

AGENDA - LPP

Meeting:	Georges River Local Planning Panel (LPP)
Date:	Tuesday, 21 July 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) Annette Ruhotas (Community Representative)

1. On Site Inspections
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

LPP028-20	1D Greenbank Street Hurstville - DA2020/0027 (Report by Development Assessment Planner)
LPP029-20	10 Water Street San Souci - DA2020/0166 (Report by Senior Development Assessment Planner)
LPP030-20	15 Melvin Street Beverly Hills - DA2019/0388 (Report by Development Assessment Planner)
LPP031-20	36 Bunyala Street Blakehurst - MOD2020/0075 (Report by Senior Development Assessment Planner)

4. Confirmation of Minutes

**REPORT TO GEORGES RIVER COUNCIL
LPP MEETING OF TUESDAY, 21 JULY 2020**

LPP028-20

LPP Report No	LPP028-20	Development Application No	DA2020/0027
Site Address & Ward Locality	1D Greenbank Street Hurstville Kogarah Bay Ward		
Proposed Development	Fit out and use of Hall 1/1D Greenbank Street Hurstville (proposed to be known as Shop 2/1D Greenbank Street) as a recreation facility (indoor) - gymnasium		
Owners	Georges River Council		
Applicant	Complete Trade Pty Ltd		
Planner/Architect	Planner: Urbanism Pty Ltd (author of Statement of Environmental Effects); Architect: Complete Trade Pty Ltd		
Date Of Lodgement	30/01/2020		
Submissions	Eight (8) submissions of objection received		
Cost of Works	\$95,356.80		
Local Planning Panel Criteria	The subject site is owned by Georges River Council as a result the Georges River Local Planning Panel is the Consent Authority via the Ministerial Direction of 2018.		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, Greater Metropolitan Regional Environmental Planning Policy No 2- Georges River Catchment, State Environmental Planning Policy No. 55 – Remediation of Land, State Environmental Planning Policy (Infrastructure) 2007, State Environmental Planning Policy No 64 – Advertising and Signage Draft Environment State Environmental Planning Policy, Draft State Environmental Planning Policy 55 – Remediation of the Land, 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, Plan of Management, Submissions, Acoustic Report and Traffic Impact Assessment		
Report prepared by	Development Assessment Planner		

Recommendation	That the application be approved in accordance with the conditions 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 recommendations summarised, in the Executive Summary of	Yes

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 applicant will be able to review the conditions when the report is published

Site Plan



Aerial photo of the subject site - the site is outlined in red

Executive Summary Proposal

1. Council is in receipt of a Development Application (DA2020/0027) seeking consent for the fit out and use of an existing commercial tenancy (as referenced in the Voluntary Planning Agreement – whereby this tenancy was dedicated to Council as referenced in item 7 of the executed document – copy attached) on the ground floor of the development as a recreational facility (indoor) being a gymnasium with the allotment

being legally defined as Lot 1 DP 1242704, known as Hall 1 - 1D Greenbank Street, Hurstville currently via Council's GIS system.

2. This tenancy was dedicated to Council being a commercial space having a minimum area of 200sqm as referenced in Annexure B of the executed Voluntary Planning Agreement. The gymnasium will be known as "Active and Ageless" for use by persons 50 years and older. There are no external changes proposed to the base building other than signage affixed to the glazed façade of the tenancy as a result of the proposed fit out and use.
3. It is noted that the address of the proposal is currently Hall 1/1D Greenbank Avenue, Hurstville; Council's GIS team have advised there is currently an application with NSW Office of Land and Property Information to change the description of the site to Shop 2/1D Greenbank Street, Hurstville. This change in legal description has not yet been processed, should the address be formally updated prior to the issue of any determination of this application, the correspondence will reference the correct legal description with a reference to its previous legal reference for clarity.
4. The fit out will include the construction of non-structural walls to create two (2) offices, kitchenette, shower room, lockers, female and male change rooms and water closets.
5. Signage in the form of vinyl cut-outs will be attached to the glazed elevations of the tenancy. The signage contains the company name and logo being "Active and Ageless" as well as photos/graphics of people exercising. It is noted that the images of people exercising currently exist onsite. The signage is considered to be excessive and will be conditioned to be reduced, see the detailed discussion below.
6. The documentation submitted with the DA (including Statement of Environmental Effects, Plan of Management, and Acoustic Report) indicates the following additional details associated with the proposed use:
 - Hours of operation: 5.00am to 9.00pm (Monday to Friday) and 6.00am to 2.00pm (Saturday and Sunday);
 - Staff numbers: One (1) full time manager, three (3) part time trainers and one (1) casual/visiting specialist;
 - Number of fitness classes per week: 25 classes;
 - Class size: Maximum 20 persons;
 - Maximum number of persons on-site: 30 persons.

Site and Locality

7. The subject site is legally described as Lot 1 DP 1242704, with a street address of Hall 1/1D Greenbank Street, Hurstville.
8. The subject site located on the ground floor of a newly constructed mixed use development with basement car park on the corner of Woniara Road and Greenbank Street Hurstville. This mixed-use development comprises various commercial/retail floor space on the ground floor level, with residential units above.
9. The proposed development seeks to occupy an area dedicated to Council as part of an executed Voluntary Planning Agreement (VPA). The VPA in Item 7 references this dedication as being *"An area of 200sqm of commercial space on the first floor (upper podium) with frontage to Greenbank Street (as shown on the plan comprising "Annexure*

B" (Plan DA1060, Issue M by Architecture and Buildings Works dated 02 May 2016). The Voluntary Planning Agreement was associated with Development Application 191/2015 (former Kogarah Council). The DA approved plans nominated the following:

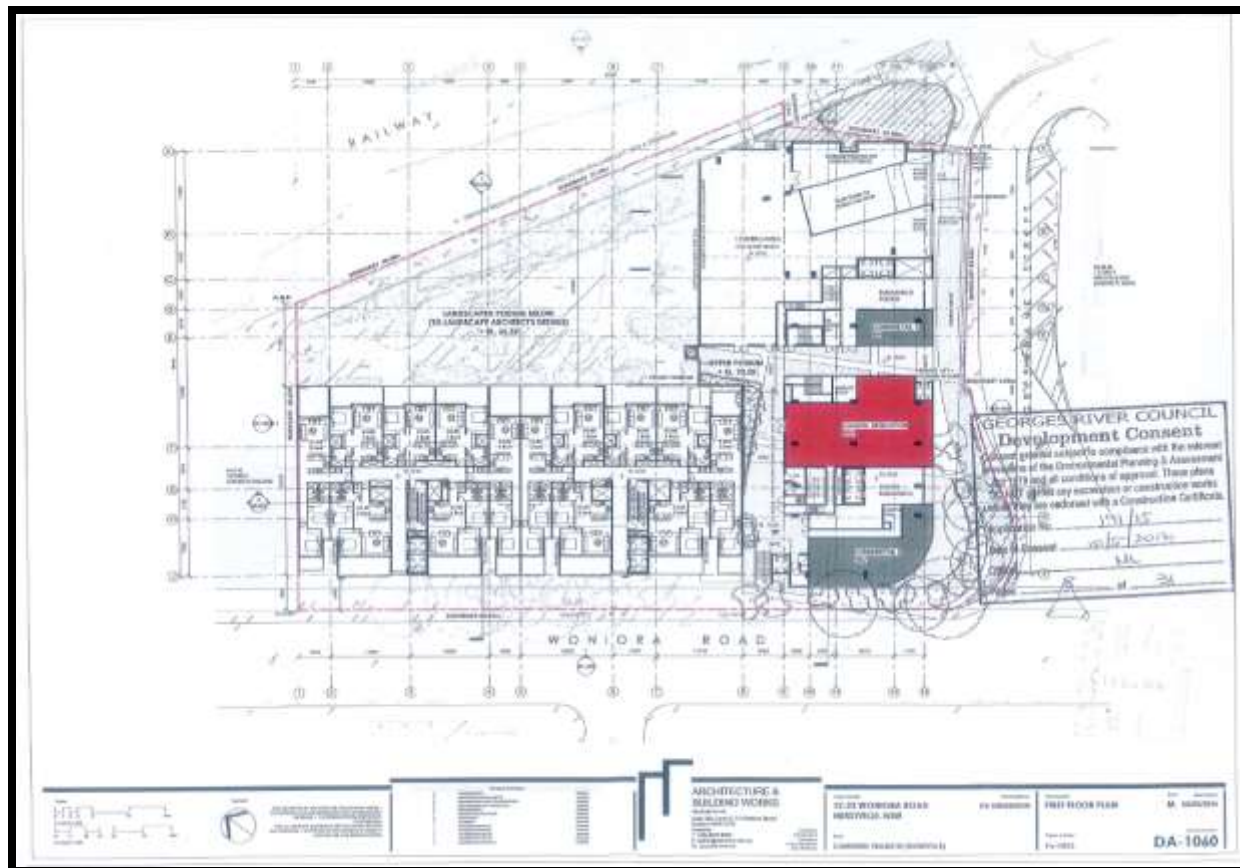


Figure 1: Approved DA plan showing the proposed dedicated commercial space

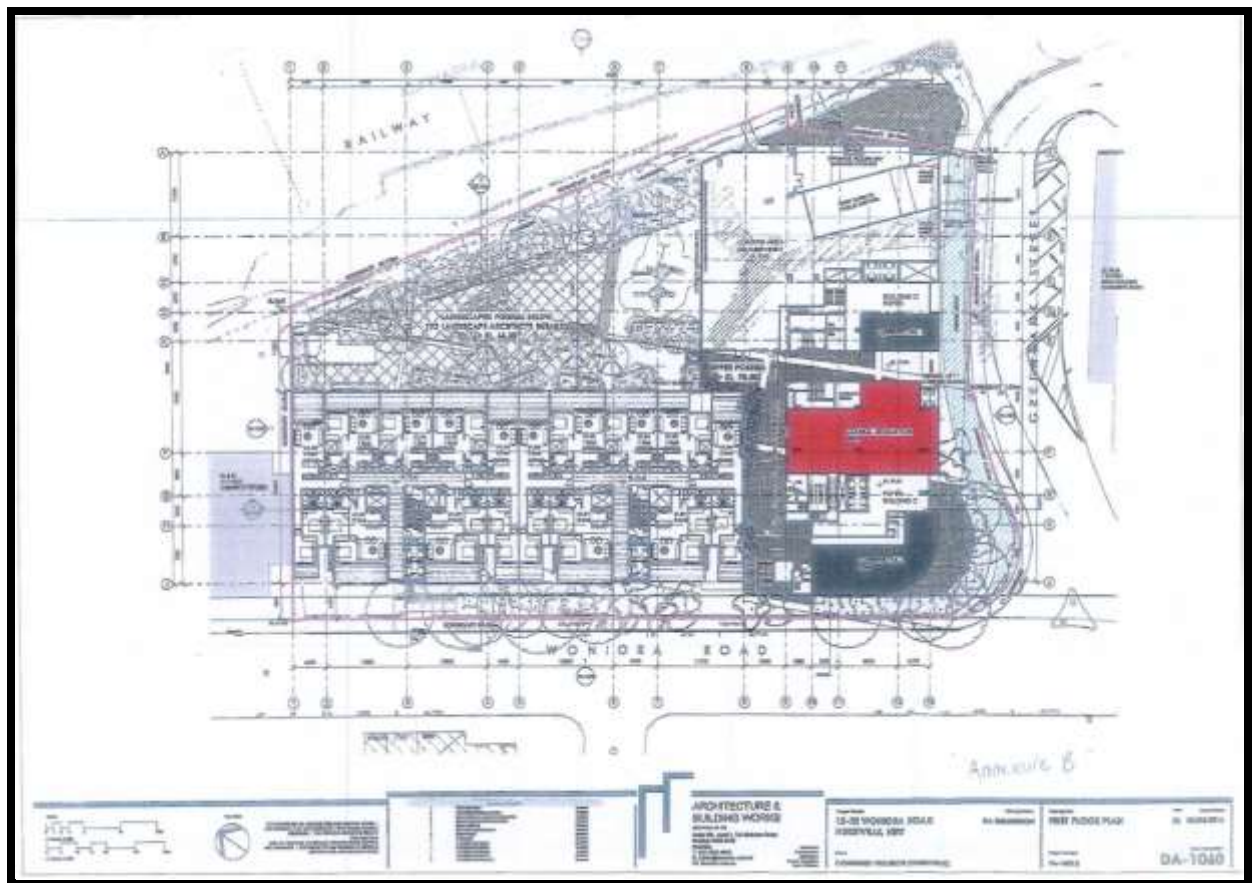


Figure 2: Annexure B of the Executed Voluntary Planning Agreement

10. The site is located in close proximity to the Hurstville Train Station. Surrounding development includes business and commercial related development, the Hurstville Police Station and on the opposite side of Woniora Road is low density residential development.
11. The adjacent commercial units are a real estate agent to the north and the unit to the south is presently unoccupied.
12. Photos of the subject site are referenced below.



Figure 3: Subject site, viewed from Greenbank Avenue Hurstville (front)



Figure 4: Subject site, viewed from Greenbank Avenue Hurstville (with Woniara Road in the background, left)

Zoning and Permissibility

13. The subject site is zoned B4 - Mixed Use Development under the provisions of the Kogarah Local Environmental Plan 2012 (KLEP 2012). The proposed use is defined as a Recreation facility (indoor) being a gymnasium, which is permitted with consent.

Submissions

14. The application was notified between 10 and 24 February 2020 in accordance with the Kogarah Development Control Plan (KDCP 2013) and Council's Community Engagement and Participation Plan.
15. A total of eight (8) submissions of objection were received, mostly from occupants of the residential units above. The submissions raised the following issues of concern which are discussed in detail later in this report:
 - Noise concerns, specifically in relation to the early opening hours,
 - Noise concerns (from the general use of the premises), for example from sounds of weights/equipment banging on the floor impacting on residential units above
 - Security concerns as there will be unknown people in the building,
 - Increased traffic (pedestrian and vehicular) and congestion,
 - Parking issues for residents and general lack of parking, in particular, gym users may occupy resident parking spaces,
 - Affect quality of life of the residents,
 - The owner's corporation (or residential unit owners) should not be responsible for additional water usage costs associated with the gym usage.
16. The proposed use is permissible in the zone; the applicant within the submission has adequately addressed the issues raised by the submitters.
17. In particular, the applicant has submitted documentation including a Plan of Management and Acoustic Assessment Report which demonstrates that the proposed development can operate in a satisfactory manner, particularly in terms of amenity impacts on the residential units above. The submitted Plan of Management and Acoustic Assessment Report are both assessed in detail later in this report.

Reason for Referral to the Local Planning Panel

18. This development application is referred to the Local Planning Panel for determination, as the land owner of the tenancy is Georges River Council. Also, the nature of proposed development is in the public interest (greater than 5 submissions of objection) by Council delegations, as a result the DA is to be determined by the Local Planning Panel.

Conclusion

19. 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.
20. It is considered that the development is satisfactory subject to conditions of consent. Although the Development Application requests hours of operation starting at 6:00am and concluding at 2:00pm on a Sunday, this is not considered appropriate given the site is located within close proximity to residential units and the adjoining low-density residential zone. It is recommended that a condition be imposed to restrict the Sunday operating hours from 8:00am to 2:00pm on a Sunday. It will also be conditioned for the business to not operate prior to 8:30am on public holidays. The signage is considered excessive and does not afford any casual surveillance to and from the tenancy. In this regard it is recommended via a condition of consent that the signage be amended to allow some transparency to the public domain.

Report in Full

Proposal

21. This development application seeks consent for the use and fit out of a commercial tenancy as a “recreation facility (indoor)” for a gymnasium including associated signage. According to the Plan of Management, the gymnasium will be for people over the age of 50.
22. The fit out will include construction of non-structural walls to create two (2) offices, kitchenette, shower room, lockers, female and male change rooms, water closets and associated signage.
23. The documentation submitted with the DA (including Statement of Environmental Effects, Plan of Management, and Acoustic Report) indicates the following additional details for the proposed development:
 - Hours of operation: 5.00am to 9.00pm (Monday to Friday) and 6.00am to 2.00pm (Saturday and Sunday);
 - Staff numbers: One (1) full time manager, three (3) part time trainers and one (1) casual/visiting specialist;
 - Number of fitness classes per week: 25 classes;
 - Class size: Maximum 20 persons;
 - Maximum number of persons on-site: 30 persons.
24. The subject tenancy has no previous uses according to Councils records, the building is newly constructed. There are no proposed external works to the building.

The Site and Locality

25. The subject site is legally described as Lot1 DP 1242704, with a street address of Hall 1 - 1D Greenbank Street, Hurstville. This tenancy is part of a site which is an irregular shaped allotment having a total site area of approximately 1655sqm. The subject tenancy has a Gross Floor Area of 200.03sqm. (This tenancy was dedicated to Council as part of an executed Voluntary Planning Agreement).
26. The subject site is a corner allotment with frontages to both Greenbank Street and Woniara Road, with the subject tenancy having a frontage to Greenbank Street. Council has no record of a previous use for the subject tenancy.
27. The subject tenancy is located on the ground floor of a newly constructed mixed use development with basement car park and residential units above. The site is in close proximity to the Hurstville Train Station. Surrounding development includes business and commercial related development; on the opposite side of Woniara Road is low density residential development.

Environmental Planning Instruments

State Environmental Planning Policies

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

State Environmental Planning Policy	Complies
State Environmental Planning Policy No 64 – Advertising and Signage	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

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State Environmental Planning Policy No 64 – Advertising and Signage

29. Under clause 8, prior to a consent authority approving a development application for signage the signage must meet the objectives in clause 3 (1) (a) and satisfy the assessment criteria specified in Schedule 1.
30. The development proposes signage that will be vinyl attached to the glazing of the tenancy frontage of the subject site. The signage includes the logo of the business, the business name, website, statement about the business and photos of people undertaking exercise. It is noted that signage similar to that proposed in this application has already been affixed to the front windows, detailing the proposed use is “coming soon”.
31. The proposed signage is considered to be consistent with the objectives and a Schedule 1, with the exception of a modification to the transparency of the signage via condition of consent, the assessment is provided below. Part 3 does not apply to the proposal as there are no building identification signs proposed and the signage does not require concurrence or comment from RMS.

32. 1. Character of the area

- Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?

Comment: The signage is consistent with what would be expected from a commercial tenancy within a B4 zone.

- Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?

Comment: The proposed signage is considered to be inconsistent with signage in the B4 zoned areas.

33. 2. Special areas

- Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?

Comment: The proposed sign does not create an unreasonable impact that detracts from the visual quality of such surrounding areas. In particular, the site is not located within the visual catchment of any heritage/conservation area, or waterways or other scenic areas.

34. 3. Views and vistas

- Does the proposal obscure or compromise important views?

Comment: There are no views that are obscured or compromised by the proposed signage.

- Does the proposal dominate the skyline and reduce the quality of vistas?

Comment: The proposed signage is located on the ground floor of the building therefore not impacting the skyline or vistas.

- Does the proposal respect the viewing rights of other advertisers?

Comment: The advertising is located on the tenancy frontage.

35. 4. Streetscape, setting or landscape

- Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?

Comment: The proposal is considered to have appropriate dimensions and scale within the setting with the imposition of a condition to include the transparency for surveillance to and from the tenancy.

- Does the proposal contribute to the visual interest of the streetscape, setting or landscape?

Comment: The proposal will add to the visual interest of the streetscape by providing a theme to the frontage of the tenancy.

- Does the proposal reduce clutter by rationalising and simplifying existing advertising?

Comment – The signage is to advertise the use of the tenancy, it is acknowledged signage has been installed without consent; this signage will replace what currently exists.

- Does the proposal screen unsightliness?

Comment: The proposal does not screen unsightliness.

- Does the proposal protrude above buildings, structures or tree canopies in the area or locality?

Comment: No as it is on the ground floor tenancy frontage, there are not protruding elements.

- Does the proposal require ongoing vegetation management?

Comment: The proposal will not require ongoing vegetation management.

36. 5. Site and building

- Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?

Comment: The sign is considered to be compatible with the site and building as it is only proposed to the frontage to the tenancy to which it relates.

- Does the proposal respect important features of the site or building, or both?

Comment: The proposal respects features of the site and building.

- Does the proposal show innovation and imagination in its relationship to the site or building, or both?

Comment: The proposal is considered modern and reflective of signage associated with this use.

37. 6. Associated devices and logos with advertisements and advertising structures

- Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?

Comment: No as the signage is vinyl glazing signage.

38. 7. Illumination

- Would illumination result in unacceptable glare?

Comment: No illumination proposed.

- Would illumination affect safety for pedestrians, vehicles or aircraft?

Comment: No illumination proposed.

- Would illumination detract from the amenity of any residence or other form of accommodation?

Comment: No illumination proposed.

- Can the intensity of the illumination be adjusted, if necessary?

Comment: No illumination proposed.

- Is the illumination subject to a curfew?

Comment: No illumination proposed.

39. 8. Safety

- Would the proposal reduce the safety for any public road?

Comment: The proposal will not impact on road safety.

- Would the proposal reduce the safety for pedestrians or bicyclists?

Comment: The proposal will not impact pedestrians or cyclists.

- Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?

Comment: The proposal will not impact pedestrian safety as the signage is vinyl window signage.

40. Conclusion regarding SEPP 64: The proposed advertising signage is considered to be satisfactory in terms of SEPP 64 having regard to the above assessment with the

incorporation of a condition to reduce the extent of signage to the glazed façade of the tenancy. The single person images and the graphic image (logo) which takes up the entire glazed panel of one leaf of the door and the fixed glazed panels are to be reduced so that they do not occupy greater than a third of the height of the glazed panel, and be located within the centre third of the glazed area. The images are permitted to be in the centre third of the glazed panels to enable the top and lower thirds of the glazed areas to facilitate a visual line of sight to and from the tenancy to increase surveillance. This has been recommended as a condition of consent.

State Environmental Planning Policy No 55 – Remediation of Land

41. 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.
42. No works are proposed that disturb the foundation material, this application only involves a use/minor fit out of existing retail/commercial premises and signage. It is considered that the subject site is suitable for its intended use.

Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment

43. 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.*
44. There is no change to the existing drainage system. 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

45. 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.
46. 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).
47. 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.
 48. No issues arise in terms of the provisions of the Vegetation SEPP, as there is no vegetation impacted by this development.

Draft Remediation of Land SEPP

49. 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.
50. 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.
51. 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.
52. As noted above, the current DA involves a change of use of existing premises for the purposes of a recreational facility (indoor) and no building works that impact the foundation material.
53. 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 commercial purposes, it is considered that the subject site is suitable for its intended use.

Draft Environment SEPP

54. 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.

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

Kogarah Local Environmental Plan 2012

56. The subject site is zoned B4 – Mixed Use, under the provisions of Kogarah LEP 2012. Recreation Facility (indoor) - gymnasium is a permissible form of development with Council's consent within this zone.

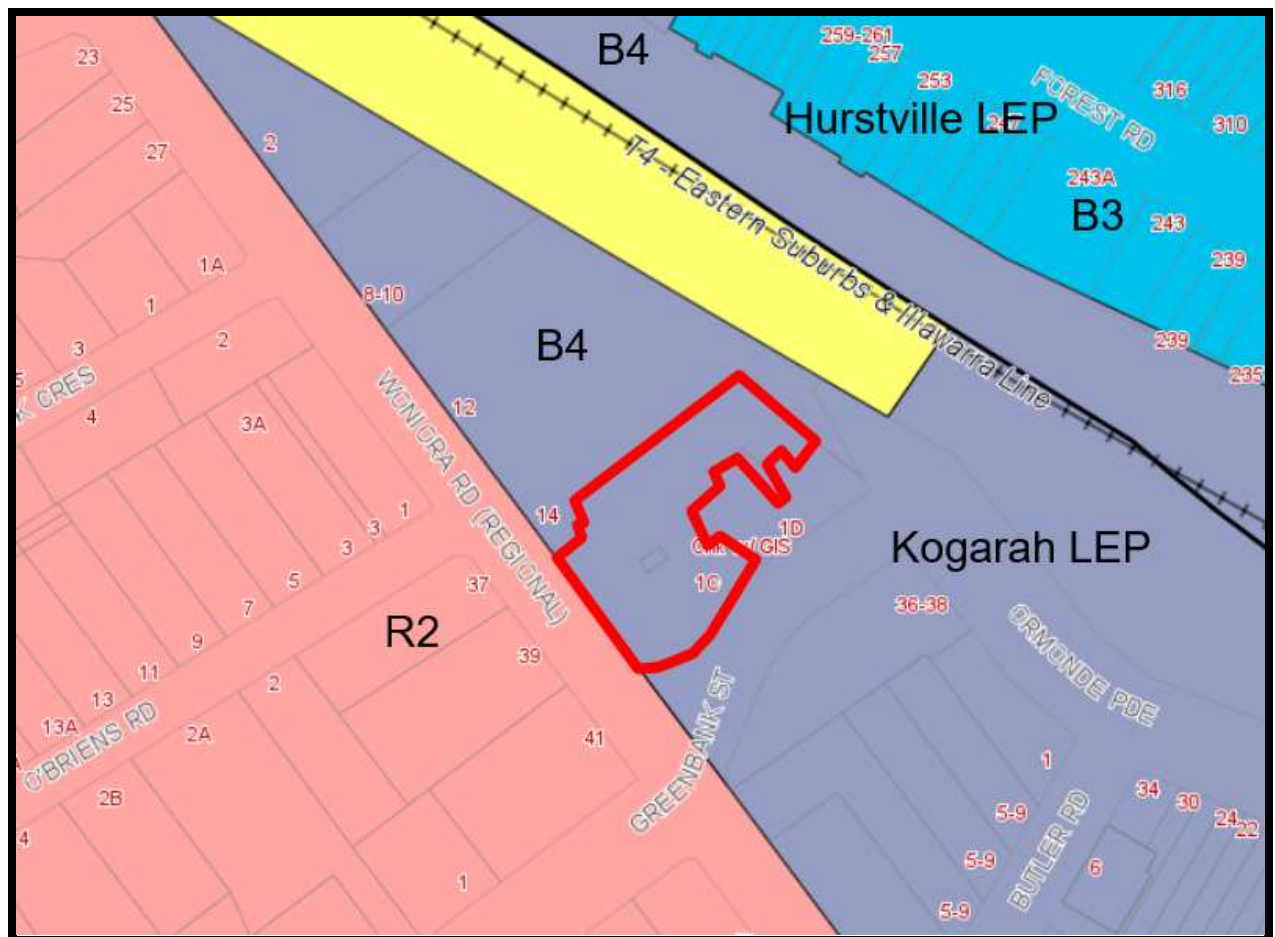


Figure 5: Zoning Map – Site outlined in red

57. The proposed development is for the change of use to a recreation facility (indoor) – gymnasium which is permissible in the zone with consent.

58. The objectives of the B4 Mixed Use Zone is as follows;

- To provide a mixture of compatible land uses.
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
- To encourage development that contributes to economic growth and employment opportunities.
- To encourage development that contributes to an active, vibrant and sustainable town centre.
- To provide opportunities for residential development, where appropriate.

59. The proposed development being a recreation facility (indoor) - gymnasium is a permitted form of development; it is considered that the proposed use is consistent with the zone objectives.
60. 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	39m as identified on Height of Buildings Map	No proposed changes to the existing height. The fitout and use relates to a ground floor commercial tenancy.	Yes
4.4 – Floor Space Ratio	1:1 as identified on Floor Space Ratio Map	No proposed changes to the existing floor space. The gym is proposed within an existing tenancy.	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 or in a heritage conservation area. The subject site is across from O'Briens Estate Heritage Conservation Area; however this tenancy does not directly face the conservation area therefore not resulting on any impact onto the Conservation Area.	Yes
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	The subject land is not within a bush fire prone area.	N/A

	consent.		
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 an 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	Development consent	Essential services are	Yes

Services	must not be grated to development unless services that are essential for the development are available.	available to the site and can be extended to service this use.	
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Draft Georges River Local Environmental Plan 2020

61. Consideration is given to the provisions of Draft Georges River Local Environmental Plan 2020 in the assessment this application.
62. 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.”
63. It is acknowledged the zoning of the land is not proposed to be altered under this draft instrument.

Kogarah Development Control Plan 2013

64. The provisions of Kogarah Development Control Plan 2013 (KDCP2013) are relevant to the proposed development.
65. The proposal is for the fit out and use of a tenancy within a recently constructed mixed use development as a recreational facility (indoor) - gymnasium. There are no external building works proposed as a part of this application the only visual component externally is the signage proposed to be affixed to the glazing of the tenancy frontage. An assessment of the proposed development against the relevant controls in the KDCP2013 is provided in the table below.

Part B3 – Developments Near Busy Roads and Rail Corridors

Control	Standard	Proposed	Complies
(1)	Acoustic assessments for noise sensitive developments as defined in clauses 87 and 102 of the Infrastructure SEPP may be required if located in the vicinity of a rail corridor or busy roads at ground level.	The proposed use does not trigger a referral under these provisions of the SEPP.	Yes

Part B4 – Parking and Traffic

Control	Standard	Proposed	Complies
1 – Parking Requirements	(1) The car parking rate for development types are outlined in Table 1 – Parking Requirements. In the event of a discrepancy between the parking rates specified in this Part of the	This application is for the fit out and use of a commercial tenancy on the ground floor of a recently constructed mixed used development. The tenancy is owned by Council and was dedicated	No, discussion below

	<p>DCP and another Part of the DCP, the specific requirements identified within the detailed controls for a locality/area shall prevail.</p> <p>For recreation facilities (indoor) the prescribed amount in the tables is – <i>Refer to RTA's Guide for Traffic Generating Development.</i> = Metropolitan regional (central business district) centres. If a gymnasium is located within a regional centre and is in close proximity to rail / bus services, the recommended off-street parking provision is 3.0 spaces per 100m² GFA.</p> <p>GFA=200.03sqm $200.03/100=2.0003$ $2.0003 \times 3 = 6.0009$ spaces</p>	<p>to Council as part of an Executed Voluntary Planning Agreement (VPA) at the time the application was determined. A copy of the Executed VPA is attached to this report. The two (2) areas of this executed voluntary planning agreement that relate to this application is Item 7 which nominates this tenancy as the tenancy dedicated to Council as well as a fully constructed car park containing 79 car parking spaces.</p> <p>The dedicated commercial tenancy does not have dedicated car parking spaces allocated via the strata plan as advised by Council's Property Division, the car parking for this use is fed by the 79 spaces within the constructed and dedicated car park. As part of the lease arrangement with the applicant of this application they have been leased 2 spaces on the level adjacent to the tenancy which is being used for the staff associated with the gymnasium.</p> <p>The shortfall of 4 spaces (calculated via the RMS Guide for Traffic Generating Development) for this use can access the public/communal spaces within the building.</p>	
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Part E2 – Hurstville Town Centre

Control	Standard	Proposed	Complies
3.3 Land Use	All ground floor levels in buildings facing active streets should incorporate retail and/or commercial, showrooms or entertainment uses to	The proposed development on the ground floor was approved as areas where various non-residential uses were to be accommodated. The B4 mixed use zone permits various uses, one	Acceptable.

	<p>activate the street. Residential and/or commercial should be provided above as shown in site studies. Some sites are considered to be more suitable for commercial rather than residential use and are designated as commercial. These sites are nominated in the site studies and the building envelope reflects this. Some fringe sites are suitable for either residential or commercial/retail development at ground level.</p>	<p>(1) being an indoor recreation facility consistent with that proposed. This use will activate this location through the regular visitors to attend exercise classes at various times from Monday through Sunday which is the intent of the objectives of the zone.</p>	
3.4 Active Street Frontages	<p>All ground floor levels in buildings facing active streets should incorporate retail and/or commercial uses to activate the street. Residential and/or commercial should be provided at upper levels.</p>	<p>This application is seeking consent to fit out and use of a new tenancy that resulted from a recently constructed mixed use development. This use involves regular movement of members of the gymnasium through this area activating this space which satisfies the objectives of the zone as well as the intent of this clause.</p>	Acceptable.
3.10 Acoustic and Visual Privacy – Rail Noise	<p>(3) Development is to meet or exceed the sound insulation requirements for separating walls and floors of adjoining dwellings of the Building Code of Australia.</p> <p>Submit an acoustic report demonstrating the method and acoustic rating achieved for the development with the Development Application. Issues to address include, but</p>	<p>This clause relates to developments that are being proposed in their entirety, this would have been taken into consideration during the base building works. However this use will involve noise that will need to be mitigated. As a result an acoustic assessment was requested, this was reviewed by Council's Health Officers and relevant conditions recommended.</p>	Yes

	are not limited to, party walls, storeys, different uses and traffic noise.			LPP028-20
6.1 Car Parking Rates	<p>The DCP provides a car parking rate for retail and commercial units at the following rates.</p> <p>Commercial CBD fringe – 1/50sqm Intermediate – 1/55sqm CBD Core – 1/60sqm</p> <p>Retail CBD fringe – 1/25sqm Intermediate – 1/27.5sqm CBD Core – 1/30sqm</p> <p>In Part B4 of this DCP includes parking requirements to be provided on site</p>	Given this application is for the fit out and use of the tenancy as a gymnasium the car parking rates applied are those referenced in the RMS Guide to traffic Generating Development. This use is permitted in the B4 zone via the KLEP.	Yes	
7.3 Site Specific - Block 32 – 22 Woniora Road	<ul style="list-style-type: none"> - 7 storey commercial or 1 storey commercial plus 7 storey residential. - Follow the line of the streets. - Create courtyards as appropriate on the northern side 	This application is for the fit out and use of an existing tenancy.	N/A	

F1 – Advertising and Signage

Control	Standard	Proposed	Complies
3 – Assessment Criteria	(1) Advertising must relate to the use of the premises and products sold on the premises.	The signage relates to the use proposed.	Yes
	(2) Signage must be sympathetic to, and integrated with, the architecture and structure of the supporting building and not be the dominant visual element on a building.	The signage is sympathetic to the built form subject to the reduction in the sizing of 3 glazed elements to provide surveillance.	Yes
	(3) The proposed advertising sign must be compatible with the	The proposal is not considered incompatible in this location subject to a	Yes

	<p>streetscape, setting or landscape, and not dominating in terms of its scale, proportion and form.</p> <p>(4) Lettering, materials and colours must complement the existing building or place.</p> <p>(5) Signage must not project above any parapet or eave.</p> <p>(6) Signage must not be located where it will adversely impact views or vistas or cause significant overshadowing.</p> <p>(7) The main facades of buildings between the first floor and parapet must be uncluttered and generally free of signage.</p> <p>(8) The façade of the host building is to be subdivided into a series of vertical or horizontal panels on which the signage can be placed (Figures 3 and 4).</p> <p>(9) The cumulative impacts of multiple advertising signs and the number of existing signs on the premises will be considered. Council may require existing inappropriate signage to be removed as a condition of development consent.</p> <p>(10) All advertising and signage must be displayed in English but may also include a translation in another language. Any translated message must be accurate and</p>	<p>reduction in the surface area of the glazed panels.</p> <p>The lettering and materials are acceptable subject to a reduction in the extent of the coverage of the glazing.</p> <p>The signage does not project above the eaves or parapet as it is fixed to the glazing of the tenancy. The sign is fixed to the glazing on the ground floor tenancy not impacting any views or vistas or resulting in any shadow cast.</p> <p>The signage is to the glazed tenancy frontage on the ground floor of the development.</p> <p>The proposal is considered to incorporate both vertical and horizontal lines.</p> <p>The signage is considered to be acceptable with a condition to reduce the extent of coverage to three (3) glazed panels to enable surveillance to and from the tenancy.</p> <p>The advertising is in English.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
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	<p>complete, and using wording and/or numbering that is not larger than the English message.</p> <p>(11) Signs must be attractive and professionally sign written.</p> <p>(12) Changes in the content or message of an advertising sign are allowed without the approval of Council provided that:</p> <p>(i) the structure to which the advertising sign is attached has been approved by Council;</p> <p>(ii) the size and dimensions of the sign remain as approved, or are reduced;</p> <p>(iii) there is no change to the intensity of, or hours of illumination;</p> <p>(iv) moving or flashing messages or symbols are not proposed; and</p> <p>(v) the message is not likely to cause distraction to motorists; or</p> <p>(vi) the proposed sign meets exempt development requirements.</p> <p>(vii) The name or logo of the person who owns or leases an advertisement or advertising structure must not be greater than 0.25sqm, and may appear only within the advertising display area.</p> <p>(13) Where a business or organisation offers a product or service, the name of the business or organisation should</p>	<p>The signage is considered to be professionally designed.</p> <p>Noted.</p> <p>The use is for a gym and the graphics show people exercising which is acceptable.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
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	<p>have greater dominance over the product or service advertisement.</p> <p>(14) The wording and content of the advertising sign must not:</p> <p>(i) offend nearby sensitive land uses (eg places of worship, schools, child care centres);</p> <p>(ii) contain undesirable discriminatory advertising messages as specified in the Anti-Discrimination Act 1977;</p> <p>(iii) encourage unlawful purchase or excessive consumption of alcohol; or promote anti-social behaviour.</p> <p>(15) Council discourages signs that are prone to deterioration and may request removal of redundant, unsafe, unsightly or objectionable signage.</p> <p>(16) Council discourages signage on common boundaries where maintenance difficulties could occur and may require provision for maintenance of signage.</p>	<p>The signage is not considered to offend nearby uses.</p>	Yes
		<p>The sign is not considered to be prone to deterioration.</p>	Yes
		<p>The signage occurs entirely within the tenancy.</p>	Yes

LPP028-20

Parking non-compliance

66. Council's controls relating to car parking state that for "recreational facility (indoor)", parking demand is to be identified through the 'RTAs Guide to Traffic Generating Development'. The development is considered to be located within a regional centre in which the parking rate is three (3) spaces per 100sqm. The development has a Gross Floor Area of 200.03sqm which equates to 6.0009 (being six (6)) spaces. The 'RTAs Guide to Traffic Generating Development' does not identify a difference for customer and staff parking.
67. This application is seeking the fit out and use of a tenancy within an existing recently completed mixed use development. The B4 zone permits an indoor recreation facility with

consent. This development benefits from a Voluntary Planning Agreement (VPA) which dedicated this tenancy together with a fully completed 79 space car park to Council. Whilst this tenancy has no formal allocation of parking, under the lease arrangement the lessee has secured access to two (2) of the dedicated 79 spaces within the development. These two (2) spaces will be for the use of the staff. In this regard there is a shortfall of four (4) spaces for the proposed use. Given the availability of the communal/public car park there is considered to be adequate spaces available to service this permissible use. In addition, it is acknowledged the relationship of this development to the city centre, residential units and residential areas, there is considered to be an ability for the users of this facility to walk or catch public transport in the form of buses and or a train to and from this use.

68. DA191/2015 (Approval for base building) condition 107 references the VPA (Voluntary Planning Agreement) detailing there is to be 79 public car parking spaces provided these are the spaces that are available to support the use proposed. The executed VPA in Item 7 nominates and references the 79 spaces as well as detailing their location on a referenced plan which was annexed to the executed document.
69. The applicant submitted a *Traffic and Parking Assessment* that was prepared by *Transport and Traffic Planning Associates*. This document states that “members who choose to drive to/from the site will rely on the on-site Council (public) spaces and the available nearby off-street and on-street spaces.”
70. The submitted *Traffic and Parking Assessment Report* also includes a survey of onsite parking in the basement levels, which indicates that some 64 cars spaces are available at peak times (6pm-8pm weekdays). This suggests that the parking levels are currently under-utilised and could accommodate the parking requirements of the proposed gym usage. Notwithstanding that the development has not reached its full occupancy/tenancy capacity at the time of this assessment.
71. The *Traffic and Parking Assessment* report also notes that the gym will have a medium-high turnover of gym users who stay for an average duration of 45-60 minutes. This will in turn assist in the availability of car parking for other gym users.
72. Further, the peak weekday operating hours of the gym (5am–8am and 6pm–8pm) occurs outside normal business hours for many of the surrounding businesses.
73. Due to the location of the development and its proximity to other methods of transport, the surrounding public parking and the amount of surrounding residential development the provision of car parking for this development is acceptable in this instance and is considered able to be accommodated with the base building and the local network.

Interim Policy – Georges River Development Control Plan 2020

74. Council at its Environment and Planning Committee Meeting dated 24 June 2019 resolved to adopt the Georges River Interim Development Control Plan (DCP) 2020.
75. 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.

76. The interim policy only relates to residential development forms and will not need to be considered in the assessment of this proposal.

Developer Contributions

77. 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.
78. 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 involves the fit out and use of an existing commercial tenancy, with the estimated cost of works being \$95,356.80; as a result no contributions are levied under the plan.

Impacts

Natural Environment

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

Built Environment

80. 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. There will be a minor change in the appearance of the façade as signage is proposed as a part of this application affixed to the glazed frontage of the commercial tenancy. The streetscape appearance is considered to be acceptable subject to a reduction in signage to ensure adequate surveillance is provided to and from the tenancy.

Social Impact

81. 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 residential properties (located within the mixed use development).
82. It is generally considered that these impacts can be suitably managed via conditions of consent. Subject to compliance with these conditions, it is considered that the development will be satisfactory in terms of social impacts subject to the implementation of the acoustic measures and the execution of the Plan of Management.

Acoustic Report Assessment

83. The DA submission has included an Acoustic Report prepared by Acoustic Logic, dated 16 January 2020.
84. The Acoustic Report has made an assessment of potential noise impacts specific to the proposed gymnasium use, namely noise emissions from aspects of the gym use in the form of amplified music and structure-borne noise being vibration impacts from dropping of weights etc. It also makes assessment of predicted noise emissions to the nearest residential receivers.
85. The Acoustic Report states that the proposed gym will achieve compliance with the Australian Standard AS/NZS2107:2016 – *Design Sound Levels and Reverberation Times*

for Building Interiors, and also the NSW Environmental Protection Authority (EPA) Noise Policy for Industry 2017.

86. The following are the recommendations of the Acoustic Logic Acoustic Report to address the finding of the assessment:
- *Signage is to be displayed to communicate the following:*
 - *Reminding customers to minimise noise when departing the premise.*
 - *Reminding customers to avoid dropping free weights from above ankle height.*
 - *Management should ensure that patrons enter and depart the premises in a prompt and orderly manner during the early morning period of 5:00am – 7:00am.*
 - *Free weights to be limited to use within dedicated areas.*
 - *Façade and entry doors are to remain shut during general operation except for patron ingress and egress.*
87. Based on site testing and inspection conducted by Acoustic Logic, the following is also noted:
- *Airborne noise measurements conducted do not take in to account the proposed suspended ceiling which will provide additional airborne noise reduction to tenancies directly above Shop 1D.*
 - *Free weights are to be limited to a maximum of 15kg. If heavier weights are to be permitted, further acoustic testing should be conducted to ensure compliance with recommended noise levels outlined in Section 4.*
 - *During all hours of operation, noise levels from music within the facility is to be limited to a spatially averaged internal sound pressure level of 75dB(A)Leq within the gym.*
 - *For the mitigation of noise and vibration impacts to internal receivers, we recommend the following minimum treatments:*
 - *All speakers within the proposed gym facility are to be installed with Embelton vibration isolation mounts or similar.*
 - *For areas where free weights are likely to be in use, composite rubber floor tiles to be installed equal to Regupol FX83.*
 - *All other exercise and machine areas to be covered by minimum 20mm Olympact Shockpad or equal.*
 - *Treadmills to be isolated using Embleton NRD mounts.*
 - *Pin-loaded weight machines to be isolated by vibration isolation springs equal to Embleton NXS-17.*
88. The Acoustic Report has been assessed by Council's Environmental Health Officer and found to be acceptable. The Environmental Health Officer has provided a number of conditions of consent including compliance with the submitted Acoustic Report, and other conditions including that the use of the premises must not give rise to the transmission of offensive noise to any place of different occupancy.

89. It is considered that compliance with the Acoustic Report will enable the development to operate in a satisfactory manner in terms of noise impacts upon adjoining residential properties.

Plan of Management Assessment

90. In addition to the Acoustic Report, the DA submission has also included a Plan of Management prepared by the applicant dated December 2019.
91. The Plan of Management references how the development will operate in a number of aspects, including:
- Noise Management
 - Operational
 - Gym Equipment and Flooring
 - Patron Behaviour
 - Signage
 - Emergency Procedures and Management
 - Rules of Conduct
 - Drugs and Alcohol
 - Plan of Management and Emergency Procedure Review Process
 - Complaint Handling and Dispute Resolution
 - Dealing with Client Disputes
 - Communication
 - Procedures for Receiving Complaints
 - When a Complaint will be Treated as Resolved by the Fitness Studio
 - Recording the Complaint – Complaints and Disputes Register
92. The Plan of Management has also been assessed by Council's Environmental Health Officer and found to be satisfactory.
93. Compliance with the Plan of Management will also be required as a condition of consent. It is considered that compliance with the Plan of Management will further assist the development to operate in a satisfactory manner in terms of amenity impacts upon adjoining residential properties.

Economic Impact

94. The proposal is considered to result in positive economic impacts. The use of a recreation facility (indoor) is a positive use for the surrounding area, 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

95. 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.
96. The site is zoned B4 – Mixed Use, which permits a recreation facility (indoor). However, consideration needs to be given to the residential units above the subject premises.

97. Accordingly, conditions of consent will be required to ensure that the development can operate in a manner which has due regard to the amenity of nearby residential properties. Such conditions are as recommendation as referenced below.
98. The subject site is generally considered to be suitable for the proposed use, subject to conditions to ensure that the amenity is protected.

SUBMISSIONS, REFERRALS AND THE PUBLIC INTEREST

99. The proposal was neighbour notified in accordance with Kogarah Development Control Plan 2013 for a period of 14 days between 10 and 24 February 2020. A total of eight (8) submissions of objection were received, mostly from owners/occupiers of residential units above the subject premises. The issues raised in the submissions are summarised and discussed below.

Noise concerns, specifically in relation to the early opening hours and weights banging

100. Comment: The operating hours are proposed to be 5:00am-9:00pm Monday to Friday and 6:00am to 2:00pm Saturday and Sunday. An acoustic report has been submitted that includes recommendations that address noise from the use. There have also been conditions recommended by Council's Environmental Health Officer.

101. Noise impacts have been assessed in detail above, the implementation of the recommendations of the Acoustic Report and the Plan of Management will adequately address the operation and functioning of this use.

