

AGENDA - LPP

Meeting:	Georges River Local Planning Panel (LPP)
Date:	Thursday, 20 June 2019
Time:	4.00pm
Venue:	Council Chambers, Civic Centre, Hurstville
Panel Members:	Paul Vergotis (Chairperson) John Brockhoff (Expert Panel Member) Michael Leavey (Expert Panel Member) George Vardas (Community Representative)
Council Staff:	Meryl Bishop (Director Environment and Planning) Nicole Askew (Coordinator Development Assessment) Cathy Mercer (PA to Manager Development and Building) Sue Matthew (Team Leader DA Admin) Monica Wernej (Admin Assistant)

1. On Site Inspections - 1.00pm –3.30pm

- a) 42 Carwar Avenue Carss Park
- b) 87 Woronora Parade Oatley

Break - 3.30pm

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

Public Meeting Session Closed - 6.00pm

(Break – Light Supper served to Panel Members)

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

LPP015-19 87 Woronora Parade Oatley - DA2018/0462
(Report by Development Assessment Officer)

LPP016-19 42 Carwar Avenue Carss Park - MOD2019/0005
(Report by Development Assessment Planner)

4. Confirmation of Minutes

LPP015-19

REPORT TO GEORGES RIVER COUNCIL LPP MEETING OF THURSDAY, 20 JUNE 2019

LPP015-19

LPP Report No	LPP015-19	Development Application No	DA2018/0462
Site Address & Ward Locality	87 Woronora Parade Oatley Mortdale Ward		
Proposed Development	Demolition works and construction of detached dual occupancy with swimming pool and cabana on each lot		
Owners	365 Project Management Pty Ltd		
Applicant	J Chen		
Planner/Architect	ARC Homes Australia		
Date Of Lodgement	6/11/2018		
Submissions	28		
Cost of Works	\$740,000.00		
Local Planning Panel Criteria	The development has received more than 10 unique submissions by way of objection.		
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 (Building Sustainability Index: BASIX) 2004, State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, Deemed State Environmental Planning Policy – Georges River Catchment, Hurstville Local Environmental Plan (HLEP) 2012, Hurstville Development Control Plan No 1 - LGA Wide		
List all documents submitted with this report for the Panel's consideration	Survey Plan Architectural Plans Landscape Plan and Concept Stormwater Plan Statement of Environment Effects		
Report prepared by	Development Assessment Officer		

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

Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (under s7.24)?	Not Applicable
Conditions Have draft conditions been provided to the applicant for comment?	Not Applicable. The draft reasons for refusal will be available once the report has been published.

Site Plan



Subject site highlighted in blue

Executive Summary

1. Development consent is sought for demolition works and construction of detached dual occupancy with swimming pool and cabana for each dwelling on the subject site.
2. The site is legally identified as Lot 17, Sec 10, DP 7124, and 87 Woronora Parade, Oatley. The site is located on the eastern side of Woronora Parade, Oatley. The site has a frontage of 20.115m and a site area of 1,011sqm. The site has a significant slope from the front to the rear of the site of approximately 7m. There are four (4) trees located at the front and seven (7) at the rear of the site. The top 30% of the site is steeply sloping with the rear 70% being relatively flat.
3. The subject site is zoned Zone R2 - Low Density Residential and the proposal is a permissible form of development with consent.
4. In accordance with the provisions of Council's Public Notification, the application was placed on neighbour notification for a period of fourteen (14) days where adjoining property owners were notified in writing of the proposal and invited to comment. Twenty (20) submissions were received. The amended plans were received and re-notified to the neighbours for another fourteen (14) days. Eight (8) submissions were received during the re-notification period.
5. The proposal was referred to Council's Development Engineer who recommended that 'the DA be refused on the basis that vehicular access to the site is unlikely to be

achieved for the driveway levels proposed'. Council's Consultant Arborist and GIS Officer raised no objection to the proposal.

6. Having regard to the Matters of Consideration under Section 4.15(1) of the Environmental Planning and Assessment Act 1979, Development Application No. DA2018/0462 is recommended for refusal for the reasons stated in the report.

Report in Full Proposal

7. Council is in receipt of an application for demolition works and construction of detached dual occupancy with swimming pool and cabana for each dwelling on the subject site.
8. In detail, the proposal involves the following works:
- Demolition of the dwelling and outbuilding structures;
 - Removal of eleven (11) trees;
 - Construction of a detached two (2) storey dual occupancy;
 - Construction of a swimming pool adjacent to the alfresco area for each dwelling and a cabana to the rear of each dwelling;
 - Front fencing of 1m in height is proposed;
 - Associated landscaping and stormwater works.

Note: A set of amended plans with a few minor design changes were received on 16 January 2019. The assessment is based on the amended plans.

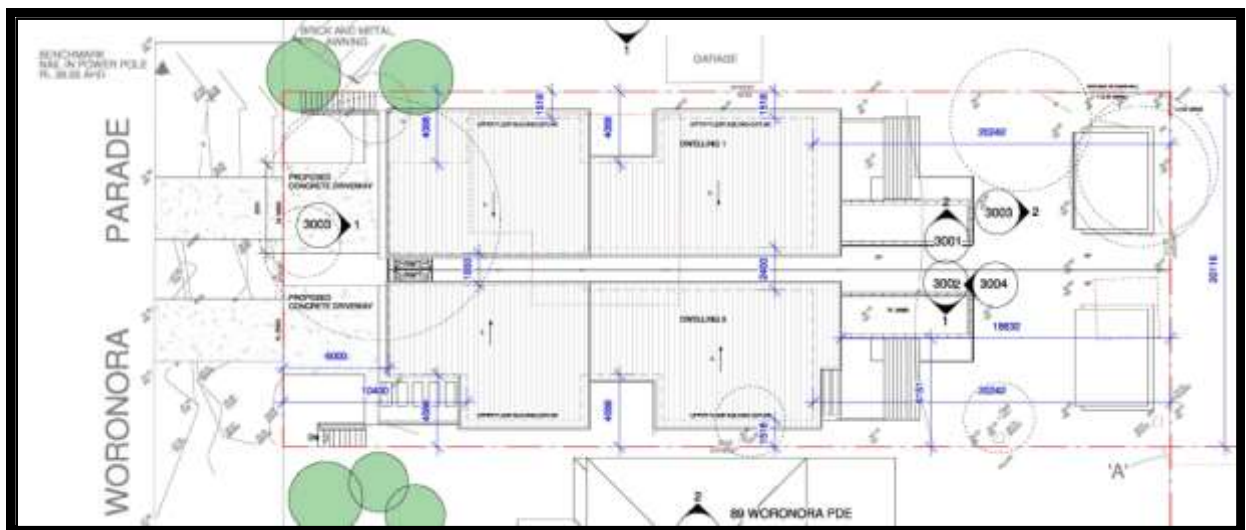


Figure 1 - Proposed Site Plan - 87 Woronora Parade, Oatley

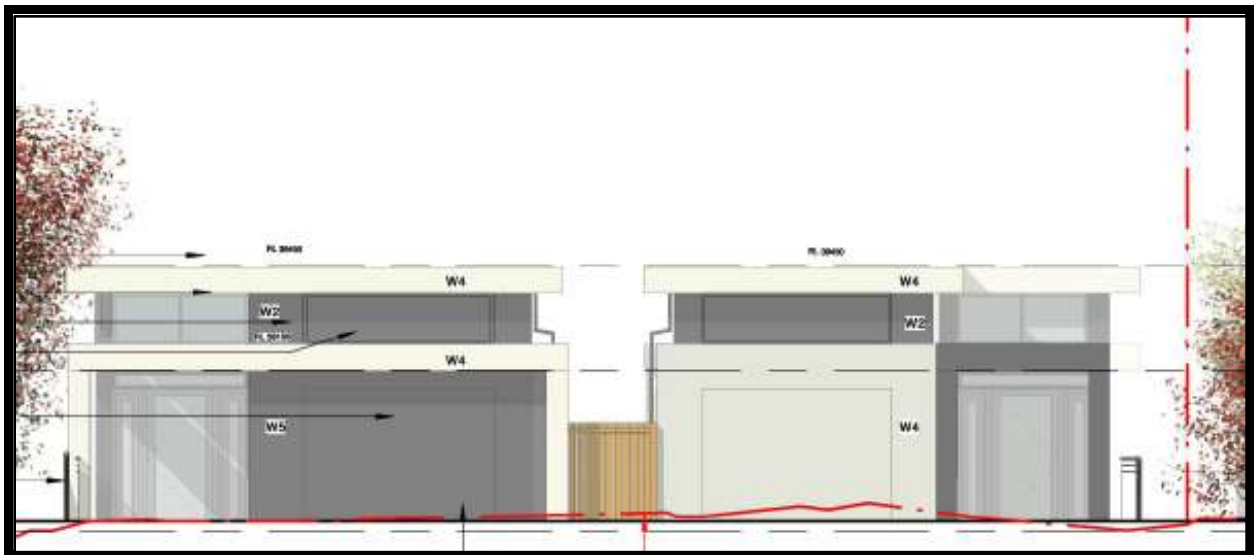


Figure 2 - Proposed Front Elevation – 87 Woronora Parade, Oatley

LPP015-19

The Site and Locality

9. The site is legally identified as Lot 17, Sec 10, DP 7124, 87 Woronora Parade, Oatley. The site is located on the eastern side of Woronora Parade, Oatley. The site has a frontage of 20.115m and a site area of 1,011sqm. The site has a significant slope from the front to the rear of the site of approximately 7m. There are four (4) trees located at the front and seven (7) at the rear of the site. The top 30% of the site is steeply sloping with the rear 70% being relatively flat.
10. The site is identified as a Flood Control Lot and is located within the Foreshore Scenic Protection Area (Hurstville LEP 2012).
11. Existing on the site is a single storey dwelling with detached outbuildings. Adjoining the site on all sides are detached two (2) storey dwellings. The surrounding area is generally residential in character.



Figure 3 - Front Site Photo Looking from Woronora Parade - 87 Woronora Parade, Oatley



Figure 4 - Rear Site Photo Looking towards Woronora Parade - 87 Woronora Parade, Oatley**Background**

12. The following is a brief history/background relevant to the above mentioned subject allotment.

Date	Note
22 September 2008	'Deferred Commencement' Consent (08/DA-207) granted for construction of a new single dwelling
3 November 2010	09/DA-426 refused for demolition of the existing structures on-site and the construction of a new two storey dwelling
19 May 2017	Consent (DA2016/0311) granted for alterations and additions to existing dwelling including new garage, additions to rear of dwelling and first floor
6 November 2018	DA2018/0462 lodged

PLANNING ASSESSMENT

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

Zoning and Permissibility

14. The subject site is zoned Zone R2 - Low Density Residential and the proposal is a permissible form of development with consent.

**Figure 5 - Zone map**

15. However, the proposed development fails to adequately satisfy the R2 Low Density Residential objective 'to ensure that a high level of residential amenity is achieved and maintained' and 'to encourage greater visual amenity through maintaining and enhancing landscaping as a major element in the residential environment' due to the adverse impacts, including solar access, streetscape, vehicle access safety, and landscape amenity impacts, generated by the proposed development. These objectives could be achieved through an alternate design as they are not as a result of site constraints.

Hurstville LEP 2012 –Development Standards

16. The extent to which the proposal is assessed against the relevant standards of Hurstville LEP 2012 is outlined in the table below.

Applicable LEP Clause	Development Standards	Development Proposal	Complies
4.1 Minimum subdivision Lot size	Dual occupancy – 630sqm if land identified as “G” on lot size map; 1000sqm if land identified as “K” on lot size map	Land is identified as “K” on the lot size map which requires 1000sqm of site area for a dual occupancy. The site has an area of 1011sqm.	Yes
4.3 – Height of Buildings	9m - Height of Buildings Map	8.2m.	Yes
4.4 Floor Space Ratio	0.6:1	0.47:1 (478sqm)	Yes
6.4 Foreshore Scenic Protection Area (FSPA)	<p>The objectives of this clause are:</p> <p>(a) to recognise, protect and enhance the natural, visual, environmental and heritage qualities of the scenic areas of Hurstville and the Georges River,</p> <p>(b) to protect significant views to and from the Georges River,</p> <p>(c) to reinforce the dominance of landscape over built form.</p> <p>Council cannot grant consent to the carrying out of development on land within a Foreshore Scenic Protection Area unless consideration has been made of the following:</p> <p>“(3)(a) affect the natural environment, including topography, rock formations, canopy vegetation or other significant vegetation, and</p> <p>(b) affect the visual environment, including</p>	<p>The proposed landscaped area fails to comply with the relevant FSPA landscaping control under DCP 1, therefore, does not satisfy the objectives of Clause 6.4 (c) - Foreshore Scenic Protection Area being <i>‘to reinforce the dominance of landscape over built form’</i>.</p>	No

	the views to and from the Georges River, foreshore reserves, residential areas and public places, and (c) affect the environmental heritage of Hurstville, and (d) contribute to the scenic qualities of the residential areas and the Georges River by maintaining the dominance of landscape over built form.”		
6.7 Essential Services	Development not to affect Council /Essential services	No impacts on services. Stormwater is proposed to drain to an existing easement of which the site benefits.	Yes

State Environmental Planning Policies

17. Compliance with the relevant state environmental planning policies is summarised in the table below.

State Environmental Planning Policy	Complies
State Environmental Planning Policy No 55 – Remediation of Land	Yes
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	Yes
State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017	Yes
Deemed State Environmental Planning Policy – Georges River Catchment	Yes

State Environmental Planning Policy No 55 – Remediation of Land

18. Clause 7(1)(a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7(1)(b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

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

19. BASIX Certificates (No. 956156M_03) have been issued for the proposed development as modified and the commitments required by the BASIX Certificate have been satisfied.

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

20. The Vegetation SEPP regulates clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent.
21. The Vegetation SEPP applies to clearing of:
 - a) Native vegetation above the Biodiversity Offset Scheme (BOS) threshold where a proponent will require an approval from the Native Vegetation Panel established under the Local Land Services Amendment Act 2016; and
 - b) Vegetation below the BOS threshold where a proponent will require a permit from Council if that vegetation is identified in the council's development control plan (DCP).
22. The objectives of the SEPP are to protect the biodiversity values of trees and other vegetation in non-rural areas and preserve the amenity of non-rural areas through the preservation of trees and other vegetation. This policy is applicable pursuant to Clause 5(1) of the SEPP as the site is within both Georges River Council and the R2 Low Density Residential zone.
23. Pursuant to Clause 8(1) of the SEPP, clearing does not require authority under the policy as it is a type of clearing that is authorised under Section 60O of the Local Land Services Act 2013 (specifically, that associated with a development consent issued under Part 4 of the Environmental Planning and Assessment Act 1979).
24. The proposed tree removal was referred to Council's Tree Management Officer who raised no objection to the proposal.

Deemed State Environmental Planning Policy – Georges River Catchment

25. 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

Draft Environment SEPP

26. The Draft Environment SEPP was exhibited from 31 October 2017 to 31 January 2018.
27. 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.
28. The proposal is not inconsistent with the provisions of this Draft Instrument.

Development Control Plans

29. The proposed development is subject to the provisions of the Hurstville Development Control Plan 1 (DCP 1). The following comments are made with respect to the proposed development, considered against the objectives and controls contained within the DCP 1.
30. The proposed development is subject to the provisions of the Hurstville Development Control Plan No 1. The following comments are made with respect to the proposal satisfying the objectives and controls contained within the DCP.

Applicable DCP Controls	DCP Provisions	Development Proposal	Complies
PC1 – Site Area	1000sqm	1011sqm	Yes
Frontage	22m for a detached dual occupancy in a 'side-by-side' configuration where both dwellings have direct street frontage	20.115m	No (1)
PC2 – Height	9m for 2 storey Max. 6.8m wall height Floor to ceiling height 2.4m-3.6m Max. parapet height 450mm	8.2m Max. 7.5m 4m 600mm	Yes No (2) No (2) No (2)
Maximum storeys	2	2	Yes
PC3 – Setbacks			
Front:	5.5m	6m	Yes
Side:	900mm/1.5m	1.518mm/1.518m	Yes
Side:	900mm/1.5m	1.518mm/1.518m	Yes
Rear:	7m/9m	20.2m/18.7m	Yes
PC4 – Solar Access	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 21 June. Note: Exemptions will be considered for developments that comply with all other requirements but are located on sites with an east-west orientation.	The windows servicing the home theatre and dining area of the southern dwelling of this development do not receive 3hrs of sunlight between 9.00am and 3.00pm on 21 June; The three (3) ground floor windows including one (1) lounge room window and one (1) dining room window of the southern property at 89 Woronora Parade do not receive 3hrs of sunlight between 9.00am and 3.00pm	No (3) (No exemption is applicable considering there are other non-compliances associated with the development).

		on 21 June; However, 3hrs of direct sunlight between 9am and 3pm on 21 June is achievable to most of the principal private open spaces of the southern property at 89 Woronora Parade.	
PC5 – Visual Privacy	Window offsets, high light windows and obscured glazing;	Window offsets, high light windows have been proposed to mitigate privacy impact.	Yes
	First floor rear balconies are to incorporate fin walls or privacy screens to side elevations to prevent overlooking	Privacy screens provided	Yes
PC6 – Noise	Noise emitting plant and machinery must be located away from habitable rooms or treated to negate noise issues	If the application was to be supported a noise condition would be incorporated to ensure the plant associated with the swimming pools and air conditioning condenser units be appropriately located and or be mitigated to ensure a maximum noise level not exceeding 5dB(A) above the background noise.	Yes
PC7 – Vehicle access, parking and manoeuvring	Each dwelling is to provide one (1) garage and (1) driveway space	2 spaces achievable for each dwelling - Single garage and hard stand space for each lot.	Yes
	Garage setback 5.5m from front property alignment and recessed 300mm into façade	Not recessed into the building façade, it is prominent with the entry door and entry foyer recessed 4.485m.	No (4)
	Internal driveway	Driveway gradient	No (4)

	grades are in accordance with Australian Standard 2890.1-2004	exceeds 25%	
PC8 – Cut and Fill	Cut and fill limited to 600mm	Maximum 830mm	No (5)
PC9 – Streetscape Character	Windows to street The street façade of dual occupancies are to adopt an asymmetrical design to provide each dwelling with an individual identity when viewed from the street;	Windows face street Mirror-reverse design	Yes No (6)
PC11 – Balconies	Rear balcony maximum depth 2m	1.5m	Yes
PC13 – Fencing	Front fencing: Maximum height 1m	Front fence with maximum height of 1m proposed	Yes
PC14 – Landscaped areas and private open space	Within FSPA - 25%; Minimum dimension of landscaped space 2m	23% (230sqm)	No (7)
PC15 – Stormwater	Drainage by gravity OR Easement OR Charged system OR Absorption/Infiltration method	Drain by gravity to an existing easement	Yes
Section 4.7 Outbuildings	Maximum height is 3m; Minimum setbacks are 900mm.	3.5m 1m	No (8) Yes
Section 5.6 Swimming Pools and Spas	The top of the pool is as close to existing ground level as possible; Swimming pool edge to be a minimum of 1.5m from side and rear property boundaries	1m above the natural ground level 1.5m (there is no internal boundary as the proposal is a detached dual occupancy and subdivision is not part of the application)	No (9) Yes

31. Non-compliances in table above are discussed below.

(1) Site frontage

32. Hurstville DCP No 1 prescribes a site width of 22m for a detached dual occupancy in a 'side-by-side' configuration where both dwellings have direct street frontage. This is to enable development that incorporates adequate setbacks, efficient car parking and vehicle access and circulation and high quality built form.

33. However, the subject site has a lot width of less than 22m, being 20.115m. The resulting developments built form will not respect the streetscape bulk and scale of development in the immediate locality and therefore inconsistent with the precinct. In addition the development does satisfy other development criterion of Council's Development Control Plan.

(2) Building height

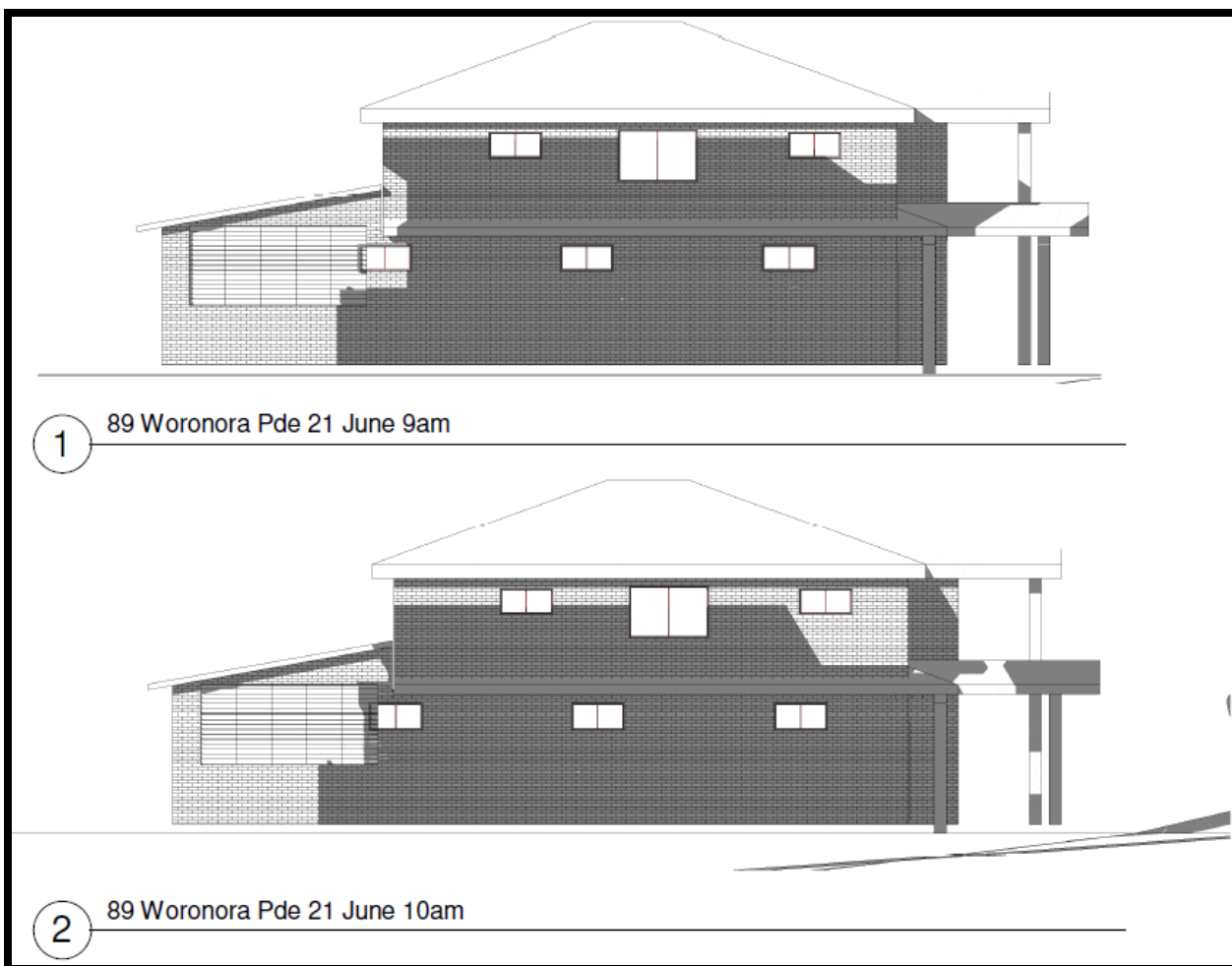
34. Hurstville DCP No 1 contains controls regarding maximum wall height of 6.8m, maximum floor to ceiling height of 3.6m, and maximum parapet height of 450mm.
35. The proposed wall height is 7.5m at its highest point. The maximum floor to ceiling height is 4m. The proposed parapet height is 600mm; adverse impacts of overshadowing will result from the proposed development of the site amenity of adjoining premises. The overshadowing impact can be reduced through a reduction in height of the development and redistribution of bulk.

