

AGENDA - LPP

Meeting:	Georges River Local Planning Panel (LPP)
Date:	Thursday, 4 June 2020
Time:	4.00pm
Venue:	Council Chambers, Civic Centre, Hurstville
Panel Members:	Adam Seton (Chairperson) Helen Deegan (Expert Panel Member) Michael Leavey (Expert Panel Member) Erin Sellers (Community Representative)

1. On Site Inspections - Carried out by Panel Members prior to meeting in accordance with COVID-19 requirements

Break

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

Public Meeting Session Closed - 6.00pm

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

- LPP024-20 111 Victoria Avenue Mortdale - DA2019/0257**
(Report by Development Assessment Planner)
- LPP025-20 36 Chamberlain Street, Narwee - DA2020/0050**
(Report by Senior Development Assessment Planner)
- LPP026-20 6 Blakesley Road Carlton - DA2019/0265**
(Report by Development Assessment Planner)

4. Confirmation of Minutes**LPP024-20**

REPORT TO GEORGES RIVER COUNCIL LPP MEETING OF THURSDAY, 04 JUNE 2020

LPP024-20

LPP Report No	LPP024-20	Development Application No	DA2019/0257
Site Address & Ward Locality	111 Victoria Avenue Mortdale Mortdale Ward		
Proposed Development	Demolition of existing structures and construction of a two storey 10 room boarding house over basement parking for 6 vehicles		
Owners	F Mourad Pty Ltd and CPM Property Management Pty Ltd		
Applicant	Cornerstone Design		
Planner/Architect	Planner: BMA Urban, Architect: Cornerstone Design		
Date Of Lodgement	27/06/2019		
Submissions	Seven (7) individual submissions		
Cost of Works	\$1,655,186.00		
Local Planning Panel Criteria	Development is for the construction of a boarding house and is required to be determined by the Georges River Local Planning Panel under Council Delegations		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	State Environmental Planning Policy (Affordable Rental Housing) 2009; State Environmental Planning Policy (Infrastructure) 2007; 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; Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment; Draft Environment State Environmental Planning Policy; Draft Remediation of Land SEPP; Draft Georges River Local Environmental Plan 2020; Hurstville Local Environmental Plan 2012; Hurstville Development Control Plan No1 (amendment No. 7); Draft Georges River Local Environmental Plan 2020.		
List all documents submitted with this report for the Panel's consideration	Architectural Plans; Statement of Environmental Effects; Plan of Management of Boarding House; Arborist Report; Preliminary Site Investigation Report; Accessibility Report; Traffic and Parking Assessment Report; Geotechnical Report; BCA Compliance Report.		
Report prepared by	Development Assessment Planner		

Recommendation	That the application be approved in accordance with the conditions included in this report.
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Summary of matters for consideration under Section 4.15 Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	Yes
Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied	Yes

about a particular matter been listed and relevant recommendations summarised, in the Executive Summary of the assessment report?	
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Not Applicable
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (under s7.24)?	Not Applicable
Conditions Have draft conditions been provided to the applicant for comment?	Yes – the applicant has reviewed the conditions

Site Plan



Figure 1: Aerial view of subject site outlined in blue

Executive Summary

Proposal

1. Development consent is sought for the demolition of existing structures and construction of a two (2) storey boarding house comprising of ten (10) self-contained rooms, one (1) being the Manager's Room over a basement car park for six (6) vehicles.

Site and Locality

2. The subject site is a rectangular shaped allotment located on the south eastern side of Victoria Avenue, Mortdale. The site has a frontage of 15.24m and a site area of 615.8sqm. The local area is characterised by single and two (2) storey dwelling houses and dual occupancies. The site is in close proximity to a business zone being the Mortdale Town Centre which contains a range of business and commercial uses.

Zoning and Permissibility

3. The site is zoned R2 - Low Density Residential under the provisions of Hurstville Local Environmental Plan 2012 (HLEP 2012). Boarding houses are permitted with consent.

Submissions

4. The application was notified in accordance with Hurstville Development Control Plan No 1, seven (7) individual submissions were received objecting to the application. The issues raised are summarised below:

- Amenity to neighbours;
- Overdevelopment;
- Car parking;
- Scale of development;
- Adverse impact to the local community;
- Devaluation of properties within the vicinity;
- Crime and Security;
- Privacy; and
- Solar amenity and landscaping.

Conclusion

5. Having regard to the matters for consideration under section 4.15(1) of the Environmental Planning and Assessment Act 1979 and following a detailed assessment, the proposed Development Application (DA2019/0257) is recommended for approval subject to conditions for the reasons contained within this report.

**Report in Full
Proposal**

6. Development consent is sought for the demolition of the existing structures and construction of a two (2) storey boarding house development comprising ten (10) self-contained rooms and a basement car park for six (6) vehicles. The ten (10) self-contained rooms are comprised of one (1) manager's room, and nine (9) double lodgers' rooms; of which two (2) are accessible. The total capacity is therefore eighteen (18) lodgers plus one (1) boarding house manager.
7. Further details of the proposed development are as follows:

DEMOLITION AND EXCAVATION

- Demolition of the existing single storey commercial building containing two (2) tenancies together with a detached garage and carport.
- Excavation to accommodate the basement car park.

CONSTRUCTION

- Basement layout:
 - Construction of a basement car park for six (6) vehicles one of which is an accessible space.
 - Accommodation for two (2) motorcycle spaces and two (2) bicycle spaces.
 - Garbage room.
 - Two (2) egress stairs and lift connecting to upper levels.
 - Vehicular access from a new vehicle crossover located to the north eastern side of the allotment.
- Ground floor layout:

- Entry foyer providing lift and stair access.
 - Provision of six (6) self-contained double lodger boarding rooms one (1) nominated as an accessible room.
 - The common room which provides access to the communal terrace area.
 - Common open space area at the rear.
 - Ancillary landscape works.
- First floor layout:
 - Provision of four (4) self-contained double lodger boarding rooms one (1) nominated as an accessible room.
 - Manager's room also being self-contained and associated open space provided via a balcony.

Note: The rear balconies along the first floor are not sported and a condition for their removal has been imposed.

 - Lift, stairs and storage area.

Note: Each room is self-contained with a kitchen, bathroom, and a living and sleeping area.

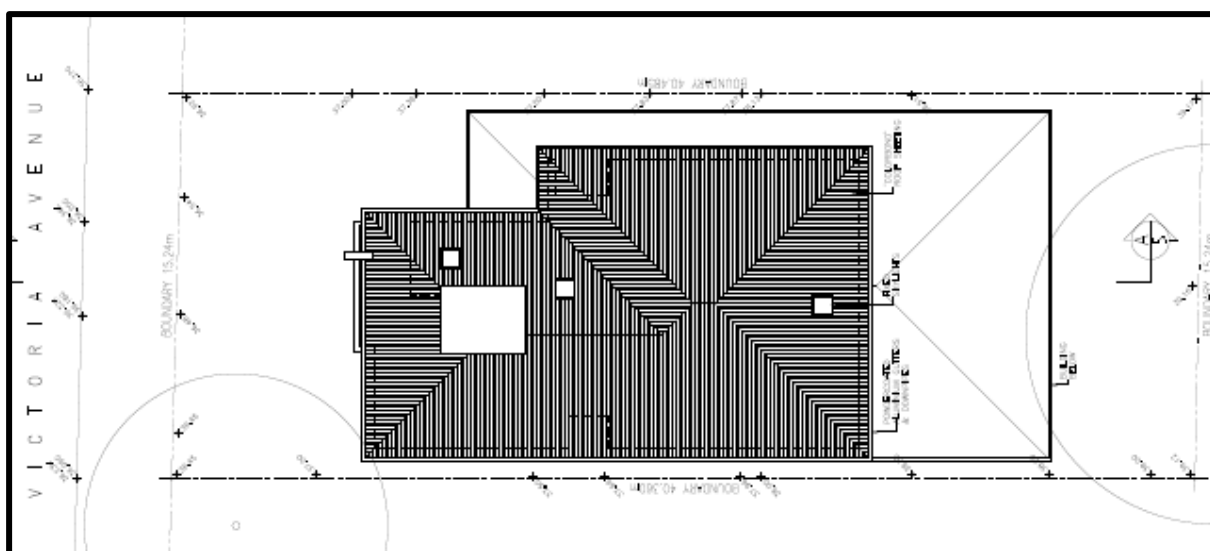


Figure 2: Proposed site plan - 111 Victoria Avenue Mortdale (Source: Cornerstone Design 2019)

The Site and Locality

8. The site is identified as Lot 5, Section 3, DP2778 being 111 Victoria Avenue Mortdale. The site is situated on the south eastern side of Victoria Avenue with a street frontage of 15.24m, site lengths of 40.360m (south west) and 40.485m (north east) with an overall site area of 615.8sqm (by DP). The allotment is regular in shape presenting a slight fall from the rear of the site towards the street edge along Victoria Avenue.
9. The site currently accommodates a single storey rendered building occupied by two retail shops. A detached aluminium clad garage and carport are located to the rear of the site. The site is void of any significant vegetation.
10. The subject site is located within a residential area that is predominantly characterised by detached one and two storey dwellings including commercial/retail uses interspersed with residential flat buildings as identified along the north eastern side of Morts Road.

11. Immediately adjoining the site to the north east is a single storey dwelling with detached outbuilding and vinyl clad garage located along the common boundary. Adjoining the site to the south west is a single storey metal/clad community hall.
12. Opposite the subject site, along the north western side of Victoria Avenue, are a number of detached houses and shop top housing developments.
13. In the wider context, the subject site is located approximately 15m from a B2 Local Centre Zone being the Mortdale Town Centre, and approximately 120m from an R3 Medium Density Residential Zone. The site is approximately 290m from Mortdale Train Station (being the T4- Eastern Suburbs and Illawarra Train Line).



Figure 3: Streetscape view of 111 Victoria Avenue Mortdale

Background

14. A development application being DA2019/0207 was lodged for similar works as the current application, however it was rejected by Council for the following reasons:
 - Swept path to be provided for car parking space number 6.
 - It may be required that the basement rear facade be increased in depth to accommodate a 3 point turn to accommodate car parking park number 6.
Note: Concern is however raised that the increased in basement depth may intrude on the Tree Protection Zone.
 - Elevational shadow diagrams are to be submitted to demonstrate solar amenity compliance in accordance with the SEPP.
 - It is suggested that hourly interval shadow diagrams be submitted demonstrating solar amenity compliance to the common room, common area terrace and rear common space.
 - The ground floor balcony attached to the front facade with access from the manager's room is inconsistent with requirements of the SEPP. It is suggested that a potential redesign be considered addressing the provisions of the SEPP.
 - Concern is also raised with insufficient natural ventilation to the basement. With this it raises issues with setbacks to the boundaries against the deemed to satisfy provisions of the BCA. Please provide a services plan with consideration to acoustic measures.

15. The proposal the subject of this application has had regard to the reasons for rejection.

Compliance and Assessment

16. The development site has been inspected and assessed having regard to Matters for Consideration under Section 4.15(1) of the Environmental Planning and Assessment Act 1979.

STATE ENVIRONMENTAL PLANNING INSTRUMENTS

17. Compliance with the relevant State Environmental Planning Policies (SEPP) is detailed below.

STATE ENVIRONMENTAL PLANNING POLICY (AFFORDABLE RENTAL HOUSING) 2009

18. The application is designed having regard to the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP) and as such the provisions of Division 3 relating to Boarding Houses are applicable to the application.

Division 3 Boarding Houses

Clause 25 - 28 Development to which this Division applies

19. The subject site is located in the R2 Low Density Residential Zone, and boarding houses are permissible with consent under the Hurstville Local Environmental Plan 2012 (HLEP). The site satisfies the provisions of Clause 27 of the ARH SEPP 2009 which states the following:

'27 Development to which Division applies

- (1) This Division applies to development, on land to which this Division applies, for the purposes of boarding houses.*
- (2) Despite subclause (1), this Division does not apply to development on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone in the Sydney region unless the land is within an accessible area.*
- (3) Despite subclause (1), this Division does not apply to development on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone that is not in the Sydney region unless all or part of the development is within 400 metres walking distance of land within Zone B2 Local Centre or Zone B4 Mixed Use or within a land use zone that is equivalent to any of those zones.'*

20. The site is located in the Sydney region and therefore must be located in an accessible area for the division to apply. An accessible area is defined by Clause 4 of State Environmental Planning Policy (Affordable Rental Housing) 2009 as follows:

'accessible area means land that is within:

- (a) 800m walking distance of a public entrance to a railway station or a wharf from which a Sydney Ferries ferry service operates, or***
- (b) 400m walking distance of a public entrance to a light rail station or, in the case of a light rail station with no entrance, 400 metres walking distance of a platform of the light rail station, or*
- (c) 400m walking distance of a bus stop used by a regular bus service (within the meaning of the [Passenger Transport Act 1990](#)) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.'*

21. By virtue of the definition, the subject site at 111 Victoria Avenue Mortdale satisfies the requirements of an accessible area under Clause 4(a), as the site is located within 290m from the public entrance to a railway station being Mortdale Station.

Clause 29 - Standards that cannot be used to refuse consent

22. Council cannot refuse a development application for a boarding house under the Affordable Rental Housing SEPP 2009 for the following reasons if the proposal meets the criterion below.

Clause 29	Standards	Proposal	Complies
Floor Space Ratio - If Residential accommodation is permitted	If the density and scale of the buildings when expressed as a FSR is not more than the existing maximum FSR for any form of residential accommodation permitted (0.6:1 under HLEP 2012).	0.60:1	Yes
Height	If the building height is not more than the maximum height permitted under another EPI for any building on the land: Maximum 9m in R2 under the HLEP 2012.	8.15m	Yes
Landscape Area	The landscape treatment of the front setback area is compatible with the streetscape in which the building is located.	The front setback is appropriately landscaped consistent with the emerging streetscape character of Victoria Avenue where it serves to provide a suitable balance between built form and landscaped elements along this frontage.	Yes
Solar Access	Where the development provides for one or more communal living rooms, if at least one of those rooms receives minimum of 3 hours direct sunlight between 9am and 3pm in midwinter.	The communal room is located at the rear along the north eastern façade of the building. The shadow diagrams submitted have demonstrated the communal living room will receive in excess of 3 hours of sunlight during midwinter.	Yes
Private Open Space (other than the	If a minimum of the following is provided: (i) one area of at least	20sqm area is provided	Yes

front setback area)	20sqm with a minimum dimension of 3m is provided for the use of the lodgers	in the form of the communal terrace at the rear of the building with a minimum dimension of 3.0m. The area is accessible to all residents.	
	(ii) if accommodation is provided on-site for a boarding house manager—one area of at least 8sqm with a minimum dimension of 2.5m is provided adjacent to that accommodation	The Manager's room is located on the first floor facing Victoria Avenue and provides a 10sqm balcony with dimensions less than 2.5m.	Acceptable on merit. Please refer to comment (1)
<p><u>Comment (1) - Dimensions of private open space area for manager room</u></p> <p>The SEPP references the minimum dimension of the private open space area for the manager's room to be 2.5m with a total area of at least 8sqm. This criterion is not a development standard as per Clause 30 of the SEPP, but rather a standard that cannot be used to refuse a development.</p> <p>Albeit a non-compliance with the dimensions, and as per Clause 29 (4), "<i>A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (1) or (2).</i>"</p> <p>The private open space provided exceeds the 8sqm requirement, however is irregular in shape therefore not achieving 2.5m in each direction. It is however considered that the space and the dimensions provided are acceptable and will provide a usable and function space for the occupant.</p> <p>The private open space is considered acceptable on merit.</p>			
Parking	<p>(ii) in the case of development not carried out by or on behalf of a social housing provider—at least 0.5 parking spaces are provided for each boarding room,</p> <p>(iii) in the case of any development—not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site</p>	<p>In this case: 9 lodger rooms x 0.5 car space = 4.5 car spaces required, 5 car spaces have been provided.</p> <p>1 space is nominated for the manager (space 6).</p>	Yes
Accommodation size	Each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen		

	or bathroom facilities) of at least:		
	(i) 12sqm in the case of a boarding room intended to be used by a single lodger, or	No single lodger rooms proposed.	N/A
	(ii) 16sqm in any other case	All rooms are a minimum of 16sqm excluding the kitchen facilities and bathrooms.	Yes

LPP024-20

Clause 30 - Standards for Boarding Houses

23. A consent authority must not consent to development for boarding houses unless it is satisfied of each of the following.

Clause 30	Standards	Proposal	Complies
Communal living	(a) if a boarding house has 5 or more boarding rooms, at least one communal living room will be provided	9 rooms proposed - one communal living room provided.	Yes
Size of boarding rooms	(b) no boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25sqm	Rooms range between 16sqm – 18.06sqm (excluding area of bathrooms and kitchens).	Yes
Maximum occupancy	(c) no boarding room will be occupied by more than 2 adult lodgers	Maximum 2 adult lodgers per room proposed	Yes
Kitchen and bathroom facilities	(d) adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger	All rooms have kitchen and bathroom facilities.	Yes
Boarding house manager	(e) if the boarding house has capacity to accommodate 20 or more lodgers, a boarding room or on site dwelling will be provided for a boarding house manager	Although the boarding house has a capacity of less than 20 people, a self nominated manager's room has been provided on the first floor.	Yes
Bicycle and motor cycle space	(h) at least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms.	In this case 9 boarding rooms provided: 1.8 motorcycle and 1.8 bicycle spaces required. 2 of each have been provided.	Yes

30AA Boarding houses in Zone R2 Low Density Residential

24. Clause 30AA states that:

A consent authority must not grant development consent to a boarding house on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone unless it is satisfied that the boarding house has no more than 12 boarding rooms.

25. The proposed boarding house is located in an R2 Low Density Residential zone and consists of nine (9) boarding rooms in addition to one (1) manager's room.

Clause 30A – Character of local area

26. Clause 30A states that Council cannot grant consent to a boarding house unless it has taken into consideration whether the design of the development is compatible with the character of the local area.

Case law has held that the test in Clause 30A is “one of compatibility not sameness” (Gow v Warringah Council [2013] NSWLEC 1093 (15 March 2013)). Compatibility is widely accepted to mean “capable of existing together in harmony” (Project Venture Developments Pty Ltd v Pittwater Council [2005] NSWLEC 191).

27. It has also been held that in assessing ‘compatibility’ both the existing and future character of the local area needs to be taken into account (Sales Search Pty Ltd v The Hills Shire Council [2013] NSWLEC 1052 (2 April 2013) and Revelop Projects Pty Ltd v Parramatta City Council [2013] NSWLEC 1029).

Relationship to the Existing and Future Character of the Local Area

28. In Revelop Projects Pty Ltd v Parramatta City Council [2013] NSW LEC 1029, Commissioner Morris concluded that the ‘local area’ includes both sides of the street and the ‘visual catchment’ as the minimum area to be considered in determining compatibility.
29. The ‘local area’ in this case is taken to include both sides of Victoria Avenue and the immediate surrounding streets. Within this local area, development is primarily characterised by single and double storey dwelling houses in addition to shop top housing, with business and commercial premises located west of the subject site.
30. In Project Venture Developments v Pittwater Council [2005] NSWLEC 191 the Land and Environment Court specifically set out a relevant planning principle. Consideration has therefore been given to the two key questions identified in the Land and Environment Court Planning Principles:

***(a) Are the proposal's physical impacts on surrounding development acceptable?
The physical impacts include constraints on the development potential of surrounding sites.***

31. Comment: It is acknowledged this development typology is permissible in this zone and the transition of this location from single storey residential developments to increased density in the form of large two (2) storey dwelling houses, multi-unit housing and two (2) commercial development is evident within the visual catchment.
32. The proposal in its current form is considered to result in a built form that is consistent with recently constructed two (2) storey developments along Victoria Avenue, in that it is a (2) two storey boarding house with a pitched roof design constructed on a single allotment with setbacks, height and gross floor area consistent with the development in the locality.

33. The proposal adopts traditional architectural form and materiality. The development includes pitched roof elements with a colourbond roof and face brickwork which is consistent with surrounding development.
34. The landscape setting to the street frontage again is not dissimilar to what can be found in the surrounding area. The provision of basement parking allows for landscaping areas to be provided throughout the development; as opposed to aboveground hardstand parking. The proposed building is of a scale, height and overall bulk that will generally maintain consistency with the established pattern of development in the streetscape.
35. For the reasons stated above, it is considered that the proposed development would not result in an unreasonable impact upon surrounding residential development and would not constrain the development potential of adjoining sites.

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

36. Comment: The existing streetscape is characterised by single and two (2) storey detached dwellings, in addition to shop top housing, and commercial premises located to the west of the subject site. Pitched tiled roof forms are common and can be found on the majority of dwellings. This development proposes a pitched roof form that is consistent with that of the locality.
37. In relation to the side facades, the north eastern and south western side elevations provide for adequate articulation and appropriate architectural relief. All windows along the side facades have been raised and treated to address overlooking impacts accordingly. A condition of consent has required that the rear first floor balconies be deleted to reduce any privacy and overlooking impacts.
38. With the absence of a statement of desired future character in the DCP, the bulk and scale of development is derived by the applicable development standards contained within the Hurstville Local Environmental Plan that permit a particular built form. The proposed height and floor space is consistent with the development on the R2 – Low Density Zone and the setbacks proposed are consistent with residential development. The built form is therefore considered to be of an appropriate scale and character within the streetscape.

Comparison Table

39. The character of an area is not only defined by what is physically existing on the adjoining allotments, but also what is permitted under the planning controls which apply at the time. The proposal adopts a built form commensurate with that of a two storey dwelling house.
40. Whilst Council does not have prescribed controls for the built form of boarding houses, as a “best fit” in consideration of the Character Test, the proposal has been considered against the provisions Section 4.1 Single Dwelling Houses of Development Control Plan No 1 – LGA Wide below.

Control	Single Dwelling	Proposal
Height	9m	8.15m
Maximum ceiling height	7.2m	6.8m
Floor Space Ratio	0.6:1 (0.55:1 for dwelling house only)	0.6:1

Landscape (minimum 2m x 2m)	20%	15% or 95sqm (minimum 2m x 2m)
<u>Setbacks:</u> <u>Front</u>	4.5m	6.9m
<u>Rear setback:</u> Ground	3m	6m
First	6m	13.5
<u>Side setback:</u> Ground	900mm	North East – 1.2m South West - 1.2m
First	1.2m	North East – 2.603m South West - 1.2m

LPP024-20

41. As demonstrated by the above table, the proposed development observes key controls comparable with that of a single two (2) storey dwelling house resulting in the built form being consistent with the existing character and not inconsistent with the future character given the Draft Local Environmental Plan 2020 retains the current zoning, height and floor space controls.
42. Assessing 'compatibility' requires both the existing and future character of the local area to be taken into account (*Sales Search Pty Ltd v The Hills Shire Council* [2013] NSWLEC 1052 and *Revelop Projects Pty Ltd v Parramatta City Council* [2013] NSWLEC 1029). It is acknowledged that there are sites within the Victoria Avenue streetscape that are yet to reach their development potential. However, given the proposed development has been designed in accordance to what may be considered an acceptable setback and separation from neighbouring developments, the design and streetscape presentation of future development on adjoining sites is likely to resemble that of the proposed development.

STATE ENVIRONMENTAL PLANNING POLICY NO 55 – REMEDIATION OF LAND

43. The subject site is zoned residential and, given the types of uses permissible within the residential zones, it is considered unlikely that the land is contaminated. A Preliminary Site Investigation Report prepared by Alliance Geotechnical (reference 8709-ER-1-1 dated 28 March 2019) submitted concluded that the presence of contaminants and the risk of contamination are low and that the site is suitable for the proposed development. In addition, based on Council's records, the subject site has not been used for any potentially contaminating activities. As such, it is considered unlikely that the land is contaminated.

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

44. A BASIX Certificate is required to be lodged for any residential development application in NSW. BASIX Certificate 1004285M dated 29 May 2019 prepared by Building and Energy Consultants Australia was lodged to confirm that the proposed development satisfies the sustainability requirements.

STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007

45. The aim of the Infrastructure SEPP is to facilitate the effective delivery of infrastructure across the State. The DA was referred to Ausgrid in accordance with Clause 45 of State Environmental Planning Policy (Infrastructure) 2007. Ausgrid advised there are no issues with the proposal and no conditions recommended

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

46. The Vegetation SEPP regulates clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent.
47. 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).
48. 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.
49. 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).
50. No trees or significant vegetation are proposed for removal. All neighbouring trees will be required to be protected during construction works. The application was referred to Council's Consulting Arborist who supported the application subject to specific landscape conditions and the planting of two trees within Council's landscape verge adjacent to the site.

DEEMED STATE ENVIRONMENTAL PLANNING POLICY – GEORGES RIVER CATCHMENT

51. 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 Environmental Planning Instruments

DRAFT ENVIRONMENTAL STATE ENVIRONMENTAL PLANNING POLICY

52. The Draft Environment SEPP was exhibited from 31 October 2017 to 31 January 2018. This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland and Willandra Lakes World Heritage Property. Changes proposed include consolidating the following seven existing SEPPs:
 - State Environmental Planning Policy No. 19 – Bushland in Urban Areas
 - State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011
 - State Environmental Planning Policy No. 50 – Canal Estate Development
 - Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment
 - Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No.2-1997)
 - Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
 - Willandra Lakes Regional Environmental Plan No. 1 – World Heritage Property.
53. The proposal is not inconsistent with the provisions of this Draft Instrument.

DRAFT REMEDIATION OF LAND STATE ENVIRONMENTAL PLANNING POLICY

54. The Draft Remediation of Land SEPP was exhibited from 31 January 2018 to 13 April 2018. The proposed remediation of land SEPP will:

- Provide a state-wide planning framework for the remediation of land;
- Maintain the objectives and reinforce those aspects of the existing framework that have worked well;
- Require planning authorities to consider the potential for land to be contaminated when determining development applications and rezoning land;
- Clearly list the remediation works that require development consent;
- Introduce certification and operational requirements for remediation works that can be undertaken without development consent.

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

HURSTVILLE LOCAL ENVIRONMENTAL PLAN 2012

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

57. The allotment is zoned R2 – Low Density Residential Zone, a boarding house is permissible with consent.

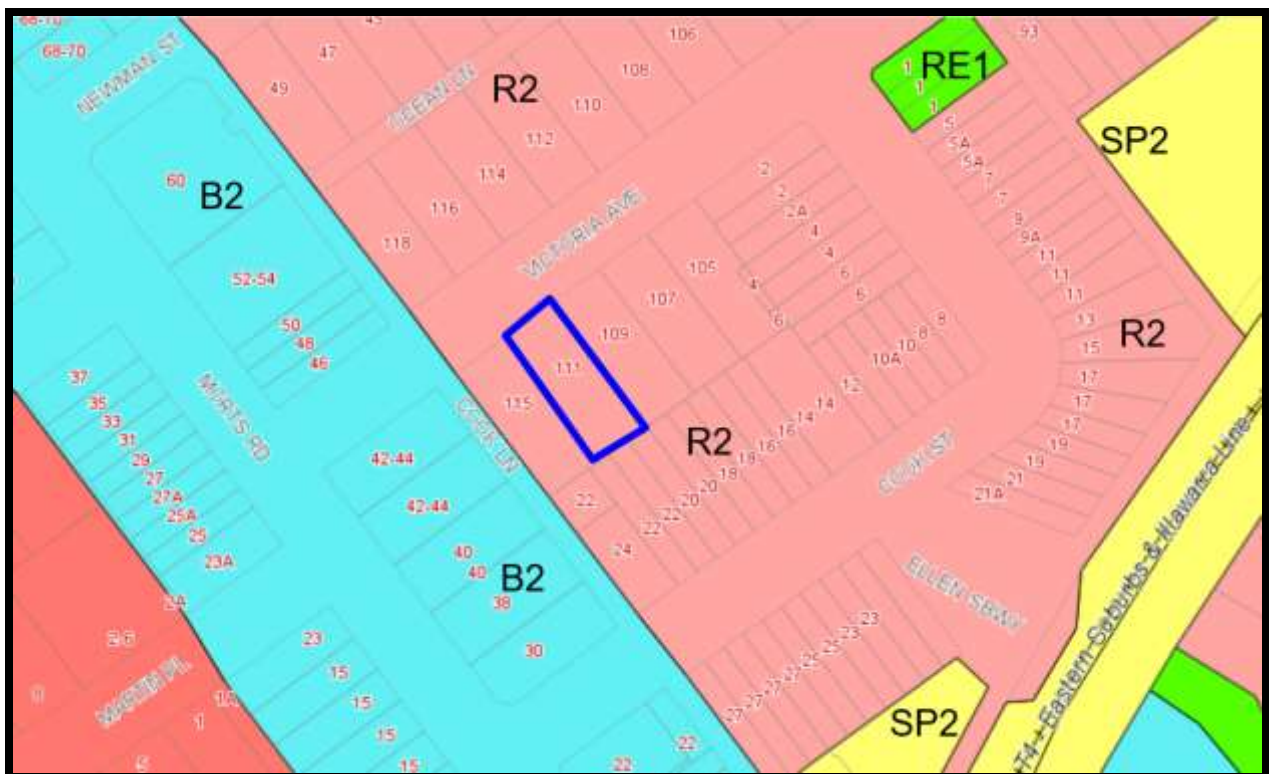


Figure 4: Zoning Map – site outlined in blue

Clause	Standard	Proposed	Complies
Part 1 Preliminary			
1.2 – Aims of the Plan	In accordance with Clause 1.2 (2)	The development is consistent with the aims of the plan.	Yes
1.4 - Definitions	Boarding House: <i>means a building that:</i>	The proposed development	Yes

	<p><i>(a) is wholly or partly let in lodgings, and</i></p> <p><i>(b) provides lodgers with a principal place of residence for 3 months or more, and</i></p> <p><i>(c) may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and</i></p> <p><i>(d) has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers, but does not include backpackers' accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment.</i></p>	is consistent with the definition.	
Part 2 Permitted or prohibited development			
2.3 - Zone objectives and Land Use Table	<p>Meets objectives of R2-Low Density Residential Zone:</p> <p>Development must be permissible with consent and satisfy the below objectives:</p> <ul style="list-style-type: none"> <i>To provide for the housing needs of the community within a low density residential environment.</i> <i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i> <i>To encourage development of sites for a range of housing types, where such development does not compromise the amenity of the surrounding area, or the natural or cultural heritage of the area.</i> 	The proposal satisfies the objectives of the R2 zone and is permissible with development consent.	Yes

	<ul style="list-style-type: none"> To ensure that a high level of residential amenity is achieved and maintained. To encourage greater visual amenity through maintaining and enhancing landscaping as a major element in the residential environment. To provide for a range of home business activities where such activities are not likely to adversely affect the surrounding residential amenity. 		
Part 4 Principal development standards			
4.3 – Height of Buildings	9m as identified on Height of Buildings Map	8.15m	Yes
4.4 – Floor Space Ratio	0.6:1 as identified on Floor Space Ratio Map	0.60:1 or 367.48sqm Site area: 615.8sqm.	Yes
Part 5 Miscellaneous provisions			
5.10 – Heritage conservation	In accordance with Clause 5.10 (1)	The site is not a heritage item and not located within the vicinity of any heritage items. The site is not in a heritage conservation area.	Yes
Part 6 Additional local provisions			
6.1 – Acid sulfate soils	(1) The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.	Site has not been identified as located in an area containing Acid Sulfate Soils as per the LEP maps.	Yes
6.7 – Essential Services	<p>The following services that are essential for the development shall be available or that adequate arrangements must be made available when required:</p> <ul style="list-style-type: none"> Supply of water, electricity and disposal and management of sewerage 	<ul style="list-style-type: none"> Adequate facilities for the supply of water and removal of sewage is available to the site and can be extended to 	Yes

		service this development.	
	- Stormwater drainage or on-site conservation	- Stormwater can drain via gravity to the street.	Yes
	- Suitable vehicular access	- New 3.6m wide driveway crossing to the site from Victoria Avenue (standard conditions for the submission of a separate vehicular crossing applications and driveway design have been imposed)	Yes

LPP024-20

DRAFT GEORGES RIVER LOCAL ENVIRONMENTAL PLAN 2020

58. Consideration is given to the provisions of Draft Georges River Local Environmental Plan 2020 in the assessment this application.
59. In this regard, the provisions have no determining weight as a result of proposed operation of Clause “1.8A Savings provisions relating to development applications” of the Draft Plan which provides “*If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.*”

DEVELOPMENT CONTROL PLANS

60. The proposal has been assessed under the relevant sections of Development Control Plan No 1 (Amendment No 7) (DCP) as follows.

DEVELOPMENT CONTROL PLAN NO 1 - LGA WIDE – SECTION 3.1 VEHICLE ACCESS, PARKING AND MANOEUVRING

61. The DCP requires parking to be required at a rate of one (1) space per three (3) beds plus one (1) space per two (2) employees. As the development proposes nine (9) beds in addition to one (1) manager room, 4.3 (rounded to 5) car spaces are required to be provided.
62. The proposal provides six (6) car spaces, two (2) motorcycle spaces, and two (2) bicycle spaces, satisfying the car parking requirements of the DCP.
63. The design and layout of the parking area is consistent with the objectives of Section 3.1 of the DCP and the relevant Australian Standards.