Security concerns as there will be unknown people in the building

102. Comment: The layout of the building will not be altered as a result of the proposal. Access will be via the Greenbank Street frontage as well as access from the communal/public parking required for the development as well as access to the common areas of the development to service the non-residential uses. There is no change to the secure access to the residential levels above as part of this application.

Increased traffic (pedestrian and vehicular) and congestion

103. Comment: The proposal has provided a traffic impact study which has been supported by Councils Traffic Engineer. Due to the location of the site (within the CBD) it is considered that there will not be a large increase in traffic and congestion as a result of the development. There are also other forms of transport that people may use to get to the development which includes trains, buses and walking for surrounding residential areas.

104. It is generally considered that the proposed gym is of relatively small scale (200sqm floor area, 5 staff and a maximum of 30 people attending) and would have relatively low traffic generation. The subject premises were designed for community uses and the parking provided for this would be large (in terms of traffic generation).

105. This is also acknowledged that the proposed use is a permissible form of development in the B4 zone and therefore it is expected that the road and pedestrian network is capable of facilitating this development.

Parking issues for residents and lack of parking

106. Comment: Car parking issues have been fully considered in the DCP Compliance section of this report (above). Although there is a shortfall in car parking compared to the rates in Kogarah DCP 2013 and the *'RTAs Guide to Traffic Generating Development'*. The car parking provision is considered acceptable for the proposed use (for the reasons outlined previously in this report).

107. The development has access to the communal/public car parking provided as part of the base building; the residential allocation remains unchanged by the proposal.

Affect quality of life of the residents

108. Comment: it is considered that the proposed use is permissible and consistent with the objectives of the B4 mixed use zone, conditions of consent are recommended that will minimise any adverse effect on residents by implementing appropriate noise mitigation measures as well as controlling the operation of the development.

Additional cost of water on the residential units as they are all paid together

109. Comment: This is considered to be outside the scope of the development application. It is noted that the residential part of this development is under a strata subdivision and the proposed subject area is on a deposited plan. The existing water payment method is not proposed to be altered as a result of this development application.

Safety concerns due to additional traffic

110. Comment: The subject site was approved as a community use/hall area and it is expected that the safety of the road network and its relationships with pedestrians and tenants was considered as part of the development application for the base building.

REFERRALS

Council Referrals

Building Surveyor

111. 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

112. The application was referred to Council's Environment Health and Regulatory Services for comment. The Environmental Health Officer has no objections subject to conditions of consent. These conditions have been recommended as a part of the determination.

External Referrals

Ausgrid

113. The application was referred to Ausgrid for comment in accordance with Clause 45 of the Infrastructure SEPP. A response was received was on 24 February 2020 and there was no objection to the proposal and no recommended conditions.

CONCLUSION

114. 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.
115. The development is generally considered satisfactory and worthy of approval subject to conditions.
116. Although some submissions of objection have been received from neighbouring residential properties (mostly occupants of residential units above the subject ground

floor premises), 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

117. The reasons for this recommendation are:

- (a) The proposed gym [recreation facility (indoor)] is permitted in the zone and is consistent with the objectives of the B4 – Mixed Use zoning of the property.
- (b) The issues of concern raised by the neighbouring property owners can be addressed via conditions of consent.
- (c) The proposed developments scale and impact will not have unreasonable impacts.
- (d) The proposal is largely compliant with the Kogarah Local Environmental Plan, applicable State Planning Policies and the Kogarah Development Control Plan.

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

Determination

119. THAT pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 (as amended) the Georges River Local Planning Panel grant development consent to Development Application DA2020/0027 for the use and fit out of the subject site as a recreation facility (indoor) – gymnasium with associated signage on land known as Lot 1 DP 1242704, Hall 1 - 1D Greenbank Street, Hurstville subject to the following conditions:

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
Site Plan Proposed	PLN002	17/11/19	A	Complete Trade
Proposed Floor Plan	PLN004	17/11/19	A	Complete Trade
Proposed WC Plan	PLN005	17/11/19	A	Complete Trade
Section One S01	PLN006	17/11/19	A	Complete Trade
Section Two S02	PLN007	17/11/19	A	Complete Trade
Section Three S03	PLN008	17/11/19	A	Complete Trade
Section Four S04	PLN009	17/11/19	A	Complete Trade
Shopfront	PLN010	17/11/19	A	Complete Trade
Artwork Approval	1 of 1	06/05/2020		Signarama
Acoustic Report	20200001.1/16 01A/R0/TH	16 January 2020	-	Acoustic Logic
Plan of Management	-	December 2019	-	Active & Ageless Fitness Studio

Separate Approvals Required Under Other Legislation

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

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

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

- (a) Placing or storing materials or equipment;
- (b) Placing or storing waste containers or skip bins;
- (c) Erecting a structure or carrying out work
- (d) Swinging or hoisting goods over any part of a public road by means of a lift, crane or the like;
- (e) Pumping concrete from a public road;
- (f) Pumping water from the site into the public road;
- (g) Constructing a vehicular crossing or footpath;
- (h) Establishing a “works zone”;
- (i) Digging up or disturbing the surface of a public road (eg Opening the road for the purpose of connections to utility providers);
- (j) Stormwater and ancillary works in the road reserve;
- (k) Stormwater and ancillary to public infrastructure on private land; and
- (l) If any excavation is to be supported by the use of below ground (cable) anchors that are constructed under Council’s roadways/footways.

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

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

Requirements of Concurrence, Integrated & Other Government Authorities

3. **Sydney Water - Tap inTM** - The approved plans must be submitted to a Sydney Water Tap inTM 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.

Prior to the Issue of a Construction Certificate

4. **Building Conditions** - Access to and throughout the premises and to sanitary facilities, for persons with disabilities must be provided in accordance with the requirements of the Premises Standards, the Building Code of Australia, and AS 1428.1. Details must be submitted with the Construction Certificate Application.
5. **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.
6. **Slip Resistance** All pedestrian surfaces 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 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.
7. **Acoustic Requirements - Compliance with submitted Acoustic Report** - The Construction Certificate plans shall demonstrate compliance with the Acoustic Report submitted and approved by Council, titled DA Acoustic Report - DA Acoustic Assessment for Gymnasium prepared by Thomas Hutchens - Acoustic Logic Consultancy and dated 16 January 2020.

The proposed use of the premises and the operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the [Protection of the Environment Operations Act 1997](http://www.legislation.nsw.gov.au/) <<http://www.legislation.nsw.gov.au/>> (as amended) and [Regulations](http://www.legislation.nsw.gov.au/) <<http://www.legislation.nsw.gov.au/>>.

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

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

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

Please contact Council prior to the payment of Section 7.11 Contributions to determine

whether the amounts have been indexed from that indicated below in this consent and the form of payment that will be accepted by Council.

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

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

Fee Type	Fee
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

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.

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

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

10. **Site Management Plan** - A Site Management Plan detailing all weather access control points, sedimentation controls, fencing, builder's site sheds office, amenities, materials storage and unloading arrangements must be submitted with the application for the Construction Certificate.
11. **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.

12. **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.
13. **Required Design Changes - Signage** – Prior to the issue of a Construction Certificate the Signage Plans shall be amended to increased visual surveillance to and from the tenancy through a reduction in the signage affixed to the glazed façade of the commercial tenancy. This is to be achieved by the following;
 - a) The single person exercising images and the graphic image (logo) are to be reduced in size so that they do not occupy greater than a third of the height of the glazed panels, it is envisaged that the signage be affixed to the centre horizontal third of the glazing panels, and
 - b) The top third and bottom third (horizontally) of all glass panels/doors on the façade are to be clear of any signage or images and be transparent to enable surveillance to and from the tenancy to the public domain.
14. **Allocation of street addresses** - In order to comply with AS/NZS 4819:2011 Rural and Urban Addressing, the NSW Addressing User Manual (Geographical Names Board of NSW) and Georges River Council's requirements, the street address for the subject development is allocated as follows:

Dwelling description on plans	Location within development	Proposed street address to comply with AS/NZS 4819:2011 and NSW Addressing Manual
Lot 1	Commercial	Shop 2 / 1D Greenbank Street HURSTVILLE NSW

DP1242704	Space	2220
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Prior to the Commencement of Work (Including Demolition & Excavation)

15. **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.

16. **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.
17. **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](#).
18. **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.

During Construction

19. **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.
20. **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.
21. **Hours of construction for demolition and building work** - Any work activity or activity associated with the development consent that requires the use of any tools (including hand tools) or any power operated plant and machinery that creates noise on or adjacent to the site shall not be performed, or permitted to be performed, except between the hours of 7.00 am to 5.00 pm, Monday to Saturday inclusive. No work or ancillary activity is permitted on Sundays, or Public Holidays.

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

Prior to the issue of the Occupation Certificate

22. **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.

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.

23. **Plan of Management** - The premise is to be operated at all times in accordance with the Plan of Management. A copy of the Plan of Management is to be kept on the premises.
24. **Acoustic Compliance** - Prior to the issue of any Occupation Certificate, a report prepared by a suitably qualified acoustic consultant must be submitted to the PCA

certifying that the construction has incorporated the recommendations in the DA Acoustic Report titled DA Acoustic Assessment for Gymnasium prepared by Thomas Hutchens - Acoustic Logic Consultancy and dated 16 January 2020.

25. **Noise from roof top mechanical plant and equipment** - Noise from the operation of mechanical, equipment, ancillary fittings, machinery, mechanical ventilation system and/or refrigeration systems must not give rise to offensive noise as defined under the Protection of the Environment Operations Act 1997 (as amended) and will comply with the noise intrusion criteria as defined under the NSW Industrial Noise Policy published by the Environment Protection Authority.

A professional acoustic engineer shall be engaged to certify that the design and construction of all sound producing plants and equipment associated with the building complies with the above requirements. Certification shall be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Operational Conditions (Ongoing)

26. **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).
27. **Maintenance of Sound Attenuation** - Sound attenuation must be maintained in accordance with the Acoustic Report titled DA Acoustic Assessment for Gymnasium prepared by Thomas Hutchens - Acoustic Logic Consultancy and dated 16 January 2020.
28. **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 acoustic report titled DA Acoustic Assessment for Gymnasium prepared by Thomas Hutchens - Acoustic Logic Consultancy and dated 16 January 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).
29. **Hours of operation** - The approved hours of operation shall be restricted to the following:
- Monday to Friday - 5.00am - 9.00pm
 Saturday – 6:00am - 2:00pm
 Sunday – 8.00am - 2.00pm
 Public Holidays – 8.30am to 2.00pm
30. **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.

31. **Outdoor Gaming/Smoking Area - Smoke Free Compliance** - The subject development consent issued by Council does not imply or otherwise verify compliance with the Smoke-Free Environment Act 2000 and/or the Smoke-Free Environment Regulation 2016. The applicant and/or owner of the premises should seek their own legal advice as to compliance with Act and/or Regulation if proprietors of the premises intend allowing smoking in any area of the premises, including that area subject of this consent.
32. **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.
33. **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

34. **Requirement for a Construction Certificate** - The erection of a building must not commence until a Construction Certificate has been issued.
35. **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.

36. **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](#).
37. **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.
38. **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.

39. **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.

40. **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

41. **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.
42. **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.
43. **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.

44. **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

45. **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.





46. **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.
47. **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.
48. **Access to NSW Legislations (Acts, Regulations and Planning Instruments)** - NSW legislation can be accessed free of charge at www.legislation.nsw.gov.au
49. **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.
50. **Council as PCA - Total Conformity with BCA** - Should the Council be appointed as the 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:

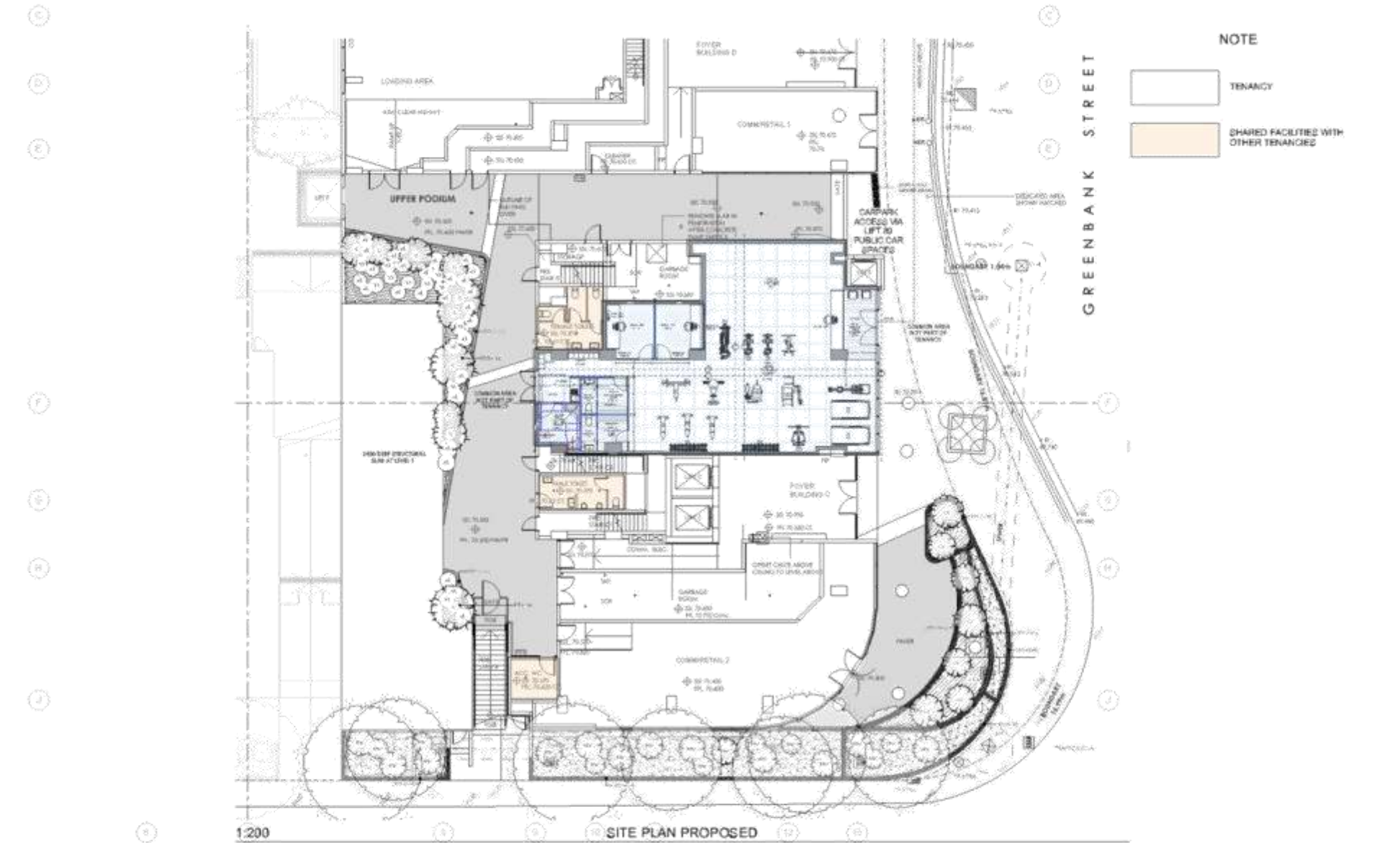
- a) Access and Egress provisions including the operation of final exit doors in accordance with BCA Clause D2.19
- b) Fire safety services and equipment including sprinkler systems, automatic fire detection and alarm system, portable fire extinguisher, exit signs, emergency lighting and any fire safety measure used in conjunction with the protection of openings.

51. **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.

ATTACHMENTS

- Attachment [1](#)  Proposed Site Plan - 1D Greenbank Street Hurstville
- Attachment [2](#)  Signage Details - 1D Greenbank Drive Hurstville
- Attachment [3](#)  Planning Agreement - Document
- Attachment [4](#)  Planning Agreement - Plans





ARTWORK APPROVAL

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Planning Agreement

Georges River Council
and
Combined Projects (Hurstville) Pty Ltd

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Doc ID 298330103/v1

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Planning Agreement

Date

Parties

Georges River Council

of Civic Centre, 2 Belgrave Street, Kogarah, New South Wales

(Council)

Combined Projects (Hurstville) Pty Ltd

ACN 602 26 2411 of Suite 3.01, Level 3, 161 Redfern Street, Redfern
New South Wales

(Developer)

Recitals

- A. The Developer is the owner of the Land.
- B. The Developer has lodged with Council a Development Application seeking approval to carry out the Development on the Land.
- C. The Joint Regional Planning Panel is the consent Authority for the purposes of the determination of the Development Application
- D. The Developer has offered to enter into this Planning Agreement with the Council to carry out the Developer's Works, to dedicate to Council the Dedicated Land, transfer to Council the Transferred Land, provide to Council the Public Benefits and pay the Developer's Contribution if the Development Application is granted Development Consent.
- E. The Developer and the Council agree to enter into this agreement.

The parties agree, in consideration of, among other things, the mutual promises contained in this agreement as follows:

1. Planning Agreement under the Act

The parties agree that this Agreement is a Planning Agreement governed by subdivision 2 of Division 6 of Part 4 of the Act.

2. Application of Section 94 and 94A of the Act to the Development

The parties agree that this agreement excludes the operation of Section 94 and 94A of the Act in relation to the Development Application.

3. Scope and application of this Agreement

3.1 This Agreement binds the parties and applies to the Land on which the Development is to be carried out by the Developer.

4. Operation of this Agreement

This Agreement takes effect on execution of this Agreement.

5. Definitions and interpretation clauses

5.1 Definitions

In this agreement:

Act means the *Environmental Planning and Assessment Act 1979* (NSW) (as amended) and includes any regulations made under that Act.

Commencement Date means the date on which the Development Consent is granted.



Council's Representative	means the person specified in Item 2 of Schedule 1 who is duly authorised to give approval under this Agreement.
Dealing	means selling, transferring, assigning, mortgaging, charging, encumbering or otherwise dealing with the Land.
Dedicated Land	means that part of the Land more particularly described in Item 6 of Schedule 1.
Developer	means the Owner of the Land and the entity described in Item 1 of Schedule 1.
Development	means the proposal of the general nature set out in Item 4 of Schedule 1 to be completed by the Developer in accordance with the Development Consent.
Development Application	means the development application identified in Item 4 of Schedule 1 and includes all plans, reports models, photomontages, material boards (as amended or supplemented) submitted to the consent authority before the determination of that Application.
Development Consent	means the approval granted by the Joint Regional Planning Panel to the Development Application for the Development identified in Item 4 of Schedule 1 and includes all modifications made to that consent.
Developer's Contribution	means the sum of the Monetary Contribution, Dedicated Land or other Public Benefits and any combination of a Monetary Contribution, Dedicated Land or any other Public Benefits identified in this Agreement.
Developer's Works	means the works identified in Schedule 2, as refined and developed in accordance with this Agreement.
GST	has the same meaning as in the GST Law.
GST Law	has the meaning given to that term in <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth) and any other Act or regulation relating to the imposition or administration of the GST.

Joint Regional Planning Panel	means The Joint Regional Planning Panel constituted pursuant to section 23G of the Act.
Land	means the land identified in Item 3 of Schedule 1, comprising the land the subject of the Development Application.
Monetary Contributions	means the payment referred to in clause 6.
Occupation Certificate	has the same meaning as in the Act.
Owner	means Combined Projects (Hurstville) Pty Limited (ACN 602 262 411).
Party	means a party to this agreement, and includes their successors and assigns.
Public Benefits	means the public benefits identified in Item 8 of Schedule 1 which are to be provided as a result of the Developer's Works.
Transferred Land	means that part of the Land more particularly described in Item 7 of Schedule 1.

5.2 Interpretation

In the interpretation of this Agreement, the following provisions apply unless the context otherwise requires:

- (a) headings are inserted for convenience only and do not affect the interpretation of this Agreement.
- (b) a reference in this Agreement to a business day means a day other than a Saturday or Sunday on which banks are open for business generally in Sydney.
- (c) a reference in this Agreement to dollars or \$ means Australian dollars and all amounts payable under this Agreement are payable in Australian dollars.
- (d) a reference in this Agreement to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.

- (e) a reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Agreement.
- (f) a word which denotes the singular denotes the plural, a word which denotes the plural denotes the singular.
- (g) references to the word 'include' or 'including' are to be construed without limitation.
- (h) reference to a party to this Agreement includes a reference to the servants, agents and contractors of the party, and the party's successors and assigns.
- (i) Any schedules and attachments form part of this Agreement.
- (j) A word defined in the Act has the same meaning in this Agreement.

6. Payment of monetary contribution

- 6.1 The Developer agrees to make the Monetary Contribution to the Council as set out in Item 5 of Schedule 1.
- 6.2 The Developer shall pay to the Council the Monetary Contribution set out in Item 5 of Schedule 1 prior to the issue of the Construction Certificate for the residential works that occurs above the podium for the Development.

7. Dedicated Land

- 7.1 The Developer must at no cost to Council, carry out all steps required to dedicate the Dedicated Land shown in the plan marked with the letter 'A' annexed to this Agreement referred to in Item 6 of Schedule 1 of this Agreement to the Council under the Development Consent.
- 7.2 The dedication of the land referred to in clause 7.1 must occur after completion of the development but before the granting of a final Occupation Certificate in respect of any part of the Development Consent.

8. Transfer of Land

- 8.1 The Developer shall transfer to the Council the Land described in Item 7 of Schedule 1 in fee simple as a freehold stratum lot.
- 8.2 The transfer of the land referred to in clause 8.1 must occur prior to the issue of the final Occupation Certificate.

- 8.3 The Land described in Item 7 of Schedule 1 shall be held by Council as a Stratum Lot and will not be subject to any strata levies related to the residential and any other commercial stratum lots.

9. Approval of Developer's Works

- 9.1 The Developer shall carry out the Developer Works described in Schedule 2 within the time frame described in Schedule 2.

9.2 Definition of Scope of Works

The parties agree that the works described in Schedule 2 comprise the Developer's Works for the purposes of this Agreement. The parties acknowledge and agree that further design detail and refinement are/may be necessary, taking into account any approvals or development consent granted in respect of the Developer's Works.

9.3 Plans

The Developer shall carry out the Developer's Works by itself or by a contractor in accordance with the plans and detailed designs prepared and described in Schedule 2.

10. Construction of Developer's Works

10.1 Approvals and consents

- (a) The Developer must (at its cost) obtain all relevant approvals and consents for the Developer's Works whether from the Council or any other relevant government agency, including any necessary road opening permit.
- (b) Before commencing the Developer's Works, the Developer must give to the Council copies of all approvals and consents for the Developer's Works.

10.2 Construction Work

The Developer must (at its cost):

- (a) carry out and complete the Developer's Works in accordance with all approvals and consents relating to the Developer's Works (including the approval by Council of plans and any other information submitted under this Agreement) within the timeframe set out in Schedule 2; and
- (b) ensure that all Developer's Works are constructed in a good and workmanlike manner, in accordance with the plans approved under this Agreement so that they are structurally sound, fit for purpose, and suitable for their intended use; and

- (c) comply with any reasonable directions from the Council in respect of the construction of the Developer's Works.

11. Registration of this Agreement

11.1 Registration of Agreement

The Developer must promptly:

- (a) obtain any necessary consents to the registration of this Agreement on the title to the Land;
- (b) lodge the Agreement for registration with Land & Property Information;
- (c) promptly comply with any Requisitions that may be raised with regard to registration of the Agreement from Land & Property Information;
- (d) produce to the Council within 35 days of execution of this Agreement details of lodgement of the Agreement with Land & Property Information; and
- (e) following registration of the Agreement, notify the Council of registration, enclosing a title search of the Land confirming the registration.

11.2 Removal of Agreement

After the whole of the Developer's Works has been completed, the Developer's Contribution has been paid, the dedication of land in accordance with clause 7 and the transfer of land in accordance with clause 8 has occurred, the Council will promptly execute any form and supply such other information and do any thing as reasonably required by the Owner or the Developer to enable the removal of the Agreement from the title to the Land.

12. Enforcement

This Agreement may be enforced by either party in any Court of competent jurisdiction.

13. Assignment and Dealings

- 13.1 Neither the Developer nor any subsequent Owner of the Land shall sell, transfer, assign or novate or similarly deal with (Dealing) their rights or obligations under this Agreement unless the Developer and/or Owner of the Land:
- (a) gives Council no less than twenty-eight (28) days' notice in writing of the proposed Dealing; and

- (b) procures that the transferee, assignee or novatee executes and delivers to Council prior to any such Dealing taking effect an agreement in favour of Council in form and substance acceptable to Council, acting reasonably, whereby the transferee, assignee or novatee becomes contractually bound with Council to perform all of the Developer's and/or Owner's obligations and have the benefit all of the Developer's and/or Owner's rights under this Agreement.

14. Dispute Resolution

14.1 Reference to dispute

If a dispute arises between the parties in relation to this Agreement, then either party may seek to resolve in accordance with this clause 14.

14.2 Notice of dispute

- (a) The party wishing to commence dispute resolution processes must notify the other of:
 - (i) the nature, or subject matter, of the dispute, including a summary of any efforts made to resolve latter than by way of this clause 14;
 - (ii) the intent to involve this clause 14;
 - (iii) (if practicable) the outcomes which the notifying party wishes to achieve;
 - (iv) any material impact which the dispute has upon the completion of the Developer's Works, the Developer's Contribution or the transfer of land in accordance with clause 8 (and in particular the completion of the remainder of the Development).
- (b) The contents of a notice issued under the clause 14.2 are deemed to be confidential. The party issuing the notice may (but is not obliged) to assert legal professional privilege in respect of the contents.

14.3 Principals of parties to meet

The principals of the parties (and in the case of the Council, the principal may include the person acting in the role of General Manager as defined in the Local Government Act, or such person as is nominated by that officer in writing) must promptly (and in any event within 14 days of written notice) meet in good faith to attempt to resolve the notified dispute. The parties may, without limitation:

- (a) resolve the dispute during the course of that meeting;
- (b) agree that further material, expert opinion, or consideration is needed to effectively resolve the dispute (in which event the parties will in good faith agree to a timetable for resolution);

- (c) agree that the parties are unlikely to resolve the dispute and in good faith agree to a form of alternative dispute resolution (including expert determination, arbitration, or mediation) which is appropriate for the resolution of the relevant dispute.

14.4 Neither party may constrain

If:

- (a) at least one meeting has been held in accordance with clause 14.3; and
- (b) the parties have been unable to reach an outcome identified in clause 14.2(a)(i) to 14.2(a)(iii); and
- (c) either of the parties (acting in good faith) forms the view that the dispute is reasonably unlikely to be resolved in accordance with a process agreed under clause 14.3;

then that party may, by 14 days notice to the other, terminate the dispute resolution process in respect of that dispute. The termination of the process set out in this clause 14 does not of itself amount to a breach of the Agreement.

15. Notices

15.1 Service of Notice

Any notice, consent, information, application or request that must or may be given or made to a Party under this Agreement is only given or made if it is in writing and sent in one of the following ways:

- (a) delivered or posted to that Party at its address set out in Item 9 of Schedule 1; or
- (b) faxed to that Party at its fax number set out in Item 9 of Schedule 1.

15.2 Change of address

If a Party gives the other Party 10 business days notice of a change of its address or fax number, any notice, consent, information, application or request is only given or made by that other Party if it is delivered, posted or faxed to the latest address or fax number.

15.3 Time of service of Notice

Any notice, consent, information, application or request is to be treated as given or made at the following time:

- (a) if it is delivered, when it is left at the relevant address.

- (b) if it is sent by post, two business days after it is posted.
- (c) If it is sent by fax, as soon as the sender receives from the sender's fax machine a report of an error free transmission to the correct fax number.

15.4 Service after hours, on weekends and holidays

If any notice, consent, information, application or request is delivered, or an error free transmission report in relation to it is received, on a day that is not a business day, or if on a business day, after 5:00 pm on that day in the place of the Party to whom it is sent, it is to be treated as having been given or made at the beginning of the next business day.

16. Approvals and consent

Except as otherwise set out in this Agreement, a party may give or withhold an approval or consent to be given under this Agreement in that Party's absolute discretion and subject to any conditions determined by the Party. A Party is not obliged to give its reasons for giving or withholding consent or for giving consent subject to conditions.

17. Variation of Agreement

The parties may agree to vary the terms of this Agreement. Any such variation shall be evidenced by a written variation and must comply with the provisions of Section 93G of the *Environmental Planning and Assessment Act 1979*.

18. Costs

18.1 Legal and administrative costs

Each party must pay their own legal and administrative costs and expenses in relation to:

- (a) the negotiation, preparation and execution of this Agreement;
- (b) the giving effect to this Agreement; and
- (c) any enforcement of the rights under this Agreement.

18.2 Stamp duty

The Developer is liable for and must pay all stamp duty (including any fine or penalty except where it arises from default by any other party) on or relating to this Agreement, any document executed under it or any dutiable transaction evidenced or effected by it.

19. Entire Agreement

This Agreement contains everything to which the Parties have agreed in relation to the matters it deals with. No Party can rely on an earlier document, or anything said or done by another Party, or by a director, officer, agent or employee of that Party, before this Agreement was executed, except as permitted by law.

20. Further acts

Each Party must promptly execute all documents and do all things that another Party from time to time reasonably requests to affect, perfect or complete this Agreement and all transactions incidental to it.

21. Governing law and jurisdiction

This Agreement is governed by the law of New South Wales. The Parties submit to the jurisdiction of the courts of that state.

22. Joint and several liability

Any agreement, covenant, representation or warranty under this Agreement by two or more persons binds them jointly and each of them individually.

23. No fetter

Nothing in this Agreement will be construed as limiting or fettering in any way the exercise by Council of any statutory discretion or duty.

24. Representations and warranties

The Parties represent and warrant that they have power to enter into this Agreement and that entry into this Agreement will not result in the breach of any law.

25. Severability

If a clause or part of a clause of this Agreement can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way. If any clause or part of a clause

is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this Agreement, but the remainder of this Agreement is not affected.

25.1 Modification

No modification of this Agreement will be of any force or effect unless it is in writing and signed by the parties to this Agreement.

25.2 Waiver

A waiver by either Party is only effective if it is given in writing, and that waiver will only relate to the particular obligation or breach (as the case may be) identified in that communication.

26. GST

26.1 In this clause terms used have the meaning given to them by the GST Law as defined in Section 195-1 of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act).

26.2 If a party to this Agreement (the "Supplier") makes a supply under or in connection with this Agreement and is liable by law to pay GST on that supply, then the consideration otherwise payable by the recipient of the supply will be increased by an amount equal to the GST paid or payable by the Supplier.

26.3 If this Agreement requires a party to pay for, or reimburse any expense, loss or outgoing (reimbursable expense) suffered or incurred by another party, the amount required to be paid, or reimbursed by the first party is the amount of the reimbursable expense net of any input tax credit or reduced input tax credit to which the other party is entitled in respect of the reimbursable expense.

26.4 If a party to this Agreement has the benefit of an indemnity for a cost, expense, loss or outgoing (indemnified cost) under this Agreement, the indemnity is for the indemnified cost net of any input tax credit or reduced input tax credit to which that party is entitled in respect of the indemnified cost.

26.5 Each party agrees to do all things, including providing tax invoices and other documentation that may be necessary or desirable to enable or assist the other party to claim any input tax credit, set-off, rebate or refund in relation to any amount of GST paid or payable in respect of any supply under this Agreement.

26.6 Subject to the operation of this clause, and unless otherwise expressly stated amounts in this Agreement are GST exclusive.

Schedule 1 Reference Schedule

Item 1	Developer's Details	Name:	Combined Projects (Hurstville) Pty Ltd
		ACN:	602 262 411
		Address:	Suite 3.01, Level 3 161 Redfern Street Redfern NSW
Item 2	Council's Representative	Name:	Georges River Council
		ABN:	57 789 014 855
		Address:	Civic Centre, 2 Belgrave Street, Kogarah NSW 2217
Item 3	Land	Lot 10 in DP 840238.	
Item 4	Development Application	Mixed use commercial/residential development comprises 367 units and associated 508 car spaces on the Land.	
Item 5	Monetary Contribution	Payment of the sum of Twelve Thousand Five Hundred Dollars (\$12,500.00) for each residential unit approved by the Development Consent.	
Item 6	Dedicated Land	An area of approximately 223 square metres, to a depth of 1.5 metres as shown as marked on the plan comprising "Annexure A" (Plan DA0990 by Architecture & Building Works, Issue B dated 19 May 2016).	

HWL
EBSWORTH
LAWYERS

-
- Item 7 Transferred Land
- (a) An area of 200 square metres of commercial space on the first floor (upper podium) with frontage to Greenbank Street (as shown on the plan comprising "Annexure B" (Plan DA1060, Issue M by Architecture and Buildings Works dated 02 May 2016).
 - (b) A fully constructed carpark containing 79 car parking spaces on the Upper Ground Floor and Ground Floor Carpark Level of the Development comprising "Annexure C" (Plan DA1040 and DA1050, Issue N by Architecture and Building Works dated 2 May 2016).
-

Item 8 Public Benefits Construction of Public Roads.

Item 9 Notices

Council

Name: Georges River Council

Address: Civic Centre, 2 Belgrave Street
KOGARAH NSW 2217

Attention: Gail Connolly, Interim General Manager

Telephone: 02 9330 9400

Facsimile: 02 9330 9560

Email: mail@georgesriver.nsw.gov.au

Developer

Name: Combined Projects (Hurstville) Pty Limited

Address: Suite 3.01, Level 3, 161 Redfern Street, Redfern NSW

Attention: Fouad Dieri, Managing Director

Telephone: 02 8665 4100

Facsimile: 02 8665 4111

Email: FD@deicorp.com.au



Schedule 2 Developer's Works

Developer Works

1. Construction of road widening along Greenbank Street on the land shown as 'Dedication Area ' in Annexure 'A' hereto having an area of 223 square metres.
2. The relocation of all services under the road widening or affected thereby is to be undertaken by the Developer at no cost to Council and is to be completed prior to the dedication of the Dedication Area to Council.
3. The Developer's Works must be completed prior to the issue of the Final Occupation Certificate.

HW
EBSWORTH
LAWYERS

Signing page

Executed as an agreement

Executed by Georges River Council in
accordance with section 127(1) of the
Corporations Act 2001 (Cth) by:


Signature of Interim General Manager
Gail Connolly

GAIL CONNOLLY
Full name (print)


Signature of Witness

JENNIFER SELBY
Full name (print)

Executed by Combined Projects
(Hurstville) Pty Ltd ACN 602 262411 in
accordance with section 127(1) of the
Corporations Act 2001 (Cth) by:


Signature of Sole Director and Secretary

FOUAD DEIRI

Full name (print)



Annexure A Dedication Plan

Refer to A3 Plan identified as Plan DA-0990 Dedication Plan, Issue B, prepared by Architecture and Building Works and dated 19/05/2016



Annexure B Commercial Space – Dedication to Council

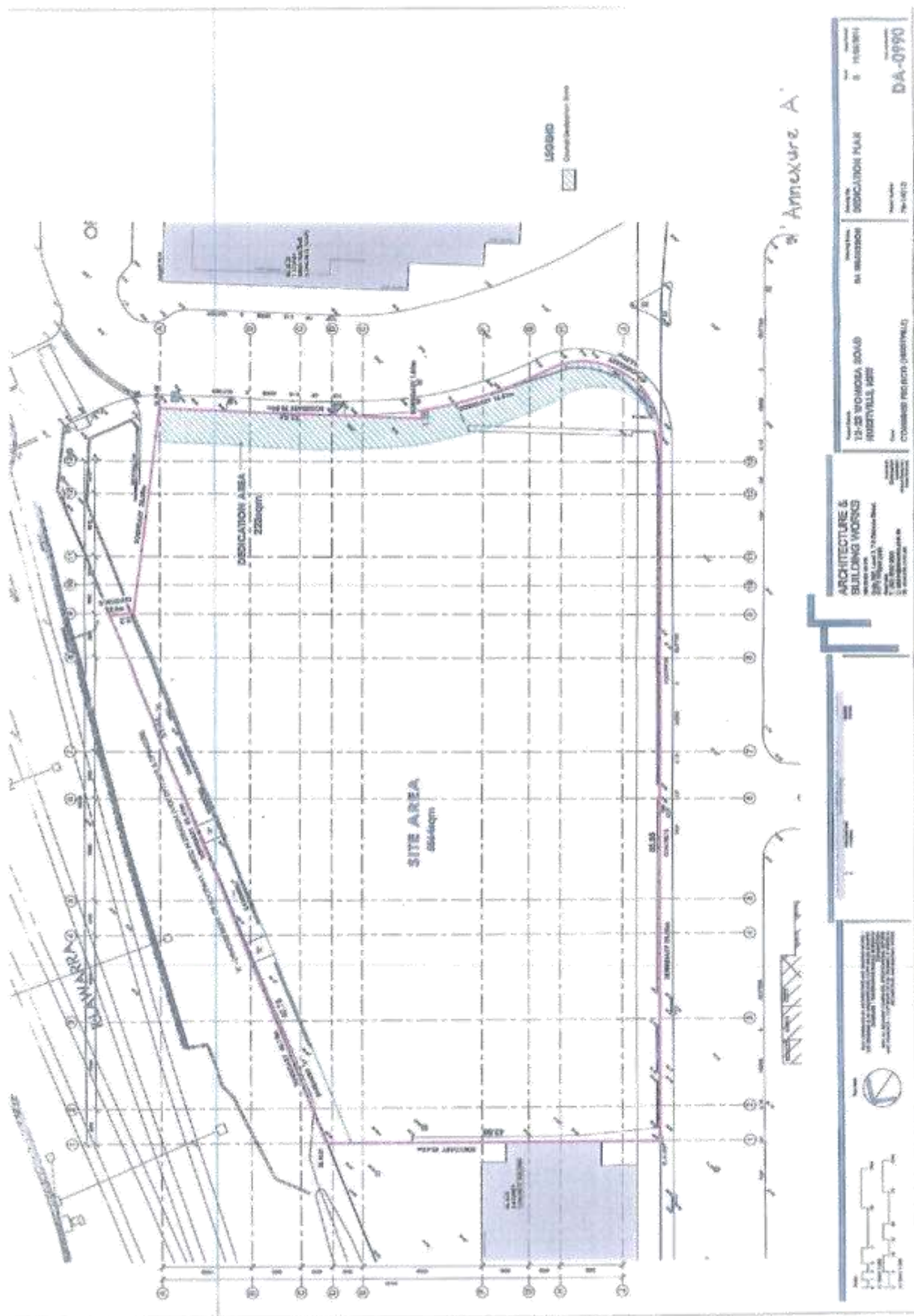
Refer to A3 Plan identified as Plan DA1060, Issue M, prepared by Architecture and Building Works and dated 02/05/2016.

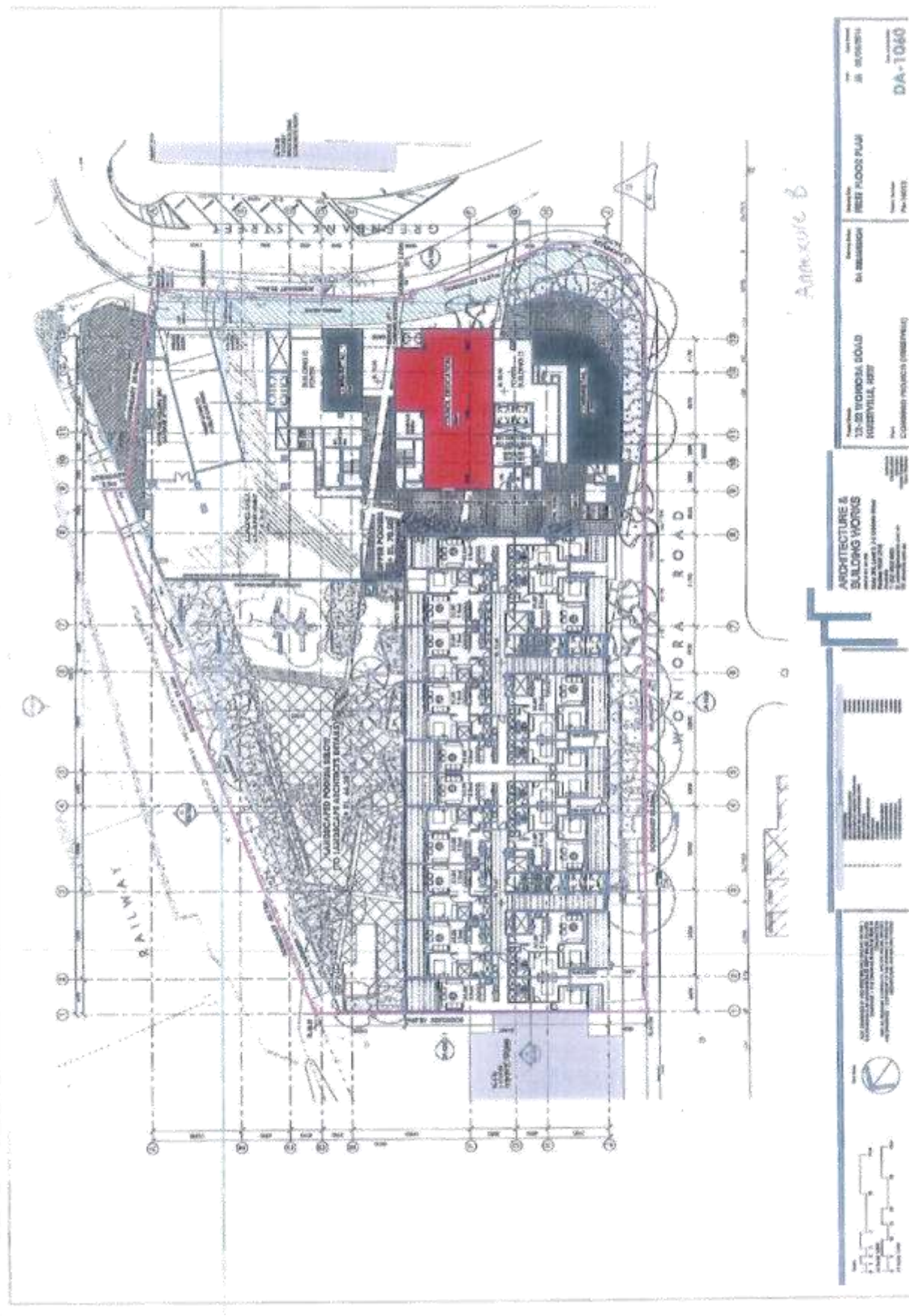


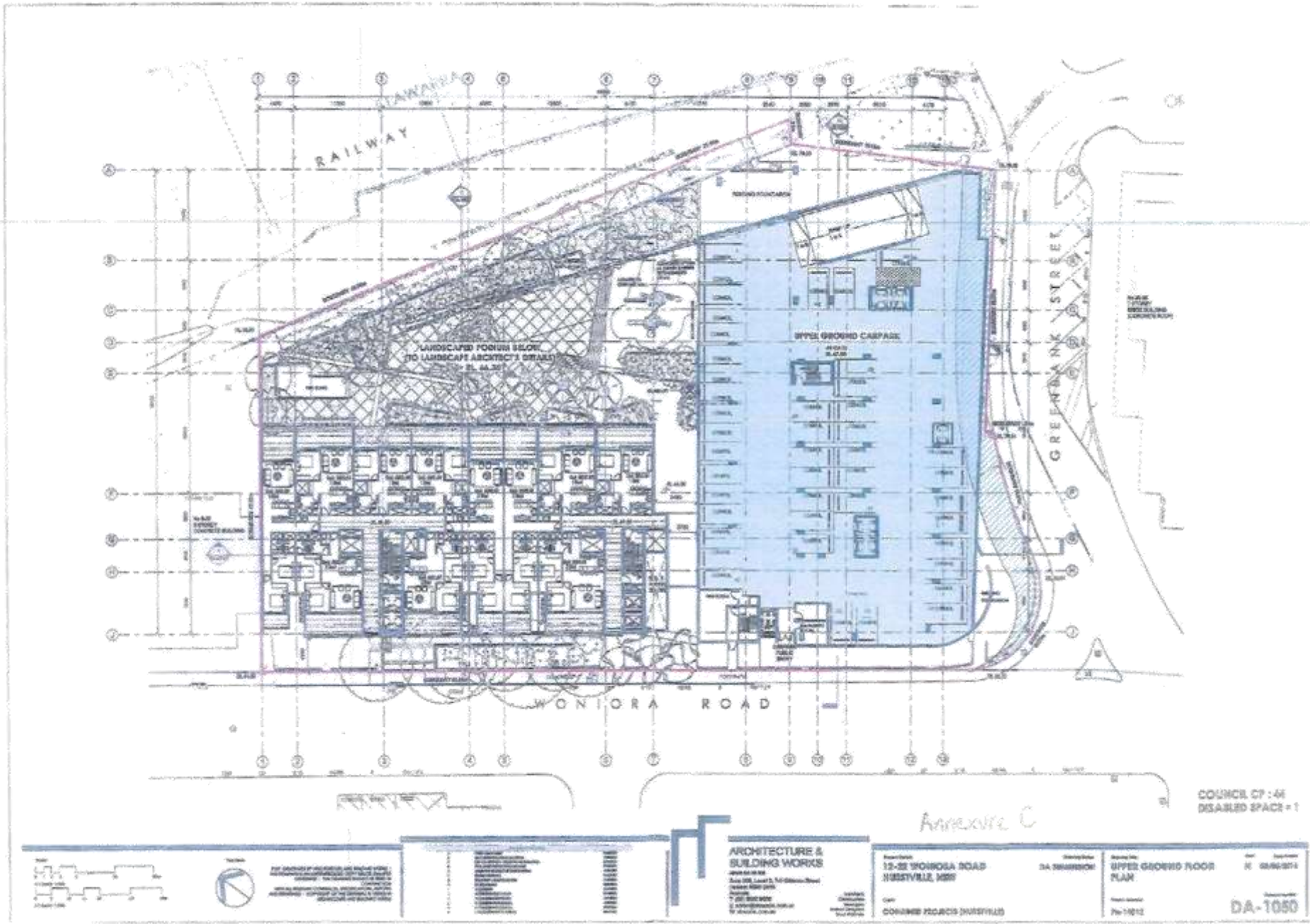
Annexure C 79 Car Spaces

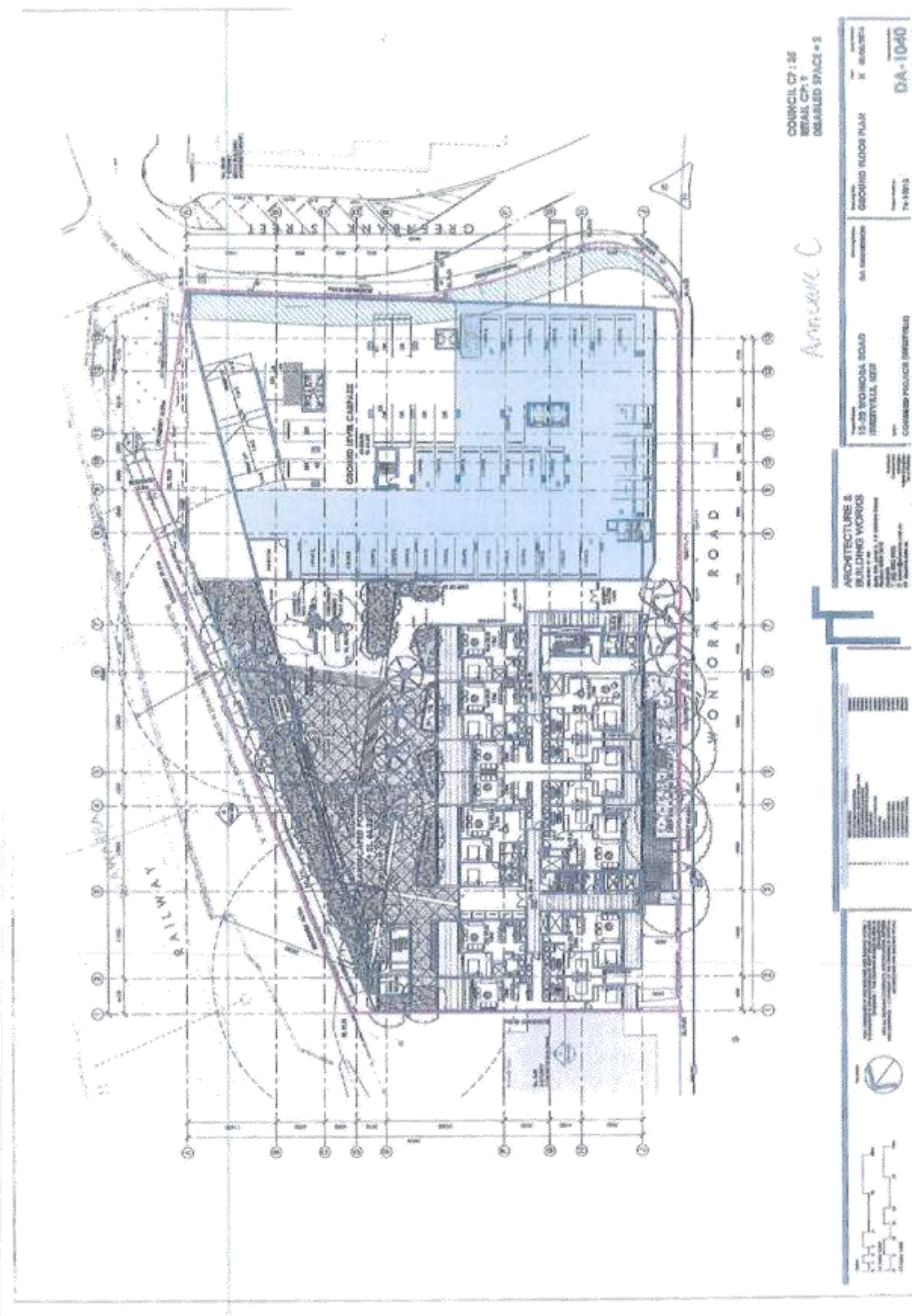
Refer to A3 Plans identified as Plan DA1040 and DA1050, Issue N, prepared by Architecture and Building Works and dated 02/05/2016

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REPORT TO GEORGES RIVER COUNCIL LPP MEETING OF TUESDAY, 21 JULY 2020

LPP029-20

LPP Report No	LPP029-20	Development Application No	DA2020/0166
Site Address & Ward Locality	10 Water Street San Souci Kogarah Bay Ward		
Proposed Development	Demolition of the San Souci Bathers Pavilion and the proposed subdivision to create a new Lot 1 for the Pavilion allotment		
Owners	Georges River Council		
Applicant	Georges River Council		
Planner/Architect	Conybeare Morrison International Architects		
Date Of Lodgement	4/05/2020		
Submissions	Five (5) submissions received		
Cost of Works	\$89,661.00		
Local Planning Panel Criteria	Council is the owner and Applicant of the proposal and the site is listed Local Item of Heritage under Kogarah Local Environmental Plan 2012		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment, State Environmental Planning Policy (Infrastructure) 2007, State Environmental Planning Policy No 55 - Remediation of Land, State Environmental Planning Policy (Coastal Management) 2018, State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, Biodiversity Conservation Act 2016, Draft Environmental State Environmental Planning Policy, Kogarah Local Environmental Plan 2012 ,Kogarah Development Control Plan 2013 and Draft Georges River Local Environmental Plan 2020		
List all documents submitted with this report for the Panel's consideration	Heritage Impact Assessment Statement of Environmental Effects Structural Condition Assessment Report Existing Plans and Demolition Plan		
Report prepared by	Senior 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 instruments where the consent authority must be satisfied about a particular matter been listed and relevant recommendations summarised, in the Executive Summary of the assessment report?	Yes
Clause 4.6 Exceptions to development standards	

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Not required
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 and as at 29 June 2020 raised no objections

Site Plan



Figure 1: Subject site outlined in red

Executive Summary Proposal

- Development Application DA2020/0166 was submitted to Council on 4 May 2020 and proposes the demolition of the existing Sans Souci Bathers Pavilion and the creation of a new subdivided allotment (Lot 1) as the subject site is not formally or legally recognised or registered as a parcel of land. The Bathers Pavilion building and the adjoining parkland are a Heritage Item (I155) pursuant to Schedule 5 of the Kogarah Local Environmental plan 2012. **Figure 1** is an aerial view of the site and its contextual location and **Figure 2** below includes 3D perspectives of the existing building.

