site is legally identified as Lot 15, Section 8, in Deposited Plan 2297, which is commonly known as 37 Woronora Parade, Oatley. The allotment is rectangular in shape, and 1,012sqm in size. The slope of the allotment has a natural fall from the rear to the front, with a slope of 0.84m.

In addition, the site currently accommodates a single storey Heritage listed dwelling, as stipulated under Schedule 5 (Environmental Heritage) of the HLEP (2012), the brick and fibro cottage is identified as a Heritage Item labelled 'Federation House' and is classified as Item Number 188 of the HLEP, 2012.

The allotment is surrounded by residential uses containing a mix of one (1) and two (2) storey developments, multi dwelling developments and battle-axe subdivision allotments, as illustrated in Figure 3 below.

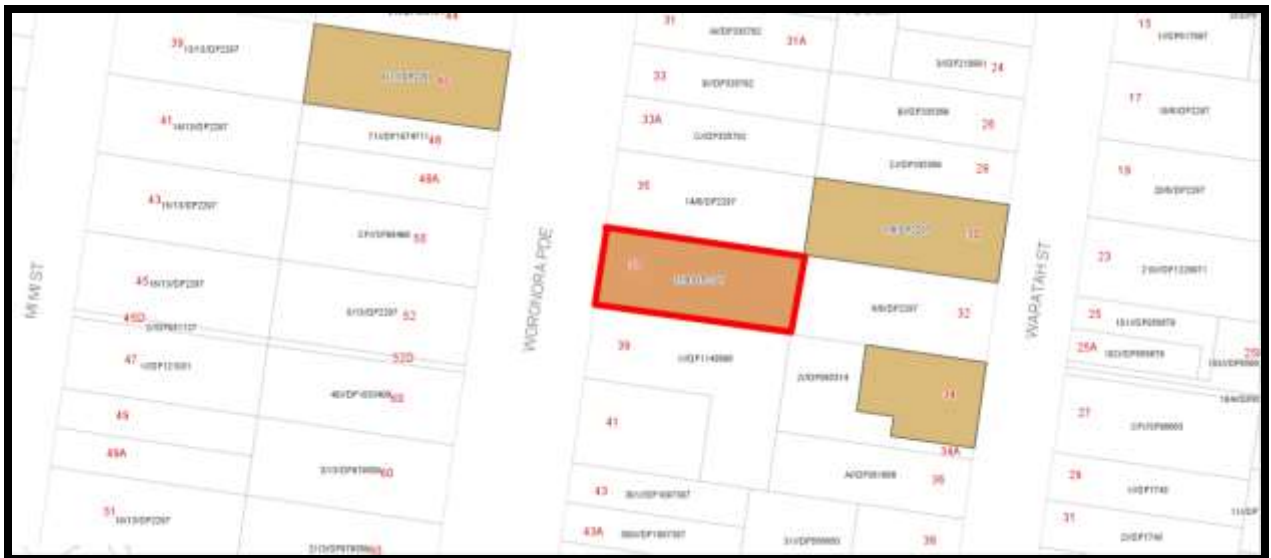


Figure 3: Subject site is outlined in red, other Heritage Items are identified in colour.

Background

8. The subject development application (DA2018/0293) was lodged on 18 July, 2018. During the assessment of the application the applicant was asked by Council's Heritage Consultant to demonstrate the subdivision can be effected without any adverse impacts on the Heritage significance of the Heritage listed dwelling.

The applicant provided an indicative plan of a compliant dwelling which could be accommodated on the newly created lot.

In addition the applicant was requested to provide details of a potential carport location for the Heritage dwelling and how additions could be undertaken including accommodation of an attic to future proof floor space for the dwelling.

These plans were provided to Council and reviewed by Council's Heritage Consultant. The indicative works are considered to be appropriate, the application is considered acceptable from a heritage perspective.

PLANNING ASSESSMENT

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

Environmental Planning Instruments

State Environmental Planning Policies

Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment (Deemed SEPP)

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

State Environmental Planning Policy No 55 – Remediation of Land

11. Council records indicate that the subject site has been historically used for residential purposes and is unlikely to be contaminated. The site adjoins residential uses therefore contamination from adjoining uses is also unlikely.

Draft Environmental Planning Instruments

12. The Draft Environment SEPP was exhibited from 31 October 2017 to 31 January 2018. This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property. Changes proposed include consolidating the following seven existing SEPPs:

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

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

Local Environmental Plan

13. The extent to which the proposal complies with the relevant standards of Hurstville Local Environmental Plan 2012 (HLEP, 2012) is outlined in the table below.

Applicable LEP Clause	Standards	Proposal	Complies
4.1 Minimum Subdivision Lot Size	Lot Size Map (Indicates – 450sqm)	Lot A - 458.4sqm Lot B - 450.1sqm (Excludes Access Handle 104.1sqm) Total allotment size: 1012.6sqm	Yes Yes
4.3 Height of Buildings	9m	Lot A – The Heritage Item has an existing height of 5.69m. Lot B – No building works are proposed.	Yes N/A
4.4 Floor Space Ratio	0.6:1	Lot A – Heritage Item proposes a FSR of 0.31:1. Lot B – No development proposed, only an indicative plan to demonstrate a compliant development form can	Yes N/A

		be accommodated.					
5.9-5.9AA Preservation of Trees		The application was referred to Council’s Tree Officer, in which the application is considered satisfactory, subject to conditions.	Yes				
6.5 Gross floor area of dwellings in residential zones	The maximum gross floor area for development that is a dwelling house on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential with a site area within the specified range in Column 1 of the Table to this clause must not exceed the maximum gross floor area shown opposite that site area in Column 2 of that Table.	The permissible FSR control for the allotment is 0.6:1. The application proposes a FSR of 0.31:1 on Lot A. In addition, Lot B does not propose any building work that contributes towards the Floor Space Ratio provisions. However an indicative plan showing a compliant building form has been provided, but will not form part of this determination.	Yes				
	<table border="1"> <tr> <td>Column 1</td> <td>Column 2</td> </tr> <tr> <td>≤ 630sqm</td> <td>Site area × 0.55</td> </tr> </table>	Column 1	Column 2	≤ 630sqm	Site area × 0.55		
Column 1	Column 2						
≤ 630sqm	Site area × 0.55						

Development Control Plans

Hurstville Development Control Plan No 1 - LGA Wide (DCP)

14. The proposed development is subject to the provisions of the Hurstville Development Control Plan - Section 3.2 - of the Plan, relates to the subdivision of land.

The purpose of Section 3.2 is to achieve the following objectives:

- *To enable the orderly subdivision of land, ensuring that a range of development types are achievable;*
- *To ensure the creation of new allotments are compatible with the surrounding subdivision pattern as reflected in lot size, orientation and shape;*
- *To minimise adverse impacts on adjoining land;*
- *To ensure sufficient building and landscaped area is available on newly created allotments; and*
- *To ensure adequate solar access and vehicular access is available to all allotments and that adequate provision is made for drainage and utility services.*

The proposed subdivision is consistent with these objectives.

15. The extent to which the proposal complies with the relevant standards of Hurstville Development Control Plan 2012 (HDCP 2012) is outlined in the tables below.

Table 1: Lot size and shape (Extract from Section 3.2 of DCP – Subdivision)

Location	Lot Size (Minimum)
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R2 Low Density Residential	450sqm
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Table 3: Battle-axe lots (Extract from Section 3.2 of DCP – Subdivision)

Location	Number of lots per access corridor (maximum)	Width of access handle (minimum)	Proposed Access Handle
R2 Low Density Residential	6 lots only permitted	3m, if handle services up to 2 lots	1 lot services and access handle is 4.101m in width – complies

Section	Design Solution	Proposal	Complies
DS1.1	Residential lots are to conform to <u>Table 1</u> (above), which requires lots in the R2 Low Density Residential zone, outside Foreshore Scenic Protection Area to have an area of 450sqm	The land is not located in a Foreshore Scenic Protection Area and both lots are to have an area of 450sqm, exclusive of any access corridor. Lot A – provides an area of 458.4sqm; and Lot B – provides an area of 554.2sqm (with an access handle area of 104.1sqm) – therefore the lot size is 451.2sqm.	Yes
DS1.2	The area and width of proposed access handles is to be excluded in determining the area and width of lots	The area and width of the proposed access handle to Lot B has been excluded in determining the area and width of the proposed lots and complies with the minimum lot size under the LEP	Yes
DS1.6	New lots for dwelling houses are to have a minimum width of 15m for the entire lot	The application does not propose the construction of new dwelling on any allotment. However, the existing lot (Lot A) has a frontage of 16.1m and the proposed lot (Lot B) has a frontage of 4m for the access handle and a lot width of 20.115m	N/A
DS1.7	Requirements for irregular shaped lots	The lots are not irregular shaped lots. The application proposes a battle-axe shaped subdivision allotment, with rectangular development sites.	Yes
DS1.8	Battle-axe lots are to conform with <u>Table 3</u> , which restricts the maximum number of lots served by an access corridor to 6 lots and an access handle with a minimum width of 3m to serve up to 2 lots in the	The requirement for the proposed Lot B is 3m, as the allotment will service two (2) lots. The application proposed an access handle of 4.010m in width.	Yes

	R2 Low Density Residential zone		
DS1.9	Easement widths are to comply with Table 4	The proposed subdivision does not involve the creation of any easements	Yes
DS1.11	Requirements for splay corners on corner lots	A splay exists where the access handle transitions into proposed Lot B	Yes
DS1.12	An indicative building envelope is required for new lots	The existing house on Lot A, proposes minimal demolition and is to be retained largely in its current form. The works have been supported by Councils Heritage Officer. An indicative building plan was provided for Lot B demonstrating a compliant and sympathetic development can be accommodated on site.	Yes
Roads, Vehicular Access and Parking			
DS2.3	Consent is to be obtained under the Roads Act 1993 for the opening of any public road	New or modified crossing and new openings for services in the kerb and gutter will require a Section 138 Approval.	Yes
DS2.4	Driveways and car parking are to be constructed in accordance with AS 2890.1 - 2004	The proposed access arrangements and turning bay are to be constructed in accordance with AS2890.1 – 2004	Yes
DS2.5	Driveways and car parking are to satisfy the requirements of Section 3.1.2.1 of HDCP1	The proposed driveway works, turning bay and car parking satisfies the requirements of Section 3.1.2.1 of HDCP1	Yes
DS2.6	Driveways on battle-axe lots are: -to be capable of accommodating a variety of service vehicles, including fire engines; to be provided from the carriageway to the building line; -to show reciprocal rights of way and easements; and -to comply with additional requirements where they are shared by 3 or more residential lots	The 4.01m wide driveway to Lot B meets the requirements of this control	Yes
DS3.1	Utilities & Services	The land is serviced by utilities which can be extended to service proposed Lot B	Yes

DS3.3	Adequate space for the storage of waste and recycling bins	Adequate space for the storage of waste and recycling bins is available for both lots	Yes
Drainage			
DS4.1	All subdivisions are to be fully drained by an appropriately designed piped gravity system	All stormwater associated with the lots is to be piped to Woronora Parade using a piped gravity system.	Yes

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Heritage Significance

16. The existing dwelling house is identified as a “*heritage item*” of local significance in Part 1 of Schedule 5 in HLEP 2012. In addition, other heritage dwellings are currently located at 46 Woronora Parade and 30 and 34 Waratah Street Oatley.

The proposal involves:

- Minor demolition of the fibro addition at the rear of the dwelling house on Proposed Lot A.
- The demolition of an existing garage/shed located adjacent to the land’s northern side boundary being partially within Proposed Lot A and Proposed Lot B.
- Infilling on an inground swimming pool in the rear yard within Proposed Lot B.

The applicant has submitted the following information addressing the significance and impact of the heritage item below, the statement indicates that:

“The existing dwelling house is a good representative example of a relatively modest Federation period detached dwelling constructed circa 1916 and its Federation period details, which are largely concentrated at the front of the building, include face brick facades with stone and rendered details, front projecting bay window, open verandah and associated details, pattern of openings in the front facade, timber framed windows and doors, main gabled and hipped roof form and chimney; the various elements that contribute to the house’s cultural significance and the development of the Oatley area are to be retained and will continue to be appreciated;

The existing street and verge character, front setbacks and garden settings which contribute to the existing streetscape pattern will be retained and the strong sense of the existing site boundaries and original site proportion will be discernible; the garage/shed and swimming pool on the land make no particular contribution to the significance of the site, the visual character of the building or its cultural significance and their removal will not have any impact on the cultural significance of the “heritage item”;

The proposal will have no adverse impact on “heritage items” in the vicinity of the site; The archaeological potential of the site is considered to be low and disturbed by the residential subdivision and development in the area; whilst some fencing is proposed and rear open space and curtilage of the “heritage item” will be reduced, its primary setbacks and curtilage will be retained and enhanced by the existing extended curtilage at the front of the site; the rear setback with private open space

available to the existing house will be enhanced by an extended curtilage to the east by the setback of any future dwelling house that may be constructed on Lot B”.

Officer Comment: The application has been reviewed by Council’s Heritage Consultant who advised that the application when lodged had not demonstrated that the development could be effected without a significant impact on the Heritage Item.

In order of the applicant to demonstrate the proposal was acceptable from a heritage perspective the applicant was requested to provide details of an indicative compliant, recessive and sympathetic dwelling could be accommodate on Proposed Lot B, and that future alterations and addition could be undertaken to the Heritage dwelling in a manner that provides additional floor space without compromising the heritage significant of the dwelling.

The applicant provided the requested information which has been reviewed and considered acceptable by Council’s Heritage Consultant. It is noted that these plans do not form part of this proposal and were only provided to demonstrate the subdivision was acceptable.

IMPACTS

Natural Environment

17. The proposal for subdivision and demolition of a portion of the heritage listed dwelling is not seeking the removal of any trees.

Built Environment

18. The proposed development will not result in any adverse impacts upon the built environment given there is no construction work proposed with the exception of the façade works required to the eastern side of the heritage dwelling to facilitate the demolition of a rear portion of the heritage dwelling.

Social and Economic Impact

19. The proposed development will not result in any adverse social and/or economic impacts of the locality subject to compliance the conditions of consent.

Suitability of the Site

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

SUBMISSIONS AND THE PUBLIC INTEREST

21. The proposal was notified to adjoining neighbours for a period of fourteen (14) days during which time five (5) submissions were received objecting to the proposal. The submissions raised the following issues.

Indicative Dwelling - Single Storey – Future Development

22. **Comment:** The submission raises concerns about the nature of subdivision and the indicative plan circulated as part of the public notification.

The indicative plans showed a single story dwelling with an attic within the roof space. These plans were requested by Council’s Heritage Advisor to demonstrate that a compliant and sympathetic dwelling can be accommodated on Proposed Lot B.

The applicant has not sought to have this plans included as part of the determination of this application.

Given the site is an individually listed Heritage Item, all future development on Proposed Lot B will be required to be lodged with Council and the heritage impacts reviewed by Council's Heritage Consultant.

Heritage

23. **Comment:** The heritage significance of the existing house relates principally to its architectural style and the contribution it makes to the Woronora Parade streetscape. The proposed subdivision will not have any physical or visual effect on the heritage significance of the existing dwelling or its streetscape presentation. The heritage property at 37 Woronora Parade will have an increased curtilage at the rear and proposed carport moved beyond the building line in accordance with Council's heritage advisor request.

In order for the impacts of development on Proposed Lot B to be adequately considered Council's Heritage Consultant requested the applicant provide an indicative dwelling design to demonstrate a numerically compliant the sympathetic development form could be designed for the site that was visually recessive and not imposing upon the Heritage listed dwelling. These plans have not been formally lodged to be included as part of the determined plans.

Drainage

24. **Comment:** The drainage drawings have been prepared and submitted with the application. The site falls to Woronora Street and new drainage line and pits are shown on the drainage plans. There will be no drainage impacts to adjoining properties, and the pit referenced in the submission will not be impacted by this development. The proposed application was considered acceptable by Council's Development Engineer subject to the imposition of conditions.

Access Handle/Lot Size

25. **Comment:** Non-compliance with HDCP 1 - Section 3.23 DS1.2 - The survey plan shows that the access handle is part of Proposed Lot B which nominated Proposed Lot B to have an area of 450.1sqm excluding the access handle.

The lot widths of Proposed Lot A and Proposed Lot B exceed 15m which is compliant.

Difference in Application – why was DA2018/0168 withdrawn

26. **Comment:** DA2018/0168 was withdrawn as the application before Council was unable to be support from a Heritage perspective. The concerns raised as part of this application have been resolved as part of this application.

Council Referrals

Landscape Management Officer

27. The proposal was reviewed by Council's Landscape Management Officer to ascertain if the trees on the site that maybe impacted by future development were reviewed. Given this application does not contain any conditions relating to trees as the development is not proposing construction works, only the subdivision and demolition of a portion of the rear of the dwelling.

Heritage Advisor

28. The proposal is supported by Heritage Advisor, and is satisfied with the plans which are the basis of this report.

Development Contributions

29. The development is not subject to a Section 7.12 (former Section 94A Contribution) contribution as the proposed costs of works are registered with Council do not exceed \$100,000.00. Under the provisions of the Georges River Council Section 94A Contributions Plan 2017. No contributions have been levied. The Contributions will be levied on the future application for the construction of development on Proposed Lot B.

CONCLUSION

30. This application has been assessed having regard to the matters for consideration under Section 4.15 (1) and 4.55(1)(a) of the *Environmental Planning and Assessment Act 1979*, the provisions of the applicable SEPP’s, HLEP 2012 and HDCP 2013.

31. Following a detailed assessment it is considered that on planning grounds DA2018/0293 is worthy of approval subject to conditions below.

DETERMINATION AND STATEMENT OF REASONS

32. Statement of Reasons

- The proposed development complies with the requirements of the relevant environmental planning instruments and development control plan.
- The proposed development satisfies the Heritage criteria of the site and the subdivision patten does not adversely impact upon the heritage significance of the dwelling.
- 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.

33. Determination

THAT pursuant to Section 4.16(1) of the Environmental Planning and Assessment Act 1979 (as amended), the Council approves development consent to Development Application No. DA2018/0293 for the Torrens title subdivision of one (1) lot into two (2) lots, partial demolition of a heritage listed residential dwelling (Heritage Item No. 188), demolition of outbuildings and infilling of an inground swimming pool at Lot 15, Section 8, DP 2297, and known as 37 Woronora Parade, Oatley, subject to the conditions below.

Section A 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
Plan of proposed subdivision	51637	18.07.18	1	S.J. Dixon Surveyors

Demolition Plan	5141-17	05/10/2018	E	Lyle Marshall & Partners Pty Ltd
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Section B Separate Approvals Required Under Other Legislation

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

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

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

3. **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.
4. **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 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.

5. 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 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.

6. 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.

7. 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 (Business and Commercial Services).

Section C Prior to the Issue of a Construction Certificate

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

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

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

Fee Type	Fee
Subdivision Certificate	\$436.00

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.

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

10. **Service Utilities – Land Subdivision Only** - Arrangements shall be made to the satisfaction of all Service Utility Authorities in respect to the services supplied by those authorities to the development. All services to any future dwellings erected on the site shall be underground.
11. **Erosion and Sedimentation Control** - Erosion and sediment controls must be provided to ensure:
- 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 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.
 - 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.

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.

12. **Stormwater System** - The stormwater plan shall be prepared for the driveway and future dwelling on the battle-axe lot, prepared by a professional engineer specialising in hydraulic engineering, shall be submitted for approval with the Construction Certificate.
- i. All stormwater shall drain by gravity to Council's kerb and gutter directly in front of the development site in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2015 (as amended)
 - ii. Stormwater drainage plans including pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits prepared by a professional engineer who specialises in Hydraulic Engineering in accordance with the Australian Institute of Engineers Australian Rainfall and Runoff (2005 or 2016) and Council's Stormwater Drainage Guidelines, shall accompany the application for the Construction Certificate.
13. **On Site Detention** - Stormwater plans of the drainage system for the future dwelling on the battle-axe lot, prepared by a professional engineer specialising in hydraulic engineering, and shall be submitted for approval with the Construction Certificate. An on-site detention (OSD) facility designed by a professional engineer who specialises in Hydraulic Engineering must be designed, approved and installed. Full details shall accompany the application for the Construction Certificate.
14. **Restriction to User for On-Site Detention Facility** - A Restriction on Use of the Land shall be created and registered on the title of the property, which places the

responsibility for the construction of the on-site stormwater management system on the battle-axe lot of the land. The terms of the instrument are to be in accordance with Council's standard terms and restrictions which are as follows;

Restrictions on Use of Land

The registered proprietor shall construct an onsite detention system for the future dwelling on the battle-axe lot. 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.

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

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

These plans shall be prepared in accordance with the Australian Institute of Engineers Australian Rainfall and Runoff (2005 or 2016) and Council's drainage guidelines in *Appendix 2 of the Hurstville Development Control Plan 1.*

16. **Driveway Construction Plan Details** - Detailed engineering plans for the driveway shall be submitted with the Construction Certificate application for approval 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).
 - (c) The full length of the driveway designed with a minimum 150mm thick reinforced concrete and minimum of 4.0 m wide pavement/kerb face to kerb face width, and a non-slip surface.

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

17. **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.

18. **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.

19. **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.
20. **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.
21. **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.
22. **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 E Prior to Construction

23. **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.

24. **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.
25. **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

26. **Torrens Title Subdivisions** - 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.

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.

- a) 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.
 - b) Plans of subdivision, Administration Sheets, 88B Instruments and copies must not be folded.
 - c) 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).
 - d) 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.
27. **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) The driveway stormwater/drainage works shall be completed in accordance with the approved Construction Certificate plans.
 - 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.
 - c) Replace all redundant vehicle crossing laybacks with kerb and guttering, and redundant concrete with turf.
 - d) A Final Occupation Certificate shall be obtained from the PCA upon completion of

the construction works required by the approved Construction Certificate.

- e) Sydney Water's Section 73 Compliance Certificate.
- f) The construction of the driveway shall be completed in accordance with the conditions and specifications of the Section 68 Local Government Act 1993 Activity Approval.
- g) A Section 73 (Sydney Water) Compliance Certificate for the Subdivision shall be issued and submitted to the PCA prior to the issue of the Occupation Certificate.
- h) Work as Executed Plans prepared by a Chartered Professional Engineer or a Registered Surveyor when all the site engineering works are complete shall be submitted to the PCA prior to the issue of the Occupation Certificate.

28. **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
- b) The following easements shall be created by Section 88B of the Conveyancing Act 1919 on the Final Subdivision Plan.
- c) Any necessary Easements to Drain Water, (minimum 1m wide).
- d) Any necessary Easements for Services (minimum 300mm wide).
- e) Any necessary Easements for overhanging roof structures.

29. **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 109J of the Environmental Planning and Assessment Act 1979.

To enable the determination of the application for a Subdivision Certificate by Georges River 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. All Relevant Subdivision Certificate Application Fees plus any 88B Checking Fee shall be paid prior to the issue of the Subdivision Certificate.
- (e) A copy of the 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.

Section G Ongoing Use

30. No approval is granted to works associated with the construction of any development on Proposed Lot B and any additions to the dwelling located on Proposed Lot A.

Section H Operational Requirements Under the Environmental Planning and Assessment Act 1979

31. **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.

32. **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 I Prescribed Conditions

33. **Clause 97A – BASIX Commitments** - This Clause requires the fulfilment of all BASIX Commitments as detailed in the BASIX Certificate to which the development relates.
34. **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.
35. **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.
36. **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.
37. **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

38. **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.

39. **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.

40. **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

41. **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).

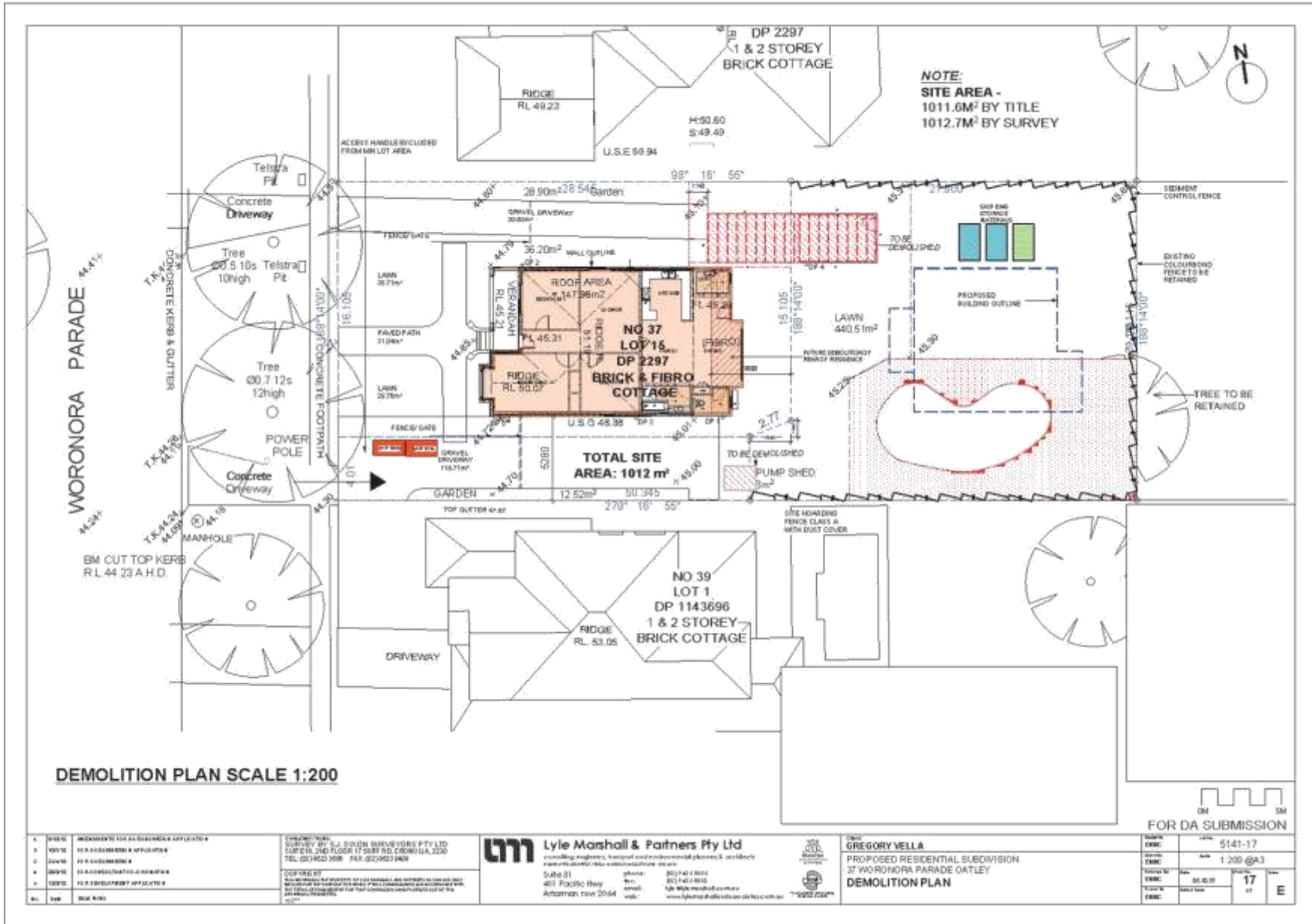
(f) A Subdivision Certificate cannot be issued unless all relevant conditions of the development consent that are to be satisfied prior to the issue of the Subdivision Certificate have been complied with.

42. **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.

LPP054-18

ATTACHMENTS

- Attachment [↓](#)1  Proposed Plan of Subdivision - 37 Woronora Pde Oatley
- Attachment [↓](#)2  Demolition Plan - 37 Woronora Pde Oatley



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

LPP055-18

LPP Report No	LPP055-18	Development Application No	DA2016/0224
Site Address & Ward Locality	65-67 Lawrence Street Peakhurst Hurstville Ward		
Proposed Development	Construction of a part 3, part 4 storey residential flat building containing 13 apartments, basement car parking for 19 vehicles and associated landscaping and site works		
Owners	MJN Australia, Nassif Family Holdings, Hega Developments, Grace Developments, Kamal Nassif		
Applicant	Louis Beaini		
Planner/Architect	Town Planner - Planning Principles, Architect - Design Workshop Australia		
Date Of Lodgement	22/08/2016		
Submissions	1 submission		
Cost of Works	\$3,000,000		
Local Planning Panel Criteria	Development is defined as a "Residential Flat Building", SEPP 65 applies and Clause 4.6 variation in respect to exceedance of the height control		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	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 (Vegetation in Non-Rural Areas) 2017, Draft Environmental State Environmental Planning Policy, Apartment Design Guide, Greater Metropolitan Regional Environmental Plan No 2 - Georges River Catchment, Hurstville Local Environmental Plan 2012, Hurstville Development Control Plan No 1 - LGA Wide		
List all documents submitted with this report for the Panel's consideration	Traffic Assessment – Transport and Traffic Planning Associates Architectural Plans Arboricultural Report – Allied Tree Consultancy Statement of Environmental Effects – Planning Principles		
Report prepared by	Senior Development Assessment Planner		

Recommendation	THAT the application be granted deferred commencement approval in accordance with the conditions included in the report.
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Summary of matters for consideration under Section 4.15 Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	Yes
Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report?	Yes

<p>Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?</p>	<p>Yes - Clause 4.6 Statement submitted in respect of height</p>
<p>Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (under s7.24)?</p>	<p>Not Applicable</p>
<p>Conditions Have draft conditions been provided to the applicant for comment?</p>	<p>No, standard conditions have been attached. Deferred Commencement conditions suggest design changes</p>

Site Plan



Sites outlined in red

Executive Summary

1. Council is in receipt of an application which proposes the construction of a four (4) storey residential flat building (RFB) comprising 13 residential apartments, basement car parking catering for 19 vehicles (including the car wash bay), landscaping and associated site works. Originally, the application sought demolition of the existing structures however the Applicant has removed this part of the proposal as one dwelling has been burnt down and the Applicant has obtained separate approval for demolition in accordance with the provisions of the State Environmental Planning Policy - Exempt and Complying Development.

2. The site is zoned R3 Medium Density Residential pursuant to the Hurstville Local Environmental Plan 2012 (HLEP), the proposal is a permissible form of development subject to Council's consent.
3. The development application was lodged on 22 August 2016 and has undergone a series of modifications since lodgement to address concerns raised by the Design Review Panel and Council (refer to development history for details). The most significant change is the relocation of two (2) apartments which were originally located at the rear but were submerged due to the site conditions providing poor amenity. These apartments have been removed from this location and have been located at the roof level.
4. The most recent set of amended plans were lodged on 23 March 2018. From the assessment of these plans there still remains some concern regarding the design. The concerns can be addressed by conditions however as they involve changes to the layout and relationship of the built form to the street, treatment and allocation of areas of open space and other design changes, Deferred Commencement Approval is considered more appropriate as Council can ensure the amended plans reflect the intended planning and design outcomes.
5. The proposal is isolating 69 Lawrence Street whose future development potential will be compromised by the development. The documentation provided by the Applicant since 2016 includes a number of market valuations that have been prepared and several offers made, confirms the neighbour is not prepared to sell the site. The valuation and offer has also been recently updated to reflect current market value conditions and too has been rejected. This documentation satisfies Council's assessment criteria in respect to ensuring all possible measures have been investigated in purchasing this adjoining site.
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.
7. Following a detailed assessment of the proposal, Development Application No. DA2016/0224 is recommended for determination as a Deferred Commencement Approval subject to conditions.

DESCRIPTION OF THE PROPOSAL

8. The proposed development seeks the construction of a four (4) storey RFB comprising of 13 residential units, basement car parking for 19 car parking spaces (including the car wash bay) associated landscaping and site works. Specifically, the proposed development will contain the following:

Basement:

- Parking for 16 resident car parking spaces (including 3 accessible spaces), 6 spaces are in a tandem arrangement.
- 3 visitor car parking spaces (including one car wash bay)
- Individual resident's storage spaces
- Bin storage room
- Lift cores, service shaft & fire stairs
- 5 bicycle spaces
- 1 car wash bay that doubles as a visitor space

Ground Floor:

- 2 x 1 bedroom apartments
- 1 x 2 bedroom apartment
- Void area located above the basement
- Lift lobby, 2 x staircases
- Rooms allocated for services

Level 1:

- 1 x 1 bedroom + study
- 2 x 2 bedroom apartments
- 1 x 3 bedroom apartment
- Lift lobby/circulation corridor, services shaft & fire stairs

Level 2:

- 3 x 2 bedroom apartments
- 1 x 3 bedroom apartment
- Lift lobby/circulation corridor, services shaft and fire stairs

Level 3:

- 1 x 2 bedroom apartment
- 1 x 3 bedroom apartment
- Communal open space (152.3sqm)
- Private courtyard to Apt 4-1 of 40.1sqm
- Private courtyard to Apt 4-2 of 23.8sqm
- Lift lobby/circulation corridor, services shaft and fire stairs



Figure 1: Perspective of the front elevation of the proposal (Amended Plans DWA Rev Q)

DESCRIPTION OF THE SITE AND LOCALITY

9. The subject site involves the amalgamation of 65 and 67 Lawrence Street, Peakhurst. The sites are generally regular in shape, with a combined frontage to Lawrence Street of 30.47m, depth of 36.32m and 36.07m respectively and a rear width of 35m to Forest Road. The combined site area amounts to 1182.5sqm (594.4sqm for 65 Lawrence and 588.10sqm for 67 Lawrence Street).