DEVELOPMENT CONTROL PLAN NO 1 – LGA WIDE – SECTION 3.3 ACCESS AND MOBILITY

64. Section 3.3 requires that one (1) accessible room be provided per five (5) bedrooms or part thereof. As the proposed development accommodates nine (9) bedrooms, two (2) accessible rooms are required. The development provides two (2) accessible rooms accessed via a lift from the public domain and a lift from the basement level. One (1)

accessible car parking spaces has been provided in accordance to Table 1 DS1.1 of Section 3.3.

DEVELOPMENT CONTROL PLAN NO 1 – LGA WIDE – SECTION 3.4 CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

65. The proposal has been considered in accordance with the relevant provisions. The proposal allows opportunities for passive and casual surveillance to and from the street. The Plan of Management provided will form part of the development consent conditions if the application is to be supported and covers acceptable behaviour protocols of boarders and visitors.

DEVELOPMENT CONTROL PLAN NO 1 – LGA WIDE – SECTION 3.5 LANDSCAPING

66. A detailed landscape plan was submitted with the application and was assessed by Council's Consulting Arborist. Specific conditions of consent have been imposed requiring specific landscape provisions in addition to the planting of two (2) street trees.

DEVELOPMENT CONTROL PLAN NO 1 – LGA WIDE – SECTION 3.7 STORMWATER

67. The development can drain to the street via gravity. Appropriate conditions of consent relating to stormwater and onsite detention (OSD) have been imposed based on the recommendations of Council's stormwater engineer.

DEVELOPMENT CONTROL PLAN NO 1 – LGA WIDE – SECTION 4.1 – SECTION 4.6 SPECIFIC CONTROLS FOR RESIDENTIAL DEVELOPMENT

68. It is noted that, pursuant to Clause 8 of State Environmental Planning Policy (Affordable Rental Housing) 2009, the provisions of the State Environmental Planning Policy prevail to the extent of any inconsistency with any other planning instrument. Council's DCP does not contain any specific controls for boarding house development. The proposal has been considered against the provisions relating to dwelling houses in order to establish whether the design of the development is compatible with the character of the local area.

DEVELOPMENT CONTROL PLAN NO 1 – LGA WIDE - APPENDIX 1 - SECTION 7 WASTE MANAGEMENT

69. A Waste Management Plan has been submitted with the application which is acceptable. Should consent be granted, conditions requiring the provision of appropriate waste facilities for the ongoing use of the development will be imposed.

DEVELOPMENT CONTROL PLAN NO 1 – LGA WIDE - APPENDIX 1 - SECTION 8 ENERGY EFFICIENCY

70. The application is accompanied by a BASIX Certificate which identifies that the development meets the target scores.

71. In terms of overshadowing, shadow diagrams submitted with the application show that the proposed development will comply with the State Environmental Planning Policy Affordable Rental Housing 2009 (ARH SEPP) solar access requirements. The ARH SEPP 2009 requires that the communal room of a boarding house receives minimum of 3 hours direct sunlight between 9.00am and 3.00pm in mid-winter. This control has been satisfied as the communal room includes windows along the northern facade to maximise solar access. The shadow diagrams show that most of the shadow cast will be predominantly in the morning hours when the sun is low on the horizon. The impacted property; in this case being 113 Victoria Avenue, will receive the required sunlight from 12.00pm onwards.

DEVELOPMENT CONTROL PLAN NO 1 – LGA WIDE - APPENDIX 1 - SECTION 9 PRESERVATION OF TREES AND VEGETATION

72. No trees or significant vegetation are proposed for removal. All neighbouring trees will be required to be protected during construction works. The application was referred to Council's Consulting Arborist who supported the application subject to specific landscape conditions and the planting of two (2) trees within Council's landscape verge within the frontage to the site.

GEORGES RIVER DEVELOPMENT CONTROL PLAN 2020 (INTERIM POLICY)

73. The Interim Policy is a supplementary document, meaning that the current Development Control Plan controls continue to apply if a particular control is not specified in the Interim Policy, or if it is still considered best practice. All operative Development Control Plans still legally apply. Whilst the Interim Policy has no statutory recognition in the assessment of a Development Applications pursuant to the Environmental Planning and Assessment Act 1979, the policy was used as a guide as it is an endorsed position of the Council.
74. In relation to the proposed boarding house, the proposal does not conflict with the controls of the Interim Policy Development Control Plan.

IMPACTS

Natural Environment

75. The proposal does not seek to remove any significant trees and conditions are recommended for the protection of neighbouring trees on the adjoining properties. The development provides sufficient area for landscaping and a condition is also recommended for the planting of two (2) street trees along Council's nature strip.
76. The proposal seeks to drain to the street which is consistent with Council's requirements and a requirement for OSD is also recommended as a condition of consent.
77. The development will not result in any significant adverse impacts on the natural environment.

Built Environment

78. The built form of the proposed development is of a bulk and scale that is consistent with contemporary dwelling houses in the locality. Further, the pitched roof design of the proposed boarding house is similar to recently completed dwelling houses in close proximity to the site. The proposal is complimentary to the existing character of the streetscape and representative of the low density residential nature of the area.
79. Shadow diagrams for the proposed development accompanying the development application indicate shadow cast by the proposed development at 9am, 12 noon and 3pm on the winter solstice (21 June) demonstrate that the shadow falls towards the building adjoining the site to the south west at 9am, with the extent of shadow only marginally impacting the building by 12noon. By 3pm the extent of shadow cast falls largely over the rear of the subject site. On this basis, it is reasonable to suggest that the overshadowing associated with the proposed development is acceptable.

Social Impact

80. The proposal is not considered to result in any adverse social impact. The proposal meets the requirements of State Environmental Planning Policy (Affordable Rental Housing) 2009 and provides an affordable housing option for the community. A Plan of Management has provide, reviewed and is considered as acceptable. The Plan of Management is conditioned to be complied with as part of the development consent.

Economic Impact

81. The proposal is not considered to result in unreasonable material economic impact given that the boarding house provides affordable housing opportunities within the locality.

Suitability of the Site

82. The site is zoned R2 – Low Density Residential, a boarding house not exceeding 12 rooms is a permissible form of development in this zone. It is considered the proposal will not result in an adverse impact on the adjoining properties or the streetscape. The proposal is considered to be a suitable form of development.

SUBMISSIONS, REFERRALS AND THE PUBLIC INTEREST

83. The application was notified to adjoining residents for a fourteen (14) day period in which to view the plans and submit any comments on the proposal. Seven (7) individual submissions were received objecting to the development. The issues raised are discussed below.

Amenity to neighbours

84. The proposed boarding house will result in adverse impact to the amenity of the neighbourhood.
85. Officer Comment: With reference to the ARH SEPP 2009, a manager for a boarding house is required only if the house will service for 20 or more lodgers. As the proposed boarding house includes 9 boarding rooms (18 lodgers), the requirement of a boarding house manager is not mandated. The applicants however have opted to provide an onsite manager to oversee the functioning of the boarding house.
86. The presence of the boarding house manager will ensure that the boarders comply with their lease arrangements to reduce any adverse impacts on the amenity of adjoining properties and the neighbourhood. The boarding house will be required to operate in accordance with the Plan of Management which will be approved as a condition of consent.

Overdevelopment, size and scale of development

87. The proposed development is considered an overdevelopment, and concerns were raised as to the size and scale of the development.
88. Officer Comment: As discussed throughout this report, the proposed development has been designed to largely comply with the State Environmental Planning Policy (Affordable Rental Housing) 2009 requirements, noting the minor non-compliance with the dimensions of the private open space for the Site Manager. The Hurstville Local Environmental Plan 2012 nominates a building height control of 9m for the site and a floor space ratio control of 0.6:1 for residential development, notwithstanding a dwelling having an FSR of 0.55:1. The development complies with the aforementioned development standards and the boarding house criterion with the ARH SEPP 2009. The setbacks provided are consistent with the dwelling house criterion of the Hurstville Development Control Plan providing symmetry within the streetscape. The proposal is a permissible use and has been designed in accordance with the relevant controls; as a result the proposal is not considered an overdevelopment of the site, but consistent with the permitted scale and form of the planning controls.
89. The built form of the proposed development is of a bulk and scale that is consistent with contemporary dwelling houses in the locality. Further, the pitched roof design of the proposed boarding house is similar to recently completed dwelling houses in close

proximity to the site. The proposal is complimentary to the existing character of the streetscape and representative of the low density residential nature of the area.

Car parking

90. Insufficient parking and traffic along the street is already congested.
91. Officer Comment: Clause 29(2)(e)(ia) of State Environmental Planning Policy (Affordable Rental Housing) 2009 requires that in the case of development not carried out by or on behalf of a social housing provider that at least 0.5 parking spaces are provided for each boarding room. Accordingly as 9 boarding rooms are proposed, 5 car spaces have been provided. Clause 29(2)(e)(iii) of SEPP (Affordable Rental Housing) 2009 further states that in the case of any development – not more than one (1) parking space is provided for each person employed in connection with the development and who is a resident on site. The proposal provides for one (1) on site manager who is provided with a nominated car space.
92. In addition to providing the required car parking ratios in relation to the State Environmental Planning Policy, the development also provides the required car parking required by the Hurstville Development Control Plan.

Adverse impact to the local community

93. The proposed development will result in adverse impact on the local community.
94. Officer Comment: The boarding house proposes a manager, although not mandated given there are only 18 lodgers. The boarding house manager will ensure the tenants conduct themselves in accordance with their lease arrangements and the plan of management.
95. Any noise related issues of the property or any criminal related issues will be subject to the same legal enforcement as that of a dwelling house.
96. The Plan of Management will include a complaints register which will ensure that all adverse issues are recorded and can be accordingly resolved without unnecessary impact to the community.
97. All lodgers will be subject to a lease arrangement, which can be terminated at any time if the residents do not conduct themselves in accordance with the leasing criterion.

Privacy

98. Windows and rear balconies have the potential to overlook into neighbouring properties.
99. Officer Comment: The proposal has provided highlight and frosted windows to all living area windows along the first floor side facades. Although the plans have been amended to provide privacy screening for the rear balconies, as they are not a requirement for boarding houses and as they may result in adverse privacy impacts a condition of consent will be imposed for their removal and replacement with a window.

Devaluation of properties within vicinity

100. The proposed development will result in devaluation of adjoining sites.
101. Officer Comment: Property valuations are not a matter for consideration under the provisions of the Environmental Planning and Assessment Act 1979.

Crime and Security

102. Safety for neighbours, and security issues arising from future residents of the boarding house.
103. Officer Comment: The manager of the boarding house will reside on the premises. An ongoing Plan of Management for the boarding house details the house rules and the roles and responsibilities of the onsite manager. All lodgers will be subject to a lease arrangement, which can be terminated at any time if the residents do not conduct themselves in accordance with the leasing criterion.

Solar amenity and landscaping

104. Solar amenity and overshadowing due to landscaping within rear yard.
105. Officer Comment: The development as proposed complies with State Environment Planning Policy (Affordable Rental Housing) 2009 solar access requirement which requires that the communal room of a boarding house receives minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter. This control has been satisfied as the communal room includes windows along the northern facade to maximise solar access, in addition the shadow diagrams submitted show that overshadowing to 113 Victoria Avenue located south west of the site will be predominantly in the morning hours when the sun is low on the horizon. It is noted that the shadow cast by vegetation and trees cannot be considered within the assessment of overshadowing and solar access as per *Parsonage v Ku-ring-gai [2004] NSWLEC 347; (2004) 139 LGERA 354*. The reasoning is that trees and vegetation (unless vegetation is in the form of a dense hedge forming a fence) still allow for filtered solar access and ventilation.

Council Referrals

Team Leader - Subdivision and Development (Stormwater and Subdivision)

106. No objections were raised, and specific conditions of consent have been recommended and included in the conditions referenced at the end of this report.

Environmental Health Team

107. No objections were raised, and specific conditions of consent have been recommended and included in the conditions referenced at the end of this report.

Development and Building Team (BCA Assessment)

108. No objections were raised, and specific conditions of consent have been recommended and included in the conditions referenced at the end of this report.

Environmental Services Team (Waste)

109. No objections were raised, and specific conditions of consent have been recommended and included in the conditions referenced at the end of this report.

Traffic Team

110. No objections were raised, and specific conditions of consent have been recommended and included in the conditions referenced at the end of this report. The Traffic Team reviewed the submitted swept path diagrams and were satisfied in relation to access to and from the basement, and sightlines when leaving the basement.

Consultant Arborist

111. No objections were raised, and specific conditions of consent have been recommended and included in the conditions referenced at the end of this report.

External Referrals**Ausgrid**

112. The application was referred to Ausgrid as per Clause 45(2) of the State Environmental Planning Policy (Infrastructure) 2007. No objection was received and no conditions recommended.

Local Infrastructure Contributions

113. The development is subject to Section 7.12 (former Section 94A Contribution) contribution as the proposed cost of works, registered with Council exceeds \$100,000.00. In accordance with Council's Section 94A Plan, Section 7.12 – Fixed Development Consent Levies are applicable to boarding house developments.

114. In this case the levied charge is \$16,551.86, which is required to be paid in full prior to the release of any Construction Certificate.

CONCLUSION

115. Development consent is sought for the demolition of existing structures and construction of a two (2) storey boarding house development comprising of ten (10) rooms and basement car parking for six (6) vehicles.

116. The proposal has been assessed in accordance with Section 4.15 (1) of the Environmental Planning and Assessment Act, 1979. As discussed throughout this report, the proposal is considered to be compatible with the character of the local area and reasonably complies with the boarding house standards of the State Environment Planning Policy (Affordable Rental Housing) 2009. The proposal also satisfies the R2 Low Density zone objectives, in addition to complying with the relevant Local Environmental Plan and Development Control Plan requirements. The proposed development is considered to be suitable for the site and its locality and is appropriately located within an accessible distance from local public transport and commercial centre.

117. The proposal will not result in any unreasonable impacts to the amenity of adjoining properties subject to the conditions of consent recommended below.

118. The application is recommended for approval.

DETERMINATION AND STATEMENT OF REASONS**119. Statement of Reasons:**

- The proposal is an appropriate response to the site and is consistent with the desired future character of the R2 zone and existing developments in the locality.
- The proposal is largely compliant with the boarding house standards and the character test as per the State Environment Planning Policy (Affordable Rental Housing) 2009.
- The boarding house is located in an accessible location as per the State Environment Planning Policy (Affordable Rental Housing) 2009.
- The proposal is fully compliant with the maximum height of building and floor space ratio permitted for the site under the Hurstville Local Environmental Plan 2012.

- The proposal's bulk and scale is appropriately contained within a generally compliant building envelope that is respectful of the established character of the area in relation to height, street setback, and side boundary setbacks.
- The proposal has sufficient façade modulation and wall articulation that will serve to provide visual interest and reduce the bulk of the building.

Determination

120. THAT pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979 (as amended) Georges River Local Planning Panel grants consent to DA2019/0257 for demolition of existing structures and construction of a two storey 10 room boarding house over basement parking for 6 vehicles at Lot 5, Section 3, DP 2778 and known as 111 Victoria Avenue, Mortdale, subject to the following conditions:

General Conditions

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

Description	Reference No.	Date	Revision	Prepared by
Site Plan	Project CDC 1447 Drawing DA 01	20/05/2019	A	Cornerstone Design
Basement and Ground Floor Plan	Project CDC 1447 Drawing DA 02	16/12/2019	B	Cornerstone Design
First Floor and Roof Plan	Project CDC 1447 Drawing DA 03	04/01/2020	B	Cornerstone Design
Elevation Plans	Project CDC 1447 Drawing DA 04	04/01/2020	B	Cornerstone Design
Streetscape and Sections Plan	Project CDC 1447 Drawing DA 05	16/12/2019	B	Cornerstone Design
Landscape Plans	Drawing 19- 3922 LO1 sheet 1 of 1	15/01/2020	A	Zenith Landscape Designs
Schedule of Finishes	111 Victoria Avenue Mortdale	21/01/2020	B	Cornerstone Design
BCA Report	1475	22 January 2020	B	J2 BCA Consulting
Arboricultural Impact Assessment Report	111 Victoria Avenue Mortdale	20 May 2019	-	Jacksons Nature Works
Statement of Compliance for Access for people with a Disability	219045	04/03/2019	-	Accessible Building Solutions

Traffic and Parking Impact Assessment Report	N1916151A	May 2019	1a	Motion Traffic Engineers
Operational Plan of Management	111 Victoria Avenue Mortdale - Annexure 1 pages 41 to 59 of Statement of Environmental Effects prepared by BMA Urban dated 30.05.19.	29 May 2019	-	BMA Urban
Stage 1 Preliminary Site Investigation Report	8709-ER-1-1	28 March 2019	-	Alliance Geotechnical

LPP024-20

Separate Approvals Required Under Other Legislation

2. **Building - Hoarding Application** - Prior to demolition of the buildings on the site, or the commencement of work above ground level, a separate application for the erection of an 'A class' (fence type) or a 'B class' (overhead type) hoarding or 'C type' scaffold, in accordance with the requirements of SafeWork NSW, must be erected along that portion of the footways/roadway where the building is within 3 metres of the street boundary. An application for this work under Section 68 of the [Local Government Act 1993](#) and the Roads Act 1993 must be submitted for approval to Council.

The following information is to be submitted with a Hoarding Application under Section 68 of the [Local Government Act 1993](#) and Section 138 of the [Roads Act 1993](#):

- a) A site and location plan of the hoarding with detailed elevation, dimensions, setbacks, heights, entry and exit points to/from the site, vehicle access points, location of public utilities, electrical overhead wire protection, site management plan and builders sheds location.
3. **Section 138 Roads Act 1993 and Section 68 Local Government Act 1993** - Unless otherwise specified by a condition of this consent, this Development Consent does not give any approval to undertake works on public infrastructure.

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

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

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

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

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

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

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

To apply for approval, complete the “Application for Driveway Crossing and Associated Works on Council Road Reserve” issued under Section 138 Roads Act.” which can be downloaded from Georges River Council’s Website at www.georgesriver.nsw.gov.au. Lodge the application form, together with the associated fees at Council’s Customer Service Centre, during business hours. Refer to Section P1 and P2, in Council’s adopted *Fees and Charges* for the administrative and inspection charges associated with Driveway Crossing applications.

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

The design boundary level is to be received from Council prior to construction of the internal driveway

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

Requirements of Concurrence, Integrated & Other Government Authorities

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

stamped the plans prior to the issue of the Construction Certificate.

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

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

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

Prior to the Issue of a Construction Certificate

8. **Site remediation** - The site is to be made suitable for the proposed development in accordance with the recommendations of the Stage 1 Preliminary Site Investigation Report prepared by Alliance Geotechnical (reference 8709-ER-1-1 dated 28 March 2019).
9. **Low reflectivity roof** - Roofing materials must be low glare and reflectivity. Details of finished external materials including colours and texture must be provided to the Certifying Authority.
10. **Pre-Construction Dilapidation Report - Private Land** - A professional engineer specialising in structural or geotechnical engineering shall prepare a Pre-Construction Dilapidation Report detailing the current structural condition of adjoining premises including but not limited to:
- a) All neighbouring buildings likely to be affected by the excavation as determined by the consulting engineer.

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

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

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

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

An on-site detention (OSD) facility designed by a professional engineer who specialises in Hydraulic Engineering is to be constructed with capacity as shown on the approved plan in this case.

- (a) The PCA shall ensure the provision of the OSD basin located at the front and the rainwater tank (RWT) 5000 litres located at the rear as a combined system in this case.
- (b) The overland flow pipe from the RWT shall connect into the OSD basin at the front.
- (c) Provide the OSD system with sufficient ventilation and show on plan.
- (d) The maximum discharge from the site to the street kerb and gutter shall not be greater than 25 l/s.
- (e) Provide a silt trap within the site prior to the discharge of the flow onto the street kerb and gutter.

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

- a) The pump system shall consist of two pumps, connected in parallel, with each pump being capable of emptying the holding tank at the rate equal to the rate of inflow for the one-hour duration storm. The holding tank shall be capable of holding one hour's runoff from a one-hour duration storm of the 1 in 20 year storm;
- b) The pump system shall be regularly maintained and serviced, every six (6) months; and
- c) Any drainage disposal to the street gutter from a pump system must have a stilling sump provided at the property line, connected to the street gutter by a suitable gravity line.

Details and certification of compliance from a professional engineer specialising in civil engineering shall be provided for approval with the Construction Certificate application.

13. Driveway Construction Plan Details - Detailed engineering plans for the driveway shall be submitted with the Construction Certificate application for approval that show:

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

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

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

15. **Fire Safety Measures** - Prior to the issue of a construction certificate a list of the essential fire safety measures that are to be provided in relation to the land and any building on the land as a consequence of the building work must accompany an application for a construction certificate, which is required to be submitted to either Council or a PCA. Such list must also specify the minimum standard of performance for each essential fire safety measure included in the list. The Council or PCA will then issue a Fire Safety Schedule for the building.
16. **Access for Persons with a Disability** - Access for persons with disabilities must be provided direct to the site, including to the foyer, car park, required sanitary and kitchen facilities in accordance with the requirements of the Premises Standards, the Building Code of Australia, AS 1428.1 and the Accessible Building Solutions report (job no: 219045) dated 4 March 2019.

In regards to the above, pedestrian access throughout basement level shall be highlighted and sign posted to safeguard egress.

17. **Geotechnical report** - Geotechnical Reports: The applicant must submit a Geotechnical Report, prepared by a professional engineer specialising in geotechnical engineering who holds the relevant Certificate of accreditation as required under the Building Professionals Act 2005 in relation to dilapidation reports, all site works and construction. This is to be submitted before the issue of the Construction Certificate and is to include:
 - (a) Investigations certifying the stability of the site and specifying the design constraints to be placed on the foundation, any earthworks/stabilization works and any excavations.
 - (b) Dilapidation Reports on the adjoining properties including, but not limited to (address) and (address) prior to any excavation of site works. The Dilapidation Report is to include assessments on, but not limited to, the dwellings at those addresses and any external paths, grounds etc. This must be submitted to the PCA and the adjoining residents as part of the application for the Construction Certificate. Adjoining residents are to be provided with the report five (5) working days prior to any works on the site.
 - (c) On-site guidance by a vibration specialist during the early part of excavation.
 - (d) Measures to minimise vibration damage and loss of support to other buildings. Where possible any excavation into rock is to be carried out with tools such as rock saws which reduce vibration to adjoining buildings and associated structures. Where a hydraulic hammer is to be used within 30 metres of any building (other than a path or a fence) the report shall detail the maximum size of hammer to be used and provide all reasonable recommendations to manage impacts.
 - (e) Sides of the excavation are to be pierced prior to any excavation occurring to reinforce the walls of the excavation to prevent any subsidence to the required setbacks and neighbouring sites.

18. **Waste Room Construction** - The Construction Certificate drawing shall show the waste room containing the following to minimise odours, deter vermin, protect surrounding areas, and make it a user-friendly and safe area:

- (a) waste room floor to be sealed;
- (b) waste room walls and floor surface is flat and even;
- (c) all walls painted with light colour and washable paint;
- (d) equipment electric outlets to be installed 1700mm above floor levels;
- (e) bin storage rooms will be mechanically exhausted as required by AS 1668.2;
- (f) light switch installed at height of 1.6m;
- (g) waste rooms must be well lit (sensor lighting recommended);
- (h) optional automatic odour and pest control system installed to eliminate all pests; and
- (i) all personnel doors are hinged and self-closing.

19. **Construction Traffic Management Plan** - A Construction Traffic Management Plan detailing:

- (a) construction vehicle routes;
- (b) anticipated number of trucks per day;
- (c) hours of construction;
- (d) Access arrangements; and
- (e) Proposed traffic measures to minimise impacts of construction vehicles

must be submitted for the approval of Council's Engineers. Council's Engineers must specify in writing that they are satisfied with the Traffic Management Plan prior to the issue of the Construction Certificate.

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

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

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

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

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

Fee Type	Fee
GENERAL FEES	
Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct	

to the Long Service Corporation. See https://portal.longservice.nsw.gov.au/bci/levy/	
Builders Damage Deposit	\$1,900.00
Inspection Fee for Refund of Damage Deposit	\$155.00
Georges River Council Section 94A Development Contributions Plan 2017	\$16,551.86

General Fees

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

Development Contributions

A Section 7.12 contribution has been levied on the subject development pursuant to the Georges River Council Section 94A Contributions Plan 2017.

Indexation

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

Timing of Payment

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

Further Information

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

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

- a) Pay Council, before the issue of the Construction Certificate, a damage deposit for the cost of making good any damage caused to any Council property as a result of the development: **\$1,900.00**
- b) Pay Council, before the issue of the Construction Certificate, a non-refundable inspection fee to enable assessment of any damage and repairs where required: **\$155.00**
- c) Submit to Council, before the commencement of work, a photographic record of the condition of the Council nature strip, footpath and driveway crossing, or any area likely to be affected by the proposal.

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

23. **Site Management Plan** - A Site Management Plan detailing all weather access control

points, sedimentation controls, fencing, builder's site sheds office, amenities, materials storage and unloading arrangements must be submitted with the application for the Construction Certificate.

24. **BASIX Commitments** - All energy efficiency measures as detailed in the BASIX Certificate No. 1004285M dated 29 May 2019 prepared by Building & Energy Consultants Australia must be implemented on the plans lodged with the application for the Construction Certificate.
25. **Required design changes** - The following changes are required to be made and shown on the Construction Certificate plans:
- (a) The three (3) rear balconies located at the rear of the first floor are to be deleted and replaced with windows. The roof and external treatment to be accordingly adjusted. The size of the internal rooms is to remain as existing. The windows replacing the balconies are to have a minimum floor to ceiling height of 1.0m; measured from the finished internal floor level.
26. **Erosion & Sedimentation Control** - Erosion and sediment controls must be provided to ensure:
- (a) Compliance with the approved Erosion & Sediment Control Plan
 - (b) Removal or disturbance of vegetation and top soil is confined to within 3m of the approved building area (no trees to be removed without approval)
 - (c) All clean water runoff is diverted around cleared or exposed areas
 - (d) Silt fences, stabilised entry/exit points or other devices are installed to prevent sediment from entering drainage systems or waterways
 - (e) All erosion and sediment controls are fully maintained for the duration of demolition, excavation and/or development works
 - (f) Controls are put into place to prevent tracking of sediment by vehicles onto adjoining roadway
 - (g) All disturbed areas are rendered erosion-resistant by turfing, mulching, paving or similar
 - (h) Compliance with [Managing Urban Stormwater - Soils and Construction \(Blue Book\) produced by Landcom 2004](#).

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

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

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

- (a) All stormwater shall drain by gravity to Council's kerb and gutter in the street as indicated on the approved plan in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2015 (as amended).
- (b) Prior to the commencement of works, the registered surveyor shall ensure to the PCA

that the stormwater discharge pipe across the footpath shall be RHS at an angle and is laid with minimum disturbance at a minimum 1% grade to the kerb and gutter in the street and is made in good working condition.

- (c) A longitudinal section of the site stormwater discharge pipe across the footpath reserve shall be prepared showing the public utility services particularly those may encroach the above proposed stormwater pipe.
- (d) The RHS galvanised pipe must have a minimum of 50mm of cover along its length through the road reserve. A detailed section of the connection through the road reserve is to be prepared and shown on the drainage plan prior to the commencement of works.
- (e) There shall be no damage to the adjoining driveway crossing. All damages are to be rectified to its original condition at the cost of the applicant.
- (f) The stormwater drainage plans including pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits prepared by a professional engineer who specialises in Hydraulic Engineering in accordance with the Australian Institute of Engineers Australian Rainfall and Runoff (1987) and Council's Stormwater Drainage Guidelines, shall accompany the application for the Construction Certificate.

Stormwater Systems with Basement

- (a) The underground basement car park must pump to and all other stormwater must drain by gravity to:
 - i. the drainage system within the site via a silt trap pit.

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

Protection of basement from inundation of stormwater waters

- (b) The protection of the underground basement shall be protected from possible inundation by surface waters from the street.

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

- 28. **Structural details** - Engineer's details prepared by a practising Structural Engineer being used to construct all reinforced concrete work, structural beams, columns and other structural members. The details are to be submitted to the Principal Certifying Authority for approval prior to construction of the specified works. A copy shall be forwarded to Council where Council is not the PCA.
- 29. **Traffic Management - Compliance with AS2890** - All driveways, access ramps, vehicular crossings and car parking spaces shall be designed and constructed in accordance with the current version of Australian Standards, AS 2890.1 (for car parking facilities) and AS 2890.2 (for commercial vehicle facilities).
- 30. **Waste Management Plan** - A Waste Management Plan incorporating all requirements in respect of the provision of waste storage facilities, removal of all materials from the site that are the result of site clearing, extraction, and, or demolition works and the designated Waste Management Facility shall be submitted to the Certifying Authority prior to the issue of any Construction Certificate.
- 31. **Landscape Plans** - All landscape works shall be carried out in accordance with the

approved landscape plans. The landscaping shall be maintained in accordance with the approved plans in perpetuity. All landscape works shall be carried out in accordance with the approved landscape plans and specifications, drawn by Zenith Landscape Designs Ref No 19 - 3922 L01, REV A and dated 15/1/20. The landscaping shall be maintained in accordance with the approved plans in perpetuity, subject to the following -

- a) The proposed tree and plant species, pot/ bag size and quantities of plants shall be in accordance with the proposed plant schedule upon the landscape plan. If plant species, pot/ bag size and quantities cannot be sourced, Council shall be contacted for alternatives.
- b) All trees proposed upon the approved landscape plan shall comply with AS 2303 - 2018, *Tree Stock for Landscape use* and *NATSPEC Specifying Trees: a guide to assessment of tree quality (2003)*, and be planted and maintained in accordance with Councils standard specification.
- c) If the planted trees and plants are found to be faulty, damaged, dying or dead within twelve (12) months of planting then they must be replaced with the same species. If the trees are found dead before they reach a height where they are protected by Councils Tree Management Controls, they must be replaced with the same species and pot/bag size.
- d) A certificate of compliance for the planting of all trees and shrubs proposed for the site. An AQF 5 Horticulturist shall be engaged and in writing certify that all trees have been planted as per landscape plan and specifications and forwarded to the PCA - Principal Certifying Authority.

32. **Compliance with submitted Arborist Report** - The recommendations outlined in the Arborist's Report titled 'Arboriculture Impact Assessment Report - 111 Victoria Avenue Mortdale' prepared by Jackson Nature Works dated 20 May 2019 must be implemented throughout the relevant stages of construction. Details of tree protection measures to be implemented must be detailed and lodged with the Construction Certificate application for approval and shall be in accordance with Section 4 - Australian Standard AS 4970-2009: Protection of trees on development sites.

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

Tree Species	Location of Tree / Tree No.	Tree Protection Zone (metres) Fencing distance from trunk
<i>Tristaniopsis laurina</i>	Councils street tree	2.4 metres radially out without blocking the footpath
<i>Eucalyptus amplifolia</i>	Within front yard of 113 Victoria Rd, Adjacent site	8.6 metres radially out from the trees trunk
<i>Araucaria heterophylla</i>	Within rear yard of 22 Cook St	7.2 metres radially out from its trunk

- The client shall engage a qualified Arborist who holds an AQF Level 5 or above in Arboriculture and who is a current practicing and financial member of an Arboricultural Association or Affiliation.
- A certificate of compliance letter for tree protection measures shall be completed and forwarded to the PCA - Principal Certifying Authority, before works, during works and once all building works have been completed, that tree protection measures have been installed and maintained during the building process.

Tree Protection Measures

The stormwater plans - "Ground floor Drainage Plan" Dwg No A9060 - SW03, Rev D, dated 14/1/20 demonstrates the stormwater piping has been diverted away from the TPZ of the neighbours tree, to minimise impacts to the tree.