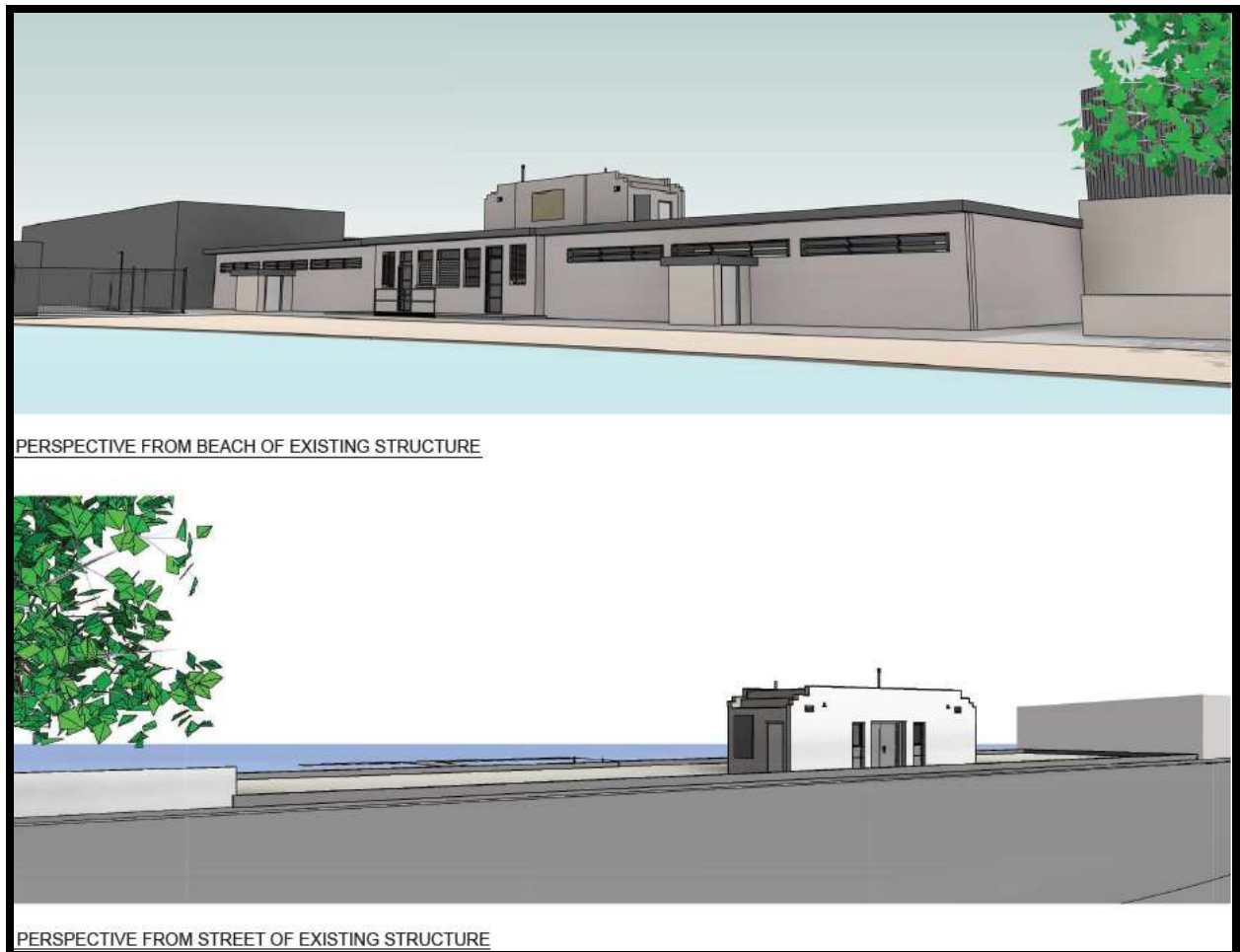


Figure 2: 3D perspectives of the existing Bathers Pavilion structure (courtesy Conybeare Morrison International, 2020)

2. Council has over some time investigated the adaptive reuse of the Bathers Pavilion and evaluated other land use and development opportunities for this building, however the building is significantly dilapidated, in a very poor structural condition and its retention is not feasible as remedial works will be too costly.
3. The Applicant has submitted a detailed structural assessment prepared by Cardno. This report was prepared in 2018 and aimed to assess the structural integrity of the building and consider the remedial works that would be required to maintain its longevity. This issue is addressed in more detail later in the report however in short, the recommendations of the report suggest that significant structural improvements would need to occur, the report recommended that *“due to the degree of severity of concrete spalling within the façade, it is possible that conventional concrete spalling repair would deem more expensive than to demolish and building sections within the façade”*.
4. The building is affected largely by “spalling” which is a process whereby water or moisture enters concrete and forces the surface to peel, pop out and break off. It can affect the reinforcement of the concrete elements as well. In this case, concrete spalling is evident throughout the building and other affectations include moisture staining, cracking and internal non-load bearing walls were also badly dilapidated. One of the fundamental concerns was that the structural integrity of the suspended concrete roof slab which is non-compliant with the Australian Standards specifically in respect to *“areas which are susceptible to overcrowding”*. The serious deficiencies and affectations to the structure and its integrity are too expensive and substantial to repair.

5. The second part to this proposal is essentially to formally recognise the lot that the Bathers Pavilion presently sits on. Currently the site is not formally registered or recognised as a parcel of land. This proposal aims to formalise the land and seeks to create a new independently recognised allotment (Lot 1) or parcel of land. **Figure 3** below shows the indicative subdivision plan and layout.

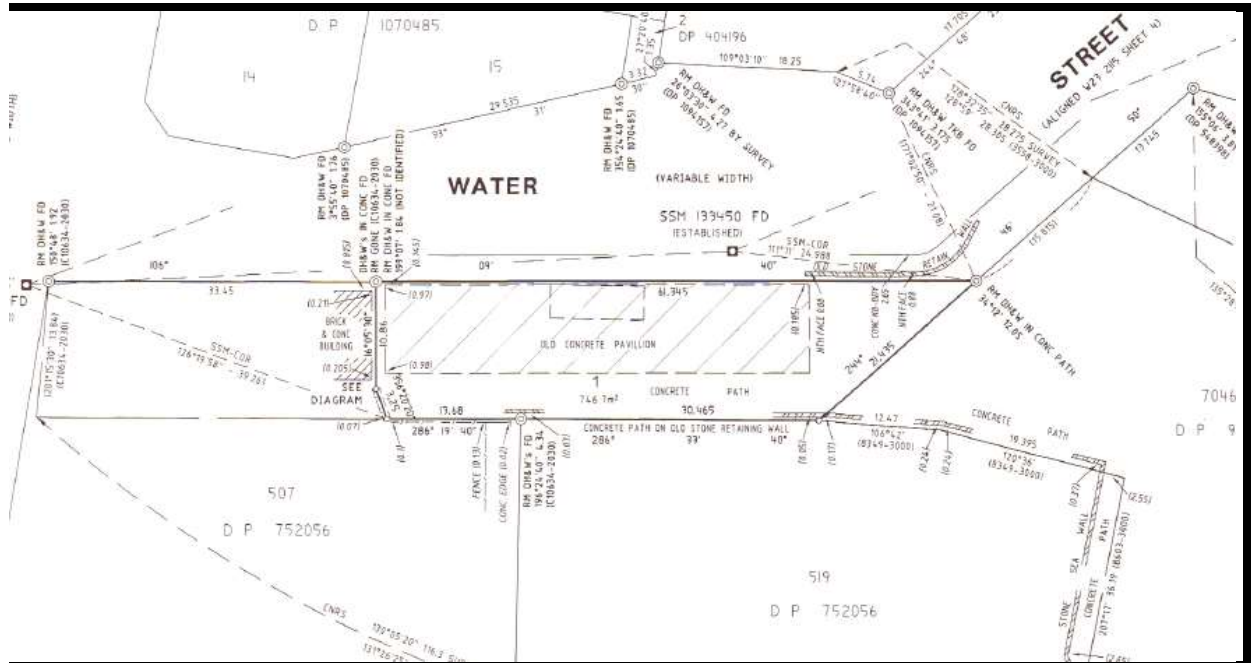


Figure 3: Extract from the survey plan (first lot creation) showing the Bathers Pavilion sitting on a new allotment (Lot 1).

Site and Locality

6. The subject site is known as the Sans Souci Bathers Pavilion. It is a two storey concrete structure when viewed from the beach and single storey when viewed from Water Street which is at grade. The roof of the building acts as a concrete viewing platform with views across to Sylvania and Captain Cook Bridge.
7. The building is located on an irregular shaped parcel of land having a frontage of 61.34m to Water Street, building depth of some 70m and overall site area of some 4,740sqm which includes the adjoining parkland. In calculating the site area this includes the location of the former public pool and tidal baths.
8. The site is a Crown Land Reserve (R88909) with Council being the Crown Land Manager. It forms part of Lot 519 DP 752056 and comprised of the Bathers Pavilion, Beach, former tidal baths and part of the government marina. Other parts of the park are either Crown Land, owned by Roads and Traffic Authority or Council (refer to **Figure 4** below which shows the breakdown of Crown Land ownership across the site and associated parkland).

Lot	DP	Owner	Public purpose	Manager	Areas/facilities included	Use agreements
519	752056	Crown R89909 notified 4/5/73	Public Recreation	Sans Souci Park (R88909) Reserve Trust	Bathers Pavilion Beach Former tidal baths Part of government marina	Negotiations pending for redevelopment of the Bathers Pavilion
7046	93515	Crown R88909 notified 4/5/73	Public Recreation	Sans Souci Park (R88909) Reserve Trust	Sans Souci Leisure Centre Parking area Seawall Picnic area Playground Foreshore path	Lease: Sans Souci Leisure Centre
15	Crown Plan 3558-3000	Crown	-	Kogarah City Council	Ramp to wharf Foreshore land behind old ferry wharf	-
530	752056	Crown	-	Kogarah City Council	Part of foreshore	-
-	-	Crown	-	Crown	Tourist cruise wharf	Licence: Cojo Pty Ltd

(1) State of NSW as Crown land administered by the Department of Primary Industries-Crown Lands Division under the Crown Lands Act 1989.

Figure 4: Extract from the POM showing the land parcels that are under Crown Land ownership. RMS and Council own other parts of the Site and associated adjoining open space areas.

9. The Sans Souci Baths began operating in 1897 at the site. Sans Souci Park was dedicated for Public Recreation in 1933 and a new bathing pavilion and dressing rooms were constructed at that time. Council carried out land reclamation, constructed a promenade, sea wall, retaining wall and steps within the vicinity of the Pavilion.

Reason for Referral to the Local Planning Panel

10. The proposed works are located on Crown Land which is under the management of Council. Council is the Applicant and is acting on behalf of the owner for this application.
11. The site is also a nominated Local Heritage Item pursuant to the provisions of Schedule 5 of the Kogarah Local Environmental plan 2012.

Background

12. At the Council meeting held on 26 March 2018, it was unanimously resolved to undertake the following;

That, having regard to the report from Cardno Engineering dated February 2018 regarding the structural inadequacy of the Sans Souci Bathers Pavilion (the Cardno Report), Council not proceed with its December 2017 resolution to publicly tender for restoration and a 21 year lease of the building, pending the actions detailed below;

- (b) That the General Manager make the Cardno Report available to Crown Lands forthwith;*
- (c) That the General Manager urgently obtain a heritage assessment from a qualified heritage architect in relation to the condition and significance of the building. The report is to advise as to whether it is viable to restore the building; or if the building is to be demolished to make recommendations about how the significance of the building can be otherwise retained;*
- (d) That, taking into account the findings of the Cardno Report and the heritage report, the General Manager urgently liaise with NSW Department of Industry, Lands and Forestry (Crown Lands) in relation to:*

- i. *amending the Plan of Management,*
- ii. *obtaining owners consent for a development application to demolish and/or redevelop the site, and*
- iii. *the requirements for the Crown consent to a new lease;*

(e) *That Council delegate to the General Manager the authority to take any necessary steps (including demolition of the building) to ensure that public safety can be maintained at the site. The General Manager shall take into consideration the findings of the heritage architect's assessment prior to taking any action; and*

(f) *That a report be prepared for Council's consideration as to the options for the future leasing of the site, having regard to the findings of the Cardno Report, the heritage report and the outcome of discussions with Crown Land.*

13. In accordance with the Council resolution further site investigations have occurred since that time, this development application seeks to resolve the issue of this building, and provide the way for more efficient and effective use of this site for the future.
14. In addition to the Cardno report, 3D imaging was undertaken of the building, to better portray the present condition of the exiting building (refer to **Figure 5**). The 3D imaging provides for the ability to undertake a 'virtual site inspection' and allows the current condition of the building to be better understood. It is clearly evident from the Cardno report and 3D imaging that the Sans Souci Bathers Pavilion building is in very poor condition and disrepair. The extent of structural failure of major building components, the extent of malicious damage and vandalism and the prolonged period of appropriate cyclical and preventative maintenance, have all contributed to the present physical condition of the building, which, cumulatively, have had an adverse level of material affectation that significantly diminishes its architectural integrity.



Figure 5: An extract of the 3D Imaging that was prepared by Cardno, 2018

Zoning and Permissibility

15. The site is zoned RE1-Public Recreation. Demolition and subdivision are permissible with consent. Council's Draft Local Environmental Plan 2020 is not proposing to rezone this site.

Submissions

16. The application was advertised and notified for a statutory period of 30 days. A total of five (5) submissions have been received. The issues raised in the submissions are addressed in more detail later in this report.
17. In summary, many residents expressed disappointment that this important and historic structure has been left to become so dilapidated to the point where it needs to be demolished. Some residents accept the need for the structure to be removed and envisage an opportunity for a small scale building which could be used as a café to help activate this area and compliment the use of the park and foreshore. Concern was expressed about the proposed subdivision and the potential that Council may sell off this land. Other concerns were in regard to the affectation and need to retain the large Moreton Bay Fig tree. The State of Environmental Effects was criticised as lacking information and inconsistencies were noted. The Kogarah Progress Society was disappointed that Council did not have the proposed remedial works costed and they suggest the implementation of seven (7) conditions if consent is to be granted.
18. Briefly, and in response to the submissions which are addressed in more detail later in the report, the site is creating a new allotment as the existing parcel has never been legally acknowledged as an independent lot. This is merely a technicality that has been overlooked. Council is in the process of updating the Plan of Management for this site and in the preparation of this plan residents will be consulted and invited to provide feedback on the options for the future redevelopment of the site and its surrounds. There is no intention to sell the site which is Crown Land (managed by Council), it is zoned “public recreation” which restricts the future land uses to largely open space, recreational activities and ancillary uses. The Moreton Bay Fig is intended to be retained and the imposition of the conditions requested by the Kogarah Progress Society are discussed in more detail later in this report.

Conclusion

19. The application has been assessed having regard to the Matters for Consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, the provisions of the relevant State Environmental Planning Policies, Local Environmental Plans and Development Control Plans. The proposed development has been considered and assessed against the information submitted and the relevant planning and legislative controls and is considered to be an acceptable and reasonable planning response for this site and is therefore recommended for approval subject to the imposition of conditions.

Report in Full Proposal

20. The proposed development involves the demolition of the existing two storey Sans Souci Bathers Pavilion, to make the land “good” and safe and to create a defined and formalised allotment for this parcel of land as it is currently not defined or identified on any deposited plan.
21. The demolition of the structure is required as it is currently in a very poor, dilapidated state and is unsafe and a risk to public safety.
22. **Figure 6** below shows the existing southern elevation of the building to be demolished.

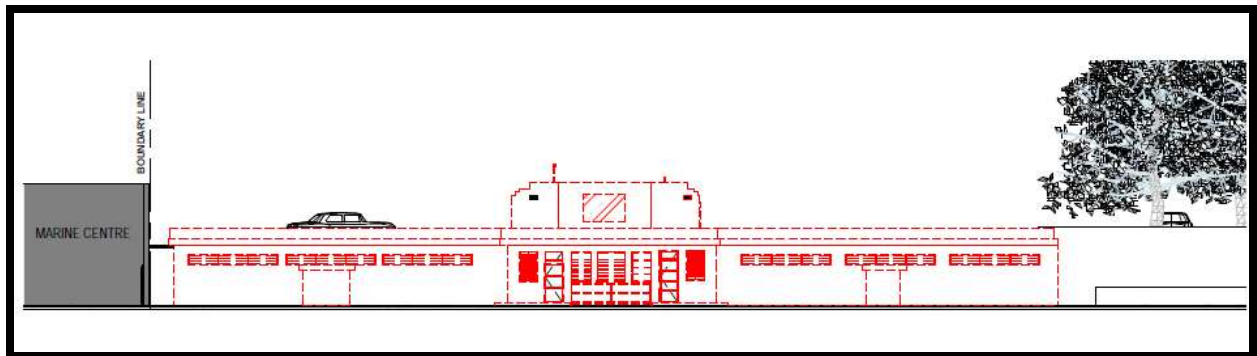


Figure 6: Southern Elevation of the Bathers Pavilion showing all the elements (outlined in red) of the building to be demolished (plan courtesy of Conybeare Morrison International, 2020)

LPP029-20

The Site and Locality

23. The subject site is located on the southern side of Water Street and comprises of a two storey concrete building. A small single storey portion of the building and the concrete roof is seen from Water Street whilst the remainder of the building is sited below street level. The site has a frontage of 61.345m to Water Street rear boundary length of 30.4m and two irregular side boundary lengths of 10.86m and 21.435m.
24. The building sits on a parcel of land which has never been formally registered or recognised. It is proposed to create a new allotment (Lot 1) and this site will have an area of 746.7sqm.
25. Immediately to the south of the site is Sans Souci foreshore with direct water access to the bay. Immediately to the east is a large and well established Morten Bay Fig tree which is a feature of the streetscape and area. Further to the east is the Sans Souci Leisure Centre which contains an outdoor public pool, gym and associated facilities located within Sans Souci Park and Rocky Point Road. To the west is the Sans Souci Water Police Headquarters which includes a small boat mooring. To the north of the site are a variety of residential properties from single storey detached dwelling houses (66 Harris Street and 1 Water Street) and other medium density mixed use developments which are located closer to Rocky Point Road frontage.
26. The streetscape is characterised by some designated parallel parking in front of the Pavilion and the presence of the large and significant Morten Bay Fig tree located within the adjoining park.
27. Direct access to the bay and waterfront is restricted but there is a public pathway around the perimeter of the Leisure Centre.



Photo 1: View of the Sans Souci Bathers Pavilion from Water Street



Photo 2: Residential dwellings immediately to the north of the site (7 Water Street)



Photo 3: Looking east towards Rocky Point Road with the large Moreton Bay Fig in the background



Photo 4: The lower section of the Bathers Pavilion (eastern elevation)



Photo 5: The Marine Centre located to the west of the site.

Plan of Management (POM)

28. The Crowns Land Act, 1989 stipulates provisions required for the management and administration of Crown lands. The subject site and Sans Souci Park are designated as Crown land and are under the Council's care and management.
29. On 25 July 2011 Council adopted the Sans Souci Plan of Management (POM) and the Landscape Plan Masterplan for the subject site and adjoining Parkland. The Plan of Management was prepared in accordance with the requirements of the Local Government Act, 1993 provisions which required Council's that actively manage public land to create a strategy for its future use, intentions and management.
30. The POM recognised that the Sans Souci Park is a significant land and water based recreational, tourist and social focal point. The vision for Sans Souci Park is:

"Sans Souci Park is a multi-purpose park catering for a range of land- and water-based recreational activities for all age groups and accessible to all in the community. Settings within the park range from built recreational and tourist structures, food and beverage outlets, open grassland and landscaped areas, to natural foreshore. Park settings are linked within and to other open spaces by walking and cycling tracks. Underlying all aspects of Sans Souci Park is the valued scenic outlook to Kogarah Bay and the Georges River."
31. The POM suggested a number of improvements to the space to create better connectivity and visually improve the landscape by the implementation of new trees, plants and landscape features. The Plan proposed upgrades which included:
 - Repairing the picnic huts and barbeques;
 - Replace the sea wall;
 - Redesign the public car park;

- Improve lighting and signage;
- Provide additional public amenities i.e. bubblers and taps; and
- Increase landscaping across the site.

32. In respect to the Sans Souci Bathers Pavilion, the plan proposed to renovate this facility and look at converting it to a “*food and beverage outlet and to investigate the feasibility of reopening the tidal pool*”. **Figure 7** is an extract from the Landscape Masterplan design showing the Pavilion and its relationship to the park.

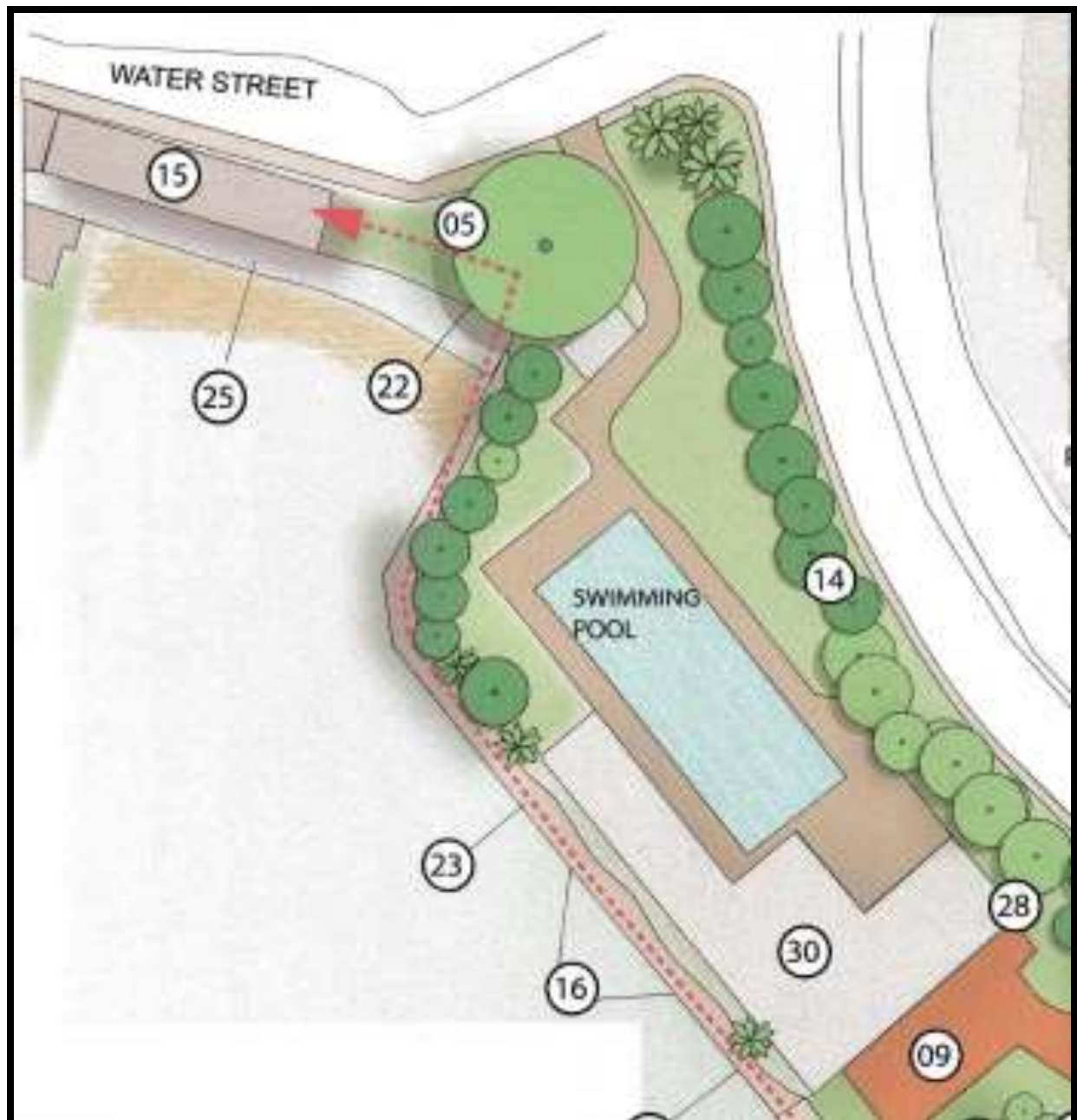


Figure 7: An extract from the Landscape Masterplan design showing the Bathers Pavilion (No.15)

33. Since its adoption, some of the recommendations of the POM have been implemented. It is the Council's intention to pursue the potential opportunity of establishing a café at the site however the form and design of the building (to replace the existing Pavilion) has not yet been detailed at this stage.

34. Currently, Council are in the process of engaging consultants to prepare an updated Plan of Management (POM) which will be drafted, exhibited and adopted in accordance with the provisions of the Local Government Act 1993. This will allow for community involvement and engagement regarding any potential future uses and redevelopment options for the Site.

State Environmental Planning Policies (SEPPs)

35. Compliance with the relevant SEPPs is summarised in the following table and discussed in further detail below it.

Table 1: Compliance with State Planning Policies

Policy Title	Complies
Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment	Yes
State Environmental Planning Policy (Infrastructure) 2007	Yes
State Environmental Planning Policy No 55 - Remediation of Land	Yes
State Environmental Planning Policy (Coastal Management) 2018	Yes
State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017	Yes
Biodiversity Conservation Act 2016	Yes
Draft Environmental State Environmental Planning Policy	Yes

Greater Metropolitan Regional Environmental Plan No.2 – Georges River Catchment

36. The proposed works will not adversely affect the Georges River Catchment and the proposal maintains the intentions, purpose and objectives of this policy which include;
- (a) *to maintain and improve the water quality and river flows of the Georges River and its tributaries and ensure that development is managed in a manner that is in keeping with the national, State, regional and local significance of the Catchment,*
 - (b) *to protect and enhance the environmental quality of the Catchment for the benefit of all users through the management and use of the resources in the Catchment in an ecologically sustainable manner,*
 - (c) *to ensure consistency with local environmental plans and also in the delivery of the principles of ecologically sustainable development in the assessment of development within the Catchment where there is potential to impact adversely on groundwater and on the water quality and river flows within the Georges River or its tributaries,*
 - (d) *to establish a consistent and coordinated approach to environmental planning and assessment for land along the Georges River and its tributaries and to promote integrated catchment management policies and programs in the planning and management of the Catchment,*
 - (e) *to provide a mechanism that assists in achieving the water quality objectives and river flow objectives agreed under the Water Reform Package.*

State Environmental Planning Policy No 55 - Remediation of Land

37. 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.
38. 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.

39. The site has a history of recreational uses and as such, site contamination is not suspected. The proposed development does not include any excavation and simply involves demolishing the existing structure and making good the area. It is proposed (via conditions) that the area where the building sits shall be treated appropriately and made safe i.e. retain the ground floor concrete slab or grass the area appropriately to soften its appearance.

State Environmental Planning Policy (Infrastructure) 2007

40. Clause 65 of the SEPP relates to works within public reserves that are designated as Crown land and permits certain works without consent. Subsection 3 stipulates the works that are exempt and includes improvements such as new lighting, landscaping, amenities such as toilets and change rooms, viewing platforms, cycleways etc. Subsection 3(d) permits demolition of buildings *“other than any building that is, part of, a State or local heritage item or is within a heritage conservation area”*. Given the Pavilion is a listed local item of heritage significance the proposal requires development consent.
41. Clause 66 relates to works that are exempt which are similar types of works outlined in Clause 65 but on a slightly smaller scale. The proposed development does not fall within this category of works; as a result the proposal required development consent.

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

42. The Vegetation SEPP aims to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.
43. 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).*
44. The Vegetation SEPP repeals clauses 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 Development Control Plan.
45. The proposal is not affecting or removing any vegetation at the site, therefore the proposal is consistent with the aims and objectives of the policy.

Biodiversity Conservation Act 2016

46. Some of the objectives of this Act include the following;
- (a) *to conserve biodiversity at bioregional and State scales, and*
 - (b) *to maintain the diversity and quality of ecosystems and enhance their capacity to adapt to change and provide for the needs of future generations, and*
 - (c) *to improve, share and use knowledge, including local and traditional Aboriginal ecological knowledge, about biodiversity conservation, and*
 - (d) *to support biodiversity conservation in the context of a changing climate, and*

47. The proposal does not affect any Threatened Species or Environmentally Endangered Communities. There are no trees or existing vegetation on the site where the building is to be removed. The large, significant and established Fig Tree to the east of the Site shall not be affected by the proposed works however conditions are imposed to ensure the tree and its immediate curtilage is protected during the demolition works.

State Environmental Planning Policy (Coastal Management), 2018

48. The Coastal Management SEPP updates and consolidates into one integrated policy SEPP 14 (Coastal Wetlands), SEPP 26 (Littoral Rainforests) and SEPP 71 (Coastal Protection), including clause 5.5 of the Standard Instrument – Principal Local Environmental Plan. These policies are now repealed.
49. The Coastal Management SEPP commenced on 3 April 2018 and gives effect to the objectives of the Coastal Management Act 2016 from a land use planning perspective, by specifying how development proposals are to be assessed if they fall within the coastal zone.
50. An integrated and coordinated approach to land use planning is promoted by the new SEPP. It defines the four coastal management areas in the Act through detailed mapping and specifies assessment criteria that are tailored for each coastal management area. Councils and other consent authorities must apply these criteria when assessing proposals for development that fall within one or more of the mapped areas.
51. The proposed development does not adversely affect the integrity of the foreshore and the aims, objectives and intentions of the SEPP are maintained.

Draft Environmental SEPP

52. The Draft Environment SEPP was exhibited from 31 October 2017 to 31 January 2018.
53. 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.
54. The proposal is consistent with the provisions of this Draft Instrument given there is no vegetation impacted by the proposed development.

Environmental Planning Instruments

Kogarah Local Environmental Plan 2012 (KLEP 2012)

Zoning

55. The subject site is zoned RE1-Public Recreation (refer to **Figure 7**). The Bathers Pavilion is classified as “recreational facilities (outdoor)” which is defined as “*a building or place (other than a recreation area) used predominantly for outdoor recreation, whether or not*”

operated for the purposes of gain, including a golf course, golf driving range, mini-golf centre, tennis court, paint-ball centre, lawn bowling green, outdoor swimming pool, equestrian centre, skate board ramp, go-kart track, rifle range, water-ski centre or any other building or place of a like character used for outdoor recreation (including any ancillary buildings), but does not include an entertainment facility or a recreation facility (major)". The demolition of this facility is permissible in this zone with consent.

56. The proposed development is considered to be consistent with the objectives of this zone which include;
- *To enable land to be used for public open space or recreational purposes.*
 - *To provide a range of recreational settings and activities and compatible land uses.*
 - *To protect and enhance the natural environment for recreational purposes.*

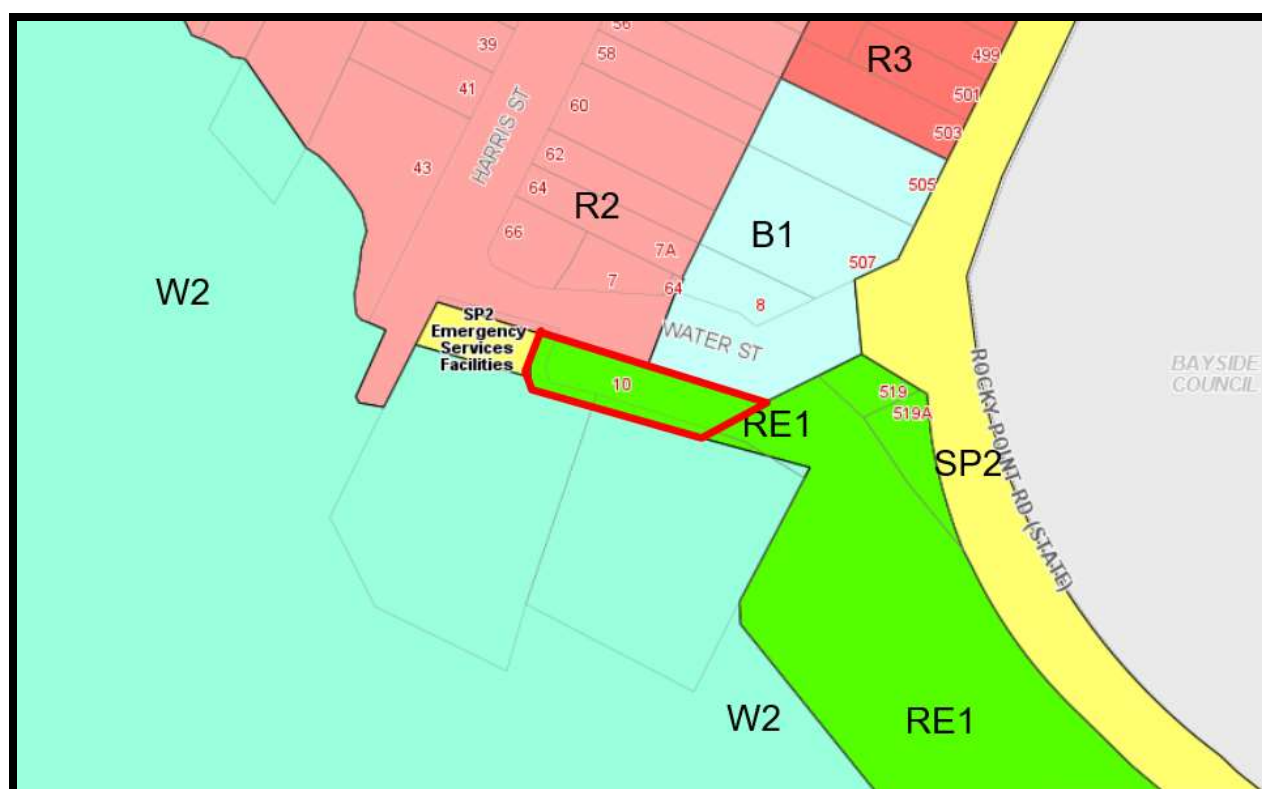


Figure 7: Zoning map extract from the KLEP 2012

57. Works within the Public Recreation zone are limited to the following: *Aquaculture; Boat launching ramps; Car parks; Centre-based child care facilities; Community facilities; Emergency services facilities; Environmental facilities; Flood mitigation works; Information and education facilities; Jetties; Kiosks; Markets; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Respite day care centres; Restaurants or cafes; Roads; Signage; Water recreation structures.* The works that are permitted without consent include environmental protection works and certain building identification signage.
58. The extent to which the proposal complies with the relevant standards of Kogarah Local Environmental Plan 2012 (KLEP2012) is outlined in Table 2 below.

Table 2: KLEP2012 Compliance Table

Clause	Standard	Proposed	Complies
2.2 Zone	RE1	The proposed development is	Yes

	Public Recreation	permissible with consent.	
2.3 Objectives	Objectives of the Zone	The proposal is not inconsistent with zone objectives.	Yes
4.1 Minimum subdivision lot size	No minimum requirement as per the Lot Size Map Sheet LSZ_008	<p>The existing building (Bathers Pavilion) has never been recognised or formalised legally as a parcel of land. The proposed development includes formalising this parcel and creating a new legally registered property or allotment.</p> <p>The proposed subdivision certificate which accompanies the application would legally define the site as Lot 1 in first lot creation.</p>	Yes
4.3 Height of Buildings	No maximum height limit is stipulated for this site	The demolition of the building is reducing the height of structures across the site.	Yes
4.4 Floor Space Ratio	There is no maximum FSR control for this site.	No new floor space is proposed.	Yes
5.2 Classification of Public Land	The objective of this clause is for Council to classify public land as “operational” or “community” land in accordance with the provisions of the Local Government Act.	<p>The subject site has been classified as “community land” in accordance with the Local Government Act provisions.</p> <p>There is no change proposed to the site’s current classification and it is difficult to convert community land to operational land. There is no intention to do this.</p>	Yes
5.7 Development below mean high water mark	The objective of this clause is to ensure appropriate environmental assessment for development carried out on land covered by tidal waters.	The works affect the Pavilion building which sits above the mean high water mark. The proposed demolition would not affect any tidal influences.	Yes
5.10 Heritage Conservation	The objectives of this clause are; (i) to conserve the environmental heritage of Kogarah, (ii) to conserve the heritage	<p>The subject site is designated as a Local Heritage Item I155 defined as “<i>Sans Souci Park, public baths and bathers pavilion</i>” as stipulated in Schedule 5 of the KLEP 2012.</p> <p>The application is accompanied</p>	Yes satisfactory – refer to detailed discussion below

	significance of heritage items and heritage conservation areas, including associated fabric, settings and views.	by a Heritage Impact Assessment which was reviewed by Council's Heritage Officer. No objection was raised in respect to the proposed works. A detailed discussion on this issue is provided later in this report.	
6.1 Acid Sulphate Soils (ASS)	The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage	The site is located within Class 5 ASS. This relates to works which are <i>"within 100m of adjacent Class 2, 3 or 4 land and is below 5m AHD and by which the watertable is likely to be lowered below 1m AHD on adjacent Class 2, 3 or 4 land"</i> . The works are located next to Class 3 land however there is no excavation proposed so there will be no affectation to any potential ASS and an ASS Management Plan is not required in this case.	N/A
6.2 Earthworks	To ensure that earthworks do not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land	No earthworks or excavation is proposed.	Yes
6.4 Limited development on the foreshore area	The objective of this clause is to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area.	There are no works proposed to the foreshore that will affect its functionality, natural processes or visual quality and amenity of the area. The demolition of the structure should in fact improve the visual appearance of this space and improve public safety.	Yes – refer to detailed discussion below
6.5 Airspace Operations	The consent authority must not grant development	The proposed development does not affect the Obstacle Limitation Height or flight path.	N/A

	consent to development that is a controlled activity within the meaning of Division 4 of Part 12 of the Airports Act 1996 of the Commonwealth unless the applicant has obtained approval for the controlled activity under regulations made for the purposes of that Division.	
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LPP029-20

Heritage Conservation

59. The Sans Souci Bathers Pavilion is a designated Heritage Item of local importance and is listed in schedule 5 of the Kogarah Local Environmental Plan 2012 (KLEP). It is classified as item 155 and noted as the “*Sans Souci Park, public baths and bathers pavilion*” located at 521 Rocky Point Road and 4 Water Street. Clause 5.10 of the KLEP outlines the provisions for works relating to a Heritage Item or works within a Conservation Area. Clause 5.10 (4) requires assessment of the effect of the proposed works on the item or area. Clause 5.10 (5) requires the preparation of a Heritage management document to accompany the application to assist in the assessment of the proposed works.