Site inspection photos 65 and 67 Lawrence Street Peakhurst



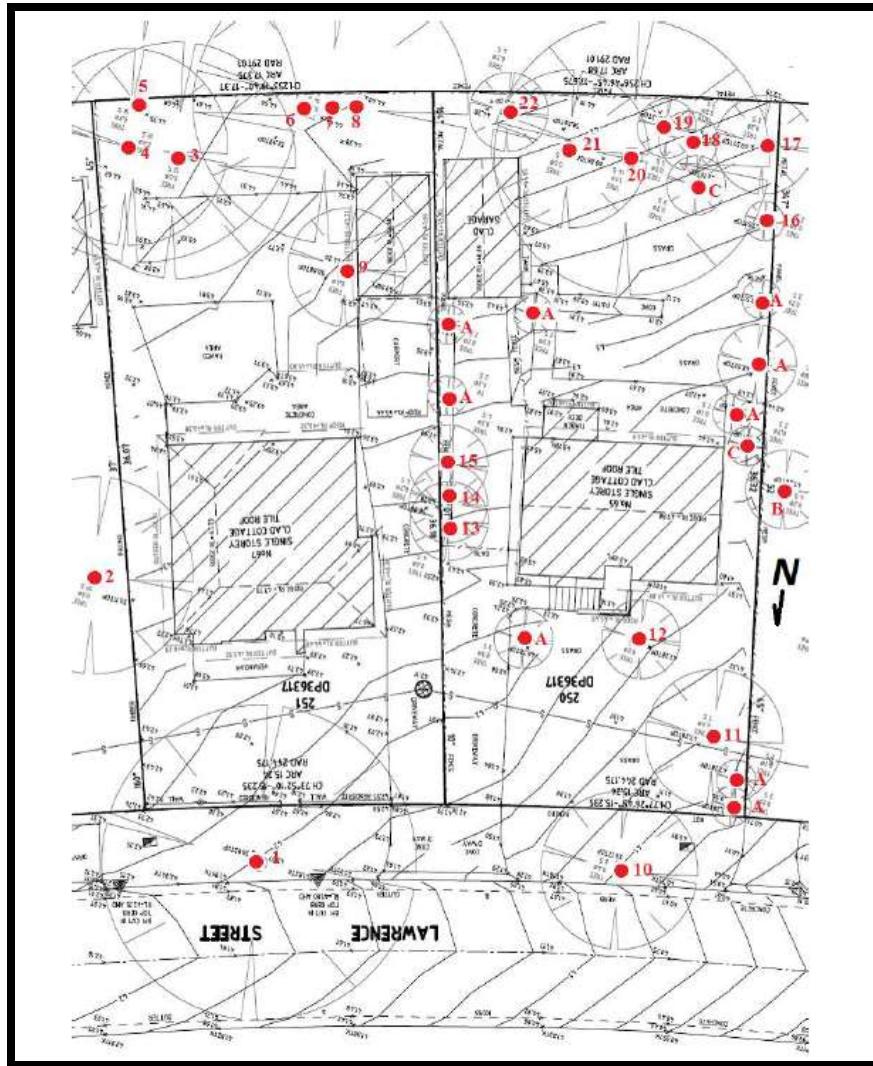
Site inspection photos 65 and 67 Lawrence Street Peakhurst



LPP055-18

Site inspection photos of 65 and 63 Lawrence Street Peakhurst

10. The legal description for both sites is Lot 250, DP36317 (65 Lawrence Street) and Lot 251, DP 36317 (67 Lawrence Street).
11. Existing on site is a single storey dwelling house at 67 Lawrence Street with a detached garage and carport off Lawrence Street and 65 Lawrence Street is currently a vacant site which has been levelled and generally cleared. The rear of the sites adjoin Forest Road, however there is a distance of some 6m from this roadway as there is a public verge which provides a buffer zone (known as Jacques Avenue Reserve).
12. Substantial trees and vegetation exist at the rear of the subject sites, and along the Reserve which provide visual screening, greenery and act as an acoustic buffer from the traffic noise along Forest Road. The application seeks to retain most of the vegetation at the rear but requires the removal of eleven (11) trees which will be affected by the building footprint. Council's Landscape Officer has raised no objection to the proposed removal of these trees. The development proposes replacement planting of trees that will achieve similar heights and spread.



Courtesy: Allied Tree Consultancy Arborist report, 2016

Figure 2: Location of existing trees on site some have been removed due to the house at 65 Lawrence St being affected by a fire

- 13. Both sites fall steeply from the rear (Forest Road) towards the front (Lawrence Street) by some 3m. There is also a cross-fall from the west to the east by approximately 900mm (front) and approximately 500mm at the rear.
- 14. Immediately to the south of the site is a large public verge which is adjacent to Forest Road a busy classified roadway. Lawrence Street is dominated by a variety of newly constructed 3-4 storey residential flat buildings and two (2) storey attached dual occupancy developments. Very few original dwelling houses have been retained. To the east is 69 Lawrence Street which is a single storey detached dwelling house with a freestanding garage at the rear of the property. Further east is a residential flat building at 71-75 Lawrence Street.
- 15. The site is conveniently located within close proximity to a series of local amenities and services including Peakhurst Park and the neighbourhood shopping precinct along Park Street to the south. The streetscape is in the process of transition to a largely medium density environment.

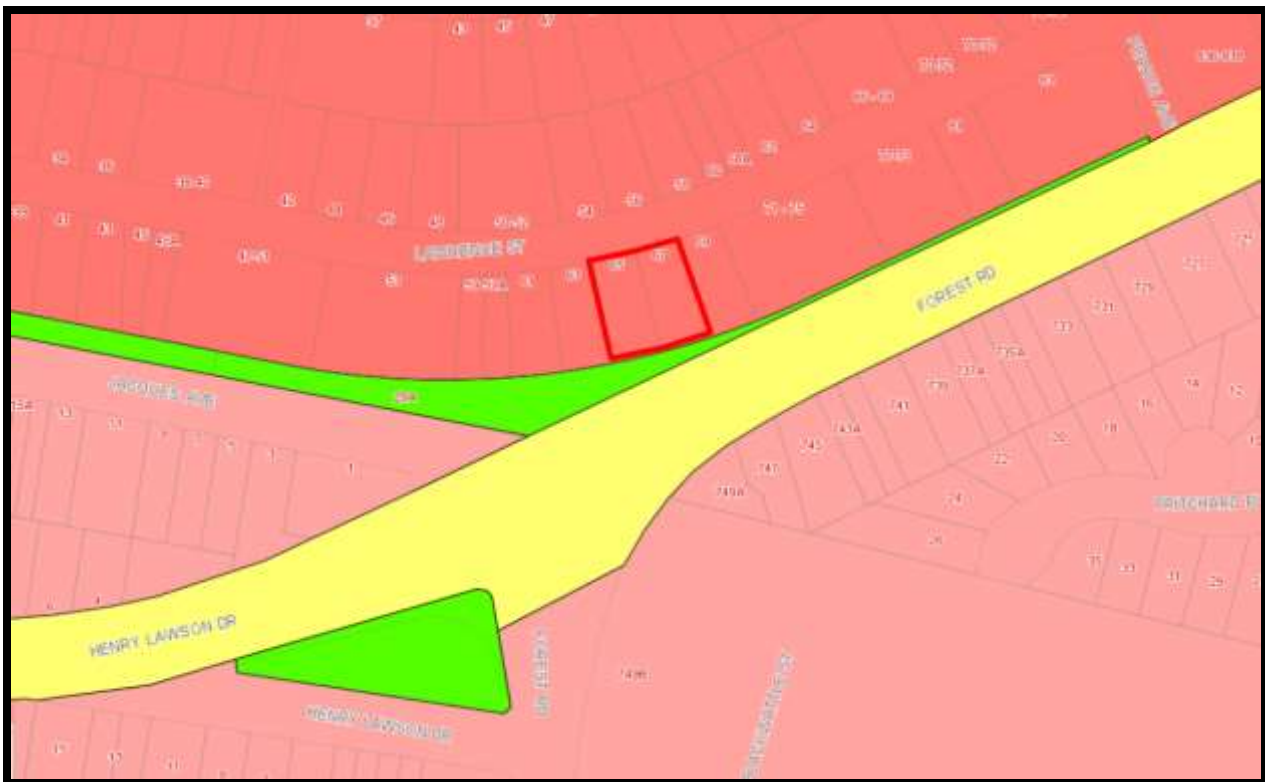
ZONING

- 16. The subject site is zoned R3 – Medium Density Residential under the Hurstville Local Environmental Plan 2012 (HLEP) and the proposed Residential Flat Building is

permissible in the zone with the consent of Council. The proposal satisfies the zone objectives which are:

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

The site is not affected by Acid Sulphate Soils, is not Flood Prone and is not a designated Heritage Item or located within a Conservation Area.



Zoning map – the subject sites are outlined in red

**APPLICABLE PLANNING CONTROLS
PLANNING ASSESSMENT**

Environmental Planning Instruments

Hurstville Local Environmental Plan 2012

17. The provisions of the Hurstville Local Environmental Plan (HLEP) apply to the proposed development which complies with the relevant provisions as follows.

Clause	Standard	Proposal	Complies
2.3 – Zone objectives	R3 – Medium Density Residential	Consistent with the zone objectives	Yes

and land use table		and land use table	
4.3 – Height of Buildings	12m as identified on Height of Buildings Map	13.25m	No (1)
4.4 – Floor Space Ratio	1:1 as identified on Floor Space Ratio Map	FSR = 0.98:1	Yes
4.6 – Exceptions to development standards	Formal written request required addressing provisions of Cl.4.6	Formal written request lodged and addressed in detail as part of this assessment	Yes - Clause 4.6 Statement addresses relevant provisions of Clause 4.6

(1) - Height of Buildings

The proposed development seeks a variation to the development standard relating to height. HLEP identifies a maximum height of 12m. The proposed development will have a maximum height of approximately 13.25m for part of the development. A variation to the height can be considered under Clause 4.6 – Exceptions to Development Standards in the HLEP. In assessing the variation, the provisions identified in Clause 4.6 have to be considered. The applicant’s town planning consultant, Planning Principles has provided a response which is detailed and considered below.

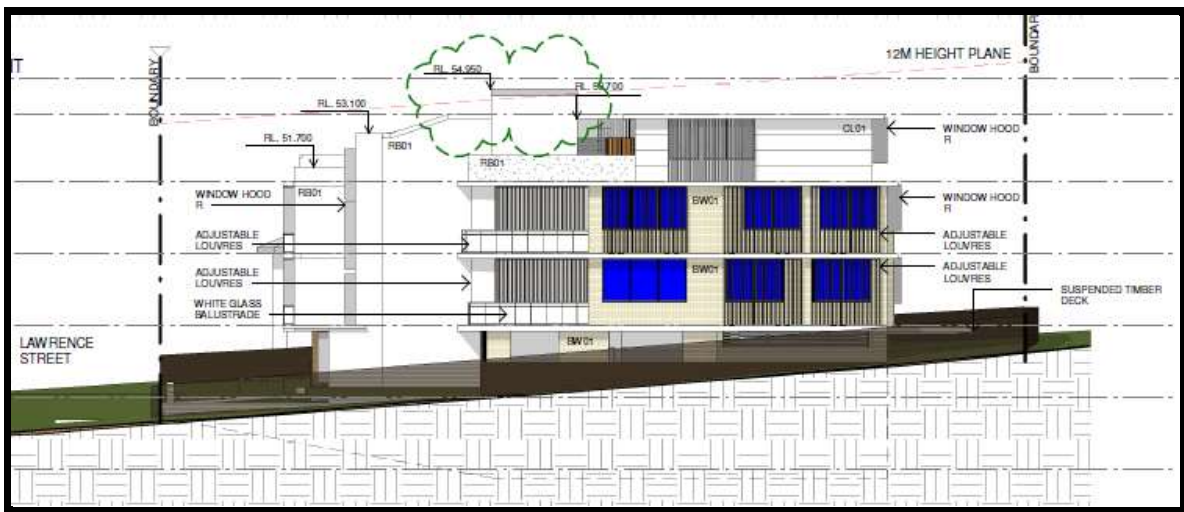


Diagram showing height above 12m circled in green

Figure 3: Western Elevation of the building showing the area of non-compliance with the height control.

Clause 4.6 Exceptions to development standards

18. The objectives of Clause 4.6 are as follows:

- (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.

The Applicant has shown the elements which exceed the height control and include the following:

- The lift over run which reaches RL54.950 and achieves an overall numerical height of 13.25m, amounting to 1.25m over the height control.

- A flat roof extension of 50mm.

The non-compliance amounts to a 10% variation in the standard.

Is the planning control in question a development standard?

Yes Clause 4.3 Height is a development standard.

What is the underlying objective or purpose of the standard?

The objectives of Clause 4.3 Height Standard are;

- to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,*
- to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development and to public areas and public domain, including parks, streets and lanes,*
- to minimise the adverse impact of development on heritage items,*
- to nominate heights that will provide a transition in built form and land use intensity,*
- to establish maximum building heights that achieve appropriate urban form consistent with the major centre status of the Hurstville City Centre,*
- to facilitate an appropriate transition between the existing character of areas or localities that are not undergoing, and are not likely to undergo, a substantial transformation,*
- to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain.*

Applicant's comment:

"It is necessary to anticipate the purpose behind Council's imposition of such a planning control. In our opinion the purpose behind a Building Height standard of this nature is to ensure bulk and scale of development is compatible with the existing and likely future character of a locality, and to ensure that a development's intensity does not adversely impact upon streetscape appearance and amenity levels of adjoining properties, particularly privacy and overshadowing impacts.

The proposed development is consistent with the bulk and scale of approved developments surrounding the site, with no detrimental environmental or streetscape impacts perceived, with the majority of the structure forming part of this assessment located within the building height. The non-compliant portions of the building will in general remain unseen.

The over building heights, setbacks and façade treatments are consistent with the future character for proposed development onsite. Therefore, the proposed development will not impact further on amenity levels of adjoining properties due to overshadowing or bulk and scale. The developments impacts are consistent with impacts that may be reasonably expected under the controls.

Based on shadow diagrams analyses, daylight access upon adjoining properties is considered unaffected. Daylight access to the public domain will also remain unaffected, primarily because public areas are not in close proximity to the lift overrun.

The Objectives of the R3 Medium Density Residential Zone are;-

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

The proposal is capable of satisfying the above objectives, particularly to provide for the housing needs of the community within a medium density residential environment and to provide a variety of housing types within a medium density residential environment. The height of the development is compatible with the character, amenity and landform of the area in which the development will be located.

Is compliance with the development standard consistent with the aims of the policy and in particular does compliance with the development standard tend to hinder the obtainment of the objects specified in s5(a)(i) and (ii) of the EP&A Act?

The non-compliance must not “*hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Act.*”

Section 5 of the Environmental Planning and Assessment Act 1979 (as amended) provides:

The objects of this Act are...

(a) to encourage

- i. the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, town and villages for the purpose of promoting the social and economic welfare of the community and a better environment;*
- ii. the promotion and co-ordination of the orderly and economic use and development of land;*

The proposed development is consistent with the objects nominated in section 5(a)(i) & (ii) of the Environmental Planning and Assessment Act 1979 (“the Act”). The proposal represents a reinvestment in the residential stock in the locality. To enforce strict compliance with Clause 4.3(2) of the Plan will not promote the orderly or economic development of the land, as it would result in an under-utilised property and would result in a development that is not consistent with other nearby development.

The proposed variation will not contravene these Objects of the Act. Management of the existing residential and environmental environment to achieve better community outcomes will be improved by providing a lift design that breaks up the scale of the roof form through formal articulation. The design allows for a reasonable built form which reduces the potential for adverse impact on nearby and surrounding development. In summary, it is considered that the environmental impacts are so minor that the variation does not require detailed quantification as there is no potential for adverse impact onsite or to adjoining development.

Specifically, to enforce strict compliance would be to compromise on the economic and social potential of the subject property. Strict compliance is therefore not consistent with the aims and objectives of section 5(a)(i) and (ii) of the Act.

Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective can be achieved. However, if the proposed development proffers an alternative means of achieving the objective, strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served).

The development achieves the environmental and planning objectives relevant to a development of this nature. The non-compliance in regard to building height is considered minor – less than 10% and does not represent an overdevelopment of the site, does not result in a visually dominating development and does not result in negative externalities upon adjoining or nearby development, in particular reduced amenity.

The proposed development satisfies the objectives behind the Council's building height control. The non-complaint building height results in an overall increase in building height of 1.25metre or of less than 10% and will not compromise the objectives of the height control standard.

Non-compliance with the development standard does not raise any matter of local, state or regional environmental planning significance. Strict compliance with clause 4.3(2) of the Plan would hinder the attainment of the objects listed in section 5(a)(i) and (ii) of the Act.

Based on shadow diagrams analyses, daylight access upon adjoining properties is considered unaffected. Daylight access to the public domain will also remain unaffected, primarily because public areas are not near the lift overruns.

The non-compliant building height will not impact on the streetscape of Lawrence Street with the developments impacts consistent with impacts that may be reasonably expected under the controls. The height of the development is compatible with the character, amenity and landform of the area in which the development will be located.

The proposed development will be in the public interest as it is consistent with the objectives of the particular development standard and objectives for development within the zone in which the development is proposed to be carried out.

The non-compliant building height is necessary given the site constraints of the sloping of the land. The building has been stepped down the site in conjunction with the contours of the land.

The development replaces dwellings with a high quality Residential Flat Building with exceptional internal and external amenity outcomes, and

The non-compliant height of building relates to the lift overrun of which is located in the core of the building and will not detracted from the building form and will not be viewed from Lawrence Street.

The impacts are minor that the variation does not require detailed quantification as there is not potential for adverse impact on adjoining development. There are sufficient environmental planning grounds to justify contravening the development standard and in the circumstances of the proposed development, the consent authority should invoke its powers under Clause 4.6 of the Hurstville Local Environmental Plan 2012 (HLEP2012) and support the variation in this circumstance as strict compliance with the development standard is unnecessary as the purpose behind the environmental planning grounds are satisfied serve no purpose enforcing compliance.”

Comment: Applicant’s argument is generally accepted in that the degree of non-compliance is considered satisfactory. The non-compliance affects a small area of the building (notably 1.25m of the lift overrun and 50mm of the roof parapet). The area of non-compliance amounts to 10% and is considered small scale and confined to a small proportion of the roof (the lift overrun amounts to an area of some 1m x 2m).

The lift core is setback over 6m from the western side of the building and over 12m from the front boundary. The structure is not envisaged to be visible from the street and public domain.

The non-compliance does not generally compromise the attainment of the objectives of the zone which essentially promotes development of a medium density character and scale which is achieved by this development. The lift location and its functioning is considered satisfactory and this is essentially the area that exceeds the control.

The height and the area of the variation in this case generally satisfies the objectives of the height control which are to minimise and regulate amenity impacts and ensure the scale and form of the building is consistent with the desired future character for development in the street and locality. Given the new larger scale medium density developments that have been approved and currently under construction in the street this proposal would be generally consistent and in line with those developments. The area of non-compliance is considered minor and will not create any adverse amenity impacts in terms of overshadowing (as it will overshadow the rooftop area of the subject development and not extend beyond the boundaries of the Site), overlooking or create any undue view loss.

In respect to the small section of the parapet to the fourth floor exceeding the height control by 50mm, a deferred commencement condition will require the vergola to be setback and reduced which should address this non-compliance. The remainder of the roof form and parapet is well within the 12m height limit.

The recent Court decision *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, Preston CJ further clarified the correct approach in the consideration of Clause 4.6 requests. This advice further confirms that the Clause (4.6) does not require that a development that contravenes a development standard must have a neutral or better environmental planning outcome than one that does not. In this case the variation will not adversely affect the design of the building and the Clause 4.6 request has adequately addressed the provisions and requirements of the Clause.

As held in *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7 at [39], Preston CJ confirmed (at[25]) that the test in 4.6 (4)(a)(i) *does not* require the consent authority to *directly* form the opinion of satisfaction regarding the matters specified. Rather, it needs to do so only *indirectly* in forming its opinion of satisfaction that the applicant's written request has adequately addressed the matters required to be demonstrated.

By contrast, the test in cl4.6(4)(a)(ii) requires that the consent authority must be directly satisfied about the matter in that clause; namely that the development will be in the public interest because it is consistent with the objectives of the development standard and the objectives for development of the zone in which the development is proposed to be carried out.

After careful consideration of the Clause 4.6 request it is considered that the non-compliance in this case is acceptable and the request is well founded and the variation will satisfy the objectives of both the zone and development standard and therefore satisfies the provisions of Clause 4.6.

Environmental Planning and Assessment Regulations 2000

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

State Environmental Planning Policies

20. Compliance with the relevant State Environmental Planning Policies is detailed and discussed below.

Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment

21. This REP is applicable to the subject site and the aims 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.*

The proposal generally satisfies the objectives and provisions of the REP.

State Environmental Planning Policy 55 – Remediation of Land

22. SEPP 55 identifies that the following is to be considered in determining a development application.

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).*

The provisions of SEPP 55 require the consent authority to determine if the land the subject of the application is contaminated, and whether it is appropriate for the proposed development having regard to subclause (4).

The subject site contains an older style single storey dwelling house at 67 Lawrence Street and 65 Lawrence Street is currently vacant. A desktop review has been conducted and it is evident that both sites have been historically used for residential purposes for many decades.

Table 1 of the Contaminated Land Planning Guidelines identifies contaminating uses that would trigger the preparation of a preliminary site investigation plan to determine if and the extent of any contamination. The uses of the site identified in Council's records do not show any uses identified in Table 1. Council's records also do not show any action or information relating to contamination being identified on the site.

23. Clause 101 of the SEPP relates to development with frontage to a classified road. Forest Road is located at the rear of the Site. This roadway is a classified arterial road however there is no access from the site to this roadway. As such Clause 101 is not applicable in this case. Clause 102 of the SEPP (Infrastructure) relates to the assessment and consideration of road noise or vibration on non-road development. This clause is applicable to developments that are *“on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 20,000 vehicles”*. The RMS website includes traffic volumes at various locations. The corner of Forest Road and Stoney Creek Road which is some 200m to the east of the site records traffic volumes in excess of 30,000 vehicles daily. The subject site does not address Forest Road and is screened and setback from the roadway by an existing vegetated verge however an acoustic report was prepared and accompanies the application.

In accordance with the SEPP a condition is included to ensure that the recommendations of the acoustic report are integrated into the construction of the building and a condition is included to ensure that *“development for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:*

- (a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am,*
- (b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.”*

Which is in accordance with the provisions of the SEPP.

The recommendations within the acoustic report relate to installing appropriate double glazing to windows, insulation, minimum wall thicknesses being incorporated etc.

State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development

24. The extent to which the proposed development complies with the controls and principles in the State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development (SEPP 65) and the Apartment Design Guide (ADG) is detailed and discussed in the tables below.

Application of SEPP 65

Clause	Standard	Proposal	Complies
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	Comprises the erection of a new residential flat building	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 Robert Gizzi (Registration No.8286)	Yes
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LPP055-18

Part 2 Design Quality Principles under the SEPP

25. The original proposal was referred to the Design Review Panel (DRP) on 6 October 2016 and the Panel was critical of the design when assessed it against the nine (9) Design Quality Principles and ADG. The main issue was the originally proposed ground floor units at the rear which were located substantially below ground and received minimal solar access and internal amenity was considered to be unacceptable.

The proposed development was amended on 23 December 2016 by removing the two (2) ground floor apartments at the rear and relocated this floor space to the roof where the two (2) units were relocated. The amended plans were referred back to the Panel on 6 May 2017 and the Panel felt that the amended plans addressed the original concerns subject to some minor further changes to occur in respect of ventilation etc. These changes were captured in the most recent sets of amended plans (5 September 2017 and 23 March 2018). The application has in total been amended 4 times in response to DRP comments and Council Officers.

The table below highlights the comments in italics which are the original DRP comments and the latest comments provided at the last DRP meeting are in black.

Clause	DRP Panel comments	Complies
1 – Context and neighbourhood character	<p><i>The site is in an evolving neighbourhood with three (3) storey residential flat buildings on a steeply graded topography. The southern boundary of the site adjacent to Forest Road has a high point of RL44.75AHD and falls steeply to Lawrence Street to a low point of RL40.71AHD. The significant tree planting at the rear of the site and along Forest Road is important to separate the busy road and the residential neighbourhood. The established street trees on Lawrence Street are a significant neighbourhood asset and contribute to amenity for residents.</i></p> <p>The design takes little account of the constraints imposed by the site topography and existing trees. The ground floor level shown at RL42.10AHD poses significant problems in terms of disabled access from the street (a ramp noted at 1:20 would have to be much steeper in fact), and elevation on the north western side and setting the building below ground level on the southern side limiting opportunities for outlook, windows and impacting severely on</p>	Yes contextually the development is consistent with the changing nature of the street.

	<p><i>neighbouring sites and trees which the documents show as retained. A design that acknowledges site constraints that adopted split level floor plates would avoid these deficiencies.</i></p> <p>The revised proposal would sit much more comfortably within the topography and existing trees. The entry level comes directly off Lawrence Street for a half level only allowing the first level to connect with the elevated rear portion of the site.</p> <p><i>69 Lawrence Street is isolated between the proposal and the units to the east. The assertion made in the Statement of Environmental Effects that 69 Lawrence Street could be developed for multi dwellings and not residential flat building has not been demonstrated in any of the information supplied with the application.</i></p> <p>The above still applies. It is understood that reasonable offers have been made for the adjacent property, 69 Lawrence Street, which have not been accepted. This information has been updated as at 29 October 2018.</p>	<p>The Applicant has been requested to provide an update in respect to the property valuation which dates back to late 2016 and to provide formal confirmation that 69 Lawrence St has not accepted any offers.</p>
<p>2 – Built form and scale</p>	<p><i>As noted above the proposal to develop a single floor plate on one (1) level across the site is highly problematic and results in:</i></p> <ul style="list-style-type: none"> • <i>the rear units being below the ground in the southern boundary (approximately 1.6-2.5m)</i> • <i>the retaining wall on the western side of the courtyards to Units 1.4 and 1.5 up to a height of more than 2m</i> • <i>retaining walls on the eastern side of the courtyards to Units 1.2 and 1.3 would be over 2m high</i> <p><i>This approach to the levels distorts the scale of the building by pushing it into the ground. Furthermore this has significant impacts on the resolution to the front landscape setback and entrance (requiring extensive ramping which is highly unattractive as demonstrated by the development to the east).</i></p> <p>The revised plans and levels have resolved this concern.</p> <p><i>The public domain is further compromised by</i></p>	<p>Although the Panel believe the amended plans have resolved some of the initial concerns regarding layout and level changes Council Officers are still not satisfied with the design resolution of the building and its relationship to the area of communal open space at the rear.</p> <p>Location and treatment of</p>

	<p><i>locating services including an above ground sub-station, fire hydrant and booster, in the front landscape zone addressing the street. These services should be relocated into the footprint of the building.</i></p> <p>It is unclear if these issues have been fully resolved at this stage.</p>	external services dealt with as a condition.
3 - Density	<p><i>Complies</i></p> <p>No further comment</p>	Yes
4 – Sustainability	<p><i>The significant site trees contribute to neighborhood sustainability providing habitat and shade. The current landscape proposal retains some of these trees, however the arboricultural report conflicts with these proposals. Every effort should be made to retaining these significant native trees on the site. This includes careful resolution of building footprints to minimise excavation in tree root zones.</i></p> <p><i>Subject to BASIX.</i></p> <p><i>The units will be unlikely to achieve 3hrs of solar access in mid-winter between 9am and 3pm to more than 60% of the units. There are large areas of glass facing east and west with no apparent solar protection.</i></p> <p>These issues have now been resolved with the revised plans.</p>	<p>Yes – most trees are intended to be retained at the rear</p> <p>Yes – solar access provision has been improved by the removal of ground floor units which would have received very poor sunlight access due to their location below ground.</p>
5 - Landscape	<p><i>The compromised building footprint has created highly problematic landscape at ground level. Fundamental changes to the building proposal to step the building would minimise requirements for excessively high retaining walls and improve the interface to the street. Other issues include:</i></p> <ul style="list-style-type: none"> <i>• inaccessible open space on the rear of the site due to poor ground floor layout</i> <i>• insufficient provision of medium to large scale trees to replace trees to be removed</i> <i>• configuration of ramp and stairs at Lawrence Street frontage would create an unattractive wall to the street</i> <i>• lack of sufficient space for adequate boundary planting to the western boundary, particularly within the courtyards</i> <i>• excessive paving and inadequate</i> 	<p>Yes</p> <p>Although the amended plans have improved some elements of the landscape design there are still level changes and a poor relationship with the areas of ground floor areas of open space. This can be addressed by a deferred commencement condition.</p>

	<p><i>provision of planting zones on roof top terrace</i></p> <p>These issues have largely been resolved.</p> <p><i>It is critical that the built form strategy be modified to reduce the need for excessively high retaining walls, ramps and steps to improve landscape spaces at ground level. Alternative proposal to minimise excessively long ramps in landscape setbacks should be explored.</i></p> <p>These issues have largely been resolved.</p> <p><i>The proposal to replace the Brush Box tree to be removed on Lawrence Street is important. A large scale tree (400L minimum) should replace this tree.</i></p> <p>The Panel congratulates the proponent on keeping the significant Brush Box tree on the nature strip.</p> <p><i>Services including the sub-station, fire hydrant and booster should be removed from the front landscape area and included within the building footprint.</i></p> <p>The proponent should confirm that these issues have been appropriately addressed.</p>	
<p>6 - Amenity</p>	<p><i>Access to ground level landscape space on the southern boundary could be achieved through providing an access corridor through the centre of the building. This would improve access for residents and provide outlook from lobby.</i></p> <p><i>A number of short-comings have been identified in the unit layouts:</i></p> <ul style="list-style-type: none"> • <i>Unit 1.5 has no bench space in the kitchen</i> • <i>Unit 1.4 bedroom 2 has no window</i> • <i>Unit 1.2 has no access to the side courtyard</i> • <i>windows to Units 1.3 and 1.4 on the south wall have high sills and poor amenity in terms of natural light and ventilation</i> • <i>Units 2.4 and 3.4 rely totally on western facing windows with little solar protection</i> 	<p>Yes – access to the communal area of open space has been provided through the building. Unit layouts have been improved.</p>

	<ul style="list-style-type: none"> • <i>the balconies to Units 2.4 and 3.4 is badly orientated and dysfunctional</i> • <i>the plans show no windows to bedroom 1 of Units 2.4 and 3.4 and bedroom 1 of Units 2.3 and 2.4 but the south elevation shows high level windows which would provide very poor amenity. High sills are totally unnecessary in terms of privacy.</i> • <i>Unit 3.3 has no door to the balcony on the plans</i> <p>All these issues have been resolved.</p> <p>Additional natural ventilation should be provided where possible to the basement car park perhaps by way of roof lights/vents. It appears likely that the need for mechanical ventilation could be avoided.</p> <p>Glass balcony balustrades should have at least part solid materials and/or adjustable screening.</p>	
7 – Safety	<p><i>The main entrance is deeply recessed and provides a place of concealment.</i></p> <p>This issue has been resolved.</p>	Yes
8 –Housing diversity and social interaction	<p><i>Acceptable mix of units has been provided. Communal open space is extremely poor. Refer to comments above in ‘Landscape’.</i></p> <p>This has been resolved with the addition of a roof garden. However the Panel has minor concerns with the privacy screening to the private courtyard on the roof and the potential shadow impacts of the vergola on the private space and living room of Unit 4.1.</p> <p>The rear common space ‘suspended timber deck’ should be integrated with the existing ground surface level by providing seating, step and stair access. It is important that the deck does not significantly impact on the functional area of deep soil planting in this common open space.</p>	Yes
9 - Aesthetics	<p><i>The Panel did not receive any information on materials and colour selections. Unresolved treatment of large areas of glass on the east and west leaves doubt as to the ultimate façade treatments.</i></p> <p>With the refinement of the design, this has</p>	Yes

	been resolved and the design promises to be an attractive and appropriate addition to this medium to high density residential precinct.	
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Clause 30 – Consideration of Apartment Design Guide

Clause	Standard	Proposal	Complies
2E – Building depth	12-18m	18.79m – 23m	No however the non-compliance is considered minor and the depths still obtain compliant levels of solar access and cross ventilation.
2G – Street setbacks	Align street setbacks with building use. For example in mixed use buildings a zero street setback is appropriate	The proposal is forward of the existing building alignment of the adjoining properties, at present they are existing housing stock that have not been developed. HDCP suggests a front setback of 6m. The proposal is setback between 4.8m to 6m. It is recommended to reduce the awning above the entry and the front balconies to achieve a more consistent front building alignment. This can be achieved without compromising the amenity of the development for future occupants.	No – however the Deferred commencement conditions recommended intend to improve the siting and location of the building which will be consistent with other approved and constructed residential flat buildings in the streetscape.
3D-Communal and Public Open Space	1. Communal open space has a minimum area equal to 25% of the site. -Where it cannot be provided on ground level it should be provided on a podium or roof -Where developments	204.6sqm (rear) 52.5sqm (front) 152.3sqm (roof top) Total = 409.4sqm Equates to 35% A large amount of communal open space is provided at the rear, its relationship to the	Numerically – Yes Layout and functionality is unacceptable. Conditions seek to improve this situation by providing a more accessible

	<p>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"> • provide communal spaces elsewhere such as a landscaped roof top terrace or a common room • provide larger balconies or increased private open space for apartments • demonstrate good proximity to public open space and facilities and/or provide contributions to public open space <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>building and the ability to access it from the units is considered to be poor. Linkages and connectivity to these spaces is unacceptable and can readily be improved. Deferred commencement conditions seek to improve this relationship and create separate external access through to this rear space without impact the adjoining allotments and future occupants of the development.</p> <p>Over 50% of the area of the communal open space receives ample solar access as the landscaped area at the front and on the roof top is well orientated.</p>	<p>route and layout.</p>
<p>3E- Deep Soil Zones</p>	<p>1. Deep soil zones are to meet the following minimum requirements:</p> <p>-Where site area is between 650sqm and 1500sqm = 3m minimum dimension</p> <p>Deep soil = 7%</p>	<p>There are two main areas that allow for deep soil zones at the front and rear; both areas have a minimum width of 3m.</p> <p>Site area is 1182sqm.</p> <p>The proposal provides for 257sqm of deep soil area which amounts to a total of 22% of the site. Unfortunately most of the area is at the rear which is south facing.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

<p>3F- Visual Privacy</p>	<p>1. 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 rooms and balconies = 6m (12m separation distance) Non-habitable rooms = 3m (6m separation distance)</p>	<p><u>Eastern Side</u> Ground floor = min 5m (to bedrooms however the building wall has no openings along this side) 6m</p> <p>First and second floor = 5m-6m (bedrooms don't have any openings along the wall where setback 5m)</p> <p>Fourth Floor/Roof level = over 6m apart from courtyard to Apt 4-1 which is setback 5.5m</p> <p><u>Western side</u> Ground floor = 4.5m First, second and fourth floor/roof level = 6m</p> <p><u>Rear</u> Ground, First and Second floor = 6m Roof = 6.87m</p>	<p>Yes</p> <p>Yes</p> <p>Partial non-compliance – condition to ensure compliance</p> <p>Numerically no, however these windows are located at and below the dividing fence height, therefore there is no adverse visual privacy impacts from these ground floor rooms.</p> <p>Yes</p>
<p>3H-Vehicle Access</p>	<p>Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes</p>	<p>The vehicular driveway is located along the western side of the Site. A driveway width of 6m is proposed. The driveway grade is compliant with AS2890.1</p>	<p>Yes</p>
<p>3J- Access and parking</p>	<p>1. For development in the following locations:</p> <p>On sites that are</p>	<p>The site is not within 800mm of a train station or light rail stop so Council's DCP provisions for Car</p>	<p>Yes Assessed in detail in DCP table below.</p>

	<p>within 800m of a railway station or light rail stop in the Sydney Metropolitan Area;</p> <p>- 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</p> <p>The car parking needs for a development must be provided off street</p>	<p>Parking are applicable.</p> <p>A detailed assessment in conjunction with the HDCP is provided below.</p> <p>19 required and 19 provided.</p>	
4A- Solar Access	<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>A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter</p>	<p>The living area of Apt 1-3 is unlikely to obtain the 2 hours of solar access as it is partially below ground level however most other living spaces will receive the minimum amount due to their orientation.</p> <p>7% (1 apartment) doesn't receive the minimum amount of solar access</p>	<p>Yes</p> <p>Yes</p>
4B- Natural Ventilation	<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</p>	<p>The Applicant claims 100% of units are cross ventilated however Apartment 1-1 won't achieve the minimum which is a 7% non-compliance.</p> <p>Most apartments have depths of 12-13m.</p>	<p>Yes</p> <p>Yes</p>

	exceed 18m, measured glass line to glass line		
4C – Ceiling Heights	<p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <p>Habitable rooms = 2.7m</p> <p>Non-habitable rooms = 2.4m</p>	<p>The ground, first and second floor level have a total floor to ceiling height of 3m. This is below the 3.1m required in order to achieve a 2.7m internal floor to ceiling height.</p> <p>The roof level has a height of 2.8m which will create a floor to ceiling well below the 2.7m as this includes the concrete slab thickness.</p>	No – however can be conditioned to comply and the increase in height will be some 250mm which will not have any habitable areas exceeding the height limit.
4D-Apartment size and layout	<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 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>1 bedroom = min 50sqm 2 bedroom = min 70sqm 3 bedroom = min 90sqm</p> <p>N/A</p> <p>Window provided for each habitable room with an appropriate glass area provided.</p>	<p>Yes</p> <p>Yes</p>
4D-Apartment rooms, location and sizes	Habitable room depths are limited to a maximum of 2.5 x the ceiling height	Complies	Partial non-compliance for Apt 2-3 however open plan nature of the