- (a) All trees on Council property, subject site and adjacent sites, to be retained shall be protected before and maintained during demolition, excavation and construction of the site.
- (b) Although trees may be on adjacent sites, the tree protection fencing must be placed on the nominated distances as per table above, out from the trees trunk, within the subject site to minimise impacts to neighbours trees and kept for the entirety of the project.
- (c) The tree protection measures must be undertaken in accordance AS4970 -2009 *Protection of trees on development sites*.
- (d) Details of the tree protection measures to be implemented must be provided with the application for a Construction Certificate by a qualified Arborist who holds an AQF Level 5 or above in Arboriculture and who is a current practicing and financial member of an Arboricultural Association or Affiliation.
- (e) The engaged Project Arborist must be present on-site during the stages of excavation, demolition and construction when works are being undertaken that could impact on the tree canopy or root zone within the tree protection zone of the *Eucalyptus amplifolia* within the neighbour's property.
- (f) In accordance with AS 4970-2009 Protection of trees on development sites, a protective fence consisting of 2.4 x 1.8 metres high, fully supported chainmesh fence shall be used. The distance of the fence from the base of each tree is to be in accordance with the TPZ listed in the table above. A layer of organic mulch 100 millimetres thick shall be placed over the protected area and no soil or fill should be placed within the protection area.
- (g) To preserve the following tree - *Tristanopsis laurina*, no work shall commence nor shall a Construction Certificate be issued (whichever occurs first) until the trunk/ branches are protected, in accordance with AS4970 -2009, Protection of trees on development sites, by the wrapping of geo woven fabric around the trunk 4 / 5 times and the placement of two metre long, lengths of 50mm x 100mm timber battens vertically arranged around the trunk, with 100mm spacing's. The timber battens shall be secured by wire/ hoop straps but not secured into the tree itself. The trunk/ branch protection shall be maintained intact until the completion of all works upon the site.
- (h) The Tree Protection Zone of each tree, to be protected, shall be watered thoroughly and regularly to minimise the effects of construction works.
- (i) No building products/ materials or services shall be installed within the TPZ of trees *Eucalyptus amplifolia* and *Araucaria heterophylla*. This fence shall be kept in place during demolition, construction and also have a sign displaying 'Tree Protection Zone - DO NOT ENTER' attached to the fence and must also include the name and contact details of the Project Arborist.

Excavation works near tree to be retained

- (j) 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.
- (k) 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.
- (l) Tree Protection Zone around the trees to be retained are not to have soil level changes, building product / materials stored or services installed in this area. Any

structures proposed to be built in this area of the trees are to utilise pier and beam or cantilevered slab construction.

Pier and Beams -

- (m) To preserve both the *Eucalyptus amplifolia* and *Araucaria heterophylla* the footings of the proposed side, front and rear fencing/ walling, shall be isolated pier and beam construction within the TPZ as nominated above. The piers shall be hand dug and located such that no roots of a diameter greater than 50mm are severed or injured in the process of any site works during the construction period. The beam shall be located on or above the existing soil levels.

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

34. Street Tree Removal / Replacement by Council -

- (a) Two (2) street trees of species to be determined must be provided in the road reserve fronting the site.
- (b) Council shall be appointed to plant all trees on public land. All costs associated with the planting of replacement trees shall be met by the applicant. Fees and charges outlined in the table below are subject to change and are set out in the current version of Council's 'Schedule of Fees and Charges', applicable at the time of payment.
- (c) The fees must be paid in accordance with the conditions of this consent. The fee payable is to ensure that the development makes adequate provision for the demand it generates for public amenities and public services within the area.
- (d) The fees payable will be adjusted at the time of payment to reflect changes in the cost of delivering public amenities and public services, in accordance with the indices provided by the relevant conditions set out in this consent.

Fee Type - Tree planting on public land	Number of trees	Amount per tree
Administration Fee and tree planting	2	\$452.00
Cost of tree removal		n/a
Cost of Stump Grinding		n/a

Summary	
Number of trees removed from site	Nil
Number of trees required as per offset scheme (2:1 ratio)	Nil
Number of trees planted within the site as per landscape plan	X3
Number of trees to be paid for by the applicant to be planted by Council elsewhere within the municipality before Occupation Certificate. Please contact Council for payment.	Nil
Number of trees the applicant shall pay for and Council to plant upon Councils street verge	X2

A copy of the Hurstville City Council's Tree Removal and Pruning Guidelines and Kogarah City Council, Street Tree Management Strategy, Masterplan, and Tree Management Policy 2019, can be downloaded from Council's website www.georgesriver.nsw.gov.au.

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

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

The report must include the following:

- a) Photographs showing the existing condition of the road pavement fronting the site,
- b) Photographs showing the existing condition of the kerb and gutter fronting the site,
- c) Photographs showing the existing condition of the footpath pavement fronting the site,
- d) Photographs showing the existing condition of any retaining walls within the footway or road, and
- e) The Dilapidation Report must be prepared by a qualified structural engineer. The report must be provided to the PCA and a copy provided to the Council.

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

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

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

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

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

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

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

37. **Demolition Notification Requirements** - The following notification requirements apply to this consent:

- (a) The developer /builder must notify adjoining residents five (5) working days prior to demolition. Such notification is to be a clearly written note giving the date demolition will commence, contact details of the developer/builder, licensed asbestos demolisher and the appropriate regulatory authority. Notification is to be placed in the

letterbox of every premises (including every residential flat or unit, if any) either side and immediately at the rear of the demolition site.

- (b) Five (5) working days prior to demolition, the developer/builder is to provide written notification to Council advising of the demolition date, details of the SafeWork licensed asbestos demolisher and the list of residents advised of the demolition.
 - (c) On demolition sites where buildings to be demolished contain asbestos, a standard commercially manufactured sign containing the words “DANGER ASBESTOS REMOVAL IN PROGRESS” measuring not less than 400mm x 300mm is to be erected in a prominent visible position (from street frontage) on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos material has been removed from the site to an approved waste facility.
38. **Demolition work involving asbestos removal** - Work involving bonded asbestos removal work (of an area of more than 10 square metres) or friable asbestos removal work must be undertaken by a person who carries on a business of such removal work in accordance with a licence under clause 458 of the [Work Health and Safety Regulation 2011](#).
39. **Dial before your dig** - The applicant shall contact “Dial Before You Dig on 1100” to obtain a Service Diagram prior to the issuing of the Construction Certificate. The sequence number obtained from “Dial Before You Dig” shall be forwarded to the Principal Certifying Authority (PCA) and Council for their records.
40. **Registered Surveyors Report - During Development Work** - A report must be submitted to the PCA at each of the following applicable stages of construction:
- a) Set out before commencing excavation.
 - b) Floor slabs or foundation wall, before formwork or commencing brickwork.
 - c) Completion of Foundation Walls - Before any construction of flooring, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans.
 - d) Completion of Floor Slab Formwork - Before pouring of concrete/walls construction, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans. In multi-storey buildings a further survey must be provided at each subsequent storey.
 - e) Completion of any Roof Framing - Before roof covered detailing eaves/gutter setback from boundaries.
 - f) Completion of all Work - Detailing the location of the structure (including eaves/gutters) relative to adjacent boundaries and its height relative to the datum shown on the approved plans. A final Check Survey must indicate the reduced level of the main ridge.

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

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

During Construction

42. **Physical connection of stormwater to site** - No work is permitted to proceed above the ground floor slab level of the building until there is physical connection of the approved stormwater drainage system from the land the subject of this consent to Council's kerb and gutter in Victoria Avenue.
43. **Contamination - Unexpected Finds** - Council and the Principal Certifying Authority (if Council is not the PCA) must be notified as soon as practicable if any information is discovered during demolition or construction work that has the potential to alter previous conclusions about site contamination.
44. **Site sign - Soil & Erosion Control Measures** - Prior to the commencement of works (including demolition and excavation), a durable site sign, issued by Council in conjunction with this consent, must be erected in a prominent location on site. The site sign warns of the penalties which apply to pollution, storing materials on road or footpath and breaches of the conditions relating to erosion and sediment controls. The sign must remain in a prominent location on site up until the completion of all site and building works.
45. **Hours of construction for demolition and building work** - Any work activity or activity associated with the development consent that requires the use of any tools (including hand tools) or any power operated plant and machinery that creates noise on or adjacent to the site shall not be performed, or permitted to be performed, except between the hours of 7.00am to 5.00pm, Monday to Saturday inclusive. No work or ancillary activity is permitted on Sundays, or Public Holidays.

Note: A penalty infringement notice may be issued for any offence.

46. **Ground levels and retaining walls** - The ground levels of the site shall not be excavated, raised or filled, or retaining walls constructed on the allotment boundary, except where indicated on approved plans or approved by Council.
47. **Cost of work to be borne by the applicant** - The applicant shall bear the cost of all works associated with the construction of the development that occurs on Council property. Care must be taken to protect Council's roads, including the made footway, kerbs, etc., and, where plant and vehicles enter the site, the footway shall be protected against damage by deep-sectioned timber members laid crosswise, held together by hoop iron straps and chamfered at their ends. This construction shall be maintained in a state of good repair and condition throughout the course of construction.
48. **Obstruction of Road or Footpath** - The use of the road or footpath for the storage of any building materials, waste materials, temporary toilets, waste or skip bins, or any other matter is not permitted unless separately approved by Council under Section 138 of the [Roads Act 1993](#) and/or under Section 68 of the [Local Government Act 1993](#). Penalty infringement Notices may be issued for any offences and severe penalties apply.
49. **Waste Management Facility** - All materials removed from the site as a result of demolition, site clearing, site preparation and, or excavation shall be disposed of at a

suitable Waste Management Facility. No vegetation, article, building material, waste or the like shall be ignited or burnt.

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

Prior to the issue of the Occupation Certificate

50. **Section 73 Compliance Certificate** - A Section 73 Compliance Certificate under the [Sydney Water Act 1994](#) must be submitted to the PCA prior to the issue of the Occupation/Subdivision Certificate.
51. **Restriction to User and Positive Covenant for On-Site Detention Facility** - A Restriction on Use of the Land and Positive Covenant shall be created and registered on the title of the property, which places the responsibility for the maintenance of the on-site stormwater management system on the owners of the land. The terms of the instrument are to be in accordance with Council's standard terms and restrictions which are as follows;

Restrictions on Use of Land

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

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

Positive Covenants

1. *The registered proprietor of the lot(s) hereby burdened will in respect of the system:*
 - a) *keep the system clean and free from silt, rubbish and debris*
 - b) *maintain and repair at the sole expense of the registered proprietors the whole of the system so that it functions in a safe and efficient manner*
 - c) *permit the Council or its authorised agents from time to time and upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the land for the compliance with the requirements of this covenant*
 - d) *comply with the terms of any written notice issued by the Council in respect of the requirements of this covenant within the time stated in the notice.*
2. *Pursuant to Section 88F(3) of the Conveyancing Act 1919 the Council shall have the following additional powers:*

- a) *in the event that the registered proprietor fails to comply with the terms of any written notice issued by the Council as set out above the Council or its authorised agents may enter the land with all necessary materials and equipment and carry out any work which the Council in its discretion considers reasonable to comply with the said notice referred to in part 1(d) above*
- b) *the Council may recover from the registered proprietor in a Court of competent jurisdiction:*
 - i. *any expense reasonably incurred by it in exercising its powers under subparagraph (i) hereof. Such expense shall include reasonable wages for the Council's employees engaged in effecting the work referred to in (i) above, supervising and administering the said work together with costs, reasonably estimated by the Council, for the use of materials, machinery, tools and equipment in conjunction with the said work.*
 - ii. *legal costs on an indemnity basis for issue of the said notices and recovery of the said costs and expenses together with the costs and expenses of registration of a covenant charge pursuant to section 88F of the Act or providing any certificate required pursuant to section 88G of the Act or obtaining any injunction pursuant to section 88H of the Act. Name of Authority having the power to release vary or modify the Positive Covenant referred to is Georges River Council.*

- 52. **Maintenance Schedule - On-site Stormwater Management** - A Maintenance Schedule for the proposed on-site stormwater management measures is to be prepared and submitted to Council. The Maintenance Schedule shall outline the required maintenance works, how and when these will be done and who will be carrying out these maintenance works.
- 53. **Requirements prior to the issue of the Occupation Certificate** - The following shall be completed and or submitted to the PCA prior to the issue of the Occupation Certificate:
 - (a) All the stormwater/drainage works shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
 - (b) The internal driveway construction works, together with the provision for all services shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate
 - (c) Construct any new vehicle crossings required.
 - (d) Replace all redundant vehicle crossing laybacks with kerb and guttering, and replace redundant concrete with turf.
 - (e) A Section 73 (Sydney Water) Compliance Certificate for the Subdivision shall be issued and submitted to the PCA prior to the issue of the Occupation Certificate.
 - (f) Work as Executed Plans prepared by a Chartered Professional Engineer or a Registered Surveyor when all the site engineering works are complete shall be submitted to the PCA prior to the issue of the Occupation Certificate.
- 54. **Stormwater drainage works - Works As Executed** - Prior to the issue of the Occupation Certificate, stormwater drainage works are to be certified by a professional engineer

specialising in hydraulic engineering, with Works-As-Executed drawings supplied to Council detailing:

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

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

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

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

56. **Noise Domestic Air conditioner and Heat pump water heaters (less than 450mm from boundary)** - Prior to the issue of any Occupation Certificate, a report prepared by a professional acoustic engineer must be submitted to the PCA to certify that the design and construction of the air conditioner / heat pump water heaters shall not produce a sound level exceeding 5 dB(A) above the ambient background level at the closest neighbouring boundary between the hours of 8:00am and 10:00pm on Saturdays, Sundays and Public Holidays and between the hours of 7:00am and 10:00pm on any other day. Outside the specified hours, the sound level output for the running of air conditioner shall not exceed the ambient background noise level.

57. **Post Construction Dilapidation report - Private Land** - At the completion of the construction works, a suitably qualified person is to be engaged to prepare a post-construction dilapidation report. This report is to ascertain whether the construction works associated with the subject development created any structural damage to the following adjoining premises.

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

Evidence confirming that a copy of the post-construction dilapidation report was delivered

to the adjoining properties subject of the dilapidation report must be provided to the PCA prior to the issue of any Occupation Certificate.

58. **Driveways and parking spaces - Minor Development** - Internal driveways and parking spaces are to be adequately paved with concrete or bitumen, or interlocking pavers to provide a dust-free surface.
59. **BASIX Compliance Certificate** - A Compliance Certificate must be provided to the PCA regarding the implementation of all energy efficiency measures as detailed in the approved BASIX Certificate before any Occupation Certificate is issued.
60. **Completion of Landscape Works** - All landscape works and tree planting upon the site must be completed **before** the issue of the Final Occupation Certificate and to the satisfaction of Councils Tree Management Officers. In accordance with approved landscape plans and specifications, drawn by Zenith Landscape Designs Ref No 19 - 3922 L01, REV A and dated 15/1/20. The landscaping shall be maintained in accordance with the approved plans in perpetuity, subject to the following -
- a) The proposed tree and plant species, pot/ bag size and quantities of plants shall be in accordance with the proposed plant schedule upon the landscape plan. If plant species, pot/ bag size and quantities cannot be sourced, Council shall be contacted for alternatives.
 - b) All trees proposed upon the approved landscape plan shall comply with AS 2303 - 2018, *Tree Stock for Landscape use* and *NATSPEC Specifying Trees: a guide to assessment of tree quality (2003)*, and be planted and maintained in accordance with Councils standard specification.
 - c) If the planted trees and plants are found to be faulty, damaged, dying or dead within twelve (12) months of planting then they must be replaced with the same species. If the trees are found dead before they reach a height where they are protected by Councils Tree Management Controls, they must be replaced with the same species and pot/bag size.
 - d) A certificate of compliance for the planting of all trees and shrubs proposed for the site. An AQF 5 Horticulturist shall be engaged and in writing certify that all trees have been planted as per landscape plan and specifications and forwarded to the PCA - Principal Certifying Authority.
61. **Vehicular crossing - Minor development** - The vehicular crossing and/or footpath works shall be constructed by a private contractor at the expense of the applicant, in accordance with the 'Application for Driveway Crossing and Associated Works on Council Road Reserve' approval issued by Council's Assets and Infrastructure Division.

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

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

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

Operational Conditions (Ongoing)

62. **Ongoing Waste Management** - Ongoing waste management must be in accordance to the below:

- (a) The on-site manager shall be responsible for presenting all approved waste and recycling receptacles for collection, and returning all receptacles to the Waste Collection Room, as soon as practicable after they have been serviced.
- (b) The owner/manager shall also be responsible for maintaining all equipment, systems, facilities and storage areas used in conjunction with the provision of waste management services in accordance with all applicable regulatory requirements, relevant health and environmental standards, and to the satisfaction of Council.
- (c) Occupational Health and Safety issues such as slippery floors in waste rooms and the weight of the waste and recycling receptacles will need to be monitored.
- (d) The on-site Manager will monitor the bin storage area and all spills will be attended to immediately by cleaners.
- (e) The require number of bins are 3 x 240L red bin, 2 x 240L yellow bin.

All bins must be taken to Victoria Ave kerbside for collection and removed from kerbside as soon as possible after collection.

Bins can be taken to kerbside for collection.

- (f) The waste room will contain the following to minimise odours, deter vermin, protect surrounding areas, and make it a user-friendly and safe area:
 - waste collection area must hold all bins - bin movements should be with ease of access;
 - conform to the Building Code of Australia, Australian Standards and local laws; and childproofing and public/operator safety shall be assessed and ensured.
 - Cleaners will monitor the bin storage area and all spills will be attended to immediately by cleaners/manager.

63. **Noise Control** - The use of the premises must not give rise to the transmission of offensive noise to any place of different occupancy. Offensive noise is defined in the [Protection of the Environment Operations Act 1997](#) (as amended).

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

Flashing, moving or intermittent lights or signs are prohibited.

65. **Operational Plan of Management** - The Operational Plan of Management prepared by BMA Urban dated 29 May 2019 for the premises shall be strictly enforced by the on-site Boarding House Manager.

66. **Annual Fire Safety Statement** - The owner of the building premises must ensure the Council is given an annual fire safety statement in relation to each essential fire safety

measure implemented in the building. The annual fire safety statement must be given:

- (a) Within 12 months after the date on which the fire safety certificate was received.
- (b) Subsequent annual fire safety statements are to be given within 12 months after the last such statement was given.
- (c) An annual fire safety statement is to be given in or to the effect of Clause 181 of the [Environmental Planning and Assessment Regulation 2000](#).
- (d) A copy of the statement is to be given to the Commissioner of Fire & Rescue NSW, and a further copy is to be prominently displayed in the building.

67. **Boarding House Operation** - The following restrictions apply to the approved development:

- (a) The boarding house must always be operated and managed in accordance with the approved Boarding House Plan of Management dated 29 May 2019, prepared by Bernard Moroz of BMA Urban of Pragma Planning. Statement of Environmental Effect dated 30/05/2019 version 1 Page 41 of 59
- (b) The residential accommodation use approved under this consent constitutes in a 'Boarding House' as defined under State Environmental Planning Policy (Affordable Rental Housing) 2009 and shall not be used for the purposes of a backpackers' accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment as defined in Hurstville Local Environmental Plan 2012, or the like.
- (c) The total number of persons residing in the boarding house at any one time shall not exceed eighteen (18) lodgers plus one (1) boarding house manager.
- (d) Not more than two (2) lodgers shall occupy each boarding room, all identified as double rooms.
- (e) The lodgers must be subject to an occupancy agreement for a term of no less than three (3) months.
- (f) The use and operation of the premises must comply with the requirements of Schedule 2 (Standards for Places of Shared Accommodation) of the Local Government (General) Regulation, 2005 under the Local Government Act, 1993, the Public Health Act, 2010 and Regulations thereunder.
- (g) The operation of the Boarding House shall be in accordance with the Boarding Houses Act 2012 at all times. This includes the registration of the Boarding House, as required by the Act.
- (h) Subdivision of the boarding house is not permitted in accordance with the provisions of the State Environmental Planning Policy (Affordable Rental Housing) 2009.
- (i) The residents and manager of the boarding house are not eligible to participate in Council's Resident Parking Scheme.
- (j) One (1) car parking space shall be nominated and available for the Boarding House Manager.

68. **Maintenance of Landscaping** - All trees and plants forming part of the landscaping must be maintained. Maintenance includes watering, weeding, removal of rubbish from tree bases, fertilizing, pest and disease control, replacement of dead or dying plants and any other operations required to maintain healthy trees, plants and turfed areas.
69. **Outdoor Lighting** - To avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads, outdoor lighting must comply with AS 4282-1997: Control of the obtrusive effects of outdoor lighting.
70. **Amenity of the neighbourhood** - The implementation of this development shall not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, dust, waste water, waste products, grit, oil or other harmful products.

Operational Requirements Under the Environmental Planning & Assessment Act 1979

71. **Requirement for a Construction Certificate** - The erection of a building must not commence until a Construction Certificate has been issued.
72. **Appointment of a PCA** - The erection of a building must not commence until the applicant has:

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

If the work is not going to be undertaken by an Owner - Builder, the applicant must:

- (a) appoint a Principal Contractor to undertake the building work. If residential building work (within the meaning of the [Home Building Act 1989](#)) is to be undertaken, the Principal Contractor must be a holder of a contractor licence; and
- (b) notify the PCA of the details of any such appointment; and
- (c) notify the Principal Contractor of any critical stage inspections or other inspections that are required to be carried out in respect of the building work.

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

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

A Notice of Commencement Form is attached for your convenience.

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

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

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

Only the PCA appointed for the building work can issue the Occupation Certificate.

An Occupation Certificate Application Form is attached for your convenience.

Prescribed Conditions

78. **Clause 97A - BASIX Commitments** - This Clause requires the fulfilment of all BASIX Commitments as detailed in the BASIX Certificate to which the development relates.
79. **Clause 98 - Building Code of Australia & Home Building Act 1989** - Requires all building work to be carried out in accordance with the Building Code of Australia. In the case of residential building work to which the Home Building Act 1989 relates, there is a requirement for a contract of insurance to be in force before any work commences.
80. **Clause 98A - Erection of Signs** - Requires the erection of signs on site and outlines the details which are to be included on the sign. The sign must be displayed in a prominent position on site and include the name and contact details of the PCA and the Principal Contractor.
81. **Clause 98B - Home Building Act 1989** - If the development involves residential building work under the [Home Building Act 1989](#), no work is permitted to commence unless certain details are provided in writing to Council. The name and licence/permit number of the Principal Contractor or Owner Builder and the name of the Insurer by which work is insured under Part 6 of the [Home Building Act 1989](#).
82. **Clause 98E - Protection & support of adjoining premises** - If the development involves excavation that extends below the level of the base of the footings of a building on adjoining land, this prescribed condition requires the person who benefits from the development consent to protect and support the adjoining premises and where necessary underpin the adjoining premises to prevent any damage.
83. **Clause 98E - Site Excavation** - Excavation of the site is to extend only to that area required for building works depicted upon the approved plans. All excess excavated

material shall be removed from the site.

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

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

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

Advice

84. **Review of Determination** - Section 8.2 of the Environmental Planning and Assessment Act confers on an applicant who is dissatisfied with the determination of the application the right to lodge an application with Council for a review of such determination. Any such review must however be completed within 6 months from its determination. Should a review be contemplated sufficient time should be allowed for Council to undertake public notification and other processes involved in the review of the determination.

Note: Review provisions do not apply to Complying Development, Designated Development, State Significant Development, Integrated Development or any application determined by the Sydney South Planning Panel or the Land & Environment Court.

85. **Appeal Rights** - Part 8 (Reviews and appeals) of the Environmental Planning and Assessment Act 1979 confers on an applicant who is dissatisfied with the determination of the application a right of appeal to the Land and Environment Court of New South Wales.
86. **Lapsing of Consent** - This consent will lapse unless the development is physically commenced within 5 years from the Date of Operation of this consent, in accordance with Section 4.53 of the Environmental Planning and Assessment Act 1979 as amended.
87. **Compliance with Access, Mobility and AS4299** - Adaptable Housing - Should the Council be appointment as the PCA, the Construction Certificate Application must be accompanied by detailed working plans and a report or a Certificate of Compliance from an Accredited Access Consultant certifying that the building design and access to the adaptable units complies with Council's DCP and AS 4299 Adaptable Housing.
88. **Noise** - Noise related conditions - Council will generally enforce noise related conditions in accordance with the Noise Guide for Local Government (<http://www.environment.nsw.gov.au/noise/nglg.htm>) and the Industrial Noise Guidelines (<http://www.environment.nsw.gov.au/noise/industrial.htm>) publish by the Department of Environment and Conservation. Other state government authorities also regulate the Protection of the Environment Operations Act 1997.

Useful links relating to Noise:

- (a) Community Justice Centres - free mediation service provided by the NSW Government (www.cjc.nsw.gov.au).
- (b) Department of Environment and Conservation NSW, Noise Policy Section web page (www.environment.nsw.gov.au/noise).

- (c) New South Wales Government Legislation home page for access to all NSW legislation, including the Protection of the Environment Operations Act 1997 and the Protection of the Environment Noise Control Regulation 2000 (www.legislation.nsw.gov.au).
 - (d) Australian Acoustical Society - professional society of noise-related professionals (www.acoustics.asn.au/index.php).
 - (e) Association of Australian Acoustical Consultants - professional society of noise related professionals (www.aaac.org.au).
 - (f) Department of Gaming and Racing - (www.dgr.nsw.gov.au).
89. **Disability Discrimination Act** - This application has been assessed in accordance with the [Environmental Planning and Assessment Act 1979](#). No guarantee is given that the proposal complies with the [Disability Discrimination Act 1992](#). The applicant is responsible to ensure compliance with this and other anti-discrimination legislation. The [Disability Discrimination Act 1992](#) covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which refers to AS1428.1-Design for Access and Mobility.
90. **Fire and Rescue NSW comments-** Prior to the issue of a Construction Certificate the applicant may be required, under Clause 144 of the Environmental Planning & Assessment Regulation 2000 to seek written comment from FR NSW about any Fire Engineered Solution developed to meet the performance requirements for external combustible cladding.
91. **Council as PCA - Total Conformity with BCA** - Should the Council be appointed as the Certifying Authority in determining the Construction Certificate, the building must comply with all the applicable deemed to satisfy provision of the BCA. However, if an alternative solution is proposed it must comply with the performance requirements of the BCA, in which case, the alternative solution, prepared by an appropriately qualified fire consultant, accredited and having specialist qualifications in fire engineering, must justify the non-compliances with a detailed report, suitable evidence and expert judgement.

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

Should there be any non-compliance, an alternative method of fire protection and structural capacity must be submitted, with all supporting documents prepared by a suitably qualified person.

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

92. **Long Service Levy** - The Long Service Corporation administers a scheme which provides a portable long service benefit for eligible workers in the building and construction industry in NSW. All benefits and requirements are determined by the Building and Construction Industry Long Service Payments Act 1986. More information about the scheme and the

levy amount you are required to pay to satisfy a condition of your consent can be found at <http://www.longservice.nsw.gov.au>.

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

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

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

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

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

94. **Council as PCA - Deemed to Satisfy Provisions of BCA** - Should the Council be appointed as the PCA in determining the Construction Certificate, the building must comply with all the applicable deemed to satisfy provision of the BCA. However, if an alternative fire solution is proposed it must comply with the performance requirements of the BCA, in which case, the alternative solution, prepared by an appropriately qualified fire consultant, accredited and having specialist qualifications in fire engineering, must justifying the non-compliances with a detailed report, suitable evidence and expert judgement. Council will also require if deemed necessary, for the alternative solution to undergo an independent peer review by either the CSIRO or other accredited organisation. In these circumstances, the applicant must pay all costs for the independent review.

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

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

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

(a) Complete the Stormwater Drainage Application Form which can be downloaded from Georges River Council's website at www.georgesriver.nsw.gov.au.

(b) In the Application Form, quote the Development Consent No. (eg. DA2018/0***) and reference this condition number (e.g. Condition 23)

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

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

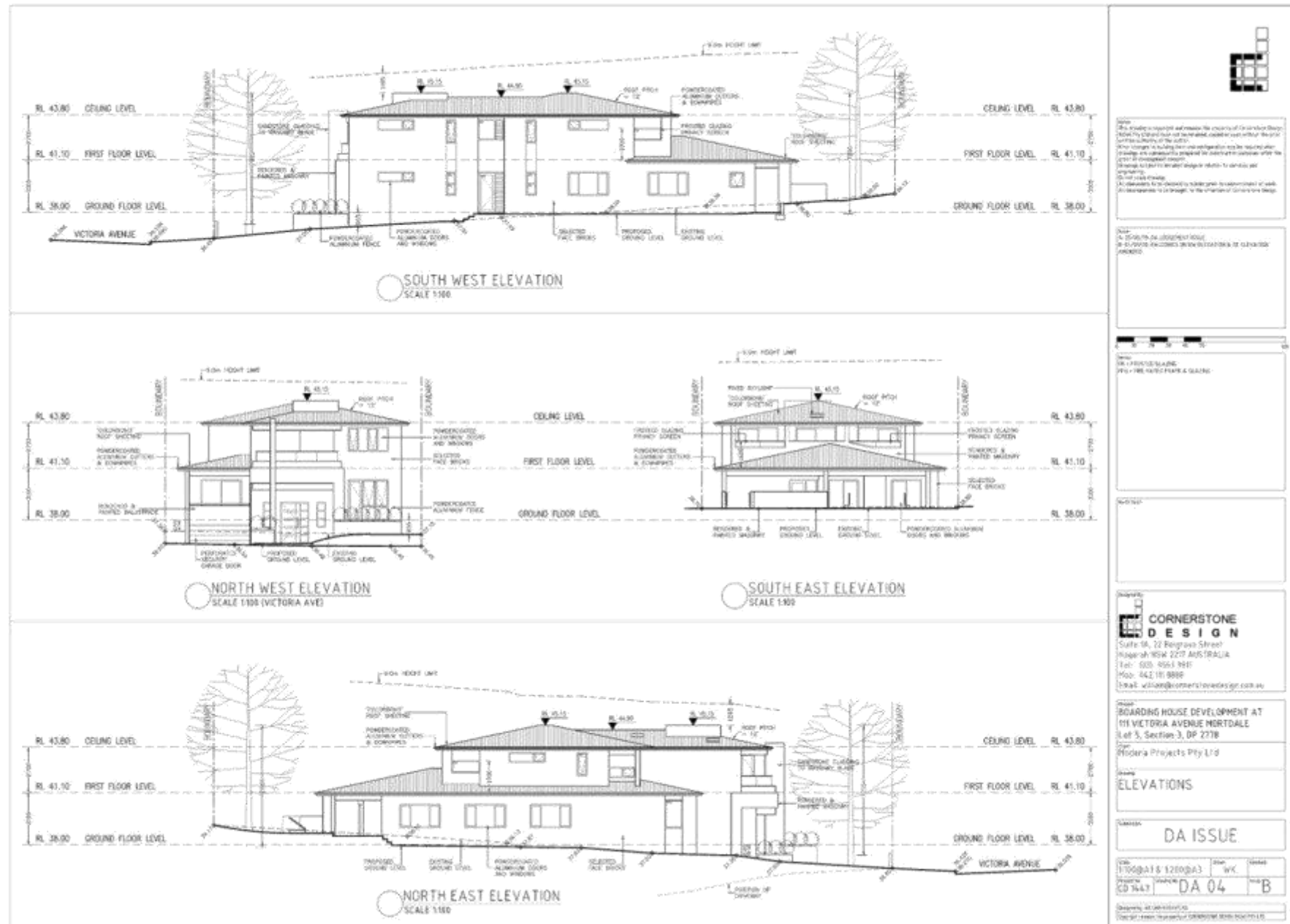
The preparation of all engineering drawings (site layout plans, cross sections, longitudinal sections, elevation views together with a hydraulic grade analysis) and specifications for the new stormwater drainage system to be arranged by the applicant. The design plans must be lodged and approved by Council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

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

ATTACHMENTS

- Attachment [1](#) Site Plan - 111 Victoria Avenue Mortdale
Attachment [2](#) Elevation Plans - 111 Victoria Avenue Mortdale
Attachment [3](#) Schedule of Finishes - 111 Victoria Avenue Mortdale





SCHEDULE OF FINISHES – Issue B

111 VICTORIA AVENUE MORTDALE

Prepared by:
Cornerstone Design
Suite 1A, 22 Belgrave Street
Kogarah NSW 2217
Project Number: CD1447
Date: 21 January 2020

Bricks (Main Building) – ‘PGH’ Blackheath



Rendered Ground Floor Columns & Planterboxes – ‘Dulux’ Pale Earth



Eaves – ‘Dulux’ Vintage Beige

Letter Box Wall & Rendered Masonry – 'Dulux' Deep Onyx



Feature Column - Sand Stone Cladding



Sliding Windows, Doors & Ground Floor Fencing – 'Dulux' Night Sky Powdercoating



Front Door – 'Little Greene' Baked Cherry



REPORT TO GEORGES RIVER COUNCIL LPP MEETING OF THURSDAY, 04 JUNE 2020

LPP025-20

LPP Report No	LPP025-20	Development Application No	DA2020/0050
Site Address & Ward Locality	36 Chamberlain Street, Narwee Mortdale Ward		
Proposed Development	Demolition works and construction of a 60 place child care centre with basement parking for nine (9) vehicles		
Owners	Lintel Pty Ltd		
Applicant	Commitment Pty Ltd - Katharine Mayer		
Planner/Architect	Architect – Catherine Munayer; Planner – Lindsay Fletcher		
Date Of Lodgement	17/02/2020		
Submissions	Three (3)		
Cost of Works	\$941,141.00		
Local Planning Panel Criteria	The application is for the construction of a centre-based child care centre which is required to be determined by the Georges River Local Planning Panel via Council delegations		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017; State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, Greater Metropolitan Regional Environmental Plan No.2 – Georges River Catchment, State Environmental Planning Policy No.55 – Remediation of Land, State Environmental Planning Policy (Infrastructure) 2007, Draft Environmental State Environmental Planning Policy, Draft State Environmental Planning Policy – Remediation of Land, Hurstville Local Environmental Plan 2012, Hurstville Development Control Plan No. 1 and Draft Georges River Local Environmental Plan 2020.		
List all documents submitted with this report for the Panel's consideration	Site Plan and Elevations		
Report prepared by	Senior Development Assessment Planner		

Recommendation	That the application be refused for the reasons referenced 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	Yes

recommendations summarised, in the Executive Summary of the assessment report?	
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?	No – the application is recommended for refusal and the reasons for refusal can be reviewed when the report is published.