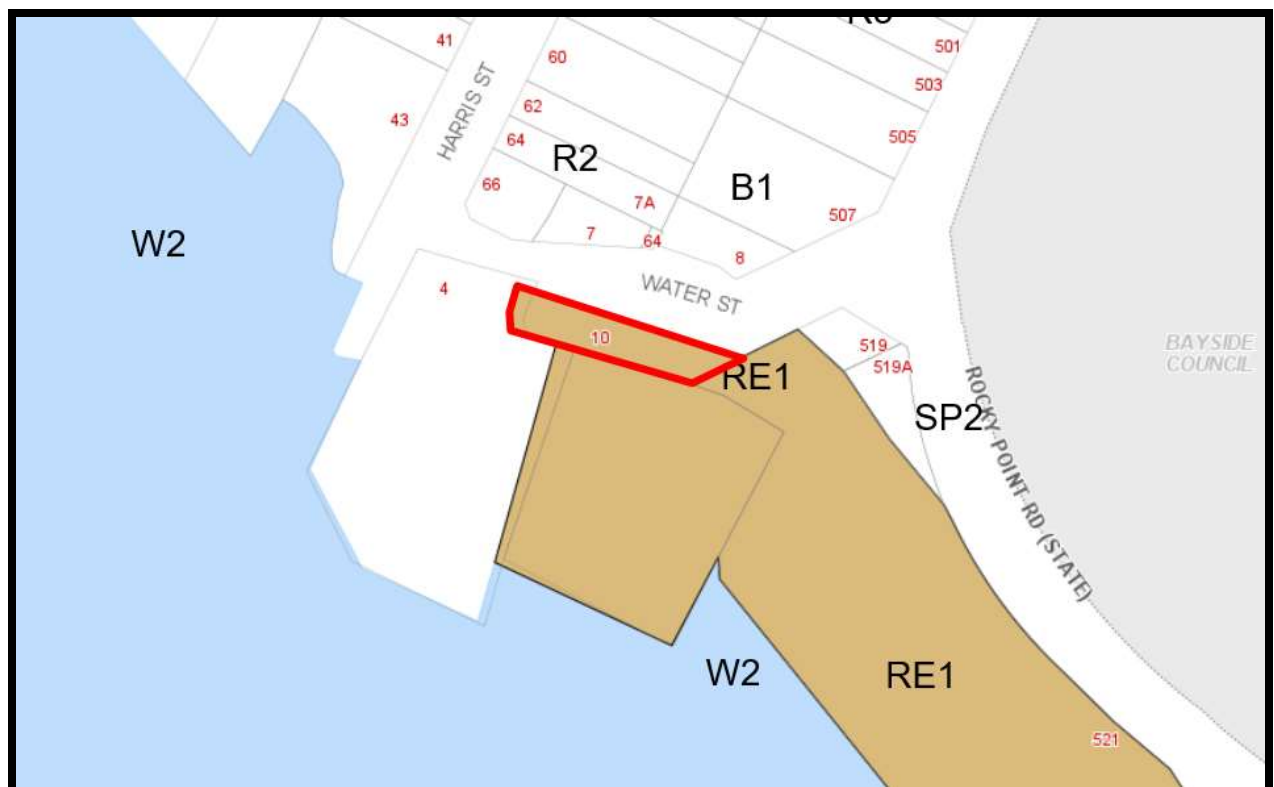


Figure 8: Heritage affection

60. A Heritage Impact Assessment report was prepared by Weir Phillips Heritage and is dated June 2018.

61. This report examined in detail the development of Sans Souci as a suburb and the importance and significance of the Bathers Pavilion and associated parkland. The following is a brief summary of the site and its development and the chronology of significant events is provided below;

- The wider area known as the Parish of St George suburb grew and expanded during the 1830's and 1840's and comprised of the suburbs of Rockdale, Kogarah and Hurstville. Much of the area was still bushland.
- In 1830 one of the first land holdings was 100 acres at Rocky Point of Sans Souci where they built a house, stables and a number of outbuildings. The subject site formed part of this parcel however as designated as "in trust". The suburb expanded after the construction of the Cooks River Dam and the Illawarra Railway Line.
- In 1853 a wealthy wool merchant leased the Rocky Point Estate which was still an isolated property and named it "Sans Souci" which meant "without worry" or "worry free".
- The property was later leased by several people however in 1863 the house was converted into a Hotel known as "*Sans Souci Hotel and Pleasure Grounds*". The hotel was operated until 1914 where it then failed to comply with the provisions of the Local Options Act and in 1916 was partially demolished and then fully demolished when Rock Point Road was extended and the roadway realigned.
- In 1896 an Act was passed to allow Municipalities to lease and acquire lands and to erect baths or to lease baths already established for public use.
- In 1896 Kogarah Council applied for a lease from Crown Lands to construct a tidal bath. The site selected adjoined the Sans Souci Hotel where leisure facilities had been established which included fishing, boat hire, picnic grounds and other recreational activities. The baths were constructed in 1897.
- These baths were demolished in 1929 as they were out dated and required refurbishment. New baths included a constructed pool, shark proof enclosure, temporary dressing sheds, high diving tower and three springboards. Additional public works occurred during the Depression and included the construction of a new pavilion which was for the purpose of a "dressing shed". The building was completed in 1933.
- The popularity of the baths declined as pollution levels increased in the Georges River and swimming was prohibited. Since that time the baths and pavilion have not opened as the development of the Sans Souci Leisure centre included the construction of an olympic sized outdoor swimming pool and includes a gym and other recreational facilities.

62. **Figures 9 and 10** show the development of the Bathers Pavilion structure.

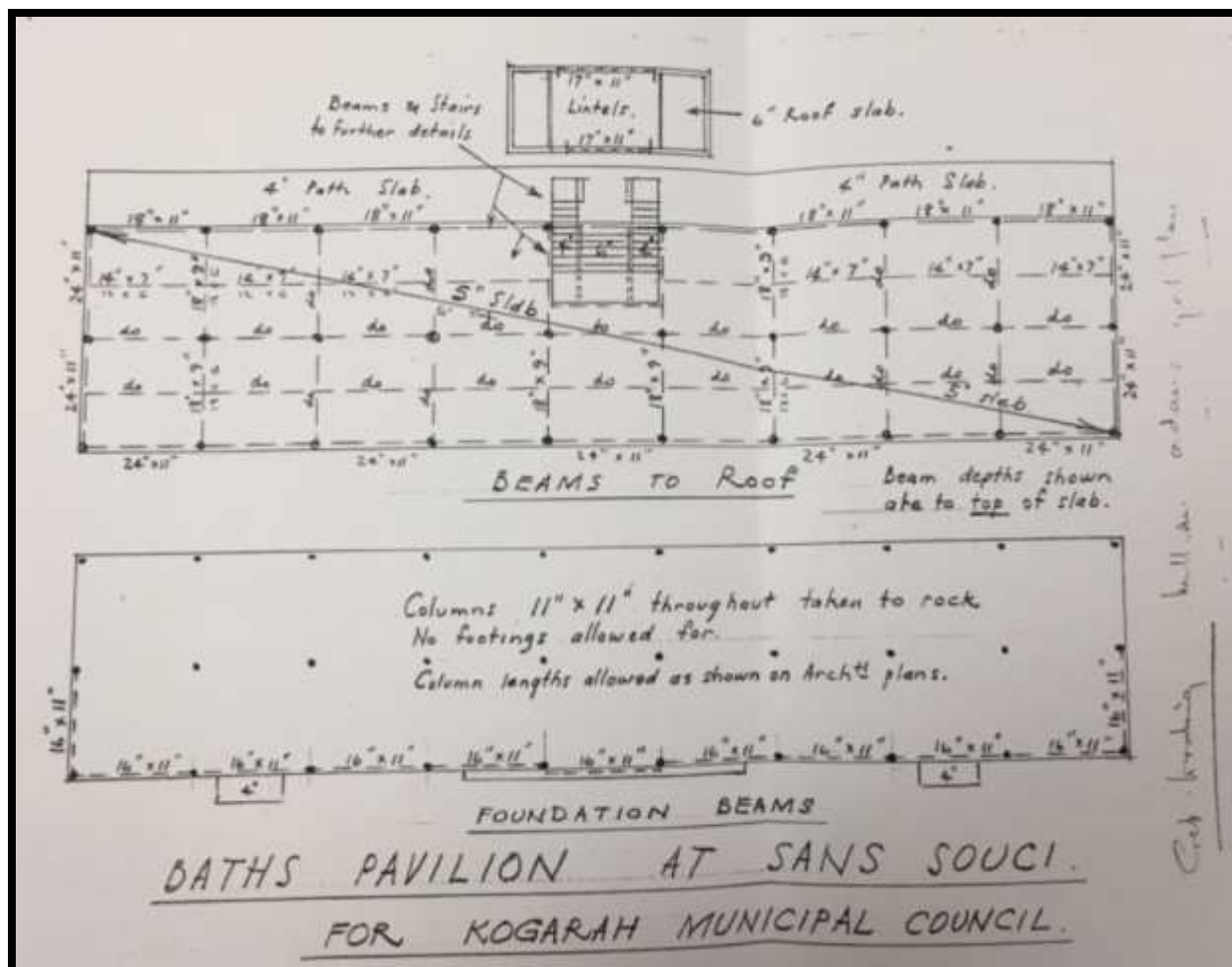


Figure 9: Plans prepared by The Australian Reinforced Concrete Engineering Co Pty Ltd for the Pavilion at Sans Souci Kogarah Local Studies Library (Courtesy Weir Phillips Heritage, 2018)



Figure 10: Aerial view of the Bathers Pavilion in 1943 (courtesy of Weir Phillips Heritage, 2018)

63. The Heritage Assessment provides a detailed consideration of the architectural qualities and significance of the building against the provisions and criteria stipulated by the Heritage Council of NSW. Significance is considered by examining the cultural, historical, social, architectural and aesthetic value of the building.
64. In terms of Integrity the report states “*The integrity of the subject building is considered to have been severely diminished as a result of disuse, deferred maintenance, concrete spalling and vandalism. Extensive damage has been noted to most of the internal walls, columns, ceilings, fixtures, fittings and plumbing items. Other than remaining changing benches, most internal features dating from the original construction have been removed. It is noted that externally the building has retained the majority of its original finishes, however, they are noted as being in an extremely poor condition.*”
65. In respect to its architectural value the report stated that “*the Sans Souci Bathers Pavilion demonstrates characteristics of a restrained vernacular example of an Inter-War Functionalist building. The stylistic indicators include the horizontal imagery of the building, the plain concrete walls, concrete roof, hi-light windows and simple geometric decoration. However, unlike the other surviving bathers pavilions from the era which*

demonstrate a high degree of ornate detailing, the Sans Souci Bathers Pavilion is relatively subdued and utilitarian in appearance....Furthermore, in contrast to the subject building, most of the identified bathing pavilions, within the Sydney region constructed during the Inter-War period, have continued to be used and several have been adaptively re-used which has resulted in the building being better maintained and preserved for future generations. The pavilions at Palm Beach, Sydney and North Beach, Wollongong have also been in continuous use since their initial construction.” It was concluded that the utilitarian appearance, concrete construction and lack of detailing, the Sans Souci Bathers Pavilion is not a representative example of an Inter-War period bathers pavilion and was constructed in isolation with other pavilions.

66. The proposed report recommended that the following management measures;
 - Amend Schedule 5, Part 1 of the Kogarah Local Environmental Plan 2012 to remove reference to the bathers pavilion from the listing for item I155.
 - Update the State Heritage Inventory sheet to accurate record the significance of the Sans Souci Park.
 - Undertake a Masterplan to update the area and ensure that public access can be reinstated.
 - Undertake an interpretation strategy to ensure that the historical significance of the Sans Souci Park can be readily understood by future users.
 - Consider demolition of the pavilion and replacement with a fit for purpose structure designed to fulfil the future needs of the site.
67. In response to the recommendations, the Council is updating the Plan of Management for the site which will be accompanied by a Masterplan. The preparation of an interpretive strategy would form part of the Plan of Management but Council should be encouraged to prepare this document which highlights the historical use and associations of the site which can then be translated and connected through to future developments. Council have no current plans for the site. Any potential redevelopment will need to be consistent with the findings and recommendations of the POM. Council have expressed general interest in activating the site in the future and potentially constructing a small building that could become a café and provide a service to the community. Once a more detailed plan will be developed a Development Application will need to be lodged with Council.
68. The Application accompanied by the Heritage Assessment report and plans was referred to Council's Heritage Officer for review and comment. The following observations were made by Council's Advisor;
 - *I consider the Sans Souci Bathers Pavilion to have historical significance. An item or place need only satisfy one of the NSW Heritage Council significance assessment criteria to be considered as having heritage significance and warrant retention through listing. Presently, the Sans Souci Bathers Pavilion is heritage listed, forming part of the listing of Sans Souci Park.*
 - *Article 2 of the Australia ICOMOS Burra Charter (2013) states that 'places of cultural significance should be conserved' and that 'places of cultural significance should be safeguarded and not put at risk or left in a vulnerable state'. In this regard, because the Sans Souci Bathers Pavilion has cultural heritage significance, ordinarily, it should be retained.*
 - *Article 7 of the Burra Charter states that 'where the use of a place is of cultural significance, it should be retained'. As considered above, the historical use and function of the Sans Souci Bathers Pavilion ceased in c1962 and has remained disused since. While its use as a public bathing pavilion is directly linked to its*

historical significance, the likelihood of the reinstatement of such use is low, given the condemning of public bathing in Georges River. The present condition of the building also significantly hinders the ability to consider adaptive re-use.

- *Demolition of an item of cultural heritage significance can still be considered, particularly if that item or place has lost the characteristics that defined its significance, or, inter-alia, the building is so structurally unsound that the cost and impact of undertaking remedial works would adversely impact on the structure and its surviving integrity, and be cost prohibitive.*
- *The Cardno report, supported by the 3D imaging, provides compelling evidence to show that the building is in a significantly deteriorated condition and that there are inherent fundamental structural defects which would require substantial mechanical intervention for remedial repair. The effect of undertaking these works in my opinion, would adversely impact on the surviving fabric to such an extent that the little remaining integrity would be compromised and would effectively necessitate the wholesale demolition and reconstruction of the building. Any reconstructed building would be merely a facsimile and have lost the historical significance and value imbued in the extant fabric of the place.*

69. Council's Heritage Advisor does not object to the demolition of the building subject to the imposition of four (4) conditions if consent is issued. These include the preparation of a Heritage Interpretation Strategy and a Photographic Archival Recording and implementation of the findings of these reports and the timing of their preparation.

Limited development on the foreshore

70. Clause 6.4 of the KLEP relates to development on the foreshore. The objective of the clause is "to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area." The subject site is not located within the Foreshore Scenic Protection Area but has a designated 7.6m Foreshore Building Line measured from the Mean High Water Mark (MHWM). **Figure 11** below highlights the FBL on Council's mapping system.

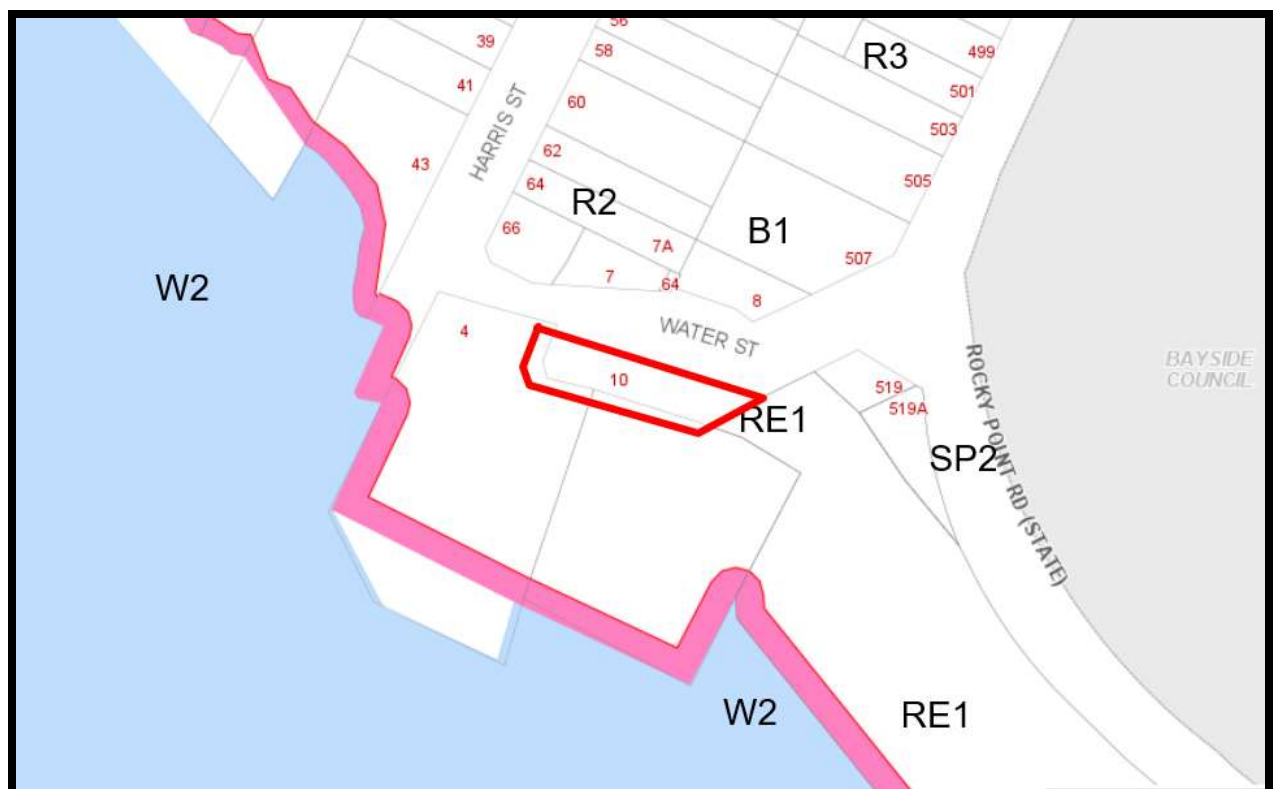


Figure 11: Foreshore map extract from the KLEP 2012

71. Subclause 3 requires the consent authority to assess and determine the impacts of the proposed development on the foreshore and ensure that it will not adversely affect or harm the environment and natural processes. The proposed development is consistent with the environmental considerations and purpose and the objectives of this planning provision.

Draft Georges River Local Environmental Plan 2020

72. Council has prepared a consolidated Local Environmental Plan which aims to harmonise the planning instruments and controls of the former Hurstville and Kogarah Council's into one consolidated and comprehensive LEP. The Plan has been publicly exhibited and is nearing adoption.
73. In respect to the subject site there is no change proposed to the existing recreational zoning and there are no new controls that will alter the current planning provisions for this site.

Kogarah Development Control Plan 2013 (KDCP)

74. The Kogarah Development Control Plan (KDCP) outlines general planning and design considerations for a variety of developments.
75. Part B, General controls are applicable to the development. Part B1 relates to works to Heritage Items and within Conservation Areas. The objectives of this part are to;
 - (a) *Ensure development protects and enhances the environmental and cultural heritage of Kogarah;*
 - (b) *Ensure proposed development is sympathetic to heritage items and Heritage Conservation Areas;*
 - (c) *Provide guidance on appropriate design, siting, bulk, materials, landscaping and streetscape character.*
76. This section requires proposals to address the heritage provisions of Clause 5.10 the KLEP and that a heritage management document is submitted with any application. These provisions have been satisfied and addressed in more detail above.
77. The other provisions within Part B in relation to tree preservation/removal, parking and traffic, waste minimisation and environmental management (which relates to the design and environmental performance of new buildings) are irrelevant in this case.
78. Part C3 of the KDCP relates to Foreshore and Waterfront controls. The subject site is not located within a designated Foreshore locality. The Sans Souci Foreshore Locality (highlighted in Part C4 of the KDCP) captures the area between Wellington Street and Harris Street and excludes the subject site. Much of the Foreshore Locality controls concentrate on development on the foreshore or water based activities ie jetties, pontoons, slipways, boat sheds etc. None of these types of works are proposed.
79. There are no other specific controls relevant to areas of public open space or this site. Therefore the provisions of the KDCP have been considered and the proposal is not inconsistent with this policy.

Georges River Development Control Plan 2020 (Interim Policy)

80. Council at its Environment and Planning Committee Meeting dated 24 June 2019 resolved to adopt the Georges River Interim Policy Development Control Plan which

became effective on 22 July 2019. 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.

81. The Policy does not have any provisions relating to areas of open space or public buildings. It is therefore not applicable in this instance to this proposal.

DEVELOPER CONTRIBUTIONS

82. The proposed development does not generate the need for monetary contributions pursuant to Section 7.11 of the Environmental Planning and Assessment Act 1979, as there is no increase in floor space or density created by the proposal that will create pressure on any public amenities.
83. Public assets are also exempt from requiring financial contributions as they provide public benefits for the wider community and LGA.

IMPACTS

Natural Environment

84. The proposed development is unlikely to result in adverse impacts on the natural environment as the proposal does not seek the removal of any existing trees or vegetation. The site will remain as part of the parkland and adjoining area of open space. Links to and from the subject site to the adjoining areas will be retained.

Built Environment

85. The proposed development will not adversely or detrimentally affect the character and nature of the streetscape and existing built environment in which it is situated.

Social Impact

86. No adverse social impacts have been identified as part of the assessment. The removal of the structure will create a safer environment as the derelict structure is unsafe, and dangerous in its current condition and state.

Economic Impact

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

Suitability of the site

88. The site is zoned RE1 – Recreation. The proposal is a permissible form of development in this zone and generally satisfies the zone objectives. Whilst the suitability of the site criteria relates mainly to new developments and their “fit” into the streetscape and area, the demolition of the structure will not detrimentally affect the nature of the area which will retain its zoning for open space and also restricts new uses and developments in these zones.

SUBMISSIONS AND THE PUBLIC INTEREST

89. The application was advertised and neighbour notified in accordance with Kogarah Development Control Plan 2013. A total of five (5) submissions were received including one (1) submission from the Kogarah Progress Society.

90. The following issues were raised as concerns.

- ***Retention of the Moreton Bay Fig***

91. Officer comment: The proposed works do not intend on affecting the significant Moreton Bay Fig which is recognised as a substantial and important tree. Standard conditions are imposed to ensure the safe retention of the tree and its preservation during the works.

- ***Lack of public consultation in regards to future use and redevelopment***

92. Officer comment: Council are currently in the process of tendering for a consultant to prepare a new Plan of Management for the site and associated Masterplan. This process involves extensive public consultation to ensure that any future redevelopment of the site is consistent with the public's needs and desires.

- ***Inconsistencies with the DA documentation especially the SEE report***

93. Officer comment: It is acknowledged that the SEE report includes some inconsistencies when referring to the site, its context and zoning. Although these references and comments are not technically correct they are considered to be small scale inaccuracies which have been rectified as part of this independent assessment report.

- ***Subdivision not required as land managed by Crown Reserve Trust***

94. Officer comment: Although the application refers to "subdivision" it essentially is legalising the allotment which has never been formalised. This is defined as "subdivision" although it is simply legally identifying this parcel of land as it has never been formally acknowledged. Possibly the site was considered as part of a roadway and simply overlooked as it has always been public land and a public facility.
95. The subdivision is creating a new lot (first lot) for this site which now can be properly identified and referred to. There is no intention on-selling this parcel of land as it is classified as "community land" and owned by the Crown.

- ***No costing prepared for the remedial works***

96. Officer comment: It is appreciated that costing the remedial works would assist in understanding the full extent of works required to retain and improve the structure from a financial perspective. The purpose of the Structural Condition Assessment on the Sans Souci Bathers Pavilion was to prepare a structural assessment to "*identify the risks and make suitable recommendations on the required remedial works in order to maintain longevity of the structure if possible*". If it was found that a reasonable amount of remedial works could occur to improve the structural integrity of the building no doubt these would have been suggested.
97. Cardno is a reputable and recognised global engineering company who are experienced in preparing these types of assessments. Their recommendation was simple "*due to the degree of severity of concrete spalling within the façade, it is possible that conventional concrete spalling repair would deem more expensive than to demolish and rebuild sections within the façade*". It is clear the extent of works are substantial and cost prohibitive without the need to break down costings for such works. If Cardno felt that a cost effective approach to the building's repair could be implemented they would have suggested this in the report as the longevity and retention of the structure would be in the best interest of Council and the public if there is an affordable option to do so. As such there is no need to cost the remedial works in this case given the state of the building.

- ***Disrespect for the historic significance of the site***

98. Officer comment: Some residents are disappointed that Council has mismanaged the building and allowed it to become rundown and in a state of disrepute. It has never been the intention of Council to have this building deteriorate to this state. In 2014 Council sought interest to lease the space and there were opportunities for redevelopment however this never eventuated.

99. The only way this building would not have deteriorated is by its continual use. Since the 1960's the baths were closed and prohibited to be used due to potential pollution of the waterway. Given the building was designed and built for a specific purpose adaptive reuse can often be complex particularly for public buildings. Council acknowledged the importance of the building by designating it as an item.

• ***Amend Schedule 5 of the KLEP to reflect natural features ie significant trees***

100. Officer comment: One submission suggested that the Moreton Bay Fig along with other important natural features within the LGA should be recognised as heritage items and Schedule 5 of the KLEP be extended to include these local features.

101. This is considered to be a valid planning consideration although this cannot be initiated through the Development Assessment process. This is a strategic planning issue.

• ***Implementation of a Historic marker for the Moreton Bay Fig***

102. Officer comment: This is considered to be a good suggestion. The provision of a historic marker near the Moreton Bay Fig should not only recognise the importance of the tree but also provide a photographic overview of the Baths and their origins. A condition is included if consent is to be issued.

103. This is a symbolic gesture that will reiterate the importance of the site and recognise its history and contribution to the local area.

• ***Inclusion of a number of conditions of consent is to be issued***

104. Officer comment: One submission including the Kogarah Progress Society letter requested that if consent is granted seven (7) conditions be imposed. The conditions are discussed below. Section 4.17 of the Environmental Planning and Assessment Act sets out the types of conditions that can be imposed by a consent authority. Conditions need to be valid and to ensure their validity the Newbury Test is applied. To satisfy the Newbury Test the following questions need to be considered:

Will the condition be imposed for a planning purpose? ie does the condition have regard to matters listed in S4.15 of the Act.

Does the condition fairly and reasonably relate to the proposed development? The condition needs to be fair and reasonable given the circumstances of the case.

Condition No.1 - Lot 1 shall remain in public ownership

105. This is not considered to be a valid condition given that the proposal is not seeking a change in ownership. It is not reasonable to request this condition as the Crown land ownership is not in question.

Condition No.2. - Any future building or buildings on Lot 1 shall not extend outside the footprint of the existing Bathers' Pavilion and in particular, NO building shall extend past the eastern wall of the existing Bathers' Pavilion so as to ensure there is no building encroachment within the tree canopy of the existing Moreton Bay Fig tree.

106. Again this is not considered a fair and reasonable condition as it is pre-empting future development which does not form part of this application.

107. As discussed earlier in this report the preparation of a new Plan of Management and associated Masterplan for the site can address this issue and provide an indicative footprint for future redevelopment of this site. The issue of height, scale, built form and

potential future building footprint and envelope/s should be addressed as part of this process.

Condition No.3. Public 'all weather' access shall be maintained along the foreshore of Lot 1.

108. This can be imposed to ensure that the Council maintains free and unfretted public access to the foreshore after the demolition occurs. This is a reasonable condition.

Condition No.4. Any future building or buildings on Lot 1 shall be no higher above street level than the existing Water Police building on the adjoining site.

109. This is again pre-empting future development on this site which does not form part of the application which is not considered to be a reasonable or fair condition. As discussed above this issue can be considered in the Masterplan development and consultation.

Condition No.5. To preserve the vista across Georges River from the footpaths in Water Street, any future building or buildings at street level on Lot 1 shall not occupy more than 50% of the length of the old pavilion building.

110. Same as above not considered a fair and reasonable condition as no new works or building is proposed as part of this application.

Condition No.6. Any future use of the site shall not include commercial development but be restricted to; a café, restaurant and public open space.

111. This proposed condition is not valid as the general use of the site cannot be restricted by a Condition of consent unless it relates to a new use on a site. The use of the site is not changing at this stage.

Condition No.7 The proposed Lot 1 shall remain community land.

112. Refer to Condition No.1 comments above. Ownership details are not being altered as part of this application.

REFERRALS

Council Referrals

Waste Management

113. The application was referred to Council's Coordinator of Environmental Sustainability and Waste for comment. No objections to the proposal have been raised with the following comments being made:

"The Waste Management Plan (D20/102701) adequately outlines the demolition works required for the proposed development, providing waste volume estimates. However, the applicant should maintain waste receipts to provide as evidence of Construction and on-going operational waste considerations are not included within the application."

114. Two standard conditions are recommended to be imposed if consent is to be granted which relate to the disposal of materials and waste from the Site.

External Referrals

Ausgrid

115. The application was referred to Ausgrid for comment. Ausgrid provided a formal comment and raised no objection to the proposed development subject to compliance

with relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice for construction works near existing electrical assets.

CONCLUSION

116. The proposal has been assessed using the matters for consideration listed in Section 4.15 of the Environmental Planning and Assessment Act 1979. The proposal is considered to be an acceptable and reasonable outcome for the site given the circumstances of the case.
117. The proposal has been assessed against the provisions of the Kogarah Local Environmental Plan 2012 and Kogarah Development Control Plan 2013 and the proposal satisfies the key planning controls.
118. Following detailed assessment contained within this report, it is recommended that DA2020/0166 be approved subject to a series of conditions being imposed if consent is to be granted.

DETERMINATION AND STATEMENT OF REASONS

Statement of Reasons

119. The reasons for this recommendation are:
- The proposed development generally complies with the requirements of the relevant environmental planning instruments and development control plan.
 - The detailed Heritage Assessment has assessed the significance and historical importance of the building and found that the integrity of the building has been severely diminished due to wear and tear, lack of use and vandalism. The building was also compared to other existing Bathers Pavilions that were built at a similar time and found that the Sans Souci building is not rare nor is it a good example of an Inter-War Functionalist style of architecture.
 - The Structural Condition Assessment prepared by Cardno concluded that the building is in very poor condition and its exposure creates a high level of risk and liability. The report concludes that remedial works are so extensive that the demolition and reconstruction would be the most cost-effective solution. Repairing the structure and bringing it up to being structurally compliant is cost prohibitive.
 - The proposed demolition of the Bathers Pavilion will make the area safer and less dangerous for the time being and will make the site accessible for the public.
 - The proposed subdivision of the allotment aims to create a formal, legal description and new allotment (first title creation) for this parcel of land which has never been formally or legally recognised.

Determination

120. THAT the Georges River Council Local Planning Panel, as the consent authority, pursuant to Section 4.15 of the Environmental Planning and Assessment Act 1979 (as amended) grant development consent to Development Application DA2020/0166 for the demolition of the existing Sans Souci Bathers Pavilion and create a new allotment for this parcel of land to be known as Lot 1 10 Water Street, Sans Souci subject to the following conditions:

DEVELOPMENT DETAILS

1. **Approved Plans** - The development will 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
Demolition – Ground Floor Plan	A 1001	10/3/2020	A	Conybeare Morrison International
Demolition – South Elevation	A 0002	10/3/2020	N/A	Conybeare Morrison International
Demolition Plan – Lower Ground Floor	A 1002	10/3/2020	N/A	Conybeare Morrison International
Demolition- Section	A 2001	10/3/2020	N/A	Conybeare Morrison International
Perspectives of the existing structure	A 9001	10/3/2020	A	Conybeare Morrison International
Survey Plan	No plan No.	3/12/2019	N/A	David John Tremain
Deposited Plan Administration sheet	No plan No.	27 February 2020 and 9 December 2019	N/A	David John Tremain

LPP029-20

The following additional reports and documents form part of this consent;

- Heritage Assessment report prepared by Weir Phillips Heritage and dated June 2018.
- Statement of Environmental Effects report prepared by Conybeare Morrison International and dated April 2020 (Rev B)
- Structural Condition Assessment of the Sans Souci Bathers Pavilion prepared by Cardno and dated 16 February 2018.
- Waste Management Plan report prepared by Conybeare Morrison International and dated 16 March 2020 (Rev A)

SEPARATE APPROVALS REQUIRED BY OTHER LEGISLATION

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

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

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

- Placing or storing materials or equipment;
- Placing or storing waste containers or skip bins;
- Erecting a structure or carrying out work

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

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

The relevant Application Forms for these activities can be downloaded from Council’s website www.georgesriver.nsw.gov.au. For further information, please contact Council’s Customer Service Centre on (02) 9330 6222.

3. **Road Opening Permit** - A Road Opening Permit must be obtained from Council and/or RMS 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.

PRIOR TO COMMENCEMENT OF WORKS

4. **Heritage** – the following conditions are imposed to ensure the heritage value and significance of the building is acknowledged and appropriately documented;

- (i) **Photographic Archival Recording** - Prior to the commencement of any works, including the dismantling of fabric or demolition, a Photographic Archival Recording shall be undertaken and submitted to Council.

Written confirmation must also be obtained from Council’s Heritage Advisor, confirming that the Photographic Archival Recording is of an acceptable quality that satisfies the requirements of this condition.

The Photographic Archival Recording shall be prepared in accordance with the guidelines “*Archival Recording of Heritage Items Using Film or Digital Capture*” published by the Heritage Council of NSW. One complete copy of the Photographic Archival Recording shall be submitted to Council and should contain (for digital projects):

- A brief report or introduction which explains the purposes of the Photographic Archival Recording and gives a brief description of the subject site, as well as details of the sequence in which images were taken. The report may also address the limitations of the photographic record and may make recommendations for future work;
- Measured floor and elevation plans of the building ‘as built’ at 1: 100 scale;
- A site plan of the building and remains of ancillary baths at min 1: 200 scale;

- Plans of the building and site marked up to indicate where the photographs were taken and the direction of the photograph;
- The report should include all technical details including camera and lenses, image file size and format, technical metadata associated with the images, and colour information;
- Catalogue sheets, photographic plan, supplementary maps;
- Colour thumbnail image sheets (e.g. A4 page with six images by six images) showing images and reference numbers. The thumbnail sheets should be processed with archivally stable inks on archivally acceptable photographic paper and cross referenced to catalogue sheets;
- One full set of 10.5x14.8cm (A6) colour prints OR, if a large project, a representative set of selected images processed with archivally stable inks on archivally acceptable photographic paper.
- A CD or DVD containing electronic image files saved as RAW and JPEG files with associated metadata, and cross-referenced to catalogue sheets.

The report should be presented on archival quality paper in a suitable archival binder and slipcase, and all storage of individual components must be in archival quality packaging suitable for long term storage.

(ii) Heritage Interpretation Strategy - Prior to the issue of any Construction Certificate, a Heritage Interpretation Strategy is to be prepared for the Sans Souci Bathers Pavilion site.

The Heritage Interpretation Strategy shall be prepared in accordance with the Heritage Council of NSW guidelines by a suitably qualified Heritage Consultant.

The Heritage Interpretation Strategy shall be submitted to Council and approved by Council's Heritage Advisor.

The Heritage Interpretation Strategy must identify at a minimum:

- i) The key themes and messages associated with the Sans Souci Bathers Pavilion;
- ii) The target audiences for interpretation;
- iii) Opportunities for interpretation at the site;
- iv) A strategy for interpretation measures at the site, which specifies the locations and mediums of the interpretation devices.

5. **Historic marker** – A historic marker/plaque shall be installed in an appropriate location (next to the Moreton Bay Fig Tree or along the footpath) and shall include historic photos of the tree and the Bathers Pavilion to recognise the historical significance of the site.

The historical interpretation is to be developed and prepared by a suitably qualified Heritage Professional and the marker shall be developed in accordance with Council's procedures for these structures and the Applicant shall liaise with Council's Cultural Services Section to obtain the plaque and details of its placement and design.

6. **Fencing** – New front fencing erected along Water Street shall either be a continuation of the sandstone wall or a new palisade, open style fence that is transparent and has a maximum height of 1.2m.

7. **Lower ground level** – After demolition the lower ground floor level treatment of the space (adjoining the foreshore) shall either comprise of an "at grade" standard concrete

slab “as existing” or new or the area laid with lawn whichever is more appropriate and both aesthetic and promotes safety.

8. **Access** - Public ‘all weather’ access shall be maintained along the foreshore of propped Lot 1.
9. **Crown Building Work** - Crown building, demolition and incidental work cannot be commenced to be carried out unless the Crown building and other development work is certified by or on behalf of the Crown to comply with the technical provisions of the State’s building laws except, as provided by Section 109R of the [Environmental Planning and Assessment Act 1979](#).
10. **Site Management Plan** - A Site Management Plan must be submitted with the application for a Construction Certificate, and include the following:
 - (a) location of protective site fencing;
 - (b) location of site storage areas/sheds/equipment, not within the curtilage of the heritage item;
 - (c) location of building materials for construction, e.g. stockpiles not within the curtilage of the heritage item
 - (d) provisions for public safety;
 - (e) dust control measures;
 - (f) method used to provide site access location and materials used;
 - (g) details of methods of disposal of any materials off site;
 - (h) method used to provide protective measures for tree preservation;
 - (i) provisions for temporary sanitary facilities;
 - (j) location and size of waste containers/skip bins, not within the curtilage of the heritage item;
 - (k) details of proposed sediment and erosion control measures;
 - (l) method used to provide construction noise and vibration management;
 - (m) traffic management details during construction.

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

11. **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: **\$75,396.00** (based on 61m frontage and \$1236.00 per metre)
 - (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: **\$375.00** (one inspection at completion of works)
 - (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.

12. **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.

13. **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.
14. **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](#).
15. **Building – Hoarding Application** - Prior to demolition of the buildings on the site or the

commencement of work above ground level a separate application for the erection of an A class (fence type) or a B class hoarding or C type scaffold, in accordance with the requirements of Work Cover Authority of NSW, must be erected along that portion of the footway/roadway where the building is within 3.0 metres of the street boundary. An application for this work under Section 68 of the Local Government Act 1993 and the Roads Act 1993 must be submitted for approval to Council.

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

Tree Species	Location of Tree / Tree No.	Tree Protection Zone (metres) TPZ as per AS4970 -2009 Fencing distance from trunk
<i>Ficus macrophylla</i>	Councils reserve, east of subject site	Greater than 15 metres radially out from its trunk

(a) 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.

(b) A certificate of compliance letter for tree protection measures shall be completed and forwarded to the PCA – Principal Certifying Authority, at three (3) stages being 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.

17. **Tree Removal prohibited** - This consent does not approve the removal or pruning (branches or roots) of any trees on the subject property, Council's public footway, public reserves or on neighbouring properties.

18. **General Tree Protection Measures** – The following conditions have been imposed to ensure the large Moreton Bay Fig tree adjoining the site will be protected and safeguarded during works;

- (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) The tree protection measures must be undertaken in accordance AS4970 - 2009 *Protection of trees on development sites*.
- (c) Details of the tree protection measures (fencing and signage) 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.
- (d) 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 *Ficus macrophylla* shall 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. (Check tree location and whether this is required after a site inspection)
- (f) No building products/ materials or services shall be installed within the TPZ of the tree. This fence shall be installed prior to site set up and 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.

The engaged AQF 5 Consulting Project Arborist must be present on-site during the stages of site set up, 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 Councils tree.

19. **Site Management** - The site management measures are to be implemented prior to the commencement of construction works. The site management measures are to be maintained throughout the works, to maintain reasonable levels of public health, safety and amenity. A copy of the Site Management Plan will be kept on site and is to be made available upon request.
20. **Site Safety Fencing** - Site fencing will be erected in accordance with SafeWork Guidelines, to exclude public access to the site throughout the construction work, except in the case of alterations to an occupied dwelling. The fencing will be erected before the commencement of any work and maintained throughout all construction work.

A high risk work license may be required from SafeWork NSW (see www.SafeWork.nsw.gov.au).

21. **Notification Requirements** - The following notification requirements apply to this consent:
 - (a) The developer/builder will notify adjoining residents five (5) working days prior to excavation. Such notification is to be a clearly written note giving the date works will commence, contact details of the developer/builder 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 site.
 - (b) Five (5) working days prior to excavation, the developer/builder is to provide written notification to Council advising of the commencement date, and details of the list of residents advised of the works.
22. **Notice of Commencement** - The beneficiary of the development consent must give at least two (2) days' notice to the Council and the Principal Certifier of their intention to commence the works.
23. **Notification of Critical Stage Inspections** - No later than two (2) days before the building work commences, the Principal Certifier must notify:
 - (a) the consent authority and the Council (if not the consent authority) of his or her appointment; and
 - (b) the beneficiary of the development consent of the critical stage inspections and other inspections that are to be carried out with respect to the building work.

DURING CONSTRUCTION

24. **Site sign** - A clearly legible *Site Management Sign* is to be erected and maintained throughout the course of the works. The sign is to be centrally located on the main street frontage of the site and is to clearly state in legible lettering the following:

- a) The builder's name, builder's telephone contact number both during work hours and after hours.
 - b) That no works are to be carried out in Council's Road Reserve without prior application and approval of a Road Opening Permit from Council.
 - c) That a Road Opening Permit issued by Council must be obtained for any road openings or excavation within Council's Road Reserve associated with development of the site, including stormwater drainage, water, sewer, electricity, gas and communication connections. During the course of the road opening works the Road Opening Permit must be visibly displayed at the site.
 - d) That no skip bins or materials are to be stored on Council's Road Reserve.
 - e) Details of the contact number for Council for permits.
25. **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.
26. **Hours of Construction 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 must not be performed, or permitted to be performed, except between the hours of 7.00 am to 5.00 pm, Monday to Saturday inclusive. No work or ancillary activity is permitted on Sundays, or Public Holidays.
27. **Damage within Road Reserve & Council Assets** - The owner will bear the cost of restoring any footpath, roadway and any other Council assets damaged due to works at, near or associated with the site. This may include works by Public Utility Authorities in the course of providing services to the site.
28. **Heritage (Archaeology)** - As required by the *National Parks and Wildlife Service Act 1974* and the *Heritage Act 1977*, in the event that Aboriginal cultural heritage or historical cultural fabric or deposits are encountered/discovered where they are not expected, works must cease immediately and Council and Heritage NSW must be notified of the discovery.

In the event that archaeological resources are encountered, further archaeological work may be required before works can re-commence, including the statutory requirement under the Heritage Act 1977 to obtain the necessary approvals/permits from Heritage NSW.

Note: The *National Parks and Wildlife Service Act 1974* and the *Heritage Act 1977* impose substantial penalty infringements and / or imprisonment for the unauthorised destruction of archaeological resources, regardless of whether or not such archaeological resources are known to exist on the site.

29. **Waste disposal** - 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.

30. **Public Utility & Telecommunication Assets** - The owner will bear the cost of any relocation or modification required to any Public Utility Authority assets including telecommunication lines & cables and restoring any footpath, roadway and any other Council assets damaged due to works at, near or associated with the site
31. **Allocation of street addresses** - In order to comply with AS/NZS 4819:2011 Rural and Urban Addressing, the NSW Addressing User Manual (Geographical Names Board of NSW) and Georges River Council's requirements, the street address for the subject development is allocated as follows:

Primary Address

10 Water Street, Sans Souci NSW 2219

PRIOR TO THE ISSUE OF THE SUBDIVISION CERTIFICATE

32. **Implementation of Heritage Interpretation Strategy** - Prior to the issue of any Subdivision Certificate, the Heritage Interpretation Strategy, together with any recommended heritage interpretation devices, shall be fully implemented and completed. Details demonstrating compliance shall be submitted to the satisfaction of Council.
33. **Site works to be completed prior to issue of Subdivision Certificate** - The following works shall be completed prior to the issue of the Subdivision Certificate:
 - (a) All demolition works as per this consent.
 - (b) Replace all redundant vehicle crossing laybacks with kerb and guttering, any new or replaced/upgraded footpaths and new fencing along Water Street.
34. **Final Subdivision Plan Requirements** - A final Subdivision Plan shall be prepared by a Registered Surveyor and include (but not be limited to) the following:
 - (a) Required Easements
The following easements shall be created by Section 88B of the [Conveyancing Act 1919](#) on the Final Subdivision Plan.
 - i. Any necessary Easements to Drain Water, (minimum 1m wide).
 - ii. Any necessary Easements for Services (minimum 300mm wide).
 - iii. Any necessary Easements for overhanging roof structures.

OPERATIONAL REQUIREMENTS UNDER THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

35. **Notice of Commencement** - The applicant must give at least two days notice to the Council and the Principal Certifier of their intention to commence the erection of a building.
36. **Critical Stage Inspections** - The last critical stage inspection must be undertaken by the Principal Certifier. The critical stage inspections required to be carried out vary according to Building Class under the Building Code of Australia and are listed in Clause 162A of the Environmental Planning and Assessment Regulation 2000.
37. **Tree Protection Measures** - A final certificate of compliance letter, once all building and landscape works have been completed, from the engaged AQF 5 Consulting Arborist, that tree protection measures have been installed and maintained for the entirety of the project and report on the condition of the trees that as part of this Consent, were to be protected and retained.

PRESCRIBED CONDITIONS

38. **Clause 98A – Erection of Signs** - Requires the erection of signs on site and outlines the details which are to be included on the sign. The sign must be displayed in a prominent position on site and include the name and contact details of the Principal Certifier and the Principal Contractor.

END CONDITIONS

NOTES/ADVICES

39. **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.

40. **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.
41. **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.
42. **Access to NSW Legislations (Acts, Regulations and Planning Instruments)** - NSW legislation can be accessed free of charge at www.legislation.nsw.gov.au
43. **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.

44. **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).