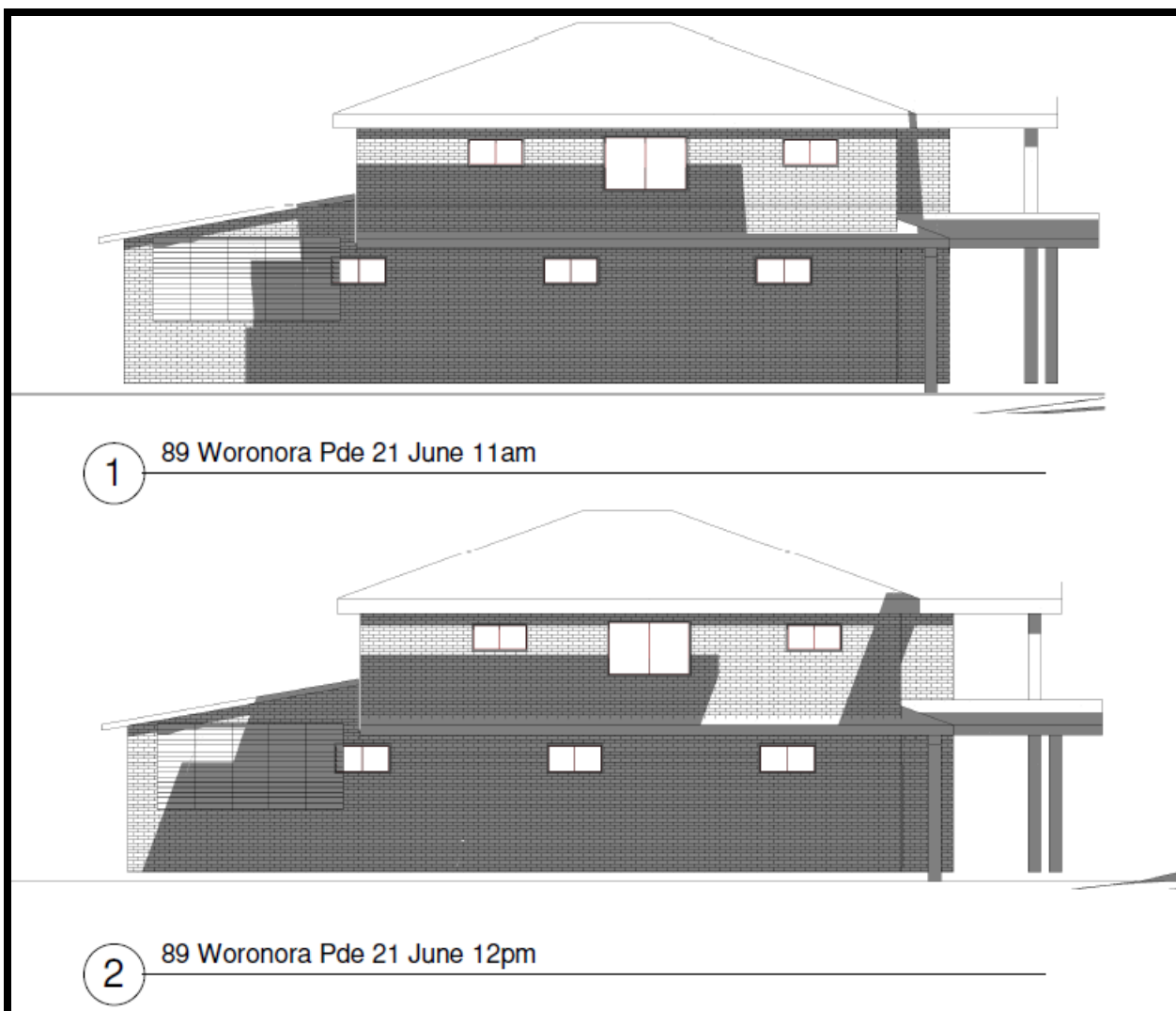
(3) Solar access

36. Hurstville DCP No 1 requires at least 3 hours of sunlight on the windows of main living areas and adjoining principal private open space of adjacent dwellings between 9.00am and 3.00pm on 21 June.
37. The windows servicing the home theatre and dining area of the southern dwelling of the subject development does not receive 3hrs of sunlight between 9.00am and 3.00pm on 21 June.
38. In addition, three (3) ground floor windows including one (1) lounge room window and one (1) dining room window in the northern side of the southern property does not receive 3hrs of sunlight on 21 June (refer to Figure 6 below).
39. It is acknowledged both of the subject site and the neighbouring site have an east-west orientation. Overshadowing to a certain degree is unavoidable due to lot orientation. DCP No 1 states:

'exemptions will be considered for developments that comply with all other requirements but are located on sites with an east-west orientation'.

40. However, in this case, the exemption clause cannot be invoked as the development contains various non-compliances, including building height non-compliances, which result in increased overshadowing. The unnecessarily increased overshadowing could be mitigated with a more conservative design.





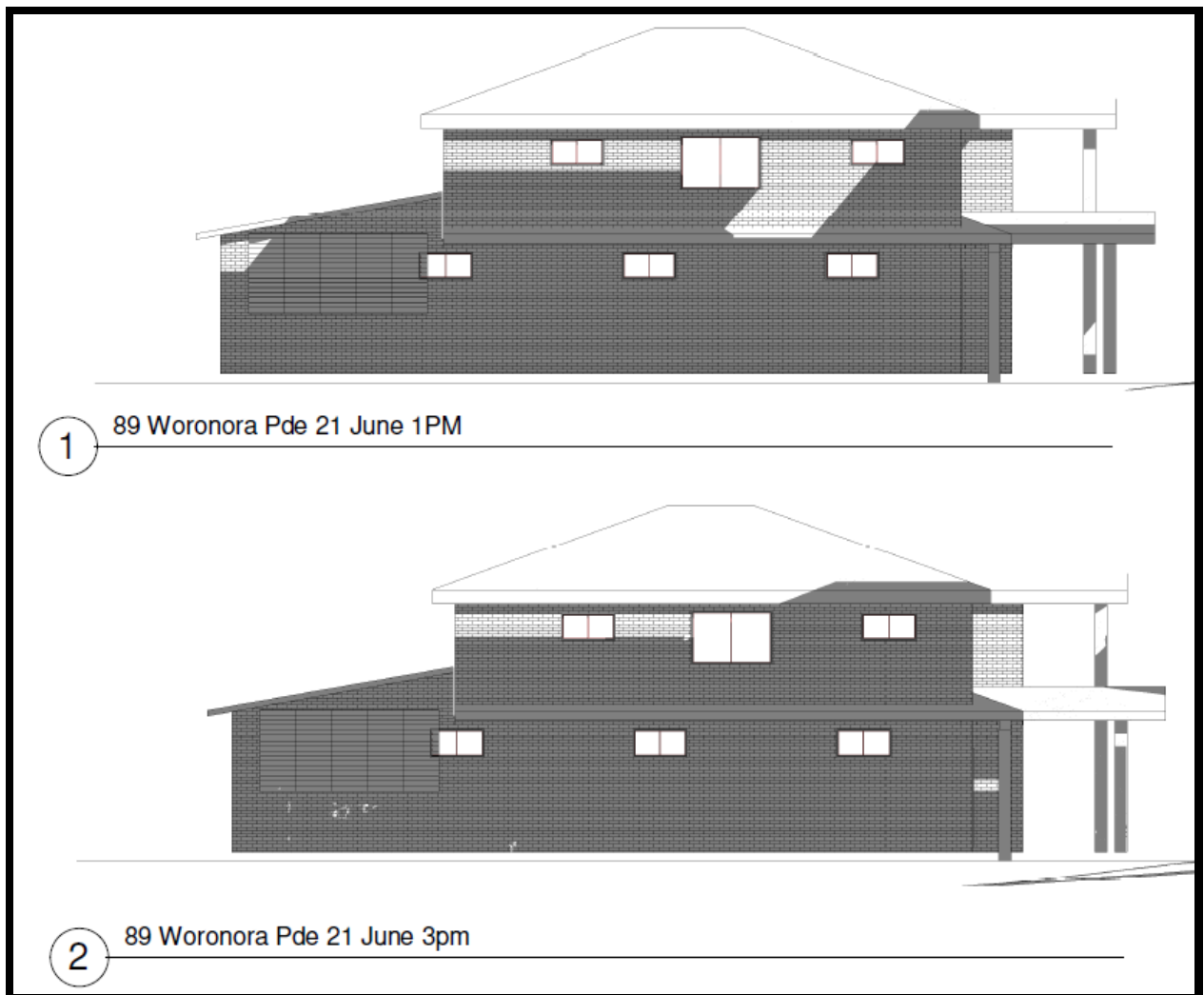


Figure 6 - Elevational Shadow Diagram of 89 Woronora Parade, Oatley (Source: ARC Homes)

(4) Vehicle access, parking and manoeuvring

41. Hurstville DCP No 1 requires garages to be recessed a minimum of 300mm into the facade of the building to prevent garage dominance. DCP No 1 also requires internal driveway grades to be designed in accordance with Australian Standard 2890.1-2004.
42. The proposed garages occupy in excess of 50% of the site frontage and are the dominant form when viewed from the public domain, with the entry foyers being recessed 4.485m behind the alignment of the garage. It is acknowledged the lower floor level which provides the same alignment of the front building line is directly below the garage, however is not visible from the front elevation.
43. Driveway gradients are to be designed to satisfy the design criterion of Australian Standard 2890.1(2004). The gradient proposed (between the back of crossing layback and this proposed level at the street alignment) is 28% which exceeds the maximum permitted by the Australian Standard being 25%. As such, the proposal fails to meet the performance criteria '*not to visually dominate the streetscape*' and enable '*the safe and efficient movement of vehicles and pedestrians*'.

(5) Cut and fill

44. Hurstville DCP No 1 contains controls to limit the cut and fill to a maximum depth of 600mm while the proposed maximum cut is 830mm. The proposed cut is not

considered reasonable given it does not satisfy the objective of cut and fill provision to reduce disturbance of natural ground levels.

(6) Streetscape character

45. Hurstville DCP No 1 requires the street façade of dual occupancies to adopt an asymmetrical design to provide each dwelling with an individual identity when viewed from the street. The proposed front façade provides a mirror-reverse design for the detached dual occupancy. It is considered the proposal fails to satisfy the objective of the clause as the design does not '*contribute to the creation of cohesive yet varied and visually interesting*' and is '*inconsistent with the preferred future character of the area streetscapes*' as prescribed in DCP No 1. It is noted the applicant attempted to achieve asymmetrical design by providing differing colours to the two (2) dwelling façades. However, using colour differentiation is not considered to be an acceptable solution to satisfy the requirement for an asymmetrical design.

(7) Landscaped area

46. Hurstville DCP No 1 requires a minimum of 25% of site area to be landscaped open space as the allotment is in the Foreshore Scenic Protection Area (FSPA). The proposed landscaped area is less than 25% of the site. As a result, it fails to satisfy the numeric criterion and the objectives of the control namely; '*provide landscape amenity to the dwelling*' as prescribed in DCP No 1 and fails to adequately satisfy the R2 Low Density Residential objective '*to encourage greater visual amenity through maintaining and enhancing landscaping as a major element in the residential environment*'. The development also fails to satisfy the objectives of Clause 6.4 Foreshore Scenic Protection Area as referenced in the HLEP 2012 to reinforce the dominance of landscaping over built form.

(8) Outbuilding height

47. Hurstville DCP No 1 contains the control to limit the height of outbuilding to 3m while the proposed cabanas are 3.5m above the natural ground level. The development does not comply with required building height, therefore, is not compatible with the existing or desired future character of the area. As such, it does not meet the objectives underpinning the height controls. It is noted the proposed cabanas could achieve the full compliance through design change condition if consent was granted.

(9) Swimming pool

48. Hurstville DCP No 1 requires inground swimming pools be built so that the top of the swimming pool is as close to the existing ground level as possible. The proposed swimming pools are 1m above the natural ground level. Given the rear of the site is relatively flat the pools should be lowered to meet the DCP criterion. The design of the pools is not considered acceptable in their current form.

IMPACTS

Natural Environment

49. The development is unlikely to have adverse impacts on the natural environment given Council's Consultant Arborist raised no objection to the proposal. The proposed cut and fill is not considered reasonable given the development contains cut and fill non-compliance and does satisfy the objective of cut and fill provision to reduce disturbance of natural ground levels. It is noted the impact could be reduced though a revised design.

Built Environment

50. The development does not respect the contextual arrangement of the streetscape pattern of development and is therefore inconsistent with the existing built form and character of the area. The development does not comply with the site frontage, height, solar access, parking and driveway, cut and fill, streetscape, landscaping, outbuildings and swimming pool controls, and as such does not meet the objectives underpinning the dual occupancy housing controls. As such, an adverse impact would result from the proposed development of the site and its resulting impacts on the amenity of the adjoining premises.

Social Impacts

51. The proposed development is for a residential purpose in an already established residential zone. Consequently, the proposal will not result in any unreasonable social impacts.

Economic Impacts

52. No significant economic impacts are likely to arise as a result of the proposed development.

Suitability of the site

53. The application has failed to provide a development that is suitable for the site with respect to site frontage, streetscape, landscaping, bulk and scale and vehicle access. For the reasons detailed in this report, the application cannot be supported.

SUBMISSIONS

54. In accordance with the provisions of Council's Public Notification, the application was neighbour notified, twenty eight (28) submissions were received raising the following concerns.

a) Accuracy of information

55. Concern was raised regarding the accuracy of information in the submitted plans, including neighbouring property details on the Landscape Plan and 'misleading' information on the Statement of Environmental Effects.

Comment: The comments are acknowledged, the Development Assessment Officer and the Council's Specialists have reviewed the application having regard to the assessment criterion together with an inspection of the site. The submitted information was considered acceptable to facilitate the assessment of the proposal.

b) Bulk and scale of development

56. Concern was raised regarding the size of the building compared with that of the existing dwellings in the surrounding area.

Comment: The development does not meet the minimum site width criterion to facilitate the development of a detached dual occupancy. The development also contains various height non-compliances including wall height, floor to ceiling height, parapet height, and outbuilding height non-compliances. It is considered the proposed development exceeds the bulk and scale of development envisaged for the area and is therefore inconsistent with the existing and envisaged built form and character of the area.

c) Overshadowing and amenity impact associated

57. Concern was raised regarding the overshadowing impact and the amenity impact associated.

Comment: As discussed above, the development contains various building height non-compliances, which result in increased overshadowing. The overshadowing resulting from the development could be lessened with a better, more compliant, less obtrusive design. The development is considered to be unacceptable in this regard.

d) Insufficient street parking and onsite parking spaces

58. Comment: Two (2) spaces, including one (1) in the garage and one (1) hard stand, are proposed to each dwelling, which complies with the numeric parking controls. Access to these car parking spaces does not satisfy the Australian Standard AS2890.

e) Potential future use of the outbuildings as secondary dwellings

59. Concern was raised regarding the potential use of the outbuildings as secondary dwellings.

Comment: An ongoing use of building condition could be imposed to ensure the future use of the building would be the same as proposed if consent was to be granted. If these structures were to be converted to secondary dwellings this would need to be via separate approval.

f) Existing streetscape and character of the area

60. Concern was raised regarding impacts on the streetscape and the character of the area.

Comment: The development design and form is inconsistent with the streetscape of the locality. The development has not had regard to the design criteria for dual occupancy developments. The development is therefore inconsistent with the existing built form and character of the area and has failed to provide an asymmetrical design to provide each dwelling with an individual identity when viewed from the street.

g) Minimum site width requirement

61. Concern was raised regarding the minimum site width requirement.

Comment: The allotment is undersized with respect to the lot frontage for a detached dual occupancy design. In addition the development has not demonstrated the objectives for a 22m frontage have been achieved given there is a numerical non-compliance.

h) Privacy impact

62. Concern was raised regarding the privacy impact generated from the above ground swimming pool and the proposed dual occupancy.

Comment: The RL of the proposed decking area around the swimming pool is approximately 1.4m above the natural ground level at its highest point. Unacceptable privacy impacts will result given this will facilitate overlooking into the rear yard of the adjoining allotments and the subject dwellings proposed as part of this application. The boundary fencing will not be of a height that will provide an impediment to the visual line of sight. Extending the height of the boundary fencing is considered to be an inappropriate outcome given there is scope for the height of the swimming pools to be lowered.

The dual occupancy development is considered not to result in an unreasonable impact onto the adjoining allotments as the development has incorporated window offsets,

highlight windows and privacy screens. These are what are considered to be appropriate design approaches.

i) Building height controls

63. Concern was raised regarding the building height.

Comment: The development contains various building height non-compliances, which result in increased overshadowing and the presentation of excessive bulk and scale. The development could be designed in a manner that achieves a similar development outcome and comply with the height controls.

j) Trees to be removed

64. Concern was raised regarding the proposed tree removal. It was also raised there is little area remained for new trees to be planted.

Comment: The proposed tree removal was reviewed by Council's Consultant Arborist, who raised no objection to the removal of the trees requested. It is acknowledged that the development fails to provide sufficient landscaped area and does not satisfy the numeric criterion and the objectives of the landscaping controls. Additional deep soil area needs and can be provided which could facilitate the planting of new trees and additional landscaping.

k) Overdevelopment

65. Concern was raised regarding overdevelopment on the subject site and increased traffic associated.

Comment: A dual occupancy development is a permissible form of development in the zone. The proposed development being a dual occupancy is not considered to be an overdevelopment, however its scale and form is considered to be unacceptable as currently designed. The traffic generated by a dual occupancy was envisaged when the area was zoned to enable dual occupancy developments.

l) Cost of work under market price

66. The cost of work provided by the applicant was questioned by the submitter.

Comment: The applicant has submitted a detailed list of the costs, which satisfied the lodgement criterion.

m) Loss of property value

67. Concern was raised regarding the potential property value loss of the neighbouring properties.

Comment: Property value is not a matter for consideration under the Environmental Planning and Assessment Act 1979.

n) Driveway not practical and not safe

68. Concern was raised regarding the proposed driveway.

Comment: The vehicular access to the site has not been designed to meet the criterion of Australian Standard 2890.1-2004. The vehicle access is considered unsatisfactory.

o) Insufficient landscaping

69. Concern was raised regarding the proposed landscaped area on the site.

Comment: The landscaped area does not comply with the numeric controls and fails to satisfy the objectives of the control namely, 'provide landscape amenity to the dwelling' as prescribed in DCP No 1 and fails to adequately satisfy the R2 Low Density Residential objective 'to encourage greater visual amenity through maintaining and enhancing landscaping as a major element in the residential environment'. It is noted a more conservative design would enable full compliance as the controls intend.

p) Foreshore Scenic Protection Area requirements

70. Concern was raised regarding the Foreshore Scenic Protection Area requirements to be considered during the assessment.

Comment: The proposed development has been assessed against the Foreshore Scenic Protection Area requirements. The proposed landscaped area fails to comply with the relevant FSPA landscaping control under DCP 1, therefore, does not satisfy the objectives of Clause 6.4 (c) - Foreshore Scenic Protection Area being '*to reinforce the dominance of landscape over built form*'.

71. The proposed development is not considered to be in the public interest.

Council's Referrals

72. The application has also been referred to Council's Development Engineer who recommended that 'the DA be refused on the basis that vehicular access to the site cannot be achieved for the driveway levels proposed'.
73. Council's Consultant Arborist and GIS Officer raised no objection to the proposal, subject to the imposition of condition.

CONCLUSION

74. The application has been assessed having regard to the Matters of Consideration under Section 4.15 (1) of the Environmental Planning and Assessment Act 1979, the provisions of the Hurstville Local Environmental Plan and Hurstville Development Control Plan.
75. Following detailed assessment it is considered that Development Application No. DA2018/0462 be refused for the reasons stated in the report.