Site Plan



The subject site is outlined in blue

Executive Summary

Proposal

1. The development application seeks consent for demolition works and construction of centre-based child care facility on land legally described Lot 47 in DP 10112, known as 36 Chamberlain Street, Narwee.
2. The centre will cater for 60 children in a two storey building over a semi-basement parking area for nine (9) vehicles.

Site and Locality

3. The site is rectangular in shape with a frontage of 15.24m to Chamberlain Street. The allotment has an area of 789.66sqm. The site is located on the north eastern side of Chamberlain Street. The allotment has a fall from the street to the rear of 3.36m.
4. The site is currently occupied by a single storey dwelling house and a detached single garage.
5. Adjoining the site to the north west is a two storey dwelling house, and to the south east is a site containing 3 child care centres with a total of 77 children (approved) (in the same ownership as the subject site/applicant). To the rear of the site are dwelling houses, and opposite the site are two storey dwellings that form part of a large multi-dwelling development being the former Narwee Boys High School Site.
6. The child care centres located to the south east of the site are an adaptive reuse of a former Methodist Church and Minister's residence which ceased formal worship in February 1995. This site remains zoned as SP2 – Infrastructure (under Hurstville Local Environmental Plan 1994 the site was zoned 5A General Special Uses). The streetscape presentation of this site has always been distinct from the residential development surrounding given the nature of the use which has occupied the site. In 1967 an application was lodged with Hurstville Council to seek to operate a non-denominational childcare centre (32 children 2-5 years between 9.30am and 3pm Monday to Friday) from 32 Chamberlain Street associated with the Methodist Church. In 1968 Council received a further application to construct a Church Hall. As a result the Church and its facilities have been operating from this site since the 1960's.

Zoning and Permissibility

7. The site is zoned R2 Low Density Residential under the Hurstville Local Environmental Plan 2012 (HLEP). The application seeks consent for a 60 place child care centre which is defined as a "*centre-based child care facility*" being a permissible use within the zone with development consent.

Submissions

8. The application was notified in accordance with the provisions contained within the Hurstville Development Control Plan. In response, three (3) submissions were received. The relevant concerns raised within the submissions have been addressed in detail later in this report.

Conclusion

9. An assessment has been undertaken in accordance with the applicable assessment criterion as outlined in this report and the proposal is considered inadequate based upon the following conclusions:
 - In accordance with Council's DA checklist, and to ensure a full and proper submission with sufficient detail to enable a complete assessment the following reports are required to be submitted for a child care centre application and were not submitted in support of this proposal:
 - o A Preliminary Site Investigation Report in accordance with the child care guidelines and SEPP 55 to ensure the site is suitable for the highly sensitive child care use;

- A Geotechnical Report to confirm that excavation works will not encounter groundwater (triggering the requirement for an approval from Water NSW) and is suitable for the level of excavation proposed.
 - A Plan of Management to demonstrate that impacts of the use can be managed in a manner that will minimize impacts on adjoining uses and the environment more generally.
 - A BCA Report to demonstrate that the design shown on the architectural plans is able to be realized with respect to National Construction Code requirements;
 - A Social Impact Assessment to demonstrate the need for the centre in this location.
 - Documentation demonstrating that the outdoor play areas do not require concurrence from the Department of Education under Clause 22 of State Environmental Planning Policy (Educational Establishments and Child care Facilities) 2017.
- In addition, the following reports and plans contain internal inconsistencies and some of the reports were prepared a considerable time ago that make it unclear as to the proposal for which consent is sought, or are inadequately prepared:
- Access Report;
 - Acoustic Report;
 - Traffic Report;
 - Landscape Plan;
 - Stormwater Management; and
 - Waste Management.

In addition, there are a number of design elements missing from the architectural plans, including details to demonstrate the design meets the relevant Australian Standards for food preparation areas. The application is not clear whether children will bring their own food from home or whether it is provided by the centre either cooked in house or delivered prepared and ready to serve.

10. The inadequacy of these documents is outlined in detail in the relevant sections of the report, but cumulatively they result in a lack of clarity as to what is proposed, and an application that is insufficiently complete to allow for an appropriate assessment of impacts to be completed.
11. Council has, on multiple occasions urged the applicant to withdraw the application (with a full refund of assessment fees being offered) and seek comprehensive feedback through a pre-lodgement meeting with Council's Development Advisory Service, to assist in revising the application to an assessment ready standard, and provided detailed advice of the issues with respect to the application. The applicant has chosen not to withdraw the application and for the assessment and determination to be made.
12. Based upon the information provided to date, it is assessed that the proposal will have an adverse and unreasonable environmental impact in the following regard:
 - The centre adjoins three (3) centres on the adjoining site to the south east, which currently has consent for up to 77 children combined on these sites. Only five (5) parking spaces are currently provided for these three (3) centres. The proposal currently before Council is seeking to construct a basement car park to accommodate nine (9) vehicles. The car park access includes an inadequately wide ramp design for

the class of use proposed, with the basement being deficient by one (1) car parking space.

- The design of the facility is not consistent with the *Childcare Planning Guideline* in that:
 - the entry sequences (from both the basement car park and the street) are convoluted and provide access directly to play spaces and a classroom, there is no formalised central reception area;
 - inadequate outdoor space is provided;
 - access between the upper floor child care room and the outdoor open space area is not direct or easy being via a small lift or narrow staircase;
 - inadequate indoor and outdoor storage demonstrated on the plans; and
 - inadequate separation between kitchen facilities and play spaces provided.
- Inadequate landscaping is provided on the site, with the front setback being dedicated to an impermeable (soft rubber) area used as the outdoor play space for play room 1 which includes a shade sail over. To comply with the safety criterion this area is proposed to be fenced by an 1800mm high fence on the boundary and the side returns, and in the rear yard. The rear play area 2 which is part on an elevated deck with roof over and part on the ground level with a shade sail over for classroom 2 and 3 is also impermeable (soft rubber). This area is also fenced and screens on the balcony level to a height of 1800mm. There are sporadic pockets of natural vegetation.
- The proposal will have an adverse acoustic and visual privacy impact on adjacent residential properties with noise and views from the elevated play space in the rear.
- The waste arrangements involved are unsuitable for a centre of this size and will result in adverse environmental impacts due to insufficient storage capacity.
- The food preparation areas are inappropriate for a centre of this size and it has not been demonstrated that these comply with the relevant food standards. The application is not clear whether children will bring their own food from home or whether it is provided by the centre either cooked in house or delivered prepared and ready to serve.
- The proposed building form is keeping a consistent floor level throughout the ground floor which, due to the slope of the site results in the ground floor level at the rear being excessively elevated. The elevated area is one of the rear primary outdoor play spaces for the older children. This results in an unreasonable visual and acoustic impact.

13. As a result of the concerns, deficiencies and inadequacies of the proposal the application is recommended for refusal.

Report in Full

Proposal

14. The application seeks consent for demolition of the existing dwelling and garage and construction of a centre-based child care facility for 60 children with semi-basement parking area for nine (9) vehicles. The child mix is 8 x 0-2 year olds and 52 x 3-6 year olds).

15. The proposal is described on the architectural plans in further detail as follows (noting as detailed earlier in this report there are a number of inconsistencies between plans and reports submitted with the application):

Basement Level

- driveway and ramp access from Chamberlain Street to a semi-basement level containing nine (9) parking spaces (4 x staff and 5 x visitor spaces, including one accessible space),
- two (2) bicycle racks,
- area for services and bins,
- a store room, staff WC and children's WC accessed from the lower level outdoor play area to the rear of the basement accessed separately from the basement, and
- lift access to the levels above.

Ground Floor

- outdoor play area in the front setback,
- two (2) indoor playrooms,
- outdoor play area on the balcony and stair access to the lower level yard play area,
- store room, office, two cot rooms, bottle preparation area, kitchenette, craft sink, lockers, children's toilets, baby change area and shower and a separate accessible WC,
- lift and stair access to the level above, and
- lift access from the basement.

First Floor

- staff room, office, two store rooms,
- indoor play area and kitchen preparation area, craft sink, lockers, small laundry facility, children's toilet and separate WC,
- lift access to the lower levels.

Site and Locality

16. The site is rectangular in shape with a frontage of 15.24m to Chamberlain Street. The allotment has an area of 789.66sqm. The site is located on the north eastern side of Chamberlain Street. The allotment has a fall from the street to the rear of 3.36m.
17. The site is currently occupied by a single storey dwelling house and a detached single garage.



Figure 1 – Existing dwelling on the site

LPP025-20

18. Adjoining the site to the north west is a two storey dwelling house, and to the south east are three (3) child care centres (under the same ownership as the subject site/applicant). The centre caters for 77 children (approved) between three buildings on the site, and provides parking for five (5) cars (two (2) staff and three (3) visitor spaces). The number of children accommodated on the site has grown in capacity between the early 1970s and the latest approval in 2004, originally catering for 37 children in the rear building, to 20 children in each of the buildings in the front of the site (1996/DA-0230 and 2002/DA-0722 and 2002/DA-0722.1), currently totalling 77 children.
19. The approved parking on site consists of three (3) parking spaces along the south eastern site boundary and two spaces in the drive-through driveway at the front of the site. It is also purported that visitors also rely on one (1) 15 minute timed on street parking space within Chamberlain Street in front of the centre.
20. To the rear of the site are dwelling houses, and opposite the site are two storey dwellings that form part of a large multi-dwelling development formerly the Narwee Boys High School site.



Figure 2 – 38 Chamberlain St (north west of the site)



Figure 3 – Child care centre at 32-34 Chamberlain Street (south east of the site)



Figure 4 – Residential development opposite the site

Zoning and Permissibility

21. The subject land is zoned R2 – Low Density Residential under the provisions of the Hurstville Local Environmental Plan 2012 (HLEP 2012). The proposed development is defined by the HLEP 2012 as a '*Centre-based child care facility*' which is a permitted land use in the zone with consent.

Submissions

22. The proposed development was notified to the immediate and surrounding residents. In response, a total of three (3) submissions were received by Council, all objecting to the proposed development. The relevant concerns raised have been addressed in detail later in this report.

Background

23. The following table provides a background of the application to date:

Date	Action
17 December 2019	DA2019/0616 was lodged. Prior to lodgement, the applicant was advised there were a number of required documents missing. The applicant was advised to undertake a pre-lodgement if assistance was required, however it was insisted the application be taken over the counter. The applicant was advised it was likely the application would be rejected via Council Officer review process.
19 December 2019	A letter of rejection was emailed to the applicant following a preliminary review of the application. The letter identified the following details as being missing, inadequate or unacceptable and recommended again that the applicant seek a pre-lodgement with Council's Development Advisory Service prior to proceeding further to understand the necessary information and application details that area required to facilitate the assessment of the application: <ul style="list-style-type: none"> - Contamination Report

	<ul style="list-style-type: none"> - Stormwater Management Plans - Architectural Plans - Acoustic Report - Landscape Plans - Waste Management details - Parking design - Character - Deep soil provision and - Elevation of the building out of the ground
January – February 2020	Correspondence between the applicant's town planner and Council staff requesting the DA be accepted was received. Advice was provided that the application would need to be re-lodged, but that the issues identified in the correspondence of 19 December 2019 remained unaddressed.
17 February 2020	DA2020/0050 (the subject application) was lodged. The material forming part of this application did not differ from that provided in DA2019/0616, and no pre-lodgement advice had been sought by the applicant.
20 March 2020	<p>Following a detailed assessment, the applicant was sent detailed correspondence outlining the issues with the application and requesting withdrawal of the DA due to insufficient information, inadequate and inconsistent reports and plans.</p> <p>Given the breadth of issues and the amount of time required to address them, the advice was also provided to the applicant that no additional information would be accepted pursuant to Clause 55 of the Regulations and 7 days was provided within which to withdraw the application. The applicant was again urged to make use of Council's Development Advisory Service for assistance.</p>
2 April 2020	<p>The applicant's town planner called to advise a response was being prepared and most issues could be dealt with by design changes or conditions of consent. A meeting was requested, however due to COVID 19 restrictions via the Public Health Orders a face to face meeting could not be facilitated at this time.</p> <p>The assessment by Council Officers confirmed that a substantial amount of work was required to bring the application up to the required standard for assessment, and it was advised that it was not considered that the application was sufficiently complete to enable the proposal to be adequately resolved in a reasonable timeframe. The applicant was again recommended to seek the assistance of Council's Advisory Service.</p>
17 April 2020	The applicant's town planner responded advising most issues could be dealt with by updating reports, plans or Council imposing conditions of consent and they would not withdraw the application. No information accompanied this letter.
22 May 2020	The applicant was advised by email that the DA would be referred to the Local Planning Panel for determination based

on the information submitted with the DA.

PLANNING ASSESSMENT

24. The site has been inspected and the proposed development has been assessed under the provisions of Section 4.15(1) of the Environmental Planning and Assessment Act 1979.

STATE ENVIRONMENTAL PLANNING POLICIES

State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017

25. State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (Education and Child Care SEPP) commenced on 1 September 2017 and aims to facilitate the effective delivery of educational establishments and early education and care facilities across the State.
26. The guidelines require centres provide indoor play areas at a rate of 3.25sqm/child (60 children would require 195sqm) and outdoor play areas at a rate of 7sqm/child (60 children would require 420sqm).
27. The architectural plans state the proposal provides the following areas of indoor and outdoor play areas:
- Indoor play area - 280sqm;
 - Outdoor play area - 447sqm.

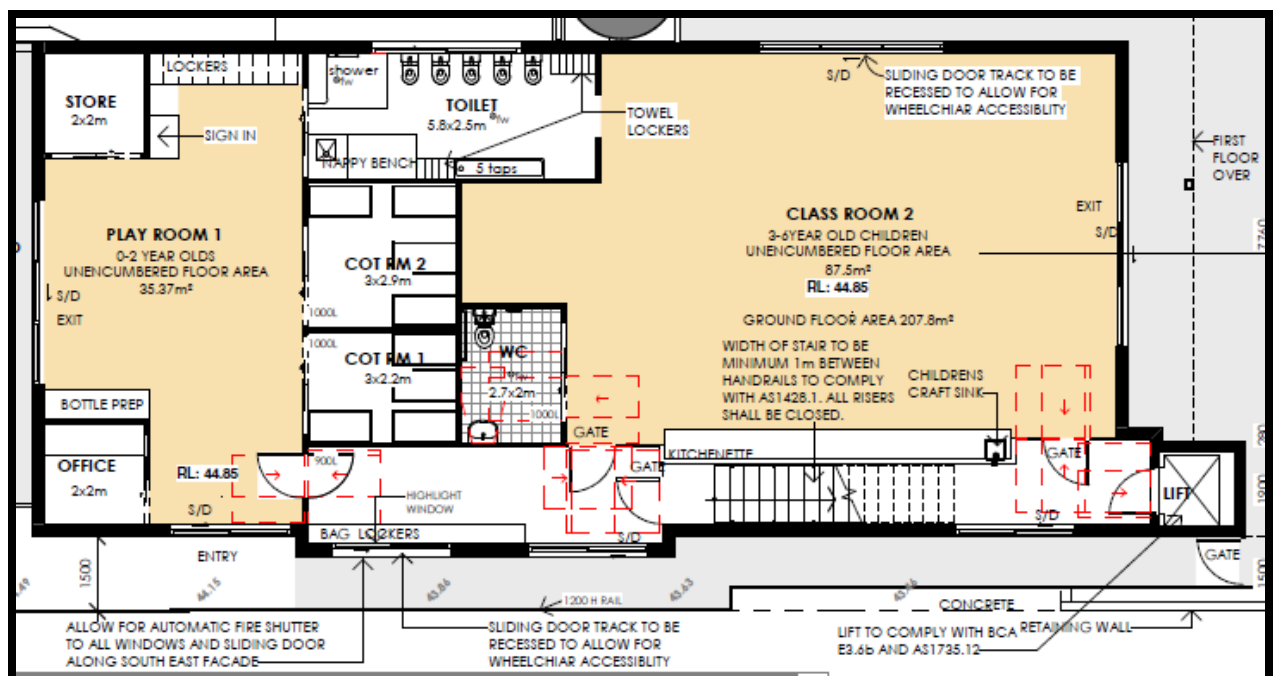


Figure 5: Ground floor indoor play areas

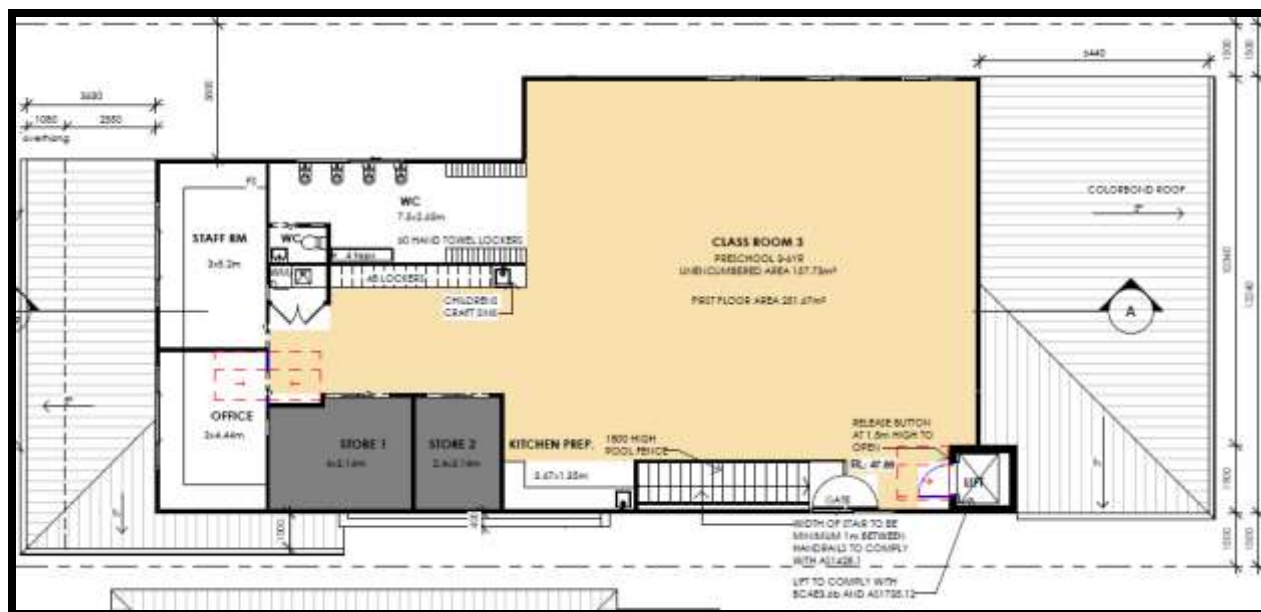


Figure 6: First floor indoor play area

28. The plans submitted with the application fail to correctly calculate the unencumbered indoor play areas. The plans have incorrectly included areas that are required to be excluded, including:

- The area in front of the kitchen in Class Room 2;
- The area in front the of the bottle preparation area in Play Room 1; and
- The area directly adjacent to the entry to the centre in Play Room 1.

The figure of 280sqm provided on the architectural plans for the indoor play area suggests the centre is capable of accommodating an increase in children in the future, being up to 86 children. It is considered that the site is currently unable to accommodate 60 children (parking does not comply) and approval of incorrectly calculated indoor spaces would risk future applications for additional children relying on the indoor spaces indicated in this application.

29. In relation to the outdoor play areas, the architectural plans do not indicate which areas have been included or excluded in the nominated figure of 447sqm. The guidelines require pathways, storage areas, screen planting and other spaces not suitable for children to be excluded from the calculation.
30. In reviewing the submitted architectural plans, it appears that the outdoor play is more in the order of 360sqm, which fails to meet the minimum of 440sqm for 60 children, resulting in a maximum of 51 children permitted.
31. An assessment of the proposal against the Child Care Planning Guidelines is provided in the following table.

Child Care Planning Guideline Compliance Table		
Controls	Proposed	Complies
3.1 Site selection and location		
C1- For proposed developments in or adjacent to a residential zone consider:		
<ul style="list-style-type: none"> ▪ the acoustic and privacy impacts of the proposed development on 	The proposed upper level balcony/outdoor play area will	No

the residential properties	have adverse visual and acoustic privacy impacts on the private open space of the residential neighbours to the rear. An acoustic barrier is proposed to the northern side of the play space adjacent to 38 Chamberlain Avenue to a height of 2.1m above the ground floor balcony finished level which is as required by the Acoustic Report prepared by EMM dated December 2019.	
<ul style="list-style-type: none"> the setbacks and siting of buildings within the residential context 	<p>The basement ramp is located on a nil setback to the northern side boundary for a length of 23.485m from the front boundary and extends to a height of 1.2m or 1.7m above the existing ground level and 3.9m to the top of the acoustic screen. This façade for the ground floor element of the building at its highest point will present as 4.2m in height. The height to the ridge at the upper level is 8.9m in height given the skillion roof design. This results in adverse and unacceptable bulk and scale impacts for the residential neighbour to the north west. The south eastern side of the development is considerable elevated with the ground floor being 1.3m – 1.6m above the existing site level, and proposes a wall height of 4.6m at its highest point. It is acknowledged this is the elevation that faces the adjoining child care facility which is owned by the owners of the application currently before Council.</p> <p>The elevated ground floor level of the development has an unacceptable impact to the residential allotments to the rear and the north west.</p> <p>There is also a recent shop top housing development on the</p>	No

	corner of Broadarrow Road and Chamberlain Street and older style traditional shop top housing further along Broadarrow Road.	
<ul style="list-style-type: none"> traffic and parking impacts of the proposal on residential amenity 	<p>The proposal seeks to rely on on-street parking in lieu of the proposal being deficient by one (1) space on-site. No application has been made to the Traffic Committee for the introduction of timed parking spaces within the site frontage and Council's Traffic Engineer has indicated there is no guarantee such an application would be supported.</p> <p>Council's Traffic Engineer has advised the access to the basement does not meet the relevant Australian Standards with respect to the traffic generation for the child care centre requiring a passing bay at the entrance to the child care centre, as per AS2890.1:2004 3.2.2. The waiting bay at the bottom of the ramp does not satisfy the criterion.</p> <p>The application has not demonstrated that there are compliant sightlines when egressing the basement.</p>	No
C2 - When selecting a site, ensure that:		
<ul style="list-style-type: none"> the location and surrounding uses are compatible with the proposed development or use 	The site adjoins three (3) approved child care centres and residential properties with a visual line of site to commercial development fronting Broadarrow Road which are compatible uses when appropriately managed. The application has failed to demonstrate the proposal will not result in adverse parking and vehicle manoeuvrability, acoustic and privacy impacts.	No
<ul style="list-style-type: none"> the site is environmentally safe including risks such as flooding, land slip, bushfires, coastal hazards 	There are no hazards affecting the site.	Yes

<ul style="list-style-type: none"> there are no potential environmental contaminants on the land, in the building or the general proximity, and whether hazardous materials remediation is needed 	<p>A Preliminary Site Investigation report was not submitted with the DA, which forms one (1) of the reasons for refusal as it cannot be satisfied the site is suitable for this sensitive use.</p> <p>Subclause (d) of Regulation 25 of the Education and Care Services National Regulations requires for this to be demonstrated and in addition to this SEPP 55 requires an assessment be carried out in circumstances where a more sensitive use is proposed to occupy a site. This proposal falls into this category.</p>	No
<ul style="list-style-type: none"> the characteristics of the site are suitable for the scale and type of development proposed having regard to: <ul style="list-style-type: none"> - size of street frontage, lot configuration, dimensions and overall size - number of shared boundaries with residential properties. - the development will not have adverse environmental impacts on the surrounding area, particularly in sensitive environmental or cultural areas. 	<p>The application fails to demonstrate the proposal will not have adverse parking and vehicle manoeuvring, acoustic and privacy impacts together with the number of non-compliances with State and Local planning controls, the site is considered unsuitable for a child care centre of this size.</p>	No
<ul style="list-style-type: none"> there are suitable drop off and pick up areas, and off and on street parking 	<p>The proposal relies on on-street parking to compensate for a shortfall of one on-site space, which is not supported.</p> <p>It is acknowledged there is currently three (3) on-street timed car parking within the frontage of 32-34 Chamberlain Street. This appears to have been accommodated as the adjoining child care centres were an adaptive reuse and intensification of a former Methodist Church which had a previous approval for a 32 place 2-5 year old child care centre operating 9.30am – 3pm Monday to Friday and</p>	No

	<p>associated minister's residence which was converted to a child care centre (SP2 zoning).</p> <p>This is a purpose built development and therefore the development needs to be compliant and not using public spaces for private purposes in a location where on-street parking is limited.</p>	
<ul style="list-style-type: none">the type of adjoining road (for example classified, arterial, local road, cul-de-sac) is appropriate and safe for the proposed use	Chamberlain Street is a local road.	Yes
<ul style="list-style-type: none">it is not located closely to incompatible social activities and uses such as restricted premises, injecting rooms, drug clinics and the like, premises licensed for alcohol or gambling such as hotels, clubs, cellar door premises and sex services premises.	The site is not located close to any incompatible land uses.	Yes
C3 - A child care facility should be located:		
<ul style="list-style-type: none">near compatible social uses such as schools and other educational establishments, parks and other public open space, community facilities, places of public worship	The site is suitably located to such uses.	Yes
<ul style="list-style-type: none">near or within employment areas, town centres, business centres, shops		
<ul style="list-style-type: none">with access to public transport including rail, buses, ferries		
<ul style="list-style-type: none">in areas with pedestrian connectivity to the local community, businesses, shops, services and the like.		
C4- A child care facility should be located to avoid risks to children, staff or visitors and adverse environmental conditions arising from proximity to:		

<ul style="list-style-type: none"> ▪ heavy or hazardous industry, waste transfer depots or landfill sites ▪ LPG tanks or service stations ▪ water cooling and water warming systems ▪ odour (and other air pollutant) generating uses and sources or sites ▪ which, due to prevailing land use zoning, may in future accommodate noise or odour generating uses ▪ extractive industries, intensive agriculture, agricultural spraying activities ▪ any other identified environmental hazard or risk relevant to the site and/ or existing buildings within the site. 	<p>The site is not located in close proximity to any such land uses or activities.</p>	<p>Yes</p>
3.2 Local character, streetscape and the public domain interface		
C5 - The proposed development should:		
<ul style="list-style-type: none"> ▪ contribute to the local area by being designed in character with the locality and existing streetscape ▪ reflect the predominant form of surrounding land uses, particularly in low density residential areas ▪ recognise predominant streetscape qualities, such as building form, scale, materials and colours ▪ include design and architectural treatments that respond to and integrate with the existing streetscape 	<p>The built form facing the street resembles the residential context of the locality and the adjacent child care centre, however the elevated built form above natural ground level has significant adverse bulk and scale impacts on the adjacent residential properties to the side and rear of the subject site, and the lack of deep soil landscaping to all site boundaries' does not reflect the landscaped setting of the site.</p> <p>In addition, the open style pool fencing, rubber play area and shade sails are inconsistent with the residential form of the street. The justification by the applicant that there is a play area and shade sail in the front of the adjacent child care centre does not justify proposing the same on the subject site. It is to be acknowledged the adjoining allotment is an adaptive reuse of a former Methodist Church and Minister's residence; as a result the space available was</p>	<p>No</p>

	<p>constrained and presented differently and is also zoned differently being an SP2 zone. This development is a purpose built building as a result it needs to meet the criterion of being within a residential setting given this site is zoned R2 and will result in the demolition of an exiting dwelling.</p> <p>Historically since 1967/68 there was an approval on 32 Chamberlain Street for a 32 place 2-5 year old child care centre operating between 9.30am and 3pm. Following the closure of the Methodist Church in February 1995 both 32 and 34 Chamberlain were sold. An application for the conversion of 34 Chamberlain Street to a childcare centre was approved by the Land and Environment Court on 10 April 2006. The Church building and the minister's home remain and have been converted therefore this site is unique as it has always had a differing presentation to the streetscape than that of a pure residential allotment.</p>	
<ul style="list-style-type: none"> ▪ use landscaping to positively contribute to the streetscape and neighbouring amenity 	Insufficient area is provided as deep soil to allow for substantial landscaping, and the proposed open style pool fencing, shade sail and rubber surface of the play area does not positively contribute to the streetscape.	No
<ul style="list-style-type: none"> ▪ integrate car parking into the building and site landscaping design in residential areas. 	The semi-basement parking area is not integrated into the built form and results in an elevated outdoor play area and ground floor level of the child care centre which has adverse visual and acoustic impacts on the residential neighbour to the rear.	No
C6 - Create a threshold with a clear transition between public and private realms, including:		

<ul style="list-style-type: none"> fencing to ensure safety for children entering and leaving the facility 	Appropriate fencing is proposed being swimming pool style fencing. Vegetation of Cascade Lilly Pilly's having a mature height of 1600mm are proposed on the inside face of the fencing.	Yes
<ul style="list-style-type: none"> windows facing from the facility towards the public domain to provide passive surveillance to the street as a safety measure and connection between the facility and the community 	Windows and glass sliding doors are oriented to the street.	Yes
<ul style="list-style-type: none"> integrating existing and proposed landscaping with fencing. 	<p>The proposal does not seek to retain any existing landscaping and does not propose sufficient areas of deep soil to accommodate any new substantial landscaping. The proposal includes open style pool fencing above the low height brick fence at the front of the site to reach a height of 1.8m.</p> <p>There are Cascade Lilly Pilly's which at maturity will be 1600mm in height planted along the frontage within the site.</p>	No
C7- On sites with multiple buildings and/or entries, pedestrian entries and spaces associated with the child care facility should be differentiated to improve legibility for visitors and children by changes in materials, plant species and colours.	<p>Fencing is proposed between the pedestrian pathway from Chamberlain Street and the front play area to restrict access to the area.</p> <p>A pathway will delineate the entry to the centre which is from the side elevation.</p>	Yes
<p>C9 - Front fences and walls within the front setback should be constructed of visually permeable materials and treatments.</p> <p>Where the site is listed as a heritage item, adjacent to a heritage item or within a conservation area front fencing should be designed in accordance with local heritage provisions.</p>	<p>The front fence is proposed to be pool fencing with landscaping within the front play area, being a strip of Cascade Lilly Pilly's with a mature height of 1600mm.</p> <p>Not applicable.</p>	<p>Yes</p> <p>N/A</p>
C10 - High solid acoustic fencing may be used when shielding the	Not applicable as Chamberlain Street is a local road.	N/A

<p>facility from noise on classified roads. The walls should be setback from the property boundary with screen landscaping of a similar height between the wall and the boundary.</p>		
<p>3.3 Building orientation, envelope and design</p>		
<p>C11- Orient a development on a site and design the building layout to:</p>		
<ul style="list-style-type: none"> ensure visual privacy and minimise potential noise and overlooking impacts on neighbours by: facing doors and windows away from private open space, living rooms and bedrooms in adjoining residential properties placing play equipment away from common boundaries with residential properties locating outdoor play areas away from residential dwellings and other sensitive uses 	<p>The balcony outdoor play area is elevated and will have adverse visual and acoustic privacy impacts for the residential neighbour to the rear and to a lesser extent the dwelling to the north western side of the site.</p>	<p>No</p>
<ul style="list-style-type: none"> optimise solar access to internal and external play areas 	<p>The indoor and outdoor play areas will receive reasonable levels of solar access as they have north eastern orientation, albeit it reduced as a result of the covering over the ground floor balcony play area and the 2.1m high solid acoustic barrier required by the acoustic report. The extent of solar access to play room 1 is unclear as the patio roof and shade sail over the outdoor play area will reduce sunlight into the glass sliding doors. There are no openings in the north western side of the building providing.</p>	<p>Yes</p>
<ul style="list-style-type: none"> avoid overshadowing of adjoining residential properties 	<p>The proposal does not unreasonably shadow residential properties; there is a shadow impact in the morning to the dwelling on the north western side of the site.</p>	<p>Yes</p>
<ul style="list-style-type: none"> minimise cut and fill 	<p>The proposed semi-basement involves excavation however results in a poor built form which elevates the ground floor play room and outdoor play areas resulting in visual and privacy impacts on neighbours.</p>	<p>No</p>