ATTACHMENTS

Attachment Survey and Subdivision Plan - Sans Souci Bathers Pavilion

[↓ 1](#) 

Attachment Demolition Elevation - Sans Souci Bathers Pavillion

[↓ 2](#) 

Attachment Demolition Section - Sans Souci Bathers Pavillion

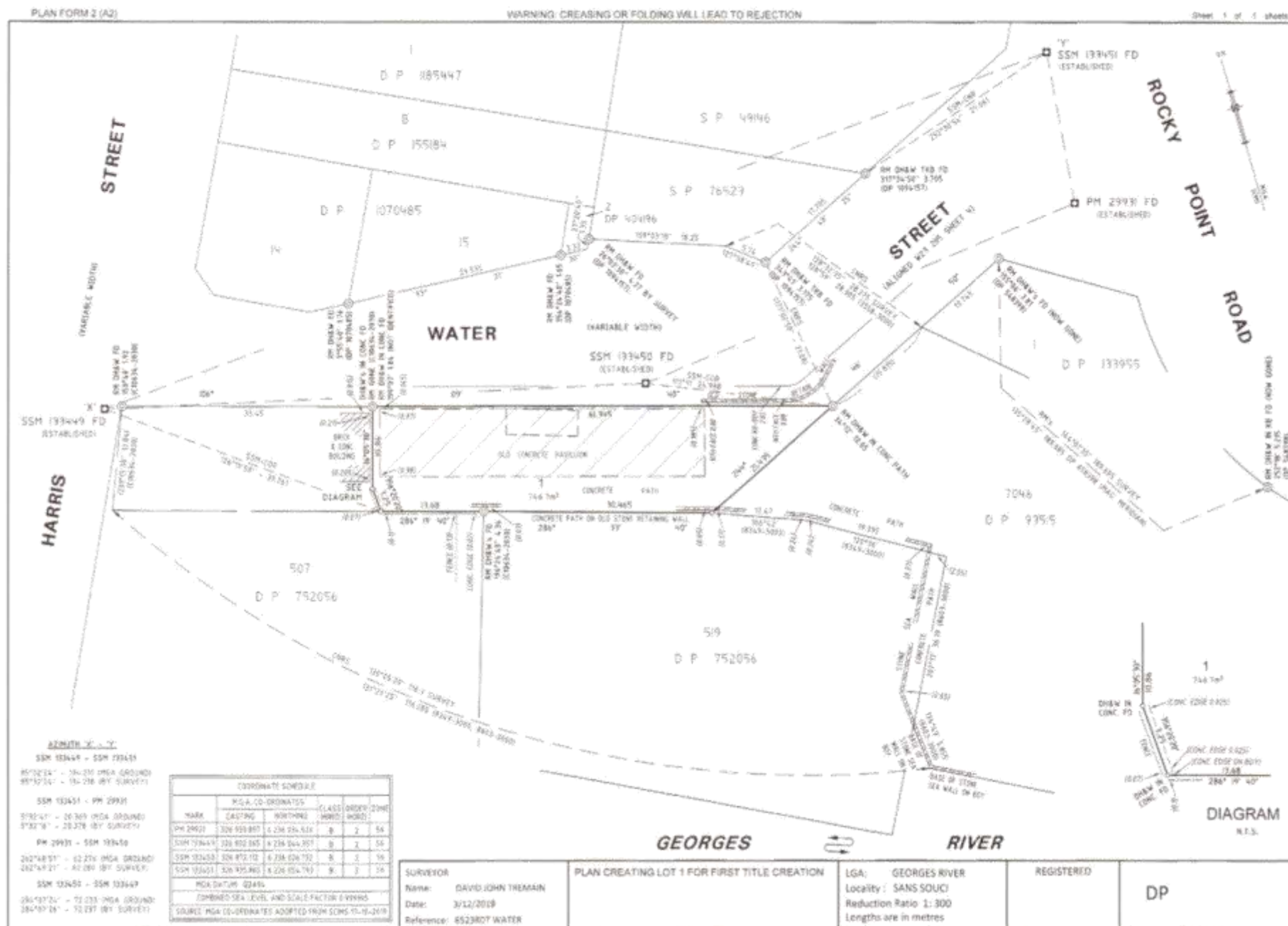
[↓ 3](#) 

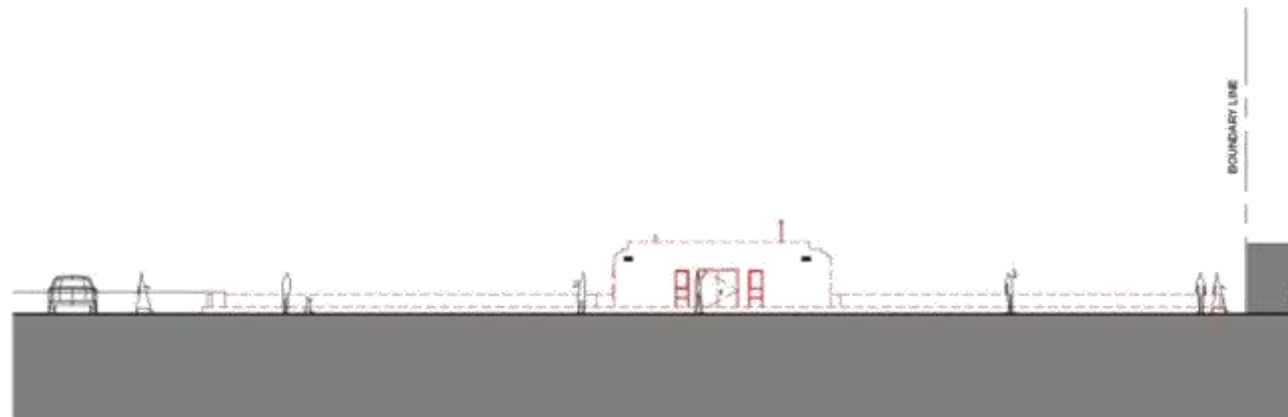
Attachment Demolition Plan Ground Floor - San Souci Bathers Pavilion

[↓ 4](#) 

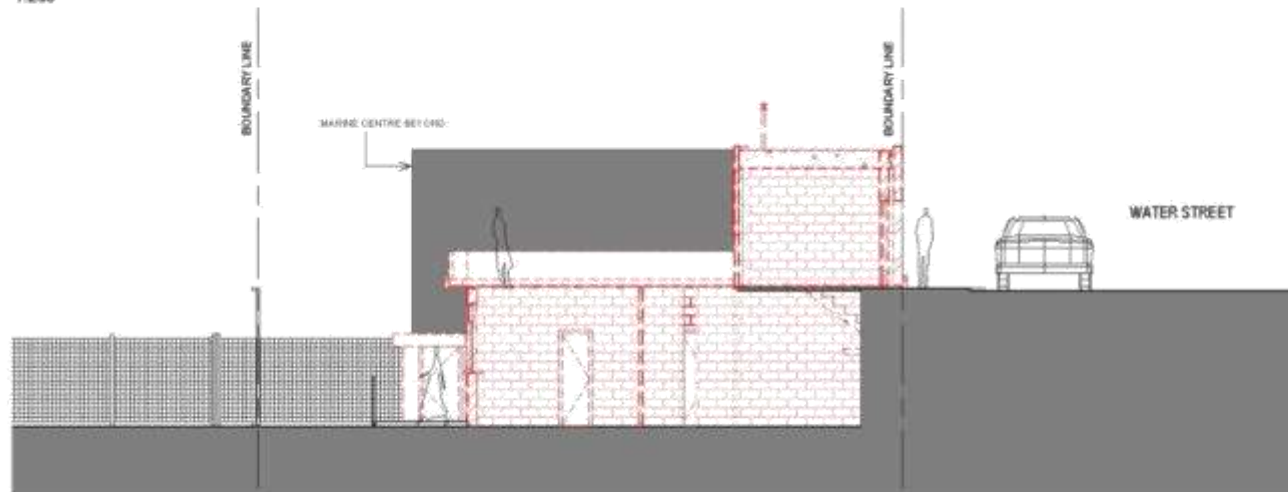
Attachment Demolition Plan Lower Ground Floor - Sans Souci Bathers Pavillion - 10 Water St Sans Souci

[↓ 5](#) 





EXISTING / DEMOLITION - NORTH ELEVATION
1:200



EXISTING / DEMOLITION - SECTION
1:200

DEMOLITION NOTES
VERIFY ALL EXISTING CONDITIONS ON SITE PRIOR TO COMMENCING. NOTIFY ARCHITECT IF SITE CONDITIONS VARY FROM DRAWINGS.

ALL EFFORTS HAVE BEEN MADE TO NOTE PRINCIPLE DEMOLITION REQUIREMENT / WORKS. WHERE THE CONTRACTOR REQUIRES ADDITIONAL DEMOLITION, SUPPORTING OF EXISTING STRUCTURES OR MAKING GOOD OF ZONES RESULTING IN THE DEMOLITION PROCESS, THE CONTRACTOR SHALL ALLOW FOR SUCH WORKS AS REQUIRED TO COMPLETE THE WORKS.

IT IS THE CONTRACTOR'S RESPONSIBILITY TO ENSURE THE WORKS ARE CONDUCTED IN ACCORDANCE WITH THE REQUIREMENTS OF LOCAL AUTHORITIES, APPROVED BUILDING PRACTICES AND ALL RELEVANT LEGISLATION.

REFER TO SURVEY PLAN FOR EXISTING SITE CONDITIONS.

READ DEMOLITION DRAWINGS IN CONJUNCTION WITH STRUCTURAL ENGINEER'S DRAWINGS AND SPECIFICATIONS.

REFER TO SERVICES DRAWINGS FOR THE EXTENT OF ELECTRICAL, MECHANICAL AND HYDRAULIC SERVICES RELOCATION, DISCONNECTION OR REMOVAL. DE-COMMISSION, CAP AND SEAL ALL SERVICES TO BE TERMINATED OR DISTURBED BY DEMOLITION WORKS. PLACE MARKERS TO INDICATE LOCATION OF DISCONNECTED SERVICES.

ALLOW FOR DRILLING/ CUTTING OF CORE HOLES AND SERVICES PENETRATIONS FOR ALL NEW SERVICES THROUGH EXISTING BUILDING ELEMENTS AS REQUIRED BY SERVICES ENGINEERING DOCUMENTATION.

THE CONTRACTOR IS RESPONSIBLE FOR MANAGING ALL MATERIAL LOADING & UNLOADING ON SITE RELATING TO THE DEMOLITION WORKS.

IT IS THE CONTRACTOR'S RESPONSIBILITY TO REPAIR AND MAKE GOOD WATERPROOFING DISTURBED BY DEMOLITION WORKS AND MARRY IN AND MAKE GOOD WITH THE NEW WORK.

PROVIDE AND MAINTAIN HOARDING, BARRICADES, LIGHTING AND GUARDRAILS AS REQUIRED BY APPLICABLE CODES AND REGULATIONS TO PROTECT OCCUPANTS OF BUILDING AND WORKERS. COMPLY WITH ALL REGULATIONS PERTAINING TO SAFETY OF PERSONS, PROPERTY AND THE ENVIRONMENT.

LEAVE CONTRACT AREAS AND SITE CLEAN, ORDERLY AND ACCEPTABLE FOR NEW CONSTRUCTION. ALL SURFACES TO BE LEFT IN GOOD ORDER, MAKE GOOD AND PROFESSIONALLY REPAIR ALL HOLES WEATHER TIGHT AND TO EQUIVALENT FIRE RATING OF SURROUNDING CONSTRUCTION AS REQUIRED.

PREVENT MOVEMENT OR SETTLEMENT OF STRUCTURE(S) PROVIDE AND PLACE BRACING OR SHORING IN ACCORDANCE WITH STRUCTURAL ENGINEER'S DETAILS AND BE RESPONSIBLE FOR SAFETY AND SUPPORT OF STRUCTURE DURING THE WORKS. ASSUME LIABILITY FOR SUCH MOVEMENT, SETTLEMENT, DAMAGE OR INJURY.

THE CONTRACTOR IS TO ALLOW FOR THE REMOVAL AND DISPOSAL OF ALL DEMOLISHED MATERIALS, DEBRIS, REFUSE AND RUBBISH ASSOCIATED WITH THE DEMOLITION WORKS.

CM⁺

COMP-BEARS INFORMATION (INTERNAL USE ONLY)
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David Congdon NDIS ARB No. 2252 |
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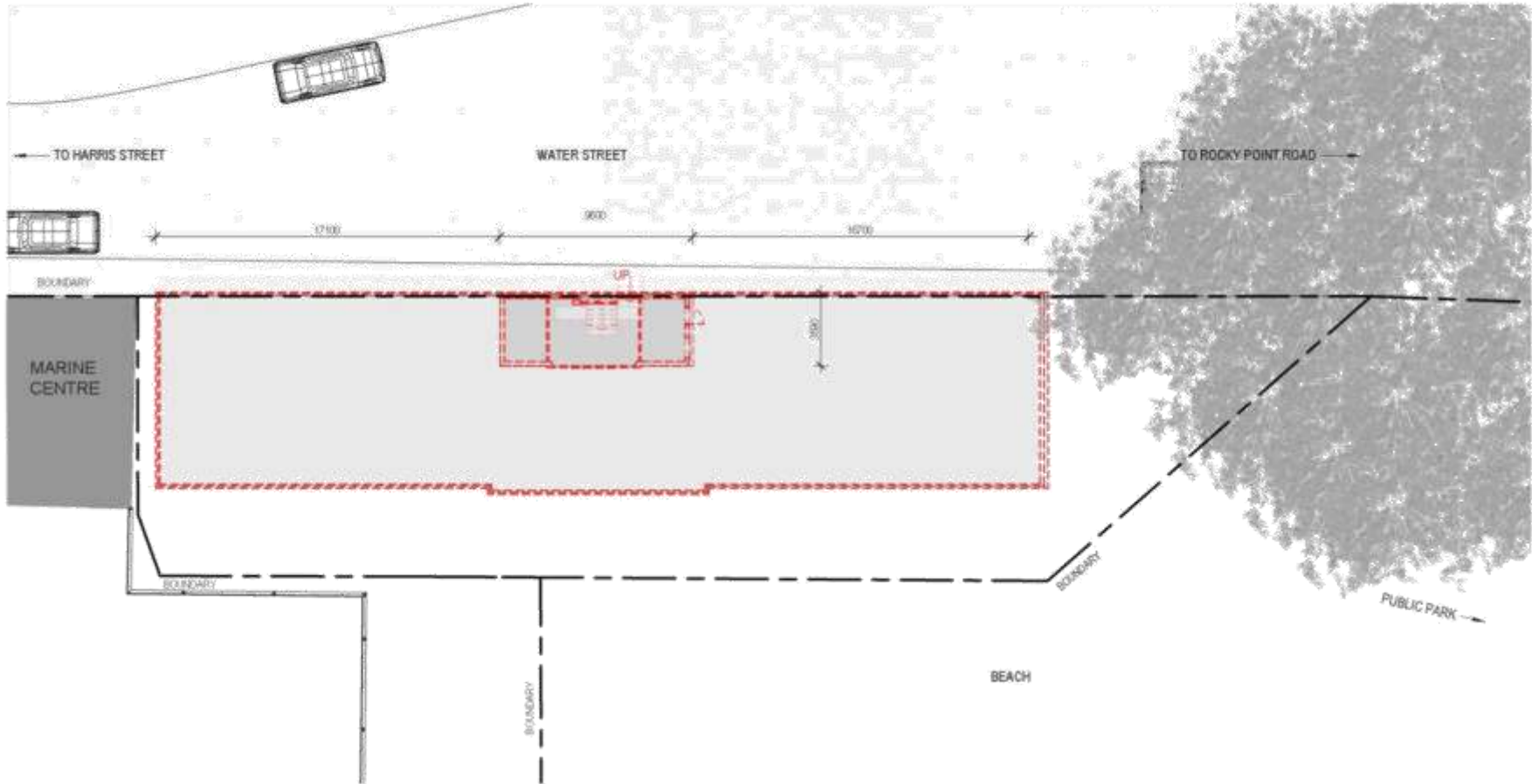
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DATE
ISSUED DRAW 1 FOR REVIEW

JOB
SANS SOUCI BATHERS PAVILION
WATER STREET, SAN SOUCI, NSW

TITLE
EXISTING / DEMOLITION - SECTION /
ELEVATION
DATE 2020-07-01

JOB NO. 19020 | DRAWN A.S. | DESIGNED A.S. |
SCALE 1:200 | 1:200 | 1:200 |
A 2001



EXISTING / DEMOLITION - GROUND FLOOR PLAN
1:200

UNLESS STATED OTHERWISE ENTIRETY OF
BUILDING TO BE DEMOLISHED.

EXISTING ELEMENT

DEMOLISHED ELEMENT



CM+ BEARS WORKS ON INTERIOR DESIGN, PL
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Daniel Conaghan MCM/ARD Reg 22521
DB Munkach MCM/ARD Reg 2467

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Daniel Conaghan MCM/ARD Reg 22521
DB Munkach MCM/ARD Reg 2467



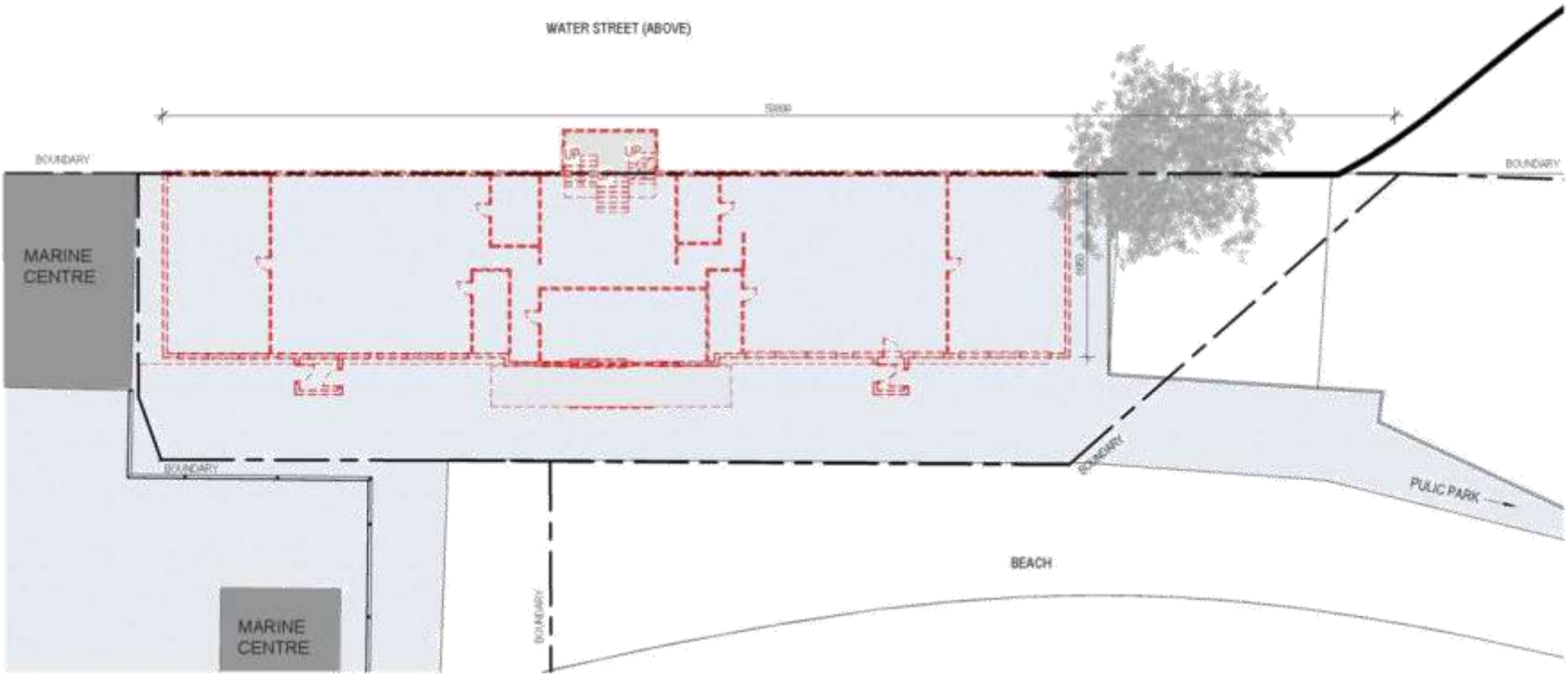
ISSUED DRAFT FOR REVIEW

SANS SOUCI BATHERS PAVILION
WATER STREET, SAN SOUCI, NSW

EXISTING-DEMOLITION GROUND FLOOR
DATE 10/07/2020

JOB NO. 10023
SCALE 1:200 @ A0
SCALE 1:200 @ A1

DRAWING NO. A 1001
REV A



EXISTING / DEMOLITION - LOWER GROUND FLOOR PLAN
1:200

UNLESS STATED OTHERWISE ENTIRETY OF
BUILDING TO BE DEMOLISHED.

- EXISTING ELEMENT
- DEMOLISHED ELEMENT



COMP BEARS WORKS DESIGN & CONSTRUCTION PTY LTD
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ISSUE
ISSUED DRAFT FOR REVIEW

JOB
SANS SOUCI BATHERS PAVILION
10 WATER STREET, SAN SOUCI, NSW

DATE
EXISTING/DEMOLITION - LOWER GROUND
FLOOR
DATE 2020/07/16

JOB NO. 10029 | DRAWN A.L. | DRAWING NO. REV.
SCALE 1:200 @ A0 | SCALE 1:200 @ A1 | A 1002

**REPORT TO GEORGES RIVER COUNCIL
LPP MEETING OF TUESDAY, 21 JULY 2020**

LPP030-20

LPP Report No	LPP030-20	Development Application No	DA2019/0388
Site Address & Ward Locality	15 Melvin Street Beverly Hills Hurstville Ward		
Proposed Development	Demolition of existing structures and construction of a two storey ten (10) room boarding house over basement parking for five (5) vehicles, landscaping and site works		
Owners	Mr Malek Danawe		
Applicant	Nuovo Design Studio Pty Ltd		
Planner/Architect	Planner: Rockeman Town Planning Architect: Nuovo Design Studio Pty Ltd		
Date Of Lodgement	28/08/2019		
Submissions	Three (3) individual submissions		
Cost of Works	\$1,571,748.00		
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)		
List all documents submitted with this report for the Panel's consideration	Architectural Plans; Statement of Environmental Effects; Plan of Management of Boarding House; Preliminary Site Investigation Report; BCA and Accessibility Report; Traffic and Parking Assessment Report; Geotechnical Report; Acoustic Report; BASIX Certificate, Cost Summary 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	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, the conditions can be reviewed when the report is published.

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 single lodger rooms, over a basement car park for five (5) vehicles, landscaping and site works.

Site and Locality

2. The subject site is a rectangular shaped allotment located on the western side of Melvin Street Beverly Hills. The site has a frontage of 12.505m and a site area of 581.7sqm. The

local area is characterised by single and two (2) storey dwelling houses and dual occupancy developments. The eastern side of Melvin Street is zoned R3 medium density residential.

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, three (3) individual submissions were received objecting to the application. The issues raised are summarised below:
 - Operation of Boarding House;
 - Privacy and overlooking;
 - Acoustic nuisance due to Driveway;
 - Drafting errors;
 - Solar amenity and overshadowing;
 - Dilapidation report; and
 - Size of rooms and compliance with State Environmental Planning Policy (Affordable Rental Housing) 2009.

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 (DA2019/0388) is recommended for approval subject to conditions referenced at the end of this report 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 single lodger rooms and a basement car park for five (5) vehicles, landscaping and site works. Two (2) of the rooms are nominated as accessible rooms. The total capacity of the boarding house is ten (10) people.
7. Further details of the proposed development are as follows:

Demolition and Excavation

- Demolition of the existing single storey residential dwelling;
- Removal of three (3) trees within the site;
- Excavation to accommodate the basement car park.

Construction

- Basement layout:
 - Construction of a basement car park for five (5) vehicles (B85 designed) one (1) of which is an accessible space.
 - Accommodation for four (4) motorcycle spaces and two (4) bicycle spaces.
 - Garbage room.
 - Lift connecting to the ground level.
 - Staircase connecting to upper levels.

- Vehicular access from a new vehicle crossover and 3.5m driveway located to the northern western side boundary of the allotment.
- Ground floor layout:
 - Front landscaping and porch area.
 - Provision of five (5) self-contained single lodger boarding rooms two (2) of which nominated as adaptable.
 - Two (2) common rooms one of which includes a laundry area, fridge, hotplates and provides access to the rear communal verandah area. The other located facing Melvin Street.
 - Common open space area at the rear.
 - Ancillary landscape works.

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

- First floor layout:
 - Provision of five (5) self-contained single lodger boarding rooms, with one (1) room including a balcony facing Melvin Street;
 - Two (2) service storage rooms within main hallway;

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

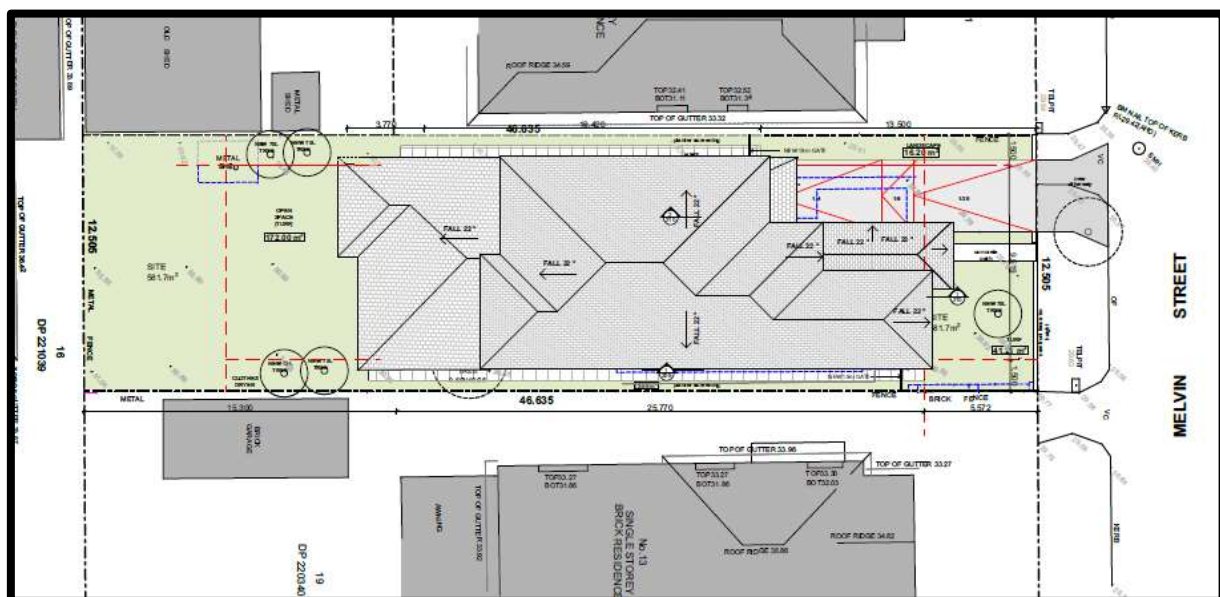


Figure 2: Proposed site plan – 15 Melvin Street Beverly Hills (Source: Nuovo Design Studio Pty Ltd 2020)

The Site and Locality

8. The site is identified as Lot 18, DP220340 being 15 Melvin Street Beverly Hills. The site is situated on the western side of Melvin Street with a street frontage of 12.505m, site lengths of 46.635m, and an overall site area of 581.7sqm (by DP). The allotment is regular in shape presenting a slight fall from the rear of the site towards the street edge along Melvin Street.
9. The site currently accommodates a single storey clad dwelling with a rear detached metal shed. 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, dual occupancies, and multi dwelling housing development and residential flat buildings across Melvin Street to the east. The subject site is located directly opposite an unnamed lane, and is 30m south east of the intersection of Melvin Street and Rodney Crescent.
11. Immediately adjoining the site to the south is a single storey brick and tiled dwelling with detached outbuilding at the rear. Adjoining the site to the north is a single storey clad dwelling. The rear of the site adjoins the garage associated with 19 Melvin Street.
12. The eastern side of Melvin Street is zoned medium density residential and contains three (3) storey residential flat buildings and multi dwelling housing developments.
13. In the wider context, the subject site is located approximately 200m from a B2 Local Centre Zone located along King Georges Road, and approximately 20m from an R3 Medium Density Residential Zone. The site is approximately 550m from Beverly Hills Train Station (being the T8- Airport and South Train Line).



Figure 3: Streetscape view of 15 Melvin Street Beverly Hills

Background

14. A pre-lodgement application being PRE2019/0006 was lodged for an eleven (11) room boarding house over a basement parking for six (6) vehicles.
15. The issues raised included concerns relating to the front setback, the basement, privacy, and overall compliance with the State Environmental Planning Policy (Affordable Rental Housing) 2009.
16. The proposal was amended prior to lodgement taking into consideration the issues raised in the pre-lodgement meeting.

17. The proposal as originally lodged included a total of eleven (11) rooms with a basement car parking for six (6) vehicles. Through the assessment process, this has been reduced to a total of ten (10) rooms and a basement servicing five (5) vehicles.

Compliance and Assessment

18. 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

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

STATE ENVIRONMENTAL PLANNING POLICY (AFFORDABLE RENTAL HOUSING) 2009

20. 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

21. 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.'*

22. 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.'***

23. By virtue of the definition, the subject site at 15 Melvin Street Beverly Hills satisfies the requirements of an accessible area under Clause 4(1)(a), as the site is located 550m from the public entrance to a railway station being Beverly Hills Train Station.

Clause 29 - Standards that cannot be used to refuse consent

24. 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).	0.53:1 or 313.4sqm	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.	8.02m	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 Melvin Street 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 main communal room located along the front portion of the ground floor will receive the required solar amenity through the windows located along the north eastern street façade.	Yes
Private Open Space (other than the front setback area)	If a minimum of the following is provided: (i) one area of at least 20sqm with a minimum dimension of 3m is provided for the use of the lodgers	20sqm area is provided in the form of the communal terrace at the rear of the building with a minimum dimension of	Yes

	(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	3.0m. The area is accessible to all residents. No accommodation is provided for an onsite manager.	N/A
Parking	(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,	In this case: 10 lodger rooms x 0.5 car space = 5 car spaces required, 5 car spaces have been provided.	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 (ii) 16sqm in any other case	The rooms are single lodger rooms being a minimum 12sqm, with the biggest room being 15.32sqm. All proposed rooms are single lodger rooms and will be conditioned accordingly.	Yes N/A

Clause 30 - Standards for Boarding Houses

25. 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	10 rooms proposed – one (1) main 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	Rooms range between 12sqm – 15.32sqm (excluding area of bathrooms and kitchens).	Yes

	facilities) of more than 25sqm		
Maximum occupancy	(c) no boarding room will be occupied by more than 2 adult lodgers	As all rooms are single lodger room, all rooms will be occupied by a single lodger only, the application will be conditioned accordingly.	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	No boarding house manager is required or has been provided, as the number of lodgers (10 in total) does not exceed 20.	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 10 boarding rooms provided: 2 motorcycle and 2 bicycle spaces required. 4 of each have been provided.	Yes

30AA Boarding houses in Zone R2 Low Density Residential

26. 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.

27. The proposed boarding house is located in an R2 Low Density Residential zone and consists of ten (10) single lodger boarding rooms.

Clause 30A – Character of local area

28. 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.

29. 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).

30. 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

31. 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.
32. The 'local area' in this case is taken to include both sides of Melvin Street and the immediate surrounding streets. Within this local area, development is primarily characterised by single and double storey dwelling houses in addition to multi dwelling housing developments and residential flat building located on the opposite side of Melvin Street.
33. 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.***

34. 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, dual occupancies, in addition to the R3 medium density residential zone located on the opposite side of Melvin Street which contains multi-unit housing and three (3) storey residential flat buildings.
35. 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 Melvin Street, 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.
36. The proposal adopts traditional architectural form and materiality. The development includes pitched roof elements with a tiled roof and rendered brickwork which is consistent with surrounding development.
37. 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.
38. 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?

39. Comment: The existing streetscape is characterised by single and two (2) storey detached dwellings, in addition to the R3 medium density residential zone on the opposite side of Melvin Street which contains multi-unit housing and three (3) storey residential flat buildings. Pitched tiled roof forms are common and can be found on the majority of

dwellings within the R2 low density locality in which the site is located. This development proposes a pitched roof form that is consistent with that of the locality.

40. In relation to the side facades, the northern and southern side elevations provide adequate articulation and appropriate architectural relief. All windows along the side façades are a minimum of 1.6m above the finished floor level of the room in which they are located and are treated to address overlooking impacts accordingly.
41. With the absence of a statement of desired future character in the Development Control Plan, 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 there considered to be of an appropriate scale and character within the streetscape.

Comparison Table

42. 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 (2) storey dwelling house.
43. 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 as referenced below.

Control	Single Dwelling	Proposal
Height	9m	8.02m
Maximum ceiling height	7.2m	5.9m
Floor Space Ratio	0.6:1 (0.55:1 for dwelling house only)	0.53:1
Landscape (minimum 2m x 2m)	20%	35% or 204sqm (minimum 2m x 2m)
<u>Setbacks:</u> <u>Front</u>	4.5m	5.572m from main building facade, 4.5m from columns of the front porch
<u>Rear setback:</u> Ground	3m	13.4m
First	6m	19.4m
<u>Side setback:</u> Ground	900mm	North West – 1.5m South East - 1.5m
First	1.2m	North West – 1.5m South East - 1.5m
		NB: the basement is

		excavated to approximately 100mm of the side boundaries.
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44. 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 for the R2 zone, the medium density zoning on the opposite side of Melvin Street is changing from R3 medium density to R4.
45. 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 Melvin Street 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

46. Based on historical aerial maps, it was noted that the rear yard of the site was used for the disorganized storage of goods. A Preliminary Site Investigation Report was requested to be submitted. Subsequently, a Preliminary Site Investigation Report prepared by Neo Consulting (reference N4357 dated 11 May 2020) submitted concluded that the site is suitable for the proposed development subject to a number of recommendations including the preparation of a Hazardous Materials Survey prior to the release of construction certificate. A condition has been imposed requiring the applicant to fulfil the recommendations of the report.

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

47. A BASIX Certificate is required to be lodged for any residential development application in NSW. BASIX Certificate 1030730M dated 4 June 2020 prepared by Eco Certificated Pty Ltd was lodged to confirm that the proposed development satisfies the sustainability requirements.

STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007

48. 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.
49. The proposed development has also triggered the provisions of Clause 66C of the Infrastructure SEPP. The application, being a 'Sensitive Use' has been referred to APA (*Australian Pipelines and Gas Association*) for comment on the affectation, and in particular AS 2885 Sensitive Uses within the Measurement Length (590 metre - measured radially) of MSE.

The primary land use classification of the sections of the APA's MSE (through Georges River LGA) is a mixture of Residential (T1) and High Density (T2). Secondary land use classifications can be paired with primary land use classifications for the pipeline and the relevant classification being Sensitive (S). As the use is a health care services use it has

been identified as a sensitive use. The application has thus been referred to APA for comment.

50. APA reviewed the application and did not raise any objections or request conditions to be imposed.

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

51. The Vegetation SEPP regulates clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent.
52. 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).
53. 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.
54. 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).
55. Three (3) trees are nominated to be removed as part of the works. The application was referred to Council's Consultant Arborist who did not object to the removal of these trees subject to the replanting of six (6) trees within the site. In addition, a Council street tree will be required to be planted within the Council landscape verge within the frontage of the site. Specific conditions of consent have been imposed accordingly.

Draft Environmental Planning Instruments

DRAFT ENVIRONMENTAL STATE ENVIRONMENTAL PLANNING POLICY

56. 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.

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

DRAFT REMEDIATION OF LAND STATE ENVIRONMENTAL PLANNING POLICY

58. 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.

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

HURSTVILLE LOCAL ENVIRONMENTAL PLAN 2012

60. 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.

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

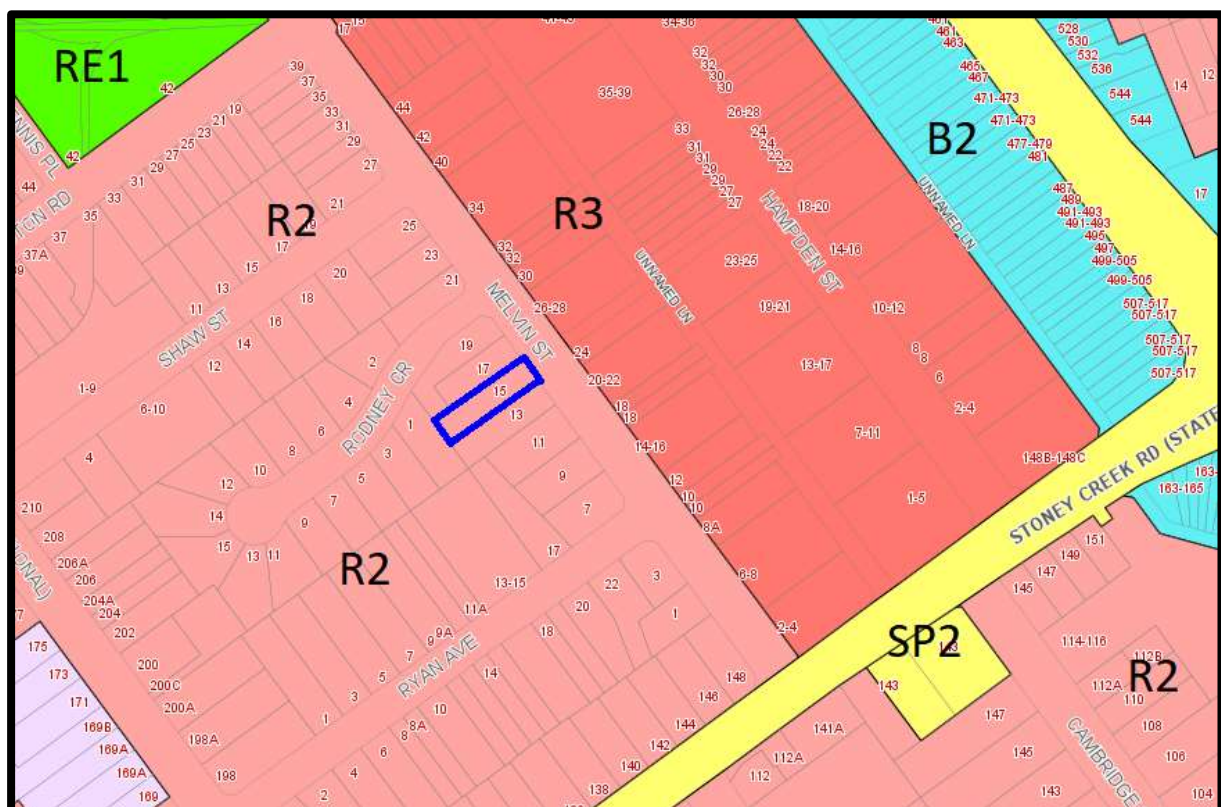


Figure 4: Zoning Map – site outlined in blue

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:	The proposed	Yes

	<p><i>means a building that:</i></p> <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>	development 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</i> 	The proposal satisfies the objectives of the R2 zone and is permissible with development consent.	Yes

	<i>heritage of the area.</i> <ul style="list-style-type: none"> <i>To ensure that a high level of residential amenity is achieved and maintained.</i> <i>To encourage greater visual amenity through maintaining and enhancing landscaping as a major element in the residential environment.</i> <i>To provide for a range of home business activities where such activities are not likely to adversely affect the surrounding residential amenity.</i> 		
Part 4 Principal development standards			
4.3 – Height of Buildings	9m as identified on Height of Buildings Map	8.02m	Yes
4.4 – Floor Space Ratio	0.6:1 as identified on Floor Space Ratio Map	0.53:1 or 313.4sqm Site area: 581.7sqm	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	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	- Adequate facilities for the supply of water and removal of sewage is available to the site and	Yes

		can be extended to service this development.	
	<ul style="list-style-type: none"> - Stormwater drainage or on-site conservation 	<ul style="list-style-type: none"> - Stormwater can drain via gravity to the street. 	Yes
	<ul style="list-style-type: none"> - Suitable vehicular access 	<ul style="list-style-type: none"> - New 3.5m wide driveway crossing to the site from Melvin Street (standard conditions for the submission of a separate vehicular crossing applications and driveway design have been imposed) 	Yes

DRAFT GEORGES RIVER LOCAL ENVIRONMENTAL PLAN 2020

62. Consideration is given to the provisions of Draft Georges River Local Environmental Plan 2020 in the assessment this application.
63. 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

64. 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

65. 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 ten (10) beds, 3.3 spaces are required, rounded up to 4. No staff are proposed therefore no parking has been proposed.
66. The proposal provides five (5) car spaces, four (4) motorcycle spaces, and four (4) bicycle spaces, satisfying the car parking requirements of the Development Control Plan.
67. It is acknowledged that the car park has been designed to accommodate B85 vehicles, this design criterion will prevent some modern vehicles access and parking in the car park. However in this instance there is suitable parking within Melvin Street.
68. The design and layout of the parking area is consistent with the objectives of Section 3.1 of the Development Control Plan and the relevant Australian Standards.

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

69. Section 3.3 requires that one (1) accessible room be provided per five (5) bedrooms or part thereof. As the proposed development accommodates ten (10) bedrooms, two (2) accessible rooms are required. The development provides two (2) accessible rooms on the ground floor accessed via a ramp 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

70. 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

71. 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 one (1) street tree.

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

72. 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 (DCP)

73. 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. The development form is considered to be acceptable in this regard.

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

74. 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

75. The application is accompanied by a BASIX Certificate which identifies that the development meets the target scores.
76. 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 north-eastern facade to maximise solar access. The shadow diagrams submitted demonstrate that most of the shadow cast will be towards 13 Melvin Street located south. This shadow is considered to be unavoidable partially due to the orientation of the site and the existing subdivision pattern whereby properties located north overshadow southern properties.
77. The height of the development is below the 9.0m LEP limit and observes an FSR of 0.53:1 which is less than the 0.6:1 maximum permitted. Albeit overshadowing, the rear landscape area and the rear private open space will still receive a minimum of 3 hours of direct sunlight between 12:00pm and 3:00pm on 21 June being mid-winter.

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

78. Three (3) trees are nominated to be removed as part of the works. The application was referred to Council's Consultant Arborist who did not object to the removal of trees subject to the replanting of six (6) trees within the site. In addition, a Council street tree will be required to be planted within the Council landscape verge fronting the site. Specific conditions of consent have been imposed accordingly.

GEORGES RIVER DEVELOPMENT CONTROL PLAN 2020 (INTERIM POLICY)

79. 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.
80. 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

81. The proposal seeks for the removal of three trees which will be replaced at a 2:1 ratio within the site. The development provides sufficient area for landscaping at the front and

rear, and a condition is also recommended for the planting of one (1) street tree along Council's nature strip.

82. 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.
83. The development will not result in any significant adverse impacts on the natural environment.

Built Environment

84. 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.
85. 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 13 Melvin Street located south. This shadow is considered to be unavoidable partially due to the orientation of the site and the existing subdivision pattern whereby properties located north overshadow southern properties.
86. The height of the development is below the 9.0m LEP limit and observes an FSR of 0.53:1 which is less than the 0.6:1 maximum permitted. Albeit overshadowing, the rear landscape area and the rear private open space will still receive a minimum of 3 hours of direct sunlight on 21 June being mid-winter.

Social Impact

87. 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. An amended Plan of Management has been provided, reviewed and is considered as acceptable. The Plan of Management is conditioned to be complied with as part of the development consent.

Economic Impact

88. 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

89. 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

90. 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. Three (3) individual submissions were received objecting to the development. The issues raised are discussed below.

Privacy

91. Windows and rear balconies have the potential to overlook into neighbouring properties.

Officer Comment: The proposal has been amended to provide highlight windows to all living areas along the first floor side facades which will limit the impact for potential overlooking. It is further noted that a condition has been imposed requiring all external bathroom windows to be frosted.

Solar amenity and landscaping

93. Solar amenity and overshadowing to downstream properties, and impact of deep soil landscaping along boundary.
94. 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 north eastern facade to maximise solar access .The shadow diagrams submitted demonstrate that most of the shadow cast will be towards 13 Melvin Street located south. This shadow is considered to be unavoidable partially due to the orientation of the site and the existing subdivision pattern whereby properties located north overshadow southern properties.
95. The height of the development is below the 9.0m LEP limit and observes an FSR of 0.53:1 which is less than the 0.6:1 maximum permitted. Albeit overshadowing, the rear landscape area and the rear private open space will still receive a minimum of 3 hours of direct sunlight on 21 June being mid-winter. It is considered in this case the shadow impact of the development would be similar to that of a two storey dwelling house constructed (9.0m height limit, 0.55:1 FSR) with compliant height, floor space and setbacks.
96. With regards to deep soil landscaping along the boundary and its impact on overshadowing, 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.
97. The rear yard of the allotment to the south well retain access to sunlight in the afternoon given the orientation of the site.

Operation of Boarding House

98. Concern was raised with regards to the operation of the boarding house due to a boarding house manager not being available.
99. Officer Comment: With reference to the State Environmental Planning Policy Affordable Rental Housing 2009 (ARH SEPP), a boarding house manager is required for any boarding house with 20 or more lodgers. As the proposed boarding house will have a maximum capacity of 10 lodgers, a boarding house manager is not required in this case.
100. With reference to the Plan of Management prepared by Nuovo Design Studio dated 1 June 2020, a boarding house caretaker will be appointed and will have the task of overseeing the operation of the boarding house and ensuring any complaints are resolved promptly, but will not reside on site.

Acoustic nuisance due to driveway

101. Concern was with regards to the acoustic nuisance arising due to the driveway proposed.

102. Officer Comment: The proposed driveway servicing the basement of the boarding house is located adjacent to the north western side boundary. The driveway is located reasonably at level with the existing ground level for the first 6.0m meters (measured from the street edge), and proceeds to drop approximately 2.2m for the next 9.5m of driveway until it reaches the basement level. Adjacent to the north eastern boundary will be a retaining wall (setback 1.5m from the north eastern boundary) supporting the change in levels. The proposed retaining wall will act as an indirect noise barrier which will aid in reducing the noise of vehicles propagating to adjoining neighbouring properties.
103. Furthermore, the acoustic report accompanying this application highlights the measures which will be considered to ensure acoustic amenity to neighbours. This includes sound barrier fencing (1.8m gap free boundary fence), specific material for external windows and doors, and a noise management plan. The application was assessed by Council's Environmental Health Officer and specific conditions relating to acoustic amenity and compliance with the acoustic report have been imposed.
104. The driveway is setback from the northern side boundary will be appropriately planted as per the submitted landscape plan.

Drafting errors

105. Concern was raised regarding to a number of drafting error such as location of adjoining sites, and error within the submitted Statement of Environmental Effects.
106. Officer Comment: It is acknowledged that the information submitted to Council by the applicant included some drafting and syntactic errors. These errors were identified and have been appropriately amended by the applicant.

Dilapidation report

107. Concern was raised as to whether a dilapidation report will be prepared for adjoining properties.
108. Officer Comment: Due to the proposed excavation works to accommodate the basement, a pre-construction dilapidation report will be required to be prepared for all adjoining buildings and any other buildings likely to be affected by the works. The purpose of the dilapidation report is to record any existing damage, and the state of any particular aspects of the properties that adjoining the subject site. A post-dilapidation report has also been imposed as a requirement to be fulfilled prior to the release of the Occupation Certificate. The post-dilapidation report will aid in identifying if any adjoining buildings have been adversely affected by the construction works.

It is further noted that a geotechnical report will also be required to be prepared identifying the method of vibration minimization and excavation. A condition will also be imposed prohibiting the use of hydraulic hammers.

Size of rooms and compliance with ARH SEPP 2009

109. Concern was raised as to whether the room sizes comply with the ARH SEPP 2009, and whether the rooms are able to accommodate for two people.
110. Officer Comment: Clause 29 of the State Environment Planning Policy (Affordable Rental Housing) 2009 details the accommodation size is to be a minimum of 12sqm for a single lodger room and 16sqm for any other case. These sizes exclude kitchen and bathroom facilities.

111. It is noted that the largest boarding room proposed is Room 6 being 15.23sqm (excluding kitchen and bathroom facilities). This demonstrates that from a compliance perspective that boarding house rooms are of a size whereby they are unable to accommodate for double lodger.
112. The submitted plan of management clearly specifies that the number of lodgers is not to exceed 10 people. A condition of consent has also been imposed restricting the number of lodgers to 10 people.