DETERMINATION AND REFUSAL REASONS

76. That Georges River Local Planning Panel as the consent authority pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act 1979, refuse Development Application No DA2018/0462 for demolition works and construction of detached dual occupancy with swimming pool and cabana on each lot at Lot 17, Sec 10, DP 7124 , and known as 87 Woronora Parade, Oatley for the following reasons:
1. **Environmental Planning Instrument** - Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the relevant environmental planning instruments in terms of the following:
 - (a) The proposal fails to adequately satisfy the R2 Low Density Residential objective "*to ensure that a high level of residential amenity is achieved and maintained*" and "*to encourage greater visual amenity through maintaining and enhancing landscaping as a major element in the residential environment*".

(b) Clause 6.4 - Foreshore Scenic Protection Area

2. **Development Control Plan** - Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the following sections of Hurstville Development Control Plan No 1 – LGA Wide:
 - (a) Section 4.3 Dual Occupancy – Site area and frontage;
 - (b) Section 4.3 Dual Occupancy – Building height;
 - (c) Section 4.3 Dual Occupancy – Solar access;
 - (d) Section 4.3 Dual Occupancy – Vehicle access, parking and manoeuvring;
 - (e) Section 4.3 Dual Occupancy – Cut and fill;
 - (f) Section 4.3 Dual Occupancy – Streetscape character;
 - (g) Section 4.3 Dual Occupancy – Landscaped areas and private open space;
 - (h) Section 4.7 - Outbuildings
 - (i) Section 5.6 Swimming Pools and Spas – Pool siting and noise control.




3. **Impacts on the Environment** - Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is likely to have an adverse impact on the following aspects of the environment:
 - (a) Natural Environment - The proposed cut and fill is not considered reasonable given it fails to satisfy the objective of cut and fill provision in DCP 1 to reduce disturbance of natural ground levels. The impact could be reduced though a more conservative design.
 - (b) Built environment - Adverse impacts including solar access, streetscape, vehicle access safety, and landscape amenity impacts would result from the proposed development of the site on the amenity of adjoining premises.

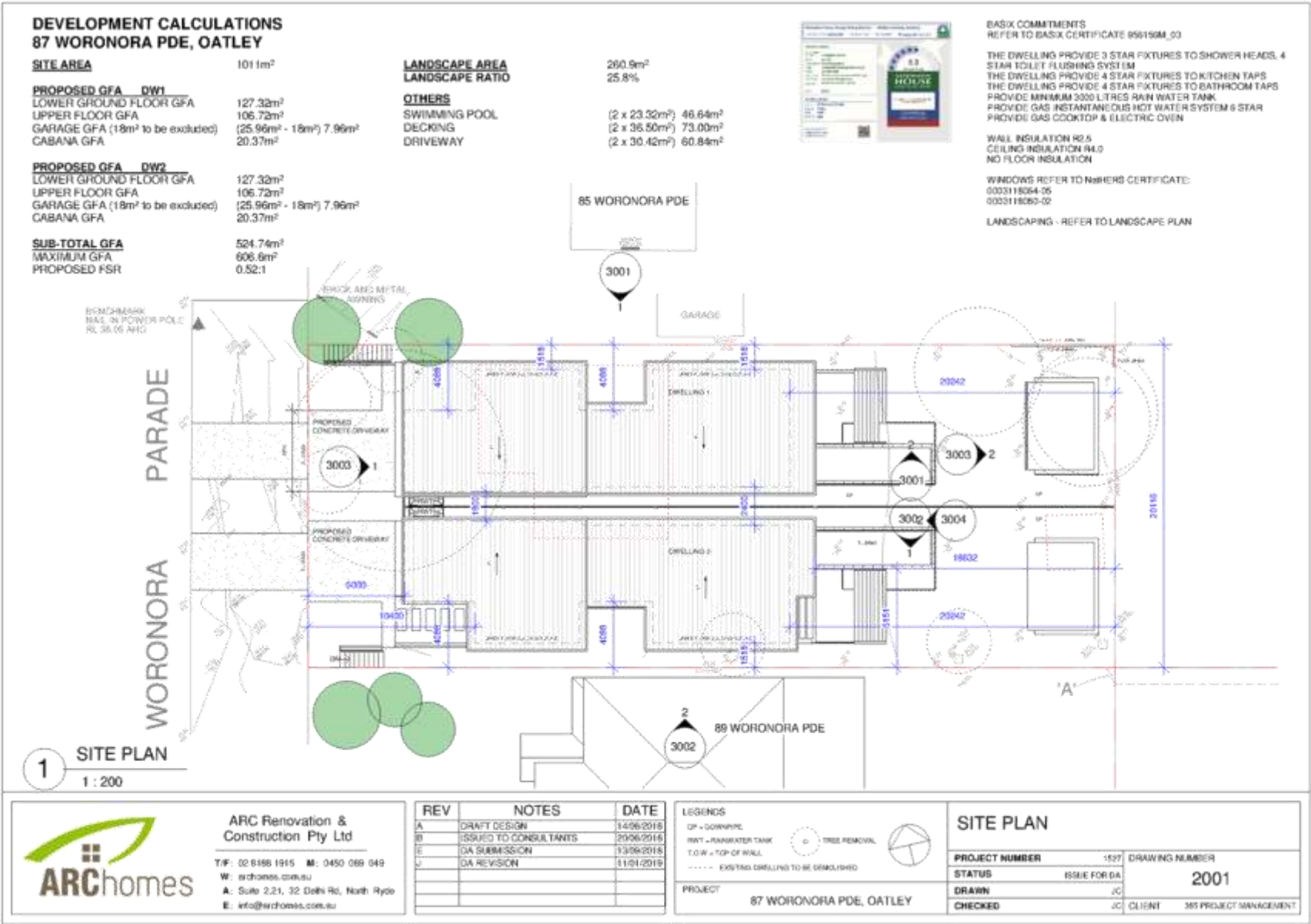
4. **Suitability of Site** - Pursuant to 4.15(1)(c), the site is not considered suitable for the proposed development for the following reasons:

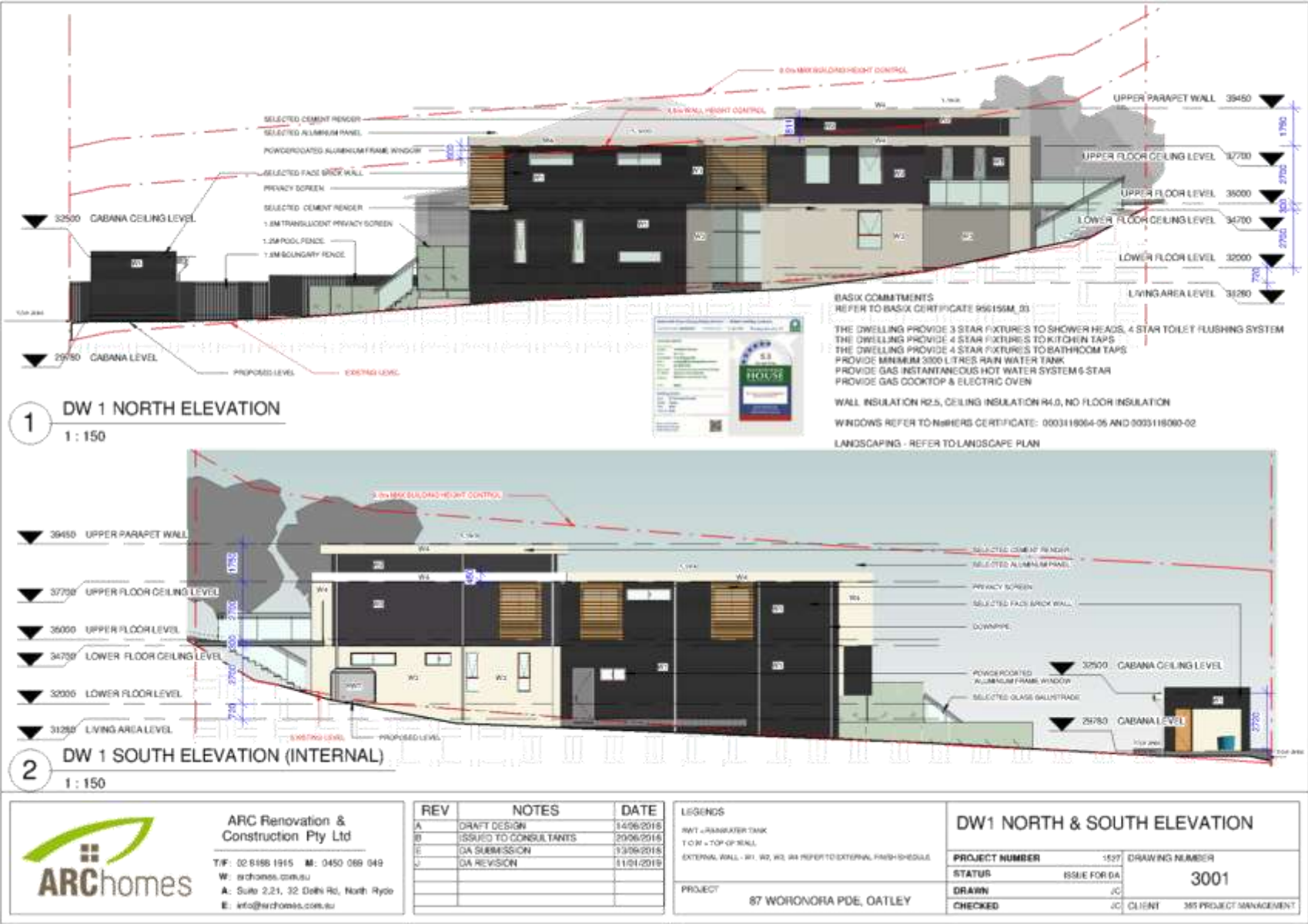
The application has failed to provide a development that is suitable for the site with respect to site frontage, streetscape, landscaping, and vehicle access.

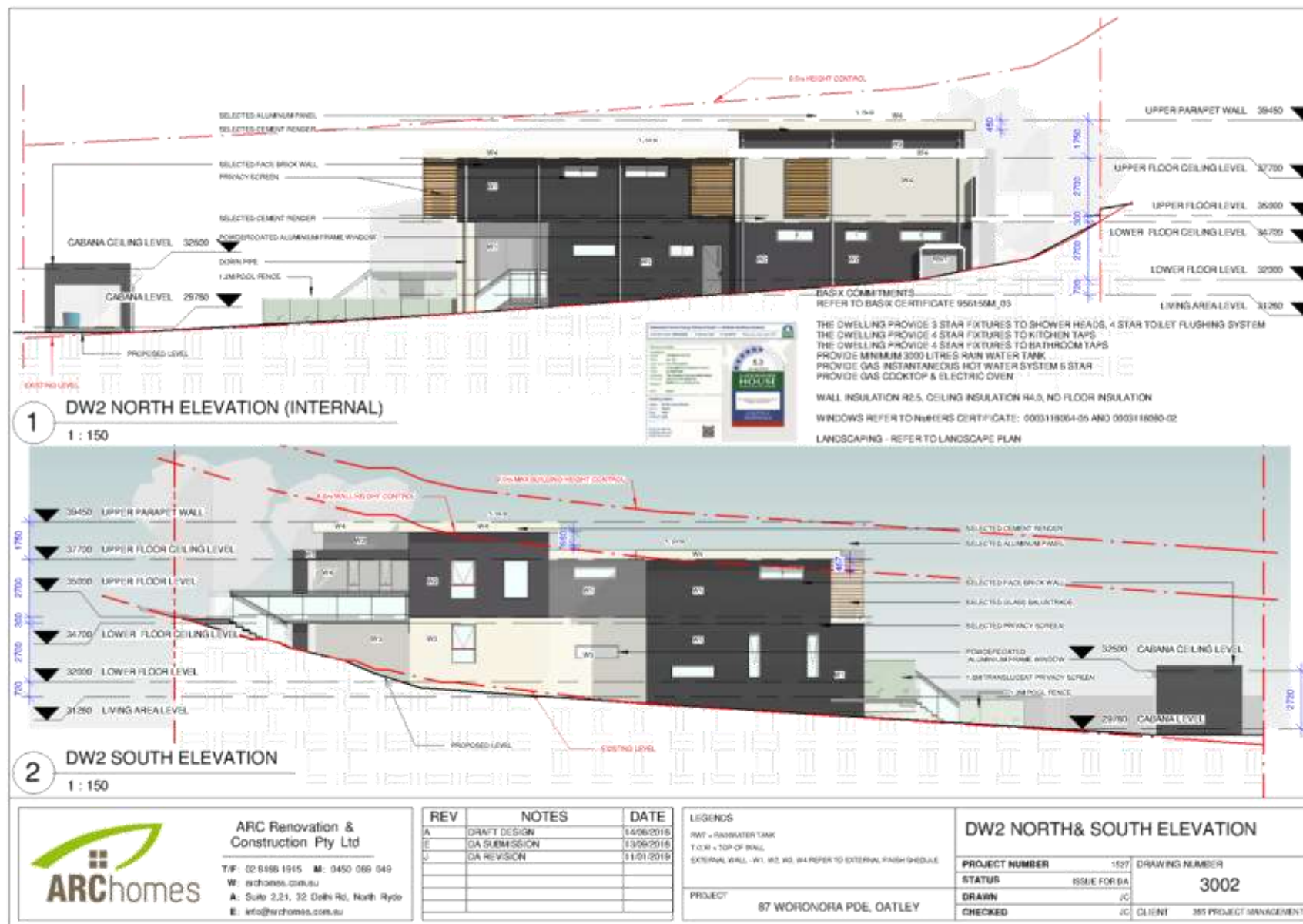
5. **Public interest** - Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not considered to be in the public interest.

ATTACHMENTS

- Attachment [1](#)  Site Plan - 87 Woronora Parade Oatley
- Attachment [2](#)  Elevations - 87 Woronora Parade Oatley
- Attachment [3](#)  Landscape Plan - 87 Woronora Pde Oatley









2 CABANA ELEVATION (WEST)
1 : 100



WEST ELEVATION		
PROJECT NUMBER	1527	DRAWING NUMBER 3003
STATUS	ISSUE FOR DA	
DRAWN	JG	
CHECKED	JCI	
		CLIENT
		385 PROJECT MANAGEMENT



Legend



Typical Details (Not For Construction)

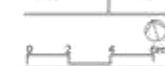
-
- Figure 10 consists of six technical drawings illustrating different retaining wall types and their cross-sections. Each drawing includes labels for various components and a scale.
- FRONT FENCE TYPICAL ELEVATION (SCALE 1/8"=1'-0"):** Shows a cross-section of a fence with a concrete base, a wooden picket, and a chain-link fence. Labels include "CONCRETE BASE", "WOODEN PICKET", "CHAIN-LINK FENCE", and "GRAVEL".
 - TREE PLANTING DETAIL TYPICAL SECTION 7/8"=1'-0"):** Shows a cross-section of a retaining wall with a tree in a planter box. Labels include "TREE", "CONCRETE BASE", "WOODEN PICKET", "CHAIN-LINK FENCE", and "GRAVEL".
 - TYPICAL OVER CONCRETE SLAB TYPICAL SECTION 7/8"=1'-0"):** Shows a cross-section of a retaining wall on a concrete slab. Labels include "CONCRETE SLAB", "WOODEN PICKET", "CHAIN-LINK FENCE", and "GRAVEL".
 - STEEL WALL TYPICAL SECTION 1/4"=1'-0"):** Shows a cross-section of a retaining wall with a steel wall. Labels include "STEEL WALL", "WOODEN PICKET", "CHAIN-LINK FENCE", and "GRAVEL".
 - RETAINING WALL AND TYPICAL SECTION 1/4"=1'-0"):** Shows a cross-section of a retaining wall with a concrete base. Labels include "CONCRETE BASE", "WOODEN PICKET", "CHAIN-LINK FENCE", and "GRAVEL".
 - TYPICAL SECTION 1/4"=1'-0"):** Shows a cross-section of a retaining wall with a concrete base. Labels include "CONCRETE BASE", "WOODEN PICKET", "CHAIN-LINK FENCE", and "GRAVEL".

Subgenus Name	Common Name	Fls./A.
Tree		
<i>Shadblow acerifolia</i>	Wesleyan Place Tree	45L
<i>Corymba imbricata</i>	Tinyford Gum	40L
Shrub Planting		
<i>Banana Bay Elderberry</i> "Gouldii"	Slender Weavers	5L
Ground cover		
<i>Adiantum aestivum</i>	Woolbush Fern	75mm
<i>Alternanthera versicolor</i>	Ruby and Ice Alternanthera	15L
<i>Liriodendron chinensis</i>	Chinese Tulip	75mm
<i>Myrsine parviflora</i>	Creeping bottlebrush	75mm
<i>Rhoeo spathulata</i>	Flax Lily	75mm
<i>Scandebay senecioides</i>	Flax Senecioid	75mm
<i>Vicia hederacea</i>	Ivy-leaved Vetch	75mm
Shrub		
<i>Acacia longifolia</i>	Myrtle Leaf Wattle	150mm
<i>Banksia ericula</i>	Heath-leaved Banksia	130mm
<i>Callistemon citrinus</i>	Crimson Bottlebrush	130mm
<i>Callistemon salicifolius</i>	Salicifolius Bottlebrush	130mm
<i>Callistemon variegatus</i>	Crimson	150mm
<i>Croton glabra</i>	Black Croton	150mm
<i>Dorstenia cuneata</i>	Black Lily	150mm
<i>Dorstenia densa</i>	Black Lily	150mm
<i>Dorstenia densa</i>	Black Lily	150mm
<i>Lepidosiphon argenteus</i>	Leather-leaf Pinner	150mm
<i>Senecioium radicans</i>	Leather-leaf Senecioium	150mm
<i>Synedrella nodiflora</i>	Synedrella Plant	150mm
<i>Synedrella nodiflora</i>	Chinese Lily Pity	150mm
<i>Leptosiphon argenteus</i>	Leather-leaf Pinner	150mm

REV.	DATE	CHK.
E	12/24/04	10000
K	12/24/04	10000
D	12/24/04	20000
F	12/24/04	10000
F	12/24/04	10000
G	12/24/04	10000

LCSH

scale	percentage
1:100	8.5



207 Wisconsin Parade, Oyster

Quelques

2000



2000年

Landscapes described
to a Model, Brown

949 405 052 482

REPORT TO GEORGES RIVER COUNCIL LPP MEETING OF THURSDAY, 20 JUNE 2019

LPP016-19

LPP Report No	LPP016-19	Development Application No	MOD2019/0005
Site Address & Ward Locality	42 Carwar Avenue Carss Park Blakehurst Ward		
Proposed Development	MOD2019/0005 seeks retrospective approval for unauthorised works and alterations and additions to the approved dwelling.		
Owners	Angela and Triantafilos Karaberas		
Applicant	Angela and Triantafilos Karaberas		
Planner/Architect	Gelder Architects		
Date Of Lodgement	11/01/2019		
Submissions	Four (4) submissions recieved		
Cost of Works	N/A – seeking consent for works that have already been constructed.		
Local Planning Panel Criteria	Development that contravenes a development standard imposed by an Environmental Planning Instrument by more than 10%		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, State Environmental Planning Policy 55 (Remediation of Land) Greater Metropolitan Regional Environmental Plan No. 2- Georges River Catchment, State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, Draft Environment State Environmental Planning Policy, Kogarah Local Environmental Plan 2012, and Kogarah Development Control Plan 2013		
List all documents submitted with this report for the Panel's consideration	Survey Plan Full Set of Architectural Plans – amended and approved Architectural Plans Landscape Plan and Stormwater Concept Plan Statement of Environmental Effects		
Report prepared by	Development Assessment Planner		

Recommendation	That the application be approved in accordance with the conditions included at the end of 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
Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed and relevant recommendations summarised, in the Executive Summary of the assessment report?	Yes
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development	Not applicable as this

standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	application is a modification. The applicant has justified the non-compliances in the form of a Clause 4.6.
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (under s7.24)?	Not applicable
Conditions Have draft conditions been provided to the applicant for comment?	No, standard conditions have been attached with no design changes, which can be reviewed when the report is published.

Site Plan



Figure 1: Subject Site Highlighted in Blue

Executive Summary

Proposal

- The proposal seeks retrospective approval to modify Development Consent No. DA86/2014, which was approved on 6 May 2015 for the demolition of the existing dwelling and the construction of a new two (2) storey dwelling with basement car parking and inground pool at 42 Carwar Avenue, Carss Park (Lot 246 DP 12759). The proposal includes:
 - Rectifying finish floor levels approved under approved under DA86/2014;
 - Increasing the FSR from 306sqm (0.55:1) to 358.6sqm (0.64:1) thus seeking a variation of 17%;
 - Increasing the building height from 9m to 9.1m thus seeking a variation of 1.1%;
 - Increasing the number of storeys from two (2) to three (3);
 - Reducing the northern side setback from 1.295m to 0.96m;

- Removing stairs along the northern and southern elevations;
- Providing a privacy screen along the northern face of the courtyard and the rear terrace;
- Removing a chimney stack from the formal living room;
- Changing decorative parapet mouldings on the front façade from an excessively articulated parapet to a simple linear form of parapet that has been reduced in height by 0.1m;
- Reducing the size of the approved window and door openings;
- Consolidating two (2) bedrooms into one (1) large bedroom on the first floor level;
- Providing fill within the side setback areas for the full length of the dwelling to match the ground level of the adjoining lots; and
- Increasing the size of the detention tank from an approved length of 3.2m to 6.5m.
- Retaining walls exist to the side boundaries, a condition will be imposed to ensure they are structurally adequate to retain the fill proposed.

Note: The application form details that there are no cost of works associated with the rectification works proposed, the justification provided details that the works cost the same as the original proposal albeit in a differing form.

Site and Locality

2. The site has a street address of 42 Carwar Avenue, Carss Park, and is legally described as Lot 246 in DP12759. The property is located on the eastern side of Carwar Avenue.
3. The site has an overall area of 557sqm with a street frontage of 15.24m to Carwar Avenue. The northern and southern side boundaries extend to a length of 36.575m.
4. A Sydney Water sewer traverses the site as referenced in the plan below.