▪ ensure buildings along the street frontage define the street by facing it	Complies.	Yes
▪ ensure that where a child care facility is located above ground level, outdoor play areas are protected from wind and other climatic conditions.	The elevated outdoor play area is roofed for shade however two sides are open to the elements and one (1) side partially open above the acoustic screen including wind and rain.	Yes
C12- The following matters may be considered to minimise the impacts of the proposal on local character:		
▪ building height should be consistent with other buildings in the locality	The building height complies with the maximum 9m limit as the height is measured from the existing site level not the excavated level.	Yes
▪ building height should respond to the scale and character of the street	Complies with the numeric control.	Yes
▪ setbacks should allow for adequate privacy for neighbours and children at the proposed child care facility	The elevated balcony outdoor play area will have adverse privacy impacts on residential neighbours. In addition the children can be seen playing in this area by neighbours, not affording the children any privacy.	No
▪ setbacks should provide adequate access for building maintenance	Adequate setbacks are provided with the exception of the wall that has a nil setback to the north western boundary.	Yes
▪ setbacks to the street should be consistent with the existing character.	The street setback of the building complies with the adjoining development. The shade sail is within the front setback.	Yes
C13 - Where there are no prevailing setback controls minimum setback to a classified road should be 10m. On other road frontages where there are existing buildings within 50m, the setback should be the average of the two closest buildings. Where there are no buildings within 50m, the same setback is required for the predominant adjoining land use.	Not applicable.	N/A
C14 - On land in a residential zone, side and rear boundary setbacks should observe the prevailing setbacks required for a dwelling house.	The basement ramp is located on a nil setback to the northern side boundary for a length of 23.485m from the front boundary and extends to a	No

	<p>height of 1.2m or 1.7m above the existing ground level and 3.9m to the top of the acoustic screen. This façade for the ground floor element of the building at its highest point will present as 4.2m in height. The height to the ridge at the upper level is 8.9m in height given the skillion roof design. This results in adverse and unacceptable bulk and scale impacts for the residential neighbour to the north west. The south eastern side of the development is considerable elevated with the ground floor being 1.3m – 1.6m above the existing site level, and proposes a wall height of 4.6m at its highest point. It is acknowledged this is the elevation that faces the adjoining child care facility which is owned by the owners of the application currently before Council.</p> <p>The elevated ground floor level of the development has an unacceptable impact to the residential allotments to the rear and the north west.</p>	
C15- The built form of the development should contribute to the character of the local area, including how it:		
<ul style="list-style-type: none"> respects and responds to its physical context such as adjacent built form, neighbourhood character, streetscape quality and heritage 	<p>The built form of the proposal is elevated at the rear and reads as a three (3) level building which does not reflect the existing character of the locality as it has not been respectful of the site topography and results in adverse privacy and visual impacts for residential neighbours.</p> <p>The child care centres adjoining are an adaptive reuse of existing building and are at or close to the ground levels of the site (see street view below), not elevated as proposed by the subject application.</p>	No



Figure 7: Child care centres adjoining 32-34 Chamberlain Street

<ul style="list-style-type: none"> contributes to the identity of the place 	The proposal does not contribute positively to the identity of the locality due to the adverse impacts of the built form, lack of landscaping and shortfall in parking spaces.	No
<ul style="list-style-type: none"> retains and reinforces existing built form and vegetation where significant 	The existing vegetated front and rear yard of the site is lost to the proposal and replaced with hard surfaces to accommodate the outdoor play areas.	No
<ul style="list-style-type: none"> considers heritage within the local neighbourhood including identified heritage items and conservation areas 	Not applicable.	N/A
<ul style="list-style-type: none"> responds to its natural environment including local landscape setting and climate 	Insufficient area is provided as deep soil to allow for substantial landscaping and the natural ingress of water.	No
C16- Entry to the facility should be limited to one secure point which is:		
<ul style="list-style-type: none"> located to allow ease of access, particularly for pedestrians directly accessible from the street where possible directly visible from the street frontage easily monitored through natural or camera surveillance not accessed through an outdoor play area. in a mixed-use development, clearly defined and separate from entrances to other uses in the building. 	Complies subject to appropriate signage.	Yes
C17- Accessible design can be achieved by:		
<ul style="list-style-type: none"> providing accessibility to and within the building in accordance with all relevant legislation linking all key areas of the site by 	The proposal is capable of meeting the relevant requirements, however it is noted that due to the elevated	Yes

<p>level or ramped pathways that are accessible to prams and wheelchairs, including between all car parking areas and the main building entry</p> <ul style="list-style-type: none"> providing a continuous path of travel to and within the building, including access between the street entry and car parking and main building entrance. Platform lifts should be avoided where possible minimising ramping by ensuring building entries and ground floors are well located relative to the level of the footpath. NOTE: The National Construction Code, the Discrimination Disability Act 1992 and the Disability (Access to Premises – Buildings) Standards 2010 set out the requirements for access to buildings for people with disabilities. 	<p>nature of the proposal above natural ground, access between levels within the centre and between indoor and outdoor areas are via stairs and lifts. Notably classroom 3 on the first floor has no adjacent outdoor play area and access to the outdoor play areas are via stairs, lift or ramp.</p> <p>An access report has accompanied the application, but is however dated 2018, therefore it is unknown if the comments directly relate to the plans currently before Council.</p>	
3.4 Landscaping		
C18- Appropriate planting should be provided along the boundary integrated with fencing. Screen planting should not be included in calculations of unencumbered outdoor space. Use the existing landscape where feasible to provide a high quality landscaped area by:		
<ul style="list-style-type: none"> reflecting and reinforcing the local context incorporating natural features of the site, such as trees, rocky outcrops and vegetation communities into landscaping. 	<p>Insufficient area is provided as deep soil to allow for substantial landscaping. The majority of the site is covered by the car parking area and the rubber outdoor play areas.</p>	No
C19- Incorporate car parking into the landscape design of the site by:		
<ul style="list-style-type: none"> planting shade trees in large car parking areas to create a cool outdoor environment and reduce summer heat radiating into buildings taking into account streetscape, local character and context when siting car parking areas within the front setback using low level landscaping to soften and screen parking areas. 	<p>Not applicable – semi-basement parking area proposed.</p>	N/A
C21- Minimise direct overlooking of indoor rooms and outdoor play spaces from public areas through:		
<ul style="list-style-type: none"> appropriate site and building layout suitably locating pathways, 	<p>An open style pool fence is proposed over the front boundary above the existing</p>	No

<ul style="list-style-type: none"> windows and doors permanent screening and landscape design 	600mm masonry fence which will not obscure a view from the street into the play area. There is a landscaping strip inside the fencing which is to contain 6 Cascade Lilly Pilly which grow to a height 1.6m as referenced on the landscape plan. When at maturity these shrubs will screen the play space from the public domain.	
C22 Minimise direct overlooking of main internal living areas and private open spaces in adjoining developments through:		
<ul style="list-style-type: none"> appropriate site and building layout suitable location of pathways, windows and doors landscape design and screening. 	The elevated balcony will overlook residential neighbours. The openings in the north western side of the building have windows all with sill heights of 1500mm.	No
C23- A new development, or development that includes alterations to more than 50 per cent of the existing floor area, and is located adjacent to residential accommodation should:		
<ul style="list-style-type: none"> Provide an acoustic fence along any boundary where the adjoining property contains a residential use. (An acoustic fence is one that is a solid, gap free fence). 	<p>An acoustic wall (colourbond sandwich panel) is proposed along the northern side of Outdoor Play Area 2 (elevated balcony). While the proposed fencing may reduce noise for the residential neighbour to the north, it is located between a nil and a 900mm setback from the side boundary, above the semi-basement wall and extends to a height between 3m and 4.2m resulting in an adverse visual impact for the neighbour.</p> <p>The height to the ridge at the upper level is 8.9m in height given the skillion roof design. This results in adverse and unacceptable bulk and scale impacts for the residential neighbour to the north west. The south eastern side of the development is considerable elevated with the ground floor being 1.3m – 1.6m above the existing site level, and proposes a wall height of 4.6m at its highest point. It is acknowledged this is the elevation that faces</p>	No

	<p>the adjoining childcare facility which is owned by the owners of the application currently before Council.</p> <p>The elevated ground floor level of the development has an unacceptable impact to the residential allotments to the rear and the north west.</p>	
C24- A suitably qualified acoustic professional should prepare an acoustic report which will cover the following matters:		
<ul style="list-style-type: none"> ▪ identify an appropriate noise level for a child care facility located in residential and other zones ▪ determine an appropriate background noise level for outdoor play areas during times they are proposed to be in use ▪ determine the appropriate height of any acoustic fence to enable the noise criteria ▪ to be met. 	<p>An Acoustic Report has been submitted with the DA however the report suggests operation of the centre, ie outdoor play times and limits on the number of children, in addition to the required acoustic wall on outdoor play area 2, that have not been addressed in a Plan of Management. With these restrictions and the number of children, it is unknown how this is to be managed.</p> <p>The acoustic report prepared December 2019 by EMM recommended that the elevated outdoor play area be used for a maximum of 2hrs per day and the acoustic fencing along the north western side of the elevated play area be 2.1m in height which is annotated on the plan.</p>	Yes
3.6 Noise and air pollution		
C25 Adopt design solutions to minimise the impacts of noise, such as:		
<ul style="list-style-type: none"> ▪ creating physical separation between buildings and the noise source ▪ orienting the facility perpendicular to the noise source and where possible buffered by other uses ▪ using landscaping to reduce the perception of noise ▪ limiting the number and size of openings facing noise sources ▪ using double or acoustic glazing, acoustic louvres or enclosed balconies (winter gardens) ▪ using materials with mass and/or 	<p>The plans detail the acoustic fence is 2100mm as per the acoustic report.</p> <p>The other recommendation of the report was that this area only be used for 2hrs a day. This criterion does not seem to align with the required usage of this area by two (2) classrooms and fifty two (52) children.</p>	N/A

<p>sound insulation or absorption properties, such as solid balcony balustrades, external screens and soffits</p> <ul style="list-style-type: none"> ▪ locating cot rooms, sleeping areas and play areas away from external noise sources. 		
C26- An acoustic report should identify appropriate noise levels for sleeping areas and other non-play areas and examine impacts and noise attenuation measures where a child care facility is proposed in any of the following locations:	The acoustic report details that an assessment has been undertaken of the impact from road noise on playroom 1 which contains the cot rooms. The assessment detailed no attenuation is required to the street elevation.	N/A
C27- Locate child care facilities on sites which avoid or minimise the potential impact of external sources of air pollution such as major roads and industrial development.	<p>The site is not located in close proximity to any polluting land uses or major roads.</p> <p>Narwee Train Station (East Hills line) is located further to the north of the site. The rail corridor does not impact this use.</p>	Yes
C28- A suitably qualified air quality professional should prepare an air quality assessment report to demonstrate that proposed child care facilities close to major roads or industrial developments can meet air quality standards in accordance with relevant legislation and guidelines. The air quality assessment report should evaluate design considerations to minimise air pollution.	Not applicable.	N/A
3.7 Hours of operation		
C29- Hours of operation within areas where the predominant land use is residential should be confined to the core hours of 7.00am to 7.00pm weekdays. The hours of operation of the proposed child care facility may be extended if it adjoins or is adjacent to non-residential land uses.	The proposed hours of operation are 7am to 6pm weekdays.	Yes
3.8 Traffic, parking and pedestrian circulation		
C31 Off street car parking should be provided at the rates for child care facilities specified in a Development Control Plan that applies to the land.	The proposal seeks to rely on on-street parking in lieu of the proposal being deficient by one (1) space on-site. No application has been made to the Traffic	No

	<p>Committee for the introduction of timed parking spaces within the site frontage and Council's Traffic Engineer has indicated there is no guarantee such an application would be supported.</p> <p>Council's Traffic Engineer has advised the access to the basement does not meet the relevant Australian Standards with respect to the traffic generation for the childcare centre requiring a passing bay at the entrance to the Child Care Centre, as per AS2890.1:2004 3.2.2. The waiting bay at the bottom of the ramp does not satisfy the criterion.</p>	
<p>C33- A Traffic and Parking Study should be prepared to support the proposal to quantify potential impacts on the surrounding land uses and demonstrate how impacts on amenity will be minimised.</p> <ul style="list-style-type: none"> the amenity of the surrounding area will not be affected there will be no impacts on the safe operation of the surrounding road network 	<p>Council's Traffic Engineer does not support the proposed parking design – refer to comments in the DCP section of this report.</p>	No
<p>C36- The following design solutions may be incorporated into a development to help provide a safe pedestrian environment:</p>		
<ul style="list-style-type: none"> separate pedestrian access from the car park to the facility 	<p>Lift access is provided from the parking area however visitors are then required to travel through Classroom 2 to access the bag lockers (no reception area is noted on the architectural plans). This results in parents and carers unnecessarily accessing play areas of the centre.</p> <p>The plans currently show visitors to the centre must walk through play room 1 (0-2 year olds) to sign in, which is undesirable and does not appear to be operationally functional.</p>	No
<ul style="list-style-type: none"> pedestrian paths that enable two 	<p>The path of travel for</p>	No

prams to pass each other	parents/carers with prams who access the facility from the car park via the lift is through the indoor play area and the corridors cannot accommodate two prams passing each other. The entry pathway from the public domain does not enable two (2) prams to pass.	
<ul style="list-style-type: none"> delivery and loading areas located away from the main pedestrian access to the building and in clearly designated, separate facilities 	No delivery or loading areas are proposed nor can be accommodated on site.	No
<ul style="list-style-type: none"> vehicles can enter and leave the site in a forward direction. 	Council's Traffic Engineer does not support the proposed shortfall in parking and has advised the proposed access ramp to the basement level parking area does not comply with the relevant Australian Standard with respect to the traffic generated by 60 children as no passing bay is provided on the driveway. There is a waiting bay at the bottom of the ramp internally within the site, this also needs to be at the top of the ramp which cannot be accommodated in the current design.	No
C38 Car parking design should:		
<ul style="list-style-type: none"> include a child safety fence to separate car parking areas from the building entrance and play areas 	The car park design does not provide safe paths of travel for pedestrians to the lift.	NA
<ul style="list-style-type: none"> provide clearly marked accessible parking as close as possible to the primary entrance to the building in accordance with appropriate Australian Standards 	The accessible parking space is located adjacent to the lift in the basement.	Yes

Deemed State Environmental Planning Policy – Georges River Catchment

32. The subject land is located within the Georges River Catchments and as such The Greater Metropolitan Regional Environmental Plan No 2 - Georges River applies to the application. Georges River Catchment generally aims to maintain and improve the water quality and river flows of the Georges River and its tributaries.
33. The proposal has been reviewed by Council's Development Engineer who advised that the submitted drainage plans are inadequate. The applicant was requested to provide updated drawings addressing the following:

- provide a longitudinal section for the stormwater pipe crossing the footpath area showing the concrete paving over the stormwater conduit;
- demonstrate the method of the stormwater disposal of all the site paving;
- demonstrate how 80% of the site runoff passes through the on-site detention system; and
- demonstrate the method of stormwater disposal from the site area indicated as the soft rubber area.

34. The applicant did not provide the requested information.

State Environmental Planning Policy Vegetation 2017

35. The Vegetation SEPP regulates clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent.
36. 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).*
37. 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.
38. The proposal does not involve the removal of any significant vegetation or trees.

State Environmental Planning Policy No 55 - Remediation of land

39. The subject land has traditionally been utilized for residential uses. The proposed use of the site as a child care centre is more intensive than the current residential use of the site and is highly sensitive given the increased risk of children to contaminants and the proposed concentration of children on the site.
40. In addition, subclause (d) of Regulation 25 of the Education and Care Services National Regulations requires soil testing which has not been provided with the application. No documentation has been submitted to demonstrate that the site in its present state is suitable for the proposed use, or can be made suitable for its proposed use. The application was not supported by a preliminary contamination report; this forms one of the reasons for refusal.

Draft Environmental Planning Instruments

41. The Draft Environment SEPP was exhibited from 31 October 2017 to 31 January 2018. This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland and Willandra Lakes World Heritage Property. Changes proposed include consolidating the following seven existing SEPPs:
- State Environmental Planning Policy No. 19 – Bushland in Urban Areas;
 - State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011;
 - State Environmental Planning Policy No. 50 – Canal Estate Development;

- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment;
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No.2-1997);
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005;
- Willandra Lakes Regional Environmental Plan No. 1 – World Heritage Property;

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

Draft Remediation SEPP

43. The draft SEPP was exhibited from 31 January to 13 April 2018. The following are the aims of the SEPP as per below;

- provide a state-wide planning framework for the remediation of land;
- maintain the objectives and reinforce those aspects of the existing framework that have worked well;
- require planning authorities to consider the potential for land to be contaminated when determining development applications and rezoning land;
- clearly list the remediation works that require development consent; and
- introduce certification and operational requirements for remediation works that can be undertaken without development consent.

44. The application is not supported by a preliminary contamination report and this forms one of the reasons for refusal.

Hurstville Local Environmental Plan 2012

Zoning

45. The subject site is zoned R2 – Low Density Residential under the provisions of Hurstville Local Environmental Plan 2012, a child care centre is a permissible form of development with consent.

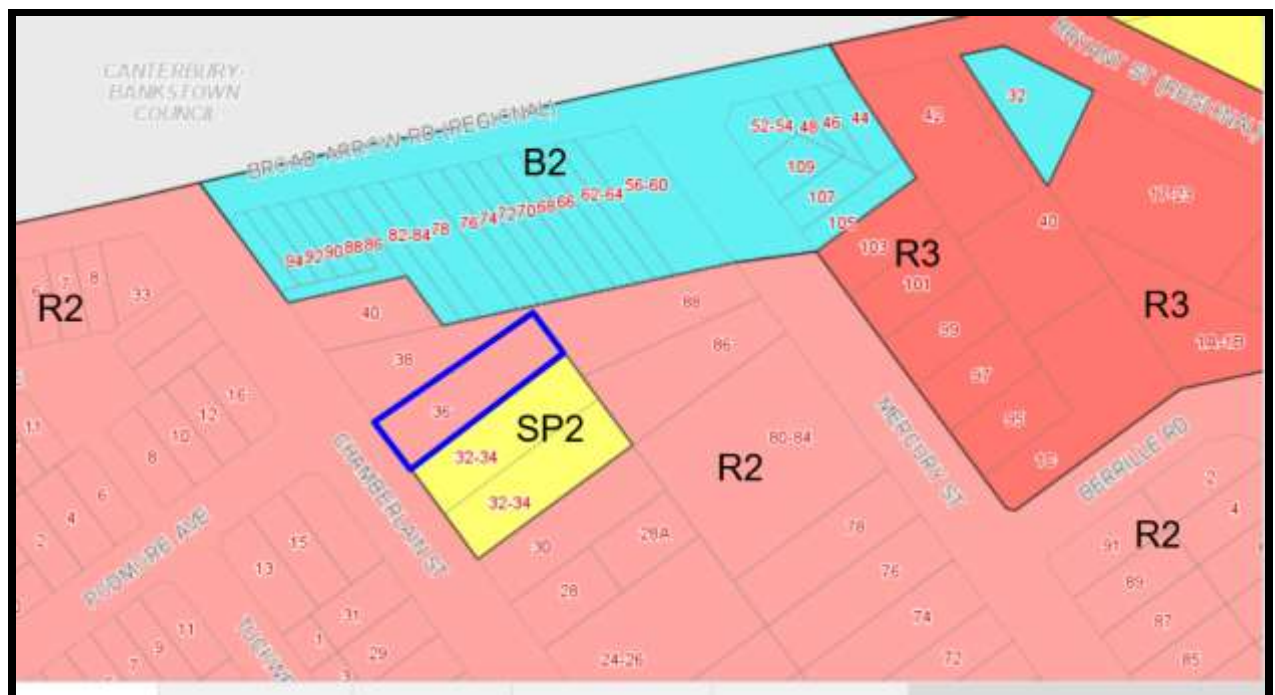


Figure 8: Zone map - subject site is outlined in blue

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

Clause	Standard	Assessment Under HLEP 2012
Part 2 – Permitted/Prohibited Development	R2 Low Density Residential	The Application is for an early childhood education facility. For the purposes of definition the Applicant seeks approval as a child care centre (CCC) which is permissible in the zone.
	Objectives of the Zone	The proposal does not comply with two objectives of the zone (see discussion following this table).
4.3 – Height of Buildings	9m as identified on Height of Buildings Map	8.9m
4.4 – Floor Space Ratio	0.6:1 as identified on Floor Space Ratio Map	0.6:1.
4.5 – Calculation of floor space ratio and site area	FSR and site area calculated in accordance with Cl.4.5	FSR has been calculated correctly.
6.7 – Essential Services	The following services that are essential for the development shall be available or that adequate arrangements must be made available when required: * Supply of water, electricity and disposal and management of sewerage * Stormwater drainage or on-site conservation * Suitable vehicular access	Adequate facilities for the supply of water and for the removal of sewage and drainage are available to this land. The method for disposal of stormwater has not been addressed to the satisfaction of Council's Development Engineer. This forms one of the reasons for refusal. Council's Traffic Engineer has identified that the design of the ramp and basement is inadequate for the level of use proposed. This forms one of the reasons for refusal.

Part 2 – Permitted or Prohibited Development

Objectives of Zone

47. The proposed use seeks consent to provide a child care service that must satisfy the following objectives of the zone, including:

To enable other land uses that provide facilities or services to meet the day to day needs of residents.

To ensure that a high level of residential amenity is achieved and maintained.

48. It is acknowledged that the proposal will provide a service to meet the needs of the local residents, however the design of the proposal and the inadequacy of provided information, with respect to parking, noise and visual impact, together with the cumulative impact of the neighbouring centres, means it has not been demonstrated that a high level of residential amenity will be maintained.

Draft Georges River Local Environmental Plan 2020

49. Consideration is given to the provisions of Draft Georges River Local Environmental Plan 2020 in the assessment this application.
50. In this regard, the provisions have no determining weight as a result of proposed operation of Clause *“1.8A Savings provisions relating to development applications”* of the Draft Plan which provides *“If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.”*

Development Control Plans

Hurstville Development Control Plan No 1 - LGA Wide

51. The proposal has been considered in accordance with the applicable subsections and considerations below.

DEVELOPMENT CONTROL PLAN NO 1 – LGA WIDE – SECTION 3.1 VEHICLE PARKING, ACCESS AND MANOEUVRING

Section 3.1	Requirements	Proposed	Complies
3.1.4.1 (table) – Child care centres refers requirements under 5.4.10	1 space per 2 staff (8 staff required) = 4 car spaces	4 proposed	Yes
	1 space per 10 children (60 children) = 6 car spaces	5 proposed	No
	Total required = 10 car spaces	9 spaces proposed	No

52. The Traffic Report states the proposed child care centre is an extension of the adjoining child care centres at 32-34 Chamberlain Street. This directly conflicts with the Statement of Environmental Effects which says the centre has the same owner but will be operated independently of the existing centres adjoining the subject site.
53. The proposal has a shortfall of one (1) parking space within the proposed parking area and suggests the shortfall can be compensated with timed on street parking, an extension of the three (3) timed on-street parking spaces in front of the child care centres at 32-34 Chamberlain Street. The applicant has not made an application to the Traffic Committee for this and Council's Traffic Engineer had advised there is no guarantee the application will be supported.
54. The application has been reviewed by Council's Traffic Engineer who provided the following comments:
- On site parking for the child care centre is deficient by one (1) car parking space. Council's Traffic Engineer has advised the child care centre cannot rely on introducing

time-restricted on street parking for their drop off and pick up as approval from Council's Traffic Committee is required, an approval for which has not been sought by the applicant.

- The traffic generation of the childcare centre for 60 children would result in more than 30 movements per peak hour. This triggers the need for a passing bay at the entrance to the basement parking area/top of the driveway, as per AS2890.1:2004 3.2.2, in addition to the passing bay at the bottom of the driveway to ensure cars can safely wait at either the top or the bottom of the ramp when another car is passing on the ramp, this cannot be accommodated in the current design.
- The basement design does not provide designated and safe pedestrian paths.

55. The failure of the proposal to meet the relevant standards for ramp design to cater for the anticipated number of vehicle movements generated by 60 children at the centre, the shortfall of required parking spaces and reliance on timed on-street parking (without the necessary approval from Council/Traffic Committee) together with the fact that the adjacent child care centres, owned by the applicant of the subject application, only provides parking for 5 cars for a centre that has consent to accommodate 77 children cumulatively, will adversely impact parking in Chamberlain Street resulting in an unacceptable cumulative impact on the locality with respect to parking and traffic.
56. The non-compliant parking and access design forms one of the reasons for refusal.

DEVELOPMENT CONTROL PLAN NO 1 – LGA WIDE – SECTION 3.3 ACCESS AND MOBILITY

57. This section of Development Control Plan No 1 requires the provision of “*access for all persons through the principal entrance and access to appropriate sanitary facilities in accordance with the BCA and relevant Australian Standards.*”
58. The Application is accompanied by an Access Review Report prepared by Morris Goding, dated 13 November 2018. It is unclear which plans form the basis of the Access Report plan numbers have been referenced, but there is no copy associated with the report as it is dated 2018 the plans submitted with the application are dated 28.09.19.
59. The inconsistency of the report with the architectural plans forms one of the reasons for refusal.

DEVELOPMENT CONTROL PLAN NO 1 – LGA WIDE – SECTION 3.4 CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

Section 3.4	Requirements	Proposed	Complies
Fencing	Allows natural surveillance to street	Open style fencing and glass doors. The landscaping will at maturity be 1600mm high obscuring the line of site to public domain.	Yes
Blind Corners	To be avoided	The car park design and access from the car park to the ground level outdoor play area creates blind corners.	No
Communal Areas	Provide opportunities for natural surveillance	There are no communal areas proposed as part of the centre	Yes

		however outdoor areas can be seen from internal areas through glass doors.	
Entrances	Clearly visible and not confusing	<p>Lift access is provided from the parking area however visitors are then required to travel through Classroom 2 to access the bag lockers and play room 1 (no formal delineated reception area is noted on the architectural plans). This results in parents and carers unnecessarily accessing play areas of the centre.</p> <p>The plans currently show visitors to the centre must walk through play room 1 (0-2 year olds) to sign in, which is undesirable.</p>	No
Site and Building Layout	<ul style="list-style-type: none"> - Provide surveillance opportunities - Building addresses street - Offset windows 	The provision of a play area in the front setback cannot be adequately screened from the street to prevent overlooking from the street without a solid fence being used, which will not be in keeping with the residential character of the site and would not allow for surveillance of the street from inside the centre. The proposed landscaping will reduce surveillance opportunities to the street. Surveillance from the first floor to the street is difficult as the sill height is 1200mm.	No
Lighting	<ul style="list-style-type: none"> - Diffused/movement sensitive lighting provided externally - Access/egress points illuminated - No light spill towards neighbours - Hiding places illuminated - Lighting is energy efficient 	No lighting details were provided with the application.	Cannot be demonstrated
Landscaping	<ul style="list-style-type: none"> - Avoid dense medium height shrubs - Allow spacing for low 	No planting is proposed in the front setback that would obscure a view to the street.	Yes

	growing dense vegetation - Low ground cover or high canopy trees around car parks and pathways	Cascade Lilly Pilly's are proposed which at maturity grow to 1600mm.	
Building Identification	- Clearly numbered buildings - Entrances numbered - Unit numbers provided at entry	Can be conditioned to satisfy these requirements, should the application be approved.	Yes
Security	Provide an appropriate level of security	No security details were submitted with the application. A Plan of Management would include such details, however one was not submitted.	No
Ownership	Use of fencing, landscaping, colour and finishes to imply ownership	The signage shown on the street elevation plan indicates the property is a child care centre. No name has been provided.	No

DEVELOPMENT CONTROL PLAN NO 1 – LGA WIDE – SECTION 3.5 LANDSCAPING

60. No significant vegetation is proposed for removal.
61. The Landscape Plan submitted with the DA contains inconsistencies with the architectural plans including showing a rubber surface in the outdoor play areas and the Architectural plans indicating lawn in the rear play area. In addition the submitted Landscape Plan fails to meet the requirements of Council's DA checklist.
62. Further there is insufficient deep soil proposed due to the excavation associated with the parking area and treatment of the outdoor play areas, which results in little opportunity for substantial landscaping across the site. This forms one of the reasons for refusal. In addition, the proposed landscaping in the front play area adjacent to the pool fencing will obscure surveillance of the street from the indoor and outdoor play areas.

DEVELOPMENT CONTROL PLAN NO 1 – LGA WIDE – SECTION 3.7 STORMWATER

63. The submitted drainage plans are inadequate and there is insufficient information shown in order to comply with Council's requirement to drain the proposed development.
64. The following information was requested however was not provided:
- A longitudinal section for the stormwater pipe crossing the footpath area showing the concrete paving over the stormwater conduit.
 - Details to demonstrate the method of the stormwater disposal of all the site paving.
 - Details to demonstrate how 80% of the site runoff passes through the on-site detention system.
 - Details to demonstrate the method of stormwater disposal from the site area indicated as the soft rubber area.

DEVELOPMENT CONTROL PLAN NO 1 – LGA WIDE – WASTE MANAGEMENT

65. Insufficient information was submitted in relation to waste management, including:
- The expected volumes and types of waste to be generated from use of the site.

- Details of how this waste is to be stored on site, including provisions for the separation of waste types, and details of any specialised waste services.
- Details of how ongoing management of waste will be conducted.
- Details of the arrangements for the ongoing maintenance and cleaning of the bins.
- Details on the frequency and times of collection of waste, and the proposed measures to minimise impacts on neighbouring properties.
- In the absence of Council being the nominated waste service provider, written evidence that at least one (1) waste contractor has been consulted regarding waste collection, and the details of the preferred private waste contractor to provide the service.

66. Noting the three (3) bins nominated to be stored in the basement which are inadequate for a centre of this size, and in light of the above:

- The location and design of the designated waste storage area/s, capable of accommodating all waste generated on the premises and allowing for separation of waste types is required to be nominated.
- The location of any grease traps.
- Identification of collection points for the bins, including path of travel for moving bins from storage area to collection point (if kerbside collection) or vehicular access path to storage area (if on-property collection). The transfer of bins to a collection point and their return is the responsibility of a caretaker or management.

67. The absence of these details means that it has not been demonstrated that the proposal has been designed with sufficient care to ensure appropriate management on site, or managed appropriately in this regard. This forms part of the reasons for refusal.

IMPACTS

Natural Environment

68. The proposed development fails to demonstrate that it will not result in any adverse impacts upon the natural environment. Stormwater and waste management have not been adequately addressed and insufficient deep soil area results in a poor landscaping outcome and adverse visual impacts for neighbours.

Built Environment

69. The proposed development will result in adverse impacts upon the built environment as a result of the built form. The proposed semi-basement level results in the balcony outdoor play area being elevated above the natural ground level which will adversely impact on the acoustic and visual privacy of residential neighbours, and also results in a poor built form on the north-western elevation with the external basement wall and acoustic screening above. In addition, stormwater management has not been adequately addressed to the satisfaction of Council's Engineer.

Social Impact

70. The documentation submitted with the application fails to demonstrate the proposal will not have adverse impacts on the amenity of neighbouring properties.

Economic Impact

71. There is no apparent adverse economic impact that is likely to result within the locality in relation to the proposed child care centre.

Suitability of the Site

72. The site is zoned R2 Low Density Residential. The proposal is a permissible form of development in this zone. However the application fails to demonstrate how the child care centre can be accommodated on site without adversely impacting the visual and acoustic privacy of neighbouring properties, provide adequate and compliant vehicular access and parking, and provide suitably located and substantial landscaping, adequately drain the site and manage waste storage and collection.

SUBMISSIONS AND THE PUBLIC INTEREST

73. The proposal was notified to adjoining neighbours for a period of fourteen (14) days during which three (3) submissions objecting to the development were received. The submissions raised the following issues.

- Traffic congestion and parking demand.

74. Officer Comment – The proposal fails to provide adequate parking and vehicle manoeuvrability on site which forms one (1) of the reasons for refusal of the application.

- Privacy impacts on yard and upper level windows of rear neighbour.

75. Officer Comment – The elevated outdoor play area is considered to have an adverse privacy impact on the residential neighbour to the rear, which forms one of the reasons for refusal.

- Excessive size of the building

76. Officer Comment – The floor space complies with the Local Environmental Plan controls, however the design has not had regard to the topography of the site and the elevated built form above natural ground level is considered excessive and to have adverse visual impacts on residential neighbours, and forms one of the reasons for refusal of the application.

Council Referrals**Traffic Engineer**

77. Onsite parking for the child care centre is deficient by one car parking space. Council's Traffic Engineer has advised the child care centre cannot rely on introducing time restricted on street parking for their drop off and pick up as approval from the Traffic Committee is required; this has not been sought by the applicant.
78. The traffic generation for the child care centre for 60 children would result in more than 30 movements per peak hour. This triggers the need for a passing bay at the entrance to the basement parking area/top of the driveway, as per AS2890.1:2004 3.2.2, in addition to the passing bay at the bottom of the driveway. This is not provided and as such safe access and egress to and from the basement has not been demonstrated and cannot be accommodated in the current design.
79. The basement design does not provide designated and safe pedestrian paths resulting in inadequate safety for pedestrians in this space from incoming and exiting vehicles.
80. A Plan of Management has not been submitted to detail how the tandem staff spaces will be managed.