Council Referrals

Team Leader - Subdivision and Development (Stormwater and Subdivision)

113. 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

114. 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)

115. 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)

116. 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

117. 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 have been satisfied in relation to access to and from the basement, and sightlines when leaving the basement.

Consultant Arborist

118. 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

119. 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.

Australian Pipelines and Gas Association (APA)

120. The application was referred to APA as per Clause 66C of the State Environmental Planning Policy (Infrastructure) 2007. No objection was received and no conditions recommended.

Local Infrastructure Contributions

121. 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.

122. In this case the levied charge is \$15,717.48, which is required to be paid in full prior to the release of any Construction Certificate.

CONCLUSION

123. Development consent is sought for the demolition of existing structures and construction of a two (2) storey boarding house development comprising of ten (10) single lodger rooms and basement car parking for five (5) vehicles, landscaping and site works.
124. 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 located within an accessible area and at an acceptable distance from local public transport and local business centres.
125. The proposal will not result in any unreasonable impacts to the amenity of adjoining properties subject to the conditions of consent recommended below.
126. The application is recommended for approval subject to conditions.

DETERMINATION AND STATEMENT OF REASONS

127. 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 compliant with the boarding house standards and the character test as required by State Environment Planning Policy (Affordable Rental Housing) 2009.
- The boarding house is located in an accessible location as required by 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 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.
- The proposal is not inconsistent with the provisions of Draft Georges River Local Environmental Plan 2020.

Determination

128. 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 DA2019/0388 for demolition of existing structures and construction of a two (2) storey ten (10) single

room boarding house over basement parking for five (5) vehicles, landscaping and site works at Lot 18, DP 220340 and known as 15 Melvin Street, Beverly Hills, subject to the following conditions:

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
Site Plan	Job PP-662 Drawing 203	10/03/2020	C	Nuovo Design Studios
Basement Plan	Job PP-662 Drawing 204	10/03/2020	C	Nuovo Design Studios
Ground Floor Plan	Job PP-662 Drawing 205	10/03/2020	C	Nuovo Design Studios
First Floor Plan	Job PP-662 Drawing 206	10/03/2020	C	Nuovo Design Studios
Roof Plan	Job PP-662 Drawing 207	10/03/2020	C	Nuovo Design Studios
Northern and Eastern Elevation Plan and Schedule of Colours and Finishes	Job PP-662 Drawing 208	10/03/2020	C	Nuovo Design Studios
Southern and Western Elevation Plan and Schedule of Colours and Finishes	Job PP-662 Drawing 209	10/03/2020	C	Nuovo Design Studios
Sections Plan	Job PP-662 Drawing 210	10/03/2020	C	Nuovo Design Studios
Landscape Plan and specifications	Job 2020-115	23/03/2020	-	Unique Garden Design Consulting
BCA and Access Report	PRO-03979-M5W3	27/08/2019	-	Building Innovations Australia
Traffic and Parking Impact Assessment Report	V1	27/06/2019	-	ABC Traffic Consulting
Operational Plan of Management	Boarding House - No.15 Melvin Street Beverly Hills	01/06/2020	-	Nuovo Design Studio
Stage 1 Preliminary Site Investigation Report	N4357	11/05/2020	-	Neo Consulting

Acoustic Assessment Report	2019-169	28/06/2019	-	Acoustic. Vibration and Noise Pty Ltd
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Separate Approvals Required Under Other Legislation

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

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

Constructing a vehicular crossing and/or footpath requires separate approval under Section 138 of the [Roads Act 1993](http://legislation.nsw.gov.au/) <<http://legislation.nsw.gov.au/>>, prior to the commencement of those works.

3. **Building - Hoarding Application**- Prior to the commencement of any works a separate application for the erection of an A class (fence type) hoarding, in accordance with the requirements of Work Cover Authority of NSW, must be erected along that portion of property boundaries adjoining the footway. An application for this work under Section 68 of the Local Government Act 1993 and the Roads Act 1993 must be submitted for approval to Council.

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

- (a) A site and location plan of the hoarding with detailed elevation, dimensions, setbacks, heights, entry and exit points to/from the site, vehicle access points, location of public utilities, electrical overhead wire protection, site management plan and builders sheds location.

4. **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](http://legislation.nsw.gov.au/) and/or Section 68 of the [Local Government Act 1993](http://legislation.nsw.gov.au/) for any of the following activities carried out in, on or over a public road (including the footpath) listed below.

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

- (a) Placing or storing materials or equipment;

- (b) Placing or storing waste containers or skip bins;
- (c) Erecting a structure or carrying out work
- (d) Swinging or hoisting goods over any part of a public road by means of a lift, crane or the like;
- (e) Pumping concrete from a public road;
- (f) Pumping water from the site into the public road;
- (g) Constructing a vehicular crossing or footpath;
- (h) Establishing a “works zone”;
- (i) Digging up or disturbing the surface of a public road (eg Opening the road for the purpose of connections to utility providers);
- (j) Stormwater and ancillary works in the road reserve;
- (k) Stormwater and ancillary to public infrastructure on private land; and
- (l) If any excavation is to be supported by the use of below ground (cable) anchors that are constructed under Council’s roadways/footways.

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

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

5. **Driveway Crossing** - 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

6. **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

7. **Sydney Water - Tap inTM** - The approved plans must be submitted to a Sydney Water Tap inTM 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 inTM agent has appropriately stamped the plans prior to the issue of the Construction Certificate.
8. **Notice of Requirements for a Section 73 Certificate** - A Notice of Requirements of what will eventually be required when issuing a Section 73 Compliance Certificate under the [Sydney Water Act 1994 <http://legislation.nsw.gov.au/>](http://legislation.nsw.gov.au/) 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

9. **Site remediation** - The applicant is to fulfil all the recommendations of the Stage 1 Preliminary Site Investigation Report prepared by Neo Consulting (reference N4357 dated 11 May 2020).
10. **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.
11. **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.

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

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

- a) peak flow rates from the site are to be restricted to a permissible site discharge (PSD) equivalent to the discharge when assuming the site contained a single dwelling, garage, lawn and garden,
- b) at Annual Recurrence Intervals of 2 years and 100 years.

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

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

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

Full details shall accompany the application for the Construction Certificate.

13. **Detailed Stormwater Drainage Design** - The submitted stormwater plan has been assessed as a concept plan only. A detailed drainage design supported by a catchment area plan and drainage calculations (including a Hydraulic Grade Line Analysis) must be submitted with the Construction Certificate application.
14. **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.

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

- (a) A Longitudinal section, with gradients designed in accordance with the Australian Standards AS/NZS2890.1-2004, and Alignment/vehicle crossing levels as approved by Council following a Section 138 Vehicle Crossing Application under the Roads Act 1993.

16. **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.

17. **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.
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 pest
- (i) all personnel doors are hinged and self-closing.

19. **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 Building Innovations Australia BCA and Access 2019 indicative compliance report (PRO-03979-M5W3) dated 27 August 2019.

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

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. **Acoustic Requirements - Compliance with submitted Acoustic Report** - The Construction Certificate plans shall demonstrate compliance with the Acoustic Report submitted and approved by Council, titled *Acoustic Assessment for Proposed Boarding House prepared by Acoustic, Vibration & Noise PTY LTD* and dated 28 June 2019.

Section 6.3 relating to Sound Barrier Fencing on page 14 of the report, is subject to the provisions of the Dividing Fences Act 1991 No 72 and the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. No boundary fence is approved to be constructed as part of this application.

22. **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.

23. 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.

24. 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	\$15,717.48

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.

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.

25. **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.
26. **BASIX Commitments** - All energy efficiency measures as detailed in the BASIX Certificate 1030730M dated 4 June 2020 prepared by Eco Certificated Pty Ltd must be implemented on the plans lodged with the application for the Construction Certificate.
27. **Required design changes** - The following changes are required to be made and shown on the Construction Certificate plans:
 - A. Architectural plans:
 - (i) The roof colour proposed is to match the predominant roof colour existing along Melvin Street.
 - (ii) Only external bathroom windows are to incorporate a translucent (frosted) glass finish. All other external windows are to be of clear (transparent) glazing.

B. Stormwater plans:

Drawing Reference	Drawing Date	Revision	Drawing Description	Prepared by
Project No. 190450 Dwg. No. 103	20/3/20	B	Stormwater Concept Plan	Australian Consulting Engineers
Project No. 190450 Dwg. No. 101	20/3/20	B	Stormwater Concept plan Basement Level sheet 1 of 2	Australian Consulting Engineers
Project No. 190450 Dwg. No. 104	20/3/20	B	OSD Details & Calculation Sheet	Australian Consulting Engineers
Project No. 190450 Dwg. No. 105	20/3/20	B	Miscellaneous Details Sheet	Australian Consulting Engineers

The following changes are required to be addressed in Detailed Hydraulic Plans to accompany the **Application for a Construction Certificate** -

- (i) All outlet pipes from grated trench drains or surface inlet pits are to be 150mm (min.) diameter (or have equivalent cross-sectional area).
- (ii) All ground surface runoff and all basement drainage water is to pass through a composite silt arrestor/stilling sump/litter trap pit located near the property line for drainage by gravity to the street gutter directly in front of the subject development site.

28. **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.

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

- (a) All stormwater shall drain by gravity to Council's kerb and gutter directly in front of the development site in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2015 (as amended).
- (b) All overflows of roof waters from any rainwater tank shall drain by gravity, via an Onsite Detention system, to Council's kerb and gutter directly in front of the development site in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2015 (as amended).
- (c) All other impervious surface water runoff such as driveways and footpaths shall drain by gravity to Council's kerb and gutter directly in front of the development site.

- (d) 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

- (e) The underground basement car park must pump to and all other stormwater must drain by gravity to:
- (i) the street gutter via a composite silt arrestor/stilling sump/litter trap pit located near the property line.

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

- (f) The reduced level design of the basement ramp and adjoining retaining walls are to be endorsed by a hydraulic engineer who has assessed the risk of overland flow entering the basement during a 1:100yr ARI storm event.

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.

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

These plans shall be prepared in accordance with the Australian Institute of Engineers Australian Rainfall and Runoff (1987) and Council's Hurstville Development Control Plan 1 which includes Appendix 2.

31. **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.

32. **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).
33. **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.

34. **Landscape Plans** - All landscape works shall be carried out in accordance with the approved landscape plans and specifications, drawn by Unique Garden Design, Ref No 2020 - 115 and dated 23 March 2020. The landscaping shall be maintained in accordance with the approved plans in perpetuity, subject to the following -

- a) In accordance with Georges River Tree Management Policy 2019, a 2:1 Policy is to be implemented. For every one (1) tree to be removed, two (2) trees shall be planted on the subject site to compensate for the loss of each tree, with exempt Species replacement being 1:1. If Council finds that locations within the site cannot be found for the trees viability, an offset fee shall be forwarded to Council to plant the tree/s elsewhere, within the municipality.
- b) For the removal of three (3) trees an additional six (6) trees are to be planted within the subject site, be of Australian native Spp and be selected from Georges River Councils, Tree Management Plan, Appendix 1 - Tree Planting. The tree/s shall be a minimum 45 litre pot/ bag size and be able to reach a height at maturity of nine (9) metres.
- c) The proposed five (5) trees upon the landscape plan, additional one (1) 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;
- d) All six (6) trees proposed 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;
- e) If the planted six (6) 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;
- f) A certificate of compliance for the planting of all six (6) 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.

35. Tree Removal & Replacement

Tree removal

In accordance with Georges River Tree Management Policy 2019, a 2:1 Policy is to be implemented. For every one (1) tree to be removed, two (2) trees shall be planted on the subject site to compensate for the loss of each tree, with exempt Species replacement being 1:1. If Council finds that locations within the site cannot be found for the trees viability, an offset fee shall be forwarded to Council to plant the tree/s elsewhere, within the municipality.

Permission is granted for the removal of the following trees:

Tree Species	Number of trees	Location
<i>Brachychiton acerifolius</i>	X1	Rear yard, south fence line

<i>Yucca Spp</i>	X1	Rear yard
<i>Cupressus torulosa</i>	X1	Front yard

General Tree Removal Requirements

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

Street Tree Removal / Replacement by Council -

- One (1) street tree of species to be determined must be provided in the road reserve fronting the site.
- Council shall be appointed to remove and plant all tree/s on public land. All costs associated with the removal of the tree/s and the planting of replacement trees shall be met by the applicant. Fees and charges outlined in the table below are subject to change and are set out in the current version of Council's 'Schedule of Fees and Charges', applicable at the time of payment.
- 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.
- 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, tree planting and maintenance	X1	\$452.00
Cost of tree removal		N/A
Cost of Stump Grinding		N/A

Summary	
Number of trees removed from site	X3
Number of trees required as per offset scheme (2:1 ratio)	X6
Number of trees to be planted within the site	X6
Number of trees the applicant shall pay for and Council to plant upon Councils street verge	X1

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

- 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 by gravity to the street gutter in Melvin Street.
43. **Hazardous or Intractable Waste - Removal and Disposal** - Hazardous or intractable waste arising from the demolition or construction process shall be removed and disposed of in accordance with the requirements of SafeWork NSW and the NSW Environment Protection Authority and with the provision of:
- Work Health and Safety Act 2011 (NSW) (as amended);
 - Work Health and Safety Regulation 2011 (as amended);
 - Protection Of the Environment Operations Act 1997 (NSW) (as amended); and
 - Protection of the Environment Operations (Waste) Regulation 2014 (as amended)
44. **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.
45. **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.
46. **Hours of construction for demolition and building work** - Any work activity or activity

associated with the development consent that requires the use of any tools (including hand tools) or any power operated plant and machinery that creates noise on or adjacent to the site shall not be performed, or permitted to be performed, except between the hours of 7.00 am to 5.00 pm, Monday to Saturday inclusive. No work or ancillary activity is permitted on Sundays, or Public Holidays.

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

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. **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.*
51. **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.
52. **Works as Executed and Certification of Stormwater works** - Prior to the issue of an Occupation Certificate, the PCA must ensure that the stormwater drainage system has been constructed in accordance with the approved design and relevant Australian

Standards. A works-as-executed drainage plan and certification must be forwarded to the PCA and Council, from a professional engineer specialising in hydraulic engineering.

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

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

- (a) The location of any detention basin/s with finished surface levels;
- (b) Volume of storage available in any detention areas;
- (c) The location, diameter, gradient and material (i.e. PVC, RC etc.) of all stormwater pipes;
- (d) The orifice size/s;
- (e) Details of any pumping systems installed (including wet well volumes).

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 (conduits and pipes laid) shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
- (c) Construct any new vehicle crossings required.
- (d) Replace all redundant vehicle crossing laybacks with kerb and guttering, and replace redundant concrete with turf.
- (e) A Section 73 (Sydney Water) Compliance Certificate for the Subdivision shall be issued and submitted to the PCA prior to the issue of the Occupation Certificate.
- (f) Work as Executed Plans prepared by a Chartered Professional Engineer or a Registered Surveyor when all the site engineering works are complete shall be submitted to the PCA prior to the issue of the Occupation Certificate.
- (g) The construction of the vehicle crossing shall be completed in accordance with the conditions and specifications of the Section 68 Activity Approval.

54. Vehicular crossing & Frontage work - The following road frontage works shall be constructed in accordance with specifications issued under the 'Application for Driveway Crossing and Associated Works on Council Road Reserve' approval issued by Council's Assets and Infrastructure Division:

- (a) Construct a 1.5 metre wide footpath for the full length of the frontage of the site in Melvin Street in accordance with Council's Specifications for footpaths.
- (b) Construct the driveway crossing in accordance with Council's specifications for vehicular crossings.

- (c) 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 Driveway Crossings and Associated Works.

A private contractor shall carry out the above work, at the expense of the applicant and in accordance with Council's Specification for Driveway Crossings and Associated Works. The driveway and road frontage works are to be completed before the issue of the Occupation Certificate.

55. **Completion of Major Works** - Prior to the issue of a Final Occupation Certificate, the following works must be completed at the applicant's expense to the satisfaction of Council's Engineering Services section:

- (a) Driveways and vehicular crossings within the road related area;
- (b) Removal of redundant driveways and vehicular crossings;
- (c) New footpaths within the road related area;
- (d) New footway verges, where a grass verge exists, the balance of the area between the footpath and the kerb or site boundary over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of turf predominant within the street.
- (e) New or reinstated kerb and guttering within the road related area; and
- (f) New or reinstated road surface pavement within the road.

Council's Assets and Infrastructure Section must advise in writing that the works have been completed to their satisfaction prior to the issue of the Occupation Certificate.

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

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

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

57. **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.

58. **Acoustic Compliance** - Prior to the issue of any Occupation Certificate, a report prepared by a suitably qualified acoustic consultant must be submitted to the PCA certifying that the construction has incorporated the recommendations in the DA Acoustic Report titled *Acoustic Assessment for Proposed Boarding House*, prepared by Acoustic, Vibration & Noise PTY LTD and dated 28 June 2019.

Section 6.3 relating to Sound Barrier Fencing on page 14 of the report, is subject to the provisions of the Dividing Fences Act 1991 No 72 and the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. No boundary fence is approved to be constructed as part of this application.

59. **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.
60. **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 adjoining premises.

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

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

61. **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.
62. **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.

63. **Section 73 Compliance Certificate** - A Section 73 Compliance Certificate under the [Sydney Water Act 1994 <http://legislation.nsw.gov.au/>](http://legislation.nsw.gov.au/) must be submitted to the PCA prior to the issue of the Occupation/Subdivision Certificate.
64. **Completion of Landscape Works** - All landscape works and fee payment for Councils street tree planting 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 Unique Garden Design, Ref No 2020 - 115 and dated 23 March 2020. The landscaping shall be maintained in accordance with the approved plans in perpetuity, subject to the following:
- (a) In accordance with Georges River Tree Management Policy 2019, a 2:1 Policy is to be implemented. For every one (1) tree to be removed, two (2) trees shall be planted on the subject site to compensate for the loss of each tree, with exempt Species replacement being 1:1. If Council finds that locations within the site cannot be found for the trees viability, an offset fee shall be forwarded to Council to plant the tree/s elsewhere, within the municipality.
 - (b) For the removal of three (3) trees an additional six (6) trees are to be planted within the subject site, be of Australian native Spp and be selected from Georges River Council's Tree Management Plan, Appendix 1 - Tree Planting. The tree/s shall be a minimum 45 litre pot/ bag size and be able to reach a height at maturity of nine (9) metres.
 - (c) The proposed five (5) trees upon the landscape plan, additional one (1) 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;
 - (d) All six (6) trees proposed 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;
 - (e) If the planted six (6) 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;
 - (f) A certificate of compliance for the planting of all six (6) 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.

Tree Replacement within subject site

- (a) A minimum of 6 x 45 litre size trees, which will attain a minimum mature height of nine (9) metres, shall be planted within the property, prior to an Occupation Certificate. The tree/s are to conform to AS2303 - 2018, *Tree stock for landscape use*.
- (b) Tree species selected shall be from Georges River Councils Tree Management Policy, April 2019. Appendix 1 - Tree Planting.
- (c) If the replacement trees 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 Council's Tree Management Controls, they must be replaced with the same species and pot/bag size.

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.

Operational Conditions (Ongoing)

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

- (a) The boarding house caretaker/owner 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 caretaker/owner 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 caretaker/owner will monitor the bin storage area and all spills will be attended to immediately by cleaners.
- (e) The required number of bins are 3 x 240L red bin, 2 x 240L yellow bin.

All bins must be taken to Melvin Street kerb-side for collection and removed from kerb-side as soon as possible after 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.

66. **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.

67. **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.

68. **Noise Management Plan** - Implement a Noise Management Plan in accordance with the recommendations provided in the Acoustic Report submitted by Acoustics, Vibration & Noise PTY LTD, titled *Acoustic Assessment for Proposed Boarding House*, dated 28 June 2019. A contact number shall also be installed at the front of the boarding house as a point of contact for any complaints to be lodged.
69. **Operational Plan of Management** - The Operational Plan of Management prepared by Nuovo Design Studio dated 1 June 2019 for the premises shall be strictly enforced by the on-site Boarding House caretaker and owner.
70. **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.
71. **Maintenance of Sound Attenuation** - Sound attenuation must be maintained in accordance with the Acoustic Report submitted by Acoustic, Vibration & Noise PTY LTD, titled *Acoustic Assessment for Proposed Boarding House*, dated 28 June 2019.
72. **Boarding House Operation** –
- (a) The boarding house must always be operated and managed in accordance with the approved Boarding House Plan of Management for 15 Melvin Street Beverly Hills dated 1 June 2020, prepared by Nuovo Design Studio.
 - (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 LEP 2012, or the like.
 - (c) The maximum total number of persons residing in the boarding house at any one time shall not exceed ten (10) lodgers.
 - (d) Not more than one (1) lodger shall occupy each boarding room; all rooms are to be identified as single lodger 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 caretaker (if one resides on site) of the boarding house are not eligible to participate in Council's Resident Parking Scheme

73. **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.
74. **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

75. **Requirement for a Construction Certificate** - The erection of a building must not commence until a Construction Certificate has been issued.
76. **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.

77. **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.

78. **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.

79. **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.

80. **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.

81. **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](#).

Prescribed Conditions

82. **Clause 97A - BASIX Commitments** - This Clause requires the fulfilment of all BASIX Commitments as detailed in the BASIX Certificate to which the development relates.
83. **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.
84. **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.
85. **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](#).

86. **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.
87. **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.

88. **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.
89. **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

90. **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.

91. **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.
92. **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.
93. **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.
94. **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/nlgq.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).
95. **Acoustical Engineer Contacts & Reference Material** - Further information including lists of Acoustic Engineers can be obtained from:
 - (a) Australian Acoustical Society - professional society of noise-related professionals (www.acoustics.asn.au)
 - (b) Association of Australian Acoustical Consultants - professional society of noise related professionals (www.aaac.org.au)
 - (c) NSW Industrial Noise Policy - Office of Environment & Heritage (www.environment.nsw.gov.au)

96. **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.

97. **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.

98. **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.

99. **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.

100. **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).

101. **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.

102. **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.

103. **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).

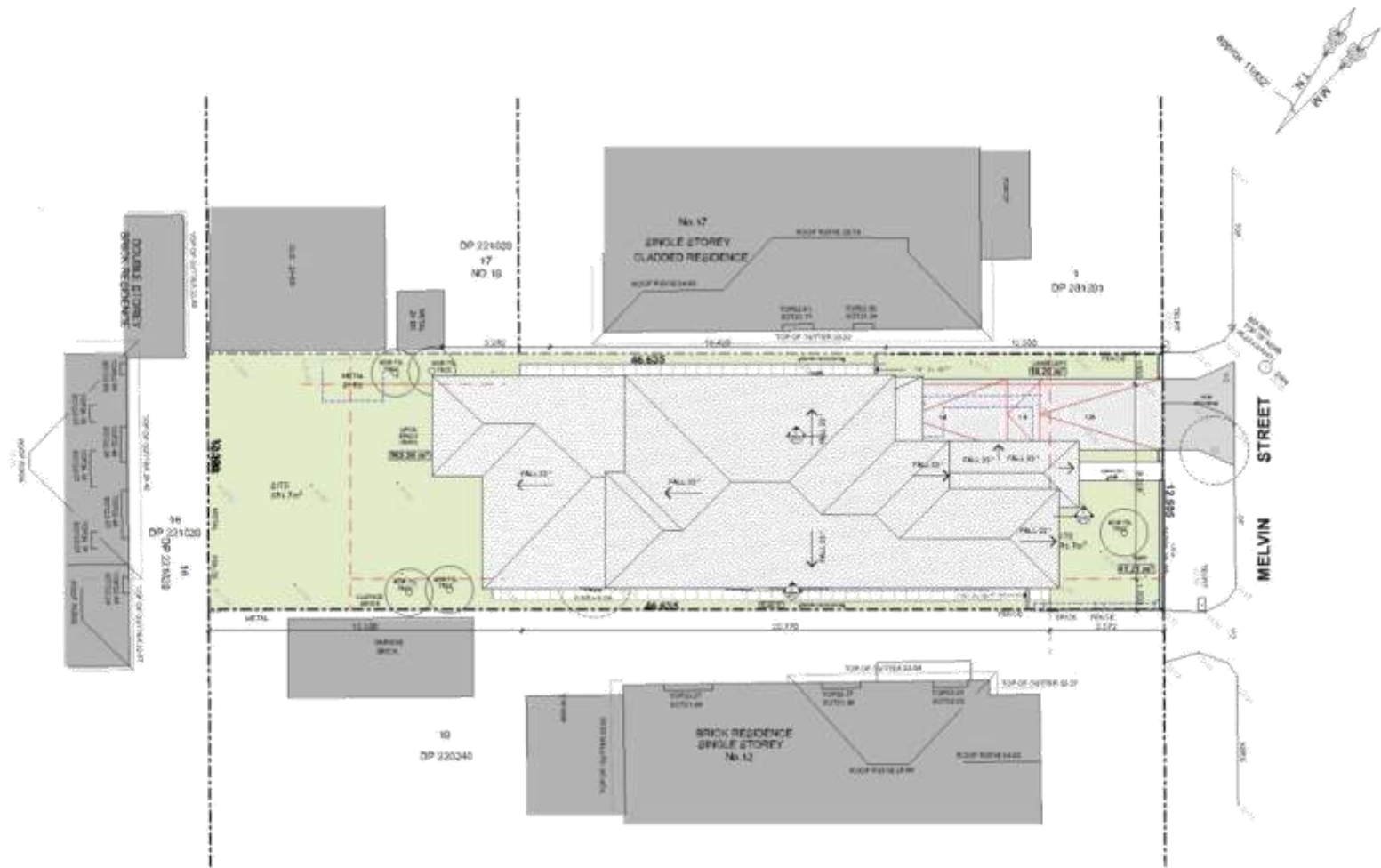
ATTACHMENTS

Attachment [↓](#) 1 

Site Plan - 15 Melvin Street Beverly Hills

Attachment [↓](#) 2 

Elevation Plans - 15 Melvin Street Beverly Hills





COLOUR
 SCHEDULE
 NOTE: COLOURS ARE SELECTED
 FROM DULUX PAINTS

RENDER:
 DULUX ROYAL
 BEIGE



STONE CLADDING- BORAL
 CULTURED STONE



1

WEST ELEVATION
 1:100



2

SOUTH ELEVATION
 1:100



NUOVO design
 studio

project ID: 15/16/17/18/19/20/21/22/23/24/25/26/27/28/29/30/31/32/33/34/35/36/37/38/39/40/41/42/43/44/45/46/47/48/49/50/51/52/53/54/55/56/57/58/59/60/61/62/63/64/65/66/67/68/69/70/71/72/73/74/75/76/77/78/79/80/81/82/83/84/85/86/87/88/89/90/91/92/93/94/95/96/97/98/99/100/101/102/103/104/105/106/107/108/109/110/111/112/113/114/115/116/117/118/119/120/121/122/123/124/125/126/127/128/129/130/131/132/133/134/135/136/137/138/139/140/141/142/143/144/145/146/147/148/149/150/151/152/153/154/155/156/157/158/159/160/161/162/163/164/165/166/167/168/169/170/171/172/173/174/175/176/177/178/179/180/181/182/183/184/185/186/187/188/189/190/191/192/193/194/195/196/197/198/199/200/201/202/203/204/205/206/207/208/209/210/211/212/213/214/215/216/217/218/219/220/221/222/223/224/225/226/227/228/229/230/231/232/233/234/235/236/237/238/239/240/241/242/243/244/245/246/247/248/249/250/251/252/253/254/255/256/257/258/259/260/261/262/263/264/265/266/267/268/269/270/271/272/273/274/275/276/277/278/279/280/281/282/283/284/285/286/287/288/289/290/291/292/293/294/295/296/297/298/299/300/301/302/303/304/305/306/307/308/309/310/311/312/313/314/315/316/317/318/319/320/321/322/323/324/325/326/327/328/329/330/331/332/333/334/335/336/337/338/339/340/341/342/343/344/345/346/347/348/349/350/351/352/353/354/355/356/357/358/359/360/361/362/363/364/365/366/367/368/369/370/371/372/373/374/375/376/377/378/379/380/381/382/383/384/385/386/387/388/389/390/391/392/393/394/395/396/397/398/399/400/401/402/403/404/405/406/407/408/409/410/411/412/413/414/415/416/417/418/419/420/421/422/423/424/425/426/427/428/429/430/431/432/433/434/435/436/437/438/439/440/441/442/443/444/445/446/447/448/449/450/451/452/453/454/455/456/457/458/459/460/461/462/463/464/465/466/467/468/469/470/471/472/473/474/475/476/477/478/479/480/481/482/483/484/485/486/487/488/489/490/491/492/493/494/495/496/497/498/499/500/501/502/503/504/505/506/507/508/509/510/511/512/513/514/515/516/517/518/519/520/521/522/523/524/525/526/527/528/529/530/531/532/533/534/535/536/537/538/539/540/541/542/543/544/545/546/547/548/549/550/551/552/553/554/555/556/557/558/559/560/561/562/563/564/565/566/567/568/569/570/571/572/573/574/575/576/577/578/579/580/581/582/583/584/585/586/587/588/589/590/591/592/593/594/595/596/597/598/599/600/601/602/603/604/605/606/607/608/609/610/611/612/613/614/615/616/617/618/619/620/621/622/623/624/625/626/627/628/629/630/631/632/633/634/635/636/637/638/639/640/641/642/643/644/645/646/647/648/649/650/651/652/653/654/655/656/657/658/659/660/661/662/663/664/665/666/667/668/669/670/671/672/673/674/675/676/677/678/679/680/681/682/683/684/685/686/687/688/689/690/691/692/693/694/695/696/697/698/699/700/701/702/703/704/705/706/707/708/709/710/711/712/713/714/715/716/717/718/719/720/721/722/723/724/725/726/727/728/729/730/731/732/733/734/735/736/737/738/739/740/741/742/743/744/745/746/747/748/749/750/751/752/753/754/755/756/757/758/759/760/761/762/763/764/765/766/767/768/769/770/771/772/773/774/775/776/777/778/779/780/781/782/783/784/785/786/787/788/789/790/791/792/793/794/795/796/797/798/799/800/801/802/803/804/805/806/807/808/809/810/811/812/813/814/815/816/817/818/819/820/821/822/823/824/825/826/827/828/829/830/831/832/833/834/835/836/837/838/839/840/841/842/843/844/845/846/847/848/849/850/851/852/853/854/855/856/857/858/859/860/861/862/863/864/865/866/867/868/869/870/871/872/873/874/875/876/877/878/879/880/881/882/883/884/885/886/887/888/889/890/891/892/893/894/895/896/897/898/899/900/901/902/903/904/905/906/907/908/909/910/911/912/913/914/915/916/917/918/919/920/921/922/923/924/925/926/927/928/929/930/931/932/933/934/935/936/937/938/939/940/941/942/943/944/945/946/947/948/949/950/951/952/953/954/955/956/957/958/959/960/961/962/963/964/965/966/967/968/969/970/971/972/973/974/975/976/977/978/979/980/981/982/983/984/985/986/987/988/989/990/991/992/993/994/995/996/997/998/999/1000/1001/1002/1003/1004/1005/1006/1007/1008/1009/1010/1011/1012/1013/1014/1015/1016/1017/1018/1019/1020/1021/1022/1023/1024/1025/1026/1027/1028/1029/1030/1031/1032/1033/1034/1035/1036/1037/1038/1039/1040/1041/1042/1043/1044/1045/1046/1047/1048/1049/1050/1051/1052/1053/1054/1055/1056/1057/1058/1059/1060/1061/1062/1063/1064/1065/1066/1067/1068/1069/1070/1071/1072/1073/1074/1075/1076/1077/1078/1079/1080/1081/1082/1083/1084/1085/1086/1087/1088/1089/1090/1091/1092/1093/1094/1095/1096/1097/1098/1099/1100/1101/1102/1103/1104/1105/1106/1107/1108/1109/1110/1111/1112/1113/1114/1115/1116/1117/1118/1119/1120/1121/1122/1123/1124/1125/1126/1127/1128/1129/1130/1131/1132/1133/1134/1135/1136/1137/1138/1139/1140/1141/1142/1143/1144/1145/1146/1147/1148/1149/1150/1151/1152/1153/1154/1155/1156/1157/1158/1159/1160/1161/1162/1163/1164/1165/1166/1167/1168/1169/1170/1171/1172/1173/1174/1175/1176/1177/1178/1179/1180/1181/1182/1183/1184/1185/1186/1187/1188/1189/1190/1191/1192/1193/1194/1195/1196/1197/1198/1199/1200/1201/1202/1203/1204/1205/1206/1207/1208/1209/1210/1211/1212/1213/1214/1215/1216/1217/1218/1219/1220/1221/1222/1223/1224/1225/1226/1227/1228/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**REPORT TO GEORGES RIVER COUNCIL
LPP MEETING OF TUESDAY, 21 JULY 2020**

LPP031-20

LPP Report No	LPP031-20	Development Application No	MOD2020/0075
Site Address & Ward Locality	36 Bunyala Street Blakehurst Blakehurst Ward		
Proposed Development	<p>Modifications of the approval issued for DA2017/0649 being demolition of a former motel building and structures, tree removal and construction of a five storey residential flat building containing 40 units (2 x one bedroom, 24 x two bedroom and 14 x three bedroom) and two levels of basement car parking with 66 residential spaces (including 4 adaptable spaces) and 8 visitor spaces.</p> <p>The modifications sought include various internal/external design changes, a change to the unit mix resulting in the provision of 1 x 2 bedroom and 1 x 3 bedroom units replacing the approved 2 x 2 bedroom units on each floor. The amended proposal will comprise 1 x 1 bedroom, 22 x 2 bedroom and 17 x 3 bedroom units and provide a total of 40 units (as approved). The modifications result in an increase in the approved floor space of the development.</p>		
Owners	TGA Pymont Pty Ltd		
Applicant	Lateral Estate Pty Ltd		
Planner/Architect	Planner: Planning Ingenuity, Architect: Smith and Tzannes		
Date Of Lodgement	7/05/2020		
Submissions	None		
Cost of Works	Original DA: \$22,802,216		
Local Planning Panel Criteria	The proposed development seeks modifications under the provisions of 4.56 to an approved residential flat building in which the provisions of SEPP 65 apply. The approval was granted by the Land and Environment Court on 21 February 2019.		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	<p>State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development and the Apartment Design Guide, State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, State Environmental Planning Policy (BASIX) 2004, Greater Metropolitan Regional Environmental Planning Policy No 2- Georges River Catchment, State Environmental Planning Policy No. 55 – Remediation of Land, State Environmental Planning Policy (Infrastructure) 2007, Draft Environment State Environmental Planning Policy, Draft State Environmental Planning Policy 55 – Remediation of the Land, Kogarah Local Environmental Plan 2012, Kogarah Development Control Plan 2013, Draft Georges River Local Environmental Plan 2020</p>		
List all documents submitted with this report for the Panel's consideration	Architectural Plans, Statement of Environmental Effects		
Report prepared by	Senior Development Assessment Planner		

Recommendation	That the application be approved subject to revised and additional conditions as 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 recommendations summarised, in the Executive Summary of the assessment report?	Yes
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Not Applicable
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (under s7.24)?	Not Applicable
Conditions Have draft conditions been provided to the applicant for comment?	No, the conditions amended or imposed can be viewed when the report is published.

Site Plan



Site outlined in blue

Executive Summary Proposal

1. The Section 4.56 modification application seeks consent for amendments to a Land and Environment Court approval (case number 2018/201275, orders made on 21 February 2019) for 'Demolition of existing former motel building and structures, tree removal and construction of a five storey residential flat building containing 40 units (2 x one bedroom, 24 x two bedroom and 14 x three bedroom) and two levels of basement car parking with 66 residential spaces (including 4 spaces for adaptable units) and 8 visitor spaces'.
2. The modifications sought include:

- **Unit mix**

Unit Mix Approved	Unit Proposed
1 bedroom units - 1	1 bedroom units - 1
2 bedroom units - 25	2 bedroom units - 22
3 bedroom units - 14	3 bedroom units - 17
Total Units = 40	Total Units = 40

The changes involve a 2 bedroom unit on Levels 1, 2 and 3 being modified to a 3 bedroom unit on each level (ie units B102, B202 and B302).

- **Internal floor layout changes**

The proposal also results in changes to the internal layout of the adjoining units B101, B201 and B301 to accommodate the additional floor space provided to units B102, B202 and B302 as shown on the DA plans.

- **Gross Floor Area**

The modification will result in an increase of 25sqm in floor area, which exceeds the maximum FSR for the site by 20sqm.

- **Parking**

Two additional parking spaces are proposed in the approved basement levels to meet the DCP parking rate as a result of the change from 2 bedroom units to 3 bedroom units.

- **Level 4 lift alcove**

During the assessment of the application the applicant proposed additional modifications to the submitted plans relating to an enclosed alcove in front of the lift doors to the pool area on Level 4 of Building B (Note: the Statement of Environmental Effects submitted with the modification application does not include this part of the proposal). Following approval of the development and prior to the issue of the construction certificate, the waste chutes and bin store area on each level were converted to services areas in consultation with council's Waste Officer. This resulted in those areas being able to be excluded from gross floor area, thereby freeing up floor space to enable the provision of an enclosed area in front of the lift doors that provide access to the Level 4 pool area/rooftop communal open space area to Building B. The applicant has demonstrated the floor space required to facilitate the alcove is offset by the areas now excluded from GFA as service risers.

Site and Locality

3. The subject site is identified as 36 Bunyala Street, Blakehurst and is legally described as Lot 4 in DP516331.
4. The site is located on the eastern side of Bunyala Street Blakehurst. The site has a frontage to Bunyala Street of 57.226m, a boundary to Carss Bush Park to the north of 52.55m, a southern side boundary length of 40.246m and an eastern boundary length of 60.776m, with an overall site area of 2,833sqm.
5. Construction of the approved residential flat building has commenced.
6. The surrounding area includes Todd Park to the west and north west, Carss Bush Park to the north and east, an aged care facility under renovation to the south east and a service station to the south west.

Zoning and Permissibility

7. The site is zoned R3 Medium Density Residential under Kogarah Local Environmental Plan 2012 (KLEP) and the proposed modification being works to the approved residential flat building is permissible with Council's consent.

Submissions

8. The application was neighbour notified between 25 May 2020 and 9 June 2020. No submissions were received.

Reason for referral to the Local Planning Panel

9. The proposal is referred to the Local Planning Panel for determination as the development is subject to SEPP 65 and is a Section 4.56 modification to a Court approved development. The Georges River Local Planning Panel is the consent authority via the Ministerial Direction of 23 February 2018.

Conclusion

10. The application has been assessed having regard to Section 4.56 of the Environmental Planning and Assessment (EP&A) Act 1979 and the Matters for Consideration under Section 4.15(1) of the EP&A Act 1979. Following the assessment of the proposal, it is considered that Modification No. MOD2020/0075 is worthy of support and is recommended for approval subject to modified conditions.

Report in Full

Site and Locality

11. The subject site is identified as 36 Bunyala Street, Blakehurst and is legally described as Lot 4 in DP516331. The site is zoned R3 Medium Density Residential.
12. The site is located on the eastern side of Bunyala Street Blakehurst. The site has a frontage to Bunyala Street of 57.226m, a boundary to Carss Bush Park to the north of 52.55m, a southern side boundary length of 40.246m and an eastern boundary length of 60.776m, with an overall site area of 2,833sqm.
13. Construction of the approved residential flat building has commenced.
14. The surrounding area includes Todd Park to the west and north west, Carss Bush Park to the north and east, an aged care facility under renovation to the south east and a service station to the south west.

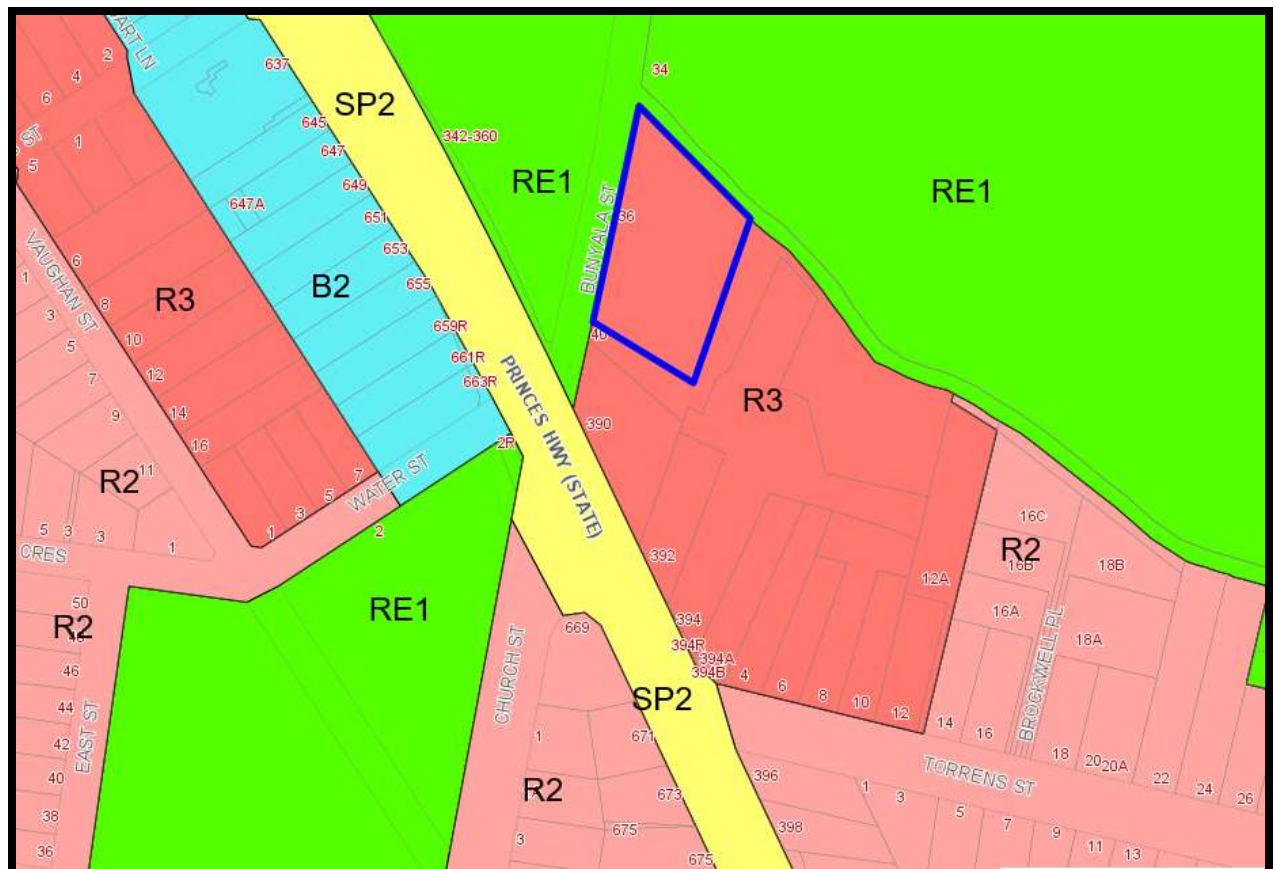


Figure 1 - Zoning Map showing the development site outlined in blue.

Background

15. The approved development is for the demolition of existing former motel building and structures, tree removal and construction of a five storey residential flat building

containing 40 units (2 x one bedroom, 24 x two bedroom and 14 x three bedroom) and two levels of basement car parking with 66 residential spaces (including 4 spaces for adaptable units) and 8 visitor spaces (DA2017/0649, which was approved by the Land and Environment Court on 21 February 2019 (Case number 2018/201275)).

16. A previous modification application (MOD2019/0134) was approved on 3 October 2019 for converting Unit A403 from a one bedroom to a two bedroom unit, changes to basement RL levels, addition of a window and Juliette balcony to Unit B304, changes to the levels in part of the rooftop communal open space and an increase to the height of the lift overruns.
17. This is a modification application lodged pursuant to Section 4.56 of the Environmental Planning and Assessment Act 1979 (EP&A Act) and proposes modifications to Development Consent DA2017/0649, which was approved by the Land and Environment Court on 21 February 2019 (Case number 2018/201275).
18. The modification application is referred to the Local Planning Panel for determination as the application is a modification under clause 4.56 of the EP&A Act to a residential flat building under the provisions of State Environmental Planning Policy 65, whereby the Georges River Local Planning Panel is the determining authority via the Ministerial Direction of 23 February 2018.

Proposal

19. The applicant seeks to modify Development Consent No DA2017/0649 in the following manner:

- **Unit mix**

Unit Mix Approved	Unit Proposed
1 bedroom units - 1	1 bedroom units – 1
2 bedroom units - 25	2 bedroom units – 22
3 bedroom units - 14	3 bedroom units – 17
Total Units = 40	Total Units = 40

The changes involve a 2-bedroom unit on Levels 1, 2 and 3 being modified to a 3-bedroom unit at each level (i.e. units B102, B202 and B302).

- **Internal floor layout changes**

The proposal also results in changes to the internal layout of the adjoining units B101, B201 and B301, to accommodate the additional floor space provided to units B102, B202 and B302 as shown on the DA plans.

- **Parking**

Two additional parking spaces are proposed in the approved basement levels.

- **Gross Floor Area**

The modification will result in an increase of 25sqm in floor area, which exceeds the maximum FSR for the site by 20sqm. The Statement of Environmental Effects submitted with the application states:

“As mentioned, the proposal will reallocate floor area and result in a minor increase of GFA providing a total area of 4,269m² and FSR of 1.506:1. This represents a minor 20m² non-compliance over the permissible 4,249m² or 1.5:1 FSR and a 25m² increase over the approved development (4,245m²).

The proposed modifications will result in a minor (although visually immaterial) alteration to the western building façade due to accommodate the small increase in floor area proposed, however, will not be visual obtrusive or substantially different when viewed from the public domain given it is inset within the approved building envelope and aligns with the approved western façade. It is noted that the development will not alter the setbacks of the approved building to the balcony or external wall from the western (front) boundary.”

- **Level 4 lift alcove**

During the assessment of the application the applicant proposed additional modifications to the submitted plans relating to an enclosed alcove in front of the lift doors to the pool area on Level 4 of Building B (Note: the Statement of Environmental Effects submitted with the modification application does not include this part of the proposal). Following approval of the development and prior to the issue of the construction certificate, the waste chutes and bin store area on each level were converted to services areas in consultation with council's Waste Officer. This resulted in those areas being able to be excluded from gross floor area, thereby freeing up floor space to enable the provision of an enclosed area in front of the lift doors that provide access to the Level 4 pool area/rooftop communal open space area to Building B. The applicant has demonstrated the floor space required to facilitate the alcove is offset by the areas now excluded from GFA as service risers.