	In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window	Open plan layouts are less than 8m from a window. Apt 2-3 falls slightly short of the requirement.	internal living space will provide the kitchen adequate solar access and ventilation which satisfies the design criteria.
	<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>Living rooms or combined living/dining rooms have a minimum width of: -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>Development complies with these requirements</p> <p>Yes compliant</p> <p>Yes compliant</p> <p>No cross over or cross through apartments.</p>	Yes
4E-Private Open Space and balconies	<p>All apartments are required to have primary balconies as follows:</p> <p>-1 bedroom = 8sqm/2m depth -2 bedroom = 10sqm/2m depth -3+ bedroom = 12sqm/2.4m depth</p> <p>The minimum balcony depth to be counted</p>	All balcony areas are greater than dimensions required.	Yes

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	<p>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>Courtyards have areas of 20sqm, 26sqm, 23sqm and 31sqm all exceeding the minimum 15sqm requirement and satisfies the minimum depth.</p>	<p>Yes</p>
4F-Circulation spaces	<p>The maximum number of apartments off a circulation core on a single level is eight</p>	<p>Maximum 4 units off the circulation core</p>	<p>Yes</p>
4G- Storage	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <p>1 bedroom - 6m³ 2 bedroom - 8m³ 3 bedroom - 10m³</p>	<p>All units have internal storage solutions in the form of cupboards, WIR and internal laundry's, the basement also includes allocated self-contained storage cages.</p>	<p>Yes</p>
4K – Apartment Mix	<p>A variety of apartment types is provided</p>	<p>3 x 3 bedroom apartments (23%) 7 x 2 bedroom apartments (54%) 3 x 1 bedroom apartments (23%)</p>	<p>Yes</p> <p>Appropriate mix of unit types is proposed.</p>
4M - Facades	<p>Facades should be well resolved with an appropriate scale and proportion to the streetscape and human scale.</p>	<p>The façade is well articulated and varied through the use of different materials and finishes.</p>	<p>Yes</p>
4N- Roof Design	<p>Roof treatments are integrated into the building design and positively respond to the street.</p> <p>Opportunities to use roof space for residential</p>	<p>Roof design is appropriate and integrated as part of the design of the development.</p> <p>The provision of a large vergola at the roof level is considered bulky and</p>	<p>Yes – the vergola structure at the roof level is proposed to be reduced and this will minimise the scale and bulk of this structure</p>

	accommodation and open space are maximised. Incorporates sustainability features.	inappropriate, the applicant via a deferred commencement condition will be required to reduce the extent of the structure to be more recessive.	at the upper level.
4O-Landscape Design	Landscape design is viable and sustainable, contributes to the streetscape and amenity	The amount of landscaped area is considered satisfactory however the quality and accessibility arrangements to the area of open space at the rear will be required to be improved.	Yes – conditioned so that access to the rear area of open space is provided in a more accessible manner.
4P-Planting on structures	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.	Landscaping to the site which includes planting on structures has been designed by qualified landscape architect with details provided on species and soil depth. The Landscape Plan details the proposed planting arrangement and includes a series of larger trees and vegetation within the deep soil zones and retains some of the mature trees at the rear.	Yes – Landscape Plan and arrangement will need to be updated as per Deferred Commencement conditions.
4Q-Universal Design	Universal design – design of apartments allow for flexible housing, adaptable designs, accommodate a range of lifestyle needs	Design and mix of apartments allows for different occupants with varying lifestyles from singles to families.	Yes
4R-Adaptive Reuse	Adaptive reuse as apartment of existing buildings- new additions are contemporary and complementary, provide residential amenity while not precluding future adaptive reuse	The proposed layouts and orientation of apartments allow for flexibility and the ability to facilitate an adapted reuse.	Yes
4U- Energy	Development	Amended proposal	Yes

Efficiency	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	incorporates an amended and compliant BASIX Certificate, with the commitments in the design to provide appropriate energy efficiency features.	
4V-Water Management and Conservation	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	The development relies on an OSD Facility with an overflow pit and all stormwater will be released to Lawrence Street.	Yes
4W-Waste Management	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 and all bins are to be located within a separate bin storage room in the basement adjacent to the lift.	Yes
4X-Building Maintenance	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, timber and pre-fabricated coloured panels.	Yes

Advice from the Design Review Panel (DRP)

26. The amended plans have addressed most of the Design Review Panel's concerns however there are still some minor non-compliances with the Apartment Design Guide (ADG). There are some design and layout concerns which haven't been appropriately considered. These issues are addressed below and can be resolved by design changes proposed as Deferred Commencement conditions with certainty that the amendments requested will not result in other required design changes that will lead to non-compliances.
27. Issues that require further resolution.
- i) Access to communal open space
The site is constrained by its relatively steep slope. The DRP originally suggested an improved design solution for the site would be to provide split-level apartments. It is

acknowledged this would be the most appropriate design solution, however, is onerous and costly in terms of construction and also has the potential to reduce the salability of the development. Given the small scale nature of the development comprising 13 apartments, the Applicant has not altered the design to reflect this suggestion.

The Applicant has removed two (2) apartments which were partially sub-merged in the original rear ground floor location, their siting would have provided very poor internal amenity outcomes. The removal of these apartments creates a void above the basement area (refer to Figure 4 below which shows the location of the void through a section of the building).



Figure 4: Section through the proposed building

The amended built form and layout means that access to the rear area of communal open space is awkward and largely impractical. The resultant effect is that you obtain access to the rear area of open space from the first floor level. This is inconvenient particularly if the area has to be maintained or serviced. Given it is a well landscaped area and adequately dimensioned and comprises a grassed area and plantings, servicing the area through the building and taking out clippings and rubbish etc is not practical. It is proposed that a separate independent side access is provided along the eastern side (refer to the Deferred Commencement conditions). This may require the courtyard on the ground floor along this side to be reduced but the minimum 15sqm required by the ADG will be easily achieved.

The design change will require a set of stairs to be provided along this side. It will provide for better integration and an improved relationship of this rear area to the building and allow for secondary access to this space for all occupants and visitors.

ii) Front setback

The HDCP stipulates a minimum front setback of 6m. Majority of the building complies along this side however since the front boundary line tapers a little at the front, Bedroom 2 and balconies to Apartments 1-1, 2-1 and 3-1 extend beyond the 6m setback. The awning feature above the front entry and the balcony to Apartments 2-2 and 3-2 are also setback 4.87m and encroach on the 6m front setback. Since the building will sit forward of the adjoining buildings and does not fully comply with the 6m requirement some of these projections are requested to be reduced in size to become more recessed and less visually dominating features.

The balconies have a depth of 4m and width of 4.2m and it is requested that the depth of the balconies be reduced to 3m which still provides an area of over 12sqm and compliance with the ADG is achieved, these balconies will remain functional.

It is also requested that the concrete roof above the entry be setback and shall be in line with the alignment of the staircase No.2. This will reduce its visual dominance when viewed from the street but maintain a formal entry point.

iii) Location of services

The amended plans do not show the location of services like an electricity substation and booster assemblies. It is likely that these services will need to be included. A Deferred Commencement condition will require the formalisation of its location and proposed treatment to be provided and integrated into the design.

iv) Floor to ceiling heights

Minimum floor to ceiling heights of 2.7m are required in accordance with the ADG for RFB's. In order to achieve these heights, a floor to floor height of 3.1m is required. A 3.050m floor to floor height will still be able to achieve the minimum 2.7m floor to ceiling height inclusive of the slab thickness.

The development includes floor to floor heights of 3m at every level apart from the fourth floor which has a floor to floor height of 2.8m which is well below the minimum required.

A Deferred Commencement condition will ensure all levels (apart from the basement) shall have minimum floor to floor heights of 3.050m. In order to achieve these minimums, there are changes to the height of the building however currently the residential component of the development is below the height controls and the recommended increase in height will not result in a breach of the height control. The changes can be accommodated in the following way;

- The basement level can be reduced in height by 200mm to achieve a floor to floor height of 2.8m in the basement and the ground floor level lowered by 200mm as ceiling heights in the basement of 2.4m are acceptable given this is not a habitable area. The ground floor level will become RL41.9 as opposed to RL42.1.
- The additional 50mm increase in height at each level (from 3m to 3.050m) for the ground floor level, first floor level and second floor amounts to a total increase of 150mm. This will be captured by the 200mm reduction in height of the garage and the following levels will result;

Ground Floor: RL41.9 as opposed to RL42.1

First Floor: RL44.95 as opposed to RL45.1

Second Floor: RL48:00 as opposed to RL48.1

Third Floor: RL51.05 as opposed to RL51.1

This would increase the overall height of the building when measured at the floor level of the roof by only 50mm.

- The floor to floor height of Apartments 4-1 and 4-2 (at the third level) will need to be increased by 250mm as currently the floor to floor height at this level is 2.8m

and a minimum of 3.050m should be provided. The 250mm increase will result in the overall height of the roof to these Units at RL54.1 which is 200mm higher than the proposed building. The apartments are located at the rear of the building and currently sited well below the 12m height limit so the 200mm increase will not create any adverse impacts and still achieve compliance with the height control.

- Given the design changes will affect the height in the basement a minimum clearance of 2.4m needs to be maintained and minimum gradients into the basement need to be complied with. This can be achieved by excavating the basement further and the basement could be moved further to the rear to achieve an adequate gradient without adversely affecting the deep soil area at the rear since the basement is located 3m below the existing ground level at the rear. The Applicant has confirmed by way of an email that they are prepared to excavate further to accommodate any height changes.
- The stair, WC and lift on the roof level will only increase by 50mm.
- The vergola on the roof is also requested to be reduced in size to become more recessive.

v) Other design changes

As previously discussed, the vergola feature on the roof level is requested to be setback and reduced in its size to reduce its visibility and dominance at that uppermost level (see Deferred Commencement conditions).

The proposed bike rack at the front near the entry is to be deleted as it is a prominent element and within the front setback area. There already exists a dedicated bike rack in the basement which satisfies this provision.

It is also requested that some privacy screens and fixed louvres are reduced or removed along the southern side of balconies to open up these spaces and allow for a greater amount of solar access whilst retaining some privacy to these areas.

28. The proposed changes do not fundamentally affect the overall bulk, scale, mass or form of the development but seek to ensure greater compliance with Council's controls and improve the internal amenity of apartments and improve the relationship of the building to the areas of open space surrounding it.

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

29. The key objectives of this policy are;

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

Council's Landscape Officer has reviewed the application and concurs with the Arboricultural assessment lodged with the application and the proposal is considered to satisfy the provisions of the policy.

Draft Environmental Planning Instruments

30. 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

Hurstville Development Control Plan No 1 - LGA Wide

31. The proposed development is subject to the provisions of the Hurstville Development Control Plan No.1. The extent to which the proposed development complies with the provisions of this DCP are outlined in the table below.

Development	Requirements	Proposed	Complies
3.1 Vehicle Access and Parking	DS1.5 Refer to AS 2890.1 2004 and AS2890.2 Part 2 for the design and layout of parking facilities. DS1.6	Turning and manoeuvring into and out of car spaces and isle widths are in accordance with Australian Standards	Yes
	Council does not encourage, but may consider stacked parking for parking spaces in a controlled parking situation which: <ul style="list-style-type: none"> a. allows no more than two cars in the stacked parking arrangement; b. is likely to maintain a very low turnover; or c. is able to function easily within the management of the site's future operation 	The proposal includes 3 stacked/tandem car parking spaces being a total of 6 spaces. Their configuration is generally compliant. They will align with the 3 bedroom units.	Yes
	A designated car washing area (which may also be a designated visitor car space) is required for service stations and	Car wash bay provided	Yes

	residential developments of four or more dwellings.		
Numerical parking controls	<p><u>Residential Accommodation</u> Dwelling (1-2 bedrooms): 1 space per dwelling Dwelling (3 bedrooms and over): 2 spaces per dwelling Visitor spaces: 1 space per 4 dwellings (or part thereof)</p> <p><i>Note: Different rates may apply where within 800m of a railway station in accordance with the Apartment Design Guide and the RMS Guide to Traffic Generating Development (2002)</i></p>	<p>3 x 1 bedroom = 3 spaces 7 x 2 bedroom = 7 spaces 3 x 3 bedroom = 6 spaces Total required = 16 spaces Visitor spaces required = 3 spaces</p> <p>1 x car wash bay</p> <p>Subtotal required = min 19 spaces (1 visitor space doubles as a car wash bay)</p> <p>Provided = 19 residential spaces 3 x visitor spaces No visitor spaces are accessible and a condition will require car space No.1 to become a visitor space and V3 converted to a resident car parking space.</p>	<p>Yes</p> <p>There are 6 spaces that are designed in a tandem form (spaces 2, 2a, 3, 3a, 4 and 4a) these spaces can be dedicated to the 3 x 3 bedroom units.</p>
3.3 Access and Mobility	<p>In developments containing five or more dwellings, a minimum of one adaptable dwelling, designed in accordance with relevant Australian Standards must be provided for every ten dwellings or part thereof.</p> <p>Access for all persons through the principal entrance and access to any common laundry, kitchen, sanitary or other common facilities in accordance with</p>	<p>Apartment 1-1 is nominated as an adaptable apartment.</p> <p>In general access through the building for people with a disability has been catered for and lift access has been provided to all</p>	<p>Yes</p>

	relevant Australian Standards.	levels including the roof communal open space.	
3.4 Crime Prevention through Environmental Design	<p>Ensures that the way in which the site, and the buildings within the site, are laid out enhance security and feelings of safety.</p> <p>Ensures that private and public spaces are clearly delineated</p> <p>Ensures that the design of the development allows for natural surveillance to and from the street and between individual dwellings or commercial units within the site</p>	The design of the building generally complies with the objectives and controls.	Yes
3.5 Landscaping	<p>Site layout and design, including buildings, structures and hardstand, ensures the long term retention and health of existing significant trees and vegetation.</p> <p>Where significant trees or vegetation are required to be removed to allow for site development, they are to be replaced with the same or similar species achieving the same coverage at maturity.</p>	The landscaping arrangement is considered to be satisfactory with a reasonable amount of areas of open space and the provision of deep soil areas, trees, plants and denser vegetation has been catered for. However conditions are imposed to improve the functionality, accessibility and useability of the areas of open space and specific landscaping conditions are also included to ensure that trees earmarked for retention are maintained and replacement plant is with mature, appropriate	Yes

		species.	
3.6 Public Domain	Development contributes to the creation of attractive, comfortable and safe streets that comprise consistent and high quality paving, street furniture and street tree plantings.	The front façade and general scale of the building is considered to be an acceptable and reasonable design response for this site. The retention of the large street tree will assist in screening the building.	Yes – will be consistent with the character and form of development in the street.
3.7 Stormwater	A development application is supported by a concept stormwater management plan showing how surface and roof waters are to be discharged by gravity to the street or easement and the size of all pipes.	Council's Engineers have reviewed the proposed drainage and stormwater arrangement and have raised no objection subject to the imposition of conditions. There is an existing sewer line traversing the site at the front. No building works or structures affect the sewer and it will be able to be accessed at all times.	Yes
4.1 Residential Flat Buildings			
Site Frontage	Min street frontage 24m	Street frontage 30.47m	Yes
Isolation	Where an application for a residential flat building will result in the creation of an isolated site, the applicant must show that reasonable efforts have been made to amalgamate the site. Where this has not been achieved, it must be shown that the isolated site is capable of accommodating a	The Applicant has provided documentation relating to offers presented to the neighbour at 69 Lawrence Street. Original offers were presented to the neighbour at 69 Lawrence Street in 2016 and the Applicant was	Yes – Applicant has satisfied DCP provisions in relation to site isolation.

	<p>suitable development in the future.</p> <p>In order to satisfy this requirement the applicant must provide:</p> <p>a. evidence of offers made to acquire the site to be isolated (e.g. correspondence including responses to offers) based on at least two independent valuations. These valuations must be based on the site to be isolated forming part of the development site.</p> <p>b. a schematic design which demonstrates how the isolated site may be developed.</p>	<p>requested to update the information.</p> <p>The Applicant provided an updated valuation report dated October 2018 and has also approached the neighbour to acquire the site based on the updated valuation. The neighbour is still not interested in selling their site.</p>	
<p>Height</p>	<p>In accordance with HLEP 2012 and 3 storeys.</p>	<p>A variation is requested to the 12m height control and Clause 4.6 Statement submitted and assessed above.</p>	<p>No, but the Clause 4.6 variation is considered acceptable and worthy of support.</p>
<p>Excavation</p>	<p>The maximum excavation for any building's finished ground floor level facing a public street is 0.5m below natural ground level.</p>	<p>The building is part 3, part 4 storey.</p> <p>Excavation exceeds the minimum controls but this is an anticipated design response given the site and the precedent that has been established for new medium density development in the street and the accommodation of vehicles within a</p>	<p>Reads as a 3 storey building from the street and rear as it is appropriately stepped down the site.</p> <p>No but acceptable</p>

<p>Front Setback</p>	<p>The minimum setback to a primary or secondary street is 6m.</p>	<p>basement.</p> <p>Ground Floor = 6m-6.4m. There is a slight encroachment of the front courtyards.</p> <p>First Floor = 5m to the roof above the main entry and 4.8m to the balconies.</p> <p>Second Floor = 4.8m to the balconies and 5.5m to the bedroom 2 (Apt 3-1)</p> <p>Roof level = 4.8m - 5m</p>	<p>No – The proposal will sit forward of 69 Lawrence St which is setback 8.6m. The 6m front setback control is complied with at most levels with small sections of the building encroaching on this setback in part due to the curvilinear front boundary line.</p> <p>Conditions will ensure the building is setback further in some parts to comply with the 6m requirement.</p>
<p>Landscaping</p>	<p>Minimum amount of landscaped area of open space is 20% of the Site area</p> <p>Min dimension of landscaped open space is 2m</p>	<p>Landscaped open space exceeds 28% of the site</p> <p>Min dimensions at the front are 4.8m and rear 6m in width.</p>	<p>Yes</p> <p>Yes</p>
<p>Solar Access</p>	<p>Development allows for at least 3 hours of sunlight on the windows of main living areas and adjoining principal private open space of adjacent dwellings between 9.00 am and 3.00 pm on 22 June.</p>	<p>Complies. 69 Lawrence Street is located to the north east of the subject site so the development has minimal affectation during the day in mid-winter due to the orientation. 63 Lawrence Street will be overshadowed by the development from 9am until</p>	<p>Yes</p>

Noise	Windows of adjacent dwellings are separated by a distance of at least 3m	12noon. From 12noon until 3pm No.63 will not be affected by the proposal. The development will maintain satisfactory levels of solar access for adjoining properties. Complies	Yes
Streetscape	Development creates a high quality interface between the public and private domain	The building is generally well articulated and its scale and form is consistent with other existing and approved developments in the immediate visual catchment.	Yes
Fencing	Provides appropriate levels of privacy, security and noise attenuation	No front fencing has been included. A low solid front fence (1m-1.2m) would be desirable with some landscaping being integrated.	Yes – via conditions
Site Facilities	Development provides space for the storage of recyclable goods, either in the curtilage of each dwelling or in a central storage area in larger developments.	Storage is provided in accordance with the design criteria of the ADG.	Yes compliant with ADG provisions

IMPACTS***Natural Environment***

32. The proposed development requires the removal of a number of large trees however these cannot be retained due to the location and siting of the building. The rear of the site will comprise of deep soil area and the landscape design seeks to replace these trees with mature species which is an acceptable solution supported by Council's Landscape Officer.

33. There are two (2) existing street trees located on the nature strip and only one (1) tree will be retained as the driveway affects the location of the other tree (at the front of 65 Lawrence Street). A landscape plan prepared by a qualified landscape architect has been prepared for the development which shows appropriate deep soil planting to the northern boundary and to the communal open space areas on the rooftop. The location and design of the area of communal open space and its relationship to the building and apartments is considered to be poor in particular the area of open space at the rear of the building which will be addressed by the impositions of conditions.
34. The provision of landscaping and the proposed areas of open space are considered to be reasonable and will offer an appropriate level of amenity for the occupants of the development.

Built Environment

35. Unfortunately the proposal will isolate 69 Lawrence Street. The future redevelopment potential of this site will be constrained. The Applicant has fulfilled the requirements of the HDCP in respect to providing several offers to purchase 69 Lawrence Street in line with a number of legitimate market valuations that have been prepared since 2016.
36. 69 Lawrence Street will be able to be redeveloped but the scale and form of any future development will be a smaller scale infill development which exists in the streetscape in the form of large two (2) storey dwelling houses and two (2) storey attached dual occupancies. The large street tree which will be retained will screen this site to a large degree and will limit and reduce the difference in scale and height of adjoining properties.
37. The proposed built form, mass and scale is considered to be an acceptable planning and design outcome for the site and is in keeping with the nature and character of development in the area and streetscape.

Social Impact

38. The proposed development will have no adverse social impact.

Economic Impact

39. The proposed development will have no adverse economic impact.

Suitability of the site

40. It is considered that the proposed development is of a scale and density that is suitable for the site and is in accordance with the desired future character of development within this street and locality.

SUBMISSIONS AND THE PUBLIC INTEREST

41. The application was notified/advertised to residents/owners on two (2) occasions in accordance with Council's requirements, and one (1) submission was received. The comments in the submission relate to the following.
- Privacy and noise generated from the balconies and the roof terrace
- Comment: The periphery of the communal roof terrace comprises of planter boxes that restrict access to the edge of that space and will suppress any opportunity for overlooking. The roof top area is also setback well over 6m from the front boundary and therefore the total separation distance from development on the opposite side of the street would be well over 15m which is considered an acceptable degree of physical separation.

- Vehicles parking both sides of the street affecting general access and parking for visitors is difficult

Comment: The proposal complies with Council's DCP numerical requirements for car parking. Three (3) visitor car parking spaces are provided on site in compliance with Council's requirements. It is acknowledged that the upscale in development in this street has resulted in increased vehicle movements. This proposal is relatively small in scale and is unlikely to generate an unacceptable or substantial amount of traffic movements.

- Garbage collection will be difficult as there is limited spaces on the street.

Comment: Adequate onsite bin storage will be available, but will need to be move kerbside on pick up days. This will need to be managed accordingly by the new occupants within the building.

- Building will have minimal deep soil planting as basement takes up most of the site.

Comment: The building provides for an ample and compliant amounts of deep soil area. The basement has been setback 6m from the front and rear boundaries allowing for these areas to be softly landscaped. 28% of the site comprises of deep soil area which is well in excess of the 7% minimum required by the ADG and the minimum 20% required by the HDGP. The original basement design did take up a larger proportion of the site; however, this has been modified on a number of occasions and created a large area of deep soil at the front and rear of the site.

- Townhouse design better suited for the site like 2 Lawrence Street.

Comment: Given the established streetscape character and that this precinct is not located within a highly accessible area, a townhouse or multi dwelling arrangement may be a more acceptable design solution however the zone does permit RFB's and the streetscape is changing with the recent construction of similar medium density developments.

- New third level unit provides undue bulk

Comment: The two (2) apartments on the roof level are located to be situated below the height limit and are setback from the front of the building which creates a recessive element which will not be a visually dominating feature or element when viewed from the street. The proposed vergola at the roof level is proposed to be reduced in scale to reduce its dominance and become a more recessive element within the roof scape. The building has been designed to be articulated and comprises of a variety of materials and finishes that breaks up the bulk and provides diversity and modulation (refer to **Figure 5** below).



Figure 5: 3D Perspective of the front of the building

LPP055-18

REFERRALS

Council Referrals

42. ***Development Engineer***

Council's Development Engineer has raised no objection in relation to the stormwater drainage design subject to conditions of consent which are included in the recommended conditions below.

Traffic Engineer

Council's Traffic Engineer has examined the application and has raised no objection to the development subject to conditions of consent requiring the car spaces to comply with the Australian Standard AS2890.

Environmental Health Officer

Council's Environmental Health Officer has raised no objection subject to conditions of consent which are included in the recommended conditions below.

Landscape and Tree Management Officer

Council's Landscape and Tree Management Officer has raised no objection subject to conditions which are included in the recommended conditions below.

CONCLUSION

43. This application has been assessed having regard to the matters for consideration under Section 4.15(1) and 4.15(3) of the Environmental Planning and Assessment Act 1979, the provisions of the relevant State Environmental Planning Policies, Local Environmental Plans and Development Control Plans. The application seeks the construction of a part 3, part 4 storey residential flat building comprising 13 residential apartments, basement car parking for 19 vehicles, site works and associated landscaping.

The development has been assessed against the requirements of the relevant planning instruments and development control plans. Following a detailed assessment it is considered that Development Application No DA2016/0224 should be approved subject to the imposition of Deferred Commencement Conditions.

DETERMINATION AND STATEMENT OF REASONS

44. The reasons for this recommendation are:
- The proposed development complies with the requirements of the relevant environmental planning instruments and development control plan except in respect to the height of the development which is considered acceptable having regard to the Clause 4.6 Statement provided which justifies that the variation is reasonable in this case.
 - The proposal 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 amenity impacts upon the natural or built environment.
 - The functionality, internal amenity and design of the building and its relationship to the area of open space can be improved by the imposition of Conditions.
 - In consideration of the aforementioned reasons, the proposed design of the development is a suitable outcome and the proposed use of the site is in the public interest.

DEFERRED COMMENCEMENT

- A. THAT pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, the Development Application DA2016/0224 for the construction of a residential flat building with basement parking and associated landscaping and site works at Lot 250 and 251 DP 36317 and known as 65-67 Lawrence Street, Peakhurst, is determined by granting deferred commencement consent
- B. This is a “Deferred Commencement” consent that is granted subject to conditions under Section 4.16(3) of the Environmental Planning and Assessment Act 1979 that the consent is not to operate until the person with the benefit of this consent satisfies Georges River Council (“Council”) as to the matters set out in **SCHEDULE A** below. The period within which the applicant must produce evidence to the Council sufficient enough to enable it to be satisfied as to the matters in **SCHEDULE A** is thirty six (36) months from the date this deferred consent is granted.
- C. If the person with the benefit of this consent produces evidence to the Council within the period specified sufficient to enable the Council to be satisfied as to the matter set out in **SCHEDULE A** and the Council notifies the person in writing that it is satisfied as to the relevant matters, the development consent shall become operative subject to compliance with conditions outlined in **SCHEDULE B**.
- D. Should the required information not be provided in the time period nominated above, the deferred commencement consent shall lapse.

SPECIFIC DEVELOPMENT CONDITIONS

SCHEDULE A Deferred Commencement

- A. **Design modifications** – Pursuant to the Environmental Planning and Assessment Act, 1979, the consent will not operate until such time as the following requirements are provided to the satisfaction of Council’s Manager Development Assessment:

- i) In order to improve the relationship of the building and access to the rear area of open space, a staircase shall be incorporated along the eastern side of the site. The accessway shall be setback 900mm from the eastern boundary. This 900mm side setback will include planter boxes with a minimum height of 900mm and will be appropriately landscaped.
- ii) The new accessway along the eastern side shall have a minimum width of 1m.
- iii) The new planter boxes, any boundary fencing and the access path along the eastern side shall be sensitively designed so that it does not adversely affect the integrity of the neighbouring tree and property at 69 Lawrence Street.
- iv) The eastern courtyard to Apartment 1-2 shall be reduced but should maintain a minimum 2m width along this side and shall extend to the rear where it adjoins the deep soil area (6m setback).
- v) The western courtyard located on the ground floor to Apartment 1-3 shall be extended to the rear to include the area adjacent to the basement void and end where the deep soil area begins (6m from the rear boundary).
- vi) A detailed updated Landscape Plan prepared by a Qualified Landscape Architect or equivalent professional shall be provided to include the following details;
 - Solid fixed planter boxes located along the eastern boundary and the proposed planting species and number within these shall be included.
 - A planter box with a minimum width of 900mm and 900mm in height shall be included along the full length of the boundary along the western side of the ground floor courtyard adjoining Apartment 1-3.
 - Treatment of all planting proposed on the roof top.

The Landscape Plan shall include all the proposed planting species, number, quantity and type.
- vii) An updated schedule of proposed colours, materials and finishes shall be submitted to Council.
- viii) The fixed louvres along the southern side of the rear balcony to Apartment 2-3 and 3-3 are to be reduced in width and shall have a maximum width of 1.5m when measured from the western side (adjoining Bedroom 3). The intention is to open up these external spaces and provide for more solar access.
- ix) The study to Apartment 2-4 shall be reduced to have a maximum width of 2.4m so that the size of Bedroom 1 shall be increased with the WIR being moved to the north to accommodate this change.
- x) The floor to floor heights of the ground floor, first, second and third floor will need to be increased to a minimum of 3.050m to accommodate an internal floor to ceiling height of 2.7m. These changes can be accommodated in the following manner;
 - The basement level can be reduced in height by 200mm to achieve a floor to floor height of 2.8m in the basement and the ground floor level lowered by 200mm as ceiling heights in the basement of 2.4m are acceptable given this is not a habitable area. The ground floor level will become RL41.9 as opposed to RL42.1.
 - The additional 50mm increase in height at each level (from 3m to 3.050m) for the ground floor level, first floor level and second floor amounts to a total increase of 150mm. This will be captured by the 200mm reduction in height of the garage and the following levels will result;
 - Ground Floor: RL41.9 as opposed to RL42.1
 - First Floor: RL44.95 as opposed to RL45.1
 - Second Floor: RL48:00 as opposed to RL48.1
 - Third Floor: RL51.05 as opposed to RL51.1
 - The floor to floor height of Apartments 4-1 and 4-2 (at the third level) will need to be increased by 250mm as currently the floor to floor height at this level is 2.8m and a minimum of 3.050m should be provided. The 250mm increase will result in

the overall height of the roof to these Units at RL54.1 which is 200mm higher than the existing building. The apartments are located at the rear of the building and currently sited well below the 12m height limit so the 200mm increase will not create any adverse impacts and still achieve compliance with the height control.

- Given the design changes will affect the height in the basement a minimum clearance of 2.4m needs to be maintained at this level and minimum gradients into the basement need to be complied with. This can be achieved by excavating the basement further and the basement could be moved further to the rear to achieve an adequate gradient without adversely affecting the deep soil area at the rear since the basement is located 3m below the existing ground level at the rear.
- vi) The vergola on the roof is requested to be cut back and reduced in size. The vergola is to only provide protection over the pathway adjoining the lift and stairs and the paths (1m in width) providing access to both apartments on this roof level.
- vii) The courtyard to Apartment 4-1 on the roof level shall be reduced and the balustrade along the eastern side shall be setback and align with the wall of Bedroom 1 and the adjustable louvres shall be reduced in length to 2m.
- viii) The proposed bike rack at the front near the entry is to be deleted as its prominent and within the front setback area.
- ix) The void area above the garage at the rear will be open and not include a roof to allow for the basement to be naturally ventilated.
- x) Car parking space 1 shall be dedicated to the adaptable apartment.
- xi) The location, size and treatment of any ancillary services (booster, electricity substation, and hydrants) need to be shown and designated on the plans.
- xii) Details of the proposed front fencing shall be provided. The front fence shall not exceed 1.2m in height and the upper third of the fence shall be constructed of transparent materials.

SCHEDULE B

Subject to SCHEDULE A above being satisfied by Council in writing the conditions as follows apply:

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
Cover Sheet	00	June 2016	Q	Design Workshop Australia
Local Context	03	June 2016	F	Design Workshop Australia
Basement Plan	10	June 2016	Q	Design Workshop Australia
Ground Floor Plan	11	June 2016	C	Design Workshop Australia
First Floor Plan	12	June 2016	Q	Design Workshop Australia
Second Floor Plan	13	June 2016	Q	Design Workshop

				Australia
Roof Terrace Plan	14	June 2016	Q	Design Workshop Australia
Roof Plan	15	June 2016	Q	Design Workshop Australia
Elevation – South and West	21	June 2016	Q	Design Workshop Australia
Elevations – East and north	20	June 2016	Q	Design Workshop Australia
Sections A and B	30	June 2016	Q	Design Workshop Australia
Schedule of Colours and Materials	N/A	N/A	N/A	Design Workshop Architects
Gross Floor Area Calculations	60	June 2016	Q	Design Workshop Architects
Shadow Diagrams winter 9am-3pm	50	June 2016	Q	Design Workshop Australia
Shadow Diagrams summer 9am-3pm	51	June 2016	Q	Design Workshop Australia
Statement of Environmental Effects	N/A	22/12/2016	N/A	Planning Principles
Drainage Plan	1730-S1/3	9/8/2016	A	John Romanous and Associates
Drainage Plan	1730-S3/3	9/8/2016	A	John Romanous and Associates
Drainage Plan	1730-S2/3	9/8/2016	A	John Romanous and Associates
Survey Plan	S1242CO_EX.dwg	18/11/2016	N/A	Terralinks
Landscape Plan	16-1145/1	8/7/16	A	Captivate Landscape Design
Waste Management Plan	N/A	Undated	N/A	DWA Architects
Access Report	N/A	28 July 2016	N/A	Accessible Building Solutions
Road Traffic Noise Assessment	N/A	2016	N/A	Noise and Sound Services
Arborist Report	N/A	3 July 2016	N/A	Allied Tree Consultancy
Traffic Report	N/A	Aug 2016	N/A	Transport and Traffic Planning Associates
All documentation submitted and approved by Council to respond to the Deferred Commencement conditions in Schedule A of this consent.				

2. Demolition of any existing structures on site is not covered by this approval. A separate application will need to be lodged for this purpose. This may be covered by the State Environmental Planning Policy – Exempt and Complying Development.

Section C Separate Approval 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:

- a. Placing or storing materials or equipment;
- b. Placing or storing waste containers or skip bins;
- c. Erecting a structure or carrying out work;
- d. Swinging or hoisting goods over any part of a public road by means of a lift, crane or the like;
- e. Pumping concrete from a public road;
- f. Pumping water from the site into the public road;
- g. Constructing a vehicular crossing or footpath;
- h. Establishing a “works zone”;
- i. Digging up or disturbing the surface of a public road (eg Opening the road for the purpose of connections to utility providers);
- j. Stormwater and ancillary works in the road reserve;
- k. Stormwater and ancillary to public infrastructure on private land.

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. 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. **Vehicular Crossing - Major Development** - The following vehicular crossing and road frontage works will be required to facilitate access to and from the proposed development site:
 - (a) Construct a metre wide footpath for the full length of the frontage of the site in accordance with Council’s Specifications applying at the time construction approval is sought.
 - (b) The thickness and design of the driveway shall be in accordance with Council’s Specifications applying at the time construction approval is sought.

- (c) Construct a new 150mm high concrete kerb with 450mm wide gutter for the full frontage(s) of the site in accordance with Council's Specifications for kerb and guttering, applying at the time construction approval is sought.
- (d) Any existing vehicular crossing and/or laybacks which are redundant must be removed. The kerb and gutter, any other footpath and turf areas shall be restored at the expense of the applicant. The work shall be carried out in accordance with Council's specification, applying at the time construction approval is sought.
- (e) Relocation of the existing power pole is to be approved by the relevant authority.

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.