Environmental Health Officer

116. Insufficient information has been included on the plans to demonstrate compliance with AS4674-2004 (Food Premises). The Acoustic Report references different architectural plans to those submitted with the DA as it states there are ten (10) parking spaces in the semi-basement level when there are nine (9) shown on the architectural plans submitted with the DA.

In addition, the Acoustic Report suggests in order for the proposed centre to be meet the relevant standards with regard to noise levels generated by the centre, given its location next door to a centre that currently caters for 77 children, outdoor play areas should be staggered between the centres, i.e. no outdoor play can occur at the same time between centres and the balcony play area should not be used for more than 2 hours per day as detailed by the acoustic report. As no Plan of Management has been submitted with this application, Council is not satisfied at this time this issue can be satisfactorily resolved.

Consultant Arborist

117. There are no significant trees proposed for removal or potentially impacted by the proposal, however the landscape plan submitted with the application is inconsistent with the architectural plans as it states a rubber will surface will be laid to the outdoor play area and the architectural plans indicate turf will be used. The plan does not meet the requirements for a Landscape Plan pursuant to Council's lodgement requirements.

Development Contributions

118. The development is subject of a Section 7.12 contribution (former Section 94A Contribution), under the provisions of the Georges River Council Section 94A Contributions Plan 2017. The below information, will form a part of the conditions of consent if the application was to be supported.

Fee Type	Fee
Georges River Council Section 94A Development Contributions Plan 2017	\$9,411.41

CONCLUSION

119. Development consent is sought for demolition of existing structures and the construction of an early childhood education facility for sixty (60) children, car parking for nine (9) vehicles and site works.
120. The proposal does not satisfy the zone objectives of the Hurstville Local Environmental Plan 2012 and results in multiple variations to the Development Control Plan No 1 - LGA Wide and the *Child Care Planning Guidelines 2017* for which it has not been demonstrated that sufficient grounds for variation exist.
121. The application fails to demonstrate compliance with State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 and Childcare Planning Guidelines, State Environmental Planning Policy 55 (Remediation of Land) and the Water Management Act, 2000 in not providing required soil testing or geotechnical reports.
122. Based upon the information provided to date, it is assessed that the proposal will have an adverse and unreasonable environmental impact in the following regard:

- The centre adjoins three (3) centres on the adjoining site to the south east, which current has consent for up to 77 children combined on these sites. Only five (5) parking spaces are currently provided for these three (3) centres. The proposal currently before Council is seeking to construct a basement carpark to accommodate nine (9) vehicles. The carpark access includes an inadequately wide ramp design for the class of use proposed, with the basement being deficient by one (1) car parking space.
- The design of the facility is not consistent with the *Child Care Planning Guideline* in that:
 - the entry sequences (from both the basement car park and the street) are convoluted and provide access directly into play spaces (with no formalised reception area noted on the plans);
 - inadequate outdoor space is provided;
 - access between the upper floor childcare room and the outdoor open space area is not direct or easy being via a small lift or narrow staircase;
 - inadequate indoor and outdoor storage demonstrated on the plans; and
 - inadequate separation between kitchen facilities and play spaces provided.
- Inadequate landscaping is provided on the site, with the front setback being dedicated to an impermeable (soft rubber) area used as the outdoor play space for play room 1 which includes a shade sail over. To comply with the safety criterion this area is proposed to be fenced by an 1800mm high fence on the boundary and the side returns, and in the rear yard. The rear play area 2 which is part on an elevated deck with roof over and part on the ground level with a shade sail over for classroom 2 and 3 is also impermeable (soft rubber). This area is also fenced and screens on the balcony level to a height of 1800mm. There are sporadic pockets of natural vegetation.
- The proposal will have an adverse acoustic and visual privacy impact on adjacent residential properties with noise and views from the elevated play space in the rear.
- The food preparation areas are inappropriate for a centre of this size and it has not been demonstrated that these comply with the relevant food standards. The application is not clear whether children will bring their own food from home or whether it is provided by the centre prepared on site or prepared off site and brought in and served.
- The proposed building form is keeping a consistent floor level throughout the ground floor which, due to the slope of the site results in the ground floor level at the rear being excessively elevated. The elevated area is one of the rear primary outdoor play spaces for the older children. This results in an unreasonable visual and acoustic impact.
- The waste arrangements are unsuitable for a centre of this size and will result in adverse environmental impacts due to insufficient storage capacity and details on how and by whom the waste will be removed from the site.
- The proposed building form is excessively elevated and bulky and has an unreasonable visual impact.

123. The application is recommended for refusal having regard to the following:
- the inconsistencies between documentation lodged with the application;

- the potential traffic access and generation and on-site car parking issues associated with the development;
- the acoustic impacts likely to result from the child care facility proposal;
- insufficient areas of deep soil for substantial landscaping; and
- adverse visual and privacy impacts on residential neighbours.

DETERMINATION

124. THAT pursuant to Section 80(1)(b) of the Environmental Planning and Assessment Act, 1979, as amended, the Georges River Local Planning Panel refuse development consent to Development Application DA2020/0050 for demolition works and construction of child care facility for 60 children, car parking for nine (9) vehicles and associated site works on Lot 47 in DP 10112, known as 36 Chamberlain Street, Narwee 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 fails to comply with State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (Child Care Planning Guidelines) in terms of the following adverse impacts:
 - (a) Acoustic and visual privacy impacts on residential neighbours.
 - (b) Visual impacts resulting from the built form of the proposal.
 - (c) On-street parking pressure due to a shortfall of parking on site.
 - (d) Insufficient landscaping across the site.
 - (e) Failure to correctly calculate indoor and outdoor play areas.
 - (f) A Preliminary Site Investigation Report was not submitted with the application. Accordingly it has not been demonstrated that the site is safe in its present condition for the use proposed.
 - (g) The application is inconsistent with the Childcare Planning Guideline in relation to entry into the centre from the basement and the street, internal layout and design of the centre, and an unacceptable relationship between indoor and outdoor play areas.
 - (h) No details on whether children will bring their own food from home or whether it is provided by the centre either cooked in house or delivered prepared and ready to serve.
2. **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 State Environmental Planning Policy No. 55 – Remediation of Land as a Preliminary Site Investigation Report has not been submitted with the application. Accordingly it has not been demonstrated that the site is safe in its present condition for the use proposed.
3. **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 Water Management Act, 2000 as a Geotechnical Investigation Report was not submitted with the application. Accordingly it has not been demonstrated that the proposal will not trigger a referral to, and approval of, Water NSW.
4. **Environmental Planning Instrument** - Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is

inconsistent with the objectives of the R2 Low Density Residential zone of Hurstville Local Environmental Plan 2012 in terms of the following:

- (a) The proposal does not ensure a high level of residential amenity is maintained due to the adverse acoustic and visual privacy impacts, the bulk and scale of the elevated built form, lack of landscaping and adverse visual impacts as a result of the built form of the proposal.
5. **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 Chapter 3.1 Vehicle Access, Parking and Manoeuvring of the Hurstville Development Control Plan No. 1:
- (a) The proposal fails to provide sufficient parking on the site (shortfall of one space) and has not demonstrated compliance with the relevant Australian Standard with respect to the design of the parking area or access to and from the parking area.
6. **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 Chapter 3.5 Landscaping of the Hurstville Development Control Plan No. 1:
- (a) The application fails to provide sufficient deep soil to enable quality landscaping to be provided on the site.
7. **Adequacy of Information** - Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the following information was not submitted and is required to undertake a full and proper assessment of the application:
- (a) A Preliminary Site Investigation Report in accordance with the childcare guidelines and SEPP 55 to ensure the site is suitable for the highly sensitive childcare use;
 - (b) Plan of Management to demonstrate that impacts of the use can be managed in a manner that will minimize impacts on adjoining uses and the environment more generally.
 - (c) A Geotechnical Report to confirm that excavation works will not encounter groundwater (triggering the requirement for an approval from Water NSW) and is suitable for the level of excavation proposed.
 - (d) A Building Code of Australia (National Construction Code) Report to demonstrate that the design shown on the architectural plans is able to be realized with respect to National Construction Code requirements;
 - (e) A Social Impact Assessment to demonstrate the need for the centre in this location.
8. **Consistency of Information** - Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, there are inconsistencies between the following reports/plans and the architectural plans submitted with the application:
- (a) Statement of Environmental Effects.
 - (b) Access Report.
 - (c) Acoustic Report.
 - (d) Traffic Report.
 - (e) Landscape Plan.

9. **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 natural environment:
- (a) The proposal fails to provide sufficient areas of deep soil to accommodate substantial landscaping and facilitate the natural ingress of water.
10. **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 built environment:
- (a) The proposed semi-basement level results in the balcony outdoor play area being elevated above the natural ground which will adversely impact on the acoustic and visual privacy of residential neighbours and also results in poor built form presenting to the north-western elevation with the external basement wall and acoustic screening above.
11. **Suitability of Site** - Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the site is not considered suitable for the proposed development as:
- (a) Safe and compliant vehicular entry and exit to and from the parking area has not been demonstrated.
- (b) The built form is excessively bulky for the site and results in adverse privacy and visual impacts for residential neighbours as the development has not followed the site topography.
- (c) The information submitted with the application is inconsistent and contains insufficient detail to make a full and proper assessment.
12. **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 and is likely to set an undesirable precedent within the locality.

ATTACHMENTS

Attachment [1](#) Site Plan and Elevations



CLIENT:

PROJECT
PROPOSED CHILD CARE

TITLE:
SITE / ROOF PLAN

Do not scale drawings. Use figured dimensions only. Check & verify levels and dimensions on site prior to the commencement of any work. The preparation of shop drawings or the fabrication of components. All construction works to A1 and HCC standards. This drawing is the copyright of Catherine Munyer Architecture, and is protected under the Copyright Act 1968. It may not be altered, reproduced or transmitted in any form, or by any means without the express permission of Catherine Munyer Architecture.

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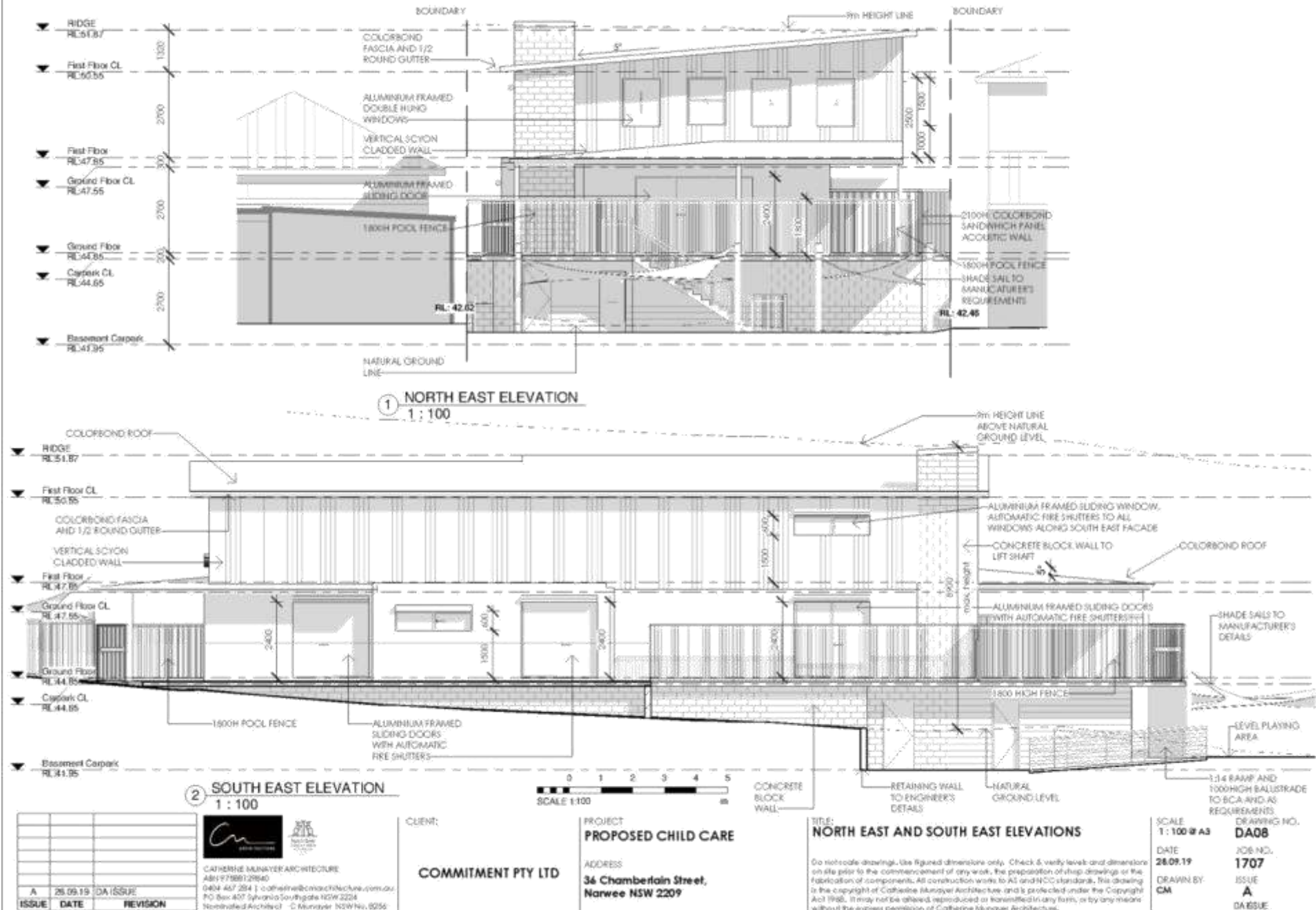
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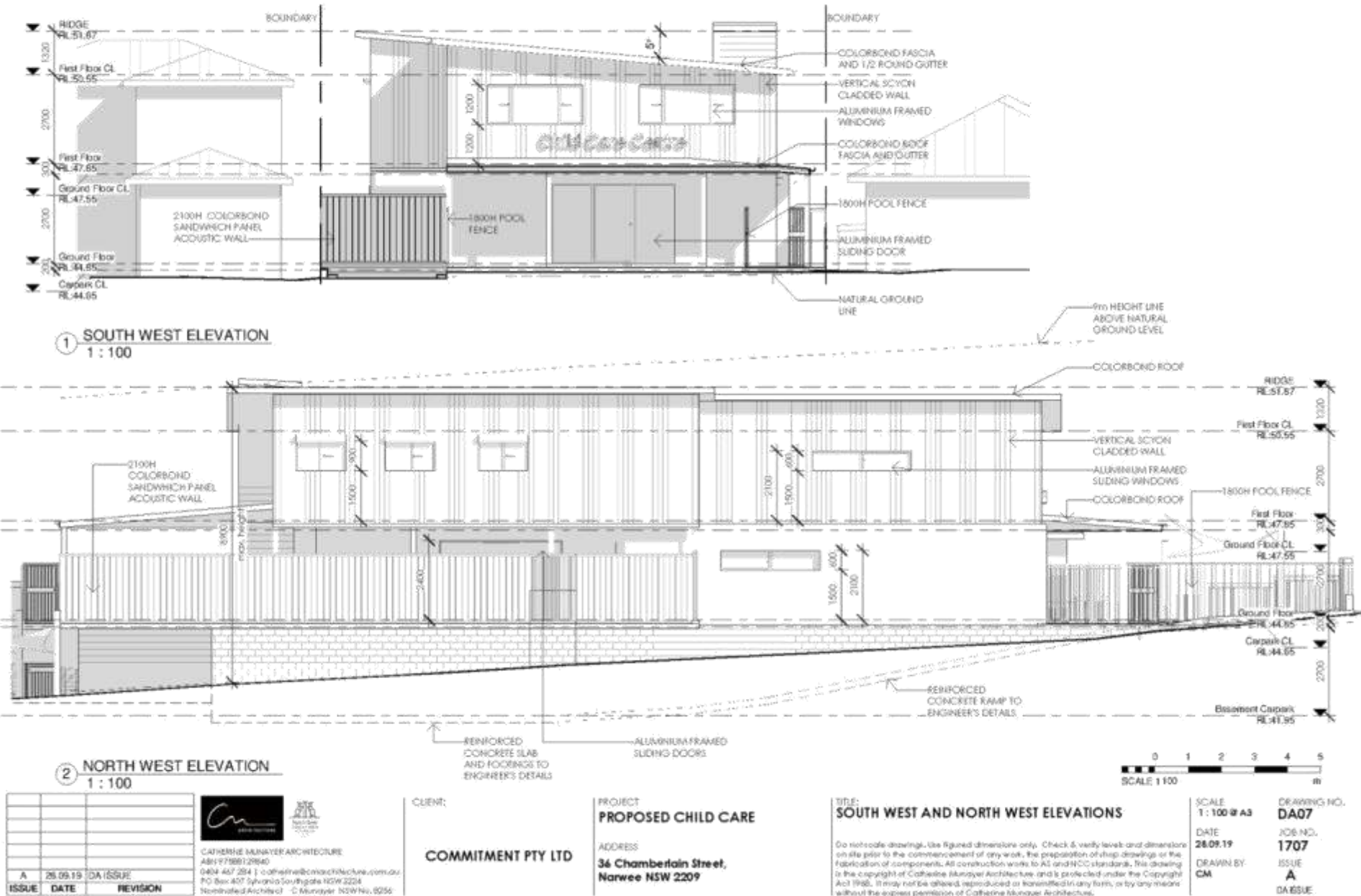
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**REPORT TO GEORGES RIVER COUNCIL
LPP MEETING OF THURSDAY, 04 JUNE 2020**

LPP026-20

LPP Report No	LPP026-20	Development Application No	DA2019/0265
Site Address & Ward Locality	6 Blakesley Road Carlton Kogarah Bay Ward		
Proposed Development	Use of the premises as a depot for a civic works company operating between 6am - 7pm Monday to Friday inclusive and 7am - 4pm Saturday		
Owners	Mrs R Saad and Mr H Saad		
Applicant	Urbanism Pty Ltd - Mr Wesley Folitarik		
Planner/Architect	Planner: Urbanism Pty Ltd – Mr Wesley Folitarik (author of Statement of Environmental Effects); Architect: Machinations		
Date Of Lodgement	1/07/2019		
Submissions	Three (3) submissions and one (1) submission containing fourteen (14) signatures		
Cost of Works	Nil – development proposes only the use of the premises, no physical works or signage proposed		
Local Planning Panel Criteria	Nature of proposed development – it is in the public interest that this DA be determined by the Local Planning Panel under Council Delegations		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	Environmental Planning & Assessment Act 1979; Environmental Planning & Regulation 2000. State Environmental Planning Policy No 55 – Remediation of Land; State Environmental Planning Policy – Infrastructure; State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017; Greater Metropolitan Regional Plan No.2 – Georges River Catchment, Draft State Environmental Planning Policy – Remediation, Draft Environment State Environmental Planning Policy, Kogarah Local Environmental Plan 2012; Kogarah Development Control Plan 2013, Draft Georges River Local Environmental Plan 2020		
List all documents submitted with this report for the Panel's consideration	Architectural Plans Statement of Environmental Effects Acoustic Report		
Report prepared by	Development Assessment Planner		

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

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?	
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?	No – however the conditions of consent can be reviewed when the report is published.

Aerial Photo

Subject site outlined in blue

Executive Summary**Proposal**

1. This development application (DA) seeks consent for the use of the premises as a “depot” for the storage of plant, machinery and equipment associated with a civil works company involved in the maintenance of footpaths, roads, pavements etc. The property has been used as a depot since some time in 2018 without the required development consent.
2. This is identified in Council’s Records as a Notice of Intention to Issue a Noise Control Notice (Record Number: 18/1584). The applicant requested to seek an exemption from

Council; if the proposed works could be identified as an exempt development, however correspondence was sent December 2018 to Civil Streetscapes advising that Council's investigations have demonstrated the use of the Premises accords with the definition of 'depot' in the Kogarah Local Environmental Plan 2012 (KLEP). While depots are permissible in the IN2 Light Industrial Zone, the use is only permissible with development consent. And as such, development consent has not been lodged with Georges River Council or the former Kogarah Council and the use of the Premises would be unlawful without the proper approval in place. Following this correspondence this Development Application was lodged with Council in July, 2019.

3. The Statement of Environmental Effects submitted with the DA, details the depot is used for the storage of plant, machinery and goods which are not used or operated on site, but are loaded and unloaded onto vehicles at this site for use off site. There is no retail component associated with this use.
4. The plant, machinery and goods include timber/metal frames, rigs, safety equipment, drills, plant (stored in the store room), augers, fences, barricades, witches hats and other machinery attachments (stored in the enclosed storage yard). None of the materials stored on site are retailed to the general public from the site or delivered offsite for retail sale. All materials are used in conjunction with civil works contracts undertaken by the business operator.
5. The business has five (5) full time employees although none are based at the site permanently. Employees attend the site to load and unload vehicles with the necessary equipment and materials for the jobs.
6. Up to four (4) vehicles access the site, the largest of which is 10.4 tonne. These vehicles are loaded in the morning and unloaded in the evenings and are stored on site in the both the enclosed storage yard area and store room. The smallest work vehicles consist of utility vehicles and vans. At full operation there will be 6-8 work related vehicle trips and 2-4 vehicle movements for private vehicles to and from the site each day. These will be largely limited to the morning peak and afternoon/evening as staff arrive load and leave with work vehicles and return again in the evening to unload and leave in private vehicles.
7. The DA seeks consent for the following hours of operation associated with the use:
 - 6:00am to 7:00pm Monday to Friday
 - 7:00am to 4:00pm Saturday
 - No work Sundays or Public Holidays

Site and Locality

8. The subject site is legally identified as Lot A DP377099, with a street address of 6 Blakesley Road, Carlton. The site is irregular in shape and has a total site area of 305.7sqm with a curved frontage partly fronting Blakesley Road and partly fronting Woids Avenue of 31.74m.
9. Existing on the site is a single-storey brick industrial building (located on the north eastern side of the site), with an open external yard (on the southern side of the site). As part of the depot use which currently operates by the identified owner(s). The building is being used for ancillary office/administration purposes associated with the use, as well as storage of some plant and equipment. The external yard area is used for storage of plant and equipment as well as for loading/unloading of the plant/equipment. The site is fully

enclosed by a brick building that is on a zero boundary setback with a roller door facing Blakesley Road and a masonry fence with metal gates along the Woids Avenue frontage. There is a retail premises on a zero setback to the west of the site and 2 storey industrial building to the south also with a zero setback to the subject site.

10. The subject site is located on the northern side of the Carlton industrial area, and properties to the south west and south east (along Blakesley Road and Woids Avenue) are used for industrial purposes. Directly across the road from the subject site (to the west, north and east) are residential properties where the land contains predominantly detached one and two storey dwelling houses.
11. Photos of the subject site are provided below.



Figure 1: Subject site, viewed from the north



Figure 2: Subject site, viewed from the east (Woids Avenue)

Zoning and Permissibility

12. The subject site is zoned IN2 – Light Industrial under the provisions of Kogarah Local Environmental Plan 2012 (KLEP 2012). The proposed use is defined as a depot is permissible with consent.

Submissions

13. The application was notified to neighbours between 9 and 23 July 2019 in accordance with the Kogarah Development Control Plan 2013 (KDCP2013).
14. A total of four (4) submissions objection to the proposal were received. Three (3) individual letters and one (1) submission containing fourteen (14) signatures were received. The submissions raised the following issues of concern which are discussed in detail later in this report:
 - Insufficient on-site parking, causing trucks/equipment and employee vehicles to be parked in the street;
 - The stated (proposed) hours of operation are unacceptable – in particular early (6am) starts. Site activities are said to occur earlier than the stated start time of 6am;
 - Loading/unloading in the street instead of on-site;
 - Truck parking and loading/unloading in the street causes reduction in on-street parking;
 - The site is too small for the intended use;
 - The site is too close to residential properties and causes significant amenity impacts to those residences (noise, early morning starts, truck movements etc.);
 - Heavy vehicles associated with the development using residential roads.

15. It is considered that the proposed development is acceptable in this location. Although a number of issues of concern have been raised in the neighbours' submissions, issues have been satisfactorily addressed by the applicant specifically in relation to noise generation and treatment of the site to implement noise mitigation measure and the operation to be conducted in accordance with the Plan of Management associated with the site, which is discussed in detail later in this report.

Reason for Referral to the Local Planning Panel

16. This DA is referred to the Local Planning Panel for determination, as it is in the public interest due to the nature of the proposed development, being an industrial use with potential amenity impacts given its close proximity to residential properties as outlined in Council delegations.

Conclusion

17. The development has been assessed in accordance with the matters for consideration listed in Section 4.15 of the Environmental Planning and Assessment Act 1979, including the provisions of the relevant Acts, Regulations, State Environmental Planning Policies, Local Environmental Plans and Development Control Plans.
18. It is considered that the development is satisfactory subject to conditions of consent, including full compliance with the recommendations of the Acoustic Report and Plan of Management accompanying the Development Application.
19. Although the Development Application submission requests hours of operation starting at 6am and concluding at 7pm, this is not considered to be appropriate given that the site is located immediately adjoining a low-density residential zone (across Blakesley Road/Woids Avenue). It is recommended that the hours of operation be limited to: 7:00am to 6:00pm, this is in accordance with the Development Control Plan Monday to Friday and 7:00am to 4:00pm Saturday. No work Sundays or Public Holidays.

Report in Full

Proposal

20. This development application (DA) seeks consent for the use of the premises as a "depot" for the storage of plant, machinery and equipment associated with a civil works company involved in the maintenance of footpaths, roads, pavements etc. The property has been used as a depot since some time in 2018 without the required development consent.
21. The subject site has been used for industrial purposes for over 60 years, with the current "depot" use operating without consent, which resulted in a Notice being served on the subject site. Following this Notice this Development Application was lodged with Council in July 2019.
22. According to the submitted Statement of Environmental Effects submitted with the DA, the depot is used for the storage of plant, machinery and goods which are not used or operated on site, but are loaded and unloaded onto vehicles at this site for use off site.
23. The plant, machinery and goods include materials, such as timber metals frames, rigs, safety equipment, drills, plant (stored in the store room) and augers, fences, barricades, witches hats and other machinery attachments (stored in the enclosed storage yard). None of the materials stored on site are retailed to the general public from the site or delivered offsite for retail sale. All materials are used in conjunction with civil works contracts undertaken by the business operator off site.

24. The business has 5 full time employees although none are based at the site permanently. Employees attend the site to load and unload vehicles with necessary equipment and materials for work jobs.
25. Up to four (4) vehicles access the site, the largest of which is 10.4tonne. These vehicles are loaded in the morning and unloaded in the evenings are stored on site in the both the enclosed storage yard area and store room. The smallest work vehicles would be utility vehicles and vans. At full operation there would be between 6-8 vehicle trips for work vehicles and 2-4 private vehicles to and from the site each day. These are almost entirely limited to the morning peak and afternoon as staff arrive load and leave with work vehicles and return again in the evening to unload and leave in private vehicles.
26. The DA seeks consent for the following hours of operation associated with the use:
 - 6:00am to 7:00pm Monday to Friday
 - 7:00am to 4:00pm Saturday
 - No work Sundays and Public Holidays

The Site and Locality

27. The subject site is legally identified as Lot A DP 377099, with a street address of 6 Blakesley Road, Carlton. The site is irregular in shape and has a total site area of 305.7sqm with a curved frontage partly fronting Blakesley Road and partly fronting Woids Avenue of 31.74m.
28. Existing on the site is a single-storey brick industrial building (located on the north eastern side of the site), with an open external yard (on the southern side of the site). As part of the depot use which currently operates by the identified owner(s). The building is being used for ancillary office/administration purposes associated with the use, as well as storage of some plant and equipment. The external yard area is used for storage of plant and equipment as well as for loading/unloading of the plant/equipment. The site is fully enclosed by a brick building that is on a zero boundary setback with a roller door facing Blakesley Road and a masonry fence with metal gates along the Woids Avenue frontage. There is a retail premises on a zero setback to the west of the site and 2 storey industrial building to the south also with a zero setback to the subject site.
29. The subject site is located on the northern side of the Carlton industrial area, and properties to the south-west and south east (along Blakesley Road and Woids Avenue) are used for industrial purposes. Directly across the road from the subject site (to the west, north and east) are residential properties where the land contains predominantly detached one and two storey dwelling houses.

Background

Subject Site

30. The subject site has a long history of industrial uses over the past 60 plus years. Council records indicate that approval was granted on 3 March 1952 for “the erection of an electrical engineering factory”.
31. According to Council records and details from neighbour’s complaints and submissions, the subject site commenced use (without the required approval) as a depot some time in

2018. A number of complaints regarding the nature of the use began to be received by Council in July 2018.

32. There was a range of enforcement actions undertaken by officers in Council's Compliance Team, culminating in a Noise Control Notice dated 4 December 2018.
33. It appears that the proponent may have commenced the use in the belief that the development was "exempt development" under the provisions of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. However, during the enforcement investigations it was established that the depot use is not "exempt development" and development consent is required.

Current Development Application (DA2019/0265)

34. The subject DA was lodged on 1 July 2019. Shortly after, the development application underwent a preliminary review, referral to a number of departments within Council, and also neighbour notified between 9 and 23 July 2019. (Further details on the processes of Internal Referral and neighbour notification are provided later in this report.)
35. On 8 July 2019, following receipt of comments from Council's Environmental Health Officer, an Acoustic Report was requested from the applicant to address the noise impacts of the proposed development.
36. This Acoustic Report authored by GHD Consulting was received on 16 August 2019 with advice that the applicant is agreeable to the recommendations of the Acoustic Report being imposed as conditions of any consent granted for the development. The Acoustic Report was referred to Council's Environmental Health Officer for review and assessment.
37. Council's Environmental Health Officer provided comments on 6 September 2019, with a range of issues of concern relating to the proposed development and requested further clarification on the nature of the depot usage.
38. A Plan of Management was submitted by the applicant (dated 14 April 2020) as a result of the discussions between Council officers and the applicant's planning representative. This information was referred to Council's Environmental Health Officer and assessed as satisfactory.

Environmental Planning Instruments

State Environmental Planning Policies

39. Compliance with the relevant state environmental planning policies is summarised in the table, and discussed in more detail below.

State Environmental Planning Policy	Complies
Environmental Planning & Assessment Regulation 2000	Yes
Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment	Yes
State Environmental Planning Policy No 55 - Remediation of Land	Yes
State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017	Yes
State Environmental Planning Policy - Infrastructure	Yes
Draft Remediation of Land SEPP	Yes
Draft State Environmental Planning Policy (Environment)	Yes

Environmental Planning and Assessment Regulation 2000

40. Section 93 of the Environmental Planning and Assessment Regulation 2000 entitled 'Fire safety and other considerations' applies to a development application for a change of building use for an existing building where the application does not seek the rebuilding, alternation, enlargement or extension of a building.
41. In determining the development application, the consent authority is to take into consideration whether the fire protection and structural capacity of the building will be appropriate to the building's purpose.
42. In this regard, the applicant has submitted plans and information in relation to fire safety matters, and this has been referred to Council's Building Surveyor for assessment. The outcome of this assessment is that the development is satisfactory and appropriate conditions of consent have been provided.

State Environmental Planning Policy No 55 – Remediation of Land

43. SEPP 55 aims to promote the remediation of contaminated land in order to reduce the risk of harm to human health or any other aspect of the environment. Clause 7 requires contamination and remediation to be considered in determining a development application. The consent authority must not consent to the carrying out of development on land unless it has considered whether or not the land is contaminated.
44. A review of the site history indicates that the site has been used for industrial purposes for extended periods of time (at least 60 years). The current DA involves a change of use of the existing premises for the purposes of another industrial use (a "depot").
45. No works are proposed and no disturbance of the foundation material is sought, this application only involves a change to the use of the land, with the land continuing to be used for industrial purposes. It is considered that the subject site is suitable for its intended use.

Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment

46. The main aims and objectives of this plan are:
 - *to maintain and improve the water quality and river flows of the Georges River and its tributaries and ensure that development is managed in a manner that is in keeping with the national, State, regional and local significance of the Catchment;*
 - *to protect and enhance the environmental quality of the Catchment for the benefit of all users through the management and use of the resources in the Catchment in an ecologically sustainable manner;*
 - *to ensure consistency with local environmental plans and also in the delivery of the principles of ecologically sustainable development in the assessment of development within the Catchment where there is potential to impact adversely on groundwater and on the water quality and river flows within the Georges River or its tributaries;*
 - *to establish a consistent and coordinated approach to environmental planning and assessment for land along the Georges River and its tributaries and to promote integrated catchment management policies and programs in the planning and management of the Catchment.*

47. The application is accompanied by concept stormwater plans prepared by qualified engineers. There is no change to the existing drainage system.
48. The stormwater plan has been referred to Council's Development Engineers. No objection has been raised in respect to the management and disposal of stormwater and no additional conditions are required if consent is granted. (the impact of sediment control carried by stormwater is a separate matter for assessment of the capacity of the stormwater drainage system)
49. The proposal is therefore considered to be consistent with the aims, objectives and purpose of the Regional Plan.