20. Specifically, the modifications involve:

- **Basement C1**

The approved parking, waste room and storage cages have been modified to provide an additional parking space.

- **Basement C2**

The approved parking and storage cages have been modified to provide an additional parking space.

- **Level 1**

Unit B102 is modified from a 2 bedroom unit to a 3 bedroom unit, internal rearrangements and the balcony is reduced in size for Unit B101.

- **Level 2**

Unit B202 is modified from a 2 bedroom unit to a 3 bedroom unit, internal rearrangements and the balcony is reduced in size for Unit B201.

- **Level 4 lift alcove**

During the assessment of the application the applicant proposed additional modifications to the submitted plans relating to an enclosed alcove in front of the lift doors to the pool area on Level 4 of Building B (Note: the Statement of Environmental Effects submitted with the modification application does not include this part of the proposal). Following approval of the development and prior to the issue of the construction certificate, the waste chutes and bin store area on each level were converted to services areas in consultation with council's Waste Officer. This resulted in those areas being able to be excluded from gross floor area, thereby freeing up floor space to enable the provision of an enclosed area in front of the lift doors that provide access to the Level 4 pool area/rooftop communal open space area to Building B. The applicant has demonstrated

the floor space required to facilitate the alcove is offset by the areas now excluded from GFA as service risers.

21. Approved and proposed plans are provided for clarity on the following pages.

Basement C1

22. The approved parking, waste room and storage cages have been modified to provide an additional parking space.

Approved Layout

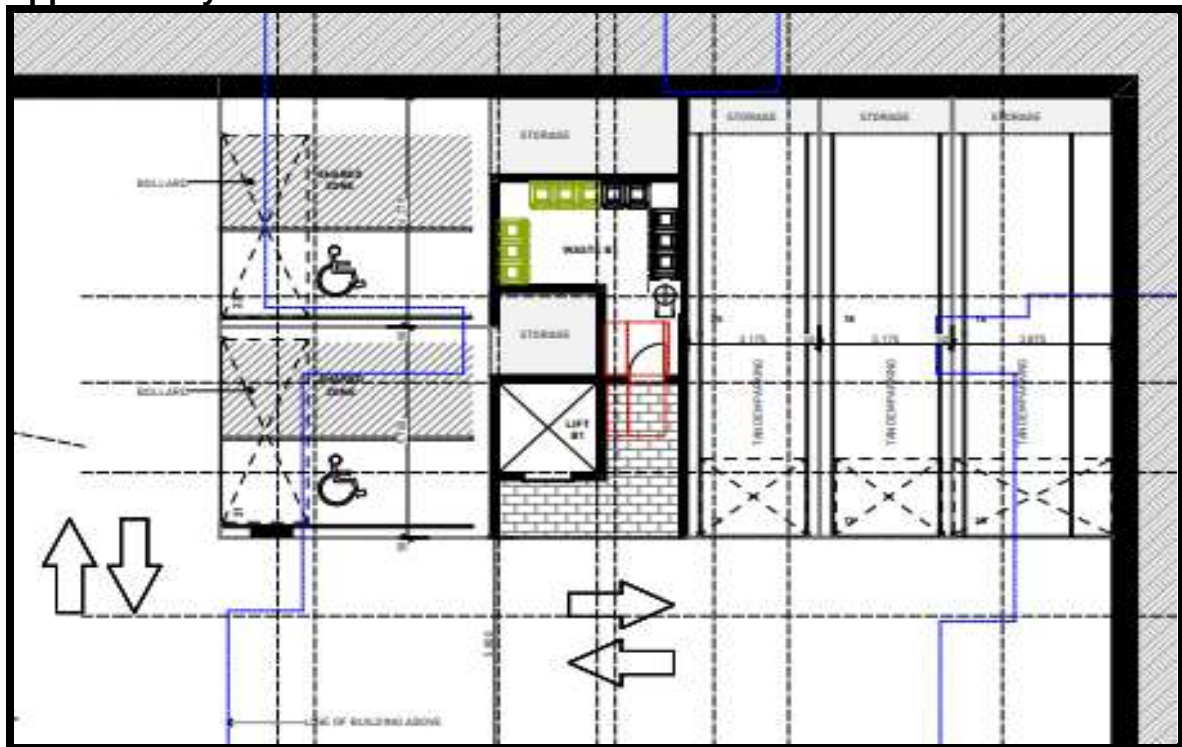


Figure 3: Extract of approved layout C1

23. The approved parking, waste room and storage cages have been modified to provide an additional parking space.

Proposed Layout

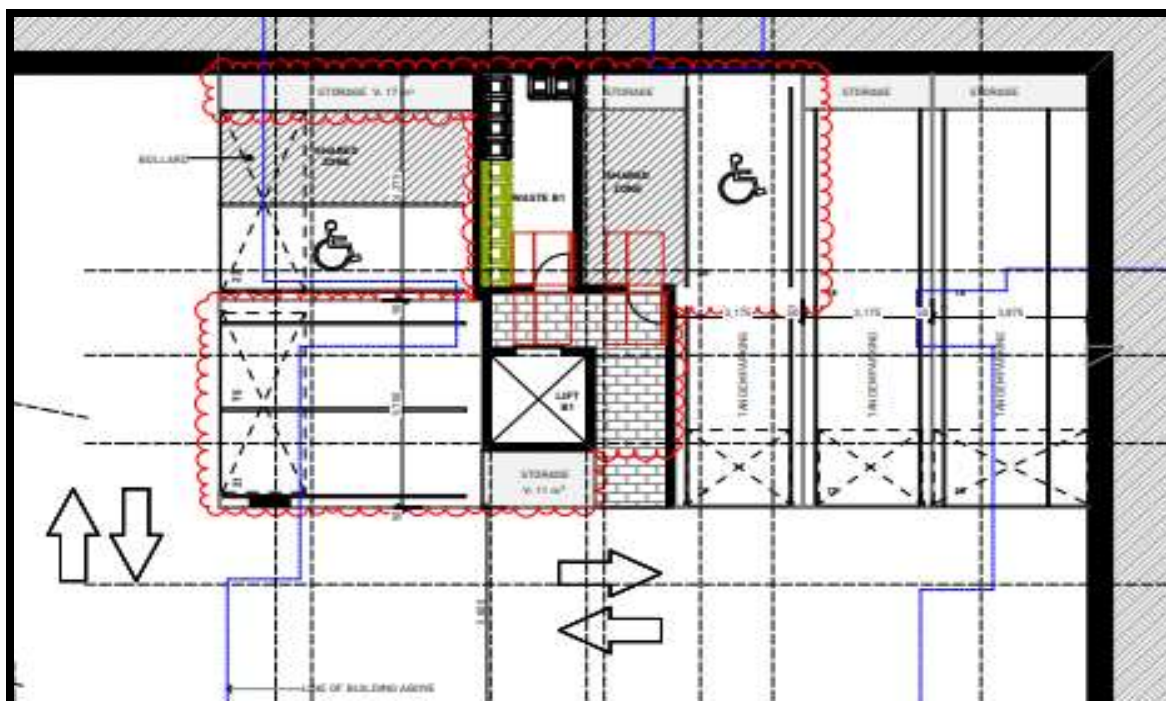


Figure 3: Extract of proposed layout C1

Basement C2

24. The approved parking and storage cages have been modified to provide an additional parking space.

Approved Layout

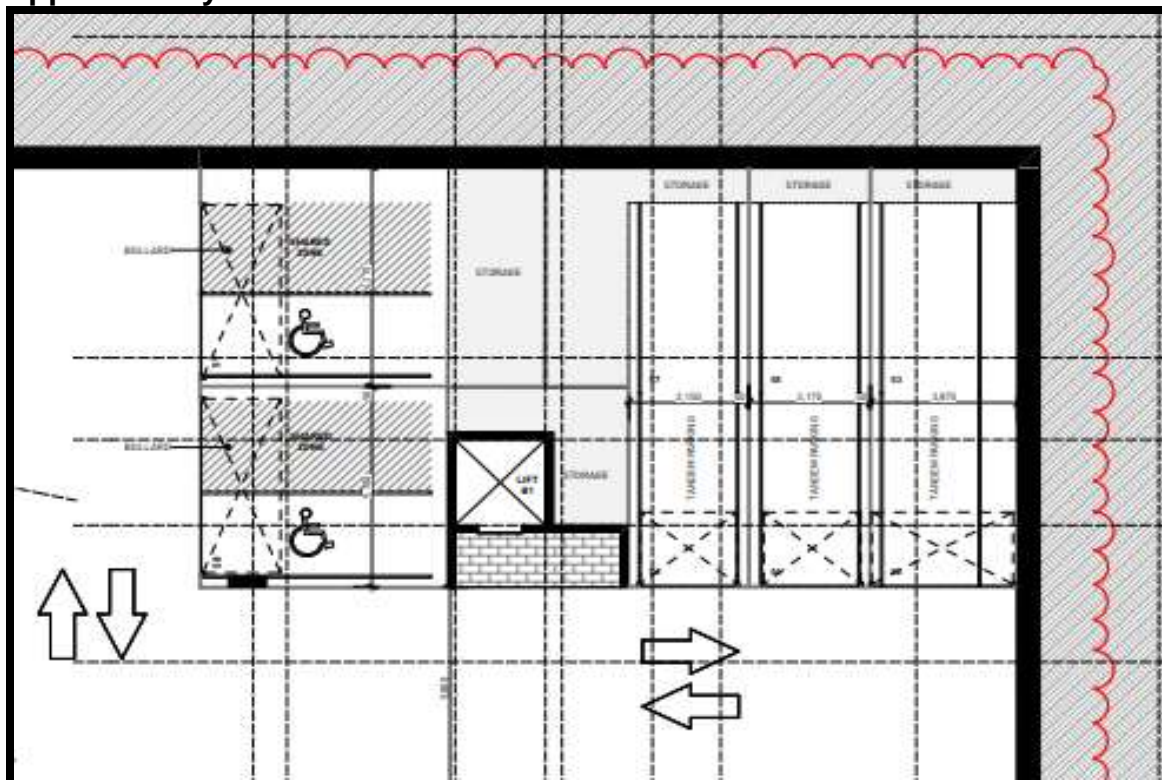


Figure 4: Extract of approved layout C2

Proposed Layout

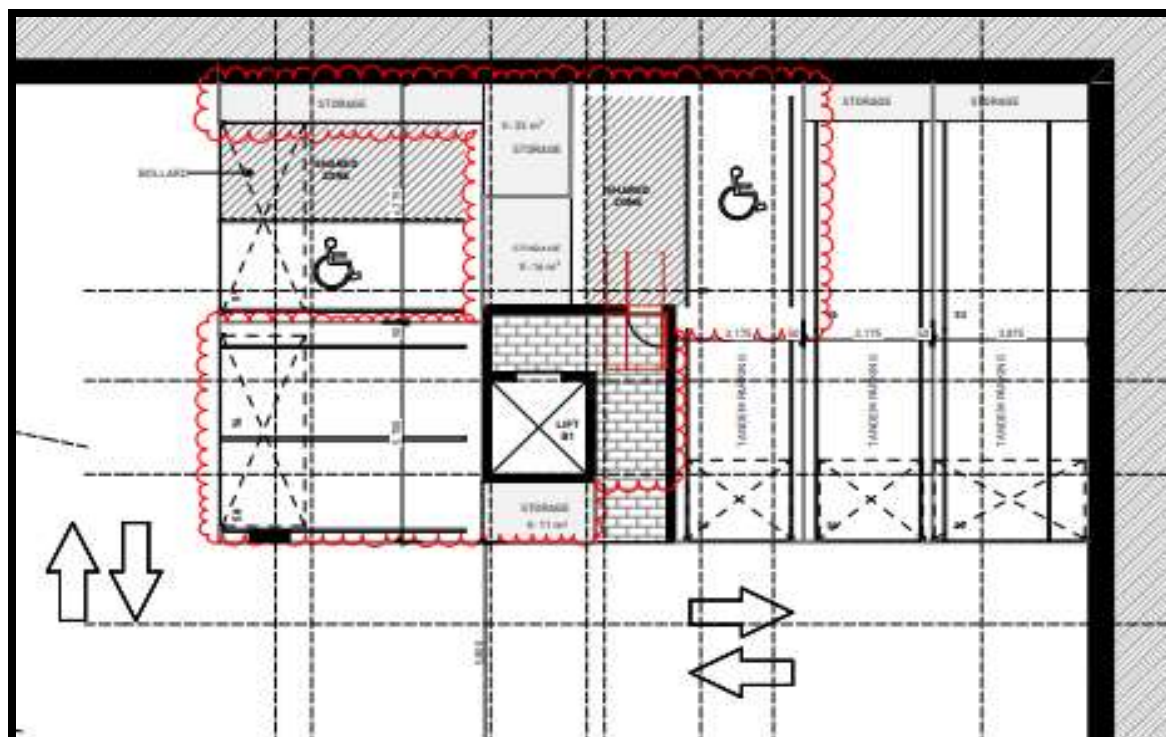


Figure 5: Extract of proposed layout C2

Level 1

25. Unit B102 is modified from a 2 bedroom unit to a 3 bedroom unit, with the balcony of Unit B101 reduced in size and the area used for the new bedroom. In addition the floor plan layout of both units is modified to facilitate the additional bedroom.

Level 2

26. Unit B202 is modified from a 2-bedroom unit to a 3-bedroom unit, with the balcony of Unit B201 reduced in size replaced with the additional bedrooms for unit B202. The floor plans of both units have been modified to accommodate the additional bedroom.

Level 3

27. Unit B302 is modified from a 2 bedroom unit to a 3 bedroom unit, with the balcony of Unit B301 reduced in size replaced with the additional bedrooms for unit B302. The floor plans of both units have been amended to accommodate the additional bedroom.

Level 4

28. An enclosed alcove in front of the lift doors to the pool area on Level 4 of Building B is proposed.

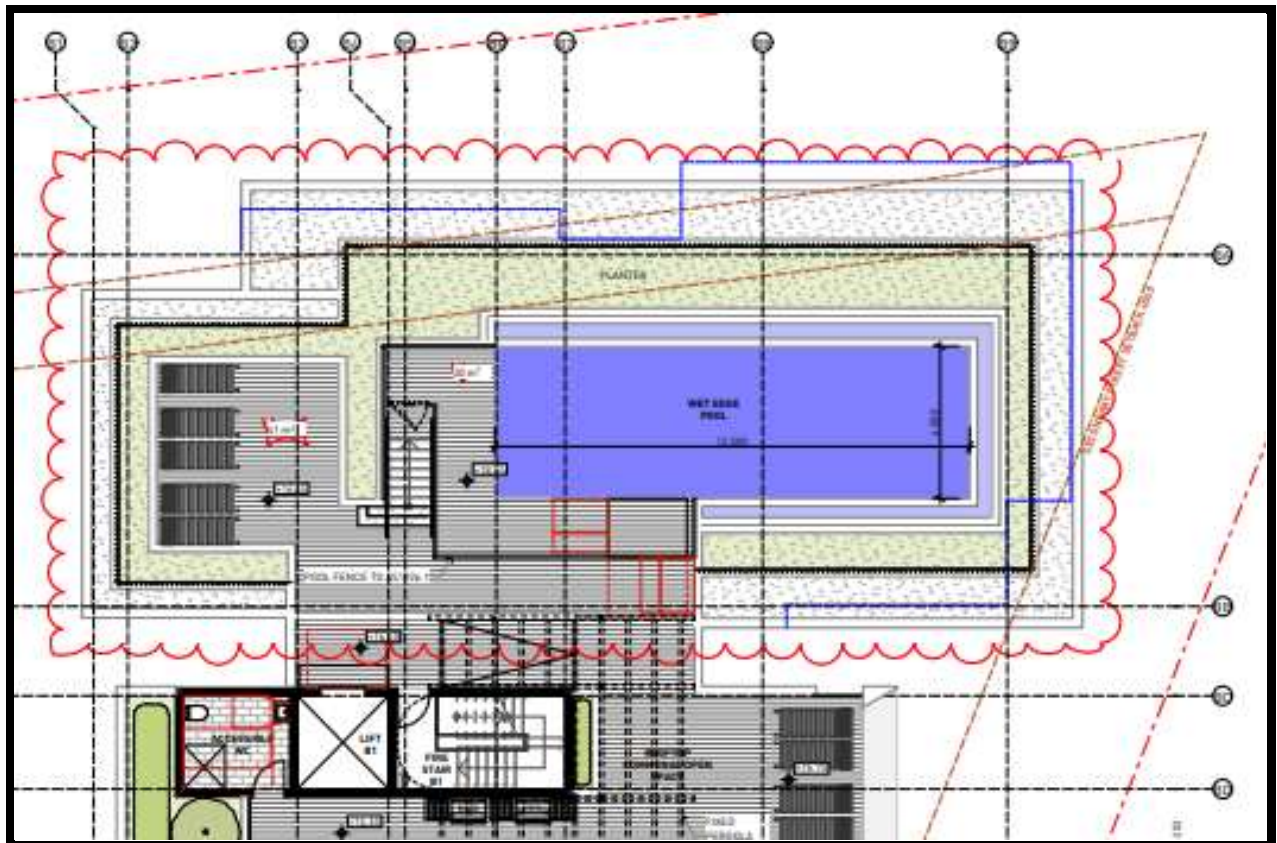


Figure 6: Extract of approved Level 4

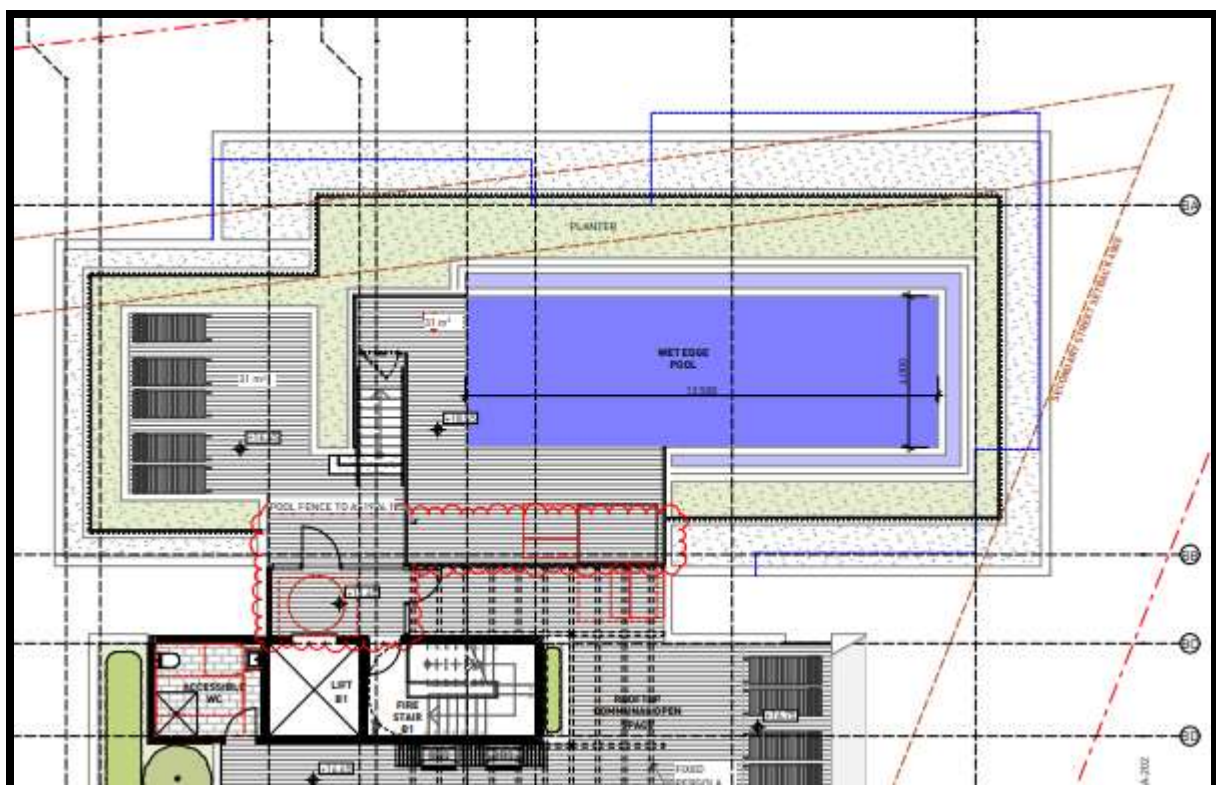


Figure 7: Extract of proposed lift alcove on Level 4

ASSESSMENT

Section 4.56 Considerations

29. The application has been made pursuant to Section 4.56 of the Environmental Planning and Assessment Act 1979 to modify Development Consent DA2017/0649 determined on 21 February 2019 by the Land and Environment Court. A consent authority may, on

application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if it:

- **Is satisfied the proposed development as modified is substantially the same development for which consent was originally granted?**
30. The proposed development as modified would represent substantially the same development for which consent was originally granted being a residential flat building.
- **Has advertised and or notified the application in accordance with the regulations or a development control plan?**
31. The application was neighbour notified in accordance with the provisions of Kogarah Development Control Plan 2013 and no submissions were received.
- **Has considered any submissions made concerning the proposed modification?**
32. No submissions were received.

Section 4.15 Evaluation

33. In determining a Section 4.56 modifications the provisions of Section 4.15 of the EP&A Act 1979 (where relevant) need to be considered as part of the assessment. The following considers the proposal in respect to these requirements.

State Environmental Planning Policies

34. Compliance with the relevant State Environmental Planning Policies (SEPPs) are discussed in the table below.

State Environmental Planning Policy	Complies
Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment	Yes – no change.
State Environmental Planning Policy 55 – Remediation of Land	Yes - no change.
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	An amended BASIX certificate was provided with the application, dated 22 April 2020.
State Environmental Planning Policy (Infrastructure) 2007	Yes - no change.
State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development	Yes - see discussion below.
Draft Environment State Environmental Planning Policy	Yes - no change.
Draft Remediation of Land State Environmental Planning Policy	Yes - no change.

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

35. The proposed modification does not affect the overall design quality of the development which was also taken into consideration under Clause 29 of the SEPP in the assessment of the original DA with regards to the cl 29(b) the design quality principles, and cl 29(c) the Apartment Design Guide (ADG).

36. An assessment of the application against the relevant Design Principles of SEPP 65 and the Objectives in the ADG is provided below. Compliance with 5 – Landscape and 9 – Aesthetics will not be affected by the modifications proposed.

Part 4 Application of Design Principles under the SEPP

Principle 1: Context and neighbourhood character

37. The overall design of the building is generally unchanged. The change to Levels 1 – 3 to provide a 3 bedroom unit in place of one of the 2 bedroom units, whilst resulting in a non-compliant FSR of 20sqm, is not considered to be inconsistent with regard to context and how the modified built form will sit within the character of this locality.

Principle 2: Built form and scale

38. The overall design of the building is generally unchanged and its relationship to other built form in the locality remains unchanged. The minor increase in FSR will not have a significant visual or amenity impact on the adjoining allotments or the public domain.

Principle 4: Sustainability

39. An updated BASIX certificate in relation to the changes to the unit layout has been issued and indicates compliance with the BASIX SEPP.

Principle 6: Amenity

40. The development provides good amenity for residents, neighbours and visitors to the site which is consistent with Principle 6. The modified unit layout of the affected units achieves acceptable levels of amenity.

Principle 7: Safety

41. The amended design does not affect the safety and security of the development.

Principle 8: Housing diversity and social interaction

42. The amended design changes the unit mix. A suitable mix of 1 bedroom, 2 bedroom and 3 bedroom units is proposed.
43. In summary, the proposal is considered to be consistent with the Design Principles of SEPP 65 – Design Quality of Residential Apartment Development.

Clause 28 – Consideration of Apartment Design Guide (ADG)

44. The following table is an assessment against the Objectives of the ADG relevant to the modification application.

ADG Compliance Table		
Standard	Proposal	Complies
3D – Communal Open Space (COS)		
Provide COS at least 25% of the site area located on a podium or roof if it can't be located on ground level	No change to the approved development in this regard.	
At least 50% direct sunlight to the principal usable part of the COS for at least 2 hours between 9 am and 3 pm on 21 June (mid-winter)		

3E – Deep Soil Zones		
Site area is > 1,500sqm = 6m min dimension	No change to the approved development in this regard.	
Min deep soil area of 7%		
3F – Visual Privacy		
Minimum separation to side and rear boundaries: <u>Up to 12m (4 storeys):</u> 3m non-habitable rooms 6m habitable rooms & balconies <u>12m to 25m (5-8 storeys):</u> 4.5m non-habitable rooms 9m habitable rooms and balconies	No change to the approved development in this regard.	
3G – Pedestrian Access and Entries		
Building entries and pedestrian access connects to and addresses the public domain Multiple entries (including communal building entries and individual ground floor entries) should be provided to activate the street edge	No change to the approved development in this regard.	
3H – Vehicle Access		
Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes	No change to the approved development in this regard.	
3J – Bicycle and Car Parking		
Car parking provided in accordance with RMS GTTGD (Sub-Regional Centres) for sites located within 800m of a railway station or light rail stop in the Sydney Metropolitan Area.	Not applicable – DCP rates apply.	Complies with DCP rates, no changes proposed.
4A – Solar and Daylight Access		
Living rooms and private open space receive 2 hours direct sunlight between 9am and 3pm in midwinter for 70% of apartments (ie 13 apartments) Max. 15% of apartments receive no direct sunlight between 9am and 3pm in midwinter	The proposed change to the layout of units 01 and 02 on Levels 1, 2 and 3 will continue to receive a minimum of 2 hours sunlight in midwinter despite the floor plan layout changes.	Yes
4B – Natural Ventilation		
At least 60% of apartments are naturally cross ventilated in the first	Each modified unit is naturally cross ventilated despite the floor	Yes

nine storeys of the building (i.e. 11 apartments)	plan layout changes.	
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Each modified unit is less than 18m deep.	Yes
4C – Ceiling Heights		
Minimum ceiling heights measured from FFL to finished ceiling level: Habitable rooms = 2.7m Non-habitable rooms = 2.4m	All habitable and non-habitable rooms 2.7m min.	Yes
4D – Apartment Size and Layout		
Minimum internal areas: Studio: 35sqm 1-bedroom: 50sqm 2-bedroom: 70sqm 3-bedroom: 90sqm	All units, including the modified units, meet minimum internal size requirements.	Yes
(Add 5sqm if second bathroom proposed)	Calculated accordingly.	Yes
Each habitable room must have a window in an external wall with a total minimum glass area of at least 10% of the floor area of the room.	All units, including the modified units, achieve compliance.	Yes
Habitable room depths are limited to a maximum of 2.5 x the ceiling height	All rooms (excluding open plan layouts) are compliant.	Yes
In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window	All units with open plan layouts have a depth no greater than 8m.	Yes
Master bedrooms have a minimum area of 10sqm and other bedrooms 9sqm (excluding wardrobe space)	All bedrooms are compliant, Including the modified units.	Yes
Bedrooms have a minimum dimension of 3m (excluding wardrobe space)	All bedrooms are compliant, Including the modified units.	Yes
Living rooms or combined living/dining rooms have a minimum width of: - 3.6m for studio and 1 bedroom - 4m for 2 and 3 bedroom apartments	All living and living/dining rooms achieve the minimum required widths. Including the modified units	Yes
Internal width of cross-over or cross-through apartments are at	N/A – none proposed.	N/A

least 4m		
4E – Private Open Space and Balconies		
Minimum primary balcony sizes: Studio: 4sqm area 1-bedroomr: 8sqm area, 2m depth 2-bedroomr: 10sqm area, 2m depth 3+br: 12sqm area, 2.4m depth	All balconies (including the modified balconies of units B101, B201 and B301) achieve the minimum area and depth requirements.	Yes
The minimum balcony depth to be counted as contributing to the balcony area is 1m	Calculated accordingly.	Yes
For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15sqm and a minimum depth of 3m	Not applicable to the modified units.	NA
4F – Common Circulation Areas		
Maximum 12 apartments off a circulation core on a single level	No change to approved development.	
4G – Storage		
In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: Studio: 4m ³ 1-bedroom: 6m ³ 2-bedroom: 8m ³ 3 –bedroom: 10m ³	All units have compliant total storage volumes as per the ADG volumes, including the modified units.	Yes
At least 50% of storage is located within the apartment	At least 50% of storage is located within the unit, including the modified units.	Yes
4H – Acoustic Privacy		
Adequate building separation is provided within the development and from neighbouring buildings/adjacent uses.	The modified unit layouts propose one additional bedroom on the Bunyala Street elevation at each level of this part of the building (currently there are three bedrooms facing Bunyala Street at each level in this part of the approved building).	
Window and door openings are generally orientated away from noise sources	The additional bedroom is setback a similar distance to the approved bedrooms on this elevation and is approximately 70m from the intersection with King Georges Road.	
Noisy areas within buildings including building entries and corridors should be located next to or above each other and quieter areas next to or above quieter areas	The location of the additional bedroom will not unreasonably impact the acoustic privacy of future residents.	
Storage, circulation areas and non-		

habitable rooms should be located to buffer noise from external sources	
4J – Noise and Pollution	
<p>To minimise impacts the following design solutions may be used:</p> <ul style="list-style-type: none"> Physical separation between buildings and the noise or pollution source Residential uses are located perpendicular to the noise source and where possible buffered by other uses Buildings should respond to both solar access and noise. Where solar access is away from the noise source, non-habitable rooms can provide a buffer Landscape design reduces the perception of noise and acts as a filter for air pollution generated by traffic and industry 	No change to approved development other than the new bedrooms facing Bunyala Street.
4K – Apartment Mix	
A range of apartment types and sizes is provided to cater for different household types now and into the future.	The proposal includes a mix of 1, 2 and 3 bedroom units at an acceptable ratio (1 x 1B, 22 x 2B, 17 x 3B).
The apartment mix is distributed to suitable locations within the building.	Achieved.
4L – Ground Floor Apartments	
Street frontage activity is maximised where ground floor apartments are located	No change to the approved development in this regard.
Design of ground floor apartments delivers amenity and safety for residents	
4M – Facades	
Facades should be well resolved with an appropriate scale and proportion to the streetscape and human scale	The modified facades are in keeping with the approved facades.
4N – Roof Design	
Roof treatments are integrated into the building design and positively respond to the street. Opportunities to use roof space for	No change to the approved development in this regard.

residential accommodation and open space are maximised.	
4O – Landscape Design	
Landscape design is viable and sustainable, contributes to the streetscape and amenity	No change to the approved development in this regard.
4P – Planting on Structures	
Planting on structures – appropriate soil profiles are provided, plant growth is optimised with appropriate selection and maintenance, contributes to the quality and amenity of communal and public open spaces	No change to the approved development in this regard.
4Q – Universal Design	
Universal design – design of apartments allow for flexible housing, adaptable designs, accommodate a range of lifestyle needs	The modified unit layouts will allow for a range of lifestyle needs and flexible furniture arrangement.
4R – Adaptive Reuse	
Adaptive reuse as apartment of existing buildings- new additions are contemporary and complementary, provide residential amenity while not precluding future adaptive reuse.	N/A – not an adaptive reuse.
	N/A
4U – Energy Efficiency	
Development incorporates passive environmental design, passive solar design to optimise heat storage in winter and reduce heat transfer in summer, natural ventilation minimises need for mechanical ventilation	A revised BASIX has been submitted with this modification.
4V – Water Management and Conservation	
Water management and conservation – potable water use is minimised, stormwater is treated on site before being discharged, flood management systems are integrated into the site design	No change to the approved development in this regard.
4W – Waste Management	
Waste management – storage facilities are appropriately designed, domestic waste is minimised by convenient source separation and recycling	The addition of three bedrooms does not trigger the need for additional bins to service the units in this block of the development.
4X – Building Maintenance	
Building design provides protection from weathering	No change to the approved development in this regard.

Enables ease of maintenance, material selection reduces ongoing maintenance cost	
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LPP031-20

Draft Environmental Planning Instruments

45. A Draft Environmental SEPP was exhibited from 31 October 2017 to 31 January 2018. The consolidated SEPP proposes to simplify the planning rules for a number of SEPPs. The proposal is not inconsistent with the provisions of this Draft Instrument.
46. A Draft State Environmental Planning Policy – Remediation of Land exists, this amendment does not undermine the requirements of this instrument.

Kogarah Local Environmental Plan 2012 (KLEP)

47. The modification does not affect compliance of the development with the height control provisions of KLEP 2012.
48. The total floor space of the development has increased as part of the modification, resulting in a variation to the maximum Floor Space Ratio (FSR) control of 20sqm, and this variation has been assessed below.

Assessment of Floor Space Ratio (FSR) variation

49. The approved FSR of the development is 4244sqm or 1.498:1. The increase FSR arises from the conversion of balconies into floor area and rearrangement of service areas and totals 25sqm, resulting in a 20sqm exceedance above the maximum 1.5:1 FSR control for the site, which represent a variation of 0.5%.
50. The additional floor space associated with the proposed lift alcove on Level 4 is offset by the removal of waste chutes and bin store areas and their replacement with service risers, thus being excluded from floor space.
51. In the NSW Land and Environment Court case of *Gann & Anor v Sutherland Shire Council [2008]*, the Court held that there is power to modify a development application (via a Section 4.55 application) where the modification would result in the breach of development standards. The Court took the view that development standards within an LEP did not operate to prohibit the granting of consent if they were not complied with (and no objection pursuant to SEPP No. 1 (now relevant to a Clause 4.6 variation) had been lodged). Notwithstanding, the Court held that despite a SEPP No. 1 Objection (or Clause 4.6 variation now) not being required, a Section 96 application (this being a Section 4.56 of the EP&A Act) still requires the consent authority to take into consideration those matters referred to in Section 4.15. These matters, where relevant to the application are assessed below.

Objectives of Clause 4.4 – Floor space ratio

52. The objectives of Clause 4.3 are as follows:
 - (a) *to ensure the intensity of development is compatible with the desired future character and zone objectives for the land,*
 - (b) *to limit the bulk and scale of development.*
53. The proposal satisfies the objectives of the floor space control as the additional floor space located within the footprint of the approved building (being the conversion of balcony area to a third bedroom for 3 units) and will not add to the perceived approved bulk of the building.

54. The site is located in the R3 Medium Density Residential zone, the objectives of which are:
- *To provide for the housing needs of the community within a medium density residential environment.*
 - *To provide a variety of housing types within a medium density residential environment.*
 - *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
55. The modified proposal meets all three zone objectives by increasing the number of three (3) bedroom apartments in the building which will diversify the range of units in the approved building in response to market demands.
56. The modified proposal satisfies the relevant objectives of the zone in that it does not discernibly alter the approved intensity of residential land uses and continues to provide a variety of dwelling types.
57. The minor numerical variation to the floor space development standard is acceptable on merit as the proposal meets the objectives of both the zone and the development standard.
58. On “planning grounds” the modified proposal does not alter the degree of which compliance with the zone objectives was achieved under the originally approved development. The modifications will not result in any amenity impacts on adjoining sites given the amendment face Bunyala Street.
59. Although an objection pursuant Clause 4.6 is not required, the reasoning applied in *Wehbe v Pittwater Council* [2007] NSW LEC 827, is appropriate to rely upon to determine that the proposal is well founded despite the departure from Clause 4.3 of Kogarah LEP 2012. In the judgement the Honourable Brian Preston, Chief Justice of the Land and Environment Court, set out 5 different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy.
60. The proposal is considered to be consistent with the first of these in that the objectives of the FSR standard and the R3 zone objectives are achieved notwithstanding the numerical variation proposed.
61. Given that compliance with the zone and development standard objectives is achieved, insistence on strict compliance with the FSR standard is considered to be unreasonable and unnecessary in the circumstances. The proposal is compliant with the relevant objectives and will create negligible environmental impacts. The proposal is therefore justified on environmental planning grounds.
62. It is noted that in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, Preston CJ clarified what items a Clause 4.6 does and does not need to satisfy. Importantly, there does not need to be a “better” planning outcome:

86. The second way is in an error because it finds no basis in cl 4.6. Clause 4.6 does not directly or indirectly establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development. This test is also inconsistent with objective (d) of the height development standard in cl 4.3(1) of

minimising the impacts of new development on adjoining or nearby properties from disruption of views or visual intrusion. Compliance with the height development standard might be unreasonable or unnecessary if the non-compliant development achieves this objective of minimising view loss or visual intrusion. It is not necessary, contrary to what the Commissioner held, that the non-compliant development have no view loss or less view loss than a compliant development.

87. The second matter was in cl 4.6(3)(b). I find that the Commissioner applied the wrong test in considering this matter by requiring that the development, which contravened the height development standard, result in a "better environmental planning outcome for the site" relative to a development that complies with the height development standard (in [141] and [142] of the judgment). Clause 4.6 does not directly or indirectly establish this test. The requirement in cl 4.6(3)(b) is that there are sufficient environmental planning grounds to justify contravening the development standard, not that the development that contravenes the development standard have a better environmental planning outcome than a development that complies with the development standard.

63. The proposal is considered to achieve a planning purpose of enhancing residential amenity and housing diversity in the absence of any additional or new adverse impacts.

Draft Georges River Local Environmental Plan 2020

64. The Local Planning Panel considered the report on the outcomes of the Public Exhibition and Finalisation of Georges River Local Environmental Plan 2020 (DLEP2020) on 25 and 26 June 2020. In relation to this development site:

- The zoning is proposed to change from R3 Medium Density Residential to R4 High Density Residential.
- The minimum lot size is proposed to change from 850sqm to 1,000sqm.

65. There is no proposed change to height or FSR.

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."

Kogarah Development Control Plan 2013 (KDCP2013)

68. The proposed development does not affect the relevant provisions of KDCP 2013 with regards to Residential Flat Buildings, other than the number of required parking spaces.
69. The DCP rate for residential flat buildings requires 68 parking spaces.
70. The approved development provides 66 car parking spaces. The proposed modification to the unit mix requires an additional two parking spaces which have been provided through a rearrangement of the approved basement levels, resulting in the development providing sixty eight (68) parking spaces which is compliant with the DCP control.

Georges River Development Control Plan 2020 (Interim Policy)

71. The Interim Policy is a supplementary document, meaning that current DCP 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 DCPs still legally apply. Whilst the Interim Policy has no statutory weight in the assessment of a Development Applications pursuant to the Environmental Planning and Assessment Act 1979, the policy will be used as a guide as it is an endorsed position of the Elected Council.
72. The proposed development does alter the level of compliance of the approved development with the Interim Policy.

Developer Contributions

73. The proposed development is subject to developer contributions which were levied at the time of the development determination. The applicant has paid the contributions on the approved DA and subsequent modified approval (condition 7).
74. The unit mix has changed as part of this modification and the contributions have been amended by this proposal.
75. A condition of consent has been included requiring the payment of contributions as follows:

Contribution Plan	Description	Section 94 contributions payable (\$)
Plan No. 1	Road and traffic management – residential	\$34.41
Plan No. 5	Open Space – 2006	\$10,208.07
Plan No. 9	Kogarah libraries - buildings component	\$343.71
Plan No. 9	Kogarah libraries - books component	\$245.07
Total Section Contributions Currently Payable		\$10,831.26

Planning Agreements

76. There is no planning agreement applicable to the development.

EP&A Regulation 2000

77. No matters within the Regulation are affected by the modification. An updated BASIX certificate has been lodged. The BASIX certificate reference in the conditions of consent has been updated.

IMPACTS**Likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality**

78. The proposed changes are minor and result in minimal environmental impacts, as discussed above.

Suitability of the site for the development

79. The site is zoned R3 – Medium Density Residential. The proposal is a permissible form of development in this zone. The proposed changes do not affect the suitability of the site for the development, not impact the development potential of the adjoining allotments.

SUBMISSIONS AND THE PUBLIC INTEREST

80. The application was notified in accordance with the provisions of Section 4.56 (b)(i) of the Environmental Planning and Assessment Act 1979 with reference to KDCP 2013 and Section 4.56 (1)(c) of the Environmental Planning and Assessment Act 1979. No submissions were received.

The public interest

81. The proposal is considered to be not inconsistent with the public interest.

REFERRALS

Council Referrals

82. The application was not required to be referred to other Council departments for comment.

CONCLUSION

83. The application has been assessed having regard to the Section 4.56 and the Matters for Consideration under Section 4.15(1) of the Environmental Planning and Assessment Act 1979. Following the assessment of the modifications, it is considered that Modification No. MOD2020/0075 is considered worthy of support subject to updated and new conditions.
84. The modifications to the approved development are minor in nature and approval of the modification is recommended.
85. The changes required to the existing notice of determination are limited to the modified drawings submitted with the modification application (Condition 1), Section 7.11 Contributions payable (Condition 7), the reference to the updated BASIX Certificate (Condition 54) and the allocation of parking spaces (Condition 82).

DETERMINATION AND STATEMENT OF REASONS

Statement of Reasons

86. The reasons for this recommendation are:
- The proposal remains consistent with the original reasons for approval;
 - The proposed modifications to the approved plans are minor in nature and do not result in undermining the objectives of the Kogarah Local Environmental Plan 2012 or the Development Control Plan 2013; and
 - The proposed modifications to the approved plans are minor in nature and do not result in any adverse impact on the natural and built environment.

Determination

87. THAT pursuant to Section 4.56 of the Environmental Planning and Assessment Act 1979 that the Georges River Local Planning Panel grant consent to Modification Application MOD2020/0075 for modifications to DA2017/0649 in accordance with the conditions of consent originally imposed at Lot 4 in DP 516331 known as 36 Bunyala Street, Blakehurst, subject to the amendments in bold in the below conditions of consent:

- **Condition 1: change to list of approved plans to reflect the amended floor plans and elevations.**
- **Condition 7: addition of contributions payable:**
The Section 7.11 contribution has been levied on the **modified development (MOD2020/0075)** pursuant to the Kogarah Section 94 Contributions Plans as follows:

Contribution Plan	Description	Section 94 contributions payable (\$)
Plan No. 1	Road and traffic management – residential	\$34.41
Plan No. 5	Open Space – 2006	\$10,208.07
Plan No. 9	Kogarah libraries - buildings component	\$343.71
Plan No. 9	Kogarah libraries - books component	\$245.07
Total Section Contributions Currently Payable		\$10,831.26

- **Condition 54: Updated BASIX Certificate number and date.**
- **Condition 82: Updated number of parking spaces from 66 to 68.**

DEVELOPMENT DETAILS

1. Approved Plans

- a) The development must be implemented in accordance with the approved plans and supporting documentation listed below except where amended by conditions of this consent:

Description	Reference No.	Date	Revision
<i>Architectural Plans prepared by Smith & Tzannes, 17-061 LEC-</i>			
Site Plan	010	17/12/18	M
Demolition Plan	011	05/12/18	A
Level C2	MOD2-A-100	07/12/18 18/7/19 1/6/20	J A
Level C1	MOD2-A-101	07/12/18 1/6/20	A
Level 0 Ground	102	17/12/18	Z
Level 1	MOD-A-103	07/12/18 18/7/19 17/04/2020	V A B
Level 2	MOD-A-104	05/12/18 18/7/19 17/04/2020	P A B
Level 3	MOD-A-105	05/12/18 18/7/19 17/04/2020	Q A B
Level 4	MOD-A-106	06/12/18 25/6/20	S B
Roof	MOD-A-107	05/12/18 25/6/20	L B
Adaptable Plans	108 MOD2-A-108	05/12/18 17/04/2020	A B
West (Street) Elevation	MOD-A-200	05/12/18 18/7/19 17/04/2020	L A C
East Elevation	MOD-A-201	05/12/18 18/7/19	J A

North & South Elevations	MOD-A-202	05/12/18 25/6/20	M B
South Elevation	MOD2-A-203	25/6/20	B
Section A	MOD-A-203	05/12/18 18/7/19	D A
Section B	204	05/12/18	C
Section C & D	MOD-A-206	05/12/18 25/6/20	F A
Notes & External Finishes	001	07/12/18	C
GFA Calculations	800 MOD2-A-800	05/12/18 25/6/20	L D
GFA Calculations & Apartment Schedule	801 MOD2-A-801	05/12/18 25/6/20	G C
Deep Soil Landscape Calculation	802	05/12/18	H
Communal Open Space Calculation	803	05/12/18	D
Site Coverage Calculation	804	05/12/18	E
Cross Vent & Solar Access Diagrams	805	05/12/18	F
Cross Vent & Solar Access Calculations	806	05/12/18	C
Views from the Sun Winter 9 am – 10 am	850	05/12/18	E
Views from the Sun Winter 11 am – 12 pm	851	05/12/18	E
Views from the Sun Winter 1 – 2 pm	852	05/12/18	E
Views from the Sun Winter 3 pm	853	05/12/18	D
Shadow Diagrams Winter Solstice 1	854	05/12/18	B
Shadow Diagrams Winter Solstice 2	855	05/12/18	B
Typical Pool & Ceiling Section SK004 18/09/18 B	-	-	-
Typical Floor to Ceiling Section	SK005	18/09/18	-
Materials and Finishes Sample Board	-	-	-
Architectural Design Report Prepared by Architects Smith & Tzannes	17-061	12/12/18	D
Stormwater Plans Prepared by Wood & Grieve Engineers			
Stormwater Management Report	35608-SYD C	03/12/18	D
Stormwater Plans:			
General Arrangement Ground Floor	C1-060-01	03/12/18	E
General Arrangement Basement Level 1	C1-060-02	03/12/18	C
General Arrangement Basement Level 2	C1-0601 -3	03/12/18	D
Civic Details Sheet 1	C1-066-01	05/09/18	B
Civic Details Sheet 2	C1-066-02	30/07/18	C
Sediment and Erosion Control Plan	C1-070-01	01/12/18	A
Sediment and Erosion Control Plan Details	C1-070-01	01/12/18	A

Survey Prepared by Boxall Surveyors (Jarrod Hocking)	10588-001	01/09/17	A
Landscape Plans Prepared by NBRS Architecture Landscape	17448- LDA001 - 07	17/12/18 23/7/19	1 K
Site Investigation Detailed Site Investigation Report Prepared by EI Australia	E23562.E02	15/12/17	1
Additional Site Investigation Prepared by EI Australia	E23562.E03	14/09/18	2
Acid Sulphate Soils Assessment Prepared by EI Australia	E23562.E14	15/12/17	0
Waste Management Plan Prepared by Elephants Foot		19/01/17	D
Geotechnical Investigation Prepared by EI Australia	E23562.G03	15/12/17	2
Acoustic Report Prepared by Acoustic Logic	20171311.1/ 0812A1R1/TA	8/12/17	1
Aboriculture Assessment Report Prepared by Urban Tree Management 17	20024	20/11/20	17
Heritage impact Statement Prepared by NBRS Architecture Heritage		14/12/17	2

(This condition has been modified as part of MOD2019/0134 (DA2017/0649)).