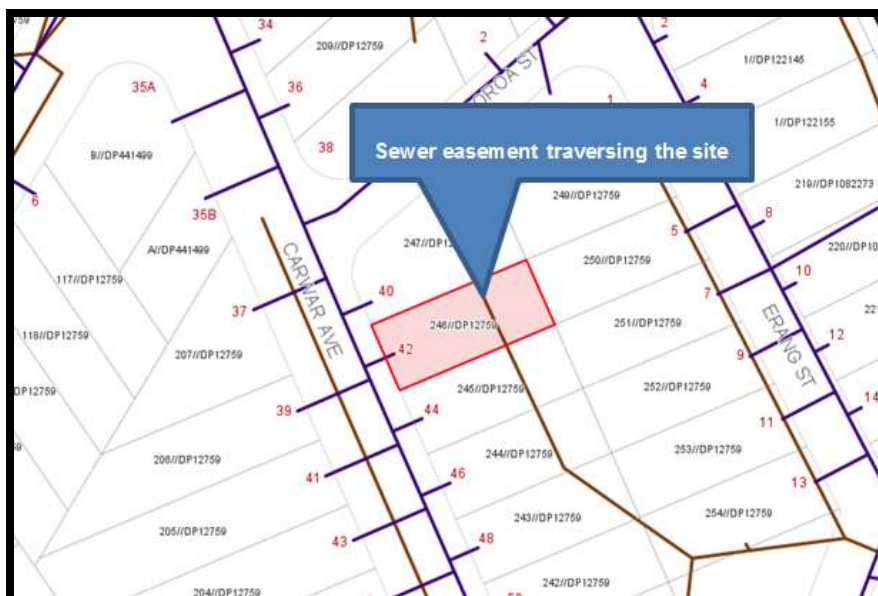


Figure 2: Sewer easement traversing the site

5. Approval for a two (2) storey dwelling with basement car parking has been approved on the site. This development is currently under construction. Construction works have ceased due to a Stop Work Order which has been issued on 12 February 2018 and remains in force.

6. The streetscape can be described as consisting of predominantly two (2) storey dwellings with some dwellings presenting as three (3) storey dwellings to the street.

Zoning and Permissibility

7. The subject site is zoned R2 – Low Density Residential under Kogarah Local Environmental Plan (KLEP) 2012. The proposed development is defined as a dwelling house and is permissible in the zone with Council's consent.

Submissions

8. The proposed development was placed on neighbour notification from 4 February 2019 to 18 February 2019. Four (4) submissions were received during this period.
9. The submissions primarily raised concerns in relation to:
- Privacy impacts;
 - Height of the terrace;
 - Height of the dwelling;
 - Bulk and scale of the development;
 - Inconsistent character of the dwelling and the undesirable precedence it sets;
 - The as built roof form is inconsistent with the roof form within the street;
 - Excessive runoff due to the size of the building.

Reason for referral to the Local Planning Panel

10. The application is referred to the Local Planning Panel for consideration as the proposal seeks development that contravenes a development standard imposed by an Environmental Planning Instrument by more than 10% as referenced in the (EP&A Act) Ministerial Direction of 23 February 2018.
11. The application proposes an FSR of 358.6sqm (0.64:1). This exceeds the allowable FSR of 0.55:1 (306.4sqm) by 52.2sqm resulting in a 17% variation to the development standard.

Conclusion

12. The application has been assessed having regard to the Heads of Matters for Consideration under Section 4.55(2) of the Environmental Planning and Assessment Act 1979, the provisions of the relevant State Environmental Planning Policies, Local Environmental Plans and Development Control Plans and is considered satisfactory and worthy of support subject to conditions.

Report in Full

Proposal

13. The proposal seeks retrospective approval to modify Development Consent No. DA86/2014, which was approved on 6 May 2015 for the demolition of the existing dwelling and the construction of a new two (2) storey dwelling with basement car parking and inground pool at 42 Carwar Avenue, Carss Park (Lot 246 DP 12759).
14. The subject application made pursuant to Section 4.55(2) of the Environmental Planning and Assessment Act to modify Development Consent No. DA86/2014 involves a number of changes to the approved development including:
15. Rectification of RLs and floor levels - Under DA86/2014 (the parent DA), in determining the building height and FFL of each floor, reference was not made to the relative

surveyed RLs. The subject application seeks to modify the plans to show the correct RLs and finish floor levels.

16. The proposed change in height are as follows:

Floor Level	Approved FFL (AHD)	As built FFL (AHD)
Lower Ground Floor Level	8.45	8.51
Ground Floor Level	11.11	11.4
First Floor Level	14.08	4.31

17. Height of building - Under DA86/2014, the development was approved at a height of 9m measured from the top of the parapet to the existing ground level. The proposed building height at the highest point (parapet) is 9.1m. A variation of 1.1% is sought.
18. Apart from the parapet, the rest of the building has a flat roof with an approved height of 16.99m. The as built height is 17.05m resulting in a different of 0.06m.

Note, due to an incorrect interpretation of the parent DA assessment, the approved finish floor levels are much higher than what was reflected in the approved plans. When assessed against the correct RLs, the actual as built difference in floor level does not exceed more than 0.74m.

19. FSR - Under DA86/2014, approval was granted for a floor area of 306sqm and an FSR of 0.55:1 which was fully complying. The subject modification proposes an FSR of 358.6sqm (0.64:1). This exceeds the allowable FSR by 52.2sqm resulting in a 17% variation to the development standard.

It must be noted that a previous Section 4.55 application (MOD2018/0035) seeking retrospective approval was refused on 19 June 2018. This application sought approval for the entire subfloor area to be used as habitable space with direct access from the garage and the private open space. This resulted in an overall floor area of 412.34sqm equating to an FSR of 0.739:1 seeking a variation of 26% to the development standard.

To address the significant variation, a subsequent application was submitted with the floor area reduced to 358.6sqm and FSR of 0.64:1 thus reducing the variation to 17%.

20. Modifications to Approved Floor Levels - The table below summaries the change in floor levels proposed.

Floor Level Reference	DA Approved (AHD)	As Built (AHD)	Level Difference (AHD)
Garage Floor Level	8.45	8.51	(+) 0.06
Ground Floor Level	10.66	11.40	(+) 0.74
First Floor Level	14.08	14.31	(+) 0.23
Top of Parapet	16.99	17.05	(+) 0.06

21. As can be seen from the table above, the overall increase in building height is 0.06m (to the majority of the dwelling) and 0.1m parapet height.
22. Side Setback of Dwelling from Northern Boundary - DA86/2014 approved a northern boundary setback of 1.295m. The subject modification seeks to reduce the northern

setback of the formal living and rumpus room at ground floor level and master bedroom, WIR and ensuite at the first floor level to 0.96m.

23. External Access Stairs (Northern Elevation) – DA86/2014 granted approval to construct access stairs along the northern elevation to provide access to the elevated courtyard. The stairs were approved with a nil boundary setback. The subject proposal seeks to delete these stairs removing ground level access to the elevated courtyard. The courtyard can only be accessed from within the dwelling, screening has also been proposed to the extremity of the courtyard to reduce the overlooking onto the adjoining northern allotment.
24. External Stairs to the Rear Terrace – Contrary to the approval, a flight of stairs has been constructed along the northern edge of the rear terrace to provide access from the pool area to the rear terrace. These stairs are proposed to be demolished. A new set of stairs will be constructed to the eastern edge of the terrace whereby the setback between the northern edge of the terrace and the northern boundary is increased and screening installed.
25. External Access Stairs (Southern Elevation) – The subject application seeks to delete the stairs to the laundry along the southern elevation.
26. Privacy Screens - Installation of privacy screens along the northern face of the elevated courtyard and the rear terrace.
27. Removal of the Chimney Stack in Formal Living Room - The subject application seeks to modify the design to delete the approved chimney stack in the formal living room.
28. Decorative Parapet Mouldings – The subject application seeks approval for the as built decorative mouldings on the front façade. This design change has resulted in a slight lowering of building height.
29. Changes to Window or Door Openings - There have been changes to several window and door openings. These changes are listed as follows:
 - The laundry door has been replaced with a window. No external access from the laundry is provided. The opening proposes a 1.6m high clear glass window with translucent horizontal louvres.
 - Highlight windows W10 and W11 were approved at approximately 0.9m above FFL. These windows have been replaced with windows 1.0m above FFL;
 - The approved horizontal timber batten screen along the southern edge of the rear terrace has been replaced with an aluminium framed window;
 - The large southern window (W14) to the study has been replaced with a highlight window 1.6m above the FFL;
 - A large window (W29) to bedroom 3 on the first floor level has been replaced with a highlight window 1.2m above FFL;
 - Windows W27 and W28 to the shower and powder room have been replaced with slightly narrower windows;
 - Window W20 on the northern elevation of the master suite has been replaced with two (2) narrow windows (W20 and W21);
 - Windows W27 and W28 to the shower and toilet at first floor level have been replaced with similar size window with a large separation in between;

- Windows W01 and W02 to the formal living room were approved at 0.04m above the FFL. These windows have been replaced with smaller windows 0.3 above FFL;
 - Window W04 to the rumpus/games room was approved at 0.04m above the FFL which has been replaced with smaller windows 0.3m above FFL;
 - Window W03 to the rumpus/games room was approved at 0.15m above the FFL which has been replaced with a smaller windows 0.7m above FFL;
 - The four (4) large approved windows in the front elevation has been replaced with eight (8) smaller windows;
 - The central window on the first floor western elevation has been replaced by a smaller window;
 - Due to the excavation at the front of the site, the height of the front stairs has been increased;
 - Two (2) larger windows (W25 and W24) have been proposed to be reduced in size.
30. Consolidation of two (2) bedrooms into one (1) on the first floor level - DA86/2014 approved two (2) separate bedrooms to the rear half of the first floor level. The separating wall between the two (2) rooms has been removed and constructed as one (1) large bedroom.
31. Excavation – The inground detention tank is proposed to be increased from an approved length of 3.2m to 6.5m which required additional excavation in the rear yard.
32. Fill - Fill is proposed within the side setbacks area for the full length of the dwelling to match the ground level of the adjoining lots. The fill will extend approximately 800mm above current ground level on the northern side of the property to match the neighbouring natural ground levels. It is acknowledged this fill will result in considerable weight on the retaining walls that exist. As a result a condition has been recommended to ensure that the fill is structurally contained within the site and not impact onto the allotments adjoining. Consideration will also need to be made as to the impact on flashings and weepholes in the external of the subject dwelling.
33. The site plan, front (western) elevation, side (northern and southern) elevations and rear (eastern) are provided below, to show the siting of the as built dwelling, its appearance from the street and from the adjoining properties.

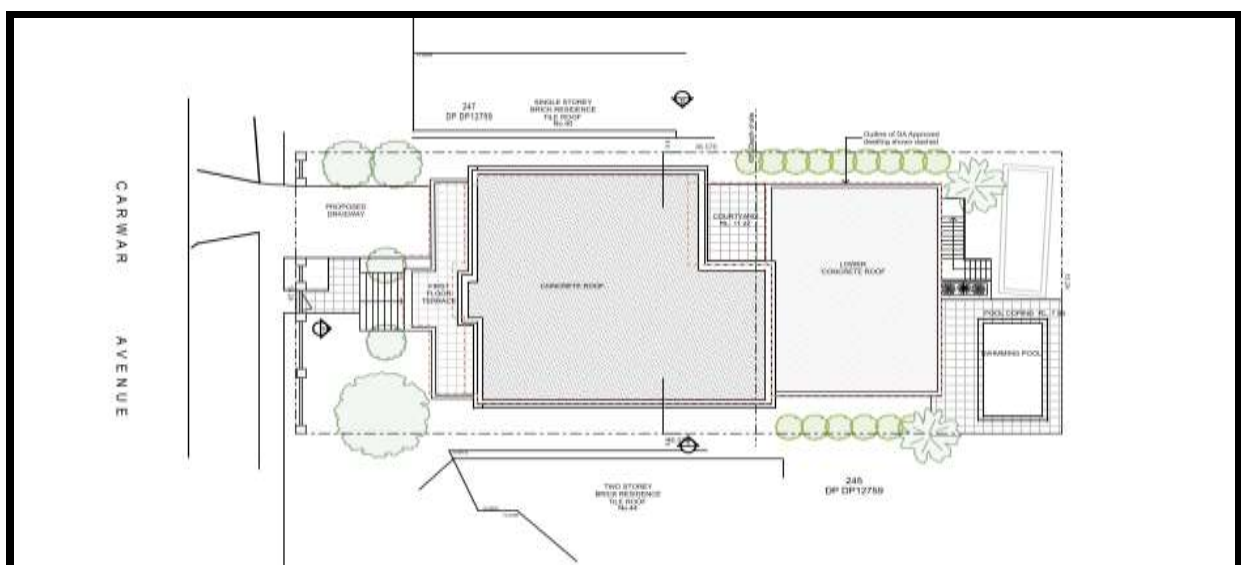


Figure 3: Site Plan



Figure 4: Street (Western) Elevation

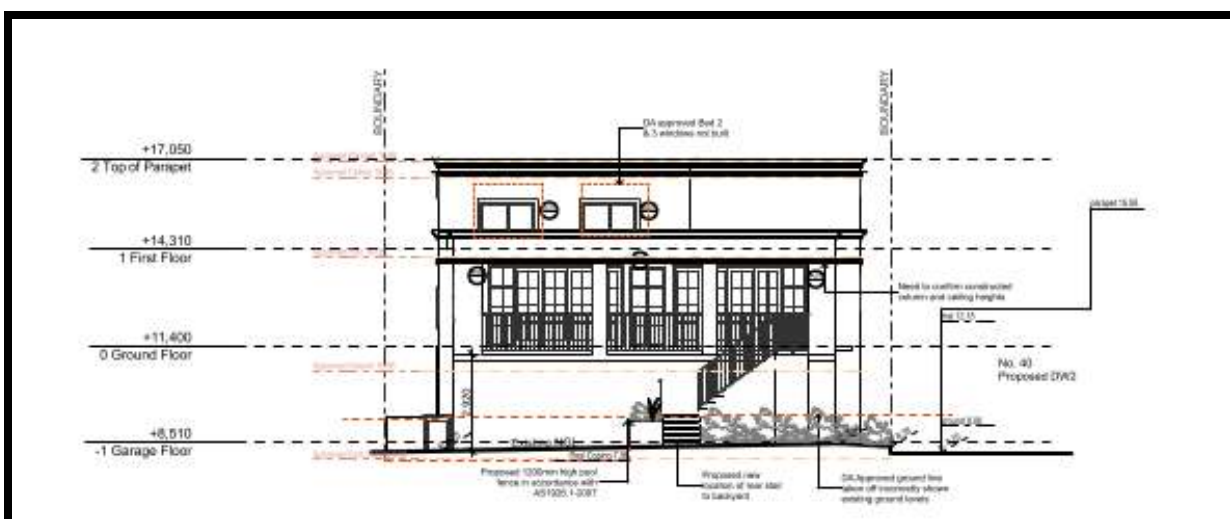


Figure 5: Rear (Eastern) Elevation

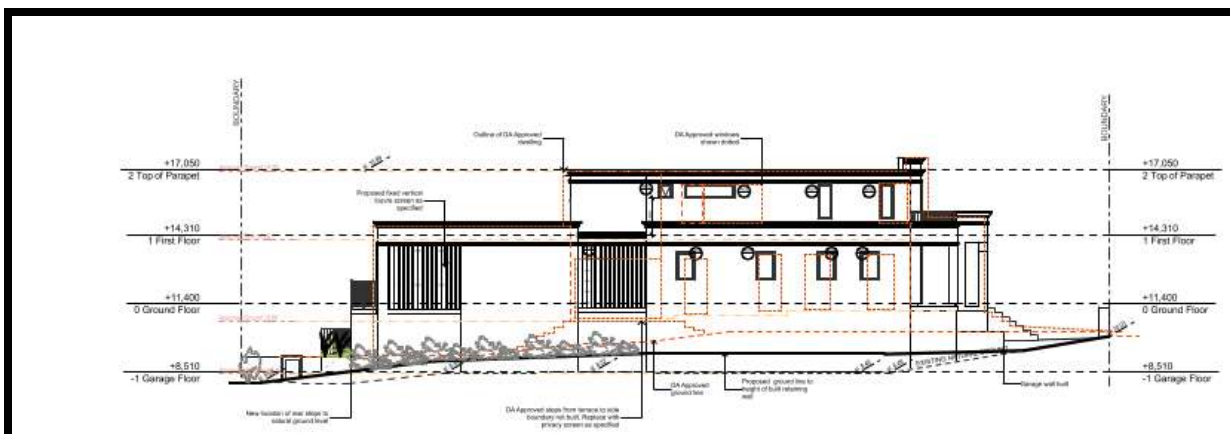


Figure 6: Side (Northern) Elevation

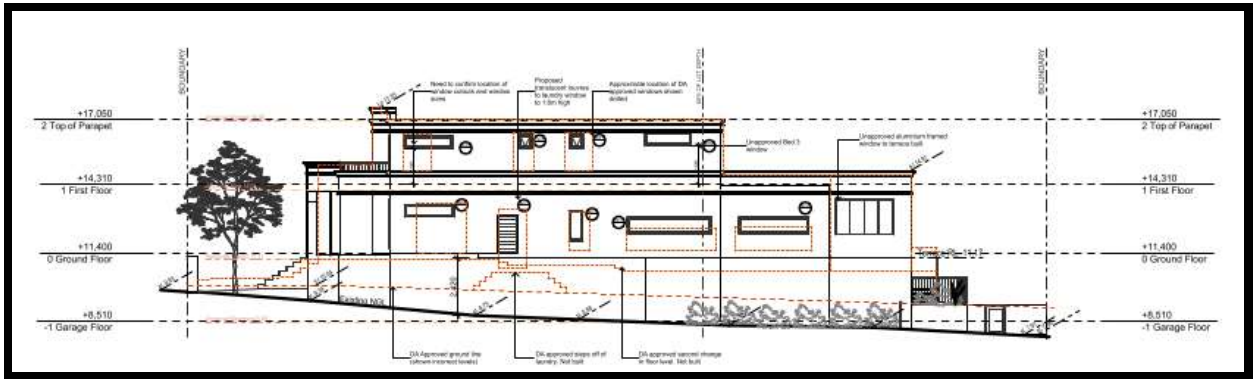


Figure 7: Side (Southern) Elevation

LPP016-19

The Site and Locality

34. The site has a street address of 42 Carwar Avenue, Carss Park, and is legally described as Lot 246 in DP12759. The property is located on the eastern side of Carwar Avenue.
35. The site is regular in shape with an overall area of 557sqm, a street frontage of 15.24m to Carwar Avenue and northern and southern side boundaries that extend to a length of 36.575m.
36. The site has a slight fall of approximately 2.1m from the front boundary (RL10.03) to the rear (RL7.91), with an average grade gradient of 1:17.4 or 5.7%.
37. Approval has been granted for a two (2) storey dwelling with basement car parking. This development is currently under construction. Construction work has been stopped due to a Stop Work Order which has been issued and remains in force.
38. The streetscape can be described as consisting of predominantly two (2) storey dwellings with some dwellings presenting as three (3) storeys to the street.
39. To the north of the subject site is a single storey brick dwelling and to the south is a two (2) storey dwelling.
40. Directly opposite, to the rear of the subject site, is a single storey brick dwelling. Located to the rear north east of the subject site is a two (2) storey rendered dwelling and to the south east is a single storey dwelling with a swimming pool to the rear.
41. The subject site and the immediate adjoining properties are shown in the following photos.



Figure 8: Adjoining property to the south - 44 Carwar Avenue, Carss Park



Figure 9: Adjoining property to the south - 42 Carwar Avenue, Carss Park



Figure 10: View from the terrace of the property diagonally north east of the subject site
3 Erang Street, Carwar Avenue, Carss Park



Figure 11: View from the terrace of the property directly opposite the subject site
5 Erang Street, Carwar Avenue, Carss Park



Figure 12: View from the terrace of the property diagonally south east of the subject site - 7 Erang Street, Carwar Avenue, Carss Park

LPP016-19

Background

42. DA86/2014 was approved on 6 May 2015 for demolition of the existing dwelling and construction of a new two (2) storey dwelling with basement car parking and inground pool.
43. MOD2018/0035 was refused on 19 June 2018 for the modification to the approved dwelling.
44. MOD2019/0005, the subject application, was submitted to Council seeking retrospective approval to modify Development Consent DA86/2014, which was approved on 6 May 2015 for the demolition of the existing dwelling and the construction of a new two (2) storey dwelling with basement car parking and inground pool.

Planning Assessment

Environmental Planning and Assessment Act 1979 Section 4.55(2)

45. The proposed modification has been lodged under the Section 4.55(2) of the Environmental Planning and Assessment Act 1979 (dated 1 March 2018) and has been assessed against the following clauses of this section:

(2) Other modifications

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:

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

Comment:

The proposed modification is substantially the same development as the development for which the consent was originally granted.

- (b) *it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*

Comment:

N/A

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

Comment:

The proposed modification was notified in accordance with the provision of the relevant DCP.

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

Comment:

The proposed development was placed on neighbour notification from 4 February 2019 to 18 February 2019 and four (4) submissions were received. Full consideration was given to the submissions received.

The following is an assessment of the application with regard to Section 4.55 of the Environmental Planning and Assessment Act 1979.

Zoning and Permissibility

46. The subject site is zoned R2 – Low Density Residential and the proposed development is defined as a dwelling house is a permissible in the zone with consent.



Figure 13: Zoning Map

State Environmental Planning Policies

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

47. A BASIX Certificate is required to be lodged for any development application in NSW for a new home or for any alteration and addition of \$50,000 or more to an existing home. As the proposal includes alterations to window sizes and deletion of door opening, an amended BASIX Certificate was required to be submitted. BASIX Certificate No. A345979 dated 18 April 2019 has been provided for the proposed development and the commitments required by the BASIX Certificate have been satisfied.