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

50. The State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 ('Vegetation SEPP') regulates clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent.
51. 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).
52. The Vegetation SEPP repeals clauses 5.9 and 5.9AA of the Standard Instrument - Principal Local Environmental Plan, with the regulation of the clearing of vegetation (including native vegetation) below the BOS threshold being through any applicable DCP.
53. No issues arise in terms of the provisions of the Vegetation SEPP, as there is no significant vegetation on the site or within the footpath area of Blakesley Road or Woids Avenue fronting the site.

Draft Remediation of Land SEPP

54. The Department of Planning and Environment has announced a Draft Remediation of Land SEPP, which will repeal and replace the current State Environmental Planning Policy No 55—Remediation of Land.
55. The main changes proposed include the expansion of categories of remediation work which requires development consent, a greater involvement of principal certifying authorities particularly in relation to remediation works that can be carried out without development consent, more comprehensive guidelines for Councils and certifiers and the clarification of the contamination information to be included on Section 149 Planning Certificates.
56. Whilst the proposed SEPP will retain the key operational framework of SEPP 55, it will adopt a more modern approach to the management of contaminated land.
57. As noted above, a review of the site history indicates that the site has been used for industrial purposes for extended periods of time (at least 60 years). The current DA involves a change of use of the existing premises for the purposes of another industrial use (a "depot").

58. Given that the works only involve a change to the use of the land, no physical works or penetration of the foundations material, the land will continue to be used for industrial purposes, it is considered that the subject site is suitable for its intended use.

Draft Environment SEPP

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

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

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

Kogarah Local Environmental Plan 2012

61. The subject site is zoned IN2 – Light Industrial, under the provisions of Kogarah LEP 2012. A depot is a permissible form of development with Council's consent within this zone.



Figure 3: Zoning map – site outlined in blue

62. The proposed development is for the change of use to a depot and associated offices for a civil works, construction and traffic control company which is a permissible land use in the zone.

63. The objectives of the IN2 Light Industrial zone are as follows:

- *To provide a wide range of light industrial, warehouse and related land uses.*
- *To encourage employment opportunities and to support the viability of centres.*
- *To minimise any adverse effect of industry on other land uses.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.*
- *To support and protect industrial land for industrial uses.*
- *To support and encourage a range of local services that provide for the needs of the local community.*

64. The proposed development, being a depot is a permitted form of development; it is considered that the proposed depot use is consistent with the zone objectives.

65. In addition to consideration in terms of zone objectives, Kogarah LEP 2012 contains a number of clauses requiring consideration with the proposed development. Such consideration is provided in the table below.

Clause	Standard	Proposed	Complies
Part 1 – Preliminary			
1.2 – Aims of the Plan	In accordance with Clause 1.2 (2)	The development is considered to be consistent with the aims of the plan.	Yes
Part 4 - Principal Development Standards			
4.3 – Height of Buildings	10m as identified on Height of Buildings Map	No proposed changes to the existing height (existing height 5.5m)	Yes
4.4 – Floor Space Ratio	1:1 as identified on Floor Space Ratio Map	No proposed changes to the floor space of the existing industrial unit (existing GFA183.5sqm; site area 305.7sqm; FSR 0.49:1)	Yes
Part 5 - Miscellaneous Provisions			
5.7 – Development below mean high water mark	(2) Development consent is required to carry out development on any land below the mean high water mark of any body of water subject to tidal influence (including the bed of any such water).	The proposal does not involve works below the Mean High Water Mark.	N/A
5.10 – Heritage conservation	In accordance with Clause 5.10 (2)	The site is not a heritage item and not located within the vicinity of any heritage items. Site is not in a heritage conservation area.	N/A

5.11 – Bush Fire Hazard Reduction	Bush fire hazard reduction work authorised by the Rural Fires Act 1997 may be carried out on any land without development consent.	The subject land is not within a bush fire prone area.	N/A
Part 6 - Additional Local Provisions			
6.1 – Acid sulfate soils	<p>(2) Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.</p> <p>Class 5: Works within 100 metres of adjacent Class 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 2, 3 or 4 land.</p>	Subject site is not located in Acid Sulfate Soils Area.	N/A
6.2 – Earthworks	<p>(2) Development consent is required for earthworks unless—</p> <p>(a) the earthworks are exempt development under this Plan or another applicable environmental planning instrument, or</p> <p>(b) the earthworks are ancillary to development that is permitted without consent under this Plan or to development for which development consent has been given.</p>	This development does not propose earthworks.	N/A
6.3 – Flood planning	<p>(2) This clause applies to—</p> <p>(a) land identified as “Flood planning area” on the Flood Planning Map, and</p> <p>(b) other land at or below the flood planning level.</p>	The proposed development is not located in a mapped flood prone area.	N/A

6.4 – Limited development on foreshore area	In accordance with Clause (2) and (3)	The proposed development is not located in the foreshore area.	N/A
6.7 Essential Services	Development consent must not be granted to development unless services that are essential for the development are available.	Essential services are available to the site.	Yes

Draft Georges River Local Environmental Plan 2020

66. Consideration is given to the provisions of Draft Georges River Local Environmental Plan 2020 in the assessment this application.
67. In this regard, the provisions have no determining weight as a result of proposed operation of Clause “1.8A Savings provisions relating to development applications” of the Draft Plan which provides “*If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.*”

It is acknowledged the zoning of the land is not proposed to be altered as under this draft instrument.

Kogarah Development Control Plan 2013

68. The provisions of Kogarah Development Control Plan 2013 (KDCP2013) are relevant to the proposed development.
69. The proposal is for the use of the property as a depot. There are no building works, internal fitout or upgrade works proposed.
70. The proposal does not change the built form, internal layout or landscaping. An assessment of the proposed development against the relevant controls in the KDCP2013 is provided in the table below.

D3- Industrial Development

Control	Standard	Proposed	Complies
2. Streetscape and Urban Character	(1) Elevations of buildings fronting the street should be broken up by the use of suitable articulation, fenestration or alternative architectural enhancements.	No proposed changes to the existing building. The application seeks approval for a proposed change of use only. No signage is sought therefore no changes to the streetscape presentation.	N/A
Objectives (a) Ensure that all new development is compatible with the existing character of the locality in which it is located.	(2) Showroom display areas, ancillary offices, staff amenities and other low scale building	No proposed changes to the existing building. There is no showroom existing.	N/A

<p>(b) Ensure elements of development make a positive contribution to the immediate streetscape.</p> <p>(c) Promote industrial development which is both functional and attractive in the context of its local environment.</p>	<p>elements should be located at the front of the development facing the street and constructed in appropriate materials to enhance the appearance of the development, when viewed from the street.</p> <p>(3) Buildings should be designed so that entry points and client services are easily identified and visible from the street.</p>	<p>No proposed changes to the existing building. There depot use does not seek to have the public visit. A pedestrian entry door is clearly visible from the public domain.</p>	N/A
<p>3. Site Planning & Layout</p> <p>Objectives</p> <p>(a) Ensure that the design and layout of industrial developments satisfies the operational requirements while ensuring the safety and convenience of occupants and visitors.</p> <p>(b) Internal spaces must satisfy the operational requirements of the particular land use, while ensuring the complementary configuration of activities on-site, and the safety and convenience of all occupants.</p>	<p>(1) Locate office and staff recreation areas away from intrusive noise sources such as heavy machinery, loading docks, industrial equipment and sources of dust, vibration, heat, fumes, smells or other nuisances.</p> <p>(2) Site buildings with longer facades oriented to the north, to maximise the potential for openings to the office component of new buildings with northerly aspect, while minimising the length of eastern and western facades wherever possible.</p> <p>(3) Locate staff amenities and facilities for easy and convenient access by workers. Amenities include toilets, wash rooms, kitchenettes, and facilities include outdoor recreation</p>	<p>No proposed changes to the existing building or its internal layout. The current office and staff amenities face towards Blakesley Road and are within rooms that can be closed off from the storage and outdoor areas of the site.</p> <p>In accordance with the submitted Plan of Management (POM); <i>‘a second internal loading bay is accessed by vehicles off Blakesley Road’</i>. The site provides an existing orientation of a north west to south east being a corner allotment with an arced frontage. The existing offices, ramp, store room and lunch room are located on the northern façade towards Blakesley Road and the Woids Avenue intersection.</p> <p>In accordance with the submitted floor plans, the existing amenities are located within the complex; along the north eastern wall. They are not proposed to be altered or upgraded.</p>	<p>N/A</p> <p>N/A</p> <p>N/A</p>

	<p>areas, eating areas, car parking, staff rooms and access paths.</p> <p>(4) Design outdoor lighting solutions to provide security for the building and safety for staff, while minimising the impact of light spillage on the amenity of adjoining land uses, especially residential.</p>	<p>This is not proposed as part of this application.</p>	N/A
<p>4. Setbacks</p> <p>Objectives</p> <p>(a) Ensure that developments are setback to minimise the visual impact on the streetscape.</p> <p>(b) Ensure that adequate area is available to accommodate landscaping, access, parking and manoeuvring of vehicles.</p> <p>(c) Setbacks are to provide for pedestrian accessibility and visual continuity along public roads and landscaped areas.</p> <p>(d) Setbacks are to be provided to ensure sufficient solar access for occupants of adjacent buildings, particularly residences and recreational areas.</p>	<p>(1) Building setbacks adjacent to public roads are to correspond with the existing predominant building line on the street frontage(s) providing a continuous streetscape.</p> <p>(2) Front and side setbacks are sufficient to enable landscaping to screen large footprint buildings and improve the interface with the public domain.</p> <p>(3) Rear setbacks are to include a deep soil zone component for stormwater infiltration and for the planting of large trees.</p> <p>(4) Setbacks on corner blocks are to enable sufficient sightlines for traffic in accordance with the relevant Australian Standard.</p>	<p>There are no proposed amendments to the building setbacks given the application for a change of use only. The existing building has a nil setback to the north, north western and north eastern boundary.</p> <p>No proposed changes to the front or side setbacks.</p> <p>No proposed changes to the rear setback.</p> <p>The proposal (being a corner allotment) at the time of construction would of needed to comply with the Australian Standard provisions. In the proposal's current form the existing vehicle access remains unaltered.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes – existing</p>
5. Building form	(1) The maximum floor space ratio is 1:1.	There are no amendments to the existing floor area of	Yes

<p>Objectives</p> <p>(a) Ensure that the form, scale, design and nature of development maintains and enhances the visual quality of industrial areas.</p> <p>(b) Ensure that the scale of any new industrial development is compatible with surrounding development.</p> <p>(c) Floor space is distributed on the site to ensure that the height, bulk and scale of development is in context with the surrounding development.</p>	<p>(2) In an industrial building where ancillary offices or showrooms are proposed, the office or showroom area shall not exceed 25% of the total floor space of the premises. (Note: This does not apply to bulky goods premises)</p> <p>(3) The height limit permitted is 10m from natural ground level.</p> <p>(4) Any variation to the maximum height permitted must demonstrate that the proposed building height:</p> <p>(i) Is necessitated by the operational requirements (e.g. roof clearance, specialised machinery, plant, processing equipment, stacking) of the particular industry</p> <p>(ii) Is compatible with the scale, bulk and height of surrounding buildings</p> <p>(iii) Will not generate excessive overshadowing of adjacent properties</p> <p>(5) Roof mounted plant rooms, lift overruns, air conditioning services and other equipment must be effectively screened from view</p>	<p>the site, the floor space ratio existing is 0.49:1.</p> <p>There are no amendments proposed to the existing floor plate. There is no showroom on site and this proposal has detailed there is not public access required for this business.</p> <p>There are no amendments to the existing height of the development on site, the current being has a height of 5.4m.</p> <p>Remains unaltered and is compliant.</p> <p>The plans detail there is racking in place associated with the use. No fit-out works are proposed.</p> <p>The built form exists and is not proposed to be altered.</p> <p>The existing development is single storey and not proposed to be altered. No additional shadow impacts result.</p> <p>The building contains solar panels. No additional plant is proposed to support this use.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
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	using roof structures and architectural elements that are integrated with the host building.		
6. Design and appearance of developments	(1) Building facades are to be designed to reflect a contemporary architectural appearance.	The façade is existing and no change is proposed.	N/A
Objectives			
(a) Promote industrial development that is both functional and attractive in the context of its local environment through appropriate design.	(2) Developments are to incorporate architectural elements to articulate facades and minimise large expanses of blank walls.	The façade is existing and no change is proposed.	N/A
(b) The building design, detailing and finishes are to add visual interest to the building when viewed from public vantage points, particularly roadways.	(3) Architectural elements may include but are not limited to: (i) Designing the base, middle or top of a building using different materials and colours;	The façade is existing and no change is proposed.	N/A
(c) Buildings on corner sites should respond to the corner by providing an architectural corner treatment.	or (ii) Incorporating horizontal or vertical elements such as recessed walls or banding;	The façade is existing and no change is proposed.	N/A
(d) Open storage and work areas should be suitably designed and sited so as to not detract from the overall development.	or (iii) Defining the window openings, fenestration, building entrances and doors;	The built form and openings exist, no changes proposed.	N/A
	or (iv) Using roof forms and parapets to create an interesting skyline;	The roof form exists, no changes proposed.	N/A
	or (v) Using sun shading devices;	No sun shades exist or are proposed.	N/A
	or (vi) Incorporating public art work;	No public arts work exists or is proposed.	N/A
	or (vii) Using variation of unit designs in a building complex.	The development is a stand-alone building, this is not applicable.	N/A
	(4) Buildings that are	The built form exists being a	N/A

	visible from a public road, reserve, railway or adjacent or adjoining residential areas should be constructed of high quality materials and suitable finishes.	masonry finish with a metal roof; no alterations or additional built form is proposed.	
	(5) Roofing materials should consist of non-reflective materials.	The roofing material exists and accommodates solar panels.	N/A
	(6) No service plumbing pipes, other than downpipes for the conveyance of roof water, shall be external to the building or visible to any public place.	The stormwater disposal method is not proposed to be altered as part of this change of use.	N/A
	(7) The street facade of a development on a corner allotment must incorporate architectural corner features to add visual interest to the streetscape.	The built form exists. The façade of the development is built to the front allotment boundary and follows the curved nature of the site.	N/A
	(8) Where any work or storage of materials is proposed outside the confines of the building, full details of those parts of the site to be used and the materials to be stored, are to be provided with the application.	The application is seeking to store some materials and plant associated with the use and vehicles within the outdoor area of the site.	Yes
	(9) Approved open work and storage areas are to be located at the rear of developments and screened from view by the use of landscaping and screen fencing.	All parts of the development are obscured from the public domain by either built form or fencing.	Yes
	(10) Where the rear of a development adjoins a residential property, Council may consider	The development adjoins industrial or commercial to all boundaries.	Yes

	<p>the relocation of this area to a more appropriate location on the site.</p> <p>(11) Where this is the case, justification must be provided with the application.</p>	N/A	
7. Landscaping	Controls		
Objectives			
(a) Improve the visual quality and amenity of industrial development through effective landscape treatment of individual sites and to achieve a pleasant working environment.	(1) A minimum of 10% of the site area is to comprise of “soft” landscaping including lawns, trees and shrubs. Car parking, paths and pedestrian walkways are to be excluded from the 10%.	A small strip of lawn existing between the façade of the building and Council’s footpath. There is no soft landscaping behind the fencing or within the allotment the subject of the application. All greenery is within Council land.	Yes
(b) Ensure a high standard of environmental quality while enhancing the general streetscape.	(2) If an existing site is to be refurbished, or an application is made for a change of use, an amount of landscaping, where appropriate, is to be provided to the satisfaction of Council.	There is no opportunity to provide additional landscaping on site.	Yes
(c) Landscaping should be designed appropriately to reduce the bulk, scale and size of industrial buildings and reduce the impact of at grade car parking areas.	(3) Landscaping having a minimum width of 2.5 metres is to be provided surrounding car parking areas.	Not applicable to this application.	N/A
(d) Landscaping is to be emphasised where a site is visible from a public roadway or place.	(4) Landscaped areas are to be provided to areas fronting the street, including secondary streets, where sites are on a corner, and adjacent to natural areas where industrial developments abut a reserve or open space.	There is no soft landscaping within the subject allotment. All greenery to the perimeter of the development is within Council land.	No
(e) Boundaries adjoining residential	(5) Fencing is to be integrated as part of the landscaping theme so as to minimise visual impacts and to provide	The fencing exists, no additional fencing is proposed and no upgrade and amendments are proposed.	Yes

<p>development are to be suitably landscaped.</p> <p>(f) A landscape bond may be required to ensure that landscaping works are carried out an appropriately maintained.</p>	<p>associated site security.</p> <p>(6) Where sites abut a residential land use or a residential zone, landscaped buffers will be required along the boundaries to which the residential land use abuts. This buffer is to be a minimum 3 metres.</p> <p>(7) To ensure landscaping of industrial developments is maintained, Council will require the payment of a landscape bond prior to the release of a Construction Certificate for the proposed development. The amount payable will be specified on the Development Consent and shall be held by Council until such time that the maintenance period has elapsed.</p> <p>(8) The maintenance period will be no less than six (6) months and will commence from the date a Council Officer is satisfied that the landscaping works are completed in accordance with the approved landscape plan.</p>	<p>The proposal complies with this control as it is located more than 3m away from a residential zones being on the opposite side of Blakesley Road and Woids Avenue.</p> <p>Not applicable to this application as no landscaping or construction is proposed.</p> <p>Not applicable to this application.</p>	<p>Yes</p> <p>N/A</p> <p>N/A</p>
<p><u>Vehicle access and parking</u></p> <p>Up to four (4) vehicles access the site, the largest of which is 10.4 tonne. These vehicles are loaded in the morning and unloaded in the evenings and are stored on site in the both the enclosed storage yard area and store room. The smallest work vehicles would be utility vehicles and vans. At full operation there would be between 6-8 vehicle trips for work vehicles and 2-4 private vehicles to and from the site each day. These are almost entirely limited to the morning peak and afternoon as staff arrive, load and leave with work vehicles and return again in the evening to unload and leave in private vehicles.</p>			
<p>8. Vehicle access and parking</p>	<p>Controls</p> <p>(1) Car parking is to</p>	<p>There are no proposed</p>	<p>No -</p>

<p>Objectives</p> <p>(a) Provide sufficient and convenient on-site parking for employees, visitors and associated vehicles.</p> <p>(b) Minimise the adverse impact of vehicles on the amenity of the development, streetscape and surrounding neighbourhoods.</p> <p>(c) Ensure that appropriate on-site parking is provided for people with a disability and is consistent with the design requirements of the Building Code of Australia and the relevant Australian Standards.</p> <p>(d) Ensure that there is adequate space on-site for easy, convenient and safe circulation of vehicles.</p> <p>(e) Car parking areas and loading areas should be designed to ensure ease of ingress and egress to and from the site.</p> <p>(f) Provide safe pedestrian access through car parking areas without interference of</p>	<p>comply with the requirements of Part B4.</p> <p>Warehouse or distribution Centre: 1 space/100m² gross floor area</p> <p>(2) Parking areas should be easily accessible, allowing vehicles to leave the site in a forward direction and appropriately signposted.</p> <p>(3) Loading/unloading areas are designed to enable heavy vehicles to enter and leave the site in a forward direction, park within designated loading areas, and not interfere with visitor and employees vehicles in designated parking spaces.</p> <p>(4) All loading facilities should be provided in accordance with the current RMS 'Guidelines to Traffic Generating Developments'.</p> <p>(5) Buildings shall be designed to allow loading/unloading of vehicles within the building.</p> <p>(6) Loading docks should be situated to the side or rear of buildings.</p>	<p>changes to the existing car parking orientation of the site; the site currently accommodates two (2) loading areas. In accordance with the prescribed control two (2) car parking spaces are required. However there is no specific car parking delineated on the site as existing. The proposal demonstrates that the use can be accommodated and the four (4) vehicles to be housed over-night can be accommodated wholly within the confines of the allotment. See a detailed discussion below.</p> <p>Vehicle access exists, with a loading bay accessed off Blakesley Road and the second access from Woids Avenue. No change to this arrangement is proposed.</p> <p>The site is non-compliant with the current controls and it not being made worse as a result of this application. A detailed assessment of this is referenced below.</p> <p>Considering the proposal relates to a change of use; there are no alterations and additions proposed and therefore the non-compliance is not being exacerbated. The application has detailed that the loading and unloading of the vehicles can be accommodated wholly from</p>	<p>existing</p> <p>No but existing</p> <p>No existing</p> <p>No existing</p>
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<p>vehicular movement.</p> <p>(g) Vehicular movements to and from the site should be designed to reduce potential conflict with street traffic and pedestrians.</p>	<p>(7) Adequate on-site manoeuvring shall be provided to enable all delivery vehicles, including large trucks to enter and leave the site in a forward direction.</p>	<p>within the subject site and no loading from the public domain.</p> <p>The proposal is considered acceptable subject to compliance with the requirement of the plan of management. See the detailed discussion below.</p>	Yes
	<p>(8) Pedestrian access through car parking areas should be clearly marked, and where possible emphasised by the use of raised and textured surfaces.</p>	<p>The subject sites does have separate pedestrian access through its internal configuration via Woids Avenue and Blakesley Road, there is no defined access through the vehicle parking areas.</p>	N/A
	<p>(9) As far as possible, pedestrian access through car parks should be kept separate from vehicle access ways.</p>		
	<p>(10) The maximum grade of manoeuvring areas and all access ways should comply with the relevant Australian Design Standards.</p>	<p>There are no proposed amendments to the existing driveway grades.</p>	Yes
	<p>(11) Where sites front onto main or arterial roads, driveways should be minimised or located on side or rear road frontages where available.</p>	<p>The subject site is not located on any main or arterial roads; as identified on Council's Internal Mapping.</p>	Yes

Car parking and Manoeuvring

It is acknowledged this application is seeking to use the facilities and space that exists on site. No works are being proposed to relocate access areas, internal manoeuvring or building elements.

It is acknowledged that this site is non-compliant with respect to car parking and loading given its age.

The constrained nature of the site results in this non-compliance being unable to be resolved without the demolition and removal of parts of the allotment.

As a result consideration needs to be given to the current situation, the proposed use and whether this use is appropriate in this location.

Whilst the use before us is defined as a depot, it depot component is lower scale in its intensity for vehicle movement and workers. Given the constraints of the site there limited opportunities for expansion.

In addition there is the additional complexity of the site being opposite residential and commercially zoned land.

Given the permissibility of the use the applicant was requested to demonstrate the functionality of the site and its use and how this is to be managed.

The vehicle access from Woids Avenue has an inability for the 10.4 tonne truck to drive in and leave in a forward direction. The smaller scale vehicles accessing the site and the employee vehicles can manoeuvre in the space available and leave the site in a forward direction.

In this regard the larger vehicle will have to reverse from the site. It is considered that traffic control from the staff associated with the business needs to be present as an operational arrangement to assist in the reversing of the truck from the site.

The frontage of 6 Blakesley Road is 'no stopping' thereby facilitating reasonable sightlines for vehicles entering Woids Avenue from Woids Avenue and Blakesley Road given the intersection is a 4 way intersection in the vicinity of this site.

The loading dock accessed via Blakesley Road cannot facilitate the 10.4 tonne vehicle given the space and height available. Vans and utes will access this space and need to reverse from the site. It is considered this can be accommodated and protect the pedestrian and vehicle safety.

In addition an acoustic report was requested to address the vehicle noise and the loading and unloading. Requirements have been recommended to protect the amenity of the locality during the loading and unloading times of the day. The recommendations of the acoustic report have been included in the Plan of Management. The range of hours requested is considered inappropriate in this location and it has been recommended that the hours be consistent with the Development Control Plan of 7am to 6pm given the residential interface.

In this regard it is considered that the proposal subject to the Plan of management being amended to include the traffic control for the Woids Avenue vehicle entry and exit that the site is acceptable for this use give the low scale number of vehicle movements envisaged and outlined in the Statement of Environmental Effects and the Plan of Management for the site.

Management for the site			
9. Signage	Controls		
Objectives	(1) The provision of signage is to comply with the requirements of Part F1.	No signage is proposed.	N/A
(a) Provide signage opportunities for the purpose of business identification, general information and giving directions.	(2) Advertising in industrial localities should be integrated into the overall development. In this regard, details are to be submitted with the Development Application.	No signage is proposed.	N/A
(b) Ensure that signage is integrated with the building and its setting.	(3) Site identification signs, directional signs and advisory signs are to be integrated into directory boards.	No signage is proposed.	N/A
(c) Signage is considered, designed and located as an			

integrated part of the overall development.	Note: Some signage is permitted as Exempt Development under Schedule 2 of KLEP 2012.		
<p>10. Acoustic Privacy – Road Noise and Rail Noise</p> <p>Objectives</p> <p>(a) Ensure a high level of amenity by protecting the acoustic and visual privacy of occupants within all built development.</p> <p>(b) Ensure buildings are sited and designed so that acoustic and visual privacy and vibration from outside sources is controlled to acceptable levels.</p> <p>(c) Minimise noise transmission between nearby buildings and adjoining development.</p> <p>(d) Ensure that new development incorporates architectural and building elements that contribute to protecting the acoustic and visual privacy of any adjoining residents.</p> <p>(e) Ensure buildings are sited and designed so that traffic and rail noise, vibration and</p>	<p>(1) Design developments to locate all noise generating equipment such as mechanical plant rooms, mechanical equipment, air conditioning units, mechanical ventilation from car parks, driveway entry shutters, garbage collection areas or similar to protect the acoustic privacy of workers, residents and neighbours.</p> <p>(2) Where appropriate individual buildings and groups of buildings are to be located to act as barriers to the noise.</p> <p>(3) Utilise the site and building layout to maximise the potential for acoustic privacy by providing adequate building separation within the development</p>	<p>The Acoustic Report makes additional recommendations to reduce the noise impacts of the development. It states that despite the fact that the above mitigation strategies are predicted to achieve compliant noise levels, the following behavioural strategies should be implemented for the benefit of the surrounding amenity.</p> <p>Provide training to staff to ensure they are aware of the potential noise impacts of the dropping of metal during the night hours and to encourage staff to drop metal items from as low as practically possible.</p> <p>Metal objects, such as signage, are to be lifted and not dragged across the concrete floor</p> <p>No use of speakers.</p> <p>These matters are identified within the submitted acoustic report; which will be endorsed via a condition of consent.</p> <p>There are no proposed changes to the built form of the proposed development site. This is a stand along building.</p> <p>An Acoustic report prepared by GHD was submitted, this was reviewed by Council Environmental Health Officer, the recommendations of the acoustic report were</p>	<p>Yes</p> <p>N/A</p> <p>Yes</p>

potentially harmful air quality effects are controlled to acceptable levels	and from neighbouring buildings. This is particularly important where proposed development abuts residential uses and/or residentially zoned land.	<p>acknowledged, the assessment concluded that: <i>‘Without mitigation strategies it is predicted that the proposed depot marginally exceeds the noise criteria during the early morning period’</i>. Noise mitigation strategies have been presented in to ensure noise levels from the use and operation of the depot is compliant. As a result (the applicant) GHD confirms that the proposed depot is suitable from an acoustics perspective and compliant with the relevant noise criteria from the Kogarah DCP and Noise Policy for Industry (NPI).</p> <p>These include the following matters:</p> <ul style="list-style-type: none"> • During the loading and unloading of vehicles within the facility the truck should be turned off, • The gate should remain closed when possible, specifically during the loading and unloading of materials and equipment from vehicles, • The incorporation of either rubber padding or moving blankets whilst loading or unloading material from vehicles. This reduces metal on metal impacts that have the potential to create adverse noise impacts. 	
11. Safety and security Objectives	(1) Buildings are to be oriented towards public streets and, where relevant, internal streets to consolidated	The built form exists and oriented towards the street.	Yes

<p>(a) Ensure that the siting and design of buildings and spaces contributes to the actual and perceived personal and property safety of workers and visitors and decreases the opportunities for committing crime in an area.</p> <p>(b) Ensure the development is integrated with the public domain and contributes to an active pedestrian orientated environment.</p> <p>(c) Maximise opportunities for natural surveillance.</p> <p>(d) Minimise the potential for intruders to enter buildings.</p> <p>(e) Ensure entrances and exits are clearly visible from the street.</p> <p>(f) Encourage building designs, materials and maintenance programs that reduce the opportunities for vandalism and graffiti.</p> <p>(g) Industrial development creates an environment that maximises the</p>	developments.		
	(2) Frontages and entries overlook and are clearly visible from the street and provide a sense of address and visual interest.	The built form and openings are existing, no additional openings are proposed. There are openings that face both street frontages.	Yes
	(3) Blank walls addressing streets and other public places are to be avoided.	This built form is existing, no alterations and additions proposed.	Yes
	(4) The use and entrances of buildings should be easily identified by the general public through:	The building is existing and the entry to the building for pedestrians and vehicles is well defined and legible.	Yes
	(i) Using roof forms and parapets to create an interesting skyline;	The roofline remains unaltered.	Yes
	or (ii) Using sun shading devices;	The built form is existing no work is proposed.	Yes
	or (iii) Incorporating public art work;	Public art work does not exist and is not proposed.	Yes
	or (iv) Using variation of unit designs in a building complex.	The development consists of one building, no additional built form is proposed.	Yes
	(5) Office and administration areas should be located at the front of the building overlooking the street and any car parking area.	The office component of the development is accessed via the pedestrian entry door which existing and clearly visible from the public domain.	Yes
	(6) Locate and design car parks so they can be observed by adjoining uses.	The built form is exists and the vehicle parking is behind the building and the existing fencing.	Yes
	(7) Minimise the number of pedestrian and vehicular entry and exit points, in close proximity to each other	The vehicle access locations exist and are not proposed to be altered by this application. One faces Blakesley Road and the	Yes

<p>safety and security of its staff.</p> <p>(h) Developments adjoining open stormwater drains should be adequately secured and designed to reduce the risk of graffiti.</p>	<p>and to nearby active uses.</p> <p>(8) Staff car parks should be separated and secured</p> <p>(9) Lighting in car parks must conform to the relevant Australian Standards</p> <p>(10) Provide surveillance measures such as security cameras or devices and security guards where possible.</p> <p>(11) Sensor lights should be provided.</p> <p>(12) Where possible, leave the sides of the car park open, to provide natural lighting and aid surveillance.</p> <p>(13) Use transparent or open form materials for</p>	<p>other Woids Avenue. A Plan of Management (POM) has been prepared to address the functionality of the development. The submitted POM states that there will be 6-8 vehicle trips for the business and 2-4 private vehicles) to and from the site each day. The low frequency and the amount of movements to and from the subject site results in a development which will be considered satisfactory in terms of vehicle and pedestrian safety.</p> <p>The development is existing and small in scale there is no separation of parking.</p> <p>The vehicle parking area is existing within the development behind the building and fencing. This is not relevant in this assessment.</p> <p>The development is existing only a change in use is proposed. The development will operate within the site boundaries behind the building and fencing this is not a relevant criterion for this application.</p> <p>There are no public spaces accessible in this development, no sensor lights are considered necessary nor are they proposed.</p> <p>N/A</p> <p>The built form is existing and is not proposed to be</p>	<p></p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p> <p>Yes</p>
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	<p>walls and doors where possible and use light paint colours on walls and ceilings.</p> <p>(14) Where a development shares a boundary with an open stormwater drain, any building, solid fence or car park should, wherever practical, be setback a minimum 1.5m from that boundary and be treated with hedging or climbing vines to screen the development when viewed from the open stormwater drain.</p>	<p>altered as part of this change of use.</p> <p>Not applicable, the site does not adjoin an open stormwater drain.</p>	N/A
<p>12. Operational Restrictions</p> <p>Objectives</p> <p>(a) Limit retailing in industrial zones.</p> <p>(b) Ensure that industrial development operates in a manner compatible with adjoining land uses, particularly residential areas.</p> <p>(c) Ensure noise, air and water discharges, waste storage and removal, working hours and storage of dangerous goods and hazardous chemicals will not have a detrimental effect on environmental amenity.</p>	<p>Controls 12.1 Retailing in the IN2</p> <p>(1) Retailing in the IN2 – Light Industrial zone is to be in accordance with the definition of industrial retail outlets in KLEP 2012 and is to comply with the requirements of Clause 5.4(4) of KLEP 2012.</p> <p>12.2 Hours of operation</p> <p>(1) Where an industrial site is located adjacent or within 200m to a residential zoned area or where, in the opinion of Council, truck movements associated with the industry will intrude on residential streets, hours of operation may be restricted to 7.00 am - 6.00 pm Mon - Sat.</p> <p>Note: Where an extension to these hours is required due to the nature of the</p>	<p>No retailing is proposed from the site as part of the change in use to a depot.</p> <p>The proposal seeks the following hours of operation:</p> <p>6:00am to 7:00pm Monday to Friday</p> <p>7:00am to 4:00pm Saturday.</p> <p>A Plan of Management was submitted with the DA along with an acoustic report and a detailed assessment with the submitted Statement of Environmental Effects has also been provided.</p> <p>Council's EHO's has also provided a detailed assessment of the proposal</p>	<p>Yes</p> <p>Yes</p>

(d) Encourage waste minimisation (source separation, reuse and recycling) and ensure efficient storage and collection of waste and quality design of facilities.	activities to be undertaken, a detailed submission must be lodged with Council demonstrating how environmental impacts can be minimised to acceptable levels if the extended hours of operation are allowed.	to ensure compliance with Council's Health Regulations and Compliance controls. A condition of consent is to be implemented to ensure compliance with the prescribed control; which states that the prescribed hours of operations are to be 7.00 am - 6.00 pm Monday – Friday and 7.00am to 4.00pm Saturdays. No work Sundays or Public Holidays.	
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LPP026-20

Interim Policy – Georges River Development Control Plan 2020

71. Council at its Environment and Planning Committee Meeting dated 24 June 2019 resolved to adopt the Georges River Interim Development Control Plan (DCP) 2020.
72. The Interim Policy is a public policy that is to be used as a guide to set a consistent approach for the assessment of residential development within the LGA. It is a supplementary document, meaning that current DCP controls will prevail if they are considered best practice. The Interim Policy has no statutory recognition in the assessment of DAs pursuant to the Environmental Planning and Assessment Act, 1979.
73. The interim policy only relates to residential development forms and will not need to be considered in the assessment of this proposal.