(This condition has been modified as part of MOD2020/0075 (DA2017/0649)).

2. Tree Removal

a) Permission is granted for the removal of the following trees:

Tree species	Number of trees	Location
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T1 <i>Liquidambar styraciflua</i>	1	Middle of site
T3 <i>Grevillea robusta</i>	1	Middle of site
T5 <i>Acmena smithii</i>	1	Along eastern boundary fronting car park
T6 <i>Grevillea robusta</i>	1	Along Bunyala Street frontage
T7 <i>Acer negundo</i>	1	Along Bunyala Street frontage
T8 <i>Grevillea robusta</i>	1	Middle of site
T9 <i>Eucalyptus botryoides</i>	1	South corner of site
T10 <i>Leptospermum petersonii</i>	1	South west boundary fence
T11 <i>Ficus macrophylla</i>	1	South corner of site
T12 <i>Leptospermum petersonii</i>	1	South west boundary fence
T13 <i>Glochidion ferdinandi</i>	1	South west boundary fence
T14 <i>Leptospermum petersonii</i>	1	South west boundary fence
T15 <i>Chamaecyparis obtusa "Crippsii"</i>	1	South west boundary fence
T16 <i>Harpephyllum caffrum</i>	1	South west boundary fence
T17 <i>Celtis occidentalis</i>	1	South east corner of site
T18 <i>Celtis occidentalis</i>	1	South east corner of site
T19 <i>Glochidion ferdinandi</i>	1	Back south fence line
T21 <i>Eucalyptus botryoides</i>	1	Along Bunyala Street frontage

- b) All tree removal must be undertaken by a minimum certificate Level 3, Licenced and insured Tree surgeon / Arborist in accordance with AS4373 -2007 Pruning of Amenity Trees and Tree Works Industry Code of Practice (Work Cover NSW 1.8.98).
- c) No other trees are to be removed on the site and none from the neighbouring properties without the prior written approval of Council.
- d) This consent does not approve the removal or pruning (branches or roots) of any trees on Council's public footway, public reserves or on neighbouring properties.

3. Tree pruning

- a) Approval is given for the following works to be undertaken to trees on the site (only in so far as the trees overhang 36 Bunyala Street, and only to the extent that the branches extend into the building footprint).

Tree species	Location	Approved works
T4 and T20 <i>Casuarina cunninghamiana</i>	40 Bunyala St Carss Park, south eastern corner of site	* Formative pruning

- b) Pruning of any other tree (that would require consent of Council) on the site is not

approved.

- c) All pruning must be undertaken by a minimum certificate Level 3, Licenced and insured Tree surgeon / Arborist in accordance with AS4373 -2007 Pruning of Amenity Trees and Tree Works Industry Code of Practice (Work Cover NSW 1.8.98).

4. Fees and contributions to be paid

- a) Fees referred to in this consent must be paid in accordance with the conditions of this consent and Council's adopted Fees and Charges applicable at the time of payment (available at www.georgesriver.nsw.gov.au).
- b) 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).
- c) Please contact Council prior to the payment of Section 7.11 Contributions to determine whether the amounts have been indexed from that indicated below in this consent and the form of payment that will be accepted by Council.
- d) 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).
- e) 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.

5. Damage Deposit - Major Works

- a) In order to insure against damage to Council property the following is required:
 - (i) Pay Council, before the issue of the Construction Certificate, a damage deposit for the cost of making good any damage caused to any Council property as a result of the development: **\$72,980** (\$70,730 for Bunyala Street frontage and \$2,250 for Carss Park).
 - (ii) Pay Council, before the issue of the Construction Certificate, a non-refundable inspection fee (for two inspections) to enable assessment of any damage and repairs where required: **\$371**.

6. Long Service Levy

- a) 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>.
- b) 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.

7. Development Contributions

- a) The Section 7.11 contribution is imposed to ensure that the development makes adequate provision for the demand it generates for public amenities and public services within the area.
- b) The Section 7.11 contribution has been levied on the subject development pursuant to the Kogarah Section 94 Contributions Plans as follows:

Contribution Plan	Description	Section 94 contributions payable (\$)
Plan No. 1	Road and traffic management - residential	\$1,039.36
Plan No. 5	Open Space – 2006	\$495,184.74
Plan No. 9	Kogarah libraries - buildings component	\$11,372.10
Plan No. 9	Kogarah libraries - books component	\$8,108.08
Total Section Contributions Currently Payable		\$515,704.28

The Section 7.11 contribution has been levied on the **modified development** pursuant to the Kogarah Section 94 Contributions Plans as follows:

Contribution Plan	Description	Section 94 Contributions payable (\$)
Plan No. 1	Road and traffic management – residential	\$6.79
Plan No. 5	Open Space – 2006	\$4,342.69
Plan No. 9	Kogarah libraries - buildings component	\$88.46
Plan No. 9	Kogarah libraries - books component	\$63.07
Total Section Contributions Currently Payable		\$4,501.01

(This condition has been modified as part of MOD2019/0134 (DA2017/0649))

The Section 7.11 contribution has been levied on the **modified development (MOD2020/0075)** pursuant to the Kogarah Section 94 Contributions Plans as follows:

Contribution Plan	Description	Section 94 contributions payable (\$)
Plan No. 1	Road and traffic management – residential	\$34.41
Plan No. 5	Open Space – 2006	\$10,208.07
Plan No. 9	Kogarah libraries - buildings component	\$343.71
Plan No. 9	Kogarah libraries - books component	\$245.07
Total Section Contributions Currently Payable		\$10,831.26

(This condition has been modified as part of MOD2020/0075 (DA2017/0649))

c) Indexation

The above contributions will be adjusted at the time of payment to reflect changes in the cost of delivering public amenities and public services, in accordance with the indices provided by the relevant Section 94 Development Contributions Plan. The above rates only are current to **December 2018**.

d) Timing of Payment

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

e) 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 or viewed on Council's website www.georgesriver.nsw.gov.au.

INTEGRATED DEVELOPMENT - GENERAL TERMS OF APPROVAL

WaterNSW

The development is integrated Development and separate approval under the *Water Management Act 2000* is required.

8. A Water Supply Work Approval from WaterNSW must be obtained prior to commencing dewatering activity on the proposed site. Please complete an Application for approval for water supply works, and/or water use.
9. An application for a Water Supply Works Approval will only be accepted upon receipt of supporting documentation, and payment of the applicable fee (see Application fees for New or amended Works and/or Use Approvals). The information required for the processing of the water supply work application may include preparation of a dewatering management plan. Please refer to checklist attached.
10. If approved, the Approval will be issued for a period of up to 24 months to cover the dewatering requirements during the construction phase. It will include conditions to ensure that impacts are acceptable and that adequate monitoring and reporting procedures are carried out. The Approval will be issued subject to the proponent meeting requirements of other agencies and consent authorities. For example, an authorisation by either Sydney Water or the local Council, depending where the water will be discharged. If contaminants are likely, or are found to be present in groundwater, and are being discharged to stormwater, including high salinities, a discharge licence under the *Protection of the Environment Operations Act 1997 (NSW)* may also be required.
11. WaterNSW prefers "tanking" (ie total water proofing below the seasonal high water table) of basement excavations, and avoids the ongoing extraction of groundwater after the initial construction phase. It is also advised to adopt measures to facilitate movement of groundwater post construction (eg a drainage blanket behind the waterproof membrane).
12. If the basement is not "tanked", the proponent will require a Water Access Licence (WAL) and need to acquire groundwater entitlements equivalent to the yearly ongoing take of groundwater. Please note: Acquiring groundwater entitlements could be difficult, and may cause delay in project completion. If a WAL is required, please complete an Application for a new water access licence with a zero share component.

OTHER SEPARATE APPROVALS REQUIRED UNDER OTHER LEGISLATION

13. **Section 138 Roads Act 1993 and Section 68 Local Government Act 1993**
 - a) Unless otherwise specified by a condition of this consent, this Development Consent does not give any approval to undertake works on public infrastructure.
 - b) Separate approval is required under *Section 138 of the Roads Act 1993* and/or

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

- (i) Placing or storing materials or equipment;
 - (ii) Placing or storing waste containers or skip bins;
 - (iii) Erecting a structure or carrying out work;
 - (iv) Swinging or hoisting goods over any part of a public road by means of a lift, crane or the like;
 - (v) Pumping concrete from a public road;
 - (vi) Pumping water from the site into the public road;
 - (vii) Constructing a vehicular crossing or footpath;
 - (viii) Establishing a “works zone”;
 - (ix) Digging up or disturbing the surface of a public road (eg Opening the road for the purpose of connections to utility providers);
 - (x) Stormwater and ancillary works in the road reserve;
 - (xi) Stormwater and ancillary to public infrastructure on private land.
- c) If any excavation is to be supported by the use of below ground (cable) anchors that are constructed under Council’s roadways/footways.
- d) These separate activity approvals must be obtained and evidence of the approval provided to the Certifier prior to the issue of the Construction Certificate.
- e) 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.

14. **Below ground anchors** - Information to be submitted with S68 Application under LGA 1993 and S138 Application under Roads Act 1993.

- a) In the event that the excavation associated with the basement carpark is to be supported by the use of below ground (cable) anchors that are constructed under Council’s roadways/footways, an application must be lodged with Council under Section 68 of the *Local Government Act 1993* and the *Roads Act 1993* for approval, prior to commencement of those works.
- b) The following details must be submitted:
- (i) Cable anchors to be stressed released when the building extends above ground level to the satisfaction of Council;
 - (ii) The applicant has indemnified Council from all public liability claims arising from the proposed works, and provide adequate insurance cover to the satisfaction of Council.
 - (iii) Documentary evidence of such insurance cover to the value of \$20 million;
 - (iv) The applicant must register a non-terminating bank guarantee in favour of Council for the amount of **\$57,225** (based on the Bunyala Street frontage).
 - (v) The guarantee will be released when the cables are stress released. In this regard it will be necessary for a certificate to be submitted to Council from a structural engineer at that time verifying that the cables have been stress released.
 - (vi) In the event of any works taking place on Council’s roadways/footways adjoining the property while the anchors are still stressed, all costs associated

with overcoming the difficulties caused by the presence of the 'live' anchors will be borne by the applicant.

15. Vehicular Crossing – Major Development

- a) The following road frontage works shall be constructed in accordance with Council's Specification for Vehicular Crossings and Associated Works together with the Vehicular Crossing Approval issued by Council's Engineering Services Division:
 - i) Construct a 1.2 metre wide footpath for the full length of the frontage of the site in Bunyala Street in accordance with Council's Specifications for footpaths;
 - ii) Construct the vehicular crossing in accordance with Council's Specifications for vehicular crossings;
 - iii) Construct a new 150mm high concrete kerb with 450mm wide gutter for the full frontage(s) of the site in Bunyala Street in accordance with Council's Specifications for kerb and guttering.
- b) 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.
- c) A private contractor shall carry out the above work, at the expense of the applicant and in accordance with Council's Specification for Vehicular Crossings and Associated Works.
- d) The driveway and road frontage works are to be completed before the issue of the Occupation Certificate.

16. Hoarding Application

- a) 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.
- b) 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.

17. The following information is to be submitted with a Hoarding Application:

- a) A site and location plan of the hoarding with detailed elevation, dimensions, setbacks, heights, entry and exit points to/from the site, vehicle access points, location of public utilities, electrical overhead wire protection, site management plan and builders sheds location; and
- b) Hoarding plan and details that are certified by an appropriately qualified engineer; and
- c) The payment to Council of a footpath occupancy fee based on the area of footpath to be occupied and Council's Schedule of Fees and Charges (available at www.georgesriver.nsw.gov.au) before the commencement of work; and
- d) A Public Risk Insurance Policy with a minimum cover of \$20 million in relation to the occupation of and works within Council's road reserve, for the full duration of the proposed works, must be obtained a copy provided to Council. The Policy is to note Council as an interested party.

18. Road Opening Permit - A Road Opening Permit must be obtained from Council for every opening of a public road reserve to access services including sewer, stormwater

drains, water mains, gas mains, and telecommunications before the commencement of work in the road.

REQUIREMENTS OF OTHER GOVERNMENT AUTHORITIES

19. **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.
20. **Notice of Requirements for a Section 73 Certificate**
 - a) A Notice of Requirements of what will eventually be required when issuing a Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the 'Plumbing, building and developing' section of the web site www.sydneywater.com.au then refer to 'Providers' under 'Developing' or telephone 13 20 92 for assistance.
 - b) Following application, a 'Notice of Requirements' will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, as it can take some time to build water/sewer pipes and this may impact on other services and building, driveway or landscape design.
 - c) The Notice of Requirements must be submitted prior to the commencement of work.
21. **Section 73 Compliance Certificate** - A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be submitted to the Principal Certifier prior to the issue of the Occupation Certificate.
22. **Electricity Supply** - An application is required to be made to Ausgrid for a network connection. This may require the network to be extended or its capacity augmented. Evidence of this application being lodged with Ausgrid is required to be provided to the Certifying Authority prior to the issue of a Construction Certificate. For further details, you are advised to contact Ausgrid on 13 13 65 or www.ausgrid.com.au (Business and Commercial Services).

DURING DEMOLITION AND PRIOR TO COMMENCEMENT OF WORK ON SITE INCLUDING EXCAVATION

23. **Compliance with SEPP 55- Remediation of Land**
 - a) Based on information submitted by the Applicant a Remedial Action Plan (RAP) for soil or water borne contaminants is not required.
 - b) The recommendations of the *Additional Site Investigation Report* prepared by EI Australia dated 14 September 2018 as below must be implemented during demolition and construction. Should further investigation or actions on-site indicate contamination not identified or at higher concentration than identified in the Site Investigation Report, then Council is to be advised immediately to determine if a RAP is required.
 - c) Any material being removed from the site (including virgin excavated natural materials (VENM)) should be classified for off-site disposal in accordance with the EPA 2014 Waste classification Guidelines.

- d) Any material being imported to the site should be assessed for potential contamination in accordance with the NSW EPA guidelines as being suitable for the intended use or be classified as VENM
- e) Should unexpected finds (contamination) be encountered during redevelopment works a qualified environmental consultant be engaged to inspect the finds and offer appropriate guidance.

24. **Hazardous or Intractable Waste - Removal and Disposal** - Hazardous or intractable waste arising from the demolition or construction process shall be removed and disposed of in accordance with the requirements of SafeWork NSW and the NSW Environment Protection Authority and with the provision of:

- a) Work Health and Safety Act 2011 (NSW) (as amended);
- b) Work Health and Safety Regulation 2011 (as amended);
- c) Protection Of the Environment Operations Act 1997 (NSW) (as amended); and
- d) Protection of the Environment Operations (Waste) Regulation 2014 (as amended).

25. **Dilapidation Report on Public Land**

- a) Prior to the commencement of works (including demolition and excavation), a dilapidation report must be prepared for the Council infrastructure adjoining the development site. The report must include the following:
 - (i) Photographs showing the existing condition of the road pavement fronting the site;
 - (ii) Photographs showing the existing condition of the kerb and gutter fronting the site;
 - (iii) Photographs showing the existing condition of the footpath pavement fronting the site;
 - (iv) Photographs showing the existing condition of any retaining walls within the footway or road; and
 - (v) The full name and signature of the structural engineer.
- b) The Dilapidation Report must be prepared by a qualified structural engineer. The report must be provided to the Certifier and a copy provided to the Council.
- c) 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.

26. **Pre-Construction Dilapidation Report – Private Land**

- a) A professional engineer specialising in structural or geotechnical engineering shall prepare a Pre-Construction Dilapidation Report detailing the current structural condition the adjoining properties, including the service station 390 Princes Highway and the Estia Health development 392-394 Princes Highway (if the construction work has occurred on that site), and the unit development 40 Bunyala Street.
- b) The report shall be prepared prior at the expense of the applicant and prior to the commencement of any work on the site and is to be submitted to the satisfaction of the Certifier prior to the issue of the Construction Certificate.
- c) 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 Certifier.

- d) 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.

27. Demolition & Asbestos

- a) The demolition work shall comply with the provisions of Australian Standard AS2601:2001 - Demolition of Structures, NSW Work Health & Safety Act 2011 and the NSW Work Health & Safety Regulation 2011. The work plans required by AS2601:2001 shall be accompanied by a written statement by a suitably qualified person that the proposals contained in the work plan comply with the safety requirements of the Standard. The work plans and the safety statement shall be submitted to the Principal Certifier prior to the commencement of works.
- b) 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.
- c) All demolition work including the removal of asbestos, shall be undertaken in accordance with the Demolition Code of Practice (NSW Work Cover July 2015).
- d) 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.

28. 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.

29. 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.

30. 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.

31. **Erosion & Sedimentation Control**

- a) Erosion and sediment controls must be provided to in accordance with the approved Site Management 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). All disturbed areas are rendered erosion-resistant by turfing, mulching, paving or similar.
- c) All clean water run-off 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) Controls are put into place to prevent tracking of sediment by vehicles onto adjoining roadway.
- f) Compliance with Managing Urban Stormwater – Soils and Construction (Blue Book) produced by Landcom 2004 is to be met.
- g) 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.

32. **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.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

33. **Design amendments** - The following amendments and information that shall be submitted to Council's Manager Development and Building for approval, prior to issue of a construction certificate (other than a Construction Certificate for demolition, shoring, piling and excavation).

- a) To respect the location of the development adjoining the heritage listed Carss Bush Park, the concrete white painted finish 'CONC P' proposed for the balconies shall be replaced with a more recessive earth-tone colour.
- b) The landscape plan prepared by NBRS Architecture Landscape dated 17/12/18 shall be amended as follows:
 - (i) Delete the three *Lagerstroemia indica* 'Natchez' trees proposed along the Bunyala Street frontage adjoining Unit BG02 and replace with two northern most plantings with two *Angophora floribunda* trees and the southernmost planting with one *Tristanopsis laurina*, all at 75 litre bag size.
 - (ii) The eight *Cupaniopsis anacardioides* trees proposed on the front nature strip are to be minimum 75 litre pot size trees.

34. **Car Wash Bay**

- a) The car wash bay in Basement level C1 must:
 - (i) have clearly visible signs which indicate that no degreasing or mechanical work is to be undertaken in the bay;
 - (ii) have a fixed basket trap for floor waste; and

- (iii) include a 1000 litre general purpose pit.
- b) Details of the disposal of trade waste water are to be indicated on the Construction Certificate drawings other than a construction certificate for demolition, shoring, piling and excavation. Three options exist for the disposal of trade wastewater from residential car wash bays. They are:
 - (i) removal off-site by an authorised liquid waste disposal contractor;
 - (ii) reuse of treated wastewater for car washing or irrigation on landscaped areas. An appropriate method should be used to treat grease, oil and silt before reuse or irrigation; or
 - (iii) discharge to the sewer via appropriate pre-treatment. If the car wash bay discharges into the sewer, a Permission to Discharge Trade Wastewater issued by Sydney Water must be obtained prior to approval of the development. If the carwash bay is not discharged into the sewer, applicants must provide Council with details and evidence of how wastewater will be removed (e.g. removal by an authorised liquid waste disposal contractor).

35. Use of rooftop open space

- a) A Plan of Management (POM) for use of rooftop open space must be submitted for approval of Council prior to the issue of a construction certificate, other than a construction certificate that is only for demolition, shoring, piling and excavation.
- b) The POM must outline the:
 - (i) hours of use of the rooftop deck;
 - (ii) maximum number of users at any one time;
 - (iii) provisions for no amplified music to be played; and
 - (iv) identify other measures to ensure that the amenity of persons within the development and in nearby existing and future development is maintained.
- c) The approved POM shall be incorporated into the Owners Corporation by-laws in any future Strata subdivision.
- d) Both the ground level communal open spaces (to the rear of Building A and between A and B) and the rooftop open space (in Building B) are to be accessible to all residents in the development, and this is to be reflected in the strata subdivision.

36. Road noise attenuation

- a) The site is affected by traffic noise from the Princes Highway. The construction certificate plans shall show that the development has been designed in accordance with the measures of acoustic attenuation to meet the internal noise levels specified in clause 102 of [State Environmental Planning Policy \(Infrastructure\) 2007](#).
- b) In this regard, prior to the issue of the construction certificate (other than a construction certificate for demolition, shoring, piling and excavation) the submitted acoustic report prepared by Acoustic Logic dated 8 December 2017 shall be updated to reflect the amended drawings generally dated 5 December 2018. The recommendations of the updated Acoustic Report in terms of acoustic treatment of doors and windows shall be shown on the Construction Certificate drawings (other than a construction certificate for demolition, shoring, piling and excavation).

37. Tree Protection and Retention

- a) The recommendations outlined in the Arborist's Report titled *Arboricultural Impact Assessment* prepared by Urban Tree Management dated 20/11/17, Reference number – 20024, must be implemented throughout the relevant stages of construction.
- b) 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.

- c) Tree T2 *Acer negundo*, located on the Grassed council verge, corner of Bunyala Rd and Carss Park carpark is to be protected. The Tree Protection Zone (TPZ) is 9 metres.
- d) Tree T4 and tree T20 *Casuarina cunninghamiana*, located at 40 Bunyala Rd, Carss Park at the back north east corner are to be protected. The Tree Protection Zone (TPZ) is 12 metres.

38. Excavation works near trees to be retained

- a) Excavations around the trees to be retained on site or the adjoining properties shall be supervised by the Project Arborist to ensure that the root system will not adversely be affected.
- b) Where the Tree TPZ of trees on site or adjoining sites become compromised by any excavation works, the Project arborist shall be consulted to establish the position of any major roots and determine the necessary measures to protect these roots. The recommendations of the Arborist shall be submitted to Council prior to any further demolition or construction works taking place.
- c) The TPZ around the tree to be retained are not to have soil level changes or services installed in this area. Any structures proposed to be built in this area of the trees are to utilise pier and beam or cantilevered slab construction.
- d) Details satisfying this condition shall be shown on the relevant Construction Certificate plans.

39. Pier and Beam construction to protect trees

- a) To preserve the trees marked as – T2, T4 and T20 upon the Arboricultural Impact Assessment prepared by Urban Tree Management, Reference 20024, dated 20th November, the footings of the proposed front fence, north east corner of site (T2) and the back south east corner of site (T4 and T20) shall be isolated pier and beam construction within a 7.5 metre radius of the trunks of each tree.
- b) The piers shall be hand dug under the onsite supervision of a suitably qualified arborist (AQF Level 5 or above in Arboriculture), as per Arborist Report 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.
- c) Details of this construction method shall be shown on the relevant Construction Certificate plans.

40. General Tree Protection Measures

- a) All trees to be retained shall be protected (see Condition 39d) shall be marked on the construction Certificate Plans shall be maintained during excavation and construction of the site.
- b) The tree protection measures must be undertaken in accordance *AS4970 -2009 Protection of trees on development sites*.
- c) Details of the tree protection measures to be implemented must be provided with the application for a Construction Certificate by a suitably qualified Arborist (AQF Level 5 or above in Arboriculture).
- d) The Arborist must be present on-site during the stages of construction when works are being undertaken that could impact on the tree canopy or root zone within the tree protection zone to implement the tree protection measures as required.
- e) Unless otherwise specified in AS 4970-2009, a protective fence consisting of 1.8 metres high, fully supported chainmesh fence shall be erected around the base of the tree. The distance of the fence from the base of each tree is to be in accordance with the TPZ listed in the table above. A layer of organic mulch 100 millimetres thick

shall be placed over the protected area and no soil or fill should be placed within the protection area.

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

41. **Dial before your dig** - The applicant shall contact "Dial Before You Dig on 1100" to obtain a Service Diagram prior to the issuing of the Construction Certificate. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Council's Engineers for their records.

42. **Site Management Plan - Major Development**

- a) A Site Management Plan must be submitted with the application for a Construction Certificate, and include the following:
 - i) location of protective site fencing;
 - ii) location of site storage areas/sheds/equipment;
 - iii) location of building materials for construction, e.g. stockpiles;
 - iv) provisions for public safety;
 - v) dust control measures;
 - vi) method used to provide site access location and materials used;
 - vii) details of methods of disposal of demolition materials;
 - viii) method used to provide protective measures for tree preservation;
 - ix) provisions for temporary sanitary facilities;
 - x) location and size of waste containers/skip bins;
 - xi) details of proposed sediment and erosion control measures;
 - xii) method used to provide construction noise and vibration management;
 - xiii) construction and demolition traffic management details.
- b) The site management measures are to be implemented prior to the commencement of any works including demolition and excavation. The site management measures are to be maintained throughout the works, to maintain reasonable levels of public health, safety and amenity.
- c) A copy of the Site Management Plan must be kept on site and is to be made available upon request.

43. **Stormwater System**

- a) 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 (other than a construction certificate for demolition, shoring, piling and excavation).
- b) All stormwater from the site shall drain by gravity to Council's existing drainage pit located in Bunyala Street using a Ø375mm RCP pipe in accordance with the Australian Standard AS3500.3: 2015 to Council's satisfaction. A longitudinal section of the new pit and pipe in the road shall be submitted to Council's Asset and Infrastructure engineering section for their approval in writing prior to the issue of the Construction Certificate (other than a construction certificate for demolition, shoring, piling and excavation).
- c) The drainage pipe system capacity through the site shall be designed to

accommodate 1:100 storm event throughout the site to since there is no OSD provided and there is a sag along rear adjacent reserve which may impact the overland flow from the site and cause ponding.

- d) The Principal Certifier shall ensure that the approved drainage design levels are surveyed during construction by a registered surveyor.
- e) The design of the driveway profile shall keep a crest level along the boundary to avoid that the street gutter flow would be running into the basement.
- f) 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 (other than a construction certificate for demolition, shoring, piling and excavation).

44. Stormwater Systems with Basement

- a) The underground basement car park must pump to and all other stormwater must drain by gravity to the drainage system within the site via a silt trap pit.
- b) 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 relevant Construction Certificate application.

45. Protection of basement from inundation of stormwater waters - The protection of the underground basement shall be protected from possible inundation by surface waters from the street. Evidence from a professional engineer who specialises in hydraulic engineering that this design requirement has been adhered to shall be submitted with the relevant Construction Certificate application.

46. Driveway Construction Plan Details - Detailed engineering plans for the driveway shall be submitted with the Construction Certificate application for approval (other than a construction certificate for demolition, shoring, piling and excavation) that show:

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

47. Council Property Shoring

- a) 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.
- b) 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.

48. **Geotechnical requirements during construction** - The recommendations in Section 5 of the Geotechnical Report prepared by EI Australia dated 15 December 2017, shall be shown where relevant in the construction certificate specifications and drawings and shall be complied with during construction.
49. **Traffic Management - Compliance with AS2890**
- a) 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 2004 and AS2890.6 (for car parking facilities).
 - b) Any wall or fence or solid object on either side of the driveway/vehicular crossing where it meets Council's road reserve at the boundary must comply with the distance requirements for pedestrians at the exit driveway in accordance with AS2890.1:2004 Figure 3.3 minimum sight lines for pedestrian safety.
50. **Construction Traffic Management Plan**
- a) A Construction Traffic Management Plan detailing:
 - (i) construction vehicle routes;
 - (ii) anticipated number of trucks per day;
 - (iii) hours of construction;
 - (iv) access arrangements
 - (v) proposed traffic measures to minimise impacts of construction vehicles must be submitted for the approval of Council's Engineers.
 - b) Council's Engineers must specify in writing that they are satisfied with the Traffic Management Plan prior to the issue of the Construction Certificate.
51. **Fire Safety Measures** - Prior to the issue of a construction certificate (other than a construction certificate for demolition, shoring, piling and excavation) a list of the essential fire safety measures that are to be provided in relation to the land and any building on the land as a consequence of the building work must accompany an application for a construction certificate, which is required to be submitted to either the Council or a private Certifier. Such list must also specify the minimum standard of performance for each essential fire safety measure included in the list. The Certifier will then issue a Fire Safety Schedule for the building.
52. **Access for Persons with a Disability and Adaptable Housing** - Access for persons with disabilities and adaptable housing must be provided to the premises/building in accordance with the requirements of AS4299-1995, the Building Code of Australia, and AS 1428.1 where relevant. In regards to the above, pedestrian access throughout basement levels shall be highlighted/line marked and sign posted to safeguard egress.
53. **SEPP 65 Design Verification Statement** - A design verification statement, prepared by the qualified designer, shall be submitted to the Certifier verifying that the plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles set out under Schedule 1 of State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development.
54. **BASIX Commitments** - All energy efficiency measures as detailed in the BASIX Certificate No. **884040M_05** dated **22 April 2020** must be implemented on the plans

lodged with the application for the Construction Certificate (other than a construction certificate for demolition, shoring, piling and excavation).

(This condition has been modified as part of MOD2019/0134 (DA2017/0649)).

(This condition has been modified as part of MOD2020/0075 (DA2017/0649)).

55. **Design Quality Excellence** - In order to ensure the design quality excellence of the development is retained:
- The design architect is to have direct involvement in the design documentation, contract documentation and construct stages of the project.
 - The design architect is to have full access to the site and is to be authorised by the applicant to respond directly to the consent authority where information or clarification is required in the resolution of the design issues throughout the life of the project.
 - Evidence of the design architect's commission is to be provided to the Council prior to release of the Construction Certificate (other than a construction certificate for demolition, shoring, piling and excavation).
 - The design architect of the project is not to be changed without prior notice and approval of the Council.
56. **Waste Storage**
- The relevant construction certificate drawings shall include details of the waste storage area as follows designed as follows in order to minimise odours, deter vermin, protect surrounding areas, and make it a user-friendly and safe area:
 - floor to be sealed;
 - walls and floor surface is flat and even;
 - all walls painted with light colour and washable paint;
 - equipment electric outlets to be installed 1700mm above floor levels;
 - is mechanically exhausted as required by AS 1668.2;
 - must be well lit (sensor lighting recommended); a light switch is installed at height of 1.6m;
 - an optional automatic odour and pest control system may be installed to eliminate all pest types and assist with odour reduction;
 - all personnel doors are hinged and self-closing; and
 - conform to the Building Code of Australia, Australian Standards and local laws; and childproofing and public/operator safety shall be assessed and ensure that the bin movements should be with ease of access.
57. **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 Certifier.
58. **Structural details** - Engineer's details prepared by a practising Structural Engineer being used to construct all reinforced concrete work, structural beams, columns and other structural members. The details are to be submitted to the Certifier for approval prior to construction of the specified works. A copy shall be forwarded to Council where Council is not the Certifier.

DURING CONSTRUCTION

59. Should any evidence of contamination including to the ground water be identified during work on the site, all work must cease until a RAP has been prepared and implemented in accordance with clause 14 of State Environmental Planning Policy No 55 - Remediation of Land (SEPP 55). Council must be notified of remediation works as required by clause 16 of SEPP 55.

60. **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 temporary connection of the temporary stormwater drainage system from the land the subject of this consent to Bunyala Street.
61. **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.
62. **No Obstruction of Road or Footpath** - The use of the road or footpath for the storage of any building materials, waste materials, temporary toilets, waste or skip bins, or any other matter is not permitted unless separately approved by Council under Section 138 of the Roads Act 1993 and/or under Section 68 of the Local Government Act 1993. Penalty infringement Notices may be issued for any offences and severe penalties apply.
63. **Hours of construction for demolition and building work**
a) Any work activity or activity associated with the development consent that requires the use of any tools (including hand tools) or any power operated plant and machinery that creates noise on or adjacent to the site shall not be performed, or permitted to be performed, except between the hours of 7.00 am to 5.00 pm, Monday to Saturday inclusive, unless otherwise approved by Council. No work or ancillary activity is permitted on Sundays, or Public Holidays, unless otherwise approved by Council.
Note: A penalty infringement notice may be issued for any offence.
64. **Waste Management Facility** - All materials removed from the site as a result of demolition, site clearing, site preparation and, or excavation shall be disposed of at a suitable Waste Management Facility. No vegetation, article, building material, waste or the like shall be ignited or burnt. Copies of all receipts for the disposal, or processing of all such materials shall be submitted to the Principal Certifier, and Council, where Council is not the Principal Certifier.
65. **Damage within Road Reserve & Council Assets** - The owner shall bear the cost of restoring any footpath, roadway and any other Council assets damaged due to works at, near or associated with the site. This may include works by Public Utility Authorities in the course of providing services to the site.
66. **Public Utility & Telecommunication Assets** - The owner shall bear the cost of any relocation or modification required to any Public Utility Authority assets including telecommunication lines & cables and restoring any footpath, roadway and any other Council assets damaged due to works at, near or associated with the site.
67. **Works Zone** - The installation of a "Works Zone" for the site will require the approval from the Traffic Advisory Committee. As a result, the applicant shall provide a formal request to Council's Traffic Section with the duration and exact location of the required "Works Zone" at least 6 weeks prior to its required installation date. All costs associated with the installation of a "Works Zone" will be at the applicant's expense.

68. **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.
69. **Registered Surveyors Report - During Development Work**
- a) A report must be submitted to the Principal Certifier at each of the following applicable stages of construction:
 - (i) Set out before commencing excavation;
 - (ii) Floor slabs or foundation wall, before formwork or commencing brickwork;
 - (iii) Completion of Foundation Walls - Before any construction of flooring, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans;
 - (iv) Completion of Floor Slab Formwork - Before pouring of concrete/walls construction, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans. In multi- storey buildings a further survey must be provided at each subsequent storey;
 - (v) Completion of any Roof Framing - Before roof covered detailing eaves/gutter setback from boundaries;
 - (vi) Completion of all Work - Detailing the location of the structure (including eaves/gutters) relative to adjacent boundaries and its height relative to the datum shown on the approved plans. A final Check Survey must indicate the reduced level of the main ridge.
 - b) Work must not proceed beyond each stage until the Principal Certifier is satisfied that the height and location of the building is proceeding in accordance with the approved plans.

PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

70. **Acoustic Certification** - Prior to the issue of any Occupation Certificate, a report prepared by a suitably qualified acoustic consultant must be submitted to the Principal Certifier certifying that the construction has incorporated the recommendations in the amended DA Acoustic Report as required by Condition 36 has been complied with and meets the required specifications and criteria.
71. **Acoustic Compliance – General Operation of Premises**
- a) The proposed use of the premises and the operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the [Protection of the Environment Operations Act 1997](#) (as amended) and [Regulations](#).
 - b) A suitably qualified person shall certify that the operation of the plant equipment shall not give rise to sound pressure level at any affected premises that exceeds the background LA90, 15 min noise level, measured in the absence of the noise sources under consideration by more than 5dB. The source noise level shall be assessed as an LAeq, 15 min in accordance with the [NSW Environment Protection Authority's "NSW industrial Noise Policy"](#).
 - c) Certification must be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.
72. **Completion of Landscape Works** - All landscape works must be completed before the issue of the Final Occupation Certificate in accordance with the approved landscape plans, drawn by NBRS Architecture and Landscape dated 17 December 2018 (as

amended by Condition 33).

- 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 sixty eight (68) trees proposed upon the approved landscape plan shall comply with *NATSPEC Specifying Trees: a guide to assessment of tree quality (2003)*, and be planted and maintained in accordance with 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.

73. Post Construction Dilapidation report – Private Land

- a) 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 adjoining premises referred to in condition 26.
- b) The report is to be prepared at the expense of the applicant and submitted to the Principal Certifier prior to the issue of the Occupation Certificate. In ascertaining whether adverse structural damaged has occurred to the adjoining premises, the Principal Certifier, must compare the post-construction dilapidation report with the pre- construction dilapidation report required by conditions in this consent.
- c) Evidence confirming that a copy of the post-construction dilapidation report was delivered to the adjoining properties subject of the dilapidation report must be provided to the Principal Certifier prior to the issue of any Occupation Certificate.

74. Traffic Control Devices

- a) The internal road network, pedestrian facilities and parking facilities (including visitor parking and employee parking) shall be designated and line marked in accordance with Australian Standard - AS1742, 'Australian Standard Manual of Uniform Traffic Control Devices' and the relevant guidelines published by the RMS.
- b) Internal driveways and parking spaces are to be adequately paved with concrete or bitumen, or interlocking pavers to provide a dust-free surface. All car parking spaces are to be line marked in accordance with AS1742.
- c) If an exit from car park utilises a pedestrian footpath, then a warning system such as flashing light and/or 'alarm sound' must be installed on the subject property to alert pedestrians of vehicles exiting the car park. The Alarm System must be designed and installed in accordance with AS2890.1 -2004.SEPP 65 Design Verification Statement

75. SEPP 65 Design Verification Statement - The Principal Certifier must not issue an Occupation Certificate to authorise a person to commence occupation of the residential flat development unless design verification from a qualified designer, being a statement in which the qualified designer verifies that the residential flat development achieves the design quality of the development as shown in the plans and specifications in respect of which the construction certificate was issued, having regard to the design quality principles set out in Part 2 (Schedule 1) of [State Environmental Planning Policy No 65 Design Quality of Residential Apartment Development](#).

76. Works as Executed and certification of stormwater works

- a) Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that

the stormwater drainage system (including the approved permanent physical connection to Council's stormwater system) has been constructed in accordance with the approved design and relevant Australian Standards. A works-as-executed drainage plan and certification must be forwarded to the Principal Certifier and Council, from a professional engineer specialising in hydraulic engineering.

- b) This Plan and Certification shall confirm that the design and construction of the stormwater drainage system satisfies the conditions of development consent and the Construction Certificate stormwater design details approved by the Certifying Authority.
- c) The works-as-executed drainage plan must be prepared by a professional engineer specialising in hydraulic engineering in conjunction with a Registered Surveyor and must include the following details (as applicable):
 - (i) The location, diameter, gradient and material (i.e. PVC, RC etc.) of all stormwater pipes;
 - (ii) Details of any pumping systems installed (including wet well volumes) (if applicable).

77. Completion of Major Works prior to the issue of the Occupation Certificate - Prior to the issue of a Final Occupation Certificate, the following works must be completed at the applicant's expense to the satisfaction of Council's Engineering Services section:

- a) Stormwater pipes, pits and connections to public stormwater systems within the road related area;
- b) Driveways and vehicular crossings within the road related area;
- c) Removal of redundant driveways and vehicular crossings;
- d) New footpaths within the road related area;
- e) Relocation of existing power/light pole if applicable;
- f) Relocation/provision of street signs;
- g) New footway verges, where a grass verge exists, the balance of the area between the footpath and the kerb or site boundary over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of turf predominant within the street;
- h) New or reinstated kerb and guttering within the road related area and New or reinstated road surface pavement within the road where it is applicable.

78. Completion of major road related works

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

79. Dilapidation Report on Public Land

- a) Upon completion of works, a follow up dilapidation report must be prepared or the items of Council infrastructure adjoining the development site. The dilapidation report must be prepared by a professional engineer specialising in structural engineering, and include photographs showing the condition of the:
 - (i) road pavement fronting the site;
 - (ii) kerb and gutter fronting the site;
 - (iii) footway including footpath pavement fronting the site;
 - (iv) retaining walls within the footway or road;
 - (v) Closed circuit television/video inspection (in DVD format) of public stormwater drainage systems fronting , adjoining or within the site, and
 - (vi) The full name and signature of the professional engineer.

- b) The report must be provided to the Principal Certifier and a copy provided to the Council. The reports are to be supplied in electronic format in Word or PDF. Photographs are to be in colour, digital and date stamped.
Note: Council will use this report to determine whether or not to refund the damage deposit.

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

- a) Compliance with conditions of development consent relating to stormwater;
 - b) That the works have been constructed in accordance with the approved design;
 - c) Pipe invert levels and surface levels to Australian Height Datum;
- Council's Engineering Services section must advise in writing that they are satisfied with the Works-As-Executed prior to the issue of an Occupation Certificate.

81. **Fire Safety Certificate before Occupation or Use**

- a) In accordance with Clause 153 of the *Environmental Planning and Assessment Regulation 2000*, on completion of building works and prior to the issue of an Occupation Certificate, the owner must cause the issue of a Final Fire Safety Certificate in accordance with Clause 170 of the aforesaid Regulation. The Fire Safety Certificate must be in the form or to the effect of Clause 174 of the *Environmental Planning and Assessment Regulation, 2000*. In addition, in relation to each essential fire or other safety measure implemented in the building or on the land on which the building is situated, such a Certificate is to state that:
 - (i) the measure has been assessed by a person (chosen by the owner of the building) who is properly qualified to do so; and
 - (ii) as at the date of the assessment the measure was found to be capable of functioning at a standard not less than that required by the Schedule.
- b) A copy of the certificate is to be given by the applicant to the Commissioner of Fire & Rescue NSW and a further copy is to be displayed in a frame and fixed to a wall inside the building's main entrance.

82. **Allocation of car parking spaces** - Car parking associated with the development is to be allocated as follows and shall be reflected on the strata plan:

- a) Residential dwellings: at least one car space per unit, total ~~66~~ **68** spaces including four spaces for persons with a disability allocated to the four adaptable units.
- b) Residential visitors: eight spaces including one car wash bay.

(This condition has been modified by MOD2020/0075 (DA2017/0649))

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

OPERATIONAL CONDITIONS (ONGOING)

84. **Noise Control** - The use of the premises must not give rise to the transmission of offensive noise to any place of different occupancy. Offensive noise is defined in the Protection of the Environment Operations Act 1997 (as amended). This includes the use of the rooftop open space.

85. **Compliance with POM for use of rooftop open space** - The approved POM for use of

the rooftop open space shall be enforced by the Owners Corporation.

86. **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.
87. **Entering & Exiting of vehicles** - All vehicles shall enter and exit the premises in a forward direction.
88. **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.
89. **Responsibility of Owners Corporation** - The Owners Corporation shall be responsible for presenting all approved waste and recycling receptacles for collection on Bunyala Street, and returning all receptacles to the Main Waste Collection Room, as soon as practicable after they have been serviced.

The Owners Corporation shall also be responsible for maintaining all equipment, systems, facilities and storage areas used in conjunction with the provision of waste management services in accordance with all applicable regulatory requirements, relevant health and environmental standards, and to the satisfaction of Council.

90. **Maintenance of Landscaping** - All trees and plants forming part of the approved landscaping must be maintained in perpetuity. Maintenance includes watering, weeding, removal of rubbish from tree bases, fertilizing, pest and disease control, replacement of dead or dying plants and any other operations required to maintain healthy trees, plants and turfed areas.
91. **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.
92. **Waste facilities** - Occupational Health and Safety issues such as slippery floors in waste rooms and the weight of the waste and recycling receptacles will need to be monitored. Cleaners must monitor the bin storage area and all spills need to be attended to immediately by cleaners.

OPERATIONAL REQUIREMENTS UNDER THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

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

94. **Appointment of a Principal Certifier**

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

95. **Notification Requirements of Principal Certifier** - No later than two days before the building work commences, the Principal Certifier must notify:

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

96. **Notice of Commencement** - The applicant must give at least two days' notice to the Council and the Principal Certifier of their intention to commence the erection of a building.

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

98. **Notice to be given prior to critical stage inspections** - The principal contractor for a building site, or the owner-builder, must notify the Principal Certifier at least 48 hours before each required inspection needs to be carried out. Where Georges River Council has been appointed as the Principal Certifier, 48 hours' notice in writing, or alternatively 24 hours' notice by facsimile or telephone, must be given when specified work requiring inspection has been completed.

99. **Occupation Certificate** - A person must not commence occupation or use of the whole or any part of a new building unless an Occupation Certificate has been issued in relation to the building or part. Only the Principal Certifier appointed for the building work can issue the Occupation Certificate.

PRESCRIBED CONDITIONS

100. **Clause 97A - BASIX Commitments** - This Clause requires the fulfilment of all BASIX Commitments as detailed in the BASIX Certificate to which the development relates.

101. **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.

102. **Clause 98A – Erection of Signs** - Requires the erection of signs on site and outlines the details which are to be included on the sign. The sign must be displayed in a prominent position on site and include the name and contact details of the Principal Certifier and the Principal Contractor.
103. **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.
104. **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.
105. **Clause 98E - Site Excavation** - Excavation of the site is to extend only to that area required for building works depicted upon the approved plans. All excess excavated material shall be removed from the site.

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

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

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

END CONDITIONS

ATTACHMENTS

Attachment [!\[\]\(3cb60d42b10e53f9522bb0b392c1c4cd_img.jpg\) 1 !\[\]\(6ee5a6cf4633ecad4ab1623b5ee8b864_img.jpg\)](#) West Elevation - 36 Bunyala St Blakehurst

Attachment [!\[\]\(d0262bbe9d2356661a2e89321dfcc781_img.jpg\) 2 !\[\]\(8572950e410320d7dd023da827ff014d_img.jpg\)](#) South Elevation - 36 Bunyala St Blakehurst



STZ
SMITH & TZANAKIS



General Notes	LEGEND
1. All work to be done in accordance with the relevant Australian Standards and Codes of Practice.	As Shown
2. All work to be done in accordance with the relevant Australian Standards and Codes of Practice.	As Shown
3. All work to be done in accordance with the relevant Australian Standards and Codes of Practice.	As Shown
4. All work to be done in accordance with the relevant Australian Standards and Codes of Practice.	As Shown
5. All work to be done in accordance with the relevant Australian Standards and Codes of Practice.	As Shown
6. All work to be done in accordance with the relevant Australian Standards and Codes of Practice.	As Shown
7. All work to be done in accordance with the relevant Australian Standards and Codes of Practice.	As Shown
8. All work to be done in accordance with the relevant Australian Standards and Codes of Practice.	As Shown
9. All work to be done in accordance with the relevant Australian Standards and Codes of Practice.	As Shown
10. All work to be done in accordance with the relevant Australian Standards and Codes of Practice.	As Shown

SECTION 4.55 MODIFICATION

BUNYALA APARTMENTS
36 Bunyala Street Blakehurst
17_061 MOD2-A-203