6. **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.

Section D Requirements of other Government Authorities

7. **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 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.
8. **Notice of Requirements for a Section 73 Certificate** - A Notice of Requirements of what will eventually be required when issuing a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the 'Plumbing, building and developing' section of the web site www.sydneywater.com.au then refer to 'Providers' under 'Developing' or telephone 13 20 92 for assistance.

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

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

9. **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.

10. **Trade Waste Agreements** - A Trade Waste Agreement with Sydney Water may be required. Details of any work required to comply with the agreement must be detailed on the plans lodged with the Construction Certificate. If no trade waste agreement or grease trap is required, a letter from Sydney Water to this effect must be submitted with the application for the Construction Certificate.
11. **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 (Business and Commercial Services).
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. **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 to obtain concurrence for the hoarding structure.

Section D Prior to the Issue of a Construction Certificate

14. **Fire Safety Measures** - Prior to the issue of a Construction Certificate a list of the essential fire safety measures that are to be provided in relation to the land and any building on the land as a consequence of the building work must accompany an application for a construction certificate, which is required to be submitted to either Council or a PCA. Such list must also specify the minimum standard of performance for each essential fire safety measure included in the list. The Council or PCA will then issue a Fire Safety Schedule for the building.
15. **Access for Persons with a Disability** - Access for persons with disabilities must be provided throughout the site, including to all common rooms, lobby areas, commercial premises and sanitary facilities in accordance with the requirements of the Premises Standards, the Building Code of Australia and AS 1428.1. Details must be submitted with the Construction Certificate Application.

In regards to the above, pedestrian access throughout basement levels shall be highlighted/line marked and sign posted to safeguard egress.

16. **Geotechnical report** - Geotechnical Reports: The applicant must submit a Geotechnical Report, prepared by a suitably qualified Geotechnical Engineer who holds the relevant Certificate of accreditation as required under the Building Professionals Act 2005 in relation to dilapidation reports, all site works and construction. This is to be submitted **before the issue of the Construction Certificate** and is to include:
- (a) Investigations certifying the stability of the site and specifying the design constraints to be placed on the foundation, any earthworks/stabilization works and any excavations.
 - (b) Dilapidation Reports on the adjoining properties prior to any excavation of site works. The Dilapidation Report is to include assessments on, but not limited to, the dwellings at those addresses and any external paths, grounds etc. This must be submitted to the Certifying Authority and the adjoining residents as part of the application for the Construction Certificate. Adjoining residents are to be provided with the report five (5) working days prior to any works on the site.
 - (c) On-site guidance by a vibration specialist during the early part of excavation.
 - (d) Rock breaking techniques. Rock excavation is to be carried out with tools such as rock saws which reduce vibration to adjoining buildings and associated structures.
 - (e) Sides of the excavation are to be piered prior to any excavation occurring to reinforce the walls of the excavation to prevent any subsidence to the required setbacks and neighbouring sites.
17. **Vibration Damage** - To minimise vibration damage and loss of support to the buildings in close proximity to the development, any excavation is to be carried out by means of a rock saw and if available, in accordance with the guidelines of the Geotechnical Engineer's report.

Alternatively where a hydraulic hammer is to be used within 30 metres of any building (other than a path or a fence) a report from a qualified geotechnical engineer detailing the maximum size of hammer to be used is to be obtained and the recommendations in that report implemented during work on the site. **The report shall be submitted with the Construction Certificate application.**

18. **Slip Resistance** - All pedestrian surfaces in areas such as foyers, public corridors/hallways, stairs and ramps as well as floor surfaces in the wet rooms in any commercial/retail/residential units must have slip resistance classifications, as determined using test methods in either wet or dry conditions, appropriate to their gradient and exposure to wetting. The classifications of the new pedestrian surface materials, in wet or dry conditions, must comply with AS/NZS4586:2004 - Slip Resistance Classifications of New Pedestrian Materials and must be detailed on the plans lodged with the application for the Construction Certificate.

19. **Building** - Prior to the issue of a Construction Certificate the applicant may be required, under Clause 144 of the Environmental Planning & Assessment Regulation, 2000 to seek written comment from FR NSW about the location of water storage tanks, construction of hydrant/booster pump and valve rooms, and any Fire Engineered Solution developed to meet the performance requirements under the Category 2 Fire Safety Provisions.

The applicant is also advised to seek written advice from FR NSW on the location and construction of the proposed Fire Control Centre Facility and location and installation of the sites Fire Indicator / mimic Panels.

20. **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).

21. **Drainage/Stormwater Design Changes** - The following design changes are required and are to be incorporated into the plans to be lodged **with the Construction Certificate application**.

The submitted concept hydraulic plan shall be amended to include a kerb inlet pit within the property frontage over the existing Council pipe. Stormwater discharge from the site shall be connected to the new kerb inlet pit. These design changes are to be incorporated into the Detailed Hydraulic Plans submitted for approval **with the Construction Certificate Application**. Detail drawings are to be submitted to the approval of the Council's engineering services unit.

22. **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

- (i) All stormwater shall drain by gravity to the upper level of Council's stormwater pipe located under the kerb and gutter by constructing a gully pit with 2400 mm lintel, in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2003 (as amended).
- (ii) All stormwater drainage from the basement car park shall pump into the control pit of the On-site stormwater Detention tank by a suitably designed sump and pump system;

The design of this proposed drainage system must be prepared by a qualified practicing hydraulics engineer (with details of qualifications being provided) and be submitted for approval **with the Construction Certificate application**.

The underground basement car park must pump to and all other stormwater must drain by gravity to the proposed kerb inlet pit.

The design of the proposed drainage system must be prepared by a qualified practising hydraulics engineer (with details of qualifications being provided) and be submitted for approval **with the Construction Certificate application**

23. **Protection of basement from inundation of stormwater** - The construction of the building shall be designed to conform to the recommendations and conclusions of Stormwater drainage/Sediment Control Details dated 1730-S1/3 dated 9 August 2016 as prepared by John Romanous and Associates in regards to the protection of the underground basement from possible inundation by surface waters.

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.

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

These plans shall be prepared in accordance with the Australian Institute of Engineers Australian Rainfall and Runoff (1987) and Council's Hurstville Development Control Plan No.1 (Appendix 2)

25. **Damage Deposit – Major Works** - In order to insure against damage to Council property the following is required:
- (a) Pay Council, before the issue of the Construction Certificate, a damage deposit for the cost of making good any damage caused to any Council property as a result of the development: **\$37,660.92**.
 - (b) 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: **\$310.00**.
 - (c) Submit to Council, before the commencement of work, a photographic record of the condition of the Council nature strip, footpath and driveway crossing, or any area likely to be affected by the proposal.

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

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

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

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

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

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

Fee Type	Fee
GENERAL FEES	
Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct to the Long Service Corporation. See https://portal.longservice.nsw.gov.au/bci/levy/	
Builders Damage Deposit	\$37,660.92
Inspection Fee for Refund of Damage Deposit	\$310.00
DEVELOPMENT CONTRIBUTIONS	
Hurstville Section 94 Development Contributions Plan 2012 - Residential (Community Facilities)	\$19,245.31
Hurstville Section 94 Development Contributions Plan 2012 - Residential (Open Space, Recreation, Public Domain)	\$136,076.02

General Fees

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

Development Contributions

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

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

Indexation

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

Timing of Payment

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

Further Information

A copy of the *all current Development Contributions Plans* may be inspected or a copy purchased at Council's offices (Georges River Civic Centre, MacMahon Street, Hurstville

and Kogarah Library and Service Centre, Kogarah Town Square, Belgrave Street, Kogarah) or viewed on Council's website www.georgesriver.nsw.gov.au.

27. **Acoustic Requirements** - 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](#).

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

The acoustic report must also ensure that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:

- (a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am,
- (b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time."

The recommendations suggested in the Acoustic Report submitted with the application shall be included in the Construction Certificate Plans.

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

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

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

29. **Landscape Plans** - All landscape works shall be carried out in accordance with the approved landscape plans and specifications, drawn by Captivate Landscape Design, reference numbers – 16 – 1145/1 of 1. The landscaping shall be maintained in accordance with the approved plans in perpetuity.

30. **General Landscape Requirements**

- a) The proposed tree and plant species, pot/ bag size and quantities of plants shall be in accordance with the proposed plant schedule upon the landscape plan. If plant species, pot/ bag size and quantities cannot be sourced, Council shall be contacted for alternatives.
- b) All twenty two (22) trees proposed upon the approved landscape plan shall comply with NATSPEC Specifying Trees: a guide to assessment of tree quality (2003), and

be planted and maintained in accordance with Australian Standards and Councils standard specification.

31. **Tree Protection and Retention** - The following trees shall be retained and protected:

Tree Species	Location of Tree / Tree No.	Tree Protection Zone (metres) Fencing distance from trunk
<i>T1 - Lophostemon confertus</i>	Councils street tree	8.0 metres radially
<i>T2 - Syncarpia glomulifera</i>	Within 69 Lawrence St, side fence	6.2 metres radially
<i>T4 - Brachychiton acerifolius</i>	Within backyard of 67 Lawrence, subject site	4.3 metres radially
<i>T5 – Ficus rubiginosa</i>	Within backyard of 67 Lawrence St	6.2 metres radially
<i>T7 – Jacaranda mimosifolia</i>	Within backyard of 67 Lawrence St	5.2 metres radially
<i>T17 – Jacaranda mimosifolia</i>	Within backyard of 65 Lawrence St	3.0 metres radially
<i>T18/ 19 – Archontophoenix cunninghamiana</i>	Within backyard of 65 Lawrence St	2.5 metres radially
<i>T21 – Eucalyptus cladocalyx</i>	Within backyard of 65 Lawrence St	6.0 metres radially

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

General Tree Protection Measures – the following measures are to 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 who holds an AQF Level 5 or above in Arboriculture and who is a current financial member of Arboriculture Australia – AA and or Institute of Australian Consulting Arboriculturists – IACA.**
- (d) The Project Arborist must be present on-site during the stages of excavation, demolition and construction when works are being undertaken that could impact on the tree canopy or root zone within the tree protection zone of each tree.
- (e) Unless otherwise specified in *AS 4970-2009 Protection of trees on development sites*, a protective fence consisting of 2.4 x 1.8 metres high, fully supported chainmesh fence shall be used. 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 and regularly to minimise the effects of construction works.
- (g) No building products/ materials or services shall be installed within the TPZ of the tree/s unless approved by Council. This fence shall be kept in place during

demolition, construction and also have a sign displaying ‘Tree Protection Zone – DO NOT ENTER’ attached to the fence and must also include the name and contact details of the Project Arborist.

Excavation works near tree to be retained – the following measures are to be adhered to;

- 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.
- (h) Tree Protection Zone around the trees to be retained are not to have soil level changes, building product / materials stored 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.

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).

32. Tree Removal & Replacement - Permission is granted for the removal of the following trees as illustrated, using reference locations **ONLY**

Tree Species	Number of trees	Location
<i>T3 – Syncarpia glomulifera</i>	X1	Within backyard of 67 Lawrence St
<i>T6 – Pittosporum undulatum</i>	X1	Within backyard of 67 Lawrence St
<i>T8 – Schefflera actinophylla</i>	X1	Within backyard of 67 Lawrence St
<i>T9 – Archontophoenix cunninghamiana</i>	X1	Within backyard of 67 Lawrence St
<i>T10 – Lophostemon confertus</i>	X1	Council street tree – already removed
<i>T11 – Polyspora axillaris</i>	X1	Within 65 Lawrence St – already removed
<i>T12 – Magnolia Sp</i>	X1	Within 65 Lawrence St – already removed
<i>T13/ 14/15 – Lagerstroemia indica</i>	X1	Within 65 Lawrence St – already removed
<i>T16 – Callistemon viminalis</i>	X1	Within 65 Lawrence St – already removed
<i>T20 – Eucalyptus nicholli</i>	X1	Within backyard of 65 Lawrence St
<i>T22 – Schefflera actinophylla</i>	X1	Within backyard of 65 Lawrence St

General Tree Removal Requirements

- (a) All tree removal shall be carried out by a minimum certificate Level 3, Licenced and insured Tree Surgeon/Arborist to ensure that removal is undertaken in a safe manner and complies with the AS 4373-2007 - *Pruning of Amenity Trees* and Tree Works Industry Code of Practice (Work Cover NSW 1.8.98).
- (b) No trees are to be removed on the site or neighbouring properties without the prior written approval of Council.

Street Tree Removal / Replacement by Council

- (a) One (1) street tree of species to be determined must be provided in the road reserve fronting the site, to replace T10.
 - o Council shall be appointed to remove and plant all tree/s on public land. All costs associated with the removal of the tree/s and the planting of replacement trees shall be met by the applicant. Fees and charges outlined in the table below are subject to change and are set out in the current version of Council's 'Schedule of Fees and Charges', applicable at the time of payment.

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

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

33. **Pre-construction Dilapidation Report** - A professional engineer specialising in structural or geotechnical engineering shall prepare a Pre-Construction Dilapidation Report detailing the current structural condition of adjoining premises that shall be affected by the excavation as determined by the consulting engineer.

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

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

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

34. **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).

35. **Erosion & Sedimentation Control** - Erosion and sediment controls must be provided to ensure:
- (a) Compliance with the approved Erosion & Sediment Control Plan
 - (b) Removal or disturbance of vegetation and top soil is confined to within 3m of the approved building area (no trees to be removed without approval)
 - (c) All clean water runoff is diverted around cleared or exposed areas
 - (d) Silt fences, stabilised entry/exit points or other devices are installed to prevent sediment from entering drainage systems or waterways
 - (e) All erosion and sediment controls are fully maintained for the duration of demolition, excavation and/or development works
 - (f) Controls are put into place to prevent tracking of sediment by vehicles onto adjoining roadway
 - (g) All disturbed areas are rendered erosion-resistant by turfing, mulching, paving or similar
 - (h) Compliance with Managing Urban Stormwater - Soils and Construction (Blue Book) produced by Landcom 2004.

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

36. **Site contamination – Additional information** - Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately.
37. **Stormwater System** - The submitted stormwater plan has been assessed as a concept plan only. Final detailed plans of the drainage system, prepared by a professional engineer specialising in hydraulic engineering, shall be submitted for approval with the Construction Certificate.
- (a) All stormwater shall drain by gravity to Council's kerb and gutter directly in front of the development site in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2015 (as amended).
 - (b) 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.
 - (c) All stormwater shall drain by gravity to Council's kerb and gutter directly in front of the development site in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2015 (as amended).

- (d) The underground basement car park must pump to and all other stormwater must drain by gravity to the OSD system.
- (e) The construction of the building and driveway shall be designed to protect the underground basement from possible inundation by surface waters. The crest of the driveway shall be set least 150 mm above the top of the kerb levels.
- (f) The sub soil drainage for the below ground structures including basement car parks shall be designed in accordance with the findings and recommendations in the geotechnical report. The geotechnical report should assess any possible impact of the proposed development upon existing ground water table and surrounding land and buildings. Should the results of the report indicate that the site is likely to experience issues associated with groundwater management, a fully-tanked dry basement with no sub soil drainage collection or disposal and an allowance made for any hydrostatic pressures.
- (g) All roof water and surface water from paved or concreted areas are to be disposed of in accordance with the Stormwater Plan by means of a sealed pipeline constructed in accordance with AS/NZS 3500.3:2015.
- (h) All overflows of roof waters from any rainwater tank shall drain by gravity to Council's kerb and gutter directly in front of the development site in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2015 (as amended).
- (i) All other impervious surface water runoff such as driveways and footpaths shall drain by gravity to Council's kerb and gutter directly in front of the development site.
- (j) All roof waters and all overflows from any rainwater tank shall drain to Council's kerb and gutter directly in front of the development site by a suitably designed charged system.

All outlets from any charged system must be constructed at 45 degrees to the direction of flow in the street gutter.

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

- (k) Where the approved concept plan provides an absorption system, the final plan must be accompanied by a report and results of a recognised Falling Head Test or a Constant Head Test. The testing is to be conducted at the proposed location of the absorption system. The On-Site Stormwater Absorption System is to be designed using the hydraulic conductivity of the site and in accordance with Councils Water Management Policy. Note: The factor of safety(s) for the soil infiltration rate may be reduced to one not five as quoted in the Water Management Policy.
- (l) All surface water runoff such as driveway/footpath shall drain to a suitability designed absorption trench in the rear yard. Such trenches must be located at least 3m from any property boundary and be constructed across the contour of the land.

The design of this proposed drainage system must be prepared by a professional engineer who specialises in Hydraulic Engineering. Certification of the adequacy of

the absorption trench system for the surface area being drained shall also be provided by the hydraulics engineer.

Design details and certification shall be submitted for approval with the Construction Certificate application.

All stormwater shall drain to Council's kerb and gutter directly in front of the development site by a suitably designed sump and pump system;
All outlets from any pump system must be constructed at 45 degrees to the direction of flow in the street gutter.

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

(m) 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.

38. **Development Engineering - Driveway Construction Plan Details** - Engineer's details shall be submitted with the Construction Certificate application regarding the proposed construction of the driveway.

These details shall show longitudinal and cross sections, gradients, swept paths, type of construction materials and shall be designed in accordance with AS/NZS2890.1-2004. The driveway shall be designed with a surface that shall be non-slip.

39. **Development Engineering – Existing Sewer Main** - Council's records indicate that a Sewer main passes through the site.

The requirements of Sydney Water shall be satisfied for the construction of the proposed building.

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

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

- (a) Maximum Site Discharge to be provided in accordance with the Stormwater Concept Plan and associated Design Assessment Report. The overflow is to be directed to the site drainage system.
- (b) 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,

- (c) At Annual Recurrence Intervals of 2 years and 100 years.

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

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

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

Full details shall accompany the application for the Construction Certificate.

41. **Detailed Stormwater Drainage Design** - The submitted stormwater plan has been assessed as a concept plan only. A detailed drainage design supported by a catchment area plan and drainage calculations (including a Hydraulic Grade Line Analysis) must be submitted with the Construction Certificate application.
42. **Structural details** - Engineer's details prepared by a practising Structural Engineer being used to construct all reinforced concrete work, structural beams, columns and other structural members. The details are to be submitted to the Principal Certifying Authority for approval prior to construction of the specified works. A copy shall be forwarded to Council where Council is not the PCA.
43. **Site Management Plan** - A Site Management Plan must be submitted with the application for a Construction Certificate, and include the following:
 - (a) location of protective site fencing;
 - (b) location of site storage areas/sheds/equipment;
 - (c) location of building materials for construction, e.g. stockpiles
 - (d) provisions for public safety;
 - (e) dust control measures;
 - (f) method used to provide site access location and materials used;
 - (g) details of methods of disposal of demolition materials;
 - (h) method used to provide protective measures for tree preservation;
 - (i) provisions for temporary sanitary facilities;
 - (j) location and size of waste containers/skip bins;
 - (k) details of proposed sediment and erosion control measures;
 - (l) method used to provide construction noise and vibration management;
 - (m) construction and demolition traffic management details.

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

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

prior to the issue of any Construction Certificate.

45. **Waste Storage** - The plans shall include details of the waste storage area. The waste storage area shall not be visible from the street. The waste storage area shall be located within the lot/building in accordance with the approved plans.

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

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

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

- waste room floor to be sealed;
- waste room walls and floor surface is flat and even;
- all walls painted with light colour and washable paint;
- equipment electric outlets to be installed 1700mm above floor levels;
- The bin storage rooms will be mechanically exhausted as required by AS 1668.2;
- light switch installed at height of 1.6m;
- waste rooms must be well lit (sensor lighting recommended);
- optional automatic odour and pest control system installed to eliminate all pest types and assist with odour reduction - this process generally takes place at building handover - building management make the decision to install;
- all personnel doors are hinged and self-closing;
- waste collection area must hold all bins - bin movements should be with ease of access;
- conform to the Building Code of Australia, Australian Standards and local laws; and childproofing and public/operator safety shall be assessed and ensured.
- 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 will monitor the bin storage area and all spills will be attended to immediately by cleaners.

46. **BASIX Commitments** - All energy efficiency measures as detailed in the BASIX Certificate No. 754236M_02, dated 24 November 2017 must be implemented on the plans lodged with the application for the Construction Certificate.

47. **Consolidation of Site** - The site shall be consolidated into one allotment and by a Plan of Consolidation being prepared by a Registered Surveyor. This Plan shall be registered at the NSW Land and Property Information prior to the issue of a final occupation certificate.

48. **SEPP 65 Design Verification Statement** - A design verification statement, prepared by Robert Gizzi, shall be submitted to the Certifying Authority 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.

49. **Design Quality Excellence (Major Development)** -

(a) In order to ensure the design quality excellence of the development is retained:

- i. The design architect, Robert Gizzi is to have direct involvement in the design documentation, contract documentation and construct stages of the project;
- ii. 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;
- iii. Evidence of the design architect's commission is to be provided to the Council prior to release of the Construction Certificate.

(b) The design architect of the project is not to be changed without prior notice and approval of the Council.

50. **Allocation of street addresses** - In order to comply with AS/NZS 4819:2011 Rural and Urban Addressing & the NSW Addressing User Manual (Geographical Names Board of NSW) and Georges River Council's requirements, the street addresses for the subject development must be allocated as advised by Georges River Council.

Details indicating compliance with this condition must be shown on the plans lodged with any Construction Certificate for approval.

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

(a) All neighbouring buildings with a common boundary to the subject site

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

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

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

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

52. **Development Engineering – Physical connection of Stormwater to site** - No work is permitted to proceed above the ground floor slab level of the building until there is physical connection of the approved stormwater drainage system from the land the subject of this consent to Council's drainage network in Lawrence Road.

Stormwater drainage connection to Council's infrastructure shall be carried out to the satisfaction of the Council's engineering services unit.

53. **Registered Surveyors Report - During Development Work** - A report must be

submitted to the PCA at each of the following applicable stages of construction:

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

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

54. **Dial before your dig** - The applicant shall contact “Dial Before You Dig on 1100” to obtain a Service Diagram prior to the issuing of the Construction Certificate. The sequence number obtained from “Dial Before You Dig” shall be forwarded to Council’s Engineers for their records.
55. **Demolition Notification Requirements** - The following notification requirements apply to this consent:
 - (a) The developer /builder must notify adjoining residents five (5) working days prior to demolition. Such notification is to be a clearly written note giving the date demolition will commence, contact details of the developer/builder, licensed asbestos demolisher and the appropriate regulatory authority. Notification is to be placed in the letterbox of every premises (including every residential flat or unit, if any) either side and immediately at the rear of the demolition site.
 - (b) Five (5) working days prior to demolition, the developer/builder is to provide written notification to Council advising of the demolition date, details of the SafeWork licensed asbestos demolisher and the list of residents advised of the demolition.
 - (c) On demolition sites where buildings to be demolished contain asbestos, a standard commercially manufactured sign containing the words “DANGER ASBESTOS REMOVAL IN PROGRESS” measuring not less than 400mm x 300mm is to be erected in a prominent visible position (from street frontage) on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos material has been removed from the site to an approved waste facility.

56. **Structural Engineers Details - Supporting Council road/footway** - 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.
57. **Stormwater drainage works – Works As Executed** - Prior to the issue of the Occupation Certificate, storm water drainage works are to be certified by a professional engineer specialising in hydraulic engineering, with Works-As-Executed drawings supplied to Council detailing:
- (a) Compliance with conditions of development consent relating to stormwater;
 - (b) The structural adequacy of the On-Site Detention system (OSD);
 - (c) That the works have been constructed in accordance with the approved design and will provide the detention storage volume and attenuation in accordance with the submitted calculations; and
 - (d) Pipe invert levels and surface levels to Australian Height Datum.
58. **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) Existing stormwater drainage pipe
 - (b) Existing kerb and gutter
 - (c) Photographs showing the existing condition of the road pavement fronting the site
 - (d) Photographs showing the existing condition of the kerb and gutter fronting the site
 - (e) Photographs showing the existing condition of the footpath pavement fronting the site
 - (f) Photographs showing the existing condition of any retaining walls within the footway or road,
 - (g) Closed circuit television/video inspection (in DVD format) of public stormwater drainage systems fronting, adjoining or within the site, and
 - (h) 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.

Section F During Construction

59. **Engineering - Vehicular Crossing & Frontage work – Major Development** - The following vehicular crossing and road frontage works will be required to facilitate access to and from the proposed development site:
- (a) Construct a 1.50 metre wide x 80mm thick concrete path for the full length of the frontage of the site in Lawrence Street in accordance with Council's Specifications for footpaths.
 - (b) Construct a 150mm thick concrete vehicular crossing reinforced with F82 fabric in accordance with Council's Specifications for vehicular crossings.

- (c) Construct a new 150mm high concrete kerb with 450mm wide gutter for the full frontage(s) of the site Lawrence in accordance with Council's Specifications for kerb and guttering.
- (d) Any existing vehicular crossing and/or laybacks which are redundant must be removed. The kerb and gutter, any other footpath and turf areas shall be restored at the expense of the beneficiary of this consent and in accordance with Council's *Specification for Vehicular Crossings and Associated Works*. The work shall be carried out by a private contractor, subject to Council approval.
60. **Hazardous Waste** - 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)
61. **Site sign - Soil & Erosion Control Measures** - Prior to the commencement of works (including demolition and excavation), a durable site sign, issued by Council in conjunction with this consent, must be erected in a prominent location on site. The site sign warns of the penalties which apply to pollution, storing materials on road or footpath and breaches of the conditions relating to erosion and sediment controls. The sign must remain in a prominent location on site up until the completion of all site and building works.
62. **Physical connection to Stormwater to site** - No work is permitted to proceed above the ground floor slab level of the building until there is physical connection of the approved stormwater drainage system from the land the subject of this consent to Council's kerb and gutter system at Park Road.
63. **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.
64. **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.
65. **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.

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

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

67. **Building - 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.
68. **Physical connection of Stormwater to site** - No work is permitted to proceed above the ground floor slab level of the building until there is physical connection of the approved stormwater drainage system from the land the subject of this consent to Council's infrastructure.

Section G Prior to the issue of the Occupation Certificate

69. **Development Engineering - Conditions relating to future Strata Subdivision of Buildings** - No approval is expressed or implied for the subdivision of the subject building(s). For any future Strata subdivision, a separate Development Application or Complying Development Certificate shall be approved by Council or an Accredited Certifier.

Prior to the issue of any Strata Certificate of the subject building(s) the following conditions shall be satisfied:

(a) Unit Numbering

Apartment type numbers shall be installed adjacent or to the front door of each unit. The unit number shall coincide with the strata plan lot numbering.

(b) Car Parking Space Marking and Numbering

Each basement car space shall be line marked with paint and numbered in accordance with the strata plan lot numbering.

"Visitor Parking" signs shall be installed adjacent to any and all visitor car spaces prior to the issue of any Strata Certificate.

(c) Designation of Visitor Car Spaces on any Strata Plan

Any Visitor car spaces shall be designated on the final strata plan as "Visitor Parking - Common Property".

(d) Allocation of Car Parking Spaces, Storage Areas and Common Property on any Strata Plan.

- i. All car parking spaces shall be created as a part lot of the individual strata's unit lot in any Strata Plan of the subject building.
- ii. All storage areas shall be created as a part lot of the individual strata's unit lot or a separate Utility Lot (if practical) in any Strata Plan of the subject building.
- iii. The minimum number of parking spaces required to be allocated as a part lot to each individual strata's unit lot shall be in accordance with the car parking requirements of Council's Development Control Plan and as required by the relative development consent for the building construction.
- iv. No parking spaces shall be created as an individual strata allotment on any Strata Plan of the subject building unless these spaces are surplus to the minimum number of parking spaces required.

If preferred the surplus car spaces shall be permitted to be created as separate Utility Lots, (instead as a part lot of the individual strata's unit lot), in accordance with section 39 of the Strata schemes (freehold development Act 1973).

The above requirements regarding car parking spaces and storage areas may only be varied with the conditions of a separate Development Application Approval for Strata Subdivision of the Building(s).

(e) On Site Detention Requirements

The location any on-site detention facility shall be shown on the strata plan and suitably denoted.

(f) Creation of Positive Covenant

A Positive Covenant shall be created over any on-site detention facility by an Instrument pursuant to Section 88B of the Conveyancing Act 1919, with the covenant including the following wording:

"It is the responsibility of the Owner's Corporation to keep the on-site detention facilities, together with any ancillary pumps, pipes, pits etc, clean at all times and maintained in an efficient working condition. The on-site detention facilities shall not be modified in any way without the prior approval of Georges River Council."

Georges River Council is to be nominated as the Authority to release, vary or modify this Covenant.

70. **Development Engineering – Additional requirements for the issue of a Strata Certificate** - In addition to the statutory requirements of the Strata Schemes (Freehold Development Act 1973) a Strata Certificate must not be issued which would have the effect of:

- a) The removal of any areas of common property shown upon the approved Development Application plans and allocated to any one or more strata lots;
- b) The removal of any visitor parking spaces from the strata scheme and allocated to any one or more strata lots; or
- c) Any unit's parking space or storage area is not strata subdivided as separate strata lot;

- d) Under no circumstances shall any future Strata By-Laws be created to grant exclusive use of nominated Visitors Parking spaces to occupants/owners of units or tenancies within the building.

Note: This condition has been imposed to ensure that: (a) common property is not alienated from the strata scheme and assigned to any one or more strata lots, (b) visitor parking is not alienated from the strata scheme and assigned to any one or more strata lots such that visitors would be restricted from lawful access and use of required visitor parking, (c) parking spaces and storage areas are not strata subdivided as separate strata lots which may be sold with full strata title rights as a parking space or storage area lot, reducing available parking and storage to strata lots and visitors required to reduce demand for on-street public parking

71. **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.
72. **Works as Executed and Certification of Stormwater works** - Prior to the issue of an Occupation Certificate, the PCA must ensure that the stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards. A works-as-executed drainage plan and certification must be forwarded to the PCA and Council, from a professional engineer specialising in hydraulic engineering.

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

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

- (a) The location of any detention basin/s with finished surface levels;
 - (b) Finished site contours at 0.2 metre intervals (if applicable)
 - (c) Volume of storage available in any detention areas;
 - (d) The location, diameter, gradient and material (i.e. PVC, RC etc.) of all stormwater pipes;
 - (e) The orifice size/s (if applicable);
 - (f) Details of any infiltration/absorption systems; and (if applicable);
 - (g) Details of any pumping systems installed (including wet well volumes) (if applicable).
73. **Vehicular crossing & Frontage work - Major development** - The following road frontage works shall be constructed in accordance with Council's Specification for Vehicular Crossings and Associated Works together with the Vehicular Crossing Approval issued by Council's Engineering Services Division:

- (a) Construct a footpath for the full length of the frontage of the site in Lawrence Street as required by Council in accordance with Council's Specifications for footpaths.
- (b) Construct the vehicular crossing in accordance with Council's Specifications for vehicular crossings.
- (c) Construct a new 150mm high concrete kerb with 450mm wide gutter for the full frontage(s) of the site in accordance with Council's Specifications for kerb and guttering.
- (d) Any existing vehicular crossing and/or laybacks which are redundant must be removed. The kerb and gutter, any other footpath and turf areas shall be restored at the expense of the applicant and in accordance with Council's Specification for Vehicular Crossings and Associated Works.

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

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

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

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

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

- The location of any detention basin/s with finished surface levels;
- Volume of storage available in any detention areas;
- The location, diameter, gradient and material (i.e. PVC, RC etc.) of all stormwater pipes;
- The orifice size/s.

75. **Requirements prior to the issue of the Occupation Certificate** - The following shall be completed and or submitted to the PCA prior to the issue of the Occupation Certificate:

- (a) All the stormwater/drainage works shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
- (b) Work as Executed Plans prepared by a Chartered Professional Engineer or a Registered Surveyor when all the site engineering works are complete shall be submitted to the PCA prior to the issue of the Occupation Certificate.

76. **Dilapidation Report on Public Land for Major Development Only** - Upon completion

of works, a follow up dilapidation report must be prepared for the items of Council infrastructure adjoining the development site including:

The dilapidation report must be prepared by a professional engineer specialising in structural engineering, and include:

- (a) Photographs showing the condition of the road pavement fronting the site
- (b) Photographs showing the condition of the kerb and gutter fronting the site
- (c) Photographs showing the condition of the footway including footpath pavement fronting the site
- (d) Photographs showing the condition of 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 professional engineer.

The report must be provided to the PCA 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.

Council's Engineering Services Division must advise in writing that the works have been completed to their satisfaction prior to the issue of an Occupation Certificate.

77. **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 following adjoining premises:

The report is to be prepared at the expense of the applicant and submitted to the PCA prior to the issue of the Occupation Certificate. In ascertaining whether adverse structural damaged has occurred to the adjoining premises, the PCA, 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 PCA prior to the issue of any Occupation Certificate.

78. **Allocation of street addresses** - Prior to issue of an Occupation Certificate, All house numbering are to be allocated in accordance with AS/NZS 4819:2011 Rural and Urban Addressing & the NSW Addressing User Manual (Geographical Names Board of NSW) and Georges River Council's requirements. Council must be contacted in relation to all specific requirements for street numbering.
79. **Fire Safety Certificate before Occupation or Use** - In accordance with Clause 153 of

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

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

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

80. **Building - 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.
81. **Slip Resistance** - At completion of work an in-situ (on-site) test, in wet and dry conditions, must be carried out on the pedestrian floor surfaces used in the foyers, public corridors/hallways, stairs and ramps as well as the floor surfaces in wet rooms in any residential units to ascertain the actual slip resistance of such surfaces taking into consideration the effects of grout, the gradients of the surface and changes from one material to another. The in-situ test must be carried out in accordance with AS/NZS 4663:2002. Proof of compliance must be submitted with the application for the Occupation Certificate for approval.
82. **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.
83. **Electricity Supply** - Evidence shall be provided demonstrating that the development has been connected to the Ausgrid, if required.
84. **Completion of Landscape Works** - All landscape works must be completed before the issue of the Final Occupation Certificate. All landscape works must be completed before the issue of the Final Occupation Certificate in accordance with the approved landscape Plans.

All proposed trees and plants nominated to be planted within the plant schedule, shall be true to Botanical name, pot size and quantities used as described. If plant species and or pot size cannot be sourced, Georges River Council need to be notified for suitable replacements before purchasing.
85. **Allocation of car parking spaces** - Car parking associated with the development is to be allocated as follows:

- (a) Residential dwellings: 13 car spaces
- (b) Residential visitors: 3 car spaces which shall remain as common property
- (c) Carwash bay: 1 car wash bay (a visitor space is to double as a car wash bay)

86. **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.
87. **SEPP 65 Design Verification Statement** - The PCA must not issue an Occupation Certificate to authorise a person to commence occupation of the residential flat development unless the PCA has received a design verification from Peter Israel, 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 of State Environmental Planning Policy No 65 Design Quality of Residential Flat Development.
88. **Acoustic Compliance - General Operation of Premises** - The proposed use of the premises and the operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 (as amended) and Regulations.