Deemed State Environmental Planning Policy – Georges River Catchment

48. 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 (Vegetation in Non-Rural Areas) 2017

49. The Vegetation SEPP regulates clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent.
50. The Vegetation SEPP applies to clearing of:
- a) Native vegetation above the Biodiversity Offset Scheme (BOS) threshold where a proponent will require an approval from the Native Vegetation Panel established under the Local Land Services Amendment Act 2016; and
 - b) Vegetation below the BOS threshold where a proponent will require a permit from Council if that vegetation is identified in the council's DCP.
51. The Vegetation SEPP repeals clause 5.9 and 5.9AA of the Standard Instrument – Principal Local Environmental Plan with regulation of the clearing of vegetation (including native vegetation) below the BOS threshold through any applicable DCP.
52. The proposed development does not involve the removal of any significant trees or vegetation. In this regard, the provisions of this SEPP are considered to be met.

Kogarah Local Environmental Plan 2012

53. The proposed development has been assessed against the relevant standards of the Kogarah LEP 2012 as outlined below.

Clause	Standard	Proposed	Complies
4.3 Height of Buildings	9m	9.1m	No. The proposed development seeks a variation of 1.1% (0.1m). Refer to discussion below – Detailed assessment of Clause 4.4A)
4.4A Floor Space Ratio	For site less than 650sqm in area, the allowable FSR is 0.55:1 (306.4sqm)	0.64:1 (358.6sqm)	No. The proposed development seeks a variation of 17% (52.2sqm). Refer to discussion below for a detailed assessment of Clause

			4.4A.
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Part 5 – Miscellaneous Provisions

Clause	Standard	Proposed	Complies
5.10 Heritage Conservation	Heritage items in schedule 5 or located within a heritage conservation area	The subject site does not consist of any heritage listed items and is not situated within a heritage conservation area.	NA

Part 6 – Additional Local Provisions

Clause	Standard	Proposed	Complies
6.1 Acid Sulfate Soils	Class 5	The proposed development will not have any detrimental impact on the environment given the extent of excavation has been reduced.	The subject site is identified as class 2 and class 5 on the Acid Sulfate Soil Map. The impacts of the development was considered under DA86/2014 and considered acceptable.
6.2 Earthworks	Subject to the matters under Clause 6.2(3)	The depth of excavation has been reduced as the approved basement has now been constructed as an at grade garage.	Yes
6.3 Flood Planning	Subject to the matters under Clause 6.3	The subject site is not identified as being flood affected.	N/A

Detailed assessment of Clause 4.4A

54. The original application approved an FSR of 306sqm (0.55:1). Upon review of the approved plans it was established that the correct FSR was in fact 397sqm (0.71:1), a difference of 91sqm.
55. The subject modification proposes an FSR of 358.6sqm (0.64:1). This exceeds the allowable FSR by 52.2sqm resulting in a 17% variation to the development standard (the parent DA nominated the FSR as compliant).
56. While the development fails to meet numerical compliance with the FSR standard, the proposal is found to satisfy the objectives of Clause 4.4A of the LEP which states:

(a) to ensure the intensity of development is compatible with the desired future character and zone objectives for the land,

(b) to limit the bulk and scale of development.

57. The applicant has justified the non-compliance under Clause 4.6 of the LEP, however, given the application is made under Section 4.55 of the EP&A Act, an objection under Clause 4.6 is not warranted. It has been noted also that the FSR calculation in the justification provided by the applicant is slightly different to Council's calculated FSR. This is because the applicant has not included the floor area of the garage into the gross floor area calculations.
58. Nevertheless, the applicant provides the following response regarding the proposals compliance with the objectives of the development standard.

"In order to assess the intensity of the development and its compatibility with the desired future character of the land, the planning principle test listed in Veloshin v Randwick Council [2007] is discussed herein. In Veloshin at [32] it states:

The appropriateness of a proposal's height and bulk is most usefully assessed against planning controls related to these attributes, such as maximum height, floor space ratio, site coverage and setbacks.

The questions to be asked are:

Are the impacts consistent with impacts that may be reasonably expected under the controls?

Yes, the floor space proposed is consistent with the bulk of adjoining dwellings. There are many examples throughout the streetscape which have large dwellings in similar designs as the subject site. Some of these examples within close proximity to the site.

How does the proposal's height and bulk relate to the height and bulk desired under the relevant controls?

The proposed bulk of the dwelling has not changed significantly since the original approval, as the increase in FSR results from a calculation error. The only addition to the FSR is from the encroachment of the north western side of the dwelling which proposes a 960mm side setback on the ground and first floors.

The visual bulk of the garage floor will also be reduced through filling the land between the dwelling and the side boundaries.

Does the area have a predominant existing character and are the planning controls likely to maintain it?

Yes, the area has an established character of two to three storey single residential dwellings which are quite large and bulky with a generally high site coverage. The proposal conforms with the existing character of the area by proposing a dwelling which is similar in bulk and height to adjoining buildings.

Does the proposal fit into the existing character of the area?

Yes, despite the numerical variation to the maximum permitted FSR, the proposal fits in the existing character of the area and the non-compliance is not visually discernible to be of a different scale than adjoining developments.

Does the proposal look appropriate in its context?

Yes, the development looks appropriate in its context. There are examples of similar developments in close proximity to the subject site and the neighbourhood exhibits

many large single dwellings. The streetscape does not have a uniform architectural character which allows greater flexibility in design without being visually obtrusive. Thus, the proposal fits comfortably within the established streetscape character.

Furthermore it should be noted that as only FSR is varied and is not excessive height and scale in comparison to adjoining developments, thus only one contributory item does not constitute an overdevelopment of the site in the context of the surrounding built form as other bulk parameters are not varied such as height, site coverage, landscape area (with the exception of the minor north west setback encroachment). As mentioned in [30] of the judgement:

"The debate about height and bulk can be meaningful only against the background of local planning controls.... whilst these controls are usually based on subjective judgement they have been through a statutory process involving exhibition and the consideration of local comment. They therefore express the subjective preferences of a local community and should be given greater weight than the subjective preferences of a local community and should be given greater weight than the subjective preferences of individuals. "

The modified dwelling is of a reasonable bulk and scale which is capable of accommodating development within its neighbourhood context.

Furthermore, in Project Venture Developments v Pittwater Council [2005], a planning principle was established on compatibility between a building and its surroundings, stating that, in order to test whether a proposal is compatible with its context, two questions should be asked. These are listed below with discussion against the performance of the subject development.

Are the proposal's physical impacts on the surrounding development acceptable?

The physical impacts include constraints on the development potential of surrounding sites.

The physical impact of the FSR breach is considered to be minimal since the bulk of the dwelling is not significantly different from the original approval, with the exception of the encroachment on the northern boundary on the ground and first floors which extend a span of 11.13m. Furthermore, the remaining section of the northern building facade to the rear was approved with a setback of 1.670m and was constructed at 1.710m which provides a slightly greater setback clearance from 40 Carwar Avenue.

The subject site is relatively unconstrained. The site is subject to being mapped as Class 2 and Class 5 Acid Sulfate Soils however this is highly unlikely to impact future development at surrounding sites.

Is the proposal's appearance in harmony with the buildings around it and the character of the street?

The proposal's appearance is in harmony with the neighbouring buildings (including the proposed detached dual occupancy at 40 Carwar Avenue) and the general streetscape. Visually there is no discernible difference in the bulk of the dwelling to other nearby developments.

Visual harmony is further determined in [16] of the judgement:

"For new development to be visually compatible with its context, it should contain, or at least respond to, the essential elements that make up the character of the surrounding urban environment... The most important contributor to urban character is the relationship of built form to surrounding space, a relationship that is created by building height, setbacks and landscaping."

Despite the FSR and the minor encroachment of the northern side setback, the development is visually consistent with its context. The side setback variation is not deemed to be significant as it is limited to a small section of the wall plane, with the remaining building setbacks exceeding the minimum requirements. Whereas front setbacks and the way they are treated are an important element of urban character, setbacks from side boundaries determine the rhythm of building and void. The judgement notes that while it may not be possible to reproduce the rhythm exactly, new development should strive to reflect it in some way. As the building as a whole predominately exceeds the minimum side setbacks with the exception of the north western wall plane, the building is deemed to respond appropriately to maintain visual harmony and generally applies appropriate setbacks to avoid excessive building bulk.

Furthermore, the north facing courtyard breaks up the building bulk by separating two wall planes. Landscaping at the site is proposed to be increased and is illustrated in the landscape plan prepared by Mr Paul Scrivener (dated 13th December, 2018). The landscaping proposed aims to create privacy and avoid overlooking and appropriately screens the wall planes. The landscaping proposed complements the building and is a positive contribution to soften the built form."

59. Officers Comment: Consistent with the applicant's justification, it is considered that the as built structure, whilst non-compliant has merit for the following reasons.
60. The bulk and scale of the development is comparable to other developments within the street. There are other dwellings in the immediate vicinity that presents as three (3) storeys from the public domain.
61. The development, whilst non-compliant with the FSR standard, remains predominantly within the approved building envelop except for the minor encroachment into the northern boundary setback.
62. The subject proposal has applied thoughtful design modifications to minimise the visual bulk of the development which includes removal of stairs along the northern and southern elevations providing access to elevation courtyard (northern) and laundry (southern). Removal of the stairs has created spatial distance and a sense of openness between buildings. The removal of stairs on either side of the dwelling has softened the appearance of the building and minimises visual bulk.
63. In addition, the western (front) façade fenestration has been simplified which minimises visual clutter. The modified façade includes a simplified parapet, windows and balustrades. These elements aid in minimising visual bulk and a softened building presentation to the street.
64. A previous Section 4.55 application (MOD2018/0035) was refused for, amongst other reasons, excessive FSR. MOD2018/0035 indicates the dwelling was constructed with a subfloor area with a habitable ceiling height. The total floor area constructed at the time was 412.34sqm equating to an FSR of 0.739:1.

65. The development has since been modified to enclose the foundation area (except for 60sqm for parking purposes) making it inaccessible (this will be reinforced by a condition of consent). The FSR as a result reduces to 358.6sqm or 0.64:1. The proposed FSR is far less than the FSR originally proposed and therefore achieves an improved outcome. While the subfloor area is 1m above the ground, the area contained within the subfloor has not been included in floor area as this area remains inaccessible.
66. As can be seen from Figures 14, 15 and 16, Nos. 43, 45 and 60 Carwar Avenue present as three (3) storey dwellings to Carwar Avenue. The subject development is therefore of comparable bulk and scale to other dwellings in the vicinity.

Development Control Plans

Kogarah Development Control Plan 2013

67. The proposed development has been assessed against the provisions outlined under Part C1- Low Density Housing in Kogarah DCP2013 as indicated in the following table.

Clause	Standard	Proposed	Complies
1.2.1 Floor Space Requirements	(1) The floor space ratio for site less than 650sqm in area - 0.55:1 (306.4sqm)	0.64:1(358.6sqm) seeking a 17% variation	No (Refer to discussion above – Detailed assessment of Clause 4.4A)
	(2) Where a secondary dwelling is proposed, the maximum FSR/floor area includes the dwelling and the attached or detached secondary dwelling. In this regard, the overall development is not to exceed the maximum floor space ratio.	N/A	N/A
	(3) Notwithstanding compliance with the numerical requirements, applicants must demonstrate that the bulk and relative mass of the proposed development is acceptable in the street and on adjoining dwellings, in terms of the following impacts: (i) streetscape	The applicant has provided a statement justifying the acceptable bulk and scale of the development.	The applicant's justification was considered to adequately demonstrate that the bulk and scale of the as built structure is acceptable.

	<p>considerations (bulk and scale); (ii) building setbacks; (iii) landscape requirements; (iv) the existence of significant trees/vegetation on site; (v) the size and shape of the allotment; and (vi) topography of the site.</p> <p>(4) Where alterations and additions are proposed, and the existing floor space and/or floor space ratio of the development exceeds the maximum requirements, the application will be considered on merit. In these circumstances, Council will not support any increase in the floor area of the development unless it is satisfied that the development will meet the overall objectives of this part.</p> <p>(5) Blank walls and flat facades should be avoided. Walls longer than 10m should be articulated by a minimum 300mm projection or indentation in the façade.</p>	<p>Under DA86/2014, the development approved a floor area of 306sqm and an FSR of 0.55:1. The as built floor area is 358.6sqm resulting in an FSR of 0.64:1.</p> <p>While part of the northern and southern walls extend longer than 10m (11.2m and 22.3m respectively), it is considered all walls have been appropriately articulated with windows, architectural features and well balanced vertical and horizontal elements.</p>	<p>Refer to discussion above for a detailed assessment of Clause 4.4A relating to floor space.</p> <p>Yes</p>
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	<p>(6) The overall building should present a building mass that is in proportion with the allotment size, provides opportunities for modulation and articulation of the building and does not detract from the satisfaction of any other applicable design principle.</p> <p>(7) Where proposed development includes a two (2) residential level element, then the second level should not extend beyond 60% of the depth of the allotment measured from the street boundary. Where side boundaries are of varying length, the second level is limited to a line across the block between the points on both boundaries.</p>	<p>The bulk and scale of the development has been minimised through design changes including manipulation of fenestration on the front façade, reduction in the size of windows and removal of stairs along the northern and southern elevations.</p> <p>The depth of the building remains as approved under DA86/2014.</p>	<p>Yes</p> <p>N/A</p>
1.2.2 Building Height	<p>(1) 7.2m to the underside of the upper ceiling</p> <p>9m to the top of the ridge (pitched roof)</p> <p>Max. ridge height as per LEP</p> <p>(2) The maximum number of residential levels is two (2), except where the site</p>	<p>7.9m</p> <p>N/A as a skillion and parapet design</p> <p>9.1m</p> <p>The site does not have a slope exceeding 1:8 (12.5%). The</p>	<p>No (refer to detailed discussion below - Height of Building/number of storeys).</p> <p>N/A</p> <p>No (refer to detailed discussion below - Height of Building/number of storeys).</p> <p>No (refer to detailed discussion below - Height of Building/number of</p>

	<p>has a slope exceeding 1:8 (12.5%), where the maximum number of residential levels is three (3).</p> <p>(3) Regardless of the number of levels, the maximum height of the building must be consistent with the maximum height requirements.</p> <p>(4) Foundation areas, garages, basements, storage rooms or the like must not have an external wall height greater than 1m above ground level (existing) at any point on the building.</p> <p>(5) Where the dominant built form in the streetscape is single level, new buildings and alterations and additions should present as a single level building to the street. Any second level element is to be setback a minimum of 10m from the street boundary.</p>	<p>proposed development comprises of three (3) storeys. The number of storeys remains the same as previously approved (when taken from the correct RL).</p> <p>The development is consistent with the maximum height requirements.</p> <p>The lower level is made up of a garage and foundation area which has a height greater than 1m above ground level.</p> <p>N/A</p>	<p>storeys).</p> <p>Yes</p> <p>The as built height of the foundation is 0.74m higher than the approved FFL totalling an external foundation wall height of approximately 3.2m. The difference in height is largely evident to the rear due to the slope of the site. Despite the increase in height the development will result in minimal additional impacts.</p> <p>The streetscape is described as having predominantly two (2) storey dwellings. There is evidence of dwellings in the immediate vicinity that present as three (3) storeys to the street.</p>
1.2.3 Rhythm of the Built	(1) The primary building façade	Some fenestration details have been	As approved under DA86/2014.

Elements in the Streetscape	<p>should not exceed 40% of the overall width of the total frontage.</p> <p>(2) The secondary building façade should be set back a minimum of 1.5 metres from the primary building façade.</p> <p>(3) Where the dominant built form in the streetscape provides for a pitched hip or gable ended presentation to the street, the new buildings and/or additions should reflect that roof form.</p>	<p>modified on the primary façade. The proportions in terms of façade width remain unchanged.</p> <p>N/A</p> <p>The roof form as built is a skillion with parapets. Approval was granted under DA86/2014 for the roof to have a flat form and it remains unchanged.</p>	<p>N/A</p> <p>As approved under DA86/2014.</p>
1.2.4 Setbacks: Front	Where the setbacks of the adjacent buildings are 0m-5.0m, an appropriate setback may be achieved by ensuring development is set back the same distance as one or the other of the two adjoining dwellings.	The front setback has been increased by 0.25m	Yes, whilst minor, the dwelling has been setback an additional 0.25m from the street boundary.
Side	<p>For a wall height of 3.5m or less, min. side setback is 0.9m.</p> <p>For buildings having a wall height of greater than 3.5m, the minimum side boundary setback is</p>	<p>The as built formal dining and rumpus room on the ground floor and master bedroom, walk in wardrobe and ensuite on the first floor has a height of 8.2m and a setback 0.96m from the northern boundary.</p> <p>The southern elevation has been setback 1.57m-2.05m from the southern boundary.</p>	<p>No (refer to discussion below - Side Setback of dwelling on Northern Elevation)</p> <p>Yes</p>

Rear	1.2m. A minimum rear setback of 15% (5.5m) of the average site length, or 6m, whichever is greater	The northern elevation has been setback 1.71m from the northern boundary. 9.2m	Yes Yes
1.3 Open Space	(1) 15% (104.5sqm) of the site area must be deep soil landscaped area. (2) Private open space should be adjacent to and visible from the main living and/or dining rooms and be accessible from those areas. (3) Development should take advantage of opportunities to provide north facing private open space to achieve comfortable year round use. (4) Where soil and drainage conditions are suitable, unpaved or unsealed landscaped areas should be maximised and designed to facilitate on site infiltration of stormwater.	116sqm (20.8%) There is a terraced area approximately 34.6sqm to the rear directly adjacent and accessible from the main living and/or dining room. The pool area at ground level is accessible via the external stairs. The location of the POS remains in the same location as originally approved under DA86/2014. Landscape areas have been maximised on site. The detention tank as approved under DA86/2014 has been increased in length from 3.2m to 6.5m. (exclusive of the OSD and paved areas). There is no change to the development as originally approved in	Yes Yes As approved under DA86/2014. Yes

	(5) Existing significant trees and vegetation must be incorporated into proposed landscape treatment.	this regard.	As approved under DA86/2014.
1.4 Vehicular access, parking and circulation	<p>(1) Car parking is to be provided in accordance with the requirements in Section B4.</p> <p>(2) On corner sites with two street frontages vehicular access should be provided to the secondary frontage.</p> <p>(3) Garages should be accessed from a rear lane where this is available.</p> <p>(4) Crossings are to be positioned so that on-street parking and landscaping on the site are maximised, and removal or damage to existing street trees is avoided.</p> <p>(5) Garaging should be setback behind the primary façade.</p> <p>(6) The maximum driveway width between the street boundary and the primary building façade is 4m.</p> <p>(7) Where the dominant provision of garaging within the streetscape is provided to the rear or side of</p>	<p>Two (2) car parking spaces have been provided in the form of a double garage.</p> <p>N/A</p> <p>N/A</p> <p>There is no change to the location of the crossing. The crossing remains in the same location are approved under DA86/2014.</p> <p>The garage has been setback 1.5m from the primary façade.</p> <p>There is no change to the location of the crossing. The crossing remains in the same location are approved under DA86/2014.</p> <p>The subject development is consistent with existing streetscape in that it the garage is incorporated into the</p>	<p>Yes</p> <p>N/A</p> <p>N/A</p> <p>As approved under DA86/2014.</p> <p>Yes</p> <p>As approved under DA86/2014.</p> <p>Yes</p>

	<p>developments, new developments and additions to existing development should provide for a side driveway or garaging behind the main street front elevation of the building.</p> <p>(8) Basement parking is not encouraged on flat sites. Garaging should be provided at ground level unless the slope of the site exceeds 1:8 (12.5%) in which case a basement or suspended garage may be acceptable.</p> <p>(9) Where a basement garage is proposed, the maximum height of the basement above ground level (existing) is 1m measured to the underside of the basement ceiling. Where the basement exceeds 1m above ground level (existing), the basement will be considered to be a floor (Figure 17). Note: Floor means the space within a building which is situated between one floor level and the floor level next above or if there is no floor above, the ceiling or roof above.</p> <p>(10) For basement garages the maximum amount of excavation is to be</p>	<p>main façade. The development was approved with basement level parking however the parking has now been provided as a double garage.</p> <p>A basement was approved under the parent DA. The as built structure shows the garage protruding 2m above the ground level (post fill) which is now defined as a storey.</p> <p>N/A</p> <p>N/A</p>	<p>Yes</p> <p>N/A</p> <p>N/A</p>
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	<p>limited to required car parking and any manoeuvring areas, access stairwells, lift wells and storage areas.</p> <p>(11) Storage areas within basements or garages must not exceed 10m² per dwelling (with a minimum width of 500mm).</p>	<p>There is no storage areas nominated within garage.</p>	<p>N/A</p>
1.5 Visual Privacy	<p>(1) Windows from active rooms are to be offset between adjacent dwellings so as to avoid direct overlooking onto neighbouring windows.</p> <p>(2) Where terraces and balconies are proposed and are elevated more than 1.5m above ground level (finished) and are located behind the street front façade, they are restricted to a maximum width of 2.5m and must be setback a minimum 3m from any adjoining property boundary.</p> <p>(3) The area of balconies or terraces greater than 1.5m above ground level is limited to a cumulative total of 40sqm per dwelling.</p>	<p>All windows from active rooms have been adequately offset between adjacent dwellings so as to avoid direct overlooking onto neighbouring windows</p> <p>The constructed rear terrace is elevated 2.9m above ground level (finished). The width of the terrace is 3.52m and is setback 1.71m from the northern boundary and 2.05m from the southern boundary.</p> <p>The cumulative area of balconies and terraces greater than 1.5m above ground level = 74sqm.</p>	<p>Yes</p> <p>No (refer to discussion below – Rear Terrace)</p> <p>No, the cumulative area of balconies and terraces as approved was 70sqm. The minor increase in the terrace area is unlikely to have any additional adverse impact on the adjoining properties.</p>