Plan of Management Assessment

74. In addition to the acoustic report the applicant has provided a Plan of Management associated with the depot use, which contains a number of recommendations (additional to those in the GHD Acoustic Report) including:
 - Management of Potential Car Parking Conflicts - To manage the potential for parking conflict with surrounding residents and businesses, operations will strictly adhere to guidance provided by Transport for NSW as follows:

“Heavy vehicles (4.5 tonnes or more GVM) or long vehicles (7.5 metres or longer) must not stop on a length of road outside a built up area, except on the shoulder of the road. In a built up area they must not stop on a length of road for longer than one hour (buses accepted).”
 - All work vehicles will be stored securely within the premises overnight. Employees will be encouraged to park their private vehicles within the premises during the day.
 - Operating procedures will ensure that NO work vehicles will be loaded with plant and machinery outside the premise.
 - Policies and Training Manuals - the business owner will embed noise mitigation strategies in written policies and procedures and ensure all staff are trained as to how to following all procedures and reduce noise generated. These policies and procedures will be available for inspection at the request of Council officers.

- The policies and procedures will incorporate the use of trolley jacks and the like to move objects that are likely to cause metal on metal or concrete noise. A large moveable hoist will be used to lift and load/unload any large plant and machinery that may cause noise.
- In addition, signage will be placed on site to identify the location of noise retardant matting which will be located on racking in an easy to access position.

75. The Acoustic Report and Plan of Management have been assessed by Council's Environmental Health Officer as satisfactory.
76. This Plan of Management will be endorsed as a condition of consent; *'the submitted Plan of Management (POM) dated 14 April 2020; prepared by Urbanism; must be adhered to all times; any modifications or amendments to the approved POM must be submitted to the satisfaction of Council's Area Planning Manager/Area Planning Coordinator for approval'*.
77. It is recommended that compliance with the recommendations of the Acoustic Report and with the Plan of Management, subject to an addition criterion in the plan of management that a staff member assist in the reversing of vehicles from the site to provide pedestrian and vehicle safety be imposed as conditions of consent, as identified above.

Developer Contributions

78. The proposed development, if approved, would not require the payment of developer contributions under Section 7.11 of the Environmental Planning and Assessment Act 1979 as the proposal is for change of use and does not increase gross floor area of the site.
79. Further, Council's Section 94A Contributions Plan (Section 7.12 contributions), states that development costs up to and including \$100,000 will not be subject to a contributions levy. This application is not seeking any physical works to the site; as a result there is no cost of works. This change of use application to a depot does not attract any Section 7.12 contributions.

Impacts

Natural Environment

80. The proposal does not involve any building work, or tree removal. Accordingly, the proposed works will not directly impact the natural environment.

Built Environment

81. The built form of the proposed development will also remain unchanged given that the proposal is for a change of use of an existing building.

Social Impact

82. The development is considered to be acceptable in terms of social impact. In this regard, the main "social" impacts for this development are related to amenity impacts on adjoining residential properties (located opposite on the northern side of Blakesley Road and Woids Avenue).
83. It is generally considered that these impacts can be suitably managed via conditions of consent. Subject to compliance with these conditions, it is generally considered that the development will be satisfactory in terms of social impacts.

Economic Impact

84. The proposal is considered to result in positive economic impacts. The depot usage is for storage of plant and equipment relating to maintenance of public infrastructure (roads, footpaths etc), and it is considered to be important to facilitate this form of development to contribute to general economic recovery post-COVID-19.

Suitability of the Site

85. The subject site is not subject to any constraints (such as flooding, land subsidence or the like) which would render it unsuitable for the proposed development.
86. The site is zoned IN2 – Light Industrial, which permits a depot usage for this site. However, the subject site immediately adjoins (albeit across the road from) a low density residential area.
87. Accordingly, strict conditions of consent will be required to ensure that the development can operate in a manner which preserves the amenity of the residential area. Such conditions are as included in the recommendation below.
88. The subject site is generally considered to be suitable for the proposed depot use, subject to conditions to ensure that the amenity of the adjoining residential area is protected.

SUBMISSIONS, REFERRALS AND THE PUBLIC INTEREST

89. The proposal was neighbour notified in accordance with Kogarah Development Control Plan 2013 for a period of 14 days between 9 and 23 July 2019. A total of four (4) submissions of objection were received – three (3) individual submissions and one (1) submission containing 14 signatures – in response to the notification. The issues raised in the submissions are summarised and discussed below.

Size of development site

90. The proposed site is only 300sqm which is far too small for a depot.
91. Officer Comment: A 'depot' is a permissible use within the zone. A depot is defined as *"storage (but not sale or hire) of plant, machinery or other goods (that support the operations of an existing undertaking) when not required for use"*. There is no corresponding limitation on the size of a site where depots can operation from. The size of the premises is considered appropriate for the scale of the use proposed. Further, it is considered that the small size of the site helps to restrict the scale of the development proposed, which in turn can restrict the impacts arising from the proposed depot use.

On-street parking and loading

92. Concern is raised that on-street parking has been an issue in the past, as workers park and load their trucks in the street, on Blakesley Road.
93. Officer Comment: Development consent is sought to only permit the loading and unloading of vehicles within the premises. It is considered that this point of objection can be resolved by a condition of consent stating that all loading and unloading shall occur within the subject site, not in public roads adjoining. The applicant has advised that they are agreeable to such a condition of consent.

Early morning starts

94. Residents have advised that 6am start is not acceptable due to amenity impacts arising from the noise and truck movements occurring at that early hour.

95. Officer Comment: The Acoustic Report undertaken and submitted with the DA has determined that *"With the implementation of the noise mitigation strategies (recommended) no exceedances in the noise criteria have been predicted."* The recommended noise mitigation strategies are contained in the corresponding Plan of Management and will therefore ensure that noise does not exceed acceptable levels.
96. Whilst this is accepted, it is considered to be unavoidable that noise impacts emanating from external to the site (e.g. vehicle movements on public roads) will impact on residential amenity. Accordingly, although the DA submission requests hours of operation starting at 6am, this is not considered to be appropriate given that the site is located immediately adjoining a low-density residential area (across Blakesley Road/Woids Ave). It is recommended that the hours of operation be limited to: 7:00am to 7:00pm Monday to Friday and 7:00am to 4:00pm Saturday.
97. Given the relationship of the development to residential allotment the applicant was requested to provide an acoustic report, this was prepared by GHB Consulting. The report was to demonstrate how the development can operate in a satisfactory manner in terms of noise impacts on nearby residential properties. The Acoustic Report indicates compliance with the relevant noise criteria is only achieved with the implementation of noise mitigation strategies. In order to achieve compliance, the following mitigation strategies are to be implemented:
- During the loading and unloading of vehicles within the facility the truck should be turned off;
 - The gate should remain closed when possible, specifically during the loading and unloading of materials and equipment from vehicles;
 - The incorporation of either rubber padding or moving blankets whilst loading or unloading material from vehicles. This reduces metal on metal impacts that have the potential to create adverse noise impacts.

Storage of plant/equipment in the street (Woids Avenue)

98. The submitters have stated that equipment has been left in Woids Avenue for weeks.
99. Officer Comment: This is a general claim that cannot be substantiated towards the proponent. The plant and equipment stored within the premises is valuable and easily moveable. It is important that it remain securely stored and locked up within the premises when not in use. It is considered that this issue could also be resolved via a condition of consent to state that there shall be no plant/equipment or the like stored in public roads, and that all plant/equipment associated with this development shall be stored within the property boundaries. The implemented conditions of consent below are identified as legally binding.

Amenity Impacts

100. Concern is raised that the site is positioned with close proximity to residential properties, and the current operation has caused problems with noise and parking concerns.
101. Officer Comment: it is considered that the proposed use is consistent with the objectives of the zone as it will minimise any adverse effect of industry on other land uses by implementing appropriate noise mitigation measures. Furthermore, the use of the site for a depot does not intensify the use of the site beyond that of any adjoining industries. The proposed development is not creating additional demand for on-street car parking beyond

that generated by adjoining industries or dwellings. An addition note can be identified that various on street parking for staff can be provided; given the frontage of the allotment is a 'no stopping' along the secondary setback of Woids Avenue frontage and most of the Blakesley Road (primary frontage), Council's parking identified signage illustrates that the remainder of the Blakesley Road frontage is timed parking being 2P 8.30am–6pm Monday to Friday and 8.30am and to 12.30pm Saturday given the commercial tenancies are operating as local shops.

Loading/unloading of trucks on the street

102. Concern is raised that trucks have been loaded on the road creating noise.
103. Officer Comment: Development consent is sought to only permit the loading and unloading of vehicles and parking of vehicles within the premises. It is considered that this matter can be readily resolved via a condition preventing loading/unloading of vehicles on the public road, and preventing on-street parking of employees' vehicles, and the applicant has advised that they would be agreeable to such conditions.
104. The acoustic report undertaken has determined that *"With the implementation of the noise mitigation strategies (recommended) no exceedances in the noise criteria have been predicted."* The Plan of Management and appropriate conditions of consent will ensure that noise levels will not exceed relevant criteria.

Hours of Operation

105. Concern is raised that the increase in hours of operation will create a precedent.
106. Officer Comment: A condition of consent is to be implemented to ensure compliance with the prescribed control; which states that the prescribed hours of operations are to be 7.00am - 6.00pm Mon - Sat.

Public Interest

107. Submitters have stated that approval of this DA is not in the public interest.
108. Officer Comment: As stated earlier in this report, it is considered that approval of this application is in the public interest, because the nature of the development would help to contribute to general economic recovery post COVID-19. A relatively small number of objections (four (4)) have been received to this development, which seems to indicate that manner in which the development has been operating to date has had relatively little impact upon neighbours. The proposed development will be in the public interest by being consistent with the above mentioned aims and objectives expressed in LEP. In addition, the proposed development site has been amended in order to comply with concerns identified within this report.
109. However, it is recognised that this type of development and the location of the subject site could give rise to adverse amenity impacts. Accordingly, it is recommended that the proposal be approved subject to conditions aimed at minimising those impacts.

REFERRALS

Council Referrals

Building Surveyor

110. The application was referred to officers in Council's Building Certification Team for comment. No objections were raised, subject to the imposition of applicable conditions aimed at compliance with the National Construction Code (BCA).

Environmental Health Officer

111. The application was referred to Council's Environment Health and Regulatory Services for comment. The Environmental Health Officer initially requested further information in the form of an Acoustic Report, which was obtained and prepared by GHD Consulting dated 16 August 2019.
112. The Environmental Health Officer considered the Acoustic Report and remained concerned about the proposed development; the assessment is referenced below;
113. *The Environmental Health Section (EHS) has assessed the proposed subject development in accordance with the Protection of the Environment Operations Act.*

The assessment included a review of the "6 Blakesley Rd, Carlton. Acoustic Assessment – Extension of Hours" prepared by GHD in August 2019. I also undertook a site inspection on 8 July 2019 in order to confirm the visual inspection descriptions contained within this report. The acoustic report scenario deals with one truck loading in the early hours of the morning, from 6am, the SoEE states they have at least 3 trucks to be loaded daily. Anecdotal evidence provided by the community suggests they also have larger trucks and other plant, such as small excavators. The material loaded onto trucks has the potential to create metal on metal noises and, although the acoustic report addresses this, will cause a disturbance to the neighbours – and currently does.

The acoustic report has measured the noise created by the proposed activities at the site with and without noise mitigation strategies, looking at sleep disturbance criteria. It is interesting to note that, even without noise mitigation strategies; there are hardly any exceedances of the sleep disturbance criteria. This then begs the question as to why have there been so many complaints from neighbouring residents, if the illegal before hours operating practices are so compliant? Additionally, it is hard to determine whether or not the acoustic report is painting a true picture of what actually occurs onsite. Furthermore, the noise mitigation strategies are relatively easy to employ (no talking, no speakers, engine off, wrap metal in blankets or use rubber matting) and it begs the question as to why these strategies haven't already been employed if they were concerned about their neighbours. This attitude, then translates into whether or not Council can trust them to continue to employ the noise reduction strategies mentioned in the acoustic report – as time progresses, compliance with such recommendations can wane, especially if business increases and also with staff changeover.

114. There was further dialogue between Council Officers and the applicant, which resulted in the submission of more information from the applicant about the nature of the proposed development – including a Plan of Management to detail the nature of the proposed development.
115. The Environmental Health Officer reviewed this information and has commented that the development is satisfactory for approval subject to conditions of consent, including those which require compliance with the Acoustic Report and Plan of Management. It is noted that the applicant has indicated that they would be agreeable to such conditions.

External Referrals

Ausgrid

116. The application was referred to Ausgrid for comment in accordance with Clause 45 of the Infrastructure SEPP. To date no response has been provided, given the timeframe elapsed concurrence can be assumed.

CONCLUSION

117. The application has been assessed having regard to the Matters of Consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, including the provisions of the relevant Acts, Regulations, State Environmental Planning Policies, Local Environmental Plans and Development Control Plans.

118. The development is generally considered to be satisfactory for approval subject to conditions.

119. Although some submissions of objection have been received from neighbouring residential properties, it is considered that conditions of consent can resolve the issues of concern that have been raised.

DETERMINATION AND STATEMENT OF REASONS

Statement of Reasons

120. The reasons for this recommendation are:

- (a) The proposed development for use of the subject site as a “depot” is consistent with the objectives of the *Environmental Planning & Assessment Act 1979*, which include at Section 1.3 (c): “to promote the orderly and economic use and development of land”.
- (b) The proposed depot is consistent with the objectives of the IN2 – Light Industrial zoning of the property.
- (c) The issues of concern raised by the neighbouring property owners can be resolved via conditions of consent.
- (d) The proposed development is of a relatively small scale and impact which would have acceptable environmental impacts.

121. In consideration of the aforementioned reasons, the proposed development is recommended for approval subject to conditions.

Determination

122. THAT pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 (as amended) the Georges River Local Planning Panel approve development consent to Development Application DA2019/0265 for the use of the subject site as a depot for a civil works company and known as Lot A DP 377099, 6 Blakesley Road, Carlton, subject to the following conditions:

Section A Development Details

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

Description	Reference No.	Date	Revision	Prepared by
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Site Plan	A02	04/06/2019	1	Machination
Ground Floor	A03	04/06/2019	1	Machination
North Elevation and West Elevation	A04	04/06/2019	1	Machination
Plan of Management	-	14/04/2020	-	Civil Streetscapes Pty Ltd
Acoustic Assessment – Ext of Hours	-	August 2019		Urbanism/GHD

LPP026-20

Section B Prior to the Issue of a Construction Certificate

2. **Plan of Management** – The Plan of Management is to be amended to include a criterion for a member of staff to assist with the reversing of a vehicle from the site to protect the safety of pedestrian and vehicle safety.

The Plan of Management is to be amended to show the hours of operation are limited to 7.00am to 6.00pm Monday to Friday and 7.00am to 4.00pm Saturday with no work Sundays or Public Holidays.

3. **Fire Safety Measures** - Prior to the issue of a construction certificate a list of the essential fire safety measures that are to be provided in relation to the land and any building on the land as a consequence of the building work must accompany an application for a construction certificate, which is required to be submitted to either Council or a PCA. Such list must also specify the minimum standard of performance for each essential fire safety measure included in the list. The Council or PCA will then issue a Fire Safety Schedule for the building.
4. **Partial conformity with the BCA – Clause 93 EP& A Regulation 2000** Pursuant to Clause 93 of the [Environmental Planning and Assessment Regulation 2000](#), the existing building must be brought into **partial** conformity with the Building Code of Australia in respect to the provisions of:
 - (a) Access and egress from the building - Section D.
 - (b) Fire safety services and equipment - Section E.

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

5. **Partial conformity with the BCA – Clause 93 and 94 EP& A Regulation 2000.** - Pursuant to Clause 93 and 94 of the [Environmental Planning and Assessment Regulation 2000](#), the existing building must be brought into partial conformity with the Building Code of Australia in respect to the provisions of:
 - a) Fire separation between the residential and commercial unit to comply with – Section C.
 - b) Egress from the building to comply with Section D of the BCA.
 - c) Fire safety services and equipment - Section E.

- d) Provisions of sanitary facilities to comply with the maximum population size requirements – Section F.

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

6. **Use of the depot (Environmental Health)** - The use of the depot must not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission of noise, fumes, vapour, odour, steam, soot, dust, waste water, waste products, grit, oil or other harmful products.

Section C Prior to the issue of the Occupation Certificate

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

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

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

Section D Operational Conditions (Ongoing)

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

Flashing, moving or intermittent lights or signs are prohibited.

9. **Activities and storage of goods outside buildings** - There shall be no activities including storing or depositing of any goods or maintenance to any machinery external to the building with the exception of waste receptacles.
10. **Standing of vehicles on public roads** - No motor vehicles awaiting repair or under repair, or waiting delivery, shall be stored, parked, or otherwise permitted to stand in a public street. All such vehicles shall be accommodated within the premises.

11. **Loading & Unloading of vehicles** - All loading and unloading of vehicles in relation to the use of the premises shall take place wholly within a dedicated loading dock/area.
12. **Amenity of the neighbourhood** - The implementation of this development shall not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, dust, waste water, waste products, grit, oil or other harmful products.
13. **Noise Control** - The use of the premises must not give rise to the transmission of offensive noise to any place of different occupancy. Offensive noise is defined in the [Protection of the Environment Operations Act 1997](#) (as amended).
14. **Annual Fire Safety Statement** - The owner of the building premises must ensure the Council is given an annual fire safety statement in relation to each essential fire safety measure implemented in the building. The annual fire safety statement must be given:
 - (a) Within 12 months after the date on which the fire safety certificate was received.
 - (b) Subsequent annual fire safety statements are to be given within 12 months after the last such statement was given.
 - (c) An annual fire safety statement is to be given in or to the effect of Clause 181 of the [Environmental Planning and Assessment Regulation 2000](#).
 - (d) A copy of the statement is to be given to the Commissioner of Fire & Rescue NSW, and a further copy is to be prominently displayed in the building.
15. **Industrial Premises – Spill Clean-up** - Sufficient supplies of appropriate absorbent materials shall be kept on site to recover any liquid spillage. Liquid spills shall be cleaned up using dry methods, by placing absorbent material on the spill, and sweeping or shovelling the material into a secure bin. Absorbent materials used to clean up spills shall be disposed of to an appropriately licensed waste facility.
16. **Plan of Management (POM)** - The submitted Plan of Management (POM) dated 14 April 2020 and as revised by condition 2 above; prepared by Urbanism; must be adhered to all times; any modifications or amendments to the approved POM must be submitted to the satisfaction of Council's Planning Manager/Planning Coordinator for approval.
17. **Final Acoustic Report – Verification of Noise report** - Within three months from the issue of an Occupation Certificate, an acoustic assessment is to be carried out by an appropriately qualified acoustic consultant, in accordance with the [EPA's Noise Policy for Industry](#) and submitted to Council for consideration. This report should include but not be limited to, details verifying that the noise control measures as recommended in the "*Plan of Management for use of premises as a depot*" prepared by Urbanism dated 14 April 2020 are effective in attenuating noise to an acceptable noise level and that the use is not calculated to give rise to 'offensive noise' as defined under the provision of the [Protection of the Environment Operation Act 1997](#) (as amended).
18. **Operating Hours** - The business will operate as follows:
 - a) 7:00am to 6:00pm Monday to Friday
 - b) 7:00am to 4:00pm Saturday
 - c) No work Sundays or Public Holidays

Note: To be in keeping with Council's DCP and to ensure residential amenity

Section E Operational Requirements Under the Environmental Planning & Assessment Act 1979

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

Only the PCA appointed for the building work can issue the Occupation Certificate.

An Occupation Certificate Application Form is attached for your convenience.

Section F Prescribed Conditions

20. **Building Code of Australia & Home Building Act 1989** - Requires all building work to be carried out in accordance with the Building Code of Australia. In the case of residential building work to which the Home Building Act 1989 relates, there is a requirement for a contract of insurance to be in force before any work commences.

END CONDITIONS

NOTES/ADVICES

21. **Review of Determination** - Section 8.2 of the Environmental Planning and Assessment Act confers on an applicant who is dissatisfied with the determination of the application the right to lodge an application with Council for a review of such determination. Any such review must however be completed within 6 months from its determination. Should a review be contemplated sufficient time should be allowed for Council to undertake public notification and other processes involved in the review of the determination.

Note: Review provisions do not apply to Complying Development, Designated Development, State Significant Development, Integrated Development or any application determined by the Sydney South Planning Panel or the Land & Environment Court.

22. **Appeal Rights** - Part 8 (Reviews and appeals) of the Environmental Planning and Assessment Act 1979 confers on an applicant who is dissatisfied with the determination of the application a right of appeal to the Land and Environment Court of New South Wales.

23. **Lapsing of Consent** - This consent will lapse unless the development is physically commenced within 5 years from the Date of Operation of this consent, in accordance with Section 4.53 of the Environmental Planning and Assessment Act 1979 as amended.

24. **Council as PCA** - Compliance with the BCA- Should the Council be appointed as the Principal Certifying Authority, the Construction Certificate Application must be accompanied by the following details, with plans prepared and certified by an appropriately qualified person demonstrating compliance with the BCA:

- a) The fire upgrade works required to comply with condition CC9.57, Clause 93 of the Environmental Planning and Assessment Regulation 2000.

- b) Fire safety services and equipment including Hydrant, hose reel, portable fire, extinguishers, emergency lights, exit signs, smoke hazard management systems, etc.
- c) Egress and exit that demonstrate compliance with the BCA.
- d) Fire separation to comply with the BCA.
- e) Compliance with the Health and Amenity requirements of the BCA.
- f) The non-compliances in the existing building and the works necessary for compliance with the BCA must be detailed on the construction plans. A report prepared by an accredited building surveyor may assist the applicant with the preparation of the plans.
- g) Mechanical air handling, ventilation and exhaust system.
- h) Energy efficiency report demonstrating compliance with the BCA.
- i) Protection of wall openings that stand less than 3 metres from the boundary or fire source feature.

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

Energy efficiency provisions relate only to new building work or the installation of new measure. Existing building fabric and measures may not be upgraded.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29. **Council as PCA - Deemed to Satisfy Provisions of BCA** - Should the Council be appointed as the PCA in determining the Construction Certificate, the building must comply with all the applicable deemed to satisfy provision of the BCA. However, if an alternative fire solution is proposed it must comply with the performance requirements of the BCA, in which case, the alternative solution, prepared by an appropriately qualified fire consultant, accredited and having specialist qualifications in fire engineering, must justifying the non-compliances with a detailed report, suitable evidence and expert judgement. Council will also require if deemed necessary, for the alternative solution to undergo an independent peer review by either the CSIRO or other accredited organisation. In these circumstances, the applicant must pay all costs for the independent review.

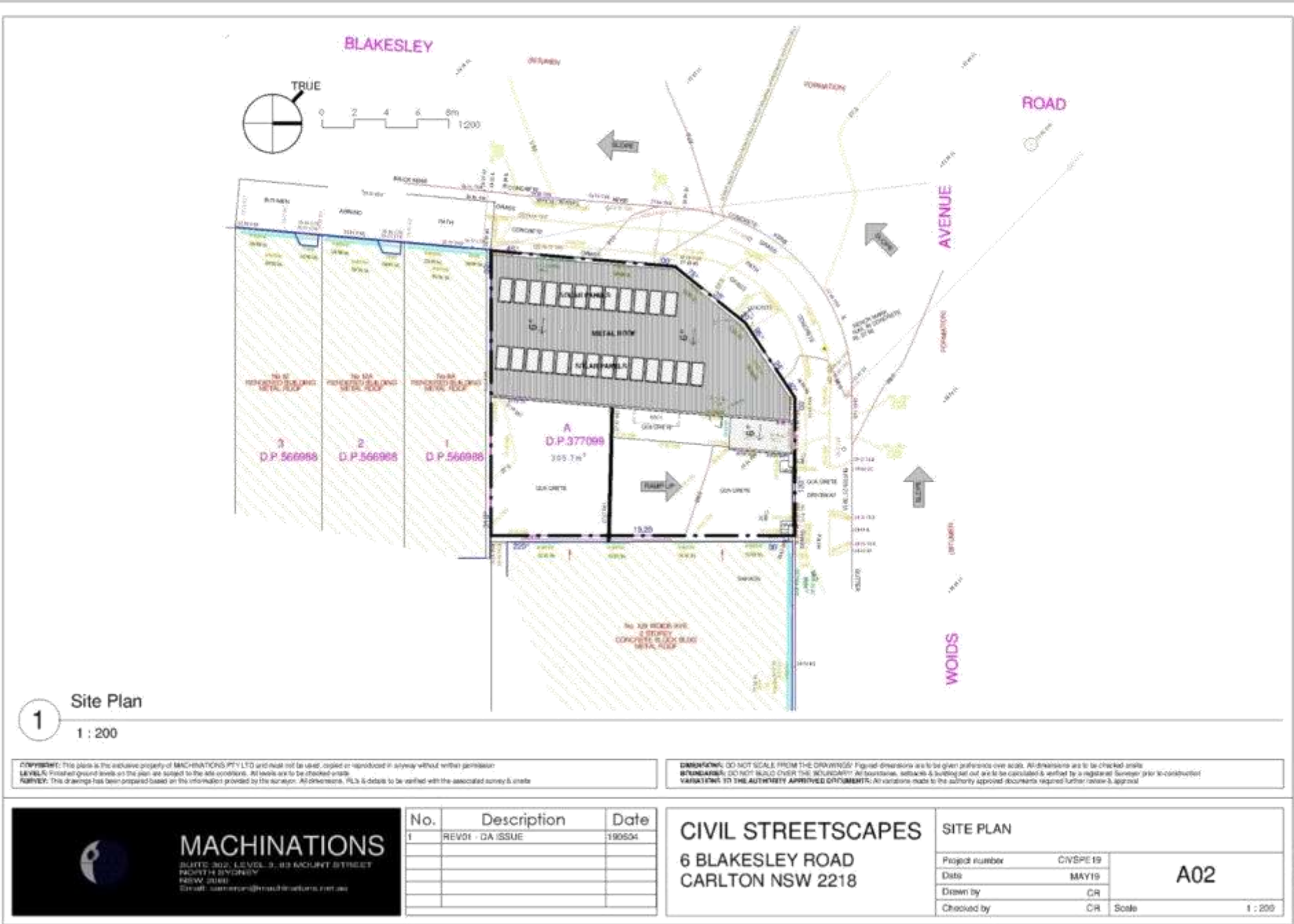
30. **Site Safety Fencing** - Site fencing must be erected in accordance with SafeWork Guidelines, to exclude public access to the site throughout the demolition and/or construction work, except in the case of alterations to an occupied dwelling. The fencing must be erected before the commencement of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

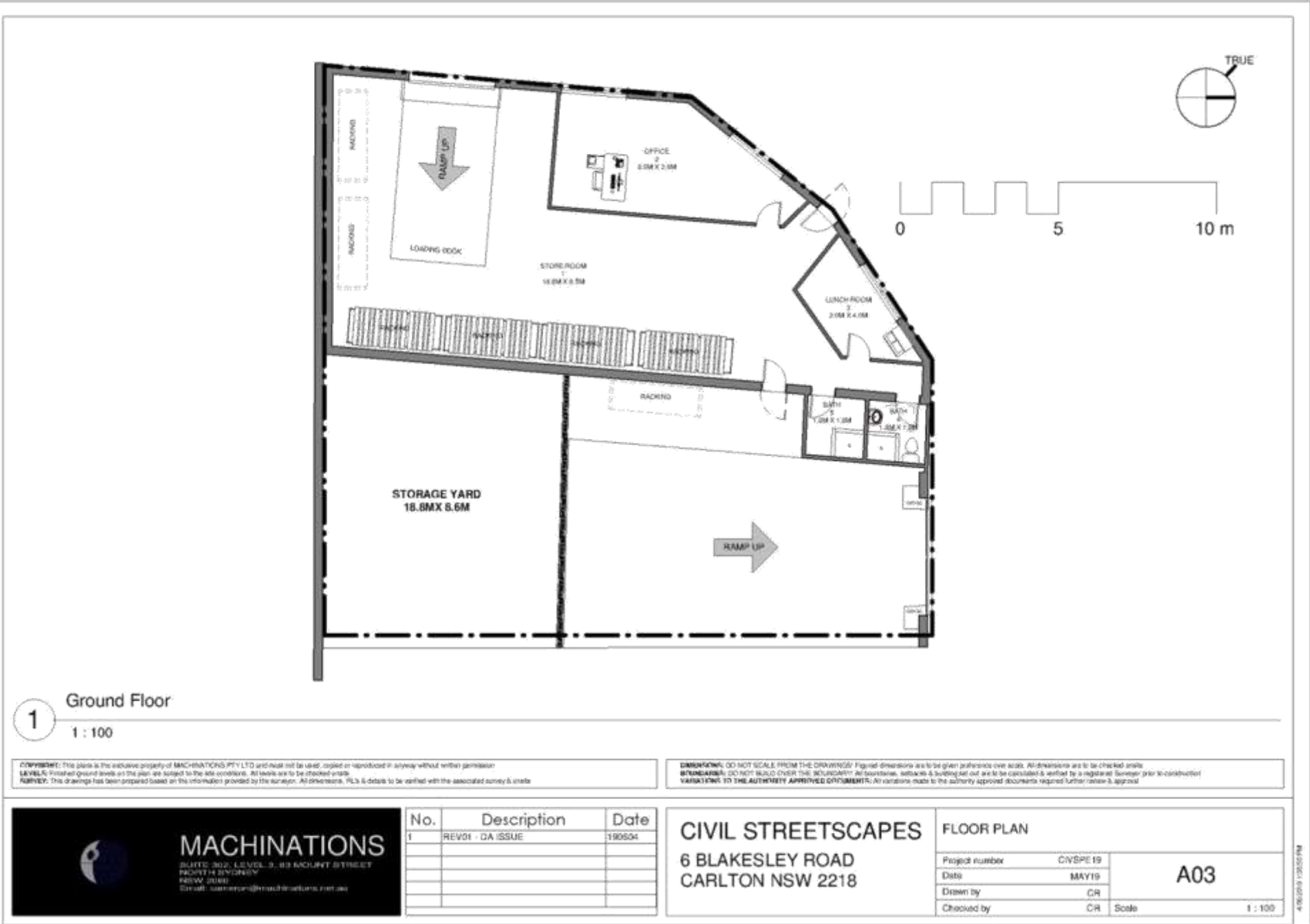
A demolition licence and/or a high risk work license may be required from SafeWork NSW (see www.SafeWork.nsw.gov.au).

31. **Council as PCA - Deemed to Satisfy Provisions of BCA** - Should the Council be appointed as the PCA in determining the Construction Certificate, the building must comply with all the applicable deemed to satisfy provision of the BCA. However, if an alternative fire solution is proposed it must comply with the performance requirements of the BCA, in which case, the alternative solution, prepared by an appropriately qualified fire consultant, accredited and having specialist qualifications in fire engineering, must justifying the non-compliances with a detailed report, suitable evidence and expert judgement. Council will also require if deemed necessary, for the alternative solution to undergo an independent peer review by either the CSIRO or other accredited organisation. In these circumstances, the applicant must pay all costs for the independent review.

ATTACHMENTS

Attachment [↓](#)1 Plans - 6 Blakesley Road Carlton







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