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

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

89. **Acoustical Engineer Contacts & Reference Material** - Further information including lists of Acoustic Engineers can be obtained from:
- (a) Australian Acoustical Society—professional society of noise-related professionals (www.acoustics.asn.au)
 - (b) Association of Australian Acoustical Consultants—professional society of noise related professionals (www.aaac.org.au)
 - (c) NSW Industrial Noise Policy – Office of Environment & Heritage (www.environment.nsw.gov.au)
90. **Certification - Air handling systems (including water-cooling system, hot-water systems and warm-water systems)** - Certification by a suitably qualified person engineer '2012 must be submitted to the PCA prior to the issue of any occupation certificate verifying that the air handling system has been installed in accordance with:
- (a) Public Health Act 2010 (as amended)
 - (b) Public Health Regulation 2012 (as amended)
 - (c) AS/NZS 3666.1:2011 Air-handling and water systems of buildings -Microbial control - Design, installation and commissioning

91. **Final Acoustic Report – Verification of Noise report** - Within three months from the issue of an Occupation Certificate, an acoustic assessment is to be carried out by an appropriately qualified acoustic consultant, in accordance with the EPA's Industrial Noise Policy and submitted to Council for consideration. This report should include but not be limited to, details verifying that the noise control measures as recommended in the acoustic report submitted by Noise and Sound Services and dated August 2016, are effective in attenuating noise to an acceptable noise level and that the use is not likely to give rise to 'offensive noise' as defined under the provision of the Protection of the Environment Operation Act 1997 (as amended).

Section H Operational Conditions (Ongoing)

92. **Activities and storage of goods outside buildings** - There shall be no activities including storing or depositing of any goods or maintenance to any machinery external to the building with the exception of waste receptacles.
93. **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).
94. **Operation of Air Handling Systems** - The occupier must operate air handling systems in compliance with Part 2 of the Public Health Regulation 2012 (as amended).

Where there is any change in the air handling system the occupier must register the changes in the regulated systems with Council.

Water cooling systems must be certified annually by a competent person as being an effective process of disinfection under the range of operating conditions that could ordinarily be expected.

95. **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.
96. **Lighting – General Nuisance** - Any lighting on the site shall be designed so as not to cause a nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill or glare. Flashing, moving or intermittent lights or signs are prohibited.
97. **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.
98. **Maintenance of Landscaping** - All trees and plants forming part of the landscaping must be maintained. Maintenance includes watering, weeding, removal of rubbish from tree bases, fertilizing, pest and disease control, replacement of dead or dying plants and any other operations required to maintain healthy trees, plants and turfed areas. The maintenance schedule shown on the approved landscape plan is to be undertaken in accordance with the details of that schedule. On the completion of the 12 month maintenance period, the landscape works shall be inspected and at the satisfaction of

the landscape architect (PDS Paterson Design Studio), the responsibility will be signed over to the client.

99. **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.
100. **Activities and storage of goods outside buildings** - There shall be no activities including storing or depositing of any goods or maintenance to any machinery external to the building with the exception of waste receptacles.
101. **Smoking** - The premises must comply with the Smoke Free Environment Act 2000 (as amended).
102. **Requirement for a Construction Certificate** - The erection of a building must not commence until a Construction Certificate has been issued by the consent authority, the Council (if the Council is not the consent authority) or an accredited certifier.

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

Section I Operational Requirements Under The Environmental Planning And Assessment Act 1979

103. **Appointment of a Principal Certifying Authority** - The erection of a building must not commence until the beneficiary of the development consent has:
- (a) appointed a Principal Certifying Authority (PCA) for the building work; and
 - (b) if relevant, advised the PCA that the work will be undertaken as an Owner-Builder.
- If the work is not going to be undertaken by an Owner-Builder, then the beneficiary of the consent must:
- (a) appoint a Principal Contractor to undertake the building work. If residential building work (within the meaning of the Home Building Act 1989) is to be undertaken, the Principal Contractor must be a holder of a contractor licence; and
 - (b) notify the PCA of the details of any such appointment; and
 - (c) notify the Principal Contractor of any critical stage inspections or other inspections that are required to be carried out in respect of the building work.

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

104. **Notification of Critical Stage Inspections** - No later than two (2) days before the building work commences, the PCA must notify:
- (a) the consent authority and the Council (if not the consent authority) of his or her appointment; and
 - (b) the beneficiary of the development consent of the critical stage inspections and other inspections that are to be carried out with respect to the building work.
105. **Notice of Commencement** - The beneficiary of the development consent must give at least two (2) days notice to the Council and the PCA of their intention to commence the erection of a building.

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

106. **Critical Stage Inspections** - The last critical stage inspection must be undertaken by the Principal Certifying Authority. The critical stage inspections required to be carried out vary according to Building Class under the Building Code of Australia and are listed in Clause 162A of the Environmental Planning and Assessment Regulation 2000.
107. **Notice to be given prior to critical stage inspections** - The principal contractor for a building site, or the owner-builder, must notify the principal certifying authority at least 48 hours before each required inspection needs to be carried out.

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

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

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

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

Section J Prescribed Conditions

109. **Clause 97A – BASIX Commitments** - This Clause requires the fulfilment of all BASIX Commitments as detailed in the BASIX Certificate to which the development relates.
110. **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.
111. **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.
112. **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.

113. **Clause 98E – Protection & support of adjoining premises** - If the development involves excavation that extends below the level of the base of the footings of a building on adjoining land, this prescribed condition requires the person who benefits from the development consent to protect and support the adjoining premises and where necessary underpin the adjoining premises to prevent any damage.

END CONDITIONS

NOTES/ADVICES

114. **Review of Determination** - Section 82A 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** - Division 8 (Appeals and Related matters) Part 4 of the Environmental Planning and Assessment Act 1979 confers on an applicant who is dissatisfied with the determination of the application a right of appeal to the Land and Environment Court of New South Wales.
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 95 of the Environmental Planning and Assessment Act 1979 as amended.
117. **Council as PCA - Compliance with the BCA** - Should the Council be appointed as the Principal Certifying Authority in determining the Construction Certificate, the building must comply with all the applicable deemed to satisfy provision of the BCA. However, if an alternative solution is proposed it must comply with the performance requirements of the BCA, in which case, the alternative solution, prepared by an appropriately qualified fire consultant, accredited and having specialist qualifications in fire engineering, must justifying the non-compliances with a detailed report, suitable evidence and expert judgement. Council will also require if deemed necessary, for the alternative solution to undergo an independent peer review by either the CSIRO or other accredited organisation. In these circumstances, the applicant must pay all costs for the independent review.
118. **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.

119. **Compliance with Access, Mobility and AS4299** - Adaptable Housing - Should the Council be appointment as the PCA, the Construction Certificate Application must be accompanied by detailed working plans and a report or a Certificate of Compliance from an Accredited Access Consultant certifying that the building design and access to the adaptable units complies with Council's DCP and AS 4299 Adaptable Housing.
120. **Council as PCA - Total Conformity with BCA** - Should the Council be appointed as the Principal Certifying Authority, the Construction Certificate Application must be accompanied by the following details, with plans prepared and certified by an appropriately qualified person demonstrating compliance with the BCA:
- 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.
 - The location of sanitary facilities for employees in accordance with Table F2.1

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.

121. **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).

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

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

123. **Electricity Supply** - This development may need a connection to the Ausgrid network which may require the network to be extended or its capacity augmented. You are advised to contact Ausgrid on 13 13 65 or www.ausgrid.com.au (Business and Commercial Services) for further details and information on lodging your application to connect to the network.
124. **Development Engineering** - Conditions relating to future Strata Subdivision of Buildings No approval is expressed or implied for the subdivision of the subject building(s). For any future Strata subdivision, a separate Complying Development Certificate shall be approved by Council or an Accredited Certifier.

Prior to the issue of any Strata Certificate of the subject building(s) the following conditions shall be satisfied:

(a) Unit Numbering

Apartment type numbers shall be installed adjacent or to the front door of each unit.

The unit number shall coincide with the strata plan lot numbering.

(b) Car Parking Space Marking and Numbering

Each car space shall be line marked with paint and numbered in accordance with the strata plan lot numbering.

"Visitor Parking" signs shall be installed adjacent to any and all visitor car spaces prior to the issue of any Strata Certificate.

(c) Designation of Visitor Car Spaces on any Strata Plan

Any Visitor car spaces shall be designated on the final strata plan as "Visitor Parking - Common Property".

(d) Allocation of Car Parking Spaces, Storage Areas and Common Property on any Strata Plan

- i. All car parking spaces shall be created as a part lot of the individual strata's unit lot in any Strata Plan of the subject building.

- ii. All storage areas shall be created as a part lot of the individual strata's unit lot or a separate Utility Lot (if practical) in any Strata Plan of the subject building.
- iii. The minimum number of parking spaces required to be allocated as a part lot to each individual strata's unit lot shall be in accordance with the car parking requirements of Council's Development Control Plan and as required by the relative development consent for the building construction.
- iv. No parking spaces shall be created as an individual strata allotment on any Strata Plan of the subject building unless these spaces are surplus to the minimum number of parking spaces required.

If preferred the surplus car spaces shall be permitted to be created as separate Utility Lots, (instead as a part lot of the individual strata's unit lot), in accordance with section 39 of the Strata schemes (freehold development Act 1973).

The above requirements regarding car parking spaces and storage areas may only be varied with the conditions of a separate Development Application Approval for Strata Subdivision of the Building(s).

(e) On Site Detention Requirements

The location any on-site detention facility shall be shown on the strata plan and suitably denoted.

(f) Creation of Positive Covenant

A Positive Covenant shall be created over any on-site detention facility by an Instrument pursuant to Section 88B of the Conveyancing Act 1919, with the covenant including the following wording:

"It is the responsibility of the Owner's Corporation to keep the on-site detention facilities, together with any ancillary pumps, pipes, pits etc, clean at all times and maintained in an efficient working condition. The on-site detention facilities shall not be modified in any way without the prior approval of Georges River Council."

Georges River Council is to be nominated as the Authority to release, vary or modify this Covenant.

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

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

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

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

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

- (a) Complete the Driveway Crossing on Council Road Reserve Application Form which can be downloaded from Georges River Council's Website at www.georgesriver.nsw.gov.au.
- (b) In the Application Form, quote the Development Consent No. (eg. DA2017/0491) and reference this condition number (e.g. Condition 23)
- (c) Lodge the application form, together with the associated fees at Council's Customer Service Centre, during business hours. Refer to Council's adopted Fees and Charges for the administrative and inspection charges associated with Vehicular Crossing applications.

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

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

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

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

ATTACHMENTS

Attachment [↓1](#)  South and west elevation plan - 65 -67 Lawrence St Peakhurst

Attachment [↓2](#)  North and east elevation plan - 65 - 67 Lawrence St Peakhurst



DISCLAIMER

Subject to all site survey, measurements site conditions, discussions and meetings with authorities, approval for authorities, relevant consultant information as per current DA requirements. Feasibility completed based on information provided by client. All parking and ramps to traffic engineer's details.

NO.	DATE	REVISION
01	11/2017	PROVISIONAL APPROVAL 2

Legend:

THICK SOLID LINE	1	WALL	2	ROOF
THIN SOLID LINE	3	GLASS	4	ROOF
DOTTED LINE	5	ROOF	6	ROOF
DASHED LINE	7	ROOF	8	ROOF
THIN SOLID LINE	9	ROOF	10	ROOF
THIN SOLID LINE	11	ROOF	12	ROOF
THIN SOLID LINE	13	ROOF	14	ROOF
THIN SOLID LINE	15	ROOF	16	ROOF
THIN SOLID LINE	17	ROOF	18	ROOF
THIN SOLID LINE	19	ROOF	20	ROOF
THIN SOLID LINE	21	ROOF	22	ROOF
THIN SOLID LINE	23	ROOF	24	ROOF
THIN SOLID LINE	25	ROOF	26	ROOF
THIN SOLID LINE	27	ROOF	28	ROOF
THIN SOLID LINE	29	ROOF	30	ROOF



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 Tel: 9480-832 963
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 Web: http://www.designworkshop.com.au



CLIENT:	SABOCOR Pty Ltd SMT DEVELOPMENT
ADDRESS:	65/67 LAWRENCE STREET PEAKHURST VIC 3203 AUST. DISESBT
DRAWING NAME:	ELEVATIONS 2

ADDITIONAL INFORMATION

DATE:	JUN 2018	PROJECT No:	5480
DRAWN:	DC	DWG No.:	21
SCALE:	1:200	QA:	PC



DISCLAIMER
 Subject to full site survey, measurements site conditions, discussions and meetings with authorities, approval for authorities, relevant consultant information as per current DA requirements. Feasibility completed based on information provided by client. All parking and usage to traffic engineer's details.

NO	DATE	REVISION
1	11/2017	PROVISIONAL APPROVAL R2

Legend:

1	ROOF PLAN	53900
2	ROOF TERRACE PLAN	51100
3	LEVEL 2 FLOOR PLAN	48100
4	LEVEL 1 FLOOR PLAN	45100
5	GROUND FLOOR PLAN	42100
6	BASEMENT	39100

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 Email: info@designworkshop.com.au
 Web: http://www.designworkshop.com.au

ADDITIONAL INFORMATION

CLIENT:	SABECO Pty Ltd SMT DEVELOPMENT	DATE:	JUN 2018	PROJECT No:	5480
ADDRESS:	65/67 LAWRENCE STREET PEAKHURST LOT 225 & 251, DP5617	DRAWN/DC:		SCALE:	1:200
DRAWING NAME:	ELEVATIONS 1	QA:	PG	DWG No.	20 Q

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

LPP056-18

LPP Report No	LPP056-18	Development Application No	MOD2018/0096
Site Address & Ward Locality	367 Princes Highway Carlton Kogarah Bay Ward		
Proposed Development	Modification Application - Relocation of an internal stairway, alterations to the sizes of the first and second floor units, and alteration of the roof design		
Owners	Mrs D Leo, Mr B C Leo, Mrs M N Leo		
Applicant	HTC Builders		
Planner/Architect	Architect - BKA Architecture		
Date Of Lodgement	25/07/2018		
Submissions	No submissions were received		
Cost of Works	\$250,000.00		
Local Planning Panel Criteria	Reason to be referred to the Panel as the application is subject to State Environmental Planning Policy 65 – Design Quality of Residential Flat Development as referenced in Schedule 1, 4(b) of the Local Planning Panels Direction – Development Applications dated 23 February 2018 as required to be determined by the Local Planning Panel		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment, State Environmental Planning Policy No. 65 – Design quality of Residential Flat Development, State Environmental Planning Policy No 55 - Remediation of Land, State Environmental Planning Policy (Infrastructure) 2007, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, Draft State Environmental Planning Policy (Environment), State Environmental Planning Policy (Infrastructure) 2007, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, Draft State Environmental Planning Policy (Environment), Kogarah Local Environmental Plan 2012, Kogarah Development Control Plan 2013		
List all documents submitted with this report for the Panel's consideration	Architectural Plans prepared by BKA Architecture Statement of Environmental Effects		
Report prepared by	Development Assessment Planner		

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

Site Plan



Figure. 1: Aerial Plan of subject site (outlined in red)

Executive Summary

Proposal

1. The proposal is for a modification to an approved development – DA33/2015 which consisted of demolition of the existing roof structure and construction of an additional storey, containing two (2) by one (1) bedroom residential units.

- 2. This modification seeks to relocate the internal stairway, reduce the floor space for two of the one (1) bedroom units and conversion to studio units, increase the floor space of unit 4, and alterations to the roof design under Modification Application MOD2018/0096.

Site and Locality

- 3. The subject site is identified as 367 Princes Highway, Carlton (the site) and is legally described as Lot 101 DP810718.
- 4. The site is located on the north western side of Princes Highway with a secondary street frontage to Park Road, which is a signalised intersection. Vehicular access is via an unnamed lane running parallel to Princes Highway off Park Road while pedestrian access is via Park Road on the southern façade.
- 5. The site comprises has street frontage widths of 13.7m to Princes Highway and 30.025m to Park Road with an overall site area of 471.3sqm. The site currently contains a ground floor commercial component which includes a showroom area, toilet amenities, plant and machinery area, garbage and loading bay area (currently used as a display area) with an entry and access stairs to the upper level. The existing first floor contains two (2) by one (1) bedroom residential units which are proposed to be retained.
- 6. The surrounding area includes commercial and residential which is a mixture of low scale dwellings, shop top housing and a fast food restaurant.

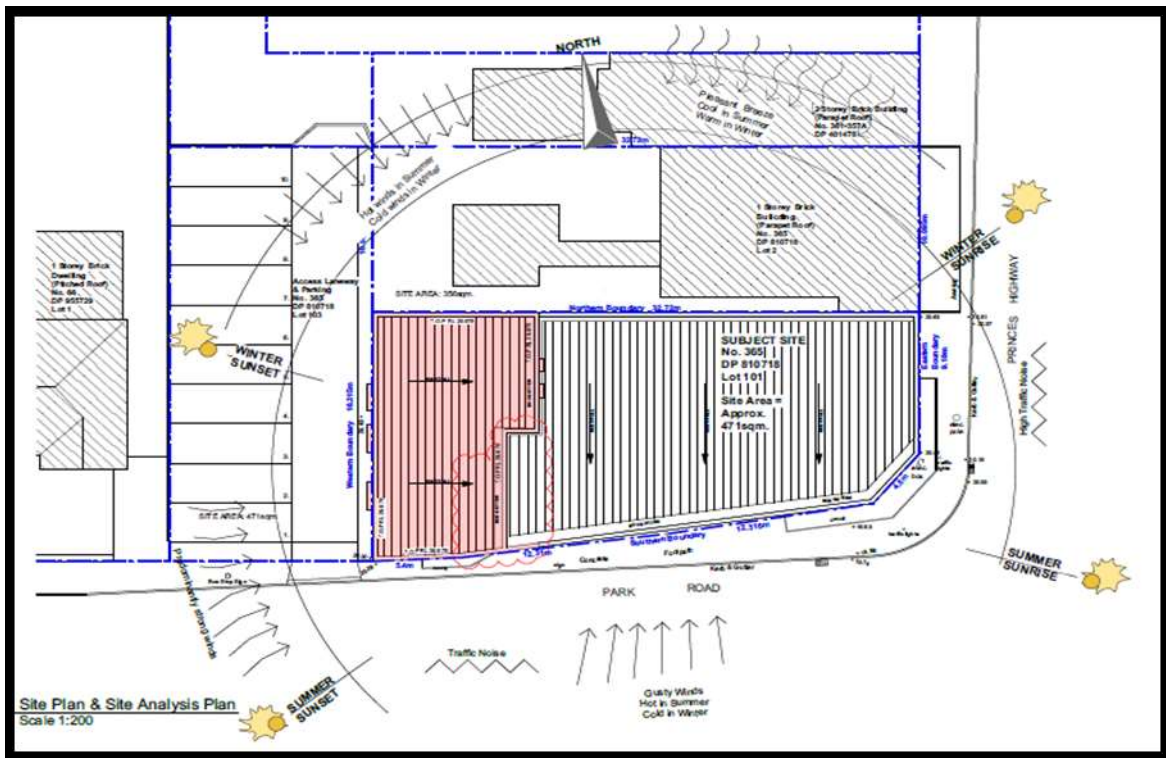


Figure 2: Site Plan & Site Analysis of subject site



Figure 3 – Front façade of commercial component of the subject development site



Figure 4 – Rear of site, existing units with garage parking



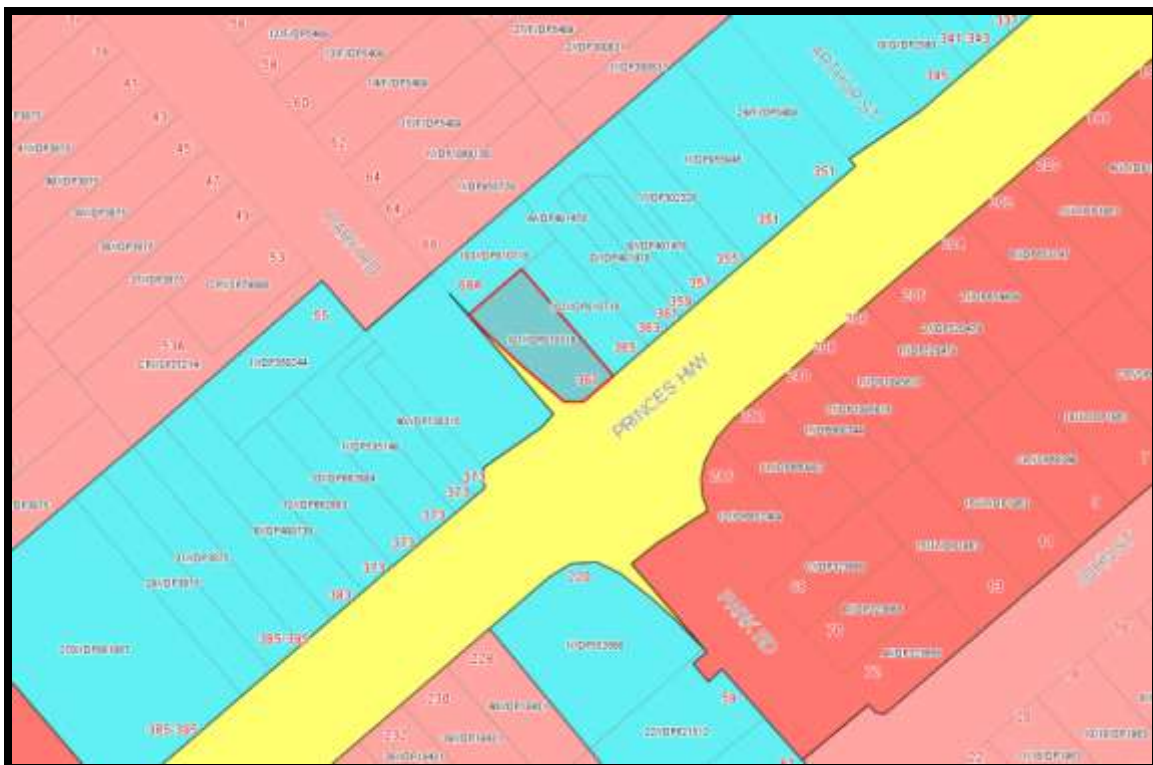
Figure 5 – Single and 2 storey detached dwellings to the north west of the site known as 49, 53 and 55 Park Road, Carlton



Figure 6 – Commercial premises to the west of the site know as 373-381 Princes Highway, Carlton

Zoning and Permissibility

- 7. The site is zoned B2 - Local Centre Zone under Kogarah Local Environmental Plan 2012 (KLEP) and the proposed modification being ancillary works to the approved shop top housing development is permissible with Council’s consent. The proposed modification satisfies all relevant clauses contained within KLEP.



Zoning Map – site outlined in red

Development Control Plan

- 8. The Kogarah Development Control Plan 2013 (KDCP) provides detailed provisions to guide development to achieve the objectives of the KLEP, providing detailed controls

and objectives for residential and commercial development. The proposed modification complies with the relevant clauses of the KDCP.

Level of Determination

9. The application is referred to the Local Planning Panel for determination as the proposal relates to shop top housing which is subject to the provisions of State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development as outlined in Schedule 1, 4(b) of the Local Planning Panels Directions – Development Applications dated 23 February 2018.

Submissions

10. The application was neighbour notified twice during the assessment of the application with the most recent notification being from 26 October 2018 to 9 November 2018. No submissions were received following both notification periods.

Conclusion

11. Having regard to the Heads of Consideration under Part 4.15 of the Environmental Planning and Assessment Act 1979, Modification Application No. MOD2018/0096 is recommended for approval subject to amended conditions.

Report in Full

Proposal

12. The proposal is for a modification to an approved development which consisted of demolition of existing roof structure and construction of an additional storey, containing two (2) by one (1) bedroom residential units.
13. This modification seeks to relocate the internal stairway, reduce the floor space of two (2) of the one (1) bedroom units and conversion to studio units, increase floor space of unit 4, and alterations to the roof design under Modification Application MOD2018/0096.
14. Specifically the application proposes:

Ground Floor

- No alterations to ground floor.

First Floor

- Relocation of internal stairs.
- Retain the floor area of Unit 2.
- Reduce the size of Unit 1 by 6.5sqm from 55sqm to 48.5sqm and amend internal layout to convert to a studio unit.

Second Floor

- Relocation of internal stairs.
- Increase Unit 4 by 11sqm from 50sqm to 61sqm.
- Reduce the size of Unit 3 by 10sqm from 57sqm to 47sqm and amend internal layout to convert to a studio unit.

Roof Design

- Alteration to the line of the roof box gutter.

Site and Locality

15. The subject site is identified as 367 Princes Highway, Carlton and is legally described at Lot 101 DP810718.
16. The site is located on the north western side of Princes Highway with a secondary street frontage to Park Road, which is a signalised intersection. Vehicular access is via an unnamed lane running parallel to Princes Highway off Park Road while pedestrian access is via Park Road on the southern façade.
17. The site comprises has street frontage widths of 13.7m to Princes Highway and 30.025m to Park Road with an overall site area of 471.3sqm. The site currently contains a ground floor commercial component which includes a showroom area, toilet amenities, plant and machinery area, garbage and loading bay area (currently used as a display area) with an entry and access stairs to the upper level. The existing first floor contains two (2) by one (1) bedroom residential units which are proposed to be retained.
18. The surrounding area includes commercial and residential which is a mixture of low scale dwellings, shop top housing and a fast food restaurant.

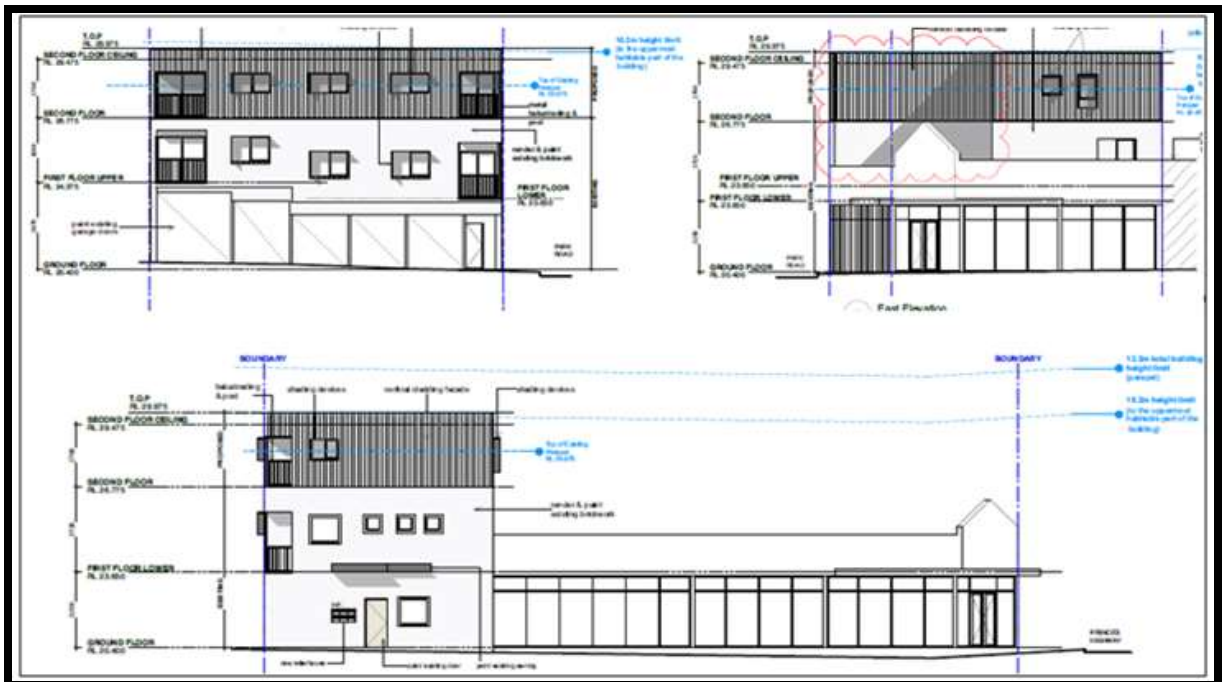


Figure 9 – South, east and west elevations

Background

19.

19 August 2017	Development Consent No. DA33/2015 issued was for “Additional floor (2 residential units) on existing structure”
25 July 2018	Modification No. MOD2018/0096 (this application) was submitted
8 October 2018	After preliminary assessment the applicant was requested to amend the modification as Units 1 and 3 did not meet the requirements for minimum size for one bedroom units under the requirements of SEPP65. Units 1 and 3 are to be converted to studio units.
23 October 2018	Amended plans were submitted to Council on 23 October 2018

APPLICABLE PLANNING CONTROLS
Statutory Consideration

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

20. The following Environmental Planning Instruments are relevant to this application:
- Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment;
 - State Environmental Planning Policy No 55 - Remediation of Land;
 - State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development;
 - State Environmental Planning Policy (Infrastructure) 2007;
 - State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004;
 - Draft Environment State Environmental Planning Policy;
 - Kogarah Local Environmental Plan 2012; and
 - Kogarah Development Control Plan.

Assessment having regard to the relevant State Environmental Planning Policies is detailed below:

Deemed State Environmental Planning Policy – Georges River Catchment

21. All stormwater from the proposed development can be treated in accordance with Council's Water Management Policy and would satisfy the relevant provisions of the Deemed State Environmental Planning Policy – Georges River Catchment and the original engineering conditions of consent. No changes to the stormwater design are required as a result of change in the roof design.

State Environmental Planning Policy No 55 – Remediation of Land

22. The approved development was for construction of a two residential units over an existing structure. This application seeks approval for internal alterations, accordingly, there are no earthworks proposed.

Based on Council's records, the subject site has not been used for any potentially contaminating activities. As such, it is considered unlikely that the land is contaminated.

State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development

23. The proposed modification has been reviewed having regard to the Principles of this State Environmental Planning Policy, comments are provided below.

Principle 1 – Context and Neighbourhood Character

24. Comment: The approved development was for a three (3) storey shop top accommodation consisting of the existing commercial space at ground level, existing two (2) by one (1) bedroom units on level 1 and the construction of an additional storey consisting of two (2) by one (1) bedroom units creating a third level to the shop top development.

The site is located on the corner of two busy arterial roads, Princes Highway and Park Road. Adjacent to the site is an unnamed rear lane with parking which has previously been dedicated to Council.

There exists a mix of shop top accommodation, single and two storey detached dwellings, commercial premises and a fast food restaurant in the vicinity.

The development is consistent with the context of the neighbourhood character.

Principle 2 – Built Form and Scale

25. Comment: The approved development is a three (3) storey structure with a maximum height of 9.57m and conforms to the LEP height control of 21m. The proposed modification being internal alterations and a minor amendment to the box gutters does not alter the approved built form or scale of the structure.

Principle 3 – Density

26. Comment: The approved development complies with the relevant setbacks and is under the height control. The proposed modification being internal alterations and minor amendment to the box gutters does not alter the density of the structure. The unit mix within the development is altered given the reduction in the unit size.

Principle 4 – Sustainability

27. Comment: The application is subject to BASIX. A BASIX certificate was lodged with the approved development. As the proposed modification is for the relocation of a stairwell and amendment to box gutters an updated BASIX certification is not required.

Principle 5 - Landscape

28. Comment: The approved development did not include a landscape component and the proposed modification does not alter this.

Principle 6 – Amenity

29. Comment: The approved development provides parking for the commercial component of the site and two (2) garages for the existing 1 bedroom units. Vehicular access is via an unnamed laneway off Park Road. No parking was allocated to the two addition units. The proposed modification does not alter this arrangement.

The proposed modification relocates the stairwell which sees a reduction in size and modification of the layout of unit 1 and 3 resulting in two studio units. Unit 1 is reduced from 55sqm to 48.5sqm; Unit 3 reduces from 57sqm to 47sqm, while Unit 4 is increased by 11sqm from 50sqm to 61sqm. All units retain their balconies and are compliant with the minimum internal sizing.

Principle 7 – Safety

30. Comment: The approved development is consistent with crime prevention principles. It has been adequately designed with respect to egress arrangements and the navigation of the development internally. The proposed modification does not alter these design parameters.

Principle 8 – Housing Diversity and Social Interaction

31. Comment: The approved development provides shop top housing increasing housing diversity and contributing to social vitality of the neighbourhood centre while retaining the street level commercial space. The proposed modification does not impact on this principle.

Principle 9 - Aesthetics

32. Comment: The approved development is a combination of render and paint on existing brickwork and metal cladding on the third level with metal shading devices over existing and new windows. The entrance way from Park Road is to be upgraded with letter boxes and painting of the existing door and awning.

33. The approved development was assessed against the Apartment Design Guide (ADG). The approved development satisfied the criteria for building setbacks, solar and daylight access, ceiling height, the provision of private open space, storage and acoustic privacy.

The proposed modification realigns the stairwell between the first and second level to improve circulation. This reduces the floor space of Unit 1 and 3 to 48.5sqm and 47sqm respectively. The internal layouts are modified to studio units and comply with the objectives of the ADG. The proposed development has no impact on the building setbacks, solar and daylight access, ventilation, private open space, storage or acoustic privacy and meets the requirements of the ADG.

State Environmental Planning Policy (Infrastructure) 2007

34. In accordance with Clauses 101 and 102 of the State Environmental Planning Policy (Infrastructure) 2007, the site is in a location where it is deemed to be affected by Traffic Noise.

The approved Development Consent DA33/2015 assessed any potential noise impact from the State Road being Princes Highway by imposing a condition in the consent so that the proposal is to be constructed in compliance with the recommendations stated within the Acoustic Report prepared by DK Acoustics

Accordingly, it is considered that the alterations subject of this modification application does not warrant a revised acoustic report.

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

35. BASIX Certificate No. 597579M dated 16 February 2015 was issued for the approved development and the development meets the provisions and minimum requirements of BASIX in terms of water, thermal comfort and energy efficiency.

The proposed modification does not alter the internal arrangement and layout of the units to a degree that would require the need for a revised certification; as such the original BASIX certificate is still relevant to the amended design.

PLANNING ASSESSMENT

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

Environmental Planning Instruments

Kogarah Local Environmental Plan (KLEP)

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

Objective of the zone

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible location.*
- *To maximise public transport patronage and encourage walking and cycling.*



Figure 10 – Zoning map, site outlined in red

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

Clause	Standard	Proposed	Complies
1.4 – Definitions	Shop top housing	The proposed development is consistent with the definition of a “shop top housing”	Yes
2.3 – Zone objectives and Land Use Table	B2 Local Centre Zone	Shop top housing is permitted with consent	Yes
4.3 – Height of Buildings	21m as identified on Height of Buildings Map	The proposed works do not alter the approved building height which is approximately 9.575m to the ridge from natural ground and complies.	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 a heritage item or located with a heritage conservation area.	N/A

Section 4.55 Considerations

39. The application has been made pursuant to Section 4.55(1A) of the Environmental Planning and Assessment Act 1979 to modify Development Consent DA33/2015 determined on 19 August 2015. A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

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

Comment: This proposed modification seeks to relocate the internal stairway, reduce the floor space of two (2) of the one (1) bedroom units and conversion to studio units, increase floor space of unit 4, and alterations to the roof design. Overall the development is of minimal environmental impact.

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

Comment: The proposed development as modified would represent substantially the same development for which consent was originally granted being shop top housing containing four (4) units and ground floor commercial and supporting services.

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

Comment: Not applicable.

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

Comment: The application was neighbour notified in accordance with the provisions of KDCP on two (2) occasions and no submissions were received.

Has considered any submissions made concerning the proposed modification?

Comment: The application was subject to neighbour notification in accordance with the provisions of the KDCP on two (2) separate occasions. No submissions were received.

DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

Draft Environment SEPP

40. 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 PLAN

41. The following Development Control Plan is relevant to this application.

Kogarah Development Control Plan 2013

42. **Part D - Commercial and Industrial**

Part B General Controls			
Controls	Required	Proposed	Comply
Part D – Commercial and Industrial			
D2 -3.8 Dwelling Design – Apartment Mix & Dwelling size	Provide a mix of studios, 1, 2 & 3 bedroom apartments. Studios – min. IFA 40sqm 1 bedroom unit – min. IFA 60sqm 2 bedroom unit – min. IFA85sqm 3 bedroom unit – min. IFA 100sqm	Studio 1 - 47sqm Studio 3 - 48.5sqm Unit 2 – 60sqm Unit 4 – 61sqm	SEPP 65 prevails. The proposed studio units and the approved 1 bedroom units comply.

LPP056-18

PROVISIONS OF REGULATIONS

43. The provisions of the Regulations relating to this application have been taken into consideration during this assessment and have been discussed specifically throughout this report.

SUBMISSIONS

44. The proposal as modified has been notified in accordance with the provision of KDCP on two (2) separate occasions, no submissions were received.

IMPACTS**Likely Impacts of Development**

45. The application as proposed results in a scale and form being acceptable and consistent with the future character of the locality. The application is therefore recommended for approval.

Suitability of the site

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

Public Interest

47. The proposal as modified has been assessed against the relevant planning policies applying to the site having regard to the objectives of the controls. As demonstrated in the assessment of the application the proposal satisfies the design criteria for this form of development. The proposal as presented will have minimal impacts surrounding properties. Therefore, the proposal as modified is in the public interest.

REFERRALS**Council Referrals**

48. The application did not require any referrals.

CONCLUSION

49. This application has been assessed having regard to the matters for consideration under Section 4.15(1) and 4.55(1)(a) of the Environmental Planning and Assessment Act 1979, the provisions of the applicable SEPP's, KLEP 2012 and KDCP 2013.
50. Following a detailed assessment it is considered that on planning grounds Modification Application No. MOD2018/0096 is worthy of approval subject to modified conditions contained in Section A below.

DETERMINATION AND STATEMENT OF REASONS

Statement of Reasons

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

That pursuant to Section 4.15(1) and 4.55(1)(a) of the Environmental Planning and Assessment Act 1979, the Council grants development consent to Modification Application MOD2018/0096 to relocate the internal stairway, reduce the floor space for two of the one (1) bedroom units and their conversion to studio units, increase the floor space of unit 4, and alterations to the roof design to Lot 101 DP810718 known as 367 Princes Highway, Carlton in accordance with the following modified conditions:

SECTION A – General Conditions

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

(1) Approved Plans of Consent

The development must be implemented in accordance with the approved plans 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	Dwg. No.	Date	Issue	Prepared by
Site Plan	DA_050	6/7/18	D	BKA Architecture
Ground Floor Plan	DA_100	6/7/18	E	BKA Architecture
First Floor Plan	DA_101	6/7/18	E	BKA Architecture
Second Floor Plan	DA_102	6/7/18	F	BKA Architecture
Roof Plan	DA_103	6/7/18	F	BKA Architecture
Elevations (west, east & south) Plan	DA_200	6/7/18	F	BKA Architecture
Sections (A & B) Plan	DA_300	6/7/18	F	BKA Architecture
External Finishes (colour & materials)	DA_400	6/7/18	C	BKA Architecture

(This condition is amended as part of MOD2018/0096 (DA 33/2015))

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

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

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

(2) Asset & Building Fees

Payment of the following amounts as detailed below:

- Damage Deposit of \$1,900.00
- *Builders Long Service Levy of \$ 875.00
- Asset Inspection Fee of \$ 105.00

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

(3) Section 94 Index

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

(4) Section 94 Contributions

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

No.1 – Roads and Traffic Management – Residential	\$213.33
No.5 – Open Space 2007	\$12,676.54
No.9 – Kogarah Libraries – Buildings	\$285.08
No.9 – Kogarah Libraries – Books	\$203.26
Ramsgate Commercial Centre Contributions Plan	
TOTAL	\$13,378.21

Further Information

A copy of the *all current Development Contributions Plans* may be inspected or a copy purchased at Council’s offices (Civic Centre, MacMahon Street, Hurstville and 2 Belgrave Street, Kogarah) or viewed on Council’s website www.georgesriver.nsw.gov.au.

(This condition is amended as part of MOD2018/0096 (DA 33/2015))

(5) Noise from road and rail

To minimise the impact of noise from the adjoining major road and / or rail corridor on the occupants, the building shall be constructed in accordance with the recommendations of the acoustic report by DK Acoustics dated 22 April 2015 approved as part of this application.

(6) Clearances to Overhead Mains

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

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

SECTION C – Prior to Commencement of Construction Conditions

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

(7) Structural Engineer

A report shall be obtained from a practising Structural Engineer, prior to commencement of work, verifying the structural adequacy of the existing building to support the building addition.

(8) Certification by Mechanical Engineer

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

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

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

(9) Structural Engineer's Details

Engineer's details prepared by a practising Structural Engineer being used to construct all reinforced concrete work, structural beams, columns & other structural members. The

details are to be submitted to the Principal Certifying Authority for approval prior to construction of the specified works.

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

(10) Soil Erosion Controls

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

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

SECTION D – Construction and Operational Conditions

The conditions that follow in this Section D of the Notice of Determination are imposed to ensure the development is constructed and operates having regard to relevant legislation and does not unreasonably impact on the amenity of the locality or environment during the construction phase or the operation of the use.

(11) Inspections - Multi Unit

The following lists of inspections are the **MANDATORY CRITICAL STAGE INSPECTIONS** that **MUST** be carried out by the Principal Certifying Authority (PCA).

- (a) at the commencement of building works
- (b) prior to covering waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within a building, and
- (c) prior to covering any stormwater drainage connections, and
- (d) after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

Certificates from your engineer or subcontractor are **NOT** acceptable in the first instance for the above inspections. Failure to have your PCA carry out these inspections could result in a delay or refusal to issue an Occupation Certificate.

In addition to the above, it is recommended that the following inspections be carried out for the subject development;

- Erosion Control
- Earthworks/Excavation
- Building setout
- Concrete reinforcement
- Timber and/or steel framework
- Mechanical/Hydraulic work
- Driveways
- Landscaping
- External Finishes

(12) Storage of materials on Public Road

All building materials or waste containers must be stored within the confines of the site. The storage of such building materials, waste containers or equipment associated with the project upon the public roadway, including the pedestrian footway or unpaved verge, is prohibited.

(13) Use of Crane on Public Road

Prior approval must be obtained from Council a minimum of 24 hours before the use on any site of a crane, hoist or similar machinery that will be used to transfer materials across Council's footpath. This includes cranes that are situated on roadways, footpaths and road reserves.

Any application for approval must be accompanied by the following information:-

- Site sketch indicating the proposed location of the crane, pedestrian controls and traffic controls;
- A copy of current public liability insurance with minimum cover of twenty million dollars (\$20,000,000) indemnifying Council in the event of an incident;
- A copy of an RMS accredited traffic control plan;
- Proof that the Local Area Command of the NSW Police have been advised of the proposal.

The use of a crane, hoist or similar machinery on any site without prior approval is prohibited.

(14) Building Height - Surveyors Certificate

The proposed building is not to be erected at a height greater than that indicated on the approved plan. A certificate from a Registered Surveyor verifying the correct Reduced Level of the ground floor slab and boundary clearances shall be submitted prior to inspection of the steel reinforcement.

(15) Damage within Road Reserve & Council Assets

The owner shall bear the cost of restoring any footpath, roadway and any other Council assets damaged due to works at, near or associated with the site. This may include works by Public Utility Authorities in the course of providing services to the site.

(16) Public Utility & Telecommunication Assets

The owner shall bear the cost of any relocation or modification required to any Public Utility Authority assets including telecommunication lines & cables and restoring any footpath, roadway and any other Council assets damaged due to works at, near or associated with the site.

(17) Hours of Construction

Construction may only be carried out between 7.00 am and 5.00 pm on Monday to Saturday and no construction is to be carried out at any time on a Sunday or a public holiday.

(18) Provision of Amenities

Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site or as specified by Workcover requirements .

- each toilet provided must be a standard flushing toilet and must be connected:
- to a public sewer; or
- if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council; or
- if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.

The provision of toilet facilities must be completed before any other work is commenced.

(19) Letter Boxes

Suitable letter box facilities (including Owner's Corporation in the case of strata units) shall be provided in accordance with Australia Post specifications.

(20) Basix Certificate Details – DA Only

Construction of building works given Development Consent must be carried out in accordance with a valid and current BASIX certificate and all required commitments must be satisfied.

(21) Building Finishes

The building finishes are to be constructed in accordance with the colour board and perspective submitted with the Development Application.

SECTION E – Prior to Occupation or Subdivision Certificate Conditions

The conditions that follow in this Section E of the Notice of Determination relate to conditions that ensure that the development is completed in accordance with the requirements of the Development Consent prior to the issue of either an Occupation Certificate or a Subdivision Certificate.

(22) SEPP No 65 Certification

A design verification statement from a qualified designer shall be submitted verifying that the development achieves the design quality of the development as shown in the plans and specifications in respect of which the construction certificate was issued, having regard to the design quality principals of State Environmental Planning Policy No. 65.

(23) Acoustic Validation – Infrastructure SEPP

A report prepared by an accredited Acoustic Consultant shall be submitted to Council certifying that the development complies with the requirements of State Environmental Planning Policy (Infrastructure) 2007, conditions of development consent and

recommendations of DK Acoustics dated 22 April 2015. The report shall include post construction validation test results.

(24) Fire Safety Schedule

Certain items of equipment or forms of construction shall be nominated as "fire safety measures" within the building.

Upon completion of works, and before occupation of the building, each of the fire safety measures is required to be certified by an appropriately competent person (chosen by the owner of the building). The certificate is to state that the measure was inspected and found to be designed, installed and capable of operating to a standard not less than that required by the relevant regulations.

Further, it is the responsibility of the owner of the building that each fire safety measure is again inspected and certified as to its condition every twelve (12) months following the submission to Council of the original certification.

(25) BASIX Completion Receipt

In accordance with clause 154C of the Environmental Planning and Assessment Regulation 2000, prior to issuing a final occupation certificate the certifying authority must apply to the Director-General for a BASIX completion receipt.

SECTION F – Prescribed Conditions

The following are prescribed conditions of development consent pursuant to s.80A(11) of the Environmental Planning and Assessment Act 1979 and cl.98 of the Environmental Planning and Assessment Regulation 2000.

(26) Compliance with the Building Code of Australia

The development must be carried out in accordance with the provisions of the Building Code of Australia.

(27) Insurance Requirements under Home Building Act 1989

The builder or person who does the residential building work must comply with the applicable requirements of Part 6 of the Home Building Act, 1989. This means that a contract of insurance must be in force in accordance with Part 6 of that Act before any building work authorised to be carried out by the consent commences.

It is the responsibility of the builder or person who is to do the work to satisfy Council that they have complied with the applicable requirements of Part 6 of the Home Building Act, 1989.

If Council is the Principal Certifying Authority it will not carry out any inspections until a copy of the insurance certificate is received.

(28) Erection of Signs

A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
- (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (c) stating that unauthorised entry to the work site is prohibited.

The sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

(29) Notification of Home Building Act 1989 Requirements

Residential building work within the meaning of the [Home Building Act 1989](#) must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:

- (a) in the case of work for which a principal contractor is required to be appointed:
 - (i) the name and licence number of the principal contractor, and
 - (ii) the name of the insurer by which the work is insured under Part 6 of that Act,
- (b) in the case of work to be done by an owner-builder:
 - (i) the name of the owner-builder, and
 - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified above becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

(30) Shoring and Adequacy of Adjoining Property

If the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- (a) protect and support the adjoining premises from possible damage from the excavation, and
- (b) where necessary, underpin the adjoining premises to prevent any such damage.

The above condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

(31) Council Notification of Construction

The erection of a building which is the subject of a Development Consent must not be commenced until:

- a) Detailed plans and specifications of the building have been endorsed with a

construction certificate by Council or an accredited certifier.

- b) the person having the benefit of the development consent has:
- appointed a Principal Certifying Authority (PCA), and
 - notified Council (if Council is not the PCA) *in writing* of the appointment, and
 - given at least 2 days notice to Council of their intention to commence the erection of the building. The notice may be in writing or by phone.

SECTION G – Demolition Conditions

The following conditions are imposed to ensure the demolition associated with the proposed development is carried out having regard to relevant legislation and does not unreasonably impact on the amenity of the locality or environment.

(32) Demolition for Alterations & Additions – Asbestos

- (a) Demolition of buildings where asbestos is determined to be present should only occur 7am – 5pm Monday to Saturdays, and must not occur on Sundays or Public Holidays, to ensure that the persons carrying out the work have access to WorkCover professionals if required.
- (b) All asbestos removal shall be undertaken in accordance with the requirements of WorkCover's 'How to Safely Remove Asbestos' code of Practice and Council's Asbestos Policy.
- (c) Written notice must be provided to Kogarah Council five (5) working days (excluding public holidays) prior to commencement of any works.

Written notice is to include the following details:

- Date the demolition will commence
- Name, address, contact details (including after hours) and licence number of the demolisher and asbestos removalist (if different)

Work must not commence prior to the nominated demolition date.

Note: it is the responsibility of the persons undertaking demolition work to obtain the relevant WorkCover licences and permits.

- (d) The owner is to notify all owners and occupiers of premises on either side, opposite and at the rear of the development site five (5) working days prior to demolition. Such notification is to be clearly written on A4 size paper stating the date the demolition will commence and is to be placed in the letterbox of every premises (including every residential flat or unit, if any). The demolition must not commence prior to the date and time stated in the notification.
- (e) All asbestos cement sheeting must be removed prior to the commencement of:
- a) Brick veneering or re-cladding of any building where the existing walls to be covered are clad with asbestos cement; OR

- b) Construction work where new work abuts existing asbestos cement sheeting and/or where existing asbestos cement sheeting is to be altered or demolished.
- (f) A demolition or asbestos removal contractor licensed under the *Work Health and Safety Regulation 2011* must undertake removal of more than 10m² of bonded asbestos (or otherwise specified by WorkCover or relevant legislation).

Removal of friable asbestos material must only be undertaken by a contractor that holds a current AS1 Friable Asbestos Removal Licence.

- (g) Development sites that involve the removal of asbestos must display a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm is to be erected in a prominent visible position on the site to the satisfaction of Council's officers. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos has been removed from the site to an approved waste facility.
- (h) All asbestos waste must be stored, transported and disposed of in compliance with the Protection of the Environment Operations (Waste) Regulation 2005. All receipts detailing method and location of disposal must be submitted to Council as evidence of correct disposal.
- (i) A Clearance Certificate or Statement, prepared by a suitably qualified occupational hygienist must be provided to Council upon completion of demolition and asbestos related works, which confirms that the relevant legislative requirements in relation to safe removal and disposal have been satisfied
- (j) A Work Cover Licensed Demolisher is to be engaged to carry out any demolition works using mechanical equipment where the structure is over 4 metres in height or to carry out any manual demolition works on a structure over 10 metres in height.
- (k) The provision of temporary fences and footpath crossing pads prior to commencement of demolition operations. Further, no waste materials or bins are to be placed on Council's roadways or footpaths.
- (l) No waste materials are to be burnt on site.
- (m) No trees as defined by Council's Tree Preservation Order being removed or damaged on the site without the prior written approval of Council.
- (n) Compliance with the provisions of Australian Standard AS 2601-1991:"The Demolition of Structures", which requires notification of demolition to be submitted at least seven (7) days prior to demolition to the NSW Workcover Authority.
- (o) Effective erosion and sediment control measures are to be undertaken during the course of demolition and building works in accordance with Council's 'Environmental Site Management Policy'. Failure to implement appropriate measures may result in a \$750 Penalty Infringement Notice (individual) and/or \$1,500 (corporation) being issued and/or the incurring of a maximum penalty of

\$250,000 (corporation) or \$120,000 (individual) through the Land and Environment Court.

- (p) Appropriate measures are to be implemented on site to control dust and other air borne matter and demolition material is to be stored and stacked in a manner so as to minimise the risk of damage or nuisance to neighbouring properties.
- (q) Council being notified upon completion of the demolition works so that an inspection can be made of the roadway and footpath.
- (r) All non-recyclable demolition material being disposed of at an approved waste disposal depot. Details as to the method and location of disposal of demolition materials (weight dockets, receipts, etc.) should be kept as evidence of approved method of disposal.
- (s) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (a) showing the name, address and telephone number of the principal certifying authority for the work, and
 - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (c) stating that unauthorised entry to the work site is prohibited.

The sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed

END CONDITIONS

Advisory Notes

1. **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.

(This condition is added as part of MOD2018/0096 (DA 33/2015))

2. **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.

(This condition is added as part of MOD2018/0096 (DA 33/2015))

3. **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.

(This condition is added as part of MOD2018/0096 (DA 33/2015))

(i) Worksite Safety

It is usually the owner/applicant's responsibility to ensure that the development site is a safe working environment. This may be by the engagement of an appropriately competent principal contractor. There are various legislative and WorkCover requirements with respect to maintaining a safe work-site. Details of these requirements and legislation, as well as, guidance and advisory material, can be found on the WorkCover Website www.workcover.nsw.gov.au.

(ii) Worksite Safety Scaffolding

Council is committed to worksite safety and requiring that all scaffolding is installed by competent and qualified professionals with the relative appropriate standards. The applicable Australian Standards for the scaffolding is AS/NZS1576 in respect of the design of the scaffolding and AS/NZS4576 with respect to the erection of the scaffolding. Also, you should ensure that those erecting scaffolding are appropriately qualified and have the appropriate qualifications to erect scaffolding. For further information regarding this please see www.workcover.nsw.gov.au.

(iii) Kid Safe NSW

Kidsafe NSW has produced Safer Homes for Children Design and Construction Guidelines for builders, renovators and home owners. The guidelines identify common hazards for children and recommended practical design applications to improve child safety for all areas of the home. Free copies of the Guidelines are available from Council's Customer Service Centre, or contact Kidsafe on (02) 9845 0890 or their website <http://www.kidsafensw.org/homesafety/index.htm> for more information.

(iv) Dial Before You Dig

Underground pipes and cables may exist in the area. In your own interest and for safety, telephone 1100 before excavation or erection of structures. Information on the location of underground pipes and cables can also be obtained by fax on 1300 652 077 or through the following website www.dialbeforeyoudig.com.au.





(v) Disability Discrimination Act

This authorisation does not imply that the proposal complies with *Disability Discrimination Act 1992*. The Proponent is responsible to ensure compliance with this and other anti-discrimination legislation. The *Disability Discrimination Act 1992* covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references AS 1428.1 – Design for Access and Mobility. AS1428 Parts 2, 3 & 4 provides the most comprehensive technical guidance under *The Disability Discrimination Act 1992*.

(vi) Demolition Waste

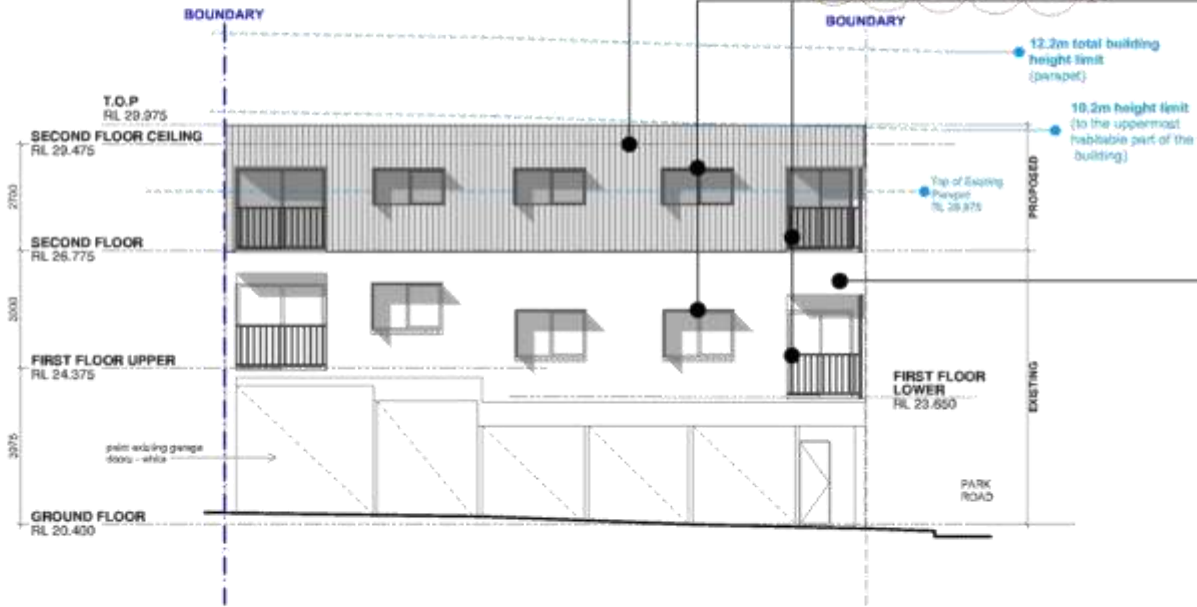
Sorting your construction and demolition waste will save you money. For pricing and disposal options for sorted loads of tiles, bricks, timber concrete or asphalt call Waste Service NSW on 1300 651 116.

ATTACHMENTS

- Attachment [↓](#)1  External Finishes Schedule - 367 Princes Highway Carlton
- Attachment [↓](#)2  Site Plan and Analysis - 367 Princes Highway Carlton
- Attachment [↓](#)3  Elevations - 367 Princes Highway Carlton
- Attachment [↓](#)4  Roof Plan - 367 Princes Highway Carlton



VERTICAL CLADDING



1 West Elevation
 Scale 1:100

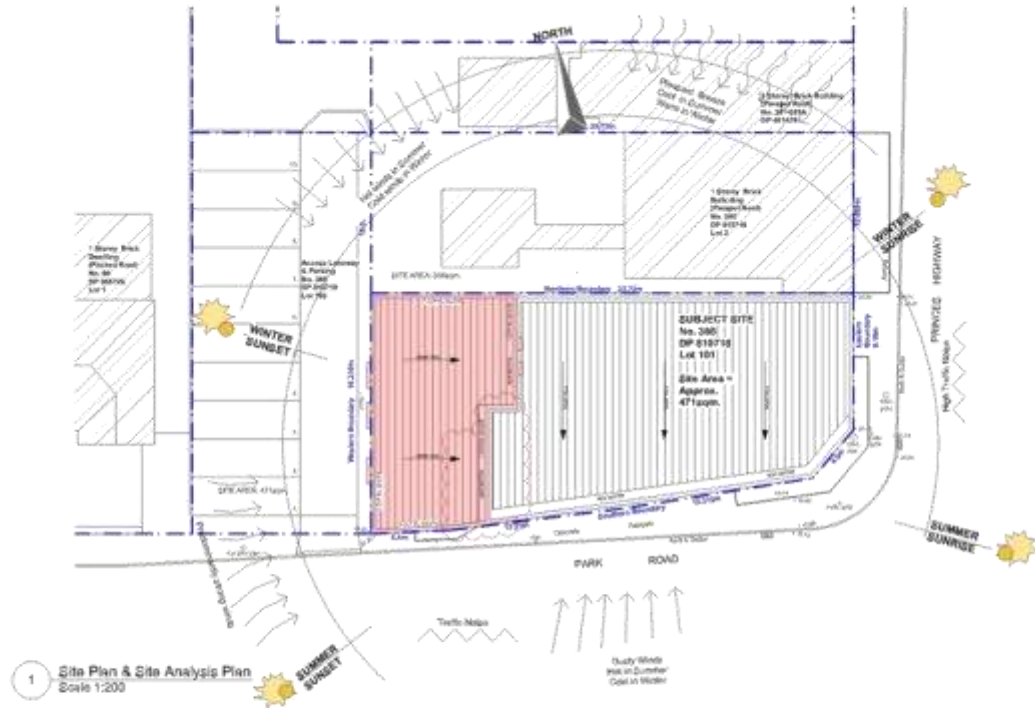
LEGEND:

- Site Boundary
- Walls Removed
- Existing Walls & Windows
- Proposed New Walls & Windows
- Proposed New Works

NOTE: REFER TO CLOUDED AREA'S FOR CHANGES

Project Information:
 Residential Alteration & Additions
 367 Princes Highway, Carlton
 Bruno Lao
 external Finishes Schedule

Project Details:
 DA_400
 140206



View of Subject Site from the corner of Park Rd and Princes Highway
 source: google maps



View of Subject Site from the corner of Park Rd
 source: google maps



View of Neighbouring Sites - 220-225 Princes Highway
 source: google maps



View of Neighbouring Sites - 365-367A Princes Highway
 source: google maps

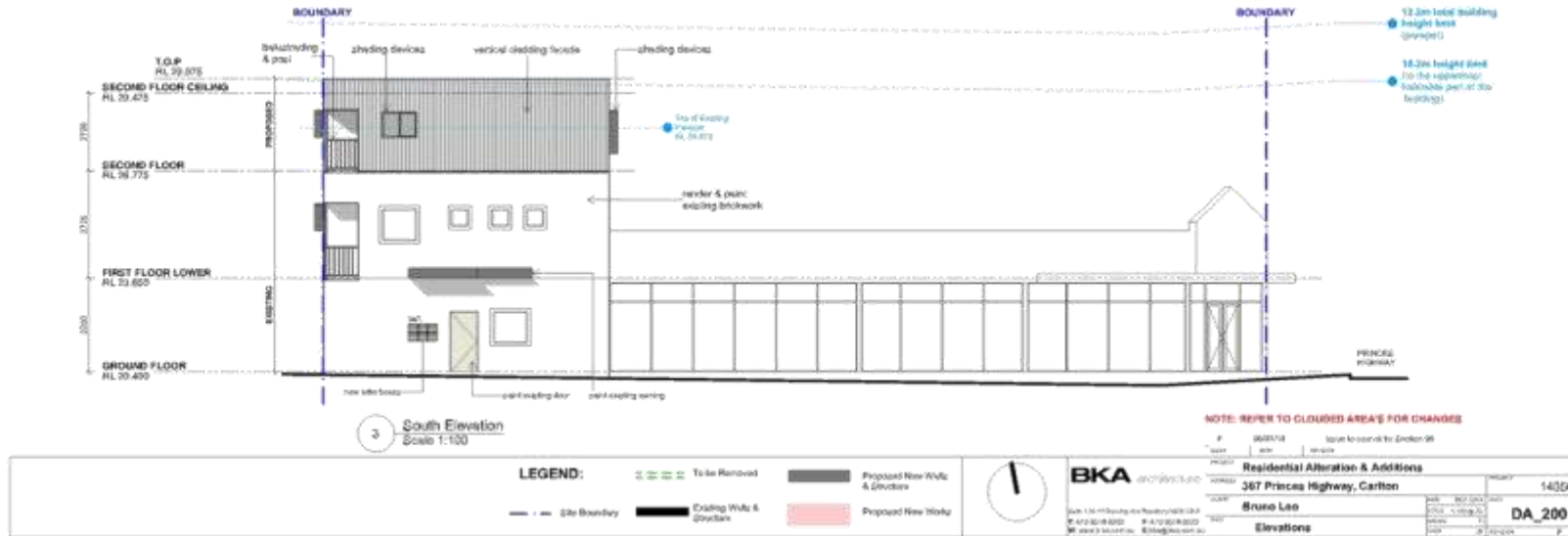


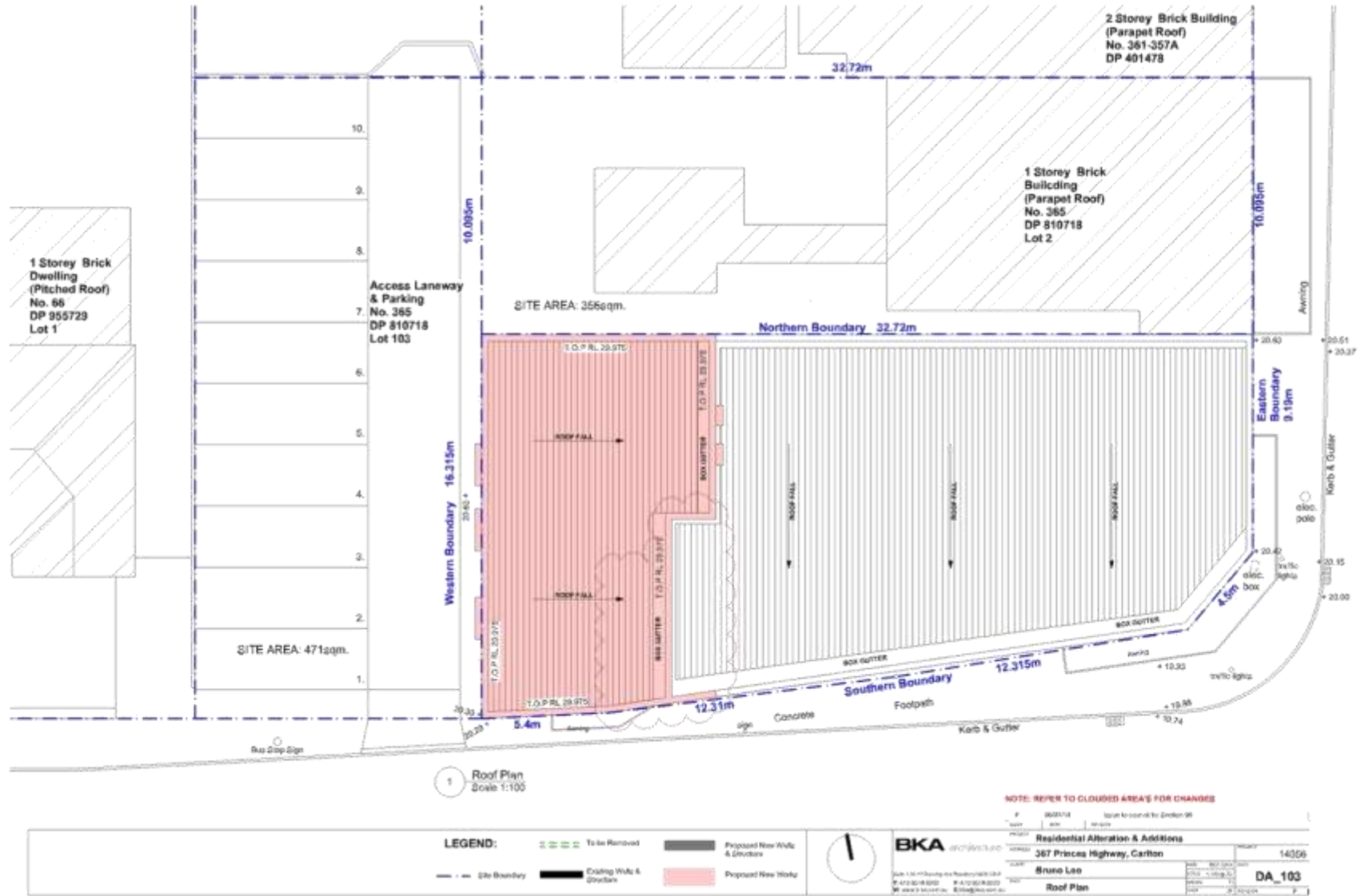
View of Neighbouring Sites - 62, 64 & 66 Park Road
 source: google maps



View of Neighbouring Sites - 372-381 Princes Highway 'Red Rooster'
 source: google maps
 NOTE: REFER TO CLOUDED AREAS FOR CHANGES

<p>LEGEND:</p> <p>--- Site Boundary</p> <p>█ Existing Walls & Structures</p> <p>█ Proposed New Walls & Structures</p> <p>█ Proposed New Works</p> <p>█ Ticks Removed</p>		<p>BKA architecture</p> <p>Residential Alteration & Additions 367 Princes Highway, Carlton</p> <p>Bruno Lao</p> <p>Site Plan & Analysis</p>	<p>DA 050</p> <p>140206</p>
		<p>Scale: 1:200</p> <p>Project: Residential Alteration & Additions</p> <p>Client: BKA Architecture</p> <p>Date: 12/12/2018</p> <p>Drawn: Bruno Lao</p> <p>Checked: Bruno Lao</p> <p>Scale: 1:200</p>	





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

LPP057-18

LPP Report No	LPP057-18	Development Application No	DA2016/0343
Site Address & Ward Locality	345 Belmore Road Riverwood Hurstville Ward		
Proposed Development	Demolition of the existing buildings and the construction of a five (5) storey mixed use development comprising two (2) ground floor commercial tenancies and nine (9) apartments with a rooftop communal open space and basement car parking for 20 vehicles		
Owners	Bob Building Management Pty Ltd and Junman Family Pty Ltd		
Applicant	Bob Building and Construction Management Pty Ltd and Junman Family Pty Ltd		
Planner/Architect	Planning - Chapman Planning, Architect - Spiral Architects		
Date Of Lodgement	13/12/2016		
Submissions	No submissions received		
Cost of Works	\$2,800,000		
Local Planning Panel Criteria	Shop top housing (SEPP 65 applicable development) and Clause 4.6 (in respect to a height non-compliance)		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	Greater Metropolitan Regional Environmental Plan No.2 – Georges River Catchment, State Environmental Planning Policy No.65 – Design Quality of Residential Flat Development, State Environmental Planning Policy No.55 – Remediation of Land, State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, Draft Environment State Environmental Planning Policy, Apartment Design Guide, Hurstville Local Environmental Plan, Hurstville Development Control Plan		
List all documents submitted with this report for the Panel’s consideration	Statement of Environmental Impacts Environmental Site Assessment Survey Plan		
Report prepared by	Senior Development Assessment Planner		

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

<p>Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?</p>	<p>Yes - Clause 4.6 Statement requesting variation of the height control</p>
<p>Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (under s7.24)?</p>	<p>Not Applicable</p>
<p>Conditions Have draft conditions been provided to the applicant for comment?</p>	<p>No</p>



Executive Summary

1. Council is in receipt of an application proposing the demolition of the existing structures and the construction of a five (5) storey mixed use development comprising two (2) commercial tenancies, nine (9) apartments, two basement levels accommodating a total of twenty (20) car parking spaces and associated site works.
2. The original application was submitted on 14 December 2016. Amended plans were submitted to Council on 13 March 2018 which sought to address issues raised by the Design Review Panel. The changes proposed included the following;
 - Provision of 20 car parking spaces (13 x residential spaces, 3 x visitor spaces and 4 x commercial spaces) 18 spaces originally proposed. The basement configuration was reworked.
 - The residential unit mix has been altered and floor space reduced to include 6 x 2 bedroom units and 3 x 3 bedroom units
 - Two commercial tenancies are provided with total GFA of 164.13sqm.
 - Relocation of the bin storage area.