	<p>(4) Council may consider a variation to the above requirements where it is considered that the terrace or balcony will not result in a loss of privacy to neighbouring properties.</p> <p>(5) For active rooms or balconies on an upper level, the design should incorporate placement of room windows or screening devices to only allow oblique views to adjoining properties</p>	<p>The terrace has been constructed 0.74m higher than the approved (taken from the exiting ground level using the correct RL).</p> <p>The application proposes to implement fixed vertical louvre screen along the northern side of the terrace to minimise privacy impacts.</p> <p>The window on the northern elevation of the living room has been reduced in size.</p> <p>The large window to the dining room on the southern elevation has been replaced with a highlight window.</p>	<p>The height of the approved terrace is 1.4m above ground level which would result in looking into adjoining properties. The additional privacy impacts as a result of the additional height are considered to be minimal with the incorporation of design changes and treatments to minimise the existing and additional impacts.</p> <p>The proposal under the subject application seeks to improve privacy impacts by reducing the size of the windows to active rooms and implementing privacy screening to the northern elevation of the terrace.</p>
Stormwater Disposal Provisions	Drainage by gravity OR Easement OR Charged system OR Absorption/Infiltration method	Advice was sought from Council's Development Engineer who raised no concerns.	Stormwater drainage concept remains largely unchanged except for the increase in the size of the detention tank from 3.2m to 6.5m. No objection was raised by Council's Development Engineer.
1.6 Solar	(1) At least 50% of	At least 50% of the	Yes

Access	<p>the primary private open space of the proposed development should have access to a minimum of four hours of sunlight between 9am–3pm on 21 June.</p> <p>(2) Where private open space is proposed on the southern side of the building the distance from the southern boundary of the open space to the nearest wall to the north must be a minimum of 3m + h, where h is the height of the wall.</p> <p>(3) Where the neighbouring properties are affected by overshadowing, at least 50% of the neighbouring existing primary private open space or windows to main living areas must receive a minimum of 3 hours sunlight between 9am–3pm on 21 June.</p> <p>(4) Shadow diagrams are to be submitted for the winter solstice (21 June) and the spring equinox (22 September).</p>	<p>primary private open space of the subject dwelling will receive a minimum of four hours of sunlight between 9am–3pm on 21 June.</p> <p>POS of the subject dwelling faces the east.</p> <p>Any additional shadow affecting the southern adjoining neighbour due to the minor increase in the height of the ground floor will be indiscernible.</p> <p>The applicant has provided shadow diagrams for the winter solstice.</p>	<p>N/A</p> <p>The increase in floor height results in minor additional.</p> <p>Yes</p>
4.2 Fences & Walls	No change to the approved front fence has been proposed.	No change to the approved front fence has been proposed.	N/A
4.6 Swimming pools, spas and enclosures	No change to the approved pool/pool area has been proposed.	No change to pool/pool area is proposed.	N/A

Height of Building/number of storeys

68. The as built development is part three (3), part two (2) storey in height, which is due to the original DA (DA86/2014) being approved making reference to incorrect ground levels. Based on the RLs on the survey plan, under DA86/2014, the finished ground floor level was approved at approximately 2.4m above ground level resulting in a dwelling comprising of part three (3) storey to the front and part two (2) storey to the rear. The development therefore breaches Section 1.2 of the DCP which permits a building no greater than two (2) storeys on a site that has a slope less than 1:8 (12.5%).
69. The approved height of the dwelling is 9.0m to the top of the parapet. The proposed height is slightly higher at 9.1m measured from the ground to the highest point of the parapet. A variation of 1.1% is sought.
70. The majority of the dwelling remains within the maximum allowable height of 9m as permitted under the KLEP 2013 (this being 8.4m (three (3) storey component) which reduces to 6.2m (two (2) storey component), measured to the ridge of the flat roof).

71. The applicant has justified this minor non-compliance as follows:

“Pursuant to clause 4.3, height of buildings is to be considered in the assessment of the subject application. The maximum building height permitted is 9m.

The associated elevations and sections accurately show the approved and constructed building height. As can be seen, there is very minimal change to the building height.

The approved parapet height was 16.99 AHD and was constructed at 17.050 AHD which equates to a difference of 6mm. In this regard the dwelling height is deemed to be consistent with the original approval.

As the constructed height is generally the same as the constructed height the development is deemed to maintain consistency with objectives for building height pursuant to clause 4.3(1) which are:

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

The building is not expected to cause any noticeable change to the overshadowing as the development extends to the same building height and is in the same building footprint as the original approval.”

72. It is considered that the proposed variation is relatively minor, and is contained within the architectural feature (parapet) of the building. The predominant building height (to the ridge of the flat roof) is 8.4m (three (3) storey component) which reduces to 6.2m (two (2) storey component).
73. The minor deviation from the development standard is considered acceptable as it will result in minimal adverse impacts in terms of privacy and overshadowing.
74. In the immediate vicinity of the subject dwelling, there is evidence of dwellings that present as three (3) storeys to the street. These have been captured below.

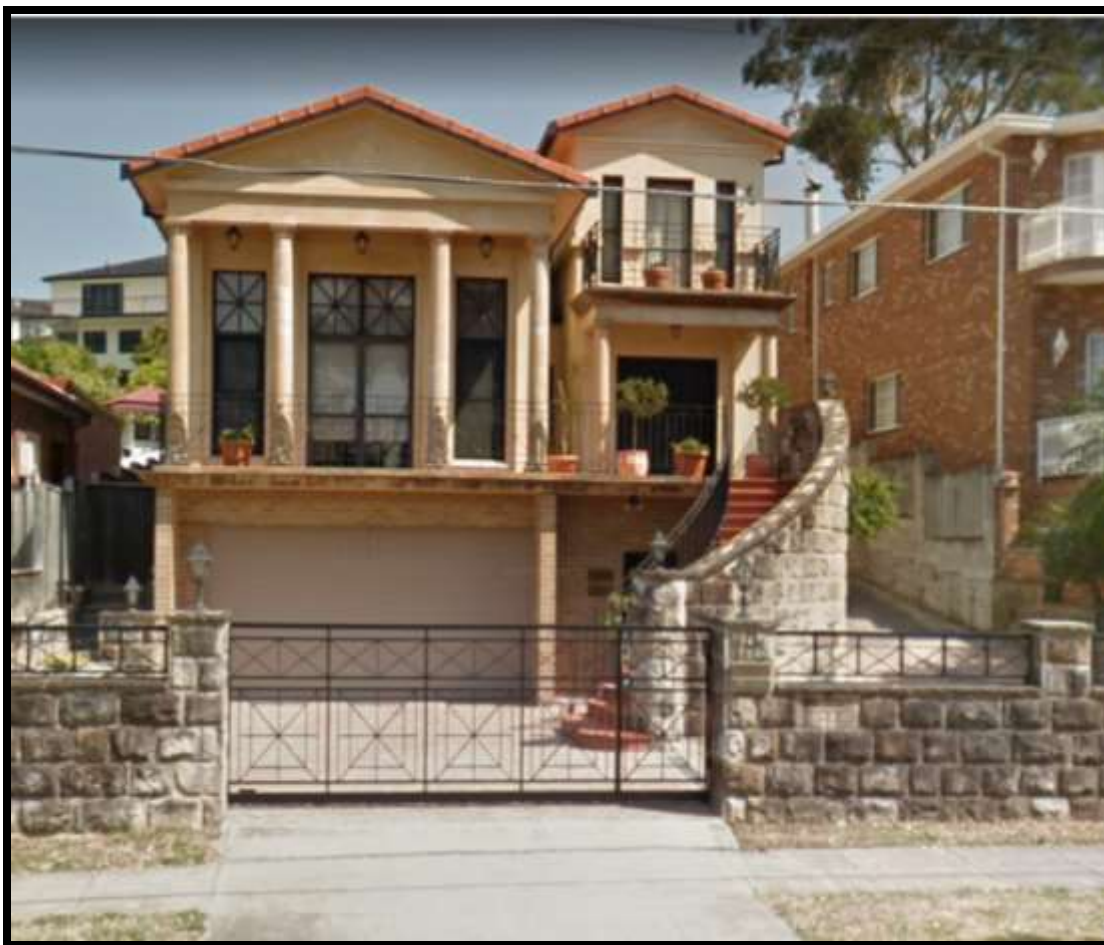


Figure 14: Development presenting as three storeys to the street - 43 Carwar Street



Figure 15: Development presenting as three storeys to the street - 45 Carwar Street



Figure 16: Development currently under construction presenting as three storeys to the street - 60 Carwar Street

75. In addition, the modifications have put in place measures to minimise some of the existing impacts including provision of privacy screens to the northern side of the rear terrace and the elevated courtyard. Further, windows have been reduced in size maximising the privacy of the adjoining properties. Modifications to the fenestration on the front façade give the dwelling a simplified appearance and as such the perceived bulk of the dwelling is minimised.
76. It is considered that the as built form is not inconsistent with the existing character of the locality.

Finish Floor Levels

77. The following table provides a summary of change to the approved floor levels.

Floor Level Reference	DA Approved (AHD)	As Built (AHD)	Level Difference (AHD)
Garage Floor Level	8.45	8.51	(+) 0.06
Ground Floor Level	10.66	11.40	(+) 0.74
First Floor Level	14.08	14.31	(+) 0.23
Top of Parapet	16.99	17.05	(+) 0.06

78. The 'DA approved' levels as referenced in the table is based on the survey RLs.
79. The provided modified elevation and section plans indicate that due to an incorrect interpretation during the parent DA assessment, the approved finish floor levels are much higher than what was reflected in the approved plans. Therefore to make a true and accurate assessment of the application relative to the adjoining dwellings the levels have been reviewed by the Officer as part of this assessment.
80. When an assessment against the survey levels, the actual as built difference in floor level does not exceed 0.74m. This minimal departure is considered acceptable for the following reasons:
- The development remains below the predominant building height of 8.4m (three (3) storey component) which reduces to 6.2m (two (2) storey component), measured to the ridge of the flat roof;
 - The increased floor levels do not significantly alter the overall bulk and scale of the development; and
 - The additional impact on the residential amenity of the adjoining properties due to the raise levels particularly to the rear is considered to be minimal.
81. The variations are therefore supported in its current form, in this individual instance.

Side Setback of dwelling on Northern Elevation

82. Under DA86/2014, the setback of the northern elevation was approved at 1.295m from the boundary. The formal dining and rumpus room on the ground floor and master bedroom walk in wardrobe and ensuite on the first floor have now been constructed with a 0.96m setback from the northern boundary, flush with the garage wall, with a wall height of approximately 5.4m.
83. The reduced setback contravenes the minimum setback requirement under Clause 1.2.4.3 (1), Part C1 of KDCP 2013 which states buildings with a wall height of greater than 3.5m should have a minimum side boundary setback of 1.2m.

84. It is considered the variation is unlikely to result in any adverse privacy impacts given the non-compliant component overlooks a blank wall and the roof top of the dwelling to the north. In addition the following changes have been made:

- two (2) larger windows to the formal dining and rumpus room on the ground floor have been replaced with two (2) smaller windows (W01 and W02) with sill heights of 0.95m; and
- one (1) large window to the master bedroom, walk in wardrobe and ensuite on the first floor has been replaced with two (2) narrow windows.

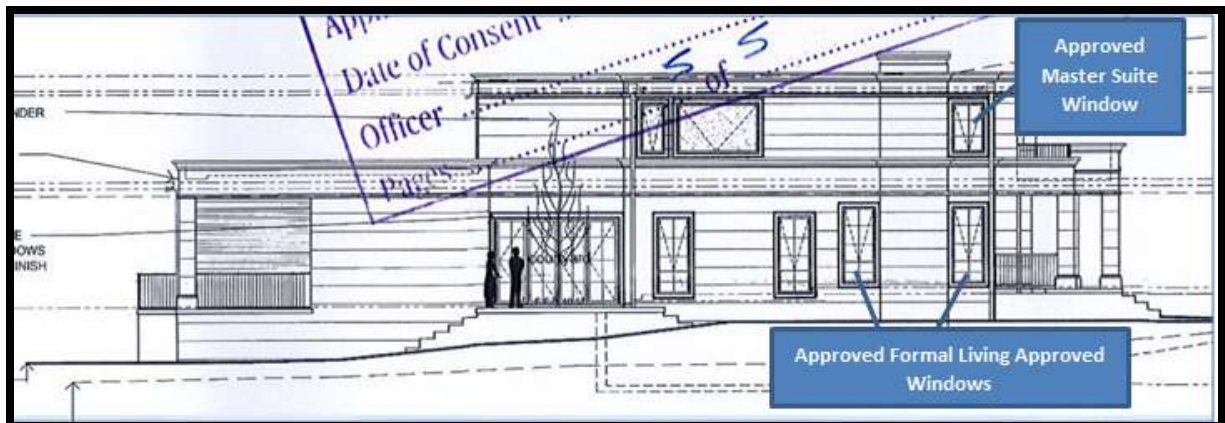


Figure 17: Existing Windows

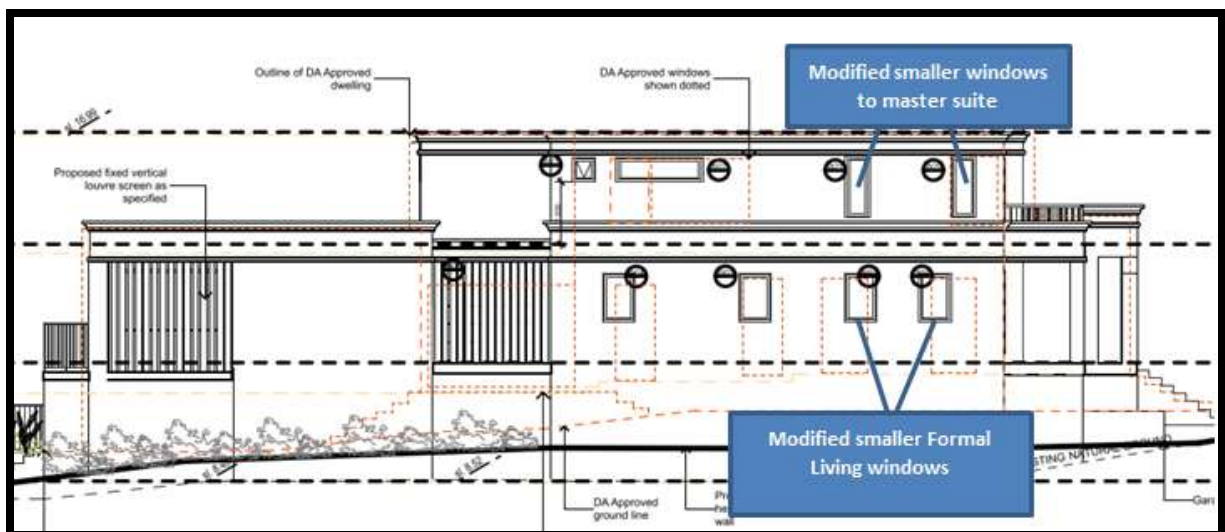


Figure 18: Modified Windows

85. It is considered despite the numerical non-compliance, the development will satisfy the objectives of the DCP in that the proposed setback will:

- protect privacy to adjoining buildings and protect access to natural light and ventilation.
- facilitate natural infiltration of stormwater and protect privacy to adjoining buildings.

Height of Foundation Area

86. It has been established incorrect RLs were referred to in the assessment of the original DA. This has been demonstrated in the elevation plan submitted with the subject application, Project No. 1868, Drawing No. S9603 Issue B.

87. As can be seen from the contour survey plan, the existing ground level directly beneath the first floor terrace is approximately 8.25AHD. The approved Finish Floor Level (FFL) of the ground floor terrace was RL10.66. As such the overall height of the terrace was approved at 2.4m above the existing ground level. The constructed height of the terrace is RL11.4, an additional 0.74m above the approved FFL. The total constructed height of the foundation area is 2.92m above existing ground level.
88. The as built height of the foundation area is in breach of Clause 1.2.2 (4) - Part C1 of the KDCP 2013 which states that foundation areas, garages, basements, storage rooms or the like must not have an external wall height greater than 1m above ground level (existing) at any point on the building.
89. Under DA86/2014, the foundation area and the FFL of the terrace have already been approved at a height that this in excess of 1m and overlooks the private open spaces of adjoining properties both to the side and rear. It is therefore considered that the as built height of the foundation area, 0.74m above the approved height, will not have any significant adverse impact on the circumstances that already exist on site.

External Courtyard

90. Under DA86/2014, the northern courtyard was approved at a height of 2.2m above ground level and on nil boundary setback. The as built height of the courtyard is 2.9m above the existing ground level at RL11.4. It has been constructed approximately 0.74m higher than the approved height.
91. At the approved height, the courtyard overlooks the private open space of the northern neighbour. Despite there being an increase in the height of the courtyard, it is considered any additional impacts would be marginal.
92. To overcome some of the privacy impacts, the as built courtyard has been reduced in size and setback 1.71m from the northern boundary. A fixed vertical louvre privacy screen has been proposed along the northern edge to further minimise any impacts. A suitable condition will be placed in the consent to ensure that the blades of the privacy screen are of an appropriate width and spacing to ensure privacy is maintained.
93. The approved stairs to the courtyard is proposed to be deleted. There is now no direct access from the ground level to the northern courtyard as can be seen below.

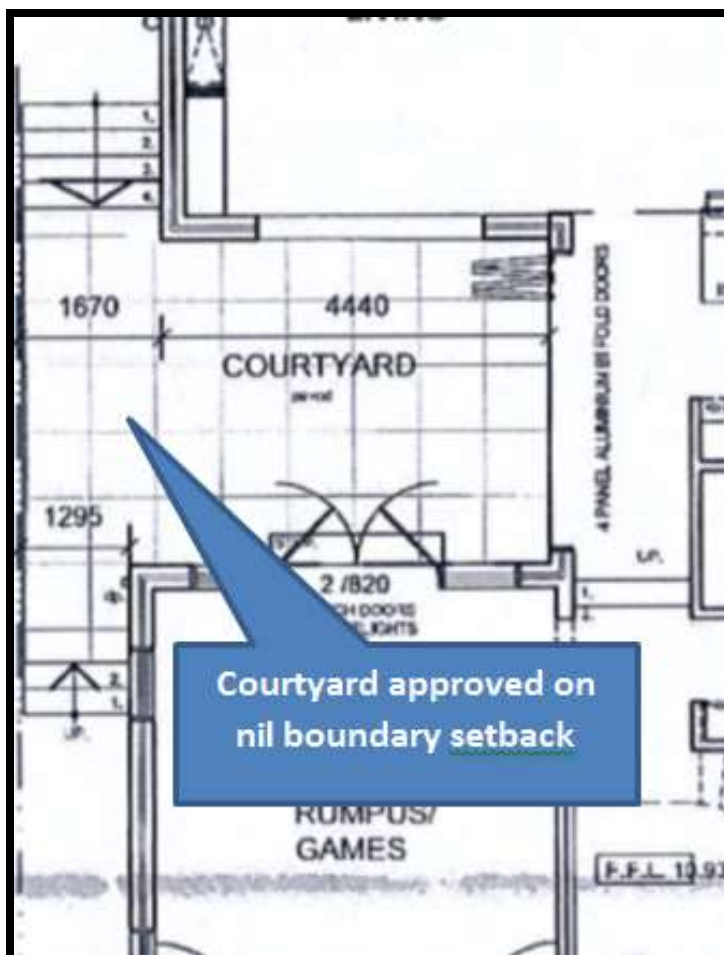


Figure 19: Approved northern courtyard

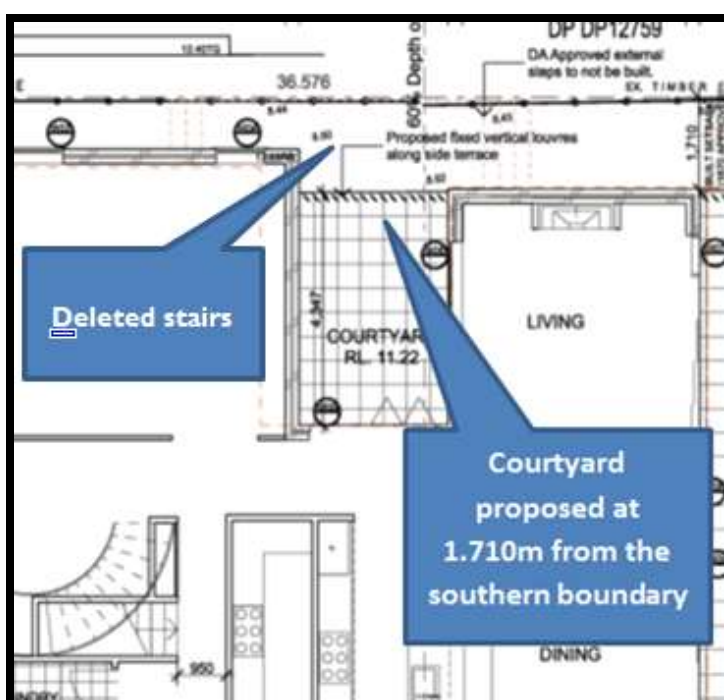


Figure 20: As built/modified northern courtyard

Rear Terrace

94. The terrace was approved at a finished floor level of RL10.66 above an existing ground level of approximate RL8.22 (2.44m). The FFL of the terrace has been constructed at 0.46m above the approved FFL with an overall height of 2.92m.

95. The elevated nature of the approved terrace will inevitably result in some overlooking on the private open spaces of the side and rear properties. While any further increase to the approved height of the terrace is not desirable, it is considered that the additional impacts as a result of the as built terrace are minimal and as such considered acceptable.
96. As can be seen from the extracts below, the northern side of the terrace was approved without any privacy treatment. The proposal now incorporates fixed vertical louvre screening to minimise overlooking impacts. A suitable condition has been recommended to be included in the consent to ensure that the blades of the privacy screen are of an appropriate width and spacing to ensure privacy is maintained.

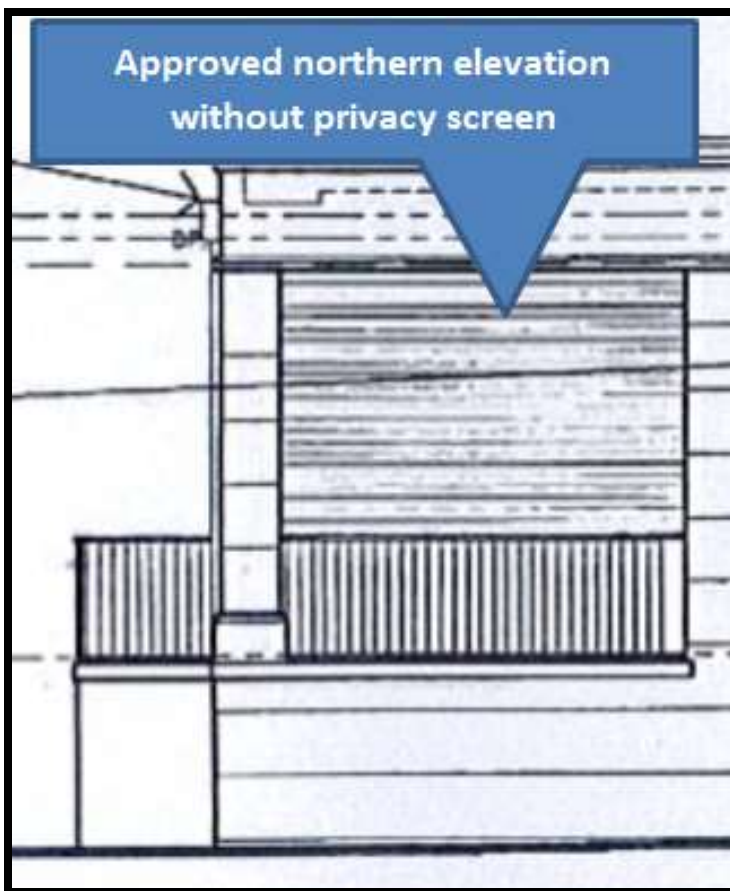


Figure 21: Approved northern side of terrace

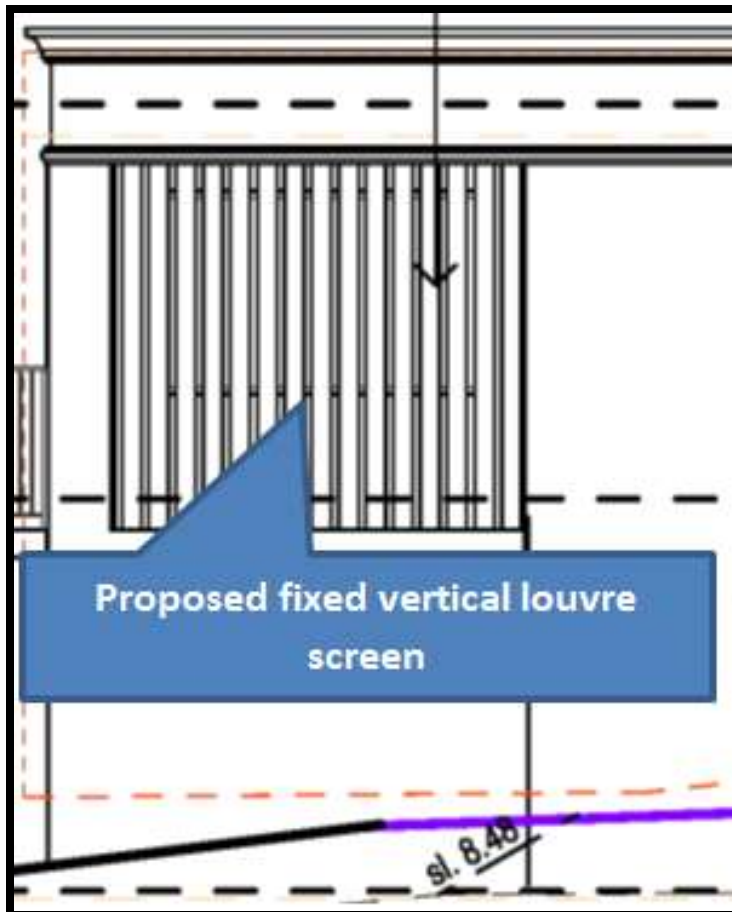


Figure 22: Proposed privacy screen on the northern side of the terrace

97. The southern side of the terrace has been fitted with a large aluminium framed window as seen below. The outdoor kitchen has been installed to the south that occupies the full depth of the terrace. It appears this will be a well-used area and likely to result in some overlooking. A condition has been recommended to ensure installation of a fixed vertical louvre screen for the full length of the southern terrace window with appropriate blade width and spacing to minimise privacy.



Figure 23: As built aluminium framed window and outdoor kitchen on the southern side of the terrace

98. A flight of stairs has been constructed along the northern edge of the terrace. The stairs wraps around the northern and western face of the terrace and overlooks the private open space of adjoining properties. The subject proposal seeks to relocate stairs to be situated entirely along the eastern elevation as shown below in Figure 23.



Figure 24: Constructed stairs along the northern elevation

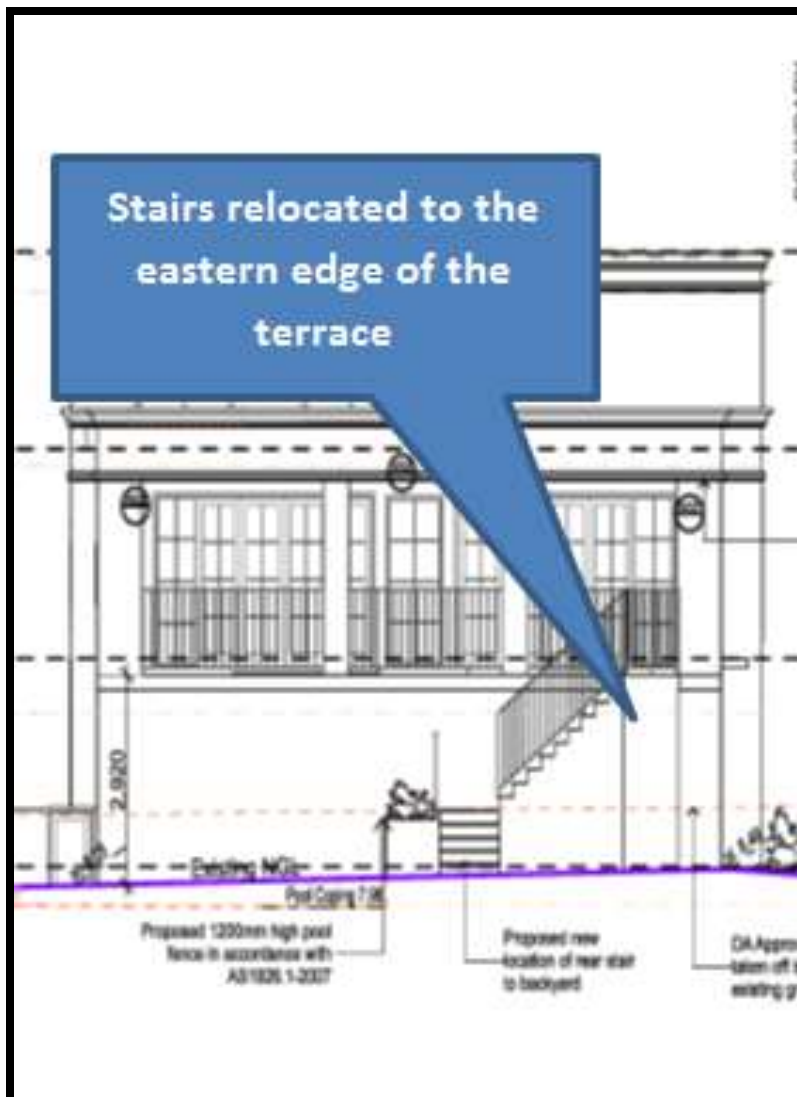


Figure 25: Stairs relocated to the east

99. Overall, it is considered that the proposed modifications including the privacy screens and relocation of the stairs will significant protect/improve the privacy of the adjoining properties. The proposed changes will achieve an improved and acceptable planning outcome.

Solar Access

100. The proposed development has been assessed against Kogarah Development Control Plan 2013 – Part C1– Clause 1.6 – Solar access. Considering the building envelope remains essentially the same as previously approved, any additional impacts upon the adjoining property to the south in terms of the level of solar access it receives is considered to be negligible.

Removal of Laundry Door and Associated External Stairs

101. Under DA86/2014, a laundry door and associated external stairs were approved along the southern elevation. The as built structure has replaced the door with a 1.6m high clear glass window with horizontal louvres. The stairs are therefore no longer required, as no direct access from the laundry to the southern side of the property and the rear yard is proposed.
102. The removal of the door and stairs will not only aid in minimising potential privacy impacts, it will also provide relief to the overall building bulk.

Decorative Mouldings on Front Roof Façade

103. The roof features above the parapet wall fronting Carwar Avenue has been modified and has been slightly reduced in height as viewed from the street. While the overall building height is slightly higher than previously approved, the slight lowering of the parapet gives a perception of reduced height as viewed from the street.



Figure 26: Approved façade/parapet



Figure 27: As built/proposed façade/parapet

104. As demonstrated in the extracts above, the constructed parapet presents as a simple linear feature which consequently minimises the perceived bulk and scale of the façade.

Changes to Window or Door Openings

105. The proposal seeks to modify a number of approved openings along the northern and southern elevations as outlined below:
- The laundry door has been replaced with a window. No external access from the laundry is provided. The opening proposes a 1.6m high clear glass window with translucent horizontal louvres.
 - Highlight windows W10 and W11 where approved at approximately 0.9m above FFL. These windows have been replaced with highlight windows 1.0m above FFL;

- The approved horizontal timber batten screen along the southern edge of the rear terrace has been replaced with an aluminium framed window;
- The large southern window (W14) to the study has been replaced with a highlight window 1.6m above the FFL;
- A large window (W29) to bedroom 3 on the first floor level has been replaced with a highlight window 1.2m above FFL;
- Windows W27 and W28 to the shower and powder room have been replaced with slightly narrower windows;
- Window W20 on the northern elevation of the master suite has been replaced with two (2) narrow windows (W20 and W21);
- Windows W27 and W28 to the shower and toilet at first floor level has been replaced with similar size window with a large separation in between;
- Windows W01 and W02 to the formal living room were approved at 0.04m above the FFL. These windows have been replaced with smaller windows 0.3 above FFL;
- Window W04 to the rumpus/games room was approved at 0.04m above the FFL which has been replaced with smaller windows 0.3m above FFL;
- Window W03 to the rumpus/games room was approved at 0.15m above the FFL which has been replaced with a smaller windows 0.7m above FFL;
- The four (4) large approved windows on the front elevation has been replaced with eight smaller windows;
- The central window on the first floor western elevation has been replaced a smaller window;
- Due to the excavation at the front of the site, the height of the front stairs has been increased;
- Two (2) larger windows (W25 and W24) have been proposed to be reduced in size.

106. These changes will maximise the privacy of the adjoining properties while ensuring the amenity of the occupants of the subject dwelling is maintained.

107. Changes to the western (front) elevation windows and door facing the street provide a simplified and improved street presentation. The style of fenestration proposed on the front elevation is more consistent with those on other elevations. This consistent approached minimises the dwelling's perceived bulk and scale.

Removal of Bedroom on First Floor

108. The original DA approved two (2) bedrooms towards the rear of the first floor, known as Bedroom 2 and 3. The internal dividing wall separating these rooms was constructed resulting in as a single bedroom (now known as Bedroom 2). As this modification is an internal change, it remains wholly within the approved footprints and does not create any adverse impact to neighbouring properties.

Fill

109. Fill is proposed to raise the existing ground level on the northern side of the property between the dwelling and the northern boundary. The fill will extend approximately 800mm above current ground level on the northern side of the property to match the neighbouring natural ground levels.

110. By filling land next to the subject dwelling, part of the exposed garage wall can be recessed beneath ground level thereby minimising the bulk of the building. A standard condition exists in the conditions of consent to ensure all related BCA requirements are met.

Increase Size of Stormwater Detention Tank

- 111. The stormwater detention tank which is partially constructed is proposed to be increased in length from 3.2m to 6.5m in length.
- 112. A discussion with Council's Drainage Engineer has indicated that the increase in the size of the detention tank will not affect the approved stormwater concept.
- 113. The increase in the size of the detention tank will not affect the minimum landscape area requirement and therefore considered acceptable.

Section 7.12 Contribution

- 114. The proposed development will not generate any additional contribution beyond that already levied.

IMPACTS***Natural and Built Environment, Social and Economic Impacts***

- 115. It is considered the proposal will not have any additional unreasonable impact on the character of the locality and also the amenity of the neighbouring residential properties.

Suitability of the site

- 116. The site is zoned R2 Low Density Residential. The proposal is a permissible form of development in the zone. The proposed modification provides improvements that will minimise privacy impacts on the adjoining properties and the visual bulk. It is considered that the proposed modifications will render the as built development more suitable for the site.

SUBMISSION AND THE PUBLIC INTEREST

- 117. The application was neighbour notified in accordance with Kogarah DCP 2013 for a period of fourteen (14) days from the 4 to 18 February 2019. Four (4) submissions were received during this period. The issues of concern has been summarised and discussed below.

Excessive Height

- 118. Concerns have been raised in relation to the excessive height of the rear section of the development and privacy impacts as a result.
- 119. Assessment Officer's Comment: As discussed in detail in the body of this report, the terrace was approved at a finished floor level of RL10.66 above an existing ground level of approximate RL8.22 (2.44m). The FFL of the terrace has been constructed at 0.46m above the approved FFL with an overall height of 2.92m.
- 120. The minor increase in height of 0.46m will result in minimal increase in privacy impacts.
- 121. The proposed modifications include measures to minimise privacy impacts. These include implementation of privacy screen along the northern edge of the rear terrace and the relocation of the stairs to the eastern face of the terrace. Further, a condition has been recommended to ensure privacy impacts are minimised along the southern side of the terrace by either providing obscure glass or fixed louvered screen to the constructed framed window.

Bulk and Scale

- 122. Concerns have been raised in relation to the bulk and scale of the development.

123. Assessment Officer's Comment: As discussed throughout this report, while the proposed development exceeds the FSR, the development remains within approved building envelope except for the minor northern boundary setback encroachment.
124. The proposed improvements such as the removal of stairs along the side elevations, façade changes, and fill within the setback areas results in the softening of the development and reduced visual bulk. It is considered that while the scale of the building remains generally as approved, the modified improvements will aid in minimising the building bulk.

Characteristics of the development

125. Concern has been raised regarding the inconsistent character of the subject development in relation other developments in the area including roof form.
126. Assessment Officer's Comment: Consideration has been given to concerns raised in relation to the character of the subject development. As discussed throughout this report, the subject development is consistent with the other development within the street in terms of bulk and scale and its general presentation to the street. There is evidence of other similar development in the immediate vicinity that presents as three (3) storey building to the street.
127. The modifications proposed assists in minimising the building bulk resulting in a development that is more in keeping with the characteristics of dwellings in the local area.
128. The roof form of the subject development, raised as a concern, is also consistent with other flat roofed dwellings in the street. Under DA86/2014, the subject dwelling was approved with a flat roof and has been constructed accordingly.

Adversely affect property value

129. Objection was raised in relation to the adverse impact the subject development will have on the property value.
130. Assessment Officer's Comment: This is not a matter of consideration under the Environmental Planning and Assessment Act 1979.

Intent is with specific undertakings

131. It is not clear with this submission what the intent is with specific undertakings in the original submission. In particular but not limited to;
- a. The undertaking to replace the tree on the nature strip with a mature tree to Council's requirements as noted on the site plan attached to the original neighbour notification dated 14 November 2014.
 - b. The undertaking to install a rainwater 6500 Litre rainwater tank as noted on the site plan attached to the original neighbour notification dated 14 November 2014.
 - c. The installation of a fence in keeping with the look of the suburb as noted on the west elevation attached to the original neighbour notification dated 14 November 2014.
132. Assessment Officer's Comment: The above undertakings will be required to be the satisfied as per the original consent (DA86/2014).

Excessive Runoff

133. Concerns have been raised regarding flooding of property during periods of moderate rainfall and will continue to be affected by excessive runoff of water due to the size of the subject dwelling.
134. Assessment Officer's Comment: No change is proposed to the approved stormwater concept apart from increase in the size of the detention tank. The stormwater drainage upon completion of the construction works will be in accordance with the stormwater drainage concept approved under DA86/2014.

REFERRAL

Council Referrals

135. Drainage Engineer
While the proposal did not require referral to Council's Drainage Engineer, a verbal discussion was held in relation to the increase in the size of the detention tank. No concern was raised in this regard.

CONCLUSION

136. The application has been assessed having regard to the Matters for Consideration under Section 4.55(2) of the Environmental Planning and Assessment Act 1979, the provisions of the relevant State Environmental Planning Policies, Local Environmental Plans and Development Control Plans and is consistent with those requirements except for the FSR for the development and the northern boundary setback.
137. The submissions received to the application have been addressed in the report and through appropriate design changes.

DETERMINATION AND STATEMENT OF REASONS

Statement of Reasons

138. The proposed development is considered to be an appropriate scale and form for the site and the character of the locality.
139. The proposed development will have only minimal additional impacts upon the adjacent properties.
140. The issues of concern raised by the neighbours do not warrant refusal and has been minimised through design changes and further conditions of consent.
141. 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.

Determination

142. THAT pursuant to Section 4.55(2) of the Environmental Planning and Assessment Act, 1979, the Council grants development consent to Modification Application MOD2019/0005 for retrospective approval for unauthorised works and alterations and additions to the approved dwelling at Lot 246 DP12759 and known as 42 Carwar Avenue, Carss Park in accordance with the following modified conditions:

Specific Development Conditions

SECTION A - General Conditions

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

(1) Approved Plans of Consent

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

- ~~(i) Architectural plans – boli designs Plan numbers 01-05 through to and including 05-05 Revision E received by Council on 16 April 2015~~
- ~~(ii) Stormwater plans JLuke Consulting Engineers Drawing No H-01 revision B received by Council on 10 February 2015~~
- (i) Site Plan, Project No. 1868, Drawing No. S9601 dated Nov 2018, Issue B
- (ii) Ground Floor Plan, Project No. 1868, Drawing No. S9602 dated Nov 2018, Issue B
- (iii) First Floor Plan, Project No. 1868, Drawing No. S9603 dated Nov 2018, Issue B
- (iv) Elevations, Project No. 1868, Drawing No. S9604 dated Nov 2018, Issue B
- (v) Elevations and Sections, Project No. 1868, Drawing No. S9605 dated Nov 2018, Issue B

(This condition is amended as part of MOD2019/0005 (DA86/2014))

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 | \$2,275.00 |
| • Driveway Design and Inspection Fee (Dwelling) of | \$ 515.00 |
| • Asset Inspection Fee of | \$ 105.00 |
| • Section 94A Contributions of | \$6,500.00 |

*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 94A Contributions

As at the date of Development Consent a contribution of \$6,500.00 has been levied on the subject development pursuant to Section 94A Contributions Plan. The amount to be paid is to be adjusted at the time of the actual payment, in accordance with the

provisions of the Section 94A Development Contributions Plan. The amount payable of monetary Section 94 contributions will be indexed on 1 July each year in accordance with the Contribution Plan.

The Section 94A Contributions Plan may be inspected at the Kogarah City Council Customer Service Centre, 2 Belgrave Street, Kogarah or online at www.kogarah.nsw.gov.au.

(4) Dilapidation Report

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

- (i) All neighbouring buildings likely to be affected by the excavation as determined by the consulting engineer.

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

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

(5) Soil and Water Management

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

(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.

(7) Sydney Water (DA Only)

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect any Sydney Water asset's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Plans will be appropriately stamped.

Please refer to the web site www.sydneywater.com.au for:

- Quick Check agents details - see Building Developing and plumbing then Quick

Check; and

- Guidelines for Building Over/Adjacent to Sydney Water Assets - see Building Developing and Plumbing then Building and Renovating or telephone 13 20 92.

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.

(8) Geotechnical Report

Excavation of the site is to extend only to that area required for building works depicted upon the approved plans. All excess excavated material shall be removed from the site. In this regard, all excavated waste materials shall be disposed of at an approved Waste Depot.

No rock breaking or other machinery for the excavation, drilling, cutting or removal of rock shall be used on the site prior to the acceptance by the principal certifying authority of the following documentation:

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

(9) Detailed Stormwater Plan

The submitted stormwater plan has been assessed as a concept plan only and no detailed assessment of the design has been undertaken.

A Stormwater Detailed Plan and supporting information of the proposed on-site stormwater management system including any measures to control quality and quantity of the stormwater runoff discharged from the site are to be submitted. The required details in this Plan and the relevant checklist are presented in Council's Water Management Policy.

The design parameters and the general concept of the proposed on-site stormwater management system are to be the same as documented in the approved Stormwater Concept Plan for the proposed development. Any variation to the approved concept design is required to be justified and supported by appropriate details, calculations and information to allow proper assessment of the revised concept design.

- The Detailed Stormwater Plan is to be amended to address the following:
 - a) An overland flow route is to be provided from the driveway and the front of the dwelling to the rear of the property in case of the site's drainage system becoming blocked or reaching capacity.
 - b) An additional geotechnical report is to be prepared with the results of a Falling Head Test or a Constant Head Test in the location of the proposed absorption system at the front of the property. The Detailed Stormwater Plan is to be amended to use the hydraulic conductivity as determined and Council's Water Management Policy. The currently lodged report by Geo-Environmental

Engineer Report ID: G13062CP-R02F dated 4 February 2015 does not meet this requirement.

- c) The pumped system is to be redesigned to be in accordance with Council's Water Management Policy and AS/NZS 3500.3:2003 Plumbing and drainage. Part 3: Stormwater drainage. It will need to have a minimum wet well storage of 3m³
 - d) A silt arrestor pit is to be constructed immediately upstream of both absorption tanks.
- The new dwelling is to be built with a pier and beam foundation where it is within 3 metres of an absorption system to structural engineers details and certification.