- Setback of 1m provided to the rear laneway.
 - Communal area of open space provided at the roof level.
3. Council approved a five (5) storey mixed use development on 16 June 2010 (DA2009/0453) on this site, however this application lapsed before construction commenced. The current proposal was originally designed to be similar in form as the 2009 approved development. The amended plan is considered to be a more contemporary built form which will improve the overall character of the streetscape which is reflective of an older style, low scale traditional strip shopping precinct.
 4. The overall layout and form of the building is considered to be acceptable however some design changes are proposed to be implemented to strengthen the architectural form, visual appearance and functionality of the building.
 5. Existing on site is a two (2) storey building being a service station and mechanical workshop. An Environmental Site Assessment was prepared by Environmental Investigations which considered the potential for contamination to be present at the site. The report concluded that there is some contamination present and a detailed assessment and Remediation Action Plan will need to be prepared in order for the site to be suitable for its intended residential purpose. In accordance with the provisions of State Environmental Planning Policy No 55 – Remediation of Land, the consent authority needs to be satisfied that the site can be remediated prior to issuing a determination. Given that a Detailed Site Investigation has not been occurred and a Remediation Action Plan has not been submitted, Council cannot be satisfied that the provisions of SEPP 55 have and can be met. The application is therefore recommended for refusal.
 6. The original stormwater and drainage plan was required to be amended as it did not show an OSD facility which is required for this type and scale of development, the originally proposed stormwater connection from the site to the street was unacceptable as it traversed the adjoining property boundary to the north (347 Belmore Road). An updated stormwater and drainage plan was lodged with Council on 5 November 2018 and the arrangement was assessed by Council’s Engineers and the design is considered to be compliant with Council’s requirements subject to conditions.
 7. The application has been assessed having regard to the Matters for 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.
 8. Following a detailed assessment of the proposal, Development Application No. DA2016/0343 is recommended for refusal, as the proposal has not demonstrated the nature and extent of the site contamination and the remediation required to satisfy the provisions of SEPP 55. In terms of the general design, scale and form of the building, subject to some design changes that are being sought in this report the proposal is considered satisfactory from an urban design perspective.

Original proposal	Amended proposal
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Figure 1: Killara Avenue elevation of the proposed building (original and as amended)

Report in Full

DESCRIPTION OF THE PROPOSAL

9. The application is for the demolition of the existing two storey building on site and associated structures and the construction of a mixed use development containing two (2) commercial tenancies at ground floor , nine (9) apartments, and basement car parking for twenty (20) vehicles, associated storage areas and amenities with vehicular access off Killara Avenue.



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In detail, the development will comprise the following:

Basement Level 02

- 12 x resident car parking spaces
- Lift lobby
- Plant room
- 7 x storage spaces
- Access stairs

Basement Level 01

- 1 x resident car parking space
- 4 x commercial spaces
- 3 x visitor spaces
- Lift lobby
- Designated motorbike parking
- 2 x resident storage spaces
- 1 x commercial storage room
- Access stairs

Ground Floor Level

- 1 x commercial suite (130.76sqm) with access off Belmore Road
- 1 x commercial suite (34.09sqm) located on the corner of Killara Avenue and the laneway at the rear (Price Lane).
- Pump/metre and plant rooms
- Main entry lobby
- Garbage room
- Letterboxes
- Vehicular access off the Price Lane at the rear
- Associated amenities

First and Second Floor

- 3 x 2 bedroom units each level
- Lift lobby and staircase
- Service shafts

Third Floor Level

- 2 x 3 bedroom units
- Lift lobby and staircase
- Service shafts

Fourth Floor

- 1 x 3 bedroom unit
- Lift lobby and staircase
- Service shafts

Roof level

- Rooftop communal open space
- Lift lobby and staircase
- WC, BBQ area and general amenities

DESCRIPTION OF THE SITE AND LOCALITY

10. The site is located on a prominent corner in the Riverwood Town Centre located at 345 Belmore Road, Riverwood. The site comprises of three (3) allotments of land and a total site area of 547.5sqm. The site is located on the western side of Belmore Road with a frontage of 17.983m, a splay of 3.040m to Belmore Road and 23.177m to Killara Avenue with a further splay of 2.996m to Price Lane. The site has a cross-fall of 870mm from west to east from Price Lane to Belmore Road.

11. The site comprises of three (3) lots with a legal description of Lots 3, 4 and Lot 5 in DP16666.



Survey plan of the subject site - Courtesy: Sydney Surveyors

12. Currently on site is a two (2) storey building which is proposed to be demolished. The building was constructed for the purpose of a service station and vehicle repair centre, however is now used as a mechanical repair workshop (refer to **photo 1**). The building is built to the side and rear boundaries but is setback from Belmore Road and includes a large traditional canopy where pumps and bowzers used to exist as part of the service station operation. The bowzers have been removed and are no longer in use however the pumps remain and have not been decommissioned.



Photo 1 - The subject site when viewed from Belmore Road

13. The surrounding development on Belmore Road comprises of a mix of older buildings being commercial and retail shops generally one (1) to two (2) storeys in height, some with residences located above (traditional shop top housing). To the west (rear) is a 6m wide laneway known as Price Lane, where the business zone ends and lower scale residential development begins. To the east, across Belmore Road are more shop top housing developments with residential development beyond these.
14. The site is located towards the northern end of the Riverwood Town Centre approximately 350m from Riverwood Railway Station. The site is also within close proximity to other amenities such as Riverwood Park and St Josephs Catholic School.
15. The site is located close to the LGA boundary with Canterbury/Bankstown to the north.

HISTORY

16. On 16 June 2010 Council approved a five (5) storey mixed use development which exceeded the four (4) storey height limit and 2:1 FSR control which applied at that time. The development comprised of 200sqm of commercial floor space and 9 apartments (6 x 2 bedroom and 3 x 3 bedroom) in a similar configuration to the current proposal. The total FSR under this previous scheme was 2.248:1.
17. This application was approved before the current changes to SEPP 55 occurred which require information that ensures sites that are potentially contaminated can be remediated prior to a determination of the application being made.

ENVIRONMENTAL PLANNING CONTROLS

Hurstville Local Environmental Plan 2012 (HLEP)

Zoning

18. The subject site is zoned B2 – Local Centre under the Hurstville Local Environmental Plan 2012, the proposed development is permissible in the zone with the consent of Council. The zone objectives are:

- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.
- To encourage employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To maintain a commercial and retail focus for larger scale commercial precincts.

19. The proposed development is defined as “shop top housing” which is a permissible use in the zone, and has been designed to comply with the zone objectives. The existing vehicle body repair workshop and vehicle repair station is now a prohibited use. Service stations are however permitted in the zone.




Extract Hurstville LEP – the subject site is outlined in red

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

Table 1: HLEP 2012 Compliance Table

Clause	Standard	Proposed	Complies
1.2 – Aims of the Plan	In accordance with Clause 1.2 (2)	The development is consistent with the aims of the plan	Yes
1.4 - Definitions	“Shop top housing”	The proposed development meets the definition.	Yes
2.3 - Zone objectives and Land Use Table	Meets objectives of B2 Local Centre zone Development must be permissible with consent	Development meets the zone objectives Is a permissible use subject to development consent	Yes
2.7 - Demolition	Demolition is permissible with consent	Demolition is proposed with this application	Yes
4.3 – Height of Buildings	18m as identified on Height of Buildings Map	19.5m maximum The applicant has submitted	No refer to Clause 4.6

		a Clause 4.6 Statement for the variation in the height. This is discussed in further detail in the assessment report.	
4.4 – Floor Space Ratio	2:1 as identified on Floor Space Ratio Map	2:1 (amounts to a total GFA of 1,094.75sqm) GFA calculations that have been provided have been confirmed to be accurate.	Yes
4.4A Non-residential floor space ratios	The objective of this clause is to encourage an appropriate mix of uses to ensure a suitable level of non-residential floor space is provided to promote employment and reflect the hierarchy of the business zones. Consent must not be granted for development on land in Zone B2 Local Centre unless the non-residential floor space ratio is at least 0.3:1.	The original application exceeded the FSR but complied with the height control. The amended scheme now satisfies the FSR but the provision of a roof top communal open space (in accordance with the DRP recommendations) makes the lift overrun exceed the height control. The commercial floor space consists of 164.85sqm and amounts to an FSR of 0.3:1. The commercial tenancies on the ground floor are well designed and aim to activate two key frontages (Belmore Road and Killara Avenue).	Yes
6.6 – Active street frontage	The objective of this clause is to promote uses that attract pedestrian traffic along certain ground floor street frontages in Zone B2 Local Centre , Zone B3 Commercial Core and Zone B4 Mixed Use. A recent amendment to the LEP affects Clause 6.6 by adding “medical centre” to the definition of “active frontage”. This change was adopted by Council at its meeting 7 August 2017. The change does not directly impact this	The site is identified on the Active Street Frontages Map. Subclause 3 requires the consent authority to consider the design of any change of use or erection of a new building to ensure the development will have an active street frontage.  Subclause 4 stipulates that an active street frontage is	Yes The development is also proposing to replace a non-conforming use with a permissible use. In this case the development satisfies the provisions of subclause 4 as the commercial

	proposal.	not required for any part of the building that faces a service lane or is used for the following; <ul style="list-style-type: none"> - Entrances and lobbies (including as part of a mixed use, development) - Access for fire services, - Vehicular access 	tenancies on the ground floor have been designed to address Belmore Road and Killara Avenue. The façade to Price Lane is the basement and service access point.
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The site is not affected by Acid Sulphate Soils, Riparian Land and watercourses and is not located in a Conservation Area or within the vicinity of a Heritage Item. No other relevant LEP controls are applicable.

Clause 4.6 Exemptions to development standards - Height

20. The proposed development seeks a variation to the development standard relating to height (Clause 4.3). The LEP identifies a maximum height of 18m whereas the proposed development will have a maximum height of 19.5m. 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 variation relates to the lift overrun and staircase feature located at the roof level.

21. 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.*



Hurstville LEP 2012 – Height of Building Map – Site outlined in red

22. The applicant has lodged a Clause 4.6 Statement to justify that the degree of non-compliance is considered to be reasonable and acceptable in this case. A summary of the applicant's written justification is provided below.

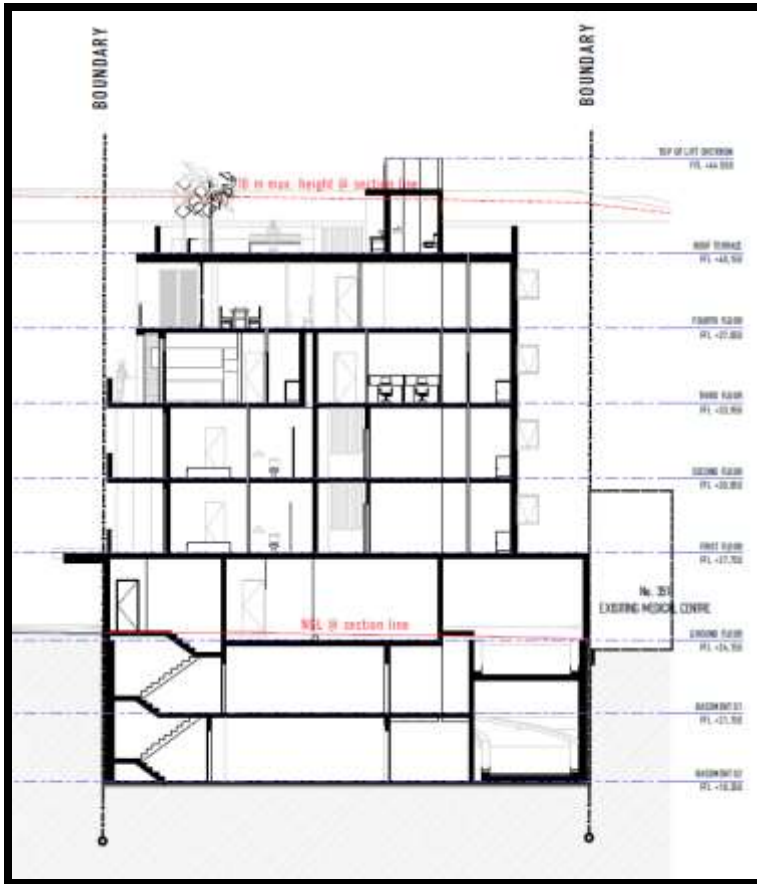
“The variation to the building height is confined to lift overrun and stair providing access to the communal roof terrace. It is noted that the 5 storey development meets the 18m height control measured to the balustrade of the roof terrace.

The application to vary the development standard – building height incorporates the relevant principles in the following judgements:

1. *Winten Property Group Limited v North Sydney Council*
2. *Wehbe v Pittwater Council, and*
3. *Four2Five Pty Ltd v Ashfield Council.*

The height of buildings is measured from the existing ground level to the maximum height of the development. The development proposal presents a maximum height of 19.5m – lift overrun, varying the building height control of 18m by up to 1.5m, being a variation of 8%.

Section of the building showing the exceedance in height above the 18m standard



The proposed variation to the 18m height development standard measured to the lift overrun and stair is consistent with the objectives of clause 4.6 as follows:

- The development proposal is largely within the 18m height control with the minor variation to the lift overrun being central to the site and will not be highly visible from Belmore Road or Killara Avenue – public domain.
- The proposed variation presents a better outcome with the provision of accessible communal open space for this residential flat –shop top housing development in the B2 – Local Centre zone.

Compliance with the development standard is unreasonable or unnecessary in this particular case?

Pursuant to clause 4.6(3)(a) of the LEP the variation to the 18m building height development standard is acceptable in the circumstances of this case and compliance with the development standard is considered unreasonable and unnecessary because it meets the objective of the height standard even though it does not strictly comply. The objectives of the development standard are at clause 4.3(1) of the Hurstville LEP 2012 as follows:

- (a) to establish the maximum height for buildings,
- (b) to ensure that the height of buildings complements the streetscape and character of the area in which the buildings are located,
- (c) to minimise the visual impact, disruption of views, loss of privacy and loss of solar access to existing development.

The proposed building meets the objectives of the building height development standard based on the following assessment:

- The development proposal is a 5 storey form to Belmore road and Killara Avenue, and the lift overrun setback from the front, side and rear building line ensures the variation to the 18m height control will not present unreasonable building height or scale to

Belmore Road and Killara Avenue, being compatible with the streetscape character planned for the locality.

- *The lift overrun exceeding the 18m height control is centrally located and will not generate additional overshadowing, noting the built form (5 storeys to Belmore Road and Killara Avenue) is within the 18m height control and the portion of the building exceeding the height control is not visually significant.*
- *The building is well articulated to Belmore Road, Killara Avenue and rear lane, and the built form will fit with the context and scale of development planned for the locality.*

Are there sufficient environmental planning grounds to justify contravening the development standard?

Pursuant to clause 4.6(3)(b) of the LEP the grounds for variation to the height control contained in this written request confirms that there are sufficient environmental planning grounds to support the variation to the 18m building height development standard contained in clause 4.3(2) of the Hurstville LEP 2012 based on the following:

- *The development presents a 5 storey form to Belmore Road and Killara Avenue with recessed upper levels and setback from the boundaries. The minor variation (lift overrun) will not be visually dominant or contribute visually to the overall height of the building. The variation to the 18m height control will not be visually discernible from the public domain, being compatible with the streetscape character planned for the locality.*
- *The non-compliance with the height standard is measured from the existing ground level to the top of lift overrun, with the majority of the built form complying with the 18m height control. The variation to the height control is confined to the lift overrun providing access to a roof top communal space that contributes to the residential amenity of the building. The majority of the building meets the height control including the elevations to Belmore Road, Killara Avenue and the rear lane.*
- *The building is well articulated to Belmore Road and Killara Avenue and setback from the rear lane, and the built form will fit with the context and scale of development planned for the locality.*
- *The variation to the height control will not result in unreasonable amenity impacts, noting Roof Plan and Sections prepared by Spiral Architects confirm the lift overrun is located central to the site and will not result in additional overshadowing of neighbouring development.*
- *The building height is compatible with the desired future development form of Belmore Road – Riverwood local centre.*
- *The building height meets the aims contained in SEPP 65 – Apartment Design Guide responding the character of development in the locality and the part of the building exceeding the height controls will not impact on solar access to the development or adjoining properties.*
- *Design amendments to achieve compliance with the 18m height control does not achieve a better environmental or an improved residential amenity noting the lift provide access to the communal roof terrace.*

The variation to the building height standard does not attempt to affect the planning outcome for the locality, rather the variation is to the lift overrun for the communal roof

terrace and the portion of the building exceeding the height control is not highly visible from the public domain.”

23. Comment: It is agreed that the proposed non-compliance with the height control will not adversely affect the amenity of adjoining properties or the streetscape as it is centrally located and will not be visible from the public domain.
24. The original proposal complied with the height control however no communal open space was provided and the Design Review Panel (DRP) recommended the use of the roof space for this purpose. The amended design creates a functional area that will be able to be utilised for passive recreational purposes by the residents and this space benefits the design and improves the amenity of the overall building. Access to this space via the stairs and lift creates a minor variation of the height control.
25. In terms of amenity impacts, overshadowing generated by the ancillary structures on the roof will not extend beyond the site boundaries and will not contribute to any overlooking or view loss by the areas exceeding the control as they are substantially recessed and setback.
26. The variation is considered minor in its scale and scope and will satisfy the objectives of the development standard and the zone objectives which encourage a mix of uses provide employment opportunities and maintain commercial and retail activities within this zone. The proposal along with the variation accords with these intentions and therefore will be in the public interest.
27. In a recent Court decision *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, Preston CJ further clarified the correct approach in the consideration of clause 4.6 requests. This advice further confirms that clause 4.6 does not require that a development that contravenes a development standard must have a neutral or better environmental planning outcome than one that does not.
28. As held in *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7 at [39], Preston CJ confirmed (at[25]) that the test in 4.6 (4)(a)(i) *does not* require the consent authority to *directly* form the opinion of satisfaction regarding the matters specified. Rather, it needs to do so only *indirectly* in forming its opinion of satisfaction that the applicant's written request has adequately addressed the matters required to be demonstrated.
29. By contrast, the test in cl4.6(4)(a)(ii) requires that the consent authority must be directly satisfied about the matter in that clause (at[26]); namely that the development will be in the public interest because it is consistent with the objectives of the development standard and the objectives for development of the zone in which the development is proposed to be carried out.
30. After careful consideration of the Clause 4.6 request it is considered that the non-compliance in this case is acceptable and the request is well founded and the variation will satisfy the objectives of both the zone and development standard and will be in the public interest.

Environmental Planning and Assessment Regulations 2000

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

State Environmental Planning Policies

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

Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment

33. This REP is applicable to the subject site and the aims 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.*

The proposal generally satisfies the objectives and provisions of the REP.

State Environmental Planning Policy 55 – Remediation of Land

34. SEPP 55 identifies that the following is to be considered in determining a development application:

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).*
35. The provisions of SEPP 55 requires the consent authority to determine if the land the subject of the application is contaminated, and whether it is appropriate for the proposed development having regard to subclause (4).
36. The existing and previous uses at the site (service station and mechanical workshop) fall within Table 1 of the Contaminated Land Planning Guidelines and therefore is likely to have affected site conditions, and could have caused contamination over time. This also triggers the preparation of a Preliminary Site Investigation Plan to determine the extent of any contamination.
37. An Environmental Site Assessment (Phase 1 report) was prepared by Environmental Investigations. This assessment relied on eight (8) boreholes across the site to test site conditions, collection of natural fill and soil samples and the installation of three (3) ground water monitoring bores.
38. In terms of a historical desktop review of the site that was also conducted, it was found that the site was vacant in 1930 but by 1951 comprised of a more intensive service station/workshop uses. The distribution of uses on the site has changed. Currently there is no service station use however the mechanical workshop remains as the predominant land use. A summary of the findings of the environmental assessment include (but not limited to) the following;
- *Non-detectable or low concentrations of heavy metals were found in all tested soil samples and were found to be within the adopted DEC thresholds.*
 - *Nickel and zinc concentrations in groundwater sampled from the monitoring bores were in excess of GIL's.*
 - *Topsoil/fill materials consisting of disturbed grey, orange/brown gravely sandy clay; overlying natural light grey/orange clay, moderate to high plasticity; overlying natural brown to red/grey extremely weathered shale, dry.*
 - *Both nickel and zinc concentrations in groundwater sampled from the monitoring bores GW1 and GW3 were in excess of the respective GILs and copper was only detected at GW1 where it was found to exceed its GIL.*
39. The level and degree of potential contamination is not considered to be excessive or inconsistent with anticipated levels for the subject use and previous land uses, however will require decontamination and remediation.

The report concluded that “*in view of the findings and in accordance with DEC Guidelines, it is considered that the site can be made suitable for the proposed mixed commercial/residential use after carrying out of the following recommendations;*”

1. *Preparation of a Remediation Action Plan (RAP)*
2. *Excavation and removal of all USTs, delivery lines, vent pipes and associated petroleum impacted site soils in accordance with WorkCover NSW.*
3. *Confirm that tank pits and excavated areas are left free of contamination by comparing analytical results for excavation surfaces and any backfill materials, against the respective EPA thresholds.*
4. *A second round of groundwater monitoring and sampling of existing bores with specific laboratory analysis of ground water for heavy metals.*
5. *Preparation of a final site validation report by a qualified environmental consultant certifying site suitability for the proposed development.*

Also if soils are to be excavated and disposed from the site, then these soils should be classified in accordance with DECC (2008) Waste Classification Guidelines. Any soils to be imported onto the site for the purpose of back-filling excavated areas will also require validation testing in accordance with the relevant EPA/DECC regulatory guidelines to confirm soil suitability for the proposed land use.”

40. In line with the requirements of SEPP 55, a detailed Phase 2 assessment would need to be prepared and a RAP lodged with Council prior to the determination of the application to ensure the site complies with the provisions of SEPP 55 and can be decontaminated and remediated to be fit for purpose. As this information has not been lodged with the application and certainty is not provided, the application is recommended for refusal.

State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development

41. The extent to which the proposed development complies with the controls and principles in the State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development (SEPP 65) is detailed and discussed in the tables below.

Application of SEPP 65

Table 2: Compliance with SEPP 65

Clause	Standard	Proposal	Complies
3 - Definitions	SEPP 65 applies to Shop Top Housing	Complies with definition	Yes
4 - Application of Policy	Development involves the erection of a new RFB. The definition of an RFB in the SEPP includes mixed use developments and shop top housing developments.	Construction of a “shop top housing” development which satisfies the SEPP’s definition of RFB.	Yes
50 – Development Applications	Design verification statement provided by qualified designer	Design Verification Statement provided by Registered Architect Felipe Ayala	Yes

		Registration No. 8043	
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Part 2 Design Quality Principles under the SEPP

42. The original design was referred to the Design Review Panel on the 6 July 2017. Comments by the Panel are highlighted in italics in the table below. The application was then amended on 18 March 2018 to address the DRP and updated comments are made in black in relation to the changes and their compliance with the SEPP.

Table 3: Compliance with the Design Principles of the ADG

Clause	Standard	Proposal	Complies
1 – Context and neighbourhood character	Good design responds and contributes to its context (eg natural and built features of an area)	<p><i>If it proceeds this would be the first new development on the western side of Riverwood Commercial/Retail Centre. The application proposes to set the upper level balconies on the Belmore Road façade forward of the façade line of all the existing retail commercial development along Belmore Road to the south of the subject site. It would therefore establish a precedent for redevelopment of the commercial centre, and the potential impact of this is a critical consideration. The DCP controls as set out in the statement of environmental effects are somewhat confusing in relation to required setbacks. They cover rear setbacks but not setbacks to Belmore Road or Killara Avenue. It is important to clarify the intentions of the planning controls before this application is determined, because it is critical for future development to be consistent if an urbane streetscape is to result.</i></p> <p>The following comments in relation to the present application are made on the basis that the proposed setbacks from Belmore Road are compliant with Council’s</p>	<p>Yes</p> <p>See (1) below for further discussion</p>

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		<p><i>policy for future development of the commercial centre. It should be noted however that continuing the deeper present setback of all existing buildings to the south could well produce a more attractive outcome – since it would allow for more substantial trees, generous outdoor dining space etc.</i></p> <p>The original building design has been modified and reflects a more modern and contemporary aesthetic which is considered more appropriate in this area/streetscape. The building is articulated and includes a series of architectural elements which break up the bulk and scale of the built form. The design reflects the desired future character of the area.</p>	
<p>2 – Built form and scale</p>	<p>Good design provides an appropriate scale in terms of the existing and desired future character and built form that suits the scale of the street and surrounding buildings</p>	<p><i>The built form and scale is essentially appropriate for the desired future character of this area. The emphasis on the three storey street wall with colonnade at ground floor and the small canopy beyond appears to be satisfactory in principle, provided that it is consistent with Council’s strategy for the street as queried above. The Panel is concerned about the following elements:</i></p> <ul style="list-style-type: none"> • <i>The “wedding cake” effect generated by incremental setbacks to the top two floors.</i> • <i>The roof upturn to the corner which is inconsistent between 3D model and elevations.</i> • <i>The proposal would benefit substantially from the inclusion of a roof garden on the top floor,</i> 	<p>Yes</p>

		<p><i>however, this may cause some conflicts with building height definitions.</i></p> <ul style="list-style-type: none"> • <i>Lack of compliance with rear setback DCP and ADG requirements, particularly in view of its adjoining low scale residential area to the west.</i> • <i>The separation distance between proposed living rooms and balconies and the existing residential building on the opposite side of the lane is less than ADG recommendations.</i> • <i>The building heights nominated on the elevations are difficult to comprehend and give rise to possibly inaccurate building height calculation (one floor to floor height is only 2.9m.).</i> <p>The amended plans have addressed these issues and have improved the presentation of the building and its appearance when viewed from the public domain.</p>	
<p>3 - Density</p>	<p>Good design has a density appropriate for a site and its context, in terms of projected population and can be sustained by existing and proposed infrastructure</p>	<p><i>The proposed density of 2.39:1 exceeds the LEP 2.1:1 control and there appears to be no justification with this excess.</i></p> <p><i>The non-residential floor area also does not comply with the control of 50% of the site area. This could be addressed – see Amenity below.</i></p> <p>The amended plans have reduced the GFA to ensure the development now complies with the FSR of 2:1.</p>	<p>Yes</p>
<p>4 – Sustainability</p>	<p>Good design combines positive environmental,</p>	<p><i>Subject to BASIX</i></p>	<p>Yes</p>

	<p>social and economic outcomes. Includes use of natural cross ventilation and sunlight, recycling and reuse of materials and waste, use of sustainable materials and deep soil zones</p>	<p>BASIX compliant. A Deferred Commencement condition will require the BASIX Certificate to be updated. The proposed apartments are generous in size and offer good solar access, high internal amenity and cross ventilation, it is unlikely they would not comply.</p> <p>The amended plans also haven't altered the internal arrangement of the units greatly.</p>	
<p>5 - Landscape</p>	<p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity, enhances the development's environmental performance, optimises useability, privacy and opportunities for social interaction, equitable access, and practical management</p>	<p><i>As for the building form the landscape on the street frontage will be very important in setting a precedent for redevelopment of the entire Belmore Road frontage.</i></p> <p><i>The proponent needs to submit a landscape plan for Council to accurately assess the threshold surrounding the building with its context. A landscape plan needs to be provided showing the following:</i></p> <ul style="list-style-type: none"> • <i>Canopy street trees to Belmore Road and Killara Avenue, to suit existing streetscape character and provide adequate shade.</i> • <i>A suitable paving arrangement to the public domain to footpath areas.</i> • <i>Communal open space to the roof area to provide shade, furniture, WC and kitchen facilities.</i> <p><i>Provision to be made for additional commercial area at the street edge of Killara Avenue and the rear lane by utilizing this corner.</i></p> <p>In satisfying the DRP comments the rooftop</p>	<p>Yes</p>

		<p>communal open space has been provided and as a result access to that space exceeds the height control. It is requested that the applicant provide for 4 new street trees, 2 to Killara Avenue and 2 to the Belmore Road frontage. In addition to this it is requested that planter boxes be included at the front off Belmore Road within the site boundary to soften the colonnade space.</p>	
<p>6 - Amenity</p>	<p>Good design influences internal and external amenity for residents and neighbours</p>	<p><i>The following issues should be addressed:</i></p> <ul style="list-style-type: none"> • <i>Remove parking spaces to the rear lane and relocate bin store.</i> • <i>Provide commercial/retail space on the Killara Avenue/rear lane corner.</i> • <i>Relocate main entrance door to units close to street frontage.</i> • <i>Redesign balcony areas facing the lane in the context of setback requirements and privacy to the house across the lane.</i> • <i>Provide natural ventilation to lift lobby areas rather than fixed glass blocks.</i> • <i>Re-plan to accommodate setback requirements front and rear and built form recommendations.</i> • <i>Include small communal room and roof garden as recommended above.</i> • <i>Improve amenity and usability of balconies by providing adjustable sliding screens etc and opaque and/or solid balustrades.</i> <p>Comments considered and appropriate design changes have been integrated to</p>	<p>Yes amended to satisfy</p> <p>Yes amended to comply</p> <p>Entry widened to comply.</p> <p>Balconies reduced and setback to comply</p> <p>Louvres included to ventilate the lobby area Setback further from rear front and side. Roof garden provided.</p> <p>Sliding screens are not included as they will add bulk and need to be very well treated and</p>

		<p>address the Panel's concerns.</p> <p>A number of design changes are recommended as part of the Deferred Commencement conditions to improve the visual appearance of the building and provide better symmetry and balance to the built form.</p>	<p>constructed well as often they can just look like an add on.</p>
7 – Safety	<p>Good design optimises safety and security, both internal to the development and for the public domain</p>	<p><i>See comments above under Amenity in relation to main entrance</i></p> <p>Design changes that have been made aim to improve safety and security. The updated design provides for a better relationship and interface between the residential and commercial uses.</p>	Yes
8 –Housing diversity and social interaction	<p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets. Includes different types of communal spaces for social interaction</p>	<p><i>Satisfactory in principle in relation to the apartments. It is important also for a communal space to be provided potentially at rooftop level as mentioned above under "Landscape". This should include a small enclosed room with facilities, desirably opening to a small terrace.</i></p> <p>This is a small scale, boutique style development as it only comprises of 9 apartments - the mix includes 6 x 2 bedroom (66%) apartments and 3 x 3 bedroom (33%) apartments. There are no 1 bedroom or studios proposed however given the small scale nature of the proposal and the generous size and good amenity of the units this is considered a satisfactory planning outcome.</p>	Yes
9 - Aesthetics	<p>Good design achieves a built form that has a balanced composition of</p>	<p><i>The Panel recommends that the following aspects be reviewed:</i></p>	Yes

	<p>elements, a variety of materials, colours and textures and responds to the future local context</p>	<ul style="list-style-type: none"> • <i>The “wedding cake” setbacks on levels 4 and 5.</i> • <i>The skillion roof treatment to the top floor.</i> • <i>Screening of balconies as mentioned above.</i> • <i>Relocation of bin store and street level parking.</i> • <i>Provision of an accessible roof garden.</i> <p><i>Rationalisation of Belmore Road alignment to the street.</i></p> <p>The changes that have been made which reduces the wedding cake type of effect however does not eliminate it. The building envelope is largely dictated by the required separation distances promoted by the ADG, height and FSR provisions. As such any building will be tapered from the fourth floor upwards.</p> <p>This effect does reduce the visual bulk and scale of the building. The skillion roof has been removed and replaced with a modern flat roof which is more reflective of the desired future character for development in the locality and area in general.</p>	
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(1) Urban Design

43. The DRP raised concern regarding the location of the upper level residential balconies which are sited forward of the established building line. The Panel stated that *“The application proposes to set the upper level balconies on the Belmore Road façade forward of the façade line of all the existing retail commercial development along Belmore Road to the south of the subject site. It would therefore establish a precedent for redevelopment of the commercial centre, and the potential impact of this is a critical consideration”*.

44. Considering the corner location of the site and small scale character of development along the streetscape the intended design is considered to be satisfactory and reflective of a contemporary and appropriate urban design outcome for this site along this streetscape. The proposed three (3) storey podium level is a generic planning and urban design response for business zones with similar heights. This is reflected in the ADG provisions (refer to **Figure 5** below). Figure 5 below shows the treatment of infill development within areas undergoing urban renewal specifically business zones. The new development

includes a three (3) storey podium level with residential storeys stepped back. This podium relates to lower scale traditional adjoining buildings and creates better consistency in scale and form.

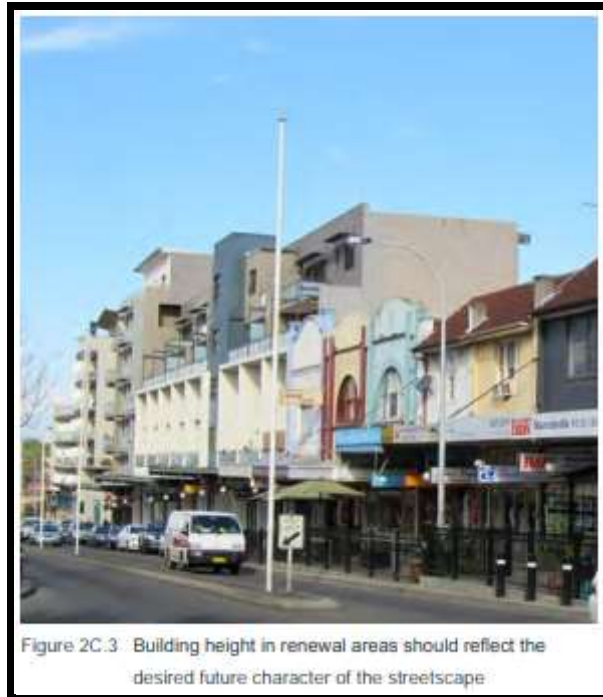


Figure 5: Extract from the ADG – Part 2 Building Height

45. The proposed balconies are forward of the established building line however are considered to be satisfactory as they assist in defining the corner and will not be highly dominating features or elements. The balconies are setback from the boundary and the awning at the ground floor will be a more prominent element that defines the ground floor level. The upper levels are recessed behind the awning.
46. This design approach has already been implemented at 260 Belmore Road Riverwood (see **photo 3** below). This development includes shutters to the upper level which adds undue bulk to the built form. The proposal does not include shutters or sliding screens so the balcony elements will be lighter and more transparent elements with visual interest.