(10) Certification of Detailed Plan

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

(11) 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.

(12) Tree Protection

Prior to the commencement of any works on the site the tree protection measures required for the established Tree Protection Zone (TPZ) of the trees to be retained shall be installed in accordance with Section 4 - *Australian Standard AS 4970-2009 - Protection of trees on development sites*.

Unless otherwise specified in AS 4970-2009 a protective fence consisting of 1.8m high fully supported chainmesh shall be erected around the base of the tree. The distance of the fence from the base of each tree is to be in accordance with the TPZ listed below. 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.

There shall be no services installed within the drip line TPZ of the tree. This fence shall be kept in place during demolition, construction and also have a sign displaying "Tree Protection Zone" attached to the fence, this must also include the name and contact details of the Project Arborist.

(13) Protection of Site – Hoarding

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

- the work involved in the erection or demolition of a building is likely to cause obstruction or inconvenience to pedestrian or vehicular traffic in a public place; or
- if it involves the enclosure of a public place.

If necessary an awning is to be erected which is sufficient to prevent any substance from or in connection with the work from falling into a public place.

Any such hoarding, fence or awning is to be removed when the work has been completed.

If the work site is likely to be hazardous to persons in a public place, it must be kept lit between sunset and sunrise.

(14) Driveway

In respect to vehicular access to the proposed development the gutter across the driveway are to be reconstructed between the kerb and street alignment to Council's specifications.

In this regard a separate driveway application is to be lodged with Council for works outside the property boundary. Furthermore the design boundary level is to be received from Council prior to construction of the internal driveway.

(15) Council Infrastructure Inspection

Prior to the commencement of any works an authorised representative of the applicant is to organise and attend a meeting on site with Council's Infrastructure Compliance Co-ordinator to discuss protection of Council's infrastructure. To organise this meeting contact Council's Customer Service Centre on 9330 9400.

(16) Public Liability Insurance

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

(17) 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.

(18) Roof and surface water

All roof water and surface water from the development are to be disposed of in accordance with the Detailed Stormwater Plan by means of a sealed pipeline constructed in accordance with AS/NZS 3500.3.2. The line must pass through a silt arrestor pit.

(19) Absorption System

The absorption systems are to be a minimum of 1.5 metres from all side and rear boundaries.

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.

(20) Inspections - New Dwelling

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) after excavation for, and prior to the placement of, any footings, and
- (a) prior to pouring any in-situ reinforced concrete building element, and
- (b) prior to the covering of the framework for any floor, wall, roof or other building element, and
- (c) prior to covering waterproofing in any wet areas, and
- (d) prior to covering any stormwater drainage connections, and
- (e) after the building work has been completed and prior to any occupation certificate being issued in relation to the building.
- (f) in the case of a swimming pool, as soon as practicable after the barrier (if one is required under the Swimming Pools Act 1992) has been erected.

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
- Landscaping
- Pool Fencing

(21) 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.

(22) 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.

(23) Building Height - Surveyors Certificate

The proposed building is not to be erected at a height greater than that indicated on the approved plan. This is to be verified by means of a certificate from a Registered Surveyor at ground floor level and at roof frame before the roof covering is installed.

(24) Excavation of Site

Excavation of the site is to extend only to that area required for building works depicted upon the approved plans. All excess excavated material shall be removed from the site. In this regard, all excavated waste materials shall be disposed of at an approved Waste Depot (details are available from Council).

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

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

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

(25) Stormwater to Kerb

Any stormwater connections to the kerb and gutter are to be in accordance with Council's *'Specification for Construction by Private Contractors'*.

(26) Redundant Driveway

All existing vehicular crossings adjacent to the subject premises that have become redundant shall be removed and the footway and kerb and gutter reinstated at the developer/applicants expense.

(27) Work within Road Reserve

A Development Consent or any related Construction Certificate does not allow for the erection of a structure or to carry out work in, on or over a public road. Should a structure or work be required a separate approval under S138 of the Road Act 1993 must be granted by Council prior to the commencement of any works within the road reserve. Applications may be made at Council's Customer Service Centre.

(28) 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.

(29) 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.

(30) Stormwater Drainage

All roof water and surface water from paved or concreted areas being disposed of to the street gutter by means of a sealed pipeline constructed in accordance with AS/NZS 3500.3.2. The line must pass through a silt arrestor pit, a standard design is available within Council's Water Management Policy.

(31) 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.

(32) 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.

(33) Basix Certificate Details

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.

(34) Air Conditioning / Offensive Noise

Air conditioning plant and equipment shall be installed and operated so as to not create an offensive noise as defined under the Protection of the Environment Operations Act 1997 and Protection of the Environment Operations (Noise Control) Regulation 2008.

(35) Swimming Pool/Spa shall be Fenced

The proposed swimming pool and/or spa shall be fenced and constructed in accordance with the Swimming Pools Act, 1992 and the Swimming Pools Regulation 2008. If required, you may confer with Council for assistance with respect to the location of pool fencing.

(36) Pool Filter/Pump no Offensive Noise

Pool plant and equipment shall be enclosed in a sound absorbing enclosure or installed within a building to minimise noise emissions and possible nuisance to nearby neighbours.

The pool plant and equipment shall not be operated during the following hours if noise emitted can be heard within a habitable room in any other residential premises or as otherwise stated in the *Protection of the Environment Operations (Noise Control) Regulation 2008*:

- Before 8:00am or after 8:00pm on any Sunday and public holiday;
- Before 7:00am or after 8:00pm on any other day.

(37) Building Finishes

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

(38) Tree Protection - Excavation

Excavations around the trees to be retained on site or the adjoining properties shall be supervised by the Project Arborist to ensure that the root system will not adversely be affected.

Where the Tree Protection Zone (TPZ) of trees on site or adjoining sites become compromised by any excavation works, the Project Arborist shall be consulted to establish the position of any major roots and determine the necessary measures to protect these roots. The recommendations of the Arborist shall be submitted to Council prior to any further demolition or construction works taking place.

Tree Protection Zone (TPZ) around the trees to be retained are not to have soil level changes or services installed in this area. Any structures proposed to be built in this area of the trees are to utilise pier and beam or cantilevered slab construction.

(39) Tree Retention

The trees identified in the table below shall be retained and not damaged, pruned or removed without the prior approval of Council. These trees shall be protected in accordance with the requirements of Section 4 - *Australian Standard AS 4970-2009 - Protection of trees on development sites*.

Tree Species	Location of Tree/Tree No	TPZ
Eucalyptus microcorys	42 Carwar Avenue/ street tree	7.2 metres
Archontophoenix cunninghamia	40 Carwar Avenue/ Tree 1	3.0 metres
Archontophoenix cunninghamia	40 Carwar Avenue/ Tree 2	3.0 metres
Elaeocarpus reticulatus	5 Erang Street/ Tree 3	3.6 metres
Banksia sp	5 Erang Street/ Tree 4	6.0 metres
Livistonia australis	44 Carwar Avenue/ Tree 5	3.6 metres
Washingtonia robusta	44 Carwar Avenue/ Tree 6	5.2 metres
Cocos romanzoffianum	44 Carwar Avenue/ Tree 7	3.4 metres

(40) Privacy Screen

~~A 1.8m high fixed privacy screen is to be erected along the northern and southern side perimeters off the rear ground floor terrace.~~

All privacy screens are to comprise of fixed, translucent louvres that does not allow downward viewing of the adjoining properties.

(This condition is amended as part of MOD2019/0005 (DA86/2014))**40(a) Basement floor/Backfill**

The basement floor area shall be backfilled. The backfill works must comply with the following:

- i) The backfill material must be undertaken with suitable type of clean fill material;
- ii) The fill area must be to the full height of the subfloor;
- iii) A certificate from a registered surveyor verifying correct finished level must be submitted prior to issue of any Occupation Certificate.

(This condition is added as part of MOD2019/0005 (DA86/2014))**40(b) Rear Terrace Window**

The window on the southern elevation of the rear terrace shall comprise of a material that cannot be seen through, such as translucent glazing.

(This condition is added as part of MOD2019/0005 (DA86/2014))**40(c) Retaining Wall Details/Structural report**

A report prepared by a structural engineer is to be provided to demonstrate the structural integrity of the all retaining walls and their capacity of accommodated the proposed fill.

Should the retaining walls be deficient to support the intended fill, details of new and or modified retaining walls are to be provided with the Construction Certificate for the proposed works. In addition, these works are to have regard to the location of the current flashings and weepholes of the dwelling as constructed to ensure the works do not result in loss of internal amenity.

(This condition is added as part of MOD2019/0005 (DA86/2014))**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.

(41) Stormwater Compliance Certificate

A Stormwater Compliance Certificate is to be obtained for the constructed on-site stormwater management systems in conjunction with the works-as-executed drawings and the final inspection. This Certificate is to be signed by an accredited hydraulic engineer (preferably be the original design consultant) and submitted to the Principal Certifying Authority. Copy of the standard Stormwater Compliance Certificate is shown in Council's Water Management Policy.

If the proposed works involve Council owned stormwater infrastructure (or infrastructure to be owned by Council), then the applicant should organise inspection with Council and pay Council the appropriate inspection fee. Inspection is to be carried out at the following specified stages:

- Prior to backfilling of pipelines trenches.
- Prior to backfilling of drainage connection to pipeline or channels.

- Prior to casting pits and other concrete structures including kerb and gutter, aprons, pathways, vehicular crossings, dish crossings and pathway steps.

(42) Maintenance Schedule

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

(43) 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.

(44) Compliance with the Building Code of Australia

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

(45) 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.

(46) 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.

(47) 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.

(48) 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.

(49) 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.

(50) Demolition Conditions - Asbestos

- (a) Demolition of buildings where asbestos is determined to be present should only occur 7am – 5pm Monday to Saturdays, and must not occur on Sundays or Public Holidays, to ensure that the persons carrying out the work have access to WorkCover professionals if required.

- (b) All asbestos removal shall be undertaken in accordance with the requirements of WorkCover's 'How to Safely Remove Asbestos' Code of Practice and Council's Asbestos Policy.
- (c) Written notice must be provided to 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) A demolition or asbestos removal contractor licensed under the *Work Health and Safety Regulations 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.

- (f) Demolition sites that involve the removal of asbestos must display a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm is to be erected in a prominent visible position on the site to the satisfaction of Council's officers. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos has been removed from the site to an approved waste facility.
- (g) All asbestos waste must be stored, transported and disposed of in compliance with the Protection of the Environment Operations (Waste) Regulation 2005. All receipts detailing method and location of disposal must be submitted to Council as evidence of correct disposal.
- (h) A Clearance Certificate or Statement, prepared by a suitably qualified occupational hygienist must be provided to Council upon completion of demolition and asbestos related works, which confirms that the relevant legislative requirements in relation to safe removal and disposal have been satisfied.
- (i) A Work Cover Licensed Demolisher is to be engaged to carry out any demolition works using mechanical equipment where the structure is over 4 metres in height

or to carry out any manual demolition works on a structure over 10 metres in height.

- (j) The provision of temporary fences and footpath crossing pads prior to commencement of demolition operations. Further, no waste materials or bins are to be placed on Council's roadways or footpaths.
- (k) No waste materials are to be burnt on site.
- (l) No trees as defined by Council's Tree Preservation Order being removed or damaged on the site without the prior written approval of Council.
- (m) Compliance with the provisions of Australian Standard AS 2601-1991: "The Demolition of Structures", which requires notification of demolition to be submitted at least seven (7) days prior to demolition to the NSW Workcover Authority.
- (n) Effective erosion and sediment control measures are to be undertaken during the course of demolition and building works in accordance with Council's 'Environmental Site Management Policy'. Failure to implement appropriate measures may result in a \$750 Penalty Infringement Notice (individual) and/or \$1,500 (corporation) being issued and/or the incurring of a maximum penalty of \$250,000 (corporation) or \$120,000 (individual) through the Land and Environment Court.
- (o) Appropriate measures are to be implemented on site to control dust and other air borne matter and demolition material is to be stored and stacked in a manner so as to minimise the risk of damage or nuisance to neighbouring properties.
- (p) Council being notified upon completion of the demolition works so that an inspection can be made of the roadway and footpath.
- (q) All non-recyclable demolition material being disposed of at an approved waste disposal depot. Details as to the method and location of disposal of demolition materials (weight dockets, receipts, etc.) should be kept as evidence of approved method of disposal.
- (r) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (a) showing the name, address and telephone number of the principal certifying authority for the work, and
 - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (c) stating that unauthorised entry to the work site is prohibited.

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

END CONDITIONS

Advisory Notes

(i) Worksite Safety

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

(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) Demolition Waste

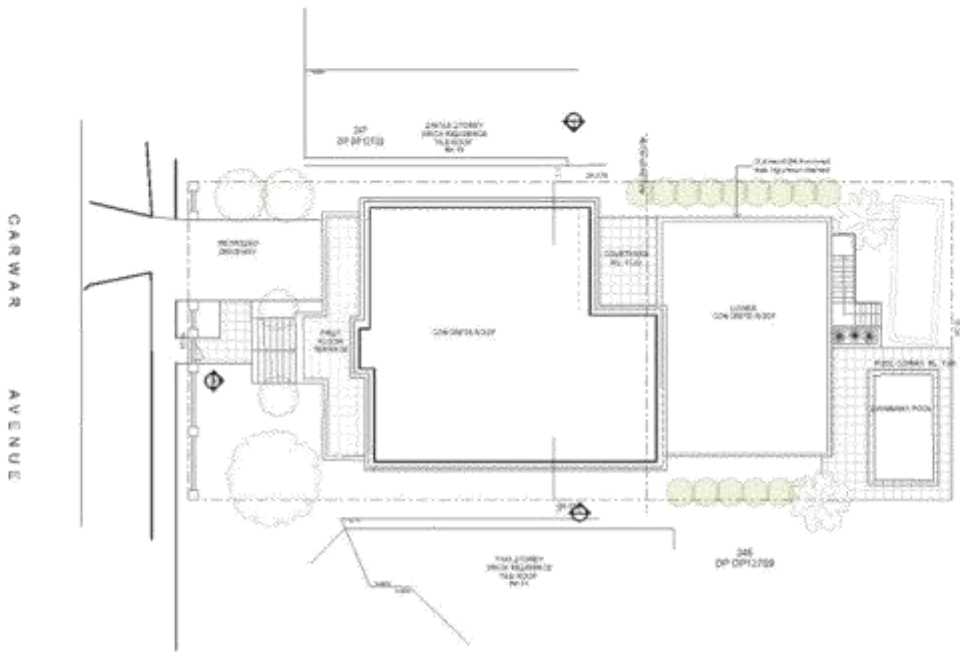
Sorting your construction and demolition waste will save you money. For pricing and disposal options for sorted loads of tiles, bricks, timber concrete or asphalt call Waste Service NSW on 1300 651 116.

(vi) Property Address

Property addresses shall be allocated by Council in accordance with the Addressing Standard AS/NZS 4819:2011.

ATTACHMENTS

- Attachment [1](#)  Site Plan - 42 Carwar Avenue Carss Park
- Attachment [2](#)  North and South Elevations - 42 Carwar Avenue Carss Park
- Attachment [3](#)  West and East Elevations - 42 Carwar Avenue Carss Park



Site Plan
1:200



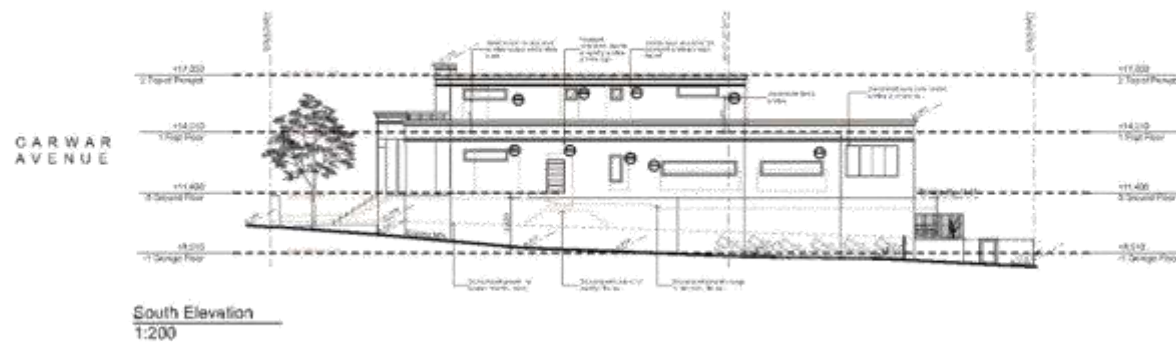
Site Context (Source: Google Maps)

Project Name	42 Carwar Avenue, Carss Park
Project Address	42 Carwar Avenue, Carss Park, NSW 2221
Project Owner	MR L. and Mrs A. Karabens
Project Manager	MR L. and Mrs A. Karabens

DA Approval / As built
Comparison
at
42 Carwar Street, CARSS
PARK, NSW 2221
for
MR L. and Mrs A. Karabens



John A. Gelder Architects Pty Ltd
1/100-1/101, 1/102-1/103, 1/104-1/105, 1/106-1/107, 1/108-1/109, 1/110-1/111, 1/112-1/113, 1/114-1/115, 1/116-1/117, 1/118-1/119, 1/120-1/121, 1/122-1/123, 1/124-1/125, 1/126-1/127, 1/128-1/129, 1/130-1/131, 1/132-1/133, 1/134-1/135, 1/136-1/137, 1/138-1/139, 1/140-1/141, 1/142-1/143, 1/144-1/145, 1/146-1/147, 1/148-1/149, 1/150-1/151, 1/152-1/153, 1/154-1/155, 1/156-1/157, 1/158-1/159, 1/160-1/161, 1/162-1/163, 1/164-1/165, 1/166-1/167, 1/168-1/169, 1/170-1/171, 1/172-1/173, 1/174-1/175, 1/176-1/177, 1/178-1/179, 1/180-1/181, 1/182-1/183, 1/184-1/185, 1/186-1/187, 1/188-1/189, 1/190-1/191, 1/192-1/193, 1/194-1/195, 1/196-1/197, 1/198-1/199, 1/200-1/201, 1/202-1/203, 1/204-1/205, 1/206-1/207, 1/208-1/209, 1/210-1/211, 1/212-1/213, 1/214-1/215, 1/216-1/217, 1/218-1/219, 1/220-1/221, 1/222-1/223, 1/224-1/225, 1/226-1/227, 1/228-1/229, 1/230-1/231, 1/232-1/233, 1/234-1/235, 1/236-1/237, 1/238-1/239, 1/240-1/241, 1/242-1/243, 1/244-1/245, 1/246-1/247, 1/248-1/249, 1/250-1/251, 1/252-1/253, 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Account type	Current account	£100
Account name	John Smith	£100
Account number	123456789	£100
Account balance	£100	£100

DA Approval / As built
Comparison
42 Carwar Street, CARSG
PARK NSW 2221
by
MR L. and Mrs A. Karaberas

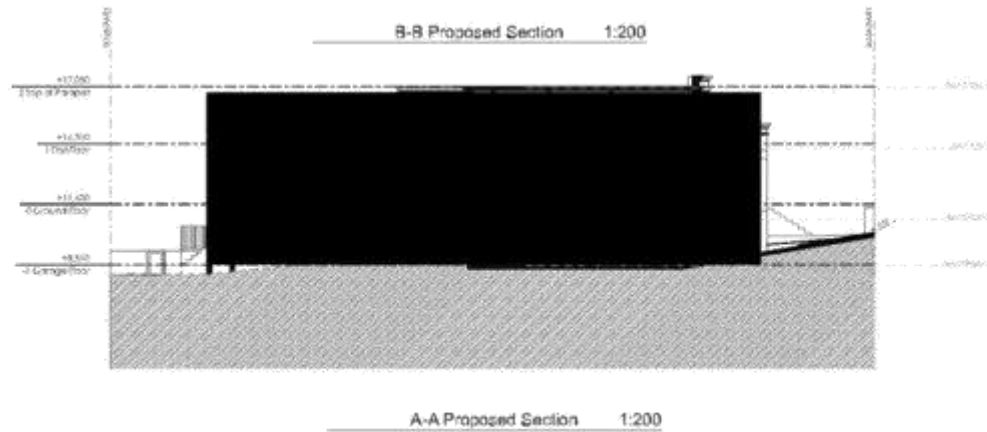
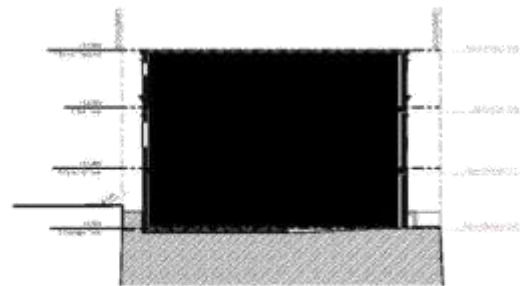
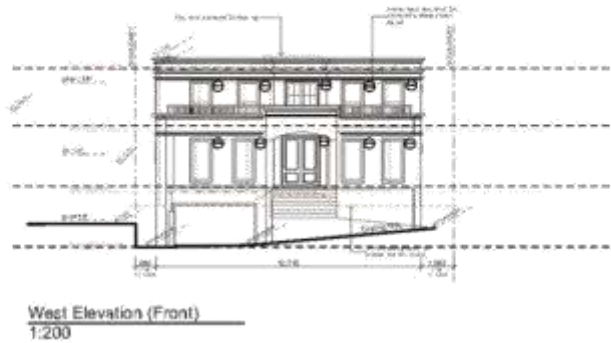
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Elevations

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Original Price	1898	MSRP	\$2,499
MSRP	\$9605	MSRP	\$1,299
		MSRP	\$1,299



Project Name	42 Carwar Avenue, Carss Park
Client	MR L. and Mrs A. Karabens
Architect	gelder ARCHITECTS
Scale	1:200
Date	19/06/2019

DA Approval / As built
Comparison
of
42 Carwar Avenue, CARSS
PARK NSW 2221
for
MR L. and Mrs A. Karabens

gelder
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Elevations & Sections

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