Photo 3: Recent development at 260 Belmore Road Riverwood

Clause 30 – Consideration of Apartment Design Guide

Table 4: Compliance with the ADG standards

Clause	Standard	Proposal	Complies
2E – Building depth	12-18m For mixed use buildings, align building depth to the likely future uses. For example, transition deeper commercial or retail podium levels to a narrower residential tower above. For precinct planning, if the intended building use changes, the building depth needs to change accordingly	Ground Floor = 20m Upper levels = 14m-22m	No Building depth at the lower levels is acceptable given this is a business zone and the building needs to be sited boundary to boundary to follow the nature and pattern of development in this local business zone
2G – Street setbacks	Align street setbacks with building use. For example in mixed use buildings a zero street setback is appropriate	The development includes a three (3) storey podium with the upper two (2) levels setback behind this element. The building is intended to be aligned to the	Yes - the design outcome achieves the desired future

		commercial properties to the north but the balconies extend beyond the established building line which is acceptable given the character and nature of the area. It will not establish an undesirable precedent.	character design provisions for the street
3D- Communal and Public Open Space	<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"> • provide communal spaces elsewhere such as a landscaped roof top terrace or a common room • provide larger balconies or increased private open space for apartments • demonstrate good proximity to public open space and facilities and/or provide contributions to public open space <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>Currently the site offers no landscaped area. The existing use is largely a non-conforming use, the proposed mixed use is permissible in the zone.</p> <p>In terms of the provision of communal open space, the design relies on the roof terrace area to fulfil this standard. Originally there was no communal open space proposed. The roof top provides for a total area of some 138sqm which equates to 25% of the Site which achieves technical compliance.</p> <p>The space is large for passive recreational purposes and will adequately cater for the needs of occupants within the building.</p> <p>The rooftop area of open space will not be overshadowed by any adjoining developments and will achieve good solar access well above the minimum ADG requirements as it is orientated to face north.</p>	<p>Yes</p> <p>A condition will require that planter boxes are integrated along the full perimeter of the roof area apart from the northern edge which connects to the adjoining commercial building.</p> <p>Yes</p>
3E-Deep Soil zones	<p>1. Deep soil zones are to meet the following minimum requirements:</p> <ul style="list-style-type: none"> - 7% minimum area 	<p>Discretion should be applied in this case as there is currently no deep soil landscaped area on site.</p> <p>The development does not</p>	<p>No - but given the business zone and the style and form of</p>

	<p>- 3m minimum dimension but Where the site is less than 650sqm there is no minimum dimension</p>	<p>provide for any actual deep soil area. Given the site is within a Business zone this is not able to be achieved given that commercial uses and the basement car park occupy the entire site area. The provision of planter boxes at the ground floor level, street trees and the rooftop landscaped area satisfies the objectives of this control by providing a functional area of open space and providing for plants to soften the ground floor area.</p> <p>Given the site area is less than 650sqm the min dimension is not applicable.</p>	<p>development non compliance is acceptable in this case.</p> <p>N/A</p>
<p>3F-Visual Privacy</p>	<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><i>Up to four storeys</i> (approximately 12m):</p> <ul style="list-style-type: none"> • 12m between habitable rooms/balconies (6m setback to the boundary) • 9m between habitable and non-habitable rooms (4.5m setback to the boundary) • 6m between non-habitable rooms (3m to the boundary) <p><i>Five to eight storeys</i> (approximately 25m):</p> <ul style="list-style-type: none"> • 18m between habitable rooms/balconies (9m to the boundary) • 12m between habitable and non-habitable rooms (6m to the boundary) 	<p>Rear (west) = Minimum of 6m when taken from the centreline of the rear lane and 9m for the fourth level.</p> <p>Ground floor - 6m - 11m Level 1,2,3 = 6m - 6.6m Level 4 = 8m (unit 401 family room) 9m (unit 401 bedrooms)</p> <p>North = nil (built to boundary) to 3m to allow for some light and ventilation to secondary spaces in the form of a light well. Roof top terrace setback 3m from the northern boundary.</p> <p>South 1st Floor = Nil setback 2nd Floor = Nil setback 3rd Floor = Nil Setback 4th Floor = 1m</p> <p>Although the building along the southern side is largely</p>	<p>Yes</p> <p>Yes</p> <p>No – non-compliance is considered acceptable (refer to (2) below for further discussion)</p> <p>No - but acceptable as this is a business zone and requires a nil setback to adjoining</p>

	<ul style="list-style-type: none"> • 9m between non-habitable rooms (4.5m to the boundary) 	<p>located on the boundary to Killara Avenue the design includes balconies which are recessed and architectural elements which break up and articulate the built form when viewed from this side.</p> <p>The total separation distance between this site and the adjoining site to the south is 14m which exceeds the 12m requirement for development up to five storeys. The fifth storey is setback approximately 1m from the balcony and 4m from the living spaces to the southern boundary achieving a total separation distance of between 14m-15m.</p>	<p>commercial development.</p> <p>No – however given the footpath is wide and this side includes the Killara Avenue roadway the physical separation between the development and 343 Belmore Road is some 14m-15m which is greater than the min 12m separation distance required by the ADG.</p>
3G- Pedestrian access and entries	<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 entries) should be provided to activate the street edge</p>	<p>The proposal has been amended so that the main entry has been enlarged and is formalised. It is located off Killara Avenue which is the most appropriate location.</p> <p>Two commercial tenancies have been included and are located so that they have direct access from Belmore Road, Killara Avenue and also from the rear lane. This design activates the road frontages.</p>	Yes
3H- Vehicle Access	Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles	Vehicular access is via Price Lane accessed from Killara Avenue.	Yes

	and create high quality streetscapes		
3J- Bicycle and car parking	<p>For development in the following locations:</p> <ul style="list-style-type: none"> - On sites that are within 800m of a railway station or light rail stop in the Sydney Metropolitan Area; - 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 <p>RMS requirements for medium density developments (RFB between 2-20 dwellings) 1 space for each unit 1 additional space per each 5 x 2 bedroom unit 1 additional space per 2 x 3 bedroom 1 space per 5 units for visitor car parking</p> <p>Office/commercial 1 space per 40sqm of GFA</p> <p>Retail 6.1 spaces per 100sqm of GFA</p>	<p>The subject site is located within 800m of Riverwood Railway Station. The site is conveniently located with excellent accessibility to many transport services as it is located within a business zone.</p> <p>Due to the accessibility of the Site the ADG allows for the RMS Traffic Generating Guidelines to be considered in respect to car parking.</p> <p>A detailed traffic and parking assessment prepared by McLaren Transport supports the scheme and confirms compliance.</p> <p>The plan does not include a designated area for bicycle parking and a condition will require some bicycle parking to be provided.</p> <p>RMS requirements; Resident parking generates a need for 12 car parking spaces Visitor spaces = 2 spaces If office/commercial = 4 spaces If retail = 10 spaces</p> <p>As the development refers to the shops as commercial then calculations will be made on that basis.</p>	<p>Yes</p> <p>RMS requires a total of 18 car parking spaces if the commercial area is maintained. 24 spaces are required if the commercial area will be used for retail purposes as this is a more intensive use and generates the need for more parking.</p> <p>The development caters for 20 car parking spaces which is considered to be satisfactory.</p>
4A- Solar Access	<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</p>	<p>100% of the apartments receive a minimum of 2 hours of solar access in midwinter.</p> <p>The apartments are either</p>	<p>Yes</p>

LPP057-18

	<p>and 3 pm at mid-winter in the Sydney Metropolitan Area</p> <p>A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter</p> <p>Daylight access is maximised where sunlight is limited.</p>	<p>corner apartments, or have dual orientation which improves solar access to all the internal spaces.</p>	
4B-Natural Ventilation	<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>	<p>100% of apartments are naturally cross ventilated as they are corner apartments.</p> <p>Maximum depth of the cross-through apartments is 19m which is compliant.</p> <p>Complies as the units are either corner apartments or cross-through apartments.</p>	<p>Yes – a condition will require the balconies to be reduced from 3m wide to 2m which will reduce the depth of apartments from 19m to 18m and comply.</p>
4C-Ceiling Heights	<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. Residential floor to floor height of 3.1m</p>	<p>The ground floor height (floor to floor) is 3.6m catering for a 300mm slab would comply with the 3.3m floor to ceiling requirement.</p> <p>The residential levels have floor to floor heights of 3.1m which satisfies the ADG and allows for an internal floor to ceiling heights of 2.7m</p>	<p>Yes</p>
4D-Apartment size and layout	<p>Apartments are required to have the following minimum internal areas:</p> <p>1 bedroom = 50sqm 2 bedroom = 70sqm 3 bedroom = 90sqm</p>	<p>Every apartment complies with the minimum internal area requirements.</p> <p>All windows to habitable spaces comply with the minimum requirements.</p>	<p>Yes</p>

	<p>The minimum internal 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>Most principle internal spaces exceed the minimum sizes and are very generous in area.</p>	
<p>4D- Apartment rooms, location and sizes</p>	<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>The apartment design is generally open plan and kitchens that do not have windows (Units 101 and 201) are located 6m from a window or opening.</p>	<p>Yes</p>
	<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>Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> -3.6m for studio and 1 bedroom - 4m for 2 and 3 bedroom apartments <p>The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts</p>	<p>All master bedrooms are generous in size and comply with the 10sqm min. Secondary bedrooms are over 9sqm in area.</p> <p>Every bedroom has a minimum 3m dimension internally.</p> <p>Minimum width of living spaces is 4m with most over 5m in width. Minimum 4m width provided.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

4E-Private Open space and balconies	<p>All apartments are required to have primary balconies as follows:</p> <p>2 bedroom = 10sqm/2m depth 3+ bedroom = 12sqm/2.4m</p> <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.</p> <p>All balconies have a minimum depth of 2m. The primary balconies have areas of well over 10sqm and every apartment has generous balconies with a minimum of 2 balconies per apartment, some with 3 balconies.</p> <p>The 3 bedroom apartments have large balconies with areas of over 30sqm.</p> <p>No ground floor units are proposed.</p>	Yes
4F-Circulation spaces	The maximum number of apartments off a circulation core on a single level is eight	Maximum 3 units on Levels 1 and 2 2 units on Level 3 1 unit on Level 4	Yes
4G-Storage	<p>1. In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <p>-1 bedroom = 6m³ -2 bedroom – 8m³ 3 bedroom – 10m³</p>	<p>All units have storage areas that comply with the requirements.</p> <p>Independent storage areas for each apartment are provided in the basement. The storage areas are designated to each unit and satisfy the criterion.</p> <p>There is also ample space within the apartment as most have internal laundries and also storage cupboards.</p>	Yes
4K-Apartment mix	A variety of apartment types is provided	<p>A mix of 2 and 3 bedroom units are provided within the development. These apartments are spacious and generous in their sizes.</p> <p>This is a small scale</p>	Yes

		apartment development and the lack of smaller apartments (studio and 1 bedroom units) will not be detrimental to the mix as there are ample smaller units within the LGA.	
4M- Facades	Facades should be well resolved with an appropriate scale and proportion to the streetscape and human scale.	<p>The building design has been modified to address the DRP comments. The facades are articulated and varied in form and mass. Elements are recessed to break up the bulk and scale.</p> <p>In order to achieve a better balanced building, some additional conditions are included to ensure all facades are in proportion and consistent. There are many features to the design and it's intended through the imposition of conditions to create a more harmonious and simplified built form when viewed from the public domain.</p>	Yes
4N-Roof design	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.	Originally the roof form was skillion in design and the Panel criticised this treatment. The amended design addressed the DRP concerns and has created a simple, modern flat roof which integrates a roof top terrace area.	Yes
4O- Landscape design	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.	Yes
4P- Planting on structures	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	<p>Landscaping to the site which includes planting on structures.</p> <p>Areas along the ground floor include some planter boxes, as does the roof top terrace area. The periphery of this space includes planters that</p>	Yes

		will soften and create a more green and inviting area.	
4Q- Universal design	Universal design – design of apartments allow for flexible housing, adaptable designs, accommodate a range of lifestyle needs	Unit 103 is designed to be an adaptable apartment. Although the development comprises 2 and 3 bedroom apartments the development is small scale in its nature (9 units). Some apartments are large and could be reconfigured to become two smaller apartments and could be readapted readily.	Yes
4R- Adaptive reuse	Adaptive reuse as apartment of existing buildings- new additions are contemporary and complementary, provide residential amenity while not precluding future adaptive reuse.	There is scope in the future for more flexible layouts. Units 101, 201 could easily be readapted/redesigned to cater for 2 x 1 bedroom or studio apartments in the future with little modification required due to the layout.	Yes
4S-Mixed Use	Mixed use developments are provided in appropriate locations, provide active street frontages, residential levels of the building are integrated within the development and safety and amenity is maximised for residents	The proposal is removing a non-conforming use and replacing it with a permissible use in the zone which is a planning benefit to the area and locality in general. The development substantially improves the site's relationship to the public domain. The provision of ground floor commercial uses will activate the street frontages and encourage activity, greater pedestrian movement and utilisation of this space including the improvement in the visual appearance of this prominent corner.	Yes
4T- Awnings	Awnings and signage – awnings are well located and compliment and integrate with the building design, signage responds to the context and desired streetscape character	New awnings are proposed as part of the development along all street frontages apart from a small portion of the rear lane (over the vehicular entrance) which does not require an awning.	Yes

		The awnings aim to provide cover but also delineate the commercial floor space.	
4U- Energy Efficiency	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	The proposal satisfies the BASIX commitments.	Yes
4V-Water Management and conservation	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	The development incorporates a detailed stormwater and drainage design which incorporates an onsite detention basin (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 compliant with Council's controls.	Yes
4W-Waste Management	Waste management – storage facilities are appropriately designed, domestic waste is minimised by convenient source separation and recycling	<p>Waste facilities are provided which are accessible to all residents. The waste management and disposal design has been assessed by Council's Waste Management Officer, the design is considered acceptable.</p> <p>A separate garbage storage room is proposed on the ground floor which is accessible externally and internally for residents and tenants of the building. Collection would be off Price Lane and/or Killara Avenue. A condition will reflect the number of bins required and any specific requirements that will need to be met when constructing and utilising this area.</p>	Yes
4X- Building	Building maintenance – building design provides	The design incorporates a mix of external finishes that	Yes

<p>maintenance</p>	<p>protection from weathering, enables ease of maintenance, material selection reduces ongoing maintenance cost</p>	<p>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 longer term maintenance. The materials proposed are considered to be robust and appropriate for this location.</p> <p>A condition will also require the provision of a detailed schedule of materials and finishes to be lodged with Council prior to the CC being issued.</p>	
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Courtesy: Spiral Architects Lab

(2) – Setbacks ADG and HDCP

47. The Performance Criteria in the HDCP in respect to setbacks is to “*encourage a coherent street character with appropriate and consistent setbacks (front and rear)*” and the Design Solution to achieve this requires “*minimum rear setback of 8m is required from the Lane*”. An 8m setback from the Lane at the rear can be achieved at the expense of floor space and the resultant narrow built form would be considered a poor urban design solution for this important corner allotment. The proposal satisfies the ADG separation distances (6m minimum) for Levels 1-4 when taking the rear lane into account. The rear lane has a width of 6m and the dwelling to the west (2 Killara Avenue) is setback approximately 1m from the lane. So at the ground level to the fourth floor the building will have separation distances of 10m – 12m. The minimum required 6m setback at the site as stipulated by the ADG is satisfied by the development.

48. The building has been designed to respect the proximity of the adjoining residential property by the careful location and type of window openings, areas within the apartments and the overall articulation and staggering of the building wall along this elevation. The proposal complies with the minimum separation distances required by the ADG which requires a minimum 6m separation distance measured from the centreline of the lane.
49. At the fourth level the 9m wide setback is not achieved but a setback of 8.54m is provided (measured from the centreline of the lane) apart from the staircase which is setback approximately 7m. A condition will require the windows to the staircase to be frosted or obscure glazed so there will be no opportunity for overlooking. It is unlikely the staircase will be heavily or intensively utilised as lifts will be the primary mode of access to most levels.
50. The design also includes a series of windows that are either highlight windows and/or smaller narrow windows that will reduce the potential for overlooking. The rear of Units 101, 201, 301, 401 comprises bedrooms which are not intensively utilised when compared to living spaces, the balconies to these spaces include privacy screens which reduce the potential for overlooking.
51. The separation and setback distances at the rear are considered acceptable and should not adversely affect the dwellings to the west.

Urban Design

52. Despite some areas of non-compliance the overall design of the development is considered to be satisfactory and will be a positive contribution to the street as it will replace a non-conforming use with a conforming land use which is a benefit to the community and streetscape at large.
53. There are a number of smaller design and aesthetic changes that could be incorporated that will improve the visual appearance of the building. The changes seek to improve the appearance and symmetry of the building, the following changes are suggested;
 - i) Visitor car parking space 3 should double up as a car wash bay and shall be signposted accordingly.
 - ii) Three (3) fixed planter boxes should be included on the ground floor adjoining the Commercial Tenancy 01. The planter boxes shall be located adjacent to the boundary but not encroach on the pedestrian footway. Each planter will be sited between the series of columns and shall have a minimum width of 900mm and maximum 900mm in height and include hedges or robust/hardy plant species that will add greenery and assist in defining this space. Details of the planter boxes and the intended finish together with the proposed planting species shall be included with the documentation submitted to Council.
 - iii) A privacy screen should be installed along the western edge of the balconies to living/dining areas of Units 103, 203, 302. The type of screen shall be consistent with the proposed sliding screens along the balconies at the rear. The height of the screens shall have a minimum height of 1.6m from the finished floor level.
 - iv) The glazing to both ground floor commercial tenancies along the southern side should comprise of one pane of glass for both units.
 - v) The glazing along the eastern side to the Commercial Tenancy 02 along the Belmore Road frontage should be consolidated into single pane of glass rather than numerous vertical window elements.
 - vi) The openings from the kitchens facing east to Units 102, 202, 301 should be altered and have the same vertical proportions as the sliding doors for articulation and facade balance.

- vii) The balconies and associated building wall located on the corner of Killara Avenue and Belmore Road should be "squared off" rather than rounded to improve the overall symmetry of the building at the corner.
- viii) Planter boxes should be included along the whole perimeter of the roof level apart from the northern side. The planter boxes shall have a minimum width of 900mm and shall be fixed features.
- ix) The glass block window adjoining the fire stair at the rear the ground floor shall be replaced with an obscure full height window.
- x) The windows along the rear (western side) of the staircase shall be constructed of obscure or frosted glass.
- xi) The external door to the garbage room off Price Lane is not be a roller door shutter and should comprise of double doors opening inwards or a similar configuration which will enhance the appearance of this service area.
- xii) The balconies located along the eastern side (Belmore Road frontage) should be reduced to have a maximum depth of 2.5m to reduce the protrusion of the podium structure.
- xiii) Some narrow louvered privacy screens shall be included along the central sections of the balconies located off Belmore Road (reflective of the original design) to provide some better articulation and increase privacy for occupants.
- xiv) The original BASIX Certificate should also be updated and amended and submitted to Council.

HURSTVILLE DEVELOPMENT CONTROL PLAN NO 1 - LGA WIDE (HDCP)

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

Development	Requirements	Proposed	Complies
3.0 General Planning Considerations			
3.1 Vehicle access and car parking rates	<p>Underground parking areas are to be concentrated under building footprints so as to maximise deep soil landscaping.</p> <p>Driveways to underground car parks are to be designed so as to minimise the visual impact on the street, and to maximise pedestrian safety. Pedestrian access to the development should be separate and clearly defined.</p> <p>Access ways to underground car parking areas is to be located away from doors and windows to habitable rooms wherever possible.</p>	<p>The basement car park has been well designed considering the site constraints. The driveway is located at the rear off the site accessed via Prince Lane so there is no conflict with pedestrian movements along Killara Avenue and Belmore Road.</p> <p>In terms of car parking rates and number of spaces. The development generates the need for a maximum of 19 car parking spaces in accordance with the DCP, as specified below;</p>	<p>Yes</p> <p>The proposal complies with both Council's DCP provisions and SEPP 65 parking requirements as the development is accessible and the RMS Traffic Generating Guidelines are applicable.</p> <p>Either way in the development</p>

	<p>Basement car parking is preferable in commercial and residential flat buildings.</p>	<p>Office: 1 space per 60sqm Retail: 1 space per 50sqm Residential: 1 space per 1-2 bedroom unit 2 spaces per 3 bedroom unit 1 space per 4 dwellings for visitor</p> <p>Office: 3 spaces Retail: 4 spaces</p> <p>Residential: 6 spaces (2 bed) + 6 spaces (3 bed) + 3 spaces (visitor) = 15 spaces</p> <p>If including office total of 18 spaces required. If including retail a total of 19 spaces are required.</p>	<p>complies with both provisions.</p>
<p>3.3 Access and Mobility</p>	<p>In developments containing five or more dwellings, a minimum of one adaptable dwelling, designed in accordance with relevant Australian Standards must be provided for every ten dwellings or part thereof.</p> <p>Access to required adaptable dwellings and relevant parking spaces Appropriate access for all persons through the principal entrance of the building and access to any common facilities shall be provided.</p> <p>One accessible space is dedicated to each adaptable apartment</p>	<p>Unit 103 has been designed to be an “adaptable” apartment in accordance with the DCP.</p> <p>An accessible space is designated to the adaptable apartment and will be conditioned to ensure compliance.</p> <p>At grade access is also provided to the commercial units and both tenancies have amenities which can be easily adapted to be accessible.</p>	<p>Yes</p>
<p>3.4 Crime Prevention</p>	<p>Ensure that the way in which the site, and the</p>	<p>The development has been well considered</p>	<p>Yes</p>

through Design	buildings within the site, are laid out enhance security and feelings of safety	to cater for CPTD principles in terms of lighting the location, accessibility and legibility of services and uses.	
3.5 Landscaping	Development contributes to the creation of a distinct, attractive landscape character for streets and neighbourhoods	<p>The development is located within a Business zone and there is no provision for ground floor landscaped area which is considered satisfactory for development within this zone.</p> <p>A condition will require the provision of planter boxes along Belmore Road to provide some greenery and define the border of the site and the public footway. It also intends on softening this frontage.</p>	Yes
3.6 Public Domain	Development contributes to the creation of attractive, comfortable and safe streets that comprise consistent and high quality paving, street furniture and street tree plantings.	The proposal will significantly improve the public domain and general streetscape as it will activate 2 street frontages and will replace a non-conforming use with a conforming use.	Yes
3.7 Stormwater	<p>Stormwater discharge for development sites is not to exceed the 5 year ARI storm event.</p> <p>An on-site stormwater detention system is provided that reduces the flow rate of stormwater discharge. Stormwater quality</p> <p>The quality of stormwater leaving development sites</p>	<p>The original stormwater and drainage arrangement was considered unsatisfactory for the following reasons;</p> <p><i>“The Stormwater Drainage Plan does not incorporate an On Site Detention (OSD) facility as per Council’s letter dated</i></p>	Yes

	<p>is consistent with water quality standards set by the Environment Protection Authority and ANZECC.</p>	<p><i>3 January 2017 and the plan shows the site drainage connection to the existing kerb inlet pit located in front of the adjacent property which is not supported. The site stormwater shall drain by gravity to Council's drainage pipe line or kerb and gutter system directly in front of the development site".</i></p> <p>Amended Stormwater/Drainage Plans were submitted on 5 November 2018 and these have been assessed to be compliant and standard conditions have been included.</p>	
<p>6.0 Controls for specific Sites/Localities</p>			
<p>6.2 Riverwood</p>			
<p>6.2.3 Objectives</p>	<p>Create a memorable identity for Belmore</p> <p>Strengthen the quality of Riverwood's public open space systems</p> <p>Retain and enhance Riverwood's mix of subdivision</p> <p>Protect and enhance the landscape quality of Riverwood in both the public and private domain</p> <p>Provide appropriate development control principles and guidelines for the future development of Riverwood, ensuring a high standard of architectural,</p>	<p>The proposal has been designed to satisfy the objectives and intentions of the DCP in particular the business zone within Riverwood.</p> <p>The development through its design will create a positive contribution to the streetscape and reinforce the business zone character.</p> <p>The Riverwood locality is divided into 3 precincts, Short Road, Belmore Road and Apartments along Coleridge</p>	<p>Yes</p>

	<p>environmental and landscape quality</p> <p>Ensure that new development is compatible with the existing built form and streetscape</p> <p>Integrate principles of environmental sustainability in the design</p>	Street which have their own independent controls.	
Development Requirements	<p><i>Building Height</i> Belmore Road max height 18m</p> <p><i>Solar Access</i> At least three hours of sunlight between the hours of 9am and 3pm is provided into adjoining dwellings</p> <p><i>Part B Belmore Road and Mixed Use Developments</i> Maximum street frontage for individual commercial sites along Belmore Road is 25m.</p> <p>All ground floor levels in buildings are to incorporate retail and/or commercial uses to activate the street.</p> <p>Access to residential uses above ground floor is permitted on street level but must not occupy more than 20% of the frontage.</p> <p>The maximum retail frontage for individual tenancies is 25m.</p>	<p>Lift overrun exceeds the overall height. The variation has been discussed in more detail earlier in this report.</p> <p>Complies see a detailed discussion below</p> <p>21m to Belmore Road 23m to Killara Avenue</p> <p>2 commercial tenancies are proposed at the ground floor level</p> <p>The formal residential access off Killara Avenue is 3m wide which contributes to just over 12% of the frontage.</p> <p>The retail frontage along Killara Avenue is some 10m in length for both tenancies. Along Belmore Road the length of the commercial component is a</p>	<p>No – justified by Clause 4.6 and considered to be acceptable.</p> <p>Yes see (3) below</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

	Commercial storeys are set at a maximum 3.3m floor to ceiling.	maximum of 20m. Floor to floor height of 3.6m. Floor to ceiling height of 3.1m	Yes
	Residential storeys are set at a maximum 3m and a minimum of 2.7m floor to ceiling	Floor to ceiling heights of the residential levels are 2.1m	Yes
	Development along Belmore Road that has dual access to rear laneway is required to provide a 1m setback to the laneway. This 1m setback is required to be dedicated to Council to allow for lane widening to improve pedestrian amenity and traffic management.	A 1m setback to Price Lane is provided.	Yes
	A minimum rear setback of 8m is required from the lane.	Minimum ground floor setback of 6m from the centreline of the lane in accordance with the ADG	No see (2) above
	If 4 or more storeys are proposed, the fourth storey and above are to be setback and the setback area can be used as a balcony/terrace area.	Upper levels have varying setbacks of 3.6m up to 5.5m from the laneway.	Yes
	Each residential apartment is to have at least one balcony with a minimum size 8m ² and a minimum depth of 2m.	The fourth level is setback from the perimeter of the roof.	Yes
	Each building is to provide an awning	Complies, all balconies have areas greater than 8sqm.	Yes
	Each building is to provide an awning	An awning is provided to the street frontages	Yes
	Locate awnings at least	Awnings at a height	Yes

	<p>3m, and no more than 4.2m, above footpath level.</p> <p>Awnings are to be stepped in relation to street level changes and building entrances.</p> <p>Driveways are to have a minimum width of 3 metres</p> <p>Loading Docks All major developments are to have a loading dock for the delivery of goods</p> <p>Loading facilities must be provided via a rear lane or side street where such access is available.</p> <p>Adequate garbage and recycling areas must be provided. These areas are to be visually integrated with the development to minimise their visibility from the street. Such facilities must be located away from windows that open to habitable rooms to avoid amenity problems associated with smell. They must be located close to rear lanes where such access is available.</p> <p>All development, which includes a residential component, must provide space for the storage of recyclable goods within the curtilage of each dwelling. A space of 6 (six) cubic metres per dwelling must be set aside exclusively for storage. This space may be an extension of a</p>	<p>of 3.3m in line with the commercial floor to ceiling heights</p> <p>Not required as the ground floor is generally level.</p> <p>The driveway entrance is 5.5m wide tapering to 4m internally.</p> <p>This is not a major development so a loading dock is not required.</p> <p>Loading and unloading is anticipated to occur off Price Lane in accordance with the DCP.</p> <p>The garbage room on the ground floor is well designed and located so that direct access is from Price Lane and this facility will not be visible from the key roadways.</p> <p>The provision of storage within the development complies with the minimum requirements of the DCP and ADG. Separate cubicles are provided in the basement with minimum areas of</p>	<p>N/A</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
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	<p>carport or garage, or may be part of an attic or internal cupboard</p> <p>Any development which includes a residential component must provide laundry facilities, and at least one external clothes drying area. The public visibility of this area should be minimised.</p>	<p>5cubic metres as well as areas within the units.</p> <p>Every apartment includes a separate well designed laundry.</p>	<p>Yes</p>
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(3) - Solar Access

55. The DCP requires that “At least three hours of sunlight between the hours of 9am and 3pm is provided into adjoining dwellings”. Solar access to properties east and west achieve the minimum requirements. 2 Killara Avenue is overshadowed at 9am but unaffected by 12noon. 284-296 Belmore Road is overshadowed by the development from 2pm onwards.

56. The most affected property is 341 Belmore Road which is to the south of the subject site. This adjoining property is separated by Killara Avenue and consists of a single storey commercial building. From 2pm onwards (refer to **Figure 9** below) only a small south eastern section of the building is overshadowed and therefore most of the building is unaffected. Given that the building is commercial in nature the development technically complies with the DCP provisions as the overshadowing does not affect any dwellings.

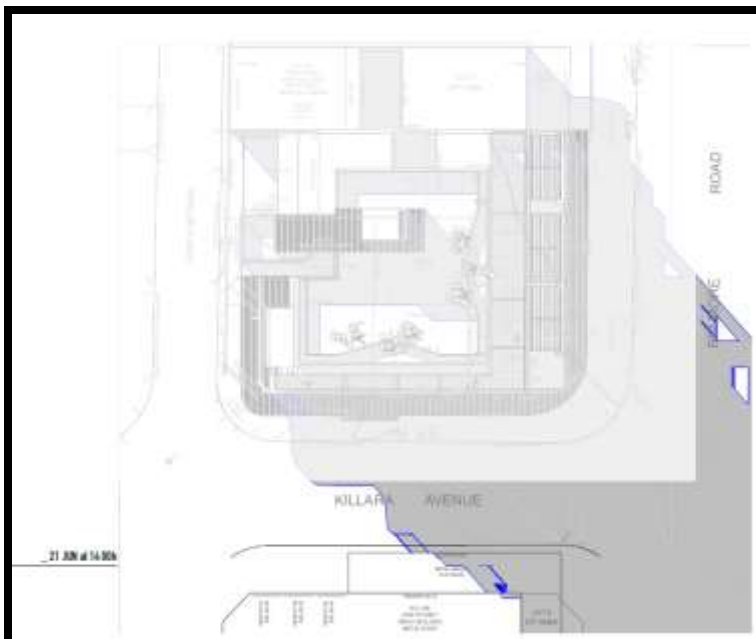


Figure 9: Shadow cast by the development at 2pm, 21 June

Section 94 Contributions and VPA

57. The proposed development requires payment of **\$151,297.62** of Section 94 contributions. The contribution amount is based on the following:

Contribution Type	Contribution Amount
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Open Space	\$132,550.74
Community facilities	\$18,746.88
Total Contributions:	\$151,297.62

IMPACTS

Natural Environment

58. The proposed development is unlikely to result in adverse impacts to the natural environment. The site currently contains no trees or areas of deep soil or landscaped area. The proposal will substantially improve the current environment which consists of a non-conforming use and will be replaced by a permissible use.

Built Environment

59. The proposed development is unlikely to result in adverse impacts to the built environment. The proposed development complies with the relevant planning controls and general requirements except the maximum height of the development. This variation has been discussed in the report and is considered worthy of support.

60. The other areas of non-compliance with the DCP provisions are considered to be minor and will not adversely affect the amenity of adjoining properties or the streetscape.

61. Despite that the proposed built form is considered to be acceptable and a reasonable planning and urban design response for this site, the proposal fails to satisfy SEPP 55 and cannot be approved until such time as compliance with this instrument is achieved relating to decontamination and site remediation.

Social Impact

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

Economic Impact

63. The proposed development has no apparent adverse economic impact. The short term economic benefits of the scheme are that it will offer employment through the construction process and in the longer term will provide for commercial/retail uses within the business zone in line with the objectives of Council's HDCP for this locality.

Suitability of the site

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

65. The proposal is considered to be in keeping with the mixed use character of the streetscape, the development will reflect the desired future character for this precinct.

Submissions

66. The application was notified/advertised to residents/owners in accordance with Council's requirements on two occasions, the originally submitted proposal and when it was amended in July 2018. No submissions were received on either occasion.

REFERRALS

Council Referrals

Traffic Engineer

67. Council's Traffic Engineer has examined the application and raises no objections to the proposed development on traffic grounds. Conditions have included in the recommended conditions.

Stormwater/Drainage

68. The original stormwater and drainage concept plan was considered unacceptable by Council's Engineer. The Applicant was advised of the issues and lodged an amended plan with Council on 6 November 2018. The proposed arrangement was reviewed and considered acceptable. Conditions have included in the recommended conditions.

Building Comments

69. The application was referred to Council's Building Section for comment. No objection was raised in respect to the proposal. Conditions have included in the recommended conditions.

Environmental Services

70. The application was referred to Council's Environmental Services section for comment regarding the proposed waste disposal. No objection was raised in respect to the proposed garbage room and appropriate waste storage arrangements. Conditions have included in the recommended conditions.

CONCLUSION

71. This application has been assessed having regard to the matters for consideration under Section 4.15(1) and 4.15(3) of the Environmental Planning and Assessment Act 1979, the provisions of the relevant State Environmental Planning Policies, Local Environmental Plans and Development Control Plans. The application proposes the demolition of the existing structures and the construction of a five (5) storey mixed use development comprising two (2) commercial tenancies, nine (9) apartments, two (2) basement levels accommodating a total of twenty (20) car parking spaces and associated site works.

72. The development has been assessed against the requirements of the relevant planning instruments and development control plans. Following a detailed assessment it is considered that Development Application No DA2016/0343 should be refused for the reasons referenced below.

DETERMINATION AND STATEMENT OF REASONS

73. The reasons for this recommendation are:




- The proposed development fails to provide the relevant information (a Phase 2 Environmental Assessment and a Remediation Action Plan) to satisfy Council that Clauses 1-4 of State Environmental Planning Policy 55 – Remediation of Land are complied with, and the site can be decontaminated and remediated in order for the site to be fit for its intended purpose.

THAT pursuant to Section 4.16 (1)(b) of the Environmental Planning and Assessment Act 1979, as amended, that Development Application DA2016/0343 proposing the demolition of the existing structures and the construction of a five (5) storey mixed use development comprising two (2) commercial tenancies, nine (9) apartments, two (2) basement levels accommodating a total of twenty (20) car parking spaces and associated site works at Lots 3, 4 and Lot 5 DP 16666 and known as 345 Belmore Road, Riverwood, is recommended for refusal for the following reason;

1. The proposed development is unsatisfactory, pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, and is

recommended for refusal as it does not satisfy Clauses 1-4 of State Environmental Planning Policy – Remediation of Land as a Phase 2 Environmental Assessment and a Remediation Action Plan have not been submitted with the application to demonstrate the site is appropriate for the proposed development.

ATTACHMENTS

- Attachment [↓](#) 1  3D perspective from Belmore Rd - 345 Belmore Road Riverwood
- Attachment [↓](#) 2  East and South Elevation - 345 Belmore Road Riverwood
- Attachment [↓](#) 3  West and North Elevations - 345 Belmore Road Riverwood



1 Belmore Rd view



2 Belmore Rd from the north

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Project No.
170510

Development Application
MIXED USE DEVELOPMENT
 No. 345 Belmore Road
 Riverwood, NSW

Rev	Issue Name	Issued To	Date
1			12/18

07 3D IMAGES
 Belmore Rd view, Belmore Rd from the north
DA.800 A
 SCALE: as A2
 Revision date: 12/2018

LEGEND

- 01 GLAZING WITH METAL JOINTS TO MATCH EXISTING TOWER HOUSE
- 02 FINISH - BRICK TO MATCH EXISTING TOWER HOUSE
- 03 FINISH - BRICK TO MATCH EXISTING TOWER HOUSE
- 04 FINISH - BRICK TO MATCH EXISTING TOWER HOUSE
- 05 ALUMINIUM WINDOW SLATS TO MATCH EXISTING TOWER HOUSE
- 06 ALUMINIUM WINDOW SLATS TO MATCH EXISTING TOWER HOUSE
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- 96 ALUMINIUM WINDOW SLATS TO MATCH EXISTING TOWER HOUSE
- 97 ALUMINIUM WINDOW SLATS TO MATCH EXISTING TOWER HOUSE
- 98 ALUMINIUM WINDOW SLATS TO MATCH EXISTING TOWER HOUSE
- 99 ALUMINIUM WINDOW SLATS TO MATCH EXISTING TOWER HOUSE
- 100 ALUMINIUM WINDOW SLATS TO MATCH EXISTING TOWER HOUSE

1 EAST

1 SOUTH

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Project No. **170510**

Development Application
MIXED USE DEVELOPMENT
 No. 345 Belmore Road
 Riverwood, NSW

Rev	Issue	Date
1	Issue	12/2018

04 DA ELEVATIONS EAST SOUTH
DA.300 A
 Scale: 1:200 on A3
 Revision date: 12/2018

